

No. 4663

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**INTERNATIONAL BANK FOR  
RECONSTRUCTION AND DEVELOPMENT  
and  
PERU**

**Guarantee Agreement—*Port Expansion Project* (with annexed Loan Regulations No. 4 and Loan Agreement between the Bank and Autoridad Portuaria del Callao).  
Signed at Washington, on 17 September 1958**

*Official text: English.*

*Registered by the International Bank for Reconstruction and Development on  
6 February 1959.*

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**BANQUE INTERNATIONALE POUR  
LA RECONSTRUCTION ET LE DÉVELOPPEMENT  
et  
PÉROU**

**Contrat de garantie — *Projet d'agrandissement d'un port*  
(avec, en annexe, le Règlement n° 4 sur les emprunts  
et le Contrat d'emprunt entre la Banque et l'Administration  
du port du Callao). Signé à Washington, le  
17 septembre 1958**

*Texte officiel anglais.*

*Enregistré par la Banque internationale pour la reconstruction et le développement  
le 6 février 1959.*

No. 4663. GUARANTEE AGREEMENT<sup>1</sup> (*PORT EXPANSION PROJECT*) BETWEEN THE REPUBLIC OF PERU AND THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT. SIGNED AT WASHINGTON, ON 17 SEPTEMBER 1958

AGREEMENT, dated September 17, 1958, between REPUBLIC OF PERU (hereinafter called the Guarantor) and INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (hereinafter called the Bank).

WHEREAS by an agreement of even date herewith between the Bank and Autoridad Portuaria del Callao (hereinafter called the Borrower), which agreement and the schedules therein referred to are hereinafter called the Loan Agreement,<sup>2</sup> the Bank has agreed to make to the Borrower a loan in various currencies equivalent to six million five hundred and seventy-five thousand dollars (\$6,575,000), on the terms and conditions set forth in the Loan Agreement, but only on condition that the Guarantor agree to guarantee the obligations of the Borrower in respect of such loan as hereinafter provided; and

WHEREAS the Guarantor, in consideration of the Bank's entering into the Loan Agreement with the Borrower, has agreed so to guarantee such obligations of the Borrower;

NOW THEREFORE the parties hereto hereby agree as follows :

*Article I*

*Section 1.01.* The parties to this Guarantee Agreement accept all the provisions of Loan Regulations No. 4 of the Bank dated June 15, 1956,<sup>3</sup> subject, however, to the modifications thereof set forth in Schedule 3<sup>4</sup> to the Loan Agreement (said Loan Regulations No. 4 as so modified being hereinafter called the Loan Regulations), with the same force and effect as if they were fully set forth herein.

<sup>1</sup> Came into force on 25 November 1958, upon notification by the Bank to the Government of the Republic of Peru.

<sup>2</sup> See p. 36 of this volume.

<sup>3</sup> See p. 34 of this volume.

<sup>4</sup> See p. 48 of this volume.

## Article II

*Section 2.01.* Without limitation or restriction upon any of the other covenants on its part in this Agreement contained, the Guarantor hereby unconditionally guarantees, as primary obligor and not as surety merely, the due and punctual payment of the principal of, and the interest and other charges on, the Loan, the principal of and interest on the Bonds, the premium, if any, on the prepayment of the Loan or the redemption of the Bonds, and the punctual performance of all the covenants and agreements of the Borrower, all as set forth in the Loan Agreement and in the Bonds.

*Section 2.02.* Without limitation or restriction upon the provisions of Section 2.01 of this Agreement, the Guarantor specifically undertakes, whenever there is reasonable cause to believe that the funds available to the Borrower will be inadequate to meet the estimated expenditures required for carrying out the Project, to make arrangements, satisfactory to the Bank, promptly to provide the Borrower or cause the Borrower to be provided with such funds as are needed to meet such expenditures.

## Article III

*Section 3.01.* It is the mutual intention of the Guarantor and the Bank that no other external debt shall enjoy any priority over the Loan by way of a lien on governmental assets. To that end, the Guarantor undertakes that, except as the Bank shall otherwise agree, if any lien shall be created on any assets of the Guarantor as security for any external debt, such lien will *ipso facto* equally and ratably secure the payment of the principal of, and interest and other charges on, the Loan and the Bonds, and that in the creation of any such lien express provision will be made to that effect; provided, however, that the foregoing provisions of this Section shall not apply to: (i) any lien created on property, at the time of purchase thereof, solely as security for the payment of the purchase price of such property; or (ii) any lien arising in the ordinary course of banking transactions and securing a debt maturing not more than one year after its date.

The term "assets of the Guarantor" as used in this Section includes assets of the Guarantor or of any of its political subdivisions or of any agency of the Guarantor or of any such political subdivision, including the Banco Central de Reserva del Peru.

*Section 3.02.* (a) The Guarantor and the Bank shall cooperate fully to assure that the purposes of the Loan will be accomplished. To that end, each of them shall furnish to the other all such information as it shall reasonably request with regard to the general status of the Loan. On the part of the

Guarantor, such information shall include information with respect to financial and economic conditions in the territories of the Guarantor and the international balance of payments position of the Guarantor.

(b) The Guarantor and the Bank shall from time to time exchange views through their representatives with regard to matters relating to the purposes of the Loan and the maintenance of the service thereof. The Guarantor shall promptly inform the Bank of any condition which interferes with, or threatens to interfere with, the accomplishment of the purposes of the Loan or the maintenance of the service thereof.

(c) The Guarantor shall afford all reasonable opportunity for accredited representatives of the Bank to visit any part of the territories of the Guarantor for purposes related to the Loan.

*Section 3.03.* The principal of, and interest and other charges on, the Loan and the Bonds shall be paid without deduction for, and free from, any taxes or fees imposed under the laws of the Guarantor or laws in effect in its territories; provided, however, that the provisions of this Section shall not apply to taxation of, or fees upon, payments under any Bond to a holder thereof other than the Bank when such Bond is beneficially owned by an individual or corporate resident of the Guarantor.

*Section 3.04.* This Agreement, the Loan Agreement and the Bonds shall be free from any taxes or fees that shall be imposed under the laws of the Guarantor or laws in effect in its territories on or in connection with the execution, issue, delivery or registration thereof.

*Section 3.05.* The principal of, and interest and other charges on, the Loan and the Bonds shall be paid free from all restrictions imposed under the laws of the Guarantor or laws in effect in its territories.

#### *Article IV*

*Section 4.01.* The Guarantor shall endorse, in accordance with the provisions of the Loan Regulations, its guarantee on the Bonds to be executed and delivered by the Borrower. The *Ministro de Hacienda y Comercio* of the Guarantor and such person or persons as he shall designate in writing are designated as the authorized representatives of the Guarantor for the purposes of Section 6.12 (b) of the Loan Regulations.

#### *Article V*

*Section 5.01.* The following addresses are specified for the purposes of Section 8.01 of the Loan Regulations :

For the Guarantor :

Ministerio de Hacienda y Comercio  
Lima, Peru

Alternative address for cablegrams and radiograms :

Minhacienda  
Lima, Peru

For the Bank :

International Bank for Reconstruction and Development  
1818 H Street, N.W.  
Washington 25, D. C.  
United States of America

Alternative address for cablegrams and radiograms :

Intbafrad  
Washington, D. C.

*Section 5.02.* The *Ministro de Hacienda y Comercio* of the Guarantor is designated for the purposes of Section 8.03 of the Loan Regulations.

IN WITNESS WHEREOF, the parties hereto, acting through their representatives thereunto duly authorized, have caused this Guarantee Agreement to be signed in their respective names and delivered in the District of Columbia, United States of America, as of the day and year first above written.

Republic of Peru :

By F. BERCKEMEYER  
Authorized Representative

International Bank for Reconstruction and Development :

By W. A. B. ILIFF  
Vice President

INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

LOAN REGULATIONS No. 4, DATED 15 JUNE 1956

REGULATIONS APPLICABLE TO LOANS MADE BY THE BANK TO BORROWERS OTHER THAN  
MEMBER GOVERNMENTS

[*Not published herein. See United Nations, Treaty Series, Vol.260, p. 376.*]

LOAN AGREEMENT (*PORT EXPANSION PROJECT*)

AGREEMENT, dated September 17, 1958, between INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (hereinafter called the Bank) and AUTORIDAD PORTUARIA DEL CALLAO (hereinafter called the Borrower).

*Article I*

## LOAN REGULATIONS

*Section 1.01.* The parties to this Loan Agreement accept all the provisions of Loan Regulations No. 4 of the Bank dated June 15, 1956,<sup>1</sup> subject, however, to the modifications thereof set forth in Schedule 3<sup>2</sup> to this Agreement (said Loan Regulations No. 4 as so modified being hereinafter called the Loan Regulations), with the same force and effect as if they were fully set forth herein.

*Article II*

## THE LOAN

*Section 2.01.* The Bank agrees to lend to the Borrower, on the terms and conditions in this Agreement set forth or referred to, an amount in various currencies equivalent to six million five hundred and seventy-five thousand dollars (\$6,575,000).

*Section 2.02.* The Bank shall open a Loan Account on its books in the name of the Borrower and shall credit to such Account the amount of the Loan. The amount of the Loan may be withdrawn from the Loan Account as provided in, and subject to the rights of cancellation and suspension set forth in, the Loan Regulations. No withdrawals from the Loan Account shall be permitted in respect of the portion of the Project described in paragraph 1 of Schedule 2<sup>2</sup> until the Borrower shall have entered into any necessary agreements and shall have made any necessary arrangements with third parties required to ensure that the Borrower will, upon completion of construction of the petroleum handling pier and pipelines :

(a) own such pier and pipelines free and clear of liens and encumbrances or rights of third parties;

(b) be free to make such regulations and agreements as it may consider desirable concerning the use of such pier and pipelines and the charges to be levied for the use thereof;

and the Borrower shall have furnished the Bank with evidence thereof and with such further evidence as may be necessary to satisfy the Bank as to the above matters.

*Section 2.03.* The Borrower shall pay to the Bank a commitment charge at the rate of three-fourths of one per cent ( $\frac{3}{4}$  of 1%) per annum on the principal amount of the Loan not so withdrawn from time to time. Such commitment charge shall accrue from a date sixty days after the date of this Agreement to the respective dates on which amounts shall be withdrawn by the Borrower from the Loan Account as provided in Article IV of the Loan Regulations or shall be cancelled pursuant to Article V of the Loan Regulations.

<sup>1</sup> See p. 34 of this volume.

<sup>2</sup> See p. 48 of this volume.

*Section 2.04.* The Borrower shall pay interest at the rate of five and three-fourths per cent ( $5\frac{3}{4}\%$ ) per annum on the principal amount of the Loan so withdrawn and outstanding from time to time.

*Section 2.05.* Except as the Bank and the Borrower shall otherwise agree, the charge payable for special commitments entered into by the Bank at the request of the Borrower pursuant to Section 4.02 of the Loan Regulations shall be at the rate of one-half of one per cent ( $\frac{1}{2}$  of 1%) per annum on the principal amount of any such special commitments outstanding from time to time.

*Section 2.06.* Interest and other charges shall be payable semi-annually on March 1 and September 1 in each year.

*Section 2.07.* The Borrower shall repay the principal of the Loan in accordance with the amortization schedule set forth in Schedule 1<sup>1</sup> to this Agreement.

### Article III

#### USE OF PROCEEDS OF THE LOAN

*Section 3.01.* The Borrower shall apply the proceeds of the Loan exclusively to financing the cost of goods required to carry out the Project described in Schedule 2 to this Agreement. The specific goods to be financed out of the proceeds of the Loan and the methods and procedures for procurement of such goods shall be determined by agreement between the Bank and the Borrower, subject to modification by further agreement between them.

*Section 3.02.* The Borrower shall cause all goods financed out of the proceeds of the Loan to be imported into the territories of the Guarantor and there to be used exclusively in the carrying out of the Project.

### Article IV

#### BONDS

*Section 4.01.* The Borrower shall execute and deliver Bonds representing the principal amount of the Loan as provided in the Loan Regulations.

*Section 4.02.* The *Técnico-Director* and one other Director of the Borrower and such person or persons as the Board of Directors of the Borrower shall appoint in writing are designated as authorized representatives of the Borrower for the purposes of Section 6.12 (a) of the Loan Regulations.

### Article V

#### PARTICULAR COVENANTS

*Section 5.01.* (a) The Borrower shall carry out the Project with due diligence and efficiency and in conformity with sound engineering and financial practices and shall carry out its functions in accordance with sound management principles under the direction of a qualified and experienced port administrator mutually satisfactory to the Borrower and the Bank.

<sup>1</sup> See p. 46 of this volume.

(b) In the carrying out of the Project the Borrower shall employ engineering consultants, and, except as the Bank and the Borrower shall otherwise agree, the Borrower shall employ contractors for the construction of the Project. The engineering consultants and the contractors, and the terms and conditions on which they are employed, shall be mutually satisfactory to the Bank and the Borrower.

(c) The Borrower shall furnish to the Bank, promptly upon their preparation, the plans and specifications and construction schedules for the Project and any material modifications subsequently made therein, in such detail as the Bank shall from time to time request.

(d) The Borrower shall maintain records adequate to identify the goods financed out of the proceeds of the Loan, to disclose the use thereof in the Project, to record the progress of the Project (including the cost thereof) and to reflect in accordance with consistently maintained sound accounting practices the operations and financial condition of the Borrower; shall enable the Bank's representatives to inspect the Project, the goods and any relevant records and documents; and shall furnish to the Bank all such information as the Bank shall reasonably request concerning the expenditure of the proceeds of the Loan, the Project, the goods, and the operations and financial condition of the Borrower.

*Section 5.02.* (a) The Bank and the Borrower shall cooperate fully to assure that the purposes of the Loan will be accomplished. To that end, each of them shall furnish to the other all such information as it shall reasonably request with regard to the general status of the Loan.

(b) The Bank and the Borrower shall from time to time exchange views through their representatives with regard to matters relating to the purposes of the Loan and the maintenance of the service thereof. The Borrower shall promptly inform the Bank of any condition which interferes with, or threatens to interfere with, the accomplishment of the purposes of the Loan or the maintenance of the service thereof.

*Section 5.03.* The Borrower undertakes that, except as the Bank shall otherwise agree, if any lien shall be created on any assets of the Borrower as security for any debt, such lien will *ipso facto* equally and ratably secure the payment of the principal of, and interest and other charges on, the Loan and the Bonds, and that in the creation of any such lien express provision will be made to that effect; provided, however, that the foregoing provisions of this Section shall not apply to: (i) any lien created on property, at the time of purchase thereof, solely as security for the payment of the purchase price of such property; or (ii) any lien arising in the ordinary course of banking transactions and securing a debt maturing not more than one year after its date.

*Section 5.04.* The Borrower shall pay or cause to be paid all taxes or fees, if any, imposed under the laws of the Guarantor or laws in effect in the territories of the Guarantor on or in connection with the execution, issue, delivery or registration of this Agreement, the Guarantee Agreement<sup>1</sup> or the Bonds, or the payment of principal, interest or other charges thereunder; provided, however, that the provisions of this Section shall not apply to taxation of, or fees upon, payments under any Bond to a holder thereof other

<sup>1</sup> See p. 28 of this volume.



than the Bank when such Bond is beneficially owned by an individual or corporate resident of the Guarantor.

*Section 5.05.* The Borrower shall pay or cause to be paid all taxes and fees, if any, imposed under the laws of the country or countries in whose currency the Loan and the Bonds are payable or laws in effect in the territories of such country or countries on or in connection with the execution, issue, delivery or registration of this Agreement, the Guarantee Agreement or the Bonds.

*Section 5.06.* Except as shall be otherwise agreed between the Bank and the Borrower, the Borrower shall insure or cause to be insured the goods financed out of the proceeds of the Loan against risks incident to their purchase and importation into the territories of the Guarantor. Such insurance shall be consistent with sound commercial practice and shall be payable in dollars or in the currency in which the cost of the goods insured thereunder shall be payable.

*Section 5.07. (a)* The Borrower shall at all times maintain its existence and right to carry on operations and shall, except as the Bank shall otherwise agree, take all steps necessary to maintain and renew all rights, powers, privileges and franchises which are necessary to enable it to discharge its responsibilities and to conduct its operations efficiently.

*(b)* The Borrower shall operate and maintain the port facilities and from time to time make all necessary renewals and repairs thereof, all in accordance with sound engineering and financial standards.

## Article VI

### REMEDIES OF THE BANK

*Section 6.01. (i)* If any event specified in paragraph *(a)*, paragraph *(b)*, paragraph *(e)* or paragraph *(f)* of Section 5.02 of the Loan Regulations shall occur and shall continue for a period of thirty days, or *(ii)* if any event specified in paragraph *(c)* of Section 5.02 of the Loan Regulations shall occur and shall continue for a period of sixty days after notice thereof shall have been given by the Bank to the Borrower, then at any subsequent time during the continuance thereof, the Bank, at its option, may declare the principal of the Loan and of all the Bonds then outstanding to be due and payable immediately, and upon any such declaration such principal shall become due and payable immediately, anything in this Agreement or in the Bonds to the contrary notwithstanding.

## Article VII

### EFFECTIVE DATE; TERMINATION

*Section 7.01.* The following event is specified as an additional condition to the effectiveness of this Agreement within the meaning of Section 9.01 *(a)* *(ii)* of the Loan Regulations :

*(a)* Arrangements satisfactory to the Bank shall have been made ensuring that the Borrower will have available the funds required for carrying out the Project either through retention of earnings or from other sources.

*Section 7.02.* The following is specified as an additional matter, within the meaning of Section 9.02 (e) of the Loan Regulations, to be included in the opinion or opinions to be furnished to the Bank :

(a) That the arrangements referred to in Section 7.01 (a) are legally valid and binding.

*Section 7.03.* A date 60 days after the date of this Agreement is hereby specified for the purposes of Section 9.04 of the Loan Regulations.

*Article VIII*

MISCELLANEOUS

*Section 8.01.* The Closing Date shall be January 31, 1963.

*Section 8.02.* The following addresses are specified for the purposes of Section 8.01 of the Loan Regulations :

For the Borrower :

Autoridad Portuaria del Callao  
Terminal Maritimo  
Callao  
Peru

Alternative address for cablegrams and radiograms :

Auport  
Lima  
Peru

For the Bank :

International Bank for Reconstruction and Development  
1818 H Street, N.W.  
Washington 25, D. C.  
United States of America

Alternative address for cablegrams and radiograms :

Intbafrad  
Washington, D. C.

IN WITNESS WHEREOF, the parties hereto, acting through their representatives thereunto duly authorized, have caused this Loan Agreement to be signed in their respective names and delivered in the District of Columbia, United States of America, as of the day and year first above written.

International Bank for Reconstruction and Development :

By W. A. B. ILIFF  
Vice President

Autoridad Portuaria del Callao :

By J. CHAMOT  
By C. GIBSON  
Authorized Representatives

SCHEDULE 1  
AMORTIZATION SCHEDULE

<i>Date Payment Due</i>	<i>Payment of Principal (expressed in dollars) *</i>	<i>Date Payment Due</i>	<i>Payment of Principal (expressed in dollars) *</i>
March 1, 1963 . . . . .	\$128,000	March 1, 1971 . . . . .	\$201,000
September 1, 1963 . . . . .	132,000	September 1, 1971 . . . . .	207,000
March 1, 1964 . . . . .	135,000	March 1, 1972 . . . . .	213,000
September 1, 1964 . . . . .	139,000	September 1, 1972 . . . . .	219,000
March 1, 1965 . . . . .	143,000	March 1, 1973 . . . . .	226,000
September 1, 1965 . . . . .	148,000	September 1, 1973 . . . . .	232,000
March 1, 1966 . . . . .	152,000	March 1, 1974 . . . . .	239,000
September 1, 1966 . . . . .	156,000	September 1, 1974 . . . . .	246,000
March 1, 1967 . . . . .	161,000	March 1, 1975 . . . . .	253,000
September 1, 1967 . . . . .	165,000	September 1, 1975 . . . . .	260,000
March 1, 1968 . . . . .	170,000	March 1, 1976 . . . . .	267,000
September 1, 1968 . . . . .	175,000	September 1, 1976 . . . . .	275,000
March 1, 1969 . . . . .	180,000	March 1, 1977 . . . . .	283,000
September 1, 1969 . . . . .	185,000	September 1, 1977 . . . . .	291,000
March 1, 1970 . . . . .	190,000	March 1, 1978 . . . . .	300,000
September 1, 1970 . . . . .	196,000	September 1, 1978 . . . . .	308,000

\* To the extent that any part of the Loan is repayable in a currency other than dollars (see Loan Regulations, Section 3.02), the figures in this column represent dollar equivalents determined as for purposes of withdrawal.

PREMIUMS ON PREPAYMENT AND REDEMPTION

The following percentages are specified as the premiums payable on repayment in advance of maturity of any part of the principal amount of the Loan pursuant to Section 2.05 (b) of the Loan Regulations or on the redemption of any Bond prior to its maturity pursuant to Section 6.16 of the Loan Regulations :

<i>Time of Prepayment or Redemption</i>	<i>Premium</i>
Not more than 3 years before maturity . . . . .	$\frac{1}{2}$ of 1%
More than 3 years but not more than 6 years before maturity . . . . .	1 $\frac{1}{2}$ %
More than 6 years but not more than 11 years before maturity . . . . .	2 $\frac{1}{2}$ %
More than 11 years but not more than 16 years before maturity . . . . .	3 $\frac{1}{2}$ %
More than 16 years but not more than 18 years before maturity . . . . .	4 $\frac{3}{4}$ %
More than 18 years before maturity . . . . .	5 $\frac{3}{4}$ %

## SCHEDULE 2

## DESCRIPTION OF PROJECT

The Project consists of a program for the expansion and modernization of the facilities of the Port of Callao and comprises the following items, including the necessary utility services :

1. *Petroleum Pier*

A new two berth petroleum handling pier will be constructed at the northern end of the harbor, and new pipelines will be laid thereon.

2. *Additional Berths*

A new pier will be constructed by reclamation adjacent to the northernmost existing pier and on it two general cargo berths each approximately 600 feet long and a minerals handling berth approximately 600 feet long will be constructed. Railway sidings, approach roads and paved storage areas will be provided and at the minerals berth electrically operated minerals loading equipment capable of handling 600 tons per hour will be installed.

3. *Dredging*

A new self-propelled cutter suction hopper dredge will be purchased. Dredging will be carried out by this dredge in the Callao harbor and entrance channel. From time to time the dredge may be used at other Peruvian ports.

4. *Sheds and Storage Accommodation*

A new storage warehouse, two new transit sheds, a new cold store and new paved and fenced storage areas will be constructed adjacent to the existing marginal wharf.

5. *Miscellaneous Works*

New passenger access gantries and accommodation will be installed at two existing piers. A new maintenance workshop will be built and new workshop equipment installed. A new gear store will be constructed.

6. *Tugs*

Two new harbor tugs will be purchased.

It is expected that the Project will be completed by the end of 1962.

## SCHEDULE 3

## MODIFICATION OF LOAN REGULATIONS NO. 4

For the purposes of this Agreement the provisions of Loan Regulations No. 4 of the Bank dated June 15, 1956, shall be deemed to be modified as follows :

(a) Section 2.02 shall be deleted.

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