

No. 6382

**UNITED STATES OF AMERICA
and
PANAMA**

**Exchange of notes constituting an agreement relating
to guaranties of private investments. Washington,
23 January 1961**

Official text: English.

Registered by the United States of America on 28 November 1962.

**ÉTATS-UNIS D'AMÉRIQUE
et
PANAMA**

**Échange de notes constituant un accord relatif à la garantie
des investissements privés. Washington, 23 janvier 1961**

Texte officiel anglais.

Enregistré par les États-Unis d'Amérique le 28 novembre 1962.

No. 6382. EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT¹ BETWEEN THE UNITED STATES OF AMERICA AND PANAMA RELATING TO GUARANTIES OF PRIVATE INVESTMENTS. WASHINGTON, 23 JANUARY 1961.

I

The Secretary of State to the Panamanian Ambassador

DEPARTMENT OF STATE

Washington, January 23, 1961

Excellency :

I have the honor to refer to conversations which have recently taken place between representatives of our two Governments relating to guaranties authorized by Section 413 (b) (4) of the Mutual Security Act of 1954 as amended. I also have the honor to confirm the following understandings reached as a result of these conversations :

1. The Governments of the United States of America and of Panama will, upon the request of either of them, consult respecting projects in Panama proposed by nationals of the United States of America with respect to which guaranties under Section 413 (b) (4) of the Mutual Security Act of 1954, as amended, have been made or are under consideration.

2. The Government of the United States of America agrees that it will issue no guaranty with respect to any project unless it is approved by the Government of Panama.

3. With respect to such guaranties extending to projects which are approved by the Government of Panama in accordance with the provisions of the aforementioned Section 413 (b) (4), the Government of Panama agrees :

(a) That if the Government of the United States of America makes payment in United States dollars to any person under any such guaranty, the Government of Panama will recognize the transfer to the Government of the United States of America of any currency, credits, assets, or investment on account of which such payment is made and the subrogation of the Government of the United States of America to any right, title, claim or cause of action existing in connection therewith ;

¹ Came into force on 8 March 1962, the date of the note from the Government of Panama notifying the Government of the United States of America that the Agreement had been ratified according to the constitutional procedures of the Government of Panama, in accordance with the terms of the said notes.

- (b) That Balboa amounts acquired by the Government of the United States of America pursuant to such guaranties shall be accorded treatment not less favorable than that accorded to private funds arising from transactions of United States nationals which are comparable to the transactions covered by such guaranties, and that such Balboa amounts shall be freely available to the Government of the United States of America for administrative expenses ;
- (c) That any claim against the Government of Panama to which the Government of the United States of America may be subrogated as a result of any payment under such a guaranty, shall be the subject of direct negotiations between the two Governments. If within a reasonable period, they are unable to settle the claim by agreement, it shall be referred for final and binding determination to a sole arbitrator selected by mutual agreement. If the Governments are unable, within a period of three months, to agree upon such selection, the arbitrator shall be one who may be designated by the President of the International Court of Justice at the request of either Government ;
- (d) That if the Government of the United States of America issues guaranties to cover losses by reason of war with respect to investments in Panama, the Government of Panama agrees that nationals of the United States of America to whom such guaranties have been issued, will be accorded by the Government of Panama treatment no less favorable than that accorded, in like circumstances, to its nationals or nationals of third countries, with reference to any reimbursement, compensation, indemnification, or any other payment, including the distribution of reparations received from enemy countries, that the Government of Panama may make or pay for losses incurred by reason of war ; if the Government of the United States of America makes payment in United States dollars to any national of the United States of America under a guaranty for losses by reason of war, the Government of Panama will recognize the transfer to the Government of the United States of America of any right, privilege, or interest, or any part thereof, that such nationals may be granted or become entitled to as a result of the aforementioned treatment by the Government of Panama ;
- (e) That the aforementioned subparagraph (c) with respect to the arbitration of claims shall not be applicable to the type of guaranties against losses by reason of war provided for in subparagraph (d).

Upon receipt of a note from Your Excellency indicating that the foregoing provisions are acceptable to the Government of Panama, the Government of the United States of America will consider that this note and your reply thereto constitute an agreement between our two Governments on this subject, the Agreement to enter into force on the date of the note from the Government of Panama notifying the Government of the United States of America that the present Agreement has been ratified according to the constitutional procedures of the Government of Panama.

Accept, Excellency, the renewed assurances of my highest consideration.

For the Secretary of State :
Thomas C. MANN

His Excellency Augusto Guillermo Arango
Ambassador of Panama

II

The Panamanian Ambassador to the Secretary of State

EMBAJADA DE PANAMA ¹
WASHINGTON

January 23, 1961

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Excellency :

I have the honor to refer to Your Excellency's note of January 23, 1961 regarding the conversations recently held between representatives of our two Governments relating to guaranties against inconvertibility and losses due to expropriation and war authorized by Section 413 (b) (4) of the Mutual Security Act of 1954, as amended.

I take pleasure in informing Your Excellency that my Government has authorized me to accept, subject to the approval of the National Assembly of Panama, the understandings contained in your note, which are as follows :

[See note I]

Please accept, Excellency, the renewed assurances of my highest consideration.

A. G. ARANGO
Ambassador of Panama

His Excellency Dean Rusk
Secretary of State
Washington, D. C.

¹ Embassy of Panama.