

838

No. 6075

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

Guarantee Agreement—Road Project (with annexed Loan Regulations No. 4 and Loan Agreement between the Bank and Nacional Financiera, S.A.). Signed at Washington, on 18 October 1960

Official text: English.

Registered by the International Bank for Reconstruction and Development on 8 February 1962.

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

Contrat de garantie — *Projet routier* (avec, en annexe, le Règlement n° 4 sur les emprunts et le Contrat d'emprunt entre la Banque et la Nacional Financiera S.A.). Signé à Washington, le 18 octobre 1960

Texte officiel anglais.

Enregistré par la Banque internationale pour la reconstruction et le développement le 8 février 1962.

No. 6075. GUARANTEE AGREEMENT¹ (*ROAD PROJECT*)
BETWEEN THE UNITED MEXICAN STATES AND THE
INTERNATIONAL BANK FOR RECONSTRUCTION AND
DEVELOPMENT. SIGNED AT WASHINGTON, ON
18 OCTOBER 1960

AGREEMENT, dated October 18, 1960, between UNITED MEXICAN STATES (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 Nacional Financiera, S. A., (hereinafter called the Borrower), which agreement and the schedules therein referred to are hereinafter called the Loan Agreement,² the Bank has agreed to make to the Borrower a loan in various currencies equivalent to twenty-five million dollars (\$25,000,000), on the terms and conditions set forth in the Loan Agreement, but only on condition that the Guarantor agree to enter into this Agreement; and

WHEREAS the Guarantor, in consideration of the Bank's entering into the Loan Agreement has agreed to enter into this Agreement;

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, 1956,² subject, however, to the modifications thereof set forth in Schedule 2³ 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.

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

¹ Came into force on 5 September 1961, upon notification by the Bank to the Government of Mexico.

² See p. 188 of this volume.

³ See p. 198 of this volume.

punctual payment of the principal of, and the interest and other charges on, the Loan, the principal of and interest on the Bonds, and the premium, if any, on the prepayment of the Loan or the redemption of the Bonds, all as set forth in the Loan Agreement and in the Bonds.

Article III

Section 3.01. (a) The Guarantor shall cause the Project described in Schedule 1¹ to this Agreement to be carried out with due diligence and efficiency and in conformity with sound engineering and financial practices.

(b) The Guarantor shall cause priority to be given to the Project in its highway construction program, and, to that end, shall, if necessary to accomplish the prompt and diligent construction of the Project, cause such revisions in the construction schedules for other parts of that program to be made as may be required.

(c) The list of roads to be included in part (a) of the Project shall be determined from time to time by agreement between the Guarantor (acting through its *Secretario de Obras Públicas*) and the Bank, subject to modification by further agreement between them.

(d) Except as the Bank shall otherwise agree, the Guarantor shall cause the roads included in part (a) of the Project to be constructed or reconstructed by contractors satisfactory to the Guarantor and the Bank under contracts providing for construction or reconstruction of such roads.

(e) The general design standards and the types of surfacing (including pavement) to be used for the roads included in the Project shall be as determined by agreement between the Guarantor and the Bank, subject to modification by further agreement between them.

(f) Upon request from time to time by the Bank, the Guarantor shall promptly furnish or cause to be furnished to the Bank the plans, specifications and work schedules for the Project and any material modifications subsequently made therein, in such detail as the Bank shall request.

(g) The Guarantor shall at all times make available promptly as needed all sums which shall be required for the carrying out of the Project.

(h) The Guarantor shall maintain or cause to be maintained 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 with respect to the Project of the agency or agencies of the Guarantor responsible for the carrying out of the Project or any part thereof; shall enable the Bank's representatives

¹ See p. 188 of this volume.

to inspect the Project, the goods and any relevant records and documents; and shall furnish or cause to be furnished to the Bank all such information as the Bank shall reasonably request concerning the expenditure of the proceeds of the Loan, the Project, and the goods, and the operations and financial condition with respect to the Project of the agency or agencies of the Guarantor responsible for the carrying out of the Project or any part thereof.

Section 3.02. Except as the Guarantor and the Bank shall otherwise agree, the Guarantor shall cause all goods financed out of the proceeds of the Loan to be used in the territories of the Guarantor exclusively in the carrying out of the Project.

Section 3.03. 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.

As used in this Section (a) the term “assets of the Guarantor” includes assets of the Guarantor or of any of its political subdivisions or of any Agency and (b) the term “Agency” means any agency or instrumentality of the Guarantor or of any political subdivision of the Guarantor and shall include any institution or organization which is owned or controlled directly or indirectly by the Guarantor or by any political subdivision of the Guarantor or the operations of which are conducted primarily in the interest of or for account of the Guarantor or any political subdivision of the Guarantor.

Section 3.04. (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 o

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 3.05. 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 3.06. 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 3.07. 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. Nacional Financiera, S.A. and such person or persons as it 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 :

Secretario de Obras Públicas
Xola y Ave. Universidad
Mexico 13, D.F., Mexico

Alternative address for cablegrams and radiograms :

Secretaría Obras Públicas
Mexico, D.F.

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 *Secretario de Obras Públicas* 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.

United Mexican States,
By : NACIONAL FINANCIERA, S.A. :

By Raul MARTINEZ OSTOS
Authorized Representative

International Bank for Reconstruction and Development :

By Eugene R. BLACK
President

SCHEDULE 1

DESCRIPTION OF PROJECT

1. The Project consist of :
 - (a) the completion of the construction of new roads and of the reconstruction of existing roads, all such roads being part of the Federal highway system of the Guarantor. The roads to be constructed and reconstructed total about 3,200 kilometers. This part of the Project includes drains and bridge structures up to 15 meters span.
 - (b) the construction or reconstruction of bridges of a span of over 15 meters. The time schedules for completion of this work will be such as will not interfere with the work to be done on the roads included in part (a) above or with the use of such roads after completion.
 - (c) maintenance of the roads and bridges included in parts (a) and (b) above.
2. The Project will be carried out under the supervision of the *Secretaría de Obras Públicas* of the Guarantor.

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

(ROAD PROJECT)

AGREEMENT, dated October 18, 1960, between the NACIONAL FINANCIERA, S.A., (hereinafter called the Borrower) and INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (hereinafter called the Bank).

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, 1956,¹ subject, however, to the modifications thereof set forth in Schedule 2² 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.

¹ See above.

² See p. 198 of this volume.

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 twenty-five million dollars (\$25,000,000).

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.

Section 2.03. Except as the Bank and the Borrower shall otherwise agree :

(a) The Borrower shall be entitled, subject to the provisions of this Agreement, to withdraw from the Loan Account the equivalent of a percentage to be established from time to time by agreement between the Guarantor, the Bank and the Borrower of such amounts as shall have been expended by the Guarantor for the reasonable cost of goods required for carrying out the work included in part (a) of the Project, such percentage to represent the foreign exchange component of such cost.

(b) Withdrawals under clause (a) of this Section shall be in dollars or such other currencies as the Bank may reasonably determine.

(c) Notwithstanding the foregoing provisions of this Section, no withdrawals shall be made on account of expenditures prior to November 1, 1960, or expenditures in the territories of any country (except Switzerland) which is not a member of the Bank or for goods produced in (including services supplied from) such territories.

Section 2.04. 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.

Section 2.05. 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 2.06. Except as the Borrower and the Bank 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 2.07. Interest and other charges shall be payable semi-annually on May 1 and November 1 in each year.

Section 2.08. The Borrower shall repay the principal of the Loan in accordance with the amortization schedule set forth in Schedule 1¹ to this Agreement.

Article III

USE OF PROCEEDS OF THE LOAN

Section 3.01. Subject to the provisions of this Agreement, the Borrower shall cause the proceeds of the Loan to be applied exclusively to financing the cost of goods required to carry out the Project described in Schedule 1 to the Guarantee Agreement.² 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 Guarantor, the Borrower and the Bank, subject to modification by further agreement between them.

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 *Director General* of the Borrower and such person or persons as he shall appoint in writing are designated as authorized representatives of the Borrower for the purposes of Section 6.12 of the Loan Regulations.

Article V

PARTICULAR COVENANTS

Section 5.01. The Borrower shall make with the Guarantor arrangements satisfactory to the Bank providing for the transfer of the proceeds of the Loan from the Borrower to the Guarantor.

Section 5.02. (a) The Bank and the Borrower shall co-operate 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.

(c) The Borrower shall maintain or cause to be maintained records adequate 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 any relevant records and documents; and shall furnish or cause to be furnished to the Bank all such information as the Bank shall reasonably request concerning the expenditure of the proceeds of the Loan and the operations and financial condition of the Borrower.

¹ See p. 198 of this volume.

² See p. 178 of this volume.

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 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.

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 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 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.

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 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) and Section 9.01 (b) (ii) of the Loan Regulations :

The arrangements referred to in Section 5.01 of this Agreement, in terms satisfactory to the Bank, shall have been made.

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 :

That the arrangements referred to in Section 5.01 of this Agreement are valid and are binding on the Guarantor and the Borrower.

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

Article VIII

MISCELLANEOUS

Section 8.01. The Closing Date shall be March 31, 1965.

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

For the Borrower :

Nacional Financiera, S. A.
Avenida Venustiano Carranza 25
Mexico 1, D.F., Mexico

Alternatives address for cablegrams and radiograms :

Nafin
Mexico City

For the Bank :

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

Alternatives 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 Eugene R. BLACK
President

Nacional Financiera, S. A. :

By Raul MARTINEZ OSTOS
Authorized Representative

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>
May 1, 1965	\$536,000	November 1, 1972	\$820,000
November 1, 1965	552,000	May 1, 1973	844,000
May 1, 1966	568,000	November 1, 1973	868,000
November 1, 1966	584,000	May 1, 1974	893,000
May 1, 1967	601,000	November 1, 1974	919,000
November 1, 1967	618,000	May 1, 1975	945,000
May 1, 1968	636,000	November 1, 1975	972,000
November 1, 1968	654,000	May 1, 1976	1,000,000
May 1, 1969	673,000	November 1, 1976	1,029,000
November 1, 1969	692,000	May 1, 1977	1,059,000
May 1, 1970	712,000	November 1, 1977	1,089,000
November 1, 1970	732,000	May 1, 1978	1,120,000
May 1, 1971	753,000	November 1, 1978	1,153,000
November 1, 1971	775,000	May 1, 1979	1,186,000
May 1, 1972	797,000	November 1, 1979	1,220,000

* 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	½ of 1%
More than 3 years but not more than 6 years before maturity	1½%
More than 6 years but not more than 11 years before maturity	2½%
More than 11 years but not more than 14 years before maturity	3½%
More than 14 years but not more than 17 years before maturity	4¾%
More than 17 years before maturity	5¾%

SCHEDULE 2

MODIFICATIONS OF LOAN REGULATIONS No. 4

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

(a) Section 2.02 shall be deleted.

(b) The second sentence of Section 3.01 shall read as follows :

“ Subject to the provisions of Section 2.03 of the Loan Agreement, the proceeds of the Loan shall, to the extent that the Bank shall so elect, be withdrawn from the Loan Account in the several currencies in which goods are paid for. ”

(c) Section 3.05 shall read as follows :

“ SECTION 3.05. *Valuation of Currencies.* Whenever it shall be necessary for the purposes of this Agreement to value one currency in terms of another currency, such value shall be as reasonably determined by the Bank. ”

(d) Section 4.01. is deleted.

(e) The first five lines of Section 5.02 shall read as follows :

“ SECTION 5.02. *Suspension by the Bank.* If any of the following events shall have happened and be continuing, the Bank may at any time or from time to time by notice to the Borrower suspend in whole or in part the right of the Borrower to make withdrawals from the Loan Account. ”

(f) The last paragraph of Section 5.02 shall read as follows :

“ The right of the Borrower to make withdrawals from the Loan Account shall continue to be suspended in whole or in part, as the case may be, until the event or events which gave rise to such suspension shall have ceased to exist or until the Bank shall have notified the Borrower that the right to make withdrawals has been restored, whichever is the earlier; provided, however, that in the case of any such notice of restoration, the right to make withdrawals shall be restored only to the extent and subject to the conditions specified in such notice, and no such notice shall affect or impair any right, power or remedy of the Bank in respect of any other or subsequent event described in this Section. ”

(g) Section 9.03 shall read as follows :

“ SECTION 9.03. *Effective Date.* Notwithstanding the provisions of Section 8.01, except as shall be otherwise agreed by the Borrower and the Bank, the Loan Agreement and Guarantee Agreement shall come into force and effect on the date upon which the Bank dispatches to the Borrower and the Guarantor notice of its acceptance of the evidence required by Section 9.01. ”

(h) Paragraph 12 of Section 10.01 shall read as follows :

“ The term ‘ Project ’ means the project or projects or program or programs for which the Loan is granted, as described in the Guarantee Agreement and as the description thereof shall be amended from time to time by agreement between the Guarantor and the Bank. ”

(i) Paragraph 14 of Section 10.01 shall read as follows :

“ 14. The term ‘ external debt ’ means any debt payable in any medium other than currency of the Guarantor, whether such debt is or may become payable absolutely or at the option of the creditor in such other medium. ”