

No. 12079

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

Guarantee Agreement—*Tocumen International Airport Project* (with General Conditions Applicable to Loan and Guarantee Agreements). Signed at Washington on 2 August 1971

Authentic text: English.

Registered by the International Bank for Reconstruction and Development on 17 October 1972.

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

Contrat de garantie — *Projet relatif à l'aéroport international de Tocumen* (avec Conditions générales applicables aux contrats de crédit de développement). Signé à Washington le 2 août 1971

Texte authentique: anglais.

Enregistré par la Banque internationale pour la reconstruction et le développement le 17 octobre 1972.

GUARANTEE AGREEMENT¹

AGREEMENT, dated August 2, 1971, between REPUBLIC OF PANAMA (hereinafter called the Guarantor) and INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (hereinafter called the Bank).

WHEREAS by the Loan Agreement of even date herewith² between the Bank and Dirección de Aeronáutica Civil (hereinafter called the Borrower) the Bank has agreed to make to the Borrower a loan in various currencies equivalent to twenty million dollars (\$20,000,000), 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. GENERAL CONDITIONS; DEFINITIONS

Section 1.01. The parties to this Agreement accept all the provisions of the General Conditions Applicable to Loan and Guarantee Agreements of the Bank dated January 31, 1969,³ with the same force and effect as if they were fully set forth herein, subject, however, to the modifications thereof set forth in Section 1.01 of the Loan Agreement (said General Conditions Applicable to Loan and Guarantee Agreements, as so modified, being hereinafter called the General Conditions).

Section 1.02. Wherever used in this Agreement, unless the context otherwise requires, the several terms defined in the General Conditions and in Section 1.02 of the Loan Agreement have the respective meanings therein set forth.

Article II. GUARANTEE; BONDS; PROVISION OF FUNDS

Section 2.01. Without limitation or restriction upon any of its other obligations under the Guarantee Agreement, the Guarantor hereby unconditionally guarantees, as primary obligor and not as surety merely, the due and punctual payment of the principal of, and interest and other charges on, the Loan and the Bonds, including the premium, if any, on the prepayment of the Loan or the redemption of the Bonds prior to their maturity, all as set forth in the Loan Agreement and in the Bonds.

Section 2.02. The Guarantor shall endorse, in accordance with the provisions of the General Conditions, its guarantee on the Bonds to be executed and delivered by

¹ Came into force on 18 January 1972, upon notification by the Bank to the Government of Panama.

² The said Agreement entered into force on 18 January 1972. As it does not constitute an international agreement or a part of the present Agreement, it is not reproduced herein. However, it was published by the Bank as document LN 783 PAN, a certified true copy of which was transmitted to the Secretariat together with the documentation submitted for registration of the present Guarantee Agreement.

³ See p. 197 of this volume.

the Borrower. The Minister of Finance and Treasury of the Guarantor and such other person or persons as he shall appoint in writing are designated as authorized representatives of the Guarantor for the purposes of Section 8.10 of the General Conditions.

Section 2.03. (a) In order to assist the Borrower in the financing of the Project, the Guarantor undertakes to grant to the Borrower a loan in an amount equivalent to thirteen million eight hundred thousand dollars (\$13,800,000), and such loan shall be interest free and shall be repayable in 28 equal semi-annual installments starting on June 30, 1976 and ending on December 31, 1989, but the Guarantor shall be agreeable to a relaxation of such repayment schedule if and as necessary to ensure that the Borrower shall in any one year have sufficient funds available to meet all of its estimated cash operating, administrative and overhead expenses and to service its other debt during that year.

(b) The loan referred to in Section 2.04 (a) of this Agreement shall be disbursed by the Guarantor to the Borrower in such installments between the date of this Agreement and the date of completion of the Project as shall be necessary to ensure that DAC shall at all times during such period have funds sufficient for carrying out the Project on schedule.

Section 2.04. Without limitation or restriction upon the provisions of Sections 2.01 and 2.03 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 the carrying out of the Project, to make arrangements, satisfactory to the Bank, promptly to provide the Borrower with such other funds as are needed to meet such expenditures.

Article III. OTHER COVENANTS

Section 3.01. (a) It is the mutual intention of the Guarantor and the Bank that no other external debt shall enjoy any priority over the Loan or the Bonds by way of a lien on governmental assets.

(b) To that end the Guarantor (i) represents that at the date of this Agreement no lien exists on any governmental assets as security for any external debt except as otherwise disclosed in writing by the Guarantor to the Bank, and (ii) undertakes that if any such lien shall be created, it 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 in the creation of any such lien express provision will be made to that effect. The Guarantor shall promptly inform the Bank of the creation of any such lien.

(c) The foregoing representation and undertaking shall not apply to: (i) any lien created on property, at the time of purchase thereof, solely as security for payment of the purchase price of such property; and (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, the term "governmental assets" means assets of the Guarantor, of any of its political subdivisions, of any agency of the Guarantor or of any such political subdivision, and assets of any institution performing the functions of a central bank for the Guarantor.

Section 3.02. The Guarantor covenants that it will not take, or cause or

permit any of its political subdivisions or any of its agencies or any agency of any such political subdivisions to take, any action which would prevent or interfere with the performance by the Borrower of its obligations contained in the Loan Agreement and will take or cause to be taken all reasonable action necessary or appropriate to enable the Borrower to perform such obligations.

Section 3.03. Not later than July 31, 1973, the Guarantor shall establish and implement or cause to be established and implemented comprehensive land use zoning in the administrative districts in the environs of Tocumen which will be compatible with the long range use of such airport's property.

Article IV. CONSULTATION AND INFORMATION

Section 4.01. The Guarantor and the Bank shall co-operate fully to assure that the purposes of the Loan will be accomplished. To that end the Guarantor and the Bank shall from time to time, at the request of either party: (i) exchange views through their representatives with regard to the performance of their respective obligations under the Guarantee Agreement and other matters relating to the purposes of the Loan; and (ii) 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, including its balance of payments, and the external debt of the Guarantor, of any of its political subdivisions and of any agency of the Guarantor or of any such political subdivision.

Section 4.02. (a) 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.

(b) 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.

Article V. TAXES AND RESTRICTIONS

Section 5.01. 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 imposed under the laws of the Guarantor or laws in effect in its territories; provided, however, that the foregoing shall not apply to taxation of 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 5.02. The Guarantee Agreement, the Loan Agreement, any instrument made pursuant to Section 3.01 of this Agreement and the Bonds shall be free from any taxes 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 and the Guarantor shall, in respect of any instrument made pursuant to such Section 3.01, pay all such taxes, if any, imposed under the laws of any other country or countries.

Section 5.03. The payment of the principal of, and interest and other charges on, the Loan and the Bonds shall be free from all restrictions, regulations, controls or moratoria of any nature imposed under the laws of the Guarantor or laws in effect in its territories.

Article VI. REPRESENTATIVE OF THE GUARANTOR; ADDRESSES

Section 6.01. The *Ministro de Hacienda y Tesoro* of the Guarantor is designated as representative of the Guarantor for the purposes of Section 10.03 of the General Conditions.

Section 6.02. The following addresses are specified for the purposes of Section 10.01 of the General Conditions:

For the Guarantor:

Ministerio de Hacienda y Tesoro
Panamá
República de Panamá
Cable address:
Hacienda
Panamá, R.P.

For the Bank:

International Bank for Reconstruction and Development
1818 H Street, N.W.
Washington, D.C. 20433
United States of America
Cable address:
Intbafrad
Washington, D.C.

IN WITNESS WHEREOF, the parties hereto, acting through their representatives thereunto duly authorized, have caused this 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 Panama:
By JOSÉ ANTONIO DE LA OSSA
Authorized Representative

International Bank for Reconstruction and Development:
By SIMON ALDEWERELD
Vice-President

INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT
GENERAL CONDITIONS, DATED 31 JANUARY 1969
GENERAL CONDITIONS APPLICABLE TO LOAN AND GUARANTEE AGREEMENTS
[Not published herein. See *United Nations, Treaty Series, vol. 691, p. 300.*]