

No. 12268

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INTERNATIONAL BANK FOR  
RECONSTRUCTION AND DEVELOPMENT  
and  
IVORY COAST

**Guarantee Agreement—*Second Palm-Oil Processing Project*  
(with General Conditions Applicable to Loan and Guarantee  
Agreements). Signed at Washington on 22 June 1971**

*Authentic text : English.*

*Registered by the International Bank for Reconstruction and Development on  
22 January 1973.*

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BANQUE INTERNATIONALE POUR  
LA RECONSTRUCTION ET LE DÉVELOPPEMENT  
et  
CÔTE D'IVOIRE

**Contrat de garantie — *Deuxième projet relatif au traitement de  
l'huile de palme* (avec Conditions générales applicables aux  
contrats d'emprunt et de garantie). Signé à Washington le 22  
juin 1971**

*Texte authentique : anglais.*

*Enregistré par la Banque internationale pour la reconstruction et le développement  
le 22 janvier 1973.*

## GUARANTEE AGREEMENT<sup>1</sup>

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AGREEMENT, dated June 22, 1971, between the REPUBLIC OF THE IVORY COAST (hereinafter called the Guarantor) and INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (hereinafter called the Bank).

WHEREAS by the Loan Agreement of even date herewith<sup>2</sup> between the Bank, on the one side and, on the other side, Société PALMINDUSTRIE (hereinafter called the Borrower) and Société PALMIVOIRE (hereinafter called PALMIVOIRE) the Bank has agreed to make to the Borrower a loan in various currencies equivalent to one million nine hundred thousand dollars (\$1,900,000), on the terms and conditions set forth in the Loan Agreement, but only on condition that the Guarantor and the companies associated with the Borrower in the development of oil palm plantations and processing of palm-oil (namely the Société pour le Développement et l'Exploitation du Palmier à Huile, hereinafter called SODEPALM), and PALMIVOIRE agree to guarantee the obligations of the Borrower in respect of such loan as hereinafter provided;

WHEREAS by an agreement of even date herewith<sup>3</sup> between the Bank, on the one side, and PALMIVOIRE and SODEPALM, on the other side, which agreement is hereinafter called the Companies Guarantee Agreement (*Second Palm-Oil Processing Project*), said companies (hereinafter called the Guarantor-Companies) have agreed to guarantee the obligations of the Borrower in respect of such loan as in such Companies Guarantee Agreement (*Second Palm-Oil Processing Project*) 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,<sup>4</sup> with the same force and effect as if they were fully set forth herein, subject, however, to the modifications thereof set forth in Schedule 5 to 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; PROVISIONS 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

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<sup>1</sup> Came into force on 15 November 1972, upon notification by the Bank to the Government of the Ivory Coast.

<sup>2</sup> The said Agreement entered into force on 15 November 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 759 IVC, a certified true copy of which was transmitted to the Secretariat together with the documentation submitted for registration of the present Guarantee Agreement.

<sup>3</sup> See footnote 2 above.

<sup>4</sup> See p. 151 of this volume.

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, 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 the Borrower. The *Ministre de l'Economie et des Finances* 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) Without limitation or restriction upon the provisions of Section 2.01 of this Guarantee Agreement, the Guarantor specifically undertakes that :

- (i) if at any time the aggregate gross expenditures on fixed assets (*immobilisations*) of the Borrower, less accumulated depreciation thereon, incurred by the Borrower or by PALMIVOIRE for the Borrower's account, shall exceed the Borrower's long-term capital outstanding at such time, the Guarantor shall promptly provide the Borrower, or cause the Borrower to be provided, with funds in an amount equivalent to such excess by means of contributions to the Borrower;
- (ii) if at any date the aggregate cash operating expenditures incurred by PALMIVOIRE for the account of itself, the Borrower and SODEPALM during the last two months preceding such date shall exceed the aggregate net current assets owned, held or managed by PALMIVOIRE at such date for the account of itself, the Borrower and SODEPALM, the Guarantor shall promptly provide PALMIVOIRE, or cause PALMIVOIRE to be provided, with funds in an amount equivalent to such excess by means of advances to PALMIVOIRE for the account of itself, the Borrower and SODEPALM;
- (iii) if at any date the aggregate liquid assets owned, held or managed by PALMIVOIRE for the account of itself, the Borrower and SODEPALM shall be less than either an amount equivalent to \$1,000,000 or an amount equivalent of the outside debt service requirements of the Borrower and SODEPALM for the six months immediately following such date, whichever amount is higher, the Guarantor shall promptly provide PALMIVOIRE, or cause PALMIVOIRE to be provided, with funds in an amount equivalent to such difference by means of advances to PALMIVOIRE for the account of itself, the Borrower and SODEPALM.

(b) For the purposes of this Section :

(i) The term "long-term capital" means the aggregate of paid-in share capital, outside debt drawn down and not repaid, any other indebtedness maturing in more than one year drawn down and not repaid, contributions and accumulated surplus (if any) less accumulated losses (if any), all determined in accordance with generally accepted sound accounting principles consistently applied;

(ii) The term "cash operating expenditures" means all cash expenditures other than expenditures for the purchase and installation of fixed assets, vehicles and other equipment, expenditures for new plantation development and repayments of the principal of the aggregate outside debt of the Borrower, SODEPALM and PALMIVOIRE;

(iii) The term "net current assets" means inventories, prepayments, accounts receivable and other assets readily convertible into cash, cash and bank balances, less accounts payable and provisions for all other outstanding liabilities (other than advances made pursuant to paragraph (a) of this Section) including taxes, payments to FER, amounts drawn down pursuant to bank overdraft facilities for less than one year and one year's requirements for service of the aggregate outside debt of the Borrower, SODEPALM and PALMIVOIRE;

(iv) The term “liquid assets” means cash and bank balances and undrawn bank overdraft facilities, provided, however, that the total amount of such facilities whether drawn or undrawn shall at no time exceed the aggregate current value of inventories and accounts receivable;

(v) The term “contributions” means payments on account of subscription of capital shares, loans repayable, as to principal and interest and other charges, only after payment of interest on, and repayment of principal of, all outside debt, and other financing as may from time to time be acceptable to the Bank;

(vi) The term “advances” means cash advances carrying interest at a rate not in excess of 6% per annum on the principal amount and outstanding and repayable only if and to the extent that as a result of such repayment no further advances under this Section shall be required;

(vii) Wherever reference is made to PALMIVOIRE acting for the account of itself, the Borrower and SODEPALM, such references shall be to PALMIVOIRE acting in accordance with the PALMINDUSTRIE *mandat d'investissement*, PALMINDUSTRIE *mandat de gestion*, SODEPALM *mandat d'investissement* and SODEPALM *mandat de gestion* granted it by the Borrower and SODEPALM, respectively.

### 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, 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; 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; or (iii) any lien on commercial goods to secure a debt maturing not more than one year after the date on which it is originally incurred and to be paid out of the proceeds of sale of such commercial goods, or (iv) any lien upon real estate or other property in the Ivory Coast or revenues or receipts in currency of the Guarantor, if such lien is given by a political subdivision or by an agency of a political subdivision of the Guarantor under arrangements or circumstances which would not result in priority in the allocation or realization of foreign exchange.

(d) As used in this Section, the term “governmental assets” means assets of the Guarantor or of any of its political subdivisions or of any agency of the Guarantor or of any such political subdivision, or of any institution which may be established to perform the functions of a central bank exclusively for the Guarantor, and any participation, share, right or other financial interest which the Guarantor may have in any institution (other than in an agency of the Guarantor) performing such functions for the Guarantor.

(e) The term “assets of the Guarantor” as used in this Section shall not include assets of municipalities (*communes*). The Guarantor further undertakes that, within the limits of its constitutional powers, it will make the foregoing undertaking effective with respect to liens on the assets of municipalities (*communes*). If the Guarantor,

because of constitutional or other legal provisions, shall be unable to make the foregoing effective with respect to any lien on any assets of a municipality (*commune*), the Guarantor, except as the Bank shall otherwise agree, shall give to the Bank an equivalent lien or equivalent priority in the allocation or realization of foreign exchange, as the case may be, satisfactory to the Bank.

*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 subdivision 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.* The Guarantor shall make or cause to be made available to the Borrower, promptly as needed all facilities and land required for the carrying out and operation of the Project, free from all restrictions, encumbrances or liabilities on the use thereof.

*Section 3.04.* The Guarantor covenants that it will pay in its respective capital subscription to the share capital of the Borrower and PALMIVOIRE promptly on demand by the respective Board of Directors (CONSEIL D'ADMINISTRATION) of the Borrower and of PALMIVOIRE.

#### *Article IV. CONSULTATION AND INFORMATION*

*Section 4.01. (a)* The Guarantor and the Bank shall cooperate fully to assure that the purposes of the Loan are 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, including its balance of payments position 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, and the policies of CSSPPA relating to palm-oil and palm kernel prices.

*(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 and, without limitation on the generality of the foregoing, of any proposed amendment to Law No. 62-82 dated March 22, 1962 (as amended by Law No. 63-22 dated February 5, 1963) or Decree No. 66-445 dated September 21, 1966 (as amended by Decree No. 69-154 dated April 17, 1969) of the Guarantor governing the organization and administration of the CSSPPA.

*(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.

#### *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 of the resident of the Guarantor.

*Section 5.02.* The Guarantee Agreement, the Loan Agreement, any instrument made pursuant to Section 3.01 of this Agreement, the Companies Guarantee Agreement (*Second Palm-Oil Processing Project*) 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.

*Section 5.04.* The Guarantor shall ensure that all goods imported by the Borrower for the Project will be exempt from all import duties levied by the Guarantor including, without limitation, the Common External Tariff, Customs Import Duty, Turnover Tax and Complementary Tax.

#### *Article VI. REPRESENTATIVE OF THE GUARANTOR; ADDRESSES*

*Section 6.01.* The *Ministre de l'Economie et des Finances* 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 :

Ministère de l'Economie et des Finances

B.P. 1766

Abidjan

Republic of the Ivory Coast

Cable address :

Minifin

Abidjan

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 to be delivered in the District of Columbia, United States of America, as of the day and year first above written.

Republic of the Ivory Coast :

By KONAN BEDIÉ  
Authorized Representative

International Bank for Reconstruction and Development :

By ROBERT S. McNAMARA  
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.*]

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