

No. 16267

**UNITED STATES OF AMERICA
and
URUGUAY**

**Payment and Guaranty Agreement for the agricultural co-
operative development loan. Signed at Montevideo on
3 September 1975**

Authentic text: English.

Registered by the United States of America on 27 January 1978.

**ÉTATS-UNIS D'AMÉRIQUE
et
URUGUAY**

**Accord de remboursement et de garantie relatif au dévelop-
pement des coopératives agricoles. Signé à Montevideo
le 3 septembre 1975**

Texte authentique : anglais.

Enregistré par les États-Unis d'Amérique le 27 janvier 1978.

PAYMENT AND GUARANTY AGREEMENT¹ BETWEEN THE ORIENTAL REPUBLIC OF URUGUAY AND THE UNITED STATES OF AMERICA FOR THE AGRICULTURAL COOPERATIVE DEVELOPMENT LOAN

Dated: September 3, 1975

AID Loan 528-T-025

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¹ Came into force on 3 September 1975 by signature, in accordance with section 9.04.

PAYMENT AND GUARANTY AGREEMENT, in furtherance of the Alliance for Progress, dated September 3, 1975, between the ORIENTAL REPUBLIC OF URUGUAY ("Government") and the UNITED STATES OF AMERICA, acting through the AGENCY FOR INTERNATIONAL DEVELOPMENT ("AID").

Article I. DEFINITIONS AND TERMS

Section 1.01. THE LOAN AGREEMENT. The Loan Agreement, numbered AID Loan 528-T-025 between the Cooperativa Agropecuaria Limitada de Sociedades de Fomento Rural ("CALFORU") ("Borrower") and the United States of America, dated September 3, 1975, establishing a Loan of not to exceed two million United States dollars (\$2,000,000) is herein called the "Loan Agreement", and the Loan established thereby is herein called the "Loan".

Section 1.02. PRINCIPAL. As used in this Payment and Guaranty Agreement, "Principal" shall mean the aggregate amount of dollars disbursed under the Loan Agreement.

Section 1.03. TRANSFERRED PRINCIPAL. As used in this Payment and Guaranty Agreement, "transferred principal" means principal paid by Borrower to the Government pursuant to section 2.05 of the Loan Agreement and section 2.01 of this Agreement.

Section 1.04. OUTSTANDING TRANSFERRED PRINCIPAL. As used in this Payment and Guaranty Agreement, "outstanding transferred principal" means transferred principal not repaid to AID by the Government.

Section 1.05. GOVERNMENT INTEREST RATE. As used in this Payment and Guaranty Agreement, "Government interest rate" means interest at two percent (2%) for ten (10) years following the first disbursement under the Loan Agreement, and three percent (3%) thereafter.

Section 1.06. GOVERNMENT AMORTIZATION TERMS. As used in this Payment and Guaranty Agreement, "Government amortization terms" means amortization over not more than forty (40) years, in sixty-one (61) semiannual installments, the first of which shall be due and payable not later than ten (10) years after the first disbursement under the Loan Agreement on a date to be mutually agreed upon by the Parties hereto. The amount of each installment shall be determined by dividing the total amount of the Government's obligation to repay outstanding Principal to AID immediately before paying that installment by the number of installments remaining to be paid at that time.

Article II. SPECIAL PROCEDURE FOR BORROWER'S PAYMENT TO GOVERNMENT

Section 2.01. RECEIPT OF BORROWER'S PAYMENTS. Pursuant to section 2.05 of the Loan Agreement, the Government and AID hereby agree that the Government shall receive from the Borrower payments in Uruguayan currency ("pesos") in discharge of the Borrower's obligation to AID. The Government, upon receipt of such payments, will issue receipts to the Borrower. These receipts will be deemed as sufficient evidence that the Borrower has complied with its financial obligations to AID. The Government will, in turn, pay AID in United States dollars as stipulated under the special payment procedure of the Loan Agreement.

Section 2.02. NOTICE. (a) Upon satisfactory completion of the conditions precedent set forth in article X of this Payment and Guaranty Agreement, AID shall notify the Borrower in accordance with the Loan Agreement that this Payment and Guaranty Agreement is in effect.

(b) Promptly upon receipt thereof, Government shall notify AID of all payments received from Borrower in accordance with this Agreement.

Section 2.03. EXCHANGE RATE. The peso equivalent of the dollar amount which the Borrower would be obligated to pay to AID in dollars if this Payment and Guaranty Agreement were not in effect shall be calculated at whichever rate of exchange would be employed by the Central Bank of Uruguay if the Borrower were obtaining dollars for payments directly to AID pursuant to the Loan Agreement.

Section 2.04. DENOMINATION OF BORROWER'S PAYMENTS. Although payable to Government in pesos, all payments by Borrower to Government shall, immediately upon receipt by the Government, be denominated in dollars employing the exchange rate specified in or pursuant to section 2.03.

Section 2.05. USE OF BORROWER'S PAYMENTS—SPECIAL ACCOUNT. The Government shall deposit the Borrower's payments in a separate account which the Government shall establish in the Central Bank of Uruguay or such other Bank as the Government and AID may agree upon ("special account"). Unless AID agrees otherwise in writing, such account shall be drawn upon by the Government for the purpose of meeting payment obligations to AID pursuant to this Payment Agreement and for such purposes beneficial to the economic and social development of Uruguay consistent with the goals of the Alliance for Progress. Provided, however, that the provisions of this section shall in no way limit, modify or alter Government's obligation to make payment to AID pursuant to this Agreement.

Article III. DEFERRED PAYMENT BY GOVERNMENT TO AID

Section 3.01. SCOPE. The provisions of this article III shall apply unless and until AID invokes the guaranty set forth in article IV.

Section 3.02. INTEREST PAYMENT—INTEREST ON UNTRANSFERRED PRINCIPAL. Immediately upon receipt of any interest payment from the Borrower, Government shall pay to AID the lesser of the following two amounts:

- (a) an amount equal to the interest which the Borrower would have been obligated to pay to AID if Borrower's interest obligations had been computed at the Government interest rate;
- (b) the amount of interest actually received from the Borrower.

Section 3.03. INTEREST PAYMENTS—INTEREST ON TRANSFERRED PRINCIPAL. In addition to the obligations set forth in section 3.02 Government shall pay to AID interest at the Government interest rate, on outstanding transferred principal and on any interest due and payable by Government to AID. Interest on outstanding transferred principal shall accrue from the dates on which principal payments are received from Borrower by Government, and shall be payable to AID semiannually, the first such payment to be specified by AID, which date shall be no later than six (6) months after interest on outstanding transferred principal begins to accrue.

Section 3.04. AMORTIZATION OF TRANSFERRED PRINCIPAL. Government agrees to pay to AID all transferred principal in accordance with the Government amortization terms.

Section 3.05. USE OF BALANCES. All amounts representing:

- (i) differences between interest paid by Borrower to Government in accordance with section 2.01, and interest payable by Government to AID pursuant to this Payment and Guaranty Agreement, and

- (ii) differences between the total amount of transferred principal and transferred principal due and payable by Government to AID pursuant to this Payment and Guaranty Agreement shall remain available to Government for use in accordance with section 2.05.

Article IV. INDEPENDENT GUARANTY

Section 4.01. GUARANTY. (a) The Government unconditionally and absolutely, jointly and severally as primary obligor with the Borrower, undertakes to make, in accordance with the terms of the Loan Agreement, due and punctual payment of the principal, interest and any other payment required of the Borrower under the Loan Agreement.

(b) The Government shall furnish such information and take such steps related to making this Guaranty operative as AID may reasonably request.

(c) The Government agrees to remain bound under this Payment and Guaranty Agreement notwithstanding the extension of time of performance to, the granting of any other indulgency to, or any other modification of any obligation of the Borrower under the Loan Agreement other than financial obligations of the Borrower. Any financial modifications shall be agreed to by the Government.

(d) AID may invoke the foregoing Guaranty upon the occurrence of any event of default as defined in the Loan Agreement, by delivery of notice to the Government. Except as otherwise provided in section 4.01, upon delivery of such notice and until such time as AID may otherwise agree to in writing, Government shall meet its obligations to AID under this article by making payments to AID in accordance with sections 4.02 and 4.03.

Section 4.02. AMORTIZATION. In the event that the Guaranty is invoked by AID, the Government shall pay to AID the amount that the Borrower is obligated to pay to AID, pursuant to section 2.02 of the Loan Agreement ("Repayment"), whether or not Borrower has discharged said obligations by repayments to Government in pesos in accordance with section 2.05 of the Loan Agreement and section 2.01 of this Payment and Guaranty Agreement. Such payments by Government to AID shall be in accordance with the Government amortization terms.

Section 4.03. INTEREST. In the event that the Guaranty is invoked by AID, Government shall pay to AID interest at the Government interest rate on any principal which has not been repaid to AID, and on any interest due to AID. Such interest shall accrue from the dates of the respective disbursement by AID under the Loan Agreement, and shall be payable to AID semiannually, the first such payment to be due and payable on a date to be agreed by the Parties.

Section 4.04. INDEPENDENT NATURE OF GUARANTY. The Guaranty established in section 4.01 shall remain in full force and effect whether or not the special payment procedures established by section 2.01 and other provisions of this Payment and Guaranty Agreement are, for any reason, terminated. In the event such procedures are, for any reason, terminated, and the Guaranty is invoked by AID, the provisions of sections 4.02 and 4.03 shall cease to apply and Government shall meet its obligations to AID under this article by making payments to AID in accordance with the Loan Agreement and section 4.01 of this Agreement.

Article V. GOVERNMENT PAYMENTS—GENERAL

Section 5.01. CURRENCY OF PAYMENTS. All payments by Government to AID shall be in United States dollars.

Section 5.02. PLACE OF PAYMENTS. All payments by Government to AID shall be deemed to have been paid when delivered to the Agency for International Development, Cashier, Ser/Cont, Washington, D.C. 20523, or to such other address as AID may specify.

Section 5.03. APPLICATION OF PAYMENTS. All payments by Government to AID shall be applied first to the payment of any interest due from Government to AID and unpaid, and then to the repayment of principal due from Government to AID.

Section 5.04. PREPAYMENT. The Government shall have the right to prepay, without penalty at any time, all or any part of the outstanding transferred principal. Any prepayment shall be applied in the order prescribed in section 5.03 and amounts applied to the remaining installments of outstanding transferred principal shall be applied *pro rata* to such installments.

Section 5.05. RENEGOTIATION OF TERMS. In the light of the undertakings of the Government of the United States of America, the Government and the other signatories of the Act of Bogotá and the Charter of Punta del Este to join in an Alliance for Progress, the Government agrees that at any time or times when it is requested to do so by AID under this section, but not sooner than six (6) months before the date on which the first installment of outstanding transferred principal is payable under section 3.04 of this Payment and Guaranty Agreement, it will negotiate with AID concerning the acceleration of payments required to be made to AID pursuant to this Payment and Guaranty Agreement. The Parties hereto shall mutually determine to what extent repayment should be accelerated on the basis of one or more of the following criteria:

- (a) the capacity of the Government to service a more rapid liquidation of its obligations in the light of the internal and external financial position of Uruguay, taking into account debts owing to any agency of the United States of America or to any international organization of which the United States of America is a member;
- (b) the relative capital requirements of the Government and of the other signatories of the Act of Bogotá and of the Charter of Punta del Este.

Section 5.06. INTEREST COMPUTATION ON A 365-DAY YEAR BASIS. Interest under this Agreement shall be computed on the basis of a 365-day year.

Article VI. ADDITIONAL COVENANTS AND WARRANTIES

Section 6.01. NOTICE OF ADVERSE DEVELOPMENTS. The Government shall promptly inform AID of any conditions which interfere with, or threaten to interfere with, the carrying out by the Government of its obligations under this Agreement.

Section 6.02. TAXATION OF THIS PAYMENT AND GUARANTY AGREEMENT, AND PAYMENTS HEREUNDER. This Payment and Guaranty Agreement shall be free from, and all payments to AID made hereunder shall be paid without deduction for and free from, any taxation or fees imposed under the laws of Uruguay in effect in its territory.

Section 6.03. LOCAL CREDIT SUPPORT. The Government covenants to give due consideration and feasible support to ensure that Borrower has access to the local credit necessary to meet Project objectives.

Article VII. RECORDS, INSPECTIONS, REPORTS

Section 7.01. MAINTENANCE OF RECORDS, INSPECTIONS, REPORTS. (a) The Government shall maintain, or cause to be maintained, for such time as shall meet

the needs of the Parties, books and records, including documentation, in accordance with sound accounting principles and practices adequate to identify the payments received, pursuant to section 2.01 hereof, and to identify programs or projects financed by funds disbursed from the special account, and indicate the progress of such activities.

(b) AID, or its authorized representative, shall have the right at all reasonable times to examine such books and records and all other documents, correspondence, memoranda, and other records relating to: (1) the payments received pursuant to section 2.01 hereof and (2) the use of funds disbursed from the Special Account.

(c) The Government shall cooperate with, and give reasonable assistance to, and shall facilitate inspections by AID with respect to the execution of the activities financed through the special account, and shall afford all reasonable opportunity for authorized representatives of AID to visit any part of the territory of Uruguay for purposes related to this Payment and Guaranty Agreement.

(d) The Government shall promptly furnish to AID such financial and other reports and information relating to the covenants of this Payment and Guaranty Agreement or transactions pursuant hereto as AID may reasonably request.

Article VIII. REMEDIES OF AID

Section 8.01. GROUNDS FOR TERMINATION. If any one or more of the following events ("grounds for termination") shall occur:

- (a) Government shall fail to comply with any provision contained herein;
 - (b) a default shall have occurred under any other agreement between Government or any of its agencies and the United States of America or any of its agencies;
 - (c) AID determines that any representation or warranty made by or on behalf of Government in connection with this Agreement or the negotiations incident hereto, or pursuant to this Agreement, is incorrect in any material respect;
 - (d) any change in the character, capacity or credit-worthiness of the Borrower, or a change in the conduct of the Project described in the Loan Agreement, which occurs because Government or any governmental authority in Uruguay shall have taken any action for the dissolution or disestablishment of the Borrower or for the suspension of the Borrower's activities or a substantial part thereof, or for the cancellation, substantial amendment or suspension of the right of the Borrower to carry out the Project;
 - (e) AID, after consultation with the Government, determines that an extraordinary situation has arisen which makes it improbable that the purposes of this Agreement shall be attained or that the Government will be able to perform its obligations hereunder;
 - (f) continuation of the procedures established herein would be in violation of the law governing AID;
 - (g) an event of default under the Loan Agreement;
- then AID, at its option, may declare:
- (i) all or any part of the outstanding transferred principal and any interest accrued thereon to be due and payable to AID immediately, specifying which installments thereof, and interest thereon shall become due and payable; and/or
 - (ii) the special payment procedure established herein to be terminated.

Upon any such declaration, unless the cause for termination is cured within sixty (60) days thereafter, such principal and interest shall become due and payable imme-

diately, and/or the special payment procedure shall be terminated in accordance with the terms of such declaration. Unless AID otherwise specifies, such termination shall not in any way affect the continued validity of the Guaranty contained in section 4.01.

Section 8.02. WAIVERS OF CAUSES FOR TERMINATION. No delay in exercising or omission to exercise any right accruing to AID under this Agreement shall be construed as an acquiescence or as a waiver by AID of any such rights.

Section 8.03. DEFAULTS. For purposes of other agreements between Government and the United States of America, or any of its agencies, the occurrence of an event specified in sub-sections 8.01 (a), (c), or (d) shall be considered an “event of default” under this Agreement.

Article IX. MISCELLANEOUS

Section 9.01. USE OF REPRESENTATIVES. (a) All actions required or permitted to be performed or taken under this Agreement by the Government or AID may be performed by their respective duly authorized representatives.

(b) The Government hereby designates the Minister of Economy and Finance as its representative with authority to designate in writing other representatives in its dealings with AID. The representative of the Government named pursuant to the preceding sentence, unless AID is given notice otherwise, shall have authority to agree on behalf of the Government to any modification of this Agreement which does not substantially increase the Government’s obligations hereunder. Until receipt by AID of written notice of revocation by the Government of the authority of any of its representatives, AID may accept that any action effected by such instrument is authorized by the Government.

Section 9.02. NO PREJUDICE. No provisions of this Agreement shall terminate or modify any right of AID specified in or which may arise pursuant to the Loan Agreement.

Section 9.03. NOTICE. Any notice, request or communication given, made or sent by the Government or AID pursuant to this Agreement shall be in writing and shall be deemed to have been duly given, made or sent to the Party to which it is addressed when it shall be delivered by hand or by mail, telegram, cable or radiogram to such other Party at the following addresses:

To the Government:

Mail address:

Ministerio de Economía y Finanzas
Colonia 1089
Montevideo, Uruguay

Cable address:

MinEconomía y Finanzas
Montevideo, Uruguay

To AID:

Mail address:

USAID Mission to Uruguay
American Embassy
Lauro Müller 1776
Montevideo, Uruguay

Cable address:

AmEmbassy
Montevideo, Uruguay

Other addresses may be substituted for the above upon the giving of notice and acknowledgement of such substitution.

Section 9.04. EFFECTIVE DATE OF PAYMENT AND GUARANTY AGREEMENT. This Agreement shall enter into effect as of the day and year first above written.

Article X. CONDITIONS PRECEDENT

Section 10.01. CONDITIONS PRECEDENT TO USE OF DEFERRED PAYMENT PROCEDURES. The special payment procedures set forth in section 2.05 of the Loan Agreement shall not be employed unless and until Government has furnished AID in form and substance satisfactory to AID:

- (a) an opinion or opinions of the Fiscal de Gobierno, or of other counsel satisfactory to AID, that this Agreement has been duly authorized or ratified by and executed on behalf of Government and that this Agreement and any obligations incurred by Government pursuant hereto do and will constitute valid and legally binding obligations of Government in accordance with their terms;
- (b) evidence of the authority of the person or persons who will act as representative or representatives of Government in connection with the operation of this Agreement pursuant to section 9.01 of this Agreement, together with specimen signature of each such person certified as to its authenticity by duly constituted Uruguayan authority, if said signature has not been heretofore submitted to AID.

Section 10.02. TERMINAL DATE FOR SATISFYING CONDITIONS PRECEDENT. If the conditions contained in section 10.01 of this Agreement have not been satisfied within 90 days of the date of this Agreement, or such later date as AID may specify, AID may, at any time thereafter, terminate the special payment procedure and/or all provisions of this Agreement by giving notice to Government.

IN WITNESS WHEREOF, the Government and the United States of America, each acting through its respective duly authorized representative, have caused this Agreement to be signed in their respective names and delivered as of the date and year first above written.

The Oriental Republic
of Uruguay:

By: [Signed]
Dr. JUAN CARLOS BLANCO
Title: Minister of Foreign Affairs

By: [Signed]
Ing. ALEJANDRO VEGH
VILLEGAS

Title: Minister of Economy and
Finance

The United States of America:

By: [Signed]
ERNEST V. SIRACUSA
Title: Ambassador of the United States
of America

By: [Signed]
LEONARD J. HORWITZ

Title: AID Representative in Uruguay