INVESTMENT GUARANTY AGREEMENT BETWEEN THE GOVERNMENTS OF THE UNITED STATES OF AMERICA AND THE UNITED STATES OF BRAZIL.

The Government of the United States of Brazil and the Government of the United States of America,

Recalling the fourth fundamental objective of the Alliance for Progress as stated in the Charter of Punta del Este --

"To accelerate the process of rational industrialization so as to increase the productivity of the economy as a whole, taking full advantage of the talents and energies of both the private and public sectors, utilizing the natural resources of the country and providing productive and remunerative employment for unemployed or part-time workers,"

Recalling that the National Development Programs called for by the said Charter include --

"Promotion through appropriate measures . . . of conditions that will encourage the flow of foreign investments and help to increase the capital resources of participating countries in need of capital,"

Considering that both Governments believe that the attainment of these objectives would be facilitated through establishing among the members of the Alliance an internationally uniform system of investment guaranties,

Desiring to encourage private participation in the development of economic resources and productive capacity through investment guaranties issued by the country of the investor, and to enhance the possibilities of multilateral arrangements on this subject,

Agree as follows:

Article I

When nationals of one Signatory Government propose to make investments, guaranteed pursuant to this Agreement, in a project or activity within the territorial jurisdiction of the other Signatory Government, the two Governments shall, upon the request of either, consult respecting the project or activity and its contribution to economic and social development.

Article II

The provisions of this Agreement shall be applicable only with respect to guaranteed investments in projects or activities approved for guaranty purposes by the Government in whose territory the project or activity will take place (hereafter referred to as "the Government of the Recipient Country"). The Government issuing guaranties pursuant to this Agreement (hereafter referred to as "the Guaranteeing Government") shall keep the Government of the Recipient Country currently informed on the types of investment guaranties it is prepared to issue, on the criteria it employs in determining whether to issue guaranties, as well as on the types and amounts of guaranties issued for projects or activities approved by the Government of the Recipient Country.

Article III

1. If the Guaranteeing Government makes payment in its national currency to any investor under a guaranty issued pursuant to the present Agreement, the Government of the Recipient Country shall, subject to the provisions of the following paragraph, recognize the transfer to the Guaranteeing Government of any currency, credits, assets, or investment on account of which such payment is made as well as the succession of the Guaranteeing Government to any right, title, claim, privilege, or cause of action existing, or which may arise, in connection therewith.

2. To the extent that the laws of the Recipient Country partially or wholly prevent the acquisition of any interests in any property within its national territory by the Guaranteeing Government, the Government of the Recipient Country shall permit such investor and the Guaranteeing Government to make appropriate arrangements pursuant to which such interests are transferred to an entity permitted to own such interests under the laws of the Recipient Country.

Article IV

1. Amounts in the lawful currency of the Recipient Country and credits thereof acquired by the Guaranteeing Government, as subrogee in accordance with the provisions of the preceding Article, shall be accorded treatment neither less nor more favorable than that accorded to funds of nationals of the Guaranteeing Government deriving from investments like those of the subrogating investor, and such amounts and credits shall be freely available to the Guaranteeing Government to meet its expenditures in the Recipient Country.

2. Whenever economic circumstances indicate the advisability of holding the surplus over expenditures of such currency and credits in a mutually agreed financial institution, the two Governmentswill consult concerning appropriate actions to be taken.

Article V

Nothing in this Agreement shall grant to the Guaranteeing Government other rights than those available to the subrogating investor with respect to any petition or claim or right to which the Guaranteeing Government may be subrogated.

Article VI

1. Differences between the two Governments concerning the interpretation of the provisions of this Agreement shall be settled, insofar as possible, through negotiations between them. If such a difference cannot be resolved within a period of six months following the request for such negotiations, it shall be submitted, at the request of either Government, to arbitration in accordance with paragraph 4 of this Article.

2. Any claim against either Government concerning an investment guaranteed in accordance with this agreement, which may constitute a matter involving public international law, shall, at the request of the Government presenting the claim, be submitted to negotiations. If at the end of six months following the request for negotiations the two Governments have not resolved the claim by mutual agreement, the claim, including the question of whether it constitutes a matter involving public international law, shall be submitted to arbitration in accordance with paragraph 4 of this Article.

3. There shall be excluded from the negotiations and the arbitral procedures herein contemplated matters which remain exclusively within the internal jurisdiction of a sovereign state. It is accordingly understood that claims arising out of the expropriation of property of private foreign investors do not present questions of public international law unless and until the judicial process of the Recipient Country has been exhausted, and there exists a denial of justice, as those terms are defined in public international law. The monetary amount of any claim submitted for negotiation or arbitration in accordance with the provisions of this Agreement shall not exceed the amount of compensation paid under guaranties issued in accordance with this Agreement with respect to the investment involved in the claim.

4. Matters arising under paragraphs 1, 2 and 3 of this Article shall be submitted at the request of either Government to an arbitral tribunal which shall be guided by the principles of public international law recognized in Articles 1 and 2 of the General Inter-American Arbitration Treaty signed in Washington on January 5,1929. Only the respective governments may request the arbitral procedure and participate in it. The selection of arbiters and the method of their proceeding shall be in accordance with Articles 3, 4, 5 and 6 of the General Treaty of 1929; the finality of and technique for interpreting awards of the arbitral tribunal shall be in accordance with Article 7 of the General Treaty of 1929.

Article VII

This Agreement shall enter into force on the date of the receipt of the note by which the Government of the United States of Brazil communicates to the Government of the United States of America that the Agreement has been approved in conformity with Brazil's constitutional procedures.

Article VIII

When either of the Signatories to the present Agreement considers that multilateral arrangements in which both Government may come to participate provide a framework for the operation of a program of investment guaranties similar to that herein contained, it may seek the concurrence of the other Government for the termination of the present Agreement. Such termination will become effective on the date of the receipt of the note expressing that concurrence, unless otherwise agreed.

Article IX

Unless terminated in accordance with Article VIII, this Agreement shall continue in force until six months from the date of receipt of a note by which one Government informs the other of an intent no longer to be a party to the Agreement. In such event, the provisions of the Agreement with respect to guaranties issued while the Agreement was in force shall remain in force for the duration of those guaranties, in no case longer than twenty years after the denunciation of the Agreement.

In witness whereof the undersigned Plenipotentiaries have signed the present Agreement and affixed thereto their seals.

DONE in duplicate at ~~Rio de Janeiro~~ Washington, D.C. this 6th day of February 1965, in the English and Portuguese languages, both texts equally authentic.

For the Government of the United States of Brazil.

For the Government of the United States of America.
