

No. 3732

**UNITED STATES OF AMERICA
and
ECUADOR**

**Exchange of notes constituting an agreement relating to
the guaranty of private investments. Washington,
28 and 29 March 1955**

Official text: English.

Registered by the United States of America on 19 March 1957.

**ÉTATS-UNIS D'AMÉRIQUE
et
ÉQUATEUR**

**Échange de notes constituant un accord relatif à la garantie
des investissements privés. Washington, 28 et 29 mars
1955**

Texte officiel anglais.

Enregistré par les États-Unis d'Amérique le 19 mars 1957.

No. 3732. EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT¹ BETWEEN THE UNITED STATES OF AMERICA AND ECUADOR RELATING TO THE GUARANTY OF PRIVATE INVESTMENTS. WASHINGTON, 28 AND 29 MARCH 1955

I

The Secretary of State to the Ecuadoran Ambassador

DEPARTMENT OF STATE
WASHINGTON

March 28, 1955

Excellency :

I have the honor to refer to conversations which have recently taken place between representatives of our two Governments, relating to guaranties on expropriation and inconvertibility authorized by Section 413 (b) (4) of the Mutual Security Act of 1954. I also confirm the understandings reached as a result of these conversations as follows :

The Governments of Ecuador and of the United States of America will, upon the request of either of them, consult respecting projects in Ecuador and the type of guaranties proposed by nationals of the United States of America with regard to which guaranties under the aforesaid Section 413 (b) (4), have been made or are under consideration. With respect to such guaranties extending to projects which are approved by the Government of Ecuador in accordance with the provisions of the aforesaid Section, the Government of Ecuador agrees :

- a. That if the Government of the United States of America makes payment in United States dollars to any persons under any such guaranty, the Government of Ecuador will recognize the transfer to the United States of America of any right, title or interest of such person in assets, currency, credits, or other property on account of which such payment was made and the subrogation of the United States of America to any claim or cause of action of such person arising in connection therewith. The Government of Ecuador shall also recognize any transfer to, or subrogation of the Government of the United States of America pursuant to such guaranty of any compensation for loss covered by such guaranties received from any source other than the Government of the United States of America ;

¹ Came into force on 29 March 1955, in accordance with the provisions of the said notes.

- b. That sucre amounts acquired by the Government of the United States of America pursuant to such guaranties shall be accorded treatment not less favorable than that accorded at the time of such acquisition to private funds arising from transactions of United States nationals which are comparable to the transactions covered by such guaranties, and that such sucre amounts will be freely available to the Government of the United States of America for administrative expenditures in Ecuador ;
- c. That any claim against the Government of Ecuador to which the Government of the United States of America may be subrogated as the result of any payment under such a guaranty, shall be the subject of direct negotiations between the two Governments. If, within a reasonable period, they are unable to settle the claim by agreement, it shall be referred for final and binding determination to a sole arbitrator selected by mutual agreement. If the Governments are unable, within a period of three months, to agree upon such selection, the arbitrator shall be one who may be designated by the President of the International Court of Justice at the request of either Government.

Upon the receipt of a note from you indicating that the foregoing provisions are acceptable to the Government of Ecuador, the Government of the United States of America will consider that this note and your reply thereto constitute an agreement between the two Governments on this subject, the agreement to enter into force on the date of your note in reply.

Accept, Excellency, the renewed assurances of my highest consideration.

For the Secretary of State :

Edward J. SPARKS

His Excellency Señor Dr. José R. Chiriboga V.
Ambassador of Ecuador

II

The Ecuadoran Ambassador to the Secretary of State

EMBAJADA DEL ECUADOR
WASHINGTON, D. C.

March 29, 1955

Excellency :

I have the honor to refer to your important letter dated March 28, 1955, in which Your Excellency confirms the understandings reached as a result of conversations recently taken place between this Embassy and representatives of

the United States Government, relating to guaranties on expropriation and inconvertibility authorized by Section 413 (b) (4) of the Mutual Security Act of 1954.

Following special instructions received from my Government I have the pleasure to accept and confirm the understandings which read as follows :

[See note I]

The Government of Ecuador considers that your note of March 28, 1955 and this reply constitute an agreement between the two Governments on this subject, the agreement to enter into force on this date March 29, 1955.

Accept, Excellency, the renewed assurances of my highest consideration.

José R. CHIRIBOGA V.

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His Excellency Mr. John Foster Dulles
Secretary of State