
LOAN NUMBER 792 GU

Loan Agreement

(Telecommunications Project)

BETWEEN

INTERNATIONAL BANK FOR RECONSTRUCTION
AND DEVELOPMENT

AND

EMPRESA GUATEMALTECA DE TELECOMUNICACIONES

Dated *January 5*, 1972

LOAN AGREEMENT

AGREEMENT, dated *January 5*, 1972, between INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (hereinafter called the Bank) and EMPRESA GUATEMALTECA DE TELECOMUNICACIONES (hereinafter called the Borrower).

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, with the same force and effect as if they were fully set forth herein, subject, however, to the deletion of Section 5.01 thereof and to the amendment of Section 6.02 (i) thereof to read as follows: "Any event specified in paragraph (e) or (f) of Section 7.01 shall have occurred." (said General Conditions Applicable to Loan and Guarantee Agreements of the Bank, 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 have the respective meanings therein set forth and the term "Ley Orgánica" means the *Ley Orgánica de la Empresa Guatemalteca de Telecomunicaciones*, enacted by Decree No. 14-71 of the Guarantor's Congress and published in the official gazette *El Guatemalteco* on April 13, 1971.

ARTICLE II

The Loan

Section 2.01. The Bank agrees to lend to the Borrower, on the terms and conditions in the Loan Agreement set forth or referred to, an amount in various currencies equivalent to sixteen million dollars (\$16,000,000).

Section 2.02. The amount of the Loan may be withdrawn from the Loan Account in accordance with the provisions of Schedule 1 to this Agreement, as such Schedule shall be amended from time to time, for expenditures made (or, if the Bank shall so agree, to be made) in respect of the reasonable cost of goods and services required for the Project described in Schedule 2 to this Agreement

and to be financed under the Loan Agreement; provided, however, that, except as the Bank shall otherwise agree, no withdrawal shall be made on account of expenditures in the territories of any country which is not a member of the Bank (other than Switzerland) or for goods produced in, or services supplied from, such territories.

Section 2.03. Except as the Bank shall otherwise agree, the goods and services (other than additions of switching equipment to the existing exchanges) required for the Project and to be financed out of the proceeds of the Loan, shall be procured on the basis of international competition under procedures consistent with the Guidelines for Procurement under World Bank Loans and IDA Credits, published by the Bank in August 1969, as revised in May 1971, and in accordance with, and subject to, the provisions set forth in Schedule 4 to this Agreement.

Section 2.04. The Closing Date shall be December 31, 1976 or such other date as shall be agreed between the Bank and the Borrower.

Section 2.05. The Borrower shall pay to the Bank a commitment charge at the rate of three-fourths of one per cent ($3/4$ of 1%) per annum on the principal amount of the Loan not withdrawn from time to time.

Section 2.06. The Borrower shall pay interest at the rate of seven and one-quarter per cent ($7-1/4\%$) per annum on the principal amount of the Loan withdrawn and outstanding from time to time.

Section 2.07. Interest and other charges shall be payable semi-annually on January 15 and July 15 in each year.

Section 2.08. The Borrower shall repay the principal of the Loan in accordance with the amortization schedule set forth in Schedule 3 to this Agreement.

Section 2.09. If and as the Bank shall from time to time request, the Borrower shall execute and deliver Bonds representing the principal amount of the Loan as provided in Article VIII of the General Conditions.

Section 2.10. The *Gerente* of the Borrower and such other person or persons as he shall appoint in writing are designated as authorized representatives of the Borrower for the purposes of Section 8.10 of the General Conditions.

ARTICLE III**Execution of the Project**

Section 3.01. The Borrower shall carry out the Project with due diligence and efficiency and in conformity with sound administrative, financial, engineering and telecommunications practices.

Section 3.02. In order to assist the Borrower in work related to local exchange systems, the Borrower shall, until the completion of the Project, continue to employ experts acceptable to the Bank upon terms and conditions satisfactory to the Bank.

Section 3.03. In carrying out the Project, except for simple installations, the Borrower shall employ contractors acceptable to the Bank upon terms and conditions satisfactory to the Bank.

Section 3.04. (a) The Borrower undertakes to insure, or make adequate provision for the insurance of, the imported goods to be financed out of the proceeds of the Loan against hazards incident to the acquisition, transportation and delivery thereof to the place of use or installation, and for such insurance any indemnity shall be payable in a currency freely usable by the Borrower to replace or repair such goods.

(b) Except as the Bank shall otherwise agree, the Borrower shall cause all goods and services financed out of the proceeds of the Loan to be used exclusively for the Project.

Section 3.05. (a) The Borrower shall furnish to the Bank, promptly upon their preparation, the plans, specifications, contract documents and construction and procurement schedules, for the Project, and any material modifications thereof or additions thereto, in such detail as the Bank shall reasonably request.

(b) The Borrower: (i) shall maintain records adequate to record the progress of the Project (including the cost thereof) and to identify the goods and services financed out of the proceeds of the Loan, and to disclose the use thereof in the Project; (ii) shall enable the Bank's representatives to inspect the Project, the goods financed out of the proceeds of the Loan and any relevant records and documents; and (iii) shall furnish to the Bank all such information as the Bank shall reasonably request concerning the Project, the expenditure of the proceeds of the Loan and the goods and services financed out of such proceeds.

ARTICLE IV

Management and Operations of the Borrower

Section 4.01. The Borrower shall at all times manage its affairs, maintain its financial position, plan its future expansion and carry on its operations, all in accordance with sound business, financial and public utility practices and under the supervision of experienced and competent management, assisted by qualified staff in adequate proportion to its operations.

Section 4.02. (a) The Borrower shall take all steps necessary to acquire, maintain and renew all rights, powers, privileges and franchises which are necessary or useful in the conduct of its business.

(b) The Borrower shall at all times operate and maintain its plants, equipment and property, and from time to time make all necessary repairs and renewals thereof, in accordance with sound engineering and public utility practices.

(c) The Borrower shall not, without the agreement between the Bank and the Borrower, sell, lease, transfer or otherwise dispose of any of its property or assets which shall be required for the efficient operation of its business and undertaking, including the Project.

Section 4.03. The Borrower shall take out and maintain with responsible insurers insurance against such risks and in such amounts as shall be consistent with sound practice.

ARTICLE V

Financial Covenants

Section 5.01. The Borrower shall maintain records adequate to reflect in accordance with consistently maintained sound accounting practices its operations and financial condition.

Section 5.02. The Borrower shall: (i) have its accounts and financial statements (balance sheets, statements of income and expenses and related statements) for each fiscal year audited, in accordance with sound auditing principles consistently applied, by independent auditors acceptable to the Bank; (ii) furnish to the Bank as soon as available, but in any case not later than four months after the end of each such year, (A) certified copies of its financial statements for such year as so audited and (B) the report of such audit by said

auditors, of such scope and in such detail as the Bank shall have reasonably requested; and (iii) furnish to the Bank such other information concerning the accounts and financial statements of the Borrower and the audit thereof as the Bank shall from time to time reasonably request.

Section 5.03. (a) The Borrower represents that at the date of this Agreement no lien exists on any of its assets as security for any debt.

(b) The Borrower undertakes that, except as the Bank shall otherwise agree: (i) if the Borrower shall create any lien on any of its assets as security for any debt, such lien will equally and ratably secure the payment of the principal of, and interest and other charges on, the Loan and the Bonds, and that in the creation of any such lien express provision will be made to that effect; and (ii) if any lien shall be created on any assets of the Borrower, other than under paragraph (i) above, as security for any debt, the Borrower shall grant to the Bank an equivalent lien satisfactory to the Bank; provided, however, that the foregoing provisions of this Section shall not apply to: (A) any lien created on property, at the time of purchase thereof, solely as security for the payment of the purchase price of such property; or (B) any lien arising in the ordinary course of banking transactions and securing a debt maturing not more than one year after the date on which it is originally incurred.

Section 5.04. The Borrower shall charge the Guarantor, its political subdivisions, the agencies of the Guarantor and the agencies of such political subdivisions, rates for its services according to a tariff comparable to that applied to commercial users.

Section 5.05. The Borrower may incur major investments other than the Project and those already started by the date of this Agreement before the Closing Date, only in accordance with a financing plan agreed upon by the Bank and the Borrower which insures that the financial and technical capability of the Borrower to carry out its business and undertaking, including the Project, in an efficient manner is not adversely affected.

Section 5.06. The Borrower shall complete the inventory and revision of the valuation of its assets no later than October 31, 1972.

Section 5.07. (a) Except as the Bank and the Borrower shall otherwise agree, the Borrower shall establish and maintain tariffs which will provide, beginning in 1973, an annual rate of return as defined below of no less than ten per cent (10%).

For purposes of this sub-paragraph, the annual rate of return shall be calculated by using (i) as numerator, the Borrower's gross revenue minus all operating and administrative expenses including adequate provision for depreciation and maintenance, and the amounts referred to in subparagraphs (b), (d) and (e) of Article 23 of the *Ley Orgánica*, but excluding interest and other charges on debt, and (ii) as denominator, the average of the gross book value less accumulated depreciation of the Borrower's fixed assets in operation valued or revalued in accordance with methods acceptable to the Bank at the beginning and at the end of each such year.

(b) The Borrower shall, before October 1 of each year, review the adequacy of its tariffs to produce, during the following year, the annual return required under paragraph (a) and shall furnish to the Bank, within two months, the results of such review.

Section 5.08. Except as the Bank and the Borrower shall otherwise agree, the Borrower shall not incur any debt unless its net revenues for the fiscal year next preceding such incurrence or for a later twelve-month period ended prior to such incurrence, whichever amount is the greater, shall be not less than 1.5 times the maximum debt service requirement for any succeeding fiscal year on all debt, including the debt to be incurred. For the purposes of this Section:

(a) The term "debt" shall mean all indebtedness of the Borrower maturing by its terms more than one year after the date on which it is originally incurred.

(b) Debt shall be deemed to be incurred on the date of execution and delivery of a contract, loan agreement or other instrument providing for such debt.

(c) The term "net revenues" shall mean gross revenues adjusted to take account of the Borrower's rates in effect at the time of the incurrence of debt even though they were not in effect during the fiscal year or twelve-month period to which such revenues relate, less all operating and administrative expenses and the amounts referred to in subparagraphs (b), (d) and (e) of Article 23 of the *Ley Orgánica*, but before provision covering depreciation, interest and other charges on debt.

(d) The term "debt service requirement" shall mean the aggregate amount of amortization (including sinking fund payments, if any), interest and other charges on debt.

(e) Whenever for the purposes of this Section it shall be necessary to value, in terms of the currency of the Guarantor, debt payable in another currency, such

valuation shall be made on the basis of the prevailing lawful rate of exchange at which such other currency is, at the time of such valuation, obtainable for the purposes of servicing such debt.

ARTICLE VI

Consultation; Information and Inspection

Section 6.01. The Bank and the Borrower shall cooperate fully to assure that the purposes of the Loan will be accomplished. To that end, the Bank and the Borrower shall from time to time, at the request of either party:

(a) exchange views through their representatives with regard to the performance of their respective obligations under the Loan Agreement, the administration, operations and financial condition of the Borrower and other matters relating to the purpose of the Loan; and

(b) furnish to the other all such information as it shall reasonably request with regard to the general status of the Loan.

Section 6.02. The Bank and the Borrower shall promptly inform each other of any condition which interferes with, or threatens to interfere with, the accomplishment of the purposes of the Loan, the maintenance of the service thereof or the performance by either of them of its obligations under the Loan Agreement.

Section 6.03. The Borrower shall enable the Bank's representatives to inspect all plants, installations, sites, works, buildings, property and equipment of the Borrower and any relevant records and documents.

ARTICLE VII

Taxes

Section 7.01. The Borrower shall pay or cause to be paid all taxes, if any, 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 of the Loan Agreement, the Guarantee Agreement or the Bonds, or the payment of principal, interest or other charges thereunder; provided, however, that the provisions of this Section 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 7.02. The Borrower shall pay or cause to be paid all taxes, if any, imposed under the laws of the country or countries in whose currency the Loan and the Bonds are payable or laws in effect in the territories of such country or countries on or in connection with the execution, issue, delivery or registration of the Loan Agreement, the Guarantee Agreement or the Bonds.

Section 7.03. The Borrower shall pay or cause to be paid all taxes, if any, imposed on or in connection with the execution, issue, delivery or registration of any instrument made pursuant to Section 5.03 of this Agreement.

ARTICLE VIII

Remedies of the Bank

Section 8.01. If any event specified in Section 7.01 of the General Conditions or in Section 8.03 of this Agreement shall occur and shall continue for the period, if any, therein set forth, then at any subsequent time during the continuance thereof, the Bank, at its option, may by notice to the Borrower and the Guarantor declare the principal of the Loan and of all the Bonds then outstanding to be due and payable immediately together with the interest and other charges thereon and upon any such declaration such principal, interest and charges shall become due and payable immediately, anything to the contrary in the Loan Agreement or in the Bonds notwithstanding.

Section 8.02. For the purposes of Section 6.02 of the General Conditions, the following additional event is specified:

The *Ley Orgánica* shall have been modified so as to affect adversely and substantially the conduct of the Borrower's operations or financial condition or the performance of its obligations under this Agreement.

Section 8.03. For the purposes of Section 7.01 of the General Conditions, the following additional event is specified:

The event specified in Section 8.02 of this Agreement shall occur.

ARTICLE IX

Termination

Section 9.01. The date *April 5, 1972* is hereby specified for the purposes of Section 11.04 of the General Conditions.

ARTICLE X

Addresses

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

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.

For the Borrower:

Empresa Guatemalteca
de Telecomunicaciones
7a Avenida 12-39, Zona 1
Guatemala
Guatemala, C. A.

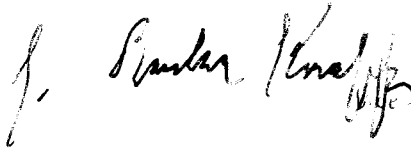
Cable address:

Guatel
Guatemala

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.

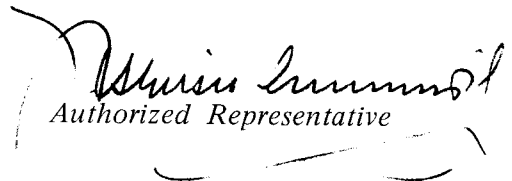
INTERNATIONAL BANK FOR
RECONSTRUCTION AND DEVELOPMENT

By


President

EMPRESA GUATEMALTECA
DE TELECOMUNICACIONES

By


Authorized Representative

SCHEDULE 1

Withdrawal of the Proceeds of the Loan

1. The table below sets forth the categories of imported items to be financed out of the proceeds of the Loan and the allocation of amounts of the Loan to each category:

<i>Category</i>	<i>Amount of the Loan Allocated (Expressed in Dollar Equivalent)</i>
I. Equipment for local service	12,000,000
II. Equipment for long-distance service	3,300,000
III. Unallocated	700,000
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TOTAL	16,000,000
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2. Notwithstanding the provisions of paragraph 1 above, no withdrawals shall be made in respect of:

(a) expenditures in the currency of the Guarantor, or for goods produced in, or services supplied from, the territories of the Guarantor;

(b) expenditures prior to the date of this Agreement; and

(c) payments for taxes imposed under the laws of the Guarantor or laws in effect in its territories on goods or services, or on the importation, manufacture, procurement or supply thereof.

3. Notwithstanding the allocation of an amount of the Loan set forth in the second column of the table in paragraph 1 above:

(a) if the estimate of the expenditures under any Category shall decrease, the amount of the Loan then allocated to such Category and no longer required

therefor will be reallocated by the Bank by increasing correspondingly the unallocated amount of the Loan;

(b) if the estimate of the expenditures under any Category shall increase, a corresponding amount will be allocated by the Bank, at the request of the Borrower, to such Category from the unallocated amount of the Loan, subject, however, to the requirements for contingencies, as determined by the Bank, in respect of any other expenditures; and

(c) if the Bank shall have reasonably determined that the procurement of any item in any Category is inconsistent with the procedures set forth or referred to in Section 2.03 of this Agreement, no expenditures for such item shall be financed out of the proceeds of the Loan and the Bank may, without in any way restricting or limiting any other right, power or remedy of the Bank under the Loan Agreement, by notice to the Borrower, cancel such amount of the Loan as in the Bank's reasonable opinion, represents the amount of such expenditures which would otherwise have been eligible for financing out of the proceeds of the Loan.

SCHEDULE 2

Description of the Project

The Project consists of the following:

(a) Increase in the capacity of existing and new local telephone exchanges by about 35,000 lines, including 6,000 lines in mobile exchanges; additions to existing exchanges to conform to the new numbering plan and to handle anticipated extra traffic.

(b) Expansion of cable distribution and subscriber facilities to provide approximately 35,000 additional direct exchange connections.

(c) Installation of microwave systems on the Puerto Barrios-Guatemala City and Guatemala City-Quetzaltenango-Retalhuleu routes; installation of coaxial and VF cables and UHF/VHF systems for spur routes; an addition of multiplex equipment for about 560 channels and of open wire carrier systems for secondary routes.

(d) Installation of automatic trunk switching equipment in about 20 cities.

The installation and commissioning of new equipment is expected to be completed before December 31, 1974, and the transfer of switching and transmission equipment to new locations before June 30, 1975.

SCHEDULE 3

Amortization Schedule

<i>Date Payment Due</i>	<i>Payment of Principal (expressed in dollars)*</i>
January 15, 1977	305,000
July 15, 1977	315,000
January 15, 1978	325,000
July 15, 1978	340,000
January 15, 1979	350,000
July 15, 1979	365,000
January 15, 1980	375,000
July 15, 1980	390,000
January 15, 1981	405,000
July 15, 1981	420,000
January 15, 1982	435,000
July 15, 1982	450,000
January 15, 1983	465,000
July 15, 1983	480,000
January 15, 1984	500,000
July 15, 1984	520,000
January 15, 1985	535,000
July 15, 1985	555,000
January 15, 1986	575,000
July 15, 1986	595,000
January 15, 1987	620,000
July 15, 1987	640,000
January 15, 1988	665,000
July 15, 1988	690,000
January 15, 1989	715,000
July 15, 1989	740,000
January 15, 1990	765,000
July 15, 1990	795,000
January 15, 1991	825,000
July 15, 1991	845,000

* To the extent that any portion of the Loan is repayable in a currency other than dollars (see General Conditions, Section 4.02), the figures in this column represent dollar equivalents determined as for purposes of withdrawal.

Premiums on Prepayment and Redemption

The following percentages are specified as the premiums payable on repayment in advance of maturity of any portion of the principal amount of the Loan pursuant to Section 3.05 (b) of the General Conditions or on the redemption of any Bond prior to its maturity pursuant to Section 8.15 of the General Conditions:

<i>Time of Prepayment or Redemption</i>	<i>Premium</i>
Not more than three years before maturity	1-1/4%
More than three years but not more than six years before maturity	2%
More than six years but not more than eleven years before maturity	3-1/2%
More than eleven years but not more than sixteen years before maturity	5-1/4%
More than sixteen years but not more than eighteen years before maturity	6-1/4%
More than eighteen years before maturity	7-1/4%

SCHEDULE 4**Procurement**

1. With respect to any contract for equipment estimated to cost the equivalent of \$50,000 or more:

(a) If bidders are required to prequalify, the Borrower shall, before qualification is invited, inform the Bank in detail of the procedure to be followed and shall introduce such modifications in said procedure as the Bank shall reasonably request. The list of prequalified bidders, together with a statement of their qualifications and of the reasons for the exclusion of any applicant for prequalification, shall be furnished by the Borrower to the Bank for its comments before the applicants are notified and the Borrower shall make such additions or deletions from the said list as the Bank shall reasonably request.

(b) Before bids are invited, the Borrower shall furnish to the Bank, for its comments, the text of the invitations to bid and the specifications and other bidding documents, together with a description of the advertising procedures to be followed for the bidding, and shall make such modifications in the said documents or procedure as the Bank shall reasonably request. Any further modification to the bidding documents shall require the Bank's concurrence before it is issued to the prospective bidders.

(c) After bids have been received and evaluated, the Borrower shall, before a final decision on the award is made, inform the Bank of the name of the bidder to whom it intends to award the contract and shall furnish to the Bank, in sufficient time for its review, a detailed report on the evaluation and comparison of the bids received, together with the reasons for the intended award and if the award is intended to be made to a supplier who has submitted a Central American Bid as defined in paragraph 3 below, the bid analysis shall state the rate of duties which would be applicable to a non-exempt purchaser for the importation of the goods to be supplied. The Bank shall, if it determines that the intended award would be inconsistent with the procedures set forth or referred to in Section 2.03 of this Agreement, promptly inform the Borrower and state the reasons for such determination.

(d) The terms and conditions of the contract shall not, without the Bank's concurrence, materially differ from those on which bids were asked.

(e) Two conformed copies of the contract shall be furnished to the Bank promptly after its execution and prior to the submission to the Bank of the first

application for withdrawal of funds from the Loan Account in respect of any such contract.

2. With respect to any other contract for equipment, the Borrower shall furnish to the Bank, promptly after its execution and prior to the submission to the Bank of the first application for withdrawal of funds from the Loan Account in respect of any such contract, two conformed copies of such contract. The Bank shall promptly inform the Borrower if it finds that the award of the contract is not consistent with the procedures set forth or referred to in Section 2.03 of this Agreement, and state the reasons for such determination.

3. For the purpose of evaluating bids for goods and associated services, bid prices shall be determined and compared in accordance with the following rules:

(a) the term "Central American Bid" means a bid submitted by a manufacturer established in the territories of the member countries of the Central American Common Market for goods manufactured or processed to a substantial extent (as reasonably determined by the Bank) in such territories; any other bid shall be deemed to be a "Non-Central American Bid";

(b) the bid price under a Central American Bid shall be the sum of the following amounts:

- (i) the ex-factory price of such goods; and
- (ii) freight, insurance and other costs of delivery of such goods to the place of their use or installation;

(c) for the purpose of comparing any Non-Central American Bid with any Central American Bid, the bid price under a Non-Central American Bid shall be the sum of the following amounts:

- (i) the c.i.f. (port of entry) price of such goods;
- (ii) half the amount of any taxes on the importation of such goods into the territories of the Guarantor which generally apply to non-exempt importers, or 15% of the amount specified in (i) above, whichever shall be the lower; and
- (iii) freight, insurance and other costs of delivery of such goods from their port of entry to the place of their use or installation.