

CONFORMED COPY

CREDIT NUMBER 3183-SE

PAD Project Agreement

(Second Transport Sector Project)

between

INTERNATIONAL DEVELOPMENT ASSOCIATION

and

PORT AUTONOME DE DAKAR

Dated May 13, 1999

CREDIT NUMBER 3183-SE

PROJECT AGREEMENT

AGREEMENT, dated May 13, 1999, between INTERNATIONAL DEVELOPMENT ASSOCIATION (the Association) and PORT AUTONOME DE DAKAR (PAD).

WHEREAS (A) by the Development Credit Agreement of even date herewith between Republic of Senegal (the Borrower) and the Association, the Association has agreed to make available to the Borrower an amount in various currencies equivalent to sixty four million three hundred thousand Special Drawing Rights (SDR 64,300,000), on the terms and conditions set forth in the Development Credit Agreement, but only on conditions that PAD agree to undertake such obligations toward the Association as are set forth in this Agreement;

(B) by a subsidiary loan agreement to be entered into between the Borrower and PAD, part of the proceeds of the credit provided for under the Development Credit Agreement will be made available to PAD on the terms and conditions set forth in said Subsidiary Loan Agreement; and

WHEREAS PAD, in consideration of the Association's entering into the Development Credit Agreement with the Borrower, has agreed to undertake the obligations set forth in this Agreement;

NOW THEREFORE the parties hereto hereby agree as follows:

ARTICLE I

Definitions

Section 1.01. Unless the context otherwise requires, the several terms defined in the Development Credit Agreement, the Preamble to this Agreement and in the General Conditions (as so defined) have the respective meanings therein set forth.

ARTICLE II

Execution of the Project

Section 2.01. (a) PAD declares its commitment to the objectives of the Project as set forth in Schedule 2 to the Development Credit Agreement, and, to this end, shall carry out Part G of the Project with due diligence and efficiency and in conformity with appropriate administrative, financial, engineering and technical practices, and shall provide, or cause to be provided, promptly as needed, the funds, facilities, services and other resources required for Part G of the Project.

(b) Without limitation upon the provisions of paragraph (a) of this Section and except as the Association and PAD shall otherwise agree, PAD shall carry out Part G of the Project in accordance with the Implementation Program set forth in Schedule 4 to the Development Credit Agreement.

Section 2.02. Except as the Association shall otherwise agree, procurement of the goods, works and consultants' services required for Part G of the Project and to be financed out of the proceeds of the Credit shall be governed by the provisions of Schedule 3 to the Development Credit Agreement.

Section 2.03. (a) PAD shall carry out the obligations set forth in Sections 9.03, 9.04, 9.05, 9.06, 9.07 and 9.08 of the General Conditions (relating to insurance, use of goods and services, plans and schedules, records and reports, maintenance and land acquisition, respectively) in respect of the Project Agreement and Part G of the Project.

(b) For the purposes of Section 9.07 of the General Conditions and without limitation thereto, PAD shall:

(i) prepare, on the basis of guidelines acceptable to the Association and furnish to the Association not later than six (6) months after the Closing Date or such later date as may be agreed for this purpose between the Association and PAD, a plan for the future operation of Part G of the Project; and

(ii) afford the Association a reasonable opportunity to exchange views with PAD on said plan.

Section 2.04. PAD shall duly perform all its obligations under the Subsidiary Loan Agreement. Except as the Association shall otherwise agree, PAD shall not take or concur in any action which would have the effect of amending, abrogating, assigning or waiving the Subsidiary Loan Agreement or any provision thereof.

Section 2.05. (a) PAD shall, at the request of the Association, exchange views with the Association with regard to the progress of Part G of the Project, the performance of its obligations under this Agreement and under the Subsidiary Loan Agreement, and other matters relating to the purposes of the Credit.

(b) PAD shall promptly inform the Association of any condition which interferes or threatens to interfere with the progress of Part G of the Project, the accomplishment of the purposes of the Credit, or the performance by PAD of its obligations under this Agreement and under the Subsidiary Loan Agreement.

ARTICLE III

Management and Operations of PAD

Section 3.01. PAD shall carry on its operations and conduct its affairs in accordance with sound administrative, financial and technical practices under the supervision of qualified and experienced management assisted by competent staff in adequate numbers.

Section 3.02. PAD shall at all times operate and maintain its plant, machinery, equipment and other property, and from time to time, promptly as needed, make all necessary repairs and renewals thereof, all in accordance with sound engineering, financial and technical practices.

Section 3.03. PAD shall take out and maintain with responsible insurers, or make other provision satisfactory to the Association for, insurance against such risks and in such amounts as shall be consistent with appropriate practice.

ARTICLE IV

Financial Covenants

Section 4.01. (a) PAD shall maintain records and accounts adequate to reflect in accordance with sound accounting practices its operations and financial condition.

(b) PAD shall:

(i) have its records, accounts and financial statements (balance sheets, statements of income and expenses and related statements) for each fiscal year audited, in accordance with appropriate auditing principles consistently applied, by independent auditors acceptable to the Association;

(ii) furnish to the Association as soon as available, but in any case not later than six 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 Association shall have reasonably requested; and

(iii) furnish to the Association such other information concerning said records, accounts and financial statements as well as the audit thereof, as the Association shall from time to time reasonably request.

Section 4.02. (a) Except as the Association shall otherwise agree, PAD shall earn for each of its fiscal years, an annual return of not less than 2% of the average current net value of PAD's fixed assets in operation.

(b) Before December 31 in each of its fiscal years, shall, on the basis of forecasts prepared by PAD and satisfactory to the Association, review whether it would meet the requirements set forth in paragraph (a) in respect of such year and the next following fiscal year and shall furnish to the Association the results of such review upon its completion.

(c) If any such review shows that PAD would not meet the requirements set forth in paragraph (a) for the PAD's fiscal years covered by such review, PAD shall promptly take all necessary measures including, without limitation, adjustments of the structure or levels of its rates in order to meet such requirements.

(d) For the purposes of this Section:

(i) The term "net operating income" means total operating revenues less total operating expenses.

(ii) The term "total operating expenses" means all expenses related to operations, including administration, adequate maintenance, taxes and payments in lieu of taxes, and provision for depreciation on a straight-line basis at a rate of not less than 10% per annum of the

average current gross value of PAD's fixed assets in operation, or other basis acceptable to the Association, but excluding interest and other charges on debt.

(iii) The average current gross value of PAD's fixed assets in operation shall be calculated as one half of the sum of the gross value of PAD's fixed assets in operation at the beginning and at the end of the fiscal year, as valued from time to time in accordance with sound and consistently maintained methods of valuation satisfactory to the Association.

(iv) The term "current net value of PAD's fixed assets in operation" means the gross value of the PAD's fixed assets in operation less the amount of accumulated depreciation, as valued from time to time in accordance with sound and consistently maintained methods of valuation satisfactory to the Association.

Section 4.03. (a) Except as the Association shall otherwise agree, PAD shall not incur any debt, if after the incurrence of such debt the ratio of debt to equity shall be greater than 1.5 to 1.

(b) For purposes of this Section:

(i) Debt shall be deemed to be incurred: (A) under a loan contract or agreement or other instrument providing for such debt or for the modification of its terms of payment on the date of such contract, agreement or instrument; and (B) under a guarantee agreement, on the date the agreement providing for such guarantee has been entered into.

(ii) Debt shall be deemed to be incurred: (A) under a loan contract or agreement or other instrument providing for such debt or for the modification of its terms of payment, on the date, and to the extent, the amount of such debt has become outstanding pursuant to such contract, agreement or instrument; and (B) under a guarantee agreement, on the date the agreement providing for such guarantee has been entered into but only to the extent that the guaranteed debt is outstanding.

(iii) The term "equity" means the sum of the total unimpaired paid-up capital, retained earnings and reserves of PAD not allocated to cover specific liabilities.

(iv) Whenever for the purposes of this Section it shall be necessary to value, in terms of the currency of the Borrower, 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, or, in the absence of such rate, on the basis of a rate of exchange acceptable to the Association.

Section 4.04. (a) Except as the Association shall otherwise agree, PAD shall maintain: (i) for Fiscal Year 2000, a ratio of total labor expenses to total operating revenues not higher than 25%; (ii) for Fiscal Year 2001, a ratio of total labor expenses to total operating revenues not higher than 24%; (iii) for Fiscal Year 2002, a ratio of total labor expenses to total operating revenues not higher than 23%; (iv) for Fiscal Year 2003, a ratio of total labor expenses to total operating revenues not higher than 22%; (v) for Fiscal Year 2004, a ratio of total labor expenses to total operating revenues not higher than 21%; and (vi) for each Fiscal Year after Fiscal Year ending on December 31, 2005, a ratio of total labor expenses to total operating revenues not higher than 20%.

(b) Before December 31 in each Fiscal Year, PAD shall, on the basis of forecasts prepared by PAD and satisfactory to the Association, review whether it would meet the requirements set forth in paragraph (a) in respect of such Fiscal Year and the next following Fiscal Year, and shall furnish to the Association the results of such review upon its completion.

(c) If any such review shows that PAD would not meet the requirements set forth in paragraph (a) for the Fiscal Years covered by such review, PAD shall promptly take all necessary measures in order to meet such requirements.

(d) For the purposes of this Section:

(i) The term "total labor expenses" means all expenses related to salaries and wages paid by PAD to permanent and fixed-term staff employed by PAD for its operations, excluding expenses related to the staff assigned to investment-related activities.

(ii) The term "total operating revenues" means revenues, comprising all taxes, from all sources related to operations, including the compensations for public service obligations.

ARTICLE V

Effective Date; Termination; Cancellation and Suspension

Section 5.01. This Agreement shall come into force and effect on the date upon which the Development Credit Agreement becomes effective.

Section 5.02. (a) This Agreement and all obligations of the Association and of PAD thereunder shall terminate on the earlier of the following two dates:

(i) the date on which the Development Credit Agreement shall terminate in accordance with its terms; or

(ii) the date 20 years after the date of this Agreement.

(b) If the Development Credit Agreement terminates in accordance with its terms before the date specified in paragraph (a) (ii) of this Section, the Association shall promptly notify PAD of this event.

Section 5.03. All the provisions of this Agreement shall continue in full force and effect notwithstanding any cancellation or suspension under the General Conditions.

ARTICLE VI

Miscellaneous Provisions

Section 6.01. Any notice or request required or permitted to be given or made under this Agreement and any agreement between the parties contemplated by this Agreement shall be in writing. Such notice or request shall be deemed to have been duly given or made when it shall be delivered by hand or by mail, telegram, cable, telex or radiogram to the party to which it is required or permitted to be given or made at such party's address hereinafter specified or at such other address as such party shall have designated by notice to the party giving such notice or making such request. The addresses so specified are:

For the Association:

International Development Association
1818 H Street, N.W.
Washington, D.C. 20433
United States of America

Cable address:

INDEVAS
Washington, D.C.

Telex:

248423 (MCI) or
64145 (MCI)

For Port Autonome de Dakar:

Boulevard de la Libération
B.P. 3195
Dakar
Senegal

Section 6.02. Any action required or permitted to be taken, and any document required or permitted to be executed, under this Agreement on behalf of PAD may be taken or executed by the Director General or such other person or persons as the Director General shall designate in writing, and PAD shall furnish to the Association sufficient evidence of the authority and the authenticated specimen signature of each such person.

Section 6.03. This Agreement may be executed in several counterparts, each of which shall be an original, and all collectively but one instrument.

IN WITNESS WHEREOF, the parties hereto, acting through their duly authorized representatives, have caused this Agreement to be signed in their respective names in the District of Columbia, United States of America, as of the day and year first above written.

INTERNATIONAL DEVELOPMENT ASSOCIATION

By /s/ Jean-Louis Sarbib

Regional Vice President
Africa

PORT AUTONOME DE DAKAR

By /s/ Mamadou Mansour Seck

Authorized Representative

