

CONFORMED COPY

LOAN NUMBER 3793 KO

Loan Agreement

(Ports Development and Environmental Improvement Project)

between

REPUBLIC OF KOREA

and

INTERNATIONAL BANK FOR RECONSTRUCTION  
AND DEVELOPMENT

Dated November 3, 1994

LOAN NUMBER 3793 KO

LOAN AGREEMENT

AGREEMENT, dated November 3, 1994, between REPUBLIC OF KOREA (the Borrower) and INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (the Bank).

WHEREAS the Borrower, having satisfied itself as to the feasibility and priority of the Project described in Schedule 2 to this Agreement, has requested the Bank to assist in the financing of the Project; and

WHEREAS the Bank has agreed, on the basis, inter alia, of the foregoing, to extend the Loan to the Borrower upon the terms and conditions set forth in this Agreement.

NOW THEREFORE the parties hereto hereby agree as follows:

ARTICLE I

General Conditions; Definitions

Section 1.01. The "General Conditions Applicable to Loan and Guarantee

Agreements" of the Bank, dated January 1, 1985, with the modifications set forth below (the General Conditions) constitute an integral part of this Agreement:

(a) The last sentence of Section 3.02 is deleted.

(b) In Section 6.02, sub-paragraph (k) is re-lettered as sub-paragraph (l) and a new sub-paragraph (k) is added to read:

"(k) An extraordinary situation shall have arisen under which any further withdrawals under the Loan would be inconsistent with the provisions of Article III, Section 3 of the Bank's Articles of Agreement."

Section 1.02. Unless the context otherwise requires, the several terms defined in the General Conditions have the respective meanings therein set forth and the following additional terms have the following meanings:

(a) "MOST" means the Borrower's Ministry of Science and Technology;

(b) "KMPA" means the Korea Maritime Port Administration, a central administrative organ of the Borrower under the jurisdiction of the Borrower's Ministry of Transportation;

(c) "KCTA" means the Korea Container Terminal Authority, established and operating under the control of KMPA pursuant to the Borrower's Law No. 4191 dated December 30, 1989;

(d) "1973/78 MARPOL Convention" means the International Convention for the Prevention of Pollution from Ships;

(e) "Special Account" means the account referred to in Section 2.02 (b) of this Agreement;

(f) "Affected Person" and "Affected Persons" mean individually the person or entity and collectively the persons or entities whose right, title or interest in any property, business, occupation or work is acquired or terminated or is intended to be acquired or terminated or whose property is otherwise possessed or intended to be possessed and who, as a result thereof, has been or would be displaced or dispossessed from his/their habitat or land or precluded from carrying out his/their business, occupation or work on account of the execution of Part B (iii) of the Project; and

(g) "Category" means a withdrawal category set forth in the table in paragraph 1 of Schedule 1 to this Agreement.

## ARTICLE II

### The Loan

Section 2.01. The Bank agrees to lend to the Borrower, on the terms and conditions set forth or referred to in this Agreement, various currencies that shall have an aggregate value equivalent to the amount of one hundred million dollars (\$100,000,000), being the sum of withdrawals of the proceeds of the Loan, with each withdrawal valued by the Bank as of the date of such withdrawal.

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

(b) The Borrower shall, for the purposes of the Project, open and maintain in the Korea Exchange Bank a special deposit account in United States dollars on terms and conditions satisfactory to the Bank, including appropriate protection against set-off, seizure or attachment. Deposits into, and payments out of, the Special Account shall be made in accordance with the provisions of Schedule 5 to this Agreement.

Section 2.03. The Closing Date shall be December 31, 2000 or such later date as the Bank shall establish. The Bank shall promptly notify the Borrower of such later date.

Section 2.04. The Borrower shall pay to the Bank a commitment charge at the rate of three-fourths of one percent (3/4 of 1%) per annum on the principal amount of the Loan not withdrawn from time to time.

Section 2.05. (a) The Borrower shall pay interest on the principal amount of the Loan withdrawn and outstanding from time to time, at a rate for each Interest Period equal to the Cost of Qualified Borrowings determined in respect of the preceding Semester, plus one-half of one percent (1/2 of 1%). On each of the dates specified in Section 2.06 of this Agreement, the Borrower shall pay interest accrued on the principal amount outstanding during the preceding Interest Period, calculated at the rate applicable during such Interest Period.

(b) As soon as practicable after the end of each Semester, the Bank shall notify the Borrower of the Cost of Qualified Borrowings determined in respect of such Semester.

(c) For the purposes of this Section:

(i) "Interest Period" means a six-month period ending on the date immediately preceding each date specified in Section 2.06 of this Agreement, beginning with the Interest Period in which this Agreement is signed.

(ii) "Cost of Qualified Borrowings" means the cost, as reasonably determined by the Bank and expressed as a percentage per annum, of the outstanding borrowings of the Bank drawn down after June 30, 1982, excluding such borrowings or portions thereof as the Bank has allocated to fund: (A) the Bank's investments; and (B) loans which may be made by the Bank after July 1, 1989 bearing interest rates determined otherwise than as provided in paragraph (a) of this Section.

(iii) "Semester" means the first six months or the second six months of a calendar year.

(d) On such date as the Bank may specify by no less than six months' notice to the Borrower, paragraphs (a), (b) and (c) (iii) of this Section shall be amended to read as follows:

"(a) The Borrower shall pay interest on the principal amount of the Loan withdrawn and outstanding from time to time, at a rate for each Quarter equal to the Cost of Qualified Borrowings determined in respect of the preceding Quarter, plus one-half of one percent (1/2 of 1%). On each of the dates specified in Section 2.06 of this Agreement, the Borrower shall pay interest accrued on the principal amount outstanding during the preceding Interest Period, calculated at the rates applicable during such Interest Period."

"(b) As soon as practicable after the end of each Quarter, the Bank shall notify the Borrower of the Cost of Qualified Borrowings determined in respect of such Quarter."

"(c) (iii) 'Quarter' means a three-month period commencing on January 1, April 1, July 1 or October 1 in a calendar year."

Section 2.06. Interest and other charges shall be payable semiannually on April 1 and October 1 in each year.

Section 2.07. The Borrower shall repay the principal amount of the Loan in accordance with the amortization schedule set forth in Schedule 3 to this Agreement.

### Execution of the Project

Section 3.01. (a) The Borrower declares its commitment to the objectives of the Project as set forth in Schedule 2 to this Agreement, and, to this end:

- (i) shall: (A) through KMPA, carry out Parts A, B, C and E (ii) through E (v) of the Project; (B) through KCTA, carry out Part D of the Project; and (C) through MOST, carry out Part E (i) of the Project, all with due diligence and efficiency and in conformity with appropriate administrative, environmental, engineering, ports and financial practices, and shall provide, promptly as needed, the funds, facilities, services and other resources required for the Project;
- (ii) without limitation upon the provisions of paragraph (a) (i) of this Section and except as the Borrower and the Bank shall otherwise agree, the Borrower shall carry out, through KMPA, Parts A, B, C and E (ii) through E (v) of the Project in accordance with the Implementation Program set forth in Section I of Schedule 6 to this Agreement; and
- (iii) without limitation upon the provisions of paragraph (a) (i) of this Section and except as the Borrower and the Bank shall otherwise agree, the Borrower shall carry out, through KCTA, Part D of the Project in accordance with the Implementation Program set forth in Section II of Schedule 6 to this Agreement.

(b) In the event that during Project implementation the Borrower shall decide to entrust private sector firms to carry out the work under Part B (iii) of the Project, the Borrower undertakes, without limitation to the provisions of paragraph (a) of this Section, to make arrangements satisfactory to the Bank, through KMPA and Pusan City, with such private firms, including the prompt issuance by the City of Pusan of the required approvals and permits.

Section 3.02. Except as the Bank shall otherwise agree, procurement of the goods, works and consultants' services required for Parts A, B (i), B (ii), C, D and E of the Project and to be financed out of the proceeds of the Loan shall be governed by the provisions of Schedule 4 to this Agreement.

Section 3.03. The Borrower shall ensure that the resettlement and rehabilitation of the Affected People shall be carried out in accordance with the following principles and objectives:

- (a) Affected People shall be consulted and participate in the design and implementation of the resettlement activities;
- (b) at least thirty days prior to their displacement each Affected People shall be provided with a compensation package, in cash and/or in kind, sufficient to ensure that each Affected People shall improve, or at least regain, the standard of living and means of livelihood they were enjoying prior to their displacement; and
- (c) each compensation package shall include: (i) compensation for the assets lost, at least, at replacement costs; and (ii) adequate subsistence allowances during the transition period of resettlement.

Section 3.04. Without limitation upon the provisions of Article IX of the General Conditions, the Borrower shall:

(a) prepare and furnish to the Bank not later than six (6) months after the Closing Date or such later date as may be agreed for this purpose between the Borrower and the Bank, a plan, of such scope and in such detail as the Bank shall reasonably request, for the future operation of the Project;

(b) afford the Bank a reasonable opportunity to exchange views with the Borrower on said plan; and

(c) thereafter, carry out said plan with due diligence and efficiency and in accordance with appropriate practices, taking into account the Bank's comments thereon.

#### ARTICLE IV

##### Financial Covenants

Section 4.01. (a) The Borrower shall maintain or cause to be maintained records and accounts adequate to reflect in accordance with sound accounting practices the operations, resources and expenditures in respect of the Project of the departments or agencies of the Borrower, including KMPA and each District Maritime Port Administration and KCTA, responsible for carrying out the Project or any part thereof.

(b) The Borrower shall:

- (i) have the records and accounts referred to in paragraph (a) of this Section including those for the Special Account for each fiscal year audited, in accordance with appropriate 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 six months after the end of each such year, 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 said records and accounts and the audit thereof as the Bank shall from time to time reasonably request.

(c) For all expenditures with respect to which withdrawals from the Loan Account were made on the basis of statements of expenditure, the Borrower shall:

- (i) maintain or cause to be maintained, in accordance with paragraph (a) of this Section, records and accounts reflecting such expenditures;
- (ii) retain, until at least one year after the Bank has received the audit report for the fiscal year in which the last withdrawal from the Loan Account or payment out of the Special Account was made, all records (contracts, orders, invoices, bills, receipts and other documents) evidencing such expenditures;
- (iii) enable the Bank's representatives to examine such records; and
- (iv) ensure that such records and accounts are included in the annual audit referred to in paragraph (b) of this Section and that the report of such audit contains a separate opinion by said auditors as to whether the statements of expenditure submitted during such fiscal year, together with the procedures and internal controls involved in their preparation, can be relied upon to support the related withdrawals.

Section 4.02. The provisions of Section 4.02 of the Loan Agreement entered into between the Republic of Korea and the Bank dated August 6, 1986 in respect of Loan No. 2726-KO (Pusan Port Project) is hereby deleted in its entirety.

#### ARTICLE V

##### Effective Date; Termination

Section 5.01. The date ninety (90) days after the date of this Agreement is hereby specified for the purposes of Section 12.04 of the General

Conditions.

ARTICLE VI

Representative of the Borrower; Addresses

Section 6.01. The Minister of Finance of the Borrower is designated as representative of the Borrower for the purposes of Section 11.03 of the General Conditions.

Section 6.02. The following addresses are specified for the purposes of Section 11.01 of the General Conditions:

For the Borrower:

Ministry of Finance  
Republic of Korea  
Kwachon, Korea

Cable address:

MOF  
Kwachon, Korea

Telex:

K23243

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.

Telex:

248423 (RCA),  
82987 (FTCC),  
64145 (WUI) or  
197688 (TRT)

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.

REPUBLIC OF KOREA

By /s/ Chung Gi Kim, Minister  
Authorized Representative

INTERNATIONAL BANK FOR  
RECONSTRUCTION AND DEVELOPMENT

By /s/ Gautam Kaji  
Regional Vice President  
East Asia and Pacific

SCHEDULE 1

Withdrawal of the Proceeds of the Loan

1. The table below sets forth the Categories of items to be financed out of the proceeds of the Loan, the allocation of the amounts of the Loan to each Category and the percentage of expenditures for items so to be financed in each Category:

Category	Amount of the Loan Allocated (Expressed in Dollar Equivalent)	% of Expenditures to be Financed
(1) Civil works under Parts B (i) and B (ii) of the Project	52,000,000	35%
(2) Equipment under:		100% of foreign expenditures,
(a) Parts A and C of the Project	15,500,000	100% of local expenditures (ex-factory cost) and 75% of local expenditures for other items procured locally
(b) Part D of the Project	30,000,000	
(3) Consultants' services and training under Part E of the Project	2,500,000	100%
TOTAL	100,000,000	

2. For the purposes of this Schedule:

(a) the term "foreign expenditures" means expenditures in the currency of any country other than that of the Borrower for goods or services supplied from the territory of any country other than that of the Borrower; and

(b) the term "local expenditures" means expenditures in the currency of the Borrower or for goods or services supplied from the territory of the Borrower.

3. Notwithstanding the provisions of paragraph 1 above, no withdrawals shall be made in respect of:

(a) Category (1) unless the Borrower has furnished to the Bank evidence satisfactory to the Bank that the Borrower's Ministry of Environment has provided its environmental clearance to the carrying out of Part B of the Project; and

(b) payments made for expenditures prior to the date of this Agreement, except that withdrawals, in an aggregate amount not to exceed \$200,000, may be made in respect of Category (3), on account of payments made for expenditures before that date but after April 19, 1994.

4. The Bank may require withdrawals from the Loan Account to be made on the basis of statements of expenditure for expenditures for (a) goods and works under contracts not exceeding \$300,000 equivalent; (b) services of consulting firms under contracts not exceeding \$100,000 equivalent; (c) services of individual consultants under contracts not exceeding \$50,000 equivalent; and (d) training regardless of the cost thereof, all under such terms and conditions as the Bank shall specify by notice to the Borrower.

SCHEDULE 2

Description of the Project

The objectives of the Project are to assist the Borrower to: (a) mitigate the adverse environmental effects caused in the Korean maritime transport; (b) reduce air pollution, level of noise and traffic congestion in the City of Pusan; and (c) strengthen KMPA's capacity to adequately

address environmental issues in maritime port development and operation.

The Project consists of the following parts, subject to such modifications thereof as the Borrower and the Bank may agree upon from time to time to achieve such objectives:

PART A: Construction of facilities in selected maritime ports of the Borrower for the collection, storage, treatment and disposal of liquid wastes, garbage and sewage from ships covered by the 1973/78 MARPOL Convention.

Part B: Construction of a maritime port-cum-industrial complex at Dadaepo located on the outskirts of the City of Pusan including: (i) a breakwater; (ii) dredging, preparation and maintenance of the access channel; (iii) reclamation works, about 2000 meters of liner wharves and the required infrastructure for the establishment of an adjacent industrial complex to house existing timber and marine product processing plants and other industrial plants located in the City of Pusan, including resettlement and rehabilitation of the Affected Persons.

PART C: Design and installation of a vessel traffic management system to monitor, regulate and control the movements of maritime vessels at selected maritime ports, including the ports of Pusan and Inchon/Asan.

PART D: Construction of four container berths in the maritime port of Pusan, about 1,400 meters long, each berth capable of accommodating vessels of about 50,000 DWT, and each to include a supporting container stacking area, a container freight station, two quay side container cranes, a maintenance shop and a terminal office.

PART E: (i) Development and operation of a comprehensive program for maritime monitoring and assessment of the Yellow Sea's large marine ecosystem, including provision of equipment and training, inter alia, for staff of the Korea Ocean Research and Development Institute.

(ii) Carrying out of a study to formulate and evaluate investment options, policies and strategies for purposes of carrying out Part A of the Project, including detailed engineering.

(iii) Carrying out of a comprehensive training program to enhance the knowledge of KMPA staff on environmental aspects of maritime port development, construction and operation.

(iv) Carrying out of a maritime port engineering and operational training program for staff of KMPA.

(v) Strengthening of KMPA institutional capability through the development of:  
(a) a system to privatize the multi-purpose terminals at the Borrower's 27 maritime international ports; (b) an improved system of performance agreements with various terminal operating companies; (c) measures to enhance management and coordination of the Borrower's maritime environmental improvement program; and (d) standard operating procedures and engineering designs for the retrofit of existing maritime port facilities to minimize the pollution caused by their operations.

\* \* \*

The Project is expected to be completed by December 31, 1999.

### SCHEDULE 3

#### Amortization Schedule

Date Payment Due	Payment of Principal (expressed in dollars)*
On each April 1 and October 1	



beginning April 1, 2000 through April 1, 2009	5,000,000
and on October 1, 2009	5,000,000

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\*The figures in this column represent dollar equivalents determined as of the respective dates of withdrawal. See General Conditions, Sections 3.04 and 4.03.

#### Premiums on Prepayment

Pursuant to Section 3.04 (b) of the General Conditions, the premium payable on the principal amount of any maturity of the Loan to be prepaid shall be the percentage specified for the applicable time of prepayment below:

Time of Prepayment	Premium
	The interest rate (expressed as a percentage per annum) applicable to the Loan on the day of prepayment multiplied by:
Not more than three years before maturity	0.20
More than three years but not more than six years before maturity	0.40
More than six years but not more than 11 years before maturity	0.73
More than 11 years but not more than 13 years before maturity	0.87
More than 13 years before maturity	1.00

#### SCHEDULE 4

Procurement and Consultants' Services

## Section I. Procurement of Goods and Works

### Part A: International Competitive Bidding

1. Except as provided in Part C hereof, goods and works shall be procured under contracts awarded in accordance with procedures consistent with those set forth in Sections I and II of the "Guidelines for Procurement under IBRD Loans and IDA Credits" published by the Bank in May 1992 (the Guidelines).

(a) For fixed-price contracts, the invitation to bid referred to in paragraph 2.13 of the Guidelines shall provide that, when contract award is delayed beyond the original bid validity period, the successful bidder's bid price will be increased for each week of delay by two predisclosed correction factors acceptable to the Bank, one to be applied to all foreign currency components and the other to the local currency component of the bid price. Such an increase shall not be taken into account in the bid evaluation.

(b) In the procurement of goods and works in accordance with this Part A, the Borrower shall use the relevant standard bidding documents issued by the Bank, with such modifications thereto as the Bank shall have agreed to be necessary for the purposes of the Project. Where no relevant standard bidding documents have been issued by the Bank, the Borrower shall use bidding documents based on other internationally recognized standard forms agreed with the Bank.

2. Bidders for equipment under Part C of the Project and works under Parts A and B (i) of the Project shall be prequalified as provided in paragraph 2.10 of the Guidelines.

### Part B: Preference for Domestic Manufacturers

In the procurement of goods in accordance with the procedures described in Part A.1 hereof, goods manufactured in Korea may be granted a margin of preference in accordance with, and subject to, the provisions of paragraphs 2.55 and 2.56 of the Guidelines and paragraphs 1 through 4 of Appendix 2 thereto.

### Part C: Other Procurement Procedures

1. Goods estimated to cost the equivalent of \$300,000 or less per contract, up to an aggregate amount equivalent to \$3,000,000, may be procured under contracts awarded on the basis of competitive bidding, advertised locally, in accordance with procedures satisfactory to the Bank.

2. Equipment for environmental protection estimated to cost the equivalent of \$200,000 or less per contract, up to an aggregate amount equivalent to \$3,000,000, may be procured under contracts awarded on the basis of comparison of price quotations obtained from at least three suppliers from at least three different countries eligible under the Guidelines, in accordance with procedures acceptable to the Bank.

### Part D: Review by the Bank of Procurement Decisions

1. Review of prequalification:

With respect to the prequalification of bidders as provided in Part A.2 hereof, the procedures set forth in paragraph 1 of Appendix 1 to the Guidelines shall apply.

2. Review of invitations to bid and of proposed awards and final contracts:

(a) With respect to each contract for goods and works estimated to cost the equivalent of \$300,000 or more, the procedures set forth in paragraphs 2 and 4 of Appendix 1 to the Guidelines shall apply. Where payments for such contract are to be made out of the Special Account, such procedures shall be modified to ensure that the two conformed copies of the contract required to be furnished to the Bank pursuant to said paragraph 2 (d) shall be furnished to the Bank prior to the making of the first payment out of the Special Account in respect of such contract.

(b) With respect to each contract not governed by the preceding paragraph, the procedures set forth in paragraphs 3 and 4 of Appendix 1 to the Guidelines shall apply. Where payments for such contract are to be made out of the Special Account, said procedures shall be modified to ensure that the two conformed copies of the contract together with the other information required to be furnished to the Bank pursuant to said paragraph 3 shall be furnished to the Bank as part of the evidence to be furnished pursuant to paragraph 4 of Schedule 5 to this Agreement.

(c) The provisions of the preceding subparagraph (b) shall not apply to contracts on account of which withdrawals from the Loan Account are to be made on the basis of statements of expenditure.

3. The figure of 15% is hereby specified for purposes of paragraph 4 of Appendix 1 to the Guidelines.

## Section II. Employment of Consultants

1. In order to assist the Borrower in carrying out Parts A, B (i), B (ii), C, and E of the Project, the Borrower shall employ consultants whose qualifications, experience and terms and conditions of employment shall be satisfactory to the Bank. Such consultants shall be selected in accordance with principles and procedures satisfactory to the Bank on the basis of the "Guidelines for the Use of Consultants by World Bank Borrowers and by the World Bank as Executing Agency" published by the Bank in August 1981 (the Consultant Guidelines). For complex, time-based assignments, the Borrower shall employ such consultants under contracts using the standard form of contract for consultants' services issued by the Bank, with such modifications as shall have been agreed by the Bank. Where no relevant standard contract documents have been issued by the Bank, the Borrower shall use other standard forms agreed with the Bank.

2. Notwithstanding the provisions of paragraph 1 of this Section, the provisions of the Consultant Guidelines requiring prior Bank review or approval of budgets, short lists, selection procedures, letters of invitation, proposals, evaluation reports and contracts shall not apply to (a) contracts for the employment of consulting firms estimated to cost less than \$100,000 equivalent each, or (b) contracts for the employment of individuals estimated to cost less than \$50,000 equivalent each. However, said exceptions to prior Bank review shall not apply to (a) the terms of reference for such contracts, (b) single-source selection of consulting firms, (c) assignments of a critical nature, as reasonably determined by the Bank, (d) amendments to contracts for the employment of consulting firms raising the contracts value to \$100,000 equivalent or above, or (e) amendments to contracts for the employment of individual consultants raising the contract value to \$50,000 equivalent or above.

## SCHEDULE 5

### Special Account

1. For the purposes of this Schedule:

(a) the term "eligible Categories" means Categories (1), (2) and (3);

(b) the term "eligible expenditures" means expenditures in respect of the reasonable cost of goods and services required for the Project and to be financed out of the proceeds of the Loan allocated from time to time to the eligible Categories in accordance with the provisions of Schedule 1 to this Agreement; and

(c) the term "Authorized Allocation" means an amount equivalent to \$4,000,000 to be withdrawn from the Loan Account and deposited in the Special Account pursuant to paragraph 3 (a) of this Schedule.

2. Payments out of the Special Account shall be made exclusively for eligible expenditures in accordance with the provisions of this Schedule.

3. After the Bank has received evidence satisfactory to it that the Special Account has been duly opened, withdrawals of the Authorized Allocation and subsequent withdrawals to replenish the Special Account shall

be made as follows:

(a) For withdrawals of the Authorized Allocation, the Borrower shall furnish to the Bank a request or requests for a deposit or deposits which do not exceed the aggregate amount of the Authorized Allocation. On the basis of such request or requests, the Bank shall, on behalf of the Borrower, withdraw from the Loan Account and deposit in the Special Account such amount or amounts as the Borrower shall have requested.

(b) (i) For replenishment of the Special Account, the Borrower shall furnish to the Bank requests for deposits into the Special Account at such intervals as the Bank shall specify.

(ii) Prior to or at the time of each such request, the Borrower shall furnish to the Bank the documents and other evidence required pursuant to paragraph 4 of this Schedule for the payment or payments in respect of which replenishment is requested. On the basis of each such request, the Bank shall, on behalf of the Borrower, withdraw from the Loan Account and deposit into the Special Account such amount as the Borrower shall have requested and as shall have been shown by said documents and other evidence to have been paid out of the Special Account for eligible expenditures.

All such deposits shall be withdrawn by the Bank from the Loan Account under the respective eligible Categories, and in the respective equivalent amounts, as shall have been justified by said documents and other evidence.

4. For each payment made by the Borrower out of the Special Account, the Borrower shall, at such time as the Bank shall reasonably request, furnish to the Bank such documents and other evidence showing that such payment was made exclusively for eligible expenditures.

5. Notwithstanding the provisions of paragraph 3 of this Schedule, the Bank shall not be required to make further deposits into the Special Account:

(a) if, at any time, the Bank shall have determined that all further withdrawals should be made by the Borrower directly from the Loan Account in accordance with the provisions of Article V of the General Conditions and paragraph (a) of Section 2.02 of this Agreement; or

(b) once the total unwithdrawn amount of the Loan allocated to the eligible Categories, less the amount of any outstanding special commitment entered into by the Bank pursuant to Section 5.02 of the General Conditions with respect to the Project, shall equal the equivalent of twice the amount of the Authorized Allocation.

Thereafter, withdrawal from the Loan Account of the remaining unwithdrawn amount of the Loan allocated to the eligible Categories shall follow such procedures as the Bank shall specify by notice to the Borrower. Such further withdrawals shall be made only after and to the extent that the Bank shall have been satisfied that all such amounts remaining on deposit in the Special Account as of the date of such notice will be utilized in making payments for eligible expenditures.

6. (a) If the Bank shall have determined at any time that any payment out of the Special Account: (i) was made for an expenditure or in an amount not eligible pursuant to paragraph 2 of this Schedule; or (ii) was not justified by the evidence furnished to the Bank, the Borrower shall, promptly upon notice from the Bank: (A) provide such additional evidence as the Bank may request; or (B) deposit into the Special Account (or, if the Bank shall so request, refund to the Bank) an amount equal to the amount of such payment or the portion thereof not so eligible or justified. Unless the Bank shall otherwise agree, no further deposit by the Bank into the Special Account shall be made until the Borrower has provided such evidence or made such deposit or refund, as the case may be.

(b) If the Bank shall have determined at any time that any amount outstanding in the Special Account will not be required to cover further payments for eligible expenditures, the Borrower shall, promptly upon notice from the Bank, refund to the Bank such outstanding amount.

(c) The Borrower may, upon notice to the Bank, refund to the Bank all or any portion of the funds on deposit in the Special Account.

(d) Refunds to the Bank made pursuant to paragraphs 6 (a), (b) and (c) of this Schedule shall be credited to the Loan Account for subsequent withdrawal or for cancellation in accordance with the relevant provisions of this Agreement, including the General Conditions.

## Schedule 6

### Implementation Program

#### Section I

1. The Borrower shall take all such actions as shall be necessary to ensure that KMPA shall:

(a) carry on its operations and conduct its affairs in accordance with sound administrative, financial, environmental and port practices under the supervision of qualified and experienced management assisted by competent staff in adequate numbers.

(b) 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, environmental and ports practices.

(c) take out and maintain with responsible insurers, or make other provision satisfactory to the Bank for, insurance against such risks and in such amounts as shall be consistent with appropriate practice.

2. The Borrower shall take all such actions as shall be necessary to ensure that KMPA shall resettle and rehabilitate the Affected Persons in accordance with the principles and objectives set forth in Section 3.03 of this Agreement.

3. The Borrower shall take all such actions as shall be necessary to ensure that KMPA shall produce, for each of the Borrower's fiscal year after the Borrower's fiscal year ending on December 31, 1995, funds from internal sources equivalent to not less than 20% of the annual average of KMPA's capital expenditures incurred, or expected to be incurred, for that year and the next following fiscal year.

For the purposes of this paragraph:

(a) The term "funds from internal sources" means the aggregate amount of cash and marketable securities held at the beginning of the fiscal year plus the difference between:

- (i) the sum of revenues from all sources related to operations, consumer deposits and consumer contributions in aid of construction, net non-operating income and any reduction in working capital other than cash; and
- (ii) the sum of all expenses related to operations, including administration, adequate maintenance and taxes and payments in lieu of taxes (excluding provision for depreciation and other non-cash operating charges), debt service requirements, all cash dividends and other cash distributions of surplus, increase in working capital other than cash and other cash outflows other than capital expenditures.

(b) The term "net non-operating income" means the difference between:

- (i) revenues from all sources other than those related to operations; and
- (ii) expenses, including taxes and payments in lieu of taxes, incurred in the generation of revenues in (a) above.

- (c) The term "working capital other than cash" means the difference between current assets excluding cash and current liabilities at the end of each fiscal year.
- (d) The term "current assets excluding cash" means all assets other than cash which could in the ordinary course of business be converted into cash within twelve months, including accounts receivable, marketable securities, inventories and pre-paid expenses properly chargeable to operating expenses within the next fiscal year.
- (e) The term "current liabilities" means all liabilities which will become due and payable or could under circumstances then existing be called for payment within twelve months, including accounts payable, customer advances, debt service requirements, taxes and payments in lieu of taxes, and dividends.
- (f) The term "debt service requirements" means the aggregate amount of repayments (including sinking fund payments, if any) of, and interest and other charges on, debt.
- (g) The term "capital expenditures" means all expenditures on account of fixed assets, including interest charged to construction, related to operations.
- (h) 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 Bank.

4. The Borrower shall, before September 1 in each of its fiscal years, commencing on September 1, 1995 and thereafter, on the basis of financial forecasts, satisfactory to the Bank, review whether the requirements set forth in paragraph (2) of this Schedule would be met in respect of such year and the next following fiscal year and shall furnish to the Bank, through KMPA, a copy of such review upon its completion. If any such review shows that the requirements set forth in paragraph (2) of this Schedule would not be met for the fiscal years covered by such review, the Borrower shall promptly take all necessary measures (including, without limitation, adjustments of the structure or levels of KMPA's rates) in order to meet such requirements.

5. By November 1 of each year, commencing on November 1, 1995 and thereafter until the completion of the Project, the Borrower shall, through KMPA, furnish to the Bank, for its review and comments, the proposed participants and programs for the training activities under Parts E (iii) and E (iv) of the Project, and, thereafter, through KMPA, such training activities taking into account the Bank's comments, if any.

6. By March 31 of each year, commencing on March 31, 1996 and thereafter until the completion of the Project, the Borrower shall, through KMPA, furnish to the Bank, for its review and comments, a report, in form and substance satisfactory to the Bank, on the environmental impact of the facilities constructed under Part B of the Project.

Section II

1. The Borrower shall take all such actions as shall be necessary to ensure that KCTA shall:

(a) carry on its operations and conduct its affairs in accordance with sound administrative, financial, environmental and port practices under the supervision of qualified and experienced management assisted by competent staff in adequate numbers.

(b) 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, environmental and port practices.

(c) take out and maintain with responsible insurers, or make other provision satisfactory to the Bank for, insurance against such risks and in such amounts as shall be consistent with appropriate practice.

2. The Borrower shall take all such actions as shall be necessary to ensure that KCTA shall produce, for each of the Borrower's fiscal year after the Borrower's fiscal year ending on December 31, 1995, funds from internal sources equivalent to not less than 40% of the annual average of KCTA's capital expenditures incurred, or expected to be incurred, for that year and the next following fiscal year.

For the purposes of this paragraph:

- (a) The term "funds from internal sources" means the aggregate amount of cash and marketable securities held at the beginning of the fiscal year plus the difference between:
  - (i) the sum of revenues from all sources related to operations, consumer deposits and consumer contributions in aid of construction, net non-operating income and any reduction in working capital other than cash; and
  - (ii) the sum of all expenses related to operations, including administration, adequate maintenance and taxes and payments in lieu of taxes (excluding provision for depreciation and other non-cash operating charges), debt service requirements, all cash dividends and other cash distributions of surplus, increase in working capital other than cash and other cash outflows other than capital expenditures.
- (b) The term "net non-operating income" means the difference between:
  - (i) revenues from all sources other than those related to operations; and
  - (ii) expenses, including taxes and payments in lieu of taxes, incurred in the generation of revenues in (a) above.
- (c) The term "working capital other than cash" means the difference between current assets excluding cash and current liabilities at the end of each fiscal year.
- (d) The term "current assets excluding cash" means all assets other than cash which could in the ordinary course of business be converted into cash within twelve months, including accounts receivable, marketable securities, inventories and pre-paid expenses properly chargeable to operating expenses within the next fiscal year.
- (e) The term "current liabilities" means all liabilities which will become due and payable or could under circumstances then existing be called for payment within twelve months, including accounts payable, customer advances, debt service requirements, taxes and payments in lieu of taxes, and dividends.
- (f) The term "debt service requirements" means the aggregate amount of repayments (including sinking fund payments, if any) of, and interest and other charges on, debt.
- (g) The term "capital expenditures" means all expenditures on account of fixed assets, including interest charged to construction, related to operations.
- (h) 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 Bank.

4. The Borrower shall, before September 1 in each of its fiscal years, commencing on September 1, 1995 and thereafter, on the basis of financial forecasts, satisfactory to the Bank, review whether the requirements set forth in paragraph (2) of this Schedule would be met in respect of such year and the next following fiscal year and shall furnish to the Bank, through KCTA, a copy of such review upon its completion. If any such review shows that the requirements set forth in paragraph (2) of this Schedule would not be met for the fiscal years covered by such review, the Borrower shall promptly take all necessary measures (including, without limitation, adjustments of the structure or levels of KCTA's rates) in order to meet such requirements.

5. By March 31 of each year, commencing on March 31, 1996 and thereafter until the completion of the Project, the Borrower shall, through KCTA, furnish to the Bank, for its review and comments, a report, in form and substance satisfactory to the Bank, on the environmental impact of the facilities constructed under Part B of the Project.

