

CONFORMED COPY

LOAN NUMBER 3105 AL

EPAL Project Agreement

(Third Ports Project)

between

INTERNATIONAL BANK FOR RECONSTRUCTION  
AND DEVELOPMENT

and

ENTREPRISE PORTUAIRE D'ALGER

Dated September 17, 1990

LOAN NUMBER 3105 AL

EPAL PROJECT AGREEMENT

AGREEMENT, dated September 17, 1990, between INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (the Bank) and ENTREPRISE PORTUAIRE D'ALGER (EPAL).

WHEREAS by the Loan Agreement of even date herewith between DEMOCRATIC AND POPULAR REPUBLIC OF ALGERIA (the Borrower) and the Bank, the Bank has agreed to make available to the Borrower an amount in various currencies equivalent to sixty-three million dollars (\$63,000,000), on the terms and conditions set forth in the Loan Agreement, but only on condition that EPAL agree to undertake such obligations toward the Bank as are set forth in this Agreement;

WHEREAS EPAL, in consideration of the Bank's entering into the Loan 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 Loan Agreement, the Preamble to this Agreement and the General Conditions (as so defined) have the respective meanings therein set forth.

## ARTICLE II

### Execution of the Project

Section 2.01. (a) EPAL declares its commitment to the objectives of the Project as set forth in Schedule 2 to the Loan Agreement, and, to this end, shall operate and manage the facilities provided under Part A.1 of the Project and operate, manage and maintain the equipment provided under Parts A.6 (i) and A.8 (ii) thereof, and from time to time, promptly as needed, make all necessary repairs and renewals thereof, all in conformity with appropriate administrative, financial and engineering practices.

(b) Without limitation upon the provisions of paragraph (a) of this Section and except as the Bank and EPAL shall otherwise agree, EPAL shall: (i) assign appropriately qualified staff to be trained under the training program provided under Part B.1 of the Project; and (ii) implement said program in a timely fashion.

Section 2.02. Except as the Bank shall otherwise agree, procurement of the works and goods required for Parts A.5, A.6 (i) and A.8 (ii) of Project and to be financed out of the proceeds of the Loan shall be governed by the provisions of Schedule 4 to the Loan Agreement.

Section 2.03. EPAL shall carry out the obligations set forth in Sections 9.04, 9.05, 9.07 (a) and (c) and 9.08 of the General Conditions (relating to insurance, use of goods and services, records and reports, and maintenance, respectively) in respect of this Agreement and Parts A.1, A.5, A.6 (i) and A.8 (ii) of the Project.

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

Section 2.05. (a) EPAL shall, at the request of the Bank, exchange views with the Bank with regard to the progress achieved in carrying out Parts A.5, A.6 (i), A.8 (ii) and B.1 of the Project, the performance of its obligations under this Agreement and under the EPAL Reimbursement Agreement, and other matters relating to the purposes of the Loan.

(b) EPAL shall promptly inform the Bank of any condition which interferes or threatens to interfere with the progress of the Project, the accomplishment of the purposes of Loan, or the performance by EPAL of its obligations under this Agreement and under the EPAL Reimbursement Agreement.

## ARTICLE III

### Management and Operations of EPAL

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

Section 3.02. EPAL 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 engineering practices.

Section 3.03. EPAL shall 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.

Section 3.04. EPAL shall not sell, lease, transfer or otherwise dispose of the property or fixed assets owned by it, if such lease, transfer or disposition would materially and adversely affect the efficient carrying out of the Project.

## ARTICLE IV

### Financial Covenants

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

(b) EPAL shall:

- (i) furnish to the Bank as soon as available, but in any case not later than six months after the end of each Fiscal Year, copies of the unaudited accounts, referred to in paragraph (a) of this Section, for such year;
- (ii) 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 Bank;
- (iii) Furnish to the Bank as soon as available, but in any case not later than nine 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
- (iv) furnish to the Bank such other information concerning said records, accounts and financial statements as well as the audit thereof, as the Bank shall from time to time reasonably request.

Section 4.02. (a) Except as the Bank and EPAL shall otherwise agree, EPAL shall take all necessary measures to maintain starting with Fiscal Year 1992, a ratio of working expenses, excluding depreciation and financial charges, to total operating revenues not higher than 9 to 10.

(b) For the purposes of this Section:

- (i) the term "working expenses" means all expenses related to EPAL's operations, including administration, adequate maintenance, taxes and payments in lieu of taxes; and
- (ii) the term "total operating revenues" means revenues from all sources related to EPAL's operations.

Section 4.03. (a) Except as the Bank and EPAL shall otherwise agree, EPAL shall produce for each of its Fiscal Years after its Fiscal Year ending on December 31, 1992, net operating revenues related to container handling and storing equivalent to not less than two times the estimated debt service requirements of EPAL under the Reimbursement Agreement for the succeeding Fiscal Year.

(b) Before November 30 in each of its Fiscal Years, EPAL shall, on the basis of forecasts prepared by EPAL and satisfactory to the Bank, 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 Bank the results of such review upon its completion.

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

(d) For purposes of this Section:

- (i) The term "net operating revenues" means the sum of net operating income related to container handling and storing operations plus provision for depreciation.
- (ii) The term "net operating income" means total revenues related to container handling and storing operations less total operating expenses related to container handling and storing operations.
- (iii) The term "total operating expenses" means all expenses related to container handling and storing operations, including administration, adequate maintenance, taxes and payments in lieu of taxes, and provision for depreciation, but excluding interest and other charges on debt and corporate taxes and possible

distribution of part of the terminal net operating revenue to the workers as a bonus.

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 Loan Agreement becomes effective.

Section 5.02. This Agreement and all obligations of the Bank and of EPAL thereunder shall terminate on the date on which the Loan Agreement shall terminate in accordance with its terms, and the Bank shall promptly notify EPAL thereof.

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.

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 BANK FOR  
RECONSTRUCTION AND DEVELOPMENT

By /s/ W. A. Wahlenpans

Regional Vice President  
Europe, Middle East and North Africa

ENTREPRISE PORTUAIRE D'ALGER

By /s/ Menour Khelifi

Authorized Representative

