

CONFORMED COPY

LOAN NUMBER 3908 MAS

Project Agreement

(Port Development and Environment Protection Project)

between

INTERNATIONAL BANK FOR RECONSTRUCTION
AND DEVELOPMENT

and

MAURITIUS FREEPORT AUTHORITY

Dated February 9, 1996

LOAN NUMBER 3908 MAS

PROJECT AGREEMENT

AGREEMENT, dated February 9, 1996, between INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (the Bank) and MAURITIUS FREEPORT AUTHORITY (MFA).

WHEREAS (A) by the Loan Agreement of even date herewith between Republic of Mauritius (the Borrower) and the Bank, the Bank has agreed to make available to the Borrower an amount in dollars equal to seven million one hundred thousand dollars (\$7,100,000), on the terms and conditions set forth in the Loan Agreement, but only on condition that MFA agree to undertake such obligations toward the Bank as are set forth in this Agreement;

(B) the Mauritius Marine Authority (MMA) has also requested the Bank to provide assistance towards the financing of Part A of the Project and, by an agreement dated October 8, 1995, between the Bank and MMA (the MMA Loan Agreement), the Bank is agreeing to provide such assistance in an aggregate principle amount equivalent to twenty-three million four hundred thousand dollars (\$23,400,000) (the MMA Loan);

(C) by an agreement dated October 8, 1995, herewith between the Borrower and the Bank (the MMA Guarantee Agreement), the Borrower has agreed to guarantee the obligations of MMA in respect of the MMA Loan and to undertake such other obligations as are set forth in the MMA Guarantee Agreement;

(D) the Borrower has obtained from the Duchy of Luxembourg, a grant in an amount equivalent to one million dollars (\$1,000,000) to assist in financing Part B of the Project;

(E) MMA intends to contract from the Accelerated co-financing facility of the Japanese Export-Import Bank (JEXIM), a loan (the JEXIM Loan) in an amount equivalent to twenty-three million four hundred thousand dollars (\$23,400,000) to assist in financing Part A of the Project on terms and conditions set forth in an agreement (the JEXIM Loan Agreement) to be entered into between the MMA and JEXIM;

(F) the MMA intends to contract from the European Investment Bank (EIB), a loan (the EIB Loan) in an amount equivalent to nineteen million seven hundred thousand dollars (\$19,700,000) to assist in financing Part A of the Project on terms and conditions set forth in an agreement (the EIB Loan Agreement) to be entered into between the MMA and EIB;

(G) by a subsidiary loan agreement entered into between the Borrower and MFA, the proceeds of the Loan provided for under the Loan Agreement will be relent to MFA on the terms and conditions set forth in said Subsidiary Loan Agreement; and

WHEREAS MFA, in consideration of the Bank 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 and the General Conditions (as so defined) have the respective meanings therein set forth.

ARTICLE II

Execution of the Project

Section 2.01. MFA declares its commitment to the objectives of the Project as set forth in Schedule 2 to the Loan Agreement and, to this end, shall carry out Part B of the Project with due diligence and efficiency and in conformity with appropriate administrative, financial, engineering and freeport management practices, and shall provide, or cause to be provided, promptly as needed, the funds, facilities, services and other resources required for the Project.

Section 2.02. Except as the Bank shall otherwise agree, procurement of the works, goods and consultants' services required for Part B of the 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. (a) MFA shall carry out the obligations set forth in Sections 9.04, 9.05, 9.06, 9.07, 9.08 and 9.09 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 B of the Project.

(b) Without limitation upon the provisions of Article IX of the General Conditions, MFA shall:

- (i) 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;

- (ii) afford the Bank a reasonable opportunity to exchange views with the Borrower on said plan; and
- (iii) thereafter, carry out said plan with due diligence and efficiency and in accordance with appropriate practices, taking into account the Bank's comments thereon.

Section 2.04. MFA shall duly perform all its obligations under the Subsidiary Loan Agreement. Except as the Bank shall otherwise agree, MFA 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) MFA shall, at the request of the Bank, exchange views with the Bank with regard to progress 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 Loan.

(b) MFA 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 the Loan, or the performance by MFA of its obligations under this Agreement and under the Subsidiary Loan Agreement.

Section 2.06. MFA shall until completion of the Project: (a) consult with the Bank prior to undertaking new investments in common user facilities; and (b) enter into concession contracts, with suitable qualified and experienced operators, for the operation of freeport areas.

ARTICLE III

Management and Operations of MFA

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

Section 3.02. MFA 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 freeport management practices.

Section 3.03. MFA 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.

ARTICLE IV

Financial Covenants

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

(b) MFA 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 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, (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 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. MFA shall: (a) by December 31, 1995, increase the rental fee for its warehouses to at least seven Mauritian Rupees per square foot per month; and (b) thereafter adjust such rental fee annually, as required, to retain its market value.

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 MFA thereunder shall terminate on the date on which the Loan Agreement shall terminate in accordance with its terms, and the Bank shall promptly notify MFA 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. 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 Bank:

International Bank for
Reconstruction and Development
1818 H Street, N.W.
Washington, D.C. 20433
United States of America

Cable address:

INTBAFRAD

Telex:

248423 (RCA)

Washington, D.C. 82987 (FTCC)
64145 (WUI) or
197688 (TRT)

For MFA:

Mauritius Freeport Authority
Third Floor, Deramann Tower
30, Sir William Newton Street,
Port Louis, Mauritius

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 MFA, or by MFA on behalf of the Borrower under the Loan Agreement, may be taken or executed by the Director General or such other person or persons as the Director General shall designate in writing, and MFA shall furnish to the Bank 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 BANK FOR
RECONSTRUCTION AND DEVELOPMENT

By /s/ Andrew Rogerson
Acting Regional Vice President,
Africa

MAURITIUS FREEPORT AUTHORITY

By /s/ A.P. Neewoor
Authorized Representative

