

CONFORMED COPY

LOAN NUMBER 3851 MD

Loan Agreement

(Pre-Export Guarantee Facility Project)

between

REPUBLIC OF MOLDOVA

and

INTERNATIONAL BANK FOR RECONSTRUCTION
AND DEVELOPMENT

Dated April 19, 1995

LOAN NUMBER 3851 MD

LOAN AGREEMENT

AGREEMENT, dated April 19, 1995, between REPUBLIC OF MOLDOVA (the Borrower) and INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (the Bank).

WHEREAS (A) the Borrower, having satisfied itself as to the feasibility and priority of the Project described in Section 3.01 of this Agreement, has requested the Bank to assist in the financing of the Project;

(B) the Project will be carried out by the Guarantee Administration Unit (the GAU) with the Borrower's assistance as provided in this Agreement; 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 and in the Project Agreement of even date herewith between the Bank and the GAU (the Project 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) At the end of Section 6.01, following the words "Section 5.02" the words "or in respect of which a Guarantee Contract (as such term is defined in the Loan Agreement) has been issued and remains outstanding" are added.

(c) In Section 6.02:

- (i) at the end of the first phrase which precedes sub-paragraph (a), ending with the word "Account", the words "with respect to any amount of the Loan which has not been committed under a Guarantee Contract (as such term is defined in the Loan Agreement)" are added;
- (ii) 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."; and

(d) In Section 6.03, the portion starting with the words "(e) the Bank" up to the end of the Section is deleted and replaced by the following:

"(e) after the date five years after the date of the Loan Agreement, any amount of the Loan remaining unwithdrawn and which shall have not been committed under a Guarantee Contract (as such term is defined in the Loan Agreement), the Bank may, by notice to the Borrower and the GAU (as such term is defined in the Loan Agreement), terminate the right of the Borrower to make withdrawals with respect to such amount. Upon the giving of such notice, such amount of the Loan shall be cancelled."

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

(a) "Agency Agreement" means the agreement referred to in Section 2.01 (b) (i) of the Project Agreement;

(b) "Agent Bank" means the agent bank of the GAU referred to in Section 2.01 (b) (i) of the Project Agreement;

(c) "Charter" means the founding statutes, charter, articles of incorporation and by-laws or other similar instrument of the GAU registered by the GAU with the State Registration Department at the Ministry of Justice of the Borrower on February 9, 1995.

(d) "Eligible Risks" means the risks covered by each Guarantee Contract, namely (i) inconvertibility or inability to transfer, (ii) cancellation of licenses and restrictions on import and export, (iii) imposition or increase of import or export taxes, (iv) seizure of goods or prevention of sale, (v) political force majeure (war and civil disturbance), and (vi)

diversion of voyage, as each of these risks is defined in the Framework Guarantee Contract;

(e) "Framework Guarantee Contract" means a model guarantee contract approved by the Borrower and the Bank on February 2, 1995, which contains all the terms and conditions to be included in the Guarantee Contracts;

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

(g) "Guarantee Administration Unit" or the "GAU" means the state-owned company of the Borrower established and operating pursuant to the Resolution of the Government of the Republic of Moldova No. 502-d, dated December 19, 1994, as the same may be amended from time to time, registered with the State Registration Department at the Ministry of Justice of the Borrower on February 9, 1995;

(h) "Guarantee Contract" means any of the contracts referred to in Section 2.01 (b) (ii) of the Project Agreement;

(i) "Guarantee Holder" means foreign financier of Inputs who was issued a Guarantee Contract by the GAU in accordance with procedures set forth in paragraphs (a) through (e) of Schedule 2 to the Project Agreement;

(j) "Inputs" means goods financed by a Guarantee Holder and utilized by industrial and agricultural enterprises in the territory of the Borrower for production of exports or for the purpose of enhancing their production capacity;

(k) "Letter of Guarantee" means an irrevocable legal instrument issued by the Agent Bank to each Guarantee Holder upon issuance of the Guarantee Contract, which confirms the obligation of the Agent Bank to make Payment to the Guarantee Holder in the event of a Loss;

(l) "Loss" means the amount denominated in dollars, payable to the Guarantee Holder upon occurrence of any of the Eligible Risks in accordance with the terms and conditions of the Guarantee Contract with such Guarantee Holder;

(m) "Operating Manual" means the manual which sets out operating procedures of the GAU, approved by the GAU and the Borrower on February 2, 1995;

(n) "Outputs" means goods produced by industrial or agricultural enterprises in the territory of the Borrower for export using the Inputs;

(o) "Payment" means any payment made to the Guarantee Holder by the Agent Bank acting on behalf of the GAU on account of a Loss; and

(p) "SITC" means the Standard International Trade Classification, Revision 3 (SITC, Rev. 3), published by the United Nations in Statistical Papers, Series M, No. 34/Rev. 3 (1986).

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 the Loan Agreement, various currencies that shall have an aggregate value equivalent to the amount of thirty million dollars (\$30,000,000).

Section 2.02. (a) The amount of the Loan may be withdrawn from the Loan Account for amounts to be disbursed by the Agent

Bank on behalf of the GAU, under the Project, for Payments due pursuant to Guarantee Contracts executed on or after the date of this Loan Agreement provided, however, that no withdrawals shall be made for Payments under Guarantee Contracts executed after April 19, 2000.

(b) The Borrower shall, through the GAU, for the purposes of the Project, open and maintain in dollars a guarantee deposit account in the Agent Bank on terms and conditions satisfactory to the Bank, including appropriate protection against set-off, seizure or attachment. Deposits into, and payments out of, the Guarantee Account shall be made in accordance with the provisions of Schedule 2 to this Agreement.

Section 2.03. The Closing Date shall be December 31, 2003 or such later date as the Bank shall establish. The Bank shall promptly notify the Borrower of such later date.

Section 2.04. (a) 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.

(b) The Borrower shall pay to the Bank an additional charge at the rate of one-fourth of one percent ($1/4$ of 1%) per annum on the amount of any Guarantee Contract entered into by the GAU, such charge to accrue from the date of the issuance of such Guarantee Contract to the date on which (i) the amount of the Loan required to finance the Payment under such Guarantee Contract shall be withdrawn by the Agent Bank on behalf of the GAU from the Loan Account or shall be cancelled, or (ii) such Guarantee Contract shall be terminated in accordance with its terms.

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 and the Guarantor 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 and the Guarantor 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 May 1 and November 1 in each year.

Section 2.07. (a) The Borrower shall repay the principal amount of the Loan on November 1, 2005.

(b) Unless the Bank agrees otherwise, the Borrower shall pay premium as specified in Schedule 1 to this Agreement on repayments, in advance of maturity of any portion of the principal amount of the Loan then outstanding.

Section 2.08. The general manager of the GAU, or any other person designated by him/her for the purpose, is designated as representative of the Borrower for the purposes of taking any action required or permitted to be taken under the provisions of Section 2.02 of this Agreement and Article V of the General Conditions.

ARTICLE III

Objectives and Description of the Project; Execution of the Project

Section 3.01. (a) The objectives of the Project are to assist the Borrower in attracting foreign private finance for commercial pre-export transactions with industrial and agricultural enterprises in the territories of the Borrower by giving financial credibility to the Borrower's commitment not to interfere with such transactions.

(b) The Project consists of the operation by the GAU of a pre-export guarantee facility to sell guarantees against Eligible Risks covered under the terms of the Guarantee Contracts.

Section 3.02. (a) The Borrower declares its commitment to the objectives of the Project as set forth in Section 3.01 of this Agreement, and, to this end, without any limitation or restriction upon any of its other obligations under this Agreement, shall cause the GAU to perform in accordance with the provisions of the Project Agreement all the obligations of the GAU therein set forth, shall take or cause to be taken all action, including the provision of funds, facilities, services and other resources, necessary or appropriate to enable the GAU to perform such obligations, and shall not take or permit to be taken any action which would prevent or interfere with such performance by the GAU and with the fulfillment of the

objectives of the Project.

(b) The Borrower shall take all measures necessary on its part to ensure that the GAU shall exercise its rights and comply with its obligations under the Agency Agreement and the Guarantee Contracts in such manner as to protect the interests of the Borrower, the Bank and the GAU and to accomplish the purposes of the Loan.

Section 3.03. 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

Remedies of the Bank

Section 4.01. Pursuant to Section 6.02 (1) of the General Conditions, the following additional events are specified:

(a) the GAU shall have failed to perform any of its obligations under the Project Agreement;

(b) as a result of events which have occurred after the date of the Loan Agreement, an extraordinary situation shall have arisen which shall make it improbable that the GAU will be able to perform its obligations under the Project Agreement;

(c) any provision of the Agency Agreement, the Charter, or the Framework Guarantee Contract shall have been assigned, amended, suspended, abrogated, terminated or waived without the written consent of the Bank;

(d) the Borrower or any other authority having jurisdiction shall have taken any action for the dissolution or disestablishment of the GAU or for the suspension of its operations;

(e) the GAU shall have not complied with any of its obligations under the Agency Agreement;

(f) the Agent Bank shall have not complied with any of its obligations under the Agency Agreement;

(g) the Borrower shall have introduced a material reversal of its trade and foreign exchange policies set out in the letter of the Borrower dated November 11, 1994, furnished to the Bank in connection with the Structural Adjustment Loan (Loan No. 3815-MD); or

(h) the Agent Bank shall have made a Payment to a Guarantee Holder on behalf of the GAU with the funds deposited by the Bank into the Guarantee Account for that purpose.

Section 4.02. Pursuant to Section 7.01 (h) of the General Conditions, the following additional events are specified:

(a) the event specified in paragraphs (a), (e), (f) or (h) of Section 4.01 of this Agreement shall occur and shall continue for a period of sixty days after notice thereof shall

have been given by the Bank to the Borrower; and

(b) any of the events specified in paragraphs (b), (c), (d) or (g) of Section 4.01 of this Agreement shall occur.

ARTICLE V

Effective Date; Termination

Section 5.01. The following events are specified as additional conditions to the effectiveness of the Loan Agreement within the meaning of Section 12.01 (c) of the General Conditions:

(a) the Agency Agreement has been executed and delivered on behalf of the GAU and the Agent Bank; and

(b) at least one guarantee officer and one administrative officer, all with qualifications, experience and terms and reference satisfactory to the Bank, have been appointed by the GAU.

Section 5.02. The following are specified as additional matters, within the meaning of Section 12.02 (c) of the General Conditions, to be included in the opinion or opinions to be furnished to the Bank:

(a) that the Project Agreement has been duly authorized or ratified by the GAU, and is legally binding upon the GAU in accordance with its terms;

(b) that the Agency Agreement has been duly authorized or ratified by the GAU and the Agent Bank, and is legally binding upon the GAU and the Agent Bank in accordance with its terms; and

(c) that the Guarantee Contracts, when executed and delivered by the respective parties thereto based on the Framework Guarantee Contract, will be legally valid and binding upon the respective parties thereto in accordance with their respective terms.

Section 5.03. 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. Except as provided in Section 2.08 of this Agreement, 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
277005 Chisinau
Cosmonaut Street, 7
Republic of Moldova

Telex:

(3732) 228610

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:

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

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 MOLDOVA

By /s/ Nicholay Tau
Authorized Representative

INTERNATIONAL BANK FOR
RECONSTRUCTION AND DEVELOPMENT

By /s/ Kermal Dervis
Acting Regional Vice President
Europe and Central Asia

SCHEDULE 1

Premiums of Prepayment

Pursuant to Section 3.04 (b) of the General Conditions, the premium payable on the principal amount of the 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 two years before maturity	0.20
More than two years but not more than four years before maturity	0.40
More than four years but not more than six years before maturity	0.60

More than six years but not more than eight years before maturity	0.80
More than eight years before maturity	1.00

SCHEDULE 2

Guarantee Account

1. Amounts deposited into the Guarantee Account shall be used exclusively to make Payments for Losses in accordance with the provisions of this Section.
2. After the Bank has received evidence satisfactory to it that the Guarantee Account has been duly opened, withdrawals of amounts for deposit in the Guarantee Account shall be made as follows:

The Agent Bank, acting on behalf of the GAU, shall furnish to the Bank, no later than 14 days before any date on which the Agent Bank would be required to make a Payment on behalf of the GAU pursuant to a Guarantee Contract, a request for a deposit of an amount required for the making of such Payment. On the basis of such request, the Bank shall, on behalf of the Borrower, withdraw from the Loan Account and deposit in the Guarantee Account such amount as the Agent Bank shall have requested.
3. For each Payment made by the Agent Bank, on behalf of the GAU, out of the Guarantee Account, the Borrower shall cause the GAU, at such time as the Bank shall reasonably request, to furnish to the Bank such documents and other evidence showing that such Payment was made exclusively on account of a Loss.
4. (a) If the Bank shall have determined at any time that any disbursement out of the Guarantee Account: (i) was made for other than making a Payment; 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) refund to the Bank an amount equal to the amount of such Payment or the portion thereof not so eligible or justified.

(b) If the Bank shall have determined at any time that any amount outstanding in the Guarantee Account will not be required to cover further Payments, 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 Guarantee Account.

(d) The Borrower shall refund to the Bank any amount deposited in the Guarantee Account which shall have not been disbursed within 30 days after the date of the corresponding deposit, such refund to be made on the first working day immediately subsequent to such 30-day period.

(e) Refunds to the Bank made pursuant to paragraphs 4 (a), (b), (c) and (d) of this Schedule 2 to the Loan Agreement 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.

