

CONFORMED COPY

LOAN NUMBER 3105 AL

Loan Agreement

(Third Ports Project)

between

DEMOCRATIC AND POPULAR REPUBLIC OF ALGERIA

and

INTERNATIONAL BANK FOR RECONSTRUCTION
AND DEVELOPMENT

Dated September 17, 1990

LOAN NUMBER 3105 AL

LOAN AGREEMENT

AGREEMENT, dated September 17, 1990, between DEMOCRATIC AND POPULAR REPUBLIC OF ALGERIA (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 Schedule 2 to this Agreement, has requested the Bank to assist in the financing of the Project;

(B) the Project will be carried out by the Borrower through its Ministry responsible for Transport and its Ministry responsible for Public Works;

(C) by a Project Agreement of even date herewith between the Bank and Entreprise Portuaire d'Alger (EPAL), EPAL has agreed to undertake certain obligations in respect of the operation and management of the facilities provided under Part A.1 of the Project and the operation, management and maintenance of the equipment provided under Parts A.6 (i) and A.8 (ii) of the Project;

(D) by a Project Agreement of even date herewith between the Bank and Entreprise Portuaire d'Oran (EPO), EPO has agreed to undertake certain obligations in respect of the operation, and management of the facilities provided under Part A.2 of the Project and the operation, management and maintenance of the equipment provided under Part A.6 (ii) of the Project;

(E) by a Project Agreement of even date herewith between the Bank and Entreprise Portuaire d'Annaba (EPAN), EPAN has agreed to undertake certain obligations in respect of the operation, and management of the facilities provided under Parts A.3 and A.4 of the Project and the operation, management and maintenance of the equipment provided under Parts A.6 (iii) and A.7 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 and in the Project Agreements of even date herewith between the Bank and EPAL, EPO and EPAN, respectively;

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 last sentence of Section 3.02 deleted (the General Conditions) constitute an integral part of this Agreement.

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) "EPs" means the Borrower's entreprises portuaires, including EPAL, EPO and EPAN;

(b) "EPAL" means Entreprise Portuaire d'Alger, a socialist enterprise a caractere economique established under Decree No. 82-286 of August 14, 1982;

(c) "EPO" means Entreprise Portuaire d'Oran, a socialist enterprise a caractere economique established under Decree No. 82-289 of August 14, 1982;

(d) "EPAN" means Entreprise Portuaire d'Annaba, a societe par actions with a share capital of 10,000,000 Dinars established on February 28, 1989 by Acte Notarie registered under No. 118-1989 on March 4, 1989;

(e) "EPAL Project Agreement" means the agreement between the Bank and EPAL of even date herewith, as the same may be amended from time to time, and such term includes all schedules and agreements supplemental to the EPAL Project Agreement;

(f) "EPO Project Agreement" means the agreement between the Bank and EPO of even date herewith, as the same may be amended from time to time, and such term includes all schedules and agreements supplemental to the EPO Project Agreement;

(g) "EPAN Project Agreement" means the agreement between the Bank and EPAN of even date herewith, as the same may be amended from time to time, and such term includes all schedules and agreements supplemental to the EPAN Project Agreement;

(h) "MOT" means the Borrower's Ministry responsible for Transport;

(i) "MPW" means the Borrower's Ministry responsible for Public Works;

(j) "DA" or "Dinars" means the currency of the Borrower;

(k) "FY" means the Borrower's fiscal year which runs from January 1 to December 31; and

(l) "Special Account" means the account referred to in Section 2.02 (b) of 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 the Loan Agreement, an amount in various currencies equivalent to sixty three million dollars (\$63,000,000), 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 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 dollars a special account in the Central Bank of Algeria on terms and conditions satisfactory to the Bank. Deposits into, and payments out of, the Special Account shall be made in accordance with the provisions of Schedule 6 to this Agreement.

Section 2.03. The Closing Date shall be December 31, 1995, 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 per cent ($3/4$ 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 per annum for each Interest Period equal to one-half of one per cent per annum above the Cost of Qualified Borrowings for the last Semester ending prior to the commencement of 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 for such Semester.

(c) For purposes of this Section:

- (i) "Interest Period" means the six-month period commencing on each date specified in Section 2.06 of this Agreement, including the Interest Period in which this Agreement is signed.
- (ii) "Cost of Qualified Borrowings" means the cost of the outstanding borrowings of the Bank drawn down after June 30, 1982, expressed as a percentage per annum, as reasonably determined by the Bank.
- (iii) "Semester" means the first six months or the second six months of a calendar year.

Section 2.06. Interest and other charges shall be payable semiannually on March 15 and September 15 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.

ARTICLE III

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, shall carry out the Project through MOT and MP1W, with due diligence and in conformity with appropriate financial, administrative, management and engineering practices.

(b) Without any limitation or restriction upon any of its other obligations under this Agreement, the Borrower shall: (i) cause EPAL, EPO and EPAN to perform in accordance with the provisions of the EPAL, EPO and EPAN Project Agreements, all of their respective obligations therein set forth; (ii) shall take or cause to be taken all action, including the provision of funds, facilities, services and other resources, necessary or appropriate to enable EPAL, EPO and EPAN to perform such obligations; and (iii) shall not take or permit to be taken any action which would prevent or interfere with such performance.

Section 3.02. For purposes of coordinating the execution of the Project and without limitation upon the provisions of Section 3.01 of this Agreement, the Borrower shall:

- (a) not later than one month after the effectiveness of this Agreement,

appoint and thereafter maintain within its MOT, a Project coordinator with qualifications and experience satisfactory to the Borrower and the Bank; and

(b) take all necessary steps to provide such coordinator with appropriate resources and technical, accounting and administrative staff in sufficient number for the purpose.

Section 3.03. Without limitation or restriction upon the provisions of Section 3.01 of this Agreement, the Borrower undertakes to take or cause to be taken all necessary measures, including the adjustment of port tariffs, in order to enable EPAL, EPO and EPAN to carry out their respective obligations set forth in Sections 4.02 and 4.03 of the EPAL and EPO Project Agreements, and in Sections 4.02, 4.03 and 4.04 of the EPAN Project Agreement.

Section 3.04. Except as the Bank shall otherwise agree, procurement of the goods, works and consultants' services required for 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 3.05. The Bank and the Borrower hereby agree that 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 Parts A.4 to A.7 and A.8 (ii) of the Project shall be carried out by EPAL, EPO and EPAN, respectively, pursuant to Section 2.03 of the EPAL, EPO and EPAN Project Agreements.

Section 3.06. (a) The Borrower shall enter into Reimbursement Agreements with each of EPAL, EPO and EPAN for reimbursing the Borrower for the amounts withdrawn from the Loan Account under Categories (1) (d) and (3) (a), (b), (c) and (d) of the table set forth in paragraph 1 of Schedule 1 to this Agreement on account of the equipment provided to each of them under Parts A.6, A.7 and A.8 (ii) of the Project and the facilities provided to EPAN under part A.4 of the Project. The terms and conditions of such Agreements shall be agreed between the Borrower and the Bank and shall include, inter alia, the principal terms and conditions set forth in Schedule 5 to this Agreement.

(b) The Borrower shall exercise its rights under each of the Reimbursement Agreements in such manner as to protect the interests of the Borrower and the Bank and to accomplish the purposes of the Loan, and, except as the Bank shall otherwise agree, the Borrower shall not assign, amend, abrogate or waive either of the Reimbursement Agreements or any provision thereof.

Section 3.07. For purposes of carrying out the training program under Part B.1 of the Project the Borrower shall through MOT coordinate the conventional cargo handling training and the container handling training components of such program.

ARTICLE IV

Other 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 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 nine 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 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 Borrower shall:

- (a) take all necessary measures to allocate sufficient funds for the financing of rehabilitation or renewal of its port sector facilities and
- (b) not later than December 31 of each year, commencing in 1989, furnish to the Bank for information its proposed budgetary allocation for the ports sector for the following Fiscal Year, broken down by port and by activity, together with its proposed medium-term budgetary commitments.

Section 4.03. The Borrower shall: (i) not later than December 31, 1991, carry out a study under terms of reference acceptable to the Borrower and the Bank on the tariffs, charged by all EPs for their services, cost accounting and fixed assets valuation; (ii) not later than June 30, 1992, furnish to the Bank for review and comments the findings and recommendations of such study; and (iii) based on such review, take all necessary measures satisfactory to the Borrower and the Bank to adopt a new tariff structure in line with the financial requirements included in Section 4.02 and 4.03 of the EPAL and EPO Project Agreements and in Sections 4.02, 4.03 and 4.04 of the EPAN Project Agreement.

Section 4.04. The Borrower shall: (i) not later than July 1, 1992, or such later date as the Borrower and the Bank shall agree, carry out a study under terms of reference acceptable to the Borrower and the Bank on the handling of cereals imports in the Borrower's territory; and (ii) not later than December 31, 1992 or such later date as the Borrower and the Bank shall agree, furnish to the Bank for review and comments the findings and recommendations of such study.

ARTICLE V

Remedies of the Bank

Section 5.01. Pursuant to Section 6.02 (k) of the General Conditions, the following additional events are specified:

- (a) EPAL, EPO or EPAN shall have failed to perform any of their obligations under the EPAL, EPO or EPAN Project Agreement, respectively.
- (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 EPAL, EPO or EPAN to perform its obligations under the EPAL, EPO or EPAN Project Agreement.
- (c) The Decrees establishing EPAL and EPO referred to in Section 1.02 (b), and (c) of this Agreement and the Acte Notarie establishing EPAN and referred to in Section 1.02 (d) of this Agreement shall have been amended, suspended, abrogated, repealed or waived so as to affect materially and adversely the ability of EPAL, EPO or EPAN to perform any of their obligations under the EPAL, EPO or EPAN Project Agreement or the EPAL, EPO or EPAN Reimbursement Agreement.

(d) The Borrower or any other authority having jurisdiction shall have taken any action for the dissolution or disestablishment of EPAL, EPO or EPAN or for the suspension of any of their operations.

Section 5.02. Pursuant to Section 7.01 (h) of the General Conditions, the following additional events are specified:

(a) the event specified in paragraph (a) of Section 5.01 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) the events specified in paragraphs (c) and (d) of Section 5.01 of this Agreement shall occur.

ARTICLE VI

Effective Date; Termination

Section 6.01. The following event is specified as an additional condition to the effectiveness of the Loan Agreement within the meaning of Section 12.01 (c) of the General Conditions, namely, that the Reimbursement Agreements referred to in Section 3.06 of this Agreement have been executed on behalf of the Borrower, EPAL, EPO and EPAN, respectively.

Section 6.02. 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 each of the EPAL, EPO and EPAN Project Agreements has been duly authorized or ratified by EPAL, EPO and EPAN, respectively, and is legally binding upon EPAL, EPO and EPAN in accordance with its terms;

(b) that the Reimbursement Agreements have been duly authorized or ratified by, and executed and delivered on behalf of, the parties thereto and are legally binding upon such parties in accordance with their terms.

Section 6.03. The date one hundred and twenty (120) days after the date of this Agreement is hereby specified for the purposes of Section 12.04 of the General Conditions.

ARTICLE VII

Representative of the Borrower; Addresses

Section 7.01. The Minister of the Borrower at the time responsible for Finance is designated as representative of the Borrower for the purposes of Section 11.03 of the General Conditions.

Section 7.02. The following addresses are specified for the purposes of Section 11.01 of the General Conditions:

For the Borrower:

Ministere des Finances
Immeuble Mauretania
Place du Pdrou
Algiers
Democratic and Popular
Republic of Algeria

Cable address: Telex:

FINPLAN 52062
ALGER

For the Bank:

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

Cable address:

Telex:

INTBAFRAD
Washington, D.C.

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.

DEMOCRATIC AND POPULAR REPUBLIC OF ALGERIA

By /s/ Abderbamane Berrid

Authorized Representative

INTERNATIONAL BANK FOR
RECONSTRUCTION AND DEVELOPMENT

By /s/ W. A. Wahenpans

Regional Vice President
Europe, Middle East and North Africa

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:		
(a) under Part A.1 of the Project	19,400,000	48%
(b) under Part A.2 of the Project	3,400,000	48%
(c) under Part A.3 of the Project	5,500,000	48%
(d) under Part A.4 of the Project	5,000,000	48%
(2) Preparatory works under Part A.5 of the Project	1,000,000	100% of foreign expenditures
(3) Equipment:		
(a) under Part	3,400,000	

	A.6 (i) of the Project		
(b)	under Part A.6 (ii) of the Project	1,400,000	
(c)	under Part A.6 (iii) of the Project	1,800,000	
(d)	under Part A.7 of the Project	6,900,000	100% of foreign expenditures and 80% of local expenditures
(e)	under Part A.8 (i) of the Project	1,300,000	
(f)	under Part A.8 (ii) of the Project	1,200,000	
(4)	Consultants, services under Parts B.2 and B.3 of the Project and training under Part B.1 of the Project	4,200,000	100%
(5)	Unallocated	8,500,000	
	TOTAL	63,000,000 =====	

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 or for goods or services supplied from the territory of any country other than that of the Borrower; and

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

3. Notwithstanding the provisions of paragraph 1 above, no withdrawals shall be made in respect of payments made for expenditures prior to the date of this Agreement.

SCHEDULE 2

Description of the Project

The objectives of the Project are to (i) assist the Borrower in strengthening its investment planning and coordination in its ports subsector; and (ii) assist EPAL, EPO and EPAN in achieving financial viability and to strengthen their management, organization 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: Modernization and Rehabilitation of the Ports of Algiers, Oran and Annaba

1. Remodeling of existing berths in the port of Algiers by relocating seawards the quay wall of an existing mole to provide about 320 meters of berth length for container vessels with a water depth of about 11 meters, backfilling an adjacent basin to provide for paved storage areas and improving road access to and from the port area.

2. Paving of an existing berth and strengthening of a quaywall in the port of Oran to provide a storage area for containers and Ro-Ro trailers.

3. Relocation seawards of an existing quay to provide a container berth with a water depth of 10 meters, as well as paving of a storage area in the port of Annaba to provide facilities for container and Ro-Ro traffic.
4. Construction of a 80,000 ton storage facility for cereals in the port of Annaba.
5. Carrying out preparatory works in the port of Algiers including the removal of mercury canisters from the site proposed for the construction of the facilities provided under Part A.1 above.
6. Provision of specialized container handling equipment and related maintenance equipment for a first phase of modernized container operations: (i) in the port of Algiers; (ii) in the port of Oran; and (iii) in the Port of Annaba.
7. Provision of unloading equipment for bulk cereals traffic in the port of Annaba.
8. Provision to: (i) MPW of miscellaneous equipment for navigation aid and for civil works surveys and maintenance; and (ii) EPAL of computers for its management and operation.

Part B: Institutional Strengthening

1. Development and execution by the Borrower, EPAL, EPO and EPAN of a comprehensive program of training covering conventional cargo handling, management, maintenance and utilization of container handling equipment.
2. Provision of consultants' services to: (i) MOT for Project monitoring and supervision of construction of civil works in the port of Algiers and in the port of Annaba; and (ii) EPAN for the monitoring and supervision of the civil works and the setting up of the equipment in the port of Annaba.
3. Carrying out of a study by MOT under terms of reference satisfactory to the Borrower and the Bank for tariffs, costing and fixed assets valuation, and studies for subsequent phases of port modernization, including a study for the optimization of grain transport and storage and a study of the need for a marine repair facility.

* * *

The Project is expected to be completed by December 31, 1994.

SCHEDULE 3

Amortization Schedule

Date Payment Due	Payment of Principal (Expressed in dollars)*
On each March 15 and September 15	
beginning March 15, 1995 through September 15, 2004	3,150,000