

LOAN NUMBER 3193 POL

Loan Agreement
(Transport Project - General)

between

REPUBLIC OF POLAND

and

INTERNATIONAL BANK FOR RECONSTRUCTION
AND DEVELOPMENT

Dated June 11, 1990

LOAN AGREEMENT

AGREEMENT, dated June 11, 1990, between REPUBLIC OF POLAND (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) by an agreement (the Railways Transport Loan Agreement) of even date herewith between the Bank and the Polish State Railway (PKP), the Bank has agreed to make a loan (the Railways Transport Loan) to PKP to assist in the financing of a project (the Transport Project - Railways) further to improve management and operations of the railways sub sector on the terms and conditions set forth in the Railways Transport Loan 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.

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) "MTME" means the Borrower's Ministry of Transport and Maritime Economy, or any successor thereto;

(b) "GDDP" means MTME's General Directorate of Public Roads, or any successor thereto; and

(c) "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, various currencies that shall have an aggregate value equivalent to the amount of eight million dollars (\$8,000,000) 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 (a) The amount of the Loan may be withdrawn from the Loan Account in accordance with the provisions of Schedule 1 to this Agreement for expenditures made (or, if the Bank shall so agree, to be made) in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 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 National Bank of Poland 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 4 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 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 Periods" 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 January 15 and July 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.

Section 2.08. The President of the National Bank of Poland or such other person or persons as said President shall designate in writing, are designated as representatives 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

Execution of the Project

Section 3.01. 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 with due diligence and efficiency and in conformity with appropriate technical, administrative and financial practices, and provide, promptly as needed, the funds, facilities, services and other resources required for the purposes.

Section 3.02. The Borrower shall establish and maintain, with membership and resources and under terms

of reference satisfactory to the Bank, a coordinating unit which shall be chaired by a senior staff member of MTME and whose membership shall include a designated representative of the National Bank of Poland, to be responsible for the overall coordination and monitoring of the execution of the Project and to assist PKP in the coordination and monitoring of the execution of the Railways Transport Project and the preparation of reports and other information relating thereto.

Section 3.03. In order to assist the Borrower in carrying out the Project, the Borrower shall employ, as needed, consultants whose qualifications, experience and terms of reference shall be satisfactory to the Bank.

Section 3.04. Except as the Bank shall otherwise agree, procurement of the goods 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 5 to this Agreement.

ARTICLE IV

Financial and 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 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 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) ensure that each of the studies under Part B (2) of the Project shall be carried out on the basis of guidelines, terms of reference and a time schedule satisfactory to the Bank and a copy thereof furnished to the Bank promptly upon its completion, but in any case not later than December 31, 1991, in respect of the study under paragraph (a), and December 31, 1992, in respect of the studies under paragraphs (b), (c) and (d) of said Part B (2);

(b) afford the Bank a reasonable opportunity to review with the Borrower the conclusions and recommendations thereof; and

(c) initiate the implementation, within a period not exceeding three months of its review pursuant to paragraph (b) hereof, and thereafter implement the strategy, plan or program developed thereunder, taking into consideration the Bank's comments thereon.

Section 4.03. The Borrower shall:

(a) ensure that: (i) at least 20% of the aggregate value of all investments proposed to be carried out in the transport sector through budgetary allocations by the Borrower shall be allocated and applied towards the carrying out of investments determined each to be economically viable on the basis of an economic analysis carried out in accordance with a methodology satisfactory to the Bank; and (ii) such percentage shall be increased by at least 15% for each subsequent fiscal year so as to ensure that at least 80% of the investments proposed to be carried out under its said Program for fiscal year 1995 shall be so determined; and

(b) review with the Bank, not later than 60 days before the end of each fiscal year beginning with fiscal year 1991, the Borrower's proposed investments in the transport sector for the following fiscal year and, thereafter, take the Bank's views into consideration in finalizing said Program.

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) all conditions precedent to the effectiveness of the Railways Transport Loan Agreement, except for the effectiveness of this Agreement, have been fulfilled; and

(b) the coordinating unit referred to in Section 3.02 of this Agreement has been established in accordance with the provisions of said Section.

Section 5.02. 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 Transport and Maritime Economy 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 Transport and Maritime
Economy
ul. Chalubinskiego 4
00-928 Warsaw
Republic of Poland

Telex:

816651

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	197688 (TRT),
Washington, D.C.	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 POLAND

By /s/ F. Wieladok

Authorized Representative

INTERNATIONAL BANK FOR
RECONSTRUCTION AND DEVELOPMENT

By /s/ W.A. Wapenhuis
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) Goods foreign	2,600,000	100% of expenditures and 100% of local expenditures (ex-factory cost)
(2) Consultants' foreign services and training	4,020,000	100% of expenditures
(3) Unallocated	1,380,000	
TOTAL	8,000,000	

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 payments made for expenditures prior to the date of this Agreement.

SCHEDULE 2

Description of the Project

The objectives of the Project are to assist in the carrying out of programs further to improve the management and increase the economic, financial and operational efficiencies of the transport sector.

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:

(1) Carrying out through GDDP of an action plan for the

development and application of a suitable road pavement management system, including the provision of equipment, technical support and staff training.

(2) Provision of equipment and staff training to improve GDDP's quality control of production and laying of road pavements.

Part B:

(1) Provision of technical support, staff training and studies to strengthen institutional capabilities to facilitate the restructuring of the transport sector.

(2) Provision of studies through MTME to develop appropriate strategies and plans for the further development of the transport sector, including those relating to: (a) the development and application of a restructured rail passenger subsidy system based exclusively on demonstrable social, economic and environmental considerations; (b) the development and application of a suitable road user charges system; (c) the further development of road transport; and (d) the expansion of combined transports.

* * *

The Project is expected to be completed by June 30, 1995.

SCHEDULE 3

Amortization Schedule

Date Payment Due dollars)*	Payment of Principal (Expressed in dollars)
On each January 15 and July 15 beginning January 15, 1996 through January 15, 2007	335,000
On July 15, 2007	295,000

* 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
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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	.18
More than three years but not more than six years before maturity	.35
More than six years but not more than eleven years before maturity	.65
More than eleven years but not more than fifteen years before maturity	.88
More than fifteen years before maturity	1.00

SCHEDULE 4

Special Account

1. For the purposes of this Schedule:

(a) the term "eligible Categories" means Categories (1) and (2) set forth in the table in paragraph 1 of Schedule 1 to this Agreement;

(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 \$250,000 to be withdrawn from the Loan Account and deposited into 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 5

Procurement and Consultants Services

Section I. Procurement of Goods

Part A: Procurement procedures

1. Goods, other than those referred to in paragraphs 2 and 3 of this Part, shall be procured under contracts awarded through limited international bidding procedures on the basis of evaluation and comparison of bids invited from a list of at least three qualified suppliers eligible under the Guidelines and in accordance with the procedures set forth in Sections I and II of the Guidelines (excluding paragraphs 2.8, 2.9, 2.55 and 2.56 thereof).

2. Goods estimated to cost less than the equivalent of \$200,000 per contract, up to an aggregate amount not to exceed the equivalent of \$800,000, may be procured under contracts awarded on the basis of evaluation and comparison of price quotations obtained from at least three suppliers from at least two countries eligible under the Guidelines, in accordance with procedures acceptable to the Bank.

3. Goods which the Bank agrees are of a proprietary nature and which are estimated to cost less than the equivalent of \$600,000 in the aggregate, may be procured through direct negotiations with the proprietors thereof, on terms and conditions acceptable to the Bank.

Part B: Review by the Bank of Procurement Decisions

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

With respect to each contract for goods, 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.

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

Section II. Employment of Consultants

Consultants' services shall be procured under contracts awarded to: (A) consultants whose

qualifications, experience and terms and conditions shall be satisfactory to the Bank; and (B) who 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.

