

**INTERNATIONAL BANK FOR  
RECONSTRUCTION AND DEVELOPMENT  
and  
FRANCE**

**Guarantee Agreement—Manganese Project** (with related letters, annexed Loan Regulations No. 4 and Loan Agreement between the Bank and Compagnie Minière de l'Ogooué "Comilog"). Signed at Washington, on 30 June 1959

*Official text: English (with the exception of a letter emanating from the Government of France and drawn up in French).*

*Registered by the International Bank for Reconstruction and Development on 25 January 1963.*

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**BANQUE INTERNATIONALE POUR  
LA RECONSTRUCTION ET LE DÉVELOPPEMENT  
et  
FRANCE**

**Contrat de garantie — Projet relatif à l'extraction de manganèse** (avec lettres y relatives et, en annexe, le Règlement n° 4 sur les emprunts et le Contrat d'emprunt entre la Banque et la Compagnie Minière de l'Ogooué « Comilog »). Signé à Washington, le 30 juin 1959

*Texte officiel anglais (à l'exception d'une lettre du Gouvernement français, laquelle est en français).*

*Enregistré par la Banque internationale pour la reconstruction et le développement le 25 janvier 1963.*

No. 6505. GUARANTEE AGREEMENT<sup>1</sup> (*MANGANESE PROJECT*) BETWEEN THE REPUBLIC OF FRANCE AND THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT. SIGNED AT WASHINGTON, ON 30 JUNE 1959

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AGREEMENT, dated June 30, 1959, between REPUBLIC OF FRANCE (hereinafter called the Guarantor) and INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (hereinafter called the Bank).

WHEREAS by an agreement of even date herewith between the Bank and Compagnie Minière de l'Ogooué, "Comilog" (hereinafter called the Borrower), which agreement and the schedules therein referred to are hereinafter called the Loan Agreement<sup>2</sup> the Bank has agreed to make to the Borrower a loan in various currencies equivalent to thirty-five million dollars (\$35,000,000), on the terms and conditions set forth in the Loan Agreement, but only on condition that the Guarantor agree to guarantee the obligations of the Borrower in respect of such loan as hereinafter provided ; and

WHEREAS Republic of Congo and Republic of Gabon, in consideration of the Bank's entering into the Loan Agreement with the Borrower, have agreed to guarantee such loan as provided in the Republic of Congo Guarantee Agreement<sup>3</sup> and in the Republic of Gabon Guarantee Agreement,<sup>4</sup> respectively ; and

WHEREAS the Guarantor, in consideration of the Bank's entering into the Loan Agreement with the Borrower, has agreed to guarantee such loan as hereinafter provided ;

NOW THEREFORE the parties hereto hereby agree as follows :

*Article I*

*Section 1.01.* The parties to this Guarantee Agreement accept all the provisions of Loan Regulations No. 4 of the Bank dated June 15, 1956,<sup>5</sup> subject, however, to the modifications thereof set forth in Schedule 3<sup>6</sup> to the Loan Agreement (said

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<sup>1</sup> Came into force on 20 August 1959, upon notification by the Bank to the Government of France.

<sup>2</sup> See p. 80 of this volume.

<sup>3</sup> See p. 123 of this volume.

<sup>4</sup> See p. 135 of this volume.

<sup>5</sup> See p. 78 of this volume.

<sup>6</sup> See p. 106 of this volume.

Loan Regulations No. 4 as so modified being hereinafter called the Loan Regulations), with the same force and effect as if they were fully set forth herein.

*Section 1.02.* The terms defined in the Loan Agreement shall have the same meaning herein.

### *Article II*

*Section 2.01.* Without limitation or restriction upon any of the other covenants on its part in this Agreement contained, the Guarantor hereby unconditionally guarantees, as primary obligor and not as surety merely, the due and punctual payment of the principal of, and the interest and other charges on, the Loan, the principal of and interest on the Bonds, and the premium, if any, on the prepayment of the Loan or the redemption of the Bonds, all as set forth in the Loan Agreement and in the Bonds.

### *Article III*

*Section 3.01.* It is the mutual understanding of the Guarantor and the Bank that, except as otherwise herein provided, the Guarantor will not grant in favor of any external debt any preference or priority over the Loan. To that end, the Guarantor undertakes that, except as otherwise herein provided or as shall be otherwise agreed between the Guarantor and the Bank, if any lien shall be created as security for any external debt of the Guarantor or if any lien shall be created by action of the Guarantor as security for any external debt, such lien shall equally and ratably secure the payment of the principal of, and interest and other charges on, the Loan and the Bonds, and that in the creation of any such lien express provision shall be made to that effect. This Section shall not apply to the following :

- (a) the creation of any lien on any property purchased at the time of the purchase, solely as security for the payment of the purchase price of such property ;
- (b) any pledge in the ordinary course of banking business to secure any indebtedness maturing not more than one year after its date.

For the purposes of this Section, the expression "debt of the Guarantor" shall include debt as to which the Guarantor has guaranteed payment and the term "Guarantor" as used in such expression shall include any territorial subdivision of the Republic of France which has power to raise revenues by taxation and to charge any of its assets as security for external debt.

*Section 3.02.* (a) The Guarantor and the Bank shall cooperate fully to assure that the purposes of the Loan will be accomplished. To that end, each of them shall furnish to the other all such information as it shall reasonably request with regard

to the general status of the Loan. On the part of the Guarantor, such information shall include information with respect to financial and economic conditions in the territories of the Guarantor and the international balance of payments position of the Guarantor.

(b) The Guarantor and the Bank shall from time to time exchange views through their representatives with regard to matters relating to the purposes of the Loan and the maintenance of the service thereof. The Guarantor shall promptly inform the Bank of any condition which interferes with, or threatens to interfere with, the accomplishment of the purposes of the Loan or the maintenance of the service thereof.

(c) The Guarantor shall afford all reasonable opportunity for accredited representatives of the Bank to visit any part of the territories of the Guarantor for purposes related to the Loan.

*Section 3.03.* The principal of, and interest and other charges on, the Loan and the Bonds shall be paid without deduction for, and free from, any taxes or fees imposed under the laws of the Guarantor or laws in effect in its territories; provided, however, that the provisions of this Section shall not apply to taxation of, or fees upon, payments under any Bond to a holder thereof other than the Bank when such Bond is beneficially owned by an individual or corporate resident of the Guarantor.

*Section 3.04.* This Agreement, the Loan Agreement, the Republic of Congo Guarantee Agreement, the Republic of Gabon Guarantee Agreement and the Bonds shall be free from any taxes or fees that shall be imposed under the laws of the Guarantor or laws in effect in its territories on or in connection with the execution, issue, delivery or registration thereof.

*Section 3.05.* The principal of, and interest and other charges on, the Loan and the Bonds shall be paid free from all restrictions imposed under the laws of the Guarantor or laws in effect in its territories.

#### *Article IV*

*Section 4.01.* The Guarantor shall endorse, in accordance with the provisions of the Loan Regulations, its guarantee on the Bonds to be executed and delivered by the Borrower. The Minister of Finance of the Guarantor and such person or persons as he shall designate in writing are designated as the authorized representatives of the Guarantor for the purposes of Section 6.12 (b) of the Loan Regulations.

#### *Article V*

*Section 5.01.* The following addresses are specified for the purposes of Section 8.01 of the Loan Regulations:

For the Guarantor :

Ministère des Finances  
Paris 1<sup>er</sup>, France

Alternative address for cablegrams and radiograms :

Ministère Finances  
Paris, France

For the Bank :

International Bank for Reconstruction and Development  
1818 H Street, N.W.  
Washington 25, D.C.  
United States of America

Alternative address for cablegrams and radiograms :

Intbafrad  
Washington, D.C.

*Section 5.02.* The Ambassador of Republic of France and of the Community in Washington is designated for the purposes of Section 8.03 of the Loan Regulations.

IN WITNESS WHEREOF, the parties hereto, acting through their representatives thereunto duly authorized, have caused this Guarantee Agreement to be signed in their respective names and delivered in the District of Columbia, United States of America, as of the day and year first above written.

Republic of France :

*by* Hervé ALPHAND  
Authorized Representative

International Bank for Reconstruction and Development :

*by* W. A. B. ILIFF  
Vice President

## LETTERS RELATING TO THE GUARANTEE AGREEMENT

## I

[TRANSLATION<sup>1</sup> — TRADUCTION<sup>2</sup>]

EMBASSY OF FRANCE IN THE UNITED STATES OF AMERICA

Washington, D.C., June 30, 1959

Dear Mr. President :

I refer to the Guarantee Agreement of even date<sup>3</sup> herewith between the Republic of France and the International Bank for Reconstruction and Development guaranteeing the loan from the Bank to Compagnie Minière de l'Ogooué (Comilog).

The question arises to what extent the monetary reserves of France are subject to the "negative pledge clause" of Section (3.01) of said Agreement.

It has been demonstrated to you, and I hereby confirm, that the gold at the disposal of the Exchange Stabilization Fund, as well as the total amount of the foreign exchange reserves of France, except for several current reserves of a small amount, are either held by the Exchange Stabilization Fund itself, or sold by the Fund to the Bank of France which records them under the account *Disponibilités à vue à l'Étranger* (Sight resources abroad) of its balance sheet. I remind you on this occasion that the Exchange Stabilization Fund, which is independent from the Bank of France, is managed by the latter for the account of the French Government. Finally, I confirm that, unlike the *encaisse-or* of the Bank of France, which, according to constant practice, may not be sold to the Exchange Stabilization Fund, except by a convention approved by Parliament, the gold and foreign exchange transferred to the "Sight resources abroad" account can be resold by the Bank of France without any particular formality.

It is the understanding of the French Government that the "negative pledge clause" of the above mentioned Agreement applies to all assets in gold or foreign exchange held by the Exchange Stabilization Fund, which assets, as may be needed, may be increased by resale of gold and foreign exchange held in the "Sight resources abroad" account.

The same would be true of any part of the *encaisse-or* of the Bank of France sold to the French Government or made available to it by any means whatsoever.

Please accept, Mr. President, the assurance of my highest esteem.

Hervé ALPHAND  
Ambassador of Republic of France  
and of the Community

Mr. Eugene Black  
President  
International Bank for Reconstruction  
and Development  
1818 H Street, N.W.  
Washington 25, D.C.

<sup>1</sup> Translation by the International Bank for Reconstruction and Development.

<sup>2</sup> Traduction de la Banque internationale pour la reconstruction et le développement.

<sup>3</sup> See p. 68 of this volume.

## II

INTERNATIONAL BANK FOR  
RECONSTRUCTION AND DEVELOPMENT  
WASHINGTON 25, D.C.

June 30, 1959

His Excellency Hervé Alphand  
Ambassador of Republic of France  
and of the Community  
Washington, D.C.

Dear Mr. Ambassador :

Reference is made to Section 3.01 of the Guarantee Agreement of even date herewith between the Republic of France and the International Bank for Reconstruction and Development.

This is to confirm our understanding that the phrase "if any lien shall be created by action of the Guarantor" in that section is not intended to include the case in which the only Government action involved is a permit or license granted under some control of general application (e.g. foreign exchange control), but is intended to cover the case in which the Government by affirmative action causes or participates in the creation of a lien.

If this conforms to your understanding of the matter, please sign the confirmation on the enclosed copy of this letter and return it to us.

Yours sincerely,

W. A. B. ILIFF  
Vice President

*Confirmed :*  
Hervé ALPHAND

INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

LOAN REGULATIONS No. 4, DATED 15 JUNE 1956

REGULATIONS APPLICABLE TO LOANS MADE BY THE BANK TO BORROWERS OTHER  
THAN MEMBER GOVERNMENTS

[*Not published herein. See United Nations, Treaty Series, Vol. 260, p. 376.*]

LOAN AGREEMENT  
(MANGANESE PROJECT)

AGREEMENT, dated June 30, 1959, between INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (hereinafter called the Bank) and COMPAGNIE MINIÈRE DE L'OGOOUE, "Comilog" (hereinafter called the Borrower), a company organized and existing under the laws of the Republic of Gabon.

*Article I*

LOAN REGULATIONS ; SPECIAL DEFINITIONS

*Section 1.01.* The parties to this Loan Agreement accept all the provisions of Loan Regulations No. 4 of the Bank dated June 15, 1956,<sup>1</sup> subject, however, to the modifications thereof set forth in Schedule 3<sup>2</sup> to this Agreement (said Loan Regulations No. 4 as so modified being hereinafter called the Loan Regulations), with the same force and effect as if they were fully set forth herein.

*Section 1.02.* Except where the context otherwise requires, the following terms have the following meanings wherever used in this Agreement, or any Schedule to this Agreement :

(a) The term "U. S. Steel" shall mean United States Steel Corporation, a corporation incorporated under the laws of the State of New Jersey, United States of America, and shall include any corporation substituted for U. S. Steel or any corporation substituted for any such substituted corporation in pursuance of the Comilog Protocol, the Technical Assistance Contract or the Loan Protocol, which is effectively controlled by U. S. Steel ; and the words "corporation which is effectively controlled by U. S. Steel" shall mean any corporation in which 51% or more of the shares of stock at the time outstanding is owned by U. S. Steel ;

(b) The term "Bureau Minier" shall mean Bureau Minier de la France d'Outre-Mer, a government corporation of Republic of France ;

(c) The term "Mokta-el-Hadid" shall mean Compagnie des Minerais de Fer Magnétique de Mokta-el-Hadid, a corporation organized and existing under the laws of Republic of France ;

(d) The term "S.A.M.A.F." shall mean Société Auxiliaire du Manganèse de Franceville, a corporation organized and existing under the laws of Republic of France ;

(e) The term "shareholders" shall mean collectively U. S. Steel, Bureau Minier, Mokta-el-Hadid, and SAMAF, and shall include any of their successors or assigns ;

(f) The term "Comilog Protocol" shall mean the Protocol dated April 21, 1953, as amended by an Agreement supplemental thereto dated January 24, 1957, between the shareholders and the Borrower ;

<sup>1</sup> See p. 78 of this Volume.

<sup>2</sup> See p. 106 of this volume.

(g) The term "Technical Assistance Contract" shall mean the Contract dated May 20, 1954, as amended by an Agreement supplemental thereto dated June 4, 1959, between the Borrower and U. S. Steel ;

(h) The term "Loan Protocol" shall mean the Agreement dated July 30, 1957, as amended by an Agreement supplemental thereto dated June 10, 1959, between the Borrower and its shareholders ;

(i) The term "AEF" shall mean the former Federation of French Equatorial Africa ;

(j) The term "Republic of Gabon" shall mean the Republic of Gabon or the former Territory of Gabon, as the context may require ;

(k) The term "Republic of Congo" shall mean the Republic of Congo or the former Territory of Middle-Congo, as the context may require ;

(l) The term "Convention" shall mean the Convention dated April 22, 1953, as amended by an Agreement supplemental thereto dated September 4, 1953, between the Governor General of AEF and the shareholders of the Borrower ;

(m) The term "Mining Concession" shall mean the concession dated January 26, 1957, granted to the Borrower by the Governor General of AEF ;

(n) The term "Railway Convention" shall mean the Convention dated March 27, 1957, and the Cahier des Charges annexed thereto between the Governor General of AEF and the Borrower ;

(o) The term "Operating Agreements" shall mean the Agreements dated September, 10, 1957, supplemental to the Railway Convention, between the Governor General of AEF and the Borrower ;

(p) The term "Port Lease Contract" shall mean the Contract dated August 7, 1957, between the Director of the AEF Railways and the Borrower ;

(q) The term "Port Convention" shall mean the Convention dated November 5, 1957, between the Governor General of AEF and the Borrower, as amended by an Agreement supplemental thereto dated February 24, 1959, between the High Commissioner General representing the President of the French Community in Brazzaville and the Borrower ;

(r) The term "Tax Agreement" shall mean the Tax Agreement of Long Duration dated July 4, 1957, between the Governor General of AEF and the Borrower ;

(s) The term "Establishment Agreement" shall mean the Establishment Agreement of Long Duration dated February 27, 1959, between Republic of Gabon and Republic of Congo, and the High Commissioner General representing the President of the French Community in Brazzaville, of the first part, and the Borrower, of the second part ;

(t) The term "Caisse Centrale" shall mean Caisse Centrale de Coopération Economique, formerly known as Caisse Centrale de la France d'Outre-Mer, an agency of Republic of France ;

(u) The term "Caisse Centrale Loan" shall mean the loan of French francs 3.5 billion made by Caisse Centrale to the Borrower ; and the term "Caisse Centrale Loan Agreement" shall mean the Agreement dated March 7, 1958, providing for such loan, as amended by an Agreement supplemental thereto dated June 1, 1959 ;

(v) The term "Francs" and the letters "Frs" shall mean francs in the currency of Republic of France ;

(w) The term "CFA Francs" and the letters "CFA Frs" shall mean francs in the currency of Republic of Gabon or Republic of Congo ;

(x) The term "subsidiary" shall mean any corporation, at least a majority of the outstanding voting stock of which shall be owned, or which shall be effectively controlled, by the Borrower or by one or more subsidiaries of the Borrower or by the Borrower and one or more of its subsidiaries ;

(y) The term "outside debt of the Borrower" shall mean the Loan, the Caisse Centrale Loan or any other loan which the Borrower might thereafter contract with the consent of the Bank, other than advances made under the Loan Protocol ;

(z) The term "Kouilou Project" shall mean the project for the construction of a hydroelectric plant at Sounda on the Kouilou river in the territories of Republic of Congo.

## Article II

### THE LOAN

*Section 2.01.* The Bank agrees to lend to the Borrower, on the terms and conditions in this Agreement set forth or referred to, an amount in various currencies equivalent to thirty-five million dollars (\$35,000,000).

*Section 2.02.* The Bank shall open a Loan Account on its books in the name of the Borrower and shall credit to such Account the amount of the Loan. The Borrower shall be entitled, subject to the provisions of the Loan Regulations and of this Agreement, to withdraw from the Loan Account such amounts as shall have been expended for the reasonable cost of goods to be financed under this Agreement and, if the Bank shall so agree, such amounts as shall be required to meet the reasonable cost of such goods ; provided, however, that, except as shall be otherwise agreed between the Bank and the Borrower : (i) no withdrawal shall be made unless the Borrower shall furnish to the Bank in respect of each withdrawal evidence satisfactory to the Bank that the Borrower has received from its shareholders payments on its outstanding shares of capital stock or advances as provided for in the Loan Protocol, as the case may be, in amounts at least equal to such withdrawal together with withdrawals theretofore made from the Loan Account ; and (ii) no withdrawals shall be made on account of (a) expenditures prior to April 24, 1959, or (b) expenditures in the currency of Republic of Congo and/or Republic of Gabon or for goods produced in (including services supplied from) the territories of either Republic or (c) expenditures in the territories of any country (other than Switzerland) which is not a member of the Bank, or for goods produced in (including services supplied from) such territories. For the purposes of this Section, the term "withdrawal" shall mean actual disbursements from the Loan Account and amounts committed by the Bank at the request of the Borrower to reimburse commercial banks for payments made under letters of credit.

*Section 2.03.* 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 so withdrawn from time to time. Such commitment charge shall accrue from a date sixty days after the date of this Agreement to the respective dates on which amounts shall be withdrawn by the Borrower from the Loan Account as provided in Article IV of the Loan Regulations or shall be cancelled pursuant to Article V of the Loan Regulations.

*Section 2.04.* The Borrower shall pay interest at the rate of six per cent (6%) per annum on the principal amount of the Loan so withdrawn and outstanding from time to time.

*Section 2.05.* Except as the Bank and the Borrower shall otherwise agree, the charge payable for special commitments entered into by the Bank at the request of the Borrower pursuant to Section 4.02 of the Loan Regulations shall be at the rate of one-half of one per cent ( $1/2$  of 1%) per annum on the principal amount of any such special commitments outstanding from time to time.

*Section 2.06.* Interest and other charges shall be payable semi-annually on July 1 and January 1 in each year.

*Section 2.07.* The Borrower shall repay the principal of the Loan in accordance with the amortization schedule set forth in Schedule 1<sup>1</sup> to this Agreement.

### *Article III*

#### USE OF PROCEEDS OF THE LOAN

*Section 3.01.* The Borrower shall apply the proceeds of the Loan exclusively to financing the cost of goods required to carry out the Project described in Schedule 2<sup>1</sup> to this Agreement. The specific goods to be financed out of the proceeds of the Loan and the methods and procedures for procurement of such goods shall be determined by agreement between the Bank and the Borrower, subject to modification by further agreement between them.

*Section 3.02.* The Borrower shall cause all goods financed out of the proceeds of the Loan to be imported into the territories of Republic of Gabon and Republic of Congo and there to be used exclusively in the carrying out of the Project.

### *Article IV*

#### BONDS

*Section 4.01.* The Borrower shall execute and deliver Bonds representing the principal amount of the Loan as provided in the Loan Regulations.

*Section 4.02.* The President of the Borrower and such person or persons as he shall appoint in writing are designated as authorized representatives of the Borrower for the purposes of Section 6.12 (a) of the Loan Regulations.

<sup>1</sup> See p. 102 of this volume.

*Article V*

## PARTICULAR COVENANTS

*Section 5.01.* (a) The Borrower shall carry out the Project, with due diligence and efficiency and in conformity with sound business, technical and financial practices.

(b) The Borrower shall furnish, or cause to be furnished, to the Bank, promptly upon their preparation, the plans, specifications and construction schedules for the Project and any material modifications subsequently made therein, in such detail as the Bank shall from time to time request.

(c) The Borrower shall maintain records adequate to identify the goods financed out of the proceeds of the Loan, to disclose the use thereof in the Project, to record the progress of the Project (including the cost thereof) and to reflect in accordance with consistently maintained sound accounting practices the operations and financial condition of the Borrower; shall enable the Bank's representatives to inspect the Project, the goods and any relevant records and documents; and shall furnish to the Bank all such information as the Bank shall reasonably request concerning the expenditure of the proceeds of the Loan, the Project, the goods, and the operations and financial condition of the Borrower.

*Section 5.02.* (a) The Bank and the Borrower shall cooperate fully to assure that the purposes of the Loan will be accomplished. To that end, each of them shall furnish to the other all such information as it shall reasonably request with regard to the general status of the Loan.

(b) The Bank and the Borrower shall from time to time exchange views through their representatives with regard to matters relating to the purposes of the Loan and the maintenance of the service thereof. The Borrower shall promptly inform the Bank of any condition which interferes with, or threatens to interfere with, the accomplishment of the purposes of the Loan or the maintenance of the service thereof.

*Section 5.03.* The Borrower shall duly perform its obligations under the Technical Assistance Contract, the Mining Concession, the Railway Convention, the Operating Agreements, the Port Lease Contract, the Port Convention, the Tax Agreement and the Establishment Agreement. Except as the Bank and the Borrower shall otherwise agree, the Borrower shall not take or concur in any action which would have the effect of amending, abrogating, assigning or waiving any provision of any one of such respective instruments.

*Section 5.04.* Except as the Bank and the Borrower shall otherwise agree:

(a) The Borrower shall not amend its statutes;

(b) The Borrower shall not agree to any modification or change of the Loan Protocol;

(c) The Borrower shall not enter into any further agreement with any of its shareholders other than in the ordinary course of business, except on terms and conditions satisfactory to the Bank.

*Section 5.05.* Save as permitted by the provisions of Section 5.06, the Borrower shall make no payment of any kind to any of the shareholders ; provided, however, that the provisions of this Section shall not apply to (i) payments due under the Technical Assistance Contract ; and (ii) payments due in the ordinary course of business.

*Section 5.06.* (a) The Borrower shall not make any payment to its shareholders or take any action which would have at any time the effect of reducing or threatening to reduce, the net working capital of the Borrower below a level satisfactory to the Bank.

(b) The Borrower shall not declare or pay any dividends, or make any distribution, on any shares of its capital stock (other than a dividend payable solely in shares of its capital stock) before the date set forth in Article 4 of the Loan Protocol. Thereafter, the Borrower may declare or pay dividends, or make a cash distribution, on shares of its capital, but only to the extent that : (i) the aggregate amount expended or required for such purposes since that date shall not exceed the accumulated net revenue surplus of the Borrower ; or (ii) the aggregate amount expended or required for such purposes since that date shall not exceed the aggregate amount which would be required to pay a dividend in each fiscal year of  $6\frac{1}{2}\%$  of the aggregate amount paid up of its shares outstanding at the end of each preceding fiscal year ; provided, however, that the Borrower may declare or pay dividends, or make a cash distribution, on shares of its capital stock in excess of the limit set forth in (ii) above if the Borrower makes simultaneously provision for the prepayment of an amount, at least equivalent to such excess, of its outside debt ;

(c) The Borrower shall pay no interest on advances made under the Loan Protocol before the date set forth in Article 4 of said Protocol. Thereafter, the Borrower may pay interest on advances made under the Loan Protocol, but in an amount not greater than the earnings during the taxable year, said earnings being net earnings calculated as in paragraph (f) (v) hereof, except that the amount deducted for interest shall not include the amount of interest being hereby calculated under this paragraph (c). Interest not paid in any year because of this earnings limitation may be paid in any subsequent year but not in an amount which would exceed the available earnings for that year, as hereinabove defined ; provided, however, that the aggregate amount expended or required for the payment of any such interest since that date shall not exceed the amounts payable under Article 4 of the Loan Protocol ;

(d) The Borrower may repay advances made under the Loan Protocol to provide the Borrower with funds necessary for the completion of the Project and the provision of initial working capital satisfactory to the Bank, as contemplated in Section 5.07 hereof, so long as any such repayments would not reduce the proportion that share capital plus undistributed accumulated net revenue surplus increased by the amount of shareholders' advances bears to the outside debt of the Borrower below 75:25 ;

(e) The Borrower may repay advances made under the Loan Protocol after the completion of the Project and the provision of initial working capital satisfactory to the Bank, to provide the Borrower with funds necessary to maintain the net working capital of the

Borrower at a level satisfactory to the Bank, as contemplated in Section 5.07 (b) hereof, so long as any such repayments would not reduce such net working capital below such level ;

(f) For the purposes of this Section : (i) the term "net working capital" shall mean the excess of current assets over current liabilities ; (ii) the term "current assets" shall mean cash and assets readily convertible into cash and all other assets which would in the ordinary course of the Borrower's business be converted within one year into cash or assets readily convertible into cash ; (iii) the term "current liabilities" shall mean liabilities due and payable and all other liabilities which would be payable or could be called for payment within one year ; (iv) the term "accumulated net revenue surplus" shall mean the accumulated net earnings of the Borrower accruing from and after the date set forth in Article 4 of the Loan Protocol, down to the end of the preceding fiscal year ; and (v) the term "net earnings" shall mean net income of the Borrower as determined in accordance with sound accounting practices, after paying or making provision for :

- (1) operating expenses ;
- (2) depreciation at the maximum rate permitted under the Tax Agreement ;
- (3) taxes, if any ;
- (4) interest on the debt of the Borrower ;

(g) In the event of liquidation, termination, dissolution or winding up of the Borrower, the principal and other amounts payable on the outside debt of the Borrower shall first be paid before any payment is made on account of advances made under the Loan Protocol.

*Section 5.07.* (a) The Borrower shall promptly call for the payment of unpaid portions of its outstanding shares of capital stock and for the making of advances under the Loan Protocol as and when funds are needed for the carrying out of the Project.

(b) If the completion of the Project or its successful operation is hindered or delayed, or is threatened with hindrance or delay, because the funds available to the Borrower are inadequate to ensure its completion and the provision of initial working capital satisfactory to the Bank, or if the net working capital falls below, or threatens to fall below, a level satisfactory to the Bank, the Borrower shall promptly request its shareholders to provide the Borrower, or cause the Borrower to be provided promptly, by means of payments in cash for additional shares of capital stock issued by the Borrower at not less than par, or of additional loans as contemplated in the Loan Protocol, or of credits or guarantees, or otherwise, with the necessary funds as and when required.

*Section 5.08.* Except as the Bank shall otherwise agree, the Borrower shall not incur, guarantee or assume any indebtedness and shall not permit any subsidiary to incur, guarantee or assume any indebtedness, (other than advances made under the Loan Protocol) maturing by its terms more than one year after the date on which it is incurred.

*Section 5.09.* The Borrower undertakes that, except as the Bank shall otherwise agree : (a) if the Borrower shall create any lien on any of its assets as security for any debt,

such lien will equally and ratably secure the payment of the principal of, and interest and other charges on, the Loan and the Bonds, and that in the creation of any such lien express provision will be made to that effect ; and (b) if any lien shall be created on any assets of the Borrower, other than under (a) above, as security for any debt, the Borrower shall grant to the Bank an equivalent lien satisfactory to the Bank ; provided, however, that the foregoing provisions of this Section shall not apply to : (i) any lien created on property, at the time of purchase thereof, solely as security for the payment of the purchase price of such property ; (ii) any lien on commercial goods to secure a debt maturing not more than one year after the date on which it is originally incurred and to be paid out of the proceeds of sale of such commercial goods ; or (iii) any lien arising in the ordinary course of banking transactions and securing a debt maturing not more than one year after its date.

*Section 5.10.* Subject to such exemption as shall be conferred by the provisions of Section 3.03 and Section 3.04 of the respective Guarantee Agreements,<sup>1</sup> the Borrower shall pay or cause to be paid all taxes or fees, if any, imposed under the laws of the Guarantors or laws in effect in the respective territories of the Guarantors on or in connection with the execution, issue, delivery or registration of this Agreement, the Guarantee Agreements or the Bonds, or the payment of principal, interest or other charges thereunder ; provided, however, that the provisions of this Section shall not apply to taxation of, or fees upon, payments under any Bond to a holder thereof other than the Bank, when such Bond is beneficially owned by an individual or corporate resident of any one of the three Guarantors.

*Section 5.11.* The Borrower shall pay or cause to be paid all taxes and fees, if any, imposed under the laws of the country or countries in whose currency the Loan and the Bonds are payable or laws in effect in the territories of such country or countries on or in connection with the execution, issue, delivery or registration of this Agreement, the Guarantee Agreements or the Bonds.

*Section 5.12.* Except as shall be otherwise agreed between the Bank and the Borrower :

(a) The Borrower shall insure or cause to be insured with responsible insurers all goods financed with the proceeds of the Loan. Such insurance shall cover such marine, transit and other hazards incident to purchase and importation of the goods into the territories of Republic of Congo and Republic of Gabon and to delivery thereof to the site of the Project, and shall be for such amounts as shall be consistent with sound commercial practice. Such insurance shall be payable in dollars or in the currency in which the cost of the goods insured thereunder shall be payable.

(b) The Borrower shall, in addition to the insurance provided for in subparagraph (a) of this Section, take out or cause to be taken out, and maintain or cause to be maintained, such insurance, against such risks and in such amounts as shall be consistent with sound industrial and business practices.

<sup>1</sup> See pp. 123 and 135 of this volume.

*Section 5.13.* Except as the Bank shall otherwise agree, the Borrower shall not consolidate with or merge into any other corporation, or permit any other corporation, except one of its subsidiaries, to merge into it, or sell, lease, transfer or otherwise dispose of its property and assets or of the property included in the Project or any plant included therein, except in the ordinary course of business.

*Section 5.14.* Except as the Bank shall otherwise agree, the Borrower shall not undertake or execute, or permit any subsidiary to undertake or execute, any major projects or developments other than the Project, or make any investments not related to the Project ; provided that the Borrower may invest idle funds in securities readily convertible into cash with a maturity not later than one year after the date of purchase.

*Section 5.15.* (a) The Borrower shall at all times take all steps necessary to maintain its corporate existence and right to carry on operations and shall, except as the Bank may otherwise agree, take all steps necessary to acquire and retain such land, interests in land and properties and to acquire, maintain and renew such rights, powers, privileges and franchises, as may be necessary or proper for the construction and operation of the Project and the conduct of its business.

(b) The Borrower shall operate its undertaking and conduct its affairs in accordance with sound business and financial practices and shall operate, maintain, renew and repair its plants, machinery, equipment and property as required in accordance with sound engineering, railway and mining practices.

*Section 5.16.* The obligations of the Borrower expressed in this Article shall be applicable to any subsidiary of the Borrower as though such obligations were binding on any such subsidiary, and the Borrower shall cause any such subsidiary to carry out such obligations.

#### *Article VI*

##### REMEDIES OF THE BANK

*Section 6.01.* (i) If any event specified in paragraph (a), paragraph (b), paragraph (e), paragraph (f), paragraph (j), paragraph (k) or paragraph (l) of Section 5.02 of the Loan Regulations shall occur and shall continue for a period of thirty days, or (ii) if any event specified in paragraph (c) of Section 5.02 of the Loan Regulations shall occur and shall continue for a period of sixty days after notice thereof shall have been given by the Bank to the Borrower, then at any subsequent time during the continuance thereof, the Bank, at its option, may declare the principal of the Loan and of all the Bonds then outstanding to be due and payable immediately, and upon any such declaration such principal shall become due and payable immediately, anything in this Agreement or in the Bonds to the contrary notwithstanding.

#### *Article VII*

##### EFFECTIVE DATE ; TERMINATION

*Section 7.01.* The following event is specified as an additional condition of effectiveness of this Agreement within the meaning of Section 9.01 (a) (ii) and Section 9.01 (b) (ii)

of the Loan Regulations, namely, that all such action, governmental, corporate or otherwise, shall have been taken and all such governmental consents shall have been obtained as may be required to make the Mining Concession, the Railway Convention, the Operating Agreements, the Port Lease Contract, the Port Convention, the Tax Agreement, the Establishment Agreement, and all amendments thereto necessitated by the constitutional changes that have taken place since the respective dates of these instruments, valid and enforceable in accordance with their respective terms.

*Section 7.02.* The following are specified as additional matters within the meaning of Section 9.02 (e) of the Loan Regulations, to be included in the opinion or opinions to be furnished to the Bank :

(a) that the Borrower is duly organized and existing under the laws of Republic of Gabon and has full power to own the properties and to carry on the business which it owns and carries on and proposes to own and carry on for the purpose of the Project ;

(b) that the consents of the High Commissioner General representing the President of the French Community in Brazzaville, of the Prime Minister of Republic of Gabon and of the Prime Minister of Republic of Congo to an increase of the capital of the Borrower and to advances under the Loan Protocol to provide the Borrower with funds necessary for the completion of the Project and the provision of initial working capital satisfactory to the Bank as contemplated in Section 5.07 hereof and to the contracting of the Loan by the Borrower have been duly authorized or ratified by, and executed and delivered on behalf of, each of the aforesaid authorities and constitute valid and binding obligations of each of such authorities in accordance with the terms of each such consent ;

(c) that the governmental, corporate or other actions and consents referred to in Section 7.01 hereof have been validly taken or given, as the case may be, and that they have been duly authorized or ratified by the Borrower and by the appropriate authority or authorities and constitute valid and binding obligations of the Borrower and of such authority or authorities in accordance with their respective terms ;

(d) that the Agreement supplemental to the Loan Protocol has been duly authorized or ratified by, and executed and delivered on behalf of, the Borrower and each of the shareholders respectively and that the Loan Protocol constitutes a valid and binding obligation of each of the parties thereto in accordance with its terms ;

(e) that the Agreement supplemental to the Technical Assistance Contract has been duly authorized or ratified by, and executed and delivered on behalf of, the Borrower and U. S. Steel respectively and that the Technical Assistance Contract constitutes a valid and binding obligation of each of the parties thereto in accordance with its terms ;

(f) that the Caisse Centrale Loan Agreement has been duly authorized or ratified by, and executed and delivered on behalf of, Caisse Centrale and the Borrower and constitutes a valid and binding obligation of each of the parties thereto in accordance with its terms.

*Section 7.03.* A date 60 days after the date of this Agreement is hereby specified for the purposes of Section 9.04 of the Loan Regulations.

*Article VIII*

MISCELLANEOUS

*Section 8.01.* The Closing Date shall be June 30, 1963.

*Section 8.02.* The following addresses are specified for the purposes of Section 8.01 of the Loan Regulations :

For the Borrower :

Compagnie Minière de l'Ogooué  
62 bis, Avenue d'Iéna  
Paris XVIème, France

Alternative address for cablegrams and radiograms :

Comilog  
Paris

For the Bank :

International Bank for Reconstruction and Development  
1818 H Street, N.W.  
Washington 25, D.C.  
United States of America

Alternative address for cablegrams and radiograms :

Intbafrad  
Washington, D.C.

IN WITNESS WHEREOF, the parties hereto, acting through their representatives thereunto duly authorized, have caused this Loan Agreement to be signed in their respective names and delivered 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* W. A. B. ILIFF  
Vice President

Compagnie Minière de l'Ogooué :

*By* R. VIGIER  
Authorized Representative

## SCHEDULE 1

## AMORTIZATION SCHEDULE

<i>Date Payment Due</i>	<i>Payment of Principal (Expressed in dollars)*</i>	<i>Date Payment Due</i>	<i>Payment of Principal (Expressed in dollars)*</i>
July 1, 1963 . . . . .	\$1,078,000	July 1, 1969 . . . . .	\$1,538,000
January 1, 1964 . . . . .	1,111,000	January 1, 1970 . . . . .	1,584,000
July 1, 1964 . . . . .	1,144,000	July 1, 1970 . . . . .	1,631,000
January 1, 1965 . . . . .	1,179,000	January 1, 1971 . . . . .	1,680,000
July 1, 1965 . . . . .	1,214,000	July 1, 1971 . . . . .	1,731,000
January 1, 1966 . . . . .	1,250,000	January 1, 1972 . . . . .	1,783,000
July 1, 1966 . . . . .	1,288,000	July 1, 1972 . . . . .	1,836,000
January 1, 1967 . . . . .	1,326,000	January 1, 1973 . . . . .	1,891,000
July 1, 1967 . . . . .	1,366,000	July 1, 1973 . . . . .	1,948,000
January 1, 1968 . . . . .	1,407,000	January 1, 1974 . . . . .	2,006,000
July 1, 1968 . . . . .	1,449,000	July 1, 1974 . . . . .	2,067,000
January 1, 1969 . . . . .	1,493,000		

\* To the extent that any part of the Loan is repayable in a currency other than dollars (see Loan Regulations, Section 3.02), the figures in this column represent dollar equivalents determined as for purposes of withdrawal.

## PREMIUMS ON PREPAYMENT AND REDEMPTION

The following percentages are specified as the premiums payable on repayment in advance of maturity of any part of the principal amount of the Loan pursuant to Section 2.05 (b) of the Loan Regulations or on the redemption of any Note prior to its maturity pursuant to Section 6.16 of the Loan Regulations :

<i>Time of Prepayment or Redemption</i>	<i>Premium</i>
Not more than 3 years before maturity . . . . .	½ %
More than 3 years but not more than 6 years before maturity . . . . .	2 %
More than 6 years but not more than 11 years before maturity . . . . .	3 ½ %
More than 11 years but not more than 13 years before maturity . . . . .	5 %
More than 13 years before maturity . . . . .	6 %

## SCHEDULE 2

## DESCRIPTION OF THE PROJECT

The Project consists of the opening, equipping and operation by the Borrower of a new mine, near Moanda, Republic of Gabon, with a minimum capacity of 500,000 tons of washed manganese ore annually, including the necessary means for transporting the ore to the port, and the stocking and loading facilities at the port, of Pointe Noire, Republic of Congo. The Project includes the following major works and installations.

### 1. *The Mine and Washing Plant*

The mine will be developed and equipped for open pit mining for the extraction of sufficient crude manganese ore to insure minimum annual shipments of 500,000 tons of washed manganese ore.

The washing plant will contain the necessary crushing, screening and washing equipment to produce the above minimum annual tonnage of an acceptable marketable product.

### 2. *The Cableway*

A monocabable ropeway about 73 km. long will be constructed between the washing plant and M'Binda, the railroad terminus. The cableway will be made up of 10 sections of about 7 km. each with necessary interchange stations and will have a guaranteed carrying capacity of 830,000 tons annually. Five diesel generating plants will be located at appropriate points along the route to provide necessary motive power. Facilities will be provided to permit stocking and destocking of ore at interchange stations as and when required.

### 3. *The Railroad*

A railway line will be constructed from M'Binda to a connecting point near Dolisie with the Chemin de Fer Congo-Océan (CFCO). The track will be 1.067 meter (3 feet 6 inches) gauge designed for axle loadings of at least 16 tons. Connection with the CFCO, marshalling yards, sidings, repair shops and other facilities for efficient operation will be provided as required. Sufficient rolling stock and locomotives will be provided to move the minimum specified tonnage of ore plus all operating supplies.

### 4. *The Port*

In the port at Pointe Noire the Borrower will provide facilities for stockpiling at least 50,000 tons of ore. Major facilities to be installed include unloading facilities, stocking and destocking conveyor systems and a ship loader with a capacity of about 1,200 tons per hour.

### 5. *General Services*

Necessary roads, housing and community facilities, power generation and repair facilities and other services will be provided as and when required at the mine, along the routes of the cableway and railroad, and at Pointe Noire.

It is expected that capacity to make shipments of ore from Pointe Noire will reach the annual rate of 500,000 tons about the middle of 1962.

## SCHEDULE 3

## MODIFICATIONS OF LOAN REGULATIONS No. 4

For the purposes of this Agreement the provisions of Loan Regulations No. 4 of the Bank, dated June 15, 1956, shall be deemed to be modified as follows :

(a) By the deletion of the words "Guarantor" and "Guarantee Agreement" wherever the same shall occur and the substitution therefor respectively of the words "Guarantors" and "Guarantee Agreements". Whenever the context shall require there shall be made all such grammatical changes as shall be consequential upon the aforesaid deletions and substitutions.

(b) By the deletion of Section 2.02.

(c) By the addition to Section 3.05 of the following new sentence, namely :

"If a withdrawal is applied for on account of expenditures in a currency other than dollars, the value of such currency in terms of the currency or currencies to be withdrawn shall be as reasonably determined by the Bank."

(d) By the deletion of Section 4.01.

(e) By the deletion of subparagraphs (b), (c), (d), (e), (f), (g), (h), (i) and (j) of Section 5.02 and the substitution therefor and the addition thereto of the following new subparagraphs, namely :

"(b) A default shall have occurred in the payment of principal or interest or any other payment required under any other loan agreement between the Bank and the Borrower or under any loan agreement or under any guarantee agreement between the Bank and, respectively, Republic of France, Republic of Congo, or Republic of Gabon.

"(c) A default shall have occurred in the performance of any other covenant or agreement on the part of the Borrower or of any of the Guarantors under the Loan Agreement, the Guarantee Agreements or the Bonds ;

"(d) An extraordinary situation shall have arisen which shall make it improbable that the Borrower or any of the Guarantors will be able to perform their respective obligations under the Loan Agreement or the Guarantee Agreements ;

"(e) The Borrower shall have taken or permitted to be taken any action or proceeding whereby any of its property shall or may be assigned or in any manner transferred or delivered to any receiver, assignee, liquidator or other person, whether appointed by the Borrower or by a court or by the Republic of Congo or Republic of Gabon or by authority of any law, whereby such property shall or may be distributed among the creditors of the Borrower ;

"(f) The Guarantors or any of them shall have taken any action for the dissolution or disestablishment of the Borrower or for the suspension of its operations, or a substantial part thereof ;

"(g) Republic of France shall have been suspended from membership in or ceased to be a member of the Bank ;

“(h) Republic of France shall have ceased to be a member of the International Monetary Fund or shall have become ineligible to use the resources of said Fund under Section 6 of Article IV of the Articles of Agreement of said Fund<sup>1</sup> or shall have been declared ineligible to use said resources under Section 5 of Article V, Section 1 of Article VI or Section 2 (a) of Article XV of the Articles of Agreement of said Fund ;

“(i) After the date of the Loan Agreement and prior to the Effective Date any action shall have been taken which would have constituted a violation of any covenant contained in the Loan Agreement or Guarantee Agreements if the Loan and Guarantee Agreements had been effective on the date such action was taken ;

“(j) Any creditor shall demand payment from the Borrower of moneys lent to the Borrower prior to the agreed maturity of any loan, other than advances made under the Loan Protocol, having an original maturity of one year or more in accordance with the terms of such loan ;

“(k) A default shall have occurred in any payment required under Articles 1 and 5 bis of the Loan Protocol on the part of any shareholder and such default shall have not been cured within thirty days, or the shareholders shall be relieved from their obligations under the Loan Protocol as contemplated in Article 5 ter of said Protocol ;

“(l) Any action for the amendment, suspension or termination of the Technical Assistance Contract, the Mining Concession, the Railway Convention, the Operating Agreements, the Port Lease Contract, the Port Convention, the Tax Agreement and the Establishment Agreement, shall have been taken by any one of the parties thereto.”

(f) By the addition in Section 5.03, after the word “described”, of the words “or referred to”.

(g) By the deletion of Section 6.01 and the substitution thereof of the following new Section, namely :

“SECTION 6.01. *Delivery of Bonds.* The Borrower shall execute and deliver Bonds representing the principal amount of the Loan and the Guarantors shall endorse their respective guarantees thereon, all as hereinafter in this Article provided.”

(h) By the deletion of the fifth sentence of Section 6.07 and the substitution thereof of the following new sentence, namely :

“All Bonds shall have the separate guarantee of each of the Guarantors endorsed thereon substantially in the form set forth in Schedule 3 to the Loan Regulations.”

(i) By the deletion of Section 6.12 (b) and the substitution thereof of the following new subsection, namely :

“(b) The guarantees on the Bonds shall be signed in the name and on behalf of Republic of France, Republic of Congo and Republic of Gabon, respectively,

<sup>1</sup> United Nations, *Treaty Series*, Vol. 2, p. 40 ; Vol. 19, p. 280 ; Vol. 141, p. 355 ; Vol. 199, p. 308 ; Vol. 260, p. 432 ; Vol. 287, p. 260 ; Vol. 303, p. 284 ; Vol. 316, p. 269 ; Vol. 406, p. 282, and Vol. 426, p. 334.

by their respective authorized representative or representatives designated in the respective Guarantee Agreements for the purposes of this Section. The signature of any such representative may be a facsimile signature if such respective guarantees are also countersigned manually by an authorized representative of Republic of France, Republic of Congo and Republic of Gabon, respectively. If any authorized representative of Republic of France, Republic of Congo and Republic of Gabon, respectively, whose manual or facsimile signature shall be affixed to any such guarantee shall cease to be such authorized representative, the Bond on which such guarantee is endorsed may nevertheless be delivered under the Loan Agreement and such guarantee shall be valid and binding on Republic of France, Republic of Congo and Republic of Gabon, respectively, as though the person whose manual or facsimile signature shall have been affixed to such guarantee had not ceased to be such authorized representative."

(j) By the deletion of subparagraph (c) of Section 7.04 and the substitution therefor of the following new subparagraph, namely :

"(c) The Arbitral Tribunal shall consist of three arbitrators appointed as follows: one arbitrator shall be appointed by the Bank ; a second arbitrator shall be appointed by the Borrower and the Guarantors or, if they shall not agree, by the President of the Court of Arbitration of the French Community ; and the third arbitrator (hereinafter sometimes called the Umpire) shall be appointed by agreement of the parties or, if they shall not agree, by the President of the International Court of Justice or, failing appointment by him, by the Secretary-General of the United Nations. If either side shall fail to appoint an arbitrator, such arbitrator shall be appointed by the Umpire. In case any arbitrator appointed in accordance with this Section shall resign, die or become unable to act, a successor arbitrator shall be appointed in the same manner as herein prescribed for the appointment of the original arbitrator and such successor shall have all the powers and duties of such original arbitrator."

(h) By the deletion of Section 8.03 and the substitution therefor of the following new Section, namely :

"SECTION 8.03. *Action on Behalf of Guarantors.* (a) Any action required or permitted to be taken, and any documents required or permitted to be executed, under the Republic of France Guarantee Agreement<sup>1</sup> on behalf of Republic of France may be taken or executed by the representative of Republic of France designated in the Republic of France Guarantee Agreement for the purposes of this Section or any person thereunto authorized in writing by him. Any modification or amplification of the provisions of the Republic of France Guarantee Agreement may be agreed to on behalf of Republic of France by written instrument executed on behalf of Republic of France by the representative so designated or any person thereunto authorized in writing by him ; provided that, in the opinion of such representative, such modification or amplification is reasonable in the circumstances and will not substantially increase the obligations of Republic of France under the Republic of France Guarantee Agreement. The Bank may accept the execution by such representative or other person of any such instrument as conclusive evidence that in the opinion

<sup>1</sup> See p. 68 of this volume.

of such representative any modification or amplification of the provisions of the Republic of France Guarantee Agreement effected by such instrument is reasonable in the circumstances and will not substantially increase the obligations of Republic of France thereunder.

“(b) Any action required or permitted to be taken, and any documents required or permitted to be executed, under the Republic of Congo Guarantee Agreement<sup>1</sup> on behalf of Republic of Congo may be taken or executed by the representative of Republic of Congo designated in the Republic of Congo Guarantee Agreement for the purposes of this Section or any person thereunto authorized in writing by him. Any modification or amplification of the provisions of the Republic of Congo Guarantee Agreement may be agreed to on behalf of Republic of Congo by written instrument executed on behalf of Republic of Congo by the representative so designated or any person thereunto authorized in writing by him; provided that, in the opinion of such representative, such modification or amplification is reasonable in the circumstances and will not substantially increase the obligations of Republic of Congo under the Republic of Congo Guarantee Agreement. The Bank may accept the execution by such representative or other person of any such instrument as conclusive evidence that in the opinion of such representative any modification or amplification of the provisions of the Republic of Congo Guarantee Agreement effected by such instrument is reasonable in the circumstances and will not substantially increase the obligations of Republic of Congo thereunder.

“(c) Any action required or permitted to be taken, and any documents required or permitted to be executed, under the Republic of Gabon Guarantee Agreement on behalf of Republic of Gabon may be taken or executed by the representative of Republic of Gabon designated in the Republic of Gabon Guarantee Agreement<sup>2</sup> for the purposes of this Section or any person thereunto authorized in writing by him. Any modification or amplification of the provisions of the Republic of Gabon Guarantee Agreement may be agreed to on behalf of Republic of Gabon by written instrument executed on behalf of Republic of Gabon by the representative so designated or any person thereunto authorized in writing by him; provided that, in the opinion of such representative, such modification or amplification is reasonable in the circumstances and will not substantially increase the obligations of Republic of Gabon under the Republic of Gabon Guarantee Agreement. The Bank may accept the execution by such representative or other person of any such instrument as conclusive evidence that in the opinion of such representative any modification or amplification of the provisions of the Republic of Gabon Guarantee Agreement

<sup>1</sup> See p. 123 of this volume.

<sup>2</sup> See p. 135 of this volume.

effected by such instrument is reasonable in the circumstances and will not substantially increase the obligations of Republic of Gabon thereunder."

(l) By the deletion of Section 9.03 and the substitution therefor of the following new Section, namely :

"SECTION 9.03. *Effective Date.* Except as shall be otherwise agreed by the Bank and the Borrower, the Loan Agreement and Guarantee Agreements shall come into force and effect on the date when the Bank shall have dispatched to the Borrower and the Guarantors notice of its acceptance of the evidence required by Section 9.01."

(m) By the deletion of paragraph 5 of Section 10.01 and the substitution therefor of the following new paragraph, namely :

"5. The term 'Republic of France Guarantee Agreement' means the agreement between Republic of France and the Bank providing for the guarantee of the Loan.

"The term 'Republic of Congo Guarantee Agreement' means the agreement between Republic of Congo and the Bank providing for the guarantee of the Loan.

"The term 'Republic of Gabon Guarantee Agreement' means the agreement between Republic of Gabon and the Bank providing for the guarantee of the Loan.

"The term 'Guarantee Agreements' means the Republic of France Guarantee Agreement, the Republic of Congo Guarantee Agreement and the Republic of Gabon Guarantee Agreement and includes any or all of such agreements as the context may require and includes all agreements supplemental, and all schedules, thereto respectively.

"The term 'Guarantors' means Republic of France, Republic of Congo and Republic of Gabon and includes any or all of them as the context may require."

(n) By the deletion of the second part of paragraph 6, starting after the semi-colon, and the second sentence of paragraph 8 of Section 10.01.

(o) By the deletion in paragraph 13 of Section 10.01 of the word "Guarantor" and the substitution therefor of the words "Republic of Congo and Republic of Gabon".

(p) By the deletion of paragraph 14 of Section 10.01 and the substitution therefor of the following new paragraph, namely :

"14. Where used in Section 3.01 of the Republic of France Guarantee Agreement, the term 'external debt' means any debt payable in any medium other than currency of Republic of France, whether such debt is or may become payable absolutely or at the option of the creditor in such other medium and, where used in Section 3.01 of the Republic of Congo and Republic of Gabon Guarantee Agreements, the term 'external debt' means (i) any debt payable in any medium other than currency of Republic of Congo or Republic of Gabon, whether such debt is or may become payable absolutely or at the option of the creditor in such other medium, and (ii)

any debt of Republic of Congo or Republic of Gabon, as the case may be, payable to an individual or corporate resident of the other Republic.

"For the purposes of this paragraph, the term 'Republic of Congo' and the term 'Republic of Gabon' shall include any of the respective political subdivisions or any of the respective agencies or any agencies of any such political subdivision of Republic of Congo and Republic of Gabon, including any institution fulfilling the functions of a central bank or any central bank if hereafter created."

(q) By the deletion of the first sentence of the second paragraph of Schedule 1 and of Schedule 2 and the substitution therefor in each case of the following new sentence, namely :

"This Bond is one of an authorized issue of bonds in various currencies equivalent to an aggregate principal amount of \$ , known as the Guaranteed Serial Bonds of the Borrower (hereinafter called the Bonds), issued or to be issued under a Loan Agreement dated between the Borrower and International Bank for Reconstruction and Development (hereinafter called the Bank) and guaranteed by (i) Republic of France in accordance with the terms of a Guarantee Agreement dated between Republic of France and the Bank ; (ii) Republic of Congo in accordance with the terms of a Guarantee Agreement dated between Republic of Congo and the Bank ; and (iii) Republic of Gabon in accordance with the terms of a Guarantee Agreement dated between Republic of Gabon and the Bank."

(r) By the deletion of the eighth paragraph of Schedule 1 and of the seventh paragraph of Schedule 2 and the substitution therefor of the following respective new paragraph, namely :

"The principal of the Bonds, the interest accruing thereon and the premium, if any, on the redemption thereof shall be paid without deduction for and free from any taxes, imposts, levies or duties of any nature or any restrictions now or at any time hereafter imposed under the laws of Republic of France, of Republic of Congo, or of Republic of Gabon or laws in effect in the respective territories of said Republics ; *provided, however, that the provisions of this paragraph shall not apply to the taxation of payments made under the provisions of any Bond to a holder thereof other than the Bank when such Bond is beneficially owned by an individual or corporate resident of Republic of France, Republic of Congo or Republic of Gabon, respectively.*"

(s) By the deletion of Schedule 3 and the substitution therefor of the following new Schedule, namely :

### "Schedule 3

#### FORM OF GUARANTEE

"[Name of Guarantor], for value received, as a primary obligor and not as surety merely, hereby absolutely and unconditionally guarantees, and pledges its full faith

and credit for, the due and punctual payment of the principal and redemption price of the within Bond and the interest thereon, free from taxes and restrictions as therein provided, prior notice to, demand upon or action against the obligor on said Bond or any other Guarantor or the undersigned being waived.

[Name of Guarantor]

By

Authorized Representative"

Dated

## LETTERS RELATING TO THE LOAN AGREEMENT

### I

INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT  
WASHINGTON 25, D.C.

June 30, 1959

Compagnie Minière de l'Ogooué  
62 bis, Avenue d'Iéna  
Paris XVI<sup>e</sup>, France

Gentlemen :

Reference is made to Section 5.14 of the Loan Agreement of even date<sup>1</sup> between us. This is to inform you that we would consider as major projects or developments within the meaning of this Section any project or development involving an investment of more than the equivalent of \$100,000.

Please confirm your agreement with the foregoing by signing the form of confirmation on the enclosed copy of this letter and returning it to us.

Yours sincerely,

International Bank for Reconstruction and Development :

By W. A. B. LIFF  
Vice President

*Confirmed :*

Compagnie Minière de l'Ogooué  
By R. VIGIER  
Authorized Representative

<sup>1</sup> See p. 80 of this volume.

## II

INTERNATIONAL BANK FOR  
RECONSTRUCTION AND DEVELOPMENT  
WASHINGTON 25, D.C.

June 30, 1959

Compagnie Minière de l'Ogooué  
62 bis, Avenue d'Iéna  
Paris XVI<sup>e</sup>, France

Gentlemen :

Reference is made to Sections 5.06 and 5.07 of the Loan Agreement of even date herewith between us.

This to confirm that the criterion by which we shall judge what is a satisfactory working capital position would be the following :

(a) The Company's current assets should exceed its current liabilities (not including provision for meeting future debt service) by an amount sufficient to insure that the Company would not experience difficulty in finding the necessary funds promptly to meet all its current liabilities ; and

(b) In addition, the current assets should include an amount in cash, or assets which can be readily converted into cash, at least sufficient, until June 30, 1963, in respect of each outside debt to provide for any payments of interest and other charges (but excluding payments of principal) due on such debt within six months, and thereafter for any payments, including payments of principal due on such debt within six months.

Very truly yours,

W. A. B. ILIFF  
Vice President