

No. 8659

**INTERNATIONAL BANK FOR
RECONSTRUCTION AND DEVELOPMENT
and
CONGO (REPUBLIC OF)**

Guarantee Agreement—*Potash Project* (with related letter, annexed Loan Regulations No. 4 and Loan Agreement between the Bank and the *Compagnie des potasses du Congo*). Signed at Washington, on 9 January 1967

Official text of the Guarantee Agreement and annexes: English (with the exception of the letter relating to the Guarantee Agreement which was done in French).

Registered by the International Bank for Reconstruction and Development on 23 June 1967.

**BANQUE INTERNATIONALE POUR
LA RECONSTRUCTION ET LE DÉVELOPPEMENT
et
CONGO (RÉPUBLIQUE DU)**

Contrat de garantie — *Projet relatif à la potasse* (avec lettre y relative et, en annexe, le Règlement n^o 4 sur les emprunts et le Contrat d'emprunt entre la Banque et la *Compagnie des potasses du Congo*). Signé à Washington, le 9 janvier 1967

Texte officiel du Contrat de garantie et des annexes. anglais (à l'exception de la lettre relative au Contrat de garantie, rédigée en français).

Enregistré par la Banque internationale pour la reconstruction et le développement le 23 juin 1967.

No. 8659. GUARANTEE AGREEMENT¹ (*POTASH PROJECT*)
BETWEEN THE RÉPUBLIQUE DU CONGO (BRAZZA-
VILLE) AND THE INTERNATIONAL BANK FOR RECON-
STRUCTION AND DEVELOPMENT. SIGNED AT WASH-
INGTON, ON 9 JANUARY 1967

AGREEMENT, dated January 9, 1967, between RÉPUBLIQUE DU CONGO (BRAZZAVILLE) (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 des Potasses du Congo, "CPC" (hereinafter called the Borrower), which agreement and the schedules therein referred to are hereinafter called the Loan Agreement,² the Bank has agreed to make to the Borrower a loan in various currencies equivalent to thirty million dollars (\$30,000,000), 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 the Guarantor, in consideration of the Bank's entering into the Loan Agreement with the Borrower, has agreed so to guarantee such obligations of the Borrower ;

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 February 15, 1961,² with the same force and effect as if they were fully set forth herein, subject, however, to the modifications thereof set forth in Schedule 3 to the Loan Agreement (said Loan Regulations No. 4 as so modified being hereinafter called the Loan Regulations).

Section 1.02 Whenever used in this Agreement, unless the context shall otherwise require, the several terms defined in the Loan Agreement shall have the respective meanings therein set forth.

¹ Came into force on 7 March 1967, upon notification by the Bank to the Government of the Congo.

² See p 172 of this volume

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 intention of the Guarantor and the Bank that no other external debt shall enjoy any priority over the Loan by way of a lien on governmental assets. To that end, the Guarantor undertakes that, except as the Bank shall otherwise agree, if any lien shall be created on any assets of the Guarantor as security for any external debt, such lien will *ipso facto* 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; 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; or (ii) any lien arising in the ordinary course of banking transactions and securing a debt maturing not more than one year after its date.

The term "assets of the Guarantor" as used in this Section includes assets of the Guarantor or of any of its political subdivisions or of any agency of the Guarantor or of any such political subdivision.

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, and free from all restrictions, 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 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. The Guarantee Agreements, the Loan Agreement and the Bonds shall be free from any taxes 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 Guarantor covenants that it will not take, cause or permit to be taken, any action which would prevent, or materially interfere with, the successful construction and operation of the Project or with the performance by the Borrower of its obligations contained in the Loan Agreement.

Section 3.06. If at any time the Guarantor shall, pursuant to the provisions of this Agreement, make any of the payments due under the Loan or the Bonds, the Guarantor shall, to the extent of any such payment, be subrogated to the rights of the Bank or any Bondholder with respect thereto.

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 *Ministre des Finances* 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 :

Ministre des Finances
Ministère des Finances
Brazzaville, Republic of Congo

Alternative address for cablegrams and radiograms :

Minifinance
Brazzaville, Congo

For the Bank :

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

Alternative address for cablegrams and radiograms :
Intbafrad
Washington, D.C.

Section 5.02. The *Ministre des Finances* of the Guarantor 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.

République du Congo (Brazzaville) :

By Jonas MOUANZA
Authorized Representative

International Bank for Reconstruction and Development :

By George D. WOODS
President

LETTER RELATING TO THE GUARANTEE AGREEMENT

[TRANSLATION¹ — TRADUCTION²]

REPUBLIC OF CONGO (BRAZZAVILLE)

January 9, 1967

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

Re . *Loan No. 480 COB (Potash Project)*
Section 3 01 of the Guarantee Agreement

Dear Sirs :

We refer to Section 3 01 of the Guarantee Agreement (Potash Project) of even date between us. Pursuant to the second paragraph of said Section, the term "assets of the Guarantor" includes assets of the Republic of Congo (Brazzaville) or of any of its political subdivisions or of any agency of the Republic of Congo (Brazzaville) or of any such political subdivision. Normally this definition would include the assets of a central bank ; in the present case, it cannot include the assets of the Banque Centrale pour les États de l'Afrique Équatoriale et du Cameroun which, as we have informed you, is a bank whose right of issue is exercised within the framework of a common monetary zone comprising the Central African Republic, the Republic of Chad, the Republic of Congo (Brazzaville), the Republic of Gabon and the Federal Republic of Cameroon.

As said Banque Centrale has confirmed it to you by letter dated _____, it is prevented by its statutes from creating any lien on any of its assets as security for any external debt of any country or countries in which it exercises its right of issue.

As, pursuant to Article _____ of the "Accord de Coopération en Matière Économique, Monétaire et Financière" dated _____ between the Republic of France and the Republic of Congo (Brazzaville) the statutes of said Banque Centrale pour les États de l'Afrique Équatoriale et du Cameroun can be amended only after agreement of the Government of the Republic of Congo (Brazzaville), we undertake not to accept without your agreement any amendment of said statutes which would enable said Banque Centrale to create such lien on its assets.

¹ Translation by the International Bank for Reconstruction and Development.

² Traduction de la Banque internationale pour la reconstruction et le développement.

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

Very truly yours,

Republic of Congo (Brazzaville) ·

By Jonas MOUANZA
Authorized Representative

Confirmed

International Bank for
Reconstruction and Development

By A. G. EL EMARY

INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

LOAN REGULATIONS No 4, DATED 15 FEBRUARY 1961

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

[*Not published herein See United Nations, Treaty Series, Vol 400, p. 212*]

LOAN AGREEMENT
(*POTASH PROJECT*)

AGREEMENT, dated January 9, 1967, between INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (hereinafter called the Bank) and COMPAGNIE DES POTASSES DU CONGO, "CPC" (hereinafter called the Borrower), a company existing under the laws of the Republic of Congo (Brazzaville)

WHEREAS (A) The Borrower is engaged in the carrying out of a project for the exploitation of potassium salts deposits near Holle, Republic of Congo (Brazzaville) and the transportation of potassium chloride to Pointe-Noire for shipment to world markets and has requested the Bank to assist in the financing of such project by granting a loan to it in an aggregate principal amount equivalent to \$30,000,000.

(B) The Borrower intends to contract . (a) from the European Investment Bank (hereinafter called the EIB) a loan (hereinafter called the EIB Loan) in an aggregate principal amount equivalent to \$9,000,000 on the terms and conditions to be set forth in agreements between the EIB and the Borrower (hereinafter called the EIB Loan Agreement); and (b) from Banque Nationale de Paris (hereinafter called the BNP) a loan

(hereinafter called the BNP Loan) in an aggregate principal amount equivalent to about \$6,000,000 on the terms and conditions to be set forth in agreements between the BNP and the Borrower (hereinafter called the BNP Loan Agreement).

(C) By agreement of even date herewith between the Republic of the Congo (Brazzaville) (hereinafter called the Republic of the Congo) and the Bank, which agreement is hereinafter called the Congo Guarantee Agreement,¹ the Republic of the Congo has agreed to guarantee the Loan as to payment of principal, interest and other charges.

(D) By Agreement of even date herewith between the Bank, on the one side, and Société pour le Financement de Recherches et d'Exploitation de Sels de Potasse (hereinafter called SOFIPOTA), Mines Domaniales de Potasse d'Alsace (hereinafter called MDPA) and Bureau de Recherches Géologiques et Minières (hereinafter called BRGM), on the other side, which agreement is hereinafter called the Shareholders Guarantee Agreement,² SOFIPOTA, MDPA and BRGM have undertaken certain obligations regarding the guarantee of the Loan on the terms set forth in such agreement

WHEREAS the Bank, on the basis of the foregoing, has agreed to make a loan to the Borrower upon the terms and conditions hereinafter set forth ;

NOW THEREFORE it is hereby agreed as follows .

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 February 15, 1961,³ with the same force and effect as if they were fully set forth herein, subject, however, to the modifications thereof set forth in Schedule 3 to this Agreement (said Loan Regulations No. 4 as so modified being hereinafter called the Loan Regulations).

Section 1.02. Unless the context otherwise requires, the following terms wherever used in this Loan Agreement have the following meanings

(a) The term "Guarantor-Shareholders" means the Guarantors parties to the Shareholders Guarantee Agreement and includes any of their successors or assigns ;

(b) The term "Establishment Convention" means the Convention dated April 10, 1963 between the Republic of the Congo, on the one side, and, on the other side, MDPA, BRGM, and Société des Pétroles d'Afrique Équatoriale, acting on behalf of the Borrower, and approved by the Borrower on April 8, 1964 ,

(c) The term "Mining Concession" means the Concession dated January 15, 1965 granted to the Borrower by the Republic of the Congo ,

¹ See p 162 of this volume.

² See p. 212 of this volume.

³ See p. 172 of this volume.

(d) The term "Transport Contract" means the Contract to be entered into between the Borrower and Agence Transéquatoriale des Communications, "ATEC";

(e) The term "Technical Assistance Agreement" means the Agreement to be entered into between the Borrower and MDPA;

(f) The term "Selling Agency Agreement" means the Agreement to be entered into between the Borrower and Société Commerciale des Potasses d'Alsace,

(g) The term "Port Arrangement" means the regulations and conventions relating to the operations at the Borrower's wharf;

(h) The term "Tax Status Law" means Law No. 16-63 dated April 13, 1963 of the Republic of the Congo;

(i) The term "outside debt" means the Loan, the EIB Loan or any other loan which the Borrower might thereafter contract with the consent of the Bank, other than advances made by the Guarantor-Shareholders;

(j) The term "subsidiary" means 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,

(k) The term "date of first shipment" means the date on which exports of potassium chloride by the Borrower shall have first aggregated fifteen thousand tons;

(l) The term "advances" means the principal of any advances made to the Borrower by the Guarantor-Shareholders before the date of first shipment, together with the interest accrued thereon before such date

Article II

THE LOAN

Section 2 01. The Bank agrees to lend to the Borrower, on the terms and conditions in the Loan Agreement set forth or referred to, an amount in various currencies equivalent to thirty million dollars (\$30,000,000)

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 Agreement, to withdraw from the Loan Account such amounts as shall have been paid 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 payments to be made for 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 certify in respect of each withdrawal that it has applied to EIB for a withdrawal under the EIB Loan Agreement for expenditures on the Project in an amount equivalent to 30% of the amount to be withdrawn from the Loan Account and that no circumstances exist which would justify the denial by EIB of such application; (ii) until such time as the aggregate amount theretofore expended on the Project shall have reached the equivalent of seventy-five million five hundred thousand dollars (\$75,500,000), no withdrawal shall be made if the total of

the amount of such withdrawal and of prior withdrawals from the Loan Account, and the amount applied for under the EIB Loan Agreement and of prior withdrawals made thereunder shall be greater than the total of the amount theretofore withdrawn under the BNP Loan Agreement and the amount of advances theretofore made by the Guarantor-Shareholders, and (iii) no withdrawals shall be made on account of (a) expenditures prior to the date of this Agreement, or (b) expenditures for goods produced in (including services supplied from) the territories of the Republic of the Congo or (c) expenditures in the territories of any country which is not a member of the Bank (other than Switzerland) or for goods produced in (including services supplied from) such territories

Section 2.03 The Borrower shall pay to the Bank a commitment charge at the rate of three-eighths of one per cent ($\frac{3}{8}$ of 1%) per annum on the principal amount of the Loan not so withdrawn from time to time

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. Interest and other charges shall be payable semiannually on December 1 and June 1 in each year.

Section 2.06 The Borrower shall repay the principal of the Loan in accordance with the amortization schedule set forth in Schedule 1 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 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 the Republic of the 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 or such person or persons as may be authorized for the purpose by the Board of Directors of the Borrower, are designated as authorized representatives of the Borrower for the purposes of Section 6.12 (a) of the Loan Regulations

Section 4 03. The Bank and the Borrower shall be at liberty to make such arrangements as they may from time to time agree as to the procedure for the issue, authentication and delivery of the Bonds and the form thereof and of the guarantees endorsed thereon, and such arrangements may be in addition to or in substitution for any of the provisions of this Loan Agreement.

Article V

PARTICULAR COVENANTS

Section 5 01 (a) The Borrower shall carry out the Project, or cause the Project to be carried out, 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, the administration, operations and financial condition of the Borrower.

(d) The Borrower shall have its financial statements (balance sheet and related statement of earnings and expenses) certified annually by an independent accountant or accounting firm acceptable to the Bank and shall promptly after their preparation and not later than six months after the close of the fiscal year to which they apply transmit to the Bank certified copies of such statements and a signed copy of the accountant's or accounting firm's report

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, the maintenance of the service thereof or the performance by the Borrower of its obligations under the Loan Agreement.

Section 5 03. (a) The Borrower shall take out and maintain with responsible insurers or make other provision satisfactory to the Bank for insurance against such risks and in such amount as shall be consistent with sound practice

(b) Without limiting the generality of the foregoing, the Borrower undertakes to insure the imported goods to be financed out of the proceeds of the Loan against marine, transit and other hazards incident to acquisition, transportation and delivery thereof to the place of use or installation and for such insurance any indemnity shall be payable in a currency freely usable by the Borrower to replace or repair such goods

Section 5.04 The Borrower shall duly perform its obligations under the Technical Assistance Agreement, the Selling Agency Agreement, the Mining Concession, the Establishment Convention, the Port Arrangement, the Transport Contract and the Tax Status Law.

Section 5.05 Except as the Bank shall otherwise agree, the Borrower shall not 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 5.06. Before the Borrower shall undertake or execute, for its own account or for the account of any of its shareholders or of any third party or parties, any major project or development other than the Project, or make any investment not related to the Project, it shall first have satisfied the Bank that such action would not prejudice the interests of the Bank under this Agreement, the Guarantee Agreements or the Bonds; provided, however, that the Borrower may, in the ordinary course of its business, invest idle funds in securities readily convertible into cash

Section 5.07 (a) The Borrower shall not amend its statutes without the approval of the Bank

(b) 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, or to make effective arrangements satisfactory to the Bank to acquire, and to retain such land, interests in land and properties and to acquire, or to make effective arrangements satisfactory to the Bank to acquire, and to maintain and to renew such licenses, consents, or other rights, as may be necessary or proper for the construction and operation of the Project and the conduct of its business.

(c) 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 and mining practices.

Section 5.08 (a) Before the Borrower shall take any action to create any subsidiary, the Borrower shall first have satisfied the Bank that such action would not prejudice the interest of the Bank under this Agreement, the Guarantee Agreements or the Bonds.

(b) 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.

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. Except as the Bank shall otherwise agree, the Borrower shall not incur, guarantee or assume any indebtedness (other than advances required to be made pursuant to Section 5 12 of this Agreement) maturing by its terms more than one year after the date on which it is originally incurred.

Section 5.11. Except as the Bank and the Borrower shall otherwise agree

(a) If the Borrower shall repay in advance of maturity, otherwise than pursuant to paragraphs (b) or (d) of Section 5 14 of this Agreement, any part of its indebtedness under the EIB Loan Agreement, the Borrower shall simultaneously repay a proportionate amount of the Loan then outstanding All the provisions of the Loan Regulations relating to repayment in advance of maturity shall be applicable to any repayment by the Borrower in accordance with this Section ; and

(b) The Borrower shall not repay in advance of maturity any part of its indebtedness under the BNP Loan Agreement

Section 5 12 If the funds available to the Borrower are inadequate to ensure the completion of the Project and the provision of initial working capital satisfactory to the Bank, the Borrower shall promptly call upon the Guarantor-Shareholders to provide it, or cause it to be provided, promptly with the necessary funds, as and when required by means of advances made on terms and conditions satisfactory to the Bank, or of payments in cash for additional shares of capital stock issued by the Borrower and shall take all such action as shall be appropriate in connection therewith

Section 5 13 Save as permitted by the provisions of Section 5 14 of this Agreement, the Borrower shall make no payment of any kind to any of its shareholders ; provided, however, that the provisions of this Section shall not apply to payments due under the Establishment Convention (except for Article 2 thereof), the Port Arrangement and the Tax Status Law

Section 5 14 (a) The Borrower shall not make any payment to its shareholders which would have at any time the effect of reducing, or threatening to reduce, the ratio of current assets to current liabilities 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 before the date of first shipment. 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, and (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% 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 herein set forth if, on or before the date of any such declaration, payment or distribution, the Borrower shall prepay an amount, at least equivalent to such excess, of its outside debt. To any such prepayment, the provisions of Section 5.15 of this Agreement shall apply.

(c) Before the date of first shipment, the Borrower shall pay no interest on any advance made to it by the Guarantor-Shareholders. Thereafter, the Borrower may, in each year on a cumulative basis, pay interest on the principal of such advances at a rate not in excess of 6¾%, but in an amount not greater than the earnings for the preceding fiscal year. Such earnings shall be net earnings calculated as if no deduction had been made for interest on advances made by the Guarantor-Shareholders.

(d) The Borrower shall not repay the principal of any advances made to it by the Guarantor-Shareholders before the BNP Loan shall have been fully repaid or January 1, 1977, whichever shall be the later. Thereafter, the Borrower may in each year repay the principal of any such advances but in an amount not greater than the earnings for the preceding fiscal year, said earnings being net earnings, except that any amount declared, paid or distributed by the Borrower pursuant to paragraph (b) or (c) of this Section during the year in which any such repayment is to be made shall be deducted from said earnings, provided, however, that no amount in excess of 6% of the total initial amount of such advances shall be repaid in any year unless, on or before the date of any such repayment, the Borrower shall prepay an amount, at least equivalent to such excess, of its outside debt. To any such prepayment, the provisions of Section 5.15 of this Agreement shall apply.

(e) For the purposes of this Section: (i) the term "current assets" shall mean cash, securities readily convertible into cash, receivables realizable within one year and potash inventories, (ii) 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; (iii) the term "accumulated net revenue surplus" shall mean the accumulated net earnings of the Borrower accruing from and after the date of first shipment, down to the end of the preceding fiscal year, and (iv) the term "net earnings" shall mean net income of the Borrower as determined in accordance with sound accounting practices.

(f) 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 by the Guarantor-Shareholders.

Section 5 15 Any amount prepaid by the Borrower pursuant to paragraph (b) or paragraph (d) of Section 5 14 of this Agreement shall be applied as follows

(a) So long as any maturity or maturities of the principal amount of the Loan outstanding shall be greater than the principal amount of the corresponding maturity or maturities of the EIB Loan outstanding, the amount so repaid shall be applied towards the reduction of the principal amount of the Loan outstanding in each such maturity or maturities, beginning with the last, until such principal amount outstanding in each such maturity shall be the equivalent of the principal amount outstanding in the corresponding maturities of the EIB Loan

(b) Thereafter, any amount so repaid shall be applied, in equal proportions, to the repayment in inverse order of maturity of the principal amount of the Loan and of the EIB Loan at the time outstanding and unpaid

(c) The first sentence of Section 2 05 (b) of the Loan Regulations shall not apply to any repayment by the Borrower in accordance with paragraphs (a) or (b) of this Section. Any such repayment shall be made upon not less than 45 days' notice to the Bank and shall be accompanied by the payment of the premium specified in Schedule 1 to this Agreement

Section 5 16 Subject to such exemptions as shall be conferred by the provisions of Section 3 03 and Section 3 04 of the Congo Guarantee Agreement or otherwise, the Borrower shall pay or cause to be paid all taxes, if any, imposed under the laws of the Republic of the Congo or law in effect in its territories on or in connection with the execution, issue, delivery or registration of the Loan 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 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 Republic of the Congo.

Section 5 17. The Borrower shall pay or cause to be paid all taxes, 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 the Loan Agreement, the Guarantee Agreements or the Bonds

Article VI

REMEDIES OF THE BANK

Section 6 01. If any event as specified below shall occur and shall continue for the period, if any, specified below, 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

(i) any event specified in paragraphs (a), (b), (e), (f) or (k) of Section 5 02 of the Loan Regulations, for a period of thirty days, or

- (ii) any event specified in paragraph (j) of Section 5.02 of the Loan Regulations ; or
- (iii) any event specified in paragraphs (c), (n) or (o) of Section 5.02 of the Loan Regulations, for a period of sixty days after notice thereof shall have been given by the Bank to the Borrower

Article VII

EFFECTIVE DATE , TERMINATION

Section 7.01. The following events are specified as additional conditions to the effectiveness of this Agreement within the meaning of Section 9.01 (c) of the Loan Regulations .

(a) that all such action, governmental, corporate or other, including action regarding the Port Arrangement and the Transport Contract, shall have been taken and all such governmental consents shall have been obtained as may be required to enable the Borrower to acquire such lands, interests in land and properties and such franchises or other rights as may be needed for the Project ,

(b) that the terms and conditions of the EIB Loan Agreement and the BNP Loan Agreement shall be satisfactory to the Bank and that the conditions precedent, if any, to initial disbursement under such Agreements shall have been fulfilled ,

(c) that the Technical Assistance Agreement shall have become effective in accordance with its terms ,

(d) that the Selling Agency Agreement shall have become effective in accordance with its terms ,

(e) that the Borrower shall have certified in writing to the Bank that, as of a date to be agreed between the Bank and the Borrower (which shall be prior to the Effective Date), there has been no material adverse change in its condition since the date of this Agreement.

Section 7.02 The following events are specified as additional matters, within the meaning of Section 9.02 (c) 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 the Republic of the Congo 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 governmental, corporate or other actions and consents referred to in Section 7.01 (a) of this Agreement which are necessary to make the Mining Concession, the Establishment Convention, the Port Arrangement, the Transport Contract and the Tax Status Law, valid and enforceable in accordance with their respective terms, 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 ;

(c) that the Technical Assistance Agreement has been duly authorized or ratified by, and executed and delivered on behalf of, the Borrower and MDPA respectively and that such Agreement constitutes a valid and binding obligation of each of the parties thereto in accordance with its terms ;

(d) that the Selling Agency Agreement has been duly authorized or ratified by and executed and delivered on behalf of, the Borrower and Société Commerciale des Potasses d'Alsace respectively and that such Agreement constitutes a valid and binding obligation of each of the parties thereto in accordance with its terms

Section 7 03. If this Loan Agreement shall not have come into force and effect by March 31, 1967, this Loan Agreement and all obligations of the parties hereunder shall terminate, unless the Bank, after consideration of the reasons for the delay establishes a later date for purposes of this Section. The Bank shall promptly notify the Borrower and the Guarantors of such later date.

Article VIII

MISCELLANEOUS

Section 8 01. The Closing Date shall be September 30, 1970 or such other date as shall be agreed upon between the Bank and the Borrower.

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

For the Bank :

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

Alternative address for cablegrams and radiograms :

Intbafrad
Washington, D.C.

For the Borrower :

Compagnie des Potasses du Congo
31, Avenue de l'Opéra
Paris 1^{er}, France

Alternative address for cablegrams and radiograms :

Potacongo
Paris, France

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 George D WOODS

President

Compagnie des Potasses du Congo :

By Roland PRÉ

Authorized Representative

SCHEDULE I

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>
December 1, 1970	\$700,000	December 1, 1977	\$1,055,000
June 1, 1971	720,000	June 1, 1978	1,090,000
December 1, 1971	740,000	December 1, 1978	1,120,000
June 1, 1972	765,000	June 1, 1979	1,155,000
December 1, 1972	785,000	December 1, 1979	1,190,000
June 1, 1973	810,000	June 1, 1980	1,225,000
December 1, 1973	835,000	December 1, 1980	1,260,000
June 1, 1974	860,000	June 1, 1981	1,300,000
December 1, 1974	885,000	December 1, 1981	1,340,000
June 1, 1975	910,000	June 1, 1982	1,380,000
December 1, 1975	940,000	December 1, 1982	1,420,000
June 1, 1976	965,000	June 1, 1983	1,465,000
December 1, 1976	995,000	December 1, 1983	1,505,000
June 1, 1977	1,025,000	June 1, 1984	1,560,000

* To the extent that any part of the Loan is repayable in a currency other than dollars (see Loan Regulations, Section 3 03), 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 (i) 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 Bond prior to its maturity pursuant to Section 6 16 of the Loan Regulations, or (ii) of any part of the principal amount of the Loan or of any Bond pursuant to Section 5 14 of this Agreement:

<i>Time of Prepayment or Redemption</i>	<i>Premium</i>
Not more than three years before maturity	1/2%
More than three years but not more than six years before maturity	1 1/2%
More than six years but not more than eleven years before maturity	2 1/2%
More than eleven years but not more than fourteen years before maturity	3 1/2%
More than fourteen years but not more than sixteen years before maturity	5%
More than sixteen years before maturity	6%

SCHEDULE 2

DESCRIPTION OF PROJECT

The Project consists of the opening, equipping and operation by the Borrower of a new mine and refinery near Holle, Republic of the Congo (Brazzaville), with a capacity of about 830,000 metric tons per year of potassium chloride, equivalent to about 500,000 metric tons of potash. The Project will include a new sea terminal and the provision of other necessary facilities. It is expected that the first shipment of potassium chloride will be made in January 1969. The Project includes the following major works and installations:

1 *The Mine and Refinery*

The mine will be developed and equipped for underground mining and for raising approximately 1.5 million metric tons of sylvinites per year through a shaft about 430 m deep. The refinery will use the flotation process to concentrate the production of the mine to about 830,000 metric tons per annum of potassium chloride.

2 *Sea Terminal*

A pier, capable of loading vessels drawing up to 16 m, extending about 1,600 meters into the sea will be built approximately 3 km southeast of Pointe Noire and will terminate in two conveyor-fed shiploading towers. On the shore, a storage shed of 65,000 metric tons capacity will be erected, together with all necessary machinery and conveyors for receiving, unloading, stocking and recovering the potassium chloride.

3 *General Services*

All necessary roads, railway installations, power generating facilities, water supply, housing and community facilities will be provided. The Project will also include sufficient railroad wagons to ensure transport of the output of potassium chloride from the mine site to the sea terminal.

SCHEDULE 3

MODIFICATIONS OF LOAN REGULATIONS No. 4

For the purpose of this Agreement the provisions of Loan Regulations No. 4 of the Bank dated February 15, 1961 shall be deemed to be modified as follows:

(1) By the deletion in Sections 5 06, 6 01 and 6 07, paragraph (b) of Section 6.12, Sections 6 14, 6 17, 6 18, 6 19, 7 01, 7 03, Articles VIII and IX, and paragraphs 14 and 17 of Section 10 01 of the words "Guarantor" and "Guarantee Agreement" 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

(2) By the deletion in paragraphs 7, 12 and 13 of Section 10.01 of the word "Guarantor" and the substitution therefor of the words "Republic of the Congo"

(3) By the deletion of paragraphs 5 and 6 of Section 10 01 and the substitution therefor of the following new paragraphs

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

"The term "Shareholders Guarantee Agreement" means the agreement between the Bank, on the one side, and the Guarantor-Shareholders, on the other side, providing for certain obligations regarding the guarantee of the Loan.

"The term "Guarantee Agreements" means the Republic of the Congo Guarantee Agreement and the Shareholders Guarantee Agreement and includes either one or both of such agreements, as the context may require, and includes all agreements supplemental, and all schedules thereto, respectively

"6 The term "Borrower" means the party to the Loan Agreement to which the Loan is made ; and the terms "Guarantor" and "Guarantors" mean Republic of the Congo and the Guarantor-Shareholders and include any or all of them, as the context may require "

(4) By the deletion of Section 4 01.

(5) By the deletion of paragraphs (a) to (j) inclusive of Section 5.02 and by the substitution therefor and the addition thereto of the following new paragraphs :

"(a) A default shall have occurred in the payment of principal or interest or any other payment required under the Loan Agreement or the Bonds

"(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 Republic of the Congo and the Bank or under any bond delivered pursuant to any such agreement

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

“(e) The Borrower or any Guarantor-Shareholder shall have been unable to pay its debts as they mature or any action or proceeding shall have been taken by the Borrower, by any Guarantor-Shareholder or by others whereby any of the property of the Borrower or of any Guarantor-Shareholder shall or may be distributed among its creditors.

“(f) The Republic of the Congo or any other authority having jurisdiction shall have taken any action for (i) the dissolution or disestablishment of the Borrower; (ii) the suspension of all or any substantial part of its operations, or (iii) the compulsory acquisition of the ownership or control of any of its property and assets necessary for the proper and efficient operation of its business, or of the effective control of its management.

“(g) The Republic of the Congo shall have been suspended from membership in or ceased to be a member of the Bank

“(h) The Republic of the Congo 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 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 said Fund.

“(i) After the date of the Loan Agreement and prior to the Effective Date any event shall have occurred which would have entitled the Bank to suspend the Borrower's right to make withdrawals from the Loan Account if the Loan Agreement and the Guarantee Agreements had been effective on the date such event occurred

“(j) The EIB Loan, the BNP Loan or any loan or credit to the Borrower having an original maturity of one year or more shall have become due and payable prior to its agreed maturity pursuant to the terms thereof

“(k) Any one or more of the Guarantor-Shareholders shall, without the prior approval of the Bank, have taken any action for its termination, dissolution or winding up or shall have merged into or consolidated with any corporation (other than one of such Guarantor-Shareholders)

“(l) Any event shall have occurred which shall have operated to suspend the right of the Borrower to withdraw amounts under the EIB Loan Agreement or the BNP Loan Agreement

“(m) Failure by the Borrower or the Republic of the Congo to fulfill an obligation to make payment of principal or interest or any other payment required under the Loan Agreement, the Congo Guarantee Agreement or the Bonds or under any other loan agreement between the Bank and the Borrower or under any loan or guarantee agreement between the Republic of the Congo and the Bank or under any bond delivered pursuant to any such agreement or under any development credit agreement between the International Development Association and the Borrower or between the Republic of the Congo and said Association even though such payment has been made by other persons.

“(n) Subject to the provisions of paragraph (j) of this Section, the EIB Loan Agreement, the BNP Loan Agreement, the Technical Assistance Agreement or the Selling Agency Agreement shall have been in any material respect terminated (otherwise than in accordance with the terms thereof), amended, suspended, waived or assigned without the prior approval of the Bank.

“(o) The Mining Concession, the Establishment Convention, the Port Arrangement, the Transport Contract or the Tax Status Law shall have been amended, suspended or terminated so as to affect adversely the ability of the Borrower to carry out the covenants and agreements set forth in the Loan Agreement ”

(6) By deletion of Section 7 02 and the substitution thereof of the following new Section :

“SECTION 7 02 *Obligations of the Republic of the Congo* The obligations of the Republic of the Congo under the Congo Guarantee Agreement shall not be discharged except by performance and then only to the extent of such performance. Such obligations shall not be subject to any prior notice to, demand upon or action against the Borrower or to any prior notice to, demand upon or action against any other Guarantor with regard to any default by the Borrower or by any other Guarantor, and shall not be impaired by any of the following : any extension of time, forbearance or concession given to the Borrower or to any of the Guarantors ; any assertion of, or failure to assert, or delay in asserting, any right, power or remedy against the Borrower or any of the Guarantors or in respect of any security for the Loan , any modification or amplification of the provisions of the Loan Agreement, the Guarantee Agreements or any document related to the Loan contemplated by the respective terms thereof ; any failure of the Borrower to comply with any requirement of any law, regulation or order of the Republic of the Congo or of any political subdivision or agency of the Republic of the Congo ”

(7) By the deletion of Section 7 04 and the substitution thereof of the following new Section :

“SECTION 7 04 *Arbitration* (a) Any controversy between the Bank, on the one side, and any other party or parties to the Loan Agreement or the Guarantee Agreements, on the other side, and any claim by the Bank against any such other party or parties or any claim by any such other party or parties against the Bank arising under the Loan Agreement, the Guarantee Agreements or the Bonds which shall not be determined by agreement of the parties shall be submitted to arbitration by an Arbitral Tribunal as hereinafter provided.

“(b) The parties to such arbitration shall be the Bank, on the one side, and the Borrower and the Guarantors, on the other side

“(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, the Republic of the Congo and the Guarantor-Shareholders ; 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 Interna-

tional Court of Justice, or, failing appointment by him, by the Secretary General of the United Nations, provided, however, that if the Borrower, the Republic of the Congo and the Guarantor-Shareholders shall not agree on the appointment of a common arbitrator, they shall be entitled to appoint two arbitrators, as follows: one arbitrator shall be appointed by the Borrower and the Guarantor-Shareholders or, if they shall not agree, by the Borrower, and the other arbitrator shall be appointed by the Republic of the Congo. In the event that the Borrower and the Guarantor-Shareholders, on the one part, and the Republic of the Congo, on the other part, shall so appoint two separate arbitrators, the Bank, on its part, shall appoint two arbitrators, and the four arbitrators so appointed shall, together with the Umpire appointed as provided above, henceforth constitute the Arbitral Tribunal. If any party shall fail to appoint an arbitrator as provided above, 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.

“(d) An arbitration proceeding may be instituted under this Section upon notice by the party instituting such proceeding to the other parties. Such notice shall contain a statement setting forth the nature of the controversy or claim to be submitted to arbitration and the nature of the relief sought. Within 30 days after the giving of such notice, each side shall notify the other side of the arbitrators appointed by it.

“(e) If, within, 60 days after the giving of such notice instituting the arbitration proceeding, the parties shall not have agreed upon an Umpire, any party may request the appointment of an Umpire as provided in paragraph (c) of this Section.

“(f) The Arbitral Tribunal shall convene at such time and place as shall be fixed by the Umpire. Thereafter, the Arbitral Tribunal shall determine where and when it shall sit.

“(g) Subject to the provisions of this Section and except as the parties shall otherwise agree the Arbitral Tribunal shall decide all questions relating to its competence and shall determine its procedure. All decisions of the Arbitral Tribunal shall be by majority vote.

“(h) The Arbitral Tribunal shall afford to all parties a fair hearing and shall render its award in writing. Such award may be rendered by default. An award signed by a majority of the Arbitral Tribunal shall constitute the award of such Tribunal. A signed counterpart of the award shall be transmitted to each party. Any such award rendered in accordance with the provisions of this Section shall be final and binding upon the parties to the Loan Agreement and the Guarantee Agreements. Each party shall abide by and comply with any such award rendered by the Arbitral Tribunal in accordance with the provisions of this Section.

“(i) The parties shall fix the amount of the remuneration of the arbitrators and such other persons as shall be required for the conduct of the arbitration proceedings. If the parties shall not agree on such amount before the Arbitral Tribunal shall convene, the Arbitral Tribunal shall fix such amount as shall be reasonable under the

circumstances The Bank, the Borrower and each Guarantor shall defray its own expenses in the arbitration proceedings The cost of the Arbitral Tribunal shall be divided and borne equally between the Bank on the one side and the Borrower and Guarantors on the other Any question concerning the division of the costs of the Arbitral Tribunal or the procedure for payment of such costs shall be determined by the Arbitral Tribunal.

“(j) The provisions for arbitration set forth in this Section shall be in lieu of any procedure for the determination of the controversies or claims described in paragraph (a) above

“(k) If within 30 days after counterparts of the award shall be delivered to the parties, the award shall not be complied with, any party may enter judgment upon, or institute a proceeding to enforce, the award in any court of competent jurisdiction against any other party, may enforce such judgment by execution or may pursue any other appropriate remedy against such other party for the enforcement of the award, the provisions of the Loan Agreement, the Shareholders Guarantee Agreement or the Bonds. Notwithstanding the foregoing, this Section shall not authorize any entry of judgment or enforcement of the award against the Republic of the Congo except as such procedure may be available against the Republic of the Congo otherwise than by reason of the provisions of this Section

“(l) Service of any notice or process in connection with any proceeding under this Section or in connection with any proceeding to enforce any award rendered pursuant to this Section may be made upon the Bank, upon the Borrower, upon the Republic of the Congo (to the extent that such proceeding is available against the Republic of the Congo) and upon any other Guarantor in the manner provided in Section 8.01 The parties to the Loan Agreement and the Guarantee Agreements waive any and all other requirements for the service of any such notice or process.”

(8) By the addition in paragraph (b) of Section 9.01, after the word “governmental” of the words “or corporate”.

(9) By the deletion of Section 9.04 and the substitution therefor of the following new Section :

“SECTION 9 04 *Termination of Guarantee Agreements upon Termination of Loan Agreement.* If, in accordance with the provisions thereof, the Loan Agreement shall be terminated for failure to become effective, the Guarantee Agreements and all obligations of the parties thereunder shall also terminate. The Bank shall promptly give notice of such termination to the Guarantors ”

(10) By the deletion of Schedule 3 and the substitution therefor of the following new Schedule

“SCHEDULE 3

“(a) FORM OF REPUBLIC OF THE CONGO GUARANTEE

“Republic of the Congo, for value received, as a primary obligor and not as surety merely, hereby absolutely, unconditionally and independently of any other guarantee on this Bond, guarantees, and pledges its full faith and credit for, the due

and punctual payment of the principal of and premium on redemption 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 on this Bond or the undersigned being waived

République du Congo (Brazzaville)

By _____

Authorized Representative

"Dated _____"

"(b) FORM OF SOCIÉTÉ POUR LE FINANCEMENT DE RECHERCHES ET D'EXPLOITATION DE SELS DE POTASSE AND MINES DOMANIALES DE POTASSE D'ALSACE GUARANTEE

"Société pour le Financement de Recherches et d'Exploitation de Sels de Potasse and Mines Domaniales de Potasse d'Alsace, jointly and severally, for value received, as primary obligors and not as sureties merely, hereby absolutely, unconditionally and independently of any other guarantee on this Bond, guarantee the due and punctual payment of the principal and premium on redemption 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 on this Bond or the undersigned being waived ; provided, however, that the liability of the undersigned shall be limited to an amount equivalent to 57.5% of the principal amount of this Bond remaining outstanding and not paid by [the Borrower] on the date when this Bond shall be due and payable, together with 57.5% of the said premium, if any, and 57.5% of the interest, if any, thereon

Société pour le Financement de Recherches et d'Exploitation de Sels de Potasse :

By _____

Authorized Representative

Mines Domaniales de Potasse d'Alsace :

By _____

Authorized Representative

"Dated _____"

"(c) FORM OF BUREAU DE RECHERCHES GÉOLOGIQUES ET MINIÈRES GUARANTEE

"Bureau de Recherches Géologiques et Minières, for value received, as primary obligor and not as surety merely, hereby absolutely, unconditionally and independently of any other guarantee on this Bond, guarantee the due and punctual payment of the principal and premium on redemption 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 on this Bond or the undersigned being waived ; provided, however, that the liability of the undersigned shall be limited to an amount equivalent to 42.5% of the principal amount of this Bond remaining outstanding and not paid by [the Borrower] on the date when this Bond shall be due and payable, together with 42.5% of the said premium, if any, and 42 5% of the interest, if any, thereon.

Bureau de Recherches Géologiques et Minières

By _____

Authorized Representatives

"Dated - - _____"

LETTERS RELATING TO THE LOAN AGREEMENT

INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT
WASHINGTON, D C.

January 9, 1967

Compagnie des Potasses du Congo
31, Avenue de l'Opéra
Paris I^{er}, France

Re : *Loan No. 480 COB (Potash Project)*
Major Projects and Developments

Dear Sirs

Reference is made to Section 5.06 of the Loan Agreement (*Potash Project*) of even date 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 exceeding in the aggregate the equivalent of US \$500,000.

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

Very truly yours,

International Bank for Reconstruction
and Development

By A. G. EL EMARY

Confirmed :

Compagnie des Potasses du Congo .

By Roland PRÉ

Authorized Representative

INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

WASHINGTON, D C

January 9, 1967

Compagnie des Potasses du Congo
31, Avenue de l'Opéra
Paris 1^{er}, France

Re : *Loan No 480 COB (Potash Project)*
Current Ratio

Dear Sirs

Reference is made to Section 5 14 (a) of the Loan Agreement (*Potash Project*) of even date between us This is to confirm that the Bank would initially consider satisfactory a ratio of current assets to current liabilities (as such terms are defined in paragraph (e) of said Section) of not less than 1 5 :1.

If, at any time, circumstances are such that in the opinion of the Bank, this ratio (or any subsequent ratio) should be changed, the Bank shall notify you in writing of the new ratio

Very truly yours,

International Bank for Reconstruction
and Development :

By A. G EL EMARY

SHAREHOLDERS GUARANTEE AGREEMENT

(*POTASH PROJECT*)

AGREEMENT, dated January 9, 1967, between, on the one side, INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (hereinafter called the Bank) and, on the other side, (i) jointly and severally, SOCIÉTÉ POUR LE FINANCEMENT DE RECHERCHES ET D'EXPLOITATION DE SELS DE POTASSE (hereinafter called SOFIPOTA) and MINES DOMANIALES DE POTASSE D'ALSACE (hereinafter called MDPA), and (ii) BUREAU DE RECHERCHES GÉOLOGIQUES ET MINIÈRES (hereinafter called BRGM) ;

WHEREAS (A) By an agreement of even date herewith between the Bank and Compagnie des Potasses du Congo, "CPC" (hereinafter called the Borrower) which agreement, together with the schedules therein referred to, is hereinafter called the Loan Agreement,¹ the Bank has agreed to make a loan (hereinafter called the Loan) to the Borrower in various currencies in an amount equivalent to thirty million dollars (\$30,000,000) on the terms and conditions set forth in the Loan Agreement ,

¹ See p. 172 of this volume.

(B) SOFIPOTA, MDPA and BRGM (hereinafter called the Guarantors), in consideration of the Bank's entering into the Loan Agreement, have agreed to undertake the obligations hereinafter set forth ,

NOW THEREFORE the parties hereto hereby agree as follows :

Article I

Section 1 01 Whenever used in this Agreement, unless the context shall otherwise require, the several terms defined in the Loan Agreement shall have the respective meanings therein set forth

Article II

Section 2 01 Without limitation or restriction upon any of the other covenants or agreements in this Agreement contained :

(a) SOFIPOTA and MDPA, jointly and severally, as primary obligors and not as sureties merely, absolutely, unconditionally and independently of the obligations of any other Guarantor, guarantee the due and punctual payment of the principal of, and the interest and other charges on the Loan and the Bonds, all as set forth in the Loan Agreement and in the Bonds, provided, however, that the liability of SOFIPOTA and MDPA under this paragraph (a) shall be limited to an amount equivalent to 57 5 % of any amount due, outstanding and not paid by the Borrower under the Loan or the Bonds on any date on which such amount shall be due and payable ;

(b) BRGM, as primary obligor and not as surety merely, absolutely, unconditionally and independently of the obligations of any other Guarantor, guarantees the due and punctual payment of the principal of, and the interest and other charges on, the Loan and the Bonds, all as set forth in the Loan Agreement and in the Bonds, provided, however, that the liability of BRGM under this paragraph (b) shall be limited to an amount equivalent to 42 5 % of any amount due, outstanding and not paid by the Borrower under the Loan or the Bonds on any date on which such amount shall be due and payable ;

provided, however, that . (i) unless the Bank shall otherwise agree, the limitations upon the liability of SOFIPOTA and MDPA and of BRGM set forth in paragraphs (a) and (b) of this Section shall not apply to any amounts from time to time due and payable under the Loan or the Bonds to the extent that the amounts so due and payable do not exceed the equivalent of \$1,610,000 , and (ii) that payments made under (i) of this proviso shall not in the aggregate exceed the percentages respectively set forth in such paragraphs.

Section 2 02. (a) SOFIPOTA and MDPA, jointly and severally, on the one side, and BRGM, on the other side, shall, in proportion to the percentages respectively set forth in paragraph (a) and paragraph (b) of Section 2.01 of this Agreement promptly provide to the Borrower, or cause the Borrower to be promptly provided with, as and when required, by means of advances made on terms and conditions satisfactory to the Bank, or of payments in cash for additional shares of capital stock issued by the Borrower : (i) any additional funds necessary to complete the Project ; and (ii) any funds necessary to the provision of initial working capital satisfactory to the Bank.

(b) Any payment of interest on, and any repayment of the principal of, any advance made pursuant to paragraph (a) of this Section shall be made only on the terms and conditions set forth in Section 5 14 of the Loan Agreement

Article III

Section 3 01. Each Guarantor shall give to the Bank such information as the Bank shall reasonably request relating to its ability to perform its obligations hereunder and shall promptly inform the Bank of any condition which interferes with, or threatens to interfere with, the performance of such obligations

Section 3 02. Each Guarantor, as and when required to permit compliance by the Borrower with its obligations under the Loan Agreement, shall (i) endorse and duly execute its guarantee on the Bonds, and (ii) furnish such information to the Bank as may be required for the purposes of Section 6 14 of the Loan Regulations

Section 3 03 The obligations of each Guarantor under this Agreement shall not be discharged except by performance and then only to the extent of such performance. Such obligations shall not be subject to any prior notice to, demand upon or action against the Borrower or any other Guarantor with regard to any default by the Borrower or by any other Guarantor, and shall not be impaired by any of the following : any extension of time, forbearance or concession given to the Borrower or to any of the Guarantors ; any assertion of, or failure to assert, or delay in asserting, any right, power or remedy against the Borrower or any of the Guarantors , any modification or amplification of the provisions of the Loan Agreement, the Guarantee Agreements or any document related to the Loan contemplated by the respective terms thereof ; any failure of the Borrower to comply with any requirement of any law, regulation or order of the Republic of the Congo or of any political subdivision or agency of the Republic of the Congo. No sale or transfer of any of the shares of stock of the Borrower made by (i) SOFIPOTA ; or (ii) BRGM shall, unless the Bank shall otherwise agree, relieve (i) SOFIPOTA and MDPA ; or (ii) BRGM from their respective obligations hereunder.

Section 3 04 Provided that the Borrower shall have duly complied with its obligations under the Establishment Convention, the Mining Concession, the Transport Contract, the Port Arrangement and the Tax Status Law :

(a) the obligations of the Guarantors hereunder shall be suspended in the event of physical impossibility for the Borrower, for a period of 180 days or for a period of 180 days in the aggregate within any 270-day period, to carry out the Project, as a result of any act, or acts, or omission to act of the Republic of the Congo or any Congolese authority ; provided, however, that if within a period of 540 days after the date of suspension of such obligations the carrying out of the Project can be resumed, the obligations of the Guarantors hereunder shall resume their full force and enforceability as if no such suspension had occurred, except that if the obligations of the Guarantors hereunder shall have been suspended for a continuous period of more than 180 days, the date on which such obligations shall be fully resumed shall be a date 270 days after the date on which such physical impossibility shall have ceased ,

(b) the Guarantors shall be permanently freed from their obligations hereunder (i) if 540 days after the date of suspension of their obligations under paragraph (a) of this Section, the physical impossibility therein referred to shall still continue, (ii) if the Republic of the Congo or any Congolese authority shall have compulsorily acquired ownership or control of all or substantially all of the property and assets of the Borrower essential for the proper and efficient operation of its business; or (iii) if the Bank shall, solely because of the discontinuance of the Borrower's operations for any reason specified in paragraph (a) of this Section, declare the principal of the Loan and of all the Bonds then outstanding to be due and payable immediately

Section 3 05 No delay in exercising, or omission to exercise, any right, power or remedy accruing to any party under the Loan Agreement or Guarantee Agreements upon any default shall impair any such right, power or remedy or be construed as a waiver thereof or an acquiescence in such default, nor shall the action of such party in respect of any default, or any acquiescence in any default, affect or impair any right, power or remedy of such party in respect of any other or subsequent default

Section 3 06 If at any time any of the Guarantors shall, pursuant to the provisions of this Agreement, make any of the payments due under the Loan or the Bonds, such Guarantor shall, to the extent of any such payment, be subrogated to the rights of the Bank or any Bondholder with respect thereto

Section 3.07. For the purposes of this Agreement, the provisions of Section 7 04 of Article VII, Article VIII and Article X of the Loan Regulations are incorporated herein.

Section 3 08. The following addresses are specified for the purposes of Section 8.01 of the Loan Regulations

(a) For the Bank

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

Alternative address for cablegrams and radiograms .

Intbafrad
Washington, D.C

(b) For SOFIPOTA .

Société pour le Financement de Recherches et d'Exploitation de Sels de Potasse
11, Avenue de Friedland
Paris (8^e), France

Alternative address for cablegrams and radiograms

Socopota
Paris, France

(c) For MDPA .

Mines Domaniales de Potasse d'Alsace
11, Faubourg d'Altkirch
Mulhouse 68, France

Alternative address for cablegrams and radiograms

Midoma
Mulhouse, France

(d) For BRGM .

Bureau de Recherches Géologiques et Minières
74, Rue de la Fédération
Paris (15^e), France

Alternative address for cablegrams and radiograms .

Burgeolog
Paris, France

IN WITNESS WHEREOF, the parties hereto, acting through their representatives thereunto duly authorized, have caused this 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 George D WOODS
President

Société pour le Financement de Recherches et d'Exploitation de Sels de Potasse :

By Julien MARTIN
Authorized Representative

Mines Domaniales de Potasse d'Alsace .

By Julien MARTIN
Authorized Representative

Bureau de Recherches Géologiques et Minières

By Paul RIPOCHE
Authorized Representative
