

No. 16616

**UNITED STATES OF AMERICA
and
GABON**

**Loan Agreement for access roads construction (with annex).
Signed at Libreville on 21 February 1976**

Authentic texts: English and French.

Registered by the United States of America on 27 April 1978.

**ÉTATS-UNIS D'AMÉRIQUE
et
GABON**

**Accord de prêt en vue de la construction de routes de desserte
(avec annexe). Signé à Libreville le 21 février 1976**

Textes authentiques : anglais et français.

Enregistré par les États-Unis d'Amérique le 27 avril 1978.

LOAN AGREEMENT¹ (GABON ACCESS ROADS) BETWEEN THE GOVERNMENT OF GABON AND THE UNITED STATES OF AMERICA

Dated: February 21, 1976

A.I.D. Loan No. 625-W-013

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¹ Came into force on 21 February 1976 by signature.

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LOAN AGREEMENT dated February 21, 1976, between the GOVERNMENT OF GABON ("Borrower") and the UNITED STATES OF AMERICA, acting through the AGENCY FOR INTERNATIONAL DEVELOPMENT ("A.I.D.").

Article I. THE LOAN

Section 1.01. THE LOAN. A.I.D. agrees to lend to the Borrower pursuant to the Foreign Assistance Act of 1961, as amended, an amount not to exceed Five Million United States Dollars (\$5,000,000.00) ("Loan") to assist the Borrower in carrying out the Project referred to in Section 1.02 ("Project"). The Loan shall be used exclusively to finance United States dollar costs of goods and services required for the Project ("Dollar Costs") and local currency costs of goods and services required for the Project ("Local Currency Costs"). Except as A.I.D. may otherwise agree in writing, the amount of the loan used to finance Local Currency Costs shall not exceed the equivalent of Five Hundred Thousand United States Dollars (\$500,000).

Section 1.02. THE PROJECT. The Project shall consist of the construction of four separate road and bridge sections. The Project is more fully described in Annex I, attached hereto, which Annex may be modified in a written agreement between the parties. The goods and services to be financed under the Loan shall be listed in the implementation letters referred to in Section 8.03 ("Implementation Letters").

Article II. LOAN TERMS

Section 2.01. INTEREST. The Borrower shall pay to A.I.D. interest which shall accrue at the rate of two percent (2%) per annum for ten (10) years following the date of the first disbursement hereunder and at the rate of three percent (3%) per annum thereafter on the outstanding balance of Principal and on any due and unpaid interest. Interest on the outstanding balance shall accrue from the date of each respective disbursement (as such date is defined in Section 7.04), and shall be computed on the basis of a 365-day year. Interest shall be payable semi-annually. The first payment of interest shall be due and payable no later than six (6) months after the first disbursement hereunder, on a date to be specified by A.I.D.

Section 2.02. REPAYMENT. The Borrower shall repay to A.I.D. the Principal within forty (40) years from the date of the first disbursement hereunder in sixty-one (61) approximately equal semi-annual installments of Principal and interest. The first installment of Principal shall be payable nine and one-half (9½) years after the date on which the first interest payment is due in accordance with Section 2.01. A.I.D. shall provide the Borrower with an amortization schedule in accordance with this Section after the final disbursement under the Loan.

Section 2.03. APPLICATION, CURRENCY AND PLACE OF PAYMENT. All payments of interest and Principal hereunder shall be made in United States dollars and shall be applied first to the payment of interest due and then to the repayment of Principal. Except as A.I.D. may otherwise specify in writing, all such payments shall be made to the Controller, Agency for International Development, Wash., D.C. 20523, U.S.A., and shall be deemed made when received by the Office of the Controller.

Section 2.04. PREPAYMENT. Upon payment of all interest and refunds then due, the Borrower may prepay, without penalty, all or any part of the Principal. Any such prepayment shall be applied to the installments of Principal in the inverse order of their maturity.

Section 2.05. RENEGOTIATION OF THE TERMS OF THE LOAN. The Borrower agrees to negotiate with A.I.D., at such time or times as A.I.D. may request, an acceleration of the repayment of the Loan in the event that there is any significant improvement in the internal and external economic and financial position and prospects of Gabon.

Article III. CONDITIONS PRECEDENT TO DISBURSEMENT

Section 3.01. CONDITIONS PRECEDENT TO INITIAL DISBURSEMENT. Prior to the first disbursement or to the issuance of the first Letter of Commitment under the Loan for financing of procurement services, the Borrower shall, except as A.I.D. may otherwise agree in writing, furnish to A.I.D. in form and substance satisfactory to A.I.D.:

- (a) an opinion of the Legal Counselor of the Borrower or of other counsel acceptable to A.I.D. that this Agreement has been duly authorized and/or ratified by, and executed on behalf of, the Borrower, and that it constitutes a valid and legally binding obligation of the Borrower in accordance with all of its terms;
- (b) a statement of the names of the persons holding or acting in the office of the Borrower specified in Section 8.02, and a specimen signature of each person specified in such statement;
- (c) an executed contract for procurement services for the Project acceptable to A.I.D. with a firm acceptable to A.I.D.;
- (d) evidence of the source and availability of funds for the Borrower's contribution required by Section 4.02;
- (e) a list of all road construction commodities and commodity-related services to be financed under the Loan; and
- (f) a signed or certified copy of the Federal Republic of Germany ("FRG") loan agreement relating to the portion of the project to be financed by the FRG.

Section 3.02. ADDITIONAL CONDITIONS PRECEDENT TO DISBURSEMENT FOR PROCUREMENT OF ROAD CONSTRUCTION COMMODITIES AND COMMODITY-RELATED SERVICES. Prior to the first disbursement or to the issuance of the first Letter of Commitment under the Loan for the procurement of road construction commodities and commodity-related services other than procurement services referred to in Section 3.01, the Borrower shall, except as A.I.D. may otherwise agree in writing, furnish to A.I.D. in form and substance satisfactory to A.I.D.:

- (a) plans and specifications, bid documents, cost estimates and time schedules for all road construction commodities and commodity-related services other than procurement services to be financed under the Loan;
- (b) plans and specifications, bid documents, cost estimates and time schedules for carrying out the Project;
- (c) an executed contract(s) acceptable to A.I.D. for engineering supervision services for the Project with a firm(s) acceptable to A.I.D.;
- (d) an executed contract(s) acceptable to A.I.D. with a firm(s) acceptable to A.I.D. for the performance of construction services necessary to carry out the project; and
- (e) evidence that all the conditions to the effectiveness of the FRG loan agreement have been fulfilled.

Section 3.03. TERMINAL DATE FOR MEETING CONDITIONS PRECEDENT TO DISBURSEMENT. (a) If all of the conditions specified in Section 3.01 shall not have been met within four (4) months from the date of this agreement, or such later date as A.I.D. may agree to in writing, A.I.D., at its option, may terminate this Agreement by giving written notice to the Borrower. Upon the giving of such notice, this Agreement and all obligations of the parties hereunder shall terminate.

(b) If all the conditions specified in Section 3.02 shall not have been met by August 31, 1976, or such later date as A.I.D. may agree to in writing, A.I.D., at its option, may cancel the then undisbursed balance of the amount of the Loan and/or may terminate this Agreement by giving written notice to the Borrower. In the event of a termination, upon the giving of notice, the Borrower shall immediately repay the principal then outstanding and shall pay any accrued interest and, upon receipt of such payments in full, this Agreement and all obligations of the parties hereunder shall terminate.

Section 3.04. NOTIFICATION OF MEETING OF CONDITIONS PRECEDENT TO DISBURSEMENT. A.I.D. shall notify the Borrower upon determination by A.I.D. that the conditions precedent to disbursement specified in Sections 3.01 and 3.02 have been met.

Article IV. GENERAL COVENANTS AND WARRANTIES

Section 4.01. EXECUTION OF THE PROJECT. (a) The Borrower shall carry out the Project with due diligence and efficiency, and in conformity with sound engineering, construction, financial, and administrative practices. In this connection, the Borrower shall at all times employ suitably qualified and experienced consultants to be professionally responsible for the supervision of construction of the Project and suitably qualified and competent construction contractors to carry out the Project.

(b) The Borrower shall cause the A.I.D.-financed portion of the Project to be carried out in conformity with all of the plans, specifications, contracts, schedules and other arrangements, and with all modifications therein, approved by A.I.D. pursuant to this Agreement.

Section 4.02. FUNDS AND OTHER RESOURCES TO BE PROVIDED BY BORROWER. The Borrower shall provide (a) a contribution in cash and/or in kind to the total costs of the Project not less than the equivalent of twenty-five percent (25%) of such costs;

and (b) as promptly as needed all other funds, in addition to the twenty-five percent contribution and in addition to the Loan, and all other resources required for the punctual and effective carrying out, maintenance, repair, and operation of the Project.

Section 4.03. CONTINUING CONSULTATION. The Borrower and A.I.D. shall cooperate fully to assure that the purpose of the Loan will be accomplished. To this end, the Borrower and A.I.D. shall from time to time, at the request of either party, exchange views through their representatives with regard to the progress of the Project, the performance by the Borrower of its obligations under this Agreement, the performance of the consultants, contractors, and suppliers engaged on the Project, and other matters relating to the Project.

Section 4.04. MANAGEMENT. The Borrower shall provide qualified and experienced management for the Project, and it shall train such staff as may be appropriate for the maintenance and operation of the Project.

Section 4.05. OPERATION AND MAINTENANCE. The Borrower shall operate, maintain, and repair the Project in conformity with sound engineering, financial, and administrative practices and in such manner as to insure the continuing and successful achievement of the purposes of the Project.

Section 4.06. TAXATION. This Agreement, the Loan, and any evidence of indebtedness issued in connection herewith shall be free from, and the Principal and interest shall be paid without deduction for and free from, any taxation or fees imposed under the laws in effect within Gabon. To the extent that (a) any contractor, including any consulting firm, any personnel of such contractor financed hereunder, and any property or transactions relating to such contracts and (b) any commodity procurement transaction financed hereunder, are not exempt from identifiable taxes, tariffs, duties, and other levies imposed under laws in effect in Gabon, the Borrower shall pay or reimburse the same under Section 4.02 of this Agreement with funds other than those provided under the Loan; provided however that this Section 4.06 is not applicable to taxation of individual salaries of citizens or permanent residents of Gabon or to taxation of revenues of firms or corporations which are legally organized or incorporated in Gabon.

Section 4.07. UTILIZATION OF GOODS AND SERVICES. (a) Goods and services financed under the Loan shall be used exclusively for the Project, except as A.I.D. may otherwise agree in writing. Upon completion of the Project, or at such other time as goods financed under the Loan can no longer usefully be employed for the Project, the Borrower may use or dispose of such goods in such manner as A.I.D. may agree to in writing prior to such use or disposition.

(b) Except as A.I.D. may otherwise agree in writing, no goods or services financed under the Loan shall be used to promote or assist any foreign aid project or activity associated with or financed by any country not included in Code 935 of the *A.I.D. Geographic Code Book* as in effect at the time of such use.

Section 4.08. DISCLOSURE OF MATERIAL FACTS AND CIRCUMSTANCES. The Borrower represents and warrants that all facts and circumstances that it has disclosed or caused to be disclosed to A.I.D. in the course of obtaining the Loan are accurate and complete, and that it has disclosed to A.I.D., accurately and completely, all facts and circumstances that might materially affect the Project and the discharge of its obligations under this Agreement. The Borrower shall promptly inform A.I.D.

of any facts and circumstances that may hereafter arise that might materially affect, or that it is reasonable to believe might materially affect, the Project or the discharge of the Borrower's obligations under this Agreement.

Section 4.09. COMMISSIONS, FEES AND OTHER PAYMENTS. (a) The Borrower warrants and covenants that in connection with obtaining the Loan, or taking any action under or with respect to this Agreement, it has not paid, and will not pay or agree to pay, nor to the best of its knowledge has there been paid nor will there be paid or agreed to be paid by any other person or entity, commissions, fees, or other payments of any kind, except as regular compensation to the Borrower's full-time officers and employees or as compensation for bona fide professional, technical, or comparable services. The Borrower shall promptly report to A.I.D. any payment or agreement to pay for such bona fide professional, technical, or comparable services to which it is a party or of which it has knowledge (indicating whether such payment has been made or is to be made on a contingent basis), and if the amount of any such payment is deemed unreasonable by A.I.D., the same shall be adjusted in a manner satisfactory to A.I.D.

(b) The Borrower warrants and covenants that no payments have been made or will be received by the Borrower, or any official of the Borrower, in connection with the procurement of goods and services financed hereunder, except fees, taxes, or similar payments legally established in Gabon.

Section 4.10. MAINTENANCE AND AUDIT OF RECORDS. The Borrower shall maintain, or cause to be maintained in accordance with sound accounting principles and practices consistently applied, books and records relating both to the Project and to this Agreement. Such books and records shall, without limitation, be adequate to show:

- (a) the receipt and use made of goods and services acquired with funds disbursed pursuant to this Agreement;
- (b) the nature and extent of solicitations of prospective suppliers of goods and services acquired for the A.I.D.-financed portion of the Project;
- (c) the basis of the award of contracts and orders to successful bidders for the A.I.D.-financed portion of the Project; and
- (d) the progress of the Project.

Such books and records shall be regularly audited, in accordance with sound auditing standards, for such period and at such intervals as A.I.D. may require, and shall be maintained for five (5) years after the date of the last disbursement by A.I.D. or until all sums due to A.I.D. under this Agreement have been paid, whichever date shall first occur.

Section 4.11. REPORTS. The Borrower shall furnish to A.I.D. such information and reports relating to the Loan and to the Project as A.I.D. may request.

Section 4.12. INSPECTIONS. The authorized representatives of A.I.D. and the Comptroller General of the United States shall have the right at all reasonable times to inspect the Project, the utilization of all goods and services financed under the Loan, and the Borrower's books, records, and other documents relating to the Project and the Loan. The Borrower shall cooperate with A.I.D. to facilitate such inspections and shall permit representatives of A.I.D. and the Comptroller General of the United States to visit any part of Gabon for any purposes relating to the Loan.

Section 4.13. INVESTMENT GUARANTY PROJECT APPROVAL BY BORROWER. The construction work to be financed under this Agreement is hereby stated to be a project approved by the Government of Gabon pursuant to the Agreement between the Government of Gabon and the Government of the United States of America on the subject of investment guaranties, and no further approval by the Government of Gabon shall be required to permit the United States to issue investment guaranties under that agreement covering contractor's investment in that project.

Section 4.14. CONTINUANCE OF REPRESENTATION AND MATTERS FURNISHED TO SATISFY CONDITIONS PRECEDENT. Unless A.I.D. otherwise agrees in writing, the Borrower shall continue in force and effect for the life of this Agreement, exactly as originally made or furnished, any representation made or opinion or agreement furnished to satisfy a condition precedent under this Agreement.

Article V. PROCUREMENT

Section 5.01. PROCUREMENT FROM CODE 941 COUNTRIES. Except as A.I.D. may otherwise agree in writing, disbursements made pursuant to Section 6.01 shall be used exclusively to finance the procurement for the Project of goods and services having both their source and origin in countries included in Code 941 of the *A.I.D. Geographic Code Book* as in effect at the time orders are placed or contracts are entered into therefor. Ocean shipping shall qualify as an eligible service provided the vessel furnishing the transportation service is registered in a country included in Code 941 of the *A.I.D. Geographic Code Book* as in effect at the time of shipment.

Section 5.02. PROCUREMENT FROM GABON. Except as A.I.D. may otherwise agree in writing, disbursements made pursuant to Section 6.02 shall be used exclusively to finance the procurement for the Project of goods and services having their source in Gabon and their origin in Gabon or in countries included in Code 941 of the *A.I.D. Geographic Code Book* as in effect at the time orders are placed or contracts are entered into therefor.

Section 5.03. ELIGIBILITY DATE. Except as A.I.D. may otherwise agree in writing, no goods or services may be financed under the Loan which are procured pursuant to orders or contracts firmly placed or entered into prior to the date of this Agreement.

Section 5.04. GOODS AND SERVICES NOT FINANCED UNDER LOAN. Except as A.I.D. may otherwise agree in writing, goods and services procured for the Project, but not financed under the Loan, shall have their source and origin in countries included in Code 935 of the *A.I.D. Geographic Code Book* as in effect at the time orders are placed for such goods and services.

Section 5.05. IMPLEMENTATION OF PROCUREMENT REQUIREMENTS. The definitions applicable to the eligibility requirements of Sections 5.01, 5.02, and 5.04 will be set forth in detail in Implementation Letters.

Section 5.06. PLANS, SPECIFICATIONS AND CONTRACTS. (a) Except as A.I.D. may otherwise agree in writing, the Borrower shall furnish to A.I.D. promptly upon preparation all plans, specifications, construction schedules, bid documents, and contracts relating to that portion of the Project to be financed by A.I.D. and any modifications therein.

(b) Except as A.I.D. may otherwise agree in writing, all of the plans, specifications, and construction schedules furnished pursuant to subsection (a) above shall be approved by A.I.D. in writing.

(c) All bid documents and documents related to the solicitation of proposals relating to goods and services financed under the Loan shall be approved by A.I.D. in writing prior to their issuance. All plans, specifications, and other documents relating to goods and services financed under the Loan shall be in terms of United States standards and measurements, except as A.I.D. may otherwise agree in writing.

(d) The following contracts financed under the Loan shall be approved by A.I.D. in writing prior to their execution:

- (i) contracts for procurement and other professional services,
- (ii) contracts for such other services as A.I.D. may specify, and
- (iii) contracts for such equipment and materials as A.I.D. may specify.

In the case of any of the above contracts for services, A.I.D. shall also approve in writing the contractor and such contractor personnel as A.I.D. may specify. Material modifications in any of such contracts and changes in any of such personnel shall also be approved by A.I.D. in writing prior to their becoming effective.

(e) Consulting firms used by the Borrower for the Project but not financed under the Loan, the scope of their services and such of their personnel assigned to the Project as A.I.D. may specify, and construction contractors used by the Borrower for the Project but not financed under the Loan shall be acceptable to A.I.D.

Section 5.07. REASONABLE PRICE. No more than reasonable prices shall be paid for any goods or services financed, in whole or in part, under the Loan, as more fully described in Implementation Letters. Such items shall be procured on a fair and, except for professional services, on a competitive basis in accordance with procedures therefor prescribed in Implementation Letters.

Section 5.08. SHIPPING AND INSURANCE. (a) Goods financed under the Loan shall be transported to Gabon on flag carriers of any country included in Code 935 of the *A.I.D. Geographic Code Book* as in effect at the time of shipment.

(b) Unless A.I.D. shall determine that privately owned United States-flag commercial vessels are not available at fair and reasonable rates for such vessels, (i) at least fifty percent (50%) of the gross tonnage of all goods financed under the Loan (computed separately for dry bulk carriers, dry cargo liners, and tankers) and transported on ocean vessels shall be transported on privately owned United States-flag commercial vessels, and (ii) at least fifty percent (50%) of the gross freight revenue generated by all shipments financed under the Loan and transported on dry cargo liners shall be paid to or for the benefit of privately owned United States-flag commercial vessels.

(c) No such goods may be transported on any ocean vessel (or aircraft) (i) which A.I.D., in a notice to the Borrower, has designated as ineligible to carry A.I.D.-financed goods, or (ii) which has been chartered for the carriage of A.I.D.-financed goods unless such charter has been approved by A.I.D.

(d) If in connection with the placement of marine insurance on shipments financed under United States legislation authorizing assistance to other nations, the Government of Gabon, by statute, decree, rule or regulation, favors any marine

insurance company of any country over any marine insurance company authorized to do business in any state of the United States of America, goods procured from the United States and financed under the Loan shall during the continuance of such discrimination be insured against marine risk in the United States of America with a company or companies authorized to do a marine insurance business in any state of the United States of America.

(e) The Borrower shall insure, or cause to be insured, all goods procured in any country included in Code 941 of the *A.I.D. Geographic Code Book* and financed under the Loan against risks incident to their transit to the point of their use in the Project. Such insurance shall be purchased on a competitive basis, issued upon terms and conditions consistent with sound commercial practices, shall insure the full value of the goods, and shall be payable in United States dollars or in a freely convertible currency. Any indemnification received by the Borrower under such insurance shall be used to replace or repair any material damage or any loss of the goods insured or shall be used to reimburse the Borrower for the replacement or repair of such goods. Any such replacements shall be of the source and origin specified in Section 5.01 and otherwise subject to the provisions of this Agreement.

Section 5.09. NOTIFICATION TO POTENTIAL SUPPLIERS. In order that all United States firms shall have the opportunity to participate in furnishing goods and services to be financed under the Loan, the Borrower shall furnish to A.I.D. such information with regard thereto, and at such times as A.I.D. may request in Implementation Letters.

Section 5.10. UNITED STATES GOVERNMENT-OWNED EXCESS PROPERTY. The Borrower may utilize, with respect to goods financed under the Loan to which the Borrower takes title at the time of procurement, such reconditioned United States Government-owned Excess Property as may be consistent with the requirements of the Project and as may be available within a reasonable period of time and at a reasonable price. The Borrower shall seek assistance from A.I.D. and A.I.D. will assist the Borrower in ascertaining the availability of and in obtaining such Excess Property. A.I.D. will make arrangements for any necessary inspections of such property by the Borrower or its representative. The costs of inspection and of acquisition, and all charges incident to the transfer to the Borrower of such Excess Property, may be financed under the Loan. Prior to the procurement of any goods, other than Excess Property, financed under the Loan and after having sought such A.I.D. assistance, the Borrower shall indicate to A.I.D. in writing, on the basis of information then available to it, either that such goods cannot be made available from reconditioned United States Government-owned Excess Property on a timely basis or that the goods that can be made available are not technically suitable for use in the Project.

Section 5.11. INFORMATION AND MARKING. The Borrower shall give publicity to the Loan and the Project as a program of United States assistance, identify the Project site, and mark goods financed under the Loan, as prescribed in Implementation Letters.

Article VI. DISBURSEMENTS

Section 6.01. DISBURSEMENT FOR UNITED STATES DOLLAR COSTS — LETTERS OF COMMITMENT TO UNITED STATES BANKS. Upon satisfaction of conditions

precedent, the Borrower may, from time to time, request A.I.D. to issue Letters of Commitment for specified amounts to one or more United States banks, satisfactory to A.I.D., committing A.I.D. to reimburse such bank or banks for payments made by them to contractors or suppliers, through the use of Letters of Credit or otherwise, for Dollar Costs of goods and services procured for the Project in accordance with the terms and conditions of this Agreement. Payment by a bank to a contractor or supplier will be made by the bank upon presentation of such supporting documentation as A.I.D. may prescribe in Letters of Commitment and Implementation Letters. Banking charges incurred in connection with Letters of Commitment and Letters of Credit shall be for the account of the Borrower and may be financed under the Loan.

Section 6.02. DISBURSEMENT FOR LOCAL CURRENCY COSTS. Upon satisfaction of conditions precedent, the Borrower may, from time to time, request disbursement by A.I.D. of not to exceed the equivalent of Five Hundred Thousand United States Dollars (\$500,000) in CFA Francs for Local Currency Costs of goods and services procured for the Project in accordance with the terms and conditions of this Agreement by submitting to A.I.D. such supporting documentation as A.I.D. may prescribe in Implementation Letters. The United States dollar equivalent of the local currency made available hereunder will be the amount of United States dollars required by A.I.D. to obtain such currency.

Section 6.03. OTHER FORMS OF DISBURSEMENT. Disbursements of the Loan may also be made through such other means as the Borrower and A.I.D. may agree to in writing.

Section 6.04. DATE OF DISBURSEMENT. Disbursements by A.I.D. shall be deemed to occur (a) in the case of disbursements pursuant to Section 6.01, on the date on which A.I.D. makes a disbursement to the Borrower, to its designee, or to a banking institution pursuant to a Letter of Commitment, and (b) in the case of disbursements pursuant to Section 6.02, on the date on which A.I.D. disburses the local currency to the Borrower or its designee.

Section 6.05. TERMINAL DATE FOR DISBURSEMENT. Except as A.I.D. may otherwise agree in writing, no Letter of Commitment, or other commitment documents which may be called for by another form of disbursement under Section 6.03, or amendment thereto, shall be issued in response to requests received by A.I.D. after thirty (30) months, and no disbursement shall be made against documentation received by A.I.D. or any bank described in Section 6.01 after three (3) years from the date Borrower meets the Conditions Precedent to Disbursement in Section 3.02.

Article VII. CANCELLATION AND SUSPENSION

Section 7.01. CANCELLATION BY THE BORROWER. The Borrower may, with the prior written consent of A.I.D., by written notice to A.I.D., cancel any part of the Loan (i) which, prior to the giving of such notice, A.I.D. has not disbursed or committed itself to disburse, or (ii) which has not then been utilized through the issuance of irrevocable Letters of Credit or through bank payments made other than under irrevocable Letters of Credit.

Section 7.02. EVENTS OF DEFAULT; ACCELERATION. If any one or more of the following events ("Events of Default") shall occur:

- (a) the Borrower shall have failed to pay when due any interest or installment of Principal required under this Agreement;

- (b) the Borrower shall have failed to comply with any other provision of this Agreement, including, but without limitation, the obligation to carry out the Project with due diligence and efficiency;
- (c) the Borrower shall have failed to pay when due any interest or any installment of Principal or any other payment required under any other loan agreement, any guaranty agreement, or any other agreement between the Borrower or any of its agencies and A.I.D., or any of its predecessor agencies;

then A.I.D. may, at its option, give to the Borrower notice that all or any part of the unrepaid Principal shall be due and payable sixty (60) days thereafter, and, unless the Event of Default is cured within such sixty (60) days:

- (i) such unrepaid Principal and any accrued interest hereunder shall be due and payable immediately; and
- (ii) the amount of any further disbursements made under then outstanding irrevocable Letters of Credit or otherwise shall become due and payable as soon as made.

Section 7.03. SUSPENSION OF DISBURSEMENT. In the event that at any time:

- (a) an event of Default has occurred;
- (b) an event occurs that A.I.D. determines to be an extraordinary situation that makes it improbable either that the purpose of the Loan will be attained or that the Borrower will be able to perform its obligations under this Agreement;
- (c) any disbursement by A.I.D. would be in violation of the legislation governing A.I.D.; or
- (d) the borrower shall have failed to pay when due any interest or any installment of Principal or any other payment required under any other loan agreement, any guaranty agreement, or any other agreement between the Borrower or any of its agencies and the Government of the United States or any of its agencies;

then A.I.D. may, at its option:

- (i) suspend or cancel outstanding commitment documents to the extent that they have not been utilized through the issuance of irrevocable Letters of Credit or through bank payments made other than under irrevocable Letters of Credit, in which event A.I.D. shall give notice to the Borrower promptly thereafter;
- (ii) decline to make disbursements other than under outstanding commitment documents;
- (iii) decline to issue additional commitment documents;
- (iv) at A.I.D.'s expense, direct that title to goods financed under the Loan shall be transferred to A.I.D. if the goods are from a source outside Gabon, are in a deliverable state and have not been offloaded in ports of entry of Gabon. Any disbursement made or to be made under the Loan with respect to such transferred goods shall be deducted from principal.

Section 7.04. CANCELLATION BY A.I.D. Following any suspension of disbursements pursuant to Section 7.03, if the cause or causes for such suspension of disbursements shall not have been eliminated or corrected within sixty (60) days from the date of such suspension, A.I.D. may, at its option, at any time or times thereafter, cancel all or any part of the Loan that is not then either disbursed or subject to irrevocable Letters of Credit.

Section 7.05. CONTINUED EFFECTIVENESS OF AGREEMENT. Notwithstanding any cancellation, suspension of disbursement, or acceleration of repayment, the provisions of this Agreement shall continue in full force and effect until the payment in full of all Principal and any accrued interest hereunder.

Section 7.06. REFUNDS. (a) In the case of any disbursement not supported by valid documentation in accordance with the terms of this Agreement, or of any disbursement not made or used in accordance with the terms of this Agreement, A.I.D., notwithstanding the availability or exercise of any of the other remedies provided for under this Agreement, may require the Borrower to refund such amount in United States Dollars to A.I.D. within thirty (30) days after receipt of a request therefor. However, in the event that such disbursement was originally made in local currency and if A.I.D. determines that the amount of such refund can be used to pay the Local Currency Costs of other goods and services approved for financing under the Loan, A.I.D. will accept such refund in local currency. The amount of any refund shall be made available first for the cost of goods and services procured for the Project hereunder, to the extent justified; the remainder, if any, shall be applied to the installments of Principal in the inverse order of their maturity and the amount of the Loan shall be reduced by the amount of such remainder. Notwithstanding any other provision in this Agreement, A.I.D.'s right to require a refund with respect to any disbursement under the Loan shall continue for five (5) years following the date of such disbursement.

(b) In the event that A.I.D. receives a refund from any contractor, supplier, or banking institution, or from any other third party connected with the Loan, with respect to goods or services financed under the Loan, and such refund relates to an unreasonable price for goods or services, or to goods that did not conform to specifications, or to services that were inadequate, A.I.D. shall first make such refund available for the cost of goods and services procured for the Project hereunder, to the extent justified, the remainder to be applied to the installments of Principal in the inverse order of their maturity and the amount of the Loan shall be reduced by the amount of such remainder.

Section 7.07. EXPENSES OF COLLECTION. All reasonable costs incurred by A.I.D., other than salaries of its staff, in connection with the collection of any refund or in connection with amounts due A.I.D. by reason of the occurrence of any of the events specified in Section 7.02 may be charged to the Borrower and reimbursed to A.I.D. in such manner as A.I.D. may specify.

Section 7.08. NONWAIVER OF REMEDIES. No delay in exercising or omission to exercise any right, power, or remedy accruing to A.I.D. under this Agreement shall be construed as a waiver of any such rights, powers, or remedies.

Article VIII. MISCELLANEOUS

Section 8.01. COMMUNICATIONS. Any notice, request, document, or other communication given, made, or sent by the Borrower or A.I.D. pursuant to this Agreement shall be in writing or by telegram, cable, or radiogram and shall be deemed to have been duly given, made, or sent to the party to which it is addressed when it shall be delivered to such party by hand or by mail, telegram, cable, or radiogram at the following addresses:

To Borrower:

Mail Address:

Ministre de l'Economie et des Finances

B.P. 165

Libreville, Gabon

Cable Address: Telex ECOFIN 52-3860

To A.I.D.:

Mail Address:

Director

Regional Economic Development Services Office (REDSO)

American Embassy

B.P. 1712

Abidjan, Ivory Coast

Cable Address: AmEmbassy Abidjan

The Borrower, in addition, shall provide the A.I.D. Regional Development Office in Yaounde, Cameroon, with a copy of each communication sent to A.I.D. Other addresses may be substituted for the above upon the giving of notice. All notices, requests, communications, and documents submitted to A.I.D. hereunder shall be in English and French.

Section 8.02. REPRESENTATIVES. For all purposes relative to this Agreement, the Borrower will be represented by the individual holding or acting in the office of the Director General of OCTRA or his assistant, and A.I.D. will be represented by the individual holding or acting in the Office of the Director, Regional Economic Development Services Office. Such individuals shall have the authority to designate additional representatives by written notice. In the event of any replacement or other designation of a representative hereunder, the Borrower shall submit a statement of the representative's name and specimen signature in form and substance satisfactory to A.I.D. Until receipt by A.I.D. of written notice of revocation of the authority of any of the duly authorized representatives of the Borrower designated pursuant to this Section, it may accept the signature of any such representative or representatives on any instrument as conclusive evidence that any action effected by such instrument is duly authorized.

Section 8.03. IMPLEMENTATION LETTERS. A.I.D. shall from time to time issue Implementation Letters that will prescribe the procedures applicable hereunder in connection with the implementation of this Agreement.

Section 8.04. TERMINATION UPON FULL PAYMENT. Upon payment in full of the Principal and of any accrued interest, this Agreement and all obligations of the Borrower and A.I.D. under this Loan Agreement shall terminate.

Section 8.05. GOVERNING DOCUMENT. This Agreement is prepared both in the English and French languages. The English-language version shall be considered controlling for purposes of interpretation.

IN WITNESS WHEREOF, the Borrower and the United States of America, each acting through its respective duly authorized representative, have caused this Agreement to be signed in their names and delivered as of the day and year first above written.

Government of Gabon:

By: JÉRÔME OKINDA

Title: Le Ministre de l'Economie et des Finances

United States of America:

By: ANDREW STEIGMAN

Title: Ambassador of the United States of America

ANNEX I

DESCRIPTION OF PROJECT

The Project consists of the construction of four separate road and bridge sections:

1. *Alembe Bridge and Approach Roads*

A 250 meter concrete one-lane bridge over the Ogooue River and accompanying 2-lane paved approaches which link the bridge to the Ndjole-Alembe road on the north bank and the Alembe railroad station on the south bank.

2. *Lope Spur Road*

A six kilometer 2-lane link between the Lope train station on the Ogooue River and the Ayem-Lastoursville Road, near the village of Kandjamabika II.

3. *Koumameyong-Booue Road*

As currently conceived, a road with its principal axis running from the village of Koumameyong to the village of Booue (48 km.) and a spur road which branches off from the principal road at Bissobilam and runs in a southeasterly direction for 8 km. to the Booue train station. (This spur would not be necessary if the location of the planned Booue train station were moved to the immediate vicinity of the town of Booue.) Although a one-lane trail now exists, it is in poor condition and is closed to traffic.

4. *M'Badi-Dilo River Road*

A road which will run from the intersection of the Koumameyong-Booue road at the village of M'Badi and cross 67 kilometers of extremely dense tropical rain forest as well as two major rivers, the Ivindo and the Dilo. The road will be designed with a 10 meter wide laterite surface.

The A.I.D. loan will finance procurement services, commodities and commodity-related services for the Project.