



Treaty Series No. 92 (1951)

Agreement

between the Government of the United Kingdom
on their own behalf and on behalf of the
Governments of Southern and Northern Rhodesia
and the Government of the United States of America

regarding the development of the Rhodesia Railways

[with Schedule and Exchange of Letters]

London, 18th July, 1951

*Presented by the Secretary of State for Foreign Affairs to Parliament
by Command of His Majesty
November 1951*

LONDON
HIS MAJESTY'S STATIONERY OFFICE
SIXPENCE NET

Cmd. 8396

AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF THE UNITED STATES OF AMERICA RELATIVE TO THE DEVELOPMENT OF THE RHODESIA RAILWAYS

London, 18th July, 1951

The Government of the United Kingdom of Great Britain and Northern Ireland (hereinafter called the Government of the United Kingdom) on their own behalf and on behalf of the Governments of Southern and Northern Rhodesia, and the Government of the United States of America (hereinafter called the Government of the United States) acting through the Economic Co-operation Administration (hereinafter called E.C.A.) under authority of the Foreign Assistance Act (of the United States of America) of 1948, as amended;

Having regard to the mutual interest of the said Governments in the expansion of the facilities of the Rhodesia Railways;

Taking note that the Rhodesia Railways have developed a programme, satisfactory to E.C.A., for the expansion of their facilities and for the acquisition of additional railway equipment, which it is intended will be completed by 31st December, 1953, and have and propose to let purchase contracts, incur other expenses, and make other appropriate financial arrangements to carry out such a programme, provided that the Rhodesia Railways can obtain assistance to help finance such a programme;

Considering that such improvement of facilities will materially assist the production and transport of certain materials produced within Northern and Southern Rhodesia, such as cobalt, chrome, copper, and tungsten, which are required by the Government of the United States as the result of deficiencies in resources within the United States;

Having regard to the fact that the Rhodesia Railways are empowered, with the consent of the Rhodesia Railways Higher Authority, to borrow money for the defraying of the cost of any permanent works properly chargeable to capital and for any other purpose for which capital monies are properly applicable, and that the Rhodesia Railways Higher Authority has consented to the borrowing by the Rhodesia Railways of a sum not exceeding 5,000,000 pounds sterling for the purposes aforesaid;

Taking note that the Rhodesia Railways Higher Authority, the constitution of which is described in the Schedule to this Agreement, determines the policy of the Rhodesia Railways;

Taking note that the Government of the United Kingdom have requested E.C.A. to provide financial assistance, not exceeding 5,000,000 pounds sterling, to enable the Rhodesia Railways to carry out their aforesaid programme, and that, pursuant to such request and in furtherance of the purposes of the said Foreign Assistance Act of 1948, as amended, particularly Section 117A thereof, E.C.A. is prepared to render such assistance upon the terms and conditions hereinafter set forth;

Taking note also that the Governments of Southern and Northern Rhodesia concur in the terms of this Agreement:

Have agreed as follows:—

ARTICLE 1

Amounts to be advanced by E.C.A. and purpose of advances

E.C.A. shall advance to the Government of the United Kingdom; and the Government of the United Kingdom shall accept, such sums in pounds

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sterling, not exceeding in the aggregate 5,000,000 pounds sterling, as that Government may request in accordance with Article 2 hereof. Such advances shall be made to the Government of the United Kingdom solely in order to finance expenditure to be incurred by the Rhodesia Railways in connexion with a programme of improvements (hereinafter referred to as the Development Programme) conforming with that set forth in the Schedule to this Agreement attached hereto and made a part hereof.

ARTICLE 2

Time and manner of E.C.A. advances

1. Subject to the provisions of Article 1 hereof, E.C.A. shall make advances of pounds sterling from time to time during the period from the date of this Agreement to 30th June, 1952, as the Government of the United Kingdom may from time to time request in writing in accordance with such form of request and other documentation as E.C.A. may reasonably request.

2. As soon as possible after receipt of each such request, E.C.A. shall deposit the amount requested in pounds sterling in such account in the Bank of England as may be designated by the Government of the United Kingdom.

ARTICLE 3

Interest on advances

The principal of each advance shall bear simple interest at the rate of $2\frac{1}{2}$ per cent. per annum from the date of advance to the date of repayment. The date of advance shall be deemed to be the date on which the deposit is made by E.C.A. pursuant to Article 2 of this Agreement.

ARTICLE 4

Application of advances

1. As soon as possible after each E.C.A. advance the Government of the United Kingdom shall, for the purposes mentioned in paragraph 2 of this Article, extend sterling credits to the Governments of Southern and Northern Rhodesia of amounts not less than the advances made under this Agreement and in conformity with the terms and conditions on which such advances are made.

2. The sterling credits to be extended under paragraph 1 of this Article may be used to carry out any portion of the Development Programme set forth in the Schedule hereto, it being understood that such programme may be amended from time to time by the Rhodesia Railways subject, in the case of any major alteration, to E.C.A. approval, or may be used for any legitimate purposes in the operation of the Rhodesia Railways, including working capital, operating expenses, or repayment of outstanding obligations; provided, however, that should any portion of such credits be used for such purposes other than those of the Development Programme an equivalent sum shall be expended within one year thereafter out of the general revenues of the Rhodesia Railways, or otherwise, on carrying out the Development Programme. It is intended that the Development Programme shall be completed by 31st December, 1953, including specifically the acquisition of additional locomotives and railway rolling-stock as set forth in the Schedule to this Agreement.

ARTICLE 5

Effect upon production of copper

1. Recognising that E.C.A.'s objectives in providing such financial assistance include the increase of production of copper at the mines located in Northern Rhodesia, and conscious that production of copper at such mines is presently limited by the supply of coal which such mines can obtain from the collieries at present operated by the Wankie Colliery Company Limited and located at the township of Wankie in Southern Rhodesia (which collieries are hereinafter called Wankie), and in consideration of the advances made by E.C.A.:

- (a) The Government of Southern Rhodesia shall, during the period of three years from the date of this Agreement and to the extent required by such copper mines for their current requirements, procure the allocation in each month in which Wankie's total actual saleable production of coal and coke is equal to or exceeds 200,000 short tons for delivery to such copper mines of not less than such percentage of Wankie's total actual saleable production of coal and coke during such month as is indicated in the following table (references are to short tons):

<i>Total actual saleable production in tons per month</i>	<i>Percentage</i>
200,000	21 (rising by 0.2 per cent. for each complete 1,000 tons per month to a maximum of 29 per cent. at 240,000 per month or more.)
240,000 (or more)	29

For the purpose of this Agreement any coal cut under any special arrangements between the Governments of Southern and Northern Rhodesia by labour provided by such copper mines shall not be included in Wankie's total actual saleable production of coal and coke.

- (b) In case total actual saleable production of coal and coke at Wankie falls below 200,000 short tons for any month, the Government of Southern Rhodesia shall give consideration to the problems created thereby for such copper mines as being of a high priority nature and will use their best efforts to procure such allocation of the total Wankie production as to give the mines a fair and equitable share of available coal and coke in the light of the situation then existing.
- (c) Before the conclusion of the said period of three years discussions shall take place between the parties to this Agreement upon the question of continuing the said arrangements with or without modification for a further period of three years.
- (d) The coal and coke shall be transported to such copper mines by the Rhodesia Railways to the best of their ability.

2. For the purpose of this Agreement "actual saleable production" means coal mined less colliery requirements for Wankie's own consumption and for production of coke, and includes coke thus produced.

ARTICLE 6

Accounting for advances, and right of inspection

1. Within sixty (60) days after the end of each calendar quarter (30th June, 30th September, 31st December, 31st March, as the case may be) a report of progress made under the Development Programme up to the end of the calendar quarter with respect to which such report is made, together with reports specifying the amount and manner in which E.C.A. advances and sterling credits extended hereunder have been expended to such date, shall be submitted to E.C.A. by the Government of the United Kingdom and by or on behalf of the Rhodesia Railways respectively. The reports shall be in such form and with such supporting data as E.C.A. may reasonably require. The first such reports shall be submitted within sixty (60) days from the end of the calendar quarter following that during which the first advance is made, and the last such reports shall be submitted within one year after the date of the last drawing against the said sterling credits or at the end of the calendar quarter which follows the calendar quarter in which the Development Programme is completed, whichever date shall be the earlier.

2. Within fifteen (15) days following the end of each calendar month during which the provisions with respect to deliveries of coal set forth in Article 5 are in force under the provisions of this Agreement, reports shall be furnished to E.C.A. by the Government of Southern Rhodesia of the total actual saleable production of coal and coke at Wankie during the previous calendar month, and of the tonnage of coal and coke hauled from Wankie to the copper mines in Northern Rhodesia by the Rhodesia Railways in such month.

3. If any part of the sterling credits extended against E.C.A. advances is not used in accordance with paragraph 2 of Article 4 of this Agreement, then E.C.A. shall have the right to obtain immediate repayment from the Government of the United Kingdom of an equivalent part of the E.C.A. advances together with interest thereon as provided in Article 3 of this Agreement.

4. During the progress of the Development Programme and until one year after the completion thereof shall have been certified to E.C.A. by or on behalf of the Rhodesia Railways, duly authorised representatives of E.C.A. shall have reasonable access at all times during business hours to the properties of the Rhodesia Railways involved in the Development Programme and to the books and records of the Rhodesia Railways relating to the Development Programme, and shall be furnished with such additional information in the possession of the Governments of Southern and Northern Rhodesia relating to the Development Programme as E.C.A. may reasonably request.

ARTICLE 7

Repayment of advances

1. Repayment of all E.C.A. advances together with interest thereon as hereinbefore provided under this Agreement shall be made by the Government of the United Kingdom to E.C.A. in such amounts and on such dates as the Government of the United Kingdom shall determine, except that in

no event shall such repayment be made in smaller percentages or at later dates than those set forth below:

<i>Percentage of total Pounds Sterling Advance on Non-Cumulative Basis</i>	<i>To be paid not later than—</i>
One (1%) per cent. of principal amount then outstanding	31st December, 1951
Three (3%) per cent. of principal amount then outstanding	31st December, 1952
Eight (8%) per cent. of principal amount outstanding 31st December, 1953	1st January, 1954
Nine (9%) per cent. " " "	1st January, 1955
Nine (9%) per cent. " " "	1st January, 1956
Nine (9%) per cent. " " "	1st January, 1957
Nine (9%) per cent. " " "	1st January, 1958
Eight (8%) per cent. " " "	1st January, 1959
Eight (8%) per cent. " " "	1st January, 1960
Eight (8%) per cent. " " "	1st January, 1961
Eight (8%) per cent. " " "	1st January, 1962
Eight (8%) per cent. " " "	1st January, 1963
Eight (8%) per cent. " " "	1st January, 1964
Balance to be paid not later than	1st January, 1965

2. Payment of all interest accrued shall be made on each date that any repayment of principal is made. If repayment is made in materials as contemplated under paragraphs 3 and 4 of this Article, the value of the materials making up each delivery shall first be applied in satisfaction of all interest then due and payable as provided in Article 3 of this Agreement.

The date of repayment, when made in materials, shall be the date of delivery of the materials to the Government of the United States.

3. Repayment of the E.C.A. advances and the interest thereon shall be made within the minimum repayment schedule set forth in paragraph 1 of this Article, by the delivery at African Ports to the Government of the United States of materials produced within Southern and Northern Rhodesia and required as a result of deficiencies or potential deficiencies in the United States. The kinds and quantities of materials to be delivered and the valuation and other terms relating to the deliveries thereof shall be subject to negotiation between the parties to this Agreement or their agents from time to time during the currency of this Agreement. Repayment shall be made in pounds sterling to the extent that the parties fail to reach mutually satisfactory arrangements for repayment, in whole or in part, in materials on or before any due date under the minimum repayment schedule in paragraph 1 of this Article.

4. The parties to this Agreement declare it to be their intent that repayment of the E.C.A. advances with interest thereon shall be made in materials to the fullest extent possible and that they shall use their best efforts to carry out this intent.

ARTICLE 8

Suspension of performance

The parties to this Agreement shall not be responsible for delays, failures or omissions due to any cause beyond their control which cannot be overcome by due diligence. In the event that any such cause shall occur the

time for performance shall be extended for a period not to exceed the length of the period during which the cause exists. Notice shall be given to the Government to whom performance is due concerning any cause for delays, failures or omissions. If suspension of performance pursuant to this Article exceeds six (6) months from the time such notice is given, the parties will promptly consult with a view to determining what further period of suspension may be required, or what modification of this Agreement may be necessary and mutually desirable, in view of the circumstances then existing.

ARTICLE 9

Partial performance

The failure of a party to insist, in any one or more instances, upon performance of any of the terms or conditions of this Agreement shall not be construed as a waiver or relinquishment of its rights to insist upon the future performance of any such terms or conditions.

ARTICLE 10

Failure in performance

In the event that repayment of any E.C.A. advances, together with interest thereon, is not made as provided in this Agreement, the entire amount of such E.C.A. advances which shall not theretofore have been repaid, together with interest thereon, shall become immediately due and payable to the Government of the United States. Such payment shall be made in materials produced within Southern and Northern Rhodesia to the fullest extent possible if the Government of the United States shall then so request and, otherwise, in pounds sterling.

ARTICLE 11

Notices

All notices provided for by this Agreement shall be in writing and shall be effective when mailed or despatched. Unless and until the parties to this Agreement designate otherwise, notices to the Government of the United States may be sent to the E.C.A. Special Mission to the United Kingdom at its offices in London, and notices sent by that Government may be sent to the Secretary of His Majesty's Treasury in London.

ARTICLE 12

No Member of Congress to benefit

No member of or delegate to the Congress of the United States or United States Resident Commissioner shall be admitted to any share or part of this Agreement or to any benefit arising therefrom, but this provision shall not be construed to extend to this Agreement if made with a corporation for its general benefit.

ARTICLE 13

Interpretation

In this Agreement—

- (a) every reference to E.C.A. shall include a reference to successor agencies of E.C.A. ;
- (b) “the Rhodesia Railways” means the body corporate established and incorporated under the Rhodesia Railways Act, 1949, of Southern Rhodesia, and operating under that Act, the Rhodesia Railways Ordinance, 1949, of Northern Rhodesia and the Railway Proclamation, 1949, of the High Commissioner for Basutoland, the Bechuanaland Protectorate, and Swaziland.

ARTICLE 14

Termination of Agreement

This Agreement shall terminate upon repayment of all amounts advanced together with interest thereon in accordance with the provisions of this Agreement, provided, however, that—

- (i) Article 5, paragraph 1, shall in any event remain in force for a period of at least three years from the date of this Agreement ;
- (ii) that Article 6, paragraph 1, shall remain in force until the last reports provided for therein shall have been submitted.

ARTICLE 15

Legislative action

The Governments of Southern and Northern Rhodesia shall introduce into their respective legislatures such legislation as may be necessary to implement the obligations imposed by this Agreement as soon as possible after the date of this Agreement. If such legislation is not enacted within twelve months of the date of this Agreement, this Agreement shall thereupon become null and void and the principal amounts advanced hereunder by E.C.A. together with simple interest thereon at the rate of 2½ per cent. per annum shall thereupon be paid by the Government of the United Kingdom in pounds sterling to the Government of the United States.

ARTICLE 16

Entry into force

This Agreement shall enter into force on the date of signature thereof.

In witness whereof, the representatives of the Government of the United Kingdom and the Government of the United States of America, being duly authorised to that effect, have executed this Agreement; and the representatives of the Governments of Southern Rhodesia and Northern Rhodesia, being duly authorised, have also signed this Agreement in signification of their concurrence therein.

Done in duplicate at London the 18th day of July, 1951.

For the Government of the United Kingdom :

HERBERT MORRISON,
His Majesty's Principal Secretary of State for Foreign Affairs.

For the Government of the United States :

WILLIAM L. BATT,
Chief of the Special Mission to the United Kingdom of the Economic Co-operation Administration.

For the Government of Southern Rhodesia :

K. M. GOODENOUGH,
High Commissioner for Southern Rhodesia in the United Kingdom.

For the Government of Northern Rhodesia :

H. K. McKEE,
Commissioner for Northern Rhodesia in London.

SCHEDULE

I.—PREFATORY NOTE

1. Constitution

The Rhodesia Railways is a statutory corporation established by the Rhodesia Railways Act, 1949, of the Colony of Southern Rhodesia.

The Rhodesia Railways owns and, subject as mentioned below, operates the system of railways serving the territories of Southern Rhodesia, Northern Rhodesia and the Bechuanaland Protectorate.

Under the Rhodesia Railways Act, 1949, of Southern Rhodesia and concurrent legislation of Northern Rhodesia and the Bechuanaland Protectorate, the Rhodesia Railways is charged with the duty of providing an efficient and adequate system of public transport of goods and passengers by rail within the territories concerned. The legislation in each territory specifically provides that it shall be the duty of the Rhodesia Railways to take such steps as it considers necessary for extending and improving existing and future rail transport facilities. It is expressly laid down that the Rhodesia Railways shall administer its undertaking on business principles and with due regard to the needs of the public and the development of agriculture, commerce, industry and mining by means of cheap and efficient transport.

The general policy of the Rhodesia Railways is determined by a body known as the Higher Authority. This body consists of the Prime Minister of Southern Rhodesia, the Governor of Northern Rhodesia, the High Commissioner for Basutoland, the Bechuanaland Protectorate and Swaziland, and a Minister of the Crown in Southern Rhodesia appointed by the Governor of that Colony.

The Higher Authority appoints the Board of the Rhodesia Railways and its General Manager. It is the function of the Board to conduct and manage the business of the Rhodesia Railways in accordance with the policy determined by the Higher Authority. The General Manager is the Chief Executive Officer of the Rhodesia Railways and it is his function generally to direct the regulation, maintenance and operations of the Rhodesia Railways.

The Governments of the three territories are ultimately responsible for any financial deficiency in the operations of the Rhodesia Railways.

2. The System

The Rhodesia Railways System comprises 2,498½ track miles which includes all the railways in the three territories and the line from the southern boundary of the Bechuanaland Protectorate to Vryburg in the Union of South Africa.

The line from Vryburg to Bulawayo is managed and operated for the Rhodesia Railways by the South African Railways and Harbour Board Administration.

3. External Communications

The system connects the three territories with the Union Ports and Lourenço Marques (to the South); with the Beira Railway and the Port of Beira (to the East); with the Belgian Congo Railway System and Lobito Bay via the Benguela Railway (to the North-West).

The Beira route provides the short route from the Rhodesias to the sea. Beira is the chief port for the Rhodesias and the bulk of their imports and exports go by this route.

Special rate arrangements (to which the Portuguese Authorities as regards the Beira Railway are a party) are in force in respect of traffic over the Beira

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route to and from the copper mines of Northern Rhodesia. Under the Beira Convention, 1950,⁽¹⁾ the Portuguese Government has undertaken to effect certain improvements to the port facilities at Beira.

4. Development

In order to meet the ever-increasing demands of the growing economies of the three territories, the Rhodesia Railways has put in hand the programme of developments referred to in the Agreement to which this Memorandum is annexed. One of the main objects of the programme is to improve the facilities for the carriage of coal from Wankie in Southern Rhodesia and thus to assist the expansion of the production of copper and other strategic raw materials in the Rhodesias.

II.—DEVELOPMENT PROGRAMME

1. The following table sets forth the estimated expenditures to carry out the general improvement of railway equipment and installations required to meet expansion of traffic generated within the traffic area of the Railways. The table indicates expenditures as from 1st April, 1950, through 31st December, 1953:—

	<i>Capital</i>	<i>Betterment</i>	<i>Renewals</i>	<i>Total</i>
	£	£	£	£
Traffic and operating facilities ...	1,812,162	83,454	44,700	1,940,316
Passenger amenities	950	112,760	—	113,710
African housing	763,655	69,655	—	833,310
European housing	1,392,490	19,562	26,147	1,438,199
Renewals of permanent way and bridges	632,027	—	2,298,743	2,930,770
Workshops, stores, engine sheds, &c.	1,049,482	27,752	56,608	1,133,842
Administrative buildings and general requirements	32,422	71,050	2,000	105,472
Staff amenities	8,672	173,027	5,000	186,699
Locomotives and rolling-stock	6,708,190	48,300	692,251	7,448,741
Motor vehicles	103,600	—	46,300	149,900
Branch lines, deviations and extensions	557,267	686,340	230	1,243,837
Land	9,650	30,000	—	39,650
Water supplies	511,220	48,768	94,424	654,412
Allow for unforeseen works	65,000	5,000	—	70,000
Total	13,646,787	1,375,668	3,266,403	18,288,858

2. The railways propose to finance the above programme approximately as follows (all figures as of 1st April, 1950):—

	<i>£ million</i>
(i) Cash on hand and liquid assets	1·31
(ii) Future appropriations from Revenue Account to Betterment and Depreciation and Renewals Accounts; these appropriations must depend upon the earnings of the Railways and <i>may</i> , at the maximum, amount to	3·50
(iii) Stock of materials, &c., including permanent way materials, part of which may be regarded as being held on behalf of the programme; estimated value	·77
Estimated total value of liquid or semi-liquid assets	5·58
(iv) Estimated balance of new money to be found from outside the Railways	12·71
<i>Less</i> anticipated Northern Rhodesian Government Loan	7·50
Advance by E.C.A.	5·00
Balance	·21

⁽¹⁾ "Treaty Series No. 61 (1950)," Cmd. 8061.

3. Rolling-stock ordered and to be ordered as of 31st March, 1950:—

(i) Locomotives and rolling-stock ordered but not financed:

	£	£
Locomotives	1,297,000	
Coaches	1,692,590	
Wagons	490,100	
	<u>3,479,690</u>	3,479,690

(ii) Locomotives and rolling-stock likely to be required under the programme but not yet ordered:

	£	
Locomotives	199,551	
Coaches	1,524,300	
Wagons	966,000	
	<u>2,689,851</u>	2,689,851

(iii) Locomotives and rolling-stock ordered and paid for in part, showing balance for payment after 31st March, 1950:

	£	
Locomotives	749,000	
Coaches	17,600	
Wagons	512,600	
	<u>1,279,200</u>	1,279,200

(iv) Other equipment likely to be ordered from overseas—a rough estimate is

... ..	4,000,000
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(v) Estimated total value of overseas orders

... ..	11,448,741
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EXCHANGE OF LETTERS

No. 1

The Secretary of State for Foreign Affairs to the Chief of the Special Mission to the United Kingdom of the Economic Co-operation Administration

*Foreign Office,
18th July, 1951.*

Dear Mr. Batt,

With reference to the undertaking for the allocation of coal production at Wankie set out in Article 5 (1) of the Agreement between His Majesty's Government and the United States Government signed to-day, the Government of Southern Rhodesia, as an earnest of their desire to provide as much coal as possible for the copper mines of Northern Rhodesia, have agreed with the Government of Northern Rhodesia that in addition to the percentage allocation provided for in the Agreement the copper mines of Northern Rhodesia shall be allocated one-half of any coal that remains unallocated after supplying other consumers and after providing for the essential needs of Southern Rhodesia.

For their part His Majesty's Government welcome this undertaking by the Government of Southern Rhodesia and recognise its importance for the achievement of the objectives of to-day's Agreement, especially the objective of increasing production in the copper mines of Northern Rhodesia.

Yours, &c.

HERBERT MORRISON.

No. 2

Chief of the Special Mission to the United Kingdom of the Economic Co-operation Administration to the Secretary of State for Foreign Affairs

*London,
18th July, 1951.*

My dear Foreign Secretary,

I have the pleasure to acknowledge your letter dated to-day which reads as follows:—

[As in No. 1.]

The Economic Co-operation Administration shares the views of His Majesty's Government on the importance of this undertaking by the Government of Southern Rhodesia.

Sincerely yours,

WILLIAM L. BATT.

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