

**THE ORAPA TO FRANCISTOWN ROAD AND TELEPHONE
LINE LOAN AGREEMENT ACT, 1969**

No. 27



of 1969

**AN ACT TO RATIFY AND CONFIRM AN AGREEMENT ENTERED INTO BETWEEN
THE GOVERNMENT, DE BEERS HOLDINGS LIMITED AND DE BEERS PROS-
PECTING BOTSWANA (PTY.) LIMITED**

Date of Assent: 8.7.69.

Date of Commencement: 1.8.69.

ENACTED by the Parliament of Botswana.

Short Title

1. This Act may be cited as the Orapa to Francistown Road and Telephone Line Loan Agreement Act, 1969.

Interpretation

2. In this Act "agreement" means the agreement entered into between the Government, De Beers Holdings Limited and De Beers Prospecting Botswana (Pty.) Limited on the 13th May, 1969, the text whereof is set out in the Schedule.

Agreement Ratified and Confirmed

3. The Agreement is ratified and confirmed.

Sums Required Charged on Consolidated Fund

4. All sums required to meet payments due by the Government under the agreement are charged on and shall be paid out of the Consolidated Fund.

SCHEDULE
(Section 2)

MEMORANDUM OF AGREEMENT

Entered into between

THE GOVERNMENT OF THE REPUBLIC OF BOTSWANA

represented herein by the Permanent Secretary, Ministry of Works and Communications (hereinafter referred to as "the Government") of the first part,

and

DE BEERS HOLDINGS LIMITED

a company incorporated with limited liability under the laws of the Republic of South Africa whose registered office and principal place of business is at 44 Main Street, Johannesburg and represented herein by ANTHONY WILSON duly authorised in terms of the attached certified copy of a resolution (marked A) of the Directors of the Company dated the twelfth day of May, 1969 (hereinafter referred to as "the Holding Company") of the second part,

and

DE BEERS PROSPECTING BOTSWANA (PTY.) LIMITED

a company incorporated with limited liability under the laws of the Republic of Botswana whose registered office and principal place of business is at Tswana House, The Mall, Gaborone, and represented herein by WALTER CURLEWIS KROGH duly authorised in the terms of the attached certified copy of a resolution (marked B) of the Directors of the Company dated the 8th day of May, 1969 (hereinafter referred to as "the Prospecting Company") of the third part.

WHEREAS a discovery of diamonds has been made at or near Orapa in the Bamangwato Tribal Territory;

AND WHEREAS a Company (hereinafter referred to as the "Mining Company") is to be formed for the purpose of exploiting such discovery;

AND WHEREAS it has been agreed that the Government is to hold fifteen per centum of the equity of such Mining Company;

AND WHEREAS it is the intention of the Government to construct a road and overhead telephone line from Francistown to Orapa by way of Matsitama (hereinafter referred to as "the road" and "the telephone line") to enable the said discovery to be exploited as aforesaid and to improve communications;

AND WHEREAS the Prospecting Company has incurred, prior to the date of this Agreement, certain expenditure on behalf of the Government in respect of preparatory works in connexion with the construction of the road.

NOW THEREFORE be it agreed as follows —

1. The Holding Company agrees to lend the Government the monies required by the Government for the construction of the road (including preliminary surveys, the cutting of traces, the calling of tenders, the preparation of contract documents and all other charges of whatsoever nature connected therewith) and for the erection of the telephone line up to a total amount of R2,300,000 (excluding any interest which may be capitalised and become part of the loan in accordance with the provisions of clause 3 hereof) which monies shall be paid to the Government on demand in Gaberones as and when required by the Government: Provided that in any event the Government shall not expend more than R2,250,000 of the sum borrowed on the construction of the road: And provided further that the Government shall not demand any monies to be paid under this Agreement unless such monies are required forthwith by the Government for the purposes set out in this Agreement.

2. The loan shall be free of interest for a period of two years from the date of this Agreement. For the next three years thereafter, interest shall accrue on the outstanding balance of the monies lent as aforesaid at the rate of 6½ per centum per annum: Provided that if in respect of any such year the sum which represents one half of the dividend payable to the Government by the Mining Company in respect of that year is less than the sum which represents the interest in respect of such year calculated at the rate of 6½ per centum per annum on the outstanding balance, then the sum representing one half of the said dividend shall be the interest payable in respect of such year.

3. After five years from the date of this Agreement interest will accrue upon the outstanding balance of the monies lent as aforesaid at the rate of 6½ per centum per annum: Provided that if in respect of any year after the fifth year the sum which is one half of the dividend paid to the Government by the Mining Company in respect of such year is less than the sum which is the interest calculated at the rate of 6½ per centum per annum on the outstanding balance in respect of such year, then the sum which is one half of the dividend shall be paid as interest and the amount of the difference between such sums shall be capitalised and become part of the loan.

4. Interest, where payable, shall be due and payable to the Holding Company in accordance with the provisions of clauses 2 and 3 annually upon the anniversary of the date of signing of this Agreement by the Government.

5. The capital sum of the loan including any interest which may be capitalised in accordance with the provisions of clause 3 hereof shall be repayable by the Government to the Holding Company in annual instalments commencing on the sixth anniversary of the date of the signing of this Agreement by the Government the amount of each instalment being such sum which together with such interest

as shall be payable under this Agreement amounts to one half of the dividend (if any) paid by the Mining Company to the Government in respect of the sixth and any subsequent year.

6. The Government may at any time discharge its obligations under this Agreement by tendering to the Holding Company the outstanding balance of the capital sum owing under this Agreement together with the interest accruing under this Agreement to the date of such tender.

7. Monies expended by the Prospecting Company prior to the date of this Agreement on behalf of the Government in respect of preparatory work in connexion with the construction of the road shall be repayable by the Government to the Holding Company and shall for the purposes of this Agreement be deemed to be monies lent by the Holding Company to the Government in accordance with provisions of clause 1 upon the date of the signing of this Agreement by Government.

8. This Agreement shall come into force on the date of its ratification by Act of Parliament.

THUS DONE and SIGNED on behalf of THE GOVERNMENT OF THE REPUBLIC OF BOTSWANA at Gaborones on the 13th day of May, 1969 in the presence of the undersigned witnesses:

AS WITNESSES

1. Walter Dockray Scott
2. Mary Elizabeth Watson

NORMAN ARTHUR BAGULEY,
Permanent Secretary
Ministry of Works & Communications.

THUS DONE and SIGNED on behalf of DE BEERS HOLDINGS LIMITED at Johannesburg on the 12th day of May, 1969 in the presence of the undersigned witnesses:

AS WITNESSES

1. The Honourable Gilpatrick Devlin.
2. Heather A. Watt

A. WILSON,
Director.

THUS DONE and SIGNED on behalf of DE BEERS PROSPECTING BOTSWANA (PTY.) LIMITED at Gaborones on the 12th day of May, 1969 in the presence of the undersigned witnesses:

AS WITNESSES

1. Stephanus Johannes Paulus Kruger
2. Micheal Godfrey Everson.

W.C. KROGH,
Director.

COPY OF A RESOLUTION PASSED BY THE BOARD OF DIRECTORS OF DE BEERS HOLDINGS LIMITED AT 44 MAIN STREET, JOHANNESBURG, on 12th May, 1969.

**LOAN AGREEMENT WITH THE GOVERNMENT OF
THE REPUBLIC OF BOTSWANA**

The secretaries having submitted a draft agreement to be entered into between the Government of the Republic of Botswana, De Beers Prospecting Botswana (Proprietary) Limited and the company in terms of which the company will make available loan facilities of up to R2,300,000 to the Government of Botswana to finance the cost of constructing a road and an overhead telephone line from Francistown to Orapa, it is

RESOLVED that the draft agreement, as submitted, be hereby approved and adopted and that it be signed for and on behalf of the company by Mr. Anthony Wilson in his capacity as a director of the company.

Certified a true copy :
ANGLO AMERICAN CORPORATION OF SOUTH AFRICA LIMITED
Secretaries

per **D.P. PATON**
Companies Secretary

JOHANNESBURG.
12th May, 1969.

CERTIFIED EXTRACT OF A RESOLUTION OF DIRECTORS OF DE BEERS PROSPECTING BOTSWANA (PROPRIETARY) LIMITED PASSED AT GABERONES on 8th May, 1969.

**LOAN AGREEMENT WITH THE GOVERNMENT OF
THE REPUBLIC OF BOTSWANA**

The Secretaries having submitted a draft agreement to be entered into between the Government of the Republic of Botswana, De Beers Holding Limited and the

company, providing for loan facilities to be made available to the Government by the company's holding company of up to R2,300,000 for the construction of a road and overhead telephone line from Francistown to Orapa,

RESOLVED that the Agreement as submitted be and it is hereby approved and adopted and that it be signed by Mr. W.C. Krogh in his capacity as a director of the company.

Certified a true extract :
ANGLO AMERICAN CORPORATION BOTSWANA LIMITED
Secretaries

per S.J.P. KRUGER

Passed by the National Assembly this day, the 14th May, 1969.

G.T. MATENGE,
Clerk of the National Assembly