



STAATSKOERANT

VAN DIE REPUBLIEK VAN SUID-AFRIKA

REPUBLIC OF SOUTH AFRICA

GOVERNMENT GAZETTE

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KANTOOR VAN DIE EERSTE MINISTER

No. 1825.

9 September 1981.

Hierby word bekend gemaak dat die Staatspresident sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 61 van 1981: Tweede Spoorwegaanlegwet, 1981.

OFFICE OF THE PRIME MINISTER

No. 1825.

9 September 1981.

It is hereby notified that the State President has assented to the following Act which is hereby published for general information:—

No. 61 of 1981: Second Railway Construction Act, 1981.

ACT

To provide for the construction and equipment of a certain line of railway and for matters incidental thereto.

*(Afrikaans text signed by the State President.)
(Assented to 18 August 1981.)*

BE IT ENACTED by the State President and the House of Assembly of the Republic of South Africa, as follows:—

Construction and equipment of a certain line of railway.

1. (1) The State President may, as soon after the commencement of this Act as to him may seem expedient, cause to be constructed and equipped, upon a gauge of one thousand and sixty-five millimetres, a line of railway of a length of approximately thirteen kilometres between Broodsniersplaas and a terminal point on the Farm Hartbeestfontein 339 JS in the Magisterial District of Middelburg (Province of Transvaal), at a gross cost of approximately twelve million rand. 5

(2) The powers conferred by this section shall include the power to construct and equip all sidings, stations, buildings and other appurtenances necessary for or incidental to the proper working of the said line of railway.

(3) The expression "construct and equip" shall include 15 "maintain" while the line is in the course of construction and equipment.

2. The cost of construction and equipment of the line of railway authorized by section 1 shall be defrayed out of money that shall be made available by BP Southern Africa (Proprietary) Limited. 20

3. In respect of the construction and equipment of the said line of railway, the State President shall have the powers conferred by the Railways and Harbours Control and Management (Consolidation) Act, 1957 (Act No. 70 of 1957), and the 25 Expropriation Act, 1975 (Act No. 63 of 1975), but subject to the obligations imposed by these Acts: Provided that the width of the land taken for the construction of the line shall not exceed thirty-five metres together with such additional land as may be required for the slopes, cuttings, drainage, stations, approach 30 roads and other works and matters which may be necessary for the purposes of the line.

4. The agreement concluded on 29 June/3 July 1981 between the Government of the Republic in its Railways and Harbours Administration (hereunder called "the Administration") and BP 35 Southern Africa (Proprietary) Limited, a copy of which is set out in the Schedule to this Act, is hereby ratified and confirmed, and the Administration is hereby empowered to do whatever may be necessary to give effect to the said agreement.

Ratification of the agreement relating to the line of railway.

5. This Act shall be called the Second Railway Construction 40 Act, 1981.

Short title.

WET

Om voorsiening te maak vir die aanlê en uitrus van 'n sekere spoorlyn en vir sake wat daarmee in verband staan.

*(Afrikaanse teks deur die Staatspresident geteken.)
(Goedgekeur op 18 Augustus 1981.)*

DAAR WORD BEPAAL deur die Staatspresident en die Volksraad van die Republiek van Suid-Afrika, soos volg:

1. (1) Die Staatspresident kan, so spoedig na die inwerking-treding van hierdie Wet as wat hy doenlik ag, 'n spoorlyn, met 'n spoorwydte van eenduisend en vyf-en-sestig millimeter en 'n lengte van ongeveer dertien kilometer, tussen Broodsnystersplaas en 'n eindpunt op die plaas Hartbeestfontein 339 JS in die landdrosdistrik Middelburg (Provinsie Transvaal), laat aanlê en uitrus teen 'n bruto koste van ongeveer twaalf miljoen rand.
- 5 (2) Die bevoegdhede deur hierdie artikel verleen, sluit die bevoegdheid in om alle slyne, stasies, geboue en ander toebehore wat vir die behoorlike eksplotasie van die gemelde spoorlyn nodig is of daarmee in verband staan, aan te lê en uit te rus.
- 10 (3) Die uitdrukking „aanlê en uitrus“ omvat „in stand hou“ onderwyl die spoorlyn aangelê en uitgerus word.
- 15 2. Die koste van die aanlê en uitrus van die spoorlyn wat deur artikel 1 gemagtig word, word bestry uit geld wat deur BP Southern Africa (Proprietary) Limited beskikbaar gestel word.
- 20 3. Ten opsigte van die aanlê en uitrus van bedoelde spoorlyn het die Staatspresident die bevoegdhede verleen deur die Konsolidasiewet op die Beheer en Bestuur van Spoorweë en Hawens, 1957 (Wet No. 70 van 1957), en die Onteieningswet, 1975 (Wet No. 63 van 1975), maar onderhewig aan die verpligtings deur bedoelde Wette opgelê: Met dien verstande dat die breedte van die grond wat vir die bou van die spoorlyn geneem word, nie vyf-en-dertig meter mag oorskry nie, tesame met soveel bykomende grond as wat nodig mag wees vir die hellings, deurgrawings, dreinering, stasies, toegangspaaie en ander werke en aangeleenthede wat vir die doeleindes van die spoorlyn nodig mag wees.
- 25 4. Die ooreenkoms aangegaan op 29 Junie/3 Julie 1981 tussen die Regering van die Republiek in sy Administrasie van Spoorweë en Hawens (hieronder „die Administrasie“ genoem) en BP Southern Africa (Proprietary) Limited, waarvan 'n vertaling in die Bylae by hierdie Wet opgeneem is, word hierby bekragtig en bevestig, en die Administrasie word hierby gemagtig om te doen wat ook al nodig mag wees om aan genoemde ooreenkoms uitvoering te gee.
- 30 5. Hierdie Wet heet die Tweede Spoorwegaanlegwet, 1981. Kort titel.
- Bekragtiging van die ooreenkoms met betrekking tot die spoorlyn.

Act No. 61, 1981**SECOND RAILWAY CONSTRUCTION ACT, 1981****Schedule**

MEMORANDUM OF AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF SOUTH AFRICA IN ITS RAILWAYS AND HARBOURS ADMINISTRATION, OF THE ONE PART, AND BP SOUTHERN AFRICA (PROPRIETARY) LIMITED, OF THE OTHER PART

MEMORANDUM OF AGREEMENT made and entered into between the GOVERNMENT OF THE REPUBLIC OF SOUTH AFRICA in its RAILWAYS AND HARBOURS ADMINISTRATION (hereinafter referred to as "the Administration"), herein represented by the MINISTER OF TRANSPORT AFFAIRS of the Republic of South Africa, of the one part, and BP SOUTHERN AFRICA (PROPRIETARY) LIMITED, being a company incorporated with limited liability under the Companies Act, 1973 (hereinafter referred to as "the Company"), of the other part.

WHEREAS the Company has offered to construct and equip, at its own cost, and has petitioned the Administration to maintain and work, a line of railway of a gauge of one thousand and sixty-five (1 065) millimetres from Broodsniersplaas station to a terminal point on the farm Hartbeestfontein 339 JS situated in the Magisterial District of Middelburg, Province of the Transvaal, a distance of approximately thirteen (13) kilometres (hereinafter referred to as "the railway") for the conveyance of traffic to and from an area in which the Company is carrying on, or is otherwise interested in, certain mining operations;

AND WHEREAS the Administration has agreed, if and when authorized by Parliament to do so, to expropriate the land required for the construction of the railway at the cost of the Company, or to acquire it in some other manner, and to allow the Company to construct and equip the railway, including any alterations and/or additions required at the existing Broodsniersplaas station as a result of the construction of the railway, and thereafter to take over the railway as an asset and maintain and work it subject to the terms and conditions hereinafter set forth;

Now, THEREFORE, the parties do hereby agree as follows:

1. Pending the approval and sanction of Parliament, which the Administration proposes to seek as soon as may be practicable after the execution of this Agreement, the obligations of the Administration under this Agreement shall be taken to be provisional only. Should the construction of the railway not be authorized by Parliament within a period of twelve months after signing hereof, this Agreement shall lapse, unless renewed by mutual consent.

2. (1) After the promulgation of an Act of Parliament authorizing the construction and equipment of the railway and ratifying this agreement, the Administration shall, at the cost of the Company, proceed with all reasonable expedition to expropriate or otherwise acquire the land required for the construction and equipment of the railway: Provided that the Administration shall not be liable for any delay or other problem encountered in acquiring the land required for the construction and equipment of the railway owing to any cause whatever over which the Administration has no control. The nature and amount of compensation, whether in cash or in kind, for and in connection with any land acquired in accordance with this clause shall be determined by the Administration in its sole discretion.

(2) The Administration shall have the right, after consultation with the Company, to construct or provide from time to time, at the Administration's cost, such additional or improved railway tracks or other facilities directly connected with the railway as it may deem necessary to enable it to cope efficiently with any traffic over the railway. The cost of additional or improved railway tracks or other facilities so constructed or provided shall be deemed to form part of the cost of construction and equipment of the railway for the purposes of this Agreement.

3. (1) The estimated capital investment in the construction and equipment of the railway and in connection with the expropriation of the land will amount to approximately twelve million rand (R12 000 000).

(2) The route of the railway and the location of stations and sidings shall be approximately as shown on the plan annexed hereto and signed by both parties.

4. The railway shall be constructed and equipped by the Company according to the standards adopted by the Administration for similar lines and shall be constructed with rails of a mass of not less than fifty-seven (57) kilogram per metre.

5. (1) When the railway is completed and the Administration's Chief Civil Engineer has certified that it is ready for the conveyance of public traffic, it shall forthwith be taken over as an asset of the Administration and opened for the conveyance of public traffic. The Company shall, however, receive no credit or payment in respect of the capital investment in the construction and equipment of the railway on that date but shall, during the period of twenty (20) years mentioned in clause 8 hereof, be compensated for the capital costs involved in the manner set out in clause 7 (1) and, if applicable, clause 8 (2) hereof.

(2) Subject to the provisions of clause 6 hereof, the fares, charges and rates for the conveyance of passengers, parcels, livestock and all classes of goods and related services, shall be those fixed by the Administration from time to time and applicable generally over its railway system, or such special contract rate as may be agreed upon.

(3) Nothing contained in this Agreement shall be deemed to diminish or restrict in any way the Administration's statutory power to fix and alter rates and fares.

6. (1) It is specifically understood that the undermentioned procedure, whereunder a special surcharge shall be levied on the outgoing traffic consigned by or on behalf of the Company and which, *inter alia*, makes provision for the recovery of the capital invested in the expropriation of the land and in the construction and equipment of the railway, has been adopted solely with a view to arriving at a basis on which the capital costs can be recovered on all traffic (excepting passengers, parcels, baggage and mail) consigned over the railway or portion thereof.

(2) Having regard to the terms of subclause (1) of this clause, and subject to the provisions hereinafter set forth, the Company undertakes during the period of twenty (20) years mentioned in clause 8 hereof, to hold itself liable for, and to pay to the Administration, in respect of all traffic (excepting passengers, parcels,

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Bylae

VERTALING VAN MEMORANDUM VAN OOREENKOMS TUSSEN DIE REGERING VAN DIE REPUBLIEK VAN SUID-AFRIKA IN SY ADMINISTRASIE VAN SPOORWEË EN HAWENS, VAN DIE EEN KANT, EN BP SOUTHERN AFRICA (PROPRIETARY) LIMITED, VAN DIE ANDER KANT

MEMORANDUM VAN OOREENKOMS aangegaan tussen die REGERING VAN DIE REPUBLIEK VAN SUID-AFRIKA in sy ADMINISTRASIE VAN SPOORWEË EN HAWENS (hierna „die Administrasie“ genoem), hierin verteenwoordig deur die MINISTER VAN VEROEWERSE van die Republiek van Suid-Afrika, van die een kant en BP SOUTHERN AFRICA (PROPRIETARY) LIMITED, ‘n maatskappy ingelyf met beperkte aanspreeklikheid kragtens die Maatskappywet, 1973 (hierna „die Maatskappy“ genoem), van die ander kant.

NADEMAAL die Maatskappy aangebied het om ‘n spoorlyn met ‘n spoorwydte van enduisend en vyf-en-sestig (1 065) millimeter van Broodsnyersplaasstasie tot by ‘n eindpunt op die plaas Hartbeestfontein 339 JS geleë in die landdrostdistrik Middelburg in die provinsie Transvaal. ‘n Afstand van ongeveer dertien (13) kilometer (hierna „die spoorlyn“ genoem), op eie koste aan te lê en uit te rus en die Administrasie versoeck het om dit in stand te hou en te eksploteer vir die vervoer van verkeer na en van ‘n gebied waarin die Maatskappy sekere mynbouwerksaamhede uitvoer of waarby hy andersins belang het;

EN NADEMAAL die Administrasie ingestem het om, indien en wanneer deur die Parlement daartoe gemagtig, die grond wat vir die aanlē van die spoorlyn nodig is, op koste van die Maatskappy te onteien of op ‘n ander wyse aan te skaf, en die Maatskappy toe te laat om die spoorlyn aan te lê en uit te rus, met inbegrip van enige veranderingen en/of aanbouings wat as gevolg van die aanlē van die spoorlyn by die bestaande Broodsnyersplaasstasie nodig is, en daarna die spoorlyn as ‘n bate oor te neem en in stand te hou en te eksploteer, onderworpe aan die bepalings en voorwaardes hierna uiteengesit:

DERHALWE kom die partye hierby soos volg ooreen:

1. Hangende die goedkeuring en magtiging van die Parlement, wat die Administrasie voornemens is om aan te vra so spoedig doenlik nadat hierdie ooreenkoms gesluit is, word die verpligtings van die Administrasie kragtens hierdie ooreenkoms slegs as voorlopig beskou. As die aanlē van die spoorlyn nie binne ‘n tydperk van twaalf maande na ondertekening hiervan deur die Parlement goedgekeur word nie, verval hierdie ooreenkoms tensy dit met wedersydse toestemming hernuwe word.

2. (1) Na die uitvaardiging van ‘n Parlementsverdrag wat die aanlē en uitrus van die spoorlyn magtig en hierdie ooreenkoms bekratig, moet die Administrasie, op koste van die Maatskappy, met alle redelike spoed voortgaan om die grond te onteien of andersins te verkry wat vir die aanlē en uitrus van die spoorlyn nodig is. Met dien verstaande dat die Administrasie nie aanspreeklik is vir enige vertraging of ander probleem wat ondervind word met die verkrywing van die grond wat nodig is vir die aanlē en uitrus van die spoorlyn weens enige oorsaak hoegenaamd waaroor hy geen beheer het nie. Die aard en bedrag van vergoeding, hetys in geld of goedere, vir en in verband met enige grond wat ooreenkomsdig hierdie klousule bekom word, sal deur die Administrasie na eie goeddunke bepaal word.

(2) Die Administrasie het die reg om, na oorlegpleging met die Maatskappy, van tyd tot tyd sodanige bykomende of verbeterde spoorlyne of ander geriewe wat regstreeks met die spoorlyn in verband staan, op die Administrasie se koste aan te lê of te voorstel as wat hy nodig ag om hom in staat te stel om enige verkeer oor die spoorlyn doeltreffend te vervoer. Die koste van bykomende of verbeterde spoorlyne of ander geriewe wat aldus aangelê of voorsien word, word geag deel uit te maak van die koste van die aanlē en uitrus van die spoorlyn vir die doeleindes van hierdie ooreenkoms.

3. (1) Die geraamde kapitaalbelegging in die aanlē en uitrus van die spoorlyn en in verband met die onteiening van die grond sal ongeveer twaalf miljoen rand (R12 000 000) bedra.

(2) Die roete van die spoorlyn en die ligging van stasies en slyne moet nagenoeg wees soos aangetoon op die bygaande plan wat deur beide partye onderteken is.

4. Die spoorlyn moet deur die Maatskappy aangelê en uitgerus word ooreenkomsdig die standarde wat deur die Administrasie vir soortgelyke lyne aanvaar is en moet gebou word met spoorstawe van minstens sewe-en-vyftig (57) kilogram per meter.

5. (1) Wanneer die spoorlyn voltooi is en die Administrasie se Siviele Hoofingenieur gesertifiseer het dat dit gereed is vir die vervoer van openbare verkeer, moet dit onverwyld as ‘n bate van die Administrasie oorgeneem en vir die vervoer van openbare verkeer oopgestel word. Die Maatskappy ontvang egter geen krediet of betaling ten opsigte van die kapitaalbelegging in die aanlē en uitrus van die spoorlyn op daardie datum nie, maar moet gedurende die tydperk van twintig (20) jaar in klousule 8 hiervan genoem, vergoed word vir die betrokke kapitaalkoste op die wyse in klousule 7 (1) en, indien van toepassing, ook klousule 8 (2) hiervan uiteengesit.

(2) Onderworpe aan die bepalings van klousule 6 hiervan is die reisgeld, koste en tariewe vir die vervoer van passasiers, pakkette, lewende hawe en alle soorte goedere en vir aanverwante dienste, dieselfde as dié wat die Administrasie van tyd tot tyd vasstel en wat in die algemeen op sy spoorweë van toepassing is, of sodanige spesiale kontraktarief as waaroor ooreengekom mag word.

(3) Geen bepaling in hierdie ooreenkoms word geag hoegenaamd aan die Administrasie se wetteregtelike bevoegdheid om tariewe en reisgeld vas te stel en te verander, afbreuk te doen of dit te beperk nie.

6. (1) Daar word uitdruklik verstaan dat die ondergenoemde prosedure waarvolgens ‘n spesiale ekstrakoste gehef moet word op die uitgaande verkeer wat deur of ten behoeve van die Maatskappy versend word en wat onder andere voorsiening maak vir die verhaling van die kapitaal wat ten opsigte van die onteiening van die grond en die aanlē en uitrus van die spoorlyn bestee is, alleenlik aangeneem is met die oog daarop om ‘n grondslag te vind waarop die kapitaalkoste verhaal kan word op alle verkeer (behalwe passasiers, pakkette, bagasie en pos) wat oor die spoorlyn of ‘n gedeelte daarvan versend word.

(2) Met inagneming van die bepalings van subklousule (1) van hierdie klousule en onderworpe aan die bepalings hierna uiteengesit, onderneem die Maatskappy om gedurende die tydperk van twintig (20) jaar in klousule 8 hiervan genoem, ten opsigte van alle verkeer (behalwe passasiers, pakkette, bagasie en pos) wat

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baggage and mail) consigned by it or on its behalf by train over the railway or a portion thereof in the direction of Broedsnyersplaas, a special surcharge, as hereinafter provided in addition to the normal tariff prescribed from time to time in the Official Railway Tariff Book for the conveyance of such commodity over the Administration's railway system generally. It is agreed that if it should become evident that the level of the surcharge is materially affected by the conveyance of passengers, parcels, baggage and mail, the Administration shall take steps to also levy a special surcharge on this traffic, the amount of which the Administration will determine in the light of circumstances. The moneys accruing to the Administration from such special surcharge shall be used to—

- (a) defray any losses which, during the period of twenty (20) years, may be sustained in the working of the railway on the basis set out in clause 5 (2) hereof, it being specifically understood that the cost of the capital invested in the railway by the Company shall not be taken into account in determining such operating loss; and
- (b) recover the capital invested in the expropriation of the land and in the construction and equipment of the railway, including interest charges at thirteen (13) per cent per annum on the remaining balance of the said capital investment, within the period of twenty (20) years referred to in clause 8 hereof, or until such time as the capital invested by the Company has been accounted for, whichever is the shortest.

(3) From the date on which the railway is opened for the conveyance of public traffic, the special surcharge mentioned in subclause (1) of this clause shall initially be levied at the rate of seventeen (17) cents per one hundred (100) kilogram. On the first day of April and October of each year for so long as may be necessary in accordance with subclause (2) of this clause, the Administration shall, in consultation with the Company, review the rate at which the aforementioned special surcharge is levied to ensure that the amount accruing to the Administration during the financial year in question by way of the special surcharge in terms of this clause and clause 11 hereof, shall tally, as nearly as may be, with the amount by which the working costs of the railway plus the amounts required in terms of subclause (2) (b) of this clause exceed the revenue derived from the railway before taking into account the amount accruing from the aforementioned special surcharge. Depending on what may seem to be necessary to attain this object, the rate of the aforementioned special surcharge shall at the time of such review, be either increased or decreased or left unchanged for the ensuing period of six months.

7. (1) The Administration undertakes to—

- (a) credit and pay to the Company monthly, that portion of the special surcharge provided for in clause 6 (2) (b) hereof, calculated on outgoing traffic consigned over the railway by or on behalf of the Company; and
- (b) credit and pay to the Company, at the end of each of the Administration's financial years, that portion of the tariff rate and/or special surcharge which represents contributions towards the capital costs of the capital invested by the Company in construction and equipment of the railway, calculated at an interest rate of thirteen (13) per cent per annum on the remaining balance of the said capital investment, in respect of all traffic consigned over the line, but excluding the credit allowed for under subclause (1) (a) of this clause.

(2) It is agreed that, should the capital invested by the Company in the construction and equipment of the railway be fully accounted for before the expiry date of the period of twenty (20) years mentioned in clause 8 hereof, the Company shall not be entitled to any further credits in respect of capital costs, and the portion of the special surcharge provided for in clause 6 (2) (b) hereof shall be withdrawn.

8. (1) From the date of opening of the railway for public traffic and for each of the Administration's financial years thereafter for a period of twenty (20) years, the Administration shall prepare and maintain accounts to indicate the results of working the railway, and a copy of each annual statement shall be supplied to the Company at its office(s) in Johannesburg as soon as practicable after the closing of each financial year.

The accounts shall be prepared in accordance with the Administration's usual accounting practice and the annual statement shall give particulars of expenditure and revenue as well as of the amount of the capital investment accounted for, as referred to in clause 6 (2) (b) hereof.

(2) If, in any financial year, the results of the working of the railway referred to in clause 6 (2) (a) hereof, calculated in accordance with subclause (1) of this clause, show a surplus, such surplus shall be credited and paid to the Company in the same manner as provided for in clause 7 (1) (b) hereof until the capital invested in the construction and equipment of the railway has been fully accounted for. The Company shall, however, have no claim thereto after the said capital investment has been fully accounted for, and during the remainder of the said period of twenty (20) years such surpluses shall be retained by the Administration.

(3) If, in any year, the results of the working of the railway, referred to in clause 6 (2) (a) hereof, show a loss, as assessed by the Administration in accordance with its usual accounting practice, the Company undertakes to make good such loss to the Administration, within thirty (30) days after it has been notified by the Administration of the amount of such loss. Interest based on the rate applicable to the Administration's latest permanent investment made within the preceding twelve months, or if no investment was made, at the rate of interest applicable to the latest permanent investment made by the Public Debt Commissioners during the said period, shall be payable by the Company on any amounts outstanding in respect of working losses after the said period of thirty (30) days has lapsed.

9. (1) Settlement between the parties to the Agreement shall be effected at the end of the period of twenty (20) years referred to in clause 8 hereof.

(2) If the results of the working of the railway, referred to in clause 6 (2) (a) hereof, for the period from the closing date of the last whole financial year of the Administration within the period of twenty (20) years up to the date on which the said period of twenty (20) years expires, show a loss, as assessed by the

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deur of ten behoewé van hom per trein in die rigting van Broedsnyersplaas oor die spoorlyn of 'n gedeelte daarvan versend word, aanspreeklik te wees vir 'n spesiale ekstrakoste soos hierna uiteengesit, en om die spesiale ekstrakoste aan die Administrasie te betaal benewens die gewone tarief wat van tyd tot tyd in die Offisiële Spoorwegtariefboek voorgeskryf word vir die vervoer van sodanige goedere oor die Administrasie se spoorweë in die algemeen. Daar word ooreengekom dat, indien dit sou blyk dat die vervoer van passasiers, pakkette, bagasie en pos die vlak van die ekstrakoste wesenlik beïnvloed, die Administrasie se stappe sal doen om ook 'n spesiale ekstrakoste waaroor daar in die lig van omstandighede deur die Administrasie besluit sal word, op hierdie verkeer te hef. Die gelde wat die Administrasie uit sodanige spesiale ekstrakoste toeval, moet gebruik word om—

- (a) verliese te bestry wat gedurende die tydperk van twintig (20) jaar gely mag word in die bedryf van die spoorlyn op die grondslag in klousule 5 (2) hiervan uiteengesit, met die uitdruklike verstandhouding dat die koste van die kapitaal wat deur die Maatskappy in die spoorlyn belê is, nie in rekening gebring moet word wanneer sodanige bedryfsverlies bepaal word nie; en
- (b) die kapitaal te verhaal wat ten opsigte van die onteiening van die grond en die aanlē en uitrus van die spoorlyn bestee is, met inbegrip van rente teen dertien (13) persent per jaar op die saldo van die genoemde kapitaalbelegging, binne die tydperk van twintig (20) jaar waarna in klousule 8 hiervan verwys word, of tot tyd en wyl die kapitaal wat deur die Maatskappy belê is, verantwoord is, watter ook al die kortste is.

(3) Van die datum waarop die spoorlyn vir openbare verkeer oopgestel word, moet die spesiale ekstrakoste genoem in subklousule (1) van hierdie klousule aanvanklik gehef word teen die tarief van sewentien (17) sent per eenhonderd (100) kilogram. Op die eerste dag van April en Oktober van elke jaar vir so lank as wat dit ooreenkomsdig subklousule (2) van hierdie klousule nodig mag wees, moet die Administrasie in oorleg met die Maatskappy die tarief waarteen die gemelde spesiale ekstrakoste gehef word, in hersiening neem om te verseker dat die bedrag wat die Administrasie gedurende die betrokke boekjaar by wyse van die spesiale ekstrakoste ooreenkomsdig hierdie klousule en klousule 11 hiervan toeval, so na moontlik sal ooreenstem met die bedrag waarmee die bedryfskoste van die spoorlyn, plus die bedrae wat ooreenkomsdig subklousule (2) (b) van hierdie klousule nodig is, die inkomste oorskry wat uit die spoorlyn verkry word, voordat die bedrag wat die voormalde spesiale ekstrakoste oplewer, in rekening gebring word. Na gelang van wat nodig skyn te wees ten einde hierdie oogmerk te bereik, moet die tarief ten opsigte van voornoemde spesiale ekstrakoste by sodanige hersiening of verhoog of verlaag of onveranderd gelaat word vir die daaropvolgende tydperk van ses maande.

7. (1) Die Administrasie onderneem om—

- (a) die Maatskappy maandeliks te krediteer met en aan hom te betaal daardie gedeelte van die spesiale ekstrakoste waarvoor daar in klousule 6 (2) (b) hiervan voorsiening gemaak word, bereken op uitgaande verkeer wat deur of ten behoewé van die Maatskappy oor die spoorlyn versend word; en
- (b) die Maatskappy aan die end van elkeen van die Administrasie se boekjare te krediteer met, en aan hom te betaal, daardie gedeelte van die tariefskaal en/of spesiale ekstrakoste wat bydrae verteenwoordig tot die kapitaalkoste van die kapitaal wat deur die Maatskappy in die aanlē en uitrus van die spoorlyn belê is, bereken teen 'n rentekoers van dertien (13) persent per jaar op die saldo van die genoemde kapitaalbelegging, ten opsigte van alle verkeer wat oor die lyn versend word, maar uitgesonder die krediet waarvoor daar in subklousule (1) (a) van hierdie klousule voorsiening gemaak is.

(2) Daar word ooreengekom dat indien die kapitaal wat deur die Maatskappy in die aanlē en uitrus van die spoorlyn belê is, ten volle verantwoord sou wees voor die vervaldatum van die tydperk van twintig (20) jaar genoem in klousule 8 hiervan, die Maatskappy nie op enige verdere krediet ten opsigte van kapitaalkoste geregtig sal wees nie en dat die gedeelte van die spesiale ekstrakoste waarvoor daar in klousule 6 (2) (b) hiervan voorsiening gemaak word, opgehef sal word.

8. (1) Van die datum waarop die spoorlyn vir openbare verkeer oopgestel word en vir elke daaropvolgende boekjaar van die Administrasie vir 'n tydperk van twintig (20) jaar, moet die Administrasie rekenings opstel en hou om die bedryfsresultate van die spoorlyn aan te toon, en 'n afskrif van elke jaarstaat moet so spoedig doenlik na die afsluiting van elke boekjaar aan die Maatskappy by sy kantoor in Johannesburg besorg word. Die rekenings moet ooreenkomsdig die Administrasie se gewone rekeningkundige gebruik opgestel word en die jaarstaat moet besonderhede verstrekk van die uitgawe en inkomste asook van die bedrag van die kapitaalbelegging wat verantwoord is soos genoem in klousule 6 (2) (b) hiervan.

(2) Indien die resultate van die bedryf van die spoorlyn, genoem in klousule 6 (2) (a) hiervan, bereken ooreenkomsdig subklousule (1) van hierdie klousule, in enige boekjaar 'n surplus toon, moet die Maatskappy met sodanige surplus gekrediteer en dit aan hom betaal word op dieselfde wyse as waarvor daar in klousule 7 (1) (b) hiervan voorsiening gemaak word totdat die kapitaal wat in die aanlē en uitrus van die spoorlyn belê is, ten volle verantwoord is. Die Maatskappy het egter geen aanspraak daarop nadat die genoemde kapitaalbelegging ten volle verantwoord is nie, en gedurende die oorblywende gedeelte van die genoemde tydperk van twintig (20) jaar word sodanige surpluses deur die Administrasie gehou.

(3) Indien die resultate van die bedryf van die spoorlyn, genoem in klousule 6 (2) (a) hiervan, in enige jaar 'n verlies toon soos deur die Administrasie ooreenkomsdig sy gewone rekeningkundige gebruik bereken, onderneem die Maatskappy om sodanige verlies binne dertig (30) dae nadat die Maatskappy deur die Administrasie van die bedrag van sodanige verlies in kennis gestel is, aan die Administrasie te vergoed. Rente teen die rentekoers wat op die Administrasie se jongste permanente belegging, binne die voorgaande twaalf maande gemaak, van toepassing was of indien geen belegging gemaak is nie teen die rentekoers op die jongste permanente belegging deur die Staatskuldkommissaris gedurende die genoemde tydperk gemaak, moet na verstryking van die genoemde tydperk van dertig (30) dae, deur die Maatskappy betaal word op alle uitstaande bedrae ten opsigte van bedryfsverliese.

9. (1) Afrekening tussen die partye by die ooreenkoms sal plaasvind aan die einde van die tydperk van twintig (20) jaar genoem in klousule 8 hiervan.

(2) Indien die resultate van die bedryf van die spoorlyn, genoem in klousule 6 (2) (a) hiervan, vir die tydperk vanaf die sluitingsdatum van die laaste volle boekjaar van die Administrasie binne die tydperk van twintig (20) jaar tot op die datum waarop die genoemde tydperk van twintig (20) jaar verstryk, 'n verlies toon

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Administration in accordance with its usual accounting practice, such loss shall be defrayed in terms of clause 8 (3) hereof.

(3) If the results of the working of the railway, referred to in clause 6 (2) (a) hereof, for the period from the closing date of the last whole financial year of the Administration within the period of twenty (20) years up to the date on which the said period of twenty (20) years expires, show a surplus, as assessed by the Administration in accordance with its usual accounting practice, the Company shall have no claim to such surplus.

(4) After settlement between the parties at the end of the said period of twenty (20) years, in accordance with the provisions of this clause—

- (a) the railway shall remain an asset of the Administration without any payment or further compensation whatsoever by the Administration to the Company;
- (b) the special surcharge, if applicable at that time, shall be withdrawn and the Company shall thereafter be under no further obligation to reimburse the Administration for losses that may be incurred in the working of the railway; and
- (c) the Administration shall cease to maintain the financial statements referred to in clause 8, or to consult the Company in accordance with clauses 2 (2) and 12 hereof.

10. (1) The Company hereby agrees to repay to the Administration, on demand, or within such period as the Administration may in its discretion determine after consultation with the Company, the total amount of—

- (a) the cost of expropriating or otherwise acquiring the land required for the construction and equipment of the railway; and
- (b) any legal costs incurred by the Administration in settling or contesting any claim for compensation preferred against it by a third party.

(2) The Company hereby agrees, in the event of the Administration being compelled to compensate a third party or parties in respect of rights to minerals of whatever nature, as a result of the construction of the railway, to repay to the Administration, on demand, the total amount of such compensation.

11. The Administration undertakes, for as long as the Company remains under obligation to pay the special surcharge mentioned in clause 6 (2) hereof, to make provision in the Official Railway Tariff Book for the payment of a like surcharge at the same rate per one hundred (100) kilogram on all traffic (excluding passengers, parcels, baggage and mail where this traffic does not materially affect the level of surcharge) consigned by or on behalf of other senders by train over the railway or a portion thereof in the direction of Broodsniersplaas and that all moneys derived from such surcharge will be dealt with as provided in clauses 6 and 7 of this Agreement.

12. There shall be no restriction on the Administration's right to convey any class of traffic whatsoever over the railway, and the Administration may construct any line(s) of railway, and consent to the construction of private sidings as an extension of or as a branch from the railway: Provided that before constructing any such line(s) of railway or consenting to the construction of any such private siding, the Administration shall consult the Company and shall take into consideration all representations that the Company may make with respect thereto.

13. It is agreed that, in the event of the Company wishing to consider other means of conveyance for its products during a period of twenty (20) years from the date of opening of the railway for traffic, the Administration's prior approval shall be obtained.

SIGNED for and on behalf of the Government of the Republic of South Africa in its Railways and Harbours Administration at Pretoria on this the third day of July 1981.

(Signed) HENDRIK SCHOEMAN

Minister of Transport Affairs

AS WITNESSES:

1. (Signed) J. N. W. POTGIETER.

2. (Signed) S. J. VAN BLOMMESTEIN.

SIGNED for and on behalf of BP Southern Africa (Proprietary) Limited at Johannesburg on this the twenty-ninth day of June 1981 under the authority of a resolution of the Board of Directors of the Company dated the fourth day of March 1980.

(Signed) M. J. CRONJÉ

Officer

AS WITNESSES:

1. (Signed) J. R. S. FRANKLIN.

2. (Signed) D. KERNES.

TWEEDE SPOORWEGAANLEGWET, 1981

Wet No. 61, 1981

soos deur die Administrasie ooreenkomstig sy gewone rekeningkundige gebruik bereken, moet sodanige verliese ooreenkomstig klosule 8 (3) hiervan bestry word.

(3) Indien die resultate van die bedryf van die spoorlyn, genoem in klosule 6 (2) (a) hiervan, vir die tydperk vanaf die sluitingsdatum van die laaste volle boekjaar van die Administrasie binne die tydperk van twintig (20) jaar tot op die datum waarop die genoemde tydperk van twintig (20) jaar verstryk, 'n surplus toon soos deur die Administrasie ooreenkomstig sy gewone rekeningkundige gebruik bereken, het die Maatskappy geen aanspraak op sodanige surplus nie.

(4) Na afrekening tussen die partye aan die einde van genoemde tydperk van twintig (20) jaar ooreenkomstig die bepalings van hierdie klosule—

- (a) bly die spoorlyn 'n bate van die Administrasie sonder dat die Administrasie die Maatskappy hoegenaamd daarvoor betaal of verder vergoed;
- (b) moet die spesiale ekstrakoste, indien van toepassing op daardie tydstip, opgehef word, en die Maatskappy is daarna onder geen verdere verpligting om die Administrasie te vergoed vir verliese wat met die bedryf van die spoorlyn gely mag word nie; en
- (c) sal die Administrasie ophou om die finansiële state genoem in klosule 8 hiervan te hou of om die Maatskappy ooreenkomstig klosules 2 (2) en 12 hiervan te raadpleeg.

10. (1) Die Maatskappy stem hierby in om op aanvraag, of binne sodanige tydperk as wat die Administrasie na sy goeddunke na oorlegpleging met die Maatskappy mag bepaal, aan die Administrasie die totale bedrag terug te betaal van—

- (a) die koste van onteiening of koste andersins aangegaan om die grond wat vir die aanlē en uitrus van die spoorlyn nodig is, te verkry; en
- (b) enige regskoste wat die Administrasie aangegaan het met die skikking of bestryding van 'n eis om vergoeding wat deur 'n derde party teen hom ingestel is.

(2) Die Maatskappy stem hierby in om, indien die Administrasie verplig word om vergoeding te betaal aan 'n derde party of party ten opsigte van regte op minerale van watter aard ook al, as gevolg van die aanlē van die spoorlyn, op aanvraag die totale bedrag van sodanige vergoeding aan die Administrasie terug te betaal.

11. Die Administrasie onderneem om, solank as wat die Maatskappy onder verpligting bly om die spesiale ekstrakoste genoem in klosule 6 (2) hiervan te betaal, voorsiening in die Offisiële Spoorwegtariefboek te maak vir die betaling van 'n dergelike ekstrakoste teen dieselfde tarief per eenhonderd (100) kilogram op alle verkeer (behalwe passasiers, pakkette, bagasie en pos waar hierdie verkeer nie die vlak van ekstrakoste wesenlik beïnvloed nie) wat deur of ten behoeve van ander afsenders per trein in die rigting van Broodsmynsplaas oor die spoorlyn of 'n gedeelte daarvan versend word, en dat daar met alle gelde wat uit sodanige ekstrakoste verkry word, volgens voorskrif van klosules 6 en 7 van hierdie ooreenkoms gehandel sal word.

12. Daar rus geen beperking op die Administrasie se reg om enige soort verkeer hoegenaamd oor die spoorlyn te vervoer nie en die Administrasie kan enige spoorlyn(e) aanlē en toestemming verleen vir die aanlē van private sylne as 'n verlenging of vertakkig van die spoorlyn. Met dien verstande dat alvorens die Administrasie enige sodanige spoorlyn(e) aanlē of toestemming vir die aanlē van enige sodanige private sylne verleen, hy die Maatskappy moet raadpleeg en alle vertoë in aanmerking moet neem wat die Maatskappy in verband daarmee mag indien.

13. Daar word ooreengekom dat ingeval die Maatskappy gedurende 'n tydperk van twintig (20) jaar van die datum waarop die spoorlyn oopgestel word ander middelle vir die vervoer van sy produkte wil oorweeg, goedkeuring vooraf van die Administrasie verkry moet word.

GETEKEN namens en ten behoeve van die Regering van die Republiek van Suid-Afrika in sy Administrasie van Spoerweë en Hawens in Pretoria op die derde dag van Julie 1981.

(Geteken) HENDRIK SCHOEMAN

Minister van Vervoerwese

GETUIE:

1. (Geteken) J. N. W. POTGIETER
2. (Geteken) S. J. VAN BLOMMESTEIN

GETEKEN namens en ten behoeve van BP Southern Africa (Proprietary) Limited in Johannesburg op die nege-en-twintigste dag van Junie 1981 kragtens 'n besluit van die Direksie van die Maatskappy gedateer die vierde dag van Maart 1980.

(Geteken) M. J. CRONJÉ

Amptenaar

GETUIE:

1. (Geteken) J. R. S. FRANKLIN.
2. (Geteken) D. KERNES.

