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The Harriman Manganese Concession in the Soviet Union: Lessons for Today

by
Stephen D. Fitch*

I. INTRODUCTION

The policy of perestroika in the Soviet Union and the rapidly changing structure of Soviet law have brought about far-reaching changes in Soviet foreign trade regulations.¹ These developments call for a reexamination of previous Soviet trading ventures. One such venture involved W. Averell Harriman² and his manganese concession agreement with the Soviet Union to mine the manganese deposits of Tchiatouri, Georgia.³ The concession agreement was signed by Harriman and the Soviet Government in 1925 and was to remain in force until 1945.⁴ However, Harriman's concession was terminated in 1928.⁵ Although unsuccessful, Harriman's concession agreement provides a valuable contemporary lesson, not only for those who engage in business

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1. Quigley, *Legal Implications of the Dismantling of the Soviet Foreign Trade Monopoly*, 7 INT'L TAX & BUS. LAW. 275 (1989); see also Hertzfeld, *Joint Ventures: Saving the Soviets from Perestroika*, HARV. BUS. REV., Jan.-Feb. 1991, at 80-91.

2. W. Averell Harriman was born in 1891 and was the son of railroad magnate E.H. Harriman. He was educated at Groton School and Yale University. D. HALBERSTAM, *THE BEST AND THE BRIGHTEST* 237-40 (1972). After the First World War, Harriman frequently traveled to Europe in search of business opportunities and invested in Germany and Poland as well as the Soviet Union. W.A. HARRIMAN & E. ABEL, *SPECIAL ENVOY TO CHURCHILL AND STALIN 1941-1946*, at 47 (1975). During the Second World War, Harriman served as President Roosevelt's personal representative to Great Britain in 1941 and as U.S. Ambassador to the Soviet Union from 1943 until 1946. He later served in other positions of U.S. political leadership, including Chairman of the Commission on NATO Defense Plans in 1951, Governor of New York State from 1955 until 1958, U.S. Ambassador-at-Large in 1961 and from 1965 until 1969, and Assistant Secretary of State for Far Eastern Affairs from 1961 until 1963. Harriman died in 1986. For an analysis of Harriman's influence on Vietnam policy during the Kennedy and Johnson administrations, see W. ISAACSON & E. THOMAS, *THE WISE MEN* 677-713 (1986); N. HANNAH, *THE KEY TO FAILURE: LAOS AND THE VIETNAM WAR* 31-40 (1987).

3. Concession Agreement Between the Government of the Union of Soviet Socialist Republics (U.S.S.R.) and W.A. Harriman and Co. Inc. of New-York Regarding the Manganese Deposits of Tchiatouri, Georgia, Moscow, June 12, 1925, as amended on July 7, 1927 [hereinafter Concession Agreement] (attached as an appendix).

4. Concession Agreement, *supra* note 3, § 33, para. 4.

5. *Manganese Ore Concession in Russia Reported Dropped by Harriman Group*, N.Y. Times, Sept. 23, 1928, § III, at 7, col. 3 [hereinafter *Manganese Ore Concession*].

transactions in the Soviet Union, but also for the purpose of analyzing current U.S. trade and regulatory policies.⁶

A particularly significant question that the Harriman concession poses is the extent to which the U.S. Government should assist U.S. corporations compete in the international marketplace. The history of Harriman's concession indicates that the Soviet Government's most influential officials were involved in planning Harriman's concession.⁷ In contrast, Harriman reported in his autobiography that when he met with then U.S. Secretary of Commerce Herbert Hoover to discuss the difficulties facing his Soviet concession, he was warned not to expect assistance from the U.S. Government.⁸ These contrasting approaches have led the United States to minimize the role of the Central Intelligence Agency in strategic economic planning, and the Soviet Union to maximize the involvement of its intelligence agency, the KGB, in Soviet economic activities.⁹ The lesson of the Harriman manganese concession today may be that continued reliance by the United States upon free enterprise, in a competitive global economy, will result in significant long-term disadvantages for the U.S. business and political communities.¹⁰

II.

THE HISTORY OF THE HARRIMAN MANGANESE CONCESSION

The chronology of Harriman's Soviet concession agreement suggests that the Soviet Government sought to achieve political, as well as economic objectives in pursuing a relationship with Harriman. These objectives were supported by Harriman's earlier business contacts with the Soviet Union.

6. For a discussion of the view that the international competitiveness of U.S. goods is hindered by a lack of a coherent policy among business, government, and labor, see Lodge & Glass, *U.S. Trade Policy Needs One Voice*, HARV. BUS. REV., May-June 1983, at 75; see also Kuttner, *How 'National Security' Hurts National Competitiveness*, HARV. BUS. REV., Jan.-Feb. 1991, at 140.

7. For example, Leon Trotsky, a Communist party leader who was then chairman of the concessions committee, negotiated the revision of Harriman's concession in 1927. W.A. HARRIMAN & E. ABEL, *supra* note 2, at 49.

8. *Id.*

9. Hanson, *Soviet Industrial Espionage*, BULLETIN OF THE ATOMIC SCIENTISTS, Apr. 1987, at 25. A unique insight into this aspect of Soviet intelligence operations was obtained by the French Government in 1981 and 1982 from a source within the Soviet Union. The French allowed a British expert on Soviet technology, Dr. Philip Hanson, to examine a portion of these intelligence documents. They illustrated how the KGB coordinated its activities with the Soviet Military-Industrial Commission (VPK). *Id.* Hanson found that at least 12 ministries had members from the VPK, which compiles an annual list of Soviet technology needs. *Id.* at 26. Approximately 3,000 items appeared on the list Hanson saw, one third of which were estimated to have been successfully obtained within a year. *Id.* at 27. Within the United States, the Central Intelligence Agency is not authorized to participate in similar activities. See Hulnick & Mat-tausch, *Ethics and Morality in United States Secret Intelligence*, 12 HARV. J.L. & PUB. POL'Y 509, 511 (1989).

10. See Ferguson, *From the People Who Brought You Voodoo Economics*, HARV. BUS. REV., May-June 1988, at 55, 62; see also Choate, *Political Advantage: Japan's Campaign for America*, HARV. BUS. REV., Sept.-Oct. 1990, at 87.

Before signing the manganese agreement, the Soviet leader, V.I. Lenin, carefully planned Harriman's participation in the Derutra Corporation of New York.¹¹ As well as being involved in the Derutra Corporation, Harriman purchased Russian bonds from German firms and sold them to the Soviet Government.¹² These two earlier successful business relationships with the Soviet Government may have led Harriman to anticipate that his manganese concession would receive similarly favorable treatment.¹³

Harriman's agreement with the Soviet Government to mine the manganese deposits of Tchiatouri, Georgia was signed on June 12, 1925 by Harriman's legal representative in Moscow, J. Speed Elliott.¹⁴ The founder of the KGB, Feliks Dzerzhinsky, signed the agreement for the Soviet Union.¹⁵ The agreement called for Harriman to mine manganese in Tchiatouri, Georgia, until July 25, 1945.¹⁶ In return, Harriman was obligated to pay the Soviet Government \$62,350,000 in royalties.¹⁷ Harriman's profits were projected to be \$120,000,000 during the twenty-year duration of the contract.¹⁸

The manganese concession was unsuccessful from the beginning. A major difficulty was the formation, by a German firm, of a second foreign manganese concession in the Nikopol region of the Soviet Union.¹⁹ The Nikopol concession produced so much manganese in 1925 that the Soviet share of world manganese production increased from twenty-three percent in 1924, to

11. The Derutra Corporation was formed through a partnership between Harriman, the Soviet Government, and the Hamburg-American Lines of Germany. It was created to handle shipping for Amtorg, the Soviet trading company in the United States. The incorporation of the Derutra Corporation was announced in the *New York Times* on June 17, 1924. *Open New Channel for Russian Trade*, N.Y. Times, June 17, 1924, at 31, col. 1. V.I. Lenin's role in this agreement is documented by the message in his collected works that begins, "About the project for Harriman's entry, let me tell you the following: unless I am mistaken, the main provision of the Derutra contract was that we and the Germans have an equal number of votes on the board." 45 V.I. LENIN, COLLECTED WORKS 448 (1970).

12. W.A. HARRIMAN & E. ABEL, *supra* note 2, at 48. The Germans may have sold Harriman the bonds because they were having problems redeeming them. For a discussion of similar French difficulties in redeeming Russian bonds, see *French Astir over Czarist Bond Accord*, N.Y. Times, Nov. 4, 1990, § I, at 10, col. 3.

13. See W.A. HARRIMAN & E. ABEL, *supra* note 2, at 48. Harriman commented that "[h]e found that the Russians made good on their financial commitments." *Id.*

14. Concession Agreement, *supra* note 3, preamble.

15. *Id.* For biographical information on Feliks Dzerzhinsky, see C. ANDREW & O. GORDIEVSKY, KGB: THE INSIDE STORY OF ITS FOREIGN OPERATIONS FROM LENIN TO GORBACHEV 40-43 (1990).

16. Concession Agreement, *supra* note 3, § 33, para. 15.

17. *Id.*

18. *Harriman Ore Sale to Trust Expected*, N.Y. Times, Oct. 7, 1926, at 5, col. 3 [hereinafter *Harriman Ore Sale*].

19. *Harriman Wins Fight on Soviet Concession*, N.Y. Times, June 9, 1927, at 10, col. 6. "When Mr. Harriman obtained the concession early in 1925 he expected to control the manganese market, but the Moscow Government began to work against him at once. With the aid of the German firm of Rawack & Gruenewald, the mines at Nicopol [sic], which formerly produced only 90,000 tons of ore annually, were worked under high pressure with the object of forcing the Harriman company out." *Id.*

thirty-two percent in 1925.²⁰ This lowered the price of manganese on the world market and made it impossible for Harriman to sell at a profit manganese from his concession. In 1930, the U.S. Government reprinted a London metals journal article estimating that Harriman's losses would have been approximately \$2.50 per ton of manganese sold because of the high labor costs and royalty payments to the Soviet Government.²¹ Although it is impossible to ascertain Harriman's precise financial position, the *New York Times* reported on October 7, 1926, that Harriman was seeking to sell the concession.²² Two months later, on December 9, 1926, Harriman visited Moscow to renegotiate the concession on more favorable terms.²³

Before his visit to Moscow in 1926, Harriman sought to gain support from the German Foreign Ministry for his negotiations in the Soviet Union and sent the following memorandum to the German Government outlining the difficulties faced by his concession:

Georgian Manganese Co. Ltd., organized to take over the so-called Harriman-Manganese Concession, has been operating in Tchiaturi, Georgia, since July 26, 1925. German capital has participated in this business to the extent of about 25% and also German private property owners in that field [have] a participation of about 30% in the royalties and profits to be derived under the contract between the Georgian Manganese Co. and the property owners. The manganese now mined by the Company is one of the most important sources of supply for the German steel industry and in addition German industry benefits, as large purchases for equipment supplies are now and will be placed with German manufacturers.

Considering the difficulties of the undertaking, the past 16 months operation may be considered satisfactory, but experience and a change of world manganese conditions have shown that it is necessary to modify certain terms of the Concession to make it workable, a sound economic proposition, and capable of competition with other important fields. The changes necessary will inure to the benefit of the USSR as well as the concessionnaire.

The change of conditions of the manganese market is to no small extent due to the increased production from the Russian Nikopol fields. Although the Concession in no way limits the production at Nikopol, the concessionnaire had no knowledge at the time of signing the plans of the URT [the German company mining manganese in Nikopol] to increase production to the extent that it has done. Ore that has been exported from Nikopol has taken the place of ore which otherwise would have been produced at Tchiaturi. In addition production in West-Africa has been increased and the United States Steel Corporation has changed its policy in regard to the production of the mine which it owns in Brazil by substantially increasing production there. Under certain conditions it is hoped that the last two named companies may be induced to reduce again their production. In India there is under project the construction

20. BUREAU OF MINES, DEPARTMENT OF COMMERCE, MINERAL RESOURCES OF THE UNITED STATES 1925, pt. I, at 161 (1928).

21. *Russian Manganese Costs*, METAL BULL. (LONDON), No. 1593, May 19, 1931, at 8, reprinted in BUREAU OF MINES, DEPARTMENT OF COMMERCE, MINERAL RESOURCES OF THE UNITED STATES 1930, pt. I, at 326 (1933).

22. *Harriman Ore Sale*, *supra* note 18.

23. *Harriman Party Reaches Moscow*, N.Y. Times, Dec. 10, 1926, at 6, col. 2.

of a railway in the Central Provinces which would tap new fields. In South-Africa new deposits have been discovered and serious consideration is being given to their development. The general result of all the above is a large increased world production, both actual and potential.

Under the circumstances the concessionnaire believes it is essential to place the royalties payable to the USSR on a sliding scale depending upon sales price rather than the fixed royalty that now exists. It would be expected that the average return to the USSR would equal the fixed royalty, but the sliding scale would allow the concessionnaire to compete in a trade war, should it develop. Without royalties, production cost at Tchiaturi, after the contemplated improvements are made, will be less than most of the other mines of the world. With the fixed royalties, however, production costs are greater than all the important mines. This fact is commonly known in the industries and is the reason for contemplated increases in production in other fields. If royalties were on a sliding scale these fields would hesitate to increase their development. The suggested change is not an entirely new thought. The concessionnaire was assured by the Government that in the event of a price war in the manganese market the Government would consider favorably the reduction of royalties for the period of such war.

An agreement should be reached with Nikopol, pooling the production of both Russian fields and the production fixed periodically in agreement between them but without the guarantee now of future production. The aim, however, of the pool would be to export the maximum quantity of Russian ore feasible under economic conditions.

The third important change required in the concession relates to certain railroad improvement work undertaken by the concessionnaire, namely the widening of the gauge of the present narrow gauge railway running from the Main Line to Tchiaturi. The provision was undertaken by the concessionnaire without full knowledge of local conditions. Experience now shows that the widening of this narrow gauge railroad is not economically necessary or advisable. The present narrow gauge is a good railroad and, with improved equipment on both the narrow gauge and Main line, transportation can be conducted economically.

....
Mr. R.H.M. Robinson, a partner of W.A. Harriman & Co. and a director of the Georgian Manganese Co. Ltd. will shortly go to Moscow to discuss with the Russian authorities the modifications of the concession. Mr. Robinson has recently visited the mines at Tchiaturi as well as those situated at Nikopol. Mr. W.A. Harriman personally may accompany Mr. Robinson to attend the preliminary discussions.²⁴

24. 1 A CATALOG OF FILES AND MICROFILMS OF THE GERMAN FOREIGN MINISTRY ARCHIVES 1920-1945, Microfilm No. H114714-H114717 (G. Kent ed. 1962) [hereinafter GERMAN FOREIGN MINISTRY ARCHIVES]. These archives were captured in Germany at the end of the Second World War and subsequently cataloged by a team of U.S., British, and French scholars at Whaddon Hall, England. The Harriman file survived because in 1936 it was classified as secret and placed in a special file with the most sensitive German archives, including Hitler's personal diplomatic correspondence. In 1943, the German Foreign Minister, Ribbentrop, ordered these files microfilmed to insure their preservation from destruction by allied air raids and the microfilms were buried at hidden locations in Germany. In 1945, a junior official in the German Foreign Ministry disclosed their location to a British officer. For an account of the capture and cataloging of these German files, see Kent, *The German Foreign Ministry's Archives at Whaddon Hall, 1948-58*, 24 AM. ARCHIVIST 43 (1961).

Harriman was successful in this second round of negotiations.²⁵ A revised contract was signed on July 7, 1927, and subsequently published by the Soviet Government.²⁶ This agreement lowered the fixed royalty price to \$1.50 per ton, a major reduction from the previous figure of \$3.00 per ton.²⁷ Despite the lower royalty fees, Harriman's total financial obligation to the Soviet Government of \$62,350,000, which was due by July 25, 1945, remained unchanged.²⁸ However, the new version of the concession agreement soon faced problems.²⁹ There were difficulties with Harriman's currency operations.³⁰ A telegram sent to Harriman on February 25, 1928, by his representative in the Soviet Union, R.H.M. Robinson, suggests that because of such problems, Harriman's concession had reached the point of collapse.³¹

Under these conditions, the *New York Times* reported that on April 17, 1928, Harriman's U.S. staff had begun to leave the concession site, thus bringing it to a conclusion.³² In the following negotiations, the Soviet Government agreed to give Harriman bonds worth \$3,450,000, which were redeemable within fifteen years and had a seven percent interest rate to reimburse him for the losses he incurred in connection with the concession.³³

25. *Harriman Co. Revises Contract with Soviet*, N.Y. Times, July 9, 1927, at 21, col. 2. Harriman issued a statement with the following conclusion: "I am now in a position to state that our differences with the Soviet Government have been cleared up and the revised contract was signed in Moscow by my associate, R.H.M. Robinson, and the Concession Committee of the Soviet Government has ratified it. This confirms predictions by me that an agreement would be reached, and I may add that the Soviet Government has met us in a fair spirit." *Id.*

26. See Concession Agreement, *supra* note 3.

27. *Id.* § 21, para. 6.

28. *Id.* § 33, para. 15. The lower royalty, therefore, was intended to allow more manganese to be mined without increasing the total amount of money paid to the Soviet Government.

29. *Harriman Concession in Russia Hits Snag*, N.Y. Times, Apr. 18, 1928, at 6, col. 2 [hereinafter *Harriman Concession*].

30. GERMAN FOREIGN MINISTRY ARCHIVES, *supra* note 24, Microfilm No. 114734-114735.

31. The telegram to Harriman specified the following issues that needed to be addressed:

[O]ne the Arbitration board to recognize that the demand of the government to seize our money operations essential for furnishing the concession enterprise with local currency is [a] violation of the concession agreement and an attempt to obtain additional profits from the concessionaire not provided for in the concession agreement thus creating a situation ruinous to the concessionaire[.] Two violation of Section 59 by creating general situation hindering the successful work to the concessionaire[.] Three to recognize that further work by the concessionaire is impossible through fault of Government

[T]herefore propose order [to] liquidat[e] properties [I] realize this means leaving all our Russian assets [in] their hands but they can take them anyhow and if proposition accepted might relieve us [of the] cost [of] liquidation of labour

Id.

32. *Harriman Concession*, *supra* note 29.

33. *Manganese Ore Concession*, *supra* note 5. The monetary value of the bonds that the Soviet Government subsequently paid to Harriman, \$3,450,000, was considerable. The financial importance of the bonds is clear when one considers their contemporary value. For example, the value of \$3,450,000 in 1928, if increased in worth by the annual rate of interest on 3-month U.S. Treasury bills, would be \$27,086,866 in 1987. (Because the figures for the 3-month U.S. Treasury bills were not available for 1929 and 1930, a comparable rate was used for these two years.)

The history of Harriman's concession agreement suggests that, for the Soviet Government, political objectives may have been more important than economic ones. As a state monopoly, the Soviet concessions committee had the power to lower Harriman's costs to the point at which his concession could have become profitable.³⁴ A possible explanation for the Soviet behavior is that, from the first signing of the Harriman concession contract in 1925, the primary Soviet purpose was to create a business relationship between Harriman and the Soviet Government that would lead Harriman to support diplomatic recognition of the Soviet Union by the United States. The failure of Harriman's concession, his financial losses, and the subsequent payment of Soviet bonds to Harriman from 1928 to 1943 created a substantial financial incentive for Harriman to retain the approval of the Soviet Government during his subsequent career as an influential U.S. diplomat and civil servant.³⁵

III.

CONCLUSION

The failure of W. Averell Harriman's Soviet manganese concession agreement highlights the contrast between U.S. and Soviet economic decisionmaking. During the Harriman concession, the Soviet Government successfully utilized its political resources to exert financial pressure upon a U.S. business enterprise that was unable to obtain countervailing support from the

The present value of the bonds was derived from a spreadsheet analysis of the figures provided in the BUREAU OF THE CENSUS, U.S. DEPARTMENT OF COMMERCE, HISTORICAL STATISTICS OF THE UNITED STATES, pt. 2, at 1001, BUREAU OF THE CENSUS, U.S. DEPARTMENT OF COMMERCE, STATISTICAL ABSTRACT OF THE UNITED STATES 1973, at 457, BUREAU OF THE CENSUS, U.S. DEPARTMENT OF COMMERCE, STATISTICAL ABSTRACT OF THE UNITED STATES 1980, at 543, BUREAU OF THE CENSUS, U.S. DEPARTMENT OF COMMERCE, STATISTICAL ABSTRACT OF THE UNITED STATES 1990, at 508.

34. Zaitzeff, *The Legal Position of Foreigners in Soviet Russia*, 5 MICH. L. REV. 441, 457-60 (1926).

35. A defector from the Soviet OGPU, the Soviet intelligence service now called the KGB, wrote in 1931:

From the purely political point of view the United States of America was not of especial interest to Soviet Russia prior to 1926. But that year saw development of commercial relations with America and, in the hope that Washington would at last consent to recognize the Soviet Government, OGPU decided to send a representative to America to sound public opinion and keep an eye on the execution of the commercial contracts concluded by the Soviet Commercial Representation in America (Amtorg).

The first resident of the OGPU in America was Tschatzky, who lived there until 1928 Did Tschatzky achieve the results hoped for? Did success crown his efforts? It is difficult to say. All I know is that on his return he was highly praised by his superiors and that one hears it said that he did magnificent work in America.

G. AGABEKOV, OGPU: THE RUSSIAN SECRET TERROR 195-96 (1931). There was serious concern at this time within the British Foreign Ministry over Soviet trading activities. See A. BROWN, "C": THE SECRET LIFE OF SIR STEWART GRAHAM MENZIES 145 (1987). Harriman testified on his business interests before a U.S. Senate committee in 1961. *Nominations of W. Averell Harriman, Frank M. Coffin, Philip M. Klutznick, and Abram Chayes: Hearing Before the Comm. on Foreign Relations*, 87th Cong., 1st Sess. 4 (1961) (statement of W. Averell Harriman).

U.S. Government.³⁶ The lesson of the Harriman concession for today is that in order to transact future business agreements successfully in the Soviet Union, U.S. corporations and their legal representatives will need to carefully consider Soviet objectives and not simply in terms of an impersonal marketplace defined by contractual relationships.³⁷

36. W.A. HARRIMAN & E. ABEL, *supra* note 2, at 49.

37. The power of the KGB to monitor economic enterprise within the Soviet Union remains undiminished, and in early 1991, President Mikhail Gorbachev granted the KGB "unprecedented powers to seize business documents and bank statements, and search premises without a warrant." Peel, *KGB Tries to Reassure Foreign Investors*, *Fin. Times*, Feb. 6, 1991, at 20, col. 1.

APPENDIX

CONCESSION AGREEMENT
BETWEEN
THE GOVERNMENT OF THE UNION OF SOVIET SOCIALIST
REPUBLICS [U.S.S.R.]

—AND—

W.A. HARRIMAN AND CO. INC. OF NEW YORK
REGARDING THE MANGANESE DEPOSITS OF TCHIATOURI, GEORGIA

CONCESSION AGREEMENT

City of Moscow, June 12th 1925 (nineteen hundred and twenty five) the Government of the Union of Soviet Socialist Republics (U.S.S.R.) through the People's Supreme Economic Council (V.S.N.H.), represented by its Chairman Comrade Dzerzhinsky, Felix Edmundovitch, acting in virtue of a decision of the Council of People's Commissaries of the U.S.S.R. dated June 9th 1925 (Minutes No 105 Par. 38), hereinafter described as the Government, on the one hand, and W.A. Harriman and Co. Incorporated, incorporated under the laws of the State of Delaware, United States of America, and registered in the City of New York, through J. Speed Elliott, acting in virtue of a Power of Attorney delivered by W.A. Harriman and Co. Inc. dated October 10th 1925, certified by Mapes, a Notary Public of the City of New York on October 10th 1925, hereinafter described as the concessionaire, on the other hand, have entered into this agreement as follows:

Note A. The term <The Government> whenever appearing in this agreement shall always mean the Government of the U.S.S.R. unless the context or sentence in which it appears, clearly indicates any other Government.

B. The term <The Concessionaire> shall mean in this agreement W.A. Harriman and Co. Incorporated, before and until this agreement is transferred in accordance with Note to Section 66, and after such transfer, the said term <The Concessionaire> shall mean assignee (Russian term: <successor in right>), to W.A. Harriman and Co. Inc.

C. The expression <dry ton> in this agreement shall mean dry ton of 2240 (two thousand five hundred and forty) English pounds weight, as it is ordinarily employed in the manganese industry or trade.

Whenever, in this agreement, the word <ton> is employed without the addition of the word <dry>, the parties mean ton of 2240 (two thousand two hundred and forty) English pounds, natural weight of ore, without deduction for moisture.

D. The expression <conceded area> in this agreement shall designate the area of Tchiatouri manganese and perioxide deposits situated in the Tchiatouri Region, district of Charopan, Government of Kutais, Soviet Socialist Republic of Georgia (S.S.R.G.), within the geographical boundaries designated on the map in Annex No 1 by means of a green line. Within this area, rights over ore and rights over surface plots of land are described separately in this agreement.

**SUBJECT MATTER OF THE CONCESSION. RIGHTS AND PROPERTIES
GRANTED TO THE CONCESSIONAIRE.**

Section 1

1. The Government of the Union of Soviet Socialist Republics (U.S.S.R.) in virtue of the rights of U.S.S.R. to possess, to use and dispose of the natural riches of the country, and of industrial enterprises, in virtue of its rights of dominion and control over trade and property, and of its rights to impose taxes and collect same, and, in general, in virtue of its rights as the sovereign Government of U.S.S.R. and also in virtue of the rights of the Government of the Soviet Socialist Republic of Georgia (S.S.R.G.), and in particular in virtue of the rights of the U.S.S.R. and S.S.R.G. over manganese ore and peroxide ore deposits in the territory of S.S.R.G., grants the Concessionaire, as an exception to general legislation and within the limits of the present agreement, the right to conduct in the territory of U.S.S.R., explorations for manganese and peroxide ore, to mine same and export same and to derive profits therefrom.

2. To that end the Government entrusts the Concessionaire with the use of properties belonging to U.S.S.R. or S.S.R.G. under the conditions and for the duration of time herein set forth, and also gives the Concessionaire the right to transact the necessary commercial operations, enter into agreements, to erect new buildings, to acquire all kinds of property and use same, under compliance with the terms of this agreement. The Concessionaire acting within the limits of the rights and privileges herein granted, and while performing his work in a manner suitable to a well conducted industrial or commercial enterprise, hereby agrees to fulfill the obligations as herein described.

3. In particular, in the Tchiatouri region, in the administrative district of Sharopan, Government of Kutais, S.S.R.G. the Government hereby grants, conveys and surrenders to the Concessionaire for the entire duration of the operation of this agreement the exclusive right and privilege to explore and to mine all manganese ore and peroxide within the boundaries of the conceded area shown and circumscribed by a green line on the map hereto attached (Annex No. 1), excepting a plot of land circumscribed on the map by means of a red line, and stocks of ore, both described in Sections 3 and 7 of this agreement, and also the exclusive right and privilege to wash, enrich and export manganese ore and peroxide mined under the above grant.

Note, Not later than one and one half years from the date this agreement enters into effect, the boundaries of the conceded areas shall be marked out on the ground by means of monuments. The boundaries shown by means of a green line on the attached Annex No. 1 may, if the Concessionaire so desires, be shifted in either direction for a distance not to exceed 150 (one hundred and fifty) metres.

Section 2.

The concession is granted for a term of twenty years calculated from the date this agreement enters into effect, i.e., from the date of signature of same by persons duly authorised by the Council of People's Commissaries, and by a person supplied with the due Power of Attorney of the Concessionaire.

Note. All periods of time and obligations, the duration of the concession included, provided for in this agreement, except the obligation of the Concessionaire to furnish a Guaranty Bond, as provided in Section 67, shall begin on the date the Government delivers to the Concessionaire notarial copy of the decision of a General Meeting of the Company of Tchiatouri Manganese Exporters (<Tchemo>) in regard to the liquidation of same, but not later than forty five days from the date this agreement enters into force.

*Section 3**

1. In limitation of above Section 1 of this agreement, an area of ore bearing land shall be set aside for the Government within the territory of the concession in the Tchiatouri region, which area will be designated <Government Area>.

The said <Government Area> shall be set aside in the district of Choucrouti and Perevissi. On the map hereto attached (Annex I) said area is designated and circumscribed by means of a continuous red line.

3. The parties further agree that the Concessionaire undertakes to ascertain, with participation of the Government, within three years from the date of signature of this agreement, the existence or non-existence in said Government Area of reserves of recoverable commercial manganese ore of 15,000,000 (fifteen million) tons. In the event of a shortage being ascertained there must be added sufficient adjacent plots from districts in the conceded area at the discretion of the Concessionaire.

Note 1. The Concessionaire shall come to an agreement with the Government as to practical and reasonably economical methods of determining the quantity of commercial ore on the Government area. If the parties cannot come to an agreement, the question shall be decided by an expert elected by both sides. Should the parties be unable to agree in the election of an expert, the matter shall be referred to a Committee of Experts, one of which shall be appointed by each side. These two experts shall have the right, if they cannot come to an agreement as to the method of determining the quantity of ore, to elect a third expert, having the necessary technical qualifications, in the capacity of President of the Committee of Experts. If the experts should be unable to agree on the choice of the third expert, the latter shall be appointed by the super-arbiter, to be elected as provided by Section 65 of the existing agreement. The question shall be decided by the Committee of Experts by a majority of votes.

The expenses of the Committee of Experts shall be borne by both parties in equal shares.

* In the wording of the Supplementary Agreement dated July 7th 1927.

The expenses connected with the work necessary to be done by the Concessionaire for determining the quantity of commercial ore on the Government area shall be borne by the Concessionaire exclusively.

Note 2. Commercial ore, for the purposes of this Section, shall be considered crude ore, the cost of mining, enriching and transportation of which, by modern methods, shall be lower than the prices on the world market to such an extent that the sale thereof shall be commercially reasonable.

Section 4.

1. The Government agrees not to grant, for the duration of operation of this agreement, concessions to third parties for mining and for working manganese ore on the Government Reserved Area, in the Tchiatouri Region, as described in Section 2, and also not to grant allotments for the same purpose.

2. The Government, however, reserves the right by its own means to conduct researches for, and work manganese ore on the Reserved Area, and it also reserves the right to dispose of such ore in U.S.S.R. for home consumption, but without exporting same abroad either themselves or through third parties, either as such or ferro-manganese.

3. The Concessionaire agrees to afford the Government the faculty of studying methods of working ore applied by it, and to afford the Government the faculty of making use of spur lines of railway built by the Concessionaire from the Government Area to the Tchiatouri Branch Line, under special agreement as to terms and charges for such use. Such agreement shall not interfere with the operations of the Concessionaire on its enterprise.

Section 5.

1. If the Government desires to grant a concession for the production of manganese ore, in any other region of Georgia, with the right of export of same, the Concessionaire will have the prior right to be awarded such concession on condition of equality of terms. The Concessionaire will be obliged to advise the Government before the expiration of three months after receipt of the Government's communication as to the exact terms of the best offer, of its desire to take advantage of its prior right under this Section. This advice will be irrevocable.

2. While comparing offers of competitors for such concession, only offers which are made in good faith and are commercially well founded, shall be taken into consideration and compared.

Section 6.

1. The Government grants the Concessionaire for the entire duration of the operation of the concession, the exclusive right, in accordance with Section 1 of this agreement to export and sell all ore mined in the conceded area.

2. The Concessionaire has the right to export said ore without hindrance and free of payment of all license fees and export duties, and of any other export charges whatsoever.

3. Sale of Tchiatouri ore abroad shall be effected by the Concessionaire in any manner as it may deem suitable.

4. Without special consent of the Government, the Concessionaire shall not have the right to sell ore mined by it, within the boundaries of U.S.S.R. except in the case mentioned in Section 29.

Section 7.

1. For the purposes of carrying out the present concession the Government grants to the Concessionaire for the entire duration of the concession, for use in concession, all property belonging to the Government, having any relation to the mining and to the working of manganese ore in the Tchiatouri region, existing on the conceded area, as well as outside it, and also plots of land, manganese platforms, and such other space as may be necessary for the storage of manganese ore, all of which will be accurately designated in nature at the time of transfer.

2. In relation to the first paragraph of this Section, the parties further agree:

a) Manganese stocks (ore mined and lying on the surface on the date of the signature of this agreement, fit for exportation and containing not less than forty eight per cent (48%) of Mn, up to 170,000 (one hundred and seventy thousand) tons in amount and <natskrili> are not comprised in the property transferred to the Concessionaire and remain at the entire disposal of the Government. The Government shall not, however, export abroad any ore derived from <natskrili> either as such or as ferro-manganese. Likewise property to be transferred does not include materials and stores in base depots of Tchiatouri and Poti, in so far as said materials and stores have not been used in the manganese industry at Tchiatouri or at Poti.

Note: The Manganese stocks as described in this Section up to 170,000 (one hundred and seventy thousand) tons in amount shall be exported by the Concessionaire in accordance with a special agreement between the Concessionaire and the Government of S.S.R.G. providing either for the direct sale of said ore, or sale of same on a commission basis. In the event of failure to reach such agreement, for any reason, the Government shall have the right to export said stocks abroad itself, in a ratio of one to four of the amount of ore exported by the Concessionaire at the same time. Ore so exported by the Government shall be deducted from the export minimums guaranteed by the Concessionaire for the particular period. If required the Government shall have the right to delay, for the purpose of washing said stocks, the transfer to the Concessionaire of two washing plants for four months from the date of execution of this agreement.

b) While effecting the transfer of such property the Government reserves the right to decide which buildings and plots of land outside of the conceded area it shall find possible to transfer, and also to decide whether the

hospital with its equipment, and other buildings in Tchiatouri which belonged to the Council of the Congress of Manganese Producers, and which are now at the disposal of the Manganese Administration, are to be transferred. Machinery, inventory and equipment acquired by the Manganese Administration, but not yet installed by it in works at Tchiatouri are not subject to transfer.

c) The provisions of this Section are not applicable to plots of surface land, which lie within the limits of the town of Tchiatouri or the Railway Right of Way, as well as plots of land in the use of third parties until the expiration of such use. The Electric Power Plant in Tchiatouri is not subject to transfer.

Note. However, within the area of the town of Tchiatouri to the east of a line drawn from the point at sixty degrees, fifty seven minutes, seventeen and two hundred and fifty thousandths seconds ($60^{\circ}57'17,250''$) East Longitude, and forty two degrees, seventeen minutes, forty eight and two hundred and eighty one thousandths seconds ($40^{\circ}17'48,281''$) North latitude situated in the Southern part of the district Zeda Rgani, to the point at sixty degrees, fifty seven minutes, thirty nine and four hundred and sixty thousandths seconds ($60^{\circ}57'39,460''$) East Longitude and forty two degrees, seventeen minutes, twenty four and four hundred and fifty thousandths seconds ($42^{\circ}17'24,450''$) North latitude situated in the Northern part of Perevissi, the Concessionaire shall, on notice from it, be allotted plots of land necessary for the building of washing plants and all structures relating to the concession enterprise. For such plots the Concessionaire shall pay at the same rates as for plots in all the rest of the conceded area, and shall have the same right to erect any structures on such plots as in the rest of the conceded area.

If, on such plots there should be any buildings or structures, same shall be removed at the expense of the Concessionaire, with compensation for damages according to paragraph 4 Section 8 of this agreement.

d) Existing manganese platforms and existing areas used for storage of manganese ore, contiguous to the Railway Line shall be transferred to the Concessionaire even if situated outside the conceded area, and whether they are within the Railroad Right of Way or outside of it and whether within or without the boundaries of the town of Tchiatouri.

Platforms and storage areas now under lease to private persons shall be transferred on expiration of the leases. At the same time, the Government shall have the right to reserve for its own needs one sixth of the manganese platforms transferable to the Concessionaire, which shall be selected by agreement with the Concessionaire.

e) All property with the Government hereby cedes to the Concessionaire in accordance with this Section will be transferred to him free of claims of third parties, and at places and in a condition where and in which they happen to be found at the time of signature of this agreement. For plots of land and Railway manganese platforms the Concessionaire shall pay in accordance with this agreement. All other properties under this Section shall be transferred to it free of cost and to all charges for their use.

f) A document shall be drawn up which will describe the property to be transferred, and show the present condition and estimated value of buildings, works, equipment and inventory. This document will be prepared in two copies, and shall be confirmed by the representatives of the two parties respectively empowered to give and to take delivery. Each party shall receive a copy of same. Transfer to the Concessionaire by the Government of said property, in accordance with the terms of this Section, must be completed within sixty days from the date of signature of this agreement.

Section 8.

1. If, for purposes of organizing and developing the enterprise the Concessionaire requires land for buildings, installations, habitations, warehousing space, platforms, etc., the Government will allot same to the Concessionaire out of land on the conceded area, which is in no one's legal use.

2. However, plots of land within the limits of the town of Tchiatouri as restricted in paragraph <c> Section 7, as well as within the Railroad Right of Way, except manganese platforms and other storage space as provided under paragraph <d> of Section 7, and in Section 20, shall be allotted to the Concessionaire only after an understanding with the local Executive Committee or with the Railway Administration.

3. If for the same purpose, it becomes necessary to occupy plots of land which are in the lawful possession of third parties or local institutions, the Concessionaire will have the right to arrive at an agreement with the holders.

4. If no agreements, as provided in paragraphs two and three of this Section are reached and if, in exceptional cases after special investigation by the Governor, it will appear absolutely necessary to the interests of developing the enterprise of the Concessionaire, to allot him plots of land hereinabove indicated, they shall be expropriated by the Government, in the interests of the Concessionaire, on condition, however, that the Concessionaire shall pay compensation in accordance with existing laws for damages occasioned thereby to the former holders of said plots.

5. In case of difference as to whether there is absolute necessity for expropriation, the matter will be submitted to arbitration as provided by Section 65.

Section 9.

1. For satisfying the requirements of its concession, and for workmen and employees, the Concessionaire is granted the right, under compliance with existing laws, to lease or rent buildings, dwelling houses, depots and plots of land throughout U.S.S.R., and also to erect new buildings under building contracts.

2. Buildings and dwelling houses whether leased, rented or erected by the Concessionaire under this Section shall be under its complete management, and the use of same shall not be subject to limitations now existing, or in future to be enacted, regarding the use of dwelling space.

Section 10)*

The Concessionaire has the right to utilise the water and water power afforded by rivers and streams in the conceded area, for satisfying the needs of the concession. For this purpose, it has the right to erect all the necessary installations for washing ore, and also installations for producing electrical energy. In availing itself of this right, the Concessionaire undertakes, in order to protect the Kvirili river from pollution by water used in the washing plants of the Concessionaire, to build in connection with the construction program provided for in Section 35, so called settling basins or other similar appliances if such meet the purpose, and are commercially suitable.

2. In any event, water discharged from washing plants, before being conducted into the Kvirili river, shall be passed through settling basins. If the Concessionaire should not install classifiers of the Dorr or Aiken types, the capacity of the settling basins shall be approximately one (1) cubic meter for each twenty-eight (28) tons of washed ore produced during the year.

3. the Concessionaire further agrees to erect Dorr thickeners or appliances of a similar character for the purpose of cleansing the water of ore particles and other foreign bodies, as far as is practically possible with such appliances. If de-watering appliances, such as Dorr or Aiken classifiers, are installed by the Concessionaire and the water discharged from the washing plants is passed through such classifiers before entering the settling basins, the capacity of the latter may be reduced in proportion to the results obtained by experiments in the operation of said classifiers. The arrangements and conditions for conducting such experiments shall be agreed upon with the local Mining Inspection. The Concessionaire shall also come to an agreement with the latter in regard to the reduction to be allowed in the capacity of the basins as determined by the results obtained by the experiments made. However, the reduction of the capacity of the basins shall not in any event be allowed to occasion the emptying of water into the river in a dirtier condition than would be the case if basins of full capacity were installed without classifiers.

4. The settling basins and other similar appliances such as the Dorr thickeners and classifiers, may be emptied into the Kvirili river during periods of high water, and in the absence of high water, not oftener than once a month, and then simultaneously. The monthly term shall be reckoned from the day on which the said settling basins or other similar appliances were last;

*) In the wording of the Supplementary Agreement dated July 7th 1927.

emptied. The high water level at which the settling appliances may be emptied into the river, shall be determined, for various places on the river, by the local Mining Inspection.

5. The Concessionaire is granted the right to construct platforms for the deposit of sediment from the classifiers on the banks and islands of the Kvirili river at a reasonable height between the mean and high water levels. The height at which the platforms are to be constructed shall be determined by agreement between the local Mining Inspection and the Concessionaire.

6. The right of using water power, as herein provided, is granted to the Concessionaire also on the upper reaches of the Kvirili river, from the boundaries of the conceded area to its sources.

7. If the Concessionaire, in virtue of this Section should erect a hydro-electrical power plant, the Government shall have the right to require from the Concessionaire the supply of electrical energy for the needs of the local population, subject to special agreement as regards the price and conditions affecting same.

Section 11.

On the conceded area, except in the strip of land constituting the Railway Right of Way, the Concessionaire has the right to obtain, free of charge, the ordinary subsoil materials necessary, such as stone, clay, fireproof materials, flux, sand and lime, as far as required for buildings, constructions, and for supplying the needs of the concession.

Section 12.

1. For the purpose of improving or developing the concession enterprise the Government grants to the Concessionaire the right to erect and equip new buildings, and improve same, as well as to complete the equipment, and in any way improve buildings forming part of the concession enterprise.

Section 13)*

1. The Concessionaire is granted the right to build and equip for the enterprise entrusted to it, spur lines of railroad, with the right to connect them with state railway lines, on compliance with the appropriate rules and regulations.

2. The Concessionaire is granted the right, under the same conditions, to construct funicular railways, underground and overhead systems of transportation for the needs of the concession enterprise.

3. The Concessionaire is granted the right to build highways and other roads to be used for the purposes of the enterprise entrusted to it.

* in the wording of the Supplementary Agreement dated July 7th 1927.

4. The Concessionaire is granted the right to erect on the conceded area, telephone and telegraph lines which are to be used for purposes of its enterprises, but it must apply to the appropriate State authorities for the privilege of connecting them with the general telegraph and telephone system.

5. The Concessionaire is granted the right to erect on the conceded area, electric light and power lines and also water and sewage systems.

6. The right to erect wireless stations and tramway lines, as well as to employ aerial transportation, may be granted to the Concessionaire only through special arrangement with the Government.

7. The land necessary for the construction of all improvements mentioned in this Section shall be granted to the Concessionaire by the Government in accordance with Sections 8 and 26 of this agreement.

Section 14.

1. The Concessionaire has the right to acquire in the U.S.S.R. in compliance with general legislation all goods necessary for the enterprises entrusted to it and not excluded from private trade, such as machinery, tools, raw products, partly manufactured goods, fuel, subsidiary and building materials etc.

2. The Concessionaire has the right in order to meet the requirements of its enterprise, as well as for executing construction work, to acquire the work forest sections for the purpose of creating stocks of timber and firewood, under the same conditions as state-controlled mining enterprises operating on a commercial basis; and for the purpose of creating stocks of railway ties, under the same conditions as the Administration of the State Railways of U.S.S.R.

SPECIAL PRIVILEGES GRANTED TO THE CONCESSIONAIRE.

Section 15)*

1. The Concessionaire is granted the right, for the entire duration of this concession, to import from abroad all articles and machinery necessary to it for the development, equipment and operation of the conceded enterprise, or for carrying out of construction work and improvements as contemplated in Section 35, 38, and 42 of this agreement, for the equipment of dwelling houses and other buildings for the use of the Concessionaire's workmen and employees, and also special clothing and footgear for workmen and employees, and patented articles necessary to the latter, while carrying out the work contemplated by this agreement.

2. This privilege does not extend to household articles, except washstands, baths with all appliances and accessories thereto and also bedsteads for the equipment of work people's houses and general dwelling houses for

*) In the wording of the Supplementary Agreement dated July 7th 1927.

employees, which may be imported, provided such articles are included in the inventory of the enterprise.

3. Importation of the said supplies shall be made on the following terms:

1. All articles, machinery and equipment set out in the first paragraph of this section, and the articles of equipment for workpeople's and employee's houses enumerated in paragraph 2, shall be imported by the Concessionaire free of duty and without payment of license fees or any other fees, until July 25, 1933.

2. (a) Articles of technical equipment not manufactured in U.S.S.R.; (b) spare parts of machinery which have been imported duty free from abroad under the provisions of this Section, and (c) duplicates of machines forming part of a complete installation imported from abroad duty free, requiring replacing without, however, renewing the entire installation, shall be imported by the Concessionaire free of duty and without payment of license fees or any other fees during the entire period of the concession.

4. In connection with the privilege granted to it under the present Section, the Concessionaire is, however, under the obligation of purchasing in the U.S.S.R. all articles and equipment required by it, if not inferior in quality, in its judgment, to foreign goods, and if they may be purchased subject to the same terms and conditions of delivery and shall not cost, f.o.b. destination, more than fifteen (15) per cent more than foreign goods, without adding to the cost of the latter customs duties and license fees.

5. Lists of articles which the Concessionaire proposes to import from abroad during the ensuing half year, giving approximate prices wherever practically possible, shall be submitted to the People's Commissariat of Trade twice yearly for its information. For the purpose of obtaining import licenses, the Concessionaire shall present applications with specification of goods to be imported from abroad, containing sufficient particulars to enable a judgment to be formed as to the possibility of the application of the privileges provided by this Section. The licenses shall be issued by the People's Commissariat of Trade within two weeks from the day of the presentation of the application. The forms of application and specification shall be agreed upon between the Concessionaire and People's Commissariat of trade.

Section 16.

1. The Concessionaire, as well as all the property owned by it or in use by it, are exempt for the entire duration of the concession, of all taxation and imposts, both central and additions thereto for local purposes, and local taxation.

2. In limitation of the above general rule, the Concessionaire is liable for the payment of Patent taxes levied by the central authority without local additions thereto, stamp duties, court fees, registration fees and office dues, as well as the following local taxes and imposts: Taxes on logs from forests,

taxes on horses and carriages in towns, on bicycles, motor vehicles, yachts and motor boats, taxes on cattle in towns, conveyances of buildings, or building permits, and taxes on transactions consummated or registered on the Bourse.

3. The taxes and imposts enumerated in the second paragraph of this Section shall be paid by the Concessionaire on the same basis as applied to similar State-controlled industries conducted on a commercial basis.

4. Communal charges, for example, charges for sewage, water supply, and electrical current, now in existence, or in the future to be applied, in Tchiatouri and Poti, are payable by the Concessionaire with the same abatements as allowed to State controlled mining enterprises in the Soviet Socialist Republic of Transcaucasia, as distinguished from private enterprises. The Concessionaire shall not be subject to discriminatory communal charges applied especially to the enterprises of the concession.

Note. The present paragraph does not affect customs duties, license fees or fees for social insurance.

5. Shareholders of the Company, acting in virtue to this agreement as Concessionaire, who are foreign citizens, are exempt in U.S.S.R. of income tax on dividends derived from the concession.

Section 17)*

1. The Concessionaire is granted the right to entrust the execution of separate parts of the work in connection with operation undertaken by him under this concession, as well as of subsidiary work necessary for the carrying out of the concession, to third parties, either persons or judicial entities, including foreigners, authorized to work in the U.S.S.R., as contractors, on condition, however, that such contracts will in no way affect the relations between the Government and the Concessionaire under the concession agreement and that the latter shall remain fully responsible for the execution of its obligations under this agreement, and that the privileges granted to the Concessionaire, as exemptions from general legislation of the U.S.S.R., shall not be extended to said contractors.

2. As an exception to the provisions of the last clause of the first paragraph of this Section, contractors, including foreign contractors, whom the Concessionaire entrusts during the first five years with the construction of loading apparatus in the port of Poti and at Sharopan Station, and with the construction of roads of approach and of factory and other buildings in the Tchiatouri region, as provided in this agreement, shall have the same privileges and exemptions as to the payment of taxes and dues, as the Concessionaire, under this agreement. If, during the first five years, among the contractors mentioned in this paragraph foreign firms should, be invited, they

*) In the wording of the Supplementary Agreement dated July 7th 1927.

shall on notice from the Concessionaire, and under compliance with formalities required by law be registered and obtain the right to perform the work contemplated, under their contracts with the Concessionaire.

3. Moreover, as an exception to the provisions of the first paragraph of this Section, contractors working under agreements with the Concessionaire in the mining and washing of ore shall, in the event of the capital they employ to that end being furnished by the Concessionaire, enjoy for a period of two years from the date of the signature of this agreement the same exemptions and privileges as regards the payment of taxes and charges as the Concessionaire itself. Income tax is payable, however, by this class of contractors on the general basis of existing laws.

4. With the object of assuring the regular and due payment by contractors, to whom the Concessionaire shall have entrusted the fulfillment of various work in accordance with this Section, of wages to work people and employees engaged on such work, and also the payment of Social Insurance dues for such work people and employees, the Concessionaire shall, in effecting payments to said contractors, comply with the laws, providing measures assuring the regular payment of wages to work people and employees engaged to work by contractors in the fulfillment of Government contracts.

Section 18.

1. The Concessionaire shall effect its sales of foreign exchange against currency of U.S.S.R. exclusively through the State Bank U.S.S.R.

2. The Concessionaire shall give the State Bank three months notice of its requirements in the currency of the U.S.S.R. for each quarter.

3. The Government is under the obligation of furnishing the Concessionaire, through the State Bank, with currency of the Union sufficient for its requirements, at rates not less favorable than those given to the most favoured clients at any Government banking institution in Moscow or Leningrad on dates of sales of exchange by the Concessionaire.

4. The above arrangement is concluded for two years from the date of this agreement becoming effective, and may be renewed at the option of the Concessionaire for any succeeding yearly period this agreement is in effect.

5. The Government grants the Concessionaire the right to export abroad all kinds of orders of payment, (cheques, bills of exchange etc.), drawn in foreign currencies and payable abroad and also to effect telegraphic transfers in the following cases: (1) when by means of said orders the Concessionaire effects payment to foreign contractors or suppliers for materials and goods imported from abroad, (2) when payment is made to foreign employees domiciled in U.S.S.R. in respect of their salaries.

6. In all cases mentioned, the Government shall without hindrance furnish the Concessionaire with permits for the exportation abroad of the above mentioned orders.

7. Further, the Concessionaire shall have the right to pay in foreign currencies amounts due to the Government under this agreement.

**TRANSPORTATION OF CONCESSIONAIRE'S GOODS BY THE RAILWAY LINE
SATCHKERI-TCHIATOURI-POTI.**

*Section 19. *)*

1. The Government, acting through its Departments of Railway Transportation, guarantees to the Concessionaire rail transportation from the Tchiatouri Zone to the Port of Poti of manganese ore and peroxide to a quantity of Seventy Thousand (70,000) tons a month, until the Concessionaire shall have fulfilled its obligations provided by Sections 38, 40 and 42 of the Concession Agreement.

2. As of January 1, 1931, on condition that the payments to the Government provided by Section 38 of the Concession Agreement, excepting the last payment of Sixty-eight Thousand, Four Hundred and Thirty-seven Dollars (68,437) intended for subsequent work, shall have been duly made by the Concessionaire, and that the Concessionaire shall have duly fulfilled all other obligations assumed by it under Sections 38 and 42 of this agreement, rail transportation from the Tchiatouri Zone to Poti Port, of manganese and peroxide ore in new wagons delivered by the Concessionaire, adapted to operate with the reloading appliances to be erected by the Concessionaire at Poti Port and at Sharopan, is guaranteed.

3. The Government guarantees to the Concessionaire the transportation of manganese and peroxide ore in said rolling stock supplied by the Concessionaire to a quantity in accordance with the normal yearly capacity of the new rolling stock, as follows:

(a) On delivery by the Concessionaire of the rolling stock specified in Section 38 of the Concession Agreement in a quantity calculated to transport Eight Hundred Thousand (800,000) tons per annum, the guaranteed quantity to be transported shall be limited by Sixty-six Thousand Six Hundred and Sixty-six (66,666) tons per month.

(b) As additional quantities of new rolling stock are supplied by the Concessionaire on the conditions set forth in Sections 38, 39 and 40 of the Concession Agreement, the said guaranteed quantities to be transported shall be correspondingly increased to Eighty Three Thousand, Three Hundred and Thirty-three (83,333) tons per month. After the transportation has exceeded Eighty Three Thousand, Three Hundred the Thirty-three (83,333) tons per month, the Government guarantees to transport a quantity of manganese and peroxide according to the additional quantity of rolling stock supplied by the Concessionaire, on the expiration of a year after the payment by the latter of the Sixty-eight Thousand, Four Hundred and Thirty-seven Dollars (68,437)

*) In the wording of the Supplementary Agreement dated July 7th 1927.

for subsequent work; such guaranteed quantity shall not, however, under any circumstances exceed One Hundred and Thirty-four Thousand (134,000) tons per month.

4. Within the limits of the aforesaid guarantee, manganese and peroxide ore shall be transported by the railways in accordance with preliminary applications submitted to the railway by the Concessionaire a month in advance, giving the quantity of ore to be transported during the ensuing month. Departures from such preliminary applications will be permitted on condition that due notice is given by the Concessionaire to the railway in a manner to be provided by special agreement made directly between the Concessionaire and the Administration of the Transcaucasian Railways. A daily application shall not exceed one-twenty-eighth ($\frac{1}{28}$) part of the monthly limit guaranteed by the Government to the Concessionaire in accordance with this Section, on the understanding that the quantity of manganese and peroxide ore exceeding the limits of the monthly and daily applications, will be transported, insofar as the Administration of the Transcaucasian Railway finds it possible to do so, in the Concessionaire's special rolling stock. The transportation of excess quantities over the limit of the monthly statement in ordinary rolling stock, if this should be practically possible, may be undertaken by special permission of the People's Commissariat of Ways of Communication, and on conditions and at rates agreed on between the People's Commissariat of Ways of Communication and the Concessionaire for such transportation.

5. Within the limits of applications made by the Concessionaire with the observance of the above-mentioned conditions, manganese and peroxide ore shall be transported by the railway at its convenience, but as far as possible evenly.

6. The parties agree that in the event of non-fulfillment of the transportation guarantee assumed in the first, second, third and fourth paragraphs of this Section, whether ensuing from circumstances for which the Government is accountable or not, insofar as the Concessionaire is not under obligation to prevent the said circumstance, the consequences on the obligations of the Concessionaire shall be the same as described in Section 54 in connection with the operation of <force majeure>. Should the Government or the Railway Administration be at fault, there shall follow, besides, the consequences prescribed in Section 23, Paragraph 3, of the Concession Agreement.

7. Besides the guarantee provided in the above Paragraph 1, the Government guarantees in respect to the transportation of all goods belonging to the Concessionaire, by railway, as regards delivery, storage of goods; and other transportation conditions, including tariff rate, and in particular, as regards the responsibility of the railway, there shall be assured to the Concessionaire all rights granted to State-controlled enterprises on a commercial basis transporting similar goods, by the railway by-laws of U.S.S.R., and by the appropriate general department regulations, and further that all laws and

regulations to be enacted in the future concerning responsibility of the railways towards shippers of freight, shall be extended to the Concessionaire. Exceptions to the general conditions set forth in this paragraph, concerning manganese and peroxide ore, are provided below in Paragraphs 8, 9, 10, 11, 12, 13 and 14 of this Section.

8. The charge for the transportation of manganese and peroxide ore from the Tchiatouri Zone to Poti Port shall be as follows:

(1) Until January first (1st), Nineteen Hundred and Thirty-one (1931), it shall be One and Eighty-five Hundredths Dollars (1.85) per ton.

(2) As of January first (1st), Nineteen Hundred and Thirty-one (1931), on condition that the Concessionaire will have fulfilled the obligations assumed by him under Sections 38, 40 and 42 of this Agreement, except the payment provided by Paragraph 1 of this Section, of Sixty-eight Thousand Four Hundred and Thirty-seven Dollars (68,437), the charges shall be One and Twenty-five Hundredths Dollars (1.25) per ton.

9. The above transportation charges shall be inclusive and no other charges shall be made in respect to the transportation of said ore from the Tchiatouri Zone to Poti Port, but the said transportation charges shall not include the following supplemental charges:

(1) Payment of dues levied against shippers of goods for keeping the same longer than the term of free keeping thereof, and for the detention of wagons being loaded or unloaded, for periods longer than the terms allowed, when the said operations are carried out by the Concessionaire.

(2) The payment for all manner of supplementary services rendered to the Concessionaire during the period of time before the conclusion of the transportation contract and during the time after the redemption of goods; viz, (a) Payment for delivery of wagons at the sidings of the Concessionaire and their removal therefrom, (b) Payment for shunting wagons by the railway in distributing separate lots of wagons for loading ore on ships, (c) Payment for occupying with ore, plots of land at the Poti Goods Station and at Poti Port, not rented by the Concessionaire, as provided by Section 20, (d) Payment for weighing ore loaded into wagons from storage platforms at Poti Goods Station and Poti Port, (e) Payment for any other services whatever if such be requested by the Concessionaire and if such be not included in the services covered by the transportation tariff rate and supplementary charges (station, weighing, organization, loading and unloading. For all services enumerated in Point 2 of this paragraph of this Section, payment shall be made by the Concessionaire on the same terms as are granted to Government enterprises operating on a commercial basis.

10. Ore shall be loaded at Tchiatouri and unloaded at Poti by the Concessionaire, which shall also be the case with regard to loading and unloading operations in Poti at the temporary storage platforms of the Concessionaire. Ore shall be reloaded at Sharopan by the railway and at its expense.

11. The parties agree that the transportation charge provided by this Section shall be paid by the Concessionaire according to the actual weight loaded, but not less than the amount due for the normal loading capacity of the wagon in which the goods; are transported.

12. Until January first (1st), Nineteen Hundred and Thirty-one (1931), manganese and peroxide ore shall be loaded in Tchiatouri for transportation by rail and unloaded at Poti by the Concessionaire with the observance of the respective general regulations and within the time allowance provided by said regulations. As of January first (1st), Nineteen Hundred and Thirty-one (1931), on condition that by that time the reduced tariff rate of one and twenty-five hundredths dollars (1,25) will be applicable to the Concessionaire's transportation, the Concessionaire shall be allowed two (2) hours for the purpose of loading manganese and peroxide ore in Tchiatouri and five (5) hours for unloading said ore in Poti. The Concessionaire shall pay the fixed charge for the detention of wagons being loaded or unloaded beyond the time stipulated, from the time of delivery of the wagons to the Concessionaire to the time they are returned to the railway. The Concessionaire agrees to make every effort to insure the return of the trains delivered to it for loading or unloading in complete trains, but not in parts.

13. The parties agree that in the event of breakage or damage to the reloading appliances at Sharopan owing to faulty construction, the obligations of the Government with regard to the guaranteed transportation, shall be reduced in proportion to the time the reloading appliance shall be out of operation for repairs.

14. the parties agree that if the cost of the operation of the reloading appliance, determined by the method described in Annex II should prove to be higher than 6,1 kopeks per metrical ton, the Concessionaire shall be obliged to reimburse the Government for the difference between the actual cost of the operation of the reloading appliance and the above-mentioned cost.

15. The Concessionaire has the right to effect delivery of cars on branches at his own expense and by his own means, under compliance with the appropriate regulations.

STORAGE AND LOADING OF ORE AT POTI.

Section 20)*

1. For the purposes of constructing mechanical loading and transshipment apparatus in the port of Poti in accordance with Section 42 of this agreement, for the purpose of storing ore and for performing operations necessary for unloading and re-loading of same, the Government grants to the Concessionaire for use: (a) for the entire period that this concession is in

*) In the wording of the Supplementary Agreement dated July 7th 1927.

operation, a plot of port territory, situated in the port of Poti, along the manganese docks in the inner basin, measuring in length three hundred and twenty(320) metres and in width seventy (70) metres, which plot, not later than one year from the date of signature of the Concession Agreement, shall be designated on the spot; (b) all railway and storage areas in the port of Poti on the North Mole and Northern Quay of the inner basin, as shown on the attached plan (Annex V), now used for the storage of ore, until such time as the construction of the loading apparatus contemplated in Section 42 is completed, but platforms leased to third parties shall be transferred after the expiration of the leases, but in no event later than one year and a half from the date of signature of this agreement.

2. For the use of the said plot of port territory, and of the said railway and storage platforms specified in clauses (a) and (b) above, the Concessionaire shall pay to the Government Twenty Thousand Roubles (Rs. 20,000) per annum, for the entire period of time the concession is in operation.

3. Further, for a period of three years from the date of signature of this agreement, the Concessionaire has the preferential right of obtaining from the port authorities the use, for the unloading and storage of goods, other than manganese, of other plots of land that are vacant or fall vacant, and vacant storage space on port territory, necessary for the requirements of the concession.

4. After the expiration of three years from the date of the Concession Agreement coming into effect, the right of use over other plots of land and storage space on port territory at Poti, shall be granted to the Concessionaire under general conditions applying to all lessees. For the said plots of land and storage space, the Concessionaire shall, in both cases, pay rent at the rates paid by State-controlled enterprises conducted on a commercial basis.

5. For the entire period of time that the concession is in operation, the Concessionaire is granted the use of existing platforms used for the unloading and reloading of ore at the Railway terminal of Poti, at rents applied to State-controlled enterprises operating on a commercial basis.

6. Platforms leased by third persons shall be transferred at the expiration of the leases, but not later than one year and a half from the date of the Concession Agreement coming into effect.

7. Rent due for surface land leased shall be paid to the office of the Poti port authorities or to the office of the Railway Administration semi-annually in advance.

8. When handing over possession of land mentioned under letters (a) and (b), the removal of buildings therefrom to other locations on port territory, as well as the removal of goods, if necessary, shall be effected at Concessionaire's expense. At the same time, the Concessionaire has the right to take away the crane now situated on the port territory of the inner basin, when it begins the construction of the loading apparatus provided for in Section 12.

9. The cession to the Concessionaire of the plots described in points (a) and (b), Paragraph 1 of this Section, shall not occasion the closing of the communication between the territory of the North Mole and inner basin and other parts of the port, and the Concessionaire therefor undertakes not to occupy the existing railway lines and roads of communication. By agreement between the Concessionaire and the Poti port authorities, the existing railway lines and roads may, at the Concessionaire's expense, be removed so as to pass the plots ceded to it. The plot from which said railway lines and road have been removed, may be fenced off by the Concessionaire.

10. The Concessionaire shall have full and unhindered right to effect loading and unloading operations of manganese vessels at the port of Poti.

11. All land in the Port granted to the Concessionaire under this agreement, must be maintained by the latter in complete efficiency and Concessionaire shall comply with all regulations in force in the port of Poti. The Port authorities shall have the right of supervising and controlling compliance with the above-mentioned regulations.

12. The Port Authority undertakes to maintain a depth, at the manganese berths along the plots ceded to the Concessionaire and in the entrance channel, of twenty-six (26) feet below mean water level. The said depth shall be maintained by the Port Administration at its own cost and with its own resources. The Concessionaire shall free the berths occupied by it for dredging by the dredgers of the Port Authority at periods to be agreed on with the latter.

Section 21.

1. All vessels entering the port of Poti or other Black Sea port for the purpose of loading and transporting manganese or peroxide ore, produced and shipped by the Concessionaire, in accordance with this agreement, as regards all port charges, customs duties and other fees, excluding per good charges (Section 16), shall be subject to all regulations, existing or to be enacted concerning such charges except taxes and charges falling on goods. The legal status of vessels entering the port of Poti for the purpose of loading cargoes of manganese or peroxide ore will be determined by general laws, and conventions between the Government and foreign states.

2. Charges assessed against vessels of any one nationality calling at the port of Poti or other Black Sea ports of U.S.S.R. for the purpose of loading manganese or peroxide ore, shall be no greater than those assessed against other vessels of the same nationality calling at the said ports for other commercial purposes. Likewise, as regards the application of port regulations and the right to call at ports, to take on water, fuel and provisions, vessels of any one nationality loading manganese and peroxide shall not be subject to conditions less favorable than other vessels of the same nationality loading other cargoes.

3. The Concessionaire is granted the right to charter vessels at his discretion, under compliance with the terms of this Section.

PROTECTION OF CONCESSIONAIRE'S RIGHTS.

Section 22.

Assets representing Concessionaire's property cannot be subject to requisition or nationalization or municipalization, or other acts of confiscation. The Concessionaire is, however, subject to general rules of requisition in war time, which requisition must be made against fair compensation.

Section 23.

1. the Government guarantees that it will not change either rights and privileges herein granted to the Concessionaire, or obligations assumed by it under this agreement.

2. If the Government should transfer to any other person or entity, public or private, any rights, properties, privileges or functions which might effect in any manner rights or privileges herein granted to the Concessionaire the Government guarantees that while so doing all rights and privileges granted to the Concessionaire under this agreement affected by such transfer shall be binding on said party and same shall assume all corresponding obligations of the Government under this agreement. While so doing the Government shall not free itself from the corresponding obligations assumed by it under this agreement.

3. The Government will compensate the Concessionaire for damages caused to it in consequence of breaches of this agreement on the part of organs of central and local authority. Further, the Concessionaire has the right to demand the cessation of such breaches and reinstatement in its rights.

Section 24).*

1. The Concessionaire shall pay the Government a royalty of three dollars (3.00) on each dry ton of manganese ore exported during the first two years from the date of the coming into effect of the Concession Agreement. For the remaining period of the concession, the Concessionaire shall pay to the Government royalties on exported manganese ore on a sliding scale based on c.i.f. sales prices as shown in the following schedule:

c. i. f. Price per Unit in cents	Royalty per Ton in Dollars
Below 28,5	1,50
28,5 to 28,99	1,50
29,0 " 29,49	1,625
29,5 " 29,99	1,75
30,0 " 30,49	1,875

* In the wording of the Supplementary Agreement dated July 7th 1927.

30,5	"	30,99	2,00
31,0	"	31,49	2,125
31,5	"	31,99	2,25
32,0	"	32,49	2,375
32,5	"	32,99	2,50
33,0	"	33,49	2,625
33,5	"	33,99	2,75
34,0	"	34,49	2,875
34,5	"	34,99	3,00
35,0	"	35,49	3,125
35,5	"	35,99	3,25
36,0	"	36,49	3,375
36,5	"	36,99	3,50
37,0	"	37,49	3,625
37,5	"	37,99	3,75
38,0	"	38,49	3,875
38,5	"	38,99	4,00
39,0	"	39,49	4,125
39,5	"	39,99	4,25
40,0	"	40,49	4,375
40,5	"	40,99	4,50
41,0	"	41,49	4,625
41,5	"	41,99	4,75
42,0	"	42,49	4,875
42,5	"	42,99	5,00
43,0	"	43,49	5,125
43,5	"	43,99	5,25
44,0	"	44,49	5,375
44,5	"	44,99	5,50
45,0	"	45,49	5,625
45,5	"	45,99	5,75

And so forth

And so forth

This scale progressively increases by one-half cent.

This scale progressively increases by dollars 0,125

2. The above sliding scale shall be effective from July 25, 1927, but up to and until midnight of July 25, 1928 the rates of royalty payments in accordance with the said scale, shall be reduced by One Dollar (1,00) per ton.

3. For peroxide ore exported, the Concessionaire shall pay the Government a royalty of Eight Dollars (8,00) per dry ton for the first three years of the Concession Agreement, and Nine Dollars (9,00) per dry ton thereafter. Ore containing MnO₂ and sold for purposes other than metallurgical, shall be considered peroxide. Ore sold for metallurgical purposes shall be considered manganese ore regardless of the percentage of NnO₂ content. The fact that the ore is intended for metallurgical purposes shall be specified in the sales contracts.

4. The c.i.f. sales prices shown in the said schedules are based on an assumed freight rate of Three Dollars and Fifty Cents (3.50) per ton, and the Parties hereto agree that:

(a) if the sea freight rate paid by the Concessionaire shall be less than Three Dollars and Fifty Cents (3.50) per ton, bill of lading weight, or the equivalent in other currency, then the Government, in addition to the royalty as specified herein, shall receive, for each ton of ore shipped by the Concessionaire, one-half ($\frac{1}{2}$) of the difference between the said assumed sea freight rate and the actual sea freight rate paid by the Concessionaire. Payment of said difference shall be made by the Concessionaire at the time of final settlement of royalty payments as specified in Paragraph 7 of Section 25 of the Concession Agreement.

(b) If the sea freight rate paid by the Concessionaire shall exceed Three Dollars and Fifty Cents (3.50) per ton, bill of lading weight, or the equivalent in other currency, then the Concessionaire shall receive credit from the Government, for each ton of ore shipped by the Concessionaire, in the amount of one-half ($\frac{1}{2}$) of the difference between the actual sea freight rate paid by the Concessionaire and the said assumed sea freight rate and the said amounts shall be deducted from royalty payments at the time of final settlement of royalty payments as specified in Paragraph 7 of Section 25.

5. Sea freight shall be considered as the total sum paid for the transportation of goods from Poti Port to port of destination, at the rate stipulated in the charter party, from which there shall be deducted credits allowed to the Concessionaire by the ship owner, and to which there shall be added the sums spent by the Concessionaire for items corresponding to the allowances made, to the extent that the total of said sums so expended shall not exceed the said allowances. The rate per ton shall be the amount so arrived at, divided by the number of tons of ore, bill of lading weight.

6. In any event, the Concessionaire, regardless of fluctuations of sales prices and freight rates, shall pay the Government a minimum royalty of One and One-half Dollars (1.50) per dry ton of ore exported.

7. The minimum royalty specified in the foregoing paragraph shall be effective during the entire time when the sliding scale provided for in Paragraph 1 of this Section is in effect, including the time prior to July 25, 1928.

Section 25).*

1. Payment to the Government of per ton royalties contemplated by this agreement, shall be effected in the following manner.

2. The weight of each separate cargo, on board ship, manganese and peroxide ores shown separately in accordance with official shipping documents, shall be reduced, for purposes of provisional payment, by ten (10%) per cent, and the tonnage figures so arrived at, shall be paid for by the Concessionaire to the Government in the City of Tiflis at the rates fixed in Section 24 by cheques in United States dollars on a bank selected by mutual agreement between the Government and the Concessionaire.

* In the wording of the Supplementary Agreement dated July 7th 1927.

3. The Government shall designate its representative in Tiflis who will be authorized to accept such cheques and to indicate to whose order and in what denominations they are to be drawn.

4. The Concessionaire shall duly notify the Government of the arrival of a ship at Poti, to load manganese or peroxide, stating the quantity, quality and against which contract the ore is to be loaded, the Government having the right to take samples of the ore being loaded for the purpose of checking its quality.

5. the Concessionaire shall have five days after the clearance of each vessel carrying a manganese cargo, within which to deliver the above-mentioned cheques. With delivery of such cheques to the above-mentioned Government representative, the Concessionaire shall furnish a statement indicating the tonnage of ore shipped in accordance with shipping documents, and indicating separately the quantity of manganese and peroxide, the c.i.f. prices thereof and freight rate in accordance with the charter party, at which the said cargo is shipped. Said statement shall also mention the sales contract and charter party against which the shipment has been made.

6. After the arrival of each cargo of ore (manganese or peroxide) at the port of destination, the Concessionaire is obliged to deliver to the Government within the shortest time possible certificates issued or delivered by an impartial and authorized institution at said port of destination regarding (1) the exact tonnage of the ore (manganese or peroxide) constituting said cargo, and (2) the percentage of moisture contained in said cargo. On notice from the Government, the Concessionaire shall afford the Government assistance should the latter desire to verify the accuracy of the figures contained in said certificates. Should the Government so desire, the Concessionaire is obliged to demand on its own behalf a verification of moisture analysis reports in the manner practised at the port of destination. The parties agree, however, that the average yearly moisture so arrived at shall not, for purposes of settlement between them, be, in any event, calculated at a percentage greater than eight per cent (8%).

7. On the basis of the final figures so obtained as to the weight of each cargo shown in dry tons, and not later than two months after the expiration of each quarter of the calendar year, final settlement for sea freight rate adjustments provided for in Section 24, and for all cargoes (of manganese or peroxide) exported during each quarter, shall be effected at rates specified in Section 24 in the same manner as provided for provisional settlements. In such event, if balances are due to the Concessionaire, same shall be deducted by the Concessionaire from the next per ton royalty payments on ore due.

8. the Government, through its representative, shall have the right, not more than twice per year, to institute periodical examinations in U.S.S.R. and abroad, of the original documents and books of the Concessionaire concerning the sale of manganese and peroxide ore and the terms on which freight

has been chartered. The said representative shall have the right to obtain copies of any documents and extracts from books required by him.

9. The sales prices of manganese ore and the freight rates for transporting manganese ore, according to which royalty payments made by the Concessionaire to the Government are calculated, shall be commercially reasonable.

10. In the event of the loss of a cargo before arrival at the port of destination, the calculation of royalty payments shall be made at the prices and weight stated in the Concessionaire's <factura> on the sailing of the ship, minus an allowance of ten per centum (10%) for moisture and loss of weight in transit.

11. Should the Concessionaire delay delivery of cheques or should cheques not be honoured through the fault of the Concessionaire or his bankers, he shall pay for each day's delay after five days' grace, one-tenth of one per cent of the amount due for payment.

12. For the purpose of determining whether the exported ore is manganese or peroxide, in accordance with the provisions of Section 24, the Government may require the Concessionaire to have expert decision at the port of discharge at its own, i.e., the Government's expense.

Note. The copies of sales contracts and other documents and extracts from books submitted by the Concessionaire, as provided by Paragraph 8 of this Section, shall be free of stamp duty.

Section 26.

1. The Concessionaire shall pay yearly per hectare rent of two roubles on each hectare of allotment surface on the whole of the conceded area within the boundaries of which he is granted the right of mining ore.

2. The manner and time of payment of per hectare rent shall be regulated in accordance with the general rules in U.S.S.R.

3. For the surface land within the conceded area granted for the exclusive use of the Concessionaire under plants, yards, storage and for any other needs of the concession and of its employees, the Concessionaire shall pay 100 (one hundred) roubles per hectare per annum unless other rates are fixed in this agreement. The payment shall be made at the end of each six months.

4. The rent for plots within the limits of the town of Tchiatouri as restricted in paragraph <C>, Section 7, shall be fixed or determined by an understanding between the Concessionaire and local executive committee.

Section 27).*

1. The Concessionaire agrees to keep in his books a special account to be known as <The Government Surplus Account>. In all cases, excluding peroxide ore (MnO_2), when sales of ore are made at a price in excess of

*) In the wording of the Supplementary Agreement dated July 7th 1927.

twenty one dollars per dry ton, there shall be credited to said account one-half of the difference between the price abroad and twenty-one dollars per dry ton. In all cases when sales are made at a price less than twenty-one dollars per dry ton, there shall be debited to said account one-half of the difference between the sales proceeds and twenty-one dollars per dry ton. Said Government Surplus Account shall be kept on the basis of c.i.f. prices, with references to invoices and '< facturae', and shall in cases of necessity, be supported by same. At the end of each five years during the time this agreement is in force, said account shall be balanced. If it shows a credit the amount of said credit shall be paid to the Government. If, however, a debit is shown, no payment will be required of the Government.

2. If the ocean freight on ore shipped by the Concessionaire to Atlantic ports of U.S.A. increases, owing to circumstances for which the Concessionaire is neither directly nor indirectly accountable, to an amount in excess of five dollars per ton (bill of lading weight) or the equivalent in other currency, with proportionate increases to other ports, then the amount of excess freight over five dollars per ton or similar increase in the rate of freight to other ports shall be deducted from sales proceeds over 21 (twenty-one) dollars per dry ton before crediting same to the account mentioned in above paragraph one of this Section.

3. The Concessionaire agrees to notify the Government as soon as it appears probable that freight rates on manganese ore will exceed five dollars per ton, bill of lading weight, from Poti or Batum to Atlantic ports of the U.S.A. in this event the Government will have the right to supply the Concessionaire with the necessary tonnage at the proper time at the rate of five dollars or less to U.S.A. Atlantic ports, and at corresponding rates to other destinations.

4. This Section (27) shall remain in effect until midnight of the 25th day of July, 1927, and after the said date shall be void and of no effect.

Section 28).*

1. The minimum production program fixing the volume of extraction by the Concessionaire must be established in a manner to assure the exportation of manganese and peroxide ore, during the twenty years period of the concession, of Seventeen Million, Eight Hundred and Sixty-two Thousand Five Hundred (17,862,500) dry tons.

2. The Concessionaire undertakes to mine during the first year of the concession Three Hundred Thousand (300,000) dry tons, during the second year Four Hundred Thousand (400,000) dry tons, during the third year Four Hundred and Fifty Thousand (450,000) dry tons, and during the fourth year, and thereafter, for the entire duration of the concession not less than Five Hundred Thousand (500,000) dry tons per annum. Shortage up to 10% (ten

*) In the wording of the Supplementary Agreement dated July 7th 1927.

per cent) of said minimum shall not be taken into consideration. Within said minimum, mining of ore must be conducted according to a plan and without interruption, on the basis of an evenly distributed yearly program with a view to working during the entire year, in as far as this is practically possible in the mining industry under local conditions.

3. If, during any year, the Concessionaire shall not have mined the yearly production minimum guaranteed in this Section, it shall pay, in the manner provided in Section 25 and the last paragraph of Section 33 of this agreement, five dollars (5) for each dry ton of ore short of the minimum tonnage agreed on. Should same occur during the year following the year of such breach of this Section, the Government shall have the right either to collect from the Concessionaire five dollars on each dry ton short mined during that year, or to require the Arbitral Board to cancel this agreement provided, however, that the Concessionaire shall not prove that it has not complied with the minimum fixed in this Section through no fault of its own.

Section 29.

The Government has the right by giving the Concessionaire at last six months' notice before the beginning of each operative year to acquire from him, at self-cost, deliveries to be effected in regular installments during the operative year, such quantity of ore as it may require for consumption in U.S.S.R., in which case the minimum export and royalty requirements obligatory on the Concessionaire for the respective year shall be correspondingly reduced. In a like manner minimum export and royalty requirements for five year periods and for the twenty year period will also be correspondingly reduced.

Note. The parties agree that <self cost> according to this Section shall represent cost of mining, enriching, and transporting ore up to place of delivery, with proper proportionate charge for the overhead expenses of the Concessionaire for administration of the concession enterprise, with proportional addition of interest on capital, percentage of amortization, and insurance charges. The self cost so arrived at, however, shall not exceed the self cost of ore as carried in Concessionaire's books.

Section 30).*

1. The Concessionaire undertakes to investigate the question of constructing in S.S.R.G. a ferro-manganese plant for converting Tchiatouri manganese. The Concessionaire, not later than three (3) years from the date of coming into effect of the Concession Agreement, is under the obligation of advising the Government in writing whether he contemplates the construction of such plant. In the event of an affirmative advice, the Concessionaire, not later than six years from the date of coming into effect of the Concession Agreement, must put such ferro-manganese plant into operation.

*) In the wording of the Supplementary Agreement dated July 7th 1927.

2. If the Concessionaire fails to give the Government notice of its intention to construct a ferro-manganese plant, or fails to put such plant into operation within the time indicated, the Government shall have the right either itself to erect a ferro-manganese plant for the purpose of converting Tchiatouri manganese, or may grant this right to any third person. Should the production of said ferro-manganese plant be exported abroad, the Government or the said third party shall be obliged to acquire all manganese ore necessary for this from the Concessionaire at the Concessionaire's self-cost in accordance with Section 29, plus two cents (2) per metallic unit in a dry ton of manganese ore.

Section 31.

Should the Government submit to the Concessionaire an offer for ore to be exported at a price higher than that fixed by the Concessionaire for the sale of ore at the same time, the Government shall have the right to require the Concessionaire to accept such offer, provided that it is technically capable of execution in view of its previous commitments. In such cases, besides the prescribed payments (Section 24) the Government shall receive the entire surplus resulting from the difference in price.

Section 32.

1. The Concessionaire is obliged to take all commercially reasonable measures for attaining the maximum distribution of Tchiatouri manganese and peroxide, and undertakes not to deal in manganese and peroxide produced in any other place than George, and also not to enter into agreements, either directly or indirectly, with other interests, with a view to reducing the quantity of Tchiatouri manganese and peroxide ore sold by the Concessionaire.

2. The Concessionaire, however, has the right, with the consent of the Government, to enter into agreements and make arrangements calculated to maintain and support a profitable price on Georgian manganese.

*Section 33. *)*

1. The Concessionaire's minimum export program of manganese and peroxide ore for the entire term of the concession shall be the sum of the yearly and additional minimums defined in this Section, amounting to Seventeen Million, Eight Hundred and Sixty-two Thousand, Five Hundred (17,862,500) dry tons of which for the first two years it shall be One Million (1,000,000) dry tons and for the remaining eighteen (18) years, Sixteen Million, Eight Hundred and Sixty-two Thousand, Five Hundred (16,862,500) dry tons.

*) In the wording of the Supplementary Agreement dated July 7th 1927.

2. By yearly minimum is meant the quantity of dry tons of manganese ore and peroxide which the Concessionaire is obliged to export during each year of the concession.

3. By additional minimum is meant the quantity of dry tons of manganese and peroxide which the Concessionaire is obliged to export over and above the yearly minimums, during each given five-yearly period of the concession.

4. The last five-yearly period; i.e., the period from July twenty-fifth (25th), Nineteen Hundred and Forty (1940), to July twenty-fifth (25th), Nineteen Hundred and Forty-five (1945), shall be divided into two periods; viz, the 16th, 17th and 18th years shall be called the three-yearly period, and the 19th and 20th years of the existence of the concession, the two-yearly period.

5. The yearly export minimum of manganese ore shall be fixed as of July twenty-fifth (25th), Nineteen Hundred and Twenty-seven (1927), at Five Hundred and Forty-two Thousand, Five Hundred (542,500) dry tons per annum.

6. The yearly export minimum of peroxide as of July twenty-fifth (25th), Nineteen Hundred and Twenty-seven (1927), shall be fixed at Twenty Thousand (20,000) dry tons per annum.

7. The additional export minimums shall be fixed at the following quantities:

a. For the first five-yearly period; i.e., from July twenty-fifth (25th), Nineteen Hundred and Twenty-five (1925), to July twenty-fifth (25th), Nineteen Hundred and Thirty (1930), Two Hundred and Fifty-eight Thousand, Seven Hundred and Fifty (258,750) dry tons;

b. For the second five-yearly period; i.e., from July twenty-fifth (25th), Nineteen Hundred and Thirty (1930), to July twenty-fifth (25th), Nineteen Hundred and Thirty-five (1935), One Million, Three Hundred and Fifty-six Thousand, Two Hundred and Fifty (1,356,250) dry tons:

c. For the third five-yearly period; i.e., from July twenty-fifth (25th), Nineteen Hundred and Thirty-five (1935), to July twenty-fifth (25th), Nineteen Hundred and Forty (1940), One Million, Six Hundred and Twenty-seven thousand, Five Hundred (1,627,500) dry tons;

d. For the fourth five-yearly period; i.e., from July twenty-fifth (25th), Nineteen Hundred and Forty (1940), to July twenty-fifth (25th), Nineteen Hundred and Forty-five (1945); for the first three-yearly period thereof, One Million Nine Hundred and Fifty-three Thousand dry tons (1,953,000), and for the two-yearly period, One Million, Three Hundred and Two Thousand dry tons (1,302,000).

8. As an additional export minimum of peroxide, the Concessionaire shall export during the first five-yearly period, Ten Thousand (10,000) dry tons; during the second five-yearly period, Fifty Thousand (50,000) dry tons; during the third five-yearly period, Sixty Thousand (60,000) dry tons; during

the fourth five-yearly period; for the three-yearly period, Seventh-two Thousand (72,000) dry tons, and for the two-yearly period, Forty-eight Thousand (48,000) dry tons. The number of tons of peroxide exported in excess of the yearly requirements provided for in Paragraph 6 and the present paragraph of this Section, shall be deducted from the additional manganese export minimums set out in Paragraph 7 of this Section for the same periods.

9. The Concessionaire shall have the right to export abroad ore produced from natskrili if the said natskrili shall be acquired by the Concessionaire under agreement with the Government of S.S.R. Georgia and to apply the actual quantity of said ore exported against the yearly and additional export minimums guaranteed in Paragraphs 5 and 7 of this Section, but in a quantity not exceeding One Hundred Thousand tons (100,000) per annum.

10. The aforesaid minimum requirements shall be reduced by the amount of ore belonging to the Government and exported in accordance with the terms of the Note to Section 7 of the Concession Agreement.

11. In the event that the Concessionaire, during any yearly period, has exported manganese or peroxide ore in excess of the minimums provided by this Section, then the amount of said excess shall be applied against the minimum required to be exported in any future yearly period, at the discretion of the Concessionaire.

12. In the event that the Concessionaire, during any five-yearly period, or the three-yearly period provided by Paragraph 4 of this Section, has exported manganese ore in excess of the minimums provided by this Section, then the amount of said excess shall be applied against any future five-yearly period, at the discretion of the Concessionaire, and the amount of the excess of the three-yearly period may be applied against the minimums of the two-yearly period.

13. If, through the fault of the Concessionaire, the export minimums provided for in this Section, have systematically been unfulfilled, the Government shall have the right of appeal to the Arbitral Board provided by Paragraph 1 of Section 62 and Section 65.

14. In any case, the Concessionaire guarantees to pay the Government in royalties calculated in accordance with the terms of Section 24 and taking into consideration freight differences described in Paragraph 4 of said Section 24, not less than One Million, Five Hundred Thousand Dollars (1,500,000) per annum during the first two (2) years of the Concession; and commencing from July twenty-fifth (25th), Nineteen Hundred and Twenty-seven (1927), not less than One Million, Four Hundred and Six Thousand Two Hundred and Fifty Dollars (1,406,250) during each of the next three years; and not less than One Million, Six Hundred and Eighty-seven Thousand, Five Hundred Dollars (1,687,500) during each ensuing year.

15. It is further agreed that the total payments made to the Government by the Concessionaire by the end of the first five-yearly period; i.e., by July twenty-fifth (25th), Nineteen Hundred and Thirty (1930), will amount to

not less than Nine Million, Three Hundred and Fifty Thousand Dollars (9,350,000); by the end of the second five-yearly period; i.e., by July twenty-fifth (25th), Nineteen Hundred and Thirty-five (1935), not less than Twenty-four Million, Three Hundred and Fifty Thousand Dollars (24,350,000); at the end of the third five-yearly period; i.e., by July twenty-fifth (25th), Nineteen Hundred and Forty (1940), not less than Forty Million, Three Hundred and Fifty Thousand Dollars (40,350,000); at the end of the eighteenth year of the concession; i.e., by July twenty-fifth (25th), Nineteen Hundred and Forty-three (1943), Fifty-three Million, Five Hundred and Fifty Thousand Dollars (53,550,000); and that at the end of the twenty-year period of the concession; i.e., by July twenty-fifth (25th), Nineteen Hundred and Forty-five (1945), not less than the total sum of Sixty-two Million, Three Hundred and Fifty Thousand Dollars (62,350,000). All payments previously made under the terms of the foregoing paragraph of this Section, shall be included in the said five-yearly payments.

16. Should the Concessionaire, however, have paid the Government Sixty-two Million, Three Hundred and Fifty Thousand Dollars (62,350,000) in royalties, as provided in this Section, before the expiration of the twenty-year period, the Concessionaire undertakes to pay thereafter not less than Two Million Dollars (2,000,000) in royalties per annum under the terms of this Section. If, for any such year, payments greater than herein fixed are paid, the excess may be credited against the guaranteed minimum of the next two years.

17. If, at the end of any yearly or five-yearly or three-yearly period, the payments made in accordance with this Section, shall prove less than the minimums provided by paragraphs 14 and 15 of this Section, the difference shall be paid by the Concessionaire to the Government.

18. The Parties shall keep a special account of the payments accruing under paragraphs 14, 15, 16 and 17 of this Section, and for each payment made in accordance with paragraph 17 at the end of any of said periods, the Concessionaire shall have the right to export in any ensuing period, but not before the minimum payments guaranteed by the Concessionaire for said periods shall have been met, free of royalty payments, a corresponding quantity of manganese and peroxide ore. The quantity of manganese and peroxide ore thus exported without payment of royalty, shall be determined, as regards manganese ore, by the sliding scale effective at the time of export provided in Section 24 of this Agreement, and for peroxide, by the royalty payments provided in said Section 24.

19. If the Concessionaire, during any year, has paid the Government an amount in excess of the sum guaranteed by him for that year, the excess shall be applied against the amount guaranteed for any future year at the discretion of the Concessionaire.

20. For the purpose of calculating the sums due against the minimums guaranteed by the Concessionaire under paragraphs 14 and 15 of this Section,

there shall be deducted Three Dollars (3.00) per ton of ore belonging to the Government and exported by the Concessionaire as provided by the Note to Section 7 of the Concession Agreement, during the first two (2) years of the concession, and two and one-half Dollars (2.50) per ton of said ore during the following three (3) years of the concession, and Three Dollars (3.00) per ton of ore exported thereafter.

21. The final settlement of payments as provided by this Section, must be completed not later than three months after the expiration of the corresponding yearly, five-yearly or three-yearly period, and the consequences of non-payment in due time are fixed in the last paragraph but one of Section 25 and the third paragraph of Section 62.

*Section 34. *)*

1. Of the royalty payments calculated for purposes of provisional payment, as provided by Paragraph 2 of Section 25; on the weight of each separate ship's cargo reduced by ten per cent (10%), the Concessionaire shall pay a part direct to the department of Transcaucasian Ports at Tiflis, within five days after the sailing of the vessel. The said part payment on account of royalty, shall be determined by the administration of the port concerned and shall represent port cargo dues on the manganese and peroxide ore exported from such port. The amount shall be payable in United States currency in cheques on the same bank on which the royalty payments to the Government are drawn.

2. Payments made as above described, to the Department of Transcaucasian Ports, shall be deducted from the current royalty payments provided by Sections 24 and 25 and shall be included in the minimum royalty payments provided by paragraphs 14 and 15 of Section 33 of the present Agreement.

3. In the event of the State Bank or any other bank of U.S.S.R. making a charge for exchange or discount of said cheques or demanding other payments for services, these shall not be chargeable to the Concessionaire.

4. Should the Concessionaire delay delivery of cheques, or should cheques not be honored through the fault of the Concessionaire or his bankers, he shall pay for each day's delay after five days' grace, one-tenth of one per cent of the amount due for payment.

*) In the wording of the Supplementary Agreement dated July 7th 1927.

**OBLIGATIONS OF THE CONCESSIONAIRE IN REGARD TO THE EQUIPMENT
AND MAINTENANCE OF THE ENTERPRISES.**

*Section 35. *)*

1. For the purpose of erecting and improving appliances for mining, washing, enriching and transporting ore, in the Tchiatouri region, the Concessionaire is obliged to expend not less than one million dollars (1,000,000) during the first four (4) years of the concession. This necessarily implies the installation of appliances for the mechanical transportation of ore from the places where it is mined to the enriching plants and therefrom to loading points along the railway line.

2. The washing and enriching plants, new as well as old, should the Concessionaire sue the latter after the expiration of four (4) years from date of signature of this agreement, must be built, equipped, or re-equipped in accordance with technical improvements applied under contemporary mining practice, and applicable to Tchiatouri conditions, in order to reduce to a practicable minimum the loss of manganese in refuse.

Note: The parties agree that plants and other structures which enter into the use of the Concessionaire by transfer from third parties on whatever basis, if re-equipped by the Concessionaire, and if this equipment be not removed by the Concessionaire within three and one half years from the date of signature of this agreement, shall on expiration of the concession, be placed at the disposal of the Government on the same basis as other plants or other structures comprised in the concession enterprises.

Section 36.

For the entire duration of the concession, the Concessionaire is obliged to maintain the concession enterprise in a state of good working order, corresponding to the production capacity fixed by the present agreement, and to apply thereto all improvements necessary for the reasonable and proper operations connected with the mining, washing, enriching and transportation of ore.

Section 37.

1. the Concessionaire has the right to move, if he so desires, any property from one district of the concession to another. If while rebuilding, completing the equipment of, or repairing the conceded property, any machinery, equipment or material is found to be superfluous to the Concessionaire, it shall be at the disposal of the Concessionaire, and, after due notice has been given to the Government, may be freely disposed of by it, provided that the conceded property is maintained in a condition required by the terms of this agreement.

*) In the wording of the Supplementary Agreement dated July 7th 1927.

2. During the last five years the agreement is in force, the aforesaid right of moving, and, disposing of equipment, may be exercised only with the previous consent of the Government.

**OBLIGATIONS OF THE CONCESSIONAIRE IN REGARD TO THE
AUGMENTATION OF THE TRAFFIC EFFICIENCY OF THE
TCHIATOURI BRANCH AND THE SHAROPAN-POTI
SECTION OF THE MAIN LINE.**

Section 38).*

1. The Concessionaire undertakes: (1) to pay the Government in cash Two Million, Two Hundred and Seventy Thousand, Seven Hundred and Sixty-three Dollars (2,270,763.00) for the purpose of increasing the traffic capacity of the Tchiatouri Branch Line and part of the main line from Sharopan to Poti; (2) to transfer to the possession of the Government a quantity of new rolling stock calculated to transport Eight Hundred Thousand (800,000) tons of manganese ore and peroxide per year, as specified in Annex III to this Agreement, at an approximate valuation of Eight Hundred and Fifty-four Thousand Dollars (854,000), consisting of narrow-gauge wagons and locomotives and broad-gauge wagons, which shall be delivered from abroad at the order of the Concessionaire and at his risk and charge; (3) to pay for a number of heavy locomotives specially specified in said Annex to this Agreement, which shall be ordered by the Government for the Concessionaire's account from works in U.S.S.R., to be retained by the Government in its possession, at a total cost of Three Hundred and Thirty-six Thousand Dollars (336,000); and (4) to construct its own risk and account, at Sharopan Station, a reloading appliance in accordance with technical conditions set forth in Annex II to this Agreement, at an estimated valuation of One Hundred and Thirteen Thousand, Two Hundred and Four Dollars (113,204).

Note: The Concessionaire is obliged to deliver the rolling stock provided by Clause 2 of this paragraph, and to carry out the work provided by Clause 4 of this paragraph, although the actual cost may exceed the estimated valuation above stated.

2. The quantity of new rolling stock to be transferred to the Government by the Concessionaire as aforesaid, and the heavy locomotives to be paid for by the Concessionaire are specified in Annex III to this Agreement, together with a statement of (a) the technical conditions to which they shall comply; (b) a valuation of the rolling stock to be constructed by the Government for the Concessionaire's account.

3. The sum of Two Million, Two Hundred and Seventy Thousand, Seven Hundred and Sixty-three Dollars (2,270,763.00) due to the Government in accordance with this Section, shall be paid by the Concessionaire on the following terms:

* In the wording of the Supplementary Agreement dated July 7th 1927.

1) Five Hundred and Fourteen Thousand, Five Hundred Dollars (514,500) in the course of thirty (30) days from the date of the Supplementary Agreement's coming into effect.

2) Three Hundred and Eight Thousand, Seven Hundred Dollars (308,700) not later than February 1, 1928.

3) Two Hundred and Fifty-seven Thousand, Two Hundred Dollars (257,200) not later than May 1, 1928.

4) Two Hundred and Fifty-seven Thousand, Two Hundred Dollars (257,200) not later than November 1, 1928.

5) Two Hundred and Fifty-seven Thousand, Two Hundred Dollars (257,200) not later than February 1, 1929.

6) Two Hundred and Fifty-seven Thousand, Two Hundred Dollars (257,200) not later than November 1, 1929.

7) Three Hundred and Fifty Thousand, Three Hundred and Twenty-six Dollars (350,326) not later than July 1, 1930.

8) Sixty-eight Thousand, Four Hundred and Thirty-seven Dollars (68,437.00) not later than July 1, 1935, for carrying out subsequent work after the quantity of manganese and peroxide ore to be transported from Tchiatouri Zone to Poti Port shall have reached one million (1,000,000) tons per annum.

Section 39).*

1. The rolling stock delivered by the Concessionaire and appliances, equipment and materials necessary for the construction of the reloading installation at Sharopan, shall be imported from abroad free of duty and without payment of license or any other fees.

2. The People's Commissariat of Trade shall issue licenses to the Concessionaire in the course of ten days after presentation of a list of articles to be imported under the terms of this Section. In the event of the licenses not being issued for more than ten (10) days, units of rolling stock to be imported and construction work for which articles to be imported are intended, shall be considered as having been delivered a day earlier than the actual delivery for each day of detention of the licenses over the stipulated ten (10) days.

3. The above concerning licenses is only applicable to such articles, the plans and technical conditions of which have been approved by the People's Commissariat of Ways of Communication before the presentation of the application for import licenses for same.

*) In the wording of the Supplementary Agreement dated July 7th 1927.

Section 40).*

1. The rolling stock for the transportation of manganese specified in Annex III shall be delivered and the construction of the reloading apparatus at Sharopan Station carried out by the Concessionaire on the following terms:

2. The units of rolling stock delivered by the Concessionaire shall be of first-class quality and latest design, economical in operation and adapted for work under local conditions. The rolling stock and the reloading appliance constructed by it at Sharopan shall be accepted from the Concessionaire by the People's Commissariat of Ways of Communication, on condition that same shall comply with the technical conditions set forth in Annex II to this Agreement and the preliminary projects and plans agreed upon with the People's Commissariat of Ways of Communication.

3. The time for the fulfillment of the said obligations of the Concessionaire is fixed at October 1, 1930.

4. The technical inspection of the completed rolling stock in respect of its compliance with the stipulated conditions, shall be made at the place of construction thereof by a representative of the People's Commissariat of Ways of Communication upon advice from the Concessionaire.

5. The delivery of the respective units of the rolling stock and the construction of the above-mentioned reloading appliance, shall be considered accomplished by the Concessionaire at the time of delivery thereof in a completed state. The narrow-gauge locomotives and wagons shall be delivered at Sharopan Station, and the broad-gauge wagons at the port branch lines at Poti.

6. The time for acceptance by the People's Commissariat of Ways of Communication for the reloading apparatus constructed at Sharopan Station shall be one month after the completion of its construction and the application of the Concessionaire to accept delivery; the time for acceptance of the rolling stock is fixed at two weeks after delivery of same by the Concessionaire at the place of delivery in accordance with the foregoing paragraph.

7. The payment for the heavy broad-gauge locomotives of the /X series to be ordered by the Government for the Concessionaire's account for factories in U.S.S.R., shall be effected directly by the People's commissariat of ways of Communication, for which purpose the Concessionaire shall pay to the People's Commissariat of Ways of Communication, on or before January first (1st), Nineteen Hundred and Thirty (1930), One Hundred and Sixty-eight Thousand Dollars (168,000), and on or before July first (1st) of the same year (1930), One Hundred and Sixty-eight Thousand Dollars (168,000).

8. The parties agree that in the event of any disagreement between the Concessionaire and the organs of the People's Commissariat of Ways of Communication in connection with the approval of projects and plans referred to in paragraph 2 of this Section, or in connection with the acceptance of the

*) In the wording of the Supplementary Agreement dated July 7th 1927.

rolling stock supplied by the Concessionaire, or the work carried out by it, such disagreement shall be settled by the People's Commissar of Ways of Communication.

9. Should the Concessionaire disagree with the decision of the People's Commissar of Ways of Communication, it shall have the right to appeal to the Arbitral Board contemplated by Section 65, which appeal shall not, however, interrupt the progress of the work under designs and proposed plans as approved by the People's Commissar of Ways of Communication. Should the Arbitral Board rule against the decision of the People's Commissar of Ways of Communication, the Concessionaire shall not have the right to claim damages sustained under such decision.

10. In calculating the quantity of rolling stock necessary for the transportation of a given amount of manganese and peroxide ore, in amounts greater than Sixty-six Thousand, Six Hundred and Sixty-six (66,666) tons per month, there shall be considered:

- 1) The capacity of the wagons and the power of the locomotives.
- 2) The round trip of a train from Sharopan to Poti, of forty-eight hours (two days).
- 3) The round trip of a train from Tchiatouri to Sharopan, of twelve hours (one-half day).
- 4) Spare wagons under repair—10% (ten per cent) of the entire quantity and locomotives—15% (fifteen per cent) of the entire quantity; a fraction of such calculation shall be taken as a unit.

Section 41.

On fulfillment by the Concessionaire of the conditions set forth in Section 40, subsequent repairs and renewals of rolling stock originally received, are incumbent upon the Government. The Government has the right to require from the Concessionaire, on sufficient notice, the delivery of necessary spare parts for repairs in the required quantities. The Concessionaire shall furnish same at lowest possible prices, which shall, in no event, exceed its self costs at point of delivery.

OBLIGATIONS OF THE CONCESSIONAIRE IN REGARD TO THE BUILDING OF LOADING APPARATUS AT POTI.

Section 42).*

1. The Concessionaire undertakes to construct on its own account, by its own means, within five years from the date of the Concession Agreement's coming into effect, on a plot of land allotted to it situated in the port of Poti, in accordance with Section 20 of this agreement, mechanical transshipment apparatus for trans-shipping manganese ore into steamers, either direct from

*) In the wording of the Supplementary Agreement dated July 7th 1927.

railway cars or from the conceded port area, such apparatus to have a loading capacity of Six Hundred (600) tons of ore per hour under normal working conditions.

Technical conditions to which the apparatus shall conform are hereto attached (Annex IV). Not later than three months before commencing the construction of this apparatus, the Concessionaire shall present to the People's Commissariat of Ways of Communication a copy of the plan showing the construction of the apparatus and its location on port territory. The People's Commissariat of Ways of Communication shall examine said plan for the purpose of ascertaining whether or not it conforms to the technical conditions set forth in Annex IV and to technical regulations regarding safety and building regulations. In the event of a disagreement in this matter between the People's Commissariat of Ways of Communication and the Concessionaire, the same shall be settled to the manner indicated in Paragraph 9 of Section 40.

2. In this construction work, the Concessionaire shall expend as much as actually necessary. If the construction of such apparatus with the capacity indicated should not require One Million Dollars (1,000,000), then the difference between the amount expended and One Million Dollars (1,000,000) shall be expended on improvements on the concession at Tchiatouri at the Concessionaire's discretion.

3. There shall be included in said One Million Dollars (1,000,000), besides expenditures on said construction, expenditures on preliminary surveys and investigations.

4. For the purposes of connecting the railway line with the loading apparatus, the Concessionaire is granted the right, after an understanding with the People's Commissariat of Ways of Communication, to construct the necessary lines at its own (the Concessionaire's) expense, and in case any additional plots of land are necessary for that purpose in the port of Poti, the Government shall allot same to the Concessionaire.

Section 43.

The use and exploitation of the loading apparatus built by Concessionaire in accordance with Section 42, as well as their delivery to the Government upon expiration of the concession, shall be subject to the same conditions prescribed in this agreement for structures and equipment in the Tchiatouri industry, whether same were received from the Government or newly created by the Concessionaire. If the application of Section 61 to said apparatus the rate of amortization of same is fixed at 10% (ten per cent) per annum.

OBLIGATIONS OF THE CONCESSIONAIRE CONCERNING MINING.

*Section 44. *)*

1. Within three years from the date of coming into effect of the Concession Agreement, the Concessionaire undertakes to prepare, at its own expense, a plan of the surface of the conceded districts, with contours, indicating thereon the contour outcrop, and the working entries in existence. The last part of the work must be performed with the collaboration of a qualified person designated by the Government.

2. Within three years from the date of coming into effect of the Concession Agreement, the Concessionaire is obliged to conduct exploration of beds sufficient for practical purposes in those sections of the conceded area where the richness and quality of the bed are unknown, and also in portions of the deposit lying beyond the line of so-called useful mineral within the conceded area.

3. During the entire time of operation of this agreement, in the course of operation of its sections, the Concessionaire is obliged to present monthly cross-sections of the beds at the places of its operations. At the same time, when required by the Government, samples of ore must be taken at indicated places, which samples will be analysed at the expense of the Concessionaire. A representative of the Government shall have the right to be present in the laboratories while analyses are being made.

Section 45.

1. New shafts or galleries must not be constructed nearer than 100 (one hundred) metres from inhabited ground.

2. At the same time galleries and side tunnels penetrating inhabited or built-up ground must not approach the surface to a degree that would endanger habitations and buildings.

3. If during mining operations the necessity should arise for the removal of buildings in the use of third persons or local institutions this will be done by order of the Government as prescribed in all respects by Section 8.

Section 46.

1. The Concessionaire is obliged within eighteen months after the signature of this agreement to present a general plan of operation of its districts with indications as to the order of extraction of the bed sections. This does not, however, deprive the Concessionaire of the right in case of need, to change the order of work at its discretion, under advice to the Government.

2. The plan of operation, as well as operations themselves must conform to existing mining regulations as applied to all similar mining enterprises under Government control, and, in particular, must be conducted in

*) In the wording of the Supplementary Agreement dated July 7th 1927.

such a manner that all industrial ore (according to American mining terminology < Commercial ore >) be extracted from each entry or gallery under operation, and that mining be not confined to the extraction of the richest ore exclusively from various places. This is intended to assure the economic exploitation of the manganese deposits granted in concession.

Section 47.

The Concessionaire is obliged to present yearly to the Government all data and facts regarding the quantity, quality, character and stratification of the ore obtained by him in the course of its researches and explorations. While conducting explorations the Concessionaire is obliged to admit duly authorized Government inspectors, who shall have the right to take, and obtain parallel samples, in order to verify data presented by the Concessionaire. The Concessionaire is obliged to make analyses in laboratories situated in U.S.S.R., such analyses to be effected either in its own laboratories, to which laboratories it is obliged to admit Government inspectors in order to verify the analyses made, or in Government laboratories.

Section 48.

The Concessionaire agrees to admit, for the purpose of acquainting themselves with the operation of the conceded property, engineers and other technically qualified persons designated by the Government, under the condition, however, that their so doing shall not impede the normal operation of the concession. Further, the Concessionaire agrees to admit for work on its enterprises for practical training purposes, every year, students and graduates of technical high schools, in a proportion up to two per cent of the total number of its workmen, at remuneration equal to that of workmen or employees with corresponding qualifications and grades.

CONDITION REGULATING HIRED LABOR.

Section 49.

Conditions of labor on the conceded enterprise shall be regulated by the appropriate laws in force in the U.S.S.R.

Section 50.

1. For the purpose of operating the concession enterprise and executing the construction program, the Concessionaire is granted the right to contract with laborers and employees from among citizens of U.S.S.R. and also to engage skilled labor abroad, whose grade shall not be inferior to that of workmen in Grade IX of the tariff scale, now in force, of the Council of All Russian Central Professional Unions, and also foreign employees, on condition, however, that the number of such workmen or employees in each classification taken separately shall not exceed 15 (fifteen) per cent of the number of

corresponding workmen and employees engaged in that particular classification who are citizens of U.S.S.R.

2. As regards the higher personnel, technical and administrative, the Concessionaire shall have the right to engage foreign citizens in unlimited numbers, on the express condition, however, that in all operating categories there will be represented technical personnel and engineers who are citizens of U.S.S.R. There will be no such limitation for the directors.

3. Further, during the first six years of the concession the Concessionaire is granted the right to bring from abroad mine foremen without limitation as to numbers and, after the expiration of said six years period, the entire number of such foreign mine foremen shall not exceed 50% (fifty per cent) of all mine foremen.

4. While installing new mechanical appliances, and for two years after each such installation, the Concessionaire shall have the right to bring from abroad without limitation skilled mechanics for purposes of operating same. On expiration of said two years foreign mechanics shall not exceed 50% (fifty per cent).

OTHER CONDITIONS.

Section 51.

1. In so far as not otherwise provided in this agreement, the Concessionaire submits to general legislation now in force or to be enacted in the future in U.S.S.R., as well as to the regulations of the authorities acting in virtue of such legislation. In particular the Concessionaire submits to laws now in force in U.S.S.R. regarding:

a) Legislation concerning social insurance, as applied to similar State-controlled mining enterprises.

b) Legislation concerning protection of labor, as applied to similar State-controlled enterprises.

c) Laws and regulations applying to mining, and measures of safety as enforced in similar State-controlled mining enterprises.

d) Laws and regulations regarding exploitation of hydrotechnic and electric works, as applied to similar State-controlled mining enterprises.

2. No laws, in exception to the general rule, shall be applied in a discriminating manner or in a manner impairing the general conditions of this agreement, to the manganese industry and to the operation of this concession.

Section 52.

The Concessionaire submits, as regards the concession enterprise, to regulations regarding the publication of balance sheets of private limited liability companies in the U.S.S.R.

Section 53.

During the entire duration of this agreement, the concession enterprise shall be under the Concessionaire's exclusive management, use and supervision; but the Government reserves the right to exercise, through authorized persons, observation over the operating activities of the Concessionaire. The representatives of the Government, however, while so doing shall have no right to interfere with the operating activities of the Concessionaire.

Section 54.

If, at any time, while this agreement is in effect, the fulfillment of same, or of any of its provisions shall be suspended for a period of over a month in consequence of the operation of an unavoidable force (<force majeure>), the parties mutually agree that the fulfillment of obligations herein assumed by them shall be postponed while the effect of such unavoidable force prevails, and, if suspension on account of said conditions should last for more than six months, then the duration of the concession shall be extended by the period of time that the effect of such unavoidable force prevails, on condition, however, that the total period of such extension of the agreement shall not exceed five years. Any suspension of operation for a period of one month or more, due to said causes, shall postpone the due dates of all obligations herein fixed, including obligations regarding the production minimum and minimum royalty payments. In the event of a difference between the parties as to the operation of unavoidable force (<force majeure>) the question shall be decided by the Board of Arbitration.

Section 55.

1. The Concessionaire is obliged to insure against fire for its own account, but in the name of the Government all buildings and installations forming part of the enterprise, as well as all their equipment, at their insurable value, but not at values greater than their actual value, with Insurance institutions in U.S.S.R. The Concessionaire is, however, not obliged to insure buildings made of steel, stone and concrete not containing inflammable parts in essential proportions, but in the event of a fire the Concessionaire is obliged to reconstruct such buildings at its own expense. Insurance, compulsory on the Concessionaire, shall be taken out in accordance with regulations and tariffs applied to similar State-controlled enterprises.

2. In the event of destruction by fire of the insured property the insured value shall be placed by the Government at the disposal of the Concessionaire for the purpose of reconstructing the property, under general Government control, by means of partial payments in advance as required in the process of reconstruction. In the event of minor fire losses the insured value shall be paid to the Concessionaire by the Government in full, immediately after receipt.

Section 56.

1. The Concessionaire agrees to establish a special trade name or trade-mark for Tchiatouri manganese and peroxide: <Georgian manganese>. This will invariably be used in the distribution of the said products in the market.

2. On expiration of the concession the right to use said trade name or trade-mark shall pass to the Government.

Section 57.

The parties agree that whenever dollar or rouble payments are mentioned in this agreement the value of same at their gold parity is meant.

Section 58.

1. the Concessionaire bears material liability to third parties for debts wherever contracted, arising from the exploitation of this concession.

2. Disputes between the Concessionaire and third parties shall be settled by the courts of U.S.S.R., or by the courts of the appropriate country, according to the usual procedure. This does not, however, preclude the Concessionaire or third parties, if they both so desire, from settling disputes by arbitration.

Note. Assets which on expiration of the concession are subject to transfer to the Government cannot secure Concessionaire's obligations, and, for that reason no attachment for the benefit of third parties can be placed on them.

Section 59.

The parties shall adopt as a foundation of their relations under this agreement the principle of good will, good faith, and reasonable interpretation of the provisions of this agreement.

TERMINATION OF THE CONCESSION.*Section 60*).*

1. On the expiration of the period of the concession, the concession enterprise herein granted, together with all buildings, improvements, equipment and inventory, in accordance in every respect with the Concession Agreement, shall pass to the Government in a state of operating efficiency and productive capacity not inferior to that maintained for the last five years in compliance with this agreement.

2. Materials, supplies, finished goods, partly manufactured goods, funds and other means of production remain the property of the Concessionaire. His debts (liabilities) do not pass to the Government.

*) In the wording of the Supplementary Agreement dated July 7th 1927.

3. The Concessionaire is obliged to transfer to the Government the enterprises as provided in this Section not later than two months after the termination of the concession. The parties shall fix a reasonable period, with due regard to market conditions, in any case not more than one year, in which the Concessionaire shall have the right to ship mined ore belonging to it. If the Concessionaire shall have on hand unfilled orders for ore, the said orders shall be filled by the Concessionaire from its mined ore, as far as possible, and if any further ore is necessary for the proper fulfillment of said outstanding orders, then the Government shall sell to the Concessionaire, at the then current market prices, sufficient ore to satisfy the said requirements. Other property belonging to the Concessionaire must be removed not later than three months after the expiration of the concession and all accounts between the parties must be settled, as far as possible, before the expiration of this period of time. For the purpose of carrying out the provisions of this Section, the Concessionaire shall enjoy all rights and privileges granted under this agreement. Ore not exported by the Concessionaire by the time fixed within the yearly period provided by this Section, and other property not removed within the three months allowed by this Section, shall become the property of the Government, free of cost.

Section 61.

The Government agrees, on expiration of the period of the concession, to refund the Concessionaire the unamortized value of buildings and improvements erected during the last ten years of the duration of this agreement, on condition, however, that expenditure on same will have been incurred with the consent of the Government and in accordance with the following rates of amortization: On stone building 5% (five per cent) per annum; on plants, equipment and wooden structures 10% (10 per cent).

Section 62).*

1. If the Government should contend that the Concessionaire had breached this agreement or any of its provisions and should its contention be sustained by an Arbitral Board, then the Arbitral Board shall either decide what the Concessionaire must do to repair the breach, or fix the amount of damages due to the Government, or, on request of the Government, the Arbitral Board shall have the right to adjudge a cancellation of the agreement. In the first case, the Concessionaire for its part shall have the right either to repair the breach and pay the damages adjudged, or to surrender the concession. In the latter event its liability towards the Government is set forth in Section 64 of the Concession Agreement.

2. If the Arbitral Board finds that the Concessionaire has not completed structures and installations as provided in Sections 35 and 42 of this

*) In the wording of the Supplementary Agreement dated July 7th 1927.

agreement, in their essential parts, within the time fixed in the same Sections 35 and 42, or if said structures and installations shall have been completed within the time fixed, but should be in such condition that normal and full use of same in accordance with the agreement should prove impossible, or if the Concessionaire does not fulfill the obligations assumed by it in accordance with Section 38, then the Government shall have the right to require the Arbitral Board to cancel the agreement.

3. The Concession may be terminated by the Government before its expiration by a unilateral act, if the Concessionaire fails to effect payments due from it later than three months from their due dates, and also if it fails to begin work as provided for in Section 35 within the first two (2) years and in Section 42 within the first three (3) years from the date of coming into effect of the Concession Agreement.

4. The agreement shall likewise be terminated by a unilateral act of the Government, before its expiration, in the event of the Concessionaire being declared insolvent by a court in the United States.

5. The Concessionaire shall have the right to appeal to the Arbitral Board against any act exercised by the Government on the ground of paragraphs 3 and 4 of this Section.

6. In such event, cancellation of the concession shall be postponed until the Arbitral Board has given its decision, on condition, however, that the Concessionaire shall deposit in the State Bank U.S.S.R. a guarantee of a foreign bank designated by mutual consent, to the effect that all damages to the Government which may arise from such postponement, as well as funds which may be due to the Government shall be unconditionally paid, in the event of the Arbitral Board approving the cancellation of the agreement.

7. Should the agreement be terminated before expiration for reasons set forth in this Section the liabilities of the Concessionaire towards the Government are fixed in Section 64 of this agreement.

Section 62a.

In all cases when the Concessionaire desires to ascertain whether work or acts performed or to be performed by it constitute compliance with the obligations assumed by it under this Agreement, it shall, in referring to this Section, address written inquiries to the Government in regard to same. The Government shall through its departments, designated for that purpose, reply to such inquiries within the time reasonably necessary for the proper understanding of the acts and intentions of the Concessionaire. If, in order to reach such understanding more than two months time should be necessary, the Government shall advise the Concessionaire to that effect beforehand, and fix the time within which the answer will be given.

Section 63.

The Concessionaire shall have the right to cancel this agreement on the first of October of any year by giving the Government six months notice to that effect. In the event of the Concessionaire exercising its option to cancel this agreement, then its liabilities toward the Government are fixed in Section 64 hereunder.

Section 64).*

1. The liabilities toward the Government of the Concessionaire or its assignee in the event of this agreement being terminated before expiration for any of the causes contemplated in Sections 62, 63 and 28, shall be the following: the concession enterprise and all its buildings, equipment and inventory shall pass to the Government free of payment in accordance with Section 60 of this agreement; but without compensation for the unamortized portion, as provided in Section 61. If the Concessionaire, however, shall not then have completed improvements and installations provided for in Sections 35 and 42 of this agreement, or if it does not fulfill the obligations provided in Section 38, it shall pay the Government the difference between Four Million Dollars (4,000,000) and the amount which it shall already have spent at that time on installations and improvements, in accordance with Sections 35 and 42 of this agreement, and on the fulfillment of its obligations in accordance with the terms of Section 38. Should termination of the agreement take place after the said expenditure or payment of Four Million Dollars (4,000,000), as aforesaid, then the Concessionaire shall be obliged to surrender to the Government said installations and improvements in a state of good working efficiency. In the event of a difference on this point, the matter shall be referred to the Arbitral Board for decision and the latter shall fix the amount to be expended by the Concessionaire necessary for the purpose of placing in a proper state of efficiency said improvements and installations, as well as the entire enterprise.

2. Said transfer and payments, as above provided shall constitute complete liquidation of the obligations of the Concessionaire toward the Government, and the Concessionaire shall be liable for no further debts, damages, claims, compensation, and royalty payments. The Concessionaire, however, shall be obliged to pay royalties due from him under this agreement on ore exported, and also, if due, the fines agreed on.

3. If this agreement should be terminated before its expiration in accordance with Sections 62, 63 and 28, and before the full utilization of the advance payment, or before the Guaranty Bond shall have become inoperative, as provided in Section 67 of this agreement, and if, in the event of cancellation of this agreement before its expiration by decision of the Arbitral Board, the Government should become entitled to payments from the Concessionaire as provided in this agreement, such payments, in the manner provided for,

*) In the wording of the Supplementary Agreement dated July 7th 1927.

and in virtue of Section 61, shall be charged first against the advance payment, next against the Guaranty Bond, and the balance shall be paid by the Concessionaire in the general manner as provided in this Section. The total amount, however, paid by the said three methods of payment shall not exceed the limit of liability fixed in this Section.

BOARD OF ARBITRATION.

Section 65.

1. Should the Government and the Concessionaire differ with respect to the proper interpretation of, or the proper execution and performance of, or breach of any provisions of this agreement, or of any annex or supplementary agreement thereto, such difference shall on notice from either party, be referred to and determined by an Arbitral Board.

2. The Arbitration Board shall be composed of three members, one to be designated by the Government, one by the Concessionaire and the third, the Super-Arbiter, shall be designated by the parties by mutual agreement.

3. Should such agreement not be attained within thirty days from the day on which the defending party receives a summons in writing to appear before the Arbitral Board, accompanied by a statement concerning the matter in dispute and designating the plaintiff's member of the Board, the Government shall within two weeks time name six candidates from among professors of the University of Paris (Sorbonne), or from among professors of the University of Oslo (det Kongelige Frederiks Universitet i Oslo), of whom the Concessionaire shall choose within the following two weeks, one who shall be the Super-Arbiter.

4. Should the Concessionaire, unless prevented from doing so by insurmountable obstacles, fail to select a Super-Arbiter, within said two weeks time the Government shall have the right to request the Governing Body of any one of the said educational institutions to appoint a Super-Arbiter from amongst six candidates chosen by the Government as above.

5. Should the Government, unless prevented from doing so by insurmountable obstacles, fail to select six candidates for Super-Arbiter within the above mentioned two weeks, then the Concessionaire shall have the right to request the Governing Body of any one of the above mentioned educational institutions to designate such six candidates, and thereupon the Concessionaire shall select from amongst them, the Super-Arbiter as above indicated.

6. If, on receipt of a summons from the Super-Arbiter fixing the date and place of the first meeting, either party shall fail to send its arbiter, or refuses to participate in the Arbitral Board, then the disputed matter, at the request of the other party shall be decided by the Super-Arbiter and the other member of the Board, provided that the decision is rendered unanimously.

7. The Super-Arbiter as well as the Arbitral Board when fixing the date and place of the meeting of the Board shall take into consideration: (1) the

time reasonably necessary for each one of the parties to prepare for the journey and arrive in time at the place of destination, and (2) the accessibility to either party of the appointed place within the time fixed.

8. At the same time, the party which might encounter an insurmountable obstacle in despatching, for the appointed place, its member of the Board or its representative must take all measures to advise in time the Super-Arbitrator and the Arbitral Board accordingly.

9. In all events, the Super-Arbitrator or the Arbitral Board when deciding on the opening of the sitting in the absence of one of the parties must pass a ruling to such effect and give its reasons therefor.

10. The Board of Arbitration shall appoint a permanent Secretary who shall keep a record of all its proceedings. The compensation of the Chairman and the Secretary of the Board and the expenses thereof shall be born equally by the parties, and each of the parties shall bear the compensation and expense of its member of the Board of Arbitration, as well as all expenses incurred by it in connection with any Arbitration proceeding.

11. Questions for determination by the Board of Arbitration shall be submitted in writing to the Chairman of the Board of Arbitration, and the party submitting any question for determination shall furnish the other party with a copy thereof. The Super-Arbitrator shall fix the place and time of the first sitting of the Arbitral Board.

12. Thereafter the Board of Arbitration shall have full power to determine the places and times of its sittings, as well as its methods and order of procedure. Each party shall furnish the Board, in the manner and within the time prescribed by the latter, all information necessary in the case which they are able to produce, with due regard, however, to considerations of State importance.

13. The decisions of the Board shall, in all cases be in writing, and a copy of each decision shall be promptly furnished to the parties. Every decision of the Board concurred in by a majority of the members thereof shall be final and binding upon the parties, and shall be promptly complied with.

14. When rendering a decision requiring one of the parties to perform a certain act, or to refrain therefrom, the Arbitral Board shall, at the same time, determine and communicate to the interested party the consequences of non-compliance by said party with such decision, namely, it shall prescribe in such contingency the payment to the other party of a certain fine, or it shall grant to the other party the right to repair the omission of the party at fault for the latter's account, or it shall prescribe the cancellation of the agreement.

15. In the event of failure of either party to comply with any decision of the Board of Arbitration, the other party shall have the right to bring suit for the enforcement of said decision in courts of any country. Notice of suit in such case shall be served on the representative of the other party then resident in that country, and the parties hereby declare that they will not question the jurisdiction of the court of said country to try and to execute a

decision of the Board of Arbitration, provided said court shall recognise that the Arbitral decision had been rendered in due form.

16. In case of necessity, as provided in the preceding paragraph, of bringing suit for the enforcement of an Arbitral Board decision, the parties agree that either party shall have the right, to assign claims arising from such decision of the Arbitral Board to any third party, in whom shall be vested all rights as to the enforcement of claims granted to the parties under the Section.

17. The parties agree that the time of limitation for the bringing of disputes before the Arbitral Board provided for under this agreement shall be one and one half years.

FINAL PROVISIONS

Section 66.

The transfer to third parties by the Concessionaire of its rights and liabilities arising from this agreement in part or in their entirety may be effected only with the Government's consent.

Note. However, W.A. Harriman & Co. Inc., in exception to the above, shall have the right once to assign this agreement together with all rights, privileges, exceptions, exemptions, liabilities and obligations created, confirmed and imposed by this agreement. Such assignment shall be made to a corporation organized under the laws of one of the States of the United States of America possessing charter powers adequate to the purposes of this agreement provided that the initial capital of said corporation shall be not less than Four Million Dollars (4,000,000) fully paid up on the date of assignment to it of the rights and obligations of W.A. Harriman & Co. Inc.

W.A. Harriman shall be Chairman of the Board of Directors of said corporation and a majority of its shares shall be distributed among friends and business associates of W.A. Harriman.

Upon the assignment of this agreement, in accordance with this Note, W.A. Harriman & Co. Inc. shall be released from all liabilities and obligations imposed on, and assumed by it under this agreement.

Section 67).*

1. Not later than three weeks after the signature of the Concession Agreement but in any event prior to the decision of the <Tchemo> Company to liquidate, the Concessionaire shall deliver to the Government a guaranty bond or guaranty policy of the National Surety Company of New York, or other Surety Company agreeable to the Government, which bond or policy shall provide that the National Surety Company shall pay to the Super-Arbitrator selected and serving as provided in Section 65 of this agreement the sum of one million dollars (1,000,000) within five days after said Company has been notified in writing by the Super-Arbitrator that he has received:

*). In the wording of the Supplementary Agreement dated July 7th 1927.

1) formal advice from the Government that in its, the Government's, opinion the Concessionaire has violated this agreement or,

2) formal notice from the Concessionaire, or from the Government that the Concessionaire has exercised its option of cancelling this agreement, as provided in Section 63.

Said guaranty bond or policy shall enter into force from the date of delivery by the Government to the Concessionaire of a notarial copy of the decision of the < Tchemo > in regard to its liquidation.

2. The said bond shall be reduced from time to time in amounts equal to fifty per centum (50%) of the following:

1) the amounts paid to the Government by the Concessionaire under the terms of Section 38;

2) the value of rolling stock delivered to the Government under the terms of Section 38 and accepted by it in accordance with the provisions of Section 40, the valuation of said rolling stock to be that set out in Annex III hereof;

3) the amounts paid to the Government for heavy locomotives under the terms of Sections 38 and 40; and

4) the value of the reloading device to be erected at Sharopan Station under the provisions of Section 38, when erection of the said device shall have been completed; the valuation of the said device to be One Hundred and Thirteen Thousand, Two Hundred and Four Dollars (113,204).

3. If the said bond shall not have been fully extinguished by payments in cash and in kind under the terms of paragraph 2 of this Section, when the said payments, plus the sums are expended by the Concessionaire in improvements in accordance with the terms of Sections 35 and 42, shall reach Three Million Dollars (3,000,000), then as each additional One Hundred Thousand Dollars (100,000) is expended by the Concessionaire in fulfilling its obligations in accordance with Sections 35, 38 40 and 42, then the unextinguished portion of the bond shall be reduced by a corresponding amount until it has been fully extinguished.

4. The said bond shall remain in force and shall be reduced in amount from time to time until its reduction shall have been completed as provided for in paragraphs 2 and 3 of this Section, when the said bond shall become null and void and shall be cancelled by said Surety Company. If such shall be demanded by the said Surety Company, the Government, on the application of the Concessionaire, shall give, within a reasonable time, the necessary instructions to the Surety Company for the reductions in the said bond to which the Concessionaire is entitled by virtue of the foregoing provisions, and for cancellation of the said bond when its reduction shall have been completed.

5. The amount paid under said Guaranty Bond to the Super-Arbiter shall be held in trust by him and deposited in a neutral bank of international reputation and shall be disposed of by said Super-Arbiter in compliance with

Sections 64 and 65, and the portion of said amount not utilized shall immediately be repaid by him to said company. The Concessionaire hereby declares that it will not question, nor advance any claims in respect to above-mentioned acts of the Super-Arbitrator in fulfillment of decisions of the Arbitral Board.

6. Besides the above-mentioned Guaranty Bond, the Concessionaire shall, not later than five days from the date on which the decision in regard to the liquidation of <Tchemo>, executed in due form, is delivered to it, pay to the State Bank of U.S.S.R. for the account of the Government the sum of One Million (1,000,000) Dollars as an advance payment on account of royalties payable and due to the Government in accordance with Section 24 of this agreement, said One Million (1,000,000) Dollars to be applied and credited at the rate of 1.50 (one and one half) dollars per dry ton against royalty payments due on the first shipments of ore exported by the Concessionaire. Interest paid by the State Bank at 3% (three per cent) per annum on average daily balances of this advance royalty payment shall be credited by the Government to the Concessionaire.

Section 68.

1. The parties agree that it, within forty five days from the date of the signature of this agreement, a decision of a General Meeting of the <Tchemo> Company, in regard to its liquidation shall not have been taken, either of the contracting parties shall have the right to cancel this agreement by unilateral decision by advising the other party thereof in writing, and shall be fully released of all obligations under this agreement.

2. The decision of the General Meeting of the <Tchemo> in regard to its liquidation shall, as soon as possible, be executed in proper form, and so executed, delivered through the Government to the Concessionaire likewise in the shortest time possible.

Section 69).*

Only simple stamp duties are payable on this agreement and any amendments and any supplemental agreements made thereto.

Section 70).*

The day of coming into effect of the Concession Agreement shall be July 25 (twenty-fifth), 1925 (Nineteen Hundred and Twenty-five).

The following are annexed to this agreement

Annex I. Delimitation of the boundaries of the Conceded Area, and map of same.

*) In the wording of the Supplementary Agreement dated July 7th 1927.

*) In the wording of the Supplementary Agreement dated July 7th 1927.

- Annex II.** Technical conditions for the delivery of the reloading apparatus at Sharopan.
- Annex III.** Specification of quantities and cost of rolling stock necessary for the transportation of eight hundred thousand (800,000) tons of ore and peroxide.
- Annex IV.** Technical conditions for the construction of the transshipping appliance for manganese at the Port of Poti
- Annex V.** Plan of territory of the North Mole and North Quay of the inner basin of the Port of Poti.

All above-mentioned Annexes constitute an inseparable part of this agreement.

Section 71.

1. The parties will communicate to each other their addresses at the time of signature of this agreement.
2. Changes of addresses will be advised by means of letters requiring receipts of delivery. Until such advice, previous addresses shall be used.
3. The Concessionaire shall indicate and address in the U.S.S.R.
4. The Government shall designate, immediately after the signature of this agreement, representatives who shall be entrusted with the direct supervision over the execution of this agreement, and with communicating directly with the Concessionaire in regard to this agreement.

Under the authority of the Council of the People's Commissaries of U.S.S.R., in accordance with decision of June 9th, 1925 (Protocol No 105 Paragraph 38).

The president of the People's Supreme
Economic Council of the Union of S.S.R.
F. Dzerzhinsky.

W.A. Harriman & Co. Inc.
By John Speed Elliott.
Vice President.

Under the authority of the Council of the People's Commissaries of U.S.S.R., in accordance with decision of June 9th, 1925 (Protocol No 105 Paragraph 38).

The People's Commissariat for Foreign Affairs
George Tchicherin.

Legal address of the Government: Moscow, V.S.N.H., U.S.S.R.
F. Dzerzhinsky.

Temporary legal address **W.A. Harriman & Co. Inc.:** Roustaveli 35, Tiflis.
John Speed Elliott.

The boundary of the conceded area (see map hereto attached) *) begins from the point at Monument No 1 which is situated at sixty degrees, fifty six minutes twenty seconds East longitude ($60^{\circ}56'20''$) and forty two degrees seventeen minutes ($42^{\circ}17'00''$) North latitude, and distant four hundred twenty four and one one-hundredth (424.01) sagens from the South End of the main building of the Tchiatouri Railway Station bearing S.W. forty eight degrees, thirty one minutes, twenty two seconds ($48^{\circ}31'22''$).

Beginning from said point at Monument No 1 the boundary line runs SE, forty nine degrees, forty six minutes, fifty nine seconds ($S\ 49^{\circ}46'59''\ E$), a distance of two thousand two hundred twenty six and thirty one hundredths (2226.30) sagens to Monument No 2, thence.

Due East, a distance of two hundred twelve and fifty one-hundredths (212.50) sagens to monument No 3, thence.

NE, twenty degrees, sixteen minutes, fifty five seconds ($N\ 20^{\circ}16'55''\ E$), a distance of three hundred six and fifty one-hundredths (306.50) sagens to Monument No 4, thence.

NE, five degrees, sixteen minutes, forty two seconds ($N\ 5^{\circ}16'42''\ E$), a distance of one thousand four hundred fifty three and thirty one-hundredths (1453.30) sagens to Monument No 5, thence.

NE, thirty six degrees, twenty eight minutes, nine seconds ($N\ 36^{\circ}28'9''\ E$), a distance of one thousand four hundred ninety seven and forty five one-hundredths (1497.45) sagens to Monument No 6, thence.

NE, six degrees, one minute, forty seconds ($N\ 6^{\circ}01'40''\ E$) a distance of two thousand twenty two and ninety one-hundredths (2022.90) sagens to Monument No 7, thence.

Due West, a distance of six hundred thirty seven and fifty one-hundredths (637.50) sagens to Monument No 8, thence.

SW, seventy seven degrees, seventeen minutes, thirty five seconds ($S\ 77^{\circ}17'35''\ W$), a distance of one thousand three hundred six and sixty one-hundredths (1306.60) sagens to Monument No 9, and thence.

NW, eighty one degrees, twenty seven minutes, three seconds ($N\ 81^{\circ}27'03''\ W$), a distance of nine hundred sixty six and ninety four one-hundredths (966.94) sagens to Monument No 10, and thence.

SW, sixty eight degrees, fifty one minutes, fifty six seconds ($S\ 68^{\circ}51'56''\ W$), a distance of one thousand five hundred ninety four and eighty one-hundredths (1594.80) sagens to Monument No 11, and thence.

SW, twenty degrees, sixteen minutes, fifty seven seconds ($S\ 20^{\circ}16'57''\ W$), a distance of six hundred thirteen (613.00) sagens to Monument No 12, thence.

SE, sixty five degrees, forty three minutes, thirty one seconds ($S\ 65^{\circ}43'31''\ E$), a distance of six hundred ninety nine and twenty three one-hundredths (699.23) sagens to Monument No 13, thence.

*) Page 57.

SE, thirteen degrees, thirty two minutes, thirteen seconds (S 13°32'13" E), a distance of four hundred fifty three and ninety six one-hundredths (453.96) sagens to Monument No 14, thence.

SE, thirty one degrees, thirty seven minutes thirty seconds (S 31°37'30" E), a distance of one thousand thirteen (1013.00) sagens to Monument No 15, and thence

to point of beginning, at Monument No 1, SE sixty one degrees, thirty four minutes, twenty four seconds (S 61°34'24" E), a distance of six hundred and three and ninety one-hundredths (603.90) sagens.

Schroeter.

F. Dzerzhinsky.

W.A. Harriman & Co. Inc.

By John Speed Elliott.

Vice President.

**TECHNICAL CONDITIONS FOR THE DELIVERY OF THE RELOADING
APPARATUS AT SHAROPAN.**

1. The reloading apparatus shall be of sufficiently solid construction to insure it against breakages and damage.
2. The reloading apparatus shall be adapted to the rolling stock supplied by the Concessionaire and it shall be capable of reloading two narrow-gauge wagons into one broad-gauge wagon to its full capacity, without the necessity of moving the latter wagon.
3. The efficiency of the reloading apparatus on delivery shall be not less than four hundred and twelve and a half (412.5) tons of manganese or peroxide ore per hour; i.e., it shall be capable of reloading an entire narrow-gauge train in the course of an hour. The efficiency of the reloading apparatus under normal working conditions shall be four hundred and twelve and a half (412.5) tons in one hour and thirty minutes (1 hour 30 mins.).
4. The cost of reloading one metric ton of manganese or peroxide ore by means of the reloading apparatus, taking into account the cost of energy, labor connected with the control of the apparatus and the cost of repairs at existing prices for labor and materials, shall not exceed six and one tenth (6.1) kopeks per metric ton.
5. On delivery of the reloading apparatus to the Government, the Concessionaire shall provide a reasonably sufficient number of spare parts to machinery subjected to wear in the process of operation.
6. The reloading apparatus shall be constructed of highest quality materials, complying with the normal requirements of the N.K.P.S.
7. Before placing the order, the Concessionaire shall present to the N.K.P.S. for approval the design and construction of the reloading apparatus selected by it.

SPECIFICATION

OF QUANTITIES AND COST OF ROLLING STOCK NECESSARY FOR THE
TRANSPORTATION OF 800,000 TONS ENGLISH=49,600,000 POUNDS OF ORE
AND PEROXIDE (WITHOUT DEDUCTION FOR MOISTURE).

	Cost of Unit in Dol- lars	Quan- tity	Amount in Dol- lars
I. To be supplied by the Concessionaire:			
Narrow Gauge			
1. Locomotives of sufficient hauling power to insure the transportaiton of train loads of not less than 412.5 tons net weight (550 tons gross) on an up gradient of eighteen thousandths, at a speed of twelve (12) kilometers per hour, and fitted with automatic brakes and couplings	20,000	6	120,000
2. Open trucks with automatic brakes and couplings, of a net loading capacity of twenty-five (25) tons (tare approximately six (6) tons), adapted to the reloading apparatus at Sharopan Station	1,500	103	154,500
Broad Gauge			
3. American type open wagons with automatic brakes and couplings, of a net loading capacity of fifty (50) tons (tare approximately twenty-one and a half (21.5) tons), adapted to the reloading appliances at Poti Port and at Sharopan Station	<u>2,500</u>	<u>130</u>	<u>325,000</u>
			599,500
Freight and overhead charges			<u>254,500</u>
			854,000
II. To be constructed to the order of the Government:			
4. Locomotives of the "P" series for broad-gauge. .	48,000	7	336,000

Note 1. The valuation of the rolling stock to be delivered by the Concessionaire in kind (Items 1 to 3) is approximate and is based on the estimate submitted by the Concessionaire.

Note 2. The rolling stock delivered by the Concessionaire (Items 1 to 3) shall be new, of first-rate quality, latest design, economical in exploitation and adapted to work under local conditions.

Before placing the respective order, the Concessionnaire shall submit the system and design of the rolling stock selected by it, to the People's Commissariat of Ways of Communication for approval. In the event of disagreement

on the question of the system and construction of the rolling stock, the matter shall be decided in the method provided in the last paragraph of Section 39.

**TECHNICAL CONDITIONS FOR THE CONSTRUCTION OF THE TRANSSHIPPING
APPLIANCE FOR MANGANESE AT THE PORT OF POTI.**

1. The total efficiency of the loading apparatus and auxiliary appliances shall correspond with a loading capacity of not less than Six Hundred (600) tons of manganese per hour under normal working conditions.

2. The loading apparatus shall be in accordance with modern installations of a similar type abroad and shall comply with the principle of greatest economy in the consumption of energy.

3. The entire installation shall be constructed with the greatest care and of materials of the best quality and shall satisfy the technical requirements of the N.K.P.S. On delivery of the transshipping apparatus to the Government, same shall be provided with a normal complement of spare machine parts to insure the continuous work of the apparatus.

4. The construction of the loading apparatus and its manner of operation shall be suitable to the quay assigned to the Concessionaire.

5. In case of need, harbor structures may be reconstructed by the Concessionaire under the following conditions:

(a) The structures must be not less durable than those already existing.

(b) They must not obstruct the water surface in the harbor assigned to the Concessionaire.

(c) They shall admit of dredging at the quay side to a working depth of at least thirty two (32) feet.

6. The planning of the Railway Lines must be such that the carrying capacity of the railway system will be commensurate with the average capacity of the loading appliances. The laying of the tracks to the loading apparatus shall provide for free passage of wagons and carts to the adjacent plots of the port territory.