

GOVERNMENT OF ZAMBIA

**ACT**

No. 2 of 1982

Date of Assent: 12th March, 1982

An Act to facilitate the amalgamation of Nchanga Consolidated Copper Mines Limited and Roan Consolidated Mines Limited, and to provide for matters connected therewith or incidental thereto.

[15th March, 1982

ENACTED by the Parliament of Zambia.

Enactment

1. This Act may be cited as the Amalgamation of Mining Companies (Special Provisions) Act, 1982.

Short title

2. This Act shall come into operation on the 17th March, 1982.

Commencement

3. In this Act, unless the context otherwise requires—

Interpretation

“Heads of Agreement” means the Heads of Agreement scheduled hereto made on the 22nd December, 1981 (as varied by Supplemental Heads of Agreement dated the 10th February, 1982), between the Government of the Republic of Zambia, Zambia Industrial and Mining Corporation Limited, Nchanga Consolidated Copper Mines Limited, Roan Consolidated Mines Limited, RST International Inc., Zambia Copper Investments Limited, and ZCI Holdings Limited.

4. (1) No stamp duties or other similar duties or transfer fees or registration fees or other similar fees shall be chargeable or payable on or in respect of any of the following.

Exemption from stamp duties and registration fees

(a) the Heads of Agreement, the agreement relating to accounting policies, principles and procedures, the Agreement and Consent to Submit Disputes to the International Centre for Settlement of Investment Disputes, and any other document or instrument specifically mentioned in the Heads of Agreement or required to implement any transaction referred to in the Heads of Agreement (including any agreement, document or instrument, as the case may be, in

amendment thereof or expressed to be supplemental thereto, between the same parties or the same parties and others);

Cap. 686

(b) any order made under section *one hundred and two* or any other provision of the Companies Act pursuant to any scheme of arrangement sanctioned by the High Court to facilitate the implementation of the Heads of Agreement;

(c) any transaction, dealing, instrument, resolution or document effected, made, passed or executed solely for the purpose of giving effect to—

(i) a transfer of assets, undertakings, or liabilities from or to any person pursuant to, or any increase of capital provided for in, the Heads of Agreement or any such scheme of arrangement as is referred to in paragraph (b) of this subsection;

(ii) any order to which paragraph (b) of this subsection applies;

(d) any transaction, dealing, instrument, resolution or document, which is certified by the Minister to be effected, made, passed or executed solely for the purpose of implementing or giving effect to the Heads of Agreement.

(2) In this section—

“ assets ” means assets of any kind including but not limited to shares;

“ liabilities ” includes obligations;

“ registration fees ” and “ transfer fees ” include fees payable under the Lands and Deeds Registry Act, the Companies Act, and the Mines and Minerals Act, and any regulations made under any of the aforesaid written laws;

Cap. 287.

Cap. 686.

Cap. 329

“ stamp duties ” includes duties chargeable under the Stamp Duty Act.

Cap. 664

Exchange  
Control

5. (1) The following shall be free of any Exchange Control restriction:

(a) issue and allotment of “ B ” ordinary shares of Roan Consolidated Mines Limited other than to persons who, at the time of allotment, are, for the time being, residents of Zambia;

(b) any other payment or transfer of assets which is certified by the Minister to be in pursuance of any provision of the Heads of Agreement.

(2) Nothing in this section shall relieve any person from the obligation to produce such evidence as the Minister may require to verify any payment or transfer referred to in this section.

(3) In this section the expression "Exchange Control restriction" means any restriction under or by virtue of the Exchange Control Act or any Act which amends or replaces that Act.

Cap. 593

6. Section *fifteen* of the Loans and Guarantees (Authorisation) Act is hereby amended by the addition of the following new subsections:

Amendment  
of section  
15 of Cap.  
601

(3) In determining the total contingent liability under subsections (1) and (2) of this section, no account shall be taken of any interest or other sum accrued or which may accrue (other than the principal sum) and which may become payable in respect of any loan or any portion of a loan guaranteed pursuant to section *fourteen*.

(4) Any guarantee given pursuant to section *fourteen* shall be valid if, after taking such guarantee into account, the total contingent liability determined in accordance with subsection (3) of this section is within the limit prescribed under subsection (1) of this section or subsection (2) of this section, as the case may be, at the date when such guarantee is given.

(5) Subsections (3) and (4) of this section shall have effect in relation to all guarantees which are outstanding at the commencement of this Act as well as to all guarantees entered into after the commencement of this Act.

7. All guarantees given by the Minister pursuant to section *fourteen* of the Loans and Guarantees (Authorisation) Act in respect of any loan or other contract entered into by Nchanga Consolidated Copper Mines Limited or Roan Consolidated Mines Limited shall continue in force according to their terms (save for the name of the principal debtor in the case of guarantees of loans or other contracts entered into by Nchanga Consolidated Copper Mines Limited) notwithstanding the transfer to Roan Consolidated Mines Limited of the undertaking, assets and liabilities of Nchanga Consolidated Copper Mines Limited.

Continuation  
of  
guarantees.  
Cap. 601

SCHEDULE

(Section 3)

HEADS OF AGREEMENT

DATED 22ND DECEMBER, 1981

THE GOVERNMENT OF THE REPUBLIC OF ZAMBIA  
AND  
ZAMBIA INDUSTRIAL AND MINING CORPORATION LIMITED  
AND  
NCHANGA CONSOLIDATED COPPER MINES LIMITED  
AND  
ROAN CONSOLIDATED MINES LIMITED  
AND  
RST INTERNATIONAL INC.  
AND  
ZAMBIA COPPER INVESTMENTS LIMITED

HEADS OF AGREEMENT

To effect the merger of  
Nchanga Consolidated Copper Mines Limited  
and Roan Consolidated Mines Limited

HEADS OF AGREEMENT

1. The parties to these Heads of Agreement are the Government of the Republic of Zambia ("GRZ"), Zambia Industrial and Mining Corporation Limited ("Zimco"), Nchanga Consolidated Copper Mines Limited ("Nchanga"), Roan Consolidated Mines Limited ("Roan"), RST International Inc. ("STII") and Zambia Copper Investments Limited ("ZCI").

2. The purpose of these Heads of Agreement is to enable the share capital of Nchanga to be acquired by Roan in exchange for shares of Roan and to enable the undertaking of Nchanga to be amalgamated with that of Roan.

3. Prior to the acquisition by Roan of the share capital of Nchanga and the amalgamation of Nchanga and Roan referred to in these Heads of Agreement, Nchanga shall pursuant to Article 3 (F) (iii) of its Articles of Association:

- (a) redeem in full all the outstanding 5½ per cent and 5 per cent Preference Shares at the price of K2.10 and K2.20 per share respectively; and
- (b) pay to the holder of such shares the accruals of Preference Share dividend to the date of redemption.

4. Subject to Clause 15 and subject to the passing of the Resolutions referred to in Clause 5:

- (1) the share capital of Roan shall be reconstructed as provided in the Resolution set out in Schedule A hereto;

- (2) pursuant to a Scheme of Arrangement to be sanctioned by the High Court for Zambia under sections 101 and 102 of the Companies Act (Cap. 686) a draft of which appears at Schedule F:
- (i) Roan shall purchase and Zimco and ZCI shall sell and transfer with effect from and including 1 April 1981 the whole of the issued share capital of Nchanga in exchange for an issue of shares of Roan as referred to below provided that Roan shall not be entitled to the benefit of the dividend declared by Nchanga in August 1981 in respect of the year ended 31st March 1981.
  - (ii) The share capital of Nchanga shall be brought into the books of Roan at a value equal to the aggregate of the nominal value of the issued Ordinary shares of Nchanga and its reserves at 31st March 1981 (less the excess of the amount payable in respect of capital to the Preference shareholders on redemption over the nominal amount paid up on those Shares) and the excess of that value over the aggregate nominal value of the new shares of Roan to be issued to Nchanga shareholders by way of exchange as referred to below shall be credited to the revenue reserves of Roan.
  - (iii) Upon the said Scheme becoming operative and immediately following the registration of Roan as the holder of the whole of the issued share capital of Nchanga in the register of members of Nchanga Roan shall acquire and amalgamate with its own undertaking the undertaking property (including rights and powers of every description) and liabilities (including duties) of Nchanga and all the property assets and rights of Nchanga referred to above shall be transferred to and vested in Roan and all the liabilities and obligations of Nchanga referred to above shall be transferred to and become liabilities and obligations of Roan except that debts owing or obligations incurred by Nchanga to Roan or vice versa shall by virtue of the said Scheme be extinguished. Roan shall have the benefit of the ownership of the assets transferred to it and be subject to the liabilities and obligations being assumed by it with effect from 1st April 1981 and as between Roan and Nchanga from 1st April 1981 Nchanga shall be deemed to have carried on its business on behalf of and as agent for Roan and shall accordingly account to Roan for all profits from that date and be indemnified by Roan in respect of all losses from that date. The Scheme shall further provide that any legal proceedings pending by or against Nchanga shall be deemed to be proceedings pending by or against Roan and shall continue as such and that Nchanga shall be dissolved without a winding up.
  - (iv) The consideration for the sale of the share capital of Nchanga shall be the allotment and issue fully paid up of 30,957,717 A Ordinary shares of K10 each of Roan to Zimco and 20,616,238 B Ordinary shares of K10 each of Roan to ZCI as the holders of the A and B Ordinary shares of Nchanga respectively such new A and B Ordinary shares ranking *pari passu* in all respects with the A and B Ordinary shares of Roan at the date of issue thereof and carrying the right to the full amount of all dividends (if any) which shall be declared

after the date of issue thereof. The number of new Ordinary shares of Roan to be allotted and issued as aforesaid reflects the relative values of Nchanga and of Roan agreed between the parties hereto prior to the date hereof as is hereby acknowledged.

- (3) Roan shall upon the Scheme of Arrangement becoming effective, change its name to "Zambia Consolidated Copper Mines Limited" (and shall thereafter herein sometimes be referred to as "ZCCM").

5. (1) Nchanga shall seek to obtain the sanction of the High Court for Zambia to the Scheme of Arrangement and shall, for that purpose, take all appropriate action with a view to obtaining approval by Zimco and ZCI as the A and B Ordinary shareholders of Nchanga at meetings convened for the purpose.

(2) An Ordinary Resolution shall be proposed to the members of ZCI to authorise the Directors of ZCI to take such action as may be appropriate:

- (a) on behalf of ZCI as a member of Nchanga to approve and carry into effect the proposed Scheme of Arrangement including voting at meetings of Nchanga in favour of the resolutions to be proposed at such meetings as referred to in Clause 5 (1) hereof; and
- (b) on behalf of ZCI as a member of Roan to vote in favour of the resolutions to be proposed at meetings of members of Roan as referred to in Clause 5 (3), Clause 5 (4) and Clause 5 (6) hereof.

(3) A resolution in the terms set out in Schedule A hereto shall be proposed as a Special Resolution at an Extraordinary General Meeting of Roan containing a paragraph for the adoption of new Articles of Association of Roan incorporating the alterations to the existing Articles of Association of Roan set out in Schedule B or such other alterations as the Directors present at any duly constituted meeting of the Board or any Committee of the Board of Roan and Nchanga shall unanimously agree.

(4) At a separate General Meeting of the holders of the B Ordinary shares of Roan an Extraordinary Resolution shall be proposed to sanction the passing of the Resolution referred to in sub-clause (3) hereof.

(5) At a separate General Meeting of the holders of the A Ordinary shares of Roan a Resolution of all the holders shall be proposed to sanction the passing of the Resolution referred to in sub-clause (3) hereof.

(6) At an Extraordinary General Meeting of Roan a Resolution to be approved by the affirmative vote of the holders of not less than three-fourths of the issued shares of Roan shall be proposed to sanction the variation of the class rights proposed to be effected by the passing of the resolution referred to in sub-clause (3) hereof.

(7) ZCI and RSTII shall procure that pursuant to Article 85 (B) of the Articles of Association of Roan, the B Directors of Roan shall upon the Scheme of Arrangement becoming operative cause the removal or resignation of such of their number and the appointment of such additional B Directors as may be agreed between RSTII and ZCI.

6. (1) Zimco, RSTII and ZCI hereby give the following undertakings:

- (i) Zimco shall vote in favour of the Resolutions referred to in Clause 5 (3) and 5 (5) and Clause 5 (6) and shall approve in requisite form or, as the case may be, vote in favour of a resolution to approve the Scheme of Arrangement under Clause 5 (1);
- (ii) RSTII shall vote in favour of the Resolutions referred to in Clause 5 (3), 5 (4) and 5 (6);
- (iii) subject to the passing of the Ordinary Resolution of ZCI referred to in Clause 5 (2), ZCI shall vote in favour of the Resolutions referred to in Clause 5 (3), 5 (4) and 5 (6) and shall approve in requisite form or, as the case may be, vote in favour of a resolution to approve the Scheme of Arrangement under Clause 5 (1).

(2) All parties hereto shall provide all such information as shall be necessary, and give such assurances (other than assurances in the nature of indemnities or guarantees which may give rise to financial liability) as are requisite under the laws of Zambia and as shall be required by or deemed to be prudent under the rules and practices of the Stock Exchanges on which the shares of Roan are listed, and any relevant United States securities legislation, in order to enable the amalgamation and reconstruction of Nchanga and Roan to be implemented, the necessary documents and circular letters to shareholders to be prepared and finalised, and the Stock Exchange listings of the new B Ordinary Shares of Roan to be obtained.

7. (1) GRZ shall use its best endeavours to procure the passing of appropriate legislation or, as the case may be, the effecting of appropriate administrative measures, to ensure that neither Nchanga nor Roan nor any of the shareholders of Nchanga and Roan shall be subject to any taxation, duty or impost of any kind whatsoever which would not have been incurred, or lose any relief from any taxation, duty or impost which would have been enjoyed, if the proposals contained in these Heads of Agreement had not been effected.

(2) Without prejudice to the generality of the foregoing, GRZ shall use its best endeavours to procure the passing of appropriate legislation or, as the case may be, the effecting of appropriate administrative measures, to—

- (a) ensure that the proposed amalgamation and reconstruction shall be free of any adverse taxation or stamp duty or Exchange Control consequences in the Republic of Zambia on Nchanga, Roan or their respective shareholders and in particular (but without prejudice to the generality of the foregoing) that the transfer of the shares in Nchanga, the increase in the share capital of Roan and the transfer of assets of Nchanga are not subject to any stamp duty, capital duty or other impost whatsoever.
- (b) allow as a deduction in ascertaining the gains or profits of Roan, all costs and disbursements (including the costs of legal, accountancy and other advisers and such other costs as fall to be borne by Roan under Clause 13) incurred in connection with or incidental to the preparation of these Heads of Agreement or the implementation of the arrangements specified therein.

(3) The operating and financial forecasts provided by Nchanga indicate that in the aggregate a substantial deficit will be incurred over the remaining life of Nchanga's Broken Hill Division. It is desired that

the operations at the said Division should continue while measures are being investigated to ensure employment for the present staff of the Division and/or render the existing or alternative operations thereat profitable. All parties hereto acknowledge that the burden of the said deficit on ZCCM ought to be borne in part by GRZ. Accordingly, GRZ hereby undertakes to grant to ZCCM, a subsidy of K5,000,000 a year in accordance with the terms set out in Schedule C hereto.

(4) GRZ hereby gives the following further undertakings and declarations:

- (i) GRZ agrees that no change in the laws of Zambia shall alter or affect the operation of the provisions of the Articles of Association of Roan set out in Schedule D hereto or the effect thereof on the shareholders of Roan;
- (ii) GRZ shall procure that Zimco shall comply with its undertakings under Clause 6 and Clause 10 hereof;
- (iii) The tax reliefs referred to in paragraphs (b) and (c) of Schedule C shall apply;
- (iv) Subject as provided in Clause 7 (3) hereof in relation to Nchanga's Broken Hill Division GRZ shall procure that Roan and its subsidiaries shall be permitted to conduct their operations on a commercial basis so as to attain optimisation of production and profit and, subject to the Mines and Minerals Act, 1976 (Act No. 32 of 1976), without restriction as to the manner in which or places at which the respective companies shall conduct their operations; in particular, but subject to overall Government policy, Roan and its subsidiaries shall be permitted to obtain their requirements for goods and services from any part of the world in the best interest of the undertaking carried on by it (but so that nothing in this paragraph shall permit Roan or any of its subsidiaries which are incorporated in Zambia to cease to be resident in Zambia for taxation or Exchange Control purposes);
- (v) In respect of any contracts of Nchanga assumed by or transferred to Roan under the Scheme of Arrangement the performance of which is guaranteed by GRZ, GRZ shall to a like extent guarantee performance by Roan and if GRZ has given any indemnity against loss or other liabilities in relation to the business of Nchanga such indemnity shall apply in favour of Roan in respect of the business of Nchanga transferred to Roan under the Scheme of Arrangement;

(5) Roan and Nchanga undertake to make such elections as may be necessary in due time to secure the right to carry back losses against earlier profits for tax purposes and the right to transfer assets pursuant to the merger at tax written down values.

8. The records and accounts of Roan shall continue to be audited annually by a firm of independent accountants of recognised international standing.

9. Forthwith upon the Scheme of Arrangement becoming effective, Roan shall make an offer of employment to all the employees of Nchanga on the same terms as those applicable to their present employment (save for any change in job title or description) and shall assume all obligations to the employees of Nchanga who shall enter the employment of Roan and thereafter Roan shall be solely liable for salary, benefits and other employment obligations of such employees and shall assume all responsibilities under any applicable union agreements and pension obligations (subject to the assets in any existing pension fund continuing to be held for the benefit of such employees).

10. (A) (i) (a) In the event that ZCI (or any ZCI Group Company) wishes to transfer any B Ordinary shares in the capital of Roan of which it may at any time following the Scheme of Arrangement becoming effective be the registered holder (whether held before as a result of or after the said Scheme becomes effective) to any proposed purchaser it shall serve a notice in writing (hereafter called a "transfer notice") upon Zimco of its intention and ability free of Zambian Exchange Control restrictions so to do specifying both the number of B Ordinary shares which it wishes to transfer and the proposed purchase price of such shares (hereafter called "the proposed purchase price"). Zimco shall have the right to take up all (but not part) of the B Ordinary shares specified in the transfer notice by serving upon ZCI a notice in writing to such effect (hereafter called an "acceptance notice") within 30 days of the date of service of the transfer notice whereupon ZCI shall be obliged within 60 days after service of the acceptance notice to deliver to Zimco share certificates in respect of the B Ordinary shares specified in the transfer notice with duly executed and effective share transfers relating thereto and against such delivery Zimco shall complete the purchase of the said B Ordinary shares in accordance with the terms of the offer contained in the transfer notice at the proposed purchase price provided always that the provisions of the foregoing sentence and of sub-paragraph (b) hereof shall have effect subject to sub-paragraph (c) hereof;

(b) if Zimco fails to serve an acceptance notice upon ZCI in accordance with the provisions of sub-paragraph (a) hereof or following the determination of any arbitration under sub-paragraph (e) then for the period of nine months from the date of the service of the transfer notice or six months from the date of such determination ZCI shall be entitled to transfer to any purchaser all (but not part) of the B Ordinary shares specified in the transfer notice at any price not being less than the proposed purchase price and on terms not more favourable than the terms of the offer to Zimco contained in the transfer notice;

(c) upon the service of a transfer notice upon Zimco by ZCI in accordance with sub-paragraph (a) hereof Zimco shall have the right to refer the proposed purchase to such arbitrator (being a partner or director either of a firm of public accountants or stock brokers or a merchant bank) (hereafter called "the Arbitrator") as the parties may agree or in default of agreement as shall be nominated by the Chairman for the time being of the Administrative Council of the International Centre for the Settlement of Investment Disputes of the World Bank ("ICSID") by serving notice in writing upon ZCI within 30 days of the date of service of the transfer notice;

(d) the function of the Arbitrator shall be to determine whether at the date of the service of the transfer notice a third party being a willing and able purchaser of all the B Ordinary shares specified in the transfer notice had, acting at arms length, made a bona fide offer in writing for such B Ordinary shares (whether or not with any conditions attached in relation to the pre-emption provisions herein contained) at a price of not less than the proposed purchase price and otherwise upon the terms at which such B Ordinary shares shall have been offered to Zimco pursuant to the transfer notice. ZCI shall with all reasonable dispatch furnish the Arbitrator with such evidence as it may reasonably require for the purpose of such determination;

(e) if the determination of the Arbitrator shall confirm that such offer shall have been made the provisions of sub-paragraph (a) hereof shall have effect save only that Zimco shall have the right to serve an acceptance notice within 20 days of the date of such determination and the provisions of sub-paragraph (b) hereof shall have effect save

that ZCI's entitlement therein specified shall run for the period of six months from the date of such determination and the costs of such Arbitrator shall be borne by Zimco;

(f) if the determination of the Arbitrator shall deny that such offer shall have been made the transfer notice shall be null and void absolutely and the provisions of sub-paragraph (a) shall have full force and effect and the costs of such arbitration shall be borne by ZCI;

(g) if as a result of the operation of the foregoing provisions of this Clause a majority of the B Ordinary shares in issue shall be beneficially owned by Zimco or a Zimco Group Company, Zimco will procure (subject to the consent of the holders of the remaining B Ordinary shares or the passing of such resolutions as shall be required by the Articles of Association and subject to the B Ordinary shares remaining listed on a recognised Stock Exchange) an amendment of the Articles of Association to enable the holders of the B Ordinary shares (other than Zimco) to appoint and remove one B Director.

(ii) In the event that Zimco wishes to transfer any A shares in the capital of Roan of which it is the registered holder, the provisions of sub-paragraph (i) hereof other than sub-paragraph (g) shall apply mutatis mutandis to ZCI and to Zimco in all respects save that all references to ZCI, to B Ordinary shares and to Zimco shall be deemed to be references respectively to Zimco, to A Ordinary shares and to ZCI;

(iii) No acceptance notice served by Zimco upon ZCI will be binding on ZCI (and ZCI will be free to transfer the B Ordinary shares specified in the transfer notice as if no such acceptance notice had been served within the relevant period) unless payment of the purchase price due to ZCI pursuant to sub-paragraph (i) hereof shall be in freely transferable currency and free of Zambian Exchange Control restrictions to the extent necessary to ensure that ZCI shall be in the same position as it would have been had it transferred to the offeror referred to in sub-paragraph (i) (b) hereof;

(iv) To the extent that it is within the power of Zimco and ZCI so to do, each shall procure that any transferee of A or B Ordinary shares acquiring such shares in accordance with this Clause shall be registered as the holder of such shares in the Register of Members of Roan upon presentation for registration of the share certificates and duly executed registerable share transfers relating thereto;

(v) Notwithstanding the provisions of sub-paragraph (ii) hereof it shall be permissible for A Ordinary shares in the capital of Roan to be transferred free from any restriction under this Clause between Zimco and Zimco Group Companies or any of them which shall thereupon be registered as the holder of such A Ordinary shares in the Register of Members of Roan provided always that it shall be a condition of each such transfer that prior to such registration each such transferee shall enter into an agreement with ZCI in the terms of this Clause and so that sub-paragraph (ii) and all other provisions of this Clause shall apply in all respects to such transferee and provided further that such agreement shall include an undertaking by each such transferee that if at any time it shall cease to be a Zimco Group Company it shall transfer the whole of the A Ordinary shares registered in its name to Zimco or any Zimco Group Company on such conditions as aforesaid;

(vi) In the event that Zimco or any Zimco Group Company ceases to be the registered owner of any A Ordinary shares in the capital of Roan the provisions of this Clause relating to the transfer of the B Ordinary shares shall thereupon become null and void notwithstanding the subsequent registration of Zimco or any Zimco Group Company as a holder of any such A Ordinary shares in the capital of Roan;

(vii) Any ZCI Group Company shall in relation to B Ordinary Shares of Roan have the same rights and be subject to the same obligations *mutatis mutandis* as apply to Zimco and any Zimco Group Company under sub-paragraphs (v) and (vi) hereof;

(viii) For the purpose of this Clause the following terms shall have the meanings respectively ascribed to them as follows, namely:

“Zimco Group Company” shall mean and include any company which in relation to Zimco is for the time being a holding company or subsidiary company (as defined in Schedule B) of Zimco and of any such holding company but so that for the purposes of this paragraph GRZ or any Department or Ministry thereof shall be deemed to be a company;

“ZCI Group Company” shall mean Security Nominees Limited, ZCI and Minerals and Resources Corporation Limited (“Minorco”) and shall include any company which in relation to either ZCI or Minorco is for the time being a holding company or subsidiary company (as defined in Schedule B) of either ZCI or Minorco or a subsidiary company of any such holding company;

(ix) None of the preceding provisions of this Clause shall apply unless (as a result of one transaction or series of related transactions) the number of Ordinary shares remaining held by a ZCI Group Company after a proposed transfer of B Ordinary shares in the capital of Roan would be less than 20 per cent of the total Ordinary share capital of Roan or the number of Ordinary shares remaining held by Zimco or a Zimco Group Company after a proposed transfer of A Ordinary shares in the capital of Roan would be less than 50 per cent of such capital;

(x) Any beneficial owner of Ordinary shares of Roan (being a ZCI Group Company or Zimco or a Zimco Group Company) wishing to transfer any interest in any Ordinary shares of Roan shall be bound by the provisions of this Clause as if he were a registered holder.

(B) ZCI represents and warrants to Roan that it is acquiring all of the new B Ordinary shares for its own account for the purpose of investment and not with a view to, or for sale in connection with, any distribution thereof. ZCI agrees that it will not at any time sell or otherwise transfer, or permit the sale or other transfer of, any of the new B Ordinary shares in or to residents or citizens of the United States of America unless (1) a registration statement under the United States Securities Act of 1933 is in effect with respect thereto or (2) the sale or transfer is exempt from the registration requirements of said Act and Roan shall have received an opinion in form and substance and from United States Counsel reasonably satisfactory to Roan to such effect.

ZCI understands and agrees that stock transfer instructions will be given to the Transfer Agent of the Roan B Ordinary shares with respect to the new B Ordinary shares and that each certificate representing the new B Ordinary shares, and each certificate issued in exchange therefor, shall bear the following legend, unless United States Counsel for Roan shall give it an opinion that such certificate need not bear such legend:

“The shares represented by this certificate have not been registered under the United States Securities Act of 1933 and may not be transferred at any time in or to residents or citizens of the United States of America unless (1) a registration statement under said Act is in effect with respect thereto or (2) the transfer is exempt from the

registration requirements of said Act and the company shall have received an opinion in form and substance and from United States Counsel reasonably satisfactory to the company to such effect."

11. (1) Upon the date hereof the parties hereto shall enter into an Agreement in the form of the draft set out in Schedule E hereto in relation to the accounting policies to be adopted by Roan following its amalgamation with Nchanga with effect from 1st April, 1981.

(2) Upon the Scheme of Arrangement becoming effective the two Heads of Agreement dated 24th December, 1969 and the various Agreements supplemental thereto will have no continuing effect save that:

- (i) The provisions of paragraphs 3B (iv) and 12, 13, 14 (f) of the Heads of Agreement between GRZ, Indeco and RSTII and paragraphs 8, 9 and 10 (viii) of the Heads of Agreement between (inter alia) GRZ, Indeco, Nchanga, and ZCI and the agreements for submission of disputes to ICSID between (inter alia) certain of the parties hereto made as of 1 January, 1970, 31 October, 1974 and 26 February, 1975 shall remain in full force and effect insofar as the same may continue to have effect at the date on which the Scheme of Arrangement becomes operative.
- (ii) The Agreements entered into pursuant to the Second Supplemental Agreement thereto dated 31 October, 1974 as referred to therein, and the Termination Agreement dated 26 February, 1975 which relates to Roan and the Sales Agreement scheduled thereto, shall notwithstanding the foregoing remain in full force and effect on the Scheme of Arrangement becoming operative in so far as the same may continue to have effect at the date when the Scheme of Arrangement becomes operative subject to the parties thereto which are not parties to this Agreement so agreeing.

12. Following the date of these Heads of Agreement up to the date when the Scheme of Arrangement becomes effective each of Roan and Nchanga undertake with the other that they will not without the approval of a resolution of a Committee of the Board of the other do any of the following or enter into any agreement to do any of the following:

- (a) Declare any dividend or make any other distribution;
- (b) Issue any shares or other securities convertible into shares or create any options over unissued shares or other securities convertible into shares;
- (c) Borrow any money or issue any loan capital in excess of K5,000,000;
- (d) Give any guarantee or indemnity (except in the ordinary course of trading or in respect of inter group indebtedness) not exceeding the said amount of K5,000,000;
- (e) Whether by one transaction or a series of related transactions acquire or dispose of any assets outside the ordinary course of trading where the amount of the consideration in respect of the asset or assets acquired or disposed of exceeds K5,000,000;
- (f) Give any power of attorney to any third party;
- (g) Engage in any business other than the type of business currently conducted;

- (h) Enter into any modification of any existing obligations imposing liabilities materially more onerous than those currently existing;
- (i) Enter into any other transaction outside the ordinary course of business.

13. All costs of and incidental to the amalgamation shall be borne by Roan insofar as such costs relate to:

- (a) the preparation of these Heads of Agreement;
- (b) the preparation, printing and mailing of all circular letters to the shareholders of Nchanga, Roan and ZCI;
- (c) the Scheme of Arrangement;

and such costs shall include travelling and accommodation expenses of representatives of the parties in attending meetings away from their normal place of work but shall not include any reimbursement in respect of any time spent by representatives or employees of the parties or fees of professional advisers to shareholders of Roan or Nchanga.

14. No announcement of these Heads of Agreement shall be made without prior approval of all parties.

15. Implementation of the provisions of Clause 4 and the obligations of the parties under Clause 6 are conditional upon:

- (a) none of the following events having occurred between the date hereof and the date of the meetings to be convened pursuant to Clause 5 hereof:
  - (i) a change in the financial or trading position or prospects of Roan or Nchanga or any fact relating to Roan or Nchanga which may become known to the Board of either Company in either case of such a nature as materially to affect the terms of the merger as specified in Clause 4;
  - (ii) any event of such a serious nature as to prevent the proposed amalgamation of Roan with Nchanga being effected;
- (b) the approval or other necessary action by the parties to the agreements and arrangements brief details of which are set out in Schedule G.

16. (1) The parties agree that all disputes arising under these Heads of Agreement, the Memorandum and Articles of Association of Roan (as to be amended), or any undertakings or assurances given to foreign shareholders or employees in special legislation enacted or, as the case may be, entered into in connection with the transactions contemplated hereby, shall be submitted to binding and conclusive arbitration by ICSID pursuant to the Convention on the Settlement of Investment Disputes Between States and Nationals of other States of ICSID, and that contemporaneously herewith they shall enter into a formal arbitration agreement in the form set out in Schedule H.

(2) If ICSID shall be unable to or shall decline to act as arbitrator then, and in such event, the dispute shall be submitted to binding and conclusive arbitration to such Arbitrator as may be agreed by the parties hereto or, in default of such agreement, to an arbitrator to be appointed by the Chairman for the time being of the Administrative Council of ICSID.

(3) All disputes (other than those referred to in sub-clause (4) hereof) arising under these Heads of Agreement, shall be determined by the laws of Zambia (including its rules on conflict of laws) as in force on 1st April 1981, disregarding all legislation, instruments, orders, directions and court decisions having the force of law in Zambia (other than those contemplated by these Heads of Agreement) adopted, made, issued or given subsequent to that date; the Arbitrator shall also be authorised to determine any such dispute in their discretion *ex aequo et bono*;

(4) All disputes arising under the Memorandum and Articles of Association of Roan or any undertakings or assurances given to foreign shareholders or employees in special legislation enacted or, as the case may be, entered into in connection with the transactions contemplated hereby, shall be determined by the law of Zambia as described in sub-clause (3) in force on 1st April 1981.

AS WITNESS the hands of the duly authorised representatives of the parties hereto this 22nd day of December, 1981:

Signed by <b>KEBBY MUSOKOTWANE</b> on behalf of The Government of the Republic of Zambia in the presence of:  <b>C. MANYEMA</b>	}	<b>K. MUSOKOTWANE</b>
---	---	-----------------------

Signed by <b>JAMES MAPOMA</b> on behalf of Zambia Industrial and Mining Corporation Limited in the presence of:  <b>C. MANYEMA</b>	}	<b>J. MAPOMA</b>
--	---	------------------

Signed by <b>FRANCIS KAUNDA</b> on behalf of Nchanga Consolidated Copper Mines Limited in the presence of:  <b>L. BWALYA</b>	}	<b>F. KAUNDA</b>
--	---	------------------

Signed by <b>DAVID PHIRI</b> on behalf of Roan Consolidated Mines Limited in the presence of:  <b>K. MULENGA</b>	}	<b>D. PHIRI</b>
--	---	-----------------

Signed by <b>ROY HALLE</b> on behalf of RST International Inc. in the presence of:  <b>D. MONTEITH</b>	}	<b>R. HALLE</b>
--	---	-----------------

Signed by <b>VERNON WEBBER</b> on behalf of Zambia Copper Investments Limited in the presence of:  <b>O. T. PHILLIPS</b>	}	<b>V. WEBBER</b>
--	---	------------------

**SCHEDULE A**

**ROAN CONSOLIDATED MINES LIMITED**

NOTICE IS HEREBY GIVEN that an Extraordinary General Meeting of the Company will be held at ..... on ..... at ..... am/pm for the purpose of considering and if thought fit approving the following Resolution which will be proposed as a Special Resolution:

**THAT:**

(A) The Scheme of Arrangement [a copy of which appears on page of the document of which the notice convening this meeting forms part] be approved.

(B) Subject to and upon the said Scheme of Arrangement becoming effective:

- (a) the authorised share capital of the Company be increased from K190,000,000 divided into 27,900,000 A ordinary shares of K4 each (of which 22,868,091 shares have been issued and are fully paid up and the remainder are unissued) and 19,600,000 B Ordinary shares of K4 each (of which 14,854,382 shares have been issued and are fully paid up and the remainder are unissued) to K900,000,000 by the creation of 27,900,000 A Ordinary shares of K6 each 19,600,000 B Ordinary shares of K6 each 26,100,000 A Ordinary shares of K10 each and 16,400,000 B Ordinary shares of K10 each;
- (b) 5,031,909 of the said A Ordinary shares of K6 each and 4,745,618 of the said B Ordinary shares of K6 each be consolidated with the 5,031,909 unissued A Ordinary shares of K4 each and the 4,745,618 unissued B Ordinary shares of K4 each respectively and divided into 5,031,909 A Ordinary shares of K10 each and 4,745,618 B Ordinary shares of K10 each;
- (c) notwithstanding the proviso to the first sentence of Article 130 but pursuant to the remaining provisions of that Article the sum of K226,334,838 (being as to K32,115,081 the sum standing to the credit of the share premium account of the Company and as to K194,219,757 part of its general reserves) be capitalised and applied in paying up in full at par 22,868,091 A Ordinary shares of K6 each and 14,854,382 B Ordinary shares of K6 each which shall be allotted credited as fully paid up to the holders registered at the close of business on the business day immediately preceding that on which the said Scheme of Arrangement shall become effective of the A Ordinary shares and B Ordinary shares respectively of K4 each in the proportions of one A Ordinary share of K6 for every A Ordinary share of K4 and one B Ordinary share of K6 for every B Ordinary share of K4 then held by them respectively, and upon such allotment each of the shares so allotted shall be consolidated with the share in respect of which the allotment was made so as to become and be one A Ordinary share or (as the case may be) one B Ordinary share of K10;
- (d) the Company shall be entitled to treat every certificate for Ordinary shares of K4 each in existence at the date of the allotment of the Ordinary shares under the preceding paragraph of this Resolution as a Certificate for Ordinary shares of K10 each;
- (e) notwithstanding Article 10 of the Articles of Association the Board be authorised to allot credited as fully paid pursuant to the Scheme of Arrangement 30,957,717 A Ordinary shares of K10 each to Zambia Industrial and Mining Corporation Limited and 20,616,238 B Ordinary shares of K10 each to Zambia Copper Investments Limited such shares to rank *pari passu* in all respects with the A and B Ordinary shares in issue at the date on which the preceding paragraph of this resolution takes effect;
- (f) the Articles of Association contained in the printed document a copy of which is produced to the meeting and signed by the Chairman thereof be adopted as the Articles of Association of the Company in place of the existing Articles of Association;

(g) the name of the Company be changed to Zambia Consolidated Copper Mines Limited.

Dated 1982

By Order of the Board

Secretary

Registered Office

Kafue House,

One Nairobi Place,

Lusaka,

Zambia.

Any member entitled to attend and vote at the above meeting may appoint one or more proxies to attend and vote on his behalf. A proxy need not be a member of the Company.

#### SCHEDULE B

Name: Zambia Consolidated Copper Mines Limited

##### *Article 2*

In the definition of "The Statutes" substitute "1st April 1981" for "1st December 1973".

On page 3 at the end of the first paragraph insert the following new paragraph:

"For the purpose of these Articles, a company shall subject to the provisions of sub-paragraph (ii) of this paragraph be deemed to be a subsidiary of another if, but only if:

(a) that other either:

(1) is a member of it and controls the composition of its Board of Directors; or

(2) holds more than half in nominal value of its equity share capital; or

(b) the first-mentioned company is a subsidiary of any company which is that other's subsidiary.

(1) For the purpose of the foregoing paragraph the composition of a company's board of directors shall be deemed to be controlled by another company if, but only if, that other company by the exercise of some power exercisable by it without the consent or concurrence of any other person can appoint or remove the holders of all or a majority of the directorships; but for the purposes of this provision that other company shall be deemed to have power to appoint to a directorship with respect to which any of the following conditions is satisfied, that is to say:

(a) that a person cannot be appointed thereto without the exercise in his favour by that other company of such a power as aforesaid; or

(b) that a person's appointment thereto follows necessarily from his appointment as director of that other company; or

(c) that the directorship is held by that other company itself or by a subsidiary of it.

(2) In determining whether one company is a subsidiary of another:

(a) any shares held or power exercisable by that other in a fiduciary capacity shall be treated as not held or exercisable by it;

(b) subject to the two following paragraphs, any shares held or power exercisable:

(1) by any person as a nominee for that other (except where that other is concerned only in a fiduciary capacity); or

(2) by, or by a nominee for, a subsidiary of that other, not being a subsidiary which is concerned only in a fiduciary capacity;

shall be treated as held or exercisable by that other;

(c) any shares held or power exercisable by any person by virtue of the provisions of any debentures of the first-mentioned company or of a trust deed for securing any issue of such debentures shall be disregarded;

(d) any shares held or power exercisable by, or by a nominee for, that other or its subsidiary (not being held or exercisable as mentioned in the last foregoing sub-paragraph) shall be treated as not held or exercisable by that other if the ordinary business of that other or its subsidiary, as the case may be, includes the lending of money and the shares are held or power is exercisable as aforesaid by way of security only for the purposes of a transaction entered into in the ordinary course of that business.

For the purposes of these Articles a company shall be deemed to be another's holding company if but only if that other is its subsidiary.

In this Article the expression 'company' includes any body corporate, and the expression 'equity share capital' means, in relation to a company, its issued share capital excluding any part thereof which, neither as respects dividends nor as respects capital, carries any right to participate beyond a specified amount in a distribution."

*Article 3 (A)*

The whole Article shall be amended to read as follows:

"The authorised share capital of the Company at the date of the adoption of these presents is K900,000,000 divided into 54,000,000 'A' Ordinary Shares of K10 each and 36,000,000 'B' Ordinary Shares of K10 each".

*Article 3 (B)*

The first four lines shall be amended to read as follows:

"(B) The authorised share capital of the Company shall consist only of 'A' Ordinary Shares of K10 each and 'B' Ordinary Shares of K10 each in a proportion of between 59.5 'A' Ordinary Shares: 40.5 'B' Ordinary Shares and 60.5 'A' Ordinary Shares: 39.5 'B' Ordinary Shares".

*Article 3 (C)*

The reference to "six" on page 4 shall be "seven".

*Article 7 (2)*

At the beginning of this paragraph delete the word "Cancel" and add the words "Subject to Article 3 hereof cancel".

*Article 8*

At the beginning of this Article delete the word "The" and add the words "Subject to Article 3 hereof the".

*Article 16*

After the words "the issue or transfer thereof" in the third line add the words "(except a Stock Exchange nominee)".

*Article 49*

After the words "to pass a Special Resolution" in the second line add the words "or a Resolution in terms of Article 5 hereof".

*Article 53*

The word "two" in the fifth line shall be deleted and the word "one" substituted. The words "one fifth" in the last line shall be deleted and the words "one tenth" substituted. At the end of the Article add the words "The absence of a quorum shall not preclude the appointment, choice or election of a Chairman which shall not be treated as part of the business of the Meeting".

*Article 62*

Delete the reference to "K4" and insert "K10".

*Article 74*

Delete the reference to "eleven" and insert "twelve".

*Article 76*

Delete the whole Article and insert the following:

"76 (A) The holders of a majority in nominal value of the 'A' Ordinary Shares shall be entitled at any time either at a separate class meeting or by instrument or instruments in writing signed under their hands and left at the Office to appoint from amongst the 'A' Directors the Chairman and Vice-Chairman of the Directors and at any time to remove in the manner aforesaid either such appointee from office.

(B) The holders of a majority in nominal value of the 'A' Ordinary Shares shall be entitled at any time by instrument in writing left at the Office to nominate as Chief Executive of the Company one of the persons who are 'A' Directors in accordance with these presents. Such nominee shall upon nomination be appointed by resolution of the Directors. The Chief Executive shall put into effect the policies and directions of the Directors and generally manage the business of the Company on behalf of the Directors.

(C) Upon the office of the Chief Executive falling vacant the holders of a majority in nominal value of the 'A' Ordinary Shares shall as soon as reasonably practicable thereafter exercise their right of nomination. Until the office shall be filled in accordance with the provisions of this Article the Directors shall take such steps as they consider prudent to fill the office on a temporary basis.

(D) The holders of a majority in nominal value of the 'A' Ordinary Shares shall be entitled at any time by instrument in writing left at the Office to nominate as Executive Directors of the Com-

pany any of the persons who are 'A' Directors in accordance with these presents. Such nominees shall upon nomination be appointed by resolution of the Directors.

(E) The removal of a Director from the office of Chief Executive or Executive Director may be effected at any time by resolution of a majority of the Directors if the Chief Executive or Executive Director as the case may be is performing his duties in a manner prejudicial to the efficient operation of the business of the Company.

(F) An appointment made in accordance with paragraphs (A), (B), (C) or (D) of this Article shall be on terms that such appointment shall automatically determine if the appointee shall cease for any reason to be an 'A' Director and in the case of Chief Executive or Executive Director that the appointment shall also be determinable in accordance with paragraph (E) of this Article.

(G) The Chairman shall be eligible for appointment as Chief Executive."

*Article 81*

Delete "A" at the beginning of the Article and insert the words "Subject to Article 95 a," at the beginning of the Article.

*Article 82*

Delete the word "Managing Director" and insert the word "Chief Executive" in the third line. Add the following sentence at the end of the Article: "The Chief Executive has the right to delegate any of his functions to one or more Executive Directors and may at any time revoke withdraw or vary such delegation."

*Article 85 (A)*

Delete the words in brackets at the end of the paragraph.

*Article 85 (B)*

Delete the words in brackets at the end of the first sentence.

*Article 85 (C)*

Delete the words "the requisite Directors" at the end of the Article and insert the words "all the 'A' or 'B' Directors in the case of an appointment or all the 'A' or 'B' Directors other than the Director whom it is sought to remove from office in the case of a removal".

*Article 93*

At the end of the Article add the words "Provided that a meeting of Directors notwithstanding that it has been called at shorter notice than that specified above shall be deemed to have been duly called if it is so agreed in writing by Directors sufficient to form a quorum as provided for in Article 94 (A) below".

*Article 94 (B)*

Add the words "Subject to Article 99 in" in place of the word "In" at the beginning of the paragraph.

*Article 94 (B) (5)*

Delete "K500,000" and substitute "K1,000,000".

**Article 96**

Delete the whole Article and insert the following :

“(A) Save as herein provided, a Director shall not vote in respect of any contract or arrangement or any other proposal whatsoever in which he has any material interest otherwise than by virtue of his interests in shares or debentures or other securities of or otherwise in or through the Company (and if he shall so vote his vote shall not be counted) nor shall he be counted for the purpose of any resolution regarding the same in the quorum present at the meeting but this Article shall not apply to any of the following matters, namely:

- (i) the giving of any security or indemnity to him in respect of money lent or obligations incurred by him at the request of or for the benefit of the Company or any of its subsidiaries;
- (ii) the giving of any security or indemnity to a third party in respect of a debt or obligation of the Company or any of its subsidiaries for which he himself has assumed responsibility in whole or in part under a guarantee or indemnity or by giving of security;
- (iii) any proposal concerning an offer of shares or debentures or other securities of or by the Company or any of its subsidiaries for subscription or purchase in which offer he is or is to be interested as a participant in the underwriting or sub-underwriting thereof;
- (iv) any contract or arrangement entered into with another company corporation or body in respect of which he has all or any of the following interests, namely that he is a director officer employee or creditor of, or in receipt of pensions or other benefits or emoluments from, or is a holder of shares or other securities of, such other company corporation or body, or any other company corporation or body which owns or controls any shares in, or is otherwise interested in, such company corporation or body with which such contract or arrangement is to be made; provided that he is not the holder of or beneficially interested in 1 per cent or more of any class of the share capital excluding any part thereof which, neither as respects dividends nor as respects capital, carries any right to participate beyond a specified amount in a distribution of such company (or of any third company through which his interest is derived) or of the voting rights available to members of the relevant company (any such interest being deemed for the purpose of this Article to be a material interest in all circumstances);
- (v) any such scheme or fund as is referred to in Article 80 which relates both to Directors and to employees, or a class of employees and does not accord to any Director as such any privilege or advantage not generally accorded to the employees to which such scheme or fund relates.

(B) A Director notwithstanding his interest may be counted in the quorum present at any meeting whereat any Director is appointed to hold any office or place of profit under the Company or whereat the Directors resolve to exercise any of the rights of the Company (whether by the exercise of voting rights or otherwise) to appoint or concur in the appointment of a Director to hold any

office or place of profit under any other company or whereat the terms of any such appointment as hereinbefore mentioned are considered or varied, and he may vote (if not debarred from voting under the proviso to paragraph (A) (iv) of this Article) and be counted in the quorum on any such matter other than in respect of his own appointment or the arrangement or variation of the terms thereof.

(C) Where proposals are under consideration concerning the appointment (including fixing or varying the terms of appointment) of two or more Directors to offices or employments with the Company or any company in which the Company is interested, such proposals shall be divided and considered in relation to each Director separately.

(D) If any question shall arise at any meeting as to the materiality of a Director's interest or as to the entitlement of any Director to vote and such question is not resolved by his voluntarily agreeing to abstain from voting, such question shall be referred to the Chairman of the meeting and his ruling in relation to any other Director shall be final and conclusive except in a case where the nature or extent of the interests of the Director concerned have not been fairly disclosed.

(E) The Company may by Special Resolution suspend or relax the provisions of this Article to any extent or ratify any transaction not duly authorised by reason of a contravention of this Article.

(F) If at any meeting the vote of any Director is not counted by virtue of the provisions of paragraphs (A) or (B) of this Article the votes of the other Directors of the same class present at such meeting and entitled to vote on the matter in question shall be increased pro rata (fractions of a vote by any Director being permitted) so that such votes shall entitle the other Directors of the same class present at such meeting and entitled to vote as aforesaid to the same aggregate number of votes as could have been exercised by all the Directors of the class in question present at the meeting had they been entitled to vote on the matter in question ”.

#### *Article 99*

Delete the whole Article and insert the following:

“ A resolution in writing signed by all the Directors who may at the date of such resolution be present in the town where the Office is situated, sufficient to form a quorum as defined by these presents, shall be as valid and effectual as if it had been duly passed at a meeting of the Directors duly convened and held and may consist of several documents in like form each signed by one or more of the Directors. Provided that in the case of the matters referred to in Article 94 (B) such resolution in writing shall only be as valid and effectual as if it had been duly passed at a meeting of the Directors duly convened and held if it is signed by all the Directors of the Company ”.

#### *Article 103*

Delete the whole Article and insert the following:

“ The Board may exercise all the powers of the Company to borrow money and to mortgage or charge all or any part of the undertaking, property and assets (present and future) and uncalled capital of the Company and to issue debentures and other securities, whether outright or as collateral security for any debt, liability or obligation of the Company or of any third party.

The Board shall restrict the borrowings of the Company and exercise all voting and other rights or powers of control exercisable by the Company in relation to its subsidiaries (if any) so as to secure (but as regards subsidiaries only in so far as by the exercise of such rights or powers of control the Board can secure) that the aggregate amount from time to time outstanding of all borrowings by the Group (exclusive of borrowings owing by one member of the Group to another member of the Group) shall not at any time without the previous sanction of a Special Resolution of the Company exceed an amount equal to one and a half times the Adjusted Capital and Reserves.

For the purpose of the foregoing restrictions:

- (i) 'the Adjusted Capital and Reserves' means the aggregate from time to time of:
  - (a) the amount paid up or credited as paid up on the issued share capital of the Company; and
  - (b) the amount standing to the credit of the reserves (including any share premium account, capital redemption reserve fund and any credit balance on profit and loss account) all as shown by the then latest audited balance sheet but after deducting therefrom any debit balance on profit and loss account (except to the extent that such deduction has already been made) and making adjustments to reflect any variation in the amount of such paid up share capital, share premium account or capital redemption reserve fund since the date of such audited balance sheet;
- (ii) 'borrowings' shall be deemed to include not only borrowings but also the following except insofar as otherwise taken into account:
  - (a) the nominal amount of any issued share capital and the principal amount of any debentures or borrowed moneys, the beneficial interest whereof is not for the time being owned by a member of the Group, of any body whether corporate or unincorporate and the payment or repayment whereof is the subject of a guarantee or indemnity by a member of the Group;
  - (b) the outstanding amount raised by acceptances by any bank or accepting house under any acceptance credit (not being an acceptance in relation to the purchase or sale of goods in the ordinary course of trading) opened on behalf of and in favour of any member of the Group;
  - (c) the principal amount of any debenture (whether secured or unsecured) of a member of the Group owned otherwise than by a member of the Group;
  - (d) the principal amount of any preference share capital of any subsidiary owned otherwise than by a member of the Group;
  - (e) any fixed or minimum premium payable on final repayment of any borrowing or deemed borrowing; but shall be deemed not to include borrowings for the purposes of repaying the whole or any part of borrowings by a member of the Group for the time being outstanding and so to be applied within six months of being so borrowed, pending their application for such purpose within such period.

- (iii) when the aggregate amount of borrowings required to be taken into account for the purposes of this Article on any particular day is being ascertained, any of such moneys denominated or repayable (or repayable at the option of any person other than the Company) in a currency other than Kwacha shall be converted for the purpose of calculating the Kwacha equivalent at the rate of exchange prevailing on that day provided that any of such moneys shall be converted at the rate of exchange prevailing six months before such day if thereby such aggregate amount would be less (and so that for this purpose the rate of exchange shall be taken as the middle market rate as at the close of business);
- (iv) 'audited balance sheet' shall mean the audited balance sheet of the Company prepared pursuant to these Articles of Association unless at the date of the then latest such balance sheet there shall be subsidiaries in which case 'audited balance sheet' shall mean a consolidated balance sheet of the Company and its subsidiaries and in the latter event the references to reserves and profit and loss account shall be deemed to be references to consolidated reserves and consolidated profit and loss account respectively and there shall be excluded any amounts attributable to outside interests in subsidiaries;
- (v) 'the Group' means the Company and its subsidiaries (if any);

A report by the Auditors for the time being of the Company as to the amount of the Adjusted Capital and Reserves or the amount of any borrowings or to the effect that the limit imposed by this Article has not been or will not be exceeded at any particular time or times shall be conclusive evidence of such amount or fact for the purposes of this Article.

Notwithstanding the foregoing no lender or other person dealing with the Company or any of its subsidiaries shall be concerned to see or inquire whether the limit imposed by this Article is observed and no borrowing incurred or security given in excess of such limit shall be invalid or ineffectual except in the case of express notice to the lender or the recipient of the security at the time when the borrowing was incurred or security given that the limit hereby imposed had been or was thereby exceeded."

*Article 110 (A)*

Delete reference to "(A)" in the first line.

*Article 110 (B)*

Delete the whole paragraph.

*Article 118 (A)*

Delete the whole paragraph and insert the following:

"(A) Subject to Articles 119 and 121 hereof the Directors shall pay in respect of the financial year of the Company ending 31 March 1982 and of each subsequent financial year dividends to the holders of the 'A' and 'B' Ordinary shares in an aggregate amount equal to the consolidated net profits of the Company and its subsidiary and associated companies for that financial year, determined in accordance with accounting principles and policies followed by the Company and its subsidiary and associated companies in the

preparation of their audited accounts for the said financial year ending 31 March 1982, as shown in the consolidated audited accounts of the Company and its subsidiary and associated companies in respect thereof (subject only to such amendments as may be approved by the Board at a Meeting carried by a majority including at least three 'A' Directors and at least two 'B' Directors) after deducting therefrom or adding thereto only such transfers to or from revenue reserves as may in each case be decided by the Board in the light of the requirements for:

- (1) financing the replacement and expansion of the Company's mining and ore processing facilities and amenities necessary for use in connection therewith; and
- (2) necessary short-term working capital having regard to market conditions and the short-term liquidity requirements of the Company.

The Directors shall declare and pay quarterly interim dividends to the extent that in their opinion the profit and resources of the Company justify the same."

*Article 118 (C)*

Delete the word "certificate" in the first, fifth and seventh lines and insert in place thereof the word "report".

*Article 130*

Delete the word "or" in the sixth line and insert the word "and".

*Article 139*

In the third line add the word "international" before the word "standing".

*Article 147*

At the end of the Article insert the words "or in which relief is granted to him by the Court if such proceedings relate to the Company's affairs."

*Article 148*

Delete the whole of paragraph C after the words "Consent to Submit Disputes" and insert the following:

"dated 22nd December 1981 entered into between The Government of the Republic of Zambia, Zambia Industrial and Mining Corporation Limited, Nchanga Consolidated Copper Mines Limited, the Company, RST International Inc. and Zambia Copper Investments Limited."

### SCHEDULE C

The terms and conditions attaching to the subsidy referred to in Clause 7 (3) are as follows:

- (a) the period to be covered by the subsidy arrangements is from the effective date of the merger until the date on which the operations at Broken Hill Division are terminated through lack of further material for treatment;
- (b) being in essence a social contribution, the subsidy will be non-taxable in the hands of ZCCM;
- (c) the tax losses attributable to the Broken Hill Division shall continue, as at present, to be allowed against taxable income arising from the other operations of ZCCM and for this purpose

the effective tax rate of 60 per cent applicable to the Broken Hill Division (mineral tax on lead and zinc and company tax) shall remain unchanged throughout the period to which the subsidy applies;

- (d) the subsidy shall be paid so soon as ZCCM's auditors have provided the Ministry of Finance with a certificate that the Broken Hill Division has sustained a book loss in respect of each financial year ending on 31st March;
- (e) such book loss shall be that arising directly from operating the Division, excluding any part of ZCCM's costs relating to the Centralised Services Division, Head Office expenses, loan interest expenses and currency gains or losses, other than interest and currency gains or losses on loans relating to the Broken Hill Division;
- (f) such book loss shall be computed by ZCCM in accordance with its normal accounting practices and procedures.

#### SCHEDULE D

Provisions in Articles of Association of Roan (amended as referred to in Schedule B) to be protected by undertaking contained in Clause 7 (4) (i).

1. In Article 2, the definition of " these Presents " which requires a Special Resolution in order to alter the Articles.

2. Article 3 (B) to (E) which provides that, except with the consents specified therein, the share capital of Roan will consist always of " A " Shares and " B " Shares in a proportion of between 59.5 : 40.5 and 60.5 : 39.5, and confers on the " A " and " B " Shares the rights of appointment of " A " and " B " Directors respectively.

3. Article 4 which provides that except as specified in the Articles, the " A " and " B " Shares will rank *pari passu*.

4. Article 5, which provides for the method of variation of the rights attaching to any class of share.

5. Articles 6, 7 and 8, which require the passing of a Special Resolution to increase Roan's share capital or to make such other alterations to the share capital as are therein mentioned.

6. Article 10, which confers on the shareholders rights of pre-emption in respect of new shares to be issued.

7. Article 34, which provides for the free transferability of Roan's shares.

8. Article 53, which sets out the quorum requirements for General Meetings.

9. Article 58, which permits the demanding of a poll on any resolution put to the vote of a General Meeting.

10. Article 62, which sets out the voting rights of shareholders.

11. Articles 74 and 75, which state the number of Directors and provide for no residential qualification.

12. Article 77, which requires a Special Resolution in order to increase the ordinary remuneration of Directors.

13. Article 85, which permits the remaining Directors appointed by one class of shareholders to appoint a Director to fill a vacancy occurring in the Directors appointed by such class.

14. Articles 87 and 89, which permit the appointment of Alternate Directors and set out the powers of any person so appointed.
15. Articles 93 and 94, which contain provisions relating to meetings of Directors, their voting rights, quorum requirements and the transaction of certain business.
16. Article 100, which empowers the appointment of Committees of the Board of Directors and sets out the quorum requirements for meetings of any such Committees.
17. Article 103, which restricts the borrowing powers of the Directors.
18. Article 105, which empowers the appointment of local Boards of Directors and sets out the quorum requirements for meetings of such Boards.
19. Article 109, which permits the maintaining of branch registers outside Zambia.
20. Article 118, which requires the Directors, subject as therein mentioned, to declare dividends out of the profit of Roan.
21. Article 126, which requires a Special Resolution to authorise the payment of dividends in kind rather than in cash.
22. Article 130, which requires a Special Resolution to authorise an issue of shares by way of capitalisation of profits or reserves.
23. Articles 135 to 140, which provide for the preparation and submission to Shareholders of annual accounts, and for the auditing of those accounts by independent auditors.
24. Article 145, which requires a Special Resolution to authorise the Liquidator in a winding up to distribute assets in kind rather than in cash or to vest assets in trustees for the benefit of the Shareholders.
25. Articles 146 and 147, permitting the indemnification of Directors and other officers.
26. Article 148, which provides for the submission of disputes arising out of the Articles for determination by ICSID arbitration.

SCHEDULE E

DATED , 1981

THE GOVERNMENT OF THE REPUBLIC OF ZAMBIA  
ZAMBIA INDUSTRIAL AND MINING CORPORATION LIMITED  
NCHANGA CONSOLIDATED COPPER MINES LIMITED  
ROAN CONSOLIDATED MINES LIMITED  
RST INTERNATIONAL INC.  
ZAMBIA COPPER INVESTMENTS LIMITED

AGREEMENT

relating to accounting principles, policies and procedures to be followed by RCM with effect from 1 April, 1981.

AGREEMENT

(A) The parties to this Agreement are: THE GOVERNMENT OF THE REPUBLIC OF ZAMBIA (hereinafter called "GRZ"); ZAMBIA INDUSTRIAL AND MINING CORPORATION LIMITED (hereinafter called "Zimco") whose registered office is at Zimco House, Cairo Road, Lusaka, Zambia;

NCHANGA CONSOLIDATED COPPER MINES LIMITED (hereinafter called "NCCM") whose registered office is at 74 Independence Avenue, Lusaka, Zambia; ROAN CONSOLIDATED MINES LIMITED (hereinafter called "RCM") whose registered office is at Kafue House, One Nairobi Place, Lusaka, Zambia; RST INTERNATIONAL INC. (hereinafter called "RSTI") whose principal office is at Amax Centre, Greenwich, Connecticut 06830, United States of America; ZAMBIA COPPER INVESTMENTS LIMITED (hereinafter called "ZCI") whose registered office is at Belvedere Buildings, Pitts Bay Road, Pembroke, Bermuda, and whose address for service in Zambia is at 74 Independence Avenue, Lusaka, Zambia.

(B) The purpose of this Agreement is to record the accounting principles policies and procedures to be followed by RCM with effect from 1 April, 1981.

*Operative Provisions*

1. Subject as provided in Clause 2 hereof:

(A) the parties hereto confirm their agreement in principle, that RCM continue a depreciation method of accounting for expenditure on fixed assets with effect from 1 April, 1981, and use and continue to use in relation to the maintenance of the accounting records and the preparation of the consolidated accounts of RCM and its subsidiary and associated companies for the financial period ending on 31 March 1982 and all subsequent financial periods until otherwise agreed by all the parties hereto the accounting principles policy and procedures set out in the First Schedule hereto and insofar as the same are not inconsistent therewith the accounting principles policies and procedures reflected in the consolidated accounts of RCM and its subsidiary and associated companies and NCCM and its subsidiary and associated companies for their respective financial periods ended 31 March 1981.

(B) For the purpose of establishing the appropriate level of, and method and sources of financing capital expenditure programmes for RCM and before deciding the dividends to be declared by it under Article 118, the parties hereto agree that the Directors shall conform to the principles policies and procedures set out in the Second Schedule hereto (which shall be deemed to be incorporated into and to form part of this Agreement).

2. The Board will at duly convened meetings consider all necessary actions in accordance with the principles policies and procedures referred to in Clause 1 hereof subject to the right on the part of the Board at any time after 31st March 1982 to amend the same as referred to in Article 118 of the new Articles of Association of RCM to be adopted but without prejudice to the right of any Directors to break the quorum at any meeting of the Directors if after such consideration they think fit. Reasonable notice shall be given of any Board Meeting convened to consider any such amendment in order that the Directors shall have an opportunity for prior consultation.

The parties further agree that, if and so far as NCCM or RCM has heretofore entered into or RCM may hereafter with the formal prior approval of the Board of Directors enter into agreements with commercial banks and other lending institutions which impose upon RCM limitations on levels of dividend payments, the right of the shareholders to receive dividends shall be limited as so provided. In such a case, any sums which, but for such limitations, would have been available for

dividends in accordance with the said Second Schedule and Article 118 shall be set aside to a special dividend reserve to be set free for distribution as soon as and to the extent that such limitations are relaxed or expire or are satisfied. The parties recognise that it may be necessary for RCM to agree dividend limitations in future loan agreements as has been the case in the past in order to secure finance for major capital projects approved by the Board and the parties agree that they will in good faith consider approving such dividend limitations in the context of the overall financial and trading position of RCM so long as they are consistent with those normally required by lenders in international financing transactions.

3. The parties hereto agree that nothing herein contained shall affect:
- (i) the principle of declaring dividends only out of the profits of RCM; and
  - (ii) the requirement of RCM to prepare and submit to its shareholders annual accounts and for such accounts to be audited by independent auditors.

4. The parties hereto agree that it shall be a condition of any transfer of shares in RCM by Zimco or any Zimco Group company or by ZCI or any ZCI Group company pursuant to Clause 10 (A) of the Heads of Agreement of even date herewith and made between the parties hereto that prior to registration of such transfer each transferee shall enter into an agreement with the other parties hereto *mutatis mutandis* in the terms of this Agreement so that the terms of this Agreement shall be binding on and shall enure for the benefit of such transferee.

#### *Commencement*

5. This Agreement shall be operative from 1 April, 1981 subject to the Scheme of Arrangement for the amalgamation of NCCM and RCM becoming effective.

#### *Arbitration*

6. The parties hereto agree that all disputes arising out of or concerning or affecting or in any way relating to this Agreement shall be submitted to arbitration by the International Centre for the Settlement of Investment Disputes for determination under Zambian law in force on the date of this Agreement and otherwise in accordance with the provisions of an Agreement of even date herewith and made between the parties hereto and for the purpose of Section 16 of that Agreement shall be deemed to be disputes of the kind referred to in Section 16 (4) therein (and accordingly not subject to determination *ex aequo et bono*).

IN WITNESS the hands of the duly authorised representatives of the parties hereto this                      day of December, 1981.

*Signed by:*

on behalf of The Government of the Republic of Zambia in the presence of:

*Signed by:*

on behalf of Zambia Industrial and Mining Corporation Limited in the presence of:

*Signed by:*

on behalf of Nchanga Consolidated Copper Mines Limited in the presence of:

*Signed by:*

on behalf of Roan Consolidated Mines Limited in the presence of:

*Signed by:*

on behalf of RST International Inc. in the presence of:

*Signed by:*

on behalf of Zambia Copper Investments Limited in the presence of:

#### THE FIRST SCHEDULE

##### *Roan Consolidated Mines Limited*

Statement of the accounting principles, policies and procedures to be used for the purpose of ascertaining the depreciated book value of fixed assets as at 1 April 1981 and to be used in relation to the maintenance of accounting records and the preparation of the consolidated accounts of the Company and its subsidiary and associated companies with effect from 1 April, 1981.

1. The individual net book values of fixed assets which will be used for depreciation purposes and which are shown on the attached sub-schedule marked "A" has been derived from the net book values of the fixed assets of the Company and Nchanga Consolidated Copper Mines Limited as at 31 March 1981 as displayed in the audited accounts of that date which aggregate K1,074.3 million (1980—K967.8 million).

2. Depreciation will be provided on a straight line basis:

(A) On the remaining book value at 1 April 1981 of assets which cannot be individually identified over the estimated useful remaining lives of the mines to which they relate as shown in the attached sub-schedule marked "A".

(B) On the remaining book value at 1 April 1981 of individually identifiable assets over the lower of the estimated useful remaining lives of the mines to which they relate as shown in the attached sub-schedule marked "A" or the estimated useful remaining lives of such assets.

(C) On the cost of assets coming into use after 1 April 1981 over the lower of the estimated useful lives of the assets or the mines to which they relate.

In assessing useful lives, there will be assumed a maximum life of 24 (twenty-four) years, subject however to the provisions of items 3 and 7 hereof.

3. Asset and mine lives will be subject to review as and when the need arises and as agreed by the Board, but there will nevertheless be a review of asset and mine lives every three years, the first review being in the year ending 31 March 1985.

4. New assets, including major new projects coming into operation after 1 April 1981 will first be depreciated in the quarter following that in which they come into operation.

5. Subject to the periodic reviews referred to above, the lives ascribed to new assets will, for depreciation purposes, be as set out in the attached sub-schedule marked " B ", subject, however, to the following points:

- (A) the sub-schedule marked " B " is drawn up for general guidance and will be subject to variation from time to time. The estimated useful lives do not take into account obsolescence which may well result in the necessity for equipment to be written off more quickly.
- (B) if the life of the mine to which any property, plant or equipment relates has a shorter life than that stated, the asset will be written off over the shorter period. Equipment may, however, be available for use at or in respect of another location and as such its remaining useful life may require to be reassessed.
- (C) in the case of any new asset which does not fall into any appropriate category included in the sub-schedule marked " B ", a Board decision on the ascribable life will be required. In reaching a decision, it is proposed that the Board take into account the lives ascribed to other assets nearest in function to the new assets concerned and the estimated life or lives of the division or divisions for which such asset is established.
- (D) in the attached sub-schedule marked " A " the maximum life for certain categories of assets is 24 (twenty-four) years since the maximum life ascribed to any asset is not longer than the life of the mine to which it relates.

6. Any variations in the estimated physical lives of assets which give rise to material increases or decreases in the depreciation charge will be reported to the Board. Similarly, major amounts of depreciation on new assets going into operation will be reported.

7. If, in terms of a Board resolution, it is agreed to change the estimated remaining useful lives of any of the assets or mines, the new depreciation rate will be applied to the net book value of those assets at 1 April of the year in which the change is to be made.

*Sub-Schedule A*  
*Consolidated Fixed Assets—31st March, 1981*

<i>Mine</i>	<i>Approximate Remaining Mine Life</i>	<i>Net Book Values 31st March 1980</i>	<i>Movement for Year</i>	<i>Depreciation for Year</i>	<i>Net Book Values 31st March 1981</i>	<i>Capital Work in Progress Included in Net Book Value</i>	
						<i>31-3-80</i>	<i>31-3-81</i>
Broken Hill —Mine .. ..	7	7.2	0.1	0.6	6.7	2.9	0.2
—Other .. ..	10	51.1	2.8	3.3	50.6	0.9	2.2
Chambishi .. ..	24	125.3	14.5	6.8	133.0	4.1	15.8
Chibuluma .. ..	19	45.9	6.2	3.5	48.6	3.4	9.6
Chingola .. ..	24	198.0	26.1	16.8	207.3	18.6	25.3
Kansanshi .. ..	11	8.3	0.1	0.7	7.7	1.1	—
Konkola .. ..	24	79.9	10.7	3.4	87.2	14.1	14.5
Luanshya .. ..	24	109.2	13.5	2.9	119.8	34.0	38.3
Mufulira including:							
Ndola Copper Refinery .. ..	24	131.8	20.1	6.6	145.3	29.8	42.7
Nampundwe .. ..	24	5.1	2.3	0.1	7.3	0.3	2.7
Rokana .. ..	24	183.5	61.5	8.6	236.4	32.4	77.1
<b>Total Mine Assets including local services</b>		<b>945.3</b>	<b>157.9</b>	<b>53.3</b>	<b>1,049.9</b>	<b>141.6</b>	<b>228.4</b>
Supporting Divisions, Head Offices and subsidiaries and associates ..		22.5	3.6	1.7	24.4	1.8	2.5
<b>TOTAL ASSETS IN KWACHA, MILLIONS</b>		<b>967.8</b>	<b>161.5</b>	<b>55.0</b>	<b>1,074.3</b>	<b>143.4</b>	<b>230.9</b>

*Sub-Schedule B*

*Fixed asset classifications and maximum lives at  
1st April 1981 subject to the estimated useful lives of such assets*

	<i>Years</i>	
<b>1. Mining properties:</b>		
Broken Hill	10	
Bwana Mkubwa	3	
Chambishi	24	
Chingola	24	
Kansanshi	11	
Konkola	24	
Luanshya	24	
Mindola North	2	
Mufulira	24	
Nampundwe	24	
Rokana	24	
Chibuluma	19	
<b>2. Underground development:</b>		
As in 1. above except for Broken Hill which is	7	
<b>3. Underground and shaft equipment:</b>		
As in 2. above		
<b>4. Open pit development:</b>		
Bwana Mkubwa	1	
Chingola	3	
Fitula	2	
Kansanshi	11	
Mumubula	4	
Nchanga	15	
Rokana	2	
<b>5. Open pit equipment:</b>		
Drills	1/5*	
RTVS	6/8*	
Scrapers	1/8*	
Shovels	8/14*	
Support equipment	3/5*	
Other equipment	1/3*	
*Any new equipment will have the longer life.		
<b>6. Treatment and other surface plant, buildings and vehicles:</b>		
Air power	} Except as in 1. above	24
Electricity supply		
Water supply		
<b>Concentrator</b>		
Except for: Broken Hill	7	
Bwana Mkubwa	3	
Chibuluma	19	
<b>Smelter</b>		
Except for: Pyrometallurgical Plants:		
Broken Hill	10	

<i>Cobalt Plants:</i>	
Chambishi	24
Rokana, existing	24
Rokana, new	24
<i>Oxygen Plant:</i>	
Rokana	24
<i>Torco Plant:</i>	
Rokana	3
<i>Acid Plant:</i>	
Rokana 1, 2 and 3	24
Chambishi	24
Refinery Tank House	24
Refinery furnaces	24
Except for Broken Hill Lead Refinery	10
<i>Vacuum Refining Plant:</i>	
Chambishi	24
<i>Workshops</i>	
Except for: Broken Hill	10
Bwana Mkubwa	3
Chibuluma	19
Mindola North	2
Other surface equipment—as for workshops	
Vehicles	3
Housing and services—as in 1. above	
<i>High Grade Leach Plant:</i>	
Chingola	24
<i>Tailings, Leach Plant, Stage II:</i>	
Chingola	24

THE SECOND SCHEDULE

*Roan Consolidated Mines Limited*

Statement of the principles, policies and procedures to be followed by the Board for the purpose of determining the financing sources from which the Company's capital expenditure shall be funded before deciding on the dividends to be declared.

(A) If and when the cash funds required for the replacement and expansion of the Company's mining and ore processing facilities and amenities necessary for use in connection therewith exceed what is available from the depreciation provided in relation to those facilities and amenities, the additional monies required will be found either by the retention of profits in revenue reserve or by borrowing or other credit facilities or by such combination of these as may be considered to be in the best interests of the Company. For the purposes of this paragraph, cash funds required shall include funds necessary to finance the repayment of borrowings and the discharge of credit facilities given in relation to the replacement and expansion of such facilities and amenities.

(B) No specifically designated capital expenditure reserve will be created, but the funds derived from profits retained in revenue reserve pursuant to (A) above will be applied to capital projects when this becomes necessary in accordance with the capital expenditure programme decided upon by the Board in connection with any retention authorised pursuant to (A) above.

(C) In relation to the desirability of the ordinary shareholders of the Company receiving dividend distributions on a regular basis, the Board shall give due and reasonable regard to distributions on such basis before determining from time to time whether to adopt capital expenditure programmes which might require retentions of profit as described in (A) above but subject always to the best interest of the Company.

(D) It is intended that borrowings shall continue to be an integral part of the Company's financial sources provided:

- (i) that the ratio of medium- and long-term borrowings, as shown in the consolidated balance sheet of the Company from time to time, to shareholders' funds should not in general exceed (1:3); and
- (ii) that such ratio will be reviewed by the Board in the light of circumstances prevailing from time to time.

(E) As and when the cash resources available to the Company exceed the amount determined by the Board as being necessary for, firstly, financing the replacement and expansion of the Company's mining and ore processing facilities and amenities necessary for use in connection therewith, and secondly, necessary short-term working capital having regard to market conditions and short-term liquidity requirements of the Company, as determined by the Board, such excess funds shall become free for distribution out of accumulated revenue reserves set aside under (A) above.

(F) The provisions of Article 118 will be interpreted and applied in the light of the above-mentioned intentions.

(G) The provisions of the International Accounting Standard (IAS 3) issued in June 1976 will be applied to the Company's investment in associated companies (as defined in paragraph 4 of IAS 3) so that such investment will be included in the Company's consolidated financial statements under the equity method of accounting and references in the Company's Articles of Association to "associated companies" shall be construed accordingly.

SCHEDULE F  
IN THE HIGH COURT FOR ZAMBIA  
AT THE PRINCIPAL REGISTRY

SCHEME OF ARRANGEMENT AND AMALGAMATION  
(Under Sections 101 and 102  
of the Companies Act)

BETWEEN

NCHANGA CONSOLIDATED COPPER MINES LIMITED  
and the holders of its Ordinary Shares of K2 each  
*Preliminary*

A. In this Scheme, unless inconsistent with the subject or context, the following expressions shall bear the meanings specified opposite to them:

- “The Act” means the Companies Act (Chapter 686) of the Laws of Zambia.
- “Nchanga” means Nchanga Consolidated Copper Mines Limited.
- “Roan” means Roan Consolidated Mines Limited.
- “The Government” means the Government of the Republic of Zambia.
- “Zimco” means Zambia Industrial and Mining Corporation Limited.
- “RSTII” means RST International Inc.—a company incorporated in the state of Delaware in the USA.
- “ZCI” means Zambia Copper Investments Limited—a company incorporated in Bermuda.
- “The Master Agreement” means the Heads of Agreement dated 1981 and made between the Government, Zimco, Nchanga, Roan, RSTII and ZCI.
- “The Operative Date” means the day on which this Scheme becomes binding in accordance with Clause 5 of this Scheme.
- “this Scheme” means this Scheme in its present form or with any modification thereof or addition thereto or condition approved or imposed by the Court.
- “holder” includes a person entitled by transmission.

B. The authorised and issued Ordinary share capitals of Nchanga and Roan are as follows:

<i>Company</i>	<i>Class and Nominal Amount of Shares</i>	<i>Number of Authorised Shares</i>	<i>Number of Issued Shares</i>
Nchanga	A Ordinary Shares of K2 each ..	92 873 152	92 873 152
	B Ordinary Shares of K2 each ..	61 848 715	61 848 715
Roan	A Ordinary Shares of K4 each ..	27 900 000	22 868 091
	B Ordinary Shares of K4 each ..	19 600 000	14 854 382

C. Meetings of the Shareholders of Roan have been convened in accordance with its Articles of Association with a view to resolving upon the reorganisation of its share capital (conditional upon this Scheme being sanctioned by the Court) by:

- (i) Increasing the authorised share capital of Roan to K900,000,000 by the creation of additional A Ordinary and B Ordinary Shares.
- (ii) Reconstituting the existing unissued A and B Ordinary Shares of K4 each and consolidating them with new unissued Ordinary Shares of K6 each to create unissued shares of K10 each.
- (iii) Capitalising K226,334,838 of the reserves of Roan and issuing to the present Roan Shareholders credited as fully paid up 22868 091 new A Ordinary Shares of K6 each and 14 854 382 new B Ordinary Shares of K6 each and consolidating each new Ordinary Share of K6 each with each existing issued Ordinary Share of K4 each.

D. Zimco owns all the issued A Ordinary Shares of both Nchanga and Roan, ZCI owns all the issued B Ordinary Shares of Nchanga and Security Nominees Limited holds 3 713 795 of the issued B Ordinary Shares of Roan on behalf of ZCI.

E. Nchanga also has outstanding 196 098 5½% and 55 565 5% Cumulative Preference Shares of K2 each and has given notice to redeem all such shares on 1st March, 1982 pursuant to Article 3 (f) (iii) of the Articles of Association of Nchanga at the price per share of K2.10 and K2.20 respectively.

F. The purpose of this Scheme is to effect---(a) a merger between Nchanga and Roan through the acquisition by Roan of the whole of the share capital of Nchanga in issue after the redemption of its Preference capital in consideration of the allotment to the holders of Ordinary Shares of Nchanga of new Ordinary Shares of Roan credited as fully paid; (b) the transfer to Roan of the undertaking of Nchanga; and (c) the dissolution of Nchanga without a winding up.

G. The Government has agreed to use its best endeavours to have enacted certain legislation for the purposes described in the Master Agreement.

#### *The Scheme*

##### *1. Amalgamation of Nchanga with Roan*

(i) Roan shall with effect from and including 1 April 1981 acquire the whole of the issued share capital of Nchanga in exchange for the issue in accordance with paragraph 3 of this Scheme of fully paid shares of Roan. Provided that Roan shall not be entitled to the benefit of the dividend declared by Nchanga in August 1981 in respect of the year ended 31st March 1981.

(ii) the share capital of Nchanga shall be brought into the books of Roan at a value equal to the aggregate of the nominal value of the issued Ordinary Shares of Nchanga and its reserves at 31 March 1981 (less the amount payable in respect of capital to the preference shareholders on the redemption of their shares) and the excess of that value over the aggregate nominal value of the new shares of Roan to be issued to Nchanga shareholders shall be credited to the revenue reserves of Roan.

(iii) upon the Operative Date and immediately following the registration of Roan as the holder of the whole of the issued share capital of Nchanga in the register of members of Nchanga, Roan shall acquire and amalgamate with its own undertaking the undertaking and all the property, assets and rights real and personal, and the liabilities and obligations of every description (whether current, con-

ditional or contingent) of Nchanga. Roan shall have the benefit of the ownership of the assets transferred to it and be subject to the liabilities and obligations being assumed by it with effect from 1st April 1981 and as between Roan and Nchanga from 1st April 1981. Nchanga shall be deemed to have carried on its business on behalf of and as agent for Roan and shall accordingly account to Roan for all profit from that date and be indemnified by Roan in respect of all losses from that date.

(iv) by an order of the Court to be made pursuant to section 102 of the Act as part of the order sanctioning this Scheme and with the effect specified in paragraph (iii) above—

- (a) all the property assets and rights of Nchanga referred to in the said paragraph (iii) shall be transferred to and vest in Roan and all the liabilities and obligations of Nchanga referred to in the said paragraph (iii) shall be transferred to and become liabilities and obligations of Roan except that debts owing or obligations incurred by Nchanga to Roan or vice versa shall by virtue of this Scheme be extinguished;
- (b) any legal proceedings pending by or against Nchanga shall be deemed to be proceedings pending by or against Roan and shall continue as such; and
- (c) Nchanga shall be dissolved without a winding up.

## *2. Reorganisation of Capital of Roan*

For the purposes of and with a view to the implementation of this Scheme but conditionally upon this Scheme being sanctioned by the Court Roan shall reorganise its share capital in the manner described in Recital C. hereto.

## *3. Consideration for transfer*

In consideration of the transfer to Roan of the whole of the issued share capital of Nchanga, Roan shall within 28 days after the Operative Date issue 30,357,717 "A" Ordinary Shares of K10 each credited as fully paid to Zimco and 20,616,238 "B" Ordinary Shares of K10 each credited as fully paid to ZCI which said "A" and "B" Ordinary Shares shall rank *pari passu* in all respects with and have attached thereto the same rights and privileges as will be attached by the Articles of Association of Roan to the "A" and "B" Ordinary Shares of Roan upon the reconstruction of its share capital described in Recital C. hereto.

## *4. Certificates*

Immediately after the issue of the new Roan "A" Ordinary and "B" Ordinary Shares Roan shall (except to any extent to which it may be prohibited by law from doing so) deliver definitive certificate for such Shares to the persons to whom the same shall respectively have been so issued, by sending such certificates or warrants through the post in pre-paid envelopes addressed to such person at their respective addresses as shown in the Register of Members of Nchanga at the close of business on the day immediately preceding the Operative Date, or to such other addresses (if any) as such persons may respectively direct and Roan shall not be liable for any loss in transmission.

### 5. *Conditions*

(A) This Scheme shall become operative and binding on Nchanga and the holders of its Ordinary Shares as soon as each of the following conditions shall have been satisfied:

- (i) an office copy of an Order of the Court under section 101 of the Companies Act sanctioning this Scheme shall have been delivered for registration to the Registrar of Companies in Zambia;
- (ii) a resolution shall have been passed at a General Meeting of Roan approving the Scheme, reorganising its capital in the manner described in Recital C. hereto and creating the shares required for issue pursuant to Clause 2 of this Scheme.
- (iii) the reorganisation of the share capital of Roan and the creation of the said shares shall have been sanctioned by resolutions passed at separate meetings of the holders of the "A" Ordinary Shares and "B" Ordinary Shares in the present capital of Roan and at a General Meeting of Roan convened in order to approve the variation of rights attached to the said Shares as referred to in Article 5 of the Articles of Association of Roan;
- (iv) the Council of The Stock Exchange in London shall have admitted the new "B" Ordinary Shares of Roan to the Official List subject only to allotment; and
- (v) all consents shall have been obtained from any governmental authorities in the Republic of Zambia requisite to carry into effect the provisions of this Scheme.

It shall be sufficient evidence that the foregoing conditions or any of them have been complied with or fulfilled if an acknowledgment thereof is signed on behalf of the Government, Roan, Nchanga, and Zinco.

(B) Unless this Scheme shall have become operative as aforesaid on or before 31 December 1982 or such later date, if any, as the Court may allow the same shall lapse.

### 6. *Modification of Scheme*

Nchanga and the other parties to the Master Agreement may consent jointly on behalf of all concerned to any modifications of or additions to this Scheme or to any conditions which the Court may think fit to approve or impose.

### 7. *Costs*

The costs and expenses of and incidental to the preparation and implementation of this Scheme shall be borne by Roan.

Dated: \_\_\_\_\_, 1982.

SCHEDULE G

THE PERSONS WHOSE NAMES ARE ANNEXED HERETO

IBM World Trade Corporation. Agreement for purchase of installed IBM machines.

AEC Telefunken Mining Division Department. Agreement in respect of servicing and inspection of winding engines.

MCMK Consulting Engineers, Overarup plus Partners and Peter Richards plus Partners. Professional services in connection with the construction of the new head office complex at Lusaka.

Anglo American Corporation Services Ltd. Purchasing agency in Zimbabwe.

Anglo American Corporation of South Africa Ltd. Purchasing agency in South Africa.

Watermeyer Legge Piesold plus Uhlmann. Agreement for the provision of services.

Klockner Industrie-Anlagen GmbH. Agreement to set up fine coke plant.

Metallurgical Development Company. Licence/ISF in relation to Broken Hill Division.

General Electric Company of Zambia Limited. Contract provision and execution of specialist engineering and rehabilitation services.

Metal Fabricators of Zambia Limited. Supply of copper billets to Zambia.

Standard Bank and others. Syndicated loan agreement dated 4 December 1979.

Zambia National Provident Fund. Loan agreement 1973.

Standard Chartered Bank Limited. Loan Agreement of 1979.

Standard Chartered Merchant Bank Ltd. Loan agreement of 1981 funding supply of UK goods and/or UK services.

Dongray Industrial Limited. Agreement of July 1980 funding supply of equipment and spares.

Standard Chartered Merchant Bank Limited. Loan agreement (£4,000,000).

Tazara. Agreement for construction of copper depot.

Commonwealth Development Corporation. Loan agreement of 4 December, 1979.

International Finance Corporation. Loan agreements dated 4 December 1979 and December, 1981.

OPIC. Loan agreement dated December, 1981.

European Investment Bank. Loan agreement dated December, 1981.

Standard Bank Ltd and others. Loan agreement dated December, 1981.

Mitsui and Mitsubishi Group Companies. All outstanding loan and copper sales agreements.



The first four parties are herein also referred to together as the "National Parties". The other parties are herein also referred to together as the "Investors" and individually as the "Investor". Such terms shall also include any successor of or assignee or transferee from any such party to the extent provided in Section 5 of this Agreement and in particular (and without limiting the generality of the foregoing) shall include any holder of "A" or "B" Ordinary Shares of the Company.

WHEREAS:

- (A) NCCM and the Company and their shareholders have for many years made and maintained major investments in copper and other mineral producing properties and processing facilities located in Zambia for commercial purposes.
- (B) Zimco as a constituent sub-division or agency of the Republic holds approximately 60% equity interest in NCCM, and the Company.
- (C) Pursuant to the Heads of Agreement of even date herewith ("the Master Agreement") it is intended that NCCM and the Company should merge by a Scheme of Agreement ("the Scheme"), and the Master Agreement provides for the enactment by the Republic of new legislation and the adoption of new administrative orders or regulations all affecting such investment.
- (D) The parties desire that all disputes between an Investor or the Investors, on the one hand, and the Republic, Zimco, the Company, NCCM or any of them, on the other, which may arise out of or concern the Master Agreement, the Articles of Association of the Company and any arrangements, legislation, orders or regulations affecting the investments in the Company or NCCM should be submitted to binding arbitration by the International Centre for the Settlement of Investment Disputes ("the Centre") pursuant to the Convention on the Settlement of Investment Disputes between States and Nationals of Other States ("the Convention") to which the Republic has become a contracting State.

NOW THEREFORE THE PARTIES HERETO AGREE AS FOLLOWS:

1. THE National Parties and the Investors hereby agree and consent to submit to the jurisdiction of the Centre all disputes between a National Party and an Investor arising out of, concerning or affecting in any way the investment previously or hereafter made by the Investors in the assets and businesses which now are or immediately following the completion of the Scheme will be owned or operated by the Company or NCCM to the extent that such disputes arise out of the merger or proposed merger of NCCM and the Company pursuant to the Master Agreement, it being agreed by the parties that all such disputes concern an investment within the meaning of the Convention and shall include, without limiting the generality of the foregoing, all disputes between a National Party and an Investor arising under concerning or in any way relating to this Agreement; the Master Agreement; the Scheme; the Depreciation Accounting Agreement of even date herewith; the Memorandum and Articles of Association of the Company and any amendments thereto; all laws heretofore or hereafter to be enacted and orders and regulations and administrative acts heretofore or hereafter to be adopted or taken by the Republic or any agency or instrumentality thereof pursuant to the Master Agreement; any other Agreement, documents or actions which have been or are to be entered into, executed or taken in order to implement or give effect to the Master

Agreement, the Scheme or any of the foregoing; and any amendments to any of the foregoing. The National Parties and the Investors expressly waive hereby the right to avail themselves of any privilege or immunity of jurisdiction in respect of any arbitration pursuant to this Agreement or the execution or enforcement of any award or judgement as a result thereof. It is the intent of the Parties hereto to confer jurisdiction as fully as possible on the Centre pursuant to the Convention, and if the Centre should for any reason decline to accept reference of any dispute, or any aspect of a dispute, referred to it pursuant to this Agreement, the Parties agree that they shall submit to the Centre, and that the Centre shall have jurisdiction over all other disputes or portions of a dispute the reference of which the Centre does not so decline. In the event the Centre shall for any reason decline to accept reference to it of any dispute or any aspect of a dispute, the parties hereto agree that such dispute or aspect thereof shall be submitted to binding and conclusive arbitration by such arbitrator as shall be agreed by the parties to the dispute or in default of such agreement, to an arbitrator to be appointed by the Chairman for the time being of the Administrative Council of the Centre and that in any such dispute the provisions of this Agreement and of the Convention shall govern and be followed as nearly as may be.

2. SOLELY for the purpose of this Agreement, the Republic, pursuant to Article 25 (1) of the Convention, hereby designates Zimco the Company and NCCM as constituent subdivisions or agencies of the Republic for purposes of the Convention and, pursuant to Article 25 (3) of the Convention, the Republic hereby approves the Agreements and consents of Zimco the Company and NCCM contained in this Agreement. The Republic will file a copy of this designation with the Centre.

3. IT IS EXPRESSLY AGREED that the Investors who hold the shares or other securities of the Company or NCCM have a direct concern and interest in the financial and commercial affairs of the Company or NCCM and that in any dispute covered by the Agreement which affects the Company or NCCM including without limitation disputes arising out of tax and other legislation, orders regulations or administrative acts enacted adopted or taken for the benefit of the Company or NCCM and its or their operations, pursuant to the Master Agreement such Investors shall have standing to institute and prosecute in arbitration and to enforce any relief granted therein, whether or not the Company or NCCM agrees to do so or to participate in such arbitration on its own behalf or on behalf of the Investor. PROVIDED THAT, in each case, the Investors instituting the arbitration own of record or beneficially 5 per cent of the then issued and outstanding shares or other securities of the Company of any class then outstanding as the case may be. It is further agreed that no action, waiver, consent, or failure to act by the Company or NCCM shall be binding on or prejudice the rights of any such Investor in any such arbitration.

4. No party hereto will take any action of a judicial nature substantially affecting the rights of another party by reason of such latter party's alleged actions or failure to act or to perform an agreement if the existence characterisation or consequence of such alleged actions or failure to act or perform could constitute a dispute arbitrable pursuant to this Agreement unless the first party has given due notice to the latter party of the alleged action or failure to act or to perform such agreement and of the action the party giving such notice proposes to take and either (A) the party to whom the notice has been given does not institute an arbitration pursuant to the Convention and this Agreement within 60 days after receipt of such notice or (B) if such party so institutes such an arbitration, a final award has been rendered against such party pursuant to such arbitration in respect of such alleged action or failure to act or to perform an agreement and within 6 months after such final award has been rendered (or such longer or shorter

time as such award shall specify) such party does not take such action as the arbitration award mandates in order to remedy such action or failure to act or perform.

5. IT IS HEREBY AGREED that the consent and agreement to the jurisdiction of the Centre expressed in this Agreement shall equally bind and enure to the benefit of (A) any successor to the Republic, Zimco, the Company or NCCM and any investor; (B) any holder of "A" or "B" ordinary shares in the Company or NCCM all to the extent that the Centre can assume jurisdiction over a dispute between such successor or shareholder and the other party.

6. IT IS HEREBY AGREED that the right of an Investor to request the settlement of a dispute by the Centre or to take any steps as a party to a proceeding pursuant to this Agreement shall not be affected by the fact that such Investor has received full or partial compensation, on a conditional or an absolute basis, from any third party (whether a private person, a State, a governmental agency or an international organisation), with respect to any loss or injury that is the subject of the dispute.

7. IT IS HEREBY AGREED that any arbitral tribunal constituted in relation to a dispute submitted to the Centre pursuant to this Agreement shall conform to the formula specified in Article 37 (2) (b) and 38 of the Convention.

8. ANY arbitration proceeding pursuant to this Agreement shall be conducted in accordance with the Centre's Rules of Procedure for Arbitration Proceedings in effect on the date on which the proceeding is instituted.

9. THE Centre shall be entitled to publish the award rendered by, as well as the minutes and other records of the proceedings of, any arbitral tribunal constituted pursuant to this Agreement.

10. ANY arbitral tribunal constituted pursuant to this Agreement shall, subject to Section 11 below, in interpreting and applying any agreements, documents, legislation, orders, regulations and other instruments with which the dispute is concerned, apply the law of the Republic of Zambia (including its rules on conflict of laws and its principles of common law and equity) as it existed on the 1st April 1981, disregarding all legislation, instruments, orders, directions and court decisions having the force of law in Zambia (other than those contemplated in the Master Agreement) adopted, made, issued or given subsequent to that date it being the intention of the parties hereto that such decisions shall be made as if decided on that date under Zambian law as previously mentioned provided that nothing herein shall be deemed to be a waiver by any party to any dispute of any rights under public international law which such party would have had on 1st April 1981 and which would have been recognised by Zambia on that date. Without limiting the foregoing, the parties hereto agree that the various agreements and instruments specifically identified in Section 1 of this Agreement are lawful and valid under the laws of the Republic and are in no respect contrary to its public policy or national interest and, accordingly, constitute in and of themselves applicable law among the parties thereto and beneficiaries thereof so that resort beyond such agreements and instruments to any other sources of law shall be required only in cases where the agreement or instrument in question is so ambiguous that its intent cannot be determined or where such agreements or instruments do not apply to the dispute in question or are not dispositive of it.

11. ANY arbitral tribunal constituted pursuant to this Agreement shall (in the case only of disputes to which paragraph 16 (3) of the Master Agreement applies) also be authorised to determine any such dispute in its discretion *ex aequo et bono*.

12. THIS Agreement may be amended only by an instrument in writing signed by the Republic, Zimco, the Company, NCCM, RSTII and ZCI (or by any successors on behalf of any such parties) provided the Republic, RSTII or ZCI shall not be required to be parties if they are not affected by the amendment. Unless otherwise specifically provided in connection with any assignment or transfer of shares of the Company or NCCM, or other rights, no such amendment shall require the consent or approval of any assignee or transferee thereof but shall nevertheless be effective and binding in respect of such assignee or transferee.

IN WITNESS whereof the duly authorised representatives of the parties hereto have hereunto set their hands the day and year first before written.

*Signed by:*

on behalf of the Government of the Republic of Zambia in the presence of:

*Signed by:*

on behalf of Zambia Industrial and Mining Corporation Limited in the presence of:

*Signed by:*

on behalf of Nchanga Consolidated Copper Mines Limited in the presence of:

*Signed by:*

on behalf of Roan Consolidated Mines Limited in the presence of:

*Signed by:*

on behalf of RST International Inc. in the presence of:

*Signed by:*

on behalf of Zambia Copper Investments Limited in the presence of:

#### SUPPLEMENTAL HEADS OF AGREEMENT

(A) The parties to the Supplemental Heads of Agreement are:

The Government of the Republic of Zambia ("GRZ")  
Zambia Industrial and Mining Corporation Limited ("Zimco")  
Nchanga Consolidated Copper Mines Limited ("Nchanga")  
Roan Consolidated Mines Limited ("Roan")  
RST International Inc. ("RSTII")  
Zambia Copper Investments Limited ("ZCI")  
ZCI Holdings Limited ("ZCI Holdings")

(B) These Supplemental Heads of Agreement are supplemental to:

- (i) The Heads of Agreement dated 22 December 1981 and made between the parties hereto other than ZCI Holdings and which are herein referred to as "the Heads of Agreement"; and
- (ii) The Agreement relating to accounting principles policies and procedures and the Agreement and consent to submission of disputes to the International Centre for Settlement of Investment Disputes both dated 22 December 1981 ("the Ancillary Agreements") entered into pursuant to the Heads of Agreement and to which the parties hereto other than ZCI Holdings were parties.

(C) The purpose of these Supplemental Heads of Agreement is to vary the Heads of Agreement and the Ancillary Agreements to reflect the fact that ZCI Holdings and not ZCI as referred to in the Heads of Agreement and the Ancillary Agreements is the owner of " B " Ordinary shares in Roan and Nchanga and to effect certain other changes as herein provided.

1. ZCI Holdings hereby agrees with the other parties hereto that it will assume and be bound by the terms of the Heads of Agreement and the Ancillary Agreements as from the date of the Heads of Agreement in the terms in which ZCI is expressed to be bound thereby except as herein otherwise provided and so that the Heads of Agreement and the Ancillary Agreements shall except as aforesaid be read and construed as from that date as if all references therein to ZCI were references to ZCI Holdings and the other parties hereto hereby agree to be bound as from that date by the terms of the Heads of Agreement and the Ancillary Agreements amended as aforesaid in every way as if (except as aforesaid) ZCI Holdings had been named therein as a party thereto in place of ZCI.

2. Notwithstanding the provisions of Clause 1 hereof references in the Heads of Agreement (including the Schedules thereto) and in the Ancillary Agreements to ZCI shall only be changed to references to ZCI Holdings as provided in Clause 3 hereof and the Schedules hereto.

3. The parties hereto hereby agree that the Heads of Agreement including the Schedules thereto and the Ancillary Agreements shall be amended as set out in the Schedule hereto as if such amendments had been included in the Heads of Agreement when they were entered into. It is hereby agreed that the said Schedule shall be deemed to be incorporated into and form part of these Supplemental Heads of Agreement.

4. ZCI hereby undertakes with the parties hereto that it will procure that ZCI Holdings will perform and observe all the obligations assumed by ZCI Holdings hereunder and under the Heads of Agreement and Ancillary Agreements as hereby varied and ZCI will indemnify and keep indemnified the parties hereto against any non-observance or non-performance by ZCI Holdings of all or any of such obligations.

5. Roan and Nchanga undertake with the other parties to these Supplemental Heads of Agreement that they will not consent on behalf of all concerned to any modification or additions to the Scheme of Arrangement or any conditions which the Court may think fit to approve or impose without the prior approval of the remaining parties to these Supplemental Heads of Agreement.

6. The parties hereto agree that all disputes arising under these Supplemental Heads of Agreement shall be submitted to arbitration as provided in Clause 16 of the Heads of Agreement as if these Supplemental Heads of Agreement formed part of and the changes hereby effected were incorporated in the Heads of Agreement and the Ancillary Agreements.

AS WITNESS the hands of the duly authorised representatives of the parties hereto this 10th day of February, 1982.

*The Schedule above referred to:*

The Heads of Agreement including the schedules thereto and the Ancillary Agreements shall be amended as hereinafter provided:

*Heads of Agreement:*

Clause 1. After (" RSTII ") delete " and " and after (" ZCI ") add ' and ZCI Holdings Limited (" ZCI Holdings ")'.

Clause 4. (2) (i). For "ZCI" read "ZCI Holdings".

Clause 4. (2) (iv). For "ZCI" read "ZCI Holdings".

Clause 5. (1). For "ZCI" read "ZCI Holdings".

Clause 5. (2) Delete the entire sub-clause and substitute the following:

"An Ordinary Resolution shall be proposed to the members of ZCI to the following effect:

"That the Board of Directors of (ZCI) be authorised to procure that (ZCI)'s wholly owned subsidiary company ZCI Holdings Limited vote in favour of the resolutions to be proposed at the separate meeting of the holders of the "B" Ordinary shares of Nchanga Consolidated Copper Mines Limited (NCCM) convened by Order of the High Court for Zambia for 17th March, 1982 and that Security Nominees Limited vote in favour of the Resolutions to be proposed at each of the two Extraordinary General Meetings of Roan Consolidated Mines Limited (RCM) and at the separate General Meeting of the holders of the "B" Ordinary shares of RCM all convened for 17th March 1982 copies of the notices of such meetings of NCCM and RCM having been produced to this meeting and signed by the Chairman thereof for the purpose of identification".

Clause 5. (7) Delete both references to "ZCI" and replace by references to "ZCI Holdings".

Clause 6. (1). First line. After "ZCI" insert "ZCI Holdings".

Clause 6. (1) (iii). For "ZCI" where those initials second appear read "ZCI Holdings".

Clause 10. All references to "ZCI" should be references to "ZCI Holdings" save in the words "ZCI Group Company" and the definition of ZCI Group Company in paragraph (viii) shall be amended by adding the words "ZCI Holdings" after the words "Security Nominees Limited".

*Schedule A to the Heads of Agreement:*

(B) (e). For "Zambia Copper Investments Limited" read "ZCI Holdings Limited".

*Schedule B to the Heads of Agreement:*

Article 118 (A). First paragraph of the paragraph lettered (A) add after the word "amendments" where it appears in brackets the words "to such accounting principles and policies".

Article 148. Add after "Zambia Copper Investments Limited" the following words:

"as amended by Supplemental Agreement dated February 1982 between the said parties and ZCI Holdings Limited".

*Schedule E to the Heads Agreement:*

Add as a party after Zambia Copper Investments Limited "ZCI Holdings Limited (hereinafter called 'ZCI Holdings') whose registered office is at 80 Broad Street, Monrovia, Liberia, and whose address for service in Zambia is at 74 Independence Avenue aforesaid".

Clause 4. After "ZCI" where it first appears add "or ZCI Holdings".

*Schedule F (The Scheme Arrangement):*

- (A) Front Cover: Delete "and amalgamation".
- (B) Front Cover: After "of K2 each" add "for amalgamation with Roan Consolidated Mines Limited".
- (C) Preliminary. Paragraph A. Delete "ZCI" means Zambia Copper Investments Limited a company incorporated in Bermuda" and insert "ZCI Holdings" means ZCI Holdings Limited a company incorporated in Liberia and a wholly owned subsidiary of Zambia Copper Investments Limited a company incorporated in Bermuda".
- (D) Delete the definition of "the Master Agreement" and insert the following definition "the Heads of Agreement" means the Heads of Agreement dated 22nd December 1981 and made between the Government, Zimco, Nchanga, Roan, RSTII and Zambia Copper Investments Limited as varied by a Supplemental Agreement dated February 1982 between the said parties and ZCI Holdings".
- (E) Paragraph B. Insert the figure of 62,230,000 in place of the figure of 61,848,715 where that figure appears under the column headed "Number of Authorised Shares".
- (F) Paragraph D. After the initials "ZCI" where they appear in two places insert the word "Holdings".
- (G) The Scheme. Paragraph 1 (i). Delete the words "the whole of the issued share capital of Nchanga" and insert the following words: "the whole of the issued Ordinary share capital of Nchanga (which Zimco and ZCI Holdings shall transfer to Roan forthwith upon this Scheme becoming effective)".
- (H) Paragraph 1. (ii). After the words "on the redemption of their shares" insert the words "and the aggregate amount of Preference dividend paid on 1st July 1981 and the accrued dividend payable on redemption".
- (I) Paragraph 3. Insert the word "Holdings" after the initials "ZCI".
- (J) Paragraph 4. After the words "definitive certificates" add the words "or renounceable allotment letter".
- (K) Paragraph 4. After the words "such certificates" insert the words "or allotment letters" in place of the words "or warrants". Delete the brackets before the word "sending" and at the end of the paragraph.
- (L) Paragraph 5. (A) (ii). After the word "Roan" insert the words "(inter alia)".
- (M) Paragraph 5 (A) (iii). Delete the words "as referred to in" and replace with the words "in accordance with".
- (N) Paragraph 5, last sentence. Delete the words "and Zimco." and insert the word "and" between "Roan" and "Nchanga".
- (O) Paragraph 6. Delete the words "the other parties to the Master Agreement" and insert the word "Roan".

*Schedule H:*

First paragraph. Add after ("ZCI") the following: "and ZCI Holdings Limited a company incorporated in Liberia ("ZCI Holdings")."

Clause 12. Delete " and ZCI " and insert " ZCI and ZCI Holdings ".

Clause 12. Delete " or ZCI " and insert " ZCI Holdings ".

*Ancillary Agreements :*

Agreement pursuant to Schedule E:

Amend as referred to above in Schedule E.

Agreement pursuant to Schedule H:

Amend as referred to above in Schedule H.

*Signed by:*

KEBBY MUSOKOTWANE

on behalf of the Government of the  
Republic of Zambia in the presence of:

C. MANYEMA

} K. MUSOKOTWANE

*Signed by:*

JAMES MAPOMA

on behalf of Zambia Industrial and  
Mining Corporation Limited in the  
presence of:

T. B. CHINTU

} J. MAPOMA

*Signed by:*

FRANCIS KAUNDA

on behalf of Nchanga Consolidated  
Copper Mines Limited in the presence  
of:

R. L. BWALYA

} F. KAUNDA

*Signed by:*

DAVID PHIRI

on behalf of Roan Consolidated  
Mines Limited in the presence of:

K. MIENGA

} D. PHIRI

*Signed by:*

R. HALLE

on behalf of RST International Inc.  
in the presence of:

D. MONTEITH

} R. HALLE

*Signed by:*

OWEN PHILLIPS

on behalf of Zambia Copper  
Investments Limited in the presence  
of:

R. C. HARVEY

} O. PHILLIPS

*Signed by:*

OWEN PHILLIPS

on behalf of ZCI Holdings Limited in  
the presence of:

R. C. HARVEY

} O. PHILLIPS