



EUROPEAN
COMMISSION

Brussels, 24.10.2023
C(2023) 7322 final

ANNEX

ANNEX

to the

COMMISSION DECISION

on approving the Memorandum of Understanding on Working Arrangements between the European Commission, the Government of the United States of America, the Government of the Republic of Zambia, the Government of the Republic of Angola, the Government of the Democratic Republic of the Congo, the African Development Bank, and the Africa Finance Corporation, relating to the development of the Lobito Corridor and the Zambia-Lobito rail line

**MEMORANDUM OF UNDERSTANDING (“MOU”)
ON WORKING ARRANGEMENTS
Between**

THE GOVERNMENT OF THE UNITED STATES OF AMERICA

THE EUROPEAN COMMISSION

THE GOVERNMENT OF THE REPUBLIC OF ZAMBIA

THE GOVERNMENT OF THE REPUBLIC OF ANGOLA

THE GOVERNMENT OF THE DEMOCRATIC REPUBLIC OF THE CONGO

THE AFRICAN DEVELOPMENT BANK

**And
AFRICA FINANCE CORPORATION**

**RELATING TO THE DEVELOPMENT OF THE LOBITO CORRIDOR AND THE
ZAMBIA-LOBITO RAIL LINE**

The Government of the Republic of Angola, The Government of the Democratic Republic of the Congo The Government of the Republic of Zambia, The Government of the United States of America, the European Commission, the African Development Bank and the Africa Finance Corporation, in its capacity as the Project Developer (the “Sides”), hereby express their interest to explore on a good faith, non-binding basis, the possibility to work in collaboration to expand an economic corridor that will enhance regional trade and growth, including, subject to economic, financial, environmental and social feasibility, by assisting the development of the following two Eastern sections of the Lobito Corridor: (i) a greenfield rail line connecting the Lobito Rail Line in Luacano, Angola, to the Zambia Railway line in Chingola, Zambia, including the Jimbe border crossing (the “Zambia-Lobito Rail Line” or the “Project”) and (ii) the further development of the Lobito corridor between the Angola-DRC border in Luau-Dilolo to the town of Kolwezi, DRC, taking a step closer to the shared vision of connected, open-access rail from the Atlantic Ocean to the Indian Ocean.

The Government of the Republic of Zambia, The Government of the Republic of Angola, and The Government of the Democratic Republic of the Congo are together referred to as the “Host

Governments,” and The Government of the United States of America, the European Commission, the African Development Bank, and the Africa Finance Corporation are together referred to as “Potential Consortium”.

1. CONTEXT:

- a. The Sides express their interest to explore on a good faith, non-binding basis, the possibility to work in collaboration to expand an economic corridor connecting the Host Governments to global markets via the Benguela Railway and the Lobito Port in Angola (the “Lobito Corridor”) to enhance regional trade and growth and to advance the shared vision of connected, open-access rail from the Atlantic Ocean to the Indian Ocean.
- b. **The Government of** the United States of America (the “United States”), the European Union and the other G7 members launched the Partnership for Global Infrastructure and Investment (PGI) in June 2022, with the goal to mobilize USD 600 billion for high-quality infrastructure development in low and middle-income countries over a five-year period, and focusing on advancing gender equality and equity, raising labor and environmental standards and promoting transparency, governance, and anti-corruption measures.
- c. The United States announced in June 2022 a goal of mobilizing USD 200 billion through PGI, delivering energy, physical, digital, health, and climate-resilient infrastructure with an enhanced focus on investing in key economic corridors, including the Lobito Corridor.
- d. The European Commission adopted in December 2021 the Global Gateway Strategy, aiming to mobilise EUR 300 billion in investments to support smart, sustainable investments in quality infrastructure, in line with the EU’s values and standards while promoting equal partnerships, forging new alliances without creating dependencies. In February 2023, the EU adopted a renewed strategy for the Great Lakes which supports inter alia new strategic transport corridors, to better connect the four Great Lakes countries with each other, their regional neighbours and the rest of the world, including via Atlantic sea ports.
- e. The United States and the European Commission announced a new collaborative approach to develop the Lobito Corridor in September 2023.¹
- f. The Host Governments joined together in January 2023 to launch the Lobito Corridor Transit Transport Facilitation Agency Agreement, based in Lobito, to accelerate growth in domestic and cross-border trade along the Lobito Corridor through the implementation of harmonized trade facilitation instruments, strengthening coordination of joint corridor development activities, and fostering effective participation of small and medium enterprises (SMEs) in value chains.

¹ Joint Statement from European Commission and the United States during the G20 on 9 September 2023: https://ec.europa.eu/commission/presscorner/detail/en/statement_23_4419

- g. The Government of the Republic of Angola (“Angola”) is committed to diversifying its economy, bolstering industrialization, and revitalizing its domestic agriculture sector, supported by an ambitious agenda to deliver transformational infrastructure that will drive regional and global integration.
- h. The Government of the Democratic Republic of the Congo (“DRC”) attaches great importance to the development of the Lobito Corridor and its associated investments, which is expected to translate into improved connectivity and better access to markets of DRC regions alongside the corridor, leading to improved livelihoods and development gains in particular for communities in the Lualaba Province and the broader Katanga region.
- i. The Government of the Republic of Zambia (“Zambia”), as part of its economic reform agenda and realization of a land-linked regional transit hub, views the Lobito Corridor as not only the shortest route to bring its critical minerals and other exports to port, but also as a new strategic route to improve the transit of goods to and from the Americas and Europe.
- j. The African Development Bank, a regional multilateral development finance institution established to contribute to the sustainable economic development and social progress of its regional member countries, is considering the possibility to expand on its project launched in 2017 to promote domestic and cross border trade and value chain development across the Lobito Corridor.
- k. The Africa Finance Corporation, a multilateral development finance institution, established by an agreement between sovereign states to provide pragmatic solutions to Africa’s infrastructure deficit and challenging operating environment by developing and financing infrastructure, expects to leverage a track record of developing large-scale infrastructure projects on the continent and its current role as Financial Advisor to the Lobito Atlantic Railway project to support the expansion of the Lobito Corridor.
- l. The Potential Consortium, taking into account their respective mandates, intend, subject to economic, financial, environmental and social feasibility and respective internal approvals, to work together for the purpose of developing, coordinating financing, constructing, and operating the Project, in accordance with the highest international standards with respect to procurement, environmental, sustainability and governance (ESG) standards and requirements, including those stemming from multilateral environmental agreements and anti-money laundry regulations, in line with the mandate of PGI and the Sides’ respective policies and requirements.
- m. The Sides express their interest to explore on a good faith, non-binding basis, the possibility to work together for the purpose of developing the Lobito Corridor from the Luau-Dilolo

border post between Angola and the DRC, to the DRC town of Kolwezi, across the Lualaba region, in accordance with the highest international standards.

- n. To fully develop the Lobito Corridor, the Sides express their interest to explore on a good faith, non-binding basis, the possibility to collaborate on investment across multiple sectors, including transport, agriculture, digital access, climate and health; and the Sides view the rail lines as an essential component to lowering transport costs and facilitating the success of the investments across the other sectors.

2. THEREFORE, the Sides have reached the following understanding:

- a. The Sides express their interest to explore on a good faith, non-binding basis, the possibility to further support the existing Benguela rail line and Lobito port project, and facilitate optimal connection between the Zambia and DRC-Lobito rail lines and the Benguela Lobito rail line, subject to the Sides' internal approval processes and the terms of any subsequently concluded agreements and contracts;
- b. Subject to their respective rules on confidentiality set out in binding agreements, the Sides intend to share relevant information and materials concerning the development of the Lobito Corridor subject to their respective laws, policies and procedures relating to access to information, any non-disclosure agreement, and contractual confidentiality obligations;
- c. Subject to their respective rules on confidentiality set out in binding agreements, the Sides intend to keep in strict confidence any information and materials in whatever form received concerning the development of the Lobito Corridor, the Project or this MoU;

In addition, specifically with regard to the Zambia-Lobito Rail Line Project:

- d. The Government of Angola and the Government of Zambia intend to allow the Potential Consortium the opportunity to conduct feasibility studies with respect to the Project for a 12-month period, which may be extended, as determined among the Sides;
- e. Following the initial period and subject to satisfactory collaboration during the period, the Government of Angola and the Government of Zambia further intend to allow the Potential Consortium the first opportunity to further develop the Project;
- f. Specifically, and subject to internal approval procedures:

The Government of the United States intends

- g. To leverage its comparative strengths and available resources to support the development of the two Eastern sections of Lobito Corridor including the Zambia-Lobito Rail Line as it progresses with the Sides, which may include:
 - i. Providing guidance to the Project Developer of the Zambia-Lobito Rail Line;
 - ii. Facilitating Host Government coordination and collaboration;
 - iii. Helping to identify and engage with potential commercial off-takers; and
 - iv. Considering providing financial support for the Project, including, where appropriate, employing various U.S. Government funding tools and products;

The European Commission intends

- h. To leverage its comparative strengths and available resources to support the development of the two Eastern sections of the Lobito Corridor including the Zambia-Lobito Rail Line as it progresses with the Sides which may include:
 - v. Providing lead engagement and coordination with European Union Member States, where applicable;
 - vi. Launching preparatory studies, including on environmental and social impacts and feasibility of the project;
 - vii. Providing guidance to the Project Developer of the Zambia-Lobito Rail Line, as well as relevant implementing partners for the development of the Lobito Corridor in the DRC, in particular to ensure that civil society, local communities and, in accordance with UNDRIP², indigenous peoples are effectively consulted and the work is carried out in accordance with the highest international standards;
 - viii. Facilitating Host Government coordination and collaboration;
 - ix. Helping to identify and engage with potential commercial off-takers; and
 - x. Supporting financing opportunities (under the Neighbourhood, Development and International Cooperation Instrument's Annual Action Plan 2021 for Sub-Saharan Africa) for different stages of the Lobito Corridor development, including by issuing guarantees, grant support, and exploring debt financing tools to support investments;

The Government of Angola intends

- i. To support the development of the portion of the Lobito Corridor, including the approximately 275 kilometers of the Zambia Lobito Rail Line Project within its borders in line with IFC standards and international best practices, including by:
 - xi. Sharing with the other Sides all relevant due diligence and materials on the proposed route;
 - xii. Enabling access for feasibility and additional studies;
 - xiii. Engaging in good faith, subject to national laws and policies, on negotiation of a concession agreement and all other documents necessary to undertake the development, construction and finance of the Project;
 - xiv. Facilitation of right of way and resettlement, and the timely issuance of necessary permits; and
 - xv. Working with the Sides to explore contributions that support the viability and success of the rail that minimize the impact on national debt;
- j. To collaborate and align with Zambia to develop the Zambia-Lobito Rail Line potentially as a single concessionary entity, operated seamlessly across the two countries;

² A/RES/61/295 – United Nations Declaration on the Rights of Indigenous Peoples

The Government of the Democratic Republic of the Congo intends

- k. To support the development of the Lobito Corridor that falls in its borders in line with IFC standards and international best practices, including by exploring contributions that support the viability and success of the railway;
- l. To support the development and joint operation of border posts in collaboration with Angola and Zambia, including harmonized and efficient documentation processes and systems, and transport links within their borders in line with IFC standards and international best practices;

The Government of Zambia intends

- m. To support the development of the Lobito Corridor, including the approximately 500 kilometers of the Zambia-Lobito Rail Line Project that falls within its borders in line with IFC standards and international best practices, including by:
 - i. Sharing all relevant due diligence and materials on the proposed route;
 - ii. Enabling access for feasibility and additional studies;
 - iii. Engaging in good faith, subject to national laws and policies, on negotiation of a concession agreement and all other documents necessary to undertake the development, construction and finance of the Project;
 - iv. Facilitation of right of way and resettlement and the timely issuance of necessary permits; and
 - v. Working with the Sides to explore contributions that support the viability and success of the rail that minimize the impact on national debt;
- n. To collaborate and align with Angola to develop the Zambia-Lobito Rail Line potentially as a single concessionary entity, operated seamlessly across the two countries;

The African Development Bank intends

- o. Subject to obtaining internal approvals from its board of directors or any other required authorizations, to express its interest to explore on a good faith, non-binding basis, the possibility to work with the other Sides to support the development of the Lobito Corridor and the Zambia-Lobito Rail Line Project, including by exploring potential financing support, subject to Host Governments' internal approvals, through direct government support, loans, guarantees, grants and loans to the future Zambia-Lobito Rail company, to be established;

Africa Finance Corporation intends

- p. With the support of the Sides, to serve as overall Project Developer, facilitating the preparation stage of the Zambia-Lobito Rail Line Project;
- q. If the Sides so decide, to consider whether to continue to serve as Project Developer for subsequent stages of the Zambia-Lobito Rail Line Project;
- r. While acting as Project Developer, as appropriate at each relevant stage of the project, to:

- vi. Identify and engage relevant third-party consultants and relevant stakeholders, particularly civil society and local communities, in accordance with international best practices relating to procurement procedures, to conduct studies with regards to the technical, commercial, financial and legal feasibility of the Zambia-Lobito Rail Line Project;
- vii. Together with other Sides of the Potential Consortium, as applicable, fund the development costs of the Project including preliminary technical and other studies as a part of its project development investment in the Zambia-Lobito Rail Line Project;
- viii. Solicit preliminary expressions of interest, in consultation with the Sides, from appropriate sponsors/financiers who would bring relevant expertise and capital to the Zambia-Lobito Rail Line Project and who may form part of the Potential Consortium;
- ix. Engage in negotiations concerning the terms of involvement of additional members of the Sides;
- x. Conduct structuring, financial modeling and technical review of the Zambia-Lobito Rail Line Project;
- xi. At the appropriate time, participate in good faith in negotiations with the respective Host Governments regarding a concession agreement or agreements;
- xii. After successful completion of the initial activities and conditional upon the decision of all Sides and the finalization of all necessary agreements and understandings, continue to invest in the construction and financing of the Zambia-Lobito Rail Line Project; and
- xiii. Participate in periodic meetings with designated Host Government's representatives in order to provide updates of key findings from the aforementioned activities;
- s. To continue its support on the Lobito Atlantic Railway consortium project in Angola and Zambia, subject to the terms its arrangement(s) concerning that project, and to facilitate optimal connection between the Zambia-Lobito Rail Line and the Benguela Lobito rail line consistent with such arrangement(s);

General Provisions

- t. This MoU is intended to be operative for a period of 24 months from the date of its last signature. A Side may notify the others of its decision to discontinue its participation at an earlier point in time. This period may be extended by mutual decision of the Sides.
- u. This MoU states the mutual intentions of the Sides to cooperate in good faith and is not intended to create rights, obligations or expectations of any nature whatsoever under any law nor has any financial implications on any of the Sides. Furthermore, for the sake of clarity, this MoU does not envisage the incurrence of any legal or other liability by the Sides nor represent or give rise to any commitment by any Participant to provide any form of financing or any other support towards the activities contemplated hereunder.
- v. This MoU, given its non-binding nature, does not envisage (i) the establishment of any agency, partnership, joint venture, or fiduciary relationship among the Sides, (ii) any loss of the separate legal personality or decision-making autonomy of each of the Sides, or (iii)

the making of public announcements by one Side on behalf of other Sides relating to the contemplated collaboration under this MoU without approval.

- w. The Sides remain open to the possibility of additional actors participating in this MoU, subject to a completion of any Know Your Customer requirements and a determination by all existing Sides.
- x. The Sides hereby acknowledge that nothing contained in this MoU should be construed as a waiver, renunciation or other modification (express or implied) of any immunities, exemptions and privileges that may be accorded to them under their respective charters, or under international or domestic law, as applicable.
- y. This MOU may be modified at any time in writing by all Sides.

DONE in _____, on _____ 2023, in 7 (seven)
original copies in English.

SIGNED by:

For and on behalf of: The Government of United States of America Date: Name: Capacity:	For and on behalf of: The Government of the Republic of Angola Date: Name: Capacity:
For and on behalf of: The Government of the Republic of Zambia Date: Name: Capacity:	For and on behalf of: The Government of the Democratic Republic of the Congo Date: Name: Capacity:
For and on behalf of: African Development Bank (AfDB) Date: Name: Capacity:	For and on behalf of: Africa Finance Corporation Date: Name: Capacity:
For and on behalf of: European Commission Date: Name: Capacity:	