

No. 8842

DENMARK
and
GHANA

Agreement on a Danish Government Loan to Ghana (with annex and exchange of letters). Signed at Accra, on 9 August 1967

Official text: English.

Registered by Denmark on 27 November 1967.

DANEMARK
et
GHANA

Accord relatif à un prêt du Gouvernement danois au Ghana (avec annexe et échange de lettres). Signé à Accra, le 9 août 1967

Texte officiel anglais.

Enregistré par le Danemark le 27 novembre 1967.

No. 8842. AGREEMENT¹ BETWEEN THE GOVERNMENT OF DENMARK AND THE GOVERNMENT OF GHANA ON A DANISH GOVERNMENT LOAN TO GHANA. SIGNED AT ACCRA, ON 9 AUGUST 1967

The Government of Denmark and the Government of Ghana desiring to strengthen the traditional co-operation and cordial relations between their countries, have agreed that, as a contribution to Ghana's Development Plans, a Danish Government Loan will be extended to Ghana in accordance with the following provisions of this Agreement and the Annex attached, which is considered an integral part of the Agreement :

Article I

THE LOAN

The Government of Denmark (hereinafter called the Lender) agrees to make available to the Government of Ghana (hereinafter called the Borrower) a development Loan in an amount of twenty million Danish Kroner for the realization of the purposes described in Article VI of this Agreement.

Article II

LOAN ACCOUNT

Section 1. An account designated " Government of Ghana Loan Account " (hereinafter called " Loan Account ") will be opened with Danmarks Nationalbank (acting as agent for the Lender) in favour of the Bank of Ghana (acting as agent for the Borrower). The Lender will ensure that sufficient funds are always available in the Loan Account to enable the Borrower to effect punctual payment for goods and services procured under this Loan, provided that the amounts successively made available to the Borrower shall not, in the aggregate, exceed the Loan amount specified in Article I.

Section 2. The Bank of Ghana (acting as agent for the Borrower) shall be entitled, subject to the provisions of this Agreement, to withdraw from the Loan Account amounts needed for payment of equipment or services procured under the Loan.

¹ Came into force on 9 August 1967, upon signature, in accordance with section 1 of article XI.

Article III

RATE OF INTEREST

The Loan will be free of interest.

Article IV

REPAYMENT

Section 1. The Borrower will repay to the Lender the principal of the Loan withdrawn from the Loan Account in thirty-five semi-annual instalments of 550,000 Danish Kroner each, commencing on 30th September 1974 and ending on 30th September 1991 and one final instalment of 750,000 Danish Kroner on 31st March 1992.

Section 2. The Borrower has the right to repay in advance of maturity all or any part of the principal amount of one or more maturities of the Loan specified by the Borrower with such variations in the amount of instalments as may thereby be rendered necessary.

Article V

PLACE OF PAYMENT

The principal of the Loan will be repaid by the Borrower in convertible Danish Kroner to Danmarks Nationalbank to the credit of the current account of the Ministry of Finance with Danmarks Nationalbank.

Article VI

USE OF THE LOAN BY THE GOVERNMENT OF GHANA

Section 1. The Borrower will use the proceeds of the Loan to finance imports (including transport charges) from Denmark to Ghana of such Danish capital equipment for the implementation of Ghana's Development Plans involving important Danish contributions as will be agreed upon between the Lender and the Borrower.

Section 2. The proceeds of the Loan may also be used to pay for Danish Services required for the implementation of Ghana's Development Plans, including, in particular, pre-investment studies, preparation of projects and the provision of consultants during the implementation of the projects, assembly or construction of plants or buildings, technical and administrative assistance during the initial period of the undertakings established by means of the Loan.

Section 3. The Borrower will cause the proceeds of the Loan to be applied exclusively to the provision of goods and services needed to implement contracts

approved by both Parties. The particulars of the methods and procedures for the payment of such goods and services, beyond those already set forth in Article II, shall be determined by agreement between Borrower and Lender.

Section 4. The concurrence of the Lender as to the eligibility of a contract under the Loan shall not be interpreted in such a manner as to imply that the Lender takes upon him any responsibility for the proper implementation or subsequent operation of such contracts.

Section 5. The terms of payment stipulated in contracts or documentation to the effect that an order has been placed with a Danish exporter or contractor for supplies or services of the nature described above shall be considered as normal and proper whenever such contracts contain no clauses involving special credit facilities from Danish exporters or contractors.

Section 6. The proceeds of the Loan may be used only for payment of supplies and services contracted for after the entry into force of the Agreement.

Section 7. The Borrower may draw on the Loan Account with Danmarks Nationalbank referred to in Article II for up to three years after the entry into force of the Agreement or such other date as shall be agreed by the Lender and the Borrower.

Section 8. If the proceeds of the Loan have not been fully utilized within the time limit stipulated in Section 7 above, the semi-annual repayments shall be reduced by a proportion equal to the ratio between the unutilized amount of the Loan and the principal of the Loan.

Article VII

NON-DISCRIMINATION

Section 1. In regard to the repayment of the Loan, the Borrower undertakes to give the Lender no less favourable treatment than that accorded to other foreign creditors.

Section 2. All shipments of equipment covered by this Agreement shall be in keeping with the principle of free circulation of ships in international trade in free and fair competition.

Article VIII

MISCELLANEOUS PROVISIONS

Section 1. Prior to the first drawing against the Loan Account referred to in Article II the Borrower will satisfy the Lender that all constitutional require-

ments and other requirements laid down by statute in the Borrower's home country have been met so that this Loan Agreement will constitute a valid obligation binding on the Borrower in the terms of the Loan Agreement.

Section 2. The Borrower will furnish to the Lender evidence of the authority of the person or persons who will, on behalf of the Borrower, take any action or execute any documents under this Agreement, and authenticated specimen signatures of all such persons.

Section 3. Any notice or request under this Agreement and any agreement between the Parties contemplated by this Agreement shall be in writing. Such notice or request shall be deemed to have been duly given or made when it has been delivered by hand or by mail, telegram, cable or radiogram to the Party at such Party's address specified in Article XII, or at such address as such Party shall have indicated by notice to the Party giving such notice or making such request.

Article IX

PARTICULAR COVENANTS

The principal of the Loan shall be repaid without deduction for, and free from, any taxes and charges, and free from all restrictions imposed under the laws of the Borrower. This Agreement shall be free from any present and future taxes imposed under the laws of the Borrower, or laws in effect in its territories on or in connection with the execution, issue, delivery or registration thereof.

Article X

APPLICABLE LAW

Unless otherwise provided for in the Agreement, the Agreement and all the rights and obligations deriving from it shall be governed by Danish law.

Article XI

DURATION OF THE AGREEMENT

Section 1. This Agreement shall come into force on the date of signature.

Section 2. When the entire principal amount of the Loan has been repaid, the Agreement shall terminate forthwith.

Article XII

SPECIFICATION OF ADDRESSES

The following addresses are specified for the purposes of this Agreement :

For the Borrower :

The Bank of Ghana
P.O. Box 2674
Accra

Alternative address for cablegrams and radiograms:

Ghanabank
Accra

For the Lender with respect to disbursements :

Ministry of Foreign Affairs
Secretariat for Technical Co-operation with Developing Countries
Copenhagen

Alternative address for cablegrams and radiograms :

Dacomta
Copenhagen

For the Lender with respect to servicing of the Loan :

Ministry of Finance
Copenhagen

Alternative address for cablegrams and radiograms :

Finans
Copenhagen

IN WITNESS WHEREOF the Parties hereto, acting through their representatives duly authorized for this purpose, have caused this Agreement to be signed in two copies in the English language at Accra this 9th day of August 1967.

For the Government of Denmark :

H. A. BIERING

For the Government of Ghana :

A. A. AFRIFA
Brigadier

ANNEX

The following provisions shall govern the rights and obligations under the Agreement between the Government of Denmark and the Government of Ghana on a Danish Government Loan to Ghana (hereinafter called the Agreement), of which they are considered an integral part with the same force and effect as if they were fully set forth therein.

Article I

CANCELLATION AND SUSPENSION

Section 1. The Borrower may, by notice to the Lender, cancel any amount of the Loan which the Borrower shall not have withdrawn.

If any of the following events shall have happened and be continuing, the Lender may, by notice to the Borrower, suspend in whole or in part the right of the Borrower to make withdrawals from the Loan Account :

- (a) a default shall have occurred in the repayment of principal under the Agreement ; or
- (b) a default shall have occurred in the performance of any other covenant or agreement on the part of the Borrower under the Agreement.

Section 2. The right of the Borrower to make withdrawals from the Loan Account shall continue to be suspended in whole or in part, as the case may be, until the event or events which gave rise to such suspension shall have ceased to exist or until the Lender shall have notified the Borrower that the right to make withdrawals has been restored, whichever is earlier, provided however, that in the case of any such notice of restoration the right to make withdrawals shall be restored only to the extent and subject to the conditions specified in such notice, and no such notice shall effect or impair any right, power or remedy of the Lender in respect of any other or subsequent event described in this Article.

If the right of the Borrower to make withdrawals from the Loan Account shall have been suspended with respect to any amount of the balance of the Loan or any part thereof for a continuous period of ninety days, the Lender may, by notice to the Borrower, terminate the right of the Borrower to make withdrawals with respect to such amount. Upon the giving of such notice such amount of the Loan shall be cancelled.

Section 3. Notwithstanding any cancellation or suspension all the provisions of the Agreement shall continue in full force and effect except as is specifically provided in this Article.

Article II

REMEDIES OF THE LENDER

If any event specified in sub-paragraphs (a) and (b) of Section 1 of Article I shall occur and shall continue for a period of ninety days after notice thereof has been given by the Lender to the Borrower, then at any subsequent time the Lender, at his option, may

declare the principal of the Loan then outstanding to be due and payable immediately and upon any such declaration such principal shall become due and payable immediately, anything in the Agreement to the contrary notwithstanding.

Article III

SETTLEMENT OF DISPUTES

Section 1. Any dispute between the Contracting Parties arising out of the interpretation or administration of the present Agreement, which has not been settled within six months through diplomatic channels, shall, at the request of either Party, be submitted to a tribunal of arbitration consisting of three members. The chairman of the tribunal shall be a citizen of a third country and shall be appointed by common consent of the Contracting Parties. Should the Parties fail to agree on the appointment of the chairman of the tribunal, either Party may request the President of the International Court of Justice to make the appointment. Each Party appoints its own arbitrator; if a Party abstains from appointing an arbitrator, the latter may be appointed by the chairman of the tribunal.

Section 2. Each Contracting Party will observe and carry out awards given by the tribunal.

EXCHANGE OF LETTERS

I

Accra, 9th August, 1967

Excellency,

With reference to the Development Loan Agreement of today's date between the Government of Denmark and the Government of Ghana (hereinafter called the Agreement) I have the honour to propose that the following provisions shall govern the implementation of Article VI of the Agreement.

Payment out of the Loan Account shall be effected in the following manner :

(1) The Danish exporter or consultant and the Ghanaian importer or prospective investor shall negotiate a contract, subject to the final approval of the Ghanaian and the Danish authorities. No contract below 100,000 Danish Kroner, except for utilization of any final balance below that amount, shall be eligible for financing under the Loan Agreement.

(2) The Government of Ghana will make available to the Danish Ministry of Foreign Affairs copies of the contracts to be concluded under this Agreement. The latter will ascertain, *inter alia*, that

(a) the commodities or services contracted fall within the framework of the Loan Agreement;

(b) the capital equipment involved has been manufactured in Denmark, or the services to be rendered will be performed by persons carrying on business in Denmark,

and inform the Government of Ghana of its findings.

(3) When the contracts have been approved, the Bank of Ghana acting as agent for the Government of Ghana may draw on the Loan Account with Danmarks Nationalbank to effect payment of the consignment referred to in the contract. Payments out of this account to Danish exporters or consultants shall be subject to presentation of the necessary documents when Danmarks Nationalbank has ascertained that the conditions for effecting such payments have otherwise been complied with.

If the foregoing provisions are acceptable to the Government of Ghana, I have the honour to suggest that this letter and Your Excellency's reply to that effect constitute an agreement between our two Governments on this matter.

Please accept, Excellency, the assurance of my highest consideration.

For the Government of Denmark :

H. A. BIERING

Brigadier A. A. Afrifa
Commissioner for Finance
and Member of the N.L.C.
Accra

II

MINISTRY OF ECONOMIC AFFAIRS

Accra, 9th August, 1967

Excellency,

I have the honour to acknowledge receipt of your letter of today which reads as follows :

[See letter I]

I have the honour to inform you that my Government is in agreement with the foregoing.

Please accept, Excellency, the assurance of my highest consideration.
Yours sincerely,

For the Government of Ghana :

A. A. AFRIFA

Brigadier

Member of the National Liberation Council
and Commissioner Responsible for Finance

His Excellency Mr. Hans Adolf Biering
Ambassador
Royal Danish Embassy
Accra