

No. 9446

**DENMARK
and
PERU**

Agreement on a Danish Government Loan to Peru (with exchanges of notes). Signed at Lima on 20 June 1967

Authentic texts: English and Spanish.

Registered by Denmark on 3 March 1969.

**DANEMARK
et
PÉROU**

Accord relatif à un prêt du Gouvernement danois au Pérou (avec échanges de notes). Signé à Lima le 20 juin 1967

Textes authentiques: anglais et espagnol.

Enregistré par le Danemark le 3 mars 1969.

AGREEMENT¹ BETWEEN THE GOVERNMENT OF DENMARK AND THE GOVERNMENT OF PERU ON A DANISH GOVERNMENT LOAN TO PERU

The Government of Denmark and the Government of Peru, desiring to strengthen the traditional co-operation and cordial relations between their countries, have agreed that, as a contribution to Peru's Development Plans, a Danish Government Loan will be extended to Peru in accordance with the following provisions:

Article I

THE LOAN

The Government of Denmark (hereinafter called the Lender) agrees to make available to the Government of Peru (hereinafter called the Borrower) a development loan in an amount of twenty-five (25) million Danish Kroner for the procurement of capital equipment and services as described in Article VI of this Agreement.

Article II

CREDIT ACCOUNT

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

¹ Came into force on 14 January 1969, the date on which the Government of Peru notified the Government of Denmark that the Congress of Peru approved the Agreement, in accordance with article XIV (1).

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

Article III

RATE OF INTEREST

The Loan will be free of interest.

Article IV

REPAYMENT

Section 1. The Borrower shall repay to the Lender the principal of the loan withdrawn from the Special Account in twenty-nine semi-annual instalments of 850,000 Danish Kroner each, commencing on September 30, 1972, and ending on September 30, 1986, and one final instalment of 350,000 Danish Kroner on March 31, 1987.

Section 2. The Borrower shall have the right to repay in advance of maturity all or any part of the principal amount of one or more maturities of the credit specified by the Borrower.

Article V

PLACE OF PAYMENT

The principal of the Loan shall be paid 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 PERU

Section 1. The Government of Peru will use the proceeds of the Loan to finance imports (including transport charges from Denmark to Peru) of Danish capital equipment, to be decided on by mutual consent, for the implementation of Peru's Development Plans. The total disbursement shall not exceed the amount of twenty-five (25) million Danish Kroner referred to in Article I.

Section 2. The proceeds of the Loan may also be used to pay for Danish services required for the implementation of Peru's Development Plans, including, in particular, pre-investment studies, preparation of projects, assembly of plant, consultant engineering, technical and administrative assistance for, e.g., the operation during the initial period of undertakings established by means of the Loan.

Section 3. 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 4. The terms of payment stipulated in contracts or documentation to the effect that an order has been placed with a Danish exporter 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.

Section 5. The proceeds of the Loan may be used only for payment of supplies or services contracted for after the entry into force of the Agreement.

Section 6. The Borrower may draw on the 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 7. If the proceeds of the Loan have not been fully utilized within the time limit stipulated in Section 6 above, the semi-annual repayment shall be reduced by a proportion equal to the ratio between the unutilized amount of the Loan and 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 Account referred to in Article II the Borrower will satisfy the Lender that all constitutional requirements 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 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 paid 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 that shall be 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

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 Special Account:

- (a) a default shall have occurred in the payment of principal under the Agreement or under any other financial commitment entered into by the Borrower in relation to the Lender,
- (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 Special 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 the earlier, provided however, that in 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 Special Account shall have been suspended with respect to any amount of the Loan for a continuous period of sixty 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 in this Article specifically provided.

Article XI

REMEDIES OF THE LENDER

If any event specified in subparagraphs (a) and (b) of Section 1 of Article X shall occur and shall continue for a period of sixty 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 credit 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 XII

APPLICABLE LAW

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

Article XIII

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.

Article XIV

DURATION OF THE AGREEMENT

Section 1. This Agreement shall come into force on the date upon which the Borrower notifies the Lender that the Congress of Peru has approved the Agreement.

Section 2. When the entire principal amount of the credit shall have been paid, the Agreement shall terminate forthwith.

Article XV

SPECIFICATION OF ADDRESSES

The following addresses are specified for the purpose of this Agreement:
For the Borrower:

Ministry of Foreign Affairs
Department for Economic Affairs
Lima, Peru

Alternative address for cablegrams and radiograms:

Estado Lima
Banco de la Nación
Lima, Peru

Alternative address for cablegrams and radiograms:

Bancnacion Lima

For the Lender with respect to disbursement:

Ministry of Foreign Affairs
Secretariat for Technical Cooperation with Developing Countries
Copenhagen

Alternative address for cablegrams and radiograms:

Dacomta
Copenhagen

For the Lender with respect to repayment of the credit:

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 four originals of which two are in the English language and two in the Spanish language in Lima this 20th of June, 1967.

For the Government of Denmark:
V. HOELGAARD

For the Government of Peru:
Jorge VÁZQUEZ SALAS

EXCHANGES OF NOTES

I, *a*

Lima, June 20th, 1967

Excellency,

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

Payments out of the Special Account shall be effected in the following manner:

(1) The Danish exporter or consultant and the Peruvian importer or prospective investor shall negotiate a contract, subject to the final approval of the Peruvian and Danish authorities. No contract for any one Danish delivery below one hundred thousands Danish kroner (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 Peru 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 services to be rendered will be performed by persons carrying on business in Denmark,

and inform the Government of Peru of its findings.

(3) The Government of Peru may then draw on the Special Account with Danmarks Nationalbank to effect payment of the consignment referred to in the contract. Payments out of that account to Danish exporters 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 Peru, 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 assurances of my highest consideration.

Vagn H. HOELGAARD
Embajador

His Excellency Dr. Jorge Vázquez Salas
Minister of Foreign Affairs
Lima

II, *a*

[TRANSLATION — TRADUCTION]

MINISTRY OF FOREIGN AFFAIRS

Lima, 20 June 1967

Your Excellency,

I have the honour to acknowledge receipt of Your Excellency's note of today's date which reads as follows:

[See note I, a]

In reply, I have the honour to inform Your Excellency that my Government is in agreement with the content of the said note.

Please accept, etc.

Jorge VÁZQUEZ SALAS

His Excellency Mr. Vagn H. Hoelgaard
Ambassador Extraordinary and Plenipotentiary of Denmark
City

I, *b*

No. 94

Lima, June 20th, 1967

Excellency,

I have the honour to refer to the Loan Agreement signed to-day between the Government of Denmark and the Government of Peru and to confirm the understanding reached during the negotiations to the effect that the pro-

ceeds of the loan will be available for financing the foreign currency expenses of consultant engineering contracts in connection with road projects and fishing ports as well as for financing imports to Peru of Danish capital goods such as equipment for the above-mentioned fishing ports, dairy equipment, refrigeration equipment and such other capital goods and services as may be agreed upon between the Government of Denmark and the Government of Peru for the implementation of Peru's development plans.

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

Vagn H. HOELGAARD
Embajador

His Excellency Dr. Jorge Vázquez Salas
Minister of Foreign Affairs
Lima

II, *b*

[TRANSLATION — TRADUCTION]

MINISTRY OF FOREIGN AFFAIRS

Lima, 20 June 1967

Your Excellency,

I have the honour to acknowledge receipt of Your Excellency's note of today's date which reads as follows:

[*See note I, b*]

In reply, I have the honour to inform Your Excellency that the foregoing is acceptable to the Government of Peru and that Your Excellency's note and this reply shall constitute an Agreement between the two Governments.

Please accept, etc.

Jorge VÁZQUEZ SALAS

His Excellency Mr. Vagn H. Hoelgaard
Ambassador Extraordinary and Plenipotentiary of Denmark
City

I, c

No. 95

Lima, June 20th, 1967

Excellency,

With reference to the Loan Agreement signed today between the Government of Denmark and the Government of Peru, and to the exchange of notes attached thereto, I have the honour to confirm the understanding that the text in the English language and the text in the Spanish language of the Agreement and of the exchange of notes constitute official versions and that in case of divergence as to the interpretation of any of the two texts, the text in the English language shall serve as the basis for settling the divergence.

I have the honour to suggest that this letter and Your Excellency's reply shall be regarded as a part of the exchange of notes referred to above.

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

Vagn H. HOELGAARD
Embajador

His Excellency Dr. Jorge Vázquez Salas
Minister of Foreign Affairs
Lima

II, c

[TRANSLATION — TRADUCTION]

MINISTRY OF FOREIGN AFFAIRS

Lima, 20 June 1967

Your Excellency,

I have the honour to acknowledge receipt of Your Excellency's note of today's date which reads as follows:

[See note I, c]

In reply, I have the honour to inform Your Excellency that my Government is in agreement with the content of the said note.

Please accept, etc.

Jorge VÁZQUEZ SALAS

His Excellency Mr. Vagn H. Hoelgaard
Ambassador Extraordinary and Plenipotentiary of Denmark
City
