

No. 11356

**DENMARK
and
NIGERIA**

**Agreement on a Danish Government loan to Nigeria (with
annexes and exchange of letters). Signed at Lagos on
29 March 1971**

Authentic text: English.

Registered by Denmark on 4 October 1971.

**DANEMARK
et
NIGÉRIA**

**Accord relatif à un prêt du Gouvernement danois au Nigéria
(avec annexes et échange de lettres). Signé à Lagos le
29 mars 1971**

Texte authentique: anglais.

Enregistré par le Danemark le 4 octobre 1971.

AGREEMENT ¹ BETWEEN THE GOVERNMENT OF DEN-
MARK AND THE FEDERAL MILITARY GOVERNMENT
OF NIGERIA ON A DANISH GOVERNMENT LOAN TO
NIGERIA

The Government of Denmark and the Federal Military Government of Nigeria, desiring to strengthen the traditional cooperation and cordial relations between their countries, have agreed that, as a contribution to the economic development of Nigeria, a Danish Government Loan will be extended to Nigeria in accordance with the following provisions of this Agreement and the attached Annexes, which are considered an integral part of the Agreement:

Article I

THE LOAN

The Government of Denmark (hereinafter called “the Lender”) will make available to the Federal Military Government of Nigeria (hereinafter called “the Borrower”) a Loan in an amount of 20 (twenty) million Danish Kroner for the purposes described in Article VI of this Agreement.

Article II

LOAN ACCOUNT

Section 1. An account designated “Federal Military Government of Nigeria Loan Account” (hereinafter called “Loan Account”) will, at the Borrower’s request, be opened with Danmarks Nationalbank (acting as agent for the Lender) in favour of 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 capital goods and services procured within the amount of the Loan.

Section 2. The Borrower, or such other person or institution as the Borrower may designate as his agent, shall be entitled, subject to the provisions

¹ Came into force on 29 March 1971 by signature, in accordance with article X (1).

of this Agreement, to withdraw from the Loan Account amounts needed for payment of capital goods or services procured under the Loan.

Article III

RATE OF INTEREST

The Loan will be free of interest.

Article IV

REPAYMENTS

Section 1. The Borrower will repay the Loan in thirty-five semi-annual instalments of 550,000 (five hundred and fifty thousand) Danish Kroner each, commencing on April 1st 1978 and ending on April 1st 1995, and one final instalment of 750,000 (seven hundred and fifty thousand) Danish Kroner on October 1st 1995.

Section 2. If the Loan is not fully utilized in accordance with the provisions of Article VI, Section 8, a revised schedule of repayment shall be established by mutual consent.

Article V

PLACE OF PAYMENT

The Loan shall be repaid by the Borrower to Danmarks Nationalbank in convertible Danish Kroner and credited to the current account of the Lender's Ministry of Finance with that Bank.

Article VI

USE OF THE LOAN

Section 1. The Borrower will use the Loan to finance imports from Denmark (including costs of transport from Denmark to Nigeria) of such Danish capital goods as are to be used for identifiable projects and are needed for the economic development of Nigeria. An indicative list of such goods is contained in Annex II.

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

Section 3. All contracts to be financed under the Loan shall be subject to approval by the Borrower and the Lender.

Section 4. The approval by the Lender of a contract for financing under the Loan shall not imply any responsibility for the proper performance of such contracts.

The Lender also disclaims responsibility for the efficient use of supplies and services financed under the Loan and for the proper operation of the projects, etc. to which such supplies have been made and such services have been rendered.

Section 5. A contract under the Loan shall contain no clauses involving any special credit facilities from the Danish party to the contract.

Section 6. The proceeds of the Loan may be used only for payment of capital goods and services contracted for after the entry into force of the Agreement, unless otherwise agreed by the Borrower and the Lender.

Section 7. The proceeds of the Loan shall not be used for payment to the Borrower of any import duty, tax, national or other public charge such as import surcharges, duties to compensate for domestic excise taxes, charges or deposits in connection with the issuance of payments licences or import licences.

Section 8. The Borrower may draw against the Loan Account in fulfilment of contracts approved by the Parties for up to three years after the entry into force of the Agreement or such other date as may be mutually agreed by the Borrower and the Lender.

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 capital goods 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 and other requirements laid down by statute in the Borrower's home country have been met, so that this Loan Agreement will constitute an obligation binding on the Borrower.

Section 2. The Borrower will inform the Lender of persons who are authorized to take any action on behalf of the Borrower, and supply authenticated specimen signatures of all such persons.

Section 3. Any notices, requests or agreements under this Agreement shall be in writing.

Article IX

PARTICULAR CONVENANTS

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 taxes imposed under the laws of the Borrower in connection with the issue, execution, registration, entry into force of the Agreement or otherwise.

Article X

DURATION OF THE AGREEMENT

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

Section 2. When the Loan has been repaid, the Agreement shall terminate forthwith.

Article XI

SPECIFICATION OF ADDRESSES

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

The Permanent Secretary
Federal Ministry of Finance
Mosaic House, Lagos

Cablegrams:

Permfim Lagos

For the Lender with respect to disbursements:

Ministry of Foreign Affairs
Danish International Development Agency
Copenhagen

Cablegrams:

Etrangères Copenhagen

For the Lender with respect to servicing of the Loan:

Ministry of Finance
Copenhagen

Cablegrams:

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 in Lagos on the 29th March, 1971.

For the Government
of Denmark:

TROELS MUNK

Ambassador of Denmark

For the Federal Military
Government of Nigeria:

OBAFEMI AWOLOWO

Federal Commissioner for Finance

ANNEX I

The following provisions shall govern the rights and obligations under the Agreement between the Government of Denmark and the Federal Military Government of Nigeria on a Danish Government Loan to Nigeria (hereinafter called the Agreement).

These provisions are considered an integral part of the Agreement with the same force and effect.

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.

Section 2. In the event of default by the Borrower in the fulfilment of any commitment or arrangement under the Agreement, the Lender may suspend, in whole or in part, the right of the Borrower to make withdrawals from the Loan Account.

If the default which entitled the Lender to suspend the Borrower's right to draw against the Loan Account persists beyond a period of sixty days after the Lender's notice to the Borrower of the suspension, the Lender may at any time claim immediate repayment of all withdrawals made from the Loan Account, notwithstanding anything in the Agreement to the contrary, unless the basis on which the suspension was made has ceased to exist.

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

SETTLEMENT OF DISPUTES

Section 1. Any dispute between the 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 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 Party will observe and carry out awards given by the tribunal.

ANNEX II

This Agreement is applicable to supplies of Danish capital equipment and services in the following areas:

1. Rural electrification
2. Water supply and
3. such other areas as may be mutually agreed upon between the Parties.

EXCHANGE OF LETTERS

I

Lagos, 29th March, 1971

With reference to the Agreement of to-day's date between the Federal Military Government of Nigeria and the Government of Denmark 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 Nigerian importer or prospective investor shall negotiate a contract, subject to the final approval of the Nigerian and the Danish authorities. No contract below 200,000 Danish Kroner, except for utilization of any final balance below that amount, shall be eligible for financing under the Agreement.

(2) The Federal Military Government of Nigeria 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 for fall within the framework of the 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 Federal Military Government of Nigeria of its findings.

(3) When the contracts have been approved, the Federal Military Government of Nigeria may draw on the Loan Account 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 payments have otherwise been complied with.

If the foregoing provisions are acceptable to the Federal Military Government of Nigeria, I have the honour to suggest that this letter and Your reply to it constitute an agreement between our two Governments on this matter.

For the Government of Denmark:

TROELS MUNK

Ambassador of Denmark

Chief Obafemi Awolowo
Federal Commissioner for Finance
Federal Ministry of Finance
Lagos

II

Lagos, 29th March, 1971

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

[*See letter I*]

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

For the Federal Military Government
of Nigeria:

OBAFEMI AWOLOWO

Federal Commissioner for Finance

H. E. Mr. Troels Munk,
Ambassador of Denmark,
Royal Danish Embassy
Lagos
