

No. 14588

DENMARK
and
DEMOCRATIC REPUBLIC OF VIET-NAM

Agreement on a Danish Government Loan to the Democratic Republic of Viet-Nam (with annexes and exchange of letters). Signed at Hanoi on 15 September 1975

Authentic text: English.

Registered by Denmark on 19 February 1976.

DANEMARK
et
RÉPUBLIQUE DÉMOCRATIQUE DU VIET-NAM

Accord relatif à un prêt du Gouvernement danois à la République démocratique du Viet-Nam (avec annexes et échange de lettres). Signé à Hanoi le 15 septembre 1975

Texte authentique : anglais.

Enregistré par le Danemark le 19 février 1976.

AGREEMENT¹ BETWEEN THE GOVERNMENT OF DENMARK AND THE GOVERNMENT OF THE DEMOCRATIC REPUBLIC OF VIET NAM ON A DANISH GOVERNMENT LOAN TO THE DEMOCRATIC REPUBLIC OF VIET NAM

The Government of Denmark and the Government of the Democratic Republic of Viet Nam, desiring to strengthen the traditional co-operation and cordial relations between their countries, have agreed that, as a contribution to the economic development of the Democratic Republic of Viet Nam a Danish Government Loan will be extended to the Democratic Republic of Viet Nam 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

Section 1. The Government of Denmark (hereinafter called the Lender) will make available to the Government of the Democratic Republic of Viet Nam (hereinafter called the Borrower) a Loan in an amount of one hundred fifty million Danish Kroner (150) for the purposes described in Article VI of this Agreement.

Section 2. The amount of the Loan shall be made available according to the following schedule: on date of signature of the present Agreement, 30 million Danish Kroner, after April 1, 1976, 60 million Danish Kroner, after April 1, 1977, 50 million Danish Kroner, and after April 1, 1978, 10 million Danish Kroner.

Article II. LOAN ACCOUNT

Section 1. An account designated "the Government of the Democratic Republic of Viet Nam Loan Account" (hereinafter called "Loan Account") will, at the Borrower's request, be opened with Denmark's National Bank (acting as agent for the Lender) in favour of the Bank for Foreign Trade of the Democratic Republic of Viet Nam which receives full authority from the State Bank of the Democratic Republic of Viet Nam (acting as agent for the Borrower). The Lender will ensure that sufficient funds are always available in the Loan Account in accordance with Article I, Section 2, to enable the Borrower to effect punctual payment for capital goods and services procured within the amount of the Loan.

Section 2. The Borrower shall be entitled, subject to the provisions of this Agreement, to withdraw from the Loan Account amounts needed for payment of capital goods and 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 fifty semiannual instalments of 3,000,000 Danish Kroner each, commencing on October 1, 1985 and ending on April 1, 2010.

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.

¹ Came into force on 15 September 1975 by signature, in accordance with article X (1).

Article V. PLACE OF PAYMENT

The Loan shall be repaid by the Borrower in Danish Kroner to Denmark's National Bank to the credit of the current account of the Danish Ministry of Finance with Denmark's National 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 the Democratic Republic of Viet Nam) of such Danish capital goods as are to be used for the project mentioned in Annex II.

Section 2. The Loan may also be used to pay for Danish services required for the implementation of the project mentioned in Annex II, including preliminary studies, preparation of plans, consultants during the implementation of the project and the construction of the factory, and technical and administrative assistance during the initial period of the undertaking 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 Project, of which such supplies and such services form part.

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 payment licenses or import licenses.

Section 8. Withdrawals from the Loan Account may take place, in accordance with the programme of financing mentioned in Article I, Section 2, in fulfilment of contracts which are approved within a period of three years after the entry into force of the Agreement or such other date as may be mutually agreed upon 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 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 COVENANTS

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 existing or future 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 Ministry for Foreign Trade,
Democratic Republic of Viet Nam,
Hanoi.

For the Lender with respect to disbursements:

Ministry of Foreign Affairs,
Danish International Development Agency,
Copenhagen.

Cablegrams:

Etrangeres Copenhagen.

For the Lender with respect to repayments:

Ministry of Finance,
Copenhagen.

Cablegrams:

Finans Copenhagen.

IN WITNESS WHEREOF the Parties hereto, acting through their duly authorized representatives, have caused this Agreement to be signed in two copies in the English language in Ha Noi on September 15th, 1975.

For the Government of Denmark:

JANUS AUGUST WORM PALUDAN
Extraordinary Plenipotentiary Ambassador

For the Government of the Democratic Republic of Viet Nam:

NGUYEN CO THACH
Vice-Minister for Foreign Affairs

A N N E X I

The following provisions shall govern the rights and obligations under the Agreement between the Government of Denmark and the Government of the Democratic Republic of Viet Nam on a Danish Government Loan to the Democratic Republic of Viet Nam (hereinafter called the Agreement), of which they are considered an integral part with the same force and effect as if they are 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.

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 claim 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.

A N N E X I I

This Agreement is applicable to supplies to the Democratic Republic of Viet Nam of machinery and equipment and services of Danish origin for the establishment of a cement factory in the Democratic Republic of Viet Nam.

EXCHANGE OF LETTERS

I

MINISTRY OF FOREIGN AFFAIRS OF DENMARK

Ha Noi, September 15th, 1975

Your Excellency,

With reference to the Agreement of today's date between the Government of Denmark and the Government of the Democratic Republic of Viet Nam, 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 Vietnamese importer or prospective investor shall negotiate a contract, subject to the final approval of the Vietnamese 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 Agreement.

(2) The Government of the Democratic Republic of Viet Nam will make available to the Danish Ministry of Foreign Affairs copies of the contracts concluded under this Agreement. The Ministry of Foreign Affairs 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 Government of the Democratic Republic of Viet Nam of its decision.

(3) When the contracts have been approved, the Government of the Democratic Republic of Viet Nam may draw on the Loan Account to effect payment of the consignment or the services 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 Denmark's 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 the Democratic Republic of Viet Nam, I have the honour to suggest that this letter and your reply to it constitute an agreement between our two Governments on this matter.

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

For the Government of Denmark:

JANUS AUGUST WORM PALUDAN
Extraordinary Plenipotentiary Ambassador

To His Excellency Nguyen Co Thach
Vice Minister for Foreign Affairs
of the Democratic Republic of Viet Nam

II

MINISTRY FOR FOREIGN AFFAIRS
DEMOCRATIC REPUBLIC OF VIET NAM

Ha Noi, September 15th, 1975

Your Excellency,

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.

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

For the Government
of the Democratic Republic of Viet Nam:

NGUYEN CO THACH
Vice-Minister for Foreign Affairs

To His Excellency Janus August Worm Paludan
Extraordinary Plenipotentiary Ambassador
of the Kingdom of Denmark
