

No. 17559

**SWITZERLAND
and
PERU**

Agreement on a financial assistance loan of 10 million Swiss francs (with protocol). Signed at Lima on 29 January 1976

Authentic texts: French and Spanish.

Registered by Switzerland on 15 February 1979.

**SUISSE
et
PÉROU**

Accord concernant un prêt d'aide financière de 10 millions de francs suisses (avec protocole). Signé à Lima le 29 janvier 1976

Textes authentiques : français et espagnol.

Enregistré par la Suisse le 15 février 1979.

[TRANSLATION — TRADUCTION]

AGREEMENT¹ BETWEEN THE GOVERNMENT OF THE SWISS CONFEDERATION AND THE GOVERNMENT OF THE REPUBLIC OF PERU ON A FINANCIAL ASSISTANCE LOAN OF 10 MILLION SWISS FRANCS

The Government of the Swiss Confederation, on the one hand, and the Government of the Republic of Peru, on the other,

Having regard to the friendly relations between the two countries, desirous of strengthening these relations through closer co-operation in the field of development, intending to promote further the economic development of the Republic of Peru, have agreed as follows:

Article 1. The Government of the Swiss Confederation (hereinafter called “the Lender”) shall make a loan of 10 million Swiss francs (ten million Swiss francs) to the Government of the Republic of Peru (hereinafter called “the Borrower”) for the financing of a dairy farming development programme with a view to improving the supply of milk in the region of Lima and Callao (hereinafter called “the Project”).

The Borrower shall undertake to ensure the financing of costs related to the investment stage of the Project in an amount of 30.4 million soles (thirty million four hundred thousand soles) and, for a period of 10 years, the operating costs of the Project in its implementation stage in an amount of approximately 600 million soles (six hundred million soles).

Article 2. The loan shall be used, under the Project, to finance the foreign exchange costs of livestock and capital goods, as well as local costs, as agreed between the Lender and the Borrower.

Article 3. The loan shall be put at the disposal of the Borrower on the terms of the clauses of the annexed Protocol, which constitutes an integral part of this Agreement.

Article 4. The Borrower shall pay interest at the rate of 2.5 per cent (two and a half per cent) per annum calculated on the balance of the loan.

Interest payments shall fall due on 30 June and 31 December of each successive year; the first payment shall be made at the close of the term during which the Lender has made the first payment.

Article 5. The Borrower shall undertake to repay the loan in 20 half-yearly installments of 500,000 Swiss francs (five hundred thousand Swiss francs) each, due every 30 June and 31 December of successive years beginning on 30 June 1986. If the first payment is made on a date later than June 1976, the grace period of 10 years shall be maintained. If the loan is not fully utilized in accordance with the provisions of article 10, a revised schedule of repayment shall be established by mutual agreement.

¹ Came into force on 26 May 1977 by an exchange of notes by which the two Governments notified each other of the completion of the formalities required under their respective laws, in accordance with article 14.

The Borrower reserves the option to refund its debt prematurely, integrally or partially.

Article 6. Interest payments and repayments of principal shall be made in free and effective Swiss francs to the Banque nationale suisse for the account of the Swiss Confederation.

Article 7. All payments made by the Borrower under this Agreement shall be exempt from taxes, levies, duties or other charges required under the laws of the Borrower in its territory.

Article 8. Except as the Borrower and the Lender may otherwise agree, the purchase of livestock and capital goods required for the Project mentioned in article 1 of this Agreement and to be financed out of the loan shall be made on the basis of international competition.

Conditions laid down under section II of the annexed Protocol shall apply to all supply contracts to be financed out of the loan.

Article 9. No proceeds of the loan shall be used for the payment of any taxes imposed under the laws of the Borrower.

Article 10. The Borrower may draw on the loan to make payments on contracts related to the Project over a period of five years from the entry into force of this Agreement, or until such date as may be agreed between the Contracting Parties.

Article 11. The Contracting Parties shall undertake to settle amicably, by means of diplomatic negotiations, any dispute as to the interpretation of the terms of application of the provisions of this Agreement. Should the dispute not have been settled within a period of six months, it shall, upon the request of either Party, be submitted to an arbitral tribunal of three members.

Each Contracting Party shall appoint one arbitrator. These two arbitrators shall nominate a third arbitrator as Chairman who shall be a national of a third State.

If either Contracting Party has not appointed its arbitrator and has not responded to the invitation of the other Contracting Party to make that appointment within two months, the arbitrator shall be appointed upon the request of that Contracting Party by the President of the International Court of Justice.

If the two arbitrators cannot come to an agreement about the choice of a third arbitrator (Chairman) within two months after their appointment, the latter shall be appointed, upon the request of either Contracting Party, by the President of the International Court of Justice.

If, in the cases specified under the third and fourth paragraphs of this article, the President of the International Court of Justice is prevented from carrying out the said function or if he is a national of either Contracting Party, the appointment shall be made by the Vice-President, and, if the latter is prevented or if he is a national of either Contracting Party, the appointment shall be made by the next senior Judge of the Court who is not a national of either Contracting Party.

Subject to other provisions made by the Contracting Parties, the tribunal shall determine its procedure. Each Contracting Party shall be responsible for half of the costs incurred by the arbitral tribunal.

The decisions of the tribunal shall be final and binding for each Contracting Party.

Article 12. The Borrower may, by notice to the Lender, cancel any amount of the loan which the Borrower shall not have withdrawn.

In the event of default by the Borrower in the fulfilment of any commitment or obligation under this Agreement, the Lender may suspend, in whole or in part, the right of the Borrower to make withdrawals from the loan.

If the default which entitled the Lender to suspend the Borrower's right to draw against the loan persists beyond a period of 60 days after the Lender's notice to the Borrower of the suspension, the Lender may at any time claim repayment of all withdrawals made from the loan.

Article 13. Any notices, requests or arrangements under this Agreement shall be communicated in writing to the authorities mentioned under section V of the annexed Protocol and shall, where appropriate, require only an exchange of notes for entry into force.

Article 14. This Agreement shall enter into force on the date on which both Governments shall have notified each other by an exchange of notes that the formalities required under their respective laws have been completed.

DONE at Lima on 29 January 1976, in four originals, two in the French language and two in the Spanish language, each text being equally authentic.

For the Government
of the Swiss Confederation:

WILLIAM FREI
[Ambassador of Switzerland
to Peru]¹

For the Government
of the Republic of Peru:

MIGUEL ANGEL DE LA FLOR VALLE
[Major-General, EP
Minister of Foreign Affairs]¹

PROTOCOL OF APPLICATION TO THE AGREEMENT BETWEEN THE
GOVERNMENT OF THE SWISS CONFEDERATION AND THE GOV-
ERNMENT OF THE REPUBLIC OF PERU ON A FINANCIAL ASSIST-
ANCE LOAN OF 10 MILLION SWISS FRANCS

With reference to the Agreement signed this day between the Government of the Swiss Confederation and the Government of the Republic of Peru on a financial assistance loan of 10 million Swiss francs to the Government of the Republic of Peru, the two Contracting Parties have agreed as follows:

I. USE OF THE LOAN

The Borrower shall use the loan to finance investments required to establish units for dairy production and units for the breeding of dairy cattle by granting credits to enterprises preferably of the co-operative type. The purpose of such

¹ The text between brackets appears only in the authentic Spanish text — Le texte entre crochets n'apparaît que dans le texte authentique espagnol.

production and breeding units shall be to increase dairy production in the areas in which the loan is to be used, with a view to improving the supply of milk in the area of Lima and Callao and reducing imports of dairy products.

The size and location of each production and breeding unit shall be determined by the Borrower on the basis of the economic, technical, sanitary and management factors which are decisive for the optimum achievement of the purposes of the production and breeding units. The Borrower shall, in particular, ensure that the size of the production and breeding units is suited to the technical and economic potential of the beneficiary entities.

The proceeds of the loan shall be allocated as follows:

- a) Purchase of heifers, preferably gravid, for the dairy production units (approximately 1,750 head) and gravid heifers for the dairy cattle breeding units (approximately 250 head) to a value of at least 7 million Swiss francs (seven million Swiss francs);
- b) Purchase of equipment and machinery required for the proper functioning of the production and breeding units;
- c) Development of the infrastructure (buildings, cattlesheds, etc.) required for the production and reproduction units.

The loan may be used up to an amount not exceeding 2 million Swiss francs (two million Swiss francs) for the financing of local costs.

II. PROCUREMENT PROCEDURES AS TO GOODS

1. *Procurement procedure as to livestock and capital goods to be imported*

Before international bids are invited, the Borrower shall transmit to the Lender the text of the invitations to bid and the specifications and other bidding documents, together with a description of the advertising procedure to be followed; the Borrower shall make such modifications in the said procedure or documents as the Lender reasonably requests.

Any further modification to the bidding documents shall require the Lender's concurrence before it is issued to the prospective bidders.

The results of the invitation to bid shall immediately be transmitted to the Lender for its review. Where the agreed procedures have not been strictly followed, the Lender shall not be bound to make payments in respect of such procurement. If, within a period of 15 days, the Lender has not transmitted its comments, the Lender shall be considered to have accepted the results. After its signature, two copies of the contract shall be sent promptly to the Lender.

2. *Procurement procedure as to capital goods purchased locally*

Local procurement of capital goods shall be made in accordance with the regulations in force for development loans, under the supervision of the Banco de Fomento Agropecuario del Perú representing the Borrower; the Borrower shall inform the Lender of such procurement.

III. CONSULTATION PROCEDURE

The two Contracting Parties shall co-operate fully to ensure that the purposes of the loan will be accomplished. In particular, the Borrower shall submit for the Lender's approval a detailed plan of operation relating to the implementation of the Project before the entry into force of the Agreement. Furthermore, the two Contracting Parties shall, from time to time, at the request of either Contracting Party:

- Exchange views through their representatives with regard to the performance of their respective obligations under this Agreement, the administration and execution of the Project and any other matters related to the purposes of the loan;
- Transmit to the other Contracting Party all such information as it may reasonably request with regard to the general situation of the loan and the execution of the Project.

The Borrower shall, in particular, enable the representatives of the Lender to inspect the Project, the goods financed out of the proceeds of the loan, and any relevant records and documents.

The two Contracting Parties shall promptly inform each other of any impediment which may arise with regard to the accomplishment of the purposes of the loan, the maintenance of the services thereof or the performance by either of them of its obligations under this Agreement.

IV. OPENING OF THE CREDIT AND PAYMENT PROCEDURES

The Lender shall open immediately after the Agreement has entered into force, with the Banque nationale suisse in Zurich, an account denominated "Peru Financial Assistance Loan—Development programme for the dairy industry" in favour of the Banco de la Nación acting on behalf of the Republic of Peru.

This account shall be credited in three installments: the first installment of 4 million Swiss francs (four million Swiss francs) immediately after the entry into force of the Agreement, the second installment of 4 million Swiss francs (four million Swiss francs) on 31 January 1977 and the third installment of 2 million Swiss francs (two million Swiss francs) on 31 January 1978.

The Banco de la Nación shall, when making payments from this account under the terms of the contracts executed in accordance with section II above to suppliers in countries other than Switzerland, request the Banque nationale suisse in Zurich, or another Swiss bank if the Banque nationale suisse so prefers, to make payments in other appropriate currencies.

The part of the loan to be used for the financing of local costs shall be paid by the Lender in installments on the basis of detailed requests submitted by the Borrower.

V. AUTHORITIES IN CHARGE OF THE IMPLEMENTATION OF THE AGREEMENT AND EXECUTION OF THE PROJECT

The authorities in charge of the implementation of the Agreement and execution of the Project shall be:

—On the Swiss side, the Delegate of the Swiss Federal Council for Technical Co-operation (cable address: Politique Berne);

—On the Peruvian side, the Ministry of Economy and Finance (cable address: MINDEF) and the Ministry of Food (cable address: MINALIMENTACIÓN) for the implementation of the Project.

This Protocol is an integral part of the Agreement, signed this day between the Government of the Swiss Confederation and the Government of the Republic of Peru, on a financial assistance loan of 10 million Swiss francs to the Government of the Republic of Peru.

DONE at Lima on 29 January 1976, in four originals, two in the French language and two in the Spanish language, each text being equally authoritative.

For the Government
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