

No. 19451

**FEDERAL REPUBLIC OF GERMANY
and
SWAZILAND**

**Agreement concerning financial assistance. Signed at
Mbabane on 15 February 1978**

Authentic texts: German and English.

Registered by the Federal Republic of Germany on 1 December 1980.

**RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE
et
SWAZILAND**

Accord d'aide financière. Signé à Mbabane le 15 février 1978

Textes authentiques : allemand et anglais.

Enregistré par la République fédérale d'Allemagne le 1^{er} décembre 1980.

AGREEMENT¹ BETWEEN THE GOVERNMENT OF THE KINGDOM OF SWAZILAND AND THE GOVERNMENT OF THE FEDERAL REPUBLIC OF GERMANY CONCERNING FINANCIAL ASSISTANCE

The Government of the Kingdom of Swaziland and the Government of the Federal Republic of Germany,

In the spirit of the friendly relations existing between the Kingdom of Swaziland and the Federal Republic of Germany,

Desiring to strengthen and intensify those friendly relations by fruitful co-operation in the field of development assistance,

Aware that the maintenance of those relations constitutes the basis of the present Agreement,

Intending to contribute to economic and social development in the Kingdom of Swaziland,

Have agreed as follows:

Article 1. (1) The Government of the Federal Republic of Germany shall enable the Government of the Kingdom of Swaziland or other borrowers to be jointly selected by the two Governments to raise with the Kreditanstalt für Wiederaufbau (Development Loan Corporation), Frankfurt/Main, a loan up to a total of DM 42,000,000 (forty-two million Deutsche Mark) for the construction of the Fairview Dam and a main irrigation canal for the Third Sugar Mill Project.

(2) The Government of the Federal Republic of Germany shall in addition enable the Deutsche Gesellschaft für wirtschaftliche Zusammenarbeit mbH (German Company for Economic Cooperation, hereinafter referred to as DEG), Cologne, to participate in the "Third Sugar Mill Project" with a financing contribution of 4 million Emalangeni (up to 11.2 million Deutsche Mark) to be utilized as follows:

- a) 2 million Emalangeni (up to 5.6 million Deutsche Mark) to acquire an interest in the equity of the project company, the Royal Swaziland Sugar Corporation Ltd., and
- b) 5.6 million Deutsche Mark in the form of a loan with equity features to be granted to the Royal Swaziland Sugar Corporation Ltd.

(3) The Government of the Federal Republic of Germany shall make available on a trust basis up to 5.6 million Deutsche Mark to the DEG for the purpose of acquiring an interest in the equity of the Royal Swaziland Sugar Corporation Ltd. pursuant to paragraph 2 (a) above.

The loan with equity features referred to in paragraph 2 (b) above shall be provided from the DEC's own funds.

Article 2. (1) The utilization of the loan referred to in Article 1 (1) above as well as the terms and conditions on which it is granted shall be governed by the provisions of the agreements to be concluded between the borrower and the Kreditanstalt

¹ Came into force on 15 February 1978 by signature, in accordance with article 8.

für Wiederaufbau, which shall be subject to the laws and regulations applicable in the Federal Republic of Germany.

(2) The interest of the DEG referred to in article 1 (2) of the present Agreement shall be acquired pursuant to the joint-venture agreement concluded on 9 December 1977.

(3) The Government of the Kingdom of Swaziland, to the extent that it is not itself the borrower, shall guarantee to the Kreditanstalt für Wiederaufbau all payments in Deutsche Mark to be made in fulfilment of the borrower's liabilities under the agreements to be concluded pursuant to paragraph 1 above.

(4) With regard to the interest referred to in article 1 (2) of the present Agreement, the Government of the Kingdom of Swaziland shall guarantee the free transfer of all payments to be made under the joint-venture agreement pursuant to paragraph 2 above and under the memorandum and articles of association, as well as the free transfer of the capital, of the returns from it, and, in the event of sale or liquidation, of the proceeds therefrom.

Article 3. The Government of the Kingdom of Swaziland shall exempt the Kreditanstalt für Wiederaufbau and the DEG from all taxes and other public charges levied in the Kingdom of Swaziland at the time of the conclusion or during the implementation of the agreements referred to in article 2 of the present Agreement and, in the event of sale or liquidation, levied on the proceeds therefrom. This exemption shall not apply to withholding tax levied on the project company.

Article 4. The Government of the Kingdom of Swaziland shall allow passengers and suppliers free choice of transport enterprises for such transportation by sea or air of persons and goods as results from the granting of the loan, abstain from taking any measures that might exclude or impair the participation on equal terms of transport enterprises having their place of business in the German area of application of the present Agreement, and grant permits for the participation of such enterprises as required.

Article 5. Supplies and services for projects financed from the loan shall, unless otherwise provided for in individual cases, be subject to international public tender.

Article 6. With regard to supplies and services resulting from the granting of the loan, the Government of the Federal Republic of Germany attaches particular importance to preference being given to making use of the economic potential of Land Berlin.

Article 7. With the exception of those provisions of article 4 which refer to air transport, this Agreement shall also apply to Land Berlin, provided that the Government of the Federal Republic of Germany does not make a contrary declaration to the Government of the Kingdom of Swaziland within three months of the date of entry into force of this Agreement.

Article 8. The present Agreement shall enter into force on the date of signature thereof.

DONE at Mbabane on 15 February 1978 in duplicate in the English and German languages, both texts being equally authentic.

[Signed — Signé]¹

For the Government
of the Kingdom of Swaziland

[Signed — Signé]²

For the Government
of the Federal Republic of Germany

¹ Signed by R. P. Stephens — Signé par R. P. Stephens.

² Signed by Weindel — Signé par Weindel.