

No. 19957

**DENMARK
and
SENEGAL**

Loan Agreement concerning a loan by the Kingdom of Denmark to the Republic of Senegal (with annexes and exchange of letters). Signed at Copenhagen on 21 August 1980

Authentic text: French.

Registered by Denmark on 19 June 1981.

**DANEMARK
et
SÉNÉGAL**

Accord de prêt relatif à un prêt du Royaume de Danemark à la République du Sénégal (avec annexes et échange de lettres). Signé à Copenhague le 21 août 1980

Texte authentique : français.

Enregistré par le Danemark le 19 juin 1981.

[TRANSLATION — TRADUCTION]

LOAN AGREEMENT¹ BETWEEN THE GOVERNMENTS OF THE KINGDOM OF DENMARK AND THE REPUBLIC OF SENEGAL CONCERNING A LOAN BY THE KINGDOM OF DENMARK TO THE REPUBLIC OF SENEGAL

The Government of the Kingdom of Denmark and the Government of the Republic of Senegal, desiring to strengthen the traditional co-operation and cordial relations existing between their countries, have agreed that within the framework of the economic development of Senegal a Danish Government loan shall be extended to Senegal in accordance with the following provisions of this Agreement and of its annexes which constitute an integral part thereof:

Article I. THE LOAN

The Government of Denmark (hereinafter referred to as “the lender”) shall grant the Government of Senegal (hereinafter referred to as “the borrower”) a loan of fifty-five (55) million Danish kroner for the purposes described in article VI below.

Article II. LOAN ACCOUNT

(1) An account designated “Senegalese Government Loan Account No. 4” (hereinafter referred to as “the loan account”) shall be opened with the Danmarks Nationalbank (acting as agent for the lender) in favour of the Ministry of the Economy and Finance (acting as agent for the borrower). The lender shall ensure that sufficient funds are always available in the loan account to enable the borrower to effect punctual payment for capital goods and services provided within the framework of the loan.

(2) The borrower (or the Ministry of the Economy and Finance) shall be entitled, in accordance with the provisions of this Agreement, to withdraw from the loan account amounts needed for payment of capital goods or services provided within the framework of the loan.

Article III. RATE OF INTEREST

The loan shall be free of interest.

Article IV. REPAYMENTS

(1) The borrower undertakes to repay the loan in 35 half-yearly instalments each in the amount of 1,550,000 Danish kroner, the first instalment to be paid on 1 October 1987, the last instalment on 1 October 2004, and the final balance of 750,000 Danish kroner on 1 April 2005.

(2) If the loan is not fully utilized in accordance with the provisions of article VI, paragraph 8, a revised amount for the half-yearly instalments shall be established by mutual agreement between the borrower and the lender.

¹ Came into force on 21 August 1980 by signature, in accordance with article X (1).

Article V. PLACE OF PAYMENT

The borrower undertakes to repay the loan to the Danmarks Nationalbank in convertible Danish kroner, crediting the current account of the Danish Ministry of Foreign Affairs with the Danmarks Nationalbank.

Article VI. USE OF THE LOAN BY THE GOVERNMENT OF SENEGAL

(1) The borrower shall use the loan to finance imports from Denmark (inclusive of transport costs from Denmark to Senegal) of capital goods of Danish origin to be used for the projects mentioned in annex II to this Agreement.

(2) The loan may also be used to pay for Danish services required for the implementation of the projects mentioned in annex II, including, in particular, pre-investment studies, preparation of projects, provision of consultants dealing with the implementation of projects or the assembly or construction of plants or buildings, and technical and administrative assistance while undertakings established by means of the loan are being set up.

(3) All contracts to be financed under the loan shall be subject to approval by the borrower and the lender.

(4) The lender, in approving a contract within the framework of the loan, shall not assume any responsibility for the proper performance or fulfilment of such contract.

Nor shall the lender be responsible for the efficient use of goods and services financed by the loan or for the proper operation of the projects, etc., for which such goods and services were provided.

(5) A contract within the framework of the loan shall contain no provisions whereby the Danish exporter provides special credit facilities.

(6) The loan may be used only for payment of capital goods and services contracted for after the entry into force of this Agreement, unless the borrower and the lender have agreed otherwise.

(7) The loan may not be used for payment to the borrowing country of any customs duty, tax or other national or public charge such as import surcharges, duties to compensate for domestic excise taxes, or charges or deposits in connection with the issue of payments licences or import licences.

(8) The borrower may make withdrawals from the Danmarks Nationalbank account mentioned in article II to fulfil contracts approved by the lender and the borrower for a period of up to three years from the date of entry into force of the Agreement or such other date as may be set by mutual agreement between the lender or the borrower.

Article VII. NON-DISCRIMINATION

(1) With 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.

(2) All shipments of capital goods covered by this Agreement shall be in keeping with the principle of free circulation of all ships in international trade in free and fair competition.

Article VIII. MISCELLANEOUS PROVISIONS

(1) Prior to the first drawing against the account referred to in article II, the borrower shall satisfy the lender that all constitutional or other legal provisions in the

borrower's home country have been met, so that this Agreement will constitute an obligation legally binding on the borrower.

(2) The borrower shall inform the lender of any persons who are authorized to act on behalf of the Borrower and shall supply authenticated specimen signatures of each of these persons.

(3) In the case of competitive bidding for contracts to be financed under the loan, the borrower shall send the lender, for transmittal to potential bidders, all material relevant to the bidding.

(4) Any notices, requests or arrangements under this Agreement shall be made in writing.

Article IX. SPECIAL PROVISIONS

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's country. The Agreement shall be free from any taxes imposed under the existing or future laws of the borrower's country whether in connection with the issue, execution, registration or entry into force of the Agreement, or otherwise.

Article X. DURATION OF THE AGREEMENT

(1) This Agreement shall enter into force on the date of its signature.

(2) The Agreement shall terminate immediately upon total repayment of the principal.

Article XI. ADDRESSES

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

For the borrower:

The Ministry of the Economy and Finance
Dakar

Telegrams:

Minifinance Senegal

For the lender, with respect to disbursements and to payment of the half-yearly instalments:

The Ministry of Foreign Affairs
Department of International Co-operation Development
Asiatisk Plads 2
1448 Copenhagen

Telegrams:

Etrangères Copenhagen

For the lender, with respect to the transmittal of bidding materials:

The Ministry of Foreign Affairs
Department of Trade Relations
Asiatisk Plads 2
1448 Copenhagen

Telegrams:

Etrangères Copenhagen

IN WITNESS WHEREOF the duly authorized representatives of the lender and the borrower have signed this Agreement, in two copies in the French language, at Copenhagen on 21 August 1980.

For the Government of the Kingdom of Denmark:

MOGENS ISAKSEN

For the Government of the Republic of Senegal:

CHEIKH LEYE

ANNEX I

The following provisions shall govern the rights and obligations under the Agreement between the Governments of the Kingdom of Denmark and the Republic of Senegal concerning a Danish Government loan to Senegal (hereinafter referred to as "the Agreement"). They shall be considered an integral part of the Agreement with the same form and effect as if they were contained therein.

Article I. CANCELLATION AND SUSPENSION

(1) The borrower may, by giving notice to the lender, cancel any amount of the loan which the borrower has not withdrawn.

(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 circumstances which entitled the lender to suspend the borrower's right to make withdrawals from the account persist beyond a period of 60 days after the lender has given notice to the borrower of the suspension, the lender may at any time demand immediate repayment of all withdrawals made from the loan account, notwithstanding any provisions to the contrary, in the Agreement unless the basis for the suspension has ceased to exist.

(3) Any cancellation or suspension notwithstanding, all the provisions of the Agreement shall remain in force and effect except as specifically provided in this article.

Article II. SETTLEMENT OF DISPUTES

(1) Any dispute between the lender and the borrower arising out of the interpretation or implementation of this Agreement and which cannot be settled within six months through the diplomatic channel shall, at the request of either Party, be submitted to an arbitral tribunal consisting of three members. The chairman of the tribunal shall be a national of a third country and shall be appointed by mutual agreement between the lender and the borrower. 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 shall appoint its own arbitrator; if either a party refrains from appointing an arbitrator, the latter may be appointed by the chairman of the tribunal.

(2) Each Contracting Party shall observe and carry out the decision rendered by the tribunal.

ANNEX II

I. The loan shall be used for the implementation of the following projects:

- (a) Construction of a diesel-run electric power station at Ziguinchor;
- (b) Construction, in two villages, of self-contained smaller capacity electric power stations;
- (c) Construction of power transmission lines;
- (d) Spare parts for equipment provided under earlier government loans;
- (e) Detailed study of the electrification project and overseeing of work.

II. Any proposal by the Government of the Republic of Senegal involving substantial changes in the plans for the implementation of the above-mentioned projects, and any proposal by the Government of the Republic of Senegal involving the replacement of one or more of these projects by new projects, shall require the approval of the Government of the Kingdom of Denmark.

EXCHANGE OF LETTERS

I

Copenhagen, 21 August 1980

Sir,

With reference to the Agreement of today's date between the Governments of the Kingdom of Denmark and the Republic of Senegal concerning a development loan (hereinafter referred to as "the Agreement"), I have the honour to propose that the following provisions shall govern the implementation of article VI of the Agreement.

Payments made by drawing on the loan account shall be effected in the following manner:

(1) The Danish exporter or consultant and the Senegalese importer or the prospective Senegalese investor shall negotiate a contract, subject to the final approval of the Senegalese and Danish authorities. No contract below 200,000 kroner shall be eligible for financing under the Agreement except in the case of utilization of any final balance below that amount.

(2) The Government of Senegal shall make available to the Danish Ministry of Foreign Affairs copies of the contracts concluded under the Agreement. The Ministry of Foreign Affairs shall ascertain, *inter alia*, that:

- (a) The commodities or services covered by the contract fall within the framework of the Agreement;
- (b) The capital goods involved have been manufactured in Denmark, or the services to be rendered will be performed by persons carrying on business in Denmark; and shall notify the Government of the Republic of Senegal of its findings.

(3) When the contracts have been approved, the Government of the Republic of Senegal may draw on the loan account opened with Danmarks Nationalbank with a view to effecting payment of the consignment of goods or the services referred to in the contract. Disbursements from this account for payments to Danish exporters or consultants shall be subject to presentation of the necessary documents once the Danmarks Nationalbank has ascertained that all the conditions for making such disbursements have been fulfilled.

If the Government of the Republic of Senegal is able to accept the foregoing provisions, I have the honour to propose that this letter and your reply shall constitute an agreement between our two Governments.

Accept, Sir, etc.

For the Government
of the Kingdom of Denmark:

MOGENS ISAKSEN

His Excellency Mr. Cheikh Leye
Ambassador of the Republic of Senegal
Stockholm

II

Copenhagen, 21 August 1980

Sir,

I have the honour to acknowledge receipt of your letter of today's date, reading as follows:

[*See letter I*]

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

Accept, Sir, etc.

For the Government
of the Republic of Senegal:

CHEIKH LEYE

His Excellency Mr. Mogens Isaksen
Ambassador
Assistant Director General of Danida
The Ministry of Foreign Affairs
