

**No. 17099**

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**DENMARK  
and  
BENIN**

**Loan Agreement (with annexes and exchange of letters).  
Signed at Bonn on 1 March 1978**

*Authentic text: French.*

*Registered by Denmark on 26 September 1978.*

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**DANEMARK  
et  
BÉNIN**

**Accord de prêt (avec annexes et échange de lettres). Signé à  
Bonn le 1<sup>er</sup> mars 1978**

*Texte authentique : français.*

*Enregistré par le Danemark le 26 septembre 1978.*

## [TRANSLATION — TRADUCTION]

LOAN AGREEMENT<sup>1</sup> BETWEEN THE GOVERNMENTS OF THE  
KINGDOM OF DENMARK AND THE PEOPLE'S REPUBLIC OF  
BENIN

The Government of the Kingdom of Denmark and the Government of the People's Republic of Benin, 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 Benin, a Danish Government Loan shall be extended to the People's Republic of Benin 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 the People's Republic of Benin (hereinafter referred to as the Borrower) a Loan of 50 (fifty) million Danish kroner for the purposes described in article VI below.

*Article II. LOAN ACCOUNT*

(1) An account designated "Loan Account No. 3 for the Government of the People's Republic of Benin" (hereinafter referred to as "the Loan Account") shall be opened with Danmarks Nationalbank (acting as agent for the Lender) in favour of the Banque béninoise pour le développement (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 Banque béninoise pour le développement) 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 50 half-yearly instalments each in the amount of 1,000,000 Danish kroner, the first instalment to be paid on 1 April 1988 and the last instalment on 1 October 2012.

(2) If the Loan is not fully utilized in accordance with the provisions of article VI, paragraph 9, a revised amount for the half-yearly instalments shall be established by mutual agreement between the Borrower and the Lender.

<sup>1</sup> Came into force on 1 March 1978 by signature, in accordance with article X (1).

*Article V. PLACE OF PAYMENT*

The Borrower undertakes to repay the Loan to Danmarks Nationalbank in convertible Danish kroner to the credit of the current account of the Ministry of Finance with Danmarks Nationalbank.

*Article VI. USE OF THE LOAN BY THE GOVERNMENT  
OF THE PEOPLE'S REPUBLIC OF BENIN*

(1) The Borrower shall use the Loan to finance imports from Denmark (including costs of transport from Denmark to Benin) of capital goods to be used for identifiable projects which are necessary for the achievement of Benin's economic development (as specified in the attached list to which amendments or additions may be made by mutual agreement between the Borrower and the Lender).

(2) The Loan may also be used to pay for Danish services required for the implementation of development projects in Benin including, in particular, pre-investment studies, preparation of plans, provision of consultants dealing with 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.

(3) A proportion of the Loan not exceeding 25 per cent may be used for the purpose of financing local cost expenditures and purchases of non-Danish capital equipment which are related to projects for which contracts for supplies of Danish capital equipment or services have been approved by the Lender for financing within the framework of this Loan. The total amount drawn for the financing of such costs cannot at any time exceed  $33\frac{1}{3}$  per cent of the total amount for which contracts for supplies of Danish capital equipment and services have been approved by the Lender for financing within the framework of this Loan.

(4) All contracts to be financed under the Loan shall be subject to approval by the Borrower and the Lender.

(5) 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 supplies and services financed under the Loan or for the proper operation of the projects, etc., for which such supplies have been delivered and such services have been rendered.

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

(7) The Loan may be used only for payment of capital goods and services contracted for after the entry into force of the Agreement, unless the Borrower and the Lender agree otherwise.

(8) 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, charges or deposits in connexion with the issue of payments licences or import licences.

(9) The Borrower may make withdrawals from the Account at Danmarks Nationalbank mentioned in article II for the fulfilment of contracts which are approved by the Lender and the Borrower within a period of up to three years after the date of entry into force of the Agreement or such other date as may be set by mutual agreement between the Lender and 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 persons who are authorized to take any action on behalf of the Borrower, and supply authenticated specimen signatures of all such persons.

(3) In the case of an invitation to bid for contracts to be financed under the Loan, the Borrower shall send the Lender full documentation on the invitation to bid so that the documents can be forwarded to all interested tenderers.

(4) Any notices, requests or arrangements 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 borrowing country. The Agreement shall be free from any taxes imposed under existing or future laws of the borrowing country in connexion 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 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:  
Ministry of Economy and Finance  
B.P. No. 302  
Cotonou

Cablegrams:  
Telex 5252 MINECOP

For the Lender, with respect to disbursements:

The Ministry of Foreign Affairs  
Department of International Development Co-operation  
Copenhagen

Cablegrams:

ETRANGERES COPENHAGEN

For the Lender, with respect to the forwarding of documentation on invitations to bid:

The Ministry of Foreign Affairs  
Department of Commercial Relations  
Copenhagen

Cablegrams:

ETRANGERES COPENHAGEN

For the Lender, with respect to payment of the half-yearly instalments:

The Ministry of Finance  
Copenhagen

Cablegrams:

FINANS 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 Bonn on 1 March 1978.

For the Government of the Kingdom of Denmark:

T. V. A. OLDENBURG

For the Government of the People's Republic  
of Benin:

ADJIBADE

#### ANNEX I

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

##### *Article I. CANCELLATION AND SUSPENSION*

(1) The Borrower may, by notice to the Lender, cancel any amount of the Loan which the Borrower shall not have 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'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 for the suspension has ceased to exist.

(3) Notwithstanding any cancellation or suspension, all the provisions of the Agreement shall continue 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, 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 a Party abstains 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

This Agreement shall apply to supplies to Benin of machinery and capital goods of Danish origin and services provided from Denmark for:

- (1) Water supply projects for the towns of Allada, Aplahoué-Azové, Dassa-Zoumé, Djougou, Kandi and Kétou;
- (2) Electrification projects for the towns of Allada, Aplahoué-Azové, Djougou, Kandi, Kétou and Zagnanada;
- (3) Sewage treatment works for the town of Cotonou.

#### EXCHANGE OF LETTERS

##### I

Bonn, 1 March 1978

Sir,

With reference to the Agreement of today's date between the Governments of the Kingdom of Denmark and the People's Republic of Benin 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 Beninese importer or the prospective Beninese investor shall negotiate a contract, subject to the final approval of the Beninese and Danish authorities. No contract below 200,000 Danish 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 the People's Republic of Benin 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 equipment involved has 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 People's Republic of Benin of its findings.

(3) When the contracts have been approved, the Government of the People's Republic of Benin may draw on the Loan Account opened with Danmarks Nationalbank with a view to effecting payment of the consignment or services referred to in the contract. Disbursement from this Account for payments to Danish exporters or consultants shall be subject to presentation of the necessary documents when Danmarks Nationalbank has ascertained that the conditions for making such disbursements have been complied with.

If the Government of the People's Republic of Benin 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:

T. V. A. OLDENBURG

His Excellency Mr. Tiamiou Adjibade  
Ambassador of the People's Republic  
of Benin  
Bonn

## II

Bonn, 1 March 1978

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 People's Republic  
of Benin:

ADJIBADE

His Excellency Mr. T. V. A. Oldenburg  
Ambassador of the Kingdom of Denmark  
Bonn