No. 9461

DENMARK
and
MALAWI

Agreement on a Second Danish Government loan to Malawi (with annex and exchanges of letters). Signed at Zomba on 16 December 1968

Authentic text: English.

Registered by Denmark on 6 March 1969.

DANEMARK
et
MALAWI

Accord relatif à un deuxième prêt du Gouvernement danois au Malawi (avec annexe et échanges de lettres). Signé à Zomba le 16 décembre 1968

Texte authentique: anglais.

Enregistré par le Danemark le 6 mars 1969.

AGREEMENT[1] BETWEEN THE GOVERNMENT OF DENMARK AND THE GOVERNMENT OF MALAWI ON A SECOND DANISH GOVERNMENT LOAN TO MALAWI

The Government of Denmark and the Government of Malawi, desiring to strengthen the traditional co-operation and cordial relations between their countries, have agreed that, as a contribution to Malawi's Development Plans, a Second Danish Government Loan[2] will be extended to Malawi in accordance with the following provisions :

Article I

THE LOAN

The Government of Denmark (hereinafter called the Lender) agrees to make available to the Government of Malawi (hereinafter called the Borrower) a development Loan in an amount of 15 (fifteen) million Danish Kroner for the realization of the purposes described in Article VI of this Agreement.

Article II

LOAN ACCOUNT

Section 1. An account designated " Government of Malawi Second Loan Account " (hereinafter called " Loan Account ") will be opened with Danmarks Nationalbank (acting as agent for the Lender) in favour of the Reserve Bank of Malawi (acting as agent for the Borrower). The Lender will ensure that sufficient funds are always available in the Loan Account to enable the Borrower to effect punctual payment for goods and services procured under this Loan, provided that the amounts successively made available to the Borrower shall not, in the aggregate, exceed the Loan amount specified in Article I.

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 equipment or services procured under the Loan.

Article III

RATE OF INTEREST

The Loan will be free of interest.

[1] Came into force on 16 December 1968 by signature, in accordance with article XIII (1).

[2] For the Agreement relating to the First Loan, see United Nations *Treaty Series*, vol. 586, p. 3.

Article IV

REPAYMENT

Section 1. The Borrower will repay to the Lender the principal of the loan withdrawn from the Loan Account in 35 (thirty-five) semi-annual instalments of 420,000 (four hundred and twenty thousand) Danish Kroner each, commencing on April 1st, 1976, and ending on April 1st, 1993, and the final instalment of 300,000 (three hundred thousand) Danish Kroner on October 1st, 1993.

Section 2. The Borrower has the right to repay in advance of maturity all or any part of the principal amount of one or more maturities of the Loan specified by the Borrower with such variations in the amount of instalments as may thereby be rendered necessary.

Article V

PLACE OF PAYMENT

The principal of the Loan will be repaid by the Borrower in convertible Danish Kroner to Danmarks Nationalbank 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 MALAWI

Section 1. The Borrower will use the proceeds of the Loan to finance imports (including if necessary transport charges from Denmark to Malawi) of Danish capital equipment required for the implementation of Malawi's development projects as included in the annexed list, which may be changed or extended by mutual consent.

Section 2. The proceeds of the Loan may also be used to pay for Danish services required for the implementation of Malawi's Development Plans, including in particular, pre-investment studies, preparation of projects and the provision of consultants during the implementation of the projects, or during the assembly or construction of plant or buildings, and technical and administrative assistance during the initial period of the undertakings established by means of the Loan.

Section 3. A proportion of the Loan not exceeding 25 per cent may be drawn for the purpose of financing non-Danish capital investment costs related to the projects for which Danish capital equipment is procured under this Agreement, provided that (*a*) contracts for supplies of the Danish capital equipment have been approved by the Lender, and (*b*) the amount thus utilized does not exceed $33^1/_3$ per cent of the value of the Danish capital equipment procured for all projects.

Section 4. The Borrower will cause the proceeds of the Loan to be applied exclusively to the provision of goods and services needed to implement contracts approved by both Parties. The particulars of the methods and procedures for the payment of such goods and services, beyond those already set forth in Article II, shall be determined by agreement between Borrower and Lender.

Section 5. The concurrence of the Lender as to the eligibility of a contract under the Loan shall not be interpreted in such a manner as to imply that the Lender takes upon him any responsibility for the proper implementation or subsequent operation of such contracts.

Section 6. The terms of payment stipulated in contracts or documentation to the effect that an order has been placed with a Danish exporter or contractor for supplies or services of the nature described above shall be considered as normal and proper whenever such contracts contain no clauses involving special credit facilities from Danish exporters or contractors.

Section 7. The proceeds of the Loan may be used only for payment of supplies and services contracted for after the entry into force of the Agreement.

Section 8. The Borrower may draw on the account with Danmarks Nationalbank referred to in Article II to implement contracts which have been approved by the two Parties within a period of three years from the date of the entry into force of the Agreement or such other date as shall be agreed by the Lender and the Borrower.

Section 9. If the proceeds of the Loan have not been fully utilized within the time limit stipulated in Section 8 above, the semi-annual repayments shall be reduced by a proportion equal to the ratio between the unutilized amount of the Loan and the principal of the Loan.

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 equipment 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 requirements and other requirements laid down by statute in the Borrower's home country have been met so that this Loan Agreement will constitute a valid obligation binding on the Borrower in the terms of the Loan Agreement.

Section 2. The Borrower will furnish to the Lender evidence of the authority of the person or persons who will, on behalf of the Borrower, take any action or execute any documents under this Agreement, and authenticated specimen signatures of all such persons.

Section 3. Any notice or request made under this Agreement and any agreement between the parties contemplated by this Agreement shall be in writing. Such notice or request shall be deemed to have been duly given or made when it has been delivered by hand or by mail, telegram, cable or radiogram to the party at such party's address specified in Article XIV, or at such address as such party shall have indicated by notice to the party giving such notice or making such request.

Article IX

PARTICULAR COVENANTS

The principal of 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 the laws of the Borrower, or laws in effect in its territories or in connection with the execution, issue, delivery or registration thereof.

Article X

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.