

REPUBLIC OF VANUATU

THE LOAN AGREEMENT BETWEEN THE REPUBLIC OF VANUATU AND
THE BANQUE INDOSUEZ HONG KONG (RATIFICATION) ACT No. 24 OF 1983

Arrangement of Sections

1. Ratification.
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The Schedule.

REPUBLIC OF VANUATU

BILL FOR
THE LOAN AGREEMENT BETWEEN THE REPUBLIC OF VANUATU AND
THE BANQUE INDOSUEZ HONG KONG (RATIFICATION) ACT No. 24 OF 1983

To ratify a loan agreement made the first day of August 1983 between the Republic of Vanuatu and the Banque Indosuez Hong Kong.

BE IT ENACTED by the President and Parliament as follows :

RATIFICATION

1. The loan agreement made the first day of August 1983 between the Republic of Vanuatu and Banque Indosuez Hong Kong set out in the schedule hereto is hereby ratified.

APPLICATION OF PROCEEDS OF LOAN

2. The proceeds of the loan shall be applied to the Development Fund of the Government out of which shall be paid the purchase costs of the shares referred to in the recital to the loan agreement.

COMMENCEMENT

3. This Act shall come into operation on the day of its publication in the Gazette.

The Schedule

LOAN AGREEMENT

This Loan Agreement is made the first day of August 1983 between the Republic of Vanuatu (hereinafter called the Borrower) of the one part and Banque Indosuez Hong Kong of 25th Floor, Alexandra House, 11 Des Voeux Road Central, Hong Kong (hereinafter called the Bank) of the other part.

WHEREAS the Borrower has applied for the purchase of 10,000 shares of Banque Indosuez Vanuatu at a price of 2,200 VT per share and has in addition agreed to subscribe for a further issue of 10,000 shares at a price of 2,200 VT per share in the said bank;

WHEREAS the Borrower has applied to the Bank for a loan for the purchase of the said shares; and

WHEREAS the Bank has agreed to lend to the Borrower an amount of SDR 414,313 for the purchase of the said shares upon the terms and conditions set forth herein.

Now therefore the parties hereto agree as follows -

The Loan

1. 01. The Bank agrees to lend to the Borrower in one advance an amount of SDR 414,313.
02. The Borrower shall notify the Bank in writing or by telex before 11 am Hong Kong time in the second business day preceeding the borrowing date, the amount to be borrowed, the bank account to which the advance will be credited and the interest period selected.

Advance

2. 01. The Borrower shall prior to the advance or the renewal thereof choose a period for such advance or renewal of either 3, 6 or 12 months. If the notice of the period is not received by the Bank at least two working days before the renewal date it shall be automatically renewed for a period of 6 months.

02. The Bank shall fix the interest rate for the advance or for the renewal thereof on the date of such advance or renewal during which the inter bank market in SDR deposits in Hong Kong is open to banks. The rate per annum shall be equal to the sum of the offered rate of inter bank SDR deposits for the period chosen plus a margin of 1/8%.
03. The Borrower shall pay interest at the end of each advance period. It will be calculated from the original date of borrowing or subsequent renewal to the end of each advance period, and shall be on the basis of a year of 360 days and the actual number of days elapsed.

Impracticality, increased costs

3. 01. If for any reason,

- (a) it becomes impractical for either party to continue this loan agreement or there is a change in the component parts of the SDR; or
- (b) the competent authorities of Hong Kong or Vanuatu subject the Bank to taxes in relation to this loan or impose reserve or other similar requirements or any other conditions with respect thereto as a result of which the Bank's net return on this loan is reduced,

then the Borrower and the Bank shall negotiate with a view to resolving such matters to the satisfaction of both parties.

02. If no satisfactory solution is agreed to within 6 months of either party advising the other of the impracticality of continuing with this loan agreement or the Bank notifies the other party of increased costs, the Borrower may or on the Bank's demand shall, repay the outstanding loan together with accrued interest thereon and any other sums due to the Bank hereunder

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and its obligation to make the loan available to the Borrower shall be terminated therewith. Notwithstanding the above, the Bank undertakes to use its best endeavours to seek an alternative lender within the 6 months' period referred to in this sub-section.

Repayment

4. 01. The advance and each subsequent renewal thereof shall be repaid by the Borrower at the end of each advance period except if a new advance is to be borrowed on such date, in which case the proceeds of which will be applied against repayment of the previous advance.
02. In any case the Borrower shall reduce the amount of the loan and the renewal thereof by the following payments to the Bank :-

SDR 82,663 on 15th August 1984

SDR 82,663 on 15th August 1985

SDR 82,663 on 15th August 1986

SDR 82,663 on 15th August 1987

SDR 82,461 on 15th August 1988

If at these dates banks in Hong Kong are closed for business the preceding business date will be applied.

Payments

5. The Borrower will pay all amounts of principal and of interest without set-off or counterclaim, and without deduction of any present or future taxes.

Representations and warranties

6. The Borrower represents and warrants to the Bank that
 - (a) it has full power and authority and the legal right to incur this indebtedness and obligations as are described in this agreement and to borrow all necessary sums under this agreement.

- (b) all necessary legal action has been taken to authorise the execution, delivery and performance of this loan agreement.
- (c) this loan agreement constitutes a legal, valid and binding obligation of the Borrower.
- (d) all obligations and liabilities hereunder shall rank pari-passu in right of payment in respect of the external indebtedness of the Borrower.
- (e) all necessary sums to repay this loan will be duly registered in the Borrower's annual budget as set out in clause 4.02.

Condition precedent

7. It shall be a condition precedent to the effectiveness of this loan agreement,
- (a) that the Council of Ministers of the Borrower have approved the terms and conditions of this agreement and have authorised the Minister of Finance to execute it on behalf of the Borrower;
 - (b) that the Parliament of the Republic of Vanuatu has ratified this loan agreement.

Events of default

8. There shall be an event of default if any one or more of the following events shall have occurred:-
- (a) failure by the Borrower to make any payment of principal and/or interest when due and payable in accordance with this loan agreement within 10 days of the due date;
 - (b) failure by the Borrower to perform any term of this loan agreement;
 - (c) any representation and warranty made by the Borrower in this loan agreement is incorrect.

Then the Bank shall terminate its commitment and any outstanding principal and interest amount due by the Borrower under this loan agreement shall become due and payable immediately.

Governing Law

9. This loan agreement shall be governed by and construed in accordance with English Law.

Disputes

10. 01. The parties shall use every endeavour to settle any dispute arising in connection with this loan agreement by negotiation and shall only resort to arbitration where negotiation fails.

02. All disputes arising in connection with the present loan agreement and which cannot be resolved by negotiation shall be finally settled in accordance with the Rules of Conciliation and Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with the said rules. The place of arbitration shall be Port Vila, Vanuatu.

IN WITNESS whereof the parties hereto have hereunto set their hands the day and year first above written.

K. KALSAKAU
on behalf of Republic of
Vanuatu

Witness

G. NOSMAS
on behalf of Banque Indosuez
Hong Kong Branch

Witness

X. BRUCKERT
on behalf of Banque Indosuez
Hong Kong Branch

Witness