

**FEEDER ROADS PROJECT LOAN (RATIFICATION)
ACT, 1987**

No. 27



of 1987

ARRANGEMENT OF SECTIONS

SECTION

1. Short title
2. Ratification of loan agreement
3. Loan to be paid into Development Fund
4. Loan charged upon Consolidated Fund
5. Power of Minister in connection with loan

SCHEDULE

An Act to ratify and give effect to the agreement entered into in October, 1987, between the Government of Botswana and the Arab Bank for Economic Development in Africa ("BADEA") whereby BADEA agreed to provide a loan of Six Million One Hundred Thousand US Dollars for the purpose of financing part of the foreign exchange costs of the Feeder Roads Project.

Date of Assent: 24. 12. 87.

Date of Commencement: 31. 12. 87.

ENACTED by the Parliament of Botswana.

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| <p>1. This Act may be cited as the Feeder Roads Project Loan (Ratification) Act, 1987.</p> <p>2. The agreement entered into in October, 1987 between the Government of Botswana and the Arab Bank for Economic Development in Africa as set out in the Schedule (hereinafter referred to as "the agreement") is hereby ratified.</p> <p>3. The proceeds of the loan for which the agreement makes provision shall be paid into the Development Fund.</p> | <p>Short title</p> <p>Ratification of loan agreement</p> <p>Loan to be paid into Development Fund</p> |
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Loan charged
upon
Consolidated
Fund

4. All sums required to repay the loan for which the agreement makes provision shall be charged upon and paid out of the Consolidated Fund.

Power of
Minister
in
connection
with loan

5. The Minister may do all such things as may be necessary to give effect to the agreement and may authorize any public officer to do any such things as the Minister may specify for the purpose.

SCHEDULE

LOAN AGREEMENT (FEEDER ROADS PROJECT)

Between

THE REPUBLIC OF BOTSWANA

and

THE ARAB BANK FOR ECONOMIC DEVELOPMENT IN AFRICA

Dated: 19th October, 1987

LOAN AGREEMENT

Agreement, dated 19th October, 1987 between THE REPUBLIC OF BOTSWANA (hereinafter called "the Borrower") and THE ARAB BANK FOR ECONOMIC DEVELOPMENT IN AFRICA (hereinafter called "BADEA")

WHEREAS:

- (a) The Borrower has requested BADEA to assist in the financing of the Project described in Schedule 2 to this Agreement;
- (b) The Borrower has agreed to contribute the equivalent of nine million one hundred and fifty thousand dollars (US\$9 150 000) for this purpose;
- (c) The purpose of BADEA is to further the economic development of African countries within a framework of solidarity and mutual interest and thus to strengthen the ties between African States and the Arab Nation;
- (d) BADEA is convinced of the importance and usefulness of said Project in developing the economy of the Borrower; and
- (e) BADEA has agreed, in view of the foregoing, to grant the Borrower, a loan on the terms and conditions set forth in this Agreement;

NOW, THEREFORE, the parties hereto agree as follows:

ARTICLE I GENERAL CONDITIONS: DEFINITIONS

Section 1.01 The parties to this Agreement accept all the provisions of the attached General conditions Applicable to Loan and Guarantee Agreements of BADEA, dated October 28, 1979, as amended up to the date of this

Agreement (hereinafter called the "General Conditions") with the same force and effect as if they were fully set forth herein.

Section 1.02 Wherever used in this Agreement, unless the context otherwise requires, the several terms defined in the General Conditions and in the Preamble to this Agreement have the respective meanings therein set forth and the following additional terms have the following meanings:

- (a) "MWTC" means the Ministry of Works, Transport and Communications of the Borrower; and
- (b) "Pula" means the currency of the Borrower;
- (c) "foreign currency" means any currency other than the "Pula".

ARTICLE II THE LOAN

Section 2.01 BADEA agrees to lend to the Borrower, on terms and conditions in this Agreement set forth or referred to, the sum of six million one hundred thousand dollars (\$6 100 000).

Section 2.02 The amount of the Loan may be withdrawn from the Loan Account in accordance with the provisions of Annex "A" to this Agreement, as such Annex may be amended from time to time by Agreement between the Borrower and BADEA, for expenditures made (or if BADEA shall so agree, to be made) in respect of the reasonable cost in foreign currency of goods and services required for the Project and to be financed out of the proceeds of the Loan.

Section 2.03 Except as BADEA shall otherwise agree, goods and services required to carry out the Project and financed out of the proceeds of the Loan shall be procured in accordance with the procedure specified in Annex (B) to this Agreement.

Section 2.04 The Closing Date shall be 31st January, 1991 or such later date as BADEA shall establish. BADEA shall promptly notify the Borrower of such later date.

Section 2.05 The Borrower shall pay interest at the rate of five per cent (5%) per annum on the principal amount of the Loan withdrawn and outstanding from time to time.

Section 2.06 Interest and other charges specified in the General Conditions shall be payable semi annually on 1st May and 1st November in each year.

Section 2.07 The Borrower shall repay the principal of the Loan in accordance with the Amortisation Schedule set forth in Schedule 1 to this Agreement.

ARTICLE III EXECUTION OF THE PROJECT

Section 3.01 The Borrower shall cause the Project to be carried out through MWTC (Roads Department) with due diligence and efficiency and in conformity with appropriate financial, administrative and engineering practices and shall provide promptly as needed, the funds, facilities, services and other resources required for the purpose.

Section 3.02 The Borrower shall submit to BADEA for approval the draft programme of implementation of the Project and any material modifications subsequently made therein, in such detail as BADEA shall reasonably request.

Section 3.03 (a) In addition to the Loan proceeds the Borrower shall make available or cause to be made available promptly as needed, all other funds which

shall be required for carrying out the Project (including any funds that may be required to meet any increase in cost beyond the estimated cost of the Project at the time of the signing of this Agreement), all such sums to be made available on terms and conditions satisfactory to BADEA.

(b) The Borrower undertakes to make adequate annual budgetary allocations to meet its share of the Project as stated in preamble (b) to this Agreement and shall submit to BADEA evidence to that effect.

Section 3.04 The Borrower shall take all such actions as shall be necessary to acquire all such land and rights in respect of land as shall be required for carrying out the Project.

Section 3.05 The Borrower shall maintain records adequate to identify the goods financed out of the proceeds of the Loan, to disclose the use thereof in the Project, to record the progress of the Project and the cost thereof and to reflect in accordance with consistently maintained sound accounting practices the operations, resources and expenditures, in respect of the Project, of the departments or agencies of the Borrower responsible for carrying out the Project or any part thereof, and shall afford all reasonable opportunity for accredited representatives of BADEA to make visits for purposes related to the Loan, and to inspect the project, the goods and any relevant records and documents; and shall furnish to BADEA all such information as BADEA shall reasonably request concerning the expenditures of the proceeds of the Loan, the Project, its cost and the goods financed out of such proceeds.

Section 3.06 The Borrower shall insure or cause to be insured with responsible insurers, all imported goods financed out of the proceeds of the Loan against hazards incident to the acquisition, transportation and delivery thereof to the place of use or installation and shall be for such amounts, as shall be consistent with sound commercial practices. For such insurance, any indemnity shall be payable in currency freely usable by the Borrower to replace or repair such goods.

Section 3.07 (a) The Borrower shall furnish to BADEA quarterly reports not later than 30 days after the end of every quarter of each calendar year of such scope and in such detail as BADEA shall reasonably request on the progress of the execution of the Project.

(b) Within six months following the last withdrawal from the Loan Account, the Borrower shall prepare and furnish to BADEA a report, of such scope and in such detail as BADEA shall reasonably request, on the execution and initial operation of the Project, its costs and the benefits derived and to be derived from it, and the accomplishment of the purposes of the Loan.

ARTICLE IV PARTICULAR COVENANTS

Section 4.01 The Borrower shall (i) keep separate accounts for the Project (ii) have these separate accounts for each fiscal year, audited in accordance with sound auditing principles consistently applied, by independent auditors acceptable to BADEA, (iii) furnish to BADEA, as soon as available but in any case not later than six months after the end of each such year (a) certified copies of its financial statements for such year as so audited and (b) the report of such audit by said auditors of such scope and in such detail as BADEA shall have reasonably requested; and (iv) furnish to BADEA such other information concerning the said separate accounts and the audit thereof as BADEA shall from time to time reasonably request.

Section 4.02 The Borrower shall take all necessary measures to ensure that the dimensions and axle loads of the vehicles using the road, to be executed under the

Project, do not exceed the limits consistent with the structural and geometric design standards of the Road.

Section 4.03 The Borrower shall cause the Road, executed under the Project, to be maintained in accordance with the proper engineering standards and shall provide the necessary funds in its annual budgets for this purpose.

ARTICLE V

SUSPENSION AND ACCELERATION OF MATURITY

Section 5.01 For the purposes of section (8.02) of the General Conditions the following two additional events are specified pursuant to paragraph [(i)(g)] thereof:

(a) Subject to paragraph (b) of this Section:-

(i) the right of the Borrower to withdraw the proceeds of any Loan or Grant made to the Borrower for the financing of the project shall have been suspended, cancelled or terminated in whole or in part, pursuant to the terms of the Agreement providing thereof, or

(ii) any such Loan shall have become due and payable prior to the agreed maturity thereof.

(b) Paragraph (a) of this Section shall not apply if the Borrower establishes to the satisfaction of BADEA that (i) such suspension, cancellation, termination or prematuring is not caused by the failure of the Borrower to perform any of its obligations under the specific agreement, and (ii) adequate funds for the Project are available to the Borrower from other sources on terms and conditions consistent with the obligations of the Borrower under this Agreement.

Section 5.02 For the purposes of section (9.01) of the General Conditions the following additional event is specified pursuant to paragraph (g) thereof; namely, any event specified in paragraph (a) (ii) of section (5.01) of this Agreement shall occur.

ARTICLE VI

EFFECTIVE DATE; TERMINATION

Section 6.01 The date 31st December, 1987 is hereby specified for the purposes of section (12.04) of the General Conditions.

ARTICLE VII

REPRESENTATIVE OF THE BORROWER; ADDRESSES

Section 7.01 The Minister for Finance and Development Planning of the Borrower is designated as representative of the Borrower for the purposes of section (11.03) of the General Conditions.

Section 7.02 The following addresses are specified for the purposes of section (11.01) of the General Conditions:

For the Borrower:
Ministry of Finance and Development Planning,
Private Bag 008,
Gaborone,
Botswana.

Alternative address for telexes:
2401 BD

Cable address:
Pula (Finance)
Gaborone

For BADEA:
The Arab Bank for Economic Development
in Africa (BADEA),
P.O. Box 2640,
Khartoum,
Sudan.

Alternative address for telexes:
Telex No. 22248 SD or 22739 SD

Cable address:
BADEA-KHARTOUM-SUDAN

IN WITNESS WHEREOF, the parties hereto acting through their representatives thereto duly authorized, have caused this Agreement to be signed in their respective names in Khartoum as of the day, month and year first above written.

This Agreement is drawn in Arabic and English. The English text conforms with the Arabic text. The Arabic text is the authentic text.

The Republic of Botswana

By

Authorized Representative
Baledzi Gaolathe
Permanent Secretary
Ministry of Finance and
Development Planning

The Arab Bank for Economic
Development in Africa

by

Mohamed Terbeche
Member of the Executive Committee

SCHEDULE I
AMORTISATION SCHEDULE

Date of Payment Due

1. 1st November, 1991

Payment of Principal
(expressed in Dollars)

\$189 000

2. 1st May, 1992	193 000
3. 1st November, 1992	198 000
4. 1st May, 1993	203 000
5. 1st November, 1993	208 000
6. 1st May, 1994	213 000
7. 1st November, 1994	219 000
8. 1st May, 1995	224 000
9. 1st November, 1995	230 000
10. 1st May, 1996	235 000
11. 1st November, 1996	241 000
12. 1st May, 1997	247 000
13. 1st November, 1997	254 000
14. 1st May, 1998	260 000
15. 1st November, 1998	266 000
16. 1st May, 1999	273 000
17. 1st November, 1999	280 000
18. 1st May, 2000	287 000
19. 1st November, 2000	294 000
20. 1st May, 2001	301 000
21. 1st November, 2001	309 000
22. 1st May, 2002	317 000
23. 1st November, 2002	325 000
24. 1st May, 2003	334 000

SCHEDULE 2 DESCRIPTION OF THE PROJECT

The Project consists of three roads, namely:—

(a) *Mochudi - Sikwane Road:*

The road is located in Kgatleng District in the eastern part of the country. It is 41 km in length and links the village of Sikwane on the South African boarder, with Mochudi the Capital of Kgatleng District. It will be constructed to a six-metre wide bitumenized carriageway and 1,5 metre wide shoulders. The Project would include the widening of an existing single lane bridge across the Notwane River near Mochudi to two lane bridge.

(b) *Pitsane - Goodhope - Metlojwane Road:*

The 27 km road is located in the Barolong farms area of the southern District of Botswana. It will be constructed to a six-metre wide bitumenized carriageway and 1,5 metre wide shoulders.

(c) *Maun - Shorobe:*

The road connects Maun, the Capital of Ngamiland District in the west of Botswana with Shorobe which is located on the fringes of the Okavango Delta. The 37 km road shall be constructed to a 5 metre wide bitumenized carriageway and 1,0 metre wide shoulders.

The Project is expected to be completed in 21 months.

ANNEX A
GOODS AND SERVICES TO BE FINANCED AND ALLOCATION OF
PROCEEDS OF BADEA'S LOAN

<i>Category</i>	<i>Amount allocated (expressed in \$)</i>	<i>% of Expenditures to be financed</i>
1. Construction of Feeder Roads; i) Mochudi-Sikwane ii) Pitsane-Goodhope-Metlojwane iii) Maun-Shorobe	5 141 306	69,33% of the foreign cost
2. Supervision Services of the Works under [1] above	528 297	69,33% of the foreign cost
3. Unallocated	430 397	
Total	<u><u>6 100 000</u></u>	

Note: BADEA may, by notice to the Borrower (i) reallocate any amount from category (3) (unallocated) to any other of the Categories (1) through (2) to the extent that such amount is required to meet expenditures under such other category; and (ii) reallocate any amount from any of the categories (1) through (2) to any other of the categories (1) through (2) to the extent that such amount is no longer required to meet expenditures under such first category but is required to meet expenditures under such other category.

ANNEX B
PROCUREMENT OF GOODS AND SERVICES

- A** Unless otherwise agreed by BADEA, all items to be financed from the Loan will be procured on the basis of international competitive bidding, according to a procedure acceptable to BADEA. However when the service quality and performance ability are comparable, preference shall be given to Arab, African or mixed Arab-African enterprises provided that the difference in cost shall not exceed 10%.
- B** The Borrower shall submit for BADEA's prior approval all proposed contracts and orders for items to be procured out of the proceeds of the Loan.
- C** The Borrower shall furnish to BADEA copies of the bidding documents and shall make such modifications in the said documents as may be requested by BADEA. In all such cases bidders shall be prequalified and the Borrower shall supply BADEA with a list of those prequalified bidders for BADEA's review and approval. After receipt and evaluation of the bids a detailed report on the evaluation and comparison of the bids received, together with the recommendation for award will be presented to BADEA for consideration.

THE ARAB BANK FOR ECONOMIC DEVELOPMENT IN AFRICA

Khartoum: 19th October, 1987

**His Excellency,
Authorized Representative,
Mr Baledzi Gaolathe
Permanent Secretary,
Ministry of Finance and
Development Planning
Gaborone
Republic of Botswana**

Excellency,

Reference to the Loan Agreement (related to Feeder Roads), signed in Khartoum, today, between The Republic of Botswana and The Arab Bank for Economic Development in Africa, I have the honour to draw your attention to the following important matter.

The regulations in force in the Arab Bank for Economic Development in Africa prohibit explicitly all transactions involving any institution, firm or company boycotted in accordance with the resolutions of the competent organs of the League of Arab States, the Organization of African Unity and United Nations.

In view of that fundamental principle, I wish to inform you that the proceeds of the approved loan for Feeder Roads are not to be used in any manner to finance directly or indirectly goods and/or services produced or supplied by any country, firm or agency under boycott, in conformity with the same regulations in force in the Arab Bank for Economic Development in Africa.

PASSED by the National Assembly this 17th day of December, 1987.

C.G. MOKOBI,
Clerk of the National Assembly.