

No. 14208

**CANADA
and
CUBA**

**Agreement establishing a development line of credit for
Cuba (with annexes). Signed at Havana on 18 March 1975**

*Authentic texts: Spanish, French and English.
Registered by Canada on 18 August 1975.*

**CANADA
et
CUBA**

**Accord établissant une ligne de crédit pour Cuba (avec
annexes). Signé à La Havane le 18 mars 1975**

*Textes authentiques : espagnol, français et anglais.
Enregistré par le Canada le 18 août 1975.*

AGREEMENT¹ BETWEEN THE GOVERNMENT OF CANADA AND THE REVOLUTIONARY GOVERNMENT OF THE REPUBLIC OF CUBA ESTABLISHING A DEVELOPMENT LINE OF CREDIT FOR CUBA

This Agreement made in two originals the 18 day of March 1975 between the Government of Canada herein represented by the Secretary of State for External Affairs acting through the President of the Canadian International Development Agency (hereinafter referred to as “Canada”) and the Revolutionary Government of the Republic of Cuba (hereinafter referred to as “Cuba”)

Whereas the Government of Canada and the Revolutionary Government of the Republic of Cuba desire to strengthen the existing cordial relations between their countries through the development of programs of economic assistance in conformity with the objectives of contemporary scientific and technical development as more particularly described hereafter, and

Whereas Canada is willing to make a Development Line of Credit available to Cuba for these purposes on the terms and conditions provided herein;

Now therefore the Parties hereto agree as follows:

Article I. THE LOAN

Section 1.01. Canada shall make available to Cuba on the terms and conditions hereinafter set forth a Development Line of Credit (hereinafter referred to as the “Loan”) in an amount not to exceed ten million dollars in Canadian funds (\$10,000,000).

Section 1.02. Canada shall open in its books a Loan Account in the name of Cuba and shall credit to such Account the full amount of the Loan. Withdrawals, payments and disbursements may be made from the Loan Account in accordance with the provision of this Agreement.

Section 1.03. Cuba will pay interest at the rate of three percent (3%) per annum on the amount of the loan drawn by Cuba and outstanding.

Section 1.04. Payment of the principal amount of the Loan shall be made in forty-six (46) semi-annual instalments of which forty-five (45) instalments shall be for two hundred and seventeen thousand, three hundred and ninety-one dollars (\$217,391) and the forty-sixth (46th) and final instalment shall be for two hundred and seventeen thousand, four hundred and five dollars (\$217,405). Each instalment shall be due and payable on the last day of March and September in each year commencing September 1982 and ending March 2005.

Section 1.05. Payment of the interest shall be made in semi-annual instalments due and payable on March 31 and September 30 in each year, commencing from the first withdrawal of principal.

Section 1.06. All payments and repayments as set forth in Article I herein shall be applied first to the payment of any accrued interest and then to the repayment of the principal amount.

¹ Came into force on 18 March 1975 by signature.

Section 1.07. Cuba shall have the right to prepay principal, in whole or in part, on any date without Notice to Canada. The amount of any such prepayment shall be applied first to the payment of any accrued interest and then to the instalments of principal then remaining payable in the reverse order of their maturity.

Section 1.08. All payments and repayments as set forth herein shall be made by Cuba in Canadian dollars to the Receiver General of Canada, and shall be deemed to have been paid when received by the Receiver General of Canada.

Section 1.09. The principal of, and all interest on, the Loan shall be paid without any deductions whatsoever and more particularly shall be free from any taxes, charges or other restrictions imposed under the Laws of Cuba.

Section 1.10. The Parties hereto agree that they may negotiate, at the request of either Canada or Cuba, concerning acceleration of payments to the Receiver General of Canada required to be made under this Agreement at any time after six (6) months before the first payment of the principal becomes due and payable. Canada and Cuba may mutually determine whether such an acceleration should take place.

Article II. USE OF THE LOAN

Section 2.01. Except as may otherwise be specifically agreed to, the Proceeds of the Loan shall be used by Cuba exclusively for the purchase of equipment and/or machinery and related services in Annex A, and procedures for procurement and payment shall be those set forth in Annex B, both Annexes being subject to such modification as may be agreed upon between Canada and Cuba.

Section 2.02. Services, materials and equipment to be financed from the proceeds of the Loan shall be used exclusively to carry out the projects; the goods and services procured in Canada and financed from the Loan shall have an overall Canadian content of not less than sixty-six and two thirds percent (66⅔%) unless otherwise agreed.

Section 2.03. Services, material and equipment contracted for prior to the effective date of this Agreement may not be financed out of the proceeds of the Loan except as may otherwise be agreed.

Section 2.04. Proceeds from the Loan shall not be used by Cuba to meet the cost of any taxes, fees or customs duties imposed directly or indirectly by Cuba on any services, materials or equipment required for the projects.

Article III. WITHDRAWALS OF PROCEEDS OF LOAN

Section 3.01. Withdrawals shall be deemed to occur on the dates on which payments are made by Canada either directly to Cuba or its designated agent, or to a firm or banking institution in respect of goods and services supplied under this Agreement.

Section 3.02. Subject to the conditions and limitations set forth herein, Cuba or its designated agent shall be entitled to withdrawals from the Loan Account in such amounts as are required to meet the costs of the goods and services which are eligible for financing as the costs become due and payable in accordance with Annex B.

Section 3.03. Cuba or its designated agent shall provide Canada with a copy of each invitation to tender, contract and/or purchase order for the procurement of materials, equipment and/or machinery and/or services in respect of which any withdrawal is to be made.

Section 3.04. Withdrawals from the Loan Account may be made in favour of such persons or agencies as may be designated by Cuba and agreed to by Canada.

Article IV. CANCELLATION AND SUSPENSION

Section 4.01. Cuba may, by sixty (60) days' written Notice to Canada, cancel all or any part of the Loan not withdrawn by Cuba prior to the giving of such Notice, and not required to meet outstanding financial obligations to suppliers or firms incurred under the Loan.

Section 4.02. If any of the following events occur, Canada may, by giving a written notice to Cuba, suspend in whole or in part the right of Cuba to make withdrawals under the Loan Agreement, and declare the principal outstanding due, and payable immediately and cancel that part of the loan not previously withdrawn:

- (a) a default by Cuba in the payment of principal or in any other payments or repayments required under this Agreement and the Annexes hereto;
- (b) a default on the part of Cuba in the performance of any undertakings under this Agreement;
- (c) any extraordinary situation which, in the opinion of Canada and Cuba, renders it impossible for Cuba to perform its obligations under this Agreement.

If suspension occurs and continues for thirty (30) days, Canada may, by sixty (60) days' written notice to Cuba, declare the principal outstanding due and payable immediately, and cancel that part of the loan not withdrawn, except that part required to meet outstanding financial obligations to suppliers or firms incurred under the loan prior to the giving of such notice.

Section 4.03. If full amount of the Loan is not committed by Cuba during the first three years following the signature of this Agreement the balance will unless otherwise agreed be cancelled by sixty (60) days' written notice from Canada and the final instalment or instalments of the repayment to be made shall be reduced accordingly.

Article V. GENERAL UNDERTAKINGS

Section 5.01. Cuba shall ensure that the projects are carried out, operated and maintained with due diligence and efficiency and in conformity with sound engineering, construction and financial practices.

Section 5.02. Canada and Cuba shall cooperate fully to ensure that the purpose of the Loan will be accomplished, and each shall furnish to the other all such information as shall reasonably be requested with regard to the general status of the Loan. Cuba shall inform Canada as soon as possible of any condition or contingency which interferes with, or threatens to interfere with, the accomplishment of the projects or any matter or thing in connection therewith.

Section 5.03. Cuba shall afford accredited representatives of Canada all reasonable opportunities to visit any part of the territories of Cuba for the purposes related to this Loan Agreement.

Section 5.04. This Agreement and any Annexes thereto shall be free from any taxes, fees or other charges that may be imposed under the laws of Cuba in connection with the execution, issue, delivery and registration thereof.

Section 5.05. It is understood and agreed by Canada and Cuba, that the Articles of this Agreement and Annexes A, B and C thereto all form an integral part of the present Agreement.

Section 5.06. For the purposes of this Agreement and Annexes thereto "Cuba" shall include any agent or agents authorized by and on behalf of Cuba with regard to its rights, duties and obligations herein.

Section 5.07. It is understood and agreed by Canada and Cuba that this Agreement has the character of a formal Agreement, binding the Parties hereto under International Law.

Article VI. COMMUNICATIONS

Section 6.01. Any communications or documents given, made or sent by either Canada or Cuba pursuant to this Agreement or any Annex thereto shall be in writing and shall be deemed to have been duly given, made or sent to the party to which it is addressed at the time of its delivery by hand, mail, telegram, cable or radiogram at its respective address, namely:

For Cuba:

National Commission for Economic, Scientific and Technical Cooperation
(CNCECT)
1st Street, #201
Vedado, Havana 4
Cable Address: Cncept, Habana

For Canada:

The President
Canadian International Development Agency
122 Bank Street
Ottawa, Ontario
Canada, KIA OG4
Cable Address: Cida, Ottawa

Section 6.02. Any one of the Parties hereto may, by written notice to the other Party hereto, change the address to which any notice or request intended for the Party so giving such notice shall be addressed.

Section 6.03. All communications and documents pertaining to this Agreement may be in French, English or Spanish languages.

Article VII. SIMULTANEOUS EXECUTION OF AGREEMENT

Section 7.01. This Agreement is written in the Spanish, French and English languages in several counterparts, each of which so executed shall be deemed to be an original.

Section 7.02. This Agreement and Annexes A, B and C attached hereto, which form part of this Agreement, may be amended from time to time upon agreement of the parties concerned. Amendment to the main body of the Agreement shall be executed by a formal amendment signed by the authorized representatives. However, amendments to the annexes may be an exchange of letters between Cuba and Canada.

IN WITNESS WHEREOF the parties hereto have caused to be subscribed the signature of their authorized representative at the city of Havana, Cuba, as of the day and the year first above written.

Signed on behalf
of the Government of Canada:

[Signed]

MALCOLM N. BOW

Signed on behalf
of the Revolutionary Government
of the Republic of Cuba:

[Signed]

ERNESTO MELÉNDEZ BACHS

A N N E X A

Purpose of the Loan:

Proceeds of the Loan shall be used for the purchase of materials, equipment and related services in support of the projects detailed below:

- a) Maintenance Equipment for Medical Equipment;
- b) Non-Medical Equipment for Public Health Units;
- c) Pharmaceutical Industry;
- d) National Animal Health Center: CENSA;
- e) National Center for Scientific Research: CENIC;
- f) Research and Development Center for Industrial Use of Bagasse;
- g) Such other materials, equipments and related services as may be mutually agreed upon.

Transportation:

Transportation costs to loading ports will be paid from the proceeds of the Loan.

Disbursements:

The total disbursements under the terms of this Loan Agreement shall not exceed six million, five hundred thousand dollars (cdn \$6,500,000) by the fiscal year ending March 31, 1976.

A N N E X B

PROCUREMENT AND PAYMENT PROCEDURES

1. *Procurement Procedures*

i) The Oficina Comercial de Cuba, hereinafter referred to as "OCC" shall act as the purchasing agent for Cuba.

ii) Lists and specifications for those materials, equipment and services proposed for purchase in Canada shall be submitted to the Canadian International Development Agency hereinafter referred to as "CIDA" for approval.

iii) The OCC shall invite tenders for materials and equipment for the project from a representative list of Canadian suppliers. List of the names and addresses of potential Canadian suppliers of goods or services may be obtained from CIDA.

iv) A copy of the Invitation to Tender, together with a list of Canadian suppliers invited to tender, shall be forwarded by OCC to CIDA.

v) Each Canadian supplier invited to tender shall be instructed:

- a) to send a copy of his tender to CIDA at the same time as the tender is forwarded to OCC;
- b) to include with the copy of the tender sent to CIDA a completed Canadian Content form; a copy of the Declaration of Canadian Content form is NOT to accompany the tender submitted to the OCC with the exception of the information contained in Item Seven (7) of the Canadian Content form;
- c) to include in its tender the following notation:

"The goods listed herein are for export from Canada and are, therefore, exempt from payment of Canadian duties and excise tax and the quotations therefore do not contain any element of cost in respect of payment for Canadian duty or excise tax."

vi) Materials and equipment prices shall be requested "Freight at Shipside" (FAS) at a Canadian Port.

vii) On items of sole source prices are to be negotiated.

viii) Where the lowest tender received meets all requirements of the "invitation to tender" OCC may award the contract without further reference to CIDA. In the event that an award of contract is required to other than the lowest tender based on quality considerations,

compatibility with existing equipment and existing methodologies, OCC will secure the prior approval of CIDA.

ix) Where in the opinion of the OCC, and because of the nature of the procurement, no useful purpose would be served by the calling of tenders, OCC will secure prior approval of CIDA to enter into negotiations for such procurements.

x) On receipt of a Purchase Contract from OCC, CIDA will issue a Purchase Order Confirmation confirming that payment will be made directly by CIDA to the supplier.

2. *Payment Procedures*

i) Payment to suppliers shall be made directly by CIDA, upon receipt of invoices from OCC in quintuplicate duly certified by OCC by officer of the OCC duly authorized in that behalf; such invoices shall be accompanied by a copy of the Purchase Order together with evidence of delivery of the goods to a Canadian port in the form of copies of non-negotiable ocean and or air freight bills of lading;

ii) Where direct purchases are made by OCC from outside of Canadian sources with the prior approval of CIDA, OCC may as an alternative payment arrangement to that provided in (i) above, establish Letters of Credit at the offices of a Canadian bank in Ottawa; such Letters of Credit will be confirmed by CIDA upon receipt of copies of the specific letter of credit and of the purchase contract concerned. Payment will be made direct to the Canadian bank in accordance with the terms and conditions of the Purchase contract and as indicated in the letter of credit concerned.

iii) Progressive payments may be arranged to suppliers for machinery and equipment that will be manufactured over a period of time, so as to allow reasonable recovery of production and related costs during the period of manufacture.

iv) Periodic statements of expenditures from the Loan account will be prepared by CIDA for OCC and CNCECT, as required.

A N N E X C

1. *Responsibilities of Cuba*

For the Canadian Personnel, including the technical experts, the professors and the professional personnel of Canadian Consultant firms, assigned to the projects in Cuba, Cuba agrees to extend the full support provided under the terms and conditions of the Technical Cooperation Agreement between the Government of Canada and the Revolutionary Government of the Republic of Cuba dated February 8, 1974.

2. In addition Cuba will:

2.1 Arrange with the customs officials concerned to promptly clear through Cuban customs, without cost to the fund for import, customs, and other duties and taxes, all equipment and materials required for the projects.

2.2 Provide:

a) all Cuban permits, licenses, and other such documents required to enable Canadian personnel to carry out their respective responsibilities in Cuba and in Canada, and that the projects may require.

b) all export and exit permits required for the return of any of the materials, equipment or effects (including personal effects) which are the property of or are provided by, the Government of Canada, the consulting firm or individual Canadians employed on the projects.

2.3 Make available access to those parts of Cuba as may be required to enable Canadian personnel to carry out their responsibilities in Cuba.

- 2.4 Prepare and submit claims covering short shipments, loss or damage to materials and equipment while in transit from Canada to Cuba.
 - 2.5 Finance at no cost to the Loan Account, all costs not provided for by this Loan Agreement including but not limited to:
 - a) all Cuban personnel, materials and equipment required to carry out the projects;
 - b) ocean or air freight insurance as required for any equipment purchased under the terms of the Loan Agreement for the projects, including the settlement of loss or damage claims and replacement.
 - 2.6 Exempt all Canadian technical personnel and the personnel of Canadian firms assigned to the projects under the Agreement, from income taxes and other taxes on the payments made to them out of the Canadian Loan.
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