

**No. 14678**

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**SWITZERLAND  
and  
INDIA**

**Agreement on a development loan of 35 million Swiss francs to the Government of the Republic of India (with protocol of application). Signed at New Delhi on 9 October 1973**

*Authentic texts: English, French and Hindi.  
Registered by Switzerland on 25 March 1976.*

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**SUISSE  
et  
INDE**

**Accord concernant un prêt d'aide financière de 35 millions de francs suisses au Gouvernement de la République de l'Inde (avec protocole d'application). Signé à New Delhi le 9 octobre 1973**

*Textes authentiques : anglais, français et hindi.  
Enregistré par la Suisse le 25 mars 1976.*

AGREEMENT<sup>1</sup> BETWEEN THE GOVERNMENT OF THE SWISS CONFEDERATION AND THE GOVERNMENT OF THE REPUBLIC OF INDIA ON A DEVELOPMENT LOAN OF 35 MILLION SWISS FRANCS TO THE GOVERNMENT OF THE REPUBLIC OF INDIA

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The Government of the Swiss Confederation and the Government of the Republic of India,

Having regard to the friendly relations between the two countries,

Desirous of strengthening these relations through closer co-operation in the field of development,

Intending to promote the economic development of India,

Have agreed as follows:

*Article 1.* The Government of the Swiss Confederation (hereafter called the Lender) shall make a loan of 35 million Swiss francs (thirty-five million Swiss francs) to the Government of the Republic of India (hereafter called the Borrower) for the equipment of the 400-kV substations at Obra, Sultanpur and Lucknow and at the conditions set forth below.

*Article 2.* This loan shall be used to finance the foreign exchange costs of capital goods and services as agreed between the Lender and the Borrower.

*Article 3.* The loan shall be put by the Lender at the disposal of the Borrower on the terms of the clauses of the annexed Protocol of Application which constitutes an integral part of this Agreement.

*Article 4.* The Borrower shall pay interest at the rate of 1% (one per cent) per annum on the amount of the loan proportionally to its utilization.

Interest payments fall due on 30 June and 31 December of each successive year, beginning at the close of the term during which the first payment has been made by the Lender.

*Article 5.* The Borrower shall repay the loan in eighty half-yearly instalments of 437,500 Swiss francs (four hundred thirty-seven thousand and five hundred Swiss francs) each, due each 30 June and 31 December of successive years, to begin on June 30, 1984.

If the loan is not fully utilized in accordance with the provisions of Article 10 a revised schedule of repayment shall be established by mutual agreement.

The Borrower reserves the option to refund prematurely, integrally or partially, its debt to the Lender.

*Article 6.* Interest payments and repayments of capital on the loan shall be made in free and effective Swiss francs to the Swiss National Bank for the account of the Swiss Confederation.

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<sup>1</sup> Came into force on 10 April 1974, the date on which the Parties notified each other that their constitutional requirements had been completed, in accordance with article 14.

*Article 7.* The Borrower shall exempt the Lender from fiscal levies and taxes of whatever kind on or with regard to the loan, as well as on the proceeds of the loan.

*Article 8.* Except as the two Governments may otherwise agree, the purchase of capital goods and services required for the project mentioned under Article 1 of this Agreement and to be financed out of the loan shall be made on the basis of international competition.

The conditions laid down under Section III of the Protocol of Application shall apply to all supply contracts to be financed out of the loan.

*Article 9.* No proceeds of the loan shall be used for the payment of any taxes (import duties, levies, fees, duties of any nature) imposed under the laws of the Borrower or laws in effect in its territories on goods or services, or on the importation, manufacture, procurement or supply thereof.

*Article 10.* The Borrower may draw on the loan to make payments on contracts related to the project mentioned under Article 1 of this Agreement over a period of five years from the entry into force of this Agreement or until such date as agreed between the Contracting Parties.

*Article 11.* Disputes as to the interpretation or application of the provisions of this Agreement which shall not have been settled in a satisfactory way by means of diplomatic negotiations within a period of six months shall, upon the request of either Contracting Party, be submitted to an arbitral tribunal of three members. Each Contracting Party shall appoint one arbitrator. These two arbitrators shall nominate a third arbitrator as Chairman who shall be a national of a third State.

If either Contracting Party has not appointed its arbitrator and has not followed the invitation of the other Contracting Party to make that appointment within two months, the arbitrator shall be appointed upon the request of that Contracting Party by the President of the International Court of Justice.

If both arbitrators cannot come to an agreement about the choice of a third arbitrator (Chairman), within two months after their appointment, the latter shall be appointed upon the request of either Contracting Party by the President of the International Court of Justice.

If, in the cases specified under paragraphs 2 and 3 of this Article, the President of the International Court of Justice is prevented from carrying out the said function or if he is a national of either Contracting Party, the appointment shall be made by the Vice-President, and if the latter is prevented or if he is a national of either Contracting Party, the appointment shall be made by the next senior Judge of the Court who is not a national of either Contracting Party.

Subject to other provisions made by the Contracting Parties, the tribunal shall determine its procedure.

The decisions of the tribunal are binding for each Contracting Party.

*Article 12.* The Borrower may, by notice to the Lender, cancel any amount of the loan which the Borrower shall not have withdrawn.

In the event of default by the Borrower in the fulfilment of any commitment or obligation under the Agreement, the Lender may suspend, in whole or in part, the right of the Borrower to make withdrawals from the loan.

If the default which entitled the Lender to suspend the Borrower's right to draw against the loan persists beyond a period of sixty 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.

*Article 13.* Any notices, requests or agreements under this Agreement shall be made in writing to the authorities mentioned under Section VI of the annexed Protocol of Application.

*Article 14.* This Agreement shall come into force on the day when both Governments will have notified each other that the constitutional requirements for the entry into force of the Agreement have been completed.

DONE at New Delhi on the 9th October 1973, in six originals, two originals in English, two originals in French and two originals in Hindi, all texts being equally authoritative but in case of differences of interpretation the English text shall prevail.

For the Government  
of the Swiss Confederation:

[Signed]

FRITZ REAL

For the Government  
of the Republic of India:

[Signed]

M. G. KAUL

## PROTOCOL

OF APPLICATION TO THE AGREEMENT BETWEEN THE GOVERNMENT OF THE SWISS CONFEDERATION AND THE GOVERNMENT OF THE REPUBLIC OF INDIA ON A DEVELOPMENT LOAN TO THE GOVERNMENT OF THE REPUBLIC OF INDIA

With reference to the Agreement signed to-day between the Government of the Swiss Confederation and the Government of the Republic of India on a development loan of 35 million Swiss francs to the Government of the Republic of India the two Contracting Parties have agreed as follows:

### I. USE OF THE LOAN

The Borrower shall use the Loan for the import of capital goods and services for 400-KV sub-stations being constructed at Obra (Distt. Mirzapur), Sultanpur and Lucknow in the State of Uttar Pradesh.

### II. LIST OF CAPITAL GOODS AND SERVICES FINANCED OUT OF THE LOAN

#### 1) *Capital Goods*

- (i) 400/220 KV, 240 MVA Autotransformers
- (ii) 15.75/420 KV, 240 MVA Generator Transformers
- (iii) 400 KV Circuit Breakers
- (iv) Current transformers
- (v) Potential transformers

- (vi) Isolators
- (vii) Lightning arresters
- (viii) 50 MVAR reactors
- (ix) Other misc. items including spares for the above mentioned equipment.

## 2) Services

- a) Installation, testing and commissioning of equipment under the supervision of manufacturers' experts.
- b) Repairs and replacements, if any required to be undertaken under the supervision of manufacturers' experts during the performance guarantee period.
- c) Marine insurance and Sea freight charges of the goods mentioned above.
- d) Foreign Consultancy Services, if considered necessary by the Borrower for construction of 400 KV sub-stations at Obra, Sultanpur and Lucknow.

### III. PROCUREMENT PROCEDURES AS TO CAPITAL GOODS AND SERVICES FINANCED OUT OF THE LOAN

a) With respect to contracts with a foreign currency component of Swiss francs 100,000 equivalent or less the Borrower shall use procurement arrangements in accordance with its usual business practices. The Borrower shall transmit to the Lender two copies of the signed contracts.

b) With respect to contracts with a foreign currency component in excess of Swiss francs 100,000 equivalent but less than Swiss francs 1,000,000 equivalent the Borrower shall transmit to the Lender two copies of the signed contract promptly after the execution of any such contract and also a report regarding the basis on which the contract was awarded after international biddings as well as any other material relevant thereto which the Lender may request.

c) With respect to contracts with a foreign currency component of Swiss francs 1,000,000 equivalent or more:

- i) Before bids are invited, the Borrower shall transmit to the Lender for its comments the text of the invitations to bid and the specifications and other bidding documents, together with a description of the advertising procedure to be followed for the bidding and shall make such modifications in the said documents or procedure as the Lender reasonably requests. Any further modification to the bidding documents shall require the Lender's concurrence before it is issued to the prospective bidders.
- ii) After bids have been received and evaluated, the Borrower shall before a final decision on the award is made, inform the Lender of the name of the bidder to whom it intends to award the contract and shall transmit to the Lender in sufficient time for its review, a detailed report on the evaluation and comparison of the bids received together with the recommendations for award and the reasons for the intended award.

The Lender shall promptly inform the Borrower whether it has any objection to the award and shall state the reasons for any objections it may have. If the contract should be awarded over the Lender's reasonable objection or if its terms and conditions should, without the Lender's

concurrence, materially differ from those on which bids were asked, no expenditure thereunder shall be financed out of the proceeds of the loan.

- iii) Two copies of the signed contract shall be transmitted to the Lender promptly after its execution and prior to the first withdrawal of funds from the loan in respect of any such contract.

#### IV. CONSULTATION PROCEDURE

The two Contracting Parties shall co-operate fully to ensure that the purposes of the loan will be accomplished. To that end the two Contracting Parties shall from time to time, at the request of either Contracting Party:

- exchange views through their representatives with regard to the performance of their respective obligations under this Agreement, the administration and operations in respect of the project and other matters related to the purposes of the loan;
- transmit to the other Contracting Party all such information as it shall reasonably request with regard to the general situation of the loan and the execution of the project.

The Borrower shall in particular enable the representatives of the Lender to inspect the project, the goods financed out of the proceeds of the loan, and any relevant records and documents.

The Borrower shall afford all reasonable opportunity for representatives of the Lender to visit any part of the project for purposes related to the loan.

The two Contracting Parties shall promptly inform each other of any condition which interferes with, or threatens to interfere with, the accomplishment of the purposes of the loan, the maintenance of the services thereof or the performance by either of them of its obligations under this Agreement.

#### V. OPENING OF THE CREDIT AND PAYMENT PROCEDURES

The Swiss Confederation shall open immediately after the Agreement has entered into force, with the Swiss National Bank in Zurich, an account denominated "India development loan—OSL 400 kV project" in favour of the controller of aid accounts Ministry of Finance (Department of Economic Affairs) Government of India New Delhi acting on behalf of the Republic of India. This account shall be credited in three instalments, the first instalment of Swiss francs 5 million (five million Swiss francs) immediately after the entry into force of the present agreement, the second instalment of Swiss francs 25 million (twenty five million Swiss francs) on the 1.7.1975 and the third instalment of Swiss francs 5 million (five million Swiss francs) on the 1.7.1976.

The controller of aid accounts shall, when making payments from this account under the terms of the contracts executed in accordance with section III above to suppliers in Switzerland, request the Swiss National Bank to make payments in Swiss francs.

The controller of aid accounts shall, when making payments from this account under the terms of the contracts executed in accordance with section III above to suppliers in countries other than Switzerland, request the Swiss

National Bank or another Swiss Bank if the Swiss National Bank so prefers, to make payments in other appropriate currencies.

#### VI. AUTHORITIES IN CHARGE OF THE IMPLEMENTATION OF THE AGREEMENT

The Division of Commerce of the Federal Department of Public Economy, Berne (cable address: Commerce, Berne) on the Swiss side, and the Ministry of Finance, Department of Economic Affairs, New Delhi (cable address: Ecofairs, New Delhi) on the Indian side, will be responsible for the implementation of the Agreement.

This Protocol is an integral part of the Agreement between the Government of the Swiss Confederation and the Government of the Republic of India on a development loan of thirty-five million Swiss francs to the Government of the Republic of India signed to-day.

DONE at New Delhi this 9th October 1973 in six originals, two originals in English, two originals in French and two originals in Hindi, all texts being equally authoritative, but in case of differences of interpretation the English text shall prevail.

For the Government  
of the Swiss Confederation:

[Signed]

FRITZ REAL

For the Government  
of the Republic of India:

[Signed]

M. G. KAUL