

No. 17728

**CANADA
and
EL SALVADOR**

**Development Loan Agreement (with annexes). Signed at
San Salvador on 15 February 1978**

*Authentic texts: French, English and Spanish.
Registered by Canada on 11 April 1979.*

**CANADA
et
EL SALVADOR**

**Accord de prêt de développement (avec annexes). Signé à
San Salvador le 15 février 1978**

*Textes authentiques : français, anglais et espagnol.
Enregistré par le Canada le 11 avril 1979.*

DEVELOPMENT LOAN AGREEMENT¹ BETWEEN THE GOVERNMENT OF CANADA AND THE GOVERNMENT OF THE REPUBLIC OF EL SALVADOR

This AGREEMENT made in duplicate the 15th of February 1978 between the GOVERNMENT OF THE REPUBLIC OF EL SALVADOR (hereinafter called "El Salvador") acting through the MINISTERIO DE SALUD PÚBLICA Y ASISTENCIA SOCIAL and the GOVERNMENT OF CANADA (hereinafter called "Canada") acting through the CANADIAN INTERNATIONAL DEVELOPMENT AGENCY (hereinafter called "CIDA").

DEVELOPMENT LOAN AGREEMENT

WHEREAS El Salvador, within the context of a rural water supply project involving El Salvador, the Interamerican Development Bank and CIDA, wishes to establish a line of credit for purchases of materials, equipment, machinery or services as described in more detail in Article II and Annex A of this agreement,

AND WHEREAS Canada is willing to make a development loan for the purpose of establishing a line of credit available for this purpose 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 El Salvador on the terms and conditions hereinafter set forth a development loan for establishing a line of credit in an amount not to exceed one million two hundred thousand Canadian dollars (Can\$ 1,200,000).

Section 1.02. Canada shall open on its books a loan account in the name of El Salvador 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 provisions of this Agreement.

Section 1.03. This loan shall be free from interest, commitment or service charges.

Section 1.04. Repayment of the principal amount of the loan shall be made in eighty (80) semi-annual instalments of fifteen thousand Canadian dollars (Can\$ 15,000) each due and payable on March 31 and September 30 of each year, commencing on September 30, 1988, and ending on March 31, 2028.

Section 1.05. El Salvador shall have the right to prepay the principal in whole or in part on any date without notice to Canada. The amount of any pre-payment shall be applied on the instalments of the principal then remaining payable, in the reverse order of their maturity.

Section 1.06. All payments and repayments as set forth herein shall be made by El Salvador in Canadian dollars to the Receiver General for Canada and shall be deemed to have been paid when received by the Receiver General for Canada.

Section 1.07. The principal of the loan shall be paid to Canada without any deduction whatsoever and more particularly shall be free from any taxes, charges or

¹ Came into force on 15 February 1978 by signature, in accordance with section 6.04.

other fiscal restrictions imposed under the laws of El Salvador and those in effect in its territory or administrative, political or judicial divisions or subdivisions.

Section 1.08. El Salvador could agree to negotiate, at the request of Canada, concerning acceleration of payments to the Receiver General for Canada to be made under this agreement at any time within six (6) months before the first payment of principal becomes due and payable. El Salvador and Canada shall mutually determine whether such acceleration should take place on the basis of the capacity of El Salvador to service a more rapid liquidation of its obligations in the light of its internal and external financial and economic position.

Article II. USE OF THE LOAN

Section 2.01. Except as may otherwise be specifically agreed to by Canada, the proceeds of the loan shall be used by El Salvador exclusively for the purchase of materials, equipment, industrial machinery, spare parts or services from Canadian suppliers and may be used to meet the costs for insurance, ocean shipping and in exceptional circumstances for air freight. Eligible purchases shall be as described in Annex A, and procedures for administration, purchasing and payment shall be those set forth in Annex B.

Section 2.02. Except as may be otherwise specifically agreed to by Canada, the goods and services to be financed from the proceeds of the loan shall be procured in Canada and the total of all transactions thus financed, excluding freight and insurance costs, shall have a Canadian content of not less than sixty-six and two-thirds percent ($66\frac{2}{3}\%$).

Section 2.03. Goods and services 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 to by Canada.

Section 2.04. Proceeds from the loan shall not be used by El Salvador to meet the costs of any taxes, fees or customs duties imposed directly or indirectly by El Salvador on the goods or services procured.

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 El Salvador or its designated agent, or to a firm or a banking institution.

Section 3.02. Subject to the conditions and limitations set forth, El Salvador shall be entitled to withdrawals from the loan account in such amounts as are required to meet the reasonable costs of the spare parts, equipment, industrial machinery or services related thereto which are eligible for financing, as the costs become due and payable.

Section 3.03. El Salvador or its designated agent shall provide Canada with a copy of each invitation to tender, contract or purchase order for the procurement of spare parts, equipment, industrial machinery or related services in respect of which any withdrawal is to be made.

Section 3.04. El Salvador or its designated agent shall furnish, or cause to be furnished, to Canada such documents and other evidence in support of its application for withdrawals as Canada may reasonably request, such evidence to be sufficient in form and substance to establish that the amounts to be withdrawn are properly related to the purposes of this agreement.

Article IV. CANCELLATION AND SUSPENSION

Section 4.01. El Salvador may, by sixty (60) days written notice to Canada, cancel all or any part of the loan not withdrawn by El Salvador prior to the giving of such notice and not required to meet outstanding financial obligations to suppliers or firms incurred from the loan.

Section 4.02. If any of the following events occur, Canada may suspend in whole or in part the right of El Salvador to make withdrawals from the loan account, or declare the principal outstanding due and payable immediately and cancel that part of the loan not previously withdrawn:

- a) A default by El Salvador in the payment of principal or any other payments or repayments required under this agreement and the annexes hereto;
- b) A default of the part of El Salvador in the performance of any other undertakings under this agreement;
- c) Any extraordinary situation which renders it impossible for El Salvador to perform its obligations under this agreement.

Section 4.03. If the full amount of the loan is not committed by September 30, 1983, the balance shall be cancelled and the final instalments of the repayment to be made by El Salvador shall be reduced accordingly, except as may otherwise be agreed to by Canada.

Article V. GENERAL UNDERTAKINGS

Section 5.01. El Salvador and Canada shall each ensure that this agreement is carried out with due diligence and efficiency and each shall furnish to the other all such information as shall reasonably be requested.

Section 5.02. El Salvador shall afford accredited representatives of Canada all reasonable means to visit any part of the territory for purposes related to this agreement.

Section 5.03. This agreement and any Annex hereto shall be free of any taxes, fees or other charges that may be imposed under the laws of El Salvador or those in effect in its administrative, political or judicial divisions or subdivisions in connection with the execution, issue, delivery and registration thereof.

Section 5.04. El Salvador shall at all times provide or cause to be provided as needed all other monies and resources which may be required to implement this agreement.

Article VI. COMMUNICATIONS

Section 6.01. Any communication or document given, made or sent by either El Salvador or Canada pursuant to this agreement or any Annex hereto shall be in writing and shall be deemed to have been duly 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 El Salvador:

Postal address:

Ministerio de Salud Pública y Asistencia Social
Calle Arce, 827
San Salvador, El Salvador
Telephone: 21-75-50

Cable:

MINISALUD EL SALVADOR

For Canada:

Postal Address:

Canadian International Development Agency (CIDA)
122 Bank Street
Ottawa, Ontario, Canada K1A 0G4
Telephone: 995-0476

Cable:

CIDAOTT LAD 053-4140

Section 6.02. Any one of the parties hereto may, by 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 sent.

Section 6.03. All documents and communications related to this agreement shall be written in English, Spanish or French, and all technical specifications therein shall be in terms of Canadian standards except where Canada may agree otherwise in writing.

Section 6.04. This agreement will come into effect on the date of its signature. This agreement and its Annexes, which form an integral part hereof, may be amended upon agreement of the parties concerned. Any 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 made by an exchange of letters between the Ministerio de Salud Pública y Asistencia Social and CIDA.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto by their respective Governments, have signed the present agreement.

DONE in duplicate at San Salvador this 15 day of February 1978 in French, English and Spanish, each version being equally authentic.

[Signed]¹

For the Government
of the Republic of El Salvador

[Signed]²

For the Government
of Canada

ANNEX A OF THE LOAN AGREEMENT CONCLUDED THE 15 DAY OF FEBRUARY 1978 BETWEEN THE GOVERNMENT OF THE REPUBLIC OF EL SALVADOR AND THE GOVERNMENT OF CANADA

USE OF THE LOAN

1. The proceeds of the loan shall be used to finance:

- a) The cost of purchases in Canada of materials, spare parts, equipment and machinery;
- b) Canadian services related to the assembly or installation of the goods described in paragraph (a) above;
- c) Marine shipment and insurance of the goods mentioned above from the Canadian port of exit to the port of entry in El Salvador.

¹ Signed by César Augusto Escalante Monge.

² Signed by Ralph E. Reynolds.

- d) Purchasing services, provided that the total value of such services does not exceed two hundred thousand Canadian dollars (Cdn\$ 200,000).
2. The proceeds of the loan may not be used for purchase of:
- a) Machinery, equipment or other goods specifically excluded by Canadian export regulations;
- b) Arms, armaments, firearms, ammunition, nor any equipment, machinery or materials that could be used for the production of said items;
- c) Machinery, equipment, or materials intended directly or indirectly for production or utilization of atomic energy or its application or for development of nuclear, atomic or strategic arms;
- d) Foodstuffs; or
- e) Luxury items that cannot be considered essential to development.

ANNEX B OF THE LOAN AGREEMENT CONCLUDED THE 15 DAY OF FEBRUARY 1978 BETWEEN THE GOVERNMENT OF THE REPUBLIC OF EL SALVADOR AND THE GOVERNMENT OF CANADA

ADMINISTRATION, PURCHASING AND PAYMENT PROCEDURES

I. *Administration procedures*

El Salvador shall:

- a) Delegate to the Ministerio de Salud Pública y Asistencia Social the responsibility for the administration, control and allocation of loan proceeds to El Salvador in accordance with the conditions of this agreement;
- b) Notify CIDA in writing of the names and titles of those persons authorized to sign on behalf of the Ministerio de Salud Pública y Asistencia Social;
- c) Promote use of the goods and services procured from the proceeds of the loan to Salvadorean companies.

II. *Purchasing procedures*

1. In relation to the purchasing procedures, El Salvador shall ensure procurement is done in a prompt and diligent manner, either utilizing the services of their Executing Agency or the services of purchasing agents. In both cases El Salvador shall inform CIDA of its decision and the following established procedures will apply.

2. In the above mentioned cases of purchases, the following procedures will be applied:

- a) Obtain authorization and instructions from CIDA before opening negotiations for acquisition of the goods and services described in Article II of this loan agreement and in Annex A thereto;
- b) Call tenders in Canada for any transaction exceeding two hundred thousand Canadian dollars (Cdn\$ 200,000) in value; the Ministerio de Salud Pública y Asistencia Social shall inform CIDA of the outcome of the tender call;
- c) Ensure that all invitations to tender and requests for price confirmations contain all necessary information on the goods and services sought, including description, technical specifications, terms of delivery and any other details which may affect the price; this information shall be given in accordance with Canadian standards;
- d) Ensure that each call for tender or request for price confirmation is sent to CIDA at the same time as it is sent to the respective Canadian suppliers;
- e) Ensure that the lowest tender is accepted, provided specifications and other conditions are met;

- f) Ensure that a copy of each purchase order is sent to CIDA at the same time as it is sent to the supplier or the supplier's agent; and
- g) Provide CIDA with a certificate attesting that the goods and services can be financed from the proceeds of the loan.

3. If the utilization of purchasing agent services is selected, the following procedures will apply:

El Salvador:

- a) Shall present a written request to CIDA for each purchasing agent service contract it seeks to enter into with Canadian persons; the request must specify the reasons for such a contract, the terms of reference of the purchasing agent, expected costs and any other information CIDA might request;
- b) Shall obtain from CIDA for each purchasing services contract a list of four (4) Canadian companies;
- c) May request a quotation from one or more of the companies recommended by CIDA or enter into direct negotiations with any one of them when the foreseeable cost of the contract does not exceed two hundred thousand Canadian dollars (Cdn\$ 200,000);
- d) Shall request a quotation from each of the companies recommended by CIDA when the foreseeable cost of the contract exceeds two hundred thousand Canadian dollars (Cdn\$ 200,000);
- e) Shall instruct the selected companies to send copies of their quotations simultaneously to CIDA and to El Salvador; and
- f) Shall sign no contract for purchasing services without the prior authorization of CIDA.

III. *Payment procedures*

Payments to Canadian suppliers shall be made by withdrawals from the loan account established pursuant to Article I of this agreement, in accordance with the following procedures:

- a) Upon request by El Salvador, CIDA shall make direct payments to Canadian suppliers to cover the costs of the goods or services provided by these suppliers;
- b) CIDA shall send a confirmation of purchase order to each Canadian supplier for each transaction conducted by El Salvador or its designated agent, provided that the transaction has received prior approval from CIDA;
- c) Each confirmation of a purchase order sent by CIDA to a Canadian supplier shall specify that CIF payment is to be made directly upon receipt of copies in triplicate of the invoices from the suppliers, copies of non-negotiable shipping documents and any other documents, which may be considered necessary to ensure that the goods and services supplied meet specifications and other conditions set down in the purchase order issued by El Salvador or its designated agent.

IV. *Marine freight and insurance*

- a) El Salvador or its designated agent agrees to specify when calling for tenders or in price confirmations, that prices shall be indicated CIF port(s) of entry in El Salvador and that Canadian suppliers shall be responsible for paying for freight and insurance prior to shipping.
- b) El Salvador or its designated agent shall be responsible for preparing and submitting claims to the carrier, the insurance company or the Canadian suppliers for incomplete deliveries, and for any losses or damages.
- c) El Salvador shall ensure:
 - i) That all ships carrying goods procured under the terms of this loan are allowed to berth without delay, and are unloaded as quickly as possible, within the normal number of lay-days for the type of freight in question;

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- ii) That all goods obtained under this loan are given priority of clearance through customs and are sent on to their destination as quickly as possible; and
 - iii) When compensations or other payments are made as a result of claims for loss or damage under an insurance policy, that CIDA is notified immediately of such payments or compensations and that such proceeds are used to replace the goods or a portion thereof with merchandise of a similar nature from a Canadian source; in the event that the Ministerio de Salud Pública y Asistencia Social defaults in such a replacement, an amount corresponding to the compensation or other payments shall be used by El Salvador to prepay the loan, as provided for in section 1.05 of Article I of this loan agreement.
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