

**No. 24873**

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**CANADA  
and  
INDONESIA**

**Development Loan Agreement (with annexes). Signed at  
Jakarta on 26 May 1981**

*Authentic text: English.*

*Registered by Canada on 16 July 1987.*

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**CANADA  
et  
INDONÉSIE**

**Accord de prêt de développement (avec annexes). Signé à  
Jakarta le 26 mai 1981**

*Texte authentique : anglais.*

*Enregistré par le Canada le 16 juillet 1987.*

## DEVELOPMENT LOAN AGREEMENT<sup>1</sup> BETWEEN THE GOVERNMENT OF CANADA AND THE REPUBLIC OF INDONESIA

This AGREEMENT made in duplicate the 26th day of May 1981 between the GOVERNMENT OF THE REPUBLIC OF INDONESIA (hereinafter referred to as "Indonesia") and 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").

Whereas Indonesia wishes to secure a development loan for the procurement of goods required for the construction of the 244 kilometres of secondary road in the Banda Aceh/Meulaboh Highway Project, the whole as described in Annex "A" to this Agreement

And whereas Canada is willing to make a development loan available for this purpose

Indonesia and Canada have agreed as follows:

### *Article I. THE LOAN*

*Section 1.01.* Canada shall make available to Indonesia, on the terms and conditions hereinafter set forth, a Loan in an amount not to exceed thirty-one million Canadian dollars (Canadian \$31,000,000).

*Section 1.02.* Canada shall open on its books a Loan Account in the name of Indonesia 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 three hundred and eighty-seven thousand five hundred Canadian dollars (Canadian \$387,500) each due and payable on March 31 and September 30 in each succeeding year commencing on March 30, 1991 and ending on September 30, 2030.

*Section 1.05.* Indonesia shall have the right to prepay the principal amount in whole or in part on any date without notice to Canada. The amount of any such prepayment shall be applied to the instalments of the principal then remaining payable in the reverse order of their maturity.

*Section 1.06.* All payments as set forth herein shall be made by Indonesia 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 deductions whatsoever and more particularly shall be free from any taxes, charges or other restrictions imposed under the laws of Indonesia and those in effect in its territories or administrative, political or judicial divisions or subdivisions.

<sup>1</sup> Came into force on 26 May 1981 by signature, in accordance with section 7.02.

*Section 1.08.* The Parties agree that they will negotiate, at the request of either Indonesia or Canada, concerning acceleration of payments to the Receiver General for 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. Indonesia and Canada shall mutually determine whether such an acceleration should take place on the basis of the capacity of Indonesia 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 Indonesia exclusively for the purchase of agreed goods as described in Annex "A", and the procedures for their procurement and payment shall be those set forth in Annex "B". Each Annex shall be subject to such subsequent modifications as may be agreed upon between Canada and Indonesia.

*Section 2.02.* Materials, equipment and services to be financed from the proceeds of the Loan shall be used exclusively to carry out the Project; the goods procured in Canada and financed from the Loan shall have an overall Canadian content of not less than sixty-six and two-thirds percent (66 2/3%) unless otherwise agreed to by Canada.

*Section 2.03.* 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 to by Canada.

*Section 2.04.* Proceeds from the Loan shall not be used by Indonesia to meet the cost of any taxes, fees or Customs duties imposed directly or indirectly by Indonesia on any materials or equipment required for the Project. Proceeds from the Loan shall also not be used by Indonesia to meet the costs of fees and commissions paid by Canadian firms to Indonesian agents and representatives in respect of services, material and equipment financed out of the proceeds of the Loan.

*Section 2.05.* Indonesia shall immediately notify Canada of any payment it receives for loss or damage to commodities or materials in transit under an insurance policy or otherwise. Unless otherwise agreed to by Canada and Indonesia, Indonesia shall use such proceeds to replace the commodities or materials or portion thereof with like goods from a Canadian source in accordance with the same procedures as those applicable to procurement financed by the proceeds of the Loan.

## *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 Indonesia or its designated agent, or to a firm or banking institution in respect of goods supplied under this Agreement.

*Section 3.02.* Subject to the conditions and limitations set forth herein, Indonesia shall be entitled to withdrawals from the Loan Account in such amount as required to meet the costs of the goods, services, freight and insurance which are eligible for financing as the costs become due and payable.

*Section 3.03.* Indonesia, or its designated agent, shall provide Canada with a copy of each contract or purchase order for the procurement of materials, equipment and 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 Indonesia and agreed to by Canada.

#### *Article IV. CANCELLATION AND SUSPENSION*

*Section 04.1<sup>1</sup>.* Indonesia may, by sixty (60) days written Notice to Canada, cancel all or any part of the Loan not withdrawn by Indonesia 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 suspend in whole or in part the right of Indonesia to make withdrawals under the Loan Agreement, or declare the principal outstanding due and payable immediately and cancel that part of the Loan not previously withdrawn:

- (a) A default by Indonesia 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 Indonesia in the performance of any undertakings under this Agreement;
- (c) Any extraordinary situation which renders it impossible for Indonesia to perform its obligations under this Agreement.

*Section 4.03.* If the full amount of the Loan is not committed by Indonesia by December 1988, the balance will 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.* Indonesia shall ensure that the Project is carried out, operated and maintained in accordance with its responsibilities as described in Annex "C" with due diligence and efficiency and in conformity with sound engineering construction and financial practices.

*Section 5.02.* Canada and Indonesia 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. Indonesia shall inform Canada as soon as possible of any condition or contingency which interferes with, or threatens to interfere with, the accomplishment of the Project on any matter or thing in connection therewith.

*Section 5.03.* Indonesia shall afford accredited representatives of Canada all reasonable opportunities to visit any part of the territories of Indonesia for the purpose 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 Indonesia and those in effect in its territories or administrative political or judicial divisions or subdivisions in connection with the execution, issue, delivery and registration thereof.

<sup>1</sup> Should read "4.01" — Devrait se lire « 4.01 ».

*Section 5.05.* It is understood and agreed by Indonesia and Canada 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 purpose of this Agreement and Annexes thereto, Indonesia shall include any agent or agents authorized by and on behalf of Indonesia with regard to its rights, duties and obligations herein.

#### *Article VI. COMMUNICATIONS*

*Section 6.01.* Any communications or documents given, made or sent by either Indonesia or Canada 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 addresses, namely:

For Indonesia:

The Ministry of Foreign Affairs  
Jalan Pejambon 6-8  
Jakarta, Indonesia  
Cable Address: Deplu, Jakarta

and/or

Bank Indonesia  
Jalan Kebon Sirih 82-84  
Jakarta, Indonesia  
Cable Address: Delegasi, Jakarta

and/or

Directorate General for International Monetary Affairs  
Ministry of Finance  
Jalan Lapangan Banteng Timur 2-4  
Jakarta, Indonesia  
Cable Address: DITMON, Jakarta  
Telex:

For Canada:

The President  
Canadian International Development Agency  
Place du Centre  
200 Promenade du Portage  
Hull, P.Q.  
Canada K1A 0G4  
Cable Address: CIDA HULL

*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 shall be in the English or French language.

*Article VII.* SIMULTANEOUS EXECUTION OF AGREEMENT

*Section 7.01.* This Agreement may be simultaneously executed 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 made by an exchange of letters between the authorized representatives of Indonesia and Canada. This Agreement will come into force at the time of its signature.

IN WITNESS WHEREOF the Parties undersigned, being duly authorized, have signed this Agreement.

For the Government  
of the Republic of Indonesia:

*[Signed]*

Prof. Dr. MOCHTAR KUSUMAATMADJA  
Minister for Foreign Affairs

For the Government  
of Canada:

*[Signed]*

W. H. MONTGOMERY  
Ambassador

ANNEX "A" TO THE AGREEMENT OF 1981  
FOR THE BANDA ACEH/MEULABOH HIGHWAY PROJECT

1.0. *Description of the Project*

The Canadian International Development Agency (CIDA) has agreed to assist Indonesia in the construction of 244 kilometres of the secondary roadway between the cities of Banda Aceh and Meulaboh in the Special Territory of Aceh.

This project results from the work done in 1973 by a United Nations Development Programme team which developed a programme in the Special Territory of Aceh for the selection of priority road links and for determining the level of upgrading required. A roads programme in the Special Territory of Aceh was developed to link the two coasts and the central valley to Medan (on the east) and Banda Aceh (on the north).

The western coastal route was divided into three parts to be constructed simultaneously by Canadian, American and German aid agencies.

2.0. *Use of the Loan*

The proceeds of the Loan may be used by Indonesia or its agent to pay the Canadian dollar costs of the following:

2.1. The purchase of equipment and materials:

- (a) Material: All materials procured in Canada to be used on the construction of the Banda Aceh/Meulaboh highway, including but not limited to the following: steel for small structures, for multi-place culverts, for ferry ramps and for new bridges. The exact lists of materials and quantities will be mutually agreed between Canada and Indonesia.
- (b) Equipment: (i) Survey, drafting and quantity and quality control equipment procured in Canada as mutually agreed between Canada and Indonesia; (ii) Construction equipment procured in Canada, the detailed list of equipment to be mutually agreed between Canada and Indonesia; (iii) Construction equipment fleet, service and maintenance equipment, and spare parts to be procured in Canada, the detailed list of equipment to be mutually agreed between Canada and Indonesia; (iv) Miscellaneous support equipment procured in Canada, the exact list of equipment to be mutually agreed between Canada and Indonesia.

2.2. The cost of ocean freight, freight forwarding and marine insurance charges.

2.3. The costs of transport, warehousing and marshalling in Canada.

2.4. Any costs of consulting services for inspection and testing of equipment and materials approved by Canada and Indonesia in association with this project which are not provided under the Memorandum of Understanding dated the 16th of September, 1980, concerning the provision of consultant services.

ANNEX "B" TO THE AGREEMENT OF 1981  
FOR THE BANDA ACEH/MEULABOH HIGHWAY PROJECT

1.0. *Procurement of Canadian Equipment and Materials*

1.1. The Canadian Commercial Corporation (hereinafter referred to as CCC) of Canada shall be designated by Indonesia as purchasing agent for all the Canadian goods.

1.2. The list of equipment and specifications will be forwarded by Indonesia to CCC.

1.3. CCC, on behalf of Indonesia shall invite tenders for materials and equipment for the Project from a representative list of Canadian suppliers approved by CIDA and Indonesia. To the extent possible, equipment shall be tendered against full performance/functional specifications according to the Project requirements.

1.4. A copy of the specifications, the invitation to tender, together with a list of Canadian suppliers invited to tender, shall be forwarded by CCC to CIDA. Prior to issue, the specifications shall be agreed to by Indonesia.

1.5. Each Canadian supplier invited to tender shall be instructed:

- (a) To send a copy of his tender to CIDA and Indonesia at the same time as the tender is forwarded to CCC;
- (b) To include with the copy of the tender sent to CIDA a completed Canadian Content form;
- (c) To exclude a copy of the Declaration of Canadian Content form from his tender being submitted to CCC with the exception of the information contained in Item Seven (7) of the Canadian Content form. The Declaration of Canada Content is to be forwarded only to CIDA;
- (d) To include in his tender the following notation: "We certify that the goods ordered hereby are for export. The invoiced price shall exclude Sales Tax and refundable Customs Duty and Excise Tax paid on goods or on parts and components incorporated in the goods. The goods are covered by CIDA Project Number 472/00707";
- (e) To base prices on materials and equipment on "Freight at shipside" (FAS) at designated Canadian port;
- (f) On equipment purchases, to supply a recommended list of spare parts for a four year period.

1.6. Where the lowest tender received meets all requirements of the invitation to tender, CCC, with the authorization of Indonesia, may award the contract. 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, CCC, with the approval of Indonesia, will secure prior approval of CIDA. Supporting evidence of tenders will, in any case, be made available to Indonesia and CIDA as required.

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

1.8. The negotiation of progress payments where necessary shall be subject to the prior approval of Indonesia and CIDA.

## 2.0. *Payment Procedures*

2.1. Upon signing of the Loan Agreement, Indonesia will forward a Letter of Authorization to CIDA to administer the total amount of the loan.

2.2. Upon receipt of an Order to Pay from Indonesia, CIDA shall make payments from the loan account directly to CCC for imports by Indonesia of goods, materials, and services and for freight and insurance charges eligible for payment under this agreement.

2.3. CIDA shall confirm to CCC that payments will be made upon request by CCC in Canadian currency and in accordance with the terms and conditions of the individual contracts between CCC and the suppliers as set out in Annex B.1.

2.4. Evidence for payment in the case of materials and equipment shall be an original Invoice certified by CCC accompanied by proof of delivery to dockside or to the forwarding agent, e.g. non-negotiable bills of lading or receipt of acceptance by the forwarding agent. When facilities of a freight forwarder are used, CIDA will pay CCC for services provided upon submission of certified invoices for such services accompanied by non-negotiable bills of lading, freight charges and copies of the insurance certificate.

2.5. CCC will notify Bank Indonesia in the case of payment made by CIDA and at the same time, if required, provide Bank Indonesia with copies of the supporting documentation in accordance with the terms and conditions of the Agreement between CCC and Bina Marga.

2.6. In the case of materials and equipment shipped from Canada to Indonesia, CCC will notify and at the same time forward to Bina Marga the required negotiable shipping documentation as submitted by the suppliers in accordance with the terms and conditions of the contracts.



2.7. CCC and the suppliers will be instructed by CIDA that they should not begin any project-related activities until the relevant contracts are in place.

2.8. Quarterly Statements of disbursements reflecting loan withdrawals and current balance of the loan fund will be prepared by CIDA and forwarded to Bank Indonesia and the Directorate General for International Monetary Affairs of the Ministry of Finance.

## ANNEX "C" TO THE AGREEMENT OF 1981 FOR THE BANDA ACEH/MEULABOH HIGHWAY PROJECT

### RESPONSIBILITIES OF THE GOVERNMENT OF THE REPUBLIC OF INDONESIA

1.0. In carrying out the Project as described in Annex "A", Indonesia will be responsible for:

1.1. Arranging periodic meetings to review the progress of the Project with representation from the Directorate General of Highways (Bina Marga), the Canadian engineering Consultant (supplied under the Memorandum of Understanding for this Project concluded between Indonesia and Canada), CIDA, the Office of the Governor of the Special Territory of Aceh, and other parties as deemed appropriate.

1.2. Providing the financial contributions required for the implementation of the Project.

2.0. With respect to equipment and materials provided from Canada, subject to the existing rules and regulations, Indonesia will:

2.1. Arrange with Indonesian customs officials to properly clear through Indonesian Customs free of Imports, customs and other duties and taxes, all equipment and materials required to support and undertake the implementation of the Project;

2.2. Provide:

(a) All Indonesian permits, licences and other such documents required to enable CCC to carry out its respective responsibilities in Indonesia; and

(b) All export and exit permits required for the return of any of the material, equipment or effects (including personal effects) which are the property of or are provided by Canada, CCC or CCC personnel employed on the provision of services under this Agreement;

2.3. Indemnify and save harmless, at no cost of the Loan Account, Canada, its employees, agents or servants, Canadian firms and Canadian personnel from any liability resulting from the performance of their functions in Indonesia in connection with the Loan. This provision will not relieve any person from liability for any fraudulent or criminal act.

3.0. With respect to materials, equipment and related services provided from Canada, Indonesia, through its designated agent, shall:

3.1. Arrange for inspection and testing as necessary;

3.2. Be responsible for arrangement of adequate insurance for incomplete shipments, losses or damage to the equipment and materials during shipment and in transit. If any part of the lost or damaged equipment and materials is prefinanced for replacement out of the Loan Fund pending settlement of insurance claims, on settlement of such claims, the amounts will be deposited to the account of the Loan Fund and will be paid in Canadian dollars;

3.3. Be responsible for the preparation and submission of claims to Canadian suppliers for incomplete shipments, and for the preparation and submission for insurance claims in the event of losses or damage to commodities while in transit;

3.4. Be responsible for payment of demurrage.