

No. 24967

**CANADA
and
CHINA**

General Agreement on development co-operation (with annexes). Signed at Ottawa on 5 October 1983

Authentic texts: English, French and Chinese.

Registered by Canada on 16 July 1987.

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et
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Accord général de coopération au développement (avec annexes). Signé à Ottawa le 5 octobre 1983

Textes authentiques : anglais, français et chinois.

Enregistré par le Canada le 16 juillet 1987.

GENERAL AGREEMENT¹ BETWEEN THE GOVERNMENT OF CANADA
AND THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA
ON DEVELOPMENT CO-OPERATION

The Government of Canada and the Government of the People's Republic of China (hereinafter referred to as "the Government of China"),

Wishing to strengthen the existing cordial relations between the two countries and their peoples and moved by the desire to foster development cooperation between the two countries in conformity with the objectives of economic and social development of the Government of China,

Have agreed to the following:

Article I. The Government of Canada and the Government of China shall jointly promote a programme of development cooperation, between their two countries, consisting of one or more of the following components:

- (a) The assignment of Canadian advisors and experts to China for long or short term co-operation missions;
- (b) The granting of scholarships to citizens of China for studies and professional training in Canada, China or a third country;
- (c) The provision of equipment, materials, goods and services required for the successful execution of development projects in China;
- (d) The execution of studies and projects designed to contribute to the economic and social development of China;
- (e) The development and promotion of business relations between corporations, institutions and persons of Canada and China; and
- (f) Any other form of cooperation and assistance which may be mutually agreed upon.

Article II. For the purpose of the programme of development cooperation described in Article I of this Agreement, the Government of Canada designates the Canadian International Development Agency as its coordinating authority and the Government of China designates the Ministry of Foreign Economic Relations and Trade as its coordinating authority.

Article III. 1. In pursuance of the objectives of this Agreement, the Government of Canada and the Government of China may conclude subsidiary arrangements or loan agreements, in respect of specific projects involving one or several components of the programme described in Article I. Subsidiary arrangements shall define a joint project concept, specifying the project objective, the contributions to be made by the Government of China and the Government of Canada, the functions and organizational positions of the participants and such other matters as may be mutually agreed upon.

2. Unless stated otherwise, subsidiary arrangements concerning grants or contributions from the Government of Canada shall be considered as administrative arrangements.

¹ Came into force on 5 October 1983 by signature, in accordance with article XI (1).

3. Loan agreements shall be formal agreements between the contracting parties and shall be legally binding.

4. Subsidiary arrangements and loan agreements shall make specific reference to the present Agreement.

5. The Government of Canada and the Government of China, in the spirit of paragraph (e) of Article I of this agreement, shall facilitate the negotiation and signing of agreements or arrangements between institutions, corporations or persons of the two countries relating to specific projects of development cooperation. These agreements or arrangements shall be approved by the Government of Canada and the Government of China and shall be considered as subsidiary arrangements within the meaning of this Agreement.

Article IV. Unless otherwise indicated, the Government of Canada shall assume the responsibilities described in Annex A and the Government of China shall assume the responsibilities described in Annex B in respect of any specific project established under a subsidiary arrangement or a loan agreement. Annexes A and B shall be integral parts of this Agreement.

Article V. For the purposes of this Agreement:

(a) "Canadian firm" means a Canadian or other non-Chinese firm or institution acceptable to the Governments of both Canada and China engaged in any project established under a subsidiary arrangement or a loan agreement;

(b) "Canadian personnel" means Canadians, or other persons acceptable to the Governments of both Canada and China, working in China on any project established under a subsidiary arrangement or a loan agreement; and

(c) "Dependant" means the spouse of a member of the Canadian personnel, the child of this member or of the spouse of said member or any other person recognized as a dependant by relevant regulations of the Government of Canada.

Article VI. 1. The Government of Canada shall ensure that Canadian firms, Canadian personnel and their dependants undertake:

(a) Not to interfere in the internal affairs of the People's Republic of China;

(b) To respect the laws, applicable rules and regulations of the People's Republic of China as well as the customs of the country;

(c) Not to engage in any gainful occupation other than that to which they have been assigned under a subsidiary arrangement or loan agreement concluded pursuant to this Agreement;

(d) To cooperate in a spirit of mutual confidence with the official agencies of the People's Republic of China.

2. The Government of China shall inform Canadian firms and Canadian personnel of the laws, regulations, and customs which may concern them in the performance of their functions to facilitate their complying with the obligations which shall be placed upon them in accord with paragraph 1 of this Article.

Article VII. 1. The Government of China shall indemnify the Government of Canada, its employees, agents or servants, from civil liability for acts or omissions oc-

curing in the execution of any project established under a subsidiary arrangement or loan agreement concluded pursuant to this Agreement.

2. Except as may otherwise be provided in contracts between the Government of Canada, the Government of China or their agencies and corporations, on the one hand, and Canadian firms on the other hand, the Government of China shall indemnify Canadian firms and Canadian personnel from civil liability for acts or omissions occurring in the performance of their functions in China except where it is legally established that such acts or omissions result from or are attributable to gross negligence or willful misconduct on their part. The foregoing indemnity provision shall not apply to commercial Canadian firms.

3. The Government of China shall facilitate the repatriation of Canadian personnel and of their dependants in cases where, in the opinion of the Government of Canada or the Government of China, the life or safety of said personnel and of their dependants are endangered as a result of events occurring inside China.

Article VIII. The funds provided by the Government of Canada under any subsidiary arrangement or loan agreement shall not be used for the payment of taxes, import duties, customs tariffs, excise taxes, inspection fees or storage charges and all other levies, duties, fees or charges on funds, equipment, products, materials, and any other goods imported into China from Canada or any other country for or related to execution of projects established under any subsidiary arrangement or loan agreement. Unless otherwise provided in the subsidiary arrangement or loan agreement, the aforementioned equipment and materials shall become the property of the Government of China on arrival in the People's Republic of China.

Article IX. The Government of China shall

- (a) Exempt Canadian firms and Canadian personnel from import duties, customs tariffs and other duties, charges, fees or levies on technical and professional equipment and materials imported into China for the execution of projects subject to their re-exportation or to the termination of the useful life of such effects or to the disposal of same to persons enjoying similar exemptions.
- (b) Exempt Canadian personnel and their dependants from import or export duties, customs tariffs and all other duties, taxes, charges, fees or levies on
 - (i) Personal and domestic effects including household appliances, and
 - (ii) One vehicle per household and replacement parts for said vehicle imported into China for their personal use upon their first arrival and for a period of six months thereafter, it being understood however that, for replacement parts or where such articles become unserviceable, lost or destroyed, such privilege may be renewed at any time during the assignment of the Canadian personnel.
- (c) Allow Canadian personnel and their dependants to import, free of all taxes, duties, charges, fees or levies, reasonable quantities of prescribed medicinal and therapeutic products and aids, that may be legally imported into China for the personal use of the Canadian personnel and their dependants.
- (d) Permit Canadian firms and Canadian personnel and their dependants to re-export such foreign currency as
 - (i) They may carry with them upon their arrival in China or may transfer into China thereafter, for the purposes of any project established under subsidiary arrangements or loan agreements or for their personal use, as the case may be; or

- (ii) They obtain from the sale or disposal of their personal and domestic effects, including household appliances and vehicle, it being understood that the sale or disposal of such effects and vehicle is subject to the approval of the Government of China.
- (e) Exempt Canadian firms and Canadian personnel, including their dependants, from all resident and local taxes, levies or charges, including income taxes or other types of taxes on remuneration or income from Canadian aid funds or from the Government of China as provided in this Agreement, any subsidiary arrangement or loan agreement.

Article X. Differences which may arise relating to the interpretation or application of the provisions of this Agreement, of any subsidiary arrangement or loan agreement shall be settled by means of negotiations between the Government of Canada and the Government of China or in any other manner mutually agreed upon by the parties.

Article XI. 1. This Agreement shall enter into force on the date of signature.

2. This Agreement shall remain in force until terminated by either party on six (6) months' notice in writing to the other party.

3. The responsibilities of the Government of China and the Government of Canada with regard to projects being carried out by virtue of subsidiary arrangements or loan agreements entered into pursuant to Article III of this Agreement and begun prior to the receipt of the termination notice referred to in the present Article shall continue until completion of such projects as if the present Agreement remained in force in respect of and for the whole duration of such projects.

IN WITNESS WHEREOF, the undersigned, duly authorized thereto by their respective Governments, have signed this Agreement.

DONE in duplicate at Ottawa, the 5th day of October 1983, in the English, French and Chinese languages, each version being equally authentic.

For the Government
of Canada:

[Signed]

ALLEN J. MACEACHEN

For the Government
of the People's Republic
of China:

[Illegible]

ANNEX A
RESPONSIBILITIES OF THE GOVERNMENT OF CANADA

I. Unless otherwise indicated in subsidiary arrangements or loan agreements, the Government of Canada shall finance the following expenditures based on the rates authorized in its Regulations.

A. Expenditures related to Chinese trainees:

1. Registration and tuition fees, books, supplies, or material required;
2. A living allowance;
3. Medical and hospital expenses;
4. Where the training in Canada of any Chinese trainees is for a period of six (6) months or more, return travel costs between the nearest point serviced by the Civil Aviation Administration of China and the site of training and other costs of travel within Canada arising under the training programme; where the training in Canada of any Chinese trainees is for a period of less than six (6) months, return travel costs between China and the place of training and other costs of travel within Canada.

B. Expenditures related to Canadian personnel:

1. Their salaries, fees, allowances and other benefits;
2. Their travel expenses and those of their dependants between their normal place of residence and the port of entry and departure in China;
3. The cost of shipping, between their normal place of residence and the port of entry and departure in China, their personal and household effects, those of their dependants, and the professional and technical material and equipment required by said personnel in the performance of their functions in China.

C. Expenditures related to certain projects:

1. The cost of accommodation, meals and transportation for Canadian personnel engaged in project identification and definition work;
2. The cost of consulting and other service contracts required for the execution of projects;
3. The cost of providing equipment, materials, supplies and other goods and of the transportation of same to the port of entry in China.

II. 1. Contracts for the purchase of goods or commissioning of services financed by the Government of Canada and required for the execution of individual projects will be signed by the Government of Canada or one of its agencies or corporations.

2. However, it may be provided in any subsidiary arrangement or loan agreement entered into pursuant to the present Agreement that such contracts shall be signed by the Government of China, its agencies, or corporations, in accord with the terms and conditions specified in said subsidiary arrangements or loan agreements. Said terms and conditions will normally include the following:

- a. Goods or services must be acquired in Canada and have a Canadian content of not less than sixty-six and two-thirds per cent (66 2/3%);
- b. Competitive bidding must take place and the contract must be awarded to the lowest bidder that conforms to the specifications and fulfils the other terms and conditions of the tender documents;
- c. The terms of payment, the technical specifications or the scope of work, as the case may be, and other terms and conditions of contracts as the Government of Canada may determine, must be approved beforehand by the Government of Canada; and
- d. The suppliers shall be paid directly by the Government of Canada.

III. 1. The Government of Canada shall submit to the Government of China for approval the names and curricula vitae of the Canadian personnel and the names of their dependants which it proposes to assign to China under any subsidiary arrangement or loan agreement. In the absence of a documented reply within sixty (60) days of receipt by China of the information provided by Canada, the said Canadian personnel shall be deemed to be accepted by the Government of China.

2. The Government of Canada shall provide the Government of China sufficiently in advance of arrival with a list of the Canadian personnel and their dependants entitled to the rights and privileges set forth in this Agreement.

3. The Government of China reserves the right to approve the fielding of Canadian personnel. If any Canadian personnel or their dependants are found unsuitable for staying and/or working in China, such person(s) can be removed at the Chinese or Canadian initiative, with the reason clearly stated in each case, and discussed by the Ministry of Foreign Economic Relations and Trade and the Canadian International Development Agency before a final ruling is made by the Government of China. The Government of Canada shall replace as soon as possible any Canadian personnel who have been removed.

ANNEX B

RESPONSIBILITIES OF THE GOVERNMENT OF CHINA

I. The Government of China shall assist Canadian personnel and their dependants to obtain accommodation of a suitable standard and furnishing for the duration of their assignment in China. The financial arrangements for accommodation and related services shall be determined by the particular circumstances of each project and responsibility for any payment will be determined in the subsidiary arrangement or loan agreement for that project.

II. Unless otherwise indicated in subsidiary arrangements or loan agreements, the Government of China shall provide free of charge or pay for:

1. Furnished premises and office services in compliance with the standards of the Government of China including adequate facilities and materials, support staff, professional and technical material, and other services which the Canadian personnel or the Canadian firms would need in the performance of their functions;
2. The timely recruiting and seconding of qualified counterparts when required for the project;
3. Where the assignment in China is for a period of six (6) consecutive months or more:
 - (a) Temporary accommodation for a period not exceeding seven (7) days for the Canadian personnel and their dependants, before they are able to occupy permanent accommodation as well as immediately prior to their departure after they have vacated permanent accommodation;
 - (b) The travel expenses of the Canadian personnel and of their dependants between the port of entry and the place of residence of said personnel in China at the beginning of their assignment; and the place of residence and the point of departure of said personnel in China upon completion of their assignment;
4. The cost of transportation of
 - (a) The personal and household effects of the Canadian personnel and those of their dependants; and
 - (b) The professional and technical material and equipment required by said personnel in the performance of their functions in Chinabetween:
 - (c) The port of entry and the place of residence of said personnel in China at the beginning of their assignment; and

- (d) The place of residence and the point of departure of said personnel in China upon completion of their assignment;
5. Official assistance to facilitate the travel of Canadian personnel in the performance of their functions;
 6. The storage and payment of any like charges or fees for articles mentioned in paragraph 4 above during the period when such articles are held at customs and any measures required to protect these articles against natural elements, theft, fire and any other hazard;
 7. All permits, licences and other documents thereto necessary to enable Canadian firms and Canadian personnel to carry out their respective functions in China;
 8. The prompt transportation of all equipment, products, materials, supplies and other imported goods required for the execution of projects, from the port of entry in China to project sites;
 9. Information and materials related to projects and likely to assist Canadian personnel in the performance of their functions;
 10. Other measures within its jurisdiction which may facilitate the execution of projects.

III. The Government of China shall give access to Canadian personnel and their dependants to medical care and hospitalization of a suitable standard in China. In the event that a member of Canadian personnel must be evacuated for medical reasons, the Government of China shall provide all means of transportation at its disposal to facilitate such evacuation.

IV. The Government of China acknowledges that each member of Canadian personnel shall be entitled to annual leave according to relevant regulations of the Government of Canada.

V. The Government of China shall provide and pay for the return travel costs for trainees whose training in Canada is for a period of six (6) months or more not paid for by the Government of Canada under paragraph I. (A). (4) of Annex A above.

VI. The Government of China shall nominate for training in Canada, China or a third country candidates who upon completion of their training will work on a long-term basis for the related project.

VII. Nothing contained in the Agreement or in the present Annex shall be interpreted as restricting, limiting or diminishing in any manner the exemptions, privileges, immunities, payments or other advantages not specifically mentioned herein, which are granted by the Government of China to personnel or firms from countries other than Canada that have development cooperation programmes in China.
