

No. 2394

**UNITED STATES OF AMERICA
and
PORTUGAL**

**Exchange of notes constituting an agreement relating to
the settlement of certain war claims. Washington,
3 October 1947, 21 February, 3 and 20 May and 4 August
1949**

D. indif.
Official text: English.

Registered by the United States of America on 28 November 1953.

**ÉTATS-UNIS D'AMÉRIQUE
et
PORTUGAL**

**Échange de notes constituant un accord relatif au règlement
de certaines créances de guerre. Washington, 3 octobre
1947, 21 février, 3 et 20 mai et 4 août 1949**

Texte officiel anglais.

Enregistré par les États-Unis d'Amérique le 28 novembre 1953.

No. 2394. EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT¹ BETWEEN THE UNITED STATES OF AMERICA AND PORTUGAL RELATING TO THE SETTLEMENT OF CERTAIN WAR CLAIMS. WASHINGTON, 3 OCTOBER 1947, 21 FEBRUARY, 3 AND 20 MAY AND 4 AUGUST 1949

I

The Secretary of State to the Portuguese Ambassador

The Secretary of State presents his compliments to His Excellency the Ambassador of Portugal and has the honor to refer to notes between the Department and the Portuguese Embassy exchanged in 1952² with regard to the bombing of Macao by American planes, and to the memorandum of claim for losses suffered which the Portuguese Foreign Office submitted to the American Embassy at Lisbon on August 6, 1945. Reference is also made to revised claims presented to the claims investigators of the War Department by the Government of Macao.

The Government of the United States has previously acknowledged responsibility for the bombing incidents of January 16 and February 25, 1945, and responsibility is now acknowledged for the incidents of April 7 and June 11, 1945.

There is enclosed herewith a copy of a summary prepared by the War Department of its investigation of the damage sustained in the four incidents. It will be noted that it is recommended that 995,341.51 patacas be paid in settlement of the claims presented by the Portuguese Government and 68,022.84 patacas in settlement of the claims of certain individuals (some of whom may not be Portuguese nationals) who are listed in the enclosed summary under the heading "Private Claims". Upon the basis of such summary the Government of the United States is disposed to pay the Government of Portugal the total sum of 1,063,364.35 patacas upon agreement by the Portuguese Government to assume the obligation of indemnifying individual claimants. The settlement is to be regarded as full satisfaction of all claims, irrespective of the nationality of the claimants, arising out of damage caused to persons or property in Macao as a result of the bombing incidents referred to above.

Enclosure :

Summary of damages, Macao bombing incidents, 1945.

Department of State
Washington, October 3, 1947.

¹ Came into force on 4 August 1949 by the exchange of the said notes.

² Not printed by the Department of State of the United States of America.

ANNEXURE

SUMMARY OF DAMAGES, MACAO BOMBING INCIDENTS, 1945

The total amount claimed by the Macao authorities for damage to public property is 3,336,331.38 patacas. This sum is 3,481.38 patacas more than the original claim filed by Portugal through diplomatic channels. The governmental claims are filed for each bombing incident, by departments of the colony. For the bombing on January 16, 1945, a claim in the amount of 3,060,613.38 patacas was made; it being the understanding of the Macao officials that one United States dollar at the present rate of exchange is equivalent to 3.93 patacas, and all figures used in this communication are calculated on that basis. For the bombing of February 25, 1945, the claim of the Macao Colonial Government is in the amount of 188,020.00 patacas. No claim is filed by the Macao Government for the damage occasioned by the bombing which occurred on April 7, 1945. The government claim for the bombing incident occurring on June 11, 1945, amounts to 87,698 patacas.

The results of the investigation indicate that almost all claims, governmental as well as private, are greatly in excess of the amount of damage actually done.

GOVERNMENTAL CLAIMS

Incident of January 16, 1945

The total amount claimed by the Macao Government arising out of this bombing incident is 3,060,613.38 patacas. The total recommended for payment as meritorious is 912,341.51 patacas.

	<i>Amount Claimed</i>	<i>Amount Recommended</i>
	<small>(All figures patacas)</small>	
1. <i>Claim of the Import and Export Department</i>	1,677,030.00	144,085.35
<p>This item was for gasoline and oil destroyed. The difference is accounted for by the fact that the Macao officials base their value of such commodities on the price at which they could have sold these articles, purchased in 1941, to the Japanese on 15 January 1947; the United States valuation is based on present price of same commodities, which are higher than 1941 prices, but less than one-tenth the amount claimed. As an example, gasoline is claimed at the price of 80 patacas per gallon; whereas the present open market cost is only 1.47 patacas per gallon. It is the opinion of the War Department that payment of 144,075.35 patacas will restore Macao to the position it occupied in 1945 in regard to replacing the destroyed commodities.</p>		
2. <i>Claim of The Public Works Department</i>	1,176,000.00	583,687.50
<p>The amount recommended represents 50% of the original cost of the Naval Air Hangar, erected in 1938. The hangar was damaged to the extent of 50%. No evidence was presented by the Macao authorities to the effect it would cost more than 574,997.50 to restore the hangar to its original form. In the claim of the Public Works is also included an item for the destruction of an old fort, together with certain engines therein. The value of such destroyed material was necessarily estimated in terms of Philippine prices for similar destruction, as the Macao authorities could show no data to</p>		

	<i>Amount Claimed</i>	<i>Amount Recommended</i>
enable the investigators to arrive at any other value. 8,690 patacas of the above sum was allowed for the damage to Dona Maria Fort, and to the engines stored therein.		
3. <i>Claim of Chef de abinet</i>	10,000.00	5,329.00
Item claimed was 1937 Dodge Sedan, good condition. Amount allowed is based on fair value, Manila, plus shipping costs to Macao.		
4. <i>Municipal Electric Service</i>	25,343.36	9,404.64
Item reduced because of use of inflated price set on Lubricating Oil (14,320 patacas ; whereas the present fair price is 537 patacas). Other items allowed in amount claimed except for reduction in amount of 1,519.36 patacas for damaged cable and 611.36 patacas for overvalued oil drums.		
5. <i>Harbour Office Property</i>	16,534.22	14,534.22
Two members of the Governor's valuation commission valued property damaged at 16,534.22 ; the third member valued damage at 14,534.22. The lower figure is recommended.		
6. <i>Post Office Department</i>	350.00	350.00
7. (a) Claim for damaged personal property of Corporal Marreiros	3,102.80	3,102.80
(b) Claim for damaged personal property of Corporal Ribeiro	2,253.00	1,848.00
Claim (a) was found to be meritorious in the amount claimed, whereas claim (b) presented an overvaluation by using inflated value with respect to personal goods of no intrinsic value.		
8. Claim of the Governor for future claims from wounded persons, loss of personal effects ; hospitalization and treatment of civil servants, plus pensions paid by reason of disability	150,000.00	150,000.00

Incident of 25 February 1945

Total	188,020.00	68,000.00
1. <i>Fatima Mission</i>	36,000.00	5,000.00
The Department of Public Works, Macao, estimated the damage to be only 12,332 patacas on 3 March 1945. Personal observation by the claims investigators in 1947 indicated that very little except slight possible concussion damage was done to the mission. No evidence of any cost to repair such damage as might have been sustained was submitted.		
2. <i>House of Mercy</i>	30,500.00	600.00
No evidence of damage presented to investigators. The Macao Government in their investigation after the bombing estimated the damage done in the whole district in which the Houses of the Poor, operated by the House of Mercy are located, at 600 patacas.		

	<i>Amount Claimed</i>	<i>Amount Recommended</i>
3. <i>Public Works Department</i>	57,000.00	900.00
<p>Claim was for 700 patacas damage to streets, which is allowed. All the balance was duplicated in other claims, or disproved by eye-witness testimony given the investigators, except several broken windows in the police station, for which 200 patacas is recommended as a fair settlement.</p>		
4. <i>Claim of Mr. Eduardo J. M. Rosario</i>	4,520.00	1,500.00
<p>Mr. Rosario voluntarily reduced his claim to the amount recommended.</p>		
5. Compensation for future claims from wounded persons, loss of personal effects: hospitalization and treatment of civil servants, plus pensions paid by reason of disability.	60,000.00	60,000.00

Incident of April 7, 1945

No claim is filed.

Incident of June 11, 1945

Total	87,698.00	15,000.00
1. <i>Fatima Mission</i>	17,328.00	NONE
<p>The total damage done Fatima Mission was considered in making award under Incident of 25 February 1945.</p>		
2. <i>Public Works Department</i>	70,370.00	15,000.00
<p>The recommended sum is largely for insurance against future claims, as all appeared to be duplicate claims for damage caused in other incidents, 5,000 patacas are allowed for damage to streets in the "28th of May" district, and 10,000 patacas for future claims.</p>		

TOTAL RECOMMENDED, FOUR INCIDENTS—995,341.51 patacas

PRIVATE CLAIMS

The total amount claimed by private individuals arising out of these incidents is 168,421.70 patacas, or its equivalent in dollars. The total recommended is 68,022.84 patacas or \$17,308.61. Claims were filed by the following:

<i>Name</i>	<i>Amount Claimed</i>	<i>Amount Recommended</i>
Trygve Jorgenson	\$ 25,000.00 (U.S.)	\$ 5,000.00 U.S.
Wallem & Co., jointly with Wah Shan Co.	27,396.70 patacas	4,543.82 U.S.
Sio Jao Choi	1,000.00 patacas	254.45 U.S.
Kac Chio	Not specified (Heirs not found)	500.00 U.S.
Cheong Ham	5,000.00 patacas	500.00 U.S.
Cheong Leong On	10,000.00 patacas	2,000.00 U.S.
S. L. Nee	775.00 patacas	197.00 U.S.

<i>Name</i>	<i>Amount Claimed</i>	<i>Amount Recommended</i>
Wong Seong	1,000.00 patacas	250.00 U.S.
John Peter Tam	20,400.00 patacas	3,000.00 U.S.
Wang Kee Kong	10,000.00 patacas	200.00 U.S.
Pedro Jose Lobo	10,000.00 patacas	763.34 U.S.
Eduardo J. M. Rosario	1,500.00 patacas	(Included in Gov't claim)
Hui Kong	3,350.00 patacas	100.00 U.S.
I. Cheong Hong	NONE	

II

The Secretary of State to the Portuguese Ambassador

The Secretary of State presents his compliments to His Excellency the Ambassador of Portugal and has the honor to refer to the Secretary's note of October 3, 1947 in which the Embassy was advised that the United States Government was disposed to pay to the Portuguese Government 1,063,364.35 patacas as compensation for damage caused to persons and property in Macao by American military planes in four specified bombing incidents during World War II.

The Department has been informed by the Norwegian Embassy in Washington that the Norwegian Government has ascertained through its Legation in Lisbon that the Portuguese Government has no objection to the separate settlement, by agreement between Norway and the United States, of the claim of Trygve Jorgensen, a Norwegian national, for injuries suffered during the bombing of Macao on February 25, 1945. The United States Government is preparing to settle Mr. Jorgensen's claim directly with the Norwegian Government. The sum which the United States offers to pay the Portuguese Government for damage caused to persons or property in Macao should be reduced, therefore, from 1,063,364.35 patacas to 1,043,714.35 patacas.

Department of State
Washington, February 21, 1949

III

The Portuguese Embassy to the Department of State

PORTUGUESE EMBASSY
WASHINGTON

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The Portuguese Embassy present their compliments to the Department of State and with reference to the Department's Notes of October 3, 1947 and

February 21, 1949, have the honour to inform that the Portuguese Government agree to accept the sum of 1,043,714.35 patacas offered by the United States Government as compensation for damage caused to persons and property in Macao by American planes, on January 16, February 25, April 7 and June 11, 1945.

In accepting this payment the Portuguese Government thereby assumes the obligation of indemnifying the individual claimants for damages sustained.

It is understood, however, as per conversation with the Department of State on September 27, 1948, that this amount covers only the payment of principal and does not comprehend the payment of accrued interest on the same claim.

The referred amount of 1,043, 714. 35 patacas does not include also the claim of Trygve Jorgensen, a Norwegian national, to be settled separately by agreement between the United States and Norway.

Washington, D.C.

May 3, 1949

IV

The Secretary of State to the Portuguese Ambassador

The Secretary of State presents his compliments to His Excellency the Ambassador of Portugal and has the honor to refer to the Embassy's note of May 3, 1949 in which it is stated that the Portuguese Government agrees to accept the sum of 1,043,714.35 patacas as the principal amount of compensation for damage caused to persons and property in Macao by American military planes in four specified bombing incidents during World War II.

With reference to the matter of interest which is mentioned in the Embassy's note, the Department of State, in requesting the Congress to appropriate funds to effect a settlement of the claims, intends to request that an item covering interest be included, computed on the principal amounts of the claims from the dates of the respective bombing incidents out of which the claims arose. The dates of the incidents out of which governmental claims arose are shown in the Summary of Damages prepared by the Department of the Army, a copy of which was enclosed with the Department's note of October 3, 1947. The dates of the incidents out of which private claims arose are shown in an enclosure to this note.

Since it appears that over three-fourths of the principal amount agreed to be paid is compensation for damage to government-owned property, it is believed that a fair interest rate would be the rate which the Portuguese Government was obliged to pay on governmental borrowing during the period of 1945 when

the bombing incidents occurred. Information available to the Department indicates that this rate was $2\frac{1}{2}$ %. The Department, accordingly, proposes that the rate of interest be fixed at $2\frac{1}{2}$ %.

If the proposed method of calculating interest is satisfactory to the Portuguese Government, it is requested that the Department be advised as soon as possible. Upon receipt of such advice the Department will undertake to submit to the Congress a request for the appropriation of the sum necessary to pay the agreed principal amount of the claims and interest to the date when payment is effected.¹

Enclosure :

Dates of incidents

Department of State

Washington, May 20, 1949

DATES OF INCIDENTS OUT OF WHICH PRIVATE CLAIMS AROSE

<i>Name of Claimant</i>	<i>Principal amount agreed to be due (Patacas)</i>	<i>Date of incident (1945)</i>
Wallem & Co., jointly with Wah Shan Co.	17,857.21	Feb. 25
Sio Jao Choi	999.99	Jan. 16
Kac Chio	1,965.00	Jan. 16
Cheong Ham	1,965.00	June 11
Cheong Leon On	7,860.00	Jan. 16
S. L. Nee	774.21	Jan. 16
Wong Seong	982.50	Feb. 25
John Peter Tam	11,790.00	Jan. 16
Wang Kee Kong	786.00	June 11
Pedro Jose Lobo	2,999.93	Jan. 16
Hui Kong	393.00	Jan. 16
TOTAL	48,372.84	

V

The Portuguese Embassy to the Department of State

PORTUGUESE EMBASSY

WASHINGTON

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No. 77

The Portuguese Embassy present their compliments to the Department of State and with reference to the Department's Note of May 20, 1949, regarding the payment of compensation for damage caused to persons and property in Macao by American military planes, during World War II, have the honour to inform that the Portuguese Government is agreeable to the interest rate and the method of calculating interest on the principal amounts of the claims, proposed by the United States Government.

Washington, D.C.

August 4, 1949

¹ United States of America : See Public Law 886, 81st Cong., 2d sess.; 64 Stat. 1117.