

No. 12104

**UNITED STATES OF AMERICA
and
PORTUGAL**

**Exchange of notes constituting an agreement regarding deposits for
military assistance under the Foreign Assistance Act of 1971
(with attachment). Lisbon, 16 March and 2 May 1972**

Authentic texts : English and Portuguese.

Registered by the United States of America on 17 October 1972.

**ÉTATS-UNIS D'AMÉRIQUE
et
PORTUGAL**

**Échange de notes constituant un accord relatif aux dépôts effectués
au titre de l'assistance militaire en vertu de la loi de 1971 sur
l'aide à l'étranger (avec pièce jointe). Lisbonne, 16 mars et
2 mai 1972**

Textes authentiques : anglais et portugais.

Enregistré par les États-Unis d'Amérique le 17 octobre 1972.

EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT¹
BETWEEN THE UNITED STATES OF AMERICA AND
PORTUGAL REGARDING DEPOSITS FOR MILITARY
ASSISTANCE UNDER THE FOREIGN ASSISTANCE ACT
OF 1971

I

The American Embassy to the Portuguese Ministry of Foreign Affairs
No. 57

The Embassy of the United States of America presents its compliments to the Ministry of Foreign Affairs and has the honor to bring to the Ministry's attention a recent amendment to the Foreign Assistance Act of 1961.

On February 7, 1972, the President of the United States signed into law the "Foreign Assistance Act of 1971". That law, which amended the 1961 Act, includes a new provision (Section 514, a copy of which is attached) which calls for payment to the United States, in local currency, of 10% of the value of grant military assistance and excess defense articles provided by the United States to foreign governments. This provision applies to articles and services for which funds are obligated or agreements made after February 7, 1972, and does not apply to articles or services for which funds were obligated prior to that date.

However, a determination has been made that under paragraph 514 (C) (1) of the Act the 10% deposit requirement will not apply to arrangements outlined in the Secretary of State's letter to the Foreign Minister of December 9, 1971.²

To meet the requirements of the new law, the amendment specifies that foreign governments must agree to certain procedures. Accordingly, it is proposed that the Government of Portugal deposit in an account to be specified by the United States, at a rate of exchange which is not less favorable to the United States than the best legal rate to which dollars are sold by authorized dealers in Portugal for escudos on the dates deposits are made, the following amounts in escudos :

- (a) In the case of any excess defense articles given to the Government of Portugal (excluding those cited in the Secretary of State's letter of December 9, 1971), an amount equal to 10% of the fair value of those articles, as determined by the United States; and
- (b) In the case of a grant of military assistance to the Government of Portugal, an amount equal to 10% of each such grant. The Government of Portugal will be notified quarterly of the value of deliveries of defense articles and

¹ Came into force on 2 May 1972 by the exchange of the said notes, with retroactive effect from 7 February 1972, in accordance with their provisions.

² United Nations, *Treaty Series*, vol. 837, p. 71.

provision of defense services. Deposits to the account of the United States will be due and payable upon request by the United States Government.

It is further proposed that the amounts to be deposited may be used to pay all official costs of the United States Government payable in escudos, including but not limited to all costs relating to the financing of international educational and cultural exchange activities under programs authorized by the United States Mutual Education and Cultural Exchange Act of 1961.

It is finally proposed that the Ministry's reply stating that the foregoing is acceptable to the Government of Portugal shall, together with this note, constitute an agreement between our governments on this subject effective from and after February 7, 1972, and applicable to deliveries of defense articles and rendering of defense services funded or agreed to and delivered or rendered on or subsequent to that date.

The Embassy of the United States of America wishes to avail itself of this opportunity to renew to the Ministry of Foreign Affairs the assurances of its highest consideration.

Attachment :
Section 514.

Lisbon, March 16, 1972.

Embassy of the United States of America

Section 514

SPECIAL FOREIGN COUNTRY ACCOUNTS

(A) Except as otherwise provided in this section, no defense article may be given, and no grant of military assistance may be made, under this Act to a foreign country unless the country agrees

(1) to deposit in a special account established by the United States Government the following amounts of currency of that country :

(a) in the case of any excess defense article to be given to that country, an amount equal to 10 per centum of the fair value of the article, as determined by the Secretary of State, at the time agreement to give the article to the country is made; and

(b) in the case of a grant of military assistance to be made to that country, an amount equal to 10 per centum of each such grant; and

(2) to allow the United States Government to use such amounts from that special account as may be determined, from time to time, by the President to be necessary to pay all official costs of the United States Government payable in the currency of that country, including all costs relating to the financing of international educational and cultural exchange activities in which the country participates under the programs authorized by the Mutual Educational and Cultural Exchange Act of 1961.

(B) The President may waive any amount of currency of a foreign country required to be deposited under subsection (A) (1) of this section if he determines that the United States Government will be able to pay all of its official costs payable in the currency of that country enumerated under subsection (A) (2) of this section without the deposit of such amount and without having to expend United States dollars to purchase currency of that country to pay such costs.

(C) The provisions of this section shall not apply in any case in which an excess defense article is given, or a grant of military assistance is made—

- (1) to a foreign country under an agreement with that country which allows the United States Government to operate a military or other similar base in that country in exchange for that article or grant; and
- (2) to South Vietnam, Cambodia, or Laos.

(D) In no event shall any foreign country be required, under this section, to make deposits in a special account aggregating more than dollars 20,000,000 in any one year.

II

[PORTUGUESE TEXT — TEXTE PORTUGAIS]

MINISTÉRIO DOS NEGÓCIOS ESTRANGEIROS
DIRECÇÃO-GERAL DOS NEGÓCIOS POLÍTICOS

Proc. 334,10
PEA 735

O Ministério dos Negócios Estrangeiros apresenta os seus atenciosos cumprimentos à Embaixada dos Estados Unidos da América e tem a honra de acusar a recepção da Nota da Embaixada nº. 57, de 16 de Março findo, em que se solicitava o acordo do Governo Português relativamente às disposições da emenda à lei sobre auxílio ao estrangeiro, de 7 de Fevereiro último, cujo texto acompanhava aquela Nota.

A este propósito o Ministério tem a honra de comunicar que o Governo Português, tendo tomado conhecimento dos termos daquela disposição legal, deu o seu acordo ao proposto na Nota acima referida.

O Ministério dos Negócios Estrangeiros aproveitou a oportunidade para apresentar à Embaixada dos Estados Unidos da América os protestos da sua mais alta consideração.

Lisboa, 2 de Maio de 1972

[TRANSLATION¹ — TRADUCTION²]

The Portuguese Ministry of Foreign Affairs to the American Embassy

MINISTRY OF FOREIGN AFFAIRS

BUREAU OF POLITICAL AFFAIRS

Proc. 334,10
PFA 735

The Ministry of Foreign Affairs presents its compliments to the Embassy of the United States of America and has the honor to acknowledge receipt of Embassy note No. 57 of March 16, requesting the approval of the Portuguese Government of the provisions of the amendment to the Foreign Assistance Act of February 7, the text of which was attached to that note.

In regard to this proposal, the Ministry has the honor to state that the Portuguese Government, having studied the terms of the aforesaid legal provision, has given its approval to the proposal set forth in the above-mentioned note.

The Ministry of Foreign Affairs avails itself of this opportunity to present to the Embassy of the United States of America the assurances of its highest consideration.

Lisbon, May 2, 1972.

¹ Translation supplied by the Government of the United States of America.

² Traduction fournie par le Gouvernement des Etats-Unis d'Amérique.