

No. 13973

**UNITED STATES OF AMERICA
and
REPUBLIC OF VIET NAM**

**Agreement for sales of agricultural commodities (with
official minutes of negotiations dated 30 September
1974 and addendum). Signed at Saigon on 8 October 1974**

Authentic text: English.

Registered by the United States of America on 7 May 1975.

**ÉTATS-UNIS D'AMÉRIQUE
et
RÉPUBLIQUE DU VIET NAM**

**Accord relatif à la vente de produits agricoles (avec procès-
verbal officiel des négociations en date du 30 septembre
1974 et additif). Signé à Saigon le 8 octobre 1974**

Texte authentique : anglais.

Enregistré par les États-Unis d'Amérique le 7 mai 1975.

AGREEMENT¹ BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE REPUBLIC OF VIET NAM FOR SALES OF AGRICULTURAL COMMODITIES

The Government of the United States of America and the Government of the Republic of Viet Nam,

Recognizing the desirability of expanding trade in agricultural commodities between the United States of America (hereinafter referred to as the exporting country) and the Republic of Viet Nam (hereinafter referred to as the importing country) and with other friendly countries in a manner that will not displace usual marketings of the exporting country in these commodities or unduly disrupt world prices of agricultural commodities or normal patterns of commercial trade with friendly countries;

Taking into account the importance to developing countries of their efforts to help themselves toward a greater degree of self-reliance, including efforts to meet their problems of food production and population growth;

Recognizing the policy of the exporting country to use its agricultural productivity to combat hunger and malnutrition in the developing countries, to encourage these countries to improve their own agricultural production, and to assist them in their economic development;

Recognizing the determination of the importing country to improve its own production, storage, and distribution of agricultural food products, including the reduction of waste in all stages of food handling;

Desiring to set forth the understandings that will govern the sales of agricultural commodities to the importing country pursuant to Title I of the Agricultural Trade Development and Assistance Act, as amended (hereinafter referred to as the Act), and the measures that the two Governments will take individually and collectively in furthering the above-mentioned policies;

Have agreed as follows:

PART I

GENERAL PROVISIONS

Article I

A. The Government of the exporting country undertakes to finance the sale of agricultural commodities to purchasers authorized by the Government of the importing country in accordance with the terms and conditions set forth in this Agreement.

B. The financing of the agricultural commodities listed in part II of this Agreement will be subject to:

1. the issuance by the Government of the exporting country of purchase authorizations and their acceptance by the Government of the importing country; and
2. the availability of the specified commodities at the time of exportation.

¹ Came into force on 8 October 1974 by signature, in accordance with part III (A).

C. Application for purchase authorizations will be made within 90 days after the effective date of this Agreement, and, with respect to any additional commodities or amounts of commodities provided for in any supplementary agreement, within 90 days after the effective date of such supplementary agreement. Purchase authorizations shall include provisions relating to the sale and delivery of such commodities, and other relevant matters.

D. Except as may be authorized by the Government of the exporting country, all deliveries of commodities sold under this Agreement shall be made within the supply periods specified in the commodity table in part II.

E. The value of the total quantity of each commodity covered by the purchase authorizations for a specified type of financing authorized under this Agreement shall not exceed the maximum export market value specified for that commodity and type of financing in part II. The Government of the exporting country may limit the total value of each commodity to be covered by purchase authorizations for a specified type of financing as price declines or other marketing factors may require, so that the quantities of such commodity sold under a specified type of financing will not substantially exceed the applicable approximate maximum quantity specified in part II.

F. The Government of the exporting country shall bear the ocean freight differential for commodities the Government of the exporting country requires to be transported in United States flag vessels (approximately 50 percent by weight of the commodities sold under the Agreement). The ocean freight differential is deemed to be the amount, as determined by the Government of the exporting country, by which the cost of ocean transportation is higher (than would otherwise be the case) by reason of the requirement that the commodities be transported in United States flag vessels. The Government of the importing country shall have no obligation to reimburse the Government of the exporting country for the ocean freight differential borne by the Government of the exporting country.

G. Promptly after contracting for United States flag shipping space to be used for commodities required to be transported in United States flag vessels, and in any event not later than presentation of vessel for loading, the Government of the importing country or the purchasers authorized by it shall open a letter of credit, in United States dollars, for the estimated cost of ocean transportation for such commodities.

H. The financing, sale, and delivery of commodities under this Agreement may be terminated by either Government if that Government determines that because of changed conditions the continuation of such financing, sale, or delivery is unnecessary or undesirable.

Article II

A. Initial Payment

The Government of the importing country shall pay, or cause to be paid, such initial payment as may be specified in part II of this Agreement. The amount of this payment shall be that portion of the purchase price (excluding any ocean transportation costs that may be included therein) equal to the percentage specified for initial payment in part II and payment shall be made in United States dollars in accordance with the applicable purchase authorization.

B. Currency Use Payment

The Government of the importing country shall pay, or cause to be paid, upon demand by the Government of the exporting country in amounts as it may deter-

mine, but in any event no later than one year after the final disbursement by the Commodity Credit Corporation under this agreement, or the end of the supply period, whichever is later, such payment as may be specified in part II of this Agreement pursuant to section 103(b) of the Act (hereinafter referred to as the Currency Use Payment). The currency use payment shall be that portion of the amount financed by the exporting country equal to the percentage specified for currency use payment in part II. Payment shall be made in accordance with paragraph H and for purposes specified in subsection 104(a), (b), (e) and (h) of the act, as set forth in part II of this Agreement. Such payment shall be credited against (a) the amount of each year's interest payment due during the period prior to the due date of the first installment payment, starting with the first year, plus (b) the combined payments of principal and interest starting with the first installment payment, until the value of the currency use payment has been offset. Unless otherwise specified in part II, no requests for payment will be made by the Government of the exporting country prior to the first disbursement by the Commodity Credit Corporation of the exporting country under this Agreement.

C. *Type of Financing*

Sales of the commodities specified in part II shall be financed in accordance with the type of financing indicated therein. Special provisions relating to the sale are also set forth in part II.

D. *Credit Provisions*

1. With respect to commodities delivered in each calendar year under this Agreement, the principal of the credit (hereinafter referred to as principal) will consist of the dollar amount disbursed by the Government of the exporting country for the commodities (not including any ocean transportation costs) less any portion of the initial payment payable to the Government of the exporting country.

The principal shall be paid in accordance with the payment schedule in part II of this Agreement. The first installment payment shall be due and payable on the date specified in part II of this Agreement. Subsequent installment payments shall be due and payable at intervals of one year thereafter. Any payment of principal may be made prior to its due date.

2. Interest on the unpaid balance of the principal due the Government of the exporting country for the commodities delivered in each calendar year shall be paid as follows:

- a. In the case of Dollar Credit, interest shall begin to accrue on the date of last delivery of these commodities in each calendar year. Interest shall be paid not later than the due date of each installment payment of principal, except that if the date of the first installment is more than a year after such date of last delivery, the first payment of interest shall be made not later than the anniversary date of such date of last delivery and thereafter payment of interest shall be made annually and not later than the due date of each installment payment of principal.
- b. In the case of Convertible Local Currency Credit, interest shall begin to accrue on the date of dollar disbursement by the Government of the exporting country. Such interest shall be paid annually beginning one year after the date of last delivery of commodities in each calendar year, except that if the installment payments for these commodities are not due on some anniversary of such date of last delivery, any such interest accrued on the due date of the first installment payment shall be due on the same date as the first installment and thereafter such interest shall be paid on the due dates of the subsequent installment payments.

3. For the period of time from the date the interest begins to the due date for the first installment payment, the interest shall be computed at the initial interest rate specified in part II of this Agreement. Thereafter, the interest shall be computed at the continuing interest rate specified in part II of this Agreement.

E. *Deposit of Payments*

The Government of the importing country shall make, or cause to be made, payments to the Government of the exporting country in the currencies, amounts, and at the exchange rates provided for in this Agreement as follows:

1. Dollar payments shall be remitted to the Treasurer, Commodity Credit Corporation, United States Department of Agriculture, Washington, D.C. 20250, unless another method of payment is agreed upon by the two Governments.

2. Payments in the local currency of the importing country (hereinafter referred to as local currency), shall be deposited to the account of the Government of the United States of America in interest bearing accounts in banks selected by the Government of the United States of America in the importing country.

F. *Sales Proceeds*

The total amount of the proceeds accruing to the importing country from the sale of commodities financed under this Agreement, to be applied to the economic development purposes set forth in part II of this Agreement, shall be not less than the local currency equivalent of the dollar disbursement by the Government of the exporting country in connection with the financing of the commodities (other than the ocean freight differential), provided, however, that the sales proceeds to be so applied shall be reduced by the currency use payment, if any, made by the Government of the importing country. The exchange rate to be used in calculating this local currency equivalent shall be the rate at which the central monetary authority of the importing country, or its authorized agent, sells foreign exchange for local currency in connection with the commercial import of the same commodities. Any such accrued proceeds that are loaned by the Government of the importing country to private or non-governmental organizations shall be loaned at rates of interest approximately equivalent to those charged for comparable loans in the importing country. The Government of the importing country shall furnish in accordance with its fiscal year budget reporting procedure, at such times as may be requested by the Government of the exporting country but not less often than annually, a report of the receipt and expenditure of the proceeds, certified by the appropriate audit authority of the Government of the importing country, and in case of expenditures the budget sector in which they were used.

G. *Computations*

The computation of the initial payment, currency use payment and all payments of principal and interest under this Agreement shall be made in United States dollars.

H. *Payments*

All payments shall be in United States dollars or, if the Government of the exporting country so elects,

1. The payments shall be made in readily convertible currencies of third countries at a mutually agreed rate of exchange and shall be used by the Government of the exporting country for payment of its obligations or, in the case of currency use payments, used for the purposes set forth in part II of this Agreement; or
2. The payments shall be made in local currency at the applicable exchange rate specified in part I, article III, G of this Agreement in effect on the date of pay-

ment and shall, at the option of the Government of the exporting country, be converted to United States dollars at the same rate, or used by the Government of the exporting country for payment of its obligations or, in the case of currency use payments, used for the purposes set forth in part II of this Agreement in the importing country.

Article III

A. World Trade

The two Governments shall take maximum precautions to assure that sales of agricultural commodities pursuant to this Agreement will not displace usual marketings of the exporting country in these commodities or unduly disrupt world prices of agricultural commodities or normal patterns of commercial trade with countries the Government of the exporting country considers to be friendly to it (referred to in this Agreement as friendly countries). In implementing this provisions the Government of the importing country shall:

1. insure that total imports from the exporting country and other friendly countries into the importing country paid for with the resources of the importing country will equal at least the quantities of agricultural commodities as may be specified in the usual marketing table set forth in part II during each import period specified in the table and during each subsequent comparable period in which commodities financed under this Agreement are being delivered. The imports of commodities to satisfy these usual marketing requirements for each import period shall be in addition to purchases financed under this Agreement.
2. take steps to assure that the exporting country obtains a fair share of any increase in commercial purchases of agricultural commodities by the importing country.
3. take all possible measures to prevent the resale, diversion in transit, or transshipment to other countries or the use for other than domestic purposes of the agricultural commodities purchased pursuant to this Agreement (except where such resale, diversion in transit, transshipment or use is specifically approved by the Government of the United States of America);
4. take all possible measures to prevent the export of any commodity of either domestic or foreign origin, which is defined in part II of this Agreement, during the export limitation period specified in the export limitation table in part II (except as may be specified in part II of where such export is otherwise specifically approved by the Government of the United States of America).

B. Private Trade

In carrying out the provisions of this Agreement, the two Governments shall seek to assure conditions of commerce permitting private traders to function effectively.

C. Self-Help

Part II describes the program the Government of the importing country is undertaking to improve its production, storage, and distribution of agricultural commodities. The Government of the importing country shall furnish in such form and at such time as may be requested by the Government of the exporting country, a statement of the progress the Government of the importing country is making in carrying out such self-help measures.

D. Reporting

In addition to any other reports agreed upon by the two Governments, the Government of the importing country shall furnish at least quarterly for the supply

period specified in part II, item I of this Agreement and any subsequent comparable period during which commodities purchased under this Agreement are being imported or utilized:

1. the following information in connection with each shipment of commodities under the Agreement: the name of each vessel; the date of arrival; the port of arrival; the commodity and quantity received; and the condition in which received;
2. a statement by it showing the progress made toward fulfilling the usual marketing requirements;
3. a statement of the measures it has taken to implement the provisions of sections A 2 and 3 of this article; and
4. statistical data on imports by country of origin and exports by country of destination, of commodities which are the same as or like those imported under the Agreement.

E. *Procedures for Reconciliation and Adjustment of Accounts*

The two Governments shall each establish appropriate procedures to facilitate the reconciliation of their respective records on the amounts financed with respect to the commodities delivered during each calendar year. The Commodity Credit Corporation of the exporting country and the Government of the importing country may make such adjustments in the credit accounts as they mutually decide are appropriate.

F. *Definitions*

For the purposes of this Agreement:

1. delivery shall be deemed to have occurred as of the on-board date shown in the ocean bill of lading which has been signed or initialed on behalf of the carrier,
2. import shall be deemed to have occurred when the commodity has entered the country, and passed through customs, if any, of the importing country, and
3. utilization shall be deemed to have occurred when the commodity is sold to the trade within the importing country without restriction on its use within the country or otherwise distributed to the consumer within the country.

G. *Applicable Exchange Rate*

For the purposes of this Agreement, the applicable exchange rate for determining the amount of any local currency to be paid to the Government of the exporting country shall be a rate in effect on the date of payment by the importing country which is not less favorable to the Government of the exporting country than the highest exchange rate legally obtainable in the importing country and which is not less favorable to the Government of the exporting country than the highest exchange rate obtainable by any other nation. With respect to local currency:

1. As long as a unitary exchange rate system is maintained by the Government of the importing country, the applicable exchange rate at which the central monetary authority of the importing country, or its authorized agent, sells foreign exchange for local currency.
2. If a unitary rate system is not maintained, the applicable rate will be the rate (as mutually agreed by the two Governments) that fulfills the requirements of the first sentence of this section G.

H. *Consultation*

The two Governments shall, upon request of either of them, consult regarding any matter arising under this Agreement, including the operation of arrangements carried out pursuant to this Agreement.

I. Identification and Publicity

The Government of the importing country shall undertake such measures as may be mutually agreed prior to delivery for the identification of food commodities at points of distribution in the importing country and for publicity in the same manner as provided for in subsection 103 (1) of the Act.

PART II

PARTICULAR PROVISIONS

Item I. Commodity Table

<i>Commodity</i>	<i>Supply Period (U.S. Fiscal Year)</i>	<i>Approximate Maximum Quantity</i>	<i>Maximum Export Market Value (Millions)</i>
Tobacco	1975	2,600 M.T.	US \$ 7.2
			TOTAL US \$ 7.2

Item II. Payment Terms

Convertible Local Currency Credit

1. Initial Payment — none
2. Currency Use Payment — none
3. Number of Installment Payments — 31
4. Amount of Each Installment Payment — approximately equal annual installments.
5. Due Date of First Installment Payment — ten years after date of last delivery of commodities in each calendar year.
6. Initial Interest Rate — 2 percent
7. Continuing Interest Rate — 3 percent

Item III. Usual Marketing Table

<i>Commodity</i>	<i>Import Period (U.S. Fiscal Year)</i>	<i>Usual Marketing Requirement</i>
None	1975	None

Item IV. Export Limitations

A. Export Limitation Period: The export limitation period shall be the United States Fiscal Year 1975 or such subsequent fiscal year in which commodities financed under this Agreement are being imported or utilized.

B. Commodities To Which Export Limitations Apply: None.

Item V. Self-Help Measures

The Government of the importing country agrees to:

1. Clean and repair canals used for irrigation, drainage or transportation.
2. Construct beds and canals on individual farms.
3. Construct bench terraces in the highlands for vegetable production in areas near population centers.
4. Improve the system and facilities for handling, storing, processing and transporting rice.

Item VI. Economic Development Purposes For Which Proceeds Accruing To Importing Country Are To Be Used

The proceeds accruing to the importing country from the sale of commodities financed under this Agreement will be used for financing the self-help measures set

forth in the Agreement and for the following economic activities: rural development; rehabilitation of refugees; the disabled and war victims; resettlement programs; crop production programs, including new crops and new areas of production; rural health; and other economic development activities as may be mutually agreed upon.

Item VII. Other Provisions

None.

PART III

FINAL PROVISIONS

A. This Agreement may be terminated by either Government by notice of termination to the other Government for any reason, and by the Government of the exporting country if it should determine that the self-help program described in the Agreement is not being adequately developed. Such termination will not reduce any financial obligations the Government of the importing country has incurred as of the date of termination.

This Agreement shall enter into force upon signature.

B. IN WITNESS WHEREOF, the respective representatives, duly authorized for the purpose, have signed the present Agreement.

DONE at Saigon, in duplicate, this eighth day of October, 1974.

For the Government
of the United States of America:

[Signed]

W. J. LEHMANN
Chargé d'Affaires, a.i.

For the Government
of the Republic of Viet Nam:

[Signed]

NGO KHAC TINH
Acting Minister of Foreign Affairs

OFFICIAL MINUTES OF NEGOTIATIONS PERTAINING TO THE PROPOSED
FISCAL YEAR 1975 TITLE I AGREEMENT FOR THE REPUBLIC OF VIETNAM

In consequence of discussions between representatives of the Ministry of Commerce and Industry, Republic of Vietnam, and the United States Mission to the Republic of Vietnam (USAID) about the proposed Title I Agreement for fiscal year 1975, it is accepted by both parties that:

1. In accordance with part I article I B 2 of the Agreement delivery of all commodities offered in this proposed Agreement is subject to the availability of commodities and funds at the time of planned exportation.

2. This Agreement is subject to the amendment to the U.S. Foreign Assistance Act of 1973 and in effect since 1 July, 1974 prohibiting the use of proceeds generated by the sale of Title I commodities "to procure equipment, materials, facilities, or services for the common defense, including internal security unless such agreement is specifically authorized by legislation enacted after such date." Item VI of part II of the Agreement stipulates the allowable uses for proceeds accruing to the Government of the Republic of Vietnam from the sale of commodities financed under this Agreement.

3. Responsive to section 103 (0) of Public Law 480, the Government of the Republic of Vietnam assures the Government of the United States of a "Fair Share" of any increase in commercial purchases made by the purchasing country and that the United States will benefit equitably from the development of new commercial markets established in the Republic of Vietnam.

4. The Government of the Republic of Vietnam understands that Items F and J of the Agreed Minutes on self-help, signed July 8, 1970,¹ and the termination clause of the July 8, 1970, Agreement apply to this Agreement as well. In addition the GVN agrees to the following self-help measures:

- a. Clean and repair canals used for irrigation, drainage or transportation;
- b. Construct beds and canals on individual farms;
- c. Construct bench terraces in the Highlands for vegetable production in areas near population centers.
- d. Improve the system and facilities for handling, storing, processing and transporting rice.

It is also understood that a comprehensive, analytic report on progress of the self-help measures included in this Agreement is due in AID/Washington, December 1, 1975.

5. It is established and accepted that the Government of the United States shall bear only the cost of ocean freight differential for commodities it requires to be carried aboard United States flag vessels.

6. In accordance with part I, article III, paragraph I of the July 8, 1970 Agreement, the Government of the Republic of Vietnam shall undertake measures, as may be mutually agreed prior to delivery, to publicize that commodities in this Agreement are provided by the United States Government on concessional terms. The importing Government also reaffirms its intent to provide additional publicity at the time of arrival of commodities in accordance with the provisions for identification and publicity of the August 29, 1972 Agreement.²

7. The Government of the Republic of Vietnam understands that the provisions included in part I article III section G, "Applicable Exchange Rate", remain the same as contained in the Agreement of July 8, 1970.

8. The Government of the Republic of Vietnam accepts the responsibility for preparation and submission of specified reports to USAID by the 15th of October, January, April and July covering the following information:

- a. Measures taken to implement the provisions that there has been no resale, diversion in transit or transshipment to other countries except as specifically approved by USAID; and no uses of commodities for other than the domestic purposes for which the agricultural commodities were purchased pursuant to this Agreement, except as specifically approved by the United States Government.
- b. Measures taken to prevent export of commodities, domestic or foreign in origin, which are the same as or like commodities financed under this Agreement during the export limitation period specified in the export limitation section except as may be specified in item IV of part II of this Agreement.

9. It is agreed that the Government of the Republic of Vietnam will define and implement procedures which will allow for the return of arrival and shipping information with appropriate notations certifying receipt of commodities not later than 30 days from the date of unloading or 30 days from receipt of the automatic data processed sheets, whichever is later.

10. The Government of the Republic of Vietnam accepts the export limitations imposed in part II item IV, without reservations. The right of the importing country to export like or similar commodities described in the aforementioned provisions of this Agreement beyond that stated in this Agreement will be dependent upon conditions and commodities mutually agreed to by the two Governments and stated in subsequent amendment or amendments to this Agreement. For fiscal year 1975 the Government of the Republic of Vietnam may export up to 4,000 metric tons of cotton waste without incurring any offset purchase requirement. It is mutually understood and agreed that the Government of the Republic of Vietnam may export during U.S. Fiscal Year 1975 quantities of cotton waste in excess of 4,000 metric tons, and textiles fabricated in whole or in part from raw cotton, provided, however, that the cotton

¹ United Nations, *Treaty Series*, vol. 775, p. 107.

² *Ibid.*, vol. 853, p. 263.

content of such cotton waste and textiles, by weight, is offset by commercial imports of raw cotton from the United States of America, using the foreign exchange of the Government of the Republic of Vietnam. It is understood that such commercial offset imports need not exceed during the export limitation period of this Agreement the quantity of raw cotton imported by the Government of the Republic of Vietnam under Title I Public Law 480 Sales Agreements.

11. It is understood that it is no longer required that PL-480 sales proceeds be deposited in a special account. The terms of part I section II (F) shall govern the use of sales proceeds accruing to the Government of the Republic of Vietnam.

12. It is understood and accepted that the commodities and quantities provided for fiscal year 1975 through this Agreement are partial Additional commodities and quantities will be added through amendment or amendments to this Agreement.

13. With respect to the sale of additional commodities in FY 1975, it is understood that:

- a. Nonfat dry milk, tallow and corn are not available for financing under PL-480 Title I sales during fiscal year 1975.
- b. Rice is not included in this original Agreement, but will be added through amendment or amendments at a later date in time for CY 1975 deliveries.

14. The Government of the Republic of Vietnam undertakes to arrange expeditiously the opening of Letters of Credit for commodities and ocean freight.

15. The Agreement will be signed on Tuesday, October 8, 1974 at 10:30 hours in Saigon by Foreign Affairs Acting Minister Ngo Khac Tinh for the GVN and Ambassador Graham Martin for the USG.

[Signed]

BENDEGUZ VIRAGH
Acting Assistant Director
Commercial Import Program
September 30, 1974

[Signed]

NGUYEN DANG KHOI
Assistant Minister of Trade
and Industry
September 30, 1974

ADDENDUM

Ref. Paragraph 4, Items F and J of the July 8, 1970 Agreement which continue to be active self-help measures, are quoted, below.

- “F. Continue support and recognition of private sector producer associations in the agriculture sector.
- J. Continue research trials of corn and grain sorghums to produce better quality and expand domestic production to self-sufficient levels.”