

No. 14753

**UNITED STATES OF AMERICA
and
PORTUGAL**

**Loan Agreement for housing for low-income families (with
annex). Signed at Lisbon on 30 June 1975**

Authentic text: English.

Registered by the United States of America on 7 May 1976.

**ÉTATS-UNIS D'AMÉRIQUE
et
PORTUGAL**

**Accord de prêt en vue de la construction de logements pour
familles économiquement faibles (avec annexe). Signé à
Lisbonne le 30 juin 1975**

Texte authentique : anglais.

Enregistré par les États-Unis d'Amérique le 7 mai 1976.

LOAN AGREEMENT¹ BETWEEN THE GOVERNMENT OF PORTUGAL AND THE UNITED STATES OF AMERICA FOR HOUSING FOR LOW-INCOME FAMILIES

LOAN AGREEMENT dated the 30th of June, 1975, between the GOVERNMENT OF PORTUGAL (“Borrower”) and the UNITED STATES OF AMERICA, acting through the AGENCY FOR INTERNATIONAL DEVELOPMENT (“A.I.D.”).

Article I. THE LOAN

Section 1.01. THE LOAN. A.I.D. agrees to lend to the Borrower pursuant to the Foreign Assistance Act of 1961, as amended, an amount not to exceed thirteen million two-hundred fifty thousand United States dollars (\$13,250,000) (“Loan”) to assist the Borrower in carrying out the Program referred to in Section 1.02. The Loan shall be used exclusively to finance the costs of goods and services required for the Program. The aggregate amount of disbursements under the Loan is hereinafter referred to as “Principal”.

Section 1.02. THE PROGRAM. The “Program” shall consist of Borrower’s housing program for low-income families as implemented by the National Housing Development Fund (“FFH”). The Program is more fully described in Annex A attached hereto, which Annex may be modified by mutual agreement in writing.

Article II. LOAN TERMS

Section 2.01. INTEREST. The Borrower shall pay to A.I.D. interest which shall accrue at the rate of five percent (5%) per annum on the outstanding balance of Principal and on any due and unpaid interest. Interest on the outstanding balance shall accrue from the date of each respective disbursement as such date is defined in Section 6.03, and shall be computed on the basis of a 365-day year. Interest shall be payable semi-annually. The first payment of interest shall be due and payable no later than six (6) months after the first disbursement, on a date to be specified by A.I.D.

Section 2.02. REPAYMENT. The Borrower shall repay to A.I.D. the Principal within twenty-five (25) years from the date of the first disbursement hereunder in forty-one (41) approximately equal semi-annual installments of Principal and interest. The first installment of Principal shall be payable four and one-half (4½) years after the date on which the first interest payment is due in accordance with Section 2.01 A.I.D. shall provide the Borrower with an amortization schedule in accordance with this Section after the final disbursement under the Loan.

Section 2.03. APPLICATION, CURRENCY AND PLACE OF PAYMENT. All payments of interest and Principal hereunder shall be made in United States dollars and shall be applied first to the payment of interest due and then to the repayment of Principal. Except as A.I.D. may otherwise specify in writing, all such payments shall be made to the Controller, Agency for International Development, Washington, D.C., U.S.A., and shall be deemed made when received by the Office of the Controller.

Section 2.04. PREPAYMENT. Upon payment of all interest and refunds then due, the Borrower may prepay, without penalty, all or any part of the Principal. Any such

¹ Came into force on 30 June 1975 by signature.

prepayment shall be applied to the installments of Principal in the inverse order of their maturity.

Section 2.5. RENEGOTIATION OF THE TERM OF THE LOAN. The Borrower agrees to negotiate with A.I.D. at such time or times as A.I.D. may request, an acceleration of the repayment of the Loan in the event that there is any significant improvement in the internal and external economic and financial position and prospects of the country of the Borrower.

Article III. CONDITIONS PRECEDENT TO DISBURSEMENT

Section 3.01. CONDITIONS PRECEDENT TO ANY DISBURSEMENT. Prior to the first disbursement under the Loan, the Borrower shall, except as A.I.D. may otherwise agree in writing, furnish to A.I.D. in form and substance satisfactory to A.I.D.:

- (a) An opinion of the Attorney General (Procurador Geral da República) of Portugal or of other counsel acceptable to A.I.D. that this agreement has been duly authorized or ratified by, and executed on behalf of the Borrower, and that it constitutes a valid and legally binding obligation of the Borrower in accordance with all its terms.
- (b) A statement of the names of the persons holding or acting in the office of the Borrower specified in Section 9.02, and a specimen signature of each person specified in such statement.
- (c) A description of the arrangements, including the terms and conditions, under which disbursements under the Loan will be made available by the Borrower to the FFH, and by FFH to any other institution, for implementation of the Program.
- (d) A time-phased implementation plan for carrying out the Program, including Construction Schedules and a Financial Plan for the projects identified in Annex A.
- (e) A description of standards, criteria and procedures under the Program, for (i) selection and approval of projects and (ii) contracting for construction and engineering services.
- (f) A brief description of technical standards for housing of the type to be financed under the Program, including criteria in regard to site planning, green areas and community facilities.
- (g) A description of the eligibility criteria for tenants and/or purchasers under the Program, together with a description of the terms and conditions of rental or purchase of units under the Program.
- (h) Executed contract documents for the Housing Investment Guaranty Program referred to in A.I.D.'s Letter of Advice dated March 6, 1975 ("Housing Guaranty").
- (i) Evidence that Borrower has established a segregated fund ("Project Fund") for financing projects identified in Annex A.

Section 3.02. RELEASE OF LOAN FUNDS. Upon satisfaction of the Conditions Precedent set forth in Section 3.02, A.I.D. will make disbursements under the Loan to the Project Fund in accordance with procedures and documentation requirements set forth in Article VII and in Implementation Letters to be provided to Borrower. Such disbursements shall consist of the following except as A.I.D. and the Borrower otherwise agree in writing:

- (a) An initial advance not to exceed the equivalent of two million six hundred fifty thousand United States dollars (\$2,650,000), and
- (b) Additional disbursements, pursuant to the Financial Plan, provided that Borrower has given to A.I.D. acceptable evidence of (i) satisfactory construction progress in accordance with the Construction Schedules and (ii) timely and current contribution of

Borrower's share pursuant to the Financial Plan and such other funds as are required for the Program.

Section 3.03. TERMINAL DATES FOR MEETING CONDITIONS PRECEDENT TO DISBURSEMENT. If all the conditions specified in Section 3.01 shall not have been met within ninety (90) days from the date of this Agreement, or such later date as A.I.D. may agree in writing, A.I.D. at its option, may terminate this Agreement by giving written notice to the Borrower. Upon giving of such notice, this Agreement and all obligations of the parties hereunder shall terminate.

Section 3.04. NOTIFICATION OF MEETING OF CONDITIONS PRECEDENT TO DISBURSEMENT. A.I.D. shall notify the Borrower upon determination by A.I.D. that the Conditions Precedent to disbursement specified in Section 3.01 have been met.

Article IV. GENERAL COVENANTS AND WARRANTIES

Section 4.01. EXECUTION OF THE PROGRAM. (a) The Borrower, through FFH, shall carry out the Program with due diligence and efficiency, and in conformity with sound professional, financial, technical and administrative practices.

(b) Borrower shall cause the Loan funds to be administered in conformity with the terms and conditions of this Agreement, and in such manner as to facilitate the success of the Program.

(c) Borrower shall cause the Program to be carried out in conformity with the plans, schedules, and other arrangements, and with all modifications therein, agreed upon by A.I.D. pursuant to this Agreement.

Section 4.02. FUNDS AND OTHER RESOURCES TO BE PROVIDED BY BORROWER. The Borrower shall provide promptly as needed all funds in addition to those made available under the Loan and all other resources needed for the effective carrying out of the Program.

Section 4.03. CONTINUING CONSULTATION. The Borrower, FFH and A.I.D. shall cooperate fully to assure that the purpose of the Loan will be accomplished. To this end, the Borrower, FFH and A.I.D. shall from time to time, at the request of either party, exchange views through their representatives with regard to the progress of the Program, the performance by the Borrower of its obligations under this Agreement, and other matters relating to the Program.

Section 4.04. TAXATION. This Agreement, the Loan and any evidence of indebtedness issued in connection herewith shall be free from, and the Principal and interest shall be paid without deduction for and be free from, any taxation or fees imposed under the laws in effect within the country of the Borrower. As, and to the extent that any transaction or property financed hereunder, is not exempt from identifiable taxes, tariffs, or duties and other levies imposed under laws in effect in the country of the Borrower, the Borrower shall make certain that payments which shall be financed under this Agreement shall be destined for payment of goods and services and not for the payment of such taxes, tariffs, or duties. Otherwise, the Borrower shall reimburse the same under Section 8.06 of this Agreement with funds other than those provided under the Loan.

Section 4.05. UTILIZATION OF SERVICES. Goods and services financed under the Loan shall be used exclusively for the Program except as A.I.D. may otherwise agree in writing.

Section 4.06. MAINTENANCE AND AUDIT RECORDS. The Borrower shall maintain, or cause to be maintained, in accordance with sound accounting principles and practices

consistently applied, books and records relating to the Program and to this Agreement. Such books and records shall without limitation, be adequate to show:

- (a) receipt of and use made of funds disbursed pursuant to this Agreement;
- (b) the nature and extent of solicitations of prospective suppliers goods and of services required;
- (c) the basis of the award of contracts and orders to successful bidders; and
- (d) the progress of the Program.

Such books and records shall be regularly audited, in accordance with sound auditing standards, for such period and at such intervals as A.I.D. may require, and shall be maintained for five years after the date of the last disbursement by A.I.D. or until all sums due A.I.D. under this Agreement have been paid, whichever date shall first occur.

Section 4.07. REPORTS. The Borrower shall furnish to A.I.D. such information and reports relating to the Loan and to the Program financed hereunder as A.I.D. may request in order to verify accomplishments of the Program.

Section 4.08. INSPECTIONS. The authorized representatives of A.I.D. shall upon application to the Borrower have the right at all reasonable times to inspect the Program, and the books, records and other documents relating to the Program financed hereunder and the Loan in order to verify accomplishment of the Program. The Borrower shall cooperate with A.I.D. to facilitate such inspections.

Article V. SPECIAL COVENANTS AND WARRANTIES

Section 5.01. INCOME LEVELS. Borrower covenants that monthly payments for dwelling units on the basis of which disbursements are made under the Loan will not exceed twenty-five percent (25%) of the median family income for the urban or rural area in which the unit is located, except as A.I.D. may otherwise agree.

Article VI. PROCUREMENT

Section 6.01. SOURCE OF PROCUREMENT. Except as A.I.D. may otherwise agree in writing, disbursements made pursuant to Section 7.01 shall be used exclusively to finance the procurement for the Program of goods and services having their source and origin in Portugal or the United States.

Section 6.02. ELIGIBILITY DATE. Except as A.I.D. may otherwise agree in writing, only goods and services which are contracted for after February 28, 1975, will be financed under the Loan.

Section 6.03. REASONABLE PRICE. No more than reasonable prices shall be paid for any goods or services financed, in whole or in part, under the Loan.

Article VII. DISBURSEMENTS

Section 7.01. DISBURSEMENTS. Upon satisfaction of conditions precedent and submission of the documentation required under Section 3.02, the Borrower may, from time to time, request disbursement by A.I.D. of Portuguese escudos for the Program in accordance with the terms and conditions of this Agreement. Such disbursements shall be made from escudos owned by the United States Government and obtained by A.I.D. with United States dollars. The United States dollar equivalent of the escudos made available hereunder will be the amount of United States dollars required by A.I.D. to obtain the escudos.

Section 7.02. OTHER FORMS OF DISBURSEMENT. Disbursement of the Loan may also be made through such other means as the Borrower and A.I.D. may agree in writing, it being understood that disbursements may be channelled through the Sociedade Financeira Portuguesa.

Section 7.03. DATE OF DISBURSEMENT. Disbursements by A.I.D. shall be deemed to occur, in the case of disbursements pursuant to Section 7.01, on the date on which A.I.D. disburses the escudos to the Borrower or to its designee.

Section 7.04. TERMINAL DATE FOR DISBURSEMENT. Except as A.I.D. may otherwise agree in writing, no disbursements shall be made against documentation received by A.I.D. after December 31, 1977. A.I.D. at its option, may at any time or times after June 30, 1978, reduce the Loan by all or any part hereof for which documentation was not received by such date.

Article VIII. CANCELLATION AND SUSPENSION

Section 8.01. CANCELLATION BY THE BORROWER. The Borrower may, by written notice to A.I.D. cancel any part of the Loan (i) which, prior to the giving of such notice, A.I.D. has not disbursed or committed itself to disburse and (ii) which has not then been utilized through the issuance of irrevocable Letters of Credit.

Section 8.02. EVENTS OF DEFAULT; ACCELERATION. If any one or more of the following events ("Events of Default") shall occur:

- (a) The Borrower shall have failed to pay when due any interest or installment of Principal required under this Agreement;
- (b) The Borrower shall have failed to comply with any other provision of this Agreement;
- (c) The Borrower shall have failed to pay when due any interest or any installment of Principal or any other payment required under any other loan agreement, any guaranty agreement, or any other agreement between the Borrower or any of its agencies and A.I.D. or any of its predecessor agencies;

then A.I.D. may, at its option, give to the Borrower notice that all or any part of the unpaid Principal shall be due and payable sixty (60) days thereafter, and, unless the Event of Default is cured within such sixty (60) days:

- (i) such unpaid Principal and any accrued interest hereunder shall be due and payable immediately, and
- (ii) the amount of any further disbursements made under then outstanding irrevocable Letters of Credit or otherwise shall become due and payable as soon as made.

Section 8.03. SUSPENSION OF DISBURSEMENTS. In the event that at any time:

- (a) An Event of Default has occurred;
- (b) An event occurs that A.I.D. determines to be an extraordinary situation that makes it improbable either that the purpose of the Loan will be attained or that the Borrower will be able to perform its obligations under this Agreement, or
- (c) Any disbursement would be inconsistent with legislation governing A.I.D.;
- (d) The Borrower shall have failed to pay when due any interest or any installment of Principal or any other payment required under any other loan agreement, any guaranty agreement or any other agreement between the Borrower or any of its agencies and the Government of the United States or any of its agencies;

then A.I.D. may at its option:

- (i) Suspend or cancel outstanding commitment documents to the extent that they have not been utilized through the issuance of irrevocable Letters of Credit or through bank

payments made other than under irrevocable Letters of Credit, in which event A.I.D. shall give notice to the Borrower promptly thereafter;

- (ii) Decline to make disbursements other than under outstanding commitment documents; and
- (iii) Decline to issue additional commitment documents.

Section 8.04. CANCELLATION BY A.I.D. Following any suspension of disbursement pursuant to Section 8.03, if the cause or causes for such suspension shall not have been eliminated or corrected within sixty (60) days from the date of such suspension, A.I.D. may, at its option, at any time or times thereafter, cancel all or any part of the Loan that is not then either disbursed or subject to irrevocable Letters of Credit.

Section 8.05. CONTINUED EFFECTIVENESS OF AGREEMENT. Notwithstanding any cancellation, suspension of disbursement or acceleration of repayment, the provisions of this Agreement shall continue in full force and effect until the payment in full of all Principal and any accrued interest hereunder.

Section 8.06. REFUNDS. (a) In the case of any disbursement not supported by valid documentation in accordance with the terms of this Agreement, or of any disbursement not made or used in accordance with the terms of this Agreement, A.I.D., notwithstanding the availability of exercise of any of the other remedies provided for under this Agreement, may require the Borrower to refund such amount in United States dollars to A.I.D. within ninety days after receipt of a request therefor. Such amount shall be made available first for the cost of services procured hereunder, to the extent justified; the remainder, if any, shall be applied to the installments of Principal in the inverse order of their maturity and the amount of the Loan shall be reduced by the amount of such remainder. Notwithstanding any other provision in this Agreement, A.I.D.'s right to require a refund with respect to any disbursement under the Loan shall continue for five years following the date of such disbursement.

(b) In the event that A.I.D. receives a refund from any consultant, supplier, or banking institution, or from any other third party connected with the Loan, with respect to services financed under the Loan, and such refund relates to an unreasonable price for services, or to services that were inadequate, A.I.D. shall first make such refund available for the cost of services procured hereunder to the extent justified, the remainder to be applied to the installments of Principal in the inverse order of their maturity and the amount of the Loan shall be reduced by the amount of such remainder.

Section 8.07. EXPENSES OF COLLECTION. All reasonable costs incurred by A.I.D., other than salaries of its staff, in connection with the collection of any refund or in connection with amounts due A.I.D. by reason of the occurrence of any of the events specified in Section 8.02 may be charged to the Borrower and reimbursed to A.I.D. in such manner as A.I.D. may specify.

Section 8.08. NON-WAIVER OF REMEDIES. No delay in exercising or omission to exercise any right, power, or remedy accruing to A.I.D. under this Agreement shall be construed as a waiver of such right, power or remedy or of any other right, power or remedy hereunder.

Article IX. MISCELLANEOUS

Section 9.01. COMMUNICATIONS. Any notice, requests, document or other communication given, made or sent by the Borrower or A.I.D. pursuant to this Agreement shall be in writing or by telegram, cable or radiogram and shall be deemed to have been duly given, made or sent to the party to which it is addressed when it shall be delivered to such party by hand or by mail, telegram, cable or radiogram at the following address:

To Borrower:

Mail and Cable Address: Ministro das Finanças
Avenida Infante D. Henrique
Lisboa, Portugal

To A.I.D.:

Mail and Cable Address: A.I.D. Representative
Embassy of the United States of America
Lisbon, Portugal

Other addresses may be substituted for the above upon the giving of notice. All notices, requests, communications and documents submitted to A.I.D. hereunder shall be in English, except as A.I.D. may otherwise agree in writing.

Section 9.02. REPRESENTATIVES. For all purposes relative to this Agreement, the Borrower will be represented by the individual holding or acting in the office of Ministro das Finanças and A.I.D. will be represented by the individual holding or acting in the office of the A.I.D. Representative, Embassy of the United States of America, Lisbon. Such individuals shall have the authority to designate by written notice additional representatives. In the event of any replacement or other designation of a representative hereunder, Borrower shall submit a statement of the representative's name and specimen signature in form and substance satisfactory to A.I.D. Until receipt by A.I.D. of written notice of revocation of the authority of any of the duly authorized representatives of the Borrower designated pursuant to this Section, it may accept the signature of any such representative or representatives on any instrument as conclusive evidence that any action effected by such instrument is duly authorized.

Section 9.03. IMPLEMENTATION LETTERS. A.I.D. shall from time to time issue Implementation Letters that will, with the concurrence of the Borrower, prescribe the procedures applicable hereunder in connection with the implementation of this Agreement.

Section 9.04. PROMISSORY NOTES. At such time or times as A.I.D. may request, the Borrower shall issue promissory notes or such other evidences of indebtedness with respect to the loan, in such form, containing such terms and supported by such legal opinion as A.I.D. may reasonably request. Form or such evidence shall be agreed upon by the Borrower and A.I.D.

Section 9.05. TERMINATION UPON FULL PAYMENT. Upon payment in full of the Principal and of any accrued interest, this Agreement and all obligations of the Borrower and A.I.D. under this loan agreement shall terminate.

IN WITNESS WHEREOF, the Borrower and the United States of America, each acting through its respective duly authorized representative, have caused this Agreement to be signed in their names and delivered as of the day and year first above written.

Government of Portugal:

[Signed]

JOSÉ JOACHIM FRAGOSO

Minister of Finance

United States of America:

[Signed]

HERBERT S. OKUN

Chargé d'affaires ad interim

ANNEX A

PROJECT DESCRIPTION

PORTUGAL—HOUSING FOR LOW-INCOME FAMILIES

I. *Portuguese Housing Sector*

The Project consists of A.I.D. support for a portion of the low-income housing program of Portugal. The Government of Portugal (GOP) has assigned primary responsibility for this program to the Fundo de Fomento da Habitação (FFH). Pursuant to Government policy objectives, FFH plans to begin construction of approximately 50,000 units of public housing in 1975 and 1976. This housing program is designed, among other things, to substantially increase the amount of housing accessible to the lowest income groups in Portugal. The GOP budget allocated to FFH for carrying out this housing program is expected to be approximately \$150 million, of which approximately \$23.3 million will be for the four projects with which A.I.D. is associated.

Most of the FFH public housing will be in multi-story apartment buildings, providing rental units with one to five bedrooms. FFH plans for the substantial completion in 1975 and 1976 of approximately 25 larger projects incorporating these kinds of units. In addition to rental apartments, self-help housing may also be included in the FFH housing program.

II. *A.I.D. Participation*

A.I.D. will help to finance the housing sector program to be carried out by FFH through:

- (a) a development loan (DL)—\$13,250,000
 - (b) a housing investment guaranty (HIG)—\$20,000,000
- Total—\$33,250,000

A.I.D.'s participation will be associated with four of FFH's planned projects which are ready for early implementation and which constitute a significant share of the new housing to be built over the two-year period. Disbursement of DL and HIC funds will be timed to coincide with the construction of lower-cost units in projects in the following locations:

- (a) Almada
- (b) Oeiras-Zambujal
- (c) Aveiro
- (d) Porto-Viso

The identification and projected costs of such lower-cost units will be agreed upon by A.I.D. and FFH in Implementation Letters. With respect to such projected costs, the ratio of attributed financing will be approximately as follows:

- DL—not to exceed 30%
- HIG—not to exceed 45%
- GOP—not less than 25%

Except as A.I.D. may otherwise agree, disbursements from DL and HIG will take place on a proportionate basis in accordance with the above ratio.
