

No. 16027

UNITED STATES OF AMERICA
and
ZAIRE

Agreement for sales of agricultural commodities (with
Memorandum of understanding). Signed at Kinshasa
on 25 March 1976

Exchange of notes constituting an agreement amending the
above-mentioned Agreement. Kinshasa, 28 April 1976

Authentic texts of the Agreement and Exchange of notes: English and French.

Authentic text of the Memorandum of understanding: French.

Registered by the United States of America on 29 November 1977.

ÉTATS-UNIS D'AMÉRIQUE
et
ZAÏRE

Accord en vue de la vente de produits agricoles (avec
Mémorandum d'accord). Signé à Kinshasa le 25 mars
1976

Échange de notes constituant un accord modifiant l'Accord
susmentionné. Kinshasa, 28 avril 1976

Textes authentiques de l'Accord et l'Échange de notes : anglais et français.

Texte authentique du Mémorandum d'accord : français.

Enregistrés par les États-Unis d'Amérique le 29 novembre 1977.

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

The Government of the United States of America and the Government of the Republic of Zaire;

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 Zaire (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

¹ Came into force on 25 March 1976 by signature, in accordance with part III.

2. the availability of the specified commodities at the time of exportation.

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 quantitites 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 determine, 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 subsections 104 (a), (b), (c), 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 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 payment 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 provision 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); and

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 or 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;
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 will be the 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(l) of the Act.

PART II. PARTICULAR PROVISIONS

Item I. Commodity Table

Commodity	Supply period (U.S. Fiscal Year)	Approximate maximum quantity (metric tons)	Maximum export market value (millions of dollars)
Rice Milled.....	1976	27.000	\$8
		TOTAL	\$8

Item II. *Payment terms*

Dollar credit

1. Initial Payment—5 percent.
2. Currency Use Payment, section 104(a)—10 percent.
3. Number of installment payments—19.
4. Balance payable—approximate equal annual installments.
5. Due date of first installment payment—one year after date of last delivery of commodities in each calendar year.
6. 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>
Rice	1976	25,000 metric tons (of which at least 2,300 metric tons shall be from U.S.)

Item IV. *Export limitations*

A. The export limitation period shall be U.S. fiscal year 1976 or any subsequent U.S. fiscal year during which commodities financed under this Agreement are being imported or utilized.

B. For the purpose of part I, article III, A4, of the Agreement, the commodities which may not be exported are: for rice, rice in form of paddy, brown or milled.

Item V. *Self-help measures*

A. The Government of Zaire agrees to:

1. encourage growth of the vocational schools and training in agricultural production methods and extension at all post secondary schools levels, as well as establish a framework for on-the-job training and upgrading of agricultural extension staff;
2. furnish increased budgetary support to meet the logistic requirements of the agricultural extension service and agricultural research program, as well as supporting efforts to extend agricultural credit. Major emphasis should be placed on testing and multiplication of improved seeds and their distribution to farmers;
3. allocate a large portion of the proceeds from this Agreement as mutually agreed for: (a) the repair/maintenance of bridges, roads, and transport facilities with priority given to those which are directly related to the movement of agricultural produce; and (b) food production projects with emphasis on those programs aimed at increasing the production of foodstuffs;
4. provide all logistic and other support necessary to successfully carry out the Ministry of Agriculture's planning and management service on which an AID advisory team is involved.

B. In implementing these self-help measures specific emphasis will be placed on contributing directly to development progress in poor rural areas and on enabling the poor to participate actively in increasing agricultural production through small farm agriculture.

Item VI. Economic development purposes for which proceeds accruing to importing country are to be used

A. The proceeds accruing to the importing country from the sale of commodities financed under this Agreement will be used for financing economic development sectors: agriculture, transportation, health.

B. In the use of proceeds for these purposes emphasis will be placed on directly improving the lives of the poorest of the recipient country's people and their capacity to participate in the development of their country.

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.

B. This Agreement shall enter into force upon signature.

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

DONE at Kinshasa, in duplicate, this 25th day of March, 1976.

For the Government
of the United States of America:

[Signed]
WALTER L. CUTLER
Ambassador
of the United States of America

For the Government
of the Republic of Zaire:

[Signed]
BOFOSSA W'AMB'EA NKOSO
State Commissioner
for Finance

[TRANSLATION¹ — TRADUCTION²]

MEMORANDUM OF UNDERSTANDING

It is the intention of the Government of the Republic of Zaire to reestablish and use the Counterpart Secretariat under the authority of the Planning Department, Office of the Presidency, to achieve, in cooperation with the United States Agency for International Development, the objectives agreed upon in accordance with article VI, part II, "Special Provisions," of the PL-480 Agreement, Title I, for sales of agricultural commodities, signed by representatives of the Government of the Republic of Zaire and the Government of the United States of America at Kinshasa, March 25, 1976.

[Signé]
BOFOSSA W'AMB'EA NKOSO
Commissioner of State for Finance

DONE at Kinshasa, March 25, 1976.

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

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

EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT¹ BETWEEN THE UNITED STATES OF AMERICA AND ZAIRE AMENDING THE AGREEMENT OF 25 MARCH 1976² FOR SALE OF AGRICULTURAL COMMODITIES

ÉCHANGE DE NOTES CONSITUANT UN ACCORD¹ ENTRE LES ÉTATS-UNIS D'AMÉRIQUE ET LE ZAÏRE MODIFIANT L'ACCORD DU 25 MARS 1976² EN VUE DE LA VENTE DE PRODUITS AGRICOLES

I

*The Secretary of State to the Zairian Commissioner of State
for Foreign Affairs*

April 28, 1976

Citizen Commissioner:

I have the honor to refer to the Title I P.L. 480 Agricultural Sales Agreement signed by representatives of our two Governments on March 25, 1976,² and propose that the Agreement be amended as follows:

(A) In Part II, Item I, Commodity Table: (1) under appropriate columns insert "cotton", "1976 plus July 1 through September 30, 1976", "16,000 bales", and "\$5.0"; and (2) under Maximum Export Market Value at line designated Total, delete "\$8.0", and insert "\$13.0".

(B) In Part II, Item III, Usual Marketing Table: (1) under appropriate columns insert "cotton", "1976 plus July 1 through September 30, 1976", and "none".

(C) In Part II, Item IV, Export Limitations: (1) at the end of the sentence in sub-paragraph B, delete the period and add "and for cotton, cotton and cotton textiles (including yarn and waste)".

All other terms and conditions of the March 25, 1976, P.L. 480 Title I Agreement as amended remain the same. I propose that this note and your reply concurring therein constitute agreement between our two Governments effective on the date of your note in reply.

Accept, Citizen Commissioner, the assurances of my highest consideration.

HENRY A. KISSINGER

Citizen Nguza Karl I. Bond
Commissioner of State for Foreign Affairs
Kinshasa

¹ Came into force on 28 April 1976, the date of the note in reply, in accordance with the provisions of the said notes.

² See p. 35 of this volume.

¹ Entré en vigueur le 28 avril 1976, date de la note de réponse, conformément aux dispositions desdites notes.

² Voir p. 35 du présent volume.

et ajouter « et pour le coton, le coton et les textiles de coton (filé et bourse y compris) ».

« Tous les autres termes et conditions de l'Accord intervenu le 25 mars 1976 aux termes du Titre I, de la Loi Publique 480, amendée restent les mêmes. Je propose que cette note et votre réponse concernant les points mentionnés constituent un accord entre nos deux Gouvernements, effectif à la date de votre réponse.

« Veuillez agréer, Citoyen Commissaire d'Etat, l'assurance de ma plus haute considération. HENRY A. KISSINGER »

Au nom du Conseil Exécutif du Zaïre, je marque mon accord pour ce qui précède et Vous prie d'agrérer, Monsieur le Secrétaire d'Etat, les assurances de ma très haute considération.

Le Commissaire d'Etat aux Affaires étrangères
et à la coopération internationale,

NGUZA KARL I BOND
Membre permanent du Bureau politique

[TRANSLATION¹ — TRADUCTION²]

REPUBLIC OF ZAIRE
POPULAR REVOLUTIONARY MOVEMENT
DEPARTMENT OF FOREIGN AFFAIRS
AND INTERNATIONAL COOPERATION
Office of the Commissioner of State

Kinshasa, April 28, 1976

Mr. Secretary:

I have the honor to acknowledge receipt of Your Excellency's note of today's date informing me of the following:

[See note I]

On behalf of the Executive Council of Zaïre, I wish to state that I am in agreement with the foregoing and ask you to accept, Mr. Secretary, the assurances of my very high consideration.

NGUZA KARL I BOND
Commissioner of State for Foreign Affairs
and International Cooperation
Permanent Member of the Politburo

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

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