

No. 16874

**FRANCE
and
PORTUGAL**

General Agreement concerning the use by France of certain facilities in the Azores archipelago (with annexes). Signed at Lisbon on 24 February 1977

*Authentic texts : French and Portuguese.
Registered by France on 18 July 1978.*

**FRANCE
et
PORTUGAL**

Accord général concernant l'utilisation par la France de certaines facilités dans l'archipel des Açores (avec annexes). Signé à Lisbonne le 24 février 1977

*Textes authentiques : français et portugais.
Enregistré par la France le 18 juillet 1978.*

[TRANSLATION — TRADUCTION]

GENERAL AGREEMENT¹ BETWEEN THE FRENCH GOVERNMENT
AND THE PORTUGUESE GOVERNMENT CONCERNING THE
USE BY FRANCE OF CERTAIN FACILITIES IN THE AZORES
ARCHIPELAGO

The French Government and the Portuguese Government have agreed as follows:

Article 1. For the duration of this Agreement, the Portuguese Government shall make available to the French Government in the Azores Islands a number of resources and services designed to facilitate its observation and measurement of the paths of French ballistic missiles without nuclear warheads which are to be launched in a westerly direction from the Atlantic coast of France.

The terms and conditions of this Agreement take into account the sovereignty of the Portuguese State and the interests of the autonomous region of the Azores.

Article 2. Aircraft used by the French Government to observe and measure firings during the tests may land and park on the Santa Maria airfield.

The Portuguese Government shall make the necessary technical premises and housing available to permanent French personnel and crews.

Such personnel shall have a direct high-frequency radio link between the technical premises and France. This link may be replaced by other means of communication.

The chief of detachment shall be accredited to the Aeronautics Control Centre for all questions of air space management; the reservation of space in the Santa Maria flight information region during the tests shall be one of the essential services provided by the Portuguese Government.

Aircraft used by the French Government to provide logistic links and to transport passengers and equipment may land and park in the same conditions on the airfields of Santa Maria and Flores.

If necessary, these two categories of aircraft may land and park on the other airfields of the Azores which are in a position to receive them.

Article 3. Vessels used by the French Government during the tests may replenish and anchor, in a normal manner and without prior official request, in the ports of Horta (Faial) and Ponta Delgada (São Miguel).

They may make all measurements and observations corresponding to their mission in the territorial waters of the Azores Islands.

Article 4. The French Government may set up on the island of Flores and, if necessary, on another island of the Azores any measuring observation, radiolocation and transmission equipment which may be necessary for the tests referred to in article 1, after prior co-ordination with the Portuguese Government.

¹ Came into force on 18 January 1978, the date of the last of the notifications (effected on 2 June 1977 and 18 January 1978) by which each of the Contracting Parties informed the other of the completion of their required constitutional procedures, in accordance with article 19.

Upon the entry into force of this Agreement, the Portuguese Government shall therefore continue to make available to the French Government the installations and land which were already available to it and, at the request of the latter Government, shall make available to it the additional installations and land needed. The financial conditions are established in annex 3, which forms an integral part of this Agreement.

The list of the first category of such installations and lands is contained in annex 1, which forms an integral part of this Agreement, as does the list of those in the second category already determined before the signature of this Agreement. The others shall be dealt with in addenda.

Article 5. The Portuguese Government shall guarantee the external security of the installations and land made available to the French Government in areas where security systems already exist. If special measures become necessary, the related expenses shall be borne by the French Government.

Article 6. The French Government may use Portuguese telecommunication systems for its links, both within the Azores and to France. In all cases, the equipment for coding and decoding the service and measurement signals shall remain the responsibility of the French Government.

Article 7. The use of the radio frequencies necessary for the observation, measuring, radiolocation and telecommunication facilities shall be dealt with in a co-ordination plan drawn up by agreement between the Contracting Parties. The procedure to be followed for the requesting and assignment of the necessary frequencies is dealt with in annex 2, which forms an integral part of this Agreement.

Article 8. The Portuguese Government shall do everything possible to facilitate the admission into Portuguese territory, exempt from all duties and taxes, of all objects and equipment, including automobiles, provided by the French Government for use in equipping the observation, measuring, location and transmission installations, as well as any objects and materials used for the commercial needs of permanent or temporary personnel.

Article 9. All dismountable installations and all elements considered as movables, provided for the equipment of the installations mentioned above, as well as the equipment and supplies necessary for their operation, shall remain the property of the French Government.

The French Government may at any time during the validity of this Agreement, as well as during the 12 months following its expiry, remove freely from Portuguese territory all the items mentioned in the first paragraph of this article.

Problems resulting from the transfer of installations, equipment, materials and supplies mentioned above shall be settled by agreement between the Contracting Parties.

Should the French Government wish to proceed with the sale of these items locally, it may request permission from the Portuguese Government. If the sale is authorized, it shall be conducted in the conditions established by agreement between the two Governments.

The installations and building constituting real estate which have been or will be constructed at the expense of the French Government shall become the property of

the Portuguese Government, to which they shall be handed over when they are no longer in use or upon the expiry of this Agreement, if it is not renewed.

The construction of new infrastructure useful for regional development and scientific and technical research in areas of common interest shall receive from the French Government support equal in value to the investments of common interest which were made during the period of the preceding Agreement.

The execution of each project shall be determined by a special agreement which shall establish the obligations of the Contracting Parties and the sharing of costs.

The general conditions for the granting of this regional aid are dealt with in annex 4, which forms an integral part of this Agreement.

Article 10. The supplies delivered, the work done or the services rendered at the request and on behalf of the French Government shall be considered as supplies, work and services for the benefit of the Portuguese Government.

New constructions and projects and extensive improvements and repairs requested by the French Government shall be the subject of estimates and contracts prepared by the Portuguese Government. The estimates shall also be approved by the French Government.

The Portuguese Government shall in both cases be the compulsory intermediary for the preparation of estimates and the making of contracts; it shall see to their proper execution and proceed with payment for the work or projects.

The French Government may arrange for technical inspections to be made during the work or the delivery of supplies.

The procedure for reimbursement by the French Government of expenses incurred, at its request, by the Portuguese Government is covered by the arrangements laid down in annex 3.

Article 11. The formalities for entering the Azores and the conditions for travel within the entire Portuguese territory shall be limited to the essential minimum for personnel sent by France on the occasion of the tests, as well as for their families.

The Portuguese Government reserves the right not to grant such facilities to nationals of countries other than France.

The conditions for hire, payment and employment of Portuguese personnel employed by the French Government shall be defined by agreement between the Contracting Parties.

Article 12. The Portuguese Government shall make arrangements similar to those described in article 8 for objects, including personal vehicles, imported temporarily into Portuguese territory by the personnel employed by the French Government on the occasion of the tests.

However, such objects may not be sold or transferred in any way whatsoever in Portuguese territory except under conditions which have been approved by the Portuguese Government.

French personnel dispatched to the Azores by the French Government shall not be considered to be resident or domiciled in the Azores and shall therefore not be liable to direct taxes and duties. Such personnel shall not be exempt from indirect taxes on goods and services acquired in Portuguese territory.

French personnel at the branch of the Landes Testing Centre located in Lisbon shall be covered by the same arrangements.

This article shall not apply to Portuguese personnel employed locally by the French Government.

Article 13. As far as possible, personnel sent to the Azores by the French Government shall use the local market for their supplies.

Article 14. Persons employed by the French Government, and their families, shall have access to hospital and medical services established for their use or already existing under conditions established by special agreements.

Article 15. The Contracting Parties shall agree each year on the categories of facilities to be provided by the Portuguese Government to the French Government.

These facilities shall be paid for either by an annual lump sum or by successive reimbursements by the French Government to the Portuguese Government.

The facilities covered by each of these two categories and the methods of making the lump sum payment and successive reimbursements are defined in annex 3.

Article 16. The two Contracting Parties shall designate a person or body to monitor the implementation of this Agreement.

Article 17. Any disputes relating to the interpretation or application of this Agreement which have not been settled through the diplomatic channel may be submitted, at the request of either Party, to a tribunal to be constituted in the following manner:

Each of the Parties shall appoint an arbitrator within one month from the date of receipt of the request for arbitration; the two arbitrators thus appointed shall, within two months after the notification by the Party which last appointed its arbitrator, choose a third arbitrator who shall be a national of a third State.

If one of the Parties has not designated an arbitrator within the time-limit, the other Party may request the President of the European Court of Human Rights to do so. The same procedure shall apply, at the suit of either Party, if the two arbitrators fail to agree on a third arbitrator.

The decision of the tribunal shall be final and enforceable *ipso facto*.

The tribunal itself shall establish the rules of procedure.

Article 18. This Agreement shall be concluded for a period of six years. Six months before the expiry of this period, each Contracting Party may notify the other of its intention to terminate this Agreement. If neither of the Contracting Parties expresses such an intention, the Agreement shall be automatically renewed for a further six-year period.

Each of the two Contracting Parties may, at any time, request a consultation with the other with a view to making any amendment to this General Agreement or to its annexes which might appear desirable.

The consultation between the representatives of the two Governments shall begin within sixty days from the date of the request.

Any modification approved in consultation between the representatives of the two countries shall enter into force after its confirmation by an exchange of notes through the diplomatic channel.

Article 19. Each of the Contracting Parties shall notify the other of the completion of the procedures required by its Constitution for the entry into force of this

Agreement. The Agreement shall enter into force on the date of the second such notification.

DONE in Lisbon, on 24 February 1977, in duplicate, in French and Portuguese, both languages being equally authentic.

For the Government of the French Republic:

JEAN-PAUL ANGLÈS

For the Government of the Portuguese Republic:

JOSÉ MEDEIROS FERREIRA

ANNEX 1 TO THE GENERAL AGREEMENT DEFINING THE INSTALLATIONS, WORKS AND SERVICES TO BE SUPPLIED BY THE PORTUGUESE GOVERNMENT AT THE REQUEST OF THE FRENCH GOVERNMENT

Article 1. This document defines:

- 1.1. The installations and land which the Portuguese Government shall make available to the French Government;
- 1.2. The categories of facilities provided by the Portuguese Government to the French Government at the latter's request.

Article 2. The installations and land made available to the French Government and referred to in article 1 shall include:

- 2.1. Installations and land already existing and, in the case of land, purchased by the Portuguese Government to be made available to the French Government;
- 2.2. Installations and infrastructure improvements established or to be established for the exclusive needs of the French Government;
- 2.3. Installations and infrastructure improvements which, although established or to be established at the request of the French Government, are at the same time useful for the development of the economy or the satisfaction of local needs.

These three categories of installations shall be subject to the conditions of availability specified below.

Article 3. The occupation of land and the use of installations provided for in article 2.1 shall result in payment by the French Government to the Portuguese Government of a general lump sum to be established annually.

Article 4. Installations or infrastructure improvements established or to be established for the exclusive needs of the French Government, as referred to in article 2.2, have been or shall be financed at the expense of the latter. They shall be regarded as the property of the Portuguese Government under the conditions established in article 9 of the General Agreement.

Article 5. The expenditures for installations or infrastructure improvements established or to be established at the request of the French Government, but at the same time useful for the economy or the satisfaction of local needs, shall be shared between the Portuguese and French Governments. These shall also be regarded as the property of the Portuguese Government under the conditions established in article 9 of the General Agreement.

Article 6. The use of the installations or infrastructure improvements provided for in articles 4 and 5 above shall not give rise to any payment by the French Government to the Portuguese Government.

Article 7. The facilities provided by the Portuguese Government to the French Government and referred to in article 1.2 shall include fixed and variable facilities.

The list of these facilities is given in addendum 1 to this annex.

The list of installations or facilities designated in article 2 shall be established or, if necessary, supplemented by an exchange of letters between the competent authorities designated in accordance with article 16 of the General Agreement.

ADDENDUM 1 to ANNEX 1

Definition of facilities provided to the French Government by the Portuguese Government

I. *Fixed facilities*

Fixed facilities include:

- Administrative arrangements;
- Use of the permanent or reserved means of liaison of the Portuguese telecommunication services;
- Provision of land, buildings or installations belonging to the Portuguese Government.

II. *Variable facilities*

Variable facilities include:

- Provision of executive personnel and manpower;
- Provision of material;
- Provision of electricity;
- Provision of water;
- Provision of fuel and ingredients;
- Use of medical and hospital services;
- Rental of buildings;
- Provision or occasional use of miscellaneous installations or services.

ANNEX 2 TO THE GENERAL AGREEMENT CONCERNING THE PROCEDURE TO BE ADOPTED FOR THE ASSIGNMENT OF RADIO FREQUENCIES TO THE FRENCH AUTHORITIES AND THEIR USE BY THOSE AUTHORITIES IN THE AZORES

Article 1. The French authorities may use radio frequencies in the Azores archipelago for the operation of the technical installations which they shall be authorized to establish there.

Article 2. The use of these frequencies shall be limited:

- 2.1. To cases where the needs for point-to-point communications could not be adequately met by the use of the public telecommunication network operated by the Portuguese telephone services;
- 2.2. To the establishment of emergency connections for the circuits rented from the telephone services in cases where this procedure is essential;

2.3. To mobile service links (land, sea and air) which, because of their very special nature, cannot be provided by the civilian and military facilities of the archipelago.

Article 3. The French authorities shall enjoy the same rights and advantages as Portuguese military users in the use of these frequencies.

Article 4. The frequencies assigned to the French authorities shall be considered, for all purposes, to be Portuguese frequencies.

Notification of the frequencies to ITU and ARFA shall always be carried out through the intermediary of the general staff of the armed forces of Portugal (EMGFA).

Article 5. Any request for use of frequencies or modification of fundamental characteristics of frequencies already in service (modification of type of transmission, bands width, power or antenna orientation, place of reception, hours of operation, etc.) shall be addressed directly to EMGFA by the authorities responsible for the operation of the installations.

Article 6. Each request for new frequencies shall indicate whether or not the French services desire to obtain international protection for the frequencies.

If a request for protection is made, it shall mention all the characteristics of use necessary for the notification to ARFA and IFRB.

Article 7. EMGFA shall inform the French authorities of the conclusions of the study made in order to ensure that the frequencies requested are not likely to cause harmful interference with those used by Portuguese stations and that their use characteristics conform to the national provisions in force.

If the conclusions are favourable, the competent services of the Portuguese Government shall take the necessary measures to notify IFRB and ARFA.

If the conclusions are unfavourable, the French services shall suggest new frequencies or EMGFA, if it considers it necessary, shall propose other equivalent ones instead.

Article 8. The notifications shall be maintained and protected, in accordance with the international arrangements in force, until such time as the French authorities give notice that the frequencies are no longer needed by them or needed for the purpose of the Agreement signed between the two Governments.

Article 9. The Portuguese authorities reserve the right to set to other national services any frequency formerly set to the French services in its territory, if the latter declare that they are no longer using the frequency.

Article 10. The Portuguese authorities shall take the initiative of proposing to the French services the necessary modifications of either the frequency itself or its characteristics, if such modifications offer advantages for the Portuguese telecommunication service as a whole or if they are rendered obligatory by international regulations or agreements.

Article 11. The Portuguese authorities shall inform the French services installed in the Azores of any question concerning the stations of those services asked by IFRB and of the conclusions of the latter, as well as of any complaint relating to harmful interference, in order to obtain from those services information which will make it possible to solve the problems that have arisen.

Article 12. The problems that arise with the French services because of harmful interference shall be dealt with, in consultation with the foreign administrations, by the competent services of the Portuguese Government (CTT), which shall be requested to intervene either through the intermediary of EMGFA or directly in an emergency.

ANNEX 3 TO THE GENERAL AGREEMENT ESTABLISHING THE CONDITIONS FOR DETERMINING SERVICES, FACILITIES AND WORKS REQUESTED OF THE PORTUGUESE GOVERNMENT BY THE FRENCH GOVERNMENT AND THE ARRANGEMENTS FOR THEIR FINANCING AND PAYMENT

Article 1. FIXED FACILITIES

1.1. These are dealt with in articles 1.1, 1.2, 2.1, 3 and 7 of annex 1 and in paragraph 1 of addendum 1 to this annex.

1.2. The list of fixed facilities requested of the Portuguese Government by the French Government shall be drawn up jointly by the two Governments before 1 January of the year in which they are to be provided.

1.3. The Portuguese Government shall estimate their value, and notify the French Government which, under the Agreement, shall arrange for the specialized services to make the allocations of funds and to remit, before 1 March of the year in question, the total amount of corresponding funds to the services of the Portuguese Treasury.

Article 2. VARIABLE FACILITIES

2.1. These are dealt with in articles 1.2 and 7 of annex 1 and in paragraph II of the addendum to this annex.

2.2. The list of variable facilities requested of the Portuguese Government by the French Government shall be drawn up jointly by the two Governments before 1 January of the year in which they are to be provided.

2.3. The Portuguese Government shall estimate their value and notify the French Government. The latter, after approval, shall arrange for the specialized services to allocate the funds and to make an advance covering half of the total payments estimated for the entire year to the services of the Portuguese Treasury.

2.4. The Portuguese Government shall submit to the French Government, at the end of each quarter, a statement in the form of an administrative invoice showing the payments it has made on its behalf during the period.

Upon receipt of those invoices, the French Government shall proceed, as described above, to remit the balance owing after the initial advance made in anticipation of foreseeable payments.

The Portuguese Government shall transmit to the French Government, at the beginning of the year, all the vouchers showing the payments it has made on its behalf during the past year.

2.5. During the year, depending on the evolution of economic conditions in Portugal, the French Government may, in agreement with the Portuguese Government, proceed to revise the initial estimate of the value of certain facilities and supplies.

Article 3. WORKS AND SUPPLIES

3.1. These are dealt with in articles 4 and 5 of annex 1.

3.2. Lists of works and supplies needed, with an indication of their technical specifications, shall be submitted by the French Government to the Portuguese Government.

The latter Government shall draw up the outline draft projects of the work to be done and the necessary contracts, including an overall estimate of expenses, supported by a schedule of payments.

3.3. After studying and approving these draft projects, the French Government shall arrange for the allocation of the corresponding funds. A copy of these allocations accompanied by a provisional schedule of payments for the year shall be submitted to the Portuguese Government.

The Portuguese Government shall then draw up the final draft contracts, call for tenders and proceed to award the contracts. After having obtained the agreement of the French

Government, the Portuguese Government shall sign the contracts and send one copy to the French Government.

3.4. The corresponding expenditures shall result in the remittance by the French Government of advances designed to enable the Portuguese Government to pay creditors without delay.

3.5. The statement of payments for the past quarter, the submission of vouchers for the year and the remittance of funds to supplement the advances shall be the subject of the same measures as those referred to in article 2 above (variable facilities).

*Article 4. SPECIAL CASES OF CONTRACTS OF IMPORTANCE
TO THE PORTUGUESE ECONOMY*

4.1. These are contracts for the works or supplies dealt with in articles 2, 3, 5 and 6 of annex 1.

4.2. If it appears, when the lists are drawn up of the requirements dealt with in article 3 above, that the projects which they concern are of importance to the Portuguese economy, the amount of the Portuguese share in this connection and the schedule of instalments for the repayment of the expenses financed in advance by the French Government shall be established by an exchange of letters between the two Governments.

4.3. For a given year, the amount of the Portuguese share shall be set off against the amount of the lump sum payment owed by the Government of France for fixed facilities, as described in article 1 of this annex.

4.4. If the amount of the lump sum is smaller than that of the portion due of the Portuguese share, the difference shall be used by the Portuguese Government to cover, up to the full amount, the payments which it makes on behalf of the French Government for variable facilities.

4.5. If the amount of the lump sum is larger than that of the portion due of the Portuguese share, the difference shall be paid by the French Government to the Portuguese Government for fixed facilities.

Article 5

At the beginning of each year, the balance of financial operations as at 31 December of the preceding year shall be calculated, the off-setting referred to in paragraph 4.3 shall take place and the schedule of payments to be made under paragraphs 2.3 and 3.4 shall be drawn up.

These elements shall make it possible to establish the amount of the first advance and, if necessary, that of the payment provided for in paragraph 4.5.

Article 6

The sums to be received by the Portuguese Government under this Agreement shall be paid in cheques made out in escudos and payable to the Secretary of State of the Treasury of Portugal.

Article 7

Upon the expiry of the General Agreement, the accounts shall be reconciled and the balance of the financial operations shall be settled.

Article 8

If the General Agreement is denounced, the situation of the reciprocal debts and the conditions for their settlement shall be dealt with in a special agreement.

Article 9

In order to permit the application of the above provisions, the Contracting Parties shall each appoint a local representative in Lisbon. The joint mission of the two representatives shall

be to draw up, at the beginning of each year, and to update during the year, the statement of payments to be made and payments made during that year by the two Governments.

These representatives shall arrange the staggered remittance of the corresponding funds, producing quarterly statements of payments made by the Portuguese Government and charged to the total of the earlier advances. These statements shall be accompanied by supporting documents.

They shall close the accounts for the preceding year after examining the expenditure documents submitted by the Portuguese Government.

For the performance of their mission, these representatives shall be kept informed of the proposals, decisions and payments dealt with in this annex.

The Lisbon representatives of the two Parties concerned shall be appointed by their respective Governments.

ANNEX 4 TO THE GENERAL AGREEMENT CONCERNING THE AID PROVIDED BY THE FRENCH GOVERNMENT FOR THE DEVELOPMENT OF THE AZORES

Article 1. 1.1. In accordance with article 9 of the General Agreement, the French Government shall provide aid for the development of the Azores.

1.2. The financing of this aid shall be arranged by the French Ministry of Defence for the period of renewal of the Agreement (12 years).

The amount shall be limited to 144 million escudos, at the exchange rates prevailing on 1 July 1976.

1.3. This financing shall be carried out by annual programme authorization instalments amounting to 12 million escudos, at the exchange rates prevailing on 1 July 1976. A reimbursable advance against the instalments provided for in this article may, however, be requested from the Portuguese Treasury or the French Treasury if this is essential in order to ensure the proper execution of the work; in that case, the necessary arrangements shall be embodied in an annex to the special agreement relating to the work.

1.4. The amounts shall be indexed to the national construction index of Portugal.

1.5. If certain projects may be of direct interest to the French economy, the co-operation of the French ministerial departments concerned is not excluded. The Portuguese Government may request the French delegation in the Portuguese-French Commission to enlist their participation.

Article 2. A list of projects relating to the areas mentioned in article 8 below, each containing:

- A subject and a description thereof,
- A technical feasibility study,
- A cost estimate and payment schedule,
- A degree of priority,

shall be agreed between the delegations in the Portuguese-French Commission responsible for executing the Agreement.

Article 3. The launching of an agreed operation shall be preceded by the signing of a special agreement (in accordance with article 9 of the General Agreement) which shall formalize the preliminary studies, especially concerning the technical dossier and the terms of financing.

Article 4. 4.1. In principle, only two infrastructure projects may be carried out simultaneously.

4.2. A project may be modified during its execution either by an agreement of the Commission or unilaterally by the Portuguese authorities; in the latter case, the financial implications shall be taken into account by the Portuguese Government.

4.3. Financial underestimates may lead to staggering of projects.

Article 5. The implementation of this annex shall be within the competence of the Portuguese-French Commission. For the study of a project, the French representative may, if necessary, seek the advice of an expert of his choice. The Portuguese authorities shall give the appointed expert all the necessary facilities to carry out his mission.

Article 6. When for the execution of work it is necessary to use imported products, the Portuguese authorities shall insure that French suppliers are consulted and given preference, if the technical conditions, delivery dates and prices are identical.

Article 7. The Portuguese authorities shall attach a quarterly statement of payments made for the work referred to in this annex to the administrative invoices of payments made for the benefit of the French installations on Flores and Santa Maria.

They shall also keep the French authorities informed of the progress of work.

Article 8. Areas covered by French aid for the development of the Azores:

- 8.1. Hydroelectric energy on Flores;
 - 8.2. Improvement of health conditions on Flores and Santa Maria;
 - 8.3. Port facilities on Flores;
 - 8.4. Oceanology.
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