

No. 18049

**UNITED STATES OF AMERICA
and
PORTUGAL**

**Loan Agreement for housing for low-income families (with
annex). Signed at Lisbon on 4 March 1977**

Authentic texts: English and Portuguese.

Registered by the United States of America on 14 November 1979.

**ÉTATS-UNIS D'AMÉRIQUE
et
PORTUGAL**

**Accord de prêt relatif au logement des familles à faible
revenu (avec annexe). Signé à Lisbonne le 4 mars 1977**

Textes authentiques: anglais et portugais.

Enregistré par les États-Unis d'Amérique le 14 novembre 1979.

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

LOAN AGREEMENT dated the 4th March 1977 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 ten million United States dollars (\$10,000,000) ("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 ("F.F.H."). The Program is more fully described in annex A attached hereto, which annex may be modified by mutual agreement in writing. In the event that the interested parties fail to agree on the terms of the Housing Investment Guaranty Loan for the Program mentioned in annex A, this Agreement remains in effect and the parties hereto shall then agree upon a revised list of housing projects to be included in annex A and financed hereunder.

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 7.03, and shall be computed on the basis of a 365-day year. Interest shall be payable semiannually. 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 semiannual installments of principal and interest. The first installment of principal shall be payable four and one-half ($4\frac{1}{2}$) 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

¹ Came into force on 4 March 1977 by signature.

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

Section 2.05. 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) A legal opinion of the Attorney General (*Procurador Geral da República*) of Portugal or of other legal 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 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 F.F.H., and by F.F.H. 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, expanded as necessary to include all projects expected to be part of the Program; the allocation of loan funds among programs described in section 5.04 shall be agreed upon by A.I.D. and F.F.H.;
- (E) Executed contract documents for the Housing Investment Guaranty Program referred to in annex A.

Section 3.02. CONDITIONS PRECEDENT TO DISBURSEMENT FOR ANY SPECIFIC PROJECT. Prior to a disbursement under the Loan for any specific project, the Borrower shall furnish in form and substance satisfactory to A.I.D., evidence that the land required for that project has been secured and will be made available for the project.

Section 3.03. RELEASE OF LOAN FUNDS. Upon satisfaction of the conditions precedent set forth in section 3.01, A.I.D. will make disbursements under the Loan in accordance with ratios prescribed in annex A and 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) Amounts equal to 85% of any sum that Borrower or F.F.H. has advanced to contractors for the purchase of materials required for the project, provided that such total funds disbursed shall not exceed US\$2,500,000;
- (B) Additional disbursements equal to eighty-five percent of agreed construction costs 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 required for the Program; no more than 90% of the amount to be financed under the A.I.D. Loan for any specific project site shall be disbursed prior to the Borrower and A.I.D. having agreed that the project has been completed and is acceptable.

Section 3.04. 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 3.05. 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 F.F.H., shall carry out the Program with due diligence and efficiency, and in conformity with sound professional, financial, technical and administrative practices.

(b) The 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) The 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, F.F.H. and A.I.D. shall cooperate fully to assure that the purpose of the Loan will be accomplished. To this end, the Borrower, F.F.H. 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 separately 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 [of] 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 accomplishment 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.

Section 5.02. EMPLOYMENT OF THIRD COUNTRY NATIONALS. No more than twenty percent (20%) of all persons engaged to perform services for any of the construction contracts financed under the Loan shall be other than Portuguese citizens excepting individuals from former colonies or permanent residents who have been in Portugal for not less than three consecutive years.

Section 5.03. INFORMATION AND MARKING. It is A.I.D.'s desire that the Borrower shall have signs erected at project sites identifying the program as being assisted by the United States.

Section 5.04. SELECTION OF PROGRAMS. Both parties will endeavor to distribute the loan funds equally among the following programs of the F.F.H. in the housing sector:

- A. Direct promotion,
- B. Municipality coparticipation,
- C. SAAL and cooperatives,

subject to considerations involving efficient project administration within the time limitations for disbursing the loan, and except as otherwise hereinafter agreed.

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. In the event that goods are procured in the United States they should be shipped on U.S. flag carriers.

Section 6.02. ELIGIBILITY DATE. Except as A.I.D. may otherwise agree in writing, only goods and services which are contracted for after January 1, 1976, will be financed under the Loan.

Section 6.03. REASONABLE PRICE. No more than reasonable prices shall be paid for any goods and 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 3.01, 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, 1978. A.I.D., at its option, may at any time or times after June 30, 1979, reduce the Loan by all or any part thereof 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 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 (90) 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 goods or services financed under the Loan, and such refund relates to an unreasonable price for goods or services, or to goods or services that were inadequate, A.I.D. shall first make such refund available for the cost of goods or 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, request, 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 addresses:

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. The form of such evidence shall be agreed upon by the Borrower and A.I.D.

Section 9.05. LANGUAGE OF AGREEMENTS. This Agreement is prepared in both English and Portuguese. In the event of ambiguity or conflict between the two versions, the English version will control.

Section 9.06. 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:

By: [Signed]

Name: Dr. JOSÉ MANUEL MEDEIROS FERREIRA

Title: Minister of Foreign Affairs

United States of America:

By: [Signed]

Name: FRANK C. CARLUCCI

Title: Ambassador

ANNEX A

PORTUGAL—HOUSING FOR LOW-INCOME FAMILIES

The Program shall consist of the construction of the following type dwellings for which the Fundo de Fomento da Habitação (F.F.H.) has been delegated primary responsibility for carrying out as part of the Government of Portugal's Housing Program for Low-income Families:

- (a) Multistory apartment buildings providing rental units of from one to five bedrooms for urban families with incomes below the medium income; and
- (b) Aided self-help family units undertaken pursuant to the SAAL and Cooperative programs of the F.F.H.

A.I.D. will help to finance not more than eighty-five percent (85%) of the agreed construction costs for the one-, two- and three-bedroom housing units of the above-described apartment building projects and not more than eighty-five percent (85%) of the agreed construction costs for the SAAL and Cooperative projects, exclusive of the value attributed to the self-help component of the SAAL projects contributed by cooperative members, through:

An A.I.D. Loan	US\$10,000,000
A Housing Investment Guaranty (H.I.G.)	US\$20,000,000
TOTAL	US\$30,000,000

Except as A.I.D. and the Government of Portugal (G.O.P.) may otherwise agree in writing, a list of the projects to be financed under the loan are as shown in table I.

The completed list and the projected construction costs of all projects to be part of the Program will be agreed upon by A.I.D. and F.F.H. in implementation letters. With respect to such projected costs the ratio of attributed financing will be approximately as follows:

- A.I.D. Loan, not to exceed 28 percent;
- H.I.G. Loan, not to exceed 57 percent;
- G.O.P., not less than 15 percent.

Except as A.I.D. may otherwise agree, disbursements from the A.I.D. and H.I.G. loans will take place on a proportionate basis in accordance with the above ratios.

TABLE I. LIST OF PROJECTS

<i>Project description</i>	<i>Project location (district)</i>	<i>No. of units</i>
<i>F.F.H. direct promotion projects</i>		
Sobreiro-Maia	Porto	320
Ponte Danta-Espinho	Aveiro	226
Chaves	Vila Real	56
Araucária	Vila Real	228
Setúbal (P.I.)	Setúbal	295
Funchal—Bairro do Hospital I	Funchal	50
<i>Project with municipality coparticipation</i>		
Bairro S. João de Deus	Porto	616
Ramalde	Porto	220
Mogadouro	Bragança	30
Sertã	Castelo Branco	202
Telheiras Norte I	Lisboa	264
Qta. das Laranjeiras	Lisboa	658
Bairro Padre Cruz	Lisboa	200
Ponta Delgada—Açores	Ponta Delgada	100
V. Franca do Campo—Açores	Angra do Heroísmo	20
Rabo de Peixe—Açores	Ponta Delgada	30
<i>SAAL and cooperatives</i>		
Cerca do Cemitério	Faro	108
Monte-Gordo	Faro	133
Falagueira—Amadora	Lisboa	280
Portela—Ourorela	Lisboa	450
Ovar	Aveiro	400
Entroncamento	Santarém	64