

No. 17501

**UNITED STATES OF AMERICA
and
AFGHANISTAN**

**Agreement for sales of agricultural commodities (with
minutes of understanding). Signed at Kabul on
28 December 1977**

Authentic text: English.

Registered by the United States of America on 22 January 1979.

**ÉTATS-UNIS D'AMÉRIQUE
et
AFGHANISTAN**

**Accord relatif à la vente de produits agricoles (avec
procès-verbal d'interprétation). Signé à Kaboul le
28 décembre 1977**

Texte authentique : anglais.

Enregistré par les États-Unis d'Amérique le 22 janvier 1979.

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

The Government of the United States of America and the Government of the Republic of Afghanistan,

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 Afghanistan (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 28 December 1977 by signature, in accordance with part III (A).

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 quantities of such commodity sold under a specified type of financing will not substantially exceed the applicable approximate maximum quantity specified in part II.

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

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

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

Article II

A. Initial payment

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

B. *Currency use payment*

The Government of the importing country shall pay or cause to be paid, upon demand by the Government of the exporting country in amounts as it may 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 subsection 104 (a), (b), (e) and (h) of the Act, as set forth in part II of this Agreement. Such payment shall be credited against (a) the amount of each year's interest payment due during the period prior to the due date of the first installment payment, starting with the first year, plus (b) the combined payments of principal and interest starting with the first installment payment, until the value of the currency use payment has been offset. Unless otherwise specified in part II, no requests for payment will be made by the Government of the exporting country prior to the first disbursement by the Commodity Credit Corporation of the exporting country under this Agreement.

C. *Type of financing*

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

D. *Credit provisions*

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

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

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

a. In the case of dollar credit, interest shall begin to accrue on the date of last delivery of these commodities in each calendar year. Interest shall be paid not later than the due date of each installment payment of principal, except that if the date of the first installment is more than a year after such date of last delivery, the first payment of interest shall be made not later than the anniversary date of such date of last delivery and thereafter payment of interest shall be made annually and not later than the due date of each installment payment of principal.

b. In the case of convertible local currency credit, interest shall begin to accrue on the date of dollar disbursement by the Government of the exporting country. Such interest shall be paid annually beginning one year after the date of last delivery of commodities in each calendar year, except that if the installment

payments for these commodities are not due on some anniversary of such date of last delivery, any such interest accrued on the due date of the first installment payment shall be due on the same date as the first installment and thereafter such interest shall be paid on the due dates of the subsequent installment payments.

3. For the period of time from the date 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);
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; and
3. Utilization shall be deemed to have occurred when the commodity is sold to the trade within the importing country without restriction on its use within the country or otherwise distributed to the consumer within the country.

G. *Applicable exchange rate*

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

1. As long as a unitary exchange rate system is maintained by the Government of the importing country, the applicable exchange rate 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 (1) of the Act.

PART II. PARTICULAR PROVISIONS

I. COMMODITY TABLE

<i>Commodity</i>	<i>Supply period (U.S. Fiscal Year)</i>	<i>Appropriate maximum quantity (metric tons)</i>	<i>Maximum export Market Value (millions)</i>
Wheat, wheat flour . . .	1978	50,000	Dols 5.4
TOTAL			Dols 5.4

II. PAYMENT TERMS

Convertible Local Currency Credit

1. Initial payment, 5 percent.
2. Currency use payment, 15 percent for section 104(a) purposes.
3. Balance payable in installments, approximately equal annual amounts.
4. Number of installment payments, 31.
5. Due date of first installment payment, 10 years after date of last delivery of commodities in each calendar year.

6. Initial interest rate, 2 percent.
7. Continuing interest rate of 3 percent.

III. USUAL MARKETING REQUIREMENTS

<i>Commodity</i>	<i>Import period (U.S. Fiscal Year)</i>	<i>Usual marketing requirements (metric tons)</i>
Wheat/wheat flour (grain equivalent basis)	1978	None

IV. EXPORT LIMITATIONS

A. The export limitation period shall begin on the date the Agreement is signed and continue through U.S. Fiscal Year 1978 or any other 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, A(4), of the Agreement, the commodities which may not be exported are for wheat/wheat flour: wheat, wheat flour, rolled wheat, semolina, farina and bulgur (or the same product under a different name).

V. SELF-HELP MEASURES

A. In implementing these self-help measures, specific emphasis will be placed on contributing directly to development programs in poor rural areas and on enabling the poor to participate actively in increasing agricultural production through small farm agriculture and to benefit from expanded family planning services.

B. In order to assure that wheat and other cereal grains are available throughout the year from one harvest to another, the Government of Afghanistan further agrees to: (a) provide U.S. Government with an analysis of the reasons why carryover stocks, both governmentally and privately held, were so low this year, even though [the] previous three years were good ones and wheat prices were low; (b) develop a plan to remedy this situation which will be developed in 1357 and put into effect at the time of the 1358 harvest; the plan should address the problem of assuring that adequate storage facilities are available and adequate carryover stocks are maintained, and that storage facilities are properly located and in good condition, in order to provide an adequate supply of wheat and other domestically produced grains during the year, particularly during poor harvests; and (c) develop by 1357 and begin testing a plan by the 1358 crop season to improve the Government's crop reporting system and compilation of agricultural data so that shortfalls in domestic cereals production, and related import requirements, can be detected as early as possible in the production cycle.

C. Support integrated wheat development project through expanded research and extension program in wheat production in Baghlan Province, including increased financial support in Afghan year 1357 and subsequent years.

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 sales of agricultural commodities financed under this Agreement will be used for financing the self-help measures set forth in the Agreement. The proceeds may also be used

to finance other development projects in the agriculture, rural development and family planning sectors, as determined appropriate.

B. In the use of proceeds from 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.

C. In carrying out this provision, the GOA agrees to provide (1) at the time of the 1357 Budget proclamation, an analysis of its planned programs to implement the economic development purposes of section VI; and (2) at the end of FY 1357, an analysis of actual progress made toward achievement of the economic development purposes.

PART III. FINAL PROVISIONS

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

This Agreement shall enter into force upon signature.

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

DONE at Kabul, in duplicate, this twenty-eighth day of December 1977.

For the Government of the Republic of Afghanistan:

By: [Signed]
Name: MOHAMMAD KHAN JALALLAR
Title: Minister of Commerce
 and Acting Minister of Planning
Date: December 28, 1977

For the Government of the United States of America:

By: [Signed]
Name: THEODORE L. ELIOT, Jr.
Title: The Ambassador
 of the United States of America
Date: December 28, 1977

MINUTES OF UNDERSTANDING REGARDING THE FISCAL YEAR 1977, PL 480, TITLE I, AGREEMENT OF DECEMBER 28, 1977

The following operational aspects and implementation procedures will be applicable to this Agreement:

(1) Commodities are to be purchased from private U.S. suppliers. Actual prices will be agreed upon between buyers and sellers (subject to price review by the United States Department of Agriculture (USDA)). Purchases of food commodities under the Agreement must be made on the basis of Invitations for Bid (IFB) publicly advertised in the United States and on the basis of bid offerings

conforming to the IFB. Bid offerings must be received and publicly opened in the United States. All awards under IFB's must be consistent with open, competitive and responsive procedures. The terms of all IFB's (including IFB's for ocean freight) must be approved by USDA/General Sales Manager prior to issuance.

(2) Commissions, fees, or other payments to any selling agent are prohibited in any purchase of food commodities under the Agreement.

(3) If the Government of Afghanistan (GOA) requires the services of a U.S. person or firm to handle procurement of the commodity and/or ocean transportation, the GOA must notify USDA/General Sales Manager in writing of the nomination of such agent and provide with the notification a copy of the proposed agency agreement. All purchasing and shipping agents must be approved by USDA/General Sales Manager's office.

(4) The GOA understands that it is required to have operative letters of credit for 100 percent of ocean freight charges opened in favor of the supplier of ocean transportation not later than 48 hours prior to a vessel's presentation for loading. 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).

(5) The GOA will designate one or more persons in the United States to consult with representatives of the Government of the United States (USG) to discuss the operation and procedures applicable to procurement, financing, reporting, and ocean transportation, in order to avoid complications in the implementation of the provisions of the Agreement. This consultation must be completed before any purchase authorizations are issued.

(6) The GOA will designate individuals or agencies in Afghanistan with whom representatives of the USG may consult regarding the implementation of the Agreement on matters such as (a) commodity arrival and off-loading information; (b) marking or identifying; (c) data relating to utilization; (d) data relating to imports and exports; (e) self-help measures; and (f) account figures.

(7) For the purpose of carrying out the intention of section 103(l) of PL 480 and of article III, paragraph I, of part I of the Sales Agreement, it is agreed that the two Governments will cooperate in publicity of the Agreement and identification of the commodities as follows:

- (a) To the extent practicable, full press coverage, including photographs where possible, in national languages as well as English, will be given of the signing of the Sales Agreement; other publicity deemed appropriate by the GOA and the USG may also be given
- (b) To the extent practicable, bags and containers used in transporting the commodities for distribution within Afghanistan will be marked as mutually agreed to show that the commodities were provided by the U.S. on a concessional basis.

(8) The GOA is advised that if it fails to comply with the provisions of part I, article III, A, 1, 2, or 3, of the Agreement or fails to comply with any other requirement of the Agreement, this could result in withholding issuance of purchase authorizations and would be taken into account in consideration of new PL 480 agreements unless the situation is remedied. The remedy may take the form of dollar payment to the USG to the extent of the value of the violation or such other form as may be determined by the USG.

(9) The USG will take the following into consideration in determining the timing, terms, and conditions of purchase authorizations: (a) availability of commodities; (b) crop years of the U.S. and Afghanistan; (c) availability of ocean shipping space; (d) ability of Afghanistan to receive the commodity; (e) market implications; and (f) the overall interest of the U.S. Extensions of terminal contracting and delivery dates as a general rule are not made.

(10) Application for purchase authorizations will be made within 90 days after the effective date of this Agreement. Purchase authorizations will require that invitations for bids for both commodities and freight be submitted to USDA/General Sales Manager, so that the USDA may ensure that invitations do not contain terms or conditions in conflict with purchase authorization terms and PL 480 financing regulations.

(11) The GOA understands that the Food for Peace Act (PL 480) requires the Agreement to provide for termination whenever the USG finds that the self-help program described in the Agreement is not being adequately implemented. The USG may terminate the Agreement in such a case under the termination clause.

(12) The USG reminds the GOA of their responsibilities for the timely submission of reports required by this and previous PL 480 agreements. The GOA is also reminded that the Annual Self-Help Report is due on December 1 of each year. The Annual Self-Help Report should be a comprehensive analytic report covering the current year and containing a record of specific self-help achievements. The Agreement also calls for special reports and analyses related to wheat production and marketing. The Government of the United States will take into consideration the submission of these reports, the progress of achieving self-help measures, and the purposes for which currency generated through the sale of commodities acquired under this Agreement are utilized in its consideration of further requests for assistance under PL 480. The GOA agrees to have representatives of the Ministry of Agriculture available to discuss these analyses with USAID/Afghanistan officials.

The above sets forth the Understanding between the Government of the Republic of Afghanistan and the United States Government.

For the Government of the Republic of Afghanistan:

By: [Signed]
Name: MOHAMMAD KHAN JALALLAR
Title: Minister of Commerce
and Acting Minister of Planning
Date: December 28, 1977

For the Government of the United States of America:

By: [Signed]
Name: THEODORE L. ELIOT, Jr.
Title: The Ambassador
of the United States of America
Date: December 28, 1977