No. 18866

UNITED STATES OF AMERICA
and
PORTUGAL

Agreement for sales of agricultural commodities (with summary minutes of negotiations of 17 July 1979). Signed at Lisbon on 26 July 1979

Authentic text: English.

Registered by the United States of America on 30 May 1980.

ÉTATS-UNIS D'AMÉRIQUE
et
PORTUGAL

Accord relatif à la vente de produits agricoles (avec procès-verbal sommaire de négociations du 17 juillet 1979). Signé à Lisbonne le 26 juillet 1979

Texte authentique : anglais.

Enregistré par les États-Unis d'Amérique le 30 mai 1980.

AGREEMENT[1] BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE REPUBLIC OF PORTUGAL FOR SALES OF AGRICULTURAL COMMODITIES

The Government of the United States of America and the Government of the Republic of Portugal have agreed to the sale of agricultural commodities specified below. This agreement shall consist of the preamble, and parts I and III of the agreement signed March 18, 1976,[2] together with the following part II:

PART II. PARTICULAR PROVISIONS

Item I. COMMODITY TABLE

Commodity	*Supply period (U.S. fiscal years)*	*Approximate maximum quantity (metric tons)*	*Maximum export market value (millions)*
Wheat/wheat flour (wheat basis)	1979 and 1980	80,000	Dols. 14.64
Corn/sorghum	1979 and 1980	186,000	Dols. 25.36
		TOTAL	Dols. 40.00

Item II. PAYMENT TERMS

Convertible local currency credit

1. Initial payment—five (5) percent.
2. Currency use payment—ten (10) percent for section 104(A) purposes.
3. Number of installment payments—fifteen (15).
4. Amount of each installment payment—approximately equal annual amounts.
5. Due date of the first installment payment—three (3) years after the date of last delivery of commodities in each calendar year.
6. Interest rate throughout period of Agreement—five (5) percent.

Item III. USUAL MARKETING TABLE

Commodity	*Import period (United States fiscal years)*	*Usual marketing requirement (quantities to be imported each year)*
Wheat/wheat flour	1979 and 1980	383,000 metric tons
Feed grains	1979 and 1980	1,163,000 metric tons

[1] Came into force on 26 July 1979 by signature.
[2] United Nations, *Treaty Series*, vol. 1041, p. 225.

Item IV. EXPORT LIMITATIONS

A. Export limitation period:

The export limitation period shall be United States fiscal years 1979 and 1980, or any subsequent United States fiscal year during which commodities financed under this agreement are being imported or utilized.

B. Commodities to which export limitations apply:

For the purposes of part I, article III A (4), of this agreement, the commodities which may not be exported are: for wheat/wheat flour—wheat, wheat flour, rolled wheat, semolina, farina, or bulgur (or the same products under a different name); and for corn/sorghum—corn, cornmeal, barley, grain sorghum, rye, and oats (including mixed feeds containing predominantly such grains).

Item V. SELF-HELP MEASURES

A. In implementing these self-help measures, specific emphasis will be placed on contributing directly to promoting development in poor rural areas and to stimulating the participation of farmers in achieving increased agricultural production in accordance with the objectives and norms established by the Government of Portugal in its national and regional programs for agricultural development.

B. The Government of Portugal agrees to:

1. Open a special line of credit for private entrepreneurs and agricultural cooperatives to finance medium and long term investment in agricultural production, marketing, and processing facilities;
2. Construct bulk grain handling facilities at an appropriate deep water port and continue construction of inland handling and maintenance facilities;
3. Construct support infrastructures for cattle breeding as aids to farmers in marketing their products;
4. Construct wholesale food markets near population centers as aids to growers and consumers;
5. Develop the capability of collecting and analyzing agricultural data necessary for the formulation of rural and agricultural development policies, and to establish a nationwide service to provide farmers with frequent and current market information;
6. Organize a study program designed to identify, prepare, and analyze integrated rural development programs;
7. Develop the fisheries sector, including production, processing, and marketing;
8. Encourage applied agricultural research and improve the efficiency of rural extension services.

Item VI. ECONOMIC DEVELOPMENT PURPOSES FOR WHICH PROCEEDS ACCRUING TO THE 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 the self-help measures set forth in item V of the agreement, and for the following economic development sectors: agriculture and fisheries.

B. The allocation of proceeds generated under this agreement, except as otherwise agreed herein, will be used in support of the Government of Portugal's agricultural development plan, and will support:

1. Investments directly related to regional production programs being initiated in accordance with the above-mentioned plan; and
2. Elements of national programs which are directly related to infrastructure development.

C. 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.

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

DONE at Lisbon, in duplicate, this twenty-sixth day of July 1979.

For the Government of the United States of America:

[*Signed*]

EDWARD M. ROWELL
Chargé d'affaires a.i.

For the Government of Portugal:

[*Signed*]

ANTÓNIO DE ALMEIDA
Secretary of State for the Treasury

SUMMARY MINUTES OF NEGOTIATIONS BETWEEN THE GOVERNMENT OF PORTUGAL AND THE GOVERNMENT OF THE UNITED STATES REGARDING AN AGREEMENT FOR SALES OF AGRICULTURAL COMMODITIES UNDER TITLE I OF THE AGRICULTURAL TRADE DEVELOPMENT AND ASSISTANCE ACT OF 1954, AS AMENDED (PUBLIC LAW 480—83rd CONGRESS)

Session: July 17, 1979, Lisbon, Portugal

Representing the Government of Portugal:

Dr. Francisco Baltazar Moita, Ministry of Foreign Affairs
Dr. Carlos Nunes Portela, Ministry of Foreign Affairs
Dra. Maria de Lurdes Serra, Ministry of Foreign Affairs
Dr. Jose Manuel F. Mendes Barata, Ministry of Finance
Dra. Maria da Glória Morão, Ministry of Finance
Dr. Jaime Tavares Duarte, Ministry of Agriculture and Fisheries
Eng. Augusto dos Santos Varela, Ministry of Agriculture and Fisheries
Dr. António d'Avillez, EPAC
Dr. Carlos Alberto A. Filipe, IFADAP
Dr. Manuel E. Meneses, IFADAP

Representing the Government of the United States:

Mr. Robert J. Wicks
Ms. Stephanie Mayfield
Mr. Charles Buchanan Jr.

SUMMARY MINUTES

The initial negotiating session was opened by Dr. Francisco Moita of the Ministry of Foreign Affairs. After welcoming the United States Government negotiators, Dr. Moita gave the floor to the U.S. spokesman.

Opening remarks as follows were submitted in verbal form.

Although the purpose of PL-480 loans is not balance of payments assistance, the agreements of the past 3 years have implicitly contributed to easing Portugal's balance of payments difficulties and, recently, the balance of payments situation has improved.

More important, however, is the contribution of PL-480 loans have and can continue to make toward development of the Portuguese agricultural sector. Recent actions taken by the Government of Portugal (GOP) are welcome positive evidence of our mutual commitment to the developmental application of the locally generated currency from the several PL-480 programs.

Since mechanisms for efficient investment of the locally generated currencies are in place and are beginning to function, we urge continued expedient application of the funds to avoid prejudicing any future agreements.

Without further general remarks, let us turn to a discussion of the talking points which we have prepared.

Assuming we can all agree on these points, we also would like to submit for your consideration a draft of the proposed agreement.

The proposed agreement for FY 79 incorporates by reference the preamble, and parts I and III of March 18, 1976, agreement. Together with the proposed part II, the preamble and standard parts I and III constitute a new agreement.

The following issues and conditions relative to the proposed part II are requisites to the new agreement.

A. Financing for the commodities proposed for inclusion in this agreement, wheat and feed grains, is subject to availability of those commodities at the time of shipment, as well as to the issuance and acceptance of purchase authorizations (PA's).

B. The Government of Portugal (GOP) is requested to designate person(s) (in the United States) who will be able to consult (on a cognizant basis) with the United States Department of Agriculture (USDA) concerning the rules and procedures governing procurement. Such person(s) should 1) receive (from the GOP) any instructions, information, or authority necessary to facilitate timely implementation of the agreement; 2) have authority to request and sign PA's and related documents; 3) if necessary, have complete instructions/information/authority regarding arrangements for purchasing commodities and contracting for freight (including the appointment of purchasing [or] shipping agents, if applicable; 4) be cognizant of commodity specifications, contracting and delivery periods, as well as the banks handling letter(s) of credit for both commodities and freight. PA's shall not be issued prior to such consultations. Also, in this connection, it is strongly recommended that the GOP not require consular legalization of documents (unless required by general law), as was requested by the GOP for purchases under the last agreement. Such a requirement can cause unnecessary delays in payment to suppliers and can result in higher costs to the extent that suppliers may consider the condition unacceptable for the purposes of releasing the cargo.

C. It will be necessary for the GOP to designate person(s) (in Portugal) who shall be able and willing to provide in a prompt manner to the USG representatives information regarding:

1) Arrival and offloading of PL-480 purchased commodities;

2) Publicizing arrivals of PL-480 purchased commodities;

3) Measures taken to assure that PL-480 commodities are not resold or transshipped;

4) Compliance with export limitations and usual marketing requirements;

5) Imports and exports of PL-480 and like commodities;

6) Generation and utilization of local currency resulting from the sales of PL-480 commodities;

7) Currency use payments;

8) Reconciliation of accounts and repayments.

The above required information will be provided as reports, and are to be submitted to the U.S. Embassy as follows:

—ADP, shipping and arrival printouts, should be returned to the U.S. Embassy as soon as possible, but not later than 30 days after the last unloading indicated on the report;

—Compliance reports should be submitted quarterly (commencing January 15 for the period October 1-December 31);

—Self-help reports should be submitted to the U.S. Embassy by December 1;

—Receipts and expenditure proceeds report should be submitted to the U.S. Embassy when requested by USG but not less often than annually, coincident with GOP fiscal year budget reporting procedures.

D. If GOP utilizes a purchasing or shipping agent for commodities purchased under the agreement, the GOP must, prior to the issuance of PA's, provide Office of the General Sales Manager, U.S. Department of Agriculture (OGSM/USDA) with a copy of the proposed agency agreement(s). All such agreements with purchasing and/or shipping agents must be approved by the OGSM. (The purpose of this requirement is to prevent conflicts of interest.) Additionally, commissions, fees or other payments to selling agents are prohibited in any purchase of food/feed grains under the proposed agreement.

E. Concerning purchase authorizations, the following conditions are applicable:

—PA's will be issued only after U.S. Embassy has received in writing the following information:

1) Type and grade of commodity (based on official U.S. standards) to be purchased;

2) Proposed contracting and delivery schedules;

3) Names and addresses of Portuguese and U.S. banks which shall be handling financing operations of the PL-480 purchases;

4) Assurance that GOP authorities are prepared to make immediate transfers of funds from Portugal's own resources to cover 100 percent of the ocean transportation costs, including demurrage, as well as the 5 percent initial payment (IP) for purchases under the agreement.

—Delivery should be made prior to October 1, 1979. (Value of commodities delivered, with USDA approval, after October 1, 1979, may be deducted from amounts available for any agreement for FY 80, and under those circumstances full export restrictions and usual marketing requirements shall continue through fiscal year 1980.)

—PA's will not be issued in the event of major problems concerning GOP performance under the agreement. (Such problems include, but are not limited to, delinquent payments, unfulfilled reporting requirements, exportation of products prohibited by part II, item IV, of the proposed agreement, or failure to meet UMRs.)

—PA's or uncommitted balances of PA's may be cancelled by the USDA at any time that a commodity is determined to be no longer available for PL-480 programs.

—PA's may be limited to certain types of grades of commodity involved.

—Value of the total quantity of each commodity covered by PA's may not exceed the maximum export values specified in part II of the agreement. Thus, in case unit prices become higher than those projected, purchases will be limited to the dollar values specified in the agreement. In the case of price declines, PA's may limit financing to an amount which would not permit purchases to substantially exceed quantities specified in the agreement.

F. Although commodities are purchased from private U.S. suppliers, prices agreed upon between buyer and seller are subject to review by USDA.

G. For each purchase, the designated importing agency (DIA) must authorize the U.S. bank referred in para. E.3. to open necessary letter(s) of credit in name of the U.S. exporter(s) specifying the amount to be paid by the Commodity Credit Corporation (OGSM/USDA) and the net amount (5 percent) to be paid by the DIA's U.S. bank. The DIA must also insure that letter(s) of credit (L/C) are opened and confirmed by their designated U.S. bank immediately after the contracting under each PA is concluded and before vessels arrive to be loaded.

H. Purchases under the agreement must be made on the basis of invitation for bids (IFBs) which are publicly announced in the United States.

—All bid offerings must be received and publicly opened in the United States.

—All awards of contracts under IFBs must be consistent with open, competitve and responsible bid procedures.

—The terms of all IFBs, including those for ocean freight, must be approved by OGSM before final acceptance by GOP representative(s) in the U.S.

I. Regarding ocean transportation:

—Letters of credit for one hundred percent of the freight must be opened in favor of the supplier of the ocean transportation prior to vessel presentation for loading. Delays in opening the letters of credit may result in shipowners action preventing loading or release of commodities. Late or improper opening of L/Cs can result in carriers cancelling transportation.

—The U.S. will pay the differential between U.S. and foreign flag freight rates on the shipment of 50 percent of the commodities that by law must be transported in U.S.-flag vessels.

—Charters of U.S. as well as non-U.S. flag vessels must have OGSM approval prior to final acceptance by the GOP representative in the U.S.

J. The following amount and values are proposed for commodities to be included in the FY 79 PL 480, Title I, agreement:

Commodity	*Approximate maximum quantity*	*Maximum export value (U.S. million dollars)*
Wheat/wheat flour	80,000 MT	14.64
Corn/sorghum	186,000 MT	25.36

K. The financial terms shall be the same as in FY 78 agreement:

—The interest rate remains at 5 percent;

—The annual installment payments (15) shall be approximately equal amounts;

—The first installment payment shall be made 3 years from the date of the last delivery (on board) of commodities in each calendar year;

—The initial payment (IP) shall be 5 percent;

—The currency use payment (CUP) shall remain as in the previous agreement (10 percent).

L. Regarding payments:

—The GOP will be required to open a L/C to cover the 5 percent initial payment to each U.S. supplier. PA's also specify the percentage of purchase price (5 percent) that is to be paid by the importing government to the U.S. supplier. The L/C for this amount is, in fact, the initial payment.

—A currency use payment (CUP), equivalent to 10 percent of the amount financed (which for each purchase is 95 percent), is to be paid to the U.S. Embassy and shall be credited against interest charges during the grace period and against both interest and principal thereafter.

M. U.S. legislation requires that identification and publicity be given to transactions under the agreement. In this regard the GOP is requested to announce publicly each delivery of commodities purchased under the agreement. In this connection, the GOP is expected to provide the U.S. Embassy periodically with statements on the actions taken to meet these requirements.

N. Usual marketing requirements (UMRs) are established to insure that sales under the agreement will not unduly disrupt world price, normal patterns of trade with friendly countries, or dollar sales of U.S. agricultural commodities.

The following UMRs are designated for the proposed agreement:

—Wheat/wheat flour, 383,000 MT;

—Feed grains, 1,163,000 MT.

The UMRs designated are the minimum quantities that Portugal must import, through commercial channels, during U.S. fiscal year 1979 and U.S. fiscal year 1980 (assuming imports are not completed in FY 79) from the U.S. or other eligible countries as mutually agreed.

UMRs must be met even though the amount available under PL 480 may not be fully utilized. Purchases to meet UMR requirements are to be financed by Portugal from its own resources. (CCC or other commercial credits are acceptable for meeting UMR requirements.)

—Violation of UMR provisions, failure to prevent resale, diversion, or transshipment of PL 480, or export of same or like commodities of either domestic or foreign origin during the export limitation period specified in the agreement, could result in withholding PA's and would be taken into account during consideration of future PL-480 programs.

—Imports credited to UMRs are considered to be valid only from the time of their customs clearance into Portugal.

O. Export limitations:

It is understood that Portugal will refrain from exporting commodities which are the same or like those included in the agreement. Those commodities which may not be exported are: wheat, wheat flour, rolled wheat, semolina, farina, bulgur (or the same product called by a different name), corn, cornmeal, barley, grain sorghum, rye, oats (or mixed feeds containing predominantly such grains).

It is agreed to permit exports of malting barley or barley for processing in coffee, provided that cash or commercial credit purchases of U.S. feed grains will exceed the UMRs by like amounts and, that such exports are noted in quarterly compliance reports.

P. Supply period:

The proposed agreement provides for a FY 79 and FY 80 supply period. While we hope all commodities can be shipped during FY 79 (on board bill of lading prior to October 1, 1979) this provision allows for uninterrupted shipments into FY 80. However, shipments after September 30, 1979, may be charged against the FY 80 allocation for PL 480.

Q. While conclusion of this agreement is not dependent upon Portuguese purchases of U.S. commodities, the U.S. is a traditional and dependable supplier of agricultural products and seeks a fair share of any commercial increase in Portugal's imports of commodities.

R. Self-help:

The self-help measures proposed for the 1979 agreement are essentially those proposed by the Planning Group of the Ministry of Agriculture and Fisheries.

They are as follows:

1. GOP will open a special line of credit for private entrepreneurs and agricultural cooperatives to finance medium and long term investments in agricultural production marketing and processing facilities;
2. Construct bulk grain handling facilities at an appropriate deep water port and continue construction of inland handling and maintenance facilities;
3. Construct support infrastructures for cattle breeding as aids to farmers in marketing their products;
4. Construct wholesale food markets near population centers as aids to growers and consumers;
5. Develop the capability of collecting and analysing agricultural data necessary for the formulation of rural and agricultural development policies, and to establish a nationwide service to provide farmers with frequent and current market information;
6. Organize a study program designed to identify, prepare, and analyze integrated rural development programs;
7. Develop the fisheries sector, including production, processing, and marketing;
8. Encourage applied agricultural research and improve the efficiency of rural extension services.

The application of locally generated currencies (self-help funds) in a timely manner is an issue of paramount importance to the USG. In this connection, the U.S. Embassy would appreciate assurances that funds from all future agreements will be applied in a manner consistent with:

—Law No. 14/78 of March 23;

—*Portaria* No. 131-A/79 of March 23;

—*Despacho Conjunto* of Ministries of Finance and Planning, Agriculture and Fisheries, and Commerce and Tourism, of April 12, 1979.

Following a review of the talking points by GOP negotiators a few points were clarified and the talking points were accepted as presented above.

Negotiators then proceeded to review a draft of the proposed agreement. GOP negotiators noted that the draft agreement did not contain modifications to the commodity table which had been informally requested. U.S. negotiators assured GOP representatives that, in its final form, the table would be the same as presented in the talking points.

GOP negotiators also noted that the exception to export limitations for barley was not included in the draft agreement. U.S. negotiators explained that mention of the exception for barley was included in the talking points and would become part of the minutes, thus making the exception an official part of the proposed agreement.

U.S. negotiators then explained that the self-help measures, in the final version of the proposed agreement, would include those agreed upon informally but inadvertently excluded from the proposed text received by the Embassy, from Washington. Additionally, USG negotiators explained that the final language of the agreement would not include references to the committee referred to in part VI, B, of the proposed text but would be modified in view of recent GOP actions. USG negotiators then read revised text for section VI, B, of the proposed agreement which was acceptable to GOP negotiators.

Before closing the negotiating session it was agreed that a U.S. representative would on July 20 deliver to the Ministry of Foreign Affairs for final review, 1) a copy of the minutes of the July 17 meeting (to be initialed by the heads of each delegation), and 2) a final copy of the proposed agreement incorporating the above mentioned modifications. It was further agreed that the final text of the proposed agreement would be reviewed at a meeting of the GOP negotiators during the afternoon of July 20.

With modifications mentioned above (and already approved by Washington), the GOP negotiators indicated their approval of the agreement as proposed. With concurrence of GOP negotiators (expected on or before July 23), the Ministry of Foreign Affairs will communicate to the U.S. Embassy their willingness to sign the agreement.