

No. 20986

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**UNITED STATES OF AMERICA  
and  
MEXICO**

**Co-operative Agreement concerning plant protection  
against the Mediterranean fruit fly (with exhibits).  
Signed at Mexico City on 26 August 1980 and at  
Washington on 17 September 1980**

*Authentic text: English.*

*Registered by the United States of America on 15 April 1982.*

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

**Accord de coopération relatif à la protection phytosanitaire  
contre la mouche Ceratitis (avec appendices). Signé à  
Mexico le 26 août 1980 et à Washington le 17 septembre  
1980**

*Texte authentique : anglais.*

*Enregistré par les États-Unis d'Amérique le 15 avril 1982.*

COOPERATIVE AGREEMENT<sup>1</sup> BETWEEN SECRETARÍA DE AGRICULTURA Y RECURSOS HIDRÁULICOS DE MÉXICO, DIRECCIÓN GENERAL DE SANIDAD VEGETAL, AND UNITED STATES DEPARTMENT OF AGRICULTURE, ANIMAL AND PLANT HEALTH INSPECTION SERVICE, PLANT PROTECTION AND QUARANTINE PROGRAMS

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No. 12-16-5-2387

This Agreement is made and entered into by and between the Secretaría de Agricultura y Recursos Hidráulicos de México, Dirección General de Sanidad Vegetal, hereinafter called the "Cooperator", and the United States Department of Agriculture, Animal and Plant Health Inspection Service, Plant Protection and Quarantine Programs, hereinafter called the "Service".

Whereas, a Memorandum of Understanding was entered into between the parties hereto, on February 8, 1973,<sup>2</sup> covering cooperative efforts to protect crops from plant pest damage and plant diseases in the Republic of Mexico and in the United States of America, through the execution of cooperative programs; and

Whereas, due to increased activity related to the cooperative effort to halt the northward spread and dissemination of the Mediterranean Fruit Fly (*Ceratitis capitata* Wied.) the 1973 Memorandum of Understanding was amended on July 15, 1976,<sup>2</sup> and on August 17, 1978,<sup>3</sup> to reflect this increased activity; and

Whereas, the objective of this Cooperative Agreement is largely to provide for a comprehensive survey and trapping program in the inaccessible areas of southern Mexico; and

Whereas, it has been determined by mutual agreement that a large survey program is necessary to provide accurate and early detections of possible infestations of the Mediterranean Fruit Fly in Mexico in otherwise inaccessible areas; and

Whereas, the Cooperator is equipped with or has access to facilities and has or can secure personnel and equipment mutually satisfactory to both parties for this work; and

Whereas, the Service is responsible for measures to safeguard the United States against the entry of plant pests including Medfly and has agreed to cooperate in protecting Mexico and Central America from this pest;

Whereas, it is the intention of the parties hereto that such cooperation covered by this Agreement shall be for the mutual benefit of the people of Mexico and the United States;

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<sup>1</sup> Came into force on 17 September 1980 by signature, in accordance with section C (15).

<sup>2</sup> United Nations, *Treaty Series*, vol. 1082, p. 176.

<sup>3</sup> See p. 33 of this volume.

Now therefore, for and in consideration of the promise and mutual covenants herein contained, the parties hereto do hereby mutually agree with each other as follows:

A. The Cooperator agrees:

1. To obtain and furnish the equipment and facilities which are mutually acceptable in order to conduct the activities covered by this Cooperative Agreement.
2. To provide transportation, necessary office or laboratory space, personnel, mutually acceptable rotor-wing aircraft, loading and other support equipment, laboratory equipment and clerical services as may be needed to carry out the terms of this Agreement.
3. To submit to the Service's office in Monterrey, N. L., Mexico, as required, narrative and statistical reports on program progress and other activities as spelled out in the work plan. The following reports will serve as evidence of compliance with provisions of this Agreement in order to permit certification for payment to the Cooperator:
  - a. Flight sheets signed by an employee of the Cooperator, acting as an observer, which show tachometer hours on survey helicopter(s). These sheets should be accompanied by a properly executed invoice submitted by the Cooperator to the Service every two weeks.
  - b. Written reports detailing the number of survey sites inspected, traps serviced, findings of survey and frequency of servicings of each site.
  - c. Final settlement accounting showing various expenditures and the amount owed by the Service.
  - d. Preapproved Detailed Work Plan.
  - e. PPQ Form 136 Work Achievement Report.
  - f. Detailed financial plan (pre-approved).
4. To secure maximum benefits to agriculture, the Cooperator is encouraged to immediately release for in-Country use, all or any part of the information obtained, subject to the provisions as outlined in section C.12 of this Agreement.

B. The Service agrees:

1. To designate a member of its staff to coordinate the cooperative effort, serve on a planning and review committee, provide technical advice to the Cooperator, and serve as the certifying official for the Service on all invoices submitted for payment by the Cooperator.
2. To provide special training for employees assigned to this project, when required and agreeable to the Cooperator.
3. To provide funds to the Cooperator in an amount not to exceed \$150,000 U.S. dollars during fiscal year 1980, and in an amount to be mutually agreed upon during each succeeding fiscal year that this Agreement may be renewed. Payments by the Service to the Cooperator will be processed biweekly upon receipt of a properly certified invoice or itemized voucher to be prepared by the Cooperator and submitted to the Service for certification. Payments will be authorized upon receipt and acceptance of the reports required under paragraph A.3 of this Agreement.

In the event the costs of the program under this Agreement are increased or decreased, the total contribution of the Service may be adjusted as mutually agreed upon in advance by the parties hereto in writing, and dependent upon appropriation of funds by Congress.

4. To provide necessary trapping materials delivered to mutually agreeable sites.
  - C. It is mutually understood and agreed that:
    1. The Cooperating parties will develop and furnish a mutually satisfactory work plan for this Mediterranean Fruit Fly Survey activity which will outline overall plans for carrying out and funding this program in accordance with established standards and to the satisfaction of the Cooperator and the Service. All parties to this Cooperative Agreement will cooperate to the best interest of the agricultural producers and the general public of the countries of Mexico and the United States and the Mediterranean Fruit Fly program.
    2. The provisions of this Agreement will not replace activities that are now being conducted by the Cooperator or the Service but will supplement those activities and increase the program benefits to all parties.
    3. The employee or employees responsible for this work will remain under the supervision of the Cooperator or the Service, respectively and be subject to their rules and regulations.
    4. The designated Service employees will serve on a planning and review committee. A meeting of the committee may be called by any committee member. It should convene at least once every 4 weeks. Written reports of committee discussions and/or decisions will be submitted immediately to both parties of this Agreement.
    5. Checks covering payment under this Agreement will be drawn in the name of the Cooperator unless a written request from the Cooperator accompanies the billing, requesting for purposes of check identification, that such checks also include the name of a particular department of the Cooperator's organization. If further check identification is needed, the Cooperator may (1) number his invoice and request that it be shown on the check or (2) request that the agreement number cited on the invoice be shown on the check.
    6. That the Comptroller General of the United States or any of his duly authorized representatives of the United States Department of Agriculture shall, until expiration of 3 years after final payment under this Agreement, have access to and the right to examine pertinent books, documents, papers, and records of the Cooperator involving transactions related to this Agreement. This same right is extended identically to the Secretary of State and to the Agencies of the Secretaría de Agricultura y Recursos Hidráulicos de México involved in the management of funds.
    7. No member of or delegate to the U.S. Congress, Resident Commissioner, or Mexico Parliamentary officials shall be admitted to any share or part of this Agreement or to any benefit to arise therefrom; unless it be made with a corporation for its general benefit.

8. The Service will not provide reimbursement to the Cooperator for any nonexpendable equipment without specific prior written authorization from the Service's designated representative. Nonexpendable equipment purchased from Cooperator's funds shall remain the property of the Cooperator subject to its disposition. Likewise, nonexpendable equipment purchased from funds provided by the Service shall remain the property of the Service, subject to its disposition.
9. The Service shall not provide reimbursement to the Cooperator for any capital improvement made during the effective period of this Agreement.
10. Financial responsibility to be assumed by each party shall be subject to appropriation of funds available to legally cover program expenses.
11. The results of the work herein outlined may be published jointly by the Cooperator and the Service, or by either party and shall be submitted to the other party for suggestions and approval prior to publication. In the event of disagreement, either party may publish results on its own responsibility, giving proper acknowledgment of cooperation.
12. The patent provision applicable to this Agreement shall be in accordance with exhibit A, attached hereto and made a part thereof.
13. To provide for the protection and enhancement of environmental quality in furtherance of the purpose and policy of the national environmental policy act of 1969.
14. The Service will not assume any responsibility whatsoever for loss or damage of equipment owned or operated by the Cooperator, his agents, or employees or contractors or for injury to or death of his agents, employees or contractors. The Cooperator will hold and save the Service, its officers, agents, servants, and employees harmless from liability of any nature or kind for or on account of the use of any copyrighted composition, secret process, patented or unpatented invention, articles or appliances, used in the performance of this contract, including their use by the Service unless otherwise specifically stipulated in the contract. The Cooperator will be responsible for any negligent or wrongful acts or omissions on the Cooperator, his employees, agents, or contractors and employees or agents of the Contractor(s) incident to the performance of this agreement. The Cooperator will hold and save the service harmless from all liability for any death or damage to all persons under this contract as provided under the federal employees compensation act or to real or personal property which results from the operation of or incident to, equipment furnished by the Cooperator. The Cooperator will be liable for all costs whether or not the Service is party to judgment. The Cooperator will not be responsible for any negligent or wrongful acts or omissions of the U.S. Department of Agriculture or its employees.
15. This Agreement shall become effective upon date of final signature and shall continue for a period as might be extended by mutual agreement. However, the Service(s) obligations under paragraphs B.1, B.2, and B.3 are contingent upon passage of an appropriation by Congress from which expenditures legally may be met and shall not obligate the Service in the event Congress fails to so appropriate. Further, this Agreement may be amended

at any time by mutual agreement of the parties in writing. It may be terminated by either party upon 30 days notice in writing to the other party.

Secretaría de Agricultura y Recursos Hidráulicos de México,  
Dirección General de Sanidad Vegetal:

[Signed — Signé]<sup>1</sup>

El Director General

Date: Aug. 26/80

United States Department of Agriculture,  
Animal and Plant Health Inspection Service:

[Signed — Signé]<sup>2</sup>

Acting Administrator

Date: 9/17/80

#### EXHIBIT A

##### UNITED STATES DEPARTMENT OF AGRICULTURE ANIMAL AND PLANT HEALTH INSPECTION SERVICE

##### PATENT PROVISION

Any invention resulting from this cooperative work and made jointly by an employee or employees of the United States Department of Agriculture and the cooperator or an employee or employees of the cooperator shall be fully disclosed, either by publication or by patenting in the United States, and any such United States patent shall either be dedicated to the free use of the people in the territory of the United States or be assigned to the United States of America or be assigned to the cooperator, as may be mutually agreed upon by the parties hereto, provided, that in the event of assignment to the cooperator, the Government shall receive an irrevocable, nonexclusive, royalty-free license under the patent; throughout the world, to practice the invention for all governmental purposes, and, provided further, that nonexclusive, royalty-free licenses shall be issued by the cooperator to any and all applicants technically competent to make use of the patent, provided, that, where the assignment is to the Government, it shall be of the domestic patent rights. Where the domestic patent rights are so assigned, the United States Department of Agriculture shall have an option to acquire the foreign patent rights in the invention on which an application for a United States patent is filed, for any particular foreign country, said option to expire in the event that the Government fails to cause an application to be filed in any such country on behalf of the Government or determines not to seek a patent in such country within six months after the filing of the application for a United States patent on the invention. Where the domestic patent rights are assigned to the Government, but the foreign patent rights are retained by an employee, the employee shall grant to the Government a nonexclusive, irrevocable, royalty-free license in any patent which may issue thereon in any foreign country, including the power to issue sub-licenses for use in behalf of the Government and/or in furtherance of the foreign policies of the Government, and said license shall also include the power to sublicense American licensees under Government-owned United States patents to practice the invention without payment of royalty or other restriction in any foreign country wherein a corresponding patent may issue to the employee or his foreign assignee.

<sup>1</sup> Signed by J. Gutiérrez Samperio — Signé par J. Gutiérrez Samperio.

<sup>2</sup> Signed by Robert Buchanan — Signé par Robert Buchanan.

Any invention made independently by an employee or employees of the United States Department of Agriculture or by the cooperator or an employee or employees of the cooperator shall be disposed of in accordance with the policy of the United States Department of Agriculture or the cooperator, respectively, provided that in the event the invention is made solely by an employee or employees of the cooperator, the cooperator shall grant or shall obtain from the assignee of any patent issued on said invention an irrevocable, nonexclusive, world-wide, royalty-free license for the Government, for all governmental purposes, and provided further, in the event the invention is made solely by an employee or employees of the cooperator, that unless the cooperator or his assignee has taken effective steps within three years after a patent issues on the invention to bring the invention to the point of practical application or has made the invention available for licensing royalty-free or on terms that are reasonable in the circumstances, or can show cause why he should retain the principal or exclusive rights for a further period of time, the Government shall have the right to require the granting of a license to an applicant on a nonexclusive, royalty-free basis.

## EXHIBIT B

### UNITED STATES DEPARTMENT OF AGRICULTURE

#### EQUAL OPPORTUNITY

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*(The following clause is applicable unless this contract is exempt under the rules, regulations, and relevant orders of the Secretary of Labor (41 CFR, Ch. 60).)*

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During the performance of this contract, the Contractor agrees as follows:

- (a) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to, the following employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Contracting Officer setting forth the provisions of this Equal Opportunity clause.
- (b) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.
- (c) The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency Contracting Officer, advising the labor union or workers' representative of the Contractor's commitments under this Equal Opportunity clause, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (d) The Contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- (e) The Contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records,

and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

- (f) In the event of the Contractor's noncompliance with the Equal Opportunity clause of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated or suspended, in whole or in part, and the Contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- (g) The Contractor will include the provisions of paragraphs (a) through (g) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

Wherever the words "contract" and "contractor" appear in this document, it is understood they mean "cooperative agreement" and "cooperator", respectively.

Paragraphs (a) and (b) are amended to include "age" as a nondiscriminating factor.

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