

No. 27060

**UNITED STATES OF AMERICA
and
INDONESIA**

Agreement for sales of agricultural commodities (with agreed minutes and attachments). Signed at Jakarta on 20 March 1982

Authentic text: English.

Registered by the United States of America on 24 January 1990.

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

Accord relatif à la vente de produits agricoles (avec procès-verbal approuvé et annexes). Signé à Jakarta le 20 mars 1982

Texte authentique : anglais.

Enregistré les États-Unis d'Amérique 24 janvier 1990.

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

The Government of the United States of America and the Government of Indonesia agree to the sale of agricultural commodities specified below. This agreement shall consist of the preamble and Parts I and III of the agreement signed December 2, 1980,² together with the following Part II:

PART II. PARTICULAR PROVISIONS:

Item I. Commodity Table:

<u>Commodity</u>	<u>Supply Period (U.S. FY)</u>	<u>Approximate Quantity (MT)</u>	<u>Maximum Export Market Value (DOLS MILLION)</u>
Wheat	1982	104,000	17.5

Item II. Payment Terms: Convertible Local Currency Credit (CLCC)

- (A) Initial payment - ten (10) percent;
- (B) Currency use payment - ten (10) percent for section 104(A) purposes;
- (C) Number of installment payments - twenty-six (26);
- (D) Amount of each installment payment - approximately equal annual amounts;
- (E) Due date of first installment payment - five(5) years after date of last delivery of commodities in each calendar year;
- (F) Initial interest rate - two (2) percent;
- (G) Continuing interest rate - three (3) percent.

Item III. Usual Marketing Table:

<u>Commodity</u>	<u>Import Period (U.S. FY)</u>	<u>Usual Marketing Requirement (MT)</u>
Wheat	1982	925,000

¹ Came into force on 20 March 1982 by signature.

² United Nations, *Treaty Series*, vol. 1268, p. 3.

Item IV. Export Limitations:

(A) The export limitation period:

The export limitation period shall be United States fiscal year 1982, or any subsequent United States fiscal year during which commodities financed under this agreement are being imported or utilized.

(B) Commodities to which limitations apply:

For the purposes of Part I, Article III (A) (4) of this agreement, the commodities which may not be exported are: wheat flour, rolled wheat, semolina, farina, and bulgur (or the same products under a different name).

Item V. Self-Help Measures:

(A) The Government of Indonesia agrees to undertake self-help measures to improve the production, storage, and distribution of agricultural commodities. The following self-help measures shall be implemented to contribute directly to development progress in poor rural areas and enable the poor to participate actively in increasing agricultural production through small farm agriculture.

(B) The Government of Indonesia agrees to undertake the following activities and in doing so to provide adequate financial, technical and managerial resources for their implementation:

- (1) To improve the marketing infrastructure for farm commodities by the establishment of cooperative collection points.

Benchmark: In FY 1982 the GOI will commence establishing five cooperative collection points in each county (Kecamatan), initially on Java only, where small farmers can sell their grain to cooperatives for delivery to the Indonesian state grain buying agency. Each collection point will be equipped with a warehouse and office, weighing and testing equipment, a calculator, a small truck and a bicycle. These collection points will be completed by March 31, 1983.

- (2) Provide funds for the development of groundwater irrigation in order to allow the production of more than one crop.

Benchmark: In FY 1982 the GOI will allocate funds to groundwater management and conservation programs in several regions of the country. Projects will study the feasibility and then develop the potential of using groundwater irrigation make possible double cropping.

Item VI. Economic development purposes for which proceeds accruing to importing country are to be used:

(A) The proceeds accruing to the Government of Indonesia from the sale of commodities financed under this agreement will be used for financing the self-help measures set forth in the agreement, and for development in the agricultural sector, in a manner designed to increase the access of the poor in the recipient country to an adequate, nutritious, and stable food supply.

(B) In the use of proceeds for these purposes emphasis will be placed on directly improving the lives of the poorest of the Indonesian people and their capacity to participate in the development of their country. The measures identified under Item V will directly benefit the needy in the following ways:

- (1) The establishment of commodity collection points will help small farmers by reducing their losses from deterioration and by enabling them to obtain optimum prices for their products.
- (2) The groundwater development program will help to raise farm income by assisting those disadvantaged farmers who are unable to raise a second or third crop during the year due to inadequate water resources during the dry season.

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

Done at Jakarta, in duplicate, the 20th day of March, 1982.

Republic of Indonesia:
By: [Signed]
RUSLI NOOR
Title: Director General
Foreign Economic, Social and
Cultural Relations

United States of America:
By: [Signed]
JOHN C. MONJO
Title: Chargé d'Affaires of the Embassy
of the United States of America

United States
Department of
Agriculture

Foreign
Agricultural
Service

Office of
Agricultural
Counselor

AGREED MINUTES

The following minutes of negotiations of the PL-480 Title I Agreement of March 20, 1982 are agreed upon by the representatives of the signatory Governments:

1. The representatives of the Government of Indonesia understand that the Preamble and Parts I and III of the December 1980 Title I, PL-480 Agreement has been made a portion of this Agreement.

2. The representatives of the signatory Governments understand and agree with the provisions of this Agreement which are covered in Attachments I and II to these Agreed Minutes.

DONE at Jakarta on this 20th day of March, 1982.

United States of America:

[Signed — Signé]¹

Republic of Indonesia:

[Signed — Signé]²

¹ Signed by Alan W. Trick — Signé par Alan W. Trick.

² Signed by Bustanil Arifin — Signé par Bustanil Arifin.

ATTACHMENT 1PROPOSED PROVISIONS OF FY 1982 PL-480 TITLE I AGREEMENTAGREEMENT

The FY 1982 (October 1, 1981 - September 30, 1982) Agreement will consist of:

- 1) A preamble, incorporating by reference the preamble and Parts I and III of the Title I, PL-480 Agreement of December 2, 1980;
- 2) The Part II detailed below. The preamble and Parts I and III of the December 2, 1980 Agreement are standard documents which are applicable to all Title I, PL-480 Agreements. Part II is applicable to this specific Agreement with the Government of Indonesia (GOI). The final Agreement should be identical to that set forth below.

COMMODITY COMPOSITION

The proposed commodity composition is shown in Item I, Part II, below. At GOI request, wheat is programed at 104,000 mt, with a market value of \$17.5 million.

The dollar value which is identified as the maximum export value, will control the size of actual purchases. In case unit values become higher than those projected in the Agreement, purchases will be limited to the dollar value specified in the Agreement. This is in accordance with Article I, E, Part I of the Agreement.

COMMODITY DELIVERIES

Supply period of the Agreement is United States fiscal year 1982. In order to expedite implementation of Agreement after signature, GOI is encouraged to make early request, through their Embassy in Washington, for Purchase Authorization (PA's). GOI representatives should also open Letters of Credit promptly for both commodity and freight after PA's are issued, commodities are purchased and vessels booked.

PAYMENT TERMS

Proposed payment terms are shown in Item II, Part II set forth below. In keeping with current policy objectives, we are seeking to alter the terms of the Title I Agreements. As Indonesian foreign exchange reserves are comparably large compared to other recipient countries, we are proposing to shorten the length of terms for the FY 1982 program. The financing for the Agreement provides for \$17.5 million under convertible local currency credit terms of thirty (30) years, including a five (5) year grace period, with an interest rate of two (2) percent during the grace period and three (3) percent thereafter. The terms also provide for an initial payment of ten (10) percent and a ten (10) percent currency use payment.

USUAL MARKETING REQUIREMENTS

The usual marketing requirements are set forth in Item III of Part II below. The UMR is set at 925,000 mt of wheat. This is based on a five (5) year average of commercial imports covering the fiscal years 1976 through 1980.

EXPORT LIMITATIONS

The provisions shown in paragraph A and B, Item IV, Part II, below are standard.

SELF-HELP MEASURES AND UTILIZATION OF LOCAL CURRENCY

A) Section 109 (A) of PL-480 requires that, before entering into Agreements for the sale of commodities, consideration be given to the extent to which the recipient country is undertaking self-help measures to increase per capita production and improve the means for storage and distribution of agricultural commodities. In addition it is required that particular account be taken to determine the extent to which the measures are being carried out in ways designed to contribute directly to development progress in poor rural areas and to enable the poor to participate actively in increasing agricultural production through small farm agriculture.

B) Section 106 (B) provides that in negotiating Agreements, emphasis shall be placed on the use of such proceeds for purposes which directly improve the lives of the poorest of the recipient countries people and their capacity to participate in the development of their country. Greatest emphasis is required to be placed on the use of such proceeds to carry out programs of agricultural development, rural development, nutrition and population planning in accordance with Section 109 of PL-480, and programs which are likely to achieve the policy objectives of Sections 103 and 104, of the foreign assistance Act of 1961 as amended.

C) Section 109 of PL-480 has been amended effective January 1, 1982 to stipulate that in each Agreement the self-help measures shall be described in specific and measurable terms and in a manner which ensures that the needy people in the recipient country will be the major beneficiaries of the self-help measures. Further, the self-help measures agreed to are to be additional to the measures that the recipient country would have undertaken irrespective of the Agreement. Also, appropriate steps must be taken to see that the self-help provisions are being fully carried out.

D) Part II, Item V of the Agreement, specifies tentative self-help measures to be carried out by the recipient country utilizing the local currencies accruing to the recipient country from the sale of agricultural commodities financed under the Agreement.

USE OF PROCEEDS

Outline for providing for uses of sales proceeds is shown in Item-VI, Part II of the Agreement.

COMPLIANCE AND REPORTING REQUIREMENTS

A) Compliance and reporting are an essential part of the Title I PL-480 program. The GOI representatives should be reminded of their Government's responsibility for compliance with provisions of Article III of Part I of the PL-480 Agreement of December 2, 1980 and submission of timely and accurate reports on compliance, Shipping and Arrival information (ADP) Sheets, self-help, and uses of sales proceeds. A clear understanding of these requirements by GOI officials is essential. For example, failure to submit timely, accurate and substantive self-help reports may delay processing of future Title I requests.

ATTACHMENT 2OPERATIONAL CONSIDERATIONS

A) Purchase Authorizations. As a general rule, Purchase Authorizations will not be issued until the USDA has received an operational reporting cable. Early submission of an operational reporting cable can expedite PA issuance. It is essential that the information in the operational reporting cable be developed in consultation with GOI and prior to the completion of negotiations, so that the cable may be dispatched not later than the signing of the Agreement. The operational reporting cable should contain the following information:

- (1) Type and grade of commodity(ies) to be purchased in accordance with official U.S. standards.
- (2) Proposed contracting and delivery schedules. (Note that quote delivery unquote means delivery of commodity to vessel at U.S. port.)
- (3) Embassy concurrence and comment on the proposed delivery schedule, based on assessment of importing country's capability to receive, store and distribute the commodity (ies) to prevent spoilage or waste if PA's issued with proposed delivery periods. Embassy should also include what terminal delivery date is feasible to enable alternative scheduling, (regardless of desired delivery schedule) given above considerations.
- (4) Name and address of bank in importing country and U.S. commercial bank through which Letters of Credit for commodity and ocean freight will be opened.
- (5) Assurance that appropriate Indonesian authorities are prepared to make prompt transfers of funds to cover initial payment and ocean freight costs on commodities purchased under the Agreement.

B) BELLMON DETERMINATION. Prior to financing agricultural commodities, the Secretary of Agriculture must determine that (1) Adequate storage facilities are available in the recipient country at the time of exportation to prevent the spoilage or waste of the commodity and (2) The distribution of the commodity in the recipient country will not result in a substantial disincentive to or interference with domestic production or marketing in that country. The Embassy should prepare and submit accurate detailed and specific information and statements that will assist in making Bellmon Determination as soon as possible. Information regarding adequate storage facilities should include assessment of importing countries capability to receive, store and distribute commodities without spoilage or waste. During negotiations, the assessment should be updated and this assessment included in the operational reporting cable.

C) Instructions to GOI/Embassy/Washington. During negotiation GOI should provide assurance that arrangements have been made by appropriate authorities to relay to GOI/Embassy/Washington all instructions, information, and authority necessary to ensure timely implementation of Agreement, including: (1) Information outlined in paragraphs A) (1), (2), (4), and (5) above; (2) Complete instructions regarding arrangements for purchasing commodities and contracting for freight (including appointments of purchasing and/or shipping agent if applicable); and (3)

Instructions to contact Program Operations Division, Export Credits, Foreign Agricultural Service, USDA. Telephone (202) 447-5780, for assistance in implementing Agreement.

D) Regulatory/legislative requirements. During negotiations you should remind the GOI representatives that, under current regulatory and legislative requirements:

- (1) Purchase of food commodities from private stocks under the Agreement must be made on the basis of invitations for bids (IFB's) publicly advertised in the United States and on the basis of bids (offers) which shall conform to the IFB. Bids are to be received and publicly opened in the United States. All awards under IFB's must be consistent with open, competitive, and responsive bid procedures.
- (2) Terms of all IFB's must be approved by the General Sales Manager, FAS, USDA, prior to issuance.
- (3) If the GOI nominates a purchasing or shipping agent to procure commodities or arrange ocean transportation under the Agreement, the GOI is required to notify the General Sales Manager, FAS, USDA, in writing, of such nomination and attach a copy of the proposed agency agreement. All purchasing and shipping agents must be approved by the General Sales Manager, FAS, USDA in accordance with regulatory standards designed to eliminate certain potential conflicts of interest.

E) Letters of Credit.

- (1) During negotiations you should obtain assurances from GOI representatives that appropriate measures will be taken to ensure that operable and irrevocable Letters of Credit for both commodities and freight will be issued immediately after commodities are purchased and ocean freight booked.
- (2) The Embassy should explain to GOI representatives that commodity and ocean freight suppliers may refuse to load vessels when acceptable Letters of Credit for commodities or ocean freight are not available at time of loading. This can result in costly claims by vessel owners (demurrage) and by commodity suppliers (carrying charges).
- (3) The GOI must open Letters of Credit for one hundred (100) percent of ocean freight not later than forty-eight (48) hours prior to vessel presentation for loading, providing for sight payment or acceptance of a draft in U.S. dollars in favor of the ocean transportation supplier on the basis of tonnage and rates specified in the applicable charter party or booking note.
- (4) Review with the GOI representatives section 17.9(M) of the Title I financing regulations concerning payment of the final ten (10) percent of ocean freight charges. You should point out that where the ocean freight contract provides for demurrage/despatch, ninety (90) percent of the ocean freight must be paid promptly on arrival of cargo. The remaining ten (10) percent, less despatch if any, should be paid promptly to the carrier upon completion of the laytime statement. Claims against the carrier for damaged or lost cargo should be pursued through normal channels and not be deducted from the ocean freight.

F) Performance Bonds. Advise the GOI officials during negotiations that, if the commodity IFB issued by the GOI requires a Performance Bond, the requirement must be fair to both buyer and seller. USDA is developing Performance Bond language which satisfies these concerns and which may be used in commodity IFB's. USDA will be available to coordinate implementation of this Performance Bond language with GOI purchasing officials in the U.S.
