



Treaty Series No. 45 (1979)

Exchange of Notes
concerning a Loan by the Government
of the United Kingdom of Great Britain
and Northern Ireland to the
Government of Portugal
(United Kingdom/Portugal Development Loan 1978)

Lisbon, 7 November 1978

[The Agreement entered into force on 7 November 1978]

*Presented to Parliament
by the Secretary of State for Foreign and Commonwealth Affairs
by Command of Her Majesty
June 1979*

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HER MAJESTY'S STATIONERY OFFICE

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**EXCHANGE OF NOTES
CONCERNING A LOAN BY THE GOVERNMENT OF THE
UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN
IRELAND TO THE GOVERNMENT OF PORTUGAL**

No. 1

*Her Majesty's Ambassador at Lisbon to the Minister of
Finance and Planning of Portugal*

*British Embassy,
Lisbon.
7 November 1978*

Your Excellency,

United Kingdom/Portugal Development Loan 1978

I have the honour to inform you, following discussions between the Government of the United Kingdom of Great Britain and Northern Ireland (hereinafter referred to as "the Government of the United Kingdom") and the Government of Portugal concerning development aid, that the Government of the United Kingdom are now ready to conclude an Agreement with the Government of Portugal. The position of the Government of the United Kingdom with regard to the provision of finance shall be as set out in paragraph 2 of this Note and the obligations of that Government and the Government of Portugal as regards associated matters shall be as set out in the Appendices to this Note.

2. The Government of the United Kingdom declare that it is their intention to make available to the Government of Portugal, by way of a loan, a sum not exceeding £5,000,000 (five million pounds sterling), hereinafter referred to as "the loan"), towards the cost of development projects to be agreed by our two Governments.

3. If the contents of this Note and its Appendices are acceptable to the Government of Portugal, I have the honour to propose that the present Note and its Appendices together with Your Excellency's reply in that sense shall constitute an Agreement between our two Governments which shall enter into force on the date of Your Excellency's reply, and which shall be known as the United Kingdom/Portugal Development Loan 1978.

I avail myself of this opportunity to renew to Your Excellency the assurances of my highest consideration.

MORAN

APPENDIX 1

United Kingdom/Portugal Development Loan 1978

1. The arrangements and procedures for the provision of the monies to be made available under the loan shall be as set out in the following paragraphs of this Appendix.

INITIAL PROCEDURE

2. For the purpose of these arrangements, the Government of Portugal shall, by a request in the form set out in Appendix 3, open a special account (hereinafter referred to as "the Account") with the Crown Agents for Oversea Governments and Administrations, 4 Millbank, London SW1P 3JD (hereinafter referred to as "the Crown Agents"). The Account shall be operated solely for the purpose of the loan and in accordance with the instructions contained in the said request.

3. As soon as the Account is opened, and before taking any other steps required by these arrangements for obtaining any part of the loan, the Government of Portugal shall furnish the Government of the United Kingdom with a copy of their instructions to the Crown Agents given in accordance with the provisions of Appendix 3. The Crown Agents acting on behalf of the Government of Portugal shall, at the same time and as often as any change is made therein notify the Government of the United Kingdom of the names of the officers of the Crown Agents who are duly authorised to sign on its behalf the Requests for Drawing and shall furnish a specimen signature in duplicate of each such officer.

4. The Government of Portugal and the Government of the United Kingdom shall mutually agree the projects to which the loan shall apply and detail the same in separate exchanges of letters between the two Governments. The goods and services to be purchased from the loan shall be those as may be from time to time mutually agreed by the Government of Portugal and the Government of the United Kingdom. After such arrangements are made full details of the goods to be purchased from the United Kingdom and from the developing countries described in paragraph 8(b) below shall be forwarded to the Crown Agents by the Government of the United Kingdom and on receipt of indents signed by an authorised signatory of the Government of Portugal and Crown Agents will place orders and arrange shipment thereof. Drawings from the loan shall be applied, subject to paragraph 8 of this Appendix to payments under contracts made for the purchase of goods and services. Drawings from the loan will not be used to meet the costs of any taxes, fees, import or customs duties imposed directly or indirectly by the Government of Portugal on goods and services provided.

AGREEMENT OF PROJECTS

5. Where the Government of Portugal propose that part of the aid funds shall be allocated to the costs of a project, they shall forward to the Government of the United Kingdom through the British Embassy a description of the project and its location and shall provide such further details as the Government of the United Kingdom may require.

6. The Government of the United Kingdom shall notify the Government of Portugal whether their proposal to allocate part of the loan to the costs of a project is agreed, the amount of the loan agreed as provisionally allocated towards the offshore sterling costs, and any special conditions attached to such agreement. If the project has not previously been agreed between the Government of Portugal and the Government of the United Kingdom the agreement of the Government of the United Kingdom to a proposal under this paragraph shall constitute the agreement of the project.

7. For the purposes of the loan "offshore sterling costs" are costs payable outside Portugal.

ELIGIBLE CONTRACTS

8. Save to the extent (if any) to which the Government of the United Kingdom notify the Government of Portugal otherwise in writing, drawings from the loan shall be used only:

- (a) for payments under a contract for the purchase in the United Kingdom (which expression in this and the following Appendices shall be deemed to include the Channel Islands and the Isle of Man) of goods wholly produced or manufactured in the United Kingdom or, in the case of chemicals or allied products, goods which are duly declared to be of United Kingdom origin on the form set out in Appendix 5 (Chemicals), or for work to be done or for services to be rendered by persons ordinarily resident or carrying on business in the United Kingdom (or for two or more such purposes), being a contract which:
 - (i) provides for payment in sterling to persons carrying on business in the United Kingdom;
 - (ii) is agreed by the Government of Portugal and accepted by the Crown Agents acting on behalf of the Government of the United Kingdom for financing from the loan;
 - (iii) is entered into after the date of the Note to which this Appendix is attached and before 7 May 1982, save as may be otherwise agreed between the two Governments;
- (b) for payments under a contract for the purchase of goods wholly produced in developing countries with a *per capita* gross national product of US dollars 280 or less in 1976 as calculated by the International Bank for Reconstruction and Development and published in the 1977 World Bank Atlas being a contract which:
 - (i) is agreed by the Government of Portugal and accepted by the Crown Agents acting on behalf of the Government of the United Kingdom for financing from the loan;
 - (ii) is entered into after the date of the Note to which this Appendix is attached and before 7 May 1982, save as may be otherwise agreed between the two Governments;
- (c) for payment of sterling charges and commissions payable in the United Kingdom to the Crown Agents in respect of their services on behalf of the Government of Portugal in connection with the loan.

ACCEPTANCE OF CONTRACTS

9. Where the Government of Portugal propose that part of the loan should be applied to payments under a contract as described in paragraph 8(a) or 8(b) of this Appendix, that Government shall ensure that the Crown Agents, acting on their behalf, obtain before an order is placed:

- (a) a copy of the proposed contract; and
- (b) two copies of a certificate from the United Kingdom contractor concerned in the form set out in Appendix 5 or Appendix 5 (Chemicals) (whichever is appropriate), except that in the case of a contract as described in paragraph 8(b) the certification required shall be completed by the contractor in the developing country and relate to goods originating in that country.

PAYMENTS FROM THE ACCOUNT

10. After the Crown Agents, acting on behalf of the Government of the United Kingdom, have considered the documents referred to in paragraph 9 of this Appendix they shall decide whether and to what extent a proposed contract is eligible for payment from the loan.

11. To the extent that the Crown Agents, acting on behalf of the Government of the United Kingdom, so accept a proposed contract and agree to payments when they fall due being made from the Account, the Government of the United Kingdom shall, on receipt of a request from the Crown Agents acting on behalf of the Government of Portugal in accordance with the detail as set out in Appendix 4 to this Note, make payments in sterling into the Account and each such payment shall constitute a drawing on the loan.

12. Unless the Government of the United Kingdom otherwise decide payments into the Account shall not be made after 7 November 1982.

13. Withdrawals from the Account shall be made only in the manner and subject to the conditions set out in this paragraph:

(a) for payments due under a contract in the cases to which paragraphs 8(a) or 8(b) of this Appendix refer, withdrawals shall be made only on receipt by the Crown Agents of:

(i) Payment Certificates from the contractors concerned in the form shown in Appendix 6 and the invoices referred to therein; or

(ii) the invoices only relating to contracts in respect of which a Contract Certificate in the form shown in Appendix 5 (Chemicals) has been provided;

(b) for payments to which paragraph 8(c) of this Appendix refers, the Crown Agents shall debit the Account and shall inform the Government of Portugal of the amount so debited;

(c) photocopies or duplicates of invoices may be submitted instead of the originals for the purpose of this paragraph.

14. If any monies that have been paid out of the Account are subsequently refunded to the Government of Portugal either by a contractor or by a guarantor, the Government of Portugal shall pay an equivalent of such sums into the Account.

15. Any balance remaining in the Account six months after the date of the last credit to the Account shall be remitted to the Government of the United Kingdom in reduction of the loan.

16. Goods shall be shipped and insured in accordance with normal commercial competitive practice and not be directed to ships or companies of any particular flag or country. Provided payments for these services are made in sterling in the United Kingdom or, where the conditions in paragraph 8(b) apply, are made in foreign currency, they may be met from the loan.

17. The Government of Portugal shall permit officers of the British Embassy at Lisbon and other servants or agents of the Government of the United Kingdom to examine on arrival any such goods or the documents relating to any such goods and services and afterwards shall furnish such officers, servants or agents with such information relating to the use of the goods and services as the latter may reasonably require.

18. The Government of Portugal shall ensure the provision of such finance, additional to loan finance provided in accordance with the arrangements set out in this Appendix, as may be needed to complete each project.

APPENDIX 2

United Kingdom/Portugal Development Loan 1978

1. The arrangements and procedures for the repayment of the monies made available under the loan shall be as follows:

REPAYMENT

2. The Government of Portugal shall repay to the Government of the United Kingdom in pounds sterling in London the total sum borrowed under the arrangements set out in the Note and the Appendices, such repayments to be made by instalments paid on the dates and in the amounts specified below; except that if, on the date when any such instalment is due to be paid, there is then outstanding less than the amount specified for that instalment only the amount then outstanding need be paid:

INSTALMENTS

<i>Date Due</i>	<i>Amount</i>
7 May 1982 and on 7 May in each of the succeeding 21 years	113,636
7 November 1982 and on 7 November in each of the succeeding 20 years	113,636
7 November 2003	113,652

3. The Government of Portugal shall pay to the Government of the United Kingdom in pounds sterling in London interest on drawings from the loan in accordance with the following provisions:

- (a) the rate of interest in respect of each drawing shall be 6% (six per cent) per annum;
- (b) interest shall be calculated on a day-to-day basis on the balance of the loan for the time being outstanding;
- (c) the first payment of accrued interest shall be made on 7 May 1979 and subsequent payments shall be made on 7 November and on 7 May in each year, save that if no drawing has been made by 7 May 1979 interest shall only be payable on 7 November or 7 May next following the first drawing.

4. The Government of Portugal shall, for the purposes of the repayment arrangements, advise the Government of the United Kingdom not less than three months before the first payment of interest and also before the first repayment of principal in sterling becomes due under the terms of this Appendix, the name and address of its agent in London through whom repayments will be made and at the same time issue a standing authority to its agent to make payments of the amounts in sterling on the dates specified in this Appendix sending a copy of the authority to the Government of the United Kingdom.

5. Notwithstanding the provisions of paragraph 2 of this Appendix, the Government of Portugal shall be free at any earlier time to repay to the Government of the United Kingdom in pounds sterling in London the whole or any part of the loan outstanding.

APPENDIX 3

Government of Portugal

To: The Crown Agents for Oversea Governments
and Administrations
4 Millbank
London
SW1P 3JD

Dear Sirs,

United Kingdom/Portugal Development Loan 1978

I confirm your appointment as agents of the Government of Portugal (hereinafter called "the Government") in connection with the administration in the United Kingdom of the above-mentioned loan which is for a sum not exceeding £5,000,000.

2. I have to request you on behalf of the Government to open a Special Account in the name of the Government to be styled United Kingdom/Portugal Loan 1978 Account (hereinafter called "the Account").

3. Payments into the Account will be made from time to time by the Government of the United Kingdom of Great Britain and Northern Ireland on receipt of requests in the form shown in Appendix 4 to the Exchange of Notes between the Government of the United Kingdom and the Government of Portugal dated 7 November 1978, (a copy of which is attached hereto) and which you are authorised to present on behalf of the Government. The amount of the loan to be drawn on any one occasion will be sufficient, together with any balance which may be available in the Account, to cover the payments properly due from the loan in accordance with paragraph 8 of Appendix 1 to the said Exchange of Notes. It is possible that, as a result of refunds paid by contractors or guarantors to the Government, payments into the Account will also be made by the Government itself.

4. Payments from the Account are to be made only in respect of the amounts falling due under the provisions of paragraph 4 and in respect of contracts and transactions described in paragraph 8 of Appendix 1 to the Exchange of Notes referred to above and in the manner and subject to the conditions described in paragraph 13 of the said Appendix 1.

5. You are to send to the Government at the end of each month a detailed statement showing all debits and credits to the Account during the month.

6. You are to send to the Government of the United Kingdom specimen signatures of the Officers of the Crown Agents authorised to sign Requests for Drawing on behalf of the Government.

7. Your charges and commissions for acting as our agents in connection with this loan shall be chargeable to the Account.

8. A copy of this letter has been addressed to the Government of the United Kingdom.

Yours faithfully,

for the Government of Portugal

APPENDIX 4

United Kingdom/Portugal Development Loan 1978

REQUEST FOR DRAWING

Crown Agents for Oversea
Governments and Administrations
4 Millbank
London
SW1P 3JD

D.F. No

Dear Sirs,

Please pay the sum of £..... to the United Kingdom/Portugal Development Loan 1978 Account at the Crown Agents.

This sum shall, on payment into the Account, constitute a drawing on the Loan.

The balance in hand is £.....

Yours faithfully,

.....
for the Crown Agents
on behalf of the Government of Portugal

Funding Approved ODM

Finance Department
Ministry of Overseas Development
Eland House
Stag Place
London SW1

APPENDIX 5

DRAFT A

O.D.M.

ACCEPTANCE

No.....

CONTRACT CERTIFICATE

(FOR CHEMICALS AND ALLIED PRODUCTS USE ALTERNATIVE
'CERTIFICATE' OVERLEAF)

PARTICULARS OF CONTRACT

1. Date of Contract..... 2. Contract No.....

3. Description of goods or services to be supplied to the purchaser.....

.....
If a number of items are to be supplied, a detailed list should be appended to this certificate

4. Total contract price payable by purchaser (state CIF, C&F or FOB) £.....

.....
IF GOODS ARE TO BE SUPPLIED THE FOLLOWING SECTIONS MUST BE COMPLETED. If the contractor is exporting agent only, the information requested should be obtained from manufacturer.

5. Estimated % of the FOB value of the goods *not* originating in the United Kingdom, but purchased by the contractor directly from abroad, i.e. % of imported raw material or components used to manufacture

(a) % FOB value.....

(b) Description of items and brief specifications.....

6. If any raw material or components used originated from abroad, e.g. copper, asbestos, cotton, wood pulp, etc., but have been purchased in the United Kingdom by the contractor for this contract, specify:—

(a) % FOB value.....

(b) Description of items and brief specifications.....

IF SERVICES ARE TO BE SUPPLIED, THE FOLLOWING SECTION SHOULD ALSO BE COMPLETED

7. State the estimated value of any work to be done or services in the purchaser's country by:—

(a) Your firm (site engineer's charges, etc.).....

(b) Local contractor.....

8. Qualifying remarks as necessary in respect of paragraphs 5, 6 or 7 above

.....

9. I hereby declare that I am employed in the United Kingdom by the Contractor named below and have the authority to sign this certificate. I hereby undertake that in performance of the contract no goods or services which are not of United Kingdom origin will be supplied by the Contractor other than those specified in paragraphs 5, 6, 7 and 8 above.

Note: For the purpose of this declaration the United Kingdom includes the Channel Islands and the Isle of Man.

Signed.....

Position held.....

Name and Address of Contractor.....

CONTRACTORS SHOULD NOTE THAT GOODS SHOULD NOT BE MANUFACTURED UNTIL ACCEPTANCE HAS BEEN NOTIFIED

Date.....

FOR OFFICIAL USE ONLY				PAYMENTS			
Name or number of Project.....							
Amount Committed	Date of Entry	Acceptance		Amount	PA No.	Initials	
		Date	Initials				
£							

APPENDIX 5 CHEMICALS

REQN. NO:

DRAFT A

CONTRACT CERTIFICATE FOR CHEMICAL AND ALLIED PRODUCTS ONLY

1. Date of Contract..... Contract No.....
 Project Title (if appropriate).....

2. Description of Product(s) to be supplied to Purchaser (Note A)	£ Price	U.K. Tariff Classification No. (Note B)	Is the product of U.K. origin? (See Note C) State Yes or No
.....
.....
.....

3. Total (estimated) Contract Price payable by Purchaser in Sterling £.....

4. (Declaration) I hereby declare that I am employed in the United Kingdom by the contractor named below and have the authority to sign this certificate, and that the above information is correct.

Signed.....

Position held.....

Name and Address of Contractor.....

Date.....

NOTES

- A. This form is only to be used for chemical and allied products, most of which are covered by the appropriate sub-headings of Chapters 15, 25, 28-35, and 37-40 of the U.K. Tariff.
- B. SEE:
 - (i) H.M. Customs and Excise Tariff H.M.S.O.
 - (ii) Classification of Chemicals in Brussels Nomenclature H.M.S.O.
- C.
 - (i) A product is regarded as 'U.K. origin' if made *either* wholly from indigenous U.K. materials *OR* according to the appropriate EFTA qualifying process using imported materials wholly or in part.
 - (ii) The EFTA qualifying processes are set out in Schedule I of the 'EFTA Compendium for Use of Exporters', H.M.S.O.
 - (iii) For the purposes of this declaration it is to be emphasised that the 'alternative percentage criterion' DOES NOT APPLY.
 - (iv) The words 'Area Origin' where they appear in the above Schedule must be taken to mean 'UK Origin' only.
 - (v) For the purposes of this declaration, the 'Basic Materials List' (Schedule III of the EFTA Compendium) does not apply.
 - (vi) If a qualifying process is not listed for the material in question, advice should be sought from Department M4, Crown Agents for Oversea Governments and Administrations, 4 Millbank, London, SW1P 3JD.
- D. For the purpose of this declaration the U.K. includes the Channel Islands and the Isle of Man.

APPENDIX 6

DRAFT A

CROWN AGENTS REQ. NO.

SUPPLIERS CONTRACT REF.

PAYMENT CERTIFICATE

I hereby certify that

- (i) The payments referred to in the Invoices listed below, which or copies of which accompany this payment certificate, fall due and are due to be made in respect of Contract No.....dated..... between the contractor named below and.....(Purchaser) and are in accordance with particulars of this contract notified in the contract certificate signed on behalf of the said contractor on.....

Contractor's Invoice No.	Date	Amount £	Short description of goods, works and/or services
--------------------------	------	-------------	---

- (ii) The amounts specified in paragraph (i) do not include any additional foreign content to that already declared in paragraphs 5, 6 or 7 of the contract certificate.
- (iii) I have the authority to sign this certificate on behalf of the Contractor named below.

Signed.....

Position held.....

For and on behalf of.....

Name and Address of Contractor.....

Date.....

NOTE:

For the purpose of this declaration the United Kingdom includes the Channel Islands and the Isle of Man.

No. 2

*The Minister of Finance and Planning of Portugal to
Her Majesty's Ambassador at Lisbon*

*Ministry of Finance and Planning
7 November 1978*

Excellency,

I acknowledge the receipt of Your Excellency's Note dated 7 November 1978 which reads as follows:

[As in No. 1]

I have the honour to inform Your Excellency that the foregoing proposals are acceptable to the Government of Portugal and that your Note and its Appendices together with this reply shall constitute an Agreement between the two Governments which shall enter into force on today's date and shall be known as the United Kingdom/Portugal Development Loan 1978.

Accept, Your Excellency, the assurances of my highest consideration.

JOSE DA SILVA LOPES

HER MAJESTY'S STATIONERY OFFICE

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