

No. 26988

**UNITED STATES OF AMERICA
and
ZIMBABWE**

**Commodity Import Grant Agreement. Signed at Salisbury on
7 April 1982**

Authentic text: English.

Registered by the United States of America on 19 December 1989.

**ÉTATS-UNIS D'AMÉRIQUE
et
ZIMBABWE**

**Accord de don pour l'importation de produits de base. Signé
à Salisbury le 7 avril 1982**

Texte authentique : anglais.

Enregistré par les États-Unis d'Amérique le 19 décembre 1989.

GRANT AGREEMENT¹ BETWEEN UNITED STATES OF AMERICA AND THE GOVERNMENT OF ZIMBABWE FOR COMMODITY IMPORTS

Dated: April 7, 1982

A.I.D. Grant No.: 613-K-603

COMMODITY IMPORT GRANT AGREEMENT

DATE: April 7, 1982

Between

The Government of Zimbabwe ("Grantee")

and

The United States of America, acting through the
Agency for International Development ("A.I.D.").

ARTICLE 1

The Grant

A.I.D. agrees to grant to the Grantee pursuant to the Foreign Assistance Act of 1961, as amended, an amount not to exceed Fifty Million United States dollars (\$50,000,000) (the "Grant") for the foreign exchange costs of commodities and commodity-related services, as such services are defined by A.I.D. Regulation 1, needed to assist the Grantee in achieving reconstruction and economic development objectives and maintaining stability. Commodities and commodity-related services authorized to be financed hereunder are hereinafter referred to as "Eligible Items," as more fully described in Section 3.2.

ARTICLE 2

Conditions Precedent to Disbursement

SECTION 2.1. First Disbursement. Prior to the first disbursement under this Agreement, or to the issuance by A.I.D. of documentation pursuant to which such disbursement will be made, the Grantee will, except as the Parties may otherwise agree in writing, furnish to A.I.D., in form and substance satisfactory to A.I.D.

(a) An opinion of the State Attorney of Zimbabwe that this Agreement has been duly authorized and/or ratified by, and executed on behalf of, the Grantee and that it constitutes a valid and legally binding obligation of the Grantee in accordance with all of its terms;

¹ Came into force on 7 April 1982 by signature.

(b) A statement representing and warranting that the named person or persons have the authority to act as the representative or representatives of the Grantee pursuant to Section 7.2, together with a specimen signature of each person certified as to its authenticity;

(c) Any implementation plan which provides (1) an illustrative list by general category of items to be financed and (2) the procedures to be used for allocating foreign exchange to importers under this Agreement;

(d) A plan detailing the activities to be financed, in order of priority, with local currency generations under Section 5.8.

SECTION 2.2. Disbursement for Public Sector Procurement. Prior to any disbursement under this Agreement for public sector procurement, or to the issuance by A.I.D. of documentation pursuant to which such disbursement will be made, the Grantee will, except as the Parties may otherwise agree in writing, furnish to A.I.D., in form and substance satisfactory to A.I.D., a plan describing the commodities to be procured, the anticipated use and the end user of the commodities.

SECTION 2.3. Notification. When A.I.D. has determined that the conditions precedent specified in Sections 2.1 and 2.2 have been met, it will promptly notify the Grantee by implementation letter issued pursuant to Section 7.1 of this Agreement.

SECTION 2.4. Terminal Date for Meeting Conditions Precedent.

(a) If all the conditions specified in Section 2.1 have not been met within ninety (90) days from the date of this Agreement, or such later date as A.I.D. may specify in writing, A.I.D., at its option, may terminate this Agreement by written notice to the Grantee.

(b) If all of the conditions specified in Section 2.2 have not been met within 12 months from the date of this Agreement, or such later date as A.I.D. may agree to in writing, A.I.D., at its option, may cancel the then undisbursed balance of the Grant, to the extent not irrevocably committed to third parties, and may terminate this Agreement by written notice to the Grantee.

ARTICLE 3

Procurement, Eligibility, and Utilization of Commodities

SECTION 3.1. A.I.D. Regulation 1. This Grant and the procurement and utilization of commodities and commodity-related services financed under it are subject to the terms and conditions of A.I.D. Regulation 1 as from time to time amended and in effect, except as A.I.D. may otherwise specify in writing. If any provision of A.I.D. Regulation 1 is inconsistent with a provision of this Agreement, the provision of this Agreement shall govern.

SECTION 3.2. Eligible Items.

(a) The commodities eligible for financing under this Grant shall be those specified in the A.I.D. Commodity Eligibility Listing as set forth in the Implementation Letters and Commodity Procurement Instructions issued to Grantee. Commodity-related services as defined in A.I.D. Regulation 1 are eligible for financing under this Grant. Other items shall become eligible for financing only with the written agreement of A.I.D. A.I.D. may decline to finance any specific commodity or commodity-related service when in its judgment such financing would be inconsistent with the purpose of the Grant or of the Foreign Assistance Act of 1961, as amended.

(b) A.I.D. reserves the right in exceptional situations to delete commodity categories or items within commodity categories described by Schedule B codes on the Commodity Eligibility Listing. Such right will be exercised at a point in time no later than commodity prevalidation by A.I.D. (Form 11 approval) or, if no commodity prevalidation is required, no later than the date on which an irrevocable Letter of Credit is confirmed by a U.S. bank in favor of the supplier.

(c) If no prevalidation is required and payment is not by Letter of Credit, A.I.D. will exercise this right no later than the date on which it expends funds made available to the Grantee under this Agreement for the financing of the commodity. In any event, however, the Grantee will be notified through the A.I.D. Mission in its country of any decision by A.I.D. to exercise this right pursuant to a determination that financing the commodity would adversely affect A.I.D. or foreign policy objectives of the United States or could jeopardize the safety or health of people in the importing country.

SECTION 3.3. Procurement Source. All Eligible Items shall have their source and origin in the United States of America (Code 000 of the A.I.D. Geographic Code Book), except as A.I.D. may specify in Implementation Letters or as it may otherwise agree in writing.

SECTION 3.4. Eligibility Date. No commodities or commodity-related services may be financed under the Grant if they were procured pursuant to orders or contracts firmly placed or entered into prior to the date of this Agreement, except as A.I.D. may otherwise agree in writing.

SECTION 3.5. Procurement for Public Sector.

(a) With respect to procurement under this Grant by or for Grantee, its departments and instrumentalities, the provisions of Section 201.22 of A.I.D. Regulation 1 regarding formal competitive bid procedures will apply unless A.I.D. otherwise agrees in writing.

(b) Grantee will undertake to assure that any public sector end-users under this Grant establish adequate logistic management facilities and, with respect to commodities imported by public sector end-users, that sufficient funds are made available to meet the local currency deposit requirements under

Section 5.8, and to pay banking charges, customs duties, and other commodity-related charges.

SECTION 3.6. Procurement for Private Sector. Except as A.I.D. may otherwise agree in writing, procurement by private importers will be subject to the negotiated procurement procedures of Section 201.23 of A.I.D. Regulation 1 unless the importer elects procurement through the formal competitive procedures of Section 201.22 of A.I.D. Regulation 1.

SECTION 3.7. Motor Vehicles. Except as A.I.D. may otherwise agree in writing, none of the proceeds of this Grant may be used to finance the purchase, sale, long-term lease, exchange or guaranty of a sale of motor vehicles unless such motor vehicles are manufactured in the United States.

SECTION 3.8. Utilization of Commodities.

(a) Grantee will assure that commodities financed under this Grant will be effectively used for the purposes for which the assistance is made available. To this end, the Grantee will use its best efforts to assure that the following procedures are followed:

(i) accurate arrival and clearance records are maintained by customs authorities; commodity imports are promptly processed through customs at points of entry; such commodities are removed from customs and/or bonded warehouses within ninety (90) calendar days from the date the commodities are unloaded at the point of entry, unless the importer is hindered by force majeure or A.I.D. otherwise agrees in writing; and

(ii) the commodities are consumed or used by the importer not later than one (1) year from the date the commodities are removed from customs, unless a longer period can be justified to the satisfaction of A.I.D. by reason of force majeure or special market conditions or other circumstances.

(b) Grantee will assure that commodities financed under this Grant will not be re-exported in the same or substantially the same form, unless specifically authorized by A.I.D.

SECTION 3.9. Shipping.

(a) Commodities may not be financed under this Grant if transported either: (1) on an ocean vessel or aircraft under flag registry of a country which is not included in A.I.D. Geographic Code 935 as in effect at the time of shipment, or (2) on an ocean vessel which A.I.D., by written notice to the Grantee has designated as ineligible, or (3) under an ocean or air charter which has not received prior A.I.D. approval.

(b) Unless otherwise authorized, A.I.D. will finance only those transportation costs incurred on aircraft or ocean vessels under flag registry of a country included in the Geographic Code authorized in Section 3.3 of the Agreement.