

No. 8435

**DENMARK
and
BRAZIL**

**Agreement on a Danish Government loan to Brazil (with
exchange of letters). Signed at Rio de Janeiro, on 8 July
1966**

*Official texts : English and Portuguese.
Registered by Denmark on 7 December 1966.*

**DANEMARK
et
BRÉSIL**

**Accord relatif à un prêt du Gouvernement danois au Brésil
(avec échange de lettres). Signé à Rio de Janeiro, le
8 juillet 1966**

*Textes officiels anglais et portugais.
Enregistré par le Danemark le 7 décembre 1966.*

No. 8435. AGREEMENT¹ BETWEEN THE GOVERNMENT OF DENMARK AND THE GOVERNMENT OF BRAZIL ON A DANISH GOVERNMENT LOAN TO BRAZIL. SIGNED AT RIO DE JANEIRO, ON 8 JULY 1966

The Government of Denmark and the Government of Brazil desiring to strengthen the traditional co-operation and cordial relations between their countries, have agreed that, as a contribution to Brazil's Development Plans a Danish Government Loan will be extended to Brazil in accordance with the following provisions :

Article I

THE LOAN

The Government of Denmark (hereinafter called the Lender) agrees to make available to the Government of Brazil (hereinafter called the Borrower) a development loan in an amount of twenty-one (21) million Danish Kroner for the procurement of capital equipment and services as described in Article VI of this Agreement.

Article II

CREDIT ACCOUNT

Section 1. An account designated "Government of Brazil Special Account" (hereinafter called "Special Account") will be opened with Danmarks Nationalbank (acting as agent for the Lender) in favour of the Borrower or Banco Nacional do Desenvolvimento Económico (acting as agent for the Borrower). The Lender will ensure that sufficient funds are always available in the Special Account to enable the Borrower to effect punctual payment for goods and services procured under this Loan, provided that the amounts successively made available to the Borrower shall not, in the aggregate, exceed the loan amount specified in Article I.

Section 2. The Borrower (or Banco Nacional do Desenvolvimento Económico acting as agent for the Borrower) shall be entitled, subject to the provisions of this Agreement, to withdraw from the Special Account amounts needed for the payment of equipment or services procured under the Loan Agreement.

¹ Came into force on 8 July 1966, upon signature, in accordance with article XIV (1).

Article III

RATE OF INTEREST

The Loan will be free of interest.

Article IV

REPAYMENT

Section 1. The Borrower will repay to the Lender the principal of the Loan withdrawn from the Special Account in 24 semi-annual instalments of 875,000 Danish Kroner each, commencing on September 30, 1969, and ending on March 31, 1981.

Section 2. The Borrower has the right to repay in advance of maturity all or any part of the principal amount of one or more maturities of the Loan specified by the Borrower.

Article V

PLACE OF PAYMENT

The principal of the Loan shall be paid by the Borrower in convertible Danish Kroner to Danmarks Nationalbank to the credit of the current account of the Ministry of Finance with Danmarks Nationalbank

Article VI

USE OF THE LOAN BY BRAZIL

Section 1 The Government of Brazil will use the proceeds of the Loan to finance imports (including transport charges from Denmark to Brazil) of Danish capital equipment, to be decided on by mutual consent, for the implementation of Brazil's Development Plans. The total disbursement shall not exceed the amount of 21 million Danish Kroner referred to in Article I.

Section 2. The proceeds of the Loan may also be used to pay for Danish services required for the implementation of Brazil's Development Plans, including, in particular, pre-investment studies, preparation of projects, assembly of plant, consultant engineering, technical and administrative assistance for, e. g., the operation during the initial period of undertakings established by means of the Loan.

Section 3. The concurrence of the Lender as to the eligibility of a contract under the Loan shall not be interpreted in such a manner as to imply that the Lender takes upon him any responsibility for the proper implementation or subsequent operation of such contracts

Section 4. The terms of payment stipulated in contracts or documentation to the effect that an order has been placed with a Danish exporter for supplies or services of the nature described above shall be considered as normal and proper whenever such contracts contain no clauses involving special credit facilities from Danish exporters.

Section 5. The proceeds of the Loan may be used only for payment of supplies or services contracted for after the entry into force of the Agreement.

Section 6. The Borrower may draw on the account with Danmarks Nationalbank referred to in Article II for up to three years after the entry into force of the Agreement or such other date as shall be agreed by the Lender and the Borrower.

Section 7. If the proceeds of the Loan have not been fully utilized within the time limit stipulated in Section 6 above, the semi-annual repayment shall be reduced by a proportion equal to the ratio between the unutilized amount of the Loan and principal of the Loan.

Article VII

NON-DISCRIMINATION

Section 1. In regard to the servicing of the Loan the Borrower undertakes to give the Lender no less favourable treatment than that accorded to other foreign creditors.

Section 2. Without prejudice of the legal provisions prevailing in both countries and of any special agreement between the Parties on the matter, all shipments of equipment covered by this Agreement shall be in keeping with the principle of free circulation of ships in international trade in free and fair competition.

Article VIII

MISCELLANEOUS PROVISIONS

Section 1. Prior to the first drawing against the Account referred to in Article II the Borrower will satisfy the Lender that all constitutional requirements and other requirements laid down by statute in the Borrower's home country have been met so that this Loan Agreement will constitute a valid obligation binding on the Borrower in the terms of the Loan Agreement.

Section 2. The Borrower will furnish to the Lender evidence of the authority of the person or persons who will, on behalf of the Borrower, take any action or execute any documents under this Agreement, and authenticated specimen signatures of all such persons.

Section 3. Any notice or request under this Agreement and any agreement between the parties contemplated by this Agreement shall be in writing. Such

notice or request shall be deemed to have been duly given or made when it has been delivered by hand or by mail, telegram, cable or radiogram to the party at such address as such party shall have indicated by notice to the party giving such notice or making such request.

Article IX

PARTICULAR COVENANTS

The principal of the Loan shall be paid without deduction for, and free from, any taxes and charges, and free from all restrictions imposed under the laws of the Borrower. This Agreement shall be free from any present and future taxes that shall be imposed under the laws of the Borrower, or laws in effect in its territories on or in connection with the execution, issue, delivery or registration thereof.

Article X

CANCELLATION AND SUSPENSION

Section 1. The Borrower may, by notice to the Lender, cancel any amount of the Loan which the Borrower shall not have withdrawn.

If any of the following events shall have happened and be continuing, the Lender may, by notice to the Borrower, suspend in whole or in part the right of the Borrower to make withdrawals from the Special Account :

(a) a default shall have occurred in the payment of principal under the Agreement or under any other financial commitment entered into by the Borrower in relation to the Lender,

(b) a default shall have occurred in the performance of any other covenant or agreement on the part of the Borrower under the Agreement.

Section 2. The right of the Borrower to make withdrawals from the Special Account shall continue to be suspended in whole or in part, as the case may be, until the event or events which gave rise to such suspension shall have ceased to exist or until the Lender shall have notified the Borrower that the right to make withdrawals has been restored, whichever is the earlier, provided however, that in the case of any such notice of restoration, the right to make withdrawals shall be restored only to the extent and subject to the conditions specified in such notice, and no such notice shall effect or impair any right, power or remedy of the Lender in respect of any other or subsequent event described in this Article.

If the right of the Borrower to make withdrawals from the Special Account shall have been suspended with respect to any amount of the Loan for a continuous period of sixty days, the Lender may, by notice to the Borrower, terminate the right of the Borrower to make withdrawals with respect to such amount. Upon the giving of such notice such amount of the Loan shall be cancelled.

Section 3. Notwithstanding any cancellation or suspension, all the provisions of the Agreement shall continue in full force and effect except as in this Article specifically provided.

Article XI

REMEDIES OF THE LENDER

If any event specified in subparagraphs (a) and (b) of Section 1 of Article X shall occur and shall continue for a period of sixty days after notice thereof has been given by the Lender to the Borrower, then at any subsequent time the Lender, at his option, may declare the principal of the credit then outstanding to be due and payable immediately, and upon any such declaration such principal shall become due and payable immediately, anything in the Agreement to the contrary notwithstanding.

Article XII

APPLICABLE LAW

Unless otherwise provided for in the Agreement, the contracts under this Agreement and all the rights and obligations deriving from it shall be governed by Danish law.

Article XIII

SETTLEMENT OF DISPUTES

Section 1. Any dispute between the Contracting Parties arising out of the interpretation or administration of the present Agreement, which has not been settled within six months through diplomatic channels, shall, at the request of either Party, be submitted to a tribunal of arbitration consisting of three members. The chairman of the tribunal shall be a citizen of a third country and shall be appointed by common consent of the Contracting Parties. Should the Parties fail to agree on the appointment of the chairman of the tribunal, either Party may request the President of the International Court of Justice to make the appointment. Each Party appoints its own arbitrator; if a Party abstains from appointing an arbitrator, the latter may be appointed by the chairman of the tribunal.

Section 2. Each Contracting Party will observe and carry out awards given by the tribunal.

Article XIV

DURATION OF THE AGREEMENT

Section 1. This Agreement shall come into force on the date of signature

Section 2. When the entire principal amount of the credit shall have been paid, the Agreement shall terminate forthwith.

Article XV

SPECIFICATION OF ADDRESSES

The following addresses are specified for the purposes of this Agreement :

For the *Borrower*:

Ministry of Planning and Economic Coordination, and Banco Nacional do Desenvolvimento Econômico.

Alternative address for cablegrams and radiograms :

Miniplan Rio de Janeiro respectively
Badeco Rio de Janeiro

For the *Lender* with respect to disbursement :

Ministry of Foreign Affairs

Secretariat for Technical Co-operation with Developing Countries, Copenhagen.

Alternative address for cablegrams and radiograms :

Dacomta
Copenhagen

For the *Lender* with respect to repayment of the credit :

Ministry of Finance
Copenhagen.

Alternative address for cablegrams and radiograms :

Finans
Copenhagen

IN WITNESS WHEREOF, the parties hereto, acting through their representatives duly authorized for this purpose, have caused this Agreement to be signed in four copies, of which two in the English language and two in the Portuguese language, in Rio de Janeiro this 8th day of July 1966.

For the Government of Denmark :

Per HÆKKERUP

For the Government of Brazil :

Roberto DE OLIVEIRA CAMPOS

EXCHANGE OF LETTERS

I

July 8th, 1966

Excellency,

With reference to the Development Loan Agreement of to-day's date between the Government of Denmark and the Government of Brazil (hereinafter called the Agreement) I have the honour to propose that the following provisions shall govern the implementation of Article VI of the Agreement.

Payments out of the Special Account shall be effected in the following manner :

- (1) The Danish exporter or consultant and the Brazilian importer or prospective investor shall negotiate a contract, subject to the final approval of the Brazilian and Danish authorities. No contract for any one Danish delivery below 200,000 Danish Kroner except for the utilization of any final balance below that amount shall be eligible for financing under the Loan Agreement.
- (2) The Government of Brazil will make available to the Danish Ministry of Foreign Affairs copies of the contracts to be concluded under this Agreement. The latter will ascertain, *inter alia*, that
 - (a) the commodities or services contracted fall within the framework of the Loan Agreement ;
 - (b) the capital equipment involved has been manufactured in Denmark, or the services to be rendered will be performed by persons carrying on business in Denmark,and inform the Government of Brazil of its findings.
- (3) The Government of Brazil may then draw on the Special Account with Danmarks Nationalbank to effect payment of the consignment referred to in the contract. Payments out of this account to Danish exporters shall be subject to presentation of the necessary documents when Danmarks Nationalbank has ascertained that the conditions for effecting such payments have otherwise been complied with.

If the foregoing provisions are acceptable to the Government of Brazil, I have the honour to suggest that this letter and Your Excellency's reply to that effect should constitute an agreement between our two Governments on this matter.

Please accept, Excellency, the assurance of my highest consideration.

For the Government of Denmark :

Per HÆKKERUP

His Excellency Mr. Roberto de Oliveira Campos
Minister of Planning and Economic Coordination

nesse sentido constituam um acôrdo entre os nossos dois Govêrnos a respeito da matéria. »

Tenho a honra de informar a Vossa Excelência que o meu Govêrno está de acôrdo com as informações propostas na sua carta acima transcrita.

Aproveito a oportunidade para apresentar a Vossa Excelência os protestos da minha mais alta consideração.

Roberto DE OLIVEIRA CAMPOS

A Sua Excelência o Senhor Per Hækkerup
Ministro dos Assuntos Exteriores da Dinamarca

[TRANSLATION — TRADUCTION]

MINISTRY OF FOREIGN AFFAIRS

8 July 1966

Sir,

I have the honour to acknowledge receipt of your letter of today's date, which reads as follows :

[See letter I]

I have the honour to inform you that my Government accepts the provisions proposed in the letter reproduced above.

Accept, Excellency, etc.

Roberto DE OLIVEIRA CAMPOS

His Excellency Mr. Per Hækkerup
Minister for Foreign Affairs of Denmark

III

[PORTUGUESE TEXT — TEXTE PORTUGAIS]

MINISTERIO DAS RELAÇÕES EXTERIORES

Em 8 de julho de 1966

Senhor Ministro,

Tenho a honra de levar ao seu conhecimento que é intenção do Govêrno brasileiro, nos termos do Acôrdo de Empréstimo assinado na data de hoje, importar os seguintes bens de capital da Dinamarca :

Equipamento para :
indústria açucareira, indústria pesqueira, indústria de cimento

Maquinaria agrícola
Equipamento para indústria leiteira
Equipamento elétrico
Equipamento médico e outros.

Aproveito a oportunidade para apresentar a Vossa Excelência, os protestos da minha mais alta consideração.

Roberto DE OLIVEIRA CAMPOS

A Sua Excelência o Senhor Per Hækkerup
Ministro dos Assuntos Exteriores da Dinamarca

[TRANSLATION — TRADUCTION]

8 July 1966

Excellency,

[*See letter IV*]

Please accept, etc.

Roberto DE OLIVEIRA CAMPOS

His Excellency Mr. Per Hækkerup
Minister for Foreign Affairs of Denmark

IV

July 8th, 1966

Excellency,

I have the honour to acknowledge receipt of your letter of to-day's date which reads as follows :

“I have the honour to inform you that it is the intention of the Brazilian Government under the Loan Agreement, signed today, to import the following capital equipment from Denmark :

Equipment for ·
the sugar industry, the fishing industry, the cement industry
Agricultural machinery
Dairy machinery
Electrical equipment
Medical equipment.”

I take this opportunity to confirm that the Brazilian Government by notification to the Danish Authorities could change or amend the above commodity list if it is deemed opportune for the implementation of the development-plans of Brazil.

Please accept, Excellency, the assurances of my highest consideration.

For the Government of Denmark :

Per HÆKKERUP

His Excellency Mr. Roberto de Oliveira Campos
Minister of Planning and Economic Coordination

V

8th July 1966

Excellency,

I have the honour to inform you that the Danish Government, with a view to facilitating the establishment of the first Danish Sugarcane-Difusor in this year's crushing season will be ready to accept drawing on the "Government of Brazil Special Account" for financing of local installation costs in the "Usina São Francisco" up to an amount of D kr. 350,000, it being hereby understood that either the Brazilian Authorities of A/S De Danske Sukkerfabrikker will reimburse the said amount to the "Government of Brazil Special Account" at the latest three years from to-day.

Please accept, Excellency, the assurances of my highest consideration.

For the Government of Denmark .

Per HÆKKERUP

His Excellency Mr. Roberto de Oliveira Campos
Minister of Planning and Economic Coordination

VI

[PORTUGUESE TEXT — TEXTE PORTUGAIS]

Rio de Janeiro, em 8 de julho de 1966

Senhor Ministro,

Tenho a honra de acusar o recebimento da sua nota, datada de hoje, nos seguintes termos :

« Tenho a honra de levar ao seu conhecimento que o Govêrno da Dinamarca, com o objetivo de facilitar a instalação do primeiro Difusor de Cana de Açúcar, ainda na safra do ano em curso, se dispõe a permitir a utilização de recursos da « Conta Especial do Govêrno brasileiro » para o financiamento dos custos locais

da sua instalação na « Usina São Francisco », até o montante de D.Kr. 350.000 (trezentas e cinquenta mil coroas dinamarquesas), ficando igualmente convencionado que ou as Autoridades brasileiras ou a « A/S De Danske Sukkerfabrikker » reembolsarão a « Conta Especial do Governo brasileiro », na importância do referido montante, dentro do prazo máximo de três anos, a contar da data de hoje. »

Em resposta, levo ao conhecimento de Vossa Excelência que o Governo brasileiro tomou a devida nota da comunicação acima transcrita.

Aproveito a oportunidade para renovar a Vossa Excelência os protestos da minha mais elevada consideração.

Roberto DE OLIVEIRA CAMPOS

A Sua Excelência o Senhor Per Hækkerup
Ministro dos Negócios Estrangeiros da Dinamarca

[TRANSLATION — TRADUCTION]

Rio de Janeiro, 8 July 1966

Sir,

I have the honour to acknowledge receipt of your note of today's date which reads as follows :

[See letter V]

In reply, I should like to inform you that the Brazilian Government has taken due note of the communication reproduced above.

Accept, Excellency, etc

Roberto DE OLIVEIRA CAMPOS

His Excellency Mr. Per Hækkerup
Minister for Foreign Affairs of Denmark