

**No. 12728**

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**BRAZIL  
and  
FEDERAL REPUBLIC OF GERMANY**

**Protocol on financial co-operation (with two exchanges of notes relating to articles III and V, respectively, of the said Protocol). Signed at Brasília on-2 October 1970**

*Authentic texts: Portuguese and German.*

*Registered by Brazil on 31 August 1973.*

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**BRÉSIL  
et  
RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE**

**Protocole relatif à la coopération financière (avec deux échanges de notes concernant, respectivement, les articles III et V dudit Protocole). Signé à Brasília le 2 octobre 1970**

*Textes authentiques : portugais et allemand.*

*Enregistré par le Brésil le 31 août 1973.*

[TRANSLATION — TRADUCTION]

## PROTOCOL<sup>1</sup> ON FINANCIAL CO-OPERATION

The Government of the Federative Republic of Brazil and

The Government of the Federal Republic of Germany,

Considering the friendly relations existing between the Federative Republic of Brazil and the Federal Republic of Germany,

Desiring to strengthen and intensify these friendly relations by fruitful co-operation in the field of development assistance,

Being aware that the maintenance of these relations is the basis for the present Protocol, and

Intending to promote the development of the Brazilian economy,

Have agreed as follows:

*Article I.* The Government of the Federal Republic of Germany shall enable the Banco Nacional do Desenvolvimento Econômico (National Bank for Economic Development), Brasilia, to obtain a loan of up to a total of 27,084,000 Deutsche Mark from the Kreditanstalt für Wiederaufbau (Reconstruction Loan Corporation), Frankfurt/Main, for the promotion of private small and medium-sized industry.

*Article II.* (1) The utilization of the loan referred to in article I and the conditions on which it will be granted shall be governed by the contracts to be concluded between the borrower and the Kreditanstalt für Wiederaufbau; the said contracts shall be subject to the legal provisions applicable in the Federal Republic of Germany.

(2) The Government of the Federative Republic of Brazil shall guarantee to the Kreditanstalt für Wiederaufbau all payments and transfers resulting from performance of the obligations of the borrower under the loan contracts to be concluded.

*Article III.* The Government of the Federative Republic of Brazil agrees that the borrower shall be liable for any expenses arising in connexion with the conclusion or execution of the contracts and for taxes, dues and charges of any kind on the principal and interest of the loans referred to in this Protocol.

*Article IV.* With respect to the transportation of passengers and goods by sea and air as a result of the granting of the loan, the Governments of the Federative Republic of Brazil and the Federal Republic of Germany shall refrain from taking any measures which might impede the participation of Brazilian and German transport enterprises.

*Article V.* The loan referred to in article I of this Protocol may be used only to finance deliveries from and performances by countries and territories agreed upon by the Government of the Federative Republic of Brazil and the Government of the Federal Republic of Germany. The same shall apply to the origin of deliveries and the means of transport used to effect deliveries.

<sup>1</sup> Came into force on 2 October 1970 by signature, in accordance with article VIII.

*Article VI.* The Government of the Federal Republic of Germany is anxious that, for deliveries resulting from the granting of the loan referred to in article I, preference should, in the event of equal or equivalent conditions, be given to products of the industry of *Land Berlin*.

*Article VII.* With the exception of those provisions of article IV which refer to air transport, this protocol shall also apply to *Land Berlin*, provided that the Government of the Federal Republic of Germany has not made a contrary declaration to the Government of the Federative Republic of Brazil within three months from the entry into force of this Protocol.

*Article VIII.* This Protocol shall enter into force on the date of its signature.

DONE at Brasilia on 2 October 1970, in four originals, two in Portuguese and two in German, all texts being equally authentic.

For the Government  
of the Federative Republic  
of Brazil:

MARIO GIBSON BARBOZA

For the Government  
of the Federal Republic  
of Germany:

EHRENFRIED VON HOLLEBEN

## EXCHANGES OF NOTES

### I a

THE AMBASSADOR OF THE FEDERAL REPUBLIC OF GERMANY

Rio de Janeiro, 2 October 1970

Wi III B 4-87.30/495/70

Sir,

On the occasion of the signing today of the Protocol on financial co-operation between the Government of the Federal Republic of Germany and the Government of the Federative Republic of Brazil, I have the honour to inform you of the following:

Under article III of the Protocol, the Government of the Federative Republic of Brazil agrees that the borrower shall be liable for Brazilian taxes, dues and charges of any kind on the principal and interest of the loan referred to in article I of the Protocol. This agreement is based on the expectation that the Government of the Federative Republic of Brazil will, to the fullest extent possible under Brazilian taxation law, exempt the borrower from all Brazilian taxes, dues and charges for which it is liable under article III of the Protocol.

Under article 505 of Brazilian Decree No. 58.400 of May 1966 governing income tax collection and inspection, the earnings of foreign Governments shall be exempt from income tax, subject to reciprocity in the treatment of earnings of the Brazilian Government in the countries concerned.

In this connexion, I have the honour to inform you that, under the German taxation law in force, loan interest accruing to the Federative Republic of Brazil in the Federal Republic of Germany would not, in principle, be subject to German taxation, provided that the loans in question do not constitute a registered public debt, are not secured on German immovable property and are not the subject of a bond issue. Under these conditions, the interest would be tax-exempt, even if it accrues not to the foreign State but to a credit institute acting in its behalf.

I would request you to confirm that the Kreditanstalt für Wiederaufbau, acting in behalf of the Government of the Federal Republic of Germany, will be covered by the above-mentioned provision of the Brazilian income tax law and will, as a matter of reciprocity, be exempt from Brazilian tax in respect of interest and commission charges on loans granted from the German side on the basis of the Protocol on financial co-operation.

I have the honour to propose that this note and your reply signifying the approval of the Brazilian Government shall constitute an agreement between our two Governments, which shall enter into force at the same time as the above-mentioned Protocol.

Accept Sir, etc.

EHRENFRIED VON HOLLEBEN

His Excellency Mr. Mario Gibson Barboza  
Minister for Foreign Affairs  
of the Federative Republic of Brazil  
Brasília

*II a*

2 October 1970

DAI/DPF/DEOc/274/550.31(81a)

Sir,

I have the honour to acknowledge receipt of note No. 495, of today's date, which reads in Portuguese as follows:

*[See note 1 a]*

2. In reply, I would inform you that the Brazilian Government approves the terms of the above note, which, together with those of the present note, shall constitute an agreement between our two Governments entering into force today.

Accept, Sir, etc.

MARIO GIBSON BARBOZA

His Excellency Mr. Ehrenfried von Holleben  
Ambassador Extraordinary and Plenipotentiary  
of the Federal Republic of Germany

*I b*

THE AMBASSADOR OF THE FEDERAL REPUBLIC OF GERMANY

Rio de Janeiro, 2 October 1970

Wi III B-4—87.30/496/70

Sir,

I refer to article V of the Protocol on financial co-operation signed on 2 October 1970 between the Government of the Federal Republic of Germany and the Government of the Federative Republic of Brazil, which reads as follows:

The loan referred to in article I of this Protocol may be used only to finance deliveries from and performances by countries and territories agreed upon by the Government of the Federal

Republic of Germany and the Government of the Federative Republic of Brazil. The same shall apply to the origin of deliveries and the means of transport used to effect deliveries.

I have the honour to transmit to you herewith on behalf of the Government of the Federal Republic of Germany a list of the countries and territories in question. At the same time, permit me to point out that article V does not affect the traffic between *Land Berlin* and the remaining area of Germany to which this Protocol applies.

The Government of the Federal Republic of Germany reserves the right to amend this list by special notification.

I have the honour to propose that this note and your reply signifying the approval of your Government shall constitute an agreement between our two Governments, which shall enter into force at the same time as the above-mentioned Protocol.

Accept, Sir, etc.

EHRENFRIED VON HOLLEBEN

His Excellency Mr. Mario Gibson Barboza  
Minister for Foreign Affairs of the  
Federative Republic of Brazil  
Brasília

List of the countries and territories agreed upon by the Contracting Parties under article V of the Protocol on financial co-operation of 2 October 1970 between the Federal Republic of Germany and the Federative Republic of Brazil:

“States members of OECD, Afghanistan, Bulgaria, Burma, Cambodia, Ceylon, Czechoslovakia, Dominican Republic, Finland, Haiti, Hong Kong, Hungary, India, Indonesia, Iran, Iraq, Israel, Jamaica, Jordan, Laos, Lebanon, Malaysia, Nepal, Pakistan, Philippines, Poland, Romania, Saudi Arabia, Singapore, South Korea, South Viet-Nam, Syria, Taiwan, Thailand, Yemen, and Yugoslavia, and the countries of South and Central America, Africa and Oceania.”

II b

2 October 1970

DAI/DPF/DEOC/273/550.31(81a)

Sir,

I have the honour to acknowledge receipt of note No. 496, of today's date, which reads in Portuguese as follows:

[See note I b]

2. In reply, I would inform you that the Brazilian Government approves the terms of the above note and of the annex thereto, which, together with the present note, shall constitute an agreement between our two Governments entering into force today.

Accept, Sir, etc.

MARIO GIBSON BARBOZA

His Excellency Mr. Ehrenfried von Holleben  
Ambassador Extraordinary and Plenipotentiary  
of the Federal Republic of Germany

[Annex as under note I b]

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