

No. 12782

BRAZIL
and
FEDERAL REPUBLIC OF GERMANY

**Protocol on financial co-operation (with exchange of notes
concerning article III of the Protocol). Signed at Rio de
Janeiro on 30 May 1969**

Authentic texts: Portuguese and German.

Registered by Brazil on 12 October 1973.

BRÉSIL
et
RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE

**Protocole sur la coopération financière (avec échange de
notes concernant l'article III du Protocole). Signé à Rio
de Janeiro le 30 mai 1969**

Textes authentiques : portugais et allemand.

Enregistré par le Brésil le 12 octobre 1973.

[TRANSLATION—TRADUCTION]

PROTOCOL¹ 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 of the present Protocol, and

Intending to promote the development of the Brazilian economy,

Have agreed as follows:

Article I. 1. The Government of the Federal Republic of Germany shall enable the Centrais Elétricas de São Paulo, São Paulo, to obtain a loan of up to a total of 50 million Deutsche Mark from the Kreditanstalt für Wiederaufbau (Reconstruction Loan Corporation), Frankfurt/Main, for the partial financing of deliveries from and performances by German enterprises in the framework of the Usina Hidrelétrica de Ilha Solteira (Solteira Island Hydroelectric Plant project). This loan may be used to finance internal expenditures of up to 15 per cent of the total of the German credit, but not in excess of 12 million Deutsche Mark.

2. The loan referred to in subparagraph 1 shall be supplemented by a loan of up to 40 million Deutsche Mark tied to German deliveries, granted by the Kreditanstalt für Wiederaufbau.

Article II. 1. The utilization of the loan referred to in article I (1) and its terms and conditions shall be regulated by the contracts to be concluded between the borrower and the Kreditanstalt für Wiederaufbau, the said contracts to be governed by the legal provisions applicable in the Federal Republic of Germany.

2. The Government of the Federative Republic of Brazil shall furnish guaranties to the Kreditanstalt für Wiederaufbau for all payments and transfers resulting from performance of the obligations of the borrower, on the basis of 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 loans, the Governments of the Federal Republic of Germany and the Federative Republic of Brazil shall refrain from taking any measures which might impede the participation of Brazilian and German transport companies.

¹ Came into force on 30 May 1969 by signature, in accordance with article VIII.

Article V. The loan referred to in article I (1) may be used only for the delivery of goods 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 the goods delivered and the means of transport used to effect deliveries.

Article VI. The Government of the Federal Republic of Germany would wish that, for deliveries resulting from the granting of the loan referred to in article I (1), preference should be given, in the event of equal or equivalent conditions, to the industrial products 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 the city of Rio de Janeiro on 30 May 1969, in two originals, in the Portuguese and German languages, both texts being equally authentic.

For the Government
of the Federative Republic of Brazil:
JOSÉ DE MAGALHÃES PINTO

For the Government
of the Federal Republic of Germany:
EHRENFRIED VON HOLLEBEN

EXCHANGE OF NOTES

I

EMBASSY OF THE FEDERAL REPUBLIC OF GERMANY RIO DE JANEIRO

Rio de Janeiro, 30 May 1969

Wi III B 4-82.12.E/205/69

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 loans referred to in article I (1) and (2) 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 Agreement.

Under article 505 of Brazilian Decree No. 58.400 of 10 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 Government of 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 Government but to a credit institute acting on its behalf.

I would request you to confirm that, in respect of interest and commission charges on the loans referred to in article I (1) and (2) of the above-mentioned Protocol, the above-mentioned provisions of Brazilian law will be applied to the Kreditanstalt für Wiederaufbau acting on behalf of the Government of the Federal Republic of Germany, exempting it from taxes, on a reciprocal basis.

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 this Protocol.

Accept, Sir, etc.

EHRENFRIED VON HOLLEBEN

His Excellency Mr. José de Magalhães Pinto
Minister for Foreign Affairs of the Federative Republic of Brazil
Rio de Janeiro

II

30 May 1969

DPF/DAI/DEOc/114/551 (81a)

Sir,

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

[See note I]

2. In reply, I would inform you that the Brazilian Government considers the contents of that note sufficient to allow the Government of the Federal Republic of Germany and, in particular, the Kreditanstalt für Wiederaufbau, to benefit from the exemption established by article 505 of the income tax regulation adopted by decree No. 58.400 of 10 May 1966.

3. In these circumstances, the Government of the Federative Republic of Brazil concurs with the proposal contained in your note which, together with the present note, shall be considered a formal agreement on the question between our two countries and shall enter into force at the same time as this Protocol.

Accept, Sir, etc.

JOSÉ DE MAGALHÃES PINTO

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