

No. 13286

**BRAZIL
and
GERMANY**

**Protocol on financial co-operation (with exchange of notes).
Signed at Rio de Janeiro on 9 April 1969**

Authentic texts: Portuguese and German.

Registered by Brazil on 8 May 1974.

**BRÉSIL
et
ALLEMAGNE**

**Protocole de coopération financière (avec échange de notes).
Signé à Rio de Janeiro le 9 avril 1969**

Textes authentiques : portugais et allemand.

Enregistré par le Brésil le 8 mai 1974.

[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 for the present Protocol, and

Intending to promote the economic development of Brazil,

Have agreed as follows:

Article I. The Government of the Federal Republic of Germany shall enable the Government of the Federative Republic of Brazil, or other borrowers jointly selected by the two Governments, to obtain loans not exceeding a total of 54 million Deutsche Mark from the Kreditanstalt für Wiederaufbau (Reconstruction Loan Corporation), Frankfurt/Main, for the purpose of financing the projects mentioned in paragraph (2).

(2) The loans are to be used:

- (a) up to an amount not exceeding 40 million Deutsche Mark, for the purpose of financing, through the Banco Nacional do Desenvolvimento Econômico, investments of small and medium-sized private industrial undertakings engaged in manufacturing;
- (b) up to an amount not exceeding 14 million Deutsche Mark, for the purpose of expanding the transport infrastructure of the Companhia Vale do Rio Doce.

Article II. (1) The utilization of these loans, and the conditions on which they are granted, shall be governed by the contracts to be concluded between the borrowers 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 borrowers under the loan contracts to be concluded.

Article III. The Government of the Federative Republic of Brazil agrees that the borrowers 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 interests of the loans referred to in this Protocol.

Article IV. With respect to such transport of passengers and goods by sea and air as arises from the granting of the credits, the Governments of the Feder-

¹ Came into force on 9 April 1969 by signature, in accordance with article IX.

ative 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 loans 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.

Article VI. Contracts for deliveries and performances relating to projects financed by the credit referred to in article I, paragraph 2 (b), shall be awarded by international public tender, unless otherwise decided in individual cases.

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

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

DONE at Rio de Janeiro on 9 April 1969, in two original copies, one in Portuguese and one in German, 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

THE AMBASSADOR OF THE FEDERAL REPUBLIC OF GERMANY

Rio de Janeiro, 9 April 1969

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 granted under 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 borrowers from all Brazilian taxes, dues and charges for which they are liable under article III.

Under article 505 of 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 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 on its behalf.

I would request you to confirm that the Kreditanstalt für Wiederaufbau, acting on 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 propose that this note and your note in reply 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. José de Magalhães Pinto
Minister for Foreign Affairs
of the Federative Republic of Brazil

II

9 April 1969

DPF-DAI-DEOc-79-551 (81a)

Sir,

1. I have the honour to acknowledge receipt of your note of today's date, reading as follows:

[See note I]

2. In reply, I would inform you that the Brazilian Government considers that the information set out in the said note constitutes a sufficient basis for the Government of the Federal Republic of Germany, and in particular the Kredi-

anstalt für Wiederaufbau (Reconstruction Loan Corporation), to benefit from the exemption provided for in article 505 of the Income Tax Regulations approved by Decree No. 58,400 of 10 May 1966.

3. The Government of the Federative Republic of Brazil accordingly agrees with the proposal contained in your aforementioned note, which, together with the present note, shall be regarded as constituting a formal agreement in the matter between our two countries and shall enter into force together with the present Protocol.

Accept, Sir, etc.

JOSÉ DE MAGALHÃES PINTO

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