

No. 17946

**FEDERAL REPUBLIC OF GERMANY
and
BRAZIL**

**Protocol on financial co-operation—*Miscellaneous projects.*
Signed at Brasília on 18 November 1975**

Authentic texts: German and Portuguese.

Registered by the Federal Republic of Germany on 20 August 1979.

**Exchange of notes constituting an agreement relating to
article 4 of the above-mentioned Protocol. Brasília,
18 November 1975**

Authentic texts: German and Portuguese.

Registered by Brazil on 20 August 1979.

[TRANSLATION — TRADUCTION]

PROTOCOL¹ BETWEEN THE GOVERNMENT OF THE FEDERAL REPUBLIC OF GERMANY AND THE GOVERNMENT OF THE FEDERATIVE REPUBLIC OF BRAZIL ON FINANCIAL CO-OPERATION

The Government of the Federal Republic of Germany and the Government of the Federative Republic of Brazil,

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

Desiring to strengthen and enhance these friendly relations by fruitful co-operation in development assistance,

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

In order to contribute to economic and social development in Brazil,

Have agreed as follows:

Article 1. (1) The Government of the Federal Republic of Germany shall enable the Government of the Federative Republic of Brazil or other borrowers, to be chosen jointly by both Governments, to obtain loans totalling not more than 105 million Deutsche Mark from the Kreditanstalt für Wiederaufbau, Frankfurt-am-Main, in accordance with paragraphs (2) to (4).

(2) Out of the total of 105 million Deutsche Mark referred to in paragraph 1, up to 30 million Deutsche Mark shall be made available for the Banabuiú irrigation project.

(3) Out of the total of 105 million Deutsche Mark referred to in paragraph 1, up to 75 million Deutsche Mark shall be made available for the projects “Espírito Santo Health Programme” (up to 20 million Deutsche Mark), “Banco Nacional do Desenvolvimento Econômico” (up to 30 million Deutsche Mark), “Porto Velho Thermal Power Station” (up to 14 million Deutsche Mark) and “Rio Branco Thermal Power Station” (up to 11 million Deutsche Mark), provided that the desirability of implementing the said projects has been satisfactorily demonstrated.

(4) The projects referred to in paragraph (3) may, by agreement between the Contracting Parties, be replaced by other projects.

Article 2. (1) The utilization of the loans referred to in article 1, paragraphs (2) and (3), and the conditions on which they will be granted shall be governed by the contracts to be concluded between the borrowers and the Kreditanstalt für Wiederaufbau, which contracts shall be subject to the legislation in force in the Federal Republic of Germany.

(2) The Government of the Federative Republic of Brazil, in so far as it is not itself the borrower, shall guarantee to the Kreditanstalt für Wiederaufbau all payments in Deutsche Mark in fulfilment of the borrowers' obligations under the contracts to be concluded in accordance with paragraph (1).

Article 3. The Government of the Federative Republic of Brazil shall exempt the Kreditanstalt für Wiederaufbau from all taxes and other public charges to which it may be liable in the Federative Republic of Brazil in connection with the conclusion or performance of the contracts referred to in article 2.

¹ Came into force on 18 November 1975 by signature, in accordance with article 8.

Article 4. With respect to the transport of passengers and goods by sea and air under this Protocol, the Contracting Parties shall neither exclude nor impede the participation, on an equal footing, of each other's regular transport enterprises and shall grant the requisite authorizations for such transport.

Article 5. The supply of goods and services for projects financed from the loans shall be the subject of international public tender, unless otherwise decided in individual cases.

Article 6. It is particularly important for the Government of the Federal Republic of Germany that, in the case of the supply of goods resulting from the granting of the loans, preference should be given to products of the industry of *Land Berlin*.

Article 7. With the exception of the provisions of article 4 which refer to air transport, this Protocol shall also apply to *Land Berlin* unless the Government of the Federal Republic of Germany makes a declaration to the contrary to the Government of the Federative Republic of Brazil within three months from the entry into force of this Protocol.

Article 8. This Protocol shall enter into force on the date of its signature.

DONE at Brasília on 18 November 1975, in two originals, each in the German and Portuguese languages, both texts being equally authentic.

For the Government of the Federal Republic of Germany:
GENSCHER

For the Government of the Federative Republic of Brazil:
A. F. AZEREDO DA SILVEIRA

EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT¹ BETWEEN THE GOVERNMENT OF THE FEDERATIVE REPUBLIC OF BRAZIL AND THE GOVERNMENT OF THE FEDERAL REPUBLIC OF GERMANY RELATING TO ARTICLE 4 OF THE PROTOCOL OF 18 NOVEMBER 1975 ON FINANCIAL CO-OPERATION²

ÉCHANGE DE NOTES CONSTITUANT UN ACCORD¹ ENTRE LE GOUVERNEMENT DE LA RÉPUBLIQUE FÉDÉRATIVE DU BRÉSIL ET LE GOUVERNEMENT DE LA RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE CONCERNANT L'ARTICLE 4 DU PROTOCOLE DU 18 NOVEMBRE 1975 RELATIF À LA COOPÉRATION FINANCIÈRE²

I

[GERMAN TEXT — TEXTE ALLEMAND]

DER BOTSCHAFTER DER BUNDESREPUBLIK DEUTSCHLAND

Brasília, den 18. November 1975

EH 444/03/14/22/23/25/667/75

Herr Minister,

ich beehre mich, Ihnen unter Bezugnahme auf das heute zwischen unseren beiden Regierungen vereinbarte Protokoll über finanzielle Zusammenarbeit in Höhe von einhundertundfünf Millionen Deutsche Mark namens der Regierung der Bundesrepublik Deutschland in Ergänzung zu Artikel 4 (Transportklausel) dieses Protokolls folgende Vereinbarung vorzuschlagen:

1. Die Regierung der Bundesrepublik Deutschland hat keine Bedenken dagegen, dass sich die aus der Gewährung von Kapitalhilfe ergebenden Transporte von Gütern im Seeverkehr auf der Basis der zwischen den Schiffahrtsunternehmen mit Sitz im deutschen und brasilianischen Geltungsbereich des eingangs erwähnten Protokolls gültigen Poolvereinbarungen abwickeln.

2. Die Regierung der Bundesrepublik Deutschland ist damit einverstanden, dass ein Teil der Quoten der Schiffahrtsunternehmen mit Sitz im deutschen und brasilianischen Geltungsbereich des eingangs erwähnten Protokolls die zur Frachtkonferenz Brasilien/Europa/Brasilien gehören, Dritten überlassen werden kann.

3. Der Transport von Europa nach Häfen in Nordbrasilien, die im Bereich des Fahrtgebietes Nordbrasilien/Amazonas/Europa liegen, ist auf der Basis von 50 zu 50 zwischen den Schiffahrtsunternehmen deutscher und brasilianischer Flagge mit Sitz im deutschen und brasilianischen Geltungsbereich des eingangs erwähnten Protokolls aufzuteilen, da zwischen den auf der Route von Europa nach dieser Region tätigen Schiffahrtsunternehmen keine Poolvereinbarungen bestehen, einschliesslich der Fälle, in denen die Verschiffungen in anderen Gebieten vorgenommen werden, die nicht zum Bereich der Frachtkonferenz Brasilien/Europa/Brasilien gehören.

¹ Came into force on 18 November 1975, the date of the note in reply, in accordance with the provisions of the said notes.

² See p. 80 of this volume.

¹ Entré en vigueur le 18 novembre 1975, date de la note de réponse, conformément aux dispositions desdites notes.

² Voir p. 82 du présent volume.

4. Im übrigen gelten die Bestimmungen des eingangs erwähnten Protokolls einschliesslich der Berlin-Klausel (Artikel 7) für diese Vereinbarung.

Falls sich die Regierung der Föderativen Republik Brasilien mit den in den Nummern 1 bis 4 enthaltenen Vorschlägen einverstanden erklärt, werden diese Note und die das Einverständnis Ihrer Regierung zum Ausdruck bringende Antwortnote Eurer Exzellenz eine Vereinbarung zwischen unsere beiden Regierungen bilden, die mit dem Datum Ihrer Antwortnote in Kraft tritt.

Genehmigen Sie, Herr Minister, die Versicherung meiner ausgezeichnetsten Hochachtung.

[Signed—Signé]
HORST RÖDING

Seiner Exzellenz dem Minister für Auswärtige Beziehungen
der Föderativen Republik Brasilien
Herrn Botschafter Antonio Francisco Azeredo da Silveira
Brasília, DF

[TRANSLATION]

THE AMBASSADOR OF THE FEDERAL
REPUBLIC OF GERMANY

Brasília, 18 November 1975

EH 444/03/14/22/23/25/667/75

Sir,

With reference to the Protocol on financial co-operation in the amount of one hundred and five million Deutsche Mark agreed upon today by our two Governments, I have the honour to propose to you, on behalf of the Government of the Federal Republic of Germany, the following Agreement supplementing article 4 (transport clause) of this Protocol:

1. The Government of the Federal Republic of Germany has no objection if the maritime transport of goods arising from the granting of capital assistance proceeds on the basis of the existing pool agreements between shipping companies having their head office in the German and Brazilian areas of application of the above-mentioned Protocol.

2. The Government of the Federal Republic of Germany agrees that a portion of the quotas of shipping companies having their head office in the German and Brazilian areas of application of the above-mentioned Protocol and belonging to the Brazil/Europe/Brazil Liner Conference can be turned over to third parties.

[TRADUCTION]

L'AMBASSADEUR DE LA RÉPUBLIQUE
FÉDÉRALE D'ALLEMAGNE

Brasília, le 18 novembre 1975

EH 444/03/14/22/23/25/667/75

Monsieur le Ministre,

Suite au Protocole relatif à la coopération financière d'un montant de cent cinq millions de deutsche marks conclu aujourd'hui entre nos deux gouvernements, j'ai l'honneur de vous proposer, au nom du Gouvernement de la République fédérale d'Allemagne, l'Accord suivant en complément de l'article 4 (clause de transport) de ce Protocole :

1. Le Gouvernement de la République fédérale d'Allemagne ne voit aucune objection à ce que les transports de marchandises par mer résultant de l'octroi de l'aide financière soient effectués sur la base des accords de pool existant entre les entreprises de navigation ayant leur siège dans le champ d'application allemand et brésilien du Protocole mentionné ci-dessus.

2. Le Gouvernement de la République fédérale d'Allemagne est d'accord pour qu'une partie des quotas des entreprises de navigation ayant leur siège dans le champ d'application allemand et brésilien du Protocole mentionné ci-dessus et qui font partie de la conférence de fret Brésil/Europe/Brésil soit confiée à des tiers.

3. Transport from Europe to ports in northern Brazil falling within the scope of the northern Brazil/Amazonas/Europe shipping area shall be shared on a 50/50 basis between German- and Brazilian-flag shipping companies having their head office in the German and Brazilian areas of application of the above-mentioned Protocol, since there are no pool agreements in force between shipping companies operating on the route from Europe to this region; this shall also apply in cases in which the transport is effected in other areas which do not fall within the scope of the Brazil/Europe/Brazil Liner Conference.

4. In other respects, the provisions of the above-mentioned Protocol, including the Berlin clause (article 7), shall apply to this Agreement.

In the event that the Government of the Federative Republic of Brazil indicates its approval of the proposals contained in paragraphs 1 to 4 above, this note and your reply expressing your Government's approval shall constitute an agreement between our two Governments, which shall enter into force on the date of your reply.

Accept, Sir, the assurances of my highest consideration.

[Signed]
HORST RÖDING

His Excellency
Ambassador Antonio Francisco
Azeredo da Silveira
Minister for Foreign Affairs
of the Federative Republic of Brazil
Brasília, D.F.

3. Le transport entre l'Europe et les ports du Brésil du Nord desservis par le trafic Brésil du Nord/Amazonie/Europe sera réparti à égalité entre les entreprises de navigation battant pavillon allemand et brésilien ayant leur siège dans le champ d'application allemand et brésilien du Protocole mentionné ci-dessus, étant donné qu'il n'existe aucun accord de pool entre les entreprises de navigation opérant sur le trajet entre l'Europe et cette région; la présente condition s'appliquera également dans le cas où les marchandises seront chargées sur un territoire ne faisant pas partie de la conférence de fret Brésil/Europe/Brésil.

4. Pour le reste, les dispositions applicables au présent Accord seront celles du Protocole mentionné ci-dessus, y compris la clause de Berlin (article 7).

Dans le cas où les propositions 1 à 4 ci-dessus rencontrent l'agrément du Gouvernement de la République fédérative du Brésil, je propose que la présente note et votre réponse exprimant l'accord de votre gouvernement constituent entre nos deux gouvernements un accord qui entrera en vigueur à la date de votre réponse.

Veuillez agréer, Monsieur le Ministre, etc.

[Signé]
HORST RÖDING

Son Excellence l'Ambassadeur
Antonio Francisco Azeredo da Silveira
Ministre des relations extérieures
de la République fédérative du Brésil
Brasília, D.F.

II

[PORTUGUESE TEXT — TEXTE PORTUGAIS]

Em 18 de novembro de 1975

DPF/DE-I/DAI/231/811(B46) (F36)

Senhor Embaixador,

Tenho a honra de acusar o recebimento da Nota nº EH 444/03/14/22/23/25/667/75, de 18 de novembro de 1975, cujo teor em português é o seguinte:

“Senhor Ministro de Estado, Com referência ao Protocolo sobre Cooperação Financeira, no montante de cento a cinco milhões de marcos alemães, acordado

hoje entre os nossos dois Governos, tenho a honra de propor a Vossa Excelência, em nome do Governo da República Federal da Alemanha, em aditamento ao Artigo 4 (cláusula de transporte) do referido Protocolo, a seguinte Ajuste:

1. O Governo da República Federal da Alemanha não considera inconveniente que os transportes de bens no tráfego marítimo, decorrentes da concessão de ajuda financeira, se realizem na base dos contratos de "pool" em vigor entre as companhias de navegação com sede nas zonas alemã e brasileira de vigência do Protocolo acima referido.

2. O Governo da República Federal da Alemanha concorda com a possibilidade de ceder a terceiros uma parte das quotas das companhias de navegação participantes da Conferência de Fretes Brasil/Europa/Brasil, com sede nas zonas alemã e brasileira de vigência do Protocolo acima referido.

3. Os transportes da Europa para os portos no Norte do Brasil situados na região servida pelo tráfego Norte do Brasil/Amazonas/Europa, visto não existir contrato de "pool" entre as companhias de navegação que exploram as rotas da Europa para esta região, bem como em casos em que bens forem expedidos em outras regiões não integradas na região da Conferência de Frete Brasil/Europa/Brasil, deverão ser distribuídos na base de 50% entre as companhias de navegação de bandeira brasileira e alemã com sede nas zonas brasileira e alemã de vigência do Protocolo acima referido.

4. Aplicar-se-ão, suplementarmente, ao presente Ajuste as disposições do Protocolo acima referido, inclusive a cláusula de Berlim (Artigo 7).

Caso o Governo da República Federativa do Brasil concorde com as propostas contidas nos itens 1 a 4, a presente Nota e a de resposta de Vossa Excelência, em que se expresse a concordância de seu Governo, constituirão um Ajuste entre os nossos dois Governos, a entrar em vigor na data da Nota de resposta de Vossa Excelência.

Permita-me, Senhor Ministro de Estado, apresentar os protestos de minha mais alta consideração''.

2. Em resposta, informo Vossa Excelência de que o Governo brasileiro concorda com a proposta contida na Nota acima transcrita, a qual, juntamente com a presente, passa a constituir Ajuste entre o Governo da República Federativa do Brasil e o Governo da República Federal da Alemanha.

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

ANTONIO F. AZEREDO DA SILVEIRA

A Sua Excelência o Senhor Horst Rödiger
Embaixador Extraordinário e Plenipotenciário
da República Federal da Alemanha

[TRANSLATION]

18 November 1975

DPF/DE-I/DAI/231/811(B46)(F36)

Sir,

I have the honour to acknowledge receipt of note No. EH444/03/14/22/23/25/667/

[TRADUCTION]

18 novembre 1975

DPF/DE-I/DAI/231/811(B46)(F36)

Monsieur l'Ambassadeur,

J'ai l'honneur d'accuser réception de votre note n° EH444/03/14/22/23/25/667/

75, of 18 November 1975, which in Portuguese reads as follows:

[*See note I*]

2. In reply, I inform you that the Brazilian Government agrees with the proposal contained in the note transcribed above, which, together with this note, shall constitute an agreement between the Government of the Federative Republic of Brazil and the Government of the Federal Republic of Germany.

Accept, Sir, etc.

ANTONIO F. AZEREDO DA SILVEIRA

His Excellency Mr. Horst Röding
Ambassador Extraordinary
and Plenipotentiary of the Federal
Republic of Germany

75 du 18 novembre 1975, dont la teneur en portugais est la suivante :

[*Voir note I*]

2. J'ai le plaisir de vous informer que la proposition contenue dans la note reproduite ci-dessus rencontre l'agrément du Gouvernement brésilien et que, par conséquent, ladite note et la présente note constituent un accord entre le Gouvernement de la République fédérative du Brésil et le Gouvernement de la République fédérale d'Allemagne.

Veuillez agréer, Monsieur l'Ambassadeur, etc.

ANTONIO F. AZEREDO DA SILVEIRA

Son Excellence Monsieur Horst Röding
Ambassadeur extraordinaire
et plénipotentiaire de la République
fédérale d'Allemagne
