

**No. 18372**

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**BRAZIL  
and  
CANADA**

**Loan Agreement (with annexes). Signed at Brasília on  
13 January 1977**

*Authentic texts: Portuguese, English and French.*

**Exchange of notes constituting an agreement amending the  
above-mentioned Agreement. Brasília, 11 January  
1980**

*Authentic texts: English and Portuguese.*

*Registered by Brazil on 26 March 1980.*

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**BRÉSIL  
et  
CANADA**

**Accord de prêt (avec annexes). Signé à Brasília le 13 janvier  
1977**

*Textes authentiques : portugais, anglais et français.*

**Échange de notes constituant un accord modifiant l'Accord  
susmentionné. Brasília, 11 janvier 1980**

*Textes authentiques : anglais et portugais.*

*Enregistrés par le Brésil le 26 mars 1980.*

LOAN AGREEMENT<sup>1</sup> SIGNED THE 13TH DAY OF JANUARY 1977  
BETWEEN THE GOVERNMENT OF CANADA AND THE GOVERNMENT OF THE FEDERATIVE REPUBLIC OF BRAZIL

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WHEREAS, in furtherance of its development program, the Government of the Federative Republic of Brazil, as represented by the Minister of External Relations and the Minister of Finance (hereinafter referred to as Brazil), wishes to secure the financing of a training technical-assistance and project-management program;

AND WHEREAS the Government of Canada (hereinafter referred to as Canada), as represented by the Secretary of State for External Affairs, is willing to make a development loan available for this purpose on the terms and conditions provided herein;

NOW THEREFORE the Parties hereto agree as follows:

*Article I. THE LOAN*

*Section 1.01.* Canada shall make available to Brazil on the terms and conditions hereinafter set forth a Loan in an amount not to exceed five million Canadian dollars (Cdn. \$5,000,000.00).

*Section 1.02.* Canada shall open on its books in Canada a Loan Account in the name of Brazil and shall credit to such account the full amount of the Loan. Withdrawals, payments and disbursements may be made from the Loan Account in accordance with the provisions of this Agreement.

*Section 1.03.* Brazil will pay interest at the rate of three per cent (3%) per annum on the amount of the Loan disbursed.

*Section 1.04.* Repayment of the principal amount of the Loan shall be made in forty-six (46) semi-annual installments, each of these due and payable on March 31 and September 30 of each and every year commencing March 31, 1984, and ending September 30, 2006. Each of the first forty-five (45) semi-annual installments shall be in the amount of one hundred and eight thousand Canadian dollars and no cents (\$108,000.00) and a final installment of one hundred and forty thousand Canadian dollars and no cents (\$140,000.00).

*Section 1.05.* Payment of the interest shall be made in semi-annual installments due and payable on March 31 and September 30, in each year commencing from the first withdrawal of principal. Interest shall be calculated on the basis of 365 days for the actual number of days elapsed.

*Section 1.06.* All payments and repayments as set forth in article I herein shall be applied first to the payment of any accrued interest and then to the repayment of the principal amount.

*Section 1.07.* Brazil shall have the right to prepay principal, in whole or in part, on any date without notice to Canada. The amount of any such prepayment shall be applied first to the payment of any accrued interest and then to the installments of principal then remaining payable in the reverse order of their maturity.

*Section 1.08.* All payments and repayments as set forth herein shall be made by Brazil in Canadian dollars to the Receiver General of Canada and shall be deemed to have been paid when received by the Receiver General of Canada.

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<sup>1</sup> Came into force on 13 January 1977 by signature, in accordance with its provisions.

*Section 1.09.* The principal of, and all interest on, the Loan shall be paid to Canada without any deductions whatsoever and more particularly shall be free from taxes, charges or other restrictions imposed under the laws of Brazil and those in effect in its territories or administrative, political or judicial divisions or subdivisions.

*Section 1.10.* The Parties agree that they will negotiate at the request of either Brazil or Canada, concerning acceleration of payments to the Receiver General of Canada required to be made under this Agreement before the first repayment of the principal becomes due and payable. Brazil and Canada shall mutually determine whether such an acceleration should take place on the basis of the capacity of Brazil to service a more rapid liquidation of its obligations in the light of its internal and external financial and economic position.

## *Article II. USE OF THE LOAN*

*Section 2.01.* Except as may otherwise be specifically agreed to by Canada, the proceeds of the Loan shall be used by Brazil exclusively for the financing of a training, technical-assistance, and project-management program, as well as equipment, as described in annex A, and the procedures for their procurement and payment shall be those set forth in annex B. Each annex shall be subject to such subsequent modifications as may be agreed upon between Canada and Brazil.

*Section 2.02.* Services and equipment to be financed with the Loan resources shall be used exclusively to carry out the projects; the goods and services procured in Canada and financed from the Loan shall have an overall Canadian content of not less than sixty-six and two thirds percent (66  $\frac{2}{3}$ %), unless otherwise agreed to by Canada.

*Section 2.03.* Services and equipment contracted for or acquired prior to the effective date of this Agreement may not be financed out of the proceeds of the Loan, except as may otherwise be agreed to by Canada.

*Section 2.04.* Proceeds from the Loan shall not be used by Brazil to meet the cost of any taxes, fees or customs duties imposed directly or indirectly by Brazil on any services, material or equipment required to carry out the programs.

## *Article III. WITHDRAWALS OF PROCEEDS OF LOAN*

*Section 3.01.* Withdrawals shall be deemed to occur on the dates on which payments are made by Canada either directly to Brazil or its designated agent, or to a firm or banking institution in respect of services supplied under this Agreement.

*Section 3.02.* Subject to the conditions and limitations set forth herein, Brazil shall be entitled to withdrawals from the Loan Account in such amounts as are required to meet the costs of the equipment and services which are eligible for financing as these amounts become due and payable in accordance with annex B.

*Section 3.03.* Brazil or its designated agent shall provide Canada with a copy of each contract for the procurement of equipment and services in respect of which any withdrawal is to be made.

*Section 3.04.* Withdrawals from the Loan Account may be made in favour of such persons or agencies as may be designated by Brazil and agreed to by Canada.

*Section 3.05.* In each calendar month, Brazil or its designated agent shall submit to Canada one (1) application for withdrawal of such amounts as shall have been paid or will be paid during that month, unless otherwise agreed to by Canada.

*Section 3.06.* Brazil or its designated agent shall furnish or cause to be furnished to Canada such documents and other evidence in support of its application for withdrawal as Canada may reasonably request, such evidence to be sufficient in form and substance to establish that the amounts to be withdrawn are properly related to the purpose of the program financed under the Loan.

*Article IV. CANCELLATION AND SUSPENSION*

*Section 4.01.* Brazil may, by sixty (60) days' written notice to Canada, cancel all or any part of the Loan not committed by Brazil prior to the giving of such notice.

*Section 4.02.* If any of the following events occurs, and continues to occur, Canada may, by sixty (60) days' written notice to Brazil, specifying the reason for suspension, suspend in whole or in part the right of Brazil to obtain withdrawals from the Loan Account or, where applicable, declare the principal and interest outstanding due and payable immediately:

- a) A default by Brazil in the repayment of principal or in any other payments or repayments required under this Agreement and the annexes hereto;
- b) A default on the part of Brazil in the performance of any undertakings under this Agreement;
- c) Any extraordinary situation which renders it impossible for Brazil to perform its obligation under this Agreement.

If suspension occurs and continues for thirty (30) days, Canada may, by sixty (60) days' written notice to Brazil, cancel that part of the Loan not disbursed prior to the giving of such notice.

*Section 4.03.* If the full amount of the Loan is not committed by Brazil for the purpose for which it was made within three years of the conclusion of the Agreement, the balance will be cancelled by sixty (60) days' written notice from Canada, and the final installment or installments of the repayment to be made shall be reduced accordingly. During this period, Brazil may continue to make commitments against the Loan. Similarly, if the full amount of the Loan thus committed by Brazil is not disbursed within five (5) years of the conclusion of the Agreement, the balance will be cancelled by sixty (60) days' written notice from Canada, and the final installment or installments of the repayment shall be reduced accordingly.

*Article V. GENERAL UNDERTAKINGS*

*Section 5.01.* Brazil shall ensure that the program is carried out, operated and maintained with due diligence and efficiency and in conformity with sound financial and technical practices.

*Section 5.02.* Canada and Brazil shall cooperate fully to ensure that the purpose of the Loan will be accomplished, and each shall furnish to the other all such information as shall reasonably be requested with regard to the general status of the Loan. Brazil shall inform Canada as soon as possible of any condition or contingency which interfered with, or threatens to interfere with, the accomplishment of the objectives of the Loan, or anything in connection therewith.

*Section 5.03.* Brazil shall afford accredited representatives of Canada all reasonable opportunities to visit any part of the territories of Brazil for the purposes related to this Loan Agreement.

*Section 5.04.* It is understood and agreed by Brazil and Canada, that all articles and annexes A and B form an integral part of the present Agreement.

*Section 5.05.* Subsidiary agreements will be signed for the execution of projects to be financed from the proceeds of this Loan Agreement.

These subsidiary agreements shall make specific reference to this Agreement and shall be considered as administrative arrangements only and not binding under international law.

#### *Article VI. COMMUNICATIONS*

*Section 6.01.* Any communications or documents given, made or sent by either Brazil or Canada pursuant to this Agreement or any annex thereto shall be in writing and shall be deemed to have been duly given, made or sent to the Party to which it is addressed at the time of its delivery by hand, mail, telegram, cable or radiogram at its respective address, namely:

For Brazil:

Secretaria de Cooperação Econômica e Técnica  
Internacional (SUBIN) da Secretaria de Planejamento  
da Presidência da República  
Esplanada dos Ministérios, Bloco 7, 9º andar  
Brasília, DF  
Telex No. 061-1146

For Canada:

The President  
Canadian International Development Agency (CIDA)  
122 Bank Street  
Ottawa, Ontario  
Canada K1A 0G4  
Telex No. 053-4140

*Section 6.02.* Either of the Parties hereto may, by written notice to the other Party hereto, change the address to which any communication shall be addressed.

*Section 6.03.* All communications and documents pertaining to this Agreement shall be in Portuguese, English or French.

#### *Article VII. SIMULTANEOUS EXECUTION OF AGREEMENT*

*Section 7.01.* This Agreement shall be simultaneously executed in six originals, two each in Portuguese, English and French, each of which so executed shall be deemed to be an original.

*Section 7.02.* This Agreement and annexes A and B attached hereto, which form part of it, may be amended whenever necessary upon agreement of the Parties concerned. Amendment to the main body of the Agreement shall be executed by a formal amendment signed by the authorized representatives. However, amendments to the annexes may be by an exchange of letters between Brazil and Canada.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto by their respective Governments, have signed the Agreement.

DONE in six originals at Brasília this 13th day of January 1977, in [the] Portuguese, English and French languages, each being equally authentic.

The present Loan Agreement becomes effective on this date.

Signed on behalf of the Government  
of Canada:

[Signed]<sup>1</sup>

Signed on behalf of the Government  
of the Federative Republic of Brazil:

[Signed]<sup>2</sup>

[Signed]<sup>3</sup>

## ANNEX A

### USE OF THE LOAN

1. The program consists of Canadian participation in the financing of technical assistance to Brazil.

2. The objective of the program shall be the supply of services of technical advisers, the training of Brazilian personnel in Canada and the procurement of equipment.

3. The Loan shall be used exclusively for:

- a) Cost of services of technical advisers;
- b) Cost of training of Brazilian personnel in Canada, in accordance with regulations of the Canadian International Development Agency (CIDA);
- c) Cost of equipment purchased in Canada and transportation costs to the Canadian loading port.

4. The Loan funds shall be used to finance the implementation of projects approved between Brazil and Canada.

## ANNEX B

### ADMINISTRATION OF THE LOAN

1. Canada shall act through the intermediary of the Canadian International Development Agency (CIDA) for the purposes of this Loan.

#### 2. *Selection of Canadian technical advisers*

2.1 The selection of technical advisers shall be the responsibility of Brazil, who may request assistance from CIDA to identify, select and recruit the technical advisers.

2.2 Brazil will submit the names of all candidates to CIDA for approval.

2.3 All contracts shall be negotiated with technical advisers in accordance with CIDA's regulations for its own cooperants.

2.4 All technical adviser contracts shall be approved by CIDA prior to signature.

<sup>1</sup> Signed by Don Jamieson.

<sup>2</sup> Signed by Antonio F. Azeredo da Silveira.

<sup>3</sup> Signed by Mario Henrique Simonsen.

### 3. *Selection of Canadian consulting firms and institutions*

3.1 Brazil will be responsible for the negotiation of the contracts but the scope of the work and the basis of payment will be subject to the prior approval of CIDA.

3.2 CIDA may add to a list of firms or institutions submitted by Brazil, and Brazil will obtain written proposals from them after approval. The evaluation of the proposals and the selection of the firm which Brazil wishes to employ shall be made by Brazil on the basis of:

- 3.2.1 The qualification of the firm or institution to undertake the assignment;
- 3.2.2 The projects of the same type that the firm or institution has successfully completed in the past;
- 3.2.3 The size of the staff of the firm or institution;
- 3.2.4 The volume of work now on hand and the extent to which the necessary qualified staff will be available;
- 3.2.5 The numbers and qualifications of the firms or institutions who are to be used on the work, the periods of their use and the proportion of permanent to temporary staff;
- 3.2.6 The firm's or institution's proposed method of job implementation and control.

3.3 In accordance with professional ethics, firms or institutions shall not be asked to tender or bid against each other on the basis of fees. They will be selected mainly on the basis of comparative experience, staff and related technical expertise. These elements as well as fees will be taken into consideration in the final selection of firms and institutions.

### 4. *Selection of Brazilian personnel for training in Canada (trainees)*

4.1 The selection of Brazilian trainees shall be the responsibility of Brazil.

4.2 Brazil shall submit the names of all trainees to CIDA for approval.

4.3 Costs incurred for training the Brazilian personnel shall be in accordance with CIDA regulations.

### 5. *Procedures for procurement of equipment*

5.1 Brazil shall invite bids for equipment for the projects from a representative list of Canadian suppliers.

5.2 A copy of the invitation to bid together with a list of Canadian suppliers invited to bid shall be forwarded by Brazil to CIDA.

5.3 Each Canadian supplier invited to bid shall be instructed:

- 5.3.1 To send a copy of his bid to CIDA at the same time as the bid is forwarded to Brazil;
- 5.3.2 To include with the copy of the bid sent to CIDA a completed Canadian content form;
- 5.3.3 A copy of the declaration of Canadian content form shall not accompany the bid submitted to Brazil with the exception of the information contained in item seven (7) of the Canadian content form;
- 5.3.4 To include in its bid the following notation:  
"We certify that the goods ordered hereby are for export. The invoiced price shall exclude sales tax and refundable customs duty and excise tax paid on the goods or on parts, and components incorporated in the goods. The goods are covered by the Canadian International Development Agency project number".
- 5.3.5 Equipment prices shall be requested "Freight at Shipside" (FAS) at a Canadian port;

5.4 On items of sole source prices are to be negotiated.

5.5 Brazil, after analyzing the bids, shall obtain the prior concurrence of CIDA before awarding procurement contracts.

5.6 Brazil shall arrange for freight and insurance as required through a designated shipping forwarder.

6. *Replenishable fund*

6.1 For the implementation of umbrella type projects, Canada, upon request of Brazil, may agree to the establishment of a replenishable fund.

6.2 A subsidiary agreement shall be signed in which the procedures for the use of the replenishable fund shall be established.

6.3 Procedures outlined in items 2, 3, and 5 formerly mentioned shall not apply to the operations financed by the replenishable fund, unless otherwise agreed in the subsidiary agreement.

7. *Payment procedure*

7.1 Individual payment procedures shall be agreed upon with each Brazilian institution responsible within the project.

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EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT<sup>1</sup> AMENDING THE LOAN AGREEMENT OF 13 JANUARY 1977 BETWEEN THE GOVERNMENT OF THE FEDERATIVE REPUBLIC OF BRAZIL AND THE GOVERNMENT OF CANADA<sup>2</sup>

I

CANADIAN EMBASSY

AMBASSADE DU CANADA

B-07

Excellency,

Pursuant to article VII, section 7.02, of the Loan Agreement signed on January 13, 1977, and following the request of the Government of the Federative Republic of Brazil (DCOPT/DCS/DPF/DAI/66/823/(B10)(B46)) of December 3, 1979, to extend the loan commitment period from January 13, 1980, to January 12, 1982, and the loan disbursement period from January 13, 1982, to January 12, 1984, I have the honour to propose, in the name of the Government of Canada, to amend article IV, section 4.03, of the Loan Agreement to read as follows:

*"Article IV, Section 4.03*

"If the full amount of the Loan is not committed by Brazil for the purpose for which it was made within five (5) years of the conclusion of the Agreement, the balance will be cancelled by sixty (60) days' written notice from Canada, and the final installment or installments of the repayment to be made shall be reduced accordingly. During this period, Brazil may continue to make commitments against the Loan. Similarly, if the full amount of the Loan thus committed by Brazil is not disbursed within seven (7) years of the conclusion of the Agreement, the balance will be cancelled by sixty (60) days' written notice from Canada, and the final installment or installments of the repayment shall be reduced accordingly".

In the event that the Government of the Federative Republic of Brazil agrees with the suggested amendment, I propose that this note and the reply of Your Excellency expressing the agreement of your Government constitute an agreement between our two governments, to enter into force on January 13, 1980.

I would like to avail myself of the occasion to renew to Your Excellency the assurance of my highest consideration.

Brasília, January 11, 1980

[Signed]

JAMES HOWARD STONE  
Ambassador

His Excellency Ramiro Saraiva Guerreiro  
Minister of External Relations  
Brasília, DF

<sup>1</sup> Came into force on 11 January 1980 with effect from 13 January 1980, in accordance with the provisions of the said notes.

<sup>2</sup> See p. 29 of this volume.

## [TRANSLATION — TRADUCTION]

11 January 1980

DCOPT/DCS/DPF/DAI/03/823(B10)(B46)

Sir,

I have the honour to acknowledge receipt of your note B-07, of 11 January 1980, which, in Portuguese, reads as follows:

[See note I]

2. In reply, I wish to inform you that the Government of Brazil agrees to the terms of the foregoing note which, together with this note, shall constitute an agreement between our two Governments, to enter into force on 13 January 1980.

Accept, Sir, etc.

RAMIRO SARAIVA GUERREIRO

His Excellency James Howard Stone  
Ambassador Extraordinary and Plenipotentiary  
of Canada

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