

No. 21214

BRAZIL
and
FEDERAL REPUBLIC OF GERMANY

Special Agreement between the Conselho Nacional de Pesquisas [National Research Council] and the Gesellschaft für Mathematik und Datenverarbeitung [Society for Mathematics and Data Processing] concerning scientific and technical co-operation. Signed at Brasília on 7 June 1972

Authentic texts: Portuguese and German.

Registered by Brazil on 27 August 1982.

BRÉSIL
et
RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE

Accord spécial de coopération scientifique et technique entre le Conselho Nacional de Pesquisas [Conseil national de la recherche] et la Gesellschaft für Mathematik und Datenverarbeitung [Société de mathématiques et de traitement de données]. Signé à Brasília le 7 juin 1972

Textes authentiques : portugais et allemand.

Enregistré par le Brésil le 27 août 1982.

[TRANSLATION — TRADUCTION]

SPECIAL AGREEMENT¹ BETWEEN THE CONSELHO NACIONAL DE PESQUISAS [NATIONAL RESEARCH COUNCIL] AND THE GESELLSCHAFT FÜR MATHEMATIK UND DATENVERARBEITUNG [SOCIETY FOR MATHEMATICS AND DATA PROCESSING] CONCERNING SCIENTIFIC AND TECHNICAL CO-OPERATION

Article 1. The Conselho Nacional de Pesquisas (CNPq) [National Research Council] and the Gesellschaft für Mathematik und Datenverarbeitung (GMD) [Society for Mathematics and Data Processing, Ltd.] conclude this Agreement as a Special Agreement under article 1, paragraph 3, of the General Agreement concerning co-operation in scientific research and technological development, signed by the Governments of the Federative Republic of Brazil and the Federal Republic of Germany at Bonn on 9 June 1969.²

Article 2. (1) CNPq and GMD shall co-operate in research and technical development in the field of data processing and research in the field of pure and applied mathematics.

(2) The co-operation shall include the exchange of scientists and technicians, the joint conduct of appropriate scientific projects and reciprocal support in obtaining scientific equipment.

(3) The co-operation should, in addition, include the holding of technical courses for Brazil scientists. GMD shall endeavour to assign highly qualified scientists and technicians for that purpose. The subjects of the lectures shall be agreed upon by the Contracting Parties six months in advance.

(4) The duration of activities and the other conditions of employment of the co-operating workers assigned under this Agreement and the conduct of other projects under paragraph (2) of this article shall be regulated by the Contracting Parties for each individual case, by agreement with other participating institutions.

Article 3. (1) Brazilian scientists and technicians assigned under this Agreement with whom GMD or the institution designated by it enters into employment contracts shall be accorded all the same rights during their assignments as are accorded to German scientists and technicians employed on similar work. They shall be subject to the provisions of German labour legislation and insured against industrial accidents. Scientists and technicians who receive fellowships from German institutions shall be subject to the usual conditions for the award thereof, in addition to any conditions established by special agreement between them and GMD. They shall be insured against industrial accidents by the institutions which employ them.

(2) In the same way, German scientists and technicians assigned under this Agreement with whom CNPq enters into employment contracts shall enjoy the same

¹ Came into force on 7 June 1972 by an exchange of notes confirming its approval by the two Governments, in accordance with article 10.

² United Nations, *Treaty Series*, vol. 833, p. 151.

rights as the staff of CNPq. They shall be paid in accordance with the scales of remuneration established by CNPq for foreign scientists and technicians and shall be insured against industrial accidents.

(3) Scientists and technicians on short-term assignment under this Agreement who are not engaged in accordance with paragraphs (1) and (2) and who do not receive a German fellowship, as well as the teachers of the courses provided for in article 2, paragraph (3), shall be paid by the receiving Contracting Party a daily allowance for the duration of their stay in the receiving State. The amount of the daily allowance shall be fixed by the Contracting Parties for one calendar year at a time, account being taken of the respective costs of living in Germany and Brazil.

Article 4. (1) Travel costs for scientists and technicians assigned under this Agreement shall be borne by the sending Contracting Party.

(2) In accordance with article 3, paragraph (1), of the German-Brazilian General Agreement of 9 June 1969, each Contracting Party shall establish a special fund for the payment of the travel costs and the allowance referred to in article 3, paragraph (3).

Article 5. (1) The inventions made by Brazilian scientists or technicians while carrying out in the Federal Republic of Germany the activities referred to in this Agreement shall be subject to German legislation on inventions made by employees.

(2) Similarly, Brazilian legislation on industrial property shall apply to inventions made in Brazil by German scientists or technicians while carrying out the same activities.

Article 6. (1) Where an invention is made entirely, or to the extent of at least 50 per cent, by a Brazilian scientist or technician assigned under article 2 of this Agreement and where the German employing institution lays claim to that invention, CNPq shall be granted a licence for a patent obtained in Brazil by the German institution. The licence shall be free of charge so long as the invention is used only for research purposes. Where the invention is used commercially, an appropriate fee shall be paid. When the amount of the fee is being set, the most favourable terms shall be granted to CNPq. The licence shall not be exclusive and shall be irrevocable. Sub-licences may be issued by agreement with the German holder of the patent in Brazil. Where the German institution which has laid claim to the invention has no direct interest in applying for a Brazilian patent, it shall consult CNPq as to whether the latter is interested in the German institution's submitting such an application. If the answer is in the affirmative, CNPq shall request the German institution to apply for the Brazilian patent and shall reimburse it for all costs incurred in Brazil in connection with the application for and the maintenance of the patent.

(2) Where an invention is made entirely, or to the extent of at least 50 per cent, by a German scientist or technician assigned under article 2 of this Agreement and where the Brazilian employing institution lays claim to that invention, GMD shall be granted a licence for a patent obtained in the Federal Republic of Germany by the Brazilian institution. The licence shall be free of charge so long as the invention is used only for research purposes. Where the invention is used commercially, an appropriate licence fee shall be paid. When the amount of the fee is being set, the most favourable terms shall be granted to GMD. The licence shall not be exclusive and shall be irrevocable. Sub-licences may be granted by agreement with the Brazilian

holder of the patent in Germany. Where the Brazilian institution which has laid claim to the invention has no direct interest in applying for a German patent, it shall consult GMD as to whether the latter is interested in the Brazilian institution's submitting such an application. If the answer is in the affirmative, GMD shall request the Brazilian institution to apply for the German patent and shall reimburse it for all costs incurred in the Federal Republic of Germany in connection with the application for and the maintenance of the patent.

(3) Where scientists and technicians assigned under this Agreement carry out their activities in establishments for which the receiving Contracting Party is not legally responsible, that Contracting Party shall endeavour to ensure that the entity responsible for the establishment accords to the sending Contracting Party the treatment referred to in paragraphs (1) and (2).

(4) The principle contained in article 5 and the provisions of this article, paragraphs (1) to (3), shall apply *mutatis mutandis* to all copyrights and related rights and to all other rights of protection and utilization of the results achieved during the implementation of this Agreement. Such similar application may be ensured through a settlement between the Brazilian or German employing institution, on the one hand, and the German or Brazilian scientist or technician, on the other hand. The expression "use for research purposes", as employed in article 6, paragraph (1), second sentence, and paragraph (2), second sentence, refers in particular to utilization in schools, universities and other research institutions for non-commercial purposes. With regard to the conditions for the authorization of such utilization, the Contracting Parties shall accord each other the most favourable treatment.

(5) The Contracting Parties shall endeavour to regulate by agreement between them the application of the provisions of paragraphs (1), (2) and (4) of this article to the utilization of results which arise from research conducted under the Agreement and in obtaining which a scientist or technician of one of the two Parties has participate to an extent less than 50 per cent.

(6) If there are no rights of protection and utilization to be taken into account in accordance with the provisions of the above paragraphs, the scientific results obtained in the implementation of this Agreement shall be published.

Article 7. Unpublished knowledge and experience acquired by collaborators assigned under this Agreement in institutions in the territory of the receiving Contracting Party shall be treated confidentially, as shall the documentation associated therewith.

Article 8. The Contracting Parties shall keep the German-Brazilian Mixed Commission informed of the situation in the matter of co-operation by means of annual reports on the co-operation programme.

Article 9. (1) The Contracting Parties shall not hold each other liable for damage caused by a scientist or technician assigned under this Agreement.

(2) Scientists or technicians assigned under this Agreement shall be responsible vis-à-vis the receiving Contracting Party only to the extent that they have caused damage intentionally or through gross negligence.

(3) In all other cases, the local legal provisions shall apply to the liability of assigned technicians and scientists.

Article 10. This Special Agreement shall enter into force as soon as the two Governments have approved it by an exchange of notes.

Article 11. This Special Agreement may be denounced by either Contracting Party on not less than 12 months' notice.

Brasília, 7 June 1972

For the National Research Council:

[JOSÉ CARLOS FERREIRA LUCENA]

For the Society for Mathematics and Data Processing, Ltd. of Bonn, the representatives authorized by the management through a document dated 24 May 1972:

[CHRISTOPH RUDOLPH OTTO ENDLER]
