

EMBRAER BRAZILIAN AVIATION CO

Form 20-F

June 30, 2003

As filed with the Securities and Exchange Commission on June 30, 2003

SECURITIES AND EXCHANGE COMMISSION

Washington, DC 20549

FORM 20-F

**REGISTRATION STATEMENT PURSUANT TO SECTION 12(b) OR 12(g)
OF THE SECURITIES EXCHANGE ACT OF 1934
OR**

**ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE
SECURITIES EXCHANGE ACT OF 1934
For the fiscal year ended: December 31, 2002**

OR

**TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE
SECURITIES EXCHANGE ACT OF 1934**

For the transition period from [] to []

Commission file number 1-15102

EMBRAER-EMPRESA BRASILEIRA DE AERONÁUTICA S.A.

(Exact name of Registrant as specified in its charter)

EMBRAER Brazilian Aviation Company Inc.

(Translation of Registrant's name into English)

Federative Republic of Brazil
(Jurisdiction of Incorporation)

**Avenida Brigadeiro Faria Lima, 2170
12227-901 São José dos Campos, São Paulo, Brazil**
(Address of principal executive offices)

Securities registered or to be registered pursuant to Section 12(b) of the Act:

Title of each class:

Preferred shares, without par value
American Depositary Shares (as evidenced by American Depositary
Receipts), each representing four preferred shares

Name of each exchange on which registered:

New York Stock Exchange*
New York Stock Exchange

*

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Not for trading purposes, but only in connection with the registration of American Depositary Shares pursuant to the requirements of the Securities and Exchange Commission.

Securities registered or to be registered pursuant to Section 12(g) of the Act.

None.

Securities for which there is a reporting obligation pursuant to Section 15(d) of the Act.

None.

Indicate the number of outstanding shares of each of the issuer's classes of capital or common stock as of the close of the period covered by the annual report:

242,544,448 common shares, without par value

470,429,907 preferred shares, without par value

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days.

Yes No

Indicate by check mark which financial statement item the registrant has elected to follow.

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INTRODUCTION

In this annual report, Embraer, we, us or our refer to Embraer-Empresa Brasileira de Aeronáutica S.A. and its consolidated subsidiaries (unless the context otherwise requires). All references herein to the *real*, *reais*, or R\$ are to the Brazilian *real*, the official currency of Brazil. All references to US\$, dollars, or U.S. dollars are to United States dollars.

Presentation of Financial and Other Data

Financial Data

Our audited financial statements at and for the years ended December 31, 2000, 2001 and 2002 are included in this annual report and have been audited by Deloitte Touche Tohmatsu.

Our consolidated financial statements have been prepared in accordance with accounting principles generally accepted in the United States, or U.S. GAAP. Because we export approximately 97.7% of our production and operate in an industry that uses the U.S. dollar as its currency of reference, management believes that the U.S. dollar is our functional currency and the most appropriate currency in which to present our financial statements. Accordingly, we decided to present our primary U.S. GAAP financial statements in U.S. dollars. As a result, amounts for all periods presented have been remeasured or translated into U.S. dollars in accordance with the methodology set forth in Statement of Financial Accounting Standards No. 52 (SFAS 52).

Prior to 2001, we presented our financial statements in accordance with accounting principles generally accepted in Brazil, or Brazilian GAAP, stated in Brazilian *reais* and adjusted for the effects of inflation. Previously, amounts of net income and shareholders' equity under Brazilian GAAP were reconciled to those that would have been reported under U.S. GAAP. Our financial statements and financial data presented herein and prepared in accordance with U.S. GAAP do not reflect the effects of inflation.

Pursuant to SFAS 52 as it applies to us, non-monetary assets and liabilities, including inventories, property, plant and equipment, accumulated depreciation and shareholders' equity are remeasured at historical rates of exchange, while monetary assets and liabilities denominated in currencies other than U.S. dollars are remeasured at period-end rates. Export sales invoiced in currencies other than the U.S. dollar are remeasured at the respective exchange rate on the date of sale. Cost of sales and services, depreciation and other expenses relating to assets remeasured at historical exchange rates are calculated based on the U.S. dollar values of such assets, and other non-U.S. dollar statement of income accounts are remeasured at the rate prevailing on the date of the charge or credit to income.

In our 2000, 2001 and 2002 financial statements, gains or losses resulting from the remeasurement of the financial statements and from foreign currency transactions have been reported in the consolidated statement of income as single line items. See Note 2.a to our consolidated financial statements.

Effective January 1, 2002, we decided to reclassify certain costs related to information technology, support, training and education as general and administrative expenses, instead of as cost of sales and services. All amounts for prior periods presented in this annual report have been restated to give effect to this reclassification. These reclassified costs equaled US\$9.8 million in 1998, US\$11.4 million in 1999, US\$21.3 million in 2000, US\$30.5 million in 2001 and US\$32.2 million in 2002. Effective January 1, 2002, we also began netting research and development related contributions that we receive from certain of our suppliers against our research and development expense, instead of recording these contributions as other operating income. All amounts for prior periods presented in this annual report have been restated to give effect to this reclassification. These reclassified amounts equaled US\$14.1 million in 2001 and US\$1.0 million in 2002.

For certain purposes, such as providing reports to our Brazilian shareholders, filing financial statements with the Comissão de Valores Mobiliários, or CVM, the Brazilian securities commission, and determining dividend payments and other distributions and tax liabilities in Brazil, we have prepared and will continue to be required to prepare financial statements in accordance with Law No. 6,404 of December 15, 1976, as amended, or the Brazilian

Corporate Law. Our financial statements prepared in accordance with the Brazilian Corporate Law are not adjusted to account for the effects of inflation.

As a result of the remeasurement of amounts to the functional currency and other adjustments related to the differences in accounting principles between U.S. GAAP and Brazilian GAAP, the amounts of net income and shareholders' equity as reported in our consolidated financial statements presented herein differ from those included in our statutory accounting records.

Other Data

Some of the financial data contained in this annual report reflects the effect of rounding. Aircraft ranges are indicated in nautical miles. One nautical mile is equal to approximately 1.15 ordinary or statute miles, or approximately 1.85 kilometers. Aircraft speeds are indicated in nautical miles per hour, or knots, or in Mach, which is a measure of the speed of sound. The term "regional jets" refers to narrow body jet aircraft with 20-110 passenger seats. The term "mid-capacity jets" refers to the 70-110 seat segment of regional jets.

We calculate the value of our backlog by considering all firm orders that have not yet been delivered. A firm order is a firm commitment from a customer, represented by a signed contract, customarily accompanied by a down payment, where we have reserved a place on one of our production lines. Every time we refer to our backlog in this annual report, we only make reference to firm orders, and not to options. When we refer in this annual report to the number or value of regional aircraft, we exclude one EMB 145 and two EMB 135s that were delivered to the Belgian government in 2001, one EMB 145 delivered to the Belgian government in 2002, and one EMB 135 aircraft that we delivered to the Greek government. These aircraft have been included in our defense data.

Special Note Regarding Forward-Looking Statements

This annual report includes forward-looking statements, within the meaning of Section 27A of the U.S. Securities Act of 1933, as amended, or the Securities Act, and Section 21E of the U.S. Securities Exchange Act of 1934, as amended, or the Exchange Act, principally in Items 3 through 5 of this annual report. We have based these forward-looking statements largely on our current expectations and projections about future events and financial trends affecting our business. These forward-looking statements are subject to risks, uncertainties and assumptions, including, among other things:

general economic, political and business conditions, both in Brazil and in our markets;

management's expectations and estimates concerning our future financial performance, financing plans and programs, and the effects of competition;

successful development and marketing of the EMBRAER 170/190 jet family, our line of corporate jets and our defense aircraft;

our level of debt;

anticipated trends in our industry;

our expenditure plans;

inflation and devaluation;

our ability to develop and deliver our products on a timely basis;

availability of sales financing for our existing and potential customers;

(iii)

existing and future governmental regulation; and

other risk factors as set forth under Item 3D. Risk Factors.

The words believes, may, will, estimates, continues, anticipates, intends, expects and similar words are intended to identify forward-looking statements. We undertake no obligation to update publicly or revise any forward-looking statements because of new information, future events or other factors. In light of these risks and uncertainties, the forward-looking events and circumstances discussed in this annual report might not occur. Our actual results could differ substantially from those anticipated in our forward-looking statements.

(iv)

PART I

ITEM 1. IDENTITY OF DIRECTORS, SENIOR MANAGEMENT AND ADVISORS

Not applicable.

ITEM 2. OFFER STATISTICS AND EXPECTED TIMETABLE

Not applicable.

ITEM 3. KEY INFORMATION

3A. Selected Financial Data

The following table presents our selected financial and other data at and for each of the periods indicated. The selected financial data at and for the three years ended December 31, 2000, 2001 and 2002 are derived from our consolidated U.S. GAAP financial statements audited by Deloitte Touche Tohmatsu, independent public accountants, included elsewhere in this annual report. The selected financial data at and for the year ended December 31, 1999 has been derived from our U.S. GAAP financial statements audited by Deloitte Touche Tohmatsu, independent accountants. The selected financial data at and for the year ended December 31, 1998 has been derived from financial statements originally prepared in accordance with Brazilian GAAP and audited by Arthur Andersen S/C, independent public accountants. This 1998 financial statement data has been restated in accordance with U.S. GAAP and is unaudited.

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At and for the year ended December 31,

	1998	1999	2000	2001	2002
(in thousands, except per share /ADS data)					
Income Statement Data					
Net sales	US\$ 1,353,541	US\$ 1,837,277	US\$ 2,762,162	US\$ 2,926,995	US\$ 2,525,800
Cost of sales and services	(970,224)	(1,248,675)	(1,879,318)	(1,769,234)	(1,531,720)
Gross profit	383,317	588,602	882,844	1,157,761	994,080
<i>Operating expenses</i>					
Selling expenses	US\$ (99,256)	US\$ (119,234)	US\$ (193,420)	US\$ (212,057)	US\$ (211,015)
Research and development	(39,749)	(18,808)	(69,593)	(99,566)	(158,499)
General and administrative	(50,166)	(55,948)	(96,645)	(120,787)	(109,673)
Employee profit sharing	(14,703)	(20,437)	(41,770)	(43,746)	(25,222)
Stock compensation	(4,334)	(2,436)	(510)	(1,074)	
Other operating expense, net	(3,431)	(3,629)	(19,518)	(29,463)	(20,498)
Equity on income (loss) from affiliates		(142)	753	310	389
Total operating expenses	US\$ (211,639)	US\$ (220,634)	US\$ (420,703)	US\$ (506,383)	US\$ (524,518)
<i>Income from operations</i>	US\$ 171,678	US\$ 367,968	US\$ 462,141	US\$ 651,378	US\$ 469,562
<i>Non-operating income (expense)</i>					
Interest income (expense)	US\$ (17,859)	US\$ 14,779	US\$ (6,874)	US\$ 47,502	US\$ 80,456
Financial transaction loss, net	(3,536)	(65,226)	(24,637)	(148,637)	(135,647)
Other non-operating income (expense), net	3,591	(13,361)	5,955	(8,426)	(1,394)
Total non-operating income (expense)	US\$ (17,804)	US\$ (63,808)	US\$ (25,556)	US\$ (109,561)	US\$ (56,585)
<i>Income before income taxes</i>	US\$ 153,874	US\$ 304,160	US\$ 436,585	US\$ 541,817	US\$ 412,977
Provision for income taxes	US\$ (8,587)	US\$ (69,620)	US\$ (117,379)	US\$ (218,394)	US\$ (188,502)
<i>Income before minority interest</i>	US\$ 145,287	US\$ 234,540	US\$ 319,206	US\$ 323,423	US\$ 224,475
Minority interest			1,522	(423)	(1,883)
<i>Income before cumulative effect of accounting change</i>	US\$ 145,287	US\$ 234,540	US\$ 320,728	US\$ 323,000	US\$ 222,592
Cumulative effect of accounting change, net of tax				5,440	
<i>Net income</i>	US\$ 145,287	US\$ 234,540	US\$ 320,728	US\$ 328,440	US\$ 222,592
Earnings per share					
Common share basic (1) (3) (6)	US\$ 0.27	US\$ 0.43	US\$ 0.55	US\$ 0.48	US\$ 0.30
Preferred share basic (1) (3) (6)	0.29	0.48	0.61	0.53	0.33
ADS basic (1) (3) (6)	1.18	1.90	2.43	2.11	1.32
Common share diluted (2) (3) (6)	0.27	0.38	0.48	0.46	0.30
Preferred share diluted (2) (3) (6)	0.29	0.42	0.53	0.50	0.33
ADS diluted (2) (3) (6)	1.17	1.66	2.10	2.01	1.31
Dividends per share					
Common share (3) (4) (5)	US\$ 0.031635	US\$ 0.085199	US\$ 0.249700	US\$ 0.254140	US\$ 0.193490
Preferred share (3) (4) (5)	0.034799	0.093719	0.274670	0.279560	0.212830
ADS (3) (4) (5)	0.139196	0.374876	1.098680	1.118240	0.851320

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Weighted averaged number of shares outstanding

Common share basic (3)		242,544		242,544		242,544		242,544		242,544
Preferred share basic (3)		272,590		272,590		308,401		402,035		454,414
Common share diluted (3)		242,544		242,544		242,544		242,544		242,544
Preferred share diluted (3)		274,441		347,064		392,954		433,386		459,415

Balance Sheet Data

Cash and cash equivalents	US\$	259,690	US\$	304,085	US\$	1,189,231	US\$	749,302	US\$	656,822
Other current assets		820,828		986,961		920,278		1,816,046		1,856,301
Property, plant and equipment, net		138,613		162,429		254,965		366,481		436,715
Other long-term assets		622,017		757,463		528,942		628,958		1,335,626
		<u> </u>		<u> </u>		<u> </u>		<u> </u>		<u> </u>
Total assets	US\$	<u>1,841,148</u>	US\$	<u>2,210,938</u>	US\$	<u>2,893,416</u>	US\$	<u>3,560,787</u>	US\$	<u>4,285,464</u>
		<u> </u>		<u> </u>		<u> </u>		<u> </u>		<u> </u>
Short-term loans		550,730		556,272		365,043		526,550		244,526
Other current liabilities		483,471		561,897		967,283		1,161,313		1,397,407
Long-term loans		124,038		80,597		90,969		245,186		308,110
Other long-term liabilities		513,232		647,271		677,013		599,212		1,237,015
Minority interest						7,748		8,170		8,226
Shareholders equity		<u>169,677</u>		<u>364,901</u>		<u>785,360</u>		<u>1,020,356</u>		<u>1,090,180</u>
		<u> </u>		<u> </u>		<u> </u>		<u> </u>		<u> </u>
Total liabilities and shareholders equity	US\$	<u>1,841,148</u>	US\$	<u>2,210,938</u>	US\$	<u>2,893,416</u>	US\$	<u>3,560,787</u>	US\$	<u>4,285,464</u>
		<u> </u>		<u> </u>		<u> </u>		<u> </u>		<u> </u>

At and for the year ended December 31,

	1998	1999	2000	2001	2002
(in thousands, except per share /ADS data)					
Other Financial Data					
Net cash provided by (used in) operating activities	US\$(28,442)	US\$(125,826)	US\$1,119,974	US\$(263,160)	US\$507,863
Net cash provided by (used in) financing activities	236,606	(5,632)	(130,398)	98,403	(200,790)
Net cash used in investing activities	(38,727)	(75,799)	(104,430)	(275,172)	(208,421)
Depreciation and amortization	21,046	25,076	30,596	46,417	55,602

- (1) Based on weighted average number of shares outstanding. See Note 27 to our consolidated financial statements.
- (2) Based on weighted average number of shares outstanding and the effects of potentially dilutive securities. See Note 27 to our consolidated financial statements.
- (3) Restated to give effect to the reverse stock split, on April 30, 1999, of one newly issued common or preferred share for 100 outstanding preferred shares or 100 outstanding common shares, respectively. Also restated to give effect to the issuance on March 1, 2002, in the form of a preferred share dividend, of 0.142106 new preferred share for each existing preferred or common share.
- (4) Includes interest on shareholders' equity.
- (5) Translated from nominal *reais* into U.S. dollars at the commercial selling rates in effect on the dates that distributions were declared during the period. The dividends to the ADSs were adjusted from the total amount paid to the preferred shares multiplied by four.
- (6) During 1999 and 2000, our results of operations benefited from changes we made to our valuation allowance related to deferred tax assets. Based on our assessment of future taxable income, we concluded that it was more likely than not that we would realize certain of these benefits given our improved profitability and increases in expected sales and backlog. The adjustments to the valuation allowances resulted in a decrease to income tax expense of US\$168.5 million in 1999 and US\$27.5 million in 2000. In addition, in 2001, we adopted SFAS No. 133 Accounting for Derivative Instruments and Hedging Activities, as amended. As a result, we recognized a gain of US\$5.4 million, net of related taxes, as a cumulative effect of a change in accounting. The following summarizes the earnings per share impact related to the above adjustments.

	1999	2000	2001
Effect of tax adjustments	US\$168,533	US\$27,539	
Effect of cumulative effect of change in accounting			5,440
Total	168,533	27,539	5,440
Basic earnings per common share	0.31	0.05	0.01
Basic earnings per preferred share	0.34	0.05	0.01
Basic earnings per ADS	1.37	0.21	0.04
Diluted earnings per common share	0.27	0.04	0.01
Diluted earnings per preferred share	0.30	0.05	0.01
Diluted earnings per ADS	1.20	0.19	0.04

At and for the year ended December 31,

1998	1999	2000	2001	2002
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Other Data:

