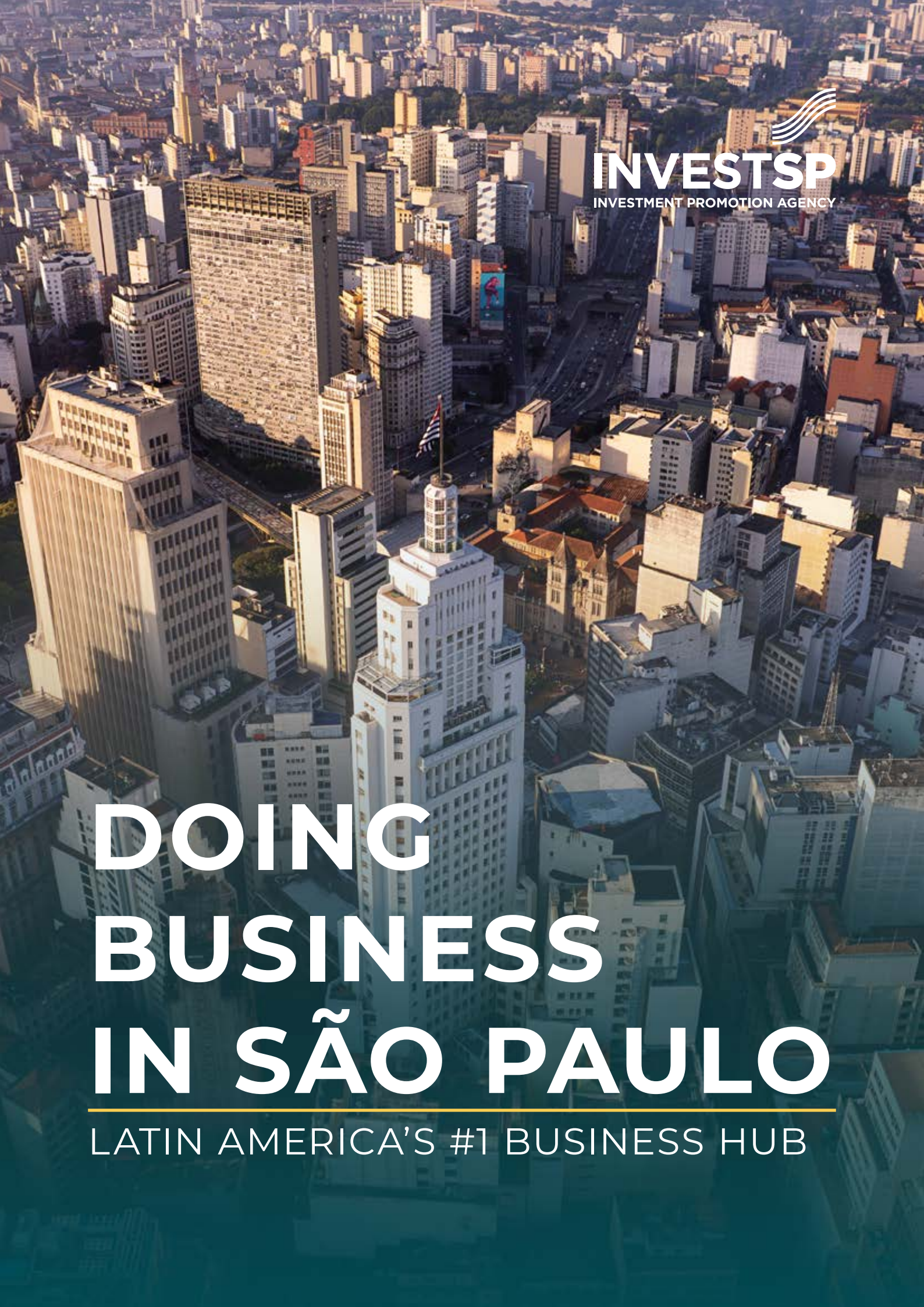

DOING BUSINESS IN SÃO PAULO

LATIN AMERICA'S #1 BUSINESS HUB

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PREFACE

Welcome to São Paulo, the best place to invest and do business in Latin America. The State of São Paulo represents nearly 1/3 of the Brazilian GDP – the third largest economy in Latin America, after Brazil and Mexico – and offers a favourable business environment for the private sector. With a diversified industry, highly skilled workforce, well-developed supply chain and a large-scale consumer market of 46 million people spread over an area equivalent to the United Kingdom, it offers a world-class infrastructure: the largest port complex in Latin America (Santos), two international airports (Guarulhos and Viracopos), a complex network of regional airports and 18 out of 20 best highways in the country. Besides, São Paulo is a green economic powerhouse, given that approximately 60% of its energy matrix is renewable and almost 23% of its territory is covered by native vegetation.

The state is also home to 3 out of 10 best universities in Latin America and 30% of Brazil's PhD students, guaranteeing the supply of qualified labour in all sectors. This, added to important technology centres and 65% of Brazilian public R&D investments, also makes São Paulo the largest innovation hub in Latin America and a reference for talent development, reinforced by the best telecommunications network in the country.

InvestSP is the investment promotion agency of the State of São Paulo and a one-stop shop for doing business in the region, serving as the main gateway for foreign companies seeking to establish or expand their presence in São Paulo. The agency provides a comprehensive range of services designed to facilitate investment, including personalised assistance in identifying

business opportunities, selecting the most suitable location, and navigating regulatory and licensing procedures. InvestSP also offers detailed market intelligence, sector analyses, and guidance on tax incentives, infrastructure, and supply chains. Additionally, the agency acts as a liaison with public authorities, research centres, and local partners, ensuring that investors have the support and connections needed to successfully implement and grow their projects in São Paulo.

InvestSP's international offices (Dubai, Munich, New York and Shanghai) are part of a broader strategy of globalisation of São Paulo itself. With the objectives of promoting the State of São Paulo internationally, supporting the global expansion and consolidation of our companies' markets abroad, as well as attracting foreign investment to the State, the international offices seek to strengthen the insertion of São Paulo's economy in global high value chains and to position the State as Latin America's business hub, contributing to its economic development.

In this regard, the activities of InvestSP European Office cover the European Union plus the United Kingdom, which together represent one of the most important and dynamic regions of the globe for international trade: 2nd largest importer in the world; approximately 16% of global trade; institutional and regulatory stability; a highly open and liberal market; a strategic logistical hub; and an important centre of knowledge and innovation. Germany, in turn, is São Paulo's third largest trading partner. The bilateral long-term strategic partnership is historical and goes back to the various inflows of German immigrants to Brazil that started in the 19th century, resulting in a cultural and social intertwining that allowed Germany to accelerate Brazil's industrialisation process. As a result, there is a substantial Germanic presence in Brazilian society and economy and São Paulo is the largest German industrial park outside Germany.

With a lean and pragmatic structure, focused on generating results and relying on the cooperation with local players to ensure a sustainable and long-term operation, the mission of InvestSP Europe's office is to aggregate value to the private sector. Supporting the decision-making process by giving advice and access to information, providing credibility and a strategic agenda through institutional support and a relationship network, the office generates value for both Brazilian and European companies, promoting inbound and outbound investments.

Understanding the importance of commercial paradiplomacy, the Agency's European office is a trustworthy one-stop shop for the generation of business between Europe and the State of São Paulo. European companies have been doing business in São Paulo very successfully for over a hundred years and there is still enormous potential for growth in various sectors, such as green economy and sustainability, energy transition, infrastructure, agribusiness, technology and innovation, digital economy – from startups/SMEs to traditional industries. In times of economic and geopolitical uncertainty, such long-term strategic partnership brings trust and legitimacy to a new cycle of investments between our complementary regions.

This guide, which is an introduction and no substitute for a careful due diligence, seeks to contribute to the realisation of this potential by pointing out the basic issues that the European investor wishing to do business in São Paulo should be aware of.

Special thanks to our partners: Stüssi Neves Advogados, Timbro Trading, Kasznar Leonardos, Kienbaum, ALS Customs Services, Emdoc and German-Brazilian Society (DBG).

InvestSP team will be pleased to present all the opportunities that the State has to offer.

Good reading and good business!

SETTING UP A COMPANY IN BRAZIL

As a general rule, foreign investors, whether private individuals or legal entities, may invest in Brazil directly or indirectly without special authorisation, subject merely to the legislation applicable to foreign capital. However, certain fields of activity are restricted and specially regulated as regards foreign capital investment, such as mining, aviation, communications, among other sectors of the national economy referred to specifically in the legislation.

In any case, foreign entities or individuals wishing to invest directly in Brazil, either by incorporating a company or by acquiring or establishing a partnership with an existing local business, must appoint an attorney-in-fact resident in the country to represent them in the national territory, mainly to comply with requirements determined by the public authorities. The power of attorney must include power to accept service of process on behalf of the investor and to represent it before

the Brazilian Federal Revenue in connection with its corporate interests in Brazil.

Generally speaking, all documents signed abroad, to be valid in Brazil, including the power of attorney referred to above, must observe the notarisation and Hague Apostille procedures, if the foreign country involved is a signatory to the Apostille Convention; otherwise the document must be certified by the Brazilian Consulate. In order to avoid this procedure in relation to every document issued concerning the Brazilian entity, it is usual for the foreign investor to grant additional powers to the attorney in Brazil, to enable the latter to sign various types of corporate documents, thereby constituting a considerable reduction in terms of costs and time. Furthermore, foreign documents must be officially translated into Portuguese and registered at a notary's office in Brazil.

Foreign individuals and entities that hold a direct investment in a Brazilian company must be registered as taxpayers with the Brazilian Federal Revenue, with a "CPF" number for individuals and a "CNPJ" number for legal entities. For the purpose of registering a foreign entity, it is necessary to state the identity of the individual or individuals that occupy the ultimate position in the corporate chain of shareholders, so-called ultimate beneficial owner – UBO. The UBO documents must be submitted to the Federal Revenue Service within 30 days of the CNPJ registration.

The location for setting up a new operation in Brazil must be suitable for the proposed activity. Therefore, the head office and any branches will be subject to certain zoning restrictions, particularly if the activity in question involves sales or manufacturing.
Equally important to enable the start of activities is the opening of a bank account and the registration of the legal entity with the bank's foreign exchange department. These procedures can only be initiated after the legal entity registration with the Commercial Registry, and the process typically takes about 15 to 30 days.

The corporate structures most commonly used for establishing an operation in Brazil are the "limited liability company" (Limitada or Ltda.) and the "corporation" (Sociedade Anônima or S.A.). Brazilian law provides for other forms of entity similar to those that exist in other countries, such as a local branch of the foreign company, although this option is not recommended due to the absence of tax benefits and personal liability of the investors involved.

As a general rule, both for a S.A. and Ltda., the investment may be made in any amount, since the law does not stipulate a minimum capital for incorporation. However, the amount invested should be considered from other aspects, since a minimum paid up capital is required in order, for example, to be entitled to import and obtain the import license (known as RADAR), take loans from public institutions or obtain visas for foreign administrators.

Except for situations which justify the choice of a different corporate structure, subsidiary companies are normally incorporated in Brazil in the form of a Ltda. or S.A., the main aspects of which are explored later in this edition.

LIMITADA: THE BRAZILIAN LIMITED LIABILITY COMPANY

The Sociedade Limitada (abbreviated Ltda.) is regulated for the most part by the Brazilian Civil Code (Código Civil - CC) and in a supplementary capacity by the Brazilian Corporation Law determinations once such is expressly provided in the company's incorporation documents (articles of association). This is the type of company most commonly used in Brazil, since the statutory requirements for a Limitada are much simpler and less costly than in the case of a S.A.

The articles of association (contrato social) may be freely drafted by the partner(s), since it is not necessary to involve a notary, subject to certain matters that must be included specifically, the form of which is not stipulated by law. The document must be signed by a lawyer duly admitted to the Brazilian Bar Association (OAB) and subsequently registered with the Board of Trade (Junta Comercial) of the State where the company's head office is located.

The company will have one or more partners who, as already stated, may be Brazilian or foreign individuals or entities.

The equity capital of a Limitada is divided into quotas, each carrying the right to one vote at general meetings. Preferential quotas are permitted if the Brazilian Corporation Law is subsidiarily applied. Ownership of the quotas is evidenced solely by the articles of association duly registered with the Board of Trade, since Limitadas do not issue certificates of ownership.

In principle, the liability of the partner(s) is limited to the equity capital, so that, provided the capital is fully paid up, the partners are exempted from any additional liability.

As regards partnership decisions and company control, the Brazilian Civil Code provides the quorum of approval by partners representing at least more than half of the capital to matters such as appointment and withdrawal of administrators and amendment to the articles of association. On the other hand, the appointment of non-partner administrators shall require the approval of at least 2/3 (two-thirds) of the partners.

The Limitada will be administered by one or more individuals, whether Brazilians, foreigners or non-residents, who do not need to be partners in the company. The position of administrator may be held for a limited or indefinite term, as provided in the instrument of appointment.

A special visa may be obtained for a foreign non-resident administrator, granting the rights of a Brazilian resident, enabling the administrator to perform any managerial acts, subject to any restrictions that may be imposed in the articles of association.

Alternatively, the appointment of a non-resident or foreign administrator has recently been allowed without the need for a visa, provided that a power of attorney is granted to a resident in Brazil with specific powers. The power of attorney granted must remain in force and effect for at least 3 (three) years after the end of the administrator's term of office.

The law expressly requires that an annual partners' meeting be held in order to approve the balance sheet and financial statements of the preceding fiscal year. As established by judicial precedent and consolidated by DREI (administrative body responsible for business registration standards), these do not need to be published, remaining as a faculty to each Limitada to publish it or not.

As already stated, in view of the fewer formal requirements, and relatively lower costs, for the constitution and operation of a limitada, this type of company is usually appropriate for subsidiaries of any size, as well as small and medium-sized enterprises.

S.A.: THE BRAZILIAN CORPORATION

The Sociedade Anônima or Sociedade por Ações (abbreviated S.A.) is regulated by the Brazilian Corporation Law and, in view of the number of formal requirements for its incorporation and operation, it is normally used only for very large companies, or in specific fields of activity for which a S.A. is required by Brazilian law, such as banking, for instance. Also, it may be recommended in companies with a large number of investors.

The S.A. is governed by its By-Laws which after signature must be registered with the Board of Trade. No notarial certification or involvement is required.

A S.A. may be a privately held company or be publicly traded. In the latter case, the company is subject to strict rules concerning particularly disclosure of corporate information, including the rulings of the Brazilian Securities and Exchange Commission (Comissão de Valores Mobiliários – CVM), which are detailed and complex. For this reason, the rules governing publicly held S.A.s will not be specifically dealt with here.

At least two shareholders, Brazilian or foreign individuals or entities, are necessary to incorporate a S.A., except to the incorporation of wholly owned subsidiary, and their liability is restricted to their equity holding in the company, unlike a limitada, in which all partners are jointly responsible for payment of the entire sum of the subscribed capital. The capital of a S.A. is divided into shares, which in general terms may be ordinary or preferred, each one representing a fraction of the corporate capital and determined rights, which may vary depending on the type and class of shares, including voting or financial advantages.

The attribution of plural voting to ordinary shares is admitted, allowing holders to exercise up to 10 votes per ordinary share. This practice, similar to that in other countries, may help prevent the sole economic control of companies, subject to certain specific requirements and restrictions.

As regards decisions, special obligations are imposed on the controlling shareholder or shareholders, that is, the individuals or entities that hold the majority of the voting shares, or the groups of shareholders that jointly approve certain matters, who may be held liable if they fail to observe their duty to serve the company's best interests, notably as regards the results of their decision in relation to the minority shareholders.

The administration of a S.A. may consist of two bodies, namely a Board of Directors (Conselho de Administração) and an Executive Board (Diretoria), or just an Executive Board.

A Board of Directors is mandatory in the case of publicly held corporations and optional for closely held companies. The Board of Directors is a collective decision-making and controlling body, that is, it acts as a management council consisting of at least 3 members for a mandate limited to 3 years, reelection being allowed.

The Executive Board, on the other hand, is responsible for the performance of administrative acts, being solely responsible for representation of the company, including the signature of documents. The Executive Board is obligatory for all S.A.s and consists of at least one member elected for a mandate limited to 3 years, reelection being permitted.

Members of the Board of Directors and the Executive Board may be Brazilian, foreign or non-residents, but non-residents must appoint an attorney-in-fact in Brazil to represent them. Note that, as in the case of the administrator of a Limitada, the power of attorney granted to a Brazilian resident must remain in force and effect for at least 3 (three) years after the end of the director's term of office.

It is also mandatory for a corporation to hold an Ordinary General Meeting each year for the approval of its annual accounts. The statutory obligations concerning the accounts of a S.A. are very strict and detailed, including the requirement to publish the balance sheet and financial statements in local newspapers prior to their approval by the shareholders. As an exception to the rule, privately held companies with an annual gross revenue of up to R$ 78,000,000.00 (seventy-eight million reais) may fulfill the required publications electronically, as permitted by law.

An Audit Committee (Conselho Fiscal) may be appointed, functioning permanently or periodically at the shareholders' request. The Audit Committee is responsible for controlling and monitoring administrative acts, as well as the provision of a report to the shareholders at the Ordinary General Meeting.

In view of the long list of obligations to which they are subject by law, corporations tend to be more expensive to maintain, especially considering the necessity to publish documents on a routine basis. For that reason, they are used mainly for specific economic sectors and in special and strategic situations.

MERGERS AND ACQUISITIONS (M&A) AND JOINT VENTURES (JV)

M&A

Counting with the advantage of a previous and likely consolidated market insertion, the acquisition of an existing Brazilian company may also be a possibility for foreign investors.

A previous detailed technical analysis concerning the financial health, operational risks, including environment, if applicable and entire business structure of a target local company are keys to the success of such strategy, since it will allow the interested party to mitigate or at least consider and strategically address possible risks to be assumed.

The target company should ideally be subjected, prior to acquisition, to a Due Diligence procedure, which includes the analysis of its financial, tax, legal and other relevant aspects depending on its field of activity.

The Due Diligence procedure allows the prospective buyer to choose whether the best alternative would be to acquire the company as a whole (“Share Deal”), only part of the company or its assets (“Asset Deal”), and to determine the warranties to be requested from the seller to protect the foreign investor’s interests.

A Share Deal refers to the sale of the totality or part of the shares of a target company, resulting in a transfer of the target company's entire business from seller to buyer, including assets, liabilities, rights, contracts, and employees. In this kind of transaction, the existence of the target company is preserved, but with the change of the controlling shareholder, who may be a foreign individual or entity directly subject to the requirements referred to therein.

Since the target company is acquired as a whole, including its assets and rights, this alternative may be beneficial if the company's business involves an activity in which licenses or registration of products are of crucial importance, ensuring that all rights related thereto are included in the succession, thereby avoiding assignment proceedings with the public authorities which can be time-consuming and costly. In specific cases, share deals may also involve the segregation or spin-off of certain assets and liabilities of the target company into a separate corporate vehicle, followed by the transfer of the ownership of such vehicle to the buyer.

An Asset Deal, on the other hand, is restricted to the transfer of title over the totality or part of the tangible and/or intangible assets of a company and involves the incorporation of a new company by the foreign investor to receive the assets acquired. Typically, these would include relevant operational assets of the target company's business such as equipment, production site, customer lists, patents, selected contracts, among others.

The sale of assets that comprise groups of assets that are vital to a business may be subject to special treatment under Brazilian law and cause effects that are comparable to those of a share sale with respect to a lack of protection for existing debts and liabilities related to the transferred assets, especially regarding labour and tax related liabilities.

An asset deal could be more suitable for a restructuring case, for instance, where the buyer would only take over the healthy operating business related to certain assets of value, and not all liabilities of the target company, or where the buyer is only acquiring a certain specific part of the company's business.

Moreover, an asset deal presents no material advantages or disadvantages compared to a share deal when it comes to buyer's protection for debts and liabilities existing prior to the completion of the transaction as regards the ones of labour and tax nature.

In any case, liability for pre-existing debts and liabilities related to the assets may be mitigated in the asset purchase agreement, in clauses relating to representations, warranties and indemnification by the seller, since Brazilian law provides no protection in either case, except in specific circumstances. Thus, the Due Diligence procedure is of the utmost importance, as it will assess existing liabilities of a business that may be specifically addressed in the agreement.

JV

A Joint Venture (or JV) is a type of partnership backed by an agreement for the establishment of an association or cooperation between the contracting parties concerning a specific project or business, based ultimately on a joint effort, and sharing of know-how. A JV is an alternative for the foreign investor to access the Brazilian market, which is not specifically addressed in legislation. It is therefore governed by the general rules set forth in the Brazilian Civil and Corporate law.

The benefit of a JV usually resides in the mitigation of risks and a likely extended production range, without affecting the individual corporate and institutional structure of the companies or individuals involved.

The JV may take one of two forms, as follows:

Contractual JV

The partnership is governed by a private agreement executed by the parties, usually through what is called a cooperation agreement or association agreement. Such agreements set out the conditions and purposes agreed by the parties in relation to a defined business or project, with specific rights, responsibilities and obligations forming the basis for their relationship and standards for the joint business implementation and realisation. The parties are connected, and work together based on a partnership relationship, sharing the profits and losses in accordance with the provisions agreed and stipulated in the agreement.

Corporate JV

The relationship between the parties is created by the incorporation of a new company, with its own legal personality, and governed by the rules set forth in a Shareholders' Agreement executed between the parties. The parties are therefore partners in such company and contribute with assets, jointly deciding the basis for business development and administration. The participation of foreign investors is commonly structured through Brazilian subsidiaries incorporated for this purpose, acting as partner in the JV, mainly for practical and tax purposes.

In any case, based on clear and objective agreements establishing protection of interests and defining liabilities, a JV may be an interesting way of entering the Brazilian market, since it is based on mutual advantages resulting from the exchange of technology and expertise, as well as local business particularities between foreign investors and local companies/individuals directed to a specific and common purpose, allowing the possible scaling up of production and increasing the profitability of a jointly structured business.

ANTITRUST

In 2012, the new Brazilian Antitrust Law (Law no. 12.529/2011) came into effect, which established a new structure for the Brazilian Competition Defense System, allowing more effective action by the Administrative Council for Economic Defense ("CADE") and introduced the system of prior control of operations. With the new law, the antitrust policy has changed significantly and introduced the obligation to obtain prior approval from CADE for operations that may lead to excessive market domination through mergers, acquisitions, takeovers, joint ventures, etc.

CADE performs functions of preventive control in relation to acts of "economic concentration" that may harm free competition, and repressive control in relation to conduct that infringes free competition.

In accordance with the Brazilian Antitrust Law, an operation is considered an act of economic concentration when:

(i) 2 (two) or more previously independent companies merge;

(ii) 1 (one) or more companies acquire, directly or indirectly, by purchase or exchange of shares, quotas, bonds or securities convertible into shares, or assets, tangible or

intangible, by contract or by any other means or form, the control or part of another company or companies;

(iii) 1 (one) or more companies acquire another company or companies; or

(iv) 2 (two) or more companies enter into an agreement to form an association, consortium or joint venture (except when related to participation in bidding procedures).

Therefore, the parties involved in the operation must submit to CADE the economic concentration agreements in which, cumulatively:

(i) at least one of the groups involved in the operation recorded, in its last balance sheet, gross annual sales or total turnover in Brazil, in the year prior to the operation, equivalent to or greater than R$ 750 million; and

(ii) at least one other group involved in the operation recorded, in its last balance sheet, gross annual sales or total turnover in Brazil, in the year prior to the operation, equivalent to or greater than R$ 75 million.

The so-called "acts of concentration" are subject to prior scrutiny, carried out within a maximum of 240 (two hundred and forty) days. Such acts cannot be concluded before they are analyzed, on penalty of nullity; a fine of not less than R$ 60 thousand nor more than R$ 60 million is also imposed, without prejudice to the opening of administrative proceedings.

Acts of concentration are prohibited if they result in the elimination of competition in a substantial part of an important market, or if they may create or enhance a dominant position or result in domination of an important market for goods or services. Exceptions to this rule are cases in which a relevant part of the resulting benefits are passed on to consumers and the following are observed, cumulatively or alternatively: a) an increase in productivity or competitiveness; b) an improvement in the quality of goods or services; or c) an increase in efficiency and technological or economic development.

Accordingly, transactions that are subject to mandatory notification to CADE cannot be concluded until CADE renders a final decision, under penalty of legal infringement and the practice of so-called "gun jumping".

MEANS OF FUNDING A SUBSIDIARY

The funding of a subsidiary must be established in accordance with the company's organisational structure, as well as the form and scope of its operations in the country in relation to its parent company. In any case, the transfer pricing and under-capitalisation rules must necessarily be observed in any form of financing adopted.

The Central Bank of Brazil is responsible for the control and registration of foreign capital. Foreign capital is defined as the amounts, assets, rights, and any kind of property held within the national territory by non-residents.

Cash investments need to be registered with the Central Bank and must be transferred to Brazil through a locally based financial institution. Investments in real property, on the other hand, are subject to certain restrictions to be observed on a case-by-case basis.

Foreign loans may be granted to the Brazilian company by foreigners, whether partners or not. Furthermore, the loans may easily be converted into direct investment, if this is a better strategy financially.

Foreign loans are a form of financing allowed by Brazilian law and frequently used in practice, and may be registered in Reais or other currencies, such as Euro and Dollar. All foreign loans must be registered in advance with the Brazilian Central Bank. If there is an agreement to be adjusted by interest, this must be adequate to the currency in which the loan is registered.

Interest on foreign loans is subject to income tax withheld at source at the rate of 15%. This is either deducted from the amount paid (if the tax is borne by the creditor) or paid separately by the debtor (if the latter is liable for payment). Interest-free loans are possible. Furthermore, any double taxation or tax reciprocal agreements will have an impact on the taxation of these operations.

In specific cases, particularly when the purpose of the Brazilian subsidiary is the intermediation or representation of the foreign investor's interests in the country, the financing may also occur by means of billing for services rendered by the subsidiary to the parent company or other companies in the group, with remuneration being paid against the invoices issued. In this case, however, the tax impacts shall also be analyzed.

Finally, besides the alternatives mentioned above, it is also usual to finance the operations in Brazil through financed imports, with longer payment terms. The foreign credits arising from exports to the country, as well as the loans, may also be the object

of future capitalisation, conversion into investment (through an increase of capital), the operation being structured on a case-by-case basis to minimise the impact of tax.

Distribution of Profits and Dividends

Registration with the Central Bank is the basis for the repatriation of capital and the transfer of profits abroad. The repatriation of capital in the amount registered is possible at any time, does not require a separate license and is exempt from tax under current legislation. Profit distributions are also possible, in principle, in any amount and are currently exempt from taxation.

As an alternative to dividends, it is also possible, under certain conditions, to pay interest on equity (juros sobre capital próprio - JCP). This alternative may be interesting from the tax point of view, but should always be discussed with a specialist.

IMPORTATION AND EXPORTATION

Among the calculable complexities we may highlight the Brazilian tariff structure, with taxes calculated directly and indirectly, import quotas for certain products and origins and tax reclassification.

As for the non-tariff barriers, which require special attention, the most important are: the RADAR qualification (to be dealt with below), as well as obtaining licences to operate from the regulatory agencies (ANVISA, MAPA, Army Ministry, IBAMA, Federal Police), pre and post-shipment import licenses.

Importation with RADAR

Any company established in Brazil that wishes to import products must necessarily be registered under the RADAR regime with the Federal Revenue Service of Brazil. The RADAR regime is subdivided into three distinct modalities: Express, Limited and Unlimited.

• RADAR Express – Volume of imports limited to US$ 50 thousand FOB every six months;

• RADAR Limited – Volume of imports limited to US$ 150 thousand FOB every six months;

• RADAR Unlimited – Volume of imports in excess of US$ 150 thousand FOB every six months.

The analysis by the Federal Revenue Service for granting the RADAR is based on the company's history and financial capacity. One of the methods used by the Revenue to analyze financial capacity is the assessment of the amount of taxes paid by the company. Hence most newly established companies are directed towards the Express modality. This does not mean that the company must remain in this modality until it has a history, since it is possible to request a more detailed analysis, clearly presenting its financial capacity through other parameters such as cash resources.

There currently exist three Importation Models in Brazil

I. Direct importation: Under this model, the company established in Brazil and registered under the RADAR scheme imports the goods in its own name and with its own resources. This model meets the needs of industrial and commercial enterprises and is the model most commonly used.

II. Importation by order: Under this model, established in 2006 by Normative Instruction IN/SRF 634/06 and regulated on December 27, 2018 by SRF Normative Instruction 1.861, the company, established in Brazil and registered under the RADAR scheme, uses a trading company as its importer. The trading company imports the products in its own name, in accordance with a prior order from its customer (the encomendante).

III. Importation on behalf of third parties: In this operation model, established by Provisional Measure 2158-35/01 and regulated by Normative Instruction IN/SRF 247/02 and IN/SRF 225/02 in 2002 and IN/SRF 1.861/18 in 2018, the company also uses a trading company as importer. The company established in Brazil must also be registered with RADAR. Under this model, the buyer of the goods has ownership of the goods throughout the process, the trading company acting as a service provider that will have temporary ownership of the products during the nationalisation process. In this modality, the custo- mer is responsible for paying the exporter.

Importation of Products from Mercosur

Imports from countries belonging to Mercosur are subject to the same operational procedure as those from other countries, without suffering any kind of differentiation in their clearance. The main advantages in these imports are the benefits on the rate of import duty and AFRMM (Freight Surcharge for Renewal of the Brazilian Merchant Marine).

Products originating from Mercosur countries, with a certificate of origin from a country participating in this economic bloc, are exempt from import duty. To obtain the certificate of origin, it is necessary for the product to have at least a 60% nationalisation index in the country of origin, a member of the economic bloc.

As for the AFRMM, which represents a surcharge of 80918% of the ocean freight value, there is also an exemption from this charge when the cargo is loaded in a port located in a country participating in the economic bloc.

Besides the ALADI countries (Argentina, Bolivia, Chile, Colombia, Cuba, Ecuador, Mexico, Paraguay, Panama, Peru, Uruguay and Venezuela), Brazil also has trade agreements with Guyana, India, Israel, Saint Kitts and Nevis, Suriname, SACU (Botswana, Lesotho, Namibia, South Africa and Swaziland) and Egypt.

"Ex tarifário"

Capital goods, machines as well as telecom and IT products, including its parts and components, which have not equivalent production in Brazil may be

entitled to tax incentives for the purposes of improving the productive investment in the country. In this sense, upon request and further approval after a public consultation for the confirmation of inexistence of local production by the Ministry of Foreign Trade and Economy, those goods may be subjected to tax reductions related to the import duty, which normally is reduced to zero, under the condition of the named "Ex tarifário".

The advantage shall be applied in relation to the products and not the company itself. Therefore, once the tax incentives are granted in relation to the goods herein, other companies may also be advantaged with the tax reduction for the importation.

Dry Ports

The EADIs (Inland Customs Station) or dry ports, are bonded enclosures, in secondary zones and of public use, outside the ports, used for the handling, storage and customs clearance of goods under customs control. Dry ports may operate with import and export cargo.

Located in the main centres of the country, including the State of São Paulo, dry ports are an excellent alternative for the storage of products at very competitive costs, in addition to handling operations and customs clearance.

Dry ports have received substantial investments in the search for specialisation in the most varied sectors, with excellent infrastructure and service.

Among the sectors with specialisation in the provision of services, we would mention bonded warehouses with areas for food products, finished products and pharmaceutical raw materials, machinery and equipment, as well as PDIs (pre-delivery inspection) for automobiles and rolling stock.

Many dry ports in Brazil also offer labeling, kitting and packaging services.

Bonded Warehouse

The Bonded Warehouse Regime allows companies to store their products in a secondary zone in Brazil without nationalizing them.

Goods sent to a dry port may be stored under a bonded warehouse regime for a period of one year, renewable for a further year. Accordingly, the goods remain the property of the exporter, and are the responsibility of a Brazilian company.

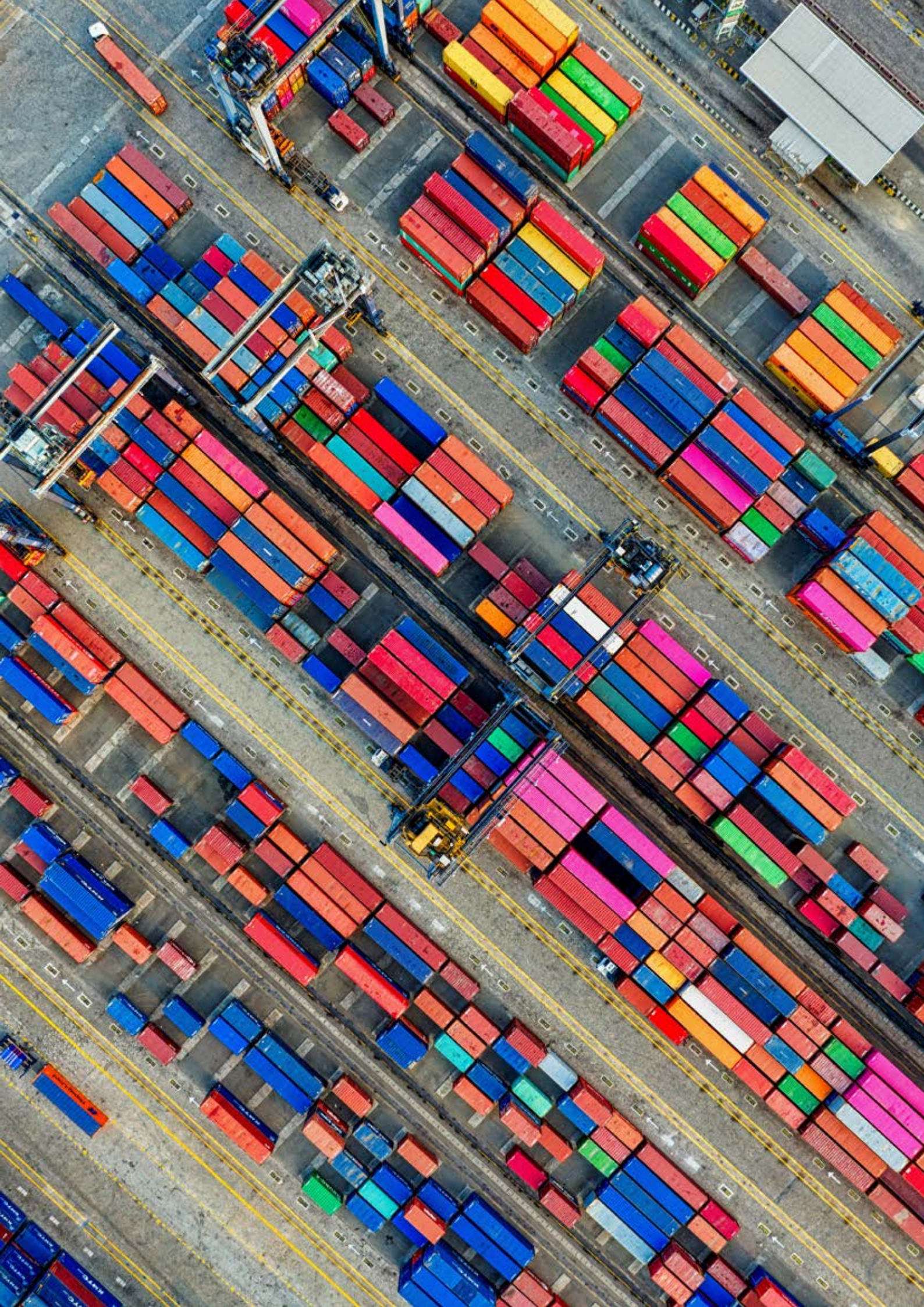
This model is very interesting because of the following aspects:

• Reduced lead time for placement of goods on the domestic market;

• Creation of a hub to serve the South American market;

• Postponement of the payment of taxes;

• The merchandise may be nationalised in its entirely or partially.



TAXATION

Brazil's current tax system is very complex, mainly due to the diversity of existing taxes, imposed at federal, state and municipal levels.

For this reason, tax reform has been approved and will come into effect from 2026, initially in relation to taxes on consumption. This reform will be implemented during a transition period that will last until 2033. The reform of income taxes is also in the process of being approved.

Taxes on Income

Income Tax

Income tax is a federal tax, that is levied by the Federal Government in accordance with specific legislation in force throughout the country.

In the case of individuals, the distinction between persons resident and non-resident in national territory is extremely important in defining the extent of their tax obligations. While non-residents are only subject to tax on income from sources located in Brazil, residents are subject to tax on their entire worldwide income.

A Brazilian resident is defined as one who resides here permanently; who leaves the country to work for the Brazilian government; who enters the country with a permanent visa on the date of arrival, or with a temporary visa on the date of arrival if they are employed, or on the date they complete 184 days on a period of 12 month, consecutive or not, in the country; a non-resident who returns to the country with the intention to remain permanently; or who leaves Brazil during the first 12 months without submitting a definitive notice of departure.

As a rule, residents of Brazil are subject to Personal Income Tax (IRPF) on salaries and income from work, withheld by the paying source at progressive rates (depending on the amount of income) of 0%, 7.5%, 15%, 22.5% or 27.5%.

Non-residents with income in Brazil are also subject to income tax withheld at source, usually at the rate of 15%. In the case of payment, credit or remittance abroad for technical services or royalties, in addition to the 15% income tax, other federal taxes are levied, such as CIDE at 10% and PIS/COFINS on imports at the rates of 7.6% and 1.65% respectively. In the case of income from work that does not depend on

technical knowledge, CIDE is not levied, but income tax is increased to 25%.

There are also progressive rates (depending on the amount of the gain) of 15% to 22.5% on capital gains for both residents and non-residents and, as a rule, 15% to 22.5% on investments (depending on the time invested).

The 15% income tax rate may be increased to 25% if the beneficiary is resident in a country with favoured taxation or a privileged tax regime.

In the event of possible double tax liability, the agreements for the avoidance of double taxation signed between Brazil and many other countries apply. Specifically in relation to Germany, the agreement was terminated in 2005, but there is recognition of reciprocal treatment, which makes it possible to offset the tax.

Corporate Income Tax (IRPJ) may be determined in accordance with the actual profit, i.e. that which takes into account income and expenses in a given period, either quarterly or annually, taxing only the existing surplus; presumptive profit, calculated according to a presumption of profit on income by applying a percentage which may vary, on average, from 8% to 32% depending on the nature of the business; or arbitrarily assessed profit, used when the taxpayer does not provide reliable means of determining the tax calculated on the basis of actual or presumptive profit.

A 15% tax rate applies to the profit calculated (whether under the actual, presumptive or arbitrarily assessed system) and an additional 10% for profits in excess of R$240,000 per year.

Social Contribution on Net Profits

In addition to Corporate Income Tax, the Federal Government also requires legal entities to pay the Social Contribution on Net Profits (CSLL), which is also calculated on actual, presumptive (calculated with an average presumption of profit of 12% to 32% depending on the nature of the business) or arbitrarily assessed profit, on which a rate of 9% is applied for legal entities in general, and 15% (fifteen percent) in the case of legal entities considered to be financial, private insurance and capitalisation institutions.

Income Tax Reform

The tax reform relating to the taxation of income is in the process of being approved. The bill that regulates it, proposes substantial changes to both individual and corporate income tax, including non-residents who invest in Brazil.

Certain isolated changes are already in force, such as the new rules regulating transfer pricing in Brazil, with the aim of bringing the national system closer to the OECD system; new rules on Interest on Equity with the imposition of limits on its distribution; differentiated treatment for credits arising from investment grants; additional CSLL for companies with global turnover exceeding 750 million reais.

In the bill, personal income tax from 2026 onwards will have new deduction options and a minimum income tax (IRPFM) will be introduced at a rate of 10% for individuals who receive profits and dividends in the month that exceed 50,000 reais. Dividends paid to legal entities abroad will also be subject to a 10% rate. There is no provision for the taxes levied on company profits, namely IRPJ and CSLL, to be reduced.

Taxation on Consumption

Tax on the Circulation of Goods

The main consumption tax currently in force is the state tax known as the Tax on the Circulation of Goods and Services (ICMS). ICMS is levied by each unit of the federation on transactions involving the movement of goods, such as sales and imports, as well as on the provision of transport and communication services.

It is similar to VAT, where the tax is paid in one transaction can be used as a credit in the subsequent transaction.

The rate varies between 7% and 25% depending on the goods and the state of destination. As a rule, internal operations, within a given state, are taxed at a rate of 18%. On the other hand, in interstate operations, the rate is usually 7% in operations with states in the North, North-East, Midwest and Espírito Santo, and 12% in operations with states in the South and South-East. When the interstate operation involves an imported product, or one in which processing with national inputs accounts for less than 40% of the product's value, the rate is 4%, in order to prevent the granting of tax incentives that promote competition between states to attract investment.

Import Duty and Export Tax

In addition to ICMS, when importing products there is also Import Duty (II), a federal tax that must be paid on the entry of products from abroad. The rate varies greatly, from 0% to 100% or more, with an average of 15% on the customs value of the product. The tax cannot be used in future operations as it is considered costs.

There is also the Export Tax (IE), which is a federal tax that is hardly ever imposed nowadays, as an incentive for export operations.

Tax on Industrialised Products

The Tax on Industrialised Products (IPI) is also a federal tax, is levied on operations with products that have undergone industrialisation, which is any operation that modifies the nature or purpose or perfects the product for consumption, and is payable when the product is shipped or imported. The rate varies according to the essential nature of the product, from 0% to 100% or more (on average 12%). The tax is non-cumulative, and the amount paid on the previous operation can be deducted from the amount due on the next one.

Tax on Financial Operations

The Tax on Financial Operations (IOF), in turn, is a federal tax levied on credit, foreign exchange, insurance and loan operations.

The II, IPI, IE and IOF, in addition to their revenue-raising function, have an extra-fiscal purpose, that is, they function as a mechanism for regulating the market and economic sector.

Social Security Contributions

Also levied on consumption, but calculated on turnover, there are contributions to finance social development programmes. The Contribution for the Financing of Social Security (COFINS) is levied at a rate of 7.6% under the non-cumulative system, which allows credits to be used, or at a rate of 3% under the cumulative system. The Social Inclusion Program (PIS) is levied at a rate of 1.65% under the non-cumulative system, which allows credits to be used, or at a rate of 0.65% under the cumulative system.

We also have PIS/COFINS - Importation, which are levied at the rates of 7.6% and 1.65% on the importation of goods and services and may be used as credits for deduction of the contributions on turnover.

Tax on Services

It is also important to mention, among the taxes on consumption, the Tax on Services (ISS), which is a municipal tax imposed on the provision of services of any kind. Its rate varies between 2% and 5%; in the municipality of São Paulo it is generally 5%.

Tax Reform on Consumption

It is worth noting that the tax reform relating to taxes on consumption was approved by Complementary Law no. 214/2025. New taxes

have been created to replace those referred to above.
Thus the new Tax on Goods and Services (IBS) will replace the current Tax on the Circulation of Goods and Services (ICMS) and Tax on Services (ISS), and will be levied by the states, Federal District and municipalities. Moreover, the federal Contribution on Goods and Services (CBS) will replace the Social Integration Program (PIS), the Contribution for the Financing of Social Security (COFINS), and the Tax on Industrialised Products (IPI).

In addition to these taxes, the Selective Tax (IS) will be levied on products considered harmful to health or the environment.

The new model resulting from the tax reform on consumption will be implemented gradually, allowing taxpayers and public departments to adapt. It will only be fully implemented in 2033, following a gradual transition starting in 2026. In the first year of implementation, it is possible that the new taxes will not be levied and that only test rates will be indicated without being charged. The rates of reference will be fixed by resolution of the Federal Senate.

The main characteristic of the IBS and CBS will be the application of the principle of full non-cumulative taxation, allowing previous transactions to generate credits to be deducted from subsequent operations, in order to avoid economic distortions.

The average tax rate has been proposed at 22%. However, considering products and services that will have differentiated treatment, the standard rate is being estimated at between 26.5% and 28%.

The regulations provide for differentiated regimes, with reduced rates for liberal professionals; health and education services; basic food and personal hygiene products; services and operations linked to national security, information security and cyber security; agricultural, forestry and extractive products; national artistic and cultural productions, among others.

The CBS and IBS model is the Value Added Tax (VAT) used by nearly all countries.

Estate and Gift Tax and Real Estate Transfer Tax

Also worth mentioning the Tax on the Transfer Mortis Causa and Gift of Any Goods or Rights (ITCMD), which is levied on the transfer of movable and immovable property as a result of inheritance or gift. In the state of São Paulo, the rate is actually 4% but will be affected by the tax reform. There is also the Real Estate Transfer Tax (ITBI), which is levied on the transfer of real estate inter vivos, normally at a rate of between 2% and 8%, depending on the municipality.

Urban Property Tax (IPTU)

There are also taxes on the ownership of property, such as the Urban Property Tax (IPTU), which is imposed on the ownership of real estate and which in the municipality of São Paulo is levied at a variable rate of between 0.7% and 1.9%, depending on the value, location and use of the property.

Tax on Vehicles (IPVA)

IPVA is a tax on the ownership of automobiles and is calculated at a percentage between 1% and 4%.

Considering the complexity of Brazilian taxation, especially for legal entities, the advice of tax specialists may identify alternatives that provide greater performance and lower costs. Certain activities and billing methods can benefit from simplified taxation systems. Several variables must also be considered, such as the tax base and rates, which change frequently, as well as the possibility of deducting expenses and the use of various credits.

CONTRACT: GENERAL RULES

Contracts are interpreted as law between the parties that enter into them and must therefore comply with certain general requirements in order to be considered valid under the Brazilian legal system.

In general, all contracts must be entered into by legally competent parties, and must have an object that is licit, possible, determined or determinable, as well as a form that is prescribed, or not prohibited, by law.

As for the form, many contracts have no requirements, and can be signed digitally or even made verbally, while others, such as agreements for the purchase of real property, are only valid if they are signed by means of a public deed ("escritura pública").

It is therefore essential always to consult a lawyer regarding the specific contract it is intended to enter into, in order to ensure that all legal requirements are being complied with.

Furthermore, contracts are also governed by general principles that facilitate their interpretation and afford security to the parties, such as the social function of the contract and objective good faith.

The principle of the social function of the contract is a limitation on the freedom to contract, which must be exercised in the light and within the limits of the social good. Thus, if the autonomy of intent conflicts with the social function, the contract cannot be performed, and the social interest prevails.

As for the principle of objective good faith, this concerns the establishment of ethical duties of conduct between the parties, who must act honestly and in good faith at all stages of the contractual relationship.

Another particularity is that certain contracts may require the signature of two witnesses in order to constitute an enforceable instrument, thereby making it possible to require swifter compliance with the obligations of the debtor before the courts. Even when signed digitally, the contracts have the force of an enforceable instrument.

Some contracts still have additional requirements or are subject to special rules, defined in the Civil Code itself or in special legislation, as is the case of consumer agreements, negotiated in accordance with the provisions of the Consumer Defence Code (see below).

CONSUMER CONTRACTS

A consumer contract is any legal agreement entered into between, on the one hand, a person who can be described as the supplier of a product or service, and, on the other hand, a person who can be described as the end consumer of the same product or service.

The term supplier covers any individual or legal entity, national or foreign, engaged in the activity of production, assembly, creation, construction, transformation, importation, exportation, distribution or sale of products or provision of services.

The consumer enjoys a series of prerogatives, regulated in the Consumer Defence Code (Law no. 8.078/1990), because the law presupposes that he (the consumer) is the weaker party in the relationship, not having the same economic, technical and legal strength as the supplier.

Among such prerogatives, the Consumer Defence Code provides that the consumer is entitled to amend clauses that establish disproportionate obligations or to review them if they prove to be excessively burdensome, and that clauses considered abusive are null and void.

The clauses of a consumer contract are always interpreted in the manner most favourable to the consumer, in addition to the fact that contracts will not bind consumers if they have no prior knowledge of their contents, or if they are written in a way that makes them difficult to understand.

Furthermore, the Consumer Defence Code also regulates pre-contractual elements of the consumer relationship, providing that advertisements, announcements and estimates prepared by the supplier are binding on the latter with regard to the promises contained therein.

The Consumer Code also offers additional protection when the legal transaction between the parties is concluded through an adhesion contract, which is one in which the clauses are established unilaterally by the supplier, without the consumer having the right to discuss or substantially modify their content.

Needless to say, not every adhesion contract arises from a consumer relationship, and not every agreement regulated by consumer law is an adhesion contract. It is necessary therefore to analyze whether there is subsumption to the legal concept of each definition.

COMMERCIAL REPRESENTATION SALES AGENCY

An independent sales agency (representação comercial) is usually the easiest and most economical way for a foreign company to gain a foothold in the Brazilian market. It can be recommended for, among others, market development or for the introduction of certain new products.

However, there is a disadvantage insofar as the foreign exporter does not acquire its own legal status and therefore depends on the commitment of its sales agent and maintenance of the relationship for the success of the business.

For these reasons, obtaining reliable information as to the reputation of the future agent, prior to signing the contract, is extremely important.

The question of any necessary trademark or patent protection for the products must be clarified in advance.

In principle, it is possible to engage one or more agents in Brazil, but, where there is more than one, it is necessary to pay close attention to distribution of the territory, because a subsequent reduction or division of territory may give rise to a right of fairly substantial compensation for the agent who is affected by the changes.

The activity of the sales agent is partially regulated in the Brazilian Civil Code, but more particularly in a special law that contains numerous regulations in favour of the agent. Contractual clauses that violate these rules are invalid. For this reason, it is essential to obtain precise information on the matter before entering into the contract.

The amount of the agent's remuneration may be freely negotiated between the parties. Normally a commission is determined based on the business transactions concluded. Details should always be discussed with a local lawyer.

Entering into temporary contracts is possible only once. On termination, the agreement is automatically renewed for an indefinite term, and other contractual provisions to the contrary are rendered ineffective.

On termination of the contractual relationship, the agent is entitled to an indemnity that must necessarily amount to at least 1/12 of the total remuneration that the agent received during the entire period of their activity (no time limit!). This right of the agent cannot be waived contractually. The obligation to pay compensation only ceases to apply if the agreement can be terminated due to misconduct on the part of the agent. However, this is only possible under strict conditions.

Despite these restrictions, sales agencies are frequently used in Brazil, as they offer companies the opportunity to distribute their products throughout the territory without fixed costs. The expenses are limited to the agent's remuneration for mediated transactions and, in the event of termination of the commercial relationship, to the payment of compensation, for which appropriate financial provisions can be made.

DISTRIBUTION

An alternative to commercial representation/ sales agency is an independent distributor who imports and resells the products in its own name. Here, too, it is possible to contract with one or more distributors in Brazil, so, if there is more than one, close attention must be paid to distribution of the territory. Often a distributor is engaged exclusively for Brazil, and in turn may work with sub-distributors.

Although distribution is a very usual kind of relationship, it is considered to be an atypical contract, because it is not subject to any specific rules in the Civil Code. Precisely for this reason, there are difficult issues that require careful attention, especially with regard to indemnification rights after termination of the agreement.

Legal assistance should therefore be sought in drafting the contract in every case. Antitrust issues can also play a role in individual cases, and these should be examined in advance.

It should be mentioned that distribution in the automotive sector is regulated by a special law (the “Ferrari Law”).

Finally, it is worth noting that certain activities require registration with local regulatory authorities in order to import and/or market products. In these cases, registration in the name of the distributor itself can cause certain difficulties for the manufacturer in the event of termination of the relationship with the distributor, which is why great care must be taken when deciding on such registration.

INTERNATIONAL PURCHASE AND SALE AGREEMENTS

Brazilian companies constantly engage in import and export business with commercial partners located abroad, and such relations are commonly governed by international contracts for the purchase and sale of goods and/or services.

Brazil is a country that values respect for international trade treaties and conventions and has adhered to the CISG (United Nations Convention for the International Sale of Goods), which standardises the rules for international contracts relating to the purchase and sale of goods.

If the parties choose not to apply the CISG, it should be remembered that, on execution of an international contract with a party located in Brazil, Brazilian law does not allow complete freedom to define the law that will govern the transaction.

This is because the Law of Introduction to the Rules of Brazilian Law establishes as a rule that, for international contracts concluded between parties that are present, the law of the country of their formation shall prevail, while for those concluded between absent parties, the law of the country of domicile of the offeror (seller) shall prevail.

The exception to this rule is when the parties choose to resolve conflicts through arbitration, in which case the parties are free to agree on the law they wish to be applied.

It must also be borne in mind that, if there is a provision for settling conflicts in a jurisdiction outside Brazil (whether by arbitration or in the ordinary courts), decisions issued by a foreign court must be submitted to a process of ratification by the Superior Court of Justice (STJ) before they can be enforced in Brazil.

Another important aspect to be considered in an international contract concerns the guarantees that can be given in order to provide greater security for compliance with the obligations. Brazilian law has a number of guarantees that can be applied to contracts for purchase and sale, such as the clause for retention of title, secured fiduciary sale, commercial pledge, mortgage on real property, aval and surety.

Each of the guarantees above is subject to special rules, and the choice of the most appropriate guarantee, as well as their requirements and consequences, must be considered in accordance with each specific case.

In view of the numerous special features involved in international relations, it is always advisable to seek the advice of a specialised lawyer before entering into any agreement.

PROTECTING IP RIGHTS

Intellectual property is always a territorial right. A foreign patent, trademark or industrial design does not support your rights automatically in Brazil. You should consider obtaining IP protection in Brazil if you plan on doing business, including selling products online or manufacturing products.

Brazil is the main economic and industrial centre in South America. Given the significance of the Brazilian market, it is important to know how to recognise, register and enforce your IP rights in Brazil. Brazil is a signatory to the main international IP treaties, hence the Brazilian system is similar to other IP systems in the world. However, it is important to recognise certain differences.

The legislation relevant to IP in Brazil consists of:

I. the Federal Constitution;

II. Treaties and Conventions, such as the Paris Convention, the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) and the Madrid Protocol and

III. the Brazilian Industrial Property Law (Law no. 9.279/96) (IP Law) concerning trademarks and patents, as well as the Brazilian Copyright Law (Law no. 9,610/98) (Copyright Law).

In Brazil, you can apply for an invention patent, utility model patent, trademark, copyright, industrial design, geographical indication, computer program and plant breeders' protection. If you wish to enter the Brazilian market or are already doing business in Brazil, you should act promptly to protect your rights.

Where should IP Rights be registered?

The Brazilian Patent and Trademark Office (INPI) is the Federal organisation and relevant authority for registration of patents, trademarks, industrial design, geographic indications, topographies of semiconductors and IP agreements in Brazil.

Applications for patents, trademarks and industrial designs can be filed electronically on the INPI website (in Portuguese only). A good first step is to search existing IP in the website's searchable databases to check whether your anticipated IP use may conflict with or infringe on someone's prior rights.

Copyright does not need to be registered in Brazil although there are several non-mandatory options: for example, literary works may be registered at the National Library (Biblioteca Nacional), visual works at the Art School of the Federal University of Rio de Janeiro (Escola de Belas Artes), software at the Brazilian Patent and Trademark Office (INPI).

Trademarks

According to the Brazilian IP Law, signs that are visually perceptible, distinctive, and not included in legal prohibitions, including symbols, figures, words, emblems, three-dimensional and position marks, can be registered as trademarks.

INPI recognises both Certification and Collective marks. Certification marks attest the conformity of a product or service with certain technical standards or specifications, particularly regarding the quality, nature, material and methodology employed. The applicant can be any individual or legal entity with no direct commercial or industrial interest in the product or service. Collective marks identify goods or services provided by members of a certain entity or association. The applicant must represent the association, which may engage in an activity apart

from that pursued by its members.

Brazil is a signatory to the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks.

You can file your trademark application directly with the INPI in Portuguese. You may also file trademark applications in other acceptable languages through the Madrid Protocol. Although Brazil is not a signatory to the Nice Agreement, the INPI adopts the Nice International Classification of Goods and Services, the 11th edition of which came into force in 2021. When filing a new trademark application, it is possible to choose between the selection of goods or services from a pre-set list provided by the INPI or to proceed with the free description of goods or services. As a rule, class headings are accepted as specifications, except for some specific classes that are too broad, and the INPI may raise an office action to the applicant to specify the nature of certain goods or services.

Brazil applies a "first-to-file" system for trademark rights, and no evidence of use is required for trademark registrations and/ or renewal purposes. Moreover, it is not necessary to submit proof of use when filing a trademark application, and non-use is not grounds to challenge a trademark, although third parties can require the forfeiture of trademark registrations after 5 years of non-use.

A Brazilian trademark must be a visually perceptive and distinctive, original sign that is not prohibited by any other law. It can be a combination of letters, words, designs or numbers. Brazil also allows three-dimensional marks, such as the shape or packaging of goods without a functional or technical effect. The only non-traditional mark categories accepted are colour marks (more than one colour combined), only if combined in a distinctive manner, three-dimensional and position marks. When filing an application for a three-dimensional mark, all views shall be represented (i.e. back, front, top, bottom and side perspectives). As for position marks, the main image must show the support (represented by dotted lines) and the representation of the exact position and proportion of the position mark. The presentation of other views of the support are allowed but are not mandatory.

Trademark applications must be filed directly with the INPI. After a preliminary examination, a mark is published and becomes open to opposition for 60 days. After this period, it is submitted for substantive examination before being granted.

The term of protection of a trademark is 10 years from the date of grant. Protection may be renewed every 10 subsequent years, indefinitely times.

Research to ensure your mark is not currently being used by a third party in Brazil. If someone has been using a similar mark in good faith for 6 months be- fore your filing date, they may be able to challenge your claim to the trademark.

Domain Names

Any individual or legal entity may own a domain name. A local presence is required in order to own a domain name; however, a foreign entity may register a domain name by registering with the Brazilian Federal Revenue Service or by filing an affidavit with a few requirements together with a legal representation with someone able to manage, cancel and transfer the domain name. A domain name is registered by application online to the local authority.

There is limited legal protection provided by domain name registration. The most important is the use as evidence under an unfair competition dispute. The only ccTLD available is ".br".
There are dispute resolution procedures for ccTLDs. The Brazilian Network Information Centre, NIC.br, established

an administrative dispute resolution proceeding for ".br" domain names, known as SACI (based on its Portuguese acronym). There are three institutions that are homologated as responsible for this procedure: ABPI (Associação Brasileira de Propriedade Intelectual), CCBC (Câmara de Comércio Brasil-Canadá) and WIPO (the World Intellectual Property Organisation).

Patents

A patent is a legal right to prevent others from making, using or selling your invention. Brazil has two classes of patents: patents of invention and utility models:

I. Patents of invention are granted when an in- vention is novel, involves an inventive step and is capable of industrial application.

II. Utility models are similar to patents of invention, except that they are only granted to objects of practical use that are capable of industrial application. The objects must also have a new form or disposition and involve an inventive act that results in a functional improvement in terms of its use or manufacture.

Patent fees are reduced for discounted entities (individuals, small businesses and non-profit organisations) and increased for paper applications. The examination fees also depend on the number of claims in the application.

There are two ways to file an application: send it directly to the INPI or apply through the Patent Cooperation Treaty (PCT).

Brazil applies a "first-to-file" system, which provides patent protection to the first applicant to file an application for an invention. In general, an application for a patent must be filed before any public disclosure of the subject matter, as public disclosure puts an invention in the public domain and makes it unpatentable. However, Brazil provides a 12-month grace period for public disclosure of an invention under certain circumstances.

It is important for businesses to consider that Brazil's Patent Law has a compulsory licence provision according to which any person who has the technical and economic capacity to carry out efficient ex- ploitation can file an application to have a compulsory licence granted to them, if the following 3 grounds are met:

I. The titleholder exercised their rights in an abusive manner.

II. The patent has not been exploited within the Brazilian territory (unless this is not economically feasible) and

III. The patent has not been commercialised in a way
that satisfies the needs of the market.

Any person with legitimate interest and the technical and economic capacity to carry out efficient exploitation can apply for a licence for a patent on the third anniversary of the date of the grant.

For more information on patents and applying for patent protection in Brazil, visit the INPI website (in Portuguese only).

Industrial Designs

In Brazil, industrial designs refer to the appearance of a product in particular, the ornamental shape or the ornamental set of lines and colours applicable to a product, so long as it provides a new and original visual result that can be industrially manufactured.

The term of protection for an industrial design is 10 years from the filing date. The protection may be renewed every 5 years for a maximum of 25 years from the filing date, on payment of the applicable fees.

An inventor who publicly discloses their design has a 180-day grace period from the time of disclosure before the industrial

design enters the public domain and can no longer be protected.

Industrial design protection is administered by the INPI. In Brazil, the novelty and originality of a design are not assessed before registration. The substantive examination of an industrial design may be performed after the registration has been granted.

Copyrights

In Brazil, copyright is the exclusive legal right to produce, reproduce, publish, or communicate an original literary, textual, spoken artistic, dramatic, choreographic, audiovisual, photographic, musical, visual, model, literary adaptation, computer programs or compilation work.

There are 2 types of rights conferred by the Brazilian copyright system:

I. economic rights, which give the holder the commercial rights to exploit the work and

II. moral rights, which are the non-economic rights of the author in relation to the work and ensure, among other things, that the author has the right to have their name attributed to the work and can control any modification to the work (they are different from economic rights as they cannot be transferred to third parties).

The main registration authority in Brazil is the Copyright Office of the National Library. The National Library is the legal authority responsible for registering literary works, including artistic and musical works. The Brazilian Copyright Law provides that other institutions, such as the School of Fine Arts and the School of Music, which are both part of the Federal University of Rio de Janeiro, can register other forms of copyrightable works.

As mentioned, copyright is automatic and requires no formal registration. Voluntary registration is possible to assist in establishing a priority date of creation and the method of filing, depending on the type of creative work. Copyright protection begins upon creation of the work.

As a rule, the term for copyright protection in Brazil is the life of the author plus 70 years after the author's death, and these rights are inherited by the author's successors. However, there are exceptions to this rule, as some forms of copyrightable works have different terms of protection.

IP Enforcement

The Brazilian Judicial system comprises the Supreme Federal Court (Supremo Tribunal Federal), the National Council of Justice (Conselho Nacional de Justiça), the Superior Court of Justice (Superior Tribunal de Justiça), the Regional Federal Courts of Appeal (Tribunais Regionais Federais) and Federal Judges. In addition, there are special courts for electoral, labour and military issues. The state-level judicial system consists of state courts and state judges with civil and criminal jurisdiction.

The enforcement of an IP right falls under the jurisdiction of state courts. An IP trademark holder may file an infringement claim against an infringer before a civil or criminal state court. Brazil does not have an evidence system such as discovery; therefore, the plaintiff has the burden of producing all evidence of infringement either before a civil or criminal state court. The burden of a criminal state court is higher as an official preliminary trademark infringement opinion by a court expert is mandatory. It usually takes between 12 and 24 months to obtain a decision at first instance.

Both preliminary and final injunctions are available. The requirements that must be met for a preliminary injunction are proof of the plaintiff's right, evidence of the infringement and elements that may demonstrate a reasonable degree of

risk of damage if the infringement is not immediately ceased. Requirements for a final injunction are similar; however, as they are issued after the decision, the requirements are considered beforehand by the court.

The trademark holder may typically seek an order to cease the use of the infringing sign and an indemnification for the damage caused by the infringement.

In addition, the trademark holder could seek additional remedies, such as the obligation of the infringer to publish information relating to the infringement (although this is not a common solution). A court order enjoining the infringer may be the subject of a preliminary injunction, as well as ex parte injunctions.

The prevailing party may recover all court fees together with attorneys' fees stipulated by the Judge. Attorneys' fees usually vary from 10% to 20% of the value attributed to the case; however, the Judge may adjust the amount according to the complexity of the case. IP infringement is considered a crime under Brazilian law.

Additional tips:

IP disputes may be brought before the state courts of Brazil, unless a federal entity is the accused infringer, in which case it will go before a federal court. Infringement of IP rights may lead to civil and/or criminal charges, depending on the type and severity of the charges.

If you suspect infringement, your lawyer can send a "cease and desist" letter to the alleged infringer informing them that you believe they have infringed on your IP rights and advising them to refrain from committing the infringement.

If you choose to enforce your rights through formal court proceedings, be aware of the costs and time associated with this adversarial route. Brazilian courts can award varying remedies in IP disputes, including monetary damages, temporary or permanent injunctions, and search and seizure orders.

IP Licensing and Assignment

The licensing of a patent or trademark may be registered before INPI. Registration of a license is not mandatory in order for the evidence of use of a patent or trademark in Brazil to be accepted. However, it has the important legal effects of a presumption that third parties have knowledge of the existence of the agreement.

A licensee may sue third parties for infringement. Quality control clauses are typical and are usually present in license agreements; however, they are not mandatory.

The parties of a license may freely agree the amount of royalties to be paid, but, if they are related companies, the Brazilian transfer pricing rules must be respected or else the Brazilian authorities may refuse the deductibility of the payments for the corporate income tax purposes of the Brazilian licensee. In the moment of the remittance of royalties abroad but there are several different taxes that may be due to the Brazilian Federal Government. Such taxes are locally known as "IRF", "CIDE", "ISS", "PIS", COFINS" and "IOF" and they may reach almost 30% in the case of patent, trademark and know-how royalties and almost 50% in the case of payments for technical services.

LABOUR LAW

In general, Brazilian labour law and the decisions of the labour courts have traditionally been very favourable to workers. However, with the changes in the labour legislation that came into effect in 2017, various rules were altered in favour of the employers.

A significant part of the changes were confirmed by the Judiciary, but another very relevant change that led to a substantial reduction in the number of cases before the Labour Courts – the requirement for unsuccessful litigants with free legal aid to pay “honorários de sucumbência” (fees payable by the losing party to counsel of the prevailing party) - was struck down by the Federal Supreme Court (STF), which ruled in 2021 that the change was unconstitutional, and re-established the exemption from “honorários de sucumbência” for the financially weaker party. However, the obligation to pay costs was maintained if the plaintiff was unjustifiably absent from the hearing.

The most recurrent issues in labour claims have been and continue to be overtime, the

40% FGTS penalty, premium for unhealthy work, the penalty under article 477 of the CLT (Consolidated Labour Laws) and severance pay.

Despite the previous facts, the number of labour lawsuits in general fell clearly after the reform.

Due to the constraints of Brazilian Labour Law, based, as a rule, on the assumption that the employee is in a weak position vis-à-vis the employer, the employment contract was traditionally relegated to an accessory function, since the primary document for registering and consolidating the contract is the Employment Card, which must be submitted to the employer for registration of the employment relationship within 5 working days of the start of the relationship.

The Brazilian government has developed apps - Carteira de Trabalho Digital and Gov.Br - to consolidate information on employment relationships and social security history, so that the physical document tends to be replaced by one that is 100% digital.

In addition to the items mentioned above, all information relating to employment contracts is entered in a programme developed by the Brazilian federal government, called E-social, maintenance of which is the responsibility of the employer.

In addition to the CLT, collective bargaining agreements signed with the unions representing the professional categories play an important role, in which additional employee rights are often regulated, such as the minimum wage for the category for certain functions/professions (normative wage), in addition to compulsory annual wage increases. The collective agreement (convenção coletiva) is broader in scope, as it is signed between unions of the economic and professional categories of a given business activity. The agreement (acordo), on the other hand, is restricted to the company (or companies that are parties thereto) and the trade union of the professional category.

Union membership is based on the company's preponderant economic activity, and the principle of trade union exclusivity applies, that means, there is only one representative union in the territorial base.

The legal minimum wage in Brazil is currently (2025) R$1,518.00 (one thousand five hundred and eighteen reais). However, many states in the Federation have

opted to set regional minimum wages, calculated and defined on the basis of the parameters specific to their region. The minimum wage plays a significant role in the economy, especially in agriculture and in the North and North-East of Brazil. In São Paulo, higher wages are usually paid due to the high cost of living.

In the area of senior management, salaries are comparable to those in Europe, salaries for proven specialists and senior managers are sometimes even higher. The new labour law expressly stipulates that the terms of the contract can be freely negotiated for these employees (with a university degree and salaries equal to or more than double the social security benefits in Brazil) in all respects that do not contravene labour protection provisions with the same legal effectiveness and predominance over collective instruments and the law.

Arbitration clauses can now also be agreed in their contracts. In this case, it is not necessary to hold a university degree, but only the salary criterion, covering categories that do not always have such a qualification, such as athletes in various sports.

In addition to the salary, the employer must pay 8% of the employee's monthly remuneration into the Length of Service Guarantee Fund (FGTS) and the social security contribution, which, depending on the degree of risk of the economic activity, can reach percentages of more than 30%. In case of termination of the contract from the employer's side, the employee will receive the complete amount from this Fund. Additionally, the employer is obliged to pay a fine of 40% of the complete amount in case of termination from his side.

As a rule, employment contracts in Brazil are open-ended. Fixed-term employment contracts are only possible under strict conditions, in the cases set out in article 443 of the CLT. A fixed-term contract will only be valid in the case of a) work the nature or transience of which justifies predetermination of the term; b) business activities of a transitory nature; and c) a probationary contract. There must be a minimum period of 6 (six) months between one fixed-term contract and another, otherwise the contract will be considered null, and void and the two contracts will be declared to be one and the same, and the legal nature will be changed to an indefinite term with all the consequences, especially regarding the severance payments.

The legal probationary period in Brazil is a maximum of 90 days, during which time the employment relationship can be terminated by either party at any time, with lower severance costs, since prior notice and FGTS penalties are not due in this type of contract termination.

As for the rest, fixed-term workers enjoy all the benefits stipulated in the CLT, such as FGTS, 13th salary, paid vacation, etc.

Both fixed-term and indefinite-term as well as temporary contracts can be terminated for just cause by the employer, based on the legal grounds provided for each case in the labour law.

The comparatively high costs of salaried labour lead employers to seek alternatives to hiring workers, through outsourcing or "pejotisation", which consists of hiring one or more specialised professionals in the form of a legal entity to provide personal services to companies. The employer who takes on outsourced services is always considered to be subsidiarily liable for the provider's debts. Pejotisation has been validated by the Brazilian Supreme Court.

Law 6019, as amended by the Labour Reform, prohibits the rehiring of employees (directly or indirectly through external service providers) before the end of an 18-month quarantine period from the termination of the employment relationship. The only exception applies to employees who retire and provide services through a

company of their own.

The statutory work schedule is a maximum of 44 hours a week and 8 hours a day, with daily compensation for Saturdays not worked permitted. In some industrial sectors and the retail trade, work can also be performed at weekends. For office workers, on the other hand, the five-day week with a working time of 40 to 42 hours has largely prevailed.

There must be an 11 hour break between the end of one working day and the start of another. In all continuous work, the duration of which exceeds 6 hours, it is mandatory to grant a rest or meal break, which must be at least 1 hour. Work that does not exceed 6 hours a day guarantees a minimum break of 15 minutes.

Employees in positions of trust, as well as outsourced workers and teleworkers, are excluded from the provisions on working hours if they meet the requirements laid down by law.

Overtime work may be subject to varying percentages, at least 50% for work on weekdays and Saturdays and 100% on Sundays and public holidays, although it is very common for collective agreements and conventions to provide higher rates.

Every employee is legally entitled to a 13th month salary. In addition, every employee must receive a vacation allowance amounting to 1/3 of their salary at the start of the vacation.

Statutory vacation entitlement is 30 calendar days per year, i.e. weekends are included. In the event of high absenteeism, the number of days of vacation may be reduced. The right to vacation already arises in the first year of employment, but leave can only be taken after the end of the first year of employment.

Under the new labour law, the period of leave no longer has to be continuous: a division into a maximum of 3 periods is now possible, provided that one of them is at least 14 days and that the others are not less than 5 days.

Employees can also choose to sell up to 1/3 or 10 days of their vacation and must notify the company of their decision within 15 days before the “anniversary” of the employment contract.

All companies must negotiate with their employees a share of profits or in previously defined work results. This is a good opportunity for the employer to motivate employees in relation to certain targets. The bonus to be paid is not subject to social security contributions, nor does it constitute a basis for calculating labour rights/obligations; the employee’s personal income tax is taxed separately from the other salaries received by the employee and in accordance with a separate table.

On the other hand, great caution should be exercised when paying bonuses/awards etc., which are not to be confused with PLR (Participation in Profits or Results). Habitual payments, regardless of the nomenclature used and if they do not fall within the specific characteristics of certain benefits, such as the PLR, should be made with caution, as the Brazilian Labour Courts tend to recognise their regularity for the purposes of characterizing the salary nature of the payment. According to the new legislation, bonuses no longer have a salary nature for labour and social security purposes and are therefore not subject to accessory and social security contributions, if they are paid in recognition of the employee’s exceptional performance.

Tools and equipment’s of work provided solely for performance of the employment contract, such as a vehicle, cell phone, notebook, tablet and other tools are not considered part of the employee’s remuneration for legal purposes. Private use of these assets may have legal consequences, especially for social security

and tax purposes. Likewise, social benefits such as health and dental plans, prostheses, orthoses, life insurance, education, transportation, etc. are not included in the employee's remuneration for legal purposes.

Employees who perform identical duties and provide work of equal value to the same employer in the same business establishment shall be entitled to equal pay without distinction as to gender, race, nationality or age, within legal requirements.

The employer may transfer the employee to a location other than the one stipulated in the contract, but must, as a rule, obtain the employee's consent to do so. A transfer is not considered as such when it does not entail a necessary change in the employee's domicile, i.e. if the transfer to another location does not cause the employee to change residence.

The Federal Constitution, labour law and collective bargaining agreements grant employment guarantees to certain categories of workers, such as pregnant women, union leaders, members of the CIPA (Internal Accident Prevention Commission), employees of compulsory military service age, pre-retirement workers, those who have suffered accidents or are ill as a result of their work, and those with stigma diseases, such as HIV, cancer and others. The unmotivated dismissal of employees in this condition is considered arbitrary and/or discriminatory, in the light of Precedent 443 of the TST, attracting reinstatement or the payment of compensation for stability, without prejudice to condemnation for material, moral and/or existential damages and administrative sanctions imposed by the specialised inspection authorities, especially the Ministry of Labour and Social Security and the Public Prosecutor's Office.

Brazilian legislation has strict rules on occupational hygiene, medicine and safety, requiring all companies to adopt specialised risk management control programmes in the workplace, without prejudice to others specific to the economic activity engaged in, considering not only company's structural aspects, but also psychosocial risks.

Working in unhealthy conditions, in contact with physical, chemical and biological agents, above the tolerance limits established by the Ministry of Labour and Social Security, guarantees the payment of an additional 40%, 20% and 10% of the minimum regional wage, depending on whether the unhealthy conditions are classified as maximum, medium or minimum.

Dangerous activities or operations, in the form of regulations approved by the Ministry of Labour and Social Security, are those which, by their nature or working methods, involve a high risk due to permanent exposure of the worker. Dangerous agents include inflammable materials, explosives, ionizing radiation, electrical energy, theft or physical violence in the professional activities of personal or property security and work on motorcycles. Working in hazardous conditions entitles employees to an additional 30% (thirty percent) on top of their basic salary.

The employee may file a labour claim against his/her former employer within 2 years of termination of the employment relationship. Such right is retroactive for 5 years.

VISAS FOR FOREIGNERS

Generally speaking, foreigners need a residence permit for a stay of more than 90 days in Brazil. This authorisation can be obtained in the form of a temporary visa/ residence permit and based on specific situations, for which certain requirements and documents will be demanded. In principle, the Brazilian government handles the granting of the corresponding visas/residence permits in a judicious manner. Accompanying family members can also receive a visa/residence permit.

There is no provision for the automatic granting of foreign visas arising from foreign participation in the equity of a Brazilian company, which requires an investment of at least R$ 600 thousand to apply for a visa/residency for a foreign director/manager. An alternative is the investment of at least R$ 150 thousand with the simultaneous commitment to create at least ten new jobs in the two years following the granting of residence to the foreign administrator.

Foreign individuals can obtain a visa/ residency permit if they make a direct investment in a Brazilian company in the minimum amount of R$ 500 thousand. In this case, the necessary number of jobs created in Brazil will be examined, among other aspects, ac- cording to the investment plan to be presented when applying for the visa. In exceptional cases (for example, investments in innovation, research and technology companies), a visa can also be issued with a reduced investment of at least R$ 150 thousand.

The visa application process is bureaucratic and is usually handled in Brazil by specialised service providers who have relevant experience and contacts with the competent authorities, and whose engage- ment generally pays off. The procedure itself usually takes one to two months, but at least two months should be allowed for compiling the necessary documents (which are often also requested successively during the procedure). Foreign workers who are not required to hold a management position can request a temporary visa/residency, generally for two years. The issue of this visa is linked to the existence of a work contract with a Brazilian company, which must be approved by the Ministry of Justice, Labour Division. During the procedure, it is necessary to prove, in general, professional experience and minimum schooling of twelve years, depending on the case. The holder of a visa based on an employment contract under the

above terms will only be entitled to work for the company that hired them. When applying for such a visa, it is also advisable to involve the service providers referred to earlier.

With regard to hiring foreign workers, it is necessary to take into account the – legally not undisputable – "proportionality principle" (Art. 354 of the Brazilian Consolidated Labour Laws), which, in the interest of national workers, stipulates that in Brazilian compa- nies at least 2/3 of the employees must be Brazilians. Note that, in addition to the number of employees, the respective salaries are also subject to the same rule. Especially with new companies with few employees, this can be a problem.

Apart from the hiring of employees, the Brazilian Aliens Law includes various special regulations, for example for training, as well as for foreign technical personnel that are to work in Brazil, who are not allowed to enter into an employment relationship with the Brazilian company.

Entrepreneurs who come to work in Brazil without receiving a salary here do not need a special visa. They only need to mark the "business" option on the entry form.This entitles them to a 90-day stay, which cannot be extended in the case of Europeans in general. Within 180 days from the date of first entry, re-entry is possible for a maximum period of 90 days.

Specific information in individual cases should, in any case, be obtained from one of the Brazilian consulates in Germany before entering Brazil.

ACQUISITION OF REAL PROPERTY

Real property in urban areas, such as land, factories, apartments and houses, can be acquired without restrictions by persons who are not residents of Brazil. However, there are restrictions on properties in rural areas, regardless of whether they are used for recreational purposes or for the production of agricultural products. The acquisition of such property is generally prohibited for foreigners who are not residents in Brazil. Foreigners residing in Brazil can only acquire such property on the following conditions:

• Properties with an area of up to three rural modules are not subject to any restrictions and are exempt from authorisation from INCRA, although registration with that agency is required. Prior authorisation from INCRA is mandatory as of the second acquisition, even if the sum of the areas of the properties does not exceed three modules.

• Properties with an area of three to 50 modules can only be acquired with the permission of the competent authority (depending on the type of use intended). For the acquisition of areas larger than 20 modules, a project for exploitation of the property must be submitted.

• The acquisition of land with more than 50 modules requires government approval.

The size of a rural module varies

according to the region and type of use and is determined by INCRA (Nat. Institute of Colonisation and Agrarian Reform).

As for the purchase of rural properties by foreign legal entities, acquisition is possible by setting up a Brazilian company the control of which remains in the hands of the foreign buyers.

Such a company may be set up whether the buyers have a permanent residence visa in Brazil or not. This leads to various consequences:

• If the foreign controlling partner that incorporates the company does not have a permanent visa, it is necessary to obtain authorisation from INCRA and submit an exploitation project to enable the company to become owner of the property.

• If on the other hand the controlling partner has a permanent residence visa, there is no impediment or requirement for purchase of the rural property, since the company is treated as a typical Brazilian company. Note, however, that this matter is not entirely pacific, and there exist diverging opinions among land registry offices.

Regardless of the above rules, Law no. 13.986/2020 (also known as the New Agro Law) created an innovation for the agribusiness sector.

An important exception to the strict rules governing the ownership of real estate in rural areas is now regulated in the following manner: the law allows the provision of guarantees in favour of foreign companies or domestic companies controlled by foreigners. If the guaranteed liability is not settled by the debtor, the foreign company or the Brazilian company controlled by foreigners may now become owner of the property.

In general, it should be noted that the acquisition of real property in Brazil is fraught with legal risks that should not be underestimated. This results mainly from the fact that the significance of the registration of land is limited.The involvement of a local lawyer is therefore strongly recommended.

The involvement of real estate agents is common. Their commission, which can often be significantly higher than commission rates in other countries, is usually paid by the seller.

In practice, preliminary contracts are usually first entered into with a down payment of 5% to 10% of the purchase price. If the buyer withdraws from the purchase, he forfeits this deposit; and if the sale is not completed through the fault of the seller, the deposit will be returned to the buyer in double.

The rate of real estate transfer tax (ITBI) on the purchase of property ranges from 2% to 8%, depending on the municipality.

ENVIRONMENT CONSIDERATIONS

For most environmental matters, the precise division of competence between the Federal, State and Municipal levels was structured in its current form in 2011 (Complementary Law 140/2011) in such a way that, apart from a relatively small group of activities of exclusive federal competence (e.g. nuclear activity and/or linked to territorial boundaries), environmental issues may be the object of regulation in the three spheres, with the Federal Government being responsible for general provisions, while states and municipalities may determine the details in accordance with their particular conditions and objectives. In practice, this has resulted in a predominance of state-level regulations in the country's most developed regions, which is the case of the state of São Paulo.

Investment Project Approval: Environmental Licensing in the State of São Paulo

What is an Environmental License?

An environmental license is an administrative act issued by a competent environmental authority that, based on applicable legal

provisions and technical standards, certifies the feasibility of installing, expanding or operating a given project.

Projects are subject to environmental licensing depending on their economic activity classification, defined by the CNAE – National Classification of Economic Activities. Article 57 of the São Paulo State Decree No. 8.468/1976 lists the activities subject to environmental licensing, with industrial sectors detailed in Annex 5.

It is important to highlight that, in 2025, Federal Law No. 15,190/2025 - commonly referred to as the General Environmental Licensing Law - was promulgated. Although not yet in effect, this new legislation introduces substantial changes to the environmental licensing procedures currently applied across Brazil. This document focuses on the environmental licensing process that is currently in effect.

Environmental Licensing in the State of São Paulo

The State of São Paulo follows the procedure determined by National Environmental Council (CONAMA) Resolution no. 237/1997, which regulates the National Environmental Policy Act (Federal Law 6.938/1981) in respect of the licensing of potentially polluting activities. Although the environmental licensing system is basically the same throughout the Brazilian Federation, the specific procedures and technical requirements may differ across states.

In São Paulo, the obtaining of environmental licenses is regulated in detail by state legislation following the general "triple licensing system", whereby projects must obtain a Preliminary Permit (Licença Prévia), followed by an Installation Permit (Licença de Instalação) and finally the Operation Permit (Licença de Operação).

Granted at the planning stage, the LP evaluates essential aspects such as project location, environmental feasibility, conceptual design, and the selected technology.

The Installation Permit authorises the physical implementation of the project in accordance with approved engineering plans and environmental programmes, including risk-management and pollution-control measures. It may be combined with the Preliminary Permit (LP) for low-impact projects.

Finally, the Operation Permit is granted before the start-up of full operations by the investor company. Each license has a specific validity period, which must be strictly observed by the proponent.

Land use Planning and Environmental Approvals

All environmental licenses require compliance with zoning and land use planning regulations. In Brazil, municipal governments are responsible for preparing and updating their Master Plans (Planos Diretores), resulting in significant differences in regulatory structure and complexity among cities.

A key feature of most land use plans is a territorially unambiguous division between urban and rural areas. Except for agro-industrial activities and other industrial projects which may be authorised in rural areas, industrial activity is considered by most municipalities as an urban activity, which may be conducted in urban areas according to each plan. In many municipalities, it is common that areas under evaluation are still zoned as rural or have a zoning status which is incompatible with the project at that moment in time. This means that land use plans must be updated by the municipality. This can be done in accordance with the provisions of the City Statute (Federal Law 10.257/2001), alongside any existing specific municipal provisions, with a specific regulatory process involving public consultations and after City Council approval.

If the change of land use plan involves urbanisation of rural areas, the property documentation must be updated to reflect the new zoning status, and any environmental non-compliance regarding rural property obligations (e.g. "legal reserve" – 20% green areas) under Federal Law No. 12.651/2012 - must be addressed.

Key Aspects to Consider in Environmental Licensing: General Site Characteristics, Water Use, Waste Management, and Air Emissions

General Site Characteristics

The environmental profile of the selected project site plays a decisive role in shaping both the complexity and the overall timeline of the licensing process. Sites that contain environmental liabilities, native vegetation, surface water features, degraded riparian areas, or sensitive and protected ecosystems may require additional technical studies, compensatory measures, or specific licensing procedures. These conditions can extend regulatory review timelines, increase the need for onsite assessments, and result in a broader set of mitigation requirements to secure project approval. For investors, understanding these site-specific sensitivities early in the evaluation phase is essential to ensure accurate scheduling, cost planning, and risk mitigation.

Water Resources

Under Brazilian law, water resources (both surface and groundwater) are public assets to which all persons (individuals or legal entities) have the right of access, with the public authorities being responsible for their administration and control. Anyone intending to use or interfere with water resources must request authorisation from the competent authority, namely the National Water Agency (ANA) for water issues in the federal area and and the São Paulo State Water Agency (SPÁguas – formerly DAEE) — within the State of São Paulo.

The grant of the right of use or interference (outorga) is an administrative act which allows water to be used for a certain period and purpose, and subject to certain express conditions. Considering that all potentially pollutant operations are subject to environmental licensing, aspects regarding water collection/ use and effluent discharge will be verified during the authorisation process.

Projects must comply with effluent discharge requirements and emission standards established under State Decree No. 8.468/1976 and CONAMA Resolution No. 430/2011. In the State of São Paulo, these obligations vary depending on whether wastewater is discharged into the public sewage system or directly into a natural water body.
For direct discharges, companies must meet and continuously monitor the applicable water-quality standards, ensuring that effluents do not degrade the receiving water body. The classification of each water body—and the corresponding quality thresholds—is defined by CONAMA Resolution No. 357/2005.

Sites not connected to a public sewage network must present a technical solution for both sanitary wastewater and industrial effluents, including treatment, monitoring, and discharge solutions.

Solid Waste Management

State Law No. 12.300/2006 establishes the framework for solid waste management in the State of São Paulo. Under this regulation, all major waste generators are required to develop a comprehensive Solid Waste Management Plan and report their annual waste data to the environmental authority. Furthermore, any off-site transportation of waste must be accompanied by the appropriate documentation and, in most cases, must be authorised through CADRI (Certificate for the Transport of Environmentally Relevant Waste). This authorisation enables the transport of such waste to facilities responsible for reprocessing, storage, treatment, or final disposal.

Additionally, CETESB Decision 76/18 establishes the legal requirements for the development and implementation of

Reverse Logistics Systems for applicable sectors. As part of the environmental licensing process, companies must submit and obtain approval for their Reverse Logistics Procedure, which is a prerequisite for project approval and subsequent operations.

Air Emissions

In the State of São Paulo, the São Paulo State Environmental Company (CETESB) is responsible for the implementation of stationary source air pollution control policy. Generally speaking, the licensing process will consider the localisation, emission intensity and control measures before companies can be granted their licence to operate.

Emission standards for new stationary sources of air pollution in Brazil are established by National Environmental Council (CONAMA) Resolution No. 382/2006. State regulations provide additional detail on applicable limits and emission conditions. Depending on local conditions—such as pollutant dispersion and regional air-quality characteristics -authorities may apply more stringent requirements on a case-by-case basis, as provided for in State Decree No. 59.113/2013, which establishes air-quality standards. Regardless of these specific conditions, all new emission sources in São Paulo are required to adopt air-pollution control systems based on the Best Available Technology (BAT) concept.

The most common general requirements for stationary air pollution are that gaseous effluents from the combustion of solid, liquid or gaseous fuels must be discharged through chimneys, and all air pollution sources must have a local exhaust ventilation system. Moreover, all effluent may only be discharged into the atmosphere by means of chimneys, except when otherwise stated specifically. Additionally, CETESB will demand, whenever necessary, the installation and operation of automatic monitoring devices with registering capabilities.

Key Points

As outlined throughout this document, environmental legislation and regulatory requirements are extensive and multifaceted. For this reason, it is essential that the licensing process be prepared and guided by an experienced professional. We therefore recommend that investors hire an Environmental Consulting firm with proven expertise in the State of São Paulo to lead the Environmental Licensing procedures. InvestSP supports investors throughout the process; however, this support does not replace the technical role of a specialised Environmental Consultant.

As the environmental licensing process can be time-intensive and involves a broad range of regulatory and technical obligations, companies should incorporate this stage into their overall project planning and timeline to ensure that the required licenses are obtained in a timely manner.

Final Considerations

It is important to highlight that the points outlined above do not encompass all the considerations required in the environmental licensing process; however, they represent the most relevant aspects.

InvestSP has a dedicated Environmental and Infrastructure team that supports investors in selecting the most suitable location for their project. Our preliminary assessment considers the environmental and infrastructure conditions that are best aligned with the characteristics and needs of the enterprise.

COMPLIANCE

Compliance is becoming increasingly important in Brazil. Since the enactment of the Brazilian anti-corruption law, Law nº 12.846/13, in effect since January 19, 2014, as well as Decree nº 11.129/2022, compliance and integrity programmes are practically mandatory for companies in Brazil, regardless of size and sector. The law stipulates severe penalties in the case of crimes against domestic or foreign authorities. For example, in the case of crimes such as bribery or fraud, fines of up to 20% of gross annual turnover may be imposed.

A reduction in sanctions can be achieved, in particular, through effective compliance programmes that meet the requirements of Decree nº 11.129/2022. In practice, compliance with the rule is important for companies because their liability is independent of fault, including liability for actions by third parties that favour the company. The company‘s senior management may also be held personally liable.

Accordingly, the Office of the Comptroller General (CGU) has recognised the need for compliance and similar programmes. Standards of ethics and conduct will be expanded, and special policies and procedures will be put in place to provide rules for employees and their contacts in day-to-day business. The goal is to prevent crimes as far as possible from the outset or at least to mitigate their consequences.

The introduction of compliance programmes aims to reduce the risks arising from the complexity of business activities and strengthen the culture of control, in order to ensure compliance with legal regulations.

DATA PROTECTION (LGPD)

Until a few years ago, Brazil did not have a strong data protection culture, for which reason this concept did not play an important role in the daily life of companies. Although the Civil Rights Framework of the Internet (Law no. 12.965/14) was passed in 2014, it was limited to data security in the use of the Internet and did not cover the need for the legal regulation of issues involving privacy and data protection.

This reality changed with the enactment of the General Law on Personal Data Protection (LGPD), which came into force in September 2020. The law is significantly influenced by the General Data Protection Regulation (GDPR) of the European Union.

The LGPD is applicable to all individuals and legal entities governed by public and private law that process data in any way in the course of their business. In accordance with the law, data processing is defined as any operation carried out with personal data, such as collection, reception, access, use, reproduction, transmission, storage, etc.

The Law defines personal data as all data relating to an identified or identifiable natural person.

The main purpose of the law is to ensure compliance with the rights of data subjects (i.e. the persons to whom the data being processed relates) and to ensure that companies process personal data of employees, customers, suppliers and/or third parties responsibly and in compliance with the prescribed limits.

High security standards must be applied to the processing in order to prevent incidents with personal data or minimise the damage caused by such incidents. In doing so, the relevant legal bases (such as, for example, consent of data subjects, where required) must be observed, as well as the principles set forth in the LGPD, such as specific and legitimate purposes, limitation of collection to strictly necessary data, transparency, non-discrimination and accountability. To implement the LGPD, companies need to have internal rules in place.

The implementation of a data protection compliance programme is recommended. In this regard, companies need at least:

I. to know the scope of the personal data they use in the course of their activities;
II. to identify the relevant legal grounds for data processing;
III. to assess any risks with regard to the protection of the data of the subjects;
IV. to implement protection mechanisms for each individual processing, including appropriate technical and organisational security measures;
V. to review the suitability of sharing and/or trans- ferring personal data to third parties (including international transfers) and
VI. to plan measures to deal with any incidents.

Legal and technical support is essential at the various stages of adaptation to the LGPD. Such adaptation to the new law is an ongoing and permanent process that must necessarily become part of corporate governance.

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