

DOING BUSINESS IN

BRAZIL

Frequently Asked Questions

Almeida
CORPORATE LAW

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FOREWORD

We at **ALMEIDA ADVOGADOS** understand the difficulties that companies face when looking to develop their overseas businesses, particularly in a market such as Brazil, or Latin America in general. To this end, we have prepared this study, based on the questions that are more frequently asked by our clients. For those contemplating Latin America for the first time, the information contained herein will help to develop an initial understanding about the Brazilian market.

After reading the information contained herein, please contact us if you need any additional clarification. We will be delighted to provide you or your company with a greater comprehension of the Brazilian market and its opportunities.

BRAZIL

- Strategically located in South America, it shares borders with ten countries: Argentina, Bolivia, Colombia, French Guiana, Guyana, Paraguay, Peru, Suriname, Uruguay and Venezuela.
- Democracy with stable public institutions such as the Chamber of Representatives, the Federal Senate, and the Courts of law.
- Population: 190,732,694 (one hundred and ninety thousand million, seven hundred thirty two thousand, six hundred ninety four).
- Roman Catholicism is the predominant religion.
- The national language is Portuguese, though English is widely written and spoken in urban areas and in business.
- Currency: Real (R\$).
- Investment growth areas include infrastructure, energy, transportation, utilities, telecommunications and tourism.



I. Corporate

1. What are the main corporate structures in Brazil?

There are many different types of corporate structures in Brazil. The most common are Corporations (S/A) and Private Limited Liability Companies (LTDA. – Limitada). Presently the vast majority of companies are organized as limited partnerships. The corporation is the second most common corporate type.

In general terms, the relevant differences between limited partnerships and corporations are the costs and the bureaucracy involved in the operation. While the limited partnerships feature cheaper and easier maintenance, the corporation requires a higher number of formalities in order for its corporate acts to be duly valid and enforceable.

The Limited Liability Company (LTDA) (equivalent to the US Limited Liability Company - LLC - and to the UK Limited Liability Partnership - LLP), is the most common type of company in Brazil, due to the aforementioned cheaper and easier maintenance.

A brief summary of each corporate type is presented below:

Private Limited Liability Company (LTDA. – Limitada)

This organizational structure requires incorporation of a company by at least two partners. It is organized as a Business Partnership and may engage in commercial, industrial, and service activities. Its bylaws are registered with the Board of Trade (Commercial Registry). Shares represent the participation of each partner in the company's capital, with each partner's liability limited to the value of his/her shares or quotas, once the capital is fully paid.

The LTDA. is commonly used as a subsidiary of foreign corporations. Although its bylaws take the form of a partnership contract, it is considered an entity separated from its shareholders. Minimum capital requirements are not imposed as a rule, but minimum capital may be required for specific purposes, such as obtaining a permanent visa for a non-resident moving to Brazil to manage the company (presently R\$150,000) or requiring an import/export license. Capital may be paid in cash or assets and must be, predominantly, in Brazilian currency.

Finally, companies as well as individuals may be partners of a *Limitada*. Non-resident members must grant a power of attorney to representatives residing in Brazil to receive service of law, to act on their behalf at meetings, and to modify bylaws/agreements. In order to participate more actively in the decisions of the company, foreign shareholders may institute an advisory council, to which they can indicate members that live abroad, to pre-approve the acts performed by the company's manager, director or administrator, once those positions may only be held by a Brazilian or by a foreigner with resident visa in the country.

Corporations (S/A)

Although the *Limitada* has proven more effective for the creation of a Brazilian subsidiary, if some degree of public ownership is desired, it may be necessary to adopt a *Sociedade Anônima* (S/A) type structure, equivalent to a Corporation in the United States. There are other situations for which the adoption of a corporate organization is not mandatory, but is still recommended. In order to establish this kind of company, at least two stockholders – the partners – are needed, whose liability is limited to the issued cost of subscribed or acquired capital. The capital stock of the company is divided into shares, and the company must aim for profits. It is regarded as a trading company, no matter what its purposes are. Capital may consist of cash or assets. This form of business organization may, therefore, be defined as a business corporation, its object being the earning of profits to be distributed to the shareholders.

The company may be considered “public” or “private,” depending on whether or not the securities are traded on the Stock Exchange or in the over-the-counter market. Public (open capital) corporations trade their stock in the Stock Exchange and private ones (closed capital) do so through financial institutions. An open capital company obtains funds through public offers, and subscriptions must be registered with the Securities Commission, the federal agency in charge of regulating and auditing such firms. The closed company obtains capital from its own shareholders or subscribers, and it has a simple accounting and administration system.

Both types require registration with the Board of Trade. We emphasize that both forms, S/A and LTDA., are allowed by law to transform, merge, consolidate, or split.

2. What are the main differences between LTDA. and S.A.?

	LTDA	S.A.
Costs	Lower	Higher
Formalities to corporate acts	Must be publicized	Does not need to be publicized
Liability	limited to the value of each partner's quotas, once the capital is full paid	limited to the issued cost of subscribed or acquired capital
Participation in the Stock Exchange or in the over-the-counter market	Its securities cannot be traded in the Stock Exchange or in the over-the-counter market	Its securities can be traded in the Stock Exchange or in the over-the-counter market
Partners	As least two, either individuals or legal entity	As least two, either individuals or legal entity
Capital Requirements	Shall be paid in Brazilian Currency	Shall be paid in Brazilian Currency and at least 10% (ten percent) of it must be deposited in a bank account
Foreign Partner participation	As a member of the advisory council	As a board member

3. Is the transformation of a LTDA into a Corporation or vice versa possible?

The transformation of a LTDA into a Corporation or vice versa is quite simple and inexpensive. The law states that all shareholders or members must agree with the transformation, unless the corporate bylaws or articles of association provide otherwise.

4. May those companies be managed by foreign directors?

The administration of both types forms of Company, S/A and LTDA., shall be performed by a natural person resident in Brazil. Thus, a foreigner can hold such a position as long as that person is in possession of a permanent working visa, which shall be granted in accordance with the rules explained under item 21. *infra*, in addition to a labor and social security card (“*Carteira de Trabalho de Previdência Social*”).

Also, it is important to emphasize that the S/A needs to have at least **two** officers, while the LTDA. at least one.

5. Are there any activities which foreigners may not conduct in Brazil?

Some economic activities such as public health, mail and telegraph, activities related to media, nuclear energy, airlines with domestic flight concessions, sanitation, and the aerospace industry continue to be restricted to foreign investment.

Foreign investors can only hold a minority interest in media, financial institutions and insurance companies, but may acquire control of a bank with prior authorization from the government. Additionally, there are restrictions on foreign participation in activities subject to national security concerns and on foreign ownership of rural areas and businesses in border zones. A potential investor should consult the government agencies that would most likely hold an interest in a proposed project. This process can sometimes yield significant benefits to the foreign investor, since the government generally prefers to grant incentives (tax and funding costs, for example), rather than restrictions, to encourage investors.

6. Are there any necessary Approvals or Licenses?

Appropriate approvals and licenses are required for the operation of any business activity. These may be obtained from the relevant ministry, government agencies and/or local councils. Application process and prescribed fee payable vary depending on the prescribed condition for the application and the geographical location where the activity is proposed.

7. What is considered a Foreign Direct Investment (“IED”)?

An IED is any contribution of money from abroad that is invested in the domestic production of a country, i.e., in the form of stakes in existing companies or creation of new companies. One of the requirements for the classification of an investment as an IED is that the foreign investor owns 10% or more of the ordinary shares or of the voting rights of a company. All IED operations are registered directly in the Brazilian Central Bank System (Sisbacen).

8. Which are the deadlines and costs to organize a Brazilian company?

As a reference, for purposes of organizing the Brazilian entity we estimate a 50-day term to have the company registered in the Commercial Registers, Ministry of Finance (CNPJ), City Hall and Brazilian Central Bank. In all cases, we must consider whether there is need for additional registration in light of the corporate purpose, such as Health Surveillance and others. In this case, additional periods of time

may be required. Such terms may vary as we would be dealing with public authorities not legally obliged to comply with specific terms to fulfill their respective obligations. Please find listed below the necessary documents in order to constitute a new company.

Brazilian Bodies	Cost	Time (working days)
Commercial Registry	US\$35.00 to US\$75,00	10 to 20
Ministry of Finance ("CNPJ")	US\$ 25,00	15 to 30
City Hall, Brazilian Central Bank and others	US\$ 75,00	10 to 15
TOTAL	US\$ 175,00	35 a 65

Finally, it is important to highlight that according to Brazilian law all documents written in a foreign language need, for being valid in Brazil, to be notarized by a notary in their country of origin, certified by the local Brazilian embassy or consulate (nearest to the company's address or person's residence) and sent to Brazil to be sworn translated and certified by a local Brazilian notary.

Depending on the country of origin of the foreign partner, the above mentioned process takes from 20 to 45 days. Only upon its completion, it is possible to present the constituting documents of the Brazilian subsidiary to the Commercial Board. The partners' documents have to be attached the Brazilian company's incorporation documents.

II. Tax

9. Which are the main applicable taxes in Brazil?

Applicable Taxes	
Corporate Tax	
Income Tax (IRPJ)	Income tax is due by corporations on their incomes. Corporations pay IR at a base rate of 15% under an Actual Profit Regime, plus an additional 10%, on all taxable income exceeding R\$20,000/month, R\$60,000/quarter, or R\$240,000/year. The income tax basis is consistent with all revenue, regardless of source.
Social Contribution on Profits (CSLL)	Profit earned by companies is taxed at 9%, with the same basis as Income Tax.
Contribution to Social Security Financing (COFINS)	Intended to finance Social Security, this contribution is levied on a monthly basis, on total revenues collected by a Brazilian company at a rate of 7.6%. This contribution is also due when services or products are imported.
Contribution to the Social Integration Program (PIS)	Similar in implementation and purpose to COFINS and levied at a rate of 1.65%.
Social Contribution to the National Social Security Institute (INSS)	In general, this contribution is paid by the employer at a rate of 20% on payroll.
Personal Income Tax	
Income Tax (IR):	Individuals are taxed at a progressive rate based on their tax bracket, with a maximum of 27.5%. A person is considered "resident" in Brazil if he or she stays in Brazil for at least 184 days in a calendar year.
Withholding Tax	Generally, payments made to non-residents are subject to withholding Income Tax (IRRF) at the rate of 25%. Also, payments made to workers are subject to withholding Income Tax (IRRF) at the rate maximum of 27.5%. In this sense, companies are submitted to Social Contribution withholding (INSS) of 11% on the salary contribution of the employee.

Other taxes	
Federal	
Import Tax (II)	Foreign products entering in Brazil are taxed by II and the payment is due at the moment goods are declared. The tax is based on the custom value of the product and the rate varies according to the nature of the product (goods considered "essential" are taxed at a reduced rate).
Export Tax (IE)	This tax is related to products to be exported and payment is due at the moment the goods are declared for export. To encourage the exportation of Brazilian goods, IE covers only a select few products.
Excise Tax (IPI)	This is applicable to all imports and domestically manufactured goods sold within Brazil, with limited exceptions. The rate for the IPI is determined by the IPI table ("TIPI"), which takes into account the tax classification number of the relevant product. IPI is calculated on the aggregate value of the good. It is assessed on the import operation at the time of customs clearance and the manufacturer at the time of shipment of the completed good.
Tax on Financial Transactions (IOF)	This tax has different rates according to the financial transactions in question – those relating to credit, currency exchange, or bonds and securities.
Merchant Marine Renewal Tax (AFRMM)	Calculated on goods imported to Brazil by sea, with varying rates (generally 25%).
Economic Domain Intervention Contribution (CIDE)	This tax covers royalty payments on technology transfer agreements, trademark and patent licensing agreements, and supply of technical assistance. The tax is paid on the monthly royalty payments of the party who imports or commercializes the item, at a rate of 10%.
State	
Tax on transfers resulting from death or donation of any property or rights (ITCMD)	A tax levied on the transfer of any property or property rights at a rate of 4%.
State Value-Added Tax (ICMS):	This is levied on the circulation of goods, for provision of interstate and intermunicipal transport services and communication services, including operations initiating abroad. The ICMS should be paid upon the importation of goods, at customs, even if the product is used for personal consumption or as part of a fixed asset. The tax is based on the value affixed by the importation document in addition to the II, IPI, IOF, and other customs expenses. ICMS rates vary from State to State (from 7% to 25%) and according to the type of product.
Tax on automobile ownership (IPVA)	The rate may vary from State to State but, in general, it corresponds to 4% of the value of the vehicle.
Municipal	
Tax on urban real property (IPTU)	This tax is incident on the ownership of real property located within the city borders, it may have progressive tax rates in order to ensure compliance with the social function of property.
Property transfer tax (ITBI)	Due on all transfers of real property <i>inter vivos</i> , irrespective of the amount of consideration. The acquisition can be by natural or physical accession and the tax is on any <i>in rem</i> rights to real property, with the exception of collateral, and the assignment of rights to the property. Rates vary by municipality.
Tax on services (ISS)	Tax on all services not covered by the ICMS. Rates are established by the municipality and vary depending on the service provided with a maximum rate of 5%.

10. Which are the International Tax Treaties signed by Brazil? How do they interfere in the Brazilian taxation policies?

Brazil currently has 29 international treaties relating to Income Tax¹ and 8 treaties regarding Social Security.² Generally, the Social Security agreements anticipate the applicability of domestic legislation with regard to pension obligations while the tax agreements (relating to income tax) override domestic law under the National Tax Code (Código Tributário Nacional – CTN).

To be consistent with the case-law of the Federal Supreme Court (Supremo Tribunal Federal – STF), the Brazilian Internal Revenue Service ("RFB) has required the retention of Income Tax (IRRF) even on remittances to countries with which Brazil has signed an agreement to avoid double taxation.

In this sense, according to the Principle of Reciprocity of Tax Treatment, if the RFB withhold income tax in Brazil, this value will be used as a tax credit in the country of destination. Contrariwise, in order to ensure equal treatment, the RFB provides tax credits in Brazil to the income earned and taxed abroad.

Operationally, in order to obtain this benefit, one must provide a (i) certified copy (accompanied by an official translation) of the Tax Treaty or (ii) a statement made by a Brazilian diplomatic representation located in the country of destination, attesting the reciprocal tax treatment. So far, in what comes to the income earned by individuals, the RFB has officially recognized the right of Brazilians living in the United States, United Kingdom or Germany to receive reciprocal treatment.

11. Does the government provide any tax/investment incentives?

Various tax exemptions and investment incentives exist to stimulate investment in promoted activities and products such as manufacturing, agricultural, tourism, environmental management, shipping, information and communication technology, as well as multimedia activities. Categories of investment incentives include industrial adjustment allowance, industrial building allowance, approved agricultural projects incentives, research and development incentives, inbound tour operators' incentives, incentives for approved overseas investments, and incentives for overseas construction projects.

¹ South Africa, Argentina, Austria, Belgium, Canada, Chile, China, Korea, Denmark, Ecuador, Spain, Philippines, Finland, France, Hungary, India, Israel, Italy, Japan, Luxembourg, Mexico, Norway, Netherlands, Peru, Portugal, Slovak Republic, Czech Republic, Sweden, and Ukraine.

² The Multilateral Agreement of Mercosur (Argentina, Paraguay, Uruguay), Cape Verde, Spain, Greece, Chile, Italy, Luxembourg, and Portugal.

III. Intellectual Property

12. What are the main guidelines to Intellectual Property protection in Brazil?

Brazil is a member of the World Intellectual Property Organization (WIPO) and a signatory to the main Treaties such as the Paris Convention, the Berne Convention, the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS), the Patent Cooperation Treaty (PCT) and the Brussels Convention Relating to the Distribution of Program-Carrying Signals Transmitted by Satellite.

Brazil's intellectual property laws conform to international standards and provide adequate protection to both local and foreign investors. Intellectual Property protection in Brazil comprises patents, trademarks, industrial design, copyright, software, geographical indications, indication of origin, unfair competition and layout designs of integrated circuits. Currently, Brazil is one of the parties to the Paris Convention for the Protection of Industrial Property, adopted by over 170 countries. This Convention brings uniformity and safety standards in the industrial and intellectual property protection and registration, while maintaining the autonomy and sovereignty of signatory Countries.

Registered patents, trademarks/service marks and industrial design enjoy monopoly rights/protection for specific periods of time. Unregistered trademarks are protected by the Brazilian courts from unfair competition. Copyright protection for literary, musical or artistic works, sound recordings, broadcasts and films is ensured, regardless of registration.

IV. Employment

13. What is the limit on working hours?

For employees in general, work is limited to a maximum of 44 hours per week or eight hours per day. This limit may be exceeded under certain specified circumstances. The minimum overtime premium is 50% (fifty per cent) of the amount paid for remunerating the regular hour.

14. What is the rule for collective lay-offs?

There is no rule regulating collective lay-offs. Therefore, the statutory severance rights payable to former employees are the same, irrespective of the number of employees that have their employment terminated.

15. What are the employees' benefits?

Employees under the protection of the Consolidated Labor Law (CLT) are entitled to statutory benefits such as weekly paid rest (DSR), overtime allowance, night work allowance, health hazard allowance, risk premium, public holidays, 30-day vacation pay (plus the payment of a 1/3 vacation bonus), sick leave, annual 13th salary, maternity leave and termination benefits, such as a 40% (forty per cent) fine over the Unemployment Guarantee Fund (FGTS) deposits. Every employer shall contribute monthly to the FGTS, by depositing an amount equal to 8% (eight per cent) of the monthly wages. Upon termination of employment without cause by the employer, the employee is entitled to the release of said deposits, plus the payment of a 40% (forty per cent) fine over said deposits.

16. How are wages determined?

Wages respond to the law of supply and demand. However, there is a minimum wage requirement, defined by federal law. Additionally, collective bargaining agreements may define a higher minimum wage for a specific category of workers.

17. How are Trade Unions regulated?

Trade Unions in Brazil are mainly regulated by the Brazilian Federal Constitution and by the CLT. The establishment of employee Unions is free provided that the new Union meets the criteria set forth by the Brazilian Federal Constitution, which forbids the same category of workers being represented by more than one Union within the same city. Upon formation, the Union will be entitled to levy a mandatory annual fee, to be deducted by the company from the employee's wage in the month of March. The collective bargaining agreement, which can be valid for a maximum period of two years, is legally binding and enforceable if it has been signed by the Unions that are legally allowed to represent the employer and the workers.

18. Do employees have the right to strike?

The Brazilian Federal Constitution recognizes the right to strike to employees of the private sector. The right to strike is regulated by federal law and its violation may subject the aggravating party to the consequences/sanctions of the Brazilian Labor Courts, which may include the payment of an indemnity and the termination for cause of individual employment agreement by the employer.

19. Is there any social security system?

The National Institute of Social Security (INSS) provides social security protection to employees who are Brazilians or permanent residents, and to their families. An employee contributes up to 11% (eleven per cent) of the employee's monthly wage, limited to a certain amount and according to a progressive rate. The employer, on the other hand, must make a contribution equal to at least 20% (twenty per cent) of the salary. Additional social security contribution regarding Occupational Accident Insurance and the "S System"³ may be due.

20. What is necessary to hire a foreign employee?

Foreigners who decide to reside in Brazil for work purposes need a work permit that must be granted by the Ministry of Labor and is required by Brazilian consular authorities, in accordance with the legislation in force. Before elaborating on the types of visas available, it should be emphasized that ALMEIDA ADVOGADOS has the required expertise to initiate the process for obtaining any kind of visa. Applications for visas (when necessary) shall be made at the Brazilian consulate abroad, nearest to the place of residence of the applicant. For countries with whom Brazil does not keep diplomatic

³ The "S system" is a group of private legal entities that receive money to provide social services linked to cultural activities and professional training for the general public at a low cost. Entities such as SESC, SENAC, SENAI and SENAR are part of the "S System".

relations, the nearest Brazilian consulate will issue a laissez-faire on behalf of the foreigner, valid for only one round trip to Brazil.

21. What are the Types of Visas for Work Purposes? Who may require it?

Three different types of visa exist for work purposes: (i) the visit visa; (ii) the technical visa; and (iii) the working visa.

Visit Visas (Business) may be issued to a foreigner entering Brazil for the purpose of looking at business opportunities, investment potential or introducing goods that are to be manufactured in Brazil. This pass cannot be used for employment purposes.

Technical Visas (for technicians only) may be issued to a foreigner who holds the professional qualification or specialist skills as set forth by the Ministry of Labor, and entering Brazil under three different circumstances: emergency situation, short term assignment for up to ninety days, and normal assignments.

The technical visas are valid for (i) up to one extendable year for normal technical passes; (ii) up to ninety extendable days for short term technical pass; or (iii) up to thirty non-extendable days for emergency technical pass.

Concerning the first two visas (valid for up to one year and up to ninety days), the Brazilian legal entity wishing to hire a technician shall submit an application for a technical pass. As regards the emergency technical visa, the foreigner may apply directly to the Brazilian Consulate nearest to his/her place of residence.

Employment Visas are required for foreigners taking up employment duties in Brazil and being paid directly by a Brazilian legal entity. The wife and children of a foreigner who has been issued with an Employment Visa may be issued Dependant's Passes. However, these dependants cannot legally work in Brazil.

It is the sole responsibility of a Brazilian legal entity to submit an application for work permit. Work permits are generally valid for two years and after that term the foreigner can apply for a permanent visa. Notwithstanding, please note that during the first four years of his/her stay in Brazil the foreigner will still be linked to the Brazilian legal entity that applied for the work permit and thus the foreigner cannot render services to any other Brazilian legal entity.

Working Visas are required for foreign Administrators, Managers, Directors or Executives with the power to manage a company or an association. This permanent work permit must be applied by a Brazilian legal entity, who must prove to have received a direct foreign investment equal to R\$ 600,000.00 (six hundred thousand Reais), or R\$ 150,000.00 (one hundred and fifty thousand Reais), according to the number of jobs to be created (at least ten new jobs in the first two years).

V. Litigation

22. What are the instances of Brazilian legal system?

The Brazilian legal system is managed by the Judiciary and composed by two instances in each State, for State matters, and in each Federal Region, for Federal matters.

The first instance is composed by chambers made up of only one judge.

The first instance judgments can be appealed to the State and Federal Courts, composed by three judges, which have the power to review the first instance judgments. Those are collegiate trials and the decision is adopted by majority.

Under very specific circumstances, judgments of the State and Federal Courts can be appealed before the Federal Supreme Court (STF) for Constitutional Law breach matters, and the Superior Court of Justice (STJ) for Federal Law breach matters.

In each State and Federal Region, we also find lower Courts, which apply a simpler and faster procedure to solve minor cases, such as for example ordinary consumer relations claims. The judgments delivered by these Courts can be appealed before a Special Court of Appeals.

23. What is the mandatory documentation for a company to file a lawsuit in Brazil?

To file a lawsuit in Brazil as a plaintiff, a company needs to be duly registered in the country, in accordance with the *Instrução Normativa* 0 81/99, drawn up by the DNRC – *Departamento Nacional de Registro do Comércio* (National Commerce Registration Department).

Amongst the various requirements set forth by the *Instrução Normativa* No 81/99 and the Code of Civil Procedure, the most important is the sworn translation into Portuguese of all documents which the company intends to attach to the lawsuit.

Moreover, the foreign company has to permanently have a representative in Brazil, with full authority (notarized) to represent it in Court and to receive judicial summons. This representative shall have a permanent address in Brazil where he/she can be found or mailed.

If the company is not registered in Brazil, or does not have a representative or real estate property in the country, it shall provide a sufficient caution for warranting the court fees and the fees in case it loses the case.

The mandatory documentation to file an action before a Court or to defend the company's interest is:

- The bylaws or the Acts of incorporation (depending on the company's type) duly registered, as well as the act of appointment of the company's representative;
- The power of attorney granted by the representative to the company lawyers;

- Payment of Court fees (see below, Question No 24).

24. What are the fees charged to the plaintiffs to initiate a lawsuit or submit an appeal in Brazil?

In Brazil, some fees are charged to the plaintiffs to initiate a lawsuit or submit an appeal.

Court fees are established in each State, Federal Region and Court, according to the type of matter and the economic value involved. The same applies to appeal fees.

Early fees are paid in advance by the plaintiff, but at the end of the procedure, they are charged to the unsuccessful party in the lawsuit.

25. What are the main aspects of Arbitration in Brazil?

Brazil is a party to a few multilateral Treaties on International Commercial Arbitration, such as the Geneva Protocol on Arbitration Clauses of 1923, the Inter-American Convention on Extraterritorial Validity of Foreign Judgments and Arbitral Awards of 1979 (the Montevideo Convention), the Inter-American Convention on International Commercial Arbitration of 1975 (the Panama Convention), the Protocol of Las Leñas of 1992 and the 1998 MERCOSUR Agreement on International Commercial Arbitration.

The Brazilian Arbitration Act applies to all arbitral proceedings having their seat in Brazil. The Arbitral procedure is governed by the Federal Law No 9.307/1996.

A significant number of arbitration institutions and centers have been recently created and have gained reputable excellence in Brazil and abroad. Parties often decide to undertake institutional arbitration (as opposed to *ad hoc* arbitration) in Brazil.

Foreign arbitrators can carry out their duties in Brazil. A contract can also establish the competence of an International Arbitration Tribunal: in such a case, the Arbitration award will need to be homologated by Brazilian Courts.

EXHIBIT**DOCUMENTS FOR INCORPORATION OF THE BRAZILIAN COMPANY****A. Foreign Legal Entity or Individual**

Please note that all documents described under items A.1 and A.2 must be duly notarized and legalized before the relevant Brazilian consulate, translated into Portuguese by a sworn translator and filed before Public Registry Offices in order to be valid in Brazil.

A.1 - Legal entity domiciled abroad:

- (i) Power of Attorney granting powers to a Brazilian Individual domiciled in Brazil to receive summons and perform all necessary acts prior incorporation of the Brazilian Company, as well as a Comfort Letter for the attorney-in-fact;
- (ii) Articles of Incorporation: proof of legal existence of each shareholder, in accordance with the laws of the country in which they are incorporated; and
- (iii) Copy of individual shareholders passport.

A.2 - Foreign Individual:

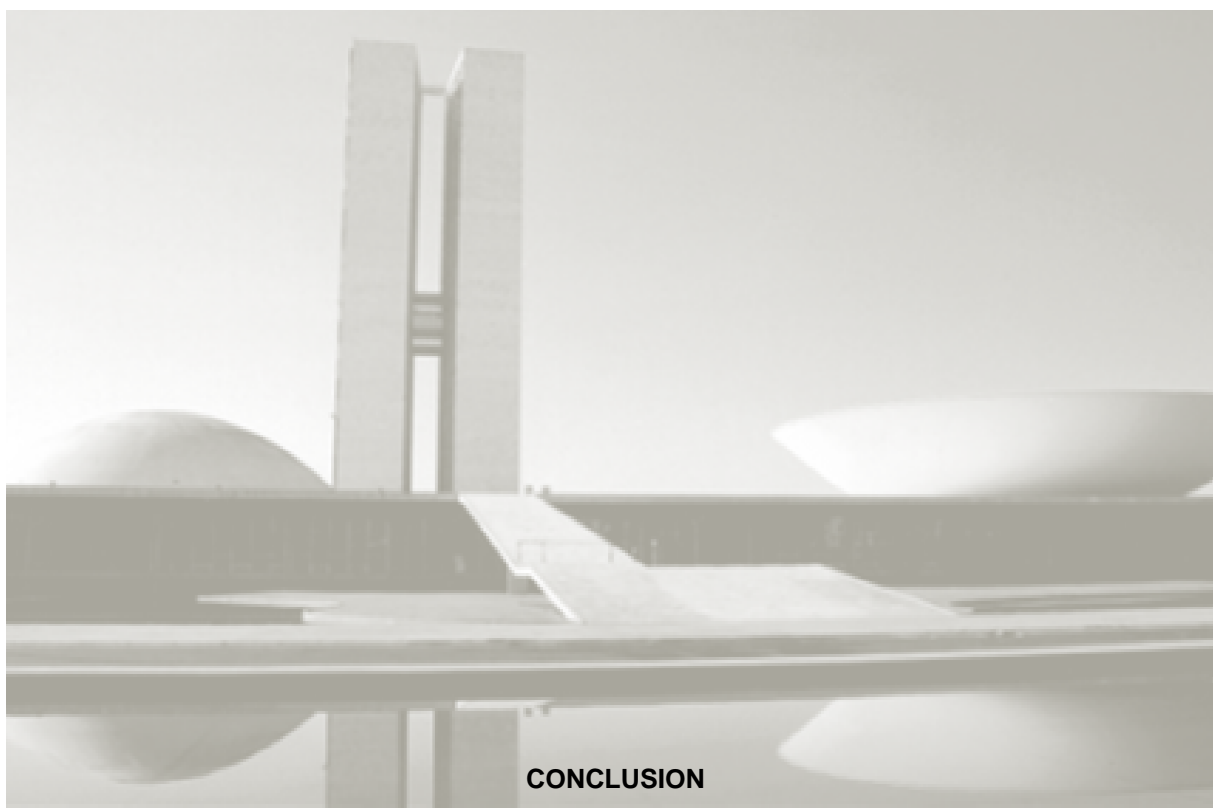
- (i) If not resident in Brazil, Power of Attorney granting powers to a Brazilian Individual domiciled in Brazil to receive summons and perform all necessary acts prior incorporation of the Brazilian Company;
- (ii) Valid passport (complete copy of the non-resident shareholder's passport, including all pages) or Identity Card for foreign individual (RNE); and
- (iii) Individual Taxpayer's Registry (CPF).

B. Brazilian Shareholders**B.1 - Legal Entity**

- a) Evidence of residence;
- b) Proof of Urban Real Property (IPTU); and
- c) Bylaws / Articles of Association.

B.2 - Individual:

- a) Identity Document (RG);
- b) Individual Taxpayer's Registry (CPF); and
- c) Proof of residence.



CONCLUSION

This study wishes to address the key issues affecting the foreign business community in Brazil. It refers to the various aspects that a foreign company will have to deal with when wanting to operate in Brazil, ranging from the provision of foreign investments aimed at the opening of businesses in the country, to issues of corporate, tax, intellectual property and labor law.

The study has been elaborated by a multidisciplinary team of experienced professionals committed to legal practice, whose activities are focused in providing legal services to Brazilian and foreign companies in various areas ranging from corporate legal counsel to risk management, consulting and litigation. **ALMEIDA ADVOGADOS** is a Law Firm focused on the corporate business environment and has as its major premise the full comprehension of each of its customer's market area, the nuances of every industry, corporate culture and goals of each company. This approach allows us to provide reliable hands-on and client-tailored legal services and solutions.

ALMEIDA ADVOGADOS is at your disposal to provide any further clarifications related to the matters addressed in these FAQs.

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