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AUSTRALIA BRAZIL CHAMBER OF COMMERCE

BOLETIM BRAZIL

**NOTE FROM THE NEW
BRAZILIAN AMBASSADOR +
CONSUL GENERAL**

**BRAZILIAN MODERNISM
ARCHITECTURE TOUR**

**A NEW CHAPTER FOR
AUSTRALIAN INTERNATIONAL
EDUCATION & BRAZIL**

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**IT'S TIME TO
CELEBRATE**
1979 - 2019

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WELCOME TO THE LATEST EDITION OF THE ABCC'S BOLETIM BRAZIL NEWSLETTER.



We are delighted to share this edition with you and are most grateful to the new Brazilian Ambassador to Australia, Sérgio Lima, and the new Brazilian Consul-General, Sérgio Bath, who have both generously contributed articles to this edition. The ABCC has been busy hosting various events across the eastern States in recent months and is pleased to be able to report on these events in this edition and to also promote an exciting upcoming Brazilian Modernism Architecture Tour being organised by the ABCC's newest member, Unik Vision.



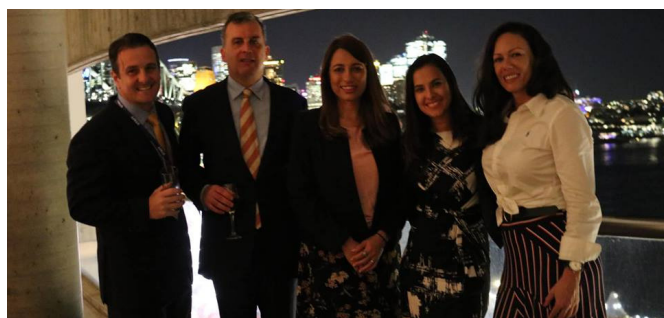
The ABCC looks forward to connecting with you throughout the year at our upcoming events across the country.

Regards,

The ABCC



Fashions of Multicultural Australia (FOMA) event



Launch of Brazilian Modernism: The Architecture Tour to Brazil



Bridging the distance in R & D cooperation, investment and trade

Sérgio E. Moreira Lima, Ambassador of Brazil



1. The connections between the two giant territories of the South provide a remarkable foundation for understanding and facing our common contemporary challenges in conserving our rich and unique heritage and biodiversity. Australia and Brazil should further explore these links in the pursuit of sustainable development to ensure the wellbeing of present and future generations. It is therefore a reason to celebrate the efforts by the two countries to enhance their collaboration in science and technology. Both governments recently concluded a general agreement on the subject, which is expected to be in force in 2019. On its turn, CSIRO and EMBRAPA are finalizing an important agreement on R&D cooperation. These agreements will contribute to institutionalize and promote scientific cooperation in key economic areas, such as agriculture technics and methods of production. They will also assist both countries to fulfil their national and international responsibilities in food security and environmental sustainability.

2. **CSIRO** - Commonwealth Scientific and Industrial Research Organisation - is Australia's national science research agency responsible for overcoming the country's greatest challenges using innovative science and technology. **EMBRAPA** - The Brazilian Agricultural Research Corporation - aims at establishing a model of tropical agriculture and livestock to overcome the barriers that limited the production of food, fibre and fuel in our country. It has played a pivotal role in making Brazil - with its over 210 million inhabitants - not only self-sufficient in agriculture production but also a breadbasket of the world and an important contributor to global food security. Brazilian agriculture is one of the most efficient and sustainable in the planet. Brazil has incorporated a wide area of formerly degraded Cerrado lands, a savannah like biome, into our production systems; a region that now accounts for nearly 50% of our grain production. We have quadrupled the beef and pork supply and increased the poultry output 22-fold. These achievements have moved the country from the condition of basic food importer to one of the world's largest food producers and exporters.

3. The cooperation between Australia and Brazil is becoming more relevant and less fragmented. Brazilian scientists are in CSIRO and in other Australian research centres and Universities collaborating with their Australian peers. Yet much remains to be done in order to fully institutionalize bilateral cooperation. That is exactly the purpose of the EMBRAPA-CSIRO MOU. Besides, it aims at structuring, broadening and giving focus to Australia and Brazil partnership in agriculture and biotechnology. While growth in demand for food, feed, fuel and fibres presents significant opportunities for agriculture, our research institutions must provide the know-how to overcome challenges such as increasing productivity growth, enhancing environmental performance and adaptation to climate change, and improving resilience of farm households to market shocks brought on by weather conditions and other unforeseen circumstances. Farmers will have to adapt to the new instruments of the digital age. But governmental policies and research institutions must assist them in the process by creating incentives to the development of the better and more sustainable ways for agriculture production, which involves soil, seeds, pollinisers, production, rational use of water, smart management of crops, etc. Brazilian scientists collaborate with Australians in a project to identify the reduction of the population of bees worldwide and their impact on agriculture. This is just one example of the activities of global impact in which Brazil and Australian experts are working side by side to increase farm sustainability, productivity, resilience and overall profitability.

4. In 2018, Brazil and Australia signed an MOU on the management of water resources. Australia provides an encouraging example of the use of desalination in its major cities around the country from Sydney to Perth. This is another area in which joint research can bring important solutions for both countries as they face the challenge of ensuring adequate water supply in hinterland regions where hydric resources are scarce. Brazil is keen to collaborate on the development of innovative and affordable technics that enable the desalination of salty waters sourced from artesian wells, especially in the northeast of the country, where a new and promising agricultural frontier can be opened.

5. About one hundred Australian companies are established in Brazil. Traditionally, mining has been the sector which has attracted most investments in partnership with Brazilian firms. In the last decade, Brazilian companies have increased investments in Australia, not only in mining but mainly in animal protein processing. JBS Australia has become the largest meat processing company in this country with a network of facilities from Queensland to Tasmania. It employs over 12,000 people across Australia and, besides maintaining its market shares, it exports from here quality products to over 80 countries.

6. This month during the Avalon Air show, an event that promoted the development of the aeronautical industry in the region, Embraer celebrated its 40 year presence in Australasia showcasing two of its most sold aircraft in the world, the Phenon 300 E and the Legacy 500 Executive jets. There are 34 Embraer aircraft that fly in the region, of which 25 are commercial aircraft and 9 are executive jets. Embraer has Authorized Service Centers located in Melbourne, Sydney and Perth. Embraer has changed the way to travel in Brazil and it is looking forward to expanding its presence in the Australian market with its new family of modern regional airplanes as well as new defence equipment, such as the KC 390 - a new generation of multimission transport aircraft. Embraer presence in Australia is a reason of pride for the Brazilian community and it is an encouraging signal of the enormous potential for trade in goods and services between the two great nations and the region as a whole. The Chambers of Commerce and the Business Council have a role in enhancing the possibilities for promoting exports of airspace equipment to Australia and strengthening regional aviation. In Melbourne during the week of the Avalon Airshow, I had the pleasure of meeting the Governor of Victoria and also attending a social gathering organized by ABCC with its local members and the Brazilian community.

7. The latest figures for Brazil and Australia bilateral trade in the year 2018 shows an overall trade of US\$ 1.6 billion, with a significant surplus for the Australian side. Yet the numbers barely reflect the enormous potential for a significant expansion of both flows of exports and imports which might be more compatible with the size of both countries' economies. In order to help to promote the role of the chambers, I participated in February in events organized by the Australia Brazil Business Council in Sydney and by the Australian Latin America Business Council (ALABAC). Brazil and Australia are considering negotiating agreements to prevent double taxation and to facilitate trade between the two countries. At the moment, APEX, the Brazilian Agency for Exports and Investment, is requesting Brazilian companies and exporters to provide information on trade barriers which might improve the intelligence and the assessment of prevailing conditions for trade in goods and services between Brazil and other countries, including Australia. With the support of AABC and other relevant organizations, we hope this mapping of perceived barriers will assist us to focus our attention where it is most needed, helping to increase trade and investment between the two countries.

8. The assistance and advice of the Australian Brazilian Chamber of Commerce and its members will be invaluable to our common effort to improve current trade and investments as well as on bilateral cooperation. Together we will be able to create the necessary conditions to significantly improve economic relations between the two countries and raise science and technology cooperation to a new level.



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Sérgio Eugênio Bath
Consul General

Note from new Consul-General Sérgio Eugênio Bath

As I begin my tenure as Consul General of Brazil in Sydney, I could not forget to mention the excellent work done by my predecessor, Ambassador Carlos de Abreu, in his five years as head of the Consulate General. My work will grow on that foundation, in the wake of the significant increase of the Brazilian community in Australia and in view of the perception that it is necessary to deepen bilateral relations in the areas of trade, investment, education, culture, science and technology.

The growth of the Brazilian community in Australia, particularly in the states under the Brazilian Consulate's jurisdiction - New South Wales, Queensland and Northern Territory, has as one of its main engines the arrival of thousands of Brazilian students. The community is certainly one of the most representative in terms of bilateral educational exchange, with Brazil being the fifth source country of foreign students in Australia, behind only four Asian countries. This intense influx of students provides room for the development of initiatives in the academic field, as well as for the promotion of bilateral tourism, in its most varied aspects.

The greater presence of Brazilians in Australia brings as a natural consequence the increase in demand for the services offered by the Consulate. In the last two years, there has been a 40% rise in demand, especially in the areas of passports and notarial services. Hence, the improvement of consular services for both Brazilian and Australians is one of the pillars of my management. The simplification of procedures for granting visas and the reduction in the deadline for delivery of documents to applicants are two components of this effort that are already under way. After the start of the electronic visa program for Australians in November 2017, the waiting time for visas has been reduced to only 48 hours, accompanied by a 50% decrease in the consular fee, which favours the consolidation of Brazil as a tourist destination.

With regards to the consular services offered to the Brazilian community, the simplification of procedures and the reduction in the need for face-to-face services have contributed to a more efficient processing of requests. We seek to provide Brazilian citizens with a sense of belonging to our consular representation. Therefore, there is a continuous effort to improve communication with the community, particularly through greater engagement on social media. We have also been considering the possibility of offering extended social support programs to the Brazilian community such as psychological and legal assistance.

The activities of the cultural section of the Consulate include two main aspects: support to cultural projects developed by representatives of the Brazilian community and promotion of the Brazilian culture in Australia. Regarding the first aspect, the Consulate already supports traditional Brazilian celebrations, such as Festa Junina and the National Day, in which the Brazilian culture is always acknowledged and promoted. The main focus, in this case, is to bring the Brazilian community in Australia together. For the second stream of cultural promotion, I intend to expand the variety of projects which support music, film, literature, theatre, gastronomy and visual arts, in order to bring the best of the Brazilian cultural production to Australia. In this way, Australians will have exposure to lesser-known facets of Brazil and its culture.

In the area of trade promotion, investment and tourism, the Consulate will continue to work in tune with the guidelines of the Brazilian government, which is committed to opening the country to international trade and investments. One of the goals of the Brazilian government is to position Brazil among the 50 best countries in the world to do business with. A series of actions by the government aiming at reducing bureaucracy and simplifying customs procedures have been implemented, making procedures such as starting a business and undertaking credit and foreign trade operations faster and more efficient. Additional measures to cut red tape and reorganize the public sector will certainly reduce uncertainty and stimulate private investment in Brazil. It will be up to the Brazilian representatives abroad, on the other hand, to promote the progress being made and clarify past misperceptions, in order to stimulate a sustained expansion of trade and investments between Brazil and Australia.

Investments by large Brazilian companies in Australia, specially in industries such as agribusiness, information technology, renewable energy, logistics and clothing, point to the diversity of the bilateral economic relationship and to its future growth potential. Brazilian companies with representation in Australia are a great asset to both countries, helping Brazil not only to consolidate the nation's image as a diversified economy, but also as a technologically advanced country with an innovative profile.

Brazilian exports to Australia are diversified although growth has been modest in recent years (about 12% in value since 2014). Besides agroindustrial and mineral products, Brazil has also been exporting fewer traditional items to Australia, such as machinery, pharmaceuticals, chemicals, airplanes and motor vehicles. Such track record offers both challenges and opportunities for the Consulate. The Brazilian government, in collaboration with the private sector, should use all trade intelligence resources available to seek out the reasons behind this relative stagnation. And, in the possession of the outcomes of the analyses, establish the actions that will allow the acceleration of sales to Australia.

The same reasoning applies to tourism. The number of Australian tourists visiting Brazil varies between 30,000 and 50,000 people per year, which seems to be far below the real potential for this industry. The launch of direct flights between Brazil and Australia, a dream that seems each day closer to coming true, could be the push we need for tourism to increase in both directions. More emphasis on promoting Brazil as a tourist destination for Australians will certainly contribute to this goal.

In order to meet the growing demand of Australians and Brazilians who wish to avail themselves of these trade and investment opportunities, our trade promotion section offers guides, market research, lists of importers and exporters and seminars and promotional events, among other activities. I will personally make sure that the Consulate will do all it possibly can to help foster bilateral trade and investment. I am sure I will face many challenges; however, I am keen to contribute to improving the image of Brazil in Australia and to taking trade and bilateral investments to a higher level. For that reason, I will work with enthusiasm and determination every day so as to improve the services offered by Consulate to the public, be they Brazilian or Australian. I am confident that, with the help of my very fine, talented team, the coming years will be marked by a lot of work, but also by a lot of achievements.

Brazilian Modernism Architecture Tour with Simone Bigoto

ABCC member, Unik Vision, organises trade missions and special events to showcase the excellence on offer in Brazil. In September 2019, Unik Vision is coordinating a Brazilian Modernism Architecture Tour aimed at architects, engineers, designers and anyone interested in Modernism and the work of Oscar Niemeyer.

Unik Vision has appointed Brazilian architect, Simone Bigoto, to be the Ambassador for this upcoming tour. Simone recently caught up with the ABCC to explain her experience working with the famous Australian architect Harry Seidler in Australia and her connection with Oscar Niemeyer in Brazil which gives her a unique perspective on Modernism architecture across the two countries.



Left to right: Val Oscroft, Monica Rodrigues Sweeney, Penelope Seidler, Simone Bigoto, Dani Oliver, Richardo Bigoto

Australia and Brazil have a long history of connecting across different sectors, including architecture. It is an honour to be chosen as the Ambassador of the Unik Architecture Tour. My relationship with both countries began 17 years ago when I first lived in Australia. I came to Sydney at the start of 2002 after having completed a Bachelor in Architecture at Mackenzie University – Sao Paulo. I came to Sydney to study a Post Graduate Course in Stage Design, because dance and architecture are two arts that have been part of my life since I was 14 years old.

Brazilian Modernism Architecture Tour with Simone Bigoto

During this time, I was preparing myself for a Business and English course at UNSW to get into the Scenography course I had planned and I applied for a job as an Architect which started my work with one of my mentors: Harry Seidler. It was a wonderful experience for me to have worked with Harry Seidler and all his team on my journey. After months working closely with him and his team, at the end of 2002 I decided to come back to Brazil to get married. As soon as Harry knew that, he kindly tried to convince me the opposite and asked me to stay in Sydney to continue working at his office but at that moment the better decision for me was to return to my country.

Before I left his office, Harry introduced me to his great friend Oscar Niemeyer. It was the most wonderful surprise that a young Brazilian architect like me could have! In 2003 just a couple of weeks before I get married I had the honour of meeting the genius Oscar at his own practice in Copacabana, Rio de Janeiro.

The connection between me and both genius architects never stopped even after I started my own architecture office in Sao Paulo in 2003... and here I am again, back in Sydney with my husband, Ricardo and my 2 children, Gustavo an eleven year old boy and Isadora, a ten year old girl. We all moved in February last year and I have been working in the architecture field in Sydney since April 2018.



Oscar Neimeyer Architecture, Brazil



Brazilian Modernism Architecture Tour with Simone Bigoto

In late 2018, I was invited to present some of my projects in an Exhibition of Brazilian Architects Tribute together with the 4 most famous Brazilian Architects in the world: Oscar Niemeyer, Lina Bo Bardi, Lele (Joao Felgueiras Lima) and Paulo Mendes da Rocha as well as a new generation of other talented architects. During the opening night of the Exhibition in December last year I had the chance to meet many people as passionate about architecture as I am, not only for Brazilian Architecture, but also for Australian Architecture. This was the beginning of a new chapter. Then, an invitation arrived for me to be the ambassador of Modernism Architecture Tour was made by the CEO of Unik Vision, Monica Sweeney, who was inspired by all the relationship between the two countries.

The tour will no doubt be a great success showcasing the best that Brazilian architecture has to offer.

For more information visit their website: www.unikvision.com.au



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A New Chapter For Australian International Education & Brazil

Anna White, Director ABCC Queensland



One of the great success stories in the Australia-Brazil bilateral relationship – international education and training – was the theme of the ABCC's latest Business Briefing and Networking event in Brisbane in March. Study Queensland generously hosted the event and the then Brisbane Lord Mayor Graham Quirk delivered the key note address highlighting the importance of international education and training to Queensland. With over 12,000 Brazilians currently studying in Queensland, the Lord Mayor emphasised the role that international education experiences can play in building lasting relationships with investors and entrepreneurs of the future.

Brisbane City Council has introduced a range of measures to support international education and training including appointing International Student Ambassadors and expanding its internship programs to create greater opportunities for international students. In 2015, the Council reduced infrastructure charges for certain student accommodation developments to encourage greater provision across the city.

After hearing from Lord Mayor Quirk, the ABCC was delighted to be joined by a panel of experts comprising Shannon Willoughby, Executive Director of Study Queensland, Professor Stuart Bunn from Griffith University, Professor Asantha Goonetillek from QUT and Professor Gary Schenk from the University of Queensland. Honorary Consul of Brazil in Queensland, Valmor Morais, also shared his reflections throughout the panel discussion.

The panel shared their experience and insights into the strategic research partnerships which have been established between Australian and Brazilian universities in recent years since the conclusion of the Science Without Borders program in late 2015. Some partnerships have been facilitated through the Program of Internationalization of Higher Education – or “PRINT” – which was launched in 2018 by the Brazilian Federal Agency for Support and Evaluation of Graduate Education (CAPES) with a focus on the two-way movement of postgraduate students. Others have developed through the targeted coordination of joint efforts here and in Brazil.

While Brazilian universities have traditionally looked north to their American counterparts to collaborate on research projects, they are increasingly engaging with Australian institutions given the similar climate, environment and health impacts across the two countries. The Panel identified key growth areas in which Australian universities could further promote their expertise to Brazilian universities and direct to Brazilian governments and agencies, including water management, environmental management, resource management, biomass conversion and sustainable farming (particularly cattle breeding).

Access to government grants to support bilateral research projects in Australia is limited and there appears to be scope for alternative options to be explored, such as leveraged funding models. There also appears to be scope to expand internship programs which would enhance and deepen each student’s international experience.

Brisbane’s liveability and relaxed lifestyle hold great appeal to Brazilian students. Outside of structured university programs, student support services such as The Brisbane Study Hub and The Gold Coast Student Hub provided by Study Queensland and Study Gold Coast respectively provide essential services to Brazilian international students, particularly those undertaking English language courses.

With a move to increasingly targeted and specialised partnerships and a strong focus on academic performance, opportunities for Brazilian post-graduate students will continue to strengthen in Australia.



Brazil Business Briefing and Networking Event in Brisbane in March 2019



Manaus – an open door to the Amazon

Val Oscroft, Director ABCC Queensland



Amazon Theater in Manaus

From your airplane window you begin to contemplate what it might look like being in a green ocean. Then you glimpse a river cutting through the deep rich forest of the Amazon. At almost 7 million square kilometres, the Amazon is spread across nine South American countries: Brazil, Bolivia, Peru, Colombia, Ecuador, Venezuela, Guyana, Suriname and French Guiana. The Amazon is the most biodiverse rainforest in the world and attracts tourists from all over the world.

Manaus is the capital of the Amazon State in Brazil and is also known as the **"Paris of the Tropics"** because of its beautiful buildings that were built from materials imported from Europe during an intense period of modernisation through the rubber boom between 1879 - 1912. It is also the natural entry point for people who want to visit the Amazon rainforest.

The iconic Amazon theatre is a man-made beauty not to be missed in Manaus. This beautiful opera theatre was built between 1884 and 1896 at the height of the rubber boom, using European designers and decorators and raw materials from the area.



Another must see in Manaus is Ponta Negra Beach. Work has recently been completed alongside the shoreline and it is now a great place for a stroll where you will find many local delicacies on offer such as acai and tacaca, and a variety of soups cooked with tucupi, dried shrimp, cassava gum and jambu leaves. The wide river in this area is very beautiful and perfect for a swim.

The nearby majestic Hotel Tropical is famous worldwide for its rich timber work, vast corridors, wave swimming pool and mini zoo which is home to animals such as monkeys and "onca pintada" or jaguars.

Boats are the main form of transportation to the rainforest hotels and to see the meeting of waters between the Negro and Solimoes rivers which are the main tributaries of the Amazon river. The different coloured waters of the two rivers meet and only mix kilometres later. One is a darker tea colour tone and the other is a colder brown. The mixing waters are a truly spectacular natural site to see.

Whether you prefer to check out the historical buildings or to enjoy swimming with dolphins in the Amazon river, the impact of the abundance of the Amazon's water and green forest will stay with you forever.



Ponta Negra



Hotel Tropical



Palácio Rio Negro



Amazon - Manaus



Cinco Minutos com.....

Jairo Kerr Azevedo,
Director, Medical Division,
Carl Zeiss do Brasil Ltda.

When and why did you move to Australia?

I lived in Adelaide from 2002-2013. I had been to Australia in 1998 and 1999 on business and loved the country, so I was very keen to live there. At that time, I was living in São Paulo and working as a service manager for a manufacturer of ophthalmology equipment. In 2001, I was lucky enough to be offered a position with Ellex Medical, an Adelaide based manufacturer of ophthalmic lasers, to work as a service engineer and I didn't hesitate. Whilst working at Ellex I met my wife Sophie with whom I had two beautiful children. In 2003, I co-founded a medical devices startup in Adelaide named Opto Global which was sold in 2010 to a UK based company. I moved out of Australia in 2013 with my family when I was offered a position with Carl Zeiss in Singapore. I have been back in Sao Paulo since 2017 working with Carl Zeiss as Director, Medical Division, Brazil Sales and Service Company.

What's your favourite thing about living in Australia?

I loved the lifestyle, the friendly people, the culture, the beautiful cities with so many parks, beaches and so much to do, the diversity and quality of restaurants, bars, wineries, sports and the music scene which is incredible.

What do you miss about Brazil when you're in Australia?

I missed my old friends, laughing at politically incorrect jokes and eating a good Brazilian churrasco.

What do you see as the biggest similarity and the biggest difference between Australia and Brazil?

The biggest similarity is that people like spending time with friends over a barbeque and a beer. Both cultures are light-hearted, friendly and keen to enjoy a good laugh. Both countries have beautiful nature and amazing options for enjoying the outdoors.

One of the biggest differences I noticed is that Australia is more multicultural, with a continuous influx of immigrants whereas in Brazil immigration happened a long time ago and currently there is little immigration into the country. The diversity of people makes Australia quite interesting with great options of dining and cultural activities. Another difference is that Brazil is a populous country where you can feel the energy but sometimes get a bit overwhelmed by the large number of people around you. Australia can be quite the opposite as you can often be in quiet places with no one around.

What bilateral business opportunities are you most excited about between Australia and Brazil?

I see great opportunities for business in areas where both countries have well established industries, such as agriculture, mining, biotechnology and renewable energy. Both countries have large markets and there are opportunities for collaboration, joint product development and technology sharing. Another area with great potential is education. The market for international and bilingual schools in Brazil is growing as Brazilians increasingly value English education from kindergarten to university. Brazilians are also willing to invest more in education abroad and Australian schools are well placed to exploit these opportunities.



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Laws of Brazil Update

By Fabiano Deffenti
fdeffenti@deqlaw.com.br

Visa-free entry for Americans, Australians, Canadians and the Japanese



On 18 March 2019, Presidential Decree 9,731/2019 was published in Brazil's Federal Gazette. The Decree provides that Australian, Canadian, American and Japanese citizens will no longer be required to obtain visas prior to entering Brazil for:

- business;
- tourism;
- transit;
- artistic and sporting activities; and
- "exceptional situations of national interest".

Entry will be allowed for up to 90 days with a maximum of 180 days for each 12-month period. This is yet another positive step towards making Brazil a better place to do business. The new rules come into force on 17 June 2019.

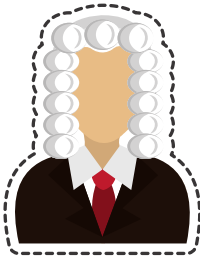
Setting Up a Company in Brazil: a Checklist

Setting up a company in Brazil is not as simple as in developed common law countries. The process of registration (and deregistration) contains various procedural steps that are time-consuming and expensive. Below are the key issues you will need to consider once you decided to register a Brazilian company

1. Have you decided on the type of company you would like to register?

The **three main types** of corporate structures in Brazil are the sole shareholder company (EIRELI), the limited liability partnership (sociedade limitada) and the corporation (sociedade anônima).

The EIRELI is the simplest to maintain, while the sociedade anônima is the most complex. None of the entities requires Brazilian nationals as shareholders (except in some specific sectors), yet all of them require that executive directors be permanent residents of Brazil.



LAWS OF BRAZIL UPDATE

By Fabiano Deffenti

2. Have you selected a Brazilian resident to act as the company's executive director? If so, have you undertaken a background search on this person and decided on the terms of appointment?

As explained above, all executive directors of Brazilian legal entities must be permanent residents of Brazil. Therefore, the first step is to select an individual who is suitable to act as the company's director. Once the individual is selected, it is strongly recommended that you obtain a background search on the person. Brazil is a very litigious jurisdiction, so you can generally find a lot of information about a person by undertaking court searches and checking public databases. Finally, it is important to ensure that you have a detailed agreement in place for the appointment of the individual and that the agreement be customised for Brazilian law.

3. Have you decided on the individuals or legal entities that will hold shares in the Brazilian company? Have you considered setting up companies just for this purpose?

Brazil does not have many double tax agreements and currently does not impose taxes on the payment of dividends. Depending on the taxation rules that apply to the parent company, selecting the right entities to hold the shares in the Brazilian subsidiary can have major tax benefits.

Moreover, despite the supposed limited liability that Brazilian companies offer, there are Brazilian laws that allow courts to hold shareholders liable for the company's liabilities. Hence, setting up legal entities that do not hold substantial assets to act as the vehicle for holding the Brazilian shares is often a valid strategy to minimise the risks involved in the Brazilian venture.

4. Have you selected a Brazilian resident to hold a power of attorney for the foreign shareholders of the Brazilian company?

All foreign shareholders of companies registered in Brazil must appoint a person to act as their attorney. The individual must permanently reside in Brazil and have the powers to:

- be served on behalf of the foreign shareholder; and
- "manage the entity's assets and rights in Brazil".

While not mandatory by law, invariably the attorney needs to have the power to represent the foreign shareholders before the Central Bank, tax authorities and the Companies Registry (Board of Trade). This is often a thorny issue from a corporate governance point of view, as the person has almost absolute powers over the company. Strategies to minimise corporate governance risk include:

- having third parties (often lawyers) who are not involved in the day-to-day activities of the Brazilian company to hold the powers of attorney; and
- appointing two individuals who need to exercise their powers jointly.

At times, foreign companies choose to appoint accountants to hold the powers of attorney for the foreign shareholders. This is not a good strategy from a corporate governance viewpoint, as if tax authorities are to give notice to the accountants for issues relating to the Brazilian company's tax matters, a conflict of interest will arise (for instance, where the foreign shareholders are given notice due to non-compliance with tax obligations).

LAWS OF BRAZIL UPDATE By Fabiano Deffenti

5. Have you selected an accounting firm to act as the company's accountant?

Brazilian tax law is very compliance-heavy. All Brazilian companies with foreign shareholders must have a Brazilian accountant responsible for preparing its books and making all required filings.

Finding a suitable accountant who is familiar with international issues and speaks English well is often a challenge, especially for those companies on tight budgets. Once the accountant is selected, it is strongly recommended to have a detailed agreement customised for Brazilian law in place with the chosen accountancy firm.

6. Have you ascertained where the company be operating in Brazil?

The rate and formulas of State Sales Tax ("ICMS") and Municipal Services Tax ("ISS") will vary depending on the State and the Municipality where the company will operate. [Click here](#) for further information on taxes.

For businesses that sell goods, if the company is to have a distribution centre in more than one State, then a branch office will need to be registered. Different tax rates will apply for interstate transactions.

States and Municipalities often also offer tax breaks (and, in some cases, free land) for certain activities where the investments are substantial.

7. Have you selected a physical location where the company will be registered? Is the location suitable for the company's objects?

All Brazilian companies must have a registered office with a unique address – you cannot have two companies that carry out the same activity registered at the same address. Unfortunately, Brazilian law does not accommodate for registered agents as in the United States and other jurisdictions.

In some circumstances, a company may use a virtual office for administrative purposes or if it is a service provider. Companies selling goods must own their warehouses or have a lease in place with a third-party warehouse. The warehouse needs to be suitable for the company's operations and may be inspected by tax officers to confirm that it is suitable for the company's operations.

8. Are you ready to disclose the full chain of control of the Brazilian company to the Brazilian banks and Federal Tax Department?

Brazilian law requires that foreign shareholders of Brazilian entities disclose the ultimate beneficiaries (ultimate beneficial owners or "UBOs") all the way to the individual or publicly listed holding company – see further [here](#).

Additionally, due to internal bank controls, all Brazilian banks request that the full chain of ownership of the Brazilian entity be disclosed.

9. Have you selected a name for the Brazilian company?

In general terms, company names in Brazil must include at least one word or expression indicating the company's main activity. Company names cannot include swear words or expressions which may be offensive or immoral.

The selected type of legal entity also needs to be shown in the company name – for instance, "Ltda" or "Sociedade Limitada" for limited liability partnerships, and "Companhia", "S.A." or "Sociedade Anônima" for corporations.

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10. Have you undertaken a Brazilian trademark search?

The Brazilian National Institute for Intellectual Property ("INPI") has a unified database of all trademarks registered publicly available. Conducting searches on the INPI database is fairly straight forward and can be done online at any time.

Brazil adopts the first-to-file principle. Therefore, it is strongly recommended that you file trademark applications as soon as you form a view that you may sell products or services in Brazil. These applications can be made by the Brazilian company, or by any individual or foreign entity (and there are important tax consequences to this). For further information, [click here](#).

11. Have you considered what licences will be required for the Brazilian company to operate and how long it will take to obtain them?

Different businesses and activities may require one or various licences to operate in Brazil. Food, agricultural related activities and mining are well known for the various steps required to be taken to obtain their respective licences.

Licences can take a long time to be granted by authorities. Hence, it is very important that you ascertain the requirements and allow for reasonable estimates when planning the start of your Brazilian operations.

12. Are you planning for the Brazilian company to import goods? Have you checked the applicable import requirements?

Not all Brazilian companies are allowed to import goods from abroad. Before a company can import goods, it must obtain registration with the Foreign Trade Integrated System ("Siscomex"). In broad terms, there are three types of registration available:

- express, which only allows for a total of US\$50,000 worth of goods to be imported every six months;
- limited, which allows for a total of US\$150,000 worth of goods to be imported every six months; and unlimited.

The Brazilian Federal Revenue ("RFB") will analyse the Brazilian entity's "financial capacity" when deciding which of the three types of registration will be granted. This analysis is undertaken by the RFB every six months and is based on the sum of corporate income tax ("IRPJ"), the Social Contribution on Net Profits ("CSLL"), PIS and COFINS (these being levies), as well as the amount of Social Security that the company paid for its employees in the previous five years.

Where a new company has been operating for less than five years, it may apply for a licence with a higher threshold if it can establish that it has sufficient net assets to meet its import-related obligations.

In addition to Siscomex registration, different licences may need to be obtained depending on the type of product to be imported. These licences may be under the jurisdiction of different bodies such as the Ministry of Agriculture ("MAPA"), the National Health Registry Agency ("ANVISA"), the Ministry of Defence and the Foreign Trade Chamber ("Camex"), among others.

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13. Have you decided on the bank that will hold the company's account?

Opening a bank account in Brazil may take between one to two months (and even longer in some cases). Thus, it is important to confirm with your bank of choice the timeframe required for approvals and allow for possible delays, which are, unfortunately, frequent.

Some banks require different registration processes to open a current account and for the company to be able to buy and sell foreign exchange. In some cases, depending on how quickly the company needs to start operating, smaller banks are used. Also, it is not unusual for companies to hold an account with a foreign exchange specialist bank, as the larger banks tend to be very compliance-intensive for small and medium-sized companies (especially those that are not listed on any stock exchange).

Final words of warning

Setting up a company abroad invariably has various consequences and risks. Seeking advice before making a decision will avoid many pitfalls and costs down the track. The questions above are just some of the many issues that you will need to consider before registering a company in Brazil.



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