

Issues and Requests Relating to Foreign Trade and Investment - Brazil

Category	No	Issue	Issue Details	Requests	References
1 Restrictions on Entry of Foreign Capitals	(1)	<b>Discriminatory Treatment between Domestic and Foreign under Preferential Tax Scheme favouring Local Production</b>	<p>- Under the tax incentive measures for home production, GOB grants <u>exemption or reduction of import duty and industrial tax on domestic industries (import duty varies by geographical regions). For goods on which import contents exceed 40% of the sales price due to the change in ICMS tax that favours production in the place of consumption, GOB requires description of import contents values on invoices..</u></p> <p>- Thanks to Preferential Measures on Home Production, domestic enterprises enjoy reduced import duty and industrial tax (while import duty varies by district). Companies which do not have the local production bases in Brazil have lost the competitive edge as a result of the extent of such Preferential Measures.</p> <p>- GOB levies Federal Excise Tax of 30% on cars unless the local parts are used 65% or more, for the production with additional conditions. Not only export of completed automobile to Brazil but also the local KD productions are both difficult.</p>	<p>- The locally procured materials and parts require improvement in cost and quality.</p> <p>- It is requested that GOB repeals the Preferential Tax Measures.</p> <p>- It is requested that GOB repeals restrictions.</p>	Resolution 13
			<p><b>(Actions)</b></p> <p>- On 16 September 2011, GOB temporarily raised the IPI tax (Industrial Product Tax=Imposto sobre Produtos Industrializados) on cars that fail to satisfy certain rates of the local contents.</p> <p>- GOB instituted measures to increase Industrial Products Tax (Imposto Sobre Produtos Industrializados =IPI) of 30% maximum during the period of December 2011 through the end of December 2012 against car manufacturers that fail to satisfy the requirements such as 65% local contents. Car manufacturers must be certified enterprises that satisfy the following 3-conditions to get the IPI tax exemption:  <b>(1) Local contents of 65% or more in the enterprise's procurement within Mercosur in average,</b>  <b>(2) 6- processes are performed domestically in Brazil, out of the total 11-production processes, and</b>  <b>(3) Minimum 0.5% or more against total sales is invested into R&amp;D in Brazil.</b></p> <p>- In October 2011, Japan, the U.S., EU, ROK, etc. expressed their concern over the GOB's tax increase measures on industrial products at the WTO Committee on Market Access.</p> <p>- In October 2012, GOB released new Automotive Program (INOVAR-AUTO) that continues the raise in IPI by 30%, while enabling of IPI reduction for 30% or more subject to achievement of the pre-determined fuel economy, and commensurate with the utilisation volume of the local contents. From Japan, in May and November 2012, the then Economy, Trade and Industry Minister, Edano pointed out its possible inconsistency with the WTO Agreement to Brazilian Minister of Development, Industry and Trade.</p> <p>In November 2012, at the Joint Committee for Promotion of Japan-Brazil Trade and Investment, Councilor of Ministry of Economy, Trade and Industry expressed GOJ's concern over INOVAR-AUTO program and requested Brazilian cooperation through provision of information, etc. Furthermore, at the WTO Council for Trade In Goods, along with the U.S., EU and Australia, Japan expressed its concern. (2013 Report on Compliance by Major Trading Partners with Trade Agreements)</p>		

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			<p>- <u>GOB's measures to raise IPI (Imposto sobre Produtos Industrializados=Tax on Industrialized Products) levied on cars in Brazil are likely to conflict with "GATT Article I: (General Most-Favoured-Nation Treatment), Article III (National Treatment on Internal Taxation and Regulation)", and "Agreement On Trade-Related Investment Measures (TRIMs) Article 2, Agreement On Subsidies and Countervailing Measures Article 3.1 (b)". GOJ expressed its concern over these issues:</u>  <u>(1) at the Economic Ministers Meetings held in May and November 2012, and</u>  <u>(2) at the "Japan Brazil Trade and Investment Promotion Joint Committee Meetings" in November 2012, October 2013, and September 2014.</u></p> <p>- <u>In January 2014, EU requested WTO consultation against Brazil (where Japan requested to participate as a third party, but Brazil denied the request). Following the failure to get the issues resolved by WTO consultation, in October 2014, EU requested set up of WTO Panel, which was set up in December 2014, to which Japan has been a third country participant. ("2015 Report on Compliance by Major Trading Partners with Trade Agreements") (Ministry of Economy, Trade and Industry).</u></p>		
	(2)	<b>Difficulty in Establishment of Local Representative Office, Construction Work Office, and Branch Office</b>	<p>- <u>In Brazil, judicial personality is not authorised in a representative's office. In addition, it is difficult for foreign funded enterprises (FFE's) to obtain the licence for establishment of branch office.</u></p> <p><b>(Actions)</b>                      Most enterprises entering Brazil are established in the form of limited liability companies and registered at Taxation Bureau of Ministry of Finance or the Municipal Office depending upon sectors. Registrations are also required at Social Security Hospitals, and Department of Labor for processing labor related issues.</p>	<p>- <u>It is requested that GOB makes it possible for foreign funded enterprises entering Brazil to register the business, taking various operational forms.</u></p>	
	(3)	<b>Requirement of CEO as Resident in Brazil</b>	<p>- <u>Consequently, FFEs representative office normally takes the form of subsidiary, in which the Brazilian law requires the Chief Executive Officer (CEO) to be a Brazilian (or a Brazilian resident, in case of a foreign national with permanent visa).</u>  <u>[The requisite conditions for Non-Resident's acquisition of Permanent visa or his/her replacement]:</u>  <u>-- Investment exceeding R\$600,000, or investment exceeding R\$150,000 plus additional employment of minimum 10 employees (modified by Decree 95/2011 in 2011)</u></p> <p><b>(Improvement)</b>                      - <u>The Temporary Visa previously switched to Permanent Visa after 2-plus-2 years stay, has now become switchable to Permanent Visa after 2-years stay by Decree 99 (19 December 2012).</u></p>	<p>- <u>It is requested that GOB:</u>  <u>-- facilitates expatriates' visa acquisition as they do in other countries, and</u>  <u>-- repeals the system.</u></p>	<p>- Regulation of Brazilian Immigration Bureau                      - Decision No.27 of July 29, 1994                      - Resolucao Normativa 10 CNI (of 11 November 1997)                      - Prescriptive Resolution No. 95 (Issued on 19.08.2011 by CNI)                      - Prescriptive Resolution No. 99 (Issued on 19.12.2012 by CNI)</p>

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	(4)	<u>Stringent Requirements on Licence for Bonded Warehouse Operation</u>	- Due to the <u>high amount of bid price, member firm is neither able to participate in bidding nor provide ULD build-up service at low cost to customers. Furthermore, member firm is unable to provide service ULD build-up, break-up service, etc., geared toward damage reduction.</u>	- It is requested that <u>GOB turns bonded warehouse into a notification system.</u>	
	(5)	Preferential Treatment on Use of Brazilian Flag Vessels	- In order to protect the domestic industry, GOB compels the use of Brazilian Flag Vessels as regards imports of tariff exempted goods and exempts payment of Mercantile Marine Fund for unloading at Salvador ports northward.  <b>(Actions)</b> - The problems concerning this measure are pointed out in "The 2003 Report on the WTO Inconsistency of Trade Policies by Major Trading Partners".	- It is requested that GOB repeals the system intended to protect the domestic industry.	
	(6)	Principle of Domestic Insurance Coverage	- <u>GOB compels insurance coverage by the domestic insurance companies (ICDIC) to foreign companies at higher insurance premium rates in comparison with the international level.</u>	- It is requested that GOB repeals the <u>compulsion of ICDIC.</u>	
2 Grant of a Preferential Tariff Rates based on Increased Home Production, and/or Local Procurements	(1)	<b>Local Contents Requirement attaching Benefits without Compensation</b>	- <u>Grant of loan by BNDES (The Brazilian Economical and Social Development Bank) is subject to satisfaction of 80% Brazilian products (contents), which requirement, added to protective tariff, form a substantial entry barrier.</u> - <u>To take advantage of the financing under FINAME, maintenance of more than 60% local contents is required.</u>  - To acquire incentives in Manaus free zone it is necessary to satisfy the basic productive process criteria. GOB sometimes compels local procurement of items, which are not competitive in terms of quality, volume and prices. For example, recently, whereas GOB mandated the local procurement of the bare board for TV printed circuit board, in reality, multec, the large domestic bare board manufacturer, discontinued its production. - Federal Senate Resolution No.13, designed to curb the so called State-to-State incentive battles, attraction of enterprises and unloading ports, includes a provision that removes incentives from products with less than 60% local contents, beginning January 2013. As shown in the foregoing bare board example, Resolution No.13 totally ignores certain amount of time and investment pre-requisite to increase the local procurement.	- It is requested that <u>BNDES deregulates the local contents requirements.</u>  - While member firm appreciates the needs for nurturing and protecting indirect materials manufacturers, without the improvement in cost competitiveness, investment environment cannot improve.  - It is requested that GOB thoroughly hears the manufacturing enterprises' views, before ruling on the local contents requirements.	- Decree 7716 /2012: 2013-2017 - PPB (Processo Produtivo Basico = Basic Production Process) for each Product Category - Customers' Requirement - Federal Senate Resolution No.13 of 25 April 2012 - Ajuste Sinief No 19 of 7 November 2012 - Ministry for Development of Foreign Trade and Industry Inter-Ministerial Gate No.290 of 16 September 2013

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4 Restrictions on Withdrawal Of Operations	(1)	Vexatiously Complex Liquidation Procedures	<p><b>GOB requires a process to place company dormancy for certain period before liquidating it. Consequently, the task necessitates a quite substantial, complex work even for a representative office, and depending upon the scale of operation, and the business history, it is quite possible that the liquidation could take a more substantial length of time.</b></p>	<p>It is requested that GOB streamlines and expedites the liquidation process.</p>	<p>Civil Law Articles 207-219</p>
5 Regulations on Parts Industrial Policy	(1)	Tax Incentives Unfavourable to Parts Manufacturers	<p><b>While the electronic parts market expands from Audio-Video products to IT, white goods, and cars, GOB restricts the various incentive measures by dissecting them by product sector and by state. The restriction jeopardises the viability of electronic parts manufacturing business, in the environment where the market size is too small to maximise the economy of scale in production. Conversely, GOB affords maximum preferential measures to set manufacturers on their import of materials and component parts, making business of parts manufacturers' no longer viable.</b></p> <p><b>Grant of tax incentive lacks consistency at times so that as of today, in regard to television receivers, GOB grants special incentives on local assembly of the flat panel.</b></p> <p><b>In addition to the complex tax scheme, changes take place all the time, exposing business operation to legal risks each time.</b></p> <p><u>In the absence of the supply base of parts industry domestically in Brazil, the set manufacturers have no alternative but to rely upon imports for their parts procurement. Since GOB grants various tax benefits on the set manufacturers' parts import, the parts manufacturers' effort to sell their parts in the domestic market is almost impossible due to the difference in the tax benefit between the set manufacturers and the parts manufacturers. The tax benefits in the foregoing include:</u></p> <p><u>(1) Lei Hanan: 100% tax exemption of ICMS (Tax on the Circulation of Goods and Services of 17%) in the Manaus FTZ;</u></p> <p><u>(2) Lei da Informatica: ICMS is reduced to 7% from 17%, 100% Tax Exemption of IPI (Industrial Products Tax of 10-20%)</u></p> <p><u>(3) RECOF: GOB grants Priority Customs Clearance to Information Telecommunication Industry (ITI), whose payment may be suspended for import duty and all other taxes, pending product shipment. At times when high rates of effective duty prevail, ITI benefits from the eased cash flow.</u></p> <p><u>(4) Drawback: GOB grants tax exemption to manufacturers' direct import of parts for incorporation into export products on account of import</u></p>	<p>GOB lacks consistency in its grant of tax preferential measures. As for television receivers, Amazon State provides special incentive measures on the local panel display assembly operation.</p> <p>To begin with the taxation system is complex, while changes are daily affairs. Enterprises in Brazil must face the legal risks all the time.</p>	

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				<p><u>duty, Industrial Product Tax (IPI), Tax on the Circulation of Products and Services (ICMS), etc.</u></p> <p><u>(5) Regime Automotivo GOB grants 40% exemption of I.I. (import duty) for automotive sector, on conditions that sales to automotive industry must be 50% or more of the total sales, aside from investment into manufacture. These conditions are impossible to clear for most electronic parts manufacturers.</u></p> <p><u>(6) Moreover, opening of new business with car manufacturers has become almost impossible in substance, since all intermediary taxes in distribution are exempted as regards the automotive industry. (Law No. 10485/11.2003)GOB effectively bans import by making it compulsory for the local enterprises to manufacture domestically the products in the category of the PPB (Processo Produtivo Basico = Basic Production Process) Scheme applied for and acquired by the local enterprises (RC, LNB). However, set manufacturers are authorised to import the new products, on an exemption.Viable operation of parts manufacturing business has become more and more difficult, due to the compartmentalised restrictions by product sector and by state, which have further reduced the market scale for parts manufacturers, despite the spread of general electronic parts market from AV Equipment to IT / White Goods / Cars. Moreover, the grant of various incentives for "Parts" manufacturers is subject to investment into manufacturing, while to "Set" manufacturers, the maximum incentives are available on import of parts and materials</u></p>		
		(2)	<b>Irrational Expansion in the Scope of Localised Parts Procurement to Qualify for Manaus Production Incentives</b>	<b>- GOB has expanded the scope of localised parts procurement to qualify for acquisition of incentives for Manaus production. Since 2013, GOB has promoted expansion of the local production of electric parts. However, only a few parts manufacturers operate in Manaus and many of their products are unable to compete in cost and quality against imports, pushing up as a result sales prices of the products manufactured in Brazil, or else makes profitable operation difficult.</b>	It is requested that GOB:-- fosters local parts manufacturers,-- beefs up their competitive edge by creation of an environment that facilitates entry of foreign funded enterprises, etc.	- PPB (Processo Produtivo Basico = Basic Production Process) for each Product Category
6	Reduction and Elimination of Preferential Policies for Foreign Capital	(1)	Lack of Continuity on Tax Incentive Scheme	While a Member Firm operates under Preferential Tax Measures (PTM) on certain specified products, PTM is available only for a limited period without guarantee for continuation. A Member Firm is unable to set up a long-term business plan.	It is requested that GOB formalizes PTM by revision of the governing laws, instead of making available such measures in a haphazard manner.	

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			<p><b>(Actions)</b></p> <p>- <u>On 30 December 2015, GOB promulgated Decree 13241 "Grid Act" that provides incentives to IT and software industries and resurrects PIS/PASEP/COFINS levy upon retailers' sales to consumers of smartphones, tablet terminals, personal computers and related products to consumers. The tax levy has started since 31 December 2015.</u></p>		
9 Restrictive Export/Import Trade, Duty, and Customs Clearance	(1)	High Import Duty	<p>- <u>Due to the high tariff on cameras, many smuggled goods entering from neighbouring countries disrupt the normal distribution activities. In many cases, travelers on their return trip smuggle them in as accompanying goods.</u></p> <p>- <u>Compared to locally manufactured products, GOB levies high import duty in the range of 12-20% on electric products of various kinds that are imported and sold in the domestic market.</u></p> <p>- While many countries levy import duty on inkjet printers, high duty rates impede business operation especially in the following 2-countries:                      -- Brazil: Printer main unit: 16%, Printer consumables: 0%                      -- Argentina: SFP of less than 30 ppm: 16%, SFP of over 30 ppm: 2%, MFP: 12%, Printer consumables: 0%</p> <p>- <u>While single function projector (being an ITA product) attracts zero import duty, in some countries, multi- function projector is dutiable at high rate of import duty.</u></p> <p>- <b>High import duty levied upon imported car parts.</b></p> <p>- <u>While GOB lifted import control on food products from Japan, import duty remains high.</u></p> <p>- <u>High tariff levied on imported cosmetics, tightening profits.</u></p> <p>- <u>Due to the extremely high import duties and the complex tax levy scheme on construction machines, imported goods have lost their competitive edge on price.</u></p>	<p>- <u>It is requested that GOB refrains from raising the tax rates triggered by the import tariff reductions.</u></p> <p>- <u>It is requested that GOB reviews the tax rates.</u></p> <p>- <u>It is requested that GOJ:</u>                      -- <u>takes action for solution of the problem,</u>                      -- <u>ascertains the latest information for expansion of the scope of products subject to ITA, and</u>                      -- <u>provides information continuously on the future trends worldwide.</u></p> <p>- <u>It is requested that GOB takes steps to review the adequacy of the import duty level.</u></p> <p>- <u>It is requested that GOB works toward repeal of import duty.</u></p> <p>- <u>It is requested that GOB:</u>                      -- <u>makes transparent its taxation system, and</u>                      -- <u>reduces tax rates.</u></p>	<p>MDICE "General Foreign Trade System"</p> <p>Brazilian Taxation System</p>

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				<p><b>(Actions)</b></p> <ul style="list-style-type: none"> <li>- GOB protects the information and communication technology and products by imposing relatively high import tariffs and providing subsidies. The import tariff rates are 20-24% in average on computer, printer, monitor, cellular phone, etc.</li> <li>- On 5 May 2010, in order to halt the sudden surge of car parts import, Ministry of Finance of Brazil announced to raise the import tariff on car parts back to 40% or to "the normal level" from the going rates of 14-18%, which had been applied as a measure to promote car manufacturers production in order to expand their export business. The new measure is aimed at reducing the foreign trade deficit on car parts (from USD2.5 billion in 2009 to estimated USD5 billion in 2010). To implement the new measure, it requires promulgation of the law.</li> <li>- On 7 December 2011, Mexican - Brazilian Negotiations for a Strategic Economic Integration Agreement began.</li> <li>- On 4 September 2012, GOB released its policy to raise import duty (the present tax rates are mainly in 10 to 20% range) by maximum 25% over 100-items, including steel products, drugs, petro-chemical products, tires, glass, etc. GOB intends to introduce such a raise until the end of September.</li> <li>- <u>During 31 August and 1 September 2015, Keidanren (Japan Business Federation) and CNI (Brazilian National Confederation of Industry) convened the 18th Japan – Brazil Economic Joint Conference, and released joint study report toward ratification of Japan – Brazil EPA. It concludes, both Japan and Brazil need to start negotiation for ratification of Comprehensive EPA including 11-fields of Trade on Goods. <a href="http://www.keidanren.or.jp/policy/2015/074.html">http://www.keidanren.or.jp/policy/2015/074.html</a></u></li> </ul> <p><b>(Improvement)</b></p> <ul style="list-style-type: none"> <li>- On 13 September 2012, CAMEX reduced Import Tariff Rates on certain Technical and Capital Goods. (CAMEX Decisions Nos. 68 and 69).</li> <li>- On 17 September 2013, CAMEX notified in the Official Gazette reduction in Import Tariff Rates on Information Technology, Telecommunication and Capital Goods (CAMEX Decision Nos. 73 and 74).</li> <li>- On 23 October 2013, CAMEX notified in the Official Gazette reduction in Import Tariff Rates on Information Technology, Telecommunication and Capital Goods (CAMEX Decision Nos. 88 and 89).</li> <li>- On 4 November 2013, CAMEX notified in the Official Gazette reduction in Import Tariff Rates on Information Technology, Telecommunication and Capital Goods (CAMEX Decision Nos. 91 and 92).</li> <li>- On 27 December 2013, CAMEX notified in the Official Gazette reduction in Import Tariff Rates on Information Technology, Telecommunication and Capital Goods (CAMEX Decision Nos. 119, 120, and 121).</li> <li>- On 17 March 2014, CAMEX notified in the Official Gazette reduction in Import Tariff Rates on Information Technology, Telecommunication and Capital Goods (CAMEX Decision Nos. 19 and 20).</li> <li>- On 9 April 2014, CAMEX notified in the Official Gazette reduction in Import Tariff Rates on certain Capital Goods (CAMEX Decision No. 23).</li> <li>- On 28 April 2014, CAMEX notified in the Official Gazette reduction in Import Tariff Rates on certain Information Technology, and Capital Goods (CAMEX Decision Nos. 34 and 35).</li> <li>- On 22 May 2014, CAMEX notified in the Official Gazette reduction in Import Tariff Rates on certain Information Technology, and Capital Goods (CAMEX Decision Nos. 37 and 38).</li> <li>- On 23 June 2014, CAMEX notified in the Official Gazette reduction in Import Tariff Rates on certain Information Technology, and Capital Goods (CAMEX Decision Nos. 43 and 44).</li> <li>- On 22 July 2014, CAMEX notified in the Official Gazette temporary reduction in Import Tariff Rate on Copper/Tin Alloy Plate (CAMEX Decision No. 56).</li> </ul>		

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			<ul style="list-style-type: none"> <li>- On 28 July 2014, CAMEX notified in the Official Gazette reduction in Import Tariff Rates on Carbon Steel (Thick) Plate, Information Technology, Telecommunication and Capital Goods (CAMEX Decision Nos. 57, 58 and 59).</li> <li>- On 12 August 2014, CAMEX notified in the Official Gazette temporary reduction in Import Tariff Rate on certain Crane Vehicle, etc. due to the supply shortage (CAMEX Decision No. 56).</li> <li>- On 12 September 2014, CAMEX notified in the Official Gazette reduction in Import Tariff Rates on certain Information Technology, and Capital Goods (CAMEX Decision Nos. 79 and 80).</li> <li>- <u>On 19 December 2014, CAMEX reduced import duty rate on certain auto parts, information technology products and capital goods. (Resolutions n. 116/2014, 117/2014, 118/2014)</u></li> <li>- <u>On 16 January 2015, CAMEX temporarily reduced import duty rate on products that had fallen in short supply (aluminium alloy plate, sheet and strip, etc.)</u></li> <li>- <u>On 2 February 2015, CAMEX reduced to 2% import duty rate on certain information technology products and capital goods (Resolutions n. 7/2015, n. 8/2015).</u></li> <li>- <u>On 9 March 2015, Mexico and Brazil agreed on 4-year extension of Auto Trade Agreement.</u></li> <li>- <u>On 22 May 2015, CAMEX reduced import customs duty rate to 2% on certain information technology products and capital goods.</u></li> <li>- <u>On 27 May 2015, Brazil and Mexico signed the Agreement of Economic Complementation (ACE No.53), while agreeing to start negotiation for upgrading ACE No.53 under Latin American Integration Association (ALADI= Asociacion Latinoamericana de Integracion).</u></li> <li>- <u>On 22 June 2015, CAMEX reduced import duty rate on certain information technology products and capital goods (Resolutions n. 54 and 55/2015)</u></li> <li>- <u>On 25 June 2015, Brazil and Argentina signed 41st Additional Protocol for the Agreement of Economic Complementation (ACE No.14); Extension until 30 June 2016 of the current Argentina and Brazil Car Trade Agreement (trade ratio 1.5 Flex Agreement, etc.)</u></li> <li>- <u>On 1 September 2015, temporary reduction of import duty rate on information technology products, telecommunication equipment and capital goods (Resolution N.85 and 86/2015)</u></li> <li>- <u>On 18 December 2015, CAMEX reduced import duty on certain information technology products and capital goods (Resolutions n. 116 and 117/2015)</u></li> </ul>		
	(2)	<u>Discriminatory Application of the Harmonised Tariff Classification</u>	<p>- <u>Under the going Mercosur HS code scheme, a substantial difference in customs duty results from the device technology so that DLP projector (incorporating the U.S. manufacturer's core technology) classified under 8528.69.10. attracts 0% customs duty, while 16% customs duty applies to 3-LCD type DLP projector (incorporating the Japanese affiliated manufacturer's 3LCD core technology) classified under 8528.61.00.</u></p> <p><u>[Reference]: Current Mercosur HS Code:</u></p> <ul style="list-style-type: none"> <li>-- <u>Of a kind solely or principally used in an automatic data processing system of heading 8471, 16%</u></li> <li>-- <u>Other:</u></li> <li><u>8528.69.10:</u></li> <li>--- <u>With digital micromirror device (DMD) technology, free</u></li> </ul>	<p>- <u>It is requested that Mercosur removes bias from its HS scheme.</u></p> <p><u>Harmonisation of import duty.</u></p>	



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			<p><u>8528.69.90:</u>                      --- <u>Other, 20%</u>                      [Remarks]: <u>DMD is also called DLP (Digital Light Processing) projector.</u></p>		
	(3)	Complex and High Rates of Various Taxes on Imports	<p><u>While some imports are tax exempt, in addition to import duty, VAT, ICMS (tax on the circulation of products and services), industrial product service tax, service tax (in case of import of service), adding up to high cost in total.</u>                      - <u>Application is nebulous on various import duties, and the duty rates are extremely high.</u></p>	<p>- <u>It is requested that GOB either streamlines or removes tariff rates.</u>                       - <u>It is requested that GOB:</u>                      -- <u>streamlines the taxation system and</u>                      -- <u>reviews the import tariff rates.</u></p>	- Tax Law
	(4)	Antidumping Measures	<p>- <u>GOB imposed antidumping duty on cold-rolled stainless steel (from Japan, Spain, France, Mexico and South Africa) on 26 May 2000.</u>                      -- The Review was due in May 2005.                      -- On 18 April 2006, negative dumping margin was found on Review as a result of review.                      - <u>It seems antidumping measures will be instituted against isocyanate (materials for polyurethane compound) manufactured in Spain and Federal Republic of Germany in 2015.</u>                      - <u>Anti-dumping measures against glasses manufactured in PRC.</u></p> <p><b>(Actions)</b>                      - In June 2007, CAMEX made affirmative finding to impose dumping duty on imports originating from PRC: on table fans (enforced on August 7, 2007, effective for 5 years maximum with definitive dumping duty of 45.24%), definitive dumping duty of US\$4.82 per unit on electric iron, provisional dumping duty of US\$2.75 per kilogram on speakers, and provisional dumping duty of US\$14.49 per kilogram on comb (for hairs).                      - On 13 December 2007, Foreign Trade Chamber (CAMEX) promulgated in the Official Gazette its Decision No.66 to impose affirmative dumping duty on single loud speakers, NMC Tariff Classification Nos. 8518.21.00, 8518.22.00 and 8518.29.90, originating from PRC. This antidumping duty is valid for maximum 5-years from 13 December 2007. The dumping duty is US\$2.35 per kilogram.                      - On 18 August 2010, CAMEX promulgated in the Official Gazette its Decision No.63 (Gazette Resolution No. 63 (<a href="http://www.jmcti.org/kaigai/Latin/index.htm">http://www.jmcti.org/kaigai/Latin/index.htm</a>)) of 17 August 2010 to impose antidumping duty on subassembly, components, parts and constituent parts of the product, which are subject to antidumping duty or countervailing duty and imported into Brazil from the third country(ies) (enforced on the same date) with the purpose of preventing the circumventing activities of the Brazilian trade relief measures. "The circumventing activities" as defined in the Gazette are:                      (1) Import into Brazil of subassemblies, components, parts or constituent parts which are used for manufacturing the identical products or products not identical in all respects but are closely resembling the products which are subject to the foreign trade relief measures,                      (2) Import into Brazil of products manufactured in the third country(ies) using the subassemblies, components, parts or constituent parts</p>		<p>- <u>RESOLUCAO CAMEX 46 - Jul,4,2014</u>                      - <u>CIRCULAR SECEX 59, Oct,10,2014</u></p>

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			<p>which are originating in the country(ies) subject to the foreign trade relief measures, and</p> <p>(3) Import into Brazil of products with slight changes made, without affecting the directions for use or final usage, or</p> <p>(4) All activities that obstruct execution of the foreign trade relief measures.</p> <p>Decision No. 63 de facto defines the substantive rules and the scope of the new anti-circumvention measures, provided, however, that, the procedural rules from filing application, execution and periodical review of the foreign trade relief measures have neither been promulgated by the Foreign Trade Secretariat (SECEX= Secretaria de Comercio Exterior) nor made known when it becomes available. Decision No. 63 has been promulgated in response to the domestic industry's complaint that the import from PRC has substantially declined while Chinese products are imported into Brazil by circumventing the foreign trade relief measures via third countries. According to GOB, products involved in the circumvention are footwear, hair brushes, bicycles, etc.</p> <p><u>- In 2013, Brazilian Ministry of Development, Industry, and Foreign Trade introduced new anti-dumping regulations.</u></p> <p>- On 4 November 2013, by Decision No. 94, CAMEX published its Final Determination for Levy of Antidumping Duty on Seamless Carbon Steel Pipe Originating from PRC.</p> <p>- On 22 April 2014, Ministério do Desenvolvimento, Indústria e Comércio Exterior (Brazilian Ministry of Development, Commerce &amp; Industry) (MDICE) initiated Antidumping Circumvention Investigation on Carbon and Low Alloy Hot-Rolled Steel Sheet, manufactured in PRC and Ukraine.</p> <p>- On 18 June 2014, CAMEX published its decision to levy Provisional Antidumping Duty on Seamless Carbon Steel Pipe for Oil/Gas Pipeline manufactured in Ukraine. (CAMEX Decision No. 41)</p> <p>- On 20 August 2014, CAMEX published its decision to temporarily suspend Antidumping Duty on non-directional silicon electric steel plate manufactured in PRC, ROK, and ROC.</p>		
	(5)	Unauthorised Triangular Trade	<u>- GOB does not authorise a triangular (intermediate) trade, whereby imported goods are consigned directly to the customer, while the payment for cost of goods is settled through a subsidiary in Brazil.</u>	<u>- It is requested that GOB authorises the triangular trade.</u>	
	(6)	Indiscriminate Import Duty Levy between New and Used Products	<u>- Other than "books, pamphlets, magazines, clothing and shoes", GOB levies import duties (provided, however, that new clothing and shoes are taxable).</u>	<u>- It is requested that GOJ and GOB consider adjusting the classification to an adequate level.</u>	
	(7)	<b>Vexatiously Complex Import Regulations and Application Procedures on Used Machineries and Equipment</b>	<p><u>- In principle, GOB prohibits import of used goods, excepting the case where absence in Brazil of similar products is proven, in which event import is possible, albeit with vexatiously complex procedures.</u></p> <p><b>(Actions)</b></p> <p>- Prior governmental approval is required for import of used automotive vehicles manufactured prior to 1997.</p> <p>- It is practically impossible to obtain import license for used automotive vehicles.</p> <p>- Import of used vehicles is subject to non-automatic import license (Licenca Nao Automatica de Importacao) that requires attachment of Surveyor's Report, etc. to the I/L application form.</p>	<u>- It is requested that GOB authorises import of used goods.</u>	

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			- Secretariat of Foreign Trade (SECEX) of the Ministry of Development, Industry and Commerce (MDIC) rejects virtually all applications for import of used automotive vehicles under Decree, Notification No.1991/8, Authorizing Import of Used Capital Goods on the ground that the Notification envisages import of used manufacturing capital goods. There is no express legislation that prohibits import of used automotive vehicles in the context of import regulations on used machinery and equipment.		
	(8)	High Cost of I/L Acquisition	- <u>GOB collects the fee of 1.96% (which differs, commensurate with the rank graded by the total import parts amount) over the invoice price to cover the cost of I/L issuing, which is too high for a fee.</u>	- <u>It is requested that GOB reduces the I/L issuance fee.</u>	- MDICE "General Foreign Trade System"
	(9)	Complex and Delayed I/L Acquisition Procedures	- <u>Procedures of the I/L application filing are complex and time consuming.</u> - <u>It takes too long, from 2-weeks to 3-months, to obtain import licence from the date of filing application. Sometimes, a few days after acquisition of protocol number, in return for documental submission, GOB demands re-submission of documents. The flow of application procedures is nebulous. Because of this absence of transparency, extraneous expenses accrue, including without limitation, warehousing and storage at sea/air ports.</u> <b>(Actions)</b> - <u>Prior filing of I/L application and its approval are necessary for import of goods into Manaus Free Zone. Filing of I/L Application may be completed by entering into SISCOMEX System, Exporter's Name, Product Name, Model/Type, Transaction/Payment Terms, Applicable Tax Incentives, if any, etc. on the Prescribed Form.</u>	- <u>It is requested that GOB simplifies the procedures.</u> - <u>It is requested that GOB takes step to expedite import licence application procedures, to make visible the handling process, and to elucidate the examination basis.</u>	- Customs Regulation - MDIC (Ministerio do Desenvolvimento, Industria e Comercio Exterior) Circulars Nos.12/99 and 9/00 - MDICE "General Foreign Trade System"
	(10)	<b>Vexatiously Complex and Delayed Import Procedures</b>	- <u>Upon import customs clearance of parts, it is necessary for importers to complete the invoice in Portuguese, including weight, material, manufacturer's name and price for each item, in addition to product name in Portuguese. This is time consuming and makes it impossible to respond quickly to the customer's needs in an emergency.</u>  - <u>Customs clearance procedures are complex and extremely time-consuming.</u> - <u>Upon import of plastic moulds, it takes too much time for customs clearance and various other procedures. The required time varies from time to time so that MFS finds it difficult to plan ahead. After customs clearance, agricultural department's inspection follows. It likewise takes a long time. Due to the mentioned factors, a member firm switched to plastic moulded pallet from wooden pallet in order to save time.</u>	- <u>It is requested that GOB:</u> - <u>streamlines the customs clearance procedure,</u> - <u>improves the customs clearance procedure,</u> - <u>repeals the requirement for item-by-item description of parts, and</u> - <u>accepts also the English description of product names.</u>	- Customs Regulation - MDIC (Ministerio do Desenvolvimento, Industria e Comercio Exterior) Circulars Nos.12/99 and 9/00 - Instrucao Normativa SRF no 476 - Brazilian Customs General Dereto nr. 4,543

Category	No	Issue	Issue Details	Requests	References										
			<p>- <u>At Manaus FTZ, it takes much time to withdraw the goods that arrive at the port. It is only upon completing all of the following procedures that the goods are finally released:</u></p> <table border="0"> <tr> <td><u>1) Check benefits</u></td> <td><u>2) Check import control</u></td> </tr> <tr> <td><u>3) Apply to bank for cargo withdrawal</u></td> <td><u>4) Pay to Japan</u></td> </tr> <tr> <td><u>5) Prepare paper to tax office</u></td> <td><u>6) Check ICMS</u></td> </tr> <tr> <td><u>7) Pay for boat cost</u></td> <td><u>8) Payment of service fees</u></td> </tr> <tr> <td><u>9) Tax office check</u></td> <td></td> </tr> </table> <p>- <u>It takes a long time for a customs permit be granted after the cargo arrive at local ports (as follows), while the storage cost snowballs to the high amount:</u> (The days shown below are approximate.) [Sao Paulo]      <u>-- By Sea: 10 days</u>                          <u>-- By Air: 7 days</u> [Manaus] <u>Waiting Period</u>    <u>-- Green: 3 days (95%)</u>    <u>-- Yellow: 6-7 days (2%)</u>    <u>-- Red: 8 days (3%)</u></p> <p>- <u>GOB requires ID card, taxpayer identification number for the customs clearance and the procedures are complicated.</u></p> <p>- <u>Coping with emergency has been made difficult as customs' spot sampling inspection of imported cargoes takes much time. Spot check halts withdrawal of the entire cargoes for more than one week, despite the impeccable clean record on the part of the inspected importer.</u></p> <p>- <u>The requisite documents for customs clearance differ by persons in charge at customs, so are the procedures that vary by customs personnel in charge, or by sea/air port(s).</u></p> <p>- <u>The customs classification basis for judgement is nebulous upon import declaration.</u></p> <p>- <u>Customs inspectors make false accusations.</u></p>	<u>1) Check benefits</u>	<u>2) Check import control</u>	<u>3) Apply to bank for cargo withdrawal</u>	<u>4) Pay to Japan</u>	<u>5) Prepare paper to tax office</u>	<u>6) Check ICMS</u>	<u>7) Pay for boat cost</u>	<u>8) Payment of service fees</u>	<u>9) Tax office check</u>		<p>- <u>It is requested that GOB expedites the customs clearance.</u></p> <p>- <u>It is requested that GOB streamlines its customs clearance including the procedures.</u></p> <p>- <u>Makes nimble responsive action.-</u> <u>Narrows down the inspection items, taking care not to interrupt or halt the total production flow.</u></p> <p>- <u>GOB takes step to have the laws amended to exclude to the extent possible customs inspector's personal views, and generate official written documents on the rules that relate to specific local circumstances.</u></p> <p>- <u>For the sake of improving import customs clearance on subsequent shipments of similar nature, it is requested that GOB shows the basis of its determination.</u></p>	
<u>1) Check benefits</u>	<u>2) Check import control</u>														
<u>3) Apply to bank for cargo withdrawal</u>	<u>4) Pay to Japan</u>														
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			<ul style="list-style-type: none"> <li>- <u>After cargo arrival (at Manaus), it takes a week to 10-days (or more than 2-weeks at times). Moreover, customs employees' strikes have become an annual event, prolonging for more than a month in a worse case.</u></li> <li>- <u>It takes too much time before the inspector in charge is appointed. During this period, no progress of cargo movement is observed under the customs system.</u></li> <li>- <u>Even after the starting customs inspection, both inspection items and length of inspection are at the mercy of each customs inspector. Prolonged inspection over a long period frequently occurs.</u></li> <li>- <u>As a result, importers incur extraneous cost sea/air ports for storage, etc.</u></li> <li>- <b>Import procedures for samples of Japanese food products are extremely complex.</b></li> </ul>	<ul style="list-style-type: none"> <li>- <u>It is requested that customs complete the customs clearance within 2-3 days.</u></li> <li>- <u>It is requested that GOB sets up a section that deals with customs inspection measures with the view to expedite customs clearance procedures, and provides a broad guidelines on inspection items and corresponding inspection periods.</u></li> <li>- <b>As regards products already sold in the Japan domestic market, it is requested that GOB:</b> <ul style="list-style-type: none"> <li>-- streamlines import customs procedures (more precisely, exempting, for example, anvisa inspection procedure), and</li> <li>-- simplifies the trademark registration procedures in Brazil (substantively, partial exemption of inspection procedures under Ministry of Agriculture, Brazil National Health Surveillance Agency (ANVISA), etc.</li> </ul> </li> </ul>	
<p><b>(Actions)</b></p> <ul style="list-style-type: none"> <li>- In January 1997, SECEX partially introduced the electronic trade document system (Sistema Integrado de Comercio Exterior "SISCOMEX).</li> <li>- Since March 15, 1999, GOB has streamlined export/import declaration on small value shipment, which makes it possible for importers to get the customs clearance by submitting a simplified import declaration (DSI).</li> <li>- WTO Trade Policy Review of December 2004 points out the Brazil now enforces non-automatic licensing requirements on about 35.8% of the tariff lines.</li> <li>- In October 2005, Customs strike continued for more than one month. Although essential goods were cleared through Customs, customs clearance was suspended on luxury goods and Christmas goods.</li> <li>- According to the Deloitte Survey Report, "International Trade--Challenge to Dissolution of Bureaucracy", 80% of 187 firms surveyed cited the difficulty in customs clearance (bureaucracy) as the largest barrier for processing foreign trade in Brazil, while 68% of the firms surveyed responded that 2-10 days are required to complete the customs clearance.</li> </ul>					

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				<ul style="list-style-type: none"> <li>- At the Japan-Brazil Joint Committee on Promotion of Trade and Investment held in February and September 2009, Japan side brought up the issue for simplified import procedure for used machineries which is now extremely complex and procrastinated. Brazilian side expressed its appreciation of the problems.</li> <li>- On 12 January 2012, MDIC tightened import control on mobile phones by requiring Certificate issued by Anatel (Agencia Nacional de Telecomunicacoes) before import, in order to restrict import of "low quality" mobile phones. The measures entered into force on 25 January 2012.</li> <li>- <u>In December 2014, Brazilian Federal Revenue released initiation of Authorized Economic Operator (AEO) scheme.</u></li> <li>[Reference:] Brazilian Federal Revenue Normative Instruction n. 1,521/2014 at:  <a href="http://normas.receita.fazenda.gov.br/sijut2consulta/link.action?idAto=59000&amp;visao=anotado">http://normas.receita.fazenda.gov.br/sijut2consulta/link.action?idAto=59000&amp;visao=anotado</a></li> <li><b>(Improvement)</b></li> <li>- In 1998, National Tax Administration Agency established express customs clearance system (Linha Azul or Blue Line).</li> <li>- Since 1999, GOB implemented a simplified customs declaration system for handling goods in small amounts (not more than US\$10,000) such as export of spare parts, and re-export of temporary imports.</li> <li>- Under IN445/04 and ADE10/04, GOB legally mandates for handling export/import procedures in Brazil the use of SISCOMEX, which is a computerized integrated trade system (CITS) maintained by the Trade Administration Section (SECEX/DECEX) of the MDICE. Importers, customs brokers, banks, etc. are authorized to file computerized export/import customs clearance procedure by completing the importer/exporter registration (REI) and preparing hardware and software required for the electronic connection.</li> <li>- Enterprises importing raw materials in the amount equal to 40% of the assumed total export are authorized to take advantage of the cost saving drawback system incorporated into the CITS for exemption of import tariff, federal excise tax, federal Industrialized Product Tax (Imposto sobre Produtos Industrializados=IPI) and Merchandise Circulation Tax (Impostos Sobre Circulacao de Mercadorias e Prestacao de Servicos) (ICMS).</li> <li>- Enterprises with substantial export performance benefit from application of the "Blue Line" (Linha Azul), an expedited customs clearance category.</li> <li>- The use of SISCOMEX (Integrated Foreign Trade System) administered by DECEX (Department of Operations for Foreign Trade) of SECEX (Foreign Trade Department) for the Export/Import Procedures is a mandatory requirement under the law. Filing application for Exporter/Importer Registration (REI), and preparation of hardware/software, etc. for network connection to customs brokers, banks, etc. are all requisite steps to complete the export/import procedures by SISCOMEX.</li> <li>- On 5 October 2006, Federal Revenue of Brazil promulgated Ruling Regulation No.680 that streamlines import procedure and reduces import fees. The Regulation provides for new import customs clearance procedure such as automatic customs clearance by the quantitative confirmation.</li> <li>- The Ruling Regulation No.680 provides that the actual physical inspection of the customs officer may be replaced by the inspection reports such as: <ul style="list-style-type: none"> <li>1) Report or Inspection Certificate issued by the Customs Authority of the exporting country, or</li> <li>2) Report and Inspection Certificate issued by the Import License Officer in charge or other authority.</li> </ul> </li> <li>- On 4 April 2007, Federal Revenue of Brazil promulgated in the Official Gazette Ruling Regulation No. 731/2007 amending Article Nos. 19, 24 and 47 of Ruling Regulation No. 680/2006. This amendment stipulates, among other provisions, new customs clearance procedure for installment deliveries and early deliveries.</li> </ul>		

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			<p>- "SISCARGA" Electronic System on movement of goods during customs clearance has started its operation from 31 March 2008, in order to realize the bundling together of the control on 'movement of goods at Customs', 'movement of cargo vessels', and 'the tax levy system'.</p> <p>- The use of SICOMEX, an integrated computer system, which is maintained by Foreign Trade Department (DECEX) of Ministry of Development, Industry, Commerce and Foreign Trade (SECEX), is obligatory under the Brazilian law for filing export/import procedure, which can be made by prior exporter/importer registration (REI) with the authority and preparation of the requisite hardware/software, through the computer systems connected to SICOMEX, using the computer system of the applicant, customs broker, or bank.</p> <p>- In June 2010, GOB introduced "Paperless Port System" that will enable public and private sector organizations to share information related to export/import information across the entire logistics chain on-line, including 6 governmental agencies such as the port authority in order to cut down the number of days required for customs clearance.</p> <p>- In March 2014, FRB introduced Simplified Import Declaration (DSI) system applicable to imports in small amounts (corresponding to the amount less than USD3,000).</p>		
	(11)	<u>Stringent Penalty and Exorbitant Amount of Fines</u>	<p>- <u>GOB compels payment of exorbitant amount of fines on careless mistakes made in the customs clearance documents and customs declaration contents. Delayed customs clearance.</u></p>	<p>- <u>It is requested that GOJ induces GOB's prompting customs' improvement.</u></p>	<p>- <u>Regulamento Aduaneiro Art. 702,703,706,711, 715,717,725,727,728, etc.</u></p>
	(12)	<u>Rampant Smuggling and Illicit Imports</u>	<p>- <u>Due to the heavy tax burden imposed by GOB, including, Import Duty (II) 4-20%, Tax on the Circulation of Products and Services (ICMS) 7-18%, and Federal Sales Tax (PIS/COFINS) 3.65%, besides Industrial Product Tax (IPI), illicit imports are rampant, with incorrect quantities and amounts shown on customs declaration forms, etc. Despite the fact that import of the latest high-tech IT products is indispensable for promotion of the Brazilian industry, stale, used goods are sold by illicit dealers out in the open in the market as brand new, because of the various heavy taxes and regulations.</u></p> <p>- <u>Illicit imports and smugglings abound of electronic products and equipment (in circumvention via Uruguay and Paraguay of Mercosur Member States, and by traffickers from Miami, the U.S.), due to a less-than- thorough collection of import duties, ICMS and IPI Taxes and other taxes and dues that injures development of the domestic industry in Brazil, because of the gap in cost and price from the legitimately manufactured, imported and distributed products.</u></p> <p><u>i.e.,</u></p> <p>- <u>Personal computers, mobile phones, home electric appliances, office equipment.</u></p>	<p>- <u>It is requested that GOB:</u></p> <p><u>-- deregulates the heavy tax burdens,</u></p> <p><u>-- makes redoubled efforts thoroughly and completely in clamping down on the illicit imports and illicit products.</u></p> <p>- <u>It is requested that GOB tightens its clampdown on illicit imports, and smuggled products.</u></p>	

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			<p><b>Illegal imports are rampant. Especially, parallel imports of cheap products originating from Republic of Paraguay are in circulation in the Brazilian market.</b></p> <p><b>(Actions)</b></p> <p>- The high tax rates are causing the rampant illegal imports of pirate editions in Brazil, with prices less than half of the legitimate products. GOB has developed a campaign focused on the young purchasers, inducing them to boycott the pirate editions.</p> <p>- Since 2005 in each year, GOB has participated in "Operation Jupiter" under collaboration of interpol and WCO, in association with police/customs/private enterprises of each country in South America to clamp down on counterfeits/pirating of copyrighted works.</p>	<p>It is requested that GOB:</p> <ul style="list-style-type: none"> <li>-- tightens its clampdown upon parallel imports at the border, and</li> <li>-- gives seminars to customs officials.</li> </ul>	
	(13)	Stark and Still Export Customs Clearance Scheme	<p>- It is difficult to correct prices and change payment terms after shipment is made.</p>	<p>It is requested that GOB streamlines the customs clearance procedures with more flexibility.</p>	
	(14)	Disunity in Rules on Customs Clearance	<p>- Due to the non-standardised Customs Rules, traders experience much difficulty in preparing the shipping documents for their customers in Brazil. To expedite customs clearance, it is necessary to use the Blue Line (Express Customs Clearance System).</p>	<p>Measures such as provision of Blue Line are welcome to traders for improving the environment for further development of international business.</p>	
	(15)	Disallowed C.I.F. Price Setting under Incoterms	<p>- GOB does not accept price setting based on the CIF price, pursuant to INCOTERMS.</p>	<p>It is requested that GOB accepts price setting based on the CIF price under INCOTERMS.</p>	
	(16)	<b>Compulsion on Use of Special Packaging as a Requirement for Duty Exemption on Imported Products</b>	<p>- To encourage Education and Culture in Brazil, the Federal Constitution grants Tax Immunity to papers used for publication or educational purposes, such as books, newspapers, periodicals, and for writing (the Products). However, to expel the use of the Products for other purposes, GOB compels the use of packaging materials printed "PAPEL IMUNE". It frustrated export to Brazil of the products, as the requirement goes far beyond manufacturers' taking adequate responsive actions with ease.</p>	<p>While GOB states the new requirement has been introduced for the purpose of improving the tax revenue, it is a question of whether the importers submit to the local legislative systems. It is requested that GOB reviews the new requirement, which compels manufacturers in exporting countries the use of a special packaging for the Products. The unilateral compulsion of the use of the special packaging is tantamount to action for expulsion of imports.</p>	<p>RFB Normative Instruction NO.1341</p>



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	(17)	<u>Import Restrictions on Expatriates' Personal Cargoes</u>	- <u>GOB prohibits all foods, drinks and medication drugs as expatriates' personal cargoes.</u> - <u>After entry, expatriates must personally keep the AEO air-ticket stub, pending completion of customs clearance on personal effects moved from their home country.</u>	- <u>It is requested that GOB considers optimizing the level of AEO (Authorised Economic Operator).</u>		
	(18)	<u>Exorbitant Storage Charge of Bonded Warehouse at Sea/Air Port Terminals</u>	- <u>AEO bonded warehouse operation subject to public tender, operators have no alternative but charge high storage (based on CIF price) to customers.</u>	- <u>It is requested that GOB considers reduction of warehousing charge at AEO sea/airport terminals.</u>		
10	Restrictive Measures for Operations in Free Trade Zones ("FTZs") and Special Economic Zones ("SEZs")	(1)	<u>Abrupt Amendment of the Interpretative Ruling for Grant of the Preferential Tax Treatment in FTZ</u>	- <u>The member firm had to change its production process due to the abrupt amendment of the interpretative ruling on PPB (Processo Produtivo Basico = Basic Production Process), which forms the requisite conditions for grant of the preferential tax treatment in the Manaus free trade zone. The member firm was compelled to change its production process. Since 2013, GOB has compelled the incorporation of interactive middleware Dinga on 75% of the television receivers manufactured.</u>	- <u>It is requested that GOB ensures:</u> -- <u>consistency and stability in the law interpretation, and</u> -- <u>a sufficient moratorium period for adjustment with enterprises in making legislative changes.</u>	
		(2)	<u>Compulsory Acquisition of I/L on Imported Parts into FTZ</u>	- <u>In the Manaus region, GOB dispensed with the import licence (I/L) requirement on finished watches since 1 January 1997, however, requirement of the I/L on individual parts (i.e., speakers, power cords) continued. It is quite complex.</u>	- <u>It is requested that GOB repeals the I/L requirement.</u>	- Customs Regulation - MDIC (Ministerio do Desenvolvimento, Industria e Comercio Exterior) Circulars Nos.12/99 and 9/00 - MDICE "General Foreign Trade System"
		(3)	<u>Inflexible Import Customs Clearance Procedures in FTZ</u>	- <u>In the Manaus FTZ, GOB requires importers to designate destinations for the imported goods upon customs clearance. No change of destinations shall be admitted after the customs clearance is completed.</u>	- <u>It is requested that GOB permits change in destination of the imported goods after the customs clearance.</u>	
11	Restriction on Profits Remittance Abroad	(1)	<b>Restricted External Remittance for Provision of Services</b>	- <u>Instituto Nacional da Propriedade Industrial (INPI=National Institution of Industrial Property) allows annual external remittance of royalty under restrictions of up to 5-years (extendable once only for 5-more years), within 5% of sales, etc. The external remittance requires filing of application to INPI, registration of contract, and registration at Banco</u>	- <u>It is requested that INPI streamlines and simplifies the system for examination procedures of contract and for contract registration.</u>	- BCB Regulation (CIRC1,533 CIRC2,685) - "Law on Foreign Capital and Remittance Abroad", etc.

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				<p><u>Central do Brasil (BCB). It seems upon INPI registration it takes much time for examination in detail and confirmation of contract.</u></p> <p>- <u>Tax on Royalty is extremely high.</u></p> <p><u>(1)As regards Remittance of Royalty, Withholding Tax of 12.5%, Tax on Financial Transactions of 0.38% and Contribution for Intervention on the Economic Domain of 10% are imposed.</u></p> <p><u>(2)As regards of remittance of service withholding tax of 15%, tax on financial transactions of 0.38%, contribution for intervention on the economic domain of 100%. Social Integration Programme of 1.65%, Social Integration Fund of 7.6%, in total of 5-kinds of taxes is imposed.</u></p> <p><u>(3)As regards Remittance corresponding to Actual Settlement of Expense Account, Withholding Tax of 15% plus Tax on Financial Transactions of 0.38%.</u></p> <p>- <u>GOB levies 40% Tax upon External Remittance of Service Fees. A Member Firm Subsidiary (MFS) engaged in Agricultural Chemicals Business, acting as Regional Headquarters in Central-South America / Caribbean Region has lost its flexibility in business outside Brazil.</u></p>	<p>- <u>Restrictions as described in the left column have already been repealed in many countries and Brazil departs from the international trend. It is requested that GOB causes the law to be amended and improves its implementation by the authority.</u></p> <p>- <u>Conversely, it is requested that GOB reviews the possibility for attracting service industries into the high cost Brazil, i.e., by reduction in ISS (Imposto sobre Servicos=Municipal Tax on Services) (5%) levied on Services rendered in Brazil.</u></p>	<p>- Supplemental Act No.70</p> <p>- Law Nos.10637, 10168, 10833 and 10865</p> <p>- Supplemental Act No.116</p> <p>- Administrative Decree No.7412</p>
				<p><b>(Actions)</b></p> <p>- Remittance of royalty incurs various kinds of taxes, such as PIS/Coffins, ISS, etc. on Service Contract. Moreover, interpretation varies among lawyers and accountants on tax levy such as PIS/Coffins, ISS, etc. As a result, actual tax levy on remittance abroad is determined on a case by case basis.</p> <p>- The following kinds of taxes are levied on remittance abroad:</p> <p>(1) IRRJ (Federal Withholding Tax): 12.5% (Note: Under Brazil-Japan Tax Treaty reduced from 15% to 12.5%).</p> <p>(2) CIDE (Contribution for Intervention on the Economic Domain) 10%: (Although this is a Federal Tax, a certain portion of this tax serves as Municipal Tax Revenue.)</p> <p>(3) Social Contributions (PIS/COFINS Import): 9.25%</p> <p style="padding-left: 20px;">PIS (Social Integration Program) (Federal Tax): 1.65%</p> <p style="padding-left: 20px;">COFINS (Contribution for the Financing of Social Security) (Federal Tax): 7.6%</p> <p>(4) ISS (Tax on Services): 2% to 5%: (Municipal Tax) (Service Tax)</p> <p>(5) IOF (Tax on Financial Transactions): 0.38%: Remittance Tax</p> <p>- In principle, GOB restricts to 5% on the sales price the amounts of royalty and licensing fees payable to the licensor and deductible for the use of patents and trademarks.</p>		

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				<ul style="list-style-type: none"> <li>- Brazilian enterprises are required to pay to foreign enterprises royalty through the Central Bank of Brazil ("CBB"). In this context, a Brazilian enterprise pays to CBB the fund in the Brazilian currency. CBB converts the fund into the U.S. dollars to enable the governmental control of international trade balance, and remit the sum to foreign payees.</li> <li>- BCB requires applicants to file declaration electronically for all external payments made to the headquarters of the enterprise making direct foreign investment via the BCB's electronic system ("SISBACEN"), the declaration system (RDE-IED: foreign direct investment; and RDE-RDF registration of financial transaction). The receipt of the invested fund and remittance to overseas' payees are thus made electronically, using the BCB's electronic system. (Law No.4131/62, Government Decree 55.762/65 BCB).</li> <li>- Where the corresponding amount is not registered at CBB such as remittance of profits, capital, or reinvestment, remittance abroad is restricted. Furthermore, remittance in the foreign currency in excess of the original amount registered becomes subject to withholding tax levy.</li> <li>- In Brazil, by amendment in 1991 of income tax law (Law No.8383/91), inclusion in expenses of external remittance between related companies has been made possible. (Up to that time, Brazilian subsidiaries remittance for licencing fees, etc. to their parents in home countries was disallowed as expenses.) To begin with, Foreign Direct Investment Law (Law No.4131/62) allows only up to 5% inclusion into expenses of external remittance of royalties, etc. Ministry of Finance Order (Ordinance 436/58), promulgated under the 1991 amendment of income tax law, made it possible to include in expenses royalties remitted abroad under the contract signed and recorded by INPI and registered at the Central Bank. No royalty remitted in excess of the limit under Ordinance 436/58 may be included in expenses. Thus, inclusion into expenses of royalty payment requires registration at INPI and acceptance of INPI's terms that include the cap of 5% on the royalty rate. In effect, 5% against the net sales amount attributable to the technology in concern is the maximum deductible rate as expenses on account of the royalty payment.</li> <li>- Regulation Decision No.55 of August 27, 2003 requires completing the details for the technology transfer program or the workforce training program upon filing application for the technical after-service certification on technology transfer registered with INPI, sales and purchase of equipment with technical service based on the documents issued by Federal Revenue Bureau, technological collaboration within the enterprises of the same group, deed in foreign currency exchanged between the public corporation and foreign corporations and agreements and contracts.</li> <li>- Since July 2006, INPI has introduced the electronic filing system for processing the trademark applications, while reinforcing INPI with additional 130 examiners to alleviate the backlog of the pending patent applications. As a result in the first two-months of 2008, the patent service cases that INPI processed have increased by 20.88%. In September 2008, The World Intellectual Property Organization (WIPO) acknowledged INPI as International Searching Authority (ISA) and International Preliminary Examining Authority (IPEA). This acknowledgement, it is hoped, will reduce the cost of filing overseas' applications of Brazilian patents and increase the number of patents issued under the Patent Cooperation Treaty (PCT).</li> <li>- GOB gets involved in payment of royalty abroad as a part of its control on international trade balance. (In principle, 5% on the sale amount is the maximum for royalty.)</li> <li>- Beneficiary with contract for more than 5 years is not authorized to deduct technical transfer fees from taxable income payment.</li> <li>- Japanese enterprises since February 2009 brought up the issue before GOB, urging improvement over the issues concerning the duration of the period for the Technical Transfer Agreement, and for the Confidentiality Obligations, and the cap on the royalty at the Japan-Brazil Joint Committee on Promotion of Trade and Investment.</li> </ul>		

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			<ul style="list-style-type: none"> <li>- At the Japan-Brazil Joint Committee on Promotion of Trade and Investment held in February and September 2009, Japan side brought up the issue on royalty payment. Brazilian side expressed its appreciation of the problems.</li> <li>- For remittance of royalty, the applicants must first complete registration at INPI and then do the same also at BCB.</li> <li>- Normally, registration at INPI is not required for remittance abroad under a Service Contract that does not accompany provision of Transfer of Technology. However, Commercial Bank at times refuses such registration at BCB and requires, at its own discretion, registration at INPI, or else directs applicant to consult with a legal counsel.</li> <li>- Decision of Yes or No varies by Commercial Bank on remittance abroad under a Service Contract. It is the same if registration is required at INPI, depending upon lawyers and accountants consulted. These puzzling questions are troublesome to not a few enterprises.</li> <li>- If the amount of royalty exceeds the cap of 5% on the annual sales amount, remittance of the initial cost incurred for provision of technical assistance is denied, even if it is registered as royalty at INPI.</li> <li>- At the Japan-Brazil Joint Committee for Promoting Trade and Investment during 2009 through 2011, GOJ have urged GOB for improvement such as INPI cap on the royalty rate and issues concerning reduction in confidentiality and secrecy maintenance period.</li> </ul>		
	(2)	Cap on Royalty Rate between Related Enterprises	<p><u>BCB restricts the royalty rate among related parties. Moreover, materials and component parts procured from the related enterprises must be excluded from the royalty calculation basis.</u></p> <p><u>INPI's approval is necessary for External Remittance of Royalty for use of Patent, Industrial/Commercial Trademark, Scientific / Technical Cooperation, etc., provided, however, that the Cap on the amount of remittance is low, only 5% minimum against Net Sales (the excess of which is deemed as distribution of profit). It blocks investment from foreign countries that accompanies high-end technical transfers. Moreover, royalty remittance on trademarks is only 1% maximum, which is extremely low compared to other countries.</u></p> <p><b>(Actions)</b></p> <p>- By amendment of Corporate Income Tax Law of 1991 (Law No. 8383/91), deduction is made possible of remittance abroad between the related parties, provided, however, that under Foreign Fund Law (Law No. 4131/62), 5% cap was provided to begin with as the amount of deductible royalty remitted abroad. At the 1991 amendment of Corporate Income Tax Law, by reference to MOF Ordinance (Ordinance 436/58), it was decided to approve deduction from the taxable income the remittance abroad of royalty based on the Agreement signed and recorded by INPI and registered at BCB within the limit so prescribed in the regulations. INPI therefore does not approve royalty rate that exceeds this cap on the royalty as deduction from the taxable income. Thus, registration at INPI is a precondition for inclusion into deductible fund of royalty remitted abroad. For the purpose of this registration the applicant has no alternative but to accept INPI's conditions, (namely, the cap on inclusion into deductible expenses equals the cap on royalty rate). Consequently, in the Agreement between the related parties, the royalty rate is maximum 5% on the net sales amount emanating from the technology so transferred.</p>	<p><u>Restrictions as described in the left column have already been repealed in many countries, and Brazil departs from the international trend. It is requested that GOB causes the law to be amended and improves its implementation by the authority.</u></p> <p><u>It is requested that INPI raises the cap on royalty remittance.</u></p>	<p><u>"Law on Foreign Capital and Remittance Abroad", etc. Act 4131 (1962) Ministry of Finance Decree 436 (1958)</u></p>

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			- Since the 1st Japan-Brazil Joint Commission Meeting for Trade and Investment of February 2009 to the 6th Meeting of November 2012, Japan side has successively requested improvement on the rate of royalty. (2013 Report on Compliance by Major Trading Partners with Trade Agreements)		
	(3)	<u>Difficult Profit Collection due to Complex Taxation System</u>	<p>- <u>Tax levy scheme on profit collection and complexity of tax scheme in Brazil serve as conundrum in appreciating the business risk and opportunities in Brazil.</u></p> <p>- <u>GOB has never authorised external remittance on account of debt (such as payment of traveling expenses on business trip) other than import that does not accompany movement of goods.</u>  <u>Due to the following issues, member firm is at a loss on the respective accounting treatment, lest substantial uncollected accounts receivables may result. Restrictions on remittance have been on the way to deregulation (personal remittance procedure of up to R\$20,000 has been streamlined, etc.):</u></p> <ul style="list-style-type: none"> <li>-- <u>Taxation scheme over financial transactions is complex/ambiguous.</u></li> <li>-- <u>Abuse of ambiguity in transfer price taxation system.</u></li> <li>-- <u>Heavy tax burdens.</u></li> <li>-- <u>Nebulous netting policy.</u></li> <li>-- <u>Absence of refunding scheme on the VAT levied bad debt on accounts receivables.</u></li> <li>-- <u>Absence of consolidated tax payment scheme.</u></li> </ul>	<p>- <u>It is requested that GOB advances legislative overhaul and consultation to arouse foreign investment into Brazil.</u></p> <p>- <u>It is requested that GOB fundamentally removes the Brazilian financial restrictions.</u></p>	
12 Exchange Controls	(1)	<u>Complex/delayed Licence Acquisition Procedures for External Remittance</u>	- <u>When an expatriate to Brazil, remits the cost of living to his/her family left behind in Japan, a Comfort Letter showing that the recipients are his/her dependant family members must be prepared. In addition, some banks also require the submission of family register (FRG), and proof of earnings of the remitter (POE).</u>	<p>- <u>It is requested that GOB:</u></p> <ul style="list-style-type: none"> <li>-- <u>harmonises the remittance procedure via banks.</u></li> <li>-- <u>obviates the need for submission of FRG and POE in order that just Comfort Letter suffices.</u></li> <li>-- <u>accepts submission of alternative documents for those that are not readily obtainable in Brazil such as FRG and</u></li> <li>-- <u>fundamentally deregulates or eliminates the regulatory requirement for FRG , POE, Comfort Letter, etc.</u></li> </ul>	- BCB Regulation (CIRC1,533 CIRC2,685)

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			<p>- <u>Difficulty in external remittance, vexatiously complex clerical work.</u></p> <p>- <u>Upon external remittance, Banco central do Brasil requires presentation of "ROF" (Registro de Operações Financeiras= Record of Financial Transactions). However, there are cases where remittance is not authorised due to deficiency of documents.</u></p> <p>- <u>Application and acquisition of ROF (financial operation registration) is necessary for payment of dividends and principals. Reference is made to ROF No. on capital transactions via an intermediary bank.</u></p> <p>- <u>There has been increasing number of cases where delays by several months occurred on external remittance at the direction of Banco central do Brasil. It affects not only settlement between enterprises but extends to personal remittances from time to time, extending its impact upon individuals' livelihood.</u></p> <p><b>(Actions)</b></p> <p>- <u>BCB continues its rigorous control on REAL after introduction of the REAL Plan, imposing restrictions on remittance abroad in various currencies (payment of dividend on: capital gains, debt, consideration for technology transfer, settlement of import account, and foreign investment) and restricting severely as needed. In each instance, GOB requires explanation of the transaction involved, documentary proof (on transaction subject to tax, proof of payment for tax). An authorized foreign exchange bank or BCB approves or disapproves the requested remittance.</u></p> <p>- <u>It is incumbent upon an Authorised Foreign Exchange Bank to confirm the legitimacy of its customer's Foreign Exchange Transactions and to report its findings to the Central Bank. Customer's foreign exchange transactions must conform to the purposes of the transactions laid down in the Central Bank's Regulations (CNC).</u></p>	<p>- <u>It is requested that GOB deregulates foreign exchange control.</u></p> <p>- <u>It is requested that Central Bank of Brazil streamlines the procedures.</u></p> <p>- <u>It is requested that GOJ causes BCB to expressly identify the regulations that govern external remittance from Brazil, including the terms and conditions that guarantee timely receipt of the remitted fund without delay.</u></p>	
	(2)	Undeveloped Forward Booking Market for Foreign Exchange	<p>- <u>GOB restricts the means of hedging the foreign exchange risk only to variable bonds in US dollars and SWAP. In the absence of the foreign exchange advance booking market, enterprises are compelled to rely upon extremely restrictive means of hedging the risks of foreign exchange. Also it is expensive to hedge the foreign exchange risk since the cost is linked to interest rate.</u></p> <p>- <u>Due to the absence of the market of foreign exchange forwards in Brazil, enterprises are left with no alternative but to rely on limited means for hedging the foreign exchange risks, such as NDF (Non-Delivery Forward) and its cost is exorbitantly high. In addition, Brazilian enterprises are prohibited from dealing in NDF, etc. with banks other than the domestic banks.</u></p>	<p>- <u>It is requested that GOB establishes foreign exchange advance booking market that parallels to the developed countries.</u></p> <p>- <u>It is requested that GOB creates the market of foreign exchange forwards in Brazil.</u></p>	

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			- <u>It is difficult for a member firm' subsidiary (MFS)--purchasing imported goods in foreign currency for local resale in Brazil--to hedge the exchange risk, due to the absence of the foreign exchange forwards market, which is available in the developed countries, while BCRA authorises transactions only in the local currency, Real. The 3-methods for hedging the exchange risk now available are costly, due to be Real not being a hard or strong currency. Non-Deliverable Forward, the most general-purpose method is void of fairness, as income tax liability accrues only when the enterprises generate profits from the transaction.</u>	- <u>It is requested that BCRA establishes a more concise procedure that does not disfavour local enterprises in Brazil in hedging the exchange risk. In light of the volatility and the difference of the Real's interest rate from hard currencies, there would not be much hope for cost reduction at the time of making the forward booking.</u>	
	(3)	Unauthorised Netting of Debtors/ Creditors	- <u>As GOB disallows the netting of external debtors and creditors account, reciprocal external remittance is necessary.</u>	- <u>It is requested that GOB liberalises the netting.</u>	
	(4)	Contract and Settlement Terms in USD	- <u>GOB prohibits domestic transactions agreement in USD.</u>	- <u>It is requested that GOB takes steps to liberalise the domestic settlement in USD and the domestic contract in USD, such contracts are desirable in certain cases.</u>	
	(5)	Radical exchange fluctuations prevail.	- <u>As it stands, Member Firm's Subsidiary (MFS) benefits from exchange gain on a direct export transaction in yen. Nevertheless, negotiation for raise in price is difficult. In a transaction with its parent company, the prevailing Yen depreciation enables MFS to offer special prices to its customers. However, MFS runs on a thin margin, so that if the exchange rate swings toward appreciation of Yen, it will instantly show operational loss: such is the severity of the fluctuation band.</u>	- <u>t is requested that GOP takes step to:</u> -- <u>stabilise foreign exchange fluctuations, and</u> -- <u>holds the fluctuation band within a few percents in 6-months.</u>	
			(Actions) - <u>Exchange rate of real against USD dropped by 12.5% in 2014, but in 2015 (September), it dropped by nearly 50%.</u>		
13Finance	(1)	<b>Complex, and Frequently changing Financial/Taxation Systems and Regulations</b>	- <b>Tax on financial transactions (IOF) and systems related to foreign exchange are extremely complex and changed frequently. Moreover, these systems change very often. The tax exemption period has been extended from the previous more than 90-days to more than 180-days (as of the year-end 2014). (Since 4 June 2014, it has been deregulated to 180-days.)</b>	- <b>It is requested that GOB:</b> -- <b>simplifies the regulations, and</b> -- <b>further abridges the exemption period.</b>	- Law 7853 (5 December 2012)

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			<p><b>(Improvement)</b></p> <p>- GOB promulgated Decree No.7,751 of 14 June 2012, in the Diario Oficial, releasing the change in Regulation on IOF Levy. GOB collects IOF upon borrowing of foreign currency by domestic enterprises or upon inflow into Brazil of the foreign fund from the bond issued abroad. The Decree sets forth the taxable transactions in accordance with the borrowing periods or the redemption periods. The amendment of the Regulation this time has cut down approximately the period from less than 5-years to less than 2-years (expressly stated as 720 days in the Decree), while the tax rate remains at 6%. The Decree became effective on the same day as the date of promulgation. (JETRO Business News)</p>		
	(2)	Preferential Financing Scheme for Products	<p>- Preferential domestic products financing scheme:</p> <p>- BNDES (The Brazilian Economical and Social Development Bank) offers <u>low-interest and long-term financing so that other means of fund procurement is less attractive to basic infrastructure overhaul projects, blocking diversification in the means of fund procurement. On the other hand, BNDES loan is based upon local Brazilian procurement, unsuitable for infrastructure overhauls projects, employing the latest machineries and equipment unavailable in Brazil.</u></p> <p>- <u>It appears that financial institutions apply favourable interest rates to the dealers who purchase goods from enterprises with local manufacturing facilities in Brazil.</u></p>	<p>- It is requested that GOB deregulates <u>currency control (real transactions rules), or builds up financial schemes readily capable of risk hedge in foreign exchange, toward facilitating handling of foreign currency.</u></p> <p>- It is requested that GOB both <u>confirms and provides the latest related information.</u></p>	FINAME
	(3)	Difficulty in Intra-Group Cash Management Service	<p>- <u>Within a group of companies, should surplus funded companies and deficit ridden companies wish to minimise, as a group of companies, outflowing cost and to enhance capital funding efficiency, due to the existence of IOF (Tax on Financial Operations), taxable upon financing or inter-account move of fund, such kind of service has not yet materialised. It remains difficult to construct within an enterprise (a group of companies) its own cash management service.</u></p>	<p>- It is requested that GOB overhauls <u>legislative system that enables cash management service by financial institutions and enterprises.</u></p>	
	(4)	Restricted Cross-Border Fund Transactions within a Group of Companies	<p>- <u>The minimum term requirement (of 180 days as of January 2015) exists on intra-company offshore financing from abroad.</u></p>	<p>- It is requested that GOB takes step <u>to repeal the minimum term requirement or further reduces the minimum period.</u></p>	
14 Taxation Systems	(1)	Complex, Wide Ranging Taxation System	<p>- <u>Multi-layered taxation and commission systems additionally burden the operational costs of enterprises for clerical works relating to bookkeeping and taxation:</u></p> <p>-- <u>Federal taxes, state taxes, and municipal taxes amount in total to 18 kinds;</u></p> <p>-- <u>Various commissions and contributions amount to 27 in total.</u></p>	<p>- It is requested that GOB integrates <u>and streamlines the taxation system and lessens the tax burden, and grants tax exemption incentives, etc. on foreign investment in Brazil.</u></p>	<p>- Brazilian Taxation System</p> <p>- Brazilian Tax Law</p> <p>- Brazilian Tax Law No.563</p>



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			<p><u>- GOB levies complex, high rates of taxes of multiple kinds, which change very often. Brazilian taxes which are particularly different from Japanese taxes are:</u></p> <p><u>1) Body Corporate must calculate every month its tax base and tax liability</u></p> <p><u>2) Currency fluctuation correction shall be made on fixed assets and capital account and any gain after correction of value is subject to tax collection.</u></p> <p><u>3) While tax payments on consolidated basis do not exist in Brazil, equity method applies to persons with 20% or more of capital contribution in the related companies.</u></p> <p><u>- Taxes imposed on auto-parts import are comprised of federal taxes, namely, import tariff, and Industrial Product Tax (IPI), and state taxes, namely, ICMS (Commodity distribution service tax). The rates of import tariffs and IPI vary by items, while ICMS vary by states (18% in Sao Paulo now).</u></p> <p><u>- Upon import of auto parts into Brazil, apart from import duty, prepayment is necessary for multiple kinds of taxes, such as IPI, PIS, CONFINS, AFRMM, ICMS (about 70% or more, including import duty). A business entity focused mainly in import business cannot survive without substantial cash on hand.</u></p> <p><u>- Complex treatment of taxes, especially, indirect taxes such as IPI and ICMS, is extremely complex, having a substantial impact on the enterprises operation costs.</u></p> <p><u>- The taxation systems are so complex that each competing enterprise must retain experts.</u></p> <p><u>- Complex and high tax rates (Corporate income tax, Industrial product tax, Financial transactions tax, Social integration plan tax (Sales tax), and Financial contribution to the Social Insurance (Sales tax), Contribution to social interest, Cheque tax, and Product distribution service tax).</u></p>	<p><u>- It is requested that GOB:</u></p> <p><u>-- delineates clearly its policy including the tax guide involved in the construction work.</u></p> <p><u>- It is requested that GOB introduces a commonly used taxation system.</u></p> <p><u>- It is requested that GOB unifies various complex taxes into a single tax, which becomes payable upon sales to customer.</u></p> <p><u>- It is requested that GOB:</u></p> <p><u>-- turns all taxes into a VAT format,</u></p> <p><u>-- reduces tax rates, and</u></p> <p><u>-- streamlines the taxation system (by reduced tax varieties.)</u></p> <p><u>- It is requested that GOB integrates and streamlines the taxation system and lessens the tax burden, and grants tax exemption incentives, etc. on foreign investment in Brazil.</u></p> <p><u>- It is requested that GOB integrates and streamlines the taxation system and lessens the tax burden, and grants tax exemption incentives, etc. on foreign investment in Brazil.</u></p>	<p><u>- Federal Bureau of Tax, Ministry of Finance Decree No.572, etc.</u></p> <p><u>- ICMS</u></p> <p><u>- IPI</u></p> <p><u>- PIS/COFINS</u></p> <p><u>- Supplemental Act No.87 (Lei Complementar No. 87, de 13 de Setembro de 1996)</u></p> <p><u>- Federal Constitution</u></p> <p><u>- General Tax Law</u></p> <p><u>- Various Tax Acts and Regulations</u></p>

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			<p>- <b>The complex taxation system comprising of federal, state, municipal taxes, COFINS and various other contributions complicate the work concerned with tax payments. It demands much time of tax payers to comprehend the taxation system, incurring much operational cost. In addition, in regard to administrative procedures, the responsive action of the taxation authority takes much time, while the outstanding issues from the past years get further postponed.</b></p> <p>- <u>To begin with, the complexity in the taxation scheme itself gets in the way of cost calculation upon import, profitability estimate in trading, etc. in business. Consultation with an accountant is to no available as there is no telling if the results so calculated are indeed correct. As regards the cost of customs clearance, while approximate estimate is available, it is almost impossible to get the 100% correct number in advance.</u></p> <p>- <u>On top of the complex and inordinately numerous tax categorical varieties, the compulsion of data conversion into electronic form makes the administrative cost (IT infrastructure + personnel) sky high beyond control. It heavily squeezes the corporate profitability, while there is no curbing in the loss of the competitive edge of the made-in-Brazil products.</u></p> <p>- <u>VAT in multiple varieties makes tax classification vexatiously complex. In addition, the variances in the tax rates in each destination state add complexity from differences in INPUT CODE, etc., giving vent to discrepancies in the tax amounts.</u> <u>It is imperative to simplify the sales/delivery transactional procedures by the simplified taxation system.</u></p> <p>- <u>Complexity in the tax scheme makes business strategic planning difficult at times. For example, application of a different tax rate by each sales channel compels strategic change in business axis -- from the channel at high tax rates to another channel at low tax rates.</u></p> <p>- <u>It is hardly possible to manage taxes due to numerous tax categories and equally numerous exceptions. The taxation system is too difficult to comply with.</u></p>	<p>- <b>It is requested that GOB:</b> -- <b>streamlines the taxation system, and</b> -- <b>takes prompt responsive measures.</b></p> <p>- <u>It is requested that taxation authority makes available at its web site a calculation system (Form) that enables the totally correct trial calculation.</u></p> <p>- <u>It is requested that GOB, at the governmental level, fully realises the impending risk of Brazil being left behind in the international market, unless it makes drastic renovation in the comprehensive taxation scheme.</u></p> <p>- <u>The new cabinet members of the 2nd Dilma administration expressed their keen interest in the reform of the complex tax scheme. Its early realisation is keenly awaited.</u></p> <p>- <u>It is requested that GOB takes step to work toward simplifying the tax system.</u></p> <p>- <u>It is requested that GOB takes step to:</u> -- <u>make the taxation scheme easier to comprehend, and</u> -- <u>reduce the number of tax categories.</u></p>	

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			<p><u>- Efficiency in business operation has been lost due to the differences in taxation scheme by central government, state, and fiscal year. It has claimed much time and human resources to understand the taxation scheme, and to construct the measures to take requisite actions, depriving efficiency from the company operation.</u></p> <p><b>(Actions)</b></p> <p>- GOB released in the Official Gazette the Act No.10485 to streamline payment of Social Integration Program (PIS), Social Security Financing (PASEP) and Civil Servant's Assistance Fund (COFINS) in the automotive vehicles sector. This Act dispenses with the tax levy at each stage of production process, enabling payment in one lump at 8.28%.</p> <p>- The Brazilian Congress since 1995 has discussed renovation of the taxation system in response to the criticism such as levying tax on the total amount ("TAV"). However, State governments faced with the possible loss of their power partially or in whole are resisting to this proposal.</p> <p>- According to "Doing Business in 2006" by the World Bank, the time required to file tax returns is the highest in Brazil.</p> <p>- In case of shipment by sea, Merchant Marine Renewal Tax (AFRMM), Import Tax of 25% is levied upon ocean freight. Depending upon the volume of shipment, proposal can be made to the customer for use of airfreight that could save the Import Tax and it affects the due delivery time, of course.</p> <p><b>(Improvement)</b></p> <p>- On August 6, 2003, GOB promulgated Decree No.4800, reducing as a provisional measure, the industrial products tax ("IPI") on automotive vehicles until December 1, 2003.</p> <p>- On 28 February 2008, federal government submitted to the Congress of Brazil the new amendment bill for the Constitution on the taxation system reform that includes (1) integration of several federal taxes, (2) simplification of the complex current taxation system, (3) creation of the new ICMS tax, and (4) repeal of inter-state competition of the horizontal taxation system, more precisely as follows:</p> <ol style="list-style-type: none"> <li>1) "Federal Value Added Tax (VAT)" is replaced by the current 4 taxes,</li> <li>2) "New state VAT" (VAT-IVA-E) replaces the current ICMS. This tax, most of which is levied at the consumption stage, is also collected at the manufacturing stage at the rate of 2%. The shift from ICMS to IVA-E is due for completion by 2015.</li> <li>3) "Equalization Fund" is created to complement the loss of state revenue during the transitional period from ICMS to IVA-E.</li> <li>4) "Investment Incentive" encourages investment by grant of a tax incentive (rebate). The applicable rebate period of the current 24-months will be gradually reduced.</li> </ol>	<p><u>- It is requested that GOB:</u></p> <p><u>-- streamlines the tax scheme, and</u></p> <p><u>-- integrates federal and state taxation scheme..</u></p>	
	(2)	<b>Heavy Tax Burdens</b>	<p><u>- Various tax burdens push up the operational cost (so called Brazilian Cost) and suppress profits, including social security, etc., which are doubly and triply imposed. Especially value added and inland taxes are costly.</u></p> <p><u>Example 1: Import Duty of 20% on the amount of (F.O.B. + Freight + Insurance) applies to Finished Products shipped from Manaus FTZ to the external Brazilian domestic market.</u></p> <p><u>Example 2: In addition, about 20% of Industrial Product Tax (IPI) and 6% of Commodity Distribution and Service Tax (ICMS) imposed on the amount after adding the Import Duty. However, IPI is exempted, if the products are manufactured into finished products in Manaus.</u></p>	<p><u>- It is requested that GOB:</u></p> <p><u>-- reduces the tax rates,</u></p> <p><u>-- reviews, integrates and streamlines the taxation system,</u></p> <p><u>-- reduces ICMS (Tax on Goods and Services), and</u></p> <p><u>-- reduces tax on production goods.</u></p>	<p>- Tax Law of Brazil</p> <p>- General taxation laws</p> <p>- Corporate Income Tax Law</p> <p>- Law 9249, Article 25</p> <p>- Ordinance No.4056 (Diario Oficial of 17 December 2001)</p>

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			<p><u>- Currently, there are roughly 50 varieties of tax (or 60) and tax burden is extremely heavy (more than 35% of GDP.)</u></p> <p><u>- Due to the heavy tax, the sales prices of the products can be doubled or tripled in comparison with those in the developed countries. Heavy taxes in the distribution process make prices of illicit tax evading copied products a third or less compared to the price of the genuine products sold in the legitimate distribution channel in certain cases.</u></p> <p><u>- Not only COFINS but also various other taxes are imposed on pre-profit gross sales amount such as temporary contribution on financial activities. i.e., CPMF (0.38%), IOF (tax on financial transactions: 1.5% on interest) and CSLL (9%). All these taxes burden heavily, negating the viability of the import business.</u></p> <p><u>- Heavy/complex taxation system caused swelling of the industry being driven into the Underground Economy (UE). While under the heavy taxes, including without limitation, ICMS 12%, tax on check 0.38%, legitimate firms remain groaning in heavy duty. However, by GOB's implementation of electronic sales slips (Nota Fiscal Electronica), the tax evasion conducts are on the way to decline.</u></p>	<p><u>- It is requested that GOB:</u>  <u>-- reduces tax rates, and</u>  <u>-- reviews, consolidates, and</u>  <u>simplifies the taxation system.</u></p> <p><u>- It is requested that GOB:</u>  <u>-- alleviates the heavy tax burdens.</u>  <u>-- tightens its clamp down on illicit</u>  <u>local products, illicit imports and</u>  <u>smuggled products, and-- refrains</u>  <u>from raising various taxes to</u>  <u>compensate for import tariff</u>  <u>reductions.</u></p> <p><u>- It is requested that GOB:</u>  <u>-- integrates and streamlines the</u>  <u>taxation system and lessens the</u>  <u>tax burden, and grants tax</u>  <u>exemption incentives on foreign</u>  <u>investment in Brazil.</u>  <u>-- delineates clearly its policy</u>  <u>including the tax guide in the</u>  <u>performance of construction work.</u>  <u>-- introduces General Taxation</u>  <u>Policy, and</u>  <u>-- turns all taxes into value added</u>  <u>tax with reduced tax rates.</u>  <u>-- streamlines the taxation system</u>  <u>(by reducing the tax categories)</u></p> <p><u>- It is requested that GOB:</u>  <u>-- clamps down on UE.</u>  <u>-- collects sales taxes from shallow</u>  <u>but broad sources, and</u>  <u>-- relaxes the heavy tax rates.</u></p>	<p><u>- Law No. 10883 (made effective on 30 December 2003)</u>  <u>- Diario Oficial of 3 January 2002</u>  <u>- Supplemental Act No.70</u>  <u>- Law Nos.10637, 10168, 10833 and 10865</u>  <u>- Supplemental Act No.116</u>  <u>- Administrative Decree No.7412</u></p>

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			<p>- <u>While thanks to the tax incentive measures, no tax is levied on materials, etc., heavy taxes are levied on other items:</u>  <u>-- ICMS: 17-18%</u>  <u>-- PIS/COFINS: 9.25%</u>  <u>-- Customs Duty: (varies by product)</u>  <u>-- The unparalleled high tax rates worldwide.</u>  <u>Moreover, there is no sign of improvement for the "tax upon tax" mechanism.</u></p> <p>- <u>MFS, importing into Brazil products for domestic distribution in Brazil, finds its P&amp;L and cash flow are severely impacted by the high amount of various taxes, IPI, ICMS, and PIS/COFINS.</u></p> <p>- <u>After customs duty levy on imports, the levy of other Brazilian taxes follows. GOB announced in January 2015, the raise of PIS/cofins tax rate levied on imports (from June 2015).</u></p> <p>- <u>Industrialised Products Tax(PIS)/Social Security Financing Tax(COFINS) , Commodity Distribution Tax (ICMS), Industrialised Product Tax (IPI), and Service Tax (ISS) are levied upon sales. While these are taxes later refunded to the extent of the portion related to purchase, its heavy burden and complex mechanism makes it difficult to keep the both ends meet.</u></p> <p>- <u>The ST (Tax Substitution) System under ICMS State Consumption Tax has come to apply virtually in all states and on all goods. It increases the financial burden upon enterprises that proportionate to the payment terms, the longer, and the heavier.</u></p> <p><b>(Actions)</b></p> <p>- <u>The Tax Reform Bill under deliberation at the National Congress was approved at the first voting of the plenary session of the House of Representatives, and if this passes the Senate as is, there would be a further tax increase of 3.5%-4.5%, which translates into an increase to 41% from the current 36.45% in terms of the tax ratio against GDP.</u></p> <p>- <u>Effective January 1, 2004, as regards the services originating from overseas, GOB started to levy the service tax (Imposto Sobre Servicos=ISS) not only on the ongoing building and construction sector, but also on other sectors such as purchase of the software developed overseas, warehousing service, port service, trade show service through the local autonomous body where such services are rendered. (Supplemental Act No.116 of July 31, 2003).</u></p> <p>- <u>Partial amendment of the taxation system in September 2003 extended until 2023 regarding the tax incentive measures under the Manaus Free Trade Zone.</u></p> <p>- <u>On December 30, 2003, the Tax Reform Act (Act No.0883) was enforced. The tax rate for COFINS was raised from 3% to 7.6% of the total revenue of an enterprise, while export and export enterprises were excluded from the imposition of the COFINS tax.</u></p>	<p>- <u>It is requested that GOB:</u>  <u>-- improves the tax levy scheme comparative to Japan's consumption tax,</u>  <u>-- improves the mechanism of tax upon tax levy,</u>  <u>-- streamlines the tax scheme.</u></p> <p>- <u>It is requested that GOB:</u>  <u>-- reduces the tax rates, and</u>  <u>-- extends the due payment period.</u></p> <p>- <u>It is requested that GOB alleviates the tax burdens on Imported Intermediate and Capital Goods.</u></p> <p>- <u>It is requested that GOB takes step to reduce the tax rates, in particular, ICMS whose tax rate is extremely high at plus or minus 18%.</u></p>	

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				<ul style="list-style-type: none"> <li>- The Brazilian Ministry of Foreign Affairs responded to the December 2004 WTO Trade Policy Review by stating that it would review the problem of differing ICMS tax rates applied by individual States.</li> <li>- Instituto Brasileiro de Geografia e Estatística (IBGE) statistics show that the tax burden in Brazil against GDP has been increasing, 35.54% in 2003, 36.08% in 204 and 37.82% in 2005.</li> <li>- "Doing Business in 2006" by World Bank shows that the total tax payment/gross profit ratio in Brazil has gone up to 148%, placing Brazil at the 140th out of 155 countries in the tax payment department, radically downgrading the Brazilian rank in terms of business environment from 96th to 119th position.</li> <li>- On 4 January 2008, the Executive Branch promulgated Decree No. 6339 on Raising the IOF (financial transactions tax) rate, in order to compensate for loss in the national revenue due to expiry of Tax on Financial Transactions (CPMF) granted on financial transactions.</li> <li>- On 7 January 2008, the Executive Branch promulgated Act No.6345, of stipulation of IOF regulations relating to IOF, including, among others, reduction of the IOF (financial transactions tax) rate to zero in inter-bank foreign exchange transactions.</li> <li>- Decree No. 7567 of 16 September 2011 promulgated by the Executive Branch has raised Industrial Product Tax (IPI) to 30% on both domestic and imported vehicles, not satisfying certain conditions. IPI on vehicles (normally in the range of 7% to 25% commensurate with the engine displacement) has been raised to 30% across-the-board on imported vehicles. The validity of this temporary measure original good until the end of 2012 has been extended until the end of 2017.</li> <li>- On 31 May 2012, MOF announced to raise IPI on imported motorcycle, microwave oven and air-conditioner from 10% to 15%, making the tax rate 35% for implementation beginning 1 September 2012.</li> <li>- With effect from 1 September 2012, MOF would add 35% IPI levy on tax for imported motorcycle, microwave oven and air-conditioner.</li> <li>- In October 2012, GOB released New Automotive Policy (INOVAR-AUTO) that enables tax reduction of IPI30% or more, subject to achievement of the affixed fuel consumption standard, etc. commensurate with the utilisation of local contents, etc. On this issue, GOJ pointed out a possibility, of infringement of WTO Agreement to the Minister of Development of Commerce and Industry of GOJ expressed concern at the WTO Council for Trade In Goods in November 2012, jointly with the U.S., EU, and Australia. (2013 Report on Compliance by Major Trading Partners with Trade Agreements)</li> <li>- <u>On 30 January 2015, Ministry of Treasury promulgated Provisional Measure No.668/2015 on imported products, which increased PIS / PASEP (from 1.65% to 2.1%) and COFINS (from 7.6% to 9.65%), in average, from 9.25% to 11.75%, for enforcement from May 2015.</u></li> </ul> <p><b>(Improvement)</b></p> <ul style="list-style-type: none"> <li>- Since August 1999, automotive vehicles manufacturers have been exempted from payment of IPI, an indirect tax to parts suppliers. On the other hand, by amendment of the Act in April 2001, parts manufacturers, which were previously required to pay IPI for the imported raw materials, have also been exempted from payment of IPI since then.</li> <li>- The Congress approved the Executive Order, eliminating partially social insurance fees (PIS/PASEP/COFINS, etc. and on September 11, 2002, it was enacted into Law No.10276 and promulgated in the Official Gazette.</li> <li>- Sao Paulo State reduced ICMS on some business sectors.</li> <li>- The 42nd Amendment of the Constitution promulgated in December 2003 provides that the ICMS tax is not taxable on export of goods and services, while the social security contribution taxes such as COFINS are taxable on import of goods and services.</li> <li>- On January 16, 2004, by Executive Order No. 4955, the IPI tax was reduced on certain machinery products.</li> </ul>		

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			<ul style="list-style-type: none"> <li>- By Decree No.5173 of August 6, 2004, the IPI tax was reduced on certain machinery products and capital goods:               <ul style="list-style-type: none"> <li>-- Products prescribed in Article 1.1 and the Appendix of Executive Order No. 4955: 2%;</li> <li>-- Products prescribed in Article 2 of Decree No. 4955: 6%.</li> </ul> </li> <li>- The "Invista Ja" released in September 2004 to encourage investment provides for:               <ol style="list-style-type: none"> <li>1) grant of the special preferential tax treatment to investment on new facilities,</li> <li>2) contraction from 4 years to 2 years, the period of the enterprises eligible for the COFINS refund, and</li> <li>3) grant of the special preferential treatment allowing the accelerated depreciation of machinery.</li> </ol> </li> <li>- Since June 2005 GOB has repealed IPI tax on certain goods for manufacture (such as machine tools).</li> <li>- In December 2005, Decrees Nos.5629 and 5649 were promulgated that exempt payment of PIS/ PASEP and COFINS taxes on exporting enterprises (EE) participating in the capital goods purchase system (RECAP) when they purchase export products or import new capital goods (machinery &amp; equipment, instruments and fixtures), subject to the EE satisfying the following qualifications:               <ol style="list-style-type: none"> <li>1) More than 80% of the total sales is achieved by export sales, and</li> <li>2) Agrees to continue for three years the 80% export requirement.</li> </ol> </li> <li>- As regards the Manaus FTZ's, PIS/ PASEP and COFINS taxes are exempted for new import of capital goods under Decree No. 5628.</li> <li>- It is now possible to pay distribution and service tax (ICMS) upon sales of goods, taking advantage of the common warehouse established as part of the Manaus-Rio de Janeiro Agreement.</li> <li>- During the period of 2003 through 2005, GOB promulgated tax incentive measures. It is necessary for a Japanese enterprise to check in detail if the incentive measure is included clocks and watches.</li> <li>- With effect from December 2011, IPI tax levy has been raised on certain imported vehicles, affecting sales of the enterprises with a heavier dependence upon imports.</li> <li>- On 12 May 2012, by the temporary measure for reduction of IPI rate on certain vehicles effective until the end of October 2012, the volume of car sales has increased.</li> <li>- In October 2012, GOB announced extension of tax reduction upon purchase of vehicles until the end of December from October under the original plan, as a part of the measures to stimulate economy.</li> </ul>		
	(3)	<u>High Amount of Fines for Tax Payment Shortage</u>	<u>There have been cases where huge amount of fines resulted due to discrepancy in the amount of tax paid, arising from differences of interpretation of the tax calculation method, or mis-entry of the code number that nevertheless resulted in no payment, although the payment in the correct amount had been made.</u>	<u>It is requested that GOB streamlines the taxation scheme.</u>	<u>Brazilian Taxation System</u>
	(4)	<u>Taxing Financial Transactions</u>	<u>Since 17 June 1999, GOB implemented income tax on financial transactions and 0.38% tax is imposed on the total transactions amount, each time an amount is recorded in the debtor of the ledger for a financial transaction.</u>		

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	(5)	Uniquely Irrational Transfer Price Taxation System	<p>- <u>As Brazilian TPTS is not based on the OECD Model, the compatibility is not secured between the Brazilian TPTS and the one in the country of Member Firm's customers, etc. are located.</u></p> <p><u>As there is no clear legal provision regarding the APA, Member Firm cannot confirm the TPTS risk beforehand, due to the market situation and the fluctuation of the exchange rate. As Brazilian calculation methodology for the export transfer price concerning the maximum profit for the importer having a special relationship with the exporter, defying a reasonable control under the Brazilian widely departs from the general business practices and the economic principles it is extremely hard to manage.</u></p> <p>- <b>GOB's own Transfer Price Taxation System (TPTS) exists, not following the OECD guidelines. It requires profitability management (Vitorino Recommendations) by each MCM No. that necessitates introduction of new software.</b></p> <p><b>New Regulation was promulgated in 2012, changing (1) restricted scope of safe harbour application (from the previous no limit to less than 20%), (2) profit rate and application method (repealing distinction between resale and manufacturing parts &amp; materials under import resale price method, while applying 20-40% profit rates by business lines.)</b></p>	<p>- <u>It is requested that GOB assures conformance of its TPTS to the OECD Model.</u></p> <p>- Certain improvements have been materialised such as the inclusion of provision for adjusting the margin rate commensurate with the precise picture of each business sector by finance ministry's normative institutions. It is requested that GOB considers the establishment of the advance pricing agreement, etc. to resolve the question (2) on the left column on the question over the application of business sectors. Furthermore, as regards the scope of safe harbour application, it is requested that GOB removes restrictions as has been done previously. It is further requested that GOB structures the framework for avoidance of the double taxation (including the amendment of the tax treaty).</p>	<p>- Transfer Pricing Taxation System</p> <p>- Law No. 9,430/1996 with which GOB introduced TPTS, followed by various revisions.</p> <p>- [2012] RFB Normative Instruction No.1/2012 (later converted into Law 12,755/2012), Normative Instruction No. 1,312/2012 and 12,766/2012 =&gt; Effecting Amendments over total issues relative to TPTS such as Profit Rate under RPM=Resale Price Method (Precos de Revenda menos Lucros, PRL).</p> <p>- Law No. 9430, 1996, The Basic Notification of the Federal Tax Bureau</p> <p>- Tax Law, Law No.9430, amending Article 18 of Articles 18-24.</p> <p>- Circular of Federal Tax Agency on Detailed Rules of Implementation No.243, Articles Nos. 8, 12, 13, 23,.24, 25 and 26</p> <p>- Law Nos. 12715, 12766</p> <p>- Regulation Nos. 1321, 1322</p> <p>- <u>9.430/96</u></p>



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			<p>- <u>Brazil is not a member of the Organisation for Economic Co-operation and Development (OECD), and instituted its own Transfer Price Taxation System which is not based on the OECD Model. As a result, it is irrational and complex. Moreover, it compels increased tax burden, while it is infested with frequent changes in administrative system, forcing importers into great difficulty, for having to negotiate with the Competent Tax Authority, and to cope with the language problems over the interpretation of laws, etc. For example, as a means of calculating Transfer Price, GOB does not recognise the use of neither Comparable Profit Method (CPM) used by U.S. Government and OECD Member States, nor Transactional Net Margin Method (TNMM) used by many countries. GOB instead recognises the following 3-methods:</u></p> <p><u>(1) CUP = Comparable Uncontrolled Price Method (Precos Independentes Comparados, PIC)</u></p> <p><u>(2) CPM= Cost Plus Method (Custo de Producao mais Lucro, CPL) (3) RPM=Resale Price Method (Precos de Revenda menos Lucros, PRL)However, (1) CUP and (2) CPM are not workable in practice considering the actual workload involved. Therefore,</u></p> <p><u>(3) RPM is the only choice that remains. However, the concerned subsidiary (MFS) deducts the Profit Rate by each Business Division (20% in case of Machinery Parts) across the board from the Resale Price, and then the resulting figure is deemed as the price between Independent Enterprises. In this fashion the calculation method is far apart from the actual transactions. [The foregoing Issue, contained at p388 of the 2013 Version, is repeated here because of its importance.]</u></p> <p>- <u>Compared to EU/the U.S., GOB demands an extremely high margin rate, inhibiting the trade between parent companies and their subsidiaries.</u></p> <p>- <u>The Brazilian Transfer Price Taxation System (TPTS) narrows the business opportunities on running import and domestic distribution in Brazil as it provides for securing a constant profit, item by item individually, rather than in the total annul perspective.</u></p>	<p>- <u>It is requested that GOB administers TPTS in accordance with "The Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations", the OECD Standard Model.</u></p> <p>- <u>It is requested that GOB reduces the Margin Rate.</u></p> <p>- <u>It is requested that GOB takes step to have the law amended so that as long as the statutory profit level is secured in the perspective of the total annul transactions, it does not run afoul of TPTS.</u></p>	<p>- <u>12.715/12</u></p> <p>- <u>12.766/12</u></p> <p>- <u>1.312/2012</u></p>

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			<p>- <u>In comparison with other countries the scope of Brazilian TPTS is extremely broad relative to TPTS, i.e., transactions with a firm with capital contribution of 10% or more are included. It demands a vast amount of clerical burden. Furthermore, GOB adopts the method of requiring the fixed high profit rate irrespective of special characteristics of the business or mode of transactions. And the transactions viable in other countries can be difficult to run in Brazil because of the Brazilian TPTS.</u></p> <p><b>(Actions)</b></p> <p>- In 2006, Camara de Comercio e Industria Japonesa do Brasil (CCIJB) made the following recommendation that:</p> <ol style="list-style-type: none"> <li>1) GOB applies profit margins that individually different according to business sectors,</li> <li>2) GOB changes its taxation system by calculating tax rates according to product groups, rather than individually on a model by model basis,</li> <li>3) GOB flexibly applies its taxation system so that it recognizes the difference between "assumed" vs. "actual" rates of foreign exchange, and that</li> <li>4) GOB makes the APA (advance pricing agreement/arrangement).</li> </ol> <p>As a result, GOB has accepted a special case in the context of the recommendation 3).</p> <p>- On 26 December 2007, Ministry of Finance promulgated Portaria No.329 "On adjusting mechanism for determining TP for the calendar year 2007", to alleviate the negative impact arising from the appreciation of REAL against other foreign currencies.</p> <p>- Under the Cost Plus Method (CPL) on import transactions, the 20% markup rule exists. It approves the profit rate of up to only 20% on "manufacturing cost plus taxes and dues". A locally incorporated affiliated subsidiary of A Japanese enterprise is unable to establish the selling price of imported goods that allows a sufficient markup.</p> <p>- At the Japan-Brazil Joint Committee on Promotion of Trade and Investment held in September 2009, Japan side brought up practical issues and requests such as GOB's inflexible profit margin setting, and the opening of APA. In return, GOB effected certain changes, such as review of the extremely high profit rate applied to parts and materials under the Resale Price Method.</p> <p>- The provisional legislation intended to effect a partial amendment of the TPTS, such as the change in the profit margin under the Resale Price Method, was abandoned and lost its effect as it failed to pass the National Congress before its due date of 1 June 2010. It is said that GOB intends to reintroduce to the National Congress the provisional bill with the same contents.</p> <p>- At the Japan-Brazil Joint Commission for Trade and Investment held in November 2012, Japan side requested to the Brazilian side for it to improve the Transfer Price Taxation System issue.</p>	<p>- <u>It is requested that GOB takes steps to review the Brazilian Transfer Price Taxation System, widely deviating from the OECD TPTS Guideline, which is the international standard model, apart from the issues described in the left column.</u></p>	
	(6)	Deemed Profit Tax Levied at High Gross Margin Rate	<p>- <u>Due to the two kinds of formulae for calculating the maximum allowable pricing of the imported goods under Decree No. 9430 (1996) or notification No.2435 (2012), numerous legal proceedings have emerged on tax issues. Contentions of the taxpayers' are:</u></p> <ol style="list-style-type: none"> <li>(1) <u>Fixed Margin Rate should be flexible taking into account the differences in business sectors.</u></li> <li>(2) <u>The Average Gross Margin of product group should be allowable, not</u></li> </ol>	<p>- <u>A Member Firm is not convinced about GOB's mechanical additional tax levy under TPTS without due process of investigation, rebuttals, and verification. It is requested that GOB amend in part the gross margin rate: i.e.: Reduction is requested</u></p>	<p>- Transfer Pricing Taxation System - Law No. 9430, 1996 - Law 12715/12 (September 2012) - Law No.12715/2012 - Circular of Federal Tax.</p>

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			<p><u>by single unit.</u>  <u>(3) Prior Enquiry System should be established for APA (Advance Pricing Agreement), etc.</u>  <u>Provisional No.563 (April 2012) changed the Gross Margin Rate to 20% on General Goods, while to higher 40% to 30% on Certain Goods including Digital Still Cameras, which lead to the necessary adjustment with the tax authorities Provisional No.563 made into law in September 2012 changed the Maximum Allowable Comparable Import Price from CIF Price plus Import Duty to F.O.B. Price. Taking the opportunity for promulgation of its Detailed Implementing Regulation 12715/12., Enterprises will file their request to GOB via CNI (National Confederation of Industry Brazil), FIESP (Federation and Center of Industry in São Paulo), and ELETROS (Associação Nacional de Fabricantes de Produtos Eletroeletrônicos=National Manufacturers' Association of Electric / Electronic Products).</u>                      - <u>Law No.12715 of 2012 elucidates the calculating method, including some improvements, provided, however, that gross profit rates of 40% on optical equipment / pharmaceutical products, and 30% on chemical goods leave room for improvement. Moreover, the Brazilian TPTS is uniquely one of a kind, in substance, forming a kind of tariffs, a Brazilian's own TPTS, claiming the utmost caution: manpower, money and time to deal with.</u></p> <p><b>(Actions)</b>                      - Under the Cost Plus Method (CPL) on import transactions, the 20% markup rule exists. It approves the profit rate of up to only 20% on "manufacturing cost plus taxes and dues". A locally incorporated affiliated subsidiary of A Japanese enterprise is unable to establish the selling price of imported goods that allows a sufficient markup.                      - <u>At the First Japan-Brazil Joint Commission's Meeting on Promotion of Investment and Industrial Cooperation in October 2013, Japan side made a request for clarification for computation basis of the tax rate on each product under transfer price taxation system. It was agreed to establish a forum for exchange of professional discussion. (The 2015 Report on Compliance by Major Trading Partners with Trade Agreements).</u></p>	<p><u>from 40% to 20% on Digital Still Camera (DSC), because 40% gross margin on DSC is too high.</u></p> <p>- It is requested that GOJ continues dialogues with GOB toward making the Brazilian TPTS compatible with the international norm (OECD).</p>	<p>Agency on Detailed Rules of Implementation No.243, Articles Nos. 8, 12, 13, 23,.24, 25 and 26.</p>
	(7)	<b>Nebulous Comparable Transaction Price under TPTS</b>	<p>- In export transaction, the permissible limit for excluding the application of Transfer Pricing Taxation System (TPTS) is stipulated as 'the case where the transaction price (TP) with the overseas' related party is not less than 90% of the TP (after tax) in the domestic market'. However, regarding some commodities, the domestic TP is not clearly established or no domestic transaction has taken place.</p>	<p>It is requested that GOB:                      -- clearly establishes the basis of the domestic TP, and                      -- clarifies the basis of establishing TP, in case no domestic transaction is taken place.</p>	<p>- Current Act 9.430/96                      - Draft Detailed Rules 243/02, on the shelf since last year                      - Draft Act 478/09 (yet to be submitted to National Congress?)</p>

Category	No	Issue	Issue Details	Requests	References
	(8)	<b>Irrational PIS/COFINS Tax Levy</b>	<ul style="list-style-type: none"> <li>- <u>GOB levies PIS/COFINS on capital interests which holding companies receive. (No tax is collected on normal interest).</u></li> <li>- <u>PIS/COFINS, one of the indirect taxes, have been exempted on basic food, including instant noodles. However, PIS/COFINS continue to accrue upon purchase of raw materials so that MFS will have accrual of PIS/COFINS credit balance. Subsequently, MFS following the setoff of PIS/COFINS against corporate income tax, MFS received setoff of PIS/COFINS against corporate income tax, and refunded as to the 2012 portion. Nevertheless, as of today, MFS retains 40 million real in aggregate, with credit of 5 million real per annum.</u></li> </ul>	<ul style="list-style-type: none"> <li>- <u>It is requested that GOB excludes PIS/COFINS collection on capital interests.</u></li> <li>- <u>It is requested that GOB totally repeals PIS/COFINS.</u></li> </ul>	<ul style="list-style-type: none"> <li>- <u>Law No. 12.839 of 9 July 2013</u></li> </ul>
	(9)	<b>Delays in Tax Refund</b>	<ul style="list-style-type: none"> <li>- <b>Including the social charges (PIS/CFINS), etc., should credit position accrue in federal government, taxpayer is entitled to request tax refund to the government, in lieu of deducting from the future accrual of tax liability. However, its practical implementation is in question for absence of the clear instructions on the requisite clerical work and the time to complete the preparation. It seems tax refund system does not function.</b></li> <li>- <u>Credit refund takes much time on communication services and other general supplying of goods (ICMS).</u></li> </ul> <p><b>(Actions)</b></p> <ul style="list-style-type: none"> <li>- At the Japan-Brazil Joint Committee on Promotion of Trade and Investment held in September 2009, Japan side brought up the issue on refund of PIS/COFINS and Brazilian side expressed its appreciation of the problems.</li> <li>- On 5 May 2010, Ministry of Development, Industry and Commerce (MDIC) announced a set of incentives, including expedited refund of indirect tax upon export in order to beef up the industrial competitive edge of the Brazilian industry in response to the increased imports of car parts, etc.</li> <li>- On 5 May 2010, Ministry of Finance (MOF) of Brazil announced a set of measures to expand enterprises' export, one of which is the expedited refund of tax deductions by Federal Revenue Bureau of Brazil (FRA) to enterprises that meet certain conditions. The refund OF 50% to qualified enterprises will be completed within 30-days on Social Security (PIS/PASEP), Contribution for the Financing of Social Security (COFINS), and Federal Tax on Industrial Products (IPI). As matters now stand, it takes maximum 5-years to complete the tax refund.</li> <li>- <u>ICMS is taxable upon import of goods, distribution, telecommunications, transport service, etc. Due to application of different ICMS tax rates between intra-state and interstate transactions, the ICMS balance accrues at importers. In some cases. It takes much time to get the ICMS credit balance, whereas, São Paulo State prohibits by Law (State Law Article 6.374-45) filing of tax refund request.</u></li> </ul> <p><b>(Improvement)</b></p> <ul style="list-style-type: none"> <li>- Tax exemption system has been introduced for indirect tax, such as PIS/COFINS, etc. on re-export of products imported a few years ago. Since 2010, GOB has introduced a similar tax exemption system and have applied it to on export of products purchased domestically in Brazil.</li> </ul>	<ul style="list-style-type: none"> <li>- It is requested that GOB promptly discharges its responsibility to refund PIS/COFINS, etc.</li> <li>- <u>It is requested that GOB expedites in refund of ICMS Credit.</u></li> </ul>	<ul style="list-style-type: none"> <li>- ICMS is determined by the Federal Constitution.</li> <li>- Federal Constitution</li> <li>- General Tax Laws</li> </ul>

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	(10)	Ambiguous Definition on Rules for Tax Loss	- <u>Due to the ambiguous provisions on tax loss of Corporate Income Tax Law, enterprises (find it difficult) to employ the tax loss in case of the deficit operation.</u>	- <u>It is requested that GOB clarifies the definition of the tax loss.</u>	- Corporate Income Tax Law
	(11)	<b>Irrational ICMS Tax Levy</b>	- <u>Under the taxation system the state of Rio de Janeiro, member firm's subsidiary (MFS) operates a crude oil production project jointly with other partner that performs crude oil lifting. Rio State levies ICMS tax upon the loan in kind transaction that temporarily arises between the partners, in the case where partner enterprise's crude oil lifting does not reach the MFS's entitled volume of crude oil. (In practice, another reverse loan in kind transaction arises from the subsequent crude oil lifting that solves the loan situation between the partners.)</u> - <u>Communication services and other general supplying of goods (ICMS) of 18% is prepaid upon import of products into São Paulo State, out of which 4% is withdrawn when sold to a party outside the state border. The balance of prepayment that accrue no interest heavily impacts cash flow. While a part of the balance is refundable, it is said to take a long time.</u> - <u>The ICMS-ST scheme paid on behalf of retailers, it is felt, is unreasonable. It involves a complex calculation, and basically pre-shipment payment obligations arise.</u> - <u>No refund is available on the prepaid ICMS. It amounts to nothing but a retroactive false accusation of non-tax payments. Its complexity defies enhancing efficiency by IT. It is questionable if the purchase cost of IT service on ICMS prepayment scheme is recognised as a deductible expense.</u>	- <u>It is requested that GOB converts its taxation system responding to the actual project operation.</u>  - <u>It is requested that GOB takes step to improve its taxation system or expedites the procedures for the partial refund of the prepaid ICMS.</u>  - <u>It is requested that GOB takes step to repeal the ICMS prepayment scheme.</u>	- <u>Brazilian Taxation System</u>
	(12)	<u>Vexatiously Complex ICMS Levy differing in Each State</u>	- <u>Brazilian commodity distribution tax (ICMS) is a state tax, a kind of VAT levied mainly on commodity distribution.</u>  - <u>The tax rate is determined in each State so that in inter-state transactions, lower tax rate in other state results in accumulation of prepaid tax. No refund is written into law. In the absence of a supplier in one state, purchasers need to "import" from other state(s).</u> - <u>In selling products across the state border, the seller makes advance payment of inter-state sales tax, which is later collected from customers. Due to the varying state tax rates, it is difficult to estimate the payable amount.</u>	- <u>It is requested that GOB takes step to:</u> -- <u>convert ICMS from state tax to federal tax,</u> -- <u>streamline the tax rate into a single tax.</u> - <u>It is requested that GOB takes step to change the law so that no tax is payable in the domestic transactions.</u> - <u>It is requested that GOB takes step to harmonise ICMS into a single rate in all states, and to make it payable by the end customer.</u>	- <u>Supplemental Law No. 87/1996</u>

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	(13)	Irrational Tax Levy on the Global Personal Income	<p>- <u>GOB levies Personal Income Tax not only on the income gained within Brazil but also on the total worldwide revenue, resulting in the levy of high tax amount. (As regards Pension Premium, the Social Security Treaty between Brazil and Japan was ratified in 2012 to prevent the double payment.)</u></p> <p>- <u>Personal income tax is extremely heavy in the end, as the worldwide income is taxable in Brazil.</u></p>	<p>- It is requested that <u>GOB reviews the taxation system in Brazil.</u></p>	<p>- FRB Detailed Regulation IN213/02</p>
	(14)	Absence of Scheme for Consolidated Tax Payment	<p>- <u>There is no Consolidated Tax Payment System (CTPS) in Brazil.</u></p> <p>- <u>A Holding Company in many case, finds itself in deficit position, while companies under its umbrellas are in taxable position from the yields of their own business operations. In many cases, it inflates the overall taxable amounts.</u></p> <p>- <u>Consolidated tax payment is not recognised in Brazil.</u></p>	<p>- It is requested that <u>GOB establishes CTPS.</u></p> <p>- It is requested that <u>GOB takes steps to introduce the Scheme for Consolidated Tax Payment</u></p> <p>- It is requested that <u>GOB authorised consolidated tax payments.</u></p>	
	(15)	Absence of Tax Refund System for Bad Debt	<p>- <u>The Brazilian Taxation System is void of refund facility upon occurrence of Bad Debt on Accounts Receivables on which Sales Tax is levied. It impacts heavily upon enterprises, in as much as both the Tax Rates and the risks of Bad Debt are high in Brazil.</u></p>	<p>- It is requested that <u>GOB systematises the bad debt tax refund on the Sales Tax, even if it is restricted to bankruptcy / composition.</u></p>	
	(16)	<b>Preparation lags behind on ICMS</b> <b>Detailed Implementing Regulation, following the Tax Reform</b>	<p>- Overhaul of the implementing regulation lags behind after the amendment of the Import ICMS.</p>	<p>- It is requested that <u>GOB takes steps to ensure simultaneous promulgation of the amendment of taxation system and implementing regulation.</u></p>	<p>- Law No.12715 - Internal Revenue Detailed Regulation IN1312/12</p>
	(17)	Opacity and Increased Cost brought about by Frequent Modifications in the Taxation System	<p>- <u>Enterprises incur increased cost from frequent amendments of taxation system.</u></p> <p>- <u>By levy of complex and high rates of various taxes, enterprises must bear the heavy tax burden in actual amounts. Moreover, the complexity and frequent changes in taxation system and tax payment procedures necessitates the payment of fees to tax accounting offices and heavy clerical burdens.</u></p>	<p>- It is requested that <u>GOB ensures consistency in effecting changes made under thorough preparation.</u></p> <p>- <u>Structural Reform (Streamlining of the Taxation System) is requested.</u></p>	<p>- Tax Acts of various kinds.</p>

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			<p>- (1) <u>Bypassing the sufficient talks with the industries, President frequently promulgates Interim Decrees in the Official Gazette. Due to the absence of feasibility study (in contents, enforcement date, relation to the existing legislation, etc.), examination at the national congress takes time.</u></p> <p>(2) <u>Notwithstanding frequent legislative amendments, hardly sufficient information is reaching the public. Including publication of tax incentives, (pre or post) announcement of the relevant information is not made public. It compels enterprises to secure manpower and its cost to keep an eye round the clock on the interpretation of the amended laws and the existing laws round the clock.</u></p> <p>(3) <u>On the other hand, GOB has made transparent only the taxpayer's information. Excessive electronic declaration and incidental notion of "illegality" /diversification of punitive regulations. Automated tax collection procedures.</u></p>	<p>- <u>It is requested that GOB takes step to amend the law, not on ad hoc basis, but in accordance with an adequate schedule after exhausting discussions with the Industries.</u></p> <p>- <u>It is requested that GOB takes step to make the law interpretation transparent, not on ad hoc or patchwork basis but on the systematic legal rules and amendments.</u></p>																			
	(18)	Cumulative ISS Tax Levy	<p>- <u>In a case where a project owner contracts EPC (Engineering, Procurement and Construction) under the "Turn-Key" terms, ISS of 5% is levied on the contract amount. However, where the EPC contractor contracts with subcontractors, the same tax levy applies without grant of the credit. ISS cumulates proportionate to the increment in the number of subcontractors.</u></p>	<p>- <u>It is requested that GOB approves the ISS credit.</u></p>	Executive Order No.406, Supplemental Act No.116																		
	(19)	<b>Discrepancy in Withholding Tax upon Payment of Capital Interest between the Tax Treaty and the Domestic Tax Law</b>	<p>- <u>Under the Japan-Brazil Tax Treaty, Withholding Tax of 12.5% applies upon the payment of interest on capital fund from Brazil to Japan, while the Withholding Tax of 15% applies to payments made domestically between the parties in Brazil. In the case where a Japanese enterprise invests into a Brazilian enterprise via a holding company, the following problems arise due to the differences in the applicable Withholding Tax rates:</u></p> <p><u>Investment Form:</u></p> <table border="0" style="width: 100%; border-collapse: collapse;"> <tr> <td style="text-align: center;"><u>Japanese</u></td> <td style="text-align: center;"><u>Holding</u></td> <td style="text-align: center;"><u>Brazilian</u></td> </tr> <tr> <td style="text-align: center;"><u>Enterprise - Invest into</u></td> <td style="text-align: center;"><u>Enterprise - Invest into</u></td> <td style="text-align: center;"><u>Enterprise</u></td> </tr> <tr> <td style="text-align: center;"><u>(Japan)</u></td> <td style="text-align: center;"><u>(Brazil)</u></td> <td style="text-align: center;"><u>(Brazil)</u></td> </tr> </table> <p><u>Applicable Tax Rates upon Payment of Interest on Capital Fund:</u></p> <table border="0" style="width: 100%; border-collapse: collapse;"> <tr> <td style="text-align: center;"><u>Japanese</u></td> <td style="text-align: center;"><u>Holding</u></td> <td style="text-align: center;"><u>Brazilian</u></td> </tr> <tr> <td style="text-align: center;"><u>Enterprise</u></td> <td style="text-align: center;"><u>Enterprise</u></td> <td style="text-align: center;"><u>Enterprise</u></td> </tr> <tr> <td style="text-align: center;"><u>12.5%</u></td> <td style="text-align: center;"><u>15%</u></td> <td style="text-align: center;"><u>15%</u></td> </tr> </table>	<u>Japanese</u>	<u>Holding</u>	<u>Brazilian</u>	<u>Enterprise - Invest into</u>	<u>Enterprise - Invest into</u>	<u>Enterprise</u>	<u>(Japan)</u>	<u>(Brazil)</u>	<u>(Brazil)</u>	<u>Japanese</u>	<u>Holding</u>	<u>Brazilian</u>	<u>Enterprise</u>	<u>Enterprise</u>	<u>Enterprise</u>	<u>12.5%</u>	<u>15%</u>	<u>15%</u>	<p>- <u>In the case where the business purpose of Holding Enterprise is confined solely to investment into the Brazilian Enterprise, the Withholding Tax Rate is determined by the Japan-Brazil Tax Treaty upon payment of interest on capital fund from Brazilian Enterprise to Holding Enterprise (payable to Japanese Enterprise).</u></p> <p>- <u>It is requested that GOB amends its Tax Act to withhold Tax at 12.5%.</u></p>	
<u>Japanese</u>	<u>Holding</u>	<u>Brazilian</u>																					
<u>Enterprise - Invest into</u>	<u>Enterprise - Invest into</u>	<u>Enterprise</u>																					
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			<p><u>Problems:</u>  <u>While the Holding Enterprise upon payment to Japanese Enterprise of interest on capital fund is being withheld 12.5%, 15% is being withheld as to Holding Enterprise when it receives from Brazilian Enterprise interest on capital fund, giving rise to the difference of 2.5%. If Holding Enterprise has no revenue other than interest on capital fund, (1) Holding Enterprise must add 2.5% out of its own capital fund in its payment to Japanese Enterprise, (2) while Holding Enterprise is unable to deduct 2.5% from other taxes payable. It results in double tax payment.</u></p>		
	(20)	<b>Wage Tax using Sales Amount as Tax Base</b>	- Article 55 of Law No.12715 (Issued on 18 September 2012) enables taxpayers to choose between 20% on wage and 1% on sales, depending upon business sectors.	- It is requested that GOB reduces employers' burden on account of expenses incidental to wages.	- Law No.12715 (Issued on 18 September 2012)
	(21)	<b>Insufficient Grace Period for introducing Digitisation of Tax Return</b>	- Investment into the computer system is not insignificant for responding to the move toward digitisation of filing tax returns.	- In initiation of the new scheme, it is requested that GOB allows a sufficient grace period (minimum 2-years after nailing down of the Specifications) for each firm.	- Brazilian Taxation System
16	Employment	(1) Resident and Capital Requirement For Liaison Office Representative And Expatriates	<p>- GOB authorises only a Resident in Brazil or in the case of foreigners, only a Permanent Visa Holder (not Temporary Visa Holder) to assume the position of the Chief Representative in a Foreign Funded Enterprise (FFE). The capital fund of 600,000RS registered with BCB is a pre-requisite for an expatriate to acquire Permanent Visa. Should the FFE require an additional expatriate, it must employ at least 10-Brazilian nationals and make additional investment of 150,000RS. Temporary Visa is valid for 2-years only, and its new acquisition has become increasingly difficult.</p> <p><b>(Actions)</b>                      - Expatriates are authorized to apply for a permanent visa after more than 4 years stay in Brazil under temporary work permit.                      - By Regulation 95/2011, the visa acquisition fee was changed to R\$600,000.</p>	<p>It is requested that GOB:</p> <ul style="list-style-type: none"> <li>-- repeals the requirement for acquisition of Permanent Visa</li> <li>-- accepts resident card and passport copy endorsed by Ministry of Justice (the same as GOJ does), and</li> <li>-- streamlines the application procedures for change in RNE (Registro Nacional de Estrangeiros=Foreign National Registration, serving as Foreign National Identity Card) after expatriate's assumption of duty in Brazil.</li> </ul>	<p>Regulation of Brazilian Immigration Bureau                      Decision No.27 of July 29, 1994                      Resolucao Normativa 10 CNI (of 11 November 1997)                      Prescriptive Resolution No. 95 (Issued on 19.08.2011 by CNI)                      Prescriptive Resolution No. 99 (Issued on 19.12.2012 by CNI)</p>



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			<p><b>(Improvement)</b></p> <p>- Permanent visa for one employee is granted to a corporation having created more than 10 new employments within 2 years of incorporation or to an individual having invested US\$50,000 minimum. (National Immigration Bureau Decision No.60 of 6 October 2004).</p>		
	(2)	Delays and Difficulties in Acquisition of Visa Issuance	<p>- <u>It takes quite a long time to obtain appropriate Business, Temporary-Short-Stay, or Long-Term-Permanent-Stay Visas as the case may be for MFS to accept from Japan, persons for business trip, supporters, and for long-term stay.</u></p> <p>- <u>GOB requires visa for a business trip by technical support personnel. However, enterprises are unable to cope in emergencies as it takes more than 10-business days before the visa is issued.</u></p> <p>- <u>GOB has tightened its examination of work visa permit, making it difficult for enterprises to obtain Visas for the Senior Executives and the Engineers. The delay in issuance of Visas for a Long-Term Stay materially affects the personnel deployment policy of enterprises. It takes about a week and payment of Consular Fee for 10,200 yen to obtain a (business tip) visa valid for 90-days stay (in contrast to the 5-years validity of the visa issued by the U.S. to Brazilian applicants.)</u></p> <p>- <u>It takes about half a year for foreign applicants to obtain (permanent/temporary) work visa.</u></p> <p>- <u>It takes more than 5-months in average to get the Visa issued. It has been said that the simplified acquisition procedures have expedited the acquisition, however, not at all.</u></p>	<p>- <u>It is requested that GOB:</u></p> <p>-- <u>expedites the visa acquisition procedures,</u></p> <p>-- <u>simplifies the procedures for extension of the stay period of various types of Visas.</u></p> <p>- <u>It is requested that GOB:</u></p> <p>-- <u>expedites the visa issuance, and</u></p> <p>-- <u>makes the visa validity longer.</u></p> <p>-- <u>accepts filing of visa application at any time, not necessarily in case of emergencies, at External Brazilian Consulate General.</u></p> <p>- <u>It is requested that GOB streamlines and expedites visa issuance and extends the stay period for a long-term-visa, comparable to the U.S. Visas.</u></p> <p>- <u>It is requested that GOB:</u></p> <p>-- <u>streamlines, expedites the procedures for visa acquisition and,</u></p> <p>-- <u>streamlines the application procedures for the extension of the authorised stay period under various visas.</u></p> <p>- <u>It is requested that GOB:</u></p> <p>-- <u>expedites the procedures for Visa Issuance and Renewal. And</u></p> <p>-- <u>makes the acquisition period of permanent visa shorter (more favourably) than the time required for temporary visa acquisition.</u></p>	<p>- Immigration Control Law</p> <p>- Article 16 of Lei No. 6815/80</p> <p>- Decision No.53 of Immigration Council (CNI)</p>

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			<p>- <u>It takes quite a long time to obtain visa locally in Brazil, (sometime it takes 3-months).</u></p> <p>- <u>Entry into Brazil is not authorised by merely proving the protocol on the extension of the stay period of the short-term visa.</u></p> <p>- <u>It takes 4 to 6-months to complete the process for change of the short-stay visa to permanent visa, provided, however, that application is accepted only 2-months before the ending date of the validity.</u></p> <p>- <u>Even for an existing enterprise, it takes more than 4-months for the acquisition of work visa. Moreover, since last year, renewal of temporary visa has been suspended. After the change of the procedure from the Renewal to permanent visa issuance, it takes longer, about one-year for the issuance of the permanent visa.</u></p> <p>- <u>It takes two to three weeks for acquiring the work visa. It makes it difficult to make emergency business trips.</u></p> <p>- <u>Since 2012, GOB requires application for shifting to permanent visa, after 2-years of stay under the visa V (with 2-year validity). The process progresses at the snail's pace. Some expatriates have experienced the 1.5 years waiting period. During the review period, it is advisable to obtain tourist visa in Japan and re-enter Brazil. However, the following problems have occurred:</u></p> <p>-- <u>An emigration officer at Sao Paulo GRU airport confiscated the RNE, on account of the visa expiry.</u></p> <p>-- <u>Brazilian consular office in Japan refused the issuance of the tourist visa, on the ground that the applicant had stayed in Brazil beyond the authorised period of stay, despite the fact that the tourist visa is only transient in nature based on the Brazilian law that requires a valid visa upon entry into Brazil.</u></p>	<p>- <u>It is requested that GOB expedite visa acquisition procedures.</u></p> <p>- <u>It is requested that GOB accepts the application for change by 6-months in advance from the ending date of the validity.</u></p> <p>- <u>It is requested that GOB:</u></p> <p>-- <u>expedites the procedures for visa issuance/renewal procedures, and</u></p> <p>-- <u>prioritises the permanent visa acquisition period to make it shorter than the temporary visa.</u></p> <p>- <u>It is requested that GOB:</u></p> <p>-- <u>expedites visa issuance,</u></p> <p>-- <u>makes longer the visa validity, and</u></p> <p>-- <u>accepts direct visa application at external Brazilian consulate general.</u></p> <p>- <u>It is requested that GOB takes steps to:</u></p> <p>-- <u>devise ways and means to expedite the process for visa switching application.</u></p> <p>-- <u>have immigration officers in Brazil and consular offices in Japan commonly share and update the actual correct information concerning visa application.</u></p>	

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			<p>- <u>For acquisition of work permit in the case of board of directors of the locally established legal entity, COB's prior approval is necessary, taking half a year from unofficial announcement to formal assumption of new post.</u>  <u>A bank clerk, after initial stay (of 2-years) under temporary visa, it takes substantial period (for more than 18-months in a case) to change to permanent visa.</u>  <u>Moreover, pending receipt of Certidão de Trâmite (Certificate of Processing) from the due date of visa status change from temporary to permanent status on the web, exiting Brazil is restricted on business trip, etc. (Uncertainty in acquisition date makes it difficult to make a firm business plan.)</u>  <u>(Note) Acquisition in Argentina of tourist visa is one expedient, at the risk of "double visa" and wasted time and cost.</u></p> <p>- <u>In the past, it has taken in average about 40-days from the filing date of application at department of labour to the receipt of the visa, while the requisite time has varied substantially in one case to another depending upon the filing date of application.</u></p> <p>- <u>The visa issuance procedures are extremely bureaucratic, and it takes much time.</u></p> <p><b>(Actions)</b></p> <p>- The privatization of public corporations has prompted the uprising number of technical staff sent to Brazil by European enterprises and has stimulated the resistance of the Brazilian Unions and the unemployed. GOB has tightened its policy for the protection of the domestic workers.</p> <p>- As conditions to introduce an alien technical staff into Brazil, GOB requires the proof of the applicant being a holder of high technology and completion of the transfer to the domestic Brazilian staff the know-how within the prescribed period.</p> <p>- Regulation Decision No.53 of July 19, 2002 authorizes issuance of work permit and visa to aliens visiting Brazil for up to 90-days (non-extendable) for the purpose of providing a technical after-service to Brazilian enterprises. Furthermore, each Consulate General at its own discretion is authorized to issue a (non-extendable) limited 30-days' temporary visa for once only in 90-days for the same alien, in the event of an emergency.</p> <p>- Regulation Decision No.55 of August 27, 2002 authorizes issuance of an emergency 90-day's visa for aliens visiting Brazil for the purpose of providing a technical service to Brazilian enterprises. It also authorizes Brazilian Consulate to resume issuing a 30-days' emergency visa.</p> <p>- At the Japan-Brazil Joint Committee on Promotion of Trade and Investment held in September 2009, Japan side brought up the issue about the work visa acquisition. Brazilian side expressed its appreciation of the problems.</p> <p>- Since 1 January 2012, Japan-Brazil Business Visa has been in operation.</p>	<p>- <u>It is requested that GOB:</u>  <u>-- expedites the procedures for visa acquisition / renewal procedures,</u>  <u>-- extends the temporary visa validity for a longer period, and</u>  <u>-- drafts and promulgates clear rules to cope with the transient period, pending receipt of Certidão de Trâmite.</u></p> <p>- <u>It is requested that GOB:</u>  <u>-- expedites the visa issuance, and</u>  <u>-- makes the visa validity longer.</u></p>	

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			<ul style="list-style-type: none"> <li>- In November 2012, at the 6th Japan-Brazil Joint Commission for Trade and Investment, Japanese side raised the Work Visa problems for the Brazilian side to improve.</li> <li>- The validity of the Commercial Visa has been changed to 3-years.</li> </ul> <p><b>(Improvement)</b></p> <ul style="list-style-type: none"> <li>- Since 2nd half of 2014, the requisite time for visa acquisition has been cut down, due to the shift to the digitised filing of application.</li> </ul>		
	(3)	The Validity of the Short-Term Entry Visa	<ul style="list-style-type: none"> <li>- <u>As the entry Visa is valid only for 3-months, and must be valid not only upon entry but also upon departure, it is extremely difficult to use.</u></li> <li>- <u>Under the current legislation direct filing to Consular Office is possible for a stay of 30-days or less and in case of emergencies. Otherwise such application is not granted. (Work Permit is not required).</u></li> <li>- <u>Visa validity is good for 60 days only (for entry from the U.S.), while South Koreans can enter without the visa.</u></li> </ul>	<ul style="list-style-type: none"> <li>- It is requested that GOB:                             <ul style="list-style-type: none"> <li>-- <u>extends the Visa Validity.</u></li> <li>-- <u>expedites the visa acquisition.</u></li> <li>-- <u>improves the visa acquisition procedures.</u></li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>- Immigration Control Law</li> <li>- Article 16 of Lei No. 6815/80</li> <li>- Decision No.53 of Immigration Council (CNI)</li> </ul>
	(4)	Validity of Business Visa	<ul style="list-style-type: none"> <li>- <u>The Validity has been changed to 3-years on Business Visa.</u></li> </ul>		
	(5)	Delayed procedures for registration of RNE (Registro Nacional de Estrangeiros)	<ul style="list-style-type: none"> <li>- <u>Due to the extreme delay in issuance of the RNE (National Registration for Foreigners), expatriates are forced to show the Protocol in lieu of the RNE. However, as the Protocol is not recognised as ID in many places of various kinds, it requires lot of efforts for expatriates to get the Protocol accepted.</u></li> <li>- <u>Application for the RNE (Registro Nacional de Estrangeiros=National Registration for Foreigners) is accepted only by reservation, which takes much time.</u></li> </ul>	<ul style="list-style-type: none"> <li>- It is requested that GOB promptly issues the RNE.</li> </ul>	<ul style="list-style-type: none"> <li>- RNE Registration Procedures</li> <li>- Lei 6815/1980 (Legislation)</li> <li>- Immigration Control Law</li> <li>- Article 16 of Lei No. 6815/80</li> <li>- Decision No.53 of Immigration Council (CNI)</li> </ul>
	(6)	Overly Labour Protective Labour Legislation	<ul style="list-style-type: none"> <li>- <u>This is a phenomenon common to all Brazilian enterprises. The labour law that protects workers simply too far has debilitated the international competitive power of the entire nation. Workers are on the job barely for 11-months a year, while with a doctor's certificate, they are entitled to paid leave from 1-week to 10-days, even for a slightest injury that self-application of a sticking plaster would do the job, (a fake "doctor's certificate" is available also). Moreover, breakfast, lunch, coffee break, commuting bus, medical insurance... all at employers' expense, on top of</u></li> </ul>	<ul style="list-style-type: none"> <li>- <u>Labour law needs amendment to level with other countries.</u></li> </ul>	<ul style="list-style-type: none"> <li>- The Consolidation of Labour Laws (Consolidacao das Leis Do Trabalho) (CLT)</li> <li>- Artigo 255 DA CLT</li> <li>- Article 13 of the Constitution</li> <li>- Article 58 of CLT</li> </ul>

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			<p><u>annual wage hike (7-10%), inflation (5-6%), and many more... How could employers maintain their competitive edge with all of these on their shoulders?</u></p> <p>- <u>The going labour law in Brazil generously protects workers. Apart from the wages, employers incur various related personnel expenses: (1) INSS (Social Security Salaries and Benefits), (2) FGTS (Severance Indemnity Fund), (3) Decimo Terceiro (13th Month Wage, or Payment of 13-Months Wage Per Annum), (4) PLR (Employees' Profit Sharing Plans), etc., approximating the amount of wages, impacting heavily upon profitability.</u></p> <p>- <u>Social Insurance Laws of various kinds have inflated the labour cost doubling the face value of worker's wages that enterprises assume, which is too heavy.</u></p> <p><u>In addition, while the Labour Law mandates a specified rate of wage hike each year, downward adjustment of wage is prohibited. Employers are unable to determine individual wage by reflecting the company's business performance, and evaluation of individual workers' contribution. Labour cost keeps going up.</u></p> <p>- <u>The Law promulgated on 1 March 1943 prohibits the bank workers from working more than 8-hours a day. Surplus backup workers must be secured all the time to meet the peak period requirement, since no overtime work is permitted.</u></p> <p>- <u>The system for acquisition of paid leave is stark and stiff, 30 days per annum, for 10-consecutive days or more each time. Small and medium enterprises are unable to defray costs and allowances for employees on leave.</u></p> <p>- <u>During the 30-days annual paid leave (APL) of employees, employers must pay annual leave allowance to employees.</u></p> <p><b>(Actions)</b></p> <p>- <u>In July 2000, National Union of Metal Workers' Confederation appealed to the Chairperson of the Chamber of the Deputies (Camara dos Deputados=CDD) seeking 36-hours-a-week work and resorted to sporadic walkouts. The Union claimed the increased productivity as a reason for demanding shorter work-hours.</u></p>	<p>- <u>It is requested that GOB slims down or repeals in part the labour protective schemes.</u></p> <p>- <u>Structural Reform (Review of the excessive-labour protection).</u></p> <p>- <u>It is requested that GOB repeals the Law promulgated on 1 March 1943.</u></p> <p>- <u>It is requested that GOB repeals the provisions in the Labour Act concerning the paid leave.</u></p> <p>- <u>While there is no question that employees are entitled to take annual paid leave, payment of allowance during the APL means extra cost to employers. It is requested that GOB takes step to repeal the provisions of the law that compel such requirement.</u></p>	<p>- Article 130 of CLT</p> <p>- Decree-Law nr. 5452/1943</p> <p>- Consolidation of Labor Laws (CLT).</p> <p>- Social Security Insurance Laws of various kinds</p> <p>- CLT Article 462</p> <p>- Labour Union Rules</p>

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			<ul style="list-style-type: none"> <li>- In December 2001, the bill to deregulate the restrictive provisions of CLT (Bill No. 5845) passed CDD. The Bill intended to give a more flexibility to industrial relations by amending certain workers' rights.</li> <li>- In 2001, the average annual revenue of domestic paid workers declined by 3.9%, a 3-year consecutive decline of the previous year, while the unemployment rate of January 2001 increased to 6.8% (from 5.7% of January 2000).</li> <li>- In February 2002, the 3 rightist Labor Unions demanded the Minister of Labor to extend the period of payment for the jobless insurance to the maximum of 8 months from the ongoing 3-5 months.</li> <li>- The Ministry of Labor Statistics concludes that as exemplified in the 70% increase in the conclusion of the collective bargaining agreement, a more emphasis has been placed in resolving industrial relations disputes through concluding the collective bargaining agreement away from walkouts in the last 4 years ended in 1999.</li> <li>- The low economic growth continued in the years 2001 and 2002, resulting in the official unemployment rate of 7.1% in November 2002, and the average income of paid workers declined in the consecutive 21 months up to September 2002, according to the IGBE announcement. (The unemployment rate reached 13% in the 6 large metropolitan areas nationwide.)</li> <li>- In May 2003, President Luiz Inacio Lula da Silva demanded withdrawal of the Bill No.5483 to amend the Labor Act, and the Bill was withdrawn at the Congress in 2004.</li> <li>- Since 2003, representatives of employees, employers and government have continued discussion by setting up a forum on amending the Labor Act. However, due to the severely opposing views of political, employer/employee industrial and academic concerns, culminating in the withdrawal declaration of the 3 central Labor Unions, the discussion has been suspended.</li> <li>- Under the appreciation of Real, GOB has raised the minimum wage by 13% to R\$350.</li> <li>- The investment environment research by World Bank points out the necessity of discontinuing "Fundo de Garantia do Tempo de Servico (Service Period Complementing Fund=FGTS)" and of amending CLT to correct the overly labor protective provisions.</li> <li>- Under the labor party administration of President Lula, it was the campaign pledge to amend the Labor Act and the Labor Union Act. However, it has not shown much progress due to the fierce battle between the employers' body and the two great central labor unions that are diametrically opposed one to the other.</li> <li>- World Bank's "Doing Business 2006" places Brazil on the 144th position out of 155 countries in respect of ease of hiring and firing workforce.</li> <li>- From 1 March 2008, the minimum wage has been raised by 9.2% to R\$415, exceeding 8.6% of 2007.</li> </ul>		
	(7)	<b>Appreciation of Labour Cost</b>	<p><u>- In each year the rate of Minimum Wage Increase has been continually higher than that of the Inflation Rate. Employers are responsible for raising wage to the extent of the inflation rate without fail. Raise in wage always means decline in profit to export oriented enterprises without means of harvesting the inflated profit from the domestic demands inflated by inflation. CLT also prohibits wage reductions. In order to remain competitive in terms of labour cost, enterprises have no alternative but dismiss their workers, whose remuneration base has exceeded a certain level. This is not only injurious to enterprises but it does not protect workers in substance either.</u></p>	<p><u>- It is requested that GOB:</u></p> <ul style="list-style-type: none"> <li><u>-- raises the rate of minimum wage within the scope that allows enterprises' maintenance of competitive edge by technological innovation, etc.</u></li> <li><u>-- totally liberalises wage increase negotiation by repealing the wage raise obligations, for inflation and</u></li> <li><u>-- liberalises wage reduction.</u></li> </ul>	<ul style="list-style-type: none"> <li>- Labour Law</li> <li>- Article 255 of CLT (Consolidacao Das Leits Da Taraballo)</li> <li>- Constitution Article VII, Paragraph xiii</li> <li>- CLT Article 58</li> <li>- CLT Article 130</li> <li>- CLT Article 129</li> <li>- CLT Article 149</li> <li>- CLT Article 462</li> </ul>

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			<p>- <u>The phenomena equally apply to Central-South American / Caribbean countries in general. It has become increasingly difficult to secure quality workers at reasonable wage levels, and to maintain the optimum internal wage balance among employees, due to inflation, economic growth, and globalisation of enterprises that have driven up the labour cost. A Member Firm experiences difficulty in the maintenance of the fair treatment among its employees, as it must pay, for the same job, a higher wage to the newly employed workers in the recent years than the employees with many-service years.</u></p> <p>- <u>High labour cost.</u></p> <p>- <u>In each year, wages go up hand in hand with the inflation rate. Wage differences are large proportionate to service years in the same job category. This scheme, being dependent upon productivity improvement, the company's performance goes down, unless the productivity goes up. Also, employer's assumption of the social contribution upon labour cost is significant, affecting the business performance.</u></p> <p>- <u>Workers get across the board wage up commensurate with the labour union in concern, the rate of increase of which is quite steep. While no problems ensue upon employment, after a few years, competitive edge is lost.</u></p> <p>- <u>Wage increase rate is far apart ahead of the business performance and economic growth rate.</u></p> <p>(1) <u>Labour cost increase coupled with the inflation rate makes it difficult to achieve optimum cost performance of the workforce or interchange of workers, leading to the waning of the industrial competitive edge.</u></p> <p>(2) <u>From the employers' perspective, the workforce with the wage level in excess of a given level, being harmful to enterprises, can go nowhere but dismissal. Basically, wage hike does not protect workforce.</u></p> <p>(3) <u>Workforce seeking stability in employment rather than wage hike finds their wages go up, only to be replaced with less expensive workforce.</u></p> <p>- <u>As it stands, employers being unable to adjust the labour cost by cutting down the work-time upon downturn of the business performance can go nowhere but choose dismissal of workforce, in the end leading to the instability of employment.</u></p>	<p>- <u>In each year, GOB and industry group announce wage increase rate guideline in excess of the inflation rate for private enterprises to follow. However, appreciation in labour cost results in the loss of competitive edge of the domestic industries. It is requested that GOB issues its labour policy in line with the inflation rate.</u></p> <p>- <u>It is requested that GOB repeals the relative labour law provisions.</u></p> <p>- <u>It is requested that GOB, in the least, repeals the compulsory wage raise at once.</u></p> <p>- <u>It is requested that GOB reviews and moderate the up-rate of the wage base.</u></p> <p>- <u>It is requested that gob takes step to get CLT amended, etc.</u></p> <p>- <u>It is requested that GOB takes step to get CLT amended, etc.</u></p>	<p>- Social Security Insurance Laws of Various Kinds</p>

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			<p><b>(Actions)</b></p> <ul style="list-style-type: none"> <li>- The minimum wage has gone up each year, at the revised rate dictated by the inflation rate in the preceding 12-months and the GDP growth rate of the last but one year (or 2.7% in 2013 over 2011, pursuant to Decree 12382 dated 25 February 2011, while the inflation rate is based on the National Consumer Price Index (INPC), published by IBGE (Instituto Brasileiro de Geografia e Estatística) Brazilian Institute of Geography and Statistics.</li> <li>- Minimum wage went up to R\$415 or by 9.2% since 1 March 2008, and exceeded 8.6% of 2007.</li> <li>- Federal Minimum Wage (nominal) has gone up by 14.1% since January 2012.</li> <li>- Federal Minimum Wage (nominal) has gone up by 9.0% since January 2013 (From monthly R\$622 to R\$678)(R\$1.00 approximates 42 yen.)</li> <li>- According to "the 13th JETRO Research made during October through November 2012 on Japanese Affiliated Enterprises entering Mid-South America", the effective answer to the Questionnaire was received from 141-Japanese affiliated enterprises operating in Brazil, 75.1% of them responded: "the spiraling labour cost is the most serious problem that worries the Japanese affiliated officers".</li> <li>- Extended National Consumer Price Index (IPCA) traced the downward curve since the latter half of 2011, until it reached 4.92% in June 2012. Since then it gradually went up to reach 6.15% in January 2013, exceeding 6.0%. Especially, the inflation rate for the basic needs package has gone up annually to 10% or more, affecting low-income earners.</li> </ul>		
	(8)	Downward Rigidity of Wages	<p><u>Employees' wages are rigid as regards downward adjustment. GOB raises the minimum wage rate by reflecting the inflation rate in the preceding year in addition to the growth rate of GDP. However, there is a limit to pass on the wage increase to the sales price. As it stands, sooner or later, MFS is unable to continue its business operation on a viable basis.</u></p> <p><u>Employers are neither able to make substantive wage reduction nor dismiss employees without huge amount of premium severance payment. It not only heavily impacts profitability but also narrows the choice for the business strategic planning.</u></p> <p><u>Proportionate to the annual inflation rate, employers must raise wages unconditionally in each year.</u></p> <p><u>*Union determines the amount of business trip allowance.</u></p>	<p><u>It is requested that GOB takes steps to:</u></p> <ul style="list-style-type: none"> <li><u>-- liberalise the downward adjustment of wages, and</u></li> <li><u>-- remove the obligations to raise wages to the inflation rate, and completely liberalises wage increase negotiation between the labour and employers.</u></li> </ul> <p><u>Apart from the premium severance payment, without changing the automatic wage increase scheme and the generally accepted idea, the competitive edge of the nation goes nowhere but down.</u></p> <p><u>Apart from labour law, there are numerous union defined rules, heavily costing employers. Its operation should be best left to each enterprise</u></p>	<p>Labour Act</p> <p>Social Security Insurance Laws of various kinds</p>



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			<p>- <u>Reduction in wages is prohibited by law, be it by change of job description from managerial to rank and file in the process of interdepartmental staff move, employers' business performance, personnel evaluation, shrinkage of work-hours from operational difficulty.</u></p> <p>- <u>On approving wage reduction. The law forbids wage reduction even based on a personnel evaluation. This is a heavy burden upon enterprises.</u></p> <p>- <u>Amidst vacillating operational environment, internally, and externally, employees' wages are protected from reduction. Along with the collective bargaining, wages keep going up.</u></p> <p><b>(Actions)</b></p> <p>- It is not possible to reduce wages unless by collective bargaining under the collective labor agreement.</p>	<p>- <u>It is requested that GOB takes step to get CLT amended.</u></p> <p>- <u>It is requested that GOB takes step to have CLT amended, etc.</u></p> <p>- <u>It is requested that GOB takes step to have CLT amended, etc.</u></p>	
	(9)	<b>Irrational Payment of FGTS (Severance Pay Fund) to Expatriates Overseas</b>	<p>- In Brazil enterprises set aside 8% of the total monthly wages as reserve fund for Severance Pay Fund (FGTS). "In the event an employee is discharged without justifiable reasons", enterprises makes additional 40% payment as penalty. Upon return of an expatriate back to the home country, payment is made to the returned expatriate inclusive of the 40% additional payment.</p>	<p>- For the overseas expatriate, the "Return" to the home country means return to the permanent domicile company, and do not correspond to "discharge without justifiable reasons". It is requested that GOB takes steps to amend the law, to remove the provision that requires additional 40% payment.</p>	<p>- CLT Article 478.</p>
	(10)	Complex/Delayed Acquisition of Motor Vehicle Driver's Licence	<p>- <u>GOB compels the practical training at driving school for 20-hours or so to the holders of Japanese driving licence. Moreover, the explanation given at DETRAN (Departamento Estadual de Transito or State Traffic Department), etc. is ambiguous each time, so that the applicant is unable to tell what is formally required for the acquisition of the driver's licence. In addition, the applicant must speak and negotiate in Portuguese. In effect, the acquisition of the driver's licence is no easy matter.</u></p>	<p>- <u>It is requested that GOB:</u></p> <p>-- <u>establishes a clear-cut guideline addressed to foreigners for acquisition of drivers licence, and</u></p> <p>-- <u>provides the assistance.</u></p>	
	(11)	<b>Frequent Occurrences of Labour Disputes</b>	<p>- Workers' Right is exceptionally strong. Anything can be a cause to trigger the court cases.</p> <p>- <u>Moreover, labour litigations are abundant. Some litigation is instituted by workers with no direct employer/employee relations. There can be no preventive measures.</u></p>	<p>- It is requested that GOB takes steps to heighten the moral of its people.</p> <p>- <u>Review of the excessive-labour protection.</u></p>	<p>- CLT</p> <p>- CLT (Decreto-Lei 5452/1943) (Labour Act, Executive Order)</p> <p>- Articles 477-491 of The Consolidation of Labour Laws (Consolidacao da Leis do Trabalho) (CLT) of President Decree No.</p>

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			<p><b>(Actions)</b></p> <ul style="list-style-type: none"> <li>- The Bill No.5843 amending the Labor Code No.618 passed CDD, pending deliberation at the Senate. The Bill requires application of CLT in the absence of agreement between employees and employers.</li> <li>- The number of cases brought to the Labor Court has climbed each year. In 2004, 2.18 million cases were brought to the Appellate Courts while the number of cases brought to the district labor courts tripled during 1990 and 2004.</li> <li>- In 2004, summary proceeding was established to adjudicate labor disputes up to 40 times the minimum wage in order to expedite the labor disputes.</li> <li>- Brazilian CLT prescribes in great details the rights and obligations in the context of employment agreement and is restrictive on negotiation for dismissal and terms of employment. Furthermore, employees are excused from assuming the cost of legal proceedings.</li> <li>- The Brazilian CLT is spelt out on the principle that workers are socially placed in a weaker position than employers with the thrust to protect workers.</li> </ul>		5452 dated 1 May 1943 - Social Security Insurance Laws of various kinds
	(12)	Imperative Registration in Industrial Union	<ul style="list-style-type: none"> <li>- <u>CLT's requirement to register employees in the Craft/Industrial Unions makes it impossible for an employer to harmonise revisions in wages and working conditions across the board within its enterprise. Different standards among employees are sources of unhappy relations among workers and can be a cause for a labour complaint.</u></li> <li>- Trade Union to which an enterprise belongs unilaterally decides the rate of wage raise totally without regard to the operational performance of individual employers. Employers are unable to run their business flexibly, by reflecting the status of business operation, individual workers' aptitude to work, and their future career development programme.</li> </ul>	<ul style="list-style-type: none"> <li>- It is requested that GOB gives a freedom within certain bandwidth to enterprises with a clearly defined personnel evaluation policy and Key Performance Indicator of their business. (As it stands, the employment gets less stable along with the gain in service years.)</li> </ul>	Labour Act
	(13)	Obligation to Employ Indigenous Personnel	<ul style="list-style-type: none"> <li>- <b>More than two-third of the total employees must be represented by the Brazilian both in wages and in number. It is difficult for Small-Medium Enterprises (SMEs) to satisfy these requirements.</b></li> <li>- <u>Employers are compelled to maintain the wage ratio between the expatriates and the indigenous employees within the certain criteria.</u></li> </ul>	<ul style="list-style-type: none"> <li>- <b>It is requested that GOB gets the CLT amended.</b></li> <li>- <u>It is requested that GOB gets the CLT amended.</u></li> </ul>	Decree 5598/2005

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	(14)	Compulsion of Trainees' Employment	<p>- <u>While CLT compels enterprises' acceptance of trainees, the terms and conditions (i.e. requisite numbers, training period, trainees, training period, restricted work (exclusion of hazardous work, mediator, regional characteristic, operational status, etc.) are not tailored to actual regional circumstances, status of management, etc.</u></p> <p>- <u>GOB allocates trainees (5%-15% proportionate to the operational scale).</u></p> <p><u>In 2014, GOB tightened the rule so that an MFS accepted 58-trainees. Due to the GOB's specific instructions, the trainees are prohibited from working in the production line, so that all costs incurred mean MFS's straight out of pocket expenses.</u></p>	<p>- <u>It is requested that GOB:</u></p> <p>-- <u>deregulates various rules and restrictions, and</u></p> <p>-- <u>removes the fines scheme.</u></p> <p>- <u>It is requested that GOB reviews allocation rate and restriction on the on-line work.</u></p>	
	(15)	Restricted Despatched Workers' Employment Period	<p>- <u>The term of employment for dispatched temporary workers is only for 6-months at a maximum. It is difficult to adjust the workforce timely in a country where the labour cost is high and economic conditions dramatically change.</u></p> <p><b>(Actions)</b></p> <p>- Since May 2001, GOB has authorized temporary workforce under the name of part labor limited only for 6 months maximum.</p>		- Provisional Measure 2076-32
17	(1)	Implementation of Intellectual Property Rights ("IPRs")	<p>- <u>While the legislative overhauls have made a fair progress in each country, the economic growth and the snowballing patent applications have outpaced such overhauls in each country. Qualitative differences in the level of Examiners, examination delays, etc. have been the cause of Scattering Results amounting to the pending task that demands the improvement. It affects the applicant's quest for a stable protection of IPRs.</u></p> <p><b>(Actions)</b></p> <p>- The prevalence of pirate editions and other illegal imports into Brazil is accounted for by its high rates of tariff and taxes, doubling the prices of imports through regular route compared to the pirate editions. GOB develops boycott campaign against the pirate editions focused on the youth.</p> <p>- In December 2004, GOB jointly with private concerns established "National Council to Combat Piracy and Intellectual Property Crimes (CNCP)" which is engaged in formulating the measures to combat counterfeits and pirate editions.</p> <p>- <u>In 2008, the Local Japanese Affiliated Enterprises (LJAE) established "Central &amp; South America IPG" for promotion of a cross business sector IPRs protection activity, exchanging information and association by and among the members and the local governments.</u></p> <p>- According to the CNCP's estimate, the damage from counterfeits and pirate editions sustained by the Brazilian enterprises in 2009 climbed to USD20 billion in total, of which medication drugs represented USD5.25 billion, parts USD3 billion, software USD2.25 billion, tobacco USD200 million, fuels USD200 million and electric/electronic appliances USD180 million.</p>	<p>- <u>It is requested that INPI advances the collaboration with other countries under Patent Prosecution Highway (PPH), ASEAN Patent Examination Co-operation (ASPEC), etc., promotes their utilisation in order to resolve the backlog of examination, and gives training to examiners.</u></p>	

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			<ul style="list-style-type: none"> <li>- USTR in its "2010 Special 301 Report" states: "Brazil will remain on the Watch List in 2010. Brazil continued to show a commitment to fighting counterfeiting and piracy and to strengthening its enforcement efforts; however, significant levels of piracy and counterfeiting continue... Concerns remain over border enforcement and the lack of expeditious and deterrent sentences".</li> <li>- Since 2009, Japan Side has requested the Brazilian Side to tighten its clamp down on counterfeits by showing the distribution channel of counterfeit goods, under the IPR Working Group of Japan-Brazil Investment Promulgation Joint Committee.</li> <li>- In Brazil, in the criminal proceeding concerning infringement of intellectual property rights, the rightful claimant must take the lead in investigation and prosecution. In the criminal proceeding, not only infringement of the identical trademark but also similar trademark or label can be the subject of criminal charge. The jurisdiction of legal proceedings is the state court of the place where the infringing conducts have taken place.</li> </ul>		
	(2)	Inadequate Import Embargo Provisions on Patent Infringing Products	<p><u>Customs measures at ports provide the suspension of products that infringe the trademarks only and do not provide the suspension of patent infringing products.</u></p> <p><u>We have such information as the customs suspension is extremely rare case of imported patent infringing products.</u></p>	<p><u>It is requested that GOB positively makes rules for suspending import of patent infringing products at ports.</u></p>	<p>Industrial Property Act, Article 198</p> <p>"Industrial Property System in Brazil", Japan Industrial Property Association</p>
	(3)	Delayed Patent Application Examination and Issue of Patent	<p><u>It takes 8 to 9-years in average for establishment of patent right. In the electric-electronic fields, it takes more than 10-years in some cases for the establishment of patent right.</u></p> <p><u>In average, it takes 8-years from the application to the patent to be issued.</u></p> <p><u>The extraordinary long examination period on patents and utility design application in Brazil (10 years or more), as compared to other emerging countries, makes it difficult to obtain substantive protection of Intellectual Property Rights (IPRs) on products with short life cycle.</u></p>	<p><u>It is requested that GOB:</u></p> <ul style="list-style-type: none"> <li>-- <u>increases the number of examiners.</u></li> <li>-- <u>reduces the time period from the filing date to the patent issuance as National Institute of Industrial Property (INPI) has represented at its seminar of various kinds.</u></li> </ul> <p><u>It is requested that GOB takes steps to cut down the period required for patent issuance from the date of filing application.</u></p> <p><u>It is requested that INPI reduces the period for issuance of patents and IPRs in Brazil through promotion of the cooperation on examination with other countries, etc.</u></p>	<p>Examination and Employment</p>
	(4)	Rigorous Conditions for the use of Expedited Examination Scheme	<p><u>Exercise of Priority Right for Patent Application requires to satisfy any of the following requirements which are difficult:</u></p> <ul style="list-style-type: none"> <li><u>1) Applicant must be individuals over 60 years in age.</u></li> <li><u>2) Unauthorised use by a third party of the invention.</u></li> <li><u>3) Registered patent is conditional upon the acquisition of financial</u></li> </ul>	<p><u>Promulgation of Rules enabling early examination will facilitate the use of the Priority Right. For example, promulgation of a rule that accepts the applicant's submission of</u></p>	<p>Resolution 132/2006</p>

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			<u>resources (the evidence required).</u>	<u>the Search Result in a Corresponding Foreign Country will facilitate exercise of PRPA.</u>	- Resolution 132/2006
			<p><b>(Reference)</b>                      - Resolution 132/2006 (<a href="http://www.wipo.int/wipolex/en/details.jsp?id=8389">http://www.wipo.int/wipolex/en/details.jsp?id=8389</a>)</p>		
	(5)	Examination made in Order of Patent Application Nos.	- INPI examines in the order of Patent Application Numbers (PAN). As a result, the examination takes place regardless of when the Request For Examination (RFE) is filed. Later RFE gets examined earlier than the later RFE in the sequence of the PAN.	- It is requested that INPI examines in the sequence of Acceptance of the Request for Examination.	
	(6)	Difficulty in contracting Licencing Agreement on Royalty Payment (LARP)	- In lieu of LARP, in Brazil, it takes the form of technical licencing agreement for once only renewal (after 5-years with 5-year validity) in total of 10-years. The royalty so payable is inclusive of technical assistance fees, foreclosing conclusion of Continual Use Licencing Agreement (CULA).	- It is requested that GOB takes step: -- to enable conclusion of CULA, and -- to allow payment of technical assistance fees outside the framework of the licencing agreement.	- Section355, Income TaxRegulation ("Regulamento do Imposto de Renda") - Section 74 Law 36.470 of 1958 - Section 12 Law 4.131 of 1962 - Section 6 Decree-Law 1.730 of 1979
	(7)	Restrictions Relative to Technical Licence Agreement	- Technical Licencing Agreement (TLA) must be registered at The National Institute of Industrial Property (INPI) countervailing powers against third party's claim, and for both remittance of royalty abroad, and deduction from the taxable income on Corporate Income Tax provided, however, that in effect; INPI exercises its substantive examination right, upon registration of TLA.  - As regards registration of TLA at INPI, the applicant must carefully appeal the freshness of the technology to be introduced, otherwise registration can take much time, blocking the remittance. It also takes an expert's assistance for TLA registration.	- The GOB's requirement as described in the left column had been repealed in many countries, and goes against the international trends. - It is requested that GOB amends the related legislation and improves the implementation by the governing authority. - It is requested that GOB amends of the related legislation and improves the implementation by the governing authority.	
			<p><b>(Actions)</b>                      - Since February 2009, at the Japan-Brazil Joint Committee on Promotion of Trade and Investment Japanese enterprises brought up the issues involving technological licencing agreement in respect of the term of contract, the term of confidentiality obligations, and the cap on the royalty remittance term urging improvement.</p>		


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			<p>- In Brazil, "Law on Foreign Capital and Remittance Abroad" provides the cap of 5-years on deduction from the taxable income of royalty payment based on Agreement for Transfer of Technology (ATT)(Know-how Agreement). Normally INPI approves ATT Registration only under this cap, effectively limiting the ATT term to 5-years. As to Patent Licencing, royalty payment may be collected throughout the term of the Agreement.</p> <p>- INPI is entitled to extend for a further 5-year period, deduction of royalty payment from the taxable income, as empowered by CMN (National Monetary Council.). However, it is the basic understanding in Brazil that the technology is completely transferred within the period of 5-years. To get extension by another 5-year period, it is prerequisite to convince INPI as to its necessity. In practice, this is a difficult task and many such requests have been denied. Collection of royalty over a long-term has become a difficult ordeal.</p> <p>- Because the term of Technical Transfer Licencing Agreement is limited to 5-years, in principle, so is confidentiality protection term, restricted to 5-years also and no extension is permitted. The brevity of the confidentiality protection term under the Know-How Agreement has been a matter of concern leading to the exodus of technology.</p> <p><b>(Improvement)</b></p> <p>- Through the dialogues exchanged at the Japan-Brazil Investment Promulgation Joint Committee, some improvement has been made. In the Letter (of 30 September 2010) of the Deputy Minister of both Japan and Brazil, Brazilian Side response was received: "The term mutually agreed as adequate can be stipulated as the term for the confidentiality protection in Technical Licence Agreement (TLA), while TLA with confidentiality protection term exceeding 10-years may be registered at INPI."</p>		
	(8)	Insufficient Disclosure of IPRs Information	<p>- <u>In emerging countries with growing needs for acquisition of Intellectual Property Right, the database remains unprepared for statistical information on the number of IPRs applications, etc. It is impossible to ascertain accurately the risk from the patents held by other enterprises.</u></p>	<p>- <u>It is requested that GOB:</u>  -- <u>advances the collaboration with IPOs of other countries, and</u>  -- <u>overhauls the IPRs database as soon as possible.</u></p>	
	(9)	Restrictions on Patents relative to Medical Drug	<p>- <u>The Brazilian Authority restricts patentable inventions relative to the Medical Drugs. Patent examinations are bifurcated (in duplication) in Brazil, namely at both, National Institute of Industrial Property (INPI) and Brazilian Health Surveillance Agency (ANVISA), so that it takes a long time before patent is issued.</u></p>	<p>- <u>It is requested that the Brazilian Authority:</u>  -- <u>issues patent on the applications that satisfy the requirements under Article 8, that none of the negative reasons under Article 10 applies, and</u>  -- <u>discontinues Anvisa's bifurcated examination in duplication.</u></p>	<p>- Industrial Property Act, Article 8, Article 10 and Article 229C</p>
	(10)	Payment of Renewal Fees during Continuation of Patent Applications	<p>- <u>During the continuation of Brazilian patent application, applicant must pay renewal fees to National Institute of Industrial Property (NIIP). As it now stands, where renewal fees are annually payable, in the event of abandonment of patent application in the end, all past payments are wasted. Moreover, depending upon the field of technology, renewal payments have been made without examination on the remaining period.</u></p>	<p>- <u>As is the case in the U.S., Japan, and other major countries, it is requested that GOB takes step to amend the law allowing payment of renewal fees after the registration renewal, all payments in arrears in</u></p>	<p>- <u>INPI Chapter XII, Article 84.</u></p>

Category	No	Issue	Issue Details	Requests	References
				<u>lump sum to the point of registration.</u>	
18 Demands for Technology Transfer	(1)	<b>Restricted Validity Period of Technical Licence Agreement</b>	<p><u>Technical Licence Agreement (TLA) is valid, at the longest, for 10-years, after which the terms and conditions including the provisions on confidential information protection expire. Thereafter, the licensee is free to use the technology at no cost. (In Brazil, there is no notion that use of the licenced technology is disallowed upon the TLA's termination.) Moreover, INPI does not authorise inclusion of grant back provisions in TLA as regards improved technology developed by the licensee.</u></p> <p><b>"Law on foreign capital and remittance abroad, etc." restricts up to 5-years (or maximum 10-years by special extension request) the term of the know-how agreement. Due to this provision, valuable know-how even past 5 (10) years by right, cannot be collected (remitted); moreover, confidentiality protection can be guaranteed only for 5-years.</b></p> <p><b>(Actions)</b></p> <ul style="list-style-type: none"> <li>- In Brazil, "Law on Foreign Capital and Remittance Abroad" provides the cap of 5-years on deduction from the taxable income of royalty payment based on Agreement for Transfer of Technology (ATT)(Know-how Agreement). Normally INPI approves ATT Registration only under this cap, effectively limiting the ATT term to 5-years. As to Patent Licencing, royalty payment may be collected throughout the term of the Agreement.</li> <li>- INPI is entitled to extend for a further 5-year period, deduction of royalty payment from the taxable income, as empowered by CMN (National Monetary Council.). However, it is the basic understanding in Brazil that the technology is completely transferred within the period of 5-years. To get extension by another 5-year period, it is prerequisite to convince INPI as to its necessity. In practice, this is a difficult task and many such requests have been denied. Collection of royalty over a long-term has become a difficult ordeal.</li> <li>- From the 1st Japan-Brazil Joint Commission Meeting for Trade and Investment of February 2009 to the 6th Meeting of November 2012, Japan side successively requested improvement on the rate of royalty and the period for protecting confidentiality.</li> </ul> <p><b>(Improvement)</b></p> <ul style="list-style-type: none"> <li>- From July through September 2010, METI and Brazilian Ministry for Development of Commerce and Industry mutually agreed on the two issues, making a step forward: (1) INPI may, regardless of the confidentiality protection provisions for 10-years or more, register contract (2) INPI will show sufficient reasons for refusal of registration in writing, signed by Deputy Minister or his/her equivalent. (2013 Report on Compliance by Major Trading Partners with Trade Agreements).</li> <li>- <u>At the First Japan-Brazil Joint Commission's Meeting on Promotion of Investment and Industrial Cooperation in October 2013, it was agreed to include repeal of the validity term of the overseas technical licence agreement, including the know-how licence on operational technology on agenda. (The 2015 Report on Compliance by Major Trading Partners with Trade Agreements).</u></li> </ul>	<p>- It is requested that <u>GOB authorises conclusion of technical licence agreement.</u></p> <p>- Restrictions as described in the left column have already been repealed in many countries, and Brazil departs from the international trend. It is requested that GOB causes the law to be amended and improves its implementation by the authority.</p>	<p>- Section 355 Income Tax Regulation ("Regulamento do Imposto de Renda")</p> <p>- Section 74 Law 36.470 of 1958</p> <p>- Section 12 Law 4.131 of 1962</p> <p>- Section 6 Decree-Law 1.730 of 1979</p> <p>- "Law on Foreign Capital and Remittance Abroad", etc.</p>

Category	No	Issue	Issue Details	Requests	References
	(2)	Short Protection Period for Transferred Technology	- In provision of Technological Transfer in Brazil, the Contract Term is specified as 5-years in principle. Because of such short protection period, Member Firm cannot help being hesitant about giving technological transfer to its Brazilian company with a positive stance.	- It is requested that the Brazilian Authority repeals the current Contract Term of 5-years, and replaces it with the provision, "for the Contract Term as mutually agreed between the parties" concerned.	- National Institute of Industrial Property (INPI) - Decision No.22 of 27 February 1991 - Normative Order No. 120 of 17 December 1993
	(3)	<b>Requirements for Domestic R&amp;D Investment and Collection of Investment in Nationalisation Certification</b>	- As part of Nationalisation Certification, GOB compels manufacturers' investment into R&D in Brazil in the amount representing 4% of sales, as well as collection of the invested amount.	- It is requested that GOB repeals the requirement for technical transfer.	- 8248/1991 - 10176/2001 - 11077/2004 - 12431/2011
	(4)	<u>Concern Over Introduction of Plain Packaging Regulation on Tobacco Products</u>	- <u>GOB contemplates introduction of Tobacco Plain Packaging Legislation (TPPL) on tobacco products as has been introduced in Australia. If it is introduced, it could materially reduce the identification capabilities (between the products), being the essential faculty of trademarks, materially destructing the "brand value", and consequently damaging the sound market competitions. More precise concerns include, without limitation, purchasers unwittingly purchase unintended products from the difficulty of making distinction, move to lower priced products, and finally, closing the door for new entry into the market. In addition, simpler packages facilitate counterfeiting activities, resulting in the growing counterfeits in the market.</u> <u>(Note) TPPL, a measure to standardise configuration, colour, etc., of individual tobacco package, largely restrict the space on the packaging by the mandate to print specifically, "warnings with photo" (in the 75% of the total area front, and 90% back).</u>	- <u>As described in the left column, TPPL infringes upon intellectual property right of business operators, consequently hinders the industrial development through sound market competitions. On the other hand, prevention of juvenile smoking is deemed possible through education, with tightened penalties, etc. It is therefore requested that GOB implements the regulation based on the principle of proportionate general rules</u> - <u>GOJ is requested to take positive measures by fully grasping the thrust of the issues elaborated in the left column.</u>	- <u>Undecided. (Minister of Health expressed gov's intent to introduce TPPL).</u>
19 Industrial Standards, Approval of Safety Standards	(1)	<u>Complexity in INMETRO Accreditation</u>	- <u>INMETRO Accreditation is vexatiously complex, necessitating fresh negotiation with customers over the issue no previously experienced.</u>	- <u>It is requested that GOB either repeal or streamlines INMETRO accreditation.</u>	



Category	No	Issue	Issue Details	Requests	References
	(2)	<u>Safety Regulation</u>	- <u>While Accreditation Scheme exists, due to the nebulous standard and process, it takes time for taking the requisite actions. Consequently it delays the products market introduction and misses the chance.</u>		
21	Restrictions on Land Ownership	(1) Farmland Acquisition Restricted for FFEs	- <u>The Law that prohibits the FFEs' acquisition of farmland in excess of 10% of the farmland area of each village, town and city has not been implemented on the force of the Federal Government Attorney General's Office (FGAGO) holding that the Law is unconstitutional in regard to the provision in the Constitution that prohibits discriminatory treatment to enterprises. However, in Diario Oficial (Official Gazette) of 23 August 2010, FGAGO's admission of its constitutionality and President's consent were published and the provision under the Law has been enforced since this date of publication.</u> - <u>Foreign Funded Enterprises (FFE's) in substance are foreclosed from acquiring of a large-scale farmland in the rural area, so that an FFE's large-scale investment is nearly impossible in Brazil.</u>  - <u>Restrictions upon FFE's ownership of farmland. (Foreign funded enterprises are foreclosed from the majority ownership in the land property ownership Right.)</u>	- <u>It is requested that GOB deregulates or repeals the restrictions.</u>  - <u>It is requested that GOB takes steps to change the requirement to notification in principle on an FFE's large-scale farmland acquisition, so that the administrative intervention may take place only at such occasions when the issues such as buying up of the farmland exists.</u> - <u>It is requested that GOB takes steps to repeal the restrictions.</u>	- National Institute for Colonization and Agrarian Reform (INCRA), Notification No. 70 of 6 December 2011, etc. - The Land Act
	(2)	<u>Compulsory Appropriation of Land Property and Transfer of Easement</u>	- <u>Securing eucalyptus raw wood is important for manufacturing pulps, and MFS owns in Minas Gerais State a large land property. However, in the name of public interest, MFS receives an increasing number of requests for coercive land appropriation, transfer of easement, etc. threatening land ownership right. MFS, in each case, has to negotiate with the parties in concern, which taking the most out of the available legal means. The costs are climbing.</u>	- <u>It is requested that GOB:</u> -- <u>streamlines the legislation to enable securing the property right.</u> -- <u>amply compensates for compulsory appropriation or move of easement.</u>	
22	Environmental Pollution and Waste Disposal	(1) Unique Recycle Mark (Batteries)	- <u>Legislative provisions have been promulgated in each country and each region throughout for the effective use of natural resources and prevention of the environmental pollution. The situation is the same with Batteries. GOB compels the provision of the various markings on the Battery itself, and its User's Manual correctly without any mistakes the management, which heavily burdens the manufacturers.</u>	- <u>It is requested that GOJ and GOB will jointly work toward the unification of the Recycle Marking Requirement worldwide.</u>	

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	(2)	<u>Control on Higher Efficiency of Low Voltage Motors (LVMs)</u>	- LVMs, including those assembled into machinery, are subject to higher efficiency control in each country including the U.S., Canada, Brazil and Mexico. The accreditation standards, which vary by country, form de facto trade barriers due to the complexity of the application process that requires not only the efficiency requirements but the local accreditation as well.	- It is requested that GOU dispenses with the accreditation requirement on LVMs, assembled into machinery that satisfies the regulated efficiency level to remove the trade barriers.	- Presidential Order 4508
23 Inefficient Administrative Procedures, Regimes and Practices	(1)	Delayed Procedures for Acquisition of Licences and Approvals upon Establishment of Company	- It takes too long time for establishing the enterprise and acquiring the licences, permits and approvals. Especially as regards Importers Registration Procedures at Receita Federal, MFS encountered with the vast differences between the pre-entry feasibility research and the reality, in part due to the complicated legislation. As for one process of turning a company into a sleeping company it is necessary to liquidate. In effect, this requirement prolongs the liquidation process.	- It is requested that GOB: -- makes the system more transparent, and -- streamlines and expedites the procedure.	
	(2)	Complex/ Delayed Administrative Procedures	- In nearly all cases involving administration, it takes complex, time-consuming procedures. In the case of the reporting MFS, delays occurred concerning work visa application, new director registration, trademark registration, bonded warehouse application, etc., disrupting business operations. - All documents submitted to administrative organisation, in substance, require "Notarisation", incurring much time and cost.	- It is requested that GOB conducts structural reform of its organisation, (including the excessive protection of the public servants.)  - Notary public does not operate on the principle of competition. There are too many (meaningless) notarised documents that simply follow the time-honoured practices. It is requested that notary public will introduce the notion of "the market principle" and streamlines the procedures.	- Ministry of Labour Regulations, etc.
	(3)	Tax Auditor's Unjustified Demand	- The Taxation Office Systems are fragile to the extreme. They send in notices for non-payment and payment in arrears. Enterprises must expend much time and labours in rebuttals on unfounded allegations. Customs employees unlawfully stop the customs clearance on the ground of deficiency in documents, demanding the bribes. As a result,	- It is requested that: -- GOB streamlines the taxation system and reduces the tax rates, and -- Taxation Authority expedites their	- Federal Constitution - General Tax Law

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			the cargo flow stops.	clerical work. -- GOB takes steps to give more details in legislation.	
	(4)	Complex Product Registration Procedures	- <b>Product registration procedures are complex in regard to import/distribution of medical equipment.</b>	- <b>It is requested that GOB repeals such product registration requirement, namely, once registered, no further renewal shall be necessary, as it has been the practice in Japan.</b>	
			<p><b>(Actions)</b> - On 2 September 2015, Ministry of Finance and Ministry of Health, in their names, promulgated "Joint Decree No.701", trebling the registration charges of various kinds, effective from 9 September 2015. The list includes medical equipment, pharmaceutical products, cosmetics and other registered products and charges necessary for various procedures.</p> <p><b>(Improvement)</b> - Law No.13097 of 19 January 2015 was promulgated. It enables acquisition of GMP (Good Manufacturing Practices) accreditation, mandated for product registration of certain medical equipment, pharmaceuticals/pharmaceutical ingredients through active use of GMP auditing/accrediting information and consigning GMP auditing to ANVISA accredited external/internal accreditation bodies. In addition, the product registration period has been extended to 10-years maximum from the previous 5-years.</p>		
	(5)	Designation of Representative upon Incorporation of Local Legal Entity	- <u>Where a foreign enterprise establishes locally incorporated legal entity (Limited Company), the limited company so established must have a representative consigned with the total rights of the foreign enterprise (parent company). Member firm has assigned Japanese expatriate, local President of the subsidiary as its representative.</u>	- <u>It is requested that GOB takes steps to repeal this provision of the relevant law. As it stands, the person so consigned can execute anything. This is risky to the parent company).</u>	Brazilian Corporation Law (So, it is said.)
	(6)	Mandated Description of Amounts in the Nota Fiscal (Tax Bill)	- <u>In transport of merchandise, it is necessary to attach Nota Fiscal (tax bill), showing the amount of the goods, clearly printed. However, in the triangular transactions where goods are shipped direct from the manufacturer (supplier) to customers, purchase price of the seller gets divulged to the customer.</u>	- <u>It is requested that GOB exempts inclusion of price information in the Nota Fiscal in transactions taking the form of venda a ordem (triangular trade), where the transactions flow and the goods flow are separated.</u>	- <u>This is stipulated in the relative State Tax (ICMS) Law in each State. E.g. São Paulo State: Artigo 129, §§ 2º e 3º do RICMS/2000-SP</u>
	(7)	Shortage of Information	- <u>Information is missing on the move for customs duty/domestic tax rate on MFP/LP products, as it stands, the domestic preferential tax rate applies to the products whose final production process takes place in Brazil. In addition, will customs duty/domestic tax scheme continue hereafter?</u>		

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	(8)	<u>Reporting requirements galore</u>	- <u>Due to the huge reporting requirements to government necessitates assignment of several staffs solely dedicated to reporting work. Failure to report can result in high amount of fines.</u>	- <u>It is requested that GOB streamlines the reporting requirement.</u>	- <u>Brazilian Taxation System</u>
24 Indigested Legislation, Abrupt Changes	(1)	Frequently Amended Taxation System	- <u>Especially as regards the taxation system, frequent amendments in laws/regulations compel the collection and follow up of detailed information. Moreover, amendments take the form of correction/addition so that the reading the latest law is not enough to grasp the total perspective. Hence, the endless reference to old laws continues to the detriment of efficiency and legibility.</u>	- <u>It is requested that GOB takes steps to:</u> -- <u>simplify and clarify the legislative scheme to the maximum extent possible and</u> -- <u>ensure all changes are made known to one in the administration without exception.</u>	- Columbia Tax Law, Article 292 (2). - Implementing Regulation of Columbia Tax Law, Article 23(3), Paragraph 4. - Laws and regulations of all kinds.
	(2)	Frequently Amended/Changed Laws and Regulations	- <u>Due to the foreign reserves situation, there have been numerous changes in imports the legislation with each change to be effective immediately on the date of promulgation.</u> <u>Examples: Establishment of Import Quota in 1995; Change in import settlement terms in 1997.</u> - <u>From time to time, abrupt changes in the legislation are made on import usance, while the details of changes are not made available in certain areas.</u>	- <u>It is requested that GOB:</u> -- <u>allows ample transitional period, and</u> -- <u>allows preparatory period of 3 months minimum.</u> - <u>It is requested that GOB allows a longer period between the promulgation date and the enforcement date in any legislative changes.</u>	- No 002753-ART.2 (1997.4.30) - Circular BCB 2747 (On Import Usance)
	(3)	Inadequate Implementing Regulation of legislation and its interpretation	- <u>Due to unprepared Pharmaceutical Affairs Law (PAL), it takes many hours and much cost for acquisition of import licence for overseas' products.</u>	- <u>It is requested that GOK enables mutual two-way authentication: 510K of the U.S./EU CE marking or Japanese pharmaceutical affairs law, as PAL has been overhauled and introduced especially into Asian countries.</u>	- <u>Pharmaceutical Affairs Law (PAL)</u>
	(4)	<u>Outrageous Control by Secretariat of Labour Inspection, Ministry of Labour &amp; Employment (SIT/MTE)</u>	- <u>In October 2014, MFS received SIT/MTE notice, instructing work hour control on cargo truck drivers, including external constructors' drivers. There is no legal requirement for control of workers under payroll of other firms, while substantial cost will accrue. MFS will seek advice of its legal counsel to take responsive measures.</u>	- <u>It is requested that GOB introduces a mechanism for a third party's monitoring on justification, etc. of the SIT's requirement.</u>	

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26Others	(1)	Inadequate Infrastructure for Logistics	- <u>On top of the high labour cost, the poor overhaul of the infrastructure at ports, domestic transportation networks, and communication network at high costs, together, make it difficult for FFEs to manufacture products that are internationally competitive.</u>	- <u>It is requested that GOB:</u> -- <u>overhauls the infrastructure such as ports, domestic transportation network, and telecommunication</u>	
26Others	(1)	Inadequate Infrastructure for Logistics	<p>- <u>On top of the high labour cost, the poor overhaul of the infrastructure at ports, domestic transportation networks, and communication network at high costs, together, make it difficult for FFEs to manufacture products that are internationally competitive.</u></p> <p>- <u>The overhauls of econo-social infrastructure for which GOB is responsible lags behind due to the resource funds being exhausted by the personnel costs of the bureaucrats.</u></p> <p>- <b>Inadequate domestic infrastructure (particularly from Manaus) the cost of logistic has substantially climbed up.</b></p> <p>- <u>A member firm in tax exempted Manaus free trade zone procuring some parts from Sao Paulo faces the inefficiency in the transport route for these parts. It takes many days at high transport cost with the burglary risk in the overland transport.</u></p> <p>- <u>Port service is poor while port cost is high.</u></p> <p><b>(Actions)</b></p> <p>- In September 2004, government announced the increased investment in modernizing the domestic port facilities, selecting 11 points to which investment is strengthened. It is aimed at increasing the port capacity to handling US\$10 billion per annum of export cargoes.</p> <p>- On December 30, 2004, GOB promulgated the Regulation No.11079 "General Regulations on Public and Private Partnership" ("PPP"), prompting the participation in the construction, operation and maintenance of public facilities such as infrastructure services, provided however that, it is expected that it would take time before its full operation.</p> <p>- On January 22, 2007, GOB announced Programa de Aceleracao do Crescimento ("PAC"). GAP expects to invest in the coming 4 years along with private sectors in development of infrastructure to the tune of R\$503.9 billion (US\$237 billion), of which GOB, however, assumes only 14%. For execution of PAC, additional investments by private sectors must be made. The infrastructure overhaul program includes refurbishment of National Route 163 and the north-south railway construction plans.</p>	<p>- <u>It is requested that GOB:</u> -- <u>overhauls the infrastructure such as ports, domestic transportation network, and telecommunication network, and</u> -- <u>secures the safety in the domestic transportation route.</u></p> <p>- <u>It is requested that GOB overhauls the infrastructure of ports, and networks for domestic transportation, telecommunication, etc.</u></p> <p>- It is requested that GOB resolves the flawed and incomplete infrastructure.</p> <p>- <u>It is requested that GOB takes steps to:</u> -- <u>ensure safety on the transport route, and</u> -- <u>alleviate the burden on wage related accompanying expenses.</u></p>	

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			<ul style="list-style-type: none"> <li>- On 31 December 2007, the Executive Branch promulgated Provisional Measure No.412 that stipulates extension of the term provided in Law No. 11033/2004 On tax incentive REPORTO for modernization of the key port facilities.</li> <li>- It is said that it takes 10 days to 2 weeks for the domestic cargo transport from Manaus via sea and land.</li> <li>- The traffic between Port of Santos and its hind areas remains obsolete, causing traffic jam on the road leading to the port entrance, while it is pointed out that the railway transport is hardly sufficient.</li> <li>- Due to the pressure of the labor union, at Port of Santos, more than double the numbers of port workers actually required are registered.</li> <li>- In Brazilian ports, which are open for 24 hours, it is said that Customs officials nevertheless work only for certain business hours determined by themselves.</li> <li>- In August 2012, President Dilma Vana Rousseff released Infrastructure Investment Project as a part of Accelerated Growth Programme. The Project envisages transfer of construction and management to Private Enterprises based on a Partnership Agreement between Private Enterprises and GOB. The subjects of The Projects are: Expressway, Cargo Railway, Seaport and Airport. The Project shown upon announcement in August 2012 is Expressway and Cargo Railway with the total investment of R\$133 billion (or 5.32 trillion yen). Expressway of 9-sections, 7,500km in total length with the total investment of R\$42 billion (1.68 trillion yen) over 25-years. Cargo Railway of 12-lines, 10,000km in total length with the total investment of R\$91 billion (3.64 trillion yen) over 30-years. The common factor between Expressway and Cargo Railway is that GOB designates the investment amount for the first 5 years in both cases. GOB intends to construct, overhaul, and maintain infrastructure. Another common issue is both projects are funded by the long-term loan at preferential terms available from BNDES (Banco Nacional de Desenvolvimento Econômico e Social= the Brazilian Development Bank), in which GOB owns 100% equity. BNDES serves as the major provider of the long-term R\$ fund domestically in Brazil.</li> <li>- In December 2012, GOB announced outlines for both Seaports and Airports Projects. The Seaport Project envisages total investment of R\$54.4 billion or more over the stretch of 2014 through 2017. The Airport Project with the budgeted total investment of R\$11.4 billion includes investment into Galeão of Rio de Janeiro. The Tender Terms will be different from the February 2012 tender for 3-airports that included Guarulhos of Sao Paulo. More precisely, the Tender Terms, being different from those applied to three airports, including Guarulhos in Sao Paulo, in February 2012, seek entry into Brazil of Airport Operators with a higher management power by requiring the number of annual passengers processed, etc. (Japan Bank for International Cooperation (JBIC) Material.)</li> </ul>		
	(2)	Inadequate Communication Infrastructure	<p><u>The overhaul of infrastructure is a mandatory requirement, i.e., poor telephone line connections, sudden blackouts by thunder, etc.</u></p> <p><b>(Actions)</b></p> <ul style="list-style-type: none"> <li>- In Manaus FTZ, the problems continue of the frequent blackouts and the unstable power supply.</li> <li>- The complaints received by the Sao Paulo Consumers Protection Center ("Procon-SP") are broken down into 32% on telephones, water/sewerage, and electric power, 22% on financial sector, 21% on manufacture, 18% on public service, and 15% on health/insurance.</li> </ul>	<p><u>It is requested that GOB overhauls the infrastructure on port facilities, domestic transport network, telecommunications, etc.</u></p>	
	(3)	Inadequate Electricity Supply Infrastructure	<ul style="list-style-type: none"> <li>- <u>Abrupt blackout occurs by thunder.</u></li> <li>- <u>Power outage frequently occurs.</u></li> </ul>	<p><u>It is requested that GOB expedites electric power infrastructure.</u></p>	

Category	No	Issue	Issue Details	Requests	References
			<p><b>(Actions)</b></p> <ul style="list-style-type: none"> <li>- In December 2004, Minister of Ministry of Mines and Energy (Ministerio de Minas e Energia) stated:               <ol style="list-style-type: none"> <li>1) there would be power shortage by 2009 and thereafter, going by the current construction of the power plants;</li> <li>2) the construction of 45 hydro generation plants now in dormant conditions would be resumed.</li> </ol> </li> <li>- On December 30, 2004, GOB promulgated the Regulation No.11079 "General Regulations on Public and Private Partnership" ("PPP"), prompting the participation in the construction, operation and maintenance of public facilities such as infrastructure services, provided however that, it is expected that it would take time before its full operation.</li> </ul>		
	(4)	Aggravated Public Security	<p><u>In Sao Paulo where FFEs entering Brazil cluster, it is imperative to select carefully the location for offices and warehouses, in regard to employees' safety, and preservation of cargoes. However, such places are extremely limited and expensive.</u></p> <p><u>There is a risk of robbery in the land transportation of the components from Sao Paulo to Manaus.</u></p> <p><u>Valuable goods cannot be transported by air to metropolitan areas other than Sao Paulo for security reasons.</u></p> <p><u>The public security has been aggravating recently, not only in Sao Paulo and Rio de Janeiro but also throughout the country. Many cases of murder, robbery, and kidnap have arisen. Public security in the Manaus region has been aggravated (by burglaries bearing heavy armaments).</u></p> <p><u>The aggravated public security due to the shortage of employment opportunities and inequality in income distribution, etc. impacted the investment environment as well.</u></p> <p><u>Public security measures for persons on business trip.</u></p> <p><u>Quite an amount of expenditure is necessary for securing expatriates security.</u></p> <p><b>(Actions)</b></p> <ul style="list-style-type: none"> <li>- Under the Cardoso Administration, "Arborada Plan" and "Active Community Program" were implemented as a means to combat poverty.</li> <li>- The current Lula Administration enforces "Zero Famine Program (Programa Fome Zero)" for 4-years from now, under supervision of the newly established Ministry of Food Security and Combating Poverty (Ministerio do Desenvolvimento Social e Combate a Fome).</li> <li>- The security remains serious, with no sign of improvement in the urban areas of Sao Paulo. Japanese as well as Brazilians are victimized. Kidnapping is increasing and risk is high for Japanese to be kidnapped. "Short-hours-kidnapping" flourishes. According to certain report, 12 cases of kidnapping occurred in a single day in average.</li> <li>- On 21 August 2007, the Executive Branch promulgated in the Official Gazette launching the Provisional Measure No.384 on the National Public Security and Citizenship Program (Programa Nacional de Seguranca Publica com Cidadania=PRONASCI).</li> </ul>	<p><u>It is requested that GOB maintains the security and deregulates the regulations.</u></p> <p><u>It is requested that GOB tightens its public security measures.</u></p> <p><u>It is requested that GOB takes steps to beef up public security.</u></p>	

Category	No	Issue	Issue Details	Requests	References
			- As of May 2016, according to Ministry of Foreign Affairs Safety home page " <u>(Danger Information) Warning Level 1 (Utmost Attention)</u> " <u>continually lists the following areas as to Brazil: Brazilian Federative Units, Paulo, Great São Paulo and Campinas City; Rio de Janeiro Great Rio Zone; Amazonas Great Manaus Zone; Pará Greater Belem Zone; Pernambuco Greater Recife Zone; Bahia Greater Salvador Zone; Estado do Espírito Santo Greater Votória Metropolitan Area; Parana Estado, Greater Curitiba Area; Rio Grande do Sul, Porto Alegre. "In Brazil, murder, burglary, etc. frequently occur due to gaps in income, poverty, narcotic drugs, etc. Crime rate is quite high in Brazil in the international perspective, in which the cases of Japanese victims have been quite frequent." Guns are used frequently so that showing resistance could prompt the gun use, leading to murder. Atrocious crimes are not exclusive to big cities. They take place equally in non-urban areas as well. Don't be lulled into a false sense of security.</u>		
	(5)	Prevalence of Prices in USD	- <u>The general pricing system in Brazil such as the legal counsel fees, and subsidiary are charged in the US dollars, not in Real (BRL).</u>		
	(6)	<b>High Cost of Commodity</b>	- <u>House rent, etc. are being interlocked with the Brazilian PPI inflation index (IGPM), which has the effect of causing the inflation. Indirectly, the cost of living, such as, energy (electricity and gas) and gasoline prices are linked to the U.S. dollars, despite the fact that they are domestically produced in Brazil.</u> - <u>House rent, foods, etc. are quite expensive in Brazil.</u>		