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Immigration Laws in Brazil



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Unless otherwise indicated, the law is as stated on June 30, 2008.

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Foreword

Once the decision has been made to travel to Brazil, either for work, business or tourism purposes, the foreigner must then obtain the proper authorization to enter and remain in the country legally. The regulations that govern immigration in Brazil are numerous, however, they set forth remarkably straightforward categories of visas and corresponding application requirements. The purpose of this manual is to provide the traveler with a brief, but comprehensive, explanation of applicable immigration law, particularly for those intending to engage in some form of work activity or investment.

For background purposes, the manual begins with a brief description of the governing Brazilian agencies, and the role of each in the immigration process. Following this, the various types of visas available to the foreign traveler are introduced, with particular emphasis on those that would be used by business travelers. As part of the explanation of categories, the required documentation and evidence for each are listed, as are the customs regulations in regards to baggage and the transport of household goods.

To assist foreigners intending to remain in Brazil for an extended period, information regarding identification cards, tax consequences for resident foreigners, the registration process, visa renewal and re-entry into the country is provided. An overview of Brazilian Labor Law is furnished for the benefit of companies desiring to do business in Brazil. Related matters are discussed in brief, including health recommendations, information regarding visas for family members and a brief outline of the rights and duties of foreigners living in Brazil.

For additional information and research purposes, a list of web sites and contact information of all Brazilian Embassies and Consulates follows.

This manual focuses primarily on travelers who will engage in work activity in Brazil and the visa types and matters related to them, however, other temporary visas are discussed in brief. Regulations covering courtesy, official and diplomatic visas have been omitted due to their complex and case-particular nature.

I. Introduction: The governing agencies

The government agencies responsible for the development, execution and enforcement of Brazilian Immigration Law are primarily found within the Ministry of Labor and Employment, Ministry of Foreign Relations and the Ministry of Justice. Following is a brief explanation of each agency, and their sub-agencies, with a description of their role in the visa process.

A. Ministry of Labor and Employment – (“Ministério do Trabalho e Emprego”)

The Brazilian Ministry of Labor and Employment and one of its branches, the National Immigration Council, are responsible for the nation’s official immigration policy. Law Number 6,815, of August 19, 1980, titled “The Foreigners’ Statute,” regulates the entry and registration of foreigners in Brazil, their activities in business and professional pursuits, extradition, expulsion and deportation in addition to other rights and duties allocated to them under Brazilian law. Decree Number 86,715 of December 10, 1981 sets forth the regulatory ordinances that execute The Foreigner’s Statute, detailing the legal situation of the foreigner as established in Law Number 6,815. Each legislative act, with the approval of the President of the Republic, outlines the general regulations for foreigners entering Brazil. In its capacity to do so, the President of the National Immigration Council, by instituting Regulation (“Resolução Normativa”) Number 74, of February 9th, 2007, has established the specific guidelines and requirements for a work permit request. Additional Regulations, which govern particular visa and work situations, are also handed down by the National Immigration Council.

The Ministry of Labor and Employment has regional delegations, however, all Ministry activity regarding immigration and work permits for foreigners is handled through the central office in Brasília.

1. National Immigration Council – (“Conselho Nacional de Imigração”)

Created by Article 129 of Law 6.815/80, the National Immigration Council, under the auspices of the Ministry of Labor and Employment, is responsible for the orientation, coordination and fiscalization of all immigration activities. The Council is comprised of representatives from various ministries and shall be appointed by the President of the Republic.

Decree No. 86,715—December 10, 1981

The National Immigration Council is responsible for the following:

- Orientation and coordination of immigration activities
- Formulation of the objectives for the elaboration of immigration policy
- Establishment of norms for immigrant selection, advising as to the labor proportionality of various sectors of the national economy and the attraction of resources for specific sectors
- Promotion and development of studies regarding problems relative to immigration
- Periodic surveys of the necessity of foreign-qualified labor
- Settlement of doubts or resolution of dismissed cases, in regards to the admission of immigrants
- Handing down of opinions as to changes in relative legislation by the federal government
- Organization of its internal regime, for submission to the Ministry of Labor and Employment

The National Immigration Council is composed of members of the institutions or representative bodies:

One representative from each of the following ministries:

- Ministry of Labor and Employment (who is the chairman of the Council)
- Ministry of Justice
- Ministry of Foreign Affairs
- Ministry of Agriculture and Supply
- Ministry of Health
- Ministry of Development, Industry and Commerce
- Ministry of Science and Technology

In addition, the following representatives—

- Four representatives of the workers, designated by the Central Labor Unions (“Centrais Sindicais”)

- Four representatives of the employers, designated by the National Confederations of Industry, Commerce, Transportation and Agriculture (“Confederações Nacionais da Indústria, do Comércio, do Transporte e da Agricultura”)
- One representative from the science and technology community, designated by the Brazilian Society for Scientific Progress (“Sociedade Brasileira para o Progresso da Ciência”)

All representatives are appointed by the President of the Republic, by proposal from the respective Ministries or agencies.

Cases which should be reviewed directly by the National Immigration Council include the following¹:

- special situations which should be individually analyzed, including those cases not expressly defined in the Council Regulations, containing elements that permit satisfactory consideration; and
- dismissed cases involving situations unforeseen in the Regulations.

In the evaluation of requests for reconsideration concerning dismissed cases, the criteria, principles and objectives of immigration should be observed, as fixed within the pertinent legislation. The decisions passed by the Council do not constitute precedence and do not form the basis for decisions of any other agency of government.²

2. General Coordination of Immigration – (“Coordenação-Geral de Imigração”)

In the case of permanent and temporary visas for foreigners intending to engage in work activity, work permit applications must be filed by the Brazilian company with the Ministry of Labor and Employment. The documentation is directed to the General Coordination’s office, which will verify that the company has complied with the pertinent legislation and filing requirements before approving or denying the work permit. If the work contract (in the case of temporary visas) contains all of the relevant provisions, and all other filing requirements are satisfied, the work permit may be approved by the General Coordination. The decision is then published in the

¹ Regulation n° 27/98 (*Resolução Normativa n° 27, de 25 de novembro de 1998*).

² *See id.* Art. 3.

Official Gazette of the Union and, if favorable, an official letter is sent to the Ministry of Foreign Affairs, so that the appropriate Brazilian Consulate may be advised to issue the corresponding visa.

B. Ministry of Foreign Affairs – (“Ministério das Relações Exteriores”)

The functions of the Brazilian Ministry of Foreign Affairs include assisting the President of the Republic in the formulation of Brazilian foreign policy, assuring such policy’s execution and maintaining relations with foreign governments and international organizations.

1. Consular Division – (“Divisão Consular”)

Visas may be issued outside of Brazil, in the offices of diplomatic missions, consulates, vice-consulates and honorary consulates.³ The authorization to grant the visa may come from the Ministry of Labor and Employment (General Coordination of Immigration) via the Ministry of Foreign Affairs, or may be inherent in the consulate powers, depending on the type of visa requested.⁴

Some of the general functions of the Consulates are to protect the interests of Brazil and its citizens within the limits allowed by international law, promote the development of commercial and economic relations, cultural and scientific exchange and friendly relations, issue passports and travel documents for Brazilian nationals, as well as visas and appropriate documents to those desiring to travel to Brazil, act as a notary and official civil register and execute the functions of such offices and to exercise any other function entrusted to the Consular Division by the Brazilian government.

The categories of the Brazilian Consular Division include the offices of Consulate-General, Consulate, Vice-Consulate and Honorary Consulate. The creation, modification or termination of any of the offices may only be accomplished by Executive Decree. The Ministry of Foreign Affairs determines, by Administrative Ruling, the jurisdiction and subordination of each Consulate office.

³ Regulation n° 9/97 (*Resolução Normativa n°. 9, de 10 de novembro de 1997*).

⁴ In general, if a work permit is required, approval of the permit must be received prior to visa issuance; if no work permit is required, the visa may be issued directly by the Consular authority.

2. Immigration Division – (“Divisão de Imigração”)

Among other activities and responsibilities, the Immigration Division of the Ministry of Foreign Affairs receives the notification of the work permit approval from the Ministry of Labor, and then forwards such notice of approval to the corresponding Brazilian Consulate in the foreign country. The Office also consults and assists the Ministry of Labor with immigration matters.

C. Ministry of Justice – (“Ministério da Justiça”)

Within the structure of the Ministry of Justice is the Department of Foreigners, subordinate to the National Secretariat of Justice. The specific obligations of the Ministry of Justice include processing requests for modification or extension of some types of visas, deportation, expulsion, extradition and naturalization issues. These activities are executed with the assistance of the Brazilian Federal Police Department.

1. Department of Foreigners – (“Departamento de Estrangeiros”)

It is the responsibility of this department to process, file opinions and provide guidance on subjects related to nationality, naturalization and the judicial system for foreigners, in addition to those compulsory orders which may be applied by the Federal Government. The ‘Foreigners’ Department is one segment of the National Secretariat of Justice, an arm of the Ministry of Justice, which is responsible for dealing with these same issues on a broader basis, and reporting to the Ministry of Justice on such matters.

2. Federal Police Department – (“Departamento de Polícia Federal”)

The Federal Police Department, as the enforcement agency of the Ministry of Justice, is responsible for the policing duties of immigration control, the formalization of the registration of visas, modification (in some cases) and issuance of identity cards for foreigners. The Federal Police Department is also responsible for the registration and coordination of the entry of foreigners at all major ports and airports. Foreigners entering pursuant to a permanent or temporary visa for an extended stay must register with the Federal Police Department within thirty (30) days of arrival, and must also notify the Department upon any change of address or modification in visa type.

II. Types of Visas

When determining the legal situation of foreigners in Brazil, the principal concerns of the Federal Government are national security, maintenance of institutional organization, preservation of the public interest, cultural development and protection of the local worker. To these ends, the government is not required nor obliged to issue visas to foreign applicants, and the granting of such rests entirely upon their discretion.

Pursuant to Article 4, Law n° 6,815, the foreigner who wishes to enter Brazil, for any length of time, must obtain one of the following visas:

- I transitory (VITRA)
- II tourist (VITUR)
- III temporary (VITEM)
- IV permanent (VIPER)
- V courtesy* (VICOR)
- VI official* (VISOF)
- VII diplomat* (VIDIP)

**as such are not the focus of this manual, the regulations governing these types of visas are not discussed herein.*

The visas are usually granted in the foreign countries by diplomatic missions, consulates or honorary consulates. In rare cases they may be granted in Brazil by the Ministry of Foreign Affairs. The applications should be made to the consulate with jurisdiction over the candidate's place of residence or domicile. Visas are granted to the individual, but may be extended to legal dependents of the applicant.

The following classes of individuals are not permitted to obtain visas:

- I minors under the age of 18, unaccompanied by a legal representative or without express authorization;
- II those considered harmful to the public order or national interests;
- III those previously expelled from the country, unless such expulsion was revoked;

- IV those condemned or prosecuted in another country for crimes with fraudulent intent, which would be generally extraditable under Brazilian law; and
- V those who do not satisfy the health conditions set forth by the Ministry of Health.⁵

The granting of any kind of visa is conditioned upon the national interest, and ownership or possession of goods or realty in Brazil does not automatically confer the right to obtain a visa at any time or for any duration. A visa merely allows a provisional right of entry, and the entry or stay in Brazil may be refused for any of the reasons specified in the legislation or at the discretion of the Ministry of Justice.

General requirements for all types of visas include the following⁶:

- passport or equivalent document, with a minimum validity of six (6) months from time of first entry;
- international immunization certification, if necessary;
- proof of clean criminal history or equivalent document, issued by local law enforcement department; and
- requisite visa application form.

1. Transitory Visa

Transitory visas are regulated pursuant to Article 8 of Law n° 6,815/80, which allows the granting of a temporary visa, valid for a period of ten days, to the foreigner who, in order to reach the country of destination, must enter the national territory. The transitory visa is valid for one entry only and is not renewable after expiration. A visa of this nature is not required for the traveler on a continuous voyage which is only interrupted by the obligatory stops of the mode of transportation utilized, but would be utilized when a stopover of a longer duration is required while travelling on to another country.⁷

⁵ Law n° 6,815/80, Title II, Chapter I, Art. 7°; and Decree n° 86,715/81, Title II, Chapter I, Art. 5°.

⁶ For a complete list of all visa application requirements, contact the Brazilian Consulate with jurisdiction.

⁷ Art. 8°, Law n°. 6,815/80.

2. Tourist Visa

Tourist visas are regulated pursuant to Article 9 of Law n° 6,815/80, and may be granted to the foreigner travelling to Brazil for a recreational purpose or visit. The foreigner must have no intention to immigrate and may not participate in activity with monetary reimbursement of any kind.

Brazil maintains the policy of reciprocity, whereby any foreign citizen of a nation which does not require Brazilian tourists to have a tourist visa to enter are not themselves required to obtain a tourist visa for travel to Brazil. Reciprocity is established by an international agreement between the cooperating nations; however, the length of stay and term of validity for a tourist visa is determined by national law.⁸

Example

Great Britain and Brazil have established an agreement whereby a Brazilian tourist travelling to Great Britain does not need a tourist visa; thus, David, a British tourist, would not require a tourist visa for travel in Brazil.

The period of validity for the tourist visa is up to 5 years and multiple entries into the country are allowed, with each visit not exceeding 90 days. One renewal for an equal period is allowed and may be granted by the Federal Police in Brazil. The total length of stay may not exceed 180 days per twelve-month period.⁹

All tourist visa applications are submitted to and approved by the Brazilian Consulate with jurisdiction over the foreigner, that is, where the foreigner has maintained residence for a minimum period of one year immediately prior to the request. In addition to the general requirements listed above, the applicant usually must show proof of purchase of a round trip ticket.¹⁰ Tourist visas are generally issued within 72 hours of receipt of the application.

Those eligible for a tourist visa include foreigners entering the country for a tourism trip or to visit relatives or friends. Scientists, professors or researchers attending cultural, technological or scientific conferences, seminars or meetings may be eligible

⁸ See *id.* Art. 10; see 'Additional Information on Reciprocity' section.

⁹ Art. 12, Law n°. 6.815/80.

¹⁰ Requirements vary depending on the country and Consulate, therefore all requirements should be verified with the local Consulate prior to application submission.

for a tourist visa if their services are not paid for by organizations or corporations in Brazil, with the exception of their *per diem* allowances or expenses.¹¹ Artists or athletes participating in amateur sporting competitions may receive a tourist visa if s/he will not receive any payment for such participation, except in the case of prizes for the winners.¹² **It is very important to remember that recipients of tourist visas are NOT allowed to engage in any paid activity in Brazil.**

3. Temporary Visa

A temporary visa is issued to a foreigner intending to come to Brazil on a short-term basis, with no intention of changing his place of residence permanently. The validity of the visa, and the supporting documentation, vary depending on the circumstances of the applicant and type of temporary visa sought. The types of temporary visas are as follows:

- VITEM I – *cultural trip or study mission;**
- VITEM II – *business trip;*
- VITEM III – *artistic conditions or as an athlete;**
- VITEM IV – *student;**
- VITEM V – *scientist, professor, technical expert or professional of another category, under the auspices of a contract or in service to the Brazilian government;*
- VITEM VI – *newspaper, magazine, radio or television correspondent, or foreign news agency representative;* or*
- VITEM VII – *minister of a religious faith or as a member of an ordained ministry and congregation or religious order.**

**As the focus of this manual is towards the business traveler, types I, III, IV, VI and VII will not be discussed in detail.*

¹¹ Regulation n° 65/05 (*Resolução Normativa n° 65, de 4 de outubro de 2005*).

¹² Art. 5°, Regulation n° 69/06 (*Art. 5°, Resolução Normativa No. 69, de 7 de março de 2006*).

Temporary visas are issued through the Brazilian Consulate having jurisdiction over the place of residence of the applicant, that is, where the applicant has maintained residence for a minimum period of one year immediately prior to the request. Unless otherwise noted, all applications for temporary visas are filed with the Consulate. However, where a work permit is required, the foreigner must first receive approval and grant of the work permit by the Ministry of Labor and Employment before filling out the visa application and submitting it to the appropriate Consulate with jurisdiction.¹³

Family members of temporary visa applicants who intend to enter Brazil with the foreigner are encouraged to submit their application for a temporary visa for family reunion at the same time and with the same issuing authority as the foreigner. The temporary visa for family reunion may only be issued to the dependent if the foreigner intends to remain in Brazil for longer than six (6) months.¹⁴ Although the family member may be granted a visa of the same duration as the foreigner, they may not engage in any type of activity for remuneration in Brazil.¹⁵

In addition to the general requirements listed above, including passport, immunization certification, and proof of clean criminal history, the applicant may also have to present proof of financial independence.¹⁶ Documentation or evidence of financial independence varies depending on the type of visa and will be discussed where applicable.

Holders of temporary visas are subject to certain restrictions. For example, they are not permitted to establish sole proprietorships or act as administrator, manager or director of a company.¹⁷ In addition, dependents of temporary visa holders may not engage in any activity for remuneration and those temporary visa holders who enter under a work contract or other agreement for remuneration may only engage in such activity with the company that contracted them.

13 The visa application form is available at the Consulate, and, upon completion, the visa is usually issued within 48-72 hours.

14 Art. 3º, Regulation nº 36/99 (*Art. 3º, Resolução Normativa No. 36, de 28 de setembro de 1999*).

15 Please see 'Temporary and Permanent Visas for Family Reunion' section.

16 Requirements vary depending on the country and Consulate, therefore all requirements should be verified with the local Consulate prior to application submission.

17 Art. 99, Law nº. 6.815/80.

- a) VITEM I—cultural trip or study mission; internship; training in the operation of machinery produced in Brazil—

Cultural trip, training program, study mission or student exchange

The VITEM I temporary visa is granted to scientists, professors, researchers and participants in cultural, technological or scientific missions. Depending on the particular circumstances, the foreigner may or may not receive remuneration for services rendered except for payment of a *per diem* allowance and of living expenses.¹⁸ Non-professional athletes under 21 participating in training programs in Brazil may also qualify for a VITEM I visa, which is valid for two years and is not renewable.¹⁹

Students travelling to Brazil to pursue a course of study under the auspices of a program maintained by an agency dedicated to student exchange may also enter pursuant to a VITEM I. The student exchange entity must be duly registered with the competent controlling agency of the Public Administration. The visa application, which includes extensive documentation including proof of the student's acceptance into the exchange program and financial resources, should be filed with the local Brazilian Consulate authority with jurisdiction over the student. Once issued, the visa is valid for a term of one year, no renewal allowed.²⁰

Internship

In addition, foreigners entering Brazil to participate in an internship may be eligible for a VITEM I visa, conditioned upon the elaboration of the terms of the agreement between the intern and the company or institution, with the involvement of an intervening party (such as an officially recognized exchange program). For legal purposes, an internship is defined as a practical part of a higher-learning or professional course, which in theory contributes to the professional improvement of the intern. The intern may only receive payments of "support" or living expenses for their service, which is not legally considered a work relationship. Visas for interns are requested in the applicant's home country from the Brazilian Consulate authority with jurisdiction, are valid for one year and are not renewable. Foreigners

¹⁸ Regulation n° 65/05 (*Resolução Normativa No. 65/2005*).

¹⁹ Regulation n° 26/98 (*Resolução Normativa No. 26, de 25 de novembro de 1998*).

²⁰ Regulation n° 49/00 (*Resolução Normativa No. 49, de 19 de dezembro de 2000*).

intending to intern with their foreign company's Brazilian subsidiary or branch would be required to file a work authorization request and obtain a VITEM V visa,²¹ discussed later in this manual.

Training in the operation of Brazilian equipment and machinery

If a foreigner intends to enter for training in the operation and maintenance of machinery and equipment which is produced in Brazil, a VITEM I temporary visa may be granted if the trainee is not entering pursuant to a contract with the Brazilian company, and will continue to be paid from a source outside of the country. This visa is valid for 60 days, and is renewable for an additional 60 days. The application is filed with the Consular authority with jurisdiction over the trainee, and includes the following documents:

- proof of payment of remuneration from a home-country source or source outside of Brazil; and
- an official letter from the company situated in Brazil, explaining the circumstances of the training and their responsibility for the foreigner while in Brazil.²²

b) VITEM II—business trip—

In order to establish or maintain business contacts, evaluate markets or coordinate business activities with companies located in Brazil, it may be necessary for executives to travel on short business trips. Foreigners entering Brazil for a business trip, except when the trip involves the provision of technical assistance (see VITEM V), are eligible for a VITEM II temporary visa. With this type of visa, the foreigner will not receive any form of payment from the Brazilian company, will remain on the foreign company payroll and will be rendering services on behalf of the foreign company.

VITEM II visas are valid for up to five years, with a maximum yearly length of stay of 90 days, with one renewal; thus, the total number of days in the country may not exceed 180 per twelve-month period.²³ The duration of the time period for this visa begins on the day the foreigner enters Brazil, independent of the calendar year. The days counted are only those days spent within the country, interrupted upon the moment of exit from the country, and recommenced on return.

21 Art. 3º, Regulation nº 42/99 (Art. 3º, *Resolução Normativa No. 42, de 28 de setembro de 1999*).

22 Art. 6º, Regulation nº 37/99 (Art. 6º, *Resolução Normativa No. 37, de 28 de setembro de 1999*).

23 Arts. 14 and 34, Law nº 6,815/80.

Example

Ms. Linder, an American businesswoman, enters Brazil pursuant to a VITEM II visa on May 1, 2008, thus the twelve-month period ends on April 30, 2009. Within this period she may enter Brazil as many times as she wants, as long as she does not remain in the country for longer than a total of 90 days (180 days with a renewal of the visa) between May 1, 2008 and April 30, 2009.

All days spent outside of Brazil, in any other country, are not counted in this total.

At no time may spouses, children or any other dependent of the foreigner entering under a temporary visa engage in activity for remuneration.²⁴

In addition to the general documents listed previously, the applicant for a VITEM II temporary visa must usually present documentation in the form of a company letter declaring the company's financial responsibility for the foreigner.²⁵ The letter should be addressed to the Consulate Service of the Brazilian Consulate in the applicant's jurisdiction, and should be signed by the company or entity which is employing, hiring or sending the foreigner to Brazil. Mention should be made as to the position held by the foreigner in the company, the particular service to be performed in Brazil and the duration of the trip, in general terms.

Foreigners applying for the VITEM II temporary visa should consult the local Brazilian Consulate for a list of information to be contained in the company letter.

For instance, some Brazilian Consulates require that the letter should be signed by a senior manager, should state the precise nature of the business and should attest to the following:

- *The foreigner will maintain residency in the home country*
- *The foreigner's trip to Brazil is of a short-term nature*
- *The goal of the trip to Brazil is strictly for business meetings and not involving technical assistance*
- *The trip will not exceed the legally authorized stay*
- *The foreigner has no desire to immigrate to Brazil*

²⁴ See *id.* Art. 98.

²⁵ Art. 23, §4, II, of Decree n° 86,715/81.

The Reciprocity policy discussed in regards to tourist visas also pertains to the granting of VITEM II temporary visas for business trips.²⁶ If the foreigner requires a visa prior to departure, the VITEM II temporary visa is generally issued within 48-72 hours.

For citizens of countries that have a Reciprocity policy with Brazil, the appropriate visa will be granted upon arrival in Brazil. Travelers on business trips may be asked to show a return or onward ticket as well as proof of means of maintenance, in which a letter such as described above would suffice. The length of stay and renewal procedures for foreigners eligible for entry under reciprocal agreements are identical to other business visa recipients.

Renewal of the visa is obtained through the Federal Police Department, and usually requires presentation of a letter from the Brazilian company being visited by the foreigner stating that the business which brought the applicant to Brazil is not yet completed and additional time, and thus an extension, is necessary.

Reporting or filming in Brazil

The foreigner who intends to come to Brazil to participate in a reporting or filming of a journalistic and/or newsworthy nature, a documentary or a publicity piece may be granted a VITEM II temporary visa. The application is presented to the Consular authority with jurisdiction over the foreigner, and must include a letter explaining the project. When the filming is for commercial purposes, or as a publicity piece, the visa request must also contain proof of authorization to film from the Secretary for Audiovisual Development of the Ministry of Culture. When applicable, the Brazilian co-producer should present a declaration that the foreigner will only engage in activities in indigenous areas or in an environment pursuant to authorization by the competent agencies.²⁷

²⁶ see 'Additional Information Regarding Reciprocity' section.

²⁷ Regulation n° 38/99 (*Resolução Normativa No. 38, 28 de setembro de 1999*).

Additional Information on Reciprocity

International Agreements Regarding Tourist and VITEM II Temporary Visas²⁸

As noted earlier, Brazil maintains the policy of Reciprocity, which is established by international agreements with individual countries. The separate agreements determine the necessity of a visa when travelling between the corresponding countries, and delineate the types of visas the traveler does not need to apply for prior to travelling.

In addition, by bilateral agreement, a visa is not necessary for foreigners holding passports from countries adjacent to Brazil, provided that the foreigner is only entering as a tourist or pursuant to a VITEM II temporary visa situation.

Foreigners holding passports from the countries listed below do not require tourist (VITUR) or temporary visas for business trips (VITEM II)²⁹:

Argentina	Austria	Belgium	Bolivia	Bulgaria
Chile	Colombia	Costa Rica	Croatia	Czech Republic
Denmark	Ecuador	Finland	France	Germany
Great Britain/UK	Greece	Honduras	Hungary	Iceland
Ireland	Israel	Italy	Luxembourg	Macau
Malta	Monaco	Morocco	New Zealand	Norway
Paraguay	Peru	Philippines	Poland	Portugal
San Marino	Slovakia	Slovenia	South Africa	South Korea
Spain	Suriname	Sweden	Switzerland	Thailand
The Netherlands	Trinidad Tobago	Tunisia	Turkey	Uruguay
Vatican City				

²⁸ The international agreements also encompass the necessity of diplomatic and official visas. As such are not the focus of this manual, the material relevant to those issues has been omitted.

²⁹ The list of countries with reciprocity agreements with Brazil is available at <http://www.dpf.gov.br/>.

Foreigners holding passports from the countries listed below are not required to obtain tourist visas, however, they are required to obtain VITEM II temporary visas for business trips:

Andorra	Bahamas	Barbados	Guatemala	Guiana
Liechtenstein	Malaysia	Namibia	Panama	

Holders of passports from Venezuela are only required to obtain tourist visas after 60 (sixty) days of stay; Venezuelans are required to obtain temporary visas (VITEM II) for business trips.

Holders of passports from Paraguay are only required to obtain tourist visas or temporary visas (VITEM II) for business trips that may last longer than 60 (sixty) days.

Holders of passports from Great Britain/UK are only required to obtain tourist visas or temporary visas (VITEM II) for business trips that may last longer than 90 (ninety) days.

Foreigners holding passports from any country not listed above are required to obtain a tourist visa or a temporary visa (VITEM II) for business trips to Brazil.

Please note that Reciprocity is **only** relevant to the tourist visa (VITUR) and the temporary visa (VITEM II) for business trips. All other visas discussed in this manual **must** be obtained in order to participate in the corresponding activity and travel to Brazil.

The data above is valid as of June 30, 2008. Consultation with the local Consulate prior to travel is advised

c) VITEM III— artists and athletes —

Issued to travelers under contract for artistic or athletic performance in Brazil when paid admission is involved, the length of stay under a VITEM III temporary visa is 90 days and is renewable for an additional 90-day period. Approval of a work contract by the Ministry of Labor and Employment is necessary, as the foreigner will be receiving remuneration.

d) VITEM IV— students—

Student visas are issued to foreigners attending undergraduate, graduate, post-graduate or technical level institutions in Brazil. VITEM IV temporary visa holders may not engage in any paid activity in Brazil. The visa is valid for multiple entries for a period of one year from the date of entry, and is renewable upon proof of scholarly advantage and matriculation for an additional year of study. As proof of financial independence, the student must present documentation which evidences that the student is the beneficiary of a scholarship or cultural convention recognized by the Brazilian government. If the student does not meet either of these qualifications, then it is left to the competent Brazilian Consular authority to determine the necessary proof of ample resources.³⁰

e) VITEM V—technical assistance or professionals pursuant to work contract—

Foreigners entering Brazil to provide research skills, technical assistance or professional services pursuant to a cooperation agreement or work contract may qualify for a VITEM V temporary visa, upon approval of a work permit by the Ministry of Labor and Employment. Unless otherwise noted, the VITEM V is valid for a term of up to two years, or the duration of the agreement or contract if less than two years, and is renewable for an equal period, unless specific stipulation is made to the contrary within the agreement or contract.³¹ If contracted to work in Brazil, the foreigner will be paid by the Brazilian company and is prohibited from altering or modifying his contract without the express permission of the Ministry of Justice. If the foreigner enters under a technical assistance agreement, he will remain on his own company's payroll, but is also prohibited from engaging in activity outside the realm of the agreement.

Prior to the granting of the visa by the Immigration division, the foreigner must obtain approval of the conditions of the work, in compliance with the requirements set forth by the National Immigration Council. In essence, this work permit allows the applicant to work for remuneration in the Brazilian company in the capacity set forth by the contract.³²

³⁰ Art. 23, § 4º, III, Decree n° 86,715/81.

³¹ See *id.* Art. 25.

³² Art. 15, Law n° 6,815/80.

Although the subtypes explained below are all VITEM V temporary visas, depending on the type of work, status and intent of the foreigner and the company in Brazil, the requirements for the work permit vary, and each must be analyzed separately.

Scientists, professors and researchers

Foreign professors, scientists and researchers require a work contract, which must be submitted to the Ministry of Labor and Employment for approval. The Ministry of Labor and Employment may call upon the assistance of the Ministry of Science and Technology, or any other competent agency, in regards to the suitability of the candidate. Foreigners in this category enter Brazil with the intent to engage in activities, in the public or private realm, that are of an instructional nature or for research in the areas of science or technology.³³

Example

Mr. Harvey is a researcher entering Brazil to complete a soil study. He must enter pursuant to a work contract that is first approved by the Ministry of Labor and Employment; the Ministry may submit the contract to the Ministry of Agriculture or the Ministry of Environment for approval prior to issuing its decision.

Professionals under work contract

Professionals entering pursuant to a work contract must satisfy the requisite educational and experience requirements relative to their expected position, and, in addition, must submit the work contract to the Ministry of Labor and Employment for approval. The contract must set forth the particular duty or service the foreigner is committed to perform, the duration of the posting and payment to be rendered by the Brazilian company.³⁴

The foreigner entering Brazil as a professional under the auspices of a contract must possess professional qualifications and experience in accordance with the activity that he/she has been contracted to perform.³⁵ Evidence to prove such qualifications and experience referred to in this regulation should be submitted with the work permit

33 Regulation n° 1/97 (*Resolução Normativa No. 1º, de 29 de abril de 1997*).

34 Regulation n° 74/07 (*Resolução Normativa No. 74, de 09 de fevereiro de 2007*).

35 Regulation n° 64/05 (*Resolução Normativa No. 64, de 13 de setembro de 2005*).

request by the petitioning company or institution. Such evidence may include diplomas, certificates or declarations of institutions in which the foreigner received the qualification or experience, particularly in regards to the following:

I – Two years of professional experience (by means of letter or statement of current and/or previous employer) in areas somehow related to the activity the foreigner will perform in Brazil, in addition to proof, by means of diplomas or certificates, of at least 9 years of education (intermediate level); or

II – One year of professional experience (by means of a letter from current and/or previous employer) after graduation in areas somehow related to the activity the foreigner will perform in Brazil, in addition to proof, by means of diplomas or certificates, of his university degree; or

III – In case the candidate has a post-graduate diploma in the area related to the activity s/he will perform in Brazil, there is no need to provide proof of professional experience, but only a copy of the post-graduate diploma.

Example

Chuck, an American engineer entering Brazil to work for a Brazilian company in his capacity as an engineer and pursuant to a work contract, must have not only proof of the advanced degree, but must also indicate, in the application, a minimum of 1 year of work experience in the field of engineering.

Albert, a German sales manager with ten years of education, but no university degree, must show professional experience of at least two years in relation to the work which he is contracted to do in Brazil.

While in Brazil, both Chuck and Albert will be on the payroll of the Brazilian company.

Documents used to verify and prove the qualification or experience must be notarized by the Brazilian Consulate with jurisdiction and translated by a sworn translator in Brazil.³⁶

³⁶ See 'Authorization and Translation of Documents' section.

PROPORTIONALITY: Particularly pertinent to the discussion of Immigration Law, and applicable to the temporary visa situation discussed above is the Brazilian Labor Law concept of proportionality. Brazil has undertaken to protect and preserve job opportunities for its citizens, and to this end enforces the principle of proportionality, under which all industrial or commercial firms are required to ensure that at least two-thirds of their personnel are Brazilians.³⁷ This proportion does not apply to rural industries, industries in agricultural areas that engage in processing local produce or industries (other than mining) that quarry, excavate and carry out related activities. The same proportionality (2/3) must exist regarding salary. This means that the total sum of salaries paid to Brazilian employees must be more than twice the amount paid to foreigners.

Proportionality must be observed and proven when the foreigner has entered pursuant to a temporary visa and will be on the Brazilian company payroll (VITEM V—work contract). The required proportion may only be lowered, in specific occupations, by Executive Order of the President, upon ample showing by the Ministry of Labor and Employment that an insufficient number of Brazilians engage in the particular work activity.³⁸

IMPORTANT: It must be mentioned that to many scholars the proportionality rule contained in the Brazilian Labor Code, from 1943, is in conflict with the principles and rules of the Brazilian Constitution of 1988. In their view, because of the new Constitution, the proportionality rule described above can no longer be applied. The immigration authorities of the Ministry of Labor and Employment continued to apply such rules for many years after the promulgation of the Constitution of 1988 and only in the last few years they have refrained from requiring evidence of compliance with such rule.

However, since the National Immigration Council has not issued any statement or resolution determining that the proportionality rule should no longer be applied, Brazilian companies should always verify the current position of the Ministry of Labor and Employment if the hiring of a new foreign employee may result in violation of such rule.

³⁷ Art. 352, Consolidação das Leis do Trabalho (CLT) - The Brazilian Labor Code.

³⁸ See *id.* Art. 354.

Technical Assistance

In contrast to the work situations discussed previously, the foreigner entering for the purpose of providing technical assistance is contracted in anticipation of directly benefiting the Brazilian company and remains on the payroll of the foreign company.

In this subtype³⁹, the temporary visa is valid for a period of up to 1 (one) year, and may be renewed only once for another period of one year. The most relevant requirement is the submission, together with the work permit application, of a technical assistance agreement (a covenant or a cooperation agreement are also accepted) executed between the Brazilian company (which will receive the services) and the foreign company (which will provide the services and consequently send the foreigner).

One mandatory requisite is that the candidate must provide evidence of at least 3 (three) years of professional experience in areas somehow related to the activity s/he will perform in Brazil. A statement letter from the current and/or previous employer, declaring the positions held (and description of activities, if necessary) in the (at least) last three years is sufficient.

Under this type of visa, the expatriate remains an employee of the foreign company and under its sole subordination. It is the foreign company that will pay 100% of the foreigner's salary. There will be no employment relationship between the foreigner and the Brazilian company (different from the other type of temporary visa described above, in which the relationship is established between the Brazilian company and the foreigner).

Regardless of the nature of the agreement, it needs to set forth the nature of the technical services to be provided, the term of the agreement, payments (when applicable, since the agreement may also be for free) to be made by the Brazilian company to the foreign company and other general contractual provisions.

Finally, note that under this type of work permit the expatriate only becomes a Brazilian resident for tax purposes after his 183rd day in Brazil. Only after that day must he pay income taxes in Brazil based on his worldwide income (tax treaties may apply - to be verified on a case-by-case basis).

39 Regulation n° 61/04 (*Resolução Normativa n° 61, de 08 de dezembro de 2004*).

Example

A multinational pharmaceutical company participating in a joint venture with a Brazilian company wants to send Sue, an Italian chemist, to assist in operations of a new plant in Rio de Janeiro. First, the Brazilian company and the Italian company must sign an agreement which outlines the type of work Sue will engage in and the time period of the contract. Based on such agreement, the Brazilian company may request Sue's work permit. While in Brazil, Sue will remain on the Italian company's payroll.

“Chamada de mão-de-obra estrangeira”

All of the above cases requiring a work permit, and those which will be discussed below in regards to permanent visas, are referred to in Brazilian Law as “chamada de mão-de-obra estrangeira,” or the calling forth of foreign labor. Brazilian companies must formulate a request for foreign labor in order to receive foreign workers in their companies. Only a legally registered Brazilian company may make such a request, and the visa application may only be approved after the applicable work permit has been authorized.

Regulation 74, of February 9, 2007, sets forth the necessary procedures and forms that must be completed and provided to the Ministry of Labor and Employment to obtain a visa that allows the foreigner to work in Brazil. These documents are generally concerned with basic information on the foreigner and the company. Information regarding the foreigner includes past work history, education and personal data (date of birth etc.). The foreigner may also be required to present documents evidencing the requisite education or experience or prior work history within the company. Information regarding the Brazilian company includes number of employees, copies of its articles of association or By-laws etc.

Other VITEM V Temporary Visas

Short Term Technical Assistance Temporary Visa (VITEM V)

In case the foreigner that will provide the technical assistance do not need to stay in Brazil for a period over 90 (ninety) days, a short term technical assistance temporary visa (VITEM V) may be granted without all the requirements that need to be accomplished in order to obtain the ordinary Technical Assistance Temporary Visa, as described above. The application process for this work permit is usually faster than the other

ones, which may be helpful in case the Brazilian company cannot wait too long to receive the technical services to be provided by the foreigner.⁴⁰

Emergency Technical Assistance Temporary Visa (VITEM V)

In cases of urgent need or emergency, the Brazilian Consulate authority may issue a VITEM V emergency temporary visa for foreigners providing technical assistance. The visa is valid for 30 days, with no renewals allowed. In addition, the emergency temporary visa may only be granted one time within a period of ninety days to each foreigner.

This visa may only be granted when the applicant provides evidence of a situation of emergency in a Brazilian company, which requires him/her to travel to Brazil to provide technical services on an urgent basis.

According to the applicable regulation, a situation of emergency is considered to be one that, caused by unexpected circumstances, puts in risk life, the environment or property/assets patrimony, or that had caused the interruption of the operation of the activities of the Brazilian company.⁴¹

Professional training without work contract

Foreigners who intend to visit Brazil for professional training without employment ties may qualify for a VITEM V visa. Professional training is considered that activity which immediately follows the conclusion of a superior or professional-level course with the goal of development of aptitudes and knowledge acquired by means of practical experience. This particular VITEM V visa is valid for one year and may not be renewed.⁴²

The visa grant is dependent upon the work permit, authorized by the Ministry of Labor and Employment, which requires proof of conclusion of the superior or professional-level course and proof of remuneration provided by a source **outside** of Brazil. The foreigner may not participate in any type of paid activity in Brazil where the payment is made by a Brazilian entity.⁴³ The application and contract must be filed with the Ministry of Labor and Employment by the Brazilian entity training

40 Art. 6º, Regulation nº 61/04 (*Art. 6º, Resolução Normativa nº 61, de 08 de dezembro de 2004*)

41 *See id.* Art. 7º.

42 Regulation nº 37/99 (*Resolução Normativa No. 37, 28 de setembro de 1999*).

43 *See id.* Art. 4º.

the foreigner. As noted previously, a different temporary visa, VITEM I, is requested in cases where the foreigner will enter for professional training in the operation and maintenance of machinery and equipment which is produced in Brazil.⁴⁴

Internship with company's Brazilian subsidiary or branch

A foreigner employed by a foreign company travelling to Brazil for the purpose of interning with the company's Brazilian subsidiary or branch may qualify for a VITEM V temporary visa. The Brazilian company must submit the application for the work permit and visa to the Ministry of Labor and Employment; in addition to the standard documents, the company must submit evidence which indicates that the foreigner will continue to be paid outside of Brazil by the foreign company, and not by the Brazilian company. If the work authorization is given, the foreigner may enter Brazil pursuant to a VITEM V temporary visa, which in this case is valid for one year and may not be renewed. This visa can be requested to foreigners who are ordinary employees of the foreign company⁴⁵ or to those who have graduated in a period less than twelve months.⁴⁶

Service to the Brazilian Government

The use of foreign labor for service to the Brazilian government may be approved if pursuant to a contract or agreement in which the government is a party or arising from an international act of which Brazil is a signatory. The foreigner may be granted a VITEM V temporary visa, valid for a period of two years and renewable for two additional years. In this particular situation, the Brazilian Consular authority with jurisdiction may issue the visa, instead of the Ministry of Labor and Employment, and renewal is administered by the Ministry of Justice, with proper consultation of the Ministry of Labor and Employment in regards to any changes in the initial conditions of the request.⁴⁷

Cultural internship; foreign language instructors

Foreign professors intending to travel to Brazil for an internship to teach foreign languages may be eligible for a VITEM V temporary visa. The grant is conditioned

44 See *VITEM I* section above

45 Art. 3º, Regulation nº 42/99 (*Art. 3º, Resolução Normativa No. 42/99*).

46 Regulation nº 37/99 (*Resolução Normativa No. 37, de 28 de setembro de 1999*).

47 Regulation nº 35/99 (*Resolução Normativa No. 35, de 28 de setembro de 1999*).

upon the elaboration of the terms of the commitment between the professor, the foreign institution to which he is connected, and the requesting institution in Brazil. In addition, the remuneration, in its entirety, must be proven to originate from a source situated abroad. The visa application in this case is filed by the Brazilian entity with the Ministry of Labor and Employment, by presentation of documentation needed to obtain a work permit. The temporary visa has a validity of one year, and may not be renewed.⁴⁸

f) VITEM VI—journalists

Media correspondents travelling to Brazil may qualify for the VITEM VI temporary visa upon presentation of a letter addressed to the Brazilian Consulate with jurisdiction from the firm or institution employing, hiring or sponsoring the trip. The letter must specifically reference the job to be performed by the applicant and the duration of employment. The firm or institution must also undertake financial responsibility for the foreigner while he and his dependents are in Brazil. The visa is valid for up to four years for newspaper, magazine, radio or television journalists or members of foreign press agencies.⁴⁹

g) VITEM VII—clergy or religious mission

Travel for religious or missionary purposes is authorized by a VITEM VII temporary visa, provided exclusively to those leading a religious life or to members of a religious congregation.⁵⁰ Information must be provided in the application as to the religious order, both at home and in Brazil, and about the missionary's background. The VITEM VII temporary visa is valid for a period of up to one year, with a renewal for one additional year allowed, and the foreigner may not undertake any activities for remuneration within Brazil.⁵¹ Religious persons travelling to Brazil for study purposes would qualify for a VITEM IV temporary visa, discussed above.⁵²

48 Regulation n° 41/99 (*Resolução Normativa No. 41, de 28 de setembro de 1999*).

49 Art. 25, VI, Decree n° 86,715/81.

50 Art. 13, § 7°, Law n° 6,815/80; Art. 22, § 7°, Decree n° 86,715/81.

51 Regulation n° 39/99 (*Resolução Normativa No. 39, de 28 de setembro de 1999*).

52 See *id.* Art. 2°

Renewals–Temporary Visas

The Ministry of Justice has jurisdiction in all matters relating to extensions of tourist or temporary visas.

The foreigner who has entered under a tourist or temporary visa may be granted a renewal of the length of stay in Brazil.⁵³ The renewal of the length of stay for a tourist shall not exceed 90 (ninety) days, and may be canceled according to order by the Ministry of Justice.⁵⁴

The extension may be granted by the Federal Police Department in the case of VITEM II and VITEM III temporary visas—those granted for business trips or under artistic conditions or as an athlete. The Ministry of Justice may grant extensions in all other categories of visas as per the regulations set forth by the National Immigration Council. The extension may be granted for up to the original time period of the visa, pursuant to the original categorization of the foreigner, and may not go beyond this length of time nor surpass the provisions regulating the original visa.⁵⁵

The request for extension should be made prior to the expiration of the original visa and requires a number of information and documents, including notarized copy of the travel document (passport), the reasons for the request for extension and proof of financial self-sufficiency.

As proof of financial self-sufficiency, in the case of a holder of a business visa (VITEM II), the foreigner must present a document that attests to his/her financial capacity; in such case, a letter similar to the one presented for the original visa application will suffice.⁵⁶ For a foreigner holding a temporary visa (VITEM V), this proof consists of either a document indicating extension of the original business contract or a new work contract in which the employer assumes the responsibility of the employee's return to the country of origin. Foreigners providing technical assistance have the additional requirement of proving evidence that the local employees of the Brazilian company have received technical training related to the activity the foreigner was involved in Brazil during the initial period.

⁵³ Art. 34, Law n° 6,815/80.

⁵⁴ *See id.* Art. 35.

⁵⁵ Art. 66, § 1°, Decree n° 86,715.

⁵⁶ *See id.* Art. 67, II.

The departure of the foreigner from Brazil, for a period of up to 90 (ninety) days will not prejudice the processing or approval of the renewal request, so long as the request is timely filed.⁵⁷

4. Permanent Visa

According to Law No. 6,815/80, a permanent visa may be issued to a foreigner who comes to Brazil with the intention of remaining permanently. In this case, the granting of the permanent visa is conditioned upon specific qualifications of the applicant, including specialization of skills offered, technology assimilation and attraction of resources to particular sectors of the economy. In addition, the Brazilian Consulate may grant permanent visas for “family reunion,” in which case the foreigner is joining a family member of Brazilian nationality or holder of Brazilian visa.

In practice, executives who are appointed to management positions (Administrator, Manager or Director) in Brazilian companies are also eligible for a permanent visa. The granting of this visa to the executive is conditioned upon the experience of the applicant in managerial positions within the company, as well as their particular managerial abilities. The foreigner’s appointment to the management position must be included in the articles of incorporation of the Brazilian company, and should indicate that this appointment is conditioned upon the grant of the permanent visa.

Similar to the temporary visa situation discussed above, the granting of some permanent visas require approval of a work permit by the Ministry of Labor and Employment, which may be granted based upon consideration of the factors noted (foreign investment, experience, skills etc.). Work permit authorization is always required prior to issuance of the permanent visa in the case of a manager, administrator or director of a company.

According to Article 17, Law No. 6,815/80, to obtain the permanent visa, the foreigner must satisfy, in addition to the general requirements, conditions of a particular nature, which are anticipated in the norms of the selection of immigrants established by the National Immigration Council.

⁵⁷ Regulation n° 14/98 (*Resolução Normativa No. 14, de 13 de maio de 1998*).

Article 18 of the same law sets forth that the granting of the permanent visa shall be conditioned, for a time period not to exceed 5 years, on the exercise of activity of a fixed and certain nature in a determined region within the national territory. In other words, the foreigner may not modify his employment conditions before completion of the 5-year period, otherwise his permanent visa may be cancelled. The fixed activity and the determined region may not be altered without express consent from the Ministry of Justice.

Family members of permanent visa applicants who intend to enter Brazil with the foreigner should preferably apply for their visas as part of the work permit and visa application of the foreigner that will work in Brazil.

Administrator, manager or director

According to the requirements set forth in Regulation n° 74/07 and in Regulation n° 62/04,⁵⁸ if a foreign laborer is to hold the office of administrator, manager or director in a commercial or civil company, in addition to the basic information, the following must also be filed before the Ministry of Labor and Employment:

- Confirmation of an association between the foreign company, which is providing the candidate, the Brazilian company and the investing company (if not the former);
- Submission of the act which designates that the foreigner will be undertaking the office of administrator;
- Proof of foreign investment by the company sending the foreigner (or by a company pertaining to the same economic group).

The confirmation of the association must prove that corporate ties exist between the company sending the foreigner and the Brazilian company appointing the foreigner. If the company that has invested the requisite amount in the Brazilian company is not the same as the company sending the foreigner, then the confirmation should clearly illustrate the corporate connection between the investing company, the foreign company sending the candidate and the Brazilian company. Such

58 Regulation n° 62/04 (*Resolução Normativa n° 62, de 8 de dezembro de 2004*).

confirmation may be, without prejudice of others, in the form of an affidavit or notarized statement, signed by an executive of the Brazilian company, attesting to the corporate structure and connection between all companies.

The most vital documentation is the proof of foreign investment, which will be discussed below.

Employee requirements

The granting and maintenance of the permanent visa remains entirely conditioned upon the exercise of a function which the foreigner is contracted to perform. Not only must the contract itself be registered before the appropriate agency, but the activity of the foreigner must remain in the capacity for which he was contracted. A change in function must be reported to the Ministry of Labor and Employment, and any change in employer would require the authorization of the Ministry of Justice, with the consultation of the Ministry of Labor and Employment.

In addition to being contracted to perform specific duties, the foreigner must also qualify for the position based on past experience and knowledge of the company and its market.

Company requirements

Only companies that are licensed to do business in Brazil may request the permanent visa.

The foreign investment requisite mentioned above means that only Brazilian companies that receive foreign investment, duly registered in its statutes or by-laws, may have a foreign national in a statutory position, provided that it can present evidence of:

- Foreign monetary investments, transfer of technology or other foreign capital investments, duly registered at the Brazilian Central Bank, in an amount equal to or above US\$ 200,000 or its equivalent for permanent visa candidate; **or**
- Foreign monetary investments, transfer of technology or other foreign capital investments in an amount equal to or above US\$ 50,000.00, or its equivalent for each permanent visa candidate, in addition to a formal commitment of the Brazilian company that it will generate, during the following two years, at least ten new jobs in the Company.

The foreign investment must either originate directly from the company sending the foreigner, or a corporate link between the investing company and the sending company must be evidenced in the application documentation. In addition, evidence regarding the investment must be submitted for *each* foreign manager, administrator or director the company wishes to appoint.

Example:

Palmetto Inc., a US company incorporated in Delaware, wants to appoint three managers, Mike, Matt and Todd, to its Brazilian subsidiary. Proof of an investment in the Brazilian company of at least US\$ 600,000.00 must be submitted.

An investment of US\$200,000 is made by Palmetto Inc.(US) in order to appoint one of the managers. Todd is an executive with Palmetto Inc.'s British subsidiary, thus additional proof is needed to show the corporate ties between the three companies in the US (investing company), United Kingdom (company sending Todd) and Brazil (company appointing Todd manager). Such proof may be in the form of an affidavit or statement by a corporate records keeper or executive.

Foreign Investor

Regulation n° 60/04⁵⁹ governs the granting of work permits in order to obtain a permanent visa for the individual foreign investor.

The Ministry of Labor and Employment may authorize the grant of a permanent visa to the foreigner who intends to remain in Brazil for the purpose of investing his own resources of external origin in productive activities. In analyzing the request, the elements to be examined, in order of their priority, are the compatibility of the resources with the intended investment, the nature of the enterprise, the resulting productive effects and the social interest.

The foreigner should verify that the investment, in foreign currency, is in an amount equal to or above, in Brazilian currency, US\$50,000.00. However, the National Immigration Council may authorize a permanent visa grant to the foreigner whose investment project contemplates the generation of a minimum of ten new jobs, despite an investment less than this amount.

⁵⁹ Regulation n° 60/04 (*Resolução Normativa n° 60, de 6 de outubro de 2004*).

5. Temporary or Permanent Visas for Family Reunion

Generally, the dependents of the applicants receive a visa of the same duration as the foreigner, but may not engage in any activity for remuneration (except in the case of permanent visas).⁶⁰

The Ministry of Foreign Affairs is empowered to grant temporary or permanent visas for family reunion to the legal dependents of Brazilian citizens or resident foreigners, over the age of 21, holding temporary or permanent visas.⁶¹ The request for this visa shall be presented to the Brazilian Consular authority with jurisdiction over the residence of the interested party, or to Ministry of Justice (Federal Police) particularly if the applicant is legally in Brazil. The division with jurisdiction over the applicant determines the documentation required of both the applicant and the visa holder in the request for the permanent or temporary visa.⁶²

The right of family reunion, in the case of a foreigner temporarily residing in Brazil (pursuant to a temporary visa), may be invoked only if the foreigner's temporary visa is valid for a period of over six months. The dependent is prohibited from engaging in any kind of activity for remuneration. In terms of a foreigner living in Brazil permanently, the right of family reunion may be invoked once the foreigner has registered with the competent authorities.

Please note that although termed a visa for family "reunion", this visa may be applied for at the same time the application is filed by the foreigner. In fact, it is preferred and recommended that the visas for the family members are requested in the same application that is submitted for the foreigner.

60 Under most circumstances, when applying for a work permit and corresponding visa, the foreigner will note any dependents accompanying him/her to Brazil; in this situation, the approval of the work permit and visa for the foreigner ensures issuance of a visa of the same duration for the dependent.

61 Regulation n° 36/99 (*Resolução Normativa No. 36, de 28 de setembro de 1999*).

62 Consultation with the Brazilian Consulate authority is recommended prior to filing.

Legal dependents

The following are considered “dependents” for the purpose of this Resolution:

- I. single children, less than 21 years of age, with proven inability to provide for their own support;
- II. elderly relatives who demonstrate the necessity of the visa holder’s support;
- III. siblings, grandchildren or great-grandchildren who are orphans, single or less than 21 years of age or of any age with proven inability to support themselves;
- IV. spouse of a Brazilian citizen; and
- V. spouse of a foreigner residing temporarily or permanently in the country.

Dependents referred to in items I and III are to be considered as such until the calendar year in which they turn 24 years old, insofar as they are enrolled in a graduate or post-graduate course and shall be treated the same under the law as a Brazilian in the country of origin of the foreigner.

Partner of visa holder (in absence of marriage legally accepted in Brazil)

Requests for temporary or permanent visas, or permanency status, for a visa holder’s partner (without any distinction of gender), are examined pursuant to Administrative Resolution No. 05/03 and to Regulations Nos. 27/98 and 36/99, in view of the capacity to prove legal dependency by means of one or more of the following items:

- a) Certification of concubinage issued by a government agency of the relevant country, duly translated and legalized by the competent Brazilian Consular authority;
- b) Proof of dependency issued by a Family Court judge or corresponding authority in the foreigner’s country, also translated and legalized by the competent Brazilian Consular authority;
- c) Proof of dependency issued by the tax authority or corresponding authority of the Secretary of the Federal Revenue, also translated and legalized by the competent Brazilian Consular authority;

- d) Proof of cohabitation for more than five years, issued by the qualified authority in the foreigner's country, also translated and legalized by the competent Brazilian Consular authority; and/or
- e) Proof of birth (or adoption) of a child to the couple by presentation of the relevant certificate of birth, also translated and legalized by the competent Brazilian Consular authority;⁶³

The foreigner already holding a visa or permanency status must also present a public deed of agreement for support, maintenance and exit from the home country of the applicant, as well as proof of means of self-subsistence and sufficiency for his/her own maintenance and that of the applicant. In addition, the foreigner should provide proof of a work contract or scholarship for study and proof of health insurance for both the foreigner and the applicant.

Elderly persons in need of support

Inability to support oneself (items I and III above) is proven by means of judicial declaration or statement from the competent state agency with jurisdiction over the claimant. An elderly person demonstrating the necessity of the visa holder's support (item II), will be analyzed in light of the following:

I—that the elderly person does not earn sufficient income to provide for his/her own welfare and that the visa holder makes deposits, monthly and regularly, of verifiable resources for the elderly person's maintenance and survival;

II—that the applicant does not have descendants or relatives able to provide assistance in the country where the applicant lives;

III—that, by virtue of advanced age or infirmity, it may be proven that the presence of the visa holder is necessary to manage the elderly person's life.

Foreigners who have a Brazilian child, duly proven to be economically dependent on the foreigner and under their care, may be granted a permanent visa or permanency status.

⁶³ Administrative Resolution n° 5/03 (*Resolução Administrativa No. 5º, de 3 de dezembro de 2003*).

III. Registration

The foreigner admitted under a permanent or temporary (VITEM I, IV, V, VI, VII) visa must register with the Ministry of Justice (Federal Police Department) within 30 (thirty) days following arrival and must be identified within the data system, in compliance with the regulatory provisions.⁶⁴ Upon registration, the foreigner will receive the number of his/her foreigner's identity card (the actual card may take several weeks and even months to be issued).

The registration process consists of presentation of the travel document (generally passport) which identifies the registrant, as well as a copy of the visa request form which was presented to the Brazilian consulate, if applicable, or a consulate certificate from the country of nationality, in the case of visa modification.

The Registrant must provide the following information: name, parents' names, city and country of birth, nationality, date of birth, sex, marital status, profession, educational level, location and date of entry into Brazil, type and number of travel document (passport), number and classification of the consulate visa, date and location of the granting of the visa, means of transportation utilized, as well as relative data for minor children and location of work and study.

All information on the forms must be exactly identical to that which appears on all travel documents or other forms of identification and may not be abbreviated in any way. If any of the above information is for some reason omitted or incorrect, the necessary changes may only be made through the local consulate of the country of nationality. Such changes must be made prior to presentation at the Federal Police Department (working as the representative of the Ministry of Justice).

After registering, the foreigner may apply for and receive an identity card with a registration number. Any subsequent change of address or domicile must be communicated to the Federal Police Department within 30 days.

In addition to the foreigner's identity card, it is also necessary to register with the nearest agency of the Brazilian Revenue Services (the "Receita Federal") within thirty (30) days of initial arrival in Brazil and apply for the taxpayer registration card (the "CPF").

⁶⁴ Art. 30, Law n° 6,815/80.

In order to register and apply for the CPF, the foreigner must have the following:

- passport,
- Copy of the receipt of the application for the foreigner's identity card;
- copy of decision approving the work permit application, published in the Federal Official Gazette;
- any additional document requested by the "Receita Federal" nearest to the candidate's residence in Brazil.

Foreigners holding temporary visas (VITEM V) based on local employment agreement also need to apply for a work book (the "carteira de trabalho"). The Brazilian company (the employer) shall assist the foreigner in the obtaining of such document.

IV. Modification

Article 37 of Law No. 6,815 governs the modification of a visa from temporary to permanent for certain types of temporary visas. Temporary visas VITEM V and VITEM VII (professor/technical assistance/professional with work contract and religious ministry) may be transformed into permanent visas, upon satisfaction of the elements set forth in the referred law and its regulations. In most of the cases, the visa may only be 'transformed' upon the expiration of the original time period and the extension of the visa; thus, as the VITEM V and VITEM VII visas are usually valid for two years, the modification may only be granted after the foreigner has held the visa for four years.

Example:

Mr. Shalley, a computer expert, enters pursuant to a work contract entered into with a Brazilian company. After two years, the agreement is renewed, along with his work permit and visa.

Two years following his renewal, the Brazilian company still wants to count on Mr. Shalley services in Brazil. In that case, a request for modification from temporary visa to permanent visa may be filed.

The Ministry of Justice is competent to grant the modification of:

- Professor, technical assistance, professional with work contract or religious ministry temporary visas to permanent visas
- Transitory, tourist, temporary or permanent visas to official or diplomatic visas

The request should be made a minimum of 30 (thirty) days before the expiration of the visa, through the agency of the Federal Police Department with jurisdiction over the domicile or residence of the requesting party, or directly through the Ministry of Justice.

All requirements for permanent visas must be satisfied prior to submitting the application.

The departure of the applicant from the national territory for a period not exceeding 90 (ninety) days will in no way prejudice the process or defer the request for permanency.

Unconditional Modification

The Ministry of Justice unconditionally allows modifications of temporary visas to permanent visas in particular situations related to the reunification of families. Permanent visas are granted when a foreigner has a Brazilian spouse or a Brazilian child under custody or financially dependent on the foreigner.

However, if the foreigner abandons the child, divorces or separates, the rationale supporting permanence is nullified, and the permanent visa may be revoked.

V. Leaving and Returning to Brazil

If a foreigner registered under a permanent visa leaves the country, he shall be able to return within two years of the date of departure without repercussion on the validity of the visa. If the foreigner stays abroad for longer than two years, the registration will be cancelled and he must receive a new consular visa in order to return to Brazil.

Despite this regulation, if a foreigner enters pursuant to a permanent visa to engage in work activity, the validity of the visa effectively ends once the foreigner ceases to engage in that activity for which he was granted the visa or no longer engages in that activity with the Brazilian company that filed the work permit application. A modification of **any** kind in the work activity of the foreigner affects the terms of the work permit, thus affecting the terms of the visa.

Regulation No. 5/97⁶⁵ allows for the reissue of a permanent visa to those foreigners who, having resided in Brazil under a permanent condition, have lost their permanent visa or permanency status due to an absence of more than two years. In order to be eligible for the issue of a new permanent visa, the foreigner's reasons for the absence must include one of the following:

- graduate or post-graduate university studies;
- professional training;
- research activity for an entity recognized by the Ministry of Science and Technology;
- professional activity in the service of the Brazilian government.

If the foreigner is registered under a temporary visa, he should be able to leave and return as necessary within the restrictions set forth on the ID card issued by the Federal Police Department.

Leaving the country with an expired visa or a visa which will soon expire will not harm the normal procedures for processing the request for extension or modification if the request has been timely filed and the foreigner is absent for less than ninety (90) days.

65 Regulation n° 5/97 (*Resolução Normativa n° 5, de 21 de agosto de 1997*).

Examples:

- *Laura, a US citizen with a permanent visa, returns to the US for 18 (eighteen) months to complete a Master of Business Administration program at Indiana University—her visa status will not be affected.*
- *Friedrich, an Austrian with a temporary visa valid for two years, travels to Argentina for business purposes. After one year, he returns to Brazil—his visa status has not changed, however, his visa is valid for the next year only.*
- *Jacqueline, a French citizen with a temporary visa, has timely filed for an extension on her two year visa for two additional years. She travels to France, however, she returns to Brazil the following month—her visa status will not be affected and the extension process has in no way been modified.*

VI. Penalties for Violation

If the foreigner illegally enters or remains in Brazil without voluntarily leaving the country within the time period fixed by law, deportation shall be recommended and enforced.⁶⁶ Deportation is the compulsory removal of the foreigner from Brazil, to the country of origin or any other country that will accept the foreigner. During the deportation proceedings, the foreigner may be imprisoned for a period of up to sixty (60) days by the order of the Ministry of Justice. Foreigners deported from Brazil may only re-enter the country upon payment of a fine as indemnification to the National Treasury.

Foreigners who, in any manner, threaten the national security, political or social order, or the tranquility and morality of the public and the economy may be expelled or banished from the country. In addition, any foreigner who obtained their entry or stay in Brazil by fraudulent means or violated an express prohibition in the law for foreigners, may be expelled. Upon remittance of documents by an agency of the Federal Prosecutor's Office, the Ministry of Justice may imprison the foreigner for a period of up to ninety (90) days while reviewing the documentation and rendering a decision.

In addition, please note the following penalties for violations of specific legislation:⁶⁷

⁶⁶ Law 6,815/80, Title VII, Art. 57.

⁶⁷ The amounts of the penalties as described below are valid as of June 30, 2008.

- Remaining in the country after the expiration of the legal period of stay—*penalty: fine ranging from R\$ 8,28 to R\$ 827,75 and deportation in the foreigner does not leave the country within the specific time stipulated by the authority for him/her to leave the country.*
- Failure to register with the competent agencies within the established time period—*penalty: fine ranging from R\$ 8,28 to R\$ 827,75*
- Failure to present legal documents to requesting agency or failure to notify the Ministry of Justice of any change of address or domicile—*penalty: fine R\$ 827,75*
- Employ or maintain in their service a foreigner in an illegal situation or working for remuneration when such is expressly prohibited—*penalty: fine R\$ 2.483,25*
- Engaging in activity for remuneration, when such is expressly prohibited according to the regulations and issuance of the visa granted to the foreigner—*penalty: deportation*
- Unauthorized alteration of employment under which the foreigner was granted a work permit, including any change of duty, company or region—*penalty: cancellation of registration and deportation*
- Violation of any of the express prohibitions set forth in Law n° 6,815/80—*penalty: detention for one to three years and expulsion*
- False declarations in the process of visa modification, registration, or obtainment of a passport—*penalty: detention for one to five years and, if committed by a foreigner, expulsion*

VII. Related Matters

Tax Implications for Foreigners

Foreign residents

Brazilian law distinguishes individual residents from non-residents. Generally speaking, a Brazilian national is automatically a resident while legally domiciled in Brazil or, if not domiciled in Brazil, upon his or her election to be treated as a resident for tax purposes. A non-Brazilian national, on the other hand, is treated as a resident or a non-resident depending on the type of visa held.

According to the Brazilian tax legislation⁶⁸, a foreign executive moving to Brazil would apply either for a temporary or for a permanent visa. A temporary visa-holder will be treated, right upon his/her arrival, as a resident for tax purposes, if coming to Brazil to work as a local employee. On the other hand, if s/he comes to Brazil to work based on a technical assistance agreement, and on behalf of a foreign company, s/he will be considered a non-resident provided that s/he does not stay in Brazil for more than 183 days within a twelve-month term, in which case s/he will be considered a Brazilian resident as of the 184th day. Foreigners holding permanent visa are treated as residents for tax purposes upon arrival.

Foreigners treated as non-residents are subject to Brazilian income tax only on the income received from Brazilian sources, i.e., from Brazilian residents, whether individuals or legal entities. Brazilian source income - from per-diem, wages, investments, rents or otherwise - is subject to the standard 25 percent withholding income tax.

Resident foreigners, on the other hand, are subject to Brazilian income tax on worldwide income, and at progressive rates which vary depending upon the specific bracket of net taxable income per month. The current rates are as follows: 15 or 27.5 percent.

68 Law n° 9,718/98, art. 12.

Non-resident foreigners (rendering technical services in Brazil)

When payments are made by Brazilian residents to non-residents as remuneration for services rendered, a 25% income tax rate is applied.⁶⁹ Thus, although foreigners entering pursuant to a technical assistance agreement (VITEM V—technical assistance) are being paid by foreign companies, the expenses and per diem payments for their cost-of-living are taxable within Brazil at a rate of 25%. Foreign-source income and any fringe benefits the foreigner receives from the foreign company are not within the realm of Brazilian taxation during this non-resident period.

After the 183-day period has passed, the foreigner will be liable for taxes on all income earned as a resident for tax purposes, regardless of the source of this income. Even if foreign-source income, all earnings are taxed according to the applicable individual income tax rates, due to the fact that Brazilian residents are taxed on their worldwide income.

Foreign taxes may be creditable against Brazilian taxes to the extent there is a treaty to avoid double taxation or a reciprocal treatment. No tax credit will be allowed if the foreign tax has been refunded by the foreign country or used to offset other foreign taxes. The foreign tax credit cannot exceed the Brazilian tax due on the foreign source income.

*This is **general** tax information only—consultation with a tax specialist is recommended.*

Household Items and Other Baggage

Tourist visa

Visitors may bring in personal baggage tax-free, including clothing, books, and other objects for personal use, in a quantity and quality which corresponds to the duration and purpose of the trip. New items brought into Brazil will also be tax-exempt, if their total value does not exceed US\$500.00. For multiple entries, a 30-day interval between trips is required for renewal of the exemption.

⁶⁹ Law n° 9.779/99, art. 7°.

Temporary visas—up to 180 days

In addition to personal items, holders of Temporary visas issued for a stay of up to 90 days (180 days with an extension) may bring merchandise samples and/or equipment through Brazilian customs upon presentation of a declaration (“Termo de Responsabilidade”) signed by the foreigner, listing the merchandise or equipment necessary for performance of their duty and declaring that such merchandise/equipment will be taken out of Brazil upon departure. Though not required in all situations, it is advisable to have this letter notarized by the Brazilian Consulate having jurisdiction over the foreigner.⁷⁰

Temporary and permanent visas—longer than six months

Holders of Temporary visas issued for visits longer than six months and those holding permanent visas are allowed to bring in household effects, including furniture and professional equipment, for the period of their assignment in Brazil. The goods should be of a nature and amount relative to the intended stay. Household effects brought into the country, with the exception of automobiles, will be tax-exempt, including household items and furniture, machines and other professional instruments.

According to Regulation n° 117/98⁷¹ of the Secretariat of the Federal Internal Revenue Service, the responsibility for processing the list of household goods has rested with Brazilian Customs. Upon entering Brazil, the foreigner should present an itemized list of goods that must specify the quantity, description and value of each item, and, in the case of electronic equipment, the brand, model and serial number. Avoiding ambiguity when describing the items is recommended. The document should be in duplicate and should be authenticated and notarized by the Brazilian Consulate prior to arrival. Translation into Portuguese by a Public Translator is recommended and may be required.

Household goods must arrive in Brazil between three months before and six months after the arrival of the foreigner, and must come directly from the foreigner’s country of origin. In order to ensure compliance with customs regulations that are country-specific, it is suggested that the applicant contact the Brazilian Consulate with jurisdiction.

⁷⁰ Requirements may vary, thus consultation with the nearest Brazilian Consulate is recommended.

⁷¹ Normative Instruction SRF n° 117/98, as amended (*Instrução Normativa SRF n° 117, de 6 de outubro de 1998*).

According to the Regulation 117/98, the following are not included in the concept of household goods and therefore cannot be brought to Brazil: cars, motorbikes, airplanes, motor-boats and any other goods in quantity that may configure an intention to commercialize such items in Brazil.

Plants and pets

Plants and pets may enter Brazil upon presentation of the appropriate documents, duly authenticated by the Brazilian Consulate. For plants, the foreigner must present a phytosanitary certificate issued by the competent local authority. In the case of pets, the foreigner must present a sanitary certificate issued by a veterinarian and duly stamped by the appropriate health authority (check local requirements), dated one week prior to the pets' departure, and a letter certifying updated rabies vaccination.

Brazilian Consulates throughout the world have different rules and requirements concerning pets and plants. Therefore, it is advised that all requirements should be verified, prior to departure, with the Brazilian Consulate having jurisdiction over the foreigner

Vaccinations

Yellow fever vaccination certificates are usually required if the foreigner has traveled to any of the following countries within the last 90 days: Angola, Bolivia, Benin, Cameroon, Colombia, Ecuador, Gabon, Ghana, Gambia, Republic of Guinea, Liberia, Nigeria, Peru, Sierra Leone, Sudan or Zaire.

Yellow fever vaccinations are advisable if the foreigner's destination in Brazil includes any of the following states: Acre, Amapá, Amazonas, Goiás, Maranhão, Mato Grosso, Mato Grosso do Sul, Pará, Rondônia, Roraima, Tocantins and the Federal District (Brasília).

Authentication and Translation of Documents

Documents originating from foreign countries, such as company letters and the like, must be authenticated by the Brazilian Consulate to be valid in Brazil. Except in the case of official documents and diplomas bearing official seals or stamps, authentication requires notarization by a Notary Public registered pursuant to the

requirements of the Consulate General. Documents bearing official seals or original stamps do not require notarization, but should be presented to the Consulate to determine whether authentication is necessary. If not an original, the copy must be authenticated by a Notary Public, unless the original is submitted along with the copy to prove authenticity.

Documents that are not written in Portuguese should be translated in Brazil by a registered legal translator, after the legalization of the document by the Consulate.

Naturalization

Naturalization is allowed under Brazilian law in three situations:

- I. Foreigner from a Portuguese-speaking country, after having resided in Brazil for at least one year; or
- II. Foreigner of any other nationality, after having resided in Brazil for more than 15 years uninterrupted and without criminal conviction;⁷² or
- III. Four years of continuous residence prior to application, registered as a permanent resident with the proper authorities and the following: the ability to read and write Portuguese, practice of an established profession or ability to provide familial support and clean criminal record both within and outside of Brazil.⁷³

The four year residency requirement may be reduced if the foreigner applying for naturalization fulfills certain qualifications, such as marrying a Brazilian citizen, giving birth to a Brazilian child among other qualifications that may reduce the four-year requirement.

The application for naturalization is submitted to the Ministry of Justice, which is responsible for the analysis of the request and for issuing a decision.

⁷² Federal Constitution of Brazil of 1988, art. 12, II.

⁷³ Law n° 6,815/80.

VIII. Rights and Duties of the Foreigner

Title X of Law n° 6,815 sets forth all rights and duties afforded to the foreigner entering and/or residing in Brazil, including, but not limited to the following:

- The foreigner residing in Brazil enjoys all of the same rights realized by Brazilians pursuant to the Constitution and the laws.
- If demanded by any authority, or its agent, the foreigner is required to provide documentation supporting his legal presence in the national territory.
- Foreigners who enter pursuant to tourist, transitory or temporary visa for student (VITEM IV), as well as the dependents of any person entering under a temporary visa, are prohibited from undertaking activities for payment.
- Foreigners entering pursuant to a temporary visa—work contract or technical assistance agreement (VITEM V) are allowed temporary admission into entities which regulate professional behavior
- The foreigner admitted with a temporary visa pursuant to a work contract or to a technical assistance agreement may only perform that activity in benefit of the Brazilian company that obtained his/her work permit, unless by express authority of the Ministry of Justice, upon consultation with the Ministry of Labor and Employment. The same rule applies to foreigners holding permanent visas based on work permits at least until the renewal of their foreigner's identity card.
- Registered foreigners are obligated to inform the Ministry of Justice of any change in their domicile or residence, within 30 (thirty) days immediately following the change.
- The foreigner is prohibited from:
 - owning news publications of any kind, television stations or any radio broadcasting company; the foreigner may not participate as an associate or stockholder in any of the holding companies of these corporations;
 - taking responsibility or directing any activity, intellectual or administrative, in the above-mentioned companies; and

- The foreigner admitted into Brazilian territory may not engage in activities of a political nature, nor interfere, directly or indirectly, in the public business in Brazil. Particularly prohibited are the following:
 - organization, creation or maintenance of companies or any entity of a public character
- It is lawful for foreigners to associate themselves with cultural, religious, recreational, charitable or relief organizations, affiliate with social or sports clubs or any such entity with like goals, as well as participate in commemorative meetings for national dates or occurrences with patriotic significance. If foreigners comprise over half of the membership of such organizations, they may only function with the authorization of the Ministry of Justice, and must duly request such authorization before the Federal Justice Department acting on behalf of the Ministry of Justice.

IX. Overview of Brazilian Labor Law

The rights and duties of the employers and employees are set forth in the *Consolidação das Leis do Trabalho* – CLT (the Labor Code) and in the collective agreements formed between the employers and the labor unions. Certain classes of employees, such as civil servants and employees of autonomous government agencies, are excluded from the scope of the CLT and are subject to special regulations.

Formal written agreements are not required under Brazilian law and the law sets forth rights inherent in the employment relationship without the need of a written contract. Generally, an employee is contracted for an undetermined period of time, and contracts that set forth determined periods of time are exceptions, and thus different regulations apply.

Employment agreements for undetermined periods of time may be terminated by either party upon notice to the other party. The employer is required to give the employee a 30-day prior notice; failure to do so will entitle the employee to receive the unpaid wages for this period. The same criterion is valid for the inverse circumstance. As an exception, an employee can be hired for a probationary period of ninety days provided that such term is agreed to in writing. At the end of that period, the employment agreement becomes an agreement for undetermined term if, for any reason, the employee continues rendering services to the employer.

Employment agreements for determined period of time (which is the case of some of the VITEM V visas discussed in this manual) are allowed only for a maximum term of two years (with a possibility of one extension for an equal period). Under this type of agreement, no indemnification is payable to the employee upon expiration of the term. However, if the agreement is terminated (without “good cause”) by the employer before the end of the term, s/he will be entitled to an indemnification of, among other things, half the salary due for the remaining portion of the contract. If the contract is terminated by the employee, s/he must also indemnify the employer for any loss resulting from the breach of contract.

In addition to receiving a salary, an employee is entitled to the following: FGTS⁷⁴ deposits; an annual 30-day paid vacation after each 12 month period of work, coupled with a vacation bonus in an amount equal to one-third of the regular monthly remuneration; a Christmas bonus (the “thirteenth salary”) of one full additional monthly remuneration at the end of the year; a normal work day not exceeding 8 hours daily and 44 hours weekly (some exceptions apply), with reductions allowed through collective bargaining or agreement; overtime work pay of at least fifty percent (50%) above the normal rate; and prior notice dismissal of at least 30 days. Other rights established by the collective bargaining agreement also apply.

Brazilian law sets forth the ‘Good Cause’ reasons for termination, which include dishonesty, violation of trade secrets and acts of violence, among others. Please note that in Brazil it is extremely difficult to terminate an employee with good cause based on weak performance. Any other dismissal outside the regulation is considered unfair dismissal, and shall entitle the employee to outstanding salary for the days worked during the month, pro rata 13th salary and vacation, fifty percent over the FGTS balance, among others.

The principal function of a union in Brazil is to represent the general interests of its members as a group or individually, through collective bargaining or agreements. Once an agreement has been signed by the union representative and the employers, the company is obligated to adhere to the terms of the agreement.

74 Under the FGTS system, the employer makes monthly deposits (in addition to the monthly compensation), equivalent to 8% of the employee’s monthly remuneration, in a blocked bank account opened in the name and on behalf of the employee. The FGTS account is part of a specific fund managed by a Brazilian government agency.

Embassy and Consulate Information

We recommend checking the appropriate website for any additional information that may be necessary for presentation when applying for a visa. Also available on these sites is information about Brazil that may be of interest in preparation for any journey to this country.

In addition, information may be obtained by e-mailing the embassy or consulate. For this reason, we have also included, a list of the available e-mail addresses for the embassy or consulate.

Consulates

Asuncion

Calle Gral Diaz C/14 De Mayo N° 521
Edificio Faro Internacional 3° Piso
Asuncion - Paraguay
Tel.: (59521) 448-069 / 084
Tel.: (59521) 444-088
Fax: (59521) 441-719

Atlanta

3500 Lenox Road, Suite 800, Atlanta,
Georgia, 30326, USA

Barcelona

Avenida Diagonal 468, 2°. 08006 -
Barcelona - Spain
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Des Rues 44 Et 45, Secteur 5 (Kalaa) Boite
Postal 55447 Sin El-Fil, Lebanon
Tel.: (9611) 49-0401 / 02 / 03
Fax: (9611) 49-0405
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Boston

20 Park Plaza Suite 1420, Boston MA
02116 - USA
Tel.: (1617) 542-4000

Buenos Aires

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C1011AAA Ciudad De Buenos Aires
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Tel.: (5411) 4515-6500/01
Fax: (5411) 4508-6520
E-mail: diversos@conbras

Cape Town

Triangle House, 2Nd. Floor, 22 Riebeeck
Street 8001 - Cape Town - South Africa
Tel.: (2721) 421-4040/41/42/46
Fax: (2721) 421-1216
E-mail: consbrascpt@mwebbiz.co.za
Home Page:
www.brazilianconsulate.org.za

Cayenne

Consulat General Du Brésil 444,
Chemin Saint AntoineBp 79397337
Cayenne Cedex French Guiana
Tel.: (594) 594-296010

Chicago

401, North Michigan Avenue Suite 1850
Chicago, Illinois - 60611 - USA
Tel.: (312) 464-0244
Fax: (312) 464-0299
E-mail: central@brazilconsulatech

Ciudad del Este

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711/730 Beverly Hills, California
90211-3216 - USA
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Madrid - Spain
Tel.: (34) 91 702 1220

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Calle Peru, 7895500 - Mendoza
Argentina
Tel.: (54 261) 423 0939
Fax.: (54 261) 423 1422
E-mail: consbrasmendoza@mre.gov.br

Miami

80 SW 8th Street, Suíte 2600 Miami,
FL - 33130 - USA
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Corso Europa 12- 1° E 5° Andares
20122 Milan - Italy
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Tel.: (3902) 777 1071

Montevideo

Calle Convencion Nr 1343 - 6 Piso
Edificio "La Torre" Montevideo -
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908-1713 E 900-6282
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Fax: Geral: 9122 228 34468

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Germany
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Fax: (4989) 29160768
E-mail:
101465.3454@compuserve.com
Home Page:
www.consulado-geral-do-brasil.de

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Tel.: (81 52) 222
1077/1078/1107/1108
Fax.: (81 52) 222 1079
E-mail:
consulado@consuladonagoya.org
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Consulate General Of Brazil 1185,
Avenue Of The Americas, 21st Floor
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Fax: (1212) 827 0225
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Fax: (331) 43 59 03 26
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