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Massachusetts Office of International Trade & Investment

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# **Doing Business in Brazil**

## **A Guide for Massachusetts Companies**

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The Massachusetts South America Office has prepared this report based on primary and secondary sources of information. Readers should take note that the Massachusetts South America Office does not guarantee the accuracy of any of the information contained in this report, nor does it necessarily endorse the organizations listed herein. Readers should independently verify the accuracy and reliability of the information.

# **Doing Business in Brazil: A Guide for Massachusetts Companies**

## **Market Overview**

With a gross domestic product (GDP) of over US\$1.0 trillion, Brazil represents roughly half of the South American territory and economy. The country is rich in agricultural, mineral, and industrial resources and offers substantial market opportunities for US exporters in a diverse array of sectors that support Brazil's drive to industrialize further, court energy and transportation investment, and cultivate export-led growth.

The US continues to be Brazil's single largest trading partner. From January – December 2006, US exports to Brazil were US\$19.23 billion, US\$3.856 billion more than 2005, and Brazilian exports to the US were US\$26.39 billion, US\$1.953 billion more than in the same period in 2005. Brazil's GDP grew at just under 3.0% in 2006 and is estimated be 5% in 2007.

## **Market Opportunities**

Most industrial economic activity, which includes automobiles, steel, petrochemicals, computers and steel, is focused around the southeastern states of Rio de Janeiro, Minas Gerais, and São Paulo. Brazil's agricultural sector is well diversified and the country is a world leader in producing sugarcane, coffee, soybeans, and orange juice.

Brazil has a diversified industrial sector as well, with many opportunities for both large and small U.S. businesses. Though the government is a large part of the Brazilian economy, it is often difficult for U.S. businesses to take advantage of public sector opportunities. It is extremely difficult for U.S. companies to get involved in government procurement without a local Brazilian partner.

There are a number of promising areas for U.S. exports and investment that U.S. Commercial Service Brazil has identified, including: Agricultural Equipment; Agriculture; Aircraft and Parts; Airports; Computer Software; E-Commerce; Highways; Insurance; Iron and Steel; IT Hardware; Medical Equipment; Mining; Oil and Gas; Pharmaceuticals; Pollution Equipment; Ports; Railroads; Safety & Equipment; Telecommunications & Tourism.

## **Market Challenges**

Brazil's population – at 188 million making it the world's 5th most populous country – continues to face a number of challenges. The country continues to experience high unemployment in major urban centers. Crime, drug abuse, epidemics, poor public education, and environmental degradation are major problems that are exacerbated by one of the most unequal distributions of wealth in the world.

Beyond the need for greater economic development, Brazil faces the challenges of prevalent black and gray markets. These markets form the basis of Brazil's large informal economy, hindering tax collection and promoting piracy in technology, consumer goods and other products.

Despite partial liberalization in recent years, the complexities of Brazil's business environment still create substantial obstacles for US exporters. Doing business in Brazil requires intimate knowledge of the local environment, including the explicit as well as hidden costs of doing business (referred to as "Custo Brasil"). U.S. companies face tariff barriers, a difficult customs system, a heavy and unpredictable tax burden, and a legal system that is overloaded and often incapable of enforcing

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business law or intellectual property rights effectively. Nevertheless, many companies find that the opportunities outweigh the risks.

Still, there is reason for optimism about Brazil and its future. Even as the Brazilian Real heavily appreciated against the U.S. Dollar, the country's exports continued to grow. Additionally, the government has been able to hold inflation at bay through high federal discount rates. The discount rate has been lowered to 11.5% from near 20%, and while it has been blamed by some for dampening consumer demand, memories of hyper-inflation have blunted policy makers from lowering it too quickly. Some also worry that the country's export-led growth strategy could overexpose the country to the ups and downs of the global market. The country's current account was positive in 2006, as in 2004-2005, and is expected to be so in 2007.

### **U.S. and Brazil – Common Commercial Goals**

Overall relations between Brazil and the US are good. President Luiz Inacio Lula da Silva, of the left-leaning Workers' Party (PT), has pursued orthodox macroeconomic policies since taking office in January 2003. His administration has focused on tax and social security reforms and the fight against hunger and poverty. In 2005, however, legislative progress on Lula's micro-reform agenda stalled. In the long run, sustained GDP growth is the best antidote to Brazil's poverty and inequality. Many US companies have invested heavily in Brazil and continue to view it as an attractive export market.

In June 2006, the U.S. Commerce Department and Brazil's Ministry for Industry, Development and Commerce launched the "U.S. – Brazil Commercial Dialogue" to facilitate trading relations between the two countries. Key activities under the umbrella of this dialogue include customs facilitation, IPR protection and export promotion.

### **Market Entry Strategy and Assistance**

One of the best ways to enter the Brazilian market is by attending a trade show. The Massachusetts Office in Brazil frequents trade shows related to Massachusetts industry Clusters held in São Paulo, and can provide counseling assistance or organize meetings with potential buyers during these events for Massachusetts companies. More information on upcoming events can be found at [www.massbrazil.com.br](http://www.massbrazil.com.br).

Some of the other key ways that MA businesses enter Brazil are through agents, distributors and joint ventures. Some firms even establish an office in Brazil. Further discussion of these alternatives can be found in the "Marketing Products & Services" chapter. With each of these options, and because Brazil's business culture is one largely based on personal relationships, it is often best for a MA company to visit Brazil to meet one-on-one with a potential partner. At the very least, a Massachusetts business should receive credit information on a potential partner from a well-respected source.

With offices in São Paulo the Massachusetts South America Office ([www.massbrazil.com.br](http://www.massbrazil.com.br)) helps MA exporters enter the Brazilian market through research, matchmaking and advocacy. To the best of our knowledge, the information in this report is accurate. However, readers should conduct their own due diligence before entering into business ventures.

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### **Selling U.S. Products and Services**

#### **Agents/Distributors critical for most companies**

Although some companies import directly from foreign manufacturers without local representation, in most cases the presence of a local agent or distributor can be very helpful. As in other countries, the selection of an agent requires careful consideration. In general, larger companies will have a wider net of sales offices and smaller agents will be geographically limited. Because of regional economic disparities, poor infrastructure and a host of other issues, it is often difficult to find one distributor that had complete national coverage.

Lawyers recommend that exporters and representatives have a written agreement to help exporters limit liability in case of product defects, protect a trademark, better ensure payments and define a warranty.

It is up to the foreign firm and the local partner to negotiate the representative agreement, including whether it is or is not exclusive and does or does not include specific performance targets. Contract clauses are freely negotiated between the foreign and local firms. However, we strongly suggests that MA companies consult a Brazilian law firm before signing any agreement, so to avoid future legal problems. Under Brazilian law, an agency agreement entitles an agent to receive a termination amount equivalent to at least 1/12 of all commissions received throughout the contract.

#### **Establishing an Office in Brazil**

Either setting up a company in Brazil or acquiring an existing entity is an investment option for Brazil. Setting up new companies is relatively complex, although the Ministry of Development has signaled a desire to simplify the process. Acquisitions of existing companies are monitored by the Central Bank. Corporations (“sociedades anonimas”) and limited liabilities (“limitadas”) are relatively easy to form. Local law requires that foreign capital be registered with the Central Bank - failure to do so may cause serious foreign exchange, capital repatriation, or profit remittance problems. More information for potential investors can be found on the “Investment Climate” report of the USCS ([www.focusbrazil.org.br/ccg](http://www.focusbrazil.org.br/ccg)), or through Brazil’s Ministry of Foreign Affairs, Trade Promotion Department ([www.braziltradenet.gov.br](http://www.braziltradenet.gov.br)).

#### **Franchising**

Franchising accounts for approximately 25% of gross revenue in the retail sector. Local Brazilian Franchises dominate the market (90%); however, foreign groups, particularly from the US, are making their way into the market.

To take advantage of this huge market, U.S. franchisers should adapt their product or service, invest in market research, and test market receptivity through pilots. Franchise consultants call this process “the tropicalization” of the franchise.

The Franchising Law requires close attention. It states that franchisers or their master-franchisees should provide all potential franchisees with a Franchise Offering Circular (Circular de Oferta de Franquia). This must contain basic information about the financial health of the franchiser, as well as information on any pending legal disputes.

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A full discussion of the Franchising sector can be found in the "Best Prospects" section of this Guide ([www.focusbrazil.org.br/ccg](http://www.focusbrazil.org.br/ccg)).

### **Direct Marketing & E-Commerce – Growing Fast**

Brazil is a large country with an untapped interior that is perfect for direct marketing. E-commerce is on the rise and provides many additional marketing and business opportunities. Because of its excellent postal service, direct marketing is a proven way to reach 35 million middle-class Brazilian consumers. On average, Brazilians only receive 10 percent as much direct mail as US citizens each year.

Although Brazil differs from the US in regards to telemarketing, postal rates, regulations, fulfillment, printing and mailing services, US catalog, e-commerce and teleservice firms have been successful.

Brazil is Latin America's most advanced Internet and e-commerce market. Today, over 20 million Brazilians are on-line regularly, often using broadband.

US exporters may sell directly to Brazilian consumers or distributors. However, different Brazilian customs rules apply to these types of transactions. As far as shipments to distributors or Brazilian trading companies, US exporters can only sell to Brazilian companies that are registered with the Secretariat of Foreign Trade (SECEX) of the Ministry of Development, Industry and Commerce. SECEX plays a central role in the implementation of directives on trade issues in general. With respect to sales to end users or consumers, US exporters may ship goods directly.

### **JVs and licensing: Essential to some sales**

Joint ventures are very common in Brazil, particularly as a way for foreign firms to compete for government contracts or in heavily regulated sectors, such as telecom and energy. Usually joint ventures are established through "sociedades anônimas" or "limitadas," which are similar to corporations and limited partnerships in the US. Licensing agreements are also common in Brazil. Use of a competent local attorney in structuring such an arrangement is advised. All licensing and technical assistance agreements, including trademark licenses, must be registered with the Brazilian Industrial Property Institute (INPI, [www.inpi.gov.br/](http://www.inpi.gov.br/)).

### **Selling Factors and Techniques**

Price, quality and payment terms are extremely important sales factors. Generally, US goods are perceived as high quality, though the market's opening in the early 1990s brought greater foreign and domestic competition. To be competitive, U.S. companies should adapt their products to local technical requirements and culture. In many cases, products manufactured at U.S. standards are not acceptable, while the country's size creates numerous cultural differences. Competing with an ever-increasing amount of Chinese imports can be difficult because of their lower price – thus, again, emphasizing the quality of the product is key for U.S. companies.

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### **Advertising and Trade Promotion**

With its well-established and diversified industrial sector, Brazil has a variety of specialized publications that can provide excellent advertising outlets. TV advertising can also be important, particularly for consumer goods and food products.

Most of the world's top agencies are present in Brazil, and though top advertisers vary from year to year, often included are Unilever, VW, Fiat, Ford, and GM. The top ad categories per investment are trade & commerce, consumer services, culture, leisure, sports & tourism, media, and public & social services.

The most popular magazine in Brazil, with a circulation of over one million copies, is the weekly *Veja*, published by the Abril Publishing Company ([www.uol.com.br/veja](http://www.uol.com.br/veja)). The largest daily circulation newspaper is *Folha de São Paulo*, published by the Folha Group, with a circulation of 400,000 on Sundays and 300,000 from Monday through Saturday ([www.folha.com.br](http://www.folha.com.br)).

Participating in trade fairs is another important marketing tool. The city of São Paulo hosts around 300 trade fairs per year, and other cities host significant shows as well, e.g. Oil and Gas (Rio de Janeiro) and Mining (Belo Horizonte). These events attract many visitors and exhibitors from Brazil and foreign countries. The Massachusetts South America Office can help you attend and arrange meetings with potential agents, distributors, lawyers, and customers.

### **Product Pricing – a Challenge for Sales in Brazil**

Payment terms are extremely important in Brazil because of the country's high interest rates – it is not unusual for a company to select a supplier whose prices are higher but who offers better terms.

In Brazil, all import-related costs are generally high because of taxes – thus some U.S. companies implement efficient logistic systems and lower expected profit margins. In some cases costs are so high that a simple calculation may indicate that margins will not allow you to compete with a local product. For more information on calculating the landed costs for exports to Brazil, please refer to the report of the USCS in Brazil on Trade Regulations and Customs at: [www.focusbrazil.org.br/ccg](http://www.focusbrazil.org.br/ccg).

### **After-Sales Service and Customer Support**

The “Consumer Protection Law” of 1992 requires customer support and after-sales servicing. In the case of imported products, the importer or the distributor is responsible for such services. Thus, US manufacturers should appoint agents or distributors that are qualified to provide such services.

### **Government Sales: Possible, but Challenging**

Winning contracts with the Brazilian Government is challenging, even for large US companies. Without a significant in-country presence and the patience and financial resources to respond to legal challenges, charges of corruption, and bureaucratic delays, exporters should proceed cautiously. Still, the Brazilian Government is expected to spend a significant amount in a variety of areas, and US companies may find success by subcontracting with larger Brazilian firms that can navigate the procurement maze.

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### **Government Procurement – Theory vs. Reality**

Brazilian Government procurement policies apply to purchases by government entities and parastatal companies. Government procurement regulations contained in Law 8666 of August 1993 established an open competitive process for major government procurement. Under this law, price is to be the determining factor in selecting suppliers. Law 8666 establishes general norms for tenders and administrative contracts (for goods and services) to be followed at the Federal, State, and Municipal level, by entities directly and indirectly administered by the Federal Government, special funds, public enterprises, and public-private companies.

In theory, the Brazilian Government may not make a distinction between domestic and foreign-owned companies. However, in the case of a tie in the tendering process, preference is given to goods produced or services supplied by Brazilian firms of national capital or domestically produced in Brazil.

Most government procurement processes are open to international competition, either through direct bidding, consortia or imports. However many of the larger bids (e.g. military purchases) become very political and are done through sole sourcing or national security arrangements that exclude competition. This kind of purchasing often requires an act of Congress, which can be difficult and time consuming.

Brazil is **not** a signatory of the WTO multilateral Agreement on Government Procurement (GPA), and as such does not necessarily use the same procedures as other signatories. International bidding is required for all procurement with international development bank funding, i.e. the Inter-American Development Bank, the World Bank, etc. The Brazilian executing agencies of IDB loans require international bidding above specific ceilings, according to IDB procurement guidelines. For example, consultant contracts require international bidding above US\$200,000 and civil works above US\$5 million. However, portions of major projects financed by IDB may not require bidding where local Brazilian counterpart funding is involved.

Government procurement of telecommunications and informatics equipment is exempt from the above requirements. Special requirements were established in 1993 and 1994 allowing locally manufactured telecommunications and informatics products to receive preferential treatment in government procurement, and to be eligible for tax and other fiscal benefits based on local content and other requirements.

These exceptions to WTO norms are significant. The Brazilian Federal Accounting Court noted that 51% of the Government's procurement in 2003 was done without a formal competitive bidding process. Often the Brazilian Government cites emergencies in procurement actions that would make the open bidding process time-prohibitive.

### **Government Bidding: Obtain a Local Partner**

It is often difficult for foreign companies to operate in Brazil's public sector unless they are associated with a local firm. To be considered Brazilian, a firm must have a majority of Brazilian capital participation and decision-making authority, or operational control. A Brazilian State enterprise is permitted to subcontract services to a foreign firm if domestic expertise is unavailable,

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but a foreign firm may only bid to provide technical services when there are no qualified Brazilian firms.

In the case of international bids to supply goods and services or specific government projects, successful bidders are required to have local representation -- i.e., legal presence in Brazil. Since the open period for bidding is often as short as one month, it is advisable to have a resident partner in Brazil.

The inclusion of local purchases of Brazilian goods and services, or significant subcontract association with a Brazilian firm, may improve a bid's chance for success. Similarly, a financing proposal that includes credit for the purchase of local goods and services for the project will be more attractive.

Advanced descriptions of US suppliers' capabilities can prove influential in winning a contract, even when they are provided before the exact terms of an investment plan are defined or the project's specifications are completed. Such a proposal should include financing, engineering, and equipment presentations.

The success of e-government has prompted Brazil's Government to change Law 8666 and pilot a more efficient system using electronic purchase contracts, with the goal of making small companies more competitive. The pilot program currently only covers a few categories.

### **Distribution and Sales Channels**

All of the customary import channels exist in Brazil: agents, distributors, import houses, trading companies, subsidiaries and branches of foreign firms, among others. Brazilian importers generally do not maintain inventory of capital equipment, spare parts, or raw materials, partly because of high import and storage costs. Recently, because of the creation of additional bonded warehouses, industries that rely heavily on imported components and parts are maintaining larger inventories in these warehouses.

### **Obtaining a Local Attorney**

Local legal assistance is extremely important when trying to understand the legal aspects of entering, consolidating or expanding in Brazil. Without appropriate legal assistance, U.S. businesses could be subject to several liabilities - from denial to operate in Brazil to obstacles with a Brazilian partner.

Local lawyers can also help minimize tax burdens by taking advantage of local, state or federal tax incentives. Lawyers can also explain negotiation, real estate, labor, intellectual property, and antitrust laws, all of which can be complicated.

### **Due Diligence: Checking Banks, Agents, Customers**

Because laws regulating commercial agreements and transactions vary from country to country, we strongly encourage all US companies conduct legal and financial due diligence before completing a commercial transaction or formalizing any agreement. In Brazil, the MA Brazil Office can provide MA companies with lists of well-known and respected credit rating companies and law firms who can conduct credit checks on potential customers or provide important legal advice.

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### Trade Regulations and Standards

#### Trade Barriers Continue to be Significant

Although Brazil has made substantial progress in reducing traditional border trade barriers (tariffs, import licensing, etc.), tariff rates in many areas remain high and continue to favor locally produced products.

This report touches upon a broad range of trade regulations that may affect US companies seeking to export to Brazil. The US signed a trade and investment framework agreement with Mercosul in 1991 and will continue to encourage the reduction of barriers to trade and investment, including tariffs and the creation of a customs union that is open and consistent with the WTO, specifically GATT Article XXIV.

#### Tariffs, Non-Tariff Barriers, and Import Taxes

Tariffs, in general, are the primary instrument in Brazil for regulating imports. All tariffs are ad valorem, with rates between 0-35%, levied on the Cost Insurance Freight (CIF) value of the import, with the exception of some telecommunication goods. According to the Heritage Foundation's Economic Freedom Index, Brazil's average tariff was 7.6% in 2004.

The average tariff in 1990, by contrast, was 32%. Brazil also maintains a higher average tariff on processed items than on semi-processed goods and raw materials. The United States continues to encourage tariff reductions on products of interest to US firms.

Brazil and its Southern Common Market (Mercosul) partners, Argentina, Paraguay and Uruguay, implemented the Mercosul Common External Tariff (CET) on January 1, 1995. In November 1997, after consulting with its Mercosul partners, Brazil implemented an across-the-board three-percentage point increase on all tariffs (inside and outside the CET), raising the ceiling from 20 to 23%. The surcharge is being gradually phased out, but given uncertainties over Argentina's economic recovery, its elimination may be delayed. Other Mercosul members have also unilaterally adjusted their tariffs in response to economic crises, and given these developments, the CET is currently full of exceptions.

#### SISCOMEX – Computerized, but additional requirements

In January 1997, the Secretariat of Foreign Trade (SECEX) implemented a computerized trade documentation system (SISCOMEX) to handle import licensing, and a wide variety of products were subject to non automatic licensing. There are fees assessed per import statement submitted through SISCOMEX, and importers must comply with onerous registration guidelines, including a minimum capital requirement, to register with SECEX (the Foreign Trade Secretariat). Complete information on requirements for importing into Brazil is available only through SISCOMEX, which is only available to registered importers.

Beginning in October 1998, Brazil issued a series of administrative measures that required additional sanitary/phytosanitary (SPS), quality and safety approvals from various government entities for products subject to non automatic licenses.

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To fight increasing under-invoicing, Brazil issued a series of measures that required additional approvals for products subject to non-automatic licensing, and broadened the list of such products. While the Government is now in the process of phasing these out and moving most products to the automatic license category, these requirements still present a barrier.

Under Brazil's new Customs Valuation regulations, Customs will focus its efforts on under-invoicing, and is authorized to hold up imports until the goods are valued.

### **WTO compliance?**

A primary concern has been the use of minimum reference prices both as a requirement to obtain import licenses and/or as a base requirement for import. It appears that the Government of Brazil has required some products to meet minimum prices for the issuance of import licenses in order to receive normal customs processing. This requirement raises questions about whether Brazil's regime is consistent with its obligations under the WTO.

In November 1999, the US actively participated as an interested third party in European WTO consultations on the issue, and in July 2000 the US held its own WTO consultations with Brazil. The Brazilian Government reportedly has modified its customs regime somewhat, but it has not codified these changes in a public document. Senior Brazilian officials have stated to US Embassy officers since late 1999 that such requirements currently do not exist.

In addition, product registrations from the Ministry of Health are required for imported processed food products and food supplement products effective March 1, 2000, with a reduced term of validity for registrations. Registration fees for these imports, as well as for medical and pharmaceutical products, also increased significantly over the course of 1999. The US Government also has received complaints relating to Brazil's "law of similars," including that it leads to non transparent preferences for Brazilian products in procurement bids for government and non profit hospitals and prejudices against the import of refurbished medical equipment when domestically produced "similars" exist. Implementation of such import measures continues to be poorly coordinated and not well publicized, magnifying the negative impact on US exports.

### **Taxes and Fees on Imports**

Imports are subject to a number of taxes and fees in Brazil, which are usually paid during the customs clearance process. There are three taxes that account for the bulk of importing costs: the Import Duty (II), the Industrialized Product tax (IPI), and the Merchandise and Service Circulation tax (ICMS). In addition to these taxes, several smaller taxes and fees apply to imports; these costs are shown in the table. Note that most taxes are calculated on a cumulative basis.

#### Import Duty (II)

The Import duty is a federally mandated product specific tax. After the creation of the Mercosul customs union, the four member countries -- i.e., Argentina, Brazil, Paraguay and Uruguay -- adopted a single import tariff structure known as the "common external tariff" (known in Brazil as the "TEC"). While after the adoption of the TEC, Brazilian import tariff rates were reduced, they are still high in comparison to US import tariff rates. In most cases, Brazilian import duty rates range from 10 - 20 %.

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### Industrialized Product Tax (IPI)

The IPI is a federal tax levied on most domestic and imported manufactured products. It is assessed at the point of sale by the manufacturer or processor in the case of domestically produced goods, and at the point of customs clearance in the case of imports. The IPI tax is not considered a cost for the importer, since the value is credited to the importer. Specifically, when the product is sold to the end user, the importer debits the IPI cost.

The Government of Brazil levies the IPI rate by determining how essential the product may be for the Brazilian end-user. Generally, the IPI tax rate ranges from 0 to 15 %. In the case of imports, the tax is charged on the product's CIF value plus import duty. Often one can note that usually a relatively low import tariff rate carries a lower IPI rate. Conversely, a relatively high import tariff rate carries a correspondingly higher IPI rate. As with value-added taxes in Europe, IPI taxes on products that pass through several stages of processing can be adjusted to compensate for IPI taxes paid at each stage. Brazilian exports are exempt from the IPI tax.

### Merchandise and Service Circulation Tax (ICMS)

The ICMS is a state government value-added tax applicable to both imports and domestic products. The ICMS tax on imports is assessed ad valorem on the CIF value, plus import duty, plus IPI. Although importers have to pay the ICMS to clear the imported product through Customs, it is not necessarily a cost item for the importer, because the paid value represents a credit to the importer. When the product is sold to the end-user, the importer debits the ICMS, which is included in the final price of the product and is paid by the end-user.

Effectively, the tax is paid only on the value-added, since the cost of the tax is generally passed on to the buyer in the price charged for the merchandise. The ICMS tax due to the state government is based on taxes collected on sales by a company, minus the taxes paid in purchasing raw materials and intermediate goods. The ICMS tax is levied on both intrastate and interstate transactions and is assessed on every transfer or movement of merchandise. The rate varies among states: in the State of São Paulo, the rate is 18 percent. On interstate movements, the tax will be assessed at the rate applicable in the state of destination. Some sectors of the economy, such as construction services, mining, electrical energy, liquid and gaseous fuels are exempt from the ICMS tax. Most Brazilian exports are exempt.

### **Customs Regulations – Still Burdensome**

In 1997 the Brazilian Government established a computerized information system to monitor imports and to facilitate customs clearance known as the Foreign Trade Integrated System (SISCOMEX). The SISCOMEX has facilitated and reduced the amount of paperwork previously required for importing into Brazil, which, however, can still be burdensome. Brazilian importers must be registered in the Foreign Trade Secretariat's (SECEX's) Export and Import Registry and receive a password given by Customs to operate the SISCOMEX. The SISCOMEX has a graphic interface for the composition of electronic import documents and transmits information to a central computer.

Customs Clearance in Brazil can be a time consuming and frustrating process, even compared with other countries in Latin America. Products can get caught up for various reasons, including minor errors or emissions in paperwork.

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Brazilian Customs has seen a number of work slow downs and strikes over the last few years. At times the work disruptions will take place at only specific ports. The U.S. Commercial Service will send notice of any customs strike or slowdown to the U.S. Export Assistance Center network, and incoming clients.

### **Import Licenses**

#### Automatic Licenses

As a general rule, Brazilian imports are subject to the automatic import license process. This procedure requires the Brazilian importer to submit information concerning each import, including a description of the product, the harmonized tariff classification number, quantity, value of the shipment, shipping costs, etc. This information will be used for purposes of preparing the Import Declaration (locally known as the DI). Subsequently, all information is fed into the SISCOMEX.

Certain products and import operations are subject to special requirements, which should also be completed prior to the customs clearance process. For example, food products require additional approval by the Agricultural Ministry. Selected natural and synthetic rubbers require approval by the Environmental Agency (IBAMA). And a variety of product registrations may be required for asbestos, chemicals, pharmaceuticals, perfumes, cosmetics, and medical equipment.

#### Non-Automatic License (LI)

Whenever imports are subject to the Non-Automatic License (LI) regime, the importer must provide information concerning each shipment to Brazilian customs authority either prior to shipment or prior to customs clearance. The required information includes a description of the product as well as the harmonized tariff classification number, quantity, value of the shipment, shipping costs, etc.

Importers must seek clearance prior to shipment if they want to bring in products subject to special controls from SECEX or approvals from other Brazilian government agencies. Such products may include used products, products that enjoy import tariff reductions, and imports that do not involve payment from importer to the exporter.

Examples: samples, donations, temporary admission, psychotherapeutic drugs, products for human or veterinary research, weapons and related products, radioactive products and rare earth metal compounds, crude oil, oil derivatives or other petroleum derivatives, anti-hemophilic serum, medications with plasma and human blood, and products that may be harmful to the environment such as CFC and airplanes.

Importers must seek clearance prior to customs clearance if they want to bring in products imported under the drawback regime or items destined for the free trade zones or the National Council for Scientific and Technological Development.

### **Export Controls**

At this time, the US Government maintains no export controls specific to Brazil. Normal controls are maintained on military equipment, high-tech information systems, and equipment of a highly sensitive nature. Items on the Munitions Control list are also a controlled export to Brazil requiring a special license from the State Department or Commerce Department depending on the item. You can see the current list of export controls at the US Bureau of Industry and Security (BIS) website: [www.bis.doc.gov](http://www.bis.doc.gov).

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### **Temporary Imports – Taxes Reduced**

Since 2000, the Government of Brazil has made an allowance for temporary importation of products that are used for a predetermined time period and then re-exported. The U.S. Commercial Service has seen a number of delays in regards to temporary imports, and continues to work through the “U.S. – Brazil Commercial Dialogue” to counter these problems. Under Brazil’s temporary import program, the II and IPI are used to determine the temporary import tax. Products must be used in the manufacture of other goods and involves payment of rental or lease from the local importer to the international exporter. Examples of products falling under this program would be temporary importation of machine tools. The example above shows that taxes due are proportional to the time frame the imported product will remain in Brazil.

### **Labeling and Marking Requirements**

The Brazilian Customer Protection code, in effect since September 12, 1990, requires that product labeling provide the consumer with correct, clear, precise, and easily readable information about the product’s quality, quantity, composition, price, guarantee, shelf life, origin, and risks to the consumer’s health and safety. Imported products should bear a Portuguese translation of this information. Products should be labeled in metric units or show a metric equivalent. The labeling requirement for genetically modified organism (GMO) must follow the same procedures as mentioned above, although GMO is currently being debated in Brazil.

The US Senate Concurrent Resolution n° 40 adopted July 30, 1953, invited US exporters to inscribe, on external shipping containers in indelible print of a suitable size, “United States of America”. Although such marking is not compulsory under law, US shippers are urged to follow this procedure in publicizing American-made goods.

More information can be found regarding required and recommended labeling and marking in the USCS Brazil’s report on standards.

### **Prohibited Imports**

The Brazilian Government has eliminated most import prohibitions. However, it places special controls on certain imports and does continue to prohibit the importation of others. In general, all used consumer goods are prohibited from being imported. Used capital goods are allowed only when there is no similar item produced locally. There is also specific legislation that prohibits the importation of products that the Brazilian regulatory agencies consider harmful to health, sanity, national security interest, and the environment.

### **Manaus Free Trade Zone**

Imports of used machinery and equipment to the Manaus Free Trade Zone (FTZ) are subject to more liberal treatment than the general Brazil economy. While there are 7 other FTZs established in Brazil, the Manaus installation is the only one of consequence for most US exporters. Originally established in 1967, the Manaus FTZ recently had its protections extended to 2013. The FTZ covers a 3,900 square mile region that includes the city of Manaus on the Amazon River.

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Manaus's FTZ status means that goods of foreign origin may enter without customs duties charges or other Federal, State or local import taxes. In addition, IPI taxes on certain commodities and ICMS taxes on most items are not applied. With very few exceptions, imported products to be used for processing, re-exportation, or transshipment to other parts of Brazil qualify for IPI tax exemptions. If items are shipped to other parts of Brazil, the ICMS still applies, however.

The Superintendent of the Manaus Free Trade Zone (SUFRAMA) is the Manaus FTZ authority. Commercial invoices and bills of lading must have a letterhead mentioning "Free Zone of Manaus" that must be typed on them, and one of the following statements: "Zona Franca de Manaus para Consumo" (Manaus Free Zone for Consumption) or "Zona Franca de Manaus para Reexportação" (Manaus Free Zone for Re-export). As noted in the Import Licensing section of this report, importers must still obtain licenses through SISCOMEX.

Manaus FTZ importers are allowed to supply foreign goods from their stock in Manaus to other parts of the country regardless of quantity. These goods, however, are subjected to all duties assessed under normal importation. On the other hand, there is the advantage that the ICMS is reduced to only 4 percent.

Manaus's very success in using a liberal tax regime to attract industry makes it a political target for other states, particularly in the southeast of Brazil, who feel at a competitive disadvantage. There has been considerable pressure on the Government of Brazil to water down Manaus's tax advantages, and US companies considering investments in this region are following developments carefully.

Detailed information on the Manaus FTZ can be obtained at SUFRAMA's website: [www.suframa.gov.br](http://www.suframa.gov.br).

### **Other Attempts at Fiscal Paradises**

As noted, the seven other FTZs have not succeeded in attracting investments on the scale of Manaus, which was a strategic outpost for 19th century rubber exports from the Amazon. In addition, 19 export processing zones (ZPEs) have been authorized, but are not in operation. Finally, various states have attempted to use creative applications of the ICMS in order to attract investment.

We recommend that US companies exercise caution with ICMS promises. The Government of Brazil has launched legislation that would harmonize the ICMS in order to reduce interstate competition for investment, and it is not clear how states' long-term promises would be treated under a change in federal legislation in this area.

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### **Standards in Brazil**

Brazil's efforts to establish uniform measurements and standards began as early as 1862, when the French decimal metric system became official. With industrial growth during the following century came the necessity to create more efficient measuring instruments for consumer protection. As a result, in 1961 the National Institute of Weights and Measures (INPM) was created.

In 1973, industrial production reached a level that new avenues were opened for manufactured good exports. With a focus on exports, Brazil needed to adopt qualitative and quantitative methods comparable to those in other industrialized countries. Thus, in 1973, the National Institute of Metrology, Standardization and Industrial Quality (INMETRO) was born with the objective to improve the quality of life of all citizens and the competitiveness of all industry through the use of metrology and improved quality.

#### **Organization of Standards Bodies in Brazil**

In 1973, Brazilian Federal law established a National System of Metrology, Standardization and Industrial Quality, SINMETRO, which is comprised of CONMETRO, INMETRO, ABNT, IPEM and accredited labs. INMETRO serves as the executive chair of SINMETRO.

#### **Standards and Technical Regulations**

Under SINMETRO, the development of voluntary standards is the responsibility of the Brazilian Association of Technical Standards (ABNT). ABNT is a private, non-governmental, not-for-profit organization that develops standards across all industries in Brazil. ABNT represents the country in relevant international and regional forums and acts as a certification body. Brazilian standards are developed either through ABNT's own technical committees or through Sectoral Standardization Bodies (ONS), which it accredits. ABNT annually publishes a National Standardization Plan, containing all of the titles it plans to develop throughout the year. It can only be accessed by a member of ABNT or by contacting the corresponding Brazilian Committee (ABNT/CB): [www.abnt.org.br/normal\\_comite.htm](http://www.abnt.org.br/normal_comite.htm). Membership in ABNT and its committees and working groups, which develop standards, is open to ANY company or individual legally registered in Brazil. Proposed voluntary standards that are open for public comments can be accessed through: [www.abnt.org.br/normal\\_consulpub.htm](http://www.abnt.org.br/normal_consulpub.htm).

Voluntary standards can be adopted as mandatory technical regulations by any of the 9 Ministries. Alternatively, these Ministries may develop their own technical regulations. Brazil's technical regulations are available through INMETRO's website. This website also provides access to both proposed and final technical regulations: [www.inmetro.gov.br/rtac/](http://www.inmetro.gov.br/rtac/).

Brazil is a signatory of the Agreement on Technical Barriers to Trade (TBT) of the World Trade Organization (WTO), affirming its obligations relative to standards, technical regulations, and conformity assessment procedures. Under the agreement, INMETRO was established as the national inquiry point for information on standards-related issues. Additional information about technical barriers to trade and a formal system for inquiries is available through INMETRO at [www.inmetro.gov.br/barreirastecnicas/index.asp](http://www.inmetro.gov.br/barreirastecnicas/index.asp).

#### **Standards: First Analog, now Digital TV**

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Brazil is considered a standards developer, and its decisions regarding standards often influence its neighbors' decisions. An example of Brazil's activity regarding standards can be seen in its recent efforts regarding the selection of its digital television (DTV) standard. While a number of countries in the Western Hemisphere are adopting the US standard (ATSC), Brazil studied the various options and considered the outright adoption of one of the three existing DTV standards (U.S., European, Japanese), or, the development of its own Digital TV technical regulation. In June 2006, Brazil announced that the Japanese standard modulation (Integrated Services Digital Broadcasting Terrestrial - ISDB-T) would be the standard for Brazil's Digital TV (SBTVD). Video and audio compression systems are still being evaluated but it has been suggested that SBTVD will adopt MPEG-4. Under the current plan, Brazilian TV stations are to start their SBTVD rollout by December 2007 and the shutdown of Analog TV is expected to take place by 2017.

### **Conformity Assessment**

Conformity assessment includes all activities needed to demonstrate compliance with specified requirements relating to a technical regulation or voluntary standard. In Brazil, the conformity assessment system follows ISO guidelines. Conformity assessment includes test and calibration laboratories, product certification bodies, accreditation bodies, inspection and verification units, quality system registrars, and others. Conformity assessment can be voluntary or mandatory (done through a legal instrument to protect the consumer on issues related to life, health and environment). Interested U.S. parties can be accredited by INMETRO to perform conformity assessment activities.

### **Test and Calibration Laboratories**

INMETRO accredits test and calibration laboratories authorized to operate in Brazil. The following link provides information on Brazil's accredited calibration laboratories: [www.inmetro.gov.br/laboratorios/rbc/](http://www.inmetro.gov.br/laboratorios/rbc/). One can search for accredited test laboratories at the following website: <http://www.inmetro.gov.br/laboratorios/rble/>.

### **Product Certification**

#### Mandatory Testing and Mandatory Product Certification

For regulated products, the relevant government agency generally requires that entities engaged in product testing and mandatory certification be accredited by INMETRO. Generally, testing must be performed in-country, unless the necessary capability does not exist in Brazil.

INMETRO is a signatory to the mutual recognition arrangement (MRA) of the International Laboratory Accreditation Cooperation (ILAC), which can facilitate acceptance of test results from US laboratories that are accredited by US organizations who are also signatories. For a complete list of MRAs to which INMETRO belongs, visit the following website: <http://www.inmetro.gov.br/english/international/mutual.asp>. A complete list of products subject to mandatory certification can be found at: [www.inmetro.gov.br/qualidade/prodCompulsorios.asp](http://www.inmetro.gov.br/qualidade/prodCompulsorios.asp).

#### Non-Mandatory Testing and Product Certification

There is no legal mandate as of yet to retest non-regulated products that have been approved in their country of origin. For non-regulated products, some US marks and product certification may be accepted. As with all voluntary standards, any certification that may be required in non-regulated

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sectors is a contractual matter to be decided between buyer and seller. Market forces and preferences often lead to the need for a specific certification.

To facilitate US product acceptance in Brazil by recognizing existing certifications, agreements between US and local certifiers/testing houses are encouraged. Also, there is no impediment for the establishment of US certification organizations in Brazil.

If your product has been certified in the US or Europe, it probably will not need to be re-certified (see MRA above). If your product is not certified, please refer to the mandatory product certification link.

A list of certified products (both mandatory and voluntary) in Brazil is available at the following website: [www.inmetro.gov.br/prodcert/Produtos/busca.asp](http://www.inmetro.gov.br/prodcert/Produtos/busca.asp)

### **Accreditation and Quality System Registration**

The General Coordination for Accreditation (CGCRE) of INMETRO is responsible for accrediting certification bodies, quality system registrars, inspection bodies, product verification and training bodies, as well as testing and calibration laboratories. Information about accreditation requirements and currently accredited bodies is available at: [www.inmetro.gov.br/credenciamento/index.asp](http://www.inmetro.gov.br/credenciamento/index.asp).

### **Labeling/Marking Requirements**

The Brazilian Customer Protection code, in effect since September 12, 1990, requires that product labels provide consumers with correct, clear, precise, and easily readable information about the product's quality, quantity, composition, price, guarantee, shelf life, origin, and risks to the consumer's health and safety. Imported products should bear a Portuguese translation, and all products should use the official metric units or show a metric equivalent.

The US Senate Concurrent Resolution nº 40 adopted July 30, 1953, invites US exporters to inscribe, on external shipping containers and in indelible print of a suitable size, "United States of America." Although such marking is not compulsory under law, US shippers are urged to follow this procedure in publicizing US-made goods.

### **Other Comments**

Brazil is a member of the Mercosul trading block, which has its own regional standards organization that issues and harmonizes standards. Technical committees write and recommend standards in selected areas. Each country must ratify the standard before they are adopted in that country. A number of standards have already been adopted as Mercosul standards. Adopted and proposed Mercosul standards are listed on Mercosul's website: [www.amn.org.br](http://www.amn.org.br). The Executive Secretariat of the Mercosul Standards Organization is located in São Paulo, Brazil.

- American Embassy in Brasília: [www.embaixadaamericana.org.br](http://www.embaixadaamericana.org.br)
- ABNT - Associação Brasileira de Normas Técnicas: [www.abnt.org.br](http://www.abnt.org.br)
- AMN - Asociacion Mercosul de Normalizacion: [www.amn.org.br](http://www.amn.org.br)
- Brazil's Ministry of Development and Commerce: [www.desenvolvimento.gov.br/](http://www.desenvolvimento.gov.br/)

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### For information on the WTO-TBT inquiry point, contact:

- INMETRO – Instituto Nacional de Metrologia, Normalização e Qualidade Industrial: [www.inmetro.gov.br](http://www.inmetro.gov.br)

### For information in the U.S., contact:

- National Center for Standards and Certification Information (NCSCI), National Institute of Standards and Technology (NIST): [www.nist.gov/ncsci](http://www.nist.gov/ncsci)
- American National Standards Institute (ANSI): [www.ansi.org](http://www.ansi.org)

### Information resources on labeling:

- IPEM – Institute of Weights and Measures: [www.ipem.sp.gov.br](http://www.ipem.sp.gov.br)
- CVS – Center for Sanitation Vigilance: [www.cvs.saude.sp.gov.br](http://www.cvs.saude.sp.gov.br)

### Resources

- Brazil Country Guide - USCS
- Market research: [www.export.gov/marketresearch.html](http://www.export.gov/marketresearch.html)
- ABINEE: [www.abinee.org.br](http://www.abinee.org.br)
- Brazilian Association of ISPs: [www.abranet.org.br](http://www.abranet.org.br)
- Brazilian Telecommunications Agency: [www.anatel.gov.br](http://www.anatel.gov.br)
- Brazilian Chamber of E-Commerce: [www.camara-e.net](http://www.camara-e.net)
- USCS Brazil's reports on Top Prospects for US exporters: [www.focusbrazil.org.br/ccg](http://www.focusbrazil.org.br/ccg)
- USCS Brazil's Guide to Marketing Services: [www.buyusa.gov/brazil](http://www.buyusa.gov/brazil).
- US Trade Information Center (TIC) for tariff information: [www.ita.doc.gov/td/tic/tariff/](http://www.ita.doc.gov/td/tic/tariff/).
- US Trade Representative's Office for information on FTAA and trade disputes: [www.ustr.gov/Trade\\_Agreements/Regional/FTAA/Section\\_Index.html](http://www.ustr.gov/Trade_Agreements/Regional/FTAA/Section_Index.html).
- Government of Brazil's customs site: [www.receita.fazenda.gov.br/Grupo1/Aduana.asp](http://www.receita.fazenda.gov.br/Grupo1/Aduana.asp)
- Government of Brazil's SISCOMEX customs site: <http://www.receita.fazenda.gov.br/aduana/siscomex/siscomex.htm>