

Dear Reader,

We were quite happy with the response we had to the first issue of our International Bulletin. We thank all readers who were so nice as to write us their suggestions and comments. We want to encourage all readers to keep on doing it.

Have a good reading,

**FRAGA, BEKIERMAN E PACHECO NETO - ATTORNEYS AT LAW**

---

## Summary

### News

#### Politics and economics

- **New Government first acts and trends.**

#### Tax

- **New tax benefit for R&D**

#### General

- **New Civil Code comes into effect**

#### Oil and Gas

- **Bid for project and construction of 2 new platforms for Petrobras is adjourned**
- **New Petrobras president assumes position**
- **5<sup>th</sup> Round of the Brazilian program for licensing of oil & gas exploration blocks favors independent oil companies**

### Get to Know Brazilian Institutions

#### The Central Bank of Brazil – BACEN



Member of AIM International

Amsterdam • Antwerp • Athens • Barcelona • Bilbao • Brussels • Bucharest • Buenos Aires • Casablanca • Dublin  
Frankfurt • Houston • Istanbul • Lisbon • Lyon • Madrid • Marseille • Mexico City • Milan • Montevideo • Munich  
New York • Nicosia • Paris • Porto • Prague • Rio de Janeiro • Rome • São Paulo • Strasbourg • Warsaw

## New Government first acts and trends.

President Luiz Inácio Lula da Silva was inaugurated on 01.01.2003. After two weeks of government, it's already possible to see a new layout of power beginning to take shape in Brasilia and what its future priorities will be.

Antonio Palocci, Minister of Finance, and José Dirceu, Chief of Staff, are President Lula's most trusted members in the new government team. Together, they form the triad from which the economic and social policies to be practiced by new government will emanate.

President Lula announced the program to eliminate hunger – known as “Fome Zero” (“Zero Hunger”) – as the top priority in his government. This program will consume – at least during the first year – all attention and available resources. To signal his priority, the president determined the cancellation of the bidding that was under way for the purchase of new jets for the Brazilian Air Force, in the amount US\$700 million, in order to make resources available to the “Fome Zero” program. Incentives supporting civil construction – including construction of popular housing – are expected to be announced soon, since the sector is a strong job generator, as has been emphasized by the president himself.

The commitment with the program was reaffirmed during the trip begun on January 10, in which Lula brought along the first lady Marisa Letícia, twenty-six ministers and four secretaries with minister status to visit poor regions of the state of Minas and the Northeast. The president had promised to make the trip during his electoral campaign. The objective, aboard the presidential Boeing, was to cause ministers to have direct contact with the difficulties experienced by the population living in the semi-arid region.

On the other hand, the announcements of the new government guaranteeing continuity in the fight against inflation and the observance of the *lei de responsabilidade fiscal* (fiscal responsibility law) are helping rebuild the country's credibility abroad. After the financial crisis experienced by Brazil recently, with the currency devaluation and the significant increase in the country's risk rating, critical efforts are being made toward regaining international lines of credit – especially for allowing the expansion in export.

In fact, the confirmation of campaign commitments relative to the preservation of goals set in the agreement with the International Monetary Fund and the announcement of a monetarist control of the economy are already bringing visible results. During the first days of the year, the dollar and the country's risk rating dropped significantly. Along these lines, the Minister of Finance will divulge the new macroeconomic goals by the end of the month, having indicated already that the goal for primary surplus will be higher than the current one.

The nomination of the economist Henrique Meirelles, former world chairman of the BankBoston, for the position of president of the Central Bank also contributed to the good perception caused in the market by the new government. Meirelles's background represents an assurance that the government did not give in to the pressure of more radical left groups within its own party. In addition, the Minister of Finance will be submitting to Congress a reform project that will grant autonomy to the Central Bank.

Conversely, the financial system is managing to reopen, with relative success, doors to the international market, which had been closed for some time to the great majority of Brazilian companies. Within this framework, in just the first 13 days of 2003, 6 Brazilian banks have already raised US\$ 925 million abroad. Also, Bradesco, the largest private bank in the country announced the acquisition of the Brazilian operations of the Spanish bank Banco Bilbao-Viscaya – BBV.

## **New tax benefit for R&D**

Law no. 10.637, of December 30, 2002, created a new tax benefit for companies investing in research and development in Brazil. According to its article 40, besides the regular deductibility of these expenses, an additional 100% of the amount used in the project may be deducted in the calculation of the taxable base amount, as long as the project results in the recording of a patent with the Instituto Nacional de Propriedade Industrial – INPI (National Institute of Industrial Property) and also with one of the following institutions of analysis recognized by the Patent Cooperation Treaty: I – European Patent Office; II – Japan Patent Office; or III – United States Patent and Trade Mark Office. Art. 43 of the same law determines that the benefit applies only to those beneficiaries investing in Research and Development that are located in Brazil. This constitutes an important incentive to research development in Brazil.

## **New Civil Code comes into effect**

On 01.11.2002, the new Brazilian Civil Code came into effect. The new law, with 2,027 articles, revokes both the previous civil code of 1916 and a substantial portion of the 1850 commercial code, which had been approved by Dom Pedro II, the last emperor of Brazil (only the portion relative to Maritime Commerce remains in effect). Evidently, the revoked statutes had long been undergoing modifications and being complemented by laws that made them extravagant. Even so, the new civil code significantly changes social relations and business relations between individuals and companies established in Brazil or that otherwise maintain ties with Brazil.

The Civil Code handles a wide range of issues, such as the definition of natural and legal entities, assets, and property; the regulation of juristic acts; the establishment of general rules regarding agreements, regulating many of them; the regulation of family and descent law; and great part of the corporate law. The new code brings innovations that cannot easily be found in the legislation of other countries, but that are increasingly embraced by international jurisprudences as being important, such as the consecration of the principle of objective good faith in determining the validity of an agreement.

In view of the new civil code, it's generally advisable that long-term agreements subject to Brazilian law be revised. Corporate law was one of the most affected sections of the law. In this regard, it becomes necessary to adapt the articles of incorporation of limited liability companies and, particularly, to revise joint venture agreements based on this type of structure, which happens to be the most common in Brazil .

## **Bid for project and construction of 2 new platforms for Petrobras is adjourned**

New dates have been set for the submission of proposals concerning the contracting of construction of platforms P-51 e P-52, for the development, respectively, of the Marlim Sul and Roncador Fields, in the Campos Basin on the coast of Rio de Janeiro. Each platform will be built based on three basic agreements: one for the construction and integration of the hull and process/utilities plant, the second one for the gas compression modules, and a third one for the electric power generation modules. Petrobras decided to postpone the dates for receipt of proposals, changing them to the new dates as follows: Gas Compression Module – 2/12/2003 ; Power Generation Module – 2/19/2003 ; and Construction and integration of hull and process/utilities plant – 2/26/2003.

## **New Petrobras president assumes position**

Senator José Eduardo Dutra assumed the presidency of Petrobras after his nomination by the new Minister of Mines and Energy, Dr. Minister Dilma Rousseff. The new president declared that he will seek to "ensure that Petrobras acts within the molds of a profitable, technologically up-to-date and competitive company that perseveres in the fulfillment of its mission and that acts jointly with other government sectors for the promotion of the country's development and the preservation of national interest." Dutra reaffirmed Petrobras' commitment to invest in the safety of operations and environmental protection. He also emphasized that Petrobras will take part in the new government's efforts in job generation, joining forces with the Brazilian industry in order to further increase the rate of nationalization of the industrial complex.

Except for the new President, the only modification in the management of Petrobras was the resignation announcement of Finance and Investor Relations Director, João Pinheiro Nogueira. He will continue to exercise his functions until a successor is indicated.

## **5<sup>th</sup> Round of the Brazilian program for licensing of oil & gas exploration blocks favors independent oil companies**

After the presentations in Rio de Janeiro and Salvador last November, the road show for the 5<sup>th</sup> Round of the Brazilian program for licensing of oil & gas exploration blocks was to continue in January 2003 in Houston and London. Due to the change in the Government, the dates were not confirmed and the presentations will probably be made in February or March. For the moment there is no intention to postpone the rest of the schedule, by which the deadline for qualification of interested companies and payment of participation fees will be set in May 2003 and the Bidding Conference will be held in June 2003.

The guidelines for this new round comprise modifications to afford companies the best long term planning conditions for their data acquisition activities. The basic models for the Final Tender Protocol and Concession Agreement will be maintained, except for the alterations to adapt them to the modifications underway. The principal changes to be implemented as from Brazil Round 5 are as follows:

- Definition and disclosure of the medium and long term schedule for future bidding rounds;
- Division of the basins into sectors, each divided into minimum blocks of a pre-defined size. All blocks in the sectors under bidding, that are not subject of concession, will be open to offers. The average size of the minimum blocks (variable according to the latitude) are as follows:
  - Mature onshore basins: 30 km<sup>2</sup> (2' 30" x 3' 45")
  - Offshore basins, in water depths less than 400 m: 180 km<sup>2</sup> (7' 30" x 7' 30")
  - Offshore basins, in water depths greater than 400 m: 720 km<sup>2</sup> (15' 00" x 15' 00")
- Reduction of the participation fees;
- Elimination of the ANP pre-defined Minimum Exploration Program. The exploration program will be defined by the companies and will be part of the bidding criteria, together with the signature bonus and the local content;
- Presentation of an environmental sensitivity report and a general licensing guide for the offered areas, prepared by IBAMA (National Institute for Environmental issues), 6 months before the bidding conference.

## Get to Know Brazilian Institutions

### The Central Bank of Brazil – BACEN

#### Background

The Central Bank of Brazil – BACEN was created in 1964 and is the autonomous Brazilian Monetary authority. It makes and manages monetary, fiscal and foreign exchange policies, according to the guidelines given by the Federal Government, and regulates and supervises the national financial system.

In setting foreign exchange policies, BACEN establishes rules for incoming and outgoing flows of foreign investment – by means of direct capital, loan, equipment lease, transfer of technology, vessel freights, etc. - and organizes the electronic registration of such investment by the recipient in order to allow remittances of proceeds abroad.

One of BACEN's most important functions is carried out by the Monetary Policy Committee (COPOM). Established in 1996, it sets the monetary policy guidelines and the short-term interest rate. The goal was to confer an adequate ceremonial to the monetary policy-making and to enhance transparency, following the initiatives adopted by the Federal Reserve *Open Market Committee (FOMC)* and the Bundesbank *Central Bank Council*.

Formally, COPOM's objectives are "to establish the monetary policy guidelines, to set up the Selic rate target and its eventual bias, and to analyze the Inflation Report". The interest rate set up by the Committee is the Selic rate target (overnight rate for government bonds in the *Sistema Especial de Liquidação e Custódia*), which is fixed for periods in between regular meetings. The COPOM can also establish a bias, which is the authorization given to the Central Bank's Governor to alter the interest rate at anytime in between meetings.

In 1999, Brazil implemented a formal inflation-targeting framework for monetary policy and as such COPOM's decisions from then on have had the main objective of achieving the inflation targets set up by the National Monetary Council (CMN). In case the inflation target is breached, the Central Bank's Governor will have to write an open letter to the Finance Minister explaining the reasons for the breaching as well as the measures required to bring inflation back to target and the expected timing.

#### Important legislative steps

- **Law 4,595 of 31/12/1964** – Creates the Central Bank of Brazil
- **Law 4,131 of 03/09/1962** – Disciplines the investment of foreign capital and remittances of funds abroad.
- **Decree 55,762 of 17/02/1965** - Sets down regulations as regards Law 4,131/62, as amended by Law 4,390 of 29/08/1964.
- **Circular 2,731 of 13/12/1996** - Establishes and regulates the electronic declaratory registration of financial operations.
- **Circular 2,816 of 15/04/1998** - Establishes the Electronic Declaratory Registration (RDE) for technology transfer, complementary technical services and intangible import operations.
- **Circular 2,997 of 15/08/2000** – Establishes and regulates the electronic declaratory registration of foreign direct investments - RDE-IED Module.