**ARGENTINA**

**Further Restrictions On Credit Card Transactions In US Dollars**

**BRAZIL**

**Brazil Launches Strategy For Transportation Infrastructure**

**INTERNET DOMAIN NAMES IN BRAZIL**

**CUBA**

**Cuban Government Imposes Higher Import Taxes On Non-Commercial Goods**


**Independent Cuban Journalist Arrested for ‘Aggravated Disrespect’ of Fidel Castro and Raul Castro**

**Independent Lawyers File Complaint with Attorney General on Arbitrary Detentions Performed by State Security**

Argentina

Further Restrictions on Credit Card Transactions in US Dollars

Through Argentine Tax Authority (AFIP) General Resolution 3378, dated August 28, 2012, the AFIP added an additional foreign exchange restriction regarding operations in US Dollars. Starting on September 1st, all payments of goods and services made in US Dollars via credit cards will be charged an additional 15% over the transaction amount. This charge applies both to purchases abroad and via internet.

In addition, AFIP General Resolution 3375 provides that any amounts paid as such additional charge may be deducted from Income Tax and Personal Gains Tax.

Contributor: Roberto Mahmud Gettor, Brons & Salas, Buenos Aires. For further information, please send an e-mail to rgettor@brons.com.ar.

Brazil

Brazil Launches Strategy for Transportation Infrastructure

On August 15, 2012, President Dilma Rousseff launched Brazil’s new infrastructure plan to support boosting the country’s economic growth. The Programa de Investimento em Logística (Program of Investment in Logistics - PIL) aims to endow the country with a robust transportation network of continental proportions.

The government announced that it will invest R$133 billion within the next 25 years, with the first priorities the construction of railroads (7,500 kilometers) and highways (10,500 kilometers). The Empresa de Planejamento em Logística, an existing state-owned company initially created to sponsor railroad construction and development, is now by virtue of medida provisória No. 576 of August 15, 2012, to support implementation of the PIL, monitoring its progress and assuring proper administration of the money invested.

For highway expansion, the government contemplates award of concession contracts to private companies, with toll charges becoming collectible when construction reaches 10% completion. Concessions will be awarded by public auction. The winning bidder will be the one offering the lowest toll. No concession fee will be charged to reduce related costs. For the railroads, the government will form private-public partnerships (PPPs) through which it will outsource the construction, maintenance and operation of the railroads and thereafter purchase them. It will also offer this capability to private companies or independent railroad operators. The government will also offer the private companies engaged favorable financing through Brazil’s National Development Bank (BNDES).

The PIL contemplates construction of three new ports in the States of Bahia, Espírito Santo and Manaus. As to airports, the government is still analyzing whether to provide more concessions or sell a minority part of Empresa Brasileira de Infraestrutura Aeroportuária (Infraero) to a foreign airport operator. The PIL also promises to resume the project for construction of a high-speed train linking two of Brazil’s most advanced cities, São Paulo and Rio de Janeiro.

With the PIL, the government seeks to surpass the transportation bottlenecks that have constrained Brazil for decades, eroding competitiveness in different sectors of the economy, particularly mining and agriculture. It also seeks to promote and leverage Brazil’s exports and ultimately to allow the country to enjoy a transportation infrastructure commensurate with its size.

Contributors: Juliana Martines, Syngenta Proteção de Cultivos Ltda., São Paulo, Brazil; and Patrick Del Duca, Zuber Lawler & Del Duca, LLP, Los Angeles, California. For further information, please send an email to pdelduca@zuberlaw.com.

Internet Domain Names in Brazil

Registering domain names around the world can be quite challenging. With the exception of a few TLD - top level domains and ccTLD - country top level domains, several countries demand following specific procedures, often restricted to national citizens, in order to have a domain name registered.

Brazil has its own peculiarities as well: since Brazilian internet domain names are governed by a body related to the Ministry of Communications and the Ministry of Science and Technology: the Brazilian Internet Management Committee (Comité Gestor da Internet no Brasil - CGI.br), centralizing all related procedures, a certain level of bureaucracy is definitely expected.

This entity, which created the Brazilian Network Information Center (Núcleo de Informação e Coordenação do Ponto BR - NIC.br) in order to implement its decisions and projects, is responsible for the administration of domains in Brazil. The administration is made by the portal Registration of Brazilian internet domains for internet in Brazil (Registro de Domínios para a Internet no Brasil - Registro.br[1]).

Brazilian proceedings for the registration of domain names in Brazil are ruled by CGI.br’s Resolution No. 008/2008. The rule, which contains all provisions related to the procedures to be followed regarding Brazilian internet domains.
Domain Name Registration by Foreigners

The registration of Brazilian internet domains, under the “.br” ccTLD, is only available to individuals and legal entities legally represented or established in Brazil.

By this requirement, in order to have a domain registered under the “.br”, foreign applicants must appoint a legally established representative in the country, which can only be made through a Power of Attorney, granting powers for the domain registration and applicant representation in Brazil, including for judicial matters, properly notarized and legalized, with an official translation.

In order to be registered in the system, the applicant must have a Federal Taxpayer Registration Number (Cadastro Nacional de Pessoas Jurídicas - CNPJ or the Cadastro de Pessoas Físicas - CPF), receiving an ID which will be used to access the domain registry form within the Registro.br.

Existing Domain Name Extensions

Despite offering 69 different choices of SLD - second level domains - Brazil’s most popular domain extension is the “.com.br”.

According to the areas of activity or use to be given for the domain name, there are specific SLD[2] which are mostly used by governmental bodies, professionals and as an alternative over the more popular extensions.

Registration Fees and Terms

Following the same international standard for the regular “.com” domains, the protection period, which varies from one to three years, requires payment of registration fees of approximately US$ 15.

There are, however, reduced fees for certain domains, such as the “.nom.br” and progressive discounts for long term registration. Fee payment must be made by either (i) the owner of the domain or (ii) the Services Provider (in case, instead of the owner, there is a responsible for the administration of the domain). Payment can only be made in Brazil.

Domain Cancellation

Once registered, Brazilian domains can be cancelled for two reasons: by failing to pay the registration/fee or by a cancellation request.

If the aforementioned official fee is not paid, the domain will be frozen and after a period it will be made available for new registration following the rules of the release procedure as mentioned below. Furthermore, it is important to stress that failing to pay the registration or renewal fees will not result in collection by the Registry.

Domain cancelation request cannot be made online and must go through the filing of the Cancelation Form made available at the NIC.BR website. The request must be notarized and mailed along with a copy of the National Registry of the registrant to NIC.br and can take up to two (2) days to be registered.

The Release Period

Cancelled domain names prior to the release period (in Portuguese, Período de Liberação) will be available during three times per year, during fifteen days.

During the release period, the domain names are offered to anyone interested, giving preference to those who have differentials such as a registered trademark or applicant name.

This process aims to make available again within free domain names that may have been cancelled due to nonrenewal, cancellation request by the owner or by irregularities in the registration data of the owner.

For the applicants applying under the differentials, the domain that is requested must be either certified registered trademark or identical to the words or expressions used in the company’s name and/or company’s activities, for at least 30 months.

During the release period, there are some possible situations that may occur, as it follows:

(i) If there is just one candidate interested in the domain name available during the “release period”, the conducts and requirements mentioned before are enough to concede the registration of the domain to the applicant who is interested;

(ii) If there are two or more candidates interested in the same domain name, the applicant who presents the differential receives the domain name; or

(iii) If there are two or more candidates interested in the same domain name, but none of them have the differential, the domain name continues unavailable for registration until the next Release Period. In case this situation persists in more than six release periods, the domain turns becomes permanently unavailable. In this case, if the applicant continues to be interested in the domain, there is a possibility of petitioning after the permanent unavailability.

Domain Name Dispute Resolution

In case of domain name dispute, or a registration made against the rules in Resolution No. 008/2008 or the trademarks protection law (Federal Law No. 9279/96 - Industrial Property Law), there are two possibilities to solve: (i) Domain Names Under "BR" -
called SACI- Adm (SACI); and (ii) Federal Courts.

It is important to mention the benefits and disadvantages of both mechanisms (SACI and court) in order to choose the better option according to the situation. First of all, it is essential to clarify that SACI is not an arbitration mechanism, although there are similarities.

Not being recognized as a regular arbitration, thus not subject to the rules set by the Arbitration Law (Federal Law No. 9,307/96), SACI decisions are not mandatory, acting more as a recommendation and orientation, but which can be challenged by courts.

SACI is a fast procedure, usually taking around 50-60 days to be completed, has a low cost and the panelists have a specific knowledge on the matter that is being discussed. On the other side, the Brazilian Justice System is slow and usually costs more than the fees charged for the SACI procedure, since matters regarding domain names must be decided by federal courts.

Currently, the licensed institutes related to SACI, destined to settle the problems and conflicts that may occur involving domains, are the Brazilian Intellectual Property Association (ABPI), the Brazil-Canada Chamber of Commerce (CCBC), and the World Intellectual Property Organization (WIPO).

As usual to other domain name dispute resolutions, such as the UDRP, in order to succeed with the SACI procedure applicant must prove that: (i) the domain name is similar or the same as the trademark’s, (ii) no fair use, and (iii) bad faith in its registration and use.

[1] As CGI.br is the only entity responsible for the administration of domains registered in Brazil, even though there are other companies claiming to register domain names in Brazil, the entire procedure is based on CGI.br’s website Registro.br, where all actions and information related can be performed.

[2] For corporations and governmental bodies, the most common extensions are COM.BR and NET.BR, for commercial activities; ECO.BR, for environmental activities; AM.BR, FM.BR and RADIO.BR for radio broadcasting; EDU.BR, for schools; GOV.BR, for governmental entities; IND.BR, for industries; JUS.BR for the Judiciary; LEG.BR, for Legislative; ORG.BR, for NGOs; PSI.BR, for internet service providers; SRV.BR, for service companies; and TUR.BR, for tourism.

Contributors: Guilherme de Carvalho Doval and Márcio Mello Chaves, Almeida Advocados, São Paulo, Brazil. For further information, please send an email to gdoval@almeidalaw.com.br or mmchaves@almeidalaw.com.br.

CUBAN GOVERNMENT IMPOSES HIGHER IMPORT TAXES ON NON-COMMERCIAL GOODS

On July 2, 2012, the Cuban government published Resolution No. 122/2012, which sharply increases the taxes on imports of non-commercial goods, such as clothes, foods, bathroom products, and other personal-use products. The law took effect on September 3, 2012 and was enacted in order to encourage the importation of money, to control the types of items imported, and to protect state-owned stores. Opponents of the measure fear that the tax will affect small businesses that depend on the imports of goods in bulk because Cuba lacks the essential capital to build and expand the businesses allowed to exist by a series of economic reforms issued by the Cuban government in the past couple of years.

Individuals bringing such non-commercial goods to the island are permitted to bring 66 pounds or 30 kilograms of miscellaneous goods without charge. However, after exceeding the threshold weight, items are taxed at US$4.55 a pound or US$ 10 a kilogram. The law impacts people carrying non-commercial items depending on their status. Cuban citizens who travel in and out of the island more than once a year receive a one-time annual pass to pay excess baggage fees with the Cuban Peso (at the exchange rate of twenty four (24) Cuban pesos to one (1) US Dollar). Non-residents and Cuban-Americans are required to pay the excess baggage fees at all times if applicable.

Contributor: Daniel Buigas, J.D., Leiva Law, Coral Gables, Florida. For further information please send an email to dbuigas@leivalaw.com.

THE CUBAN GOVERNMENT IN THE PROCESS OF CREATING LEGAL NORMS TO CENSOR “VULGAR MUSIC”

On September 19, 2012, one of the few vice presidents of the Council of the State, Esteban Lazo, met with members of the state-led National Union of Writers and Artists of Cuba (UNEAC) to “defend the values of Cuban music”. During the meeting, members of the state-led union informed the vice president of their opposition to current popular music trends, which they find ‘vulgar’ and ‘sexist.’

The President of the Cuban Institute of Music (ICM), Orlando Vistel, proclaimed that he is in the process of formulating ‘legal norms’ to remove ‘vulgar’ and ‘sexist’ elements from Cuban music. The members primarily focused their concerns on a musical genre known as reggaeton. Members noted how reggaeton’s prevalence in the island has caused, as one of its members, pianist Frank Fernandez noted, “the loss of the spiritual life among Cubans.”
Despite these proclamations, no specific content has been published or date of implementation has been set for the application of such ‘legal norms’. If these legal norms are to be implemented, then they may be done so as early as December 2012, the month the National Assembly of People’s Power convenes.

Contributor: Daniel Buigas, J.D., Leiva Law, Coral Gables, Florida. For further information please send an email to dbuigas@leivalaw.com.

INDEPENDENT CUBAN JOURNALIST ARRESTED FOR ‘AGGRAVATED DISRESPECT’ OF FIDEL CASTRO AND RAUL CASTRO

Independent Cuban Journalist, Calixto Ramón Martínez Arias, is to be charged with the crime of “aggravated disrespect” for allegedly disrespecting Raul and Fidel Castro. The term ‘disrespect’ carries various meanings in Cuban law, but generally refers to defamation or insult. The law of disrespect is triggered when a person is charged with disrespecting a government official and carries a stronger punishment if the person is charged with disrespecting the head of state or other superior officials.

Contributor: Daniel Buigas, J.D., Leiva Law, Coral Gables, Florida. For further information please send an email to dbuigas@leivalaw.com.

INDEPENDENT LAWYERS FILE COMPLAINT WITH ATTORNEY GENERAL ON ARBITRARY DETentions PERFORMED BY STATE SECURITY

On September 28, 2012, several independent Cuban lawyers (Laritza Diversent Cámbara, Yaremis Flores Marín, Bárbara Estrabao Bichili, Veizant Boloy González and Wilfredo Vallín Almeida) and a director of an independent organization filed a complaint with the Attorney General’s Office alleging arbitrary detentions performed by the State Security and National Revolutionary Police (PNR) between July 24, 2012 and September 24, 2012. The authors of the complaint detail and list the number of constitutional violations and legal violations committed by the state’s law enforcement, including the prevention of allowing these detained Cuban citizens from “exercising their legitimate right to associate, assemble, demonstrate and express themselves”. The complaint also lists the number and information of all the individuals detained by law enforcement.

Contributor: Daniel Buigas, J.D., Leiva Law, Coral Gables, Florida. For further information please send an email to dbuigas@leivalaw.com.