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"Acquisition of Brazilian lands by Foreigners"

The government, under the coordination of the Federal Attorney General Office ("AGU"), the President's Executive Office (Casa Civil), and of at least two more departments (Agriculture and Agrarian Development), is analyzing a Bill Draft in order to set limits for the acquisition of rural properties in Brazil by foreigners.

In August of 2010, the AGU issued Opinion no. LA-01, which reset the limits imposed by Law no. 5,709 for the purchase of lands by foreigners. Among the restrictions, the Opinion established that companies could not acquire rural property having more than 50 modules of undefined exploration, and that the sum of the rural areas belonging to foreign companies or companies controlled by foreigners could not exceed 25% of the municipality's surface.

Currently, under the mentioned law, foreign companies can acquire 5 thousand hectares at most, within the limit of 25% of the surface of the municipality in which the property is situated. Furthermore, pursuant to the law in force, citizens of the same foreign nationality may not have, combined, more than 10% of the municipality's area.

With this bill, companies and foreigners intending to purchase rural properties in Brazil are to request authorization from the government for areas larger than 5 hectares. In the case of areas of up to 500 thousand hectares, the purchase will be examined and authorized by the National Land Council ("Conater"). If the area exceeds 500 thousand hectares, the purchase will then have to be approved by the Congress.

Moreover, according to the bill, a foreigner resident in Brazil and a foreign legal entity authorized to operate in the country will have to set up a Special Purpose Company ("SPE") to be able to acquire lands, and to offer a golden share to the government, so that the latter can participate in the company's strategic decisions, as well as veto powers over decisions.

Therefore, foreigners and foreign companies that are not authorized to operate in Brazil may not acquire rural properties in the country.

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