

## Brazilian Senate enables the selling of land to foreign persons and to Brazilian companies controlled by foreigners

On December 15th, the Brazilian Senate voted Bill n. 2,983/19, which regulates the acquisition and possession of rural land by foreigners. The bill is polemic, and now goes on to the House of Representatives. If approved, it shall be sanctioned into law by the President. The bill changes the law on the acquisition and possession of land by foreign persons and companies, as well as Brazilian companies controlled or invested by foreigners.

In changing Federal Law n. 5,709/71, the bill eliminates the legal indeterminacy created by Legal Opinion LA 01-2010 issued by the Attorney General's Office, which contained an interpretation that the severe restrictions provided under the cited Federal Law were applicable not only to foreign nationals, but also to Brazilian companies controlled or invested by foreigners.

The bill ends the controversy, and validates the transactions with Brazilian companies controlled or invested by foreigners executed while Federal Law n. 5,709/71 was still in place. Free of those restraints, the referred companies may negotiate Brazilian land, as long as they provide information about the composition of their capital and nationality of its shareholders to the Environmental Rural Registry (*Cadastro Ambiental Rural – CAR*) and to the Rural Registry National System (*Sistema Nacional de Cadastro Rural – SNCR*).

However, the Brazilian companies incorporated or controlled by foreign companies, as well as the foreign natural persons, shall submit to the National Defense Council (*Conselho de Defesa Nacional – CDN*) the transactions involving the acquisition and possession of rural land within the Amazon Biome and areas indispensable to the national security.

The CDN shall also deliberate over the acquisition and possession of rural land by non-profit organizations, sovereign funds, and other companies headquartered abroad. In accordance with the new bill, the rural land acquired or possessed by foreigners shall not surpass 25% of the territory of the respective city, and shall obey the constitutional principle of the social function of property. On the other hand, foreigners that intend to acquire or possess rural land up to fifteen fiscal modules (80 hectares in average) are exempt from any prior licensing or authorization, so long they observe the limitation referred above.

Bill n. 2,963/19 contains other provisions that strengthen the necessary legal basis for the negotiation of land by foreign investors, which affects not only the agribusiness, but also the generation and transmission of energy.

We are following-up closely on the latest developments about the subject and are at your disposal for any further clarification.