2015 Amendments to
The Brazilian Arbitration Act, 1996

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Due to increased business complexities and to have a globally acceptable dispute resolution process all the countries are making amendments to their statute which governs the arbitration mechanism. The countries also have realised that the investor confidence in a country is dependent on the dispute resolution mechanism of a country. **The Brazilian Arbitration Act, 1996 (Law No. 9.307/96)** is the statute which governs the arbitration proceedings in Brazil. The said has been amended with effect from 27th May, 2015 to bring about reform in the arbitration law of the country and to bring it in line with the international requirements. By this the Brazil is reassuring domestic and foreign investors the commitment of Brazil to effective dispute resolution mechanism in the light of the World Cup 2014 and the World Olympics 2016 and corresponding requirements of Foreign investments.

The amendment allows for the consolidation of certain arbitration practices and also brings about some progressive changes which will make Brazil a more arbitration friendly jurisdiction.

**The Highlights of the Amendments are:**

- All the Public entities of Brazil are expressly directed to submit disputes relating to disposable economic rights, to arbitration. Such arbitration proceedings shall be public and not confidential.
- There are certain relaxation of rules regarding the appointment of arbitrators in an arbitration governed by an arbitral Institution. The Parties can now agree to waive the erstwhile
mandatory requirement of institution rules that the arbitrators should be chosen from amongst those listed with the Institution.

- The amendment has introduced a new chapter with respect to interim/precautionary measures. The amendment permits either party to seek interim measures from the Court before the arbitral tribunal has been constituted and provides for the subsequent review of such measures granted by the Court by the tribunal. After the tribunal has been constituted, a party can only request the tribunal for grant of interim measures and they cannot approach the courts.

- Communication between the Courts and the Tribunal via a “carta arbitral” or an arbitral letter which would allow the tribunal to request the Court to adopt interim measure or provide administrative assistance.

- The validity of partial awards rendered by a Tribunal has been expressly iterated. The time-limit to prefer an application to set aside the partial award is 90 days (the same as a final award) and this period is triggered by the notification of the award.

- Article 25 has been revoked. It provided that “if, during the course of the arbitral proceedings, a dispute arises concerning rights over which a party may not dispose, and once convinced that the final decision may depend thereon, the arbitrator or the arbitral tribunal may refer the parties to the State Court having jurisdiction, ordering a stay of the arbitral proceedings.”
The five day time-limit for requesting a clarification with respect to an award has been repealed. The parties are now free to determine the time period themselves. Additionally, the 90 day time-limit to challenge the award would start on the notification of the tribunal’s decision regarding the clarification.

The decision of the Court on a setting aside application must decide both if the award will be set aside and whether the case would be remitted back to the arbitral tribunal or not.

An amendment to the Brazilian Corporate law to allow the insertion of arbitration clauses in the by-laws of companies.

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