

Kincaid Booklet

Coronavirus Disease 2019 (COVID-19)

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The first version of this document was prepared on March 20th.
The updates are highlighted on each chapter.

1. Introduction

Since December 2019, the world has been on alert with the emergence of a new highly contagious virus that quickly spread through China, which was its epicenter, and later spread across the planet. On March 12, 2020, the World Health Organization (WHO) declared that we are experiencing a global COVID-19 pandemic and called everyone's attention to the need for actions aimed at reducing the proliferation of the disease. According to WHO's data from April 01st, more than 820 thousand cases and 40,000 deaths have been recorded around the world and the numbers are increasing exponentially every day. Today, the American continent already concentrates more cases than and almost the same number of deaths as the Western Pacific Region, where the pandemic started.

COVID-19 had a huge impact on the economy, which has been going through a period of crisis with the suspension of activities in several productive sectors and the high volatility of stock exchanges in the four corners of the world.

We understand that the consequences of this period may also affect our clients and partners, which is why we have prepared this material with a brief perspective of the obstacles that may arise in the coming months, to help them to overcome this phase in the best possible way.

In order to make it easier to find information, we have divided topics into themes that we believe to be of most interest to our clients.

We hope this booklet can contribute to reducing the effects of this pandemic on our society and we take the opportunity to communicate to our clients and partners that, considering the guidelines of WHO and health authorities, our office decided to adopt collaborative measures to stop the spread of the coronavirus, thus we will continue our activities preferably through home office.

We remain at your complete disposal in the digital media commonly used and we hope to soon be able to receive you again in our offices!

2. Maritime

With the spread of COVID-19, the maritime area should be aware of possible consequences.

Impacts should be felt in the maritime industry as a whole, such as in maritime trade, in the financing of vessels, in construction and repair contracts, among others.

Vessels have had operational difficulties in some locations, including the closure of ports and the need for diversion of routes, causing delays.

The International Maritime Organization (IMO) has published several circular letters on COVID-19. In a joint statement with the World Health Organization, the IMO stressed that measures must be taken in favor of health while seeking to minimize the impacts on international trade, stressing the importance of prevention. IMO recalls the importance of the cooperation of authorities and companies to ensure, when appropriate, continuity of cargo operations, transit of ships in shipyards, supply of vessels and change of crew. IMO's circular letters are available at <http://www.imo.org/en/MediaCentre/HotTopics/Pages/Coronavirus.aspx>

COVID-19 has also made it difficult for surveyors and classification societies to be on board. Note that the main Classification Societies have already published guidelines for shipowners, providing, in some cases, for the possibility of extending certificates and carrying out remote inspections.

CONTRACTUAL DISPUTES

Note that contractual disputes are also probable as a result of COVID-19.

With the closure of some ports, it became necessary to change the route and divert to other locations, which also generates costs. Furthermore, with the spread of the virus, much has been discussed about the quarantine of ships and crew, logistics and the possibility of obtaining a Free Pratique Certificate, off hire of vessels in Charter Parties. Case-by-case analysis will be essential to ascertain the responsibilities of those involved and to avoid potential disputes.

Note that unlike most countries with a strong maritime tradition in which force majeure is only a contractual matter, Brazil provides for force majeure in the Civil Law. In any case, commonly the contracts signed between the parties in the maritime area also bring provisions related to force majeure, with definition and cases where it could be claimed.

It will be essential to analyze on a case-by-case basis possible exclusions of liability and the possibility of claiming excessive burden of contracts.

	Oil tanker shipping	Container shipping	Dry bulk shipping
Impact	<ul style="list-style-type: none"> Breakdown of OPEC+ alliance has lifted Saudi Arabian crude oil exports significantly The Corona pandemic is destroying global oil demand growth for 2020 	<ul style="list-style-type: none"> Blanked sailings have kept the spot freight rates 'artificially' high Volumes have remained low but Chinese exports of backlogged orders will lift volumes out of Asia 	<ul style="list-style-type: none"> Freight rates have been hit hard by the coronavirus, seasonality and IMO2020, but smaller sectors are starting to recover Capesize sector is feeling the most pain, due to low iron ore demand
Demand	<ul style="list-style-type: none"> Short-term: Saudi Arabian exports will positively impact demand Long-term: Demand is expected to slow significantly due to lower economic activity and air travel cancellations 	<ul style="list-style-type: none"> Medium-term: Demand will start to pick up as Chinese manufacturing resumes normal operations Long-term: Lockdowns in Europe and NA will dampen container demand during this period 	<ul style="list-style-type: none"> Short term: China remains weak, but demand elsewhere can lift rates in the market Medium-term: Demand will remain sluggish, but resume to normality in the long-term
Supply	<ul style="list-style-type: none"> Due to closures at Chinese yards, deliveries are expected to be a bit lower than previously anticipated Annual expected fleet growth*: Crude oil tanker: 1.8% Product tanker: 2% 	<ul style="list-style-type: none"> Due to closures at Chinese yards, deliveries are expected to be slightly lower than previously anticipated Annual expected fleet growth*: 2.5% 	<ul style="list-style-type: none"> Due to closures at Chinese yards, deliveries are expected to be slightly lower than previously anticipated Annual expected fleet growth*: 3.1%
Outlook	<ul style="list-style-type: none"> Oil product freight rates will be negatively affected by poor demand, but stay above break-even levels Crude oil tanker freight rates remain strong, but will decline once geopolitical support eases 	<ul style="list-style-type: none"> BIMCO now expect loss-making average freight rates for the full year IMO2020 and deteriorating demand-supply fundamentals weakens the outlook 	<ul style="list-style-type: none"> The fundamentally lower demand will put a damper on earnings Freight rates are expected to be lower than last year

Source: BIMCO

*Expected fleet growth is based on information available in mid February.

At this time, it is important that all parties involved are proactive and establish plans to deal with and beware of potential consequences, analyzing the terms of the contracts and the terms of the insurance policies they have and any requirements provided for therein. It will also be important to maintain accurate and constant communication with the crew.

NEW RESOLUTIONS

The Admiralty Court, responsible, among other functions, for maintaining the registration of naval property, charges on Brazilian vessels and the owners of Brazilian ships, the Brazilian Special Registry (REB), in addition to deciding on accidents and navigation facts, published a few Normative Acts and Ordinances regarding the matter:

- Normative Act No. 1 of 03/16/2020: this act indicates that the Court continues to exercise its functions and has adopted hygiene and precaution procedures, limitations in relation to entering the facilities and established the possibility of working at home for those over 60 years of age.
- Ordinance No. 14 of 03/18/2020: suspended the procedural deadlines from March 18 to April 1.
- Ordinance No. 18/TM of 03/23/2020: suspended the procedural deadlines from April 1st to April 27.
- Normative Act No. 2/TM of 03/23/2020: suspended trials and hearings until 04/27/2020 and regulated, among other things, attendance to the public in the period.
- Ordinance No. 17/TM of 03/23/2020: extends the validity periods of the Shipowner Registration Certificates (CRA, the Brazilian Special Registry (RB) and the Pre-registration with REB.

It should be noted that there has been a constant debate regarding the maintenance of navigation and offshore activities, with several conflicting decrees on the subject. It is important to note that the National Waterway Transportation Agency (ANTAQ) published a note expressly stating that navigation remains in operation considering its importance for the locomotion of people, transport of goods and for national logistics.

» March 24th

According to ANTAQ, cargo transportation is extremely important for food, energy and economic security. The news, published on 03/24/2020, can be accessed at <http://portal.antaq.gov.br/index.php/2020/03/24/coronavirus-dados-da-antaq-apontam-para-a-importancia-da-manutencao-da-navegacao/>

» March 25th

Subsequently, considering Law no. 13.979/2020 and some restraining measures to circulation determined by states and municipalities, on 03/25/2020 ANTAQ published Resolution no. 7.644 that determines, among others, the maintenance of operation of vessels and port facilities, including international navigation, cabotage, offshore support, port support and inland navigation, forbidding actions that restrict the circulation of workers that may affect the proper function of public services and essential activities, as well as restrictions of cargo of any species that may lead to lack of necessary supplies to the population.

» March 26th

Resolution no. 2/2020 of the National Commission of Port Authorities (CONAPORTOS) was published on 03/26/2020, which presents guidelines to public entities in organized ports and port facilities. Among the measures, the Resolution determines restrictions on cargo vessels on international route that can only dock and operate if no crewmember disembarks, for 14 days from the date of departure of the vessel from the last foreign port, except when imperative to the operation.

» April 2nd

Resolution nº 7653/2020 was published on April 2nd, 2020 by ANTAQ which reviews and consolidates measures in response to the public health emergency in the context of waterway transport and port facilities, in view of the guidelines by CONAPORTOS and revoking Resolution 7.644.

The new Resolution establishes restrictions, among others, to the embarking of symptomatic crewmembers and passengers, as well as the entrance of foreigners through waterways.

It prohibits the restriction of the movement of workers that may affect the functioning of public services and essential activities; and the restriction of cargo of any kind that may lead to shortages of essential supplies to the population.

It establishes that the organized ports, port installations and companies working in the waterway transport must comply with the recommendations and protocols of the federal authorities, specially ANVISA – Brazilian Sanitary Agency; guarantee the social distancing of a minimum of 2 meters for workers, crew, pilots and anyone else involved in the port operation or waterway transport, in all common areas, including vessels, cafeterias or any other equipment or infrastructure of common use; and adopt measures to prevent crowds in access points of people and vehicles.

3. Cruises

The humanitarian and global crisis triggered by the spread of covid-19 has had a very severe impact on the tourism sector, especially sea cruises. The companies providing this service decided to end the Brazilian cruise season earlier, causing a huge loss to the sector and the cancellation of several contracts. In the world, there are reports of boats that are not even able to dock due to the fear of sick people on board, causing a series of problems for passengers and crew, sick or not.

Rio de Janeiro State government has also issued a Decree prohibiting cruises coming from states and countries with confirmed cases of people infect with the corona virus or that have already declared a state of emergency from berthing.

In addition, government authorities have already expressed their intention to use cruise ships as additional beds to increase the absorption capacity of local health systems. Furthermore, the requirements of health authorities regarding the mandatory quarantine of foreign professionals around the world can create operational and labor problems.

» April 1st

In Brazil, federal, state and municipal authorities have sought to regulate the embark and disembark of cruise ships in the country as one of the measures to contain the COVID-19.

On the Federal Level, Brazil's Presidency issued the Provisional Measure n. 926 on March 20th, 2020, amending the Federal Law n. 13.979/20 to authorize competent authorities to impose temporary restrictive measures for entering and leaving ports in Brazil, as recommended by ANVISA.

Following ANVISA's recommendation, the Presidency also issued Ordinance n. 47/2020, establishing that foreigners cannot disembark in Brazilian ports for 30 days (counted from 26 March), unless there is a need for medical assistance or if the disembark is necessary to enable the foreigner's return to his/her origin country by air.

The National Commission of Ports Authorities (Conaportos) also issued a resolution with exceptional and temporary restrictions. Conaportos' Resolution n. 2/2020 determines the immediate suspension of new cruise embarks off Brazilian coast and limits the disembark of travelers. In short, Brazilian passengers and crewmembers who have no symptoms of COVID-19 may disembark at Brazilian ports and must remain in quarantine in their homes for at least 14 days. On the other hand, foreign passengers and crewmembers who do not show symptoms will be able to disembark 14 days after leaving the last foreign port or when the repatriation arrangements are agreed and organized between the relevant authorities. The resolution, however, does not make reference to passengers or crewmembers with COVID - 19 symptoms.

According to the resolution, in cases of cruise ships not included in Brazilian 2019-2020 season, the disembark of foreigners will only be authorized after the negotiations for repatriation are agreed and organized between the relevant authorities.

In addition to federal authorities, each State has also adopted its own measures to contain COVID-19. The governments of the States of Amazonas, Pernambuco and Bahia, for instance, enacted, in March, a decree banning the docking of cruises and of other large vessels.

In the State of Rio de Janeiro, the government issued a new decree, on March 27th, maintaining the prohibition on docking cruises from countries where there were confirmed cases of people infected with the corona virus or from countries that have already declared state of emergency. In the State of São Paulo, a Contingency Plan was prepared according to which, in case of a suspected human infection by COVID-19 inside the ships, they will not be authorized to operate and no one will be able to disembark.

In addition, government authorities have already expressed their intention to use cruise ships as additional beds to increase the absorption capacity of local health systems. Furthermore, the requirements of health authorities regarding the mandatory quarantine of foreign professionals around the world can create operational and labor problems.

4. Aviation

The covid-19 pandemic has driven down demand for flights worldwide and is expected to cause Latin American airlines a loss of revenue of approximately \$ 15 billion in 2020, according to estimates by the International Air Transport Association (IATA), being the biggest drop in demand observed in the 2nd semester, when it is estimated to reach 80% compared to the same period in 2019.

The reduction of the Brazilian air network with the crisis was 91.6% and hit the supply of domestic flights in Brazil. The 14,781 weekly flights were reduced to 1,241 due to the lack of demand in the country.

Concerned with preserving essential air services for Brazil, the Federal Government has been following the planning of the air network by Gol, Azul and Latam companies during the COVID-19 pandemic. The government sought to make adjustments possible so that no state is left without at least an air connection, ensuring a network that continues to integrate the country.

The measure is an effort to keep airports open to traffic, in alignment with state governments, so as not to affect the distribution of medicines, vaccines, supplies and hospital equipment.

A new air network will take effect from March 28, and will continue until the end of April, when a new assessment will be made.

The loss of revenue in the sector reaches US \$ 252 billion globally. The worsening of the forecasts is due to the severe measures that many countries, like Brazil, have adopted to completely stop air passenger traffic added to a probable period of recession that will follow the crisis.

IATA again affirmed that airlines have on average enough cash to cover about two months of expenses, which makes it even more urgent for governments to maintain sufficient liquidity to face the drastic drop in demand this year. To this end, it suggests that governments adopt measures to support the sector, including lines of credit for working capital, guarantees for companies in the sector to obtain financing, reduction of the tax burden, among other measures.

In Brazil, BNDES promised that will release a financing line in April to help airlines. As informed, the financing will be exclusive for the Brazilian operation of the companies and will not have subsidies.

IATA encouraged ANAC, like other parts of the world, to extend the validity, for a period of 6 months, of qualifications, certificates and medical reports, as appropriate, for flight crews, cabin crews, instructors, examiners, mechanics and doctors.

In this sense, the government issued Ordinance No. 402 / GC3, of the Air Force Command, postponing the maturity of air navigation tariffs with maturity from March, April, May and June to September, October, November and December 2020, respectively. The extension of the maturity term will not include entities authorized to provide air navigation services that are not part of the Federal Public Administration.

ANAC has been taking measures to keep the agency working with less exposure to employees. In this sense, as of March 25th , 2020, only the physical protocols of the Brasília, Rio de Janeiro and São Paulo units will remain in operation.

In order to avoid face-to-face attendance, the Agency also recommended the use of the Electronic Protocol through the website: <https://www.anac.gov.br/aceso-a-informacao/protocolo-eletronico/protocolo-eletronico>

It should be noted that ANAC did not suspend its public consultations.

Currently, a public consultation is underway on the revocation of Resolution No. 18, of March 19, 2008, which provides for the participation of concessionaires of scheduled public air transport services for passengers operating under the rules of RBHA 121, in the IOSA Program - IATA International Operational Safety Audit. Contributions can be sent until 7th May 2020.

Public Consultation nº 4/2020 regarding the edition of the amendment to the Brazilian Civil Aviation Regulation (RBAC) nº 120 is also in progress, whose contributions can be sent until 4th April 2020

The text on both consultations can be accessed at: <https://www.anac.gov.br/participacao-social/consultas-publicas/consultas-publicas-em-andamento/consulta-publica>.

» [March 30th](#)

BRAZIL RESTRICTS THE ENTRY OF FOREIGNERS FOR 30 DAYS

Following the recommendation of the National Health Surveillance Agency, the Government definitively closed Brazilian borders for 30 days, starting on 30th of March, preventing foreigners from entering Brasil by air, regardless of nationality, through ordinances 149 and 152, both of 27/03/2020.

The restriction does not prevent the entry and permanence of the crew and employees of airline companies in the country for operational purposes, even if foreign, or the technical landing to refuel, when there is no need to disembark passengers.

The impediment also does not apply to cargo transportation.

As in previous decrees, the restriction does not apply to: Brazilian, born or naturalized; immigrant with permanent residence in Brazilian territory; foreign professional on mission serving an international organization; foreign employee accredited to the Brazilian Government; foreign spouse, partner, son, father or curator of a Brazilian; foreigners whose entry is specifically authorized by the Brazilian Government in view of the public interest; and foreigner with a National Migration Registry.

Also, recognizing the importance of Brazil as an air hub, the ordinance excepts the permanence of passengers in international transit, as long as they do not leave the international area of the airport and the destination country admits their admission.

If the country of destination or your nationality does not admit your entry by air, land or waterway, the foreigner will not be admitted to Brazil, and the airlines must prevent your departure at origin.

In addition, if the passenger on an international connection stays at the airport for more than six hours due to delay or flight cancellation, the carrier must provide material assistance, such as food and lodging, and should submit to the Federal Police for evaluation the exceptional need of accommodation outside the restricted area of the airport.

Ordinance 152 also allowed foreigners who are in one of the land border countries and need to cross it to board a flight back to their country of residence, to enter Brazil as long as authorized by the Federal Police.

Failure to comply with the measures provided for in this Ordinance will result in: civil, administrative and criminal liability; repatriation or immediate deportation and disqualification of asylum applications.

The ordinance increases the impacts in airlines operations.

» [March 31st](#)

ANAC ALLOWS CARGO TRANSPORT BY AIR TAXI COMPANIES

ANAC issued Ordinance No. 880 / SPO allowing, for 180 days, cargo transportation by air taxi companies without the need for prior consent.

The ordinance also allows certified operators to conduct public air transport operations under RBAC No. 135 to carry out the transport of biological substances in aircraft.

The measure aims to speed up the transport of biological substances and equipment that can be used by the health area, such as medicines, respirators and tests.

Although it does not require prior consent, the transport must be notified to ANAC within 20 (twenty) days from the start of the operation.

» [April 1st](#)

RULES ON SAFETY INSPECTION OF PUBLIC AGENTS FOR ACCESS TO THE ARS OF BRAZILIAN AIRPORTS REMAIN UNCHANGED

ANAC reaffirmed that the rules that determine the security inspection of public agents to access the restricted security areas of Brazilian airports, which includes Anvisa (Health Surveillance Agency) employees, remain unchanged, and the measures provided for in ANAC Resolution No. 515/2019, in RBAC No. 107, must be applied. Amendment 02 and IS No. 107-001D.

The Agency only recommended that is given priority to Anvisa servers in the lines of security inspection channels and airport accreditation during the Pandemic situation of COVID-19, pursuant to Circular Letter No. 3/2020 / SIA-ANAC.

DIGITAL CHT ISSUANCE EXTENDED TO 4TH OF AUGUST

Due to the Coronavirus pandemic, ANAC has extended for 4th august 2020 the beginning of the validity of the new Digital Technical Qualification Certificate for civil aviation professionals who still have the physical document. The requirement for the digital document would begin on April 6, 2020.

For professionals who only have the digital document, the license will continue to be used normally.

» [April 9th](#)

ANAC ISSUES NEW MEASURES TO ADAPT THE AIR SECTOR TO CHANGES BROUGHT BY CORONAVIRUS

Among the measures to adapt the airline industry to the new reality created by travel restrictions, ANAC established new areas for aircraft parking at 22 airports in the country, with 946 approved positions and 610 extra positions for open air hangar. In general, parking positions have been created in the yards, taxiways and some runways. The positions can be used for temporary use or stay.

The need to expand aircraft parking spaces arose after the reduction of up to 90% in airline operations and the creation of a minimum essential network for the operation in April.

In addition, ANAC exempted aerodrome operators for 120 days from providing access control points for the exclusive use of employees, crew and service personnel. The exemption, however, does not remove the obligation to carry out the security inspection prior to access to the Restricted Security Areas (ARS).

In regard to cargo transportation, ANAC published Ordinance No. 880/SPO, temporarily authorizing the transportation of Biological Substance, Category B (UN 3373), by all air taxi companies in order to meet the high demand for transportation of tests performed in laboratories, due to the coronavirus pandemic (COVID-19).

ANAC also issued Ordinance No. 879 extending the validity of the Annual Maintenance Inspection (IAM), the Airworthiness Condition Report (RCA) and the Airworthiness Certificate (CA), which would expire between March 16th and July 13th, for 120 days, provided that some requirements are met. The standard does not apply to aircraft registered with the Agency as regular and non-regular public transport in operation under RBAC No. 121 (TPR and TPN).

» [April 20th](#)

ANAC ESTABLISHES TEMPORARY EXEMPTION FOR ADDITIONAL RESCUE AND FIRE

ANAC exempted airports until July 31 from the obligation to provide additional rescue personnel from the Fire Rescue and Fighting Service (SESCINC), as required by RBAC No. 153 for Class III and Class IV aerodromes, provided that some requirements are accomplished.

The measure seeks to adjust the risk to the volume of operations at airports in this pandemic period and to reduce the exposure of fire brigades.

However, was maintained a minimum requirement for two fire fighting cars and two teams. TEAMS IN AIRPORTS

» [April 30th](#)

ANAC postpones payment of grants for 6 airports

The National Civil Aviation Agency (ANAC) approved the payment postponement of fixed and variable grants for 6 airports in the country (Confins, Galeão, Fortaleza, Salvador, Florianópolis and Porto Alegre), which totals BRL 179.2 million. Thus, grants that should be paid in May may be paid on December 18th.

This measure intends to mitigate short-term financial difficulties, relieving the cash flow of airport concessionaires, which has been severely affected by the Covid pandemic 19.

5. Ports and infrastructure

The infrastructure sector was particularly affected by the economic developments of the COVID-19 pandemic, in terms of the risks to employees working on the front lines of the circulation of goods and people and the poor demand and flow projected for the year 2020. Both fronts have been affected.

The National Waterway Transportation Agency – ANTAQ maintained the operation of vessels and port facilities according to the comprehension of the Federal Government that the transportation of passengers and cargo constitute essential service.

Thus, public ports and private terminals have adopted, since WHO's declaration of public health emergency, a series of measures for the prevention of risks to users and employees of ports.

In addition to measures such as working at home office, preventive isolation for certain employees who are in risk groups, preference for non-face-to-face meetings, guidance on the disease and means of prevention; there is special concern with sanitary measures in view of the arrival of ships with crew members suspected of contamination and the risk to workers who need to board.

The National Commission of Port Authorities - CONAPORTOS issued guidance to public entities in organized ports and port facilities for immediate suspension of new boarding on cruise ships; as well as determined restrictions to passengers and crewmember disembark on an international route.

The National Health Surveillance Agency - Anvisa, initially, reinforced control at ports and airports and, in addition to health inspections, evaluates the Commanders' report on the vessel and crew's health conditions before any authorization to dock at Brazilian ports.

Subsequently, the Chief of Staff, together with the Ministries of Justice, Infrastructure and Health, followed Anvisa's recommendation and restricted, exceptionally and temporarily, the entry of foreigners into the country through the waterway transport mode.

Moreover, the need to isolate the population and the consequent decrease in productive and industrial activity generates an impact on the supply chain and in the circulation of passengers, resulting in poor demand.

Despite estimates of a sharp decline in exports in general in the first half of 2020, the expectation is that agricultural commodities will be less affected, given the need to replenish food stocks in the affected countries. Disruptions in industry and services are likely to be more severe and longer, according to analysts.

That happens since the pandemic has already significantly reduced the growth forecasts for 2020 of the main buyers of Brazilian exports: China, Europe and the United States. According to the Consensus Economics consultancy, Chinese growth this year should be reduced from 6% to 2%, and the GDP of the United States should fall by 0.7%. A 1.5% drop in eurozone GDP is also expected this year.

Another point of impact on exports may come from shipping. Blockage at ports and disorganization of industrial production chains, as occurred in China, could cause supply chain delays.

One of the main fears is that, with the shutdown of industries and the breakdown of supply chain, there will

be a delay in the removal of cargo and the ports will start to become clogged around the world.

Brazilian ports continue to operate, as they provide essential service. However, there is still a possible blockage for exports on the roads, with a possible abeyance of truck drivers, either due to illness, road barriers or delay in ports.

Regarding to logistical concerns, the agricultural sector still faces issues such as a municipal decree in Rondonópolis, an important agro-industrial and logistical hub in Mato Grosso, which determined the closure of all non-essential services and ordered the suspension of operations in local industries, in response to the coronavirus crisis.

The impacts will be felt in the long term and may even imply a restoration of the economic and financial balance of partnership contracts such as concessions and port leases. The consequences, however, will not be restricted to players who operate in public infrastructure, raising further questions about the limits of the risk-taking model in public interest utilities.

For now, the organs dedicate internal efforts to prevent the spread of the coronavirus. The ANP, for example, postponed all events and planned public consultations and hearings and authorized teleworking for non-essential activities that do not damage the sector's strategy. ANTT suspended international passenger travel and temporarily maintained interstate transportation. ANAC maintains airports in operation, following Anvisa's recommendation, and has systematically released its guidelines for the airline sector.

Antaq, in turn, suspended all procedural terms in the period from 3/21/2020 to 4/31/2020. Ordinance no. 80/2020 allows, in this interregnum, the electronic petitioning and clarifies that the agency will refuse physical petition, either in the face-to-face service, or by post service. In addition, the Agency has commented on the rumors of closing ports to clarify that they remain in operation, as well as interstate and international waterway transport activities and that only the Union will be able to determine their closure. Finally, he indicated that companies should follow the guidelines of health authorities and the Federal Government.

The Ministry of Infrastructure also commented on the closure of airports, ports and land borders. The agency ratified the pronouncements of the Regulatory Agencies of the transport sectors (Antaq, ANAC and ANTT); as well as reinforcing Anvisa's indication regarding the interdiction of airports.

In addition, the National Congress issued Legislative Decree no. 6/2020, which recognizes the occurrence of a state of public calamity in order to mitigate negative effects on the health and economy of Brazil and which constitutes a Joint Commission to monitor the fiscal situation and the budgetary and financial execution of measures related to the emergency of public health of international importance related to the coronavirus.

» [April 1st](#)

Decree no. 10.298 / 2020 instituted the National Council of Transport Secretaries - Consetrans which objective is to promote the articulation of the transport sector between the different entities of the Federation and to represent common interests. As a result of the creation of Consetrans, the Ministry of Infrastructure has issued the feasibility of truck drivers' work, one of the main topics related to supply and export of goods before COVID-19.

Adjustments were made to the InfraBR app, which allowed to measure the health status of the professional and the conditions of the cargo transported. It is also possible that the truck driver detects service stations with the distribution of hygiene and food kits, in addition to providing information on the functioning of essential services for the activity, such as gas stations, restaurants and truck workshops.

» [April 2nd](#)

In view of Anvisa, Conaportos and the Federal Government's updated recommendations and guidelines, ANTAQ reviewed measures in response to the public health emergency in the context of waterway transport and port facilities.

The agency loosened compliance with the frequency of travel and clarified that the interruption of travel in case of a health event is not characterized as a discontinuity in the public passenger transport service. In addition, port facilities and water transport companies which restrict their activities must report to ANTAQ within 48 hours.

Noncompliance with the measures may result in an immediate interruption of the voyage or interdiction of the vessel. This can be done directly by a local or state health authority followed by communication within 24 hours to ANTAQ and safeguarding the guarantee of continuity of cargo transport that culminates in the shortage of necessary supplies for the population.

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» [April 3rd](#)

The Federal Government published Decree no. 10.308/2020, which allows the Minister of State for Infrastructure to request properties and services from public companies related to the Ministry in order to attend urgent and transitory public needs during the period of public calamity resulting from the coronavirus pandemic (covid-19), ensuring fair payment.

» [April 6th](#)

The Federal Government issued the Provisional Measure n. 945/2020, which provides for temporary procedures in response to the Covid-19 pandemic related to the port sector and the granting of airplane

patios under military administration.

The bill, which aims at the continuity of the service and is valid for 120 days, imposes restrictions on the appointment of dock workers, assuring compensatory allowance; just as allows port operators to hire workers with employment contract in case of unavailability of registered dock workers.

Finally, it also provides for authorization to assign special use of airplane patios under military administration, free of charge, to national entities providing public air transport services, during the period of the state of public calamity resulting from the Covid-19 pandemic.

» [April 7th](#)

The National Waterway Transport Agency published Resolution no. 7,660/2020 that suspends specific accounting terms and obligations for 60 days, especially related to the standardization of the tariff structure, equity control, financial statements, inspection and the Port Authorities` Manual of Accountancy.

The rule follows a series of policies to deal with the public health emergency arising from the coronavirus.

6. International trade, Transport and logistics

The spread of Coronavirus around the world affects global supply chains and has significant impacts on global trade and transport.

Gradually, countries are closing borders to prevent the spread of the virus. To date, more than 50 countries have closed their borders. On 03/18/2020, Brazil closed land borders for the entry of people, except Brazilian citizens, from all border countries (Argentina, Bolivia, Colombia, Guyana, French Guiana, Paraguay, Peru and Venezuela). The ordinance establishes that a specific measure will be issued to determine rules on Brazil's land borders with Uruguay.

Air, sea and land border restrictions, in principle, only apply to passengers, but there is no doubt that international trade can also be affected by these extraordinary measures to contain the spread of the virus.

Companies must now carefully analyze the force majeure clauses in their contracts to prepare for possible delays or defaults under their purchase and sale contracts, charter, among others.

Business partners should take advantage of this moment to narrow their means of communication and always try to jointly seek solutions to any problems that may occur during the transport of goods.

The logistical crisis caused by the coronavirus also extends to shipping companies and exporters, who are beginning to worry about the probable lack of refrigerated containers in the global market.

The scarcity of containers has been caused by the suspension of activities in China since January, thus leading to an accumulation of cargo and containers in the country, which will take time to be repositioned. And the crisis on a global scale makes such logistics even more difficult.

Another aggravating factor is that the demand for refrigerated containers already tends to increase in the second quarter of the year in Brazil, due to the harvests destined for export.

Imports have been affected as well, as with the cancellation of trips and greater idleness in the ships, due to stoppage in some countries, there has been a shortage of parts and supplies necessary for the activities developed on Brazilian soil.

So far, there is no embargo of goods; however, in some countries, vessels are being quarantined before docking at ports, which may cause demurrage not only for ships, but also for containers.

In a few cases, there is a restriction of berthing for ships coming from some areas. Such restrictions deserve attention and analysis on a case-by-case basis as they may result in the total default of the contract.

The Brazilian Customs continues to operate by restricting face-to-face service and reducing the number of employees, following the guidance of the health authorities.

Note that inspection and control over foreign trade is considered an essential activity and therefore cannot be interrupted. However, it is possible that with the progress of the crisis, many inspectors will start to work in a "home office", which will undoubtedly generate delays in the import and export process.

Cases related to delays in customs procedures must be analyzed on a case-by-case basis, so that a possible

judicial questioning can be verified, as well as possible loss of goods.

ANTAQ has clarified last Friday, 03/20/2020, that the public (delegated ports included), private and other port facilities as well as interstate and international waterborne transport remain in operation.

Such clarification is in accord with Decree 10.282, published on the same day, that listed cargo transport and delivery as essential activities. In the same way, were considered essential activities that, therefore, cannot be paralyzed: production, distribution, commerce and delivery of products of health, hygiene, food, beverage and fuel; sanitary and phytosanitary surveillance and certifications; inspection of food, products and animal and vegetable products and international agricultural surveillance and tax and customs inspection.

The Decree also regulates that movement of workers that may affect the functioning of public services and essential activities, as well as cargo of any kind, which may result in shortages of necessary supplies for the population cannot be restricted.

However, every precaution must be taken to reduce the spread of COVID-19, according to guidelines from health authorities and the federal government.23/03/2020

ANTAQ CLARIFY THAT PORTS AND TRANSPORT ACTIVITIES STILL OPERATING NORMALLY

Antaq clarified on March 20 that public (including delegates), private and other port facilities remain in operation, as well as interstate and international waterway transportation activities.

Such clarification is in line with Decree 10,282/2020, which listed the transportation and delivery of cargo as essential activities.

In the same way, were considered as essential activities and, therefore, cannot be interrupted: the production, distribution, commercialization and delivery of health, hygiene, food, beverages and fuels products; sanitary and phytosanitary surveillance and certifications; inspection of food, products and derivatives of animal and vegetable origin and international agricultural surveillance and tax and customs inspection.

The Decree also regulates the movement of workers that may affect the functioning of public services and essential activities, as well as cargo of any kind, which may result in shortages of necessary supplies for the population.

However, every precaution must be taken to reduce the transmissibility of Covid -1, as directed by health authorities and the federal government.

» March 25th

Despite estimates of a sharp decline in exports in general in the first half of 2020, the expectation is that agricultural commodities will be less affected, given the need to replenish food stocks in the affected countries.

Disruptions in industry and services are likely to be more severe and longer, according to analysts.

This is because the pandemic has already significantly reduced the growth forecasts for 2020 of the main buyers of Brazilian exports: China, Europe and the United States.

According to the Consensus Economics consultancy, Chinese growth this year should be reduced from 6% to 2%, and the GDP of the United States should fall by 0.7%. A 1.5% drop in eurozone GDP is also expected this year.

Another impact on exports may come from shipping. Congestion at ports and disorganization of industrial production chains, as occurred in China, could cause chain delays.

One of the main fears is that, with the shutdown of industries and the breakdown of production chains, there will be a delay in the removal of cargo and the ports will start to become congested all over the world.

At the moment, the transport of containers and dry cargo (grains, metals) is being more affected than liquid and gas terminals (fuels, chemicals).

Brazilian ports continue to operate, as they are services classified as essential.

However, there is still a possible bottleneck for exports on the roads, with a possible stoppage of truck drivers, either due to illness, road barriers or delay in ports.

7. Agribusiness

» March 31st

Brazilian Government's perspectives were optimistic on the beginning of 2020, boosted by the increased value of the US dollar and the rising price forecast regarding the values of soybeans, maize and beef in the external market. On February 4th, 2020, during a meeting, Brazil's Agriculture Minister Tereza Cristina and Chinese Ambassador Yang Wanming (02/04/2020), it was stated that there was no restrictions to the commercial exchange between the countries due to the virus.

Nevertheless, the spread of the disease in the globe and its impacts has been growing concerns on the market's players. In Europe, one of the main importer blocks of Brazilian agribusiness products, the borders closures of several countries and the decrease of movement of people may cause reduction on the demand of food, such as beef, which was growing in the first months of 2020.

Some specific impacts were already anticipated by the mainstream media, for instance the price increase of supplies, the stoppage of several agricultural fairs and the suspension of activities in some sectors of the productive chain, as well as internationally, considering news regarding logistics issues on the affected countries.

It is safe to say that there will be an impact on agribusiness, but it is still early to precise its dimensions.

At this stage, it is important to point out that Brazilian Wheat Industry Association (Abitrigo) reported the difficulties faced regarding the distribution on wheat flour on several states, caused by the mismatch of the federative entities on decision-making in the event of the crisis. According to Abitrigo, the closure of state borders and the deficiency of services on roads has already impaired the delivery of 30% to 35% of wheat flour in some states.

The sector's entities understand for the maintenance of the agricultural production. In accordance with Brazilian Agriculture and Livestock Confederation (CNA), the stimulation of social distancing around the world will not cause a decrease of the sector's exports, since the demand for food is fundamental to health and social harmony in the countries. In the same line, Brazilian Associations of Soy Producers (Aprosoja), of Animal Protein (ABPA) and of Grain Exports (ANEC) have issued the same opinion.

In response to the crisis, Ministry of Agriculture, Livestock and Food Supply (MAPA) has been focusing its acts on the maintenance of the country's supply. In addition to Presidential Decree No. 10,282/2020, which framed the production, distribution and commercialization of food as an essential activity (art. 3º, XII), MAPA issued Ordinance No. 116, of March 26, 2020, specifying which services, activities and products are considered essential, as follows:

- I. collective or individual transport of employees destined to the activities outlined above, by means of public or private transport companies;
- II. transport and delivery of general cargos;
- III. production, distribution and commercialization of fuel and oil products;

- IV. production and distribution of food, beverages and cattle supplies, also focusing on the transport and commercialization of perishable products;
- V. sanitary and phytosanitary surveillance and certification;
- VI. prevention, control and eradication of vegetable plagues and animal disease;
- VII. inspection of food, products and and byproducts derived from animals and vegetables;
- VIII. international farming surveillance;
- IX. processing establishments of farming products;
- X. production establishments of farming products, regarding fertilizers, agricultural pesticides, seeds, seedlings, animal supplementation and health, feed and its feedstocks; XI - manufacturing establishments and commercialization of machines, farming implements and spare parts;
- XI. storage and distribution establishments;
- XII. commercialization of farming products, medicinal products for veterinary use, vaccines, generic material, supplements, agricultural pesticides, fertilizers, seeds and seedinds and farming products;
- XIII. machine shops and tire shops, especially for the support to the transport of essential services cargo on roads and highways;
- XIV. building materials;
- XV. packaging materials;
- XVI. ports, trade zones, railways, highways, municipal, state and federal regarding the flow and distribution of food, beverages and farming products;
- XVII. gas stations, restaurants, convenience stores, inns, hygiene lodges, with the minimal infrastructure for truckers and for truck traffic throughout the country's roads and highways.

On its turn, the National Institute for Colonization and Agrarian Reform (INCRA) determined, by means of Ordinance No. 586/2020, also published on March 27th, 2020, the due date extension regarding all debts stemming from the concession of Installation Credit, title deed and administrative installment plans from February 04th, 2020. The Ordinance establishes that:

- The due date of all debts contracted as from February 04th, 2020 shall be established counting 60 (sixty) days from the termination declaration of Brazil's State of Emergency;
- All due debts arising from administrative installment plans regarding contracts, covenants and fines, which are due on the duration of State of Emergency are automatically postponed for the term of 60 (sixty) days from the termination declaration of Brazil's State of Emergency;
- All debts due before the referred date shall be relieved from delay penalties (fine and interests) during the validity of Brazil's State of Emergency;

- Suspension of all deadlines regarding the filing of defense, administrative appeals and all kinds of manifestations regarding INCRA's notifications during this period. After the end of Brazil's State of Emergency, all deadlines shall be resumed automatically;
- Concession of Use Contracts (CCU) due during this period shall be automatically postponed for 180 days.

» April 7th

Last Tuesday (07/04/2020) the Brazilian Presidency of the Republic enacted a bill that converted Provisional Measure nº 897/2019 ("MP do Agro") into Federal Law, conceived to facilitate agribusiness sector players to obtain credit and finance its debts. The new Federal Law nº 13.986/2020 implements several measures aiming to stimulate commercial handlings of rural producers, such as the institution of the Solidary Guarantee Fund (FGS), Rural Real Estate Note (CIR), Rural Product Note (CPR) and the Segregate Estate.

In summary:

- FGS (art. 1º) is an option of guarantee to be offered by rural producers in order to enter credit operations, including those resulting from debt consolidation. There is no maximum limit of participants to join the collective fund, maintaining a minimum of 2 producers per fund.
- On the other hand, the CIR (art. 17) consists in a nominative, transferable and freely negotiable credit instrument, to substantiate the payment promise resulting from credit operation of any type.
- The CPR (art. 42) is a note representing the promise of delivery of rural products, valid with or without cedular guarantees.
- Also highlighted was the Segregate Estate (art. 7º), which foresees that the owner of rural property can offer his property, totally or a fraction of it, in guarantee by means of CPR or in financial operations entered via CIR.
- The Federal Government vetoed a few provisions of the project, with emphasis on provisions that extended terms for renegotiating rural debts.

Even though it was already expected before the crisis with COVID-19, Law nº 13.986/2020 was enacted in a very opportune moment, given the commercial difficulties faced by rural producers due to the spread of the virus.

» May 13th

Notwithstanding, on May 11th,2020, the Ministry of Agriculture, Livestock and Supply (MAPA), alongside Ministries of the Economy and Health, released a manual with recommendations to coldstores due to COVID-19 pandemic, aiming to guide entrepreneurs and workers' conducts, in the industry in order to prevent the spread of the new Coronavirus on workplaces.

The referred manual foresees over 70 measures related to protocols of general subjects; to practices of good personal care and conduct; to precautions regarding meals and clothing; to internal commissions of accident prevention; to the transportation of employees provided by the entrepreneurs; to face protection masks; to cautions regarding employees within the group of risk; to the suspension of administrative

requirements regarding use in labor health and safety; to contingency proceedings and resumption of sector or establishment activities, among others.

Within the recommended measures, mention is here made to (i) the distance of two meters between each employee in the production line; (ii) the prohibition on entrance in the facilities without a face protection mask; (iii) the identification and removal of employees with infection confirmed or under analysis; (iv) the prohibition on sharing non-sanitized glasses, plates and cutlery, as well as any other kitchen utensils; (v) the determination to avoid crowding employees at the entrance and exit of the facilities, among others, etc.

These are the main measures adopted by the public power thus far, regarding agribusiness specifically. The intensification of the measures will depend on the eventual spread of COVID-19's on the next weeks.

8. Tax and customs

» [April 9th](#)

The Federal, State and Municipal Governments have announced a series of economic measures being some of them related to tax and customs law and regulation. In order to keep our clients informed, below we summarize the main updates implemented so far:

1. REDUCTION AND/OR POSTPONMENT ON THE PAYMENT OF TAXES

FEDERAL WELFARE CONTRIBUTIONS (PIS AND COFINS) AND SOCIAL SECURITY CONTRIBUTION

The Ordinance of the Ministry of Economy 139/2020, as amended by Ordinance 150/2020, postponed the deadline for payment of the Social Security Contribution due by the companies, including the so-called “CPRB”, and of the Federal Welfare Tax (PIS and COFINS) related to the accrual periods of March and April 2020 up to the deadline for the payment of the contributions related in the accrual periods of July and September 2020, respectively.

SEVERANCE FUND (FGTS)

The Provisional Measure 927/2020 postponed the payment to the Severance Fund (FGTS) related to March, April and May of 2020.

The payments can be made as of June 2020, in up to 6 monthly installments, without fines and updates. However, in case an employee is dismissed, the maturity date for the upcoming installments will be anticipated, without fines and charges.

SOCIAL CHARGES OF THE SO-CALLED “S SYSTEM” LEVIED OVER THE PAYROLL

The Provisional Measure 932/2020 reduced in 50% the percentages for the social charges over the payroll destined to the so-called “S System” (Sesi, Senai, Sesc, Senac, Sest, Senat, Senar and Sescop) related to the months of April, May and June, which will levy according to the rates mentioned below:

- Sesi, Sesc and Sest: 0.75%
- Senac, Senai and Senat: 0.50%
- Sescop: 1.25%
- Senar: 1.25% (different rates applied to the revenues related to the commercialization of the production due by the land producer).

FINANCIAL TRANSACTION TAX (IOF) ON CREDIT

The Decree 10,305/2020 reduced the IOF rates to zero in the credit transactions contracted between April 3 and July 3, 2020, related to:

- loans, in any modality, including in the financing form;

- discount transactions, including on the sale to factoring companies of credits deriving from installments sales;
- cash advances to the depositor;
- excess of credit limit;
- financing for the acquisition of non-residential properties, in which the borrower is an individual.

The credit transactions that are subject to extension, renewal, novation, composition, consolidation, debt acknowledgment, and similar businesses and those not settled at maturity are also covered by the decree.

The reduction is also applied in relation to the additional rate of 0.38%.

INSTALLMENT PLANS FOR DEBTS ENROLLED IN THE ACTIVE DEBT OF THE STATE OF RIO DE JANEIRO

The State Decree 46.982/2020 postponed for 60 days the deadline for payment of the installments that shall expire after the publication of such Decree regarding tax and other debts enrolled in the Active Debt.

TAXES UNDER THE “SIMPLES NACIONAL”

The National Simplified Taxation System Management Committee (CGSN) approved Resolution CGSN 152/2020 to postpone the deadline for payment of federal taxes under the Simples Nacional, as indicated below:

- the payment of the federal taxes’ referent to March/2020, with original deadline was on April 20,2020, is postponed to October 20, 2020;
- the payment of federal taxes referent to April/2020, with original deadline on May 20, 2020, is postponed to November 20,2020;
- the payment of federal taxes referent to May/2020, with original deadline on June 22, 2020, is postponed to December 21, 2020.

Nevertheless, the federal taxes related to February/2020 has the March 20, 2020 deadline maintained.

The Brazilian Internal Revenue Service will issue an Executive Declaratory Act with the procedure that must be followed by the taxpayers.

IMPORT TAX AND EXCISE TAX (IPI) ON ASSETS TO COMBAT THE COVID-19

The Executive Committee for the Chamber International Commerce (CAMEX) of the Ministry of Economics approved Resolution CAMEX no. 17/2020 that reduces to zero the rate of import tax levied over healthcare products (such as gloves, alcohol-based hand sanitizers, hospital masks, clinical thermometers, security goggles and respiratory equipment) that are essential in the fight against the pandemic caused by COVID-19.

On March 20, 2020 the Federal Government enacted Decree 10.285 reducing the Excise Tax (IPI) for local and import transactions until September 30, 2020.

2. POSTPONEMENT ON THE DATE FOR FILING ANCILLARY TAX RETURNS

The IRS Normative Ruling 1,932 postponed the deadline for the filing of certain tax ancillary obligations, the so-called “DCTF” and “EFD-Contribuições”, as follows:

- The DCTS originally forecasted to be filled in April, May and June 2020 can be submitted until the 15th business day of July 2020;
- The EFD-Contribuições originally foreseen to be filed in April, May and June 2020 can be submitted until the 10th business day of July 2020, including in the cases of extinction, mergers and total and partial spin-offs.

3. TAX CLEARANCE CERTIFICATES

FEDERAL

The IRS and The National Treasury Attorney’s Office issued Ordinance 555, on March 23.2020, which extends for 90 days the period of validity of the Tax Regularity Certificates for Federal taxes. However, it is necessary for the certificates to be valid on the date of publication of the said ordinance, which happened on March 24.2020.

STATE OF RIO DE JANEIRO

The State Tax Secretariat (SEFAZ) enacted Resolution no 163/2020 determining that, while the Decree 46,973/2020 produces effect, the period of validity of Tax Clearance Certificates for State taxes issued since March 23, 2020 will be 90 days from each date of issue.

The Office of the Attorney General of the State of Rio de Janeiro (PGE) issued Resolution PGE no. 4,527, on March 16, 2020, postponing the expiration date of the Tax Regularity Certificates emitted by the Office of the Attorney General of the State of Rio de Janeiro for 30 days.

STATE OF SÃO PAULO

According to SFP / PGE Resolution 1/2020, the validity of Tax Regularity Certificates for State taxes expired or to expire in the period from March 1 to April 30, 2020 has been extended for 90 days.

MUNICIPALITY OF RIO DE JANEIRO

the Municipality of Rio de Janeiro edited Decree 47,263, on March 17.2020, also postponing for 30 days the expiration dates of all the Tax Regularity Certificates for ISS (service tax) and other Municipal Taxes that were valid up until March 18, 2020, and the ones valid 60 days prior to the publishing of the Decree by the Treasury Secretariat of the Municipality of Rio de Janeiro.

4. ADMINISTRATIVE COLLECTIONS

Based on Provisional Measure of the Regular Taxpayer (MP 899/2019) and Ordinance 103, edited on March 17, 2020, the Office of the Attorney-General of the Federal Union (PGFN) issued, on March 18, 2020,

Ordinance PGFN 7,820, suspending for 90 days:

- the deadlines in course or initiated after March 16, 2020 regarding i) filing of defense or appeal regarding Administrative Proceedings to Recognize Fiscal Responsibility (“PARR”); ii) filing of manifestation of disagreement and appeal against decision rendered in the records of proceedings of exclusion from the Special Tax Regularization Program (“PERT”); and iii) anticipated offer of guarantee in tax collection suits, presentation of Request to Review of Registered Debts (“PRDI”) and appeal against any decision denying it;
- the administrative collection measures regarding i) presenting of active debt certificates for extrajudicial notification; and ii) establishment of new Administrative Proceedings to Recognize Fiscal Responsibility (“PARR”);
- the opening of new proceedings to exclude taxpayers from installment programs administrated by the Office of the Attorney-General of the Federal Union (“PGFN”) due to non-payment of installments.

5. CUSTOMS MEASURES

SIMPLIFIED CUSTOMS CLEARANCE FOR HEALTHCARE PRODUCTS DESTINED TO SUPPORT THE FIGHT AGAINST COVID-19

The Brazilian Internal Revenue Service issued Normative Instruction 1,927 on March 17, 2020 in order to simplify the customs clearance procedure for all the supplies imported to support the combat against COVID-19. We highlight the newly instated possibility to deliver and use the imported products before the assessment by the customs authorities is concluded and regardless of the verification canal that the assets are assigned to.

SUSPENSION OF THE ATTENDANCE AT THE CUTOMS AUTHORITY AT THE PORT OF SANTOS

The attendance at the Customs Authority of the Brazilian Internal Revenue Service at the Port of Santos is suspended for indefinite period, as provided by Ordinance ALF/STS 66/2020, published on March 26, 2020.

Only the activities that are necessarily on-site, carried out by the On-Duty Auditors from 07:00p.m. until 07:00a.m. are maintained.

During this period, the Customs Authorities at the Port of Santos may be contacted through the following manners:

- cac.sp.alfsts@rfb.gov.br;
- (+5513) 3208-2000; and
- Portal E-CAC.

9. Labour

» [March 25th](#)

The confirmation in Brazil of the pandemic caused by COVID-19 ends up affecting work relations in general. Therefore, Brazil enacted, on 02/07/2020, specific legislation, which aims to regulate any situation like the one we are facing.

In order not only to comply with the legislation, but also to prevent contagion by employees, family members and the consequent proliferation of the virus, it is essential that the company takes some measures, which may result from changing the way services are rendered, reducing and even suspending services. No less important is the possibility of requesting the employee to undergo examination if he/she is suspected of contamination.

EMPLOYER LIABILITIES

The specific legislation ends up making the employer liable, under the law, in the event of failure to adopt the measures provided for therein. Among these measures are the determination of isolations, quarantines and compulsory examinations in case of exposure or suspected contamination (article 3, I, II and III). As the law is clear in stipulating that liability is in accordance with the law, we understand that the employer's failure to take protective measures may even generate co-liability accordingly, in the possible contamination of its employees.

TRAVEL AND FACE-TO-FACE MEETINGS

Considering that article 3, § 4 of law 13.979/2020 holds the employer liable for non-compliance with legal measures in the case of this pandemic, we believe it is pertinent to cancel national and international air, land or sea travel, as well as work meetings, replacing them with electronic meetings in general.

Employees who were on the road before the outbreak began, or who had contact with anyone on the road, should be quarantined and kept under observation for possible symptoms.

SUSPECTED EMPLOYEE CONTAMINATION

If an employee is suspected of contamination, even if he is in quarantine, or working outside the company environment, it is prudent for the employer - always informed - to request the examination, on a compulsory basis (article 3, III, "a, b, c, dee"), without any form of discrimination, under the legislation in force.

In quarantine, in the absence of confirmed contamination, if the employee is in good health, it is possible to work outside the company environment.

CONTAMINATED EMPLOYEE

In the event of contamination, the employee must be isolated (art. 3rd, I), which the doctor or the health agent will probably recommend, leading to the interruption of the employment contract, in the first 15 days. Therefore, absences will be considered justified in such days, due to sick leave, with no provision of services, even outside the business environment.

After 15 days have passed and the illness remains, the employee is considered to be on leave with the Brazilian Social Security Institute (INSS), with the suspension of the employment contract.

VACATION AND REDUCTION OF WORKING HOURS AND SALARIES

It is indeed possible, as provided in the Constitution.

USE OF POSITIVE HOURS IN OVERTIME BANK

It is possible to use positive hours, when on vacation, without the provision of services. Therefore, in the case of quarantine, whether services are provided or not, negative hours cannot be considered, due to the impediment of deduction for absences.

a. DURATION OF THE MEASURES

For the duration of the state of public calamity recognized by Decree nº 6/2020;

b. ADJUSTMENT FORM

Individual written agreement, which will prevail over other normative, legal and collective instruments, within the limits of the Constitution;

c. MEASURES THAT MAY BE ADOPTED:

- teleworking;
- anticipation of individual vacation;
- concession of collective vacation;
- use and anticipation of holidays;
- bank of hours;
- suspension of administrative requirements for occupational health and safety;
- deferral of FGTS payment.

d. COVERAGE

Employees governed by the Consolidation of labor laws (CLT), temporary, domestic and rural workers;

e. WAGE REDUCTION WITH THE RESPECTIVE REDUCTION OF THE WORKING JOURNEY

Provisional Measure 927/2020 did not specifically regulate the matter, as it did with other themes, but after reading it, we understand it is possible, in the percentage of 25% with the respective reduction of the workday, but the employees who will remain working either by telework rule, or presence in scale or not. The rationale for this possibility is that the labor measures do not replace the consolidated rules in force, since it allows the employer to adopt them. One of its foundations is the preservation of employment and income (Article 1). It makes possible the agreement between employee and employer in order to maintain

the employment bond, respecting the constitutional limits (art. 2). It recognizes that the state of calamity is a case of force majeure, under the terms of article 501 of the CLT, which makes the reduction of wages viable, on this basis, authorized by article 503 of the same Legal Diploma. Finally, the aforementioned Measure lists the hypotheses that will be analyzed in a merely illustrative list, intelligence extracted from its article 3, when it states: "For coping [...], the following measures may be adopted by employers, among others:"

1. TELEWORKING

The modality is changed, with a minimum of 48 hours notice in advance to the employee, without prior need of registration. It extends to interns and apprentices.

There is no journey control.

Expenses and infrastructure can be adjusted between the parties within 30 days.

Equipment can be assigned to the employee on a lending basis. In the impossibility, the time elapsed will be considered at the employer's disposal.

Collective norm that provides for the use of telematic means outside working hours shall be observed. The rule is that there is no disposition, readiness or warning.

2. ANTICIPATION OF INDIVIDUAL VACATION

It is possible to grant it – even in case the acquisition period has not been completed – with a 48-hour notice which may be in writing or electronically giving priority to employees who are part of the risk group.

A period of less than 5 days cannot be granted.

It is possible to suspend current vacation periods, with 48-hour notice to be given in writing or electronically, for employees who perform essential functions;

The Additional may be paid up to the 13th salary payment date;

The requirement to convert the 1/3 vacation period to a cash payment is subject to the employer's agreement;

The payment of the vacation may be made until the 5th working day of the month following its beginning;

Dismissed the employee, what remains to perform will be due.

3. COLLECTIVE VACATION

It is possible to grant collective vacations without applying the maximum limit for annual periods and the minimum limit provided for in the CLT, employees must be notified within 48 hours and there is no need to report to the Ministry of Economy and professional Unions.

4. HOLIDAY USE AND ANTICIPATION OF HOLIDAYS

It is possible to anticipate the enjoyment of federal, state, district and municipal non-religious holidays, and the employee must be notified within 48 hours with express indication of the holidays taken advantage of.

Eventual work on early holidays may be deducted from the bank's negative balance;

In the case of a religious holiday, the anticipation depends on the employee's express agreement, by means of an individual written agreement.

5. TIME BANK

The institution of the hour bank is possible upon the interruption of activities by the employer, established by means of an individual written or collective agreement, which compensation period can be up to 18 months counted from the date of the closing of the public calamity;

Compensation may occur with the requirement of work up to two hours a day;

6. SUSPENSION OF ADMINISTRATIVE REQUIREMENTS FOR SAFETY AND WORK HEALTH

The obligation to carry out occupational, clinical and complementary medical examinations is suspended, except in case of dismissal and cases in which the physician understands there is a risk.

In relation to dismissal exams, they will be dismissed if another has not been done in a period prior to 180 days.

The postponed examinations will be carried out within 60 days after the end of the state of public calamity.

Periodic training and occasional training for employees with an ongoing contract provided for in the NR's is suspended – except if there is a possibility of it being offered remotely – and once the state of public calamity ceases it must be done within 90 days.

The Internal Accident Prevention Committees (CIPAS) are maintained and any elections can be suspended.

7. DEFERRAL OF FGTS PAYMENT

The FGTS payment requirement for March, April and May/2020, with maturity in April, May and June/2020, is suspended, regardless of the number of employees, taxation regime, legal nature, economic activity and previous adhesion.

The above payments can be made in instalments (up to 6 times), without fines and monetary adjustment, from July/2020, subject to article 15 of the specific law.

The information must be provided until 06/20/2020, in accordance with the provisions of article 32, IV of law 8212/91 and Decree 3048/1999.

If the employee is dismissed, the deposit is due without fines and charge.

The instalments, if defaulted, will be subject to fines and charges, subject to the blocking of the FGTS certificate of regularity. Those issued before this measure and in progress, will be extended for 90 days and existing instalments will not prevent the maintenance of the certificate.

8. CONVALIDATION OF PREVIOUS MEASURES NOT AGAINST THESE PROVISIONS

Considered and validated.

9. OTHER PROVISIONS

Changes in health professionals' contracts may occur;

The deadlines for submitting a defence and appeals in administrative procedures arising from the FGTS tax assessment notice or debt notification are suspended;

Any contamination of the employee by COVID-19, will not be considered an occupational disease, except if causal link is proved;

Collective agreements and Conventions expired or falling due within 180 days from the date of entry into force of this MP, may be extended at the employer's discretion for up to 90 days after the end of this period;

During the period of 180 days the Labour Auditors will act in a guiding manner, except in the following irregularities: 1) lack of registration; 2) serious situations of eminent risk only for situations related to them; 3) fatal accident ascertained by means of a tax procedure; and 4) child labour and situations analogous to slavery.

» [April 3rd](#)

The Provisional Measure nº 936/2020, which establishes the Emergency Employment and Income Maintenance Program and provides for complementary labor measures to deal with the state of public calamity recognized by Legislative Decree nº 6, of March 20, 2020, and the emergency of public health due to the coronavirus (covid-19).

In summary we have that:

- a. DURATION OF THE MEASURES – While the state of public calamity recognized by the Decree nº 6/2020 persists.
 - b. ADJUSTMENT FORM: Individual written agreement or collective bargaining agreement, depending on the measures adopted, as will be explained below.
 - c. MEASURES THAT MAY BE ADOPTED: 1) the payment of an Emergency Job and Income Preservation Benefit; 2) the proportional reduction in working hours and wages; and 3) the temporary suspension of the employment contract.
 - d. COVERAGE: Employees governed by the Consolidation of Labor Legislation (CLT), young apprentices and part-time work contracts.
1. PAYMENT OF AN EMERGENCY BENEFIT IN ORDER TO PRESERVE THE EMPLOYMENT AND INCOME: Payment of the “Emergency Employment and Income Preservation Benefit”, which will be borne by the Federal Government and will be entitled to receive the referred benefit those who had the proportional reduction in working hours and wage and those who have their employment contracts temporarily suspended.

The employer has the liability to communicate the Ministry of Economics about the reduction of the working hours and wage or the temporary suspension of the employment contract, within ten days counted from the day the parties has signed the agreement. In case the employer fails to inform the

Ministry of Economics, he will be responsible for the payment of the full wage before the reduction or temporary suspension of the employment contract.

2. **PROPORTIONAL REDUCTION OF THE WORKING HOURS AND WAGE:** Permits the proportional reduction of working hours and wages for up to ninety days, by means of an individual written agreement and formalized with at least two calendar days before the start date of the reduction. Said reduction may be carried out, exclusively, in the percentages of 25%, 50% or 70%.
3. **TEMPORARY SUSPENSION OF THE EMPLOYMENT CONTRACT:** Authorizes the temporary suspension of the employment contract, by means of an individual written agreement and for a maximum period of sixty days, which may be divided into up to two periods of thirty days.

The temporary suspension of the contract does not suspend the payment of benefits granted by the employer to its employees, but it authorizes the employee to make social security contributions as an optional insured.

For companies that have earned, in the calendar year of 2019, gross revenue exceeding R\$ 4.800.000,00 (four million and eight hundred thousand reais), the suspension of the employment contract can only occur through the payment of a monthly compensatory aid corresponding to thirty percent of the employee's salary.

4. **THE USE OF BOTH MEASURES AT THE SAME TIME:** It is possible to use both measures, successively, provided that together they do not exceed the maximum period of ninety days, respecting the time limit of each one.

OTHER PROVISIONS:

- a. For both measures treated in items 2 and 3, it is determined that the reestablishment of the terms of the employment contract prior to the adoption of said measures will occur within two days, counted from the termination of the state of public calamity, from the date established in the individual agreement, as a termination term or the communication from the employer to the employee about its decision to bring forward the end of the term of the signed agreement.
- b. For employees affected by the measures referred to in items 2 and 3, the provisional guarantee for employment is recognized, which will last after the closure of said measures, for a period equal to the duration of these measures.
- c. The unfair dismissal that occurs during the period of provisional guarantee referred to in the item above, will subject the employer to the payment of an indemnity, to be fixed as follows:
 - i. 50% of the salary to which the employee would be entitled in the period of provisional guarantee in the employment, in the hypothesis of a reduction in the working hours and wage equals to or greater than 25% and less than 50%;
 - ii. 75% of the salary to which the employee would be entitled in the period of provisional guarantee in the employment, in the hypothesis of reduction of the working hours and wage equals or superior to 50% and inferior to 70%;

- iii. 100% of the salary to which the employee would be entitled in the period of provisional guarantee in the employment, in the hypotheses of reduction of the working hours and wage in a percentage superior to 70% or in case of a temporary suspension of the employment contract.
- d. The measures treated in items 2 and 3 may also be entered into by means of a convention or the collective bargaining agreement, in which case different percentages of reduction of the working hours and wages may be established.
- e. The measures treated in items 1, 2 and 3 may be implemented by means of an individual agreement or collective bargaining agreement for employees with a salary equal to or lower than R\$ 3.135,00, as well as for employees who have a diploma and higher education and who perceive monthly salary equal to or higher than twice the maximum limit of the benefits of the General Social Security System. For employees not covered by the assumptions above, the aforementioned measures can only be established by convention or collective agreement, except for the reduction of working hours and wages of twenty-five percent.

» April 9th

On April, 7th, 2020 the Provisional Measure nº 946/2020 was published , it extinguished the PIS-Pasep fund, and presented the possibility of withdrawing the FGTS in view of the state of public calamity related to the COVID-19.

With respect to the PIS-Pasep, said Provisional Measure extinguished such fund, and also determined the transfer of its assets to the Guarantee Fund for Length of Service (FGTS), also indicating ways of updating it and other obligations on the part of financial agents regarding such transfer.

In addition, the regulation authorizes and establishes rules for withdrawing the FGTS balance, in view of the state of public calamity and the public health emergency of international importance related to the COVID-19, with a withdrawal limited to R\$ 1.045,00 per worker.

» April, 30th

On 04/29/2020, the Plenary of the Federal Supreme Court in preliminary decision suspended two articles of Provisional Measure 927/2020, in this case, the article 29 which established that COVID-19 does not characterize occupational disease, except if the causal link is proven, and the article 31, which limited the fiscal auditors' power of inspection.

10. Oil and Gas

» March 31st

The adoption of measures to reduce the spread of COVID-19 imposes serious restrictions on the development of companies' activities. In the Oil & Gas sector, the challenges are even greater, since we have an activity developed mainly on platforms located offshore, thus not allowing offshore workers to work at home, requiring collective coexistence and confinement.

In addition, it is an activity that involves risks to workers and the environment, so any measure of personnel reduction must be carefully analyzed. Furthermore, we have an activity extremely regulated by several authorities.

The authorities are ready to respond to the crisis and on 03/18/2020, the Ouro Negro operation, with the participation of the Brazilian Oil Agency (ANP), the Environmental Protection Agency (IBAMA), Anvisa, the Ministry of Economy, Navy of Brazil and the Labour Prosecution Office issued a recommendation for all operators, concessionaires and service providers in the oil and gas industry to establish: (i) Procedures for Contingent Operations and (ii) Infection Prevention Plan.

The Contingent Operations Procedure must consider maintenance of a safe operation, risk control and criteria for suspending operations, reduction of workers' exposure and emergency training. The Infection Prevention Procedure must include additional hygiene measures, the impossibility of sharing personal equipment, prevention protocols, isolation and identification of suspected cases, in addition to postponing training and face-to-face meetings.

Certainly, the adoption of such measures will demand great levels of cooperation among companies operating in the industry and among authorities as well.

During the course of the past weeks the federal government took measures, through presidential decrees, to consider the O&G sector with all its related activities as essential activities. This means that no State or Municipal government could impose restrictions to the development of such activities or the movement of their workers.

However, due to restrictions imposed on transit of foreigners and lack of commercial flights, the logistics related to the crewing and operations have increased.

In particular, considering the low oil price, and the difficulty of obtaining financing due to the financial market situation, new projects will have great difficulties to be approved.

Regarding ongoing projects, it is possible for companies to consider measures such as reducing staff, changing schedules, suspending or stopping activities or even terminating contracts.

Another aspect considered is that the quarantine on commercial activities has restricted the demand for fuels. Petrobras informed that will reduce production in refineries for diesel and other fuels, and an agreement was signed between the government of Rio de Janeiro, Petrobras and the distributor Naturgy to loosen the natural gas supply contracts in the State, guaranteeing the postponement of the deadline for collection of the molecule portion of the contracted natural gas price.

Furthermore, the Decree No. 47.007/2020 was published in the Official Gazette of the State of Rio de Janeiro on March 31st, 2020, which provides for the creation of the Commission for the Elaboration of the Proposed Reform of the State Legislation Applicable to the Oil Industry, Natural Gas and Biofuels within the State of RJ, called the Commission of Petroleum, Gas and Biofuel.

The Commission of Petroleum, Gas and Biofuel has the purpose to elaborate a study, opinion and proposal of a standard for the reform of the state legislation on the subject, considering the need for simplification and reduction of bureaucracy of the norms in force.

The question that arises is the treatment that will be given to breaches of contract, the increase in costs, the inability to continue with activities or even the determination of suspension to avoid further losses. Each of these situations will have a different legal treatment, depending on the background situations and the specific contracts.

Our team has been monitoring the situation of the market and companies in real time and is ready to assist in the necessary legal recommendations.

11. Energy

» March 25st

As in the other sectors of the Brazilian economy, the crisis due to COVID-19 and containment measures taken by authorities and companies worldwide will also cause a recession in the Brazilian power sector. The resumption of the growth rate is still an uncertain factor.

To prevent the spread of the Coronavirus, companies and institutions in the electricity sector, including the Ministry of Mines and Energy (Ordinance 117/2020) continue to announce measures to preserve the health of their employees, such as the temporary suspension of face-to-face participation in events and meetings and other monitoring and prevention measures to protect their workers and communities.

Regarding the power demand, it is estimated that consumption in the industrial and commercial segments will fall, since demand thereof depends on economic activity. In order to avoid that crisis will impact the supply of energy, MME Ordinance No. 135/2020, published on March 30, 2020, considered essential all mineral inputs to the production chain of the essential activities, including the supply of energy. So, the inputs for the energy sector are considered essential and cannot be restricted or reduced.

On the other hand, there is an increase in residential consumption due to the reduced movement and circulation of people and home office, as measures adopted to slow down and reduce contagion. This movement creates uncertainties that affect long-term decisions.

On March 23th, 2020, Governor Wilson Witzel endorsed the prohibition on cutting natural gas and energy for failure to pay in the State of Rio de Janeiro, provided for in PL 1999/2020. The measure is valid for a period of 30 days for residential and small commercial consumers.

In addition, the migration of captive consumers (where the consumer is obliged to buy energy from the region's distribution company) to the free market (an environment where consumers can freely choose their energy suppliers) and the rapid expansion of distributed generation have strong impact, mainly on the distribution segment, which will be the most affected by the recession.

The market reduction scenario has direct structural impacts on the generation segment, mainly regarding future New Energy Bids, held to meet the future needs of the consumer market of the electricity distribution companies of the National Interconnected System (SIN).

This causes two important impacts, namely, the loss of security and guarantee about contracts in the execution of new long-term contracts, via Bids, and the planning and systematization of studies, in particular the annual studies of the Energy Research Company ("EPE"), which loses the basis for its projections. Therefore, there is a need to consider bilateral contracts for new power generation plants, including open or combined cycle thermoelectric plants, renewable sources, such as solar and wind plants, as well as new storage and transmission technologies.

Due to those uncertainties and also difficulties in companies to organize for new Bids, MME Ordinance No. 134/2020, published on March 30, 2020 postponed indefinitely all bidding procedures for generation and transmission of energy scheduled for 2020.

Therefore, the following bids were postponed: (i) the Existing Energy Bids "A-4" and "A-5; (ii) the New Energy Bid" A-4 "; (iii) the New Energy Bid" A-6 "; (iv) the Bids for the Concession of Public Service for Transmission of Electricity; and (v) the Bids for Contracting Solutions to Supply Isolated Systems.

However, the completed steps will be valid and the National Energy Policy Council (CNPE) will evaluate the appropriate time for resuming planning.

On the other hand, the transmission segment will be the least affected by the crisis, considering the long-term contracts in force, which generate predictable revenues. In addition, Bids are already scheduled to expand the transmission network until 2022, based on new generation plants.

Note that, in case the crisis worsens, the National Electric Energy Agency (ANEEL) may create regulatory assets and liabilities, which are configured as accounts used to record the variation in costs to be passed through to the tariff, positive or negatively, in order to mitigate the imbalances between the segments.

In contrast, the federal government is studying possibilities and preparing an aid package for the electricity sector, focusing on distribution concessionaires, estimated at approximately R\$ 15 billion.

» April 1st

However, before the presentation of the package by the government, on March 31, 2020, distribution concessionaires across the country sent notifications to generators, alleging force majeure events, seeking to exempt themselves from complying with electricity purchase contracts, demonstrating the serious crisis in the sector.

The movement of electric companies comes at a time when the Brazilian Association of Electricity Distributors (ABRADEE) discusses with the government financial support measures for the segment due to losses resulting from the crisis.

In its turn, the Brazilian Association of Large Industrial Energy Consumers and Free Consumers (ABRACE) states that the claim of force majeure is an individual decision of each company and not a recommendation of the Association, and defends taking measures to mitigate the effects of the crisis, such as negotiation.

ABRACE also presented a series of proposals for the government and the energy sector to face the crisis and solve the downturn in demand.

» April 9th

On April 9th, 2020, the Provisional Measure 949/2020 was published, opening extraordinary credit in the amount of 900 million to the MME.

On the same date, the Provisional Measure 950/2020 was also published, which provides for temporary emergency measures for the electricity sector to deal with the crisis. The PM 950 guarantees exemption from the electricity bill, for 3 months, for consumers who benefit from the social tariff, in addition to authorizing the allocation of 900 million reais to the Energy Development Account ("CDE"), in order to cover tariff discounts. The PM authorizes a loan to help the electricity sector, mainly by reducing the costs of distributors, which face the greatest impacts of the crisis, to cover the tariff discounts provided to low-income consumers.

The measure was taken as a way to reduce the issues between distributors and generators amid discussions to reinforce the electricity sector's liquidity during the Covid-19 pandemic scenario.

» April 27th

On April 24, 2020 (last Friday), the Ordinance ANEEL 6,354/2020 was published, determining the suspension of procedural deadlines provided for in art. 2 of Ordinance 6,310/2020 until May 3, 2020. The new Ordinance also defines preventively that the Agency's Ordinary Public Meetings will be virtual until May 31.

» May 19th

It was published the Decree No. 10,350 of 18 May 2020, which provides for the creation and management of the Covid Account by the Chamber of Commerce of Energy ("CCEE"), aimed at the electricity sector to face the pandemic. The Covid Account will receive funds to cover deficits or anticipate revenues, totally or partially, from energy distributors, mainly in relation to the effects of overcontracting.

Monthly, ANEEL will approve the amounts to be paid by the Covid Account to each energy distributor. In turn, CCEE will transfer the funds directly to the distributors.

We are monitoring the situation in real time and ready to assist in the necessary legal recommendations.

12. Insurance and reinsurance

These times of uncertainty fostered by COVID-19 together with the measures to contain the spread of the virus implemented by health authorities in Brazil and other countries around the world, as well as the serious economic and supply crisis faced globally are generating huge discussions regarding extra costs, lost profits, losses in production, breaks in supply chains, impossibility of performing contracts, among many other examples.

Such discussions, relating to assets that are often covered by various insurance policies, can give rise to various disputes - including the maintenance of coverage in the event of illness and epidemics, which can impact both the payment of insurance indemnities to policyholders and the insurer's legal subrogation when choosing recourse against the person causing the damage to the insured item.

The classification of the various losses as risks covered by the policies and the transfer of the indemnified risks to the insurer have been and will continue to be the subject of several questions, in view of the severe impacts of the crisis.

13. Corporate

While several governments determine measures of social isolation and restrict the transit of people between states and countries, the question arises about the fulfilment of corporate obligations, in particular annual meetings of shareholders, which must be held annually in the first 4 months of the fiscal year, which for most companies coincides with the civil calendar and ends in April.

This is the main corporate obligation of the companies, where the accounts of the managers are rendered, the financial statements examined, discussed and resolved and the profit is allocated (Civil Code, art. 1078, and SA law, art. 132).

In addition to being the most opportune moment for members to resolve on how to use their funds to face the current crisis, companies may be punished if they fail to comply with this obligation. Credit can be denied, companies will not have access to finance. The tax exemption of the distribution of dividends will be affected; the business owner, who already bears a high tax burden in the company, may no longer be entitled to withdraw dividends without taxation.

It is also relevant to mention that without the approval of the accounts by the members, the managers of limited liability companies and corporations will not be exempt from their responsibilities, in view of which this approval is essential to them.

The question that arises is how to hold such annual meetings when so many restrictions are imposed on the transit of people. Due to such challenges, on March 30th, 2020, the government issued Provisory Measure 931/2020 changing the deadline for approval of accounts to the end of July for all companies.

In addition, companies were specially authorized to hold virtual meetings and to postpone registration of corporate acts until the Boards of Trade are back in full operation.

In relation to the Corporations, the term of the administrators was extended automatically and Boards were given powers to deliberate ad referendum for matters that are urgent and emergencies.

» [April 15th](#)

On April 14th, 2020, the new Normative Instruction No. 79 of the National Department of Business Registration and Integration (“DREI”) was published, it provides for the possibility of remote participation and voting in meetings of closed corporations, limited and cooperatives, pursuant to Provisional Measure No. 931, of March 30, 2020 (“Normative Instruction 79”).

The draft of Normative Instruction 79 was submitted to a public consultation (nº 02/2020) and the interested parties could forward their contributions until April 6th, 2020.

The Normative Instruction 79 regulates that meetings, in the context of participation and remote voting, can be (i) semi-presential, when held in a physical location, but with the possibility of participation and remote voting, or (ii) digital, when performed entirely at distance.

The remote voting and participation can take place by means of a remote voting ballot and / or by remote participation, via electronic system. Therefore, it is important that companies make sure that all shareholders, quotaholders or associates have technological tools to participate and vote at distance. The companies may

hire third parties to manage all information processing at semi-presential and digital meetings.

The companies must inform in the call instrument of the meeting what will be adopted by the company if semi-present or digital, detailing how the shareholders, partners or associates can participate and vote at distance and the documents required for admission to the semi-present or digital meeting.

It is important to highlight that a shareholder, quotaholder or associate can participate in the semi-presence or digital meeting, provided that he/she/ it presents the documents up to 30 minutes before the stipulated time for opening of the works, even if he/she/it has not previously send them to the company.

Normative Instruction 79 came into force on the date of its publication.

14. Real Estate

As seen, the COVID-19 pandemic had implications for all sectors of the industry, including the real estate market in which growth was resumed due to better real estate credit conditions and falling interest rates.

Due to the effects of the pandemic, the Brazilian economy is expected to suffer the effects of the global economic downturn, affecting the production chain of the real estate market, causing delay in the delivery of new projects due to restrictions, with the possible suspension of activities related to civil construction and non-performance of real estate contracts by the purchasers, in view of the significant decrease in the circulation of goods and products in the economy, directly affecting the income of the entire Brazilian population.

As the real estate contracts, whether they are related to the acquisition of land by the builders / developers or the acquisition of real estate units by the final purchasers, as a rule, do not provide for pandemics, the contracting parties will be able to rearrange the performance of obligations.

However, the Courts must analyze case by case to determine if the delay or the non-performance of certain obligations provided for in said contracts may be considered as something unpredictable and extraordinary so that the terms, payments and conditions are renegotiated in order to maintain the equivalence of benefits between the parties to the contracts. Contracts may also be terminated.

Likewise, any default will also affect the previously agreed leases, be they residential, commercial and shopping mall leases. If the interruption of commercial activities is prolonged for a long time, these contracts may also be reviewed by the Courts, so that neither party has an excessive burden and the other is unjustly enriched.

» [March 31st](#)

CIVIL CONSTRUCTION

In the Municipality of São Paulo, civil construction is authorized to maintain its activities, according to article 2 and item 4 of the Attachment of Municipal Decree No. 59,298, of 03/23/2020.

In the same way, the Government of the state of São Paulo issued Decree No. 64,865 of 03/18/2020, which suspended or recommended suspension of several activities that did not include the civil construction which continues its regular activities.

The Governor stated that the work in progress of real estate developments must continue to be carried out, following the necessary sanitary measurements. The civil construction unions of São Paulo – SindusCon-SP (Construction Union) and Sintracon-SP (Workers Union in the Civil Construction Industries of São Paulo) – signed an additive to the sector’s Convention authorizing companies to adopt measures in the face of Covid-19 pandemic.

In Rio de Janeiro, pursuant to article 1 of Decree No. 47,282 of March 21, 2020, articles 1, IX, items "b" and "c", it was established the civil construction in closed areas should be halted, under the terms of a future determination of the Municipal Department of Infrastructure, Housing and Conservation - SMIHC, while the maintenance of civil constructions works in open areas was allowed, as long as companies provide their own

transport to employees and comply with the rules for virus prevention.

The civil construction unions of Rio de Janeiro (Sinduscon-Rio - Civil Construction Industry Union of the State of Rio de Janeiro and the Sintraconst-Rio - Workers Union of the Civil Construction Industries of the City of Rio de Janeiro) signed an agreement to permit companies to adopt preventive measures in the labor routine of civil construction to combat the advance of COVID-19.

» May 7th

The Federal Decree no. 10,342 was published on May 7th, which amends the Federal Decree No. 10,282, published on March 20th, 2020, and regulates the Federal Law No. 13,979, published on February 6th, 2020, to determine that civil construction activities that follow the rules of the Brazilian Ministry of Health are considered essential activities during the public health emergency arising from the coronavirus responsible for the 2019 outbreak.

15. Insolvency

The world and Brazil are on alert due to the COVID-19 (coronavirus) viral outbreak. As a way of curbing the spread of the virus, governments have been adopting measures of social isolation, which, as is well known, greatly impacts the economy of developing countries and aggravates the financial crisis of Brazilian companies, notably in the areas of industry, commerce and tourism.

The economic crisis, in addition to causing the breach of contractual obligations due to the lack of liquidity in the cash flow of companies, may also lead to the need to restructure the assets and liabilities of companies in crisis.

In this context, the Brazilian legal system allows economically viable companies to resort to court-supervised or out-of-court reorganization with the purpose of overcoming this moment of crisis by renegotiating their debts.

It is true that the global health agencies have decreed a global stay period, as it is only fair that companies in crisis be able to use mechanisms of automatic suspension of obligations in order to guarantee the uplift of the company and maintenance of its business activity.

» [March 31st](#)

In view of the pandemic crises the Plenary of the National Council of Justice (CNJ) approved this on 3.31. 2020, the recommendation with the aim of guiding the judges to make the judicial reorganization procedure more flexible and, in some way, to standardize the treatment of the matter due to the COVID-19 pandemic.

The Normative Act has 7 (seven) articles, containing the following recommendations: (i) prioritization of the analysis and decision on withdrawing money in favor of creditors or companies under reorganization; (ii) suspension of the General Creditors Meeting in person, allowing them to occur virtually in urgent cases; (iii) extension of the automatic stay when there is a need to postpone the General Creditors Meeting; (iv) authorization to present a new judicial reorganization plan, in case the debtor company proves that its capacity to fulfill its obligations has been reduced due to the pandemic and that it was complying with its obligations until March 20, 2020; (v) to determine judicial administrators to continue to monitor the activities of the companies under reorganization in a virtual or remote manner, and to publish the Monthly Activity Reports on the Internet and, finally; (vi) to be caution in assessing the granting of urgent measures, eviction for non-payment and executive acts of a patrimonial nature in lawsuits that demand defaulted obligations during the state of public calamity recognized by Legislative Decree 6/20.

Finally, note that the agility in detecting the state of crisis and the immediate search for legal solutions are essential for the success of any debt restructuring.

16. Conclusion

We believe that, given the current scenario, will be important that our clients take, firmly and assertively, a position, seeking precautions and minimizations of the consequences the pandemic may cause.

According to CNJ Resolution No. 313, of March 19, 2020, Brazilian Courts are with procedural deadlines suspended until April 30, 2020. However, this does not mean that they are closed.

The Courts continue to operate at the same time as regular forensic hours, only suspending the on-site assistance to lawyers. Therefore, lawsuits already ongoing will continue, as well as the new lawsuits that will be filed over the period, when meetings with the judge will take place remotely.

In addition, urgent measures, such as preliminary injunctions and anticipation of protection of any kind, are guaranteed. There is also no change in relation to the decay and time bar terms, which must be observed.

We inform that our firm is monitoring the situation in real time, with professionals with vast experience, from various areas, ready to help on the specific needs of our clients, searching the best solutions for the issues.