

Forum on Dispute Prevention in Investor-State Dispute Settlement
Friday, 7 July 2023, 12.40-13.50 (CEST), Vienna International Centre

Direct Investment Ombudsman

General Coordination of Investment Policies

Undersecretariat of Foreign Investment (SINVE)

Brazilian Foreign Trade Board (CAMEX)

MINISTÉRIO DO
DESENVOLVIMENTO, INDÚSTRIA,
COMÉRCIO E SERVIÇOS

GOVERNO FEDERAL
BRASIL
UNIÃO E RECONSTRUÇÃO

Foreign Trade Board (CAMEX)

DECREE Nº 11.428 - MARCH 2nd, 2023

Objective - Art. 1:

To formulate, adopt, implement, and coordinate policies and activities related to the foreign trade of goods and services, including tourism, in order to promote the country's foreign trade, investment, and international competitiveness.

Foreign Trade Board (CAMEX)

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Organizational Structure - Art. 2:

- I - the **Strategic Council (Body of superior and final deliberation)**;
- II - the Management Executive Committee;
- III - the Private Sector Consultative Council;
- IV - the Export Financing and Guarantee Committee;
- V - the Tariff Changes Committee;
- VI - the Commercial Defense and Public Interest Committee;
- VII - the National Committee for Trade Facilitation;
- VIII - the **National Investment Committee**;
- IX - the **Direct Investment Ombudsman**;
- X - the National Contact Point for the Implementation of the Guidelines for Multinational Enterprises of the OECD.

CAMEX Investment

2016

NATIONAL INVESTMENT COMMITTEE (CONINV)

- Forum for discussion and elaboration of investment policies (direct investments promotion and attraction).
- Responsible for coordinating the activities of different government agencies that deal with investment issues.

DIRECT INVESTMENT OMBUDSMAN (OID)

A Single Window provided by the Executive Secretariat of CAMEX to support investors regarding their doubts or complaints in main investment areas at the government level (Dispute Prevention Mechanism).

Direct Investment Ombudsman (DIO)

The DIO was established in 2016 by Presidential Decree within the Executive Secretariat of CAMEX, under the supervision of the Ministers' Council (Strategic Council).

COMPOSITION:

I - Executive Secretary of CAMEX (institutional representative and coordinator of the DIO)

II - Secretariat (Undersecretariat of Foreign Investment - SINVE/CGPI)

III - Advisory Group (composed of representatives of the ministries of CAMEX)

IV - Focal Point Network (50 agencies and entities of the Federal and State Public Administration)

Direct Investment Ombudsman (DIO)

- Centralizes the assistance to foreign investors in a **single government body**, via its website (<https://oid.economia.gov.br/en>) to receive doubts and complaints;
- Responds to investor demands jointly with the Focal Point Network;
- It also disseminates news and information related to investment opportunities within Brazil;
- Frequently expressed concerns or grievances by investors will be considered for future administrative and regulatory improvements at the National Investment Committee (CONINV).

Direct Investment Ombudsman (DIO)

SUPPORT TO FOREIGN INVESTORS:

- **REQUESTS** – To clarify general doubts regarding legislation or administrative procedures;
- **INQUIRIES** – to seek to resolve grievances between the investors and the public agencies (*Policy Advocacy*);
- **SCHEDULE MEETING** (New tool available) – to schedule a meeting with the DIO to discuss issues related to the investment.



Requests and Inquiries



MAIN AREAS COVERED:

- Administrative
- Environmental
- Financial
- Land affairs
- Social Security
- Labor
- Tax

Requests and Inquiries



DO NOT COVER:

- Private disputes between companies;
- mergers and acquisitions;
- requests that contradict international standards;
- matters that are already in the judicial sphere (judicialized).

Grievance Settlement Body (GSB)



- The GSB may be established by the DIO after prior deliberation on the case;
- Coordinated by the Executive Secretary of CAMEX (DIO);
- Comprised of Secretariat staff and representatives from public administration entities involved in the grievance;
- After the group's final analysis, the DIO prepares the final report which includes recommendations and potential solutions;
- The final report is sent to the respective agency/entity involved in the grievance.

Ombudsman - Focal Point Network DIO Website



Dissemination of the DIO

- The launch and dissemination of the DIO website were done in cooperation with the World Bank in 2019 through events held in SP and RJ with the presence of the private sector's representatives (multinational companies), academia, law firms and consultancy firms.
- Roadshows held in other states – MG, RS, PR, SC, BA and CE, with the presence of representatives of the private sector, academia and the State Secretariats for Economic Development.
- In 2020, during the Pandemic, several presentations were held by Webinars at the Trade Promotion Sector (SECOMs) of the Brazilian Embassies in USA and Asian, Arabic, European countries.
- Several presentations were also done to the main law firms that act on behalf of foreign investors in Brazil.

Balance of assistance (2019 – 2023)

- **Total assistance:** 34 attendances - 21 Requests and 13 Inquiries - 30 attendances answered and 4 inert (investor do not send complementary information requested by the DIO).
- **The main requests refers to issues related to** fiscal, tax, labor, financial and administrative issues.
- **These demands came from the following countries:** United States, United Kingdom, Italy, India, Germany, Denmark, Portugal, Spain, Mexico, United Arab Emirates, Turkey, China, and South Africa.
- **And the sectors involved were:** renewable energy; financial services; telecommunications; information technology; manufacture of metal structures; architectural and engineering services; electricity supply and distribution; water transportation; metallurgy; extraction of metallic minerals; oil and gas; wholesale trade; manufacture of pharmaceutical products; manufacture of rubber and plastic products; manufacture of motor vehicles, trailers and bodies; real estate activities; and manufacture of machinery, appliances, and electrical materials.

Lessons learned

- The DIO must be established at the Lead Agency responsible for Investment policy (CAMEX);
- The governmental agencies involved in the grievances can help to solve the problem (Focal Point Network);
- The grievances are related to regulatory measures (legislation and administrative procedures);
- It's also important to have the participation of the subnational government agencies where the investments are located; (Improve the interaction between National and Subnational Government)
- Improving investment governance is necessary to attract and retain foreign investment.(CONINV and DIO)

THANK YOU !

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