



BRAZIL

HOW TO INVEST IN AGRIBUSINESS

Ministry of Agriculture, Livestock and Food Supply

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MINISTRY OF AGRICULTURE, LIVESTOCK AND FOOD SUPPLY
Secretariat of Agribusiness International Relations

Mission

To promote the sustainable
development and the agribusiness
competitiveness in benefit of the
Brazilian society.

BRAZIL

HOW TO INVEST IN AGRIBUSINESS

BRAZIL - Brasilia
2010

Global agribusiness has entered a new phase, in which elements as productivity, sustainability, technology, ethics and responsibility in partnerships play a key role in defining each country's strategy in terms of food safety and investments.

It is within this context that the Secretariat of Agribusiness International Relations of the Ministry of Agriculture, Livestock and Supply of Brazil launches this Guide, with a brief overview on some examples of structured transactions already in use by companies engaged in financing the agricultural sector. Other operations can be developed according to specific situations.

By this publication, the Secretariat hopes to bring useful information and awaken entrepreneurial initiatives.

Should you need further information, please contact us at invest@agricultura.gov.br

Contents

Introduction | 6

Brazilian Agribusiness | 11

Structures for Investing in Brazil | 17

Financing Models | 21

Sharia Compliance | 44

Annex | 45

Introduction

BRAZIL: A GREAT NATION FOR AGRICULTURE

As an agricultural power, Brazil leads the production and exports of several vital commodities. The country has been following a path on the last decades that allowed an impressive shift from economic fragility to a thriving, strong economy that put the nation as a relevant player on global markets.

Being the fifth largest country and having the largest extension of arable lands of the World, sunbathed on most of its territory, Brazil can be identified as a strategic partner when it comes to agribusiness products supply. Brazilian agricultural production is recognized for the intensive use of technology and for its competitiveness.

In a time when natural resources, food security and renewable energy are being largely debated, Brazilian agribusiness plays a key role on this scenario, since its vocation and capacity and, furthermore, its care in using sustainable procedures, in order to guarantee food, work and resources for future generations, place the country in a special condition as a food producer and supplier.

The country has ideal conditions for investors interested in ensuring the supply of agricultural products or simply making good business.

LEADERSHIP IS A RESULT OF SEVERAL COMPARATIVE ADVANTAGES

The country's leadership has been achieved due to a combination of natural resources availability, tropical technology development, entrepreneurship and public policies that allowed the flourishing of its natural vocation for agricultural production. These factors make Brazil a natural destination for investments in the sector.

According to the OECD-FAO Agricultural Outlook 2010-2019, "Brazil is the fastest growing agricultural sector by far, growing by over 40% to 2019, when compared to the 2007-09 base period."¹

Abundance of natural resources

The climate is conducive to agricultural production. Much of the territory has annual rainfall exceeding 1,200 mm per year, allowing even two crops per year in some regions without irrigation. With availability of irrigation, soils can be cultivated year-round. Large watersheds bathe different regions of the country and numerous streams provide water available for irrigation.

1 - OECD: The OECD-FAO Agricultural Outlook 2010-2019 (p. 15). The Study continues, asserting that "Russia and Ukraine are projected to grow 26% and 29% marking a significant recovery in production levels. China and India may also grow significantly by 26% and 21%, respectively. While Australia is projected to grow some 17%, this growth reflects an assumed return to more normal yields; over a longer period of comparison, Australia's production by 2019 is only some 7% higher than in 2000. Production growth in the US and Canada is projected in the 10-15% range over the same period. In contrast, over the same period, net agricultural output in the EU-27 will have grown less than 4%. These diverse trends reflect important developments in these countries which may be generating or inhibiting growth."

Leadership in tropical technology

Brazil is the leader in technology for tropical agriculture and the only tropical country that has become a major agricultural exporter. The Brazilian Agricultural Research Enterprise (EMBRAPA) - a R&D public company - has been sought by governments around the world in the search for cooperation and exchange of experiences. In addition, the extensive network of universities, state research institutes and private research initiatives have made possible the country to take a major role in recent decades, contributing significantly to provide Brazilian farmers in "state of the art" genetics and cultivation techniques.

Entrepreneurial Farmers

Brazilian farmers are natural entrepreneurs and they are the main responsables for the Brazilian agribusiness'

successfulness. Agricultural production in Brazil is a private activity and the production is 100% generated by farmers. The range of producers vary from very big ones - with properties with more than 10,000 hectares in west-central Brazil - to smallholders, mostly situated in the south and southeast of the country.

Cooperative model focused on production

Most of Brazilian producers, smaller farmers in particular, are organized into cooperatives, which account for about 40% of Brazilian agricultural production. The cooperatives provide services to members, such as technical assistance, commercialization, storage and industrialization. Partnerships with cooperatives are particularly interesting for those investors interested in having access to agricultural production.

CONSISTENT LEGAL AND REGULATORY FRAMEWORK WITH SOUND ECONOMY

A free flow investment country

The Brazilian legal framework is very receptive, safe and reliable for foreign investment, once foreign investors have constitutional protection for their funds. Moreover, Brazil has a long history of respecting external investment. Financial means duly registered with the Brazilian Central Bank and regulatory authorities can be withdrawn at any time by just communicating to those authorities once the exit is in effect.

In addition to a long standing tradition of enforcing full rights for foreign investments, several public listed instruments were created in the past 10 years to strengthen the rights of creditors and investors across different segments. In particular, in 2004 a robust framework of securities to support the financing and development of the agricultural sector was enacted and is currently widely used by locals and foreigners.

It is important to remember that a significant part of agricultural production already has the

participation of foreign companies - in providing inputs in the production itself, as well as processing, marketing and exports.

Sound macroeconomic scenario

The adoption of prudential economic policies in Brazil has put the country in a path of sustainable, high-quality growth. The absence of macroeconomic imbalances, combined with inflation control and strong fiscal policy, has prevented the formation of gaps that would compromise growth. Brazil currently congregates appropriate conditions for a long-term cycle of sustainable growth, becoming one of the most dynamic economies in the world.

No restrictions on commodity exports

In Brazil, agricultural output can be exported without any restriction, since the country does not limit by any means the export of commodities - agricultural or not. Besides, agricultural exports play a key role on Brazilian trade balance surplus.

Competitive agriculture not based on subsidies

Farming in Brazil does not depend on subsidies to be competitive. According to OECD², the Producer Support Estimates (PSE) percentage for Brazil is 6 %, being 9 % in China, 12 % in the US and 30 % in the European Union – all big players in the agriculture international market. A %PSE of 6% means that the estimated value of transfers to individual producers from consumers and taxpayers is equivalent to 20% of gross farm receipts (2007 basis).

Land investments in Brazil follow well established regulatory procedures permitting several forms of access to foreign investors

Despite limitations about the size and type of properties that can be acquired by foreign investors (detailed explanation follow in the Annex), investors can resort to several mechanisms to participate in the development of agricultural lands in Brazil such as partnership with local producers and joint ventures.

The combination of the elements listed above render Brazil capable of offering unique opportunities in the agribusiness industry. In the next pages you will find brief information on ways to invest and participate of this extraordinary momentum of the Brazilian agriculture.

2 - The Organization for Economic Cooperation and Development (OECD) estimate governmental support to agriculture in the form of transfers through a wide variety of policy measures. OECD has developed a set of indicators, including Producer Support Estimates (PSE), designed specifically to monitor and evaluate the level and composition of this support.

Brazilian Agribusiness

Brazil plays a leading role as a global supplier of agribusiness products, exporting for more than 180 markets. The number of importers of Brazilian agricultural products is a recognition of the quality achieved by its domestic production.

Nevertheless, roughly 70% of the Brazilian agricultural production aims the national market. Domestic demand ensures critical mass for market predictability, which enables expansion planning.

2009 Ranking: Brazilian Production and Exports

Main Products	Production	Exports	Number of Markets	Exports US\$ Billion
Sugar	1 st	1 st	124	8.378
Coffee	1 st	1 st	81	3.762
Orange Juice	1 st	1 st	75	1.619
Soybean	2 nd	2 nd	46	11.413
Beef	2 nd	1 st	142	4.118
Tobacco	2 nd	1 st	100	2.992
Ethanol	2 nd	1 st	48	1.338
Broiler	3 rd	1 st	146	5.307
Corn	4 th	3 rd	49	1.259
Pork	4 th	4 th	81	1.225

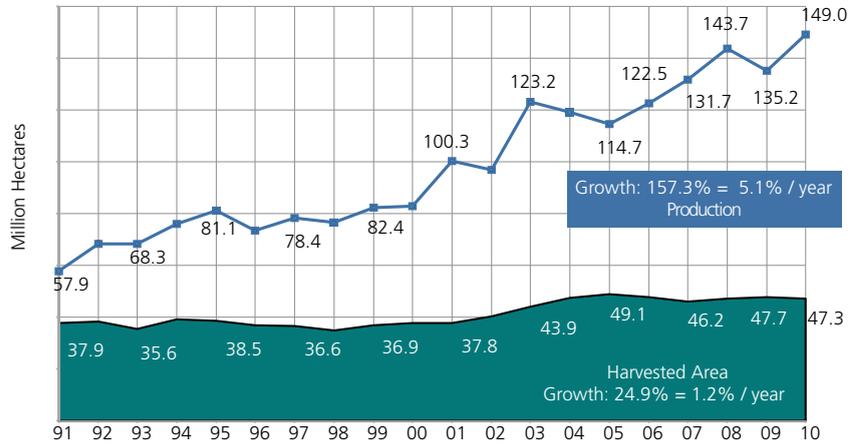
The increase in grain production over the last 20 years has been a result of high levels of productivity. Grain volume has increased 150% in the period, while the harvested area has grown less than 25%. Productivity in the area, therefore, doubled.

Main grains are soybeans and corn, which add up to 80% of the volume harvested. Rice, wheat, beans and cotton - important products for domestic consumption - also play an important role to Brazilian agricultural production.

The increasing production of corn from double cropping, planted after the soybean summer crop, reduces fixed costs, boosts the growth of the meat industry in Brazil and, at the same time, allows Brazil to become a relevant exporter in these segments.

This "second crop" corn now accounts for almost 40% of Brazilian production.

Grains - Production and Area 1991 to 2010*



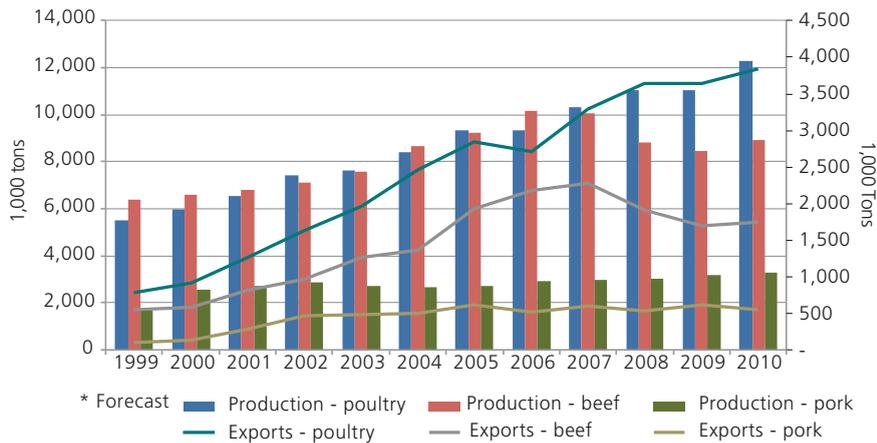
Source: Conab

The combined expansion of the meat production and industrialization in Brazil leveraged the country to the #1 position in exports worldwide, while supplying the domestic market, which presents a high and growing *per capita* consumption¹.

Brazilian beef is produced on pastures, which allows low production costs. The production model

of pork and poultry is based on integration between manufacturers and farmers. The manufacturers provide genetics, feed, vaccines and medicines and technical assistance. The farmers provide the facilities and animal care. This model ensures total quality control by the manufacturer, being responsible for the success in Brazilian poultry exports.

Meat production and exports

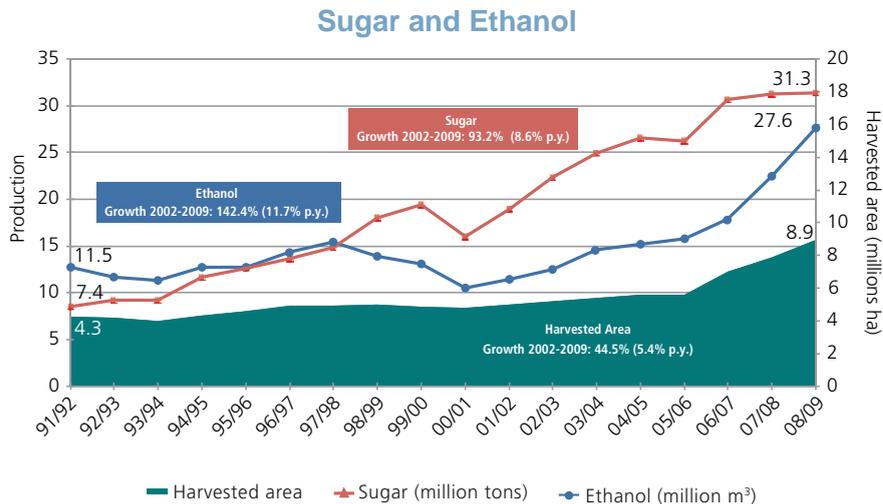


Source: Conab

1 - The meat consumption in Brazil is close to 100 kg / inhabitant / year, with more than 43 kg of chicken meat, 37 kg of beef and 14 kg of pork. Domestic demand accounts for about 70% of chicken production, 80% of beef production and 85% of pork production.

The production of sugarcane makes Brazil the largest producer and exporter of sugar - responsible for more than 50% of world exports - and the second largest producer and largest exporter of ethanol. The plants also produce electricity by burning bagasse. The advent of “flex fuel” vehicles - that can be filled with any proportion of ethanol and gasoline – and the mixture of ethanol in all gasoline sold in Brazil (between 20% and 25% ethanol) boosted domestic demand.

Large investments in new plants will be required to supply a fleet of more than 12 million flex fuel vehicles. Given the dynamics of domestic market and the possibility that other countries adopt the ethanol as a fuel (either pure or mixed with gasoline), this industry is one that should grow faster over the coming years.

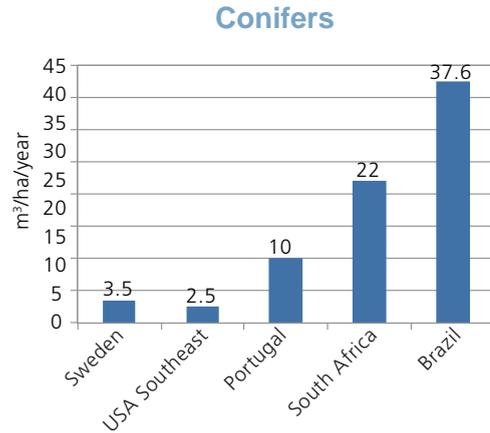
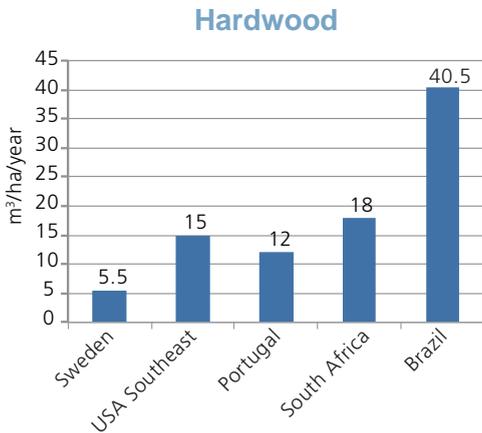


Sources: Ministry of Agriculture, Conab.

There are more than 6 million hectares of planted forests in Brazil. Besides the production of cellulose - the country is the world's largest producer of hardwood pulp - wood from planted forests is also used in pig iron production, construction, fuel and production of exported good (sawnwood, wooden panels etc.). The increasing concern for preservation of native forests is expanding the domestic demand for wood from planted forests.

Brazil has undoubted competitiveness in this industry. Brazilian natural conditions, combined with genetic breeding and good management practices, make productivity much higher than in any region in the world. Eucalyptus forests, on average, produce 40.5 cubic meters of wood per hectare per year about twice as much obtained in other wood producing countries.

Forestry production

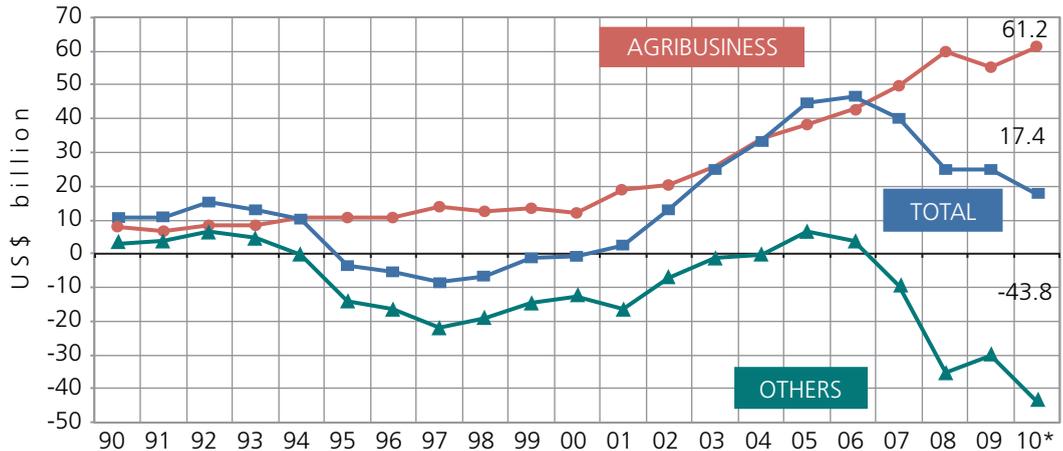


Source: ABRAF

Brazilian agribusiness trade balance evolution reiterates the country's agricultural vocation. The positive results of the Brazilian trade balance rely

on agriculture which prevents the imposition of any export restriction.

**Brazilian Trade Balance
1990 – 2010***



Source: MAPA and SECEX/MDIC
*Last 12 months (Nov09 – Oct 10)

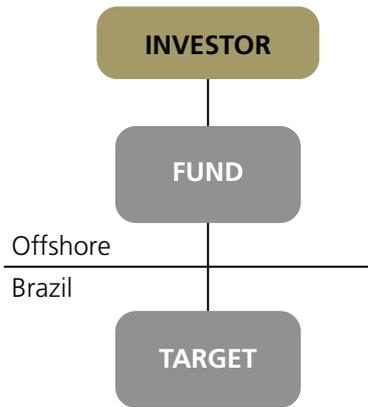
Structures for Investing in Brazil

Non-resident Investment in Brazil

- Foreign investment in Brazil is subject to the supervision of two regulatory entities:
 - *Conselho Monetário Nacional* (CMN): the decision-making body of the National Financial System and responsible for establishing the general guidelines; and
 - *Banco Central do Brasil* (BACEN): the Brazilian Central Bank, who acts as part of the National Financial System and executes the guidelines and rules enacted by the CMN.
- Besides the aforementioned entities, there is also the *Comissão de Valores Mobiliários* (CVM), the equivalent to the Brazilian Stock and Exchange Commission, who monitors the Brazilian capital markets.
- CMN's and BACEN's regulations distinguish the following types of investments by non-residents in Brazil:
 - **Foreign Direct Investment:** foreign investments in privately held companies, governed by Law 4,131/62; and
 - **Foreign Indirect Investment:** foreign investments in the financial or capital markets, governed by CMN Resolution 2,689/00.
- Foreign investments may also be made via FIPs – *Fundos de Investimento em Participações* (the local private equity funds), which are carried out in accordance with the terms of the CMN Resolution 2,689/00.

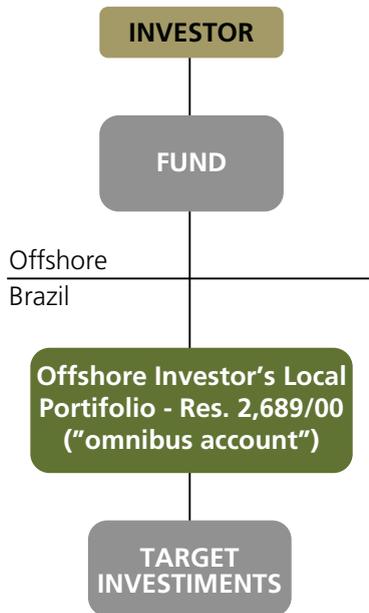
For more information, see article in Annex (Non-Resident Investments in Brazil – Legal Aspects)

Foreign Direct Investment



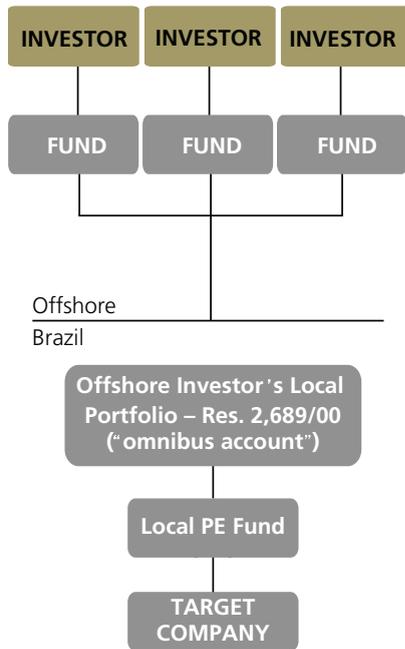
Company not listed in the stock exchange

- Law 4,131/62 governs the foreign direct investment in privately held Brazilian companies. Typically, *Sociedades Limitadas* (Limited Liability Companies) or *Sociedades Anônimas* (Corporations).
- Direct investments can be made by incorporating a branch or a subsidiary, by entering into a joint venture association or through the acquisition of equity interest in an existing Brazilian company.
- Direct investments in Brazil by non-residents must be registered with the Brazilian Central Bank Electronic System (SISBACEN).
- IOF (“Tax on Financial Transactions”): 0.38% on the inflow and outflow of proceeds related to such investment.
- Dividends: no taxation.
- Interest on shareholders equity: WHT of 15% (or 25% if beneficiary is located in a low tax jurisdiction).
- Capital gain: WHT of 15% (or 25% if seller is located in a low tax jurisdiction).



Company listed in the stock exchange and other non-resident investment in the financial and capital markets

- CMN Resolution 2,689/00 governs non-resident investments in the Brazilian financial and capital markets. Investments that can be made under this Resolution include the purchase of securities from listed companies and other instruments traded through the exchanges, organized over-the-counter market, or any other electronic systems approved by CVM and the Central Bank, such as: government bonds, onshore funds, CPRs, CDCAs.
- Non-residents must meet certain requirements before investing: enter into a representation agreement and a custody agreement, establish local tax representative and file identification form with CVM.
- IOF: (i) 6% on the inflow and zero on the outflow of funds, for transactions carried in the capital and/or financial markets; (ii) 2% on the inflow and zero on the outflow of funds, for transactions carried within stock exchanges.
- Dividends: no taxation.
- Interest on shareholders equity: WHT of 15% (or 25% if beneficiary is located in a low tax jurisdiction).
- Capital gain: WHT at zero or 15% rate when selling via the Stock Exchange or over-the-counter, respectively (the rates that apply for beneficiaries located in low tax jurisdictions are 15% and 25%).



Company listed or not listed in the stock exchange

- Foreign investors may also invest in Brazilian companies with a WHT tax benefit through a local Private Equity Fund (FIP).
- Purpose of the FIP: acquire stock, debentures, warrants and other types of securities convertible or exchangeable for stocks issued by publicly or privately held companies.
- IOF: 6% on the inflow of funds to the FIP, or 2% in case the FIP is listed in a stock exchange, and zero on the repatriation, dividends and other payments.
- Dividends paid by the target company are not subject to taxation.
- FIP is not subject to taxation.
- Income paid by FIP to foreign investors is subject to WHT at zero rate provided: (a) investor does not have more than 40% of equity or economic interest of the FIP, (b) investor is not located in a low tax jurisdiction; (c) the FIP does not hold in its portfolio, at any time, debt securities exceeding 5% of the FIP's net equity. Otherwise, the applicable rate is 15%.

Financial Models

Private System for Agribusiness Financing

Background and scenario

The Brazilian agribusiness sector is experiencing a relevant evolution and professionalization process, both in production processes and in the instruments that support the structures of capital and the required financing to support this growth.

In the last two decades, there has been a growing demand for agricultural commodities and Brazil responded strongly with the achievement of successive records of productivity and production volumes.

These dynamics demanded of public and private agents a new attitude towards the challenges that

were presented, in the sense of promptly establishing legal framework, regulatory mechanisms and improvement of production processes.

These factors have brought to Brazilian agribusiness an organized set of intrinsic economic activities, including raw materials' supply, production, processing, storage, domestic distribution and distribution for exports, so that each of these activities had their organization guided by a great effort, public and private, in the institutionalization of the basic fundamentals needed to sustain this growth.

Considering that the Brazilian agribusiness chain still requires a further evolution and therefore

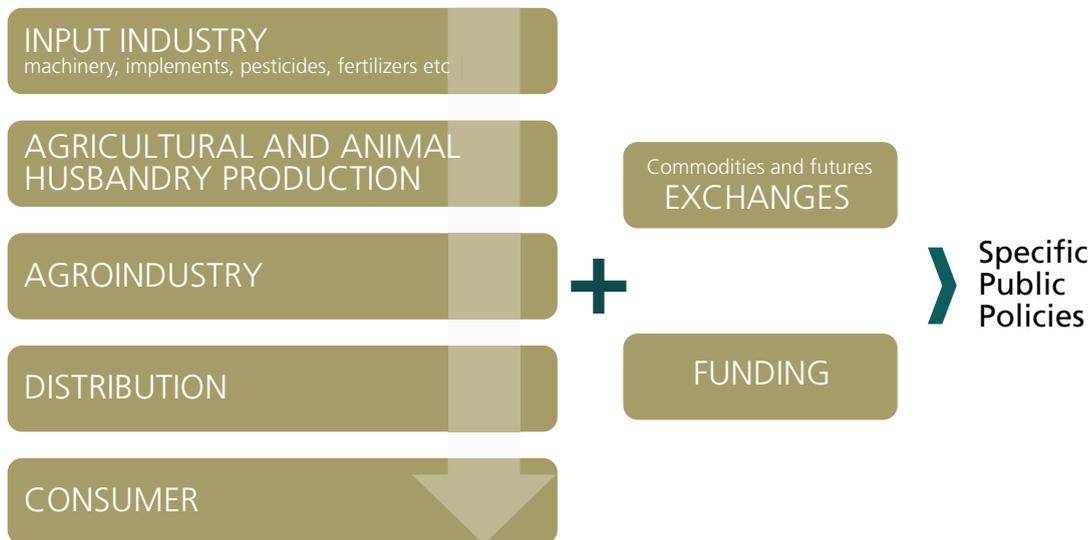
adequate monetary resources to finance the sector, new mechanisms were implemented to provide legal certainty to the market agents.

It is worth mentioning that the creation in 1994 of the CPR – *Cédula de Produto Rural*, one of the main instruments for financing the agricultural producer, and other instruments that support the financing to the other agents of the sector, such as CDCA – *Certificado de Direitos Créditorios do Agronegócio*,

instituted in 2004, reaffirm the environment of rapid evolution and demonstrate the recent movement to establish mechanisms for financing the sector.

In this scenario of strong demand for agricultural production and also for financial resources from public and private Banks as well as capital markets, we present below the main instruments for financing the sector, which provide the required regulatory certainty in an environment of great potential.

Agro Industrial Complex



Brazilian Agribusiness Main Chains and Activities

PRODUCTION

Inputs/Machinery

Producers/
Associations

Corporate
Governance

Sanitation/
Certification

Rural Property

SALES

Tradings
Foreign Exchange

Tax Issues

Distribution and
Operational
Agreements

Commercial
Contracts
Futures Market

Logistics/
Infrastructure

FINANCING

Financial Markets
Capital Markets

Financing
Instruments

Investment Funds

Foreign Investment

Structured
Transactions

Agribusiness Bonds and Applicability

Production

CPR (Product Note)
Issuer: Producers
Associations
Credit Cooperatives

Distribution

CDA/WA (Product CD)
Issuer: Warehouses

CDCA (Credit-Backed Certs.)
Issuer: Cooperatives
Agroindustry

Financing

LCA (Agricultural Financial Notes)
Issuer: Financial Institutions

CRA (Receivables-backed Certs.)
Issuer: SPCs

EPA (Export Pre-payment Agreement)
Issuer: Producers
Associations
Credit Cooperatives

Agribusiness Financing Evolution

PUBLIC	Agricultural Commercial Paper		Up to 1994
	Agricultural Receivables		
	Merchandise Exchange Transactions		
	CD/WARRANT		
PRIVATE	<u>ASSET</u>	<u>ISSUER</u>	1994
	CPR	Producers/ Associations/ Credit Unions	
	CDAWA	Agricultural Warehouses	As of 2004
	CDCA	Agricultural Trading, Processing and Industrialization	
	EPA	Producers/ Associations/ Credit Unions	
	LCA	Financial Institutions and Credit Unions	
CRA	SPCs (Securitization)		

CPR - Certificate of Agricultural Products

- **Issuers**
 - Rural producers and their associations
 - At any stage of the productive process
- **CPR issuance**
 - Object: all products of agricultural or animal husbandry origin
 - Most commonly for products with greater liquidity in the market
Coffee, Sugarcane, Soybean, Cotton, Timber and Live Cattle
- Its maturity shall follow the harvest period pursuant to the best risk management and follow-up of the production

CPR – Forms & Guarantees

- **Legal credit instrument**
 - Commitment to deliver rural products
 - With or without guarantee
 - Three modalities of CPR bound to its settlement method
 - Extrajudicial execution instrument
- **Forms:**
 - i. Physical CPR
 - ii. Financial CPR
 - iii. Export CPR
- **Guarantees:**
 - i. Mortgage
 - ii. Pledge (agricultural/commercial)
 - iii. Fiduciary alienation

CPR – Forms (Further info)

- **Physical CPR**

- Issuer: obligation to deliver the product
- Due date, place, amount and quality defined
- Monetary values are not mentioned

- **Financial CPR (CPRF)**

- Description of the product and amount negotiated
- Does not provide for the physical delivery of the product
- Settlement upon payment, on the due date
- Multiplication of the specified amount by the price adopted

- **Export CPR**

- Can only be purchased for export purposes
- Conditions usually specified in the commercial contracts
- Need to enter into an exchange agreement for the receipt of the proceeds from the sale of the product

CPR – Markets & Investors

- **Primary Market**

- Issuer desires to have funds in advance to invest in production. (i.e. Trading Companies)

- **Financial and Capital Markets**

- The CPR buyer desires to negotiate it – selling to some interested investor

- **Secondary market**

- Commodities Exchange (Brazilian Commodities Exchange – BBM or CETIP); or

- e-auction by Banco do Brasil (Bank of Brazil)

- **Investors:** Natural Persons or Companies

- Agricultural Industries

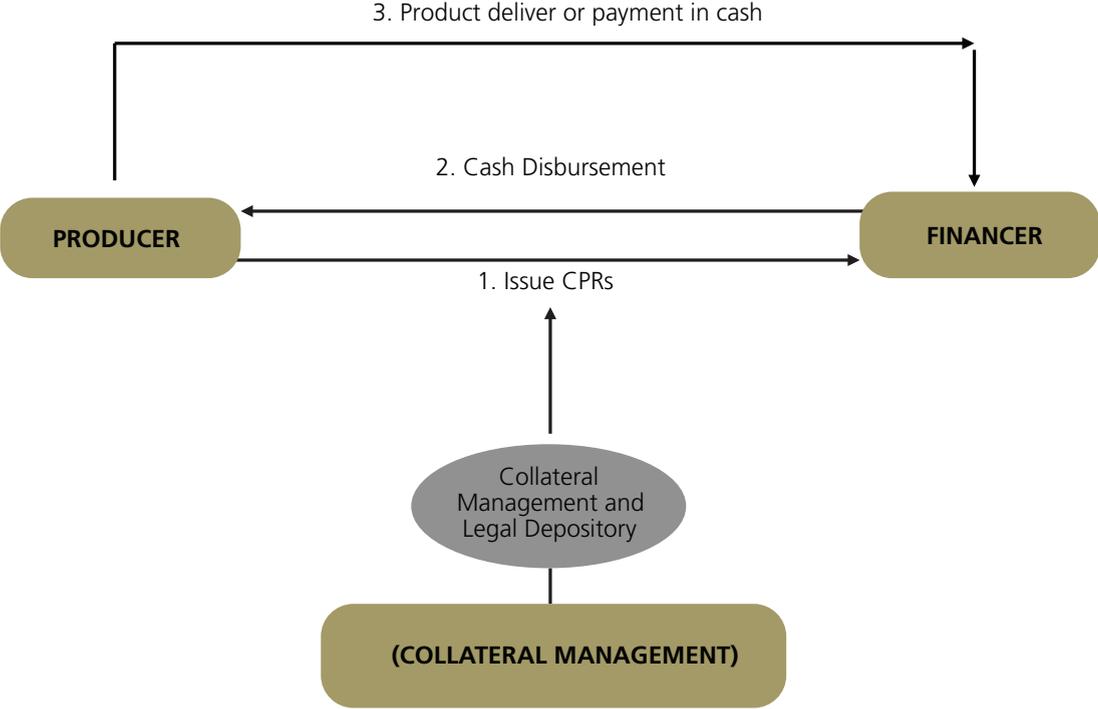
- Trading Companies

- Suppliers of Farming Products

- Investment Funds

- Financial Institution

CPR – Operational Flow



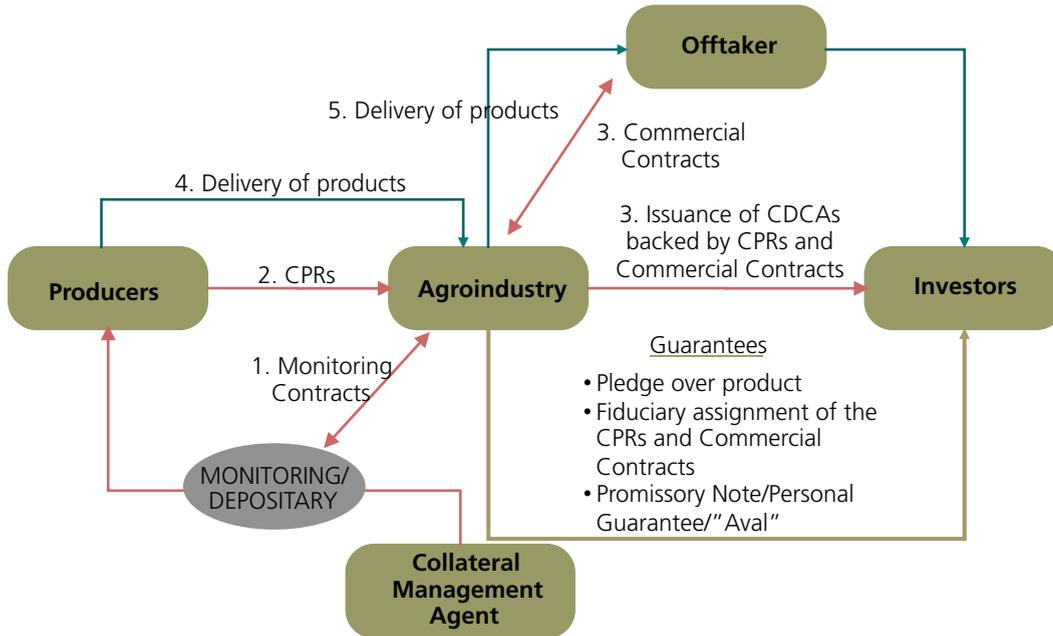
CDCA - Certificate of Agribusiness Credit Rights

- Is a nominative bond, by which the Issuer commits itself to pay in cash – at the maturity date – to the Investor the amounts due specified in the bond
- It represents a promise of payment in cash and is an extrajudicial execution instrument;
- Exclusively issued by Agricultural Producers or Agricultural Cooperatives or by other Legal Entities which are engaged in the activity of trading, improvement or industrialization of agribusiness' products and inputs, machines and implements used in the agribusiness production.
- Agricultural Products and animals, machines and implements used in the agricultural production.

CDCA – Eligible Collateral Securities

- Eligible collateral securities for the CDCA:
 - CPR
 - Commercial Contracts
 - CDAWA (Agricultural Certificate of Deposit/Agricultural Warrant)
- Must be registered at the System of Registration and Financial Settlement of Assets authorized by Central Bank of Brazil – (CETIP – Settlement and Custody Chamber, or BBM (BM&F) – Future and Commodities Exchange
- Must be held in custody in financial institution or others institutions authorized by CVM to provide custody service of securities.

CDCA – Operational Flow



CRA – Agribusiness Receivables Certificate

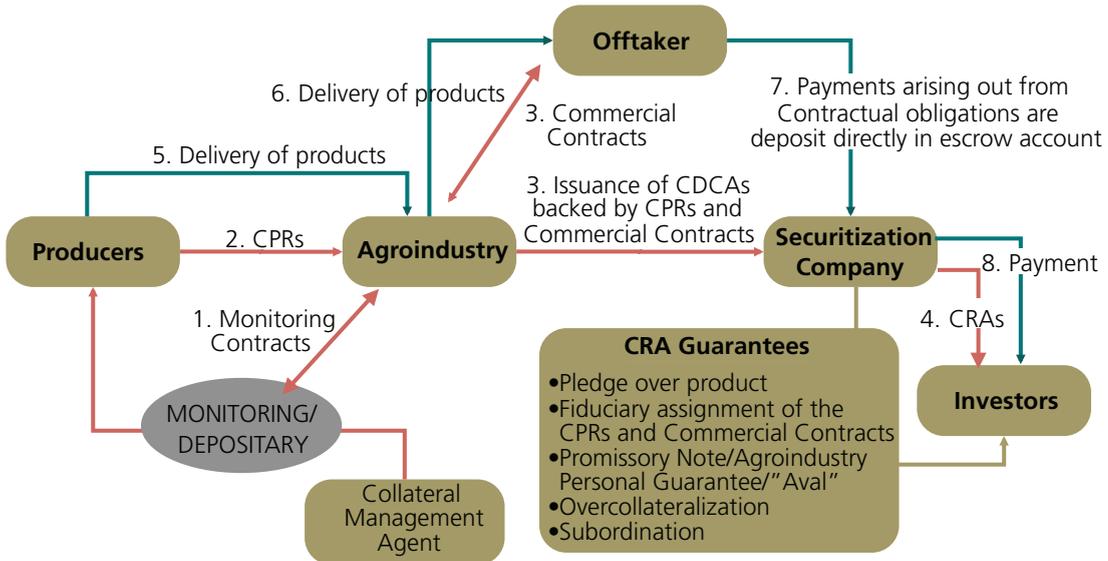
Concept

CRA is a freely traded, registered instrument of credit, representing promise of payment in cash. The receivables are linked to the debt claim issued by the securitization company, by Term Securitization of Receivables.

Exclusively issued by/ Securitization Companies of Agribusiness with the specific object:

- Acquisition and securitization of receivables agribusiness, and
- Issuance and sale of CRA in the financial and capital markets.

CRA – Operational Flow (Example)



EPA – Export Pre-Payment Agreement

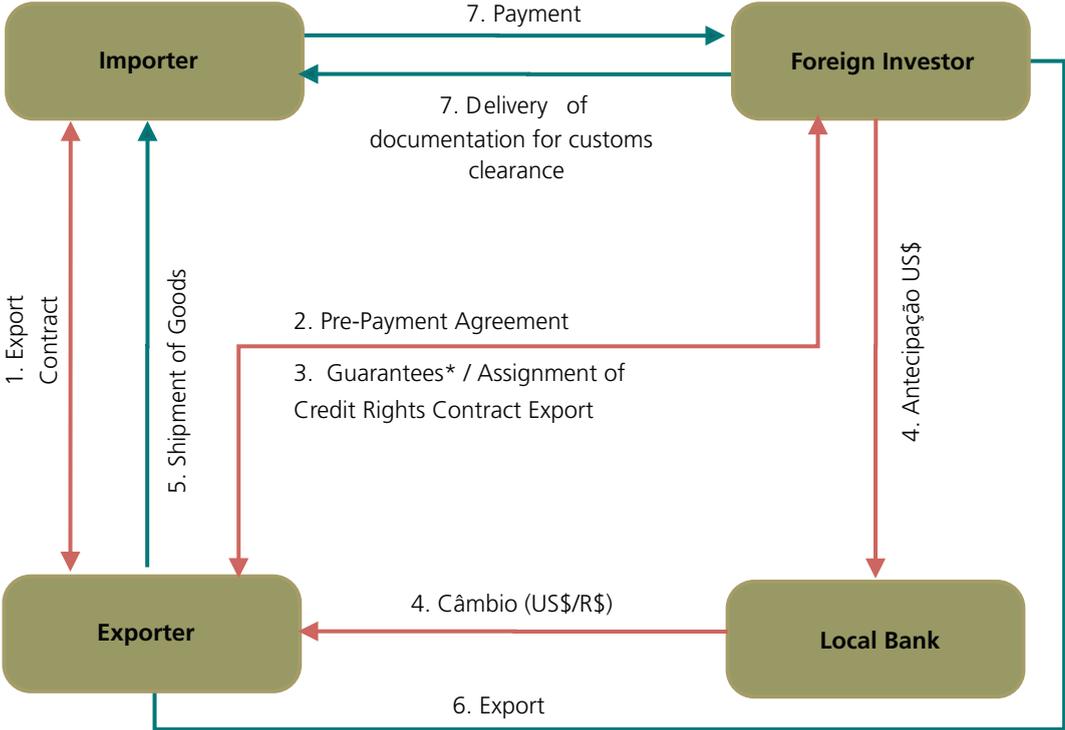
- **Concept**

- Lender (non-resident company / foreign bank / importer) provides to the Borrower a committed credit facility in advance to be applied in the securitization of agriculture exports

- **Types**

- **Short Term:** Contract is settled before the 360th day from the date of shipment of products. Does not require Central Bank of Brazil approval.
- **Long Term:** Contract is settled after the 360th day from the date of shipment of products. In this case, the operation should be recorded in the information system of the Central Bank of Brazil

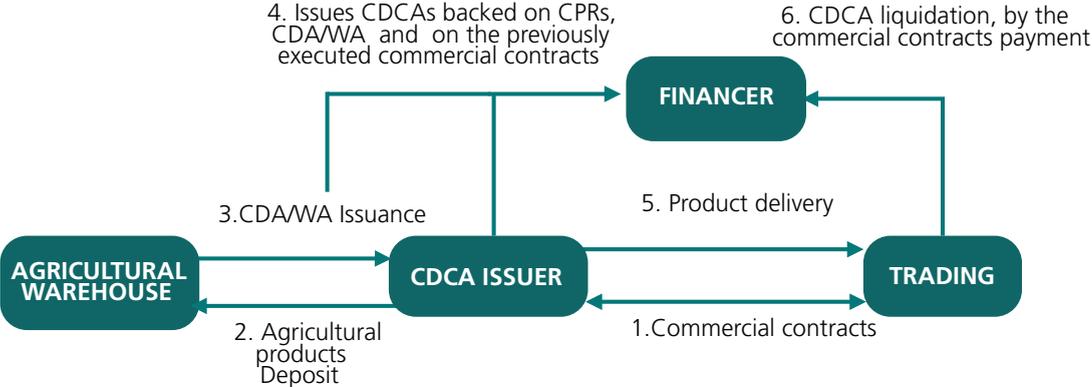
EPA – Export Pre-Payment Agreement - Flow



CDA / WA

- Legislation: Law 11,076/2004.
- Definition:
 - **Agricultural Deposit Certificate (CDA):** Is a credit instrument that represents the commitment to deliver agricultural and animal husbandry products, their by - products, sub-products and residues with economic value deposited.
 - **Warrants Agricultural (WA):** Is a credit instrument that represents the commitment to pay in cash and grants right of pledge over the product described in the corresponding CDA. Issued simultaneously by the depositary, which may be transmitted together or separately
 - Extrajudicial execution instrument
 - Must be registered on CETIP or BM&F, within 30 days from the date of issuance of the bonds
 - Transfer by endorsement
 - The product will not suffer motion, seizure, abduction or any other action that would impair their full and free disposal.

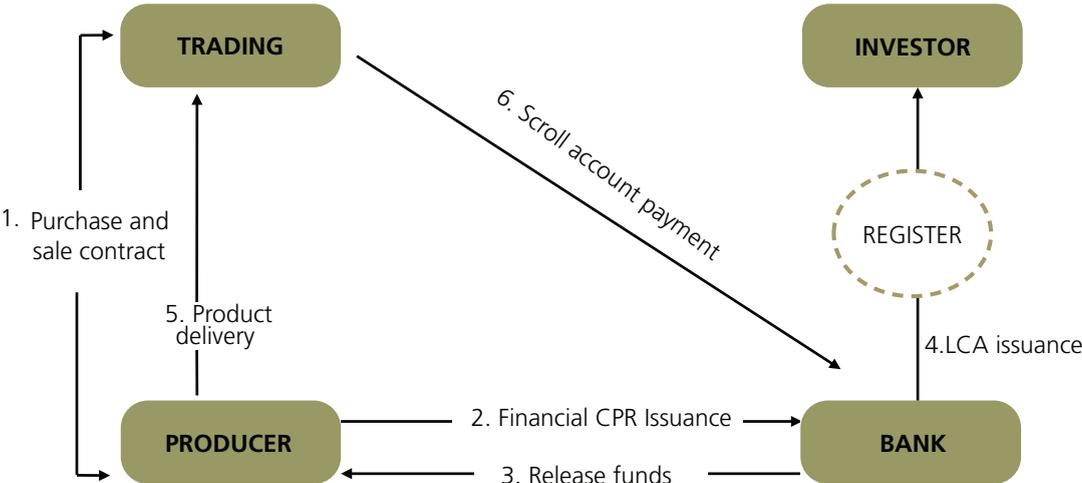
CDA / WA – Operation Flow



LCA – Agribusiness Letter of Credit

- **Exclusive issuer:**
 - Financial Institution (public or private)
- Title that should have rights as ballast agribusiness credit.
- LCA credit rights:
 - CPR
 - CDCA
 - CDA/WA
 - Commercial Contracts
- Must be registered at the System of Registration and Financial Settlement of Assets, authorized by the Central Bank of Brazil - (CETIP - Settlement and Custody Chamber, or BBM (BM&F) - Brazilian Mercantile and Futures).
- Must be held in custody in financial institution or others institutions authorized by CVM to provide custody service of securities.

LCA – Operation Flow



Agribusiness Financing - Guarantees

Guarantees	Main Features
Agricultural Pledge	It falls upon the agricultural products and instruments, pending or existent fruits (e.g. crops in formation) and agricultural machines. It falls upon the agricultural products and instruments, pending or existent fruits (e.g. crops in formation) and agricultural machines. The agricultural pledge must be registered before the Real Estate Registry Office of the place where the crop is located. The Agricultural Pledge encompasses the immediately next crop, in case the crop invested in guarantee is frustrated or insufficient. The Agricultural Pledge shall only be granted for the maximum term of three years.
Commercial Pledge	The debtor gives its product as guarantee of the full accomplishment of the principal obligation, but keeps for himself the responsibility of protection and conservation of the products before the creditor – no effective transfer - the debtor shall be responsible to keep the good in its possession, responding for the protection, conservation and quality of the products, on the responsibility as Depositary. This type of pledge is used for stored products.
Fiduciary Lien of Real Property	The fiduciary property of a certain the Real Estate property is transferred from the debtor to the creditor subject to a resolatory condition. Through the fiduciary lien guarantee the creditor acquires the ownership of the asset under a conditional term, until the full compliance, by the debtor, of the main obligation. In this type of guarantee, the asset also remains directly possessed by the debtor, which have to care and keep them. Not satisfied the debt the creditor may promote the judicial sale and use the price to pay his credit, regardless of any proceedings. In case of bankruptcy of the debtor by express legal provision, the assets subject to liens are excluded from the assets of the debtor.
Fiduciary Lien of Movable Assets	The creditor acquires the effective property of the product, under a conditional term, until the full accomplishment, by the debtor, of the principal obligation. The direct possession of the product stays with the debtor, who is also responsible before the creditor for the protection and conservation of the product, until the full accomplishment of the principal obligation. After the full accomplishment, by the debtor, of the principal obligation, the property of the product returns to the debtor. The credits guaranteed by fiduciary lien are not subject to the new Brazilian Bankruptcy and Reorganization Law. In this case, the products shall be restituted to the creditor in order to be negotiated with third parties, in-court or out-of-court.

Guarantees	Main Features
Mortgage	classified as a secured right of collateral (Direito Real de Garantia). It refers to the lien over an immovable asset granted as collateral by the borrower without the transference of its possession to the creditor, being the borrower's assets constituted as collateral of an obligation before third parties. The borrower maintains the ownership and possession of the immovable asset, which can be seized by the creditor by means of a judicial or extrajudicial foreclosure proceeding.
Personal Guarantee (Aval)	Statement through which one person (guarantor) becomes liable to pay a negotiable instrument under the same conditions endorsed by the debtor. The guarantor becomes obligors as well and can not plead before third parties in good faith exception would personally against endorsed. It is an autonomous and personal obligation.
Insurance Guarantee	Type of insurance intended to ensure the faithful performance of a contractual obligation to provide products in relation to your contractor.
Offtaker	Commercial Contract of Sale and Purchase of Products, whose receivables are pledged as collateral.

Historical Issued Volumes

- Issued volumes' track record (consolidated – September /2010)

AGRINOTES										
Accumulated Information on clearing systems-registered agrinotes up to 09/30/2010 (R\$ 1,000.00)										
Ano	CDA-WA		CDCA		LCA		CRA		TOTAL	
	Registers	Amounts	Registers	Amounts	Registers	Amounts	Registers	Amounts	Registers	Amounts
2005	22	-	25	28	148	168	-	-	195	196
2006	1,325	-	262	659	35	23	-	-	1,622	682
2007	1,817	-	670	2,435	684	3,569	-	-	3,171	6,004
2008	2,214	-	932	1,850	7,627	35,533	1	1	10,774	37,384
2009	1,323	-	871	1,641	16,016	63,287	10	22	18,220	64,950
2010 (*)	534	-	108	316	24,564	128,396	8	30	25,214	128,742
TOTAL	7,235	-	2,868	6,930	49,074	230,976	19	53	59,196	237,959

Source: BMFBOVESPA and CETIP

2010 (*): Positions up to September 2010

Credit Recovery

Legal Case: CPR - Investment Fund x Cattle Raisers

- Procedure: Foreclosure, with injunction request for the seizure of cattle (City of São Paulo, State of São Paulo).
- Instrument: Financial Agricultural Bond (CPRF), in the amount of R\$ 28,493,656.00, with pledge of 32,918 animals.
- Summary of the facts/measures: injunction granted; approximately 15,000 animals were seized
- The CPR is an execution instrument consolidated in Brazilian law. The Courts have decided many times about the validity of this instrument. CPR can be charged through an execution action. The CPR does not require full pre-payment of the price and allows the injunction request for the seizure of the products pledged.

Legal Case: CDA / WA - Investment Fund X Sugar Plant

- Procedure: Motion for judgment reconsideration within the recovery procedure
- Instrument: Export Prepayment backed by CDAs/WAs (9k tons of sugar)
- Granting of the release of the product represented in the CDAs/WAs: "the rights resulting from the twenty agricultural warrants and the twenty agricultural certificates of deposit were endorsed to the plaintiff, which became the owner of the stored assets and has full access thereto"

Legal Case: CDCA - Investment Fund x Sugar Plant

- Lawsuit: Execution with injunction to arrest sugar cane crop (São Paulo/SP)
- Basis: CDCAs guaranteed by CPRs (sugar cane pledge)
- Motion granted to retrieve the sugar cane
- Result of the product's processing and sale shall be deposited in a judicial bank account by the plaintiff (creditor).
- After the decision, the parties made a settlement, which was ratified by the Judge.
- Creditors remain excluded from the Judicial Reorganization. The credits were not included in the general list of creditors and the Execution Action will continue in parallel with the Judicial Reorganization.

Sharia Compliance

Agriculture Producers can be financed in compliance with Shariah using a SALAM contract (future delivery pre-financing), and several instruments (i.e. pre export finance and deliverable CPR) used by Brazilian agricultural producers for financing can be design as a SALAM contract.

Basic Characteristics of a SALAM contracts which can be met by Brazilian instruments:

- Agreed goods purchase price of the asset must be paid fully in advance.
- The goods must have commodity like characteristics and be fungible.
- The delivery of the goods must be deferred.
- The payment at maturity is through the delivery of the goods ONLY.
- The goods purchased must be freely available in the market.
- The goods must be of a specified quality and quantity without ambiguity.
- The contract cannot be used for either spot delivery or cross sales (a minimum of 30 days for delivery is recommended).
- The buyer may secure the seller's delivery commitment with a mortgage, guarantee or letter of credit.

The general rule in Islamic law is that you are not permitted to sell what you do not own. One of the exceptions to this is the SALAM contract which has been used since before the of the Islamic Prophet Muhammad when it was a documented business method in the hadith.

Annex

Non-resident Investment in Brazil – Legal Aspects

In general, investments made by non-residents in Brazil do not face a broad range of legal restrictions and are permitted in the vast majority of economical sectors (exception made to sectors such as public health, mail and telegraph, sanitation, aerospace industry, media and insurance).

Foreign investment in Brazil is subject to the supervision of two regulatory entities: (i) the *Conselho Monetário Nacional* (CMN), which is the decision-making body of the National Financial System and responsible for establishing the general guidelines, and (ii) the *Banco Central do Brasil* (BACEN), which is the Brazilian Central Bank, who

acts as part of the National Financial System and executes the guidelines and rules enacted by the CMN. In addition, it is also important to note the role of the *Comissão de Valores Mobiliários* (CVM), the equivalent to the Brazilian SEC, who monitors the Brazilian capital markets and imposes corporate governance standards for public companies.

CMN's and BACEN's regulations distinguish (i) foreign investments in privately held companies ("Foreign Direct Investment"), governed by Law 4,131/62, from (ii) foreign investments performed in the financial or capital markets, governed by Resolution 2,689/00, enacted by the CMN ("Foreign

Indirect Investment”). Foreign investment may be made via FIPs – *Fundos de Investimento em Participações* (the local private equity funds) as well, which are also carried out in accordance with the terms of the CMN Resolution 2,689/00.

1. Foreign Direct Investment

Foreign investors may enter the Brazilian market directly through the incorporation of a branch or a subsidiary (including through the association with a joint venture partner or the acquisition of an already existing local company). Since the first alternative requires the prior approval of the Brazilian federal government, what could sometimes be a lengthy process, foreign investors have preferred, in most cases, the second alternative, which provides them direct control over activities, management and personnel. The process of establishing a subsidiary or a joint venture type investment in Brazil is fairly simple. Non-resident investors may also choose to directly invest in Brazil through the acquisition of equity interest in an existing Brazilian company, which is also uncomplicated but may require a previous due diligence investigation.

The entity types most commonly used by non-resident individuals or companies to establish a subsidiary in Brazil are the corporations (“*sociedade anônima*”) and the limited liability companies (“*sociedade limitada*”), even though non-resident investors may use any other type of legal entity permitted under Brazilian law.

In practice, regardless of the type of legal entity chosen by the non-resident investor to establish a subsidiary – corporation or limited liability company – such subsidiary must be registered with the Registrar of Companies (“*Junta Comercial*”), with the tax authorities⁴ and the social security system.

The *sociedades limitadas* are normally preferred as they carry more flexible provisions, more simplified level of administrative formalities and corporate governance obligations, and, hence, tend to be less expensive to maintain when compared with the *sociedades anônimas*. Sole ownership is generally not permitted under Brazilian law, so both the limited liability companies and the corporations are required to have at least two partners (even if the second only holds a minimum equity interest). Under

1 - Enrollment with the federal tax authorities at the National Registry of Legal Entities (“*Cadastro Nacional de Pessoa Jurídica – CNPJ*”), the state tax authorities (depending on the activity to be developed by the company), and the municipal tax authorities.

regular circumstances, it takes between 15-20 days to duly incorporate a subsidiary in Brazil.

In order to hold interest in a Brazilian entity, the individuals or legal entities domiciled outside Brazil must retain an attorney-in-fact by granting a power of attorney for purposes of its representation to a Brazilian resident. In addition, only individuals may be appointed as officers of a corporation or as managers of a limited liability company and they must reside in Brazil (who can be a foreigner with a permanent visa). Notwithstanding, members of the board of directors of a corporation do not have any restrictions to reside abroad.

Sociedade Limitada – main features:

- Simple regulatory framework and less expensive to organize and maintain.
- More freedom / less rules.
- Governing law: Brazilian Civil Code (Law 10,406/02). The quotaholders may resolve, by inserting a provision in the articles of association of the *sociedade limitada*, that it shall be supplementary governed by the Brazilian Corporation Law.
- Governing document: Articles of Association ("*Contrato Social*").

- Capital divided into quotas.
- No minimum capital to be paid-in at the time of the incorporation.
- Liability of its quotaholders is limited to the total capital of the company while such capital is not fully paid in and is thereafter limited to the amount represented by the respective quotas held by each of the quotaholders.

Management – less bureaucratic (the *sociedades limitadas* are managed by executive officers who are elected by the partners).

- May be transformed into a corporation through a simple legal procedure.

Sociedade Anônima – main features:

- More complex rules, obligations and, in general, higher costs to maintain.
- Governing law: Brazilian Corporation Law (Law 6,404/76, as amended).
- Governing document: Bylaws ("*Estatuto Social*").
- Capital divided into shares.
- 10% of the issue price of the subscribed shares must be paid-in upon incorporation.

- Liability of shareholders is limited to their respective capital holdings.
- Management – more bureaucratic (there are several bodies within a *sociedade anônima* that are responsible for its management: general shareholders meetings, board of directors, board of executive officers and inspection committee).
- More sophisticated decision-making process.
- *Sociedades Anônimas* may be publicly traded.

Direct investments in Brazil made by non-residents must be registered with the Brazilian Central Bank upon entry. Such registration of foreign investment is accomplished through a self-declaring electronic system called the Central Bank Electronic System (SISBACEN). The Brazilian company receiving the investment must obtain the access code, which is a simple procedure. Remittance of profits overseas, repatriation of capital and registration of reinvested profits are based on the amount registered and are subject to the existence of the electronic registration.

As a rule, there are no restrictions on distribution of dividends, profits and subsequent remittance overseas, which can be done at any time without

the need of prior authorization or approval, provided that the foreign investment had been previously registered with the SISBACEN as described above.

2. Foreign Indirect Investment

Foreign investors may also invest in the financial and capital markets in Brazil, subject to compliance of the rules enacted by the CMN and to the monitoring of the BACEN and the CVM.

Securities acquired by foreign investors in accordance with CMN Resolution 2,689/00 could only be transferred through regular transactions held on stock exchanges or over-the-counter markets (there are, however, certain exceptions, such as subscription of primary offerings and corporate restructuring of the foreign investor).

Non-residents investing in the Brazilian financial and capital markets shall comply with certain requirements prior to the inflow of funds in the country, which in essence are the following:

- Enter into a representation agreement with the institution that will provide representation services for the non-resident investor before the CVM and the BACEN.

- Establish a tax representative in Brazil (normally, this role is performed by the same institution mentioned in the preceding item).
- Enter into a custody agreement, setting forth terms and conditions governing the intermediation of its transactions and the custody of the assets thereof by a Brazilian custodian.
- File with the CVM an identification form in order to obtain a “CVM Code”, which identifies the non-resident investor before the CVM and enables the inflow and outflow of funds through the foreign exchange market.

3. Local Private Equity Fund – FIP

Finally, it is worth noting that foreign investors are permitted to invest in Brazil through a FIP structure, which is governed by CVM Instruction 391. In general, Brazilian private equity investment funds are incorporated and organized as a condominium managed by an administrator duly authorized by CVM to manage securities portfolios. The FIP’s administrator has the power and duty to perform or, as the case may be, subcontract the performance of all the acts necessary for the functioning of the FIP (e.g., custody, management and treasury).

The rules that regulate the FIPs establish that the purpose of the fund is to acquire stock, debentures, warrants and other types of securities convertible or exchangeable for stocks issued by publicly or privately held companies. In addition, it is important to point out that the FIP must have effective participation in the decision-making process and the management of the invested company, with certain level of influence, for instance through the appointment of members of the board of directors, execution of shareholders agreement and/or entering into any other agreement that grants veto rights to the FIP.

Since the FIPs are addressed solely to qualified investors, the regulatory framework for investing in public companies is quite flexible. More detailed guidelines and corporate governance standards are imposed by CVM Instruction 391 when the FIP seeks to invest in privately held companies.

The purpose of this material is not to be complete in all respects, but to provide a summary that will allow foreign investors to better understand the structures and legal requirements for investing in Brazil. For a better understanding of the different structures and an overview of the taxes applicable, please refer to the slides regarding non-resident investment in Brazil.

Acquisition and Exploitation of Rural Real Estate in Brazil²

In the past few years, the acquisition of rural real estate by foreigners has been one of the main topics of discussions on the agricultural sector in Brazil. With a considerable increase of foreign investment in the country over the past 20 years, there has also been an increase of such investment in the rural sector, leading to acquisitions of rural real estate by foreigners or by Brazilian companies controlled by foreigners.

The Brazilian Federal Constitution points out that the infra-constitutional law shall regulate and limit the acquisition and lease of rural real estate by foreigners (whether natural persons or legal entities), as well as establishes what cases will depend on National Congress' authorization³. It is important to notice that the infra-constitutional legislation⁴ does

not prohibit the acquisition and the lease of rural real estate by foreigners. However, there are certain cases - such as a foreigner who does not reside in Brazil or a foreign legal entity that is not authorized to operate in Brazil⁵ - in which there is a restriction on the acquisition or lease of rural areas.

Regarding other cases involving foreigners, the Brazilian legislation imposes some rules and boundaries to land acquisition and/or lease. For a certain period after the promulgation of Federal Constitution of 1988, there was an understanding that such rules would not apply to national legal entities, even if such entities were controlled by foreigners. However, the current understanding points out that these rules applicable to foreign natural persons and foreign legal entities authorized to function in Brazil would also

2 - Text written by Juliano Lazzarini Moretti, Renata M. Moreira Lima and Leandro Nogueira Monteiro.

3 - Federal Constitution of 1988, art. 190.

4 - According to, especially, Law No. 5,709 of October 7th, 1971; Decree No. 74,965 of November 26th, 1974; Law No. 8,629 of February 25th, 1993.

5 - Law No. 5,709/71, art. 1^o.

be enforceable on Brazilian companies controlled by foreigners⁶, considering “controlled by foreigners” the situation in which the foreign controllers are empowered of deliberating on Shareholders’ Meetings, electing the majority of the company’s officers or managing the corporate activities and guiding the operation of its bodies⁷.

Applicable Rules to Foreigners

Regarding to rules applicable to land acquisitions by foreigners, the first of them - to be observed, in principle, in all cases where the rural property is greater than 3 Undefined Exploration Modules - MEI⁸ (from 15 to 300 hectares, depending on the region) - refers to the need for authorization, by the National Institute for Colonization and Agrarian Reform (INCRA), for the acquisition or lease of the rural property⁹. Such authorization depends, fundamentally - apart from

the confirmation of regularity of the documentation regarding the rural real estate and the person interested - on the approval of the project to explore the area, presented jointly with other documents and the application to the competent Regional Branch of INCRA¹⁰. The authorization granted by INCRA must be evidenced in the document that transfers the ownership or in the lease agreement and must be presented to the competent Real Estate Registry in order to permit its registration and, subsequently, the transfer of the in rem right over the rural area¹¹. It is important to mention that the authorization issued by INCRA, as well as the document which transfers the ownership or the lease agreement are not the only documents required for the effective registration, considering that there are other required documents for the registration, including situations in which there is no involvement of foreigners (e.g., proof of payment of the Tax on Rural Property).

6 - According to Law Suit No. 0002981-80.2010.2.00.0000, of National Council of Justice; Opinion LA-01/2010. Federal Official Gazette, Year CXLVII, edition No. 161 of August 23rd, 2010, pp. 1-10

7 - According to Opinion LA-01/2010, item 273, b, iii.

8 - *Módulo de Exploração Indefinida* - MEI: unit of measurement (in hectares) used to determine, according to the characteristics of a region, a standard size for rural areas without specific economic destination. MEI's size vary from 5 to 100 hectares, depending on the Typical Zone of Module - ZTM (Defined region with homogeneous environmental and economic characteristics) it is located. The National Institute for Colonization and Agrarian Reform (INCRA) is the body responsible for determining the module size of each ZTM. By this instrument, one can know the limit, in hectares, for land acquisition by foreigners in each of the municipalities.

9 - Law No. 5,709/71, art. 3^o, § 1^o; art. 5^o, § 1^o.

10 - Decree No. 74,965/74, art. 9^o and 11^o.

11 - Decree No. 74,965/74, art. 10^o.

A second rule is applicable to cases in which the rural real estate is located within 150 (one hundred and fifty) kilometres from national borders - the so-called "border zone." In such cases, typically, after prior investigation by INCRA, it will submit this application to the National Defense Council (CDN), which shall review the acquisition's or lease's reasons and submit its decision to INCRA, so, then, upon approval of the National Defense Council, INCRA may authorize the acquisition or lease¹².

Concerning to limitations on the size of the areas to be acquired, the Brazilian legislation imposes limits on the total area of rural properties under foreign control: firstly, according to Law No. 5,709/71, the size of a rural property to be acquired or leased by foreigners (directly or indirectly) could not be greater than 50 MEI (from 250 to 5,000 hectares, depending on the region) in the case of natural persons, or, according to Law No. 8,629/93, 100 MEI

(from 500 to 10,000 hectares, depending on the region), in the case of legal entities¹³. Furthermore, the law determines that no more than 25% of the municipality's total area could be under ownership or direct or indirect possession of foreigners¹⁴, and no more than 40% of that percentage could be of foreigners with the same nationality¹⁵.

Notwithstanding such limitations, the legislation ensures flexibility in cases where investments are beneficial to the interest and development of the Brazilian Nation, by providing the possibility of relativising the mentioned limits. Thus, the National Congress may authorize the investment in rural properties greater than the maximum limits of 50 or 100 MEI, after reviewing the concrete case¹⁶. Moreover, the President of the Republic is also authorized to approve acquisitions or leases beyond the limits established for each Municipality, in case of projects considered priority to the plans of national development¹⁷.

12 - Law No. 6,634 of May 2nd, 1979, art. 2^o, paragraph VI.

13 - Law No. 8,629/93, art. 23, § 2^o.

14 - Law No. 5,709/71, art. 12^o.

15 - Law No. 5,709/71, art. 12^o, § 1^o.

16 - Law No. 8,629/93, art. 23, § 2^o.

17 - Law No. 5,709/71, art. 12^o, § 3^o.

Acquisition of Rural Real Estate Property

According to Brazilian law, there is no significant distinction between the formalities required to transfer the ownership of a urban and a rural real estate property, taking into consideration, in both cases, the rule imposed by the National Civil Code¹⁸, which states that the property is transferred, *inter vivos*, by the registration of its deed of transfer - in general, the Deed of Sale and Purchase - before the competent Real Estate Registry. However, that does not mean that the documents which must be presented along with the deed of transfer are exactly the same for both cases.

In this sense, focusing mainly on the formalities relating to transfer of ownership of real estate properties, as well as the need to confirm the regularity of various documents, it is common to fall back on, in acquisitions of a rural real estate, a legal due diligence with respect to all documentation and status of the property, the sellers and former owners of the property, in order to be ascertained of,

among other things, the validity of the documents submitted, if there is any impediment condition (state of insolvency of the seller, public area etc.) or if the property is under any legal dispute, seizure, expropriation etc. In general, before the final deed, an instrument determining on which basis the business will be executed is signed. This instrument can be a Memorandum of Understanding, a Purchase Option Agreement or even a Commitment to sell and purchase the property, whereby the seller undertakes to provide the necessary documents for the legal due diligence and to sell the property to the potential purchaser upon the final result of the due diligence, at the satisfactory discretion of the potential purchaser.

Leasing and Rural Partnership

The lease of rural real estate is a type of contract under Brazilian law, whereby the use of a rural property is assigned to a person, by the owner or lessee in exchange of payment, in order to perform on such property the development of agricultural activity¹⁹, which, likewise the acquisition, is also usually interesting to foreigners for the development

18 - Law No. 10,406 of January 10th, 2002 (Brazilian Civil Code), art. 1,245.

19 - According to Law No. 4,504 of November 30th, 1964 and Decree No. 59,566 of November 14th, 1966, both as amended.

of rural activities in the country. The lease of rural areas has some specific rules, among which must be emphasized the preemptive rights of the lessee to renew the lease or purchase the rural property²⁰.

Another form of development of rural activities in Brazil is the rural partnership, in which the owner of a rural property assigns its use to a person in exchange of a participation in the results of such use — participation that must respect certain percentages set forth in the applicable law²¹. Consequently, the investor and the landlord share, at least to a certain level, the risks of the rural activity.

It is important to notice that the lease of rural real estate and rural partnerships also involve several aspects which must be verified and respected as a complement to the rules applicable to foreigners. For example, verifying whether the owner or lessee is the rightful possessor of the property to be leased or over which a rural partnership is being developed, and other aspects, which, as in the acquisition of rural areas shall be verified to provide greater legal certainty for the persons involved.

Conclusion

The rules imposed by the Brazilian legislation in relation to land acquisitions by foreigners are not intended to establish a general prohibition or impediment to foreign investment in the Brazilian agricultural sector. On the contrary, investment is welcome to the greater and best development of this activity in Brazil. However, some criteria and proceedings were established by the Brazilian government in order to have sufficient control to ensure that such investments are not harmful to the interests of the country, as well as to permit adequate information about the agrarian structure, so there is the possibility of a greater plan of public policies for this sector.

Particularly in view of the international commodities appreciation, the spread of use of bioenergy in the world and the expansion of national agricultural frontiers, the investment in the Brazilian agricultural sector remains quite attractive, directly or with partnerships in its several productive chains, in production commercialization, infrastructure, or in partnership of real estate properties in Brazil.

20 - Applicable legal aspects, such as Law No. 6,015 of December 31st, 1973 (Law of the Public Registries), art. 167, paragraph II, item 16 must be observed.
21 - Law No. 4,504/64, art. 96.

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