INTERNATIONAL TRADE / WTO

CLIENT ALERT

JANUARY/2020

BRAZIL AND INDIA SIGNED AGREEMENT ON COOPERATION AND FACILITATION OF INVESTMENT

On January 25, 2020, Brazil and India signed in New Delhi, among other 15 agreements and memoranda[1], the Agreement on Investment Cooperation and Facilitation (*Acordo de Cooperação e Facilitação de Investimentos – ACFI*).

According to Brazil's Ministry of Foreign Affairs, India has a significant participation in the Brazilian Program for Investments Partnership (*Programa de Parcerias de Investimentos – PPI*), particularly in electric energy transmission, with predicted investment amounting to R$ 7 billion. India is also present in manufacturing and mining industries segment, finance, insurance and related services, agriculture, livestock, reforestation and aquaculture. Brazilian companies, on the other hand, invest in Indian segments of electric engines, steel industry, automation, banking, commercial and mining[2].

The ACFIs were developed by the Brazilian government as an alternative to the traditional Bilateral Investment Treaties (BITs) and have as objective the promotion of investments, cooperation between governments, practical and constant support to investors and prevention of disputes.

According to Brazil's Ministry of Economy, the ACFIs are based on three pillars: i) institutional governance; ii) thematic agendas for investment cooperation and facilitation; and iii) mitigation of risks and prevention of disputes, by means of a Joint Committee and an Ombudsman of investments. In Brazil, this Ombudsman is the Executive Secretariat of the Brazilian Chamber of Foreign Trade[3].

[1] Available at: <https://www.gov.br/planalto/pt-br/acompanhe-o-planalto/noticias/2020/01/em-visita-a-india-bolsonaro-fecha-15-acordos-para-alavancar-cooperacao-bilateral>.
[2] Available at: <http://www.itamaraty.gov.br/pt-BR/notas-a-imprensa/21257-assinatura-de-acordo-de-cooperacao-e-facilitacao-de-investimentos-entre-o-brasil-e-a-india>.
[3] Ministry of Economy. Agreements on Cooperation and Facilitation of Investment. Available at: <http://mdic.gov.br/comercio-exterior/negociacoes-internacionais/218-negociacoes-internacionais-de-investimentos/1949-nii-acfi>.

PRACTICE AREA
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There are currently 15 ACFIs signed by Brazil, the first one was concluded in 2015[4]. The ACFI with India is the first one between Brazil and an Asian country and a BRICS[5] member.

The Brazilian government's expectation is that, by providing stronger legal security to foreign investments, it will encourage investment flow between both countries and, together with other initiatives, boost the start of a new phase in bilateral relations[6].

The full text of the ACFI is not yet available.

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[4] The ACFIs currently in force are with Mozambique, Angola, Malawi, Mexico, Chile and Peru. Available at: <http://mdic.gov.br/comercio-exterior/negociacoes-internacionais/218-negociacoes-internacionais-de-investimentos/1949-nii-acfi>.
[5] BRICS = Brazil, Russia, India, China and South Africa.
[6] Available at: <https://www.gov.br/planalto/pt-br/acompanhe-o-planalto/noticias/2020/01/em-visita-a-india-bolsonaro-fecha-15-acordos-para-alavancar-cooperacao-bilateral>.