

BRASIL CHINA LEGAL FORUM

EDIÇÃO ESPECIAL
COSBAN 19 ANOS



COMISSÃO SINO-BRASILEIRA DE ALTO
NÍVEL DE CONCERTAÇÃO E COOPERAÇÃO

Brazil/China Letter of Legal Cooperation



for Sustainable Economic Development

MAY 24, 2023

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The Federal Council of the Brazilian Bar Association, through the National Coordination for Brazil-China Relations, the National Commission of Foreign Affairs, and the Special Commission on Carbon Credit, in the context of the Brazil China Legal Forum - Advocacy from an International Perspective, held on May 24, 2023, in a special edition commemorating the 19 years of the Sino-Brazilian High-Level Coordination and Cooperation Commission (COSBAN, from the acronym in Portuguese), as the highest permanent instance of strategic dialogue and bilateral cooperation established between the two nations, establishes the "**BRAZIL/CHINA LETTER OF LEGAL COOPERATION FOR SUSTAINABLE ECONOMIC DEVELOPMENT**". The objective is to concentrate maximum institutional efforts to promote legal exchange and enhance legal certainty in international and Sino-Brazilian relations, in a wide range of areas, based on the mapping, monitoring, and support for the implementation of the Strategic Plan signed between Brazil and China for the period 2022-2031, the respective ongoing Five-Year Executive Plan for the period 2022-2026, and other agreed-upon and recognized instruments between the countries, their institutions, and entities, both public and private, including multilateral ones.

CONSIDERING THAT

1. In 1974, Brazil and China established diplomatic relations based on mutual respect and reciprocity, progressing harmoniously and in a balanced manner - despite multiple regional and global challenges - to achieve the milestone of the Sino-Brazilian fiftieth anniversary in 2024, with significant and meaningful results for both countries.
2. China has been Brazil's main trading partner since 2009, for approximately 14 consecutive years, and the bilateral relationship is characterized by dynamic and multi-sectoral interinstitutional cooperation, reflected in the fact that China is one of the main sources of foreign investment in Brazil.
3. Brazil and China cooperate in important global platforms, such as BRICS, G20, WTO, and BASIC (collaboration between Brazil, South Africa, India, and China regarding the environment).
4. Thirty years ago, in May 1993, Brazil and China agreed to elevate their diplomatic relationship to a "Strategic Partnership," enhancing cooperation in 2012 with mutual recognition at the level of "Global Strategic Partnership" – when the Ten-Year Cooperation Plan for the period 2012-2021 was settled.

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5. In 2022, the Sino-Brazilian trade relations reached a record high, surpassing 150 billion dollars in intense economic cooperation and investments in various areas.
6. On May 24, 2004, exactly 19 years ago, the Sino-Brazilian High-Level Commission for Consultation and Cooperation (COSBAN) was established as the highest permanent instance of dialogue and bilateral cooperation, co-chaired by the respective Vice Presidents of Brazil and China.
7. Brazil and China are in a stage of even closer approximation and exchange in strategic sectors to consolidate and expand economic and commercial cooperation, particularly in the areas of technology, digital economy, and green economy, with the establishment of mutual benefits as the cornerstone.
8. In early 2020, the Federal Council of the Brazilian Bar Association established the National Coordination of Brazil-China Relations, with branches in Brazil states and in the Federal District, aiming to intensify and improve multidisciplinary legal cooperation, institutional dialogue, legal environment, and bilateral exchange in their various forms between the two nations, their subnational entities and institutions.
 - a. The aforementioned Brazilian-Chinese collegiate body within the Brazilian Bar Association is the result of sensitivity to the conducive environment for the structured development of Brazil and China, as legal certainty is - undeniably - a determining factor for entrepreneurs and crucial for foreign investors.
 - b. The Brazilian Bar Association (OAB), through joint action with the three Branches of the Republic as well as with diplomatic missions, proposes to develop an organized and plural agenda in close harmony with legal professionals and direct participation of civil society, observing the macro objective of promoting peace, security, prosperity, and the integrated development of Brazil in a multipolar, interconnected, and globalized world.
 - c. The National Coordination of Brazil-China Relations of the Brazilian Bar Association, through academic and institutional partnership with the China Law Society (CLS), the Law School at Shanghai University of Finance and Economics (SUFE/Shanghai), the Brazil-China Sociocultural Institute (Ibrachina), and D'Plácido Publishing, has initiated the publication of an unprecedented international bilateral work entitled "Integration China and Brazil: The Legal

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Consolidation of the Countries' Relations" collectively authored by Brazilian and Chinese lawyers, academics, and specialists, with a continuous perspective of future editions.

- d. The "Brazil China Legal Forum" event, which serves as platform for the establishment of this Letter, is part of a special series on international perspectives for Brazilian legal practice and aims to guide lawyers, professionals from various sectors, and the legal community in general on opportunities, challenges, and interdisciplinary possibilities for action in various areas of law. It takes into consideration the history of successful trade partnerships and the solid Sino-Brazilian diplomatic relations.
 - e. The program of the aforementioned legal forum has the institutional support of the Brazil-China and BRICS Parliamentary Fronts of the National Congress; the China-Brazil Business Council (CEBC), a bilateral entity between the two countries and an integral part of COSBAN; and the Brazil-China Sociocultural Institute (Ibrachina), in addition to the participation of authorities, experts, and representatives of relevant Sino-Brazilian entities and promoters of international relations.
9. On May 23, 2022, during the VI Plenary Session of COSBAN, Brazil and China endorsed the Strategic Plan to guide their bilateral relations between 2022 and 2031 and established, as fundamental principles, mutual respect, territorial integrity, equality, reciprocal benefits, and non-intervention in internal affairs.
- a. According to the ongoing Sino-Brazilian Strategic Plan, economic, social, and environmental sustainability is a primary objective to be actively pursued and promoted transversally in all spheres of bilateral interaction. This aims at economic development, prosperity, and the well-being of both countries' societies, reaffirming their commitment to the implementation of the 2030 Agenda and the Sustainable Development Goals, in pursuit of more robust, green, and balanced global progress, leaving no one behind.
 - b. In parallel with the guidelines of the aforementioned Strategic Plan, **Brazil and China have decided to create five-year Executive Plans to determine priority actions and areas for bilateral cooperation**, with provisions for the structure of bilateral initiatives in the following strategic axes: Politics; Economy, Investment, Trade and Cooperation; Science, Technology, and Innovation.

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- c. The current Sino-Brazilian Strategic and Executive Plans reaffirm the importance of COSBAN as the main mechanism for regular dialogue and coordination of bilateral relations. Brazil and China have also agreed to improve and update the structure of this body, consolidating its Subcommissions and Working Groups.
- d. The parties have agreed, within the scope of the Strategic Plan, to the operation of at least 10 (ten) Thematic Subcommissions, namely: (1) **Political** Subcommission; (2) **Economic-Commercial and Cooperation** Subcommission; (3) **Agriculture** Subcommission; (4) **Science, Technology, and Innovation** Subcommission; (5) **Energy and Mining** Subcommission; (6) **Industry, Information Technology, and Communication** Subcommission; (7) **Space** Subcommission; (8) **Sanitary and Phytosanitary** Subcommission; (9) **Financial-Economic** Subcommission ; (10) **Culture and Tourism** Subcommission;
- e. On April 14, 2023, during a recent Presidential Mission of Brazil to China, both countries issued the "**Brazil-China Joint Statement on Combating Climate Change**," acknowledging that climate change represents one of the greatest challenges of our time and that addressing this crisis contributes to building a shared future of prosperity with equity for all humanity.
- f. In the context of the aforementioned Joint Statement, Brazil and China decided to establish a new Subcommission within the institutional framework of the Sino-Brazilian High-Level Commission of Concertation and Cooperation (COSBAN), the eleventh subcommission: (11) Subcommission on **Environment and Climate Change**.
- g. Under the framework of the **Economic-Commercial and Cooperation Subcommission**, the following Working Groups are envisioned: *Trade Facilitation WG; Trade in Services WG; Investment Cooperation WG; Intellectual Property WG; E-commerce WG; Customs Issues WG; Education WG; Health WG; Commercial Defense Mechanism; and Economic-Commercial Cooperation Mechanism between States and Provinces*. In the context of the **Agriculture Subcommission**, the following Working Groups are established: *Agricultural Biotechnology and Biosafety WG; Digital Agriculture WG; Crop Conservation WG; and Agrochemicals WG*. As for the **Industry, Information Technology, and Communication Subcommission**, there is the *Digital Technology and Industrial Transformation WG*. And within the **Culture and Tourism Subcommission**, there is the *Sports WG*.

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10. Within the scope of the Strategic Plan 2022-2031, **Brazil and China have agreed to enhance cooperation in legal, consular, and immigration matters** through the exchange of information and good practices. They coincide in taking concrete measures to protect, within their own territories, the security and **legitimate rights of citizens from the other Party, in accordance with their respective national legislations**. They have decided to actively explore cooperative initiatives based on equality and mutual benefit in all areas of interest, **support dialogue and cooperation between their legislative bodies and political parties, as well as in the areas of defense and justice**.

- a. Furthermore, within the legal scope, both countries have decided to **encourage the exchange of information to promote bilateral regulatory cooperation**. They aim to foster industrial and productive cooperation initiatives that contribute to increased productivity and competitiveness in both countries, while emphasizing technological innovations aimed at more efficient, safe, and environmentally sustainable production in accordance with the best international practices. Additionally, they highlight the importance of ensuring smooth trade exchange by adopting customs procedures, trade facilitation measures, and agile, transparent, and efficient product and service marketing procedures in their respective markets;
- b. Within the scope of the Strategic Plan 2022-2031, both countries have also decided that economic and trade cooperation, based on equality and in line with the national interests of Brazil and China, should generate mutual benefits. This cooperation will incorporate sustainable development objectives, aiming to promote prosperity and well-being of societies. It seeks to stimulate economic and financial opportunities for reciprocal benefits, aiming to increase trade flows and investments **according to their respective interests, priorities, and legislations**;
- c. Efforts are also being made to deepen cooperation in renewable energies (including biofuels), nuclear energy, oil and gas, hydrogen, and mining. This will be achieved through the promotion of cooperation in investment in production and supply chains, **technical cooperation, and scientific, technological, and regulatory exchange in areas of mutual interest**;

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- d.* The commitment to support **cooperation and academic discussions** between Brazilian states and Chinese provinces, based on mutual benefits, encompasses **areas such as trade promotion, investments, infrastructure, trade in services, e-commerce, technological innovation, healthcare, and other economic and commercial activities**. The goal is to develop the potential of platforms and institutions to promote trade and investments, such as twinning arrangements between subnational entities of both countries;
- e.* Furthermore, Brazil and China highlighted **the transformative role of the free flow of information and ideas in the dissemination of knowledge**, which is crucial for promoting prosperity, well-being, and economic development in societies while **ensuring intellectual property rights**.
- 11.** The Subcommissions of COSBAN, in accordance with the ongoing five-year Executive Plan between Brazil and China, may meet annually or as determined by their coordinators to **promote the implementation of relations, identify new areas, and propose new cooperation initiatives**. They have the authority to establish, modify, and dissolve Working Groups through consensus between the Parties.
- a.* The guideline for the Subcommissions of COSBAN is to provide semi-annual reports of their activities to the Focal Points of each Party. On the Brazilian side, the Department of China of the Ministry of Foreign Affairs (DECN/MRE) is responsible for this task, while on the Chinese side, the Department of America and Oceania of the Ministry of Commerce handles it. These departments will submit annual reports to their respective Executive Secretaries and Co-Chairs, communicating the outcomes of their work and the key developments in their areas of focus during the plenary meetings of COSBAN.
- 12.** Among the strategic topics included in the Executive Plan, there is **explicit emphasis on extensive discussions within the context of Human Rights, International Law, and Legal Cooperation**.
- a.* The Parties **have agreed to deepen cooperation in legal and public security matters, including enhancing cooperation in combating transnational crime**. Priority will be given to combating international drug and firearm trafficking, organized crime, corruption, and money laundering. They aim to improve the exchange of information, enhance integration among public security

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agencies, and promote capacity-building actions to combat specialized crimes by providing training for human resources.

- b.** Brazil and China, as they promote the identification of synergies between their economies and contribute to the well-being of both societies, have agreed to maintain fluid contacts in order to: **improve mutual understanding of regulatory aspects**, seek solutions to avoid unnecessary trade barriers, and address any obstacles encountered by the private sector in accessing each other's markets. They also aim to encourage the increase in the participation of higher value-added products in their exports, strengthen contacts and cooperation in the field of commercial defense, and make efforts to address mutual concerns;
- c.** The Parties have agreed that the partnership in investment matters plays a fundamental role in the social and economic development of both countries. They reaffirm that **bilateral initiatives should be aligned with national interests and legislations**, as well as guided by goals of economic, social, and environmental sustainability;
- d.** Brazil and China recognize the importance of infrastructure investments as drivers of economic development. They have agreed to assign the Cooperation in Investment Working Group **the task of promoting bilateral investments and cooperation in infrastructure** within the scope of the Economic and Trade Subcommittee. Both parties aim **to actively advance investment facilitation, make efforts to increase bilateral investment flows, and promote diversification**. They also aim to deepen cooperation in investments in production and supply chains, intensify investment cooperation in the digital economy, accelerate the development of digital infrastructure, promote digital transformation in traditional industries, and progressively enhance the volume and level of cooperation. In addition, they commit to **incorporating principles of good environmental, social, and governance (ESG) practices** in infrastructure projects, developing sustainable infrastructure, and seeking to **deepen cooperation in bilateral investments related to green and sustainable development**. They will promote regular consultations among relevant government agencies and institutions, **encourage the exchange of information on regulatory issues, national standards, and regulatory requirements**. Furthermore, they will stimulate dialogue between the private sector and the governments of both Parties to **enhance access to investment information and**

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- strengthen predictability and legal certainty.** These are among the various initiatives agreed upon to promote investment cooperation between Brazil and China;
- e. The Parties acknowledge the importance of dialogue in the financial and fiscal areas to create a favorable environment for bilateral investments and trade. They commit to making efforts **to discuss and exchange information on fiscal, tax, social security, and monetary policies, as well as economic development strategies. The aim is to strengthen cooperation in policy formulation and promote sustainable development in their economies.** They also aim to expand the exchange of information and strengthen bilateral contacts and cooperation in macroeconomic policies within major multilateral economic and financial forums. Regular channels of communication will be established to share information on regulatory regimes and market governance in the financial and capital markets of both countries, with the goal of enhancing the investment environment. Furthermore, they will strengthen dialogue on the issuance of "green bonds" and "sustainability bonds," taxonomy, and related topics;
- f. The Parties recognize the significant contributions of cooperation in the energy and mining sectors to the development of bilateral relations. They aim to promote cooperation in the field of renewable energy, including partnerships in green diesel, aviation biofuel, waste-to-energy utilization, and carbon capture and storage (CCS) technologies. Additionally, they seek to enhance cooperation in the automotive sector, including electric vehicles and low-carbon fuels, transportation equipment, photovoltaic solar energy, and new energy storage technologies, among others;
- g. The Parties expressed their intention to deepen cultural cooperation, aiming to enhance mutual understanding and strengthen friendship between their peoples. They agreed, among other aspects, **to expand the exchange of information and best practices regarding the protection of copyright and related rights and their collective management.** They also agreed **to explore procedures for mediation and arbitration in this domain.**

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IT IS REMARKABLE THAT

13. **Legal Cooperation** - in the context of the strategic and organized actions of COSBAN to promote and enhance the relations between Brazil and China - **is a measure of interinstitutional potential involving** - among other national and international entities - **the Brazilian Bar Association**, especially considering the **scope of its constitutional and legal responsibilities towards society as a whole**.

- a. *The Brazilian Bar Association is committed to fulfilling and strengthening the fundamental objectives set forth in the Federal Constitution of Brazil, namely: to build a free, just, and solidary society; to **guarantee national development**; to eradicate poverty and marginalization and reduce social and regional inequalities; to promote the well-being of all, without prejudice to origin, race, sex, color, age, and any other form of discrimination;*
- b. *The Brazilian Bar Association is also committed to **Brazilian constitutional principles in the conduct of its international relations**, observing principles such as national independence; the primacy of human rights; the self-determination of peoples; non-intervention; equality among States; the defense of peace; the peaceful settlement of disputes; the rejection of terrorism and racism; and **cooperation among peoples for the progress of humanity**;*
- c. *The Brazilian legal profession, without exception and non-negotiably, is bound by a professional oath: "I promise to practice law with dignity and independence, to observe ethics, professional duties and privileges, and to defend the Constitution, the legal order of the Democratic State, human rights, social justice, the proper application of laws, the swift administration of justice, and the improvement of legal culture and institutions."*

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THEREFORE

14. It is a peaceful interinstitutional commitment, reflected both in the Sino-Brazilian Strategic and Executive Plans and in the various initiatives of the Brazilian Bar Association, in its own principles and in the essence of its responsibilities, to enhance the relations between Brazil and China, with a view to reciprocal development and mutual benefits between the two countries, their institutions and entities, public and private, through comprehensive joint efforts to promote structured legal exchange and enhance legal security.

Brazil, Brasilia - Federal District, May 24, 2023.

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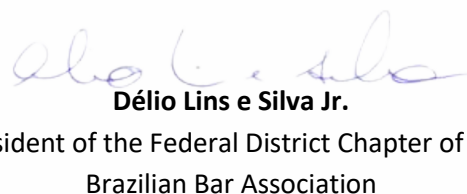
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