

Streamlined Procedures for Authenticating Documents in Brazil

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Brazil has become the 111th contracting state to the 1961 Hague Convention Abolishing the Requirement of Legalization for Foreign Public Documents (the "Convention"). The text of the Convention was approved by the Brazilian Federal Congress in July 2015 and enacted by Decree No. 8660 on January 29. In Brazil, the National Council of Justice (Conselho Nacional de Justiça) will be responsible for regulating the application of the Convention, which takes effect August 14. Brazil's accession to the Convention will facilitate cross border legal and business transactions with the United States (and other signatory countries) by eliminating the consular authentication process (also known as "consularization" or "consular seal"). Essentially, consular authentication is an endorsement by local Brazilian diplomatic authorities to certify that documents are legitimate. This is typically accomplished by certifying the signature on the document itself or by certifying the signature of the public notary who certified the signature. This elaborate process requires that a document issued in the United States be (1) notarized by a public notary, (2) then verified by a county clerk, (3) then legalized by a Brazilian diplomatic office located in the United States. The document must also be translated under oath into Portuguese and registered in the National Public Registry of Deeds and Documents upon its arrival in Brazil. However, once the Convention takes effect, Brazil will use the "apostille system," which greatly simplifies and reduces the costs associated with public document circulation and acceptance between countries that are parties to the Convention. An apostille, a certificate issued by a designated authority in a country where the Convention is in force, consolidates the information required to validate a public document into one document. It certifies the authenticity of the signature and the capacity in which the person signing the document acted, and identifies the seal/stamp which the document bears. In the United States, federal public documents may be authenticated with an apostille issued by the U.S. Department of State. Documents issued at the state level may be authenticated by an apostille issued by the competent authority in each state. Generally, this is the Secretary of State of the state. The implications of Brazil's participation in the Convention are significant. In addition to facilitating cross border transactions, the Convention will benefit many

U.S. and Brazilian individuals and families who live, travel, and work between the two countries. The streamlined procedure will expedite the transfer of, among other things, birth certificates, school records, adoption orders, and documents submitted in support of visa applications. Current legalization procedures control until the Convention takes effect.

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