

MEMORANDUM TO CLIENTS

August 12, 2016

New Federal Decree ratifies the 1961 Hague Convention

On January 29, 2016, the Brazilian Federal government enacted Federal Decree No. 8,660/2016 ("Decree"), which ratifies the 1961 Hague Convention Abolishing the Requirement of Legalization for Foreign Public Documents, also known as the Apostille Convention ("Apostille Convention"). The Decree also amends the current Brazilian legislation regarding the requirements for validity and effectiveness of foreign public documents.

Pursuant to the Apostille Convention, the following are considered to be public documents: a) documents emanating from an authority or an official connected with the courts or tribunals of the State, including those emanating from a public prosecutor, a clerk of a court or a process-server (*huissier de justice*); b) administrative documents; c) notarial acts; d) official certificates which are placed on documents signed by persons in their private capacity, such as official certificates recording the registration of a document or the fact that it was in existence on a certain date, and official and notarial authentications of signatures.

The validity and effectiveness of such documents have been, up to now, mainly regulated by Law No. 6.015/73, which requires that a foreign document be submitted to the relevant Brazilian Consulate in order to receive a consular seal to attest its validity in that specific country. On June 22, 2016, the Brazilian National Council for Justice - CNJ issued Resolution No. 228/2016, which stipulates procedures for notaries to issue and recognize apostilles, pursuant to the terms of the Apostille Convention.

The Apostille Convention will allow any public document issued in countries that are signatories of the treaty (including the United States, Japan, India, South Africa, Australia, and the European Union countries), to be recognized as valid and effective in other signatory countries. In order for such document to be valid and effective, it must be attached to an apostille issued by the country from which

the document originates; which will, in turn, prevent the requirement of a consular seal. Please note that such rule only applies to countries that are signatories of the Apostille Convention and, therefore, the consular seal remains a requirement for validity and effectiveness of documents issued by non-signatories countries of the treaty (such as China, Canada and Chile).

The treaty's instrument of ratification was deposited by Brazil on December 2, 2015 and will come into force on August 14, 2016. Please note that other bilateral treaties signed by Brazil with countries, such as France, Argentina and Uruguay, which allow the legalization procedure at Brazilian Consulates to be dispensed with, are not affected by the Apostille Convention. A sworn translation of foreign documents into Portuguese remains a requirement for submission of foreign documents to government authorities and Brazilian courts.

The official wording of the Decree, in Portuguese, can be accessed by clicking [here](#), while the official wording of the Apostille Convention, in English, can be accessed by clicking [here](#). In addition, the wording of Resolution No. 228/2016, in Portuguese, can be accessed by clicking [here](#).

Mattos Filho's attorneys

The purpose of this memorandum is to inform our clients about important changes and developments in the area of law. We remain at the reader's disposal for any additional information that may be desired regarding the subject matter herein.

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