

MEMORANDUM TO CLIENTS

INFRASTRUCTURE

February 29, 2016

ANTAQ enacts Normative Ruling No. 5/2016 stipulating new rules for granting authorization to Brazilian shipping companies undertaking long haul shipment, cabotage, offshore and harbor supply navigation

The National Agency for Waterway Transportation ("ANTAQ") issued Normative Ruling No. 5 ("Normative Ruling No. 5/2016") introducing new rules to be observed by companies undertaking long haul shipment, cabotage, offshore and harbor supply navigation in Brazil. Normative Ruling No. 5/2016 was published in the Official Gazette on February 25, 2016.

Normative Ruling No. 5/2016 entirely revokes Resolution No. 266/2004 and partially revokes Resolution No. 2510/2012. The penalties for violation of Normative Ruling No. 5/2016 are the same penalties stipulated in articles 18 to 21 of Resolution No. 2510/2012.

The wording of Normative Ruling No. 5/2016 reflects some of the contributions received by ANTAQ from the Brazilian shipping industry during the public hearing launched by ANTAQ in connection with the proposal to amend the resolution. ANTAQ's initial proposal was to provide a list of adequate vessels for each type of navigation. After public hearings, ANTAQ included in Normative Ruling No. 5/2016 a definition for "adequate vessel for the navigation requested", as being a vessel which has its own propulsion or is connected to a tug/pusher and capable of commercial operation. Vessels will undergo a technical analysis by ANTAQ.

Among the new rules introduced by Normative Ruling No. 5/2016, we highlight the following:

- Strict requirements for granting authorization, based on a shipbuilding contract with a Brazilian shipyard; and

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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- The Brazilian shipping company must inform ANTAQ, within 30 (thirty) days from the start of operation, of all Brazilian vessels employed in the navigation requested and deliver a copy of certain mandatory documents related to the vessels. In the case of any change in the operating fleet (including purchase and sale of vessels), the Brazilian shipping company must inform ANTAQ by delivering a copy of the relevant document no later than the last day of the month subsequent to the occurrence.

Brazilian shipping companies already authorized by ANTAQ must adapt to the new rules, especially with respect to the adequacy of their fleet to the type of navigation authorized, within 90 (ninety) days, or be subject to applicable penalties.

Attorneys of the Infrastructure practice

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