THE INVESTOR'S HANDBOOK FOR RENEWABLE ENERGY IN BRAZIL

AN INSIDER'S GUIDE

REA CONSULT

Preface

Favorable geographic conditions, growing electricity demand, progressive regulatory reform, and maturing supply chains, have made Brazil one of the most exciting countries in the world for renewable energy investment.

According to Bloomberg's **2019 Climatescope report**, Brazil ranks third most attractive in the world for clean energy investments. Brazil also ranks third globally in terms of installed capacity from renewable energy sources, after only China and the United States, according to **IRENA** analysis. Despite this, Brazil only ranks 7th in the world for installed wind power capacity and 22nd for solar.

The real renewable power in Brazil comes from hydroelectric, where it is only second to China. Large hydropower plants account for around 80% of domestic electricity generation, providing flexible and low-emission base power supply. However, further expansion is constrained by the remoteness and environmental sensitivity of remaining hydropower resources.

As a result, reforms in the Brazilian energy market over the last decade have focused on diversifying the country's energy mix. While natural gas plays a role in this new power landscape, the key focus has been to promote the development of wind and solar power generation by creating the technical, socio-economic, and political conditions required to encourage investment.

Transmission capacity and technology have improved to account for intermittent supply, new financing mechanisms have been put in place to suit a wide range of projects, and more supportive regulation has been established. From 2017 to 2020 (ytd) the average annual installed capacity growth of centralized solar power was approximately 35%. In the same period, distributed solar power grew by more than 120% on average, benefiting from the world's most progressive net metering regulation. The more mature wind sector saw an average increase in the generation capacity of 8% per year, while total wind capacity is expected to double between 2017 and 2024.

There is a famous saying here, we say that "Brazil is not for beginners". Despite reform, Brazil is still an emerging market with many of the inefficiencies and cultural hurdles you would expect of a populous Latin American country. However, those who can navigate Brazil's dense legal and regulatory jungle will discover a renewable energy market that is brimming with potential. Since I began working in the renewable energy sector, I have seen markets peak and stall. The conditions are right, now is the time for Brazil.

The Investor's Handbook for Renewable Energy in Brazil has been developed by REA Consult to support that journey. It serves as an insider's guide for those developing projects renewable energy in Brazil and anyone curious about the inner-workings of this lucrative market. A new chapter will be released every week, all free to read and share. See all the chapters published so far and **follow the evolving story here**

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REA Consult is a management and consulting firm committed to building bridges for international sustainable investments. Born in Brazil with offices in Europe, Asia, and South America, REA Consult has a global track record of supporting successful projects.

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LAND REGULATION FOR RENEWABLE ENERGY IN BRAZIL

SECURING LAND EVOKES REMINISCENCES OF CONFLICTIVE COLONIAL EXPANSION. IN NO OTHER MATTER CAN THE BRAZILIAN WAY OF DEALING WITH UNCERTAINTIES BE MORE RELEVANT

- △ Land Registration
- △ Local Formalities
- △ State Courts
- △ Federal Judiciaries

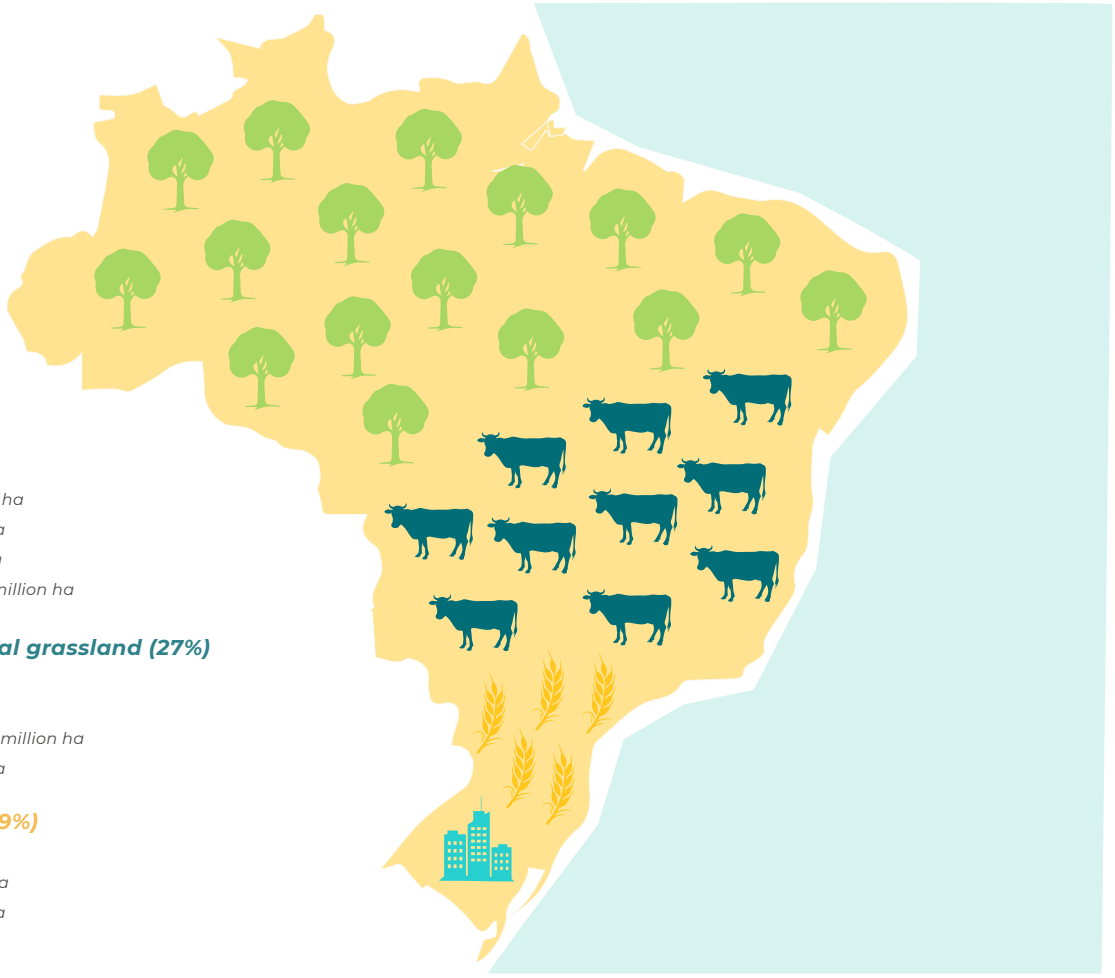
Land Regulation for Renewable Energy in Brazil

Overview

Brazil's decisions around land use are some of the most important in the world. A prominent agricultural sector competes for space with an influential natural resource industry with the backdrop of environmental conservation symbolized by deforestation of the Amazon rainforest.

The challenge facing this resource-rich nation is to use available land as efficiently as possible to promote economic growth, while simultaneously protecting globally recognized conservation areas.

When land markets work, it is because they attract skilled operators to otherwise unused or unproductive land. This is the case for the use of land of renewable energy generation, such as wind or solar plants, which also support wider climate change initiatives. Below you can a brief explanation about the use of Brazilian lands



Forest (60%)
509 million ha

- *Rainforest 431 million ha*
- *Savanna 72 million ha*
- *Mangrove 1 million ha*
- *Forest plantations 5 million ha*

Pasture and natural grassland (27%)
234 million ha

- *Pasture 151 million ha*
- *Natural grassland 43 million ha*
- *Imputed 40 million ha*

Agricultural land (9%)
79 million ha

- *Cropland 39 million ha*
- *Imputed 40 million ha*

Other (4%)
30 million ha

Note: *"Imputed" refers to those areas that were classified as "agriculture or pasture" in the MapBiomas data. CPI divided this category evenly between "Pasture and natural grassland" and "Agricultural land."*

Source: *Climate Policy Initiative with data from MapBiomas (v.2.3), 2016*

The purpose of this chapter is to highlight the necessary precautionary measures when conducting due diligence processes for solar or wind projects that are tied to land rental contracts.

In these cases, other than technical issues, additional factors must be taken into consideration:

- The enterprise's site
- The rented plot of land
- The lessor's information

What investors are usually unaware of is the lengthy deck of federal, state, and city licenses and authorizations that need to be put together, for land registration as detailed here and for environmental bodies, as discussed in Chapter 7.

Land registration

The process starts with the General Registry of Property (RGI – Registro Geral de Imóveis). Land registries and other legal matters, such as inheritance issues and rights of use, are obtained through a certificate issued by the land registry office. Certificate fees may vary, and the document's validity is between 30 and 60 days.

The land's historical information is mandatory to participate in energy auctions, Tpresented within 30 days of the certificate's issue date. In case it is not available, land rental contract details, such as georeferencing, must be endorsed in the plot's registration once it starts being used.

Local formalities

As a second step, the lessor must consult the corresponding city hall in order to check and, if necessary, pay the local land taxes (IPTU – Imposto Predial e Territorial Urbano), fines, and land auction taxes that might bring additional costs, regardless if the landowner (or user) has done so. The validity of certificates issued by the city hall vary between 30 and 180 days. Additionally, the lessor must assure the enterprise's location is complaint with the city's building law directives.

Concerning environmental issues, a few cities have their own bodies while others have agreements set in place for infraction surveys regarding the plot itself or its owner.

Companhia Ambiental do Estado de São Paulo (CETESB), for instance, is the agency responsible for inspection, license granting, and violation notices inside the state of São Paulo. As a complementary service, the authority still issues financial debt clearance certificates and violation notice surveys.

This is not a common practice throughout the country, however, and the lessor must verify who oversees the process for the other certificates (state or city authority). Validity varies among the many Brazilian states, but it is usually valid for 30 – 45 days on average.

Federal and state judicial bodies

When it comes to land regulation in Brazil State Justice Courts, State Labor Courts, and Federal Regional Courts, all play important roles in the establishment of renewable energy projects. The mandate, certification, and validity of these judicial processes are outlined below.

State Justice Courts

MANDATE

Although certificates are related to the lessor they also impact the enterprise's objective.

If the lessor is not in good standing or is legally insolvent, the corresponding assets are seized and auctioned, and the land rental contracts become ineffective.

State Justice Courts provide the following:

- Certificate of bankruptcy or arrangement with creditors
- Will certificate
- Criminal record certificate
- Other certificates, if mandatory

CERTIFICATE

Obtained online (available in 5 days) or through the city's forum

VALIDITY

Up to 180 days, according to the certificate

Superior Court of Justice (STJ - Superior Tribunal de Justiça): Certificates on closed as well as open legal cases can be requested through the e-mail address informa.processual@stj.jus.br

State Labor Courts

MANDATE

Can seize assets or forbid land rental contracts if the lessor has legal claims.

State Labor Courts issue the labor compliance certificate.

Each state has just one labor court of its own, except for the state of São Paulo, which has two labor courts (2ª Region, in the state's capital, the city of São Paulo, and 15ª Region, in the city of Campinas).

CERTIFICATE

Obtained online

VALIDITY

30 to 60 days

Superior Court of Labor (TST – Tribunal Superior do Trabalho): Responsible for the certificate of labor debt, requested online and issued immediately, free of charge. The certificate is valid for **180 days.**

Federal Regional Courts	
MANDATE	There are five Federal Regional Courts (TRF – Tribunais Regionais Federais) in the whole country. Judicial certificates are issued according to the state.
CERTIFICATE	**Obtained online** or according to the state's procedures.
VALIDITY	60 days

In a nutshell, this chapter presents the steps and processes to secure land rights for renewable energy projects.

Many of the requirements are not directly related to the enterprise itself but may jeopardize the project's viability. It is, therefore, vital to gather and process all the proper documentation in order to avoid unpleasant surprises.

In the next section, Chapter 8, we look beyond land rights to the complex issues of environmental licensing for renewable energy projects in Brazil.

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Sources

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