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## INCENTIVES FOR THE PRODUCTION OF RENEWABLE ENERGY IN BRAZIL – STRATEGIC DEVELOPMENT OF THE BRAZILIAN ENERGY SECTOR

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The world is in a critical moment in regards to the production and demand of energy. The current situation, which comprises the growing global demand of energy combined with the depletion of fossil fuels, environmental pollution and global warming, signals the overloading of the world energy model which shows a necessity for a change in strategy.

Renewable sources of energy, commonly referred to as Renewable Energy, appear as a point of contact between worries of the energy sector and a possible solution to the problem, relating to energy production and reduced levels of pollution.

In spite of the details mentioned above, there are indicators of a future crisis of traditional energy sources. Brazil, notwithstanding, and its privileged energy matrix, is already developing projects related to non-polluting energy projects, as well as those deemed renewable.

In this sense, recent legislative projects under consideration in the National Congress, aside from other initiatives already implemented, open opportunities and favor the achievement of business and investments related to the generation and production of these new types of energy, substituted for those starkly anti-environmental sources known as fossil fuels.

### 1. Brazilian Energy Matrix

Thanks to alcohol (ethanol) and hydroelectric energy, today Brazil occupies a privileged position in relation to the rest of the world with regards to the energy matrix. Approximately 45% of all the energy consumed in the country originates from sources considered renewable, almost three times greater than the global average of 14%.

Nevertheless, in spite of the excellent position of the Brazilian energy matrix, the development of new projects of production of renewable energy has always to be encouraged with incentives. That is because the pressure of the energy sources considered “dirty” is important, especially when the production and utilization costs are considered.<sup>1</sup>

### 2. Incentives for Production of Renewable Energy in Brazil

Brazil has come a long way in the last five years creating various tools aimed at encouraging private investors to develop projects related to renewable energy.

Apart from various legislative projects on the floor of Congress, a range of incentives has already been implemented for the benefit of the renewable energy sector, among which we cite:

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<sup>1</sup> In the majority of cases, the cost of large-scale production of non-renewable energy is significantly less than renewable sources.

(i) Simplified Process of Environmental Licensing (Conama Resolution 279/2007): establishes deadlines of no more than sixty days for the issuance of each environmental license, with priority given to analysis and provisions for simplified studies..

(ii) Simplified Process for the issuance of grants – proposed to simple authorities (and not legal ones) and exempt from declarations of the Public Good Use.<sup>2</sup>.

(iii) Creation of a market reserved for the sale of renewable energies. Consumers of significant demand would initially be excluded from the free energy market. However they could acquire energy obtained from Small Hydroelectric Centers.

(iv) Reduction of 50% of the Tariffs on Use and Distribution of Electric Energy (TUSD e TUST) for energy derived from renewable resources.

Many other benefits come in the form of accreditation of economic bonuses for general electric projects, without excluding the possibility of entry of the projects concerning renewable energy into the Mechanism of Clean Development, Created by the Kyoto Protocol.

A point that deserves attention and is not rare is the object of inquiries of investors, and the security of funds given for the implementation of the projects. Since a big part of the incentives occurs because of resolutions and normative acts of the State itself, legal binding that guarantees that they would be available to the investors during the course of the long term is not necessary. According to the practical point of view, such incentives can be modified

depending on the alterations of the positions of the government.

Investments on renewable energy can be excellent and lucrative options, but caution is recommended as well as good legal support in the development of the business dealing so that the structure of all guarantees of the capital invested and the taxes of expected returns is duly set.

Aware of the importance that renewable energy occupies in the Brazilian economic setting and the expectations of its growth because of the ample spectrum of projects and related opportunities that present themselves in Brazil, Almeida Advogados has a department exclusively for the coordination, support and realization of the legal assessment of projects related to sectors of energy, making themselves ready to help investors who have interest in doing business or investment in Brazil.

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<sup>2</sup> Art. 26º da Lei 9.427/96 e Res. ANEEL 395/98.