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## INNOVATION FINANCING IN BRAZIL AND THE NATIONAL FINANCIAL SYSTEM

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Brazil, the country of innovation. This is not a sentence extracted from a national sci-fi movie, nor the title of a report extracted from newspaper in 2020. At least, not yet.

Innovative technologies developed in the nanotechnology field and for exploring the pre-salt reserves, are some of the leading areas struggling to make it possible to use that sentence nowadays. Internally, governmental entities aimed at innovation protection, namely the Intellectual Property National Institute – INPI – have also done their jobs to help national innovation.

At the INPI, modernization of INPI systems with e-marcas (for trademarks) and/or e-patentes (for patents), as well as the increase in the number of the office's employees, which has almost doubled and tripled the number of examiners, directly reflected in patent granting time reducing it from 11.6 years in 2006 to present 5.4 years, and still with a goal to reach 4 years by 2015.

All these factors reflect in a greater credibility in the innovation system and, consequently, in the rise of patent application numbers: from 2007 to 2011, the patent applications leaped from 105 thousand to more than 140 thousand.

That reflex has also hit Brazil's international classification in the World Ranking of Innovation, published by INSEAD and lead by Switzerland, placing it in 47th<sup>1</sup>. The ranking position occupied

by the country, which, by the results of its production could be 10 positions higher, finds as obstacle the *Innovation Input Index*, the "raw-material" of innovation composed mainly of institutional and intellectual infra-structure, and market and country's business sophistication.

### Protecting and Stimulating Innovation

The innovation stimulation can come in several ways, from intellectual property protection, going through financing offer from investors, to benefits created by the government by offering subsidies, financing and, of course, taxation.

Intellectual Property protection is the first way to stimulate innovation. On the patents field, the Intellectual Property Law guarantees the monopoly of economic exploitation of the inventions and utility models for a minimum term of 7 years and 10 years and maximum of 10 and twenty years respectively<sup>2</sup>.

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in partnership with the World Intellectual Property Organization in the year 2011.

<sup>2</sup> Law 9.279, article 40: Invention Patent Protection shall have a term of 20 (twenty) years and a utility model patent a term of 15 (fifteen) years, from filing date. Paragraph: Such time period shall not be less than 10 (ten) years for invention patents and 7 (seven) years from utility model patents, counted from grant, except when the INPI is prevented from proceeding with the examination as to the merit of the application, due to a proven pending litigation or for reasons of force majeure.

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<sup>1</sup> As appointed on the Ranking by INSEAD – one of the main business schools in Europe, in

The reasons to look for Monopolies<sup>3</sup> protection guaranteed by Intellectual Property, especially through patents are many: (i) protection of investments with thriving and failing projects; (ii) the costs with research, equipment, compliance regulation, tests, and the commercialization in the market; (iii) use of the government incentives for the development of certain areas of industry.

But creation protection is not enough to stimulate innovation. As previously said, two important aspects must be taken into consideration when intending to encourage innovation: the benefits established by the government through subsidies, financing and tax benefits, and the offer of credit and financing, as we will see hereinafter.

### **Governmental Incentives to Innovation – The Brazilian Plan *Plano Brasil Maior***

Willing to improve the raw-material of innovation, the Brazilian Government has invested beyond the institutional sphere of intellectual property protection managed by the INPI. Plans for multi-sector actions such as the *Plano Brasil Maior*<sup>4</sup> show the concern and planning made by the country to encourage innovation and technological development.

<sup>3</sup> There are situations which suggest the abuse of protection of intellectual property based on the public humanitarian interests. These are the cases of abusive patenting, that is, those that do not effectively present innovation in the state of the art, biopiracy, abandonment of non-profitable markets and price diversification in different markets.

<sup>4</sup> *Plano Brasil Maior* is a continuity of the PDP (Productive Development Policy), established in 2008, more extensive, approaching actions and measures to encourage international trade and the trade and service section. It was regulated by the *Medida Provisória 540/2011* and settles the trade and service, industrial and technological policy from 2011 to 2014.

The *Plano Brasil Maior* has the tax reduction of investment and exports as one of the main steps; the increase and simplification of investment and exportation financing; the increase of resources for innovation; the improve the innovation regulations; the growth stimulation of small and micro business; the strengthening of commercial defenses; the creation of special regimes to capital and technology aggregation in the creative chain; and regulation of governmental purchases<sup>5</sup> to stimulate production and innovation in the country.

Objectively, some of the incentives that the government plans to offer to convince companies to invest in innovation are reducing taxation certain segments; the R\$ 7 billion credit offer by Brazilian National Bank for Development (BNDES) for companies willing to invest in innovation; reduction of exportation costs, such as refunding up to 4% of the exported manufactured value (*reintegro*); the increase of credit compensation to the exporters allowing companies to go through an automatic process and get the refund in 60 days or less; and the creation of financing lines specific for the exportation encouragement, including micro, small e medium business.

### **Seeking Innovation Financing in the National Financing System**

The National Financial System has several components of the National Monetary Council that cause impact on innovation, mainly on private financing matters.

Traditionally, the most used forms to finance innovation are credit lines from the

<sup>5</sup> Law 12.349/2010 sets preference margins up to 25% in bidding processes of national manufactured goods and services that correspond to Brazilian technical rules according to job generating, revenue, development and technological innovation standards.

fomentation Agencies and development Banks, due to governmental incentives for industry development established in actions such as those contained in The *Plano Brasil Maior*.

However, we notice that credit lines for innovation financing faces resistance from commercial and investment banks. The reasons for such resistance are basically five: (i) the difficulty to use it as credit warranty; (ii) the preference for bank liquidity; (iii) the difficulty to evaluate the safety margin; (iv) regional concentration; and (v) the need for improvement in the institutional infrastructures.

The difficulties of using innovation as credit warranty and the preference for liquidity have been caused mainly because of the adversities generated by the lack of a innovation culture. The last two, in the other hand have also caused difficulties in the others, generating a systemic reaction, a vicious circle which, in order to be broken, must comprehend changes in the whole innovation chain.

Almeida Law Firm has full service departments to assist the entire innovation production chain, from Intellectual Property matters to Tax and Infrastructure issues and is available for further understanding concerning this matter.