

BRAZIL

SOUTH AMERICA



GENERAL COUNTRY INFORMATION

Brazil is located in South America and has the world's fifth largest population and area, with some 8,514,876 km². The country shares its borders to the north with Venezuela, Guyana, Surinam and French Guyana (a French overseas department); to the south with Uruguay; to the southwest with Argentina and Paraguay; to the west with Bolivia and Peru; and to the northwest with Colombia. Chile and Ecuador are the only two South American countries that have no common borders with Brazil. The Atlantic Ocean extends along its coast to the northeast, east and southeast.

In addition to its continental territory, Brazil also possesses small groups of islands and atolls in the Atlantic Ocean, including Saint Peter and Paul Rocks, Fernando de Noronha and Trinidad, Martim Vaz adjacent to the state of Espírito Santo, and Rocas Atoll.



Map 1: location of Brazil

Brazil has a population of nearly 184 million, giving an average density of 21.6 inhabitants per km². The Brazilian GNP is US\$ 1,292 billion (2007) and its HDI is 0.792, placing it among developing countries, though it exhibits great regional differences.

The country's population distribution is quite unequal, concentrated in the coastal areas, mainly in the south-east and northeast forest zones. In the south region is another important centre. The least populated areas are in the mid-west and north.

There is an increasing movement of population into the large urban centres of the great metropolitan areas.



BRAZIL

SOUTH AMERICA



This contrasts markedly with wide uninhabited regions elsewhere.

Brazilian cities exhibit a hierarchy determined by their size and significance. The most important types of urban concentration are:

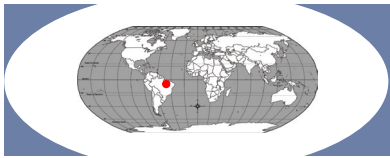
- Global, National and Regional Metropolises: the 3 components of this upper stratum comprise 13 centres all of which, except for Manaus, consist of urban concentrations;
- Regional Centres: they include 16 urban centres, of which 13 are urban concentrations;
- Sub-Regional Centres 1 and 2: these total 82 urban centres, 31 falling into category SRC-1 and 51 into category SRC-2.

In total, Brazil has 111 urban centres, of which 49 are categorised as urban concentrations. The urban centres are composed of 440 Municipalities and the Federal District, and together they accommodate more than half of the Brazilian population [56% in 1996].

- Largest national metropolis: São Paulo
- National metropolis: Rio de Janeiro
- Regional metropolitan centres: Belo Horizonte, Porto Alegre, Recife, Salvador
- Great regional metropolises: Belém, Curitiba, Fortaleza, Goiânia, Manaus

Rio de Janeiro and São Paulo, the two global metropolitan areas, comprise 60 municipalities and contain 17.3% of the total population of the country. 13% of the Brazilian population lives in the seven national metropolitan areas.





BRAZIL

SOUTH AMERICA



PART I: PLANNING FRAMEWORK

- **Administrative structure**

Brazil is a federal republic, administratively and politically divided into 26 States and one Federal District. These are composed of 5,564 Municipalities.

NORTH REGION

Acre (AC), Amazonas (AM), Amapá (AP), Pará (PA), Rondônia (RO), Roraima (RR)

Area 3,869,637 km²
Population 15,023,310 inhabitants
Density 3.77 ppl/per km²
HDI 0.727

NORTHEAST REGION

Maranhão (MA), Piauí (PI), Ceará (CE), Rio Grande do Norte (RN), Pernambuco (PE), Alagoas (AL), Sergipe (SE), Paraíba (PB), Bahia (BA)

Area 1,558,196 km²
Population 51,609,027 inhabitants
Density 32.0 ppl/per km²
HDI 0.683

MIDWEST REGION

Goiás (GO), Tocantins (TO), Mato Grosso (MT), Mato Grosso do Sul (MS)

Area 1,606,371 km²
Population 13,269,517 inhabitants
Density 8.26 ppl/per km²
HDI 0.792

SOUTH REGION

Paraná (PR), Santa Catarina (SC), Rio Grande do Sul (RS)

Area 576,409 km²
Population 27,107,011 inhabitants
Density 47.02 ppl/per km²
HDI 0.807

SOUTHWEST REGION

Rio de Janeiro (RJ), São Paulo (SP), Minas Gerais (MG), Espírito Santo (ES)

Area 924,511 km²
Population 78,472,017 inhabitants
Density 84.88 ppl/per km²
HDI 0.791



National powers are exercised by:



- the Executive: ruled by the President and composed of Ministries, Secretaries and other administrative bodies
- the Legislature: National Congress, Chamber of Representatives and Senate
- the Judiciary: Federal Supreme Court

Each State has its own powers:

- the Executive: ruled by a State Governor
- the Legislature: Legislative Assembly
- the Judiciary: at State level

Municipalities have only Executive (Mayors) and Legislative (Council Chambers) powers.

The President is elected every four years, and can be re-elected once; Representatives are elected every four years, with no limitation on re-election; and Senators are elected every eight years. Governors, Mayors and Municipal Chamber members are elected every four years. Governors and Mayors can be re-elected only once. Voting is compulsory for citizens aged between 18 and 70 years, but not so for those between 16 and 18 years, or over 70.

- **Administrative competences for planning**

According to the Federal Constitution all three levels of Government (Federal, State and Municipal) are autonomous and have powers and responsibility to draw and approve laws, decrees and plans in the field of urban planning, as well as to carry out works, and dispose of a budget derived from specific taxes and collected fees.

Legislation must be compatible and clearly define competences. Policies, budgets and most of the legislation at any level is put forward and prepared by the Executive and voted by the corresponding Legislative body.

At Federal level, urban affairs follow guidelines made by the Planning Ministry. They are the responsibility of the Ministry of Cities, created in 2004, which coordinates actions and promotes policies and/or social investment programmes for housing, sanitation, urban infrastructure, public transportation, transit and traffic. Other Federal bodies such as the Secretary of the Interior and the Ministry of Integration also have planning functions. Their main duties are to elaborate and implement National and Regional Plans, establishing urban development guidance in areas such as housing, basic sewerage and public transport, as well as assigning federal resources for local urban investment.

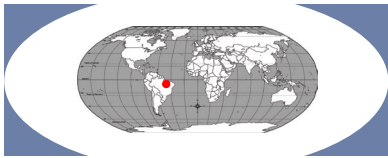
At State level, matters are normally administered by a Secretary for Planning or Urban Development. Together with Municipalities, the Secretary is responsible for local public policies. The State has no responsibility for preparing Master Plans but it issues regulations and licenses directly concerned with planning in areas such as sanitation, pollution control, environmental protection and heritage.

The Constitution of 1988 assigned a new political role to local administrations, promoting a clear decentralisation from the Federal power. Municipalities are the sole entities with the capacity and responsibility to regulate and promote urban development, mobilising a number of different instruments for controlling the type and intensity of use of urban land. Depending upon their size, they have more or less complex administrative planning structures.

- **Planning legislation**

- **Main planning legislation**

The urban planning system in Brazil is regulated by Federal Law 10257 of 10 July 2001, known as the "Statute of the City". This establishes directives for urban policy in the country (Article 182) and took more than 10 years to be sanctioned after approval of the 1988 Constitution. It defines "public order and social interest



BRAZIL

SOUTH AMERICA



policies that regulate urban property for the collective benefit, safety and well-being of citizens, as well as the balance of the environment” (Article 183 on the social function of the city).

Other related provisions include:

- Federal Law 6766, 19/12/1979 (Urban Land Subdivision). This was the first legislation in Brazil to introduce State control over the land subdivision process. It determines the amount of land private developers have to provide for social facilities, services, road systems and other infrastructure. The law also regulates the process of urban development, fixing criteria for planning procedures for approval and registration, as well as defining criminal and penalty actions. Prior to this, legislation lacked any planning content. Earlier laws failed to establish parameters to regulate land subdivision; development of land was treated merely as a private business aimed solely at selling land, with no connection to urban planning.
- Federal Constitution, 5 October 1988. This determines that the three levels of Government are autonomous. It gives the State, instead of the Federal Government, the capacity to define the boundaries and organisation of the Metropolitan Regions, Urban Agglomerations and Micro-Regions which constitute autonomous entities.
- Environmental protection. Articles 25 and 225 of the 1988 Constitution impose an obligation on the State to defend and preserve the environment for future generations. Protection of sites and historic buildings is made a responsibility of Government at all levels. The regularization of illegal settlements in areas of special environmental value is precluded without first undertaking an environmental impact study.
- Provisional Measure 2220/2001, promoted by Article 2 of the Constitutional Amendment No 32/2001. This provides that irregular settlements occupying public land of special environmental interest might be evicted by the Government, especially on those lands assigned to environmental preservation and protection of natural ecosystems.
- Resolutions of CONAMA (National Council for the Environment). These make environmental impact studies mandatory for the development of more than 100 hectares of urban land or areas of particular environmental value. Special environmental licences are required in the case of certain works - such as drainage channels, sewage pumping stations, ports, marinas, and tourism developments. Additionally, they determine that the need to preserve the built heritage and natural environment might preclude certain kinds of land uses.
- Civil Code 2002. This introduces important innovations in the private rights domain. It reinforces the social dimension by supporting, for example, the pre-eminence of occupier’s rights against owner’s rights where land has been occupied for a period of five or more years and improvements have been made.

- **Planning and implementation instruments**

The Federal Constitution (Articles 21, 182 and 183) makes city planning an obligation of the State to be implemented by the Municipalities through instruments such as Master Plans, Urban Perimeter Laws, Land Subdivision Laws, Zoning Laws and Local Building Regulations.

Federal Law 6766 sets out the duty of the Municipality to define land use guidelines, plot subdivision structure, road systems and open space in both public and private lands. The major change introduced is the new role given to Municipalities of more than 50,000 inhabitants to control and regulate the process of land development, establishing urban parameters and standards to guide and regulate the activity of the developer. Federal Law 10257 confirms the Master Plan as the main instrument of urban development. It assigns areas to be developed through land subdivision, and identifies areas of special social interest that are subject to specific regulation for social housing.

A Building Code is approved by each Municipality which is tasked with granting building approvals or urban consents, and ensuring compliance with the Code.



BRAZIL

SOUTH AMERICA



National, regional and local authorities are all responsible for the protection of cultural heritage and the environment. Prior consultation with the competent bodies is required where development is proposed in an area of particular environmental or historic value.

PART II: PLANNING PROCESS

- **Planning system**

- **Plan making**

Municipal authorities are responsible for the preparation of plans; however, according to the Statute of Cities, this must be done in compliance with any existing national, regional and State plans developed for metropolitan areas, urban concentrations and micro-regions.

Federal Law 10257 makes the Master Plan, approved by municipal law, compulsory for all cities having more than 20,000 inhabitants and for those integrating metropolitan areas and urban concentrations. Likewise, cities located in areas of special tourist interest, or located in areas influenced by undertakings or activities having significant environmental impact of regional or national importance, have an obligation to prepare Master Plans. In practice, this means that approximately one quarter of the 5,561 Brazilian municipalities are bound by law to plan their development through Master Plans.

For cities with more than 500,000 inhabitants, Sectoral Plans must also be prepared in areas such as urban transportation, sanitation, water and so on.

- **Development control**

Master Plans must have a minimum content which is established by the Council of Cities. Such Plans must address several matters specified by the National Urban Development Policy, and by actions and programmes developed by the Ministry of Cities.

That content, legally defined by the Council of Cities (Resolution Nº 34, 01/07/2005), includes actions and measures to assure the social function of the city and urban property, building control, protection of historic heritage and natural environment, accessibility to services, and strategies of territorial development. The Resolution emphasises that Master Plans must deal not only with physical-territorial issues, but also with aspects of economic and social development, taking into account the totality of the municipal territory, and not only what is contained within its urban limits.

- **Participation and appeal**

The law requires that plan preparation should be highly participative involving different segments of society through open public hearings. Preparation of Master Plans without following such procedures – in other words, where effective community participation is not incorporated – makes the mayor liable to be sued for administrative improbity. Furthermore, in order to have legal effect, Master Plans must be approved by the municipal legislature.

The Master Plan can only be altered by proposal of the legislature itself, or by proposal of the municipal authority (executive), based on studies carried out by the relevant technical bodies and ratified by the legislative power.

Every Plan has to be voted as a law by the legislative power. That is the opportunity for objections.

All laws relating to land use have to be presented and discussed in at least two public hearings before they are



voted upon. In addition, the law has to be approved by a “qualified quorum”. Under specific circumstances, it is possible to appeal the validity of the law before the Courts. Furthermore, any person, entity or public administration can appeal to the judicial power wherever they consider themselves harmed by a permit or by the enforcement of laws.

PART III: EVALUATION

- **Application of the planning system in practice**

Since 2001, the Federal Law known as the “Statute of the City” has required Master Plans to be prepared for the larger Brazilian cities and for those located in areas of special tourist interest or where there is environmental impact of regional or national significance.

In parallel, the Statute of the City also established new legal instruments and amplified the role of the municipality in controlling urban land use. It introduced the notion of social use:

- compulsory urbanisation: This was introduced to combat empty urban spaces in areas with infrastructure but remaining undeveloped waiting for an increase in land values
- progressive territorial tax: This has the same aim. It provides for a progressive increase in territorial taxes in areas not yet built
- right of pre-emption: This facilitates the acquisition of areas for social interest projects by the Municipality through the use of compulsory purchase powers financed through national debt bonds.

For the first time in Brazil those instruments gave additional powers to Municipalities to force development of certain areas or to impel building activity, and to punish speculation or the retention of vacant buildings or land on social grounds.

- **Distance between planning legislation and physical development**

The 1988 Constitution has strengthened the role of Municipalities, institutionally and financially, but it has weakened supra-local levels like the States, and consequently the Metropolitan Regions. The solution adopted by many Municipalities to tackle urban problems of a regional nature has been to organize themselves into Associations or Consortiums, autonomous entities that work in co-ordination to find solutions to common problems. Examples of those bodies are the Inter-Municipal Consortium of ABC (Municipalities from the South-east of the Metropolitan Region of Sao Paulo) and the Consortium of the Piracicaba River (Municipalities of the Piracicaba Riverbanks).

In large cities where land values are higher and housing constraints are more acute, there are large areas of informal sub-standard housing. Local legal building and urban standards, frequently based on international norms, are beyond the economic capacity of many people. In such areas informal developments have sprung up at the expense of the private sector supply of social housing.

The purpose of the new technical bureaucratic apparatus was to improve the management of municipalities, to ensure community participation in decisions relating to urban development and to improve the technical quality of urban master plans. In practice, this has not always been successful for two main reasons. Firstly, many municipalities have prepared their plans because they are forced to do so by law, but they have not internalised the idea of planning and of the master plan as management tools. Secondly, community participation

occurs more frequently as a formality, but persons and entities that participate effectively in the process are



few, and the practical results are not very significant. As a consequence, the minimum required content tends to be achieved without actually presenting creative alternatives for the development of cities.

- **Future prospects of the planning system**

In spite of these difficulties, considerable progress has occurred in urban planning over the last few years, with a number of cities and municipalities being more pro-active in controlling the growth and development process. Yet there is still a long road to tread until urban planning is regarded not only as a legal requirement, but is perceived as a necessity.

Fernanda Magalhaes
Cleon Ricardo dos Santos
2007