BRAZIL AND THE UNITED STATES:

A ROADMAP TO AN ENHANCED ECONOMIC PARTNERSHIP

JOINT REPORT:

NATIONAL CONFEDERATION OF INDUSTRY

AMERICAN CHAMBER OF COMMERCE FOR BRAZIL

U.S. CHAMBER OF COMMERCE

DECEMBER 2016

AMCHAM Brasil

100 Years Standing Up for American Enterprise
U.S. CHAMBER OF COMMERCE
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National Confederation of Industry
Brazil

CNI. THE STRENGTH OF THE BRAZILIAN INDUSTRY

National Confederation of Industry

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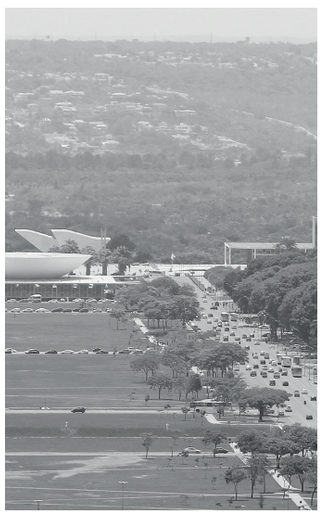


EXECUTIVE SUMMARY

The National Confederation of Industry (CNI), the U.S. Chamber of Commerce (Chamber) and the American Chamber of Commerce for Brazil (AmCham Brasil), cooperated on this joint report to support the launch of bilateral negotiations for a comprehensive trade agreement between Brazil and the United States. This report was elaborated based on consultations with the business communities in both countries.

After assessing the current bilateral economic relationship and the remaining barriers to trade and investment between the two countries, this report presents a roadmap for enhancing bilateral trade and investment flows. The proposed initiatives are twofold, containing: (i) the launch of negotiations aimed at signing an enhanced economic partnership agreement (EEP) between the United States and Brazil; and (ii) a set of bilateral initiatives that could be undertaken in parallel with the broad trade negotiations and be implemented in the short term.

I. THE BRAZIL-U.S. TRADE RELATIONSHIP

Bilateral Economic Relations:

The United States and Brazil have long enjoyed a fruitful commercial relationship through trade and investment. In 2015, Brazil was the eighth-largest destination for U.S. goods exports and seventh-largest for U.S. services exports.

The U.S. has been the main source of Brazilian imports and the second largest-destination for Brazilian exports.[1] The U.S. has also been a historically-relevant market for Brazilian exports of manufactured goods.

The Brazil-U.S. investment relationship is even more impressive. In 2014, U.S. direct investment in Brazil was US$111.7 billion. The direct investment position from Brazil in the United States was US$9.6 billion in 2015. Both numbers are expected to continue growing.

Recent Bilateral Initiatives 2015-2016:

During the last year, several bilateral initiatives were undertaken, aimed at improving the landscape for bilateral economic relations:

1. A Memorandum of Understanding on trade facilitation was signed between the U.S. Department of Commerce and Brazil's Ministry of Development, Industry and Commerce (MDIC). The two governments also agreed to expand cooperation in the areas of standards and conformity assessments.

2. Brazil and the United States signed the Social Security Totalization Agreement, eliminating double contributions of social security taxes.

3. The United States and Brazil agreed to allow access to each other's beef markets, after more than a decade of negotiations.

4. The Brazil-U.S. Commission on Economic and Trade Relations convened its third meeting in Washington, D.C. This was the first meeting under the Agreement on Trade and Economic Cooperation (ATEC) held at the ministerial level.

5. The two governments signed a Memorandum of Cooperation on Infrastructure Development.

6. The two governments launched the first Defense Industry Dialogue in Brasília.

II. A ROADMAP TO AN ENHANCED ECONOMIC PARTNERSHIP

The Parties support the initiation of bilateral trade agreement negotiations beginning as early as 2017, which should aim to conclude an ambitious and balanced agreement as expeditiously as possible.

Chapter 2 of this report presents specific recommendations for the key issues that should be incorporated in a future agreement, including:

- Market Access for Goods

[1] *MDIC. http://www.mdic.gov.br/comercio-exterior/estatisticas-de-comercio-exterior/balanca-comercial-brasileira-mensal-2?layout=edit&id=1210. Excel tabs USA_SH201512 and BRA_SH201512*

- Rules of Origin
- Trade Facilitation and Customs Administration
- Agriculture
- Sanitary and Phytosanitary Measures (SPS)
- Technical Barriers to Trade (TBT)
- Subsidies
- Trade Remedies
- Trade in Services
- Investment
- Intellectual Property
- Government Procurement
- Business Environment
- Movement of Natural Persons
- State-Owned Enterprises (SOEs)
- Regulatory Coherence & Cooperation
- Transparency and Anti-Corruption
- Digital Trade, Privacy and Data Protection
- Dispute Settlement Mechanism

The Congressional Brazil Caucus of the United States and the Parliamentary Brazil-U.S. Group of the Brazilian Congress should be engaged in the process, and hearings should be organized to monitor the implementation of the roadmap.

The private sector should be engaged in these bilateral talks from the outset. In addition to domestic consultation processes in each country, a joint bilateral consultation and monitoring mechanism should be set up as part of the institutional framework of the negotiating process. This mechanism developed should work as a locus for appropriate follow-up and consensus building among negotiators and business representatives.

III. ADDITIONAL INITIATIVES TO FOSTER BRAZIL-U.S. ECONOMIC RELATIONS

The Parties recognize that moving toward a comprehensive trade agreement between Brazil and the United States is a long-term priority. However, there are some key initiatives that should be undertaken to foster Brazil-U.S. economic relations in the short term and lay the necessary groundwork for a trade agreement.

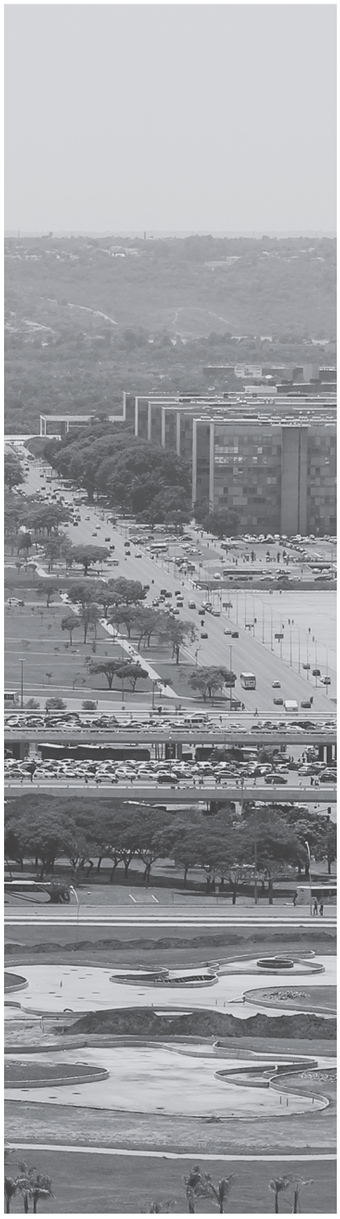
The report includes proposals for relevant bilateral initiatives in the following areas:

- Taxation
- Intellectual Property
- Air Transportation
- Technology Safeguards Agreement
- Trade Facilitation
- Entry Procedures Facilitation and Visa Exemption Arrangements
- Nontariff Barriers Resolution

Some of these initiatives can eventually be incorporated into the EEP, once its negotiations are concluded. Others, due to their specific nature, should be maintained in parallel to the EEP.

In all these areas of cooperation, the private sector of both countries can contribute by identifying obstacles to be removed and presenting solutions to foster bilateral economic relations.

INTRODUCTION:
THE BRAZIL-U.S. TRADE AND INVESTMENT RELATIONSHIP



To enhance Brazil-U.S. economic relations, as well as increase trade and investment flows, the National Confederation of Industry (CNI), the U.S. Chamber of Commerce (Chamber), and the American Chamber of Commerce for Brazil (AmCham Brasil), hereby collectively known as the Parties, cooperated on this joint report to support the launch of bilateral negotiations for a comprehensive trade agreement between Brazil and the United States.

To this end, the Parties held consultations with the business communities in both countries and gathered information on the existing opportunities, obstacles, and interests affected by bilateral trade and investments. The Parties used the information obtained for this joint report.

BRAZIL-U.S. COMMERCIAL TIES

The United States and Brazil, the two most prominent economies in the Americas, have long enjoyed a fruitful commercial relationship through trade and investment.

Brazil is an important market for U.S. exports. In 2015, it was the eighth-largest destination for U.S. goods exports[2] and the seventh-largest for U.S. services exports.[3] U.S. sales to Brazil have declined during the ongoing recession; However, total U.S. exports to Brazil were as high as US$71.2 billion as recently as 2014.[4]

Although Brazil's recent economic and political challenges have resulted in a temporary setback, the long-term outlook for two-way trade is positive. U.S. exports to Brazil grew at an average annual rate of 15 percent over the 2004–2014 period, the same rate as exports to China. Brazil's share of total U.S. exports of goods and services nearly doubled over that 10-year period.

The U.S. has been the main source of Brazilian imports and the second largest-destination for Brazilian exports.[5] The United States has also been a historically-relevant market for the Brazilian exports of manufactured goods, which had represented more than 70 percent of the total exports before 2005.[6] Despite the changes observed since 2006, with the increasing participation of commodities in the makeup of Brazilian foreign sales, the relative specialization of Brazil's exports to the United States in manufactured goods continues to prevail, when compared to the country's trade with the world.

Exports of Brazilian services to the United States are quite small relative to its exports of goods. Despite this, the United States is the most relevant destination for Brazilian services exports, representing about 30 percent of Brazil's total exports.[7] The most representative services in Brazil's exports to the United States are business services (largely business, management consulting and public relations services) and payments for Brazilian intellectual property rights associated with movies or television programs.[8]

The Brazil-United States investment relationship is even more impressive. In 2014, the U.S. direct investment position in Brazil was US$111.7 billion.[9] Direct investment from Brazil in the United States was US$9.6 billion in 2015,[10] and those numbers are expected to continue growing. Many of those investments represent decades of engagement by Fortune 100 companies.

The United States is the main destination for the Brazilian companies investing abroad:

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[2] BEA. http://www.bea.gov/international/index/htm#trade, Excel tab U.S. Trade in Goods and Services by Selected Countries and Areas, 1999-present.

[3] Ibid.

[4] CENSUS. www.census.gov/foreign-trade/statistics/highlights/toppartners.html

[5] MDIC. http://www.mdic.gov.br/comercio-exterior/estatisticas-de-comercio-exterior/balanca-comercial-brasileira-mensal-2?layout=edit&id=1210. Excel tabs USA_SH201512 and BRA_SH201512

[6] MDIC. http://www.mdic.gov.br/comercio-exterior/estatisticas-de-comercio-exterior/balanca-comercial-brasileira-mensal-2?layout=edit&id=1210, Excel tab USA_FATEXP_2015

[7] MDIC. http://www.mdic.gov.br/comercio-servicos/estatisticas-do-comercio-exterior-de-servicos/717-estatisticas-do-comercio-exterior-de-servicos-2015. Excel tab Vendas do Brasil - Países Adquirentes - 2015

[8] MDIC. http://www.mdic.gov.br/comercio-servicos/estatisticas-do-comercio-exterior-de-servicos/717-estatisticas-do-comercio-exterior-de-servicos-2015. Excel tab Vendas do Brasil: País Adquirente x Serviços Vendidos, por Posição da NBS -2015

[9] BCB. http://www.bcb.gov.br/Rex/CensoCE/port/resultados_censos.asp?idpai=CAMBIO. Excel tab Quadro VII – Investimento direto no País - Participação no capital - Estoque - distribuição por país do investidor final.

[10] BCB. http://www4.bcb.gov.br/rex/cbe/port/ResultadoCBE2015.asp?idpai=CBE

among 49 Brazilian companies included in the Ranking FDC (Fundação Dom Cabral) of Brazilian Multinationals 2016,[11] 89 percent have subsidiaries in the United States.

Investors remain optimistic about U.S.-Brazil commercial ties. The opportunities are immense, and the pathway to partnership is open.

RECENT BILATERAL INITIATIVES 2015-2016

Former President Dilma Rousseff's 2015 visit to the United States paved the way for advances in the areas of trade facilitation and conformity assessment. On that occasion, a Memorandum of Understanding on trade facilitation was signed between the U.S. Department of Commerce and Brazil's Ministry of Development, Industry and Commerce (MDIC). The governments also reiterated the importance of sharing public-private best practices to advance trade, especially as each country develops and deploys their respective single-window systems for international trade. The two governments also agreed to expand cooperation in the areas of standards and conformity assessments by supporting initiatives that help eliminate obstacles to growth in trade flows and bilateral investment.

In June 2015, Brazil and the United States signed the Social Security Totalization Agreement, eliminating double contributions in social security taxes. This agreement represents an economic gain for companies from both countries, considering the bilateral trade and investment perspectives.

The United States and Brazil have recently agreed to allow access to each other's beef markets after more than a decade of negotiation. July 2015, the U.S. Government published the decision to open the fresh and frozen beef market to Brazilian imports originating from specific states and the Federal District. The U.S. market had been closed to Brazilian fresh and frozen beef since 1999. August 2016, Brazil reciprocated, reopening its market to U.S. beef for the first time since December 2003.

In March 2016, the Brazil-U.S. Commission on Economic and Trade Relations convened its third meeting in Washington, D.C. This was the first meeting under the Agreement on Trade and Economic Cooperation (ATEC) held at ministerial level, bringing together the highest authorities in charge of trade: United States Trade Representative Michael Froman, and from Brazil, the Minister of Foreign Affairs Mauro Vieira and Minister of Development, Industry and Foreign Trade Armando Monteiro.

In that same month, the two governments signed a Memorandum of Cooperation on Infrastructure Development to strengthen their relationship in infrastructure and promote cooperation on issues such as sector legislation, best practices and financing alternatives. The document provides for the establishment of a bilateral working group, with representatives from both governments and the private sector of both countries.

Furthermore, in September 2016, the two governments launched the first Defense Industry Dialogue in Brasilia, which resulted in a Letter of Intent signed by both governments stating their commitment to increasing defense trade and institutionalizing the government-to-business dialogue, emphasizing the importance of private sector expertise.

[11] *FDC. http://www.fdc.org.br/blogespacodialogo/Lists/Postagens/Post.aspx?ID=550*

EXISTING BARRIERS

Despite significant advances, both the United States and Brazil maintain various barriers that affect cross-border trade between the two nations.

Trade barriers are especially high in Brazil for imports of beverages and tobacco, as well as for agriculture, forestry and fisheries products. Motor vehicles and parts, processed food imports, apparel, and leather products also face high rates of protection, as is the case for air and land transportation services exports and business, as well as information and communications technology (ICT) services.

The United States also imposes barriers to imports of both goods and services. These include numerous tariffs and nontariff barriers facing goods imports from Brazil and nontariff barriers affecting services imports. These barriers are particularly high on U.S. imports of beverages, tobacco, and motor vehicles and parts. Agriculture, forestry and fisheries products, petroleum, textiles and apparel, as well as coal products, also face high rates of protection in the United States, as do air transportation, business and ICT services.

THE ESTIMATED IMPACT OF A BRAZIL-U.S. TRADE AGREEMENT

In order to substantiate these recommendations, AmCham and the Chamber-affiliated U.S-Brazil Business Council (BUSBC) commissioned two independent studies about the impact of an agreement on the Brazilian and U.S. industries, respectively.

The AmCham study[12] was commissioned to Fundação Getulio Vargas (FGV) – Center of Global Trade and Investment Studies, analyzing the impact of a trade agreement between Brazil and the United States. Other simulations considered the Trans-Pacific Partnership (TPP) and the Trans-Atlantic Trade and Investment Partnership (TTIP). In all situations, the main gain for Brazil's economy is its integration into global value chains.

The best results of the AmCham study were found in a hypothetical agreement between Brazil and the United States that considered reducing by 40 percent nontariff barriers for the industry, agriculture and service sectors, along with the total elimination of tariffs. In general terms, projections of the impact on the Brazilian industry under these criteria include growth of 1.29 percent of Brazilian GDP in 2030, with an exponential increase of 7.46 percent in total imports from and 6.94 percent in total exports to the United States.

The BUSBC engaged Trade Partnership Worldwide, LLC (TPW) to assess the economic impact of a bilateral trade agreement on the U.S. industry. The study[13] used the hypothesis that the agreement would be fully implemented by 2030, eliminating U.S. and Brazilian tariffs and cutting 50 percent of nontariff barriers affecting trade of goods and services between the two countries. The results for the U.S. industry are positive, with GDP growth of 0.11 percent, as well as a significant increase in exports (78 percent) to and imports (21.15 percent) from Brazil.

Both studies show a bilateral agreement would generate gains for both countries.

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[12] AmCham Brasil & FGV EESP. Alternativas do Brasil, UE e/ou EUA: essas parcerias são excludentes ou complementares, 2016. http://www.amcham.com.br/competitividade-brasil/noticias/brasil-deve-investir-em-acordos-comerciais-com-eua-e-ue-aponta-estudo-amcham-fgv-8683.html

[13] Brazil-U.S. Business Council. Impact of a U.S. Brazil Trade Agreement on the U.S. Economy, 2016. www.brazilcouncil.org.

CHAPTER 2

A ROADMAP TO AN ENHANCED ECONOMIC PARTNERSHIP

SCOPE OF NEGOTIATIONS

The Parties support the initiation of bilateral trade agreement negotiations, which will improve the business environment, enhance competitiveness, and promote greater engagement in global and regional value chains.

Negotiations should aim for an ambitious and balanced agreement that should be concluded as expeditiously as possible, beginning as early as 2017. While consideration should be given to sensitivities on both sides, no thematic area or sector should be excluded a priori.

ROLE OF CONGRESS

The Congressional Brazil Caucus of the United States and the Parliamentary Brazil-U.S. Group of the Brazilian Congress should be engaged in the process, and hearings should be organized to monitor the roadmap implementation.

ROLE OF THE PRIVATE SECTOR

The private sector should be engaged in the bilateral talks from the outset. The Parties are prepared to play a leading role in gathering views and positions of business communities from both countries and in seeking common ground, including on the most sensitive issues.

Beyond domestic consultation processes in each country, a joint bilateral cconsultation and monitoring mechanism should be deployed as part of the negotiating process's institutional framework. This should work as a locus for appropriate follow-up and consensus building among negotiators and business representatives.

KEY ISSUES

The trade agreement should address the following issues to maximize the bilateral economic benefits and enhance the legal framework for free bilateral trade and investment.

2.1. Market Access for Goods

a. Tariffs should be eliminated for all trade, including agricultural and nonagricultural products (as measured by value and tariff lines), within 10 years of the trade agreement's entry into force.

b. There should be no a priori exclusion of products from the liberalization schedule, and the trade agreement should aim for the complete elimination of quotas.

c. Sensitive products should not be excluded from liberalization commitments. For certain sensitive products, the governments should instead consider longer tariff phase-out periods.

d. The list of sensitive products should not be concentrated in one area to avoid the exclusion of an entire sector from the liberalization process.

e. The liberalization process should include the whole spectrum of tariff rates, including ad valorem and specific tariffs, mixed, temporary/seasonal rates, and tariff rate quotas.

f. The agreement should promote a balanced result with relevant gains in market access for both sides.

g. The agreement should foresee trade in remanufactured goods, building upon both countries' standards.

h. Brazil should request consultations with Mercosur members regarding the launch of negotiations with the United States. If Mercosur members are not ready to join this initiative, Brazil should seek pragmatic options to proceed with launching negotiations, including but not limited to a request for a waiver from Mercosur.

2.2. Rules of Origin

a. Rules of origin should be simple, flexible and transparent and should not hamper the ability of companies to benefit from trade preferences negotiated in the agreement.

b. Simple and transparent administrative procedures should be adopted regarding the certification and verification of origin, without room for administrative discretion.

2.3. Trade Facilitation and Customs Administration

a. The trade agreement should streamline customs procedures. This is particularly im-

portant for small – and medium-sized businesses, for which complex procedures are especially burdensome. Border procedures should be transparent and expeditious in accelerating, clearing and releasing goods and should facilitate the participation of all companies in the bilateral, regional and global value chains. The agreement should also include transparent and simple customs procedures to prevent duty evasion, counterfeit trade and other illicit trade.

b. Brazil and the United States should cooperate in implementing the Trade Facilitation Agreement (TFA), which was concluded at the Bali World Trade Organization (WTO) Ministerial Conference. Expanding implementation and cooperation on the TFA will help further facilitate bilateral trade and allow companies to reap the full benefits of trade preferences negotiated under the U.S.-Brazil trade agreement.

c. The trade agreement should expand TFA obligations bilaterally, incorporating issues that could not be agreed upon in the multilateral negotiations but that could contribute to reducing the cost and time involved in customs procedures for bilateral trade.

d. The Parties support efforts to ensure interaction between the United States and Brazil single window portals, as well as the advancement of a mutual recognition agreement between the U.S. Customs Trade Partnership Against Terrorism (C-TPAT) program and Brazil's Advanced Economic Operator (AEO) program.

2.4. Agriculture

a. Both countries should work together to reach an agreement in the WTO that reduces and ultimately eliminates all forms of trade-distorting agricultural subsidies, particularly domestic support.

b. The trade agreement should incorporate and modernize the U.S.-Brazil Consultative Committee on Agriculture (CCA) as a forum to address barriers to trade of agricultural goods and conduct consultations between the two countries on agricultural export competition issues.

c. The trade agreement should incorporate provisions that restrain the use of export credits for agricultural goods, which can distort prices and trade flows between the two countries.

2.5. Sanitary and Phytosanitary Measures (SPS)

a. The SPS chapter in the bilateral trade agreement should design new rules to ensure that scientifically-based SPS measures are developed and implemented in a transparent, predictable and non-discriminatory manner, while at the same time preserving the ability of U.S. and Brazilian regulatory agencies to take necessary steps to ensure food safety, while also protecting health and safety of human, plant and animal.

b. Regulations and private standards are proliferating and creating new barriers to trade, particularly when set by individual countries outside any international fora. Brazil and the United States should explore ways to address behind-the-border obstacles to trade, with an emphasis on regulations applied to imports of manufactured and agricultural products.

c. A bilateral trade agreement should incorporate an ambitious SPS chapter that goes beyond the WTO SPS Agreement, addressing the requirements that SPS measures be based on sound science and established international standards. This chapter should include:

- Promotion of a more risk-based

approach to SPS issues;

- Expansions in breadth and depth of information sharing;
- A time limit to approve measures to avoid undue delay; and
- Provisions that reinforce disciplines on regionalization.

d. The trade agreement should recognize, to the extent possible, the exporting party's SPS measures and avoid unnecessary barriers to trade.

e. Both countries should cultivate deep cooperation in exchanging views and information at a bilateral level and with relevant international bodies engaged in food, human, animal and plant safety or health issues, as well as facilitate the timely exchange of information on their respective SPS measures. To this end, the trade agreement should incorporate a subcommittee on SPS cooperation, with experts from both sides for technical consultations. These consultations would help identify and address specific trade related issues that may arise from applying SPS measures.

2.6. Technical Barriers to Trade (TBT)

a. An ambitious TBT chapter should be incorporated into the trade agreement. The objective of this chapter should be to promote transparency and dialogue in the regulations and standards-setting processes. The TBT chapter should also work to eliminate unnecessary trade barriers.

b. The agreement should build on the existing Brazil-U.S. Commercial Dialogue in the area of standards, including reducing redundant and burdensome testing and certification requirements, by promoting coordination among certification bodies of both countries.

c. The United States and Brazil should promote the use of internationally-accepted standards and seek regulatory convergence wherever possible. Where convergence is not possible, the two countries should consider accepting multiple standards to reach desired regulatory outcomes.

d. The agreement should include provisions for mutual recognition of tests and certifications to reduce costs and delays in bilateral trade.

e. The trade agreement should incorporate a subcommittee on TBT cooperation, made up of representatives from both governments and the relevant bodies in charge of setting standards. The subcommittee should welcome and invite participation from representatives of nongovernmental entities with relevant and necessary expertise regarding the issues under consideration.

f. The agreement should incorporate specific sector commitments and cooperation mechanisms to address the special needs of sectors where technical standards may also act as trade barriers.

2.7. Subsidies

a. Both governments should adopt policies and regulations regarding export subsidies consistent and compatible with the WTO Agreement on Subsidies and Countervailing Measures (SCM).

b. The trade agreement should create a cooperation mechanism between the countries to promote dialogue and coordination regarding the modification or removal of any subsidies.

2.8. Trade Remedies

a. Abuse of trade remedies, such as anti-dumping measures, may adversely af-

fect free trade. The United States and Brazil should evaluate ways to mitigate any improper use of anti-dumping actions for goods manufactured in either country.

b. Only under exceptional circumstances and subject to very limited use, bilateral safeguard measures (e.g., temporary tariff increases) may be applied temporarily to protect domestic industry from injury caused by import surges resulting from the trade agreement.

c. Efforts should be coordinated with regard to trade remedy cases in third countries and information and best practices exchanged on trade remedy legislation and practices related to nonmarket economies.

2.9. Trade in Services

a. The trade agreement should include obligations to secure current and future levels of liberalization in the services sector.

b. To attain substantial liberalization in trade in services, efforts should be undertaken to adopt national treatment clauses and achieve substantial sectorial coverage.

c. A most-favored nation clause (MFN) should be adopted to guarantee additional benefits regarding trade in services granted by Brazil or the United States in any future trade agreement will also be extended, under similar terms, to the other partner.

d. The trade agreement should provide for the voluntary negotiation of mutual recognition agreements in services' sectors.

e. The trade agreement should establish disciplines to avoid unnecessary barriers to trade created by measures related to qualification requirements and procedures, technical standards and licensing requirements.

f. The United States should support Brazil's intentions to become a signatory to TiSA (the Trade in Services Agreement).

g. The trade agreement should provide for the liberalization of professional services.

2.10. Investment

a. Promoting foreign direct investment in major manufacturing and service sectors contributes to industrial accumulation in the host country. It also creates employment and facilitates technology transfer in the host country.

b. The chapter on investment should include commitments to eliminating foreign capital ceilings and entry barriers.

c. Both governments should commit to significantly easing local content requirements and permitting the repatriation of profits, which are key to ensuring foreign direct investment.

d. The chapter should incorporate national treatment and most favored treatment clauses, guaranteeing investors from one country will receive nondiscriminatory treatment in the other.

e. Nothing in the agreement should compromise the ability of each government to legislate and regulate for public interest.

f. The investment chapter and its obligations need a strong, enforceable and unbiased dispute settlement mechanism.

2.11. Intellectual Property (IP)

a. The protection of IP rights is crucial to promoting investment, innovation and growth, as well as competitiveness in both the United States and Brazil. IP rights not only strengthen international competitiveness, but are also critical for accessing tech-

nologies via imports of FDI.

b. Both countries should guarantee nondiscriminatory protection of intellectual property rights, including complying with commitments established in the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS).

c. Both countries should commit to promoting efficiency and transparency in the administration of their intellectual property systems, including reducing regulatory hurdles and backlogs, which undermine IP rights. The trade agreement should also include measures for the adequate and effective enforcement of intellectual property rights against infringement, including counterfeiting and piracy.

d. The United States and Brazil should negotiate a comprehensive patent agreement (e.g., Patent Prosecution Highway agreement) to accelerate the examination and approval of patent applications, including sharing documentation, best practices and procedures.

e. A bilateral committee should be established to address intellectual property rights issues, including annual progress reports in both countries.

2.12. Government Procurement

a. The agreement should include a chapter on government procurement, designed to guarantee transparency, fairness and predictability in government procurement contracts, including requirements to notify regarding changes in relevant laws and regulations, as well as exchange of statistics and information.

b. The chapter should include provisions on:

- Market access for government procurement of goods and services;
- Supplier access to information needed to participate effectively in procurement processes;
- Non discrimination, transparency, impartiality and accountability in procurement processes.

2.13. Business Environment

a. Even if investment and trade in goods and services are liberalized, the trade agreement will not achieve its maximum benefits for businesses and consumers unless domestic regulations in the host countries are transparent and rational, including procedures for ensuring due process for affected sectors and companies.

b. The trade agreement should establish a mechanism composed of both government and business representatives to discuss policies and procedures for improving the business environment.

c. Impediments to business involving domestic regulations, taxation, labor issues and other matters should be discussed and corrected using this mechanism.

2.14. Movement of Natural Persons

a. Movement of natural persons is essential to enhancing business relations.

b. The United States and Brazil should upgrade the current agreement on the facilitation of visa procedures to expand the duration of visas and reduce bureaucracy. The agreement should also include provisions for free movement of intra-corporate transferees, including prompt issuance of work permits and visas for the movement of specialists, students, etc.

c. The agreement should commit both gov-

ernments to working under a specific plan for the elimination of entry visa requirements for citizens of both countries in their respective territories.

2.15. State-Owned Enterprises (SOEs)

a. The trade agreement should ensure SOEs in both countries operate based on commercial considerations and in a nondiscriminatory manner when making purchases and sales.

b. Both countries should commit to competitive SOE practices that do not allow undue advantages from government ownership.

c. Both governments should ensure transparency with respect to the nature of their control and any support mechanisms they provide to SOEs operating in a commercial capacity.

2.16. Regulatory Coherence & Cooperation

a. The trade agreement should facilitate regulatory coherence between respective governmental agencies to prevent the development of conflicting regulations.

b. Both countries should agree with standard regulatory best practices, such as:

- Using regulatory impact assessments;
- Giving notice of rule-making;
- Guaranteeing public consultations on future regulations;
- Providing a reasonable period for public consultation and rule implementation; and
- Facilitating easy and transparent access to new regulatory measures.

c. The trade agreement should encourage U.S. and Brazilian regulators, wherever both feasible and desirable, to enter into cooperation arrangements.

d. The trade agreement should establish a committee on regulatory coherence and cooperation to govern cooperation exercises and exchange best practices.

2.17. Transparency and Anti-Corruption

a. The trade agreement should provide for an open and consultative regulatory process.

b. Both countries should reinforce their commitments to eliminating bribery and corruption in trade, business and investment operations. These commitments should build on each country's current international agreements.

2.18. Digital Trade, Privacy and Data Protection

a. The agreement should recognize that digital trade expands opportunities for Brazilian and U.S. citizens and businesses, while also helping ensure innovation thrives in both markets.

b. The agreement should include rules that:

- Prevent data localization requirements;
- Avoid digital customs duties;
- Promote cybersecurity and encryption;
- Refrain from forced technology transfers;
- Preserve standardization and global interoperability; and
- Promote copyright protections.

c. Regarding privacy and data protection, the agreement should require both governments adopt regulations that:

- Enhance trans-border data flows;
- Embrace the global nature of the internet; and
- Facilitate data protections allowing consumers to benefit from the innovations data use and analytics provide.

2.19. Dispute Settlement Mechanism

a. A robust chapter should include a dispute settlement mechanism and a system for dispute prevention.

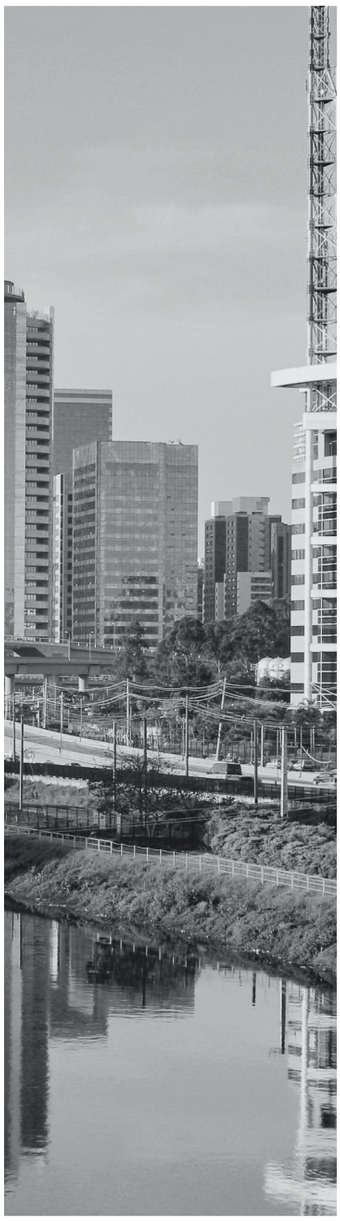
b. A dispute settlement provision should provide for strong rules against bias and conflicts of interest.

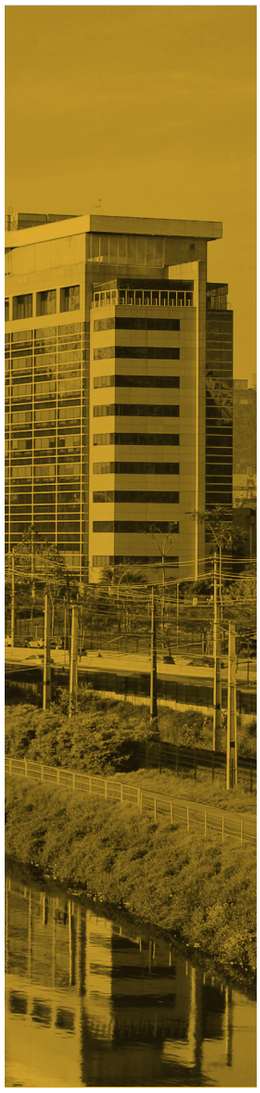
c. The chapter should provide for disputes to be settled expeditiously and within a reasonable time, without undue harm to the parties involved.

d. The chapter should state the dispute settlement system be transparent and open to the public, as well as urge complaint resolution through cooperation and consultation.

CHAPTER 3

ADDITIONAL INITIATIVES TO FOSTER BRAZIL-U.S ECONOMIC RELATIONS





The Parties recognize that moving toward a comprehensive trade agreement between Brazil and the United States is a long-term priority. However, there are key initiatives that should be considered to foster Brazil-U.S. economic relations in the short term and lay the necessary groundwork for a trade agreement.

PROPOSALS FOR RELEVANT BILATERAL INITIATIVES

3.1. Taxation

a. The Parties strongly endorse resuming negotiations for a Bilateral Tax Treaty (BTT) that would eliminate double taxation of income and reduce and/or eliminate taxes on royalties, services, interests and dividends.

b. Immediate priority should be given to tax simplification.

3.2. Intellectual Property

a. The Parties strongly endorse the implementation of a comprehensive Patent Prosecution Highway agreement to expedite patent applications and approvals and enhance innovation and technological transfers between Brazil and the United States.

b. The Parties urge Brazil's accession to the Madrid System for the International Registration of Marks and support copyright legislation in Brazil that maintains current protections on par with international IP agreements.

3.3. Air Transportation Agreement ("Open Skies Agreement")

a. March 2011, the two countries signed the Air Transportation Agreement to facilitate the expansion of international air transport bilateral opportunities. The Parties recommend Brazil's approval of the Open Skies agreement.

b. Since the signing of the Open Skies agreement in 2011, U.S. companies increased the number of their Brazilian routes by 32.6 percent and Brazilian companies increased their frequency of flights to the United States by 26 percent.

c. The outlook is that growth generated following the Brazilian Congress's approval and the conclusion of Open Skies Agreement's last stage of implementation would generate more than US$10 billion in profit and increase passenger traffic and cargo between Brazil and the United States at an average rate of 6.5 percent per year.

d. Approval and full implementation of the Open Skies Agreement will strengthen and expand trade and tourism links between the two countries, benefiting consumers by increasing air services.

3.4. Technology Safeguards Agreement

a. The Parties support resuming negotiations for a Technology Safeguards Agreement between Brazil and the United States. Bilateral cooperation in this area has the potential to generate benefits for both economies.

3.5. Trade Facilitation

a. Bilateral cooperation on trade facilitation between authorities from both countries should be strengthened to eliminate unnecessary bureaucracy. The Parties urge both governments to strengthen cooperation to implement the commitments outlined in the TFA, which are not yet operational.

b. Both parties should cooperate to implement procedures for expedited shipments. The private sector stands ready to exchange best practices with the Brazilian and U.S. governments to help develop expedited commercial shipment procedures.

c. A mutual Authorized Economic Operator (AEO) recognition agreement should be implemented, aimed at expediting the customs procedures process and reducing costs associated with bilateral trade operations.

3.6. Entry Procedures Facilitation and Visa Exemption Arrangements

a. The Parties urge the Brazilian and U.S. governments to continue working toward Brazil's inclusion in the Global Entry and Visa Waiver programs.

b. Brazil's participation in the Global Entry program would streamline business travel, allowing preapproved Brazilian travelers to skip customs lines and use automated clearance when entering the United States. The Parties recommend reciprocal Brazilian government action.

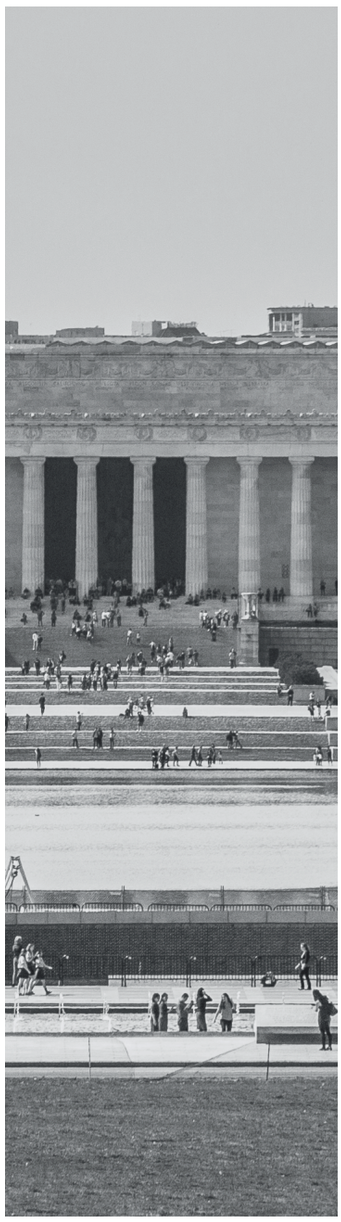
3.7. Non Tariff Barriers Resolution

a. Cooperation on technical standards and regulations is fundamental to fostering bilateral trade. The Parties endorse the consideration of this subject Brazil-U.S. Commercial Dialogue and Brazil-U.S. Commission on Economic and Trade Relations meetings, provided for under the ATEC.

b. The Parties urge the Brazil-U.S. Commission on Economic and Trade Relations to adopt a public-private approach to Non Tariff Barriers (NTB) resolution, allowing participation from the U.S. and Brazilian private sectors. This would enhance transparency and ease follow-up on reported NTBs.

CHAPTER 4

CONCLUSIONS AND RECOMMENDATIONS



The United States and Brazil have enjoyed a long and fruitful economic relationship. Cooperation initiatives between the two countries have intensified since 2015, resulting in relevant progress in several areas. And yet, both countries maintain a series of barriers that affect cross-border trade and investment. Consequently, there is still much room to promote economic cooperation between the two countries.

Against this backdrop, the National Confederation of Industry (CNI), the U.S. Chamber of Commerce (Chamber) and the American Chamber of Commerce for Brazil (AmCham Brasil) layout in this paper a roadmap for increasing bilateral trade and investment flows. The initiatives put forth are twofold: (i) The launch of negotiations aimed at signing an Enhanced Economic Partnership (EEP) between the United States and Brazil; and (ii) A set of bilateral initiatives which could be undertaken in parallel with the broad trade negotiations and which could be implemented in the short term. Negotiations, beginning as early as 2017, should be comprehensive and aim for an ambitious and balanced agreement that can be concluded as expeditiously as possible.

The parties urge the Congressional Brazil Caucus of the United States and the Parliamentary Brazil-U.S. Group of the Brazilian Congress to be engaged in the process, and hearings to be organized to monitor the roadmap implementation. The private sector should be engaged from the outset in the bilateral talks. Beyond domestic consultation processes in each country, a joint bilateral consultation/monitoring mechanism should be set up as part of the negotiating process's institutional framework. This should work as a locus for appropriate follow-up and consensus building among negotiators and business representatives.

While the EEP should be comprehensive and deep in its scope and disciplines, there are some relevant obstacles to the development of economic relations that could be overcome through negotiating specific agreements apart from and concomitant to the EEP. Once in place some of these initiatives can be incorporated into the EEP. Others, due to their specific natures, should be maintained in parallel.

In all these areas of cooperation, the U.S. and Brazilian private sectors can provide relevant contributions and robust solutions to foster an enhanced partnership that generates economic growth, job creation, and global competitiveness for both nations.

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