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CNI. THE STRENGTH OF THE BRAZILIAN INDUSTRY

BARRIERS TO TRADE AND INVESTMENT: MEASURES TO ENTER THE MARKET

- *Barries to Trade and Investment restrict the access of goods and services to a market or the inflow of capital into a country.*
- *To ensure the competitiveness of Brazilian products, it is essential to make a continuous identification, awareness-raising, training, monitoring and management effort to overcome these barriers.*
- *Tariff barriers have been decreasing through international negotiations, but non-tariff barriers, which are more sophisticated, have been increasing (such as technical, sanitary, phytosanitary, and environmental barriers).*
- *For these barriers to be identified and removed there is a growing need for technical expertise, concerted actions between government and the private sector, increased intergovernmental coordination, and transparent and predictable processes to reduce these barriers to a minimum.*

Trade and investment barriers are becoming increasingly sophisticated and difficult to identify. It is essential to make a continuous identification, awareness-raising, training, monitoring and management effort to remove barriers that prevent Brazilian goods, services and investments from accessing different markets.

Brazilian industry is directly affected by at least 16 types of trade barriers that can be triggered by the World Trade Organization (WTO), 12 of which are non-tariff barriers and four are tariff barriers. A study conducted by the Getúlio Vargas Foundation (FGV) in 2017 estimated that two non-tariff barriers alone (technical barriers and sanitary and phytosanitary measures) reduce Brazilian exports by about 14%.

Tariff barriers are being gradually reduced through trade agreements, although significant tariffs are still being applied in several markets, especially on agricultural goods. On the other hand, non-tariff barriers have been on an opposite trend, as they have been on the rise in terms of number and types, particularly sustainability-related barriers.

Brazil should adopt a national strategy based on well-defined and more efficient procedures to remove trade and investment barriers that affect Brazilian exports, involving **a) bilateral or plurilateral mechanisms between the Brazilian government and other countries; b) raising Specific Trade Concerns (STCs) in WTO committees; and/or c) filing a trade dispute at that organization.**

Addressing the many existing trade and investment barriers requires actions from different agencies of the Brazilian government. For this reason, for a national strategy to be actually adopted to identify, monitor and remove these obstacles, greater intergovernmental coordination is essential.

The establishment of the Electronic Barrier Monitoring System (SEM Barreiras) by the executive branch was the first step toward implementing a national strategy for removing barriers. For this system to be effective, issues related to its governance must be addressed, by setting up a forum to coordinate demands within the Brazilian Foreign Trade Chamber (Camex); creating a mechanism with procedures and deadlines to monitor barriers identified and with experts capable of supporting, locally, the work of eliminating these barriers in priority markets.

TAXES LEVIED ON REMITTANCES FOR PAYING FOR LEGAL SERVICES ABROAD

Tax	Legal Basis	Rate	How the tax is levied
Withholding Income Tax - IRRF	Provisional Measure 2,159-70, article 3	15%	15% exclusive withholding tax
Tax on Services of Any Nature - ISSQN	Complementary Law 116/2013, article 1, paragraph 1	5%	In some municipalities, this is a withholding tax. In all cases, it is levied at a rate of 2-5% on the price of the service, including withholding taxes
Contribution to the Social Integration Program and to the Public Service Employee Savings Program levied on Service Imports – PIS/Pasep (imports)	Law 10,865 of April 30, 2004	1.65%	1.65% on the price with Income Tax, PIS/Pasep, Cofins and ISSQN
Contribuição Social para o Financiamento da Seguridade Social devida pelo Importador de Serviços do Exterior – Cofins (Importação)	Law 10,865 of April 30, 2004	7.60%	7.60% on the price with Income Tax, PIS/Pasep, Cofins and ISSQN
Tax on Financial Operations – IOF (Foreign Exchange Transactions)	Law 5,143 of October 20, 1966; Decree 6,306 of December 14, 2007	0.38%	0.38% on the amount remitted abroad
Contribution for Intervention in the Economic Domain – Cide	Law 10,168 of December 29, 2000; Decree 4,195 of April 11, 2002	10%	10% on the price of the service, including withholding taxes
Tax Burden		Approximately 40% of the price of the service	

Source: Prepared by Fialho Salles Advogados.

Main recommendations

1 A Barrier Investigation Mechanism (MIB, in the Brazilian acronym) should be created. This is a formal administrative procedure for Brazilian industry to request the Brazilian government to assess the legality of barriers and specific actions that can be taken against barriers to trade in goods, services, intellectual property and Brazilian investments in third markets. The main purpose of this mechanism is to regulate an open, transparent and predictable decision-making process with predetermined and binding deadlines for defining and implementing international actions to eliminate restrictions imposed on Brazilian exports and investments.

2 A Committee on Trade and Investment Barriers should be set up within the Brazilian Foreign Trade Chamber (Camex). This would be an intergovernmental forum set up to coordinate actions and mechanisms designed to remove trade and investment barriers, such as: the Electronic Barrier Monitoring System (SEM Barreiras), the Barrier Investigation Mechanism (MIB), decisions on raising Specific Trade Concerns (STCs), filing trade disputes and requesting reviews of WTO Agreements.

3 An Industry and Trade Attaché should be appointed to work in Brazilian diplomatic representations abroad. This attaché should be a technical professional specialized in protecting the interests of the industry in the international market with the role of reinforcing the work done by diplomats. The work to be carried out by this attaché should be part of a national strategy designed to expand Brazilian exports and investments abroad, apart from promoting the competitiveness of Brazilian goods and services in traditional and expanding markets.

4 Taxes on payments for specialized services in support of Brazil in dispute settlement cases at the World Trade Organization (WTO) should be eliminated. The elimination of federal taxes on remittances for paying for such services, as well as of the Tax on Services of any Nature (ISSQN, in the Brazilian acronym), which is levied on service imports, will make it possible for specialized legal services to be hired abroad in connection with international disputes to support the definition of Brazil's arguments in cases where the country is a complainant or claimant at the WTO.

The full version of the document can be accessed through the QR code on the side or at: http://www.cni.com.br/eleicoes2018/downloads/ This summary is part of the series Proposals of Industry for the 2018 Elections comprising 43 documents. The series, which is based on the *2018-2022 Strategy Map for Industry* is a CNI contribution to the new federal administration and presents analyses and proposals of priorities to increase Brazil's competitiveness. Brasília-DF, July 2018.

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