

**POLICY  
MONITOR**

October 14 – 18, 2013

# The Week in Review

## ON THE ECONOMIC FRONT

**Dollar:** The Central Bank (BCB) decided to continue its swap strategy in order to contain a depreciation of the Brazilian Real. The measure was initiated in August when the Real reached BRL\$2.45 to the dollar. Since then, the Real has appreciated by almost 13% to BRL\$2.17.

**World Cup:** Following articles in the Brazilian press showing that airfares were ten times higher for the period of next year's World Cup, the Brazilian government created an inter-ministerial committee to monitor prices, tariffs, and service quality for the 2014 Cup. The committee will be headed by the Ministry of the Chief of Staff, and the first technical meeting will be held on October 24<sup>th</sup>. Other ministries participating are: Justice, Tourism, Sports, Civil Aviation, Finance, Health, and the National Health Surveillance Agency (ANVISA).

**Oil Workers:** Following union town halls, workers from the oil sector started a strike against the pre-salt bidding round to be held next Monday, October 21<sup>st</sup> and a bill on third party hiring currently being considered in Congress. President Rousseff has ordered that the army be in front of the Windsor Hotel in Rio de Janeiro during the bidding round to ensure that the workers and possible protesters do not disrupt the event.

**Pre-Salt:** Oswaldo Pedrosa was appointed as the new president of the state-owned pre-salt company PPSA. Pedrosa is a retired employee of Petrobras, a Stanford graduate, and the former president of Petrobras, now headed by Graca Foster. The company was created by the government earlier in the year to defend the country's interest in contracts of pre-salt block exploration. A few days before the auction, the President of the National Agency of Oil and Gas (ANP), Magda Chambrind, estimated that, conservatively, the Libra field could produce up to 1.4 million of barrels a day.

## ON THE POLITICAL FRONT

**Email Provider:** President Rousseff determined that Serpro, the federal data processing service, be in charge of the email accounts of the entire federal government. The measure was announced via the President's Twitter account on Sunday.

**Presidential Election:** A poll conducted by *Datafolha* last Friday showed that in the most likely scenario, President Rousseff would receive 42% of the votes, Aecio Neves (PSDB) 21%, and Eduardo Campos (PSB) 15%. With a margin of error of two percent, this is the first poll conducted after the announcement of the alliance between Governor of Pernambuco Eduardo Campos and former Environment Minister Marina Silva. Still, according to the poll, President Rousseff would win in all contests with a second round, with Marina Silva proving to be the toughest contender.

**Supreme Court:** The President of the Supreme Court, Joaquim Barbosa, stated earlier in the week that he does not discard the possibility of running for public office in the future. The judge, who is 59 years old and can remain at the Court until 70, the mandatory age for retirement, said he will probably not remain at the Court until then. Judges from the Court have until March of 2014 to join a political party to participate in next year's elections.

**Protests:** A series of small groups of teacher protests turned violent as masked members of the so-called Black Bloc anarchist group joined the marches. Violence surrounding the protests has significantly increased over the past few days.

**Consumers' Rights:** The National Secretariat of Consumers (SENACON) launched the 2012 Registry of Complaints on Wednesday. According to the report, local consumer agencies (Procons) received over two million complaints from private companies last year. The sectors that received the most complaints include goods (47.8%), financial issues (23.8%), and essential services (14.1%). The products or service providers that received the most complaints were cell phones, computers, commercial banks, and home appliances. Finally, the most frequent issues cited were billing (28.3%), warranty problems (21.8%), and poor quality (16.3%).

**Growth Program:** Minister of Planning Miriam Belchior released the latest data on the evolution of the 2<sup>nd</sup> Growth Acceleration Program (PAC). So far, 67% of the investment foreseen for 2011-2014 has already been spent, 41% of it in the *Minha Casa Minha Vida* program. Minister of Finance Guido Mantega reemphasized the government's focus on the concessions program as a driver for growth, highlighting the bids on airports, roads, and oil and gas. The full report on the program can be found [here](#).



# Government

## Appliances, Invoices, and Culture

The President signed into law [12.868/13](#) with no vetoes to Provisional Measure (MP) 620/13. The new law addresses three main issues pertinent to the private sector:

- » Establishes a 12-month deadline for companies to adapt to law [12.741/12](#) which mandates that all invoices and receipts list the total amount of taxes being paid by consumers;
- » Allows companies registered on the presumed profit regime to participate in the Culture Voucher program;
- » Provides financing rules for durable appliances to beneficiary families of the *Minha Casa Minha Vida* Program.

The fact that the President did not veto any portion of the MP demonstrates an effort on her part to improve relations with Congress.

## State Debt

On Tuesday, the House Committee on Constitution and Justice approved bill [PLP 238/13](#) altering the debt correction index for states and municipalities. The new index allows for state and city debt to be corrected by the IPCA or Selic rate plus four percent, instead of the IGP-DI method currently being used. According to the current method, most states were highly indebted and were no longer able to incur new loans since they had reached their debt ceilings. The approval gives leeway for governors in a year before general elections.

## Regulatory Agencies

Sen. Eunício Oliveira (PMDB) was designated the rapporteur at the Committee on Constitution and Justice for [bill 62/07](#) which authorizes the Senate to evaluate the performance of regulatory agencies and its directors. The bill establishes that the Federal Budget Court (TCU) presents an annual report on the activities of each agency and that the Senate evaluates the activities, gives recommendations and even ousts directors.

The new rapporteur is also the author of [bill 52/13](#) which establishes management, organization, and social control rules for regulatory agencies. Currently, there are ten regulatory agencies in Brazil that function as an autarchy with a special legal regime. Following the vote at the committee, the bill must be approved in two rounds of votes on the floor of the Senate by at least 3/5 of senators.

## Political Reform

The House Working Group on Political Reform met last week to discuss current rules on the creation of new political parties. The law currently mandates a minimum of 492,000 signatures for the creation of a new party. The proposal approved by the group reduced that number by half and removed the requirement of popular support as long as 5% of House Representatives join the new party. On the other hand, the Group voted in favor of a barrier preventing new parties from receiving free TV and radio time and resources from the party fund if they do not receive a minimum of three percent of votes nationwide.

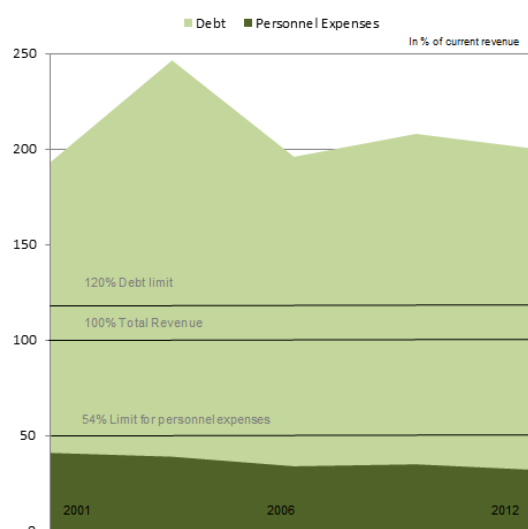
The political reform issue was brought up following the June street protests. During Thursday's meeting, the Working Group approved a proposal establishing that in elections for Representatives, candidates must compete in small regions within the states – so-called “regionalized proportional voting.” The changes will not be in force for the 2014 elections.

# Infrastructure

## Airports

The Civil Aviation National Agency (ANAC) published [Decision 103/13](#) altering a few items on the [RFP of Auction 01/13](#) for the concession of expansion, maintenance, and exploration of the airports of Galeao in Rio de Janeiro (RJ) and Confins in Belo Horizonte (MG).

Sao Paulo City Debt



# Tax & Investments

## Music

On Tuesday, Congress promulgated Constitutional Amendment 75/13, known as “PEC da Música”, granting tax exemptions for musical and video phonograms produced in Brazil containing musical works of Brazilian authors or works in general interpreted by Brazilian artists, as well as the material media or digital files containing them.

## VAT Tax

The National Council on Fiscal Policy (CONFAZ) did not reach an agreement on the unification of the ICMS (VAT) Tax during its Thursday meeting. All 27 state finance secretaries and the federal government were getting closer to reaching an agreement on the gradual unification of the tax, but the secretary of the southern port state of Santa Catarina positioned himself against the new agreement. Twenty-four states were in favor of the agreement under discussion. The issue has been central to discussions around taxation and fiscal reform and widely controversial between states. Currently, states have been charging different ICMS tax rates from intra-state transportation causing discrepancies in tax revenues and what has been called “state wars.” Secretaries could meet next week to continue debating the issue.

# Environment

## Agro-ecology

On Thursday, President Rousseff launched the Agro-Ecology and Organic Production Plan already foreseen by Decree 7.794/12. There are ten ministries engaged in the plan and over 134 initiatives divided in four strategic areas: production, use and preservation of natural resources, knowledge, and commercialization and consumption. Some of the projects include BRL\$7 billion in credit for family farming and low carbon programs and BRL\$600 million in technology for water access.

# Health

## ANVISA

In a conference held between the National Health Surveillance Agency (ANVISA) and the Chief of Staff’s Strengthening Institutional Capacity of Regulations Program (PRO-REG), the volume of ordinances published by the government was cited as the biggest problem in the Brazilian regulatory system. Between 1988 and 2012, 4.6 million norms were published, 290,000 of which were tax-related. ANVISA alone has published 11,753 acts in the past five years, including 485 executive board decisions, 565 public consultations, 58 normative instructions, and 10,645 ordinances.

# Justice

## Brazilian Judicial System

The National Council of Justice (CNJ) released the report *Justice in Numbers* showing the current state of the Brazilian Judicial System. According to the study, courts have solved fewer cases than the number of new cases presented in a year, representing the biggest bottleneck in the country’s judicial system.

Main data presented:

- » 92.2 million cases currently in the judicial branch of which 28.2 million (31%) are new cases and 64 million (69%) are pending from previous years;
- » The Judicial branch costs approximately BRL\$ 57.2 billion per year—1.3% of the country’s GDP.

The majority of pending cases (52.3%) are in the First Instance Courts of the Judiciary, of which 39.9% are executive fiscal extra judiciary. For the full study, click [here](#).

### Did you know?

#### **Brazil-US cotton dispute on WTO**

In 2005, Brazil opened a dispute in the World Trade Organization (WTO) against illegal subsidies given by the U.S. government to its cotton producers, which hurt Brazilian cotton producers.

Brazil won the case, but the U.S. refused to cut subsidies. In 2009 Brazil obtained WTO authorization to retaliate against the U.S. for a total of US\$830 million - the estimated amount of damage suffered by Brazilian exporters.

Of this total, two thirds would be compulsorily applied through surcharges on imports of U.S. goods and the remainder in intellectual property rights and services.



# The Pulse

## Brazil-U.S.: The WTO Cotton Case and the Possibility of Retaliation

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Brazil resumed discussions on the application of retaliatory measures against the U.S. after the U.S. paid less than the agreed amount to the Brazilian Cotton Institute in September, a requirement of the 2010 Cotton Framework Agreement which suspended WTO-authorized retaliation related to the Brazil-U.S. Cotton dispute.

Retaliatory measures would directly affect U.S. companies that export goods and services to Brazil, as well as multinational companies operating in Brazil that import U.S. products to sell domestically. On the other hand, domestic companies would gain from higher prices of competitors while consumer choice would be reduced.

On October 3rd, the Council of Ministers of the Foreign Trade Board (CAMEX) decided through [Resolution 81/2013](#) to instruct the technical group responsible for formulating countermeasures (GT-Retaliation) to conclude the process of technical preparation for the possible **withdrawal** of CAMEX Resolution 43/2010 by **November 30, 2013**.

### Measurements Suspended by CAMEX Resolution 43/2010

[Resolution 43/2010](#) - Suspended the list of goods with increased tax rates on imports (by up to 100 percentage points) and the public consultation process regarding countermeasures on intellectual property rights and services initiated in 2010.

➤ [CAMEX Resolution 15, dated March 5, 2010](#) - Adopts the list of U.S. goods subject to retaliation and fixes the increased rate of import tax, valid for 365 days. This list was previously submitted to public consultation through [Resolution 74/2009](#).

Among the products on the list were: juices and fruit pulps, chemical inputs, creams, shampoos, make-ups, toiletries, cotton, freezers, food items such as meat, fruits like plum, cherry and pear, potatoes, and others.

➤ [CAMEX Resolution 16, dated March 12, 2010](#) - Opens public consultation on 21 measures of retaliation on intellectual property rights for literary works, audiovisuals, medicines, cultivars, and computer programs.

The measures on intellectual property and services include suspension and limitation of intellectual property rights, licensing without pay, temporary blocking of remittance of royalties, and creation or increase of registry values, among others.

### Possible Resolution Scenarios:

1. Resumption of payment by the United States. Despite the automatic spending cuts imposed by the U.S. government and slow progress in passing a new farm bill, the resumption of payment should happen if there is political and economic will, in addition to pressure from U.S. companies threatened by the retaliation.
2. Extension of the technical group's effort to allow extra time for bilateral negotiations with a view towards the resumption of payment.
3. The technical group may propose to the Council of Ministers of CAMEX that Brazil denounce the Framework Agreement and, consequently, the withdrawal of Resolution 43/2010, which suspended the process of retaliation. Thus, this process would resume with the analysis of the list of goods and the public consultation on countermeasures in intellectual property. If the retaliation process continues, import duty rates set in 2010 may be revised. The possibility of a new public consultation process for duties on goods and intellectual property cannot be disregarded.

There are important variables to consider in this scenario-building exercise, namely: the current state of bilateral relations and friction regarding allegations of U.S. espionage; the discussion on the internet framework in Brazil with rules for requiring data centers in Brazil to hold Brazilian data; the cancellation of President Dilma Rousseff's state visit to the U.S; and, the permanence in high-level positions of relevant decision makers within the Brazilian government involved in the retaliation process in 2010. *Policy Monitor* will keep monitoring developments on this issue.

