POLICY MONITOR

Brazil-U.S. Business Council

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The Week in Review

On the Economic Front

Budget Guidelines

On April 22nd, President Dilma Rousseff signed a budget law which includes revenue estimates and government expenditures reflecting fiscal adjustments for 2015. The government's revenue forecast is BRL$ 2.977 trillion. Expenditures were set at BRL$ 2.982 trillion, divided into fiscal (*public debt refinancing*), social security (*government programs*), and investments (*state-owned enterprises*). Much like the budget process in the United States, the budget law provides only allocations for individual ministries. Budget authority for expenditures at the program level is still unavailable. As for fiscal adjustment, a decree with the cuts and contingencies planned for the 2015 Budget will be published within 30 days. Non-compulsory expenditures are expected to be reduced by one-third. This will be retroactive to January, when Decree 8,389/2015 was published, and must represent a reduction of BRL$ 70 billion.

On the Political Front

Petrobras

On April 29th, new members of the Petrobras board of directors were elected for a one-year term at the shareholders' annual meeting. The government, which has seven openings on the board, made last minute changes in its choices. It removed Ivan Monteiro (Chief Financial Officer of Petrobras) from the list, and decided to renew Sergio Quintella (Fundação Getúlio Vargas) and General Francisco Albuquerque. These last minute changes were intended to enhance the technical qualifications of the board, as well as to rejuvenate it. Luciano Coutinho, President of BNDES, became the only member of the board that has been there for more than three months and the only one with direct ties to the Rousseff government.

The board of directors consists of 10 members with terms of one year. Members may be re-elected.

Government Representatives

» **Murilo Ferreira**
President of the Board (*President of Vale*)
Member since April 2015

» **Luciano Coutinho**
President of BNDES
Member since April 2008

» **Aldemir Bendine**
President of Petrobras
Member since February 2015

» **Luiz Navarro**
Senior Consultant at Veirano Advogados Law Firm
(*Worked 10 years at CGU*)

Other Members

» **Guilherme Affonso**
Majority's Shareholder Representative
Member since April 2015

» **Walter Mendes**
Minorty's Shareholder Representative
Member since April 2015

» **Deyvid Bacelar**
Workers Representative
Member since February 2015

BRASÍLIA
SAF Sul Quadra 02, Lote 04.
Edifício Via Esplanada
Salas 103 a 106

CEP 70070-600
Fone: (61) 3327-2606
Fax: (61) 3327-1619

SÃO PAULO
Rua Olimpíadas, 134, 5º andar, Cj 52.
Condomínio Alpha Tower
Vila Olímpia

CEP 04551-000
Fone: (11) 3079-4533
Fax: (11) 3079-2202

WASHINGTON, DC
1101 17th St.
NW Suite 1010

Phone: (202) 822-6420
Fax: (202) 822-6423
www.patri.com.br
relgov@patri.com.br

Member since March 2015

- **Segen Estefen**
  Researcher at Coppe/UFRJ
  Member since April 2015
- **Luiz Carvalho**
  Advisor at BM&FBovespa and Professor at USP
  Member since April 2015
- **Roberto da Cunha Castelo Branco**
  Director of FGV Studies Center
  Member since April 2015

Compulsory Retirement

On May 5th, the House voted in a second round on the 'PEC da *bengala*' (Constitutional Amendment), which would increase the age for compulsory retirement from 70 to 75 for members of the Superior Courts and of the Federal Court of Accounts (*Tribunal de Contas da União* - TCU). The Rousseff Administration opposes the PEC because it will eliminate President Rousseff's opportunity to nominate five new ministers to the Federal Supreme Court (*Supremo Tribunal Federal* - STF) to replace those who would be retiring by the end of her second term in 2018. These include: Celso de Mello (November 2015); Marco Aurélio Mello (July 2016); Ricardo Lewandowski (May 2018); Teori Zavascki (August 2018); and Rosa Weber (October 2018).

The House originally scheduled a vote on fiscal adjustment measures first, but Speaker of the House Representative Eduardo Cunha (PMDB/RJ) reversed the floor agenda and decided to vote on the constitutional amendment instead. Cunha's political maneuver also delayed the vote on other important bills including the fiscal adjustment, making it a "lose-lose" day for President Rousseff.

Task Forces

Healthcare

On Monday, April 27th, the House of Representatives approved a Senate-passed bill that regulates access to Brazilian genetic patrimony to ensure sustainable and equitable use of its biodiversity, as well as indigenous and traditional knowledge associated with it. The bill now goes to President Rousseff, who has 15 business days to sign the bill into law, or it will expire.

The bill defines genetic patrimony as "information of genetic origin of plant, animal, microbial species, or species of other kinds, including substances from the metabolism of living beings," and its purpose is to reduce bureaucracy and stimulate research and innovation with native species. The bill also addresses the distribution of benefits, which are intended to be shared with small farmers and indigenous peoples, or *quilombolas,* who have been involved in the discovery of genetic heritage.

Introduced by the executive branch in 2014, the bill was first approved by the House in February. In the Senate, it received 23 amendments, so it had to be returned to the House for a second vote. The full House accepted 12 of the Senate amendments.

The bill modifies the process for requesting permission to exploit biodiversity. Currently, companies must submit paperwork to the Genetic Heritage Management Council (*Conselho de Gestão do Patrimônio Genético* - CGen) and then wait for approval to start work. **With the new bill, national organizations will be able to complete a simplified registration over the Internet. The bill also excludes the possibility of any company headquartered abroad and not affiliated with national institutions of scientific and technological research from accessing Brazilian genetic patrimony.**

According to the text, companies will have up to 365 days from the notification of the finished product derived from genetic patrimony to present the benefit sharing agreement. The current legislation requires a formal contract for benefits sharing from the moment at which the potential for economic use is identified, even before the research begins, which makes gaining access to Brazilian genetic patrimony a much longer and more bureaucratic process.

The bill establishes a 1% royalty on net revenue of finished products or reproductive materials resulting from access to Brazilian genetic patrimony. It further exempts from taxes any benefit from the development of finished products resulting from approved access to genetic heritage established before June 29, 2000.

Innovation

Internet Framework Comment Period and Draft Bill on Data Privacy: The Ministry of Justice (*Ministério da Justiça* - MJ) opened a new comment period until May 31st on the decree that will regulate the Internet Framework Law (*Marco Civil da Internet* - MCI). The period to provide comments on the draft data privacy bill has been extended until July 5. Any person, institution, company, or government agency may file a comment.

Anatel Comment period: On April 28th, the National Telecommunications Agency (*Agência Nacional de Telecomunicações* - Anatel) extended the deadline of its comment period on net neutrality to May 19th in order to support President Rousseff with the Internet Framework Law's regulatory decree.

Seminar Brazil 100% Digital: On April 23rd and 24th, the Federal Court of Appeals (*Tribunal de Contas da União* - TCU) and the federal government organized the "Brazil 100% Digital" international seminar, the first step towards building a Digital Agenda in the country. In addition to bringing attention to the issue, other goals of the event included exchanges with other countries on the development of digital services and the use of open data as a transparency and social control instrument, with a focus on evaluation and improvement of services and public policies.

The Brazilian Digital Agenda will publish guidelines to advance the use of technologies in the country. It will be developed by the Ministry of Science and Technology (*Ministério da Ciência, Tecnologia e Inovação* - MCTI) with support from the Presidential Chief of Staff (*Casa Civil da Presidência*) and the Ministry of Planning, Budget, and Administration (*Ministério do Planejamento, Orçamento e Gestão* - MPOG). The agenda will include four main topics:

1. Digital Society: Showing the use of technologies to cities of the future;
2. Digital Competitiveness: Showing how expanding the use of emerging technologies is needed;
3. Digital Government: Bringing about government actions that will be taken in order to achieve these goals; and
4. Structuring Actions: Creating the structure for discussion of the three topics above.

Tax and Investment

Oil Auction – 13th Bidding Round: In a lecture at the Offshore Technology Conference (OTC), Minister of Mines and Energy Eduardo Braga announced that the holding of the 13th round of bidding for the exploration and production blocks of oil and natural gas will be in October 2015 when 269 blocks will be auctioned.

Basin	Onshore/ Offshore	Potential	Oil/Gas	Number of blocks
Amazonas	*Onshore*	New Frontier	Gas	7
Parnaíba	*Onshore*	New Frontier	Gas	22
Potiguar	*Onshore*	Mature	Oil and Gas	71
Recôncavo	*Onshore*	Mature	Gas and Light Oil	85
Sergipe/Alagoas	*Offshore*	High Potential	Oil and Gas	10
Jacuípe	*Offshore*	New Frontier	Oil and Gas	4
Camamu-Almada	*Offshore*	New Frontier	Oil and Gas	9
Espírito Santo	*Offshore*	High Potential	Oil and Gas	7
Campos	*Offshore*	High Potential	Oil and Gas	3
Pelotas	*Offshore*	New Frontier	Oil and Gas	51

BRASÍLIA
SAF Sul Quadra 02, Lote 04.
Edifício Via Esplanada
Salas 103 a 106

CEP 70070-600
Fone: (61) 3327-2606
Fax: (61) 3327-1619

SÃO PAULO
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Vila Olímpia

CEP 04551-000
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The resolution of the National Energy Policy Council (*Conselho Nacional de Política Energética* - CNPE) authorizing the rounds should be published in the Official Gazette in the coming days. In his presentation, Eduardo Braga also addressed the following points:

- **Local Content:** The minister recognizes the need for adjustments in order to increase the competitiveness of the local supply chain, as well as the number of suppliers, and investment in innovation.
- **Natural Gas:** He emphasized the increased demand for natural gas, meaning that increases in gas production are welcome to supply new power plants.
- **Sharing Round:** The next pre-salt round is expected to occur between 2016-2017, when blocks with high potential in the Campos and Santos basins and areas of unitization will be available for bids.
- **Rounds Calendar:** Goal of not waiting more than two years without conducting a concession round.

Tax and Investment

Outsourcing: On April 22nd in a second round of voting, the House of Representatives approved Bill 4330/2004. The bill regulates outsourcing contracts in the labor market. The main new point debated was the inclusion of language that would allow companies to outsource their "core activities." Currently, companies may only outsource secondary activities such as building maintenance, cleaning, and third-party labor contracts. The language was approved 324-137. Unions, however, are against greater use of outsourcing and protested in Brasilia in hopes of blocking the bill. The bill will now be considered in the Senate, where Senate President Renan Calheiros (PMDB/AL) has already positioned himself against the outsourcing of company core activities, arguing that widespread outsourcing would reduce wages and diminish workers' rights. If the text is changed in the Senate, it must be returned to the House for another vote. If the Senate approves the text without changes, it will be sent to the president to be signed.

The Pulse

Policy Reforms Advance Despite Mixed Political Messages

Despite several political problems between PT and its nominal allies in Congress, the House passed this Wednesday the first part of the fiscal adjustment measures proposed by the government earlier this year.

President Rousseff and the Worker's Party's (PT) emphasis on major policy reforms that directly counter her election platform continues to be received as a "mixed message" by many in Brazil, contributing to her loss of important votes in the legislature, as well as her deteriorating political weakness. The latest political defeat was House passage of a constitutional amendment that would increase the mandatory retirement age of Supreme Court justices, thereby preventing her from making five new appointments before her presidential term expires in 2018. Her fiscal adjustment was passes by only a narrow margin and without the full vote of the Workers' Party (PT), again demonstrating a lack of broad support on the most critical of issues. In part, this was due to the conflicting PT message of wanting to ensure that the fiscal adjustment is not overly harsh to its constituent base, while also supporting the need for economic reform.

In an attempt to assuage popular reaction against the government, former President Lula presided over a televised political program in support of PT policies. This role typically should fall to President Rousseff, but was changed because of her lack of popularity. Nonetheless, the usually highly supported Lula faced a national "pot-banging" demonstration known as the "panelaço," an important indication of the deteriorating mood in Brazil.

The good news is that between President Rousseff's political fragility and the urgent need to encourage private foreign investment in Brazil, it has become increasingly clear even to government leaders that policies must be put in place that will speed the economic recovery. This includes taking on some very controversial issues such as changing the regulatory framework to encourage greater foreign investment in the economy. For instance, Minister of Energy Eduardo Braga indicated at a meeting with executives of the oil and gas industry in the United States that he and the national oil agency are putting together a proposal to change local content rules for the next auction of pre-salt areas.

The fate of this and other initiatives, however, will depend on the swift passage of the measures pushed by Finance Minister Joaquim Levy to Congress. As he himself said in a meeting with business people in São Paulo last Monday, postponing them is bad policy because the actions for firming up the fiscal situation are only the first step of the necessary adjustment given the end to the commodities cycle.

Helping to alleviate the sour mood this week was the news that foreign investment in the Brazilian stock market ended April at its highest level in over two years. The inflows tend to continue, but may be limited by risks, both local and external, that remain. Examples of new bumps on the path are the rising unemployment rate, which jumped from under 5.0% to 7.9% in the first quarter of 2015, and the 1.6% drop in the stock exchange on Wednesday due to the political uncertainties of the day. Still, any hope that the government might deal with structural impediments to investment and growth could help change the cautious attitude toward Brazil, which still prevails.

BRASÍLIA
SAF Sul Quadra 02, Lote 04.
Edifício Via Esplanada
Salas 103 a 106

CEP 70070-600
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