Brazil-U.S. Business Council

PATRI

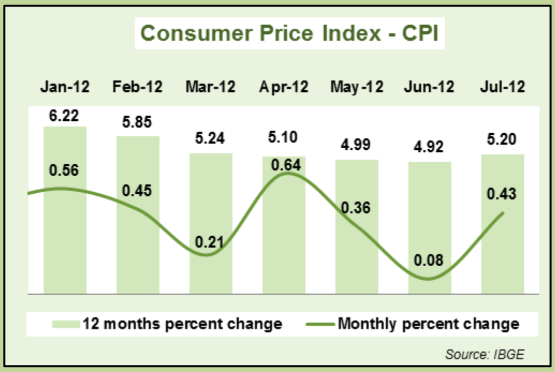
POLICY MONITOR

August 6 – 10, 2012

THE WEEK IN REVIEW

The second week of the Mensalão (a vote-buying scheme) at the Supreme Court was marked by the oral arguments of five high-profile defendant attorneys. Adopting a coordinated strategy, the defense denied the existence of a public funds pipeline used to bribe lawmakers during the President Lula da Silva administration. According to Márcio Thomaz Bastos, the attorney of a banker accused of money laundering, who was also a Minister of Justice during the Lula administration, the charges are "devoid of a sense of reality". Also on the political front, as **the Federal Police and the Highway Patrol joined the federal employee strike for higher wages, tensions grew between strikers and the Dilma Rousseff administration.** The movement that started in July has spread to customs and regulatory agencies, affecting the release of goods. Industry and agriculture exporters are seeking help from the courts to guarantee product clearance. Given the current economic slowdown, the stoppage could further hinder economic activity. On fiscal constraints, the administration, which asked Lula to mediate negotiations, is analyzing the employees' demands and expects the strike to end soon.

On the economic side, **state-controlled Petrobrás reported a quarterly loss of BRL$1.35 billion – the first in 13 years – due to a drop in domestic crude production, fuel imports at higher costs and a weaker real**. According to its CEO Graça Foster, Petrobras should adjust fuel prices to offset losses on gasoline and diesel imports. "These adjustments are necessary to finance the [pre-salt] business plan," said Foster. However, according to Finance Minister Guido Mantega "there is no prospect for a new price readjustment on the horizon." **IBGE (statistics agency) also reported 0.43% growth in consumer prices in July, on top of a 0.08% increase in June due mostly to a sharp hike in food prices.** In PATRI´s view, despite the monthly increase, the Central Bank will probably cut the benchmark interest rate Selic by 0.5% to 7.5% in the August 29th meeting.



Below, key policies that were tracked by PATRI during the week.

Trade Facilitation

Strike – Ministry of Agriculture

Overview

Agricultural Federal Inspectors have threatened total stop of activities regarding ports, airports and stations on the borders. This is a clear reaction to MAPA's (Ministry of Agriculture, Livestock and Supply) Ordinance n º 722, which establishes measures for the Ministry to continue its activities during the strike. So far, the strike has interrupted defense, surveillance, inspection and supervision activities.

MAPA will prioritize the following activities:

- Issuance of health certificates for export and import
- Inspection and supervision of production, processing, packaging, sampling, certification, storage, transportation, import and export of beverages in general
- Classification of imported plant products, byproducts and waste
- Inspection and supervision of production and sale of fertilizers
- Issuance of the notice of violation, seizure and the ban of businesses or products

Vehicles and cargo relating to foreign trade will be released within 72 hours of the date of receipt of the request for clearance documents.

Strike – ANVISA Imports

Overview

ANVISA (National Health Surveillance Agency) issued Resolution Nº 43 regarding the importation of goods and products subject to sanitary inspection during strikes, work stoppages or delayed operations of administrative procedures. Certain import licensing will be approved in advance for goods and products, perishable or not, subject to health inspection, in the following cases:

- Insufficient capacity of storage at ports, airports, borders and customs facilities
- Products that have not been inspected by a health authority within up to 5 working days from the date of the request

Nomenclature Changes

Overview

CAMEX (Foreign Trade Chamber) issued Resolution No. 57, which creates a Special Working Group to evaluate the impacts related to GDN (Classification of Nomenclatures) to improve the identification of goods with similar characteristics. The new classification will add a combination of up to four digits and corresponding descriptions to classify goods being used in Brazil.

Currently, goods are grouped under NCM (Mercosur Common Nomenclature), which classifies products by a code of up to 8 digits. However, due to the limitation of numbers, some goods received the generic classification of “Other.

The Working Group will:

- Evaluate the need to make changes to Siscomex (Foreign Trade Integrated System) and other systems
- Determine a time frame to deliver results of evaluation
- Forecast budget
- Examine the need for regulatory changes

Next Step

The group’s first meeting will take place on September 1, 2012 and will establish work methodology and the frequency of meetings.

Whiskey & Cachaça

Overview

MRE (Ministry of Foreign Relations) published the exchange of letters between the governments of Brazil and the United States mutually recognizing cachaça and Tennessee/Bourbon Whiskey, which took place during President Rousseff’s official visit to Washington, DC in April 2012.

Tax & Investment

Oil & Gas Royalties I

Overview

The Rapporteur within CCJC (House Committee on Constitution, Justice and Citizenship) had a positive evaluation of the Constitutional amendment bill (PEC) 545/06, which would amend

Article 20 of the Federal Constitution regarding the distribution of royalties from oil, natural gas, water and mineral resources, by HDI (Human Development Index). The change would implement the distribution of royalties as follows:

- 12% to the federal agencies that have direct contact with the exploitation of oil, natural gas, water and mineral resources
- 33% to States
- 55% to Cities

Next Steps

CCJC has to vote on the draft bill and, if approved, a Special Committee will be created to evaluate its merit. It would then have to be voted on by the House.

Oil & Gas Royalties II

Overview

The Rapporteurs within the CCJ (Senate Committee on Constitution, Justice and Citizenship) argued that said bill (PLS) 469/11 on pre-salt oil royalties should be rejected. The Rapporteur argued that the bill became meaningless after PLS 448/11 was approved by the Senate. PLS 469/11 determines that royalties should be paid monthly by the contractor under the production sharing arrangements in an amount equal to 15% of the production of oil or natural gas. The project also establishes new methods of dividing up the amount collected.

Next Steps

CCJ has to vote on the bill, after which it will be analyzed by CI (Committee on Infrastructure) and then follow directly to the House.

Visa Applications

Overview

A Congressmen within CTD (House Tourism and Sports Committee) requested asked that (PL) 5655/09, which removes a previous requirement that visas be granted in the country of origin of the applicant, be analyzed in greater depth. The bill also establishes rules on entry and permanence of foreigners; repatriation, deportation, expulsion and extradition of foreigners; and acquisition of Brazilian citizenship by naturalization.

It also prohibits foreigners from:

- Owning a news and radio broadcasting company
- Obtaining authorization or concession to explore and exploit mineral deposits, mines and other mineral resources and hydro plants
- Being responsible for editorial content, as well as working with broadcast programming in any media outlet
- Working as a customs or shipbroker and other related activities

PL 5655/09 also establishes that temporary work visas are valid for one year and can be renewed for another year.

Next Steps

CTD has to pass the bill for it to be analyzed by CREDN (House Committee on Foreign Relations and National Defense) and CCJC (House Committee on Constitution and Justice) before it heads to the House Plenary.

Harvest

Overview

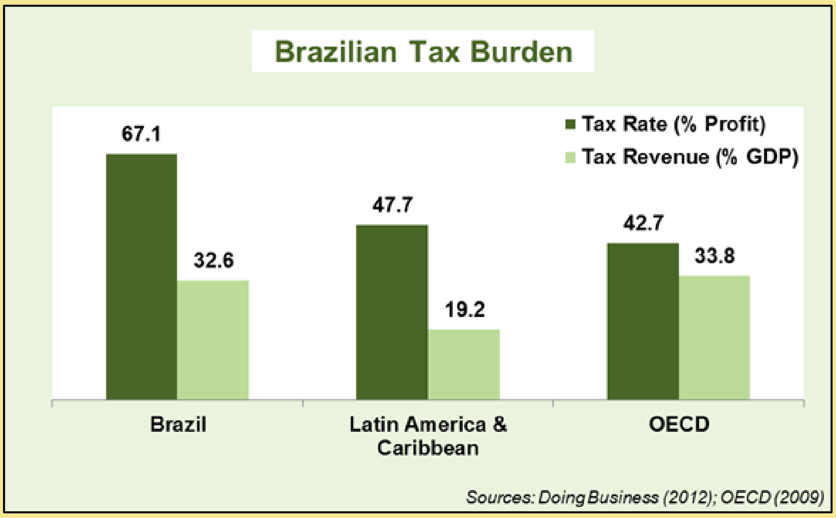
MAPA (Ministry of Agriculture, Livestock and Supply) published the 2011/2012 harvest update for the production of grain and sugarcane. Soybean production dropped 11.8% from the past harvest, and reaching a total production this harvest of 66.4 million tons. Unfavorable weather in the South and the Northeastern regions of the country was the main reason for the drop in production. In total, it is estimated that total grain production will reach 165.92 million tons. However, the Ministry has already announced that this number will probably be revised later this year to 170 million tons.

As for ethanol, production is estimated to grow 3.21% compared to the past harvest, reaching 23.49 billion liters. The Ministry also forecasts that 596.63 million tons of sugarcane will be crushed this harvest, an increase of 6.5% in comparison to the previous harvest season. MAPA also reinforced that the government will continue to support measures to increase the sector's competitiveness, but did not go into detail on any specific policy.

THE PULSE

The Rousseff administration scored an important victory in April by approving Resolution 13 in the Senate. Aimed at ending *Guerra dos Portos* – the states' fiscal incentives war over imports – the resolution should set a new national tax framework. This topic is so critical for the Brazilian economy, plagued both by a byzantine tax system and high tax burden, that just last month, **The Pulse** was dedicated to it. Interestingly, Resolution 13 is at the top of the agenda of CONFAZ, a body that gathers Finance Ministry officers and Finance secretaries of the 26 states plus the Federal District. CONFAZ is scheduled to meet on August 28th and 29th and, **according to its coordinator, Cláudio Trinchão, they will request that the Senate amend Resolution 13 (scheduled to come into force in January 2013), to postpone its enactment. Trinchão argues that the new law needs clear regulation to define which imports are subject to it**. "The Resolution cannot end *Guerra dos Portos* and then have each state follow it according to various interpretations", says Trinchão. He also indicates that even Camex, the Finance Ministry's foreign trade body, has not set rules to implement the resolution.

Meanwhile, some Brazilian companies will probably question Resolution 13's constitutionality at the Supreme Court. "The Senate does not have the power to do it", says Ives Gandra Martins, a renowned tax expert. Martins claims that the Constitution does not allow the Senate to legislate over import taxes. The outcome of this new twist in the *Guerra dos Portos'* is still unclear. The administration will work to keep Resolution 13's timeframe in order to advance towards a limited tax reform. However, at least in the short term, the current divisions at CONFAZ will bring uncertainties to the Brazilian business environment.



Editor's note: last week's Policy Monitor said that Central Bank employees were already on strike. In fact, they announced it last week, but officially joined the movement this week for only 24 hours.