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THEDIALOGUE

FEATURED Q&A

What's Behind the Brazil-U.S. Steel Dispute?

Higher tariffs on cold-rolled steel have been at the center of Brazil's latest trade dispute with the United States. // File Photo: Steel360.

Q Brazilian Foreign Minister José Serra announced on Sept. 28 that his country will launch a trade dispute at the WTO over U.S. tariffs on steel, Agência Brasil reported. The U.S. government earlier this year raised the duty on steel from Brazil, among other countries, accusing the South American nation of providing unfair subsidies to steel producers. How strong are Brazil's prospects in the WTO dispute? What consequences will the dispute have on Brazilian manufacturing? With the U.S. elections approaching, are the tariffs imposed by the United States politically motivated, as was alleged of former U.S. President George W. Bush's 2002 steel tariff?

A Welber Barral, senior partner at Barral M Jorge & Associates and a former foreign trade minister of Brazil: "Brazil is one of the most active complainants at the WTO. Some leading cases (Canada-aircraft, United States-cotton) were brought by Brazil, when it felt that its exports were being adversely affected. Of particular concern to Brazil are trade remedies against its exports of steel, primarily because there is a structural overproduction in the world, and because Brazil is worried that other importers may follow the U.S. precedent and adopt measures against Brazilian steel. Brazil is making an outstanding effort to promote its exports as a strategy to recover economic growth. This goal is still more challenging in a difficult international scenario. Thus, the Brazilian industry will follow closely the outcome of this case, seen generally as a protectionist measure against its growing exports. Trade remedies are derived from an arcane web of rules, and

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In the face of inflation that has made their country the most expensive in dollar terms in South America, Argentines are crossing the border with Chile by the thousands to buy goods.

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The U.S. Supreme Court on Tuesday agreed to decide whether to revive a civil rights lawsuit filed by the family of a Mexican teenager against a U.S. Border Patrol agent who fatally shot the 15-year-old from across the border in Texas in 2010.

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Prosecutors Seek Bank Details From Peru's Humala

Peru's attorney general's office will now investigate former president Ollanta Humala in addition to his wife for possible money laundering.

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Humala // File Photo: José Cruz, ABr.

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POLITICAL NEWS

Peruvian Prosecutors Seek Bank Details From Humala

Peru's attorney general's office said on Tuesday it will now investigate former president Ollanta Humala in addition to his wife for possible money laundering linked to past campaign contributions, Reuters reported. Earlier this year, Peruvian prosecutors said that the late Venezuelan president, Hugo Chávez, and two Brazilian construction companies may have bankrolled Humala's presidential campaigns with some $1.5 million before he took office in 2011, Agence France-Presse reported. The latest moves involve asking authorities to lift secrecy rights on the Humala family's bank accounts going back at least to 2009. Both

Nadine Heredia with husband Ollanta Humala // File Photo: Simone D. McCourtie, World Bank.

Humala, who left office this year, and his wife Nadine Heredia have denied any wrongdoing linked to party fundraising. Prosecutors earlier dismissed a criminal complaint against the former president that alleges he took kickbacks from illegal mining and public funds from Venezuela to finance his 2006 and 2011 election campaigns, EFE reported. Four Peruvian presidents who have held office over the past three decades have faced judicial charges of wrongdoing and even jail time over corruption, as was the case of strongman Alberto Fujimori, who is serving a 25-year term. According to a recent Datum poll, 29 percent of Peruvians think that there was more corruption during the Fujimori government than today, according to a report in El Nuevo Herald on Tuesday. Although his wife Nadine is banned from traveling abroad, Humala flew to Spain this week, where he will participate in celebrations of Spain's national holiday today with King Felipe VI in Madrid, El Comercio reported Tuesday.

ECONOMIC NEWS

E-commerce in Brazil to Grow 15 Percent in 2016

E-commerce in Brazil is set to grow by 15 percent in 2016 despite the deepest economic recession in a generation affecting the country, a new report released Tuesday by Americas Market Intelligence found. The overall e-commerce market size for Brazil is $23 billion, three times that of Mexico, the second-largest e-commerce market in Latin America, the report authors said. However, merchants without a local payments strategy reach only 17 percent of Brazil's total addressable e-commerce market, with non-card payment methods representing 23 percent of all Brazilian e-commerce sales. Fifty-eight percent of e-commerce volume in Brazil is purchased using an installment plan, the report found. "Only 20 percent of Brazil's credit cards are enabled for international use, which is a major problem for merchants using an offshore payments approach," said Lindsay Lehr, an author of the report.

Rising Prices Push Argentine Shoppers Abroad for Purchases

In the face of inflation that has made their country the most expensive in dollar terms in South America, Argentines are crossing the border with Chile by the thousands to buy goods, El País reported Tuesday. Approximately 27,000 people from the province of Mendoza waited up to eight hours on Friday to cross into the neighboring country via the Los Libertadores tunnel and take advantage of prices that are three times lower. Trade in Argentina's Men-

NEWS BRIEFS

Brazil Lower House Speaker Scraps Changes to Tax Amnesty Bill

The speaker of Brazil's lower house of Congress, Rodrigo Maia, on Tuesday made a surprise decision to scrap a bill that would change a program granting amnesty to Brazilians that pay billions of dollars in taxes and fines in exchange for legalizing undeclared assets held abroad. The government of President Michel Temer opposed relaxing the amnesty program and efforts in Congress aimed at sharing more of its proceeds with cash-strapped states.

Uruguay Makes Offer to Guantánamo Prisoner on Hunger Strike

Uruguay's government on Tuesday offered to bring the family of a hunger-striking former Guantánamo prisoner to stay with him in the South American country, the Associated Press reported. Syrian native Abu Wa'el Dhiab has been on a hunger strike for more than two months in a bid to leave Uruguay, which took him in, along with five other former Guantanamo prisoners in 2014. He wants to join his wife and children in Turkey and insists Uruguay is not acceptable to him.

U.S. Supreme Court to Hear Mexican Border Killing Case

The U.S. Supreme Court on Tuesday agreed to decide whether to revive a civil rights lawsuit filed by the family of a Mexican teenager against a U.S. Border Patrol agent who fatally shot the 15-year-old from across the border in Texas in 2010, Reuters reported. A ruling by a lower court last year threw out the civil rights claims against the agent, Jesus Mesa, filed by the family of Sergio Hernández. The incident took place at a border crossing between El Paso, Texas and Ciudad Juárez, Mexico.

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doza province fell 8.25 percent in September as a result of the price imbalances, according to a local business group. Argentines can bring back goods worth about $150 from Chile without paying tax, but only a quarter of visitors voluntarily declare their purchases, according to the report. The country's customs office has collected $4 million in fines since January and says that eight of every 10 cars returning from Chile carry more than the permitted value. Argentine retail prices increased on average by 1.1 percent in September, according to a Reuters poll of economic analysts released Tuesday. The food and beverage category drove the increase, followed by education and increases in rates for utilities. State statistics agency INDEC is scheduled to release official inflation figures for September on Thursday.

BUSINESS NEWS

Canadian Solar Sells Brazil Project Stake

Canadian Solar said Tuesday that it has joined with EDF Energies Nouvelles to sell an 80 percent interest in its first project in Brazil to EDF's local subsidiary, EDF EN do Brasil. Financial details were not disclosed. The 191 MWp Pirapora I solar energy project is under construction and should reach commercial operation in the third quarter of 2017. Canadian Solar will supply the modules for the project from its new 360 MWp modules factory already established in Brazil. Located in the state of Minas Gerais, the project was awarded a 20-year power purchase agreement in Brazil's second reserve energy auction in 2015. Brazil has set a goal to source 23 percent of its energy from renewable sources by 2030, but competition on pricing has been fierce. Canadian Solar CFO Huifeng Chang told investors in a recent call that the company would "deleverage our balance sheet with the proceeds from coming project sales," PV-Tech reported Tuesday. On the same call, CEO and chairman Shawn Qu described selling stakes in projects as a "buffer" to protect it against any slack in module sales, according to the report.

U.S. Envoy in Jamaica Links De-risking to Lotto Scammers

The U.S. Ambassador to Jamaica on Tuesday said the de-risking trend facing Jamaican banks could be linked to the explosion of lotto scams on the island, the Jamaica Gleaner reported. Speaking at a conference, Luis Moreno said more needs to be done to close loopholes in banks that allow scammers to launder illicit funds. "We well know that these people use the banking institutions to transport money; that they use whatever loopholes they can, and we have to do everything to de-risk that as much as possible," said Moreno. "We have to do that in a way that does not affect legitimate remittances or transactions, and that's not easy," he added. Lotto scams based in Jamaica have robbed an estimated $500 million to $1 billion from U.S. citizens. Moreno said that elsewhere tough banking regulations and due diligence on customers have proven very effective in countering corrupt activities, but Caribbean banks note that the high costs of compliance threaten to dismantle the international financial system. [Editor's note: See related **Q&A** in the May 18 issue of the Financial Services Advisor.]

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long investigations. In 2002, the political link was more visible in the imposition of safeguards. Now ahead of the upcoming U.S. elections, these measures are more connected to the global use of trade remedies not only against Brazil, but against other active exporters, and mostly against China and other developing countries. However, Brazil tends to be the most vocal protester, considering its experience and previous victories at the WTO dispute resolution system."

José Flávio Pacheco and Marcelo Lapane, senior associates of KLA-Koury Lopes Advogados: "The issues under discussion tend to revolve around the notoriously complex Brazilian tax system, which contains mechanisms of recovery of value-added taxes paid by exporters. Such mechanisms, of which REINTEGRA is the most debated, are often confused with governmental grants, potentially subject to the provisions of Articles 2 and 3 of the Agreement on Subsidies and Countervailing Measures. It will be up to Brazilian representatives to demonstrate that the recovery of taxes levied in the production chain do not represent subsidies, rather simply putting the Brazilian companies in the same position as foreign counterparts, which are not subject to the same domestic burden Brazilian companies are subject to. The timing of the U.S. protective duty would also be subject to debate, since it would not be imposed at a time of import surge. Apart from the technical discussion, this dispute has obvious political impact in both countries. In Brazil, it would be a clear message of governmental support of the local steel industry, which has been suffering steady losses in the past years. According to the Brazil Steel Databook 2015, recently published by the Brazil Steel Institute, the apparent consumption of steel in Brazil decreased 7.8 percent between 2014 and 2015. Exports are particularly important in a scenario of fiscal austerity measures and a shrinking local market, and also to maintain a reasonable occupation of the installed capacity, which is in average around 60 percent for Brazilian players. In the United States, the measure appeals to a relevant portion of the voters of the upcoming elections, who defend a closer U.S. market. This is not the first time Brazil and the United States find themselves in this position. In 2002 former President George W. Bush launched an attempt to protect the U.S. steel industry with similar measures. At that time, the WTO concluded the matter against the United States, in a clear message of support and prestige to the multilateral system and the rules governing international trade, granting Brazil some leverage in trade discussions with the United States."

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Gregory J. Spak, chair of White & Case's International Trade Group: "This question has both a technical and a practical answer. Technically, there is no connection between the U.S. duties applied recently to Brazilian steel and the Bush administration's action. The current duties result from investigations of allegedly 'unfair' trade practices, specifically dumping and subsidization. International (WTO) rules govern these proceedings, and U.S. laws implement those rules. These 'unfair' or 'trade remedy' cases are well-known, common occurrences in modern steel trade, and there is nothing wrong with Brazil complaining to the WTO if it believes the United States overstepped. No one can assess the chances of winning until the complaint is available. In contrast, the Bush administration took a 'safeguard' action, which addresses the high volume of imports from all sources, without alleging any unfairness by any particular country. Safeguard actions—also governed by an international (WTO) agreement—seek to provide the domestic industry time to adjust to higher levels of imports, regardless of the source (with some exceptions). So, these two things are not very similar from a technical perspective. From a practical perspective, however, all these actions can lead to restricted access to the U.S. market, and the 'unfair' trade remedies tend to have a little more bite and stickiness than the safeguard remedies. Also, all trade cases require a demonstration of injury, and that is the real story here. Parts of the U.S. steel industry—like others around the world—face sluggish domestic demand and intense price competition from imports at a time when most normal tariffs have been removed or reduced significantly. That—and not the political cycle—is what drives these cases."

> **"All trade cases require a demonstration of injury, and that is the real story here."**
>
> **— Gregory J. Spak**

Thomaz Zanotto, head director of the Department of Trade and Foreign Affairs of the Federation of Industries of the State of São Paulo (FIESP): "The rise in trade remedy measures affecting the steel sector relates to the excess capacity in the global steel industry, especially in China. In this sense, some of the most relevant World Trade Organization (WTO) members, such as the United States and the European Union, are increasingly initiating investigations regarding both antidumping and countervailing duties (CVD) against other trade partners. In such context, in September 2016, the Department of Commerce issued CVD orders on imports of hot and cold-rolled steel products from Brazil, India and South Korea and antidumping duty orders on imports of these products from Brazil, India, Korea and the United Kingdom. In the Brazil CVD investigation, Commerce calculated a final subsidy rate of 11.31 percent for Companhia Siderúrgica Nacional and a final subsidy rate of 11.09 percent for Usiminas. Some of the CVD margins found by Commerce resulted from the use of the 'best facts available'. Regarding the countervailing duties investigations, the Commerce Department's interpretation stems from what we understand to be a wrong assumption of the following mechanisms: Reintegra, Drawback, IPI, Ex-tarifário and FINAME. It is worth mentioning that those programs and tax reductions are generally available and wholly in accord with WTO rules. Additionally, the Brazilian government fully monitors and enforces the implementation of these programs in order to comply with multilateral disciplines."

The Advisor welcomes comments on its Q&A section. Readers can write editor Gene Kuleta at gkuleta@thedialogue.org.

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