What Brazil needs: The priorities for an economy in transition

Nobody questions that fiscal reform is an urgent priority in Brazil. The country needs dynamic economic growth, an improved ratio of investment to GDP, a reduction of inflation until it at least meets the 4.5 percent target, and a lowering of the Selic interest rate, currently at 11 percent.

With the FIFA World Soccer Cup just around the corner in June and an election in early October, these adjustments ought to be planned now for 2015, when the next president will be in power. Next year should then lay the groundwork for a vigorous resumption of economic growth, beyond the 2.3–2.5 percent envisaged for 2014. This will be the main challenge of the next president, whoever that turns out to be.

The campaign has in fact postponed a number of decisions that should have already been taken by President Dilma Rousseff but were swept under the rug due to the electoral implications.

Rousseff favors a “gradualist” approach, while the opposition candidates – with Aécio Neves leading – prefer a “shock treatment,” starting with a correction of imbalances in sectors with regulated prices, such as fuels, energy, and urban transport. Their respective economic advisors concur that fiscal policy is the principal and most urgent issue to be addressed by the incoming government. It should entail the following measures:

...
At the semi-annual meeting of the International Monetary Fund (IMF) in Washington on 11-13 April, Brazil was diagnosed as experiencing weak confidence. In an interview with Estado de São Paulo published on 14 April, Alejandro Werner, IMF director for the Western hemisphere, said that “the principal challenge for Brazil is that of economic growth.” He cautioned, “With a savings rate of 19 percent, the growth rate expected in the next few years is not spectacular.”

The Fund has reduced its projection of Brazilian GDP growth in 2014 from 2.3 to 1.8 percent. There are nonetheless some positive signs on its economic horizon. Direct foreign investment continues to expand – nearly US$5 million in March – while portfolio investment is also increasing: US$12.2 billion in the first quarter of 2014, against just US$1.5 billion during the same period last year. For Werner, the growth rate is close to its potential (the rate that does not accelerate inflation), and other indicators are also positive: unemployment is low, the services sector performs reasonably well, and credit continues to expand.

Demand also continues to grow, and this guarantees some pressure on prices and on the current account deficit. To grow more, the country needs to invest more and increase productivity, and for this it is essential to improve the business climate. The government’s priorities, according to Werner, should be controlling inflation, restoring the security of public accounts, and strengthening infrastructure.

In an interview granted to the Wall Street Journal, Brazilian Central Bank president Alexandre Tombini, who also attended the IMF meeting, dwelt on controlling inflation. The weekly Central Bank survey Focus, canvassing 100 financial institutions in early May, foresees an IPCA inflation index of 6.47 percent at the end of this year – very close to the center of the inflation target of 6.5 percent. The financial analysts polled predicted 6 percent inflation in 2015.

As José Viñals, director of the IMF Monetary Capital Markets Department, remarked, when it comes to the economy, “Brazil’s future is in its own hands.”
Infrastructure issues

Logistics let-down
The Brazilian GDP in 2013 was R$4.8 trillion. Some R$923 billion of that figure, 19.23 percent, was spent on logistics. The cost of transporting the agricultural harvest should not exceed 6.2 percent of GDP, but the country’s infrastructure and logistics are severely outmoded, pushing such costs up.

American soy producers spend US$18/ton to ferry their output by waterway to the port of New Orleans, for example, whereas Brazilian producers from the center-west of the country spend US$145/ton to ship from Mato Grosso to the Port of Santos, São Paulo.

An integrated multi-year policy is the key to resolving the problem. Brazil could become a leader in the global supply chain of foodstuffs, but this would require adequate logistical planning.

Strategic expansion at Santos
The Port of Santos, the largest in South America, has seen a steady increase in cargo turnover since the first ships docked at Embraport Terminal and Brasil Terminal Portuário (BTP) last year. It responds to 40 percent of container traffic in Brazil.

Embraport is a joint venture of Odebrecht TransPort, the Coimex Group, and DP World, which belongs to the government of Dubai. It cost R$2.3 billion and can handle 1.2 million TEUs annually.

The multipurpose BTP is a joint venture of Terminal Investment Limited (TIL) and APM Terminals that began development in 2007 and took its first commercial vessel call last August.

Travelling the grain road
On 26 April the Saida Norte, or northern outlet, for grain exports began operations, carrying grain from the center-west and through the Port of Vila do Conde, near Barcarena, in the state of Pará.

Bunge transported 60,000 tons of soybeans by truck along highway BR-163 from Mato Grosso to the transshipment station of Mirituba in the north of Pará – a distance of 1,100 km – and then twice by barges on the Tapajós River to Barcarena – another 1,000 km – for storage and embarkation in cargo ships.

Bunge has invested R$700 million in this intermodal system, which has the potential to export 40 million tons per year through to 2020. The reduction in freight charges in relation to road transport will be 34 percent.

Dredging the ports
The government has spent R$1.6 billion over the last few years on dredging ports to enable them to receive the new generation of ships. According to the Secretariat for Ports, however, lack of maintenance has reduced the ability of the ports to berth cargo ships.

For every centimeter lost in the depth of the channel, each ship will lose the ability to carry eight containers, at a unitary cost of R$24,000.

Resuming passenger rail service
The government plans to resume passenger railway transport throughout the country. To that end, it intends to create a new enterprise, Empresa Brasileira dos Transportes Terrestres (EBTT). The concessions regime has not yet been defined.

Not so high speed train
The high-speed train (TAV) that is supposed to link Rio de Janeiro, São Paulo, and Campinas is unlikely to leave the drawing board before the end of President Dilma Rousseff’s mandate.

The period requested by foreign bidders to make a proposal for TAV expires in August, and the electoral calendar may interfere with this time frame. Minister of Transport César Borges is favorable to the project, but it may see the light of day only under the next government.
Big potential, small investment

The Brazilian Mining Institute (IBRAM) projects total revenue of US$43 billion for the mining sector this year. If confirmed, that would be a significant drop from preceding year, an unusual event in a country used to successive increases in mineral production, from US$5 billion in 2001 to US$53 billion in 2011.

IBRAM diagnoses the primary problem as a lack of investment due to legal insecurity in the sector pending a new mining code. The code is stalled in Congress. Only 15 percent of the country’s mineral resources have been mapped, and investment in research is still modest.

Iron ore set to go

Anglo-American’s Minas-Rio project will cost US$8.8 billion. Of that, US$5.6 billion has been invested so far and R$2.6 billion (US$1.18 billion) has been financed by the National Bank for Economic and Social Development (BNDES). The project is nearly concluded and contains the longest iron ore pipeline in the world, at 525 km.

Vale news

Guinea giveth

In March, Vale notified the US Security and Exchange Commission (SEC) about the possibility of losing US$500 million spent on the rights to exploit the iron ore mines of Simandou and Zogota, one of the world’s richest deposits of the mineral, along with US$2.5 billion already invested in the mines. Guinea had granted the mining giant the concession but, as feared, then cancelled it on 25 April.

And taketh away

The government of Guinea now wants Vale to participate in a tender for Simandou iron ore mine, which has reserves estimated at US$100 billion.

Brazili giveth

By three votes to one, the appellate Superior Court of Justice ruled on 24 April in favor of Vale against the Brazilian government’s demand that profits from subsidiaries in Belgium, Denmark, and Luxemburg, countries with which Brazil has signed double-taxation agreements, be taxed (income tax and CSLL).

And taketh away

The government said it will appeal the decision to the Supreme Federal Court (STF).

Swings and roundabouts

Vale closed the first quarter of 2014 with a net profit of R$5.9 billion, 4.7 percent less than during the same period in 2013. The main cause was an 18.95 percent decline in the price of iron ore, which averaged US$90.52 per ton.

The improved performance of China’s industrial sector and consequent rise in the demand for commodities, however, has pushed up price quotes for the principal non-ferrous metals. Thus, nickel rose 18 percent in April and 32 percent so far this year.

Banking and finance

Fitch doesn’t flinch

Fitch Ratings analyzed the sovereign risk of Brazil on 10 April and decided that it will grant the next government the benefit of the doubt.

Among the obstacles to be overcome are resistant inflation, low levels of growth, reduced confidence in ...
the economy, and the need for fiscal reform. The forthcoming election was considered not to affect the rating, which is BBB.

**FDI climbs high**

Foreign direct investment rose to R$8 billion in March and has been rising ever since. This information was supplied on 16 April by Central Bank president Alexandre Tombini to the Council on Economic & Social Development (CDES), an advisory body to the president.

Foreign capital inflows into fixed income papers so far this year are US$11.643 billion, the highest volume in 16 years. The high Selic interest rate, which today is 11 percent per annum, has made it attractive for foreign investors to acquire Brazilian public debt papers.

**Beating the bushes**

The National Bank for Economic and Social Development (BNDES) on 15 April launched an investment program of R$3 billion with a view to stimulating the funds that acquire stocks in Brazilian enterprises. BNDES will earmark R$2 billion for private equity and venture capital over the next two years and will also seek investments in infrastructure funds, particularly those involved in greenfield projects.

The participation of BNDES will be 20 percent for private-equity enterprises and up to 4 percent for those at an initial stage of development (venture capital).

**Getting bullish on Brazil**

Pacific Assets Management Company (Pimco) now says that it is more optimistic with regard to Brazil than it was three months ago. Pimco CEO Bill Gross remarked that the country was no longer the favorite among emerging economies, but another senior executive, Mark E. Kiesel, and five company credit analysts visited Brazil in March and met with government representatives, local investors, and the management of 16 large Brazilian enterprises. They left Brazil quite bullish.

**The price of investment**

According to the Ministry of Finance, it became cheaper to invest in Brazil from 2012 to 2013: the relative price of investment dropped 2.6 percent, and from a peak in 2004 has fallen nearly 14 percent. Fixed gross capital formation last year was 18.5 percent.

**Burgeoning borrowing**

Brazilian banks are accelerating their borrowings on the local capital market. Papers closed in March with R$1.16 trillion, an expansion of 18.5 percent in the last 12 months.

**Banking on profits**

The net profit of Brazil’s four largest banks added up to R$11.6 billion in the first quarter of 2014, an 8.8 percent increase year on year. The reason lies in greater spreads and good assets. Nevertheless, the expectation is for a slower expansion of credit from private financial institutions.

**Santander confident on Brazil**

The largest bank of Spain, Banco Santander, on 30 April made an offer to acquire the remaining 25 percent stake in its Brazilian subsidiary, Banco Santander (Brasil) from minority shareholders. If all the minority shareholders accept the offer, the deal will be worth US$6.5 billion.

The shareholders of Santander Brasil will get 0.70 shares of Banco Santander for every Brazilian Depositary Receipt (BDR), or ADR, a 20 percent premium to Santander Brasil’s closing price on 28 April.

**Regional re-insurance pole**

Brazil is about to become a regional pole for the re-insurance industry in Latin America. The re-insurance segments of BTG Pactual and Allianz banks (the latter being AGCS) and IRB have sought licenses to operate elsewhere on the continent. Amaral (part of Vinci Partners asset management firm) and Terra Brasile has (affiliated with Brasil Plural bank) are studying operations in the region.

**Gerdau offers bonds**

Favorable market conditions have led Brazilian enterprises to raise resources abroad and at the same time manage their debt. Thus, steel mill Gerdau raised US$500 million on 9 April with an offer of senior bonds due in 2044, and also announced plans to exchange all debts for new papers due in 10 years. ...
Mobilizing capital abroad
Caixa Econômica Federal (CEF) has availed itself of renewed interest by foreign investors in assets in emerging economies. On 6 May, CEF made its first capital mobilization abroad this year, with an issue of US$1.3 billion in senior bonds, due in 2019, with an annual yield of 4.32 percent and paying a coupon of 4.25 percent.

Putting off an IPO
Brazilian enterprise Vix Logistics has postponed an initial IPO and seeks alternatives to facilitate its growth. The company had revenues of R$1 billion last year and, pending a new IPO, borrowed R$200 million from the International Finance Corporation (IFC).

Economy in brief
The entrepreneurial class
Valor Econômico on 5 May held its 14th Executives of Value gathering, bringing together in São Paulo the CEOs of 23 leading enterprises from diverse economic sectors.

The event focused on the current realities of Brazil, producing consensus that whoever is elected in October will have to confront the structural challenges of the country, promote political and fiscal reforms, prioritize investments in infrastructure and education, promote industrial growth, incentivize innovation, control inflation, and secure political consensus to bring all this about. A tall order.

In an informal poll of 103 members of the Brazilian entrepreneurial elite, Aécio Neves garnered 70 percent of the vote, Eduardo Campos 16.5 percent, and Dilma Rousseff just 3 percent.

A bill of good intentions
The bill embodying the next Law on Budgetary Guidelines (LDO) was forwarded to Congress on 15 April with a promise from the government to undertake new measures to increase confidence in the economy and help control inflation.

The bill – resembling a letter of intention with respect to a possible second term of President Dilma Rousseff – projects GDP growth of 3 percent and inflation of 5 percent next year. The minimum wage will be R$779.79 in 2015.

Minister of Finance Guido Mantega said on 25 April that his estimate for expansion of GDP this year is 2.3-2.5 percent.

Too much stuff
After the good results the Brazilian manufacturing sector experienced earlier this year, industry has again accumulated stocks of unsold merchandise, especially automobiles, machinery and equipment, apparel, and shoes. So far this year 11 automotive manufacturers have reduced their production because they have 48 days of stock in hand.

Manufacturers are now requesting a further exemption from the tax on industrialized products (IPI), as well as a line of credit for Argentina to buy Brazilian-made vehicles. (On the plus side, Renault will invest R$500 million in the production of two new vehicle models in Brazil.)

In view of the current state of play, the National Confederation of Industry (CNI) has reduced its projection of industrial sector growth from 2 percent to 1.7 percent for 2014.

Investing in industry
The Brazilian Institute of Geography and Statistics (IBGE) on 7 May indicated that industrial production lost 0.4 percent during the first quarter of this year in comparison with the same period in 2013. Nonetheless, it predicts growth of 1.5 percent this year.

The National Bank for Economic and Social Development (BNDES) projects industrial investment to exceed R$700 billion during 2014-17. The Bank surveyed investments last October but has now added R$14.5 billion to its assessment, pushed by the paper and pulp sector. A definitive revision of this projection is still pending and should add a further R$36 billion, raising the total expected investment to R$733 billion.

Boosting iron ore production
BNDES on 15 April approved financing of R$6.2 billion to enable Vale to increase production of iron ore from its mines at Carajás, specifically in the Serra Sul project. The loan from BNDES will finance a little over 15 percent of the investment required – R$37.8 billion.

Big companies, big plans
Odebrecht had net revenue of R$97 billion in 2014, an increase of 16 percent over last year. It is thus now competing with Vale, which had revenues of R$106.2 billion.

And American giant retailer Procter & Gamble plans to invest R$1 billion in Brazil within the next two years to expand production.
Economists give voice

Franco speaks frankly

In its “Challenges 2015” series of interviews with prominent Brazilian economists, O Estado de São Paulo published an interview on 27 April with Gustavo Franco, president of the Central Bank under former president Fernando Henrique Cardoso and one of the authors of the Real Plan. Today he is an investment banker at Rio Bravo.

The essence of his plans for the incoming government lies in fiscal, social security, and labor reform, paving the way for further growth and productivity.

He believes it is important to re-think the state structure and the forms of remuneration of funds maintained by workers’ contributions. A neutral commission should be charged with this task.

Former president Lula da Silva and current president Dilma Rousseff haven’t undertaken any reforms at all, he noted, except lately, with respect to infrastructure concessions. After the Real Plan, Brazil was on the path of industrial integration with the global economy, said Franco, but the Workers’ Party (PT) has reversed the process. The requirement for local content has stifled competitiveness and created a protectionist dynamic.

Franco remarked that the National Bank for Economic and Social Development (BNDES) has trebled in size thanks to loans from the Treasury, but its investments have not followed suit, BNDES is financed with funds from PIS, FGTS, and FAT, but these funds are compensated at a rate substantially below inflation instead of by investment yields.

The next engine of Brazilian growth should be private investment, he believes, through the gross formation of fixed capital. That stands at 18 percent in Brazil today, versus 35 percent in Korea and 45 percent in China. Thanks to a new macro-economic equation, it could reach 25 percent in Brazil.

This would require a new standard of public finance with a low interest rate, low public debt, and an attractive capital market. A market economy is still a dream, Franco declared, but considering the entrepreneurial spirit of Brazilians the economy could be ruled by private capital.

Finally, he drew attention to the marked shift in electoral prospects. The drop in the government’s approval rate produced a strongly positive reaction on the stock exchange – a significant sign.

Fraga on the big picture

Armínio Fraga, president of the Central Bank during the Cardoso presidency, is the chief economic advisor to candidate Aécio Neves. In an interview published in O Estado de São Paulo on 13 April, he outlined his ideas and principles:

- Economic growth depends on a more efficient economy, in which the state does its part. The government has bet on demand, but there is a need for better supply.
- Public expenditure should governed by its relation to GDP, with legal backing.
- It is urgent to restore the “economic tripod” because fiscal policy is losing credibility. The primary surplus must be transparent, managed prices ought not to be controlled, and inflation must be made to meet its target.
- The tax system should be simplified.
- Social programs are fundamentally important.
- Brazilian foreign policy should be re-thought.

Petrobras under fire

In a Senate hearing lasting over six hours on 15 April, Petrobras CEO Maria Graça Foster acknowledged that the purchase of the Pasadena refinery in Texas was not a good deal, and that there was “a low probability of recovery.”

As part of an investigation of various scandals at Petrobras, a report from the public prosecutor of the Federal Court of Accounts (TCU) recommended that the board and higher management the company be held responsible for losses incurred by the purchase.

That would involve President Dilma Rousseff, who chaired the board of the company at the time of the Pasadena acquisition. In an interview published in O Estado de São Paulo on 20 April, the former president of Petrobras, José Sérgio Gabrielli, declared that Rousseff cannot shirk her responsibilities in this regard. ...
His statement was greeted with glee by the political opposition, but the government viewed it as part of his personal defense strategy.

On 21 April, through Aloísio Mercadante, her chief of the Civil Cabinet, Rousseff refuted Gabrielli’s statement, saying that she had already assumed responsibility for the board’s decision, albeit based on a deficient executive summary. She also extolled the merits of Workers’ Party management of Petrobras.

The opposition, and in particular Senator Aécio Neves, said that Gabrielli’s statement had reinforced the need for a Parliamentary Commission of Inquiry (CPI) into the circumstances of the case.

On 23 April, Justice Rosa Werber of the Supreme Court ruled in favor of the opposition and confined the scope of the CPI to the Pasadena acquisition. Senate president Renan Calheiros claimed he would appeal the decision to the full court. The government had wanted to extend the scope of the inquiry to other issues involving opposition governors.

Under pressure from the opposition and Brazilian Democratic Movement Party (PMDB) in the Chamber of Deputies, Calheiros decided to install the Mixed Parliamentary Commission of Inquiry on Petrobras on 8 May. The political base of the coalition also managed to install another CPI, to investigate irregularities regarding the São Paulo subway.

Rousseff asserted that she does not fear any investigation. She has charged the opposition with undertaking a negative campaign against Petrobras, and at the launch of an oil tanker in Ipojuca, Pernambuco, devoted 30 minutes of her speech to the defense of the company, declaring that she will not tolerate any illegality. …

Petrobras news

Searching the paper trail
The Federal Police are searching Petrobras for a R$443.8 million contract that benefited Ecoglobal Ambiental enterprise and former director Paulo Roberto Costa, who is in jail.

Not so local content
In spite of a national policy to improve Brazilian industry through local content requirements, Petrobras has decided to transfer the construction of four buoys in the Santos basin to Chinese shipyard Qingdao Wuchuan Heavy Industry (QWHI), to ensure the timely E&P of pre-salt oil. The buoys will service two FPSOs in the Santos deep sea oil field.

QWHI is the main offshore base in the China Shipbuilding Industry Corporation (CSIC) group. The contract between Petrobras and CSIC was signed in February and may entail the loss of 5,000 Brazilian jobs.

New fertilizer plant
President Rousseff on 3 May laid the foundation stone of a new Petrobras fertilizer factory at Uberaba, Minas Gerais. The plant requires an investment of R$1.95 billion.

Voluntary severances
Consistent with CEO Maria Graça Foster’s plan to reduce expenditures, Petrobras on 5 May announced that 8,000 of its 85,000 employees had signed on to the Incentive Plan for Voluntary Severances (PIDV), launched in January. The severances will generate savings of R$13 billion over the next four years. The ultimate goal of the program is to save R$37.5 billion.
Neves responded by suggesting that the concessions model for infrastructure projects be applied to Petrobras, as indeed it was through to 2008, when the regulatory framework for pre-salt began to be developed.

**Petrobras versus ANP**

Petrobras took the most unusual step on 25 April of entering a request for arbitration against the National Petroleum, Natural Gas, and Biofuels Agency (ANP) before the International Arbitration Court of the International Chamber of Commerce (ICC) in Paris.

Petrobras had requested the division of the Lula pre-salt subdivisions in the Santos basin – Lula and Cernambi – into two fields in 2011, but it was twice denied by the ANP and the differences proved irreconcilable.

ANP entered a suit in Federal Court on 5 May to try to nullify the request for arbitration before the ICC, arguing that the possible annulment of its decision would result in smaller special participation fees.

Petrobras also suffered another setback in its dispute with ANP over royalties. The agency had decided on 5 February to unify seven oil fields in Whales Park, in the northern part of the Campos basin, alleging that the fields were part of the same pre-salt formation. Petrobras appealed the decision, and the appeal was again denied.

As a result, Petrobras will have to pay R$2.5 billion per year in participation fees. The case is similar to that of the Lula pre-salt field. If Petrobras succeeds in dividing the field in two, it will owe R$30 billion less to the government over the period of the concession.

In other ANP news, on 23 April, the agency adopted new operational and environmental security standards for drilling non-conventional reservoirs.

**Oil & gas in brief**

**More wells for OGPar**

OGPar, formerly OGX and founded by Eike Batista, will have two more wells, producing 16,000 b/d by 2014Q3. The wells are located in the Tubarão Martelo field in the Campos basin. At the OGPar general shareholders’ meeting held on 2 May, Batista was re-elected to chair the board.

**Sete set to go**

Sete Brasil – a company in which Petrobras has a 5 percent direct interest and another 4.3 percent in its FIP Sondas investment fund – has built 29 offshore drilling platforms, estimated to be worth US$25.5 billion, and is ready to become operational. It has scheduled delivery of the first platform to Petrobras in June 2015.

To mark the occasion, Sete Brasil president João Carlos Ferraz will be replaced on 9 May by Luis Eduardo Carneiro, former president of OGX, now OGPar. He has ample operational experience.

**Biofuels news**

**Sticky times for the sugar sector**

Sugar and ethanol company São Martinho Group announced on 5 May that it had taken over control of the Santa Cruz plant in Américo Brasiliense, São Paulo, by purchasing 56.05 percent of the company in addition to the 36.09 percent it has held since 2011. The purchase price was R$305.8 million, in addition to assumption of a debt of R$363.4 million.

The resulting synergy is expected to save the group R$40 million per annum over the next seven years. The sugar and alcohol sector in the center-south of Brazil is undergoing a crisis, so much so that 20 percent of its capacity is for sale.

**Matching crop and capacity**

Marcelo Odebrecht, president of Odebrecht Group, said on 7 May that the enterprise intends to adjust the capacity of its sugar and alcohol plants, concentrated in the subsidiary Odebrecht Agroindustrial, to make it more efficient.

It has installed capacity to process 35 million tons of sugarcane, while only 22.5 million tons has been effectively utilized from the 2013–14 harvest, which concluded on 31 March. The first concrete measure is to slow down the expansion of sugarcane plantations.
Antarctic protection

On 25–27 April, Brasília hosted the 38th Antarctic Treaty Consultative Meeting, bringing together representatives of 29 countries that are parties to the Antarctic Treaty of 1961. The meeting focused on protection of fauna and flora and environmental conservation.

One of the principal topics addressed is the large number of tourists – about 32,000 last year – who have been causing environmental damage to the region.

Electricity sector

Nothing in, nothing out

Thermo-electric plants at Cuiabá, Mato Grosso, and Uruguai, Rio Grande do Sul, have not received their supplies of natural gas since the beginning of April, and as a result have stopped generating 30 MW on average. The total hydro-electric deficit may reach R$20 billion this year.

A study by the National Operator of Electric Power System (ONS) indicates that 20–30 percent of the potential generation of thermo-electric plants remains untapped, due partly to the lack of fuel and partly to technical operational difficulties.

On 21 April, for instance, 4,726 MW was unavailable, enough to supply a city with 12 million inhabitants. Brazil today has installed capacity of 21,799 MW but this volume is seldom available.

Netting a big fish

On 12 April, Energisa, a family-run electric power company based in Rio de Janeiro, bought the Rede Group for R$3.2 billion. The acquired company is three times larger than the purchaser and has eight distributorships.

Building plants, but slowly

Constant delays in the construction and delivery of hydropower, windpower, and thermo-electric power plants have led Brazil to miss out on 3,000 MW of power generation. According to the Enterprise for Energy Planning (EPE), Brazil needs to add about 6,000 MW per year to the power system, but 71 plants have been delayed.

Lending to power distributors

Thirteen banks will lend the R$11.2 billion needed by electric power distributorships to the Chamber for the Marketing of Electric Power (CCEE), subject to the approval of the Brazilian Electricity Regulatory Agency (ANEEL). The government is seeking to obtain the best possible terms for the loan.

An emergency auction held on 30 April by ANEEL attempted to reduce the losses that electric power distributorships have suffered by up to R$30 billion. The auction met 85 percent of the identified need at a price of R$262 per MW/h, instead of the R$822 MW/h the distributors had been paying on the spot market for energy. The government estimates that this will generate savings of 3,300 MW.

Pushing solar power

The government expects to hold its first auction of solar energy by October. According to the Enterprise for Energy Research (EPE), the bidders will be enterprises interested exclusively in the solar sector.

Relatedly, a large photovoltaic cells plant will start operations in May in Santa Catarina as a joint venture between Tractebel and the State University.
Going nuclear
The government is reviving its interest in thermo-nuclear production. It plans to establish four new plants in the northeastern region, each with 1,000 MW capacity. This is in addition to the ongoing construction of the Angra 3 plant in the state of Rio de Janeiro.

Conserving water
The government wants to cut water consumption in order to maintain reservoir levels. The National Operator of Electric Power System (ONS) rejects rationing but proposes that flow reduction, already in force for the hydropower plants of Sobradinho and Três Marias, be extended to other reservoirs in the southeast and center-west.

Building hydropower
The government’s main plan to increase hydropower generation lies in constructing the São Luis do Tapajós plant, which has a planned capacity of 8,000 MW and will cost R$18 billion to build. An environmental impact report will be delivered to the Brazilian Institute of Environment and Renewable Natural Resources (IBAMA) in May, and the government still expects to tender the project this year.

Blowing in the wind
Eletrosul, a subsidiary of Eletrobras, is investing R$3.3 billion in two wind energy parks that will come on stream in 2016 in the state of Rio Grande do Sul. They will have a combined 583 MW of installed capacity.

Connecting wind energy
The Companhia Hidro-Elétrica do São Francisco (CHESF), a subsidiary of Eletrobras, is its operational arm for the northeast. It is also the country’s largest generator of electric power. It will now prioritize the transmission sector, focusing on the interconnection of wind energy parks and the integrated national electric power system.

Where does Rousseff stand?
According to a Vox Populi poll on 16 April, President Dilma Rousseff would be re-elected on a first ballot with 40 percent, versus 16 percent for Aécio Neves and 8 percent for Eduardo Campos.

A poll commissioned by the National Transport Confederation (CNT) and released on 29 April, however, showed that approval of the government has dropped from 36.4 percent in February to 32.9 percent now. The president’s personal performance rating has reached its lowest level in her tenure, 47.9 percent.

There has for some time been a campaign for former president Lula da Silva to run in 2014 instead of Rousseff – with the slogan “Return, Lula.” Now that Rousseff is convinced Lula will not be a rival candidate, however, she has set out a program that differs from his.

He has himself told Rousseff that after four years in power it is she, not he, who must now convince voters to re-elect her and must defend the government against increasingly widespread criticism.

On 29 April Rousseff gave a press conference in which she said, “Nobody will separate me from Lula or him from me.”

Promoting a position
At the same press conference, she was at pains to stress that the FIFA World Soccer Cup will have no impact on her re-election. She also emphasized that foreign delegations will have total protection. Street protests won’t occur, she declared – but if they do, it’s part of the democracy.

The president also commented on another thorn in her side, insisting, “I don’t lose sleep about Petrobras” and asserting that its problems have stemmed from errors made by officials, as also happens in private ...
in enterprises. In 30 years, she remarked, Petrobras will be the world’s largest enterprise in the petroleum sector. She called political reform inevitable but suggested that it must be a result of popular consultation, not imposed from above.

On inflation, Rousseff declared that Brazil worries too much. During the Fernando Henrique Cardoso government in 2003 it reached 12 percent, but now stands at 6.2 percent. The president suggested that Brazil is in the process of economic recovery, like China, the United States, and Europe to an extent. The US recovery is important, she said, and has benefited Brazil directly.

Rousseff also drew attention to the government’s More Physicians program, which she said would provide medical care to 45.6 million people.

Finally, she noted that President Barack Obama had apologized to her for American espionage but indicated that she is in no hurry to travel to the United States.

On 30 April, the eve of Labor Day, Rousseff also made an address to the workers of Brazil, broadcast nationwide on television and radio. She attacked the opposition and announced several positive measures, such as a 10 percent boost to the Bolsa Família program and adjustments to income tax.

She pledged to continue a “policy of change” to protect workers’ incomes and jobs, and to make an implacable attack on corruption, especially in Petrobras.

**Plums and posts**

The election will take place on 5 October, and Rousseff is so engaged in her campaign that she has resorted to the old political ploy of awarding prestigious public jobs to members of other parties in her coalition in order to cement their alliance. Thus, on 5 May she appointed Luiz Rondon Teixeira de Magalhães Filho, the first treasurer of the Brazilian Labor Party (PTB), as corporate vice-president of the Caixa Econômica Federal (CEF).

She has also made Marcelo Nery, who had been interim secretary for strategic affairs for the presidency, the definitive holder of that position.

It was expected that, if re-elected, Rousseff would appoint Alexandre Tombini, president of the Central Bank, to replace Guido Mantega as minister of finance. Recent political events, however, suggest that this transition could take place earlier. If so, Tombini would be assured of his re-appointment if Rousseff is re-elected.

Tombini would be the first finance minister since 2007 without an organic link to the Workers’ Party (PT). Speculation is rife, but the name at the top of the list to succeed Tombini at the Central Bank is now Luiz Arwazu Pereira, its director for international affairs.

**Campos versus Neves**

On 13 April, Eduardo Campos of the Brazilian Socialist Party (PSB) named former senator Marina Silva of the Sustainability Network (Rede Sustentabilidade) as his running mate. Silva received 20 million votes in the 2010 election, and Campos is betting on her votes being transferred to the joint ticket. They will also have joint candidates for governor in 13 states out of 27.

Campos is trying to differentiate himself from Aécio Neves, influenced largely by Silva – for whom PSB too closely resembles the old-style Brazilian Social Democracy Party (PSDB).

That said, Neves and Campos spoke at an entrepreneurial meeting in Comandatuba, Bahia, and agreed on almost everything, including a proposal to end re-election. Marina Silva, however, criticized Neves for failing to commit himself to continuing Lula da Silva’s social achievements.

On 1 May, Labor Day, Neves and Campos again shared a podium, this time in São Paulo and sponsored by the labor group Força Sindical. Both attacked the government’s policy on inflation. …
Neves has gained in popularity over Campos, who has lost potential votes with his timid positions. At a recent agricultural fair in Uberaba, for example, Neves promised agribusiness executives “unpopular measures” but nevertheless gained popularity in the sector. It is clear that Brazilian agribusiness is opposed to the Workers’ Party (PT) and unsure about PSB.

Politics in brief

Withdrawing from the coalition

The leader of the Party of the Republic (PR) in the Chamber of Deputies gave a press conference on 26 April to complain about the government’s inattention to the demands of parliament and announce his party’s rupture with the coalition supporting President Dilma Rousseff.

Workers’ Party meeting

The Workers’ Party (PT) used its 14th national meeting, held in São Paulo on 2–3 May, to “review” Dilma Rousseff’s candidacy in the face of a growing clamor for Lula da Silva’s return. PT produced a program of action for its next president, coordinated by Marco Aurélio Garcia, the special advisor to the president for international affairs. The document was approved at the meeting.

Guidelines presented to the meeting specifically attacked proposals made by rival candidates Aécio Neves and Eduardo Campos, such as operational autonomy for the Central Bank.

The guidelines also proposed further public–private partnerships (PPPs) and a third phase for the Program to Accelerate Growth (PAC3). At the meeting, PT warned the business community that opposition candidates will adopt recessive polices.

Defense issues

Super-charged Embraer

Embraer is doing well. The company registered an 87 percent increase in revenues in 2014Q1, garnering R$931.4 million. It is on schedule to deliver the first Super Tucano aircraft to the United States Air Force in mid-2014.

Aerospace investment

The National Bank for Economic and Social Development (BNDES) has joined forces with Embraer and other enterprises to form a Fund for Investment in Participations (FIP), specifically focused on the Brazilian aerospace industry.

FIP Aerospacial will start with R$131.3 million, to which Embraer will contribute R$40 million. Financiadora de Estudos e Projetos (FINEP), the federal Funding Authority for Studies and Projects, will contribute R$10 million and the Agency for Development of São Paulo State (Desenvolve São Paulo) another R$10 million. The manager of FIP is Portbank, which will contribute R$1.3 million.

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VEIRANO ADVOGADOS

Dispute Resolution…
Internet bill becomes law

By Fábio Pereira, Information Technology and Intellectual Property, Veirano Advogados

On 23 April, during the launch of NETMundial, the Global Multistakeholder Meeting on the Future of Internet Governance, President Dilma Rousseff sanctioned the bill that creates the Internet Legal Framework. The bill had been debated in the House of Representatives on the basis of constitutional urgency since September 2013 and was approved by the Senate without changes. Law no. 12,965/14 will come into force in late June.

The new law affects net neutrality, freedom of speech, the liability of providers for user-generated content, privacy, and the retention of logs.

A number of important aspects of the law will affect the day-to-day operations not only of companies based in Brazil or having a subsidiary in the country but also companies based abroad that deal with Brazilian internet data.

Net neutrality
The law creates the concept of net neutrality, expressly requiring equal treatment of data packages within Internet traffic. The exceptions are still to be detailed, which gave rise to debates in the House of Representatives plenary session.

The principle of neutrality stipulates that companies shall not be allowed to determine access based on content. Although they can continue to offer different packages, with different access speeds and data volumes, they cannot prioritize specific services or applications in prejudice of others.

Possible exceptions may prioritize emergency services, public security, and other matters of national interest – and may be related to the technical feasibility of service provision – but are not permitted to benefit companies and clients. The Brazilian National Communications Agency (ANATEL) and the Internet Steering Committee (CGI) will be consulted with respect to the regulation of exceptions.

Privacy
The new law is imbedded with sections and provisions intended to guarantee the privacy of users and the protection of personal data, all in consonance with the Federal Constitution, the Consumer Defense Code, the Copyright Bill of Law, and Decree no. 7,962/13, which regulates electronic commerce.

The use of a user’s data must be clearly explained by companies that provide services to the user via the Internet, including future or third-party use of the data. This is applicable even to companies based abroad that market their products and services to Brazilian customers over the Internet without a local presence.

According to the law, any contracts that restrict access to the judiciary shall be deemed null, reinforcing the applicability of the Consumer Defense Code to such online relationships. Furthermore, content providers such as social networks and others must keep access logs for six months and are not allowed to retain any data related to those occurrences of access.

Freedom of expression and liabilities
Companies that operate in the digital world will now be backed by a higher degree of legal certainty. The new law assures freedom of speech, clarifying the consequences of violations of rights by third parties.

Internet services (or access) providers shall not be held responsible for user-generated content. The content (or application) provider shall be held accountable only if it does not comply with a request to withdraw offensive content within a determined timeframe when notified by a court.

The exception – in which notification can be solely...
by the offended party or representative, without the requirement of a court order – is assured in the specific cases of images of nudity or sexual acts.

The application of the general rule to content protected by copyright will depend on the issuance of a specific statute: the much-awaited new Copyright Act. It will follow the principles of the Federal Constitution and assure freedom of speech.

**Data retention**
The new law also establishes that Internet service providers – the companies responsible for providing Internet access to users – shall keep users’ connection logs for one year, in confidence and in a controlled environment.

The purpose of such measure is to enable the identification of users who commit crimes in the online space, provided that the data may be requested only by a court order, police authority, or the Public Prosecutor’s Office.

Access providers are personally responsible for such retention, and this obligation cannot be assigned to third parties.

**Data centers**
A previous version of the bill contained an express requirement for the creation of data centers within the country and the corresponding retention of data from Brazilian users in Brazilian territory. This requirement was removed from the final version.

One of the primary objectives of the previous bill was to allow quick access to offenders’ data – which must still be stored.

Another objective was to promote business in the Brazilian technology sector. Technical difficulties in establishing the data center infrastructure, however, as well complaints from certain market sectors, led Congress to reconsider the requirement. Companies will not be required to invest in such infrastructure in Brazil, as long as the data are accessible if judicially required.

**The verdict**
The law still has to be regulated by presidential decree, and any possible gaps, gray areas, or sections with the potential to lead to misunderstanding are likely to be clarified.

Already, however, it is considered to be ground breaking and innovative, bringing certainty to relations established over the Internet. In the words of World Wide Web inventor Sir Timothy Berners-Lee, the law “reflects the Internet as it should be.”

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**Legal issues**

**Taking evidence**
Brazil on 9 April signed the Hague Convention on the Taking of Evidence Abroad in Civil or Commercial Matters, already signed by 57 countries. Once ratified, the convention will facilitate the securing of evidence beyond Brazil’s borders. It will now be sent to the Congress for its approval.

**Disparaging the judiciary**
Former president Lula da Silva gave an interview to RTP, Portugal’s radio and television broadcaster, in which he said that the *mensalão* judgment was “80 percent political and 20 percent judicial.”

On the day after his comments were published, Supreme Federal Court Chief Justice Joaquim Barbosa vehemently rejected the statement, which he said disparaged the court. Other justices of the Supreme Court, as well as Attorney-General Rodrigo Janot, likewise repudiated the former president’s statement.

**Off to prison you must go**
Chief Justice Joaquim Barbosa decided on 30 April that the former president of the Workers’ Party (PT), José Genoíno, must report to prison within 24 hours. He had been sentenced together with 11 other defendants in the context of the *mensalão* trial, but in November Genoíno was taken to a hospital and then to his home, under detention.

On 21 April, a medical council testified that his health now permitted imprisonment under light conditions.
Based on this medical opinion, Barbosa ordered his incarceration.

**You win some, you lose some**

Demands against the government embodied in already adjudicated lawsuits are listed as “fiscal risks” in a rider to the Law on Budgetary Guidelines (LDO). This year they amount to R$909 billion, a 31 percent increase year on year.

In addition, precatórios, i.e., amounts payable pursuant to lawsuits already lost by the federal Union, will add up to R$14.7 billion over the next three years.

That said, in 2013 the federal Union for the first time won more lawsuits than it lost – 51 percent. This year it expects a small rise to 51.3 percent wins.

**Social issues**

**Statistical crisis**

The Brazilian Institute of Geography and Statistics (IBGE) is the government’s statistical agency and is responsible for, among other things, the National Survey by Domicile Sampling on a Continuing basis (PNAD Contínua), the results of which were announced on 11 April.

A deep crisis arose in the institution, however, when the release of the survey data was suspended. The coordinators of fundamental research items, such as those determining the official rates of inflation and unemployment, resigned from the IBGE steering committee along with other members.

On 5 May, the IBGE governing council reversed itself and unanimously decided to resume publishing the results of the national research, thus putting an end to the matter.

**Struggling with soccer**

The government has announced that it will invest in a strong media campaign to promote the FIFA World Soccer Cup and the benefits it will bring to Brazil. The obvious implication is that the government is afraid of protests and popular demonstrations against the Cup and its excessive cost to the taxpayer.

Support for the event dropped from 79 percent in 2008 to 69 percent in 2013, and is now at 48 percent.

**Youth employment**

President Dilma Rousseff in 2011 launched the National Program for Access to Technical Education and Employment (PRONATEC) for youths from 14 to 29. The operations of PRONATEC are the responsibility of states and municipalities, and the program is planned to extend to 4,200 towns by the end of this year.

Rousseff wishes to transform the program into one of the battlehorses of her re-election campaign. Consequently, the government will increase its investment in the program by 40 percent this year, to R$5.3 billion.

The number of new job vacancies in March was the lowest in the last 15 years, according to the Ministry of Labor and Employment.

**Bad report card**

The Organisation for Economic Co-operation and Development (OECD) is responsible for the Programme for International Student Assessment (PISA), which gauges the skills and knowledge of 15-year-olds in 44 participating economies, as well as evaluating education systems more generally. This year it produced a highly critical assessment of the performance of Brazil.

**Helping refugees**

Haitian refugees have been entering Brazil in large numbers through Bolivia, Colombia, and Peru in search of shelter and jobs. They found asylum in the state of Acre, which is one of the poorest in the country and lacks social services to offer them. As a result, they have been sent to São Paulo, which has better facilities but cannot cope with the sudden inflow.

The unemployed Haitians have been provisionally housed in a church, but both the mayor of city and the governor of the state are protesting, and the federal government, through the Ministry of Labor, is giving emergency support to the refugees.
Diplomatic briefs

Time to go home
Ten years after taking over command of the United Nations Stabilization Mission in Haiti (MINUSTAH), which has cost it R$2 billion, the Brazilian government is indicating that it is time to end this commitment. Minister of Defense Celso Amorim said that Haiti needs to ensure its own security.

Discovering the truth
The National Truth Commission (CNV) travelled on 21 April to Santiago to investigate the close collaboration between the Brazilian and Chilean governments in 1964, under their respective dictatorships.

The Commission is not obliged to disclose everything it discovers. It may choose to reveal information only to the president and the minister of defense.

Ratifying international agreements
Brazil has quite a backlog of signed but unratified international agreements of all kinds. At last count, there were 313 such agreements, of which 47 have been submitted to Congress for approval, and three are pending in the Senate, all of them from this year.

Senator Luiz Henrique has proposed a constitutional amendment requiring approval of international agreements by the Senate alone, though this has been watered down somewhat to apply only to matters of constitutional urgency. The amendment was passed by the Senate but is still pending approval by the Chamber of Deputies.

Argentina holds back
A Mercosur meeting held in Montevideo in the last week of April failed to produce agreement on a joint offer to the European Union, largely due to Argentinean reluctance. The next meeting will be held on 11 May in Caracas.

Praise for Unasur
Brazilian Minister of Foreign Affairs Luis Alberto Figueiredo said on 7 May that Unasur has, through dialog between the government and the opposition in Venezuela, significantly reduced violence in the country. In a public hearing before the Chamber of Deputies, he praised the negotiating capacity of the body.

Cutting back on travel
President Rousseff will this year reduce the number of heads of state she receives in Brasilia and meets abroad.

For one thing, she has cancelled her state visit to the United States.

International trade in brief

Going after Japan
Japan awards subsidies for the production of aircraft to Mitsubishi. Brazil and China believe that this practice distorts the market and hampers the sales of Embraer aircraft produced in China. The two countries have launched a complaint at the World Trade Organization.

Trading with China
Chinese president Xi Jin Ping will make a state visit to Brazil in June. Brazil wishes to use the opportunity to extract some concessions on international trade, …
while the Chinese government argues that any increase in exports from Brazil to China depends on Brazil rather than on China.

The Chinese president’s visit was preceded by that of Minister of Foreign Affairs Wang Yi in late April. He was received by President Dilma Rousseff and six ministers.

Brazil now wants Chinese investments in railway infrastructure. The president of the National Bank for Economic and Social Development (BNDES), Luciano Coutinho, will travel to China in May in order to discuss financing mechanisms to the railway sector and investment projects on the transfer of technology to Brazil.

The Chinese have also manifested interest in increasing oil and gas imports from Brazil. On the agricultural front, it wishes to make Brazil an alternative to the United States as a supplier of corn.

Mutual smiles will not be enough to consolidate the trade relationship between Brazil and China. It is hoped in Brasilia that Chinese purchases of Brazilian products will expand beyond mere commodities.

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