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VEIRANO ADVOGADOS' REVIEW OF ECONOMIC, LEGAL, AND POLITICAL DEVELOPMENTS

MAY/JUNE

VistaBrazil

2019



PHOTOGRAPH: PXHERE.COM

You're either with him or against him: Protestors divide on Bolsonaro

Following massive protests against the Jair Bolsonaro administration's announced education cuts, the president took to social media to endorse – though not explicitly participate in – plans for pro-government rallies.

Hundreds of thousands of students, teachers, and staffers at public and private educational institutions had taken to the streets in mid-May in more than 200 cities to protest against a cut of more than US$1.4 billion (23 percent) to the Ministry of Education's discretionary budget. Bolsonaro dismissed them as "imbeciles" who were "manipulated" by a minority that control federal universities. (He has since backed away from the characterization, suggesting that he overreacted.)

Relatively modest pro-government demonstrations then took place later in the month in at least 100 cities across the country. Bolsonaro considered participating but was reportedly advised not to attend. He did nevertheless take the opportunity to tweet videos of the turnout.

The president had good reason to be wary of a too-close association with the rallies. Along with expressing support for him, some participants at the pro-Bolsonaro demonstrations urged that Congress and the Supreme Court be shut down.

Their demand is a reflection of right-wing frustration at a legislature that is proving largely uncooperative over ...

MAY/JUNE 2019 · VOLUME 08 · NUMBER 03

VEIRANO ADVOGADOS

VistaBrazil is published bi-monthly
Produced by Blakeley Words+Pictures
Writer/editor: Camilla Blakeley

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VistaBrazil is sponsored by Veirano Advogados
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the policy agenda. The demonstrators want Congress to pass the government's pension reform, its anti-crime package, and legislation bestowing the right to own and carry guns.

Congress is indeed stalling the government – but with some provocation. With a legislature comprising about 30 parties, in Brazilian politics the only way to get things done is by getting along. In other words, a president has to form alliances and build a coalition. This Bolsonaro has not done, calling Brazil "ungovernable" and saying that he refuses to engaged in quid pro quo deals.

On 24 May, Economy Minister Paulo Guedes went so far as to threaten to resign if lawmakers diluted his pension reform proposals with amendments – which is, after all, part of its job.

Chamber of Deputies Speaker Rodrigo Maia has said his relationship with the government's whip is "beyond repair," according to the *Brazil Report*, and in an interview with *O Globo* newspaper on 3 June remarked that the country is moving toward "social collapse" under the new government.

Earlier in his political career, Bolsonaro declared that he would close Congress if he were ever president, but he has recently asserted he doesn't support calls to close institutions.

In fact, as the pro-government demonstrations took place, the president advocated a pact between the three branches of government in order to approve economic and social reforms.

In an interview on 26 May, he said that he planned to speak to Speaker Maia, Senate president Davi Alcolumbre, and Supreme Court Chief Justice Dias Toffoli about coming to an agreement on the government's proposals. Acknowledging his own role in the current deadlock, he declared that the leaders of the three branches were essentially in "harmony" but needed to talk more.

Shortly afterward, the government announced a so-called national pact between the three branches of government, but it is not clear if it will hold. In his 3 June *O Globo* interview, Maia implied that the announcement had been misleading. He indicated that the pact was a principle rather than a specific proposal, and noted that he cannot sign any proposal without majority support in the Chamber.

Additionally, apart from continued resistance in the legislature, the National Association of Judges has …



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PHOTOGRAPH: GAGE SKIDMORE/WIKIMEDIA COMMONS

It's difficult to avoid parallels between Bolsonaro's encouragement of pro-government rallies and US president Donald Trump's taste for staged support

rejected the idea of linking the Supreme Court to a political agenda.

Despite his new focus on accord, it's difficult to avoid parallels between Bolsonaro's encouragement of pro-government rallies just five months into his term and US president Donald Trump's taste for staged support. Some pro-government protestors in Rio called for military intervention. Further, defenders of the so-called Trump of the Tropics have shown a frequent willingness to demonize the media, which they see as out to "destroy" their man.

The tendency of the Jair Bolsonaro's supporters to blame the judicial and legislative branches – and the fourth estate – when the executive is unable to assert its will is disturbing.

It is also a symptom of the social polarization Brazil is experiencing under the Bolsonaro government. On 29 May, students, teachers, and other advocates took to the streets again to protest the cuts to the federal education budget. While smaller than the 15 May demonstrations, the protest drew supporters in 135 cities across 26 of 27 states.

In response, the Education Ministry released a statement encouraging public denunciations – via a link on its own website – of teachers, students, and their parents who "stimulate" protests during school hours by publishing photos or information about the demonstrations.

The move seems ironic, given the president's own tweeting of pro-government protest images.

Further, the federal Public Prosecutor's Office filed a civil action against Education Minister Abraham Weintraub and the federal government on 30 May for collective moral damages, on the grounds that since he took over the portfolio in April, the minister's speeches have contained "hateful discrimination directed at representatives of the student movement."

The deputy prosecutor general also declared that the ministry's attempted clampdown was unconstitutional.

At worst, the use of a big stick seems verging on totalitarian. At best, it seems like a counterintuitive way to let a protest movement dissipate.

Economic snapshot

Economy contracts

On 30 May, the Brazilian Institute of Geography and Statistics (IBGE) posted first-quarter results for 2019. The news is not good. GDP fell 0.2 percent compared to the last quarter of 2018, the first quarterly decline since 2016. This is on the heels of economic growth of just 1.1 percent in 2017 and 2018.

Investments in infrastructure, housing, and machinery dropped for the second quarter in a row. The construction sector is almost 30 percent below the level it had reached before the 2015–16 recession. And industrial and agricultural output fell over the quarter, as did exports.

What's more, most economic growth forecasts for 2019 are now under 1.5 percent, according to a survey of more than 80 economists published in the Central Bank's mid-May *Focus* report. (The Brazilian government's own estimate is 1.6 percent.) A month earlier, GDP was predicted to end the year at 1.95 percent. Next year's GDP is still forecast to grow 2.5 percent, though that estimate is regularly revised.

Economy Minister Paulo Guedes downplayed the 2019Q1 results, calling them expected and noting that a rebound would surely follow the implementation of economic reforms. ...

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Commercial Contracts...

Nonetheless, he mooted the idea of allowing workers to withdraw money from a severance fund (FGTS) and social security contributions (PIS/PASEP), in order to give a fiscal boost to the economy – a temporary remedy and one that wouldn't address deeper structural weaknesses.

Some of the disappointing result can be laid at the door of discrete recent developments: a poor agricultural crop, a drop in iron ore shipments because of major accidents in the mining sector – the sector experienced a 6.3 percent decline from 2018Q1 to 2019Q1 – and a recession in Argentina that is denting Brazilian exports.

On the plus side of the economic ledger is rising foreign direct investment, a benchmark interest rate still fixed at 6.5 percent, and inflation that, though up in recent months, is still below 5 percent.

According to the IBGE, consumer price inflation rose to 4.93 percent in mid-May, up from 4.71 percent over the month to mid-April. A Reuters poll of economists revealed their belief that the rate could rise to 4.98 percent. At the same time, however, monthly inflation fell to 0.35 percent from 0.72 percent, suggesting that the upward trajectory is losing strength.

Primary surplus and deficit

Reuters reports that the Brazilian government posted a primary fiscal surplus of R$6.54 billion (US$1.64 billion) in April, according to Central Bank data on 31 May. This is lower than expected and less than April 2018. Rising social security payments are largely to blame.

For the 12 months to April, the primary deficit – the deficit for the federal and state governments and state-owned enterprises, without accounting for interest payments – was equal to 1.37 percent of GDP. Federal public debt fell 1.00 percent from March to April, to approximately US$960 billion.

Banking & finance

USD accounts in the offing?

The Brazilian Central Bank is making noises about introducing US dollar accounts into the banking system. That would certainly facilitate Brazil's entry in the Organisation of Economic Co-operation and Development, but it would also need congressional approval – which takes time.

The Central Bank also wants to allow other countries to use the Brazilian real within their banking systems, with the goal of seeing it become the de facto currency for business in South America. The bank is pushing to simplify the laws governing foreign exchange markets and ultimately to make the real fully convertible, making it cheaper and easier to trade and do business in the Brazilian currency.

Bank profits healthy

The four largest publicly traded banks in Brazil have reported their best quarterly profits since 2015, data analysis firm Economatica reports. Over the first quarter of 2019, the overall profits of Itaú Unibanco Holding, Banco Santander Brasil, Banco do Brasil, and Banco Bradesco rose by 17 percent, calculated annually.

Bloomberg analysts point out that the World Bank assesses the average lending spreads of Brazilian banks – that is, the difference between the deposit rate and the rate charged on loans – as the second highest in the world.

The big Brazilian banks have also been closing local branches and reducing their exposure to non-performing loans, supporting their bottom-line performance.

Regulating crypto-currencies

In late May, representatives of the Brazilian Blockchain and Crypto-currency Association (ABCB), the Central Bank, the federal Attorney General's Office, the Brazilian Internal Revenue Service, the Financial Activities Control Council, and the Brazilian financial industry met to discuss the crypto-currency and blockchain sector and to develop rules for the regulation of crypto-currencies.

The rules will be officially presented at the G20 finance ministers meeting in June in Japan, and companies will have until 2021 to adapt to them.

Also this month, the Internal Revenue Service published a new tax rule for crypto-currencies, stipulating that transactions over US$7,600 must be reported on a monthly basis.

In light of these developments, Chamber of Deputies speaker Rodrigo Maia on 30 May requested the creation of a special commission to assess a bill to regulate bitcoin and other digital currencies.

The individual banker model

The Simple Credit Company (ESC) business model was authorized by the government not much more than a month ago and already boasts 25 start-ups throughout Brazil. Congress has legalized a model of interest- ...

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Banking & Finance...

Upcoming events

Title	Date	Place	Sponsor/Host	Contact
Brazil Offshore 2019 Conference and Exposition	25–28 June 2019	Macaé, Rio de Janeiro	Brazilian Petroleum, Gas, and Biofuels Institute (IBP)	www.brasiloffshore.com
4th Oil & Gas TechWeek	26–29 August 2019	Rio de Janeiro	Brazilian Petroleum, Gas, and Biofuels Institute (IBP) and the World Petroleum Council	www.ogtechweek.com.br
Brazil Energy Future Summit	2–3 September 2019	Rio de Janeiro	Energy Industries Council	www.the-eic.com
Global Resource Efficiency and Sustainability Conference	21 October 2019	Manaus, Brazil	Brazil–U.S. Business Council	oriveranoa@uschamber.com
OTC Brazil – Offshore Technology Conference	29–31 October 2019	Rio de Janeiro	Offshore Technology Conference (OTC) and Instituto Brasileiro de Petróleo, Gás e Biocombustíveis (IBP)	www.otcbrasil.org

bearing loan operations carried out by and for ordinary citizens without direct regulation.

The goal is to extend access to credit to micro- and small entrepreneurs on cheaper and more flexible terms than they would receive from banks.

Business news

Seeking geeks

Spanish bank Santander is planning to hire 400 technology staff for its Brazilian operations. ZDNet reports that the financial services giant is seeking Java developers, Android and iOS developers, artificial intelligence engineers, data engineers, and other technological professionals as part of a US$2 billion investment plan to drive the digital transformation of its global operations. Brazil represents 30 percent of that budget, according to the company.

It may have to look hard for the new staff. In the last two years, some 60 percent of the 11,800 positions offered in the Brazilian market by large companies were not filled due to applicants' lack of skills, the *Rio Times* reports.

Alibaba in Brazil

Xinhua news agency reports that Alibaba Group Holding is launching cloud computing services in Brazil. The Chinese online and mobile technology giant has identified UOL Diveo as a local partner to resell its cloud services in Brazil.

As the International Data Corporation forecasts global spending of US$210 billion on public cloud services and infrastructure this year, Brazil represents a market with significant growth potential.

A meaty merger

According to the *Brazil Report*, Brazilian chicken producer BRF and beef producer Marfrig Global Foods have agreed to exclusive negotiations over the next three months with a view to a potential merger. Reportedly on the table is an arrangement that would see BRF take 85 percent of shares in the new company and Marfrig the remaining 15 percent.

The merger would create the fourth-largest meat company in the world. ...

Refreshing the Fiat brand

Fiat Chrysler Automobiles is bringing new automotive models to the Brazilian market by expanding two factories in the country and building a new plant as well. Fiat has been in Brazil for more than 40 years but has seen its market share decline in recent years. The effort to refresh the brand will cost US$4 billion in investment.

The company will produce 10 new models for its Jeep and Ram brands by 2024, expanding the capacity of the Jeep plant in Pernambuco. Fiat will also develop 15 new or rejuvenated series models.

Infrastructure issues

Air Europa in Brazil

Following the approval of its air transport services concession by the National Agency of Civil Aviation (ANAC), Globalia Corporación Empresarial has become the first international company to operate in the Brazilian domestic aviation market with wholly foreign capital. The Spanish group controls Air Europa, which will begin regular domestic passenger transport in the country.

Air Europa already operates routes between Brazil and Spain. The latest approval by ANAC was made following the abolition of a 20 percent cap on foreign capital for air carriers.

Avianca no longer airborne

On 24 May, the National Civil Aviation Agency (ANAC) suspended all flights by air carrier Avianca Brasil until the company can demonstrate operational safety.

Avianca has lost 86 percent of its fleet, laid off over 100 staff members, and canceled over 3,000 flights in recent months. The company was forced to return leased aircraft in April after courts ruled in favor of leasing firms' petitions for return of their property. Crew members then went on strike in mid-May over alleged delays in pay and benefits.

Avianca Brasil has filed a request for a court-supervised re-organization. Unless the airline starts flying again soon it will lose its authorizations to fly to and from São Paulo-Guarulhos Airport, the largest in Latin America.



PHOTOGRAPH: NATHAN COATZ/WIKIMEDIA COMMONS

Avianca has lost 86 percent of its fleet and laid off over 100 staff members

Mining & metals

Mosaic resumes operations

The Brazilian unit of the Mosaic Company has resumed operations at the Catalão mine, in the state of Goiás, following their suspension in April. Mosaic Fertilizantes stopped production at its Tapira and Catalão phosphate mines after it did not receive a extension on the deadline for providing stability certification for three of its tailings dams. The company has since received safety certificates for one of its two dams at the Tapira mine, and expects to get safety clearance for the second dam during the third quarter of this year.

Usiminas board approves spending

Reuters reports that the board of Brazilian steelmaker Usinas Siderurgicas de Minas Gerais (Usiminas) has approved approximately US$344 million) in new capital expenditures. Of that figure, US$308 million is to be spent through 2022 to renovate the Alto Forno 3 unit, while US$36 million) will go to the reconstruction of a gasometer.

The Usiminas industrial complex is the largest plain steel complex in Latin America. The company accounts for 28 percent to total Brazilian steel output.

New Vale venture

Brazilian iron ore giant Vale has agreed with the China Communications Construction Company (CCCC) to establish a flat-rolled steel laminating mill in northern state of Pará with an investment US$450 million, according to the state government. Vale's Carajas iron-ore mine, also in Pará, is likely to provide most of the source material.

No steel tariffs from Turkey

After conducting an investigation into a trade dispute with Brazil, Turkey announced that it had decided not to impose tariffs on steel imported from the Latin American country. Brazil exported an average 400,000 tonnes of steel per annum to Turkey in 2016 and 2017.

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Infrastructure & Projects...

ENERGY & ENVIRONMENT

Oil & gas in brief

Pre-salt output and potential

The output from pre-salt fields set new records in April and May, as Petrobras produced a monthly average 1.94 million b/d of oil equivalent in April and production from the Lula field topped 1 million b/d mark on 16 May. Daily output also peaked at 2.07 million boe/d in April.

Petrobras holds most of the pre-salt acreage. Development of the layer, which lies beneath more than 5,000 m of water and 2,000 m of rock, is expected to boost Brazilian production to more than 5 million b/d by 2025, according to the National Petroleum, Natural Gas, and Biofuels Agency (ANP).

ANP plans to hold three licensing sales in October and November that contain opportunities to bid on pre-salt areas:

- the 16th concession bid round
- the 6th production-sharing bid round
- the sale of rights to develop surplus volumes of crude discovered in the transfer-of-rights areas.

However, in late May ANP president Décio Oddone mused publicly on the possibility of postponing at least one of them, probably the 16th round, until 2020 in order to generate greater competition.

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Oil, Gas & Biofuels...

PHOTOGRAPH: MARCELO CAMARGO/AGÊNCIA BRASIL/WIKIMEDIA COMMONS



Justice Edson Fachin upheld the June 2018 preliminary opinion of Supreme Court Justice Ricardo Lewandowski, pictured here

Petrobras news

Asset sale progress

A recent Supreme Court injunction on the sale of the TAG pipeline unit, eight refineries, and the Araucaria Nitrogenos fertilizer plant had Petrobras execs concerned that the company's asset divestment program was in jeopardy.

The refineries were expected to bring in US$15 billion, and a 90 percent interest in TAG – which is a 4,500 km network of gas pipelines – was sold in April to French group Engie for US$8.6 billion.

In late May, however, Justice Edson Fachin ruled that the sale required a bid process. He was upholding the June 2018 preliminary opinion of Supreme Court Justice Ricardo Lewandowski, to the effect that the sale of shares in public companies require congressional authorization.
The full court was due to discuss that issue on 30 May, along with the question of whether privatizations by state-run companies need to be auctioned. The ruling was put off at the last moment, but after a tense week of waiting, the company won a major victory.

The court ruled on 6 June that state-run firms do not need congressional approval to sell their subsidiaries. Justice Fachin then reversed his decision in light of the ruling, permitting the TAG sale to proceed.

Another benchmark in the ongoing asset sale program at Petrobras was the 7 June deadline for non-binding proposals to buy liquefied petroleum gas distribution unit Liquigas. The state-owned oil company first attempted to sell the unit in 2016, but the transaction was blocked at that time by the Brazilian antitrust Administrative Council for Economic Defense (CADE).

Petrobras also announced a 5 June deadline for final binding offers on the Pampo and Enchova oil fields, ...



PHOTOGRAPH: DANIEL LAW/WIKIMEDIA COMMONS

Petrobras will deliver a VLCC cargo to Qingdao port in China

in the Santos basin. Although no updates had been published at the time of writing, Trident Energy, Petro Rio, and a consortium comprising EIG Global Energy Partners and Ouro Preto Oleo e Gas were reported to be in the running.

The two fields, offshore Rio de Janeiro, produce a combined 39,000 boe/d.

Crude to China

Petrobras will deliver a VLCC (very large crude carrier) cargo to bonded storage facilities at Qingdao port in China's eastern Shandong province this month. The Brazilian company leased the facilities at the end of last year, and this is the first shipment to be made in line with its plans to increase crude supplies to China via the independent refining hub.

As Chinese refiners attempt to diversify their sources of South American crude, Petrobras is offering a new grade of crude.

New routes from pre-salt areas

Getting natural gas out of the pre-salt formation is one thing. Transporting it is another. Currently there are just two major pipelines connection the area to the Brazilian coast and a third still being finalized. With the goal of doubling the gas outflow from the formation, new routes are under study.

On 21 May, the natural gas director for the Ministry of Mines and Energy, Symone Araújo, indicated at an industry presentation that about US$2 billion needs to be invested to expand the existing infrastructure – a necessary development considering the huge volumes of natural gas that the pre-salt formation holds.

Halliburton to drill for Shell

Halliburton has been awarded an integrated services contract with Royal Dutch Shell for post-salt development and pre-salt exploration in the Campos and Santos basins. Halliburton will provide drilling services for a three-year term, renewable for a further two years.

New wells for Lapa

French oil giant Total has announced that it intends to expand production in the Lapa field, in the Santos basin. The company plans to drill four new wells to boost falling volumes of oil extraction. At the same time, it will abandon two older wells as they reach the end of their useful life.

Total is the operator of the field, with a 35 percent share, in a consortium that also comprises Shell (30%), Repsol-Sinopec (25%), and Petrobras (10%).

VEIRANO ADVOGADOS

Mining...

Renewable energy

Share of supply

The Ministry of Mines and Energy, along with state-owned energy research firm EPE, has produced its annual *National Energy Balance* report for 2018. For the first time, energy production surpassed demand. In particular, growth in renewable energy is striking, with a 45.3 percent share in total energy production and an 83.3 percent share in electricity supply.

Renewables have reached 4.3 million tonnes of oil equivalent (toe), which has allowed Brazil to cut its carbon dioxide emissions to 410.6 million toe, according to the ministry.

Solar parks for Alsol

Distributed generation (DG) firm Alsol Energias Renováveis has announced that it will build two solar DG systems with close to 12 MWp of combined capacity in Minas Gerais with an approximate investment of US$9.9 million. Construction will begin immediately, with commissioning set for December. The photovoltaic parks will supply power to local companies through a shared generation model.

Buying shares

Brazilian energy company CPFL Energia has entered into a memorandum of understanding with controlling shareholder State Grid Brazil Power Participações to buy the latter's shares in CPFL Energias Renovaveis, the renewables arm of the Brazilian firm. The transaction must be approved by CPFL Energia's board of directors.

Setting price ceilings

The Brazilian Electricity Regulatory Agency (ANEEL) has established price ceilings for a power generation ...



PHOTOGRAPH: COP GREY/WIKIMEDIA COMMONS

EDF Renewables has placed an order with Danish wind turbine maker Vestas Wind Systems to equip a 147 MW wind farm in Bahia state

auction scheduled for 28 June. Prices can vary based on whether the project follows a concession or a contract model, and biomass has the highest maximum bidding price – at US$77.3/MWh.

The tender will contract 51.2 GW of power from solar, wind, biomass and hydropower plants (HPPs). The government will award power purchase agreements with a 30-year term for hydropower and a 20-year term for the remaining sources. Power supply is scheduled to begin in January 2023.

Equipping a wind farm

EDF Renewables has placed an order with Danish wind turbine maker Vestas Wind Systems to equip a 147 MW wind farm in Bahia state. The company has ordered 35 units of the V150-4.2 MW machines, which Vestas will supply and install at the Folha Larga wind park in Campo Formoso municipality.

Vestas will produce the nacelles at its factory in the northeastern state Ceará. Blades and towers will also be locally sourced.

Environmental news

Failing to amend the Forest Code

A bill to relax the Forest Code, which had passed by the Chamber of Deputies, stalled in the Senate and expired on 3 June. According to the Forest Code Observatory, a civic organization, the new measure would mean that 5 million hectares of native vegetation would no longer be reforested, compensated, or regenerated.

The bill to amend the Code was introduced at the end of 2018. The lower house then introduced 35 amendments that, as the *Rio Times* reports, environmentalists believe gut the Code by making agricultural producers liable to restore the biome only after notification by a government authority – and with a year's grace. In other words, forests can go deforested for a longer and more indefinite period. The Senate declined to vote on the measure before it expired, however, leaving the 2012 code in force. For now, that's good news for the environmental lobby.

VEIRANO ADVOGADOS
Government & Regulatory...

Using the Amazon Fund

The Brazilian government is mulling the use of the Amazon Fund to pay compensation for expropriation of land in protected areas.

The fund was established in 2008 with donations from Norway and Germany to raise donations for non-reimbursable investments in initiatives to prevent, monitor, and combat deforestation, and to promote conservation and sustainable use in the Brazilian Amazon. It is managed by the Brazilian Development Bank (BNDES).

As Bloomberg News reports, eight former Brazilian environment ministers warned in an open letter in May that the Bolsonaro administration is dismantling environmental protections and hurting the country's image abroad. The current environment minister, Ricardo Salles, responded by saying his office has maintained its autonomy.

The government has so far stripped the National Indian Agency of the right to demarcate Indigenous territories and moved the National Forestry Service to the Ministry of Agriculture.

Imazon, a non-governmental organization that monitors the Amazonian rainforest via satellite, reported in late ...

May that more than 2,000 km^2 of forest had been lost from August 2018 to April 2019, up 20 percent.

Tilapia taking over?

Tilapia, a fast-growing African fish species that is easy to farm and was introduced into the Amazon without a ... license, has become a controversial topic because of its propensity to crowd out indigenous species.

Authorities in Amazonas and Pará will not allow tilapia farming, but Tocantins and Mato Grosso are becoming the first states in the Amazon forest to authorize tilapia farming in tanks within the lakes of hydroelectric plants. Last year, tilapia represented over 55 percent of farmed fish produced in Brazil, most of it from Paraná.

Science & technology

Reproducibility testing

The Brazilian Reproducibility Initiative, at the Federal University of Rio de Janeiro, plans to begin large-scale reproducibility testing in August. More than 60 laboratories will test the reproducibility of Brazilian scientific research, attempting to replicate up to 100 biomedical experiments. Each experiment will be tested in three different labs.

With the decision to prove individual experiments rather than full studies, the initiative can cover a range of published literature in many different areas of life science research in Brazil.

Getting into politics

As the name of what is now the Ministry of Science, Technology, Innovation, and Communication (MCTIC) has got larger and larger – adding "Innovation" under former president Dilma Rousseff and "Communication" under former president Michel Temer as departments were slashed or combined – its budget has got smaller and smaller.

Already at its lowest level in 14 years, the science budget has almost no meat left on the bone following a freeze on 42 percent of the funds by the Jair Bolsonaro government.

For example, a nearly 80 percent funding freeze on infrastructure projects is jeopardizing the viability of the new Sirius synchrotron in Campinas. The facility enables physicists to study the structure of matter. The main building and two of a planned three accelerators are complete, but only 50 percent of the operating budget has been received so far this year.

More significant than putting infrastructure at risk, however, is the loss of Brazilian scientific competitiveness as projects are closed down and researchers leave the country for more promising places.

Against that backdrop, science researchers and legislators joined forces on 8 May to draw attention to the vital role of science, technology, and education in economic and social development.

As representatives of more than 60 Brazilian scientific bodies demonstrated to protest funding cuts to public universities and the national research system, academic researchers, entrepreneurs, and industry representatives attended Congress in Brasília to launch an initiative to promote science and technology in the political arena.

The goal is to provide scientific advice to Brazilian legislators and to encourage a better dialog between science and politics.

POLITICS, LAW, SOCIETY

Politics in brief

Government versus legislature

Folha de São Paulo reports that Congress is increasingly skeptical of Jair Bolsonaro's ability to govern effectively. Centrist parties are apparently pushing for a bill that would limit the number of provisional measures – laws enacted by the president without congressional approval and effective for up to 120 days – and possibly introduce legislative decrees to overrule presidential ones.

On the table are also proposals to curb presidential power by 2022, adopting either a semi-presidential system of power sharing with cabinet ministers or a semi-parliamentary system of power sharing with Congress.

According to the *Rio Times*, senators and deputies are also considering an initiative to amend the Brazilian constitution to allow a presidential mandate to be repealed by voters without the need for impeachment. The proposal is led by Senator Antônio Anastasia of the Brazilian Social Democracy Party (PSDB) and supported by Senate president Davi Alcolumbre of the Democrats.

Under the measure, if at least 10 percent of those who voted in the most recent presidential election signed a petition, Congress would call a referendum to determine whether to repeal the president's term of office.

The bill could not be vetoed by the president but would be nullified if the Supreme Court deemed it unconstitutional. The proposal would require three-fifths of both houses of Congress to approve it, so may remain nothing but a paper project. ...

Pension reform

The one policy arena in which the Jair Bolsonaro administration currently seems likely to succeed is pension reform.

With more than 70 percent of legislators in the Chamber of Deputies indicating that they are inclined to vote for the government's pension reform bill if it is amended, the proposal is gaining ground. The number of undecided lawmakers fell from 222 in mid-March to 148 in late May, according to *International Valor*.

That said, members of Congress have has submitted 276 amendment proposals to the bill to the House Special Committee, potentially cutting the savings in half. Further, all the amendments will have to be voted on by the committee, potentially stalling the process.

Most observers believe the first vote on the reform will take place in the lower house some time in August or September. (Chamber of Deputies Speaker Rodrigo Maia recently suggested September.)

Popularity contest?

Congress is not the only player disillusioned with the performance of the Bolsonaro government. Government popularity has also been falling among financial markets, according to a survey of resource managers, economists, and financial consultants conducted by XP Investments.

Those who consider the government good or excellent fell from 28 to 14 percent from April to May. Those who regard its performance as average went from 48 to 43 percent, while the proportion of those rating it as bad or terrible rose from 24 to 43 percent. ...

PHOTOGRAPH: MARCOS CORREA/WIKIMEDIA COMMONS



Embraer and Boeing will continue developing the KC-390 tactical transport and in-flight refueling aircraft

Defense issues

Cooperation with Swiss contractor

A Brazilian defense contractor has placed an order with Rheinmetall Air Defense, the Swiss subsidiary of European Rheinmettal Group, for a Fieldguard 3 active-fire control system. Fieldguard measures the trajectory of projectiles to ensure maximum precision when engaging targets.

The Fieldguard 3 measurement system can cover ranges of up to 100 km.

Rheinmetall is serving as a subcontractor to Avibras Indústria Aeroespacial, a Brazilian company that designs, develops, and manufactures military products. The order, for two additional systems after an initial purchase of a single Fieldguard, is significant as an example of effective international defense cooperation. Avibras and Rheinmetall hope to partner in further sales of the system.

New partnership with Boeing

In ongoing negotiations to sell an 80 percent stake in Embraer's commercial aviation activities to US aviation company Boeing, the Brazilian aircraft manufacturer has always expressed the intention of keeping its defense and executive jet business divisions and their associated services.

The new partnership is expected to be cleared by Brazilian competition authorities by the end of 2019.

However, the two companies have since agreed on a second joint venture. This new company – in which Embraer will hold 51 percent and Boeing 49 percent – will continue developing the KC-390 tactical transport and in-flight refueling aircraft. ...



PHOTOGRAPH: PO1 CHAD J. MCNEELEY/WIKIMEDIA COMMONS

Brazil has sent military personnel to a multinational team in Ethiopia

Peacekeeping training in Ethiopia

Brazil has sent military personnel to a multinational team that trains service members, police officers, and civilians from Ethiopia and other African nations to join United Nations peacekeeping missions, following an exchange agreement signed in 2017 by the Brazilian and Ethiopian ministries of defense.

The Federal Democratic Republic of Ethiopia Peace Support Training Center (FDRE-PSTC) is in the Ethiopian capital, Addis Ababa, and prepares its multinational students for conflict prevention and management, military observation, and civilian and international human rights protection.

The FDRE-PSTC also has officers from the United States, England, and France, who conduct the classes along with Ethiopian professionals.

VEIRANO ADVOGADOS

Dispute Resolution…

Despite the opinion of many the president's supporters, perceptions of the performance of Congress show the opposite trend.

Legal issues

Focus on Flávio

On 24 April, a Rio de Janeiro court authorized an investigation into financial dealings by the office of Flávio Bolsonaro when he was a state deputy in the Rio de Janeiro Legislative Assembly, The ruling lifted banking secrecy on him, 88 former advisors, his wife, and his company, as well as people and companies that completed real estate transactions with him.

The investigation has since found 37 properties supposedly linked to the senator (who is President Jair Bolsonaro's son) and the other entities. Some 14 apartments and 23 commercial properties are apparently identified in the investigation.

BNews reports that the Public Prosecutor's Office has gathered evidence of investments totaling R$9.4 million (US$2.34) in 19 properties. The senator is alleged to have earnings that don't match his declared income and that demonstrate a pattern characteristic of money laundering.

The younger Bolsonaro asserts that he has not committed any crime, suggesting that he is being persecuted.

New electoral rules

The Superior Electoral Court is considering a new system of rules to govern electoral legislation, political parties, candidates, and voters in order to address contradictions and incoherence in current norms.

Among the topics debated at a public forum on 27–28 May were candidate criteria, access to the press, funding control, access to party funds, rules for disclosing opinion polls, and propaganda. A report will follow.

Criminalizing homophobia/transphobia

The Supreme Court has ruled in favor of criminalizing homophobia and transphobia. Six of the 11 justices agreed that until Congress passes legislation dealing with LGBT+ protection, acts of homophobia and transphobia should be treated under current anti-discrimination laws.

The decision comes after President Jair Bolsonaro removed LGBT+ responsibilities from the Ministry of Human Rights. It makes violence against LGBT+ people a crime and deems it illegal to deny them access to education or jobs, refuse them service, or bar them from public buildings. Perpetrators could face prison sentences of up to three years.

The day before the court ruling, the Senate approved in a first round of voting on a bill that would criminalize homophobia. It will have to go through a second voting round and then be sent to the lower house for approval.

Bolsonaro, who has called himself a "proud homophobe," commented on the decision by questioning whether the justices were Christian. He has since been vocal about it being time for an evangelical minister to have a place on the bench.

Social issues

Formal job creation

Data from the General Register of the Employed and Unemployed (CAGED), put together by the …


PHOTOGRAPH: PXHERE.COM

Construction created about 14,000 formal job posts in April

Ministry of Labor, showed the highest level of formal job creation in April since the same month in 2013. Almost 130,000 formal job posts were created over the month, over 300,000 this year, and more than 475,000 in the last 12 months.

Eight sectors were surveyed, and all of them created formal positions in April. Services led with more than 66,000 jobs, following by manufacturing with over 20,000 and construction with about 14,000. Mining had the lowest number of new jobs, just 454.

At the same time, the jobless rate fell over February–April 2019, while the number of people who gave up looking for work rose. The unemployment rate was 12.5 percent over the period – down from 12.7 percent in January–March – but more than 13 million people are still seeking employment.

VEIRANO ADVOGADOS
Healthcare...

Not blowing smoke

Brazil is seeking compensation from tobacco manufacturers for public health costs related to the treatment of tobacco-related diseases.

The Office of the Prosecutor-General has filed a lawsuit against the major manufacturers to recoup the cost of treating those suffering from 26 diseases linked to use of tobacco and exposure to tobacco smoke. The suit also seeks collective moral damages.

The World Health Organization Framework Convention on Tobacco Control has praised the suit, calling it an example to other countries.

The other piece of good news is that Brazil has managed one of the most significant cuts in the smoking rate of any country globally. Smokers constituted 10.1 percent of the adult population in 2017, compared to 15.7 percent in 2006.

Take that back

Jair Bolsonaro has been ordered by a civil court judge to publish a retraction for his statement in 2014 that Congresswoman Maria do Rosário "did not deserve to be raped because she was very ugly." In 2015, Bolsonaro was ordered to pay a fine of R$10,000 (approximately US$2,500) for the statement, a decision he appealed and then lost.

Rosário has called the latest ruling "a victory for respect and dignity."

INTERNATIONAL AFFAIRS

Diplomatic briefs

Venezuela reopens border

Venezuela has reopened its border with Brazil after suspending access on 22 February. On 10 May, Venezuela's Economy Vice President Tareck El Aissami announced that the decision had been reversed after the country received assurances that its sovereignty would be respected and that there would be no interference in Venezuelan domestic affairs.

President Nicolás Maduro had closed the border after Brazil joined the US-led effort to bring humanitarian aid into Venezuela.

US supports Brazil at OECD

Following on from the March visit of President Jair Bolsonaro, the United States has formally announced its support for Brazil's bid to join the Organisation for Economic Co-operation and Development (OECD) – the developed countries' club. Brazil has in exchange pledged to renounce special and differential treatment in the World Trade Organization, which it had the right to as a developing country.

The admission process to the OECD typically takes two to five years.

Veep visits China

Vice President Hamilton Mourão paid a visit to China over 19–24 May. The visit precedes a planned trip by President Jair Bolsonaro in August, which will be reciprocated when Chinese president Xi Jinping attends the BRICS summit in Brasília in mid-November. ...

General Mourão's trip was regarded as a success. It has certainly helped to smooth feathers ruffled by Bolsonaro's repeated anti-China jibes and provocative visit to Taiwan last year while running for office, according to the *Financial Times*.

Mourão restarted a so-called coordination commission, indicated non-specific support for China's Belt and Road development initiative, and spoke positively about Chinese telecom Huawei's presence in Brazil – meeting the chief executive of the company during the trip. (The United States is pressing Brazil to join a ban on Huawei, which is suspected of spying using its technology, a charge the company denies.)



PHOTOGRAPH: JONATHAN WILKINS/WIKIMEDIA COMMONS

Brazil has dropped its lobbying at the World Trade Organization to strike a panel to investigate China's trade policy on sugar

International trade

No WTO sugar panel

Brazil has dropped its lobbying at the World Trade Organization to strike a panel to investigate China's trade policy on sugar. In 2018, Brazil opened a WTO consultation on Chinese anti-dumping tariffs on sugar when China began charging an additional import tax of as much as 45 percent on the sweet stuff.

The tax had been 15 percent on an annual import quota of 1.95 million tonnes, and 50 percent above that quota. The Brazilian ministries of Foreign Affairs and Agriculture issued a statement in late May to the effect that an understanding had been reached with China.

Mad cow stops exports

A case of mad cow disease in Mato Grosso state has caused a temporary ban on Brazilian beef exports to China, Reuters reported on 3 June. The suspension of trade complies with the provisions of a bilateral health protocol between the two countries, and will remain place until international health certificates are issued.

Import tariff cuts on the horizon

Economy Minister Paulo Guedes indicated in early May that the government intends to cut tariffs by 10 percentage points over its four-year term: 1 point in the first year, 2 in the second, 3 in the third, and 4 in the fourth. Tax rates on imports are generally between 10 and 35 percent.

EU–Mercosur deal at last?

Lucas Ferraz, who is Secretary of Foreign Trade at the Ministry of Economy, recently told Bloomberg News that the seemingly never-ending trade negotiations between Mercosur and the European Union had advanced more in the past four months than in the previous 20 years.

That was in early May, but at the end of the month EU farmers – and in particular the Irish Farmers' Association – remained very concerned about the potential double blow for the European beef industry of Brexit and increased Latin American imports. While the economic effect is certainly a strong concern, the farm lobby also points to different environmental standards for Brazilian and European agribusiness.

A Mercosur–EU trading bloc would create one of the largest free-trade areas in the world and counteract the current hostile global trade environment engendered by US–China tensions and tariffs. The Buenos Aires round of talks in the first week of June brought fresh assertions that a deal was imminent – but nothing has been signed yet.

Trade surplus widens

The Ministry of Economy released data at the beginning of June showing a widening Brazilian trade surplus: US$6.42 billion in May. Exports rose 5.6 percent over the month before, especially in manufactured goods (up 29.5 percent up over May 2018) and semi-manufactured goods (up 15.4 percent).

The surplus so far this year has been smaller than in January–May 2018, but a Central Bank survey indicates that economists predict a US$50.5 billion surplus this year.

VERBATIM

Verbatim reports on recent developments at Veirano Advogados, offers timely client alerts on new legislation and related information, lists publications authored by members of the Firm's team of specialists, and provides other current and pertinent content.

Client alerts

Take-back system

The Rio de Janeiro State Environmental Agency has published Resolution 13/2019, which regulates the *Packaging Declaratory Act* and the Plan of Goals and Investments that is established in the Take-back System of Packages and Waste. The resolution implements several innovations, such as annual filings and biannual goals for manufacturers of packages, packers, and importers of packaged products. Continue reading...

Environmental administrative liability

The Superior Court of Justice (STJ) has established that environmental administrative liability is subjective, confirming that it applies only in case of fault, negligence, or willful misconduct. The ruling is intended to provide legal clarity with respect to two competing decisions made earlier by different panels of the STJ. Continue reading...

Oil and gas sales and upstream financing

The National Petroleum, Natural Gas, and Biofuels Agency (ANP) has enacted Resolution 785/2019, amending procedures for the sale of oil and natural gas fields and finally allowing for the implementation of upstream funding based on rights emerging from the concessions as security. Continue reading...

Operations with crypto-assets

The Federal Revenue Service has published Normative Ruling 1,888/2019, establishing and regulating the obligation to provide information on operations with crypto-assets. The ruling is another chapter in the evolution of tax inspection procedures governing the digital economy, with the overarching intention of making digital transactions more transparent. Continue reading...

Open banking implementation

The Brazilian Central Bank has published Communication 33,455/2019, introducing the basic requirements for implementing the Open Financial System (Open Banking). The communication outlines the proposed regulatory framework to be adopted in Brazil. Continue reading...

ANVISA efficiency

After analyzing the results of a survey conducted to identify bureaucratic obstacles to competitiveness in the Brazilian industrial sector, the Federal Audit Court (TCU) has decided to compel greater efficiency from the National Health Surveillance Agency (ANVISA). Among other things, ANVISA will be required to develop systems for coordinating, monitoring, and following up on the actions of state and municipal health surveillance agencies. Continue reading...

Economic freedom provisional measure

The federal government has enacted Provisional Measure 881/2019, establishing a Declaration of Economic Freedom Rights. The measure also sets out the general rules of economic law, providing for regulatory impact analysis and legislative changes to civil, business, economic, tax, urban, and labor laws. Continue reading...

Rules on mandatory publications

Law 13,818/201, amending the *Brazilian Corporations Law*, has increased to R$10 million (approximately US$2.5 million) the maximum net equity required for closely held corporations to operate under a simplified regime for publishing corporate acts and convening general meetings. Continue reading...

Annual shareholders meeting

Under Brazilian law, all Brazilian limited liability companies and corporations must hold an annual shareholders meeting within four months following the end of the fiscal year to approve the financial statements for the previous fiscal year. Continue reading...

Automatic corporate registration

Provisional Measure 876/2019, which amends some provisions of the *Corporate Registry Law*, has created a special regime for the incorporation of certain corporate entities and the registration of sole proprietorships. The measure also provides for document authentication by lawyers and accountants in lieu of certification by a notary. Continue reading...

Amending environmental administrative processes

Decree 9,760/2019 has been published to amend Decree 6,514/2008, which outlines administrative violations regarding the environment and regulates conciliation hearings in environmental processes. The decree provides detailed procedures for conciliation and for conversion of fines. Further, Ordinance 299/2019 has established a working group to regulate Decree 9,760/2019. Continue reading...

São Paulo regulation on solid waste

São Paulo Municipality has published Decree ...

58,701/2019, regulating the Municipal Urban Cleaning System. Companies that generate high volumes of waste are now subject to control mechanisms and must register with the Municipal Urban Cleaning Agency. They must also use entities that are registered with the system to dispose of solid waste. Continue reading...

Pharmacy and drugstore authorizations

The Collegiate Board of Directors, via RDC 275/2019, has updated the regulations governing procedures for granting, changing, or canceling Authorizations of Operation (AFEs) and Special Authorizations (AEs) for pharmacies and drugstores. Continue reading...

Regulation of controlled products

The Ministry of Justice and Public Security has published Ordinance 240/2019, regulating procedures for the management and inspection of controlled products subject to the Federal Police.

Among other measures, the ordinance includes new licensing and registration procedures, a list of products that are exempt from registration, and some general controls. Continue reading...

Chamber of the Industry 4.0

The Brazilian Chamber of the Industry 4.0 has been established in order to align public policies that promote smart industries. The initiative is a cooperative effort of the Ministry of Science, Technology, Innovation, and Communication and the Ministry of Economy. Continue reading...

VEIRANO ADVOGADOS

News and Publications...

Publications

Environment Newsletter

Veirano Advogados has released a new edition of its *Environment Newsletter*, prepared under the coordination of partner Ana Luci Grizzi. The edition covers topics such as the conversion of fines into green investments and recent Supreme Court environment-related decisions. Continue reading...

Life Sciences & Healthcare Newsletter

Veirano Advogados has released a new edition of its *Life Sciences & Healthcare Newsletter.* The edition covers topics such as home care, discount cards, and professional services engaged through individual legal entities. Continue reading...

The gig economy

Partner José Carlos Wahle has contributed an article to the Latin American Corporate Counsel Association (LACCA), detailing the impact of technological advances and the rise of the gig economy on employment in Latin America. Continue reading...

Conducts enforcement

Partners Mariana Villela and Leonardo Duarte, along with associates and lawyers from our antitrust team, have contributed two chapters to *Conducts Enforcement in Brazil: Frequently Asked Questions*, a publication organized by the Brazilian Institute of Studies on Competition, Consumer Affairs, and International Trade (IBRAC).

The chapters are entitled "What Rights Do Defendants Have in Antitrust Investigations in Brazil?" and "Does the Brazilian Antitrust Authority investigate Conducts Carried Abroad?"

Relations with the UAE

Partner Fábio Figueira has contributed an article to *Islamic Finance News* on the promotion of closer commercial ties between Brazil and the United Arab Emirates. Bilateral interests encompass goods and food exports from Brazil and Arab investment within Brazil. Continue reading...

Brazilian data protection law

Partner Fábio Pereira has contributed an article to TaylorWessing's Global Data Hub outlining the Brazilian version of the European Union's General Data Protection Regulation (GDPR). The article asks whether the new Brazilian data protection law, known as LGPD, is a cut-and-paste of the European regulation. Continue reading...

Product liability compendium

Partners Rosangela Delgado and Livia Miné have contributed a chapter on Brazil for the most recent edition of the *Product Liability Compendium: Warnings, Instructions, and Recalls*, which is published as part of DRI's Defense Library Series. Their work is an introduction to product liability law in the country. Continue reading...

Controversy over union fees

Partner José Carlos Wahle has written an article for *Ius Laboris* about Provisional Measure 873/2019, which was introduced by President Jair Bolsonaro in March.

The measure signals new conditions for the collection of union dues and has stirred conflict between defenders of workers' individual freedom and defenders of union authority to determine how union activity is funded. Continue reading...

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Reforming the social security system

Partner José Carlos Wahle has written an article for *Ius Laboris* on the pension reform proposal submitted to Congress by President Jair Bolsonaro. The article details the proposed increases in the retirement age and the minimum contribution time, as well as the specifications for categories of workers such as teachers, military personnel, and rural workers. Continue reading...

Immigration legislative changes

Associate Gabriela Lessa has contributed an article to the *Immigration Law 2019 Expert Guide*, published by Corporate LiveWire, on Brazil's new migration law. Brazilian entities can now sponsor a process to obtain visas on behalf of their foreign employees, foreigners can invest in Brazilian real estate, and Australian, Canadian, Japanese, and US citizens can be issued visitor visas electronically. Continue reading...

VEIRANO ADVOGADOS

VistaBrazil May/June 2019