

Brazilian economy: congressional position on media, telecommunications and R&D issues

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1 Introduction

The position of most congressmen on economic issues has gained, since the 1990s, a liberal flavor. During the discussion of the 1988 Constitution, Brazil was still haunted by the ghosts of the military dictatorship and the economic crisis of the eighties, and Title VII (on the economic and financial activities) brought in several Keynesian-oriented concepts and leftist values. Among them, the protection for national capital firms (article 171), the supply of public services by state-owned firms (article 175), the social function of the rural property (article 184), the land reform command (article 189), and the interest rate cap of 12% (article 192).

These provisions proved to be unrealistic and were gradually abandoned or revoked. When the Real Plan was launched in 1994, a more pragmatic vision of the economy was already in place, as a result of the sacrifices imposed by the hyperinflation surge and by the lack of control on public spending of the eighties. The results of the plan, as well as the political agenda of the Cardoso and the da Silva terms, boosted a more contemporary view of the economy, and the political dialogue shifted from the ideological confrontation of the eighties to the current, technical discussions, focused on specific issues.

In general, some principles are nowadays recognized by most Representatives as relevant to economic growth, leveling the field:

- i. Macroeconomic stability is relevant to economic wealth and must be preserved. The discussions tend to question the limits of monetary policy instruments and the mandate of certain agencies, but the general principle is clearly established.
- ii. Fiscal discipline is also recognized as a fundamental value, although the states tend to press the Federal government to relieve the restrictions on public spending and to rely more on tax revenues than on spending reduction.
- iii. Investment efforts in infrastructure (transportation, energy, telecommunications) are considered to be directly related to economic growth, and are currently done with an ever stronger involvement of the private sector, thanks to the privatization process of the Cardoso era.
- iv. Commercial openness is considered to be relevant to economic stability and a desirable target.

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- v. Quality of life (healthcare, education, job creation, wage increases) is recognized as a long-run factor of economic development.
- vi. Credit expansion and capital market maturity are acknowledged as essential improvements that helped the country, for instance, to deal with the 2008 crisis in a fashionable way.
- vii. Legal system maturity and consistent public security standards are important elements of long-run economic development, although there is still a long path to go, in order to achieve adequate levels on these matters. Criminality, for instance, is an issue.
- viii. Incentives for firm creation, SME protection, and formal employment expansion are short-run demands, in order to deal with high taxes and low investment rates still present in the Brazilian economy.

This is the background of the microeconomic debate undertaken in the Brazilian Congress. Some relevant interventions may seem to be placed far away from these principles, and there is a bias due to the need for political visibility: the Executive has a strong prevalence on the Legislative agenda and on voting outcomes; so, a Representative has to use his/her rhetoric to stand out of the crowd, as his voting records will prove to be quite similar to his/her contender's...

The microeconomic field is ample and an interesting question is: what are the frenzy issues? If we examine the number of bills offered by the Representatives, a few themes that may affect the business environment are actually objects of interest. For example²:

- Labor issues (452)
- Environment (271)
- Tax and contribution exemptions (264)
- Healthcare (230)
- Education (189)
- Homeland security (182)
- Public purchase of goods and services (176)
- Advertising (139)
- Energy (119)
- SMEs (72)
- Road tolls (64)
- Broadband communication, internet and IT services (48)
- TV and radio programs, and advertising for children (44)

² These are approximate numbers, as of May 14, 2011. The figures may vary depending on the research criteria.

- Industrial and intellectual property (44)
- Credit and investment (31)
- Telephone and internet costs and tariffs (30)
- Port administration (28)
- R&D (28)
- Community radio (28)
- Airport administration (21)

The debate is driven by five trends. First, the Representatives are sensitive to public opinion, and issues that are discussed in the media, as well as recent news, will result in increased legislative production. Security is an example of that.

The second trend is a benevolent attitude towards the supply of social benefits and rights, especially to specific groups. Labor and healthcare bills are strongly biased by this factor.

Ad hoc protection against taxes for selected industries and the supply of incentives based on tax exemption mechanisms are also a trend. SMEs regulation is an example. Pork barrel practices in deciding investment priorities are also important, but they do not affect this list, because it does not include budgetary issues.

As a fourth trend, we have to point out that certain bills that involve changes in the civil administration structure and costs are exclusively proposed by the Executive power (article 61 of the Constitution). That provision explains the scarcity of bills regarding certain themes, such as public service regulation.

A final trend is the disregard for bureaucratic costs and barriers. Representatives are willing to offer new ideas and solutions for existing problems even if they incur in unnecessary costs or controls on the market. Advertising control and regulatory proposals are affected by this attitude.

The list reveals that media, telecommunications, and R&D issues are among the popular discussions in the House. We comment on these issues in the following sections. The paper is organized as follows: in the next section, we present a few highlights regarding the Brazilian industrial debate; in section 3, we discuss telecommunications issues; in section 4, the media agenda; in section 5, R&D. Finally, we present some conclusions.

2 The industrial policy debate in the Congress

Industrial policy was central to the long-run planning debate during the seventies and the eighties, as it was an element of the import-substitution strategies adopted by the Federal Government at the time. During the nineties, the issue lost relevance, as long as the priorities shifted to fighting hyperinflation and recovering the economy in a new environment, with stability in prices and in the exchange rate.

This new reality changed the pattern of the Executive intervention in the private sector, combining a privatization process in most infrastructure services, and in industries that were mainly public, such as aircraft and military gear, mining and steel, with a reposition of taxes and import tariffs, in order to expose the local industry to competition and promote an increase in productivity. The Congress was compelled to discuss these reforms and much of the debate was driven by a liberal agenda.

In the last decade, a new global situation and the emergence of new opportunities are changing the focus of the debate once again. A few microeconomic highlights:

- Since 1990, Brazil became more exposed to international trade. During the da Silva government, a persistent commercial surplus was attained, thanks to the high commodity prices in the international market. Brazil also benefited from efficiency gains in the primary sector (agriculture, mining), related to local R&D, the incorporation of foreign technology, and the privatization process (e.g.: Vale).
- The industrial sector maintained a strong foreign capital participation, around 40% in added value and 57% of total sales in 2002. Important sectors, such as automotive, electronics, or pesticides, have international capital participation above 90%.
- The disclosure of the Pre-salt findings has opened a new perspective for the Brazilian market. Investment figures are around US\$ 30 to 40 billion a year for the next five years, and a change in Petrobras strategy stimulates the local industry to produce capital goods in selected sectors (e.g.: shipyard).
- Infrastructure is improving, with the exception of transportation. The privatization process ensured a flow of investment in telecommunications, electricity, and water and sewage supply. In the case of transportation, public control is still the rule, and quality and capacity of roads, railroads, ports, and airports are well below international averages, with added costs for the local industry.
- R&D is becoming relevant to the industry. Brazil has poor patent records, and around 70% of the requests are related to foreign invents. On the other hand, software registration is high, publication records in refereed journals have improved, and joint projects between universities and the industry are actually taking place.
- Poverty reduction programs stimulate families to provide for children literacy and formal education, and reduce the incentives for engaging in underpaid jobs. Therefore, supply of low quality workers is down and wages are increasing.
- The policies for government contracting and purchasing are being questioned, as a result of increased bureaucracy and public perception of corruption. New bidding methods, such as electronic auctions, have been regulated.

The most significant problems for the Brazilian industry relate to the high tax burden on most activities, at federal and state levels, with various conflicts

regarding the concession of potential benefits and tax recoveries, and the leveling between local and imported products and services. The aggressive competition of foreign firms, particularly from China, is also largely discussed in the Congress, but no relevant bills or other initiatives have been proposed. A few procrastinating measures, such as protectionist non-tariff requirements (sanitary, conformity, or quality related) are being considered.

Regarding the Pre-salt province, there are important risks to be considered. The first one is a dutch-disease process. Petrobras is already the largest Brazilian group. Its revenues total US\$ 130 billion a year, around 7% of the Brazilian GDP (the second largest group, Vale, is a 20 billion dollar conglomerate). The government and the Congress have to develop solutions to prevent the added revenues from oil exports to inoculate the rest of the economy. A second risk is the investment trap that can involve the rest of the economy, given the high demand for resources that Pre-salt will impose. A tight control over the expansion of the oil operation may be required. Another risk is the environmental aggression involved in these operations that have to be kept under adequate supervision. So far, the creation of a fund to accumulate the revenues and taxes from oil commerce, and a change in the bidding system (from auctions to partition regimes), have been approved.

Environmental issues are at the center of the Congressional debate at this moment, and they do not involve industrial activities directly, although the new Forestry Code outlines a more flexible inspection process. The winners, in the case, are agribusiness and the energy sector.

3 Telecommunications

The telecommunications industry was positively affected by the privatization process during the nineties. Telecommunication services were provided, since 1962, by public companies (the Telebrás group, with a holding, a long-distance provider, Embratel, and two dozen state companies dedicated to local telephony).

To prepare for the privatization process, the Executive passed in the Congress a constitutional amendment in 1995 (Amendment no. 8), and two bills, in 1996 and 1997: Law no. 9.295, of 1996, that allowed the privatization of analog mobile telephony operators, and Law no. 9.472, of 1997, the Telecommunication Law, which created ANATEL and provided the instruments to proceed with the privatization process as a whole.

Currently, the market is structured as an oligopoly, with three large providers of integrated services (fixed and mobile telephony, broadband access, internet portals, and pay TV): the Telefonica group, that concentrates its operations in São Paulo state, the Oi group, that operates in the rest of the country, and Embratel group, with national coverage. The revenues of the three groups show similar figures, around US\$ 20 to 22 billion annually. Telefonica is controlled by Spanish capital, Oi is national, with Portuguese participation, and Embratel is controlled by Mexican tycoon Carlos Slim, and has a participation of Organizações Globo, the main Brazilian television network, in its pay TV operation.

Smaller firms have relevance in specific markets. GVT, a Vivendi company, has significant presence in the central, the northeastern, and the southeastern regions, and focus on wealthy users. TIM is the second largest mobile telephony provider, and does not supply other services. SKY, a satellite and MMDS pay TV provider, has national presence. Regional operators exist in Minas Gerais and a few other states.

Currently, the Brazilian market main figures are: around 42 million fixed lines (22 lines/100 inhabitants), 202 million mobile lines (106 lines/100 inhabitants), 15 million broadband accesses and 10 million pay TV accesses. Internet backhaul infrastructure and 3G mobile telephony are provided all over the country, but nearly half of the territory is serviced by radio or satellite connection, at a lower speed and higher prices. Rural services are still precarious in some areas.

The debates in the Congress regarding telecommunications evolved from a positive agenda during the first decade after the privatization process to a more concerned position. The huge investment effort and the significant benefits for the economy are acknowledged, but the following weaknesses are in discussion:

- Prices are still high for most services and quality is an issue, especially regarding the billing process and complementary services (i.e., maintenance, directories, and the like).
- Provision of triple-play services requires a change in the legislation, because a national participation is still needed for cable TV providers. A bill passed in the House and is currently being discussed in the Senate (Bill no. 116, of 2010).
- Certain regulatory issues are under scrutiny, such as interconnection costs, bulk rates, and unbundling practices.
- Broadband access is still provided at low speed rates. Average speed in Brazil is around 1.7 Mbps, and a significant part of the users receive a 256 kbps connection. A national plan created by the Executive (PNBL) requires all connections to comply with a minimum speed of 1 Mbps in 2014. During the negotiations, the Executive recreated Telebras as a smaller firm, specialized in the supply of infrastructure, but this initiative has not shown any progress so far.
- There is still a strong regional asymmetry. The Amazon basin is particularly underserved. The region has only two digital cable turnpikes connecting it to the rest of the country, one between Belém and Fortaleza, the other one connecting Manaus to Venezuela and then back to Fortaleza. The region, therefore, suffers with low throughput capability problems and lacks connection redundancy.

As a summary, telecommunication services are still behind the standards of OECD countries, but had a huge development in the last fifteen years. Brazilian companies are global, have plenty of investment capability and have shown to be able to comply with legal and regulatory requirements.

4 The media industry

The media industry is well developed in Brazil, but operates under a completely different regulatory framework. ANCINE provides incentives and credit for national contents production, and there are rules for the distribution, exhibition and broadcasting of national films. On the other hand, there is no regulatory agency for media vehicles and most of the obligations are imposed by the Executive itself, through the Ministry of Communications and the Ministry of Justice.

The Constitution ensures freedom of expression in a similar manner to the US First Amendment. It also ensures no restrictions to newspaper edition, and requires all radio and TV concessions to pass through the Congress, to prevent any act against radio and TV stations to take place.

There are restrictions to foreign capital in newspaper, radio and TV broadcasting (limited to a 30% share), and limits to the number of radio and TV stations that a group can hold. Therefore, vertical controls are built around contracts. There are no additional restrictions to market concentration. There is no contents censorship, but television and cinema are required to comply with a rating system. Certain programs may have to be scheduled in late hours in open television.

Open television networks are still the prevalent media vehicles, and receive roughly 70% of the advertising investment. Five networks (Globo, Record, SBT, Rede TV!, and Bandeirantes) have national coverage, but Globo has a dominant audience share.

The most important media groups are Rede Globo (roughly a US\$ 6.5 billion revenue and US\$ 1.5 billion profit), Abril (US\$ 1.8 billion revenue and US\$ 200 million profit), Folha (US\$ 1.5 billion revenue and US\$ 360 million profit), RBS (US\$ 650 million revenue and US\$ 100 million profit) and Estado (US\$ 520 million revenue and US\$ 45 million profit).

Globo controls the most important Brazilian TV network, with a 45% average audience share, has monopoly power in the newspaper market of Rio de Janeiro, with Extra and O Globo titles, a strong magazine publishing operation, radio networks with national coverage (CBN in FM, Radio Globo in AM), studio operations in Rio and São Paulo, and a 51% participation in NET, the cable TV provider. Abril is a magazine publisher and distributor, a contents producer for Brazilian MTV and other pay TV channels, and has two important publishing houses focused on educational titles. Folha edits newspapers in São Paulo, has an internet portal, UOL, a research institute, a publishing house and a press agency. RBS is a regional group with TV, radio and newspaper operations, and a contents producer for rural audiences. And Estado is a newspaper and book publisher in São Paulo, with a news agency and an FM national network (Eldorado).

During the nineties, there was a focus, in the Congress, on market concentration and on quotas for national production. The debate was recovered during the discussion of convergence issues, in the last four years. Media groups lobbied for quotas, in an attempt to protect themselves against foreign production, if

telecommunication firms were allowed to operate cable TV, open TV, or mobile contents.

Currently, the legislative debate is concentrated around two issues: advertising of certain products and children protection. Advertising may be limited or prohibited for tobacco, alcohol, pharmaceuticals, and chemicals. The Executive is also issuing regulation on firearms, food, and toys, through ANVISA, a public health agency. The discussion is focused on alcohol, as it is possible to broadcast ads promoting beer and other beverages. Networks, advertising agencies, and sports promoters, like soccer federations and racing teams, do lobby for freedom to advertise alcoholic beverages. Regarding children protection, Representatives may want to improve restrictions on inadequate contents, like violence and sex images.

5 The research and development agenda

Brazil has a relatively recent experience in R&D. Until the 1920s, there were no universities in the country. Our first universities were Universidade Federal do Paraná (founded in 1912), Universidade do Brasil, currently Universidade Federal do Rio de Janeiro (1920), and Universidade de São Paulo (1934). Research grants and support began in the fifties, with the creation of CNPq, a national council for R&D incentives.

During the sixties and the seventies, the academic community was able to create large research institutions that developed technology in various fields. Some of the best long-run results that opened opportunities for Brazilian firms began in these years, such as aircraft projects in the CTA, or seed varieties at Embrapa. The economic crisis of the 1980s affected the development of R&D in Brazil, and the difficult financial situation of many institutions remained unsolved until 2000, with the creation of “sector funds” that provided new financial resources.

Currently there are around 3,000 universities and research centers in Brazil. The most important are public institutions. In recent years, the Executive focused on the creation of vocational universities, and a network of nearly 300 technical institutes is already in place.

Public R&D support is provided by federal and state agencies. At the federal level, CNPq provides grants and financial support for a variety of research projects, CAPES focuses on financing graduate courses, FINEP is a banking unit that invests in small to medium size R&D projects, and BNDES has credit lines that can be used to fund research.

Most of the resources come from “sector funds”, a kind of taxation or contribution the government imposes on certain activities, such as information technology, telecom, airspace, oil, agribusiness, biotech, mineral, healthcare, and transportation, covering 16 areas, and a fund that gathers contributions on royalty remittances. Some of the funds were created as a compensation for incentives offered to a sector and are therefore optional. IT firms, for instance, can receive a tax relief and invest 5% of their revenues in R&D projects. Other funds are built on plain and simple mandatory taxes.

Most R&D projects are run by public universities and centers. Private institutions, with few exceptions, focus on undergraduate education and on arts and humanities. Things are changing slowly, thanks to three trends. First, there is a significant increase in the number of students that show interest in pursuing graduate degrees, opening a new demand for private institutions. Second, public funding distribution is expanding both geographically and by sector, as a requirement built into the “sector funds” legislation. And, finally, private institutions are having access to public funds and are developing their own financial support agencies.

The congressional agenda regarding R&D includes, at this moment, some priorities:

- A inquiry at the priority given by industrial policy to strategic sectors, examined by CAEAT, the House’s council for technical studies: aerospace, biotech, biofuels, software, pharmaceuticals, clean energy.
- Innovation is under scrutiny: there are few technology transfer initiatives to the private sector, and the Brazilian academy provides poor records regarding patents and rights. 70% of the patents deposited in Brazil are related to foreign developments. A revision of patent legislation may be required, to improve INPI efficiency, reduce the time span to register a patent, and provide more flexibility and robustness to protection mechanisms.
- The intellectual property debate is focused on inefficient or unfair collection and distribution of revenues related to music, theatre, ballet, and other audiovisual expression. So far, there is a certain tolerance to new media or new techniques for reproducing and distributing contents (internet, peer-to-peer, ...) and a feeling that current legislation may prove to be consistent with these innovations. Recognition of rights in emergent areas (life, biotech, pharmaceuticals, traditional processes, ...) is still a dogma, and a difficult discussion.

6 Conclusions

Brazilian economic policy has evolved significantly since the nineties, and the consistent results achieved by the country, thanks to an eighteen-year period of continuous economic growth, have changed the Legislative mentality and the priorities under discussion. Issues as macroeconomic stability, fiscal discipline, and private sector participation in the economy are considered an essential part of the development process by most Representatives.

The privatizing of large firms and public services are discussed at times, but the issue is fading out. The government tried to recreate the Telebras in 2010, with no significant results, and the Rousseff administration is quietly abandoning the project. Sectors that still have significant public involvement, such as transportation, are currently in a less favorable situation, and further privatization may be an answer to their problems.

Regarding R&D, innovation is seen as central to Brazilian development. Economic stability destroyed some of the (unhealthy) mechanisms that the industry could exploit to obtain relative advantages, such as wage depression due to inflation. Therefore, productivity gains will have to rely on technology advancement, and the Brazilian academy will have to be up to the task. The Congress is actively discussing the issue, considering both the general strategies and more specific mechanisms for selected sectors.

Currently, the most important debates are related to emerging challenges, such as the Pre-salt oil province. A few traditional themes are also hot topics at the moment, such as environmental protection and the tax burden on the industry. In general, the outcomes are showing so far that the Executive power still has a strong prevalence on the Congress, and that a liberal vision is evolving, when economic issues are considered.