

BRAZIL TRADE & INVESTMENT POLICY ROUND TABLE: MEETING REPORT



13th October 2017, 09:30 – 12:00

Location:

Department for International Trade
3 Whitehall Place
London
SW1A 2AW

Context

On 13th October 2017, the Department for International Trade (DIT) and Canning House co-hosted the Brazil Roundtable Stakeholder Event. This meeting brought together business representatives from approximately 20 companies across four key sectors that had experience in, or had expressed an interest in exporting and investing in the Brazilian market¹.

As part of their ongoing analytical work to understand where the greatest opportunities lie for increasing UK exports and investment to Brazil, DIT officials used the event to present their analysis to business representatives in attendance. Discussions were used to gather information from corporate members of Canning House regarding their experiences of doing business in Brazil, with a focus on areas where there is progress to be made. The report below summarises the key findings from the discussions.

Market access issues

Each sector group had broadly similar feedback on the market access issues. Brazil was regarded as a market with great opportunities for UK businesses. It is by far the biggest British trade partner in Latin America. It is, however, also regarded as a difficult and complex market to operate in.

Representatives noted issues with complex regulation, and local content requirements that are difficult to navigate and add a considerable amount of expense to working in the country. A number of representatives highlighted the number of permits required as an example of the prohibitive levels of bureaucracy that had an adverse impact on their access to the Brazilian market.

Local content rules were highlighted as an issue that forces companies to have a local supplier base even if foreign imports would be cheaper. This can lead to additional costs, as well as a loss of quality control over manufactured goods. FINAME loans from the Brazilian development bank BNDES provide capital financing to companies located in Brazil for the acquisition or leasing of new machinery and equipment. However, access is determined on having 60% local content for both value and weight of machines but this can often be difficult to maintain.

Recognition of Geographical Indicators (GIs) - used on products that have a specific geographical origin and possess qualities or a reputation that are due to that origin - was an area that representatives from the food and drink sectors noted as a key interest. Business representatives from the manufacturing sector noted that tariffs on industrial goods are high. However, if a foreign company

¹ The sector groups covered the following areas: manufacturing, commodities, legal and services and consulting.

manufactures a product that is not produced domestically, it is possible for businesses to import that product under ex-tarifário rules. While this affords a less expensive route for importing products into Brazil, it prevents businesses from developing and innovating new models of the product as any changes to the product specification means that it can no longer qualify for ex-tarifário.

There are also problems when it comes to handling data. The lack of robust data laws was highlighted as an issue. The lack of protection for intellectual property rights, in particular for Small and Medium-sized Enterprises (SMEs) with advanced products (a market that Brazil is very keen to attract) added to this concern about data security. Commercial counterparty risk – when a partner company in Brazil is not fulfilling its contractual obligations - was thought to be high, both in terms of data and security. Furthermore, it was also suggested that asset recovery can be difficult, expensive and have a low likelihood of success.

Mutual recognition of professional qualifications is regarded by all as an area where progress needs to be made. The legal profession, in particular, is affected by this as foreign lawyers find it difficult to practise in Brazil due to restrictive regulations around professional legal services.

General comments on Brazil's business environment

Tariff and non-tariff barriers

While tariffs on exported goods were high, there was a consensus from business representatives that barriers behind the border were the factors that made exporting and investing in Brazil challenging. These non-tariff / tariff-related barriers failed to provide a level playing field for foreign companies, and instead served as a means of incentivising domestic production. All of the parties agreed that these issues have a greater impact on SMEs, who will often lack the financial reserves to work through the complex layers of regulation and stand less chance of recovery from a miscalculation. Complex import requirements and inefficiency at ports were also highlighted as areas where major improvement would dramatically increase their ability to operate commercially in Brazil.

Labour laws

Most sectors concurred that labour laws in Brazil are obstructive and it is often expensive and difficult to bring skilled workers from abroad. This results in businesses having to rely on a very narrow local skills base. In addition, representatives mentioned that it is not uncommon for business operations to be stalled through industrial action.

Political and economic uncertainty

Political and economic uncertainty was raised as the key issue affecting businesses. Business representatives mentioned that a rapidly changing, unpredictable environment and the lack of communication or available advice about regulatory changes and administrative processes made the Brazilian business environment difficult to navigate when compared with other BRIC economies such as China and other Latin American markets.

Reasons suggested for Brazil's complex and bureaucratic business environment include a lack of cooperation at the federal and state level. The delays in the implementation of policies and the lack of clear warning given can also have a dramatic impact on firm's ability to navigate the Brazilian market. Good relations with the government are considered vital to operating effectively, which is something not all firms are in a position to have.

There was a general consensus that a lack of clarity in how the laws are interpreted at the state and federal level adds another level of complexity to the business environment. Larger firms have put money and effort into political forecasting and trying to predict the market as well as building an extensive network of people to engage within the Brazilian Government. SMEs generally speaking do not have the resources to be able to do this.

Lack of enforceable dispute settlement mechanisms

The problems also extend to a judicial level, where processes are slow and the system does not provide businesses with robust protections. Even where foreign exporters and investors are able to bring successful cases to the courts, enforcing the terms of the settlement can prove challenging. Again, this is an issue that has affected SMEs more than large multinational corporations. Underpinning this was the feeling that there was not a fair playing field between local and foreign companies, and as such many foreign business representatives had limited confidence that the judicial system would provide a fair and transparent process for dispute settlement.

Taxation and investment

High taxes were highlighted as a major issue that affected all sectors. Business representatives from the legal and services sectors mentioned the difficulties foreign companies face when seeking to invest in Brazil, and often a local company is needed to enter the bid through a joint venture or partnership.

There were suggestions that some of these problems were improving. The anti-corruption drive is regarded as a positive development, and there are suggestions that some areas of regulation are improving, such as local content laws. Business representatives were also keen to reiterate that business opportunities in Brazil were not just concentrated in São Paulo and Rio de Janeiro. The North-east

region of Brazil was mentioned as a source of 'untapped' opportunities for UK businesses that has for the most part been ignored.

Suggestions for improvement and useful action the UK government could take

In terms of the market access problems, it was suggested that many of these issues could be addressed at a government to government level. Mutual recognition of standards would eliminate some of the problems, as would a better system for handling data. Simplification of the customs systems and of the systems needed to operate in Brazil would also be a useful step, as would incorporation of international standards (e.g. OECD, WTO, EU) and best practice. A better dispute resolution mechanism to enforce judgements from trade disputes would increase confidence among exporters and investors.

In addition, representatives said that the UK government should look to provide more help and support to SMEs who are keen to export or invest in Brazil. They should also seek a Free Trade Agreement (FTA), or at least lower tariffs, as well as agreement on Geographical Indicators. Initiatives that would provide access to funding to help with the cost of permits and licenses required to establish a business in Brazil would be a positive change. Alternatively, more information about the administrative processes involved would also be helpful, especially for SMEs.