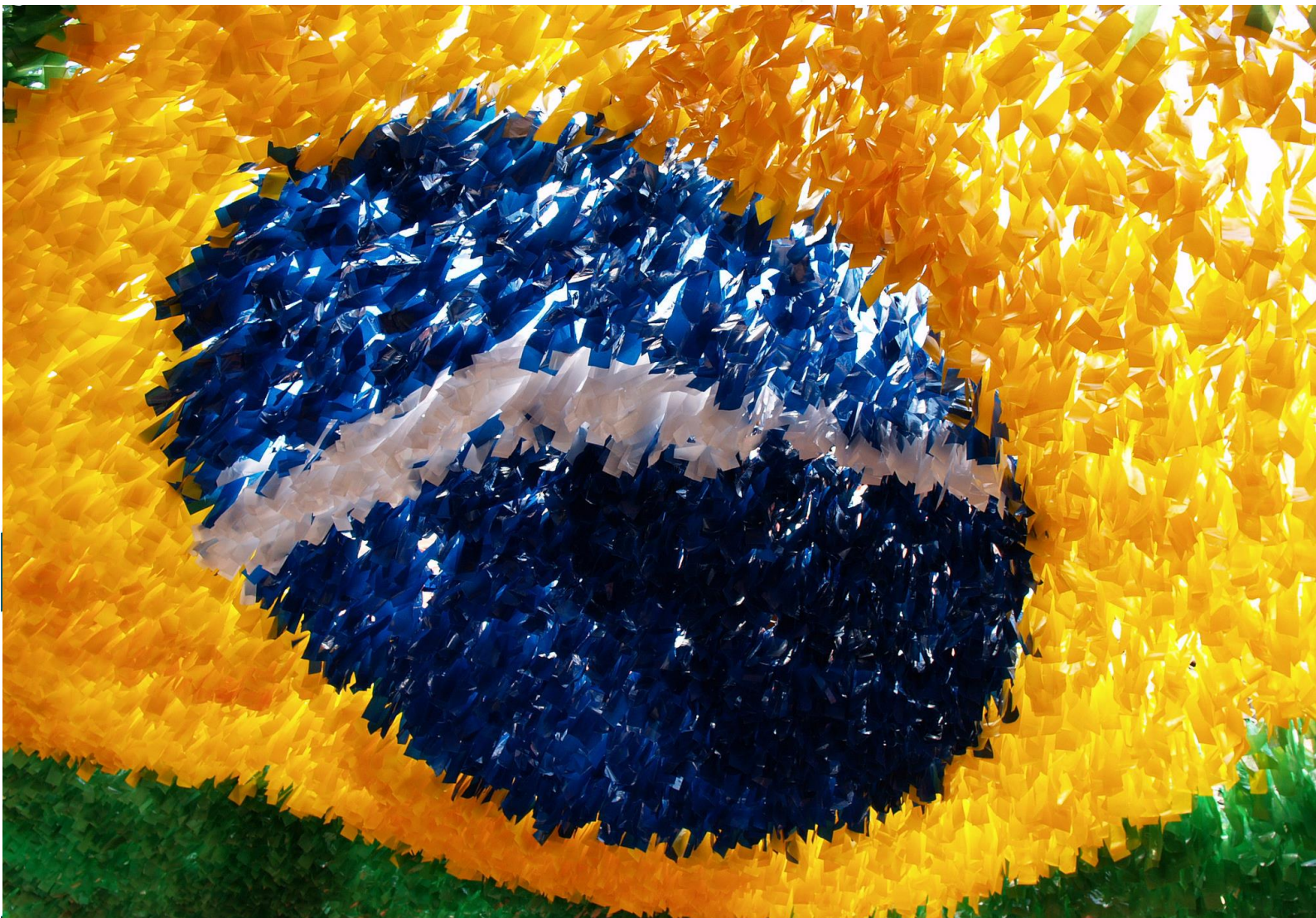


Effective Services Institutional Mechanisms

The Case of Brazil



This study is published as part of the “Support to Enhance Development of Trade in Services Negotiations” initiative jointly undertaken by ILEAP, CUTS International Geneva and the University of Sussex’s CARIS. It aims to contribute to the increased and more effective participation of Least Developed, Low and Lower-Middle Income Countries and their Regional Economic Communities in multilateral, regional and bilateral services trade negotiations.

The initiative promotes understanding among policy makers, regulators and negotiators about their services sectors and the role that trade negotiations can play in pursuing their strategic interests therein.

Author:

Krista Joosep Alvarenga

Published by:

INTERNATIONAL LAWYERS AND
ECONOMISTS AGAINST POVERTY (ILEAP)
1240 Bay Street, Suite 600,
Toronto, Ontario, Canada
Tel: +1 416 309 2330
Fax: +1 416 309 2331
Email: tradeinservices@ileap-jeicp.org
Web: www.ileap-jeicp.org

CUTS INTERNATIONAL, GENEVA
37-39, Rue de Vermont
1202 Geneva, Switzerland
Ph: +41.22.734.6080
Fax: +41.22.734.3914
Email: geneva@cuts.org
Web: www.cuts-geneva.org

CENTRE FOR THE ANALYSIS OF REGIONAL
INTEGRATION AT SUSSEX (CARIS)
University of Sussex
Sussex House, Brighton, BN1 9RH, United
Kingdom
Tel: +44 (0)1273 606755
Email: information@sussex.ac.uk
Web: www.sussex.ac.uk/caris

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Table of Contents

Table of Contents	1
Abbreviations.....	2
Foreword	3
Introduction.....	4
Characteristics of Effective Institutional Mechanisms	5
Context of Coordination.....	6
Technical Structures (Actors, Rules, and Roles)	7
Decision-Making Structures (Actors, Rules, and Roles)	10
Technical and Political Processes (interactions, practices) ..	17
Conclusions.....	22
References	24
Annex I: Questionnaire Respondents and Interviewees.....	26

Abbreviations

ANATEL	Agencia Nacional de Telecomunicacoes
ANTAQ	National Waterway Transportation Agency
APEX	Brazilian Trade and Investment Promotion Agency
CAMEX	Foreign Trade Chamber of Brazil (Câmara de Comércio Exterior)
CEB	Brazilian Business Coalition (Coalizao Empresarial Brasileiro)
CNI	National Confederation of Industries
CONEX	Private Sector Advisory Council of CAMEX (Conselho Consultivo do Setor Privado)
CSO	Civil Society Organizations
DECOS	Department of Trade and Services Policy
DEINT	Department of International Negotiations
DFAS	Department for Financial Affairs and Services
DNS	Division of Services Negotiations (Divisão de Negociação de Serviços)
EU	European Union
FIESP	Federação das Indústrias do Estado de São Paulo
FTAA	Free Trade Agreement of the Americas
GATS	General Agreement on Trade in Services
GECEX	Executive Management Committee of CAMEX
GICI	Inter-Ministerial Working Group on International Trade in Goods and Services
GoB	Government of Brazil
IBGE	Brazilian Institute of Geography and Statistics
LDCs	Least Developed Countries
LICs	Low Income Countries
LMICs	Lower Middle Income Countries
MDAs	Ministries, Departments, and Agencies
MDIC	Ministry of Development, Industry and Foreign Trade
MER	Ministry of External Relations of Brazil (Itamaraty)
MERCOSUR	Common Market of the South (Mercado Comum do Sul)
MFA	Ministry of Foreign Affairs
MT	Ministry of Trade
SCS	Secretariat of Trade and Services
SECEX	Brazil's Secretariat of Foreign Trade
SENALCA	FTAA coordination body (Secretariat Nacional da ALCA)
SENEUROPA-	
MERCOSUR	Coordination body (Seção Nacional para as Negociações MERCOSUL)
SPS	Sanitary and Phytosanitary Measures
TBT	Technical Barriers to Trade
USEFA	Under-Secretariat of Economic and Financial Affairs
WTO	World Trade Organization

Foreword

Services and services trade can play a central role in promoting sustainable development, supporting inclusive economic growth, and reducing poverty in modern economies. However, LDCs, LICs, and LMICs continue to face challenges in catalysing or sustaining progress across this diverse range of economic activities. With respect to trade policy and related negotiations, services have become an increasingly visible feature of discussions – domestically, regionally, as well as at the bilateral and multilateral levels.

A number of challenges impacting services trade negotiations and policy-making have been identified however. Many lack access to reliable services trade data on which to base analysis and decision-making, and skills for processing and analysing existing services trade data to underpin conclusions. Ineffective interactions between stakeholders to support decision-making – within government, and between the government and the private sector, civil society, and other non-state actors - is also a major challenge.

Against this backdrop, ILEAP, CUTS International Geneva and the University of Sussex's CARIS have partnered to undertake a series of interventions that seek to contribute to the increased and more effective participation of LDCs, LICs, LMICs and RECs in multilateral, regional and bilateral services trade negotiations.

With funding support from the UK Trade Advocacy Fund, a set of studies, toolkits and trainings are developed to assist these countries in increasing their participation in services trade. Target beneficiaries range from negotiators, policymakers, regulators, statistical officers and various non-state actors.

In this context, this Brazil case study on “Effective Services Institutional Mechanisms” examines how trade in services mechanisms in a middle-level developing country have different structures and processes for trade in services negotiation. Civil Society Organizations are a key pillar of the institutional trade in services landscape today, and their inclusive participation can be an invaluable asset for the government when properly designed.

Introduction

Over the past two decades, trade in services has become a significant contributor to income generation, earner of foreign exchange and employment creation. It should no longer be ignored. Particularly in lower income countries, all should be done to capture the value of trade in services. The capacity of least developed countries (LDCs), Low Income Countries (LICs) and Lower Middle Income Countries (LMICs) to carry out negotiations and devise new policy for trade in services could be enhanced through better functioning institutional mechanisms.

Countries, including LDCs, have for the past decades increasingly negotiated regionally, sub-regionally, bilaterally, and multilaterally, often simultaneously. To ensure that their various negotiations portray coherent, coordinated national trade positions, they should have institutional structures and processes, which help various stakeholders be aware of each other's work and positions, as well as draw on the necessary technical expertise as and when needed.

Trade in services particularly cuts across virtually all aspects of an economy, making it necessary to coordinate between different Ministries, Departments, and Agencies (MDAs) when services trade negotiations are undertaken. While treaty/trade negotiations per se often fall under the Ministry of Foreign Affairs (MFA), usually the general technical expertise with regard to trade issues is with the Ministry of Trade (MT) (or in increasing cases, these two are housed under a single Ministry). Sectoral Ministries and regulators however tend to have the deeper technical knowledge in their specific domains, which is an essential input especially with respect to the many aspects of services trade. For example, in the USA, there is a Ministry of

Foreign Trade where the technical analysis, coordination, and formulation functions are all in one place. This is not the case in Brazil. A specific Ministry might not be needed, however, for coordination it is beneficial to have a one-stop-shop for analysis, coordination, and formulation.

Brazil was chosen as a case study to illustrate institutional mechanisms in a middle level developing country, which still portrays many of the socio-economic issues of a developing country but at the same time exhibits extensive advancements in institution building and functioning of institutional mechanisms for trade in services and trade negotiations. The Brazil case study examines different structures and processes for trade in services negotiation. Section I highlights what constitutes effectiveness of institutional mechanisms for services trade negotiations. In section II, the study examines the mechanisms in Brazil. This section is built according to institutional structures, roles, and processes that are in place in Brazil among the Ministry of Development, Industry and Foreign Trade (MDIC), the Ministry of External Relations (MER)/Itamaraty, sectoral Ministries, the private sector, and the Foreign Trade Chamber of Brazil (Câmara de Comércio Exterior – CAMEX), which is a government chamber mandated to coordinate and formulate Brazil's trade policy in goods and services. Under conclusions are a few lessons and insights against the effectiveness criteria for lower-income countries seeking to improve the functioning of their own domestic structures and processes.

Characteristics of Effective Institutional Mechanisms

Institutions according to Geoffrey M. Hodgson are, “systems of established and embedded social rules that structure social interaction” (Hodgson, 2006). Jonathan Turner defines institutions in a more elaborate form as “a complex of positions, roles, norms and values lodged in particular types of social structures and organising relatively stable patterns of human activity with respect to fundamental problems in producing life-sustaining resources, in reproducing individuals, and in sustaining viable societal structures within a given environment” (Miller, 2014). According to the Business Dictionary, mechanisms are “logical assembly of components, elements, or parts, and the associated energy and information flows, that enable a machine, process, or system to achieve its intended result” (BusinessDictionary, 2015).

To apply the concepts of ‘institutions’ and ‘mechanisms’ to the government, institutions are the formal organization of governments, and the actors, rules, interactions, and practices applied are the mechanisms that define the institutions. In the context of this study, government coordination mechanisms for services trade negotiations are divided into structures (e.g. actors, rules, roles) and processes (e.g. interactions and practices).

In order to be effective, the established institutional processes and structures should enable the country to take a decision which is the optimal choice out of a set of known alternative options. In the context of internal government coordination for trade in services negotiation positions, effective structures and processes enable the government to create negotiation positions based on economic, legal, analytical, and statistic inputs through interactions of all relevant stakeholders (MT, MFA, sectoral ministries, regulators,

private sector), while ensuring that the positions are in line with the overall government priorities.

On the basis of characteristics that many government processes and structures have for effective coordination (Ben-Gera, 2009), some characteristics of effective institutional mechanisms for trade in services include:

- Direction and decisions on negotiations are related to the government's stated priorities
- Coordination has a component linking it to the highest levels of the government, in order to ensure political will and implementation.
- Mechanisms exist for ministries to consult each other and resolve disagreements on draft policy positions, so that they are not in conflict with each other's objectives and can be settled before the government meets to take decisions
- Government positions are based on adequate information, coherently presented, and well argued
- Coordination requires minimal extra resources, as coordination is undertaken within existing government structures
- There is close collaboration with the private sector involved in services trade

Within the above context, what follows is the structures and processes in place in Brazil to achieve coordinated services trade negotiation positions.

Context of Coordination

In the 1990s, trade policy-making became more complex in Brazil, as new sectors and topics were added, including services trade issues. When the Free Trade Agreement of the Americas (FTAA)¹ negotiations started in Brazil (1996), they fostered a wide reorganization of processes of negotiations and consultations both internally within the government and externally with the business and civil society community. Under the MER, a national FTAA Secretariat (SENALCA) was established. It was a forum that was responsible for debating and coordinating issues on the negotiations in order to develop national positions for Brazil. The SENALCA meetings were held monthly, and were frequented by various Ministries and the CAMEX. The Decree establishing SENALCA allowed for the participation of other invited external groups. After each FTAA meeting among the Member States, domestic workshops were held to introduce the discussions and prepare new proposals and positions (Da Motta Veiga, 2002). Similarly to the FTAA negotiations, Brazil had two other areas where it was doing trade negotiation coordination: one group for the World Trade Organization (WTO) negotiations and two others for the National Section of Negotiations for MERCOSUR-EU (SENEUROPA) and the National MERCOSUR Section, which both focused on issues beyond services (Republic of Brazil, 2003).

In late 1990s and the beginning of 2000s, to coordinate with other ministries, other issue-specific inter-ministerial groups were formed under the MER. They were composed of technical representatives of various ministries and agencies and often from the private sector and civil society. One of these inter-ministerial groups was the Inter-Ministerial Working Group on International Trade in Goods and Services – (GICI), where the agenda would include issues from the FTAA, WTO, MERCOSUR negotiations, and that of discussions on services with the EU (Puntigliano, 2008).

The GICI was created in 2001 and it had a specialized *ad hoc* body (though without legal status) that dealt

with services issues, particularly the difficulties Brazil was having under the WTO's General Agreement on Trade in Services (GATS) specific schedules of commitments. Brazil's commitments were not reflective of the current regulatory regime in Brazil. The *ad hoc* body congregated not the Ministers but other senior officials from all the federal regulatory agencies and government bodies (financial regulators, telecom regulators, ministry of labour and employments, central bank, etc), as well as the National Confederation of Industries (CNI) and a few State Federations of services suppliers to fulfil its two functions: first, to report on the progress of the negotiations under the FTAA, the WTO, and, MERCOSUR-EU; and, second, to elaborate on Brazil's schedule of specific commitments under the GATS (Marega, 2004). The GICI, and the forums on SENALCA, the WTO, and the SENEUROPA have all been discontinued since about the middle of 2000s, as negotiations became stuck at the WTO and also regionally. The private sector and the civil society organizations (CSOs) lost interest, as they believed that the deal at the WTO was not possible and other negotiations, such as the MERCOSUR-EU had been suspended for a long time. Even now, as some of the negotiations are starting again, the private sector and the CSOs have not shown much interest. But the meetings could be convened again if there was a need. It only takes a political decision.

Despite slow deliberations at the multilateral as well as the regional level, overall services issues have become more important in Brazil, due to the importance of the services sector to the Brazilian economy. The services sector (including trade in services) as a proportion of GDP increased from 64.7% in 2003 to 69.4% in 2013. Trade in services expanded specifically from 10.6% to 12.7% of value added in GDP between 2003 and 2013 and the value of Brazil's services exports increased over ten year an average of 28% per year (MDIC, 2014).

¹ FTAA is a trade agreement that would expand the North American Free Trade Agreement (NAFTA) to an addition 31 nations within the Americas. These negotiations have been stopped.

Technical Structures (Actors, Rules, and Roles)

The legacy of coordination of negotiation positions, particularly the services negotiations, has remained within the Ministry of External Relations (MER). Even the Executive Secretariat of the trade coordination body, CAMEX comes to these technical services trade coordination meeting within the MER and not the other way around, as the processes have worked relatively well. More is said on them under the political structures and processes sections below.

To counteract the different negotiation demands by the WTO, FTAA, and MERCOSUR-EU, the MER expanded extensively. First, there was only the International Trade Division under the MER dealing with trade issues and employing only five diplomats (Lampreia et al., 2005), but in the mid-1990s, following the worldview of Brazil's President Fernando Henrique Cardoso, the leadership within the MER started creating new departments' and divisions. In 2001, several new thematic divisions were established, where about 30 diplomats started working on specialized issues after receiving extensive commercial diplomacy training at the Brazilian diplomatic representations in several European countries (Puntigliano, 2008). Today, the MER has divisions dealing with every aspect of international trade negotiations, including a Division of Services Negotiations (Divisão de Negociação de Serviços - DNS). The DNS employs itself five diplomats dealing with trade in services negotiations and services regulation topics. It is situated under one of the nine under-secretariats of the MER, the Under-Secretariat of Economic and Financial Affairs (USEFA) within the Department for Financial Affairs and Services (DFAS) (Organization chart and contacts, 2015).

Notwithstanding, there are other departments within the USEFA, which deal with services trade aspect, for example the Department for International Negotiations (DIN) and its Division of MERCOSUR's Extra-regional Negotiations (e.g. MERCOSUR-EU, MERCOSUR-Chilli), and the Department for Economy, which deals with the WTO issues. There are also other MER under-secretariats and their departments and divisions which deal with services trade issues, such as under the Under-Secretariat General for the Environment, Energy, Science & Technology and its Department of Energy Divisions on Renewable and Non-Renewable energy sources or its Department for Science and Technology that does also trade promotion from within its Division of Investment Promotion. But these departments and divisions are not fully dedicated to trade in services and rather consult the DNS on services negotiations or work in tandem with DNS when need arises.

The DNS' role is to act in a sense as a focal point to gather everybody in a single body within the MER as well as from the outside to make making offers possible, for example for an offer at the WTO within the LDCs services waiver discussions. The DNS is responsible for making contact both within the Ministry in the area of services trade promotion, negotiations, preferential trade agreements, etc, and at the same time coordinate with different ministries and regulatory agencies, including to secure their technical input into discussions. If a position within the MERCOSUR-EU negotiations has a services component, the MERCOSUR department would pass the hat to the DNS. It is also DNS that interacts for

example with the different Divisions and Under-Secretaries at the MDIC.

Taking into account the importance of the tertiary sector (services sector; primary being the agriculture and secondary the industrial sector), in 2005 the Federal Government, through the Decree No. 5532 of September 6, created the Secretariat of Trade and Services (SCS) under the Ministry of Development, Industry and Trade (MDIC, 2015a). Under SCS are several departments and divisions, including a Department of Trade and Services Policy (DECOS) and a Division on General Coordination on External Markets. The SCS is responsible for formulation, coordination, implementing, and evaluating public policies and actions for developing trade in services sectors within the domestic context (MDIC, 2015b). They sometimes also consult the DNS because domestic policy in trade in services has to be compatible with the GATS rules. They publish the National Atlas of Trade and Services together with the Brazilian Institute of Geography and Statistics (IBGE) and others. The IBGE also puts out a monthly Services Survey (MDIC, 2014 March).

MDIC also hosts Brazil's Secretariat of Foreign Trade, SECEX, under which is the Department of International Negotiations (DEINT). SECEX is in charge of the conduct of foreign trade policies and the management of commerce through supervision, direction, planning and control in the area of its competence. DEINT is directly involved in services trade negotiations in collaboration with MER's DNS. For services negotiations SCS undertakes the services cooperation initiatives in relation to domestic issues. SCS provides inputs to SECEX, such as

statistical data for services negotiations and also helps out with consultations with private sector representatives. It is SECEX that is in charge of all the private sector consultations for services trade negotiations; yet, at times it is undertaken by the MER's DNS and there can be associations and groups specifically under sectoral Ministries that the sectoral Ministries consult themselves.

MDIC, and by extension MER and the entire Brazilian government, benefits from an enhanced understanding and information about private sector stakeholders in services, because as of 2012 they have in place a statistics database for services sector. This provides the Government with strategic information on specific services sectors, guiding policy making and evaluation of services trade.²

The private sector is rather well organized, though not specifically according to services sector. For example, the Federação das Indústrias do Estado de São Paulo (FIESP) is a federation of 131 business associations formed of 23 industrial sectors (chemicals, paper, automotive, pharmaceuticals etc.). FIESP speaks on behalf of about 150,000 companies of all sizes. In that services make up key parts of all these industrial sectors, there is a strong services consideration already embedded here.

There are also other FIESP-type organizations in other Brazilian states but FIESP is especially significant for its major industrial output in Brazil. Though they might not be as well organized as private sector for industry or agriculture, in 2005 already there existed associations for many of the major services sectors within Brazil, which can be seen in Box

² The Siscoserv database (Integrated System of Foreign Trade in Services, Intangibles, and Other Operations that Produce Variations in Equity) is a computerized online system that permits the federal government to monitor foreign services transactions between residents and non-residents. It requires that every Brazilian legal entity and individual that imports or exports services, register any

operation of sales of services and intangibles, which generate changes in equity.² While this leaves out cross-border investments in the services sector (known in trade speak as 'mode 3 – commercial presence'), it has greatly contributed to enhancing the governments understanding of the type of services trade being transacted.

1. There is also the CNI, which is an umbrella for all industry associations of Brazil that hosts the secretariat of the Brazilian Business Coalition (CEB), which represent business within the international trade negotiations coordination of Brazil (Ougaard, 2014); and there exists also the Brazilian Association of Information Technology and Communication Companies (BRASSCOM), which is part of the Global Services Coalition and actively promotes global services trade.

BOX 1: MAJOR SERVICES SECTORS WITHIN BRAZIL (2005)

The Associação Brasileira dos Produtores Independentes de Energia Elétrica (APINE) on energy; Câmara Brasileira dos Investidores de Energia Elétrica (CBIEE) on energy; Federação Brasileira de Bancos (FEBRABAN) (banking umbrella group) on financial services; Federação Nacional das Empresas de Seguros Privados e de Capitalização (FENASEG) on insurances; Brazilian Association of Hazardous Waste Treatment Companies (ABETRE) on the environment; Brazilian Association of Pay TV - Associação Brasileira das TVs por Assinatura (ABTA) on telecommunication; Brazilian Society of Broadcast Engineering - Sociedade Brasileira de Engenharia de TV e Telecomunicações (SET) on telecommunication; Associação Brasileira de Empresas de Software (ABES) on computer services; Brazilian Association of Data Processing Companies (ASSESPRO) on computer services; Associação Brasileira de Atacadistas e Distribuidores de Produtos Industrializados (ABAD) on distribution/express delivery; Associação Brasileira da Produção de Obras Audiovisuais (APRO) on audio-visual; Associação Brasileira de Emissoras de Rádio e Televisão (ABERT) on audio-visual (Brasília (2005).

Sectoral Ministries and Agencies are responsible for providing technical inputs to the different services negotiating and policy-making processes within the Government of Brazil (GoB). The MDAs usually situate the 'trade' discussions within the broader orientation of their sectoral policy and regulatory framework. By preparing the technical inputs about the sector, they help shape how the discussions will be based. For example, the following MDAs are responsible for the technical inputs in their sectors: Ministry of Finance for the financial services; Agência Nacional de Telecomunicações (Anatel) for the telecommunications services; Ministry of Culture for the audio-visual services; Ministry of Energy for the energy services; Ministry of Environment for the environment services; Ministry of Communication for the express delivery; MDIC for the distribution services; and, MDIC and the Ministry of Science and Technology for the computer services. These ministries interact with their Agencies or sometimes the Agencies themselves are the primary responsible for the services sector (Brasília, 2005).

Across sectoral issues, the sectoral Ministries' capacity to understand trade issues and specifically the trade dimension of their sectoral policy varies significantly. There is a diverse range of knowledge and acceptance of the GATS and the trade negotiations context. Sometimes it is closely linked to the type of service provided. There are some that are provided more on a domestic basis and they do not perceive themselves to have an interest in exports. Others that could be traded internationally may have characteristics that limit the perspective of being 'tradable' due to sensitivities or related factors. For example, the Ministry of Education sees education from a human rights perspective and not as something that could be considered part of a package of trade concessions. The Ministry of Labour and Employment may also have difficulty to grasp the concept of mode 4. They think more in terms of the employer-employee

relationship and do not necessarily think in terms of ‘services providers’ having temporary presence. Under the Ministry of Health, though recently it has allowed foreign capital in private hospitals in Brazil, this measure has been met with great amount of resistance and thus it is not yet ready to be put up for a trade commitment. At the same time the Central Bank finds the WTO too soft on financial regulation. While the Ministry of Finance understands very well the context of the WTO negotiations and the telecom regulators came to understand well how trade negotiations work. Meanwhile, Brazil is a big exporter of construction services, but the construction enterprises do not pay much attention to the GATS, as they are more interested in the public contracts, which are outside the mandate of the GATS (GATS excludes procurement).

Despite all the different perspectives, the MER’s DNS still works with all these sectors. MER

brings together technical people and when it comes to taking decisions at the Ministerial level decision-making bodies, the sectoral Ministers are usually briefed before their high-level coordination meetings as well as accompanied by their advisors to the meetings.

Within Brazil, there are some services sectors that are regulated by the state and the municipalities. The services regulated at the state and municipality level are often those that fall under the category of public services, for example, services on sewage treatment. The DNS does not have adequate channels for such outreach and thus tries to avoid the coordination at state and city level, as Brazil has more than 5000 municipalities. These service sectors are not taken on commercial basis and are excluded and outside the commitments of the GATS.

Decision-Making Structures (Actors, Rules, and Roles)

The GICI types forums described above were for discussion and debate for the ministries and the private sector and the civil society (CSOs), where the CSOs and the private sector disclosed information and concerns and had frank discussions. But, the deliberation and the decision-making have always been within the Brazilian Foreign Trade Chamber (CAMEX) dedicated for the Ministries to coordinate and take decisions. Notwithstanding, CAMEX’s mandate to coordinate trade issues and make trade policy has fluctuated over years.

Before 2003, negotiation positions were achieved in a more informal way, where the MER played a more

important role and had greater autonomy. In 2003, CAMEX’s legal mandate to formulate trade policy and negotiation positions was restored by President Lula da Silva (it had a trade coordination mandated already from 2001). It means that CAMEX was given further political clout. As a body, CAMEX had already existed since 1995 to coordinate foreign trade in goods and services, however, the Presidential Decree No. 4.732 of June 10, 2003, established CAMEX in the current form and with the current political power (Ramos, 2010). As Brazil has no Ministry of Foreign Trade, trade issues are fragmented across the government (e.g. customs issues are dealt with under Ministry of Finance,

promotion of exportation is under Brazilian Trade and Investment Promotion Agency - APEX, negotiations under MER, SPS and TBT issues are under other agencies, etc). According to the CAMEX Executive Secretariat, the most important factor that has grown out of CAMEX is that in Brazil trade policy issues are really coordinated, as the Decree that sets up the body and the Resolutions that CAMEX passes, are not recommendations for Brazilian institutions to coordinate but they require them to coordinate; and for the most part the institutions comply.

At its inception, CAMEX was created in the context of the effort to rebuild the country's export policy, and was to provide better institutional coordination between the various Ministries and agencies involved in Brazil's foreign trade. It was constituted under the Government Council (Council that advises the President), however since 1999, when MDIC was created, the Chamber itself remained under the Government Council, but its Executive Secretariat (responsible for the technical and managerial issues) was placed under the MDIC. This has been a source of criticism in that some felt it fell to a lower hierarchical position organizationally than enjoyed before and thus it could be claimed that the different Ministries in CAMEX were no longer on equal footing. Possibly related to the attempt to reinstate CAMEX's political standing, there was a Resolution No. 70 of 2007, which requested that all agencies involved in governing Brazilian foreign trade need to obey with Articles 1 and 3 of the Presidential Decree No. 4.732, which outlines that these agencies have to bring all legal acts that might impact Brazil's foreign trade to CAMEX before issuing them (Ramos, 2010). In this way, the government ensured a single point through which all trade and trade-related matters could be centralized.

It can be noted that there is however one institution in Brazil that stands above this Resolution, which is the institution of the Presidency itself, as in Brazil with the precedence of Presidents before, the President can take foreign trade and negotiation decisions without bringing the discussions first to CAMEX.

CAMEX

The core functions of CAMEX, as outlined in Article 2 of the Decree, is to formulate, adopt, implement and coordinate policies and activities related to foreign trade in services and goods (Republic of Brazil, 2003). CAMEX is to enable the government of Brazil to carry out an integrated action and coordination among government agencies that have responsibilities in the area of foreign trade, as well as consult with the private sector. CAMEX's role when bringing together the Ministries involved in economic and trade policy, is ensuring that different perspectives and the potential impact of trade negotiations on different aspects of domestic economic policy can be discussed and taken fully into consideration in its decisions. According to the CAMEX Secretariat, out of CAMEX's functions, it is the function of coordinating the GoB positions that is most prominent.

Among the nineteen major and seven sub-tasks of CAMEX, which apply both to trade in services and goods, are to i) set guidelines and procedures for the implementation of foreign trade policy aimed at competitive insertion of Brazil in the international economy; ii) coordinate and guide the actions of the bodies that have expertise in foreign trade; iii) establish guidelines and coordinate policies to promote goods and services abroad and disseminate commercial information; iv) in the context of export and import activities, set guidelines and guidance on standards and procedures; v) establish guidelines for the negotiation of agreements and covenants relating to foreign trade, bilateral, regional or multilateral nature; vi) formulate basic guidelines of tariff policy in imports and exports; vii) implement foreign trade policy (that including commitments made under the WTO, MERCOSUR, Latin American Integration Association) (free translation) (Republic of Brazil, 2003).

CAMEX is a member-based organization bringing together a number of Ministries involved in economic and trade policy through several layers of representation, notably:

- the Council of Ministers;
- the Executive Management Committee (Comitê Executivo de Gestão – GECEX);
- the Executive Secretary;
- the Private Sector Advisory Council (Conselho Consultivo do Setor Privado – CONEX);
- the Financing and Export Guarantee Committee (Comitê de Financiamento e Garantia das Exportações – COFIG) (the latter is not discussed in this paper); and,
- the “technical” sub-committees.

Yet, it is important to note that most technical deliberations for CAMEX happens in technical groups situated under the MER, MDIC, and other MDAs and from there, going up the CAMEX hierarchy decisions are being refined and vetted.

The *Council of Ministers* is the highest decision-making body in CAMEX (political authority). It is comprised of six of the historically and politically strong Ministries of the country, plus the President's Cabinet representative (Chief of Staff of the Presidency of the Republic). The Ministries are: MDIC; MER; Ministry of Finance; Ministry of Planning, Budget and Management; Ministry of Agriculture, Livestock and Supply; Ministry of Agricultural Development; and the Civil Cabinet of the Presidency of the Republic (Casa Civil). The Council can formulate government policy, which goes beyond the mandate of any single Ministry. Other Ministries may be invited to the meetings of the Council, if the issues and agenda touch upon their areas of expertise. MDIC presides over CAMEX's Council of Ministers and if for whatever reason they cannot carry out the task, it shall be done by the Finance Minister. The Council takes the highest-level decisions, approving trade positions that are proposed by GECEX or sub-committees (Republic of Brazil, 2003). Decision, such as starting new services negotiations in Brazil would need to pass through the Council. At this level, services issues are largely addressed in the same manner as goods and other trade-related issues. However, the relatively more important Ministries

involved in services decision-making at this level are the MER, MDIC, and the Ministry of Finance.

The *Executive Management Committee* (GECEX) is the core executive board under CAMEX (executive authority). GECEX as a body was created to account for a broader range of Government Ministries and Agencies, such as the Ministry of Transportation or Health. In 2003, the number of Ministries that compose GECEX was increased from 14 to 26, as there was a realization that many trade issues required the cooperation of a broader range of different Government institutions. GECEX is not as high level as Council of Ministers, but made up of executive and under-secretaries. Among the current GECEX composition are for example, the Executive Secretary (ES) of Ministry of Labour and Employment; the Secretary-General (SG) for Economic and Technological Affairs of the Ministry of Foreign Affairs, the ES of the of the Ministry of the Environment, the ES of the of the Ministry of Tourism, the Undersecretary-General for South America of the Ministry of Foreign Affairs, etc. Among others are also the Central Bank of Brazil, National Bank for Economic and Social Development and the APEX (Republic of Brazil, 2003). Under GECEX the representation of different services sectors is more apparent, as the agencies and ministries involved here go well beyond those related to core economic or financial activities of Brazil.

The Executive Management Committee assesses the impact, provides on-going supervision and determines improvements in relation to any proceeding, barrier or bureaucratic requirement that applies to foreign trade (Republic of Brazil, 2003). GECEX is a technical level body in a sense that it does not take trade decisions but it rather further formulates and recommends decision to the Council of Ministers. GECEX can adopt resolutions and deal with technical issues on already decided agreements. Under GECEX are several subcommittees, which advises GECEX on specific issues of foreign trade, including on services. Over the past 12 years of functioning of the GECEX with its hundred plus meetings has however shown that

it is not necessary that all these Ministries and Agencies are present at each of the coordination meeting as often their area of competence is not under discussion and the processes become too lengthy. Ideas are under way to reduce the GECEX with provisions to extend invitations to different MDAs to coordination meetings as need arises.

One of the main outcomes of strengthening the CAMEX in 2003 was the establishment of the Private Sector Advisory Council (CONEX), which was to create better channels for the GoB to interact with the private sector. The function of this body is to provide GECEX with private sector advice. It is composed of 20 private sector representatives, with personal and not transferable mandates. The Decree No. 4.732 does not establish specific criteria for the designation of CONEX's representatives. They are chosen by the MDIC after discussions with the other Ministers of the Council. They represent the reality of foreign trade in Brazil, in terms of their presence in exports. They are usually the CEOs and Directors of companies and bring important issues and problems as well as good experiences into GECEX at a very high level. In its current configuration, there is a presence of representatives from renowned businesses and associations that represent a variety of services sectors.³ However, CONEX has been dormant for the past four years and was only reconvened on April 15, 2015 with the presence of the President of the Republic, Dilma Rousseff.

The *Executive Secretariat* (technical authority) responsibilities are to prepare the meetings of the Council of Minister, the GECEX, and the CONEX; chair and coordinate collective bodies, committees and technical working groups under the CAMEX; carry out and promote studies and prepare proposals on issues of competence of the CAMEX to be

submitted to the Council of Ministers and GECEX; request information from other government agencies and the private sector; and, monitor the implementation of resolutions and guidelines established by the Council or GECEX. The Chairman of the Council of Ministers of CAMEX shall appoint the Executive Secretary (Republic of Brazil, 2003). The Executive Secretariat personnel are public servants that follow a Government career called Foreign Trade Analyst; in other words, they receive very specific trade-related training to be able to undertake this role. This career provides public servants to both the MDIC and the CAMEX Secretariat. There are about 50 people working for the Secretariat, of which two are specifically working on trade in services issues. These are the people that have the responsibility to attend the technical coordination meetings of the MER's DNS on services.

Under GECEX, subcommittees are created as need arises. They are composed of Ministerial stakeholders that make up CAMEX or GECEX. With regards to trade in services, depending on the nature of the issue to be addressed, countries may consider a comprehensive services subcommittee (for example to deal with cross-cutting issues such as investment measures in services or labour mobility-related issues), or they may opt for sector-specific committees (for example, for telecommunication, banking, and distribution, or even more specific sub-sectors, such as IT-enabled services, mobile banking, and retail trade, etc.). But in Brazil, there is no specific sub-committee on services under the GECEX, as the issues are resolved under the MER and overall services are still not as much traded and disputed, as are industry and agriculture.

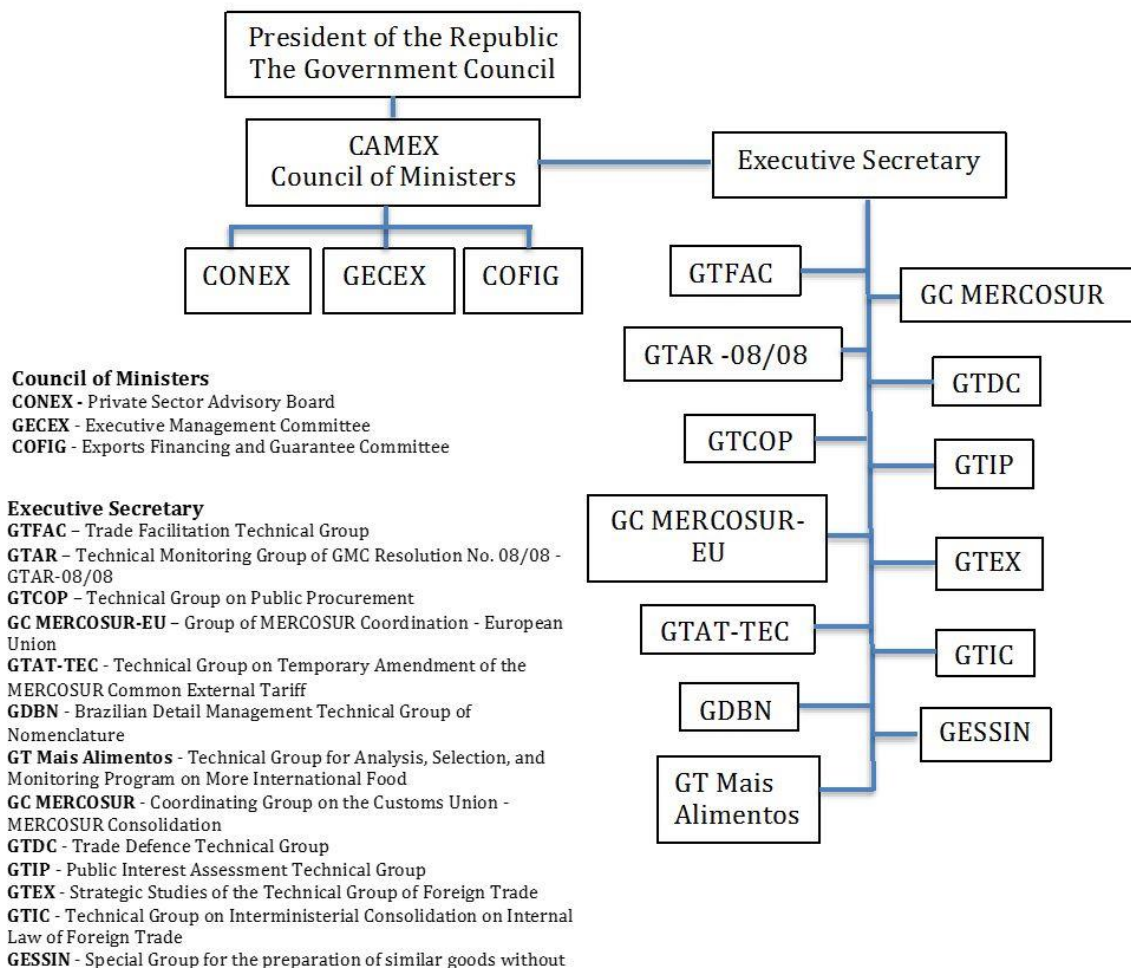
³ This includes company, confederation, and association representatives from the following sectors: Bank of Brazil (Banco do Brasil), National Confederation of Industry (CNI), CAN, Brazilian Space Agency (AEB), Association of Engineers (Abece), Petrochemical company (Braskem), Brazilian Association of Infrastructure and Basic Industries (ABDIB), National Association of Motor Vehicle Manufacturers (Anfavea), Bus body manufacturers (Marcopolo), Food company (BR Foods), Textile

and Apparel Industry Association (Abit), Shoe Manufacturers Association (Abicalçados), IT solutions company (Stefanini), sugar and bioenergy (Bunge), sugarcane and ethanol production (Unica), Brazil Bar Association (IBA), Brazilian ports (ABTP), Inter-Union Department of Statistics and Socio-Economic studies (Dieese), Business Council of Latin America (Ceal), and infrastructure consultancies (Kaduna).

Each of the subcommittees has specific terms of references or a CAMEX resolution that establishes them, their roles, responsibilities, structure, etc. The subcommittees are ultimately working under specific guidance from CAMEX and dependent on its decisions for major policy initiatives within the process of that negotiation (i.e. approving market access offers, coordinated by the specific working group but approved at the level of CAMEX). See Graph 1 for a graphic representation of the

organizational chart of CAMEX bodies and subcommittees. These “technical” subcommittees are in reality decision-making bodies where appropriate ministries gather and take technical level decisions and recommend them to GECEX or CAMEX, and the real technical work is undertaken in networks and technical groups, which are formal or informal and based under the MER, the MDIC or other MDAs.

GRAPH 1: ORGANOGRAM OF CAMEX BODIES



*Source: CAMEX website, <http://bit.ly/1JeaimB> (free translation)

One of the subcommittees, which deals with both trade in services and trade in goods negotiation issues, is the GC MERCOSUR⁴-EU (*Grupo de Coordenação MERCOSUR – União Europeia*). It is responsible for preparing Brazil's positions for the MERCOSUR-EU discussions,⁵ negotiations and an eventual bi-regional trade agreement on trade in goods and services.

It is co-chaired by the MER and the Executive Secretariat of CAMEX. Its secretariat is established under the MER's International Negotiations Department. Please see Box 2 below or Graph 2 (page 25) for more details.

BOX 2: GC MERCOSUR-EU SUBCOMMITTEE

Legally established: The GC MERCOSUR-EU body was established under CAMEX Resolution No. 6, on February 16, 2011 under the CAMEX within the GECEX. Its purpose is to examine and recommend the Brazilian position, which feeds into the MERCOSUR position for a bi-regional negotiation position between the MERCOSUR and the EU (Republic of Brazil, 2011).

Membership, roles, and interactions: GC MERCOSUR-EU is co-chaired by the MER and the Executive Secretariat of CAMEX and shall be composed of representatives of the ministries that make up the CAMEX. Other government bodies and public entities with a stake in the negotiations may be convened to participate. The role of the GC is *inter alia* to analyse proposed regulatory frameworks in the various areas under negotiation. The meetings are held at the request of its Secretariat and can be called upon by other government agencies. The Group itself will make recommendations to the bi-regional negotiation positions and develop the technical notes and impact assessments. The Secretariat circulates the documents and materials to be discussed to the Members at least two working days ahead of the meeting in order that ministries can adequately prepare. The eventual recommendations will be taken to the Council of Ministers of CAMEX.

Consultations: The technical work can be undertaken as needed together with other agencies not specified under CAMEX.

Secretariat and resources: The Secretariat of the GC MERCOSUR-EU is under the International Negotiations Department of the MER, which provides the technical and administrative means necessary for their operation. No additional remuneration to members of the GC MERCOSUR – EU will be allocated as per the participation in it (Republic of Brazil, 2011). This last point is important in terms of understanding one of the factors that makes the coordination efforts quite effective in Brazil, as CAMEX, as a body is not expensive (more on this below).

4 MERCOSUR is the Common Market of the South, a group founded by Argentina, Brazil, Paraguay, and Uruguay. Venezuela joined in 2012 and is now taking part of the negotiations pro forma.

5 The MERCOSUR-EU trade discussions were first launched in 1999 but have several times been interrupted and stalled. In 2013, there was re-initiation of the discussions. In April 2014, the parties

met to agree on the proposed framework. The parties have prepared their proposals and are currently waiting to exchange them, after which negotiations will start. The MERCOSUR-EU discussions are on both, trade in goods and services, and the Brazilian preparatory working group, GC MERCOSUR-EU deals with both.

As noted earlier, there exists a Department for International Negotiations under the MER under which is a Division of MERCOSUR's Extra-regional Negotiations. It is that Division that houses the Secretariat of CAMEX's GC MERCOSUR-EU sub-committee. This subcommittee takes ministerial level decisions, as the membership is composed of high-level government stakeholders and the Division under the MER undertakes the technical level negotiations coordination work, as well as some political level coordination with the other Member countries of the MERCOSUR. As said before, in Brazil there has not been a need yet to create a specific subcommittee dedicated to services, as the coordination roles is well nestled within the MER.

A key distinguishing feature of Brazil's coordination mechanism is that at the political level, CAMEX does not require big amounts of additional financial and human resources to undertake its work and to ensure that service trade negotiation positions are coordinated. This is because CAMEX, as a Government Chamber, is largely dedicated for resolutions and taking decisions, whereas the administrative support and resources required to perform the work of different CAMEX bodies is managed by the MDIC (Republic of Brazil, 2003). Importantly, the resources for this work are automatically allocated from the Treasury.

Yet, the reality is that also the budget for the CAMEX Secretary's activities fluctuates according to the economic situation of the country, which inhibits the Secretariat to become a think tank on trade and take over some of the responsibilities from the Ministries. However, this does not affect the technical, analytical, coordination, and secretariat work, which is done under the MER, MDIC, Ministry of Finance, and the sectoral Ministries under their specific mandates within their technical bodies that prepare positions for CAMEX bodies. This is due to the fact that technical coordination work to be undertaken under the Ministries is financed from that Ministries' regular budgets. Also, all the technical work is assumed as a normal part of the budget of the Ministries.

To sum up the institutional structures in Brazil, including for trade in services coordination, can be divided into political and technical levels. The Council of Ministers of CAMEX is the primary political structure, mandated to formulate Government's trade policy. Many important services sectors are represented at the executive level of coordination of the government within the GECEX body, which remains still high level within the GoB, as the GECEX is composed of Executive and Under-Secretaries, ensuring that trade discussions are brought to the sectoral Ministries discussion at rather high level. For the technical level work, departments and divisions dedicated specifically to services trade and negotiation issues are in place within the MER and the MDIC, with MDIC being responsible for the trade statistics and the MER for the coordination with the MDAs as well as for the preparation and formulation of the negotiation proposals. MDIC together with the MER consults the private sector. Sectoral ministries and regulators are responsible for providing technical inputs. With the private sector role as the primary economic agents in services trade, formal and informal structures exist within the MDIC, the MER, the sectoral Ministries, and CAMEX to consult them and provide them avenues to make their inputs.

The structural set-up of services trade coordination in Brazil does not require new and additional funds, as CAMEX is mostly a decision-making body and participation in Council of Ministers, GECEX, and work under sub-committees does not allow extra remuneration for the participants, rather their work under these coordination bodies is assumed as a regular day-to-day functioning work of the Government. The same is true for the day-to-day coordination undertaken by the MER for services negotiation positions as well as for the inputs that are provided by the MDIC or the sector Ministries. The only structure that needs funding is the CAMEX Executive Secretariat, which MDIC funds for.



Technical and Political Processes (interactions, practices)

In Brazil, when services negotiations are undertaken, each of the services issues will have their own separate coordination process under specific negotiations but overall the processes for coordination does not differ much. The coordination process will be done with all the relevant ministries and agencies, and as required, with the private sector and civil society. Institutional processes to arrive at coordinated services trade negotiation positions take place within the structures of MDIC, MER, CAMEX, GECEX, CAMEX subcommittees, sectoral Ministries, regulators, and the private sector. The CAMEX bodies and processes are there to ensure the coordinated decision among the Ministers, and the technical day-to-day coordination for services negotiations is undertaken by the MER, together with MDIC, sector ministries, agencies, and the private sector.

These coordination processes are divided into the following types of interactions:

strategic positioning;

- MDAs consultations and discussions, settling disagreements, and defining negotiation positions;
- private-sector consultations; and
- endorsing negotiation positions.

The MER has a particular responsibility with services negotiations, as it coordinates all the services sectors and leads international services negotiations on behalf of the Government. It is in a good position to coordinate, as it is not directly responsible for any specific sectoral issue within the economy and is thus better equipped to promote consensus among different Government bodies that are specifically concerned with one sector of the economy. In Brazil,

as processes have been divided into technical and political processes, it makes sense that the technical part of the services negotiation coordination is within the MER. The MER has to fine-tune the technical positions to make them compatible with the political ones.

In general terms the negotiation coordination processes that the MER has to follow are known and respect the political guidance that comes from the Minister. There is no written down process thus far, but recently they have tried to get it formalized in a White Book for Foreign Policy of Brazil. Also, the Minister from time to time needs to go to the Commission for Foreign Relations at the National Congress where the representatives question the Minister about the negotiations and the Minister has to convey what are the guidelines for Brazil in the negotiations. According to the MER, overall the negotiation coordination procedures have minor adjustments but do not change much from when the Ministers change, as foreign policy is a state policy, not a government policy. As noted earlier, the practice has been that the MER conducts the specific processes of formulation, coordination and preparation of positions within the services negotiations.

The mechanisms for coordinating services trade negotiation positions are similar across services sectors. It does not matter if it is signing the Telecommunication Reference Paper at the WTO, which required the DNS to consult with the Ministry of Communications and figure out what are the reservations, or a demand for Brazil to open up the legal services market, where the DNS would need to consult the Bar Association only to find out that they

are adamant not to allow foreign workers to work in Brazil on Brazilian law. Taking into account the breadth of issues covered and the extensive number of government MDAs and regulatory bodies involved in services negotiations, coordination will frequently be undertaken by sector (i.e. financial services, telecommunications, maritime transport, etc.), both with responsible government bodies and the private sector, as all of the sectors have their own governing bodies, composed of the regulators and sectoral Ministries, entitled to regulate the sector.

Every single negotiation that has a service chapter, whether something under the WTO or the MERCOSUR external relations, even if there are specific departments within the MER dedicated to the WTO and the MERCOSUR negotiations, it is always the DNS that acts as a focal point and does the technical level coordination and consultations for the other Departments. First, when Brazil starts preparing offensive and defensive services negotiation positions, the DNS would analyse the request and determine what information is needed. Together with MDIC and sometimes also the Ministry of Finance, it would define the strategic and commercial interests. For example, if Brazil had to prepare a market access request on maritime transport within the MERCOSUR-EU context, after initial analysis, it would approach the MDIC to get domestic statistics and analysis on maritime trade from its Secretariat of Trade and Services (SCS) and other technical analysis and trade flows between the EU and Brazil and its MERCOSUR partners from its Department of International Negotiations (DEINT). After the initial assessment of the data, the DNS comes up with sub-sectors and modes on which it may consider making an offer.

Once the strategic position is defined, it is opened for inputs from sectoral Ministries, regulators and as needed, a survey may be conducted with the private sector. The DNS convenes a meeting with the MDA(s) that have a stake in the process. If the MDAs do not adequately understand trade issues, it is the DNS that explains to them in broad terms what GATS rules or rules defined in the negotiation mean and what would be the implications on national policy. CAMEX and MDIC are also always present at these coordination

meetings. Before the meetings, relevant technical notes are circulated in order that the participants can prepare and arrive at the meetings having in mind statistics, legislative and regulatory issues as well as the position of the external stakeholders they are in contact with.

Continuing on the example, for maritime transport services, the MER would invite to the meeting the Ministry of Transport, the Secretariat of Ports, the Navy, National Waterway Transportation Agency (ANTAQ), as well as other Agencies, as required. To engage ANTAQ, which is Brazil's federal regulatory agency in waterway transportation, first a request to ANTAQ would come from the Ministry of Transport, directly from the MER or even the Navy (this depends on how advanced the negotiation is and who is the leader of the negotiations). In the case of MERCOSUR-EU, the Ministry of Transport is responsible for the negotiation issues on transport and ANTAQ takes part due to the issues related to maritime transportation. The role of ANTAQ in the international negotiations is to give technical advice in the issues related to waterway and maritime transportation. In the consultations with the Ministry of Transport and the MER, ANTAQ will point out whether the negotiation align with the current legal framework and what efforts would be needed to assimilate the aspects under negotiation. The Ministry of Transport will express their views, concerns, and reservations and they might agree to include the subsectors and modes under their responsibility, or depending on different reasons, it may decide that it is not possible.

It is also possible that the Ministry of Transportation or ANTAQ requests to carry out further consultations with their private sector. Across the GoB, there are many different private sector consultations. Sometimes these consultations are formal and institutionalized, and sometimes they occur informally (even within the same Ministry). However, for services trade issues, normally, as a parallel process, sometimes before and sometimes after the consultation with the MDAs, the DEINT together with the DNS, in certain sectors that have historically not been under MDIC, would undertake the private sector consultations.

Within the DNS, the private sector consultations are no longer formalized under a single name (SENALCA, etc) with big meetings, distribution of documents and presentations, however that is not to say that the DNS does not accept to have dialogues with the private sector. Today the channels and mechanisms are rather informal. There are no formal or cumbersome procedures to reach the DNS, such as filing a formal request. If the private sector actors, for example the CNI, have a concern, they can reach the DNS on phone, email or arrange a meeting at the MER with the DNS. According to the DNS, it works very smoothly. Yet, as mentioned above, the private sectors is not very interested in the negotiations currently overall and do not go much to the DNS. They only go to the DNS as they are curious or fear some regulation under current trade negotiations. At the same time, the private sector is very interested in business development and goes rather to the trade promotion department within the MER.

With regard to the processes under the MDIC, according to them, services trade consultations with the private sector are more nuanced, compared to consultations on trade in goods where the processes are well established (according to the MDIC, once the MDIC releases a formal statement for consultations, the private sector knows precisely how to reply, submit their proposals, etc). With regard to services sectors, the representation, level of engagement, and competence varies from sector to sector. Some of the current services sectors are still fragmented and very localized. Some of them are composed of many small and medium-size companies, which creates the absence of a unified service-sector voice. Some sectors are more focussed on the domestic economy. However, there are sectors, such as construction, architecture, IT, IT-enabled services, and finance where Brazil has already for years had very liberal policies, and thus the awareness and consultation processes within these sector stakeholders are more established. To reach the services sector private sector players, sometimes MDIC goes directly to known stakeholders for consultations and sometimes more democratic processes, such as surveys are conducted among a larger base of private sector stakeholders.

Groups, such as the Confederação Nacional de Indústria (CNI) that have largely been consulted on industrial issues, are becoming increasingly more interested in services consultations.

In order to spread expertise of the negotiating agendas and make services issues more understood, MDIC has been organizing workshops for the private sector on what services trade means. Also, the current MDIC Minister, Armando Monteiro Neto has expressed an interest to make the services consultations more formal for all the different services sectors and to do it in a more inductive way of gathering inputs from the private sector before decision-making on these sectors. However, it is not yet clear what specifically they would do. MDIC believes this will become clearer once they engage in new services negotiations.

After DNS has achieved consensus among different bodies that it consults, DNS formulates an offer or trade commitment, which will be brought before CAMEX for a final deliberation with the presence of all the Council Ministers. If at the technical level a consensus is not achieved, they go to GECEX or CAMEX without consensus and mention that Ministers ABC are in favour and minister E and F against. It is then up to GECEX or CAMEX to try to forge consensus. Ultimately it could go to the President of the Republic on an issue where no agreement was reached.

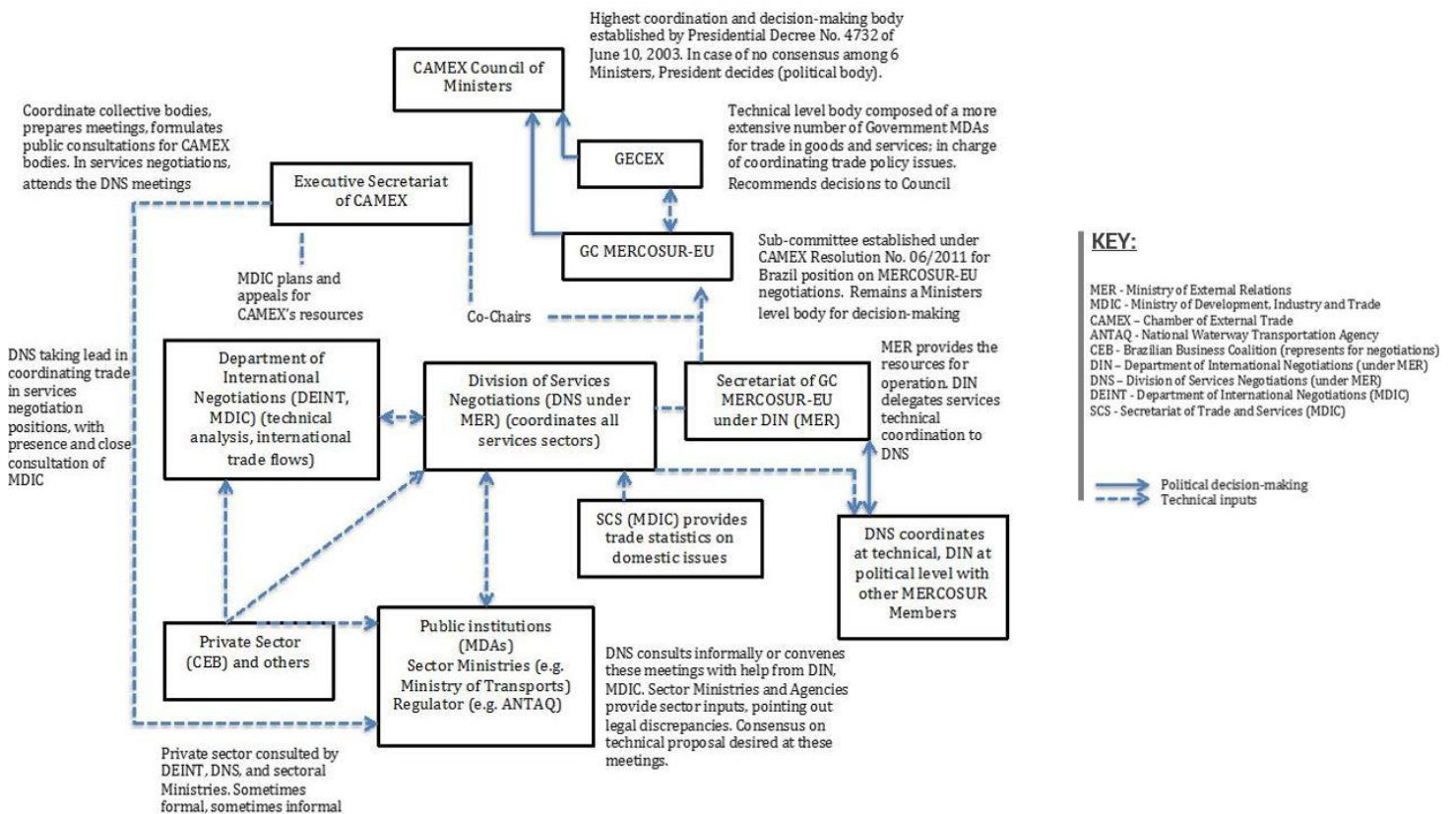
The highest decision-making body, the CAMEX Council of Ministers, meets approximately every two months or as and when there is a need. MDIC, as the initiator of the Council of Ministers meeting has expressed that they would like the meetings to take place at least once a month, as was originally envisioned in the Presidential Decree No. 4.732. On the other hand, GECEX, which meets about once a month, does not have the political decision-making power required for deciding on negotiation positions. The reality however is that Brazil is not engaged in many other services negotiations, only within the context of MERCOSUR-EU, MERCOSUR and Columbia, within MERCOSUR itself and at the WTO. Thus from the point of view of Ministerial level decision-making meetings, some have suggested the current frequency is sufficient.

Continuing with the example on the MERCOSUR-EU negotiation process, it is important to also outline the processes that are undertaken with the other Members of the MERCOSUR (Argentina, Uruguay, etc). In Brazil, before the negotiation position goes to CAMEX for endorsement, it is discussed at the technical level with all the MERCOSUR partners. In terms of services issues, at the technical level the DNS engages with the focal points of each MERCOSUR Member country, while also undertaking consultations with the national regulators and the private sector in Brazil (this is done in each country). Then at the technical level the countries come together to provide a single document and a consolidated offer. Since the MERCOSUR-EU negotiations are under the Department of International

Negotiations of the MER, they are responsible for the coordination at the more political level. Finally, at least in Brazil (it might be different in Uruguay, Paraguay, and Argentina) if the technical and political coordination have been achieved across the MERCOSUR countries, the CAMEX Ministers endorse collectively the position.

The structures and processes are compiled into Graph 2, which outlines the institutions, some roles and processes, spots of technical work, and direction of decision-making for achieving services trade negotiation positions within the MERCOSUR-EU negotiations.

FIGURE 2: INSTITUTIONAL MECHANISMS IN SERVICES TRADE FOR BRAZIL'S DOMESTIC COORDINATION FOR THE MERCOSUR-EU NEGOTIATIONS



Source: Author's conception

According to the MDIC, Ministries often do not agree on issues, however, the roles to achieve decisions are clear but not rigid and the ministries work well together and do often achieve consensus at the technical level. The CAMEX Executive Secretariat shares this view on the effectiveness of current processes. At the same time, there are criticisms both of the technical and political level of coordination expressed by the MER and the Executive

Secretariat. There are problems sometimes that issues and discussions are not raised under the CAMEX umbrella. For example, some decisions are taken by the Presidency in consultation with the Ministers but they do not pass through the technical levels of discussion and recommendation, which can create unforeseen legal and implementation issues. At the technical level, according to the MER, though there is a system of coordination and trade consultations that is a very legitimate, there are many loopholes and bottlenecks. At the technical level the problem of decisions being taken without proper consultations, create situations where decisions need to be revised because they were not properly discussed.

According to the MER, the systems for services negotiations have been working well but it has more to do with the people that are in charge, get along well, and have similar mind-sets.

The ensuing recommendation for the MER is that procedures should be better institutionalized, meaning that after each meeting or consultation, there should be a small report written, filed, and made available to all stakeholders in order to keep everybody informed about how issues and negotiations are evolving. Sometimes, some sectors come to the MER and say that they need feedback on their part what the MER is doing with the information they are providing to the MER. For the next years, a better feedback mechanism and institutional memory creation is something that they need to work on.

Conclusions

The institutional mechanisms for trade policymaking and negotiations in Brazil, including on trade in services, have evolved over the past 20 years. They are based on the realization and decisions at the highest levels of the Government that trade is important for the wellbeing of the country and that effective trade positions require different levels of coordination of the MDAs. Over the past 15 years, this has particularly been true for trade in services. The system is not perfect but has the political will, which provides the necessary pre-condition for trade coordination. The CAMEX structures ensure that at the Ministers and undersecretaries across many sectors of the economy are or can be involved in services trade deliberations. This warrants that trade in services issues receive not only high level guidance within the ministries that are traditionally involved in trade, but also within the sectoral Ministries. The Resolutions that are passed by CAMEX or for CAMEX, do not recommend coordination among MDAs, they require it. According to the MDIC, the system functions on the basis of expectation of actors that they will work together according to the agreed rules.

If the political level coordination was not there, which has guaranteed that the different structures for services trade have been put in place, the technical level coordination would not be as effective. According to Molinuevo, the effectiveness of coordination of different groups on services issues will be largely defined by the capacity of the institutional framework created for it through a 'technical secretariat' (Molinuevo, et al., 2014). In Brazil there are diplomats specifically dedicated to services

negotiations and there are departments responsible for domestic and international services statistics. The MER has a clear role to coordinate among all relevant MDAs and helps to build up their competence in international trade issues, if it is lacking. Though the private sector has been showing little interest in the currently on-going services negotiations, there remain various entry point in which they can make their viewpoints available to the Government. The division of labour for services trade negotiations is clear between the different actors, which creates a system where everybody know what everybody else's role is. Importantly, this helps to smooth relations between the different stakeholders, as no one harbours concerns that their policy domain will be 'taken over' by another Ministry.

The LDCs and LICs that are faced with resource constrains could learn from Brazil's case that coordination does not have to be expensive. In Brazil, according to MDIC, CAMEX does not require many extra resources to function as it is a decision-making mechanism and much of the technical work is undertaken within the Ministries. Of course, it might require from the LDCs to have regular institutions in place and to prioritize developing services trade in order to carry out the day-to-day coordination work. In addition, greater efforts may be required to ensure adequate technical capacity on services trade is available both to manage the negotiations and to assist the sectoral ministries and regulators to better understand the trade dimensions within their respective sectors.

As seen, Brazil fulfils a number of the criteria for effective coordination described at the outset of

the study. That being said, what is still inhibiting Brazil to be as effective as it could be in coordination between the plethora of actors, is the lack of recording, filing, and enabling usage of decisions that are taken at each coordination meeting. The MER does an effective job in collecting information from others but does not have adequate mechanisms in place to give feedback and record information, which is problematic as all the MDAs that are consulted need to know what is done with the information and what they can expect.

On the basis of this, while the Brazilian model offers a strong basis for others to learn from, having made headway in developing its institutional mechanisms and has some of the traditional hurdles faced within governments for services trade coordination processes and structures, there is still clearly scope for improvements.

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Annex I: Questionnaire Respondents and Interviewees

- Amb. Ronaldo C. Filho,** Director, Department of International Negotiations, Ministry of External Relations of Brazil
- Renato R. de C. Souza,** Deputy Director of International Negotiations at Ministry of Development, Industry and International Trade
- Ana Paula Harumi Higa** Head of International Advisory, Brazil National Waterway Transportation Agency
- Paulo F.C. Guerrero** Foreign Trade Analyst, Department of International Negotiations, Secretariat of Foreign Trade, Ministry of Development, Industry and Foreign Trade of Brazil
- George de O. Marques** Chief of Division on Services Trade, Department for Financial Affairs and Services, Undersecretariat General for Economic and Financial Affairs
- Marcela Carvalho** Special Adviser on International Affairs to the Executive Secretary of CAMEX



Support to Enhance Development of Trade in Services Negotiations

With support from the UK Trade Advocacy Fund, ILEAP, CUTS International Geneva and the University of Sussex's CARIS are undertaking a series of interventions that seek to contribute to the increased and more effective participation of LDCs, LICs, LMICs and RECs in multilateral, regional and bilateral services trade negotiations.

Through the studies, toolkits and training to be delivered, the envisaged results aim to assist these stakeholders in increasing their participation in services trade.

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