

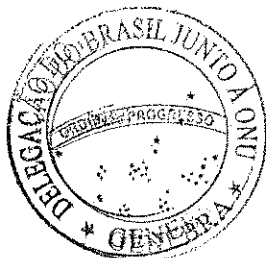


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The Permanent Mission of Brazil to the United Nations Office and other International Organizations in Geneva presents its compliments to the Office of the High Commissioner for Human Rights (OHCHR) and has the honour to present the Brazilian comments to the letter sent by the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights, dated 21 April 2017, inviting States to submit contributions related to the development of guiding principles for human rights impact assessments for economic reform policies, as requested by Human Rights Council Resolution 34/3, adopted on 23 March 2017.

The Permanent Mission of Brazil in Geneva avails itself of this opportunity to renew to the OHCHR the assurances of its highest consideration.



Geneva, 15 August 2013.

To the
Independent Expert on the effects of foreign debt and other related international
financial obligations of States on the full enjoyment of all human rights, particularly
economic, social and cultural rights
Juan Pablo Bohoslavsky

Guidance on for human rights impact assessments for economic reform policies

-Brazil-

General Considerations

Based on recent and past experiences, Brazil believes that macroeconomic stability is one of the main pillars to achieve long term positive results regarding the realization of social, economic and cultural rights. Persistent fiscal imbalances can lead to a vicious cycle of low growth, high inflation and chronic unemployment, further deteriorating the capacity of the state to finance public policies that benefit the poorest segments of society, particularly in the areas of health care, education and social security. This situation has the potential to put at risk the realization of the right to an adequate standard of living, in its different manifestations.

The economic crisis faced by Brazil in the last years demonstrated the level of public expenditure was not consistent with the available resources. Through the approval of the constitutional reform that created its New Fiscal Regime (EC-95), Brazil has adopted a 20 year timeframe to implement that will allow for a gradual and consistent adjustment with a view to achieving a sustainable fiscal balance. Such adjustment is needed to address the negative imbalance of the public accounts without undue discontinuities in public policies and social programmes. A longer timeframe reinforces the structural nature of the reform inasmuch as it allows investment and spending decisions to be taken in a context of macroeconomic stability and predictability.

The New Fiscal Regime stems from the need to address challenges regarding the unsustainable growth of public expenditure in the country. The reform was enacted to balance public spending, in accordance with the level of income and fiscal capacity of the country. Within the availability of resources that the public sector can effectively dispose, the National Congress will freely and openly discuss national priorities and allocate resources accordingly. In this context, any possible inefficient and regressive proposals will increasingly come under scrutiny.

Moreover, it is important to note that the previous structure of public expenditure in the country tended to reproduce a pattern of high income

concentration. By controlling and rationalizing public expenditure, the New Fiscal Regime will have a positive impact on income distribution. It will allow the maintenance and expansion of social programmes with the greatest redistributive impacts, while controlling spending that contributes to the concentration of income.

Social and human rights impact assessment of the New Fiscal Regime

The New Fiscal Regime will tend to greatly benefit poor and vulnerable groups. It will foster sustainable growth and promote employment, thus benefitting the poorest segments of society, which are the main victims of unemployment. By reducing inflation, the New Fiscal Regime will also significantly support the poor and underprivileged, since this segment of society has only limited access to the financial instruments that protect the public against the negative effects of inflation. The Brazilian experience with the abrupt reduction of inflation in 1994 clearly demonstrates that price stabilization has a profound positive impact on the income of the poor.

The New Fiscal Regime will result in the reduction in interest rates, contributing to the redistribution of income and the reduction in inequality. It will foster investment in infrastructure and the improvement of public services that directly benefit low income groups, such as water, sanitation, health and transport services.

The New Fiscal Regime in Brazil maintains the minimum floor for health care spending, which is significantly higher than the budgeted outlay for previous years. According to the previous constitutional rules, the minimum expenditures on health care should correspond to 13.7% of the net federal revenue in 2016. In the current year, the minimum expenditure on health care will rise to the equivalent of 15% of the net revenue. There is no specific cap for expenditures on health care. In the following years, the minimum floor will be adjusted according to inflation. But actual health expenditures can be higher provided spending in other areas is adjusted. The Government may submit a draft budget to Congress proposing a level of spending for health above the minimum, within the overall budget limit.

The New Fiscal Regime prevents a decrease in the health care spending floor, which has occurred in situations of economic contraction and declining revenues. It should be noted that the health care spending floor under the previous system was defined as a percentage of tax revenues - thus, health spending increased during economic expansions, as public revenues expanded, and decreased in

recessions, together with the corresponding decline of public income. Furthermore, the previous fiscal regime allowed for postponement of public spending, including on health, at the discretion of the Government, which is no longer possible under the new rules.

Similarly, in the area of education, the New Fiscal Regime does not impose a spending cap. In 2017, the minimum expenditure floor will be calculated according to the current rules, which determine that at least 18% of the federal tax revenues will be allotted to education. It is worth noting that under the previous fiscal regime (prior to the promulgation of EC-95), it was not always possible to guarantee high levels of expenditure on education, due to the fluctuation in tax revenues. Beginning in 2018, the minimum expenditure on education will correspond to the amount spent in 2017, adjusted according to inflation. The Federal Government can propose to the National Congress, as part of its draft annual budget, that resources dedicated to education be above the minimum spending floor. The National Congress also has the prerogative to raise education spending above the spending floor, provided that public expenditures in other areas of the federal annual budget are adjusted accordingly.

Public Debate

The approval of the New Fiscal Regime fully followed the due national legal procedures for the adoption of constitutional amendments in Brazil, under great scrutiny from Brazilian society. It was discussed and approved in two rounds of voting by both the Senate and the House of Deputies with majorities above the required 3/5 in each chamber of Congress. During the period of discussion of the draft amendment, there were 6 public hearings with the participation of civil society and independent experts. A dedicated technical team from the Ministry of Finance briefed political parties and members of Congress and participated in the discussions in the thematic commissions of parliament which oversaw the debate of the draft amendment.

The Senate and House of Deputies commissions that examined the draft amendment called on independent experts to debate the issue. There was ample room to present diverging views during the six months that the bill was under discussion in Congress, including during the public hearings, which were transmitted live on television and over the internet.

During this period, the debate over the reform mobilized the full attention of Brazilian society. It has been the subject of several television programmes, news articles and academic discussions. The Minister of Finance made a public

statement on national television on October 2016, in order to present the draft amendment and raise awareness of the issue. The technical staff of the Ministries of Finance and Planning participated in a number of debates with civil society organizations over the course of discussion of the reform. The draft amendment was subjected to wide public consultation and popular participation, in accordance with national democratic rules, in a country that fully respects freedom of the press, open debate and dissenting views.

Conclusions

The New Fiscal Regime will pave the way for sustainable economic growth and the consequent reduction on unemployment and inflation, benefitting, particularly, the poorest segments of society. It will allow the Brazilian Government to maintain and expand programs with greater social impact, while controlling other expenditures. The fiscal adjustment will reduce, over the medium and the long run, the amount of primary tax revenue currently required to keep public debt under control, which should, in turn, liberate additional resources to finance social programmes.

Brazil believes that the development of guiding principles for human rights assessment of economic reform policies should take into account the negative consequences of macroeconomic instability and fiscal imbalances for the realization of economic, social and cultural rights. Likewise, the assessment of the impact of economic reform policies should be compared to the social costs of a prolonged economic recession. The establishment of a transparent and clear limit to public expenditure, in the context of a democratic debate, can favor social policies with a greater impact on poverty eradication and contribute to increase the effectiveness of public spending. Without fiscal balance, social progress and reduction of inequalities cannot be sustained.