IBEP
IMPROVING BUSINESS ENVIRONMENT FOR PROSPERITY

The Improving Business Environment for Prosperity (IBEP) Program implemented by the World Bank Group aims to strengthen the design and implementation of business environment reforms in middle-income countries. IBEP is supported by the UK Prosperity Fund, whose mission is to support the inclusive economic growth needed to reduce poverty in partner countries, contributing to the UN Sustainable Development Goals.

REFORM STORY

JANUARY 2021

RETAINING FOREIGN INVESTMENT IN BRAZIL

Thanks to the support provided by the World Bank Group through the UK-funded Improving Business Environment for Prosperity (IBEP) Program, Brazil has established a Direct Investment Ombudsman (DIO) and introduced an online DIO portal enabling officials to receive, track and follow up on investors' grievances. Between its inception in April 2019 and October 2020, the cases that have been solved through the DIO amount to US$ 830 million in FDI and expect to create approximately 4,100 new jobs.

THE CHALLENGE

Investor grievance mechanisms (IGM) help governments better manage critical investor problems, which can cause investors to withdraw investment, cancel expansion plans, or sue governments for violating investor protection guarantees. These grievance mechanisms provide the institutional infrastructure that enables governments to identify, track, and manage grievances arising between investors and public agencies as early as possible. They help identify specific cases of violations, the tangible amount of investment impacted by the violation, and any other related impact on the investor. IGMs allow governments to provide an effective and timely response to resolve a specific case, as well as identify recurring obstacles to investors and systemic improvements and solutions.

Although Brazil receives the largest foreign direct investment (FDI) flows of any country in the region, investments are mostly directed toward exploiting natural resources or setting up subsidiaries to serve the domestic market and are geographically concentrated in large and developed states. Efficiency-seeking FDI to establish stages of production in regional value chains remains limited. This type of investment is the most movable type of investment and is much less tolerant of a deficient investment climate given that the whole production chain depends on being able to move goods and services in a cost- and time-efficient manner. Ultimately, increasing efficiency-seeking investments in Brazil has the potential to generate the largest knowledge spillovers to the domestic economy.

Specific bottlenecks that foreign investors face in Brazil are related to bureaucratic burdens, the so called "Custo Brasil" (referring to the increased operational costs associated with doing business in Brazil), corruption, frequent changes in laws and regulations and issues with the implementation of such investor rules. Before broadening the access to of the Direct Investment Ombudsman (DIO), foreign investors in Brazil did not have access to a mechanism that could help address grievances at an early stage before escalating to a legal dispute. Because of the inability of the government to resolve investors' grievances in a timely fashion, 63 percent of the companies surveyed by the Bank Group stated that they experienced a loss of their initial investment, reduced the number of jobs in the country, or canceled expansion plans in Brazil.

OBJECTIVES AND APPROACH

With the support of the UK-funded IBEP Program, the Bank Group advised the Brazilian government's Chamber of Foreign Trade on improving the country's grievance redress mechanism for foreign investors.

The recommendations provided with support by the program were grounded in diagnostic work evaluating the institutional setup of the Direct Investment Ombudsman (DIO) and its potential role in reducing regulatory uncertainty as well as analyzing the most recurring grievances faced by investors when entering and operating in Brazil. IBEP also advised officials on the need to broaden the access to the DIO to include investors from all countries—even in the absence of a ratified Cooperation and Facilitation Investment Agreement (CFIA) with a particular country.

The Brazilian government, in consideration of the diagnostics and recommendations elaborated by the program, issued Decree No. 9770 establishing the DIO covering all investors regardless of their nationality in April 2019. The new DIO has two main functions:

- First, it provides information to potential and existing investors concerning legal, regulatory and administrative procedures to enter and operate in the country.
- Second, it articulates a coherent and efficient government response to investors' inquiries (grievances) that are demands related to specific cases that arise from government conduct.

Both requests and inquiries (grievances) are to be jointly addressed with the public agency responsible for the specific matter at the federal, state or municipal level with the help of a Network of Focal Points designated across the government. As of October 2020, the Network of Focal Points comprises of 37 government agencies.

Further, with IBEP support, the government designed, implemented and launched the grievance tracking tool and external website of the DIO (http://oid.economia.gov.br/pt). Through this website and tool, officials can now receive, track and follow up on all investors' grievances from the time they are submitted by investors to their resolution—capturing all actions taken by the government towards the resolution of each grievance. The platform also allows the government to obtain aggregate data on the most recurring types of grievances, the agencies involved, the time it takes to solve grievances, and other measures. In May 2020, GECEX Resolution No. 43, 2020 was enacted providing for the operational rules of the DIO which gives even more certainty for investors relying on the DIO to address their grievances.

EARLY RESULTS

Between April 2019 (launch of the DIO portal) and October 2020, a total of 19 cases were received (8 consultations for information and 11 investors' grievances). Out of the 19 cases, 18 were resolved, leaving one grievance under analysis awaiting the manifestation of the respective bodies that are members of the Network of Focal Points as of December 2020. According to the government, the 18 cases already solved amount to US$ 830 million in FDI, with the expectation of approximately 4,100 new jobs generated.

The development of an institutional mechanism such as the DIO is complex, especially in a federal country with a large economy such as Brazil. Challenges still remain for the effective implementation of the DIO to ensure that this reform is translated into more and better investment, particularly in the lagging regions of the country.

ADDITIONAL RESOURCES

Direct Investment Ombudsman

Chamber of Foreign Trade (CAMEX)

DIO Institutional Video

World Bank Blog: Brazil makes a smart move to attract and retain foreign investment

World Bank Publication: Retention and Expansion of Foreign Direct Investment: Political Risk and Policy Responses

CONNECT WITH US

In Brasilia: Xavier Cirera, Sr. Economist, xcirera@worldbank.org

In Washington DC: Sylvia Solf, Sr. Private Sector Specialist, ssolf@worldbank.org