



Multiple Framework Contract FWC FPI PSF 2015

Lot 4 "Market Access and Trade & Investment Agreement Negotiation & Implementation"

Mapping of applicable technical regulations, conformity assessment procedures and supporting standards in support of EU-Brazil business development

DELIVERABLE 1

Study identifying 7 priority industrial sectors



**A project implemented by
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Multiple Framework Contract FWC FPI PSF 2015

Lot 4: "Market Access and Trade & Investment Agreement Negotiation & Implementation"



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The Team:

Vera Helena Thorstensen (vera.thorstensen@fgv.br) – Team Leader – TL

Michelle Ratton Sanchez Badin – Senior Expert – SE

Thiago Rodrigues São Marcos Nogueira – Junior Expert – JE

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LIST OF ABBREVIATIONS

DG Grow	Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs of the European Commission
DG Trade	Directorate-General for Trade of the European Commission
EC	The European Commission
EU	The European Union
GMO	Genetically Modified Organisms
HS	Harmonized Commodity Description and Coding System of the World Customs Organization
IT	Information Technology
RCA	Revealed Comparative Analysis
SPS	Sanitary and Phytosanitary Measures
SPS-IMS	WTO SPS – Information Management System
STC	Specific Trade Concern
TBT	Technical Barriers to Trade
TBT-IMS	WTO TBT – Information Management System
ToR	Term of Reference
TPP	Transpacific Partnership
T-TIP	Transatlantic Trade and Investment Partnership
US	The United States of America
USTR	United States Trade Representative
WTO	World Trade Organization

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1. OBJECTIVES

Deliverable 1 (D1) comprises *Activities 1 and 2* as described in the ToRs.

The main objectives of **D1** are:

- *Identifying 7 industrial products' sectors of current or potential significance in terms of trade between the EU and Brazil (priority sectors);*
- *Taking into consideration, in this analysis, the interests of EU business and the demands of the Brazilian market as well as the capacity of EU business to serve those demands;*
- *Mapping existing regulatory initiatives in Brazil and in the EU to identify needs and gaps in order to avoid duplication of ongoing efforts;*
- *Taking into account of both economies' relevant regulatory and standardization structures in federal and sub-federal level.*

2. METHODOLOGICAL APPROACH

The methodological approach in defining the seven industrial sectors combines three approaches:

- The bilateral trade flow per economic sector at 2-digit Harmonized System (HS) in 2016;*
- A Revealed Comparative Analysis (RCA) with aims at identifying which industrial sectors were competitive in the Brazil-EU and Brazil-US bilateral trade;*
- Potential existence of extensive regulatory trade measures with higher chances of revealing some kind of protectionism intent.*

2.1. Bilateral Trade Flow

Bilateral trade flow is a good indicator of which economic sectors are more competitive than other ones, which might help identifying sectors of interest. In the first place, it is not automatic that economic sectors with great trade flows in comparison to the others mean that they have less trade barriers. This may depend on the economies involved and their complementary aspects. Therefore, a high trade flow in sector can indicate that it is complementary to the economies involved but still it can bear unnecessary trade regulation acting as barriers.

In the second place, a low trade flow does not mean high barriers to trade because, again, this may depend on the characteristics of involved economies and which sectors are more complementary to each other.

The Team of Experts verified the 25 leading economic sectors for exports and imports in Brazil-EU and Brazil-US bilateral trade in order to identify which sector could be part of interest. Brazil-US trade was introduced as an indicator of sectors that are exported to Brazil by the US but not by the EU, what deserves further analysis.

Table 1 – EU and US exports to Brazil: 25 leading sectors based on trade flows (by value)

EU Exports to Brazil		US Exports to Brazil	
HS	Products	HS	Products
84	Nuclear reactors, boilers, machinery and mechanical appliances; others	84	Nuclear reactors, boilers, machinery and mechanical appliances; others
30	Pharmaceutical products	27	Mineral fuels, mineral oils, bituminous substances; waxes
87	Vehicles other than railway or tramway rolling-stock, and parts and accessories thereof	29	Organic chemicals

85	Electrical machinery and equipment and parts thereof; others	85	Electrical machinery and equipment and parts thereof; others
29	Organic chemicals	39	Plastics and articles thereof
27	Mineral fuels, mineral oils, bituminous substances; mineral waxes	90	Optical, photographic, cinematographic instruments; others
90	Optical, photographic, cinematographic instruments; others	38.	Miscellaneous chemical products
39	Plastics and articles thereof	30	Pharmaceutical products
38	Miscellaneous chemical products	87	Vehicles other than railway or tramway rolling-stock, and parts and accessories thereof
73	Articles of iron or steel	31	Fertilizers
31	Fertilizers	88	Aircraft, spacecraft, and parts thereof
88	Aircraft, spacecraft, and parts thereof	28	Inorganic chemicals; organic or inorganic compounds of precious metals, others
40	Rubber and articles thereof	40	Rubber and articles thereof
72	Iron and steel	73	Articles of iron or steel
48	Paper and paperboard; articles of paper pulp	10	Cereals
32	Tanning or dyeing extracts; tannins and their derivatives;	22	Beverages, spirits and vinegar
28	Inorganic chemicals; organic or inorganic compounds of precious metals, others	32	Tanning or dyeing extracts; tannins and their derivatives; others
22	Beverages, spirits and vinegar	34	Soap, organic surface-active agents, others
15	Animal or vegetable fats and oils; Others	86	Railway or tramway locomotives, rolling-stock and parts thereof; others
76	Aluminium and articles thereof	48	Paper and paperboard; articles of paper pulp, of paper or of paperboard
86	Railway or tramway locomotives, rolling-stock and parts thereof; others	33	Essential oils and resinoids; perfumery, cosmetic or toilet preparations
33	Essential oils and resinoids; perfumery, cosmetic or toilet preparations	94	Furniture; bedding, mattresses, cushions and similar stuffed furnishings; others
94	Furniture; bedding, mattresses, cushions and similar stuffed furnishings; others	47	Pulp of wood or of other fibrous cellulosic material, others,
89	Ships, boats and floating structures	35	Albuminoidal substances; modified starches; glues; enzymes
68	Articles of stone, plaster, cement, asbestos, mica or similar materials	25	Salt; sulphur; earths and stone; plastering materials, lime and cement

Source: AliceWeb - MDIC.

The Table below shows the 25 leading exporting industrial sectors from Brazil to the EU and to the US:

Table 2 – Brazil exports to the EU and the US: 25 leading sectors by trade flows (by value)

EU Imports from Brazil		US Imports from Brazil	
HS	Product	HS	Products
26	Ores, slag and ash	84	Nuclear reactors, boilers, others
23	Residues and waste from the food industries; others	72	Iron and steel
09	Coffee, tea, maté and spices	88	Aircraft, spacecraft, and parts thereof
12	Oil seeds and oleaginous fruits; Grains, Seeds, others	27	Mineral fuels, mineral oils, bituminous substances; mineral waxes
84	Nuclear reactors, boilers, machinery and mechanical appliances; others	09	Coffee, tea, mate and spices
47	Pulp of wood or of other fibrous cellulosic material, others,	47	Pulp of wood or of other fibrous cellulosic material, others,
72	Iron and steel	44	Wood and articles of wood; wood charcoal
27	Mineral fuels, mineral oils, bituminous substances; mineral waxes	68	Articles of stone, plaster, cement, asbestos, mica or similar materials
20	Preparations of vegetables, fruit, nuts or other parts of plants	85	Electrical machinery and equipment and parts thereof; others
02	Meat and edible meat offal	29	Organic chemicals
71	Natural or cultured pearls, precious or semi-precious stones, others	20	Preparations of vegetables, fruit, nuts or other parts of plants
83	Miscellaneous articles of base metal	22	Beverages, spirits and vinegar
24	Tobacco and manufactured tobacco substitutes	87	Vehicles other than railway or tramway rolling-stock, and parts and accessories thereof
16	Preparations of meat, of fish or of crustaceans, others	71	Natural or cultured pearls, precious or semi-precious stones, others
39	Plastics and articles thereof	40	Rubber and articles thereof
41	Raw hides and skins (other than furskins) and leather	28	Inorganic chemicals; organic or inorganic compounds of precious metals, others
88	Aircraft, spacecraft, and parts thereof	73	Articles of iron or steel
08	Edible fruit and nuts; peel of citrus fruits or melons	39	Plastics and articles thereof
29	Organic chemicals	26	Ores, slag and ash

85	Electrical machinery and equipment and parts thereof; others	16	Preparations of meat, of fish or of crustaceans, others
44	Wood and articles of wood; wood charcoal	41	Raw hides and skins (other than furskins) and leather
89	Ships, boats and floating structures	24	Tobacco and manufactured tobacco substitutes
73	Articles of iron or steel	48	Paper and paperboard; articles of paper pulp, of paper or of paperboard
28	Inorganic chemicals; organic or inorganic compounds of precious metals, others	99	Special operations
30	Pharmaceutical products	64	Footwear, gaiters and the like; parts of such articles

Source: AliceWeb.- MDIC

The preliminary conclusion based on this criterion is that machinery (HS 84), mineral fuels (27), and iron and steel (HS 72, 73) are both in the top 10 of Brazilian exports to the EU and European exports to Brazil.

While medical devices (HS 90), vehicles (HS 87) and chemicals (HS 29, 38) are more significant for EU exports to Brazil; food industry¹ (HS 02, 09, 12, 20, 23), pulp of woods and cellulose (HS 47) are of interest for Brazil.

Table 3 – 10 Leading Exporting Sectors in Brazil-EU bilateral trade flow (2016) (by value)

EU exports to Brazil		Brazil exports to the EU	
HS	Products	HS	Products
84	Nuclear reactors, boilers, machinery and mechanical appliances; others	26	Ores, slag and ash
30	Pharmaceutical products	23	Residues and waste from the food industries; others
87	Vehicles other than railway or tramway rolling-stock, and parts and accessories thereof	09	Coffee, tea, mate and spices
85	Electrical machinery and equipment and parts thereof; others	12	Oil seeds and oleaginous fruits; Grains, Seeds, others
29	Organic chemicals	84	Nuclear reactors, boilers, machinery and mechanical appliances; others
27	Mineral fuels, mineral oils, bituminous substances; mineral waxes	47	Pulp of wood or of other fibrous cellulosic material, others,
90	Optical, photographic, cinematographic instruments; others	72	Iron and steel
39	Plastics and articles thereof	27	Mineral fuels, mineral oils, bituminous substances; mineral waxes
38	Miscellaneous chemical products	20	Preparations of vegetables, fruit, nuts or other parts of plants
73	Articles of iron or steel	02	Meat and edible meat offal

Source: Aliceweb- MDIC

It is also important to highlight that some economic sectors are crosscutting HS sectors, which means that although HS 84 and 85, for instance, involves machinery and electronics, respectively, they also compose the majority of Information Technology (IT) products. Therefore, it has also been taken into consideration.

¹ In this report, food industry does not include agro-food category but only food transformed in the industry, especially from HS 16 to 24.

2.2. RCA – Revealed Comparative Analysis

The second criterion comprises a RCA Analysis based on Siggel (2006)².

BOX 1 – RCA Analysis Formula Explained

Denote x_{ijk} as the exports of product k from country i to country j and $X_{ij} = \sum_k x_{ijk}$ the total exports (all products) from country i to country j . Then, the revealed comparative advantage (RCA) index is given by

$$RCA_{ijk} = \frac{\frac{x_{ijk}}{X_{ij}}}{\frac{x_{wjk}}{X_{wj}}}$$

where w denotes the “World”. Thus, $x_{wjk} = \sum_i x_{ijk}$ is the world exports of good product k to country j and $X_{wj} = \sum_i X_{ij} = \sum_i \sum_k x_{ijk}$ is the world exports of all goods to country j .

Intuitively, the index compare how important is the good k among all other exports of country from country i to country j $\left(\frac{x_{ijk}}{X_{ij}}\right)$ vis-à-vis how important is this good for the world exports $\left(\frac{x_{wjk}}{X_{wj}}\right)$. Then, if $RCA > 1$, the country i is more competitive exporting the product k to country j than the rest of the world. Moreover, if $RCA < 1$, the opposite happens: the world is more competitive than country i .

Limitations: Because high export volumes can result from market distortions, such as subsidies or under-valued exchange rates as well low exports may be result of tariffs, non-tariff barriers, among others, RCA has been argued to be a misnomer in that it is a better measure of competitiveness than comparative advantage (see, Siggel, 2006).

This model is applied to the trade flows by economic sector at 2-digit HS. The results for Brazilian exports to the US and to the EU reveals all economic sectors with $RCA > 1.0$. These sectors are more likely to have a positive impact after the removal of existing trade barriers between negotiating parties hereby analyzed.

We also tested sectorial competitiveness for both Brazil-EU and Brazil-US bilateral trade. For Brazil exports to the US, there are 30 sectors at 2-digit HS in which $RCA > 1.0$. For Brazil exports to the EU, there are 27 sectors at the same level. The table below shows the 10 leading competitive economic sectors for Brazilian exports to the US and to the EU:

Table 4 – 10 Leading Competitive Economic Sectors for Brazil exports to US and the EU (RCA > 1.0)

Brazil exports to the US			Brazil exports to the EU		
HS	Product	RCA	HS	Product	RCA
47	Pulp of wood or of other fibrous cellulosic material; recovered paper or paperboard	26.4	47	Pulp of wood or of other fibrous cellulosic material; recovered paper or paperboard	25.2
09	Coffee, tea, mate and spices	15.2	26	Ores, Slag and Ash	24.8
41	Raw hides and skins (other than furskins) and leather	12.4	09	Coffee, tea, mate and spices	21.1
24	Tobacco and manufactured tobacco substitutes	10.0	12	Oil seeds and oleaginous fruits; miscellaneous grains, seeds and fruit; industrial or medicinal plants; straw and fodder	18.7
26	Ores, Slag and Ash	9.99	23	Residues and waste from the food industries; prepared animal fodder	16.5
68	Articles of Stone, Plaster, Cement, Asbestos, Mica or Similar Materials	9.90	20	Preparations of vegetables, fruit, nuts or other parts of plants	11.5
72	Iron and Steel	8.97	41	Raw hides and skins (other than furskins) and leather	8.9
88	Aircraft, Spacecraft, and parts thereof	6.99	24	Tobacco and manufactured tobacco substitutes	6.8
80	Tin and articles thereof	5.97	16	Preparations of meat, of fish or of crustaceans,	5.9

² Siggel, E (2006). ‘International Competitiveness and Comparative Advantage: A Survey and a Proposal for Measurement,’ in *J Ind Compet Trade* 6(2):137. DOI: 10.1007/s10842-006-8430-x. Available at <http://rdcu.be/o3ip> (accessed on 30 January 2017).

				molluscs or other aquatic invertebrates	
16	Preparations of meat, of fish or of crustaceans, mollusks or other aquatic invertebrates	5.06	02	Meat and edible meat offal	4.7

Source: Aliceweb- MDIC

The US and the EU share common economic sectors in which *Brazil would have a comparative advantage against*, which means that the Brazilian economy can be complementary to the US' and the EU's in similar ways. For example, Brazil is more competitive in pulp of wood (HS 47), Ores (HS 26), Coffee (HS 09), raw hides, skins and leather (HS 41), tobacco (HS 24), and preparations of meat (HS 16) than their homologues in the US and in the EU.

In addition, Brazil would be more competitive than the EU in oil seeds and oleaginous fruits (HS 12), residues and waste from the food industries (HS 23), preparations of vegetables (HS 23) and meat or beef (HS 02).

When it comes to the sectors in which the US and the EU are most competitive in the Brazilian market, data shows a different scenario. The US is more competitive (RCA >1.0) in 30 2-digit HS sectors and the EU is more competitive in 43 2-digit HS sectors, which means almost half of all 96 sectors available. The table below shows the 10 leading exporting sectors for the EU and the US to Brazil:

Table 5 – 10 Leading Competitive Economic Sectors for EU and US exports to Brazil (RCA >1.0)

US exports to Brazil			EU exports to Brazil		
HS	Product	RCA	HS	Product	RCA
80	Tin and articles thereof	3.5	45	Cork and articles of cork	3.7
36	Explosives; pyrotechnic products; matches; pyrophoric alloys; certain combustible preparations	3.0	97	Works of art, collectors' pieces and antiques	3.0
47	Pulp of wood or of other fibrous cellulosic material; recovered (waste and scrap) paper or paperboard	2.8	01	Live animals	2.7
34	Soap, organic surface-active agents, washing preparations, lubricating preparations, artificial waxes, prepared waxes, polishing or scouring preparations, candles and similar articles, modelling pastes, 'dental waxes' and dental preparation	2.5	30	Pharmaceutical products	2.5
37	Photographic or cinematographic goods	2.4	19	Preparations of cereal, flour, starch or milk; pastrycooks' products	2.1
28	Inorganic chemicals; organic or inorganic compounds of precious metals, of rare-earth metals, of radioactive elements or of isotopes	2.4	13	Lac; gums, resins and other vegetables saps and extracts	1.9
22	Beverages, spirits and vinegar	2.1	06	Live trees and other plants; bulbs, roots and the like; cut flowers and ornamental foliage	1.9
75	Nickel and articles thereof	2.1	68	Articles of stone, plaster, cement, asbestos, mica or similar materials	1.8
90	Optical, photographic, cinematographic, measuring, checking, precision, medical or surgical instruments and apparatus; parts and accessories thereof	2.1	22	Beverages, spirits and vinegar	1.8
35	Albuminoidal substances; modified starches; glues; enzymes	2.0	21	Miscellaneous edible preparations	1.7

Source: Aliceweb- MDIC

In this scenario, only 2-digit HS 22 (beverages, spirits and vinegar) is commonly in the top 10 of more competitive sectors for the US and the EU against Brazil. The EU is more competitive than Brazil in sectors such as cork (HS 45), works of art (HS 97), live animals (HS 01); pharmaceuticals (HS 30); cereals (HS 19); lac, gums, resins (HS 13); live trees and flowers (HS 06), articles of stone, cement and asbestos (HS 68) and edible preparations in the food industry (HS 21). Based solely on the RCA Analysis, the list of top 10 industrial sectors would be as follows:

Table 6 – Suggested Industrial Sectors based on RCA Analysis at 2-digit HS

Brazil exports to the EU (RCA >1.0)		EU exports to Brazil (RCA >1.0)	
HS	Product	HS	Product
47	Pulp of wood or of other fibrous cellulosic material; recovered (waste and scrap) paper or paperboard	45	Cork and articles of cork
26	Ores, Slag and Ash	97	Works of art, collectors' pieces and antiques
09	Coffee, tea, mate and spices	01	Live animals
12	Oil seeds and oleaginous fruits; miscellaneous grains, seeds and fruit; industrial or medicinal plants	30	Pharmaceutical products
23	Residues and waste from the food industries; prepared animal fodder	19	Preparations of cereal, flour, starch or milk; pastrycooks' products
20	Preparations of vegetables, fruit, nuts or other parts of plants	13	Lac; gums, resins and other vegetables saps and extracts
41	Raw hides and skins (other than furskins) and leather	06	Live trees and other plants; bulbs, roots and the like; cut flowers and ornamental foliage
24	Tobacco and manufactured tobacco substitutes	68	Articles of stone, plaster, cement, asbestos, mica or similar materials
16	Preparations of meat, of fish or of crustaceans, mollusks or other aquatic invertebrates	22	Beverages, spirits and vinegar
02	Meat and edible meat offal	21	Miscellaneous edible preparations

Source: Aliceweb- MDIC

Selected sectors through this criterion include pulp of wood and cellulose; cork; food industry; leather; beverages; oil seeds; pharmaceuticals; tobacco; and works of art.

2.3. Regulatory Trade Measures

A third criterion was applied to identify regulatory barriers to trade through the number of notifications submitted by Brazil and the EU by sectors and through the number of specific trade concerns raised by third countries or involving both parties in the TBT and SPS WTO Committees. A preliminary research was made over the WTO Technical Barriers to Trade Information Management System ([TBT-IMS](#)) and the WTO Sanitary and Phytosanitary Measures Information Management System ([SPS-IMS](#)).

Preliminary results shows that some industrial sectors demand more attention than others, when examining the number of specific trade concerns (STC) raised by one party against the other and the number of notifications by sectors (TBT) and by region affected (SPS).

After analyzing information available at the WTO SPS-IMS, there was no STC raised or supported by the European Union against Brazil from 2012 to 2016 (last five years). On the contrary, Brazil raised one STC against the EU on *restrictions on exports of pork from the State of Santa Catarina*. Brazil also supported another four STC raised by third countries against the EU, which involved **pharmaceuticals (HS 30); Chemicals (28); Fertilizer (31); and food industry (genetically modified organisms)**.

EU and Brazil SPS Notifications affect mostly all trading partners, 262 and 479 respectively. However, some SPS Notifications affect especially the countries involved.

The EU notified **nine** SPS measures in the past five years that affected directly Brazil, especially on food industry and agriculture sectors (HS 07, 08, 09, 11, 12, 14, 19, 20, and 35). Brazil notified **81** SPS measures affecting one or more specific regions. Out of that, 65 affected other regions and about 20 affected EU countries, especially France (14); Italy (14); Portugal and Spain (12); Bulgaria (10); the Netherlands (08); Denmark, Germany, Greece, Hungary, Malta, Poland, Sweden, and the United Kingdom (07). As the EU, Brazil targeted not only **food industry but also pesticides and fertilizers**.

It shows that SPS Measures adopted by both the EU and Brazil aimed at agriculture and food industry sector, indicating that food industry only – due to the scope of this project – should be one of the options available to be included in this project. The same analysis was made for the WTO TBT Notifications and STC raised or supported by one of the involved parties. Each party raised four STC against each other in the last five years, as tables below show:

Table 7– Specific Trade Concerns Raised by the EU against Brazil in the WTO TBT Committee (2012-2016) (WTO TBT IMS)

Ordered Symbol	Title	Member(s) concerned	Members maintaining	First date raised	Frequency	Issues	Status	Main HS (2dg)
362	Brazil – Draft ANVISA Resolution on used, refurbished, rented and lent medical devices (ID 362)	Switzerland, European Union	Brazil	27/11/2012	06/03/2013; 17/06/2013; 30/10/2013; 19/03/2014	further information, clarification rationale, legitimacy unnecessary barrier to trade	Not reported	90
443	Brazil – Draft Technical Resolution nº 69, 9 September 2014, Regarding the Requirement of Describing the Chemical Composition, in Portuguese, in the Label of Personal Hygiene Products, Cosmetics and Perfumes (ID 443)	Canada, Mexico, European Union	Brazil	05/11/2014	18/03/2015; 17/06/2015; 04/11/2015; 09/03/2016; 15/06/2016; 10/11/2016	Discrimination further information, clarification international standards rationale, legitimacy unnecessary barrier to trade	Not reported	33
470	Brazil - Draft Ordinance Act Nº. 374, 27 November 2014 (Portaria SDA/MAPA 374/2014) Establishes quality requirements for wine and derivatives of grape and wine (ID 470)	United States of America, European Union	Brazil	17/06/2015	04/11/2015; 09/03/2016; 15/06/2016; 10/11/2016	further information, clarification international standards rationale, legitimacy transparency	Not reported	20/22
478	Brazil - Toy Certification; Ordinance No. 89, No. 310 and draft administrative rule No. 321 (ID 478)	Canada, United States of America, European Union	Brazil	04/11/2015	09/03/2016; 15/06/2016; 10/11/2016	further information, clarification international standards rationale, legitimacy unnecessary barrier to trade	Not reported	95

Table 8– Specific Trade Concerns Raised by Brazil against the EU in the WTO TBT Committee (2012-2016) (WTO TBT IMS)

Ordered Symbol	Title	Member(s) concerned	Members maintaining	First date raised	Frequency	Issues	Status	Main HS (2dg)
334	EU – Directive 2011/62/EU of the EU Parliament and of the Council amending Directive 2001/83/EC on the Community code relating to medicinal products for human use, as regards the prevention of the entry into the legal supply chain of falsified medicinal products (ID 334)	Brazil, China, India	European Union	20/03/2012	27/11/2012; 06/03/2013; 17/06/2013;	Discrimination further information, clarification international standards other issues raised (free text) special and differential treatment time to adapt, "reasonable interval" transparency unnecessary barrier to trade	Not reported	30
393	European Union — Revised Proposal for the Categorization of Compounds as Endocrine Disruptors of 19 February 2013 by DG Environment (ID 393)	Argentina, Australia, Brazil, Canada, Chile, Colombia, Guatemala, Mexico, New Zealand, South Africa, Thailand, Egypt, United States of America	European Union	17/06/2013	30/10/2013; 19/03/2014; 18/06/2014; 05/11/2014; 18/03/2015; 17/06/2015; 04/11/2015; 09/03/2016; 15/06/2016; 10/11/2016	Discrimination further information, clarification international standards other issues raised (free text) rationale, legitimacy special and differential treatment transparency	Not reported	28/31
464	EU - Proposed modification of Regulation (EC) 1829/2003 referring to genetically modified organisms (ID 464)	Argentina, Brazil, Canada, Chile, Paraguay, South Africa, United States of America	European Union	17/06/2015	04/11/2015 09/03/2016	Discrimination other issues raised (free text) rationale, legitimacy unnecessary barrier to trade	Not reported	Food
492	EU - Proposal for a Directive of the EU Parliament and of the Council on the Cloning of Animals of the bovine, porcine, ovine, caprine and equine species kept and reproduced for farming purposes (197) and Proposal for a Council Directive on the placing on the market of food from animal clones (198) G/TBT/N/EU/197, G/TBT/N/EU/198	Brazil, United States of America	European Union	European Union	09/03/2016	Discrimination rationale, legitimacy unnecessary barrier to trade	Not reported	02/16

The EU raised concerns against Brazilian industrial products in the following sectors: **medical or surgical instruments (HS 90); perfumery and cosmetics (HS 33); fruit (HS 20) and beverages (HS 22); and toys (HS 95).**

Brazil raised concerns against EU products in the following sectors: **pharmaceuticals (HS 30); chemicals (28) and fertilizers (31); agriculture and food industry (GMO); and meat (HS 02, 16).**

Finally, examining EU notifications to the WTO TBT Committee in the past five years, it was noticed that a significant number of notifications included: **food industry and GMO; machinery; electronics; IT products (mostly HS 84 and 85); vehicles; fertilizers; meat; chemicals; tobacco; energy-related products; fruit and vegetables; biocidal products; explosives and fireworks; spirits and minerals.**

Brazil notifications included mostly the following sectors: **electronics (HS 85); machinery (HS 84); IT products (HS 84 and 85); automobiles (HS 87); furniture and mattresses (HS 94); medical devices (HS 90); pharmaceuticals (HS 30); iron and steel (HS 73); fruits and vegetables (HS 20); rubber (HS 40); beverages (HS 22); fertilizers (HS 31); toys (HS 95); and cosmetics (HS 33).**

If a WTO Member raises a STC against another WTO Member, it probably points to some misunderstanding between those parties. Brazil and the EU raised STC against each other, which show that from a point of view of trade regulation, the aforementioned sectors might be of concern.

Another preliminary conclusion is that when a country notifies heavily on specific sectors, there is a chance that it may affect its relationship with other trading partners, especially in terms of regulatory convergence. Therefore, the Team of Experts understands that those sectors also require specific attention due to the regulatory cooperation and convergence aspects enshrined in recent preferential trade negotiations.

NOTE ON T-TIP AND TPP

It should be noted that several of the sectors were presented in a specific list to be negotiated apart by the 12 members of TPP and the two members of T-TIP. The T-TIP and TPP negotiations revealed some discrepancies between regulatory measures adopted within specific sectors, especially concerning their application (and certification/conformity assessment procedures) and different levels of consumer; human, animal and vegetal health; and environment protection.

Therefore, it was considered that those sectors should be of interest for Mercosur-EU negotiations and for the Brazil-EU bilateral trade as well.

This list reveals sectors with potential for having protective trade measures. By this criterion, an understanding was reached that the automotive sector as well as pesticides, chemicals, food industry, medical devices and equipment, and cosmetics are more likely to deal with more regulatory trade barriers instead of other kind of trade barriers, regardless where these sectors are already leading the bilateral trade between the parties hereby involved.

Table 9– TPP and T-TIP: Specific Chapters for Selected Industrial Sectors

Sectors	TPP	T-TIP
<i>Food Industry</i>	YES	YES
<i>Wine and Alcoholic Beverages</i>	YES	YES
<i>Organic Food Products</i>	YES	NO
<i>Cosmetics</i>	YES	YES
<i>Pharmaceuticals</i>	YES	YES
<i>Medical devices and equipment</i>	YES	YES
<i>Information Technology</i>	YES	YES
<i>Pesticides</i>	NO	YES
<i>Chemicals</i>	NO	YES
<i>Automobile</i>	YES	YES

Source: USTR and EC DG Trade (2017).

3. PRELIMINARY ASSESSMENT

The methodological approach adopted three main criteria to identifying relevant industrial sectors to be included in this project:

- Bilateral Trade Flows;
- RCA Analysis
- TBT and SPS notifications and STC preliminary analysis.

From the combination of these criteria, the Team of Experts would recommend every sector that falls into at least one of the criteria from the table below as options to this project:

Table 10– Industrial Sectors by Criterion

Sector	Trade Flow (Top 10)		RCA >1.0 (Top 10)		TBT and SPS Committees
	EU to BR	BR to EU	EU to BR	BR to EU	Notifications/STC
Live animals			Y		
Food Industry		Y	Y	Y	Y
Tobacco				Y	Y
Pharmaceuticals	Y		Y		Y
Chemicals	Y				Y
Machinery	Y	Y			Y
Electronics	Y				Y
IT Products	Y				Y
Fertilizers					Y
Medical devices	Y				Y
Cellulose/Paper		Y		Y	
Vehicles/Automobile					Y
Iron and Steel	Y	Y			Y
Works of art			Y		
Skins and Leather				Y	
Ores, Slag and Ash		Y		Y	
Cork			Y		
Mineral Fuels	Y	Y			
Toys					Y
Cosmetics					Y
Furniture and Mattresses					Y
Biocidal Products					Y
Plastics	Y				
Articles of Stone, Cement, Asbestos			Y		

Note: In green, all industrial sectors that are in the top 10 of each criteria. In orange, all industrial sectors that are in the top 20 of each criteria.

Based on these criteria it was possible to decide which sectors should be part of the project for subsequent deliverables.

4. CONSULTATIONS WITH STOCKHOLDERS

Before making the list with the suggestions for the seven industrial sectors to be analyzed, a series of consultations was made with significant stakeholders in order to grasp which sectors could be of interest for them as well.

Therefore, meetings were organized with the following stakeholders:

- (1) Economic Department (DEC), Ministry of Foreign Affairs, which is responsible for economic technical aspects of all trade negotiations for the Brazil government;
- (2) Market Access Division (DACCESS), Ministry of Foreign Affairs, which is also responsible for technical aspects for all trade negotiations in the Brazil government;
- (3) Secretariat of Foreign Trade (SECEX), Ministry of Industry, Foreign Trade and Services, which is responsible for applying domestic legislation and keep a permanent dialogue with stakeholders as much as discussing aspects of trade negotiations held by the Brazil government;

- (4) International Relations Area, Ministry of Agriculture, Livestock and Supply, especially nontariff negotiations and trade negotiations divisions, which are responsible for SPS measures adopted by the Brazil government that impact food industry products;
- (5) International Relations Area, Brazil Health Regulatory Agency (ANVISA), which is responsible for issuing regulation on strategic industrial economic sectors such as food, cosmetics, chemicals, medical devices amongst others;
- (6) International Articulation Division, National Institute of Metrology, Quality and Technology (INMETRO), which is responsible for issuing trade regulation on most of the industrial economic sectors in Brazil;
- (7) Brazil National Confederation of Industry (CNI), major stakeholder for industrial goods in Brazil;
- (8) International Negotiations, Brazilian Business Coalition (CEB), major stakeholder for business in Brazil;
- (9) Chambers of Commerce, Eurochambers, EU stakeholder in Brazil; Sweden, Germany, Spain, Portugal;
- (10) Department of Trade and Foreign Affairs (Derex), Federation of Industries of the State of São Paulo (FIESP), major stakeholder for industrial goods in Brazil;
- (11) Brazilian Machinery and Equipment Industry Association (Abimaq), major stakeholder for the machinery industrial sector;
- (12) Brazilian Chemical Industry Association (Abiquim), major stakeholder for the chemicals industrial sector;
- (13) Brazilian Electrical and Electronic Industry Association (Abinee), major stakeholder for the electro-electronics industrial sector; and
- (14) Brazilian Technical Standards Association (Abnt), main standardizing body in Brazil.

5. RESULTS OF THE ANALYSIS

Based on the applied methodological approach (see item 2 above), the following sectors should be considered for this project:

- (1) **Food industry:** it is a strategic sector for Brazil and for the EU. In addition to that, it has showed to hold comparative advantage between the parties as much as it has experienced a great deal of new regulations in the past five years, which suggest regulatory trade barriers might also have grown. Therefore, we strongly recommend it to be part of the study.
- (2) **Chemicals (Pharmaceuticals, Pesticides and Fertilizers):** it is a strategic economic sector, featuring in all criteria applied in this methodology. Therefore, we strongly recommend it to be part of the study.
- (3) **Machinery:** Although it has not appeared as RCA >1.0 sector neither for the EU nor for Brazil, this sector has significant trade flows between the parties and both of them have increased trade regulation in the past five years. Therefore, we strongly recommend it to be part of the study.
- (4) **Electro-electronics:** Although it has not appeared as RCA >1.0 sector neither for the EU nor for Brazil, this sector has significant trade flows between the parties and both of them have increased trade regulation in the past five years. Therefore, we strongly recommend it to be part of the study.
- (5) **Information technology:** Although it has not appeared as RCA >1.0 sector neither for the EU nor for Brazil, this sector has significant trade flows between the parties and trade regulation has increased in the past five years. Therefore, we strongly recommend it to be part of the study.
- (6) **Medical devices:** Although it has not appeared as RCA >1.0 sector neither for the EU nor for Brazil, this sector has significant trade flows between the parties and trade regulation has increased in the past five years. Therefore, we strongly recommend it to be part of the study.
- (7) **Vehicles:** This sector has traditionally being impacted by divergent trade regulations especially concerned to safety standards, emissions, parts of automobiles standards that vary from country to country. It is a sector of great interest among international partners and should also be included.

6. MAPPING EXISTING REGULATORY INITIATIVES IN BRAZIL AND IN THE EU

Deliverable 1 also demands the mapping of existing regulatory initiatives in Brazil and the EU to identify needs and gaps in order to avoid duplication of ongoing efforts.

Several cooperation initiatives were already developed between the EU and Brazil on different specific issues.

1) Sectorial Dialogues - in its 10th year and its IV Phase - covered sectors in this phase are: air and maritime transport, science and technology, information society, public procurement, human rights and agriculture. In its anterior phases 30 thematic areas were covered: regulatory convergence included capacity building

2) Initiatives on regulatory convergence between EU and Mercosul (SGT3):

- Project Ecoms – exploring Sustainability for Mercosul members
- Harmonization on Regulations, Standards and Conformity for Mercosul members
- Network of Technological Centers to improve innovation on electrical, machinery, wood and plastic products

- Project ALA - Certification processes on wood, electrical, machinery

- Agribusiness – market access, rules of origin and technical regulation

3) Cooperation Brazil - EU

- Metrology for biofuel – Germany and France,

- Metrology – Scientific and Technical Cooperation – France, Germany, France, Italy

- Technical Capacity on new materials, emission of vehicles, exchange of experts - Germany.

4) Regulatory convergence with Anvisa: equivalence of controls to pharmaceutical inputs; Innovation, Validation and Regulation: a bilateral perspective on Alternative Methods for the Use of Animals

5) Participation of Brazil and EU in international bodies:

- ISO, IEC

- Codex Alimentarius

- International Conference on Harmonization of Technical Requirements for Registration of Pharmaceuticals for Human Use (ICH).

- International Coalition of Medicines Regulatory Authorities (ICMRA)

- Commission on Narcotic Drugs (CND)

- International Conference of Drug Regulatory Authorities (ICDRAs)

- International Cooperation on Cosmetics Regulation (ICCR).

- International Regulatory Cooperation for Herbal Medicines (IRCH)

- International Medical Device Regulators Forum (IMDRF)

- International Pharmaceutical Regulators Forum (IPRF).

In summary, despite several initiatives, there is no information related to a study mapping regulations, conformity processes and related standards as the one proposed in this project.

7. NEXT STEPS

The next step (Deliverable 2) is the realization of a deep research on the existing legislation in order to map regulatory initiatives in Brazil and in the EU with aims to pointing out needs and gaps of each sector regulations, conformity processes and related standards.

Interviews and informal meetings with government officials, standards experts, importers and exporters and other stakeholders will also refine the findings and the methodological approach provided by the desk research and literature review phase. A list of entities (governmental and private sector) will be contact during the whole project to provide suggestions on the main conclusions of this project.

The analysis of the selected industrial sectors will identify the potential important divergences amongst Brazilian and European regulations and the main reasons for that. Regulations of Mercosur will also be identified for any of the selected sectors and whether Brazil has adopted and/or implemented them.