

September 10, 2025

VIA USTR ONLINE PORTAL

Jamieson Greer
U.S. Trade Representative
Office of the United States Trade Representative
600 17th Street, NW
Washington, DC 20006

Re: CNI's Post-Hearing Rebuttal Comments Regarding the Section 301 Investigation of Acts, Policies, and Practices of Brazil Related to Digital Trade and Electronic Payment Services; Unfair, Preferential Tariffs; Anti-Corruption Enforcement; Intellectual Property Protection; Ethanol Market Access; and Illegal Deforestation

(Docket No. USTR-2025-0043)

Dear Ambassador Greer,

On behalf of Confederação Nacional da Indústria (“CNI”), we submit these post-hearing rebuttal comments regarding the *Notice of Initiation* pursuant to the Section 301 investigation of Brazil’s acts, policies, and practices related to digital trade and electronic payment services; unfair, preferential tariffs; anti-corruption enforcement; intellectual property protection; ethanol market access; and illegal deforestation (“Section 301 Brazil Investigation”).¹ These post-hearing rebuttal comments are timely submitted.²

I. EXECUTIVE SUMMARY

CNI is the main representative of Brazilian industry and represents industry associations across sectors from agriculture to artificial intelligence. On August 18, 2025, CNI submitted written comments and a request to appear in the public hearing. On August 29, 2025, CNI submitted its written testimony. On September 3, 2025, CNI testified in the first panel before the USTR at the public hearing in connection with the Section 301 Brazil Investigation. USTR asked CNI to elaborate on the effective tariff rate applied to U.S. goods imported to Brazil, asking for more detail about compliance requirements for special customs regime and average effective tariff rates over time. We address these questions below. We also address the issue of child and forced labor in Brazil, which arose at the hearing but was not included in the *Notice of Initiation*.

¹ See *Initiation of Section 301 Investigation: Brazil's Acts, Policies, and Practices Related to Digital Trade and Electronic Payment Services; Unfair, Preferential Tariffs; Anti-Corruption Enforcement; Intellectual Property Protection; Ethanol Market Access; and Illegal Deforestation; Hearing; and Request for Public Comments*, 90 Fed. Reg. 34,069 (July 18, 2025) (“*Notice of Initiation*”).

² The *Notice of Initiation* determined that the post-hearing rebuttal comments are due seven calendar days after the last day of the public hearing. The USTR held the hearing on September 3, 2025, establishing the deadline on September 10, 2025.



II. REBUTTAL COMMENTS

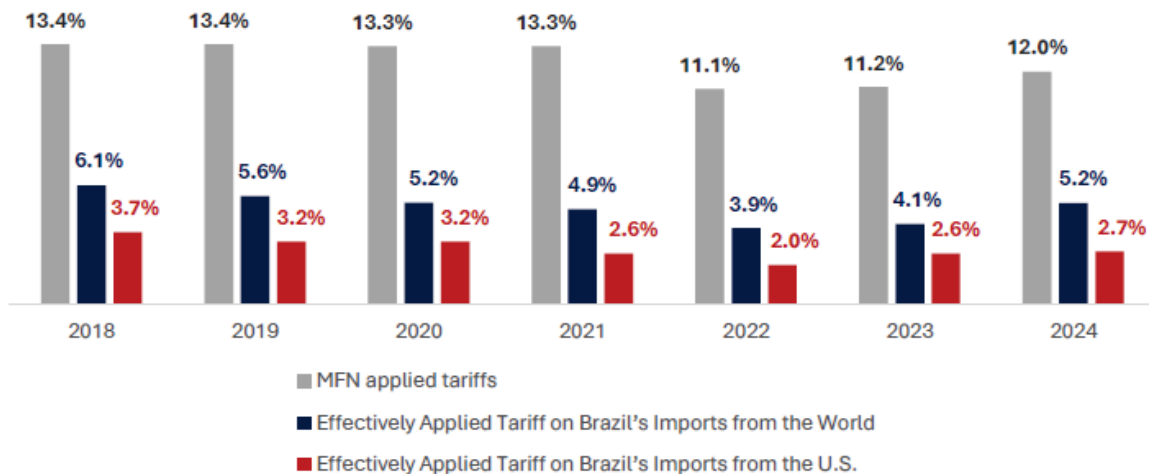
A. Effective Tariff Rate

At the hearing, one of the panel members stated that CNI’s written comments “seem[ed] to suggest that the sectoral composition of imports matters to the variation between effective rates across countries.”³ The panelist then asked whether there were “other factors such as differences in importer’s abilities to meet compliance requirements to benefit from many special customs regimes and exceptions” that could explain the effective tariff rate applied to U.S. goods being lower than the world average.⁴ The panelist also asked whether “CNI [had] calculated effective rates for prior years and how much variation is there from year to year.”⁵ We answer these questions below.

According to official statistics from the Brazilian Federal Revenue (“RFB”), the average effective import tariff rate applied to products imported from the United States fluctuated lower from 2018 to 2024, falling from 3.7 percent to 2.7 percent during the period.

The chart below shows that the average import tariff rate applied to U.S. goods is consistently lower than both Brazil’s Most-Favored-Nation applied tariff rate, and the average effective import tariff applied to Brazil’s global imports.

Average Effective Import Tariffs Applied by Brazil (2018–2024)



Source: Brazilian Federal Revenue Service and WTO Stats.

The average effectively applied tariff rates shown above were based on the value of Brazil’s imports across all imports and the import duties collected. The effectively applied tariff on both U.S. goods and all imports from the world are lower than the average Most Favored Nation nominal tariff

³ Tr. at 49 (Mr. Ban).

⁴ *Id.*

⁵ *Id.*

rate. As explained in our prior written submission, there are several reasons why the effectively applied rates are often lower than the nominal rates.

For instance, there are various exceptions to the Common External Tariff of Mercosur, on the basis of which many import tariffs may be reduced to zero. One important example is the Ex-Tarifario regime, which reduces tariffs to zero when there is no equivalent national production of capital goods and information technology and telecommunication products. Also, importers benefit from special regimes, including duty drawback, RECOF and RECOF-SPED,⁶ and REPETRO,⁷ which permit the exemption or suspension of import tariffs that would otherwise be applicable to inputs used in the manufacturing of exported goods.

Brazil's government applies each of these special regimes in a non-discriminatory fashion. Any importer that meets the applicable requirements may benefit from these special regimes. Importers may import eligible products from any country. However, the data shows that goods made in the United States in practice benefit from these special regimes more than the goods from any other countries. This fact reflects synergies and complementarities that exist in the trade relationship between the United States and Brazil, especially at the company and industry levels. This is not true for most countries.

First, the United States is a leading producer of technologically advanced capital goods and information technology and telecommunication products, which do not have equivalent production in Brazil. When that is the case, such technologically advanced goods imported from the United States may benefit from duty-free treatment, by virtue of the Ex-Tarifario regime.

Second, like the United States, Brazil has different import licensing regimes. Some import licensing regimes require previous approval from regulatory agencies, while other import licensing regimes do not require such prior approvals. As we stated in our previous submission, Brazil uses special tariff regimes like duty drawback, RECOF and RECOF-SPED, and REPETRO that allow for import tariff suspension. Brazil uses these special tariff regimes to strengthen supply chain integration. To qualify for these special regimes, importers must comply with Brazilian law and regulations. The laws and regulations applicable to these special tariff regimes are aligned with international practices, and importers' compliance requirements do not explain differences in effective rates across countries. Again, as stated in our previous submission, because the United States is a leading manufacturer of many inputs for the Brazilian manufacturers, often provided as part of intercompany transactions within multinational groups, U.S. goods greatly benefit from import tariff exemption under these special tariff regimes.

For these reasons, as we have previously stated, a substantial proportion of U.S. exports to Brazil benefit from these special customs regimes and from the various more favorable tariff lines available, all of which result in an exceptionally low applied tariff rate on imports into Brazil from the United States. In fact, *more than 70 percent of the value of U.S. exports to Brazil in 2023 benefited*

⁶ RECOF and RECOF-SPED are Industrial Warehouse Regimes under Computerized Customs Control. Their legal basis is Art. 93 of Decree-Law No. 37/1966, Arts. 59, 63, and 92 of Law No. 10833/2003, and Art. 14, para. 2 of Law No. 10,865/2004. The regulations are detailed in various other normative instruments.

⁷ REPETRO is a special customs regime for the export and import of goods intended for research and mining activities in oil and natural gas deposits, regulated by Normative Instruction RFB no. 1415/2013 and various other norms.

commitment to social justice and the dignity of workers.¹⁴ Also, according to Article 243 of Brazilian Constitution, rural and urban real estates in any region of the country where exploitation of slave labor, as defined by law, is found shall be expropriated and designated for agrarian reform and low-income housing programs, without any compensation to the owner and without prejudice to other sanctions prescribed by law. Any and all assets of economic value seized as a result of the exploitation of slave labor shall be confiscated and revert to a special fund with a specific purpose, as provided by law.¹⁵

In addition, Brazil's Consolidation of Labor Laws, ("CLT") and complementary regulations cover issues such as working hours, remuneration, occupational health, and safety. Brazil's Penal Code specifically criminalizes forced labor.¹⁶ Brazil's forced labor legislation is recognized for being progressive, particularly with its definition of modern slavery, including "exhaustive workday" and "work in degrading conditions" -- two concepts which, according to article 149 of the Penal Code, may characterize forced labor. This legislation is supported by permanent monitoring mechanisms, including audits, on-site inspections, and electronic monitoring systems.¹⁷ Also, Brazil maintains national plans for the eradication of forced labor¹⁸ and child labor¹⁹, as well as tripartite discussion forums like the National Council for the Eradication of Child Labor ("CONAETI")²⁰ and the National Commission for the Eradication of Slave Labor ("CONATRAE").²¹

Brazil's legal system includes specialized Labor Courts, Labor Appellate Courts, and a Supreme Labor Court, which is the highest court dealing with labor issues in Brazil.²² Brazil also has

¹⁴ Articles 7-11 of the Brazilian Federal Constitution.

¹⁵ Article 243 of the Brazilian Federal Constitution.

¹⁶ Article 149 of Brazil's Penal Code.

¹⁷ Articles 626-634 of CLT (Decree-Law No 5,452, May 1, 1943).

¹⁸ The National Plan for the Eradication of Forced Labor is a comprehensive policy framework developed by the Brazilian government to prevent, combat, and eliminate slave labor in the country. It outlines coordinated actions involving federal, state, and municipal authorities, as well as collaboration with civil society, employers, and workers. The plan includes measures for prevention, victim protection, enforcement, awareness campaigns, and legal sanctions, aiming to ensure decent work and uphold human rights throughout Brazil. More information can be found in the following address: <https://www.gov.br/mdh/pt-br/navegue-por-temas/combate-ao-trabalho-escravo/iii-plano-nacional-para-erradicacao-do-trabalho-escravo>, accessed on September 09, 2025.

¹⁹ The National Plan for the Eradication of Child Labor is a strategic framework developed by the Brazilian government to prevent, eliminate, and address all forms of child labor across the country. It establishes guidelines and coordinated actions involving public authorities, civil society, employers, and workers. The plan focuses on prevention, identification, and protection of child labor victims, promoting access to education and social services, raising public awareness, and strengthening enforcement and monitoring mechanisms to ensure the rights and well-being of children and adolescents. More information can be found in the following address: <https://www.gov.br/participamaisbrasil/blob/baixar/33212>. Accessed on September 09, 2025.

²⁰ According to Decree No 11,496, April 19, 2023, the CONAETI is the National Council for the Eradication of Child Labor in Brazil. It is a tripartite forum composed of representatives from the government, employers, and workers. CONAETI is responsible for coordinating policies, promoting dialogue, and monitoring initiatives aimed at preventing and eradicating child labor nationwide, as well as proposing strategies and supporting the implementation of programs focused on protecting children's rights.

²¹ According to Decree No 9,887, June 27, 2019, the CONATRAE is the National Commission for the Eradication of Slave Labor in Brazil. It is a tripartite body composed of representatives from the government, employers, and workers, responsible for coordinating and monitoring national policies and actions aimed at preventing and eliminating slave labor. The commission also promotes dialogue, formulates strategies, and supports the implementation of initiatives to strengthen the fight against forced labor throughout the country.

²² Article 111 of the Brazilian Constitution.

a dedicated Labor Prosecutor’s Office, which is responsible for bringing civil, administrative, and criminal cases involving labor issues.²³

To further strengthen enforcement, public accountability, and transparency, Brazil publishes every six months an updated national “Dirty List,” which consists of a registry of employers—companies and individuals—who were found to have employed slave labor, including that of children.²⁴ This list is publicly available on the website of Brazil’s Ministry of Labor and Employment (“MTE”). As the U.S. Department of Labor has stated, “The [MTE] also developed a manual on child labor and the protection of adolescent workers that includes information about national and international standards on child labor, types of work permitted for adolescents, and how to identify child labor and its risks.”²⁵

Moreover, the MTE reinforces Brazil’s commitment to eradicating modern forms of slavery, in line with the targets of the UN 2030 Agenda for Sustainable Development, by adopting “immediate and effective measures to eliminate forced labor, modern slavery, and human trafficking, as well as prohibiting and eliminating the worst forms of child labor [] and ending child labor in all its forms by 2025.”²⁶ In Brazil, reports of forced labor can be filed remotely and confidentially through the Ipê System, a system launched in 2020, by the Labor Inspection Secretariat (“SIT”) in partnership with the ILO.²⁷

As a representative of the Brazilian Industry, we highlight the fundamental role that the private sector has been playing in combating the unacceptable practice of forced labor and of child labor. Companies have been coordinating to prevent the occurrence of such practices.

In short, Brazil has no acts, policies, and practices that are complicit with child or forced labor. Furthermore, there is no basis to find that any alleged such acts, policies, and practices unreasonably or discriminatorily burden or restrict U.S. commerce. Moreover, CNI supports and welcomes efforts aimed at fighting child labor and forced labor, promoting social development and human rights.

Given these facts, there is no evidence that Brazil’s acts, policies, and practices, including any alleged failure to effectively enforce labor laws and regulations designed to stop child labor and forced labor, undermine the competitiveness of U.S. producers of agricultural and meat products or are unreasonable or discriminatory and burden or restrict U.S. commerce.

* * * * *

The facts discussed above show that no acts, policies, and practices adopted by Brazil are unjustifiable nor burden or restrict U.S. commerce. Thus, Section 301 of does not authorize USTR to impose tariffs or other actions against Brazil. Nevertheless, to the extent that USTR finds that any actions under Section 301 are warranted, we urge the Administration to recognize that import

²³ Article 128 of the Brazilian Constitution.

²⁴ Ministry of Labor and Employment, *MTE updates Registry of Employers who subjected workers to conditions analogous to slavery*, available at <https://www.gov.br/trabalho-e-emprego/pt-br/noticias-e-conteudo/2025/abril/mte-atualiza-cadastro-de-empregadores-que-submeteram-trabalhadores-a-condicoes-analogas-a-escravidao#:~:text=O%20Cadastro%20de%20Empregadores%20que,13%20de%20setembro%20de%202024>.

²⁵ *Id.*

²⁶ *MTE updates Registry of Employers who subjected workers to conditions analogous to slavery.*

²⁷ *Id.*

restrictions would only serve to imperil the mutually beneficial relationship between the United States and Brazil.

CNI remains ready to engage in cooperation to address the identified areas of concern in the *Notice of Initiation*. The businesses communities in the United States and Brazil have a strong and mutually beneficial relationship. CNI welcomes initiatives that strengthen the ties between the United States and Brazil, promote economic growth and improve market conditions in both countries. The United States and Brazil have structured channels as effective tools for ensuring that trade and investment relationship remain fair, reciprocal, and beneficial for both countries.

We greatly appreciate the Section 301 Committee's attention to this submission.

Sincerely,

Assinado por:


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Acting President CNI

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