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Negotiating with the Brazilian Government: Five Short Cases

Rodrigo Navarro
Professor, ESC Rennes School of Business, France
Dr. Murillo Dias
Professor, ESC Rennes School of Business, France
Dr. Andre Valle
Professor, Fundação Getulio Vargas, Brazil
Jorge Barros
Professor, ESC Rennes School of Business, France

Abstract:
This work presents five descriptive case studies investigating the relationship between multinational private companies and the Brazilian Government, as the unit of analysis, through action research, direct participation and direct observation. The five cases are here presented in the following order: case #1 strategy development from brazil to other markets; case #2 identifying policy issues & developing a policy position; case #3 advancing legislation in the legislative branch of government; case #4: building and partnering with third party organizations; and case #5 using creativity to shape a regulatory environment and meet business' needs. In order to avoid disclosure of any proprietary and/or strategic information and for privacy purposes, selected names and data were altered/omitted when necessary, without sacrificing the academic rigour. The five cases occurred from 1996 to 2016 in Brazil. Finally, they throw more light on Government Relations' field of study, revealing pitfalls and barriers on dealing with the Government and help to promote best practices to multinational companies when negotiating with the Brazilian Public Administration.

Keywords: *Negotiation, government relations, strategy*

1. Introduction

This work is the result of twenty years of direct participation, observation and the outcome of action research, conducted among the companies cited here. Some information is disclosed, as the BMW case(Dias, Navarro & Valle, 2013), some not. This work is limited to the multinational companies and Brazilian Federal Government mentioned, from 1996 to 2016.

Negotiation has been usually defined as a "process of communication by which two or more parties seek to advance their interests or those of the persons they represent through an agreement on the desired future action" (Salacuse, 2003, p. 11).

The process of negotiation follows some defined steps aiming to maximize the chances of results optimization of parties that desire to get a deal on a given subject negotiated (Fischer, Ury and Patton, 1981; Susskind, 2014; Dias, 2016). Dealing with Government is always a potential challenge due to the uniqueness and unbalance involved (Salacuse, 2003, 2008; Navarro, 2015).

Government Relations (GR) is defined here as the process of dealing with public administration leaders through lobbying and the advocacy of interests, influencing the decision-making process of government leaders in all spheres of the government: municipal, state, national, multinational and global, with the aim of value co-creation, and to achieve joint objectives through negotiation.

The cases presented in this paper investigate how Institutional and Government Relations professionals can manage delicate GR situations, providing insight for similar cases that one practitioner in this area may find useful.

The cases are based on personal experiences of the authors with the Brazilian Federal Government while working in multiple industries on a Government Relations environment, with the main academic objective to illustrate that the strategic use of the Institutional and Government Relations function companies can shape regulatory environments to make viable corporate objectives, at the same time meeting Government and other stakeholders' concerns.

The diversity of the industries is limited to: case#1 Information Technology, #2 Tobacco, #3 Biofuels, #4 Automotive (Dias, Navarro & Valle, 2013), and #5 Office Equipment – reinforces the fact that, despite the specific subject, there are always in place certain competencies and procedures (i.e. theory and practice) that must be combined in order to successfully achieve goals in negotiating in this area.

In all cases, the goals were set directly by headquarters, or identified on the Brazilian market. As in many occasions Brazil worked as a regulatory trendsetter for Latin America region (e.g. tobacco regulation), many of these goals were expanded to other markets such as Mexico and Argentina for collaboration, benchmark and/or support.

2. Methodology

This qualitative, interpretive, inductive reasoning, multiple methods approach, combined multiple case study method, which unit of analysis (Yin, 1988) is the Brazilian Federal Government, with action research and qualitative interviews, direct observation and participation. Qualitative in-depth interviews were also collected (N=5). The invitations were sent via e-mail or phone call, with 100% of response rate. The interviews were designed as semi-structured, to allow additional questions to be made. Three questions were posed and additional questions made when necessary, to clarify statements, if needed. All the interviews were processed and coded manually independently by the two analysts. All the interviews were conducted in Portuguese, transcribed and then translated into English. The interviewees signed a disclosure information protocol. The interviews were validated after final submission and acceptance by the interviewer. Disclosure information were assured and interviewees were told that they could end the interview at any point without necessity of additional explanation. Secondary data were gathered through literature review and archival research.

3. Case Studies

3.1. Case #1: Establishing Vision and Strategy across Multiple Markets

The first case shares an example of approach for creating a multi-market public affairs initiative, in a multinational telecommunications company. It aims to investigate:(i) how to identify strategic and sensitive issues and how to approach them in the public arena; (ii) the approach to gain insights from local markets and business to shape the strategy; and (iii) how to execute the plan.

During twenty-six years of working experience from the authors dealing with multinationals on the Institutional and Government Relations area, there were several opportunities to engage joint efforts with other colleagues from different countries. Most of them were related to Latin America, but there were also cases that involved the context of other international markets (e.g. Africa).

In order to obtain insights from local markets aiming to shape the best possible strategy for engaging Governments, there was in place a continuous effort of information sharing among the affiliates through periodical meetings (presently and/or virtual conferences), coordinated by headquarters or the local market that raised up the issue. The team followed a 3-phase process, comprising strategic thinking, strategic planning, and implementation.

The agreed plan was then developed by local teams, with interactive support among affiliates, headquarters being updated or involved whenever necessary. For control, tools were developed to maintain the team on the same page and aware of progresses and new developments, such as a Regulatory Strategic Agenda, containing (by country) the description of main priority issues, related key bills of law or applicable regulations, showing goals, status, and next steps.

To illustrate the summarized process described above, it is shown one example while one of the authors worked for one of the leading global companies of the mobile telecommunication sector, as Director of Government & Industry Affairs.

The company had in Brazil a factory located in the Manaus Free Trade Zone[1], Brazilian Northern Region, especially incentivized area by the Federal Government. When Mercosur was formed back in 1995, Free Trade Zones were explicitly excluded from the agreement, having to be treated as a third country from an intra-bloc trade perspective. The intention was to avoid the non-payment of the External Common Tariff when products imported from outside the economic bloc that received a duty-free treatment, could enter other markets.

As the development of the business in Brazil grew, and since the company had no other industrial plant in the region, it was identified by the Brazilian team that it would be an opportunity for the group (headquarters and affiliates) to export products manufactured in Manaus to enter other Latin American and Mercosur countries, especially Argentina, Colombia and Chile (as these last two also entered the bloc later on). This alternative had a significant advantage represented by less duties paid by the destination countries, due to the trade agreements tax exemptions when compared with direct import of the same products from Europe or the USA (on the case of mobile phones, this difference could reach around 20 percentage points on duties).

The problem identified to make these exports effective was the aforementioned exception of free trade zones from the Mercosur agreement. It was formed then between the affiliates involved and headquarters a task force to analyze and propose solutions. Once identified that the main reason to the establishment of the exception was to avoid the participation of commercial free trade zones, such as the ones existing in Paraguay and Uruguay, the team built a joint plan, as follows.

The Brazilian team would approach the Industry& Development Ministry, showing the opportunities in terms of exports revenues, additional job creations and direct investments to attend this potential demand from Latin America countries.

Also, Suframa (Manaus Free Trade Zone Superintendence) was engaged, with the main argument that Manaus was an industrial free trade zone, not a commercial one, and this way it deserved to be treated in a different way.

In parallel, other involved affiliates would also approach their Government representatives to show support for the proposal to be presented by Brazil, since they would have no practical need for tariff protection, as they do not manufacture similar goods in their countries.

Finally, besides this institutional strategy (i.e. affiliates' direct contact with selected stakeholders), the National Manufacturers Association of each involved affiliate (e.g. in Brazil, ABINEE) were also contacted to present arguments and convince the legitimacy of the request, implementing this way a complementary sectoral strategy[2].

This joint initiative was successful and after a period of intense negotiation an alteration on Mercosur legislation (Decision CMC n° 69, article 11) granted to products manufactured in Manaus to receive fiscal benefits of intra bloc commercialization, i.e. zero duty

1Manaus free trade zone encompasses the States of Amazon, Amapá, Rondonia, Romaima and Acre, of the Western Amazon.
2For details on institutional and sectoral strategies development, see Navarro (2015).

when imported from other economic bloc members, and also the right to negotiate in a case-by-case basis on Mercosur plus one agreements (e.g. ACE-59: Mercosur and CAN - Colombia, Ecuador and Venezuela), representing significant financial gains for the company, affiliates – and its global group.

3.2. Case #2: Identifying Policy Issues& Developing a Policy Position

The second case investigates an example on how the policy approach impacted negatively on the business case, specifically: (i) how to face the situation posted; (ii) the approach to learn about the issue and determine the impact on the business; (iii) the development of a policy standard best practice; and (iv) how to work with other areas within the company to align themselves to prevent future similar situations.

The identification of public policies and correspondent position development and influencing strategy implementation is one of the main activities of experienced Institutional and Government Relations professionals.

For instance, while working at the Brazilian tobacco sector for one of its international market leaders, many were the situations where policy issues affected the business. Alongside with its economic importance, due to tax collection and jobs creation, another relevant characteristic is that the tobacco sector is one of the most regulated in the world. In particular, Brazil presents several restrictive legislations to reduce cigarettes' consumption, being a pioneer in measures to regulate this market, like obligatory graphic health warnings on packages, product advertisement banning, point of sale restrictions and prohibition to smoke in public places, among others.

Within this strength regulation context, illegal cigarettes – that comprehend piracy, contraband and counterfeit products – are one of the major concerns of Governments in general and the Brazilian in particular, and part of their strategies to reduce tobacco consumption, as these products can be offered at lower prices and without inspection from authorities. Several control measures, seizure/destruction of apprehended materials, and a joint work from IRS and Federal Police to fight contraband especially at neighbor Mercosur border countries (like Paraguay) have been conducted over the past years.

Considering this background, one specific example where a series of restrictions had to be faced occurred when the Brazilian affiliate of the company one of the authors worked for won an internal bid to supply cigarettes packages to African countries, in substitution to a former supplier that was an affiliate from the group located in Europe.

The Brazilian affiliate used to be an important finished goods source mainly for Eastern Europe markets such as Russia, and some Latin American markets. However, with the creation of a 150% Brazilian export duty applied for finished goods on exports to Latin America by the end of 1999, the local company ceased its cigarettes shipments and faced a substantial financial impact[3].

This new opportunity to export to African countries represented a great test for the company and if this initiative had success, it would represent a significant value in exports per year.

The next step was to schedule a meeting between the representatives of the company and IRS (Internal Revenue Services), in order to explain the commercial opportunities involved and assure the compliance with all existing rules and applicable regulations.

There were a series of marketing demands to attend the client, set by international headquarters. Among them: the printing of the expressions "Imported by" or "For export to" followed by the name of the importing country, with no name of the manufacturing country; the use of no fiscal stamp on packages, since the destination markets in Africa does not have them; and the use of health warnings and other specific messages required by the importing countries.

The problem was that IRS informed that the following information was mandatory to be displayed on packs destined to exports according to the applicable regulatory framework: explicit reference to the manufacturing country (e.g. printing of "Brazilian Industry"); use of the specific Brazilian export stamp; and printing of the manufacturing company identification number (CNPJ – Cadastro Nacional de Pessoa Jurídica), a 14-digit number used to identify all Brazilian companies before IRS.

After the meeting where the two above perspectives were discussed, both parties agreed to meet again in the near future, after the company analyze and come back with results and proposals. A task force team was then formed by the company to seek for a solution through a constructive approach with Government authorities.

There were several challenges involved in the process to turn the potential export opportunity a success, including demonstrate to IRS why the company needed a change in current legislation, and bring this issue to their agenda; achieve a satisfactory, non-discriminatory solution to both private sector and Government, which had to enable exports and – at the same time – assure effective controls against illicit trade; and from the legal and tax perspective, guarantee that the company would be able to proceed with the exports if new conditions were created.

After analyzing the issues, a formal request was presented to (i) grant the dismissal of the fiscal control stamp use when the country of destiny's regulation does not comprise this requirement or in the case the stamp is not desired by importers due to local marketing reasons; and (ii) grant the dismissal of the statement "Brazilian Industry" on the packaging for these exports, considering that similar identifying data can be included on coded markings on the packaging.

To improve the acceptance of these requests, alternatives were proposed during another set of meetings to show that the company had a common ground with Government on illicit trade fighting, but believed that a solution to achieve this objective was not incompatible with enabling the capture of export opportunities – another objective among Government's priorities.

As a final result, in January 2005 the Brazilian IRS published a new regulation (Normative Instruction 498/05) that, in summary, made it possible for companies to apply for differentiated exports conditions (including the exemption to not use export stamps), depending on a case-by-case analysis to be conducted by IRS (so controlled conditions were met), and based on a series of defined information

3Another example of how non-market forces (in this particular case, Government) can alter company's strategies.

requirements (to show transparency), exclusively for destinations to non-border countries (this way including Africa and excluding other Mercosur countries, IRS' main concern). The CNPJ number was accepted by IRS as a sufficient mechanism to be used as a fiscal control in these particular cases, and from the company's headquarters side (after a creative solution proposed by the team), the 14-digit CNPJ number was considered an acceptable type of marking to be included under the bar code of the export packs, since it would not be perceived by African consumers as a differentiating element.

This example shows how it was possible to combine the building of an adequate regulatory environment to enable exports of finished goods (cigarettes) from a company located in Brazil according to specific marketing needs, as defined by its headquarters, which were initially identified as conflicting with current Brazilian regulation and impossible to achieve.

The solution and concrete results covered in this example contributed to improve the local affiliate's corporate image, allowing achieving both key Government stakeholders interests (IRS) and the company's strategic intents, generating production volume and revenue growth, as well as capturing the desired sourcing opportunities for headquarters.

3.3. Case #3: Advancing Legislation in the Legislative Branch of Government

The third case deals with an example of approach to develop a strategy to help pass a legislation that helped a company/industry, specifically: (i) how to establish the policy position; (ii) how to determine the points of influence in the legislative process; (iii) who needed to be educated to support a legislation change; (iv) identify the activities to achieve the goals; (v) determine other organizations that needed to work with in the effort; (vi) and how to work with the business and Government Relations team to align and execute the strategy.

The monitoring and development of strategies and actions to proactively (ideally) or reactively influence bills of law and proposals being discussed at Congress is a constant type of work for the Institutional and Government Relations professional.

As an example, in advancing legislation, while one of the authors worked as Director of Institutional Relations for one of the major companies of sugar and ethanol in the world, it was developed actions on Brazilian legislation that resulted in a more favorable business environment, positively impacting the company.

In November 2013, ethanol producers were long suffering from the Brazilian Government policy of do not let gasoline prices fluctuate according to external market, this way artificially holding back inflation and at the same time creating a major problem for one of the largest companies in Brazil with Federal Government control, Petrobras. The low price of gasoline affected the comparative advantages of biofuels, since these are only competitive if the price relation between them is of 70% or more (i.e. ethanol is more advantageous to the consumer only if it is priced less than 70% the price of gasoline, due to the cars' efficiency ratio).

Concerned with this scenario, where several ethanol plants were shutting down, presenting no room for new direct investments and jeopardizing the entire biofuel program in Brazil, the players promoted joint meetings, through the sector national association (UNICA) to discuss alternatives. At one of these meetings, after running an analysis of bills of law proposals being under discussion at Congress, two were identified that would help a lot the competitivity of ethanol. The first one proposed the increase of the mixture of ethanol in gasoline from current 25% to 27%; the other proposed the return of an earmarked tax (CIDE) to be applicable only on gasoline.

The two aforementioned bills, if approved, could create an important additional fixed volume for ethanol, and contribute to its comparative advantage. But their approval needed strong support at both House of Representatives and Senate, since they were at the beginning of their legislative proceedings.

Once determined the goals, i.e. to approve as fast as possible the two bills, the company started to engage selected key stakeholders at Congress to present main reasons, in a concise way, why these bills should proceed.

Main arguments in this direction included the critical financial situation of the ethanol sector over the previous five years; the importance for the environment, as it would reduce cars' CO_2emissions (an effect when ethanol is mixed to gasoline), and – last but not least – an increase on tax collection, in a period where Brazilian Government was looking for additional resources for continuing to support social programs.

The involved team also set meetings at both legislative houses to promote the bills. For these meetings, having the main positive arguments and concerns in mind, environment specialists were invited to present their support for Congressmen, and tax specialists to show that the return of the earmarked tax on gasoline, depending on its value, would create very low impact on inflation rate indicators. Finally, cars manufacturers were also invited to participate in the discussions, to assure that the consumers would not be jeopardized with low performances with the new fuel mixture.

There were also one-on-one meetings with selected political parties' leaders at Congress, and – in parallel – meetings with Executive Branch representatives, since after the approval at both houses, the President would have to sanction the proposed new legislation. In this initiative, the team started with technicians from the Ministries more affected (such as Industry & Commerce, Mining & Energy, and Environment), and proceeded, considering their support, to the respective Executive Secretaries and Ministers.

After one year of negotiations, the increase of ethanol in gasoline was approved (Law 1333/14), becoming effective on March 2015, generating approximately an additional one billion extra liters' demand. The tax on gasoline of BRL 0.22 per liter was also approved on January2015 (Decree 8395/14). Both measures are contributing since then to a significant increase in ethanol consumption in Brazil reflected over the following years.

3.4. Case #4: Building and Partnering with Third Party Organizations

This fourth case deals with an example of building and executing a strategy to work with a third-party organization to advance a policy or business objective, specifically: (i) how to identify what is the issue to work with the third party; (ii) how to identify the organization to work with; (iii) how to approach the organization; and (iv) how to work with the business to align and execute the strategy.

The engagement of third parties towards a corporate objective is common in the Government Relations arena, especially when it is needed to persuade several stakeholders involved in this case.

This was the case when one of the authors acted as an external consultant for a global car manufacturer (Dias, Navarro and Valle, 2013), to negotiate the implementation of their first factory in the automotive carmaker BMW's history in Latin America.

The automotive industry's interests before Government and other stakeholders in Brazil is well represented by several companies that are present in the country for over 40 decades, which act individually and also mainly through two private sector associations: ANFAVEA and ABEIVA. The first comprehends companies that have industrial installations in the country, generating thousands of jobs and investing hundreds of millions (e.g. VW, Fiat, GM, Ford); the second included at that time only the importers, that operate in some market niches (e.g. Volvo, Porsche, Ferrari, BMW).

The company focused in this case[4]continued to grow in the Latin American market since mid-2000, what influenced the decision to have a plant in the region. Brazil was selected as a location, after several evaluations conducted by the company's headquarters, and considering the previous positive experience of having a motorcycle manufacturing operation in the country.

In March 2011,the company announced to the Brazilian Industry & Commerce Minister the intention to install an industrial plant in Brazil, a first-time strategic movement for the group in Latin America. Several interactions were then set in motion to conclude the studies and indicate the best product portfolio, most attractive location, etc.

Meanwhile, as Brazil was seen as a fast-growing market, other car brands were accessing the market through direct import, mainly companies from Asia (e.g. China and Korea).

This way, there were a continued growth on imports that were flooding the market and started to worry ANFAVEA members, which decided to put pressure on Government for measures to decrease these kinds of imports. The Chinese and Korean companies, looking for support, joined ABEIVA.

In September 2011, Brazilian Government decided to agree with ANFAVEA and set an immediate increase of excise tax (IPI) of 30 percentage points on all cars (Decree 7567/11). The only way to avoid this extra taxation was to manufacture the cars in Brazil or at other country with a bi-lateral sectoral agreement (e.g. Mexico and Argentina).

This sudden move impacted directly the company's plans, since the factory would take at least one year to be built, and during this time the extra taxation would destroy margins and jeopardize the expansion plans.

At the time, the company was not part of ANFAVEA, since it was not yet a manufacturer, but a member of ABEIVA, as a long-time importer. However, from a strategic perspective, it was clear that a solution would not be possible to be reached without the agreement of ANFAVEA members. The building and execution of a strategy to engage this third party became, then, an important part of the company's plans.

It was clear that ANFAVEA was against direct imports, but with further and more specifically analysis, it was possible to identify that their target and major concern, in reality, were the imports of low price, high volume cars. Although supported by ABEIVA, these importers had no significant bargaining power with Government to change the new tax framework and would suffer continued losses.

This way, the company started to meet ANFAVEA leaderships to present arguments that would show its intention to manufacture premium cars in Brazil, an unprecedented movement in the industry. It was also described that a flexibilization of rules was needed that could support this initiative and, although recognizing their concerns of imports increase, create an option for importers to operate, since a prohibition for this could be seen as a violation of WTO (World Trade Organization) directives.

The company's representatives also engaged several Brazilian Ministries and Congressmen to present proposals that would conciliate both ANFAVEA and ABEIVA members' interests. One idea was to implement an automotive regime that would allow, under determined circumstances (e.g. energy efficiency, lower emissions targets), the import of cars for an initial period of two years, based on a plant installation or operation forecast.

The final model accepted by Government (known as the ´Inovar-Auto´ regime, brought on October, 2012 by Decree 7819/12) included a definition of what a ´premium car´ had to present as characteristics to be considered as such. This segmentation was key to let ANFAVEA continue to put pressure on high-volume, low-cost cars imports, but accepting a flexibilization on rules for this specific premium category.

This movement allowed the company to implement its factory in November 2014, and following this move other companies from the premium segment also installed factories in the country, which was recognized by the Brazilian Government as an important strategic move. All these companies are now ANFAVEA members, and ABEIVA accepted the new regulation, as they also were able to operate under the determined conditions.

3.5. Case #5: Using Creativity to Shape a Regulatory Environment and Meet Business' Needs

The case #5 illustrates the strategic use of the Government Relations function, specifically on: (i) how non-market forces may have a direct impact on company's strategies; (ii) how the regulatory environment can be shaped to make viable corporate objectives; (iii) how to generate value co-creation, meeting at the same time company's objectives and Government concerns; and (iv) use of innovative and creative thinking to solve problems in this complex field of expertise.

In the mid-90's Brazil had a strict policy that did not favor direct imports, especially regarding Information Technology (IT) products. There were several reasons for that: concerns over the Balance of Trade (BOT), intention to foster local production, investments, job creation, technology transfer and protection to a not-competitive (when compared with worldwide costs) local industry. In this context, it was impossible to import used machines and commercialize them in the Brazilian market.At the same time, there was a significant gap (from one to two years) between the launch of a new model of office equipments (e.g. copiers, printers) at the American, European or Japanese markets, and Brazil.

Moreover, new models were quickly updated and launched, generating a situation – caused by many companies' business models of renting at the time – that after only a few months on the formerly mentioned developed markets, the machines were ready to be substituted by new ones. However, in a positive case, where to re-locate these "old" models?

The answer devised by the headquarters of the company one of the authors worked for in this sector at the time was to bring these "almost-new" models to Brazil, a then promising growing market, reducing the gap to launch them into the country, optimizing corporate assets and reducing market access costs.

The problem with this idea was, as already mentioned, that the non-market forces present simply made this alternative not viable, since the machines – although with a few months of use history – were, in fact, used ones and therefore could not be imported.

In an initial phase of the strategy process, where ideas should get the most attention, and intuition, creativity and synergy must be teamed up, several alternatives were brought to the table during discussion meetings that took place at the company's headquarters.

A multi-functional team – that included professionals from Government Relations, Manufacturing, Legal, Marketing, and Finance – was formed to work together.

The most voted ideas generated were: (1) to persuade the Brazilian Federal Government (BFG) to change current legislation to allow the import of used machines; (2) to provide a refurbishing service abroad, in order to restore the used machines to the condition of new ones, and import them to the Brazilian market; and (3) to implement a remanufacturing operation[5] abroad using used machines, generating new ones, and import them into Brazil[6].

An analysis of the three alternatives described above showed the following conclusions:

(1) Change on current legislation: very few chances of success, since several key stakeholders would be against this proposal, notably the National Machine & Equipment Association (ABIMAQ), which would pressure for an increased nationalization effort instead of a flexibilization that could privilege imported goods.

(2) To import refurbished machines: according to Brazilian legislation, a refurbished machine is still a used one; therefore, chances of success in proposing this alternative were also considered very low due to no adherence to the strict used equipment import legislation.

(3) To import of remanufactured machines: although in this case a new serial number is generated after the process, there was no operation like this established and/or described in any current legislation in Brazil; also, the fact that the machine – even if it could be considered as new by legislation – was still imported could cause difficulties in a negotiation process with the BFG and could minimize chances of success.

It was clear to the team that the remanufacturing process, due to its intrinsic characteristics (such as presenting more value add), would present more chances of success in a negotiation to reshape the regulatory environment, but only if separated from the "import" issue, i.e. the solution could be somehow linked to promote a change on the legislation to perform remanufacturing operations in the country, using imported machines as "raw materials".

With this strategy synthesis in mind, the group started detailing the analysis of the problem and searching for solutions.For the next phase of the strategy process, the team used a four-step methodology:

I - Identifying the problem: Impossible to implement a remanufacturing strategy in Brazil due to legal and operational obstacles, leading to the non-optimization of available used machine resources and therefore to higher market access costs.

II - Analyzing the problem: few used machines of new models in internal market; legal preclusion of importing used machines for remanufacturing; and high costs of new parts for conventional manufacturing.

III - Generating solutions: Using brainstorming and benchmarking techniques (e.g. other affiliates at the US, Mexico and Canada), the team generated potential solutions, and three were considered more feasible:

5thereafter referred as "reman" process

6A refurbished machine is obtained through a process of cleaning, repairing and eventually changing of some necessary and/or mandatory parts (its serial number is maintained during all steps). In the remanufacturing process, an used machine (serial number #A) is fully disassembled and the parts derived from this step are submitted to a careful technical analysis; the ones that are considered that could be once again used (e.g. metal and plastic parts, wires, subassemblies) are cleaned up (also fixed, if necessary) to assure they are in the same performance conditions as new ones, following to factory stock (where other new parts are also stored); at this moment, the used machine serial number (#A) that entered the remanufacturing process ceases to exist; then, the assembly line is supplied with new parts and others that came from the used machines, producing at the end of the process a remanufactured machine (serial number #B).

- To follow the procedures provided in the current Brazilian legislation, restricting the field of remanufacturing activity to programs meant only for export, i.e. use imported (through drawback[7]) and local machines for remanufacturing, but do not sell them in local market;
- To elaborate a claim to the BFG, asking for permission to import remanufactured machines from abroad to be considered as new and then be sold within Brazilian territory;
- To develop the remanufacturing concept with the BFG, showing the advantages for the company and for the country of its performance in Brazil, and requesting changes in current legislation.

IV - Selecting and planning the solution: The team chose for developing the concept and organizing the process of remanufacturing in Brazil, since this alternative was the only one that met all criteria established by the team, in terms of increasing local production, technology transfer, reducing market access costs, and meeting internal/external customer's requirements.

After the definition of this "Reman" alternative, a detailed flow of actions that needed to happen in order to implement the selected solution was designed. In summary, after validating the availability of used machines abroad and within Brazilian territory, the "Reman concept" to be negotiated with the BFG should be aligned with the practice headquarters had implemented in several countries, like US, Mexico and Canada. Then, the negotiation with BFG aiming to alter pertinent legislation to recognize and comprehend the remanufacturing activity had to be pursued, until this change on the regulatory environment was officially obtained, and then implemented accordingly.

The team started then to implement the designed solution, identifying issues with its internal stakeholders, performing benchmark processes on procedures and correspondent legislation in the US, Mexico and Canada, and negotiating with the BFG.

Main arguments to approach a positive solution included several advantages of the Reman process versus traditional manufacturing and direct import alternatives, such as:

- Using imported machines to obtain parts through remanufacturing, the country's BOT would be improved, since the costs to import new parts were considerably higher;
- The Reman process would result in new models with a reduced gap on the timing to launch them in Brazil, contributing to elevate local state of the art;
- The reutilization of parts would provide a significant contribution for the environment, reducing waste and favouring recycling materials;
- With the implementation of a new operation, local factories would generate more working hours, direct investments and job creation.

Many of these arguments were very well received by the BFG, since they met their interests, this way starting to affect positively their positions at the bargaining table.

However, one point was still a concern for the Government: there was no intention to create, with a flexibilization of the legislation, an opening that could potentially flood the market with imported machines, allegedly to be part of remanufacturing processes. This way, a tight control should be present, as a condition to allow such kind of operation in the country. This concern was also shared by ABIMAQ, and used as a main argument to present a contrary position during the negotiations.

The headquarters and its Brazilian affiliate put themselves on BFG's and ABIMAQ' shoes and understood their concerns over this particular point. As a matter of fact, this was also a point of concern to them, since there was no intention to stimulate the entry of competitors without the same level of integrity that could jeopardize the entire remanufacturing concept credibility.

The solution was to propose the inclusion in the new legislation – at this point being jointly constructed by all involved parties – of a controlling mechanism that would assure that all imported used machines would be destined to remanufacturing only, and also that after the process a new model, not available before, would present a significant technology improvement when compared to the available models in the country at the time.

This way, it was defined that all import request of used machines for local remanufacturing should be submitted previously to the BFG, pass through a detailed analysis by technical teams of the Ministry of Industry & Commerce, and had the whole process accompanied by an accredited organ (later defined to be INT – National Institute of Technology). Only after these steps the project could be approved (or not), on a case-by case basis.

The BFG ruling to allow the Reman process in Brazil was published on September 1993[8], containing among its dispositions the inclusion of the Reman concept ("*reconstrução*", in Portuguese), for the first time in the country's legislation:

- to allow imports of machinery and equipment intended for reconstruction in the country, by companies that meet international technical standards, which, after processing, achieve a technological stage here not available, present guarantee identical to that of new models, add local production inputs and increment exports. The reconstruction process should be supported in project previously submitted to the Foreign Trade Secretary and its implementation be supervised by a qualified and suitable technical body, which will send periodic reports to that Secretary (INT, 1993, p.64, our translation)

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7 In a drawback operation, an imported material is authorized to enter the country, provided it is exported or used in a process that leaves no imported components within a determined limited time frame

8Ministerial Ruling ("Portaria") n° 64/93.

Since then, the regulatory environment suffered some changes[9], but until todaythe "Reman concept" is valid in Brazil as a market access alternative that companies can use, provided the requirements are met, that bring gains to all involved parts – Governments, industry players, and clients.

4. Discussion and Recommendations

Finally, the previous cases identified common issues when multinational agents are dealing with the Brazilian Government. To avoid these pitfalls, ten recommendations of best practices are presented in this section, as follows:

- Recommendation #1: different regulations and norms and their multiplicity and constant change. It impacts on all sorts of negotiations, and alter the credibility on the whole negotiation process, because the "rules of thegame" change all the time. The recommendation to this issue is to keep the openness to new scenarios and to be very attentive to changes. It is important to hire local Government Relations professionals, more familiarized with sudden changes of norms, rules or new legislations.
- Recommendation #2: be creative. Unusual problems require sometimes, unusual solutions.
- Recommendation #3: following recommendation #2 creativity has its boundaries. Be alert to the local legal limits when devising solutions.
- Recommendation #4: foster and maintain relationship: Brazilians tend to be emotional and relationship caring. Many foreigners make serious mistakes in relationship due to multicultural issues. The recommendation is to never disrespect local culture and legislation.
- Recommendation #5: different countries, different rules, different governments. In many circumstances cited here, a scenario misreading gave birth to the situations mentioned. To avoid this common mistake, the use of Government Relations professionals or lobbyists are more than necessary, are vital.
- Recommendation #6: different countries, different infrastructures. Sometimes, multinational company leaders depart from wrong assumptions about one country infrastructure for logistics, for instance, tending to compare their homelands' infrastructure with the country in question. They are different, most of times. What works perfectly in one country may not work in other countries.
- Recommendation #7: avoid, at all costs, ethnocentrism. Do not pre-judge or even consider one culture better (or worse) than another. All multinational cultures have their dos and don'ts, have their qualities and defects. Instead of keeping an arrogant attitude, be attentive to new learning opportunities. It will certainly create a trust reputation and will revert possible present losses into future gains.
- Recommendation #8: fulfill your promises. When an individual lies (even with no intention to), a bad reputation is created and the trust disappears. In this scenario, it is easy to judge one person negatively by its country or multicultural stereotype. Protect at all costs a respectful and solid reputation. It will grant future businesses.
- Recommendation #9: do not break trust and be cooperative (Dias, 2016; Dias et al., 2012, 2014; Lewicki et al., 1998). Once broken, it is not easily restored.
- Recommendation #10: be ready and open to negotiate and be creative always. Use third parties such as Government Relations professionals when necessary. Court suits in Brazil are long-termed and very expensive. Better safe than sorry.

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