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## UNITED STATES – TARIFF MEASURES ON GOODS FROM BRAZIL

### REQUEST FOR CONSULTATIONS BY BRAZIL

The following communication, dated 5 August 2025, from the delegation of Brazil to the delegation of the United States, is circulated to the Dispute Settlement Body in accordance with Article 4.4 of the DSU.

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My authorities have instructed me to request consultations with the Government of the United States of America ("United States") pursuant to Article 4.4 of the Understanding on Rules and Procedures Governing the Settlement of Disputes ("DSU") and Article XXII:1 of the General Agreement on Tariffs and Trade 1994 ("GATT 1994"). This request concerns the US Fair and Reciprocal Plan ("FRP"), in furtherance of which the United States announced, on 2 April 2025, so-called "reciprocal" tariffs on goods originating in Brazil and other countries. It also concerns additional tariffs announced by the United States on 9 and 30 July 2025 on certain products of Brazilian origin, as well as any further tariff measures.

#### I. Background

1. On 13 February 2025, the US President signed a Presidential Memorandum entitled "Reciprocal Trade and Tariffs" that *inter alia* ordered the development of a "Fair and Reciprocal Plan". The Presidential Memorandum announced that, under the Fair and Reciprocal Plan, the United States would counter so-called "non-reciprocal trading arrangements with trading partners by determining the equivalent of a reciprocal tariff with respect to each foreign trading partner."
2. The Presidential Memorandum defines non-reciprocal trade relationships as including any:
  - tariffs imposed on US products;
  - unfair, discriminatory, or extraterritorial taxes imposed on US businesses, workers, and consumers, including a value-added tax;
  - costs to US businesses, workers, and consumers arising from non-tariff barriers or measures and unfair or harmful acts, policies, or practices, including subsidies, burdensome regulatory requirements on US businesses operating in other countries;
  - policies, and practices that cause exchange rates to deviate from their market value, to the detriment of Americans; wage suppression; and other mercantilist policies that make US businesses and workers less competitive; and
  - any other practice that, in the judgment of the United States Trade Representative ("USTR"), in consultation with the Secretary of the Treasury, the Secretary of Commerce, and the Senior Counsellor to the President for Trade and Manufacturing, imposes any unfair limitation on market access or any structural impediment to fair competition with the market economy of the United States.
3. The Presidential Memorandum further instructed named US officials, including the Secretary of Commerce and the USTR, to initiate, pursuant to their respective legal authorities, all necessary actions to investigate the harm to the United States from any non-reciprocal trading arrangements

adopted by US trading partners and, upon completion of such necessary actions, to submit a report to the President detailing proposed remedies in pursuit of reciprocal trade relations with each trading partner.

4. On 2 April 2025, the US President signed Executive Order 14257, which alleges that large and persistent annual US goods trade deficits are substantially caused by a lack of reciprocity in US bilateral trade relationships. Executive Order 14257 further asserts that this is evidenced by disparate tariff rates and non-tariff barriers that hinder US manufacturers from selling their products in foreign markets. It alleges that economic policies of key US trading partners suppress domestic wages and consumption, reducing demand for US exports while artificially boosting the competitiveness of their goods in global markets. Additionally, Executive Order 14257 asserts that these conditions constitute an unusual and extraordinary threat to the national security and economy of the United States, and declares a national emergency with respect to this alleged threat.

5. Executive Order 14257 imposes so-called "reciprocal" tariffs on imports from many countries, including Brazil. The tariffs vary from country to country as they reflect, in respect of each foreign trading partner, what the United States deems to be an equivalent of a so-called reciprocal tariff to counter what the United States considers to be non-reciprocal trading arrangements. Specifically, the "reciprocal" tariffs have two components: (i) an *ad valorem* duty of 10% on all imports from all U.S. trading partners, effective 5 April 2025, except as otherwise provided; and (ii) country-specific *ad valorem* duties for countries specified in Annex I to Executive Order 14257, which vary by country from a low of 11% to a high of 50%, effective 9 April 2025. Brazil is not identified in Annex I to Executive Order 14257. Accordingly, imports from Brazil are subject to an *ad valorem* duty of 10% under Executive Order 14257.

6. On 9 April 2025, the US President issued Executive Order 14266 temporarily suspending for a period of 90 days the application of additional country-specific *ad valorem* duties for countries specified in Annex I to Executive Order 14257, except with respect to the People's Republic of China. This 90-day suspension would therefore expire on 9 July 2025.

7. On 7 July 2025, the US President issued Executive Order 14316 further extending the suspension of the additional country-specific *ad valorem* duties effectuated by Executive Order 14266 until 1 August, 2025.

8. On 9 July 2025, the US President sent a letter to the President of Brazil informing that from 1 August 2025 the United States would impose import duties of 50% on all products from Brazil. The letter provides a rationale for this decision which appears to be entirely unrelated to the economic relations between Brazil and the United States or to the subject matter of the covered agreements. Among the purported concerns identified by the US President in his letter are the trial of former President Jair Bolsonaro before Brazil's Federal Supreme Court, and alleged "attacks" on free elections and free speech rights of Americans, as exemplified by Brazil's Federal Supreme Court orders against US social media companies. The letter also incorrectly states that purported "trade deficits" with the United States constitute a "major threat" to the US economy and national security, when in fact the United States has a trade surplus with Brazil. The US President informs that he has directed the United States Trade Representative ("USTR") to "immediately initiate a Section 301 investigations of Brazil", and requests that Brazil eliminate non-specified "tariff, non-tariff, policies and trade barriers" as a condition to resume its access to the US market.

9. On 15 July 2025, the USTR initiated a Section 301 investigation into Brazil's alleged attacks "on American social media companies as well as other unfair trading practices that harm American companies, workers, farmers, and technology innovators". The Notice of Initiation states that "Brazil's tariff and non-tariff barriers merit a thorough investigation, and potentially, responsive action."

10. On 30 July 2025, the US President issued an Executive Order entitled "Addressing Threats to the United States by The Government of Brazil". This Executive Order reiterates the allegations previously set out in the President's letter to the President of Brazil dated 9 July 2025. It asserts that alleged "policies, practices, and actions of the Government of Brazil constitute an unusual and extraordinary threat ... to the national security, foreign policy, and economy of the United States" and declares a "national emergency" with respect to this alleged threat." To address the so-called "national emergency", the Executive Order imposes an additional *ad valorem* duty of 40 percent on

certain products of Brazilian origin. As a result, imports of certain goods from Brazil are subject to 50% import duties when imported into the United States.

## **II. Measures at issue**

11. The tariffs described above are purportedly authorized under US laws by the following legal instruments, and/or are reflected in, *inter alia*, the following documents:

- International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) (IEEPA)
- National Emergencies Act (50 U.S.C. 1601 *et seq.*) (NEA)
- Section 604 of the Trade Act of 1974, as amended (19 U.S.C. 2483)
- Section 301 of title 3, United States Code
- Section 301 of the Trade Act of 1974 (19 U.S.C. 2411)
- Presidential Memorandum of 13 February 2025, "Reciprocal Trade and Tariffs", as published in the US *Federal Register* on 19 February 2025 (90 FR 9837)
- White House Fact Sheet: President Donald J. Trump Declares National Emergency to Increase our Competitive Edge, Protect our Sovereignty, and Strengthen our National and Economic Security, 2 April 2025.
- Executive Order 14257 of 2 April 2025, "Regulating Imports with a Reciprocal Tariff to Rectify Trade Practices That Contribute to Large and Persistent Annual United States Goods Trade Deficits", as published in the US *Federal Register* on 7 April 2025 (90 FR 15041)
- Guidance on Reciprocal Tariffs, issued by the US Customs and Border Protection Cargo Systems Messaging Service on 4 April 2025, CSMS # 64649265
- Executive Order 14266 of 9 April 2025, "Modifying Reciprocal Tariff Rates to Reflect Trading Partner Retaliation and Alignment", as published in the Federal Register on 15 April 2025 (90 FR 15625)
- Letter from the US President to the Brazilian President, dated 9 July 2025
- Notice of Initiation of a Section 301 Investigation, as published in the US Federal Register on 18 July 2025 (90 FR 34069), including any tariffs subsequently imposed on Brazilian-origin products purportedly based on the findings of this investigation
- Executive Order of 30 July 2025, "Addressing Threats to the United States by the Government of Brazil", as published on the White House website and subsequently in the US *Federal Register*<sup>1</sup>
- White House Fact Sheet: President Donald J. Trump Addresses Threats to the United States from the Government of Brazil, 30 July 2025.
- CSMS # 65807735 - GUIDANCE – Additional Duties on Imports from Brazil<sup>2</sup>

12. This request for consultations covers, in whatever form, any amendments, supplements, extensions, replacement measures, renewal measures, implementing measures, or other related measures or instruments thereto, including but not limited to any subsequent measures that alter the rate or scope of the tariffs or those measures referred to by either party during consultations.

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<sup>1</sup> See <https://www.whitehouse.gov/presidential-actions/2025/07/addressing-threats-to-the-us/> (last accessed on 4 August 2025).

<sup>2</sup> <https://content.govdelivery.com/accounts/USDHSCBP/bulletins/3ec2577#:~:text=9903.01.,rate%20of%20duty%20of%2040%25>

**III. Legal basis for the complaint**

13. The measures at issue, as described in Section II, appear to be inconsistent with the United States' obligations under the GATT 1994. In particular, Brazil considers that:

- The United States acts inconsistently with Article I:1 of the GATT 1994 because, by exempting certain US trading partners from the application of additional tariffs while imposing those additional tariffs on certain Brazilian products, the United States fails to extend immediately and unconditionally to products of Brazil an "advantage, favour, privilege or immunity" granted by the United States "[w]ith respect to customs duties and charges of any kind imposed on or in connection with" the importation of like products originating in the territory of other WTO Members.
- The United States acts inconsistently with Article II:1(b) of the GATT 1994 by imposing ordinary customs duties in excess of the bound rates provided for in the US Schedule of Concessions annexed to the GATT 1994, and/or by failing to exempt certain Brazilian goods from other duties and charges of any kind in excess of those provided for in the US Schedule of Concessions.
- As a consequence of its violation of Article II:1(b) of the GATT 1994, the United States acts inconsistently with Article II:1(a) of the GATT 1994 as the measures at issue fail to accord to the commerce of Brazil treatment no less favourable than that provided for in the US Schedule of Concessions annexed to the GATT 1994.
- The United States acts inconsistently with Article 23.1 of the DSU, by seeking redress of purported violations of obligations or other nullification or impairment of benefits under the covered agreements through tariff measures, rather than with recourse to the rules and procedures of the DSU.
- The United States acts inconsistently with Article 23.2(a) of the DSU by making a determination that a violation has occurred, that benefits have been nullified or impaired or the attainment of objectives under the covered agreements have been impeded without recourse to dispute settlement under the DSU.

14. Brazil considers that the measures at issue, as described in Section II of this request, also nullify or impair, within the meaning of Article XXIII:1 of the GATT 1994, benefits accruing to Brazil under that Agreement.

15. Brazil reserves the right to raise further related facts, additional measures and claims, including under other provisions of the covered agreements, during the course of consultations and in any future request for the establishment of a panel under Article 6.2 of the DSU.

Brazil looks forward to receiving a reply from the United States to this request and to fixing a mutually convenient date for the holding of consultations.

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