WORLD TRADE ORGANIZATION

RESTRICTED

WT/TPR/G/212
2 February 2009

(09-0399)

Trade Policy Review Body

Original: English

TRADE POLICY REVIEW

Report by

BRAZIL

Pursuant to the Agreement Establishing the Trade Policy Review Mechanism (Annex 3 of the Marrakesh Agreement Establishing the World Trade Organization), the policy statement by Brazil is attached.

Note: This report is subject to restricted circulation and press embargo until the end of the first session of the meeting of the Trade Policy Review Body on Brazil.

CONTENTS

I. OVERVIEW

1. The Brazilian government is honoured to submit its Fifth Trade Policy Report to the scrutiny of fellow WTO members. Indeed the TPR mechanism has been a fruitful exercise of internal co-ordination among all relevant governmental agencies, as well as of external co-operation with the WTO Secretariat. The outcome is a comprehensive and transparent review of the most significant developments in Brazilian economy and foreign trade since 2004.

2. This report was drafted in times of uncertainty about the dimension of the global financial crisis. What most analysts predicted has come true, regrettably. The “real economy” starts to feel the spill-over effects of the financial crisis which started about one year ago. Predictions for 2009 look gloomy, with most studies indicating a severe recession in central economies. In this regard, Brazil advocates the further strengthening of the WTO as a means to avoid the risky path of protectionism.

3. The Brazilian government believes that coordination at the international level is essential in order to overcome the difficult times ahead. The Financial G-20 Summit that took place in Washington last November was a promising starting point at this desirable direction. On that occasion, world leaders reiterated the importance of reforming the international financial institutions and of concluding the WTO Doha Round central negotiations in due time, preferably by the end of 2008. Unfortunately, that was not possible, but the Brazilian government insists on the benefits for both developing and industrialized countries of an effective fulfillment of the Doha Development mandate.

4. In effect, Brazil regards the multilateral trading system as the priority of its foreign trade policy, as it is one of the main pillars for the establishment of a fair and balanced global economic system, which can foster welfare and mitigate poverty worldwide. In the period under review, Brazilian foreign trade expanded steadily. Brazilian exports grew from US$96.5 billion in 2004 to 160.6 billion in 2007, while imports went from US$62.8 billion to 120.6 billion. This expansion was done in a geographically well distributed pattern, which gives Brazil a structural attachment to trade multilateralism. South-South trade was also promoted, as the following figures illustrate: trade with Latin American partners (without Mercosur) grew 114%; with African nations, 101% and with the Middle East, 73.5%.

5. Consistently, Brazil was a strong advocate of the Doha Round as a means to achieving new development ambitions, and has been strongly engaged in a successful conclusion of the negotiations. Brazil attaches great importance to the conclusion of the negotiations as a means of attenuating the impact of the crisis through the expansion of international trade.

6. Moreover, Brazil believes that bilateral and regional trade agreements can be a useful complement to the multilateral system, by deepening the integration of markets, reinforcing the role of trade in economic growth, promoting gains of scale for domestic firms, and providing an expanded base to face global competition. From that perspective and in accordance with WTO disciplines on regional trade agreements, Brazil continued to place Mercosur at the center of its foreign policy, as a process that goes beyond its customs union disciplines and constitutes a privileged space for cooperation in all areas. Mercosur benefits from a broad range of free trade agreements (FTA) subscribed within the framework of LAIA and is in the process of expansion with the accession of Venezuela. South American integration is seen as a broad objective and Brazil has consistently supported regional infrastructure projects that would facilitate trade in the region and its integration with the world.

7. Despite the seriousness of the current global crisis, Brazil is well positioned today to face the negative impacts of economic recession. In recent years, Brazil has achieved strong growth with low inflation, reflecting the continued implementation of sound macroeconomic policies. Key to Brazil's successful economic performance has been a policy framework which rests importantly on fiscal responsibility, income distribution and on an inflation targeting regime. As a result of this stable scenario, Brazil attracted solid Foreign Direct Investment (FDI), which totalled US$34.6 billion in 2007, second only to China among emerging countries. For 2008, Central Bank projections indicate that the country is likely to receive more than US$37 billion in FDI. All these improvements led credit-rating agencies to upgrade Brazil's sovereign debt to investment grade.

8. In the period under review, in Brazil as well as in other developing countries, a significant number of people have overcome extreme poverty and acquired qualified skills for the labour market through education. Effective income distribution policies in Brazil have brought a significant expansion of access to goods in the lower income sectors of the population, helping to sustain the increasing growth rate of the Brazilian economy. However, all the progress in providing economic welfare in recent years can be severely harmed if world leaders opt for protectionist measures in world trade in the face of the current crisis. The Brazilian government hopes that the Doha Development Agenda may inspire fellow WTO members to wisely foster trade multilateralism.

II. GENERAL ECONOMIC ENVIRONMENT

(1) MACROECONOMIC STABILITY

9. Brazil has consistently presented good economic results since the last Review. The country is enjoying its longest period of economic prosperity in two decades, underpinned by robust aggregate demand, increase in investments and improved terms of trade, with positive impacts on employment and salaries. Some economic indicators attest the improvement of the Brazilian economic performance. Real GDP grew by about 4.5% a year during 2004-07, nearly twice the average rate experienced since 1980. In 2007, real GDP growth was 5.7%, reflecting strong private consumption and investment (6.5% and 13.3%, respectively). In the third quarter of 2008, growth was 6.8% compared with the same period of the previous year. The financial authorities have also taken advantage of favorable external conditions to reduce macroeconomic vulnerabilities and to build a robust external reserve buffer. With the healthy state of the economy, including price stability, the Brazilian economy is well positioned to withstand the more difficult global environment. These commendable improvements have been recognized through the recent upgrade of its sovereign debt rating to investment by credit-rating agencies.

10. The unemployment rate decreased from 11.7% in 2002 to 9.4% in 2007, further decreasing in 2008 (figures for October indicated 8%). Another relevant macroeconomic indicator that showed a positive trend was the net debt of the public sector, whose value, as a percentage of GDP, fell from 52.4% in 2003 to 42.7% in 2007 and to 36.6% at the end of October of 2008. The administration of the country's public finances also succeeded in improving the profile of the country's public debt, increasing the participation of pre-set bonds as a percentage of the total debt and modifying the composition of the indicators to which post-set bonds are linked. Bonds revalued in accordance with exchange rate fluctuations were nearly eliminated, while the presence of bonds linked to the official interest rate and to the consumer price index, much less volatile than the exchange rate, increased.

11. In 2007, the Instituto Brasileiro de Geografia e Estatística (IBGE - Institute of Statistics and Geography) changed GDP estimates to align them with international best practices. As a consequence, between 1995 and 2005, there was an average increase of 9% in nominal GDP and of 0.3 percentage points in real GDP compared with the previous series. The increase in nominal and

real GDP was more pronounced in recent years. The new estimates have brought a change in GDP composition. On the supply side, services have enlarged their share in the economy, while agriculture and manufacturing have lost participation. On the demand side, there was an increase in the share of consumption in GDP and a decrease in the shares of investment, exports and imports. The new methodology introduced several modifications to GDP estimates the details of which are beyond the scope of this report.

12. The fiscal statistics that are calculated as percentages of GDP were affected by that change. The primary surplus target, whose main goal is to guarantee the sustainability of internal debt, was kept stable in nominal terms for 2007 (R$95.9 billion). As a consequence, the fiscal effort as a proportion of the nominal GDP decreased to 3.8%. The new GDP has also affected the dynamics of net public sector debt. Its main effect was a downward level shift in net public sector debt in relation to GDP.

13. In 2008, the primary surplus target reached R$105.1 billion, or 3.8% of forecasted GDP for this year. Notwithstanding, to capitalize the Brazilian Sovereign Fund, the government will save an additional 0.5% of GDP, and the primary surplus will reach 4.3% of GDP. The primary surplus target for 2009 was set at R$118.3 billion, which is equivalent to 3.8% of the forecasted GDP.

14. In relation to the adjustment capacity of the Brazilian economy, the evolution of the country's balance of payments during this period, especially the current account, improved from a net deficit of 4.19% of GDP in 2001 to a net surplus of 1.76% of GDP in 2004. After that it fell slowly, following the acceleration of the growth in production, reaching 0.13% of GDP in 2007. For the 12 month period ended in October 2008 the current account presented a net deficit of 1.71% of GDP, reflecting the international crisis, which resulted in higher profit remittances and dividend distribution and in a lower trade balance. As the financial account shows, the country has proven attractive to foreign investment, and is thus capable of financing net current account deficits. In moments of low availability of foreign funds, the balance of payments adjusts itself through the floating exchange rate regime, and, in acute moments, there are enough international reserves to manage the scarcity of investments.

15. Inflation estimates above the midpoint of the targeted range has prompted a tightening of monetary policy. Following a cumulative reduction of 850 bps in the policy interest rate from late 2005 to October 2007, the Central Bank (BCB) began tightening the monetary policy to rein in rising inflation and keep medium-term market inflation expectations well anchored to the target. Since April 2008, the interest rate has been raised by 250 basis points to 13.75% and market inflation expectations have begun to improve.

16. Recently, the global financial crisis has become an important factor to influence the Brazilian economic outlook. The country is answering promptly to the challenges posed by the slower growth in the global economy and the reduction in financial liquidity, so that they do not harm growth and inflation expectations.

17. The stability of the Brazilian financial system remained high in recent years due to continued favorable developments in the macroeconomic environment. The major Brazilian banks seem well equipped to face the global credit crunch, as they can rely on their solid solvency position and high profitability. The exposure of the Brazilian banking sector to structure credit instruments – including in the form of derivatives – is very low. Stress tests for credit and market risks conducted by the BCB show that the system could absorb losses from relatively large shocks without threatening systemic solvency. The prudential framework in Brazil is adequate.

18. Credit is robust, supported by strong internal demand and increasing bank competition for market share. Non-performing loans are still at 2.9% of total credit at the end of 2008, down from 3.2% of the previous year. The drivers of credit demand have been a sustained increase in real income, the emergence of new middle-class and the guidelines that reduce lending risk. Under these favorable conditions, BCB decided to increase internal liquidity by taking flexible measures towards the compulsory deposits. Furthermore, BCB has intervened in the exchange market – especially in the future market of the US dollar – using part of its reserves in foreign currencies. This intervention does not seek to forge a fixed exchange rate, but to reduce the volatility of the market and to avoid excessive losses in economic sectors which were over-exposed during the long period of high appreciation of the Brazilian currency. By doing so, the natural conditions for credit were re-established.

19. The Brazilian authorities are closely following the developments derived from the financial turmoil in advanced economies. To ease the liquidity squeeze, the Authorities adopted measures to tackle the financial problems, injecting liquidity in foreign currency market and in the domestic credit market. With these initiatives[1], the BCB wants to prevent further excessive losses, not just to protect the economy from the dislocation associated with a sudden, massive weakness, but also to minimize inflation pass-through.

20. Bearing in mind the need to further ensure the systemic stability, BCB and the US Federal Reserve (FED) have settled a swap line of USD 30 billion, authorized through April 2009. This arrangement has no political conditionalities and was established between the US and countries that have well managed economies. Developed countries contemplated were Australia, Canada, England, Japan, New Zealand, Norway, Switzerland, Sweden and the European Central Bank. Among developing countries, only Brazil, Mexico, Korea and Singapore benefited from this agreement.

21. In sum, thanks to the significant progress that Authorities have achieved in recent years in terms of the overall quality of the economic policy mix and the strengthening of macro indicators, Brazil is now resilient enough to absorb the impact of the global financial crisis in a relatively orderly manner. The economy's resilience stems from a prudent monetary policy, substantial international reserves, and a public sector with a net foreign currency creditor position. As a result of sound macroeconomic policies, fiscal sustainability has been entrenched, inflation has been brought down to the low single digits, and domestic interest rates have been reduced significantly. The flexible exchange rate regime has played an important role in facilitating needed adjustments in the economy. Enhanced social policies have also contributed to a significant decline in poverty rates in recent years.

[1] Some initiatives were: sales of USD in repo auctions; reduction of reserve requirements for banks acquiring USD with repos; sales of currency swap contracts; sales of USD in spot market ; collateralized loans, aimed at financing exports; elimination of tax (IOF) on fixed-income capital inflows; authorization for BCB to engage in currency swap transactions with other central banks; agreement with the US Federal Reserve. In the domestic front, initiatives to inject liquidity in the internal credit market: increase of exemption limits, reduction of rate and/or postponement of reserve requirements; commitment to eliminate reserve requirements on time deposits, on deposits by leasing companies and the additional requirement; and reduction of reserve requirements on time deposits for banks that buy assets from other institutions; authorization for BCB to buy certain assets from banks (this measure was merely preventive, as no banks were currently in difficulty); authorization for public banks (Banco do Brasil and Caixa Economcia Federal) to acquire stakes or control of other institutions.

(2) General Legal and Regulatory Framework

(i) Business environment

22. The Micro and Small Business General Law (Complementary Law No. 123/2006) and the National Network for Simplification of Registry and Legalization of Businesses – REDESIM (Law No. 11.598/2007) have provided a legal framework that foster efficiency on tax and registration procedures for the great majority of Brazilian firms. Companies under Simples regime pay all taxes (IRPJ, CSLL, PIS, COFINS, ISS, ICMS) applying a percentage of their turnover. The REDESIM implemented the principle of single data entry which seeks to avoid unnecessary multiple entries in diverse public agencies. Another relevant measure is the provisional license to start a business. By this rule, undue delay in analysis of a license request by public officials does not prevent the formal implementation of the economic activity. These new measures are compulsory for public entities in regard to small and micro businesses. On the other hand, they are voluntary for State and Municipal authorities when it concerns larger companies. Both laws have effective consequences over most of Brazilian companies (66.13% , broadly), are micro and small firms under the Simples regime.

23. Another important measure was the regulation of the National Program of Targeted Productive Microfinance (PNMPO), issued in 2005, targeting individual and corporate entrepreneurs involved in small scale productive activities with annual gross income up to R$60.000, for purposes of financing goods, services and working capital deemed essential to their undertakings.

(ii) Financial system

24. The National Monetary Council and the Central Bank of Brazil have been making efforts to promote competition among financial institutions. The market share of foreign banks, authorized to operate in Brazil in the last decade, currently corresponds to 23% of the total assets of the Brazilian banking sector.

25. Among the efforts of the National Monetary Council and the Central Bank of Brazil to increase access to financial services, a series of measures have been taken aiming to make it easier for clients of financial institutions to establish business relationships with other financial institutions. One of the major elements in reducing asymmetries was the creation of the Central Bank Credit Information System (SCR), a credit bureau at the Central Bank which gathers credit information from all banks and all borrowers.

26. Another important regulation was the implementation of the portability. The portability of personal file information require financial institutions, once specifically authorized by their customers, to disclose to third parties, including other financial institutions, information on both outstanding and settled loans granted to those customers. They have 15 days to provide the information, which can be sent directly to the financial institution specified by the customer. The portability of wages was also implemented, and, as a result, if employers, both public and private, hire financial institutions to make payments related to wages and pensions, which are not convenient from the point of view of their employees, these regulations allow for the direct transfer of funds from the institution which handles the payments for the employer to the institution chosen by the employee, at no cost to the latter.

27. To bring greater stability to Base Capital, in December 2004, BCB released the procedures to implement a new capital structure, based on the recommendations of the Basel Committee on Banking Supervision ("International Convergence of Capital Measurement and Capital Standards: a revised framework" or "Basel II"). The BCB emphasized that the recommendations of Pillar 2 (Supervisory Review) and Pillar 3 (Transparency and Market Discipline) will be applied to every institution in the

National Financial System (SFN) and announced the calculation of Regulatory Capital according to a standardized simplified approach or, for larger institutions, according to advanced approaches, founded upon an internal risk classification system. The rules and criteria referring to implementation of Basel II are the same for national and foreign capital institutions. In this sense, the requirements and demands for validation of internal credit, market and operational risk classification systems will be the same for every institution operating in Brazil. The implementation schedule consists of several phases extending from 2005 to 2012, when the capital structure according to Basel II is expected to be fully implemented. A revised regulation of Base Capital was also introduced, incorporating Basel Committee recommendations.

28. Regulatory treatment of market risk was established in 2007, requiring that financial institutions must implement a structure that include policies and procedures to be observed, compatible with the nature and complexity of the products, activities and processes of the institution. Risk management policy must also foresee which operation is subject to classification in the trading book, according to a minimum set of criteria[2] that involves corroboration of trading intentions and consistent policies for segmenting operations.

29. A National Financial System Clients Reference File (CCS) was created in 2005, complying with Anti-Money Laundering (AML) provisions. All financial institutions are required to maintain a data record of account holders and clients, as well as their legal representatives, as part of a general reference file centralized at BCB. The CCS makes it possible for proper authorities to request and consult data on a centralized database involving information on deposit accounts and financial assets in the form of properties, rights and values held or administered at SFN institutions. Financial institutions are accountable for daily update of CCS data and for the preciseness and timeliness of information. The judiciary system will be able to use CCS information on the basis of specific agreements formalized with courts throughout the country. In the framework of AML measures, financial institutions must adopt procedures regarding the establishment of business relationships and monitoring of financial transactions of clients considered to be politically exposed persons.

(iii) Insurance market

30. The insurance industry has grown significantly in recent years, thanks to the favourable economic environment. Between 2000 and 2007, insurance premiums have increased 155%, capitalization products 78%, and open private pension funds 47%. This growth has been generated not only by economic stabilization, but also by the liberalization introduced in some sectors. As a result, the participation of foreign capital in the insurance industry's premium income has risen from 29.5% in 1999 to 36.9% in 2007. In the open private pension funds, foreign capital participation grew from 21% in 1999 to 30.7% in 2007. At the end of 2007, there were 166 companies in operation (insurance, capitalization, and open pension funds).

31. The national regulatory insurance agency, SUSEP, has introduced new mechanisms of risk management into the insurance, open private pension funds and capitalization markets. SUSEP has moved toward a risk based supervisory regime consistent with international standards and practices, such as the IAIS Principles. Furthermore, SUSEP is encouraging the creation and development of popular insurance products meant for all layers of the Brazilian population, especially the poor or

[2] Mentioned criteria include: a) definition of position limits and daily monitoring of compliance with these limits; b) periodic reevaluation of established limits; c) evaluation of operations at market value at least once a day; d) information to the director in charge of managing the ratio of operations classified in the trading book.

low-income households. One of these measures was the phasing-out of the tax on financial operations (IOF) for life insurance.

32. The first effects of this policy to expand insurance coverage to the low-income population are visible: several insurers have the creation of new products, extending the coverage offered to the assets and interests of low-income citizens, and increasing savings and investments that can benefit this segment of the population.

33. Suplementary Law 126 of January 2007 provided a new framework for the reinsurance business in Brazil, as it opened the sector to foreign-owned and foreign-based re-insurance companies. Based on this new regulation, the operations of reinsurance and retrocession can be held with the local reinsurer (established as a corporation, with the sole object of conducting operations of reinsurance and retrocession), with the admitted re-insurer (based abroad, with office of representation in Brazil, registered with SUSEP to carry out operations of reinsurance and retrocession); and with the foreign re-insurer (foreign reinsurance company based abroad without office of representation in Brazil also registered as such in SUSEP).

(iv) Securities market

34. The years of 2003 to 2007 were dedicated to the consolidation of the reforms in Brazil´s securities market of Brazil. The volumes of securities offerings in the Brazilian market have soared to a total of US$86 billion in the past year. There is no artificial incentive or inducement to market growth other than market mechanisms in operation, together with an attractive regulatory environment.

35. The share offerings, which restarted as from 2004, have grown much in relative terms to the total amount raised in the market, totaling US$38.8 billion in 2007, 53% being secondary share offerings. US$31 billion (80%) of this volume was placed in initial public offering (IPO), carried out by 64 companies in 2007. There were 106 new listings since 2004. Of the total placed in this period, foreign institutional investors bought more than 70%, in average. Only two out of IPOs of this period involved dual listings in another market. All the other new public companies were listed only with the Brazilian stock exchange. In 2007, there were also a few listings of issuers established in other countries of the region, through the depositary receipt mechanism offered to foreign issuers (BDR). São Paulo was, in 2007, the 5th market in absolute financial volume of share offerings in world terms, behind only of the New York, Shanghai, London and Hong Kong stock exchanges, according to the World Federation of Exchanges - WFE. Investors have been more receptive to this type of offering due to the improvements in corporate governance and company disclosure practices that are required by the "Novo Mercado" rules. Last but not least, the investment funds industry in Brazil has assets amounting to US$707 billion, and more than 11 million shareholders. This is the most important channel for the investment of individual savings.

(v) Government procurement

36. The Ministry of Planning has implemented significant changes in the Federal Government Procurement System, transforming the electronic reverse auction into the main type of tender adopted by the Union -around 75% of total (R$34.5 billion) - and has improved e-procurement systems considerably, making them safer, more transparent, efficient and competitive. Currently, the Federal Government is trying to pass by Congress an extensive amendment to the General Law of Tenders and Contracts, focusing on efficiency and on the use of Information Technology resources in tenders. Simultaneously, the Government is working on a draft for a new General Law of Tenders and Contracts, aiming to develop a more efficient, simple, transparent, faster and modern procurement

system in the long run. All electronic tenders can be monitored online, in real time, and are saved by the system for anyone who wants to analyze them.

(vi) Exchange rate and foreign capital regime

37. Foreign exchange regulations were liberalized further during the period under review. CMN Resolution 3.265/2005, superseded by CMN Resolution 3.568/2008, unified the free rate and floating rate exchange markets and regulations. Residents transferring foreign currency abroad no longer have to do so through non-resident financial institutions accounts.

38. Besides, limits and restrictions to the purchase and sale of foreign exchange and to international transfers of "reais" have been eliminated. In 2006, foreign currency controls at the Central Bank on export proceeds and import payments were abolished, allowing exporters to keep up to 30% of their export proceeds abroad. This limit was increased to 100% in March 2008. Also, was introduced the possibility of registering in the Central Bank of Brazil, through the Electronic Statement of Registration – Foreign Direct Investment Module (RDE-IED), foreign capital in national currency, provided that such capital is in accordance with the financial statements of the Brazilian company. In April 2007, regulation on investments abroad by investment funds were further liberalized.

(vii) Export insurance

39. The Brazilian government established an export credit guarantee fund in 1997 and put in place an export credit insurance system. The Export Credit Insurance (ECI) is one of the instruments that have contributed to bolster Brazilian exports. Between 2004 and 2008, Brazil's ECI-supported exports rose by 246.90% (from US$3.3 billion to US$8.2 billion), thus outpacing the growth of financed exports in the same period. Decree 6.452, enacted May 2008, extended the guarantee to small and medium businesses, allowing the enhancement of productivity and the expansion of the domestic industry's capacity. The civil engineering and capital goods sectors, which require medium and long-term payments in accordance with international standards, have been the leaders of ECI-backed transactions. Since 2004, five insurers have been operating with their own resources.

(viii) Long run production and export finance

40. The National Bank of Social and Economic Development (BNDES), a state-owned bank created in 1952, is the main source of long term credit in Brazil. Currently, the long term financing needed for investment in fixed assets, both direct, through capital markets, and indirect, through the banking system, is still scarce. In 2007, the stock of private non-financial enterprise bonds totaled only 2.6% of GDP - against an average of 10.8% of GDP calculated by the Bank of International Settlements (BIS) for a sample of 44 countries – and bank financing to the private sector represented just 33% of GDP, well below the level recorded even in developing countries, such as China, South Korea and South Africa (above 100% of GDP).

41. The activities of BNDES have been clearly complementary to those of commercial banks, with distinct segmentation between short and long term credit initiatives. In other words, Brazil's financial market continues to be focused on the short term, with liquidity concentrated in a few assets. This is due, most likely, to the fact that macroeconomic stabilization is still recent and being consolidated, and to characteristics of the public debt such as its structure and terms. Concentrating in short term bonds indexed to the SELIC rate, the government offers liquidity, high returns and security to investors. Under these conditions, its is hard for a private enterprise to attract investors to their long term, fixed rate bonds at an acceptable cost and commercial banks have little interest in financing long term investment projects.

42. The credit lines offered by BNDES contemplate long term financing at competitive rates, for the development of investment projects and for the commercialization of new machines and equipment, as well as the financing of Brazilian exports, always considering ethical, environmental and sustainable development principles. BNDES's credit lines also contribute to strengthen the capital of private companies and to the development of the capital markets. In 2007 BNDES disbursed R$64.9 billion, or 93% more than in 2003.

43. With the attainment of the investment grade by Brazil, recognizing the consolidation of the macroeconomic stabilization, with a successful strategy to extend terms and obtain a more favorable composition of the public debt, and based on a consistent and persistent policy of support to the formation of more liquid and comprehensive secondary markets for financial assets, there is a tendency towards the strengthening of the domestic financial and capital markets. In that sense, it is expected that these markets will supply a larger share of the private companies' investment needs.

(3) SOCIAL POLICIES

44. For Brazil, poverty alleviation has long been a top priority. In 2004, President Lula launched the Global Call to Action Against Poverty, to mobilize additional funding for the fight against malnutrition and to promote the Millenium Development Goals (MDGs). The country has made considerable progress in achieving the MDGs before 2015. In effect, some of these goals have been accomplished before the deadline established by the United Nations.

45. The country has almost achieved universal basic education, with 97% enrollment of children from 7 to 14 years old. Additionally, the proportion of population over the age of 15 that was illiterate decreased from 10.4% in 2006 to 10% in 2007, and infant mortality declined from around 50 per 1000 live births in 1990 to 21.1 per 1000 in 2005. The main factors which enabled Brazilian society to improve overall living standards were efficient macroeconomic management combined with the implementation of nationwide social policies. These policies are designed to combat poverty and have been adopted in the areas of social welfare assistance, income transfer, food security, and hunger eradication. These activities are integrated under the Family Stipend Programme, which articulates the goals to be attained. The program proved to be a success story that has benefited over 11 million Brazilian families and prompted a significant improvement in income distribution, as demonstrated by the evolution of the GINI index, which fell from 0.59 in 1997 to 0.53 in 2007, reaching its lowest point in three decades. Several programs inspired by the Brazilian "Bolsa-Familia" have been implemented in African and Latin American countries thanks to South-South co-operation agreements signed by Brazilian Government.

46. In the countryside, social improvements are also notorious. Not only has the government improved the distribution of land, but it has also increased access to basic services, such as sanitation, technical assistance and education. Family farming, comprised of small-scale operations, involves more than 4.1 million rural establishments operated by families with a maximum gross annual income of R$110.000. They account for 10% of GDP and for 37% of the value of Brazil's agricultural production. This sector generates 15 million jobs, or 77% of all jobs generated by the country's agricultural sector. Family farmers produce approximately 70% of the food consumed by the Brazilian population, and is thus essential for the country's food and nutritional security. National rural development policies, focused on the segment of family farmers, aims at reducing the rural poverty in the country, even as it enhances the nation's internal food security.

III. TRADE POLICY DEVELOPMENTS (2004-07)

(1) LATEST DEVELOPMENTS IN BRAZILIAN FOREIGN TRADE

47. In general terms, Brazilian foreign trade continued to increase since 2004, both in absolute dollars and measured as a percentage of trade to GDP. In dollar terms, the country's foreign trade volume increased 76% between 2004 and 2007, rising from US$163 billion to US$287 billion. As for the foreign trade to GDP ratio, it grew from 24.8% of the GDP in 2004 to 26.7% in 2007. The net participation of Brazilian exports in global trade increased from 1,05% in 2004 to 1,16% in 2007, apparently a small difference but actually translating a continuous effort to expand the network of Brazilian firms exporting to the world market. Approximately 21.000 firms were involved in Brazilian exports between 2004 and 2007, 16% more than in the period 2000/2003. Of these exporters, 53% were small enterprises, while 22% were medium and 25% large enterprises.

48. The main feature of the 2004-2007 period was the expressive trade surplus, which averaged of US$40 billion, peaking in 2006, with at US$46.5 billion. For the sake of comparison, the trade surplus averaged US$10 billion in the period of 2000-2003, including a trade deficit of US$721 million in 2000.

49. The determination to seek alternative markets for Brazilian exports is also noteworthy. Brazil has diversified the destination of its manufactured and agricultural goods. From 2004 to 2007, while exports to major markets such as the US and European Union increased 24.1% and 63.8%, respectively, a much greater growth occurred in the same period vis-à-vis new markets, such as Latin America (without MERCOSUR), 114%; Eastern Europe, 113,%; Africa, 101%; Middle East, 73.5%; and Asia, 72%.

50. Brazil diversified not only markets, but also the exports items: 65.8% were industrialized goods, of which semi-manufactured products account for 13.6%, while manufactured goods were 52.2%. Agricultural products represented 32% of our foreign trade. The remaining 2,2% consisted of the special operations. The main industrial goods were: aircrafts, automobiles, auto-parts, cellulose, semi-manufactured steel, radio transmitters and receivers, oil, shoes. Within the list of basic products were: iron, oil, soy, beef, coffee in grains, tobacco, and cotton.

51. Brazilian imports of goods, in turn, registered raw materials and intermediate products at the top of the list in 2007, with a share of 49.3% of total imports. These products were followed by capital goods (20.8%), consumers goods (13.3%) and oil and gasoline (16.6%). Among those are pharmaceutical goods, fertilisers, heavy equipment and industrial machines, automobiles, electronic goods, plastic materials, and grains.

52. As for 2008, imports increased 46.3% from January to October compared to the previous year. The Brazilian exports did not grow as fast, registering an expansion of 25.2%. By virtue of imports, the surplus in the trade balance will be smaller than in 2007, as it registered US$22 billion by the end of October.

53. On the one hand, the appreciation of real against the US dollar has raised imports of goods and services. On the other, due to higher prices for commodities Brazilian exports have soared, mitigating negative effects of the exchange rate. Industry perceived this scenario as an opportunity to modernize its industrial park and to increment its activities. The list of imports is an evidence of this perception, showing that capital goods and raw materials have totaled almost 70% of the imports from January to October 2008. This enthusiasm also reflects upon the GDP, which, until the first quarter of 2008, registered a 6.4% growth compared to the same period in 2007.

(2) LOCAL CURRENCY PAYMENT SYSTEM-SML

54. In October 2008, Brazil and Argentina started to allow trade settlements in local currencies through the Local Currency Payment *System (Sistema de Pagamentos em Moedas Locais-SML*), which is a bilateral agreement between the Central Banks of Brazil (BCB) and Argentina (BCRA), in accordance with CMN Res 3.608, from September 11, 2008. Around 10% of all Brazilian exports and imports are with Argentina, while roughly 30% of all Argentinean exports and imports are with Brazil. In 2007, the CMC Decision No. 25 created the Local Currency Payment System between the members of Mercosur as voluntary bilateral agreements between the central banks. The SML allows Brazilian and Argentinean exporters to set their price in their own local currencies, and allows importers from both countries to pay exporters in their local currencies as well. The SML rate is published daily and it is a cross-rate between the Brazilian Ptax rate (BRL/USD) and the Argentinean Reference rate (ARS/USD). The Central Banks of both countries act as clearing houses. It was an initiative to reduce transaction costs, promote financial integration and consequently increase trade among the member countries, mainly encouraging micro and small entrepreneurs to participate in the foreign trade. Currently 75% of the Brazil-Argentina trade transactions have individual values below US$50.000.

(3) PARTICIPATION IN THE WTO

55. The WTO is at the center of Brazilian Trade Policy. There is no substitute for the multilateral trading system for the establishment of a fair and inclusive global economic order. Brazil has been actively engaged in the negotiations of the Doha Round and expects that the outcome of the DDA will effectively transform the development goals of its mandate in true opportunities for development countries.

(i) The Doha Round

56. Brazil considers that the Doha Development Round will only be successful if it results in benefits for all members, particularly for developing countries. Priority should be assigned to a successful and meaningful agreement on agriculture, since the overwhelming majority of the vulnerable segments of the population have their livelihoods linked to the rural areas and the sector remains subject to a wide array of trade distortions and protectionism, which hamper effective exploitation of developing countries' competitiveness in this field.

57. The conclusion of the Doha Round would bring new and structural opportunities for developing countries through: a) elimination of agriculture export subsidies; b) significant reduction of domestic subsidies for agriculture in developed countries, c) expansion of market access for agricultural products; and d) strong reduction of tariff escalation. Moreover, Special and Differential Treatment (S&D) in the WTO should be reinforced. Developing Countries will only benefit from the conclusion of the Round if they build export capacity and infrastructure, and if they are able to identify export opportunities, diversify production and add value to it.

58. In the context of the world financial crisis, Brazil attaches great importance to the conclusion of the negotiations as a means of attenuating the impact of the crisis through the expansion of international trade. The conclusion of the DDA is key for the strengthening of the Multilateral Trading System and the establishment of an open and fair trade regime, triggering economic growth and development.

(ii) Dispute settlement

59. Brazil has been a major user of the WTO dispute settlement system. Since 1995, it has appeared as complainant or respondent in 37 cases submitted under the "Understanding on Rules and Procedures Governing the Settlement of Disputes" (DSU). Considering all WTO Members, Brazil ranks fourth in terms of participation in the Mechanism, together with India, and after the United States, the European Communities and Canada. As complainant, it has appeared in 23 disputes, also ranking fourth after those three Members. Brazil's participation in the WTO dispute settlement system reflects its reliance on a mechanism designed to guarantee the implementation of the obligations undertaken by the Members in the various agreements. In the period under review (2004-07), Brazil initiated 1 new case and has appeared in 2 new cases as respondent.

(iii) Special and differential treatment

60. Brazil attaches great importance to the WTO principle of providing special and differentiated treatment (SDT) to developing and least developed countries (LDCs). Through SDT, the WTO is expected to offer developing countries and LDCs longer transition periods, reduced levels of commitments, and other mechanisms that allow limited flexibility in coping with the challenges posed by trade liberalization. Demonstrating the importance given to this principle, Brazil presented in November an informal proposal for the creation of a mechanism to monitor SDT. The proposal recognizes "that the Monitoring Mechanism can facilitate in achieving the objectives of operationalization of Special and Differentiated treatment and thereby accelerating the integration of developing and least developed members into the multilateral trading system", and foresees the creation of "a simple, practical and efficient mechanism, which complements other existing, as well as proposed monitoring mechanisms."

(4) PREFERENTIAL AGREEMENTS

61. Brazil believes that bilateral and regional trade agreements can be a useful complement to the multilateral system, by deepening the integration of markets, reinforcing the role of trade in economic growth, and promoting gains of scale for domestic firms. From that perspective and in accordance with WTO disciplines on regional trade agreements, Brazil continued to place Mercosur as the centerpiece of its trade policy. Brazil also participates in other regional agreements within LAIA. As a member of Mercosur's customs union, Brazil has been negotiating a number of Preferential (PTA) and Free Trade Agreements (FTA) with extra-regional partners. Mercosur signed a FTA with Israel in 2007 and a PTA with India in 2004. Mercosur has also concluded negotiations for a PTA with the Southern African Customs Union (SACU). The negotiation of an Association Agreement between Mercosur and the European Union, including a Bi-regional Free Trade Agreement, remains on Mercosur's agenda. Brazil also attaches great importance to the new round of the Global System of Trade Preferences among Developing Countries (GSTP) as an opportunity to increase South-South trade.

(i) Mercosur

62. Mercosur is the backbone for further regional integration and negotiation of extra-regional agreements. During the period under revision, Mercosur has taken important steps towards the consolidation of the Customs Union. Decision No. 54/04 of the Council of the Common Market (CMC) provides for the elimination of the double charging of the Common External Tariff (CET) in intramercosur transactions in two phases. In force since January, 1st 2006, the first phase comprises goods for which the CET is 0% or for which the preference margin is 100% (Dec. CMC No. 37/05) This is an experimental phase for the complete elimination of the double charging of the CET.

Negotiations are in due course to implement the second phase, which requires the conclusion of the Customs Code of Mercosur and agreement upon a mechanism for the distribution of the income from import duties.

63. Deeper integration of the production chains within the countries of the region has been an important aim of Mercosur. Several initiatives are under way to foster integration in the automotive, tourism, wood and furniture, and oil and gas sectors. The "Fund for Small and Medium-Sized Businesses" (Dec. CMC n. 22/07), which will be implemented soon, will be an important tool to help finance small and medium entrepreneurs in Mercosur.

64. Established in 2006, the Fund for the Structural Convergence of Mercosur (FOCEM) (Decs. CMC n. 45/04 and 18/05) epitomizes Mercosur's commitment to bridging the development gap between the countries of the region. It aims at funding the development of infrastructure and social cohesion in Mercosur. The Fund is made up of contributions from the four member States that amount to US$100 million annually, of which Brazil contributes with US$70 million. Paraguay and Uruguay are the main beneficiaries of FOCEM and Brazil and Argentina the main contributors.

65. Regarding trade in services, the sixth round of liberalization was completed (Dec. CMC No. 01/06), and a seventh round is under way (Dec. CMC n. 16/07), in order to proceed with the implementation of the commitments under the Services Protocol.

66. The signing of the Protocol of Accession of Venezuela to Mercosur in 2006 is an important landmark. Besides increasing regional trade, the incorporation of Venezuela to Mercosur allows for closer co-operation in strategic sectors such as energy and infrastructure.

67. Created in December 2005, the Parliament of Mercosur (Dec. CMC No. 23/05) represents a political decision of Member States to strengthen and deepen the integration process and to develop common interests and values in the region. There are currently 18 members of Parliament for each Member State, including Argentina, Brazil, Paraguay, Uruguay and Venezuela.

68. Member States have agreed upon a number of instruments with a view to facilitating the movement of citizens among all participating countries.

69. Active participation of civil society and social movements in formulating public policies in areas as diverse as education, health, labour, human rights and others is also contributing to the enlargement of social responsibility and political accountability. For the first time, in December 2008, the Common Market Council will open its doors to the participation of Ministers and authorities of social areas from Member and Associated States, alongside with Ministers of Foreign Affairs and of Treasury and the Economy. This is as much an institutional breakthrough as it is a commitment to advancing the social agenda of Mercosur integration.

(ii) Mercosur and regional agreements

70. Mercosur has also a broad range of free trade agreements (FTA) subscribed by that customs union, within the framework of LAIA. These FTA are known as Economic Complementation Agreements – whose acronym in Portuguese and Spanish is ACE – and they have been signed with Bolivia (ACE-36), Chile (ACE-35), Peru (ACE-58), and Cuba (ACE-62). Additionally, there is a joint agreement with Colombia, Ecuador, and Venezuela (ACE-59). In July 2002, a partial scope agreement, providing for free trade in the automotive sector after a transition period lasting up to 30 June 2011, was signed between Mercosur and Mexico. It should be noted that since 30 June, 2001

Mercosur member countries are not individually allowed to sign trade preference agreements with third parties, according to a Common Market Council Decision.[3] The remaining agreements previously concluded by each Mercosur member country are being replaced by agreements that involve Mercosur as a whole.

71. Preferential margins granted within the framework of the free trade agreements between Mercosur and Chile and between Mercosur and Bolivia have been regularly expanded since their entry into force (in 1996 and in 1997, respectively). Chile and Bolivia became Mercosur associate members, upon their request, after the conclusion of the mentioned free trade agreements. As a result of the signature of ACE-58 and ACE-59, Peru, Colombia, Ecuador and Venezuela became associate members of Mercosur. In July 2004, Mexico announced its intention to apply to become an associate member of Mercosur.

72. Besides the aforementioned agreements in the framework of Mercosur, Brazil has bilateral fixed tariff preferences agreements with Mexico (signed in July 2002, in the context of a Mercosur-Mexico Framework Agreement from the same year). Brazil has also a Special Scope Agreement with Guyana, signed in 2001, in which nearly all the negotiated products enjoy 100% tariff preference.

(iii) Mercosur and extra-regional agreements

73. Mercosur signed a FTA with Israel in 2007 and a Preferential Free Trade Agreement (PTA) with India in 2004. MERCOSUR has also concluded negotiations for a PTA with the Southern African Customs Union (SACU), currently pending signature. Mercosur has signed framework agreements– which indicate the beginning of trade negotiations – and is negotiating trade agreements with Egypt, the Gulf Cooperation Council (GCC), Jordan, Morocco and Turkey. The negotiation of an Association Agreement between Mercosur and the European Union, including a Bi-regional Free Trade Agreement, remains on Mercosur´s agenda.

74. The FTA with Israel establishes the gradual elimination of tariffs, based on a schedule with four categories, within a 10-year timeframe. The agreement has provisions on rules of origin, safeguards, technical regulations, standards and conformity assessment procedures, sanitary and phytosanitary measures, technical and technological cooperation, and dispute settlement, as well as an annex on the promotion of mutual assistance in customs matters. The agreement provides for its entry into force, bilaterally, after Israel and one of the Mercosur States ratify it. As of November 2008, one Mercosur country had completed the ratification process.

75. The Mercosur-India agreement was signed in 2004 (the Annexes were signed in 2005). It contains disciplines on safeguards, anti-dumping and countervailing measures, technical barriers to trade, and sanitary and phytosanitary measures, as well as dispute settlement procedures. The trade agreement covers 450 tariff lines (India) and 452 lines (Mercosur), with tariff reductions between 10-100% on the MFN tariff. As of November 2008, three Mercosur countries had ratified the PTA.

76. Mercosur and South Africa signed a framework agreement in 2000. Its main objective is the conclusion of a free-trade agreement, but a partial scope agreement was to be concluded as a first step to that objective. In 2003, the other four member countries of the Southern African Customs Union (SACU) joined the negotiations, which have been concluded in 2008. The Parties are working on a date for the signature.

[3] Decision CMC/DEC/32/00.

77. Trade negotiations between Mercosur and the European Union are based on the EU-Mercosur Interregional Framework Co-operation Agreement, signed in December 1995. The negotiations were formally launched in June 1999 and tariff and services negotiations started in July 2001. Market offers from both sides, including goods, services, government procurement and investment, were exchanged in September 2004 but were not deemed sufficient for an agreement. Since then, Mercosur and the European Union have met a number of times at ministerial and senior official levels, but the formal resumption of negotiations has yet to take place.

(iv) Global system of trade preferences

78. Brazil, along with other 42 developing countries, is a member of the GSTP (Global System of Trade Preferences among Developing Countries). Since South-South trade has been increasing well above world trade average growth and is, thus, becoming a significant source of dynamism for the global economy, the GSTP has gained more importance as an instrument to further enhance and deepen trade among developing countries. Hence, Brazil actively promoted the launch of a third round of negotiations of the GSTP, which took place in São Paulo, in June 2004, during UNCTAD XI.

79. Brazil continues to be engaged in those negotiations which are seen as a timely opportunity to promote new markets and generate trade among developing economies, within a rule-based and predictable framework.

IV. TRADE INSTITUTIONAL AND REGULATORY FRAMEWORK

(1) CROSS-CUTTING ISSUES

(i) Technical standards

80. Since 2004, Brazil has published about 2173 standards, of which 37,5 % are the direct implementation of ISO or IEC standards. The remaining standards either result from national initiatives or reflect International Standards, with appropriate adaptation to address fundamental climatic or geographical factors, as well as insufficient level of safety or technological problems. The adoption of International Standards was concentrated in the areas of hospital equipment, electrical equipment, machines, automobiles, and others in which standards conform a reference for the development of technical regulations.

81. The transparency requirements, foreseen in the Agreement on Technical Barriers to Trade (TBT) and in WTO texts, have been observed and respected by Brazil. During the period of the V TPR, 276 technical regulations and Compliance Evaluation Procedures were notified, in line the number of notifications associated with economies similar in size to the Brazilian.

82. In Brazil, most technical regulations adhere to the public consultation period of 60 days. When, for any reason, this period cannot be met, extensions are granted, but only upon request. Brazilian technical regulations can be consulted through request to the focal points of the TBT and SPS agreements.

83. Brazil, through the Focal Point of the WTO's TBT Agreement, provides answers about Brazilian technical regulations and clarifies doubts about technical standards and conformity assessment procedures raised by companies interested in exporting to the country.

84. At the end of 2007, Brazil implemented a Good Regulatory Practices Guide. Adherence to this guide, which provides directives for good practices present in the TBT text, is voluntary for the

regulatory agencies (which implement Compulsory Technical Regulations and Compliance Evaluation Procedures).

85. During the period under review, Brazil intensified its participation in international organisations dedicated to the creation and implementation of standards, such as the *Codex Alimentarius*; the ISSO; the IEC; the ITU; and the United Nations Committees on the Transportation of Dangerous Goods (SCETDG) and on the Classification and Labelling of Chemical Products (SCEGHS), with the objective of maintaining its regulations aligned with international standards in the related sectors and preventing the local standards from creating barriers that could render access to the Brazilian market more difficult to the country's trade partners.

(ii) Trade facilitation

86. In December, 2007, the Brazilian Chamber of Foreign Trade (CAMEX) established new principles and rules, to be observed by government executive agencies, in order to improve trade procedures and to create a favorable and expedite environment for commercial exchanges. CAMEX intended to reduce red tape and regulatory burden, to streamline procedures, to improve transparency and to strengthen security. Furthermore, the Brazilian Government aimed at:

- The reduction of inspections by improving risk management systems;
- Better coordination and cooperation among different government border agencies;
- The enhancement of the "Economic Authorized Operator" for traders with good compliance records with trade regulations;
- The reduction of trade transaction costs; and
- The development of automated systems and technologies to improve information exchange between border authorities.

87. Since then, several steps have been taken to implement these guidelines, including the creation of the Technical Group of Trade Facilitation (GTFAC) in march 2008. The Brazilian Government main accomplishments for Trade Facilitation in 2008:

- Conclusion of the draft legislation submitted to Congress to ratify the Istanbul Protocol (Ata Carnet);
- Elimination of licencing requirements for importing airplanes and airplane parts;
- Reduction in the number of products subjected to inspection for internal transit by ANVISA and IBAMA;
- Comprehensive review of legislation and licensing requirements for each non-tariff control agency with a view to reduce duplication and increase efficiency;
- Introduction of improvements to Siscomex[4] in order to allow agencies to direct less risky operations to automatic licensing;
- Incorporation of new software to Siscomex to allow for the attachment of electronic documents to the system; and
- Nationwide evaluation of the available workforce of all Brazilian government agencies operating at borders to optimize personnel to increase flow of trade.

[4] Brazilian External Trade Data System.

88. As for the work in progress:

- Definition, development of criteria, and introduction of risk management tools for non-tariff control agencies into Siscomex; and
- Implementation of more efficient rules for inspections of wood products and containers consisting of wood, including acceptance of a certification issued by exporters or importers that the wood has been treated.

(iii) Customs modernization

89. From 2004 to 2007 the Secretariat of the Federal Revenue of Brazil (RFB) kept the ongoing effort to speed up the flow of foreign trade, also increasing combat to customs related crimes. The average time for customs clearance has been constantly reduced trough the years, reflecting the effort to consolidate, simplify and harmonize customs procedures. The intensive use of information technology (IT) improves risk analysis, reducing release time in ports and strengthening the combat to frauds like counterfeiting and piracy. In this period, RFB started developing a project based on artificial intelligence, in order to make risk management techniques more effective when applied in selection operations for inspection during customs clearance and during the authorization process for foreign trade operators. Brazil is making efforts to sign important international agreements related to customs, such as the Revised Kyoto Convention and the Istanbul Convention, both from the World Customs Organization. Likewise, RFB is working on licit trade facilitation, cooperating with other Brazilian government agencies, as well as with other countries customs administrations.

(iv) Sanitary and phytosanitary issues

90. Transparency on sanitary and phytosanitary measures has been enhanced in Brazil. All measures aiming at protecting human or animal health from food-borne risks, human health from animal or plant carried diseases and animals and plants from pests or diseases are regularly notified to the WTO and made available on the internet. The most important risk analysis processes are notified to the WTO, and the relevant sanitary or phytosanitary events immediately reported to the competent international organizations and authorities of our trade partners. Brazilian Enquiry Points work in a coordinated manner and both of them attend the SPS Committees, contributing actively to them. Since the last TPR, Brazil has increased significantly its participation on the development of international standards coordinated by the three Standard Setting Bodies recognized by the SPS Committee. In addition, the Brazilian sanitary and phytosanitary measures are strongly based on standards and guidelines produced by *Codex Alimentarius*, OIE and IPPC.

91. Since the creation of the WTO, Brazil has signed more than thirty bilateral agreements on sanitary and phytosanitary matters, based on the SPS Agreement principles. The main purpose of these agreements is to identify common rules, simplify import controls, harmonize certification requirements, and facilitate the bilateral trade and entry of selected products. The importance of such agreements for Brazilian exporters and their trade partners can be measured by the increase of the bilateral volume of trade exports with more than one hundred countries and the integration of medium and small-sized agriculture producers into the international market, in such different sectors as honeybee, organic products, fresh fruits and flowers. However, the full potential of Brazil's agribusiness has yet to be fully developed, mainly due to the lack of recognition of equivalence agreements by some countries, as recommended by the WTO's SPS Agreement. It is important to highlight Brazil's commitment to animal and plant health and food safety in accordance with the SPS agreement.

(v) Competition policy

92. During the last few years, a number of provisions of the Brazilian antitrust law have been modified with the purpose of strengthening enforcement of anti-competitive laws and of improving the Brazilian Competition Policy System (BCPS). Thus, competent authorities have been granted new powers, especially during cartel investigations. In 2003, the BCPS created an intelligence center for cartel investigation together with the federal police and public prosecution offices. The first dawn raid related to cartel investigation was successfully carried out, and thirteen others followed; for the first time in Brazilian Competition history, a leniency agreement was signed; and the use of wire tapping by criminal authorities was intensified.

93. Law 11.482/07, amended the Brazilian Competition Law and introduced the possibility of direct settlements in cartel cases. Prior to this amendment, the CADE or the SDE (*ad referendum* of CADE) could settle with the defendants in administrative proceedings, except those related to cartels. This new possibility represents a remarkable improvement: early cooperation on the part of the defendants saves public resources, cuts down litigation, enables collection of a significant sum of money and provides expedited treatment and more certainty and transparency to the business community.

94. Nowadays, merger control in Brazil is mandatory over an established threshold. Parties may choose between filing a merger either prior or within 15 business days after the execution of the first binding document of the deal. The "Fast-Track System" for simple cases has been introduced, reducing in about 86 days the review period. Currently, 75% of the caseload is being reviewed under this simplified procedure. In 2004, the Brazilian authorities added a new category of cases that are now eligible for the "Fast-Track", which are those where the merging parties' turnover within Brazil is less than R$400 million (around US$200 million).

95. It is worth mentioning that the draft Bill 5.877/2005, which establishes a pre-merger notification system, is in accordance with international standards with regards to the merger control system . Said system would be a further incentive to the parties to collaborate to the rapidity of the analysis, as well as to amplify the possibility of competition remedies to the anti-competitive problems that may eventually appear.

96. Indeed, the BCPS is following international standards of competition policy and consolidating even more its participation in a variety of international organizations relating to competition policy, including the Competition Committee of the OECD (as an observer), the International Competition Network (ICN), UNCTAD, and the Latin American Competition Forum.

97. Regarding the Financial System, a Bill (PLC No. 344/02) is being discussed in Congress to set up a framework to subject the financial system to the antitrust Authority (the Brazilian Competition Policy System). This Bill aims at greater competition in financial inter-mediation and, as a result, a reduction in the cost of credit. According to the proposed Bill, the Brazilian Central Bank will be the one responsible for reviewing the mergers in the financial system in case of systemic risk. Notwithstanding, the BCPS will continue to be responsible for those reviews if there is no systemic risk involved in the transaction.

(vi) Intellectual property

98. Among the institutional rearrangements that contributed to a more integrated and efficient government action in the domain of intellectual property, the establishment of the National Council to Combat Piracy and Crimes against Intellectual Property (CNCP) stand out. After a Parliamentary Commission concluded its work, in August 2004, the Brazilian government initiated action to

strengthen co-ordination among the governmental agencies involved in the fight against piracy and counterfeiting. The CNCP was established, in October 2004, under the aegis of the Ministry of Justice.

99. The new Council absorbed the functions of the Inter-ministerial Committee to Combat Piracy. The CNCP was put in charge of designing and implementing a National Plan with a view to combating piracy, tax evasion and other crimes against intellectual property. Such Action Plan comprises 99 measures to improve the anti-piracy and anti-counterfeiting policies in Brazil. The CNCP has recently revised its National Plan, adjusting it to the new reality of piracy in Brazil and throughout the world. The new plan is composed of 15 goals and 25 projects which will be implemented until 2012.

100. The CNCP is composed by representatives of the public and the private sector. There are representatives of the Ministry of Justice (MJ); the Ministry of Finance (MF); the Ministry of External Relations (MRE); the Ministry of Science and Technology (MCT); the Ministry of Culture (MinC); the Ministry of Development, Industry and Trade (MDIC); the Ministry of Labour and Employment (MTE). With regard to the participation of the private sector, the following associations have a seat in the Council: the Brazilian Association of Software Companies (ABES); the Brazilian Association of Record Producers (ABPD); the Brazilian Institute for Ethics in Competition (ETCO); the Brazilian Association of Intellectual Property (ABPI); the Motion Picture Association of America (MPAA); the National Confederation of Industry (CNI); and the National Confederation of Commerce (CNC). Also, in CNCP sessions, there is regular participation of officials of the Federal Police Department (DPF); the Federal Highway Police Department (DPRF); the Federal Revenue Secretariat (SRFB); the National Public Security Secretariat (SENASP); as well as of Members of the Parliament.

101. By bringing together private entities and Government representatives, with equal rights to voice and vote, in a joint council, the Brazilian initiative is unique and innovative. Additionally, it goes beyond the fight against piracy and counterfeiting through mere police repressive measures and integrates measures of both educational and economic nature.

102. In 2007, in view of the positive results of the CNCP, the Brazilian Association of Software Companies (ABES) granted an award to the CNCP for the work done and for the decline in the level of software piracy in Brazil, which decreased from 64% to 60% percent in a year. In 2008, estimates show already a decrease of 1%.

103. The work of CNCP has produced, in certain areas or sectors, a decrease in the volume of commerce of items which violate intellectual property rights. This is a by-product of enforcement action but also of a shift both in consumer awareness of the negative effects of piracy in Brazil and in the business strategies of companies which have acknowledged the economic nature of the problem and decided to lower prices in order to reach out to lower-income classes.

Actions	2005	2006	2007	2008 (partial)
Counterfeit medicines seized (in units)	119,586	310,320	322,601	410,639
Goods seized in border controls (in R$ millions)	596.1	871.7	1,051.1	600.0
Police inquiries initiated (in number of cases)	8,186	6,930	8,693	over 6,000

(2) SECTORAL ISSUES

(i) Industry

104. Brazil’s manufacturing sector is characterized by its heterogeneity with several sectors presenting a high degree of international competitiveness. The industrial structure includes not only the transformation industry but also strong mineral and construction industries, in addition to the production and distribution of electricity, water and gas. The sectors of food and beverage (19.2%); chemicals (13.1%); metallurgy (12.1%); and transportation materials (10.9%) made the most important contributions to the value of industrial transformation.

105. During 2007, Brazil’s manufacturing sector produced an aggregate value of R$628.9 million, representing 28.7% of the country’s GDP. This amount results from a vibrant performance of the sector in recent years. In fact, from 2003 to 2007, there was significant growth in industrial production, specially at the beginning and at the end of the period, with 8.3% in 2004 and 6% in 2007.

106. The recent cycle of the Brazilian economy has been marked by a strong increase in internal consumption and by growth in the level of exports, reflected in an elevated consumption of machinery and equipment, with record utilization of the installed capacity of the transformation industry and of the capital goods industry.

107. In December 2007, Brazil completed 23 consecutive quarters of growth in industrial production, 15 quarters of expansion in consumption and 13 straight quarters of investment growth, an expansion, in the last two and a half years, always superior to that observed for GDP.

108. Many sectors show a high degree of international competitiveness. Sectors such as pulp and paper; steel milling; mining; aviation (ranked third in global production of commercial aircraft); oil; natural gas e petrochemicals; and ethanol (world's largest producer), contribute to Brazil’s presence among the world's leading producers and/or exporters. These sectors represented 36% of Brazil's 2007 exports (US$58 billion).

109. At the same time, more traditional sectors, such as the agroindustry, the textile sector, the automotive complex, and the capital goods sectors, among many others, due to their high participation in the economy, demonstrate the high degree of diversification of the Brazilian industry. The manufacturing industry exports more than US$80 billion.

110. Growth in industrial production in 2007 was widespread, benefiting most manufacturing sectors and extending to all usage categories. The most outstanding performances occurred in the automotive vehicles sector (15.2%) and the machinery and equipment sector (17.7%), but growth in the production of machines; electrical materials and apparatus; other chemical products; basic metallurgy; extractive industry; and foods also deserve mention.

111. Within the usage category, the production of capital goods presented the most significant growth, reaching 19.9%, followed by the category of durable consumption goods, with 9.2%, which reveals the characteristics of the growth cycle initiated in 2004; i.e., growth was pushed by family consumption and by the acceleration of investments. As a matter of fact, the investment rate of the Brazilian economy jumped from 15.3% of GDP in 2003 to 17.9% in 2007.

112. The increase in demand in the internal market, in 2007, was led by the capital goods (30.7%), construction (16.2%), automotive (17.8%), and commercial utility (16.7%) sectors. Almost 1.6 million jobs were generated in Brazil, and the manufacturing sector was responsible for 576 thousand new jobs.

113. Additionally, industrial productivity also presented growth in 2007, together with a recovery in the level of employment and of hours paid. Looking back a few more years, 6 of 18 sectors presented productivity growth during the last four years: footwear and leather; non-metallic minerals; rubber and plastic; paper and printing; wood; and electric, electronic, precision and communication machines and appliances.

114. In 2007 the Brazilian industry's import ratio, which measures the participation of imported products in domestic consumption, reached 20%, which corresponds to a percentage 50% higher than that observed in 2003. The sectors most responsible for the increase in the import ratio were those that are intensive in scale, engineering and technology, particularly electronics, machinery and equipment, and automotive vehicles. The significant growth in the domestic production of automotive vehicles and of machinery and equipment shows that the increase in the import ratio occurred within a context of complementarity between the supply of national and imported products.

115. Finally, among the manufacturing sectors, the automotive business stands out, having reached the threshold of 3 million vehicles produced in 2007 and responding for 3.5% of global exports in the sector. The auto industry started operating in three shifts to meet the heated demand, with strong investment plans. The information technology sector, whose sales surpassed 10 million units in 2007, an increase of more than 24%, placed Brazil as the fifth largest consumer market in the world. Estimates indicate that 2008 will end with sales of computers reaching the mark of 11.7 million units.

(ii) Agriculture

116. Brazilian agribusiness is highly competitive and its upward export trend was accelerated in 2007 and 2008, backed-up also by the record grain crops observed in this same period, after the setbacks faced by the Brazilian agriculture in previous years caused by declining prices and weather associated crop failures.

117. Based on the data of the National Company of Food Supply (CONAB), the total physical output of Brazil's agribusiness increased approximately 16.7% between 2004 and 2007, from 571,837 to 667,157 thousand tonnes. According to the same data, the production of meat (beef, poultry and pork) reached of 23,589 thousand tons in 2007, a growth of almost 20% since 2004 (19,761 thousand tons). These figures do not include the increase in the production of the food processing industries.

118. The global financial crisis occurs at the climax of Brazil's agricultural production and export performance. This is a factor that attenuates the impact of the crisis, whose major effects are the lack of liquidity and a downturn in demand, commodity prices and profit margins. Thus, Brazil estimates that its grain crop production in 2008-2009 will be slightly lower than the one observed in the last harvest season.

119. Brazilian agricultural policy and its instruments continue to follow a market oriented approach. Most of the rural credit, which relies on private sources, has increased steadily and the access criteria has improved. A new program was introduced to support further the recovery of degraded soil and pasture and new initiatives were undertaken to overcome infrastructure deficiencies.

120. About Brazilian agricultural programmes, OECD studies highlight that despite the fact that agriculture in Brazil accounts for a much higher share of national income than in most OECD countries, producer support has accounted for a rate far below the OECD average. The mechanisms to support producer prices in Brazil are target to assist family farmers and do not result in sector-wide price distortions. In addition the government is increasingly using instruments through which the private sector effectively operates the price guarantees. The reports conclude that Brazilian

agricultural price support provides a limited subsidy to producers who are considered to be at disadvantage, either because their costs are raised by the underdevelopment of infrastructure, or because of low incomes.

121. The studies also attest that Brazil does not have agricultural export credit programmes, with the majority of lending to the sector coming from private non-bank sources such as domestic agribusiness and international lenders. Although rural credit represents roughly 15% of the operations, it constitutes less than 1.2% of the banking system's total liabilities, and is financed from a variety of sources, including savings deposits, special funds (FAT), government funds and general bank funding.

(iii) Services

122. In 2007, the service sector in Brazil represented 65.8% of GDP and responded, in 2006, for nearly 80% of formal jobs distribution, according to IBGE. Also in 2007, the sector attracted 46.9% of foreign direct investment, according to the Brazilian Central Bank's database. Concerning the balance of services, the same period presented a deficit of US$12.3 billion. In 2007, the revenue of the exports of services reached US$22.5 billion against US$34.8 billion in imports.

123. One of the innovations introduced to improve statistics in services is the development of a computerized system denominated SISCOSERV (Integrated System for Foreign Trade in Services). When fully developed, this system will register foreign trade transactions in services and rights between residents and non-residents. The system will be a pioneer in data gathering for statistics in the foreign trade of services and rights, covering all four modes of supply in accordance to the General Agreement on Trade in Services (GATS) of the WTO.

124. Another relevant aspect, from the perspective of trade policy in services, is the elaboration of the Brazilian Nomenclature of Services, with nine digits. The adoption of a common nomenclature will allow the harmonization of definitions about foreign trade in services regarding commercial, fiscal and exchange policies. The first version of a proposal on the nomenclature will be submitted to public scrutiny in the first semester of 2009.

(iv) Renewable energy

125. Brazil has one of the world's cleanest energy mixes, in which 46% of primary energy sources are renewable, whereas the world's average is at 14%, a percentage that drops to 6% in OECD countries. Brazilian studies for the energy sector foresee that such large use of renewable sources should be mantained, greatly due to the use of hydropower and bioenergy, including biofuels.

126. About 30% of Brazil's hydroelectric potential has been explored, a percentage significantly lower than that observed in developed countries. Such potential for the production of this renewable and affordable energy source is an integral part of the country's long-term strategy for the sector. Widespread access to affordable energy is really important to achieving the goals of sustainable development, as means to promote social inclusion and combat poverty, promote national integration and the reduction of greenhouse gas emissions. Brazil is, therefore, investing significant amounts in research and in new technologies to improve the generation and distribution of energy, including investments in hydroelectric power sources.

127. Brazil also considers bioenergy, including biofuels, an indispensable tool for the expansion and diversification of the energy matrix. Nowadays, biomass electricity – generated mostly from sugarcane processing plants – accounts for about 3% of Brazil's total energy consumption. By 2020, it should meet 15% of the national need for electricity. As for the transport sector, the use of ethanol

and biodiesel plays a key role in the pursuit of sustainable development, climate change mitigation and energy security. The Brazilian case shows that the long term and large scale sustainable production and use of biofuels are possible, and Brazil works towards the creation of an international market for biofuels.

(v) Land transports

128. Brazil has land transportation agreements with its neighbors and is negotiating one with France (French Guyana). The National Agency of Land Transportation (ANTT) has enhanced and simplified regulations to facilitate the transport of goods and passengers. The joint control of customs and transportation procedures in the 26 frontier crossings, through on line processing systems, simplified and expedited the hauling of 13 million metric tonnes in 2007. There is no limit for foreign participation in investments in road cargo transportation, as the 20% limit was revoked by Law 11.442/2007.

(vi) Air transports

129. The National Civil Aviation Agency (ANAC), created in September, 2005, is responsible for the regulation and safety/security oversight of civil aviation in Brazil. Regarding negotiations for celebration of Treaties and Agreements on International Air Transport, the Agency, in coordination with the Ministry of External Relations (MRE), must observe the guidelines issued by the Council of Civil Aviation (CONAC).

130. In 2007, CONAC Resolution 07 established the following guidelines relating to the international market for Brazilian air transport: (i) to use the Air Services Agreements (ASAs) as mechanisms to stimulate the development of air transportation, in order to expand the flow of people, goods and services; (ii) to improve the ASAs between Brazil and South American countries, in order to provide regional integration and to strengthen the principles of the Fortaleza Agreement; (iii) to adopt a multi-designation policy; (iv) to foster competition to lower prices and stimulate demand; (v) to review pricing regulation, prevailing the free pricing.

131. In accordance with those policies, ANAC has adopted, on aeronautical meetings for the renegotiation of the ASAs, the following provisions: (i) increment of frequencies and traffic rights including 5ª and 6ª freedoms, for cargo and passenger services; (ii) more flexible cooperative arrangements, such as codeshare, (including provisions with third countries); (iii) full liberalization of flight frequencies within South America; (iv) reduction of restrictions that limit capacity and aircraft types; and (v) adoption of free pricing and multi-designation policies.

132. Considering the guidelines above, during 2008, 15 ASAs were renegotiated, with the following countries: Russia, Ukraine, France, Belgium, South Africa, United States of America, Singapore, Australia, United Arab Emirates, Venezuela, Peru, Luxembourg, Uruguay, United Kingdom and Chile.

(vii) Ports

133. Brazil's terminals and port terminals, which are responsible for approximately 90% of the cargo traded with other countries, have sought operational improvements to meet the growing demand originating from the country's foreign trade. The port system is composed of 34 government owned ports and 125 privately used port terminals.

134. The total movement of cargo in Brazil's ports and terminals, which grew by 7.2% per year between 2003 and 2007, exceeded 754 million tonnes in 2007. During the same period, the

movement of containers grew by an average of 13% per year, measured in tonnes, and 12% measured in TEUs.

135. The following are some of the most important measures taken to increase the efficiency of the port system during the period:

- US$280 million were invested between August 2004 and July 2008 to modernize port equipment;
- The National Dredging Programme was launched, forecasting an additional investment of US$707 million for the next five years; and
- A total of 34 ports and 226 port facilities were certified in compliance with the ISPS Code.

(viii) Telecommunications

136. In the last 10 years, the transition from state monopoly to an open and competition-based regime in telecommunications was reinforced. Policy for the sector is set by the Ministry of Communications (MC) and implemented by the regulatory agency ANATEL. Competition among operators has been possible through the development of a regulatory model that established clear and reliable rules and regulations. This new framework has provided domestic and international investors with a high degree of confidence, and has targeted rules on universal service, service continuity, and quality principles in order to meet the telecommunications needs of the Brazilian population.

137. Since telecommunication services were privatized, the sector's contribution to GDP almost doubled from 3,2% in 1998 to 6,2% in 2007. In this period, companies invested R$141,0 billion, not to mention the payments of licenses and the value expended during privatization. From the mid-1990s onwards, investment increased between 5% and 7% a year in Brazil. According to OECD Communications Outlook 2007, the emerging economies are among the fastest growing communication markets, representing approximately 9.5% of the worldwide market for communications equipment and services. The report indicates that Brazil ranks second in total expenditures in this sector within a group composed of Brazil, China, Indonesia, India and Russia.

138. In recent years, the technological convergence and the fast evolution of the sector underpinned the necessity to review the regulatory framework of the Brazilian telecommunications sector. As a result, in 2008, ANATEL developed a study with the scenarios that the sector could potentially fallin the next years, resulting in the General Plan for Telecommunication Regulation Updates in Brazil (PGR). PGR presents the actions that ANATEL will conduct in the short, medium and long run to update the regulatory framework for the sector in Brazil. These actions are related to the achievement of the goals of spreading broadband access services, reducing barriers to the use of telecommunication services, improving the customers' perception of the quality of the services, increasing the use of telecommunication networks and services, diversifying telecommunication service offering, specially with the increase of the offering of convergent services, ensuring adequate competition levels in service exploration, expanding pay TV services and the development of national technologies and industry.

V. FUTURE DEVELOPMENTS

139. Fundamentally, Brazil is much better placed now than it was during its last currency crisis in 2002. Macroeconomic management will continue to follow the same principles applied in recent years. The inflation target regime has been successful and market expectation for inflation in 2008 and 2009 is within the target of 4.5%, with a variation band of 2%. Government has been managing

the public finance in a way to a achieve a primary surplus according to the target and to keep the debt of the public sector under 40% of GDP. Brazil also aims at keeping its position as a net creditor in foreign currency.

140. Brazilian growth in recent years, especially in 2008, has been strongly influenced by an increase in investments, forging the conditions for the expansion of the productive capacity and productivity. The increase in investments as a percentage of GDP, along with the increase of the domestic demand, mainly influenced by social policies and salary improvements, enables the continuation of the new cycle of growth of the Brazilian economy, despite the worsening of external conditions.

141. Another fundamental measure was the Growth Acceleration Programme (PAC), launched on January 22, 2007, with the objective of ensuring a GDP growth rate of 5% per year, raising employment levels and improving the living standards of the population. PAC consists of a set of measures aimed basically at raising public investment in infrastructure and removing obstacles to growth. Moreover, PAC includes actions to stimulate credit and financing, to reduce the tax burden and perfect the tax system, to improve the business environment and to incentive investment in infrastructure.

142. PAC's investment in infrastructure are planned along three main axes: logistics (roads, railroads, ports, waterways and airports); energy (generation and transmission of electricity, oil, natural gas and renewable fuels); and social and urban (the programme electricity for all, sewage systems; housing, subways e water resources).

143. In January 2007, investments were forecast to total R$504 billion until 2010. Today, the total volume of resources to be invested is estimated at R$636.2 billion, due to the addition of new projects.

Axis	**2007-2010**
Logistics	90,4
Energy	292,9
Social and Urban	252,9
Total	**632,2**

144. Encompassing PAC, the policy for productive development (PDP) has been conceived to guarantee the long run sustainability of a new cycle of growth in the Brazilian economy. To maintain this long run cycle of growth it is necessary to consolidate the private sector's confidence in the country capacity to grow and to foster competitiveness in all productive sectors. It is also important to strengthen the supply side to match the demand increase and to avoid inflationary pressures. The objective of the PDP is to achieve a better integration of the governmental initiatives that have systemic impacts, emphasizing the investments foreseen in the PAC. Another important PDP objective is the strengthening of the legal framework regarding technological innovation. Aiming at creating a favorable environment for private investments, the Government implemented important measures, such as the already mentioned Trade Facilitation Initiatives included in the National Strategy for the Simplification of Foreign Trade, to simplify the export and import process.

145. From a trade policy perspective, Brazil will continue to play an active role at the WTO and a constructive role in building economic and trade associations at all geographic levels. The strengthening and development of Mercosur will continue to be another major component of Brazil's trade policy strategy, in particular with regard to the association of new members and to the

conclusion of trade agreements with countries and group of countries inside and outside the sub-region.

146. Reinforcement of the multilateral system will remain a priority in Brazil's endeavours to pursue an efficient and equitable international economic and trading framework. In the context of the world financial crisis, Brazil will work towards the conclusion of the negotiations as a means of attenuating the impact of the crisis through the expansion of international trade. The strengthening of the Multilateral Trading System is paramount to Brazil and essential for the establishment of an open and fair trade regime.