TRADE POLICY REVIEW MECHANISM

BRAZIL

Report by the Secretariat

In pursuance of the CONTRACTING PARTIES' Decision of 12 April 1989 concerning the Trade Policy Review Mechanism (L/6490), the Secretariat submits herewith Volume A (Text) of its report on Brazil. Volume B (Tables and Appendices) is presented in document C/RM/S/29B.

The report is drawn up by the Secretariat on its own responsibility. It is based on the information available to the Secretariat and that provided by Brazil. As required by the Decision, in preparing its report the Secretariat has sought clarification from Brazil on its trade policies and practices.

Document C/RM/G/29 contains the report submitted by the Government of Brazil.

NOTE TO DELEGATIONS

Until further notice, this document is subject to a press embargo.

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SUMMARY OBSERVATIONS

1. Brazil, the tenth largest economy in the world, is richly endowed in natural resources and human capital. Its economy grew considerably from the mid-1960s to the end of the 1970s. However, during the 1980s, economic performance faltered; macro-economic instability, high inflation and increased indebtedness characterized the decade. One of the main challenges facing Brazil is to restore growth and confidence in the economy, through sound, forward-looking policies which are seen as a credible alternative to past tradition.

2. Brazil presently faces serious economic difficulties. GDP has stagnated in recent years, with consequent declines in real per capita income. Income distribution is the most skewed among Latin American countries, with serious poverty. Inflation, although having fallen, remains high. On the other hand, the external debt burden, which effectively drove external economic policies, has declined, and recently-concluded rescheduling may provide further relief.

3. Brazil has undertaken a major liberalization effort in the face of these economic problems. This has brought about a marked change in direction from its long tradition of inward-looking policies. Specific reforms have concentrated on trade liberalization, deregulation and privatization. Impressive results have been obtained in the area of trade policy reform, as well as in reducing administrative mechanisms empowering the Government to allocate resources, and in transferring to the market some State-owned manufacturing and other activities.

4. In March 1990, virtually all non-tariff barriers were eliminated. Imports in some industrial sectors, such as capital goods, may still be restrained by internal regulations and remaining non-border measures, such as local content requirements for Government procurement and official financing. Liberalization of imports of computers and software will be
completed in October 1992. Despite the liberalization of border measures, which has taken place, the trade balance remains in substantial surplus. This partly because liberalization has been offset by the effects of exchange rate devaluation; however, the reduced volume of imports is also a result of declining domestic activity under the current stabilization programme.

(1) Brazil in World Trade

5. Brazil's share in world merchandise exports was 0.9 per cent in 1990, down from 1.3 per cent in 1985. Brazil is, however, a leading exporter of a number of products such as coffee, soy meal, orange juice, iron ore, and steel products. The importance of foreign trade for Brazil's economy is relatively low; in 1990, merchandise trade (imports plus exports) was around 11 per cent of GDP.

6. Following the debt crisis of 1982, the servicing of Brazil's foreign debt required the creation of large trade surpluses. This was achieved by import contraction. Between 1982 and 1990 the value of merchandise imports fell from around 7 to 4 per cent of GDP, while the ratio of exports to GDP remained at 7 per cent. The merchandise trade surplus peaked at 5 per cent of GDP in 1988. In 1990, around 20 per cent of export revenue (down from 63 per cent in 1980) was estimated as necessary to service Brazil's international debt requirements.

7. The structure of merchandise exports has changed markedly since the mid-1960s, with the development of manufacturing industry behind protective barriers. In 1965, coffee represented almost 45 per cent and manufactures close to 8 per cent of total exports. In 1990, the corresponding figures were 4 and 52 per cent. The most important manufactured exports were iron and steel, chemicals and motor vehicles.

8. The structure of Brazilian imports has also changed. The oil shocks of 1974 and 1980 both led to large increases in the share of petroleum from some 12 per cent of total imports in the early 1970s to about one-half in
1985. However, lower oil prices and the development of local oil and sugar-based fuel-alcohol production reduced this share to about one-quarter by 1990.

9. Brazil's leading trading partners are the European Communities, the United States, Japan and Argentina. The United States is the largest single-country export market, representing around 24 per cent of Brazil's merchandise exports in 1990; the EC as a group represented 36 per cent in the same year. During the past decade, the direction of Brazil's exports has shifted towards the United States and developing countries, particularly in East Asia. The share of Latin American countries has declined from 18 per cent to around 12 per cent during that period, reflecting unstable economic conditions in those markets.

10. The United States and the EC are also Brazil's principal suppliers. The United States' share has risen from 19 per cent of merchandise imports in 1980 to 23 per cent in 1989. Japan accounted for 6 per cent of Brazil's merchandise imports in 1989. Latin America's share of the Brazilian market also increased from 12 per cent in 1980 to 21 per cent in 1989. Within this, the MERCOSUL countries and Chile are the main suppliers.

(2) Institutional Framework

11. Brazil does not have a basic trade law. Trade policies are formulated and implemented through specific laws and regulations. The Constitution also regulates various aspects of the economy. All trade legislation is approved by Congress, but the Executive holds much of the responsibility for formulating and implementing trade and industrial policies.

12. The legal regulatory framework for foreign trade appears to be complex, with a large number of laws and decrees accumulated over several administrations. The present Government has eliminated and simplified many regulations dealing with specific trade and tax concessions or exemptions.
A unified trade law is being considered. The complex investment code has been simplified and liberalized, although a number of constraints remain.

13. Until the recent reforms, the economy was subject to extensive regulation, including institutional approval for industrial projects, price controls and discretionary access to long-term credit, which inhibited the operation of a competitive market economy. The rôle of the Government is, however, being reduced as part of a new strategy to make the private sector the main engine of economic development. In particular, the liberalization of trade measures has considerably reduced the discretionary power of the Executive, including lower level administrative bodies.

14. Reforms in the institutional framework related to trade policy have resulted in improved transparency and efficiency in decision-making. Brazil's main economic agency is the Ministry of Economy, Finance and Planning (MEFP). With its various Secretariats and agencies it covers almost all aspects of economic policy in Brazil. Within the MEFP, the National Secretariat of Economics has the responsibility for trade policy formulation and implementation. The main regulatory agency within this Secretariat is the Foreign Trade Department (DECEX), replacing CACEX, the foreign trade department of the State-owned Banco do Brasil, which formerly administered the extensive import licensing system. The Ministry of Foreign Affairs has significant responsibilities in connection with international trade and economic relations and negotiations with other countries.

15. In the formulation of trade and trade-related policies, the Government maintains a variety of formal and informal contacts with the private sector, which may contribute to the formulation and evaluation of trade policies through the participation in sectoral chambers and special committees. More formal participation by consumers and the private sector would provide greater transparency in the decision-making process, as well as ensuring that the interests of all economic agents are taken into account when formulating economic policies.
16. A number of economic research institutes carry out studies on government policies. However, there is no independent statutory body with a mandate to publicly and regularly review and assess economic policies.

(3) Trade Policy Features and Trends

17. Brazil is a founding member of the GATT and has participated actively in all negotiating rounds. In the Uruguay Round, Brazil's negotiating priorities - which cut across the entire agenda - are for an agreement achieving the reduction of protection in all areas under negotiation, in particular those of export interest to developing countries, and for the reinforcement of GATT rules and disciplines. It is a member of the Cairns Group. Brazil has signed five Tokyo Round Agreements - Technical Barriers to Trade, Subsidies and Countervailing, the Arrangement Regarding Bovine Meat, the Anti-Dumping Agreement and the Customs Valuation Agreement - and is an observer in four other MTN Codes. GATT has the status of domestic law in Brazil; thus, individual citizens or companies can invoke GATT rules before national courts.

18. Brazil accords m.f.n. treatment to both GATT and non-GATT members. Around ninety per cent of its imports come from m.f.n. sources. The major exception is tariff preferences for imports from LAIA members which enter Brazil under complex product-specific bilateral and regional agreements. Brazil has signed such agreements with all members of LAIA. Preferences on 108 tariff lines are also granted by Brazil under the Global System of Trade Preferences among developing countries (GSTP).

19. Brazil is a member of the Southern Cone Common Market (MERCOSUL; MERCOSUR in Spanish), created within the framework of LAIA by Brazil with Argentina, Paraguay and Uruguay in November 1991. Its objective is the constitution of a common market with free circulation of goods, services, capital and labour from 1 January 1995. Tariffs are to be progressively, linearly and automatically reduced and non-tariff restrictions eliminated across the board. Each country maintains a list of exceptions, which are to be phased out by that date. Brazil's list contains 260 tariff lines. A
common external tariff to be applied on third countries' imports is yet to be defined. The success of this regional trade agreement in increasing welfare will depend very much on the willingness of all members to pursue outward-looking, market-oriented policies. In this respect, the level of the future common external tariff will be very important in giving a signal to the international community.

20. Brazil is a beneficiary under all developed countries' Generalized Systems of Preferences (GSP) schemes; some 23 per cent (in 1988) of Brazil's exports are covered. However, direct trade gains for Brazil from GSP are estimated to be relatively minor (1.4 per cent of total exports).

(i) Recent evolution

21. In the twenty-year period until March 1990, Brazil relied on a complex system of non-tariff barriers and export incentive schemes to regulate trade. Direct restrictions on imports, tariff escalation and fiscal incentives and subsidies provided high effective protection to specific sectors. The system of trade controls lacked transparency and predictability. The multiplicity of legal instruments related to trade gave the Government wide discretionary power.

22. These trade policies, linked both to industrial development policy and balance-of-payments considerations, involved extensive misallocation of resources and had considerable transaction costs. Such measures reduce general economic welfare and encourage economic inefficiencies by fostering directly unproductive, rent-seeking activities. Thus, high transaction costs encouraged parallel markets, undermining attempts to establish clear economic rules enabling markets to function efficiently. Moreover, government revenue was reduced through the use of non-tariff barriers rather than tariffs. Activities benefiting most from protection, such as the motor vehicle and electronics industries, had apparently no better record of productivity growth than other, non-assisted activities.
23. During most of the 1980s, key features of trade-related policies in Brazil were the importance of direct controls; rapidly growing government intervention in economic activity; and instability of policies. Trade and exchange rate policies were important elements in Brazil's stop-go policy approach of alternately stabilizing prices and correcting the external balance.

24. Since March 1990, economic policies have changed direction. Brazil's structural adjustment programme is aimed both at stabilizing the economy and at increasing the efficiency and competitiveness of industry. A main element in this process is a comprehensive trade liberalization, through the removal of non-tariff barriers, streamlining of internal regulations and reductions in tariffs. Through this, a highly restricted and regulated trade régime has been changed, in a relatively very short time, to one largely free of quantitative restrictions. Brazil's trade régime has become considerably more transparent and less discretionary as a result.

25. The current top industrial and trade priority for the Brazilian Government is to increase efficiency in the production and trade of goods and services by modernizing and restructuring industry, including through extensive privatization, and improving infrastructure. A supportive external trade and economic environment would, naturally, be a key factor in achieving these goals. The GATT and the Uruguay Round negotiations are thus considered as trade priorities for the Brazilian Government. In this connection, the GATT is seen as the most important forum to protect Brazil's trade interests against discriminatory or protectionist policies by major trading partners.

(ii) Type and incidence of trade-policy instruments

26. Following the elimination of most non-tariff barriers, ad valorem tariffs are Brazil's principal import policy instrument. Manufactured tobacco is the only imported product to bear a specific duty. A clear, pre-planned programme of tariff reductions will bring down the simple
average rate from 25.3 per cent in 1991 to 14.2 per cent in July 1993 and reduce tariff dispersion.

27. The emphasis on tariff protection has the benefit of greater transparency in the costs of protection to consumers and user industries, as well as increasing government revenues and reducing the scope for discretion associated with quotas and licensing.

28. Although tariffs have been reduced and quantitative restrictions eliminated, the Brazilian trade régime still lacks clarity in some areas, such as the large number and complexity of trade laws. Moreover, despite tariff reductions, there will still be, by July 1993, a number of sectors benefiting from high effective rates of protection.

29. Tariff predictability is presently affected by a low level of tariff bindings, covering around 6 per cent of all items. The Brazilian authorities have, however, offered to bind the entire tariff schedule for industrial products at 35 per cent in the framework of the Uruguay Round. Agricultural products are not included in this offer, unlike those by Brazil's MERCOSUL partners of Argentina and Uruguay.

30. The transparency of the present Brazilian import régime has been enhanced by the elimination of tariff quotas, variable import levies, minimum import prices, import quotas, or import surveillance. Remaining quantitative import restrictions in the informatics sector will be eliminated by October 1992.

31. Despite the tariffication of non-tariff barriers in 1990, and the announcement of tariff reductions up to July 1993, there still remains a relatively heavy fiscal charge on imports, resulting from additional taxes such as the port tax (ATP), the merchant marine renewal tax (AFRMM) and the internal taxation system. These taxes can increase considerably the cost of imported products, harm the competitiveness of exported products and reduce the transparency of the tariff instrument.
32. Automatic import licensing covers the vast majority of products imported into Brazil. Documents must be issued prior to shipment of the merchandise. Non-automatic import licensing is now limited to security, health and sanitary considerations. The automatic nature of the current import licensing régime has eliminated the large discretionary power retained by the Brazilian authorities under the previous restrictive régime applied until March 1990.

33. Among remaining internal obstacles to trade are local-content requirements for government procurement and official financing. Domestic-content requirements may have been a useful technique for promoting import substitution industrialization, but they have the potential for increasing the cost of production, thereby hampering the international competitiveness of Brazilian products. Consumers are also affected by the resulting higher prices.

34. Although the Government has fixed at 60 per cent the local-content requirement attached to official credits and government procurement, it is impossible to assess the real impact of these practices. It is also difficult to assess how far State enterprises and sectoral agencies follow this rule, since they are now operating with greater autonomy.

35. Government procurement in Brazil is not centralized. It is usually the responsibility of each purchasing body, under general guidelines set by law. To participate in the bidding process, foreign firms are required to associate with national firms. There are no restrictions on the eligibility of foreign suppliers, but a preference is given to local suppliers when offers are similar. Tendering procedures may provide scope for discretionary decisions, especially when selective tendering is used. The transparency of government procurement practices can be increased. Minimum local-content requirements and preference for local suppliers may also result in more expensive public purchases.

36. Other trade-related measures affecting imports into Brazil include health, safety and technical regulations or standards. For example, most
agricultural imports are subject to strict sanitary and phytosanitary controls which are enforced with a view to prevent the importation and dissemination of plants and animal diseases. Brazil's standards policy is to follow international norms. Standards are uniformly applied to imported and domestic goods. The GATT Secretariat has no evidence of standards-related barriers to entry into Brazil, nor is it aware of any complaints by trading partners.

37. The importation of a few products, such as luxury boats, is prohibited. Brazil also applies import prohibitions in compliance with resolutions of the United Nations or the Organization of American States.

38. Brazil has an important free-trade zone in Manaus. Experience with this zone shows that the system mainly resulted in increased production destined to the domestic market. However, it was an important factor in promoting the development of the region. Firms and individuals located in the region benefited greatly from fiscal incentives.

39. Brazil has no specific legislative requirement for countertrade transactions. In the past, however, it was considered as one of the leading exponents of countertrade.

40. Until recently, Brazilian exports were largely controlled, with licences required for all products. Export licensing is now restrained to a few products. All export taxes have been eliminated, except on raw hides and skins which remain subject to a tax of 9 per cent. The export of certain goods is controlled for reasons of insufficiency of internal supply or for protection of wild flora and fauna.

41. Export subsidies and fiscal incentives have also been eliminated; however, the export financing scheme (PROEX) may contain a subsidy element to the extent that it acts as an interest rate equalizer.

42. Indirect tax incentives for exports are now directed to avoiding double taxation of value added. In the past, export incentives were
designed mainly to neutralize the anti-export bias created by the structure of protection. Some export promotion policies stimulated particular activities such as textiles, automobiles and capital goods, at the expense of other, possibly more efficient activities mainly in the agricultural sector, thus encouraging an inefficient use of resources.

43. The current Government has achieved some success, such as in the process of trade facilitation (streamlining trade procedures) in increasing the transparency and predictability of the export régime. However, exchange rate volatility may reduce the effects of export incentives, distort the structure of protection to domestic industries and increase uncertainty by exacerbating inflation expectations.

44. The export competitiveness of Brazilian products is heavily affected by the internal taxation system and high port costs stemming from inefficient port services. Legislative changes concerning port services are under discussion in Congress. These will allow for restructuring, reductions in costs and greater participation of private enterprises in port operations.

45. Until recently, voluntary export restraints were applied on exports of iron and steel products to the United States and the European Communities. Restraints are also applied under the MFA on certain textile and clothing products when exported to Canada, the European Communities and the United States. In certain foreign markets, a number of Brazilian exports, such as orange juice, iron and steel products, chemicals, footwear, textiles and clothing, are significantly affected by anti-dumping and countervailing measures. Brazil's potential for increasing exports of its agricultural products is also curbed by prevailing distortions and restrictions in international farm trade.

(iii) Sectoral policies

46. Over the past four decades, industry was generally favoured at the expense of agriculture, under Brazil's policy of creating a domestic
import-substituting industrial base. Tariff, tax and exchange rate biases in favour of industry slowed agricultural development and transferred resources from agriculture to less efficient applications. Within agriculture, protection of wheat and sugar producers may have resulted in a transfer of resources away from other, more efficient domestic market and export crop producers, benefiting neither consumers, nor, in aggregate, agricultural producers. At the same time, a number of other agricultural products suffered from negative protection, the removal of which would lead to efficiency gains in both domestic food and export crop production.

47. Around one-quarter of the agricultural budget in the late 1980s was absorbed by subsidies to the Proalcool sugar-fuel programme and by subsidies to wheat processors, and, to a lesser extent, wheat producers. Both policies were justified by Brazil on the grounds of their rôle in promoting food and fuel self-sufficiency with a view to saving foreign exchange. While, in aggregate, these expenditures reduced the total net transfer from the agricultural sector, they were an ineffective means of agricultural support.

48. Agriculture-specific policy interventions are currently concentrated in the areas of rural credit, price support and research and development. During the 1980s, minimum price schemes replaced credit policies as the principal instrument of agricultural policy. Such programmes provided a relatively effective means of reducing farmers' uncertainties regarding price expectations and to maximize their incomes. However, the costs associated with this policy may have been relatively high.

49. Brazil applied a very restrictive policy in developing its domestic informatics industry. Although the sector grew rapidly, the policy may have impeded the development of industry overall by inhibiting access to new technological advances. The measures applied under the Informatics Law have already been partly liberalized and are to be eliminated by October 1992.
50. The significant lowering of trade barriers has contributed to making the Brazilian industrial policy environment more neutral. In the manufacturing sector, the overall level and spread of protection have declined. However, tariff escalation contributes to higher than average effective protection in sectors such as motor vehicles, tobacco, beverages and electronics and communication equipment.

(iv) **Temporary measures**

51. Brazil has never taken emergency protective measures under the provisions of Article XIX of the GATT.

52. Since mid-1991, Brazil has increasingly had recourse to anti-dumping and countervailing measures. Before 1990, Brazil made limited use of such procedures, reflecting the high overall level of protection afforded until then by other non-tariff measures. The United States, Canada and South Africa are the main targets of anti-dumping measures. By July 1992, four definitive and four provisional anti-dumping duties were in force, together with two price undertakings; four active anti-dumping investigations were also under way; and two countervailing measures were in force.

53. Brazil's anti-dumping and countervailing measures have a statutorily-defined sunset clause of five years. Concerns have been raised by some trading partners in respect of certain practices, mainly in respect of the application of provisional measures.

54. There are some expectations that anti-dumping and countervailing measures will be used more frequently by Brazil as domestic industries are increasingly confronted with international competition and as domestic producers learn how to use these mechanisms. While these practices may prove to be a useful instrument to protect the domestic industry against unfair trading practices, there is always scope for their use as disguised protective devices, although the sunset clause alleviates this to some degree. Moreover, consumers' interests and the interests of user
industries are not taken into consideration when deciding the imposition of anti-dumping or countervailing duties.

(v) New initiatives

55. Brazil has eliminated almost all non-tariff barriers and moved to a mostly tariff-based trade policy as part of efforts to open the economy to market forces, modernize its productive capacity, and make it capable of competing internationally. However, in the prevailing environment of persistent macroeconomic imbalances, the sustainability of these liberalization efforts should not be taken for granted. Price and exchange rate stability and the achievement of sustained economic growth are a necessary condition for consolidation of the reforms undertaken so far by Brazil. Failure to control inflation, to revive economic activity, and to tackle rising unemployment, would increase the political odds against the success of the liberalization experiment, by encouraging existing pressures to retard the tariff reduction programme or to revert to a more protectionist industrial policy.

56. Within the time frame established for the programme of tariff reductions, it is essential for Brazil to restore sustainable growth and avoid excessive real exchange rate appreciation, to reduce structural adjustment costs and the risks of balance-of-payments problems. These imperatives require a successful stabilization effort, but also underline the link between the future of Brazil's trade policy and its external financial obligations. In this respect, the recent debt restructuring agreement signed by Brazil with commercial banks, covering around US$44 billion, should ease some of the pressures on economic management.

57. The Government is currently revising all existing legislation related to trade, with a view to consolidating it in a single basic foreign trade law. Priority is also given to further trade liberalization within MERCOSUL. Tariffs on trade within the regional arrangement are expected to be cut to zero and quantitative restrictions eliminated by the end of 1994. To the extent that MERCOSUL itself pursues liberal policies towards the
outside world, concerns regarding welfare-reducing trade diversion will be lessened. However, given the product composition and direction of Brazil's external trade, the country is likely to benefit more from multilateral liberalization rather than from bilateral or regional trade groupings.

58. Since March 1990, Brazil has considerably liberalized its economy. Reduction in the scope of non-tariff measures and reliance on ad valorem tariffs have made Brazil's trade régime more open and transparent. Further benefits for foreign trading partners will result from the liberalization of domestic regulation.

59. Brazil's trade policies are not generally biased against specific countries and, as noted, some 90 per cent of Brazil's trade is conducted on an m.f.n. basis. Trade preferences are mainly given to regional trading partners.

60. Brazil's recent unilateral liberalization is contributing to the strength of the multilateral trading system. Brazil has benefited from the multilateral trading system under GATT and has used GATT mechanisms to solve trade disputes. Brazil could contribute further to extending and reinforcing its participation in GATT through greater tariff bindings, as offered in the Uruguay Round, and through wider participation in the MTN Agreements. A successful conclusion of the Uruguay Round, leading to significant liberalization by major participants, would help consolidate Brazil's liberalization measures and provide greater opportunities for economic growth in Brazil, through improved market access.
I. THE ECONOMIC ENVIRONMENT

(1) Major Features of the Brazilian Economy

1. Brazil is a large, populous, middle-income developing country, with a wide variety of natural resources. It has a substantial, diversified and sophisticated industrial base, located in the Sao Paulo-Rio de Janeiro-Belo Horizonte area in the south of the country; on the other hand, the north-east and Amazonian regions are substantially under-developed and the subject of great controversy about environmentally-sustainable development.

2. From the mid-1960s to the end of the 1970s, Brazil recorded strong economic growth of some 12 per cent or more, rivalling the East Asian success stories. However, in the 1980s, with rapidly increasing debt, it became subject to destabilizing bursts of hyper-inflation. Currently, the economy is moving away from an historically high level of State intervention towards a more liberal, open-economy approach, involving greater opening to foreign trade, as well as deregulation of the internal market and privatization of State enterprises. Integration with Argentina, Paraguay and Uruguay under MERCOSUL (MERCOsur in Spanish) is proceeding on schedule and is seen as supporting the political and economic liberalization process.

3. Coffee became the dominant sector in Brazil's economy in the mid-nineteenth century, followed by rubber production. Only in the last few years has coffee been overtaken by oilseeds, mainly soya, as the major agricultural export. Other important farm products are beef, orange juice and cocoa. Sugarcane production increased rapidly, under a subsidized alcohol programme to some 250 million tonnes in the mid-1980s (Chapter V).

4. From 1945 onwards, but most significantly since 1955, Brazil turned towards State-led industrialization, especially in the areas of energy, heavy industry and capital goods. Iron and steel, bauxite and aluminium production became major sectors of the economy. The automotive industry is now the largest in Latin America.

5. Today, Brazil's principal exports are, in order of importance, iron and steel, automotive products, other minerals, chemicals, soya, mechanical machines and equipment, coffee, footwear, paper and cellulose, electrical machinery, textile products, orange juice, meat, petroleum products, and tobacco.

6. Brazil's population, 150 million in 1990, is currently growing at an average rate of about 2 per cent a year, although this has been declining steadily (Table I.1). This reflects falling infant mortality and increasing life expectancy. Per capita income in 1990 was US$2,710, about three times that of developing countries as a whole, but about 15 per cent
of the average for industrialized countries. Urban population accounts for some 75 per cent of the total in 1990, up from 56 per cent in 1970. The share of labour employed in agriculture fell from 45 per cent of total employment in 1970 to 31 per cent in 1980, and has since fallen further to around 20 per cent. School enrollment has reached 100 per cent at primary school level, but, while growing, secondary education enrollment had reached only 36 per cent in 1985. Enrollment in tertiary level education was 11 per cent in 1987, one of the lowest in Latin America.

7. Brazil has wide dispersion in income levels even by Latin American standards. The lowest 20 per cent of income earners accounts for 2 per cent of national income and the highest 10 per cent for 46 per cent of income. There are also considerable regional deviations in income levels. Reform of the complex land ownership system has been an important social issue outside urban areas.

8. The major issues of economic policy in Brazil are inflation, foreign debt, public-sector spending, recession, and poverty. The immediate preoccupation of economic managers is the control of inflation, currently running at just below 20 per cent a month (May 1992). Control of public-sector spending is complicated by constitutional considerations, relating to the federal nature of the republic (Chapter II) and the fact that the constitution regulates many facets of economic life. Privatization of public enterprises, such as the steel company, Usiminas, initially faced a number of legal and political obstacles, but the programme so far appears to have been successful (Note I.1). The present recession and tight monetary policies are considered to have exacerbated the already critical situation of the poorest segment of the population.
Note 1.1: The Brazilian Privatization Programme

The National Privatization Programme has so far led to the privatization of five State companies, including Usimec a steel company and should privatize 22 more in the first phase of the programme. As indicated by the public's acceptance of the stock of these companies, expected initial resistance has been overcome. This has stimulated enlargement of the programme, which in a later phase is to include electricity companies and port authorities.

Overall result

(a) Privatized companies

<table>
<thead>
<tr>
<th>Company</th>
<th>Activity</th>
<th>Sale Price</th>
<th>Observation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Usiminas</td>
<td>Steel</td>
<td>US$1.44 billion</td>
<td>Common stock sold at 14.27 per cent above fixed price</td>
</tr>
<tr>
<td>Celma</td>
<td>Engine repairs</td>
<td>US$93.7 million</td>
<td>25 per cent above minimum price</td>
</tr>
<tr>
<td>Mafersa</td>
<td>Rolling Stock</td>
<td>US$50.85 million</td>
<td>158 per cent above minimum price</td>
</tr>
<tr>
<td>Cosinor</td>
<td>Steel</td>
<td>US$14.11 million</td>
<td>13.8 per cent above minimum price</td>
</tr>
<tr>
<td>Serviço Navegação</td>
<td>River ships</td>
<td>US$13.0 million</td>
<td>n.a.</td>
</tr>
<tr>
<td>Indag</td>
<td>Fertilizers</td>
<td>US$107 million</td>
<td></td>
</tr>
<tr>
<td>Aços Finos Piratini</td>
<td>Steel</td>
<td>US$244 million</td>
<td></td>
</tr>
<tr>
<td>Petroflex</td>
<td>Petrochemicals</td>
<td>US$800 million</td>
<td></td>
</tr>
<tr>
<td>Copesul</td>
<td>Petrochemicals</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

(b) Companies to be privatized

- Of remaining sales left in the first phase, five had dates set for the first half of the year 1992: SNBP, Indag, Aços Finos, Golasfértil and Petroflex
- Sale announcements in preparation: Enase and Franave
- Pre-adjustments for privatization: Companhia Siderúrgica de Tubarao (CST), Araféteril, Indústria Carboquímica Catarinense S.A. (ICC), Mineração Caraíba and Copesul
- Undergoing economic and financial studies: Nitriflex, Petroquímica Triunfo, Polisul, Companhia Industrial Polipropileno (PPH), Companhia Nacional de Alcalis, Acesita and Ultrafértil
- Bids requested for economic-financial studies: Nitrofértil and Fostértil
- Petroquímica Uniao S.A. awaits the announcement of bid requests for economic-financial evaluation

9. Tax reform is an important element in both the macroeconomic and the structural reform programmes. The tax structure, and potential conflicts between State and Federal taxes, are seen as an obstacle to the reform programme, while improved tax collection is an essential component in reducing the public-sector deficit. Trade-related taxes are not a major component of revenue in Brazil.

10. Maintaining a balance between ensuring international competitiveness and managing inflationary pressures is a key dilemma of Brazil's policy. Control of the money supply is particularly difficult. Until early 1991, Government bonds were indexed, and were regarded as part of the money supply. Thus, paradoxically, any attempt to contract the monetary base and raise real interest rates through the issuance of bonds led to an increase in short-term debt and an increase in the broadly-defined money supply (M4). While de-indexation of Government bonds has reduced this phenomenon, high real interest rates have also encouraged large, speculative capital inflows which also make exchange rate management and control of inflation more difficult.

11. Changes in the "openness" of the economy (or the trade dependency of the economy) can be measured by the share of trade in GDP. Chart I.1 shows that the increase in openness in the late 1980s simply brought the share in GDP of trade in goods and services back to the level of 1974; during the 1980s the share of exports (goods and services) in GDP increased from just over 6 per cent to over 10 per cent. The growing export ratio in the 1980s reflected the need to generate export surpluses to finance debt; imports declined up to 1988, reflecting reduced domestic activity and demand.

12. Despite the trade surpluses of the 1980s, which reached US$19 billion in 1988, debt increased and in 1987, the country declared a moratorium on foreign debt payments. The arrears inherited by the Government of President Collor in 1990 stood at some US$5 billion. By 1991, total long-term debt stood at around US$115 billion. The Government has concluded in 1992, new agreements with the IMF, Paris Club creditors and private creditors which have led to a rescheduling of debt (Section (4) below).
13. The structure of the Brazilian economy is dominated by services, which account for 49.2 per cent of GDP at factor cost in 1990, up from 47.3 per cent in 1970. The share of agriculture has declined from 11.6 per cent in 1970 to 9 per cent in 1990, while industry has remained virtually stable, moving from 41.1 to 41.8 per cent over the two decades. The share in the total of the manufacturing component of industry fell slightly from 30.0 to 27.8 per cent.

(2) Recent Economic Performance

14. Brazil's economic history since the Second World War has shown a complex, changing mix of policies, with episodes of openness alternating with greater restrictiveness. Commercial and exchange-rate policies have thus varied greatly over time. Current reforms emphasise orthodox macro-economic management, including fiscal and monetary restraint and
trade liberalization as an element in the progressive reduction of resource misallocation.

15. The growth of real GDP accelerated towards the end of the 1960s, and this trend continued through 1973 when it peaked at 14 per cent. In the second half of the 1970s, however, the rate dropped to 6.7 per cent on average (Table I.2). Domestic investment and industrial and services output grew particularly rapidly in the early 1970s. During this period, the economy followed policies of import substitution and export promotion from the late 1960s onwards.

16. Brazil was severely affected by the oil-price shocks of 1973-74 and the early 1980s. Initially, after the 1973 shock, Brazil financed a growing current account deficit through external borrowing, assisted by recycled OPEC surpluses. In 1974, the deficit widened to a historic level of US$4.7 billion; the current account deficit of US$7.1 billion was mostly financed through foreign borrowing. This led to a marked tightening of commercial policy in the following years. Import financing was restricted, tariff rates were doubled for 900 products, tariff reductions on imports of capital goods were suspended, and prior import deposits were introduced. A number of import prohibitions were introduced in 1976.

17. The description of the 1980s as the "lost decade" in development is evident in the case of Brazil. In real terms, the economy grew at an average rate of little more than 1 per cent a year (Table I.2). GDP declined by 7.5 per cent overall between 1980 and 1983. The economy then underwent a rapid expansion, with average growth of around 7 per cent, between 1983 and 1986, slowing down in 1987; following stagnation in 1988, GDP fluctuated between 3.2 per cent growth in 1989, and a decline of 4.3 per cent in 1990, before returning to modest growth of 1.2 per cent in 1991. The decline in real per capita income (in terms of cruzeiros) in the early 1980s, stagnation in the latter half of the decade and, finally, the decline in 1990 are showed in Chart I.2.

\[1\text{Data for 1991 supplied by IBGE.}\]
18. Brazil's macroeconomic behaviour in the 1980s can be divided into two distinct periods. The first period, up to 1985, saw a sharp balance-of-payments adjustment in response to the second debt crisis of 1979-80. During this period, the U.S. dollar value of merchandise imports declined by more than one-quarter: the merchandise trade balance (on a payments basis) moved from a deficit of US$2.8 billion to a surplus of US$12.5 billion. Imports were reduced through the use of widespread foreign exchange controls and import restrictions. Up to 1982, however, exports declined more rapidly than imports as a result of a real appreciation of the exchange rate. Exports surged particularly in 1983-85, largely because of a strong recovery in U.S. demand and a sharp devaluation of the cruzeiro in February 1983. In the second half of the 1980s, the emphasis switched to control of inflation and the real exchange rate again appreciated from 1985-90. Exports, which had slumped in 1986, grew

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strongly again until 1988, while imports grew strongly in 1987-88 and 1988-89. The effects of the U.S. slowdown were felt through a 10 per cent reduction in merchandise exports in 1989-90, and export growth stagnated in 1990-91. The trade balance stabilized at just over US$10 billion in 1990 and 1991, when appreciating trend in the real exchange rate was reversed.

19. Investment fell in the early 1980s, picked up more rapidly as the economy grew in the mid-decade, then fell again, except in 1988/89. As a share of GDP, investment dropped from 31.3 per cent in 1980 to 20.8 per cent in 1983 - more than 10 per cent in just three years. Towards the end of the 1980s its share hovered around 23-24 per cent.

20. The late 1980s saw a succession of plans aiming, unsuccessfully, to control inflation and stabilize economic conditions. The acceleration of inflation towards the end of 1985 led first to the formulation of the Cruzado Plan in February 1986. The wage and price freeze introduced under this Plan was not supported by firm demand management. Wages and incomes rose, boosting real production in industry by 12 per cent in 1985-86, and inflation jumped from over 140 per cent to over 200 per cent in 1986-87. The next attempt at stabilization, the Bresser Plan, lasted from June 1987 to early 1988. This period was marked by overall stagnation; although value added in the services and agricultural sectors expanded by 2.5 and 1.2 per cent respectively, industrial production declined by 2.7 per cent (manufacturing by 3.4 per cent). Inflation accelerated to well over 600 per cent in 1988 and over 1,200 per cent in 1989. The Summer Plan of January 1989, also based on a wage(price freeze with a fixed nominal exchange rate anchor, saw a further increase in inflation of over 3,000 per cent in the year 1990. The economy slumped by 4.3 per cent, with industrial value added declining by 7.3 per cent. Under President Collor, who took office in March 1990, a strong liquidity squeeze was initially applied, in particular through a temporary freeze of bank assets. This freeze lasted some eighteen months, but with reduced effectiveness. As noted, there was a small resumption of activity (up 1.2 per cent in 1991), and inflation as measured by the CPI was brought down to 540 per cent between 1990 and 1991.

21. The current Government has targeted the twin objectives of macro-economic stabilization and structural reform to tackle Brazil's economic problems. The trade and industrial reform component is covered at length in Chapter IV. Macro-economic objectives have been tackled by monetary and fiscal policies. A freeze on bank deposits - a large part of the money supply - under the Collor I Plan caused a sharp initial reduction in inflation and public debt. This was reinforced by a price freeze in May 1990. However, monetary policy was somewhat unevenly applied and prices rose by 20 per cent monthly towards the end of the year. Other arms of the plan included a privatization programme, federal administrative reform, and tax reform - all of which have met formidable political and legal hurdles. Tax reform - also discussed further in Chapter IV - involved tax increases, applied differentially between sectors, as well as
attempts to improve tax collection. Administrative reforms, involving the closing of some agencies, led to a reduction in public sector employment by some 150,000.

22. The acceleration of inflation at the end of 1990 led to a new anti-inflation plan, the Collor II Plan, introduced in January 1991. This included a new price freeze, adjustments in public sector prices, a change in existing indexation mechanisms - with substantial de-indexation of the economy - and the elimination of the overnight market in government securities.

23. From February 1991, greater emphasis was placed on a market-based price structure. A progressive unfreezing of prices led to an acceleration of inflation from around 5.5 per cent per month in May 1991 to 25 per cent in October, mainly through excessive marking up of prices in anticipation of yet another price freeze. Inflation was also boosted by a substantial 15 per cent devaluation on 30 September as trade surpluses declined. However, the Government's approach to the resurgence of inflation - consistent with a market-oriented approach - was to apply an even more restrictive monetary policy, pushing up real interest rates, rather than adopt any new shock treatment or unsuccessful freezes. While this has begun to reduce the rate of inflation, the impact on domestic demand and employment has been negative.

24. It is recognized that a basic underlying cause of inflation is the public sector deficit, to which the central Government, local Government and State enterprises all contribute. However, how these deficits feed the inflationary process is complex. Up to 1989, the overall deficit increased as a share of GDP, while the operational deficit fluctuated from 3.7 to 6.9 per cent. This reflected growing interest payments by the Government, resulting from the fact that government bonds, used to finance government expenditure, were indexed and highly liquid. Bond issues were a way of injecting money into the system without (or contrary to) Central Bank operations. This negated the effectiveness of increasing interest rates as a means of imposing a credit squeeze; indexation generated the perverse outcome of increasing the money supply and liquidity. Nevertheless, by changing the indexation procedure in 1989 and again in early 1991, the Government appears to have been able to gradually bring the operational deficit close to zero by the end of 1991. It has thus substantially curtailed the growth of the money supply and, slowly but progressively, reduced inflationary expectations in the most recent period.

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3 The operational deficit is defined as the nominal deficit - the Government's net borrowing requirements - less the monetary correction.

25. Given the importance of loss-making public enterprises in the Brazilian economy, privatization obviously has a key rôle to play in improving the budget situation. Privatization of public enterprises can also lead to major productivity gains and enhance the competitiveness of the Brazilian economy. These factors, rather than debt reduction, are the main objectives of the privatization programme instituted under Law 8031 of 12 April 1990. An indication of the extent of the programme is given in Note I.1. According to the Government, the sale of the 18 companies expected in 1992 should bring in around US$3 billion.

26. Exchange rate policy has at times been used as a tool to maintain international competitiveness; at others, to assist the stabilization process through the provision of a nominal anchor. Chart I.3 illustrates changes in Brazil's real effective exchange rate since 1970; Chart I.4 relates these developments to trends in merchandise trade (see also Note I.2 for a discussion of the real effective exchange rate). In the late 1970s and again from 1982 to 1985, under crawling peg adjustments, real exchange rate depreciations were associated with strong export growth.\(^5\) (Chart I.5 shows, in broad terms, the association between the depreciation of nominal exchange rates and domestic inflation in Brazil). However, from 1985 onwards, nominal rate adjustments did not keep pace with domestic inflation, allowing the currency to appreciate in real terms. From February to October 1986, the cruzado was fixed to the U.S. dollar, after which a crawling peg was re-introduced. It was fixed again under the Summer Plan in 1989 until rising inflation necessitated a float. Thus, in the second half of the 1980s, inflationary outbursts were accompanied by real exchange rate appreciations. The nominal rate was targeted towards stabilization rather than trade performance (Chart I.5, which also shows the relative importance of the U.S. dollar rate in the economy).\(^6\) The devaluation at the end of September 1991 must be seen as a correction of that policy in the face of the declining trade surplus.

\(^5\)Chart I.5 is a semi-logarithmic chart. This means that a straight line represents a constant rate of growth. An upward curve represents an acceleration in the rate of growth. Thus, it can be seen from the chart that acceleration has been a feature of Brazilian inflation for more than twenty years, with few exceptions. Hyperinflation has often occurred in short bursts within a calendar year, so that the chart smooths out some of the worst bursts of hyperinflation in the late 1980s.

Chart I.3
Brazil REER and RER with the United States, 1970-91

Index 1987=100

Note: Decline = increased competitiveness.

Source: GATT Secretariat calculations from IMF data.

Chart I.4
Merchandise trade, 1970-90

US$ billion

Chart I.5
Nominal CR$/US$ rate and consumer prices

Source: IMF and World Bank.
Note 1.2: The Real Effective Exchange Rate and Foreign Trade

The real effective exchange rate (REER) of a country is the trade-weighted average of the real exchange rates with its trading partners. The real exchange rate (RER) with any single trading partner is the nominal exchange rate (NER) adjusted for relative cost movements in the country and its trading partner. Thus, the real effective exchange rate can be affected by the nominal rates between countries and their relative costs of production. Costs of production are, of course, the sum of factor costs, and over time they are affected by changes in such costs as well as productivity. In computing REERs, typically wage rates are used to represent production costs. Major changes in the trade pattern may mean that the fixed trade weights may become unrepresentative and that the REER is no longer representative of the country’s competitiveness.

What is important about the REER is not the absolute level but its relationship to the sustainable long-term equilibrium level (Thomas, Nash and Associates, 1991). Overvaluation of the REER has often been translated into balance of payments difficulties, macro-economic disequilibrium, heightened uncertainty, reduced investment and stagnation. The long-term equilibrium level requires simultaneous internal and external equilibria in an economy, given certain variables such as trade taxes, international prices, capital flows, etc. Internal equilibrium means the non-tradeable goods market clears on a sustainable basis. External equilibrium means the current account balances are compatible with long-term sustainable capital flows.

This carries four main implications: (i) changes in any variables that affect the internal and external equilibria affect the equilibrium level of the real exchange rate; (ii) there is no single equilibrium level but a path of such levels through time; (iii) this path is affected not only by current values of the underlying economic determinants, but also by expectations about their movements; and (iv) it is important to distinguish between permanent and temporary changes in the fundamental determinants. REERs can therefore be affected not only by government action to change nominal rates, but also by improved productivity and inflationary expectations, inter alia.

In most countries and in the international financial institutions, REERs are normally calculated in terms of the foreign currency to the local currency, so that a decline in the REER is typically associated with a nominal rate devaluation and an increase in competitiveness. This is the convention used in this report.
27. Brazil's debt burden also drove policy to a considerable extent in the 1980s. The ratio of external debt to GNP grew steadily from 23 per cent in 1980 to a peak of 42.5 per cent in 1985. The current account deficit increased to US$16 billion in 1982: although it was eliminated in 1984, the capital account balance declined sharply over the period up to 1985 as long-term inflows fell; and net outflows of long-term capital were recorded in 1986 and 1987, a result of the drying up of foreign lending as well as an increase in capital flight from Brazil. Together with the sharp reduction in the trade and current account balances in 1986 - to a deficit of US$5.3 billion in the current account - the capital outflow led to a slump in international reserves (excluding gold) from US$11.5 billion to US$5.8 billion and total debt rose to US$123.6 billion (39.7 per cent of GNP) in 1987. This led in February 1987 to the declaration by Brazil of the debt moratorium, under which interest payments on medium- and long-term debt to the commercial banks were temporarily suspended.

28. Following debt rescheduling, resumption of lending together with an increase in foreign direct investment partially offset an increased outflow of other capital. In 1988, the capital account deficit was held to US$2.5 billion. With the current account showing a surplus, for the first time in the 1980s apart from 1984, of US$4.2 billion, reserves increased by US$1.6 billion. However, in July 1989 Brazil again suspended payment of medium- and long-term debt to commercial banks. In September 1990, negotiations on the settlement of arrears began with the Advisory Committee of commercial bank creditors. From January 1991, Brazil started making payments of 30 per cent of interest accruals on medium-term debt and allowed scheduled payments of other private debt. In April 1991 a further agreement was reached, approved by the Congress in July, for part payment and rescheduling of remaining arrears which had been outstanding at the end of 1990.

29. From 1988 to 1991 reserves continued to increase modestly. It is understood that reserves have now reached some US$11 billion, or more than six months of imports, although some reports put the figure as high as US$15 billion with the recent inflow of capital prompted by high real interest rates. Overall debt is estimated to stand at some US$115.7 billion.

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30. The overall pattern in the balance of merchandise trade since 1983 corresponds to the macroeconomic adjustment process following the debt crisis. A substantial trade surplus was achieved after 1983 (Chart I.4). The trend in the real effective exchange rate, superimposed on the chart, shows a clear overall linkage with the trade figures (Note I.2). More recent data available from the Government of Brazil indicate that the overall trade balance in 1990 and 1991 was US$10.8 billion and US$10.6, respectively, down substantially from the figures for 1988 and 1989. In the first five months of 1992, the trade surplus was US$6 billion; exports were US$13.7 billion and imports US$7.7 billion.

31. A detailed breakdown of the composition of trade in 1991 is not yet available. However, there are indications that imports of capital goods picked up during the year; often a sign that new investment is taking place in advance of economic recovery.

32. During the past decade, Brazil's export direction has shifted towards the United States and developing countries, particularly in East Asia; the share of Latin America has declined (Chart I.6). Table I.4 shows that exports to the United States (whose share had fallen dramatically between the mid-1960s and 1980) grew from 17 to 27 per cent of the total between 1980 and 1987, falling slightly thereafter. Exports to "Other America" declined in share over the period and in 1990 accounted for some 12 per cent of the total. The European Communities' share, which had declined in the mid-80s, recovered to the 1980 level of 31 per cent by 1990. The Netherlands, Italy and Belgium-Luxembourg slightly increased their share. Japan and other East Asian economies became more important as markets during the 1980s; East Asia, excluding China, and Japan took 15 per cent of Brazil's exports in 1990.

DECEX, reported in The Journal of Commerce, 30 April 1992. Of an overall increase in imports (from US$18.3 billion to US$21.0 billion between 1989 and 1991, capital goods imports for industry increased by 29.9 per cent to US$3.8 billion and those for agriculture 28.0 per cent (to US$7.9 million)).
Chart I.6
Direction of Brazil’s exports, 1965-90
US$ million and per cent

Source: UNSO Comtrade.
33. Within Latin America, exports to other MERCOSUR countries (Argentina, Paraguay and Uruguay) fell, particularly in the first half of the 1980s, reflecting economic conditions in those markets. In fact, exports to Argentina in 1990 remained at below 50 per cent of the level they had attained in 1980. Exports to Chile have been growing strongly, even in the downturn in 1990.

34. The share of the United States in Brazil's imports, which had also fallen in the later 1970s, rose from 18.5 to 22 per cent by 1986; in 1989, it was some 23 per cent of the total (Chart I.7). The share of the EC (12) which had also declined, recovered to around 22 per cent in 1986-88, but declined to 21 per cent in 1989. The share of Middle East countries declined from 32.6 per cent in 1980 to 15.1 per cent in 1989 (cf. around 5 per cent in the 1960s). These changes in direction of trade are partly a reflection of changing oil prices; and the fall in the share of the Middle East is also partly a reflection of Brazil's substitution of alcohol produced from sugarcane for petroleum (Chapter V).

35. Latin America's share of the Brazilian market was 21 per cent in 1989, up from 12 per cent in 1980. Within this, the share of MERCOSUR countries rose from 5 to 13 per cent. Thus the increase in regional orientation of Brazil's trade is more evident on the import side than in respect of exports.

(ii) Commodity pattern of trade

36. The commodity composition of Brazil's exports and imports are shown in Chart I.8 and Tables I.6 to I.8.

37. Chart I.8 shows clearly the continuing decline in the relative importance of agriculture in Brazil's merchandise exports - down from 82.6 per cent in 1965 to 31.3 per cent in 1990 - and the relative increases in the mining (16 per cent in 1990) and manufactures sectors (52 per cent).

38. A picture of the diversification of Brazil's exports is given by Table I.7, which shows exports of items defined at the 3-digit SITC level. This demonstrates both the wide resource base and the sophistication of Brazilian manufacturing. The single most important item is iron ore, with exports of US$2.4 billion in 1990. Many iron and steel products, as well as aluminium, are represented in this table. Coffee, once Brazil's leading export, has slipped to sixth place, with exports of US$1.3 billion in 1990 - down from US$2.8 billion in 1980, mainly as a result of the collapse of coffee prices. Other large primary export items are animal feedstuffs - an oilseed derivative - (US$1.8 billion), preserved fruits - mainly orange juice - (US$1.5 billion), and oilseeds - mainly soya - (US$0.9 billion).
39. The manufacturing sector also has large and varied exports, led by motor vehicles (US$1.6 million), a range of iron and steel products (with a combined value of US$3.6 billion in 1990), footwear (US$1.1 billion), aluminium (US$1 billion), paper products, chemicals, telecommunications equipment, aircraft, textiles and clothing.

**Chart I.7**
**Direction of Brazil's imports, 1965-89**
**US$ million and per cent**

Source: UNSO Comtrade.
Chart I.8
Composition of Brazil's trade, 1965-90

Source: UNSO Comtrade.
40. In 1989, manufactures made up US$11 billion or 57.4 per cent of Brazil's imports; mining products, which includes fuels, US$5.7 billion or 29.7 per cent (fuels accounted for 22.5 per cent of total imports); and agricultural imports were US$2.5 billion or 12.9 per cent. The share of fuels in imports reached a peak of 47.2 per cent in 1985, as a result of price increases and Brazil's dependence on petroleum, although the import bill of US$6.8 billion was 36 per cent below the level of US$10.7 billion in 1980. Apart from fuels, Brazil's principal import group is chemicals, amounting to US$3 billion in 1989, followed by other non-electrical machinery (US$1.8 billion), food - mainly cereals, meat, dairy products and fish (US$1.8 billion), and other electrical machinery (US$1.5 billion).

(4) Outlook

41. The "New Brazil" policy package, introduced in 1990, addressed two main issues simultaneously: (i) stabilization through changes in monetary policy, fiscal policy, foreign exchange policy (replacement of the crawling peg by a freely floating commercial exchange rate), and price and wage policies; and (ii) structural transformation by trade liberalization, privatization of public sector enterprises and domestic deregulation. Structural transformation was aimed at reducing substantially the size and rôle of the public sector, lowering Government intervention, and encouraging the operation of the free market - reversing a deeply ingrained tradition of more than a century in Brazil. Liberalization was to be extended to the domestic market, including the ending of State controls over private investment in economic activities.

42. Since early 1991, under the Collor II Plan, there has been a shift away from the price freeze tradition of previous plans to a more market-oriented approach involving tight money policy. This has driven real interest rates to high levels and has further depressed economic activity (which had already declined by 4.3 per cent in 1990). At the same time, hyperinflation has re-emerged. In the latter half of 1991, prices surged upwards from monthly levels of around 6 per cent in June to around 27 per cent in early November. The devaluation of 15 per cent at the end of September 1991 and the rapid inflow of capital in early 1992, attracted by high real interest rates, contributed to inflationary pressures. However, despite a peak in late January, trends in price increases seem to have dropped below 20 per cent a month at the time of writing (June 1992).

43. Renegotiation of the external debt has been one of the priorities of the present Government. Brazil is currently engaged in renegotiating its US$115.7 billion external debt, including arrears, and is seeking entry

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into a Brady Plan re-structuring. Approval was given in late January to a US$2.1 billion stand-by facility from the IMF, plus US$1.3 billion from the IDB. (For some of the reported details, see Note 1.3.) The agreement which contained extremely strict provisions regarding fiscal balances and reduction of inflation, and under which Brazil committed itself to continue running a significant trade surplus, also committed Brazil to reaching agreements with private banks and the Paris Club, to which it owes some US$21 billion. An agreement with the Paris Club was signed in late February for the re-scheduling of that debt over 14 years, with a two-year grace period. An agreement in principle was also reportedly signed with private creditors in July 1992, concerning the rescheduling of US$44 billion of medium- and long-term debt, _inter alia_, by exchanging debt against U.S. 30-year Treasury bonds. Among the issues to be settled is the question of the extent to which reserves are to be used to make payments. Brazil's reserves have been increasing in 1992, and it is understood that the Brazilian Government will pledge some of these reserves for debt reduction, despite earlier reluctance to use funds which were believed to be largely speculative.

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11 It is understood that Brazil failed to meet some of the first quarter IMF targets - mainly because of falling tax revenues and unexpectedly high interest rates on internal debt - and that, rather than requesting a waiver, Brazil itself was suggesting that the disbursement of the second tranche of the stand-by loan, due in May, be delayed until August when a six-month review of the programme would take place. The Government appears to be confident that the payment of overdue taxes plus falling interest rates will enable it to meet the IMF half-year targets (Latin American Regional Reports - Brazil, 4 June 1992).

Note I.3: Agreement with the IMF: Implicit provisions for 1992

According to the Letter of Intent and Technical Memorandum of Understanding with the IMF and declarations by governmental authorities, the performance goals for the Brazilian economy for 1992 include the following:

- **GNP**: Zero growth
- **Inflation**: 279 per cent for the year (20 per cent in 1993).
- **Operational fiscal deficit**: 2.7 per cent of GDP, of which:
  - state enterprises - 1.54 per cent of GDP;
  - states and municipalities - 1.12 per cent of GDP;
  - Federal Government - 0.06 per cent of GDP (with 41 per cent for Social Security)
- **Primary fiscal surplus**: 3 per cent of GDP of which state enterprises - 1.1 per cent of GDP;
  - states and municipalities - 0.7 per cent of GDP;
  - Federal Government - 1.2 per cent of GDP (with 0.4 per cent for Social Security)
- **Trade balance**: Surplus of US$12 billion, with a real increase of 8 per cent for exports and 7 per cent for imports
- **Balance of payments**: Overall surplus of US$7.3 billion (for 1993, a deficit of US$300 million) measured by variation of net international reserves

**Source**: CNI (1992) based on Central Bank (1991)
44. There is little question that the debt restructuring will help in the management of the economy. There will be less pressure to use the exchange rate to generate trade surpluses from which to finance debt repayment, and this will strengthen the hand of the Central Bank in combating inflation. Reducing interest rates would reduce the flow of speculative capital which is also fuelling inflationary pressures as well as reducing the finance burden of the Government; it would also help to pull the economy out of recession and stem falling employment, thus reducing the huge social costs of the economic programme. However, the Government's ability to cut interest rates will depend both on the success of fiscal readjustment and on clear signs of a continued reduction in the rate of inflation.

45. Further impetus to the reform programme might be achieved through acceleration of fiscal reforms and the privatization programme. Major efforts are being made to reduce government expenditure and to restructure the social security system. It is understood that fiscal reforms also include proposals to reduce the number of federal taxes and to shift responsibility for many public services from the federal to the State and municipal Governments; also to widen the tax base and lower the rates of corporate income tax and company payroll taxes while boosting federal revenues through new measures to reduce tax evasion. The Government is aware that, in the past, taxes have been increased to the point of actually reducing tax revenues - the Laffer curve effect. Increasing emphasis on value added tax should improve tax collection as well as resource allocation, and could give a further boost to exports which are normally exempt. The idea of transferring responsibility for services to the States is related to constitutional limitations on the ability of the federal Government to shift the sharing of fiscal resources. However, it is believed that approval of such fiscal adjustment would need to wait until after municipal elections in October 1992.

46. The economic recession associated with the stabilization programme has high social costs. However, reducing inflationary expectations is unobjectionably the highest priority of economic management, despite the short-term political costs. Debt reduction, privatization and other efforts to reduce the budget deficit through tax reform, should help to reduce the budget deficit and restore confidence in the economy. Gradual improvement of the world economy, particularly in the United States, will be a help. Together with the structural reforms under the trade policy changes, the economic programme should help to pave the way for the country's stability and growth.

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13 Latin American Regional Reports - Brazil, 4 June 1992.
II. TRADE POLICY REGIME: FRAMEWORK AND OBJECTIVES

(1) General Framework

47. Brazil was a colony of Portugal up until 1822. Between 1822 and 1889, it was a constitutional monarchy. Since 1889, Brazil has been a federal republic. Between 1889 and 1930, Brazil's politics were dominated by regional groups, mainly those from Minas Gerais, Sao Paulo and Rio Grande do Sul. The revolution of 1930 brought Getulio Vargas to power, first as head of a provisional government (1931 to 1934), then as president elected by the Constituent Assembly (1934 to 1937), and finally as dictator (1938 to 1945). Vargas was also president from 1951 till his death in August 1954. In 1964, the constitutional order was disrupted by a military coup. Military regimes succeeded each other until 1985. The first direct presidential election for three decades was held in November 1989 and President Collor de Mello took office in March 1990.

48. The Federative Republic of Brazil consists of 26 States and a Federal District (the site of Brasilia, the capital). The administrative unit is the municipality. People registered in a municipality vote for a mayor and for representatives in the Municipal House of Representatives, which is the local legislative body.

49. The 1988 Constitution provides for the political and administrative organization of the Federative Republic of Brazil, comprising the Union, the states, the Federal District and the municipalities. Under the Constitution, the Union has the exclusive power to legislate on trade transactions across national or interstate borders (Article 22). States and municipalities have the power to institute and collect taxes within their jurisdiction.

50. The Federal Government of Brazil consists of the executive, the legislature and the judiciary. The executive power is exercised by the President of the Republic, assisted by Ministers of State. The President holds office for a non-renewable single term of five years. The Ministers of State are chosen by the President. The Council of the Republic is the highest consultative institution of the President.²

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¹ The political régime may be changed in 1993. According to Article 2 of the Act of the Temporary Constitutional Provisions, "on September 7, 1993, Brazilian voters shall define, through a plebiscite, the governmental form (republic or constitutional monarchy) and system (parliamentary or presidential) to be in force in Brazil".

² The Council of the Republic comprises the Vice-President, the Presidents of the Chamber of Deputies and Federal Senate, the leaders of the majority and of the minority in each house, the Minister of Justice, two members appointed by the President, two elected by the Federal Senate and two elected by the Chamber of Deputies.
51. After major changes introduced in March 1990 to slash the federal bureaucracy, Brazil has 12 Ministerial positions, down from 23 in the past. These are the Ministries of Aeronautics; Agriculture and Agrarian Reform; Defence; Education; Economy, Finance and Planning; Foreign Affairs; Health; Infrastructure; Justice; Labour and Social Welfare; Marine; and Social Action. In April 1992, the Ministries of Infrastructure and Labour and Social Welfare were divided into four new ministries: Communications and Transport; Labour and Federal Administration; Mines and Energy; and Social Welfare. Under the President, there are six Secretariats dealing with specific issues such as science and technology, environment and regional development. Under the Ministries, there are also a number of distinct Secretariats and other agencies.

52. Legislative power is exercised by the National Congress, composed of the Chamber of Deputies and the Federal Senate. The Congress meets twice a year in ordinary sessions (from 15 February to 30 June and from 1 August to 15 December). Extraordinary sessions may be convened by the President of the Republic, the Presidents of the Chamber of Deputies and the Federal Senate, or at the request of the majority of the members of either House. The Chamber of Deputies is made up of representatives of the people, elected by a system of proportional representation in each State, Territory and the Federal District for a period of four years. The Federal Senate is composed of representatives of the states and of the Federal District, elected by a simple majority. Each State and the Federal District elects three senators with a mandate of eight years.

53. The National Congress is responsible for deciding on all matters within the competence of the Union, especially fiscal and budgetary aspects, national, regional and local plans and programmes, and territorial limits. It is also responsible for making definitive resolutions on international treaties. Constitutional amendments may be proposed by at least one-third of the members of either House or by the President. Amendments must be ratified by three-fifths of the members of each house.

54. Judicial power in Brazil is exercised by the Supreme Federal Court, the Superior Court of Justice, the Federal Regional Courts and the Federal Judges, and other special courts and judges. Judges are appointed for life. The Supreme Federal Court and the Superior Courts have jurisdiction over the whole national territory. Members of the Supreme Federal Court are nominated by the President after approval by the Senate. Under Article

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3Elections for deputies and senators take place simultaneously throughout the country; candidates for Congress must be Brazilian by birth. They must be at least 21 years of age in the case of deputies and at least 35 years of age in the case of senators.
97 of the Constitution, the courts may declare a Government law or normative act unconstitutional only by the vote of the absolute majority of their members. The Union and the States shall create special courts with powers for conciliation, judgement and execution of civil suits of lesser complexity.

55. Public affairs are also administered by executive, legislative and judicial branches at the state level. State government follows a pattern similar to that of the federal government. Each state has a governor (elected for four-year terms) as chief executive and the power is divided among the state executive, legislative and judicial branches.

56. Although the National Congress was allowed to meet during the periods of military dictatorship, its legislative power was considerably reduced. This was partly due to specific legal constraints and the existence of "decree-laws". A decree-law is a presidential decree that becomes law if not vetoed by the Congress. During the military period, the executive used decree-laws extensively to shape economic policies in Brazil.

(2) Structure of Trade Policy Formulation

(i) Legislative and executive branches of the Government

57. Under the Brazilian Constitution, the President has the authority to conclude and sign all kinds of agreements, including trade treaties, with foreign countries. All international agreements are, however, subject to ratification (or approval) by Congress.4

58. All trade-related functions are carried out under the Ministry of Economy, Finance and Planning (MEFP), although responsibility for a number of trade negotiation activities, including Uruguay Round negotiations, is shared with the Ministry of Foreign Affairs (Itamaraty).

59. In terms of the institutional structure of foreign trade, the main subsidiary bodies of the Ministry of Economy, Finance and Planning are the National Secretariat of Economy and the National Secretariat of Finance. The National Secretariat of Economy oversees the Department of Industry and Commerce (DIC), the Department of Foreign Trade (DECEX), and the Department of Supplies and Prices (DAP). The National Secretariat of Finance oversees, through the Federal Revenue Department, the General Customs Office (Chart II.1). This structure is the result of changes introduced by the current administration.

4The Congress cannot modify international treaties.
Chart II.1
Institutional structure of foreign trade in Brazil

Ministry of Economy, Finance and Planning

- National Monetary Council
- Central Bank of Brazil
- Brazilian Institute of Geography and Statistics (IBGE)
- National Bank of Economic and Social Development (BNDES)
- National Secretariat of Economy
- National Secretariat of Finance
- National Secretariat of Planning

Industry and Commerce Department (DIC)
Foreign Trade Department (DECEX)
Supply and Prices Department (DAP)

Customs Tariff Technical Office (CTT)
Foreign Trade Technical Office (CTIC)

Federal Revenue Department
General Customs Office

Source: Government of Brazil.
60. Trade policy formulation and implementation in Brazil is under the responsibility of the Foreign Trade Department (Departamento do Comércio Exterior, DECEX), a subsidiary body of the National Secretariat of Economy from the MEFP. The Ministry of Foreign Affairs is the executive arm for dealing with foreign countries at a bilateral or multilateral level. Trade policy coordination and the review of trade laws are also under the responsibility of DECEX.

61. The two main agencies directly dealing with foreign trade under DECEX are: the Customs Tariff Technical Office (Coordenadoria Técnica de Tarifas, CTT), which replaced the Customs Policy Commission (CPA); and the Foreign Trade Technical Office (Coordenadoria Técnica de Intercâmbio Comercial, CTIC), which has taken over most of the activities of CACEX. Tariff policy guidelines and dumping investigations are handled by CTT, while CTIC administers foreign trade regulatory (or administrative) procedures, such as the issuance of import and export licences, and the provision of certificates of origin.

62. The National Monetary Council, an inter-ministerial body, is responsible for the formulation of overall foreign exchange policy. In accordance with guidelines established by the National Monetary Council, the administration of exchange controls, regulations affecting foreign capital, and the management of international reserves fall under the jurisdiction of the Central Bank. The MEFP enforces limits on foreign borrowing by the public sector.

(ii) Advisory bodies

63. There are no independent bodies in Brazil to provide formal, public advice to the Government on general economic policies.

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5 Article 237 of the 1988 Constitution states that "the supervision and control of foreign trade, which are essential to the defence of national financial interests, shall be exercised by the Ministry of Finance".

6 DECEX works closely with other agencies inside and outside MEFP, such as the Economic Department of the Ministry of Foreign Affairs, the International Affairs Department of the National Secretariat of Planning, and other departments in the Central Bank.

7 Apart from a reduced staff (around 300 compared with 1,500), the main difference between CTIC and CACEX lies in the policy approach to trade. Until 1990, CACEX functions were based on a strict control of imports, while today, CTIC functions are more regulatory and directed towards export promotion. CTIC's philosophy is to convey the fact that imports are also important for the country's development. Its main objective is trade facilitation.

8 In practice, import and export licences are extended by the State-owned Banco do Brasil (not to be confused with the Central Bank). It is worthwhile to note that CACEX (Carteira de Comércio Exterior) was the Foreign Trade Bureau of the Banco do Brasil, and hence, import and export licences were already granted by this bank.
64. The private sector has the opportunity to contribute to the formulation and evaluation of trade policy through its participation in a system of "consensual planning" within which the Government and the private sector interact through sectorial chambers and special committees such as the Business Commission on Competitiveness created in early 1991. Consumers do not participate in these committees.

65. Under the Latin American Integration Association (LAIA), there is an ad hoc Committee which offers the private sector the possibility of discussing the main issues concerning negotiations in LAIA.

(ii) Independent review bodies

66. No statutory body, independent of any government ministry or secretariat, has the authority to conduct periodic and public reviews of trade policy in Brazil, although trade-related issues are debated in Parliament.

67. However, certain research institutions, such as the Centre for Trade Studies Foundation (Fundação Centro de Estudos do Comércio Exterior, FUNCEX), the Getulio Vargas Foundation (FGV) and the Applied Economics Research Institute (Instituto de Pesquisa Econômica Aplicada, IPEA), carry out studies on government economic policies, including trade-related policies. These studies are widely published.

(3) Trade Policy Objectives

68. Until recently, Brazil maintained very restrictive trade policies. Initially, these were the instruments of an import substitution strategy designed to boost industrialization. Later, trade restrictions were mainly attributed to balance-of-payments problems and the need to generate surpluses to finance foreign debt. The resulting trade régime practically isolated the domestic industrial sector from international competition. Direct restrictions on imports and fiscal incentives and subsidies provided high effective protection to specific sectors. Generally, these policies discriminated against agricultural exports (see Chapters IV and V).

69. The current Government has radically changed economic policies in Brazil. Trade liberalization is an important element of its stabilization and structural transformation programmes. Although some restrictive elements still remain, the thrust of Brazil's current trade policy is

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10Kume and Piani (1991) say that "In Brazil, the private sector usually lobbies the government agencies in order to succeed in its demand for protection. Workers and consumers traditionally have not played a rôle in this game".
towards the opening of the economy to the international competition. The main goal of industrial and trade policies is now to increase the efficiency in the production and trade of goods and services by modernizing and restructuring the Brazilian industry.

(i) General trade policy objectives

70. Brazil's general trade policy objectives, as established by the "General Guidelines for Industrial and Foreign Trade Policy", are aimed at increasing efficiency in the production and trade of goods and services through the modernization and restructuring of industry. The strategy behind this policy, a departure from old import-substitution approaches, is to use market forces more effectively through gradual reduction of tariff protection, elimination of non-transparent and indiscriminate incentives and subsidies, and stronger pro-competitive mechanisms; industrial restructuring through stronger technological infrastructure; strengthening of potential and new sectors; planned exposure of industry to foreign competition; and technological advancement through selective support for innovation.

71. The rôle of the Government is to assure a healthy, stable environment for business, and gradually withdraw from the production of basic goods and services. As the private sector grows, the Government's principal tasks will be those of strengthening basic education and science and technology.

72. Import liberalization, mainly through the progressive reduction of tariff protection levels and the elimination of non-tariff measures, is aimed at gradually exposing domestic industries to international competition. Imports are now "controlled" exclusively through tariffs, which are more transparent instruments of trade policy.

73. Brazil's export policy aims at increasing high value-added exports and at identifying new export markets, through the establishment of a trade-financing bank, simplification of export procedures, modernizing the infrastructure for exports, and reviewing the consistency of the tax structure affecting exports.

74. On the internal side, social problems associated with poverty and inequalities in income distribution, as well as the protection of the environment, are major concerns for the Government.

(ii) Sectoral trade policy objectives

75. Until recently, Brazilian agricultural policy was based on the notion of complete self-sufficiency and "exportable surplus". Two key components supported this policy objective, i.e. minimum guaranteed prices and financial credit facilities.
76. Currently, the main objectives of agricultural policy are: to improve the international competitiveness of Brazilian agricultural products; to increase production so as to improve (in terms of quality and quantity) domestic supply and generate surplus for strategic stocks schemes, food security and exports; and to improve the defence and control of the environment. The Government is also working with the international community to monitor the burning of the Amazon forest (the rate of forest destruction has apparently been reduced).

77. Current industrial policy, as announced in March 1990, envisages two different but complementary objectives and instruments. First, a "competition policy" creating "stable and transparent rules for industrial competition", chiefly based on import liberalization and the enactment of an anti-trust policy. Second, a "competitiveness policy", which is to define "a set of instruments destined to support the growth of competitiveness of national firms".

78. As regards industry, the Government policy objective is to enhance the Brazilian industry competitiveness in its structural, sectorial and entrepreneurial levels. The Programme of Industrial Competitiveness (PCI), aimed at developing high-technology sectors and restructuring other sectors capable of competing internationally, operates in the following fields: provision of incentives for industrial modernization (by, for example, exempting the acquisition of machinery and equipment from the industrialized products tax (IPI) and including provisions for accelerated depreciation of investments made before December 1993); reduction of local content requirements for official credit and government procurement; deregulation of ports (privatization, modernization and reduction of the port's services costs); and facilitation of the transfer of technology. Particular attention is given to specialization in capital goods and to the protection of the environment.

79. One sector in which Brazil has, in the past, maintained a restrictive sectoral trade policy is the informatics sector. The current policy objective with regard to the informatics sector is to eliminate all non-tariff restrictions affecting the sector by October 1992. The

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14 Under the Brazilian Informatics Law, policy objectives in the sector were designed to protect national firms and establish widespread government intervention. The government was to "guide, coordinate and foster informatics activities". The government "stimulation and protection was aimed at the development of a national technology, and at the economic, (Footnote Continued)
Government has adopted the following strategies: (i) to reduce the coverage of the "reserved market" policy to protect only a reduced number of products (those in which domestic industries have already acquired sufficient technological control and competitiveness); (ii) to facilitate the access to foreign technology by domestic enterprises; (iii) to adopt a tariff policy so as to protect domestic products, while facilitating access to imported inputs and components; and (iv) to revise the National Plan for Informatics and Automation (PLANIN) proposed by the previous administration.

(iii) Objectives in the Uruguay Round

80. Brazil is firmly committed to the multilateral trading system of the GATT and has actively participated in the Uruguay Round. It attaches great importance to a successful conclusion of the Round and to a strengthening of the multilateral system. Among the major Brazilian objectives in the Round are the reduction of protective barriers affecting its exports of manufactured goods (either through anti-dumping, countervailing or safeguard actions), the reduction of agricultural protectionism which has a damaging impact on its agricultural exports, and the reduction of tariffs on processed primary goods.

81. Brazil is a member of the Cairns Group, and has actively sought the re-integration of agriculture into the GATT system. More specifically, Brazil is of the view that "substantive results in the agriculture negotiations are fundamental for efficient producers like Brazil whose comparative advantages are nullified by the distorting practices of the major trading partners. Products of interest face high tariffs, quantitative restrictions and market displacement as a consequence of measures of domestic support and, most of all, of massive export subsidization". Agriculture appears as a top priority in the Brazilian agenda for the negotiations.

82. Brazil's interests cover all areas of negotiation, including services. It has reaffirmed its intention to contribute to the progressive liberalization of trade in services, "... in accordance with each participant's possibilities, which shall take place with a view to promoting the interests of all parties on a mutually advantageous basis and financial, and commercial strengthening of national enterprises, as well as at a cost reduction of products and services, thus ensuring their greater international competitiveness" (Article 2 of the Informatics Law).

(Footnote Continued)


16 Statement by Mr. José Francisco Rezek, Minister of Foreign Affairs, to the Forty-Seventh Session of the CONTRACTING PARTIES, December 1991.
to securing an overall balance of benefits". Its main objectives in other areas of negotiation are to obtain greater discipline in the use of safeguards and "grey area" measures. Brazil considers the safeguards issue as central to the problem of market access.

83. In the area of market access, Brazil supports a general tariff-cutting formula instead of a process of request-and-offer. Brazil's basic negotiating interest with respect to tropical products focus on the elimination of non-tariff barriers to trade such as quantitative restrictions, variable levies, health and sanitary requirements, and internal taxes.

84. The Brazilian position in the area of anti-dumping and countervailing measures is to revise the corresponding codes with a view to obtain a clearer definition of conditions and circumstances under which compensatory measures can be taken. Brazil also supports stricter rules for the initiation of such investigations in order to reduce their "harassment" potential.

85. Brazil has offered to bind, at 35 per cent, its entire customs tariff for industrial products in the Uruguay Round negotiations. It has asked for recognition of its unilateral reforms (trade liberalization) as part of its contribution to the negotiations.

(4) Trade Laws and Regulations

(a) Laws and regulations

86. Brazil's accession to GATT was ratified by Law 313 of 30 July 1948, which authorized the provisional application of GATT. All GATT obligations signed by Brazil have also been incorporated into its domestic law. The General Agreement has the same legal status as national laws. Consequently, Brazilian individuals have the right to take legal action against the Government for violation of GATT rules and disciplines. No such action has ever been taken.

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17 Revised Conditional Offer of Brazil, concerning initial commitments on trade in services, GATT document MTN.GNS/W/116/Rev.1 (19 March 1992).

18 Other legislation relating to GATT are the following: Law 4.138 (September 1962) accepting the Protocol Amending Part I and Articles XXIX and XXX of the General Agreement; Decree 76.032 (July 1975) including Part IV of GATT; Decree 92.930 (July 1988) publishing the Customs Valuation Code; and Resolution 03/83 of CONMETRO (Conselho de Metrologia) introducing the agreement on Technical Barriers to Trade.
87. The Agreement on Implementation of Article VI of the GATT (the Anti-Dumping Code) entered into force in Brazil in July 1980. After approval by the Brazilian Congress in December 1986, Decree No. 93.941 of 16 January 1987 put into domestic law this Agreement, which was to be applied in its entirety.

88. After Congress approval in December 1986, Decree No. 93.962 of 22 January 1987 put into domestic law the Agreement relating to the Interpretation and Application of GATT Articles VI, XVI and XXIII (the Subsidies Code), which was also to be applied in its entirety.

89. Brazil does not have a single trade law. Rather, it has a very large number of laws, decrees, resolutions, and "Portarias", governing foreign trade. The Government intends to consolidate all trade regulations in a single trade law.

90. Customs regulations are contained in Decree 91.030 of March 1985. This regulation covers foreign trade taxes, tax exemptions and reductions, special customs régimes (such as transit trade and temporary admission), drawback régime, and customs controls.

91. Law 3.244 of 14 August 1957, as approved by the Congress, is the prevailing Tariff Law in Brazil. Under the Constitution, the President, through the Ministry of Economy, Finance and Planning, has the power to modify tariff rates. These changes need not be approved by Congress.

92. Administrative rules currently governing imports and exports are established by DECEX regulations, i.e. Portarias Nos. 08 and 09, respectively (both of 13 May 1991).

93. In March 1991, the Brazilian National Congress adopted a Consumer Defence Code covering all products. The Code establishes general rules for consumer protection, safety and health, including conformity with standards, quality, marking and packaging requirements (TBT/Notif.91.85).

(b) The Constitution

94. The distribution of taxation powers among the Union, the States and municipalities is set out in the Constitution. Article 153 of the

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19 At that time, Brazil requested a further period of three years in order to implement its domestic legislation in conformity with provisions of the Agreement. Brazil undertook not to take anti-dumping actions until full implementation of its domestic legislation (GATT, Basic Instruments and Selected Documents, 285/26, March 1982). In October 1984, Brazil said that a further period was required to establish its anti-dumping system.

20 Resolution No. 00-1227 (14 May 1987) of the Customs Policy Council established procedures relating to Brazil’s anti-dumping and countervailing legislation.
Constitution establishes that the Union has the power to institute federal taxes on: imports, exports, income, industrialized products (IPI), credit, foreign exchange and insurance transactions, rural property and large fortunes. The states and the Federal District have the power to institute state taxes on: transactions relating to the circulation of goods and services (ICMS), and ownership of automobile vehicles. The municipalities have the power to institute taxes on urban buildings and urban land property, and retail sales of liquid and gaseous fuels. The tax revenue sharing between the Union, states and municipalities is determined in great detail by the Constitution.

95. The Constitution also determines the "general principles of the economic activity" in Brazil (Articles 170 to 192). Under these regulations, a "Brazilian company of national capital" may be granted "special temporary protection and benefits for the development of activities deemed strategic to the national defence or vital to the development of the country". These articles also establish that in the procurement of goods and services, the Government is to give preferential treatment to such companies. Other aspects determined by the Constitution include the fixing of a ceiling for the real interest rates to 12 per cent, and some elements of agricultural and land policy.

96. Under the Constitution, the abuse of economic power that aims at the domination of markets, the elimination of competition and the arbitrary increase of profits is to be repressed by law. Brazil's competition rules consider illegal: the control of a market or the elimination of competition through inter-company agreements, consolidations and concentrations or other curbs on production; unjustifiable price hikes to boost profits; creation of monopolistic conditions by destroying, hoarding or withholding goods, or otherwise provoking price fluctuations to damage competitors; and joint action to set the conditions of and adjust the bids on public tenders.

97. Monopolies are not forbidden per se, but the prices of firms defined as such have in the past been strictly watched by Government authorities, which regularly required companies to document costs in order to justify price increases. Mergers are ruled out only when they would create monopolistic conditions and abuse of a dominant position.

21The rates applying to interstate and export transactions and rendering of services are established by resolutions of the Federal Senate, on the initiative of the President of the Republic or of one-third of the Senators, approved by the absolute majority of its members. The "domestic" rate for transactions concerning the circulation of goods and services may not be lower than those established for interstate transactions.

22The share of states and municipalities in the revenues from the income and industrialized products taxes has been increased by the 1988 Constitution from 33 per cent in 1988 to 50.3 per cent by 1993.
98. A number of economic activities constitute State monopolies. Under the Constitution, the Federal Union has a monopoly on the exploration, extraction and refining of petroleum. The government-controlled oil company, PETROBRAS, exercises these activities. Article 177 of the Constitution extends the federal government's oil exploration monopoly to include (i) refining, importation, and exportation of petroleum and petroleum products; (ii) the exploration and drilling for natural gas and other fluid hydrocarbons; (iii) maritime transportation of all domestically produced crude petroleum or combustible petroleum derivatives; (iv) pipeline transportation of all natural gas, crude petroleum and its derivatives; and (v) exploration, mining, reprocessing, industrialization and commerce in nuclear minerals and their derivatives.

99. Other government monopolies include the distribution of electricity, telecommunications, lotteries, railways, ports and other public services. These monopolies are largely the by-product of the creation of large State-controlled enterprises to operate particular activities.

100. Certain economic activities are constitutionally reserved for domestic capital. Article 222 of the Constitution expressly limits ownership of publishing and broadcasting firms to native-born Brazilians or those who have been naturalized citizens for at least ten years. Foreign investors have also been excluded from domestic shipping and airline concessions. Article 178 of the Constitution excludes non-Brazilian vessels from coastal shipping and internal navigation unless permitted by law because of public necessity. Domestic airline concessions are restricted to Brazilian corporations whose head office or place of control is located in Brazil. At least 4/5 of the voting shares must be owned by Brazilians. Article 199 bars foreign capital from directly or indirectly participating in the provision of health care services in Brazil. The Constitution also substantially excludes foreign-owned companies from mining and mineral exploration.

101. Many aspects of the Brazilian legislation are linked to the concept of "Brazilian firm" or of "national capital". Article 171 of the Constitution defines a "Brazilian company" as a company that is organized under Brazilian laws and has its head office and management in Brazil. A "Brazilian company of national capital" is defined as a company whose effective control is directly or indirectly held permanently either by individuals resident and domiciled in Brazil or by domestic public

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23 Carriers, owners, captains, and two-thirds of all crews on Brazilian ships are also required to be Brazilian.

24 Transitional article 44 gives foreign-controlled companies already engaged in mining, mineral exploration, or production of hydroelectric power in Brazil four years (that is until October 1992) to give up effective control over these activities.
The Constitution authorizes the enactment of legislation conceding fiscal incentives, reserved markets, and preferences in Government purchases of goods and services to Brazilian firms with national capital.

(5) **Trade Agreements**

(1) **Multilateral agreements**

102. Brazil is a founding member of the GATT (one of the 11 developing countries among the original 23 contracting parties) and has played an active rôle in all of the multilateral trade negotiations. Its active participation was traditionally marked by a leading rôle in discussions relating to special and differential (S&D) treatment granted to developing countries under Part IV of the General Agreement. It is a signatory to the Protocol Supplementary to the Geneva (1979) Protocol to the GATT.

103. Brazil has adhered to the following MTN (Tokyo Round) Agreements: Technical Barriers to Trade, Subsidies and Countervailing, the International Meet Agreement, the Anti-Dumping Agreement and the Customs Valuation Agreement (with reservations). Brazil has observer status under the remaining Codes: the Government Procurement, the International Dairy, the Import Licensing and the Civil Aircraft Agreements.

104. Brazil has indicated that it may consider the possibility of adhering to the Import Licensing Agreement, but its decision is subject to the successful conclusion of the Uruguay Round. One of the reasons why it has not signed the Code in the past lies in its import licence system, which was presented as an automatic licensing procedure used for price controls. The Brazilian requirement that the documents be issued before goods were shipped from abroad was not acceptable to some members of the Code.

105. Brazil is not a signatory to the Government Procurement Agreement. Brazil considers that the non-discriminatory treatment established in the Code would adversely affect the country's industrialization policy. Brazil also considers that the threshold value (SDR 150,000), above which all government procurement should be done under international public tenders, is too low. Currently, Brazil has no intention of joining the Code.

106. Brazil accords most-favoured-nation treatment to all countries, whether or not contracting parties to GATT. Departures from m.f.n.

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25 Effective control is deemed to be not only ownership of the majority of the working capital, but also the de facto and legal exercise of the decision-making power to manage corporate activities (World Bank (1991b)).

treatment include preferential agreements signed within the framework of the Latin American Integration Association (LAIA) and the Global System of Trade Preferences among developing countries (GSTP). Brazil also participates in the Protocol Relating to Trade Negotiations Among Developing Countries of the GATT (the Committee of Participating Countries or CPC).

107. Brazil's list of concessions under the GSTP covers 108 tariff items classified according to HS. The GSTP agreement, singed on 1 April 1988, was approved by the Brazilian Congress in October 1991.

108. Under the GATT Protocol Relating to Trade Negotiations Among Developing Countries, accepted by Brazil in August 1973, Brazil's concessions cover 12 tariff lines. Fixed preferential rates of duty vary between 10 and 50 per cent. Given Brazil's recent unilateral tariff reductions, preferential rates are actually applied to only 6 tariff items.

109. Brazil is a member of other international organizations such as the Food and Agriculture Organization of the United Nations (FAO), the World Bank, the Inter-American Development Bank (IDB), the International Monetary Fund (IMF), the Economic Commission for Latin America (ECLA), the Organization of American States (OAS), the International Labour Organization (ILO) and the World Health Organization (WHO).

(ii) Regional agreements

(a) LAIA

110. The main regional agreement to which Brazil is a party is the Latin American Integration Association (LAIA). The LAIA, established in 1980 by Argentina, Bolivia, Brazil, Chile, Colombia, Ecuador, Mexico, Paraguay, Peru, Uruguay and Venezuela, replaced the Latin American Free Trade Association (LAFTA).

111. The agreements concluded under LAIA may be classified in two categories. First, regional-scope agreements, in which all member countries participate, include a regional tariff preference and the opening of markets in favour of relatively less-developed members. Second, partial-scope agreements, binding only their signatories, cover trade and economic complementarity agreements, as well as re-negotiation agreements.

112. Brazil participates in the Regional Tariff Preference, consisting in a percentage reduction of import duties granted at varying levels according

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to each member country's relative level of development. Brazil grants a 40 per cent reduction in the rates for less-developed LAIA countries, 28 per cent to intermediate-developed members, and 20 per cent to other LAIA members. 29 Brazil maintains a list of exemptions covering some 300 items, which are not eligible for tariff reductions. In 1990, imports under Regional Tariff preferences accounted for 1.9 per cent of total Brazilian imports from LAIA. As regards favourable market access for relatively less-developed members, Brazil has established the list of eligible products for Bolivia, Ecuador and Paraguay. Imports under this scheme accounted for 6.1 per cent of total imports from LAIA (up from 0.2 per cent in 1986).

113. In addition to participating in all regional-scope agreements, Brazil has signed partial-scope agreements with all LAIA countries. These were either renegotiation of previous agreements signed under LAFTA, trade agreements or economic complementarity agreements. Seventeen trade agreements were signed by Brazil (Table AII.1). Trade agreements cover the following sectors: statistical machines; electronic valves; chemicals; generation, transmission and distribution of electricity; office machines; electronics and electrical communications; phonographs; household electrical, mechanical and heating appliances; pharmaceutical chemicals; petrochemicals; refrigeration and air-conditioning; photography; dyes and pigments; chemicals surpluses and deficiencies; essential oils, aromatic chemicals, perfumes and flavourings; medical, dental and veterinary products; and glass. These were aimed at accelerating trade liberalization and increasing trade flows. Other objectives were to promote the development of specific sectors and to contribute to the industrial integration and balanced development of the region.

114. Under a special partial-scope agreement (under Article 25 of the Montevideo Treaty), Brazil grants tariff preferences to Cuba on around 120 items (classified according to the LAIA nomenclature NALADI). The agreement, signed in October 1989, is aimed at promoting increased and balanced trade between both countries and, taking into account their respective degrees of economic development, the granting of concessions to

28 The LAIA members are classified according to three levels of development: (i) less-developed, including Bolivia, Ecuador and Paraguay; (ii) intermediate-developed, including Chile, Colombia, Peru, Uruguay and Venezuela; and (iii) the rest, including Argentina, Brazil and Mexico.

29 The tariff reduction for Bolivia and Paraguay is 48 per cent, instead of 40 per cent, due to their lack of access to the sea ("Mediterranean condition"). However, Brazil currently grants a 20 per cent reduction in rates to Bolivia, Ecuador, Paraguay and Mexico; 28 per cent to Chile, Colombia and Uruguay; and 14 per cent to Peru and Venezuela. Tariff preferences accorded to Argentina have been incorporated in an Economic Complementarity Agreement.

30 Trade agreements are exclusively aimed towards trade promotion among member countries (Article 10 of the Montevideo Treaty establishing the LAIA).
strengthen and boost their trade, and achieve greater diversification in their bilateral trade.

115. Brazil has also signed four Economic Complementarity Agreements (ECA): three with Argentina and one with Uruguay (Table AII.1).\(^\text{31}\) Imports covered by these agreements have strongly increased, and in 1990, they accounted for 15.5 per cent of total imports from LAIA. The latest ECA signed by Brazil with Argentina, Paraguay and Uruguay (Economic Complementarity Agreement No. 18) gave birth to the so-called Mercado Comun do Sul (MERCOSUL, the Southern Common Market).\(^\text{32}\) Previous bilateral agreements signed between Argentina, Brazil, Paraguay and Uruguay will be governed exclusively by their own provisions.

116. Within the framework of LAIA, a Reciprocal Payments and Credit Agreement was signed in August 1982. The agreement established bilateral credit lines, in US dollars, between the central banks to minimize the use of foreign exchange in intra-regional transactions. A multilateral clearance of balances in the bilateral accounts occurs every four months.

(b) MERCOSUL

117. The Southern Cone Common Market (Mercado Comun do Cone Sul, MERCOSUL) was established under the Treaty of Asunción, signed on 26 March 1991 by the Presidents of Argentina, Brazil, Paraguay and Uruguay.\(^\text{33}\) The treaty was ratified by Brazil in November 1991 (Presidential Decree N. 350).

118. The treaty provides for the creation of a common market among the four countries with free circulation of goods, services, capital and labour from 1 January 1995. It has 25 Articles in six main Chapters covering the purposes, principles and instruments of MERCOSUL, the organizational structure, the period of application, accession, denunciation and general provisions. In addition, there are annexes covering the trade liberalization programme, rules of origin, dispute settlement, safeguards, and the establishment of technical and policy working groups.

\(^\text{31}\)The first two agreements signed with Argentina have been incorporated in the last one, i.e. Economic Complementarity Agreement No. 14. This included provisions for integration of the capital goods market, an agreement on wheat sales, and the establishment of reciprocal credit lines. According to Brazilian authorities, these agreements will become irrelevant once the MERCOSUL is fully implemented by 1995.

\(^\text{32}\)The Economic Complementarity Agreement No. 18 was designed to incorporate in the legal framework of the LAIA those provisions of the Treaty of Asunción (GATT document L/6985).

\(^\text{33}\)The Treaty of Asunción was communicated to GATT on 9 July 1992 (GATT document L/7044). The question of the appropriate forum for MERCOSUL's review in the GATT is still under discussion. At a GATT Council meeting on 14 July 1992, the United States requested, that the examination be made under Article XXIV.
119. After five years of operation, the possibility of admission to MERCOSUL will be open to other members of LAIA.

120. The trade liberalization programme, according to Article 5 of the Treaty of Asunción, will consist of "progressive, linear and automatic tariff reductions accompanied, across the board, by the elimination of non-tariff restrictions or equivalent measures". The final objective is to arrive at a zero tariff and the elimination of non-tariff restrictions for all products by 31 December 1994. However, there are some exceptions which are listed in Article 6. Brazil's initial list of exceptions contained 324 items. The list is being reduced at the rate of 20 per cent each year, starting on 31 December 1990, so that by the end of 1994 no exceptions should remain. Details of the trade liberalization programme are reproduced in Annex II.1. There is also a negotiation process to fit previous trade agreements signed under the LAIA framework.

121. A common external tariff is yet to be negotiated by MERCOSUL countries. According to an agreement reached at a meeting in Brasilia in December 1991, the common external tariff will reflect internal competitive capacity. No indication has yet been given of its structure or level.

122. Ministers of the MERCOSUL countries meet periodically to establish joint approaches to common problems such as inflation, foreign investment and trade. The co-ordination of macro-economic policies will be discussed among members. There will also be co-ordination on positions to be taken at regional and international economic and trade fora.

123. Production-sharing arrangements may be signed within the MERCOSUL framework. These arrangements are intended to foster the rationalization of investments, to increase competitiveness, to improve the quality of goods and services produced, and to favour the complementation process among companies in the region. They must be approved by the Common Market Group. In April 1992, a production-sharing arrangement for the steel industry was adopted. The duration of this arrangement, which in effect implies the

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34 In January 1992, the margin of preference granted by Brazil was at 54 per cent (INTAL (1991), Integración Latinoamericana, No.173, November). General reductions of tariff levels are already stimulating intra-regional trade. Brazilian officials expect trade between Brazil and Argentina to rise by around 30 per cent to US$4 billion in 1992. In 1991, Brazilian exports to MERCOSUL countries increased by 77 per cent to US$2.3 billion (Financial Times, 23 June 1992).

35 In 1991, Brazil's list of exemptions contained 260 items, Argentina's 316, Paraguay's 396 items, and Uruguay's 864 items.

36 Article 5 of the Treaty of Asunción includes the Production-Sharing Arrangements among the main instruments to be used for the constitution of a Common Market, assigning to those Arrangements the objective of making the best use of the factors of production and reaching efficient scales of operation.
existence of managed trade in the sector, is limited to a transitional period until 31 December 1994.

124. The prospect for keeping the time-table of tariff elimination was reported to be dependent on Brazil's ability to stabilize its economy. The Brazilian Government is, however, still committed to the time-table. Brazil is by far the largest MERCOSUL country. Its economy is well over five times the size of the other three economies combined. Therefore, achievement of macroeconomic stability in Brazil is crucial to the success of MERCOSUL.

125. In June 1991, MERCOSUL member countries signed a framework agreement with the United States to encourage trade and investment in the region. This agreement established a consultative council on trade and investment. It set out an initial action programme which encompasses Uruguay Round cooperation, means to reduce trade and investment barriers in the Americas, access to technology, intellectual property rights, agricultural export subsidies, access to markets for goods and services, sanitary and phytosanitary regulations in agriculture, and the need for a transparent safeguard régime in conformity with the GATT. The agreement explicitly states that it is without prejudice to the rights and obligations of the parties under the GATT, its agreements, understandings and other instruments.

(iii) Bilateral agreements

126. Brazil maintains bilateral economic and trade-related agreements with a number of countries. The main objective of these trade-related agreements is to facilitate trade. The agreements do not provide for tariff preferences.

127. Brazil also maintains a cooperation agreement with the European Communities. The current agreement is non-preferential but provides a framework for encouraging commercial and economic cooperation.

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128. Under the Multi-Fibre Arrangement (MFA), Brazil has concluded bilateral restraints agreements with Canada, the European Communities and the United States (Chapter V).

129. Brazil also participates in the international agreements on cocoa, coffee, tropical timber and sugar.
Annex II.1
MERCOSUL Trade Liberalization Programme
(Extract from Treaty of Asunción: United Nations General Assembly Document A/46/155)

Article 1

The States Parties hereby agree to eliminate, by 31 December 1994 at the latest, any duties, charges and other restrictions applied in their reciprocal trade.

With regard to the schedules of exceptions submitted by the Republic of Paraguay and the Eastern Republic of Uruguay, the period for their elimination shall extend to 31 December 1995, on the terms of article 7 of this annex.

Article 2

For the purposes of the preceding article:

(a) "Duties and charges" shall mean customs duties and any other charges of equivalent effect, whether related to fiscal, monetary, foreign exchange or other matters, levied on foreign trade. This concept does not cover fees and similar charges corresponding to the approximate cost of services rendered; and

(b) "Restrictions" shall mean any administrative, financial, foreign exchange or other measures by which a State Party unilaterally prevents or impedes reciprocal trade. This concept does not cover measures taken in the situations envisaged in article 50 of the Montevideo Treaty of 1980.

Article 3

As of the date of entry into force of the Treaty, the States Parties shall begin a programme of gradual, linear and automatic tariff reductions, which shall benefit products classified according to the tariff nomenclature used by the Latin American Integration Association, observing the following timetable:

<table>
<thead>
<tr>
<th>DATE/PERCENTAGE TARIFF REDUCTION</th>
</tr>
</thead>
</table>
Preferences shall apply to the tariff in force at the time of their application and shall consist of a percentage reduction in the most favourable duties and charges applied to imports of products coming from third countries not members of the Latin American Integration Association.

If one of the States Parties increases this tariff for imports from third countries, the established timetable shall continue to apply at the tariff level in force on 1 January 1991.

If tariffs are reduced, the corresponding preference shall apply automatically to the new tariff on the date on which that new tariff enters into force.

For the above purposes, the States Parties shall exchange among themselves and shall transmit to the Latin American Integration Association, within 30 days of the entry into force of the Treaty, updated copies of their customs tariffs and of those in force on 1 January 1991.

Article 4

Preferences agreed to in partial scope agreements concluded by the States Parties among themselves in the framework of the Latin American Integration Association shall be expanded, under the present tariff reduction programme, according to the following timetable:

<table>
<thead>
<tr>
<th>DATE</th>
<th>PERCENTAGE TARIFF REDUCTION</th>
</tr>
</thead>
<tbody>
<tr>
<td>31 Dec. 1990</td>
<td>00 to 40</td>
</tr>
<tr>
<td>30 June 1991</td>
<td>41 to 45</td>
</tr>
<tr>
<td>31 Dec. 1991</td>
<td>46 to 50</td>
</tr>
<tr>
<td>30 June 1992</td>
<td>51 to 55</td>
</tr>
<tr>
<td>31 Dec. 1992</td>
<td>56 to 60</td>
</tr>
<tr>
<td>30 June 1993</td>
<td>61 to 65</td>
</tr>
<tr>
<td>31 Dec. 1993</td>
<td>66 to 70</td>
</tr>
<tr>
<td>30 June 1994</td>
<td>71 to 75</td>
</tr>
<tr>
<td>31 Dec. 1994</td>
<td>76 to 80</td>
</tr>
<tr>
<td>30 June 1995</td>
<td>81 to 85</td>
</tr>
<tr>
<td>31 Dec. 1995</td>
<td>86 to 90</td>
</tr>
<tr>
<td>30 June 1996</td>
<td>91 to 95</td>
</tr>
<tr>
<td>31 Dec. 1996</td>
<td>96 to 100</td>
</tr>
</tbody>
</table>

These reductions shall apply only in the context of the corresponding partial scope agreements and shall not benefit other members of the common
market; nor shall they apply to products included in the respective schedules of exceptions.

**Article 5**

Without prejudice to the mechanism described in articles 3 and 4, States Parties may also expand preferences by means of negotiations conducted in the framework of the agreements envisaged in the Montevideo Treaty of 1980.

**Article 6**

The tariff reduction timetable referred to in articles 3 and 4 of this annex shall not apply to products included in the schedules of exceptions submitted by each of the States Parties with the following quantities of ALADI nomenclature items:

- Argentine Republic: 394
- Federative Republic of Brazil: 324
- Republic of Paraguay: 439
- Eastern Republic of Uruguay: 960

**Article 7**

The schedules of exceptions shall be reduced at the end of each calendar year in accordance with the following timetable:

(a) For the Argentine Republic and the Federative Republic of Brazil, by 20 per cent per year of the component items; this reduction applies from 31 December 1990;

(b) For the Republic of Paraguay and the Eastern Republic of Uruguay, the reduction shall be at the following rates:

- 10 per cent on the date of entry into force of the Treaty
- 10 per cent on 31 December 1991
- 20 per cent on 31 December 1992
- 20 per cent on 31 December 1993
- 20 per cent on 31 December 1994
- 20 per cent on 31 December 1995

**Article 8**

The schedules of exceptions contained in appendices I, II, III and IV include the first reduction envisaged in the preceding article.
Article 9

Products which are removed from schedules of exceptions on the terms set forth in article 7 shall automatically benefit from the preferences resulting from the tariff reduction programme established in article 3 of this annex. They shall benefit, at the least, from the minimum percentage reduction provided on the date on which they are removed from the schedule.

Article 10

States Parties may apply up to 31 December 1994, to products included in the tariff reduction programme, only the non-tariff restrictions expressly mentioned in the notes supplementing the complementarity agreement to be concluded by the States Parties in the framework of the Montevideo Treaty of 1980.

As of 31 December 1994, all non-tariff restrictions shall be eliminated from the common market area.

Article 11

In order to ensure observance of the tariff reduction timetable established in articles 3 and 4, and also the formation of the common market, the States Parties shall coordinate any macroeconomic and sectoral policies which may be agreed upon and to which the Treaty establishing the common market refers, beginning with those connected with trade flows and the composition of the States Parties' productive sectors.

Article 12

The provisions of this annex shall not apply to the partial scope agreements, economic complementarity agreements Nos. 1, 2, 13 and 14 or trade and agricultural agreements signed in the framework of the Montevideo Treaty of 1980, such agreements being governed exclusively by their own provisions.
III. THE FOREIGN EXCHANGE REGIME AND FOREIGN DIRECT INVESTMENT

(1) Exchange Rates

130. The Brazilian currency is the Cruzeiro, which was changed from the New Cruzado on 15 March 1990 at the rate of 1:1.

131. As noted in Chapter II, foreign exchange policy is set by the National Monetary Council and administered by the Central Bank.

132. Brazil follows a flexible exchange rate policy, under which the cruzeiro floats independently with respect to the U.S. dollar. The exchange rate is determined by market forces in both floating rate and free rate markets. Rates for other currencies are based on the U.S. dollar rate in Brazil and the rate of the respective currency in New York and Europe. Exchange transactions are carried out by the Central Bank and by authorized banks and tourist agencies.

133. According to the Central Bank of Brazil, exchange rate management by Brazil has generally been related to export performance objectives (Chapter I). For most of the 1980s, exchange rates in the commercial inter-bank market were adjusted daily in line with past inflation. At times, particularly in the late 1980s, the official rate was pegged to the U.S. dollar to help control inflation, particularly under stabilization programmes with a price or wage freeze component (Chapter I). This was usually followed by a corrective devaluation as losses of export competitiveness became felt. Access to the official exchange market was restricted for many purposes and foreign exchange for imports was subject to quotas. This caused the development of a parallel market with significant premiums over the official rate (Table III.1).

134. In 1989 a second official market was introduced - the "free" market - in which the rate was set by participants. This mainly affected private services such as tourism and personal transfers. In early 1990 this market was extended to cover exports of gold and precious stones. As a result of this secondary market, where the exchange rate is virtually the same as in the parallel market, many transactions are now taking place through legitimate channels and the parallel market has lost much of its significance. It is understood that the premium on the parallel market had

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1 There are two official exchange markets operating simultaneously: the floating rate market (tourism dollar) and the free rate market. Operations in the floating rate market mainly involve those related to international travel and personal transfers. Operations in the free rate market involve all import and export transactions; profit and dividend remittances; capital repatriation; debt-service payments and registered foreign investments.
dropped from around 100 per cent in 1989 to around 15 per cent in 1990, and has now virtually disappeared. With the implementation of the Economic Stabilization Plan in March 1990, the managed exchange rate market was replaced by a free rate market, while the floating rate market was maintained.

(2) Foreign Exchange Allocation

135. Until its virtual elimination in July 1990, the foreign exchange allocation system lay at the core of Brazil's commercial policy and its approach to the management of its balance of payments. This consisted of a largely unpublished set of rules for the allocation of foreign exchange. Each year, foreign exchange earnings were allocated to different uses, on the basis of an annual forecast for the balance of payments accounts and estimates of the supply and demand for foreign exchange, jointly undertaken by the Central Bank, the Ministry of Finance and CACEX (World Bank, 1990b). The first priority was the expected external debt service payments, net of capital inflows. Remaining foreign exchange for merchandise imports was allocated to the following items, in descending order of importance:

- "priority" imports, most importantly crude oil and wheat;
- imported inputs required for the production of exports, especially under the drawback scheme; and
- other imports.

136. Authority for annual foreign exchange allocation to the private sector resided with CACEX, which was also responsible for the application of a wide variety of import regulations as well as the administration of the import licensing system (Chapters II and IV).

137. An indication of the disposition of foreign exchange is available for 1985. In that year, the private sector obtained 43 per cent of the total. Crude oil import by Petrobras, the State-owned oil company accounted for 38 per cent, and wheat import by the State-owned Banco do Brasil took 4 per cent of the total. In 1990, these shares were 63 per cent for the private sector, 21 per cent for crude oil, and 0.01 per cent for wheat.

138. Access of the private sector to external financing was substantially relaxed in the second half of 1990, after several years in which access was

\footnote{2}Finance Ministry cited in World Bank (1990b).
severely limited. The system of exchange allocation and most controls and restrictions on the private sector's access to foreign exchange were eliminated on 1 July 1990. On 15 August 1990, private remittances for debt service payments that were more than 180 days in arrears were allowed, and on 1 January 1991 the Central Bank allowed the free remittance of foreign exchange for the servicing of existing private debts, following their reconciliation with the amounts registered in the Central Bank (see section below on foreign direct investment). In June 1991 exporters were allowed to issue medium-term instruments secured against future export receipts. External financing requirements for all imports were eliminated on 27 February 1991.

139. Currently, foreign exchange transactions for amounts exceeding US$100,000 are subject to negotiable brokerage fees. The Central Bank has eliminated restrictions on certain capital and service transactions, by allowing some financial institutions to obtain resources by issuing commercial paper overseas (see next section). However, on the selling side there is a financial transaction tax (imposto sobre operações de crédito, câmbio e seguro, e operações relativas a títulos e valores mobiliários) of 25 per cent for imports of selected services.

140. Global limits are fixed for banks' sold positions in foreign exchange up to US$10 million and US$5 million in the free rate and floating rate markets respectively. There is no limit on bought positions, however authorized banks need to deposit foreign exchange with the Central Bank to cover an overbought position in excess of US$2 million. Tourism agencies do not have foreign exchange position, but instead they have a daily operational limit of US$200,000. Banks can sell foreign exchange to each other without restrictions, on a spot or forward basis. Commercial banks are allowed to provide forward exchange facilities to exporters for a period of up to 180 days. They are not subject to daily limits on bought positions in foreign exchange.

141. Bilateral settlements with LAIA countries must be made through accounts maintained with each other through the respective Central Banks, in accordance with the multilateral clearing system of LAIA.

142. Settlements with Bulgaria, with which Brazil maintains a bilateral payments agreement, are made in clearing dollars through the relevant agreement account. Bilateral accounts with Hungary and Romania are settled in third-country currencies every 90 days, with balances subject to market

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These rates, calculated on a sliding scale, may range up to 3/16 of 1 per cent either side of the rates.
interest rates. According to the Brazilian authorities, the Central Bank is intending to remove the restrictive elements of the agreement with Bulgaria.

143. The Central Bank may receive foreign currency deposits from abroad from Brazilian or foreign financial institutions. Companies with a registered foreign participation can open foreign exchange accounts, which can be credited with new foreign direct investments and re-investments, reserve profits, consolidated surplus, profit remittances, and returns and gains from profit remittances. Deposits are at LIBOR and normally require 90 days notice for withdrawals, or 30 days in the cases of deposits from profits or dividends and sales of investments and participating capital stocks.

144. Personal expenses for travel abroad above US$4,000 per person in cash and/or traveller's cheques require explicit permission from the Central Bank. International credit card users can spend abroad, additionally, up to US$8,000. Business travellers may acquire US$250-400 daily without prior approval of the Central Bank. Repurchases of foreign exchange by foreign travellers visiting Brazil are limited to 50 per cent of the total amount originally sold to authorized institutions.

(3) Foreign Direct Investment

145. Foreign investment plays a key role in providing the capital, technology and managerial and marketing knowledge which Brazil needs to assure the success of its policy of opening the economy. In the past, foreign participation has been limited in a number of ways, and remains prohibited in certain sectors, such as petroleum production and refining, public utilities, media, real estate, shipping and various "strategic industries" such as informatics, telecommunications and broadcasting. Majority foreign investment in mining operations is banned by the Constitution. The level of foreign participation in other sectors may also be adversely influenced because of government procurement practices and export financing which afford certain advantages to domestically financed firms (Chapter IV). Despite these problems, Brazil has been quite successful in attracting and retaining foreign investment, although this was reduced since the mid-1980s because of macro-economic instability. In the last few years considerable progress has been made in reducing

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4 This section draws heavily on Central Bank (1992).
6 World Bank (1991b).
obstacles to foreign investment. Various proposals have been made for constitutional change which would facilitate foreign investment, e.g., in mining and petroleum. A decision in this regard has, however, not yet been taken. Changes in the laws on electronics and informatics should facilitate foreign investment in that sector (Chapter V).

146. There is no single law covering foreign direct investment in Brazil. However, the single most important piece of legislation, covering remittance of profits, is Law No. 4.131 of 3 September 1962, as modified by Law No. 4.390 of 29 August 1964, and supplemented by Decree No. 55.762 of 17 February 1965. Under this extremely detailed legislation, foreign investment must be registered in order to repatriate the capital or to remit profits or dividends. However, registration is not mandatory and there is no restriction on selling unregistered investments within Brazil, either to Brazilians or foreigners. Capital gains on a repatriated investment are subject to 25 per cent withholding tax, but such gains by a foreign investor on the sale of capital for foreign currency outside Brazil are not subject to Brazilian tax.

147. Operational aspects are controlled by the Central Bank, which also issues the Certificate of Registration mandated by the law. Registration, which is automatic and involves no screening process, is required within 30 days of bringing funds into the country. It permits remittances of profits and expatriation of the invested capital at any time without the need for further approval.

148. Foreign investments can be made by purchasing stock in an existing company, subscribing to the capital of companies already operating in Brazil or through the establishment of new companies. Setting up a branch of a foreign company requires the prior issuance of a presidential decree. In practice the most common forms of foreign capital participation are corporations and limited companies.

149. Brazil has recently introduced a number of measures intended to make foreign investment more attractive. These include:

- the removal of a supplementary income tax of 40-60 per cent on remittances of profits and dividends exceeding 12 per cent of registered capital. This measure was effected in 1992 under Article 76 of Law No. 8.383 of 30 December 1991;

- publication, for the first time, of the criteria used by the Central Bank for the granting of foreign participation in the capitalisation of profits and reserves and for remittances of profits and dividends abroad; and
- simplification of procedures and decentralisation of administration by the Central Bank.

150. Under the law, direct investments can be made in the form of currency, tangible goods (such as machinery and equipment) and even intangible goods, such as trademarks, patents or credits for the payment of technology, provided these are recognised by the National Institute of Industrial Property (INPI). It is believed that intangible property is rarely registered, as a 25 per cent tax on the value of technology transferred as intangible property has to be paid from capital since no income is generated by the transfer. Investments in the form of goods require the prior approval of the Central Bank. Registration of investments is made in the currency of the country of origin of the goods or of the headquarters or domicile of the investor. Access to the free foreign exchange market is guaranteed.

151. Under Brazilian legislation, the book value of assets and liabilities on company balance sheets must be updated periodically through indexation for inflation. This applies equally to all domestic and foreign participation, denominated in local currency. In this way, remittances of profits or dividends are related to the changed valuation. This also applies to capital gains or losses. Profits or dividends are subject to income withholding tax at the rate of 25 per cent, to be reduced to 15 per cent from 1 January 1993, under Law No. 8.383 of 30 December 1991. Capital repatriation is exempt from income tax and can be processed automatically but it is restricted to the level of foreign participation on the Certificate of Registration, updated through indexation as described above, or, in the case of capital losses, through proportionate reduction of domestic and foreign capital. Remittances of capital gains are taxable at 25 per cent and require Central Bank approval.

152. The Certificate of Registration is updated to include the re-investment of profits. This is effected simultaneously in national currency and in the currency of the country to which the profits would otherwise have been remitted. The foreign currency value is calculated on the basis of the exchange rate prevailing on the day on which the re-investment is made. Capital increases resulting from re-investment are not subject to income tax. Repatriation of the full value of re-invested profits is exempt from all taxes.

153. Several measures were recently introduced to encourage the re-investment of risk capital. These include the equalisation of the exchange rates used in the transfer of profits and in the calculation of the registration value of the re-investment (Decree No. 365 of
16 December 1991. Registration is now granted for the re-investment of profits from financial revenues, which are treated in the same way as other earnings.

154. While portfolio investment in Brazil has been allowed since 1975, it was positively encouraged only in March 1987, under Central Bank Resolution No. 1.289. This envisaged three mechanisms for foreign investment flows: investment companies, investment funds and diversified stock portfolios. Under these mechanisms, diversification is unrestrained, there is no minimum period for funds to remain in the country and it is not required to define the portfolio as a legal entity. Earnings and capital gains are exempt from income withholding tax. Several other investment options also become possible, including the acquisition of debentures on the stock market and participation in the privatization process. Registration of the initial investment is done within a maximum of five days and updating is automatic through the Central Bank Information System (SISBACEN).

155. Another means of access to the Brazilian stock market is the system of "depository receipts", introduced on 31 July 1991 under Central Bank Resolution No. 1.848. These make it possible for investors to acquire overseas certificates representative of stocks in a Brazilian open capital company. They are issued abroad when a foreign investor acquires stocks in a Brazilian company and releases that stock for custody in a Brazilian bank, which then instructs the depository bank abroad to issue the corresponding depository receipt in foreign currency.

156. With respect to privatization, details of the extent of the programme and its role in the opening of the economy were given in Chapter I. The National Privatization Programme was inaugurated under the Federal Deregulation Programme (Decree 99.179 of 15 March 1990). For privatization purposes the following means of payment are accepted:

- Agrarian Debt Bonds;
- Cruzeiros or New Cruzados;
- National Development Fund Bonds;
- Siderbrás Debentures;
- Privatization Certificates;
- Matured Securitized Debts; and
- External Debt Credits and Securities.

\[A\text{ differential could arise if the indexation procedure for the revaluation of the registered investment did not keep pace with inflation, or if inflation and the exchange rate did not keep pace, as has occurred from time to time.}\]
157. Until now, privatization has been carried out by means of public auctions. Potential investors place credit securities with a brokerage company, which delivers them to the Clearance and Custody Chamber for blocking and later payment if the bid is successful. If external debt securities are to be used as a means of payment, the foreign investor requests formalisation of the conversion from the Central Bank. The foreign investment is then registered. Funds invested in this way may not be repatriated within 6 years.

158. Apart from foreign direct investment, investment has also taken place by commercial loans to the private sector in Brazil, particularly in the period up to the debt crisis in 1982, when private lending contracted sharply (Chapter I). Previously, borrowing on the international capital market by private companies was largely limited to the placement of commercial paper by transnational corporations which had the ability to offer parent company guarantees. However, with the return of confidence in the Brazilian market and the opening up of the economy in the last few years, Brazilian companies have been better able to tap the international market through the issue of bonds, floating or fixed notes (Table III.2). It seems likely that this is also related to the relaxation of access to foreign exchange by the private sector, which started in the second half of 1990, and, in particular, the move in January 1991 allowing the servicing of existing private debts, as mentioned in the previous section.

159. The largest part of foreign investment in Brazil in recent years (apart from the speculative capital inflows which have occurred during the first half of 1992) has been in the form of debt conversions. This appears to have peaked in 1988 at 76.7 per cent of gross capital inflows. Since 1984, when it became concerned about the depth of discounting, the Central Bank has imposed a number of conditions that make debt/equity conversion less attractive\(^8\), and conditions were further tightened in 1987. However, the provisions were eased again at the beginning of 1988, when all of Brazil's medium- and long-term debt with private institutions was eligible for conversion, but with the Central Bank having the power to set limits on the amount of debt that could be converted to registered equity.\(^8\)

\(^8\)World Bank (1991b); and Fritsch and Franco (1991b).

\(^9\)For example, the proceeds of these conversions may be used only to subscribe to paid-in shares in new or existing companies, or to subscribe to shares of Foreign Capital Conversion Funds. These may not be used to pay off existing debt. They are not permitted if they result in the transfer of control to non-residents, including in joint ventures. The proceeds from debt-equity conversions must remain in Brazil for 12 years. Capital repatriation resulting from debt equity conversion by firms with registered foreign investment is subject to deposit with the Central Bank to ensure converted funds remain in Brazil for 12 years. Conversions are not allowed if firms involved have repatriated capital in the previous 36 months, unless that capital is also re-invested (World Bank, 1991b).
Under the 1988 arrangements part of the debt was auctioned by the Central Bank on a monthly basis, but this was subsequently suspended on 15 December 1988. Under the debt conversion process, some US$3,122.7 million of Brazil's foreign debt were converted at an average discount of 22.8 per cent in the period between March and December 1988.

160. In general, Brazil's debt/equity conversion programme appears to have successfully reduced a substantial portion of outstanding debt, although certain problems have emerged. For example, it has been more attractive for foreign investors to remit profits and re-invest, rather than retain earnings in Brazil. Opening the programme to Brazilians would probably have helped to stem the flow of flight capital. The exclusion of deals which would result in the transfer of control to foreigners may have restricted the flow of technology. This restriction plus the exclusion of the use of such funds for financial restructuring may also have had adverse effects on potential profitability of affected enterprises even for other Brazilian shareholders.

161. The overall stock of foreign direct investment in Brazil amounted to US$36.6 billion at the end of September 1991. It is concentrated in the manufacturing sector, particularly in chemicals, electrical machinery and communications equipment, non-electrical machinery, automobile manufacturing and metal manufactures (Table III.3). The iron and steel industry had relatively low foreign participation, although this may well change under the privatization programme. The sources of foreign direct investment are well diversified, but the United States is by far the leading investor with 28.9 per cent of the total. This is followed by Germany (14.3 per cent), Japan (9.8 per cent), Switzerland (8.2 per cent), U.K. (7.2 per cent), Canada (6.1 per cent) and France (5.1 per cent) (Table III.4).

\[\text{World Bank (1991b).}\]
IV. TRADE POLICIES AND PRACTICES BY MEASURE

(1) Overview

162. Until very recently, Brazil's trade régime was highly interventionist and subject to frequent changes. On the import side, there was a complex system of controls and duties, mainly intended to help achieve balance-of-payments targets and to protect domestic producers from foreign competition. The main quantitative controls affecting imports were: the annual import budgeting system operated by CACEX; very high import tariffs, which were however subject to numerous exemptions; minimum import financing requirements; prior administrative approval for imports of certain goods by Government agencies; and a sizable list of products for which the issuance of import licences was suspended. On the export side, taxes were levied mainly on agricultural products, and export subsidies granted to a number of manufactured goods. The whole system of imports and exports was under heavy administrative regulation.

163. Liberalization of import controls began in mid-1988. Previously, importers were required to apply for an import licence at the time of importation. Starting in July 1988, requests for licences were granted automatically so long as they remained within a global limit of an accepted annual import programme. In the case of capital goods, licences were granted automatically even when they exceeded the annual limit. In November of the same year, the coverage of the list of products for which the issuance of import licences had been suspended was reduced from 2,400 to 1,200 items, representing around 10 per cent of total tariff items. The scope of import limits was also reduced in 1989 and early 1990.

164. More significant changes in Brazil's trade policies were implemented starting in mid-March 1990. By that time, there was a consensus that Brazil's economy was so highly protected that economic growth could not resume without drastic structural transformations (by the first half of March 1990, inflation had reached a monthly rate of around 85 per cent). It was therefore generally recognized that any serious attempt to stabilize the economy would also have to promote radical structural transformation (Chapter I).

165. The resulting reform of trade policy aimed to eliminate all non-tariff import barriers and foreign exchange controls, in favour of ad valorem tariffs. Tariffs were, at the same time, to be sharply reduced over four years up to mid-1993. Duty rates on some goods were raised at first, to maintain some protection to domestic enterprises as they
restructured to face increased international competition. Later, tariffs would decline gradually to reach a maximum rate of 35 per cent.\footnote{Initially, the intended maximum rate was 40 per cent. However, in February 1992, the Government decided to further reduce this maximum rate to 35 per cent.}

166. The current administration eliminated most of the remaining non-tariff import controls. The list of goods simply barred from import (i.e. those goods for which the issuance of import licences was "temporarily" suspended) was completely eliminated, and the coverage of the "similarity test", by which any company in Brazil could block potential imports (benefiting from fiscal incentives or for the use of State and local government entities) by showing it produced similar goods domestically, was severely reduced. Companies are no longer required to file annual import programmes or to limit imports to quotas related to past import levels. Import licences are still required; but now, except for products remaining under controls on informatics, they are granted automatically and serve essentially for statistical and price-control purposes.

167. Minimum financing requirements for imports, introduced in 1982, were also abolished for all goods in February 1991.\footnote{Minimum financing requirements consisted of an allowance for cash imports (up to a limit) and a requirement for importers to obtain foreign financing (at varying maturities, according to the type of product).}

168. The only important category still subject to restrictive import controls is the informatics sector (ranging from microchips to micro-computers) whose imports are controlled under the "Informatics Law". These rules, instituted in 1984 to encourage the growth of Brazil's now-large domestic computer industry, shall, however, expire in October 1992. Since 1 January 1991, import controls cover only 47 categories of equipment. In February 1992, the list was reduced to 42 categories. The reduced list, however, still maintains protection for the main items of Brazilian production in this sector.

169. Since March 1990, the Brazilian Government has been following a two-track policy of increasing domestic competition: through deregulation, which has involved removing governmental obstacles to the operation of a freely-competitive market (such as those resulting from requirements to purchase domestic raw materials or capital goods, special tax incentives, or requirements to use certain distribution and transport systems); and through the removal of other enterprise-level restrictions on the functioning of free markets (such as cartels). Monopoly powers (granted
through State intervention) which have been removed include restrictions on entry to certain activities, investment licensing, and rights to purchase specific raw materials. Most price controls used to favour particular industries (e.g., low prices on steel to ensure the competitiveness of automobile production) have also been liberalized or removed.

170. Remaining elements in Brazil's current import régime include health and security restrictions applied to agricultural products, pharmaceuticals and weapons. Preference is given to local companies in government procurement, and imports destined for the federal Government must be shipped on vessels flying the Brazilian flag.

171. On the export side, the current administration has also eliminated the country's most important export incentives. The main one, BEFIEX (the Special Export Programmes for the Concession of Fiscal Benefits), which granted tariff and import-control exemptions for imported inputs, was ended. Preferential income tax rates for export profits were also removed. Currently, most export promotion measures are aimed at reducing the impact of domestic taxation on exports. Such measures include a normal drawback system and a "domestic drawback" system (see below).

172. In the past few years, Brazil has cut back its once broad range of federal and regional incentives for industrial and agricultural projects. The Government eliminated or sharply reduced many of the remaining programmes as of March 1990. Among the items withdrawn were fiscal incentives for agricultural production in the Amazon basin, special low income tax rates on exporters and agricultural companies, and an entire range of exemptions from and reductions in import taxes.

173. In February 1992, the Brazilian Government issued a number of new trade-related measures, with three basic lines of action: first, the simplification and debureaucratization of trade procedures through the implementation of a Foreign Trade Integrated System (SISCOMEX), the consolidation of the foreign trade legislation in view of the future elaboration of a single Foreign Trade Law, and the simplification of special customs procedures; second, the elimination of certain obstacles in the fiscal and infra-structure areas for export activities; and third, the strengthening of official mechanisms in support of export activities, such as export financing and export promotion.

174. Import tariff reductions have also been accelerated. Rates initially scheduled to be reduced in 1993 are now to be reduced on 1 October 1992, and the reductions planned for 1994 are to be implemented on 1 July 1993.
(2) Measures Directly Affecting Imports

(i) Registration, documentation

175. Only registered firms or persons can import goods into Brazil. Importers must be registered with the Foreign Trade Department (Departamento de Comércio Exterior, DECEX). Registration appears to be a simple and undemanding requirement. Until 1989, importers were registered by 10 broad types of activity. Of 28,000 such firms registered in 1988, 59 per cent were producers of goods, 27 per cent commercial, and 9 per cent providers of other services. Currently, there are no special conditions or procedures for registration. Minimum capital requirement was eliminated in March 1990. The import registration can be suspended or cancelled, among other reasons, if no foreign trade transaction occurs in two or more consecutive years, or if the importer commits exchange or fiscal fraud.

176. To clear merchandise from customs, importers must present an import document (Declaração de Importação), containing such information as the importer's name, description of the merchandise and its volume and value. This information is required for statistical purposes. An import licence is also required for the majority of imports (see later). Importers must also present at least two copies of the commercial invoice and a copy of the bill of lading. A brief summary of the import documentation procedures is presented in Annex IV.1.

177. Efforts are being made to streamline customs procedures in Brazil. In February 1992, the Government announced that a single document would replace individual import and export licences, foreign exchange contracts and import and export declarations. Currently, a total of 30 copies are required for import registration and 16 copies for export registration. A unified computer system (Foreign Trade Integrated System, SISCOMEX), to be introduced in October 1992, will link information sources, trade authorities and individual traders.

(ii) Tariffs

178. Until very recently, tariffs were less important as an instrument of border protection in Brazil than direct import controls. Since March 1990, tariffs have become the main policy instrument of protection of domestic activities, following the abolition of the import licensing system.

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3 The current Brazilian Government substituted the Bank of Brazil's Foreign Trade Bureau (CACEX) with a new streamlined (one-third fewer employees) Foreign Trade Department (DECEX), under the Ministry of Economy, Financing and Planning (Chapter II).
179. The system of import duties applied before 1990 was highly complex and non-transparent. High nominal import tariffs were frequently offset by numerous exemptions or reductions. Since 1990, virtually all special tariff régimes and import duty exemptions on non-oil imports have been revoked. The scope of ad hoc exemptions and concessions was also reduced.

180. Under the March 1990 reforms, the responsibility for tariff and other foreign trade policies is vested in the Foreign Trade Department (DECEX) under the Ministry of Economy, Finance and Planning (Chapter II).

181. A new schedule of import duties was released in January 1991, specifying annual duty reductions to be implemented over a four-year period. In February 1992, the Government accelerated its programme of tariff cuts, so that the planned highest tariff rate of 35 per cent and the average rate of 20 per cent will now be attained by 1 July 1993.

(a) Structure

182. Since 1 January 1989, Brazil's Customs Tariff has been based on the Harmonized Commodity Description and Coding System (HS). Currently, it contains 12,760 lines broken down into ten-digit tariff items. The change to the HS system involved a minor increase in the number of tariff lines from 12,444.

183. Brazilian tariffs are applied on an ad valorem basis to the c.i.f. value of the product. Specific duties, in addition to ad valorem duties, are applied to manufactured tobacco. Tariffs are established by Decrees of the Minister of Economy, Finance and Planning. Tariff changes, which have been frequent, are published in the Official Gazette. Temporary reductions in statutory rates have also been frequent. They are intended to alleviate supply shortages in the Brazilian market or to reduce the cost of inputs and/or of capital goods.

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4 The important remaining exemptions consist of international trade treaties (such as LAIA), the drawback régime, and the Manaus free-trade zone.

5 The import duty column in Brazil's tariff is subdivided into sub-columns giving separately rates for 1991, 1992, 1993 and 1994, as well as temporary rates. The rates for 1993 and 1994 are to be implemented in October 1992 and July 1993, respectively, following recent changes.

6 Calmon Lemme (1989).

7 The specific import duty is levied on manufactured tobacco for fiscal purposes. Domestic production is not subject to an equivalent tax.
(b) Average tariff level

184. Recent tariff reductions resulted in the average tariff dropping from 51 per cent in 1988 to 25.3 per cent in 1991 (Chart IV.1).

![Chart IV.1](image)

Brazil's simple average tariff rate, 1980-91

<table>
<thead>
<tr>
<th>Year</th>
<th>Tariff Rate</th>
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<tbody>
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<td>1990</td>
<td>20</td>
</tr>
<tr>
<td>1991</td>
<td>15</td>
</tr>
</tbody>
</table>

Note: The 1989 average corresponds to September.

Source: Government of Brazil (Coordenação Técnica de Tarifas, CTT).

185. The initial reforms in 1988 and 1989 were aimed at lowering or eliminating tariff redundancy (based on estimated price differentials).

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Footnote Continued: The major purpose of the reforms was to reduce the tariff rates to the amount...
In April 1990, the Government further adjusted certain tariffs as follows: (i) import tariffs were raised on 131 products to provide a margin of protection to affected producers following the elimination of import restrictions; (ii) tariffs on capital and intermediate goods for the agricultural sector were reduced to increase effective protection of this sector; (iii) tariffs were reduced in certain sectors where there was significant industrial concentration (e.g., cement, aluminium, certain steel and chemical products) to increase competition; and (iv) tariffs were reduced on imports of certain agricultural products that were subject to price controls (e.g., wheat, beans and alcohol) to increase domestic supplies and reduce price pressures. As a result of these tariff adjustments, the simple average tariff was reduced to 32 per cent.

186. In early 1991, a timetable for a comprehensive tariff reduction was announced. The first stage of annual tariff reductions went into effect on February 15, 1991. Tariff rates on imports of products in which domestic industries were "clearly" competitive (such as aluminium, pulp, iron ore and orange juice) were reduced significantly, while tariff rates that had been already reduced in 1990 were not adjusted.

187. The average tariff rate on non-oil imports was reduced from 32.2 per cent in 1990 to 25.3 per cent in 1991 and 21.1 per cent in 1992. According to the February 1992 measures, the average tariff will be reduced to 17.1 per cent in October 1992 and 14.2 per cent in July 1993. Tariff dispersion has also been reduced, the standard deviation has declined from 19.6 percentage points in 1990 to 17.4 in 1991. It will be at 7.9 percentage points by mid-1993 (Table IV.1). Recent tariff reforms implemented by the Brazilian Government were also aimed at reducing maximum rates. The maximum rate was 105 per cent in 1987, 85 per cent in 1990, and will be 35 per cent by mid-1993 (Table IV.1).

188. According to GATT estimates, by December 1991, the most common rates were 0 (applied on 16 per cent of total tariff lines), 20 per cent (levied on more than 18 per cent of total tariff lines) and 30 per cent (levied on 11 per cent of total tariff lines) (Table IV.2). Most goods were dutiable equivalent to the excess of the domestic prices over the foreign prices (implicit rates) (Kume and Piani (1991)).

(Footnote Continued)


10Although the absolute level of dispersion (in percentage points) has declined, the relative dispersion around the mean, measured by the coefficient of variation (standard deviation divided by the mean) has increased: in 1990 it was 61 per cent of a mean 32 per cent rate, in January 1992 it was 67 per cent.
at 20 to 40 per cent rates. Rates of 15 per cent and below, as well as duty exemptions, were applied mainly to industrial imports. The highest rate of import duty in 1991 (85 per cent) was levied on imported toys.

189. The average nominal tariffs show considerable disparity across GATT Tariff Study Categories. They vary from less than 10 per cent for categories such as oilseeds, fats and oils, and wood and cork, to more than 60 per cent for categories such as toys, tobacco, office and stationery supplies, and beverages and spirits (Table IV.3).

190. The final tariff structure to be applied from July 1993 will include:
(i) zero tariff rates, applying to products in which Brazil has a clear comparative advantage (such as orange juice, iron ore, and cellulose), products with high transport costs (such as live animals and cement), products that are not produced domestically and commodities with little value added (such as copper and zinc); (ii) 5 per cent rate applying to products that had such tariffs in 1990; (iii) rates between 10 and 15 per cent applying to products that use imported inputs with zero tariffs (such as paper and cotton); (iv) a rate of 20 per cent applying to most imported manufactured products, except for those items that are produced by domestic infant industries; and (v) rates of 30 and 35 per cent applying to certain manufactured products, such as chemicals, televisions, stereo sound systems, automobiles, trucks, motorcycles, and informatics products.

191. By July 1993, nominal protection will be less dispersed among sectors. The highest average nominal tariff rate will be applied to motor vehicles (34.2 per cent), followed by electronics and communication equipment (25.4 per cent) (Table IV.4).

(c) Tariff escalation

192. Calculations for the 1991 average tariffs show substantial tariff escalation by stage of processing. The simple average for all raw materials was 11.1 per cent, compared with 17.4 per cent for semi-processed goods and 30.4 per cent for finished goods. Tariff escalation is evident in all GATT Tariff Study Categories (Table IV.5). It is the highest for textiles; a 5 per cent average tariff on raw materials compares with a

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11 Higher rates of 50 per cent and above were levied on goods such as certain meat preparations, bakers' wares, alcoholic beverages, tobacco products, perfumes, carpets, certain electrical equipment, radio and television apparatus, certain cars and toys.

12 The classification of sectors in Table IV.4, corresponding to Brazilian Industrial classification (based on ISIC), is different from that used in Table IV.3.

13 Tariff escalation and effective protection are discussed more fully in Chapter V.
47.6 per cent average on finished textile products. Tariff escalation is also considerable for raw hides and skins, leather and furskins, and for foodstuffs.

(d) Tariff bindings

193. According to GATT estimates, Brazil has bound 722 tariff items (6 per cent of the total number of tariff items classified according to the HS at 10-digit level) accounting for 23 per cent of non-oil imports in 1989 (11 per cent in 1981). Tariff bindings apply mainly to industrial products (Table IV.6). Most tariff lines have been bound at existing levels. Current bound rates range between zero and 185 per cent (the highest rate applying to articles of silver and pipes for smoking). However, most bound rates are below 55 per cent. Certain items on which bound rates are in force are subject to import quotas.

194. Brazil has offered to bind its entire tariff schedule for industrial products at 35 per cent under the Uruguay Round negotiations. Tariffs already bound at lower rates would not be changed, while those at higher rates would be reduced to 35 per cent within 5 years. The implementation of this offer will depend on the final results of the Uruguay Round negotiations.
(e) Temporary tariffs

195. Temporary rates of duty, established under various Ministerial Decrees, give duty-free access on 23 tariff lines and reduced rates of import duty on three others. The temporary rates, which are established indefinitely, are applied in preference to the legal rates.

196. Brazil does not apply seasonal tariffs.

(f) Concessional entry

197. Up to 1990, Brazil granted a wide variety of tax and tariff concessions (mainly for capital and input goods) estimated to cover some two-thirds of imports. These mainly covered regional or bilateral agreements (see the following section on tariff preferences), export promotion mechanisms, regional development programmes, and priority economic sectors and commodities. The special import régimes not only granted tariff concessions but also allowed importers, in most cases, to benefit from preferential treatment in the whole import process. In many cases, the streamlined procedures under the special régimes of the past were considered to be more important than the tariff concessions.

198. Public enterprises enjoyed greater tariff concessions than private enterprises. The actual tariff paid on imports by public enterprises in 1985 was 0.5 per cent compared with 13.4 per cent by private firms (Table AIV.1). The difference may be partly explained by the product composition of imports. Public enterprises imported mainly combustible goods (petroleum) at duty free rates while private firms imported mainly raw materials and intermediate goods for industry (with an actual tariff paid of 15.8 per cent). However, concessional tariff treatment also discriminated against private firms where they imported the same goods as public enterprises, except in the cases of consumer durables and transport equipment (Table AIV.1).

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18 Duty-free access is granted for a variety of products such as gum arabic, certain vegetable saps and extracts, chemically pure fructose, sodium sulphides, certain heterocyclic compounds with nitrogen hecto-atoms only, antibiotics, certain medicaments, certain essential oils, polychrome films, synthetic rubber and factice derived from oils, flat-rolled products of high speed steel, certain sawing or cutting-off machines, human hair clippers, needles for sutures, and certain optical instruments and appliances (International Customs Tariffs Bureau (1991)).

19 By the mid-1980s, 42 special import régimes allowed for various forms of tariff concessions. These special import régimes benefited around 70 per cent of all imported goods, excluding petroleum (Kume and Piani (1991)).
199. The importance of this treatment was reduced indirectly by the decrease in the share of public enterprises' imports in total imports. This share fell from close to 70 per cent in 1983 to around 35 per cent in 1990 mainly due to a higher participation of the private sector in trade: private sector imports increased from US$5.2 billion to US$14 billion during this period (Table AIV.2).

200. Tariff exemptions and reductions were not granted to imported products for which a similar domestic product was available. The similarity test for tariff concessions is regulated in Articles 188 to 210 of Decree 91.030.

201. Until March 1990, the Customs Policy Commission (Comissao de Politica Aduaneira, CPA) granted ad hoc tariff concessions for improving supplies in the domestic market or for facilitating industrial development. For example, the CPA temporarily (for periods ranging from several months through to the end of January 1989) reduced import duties on a large number of industrial products consumed in the North and North-East part of the country.

202. These tariff concessions (as well as the protective effect of import duties) resulted in a large gap between the nominal average "legal" tariff and the actual duties collected. In 1983, the simple average legal tariff was 21.4 per cent compared with a 5 per cent share of import tariff revenue in total imports (if oil and wheat are excluded, the comparison is between 43.1 and 11.2 per cent, respectively). Since 1986, this gap has been decreasing and by 1990 it represented around 10 percentage points (Chart IV.2). In 1991, the average legal tariff and the share of tariff

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20 Also, in August 1987, the CPA reduced to zero the tariff rates for several musical instruments, as well as for the components and raw materials for the production of such instruments, where no similar national production existed. This concession was afforded to professional musicians, traders and producers of musical instruments under a programme of incentives to cultural activities. Under Decree No.2.479 of October 1988, Brazilian television and radio companies were to be allowed 80 per cent duty relief on imports of parts, components, accessories and spares for machines, equipment, appliances and instruments. The same 80 per cent import duty relief was granted to newspaper and publishing companies.

21 The simple average legal tariff was calculated using nominal rates established in the Brazilian Tariff for imported goods only. The share of tariff revenue in total imports is the tariff revenue collected divided by the value of imports (implicit trade-weighted average). The discrepancy between the true trade-weighted average and the ratio of duty collected to import value, reflects exemptions, under-invoicing and smuggling. According to World Bank estimates, in 1987, Brazil had a trade-weighted average of around 35 per cent compared with a ratio of duty collected of 10 per cent.
revenue in total imports were 15.9 and 6.5 per cent, respectively (18.6 and 7.9 excluding oil and wheat) (Table IV.7).

Chart IV.2
Average tariff rates levied on Brazilian imports, 1983-90
Per cent

Source: Table IV.7 and Central Bank of Brazil.

203. In April 1990, the Government eliminated all special import tariffs exemptions and reductions. Special and limited tariff concessions in the form of duty exemption or reduction, were retained for imports into the Manaus free-trade zone, imports under the drawback schemes and other specific imports such as those by foreign diplomatic missions and international organizations, scientific and technological institutes, and non-commercial samples.

22 The legal average rates in Chart IV.2 and Table IV.7 have been calculated considering exclusively those tariff lines for which there were imports. Chart IV.1 and Table IV.1 consider all tariff lines.
204. Currently, enterprises may request duty free treatment for certain capital goods, such as machinery and equipment (essentially products included in chapters 84 to 90), not produced domestically. Such duty-free imports must be approved by the Minister of Economy, Finance and Planning. The GATT Secretariat has no evidence on the importance of this provision.

(g) Tariff preferences

205. Tariff preferences are granted by Brazil under certain international agreements. The share of preferential imports in total imports has been increasing since 1986. It increased from 2.7 per cent in 1985 to 4.5 per cent in 1986 and 11 per cent in 1990 (Table IV.8). The most important preferential agreement is the Latin American Integration Association (LAIA); the share of LAIA preferential imports in total imports increased considerably in 1989 to around 11 per cent. The Southern Common Market (Mercado Comun do Cone Sul, MERCOSUL) falls within the framework of LAIA.

206. Under LAIA, Brazil grants tariff preferences to other Latin American countries. A variety of complex product-specific and country-specific agreements have been signed by Brazil in the context of LAIA. While tariff preferences result in some cases in duty-free imports from beneficiaries, in general, preferential imports are dutiable at about half of the m.f.n. rate.

207. Preferential imports under partial-scope agreements account for a large proportion of total imports from LAIA. Among these, renegotiation agreements (of preferences granted during the period 1962-80) are the most important. However, between 1986 and 1990, their share declined from 60 to 47 per cent (Table IV.9). During this period, imports under economic complementarity agreements have steadily increased.

208. Other tariff preferences result from Brazil's participation in the MERCOSUL, established under the Treaty of Asunción signed on 27 March 1991 by Argentina, Brazil, Paraguay and Uruguay. The Treaty provides for the creation of a common market among the four countries with free circulation of goods, services, capital and labour from 1 January 1995. With respect to the free circulation of goods, there are a number of exceptions for sensitive items from the initial reductions, although the intention is to have a universal coverage of the treaty. Brazil's list of exemptions

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23 See Chapter II for a description of the different types of agreements within LAIA.
contains some 260 tariff lines in the agricultural, informatics and capital goods sectors. Since July 1992, the margin of preference is 61 per cent.  

209. There are as yet no statistical data to allow for the full assessment of the impact of MERCOSUL in Brazil's trade pattern. However, Brazilian Government estimates indicate that trade between MERCOSUL members had increased by over one-third between 1990 and 1991, while Brazil's exports to MERCOSUL partners had risen 77 per cent.  

210. Tariff preferences are also granted by Brazil under the Global System of Trade Preferences among developing countries (GSTP). Brazil's GSTP concessions, covering around 100 tariff items classified according to HS, consist in a percentage cut, ranging from 10 to 100 per cent, of the m.f.n. rate. Table AIV.3 contains the list of Brazil's tariff preferences granted under the GSTP.  

211. Tariff preferences are, in principle, also granted through Brazil's participation in the Protocol Relating to Trade Negotiations Among Developing Countries (the Committee of Participating Countries, CPC). Preferential rates of duty were fixed for 12 tariff lines (Table AIV.4). However, following the general reduction of the m.f.n. rates, preferences were actually granted for only 6 tariff lines (by 1991). According to the Government, preferential imports in 1990 accounted for around one per cent (US$369,000) of total imports of those products.  

(h) Customs valuation  

212. According to the Brazilian Government, customs valuation practices are in line with Article VII of the GATT. Brazil implemented the Tokyo Round Customs Valuation Agreement in 1986. Certain reservations were made under paragraphs I:3, I:4 and I:5 of the additional Protocol.  

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24 A production-sharing arrangement for the steel industry, agreed within the framework of the MERCOSUL in March 1992, provides also for tariff preferences (See Chapter II and V).  


26 In one case, dried dates, the concession is the binding of the duty at 20 per cent. The tariff preference for five items is subject to an import quota (US$100,000 for essential oils of cinnamon and US$600,000 for ball bearings, cylinder roller bearings, conical roller bearings and needle roller bearings).  

27 Decree 92.930 of July 1986 incorporated into Brazilian domestic law the Agreement on Implementation of Article VII of the GATT as from 23 July 1986. Brazil's reservation under paragraph I:3 of the Protocol to the Agreement (reservation concerning the use of minimum values) was revoked on 22 July 1986. As a result of this decision, the system of Minimum Values and Reference Prices for valuation purposes is no longer operative in Brazil. The remaining two reservations concern the reversal of sequential order of (Footnote Continued)
213. Brazil's legislation on customs valuation follows the Tokyo Round Code in distinguishing six methods for determining the customs value, i.e., a primary method and five additional methods that must be applied in hierarchical order: firstly, the "transaction value" of the imported goods, i.e. the price that is actually paid or payable for goods by importers, plus certain costs and expenses; then the transaction value of identical and similar goods; followed by consideration of the resale value of the imported goods; and the computed value. The sixth method allows for the use of "reasonable means" consistent with the principle and general provisions of the Agreement on Customs Valuation and of Article VII of the GATT, and on the basis of data available in the country of importation.

214. In cases of non-acceptance of the declared value of imported goods by customs officials, the importer has 30 days to contest the new determined value, and a decision must be rendered within another 30 days. Appeals concerning the valuation of imported merchandise are to be addressed to the Contributors Council. If the Council decides against the importer, he may appeal to the judiciary courts. In the course of customs clearance, the following fines may be applicable on differences of the dutiable value: 100 per cent due to lack of payment of the duties or inaccuracy of the declared value, except in cases involving fraud, when the fine amounts to 300 per cent.

(iii) Tariff quotas

215. Brazil does not use tariff quotas to restrict imports under general m.f.n. rates.

216. However, a few tariff quotas are fixed by Brazil for preferential imports under the GSTP (e.g. essential oils of cinnamon and roller bearings) or result from tariff bindings under GATT (e.g. apples and pears).

217. Tariff quotas are also applied by Brazil in some of the partial scope agreements signed under the Latin American Integration Association (LAIA) framework, and the MERCOSUL agreement. Some tariff quotas within LAIA were

(Footnote Continued)

Articles 5 and 6, only when the customs authorities agree, and the application of Article 5.2 (the use of the "super-deductive value" method) whether or not the importer so requests. The reversal of sequential order of Articles 5 and 6 results in using, at the request of the importer, the "computed value method" before the "deductive" method for determining the customs value.

28 While the value is in dispute, the importer's declared value is provisionally accepted for the purpose of clearing the goods. The importer may be requested to make a deposit covering the claimed differences pending a final determination of the dutiable value.
negotiated long time ago, such as those with Mexico. Others were the result of re-negotiation of partial-scope agreements, such as that with Colombia (17 October 1991). For example, preferential duty-free imports of certain articles of apparel and clothing from Colombia are limited by an annual quota of US$1.5 million. Imports exceeding this limit enter into Brazil without restriction but are subject to the m.f.n. import tariff (50 per cent in 1991). Existing tariff quotas with MERCOSUL countries are being progressively enlarged and will be eventually eliminated from 1 January 1995.

218. Tariff quotas may also be applied for certain preferential imports (imports at reduced tariff levels) with the objective of guaranteeing domestic supply.

(iv) Variable import levies

219. Brazil does not use variable import levies.

(v) Other levies and charges

(a) Structure of taxes and charges

220. Brazil levies a number of taxes, other than import duty, which apply, in principle, equally to domestically produced and imported goods. The impact of these charges may vary considerably across products. Certain categories of products are subject to special taxes, while others are exempt. The two most important taxes are the Industrialized Products Tax (IPI) and the Services and Merchandise Circulation Tax (ICMS) (two value-added internal taxes).

221. The incidence of these charges is relatively high, increasing considerably the price of imported goods in the Brazilian market. For example, the tariff on passenger cars is 50 per cent on the c.i.f. value, while all other charges amount to over 100 per cent; the final wholesale cost of an imported car is thus more than 250 per cent higher than the f.o.b. value. Similarly, the wholesale cost of imported wheat is almost twice the f.o.b. value (Table IV.10). A FUNCEX study shows that imported capital equipment, bearing a 20 per cent import tariff and 8 per cent IPI

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29 For example, the Tariff Policy Commission (CPA) approved an import quota of 15,000 tonnes of palm stearin with the import duty reduced from 70 to 10 per cent, as well as an import quota of 70,000 tonnes of imported tallow for the period 31 July to 31 December 1987. Subsequently, the Commission took similar actions establishing new tariff quotas, with the same duty level with respect to 10,000 tonnes of palm stearin and up to 20,000 tonnes of tallow for the period 9 March to 30 June 1988.
tax, has an estimated final price which is 62 per cent higher than the c.i.f. value, when considering all other charges.

(b) Charges affecting imports

222. In December 1988, a port fee earmarked for the improvement of harbour installations (Adicional da Tarifa Portuária, ATP) was introduced at a rate of 50 per cent of the cost of port services. This port fee is levied on both imports and exports at the same rate. It is similar to the earlier port improvement tax of 3 per cent of the c.i.f. value (Taxa de Melhoramento dos Portos, TMP) which was abolished on 1 July 1988.

223. In addition, a merchant marine renewal tax (Adicional ao Frete para a Renovação da Marinha Mercante, AFRMM) is currently levied in order to yield resources for the modernization, development and improvement of the Brazilian merchant fleet. The AFRMM is levied on the Brazilian and foreign enterprises operating in Brazilian ports for all cargoes. Until March 1990, the tax was levied at 50 per cent of the insurance and freight component of the imported good (ocean freight charges) on the first landing in Brazil, and 20 per cent on subsequent landings in Brazilian harbours. In mid-March 1990, the tax on first landings was reduced to 25 per cent.

224. Most imports are also subject to an import licence processing fee. The fee was 1.8 per cent of the f.o.b. value until very recently (imports under a given amount were exempt). It is now levied at a fixed rate of around US$100 for all imports (see below, Section on import licensing).

225. Other fees or taxes affecting imports into Brazil include: a syndicate fee (2.2 per cent of the c.i.f. value); a brokerage fee (1 per cent of c.i.f. value); a fee for printed forms (currently a fixed fee of US$17 for all imports); a forwarder's commission (1.5 per cent of the c.i.f. value); administration commission (1.5 per cent of the c.i.f. value); a 5 per cent airport tax; a fee for handling charges (currently a fixed fee of US$20); and a social benefits contribution (10 per cent of warehouse charges).

226. A financial operations tax (IOF) on the purchase of foreign exchange for all imports (not specifically exempted) was eliminated in May 1988.

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(c) Internal taxes affecting imports and domestic products

227. The Industrialized Products Tax (Imposto Sobre Produtos Industrializados, IPI) is a major federal excise tax levied on a wide range of industrial domestic products. The IPI tax is an important component of government tax revenue, accounting for around 30 per cent of the total (Chart IV.3).

**Chart IV.3**
Structure of Government tax revenue, 1991

![Chart showing tax revenue distribution]


228. The main sectors contributing to the IPI tax revenue collection are tobacco, transport equipment, beverages, chemicals and metallurgy. In

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31 The Industrialized Products Tax is a Federal tax instituted by the Constitution (Article 153). The tax is meant to be selective, based on the essentiality of the product, and is not to be levied on industrialized products intended for export.
1988, IPI revenue collection from tobacco was close to US$1.5 billion, the same as from the transport equipment sector (Chart IV.4 and Table AIV.5).

Chart IV.4
Industrialized products tax (IPI) revenue collection, 1980-88
US$ million


229. The IPI tax is also levied on most imported merchandise at the same rate as Brazilian made products. It is levied at point of sale by the manufacturer or processor in the case of domestic products and at the point of customs clearance in the case of imports. The tax on imports is assessed on the customs value (c.i.f.) plus the import duty. Brazilian exporters are exempt from the payment of the IPI tax.

32 Certain products, whether domestically produced or imported, are exempt from the IPI tax, such as agricultural and food products, mineral products, fuels, chemicals, pharmaceuticals, fertilizers, hides and skins, wood in the rough, printed matter and most textiles and clothing.
230. IPI tax rates vary from 0 to 220 per cent, depending upon the nature of the industrialized product. Most goods are charged at rates between 10 to 20 per cent. IPI rates are frequently changed. In some cases, a low import tariff carries a low IPI tax rate and vice-versa. For example, basic processed foods are free of IPI tax, while high rates are applied on cigarettes (220 per cent, 330 per cent until late 1991) and alcoholic beverages (130 per cent on whiskies, 80 per cent on beer and 70 per cent on cane spirits). See Note IV.1.

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Note IV.1 Industrialized Products Tax (IPI)

IPI is a federal tax levied at varying rates on all industrialized products, domestically produced or imported. Rates are set according to the degree of necessity of the products. Examples of IPI rates for selected products are given below.

<table>
<thead>
<tr>
<th>Group of products</th>
<th>IPI tax rate (Per cent)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Food products</td>
<td>0</td>
</tr>
<tr>
<td>Textile products</td>
<td>0 to 15</td>
</tr>
<tr>
<td>Precision instruments</td>
<td>0 to 15</td>
</tr>
<tr>
<td>Plastic and rubber products</td>
<td>0 to 20</td>
</tr>
<tr>
<td>Machinery and equipment</td>
<td>0 to 20</td>
</tr>
<tr>
<td>Non-alcoholic beverages</td>
<td>40</td>
</tr>
<tr>
<td>Alcoholic beverages</td>
<td>10 to 130</td>
</tr>
<tr>
<td>Cigarettes</td>
<td>220</td>
</tr>
</tbody>
</table>

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231. The Services and Merchandise Circulation Tax (Imposto sobre Circulação de Mercadorias e Prestação de Serviços, ICMS) is a State tax levied on both domestically produced and imported goods. The tax is applicable to the movement of merchandise and services between States and municipalities. The ICMS tax is assessed on the c.i.f. value of imports plus any other import taxes, including the import duty, the IPI tax for industrialized products, and the ATP and AFRMM taxes. The legislation is apparently complex, and extensive documentation is required for its collection. The tax is levied on both intrastate and interstate transactions and is assessed on every transfer or physical movement of merchandise, and on transport and telephone services. For imports, the tax is attributed to the State where the establishment receiving the goods or services is located.

232. The ICMS tax rate varies among States. Normally, the rate is either 7 or 12 per cent for interstate transactions (17 to 18 per cent for intrastate transactions). In some States, certain products such as foodstuffs are tax exempt. Goods considered "superfluous" are taxed at 25 per cent in some States.

233. The ICMS tax does not apply to exports of services or manufactured (industrialized) goods. However, it is levied on exports of raw materials and semi-manufactured products. The wide definition of semi-manufactured products is the object of criticism by the private sector. Other interstate transactions exempt from the ICMS tax include those on oil, construction services, mining, electric energy, liquid and gaseous fuels, and locally produced machinery and equipment. A myriad of regulations provide for a variety of exemptions or reduction of the ICMS tax rates in different States, adding to the complexity of the system.

(vi) Minimum import prices

234. Minimum values and reference prices were established in 1970 for customs valuation purposes. According to the Brazilian Government, in 1985, the value of imported products subject to minimum values and reference prices represented only 0.34 per cent of the total value of overall imports. By mid-1986, 362 tariff items classified at 8-digit level were subject to this valuation practice. In November 1987, the Government

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33The Brazilian Constitution provides for the establishment of the ICMS tax (Article 155). The tax is selective, with the rate or coverage based on how "essential" are the goods or services.

34The Customs Policy Commission (CPA) was the agency responsible for fixing minimum values (Pauta de Valor Mínimo) and reference prices (Articles 94 to 96 of Law 91.030).
withdrew 25 items from the list of products subject to minimum values or reference prices. On 22 July 1988, the system of minimum values and reference prices for valuation purposes was revoked.

235. At present, Brazil does not apply any minimum import prices.

(vii) **Import prohibitions**

236. The importation of a few products is prohibited under Brazilian law. The list of prohibited products, given in Annex B to the Administrative Rules for Imports (Portaria DECEX No.8) includes: other heterocyclic compounds with nitrogen hetero-atoms only, zipeprol (HS 29.33.59.99), and medicaments containing zipeprol (HS 30.03.90.99 and 30.04.90.99); non-biodegradable detergents (HS 34.02.20.01 and 34.02.90.01); and luxury boats with an original sale price of US$3,500 or more (HS 89.03). Imports of used (second hand) consumer goods (including cars and motorcycles, except as donations) are also prohibited.

237. Prohibitions may result from the application of health and sanitary regulations. For example, imports of live swine, as well as meat and offals of swine, from Belgium were prohibited (until recently) to prevent the spread of swine fever. Currently, imports from Spain of meat of horses, asses and mules are prohibited because of health reasons.

238. Import prohibition may also be applied by Brazil in compliance with international agreements such as the Convention on International Trade in Endangered Species of wild fauna and flora (CITES).

239. In accordance with United Nations resolutions, Brazil applies a number of trade embargoes. The countries currently covered by a trade embargo are Haiti, Iraq, Libya, Somalia, South Africa and the Federal Republic of Yugoslavia (Serbia and Montenegro).  

240. Between June 1976 and March 1990, temporary import suspension was applied to certain goods under "Annex C" of the Administrative Norms that Regulate Imports. The suspension of import licences, resulting in a de facto import prohibition, was justified by the Government on balance-of-payments grounds. At times the list contained more than 4,000 tariff lines. In March 1990, the current Government eliminated Annex C.

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35 The trade embargo on Haiti was decided by the Organization of American States (OAS). The embargo on Haiti, Iraq and Yugoslavia covers all products.

36 In June 1976, CACEX published the first list of products for which the issuance of
(viii) Import licensing

241. Most imports into Brazil are subject to import licences (Guia de Importação) which must in most cases be issued before goods are shipped from abroad. According to the Brazilian authorities, import licences are now issued "automatically" by authorized banks, unless products are subject to a special import authorization.

242. Until March 1990, Brazil's import licensing requirement was highly restrictive, resulting in many cases in import bans and providing wide scope for discretionary power. For example, as noted above, the issuance of import licences for certain products was "temporarily" suspended for a number of years.

243. The time period required to process an import licence has been radically shortened. In the past, more than five days were required to process an import licence; now a licence can be processed in less than one day. According to the Brazilian authorities, most documents are required for information purposes only.

244. A processing fee of up to 1.8 per cent of the transaction value was levied until December 1991. This had no relation to processing costs. Since January 1992, the delivery of import licences is subject to a fixed fee of around US$100. The documents are valid for 90 days, except for agricultural products (HS Chapters 1 to 24) for which they are valid for only 60 days.

245. Import licences are not required for certain goods listed in Annex A of the Administrative Rules for Imports (Portaria DECEX No.8).

246. In certain cases, the issuance of import licences is under special control. For example, specific prior import authorization from certain

(Footnote Continued)

import licences was temporarily suspended, the so-called "Annex C". The list, which was frequently modified, generally included items considered to be superfluous, non-essential and domestically produced. By 1987, 4,441 tariff items were listed. The list was reduced to 2,307 items in 1988 and further to 1,165 by the end of 1988.

37 The import licence fee is fixed at 180 UFIR (Unidad Fiscal de Referência), a monthly revised monetary unit. For example, the UFIR was equivalent to Cr.$700.63 in January 1992. The Government intends to eliminate the processing fee by the end of 1992.

38 The list includes mainly educational materials (such as printed books, newspapers and journals), certain medical products (such as vaccines for human medicine) and goods for handicapped people, various collectors' items, samples, returned goods and articles for personal or sporting use.
government agencies is required for a number of products. Restrictions remaining in place relate to health, phytosanitary, environment, nuclear and security considerations.

247. The principal area still subject to non-tariff measures in Brazil, besides those sectors subject to prior import authorizations, is the informatics sector. These restrictions are applied under the Brazilian "Law of Informatics" which reserves to Brazilian firms some segments of the informatics market (See Chapter V).

(ix) **Import quotas**

248. Imports into Brazil are not normally limited by annual import quotas. However, imports benefiting from special import régimes may be subject to quota restrictions. For example, duty-free imports of goods used in scientific and technological research are subject to annual import quotas (the quota for 1992 was fixed at US$150 million). Annual import quotas were also established until recently for imports into the free-trade zones.

(x) **Import surveillance**

249. Import licensing requirements and annual import programmes provided the Brazilian authorities with large scope for surveillance of imports until their elimination in March 1990. Some other elements of the Brazilian trade policy, including prior administrative approvals and the "similarity tests", provided the same discretionary power.

250. The "Law of Similars" is a product-specific check intended to prevent import authorization of similar commodities produced domestically. In times of foreign exchange shortages, the principle of similars was systematically applied. Now, it applies only to imports subject to fiscal incentives. A number of separate regulations constitute the "Law", the

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39 These include human blood, products causing physical dependence, arms and ammunition, nuclear material, herbicides, defoliants, aeroplanes (parts and components), computer goods, petroleum, raw hides and skins, and sugar and alcohol (Table AIV.6). Shipments of dangerous products, such as arms, explosives and aggressive chemical products, require the prior authorization of the Ministry of Defence.

40 The annual import programme was considered a provisional instrument aiming at permitting the annual forecast, follow-up and monitoring of Brazilian imports, taking into account the balance-of-payments situation. Enterprises with over US$100,000 in annual imports (US$50,000 for resale) were required to submit annual import programmes which, if approved by CACEX, were binding. Import limits could be increased at the discretion of CACEX. These programmes did not cover certain categories of imports. These were imports of wheat and petroleum products, imports to the free-trade zone of Manaus, imports under the drawback scheme, and imports of goods included in trade agreements negotiated with LAIA countries.
principal ones covering the following imports: (i) those with fiscal benefits (except imports under the drawback régime, BEFIEX, and the free-trade zones); (ii) those by the federal, State, and municipal administrations; and (iii) second-hand manufactures, excluding aeroplanes, ships and BEFIEX imports. The Law of Similars is not applied if the firms elect to forego fiscal benefits.

251. In assessing the existence of a similar domestic product, technical, price, quality, and delivery-timing factors were taken into account when foreign and domestic goods were compared. In some cases, the outcome was decided by an agreement between the importing and domestic producing firms (the so-called Acordo de Participação Nacional). In the past, the examination of similarity appeared to put more emphasis on simply whether Brazil produced the commodity in question than on price or quality of production.

252. The elimination of import controls under recent trade reforms implemented by Brazil, has not been replaced by any formal surveillance of any categories of imports. Currently, there is no import surveillance mechanism.

(xi) State trading enterprises

253. The Brazilian Constitution establishes a monopoly for the Federal Union on the importation of petroleum and petroleum products, including natural gas and other hydrocarbons. Activities in this sector are carried out by PETROBRAS (Petroleo Brasileiro S.A.).

254. Until 1990, trade in sugar and wheat was carried out by the Brazilian Sugar Institute and by the Wheat Board, respectively (AG/FOR/BRA/2). Both agencies were abolished in March 1990.

255. According to the Brazilian Government, two companies have been authorized to deal as "State-trading companies". The first, the Companhia Vale do Rio Doce (authorized to operate as a State-trading company on 19 March 1984), a corporation whose majority shareholder is the Government, accounts for more than half of Brazilian iron ore exports. Exports undertaken by this company have steadily increased in the 1980s. Imports represent less than 10 per cent of export values (Table IV.11). The

41 The National Participation Agreements are agreements between an importing firm and a domestic producer, or industry association, defining, in cases where the Law of Similar applies, what products are not "similar", hence may benefit from tariff concessions.

42 World Bank (1990b).
second, Petrobrás Comercio Internacional S.A. - INTERBRAS (authorized on 2 April 1976) is an incorporated company with State ownership, exporting a variety of Brazilian products. INTERBRAS is now in the process of liquidation.

256. The UNCTAD 1990 Handbook of State Trading Organizations of Developing Countries, lists one additional Brazilian company, the Companhia Brasileira de Entrepotostos e Comercio (COBEC), which was a private company under State management exporting mainly oilcake of soya bean, sugar, cocoa and coffee, and importing wheat and corn. This firm has now been abolished.

(xii) Import cartels

257. All forms of cartels, either import or export cartels, are prohibited by the Brazilian legislation.

258. Competition policy is administered by the Administrative Council for Economic Defence (CADE) which is responsible for the suppression of abuse of economic power. It has the power to investigate and order the cessation of monopolistic and oligopolistic practices. The National Department for the Protection and Defence of the Economy (DNPDE), under the National Secretariat of Economic Rights (SNDE) of the Ministry of Justice, is responsible for the enforcement of these regulations, which constitute Brazil's Competition Law. Cartel and monopolistic situations in various sectors are now being increasingly challenged. 43

259. Market distortions closely checked by SNDE include: the pricing of goods and services below their respective production costs; restricting the entry or the existence of competitors in the market (either at local, regional or national level); hindering the access of competitors to inputs, raw materials, equipment and technology sources, as well as the distribution channels; the regionalized control of the market by companies or groups; the control of distribution or supply networks by companies or groups, and the creation of economic conglomerates or groups, by means of direct or indirect share control, aimed at inhibiting free competition (Article 1 of Law 8.158). Legal proceedings are initiated by the SNDE at the request of any public administration agency. Upon learning of a situation or fact concerning any infringement to the "economic order", SNDE notifies, within eight days, the agent responsible, who must submit, within

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43 According to press reports, Brazil has stepped up a war on cartels. Up to March 1992, some 90 legal suits had been started by the Government against various companies, mainly in the pharmaceutical sector and electro-domestic apparatus sector (Financial Times, 11 March 1992).
fifteen days upon receipt of notification, written clarification. The SNDE has also fifteen days to present its findings; the agent has fifteen days, upon receipt of the report, to produce the defence. If the charges are found to be substantiated, SNDE proposes corrective measures, establishing a period for their compliance, failing which, the proceedings are forwarded to CADE for judgement and imposition of administrative penalties.

(xiii) Countertrade

260. There is no specific legislative requirement for countertrade transactions in Brazil. However, during the past ten years, a number of countertrade deals have been signed, involving mainly petroleum imports by the State petroleum firm (PETROBRAS), in exchange for exports of a variety of Brazilian products, such as bovine meat, chicken meat, sugar, soybeans, coffee, aluminium, iron and steel products, tyres, paper and motor vehicles. Although no official statistics on countertrade exist, the Foreign Trade Department (DECEX) has estimated that less than 5 per cent of the country's external trade was conducted through countertrade activities.

261. The Government of Brazil currently maintains a number of bilateral (clearing) payments agreements with central and eastern European countries, including Bulgaria, Hungary and Romania, and members of the Latin American Integration Association (and the Dominican Republic). These arrangements may have offered scope for countertrade. In 1990, trade under bilateral payments agreements with central and eastern European countries accounted for 0.5 and 1.4 per cent of total Brazilian exports and imports, respectively (Table AIV.7). Bilateral payments agreements with Poland and the former Democratic Republic of Germany were eliminated in October 1989 and December 1991, respectively.

262. Until recently, Brazil was regarded as one of the leading exponents of countertrade. The Foreign Trade Bureau of the Bank of Brazil (CACEX) supervised countertrade activities.

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44 Administrative penalties may be (cumulatively or alternatively): disqualification of the agent from public bids or contracts, registration in the National Register for Consumers' Defence, and the recommendation not to authorize payment by instalments of federal taxes.

45 Bilateral accounts with Hungary and Romania are settled in third-country currency every 90 days, and interest rates payable on balances are based on those prevailing in international capital markets.

46 CACEX used the following criteria in assessing countertrade deals: (i) the products eligible for importing were those which the country normally needed to import such as petroleum, fertilizers, coke, copper, zinc, silver, and capital goods; (ii) the products eligible for exporting were non-traditional manufactured goods for traditional markets or traditional manufactured goods destined for new markets; and (iii) the targeted countries (Footnote Continued)
263. According to press reports, Brazil and Hungary signed a letter of intent under which Hungarian enterprises would export various products against Brazilian exports of iron ore. Other countertrade deals involving Brazil, and reported by the international press, included the following: Brazilian coal shipments (400,000 tonnes per year) to pay for the installation of a 350-megawatt Italian power plant; and an agreement with the Soviet State Agro-industrial Committee under which the Brazilian side would deliver to the former Soviet Union US$30 to 40 million worth of instant coffee in exchange for vodka.

(xiv) Standards and other technical requirements

264. Compulsory technical regulations in Brazil cover health, security, environment and consumer defence. Compulsory requirements are applied equally to domestic and imported products. Brazilian norms are mainly based on international standards (such as those established by ISO, IEC and Codex Alimentarius Commission).

265. Brazil is a member of the GATT Committee on Technical Barriers to Trade. The contact point in Brazil is the Technological Diffusion and Information Centre (Centro de Informação e Difusão Tecnológica, CIDT/INMETRO).

(a) Standards, testing and certification

266. CONMETRO (Conselho Nacional de Metrologia, Normalização e Qualidade Industrial) is the Government agency establishing industrial standards and certification policy guidelines in Brazil. This agency includes representatives of 15 ministries as well as the Department of the Armed Forces, the Trade and Industrial Confederation and specialized agencies, and consumer representatives. Standards are formulated and published by the Brazilian Association of Technical Standards (ABNT), a fully private entity. The ABNT is also in charge of the revision of existing standards. Approval of a new standard is done by consensus.

267. In the past, standards in Brazil, as established by the Association, were classified into four categories: (i) compulsory throughout the

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(Footnote Continued)

were those with which Brazil experienced trade deficits or those with a shortage of currency. British Overseas Trade Board (1990), Countertrade, a Guide for Exporters, 1989/90 edition.

47 In 1983, CONMETRO created, within INMETRO (Instituto Nacional de Metrologia, Normalização e Qualidade Industrial), a Coordinating Committee on Technical Barriers to Trade. The Committee's work is related to technical barriers facing Brazilian exports in foreign markets.
country; (ii) compulsory for State-owned organizations and public services concessions; (iii) voluntary; and (iv) experimental.  The ABNT standards are now considered as Brazilian standards. The previous classification has been eliminated, and all standards are voluntary, except those established as technical regulations which are mandatory.

268. Whether voluntary or mandatory, standards apply equally to Brazilian and imported goods. For imported goods, Brazil recognizes testing procedures performed in the exporting country, provided imports are accompanied by the corresponding certificates. Spot checks at arrival may be conducted on samples. In certain cases, where there is no Brazilian standard, such as on toxic residues in foodstuffs, Brazil adopts norms established by international organizations such as the Codex Alimentarius Commission.

269. Brazil has recently approved a national standardization and quality-control project which will be administered by CONMETRO. This project also seeks to decentralize the administration of standards in Brazil. It aims also at adopting international standards as Brazilian norms.

270. In 1973, the Government created the Special Secretariat on the Environment (SEMA) to control the use of natural resources and formulate national policy in the area of pollution control.

271. Natural and synthetic rubber must be in conformity with the environmental protection requirements, as established by the Brazilian Institute for the Environment and Renewable National Resources, IBAMA.

272. Health and safety regulations are also applied on a variety of products. A number of products such as pharmaceuticals, cosmetics, diet products, domestic cleaners, disinfectants, detergents, insecticides, nutritional additives, perfumes and colorants are subject to prior approval by the Health Ministry before they can be imported, manufactured or sold in Brazil.

Footnote:

48 For example, the inspection, registration and taxation of agricultural inoculants, correctives and fertilizers is compulsory throughout Brazil. Applicable goods have to be analysed by and registered with an appropriate food, health or safety authority (Law 6.138 of 8 November 1974).

49 One of Brazil's concerns is to achieve agreements with its major trading partners concerning the acceptance of testing procedures performed in Brazil.

50 Chemicals for the manufacture of pharmaceutical products, medicines, cosmetics, toilet preparations and certain medical instruments may only be imported if they are included (Footnote Continued)
(b) Sanitary and phytosanitary regulations

273. Strict sanitary and phytosanitary regulations are enforced by the Brazilian authorities with a view to prevent the importation and dissemination of plants and animals diseases. Quarantine requirements, applied according to specific legislation, vary according to the imported product.

274. Sanitary and phytosanitary requirements established by the Ministry of Agriculture apply to imports of live animals, meat, fish, dairy products, eggs, honey, animal waste, live plants, vegetables, fruits, maize, rice, oil seeds and oleaginous fruit, prepared foodstuffs, beverages, spirits and vinegar. These requirements are not different from those applying to domestic production.

(c) Marking, labelling and packaging

275. There are no specific requirements regarding the marking, labelling and packaging of merchandise imported into Brazil. However, there are special labelling regulations on animal products and derivatives, medicines, pharmaceutical specialties, and certain foodstuffs including alcoholic beverages. Country of origin marking is not generally required.

276. Special labelling requirements for tobacco products and alcoholic beverages include the warnings regarding potential health dangers, which must be placed on the packaging of such items.

277. Textiles and textile products covered by Decree No. 75.074 (of December 10, 1974) must indicate the fibre content before they can be sold in Brazil.

278. Law 6.624 established that the label or packaging of foreign products having a "national similar" might contain specific information (a label saying "Existe produto brasileiro similar") before such products could be sold in Brazil. The former Ministry of Industry and Commerce periodically published a list of products imported into Brazil that had a similar national product. This law was abolished in May 1988. Currently, no similar requirement is applied to any products.

(Footnote Continued)
in a list of admissible products established by the Ministry of Agriculture or the Ministry of Health. A conformity certificate is required.
Government procurement

279. Brazil is not a signatory to the GATT Government Procurement Code. Decree-Law 2.300 of 21 December 1986 regulates government procurement in Brazil. Under this regulation, procurement by the Federal, State and municipal governments and agencies is to be conducted through a public tendering system. The open period for bidding varies according to the contract. Appeals procedures are available to participants (Article 75 of Decree-Law 2.300).

280. As a general guideline, Article 171 of the Constitution authorizes legislation granting a preference to Brazilian firms of national capital in all government purchasing. Decree-Law 2.300 also establishes that preference should be given to goods and services produced in Brazil, when bids are equivalent in terms of price, quality and delivery time. No specific margin of preference is set. Some State-controlled firms still specify contracts as open only to "national" firms.

281. There is no central procurement agency in Brazil. In 1982, a Secretariat for the Control of State Enterprises was created to oversee and control the budgets of parastatal entities; including setting overall annual import quotas by agency. However, the determination of the goods to be imported remained under the control of each agency. Currently, each government body, including State enterprises, purchases independently. However, some control is exercised through the budgets, and purchases are made under general guidelines set by the Government.

282. Foreign or Brazilian contractors with a government agency may import the products covered by the contract duty-free. In cases involving international bidding to supply goods and services for specific government projects, successful bidders are required to have local representatives. Decree-Law 666 of July 1969 requires that all goods imported by government agencies be transported in Brazilian flag vessels. This provision is being

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51 As specified under Decree-Law 2.300, tenders are invited by using specific procedures, such as the open competition, selective tendering, invitations to tender (convite), and public auction.

52 Procurement by the federal, State and municipal governments apparently follows a "buy national" policy, discriminating against foreign-owned firms (USTR (1992)).

53 For example, a directive issued by the Ministry of Communications in June 1978 requires central telephone processing equipment to be purchased only from majority Brazilian-owned firms. The Government-owned holding company, TELEBRAS, may only procure foreign equipment when the product is not available from Brazilian manufacturers or when delivery time or other technical considerations make domestic purchasing impractical.
attenuated by privatization and withdrawal of Government from many economic activities.\textsuperscript{54}

283. Until 1985, Federal ministries and subordinated agencies and enterprises were required to submit, for approval by the President, annual investment programmes indicating their import requirements. Since 1976, the Government fixed an annual global ceiling for imports by public entities and for purchases in the domestic market by the public sector of machinery, equipment, vehicles and spare parts of foreign goods. The ceiling was US$2.3 billion in 1984.

284. As regards imports, government agencies may benefit from tariff exemptions only if there is no similar domestic production. The existence of a domestic similar does not restrict importation; it implies merely that imports must pay the m.f.n. tariff.

285. Data on the total value of goods purchased by public sector agencies (Federal, State and local governments) are not available. It is therefore not possible to know the share of purchases and contracts allocated to foreign and domestic suppliers.

(xvi) Local content schemes

286. Until recently, many government agencies encouraged foreign firms to accept local partners and to increase the percentage of local content in their products as a quid pro quo for concessionary financing, tax incentives, import privileges or price increases on goods subject to controls.\textsuperscript{55} Financial and fiscal incentives granted by the Industrial Development Council (CDI) was conditioned upon achieving minimum domestic content goals for machinery, equipment and other manufactured goods. Financing from the National Bank for Economic and Social Development (BNDES) or the ability to sell products to the public sector was usually conditioned upon securing Certificates of Manufacturing Registration. These certificates were issued either when a firm's products had reached 90 per cent domestic content in weight and value or when the CDI had

\textsuperscript{54} For example, in the past, all wheat was imported by a government agency, therefore all imported wheat had to be transported in a Brazilian flag vessel. Now, wheat imports are carried out by private agencies and consequently are not subject to the shipping requirement. Decree-Law 666 is also applied to imports benefiting from fiscal incentives. In this case also, the incidence of the shipping requirement has been reduced because of the elimination of many such incentives.

\textsuperscript{55} For example, in petrochemical ventures, the Government generally sought a three-way split among State capital, private Brazilian capital and foreign capital for official financing purposes.
approved a plan committing the firm to achieve a prescribed domestic content percentage within a specific time frame.

287. According to Brazilian authorities, all local content requirements have been eliminated by the current Government. Tax incentives linked to minimum local content have also been eliminated.

288. However, in February 1991, Decree No.123 of the Ministry of Economy, Finance and Planning established at 60 per cent the local content requirement for official credit and government procurement. Hence, local content requirement by the Special Agency for Industrial Financing (FINAME under the BNDES) was reduced from 80 to 60 per cent.

(xvii) Rules of origin

289. A certificate of origin is not required for m.f.n. imports, but the origin must be indicated on the commercial invoice. For imports benefiting from preferential entry, certificates of origin may be required. For example, preferential imports from LAIA countries must be accompanied by a certificate of origin according to the LAIA format.

290. Brazil does not apply specific rules of origin. However, when tariff exemptions or reductions are granted to specific countries, the origin of the merchandise is determined by the substantial transformation criteria (Article 133 of Law 91.030 and Decree-Law 37). Rules of origin applying to preferential imports from LAIA are governed by the respective agreements.

(xviii) Anti-dumping and countervailing measures

291. Brazil is a party to both the Agreement on Implementation of Article VI of the GATT (the Anti-Dumping Code) and the Agreement relating to the interpretation and application of GATT Articles VI, XVI and XXIII (the Subsidies Code) (See Chapter II). In 1987, the Brazilian Government introduced GATT-conforming countervailing and anti-dumping laws to replace a system of surcharges levied against a list of products considered as being dumped in Brazil ("pauta de valor mínimo" and "preço de referência").

292. Brazil's domestic legislation establishing administrative procedures for the application of anti-dumping and countervailing measures is

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56 FUNCEX (1992). It was also reported in mid-1990 (Latin American Regional Reports - Brazil, 12 July 1990 and Journal of Commerce, October 1-14 1990) that to qualify for Government financing, the minimum national content of locally produced industrial goods had been lowered from 85 to 70 per cent.
contained in Resolution No. 00-1227, as amended by Resolution No. 00-1582, adopted by the Customs Policy Commission (CPA). Under this legislation, the Customs Policy Commission was the national body authorized to administer all procedures relating to the application of anti-dumping and countervailing measures. Following the dismantling of the CPA in 1990; these procedures are now administered by DECEX (through the Coordenaçao Técnica de Tarifas, CTT).

293. Petitions, which may be presented by an affected "domestic industry", are to be addressed to the CTT. The petitions shall contain sufficient evidence of the existence of dumping or subsidy and demonstrate that such practices cause "injury" to the said industry. The CTT may initiate an investigation of its own accord if it judges that there is sufficient evidence of dumping or subsidy and injury. The decision to open or not an investigation must be taken within 45 days from the day the petition was lodged with DECEX.

294. The decision to initiate an investigation is published in the Federal Official Gazette, indicating the country or countries concerned and a summary of the reasons justifying the measure. Interested parties have 20 days to prepare arguments and appoint legal representatives. All documents and arguments must be presented in Portuguese.

295. After the initiation of an investigation and when a preliminary examination verifies the existence of dumping or subsidy and sufficient evidence of injury caused by such practices, provisional anti-dumping or countervailing duties may be imposed. Provisional measures have to be

57 In July 1991, Decree No.174 established rules for the imposition of countervailing duties to subsidized imports of agricultural products. During the investigation of the existence of unfair or predatory competition, authorities consider if the wholesale price of imported products is lower than that of similar products of national origin, taking into account a 5-year period.

58 The terms "domestic industry" and "injury" are interpreted in accordance with the provisions of the Anti-dumping Code and the Subsidies and Countervailing Duties Code of the GATT.

59 Once the investigation is initiated, interested parties (petitioner, domestic industry, importers, exporters and the government of the exporting country, only for subsidy investigations) are requested to answer to a questionnaire within 40 days.

60 The European Communities expressed its concern that provisional measures could be applied before interested parties had been in a position to adequately defend their interests (GATT document ADP/M/31 of 17 January 1991). The Brazilian authorities consider that, if there is a delay in the submission of responses to questionnaires and the circumstances are such that a domestic industry is being injured, provisional measures can be imposed even before responses to questionnaires had been received (GATT document ADP/M/28 of 21 September 1990). According to Portaria MEFP No.132 of 18 February 1992, provisional measures may be decided during a period of up to 20 days from the initiation of the investigation.
decided within 20 days after the initiation of the investigation. These measures take the form of a requirement that a security deposit (in cash) or bond be posted, equivalent to the value provisionally estimated of the additional duty. Provisional measures may remain in force for a maximum period of four months, except in the case of anti-dumping measures which may remain in force for a period of up to six months.

296. When undertakings to eliminate the injurious effects of dumping or subsidy are accepted by the authorities, the investigation is suspended and no provisional or definitive measure is imposed. Whenever a final decision is reached that there is dumping or subsidy and injury to domestic industry resulting from these practices, definitive anti-dumping and countervailing duties are imposed. Final decisions are published in the Federal Official Gazette. The measures take the form of additional ad valorem import duties. Anti-dumping or countervailing duties as well as any accepted undertaking may remain in force for a period of up to five years. However, the period of validity of these measures may be prolonged when an interested party demonstrates that the termination of the measure would cause injury to the domestic industry.

297. The Brazilian anti-dumping and countervailing legislation provides for appeals procedures at the administrative and judiciary levels. These procedures may be activated by any interested party, including the exporter.

298. Until mid-1991, Brazil was not very active in the pursuit of anti-dumping or countervailing duty cases. The first Brazilian anti-dumping case was initiated in May 1988. Up to 30 June 1991, Brazil had notified to the GATT the initiation of only four anti-dumping investigations (one in May 1988, one in January 1989 and two in October 1990). Only two tariff items were involved, namely bicycle chains (from Czechoslovakia and India) and Portland cement (from Argentina and Uruguay).

299. Since mid-1991, the use of anti-dumping and countervailing measures has become more frequent. The current situation on anti-dumping cases is shown in Table IV.12. Definitive anti-dumping duties are applied to imports of bicycle chains of iron and steel from Czechoslovakia

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61 The conversion of the provisional measure into Federal revenue is determined by an Act of CTT when the final decision is made.

62 According to certain analysts, this may have resulted because of the stringent import controls maintained by the Brazilian Government, which made domestic production "immune" to unfair foreign trade practices (Cornet and Fonseca (1987)).
(4.7 per cent) and India (11.1 per cent)\(^{63}\), as well as to imports of anhydrous aluminium chloride coming from Canada (at 32 per cent) and the United States (at 37 per cent).\(^{64}\) Price undertakings by Argentina and Uruguay were accepted for imports of Portland cement.

300. Current anti-dumping investigations by Brazil cover five products (yarn and woven fabrics, sacks and bags of jute, ferro-chromium, unwrought magnesium, and polyvinyl chloride) and affect seven countries (Bangladesh, Canada, India, Mexico, Norway, South Africa and the United States).

301. Brazil notified to the GATT that up to 30 June 1991, it had not taken any countervailing duty action. In November 1991, a definitive countervailing duty (15.9 per cent) was fixed for imports of vulcanized rubber thread and cord when originating in Malaysia.\(^{65}\) A provisional countervailing duty was imposed on imports of milk powder (concentrated or containing added sugar) when originating in the European Communities. Provisional rates were established in April 1992 at 52 per cent. An anti-dumping and countervailing investigation was also initiated in November 1991 concerning imports of yarn, woven fabrics, sacks and bags of jute from Bangladesh and India.

(xix) Safeguard actions

302. Brazil does not have a specific domestic legal basis for implementing safeguard actions. The Foreign Trade Department (DECEX) may control foreign trade operations in Brazil, when required by the "national interest". So far, no such measure has been undertaken by DECEX. Brazil has not taken any actions under Article XIX of the GATT relating to Emergency Action on Imports of Particular Products.

303. As a member of the LAIA, Brazil may apply transitory and non-discriminatory safeguard clauses restricting imports to protect local producers from severe market disruptions caused by too many imports

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\(^{63}\) Definitive anti-dumping duties are also levied on imports of the same product originating in China (at 19.6 or 38 per cent, depending on the exporting company) and the former Soviet Union (at 25 per cent).

\(^{64}\) Imports of these products were already subject to provisional anti-dumping duties since August 1991, fixed at 37 per cent for products coming from Canada and at 33 per cent for those originating in the United States.

\(^{65}\) This CVD investigation was initiated on 12 March 1991. The trade volume involved was 591,000 kg and the share of subsidized imports in domestic consumption was 43 per cent (GATT document SCM/136/Add.3).
entering under preferential terms. For example, in February 1992, Brazil decided to use the LAIA safeguard clause on imports of refined copper originating in Chile. Preferential imports are subject to annual non-cumulative quotas distributed in a three-monthly basis.

304. Under the MERCOSUL Agreement, Brazil may also apply safeguard provisions to imports of products covered by the trade liberalization programme (until 31 December 1994). Safeguards may be applied when imports of a specific product are causing or threatening serious injury as a consequence of a significant rise in imports of that product over a short period of time. The determination of serious injury or threat thereof is made by the country directly affected.

(xx) Measures implemented in exporting countries

305. Brazil has not imposed any export restraint agreements on other countries exporting to the Brazilian market.

(xxii) Free-trade zones, export processing zones

308. Brazil's main free-trade zone, the largest in South America, is located at Manaus, in the State of Amazonas. It was created in 1967 for a

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66 Articles 1 and 3 of Exhibit 1 to Resolution 16(III) of the Council of Ministers of the LAIA ("Integración Latinoamericana", No. 123, Buenos Aires, May 1987). The procedures for the application of safeguard clauses within LAIA are contained in each partial-scope agreement.

period of 30 years. The free-trade status has been extended by the new Constitution for a period of 25 years starting in 1988. The Superintendence of the Free-trade Zone of Manaus (SUFRAMA) is the responsible agency.

309. Since 1989, six other free-trade zones have been created in Brazil. They are intended to promote regional development and increase bilateral trade with neighbouring countries. Their activities are more related to trade than to production. 68

310. Goods of foreign origin or coming from elsewhere in Brazil may enter free-trade zones without payment of customs duties and IPI taxes if they are for consumption in the zone or for use by industry, agriculture and fishing. 69 The same exemptions apply to goods stored in the zones for processing, re-export or transhipment to other points in Brazil. No taxes are levied on goods produced in the free zone, except for the ICMS applied to shipments to other locations in Brazil. Licences are required for importing into the zone.

311. Although annual import quotas were established for the free-trade zones until 1991, various items could be exempt from the quotas. Examples included petroleum, wheat, manufacturing inputs for products which would subsequently be re-exported, and goods imported under a drawback arrangement. For 1990, the annual quota for imports into Manaus was set at US$1.27 billion, and for Tabatinga at US$15 million. According to Brazilian authorities, since 1992, there are no import quotas for the free-trade zones. Producing firms must, however, present an Annual Production Programme indicating their import needs. This measure is also applicable to trading firms, which must present an Annual Import Programme to SUFRAMA.

312. According to recent press reports, the Manaus free-trade zone is on the decline. In 1990, commercial activity has fallen by almost 40 per cent, and unemployment in the zone increased considerably. The superintendency of the Manaus Free-trade Zone, SUFRAMA, has estimated that around 90 per cent of the production in the zone was destined for the

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68 Since 1989, six free-trade zones were created in Tabatinga, on the border with Colombia, in Guajará-mirim (in the State of Rondônia), in Pacaraima e Bonfim (in the State of Roraima), and in Macapá and Santana (in the State of Amapá).

69 In general, tax exemptions do not apply to arms and ammunition, passenger cars, computers, alcoholic beverages, perfumes and tobacco products.
Brazilian domestic market. Smuggling has, at certain times, affected the activities of the region. The general trade liberalization measures have reduced the interest in the free-trade zone.

313. Export processing zones are presented later in the section concerning measures directly affecting exports.

(3) Measures Directly Affecting Exports

314. Until very recently, Brazilian exports were largely controlled. A non-transferable export licence was required from CACEX for all products exported from Brazil, except for coffee, whose exportation was subject to special rules under the authority of the Brazilian Coffee Institute (IBC). CACEX also used minimum export prices to control export prices. Export taxes ranging between 10 and 40 per cent of the f.o.b. value were levied on certain exports. Coffee exports were subject to a special surcharge imposed by the IBC.

315. New regulations, established in March 1990, have eliminated the great bulk of export controls and taxes, and have streamlined export procedures. Although still required, the export licence (Guia de Exportação) is now granted automatically. Brazil's current export régime is contained in the Administrative Rules for Exports (Portaria DECEX No.9 of 13 May 1991).

316. In February 1992, the Brazilian Government issued a number of export incentive regulations. These measures included the establishment of an "internal" drawback, reductions of domestic taxes levied on exports, and export promotion and financing facilities.

(i) Registration, documentation

317. All exporters must be registered with the Foreign Trade Department (DECEX). The registration procedures, which are the same as those for importers, appear to be simple and undemanding. The export registry can be

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According to Mr. Alfredo Nascimiento, president of SUFRAMA, industries in the zone did not care about the quality and prices of their products, given the previous highly protective nature of Brazil's trade structure. (Le Monde, 9 December 1991).

High-technology products with imported components are typical in the zone which produces televisions, videocassette cameras, recorders and tapes, automobile stereos, compact-disk players, computer equipment, etc. It was estimated that a Sao Paulo-based manufacturer of televisions sets saves around 20 per cent of final production costs by assembling in the Manaus zone because of its tax breaks. All of Brazil's motorcycle assembly operations are located in the zone.
suspended or cancelled, among other reasons, if no foreign trade transaction occurred in two or more consecutive years, or if the exporter commits exchange or fiscal fraud.

318. The main documents used for exporting goods from Brazil are the fiscal receipt attached to the export declaration form or the export licence. In certain cases, different documents may be required, such as the special export document, the prior sales registry or certificates of origin (Annex IV.2). The issuance and processing of export documents are free of charge. As already noted, the Government is in the process of streamlining customs procedures. With the introduction of a new computerized system (SISCOMEX) in October 1992, export registration will be performed with a single document.

(ii) Export taxes, charges, levies

319. Export taxes (Imposto de Exportação) have not been used extensively in Brazil and have practically disappeared. According to the Brazilian authorities, such taxes apply now only to raw hides and skins at 9 per cent. Before March 1991, export taxes, set at between 1 and 10 per cent of f.o.b. value, accounted for less than 1 per cent of government tax revenue (Chart IV.5). The 10 per cent rate was levied on exports of cocoa and cocoa preparations (Table IV.13). For certain products, such as concentrated orange juice, two different rates were applied depending upon the export destination, i.e. the United States (at a higher rate) or the rest of the world.
320. In addition to the products listed in Table IV.13, a number of goods had also been subject to export taxes, which resulted from anti-dumping or countervailing investigations conducted by major trading partners against Brazilian exports. For example, certain steel products when exported to the United States were subject to a 12.18 per cent export tax until 1988. In February 1988, these export taxes were abolished, following the inclusion of these products in a voluntary export restraint agreement (Section (viii) below). To avoid the imposition of countervailing duties, in January 1990, the tax on exports of three-phase electric motors to Canada was increased to 24.6 per cent; the tax was subsequently reduced in August 1990 to 4.79 per cent and to zero in March 1991. Ladies' footwear was subject to a 2.2 per cent tax when exported to the European
Communities. In the case of concentrated orange juice, the export tax was levied also to avoid restrictions which might be imposed by the United States.

321. Certain products are subject to internal taxation which is not rebated on export. For example, the ICMS State tax of 13 per cent is levied on exports of primary and semi-manufactured products. Although manufactured products are not subject to this tax, they are indirectly affected through the tax charge on their inputs.

(iii) Minimum prices

322. Until March 1990, CACEX controlled the prices at which goods could be exported from Brazil by setting minimum export prices. These were mainly linked to the margin between official and parallel exchange rates.

323. As a general rule, Brazil does not now use minimum export prices, except for sisal exports.

(iv) Export prohibitions

324. The export of certain goods is controlled for reasons of insufficiency of internal supply, protection of Brazilian wild flora and fauna and development of the domestic production in certain sectors, such as livestock. A number of agricultural and mineral products (such as tin ores and concentrates) are subject to export control or suspension. The measures affecting native flora and fauna are justified by Brazil under Article XX of the GATT (NTM/INV/IV.B.7). For example, the export of hides of wild animals in any form is suspended.

325. Exports of certain products are prohibited or controlled according to international agreements such as the CITES. All exports to Haiti, Iraq and the Federal Republic of Yugoslavia (Serbia and Montenegro) are prohibited according to United Nations resolutions (the Organization of American States in the case of Haiti). A trade embargo against South Africa also prohibits exports of petroleum, petroleum products, arms and ammunition. A trade embargo is also followed by Brazil on exports of arms and ammunition to Libya and Somalia.

72 The European Communities had initiated an anti-dumping investigation on that product in 1981.

73 The list of current export prohibitions is given in Annex A of the Administrative Rules for Exports (Portaria DECEX No.9).
(v) **Export licensing**

326. Most goods can be exported from Brazil using an export declaration form, which is completed and issued by the exporter. A relatively low number of products (564 items) is specifically subject to export licensing requirements (Guia de Exportação). Export licences are also required for all products exported under specified conditions.⁷⁴

327. The export licence must be obtained normally before goods are shipped abroad. However, certain products may be shipped before the licence is issued, in which case exporters have 20 days from the day of shipment to present the licence. The validity period of the export licence is 30 days. Some products are free of specific export controls, but the exportation of several commodities require the prior approval of DECEX. Export licences are issued by DECEX free of charge.

328. Products subject to an export licensing requirement are listed in Table AIV.8. All other products may be exported using the export declaration document, which is issued by the exporter himself. This was established with a view to streamlining export procedures.

329. The present situation represents a considerable easing of controls on exports. Until 1991, existing export licensing requirements, administered by CACEX under Communiqué No.182 of October 1987, required the submission of basic information, such as the export price, quantity, date of transaction and terms of payment. Since June 1987, the list of products subject to export licensing has been gradually reduced from about 2,000 items to the current 564 items.⁷⁵

330. Coffee exports, subject to internationally agreed quotas, were also subject to authorization by the Brazilian Coffee Institute (IBC) and hence to export licensing. The authorization was not granted if an export price was less than the minimum registration price fixed periodically by the IBC for the various types of coffee.

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⁷⁴These include: goods subject to prior sales register, goods in consignment, goods without exchange cover, goods for international fairs and exhibitions (of a value exceeding US$5,000), steel and textile products under bilateral and multilateral agreements, goods subject to export taxes (except when the export tax is zero), goods subject to prior authorization by other agencies, used machinery, equipment and instruments, iron ore waste and residues, and tin and articles thereof (HS Chapter 80). An export licence is also required for re-exports or when payment is not made in foreign currency.

⁷⁵Products subject to export licences included some primary commodities, goods on consignment and without exchange cover, steel and textile products under bilateral and multilateral agreements, and goods subject to export taxes.
331. Beginning in March 1990, all exports of primary products from Brazil were deregulated, except for sugar and related products for which some control remained to protect the Government's sugar-alcohol programme.

(vi) Export quotas

332. In the past, Brazil used quantitative restrictions to limit exports of certain products that were in short supply in the domestic market. Currently, no such restrictions exist, but the legislation is still in place. Other export quotas resulted from international commodity agreements. For example, coffee was subject to export quotas fixed by the International Coffee Agreement (ICA).

333. Sugar exports are still limited by quotas, which are fixed in connection with Brazil's Pro-alcohol programme (Chapter V). According to the Brazilian Government, export quotas for sugar will be eliminated in 1995. Tin is also currently subject to an export quota established by the Association of Tin Producing Countries (ATPC), although Brazil is not a member of this association but has an observer status.

334. Export quotas are also fixed (twice a year) for sawn wood from species under environmental control. The quotas (by volume, i.e. cubic metres) are determined by IBAMA (Instituto Brasileiro do Meio Ambiente e dos Recursos Naturais Renováveis). They are allocated only to registered enterprises. Export quotas are also fixed for cashew nuts exported from the State of Ceará (Portaria DECEX No.4 of 10 February 1992).

(vii) Export cartels

335. As noted earlier, according to Brazilian authorities, all forms of cartels are prohibited (Section 2(xii)). The Government is not aware of the existence of any export cartel.

336. Existing export monopolies may result from regulations contained in the Constitution or because of the nature of the exported product. For example, certain products can only be exported directly by a government agency. Petrobras (Petróleo Brasileiro S.A.) is the only agency allowed to export petroleum and petroleum products from Brazil. This results from the federal union monopoly on all activities related to petroleum established by the Brazilian Constitution.

(viii) Voluntary restraints, surveillance and similar measures

337. Until recently, Brazil maintained two export restraint arrangements, both concerning iron and steel and products thereof, signed with the European Communities and the United States. Brazil and the United States
signed a global arrangement on steel specifying export quotas for the period 1984-89. The VRA agreement, renewed in October 1989 for a period from 1 October 1989 to 31 March 1992, covered a wide range of iron and steel products. This agreement expired on 31 March 1992. The bilateral arrangement signed with the European Communities, covering also a wide range of iron and steel products, expired on 31 December 1991. Neither agreement had been renewed at the time of preparation of this report (July 1992).  

338. Brazil currently maintains three export restraint arrangements under the Multifibre Arrangement (MFA), with the European Communities (since 1976), the United States (1976) and Canada (1979). All agreements have been renewed for an additional year from the end of 1991 (in the case of the United States, from March 1992).

339. There is also a voluntary arrangement undertaken by the Brazilian industry by which companies restrict exports of sisal to the European Communities.

(ix)  **Export subsidies**

340. According to Brazil's latest notification to GATT, no subsidies are currently granted or maintained in the sense of Article XVI:1. Export subsidies have been gradually eliminated.

341. In the past, Brazil operated various special systems which were considered as export subsidies. These included the following: (i) a credit premium on the Industrialized Products Tax (IPI), for exports of manufactured products, which was terminated in May 1985 following Brazil's accession to the Subsidies Code; (ii) an income tax exemption, revoked by Law 8.034 of 12 April 1990; and (iii) benefits of working capital financing for exports, financing for trading companies, and financing for storage of goods, which were all revoked by Central Bank Resolution No.1.744 of 30 August 1990 (having previously been suspended from 22 February 1989).

342. The income tax exemption, available up to December 1987, granted only if the enterprise had both operational and taxable profits on export

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76 Steel products may now, in principle, be freely exported to either the European Communities or the United States. However, in the U.S. market, Brazilian steel exporters (as well as other exporters) are currently facing a number of anti-dumping and countervailing investigations.

activities, varied in accordance with the proportion of export sales in relation to total sales of the enterprise. The subsidy benefit per unit exported was estimated at 0.004472 per cent in 1987. Since 1988, export profits have been taxed, although at a reduced rate. Income tax (on export profits) was levied at 3 and 6 per cent in 1988 and 1989 respectively, compared to a normal rate of 35 per cent. According to the Brazilian Government, the income tax levied on exports of manufactured products and services was raised up to 30 per cent in 1991.

343. Working capital financing, available until August 1990, was provided for the production of exported products. Firms eligible for credit were required to present the previous year's export performance or an export plan. In most cases, the amount of financing was based on the previous years' exports. Financing of the export programme was made directly by banks authorized to perform exchange operations using their own resources and applying the prevailing market interest rate.

344. Financing for trading companies exporting manufactured products, available until August 1990, was also made directly by commercial banks using their own resources and applying prevailing market interest rates. CACEX ensured the payment of financial fees up to 15 per cent per annum in 1987 and 7.5 per cent in 1988. Exporters were also eligible for concessional financing of the value of merchandise placed in a specified bonded warehouse and destined for export. Terms and conditions were similar to those applied to the two previous financing facilities.

345. The amount of benefits per unit exported resulting from the three financing facilities was estimated by the Brazilian Government at 0.66 per cent in 1987 and 0.96 per cent in 1988.78

346. Currently, the interest rate equalization component of PROEX financing - to the extent that it makes export financing available at rates lower than commercial levels - may contain a subsidy element (see the section on export financing).

(x) Duty and tax concessions

347. Until recently, Brazil maintained a wide range of fiscal incentives for manufactured exports. These consisted mainly in the restitution of indirect taxes (Table IV.14). In 1984, export incentives accounted for 48 per cent of the f.o.b. value of exports. They played an important rôle

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78 Notification by Brazil in GATT document L/6450/Add.6.
in neutralizing the anti-export bias created by Brazil's protection structure.

(a) Drawback

348. Duty drawback was established in Brazil in August 1957 (Law 3.244), though it did not go into effect until June 1964. Subsequent changes in the law were significant, especially with regard to commodity coverage. The drawback mechanism was one of the first export incentives available to the Brazilian export sector.

349. The drawback system, as now regulated by Decree 91.030 (Articles 314 to 334), provides for the suspension (after examination of export plans), exemption (granted through specific acts or regulations) or restitution (applied by the Ministry of Economy, Finance and Planning by means of fiscal credits) of import taxes (as well as IPI, ICMS, AFRMM and other taxes) when the imported goods are to be manufactured, used in the manufacturing, processing or packaging stage for export. The f.o.b. value of exports must be at least 40 per cent higher than the value of imports. The Customs Policy Commission (CPA) had the responsibility of authorizing drawback operations, for which a specific licence was issued. Drawback benefits are now granted by DECEX. The maximum time periods that materials may remain in Brazil (five years for capital goods) and other rules governing drawback have been recently eased.

350. The incentive rate granted by the drawback régime during the first half of the 1980s varied between 7.7 per cent and 10.3 per cent of all manufactured exports (Table IV.15). In 1975, exports benefiting from drawbacks amounted to US$1.5 billion and accounted for 25 per cent of total exports of manufactured and semi-manufactured products. In 1985, drawback exports amounted to US$6.2 billion. It was not possible to estimate the share of exports benefiting from duty drawbacks for the more recent years.

(b) BEFIEX programmes

351. In May 1972, the Government of Brazil created the Commission for the Concession of Fiscal Benefits for Special Export Programmes, BEFIEX (Comissao para Concessao de Beneficios Fiscais a Programas Especiais de Exportacao). Until mid-March 1990, BEFIEX programmes granted special incentives to firms agreeing to export certain manufactured products. This programme has been labelled the "single most important policy instrument

affecting the trade régime of foreign firms in Brazil". Under BEFIEX programmes, companies committed themselves to achieving fixed export targets (for a maximum term of 10 years) so as to obtain tax and import duty relief on imported inputs and machinery.

352. To receive fiscal benefits, enterprises were required to present long-term export programmes, and satisfy minimum local content in exports and in total production. The value of imported inputs (with fiscal benefits, except for drawback operations) by these firms could not exceed one-third of the net value of their average yearly manufactured exports.

353. Incentives granted by BEFIEX included: 90 per cent reduction of import duties and the Industrialized Products Tax (IPI) on imported machinery and equipment; 50 per cent reduction on import duties and IPI tax on imported raw materials, parts and components, and other intermediate products; exemption from the "similarity" test; and income tax exemption on profits attributable to exports of manufactured products. Since 1988, additional incentives included the exemption of the AFRMM tax on imports and accelerated depreciation for machinery and equipment (domestically produced) used in the production process and in technological development activities.

354. The import duty relief was the most important fiscal incentive. During the 1980s, its value varied between US$280 million (in 1983) to US$796 million (in 1981). In 1990 it stood at US$415 million. The share of all tax reliefs (under BEFIEX programmes) in the value of imports also varied considerably. It decreased from 87 per cent in 1980 to 71 per cent in 1985 and 42 per cent in 1990 (Table IV.16).

355. Between 1972 and 1985, 316 contracts were signed, mainly with the transport equipment and textiles and clothing industries (Table AIV.9). Exports under BEFIEX contracts increased considerably during the 1980s, passing from US$1.8 billion in 1980 to US$9.2 billion in 1990. In 1989, BEFIEX-linked exports covered about one half of all manufactured exports, compared with 20 per cent in 1980 and 10 per cent in 1974. The transport equipment sector accounted for almost one half on all BEFIEX exports between 1972 and 1990. Other sectors benefiting from BEFIEX were metallurgy, textiles and electric and electronical equipment (Chart IV.6).

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When the President of the Republic deemed an export programme important to the economic interest of the country and the investor agreed to export more than he imported, BEFIEX granted exemptions of up to 100 per cent of import duties, IPI and ICMS taxes.
Chart IV.6
Exports under BEFIEX programmes
(cumulative 1972-1990)
(Per cent)

<table>
<thead>
<tr>
<th>Category</th>
<th>Per cent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Transport equipment</td>
<td>45.7</td>
</tr>
<tr>
<td>Metallurgy</td>
<td>15.1</td>
</tr>
<tr>
<td>Textiles</td>
<td>6.8</td>
</tr>
<tr>
<td>Electrical and electronic equipment</td>
<td>6.2</td>
</tr>
<tr>
<td>Footwear and leather goods</td>
<td>5.6</td>
</tr>
<tr>
<td>Paper, cellulose and cardboard</td>
<td>5.1</td>
</tr>
<tr>
<td>Mechanical equipment</td>
<td>5.6</td>
</tr>
<tr>
<td>Others</td>
<td>9.9</td>
</tr>
</tbody>
</table>

Source: Government of Brazil.

356. New BEFIEX programmes were suspended in March 1990, but tax incentives under existing programmes were to continue to apply during the entire validity period of the previously agreed export programmes.

(c) Other incentives

357. Brazil exempts most exported goods from the payment of domestic taxes. Exported industrial products are thus exempt from the payment of the IPI tax.\(^{82}\) As regards the State value added ICMS tax, the exemption covers exports of industrialized products only. Most raw materials and semi-manufactured products are subject to the payment of the ICMS tax. Under special conventions between States and the Federal Government, certain products are exempt from the ICMS tax when exported to foreign

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\(^{82}\) The IPI domestic tax is levied only on industrialized products.
markets. These include gourds, plums, bananas, figs, oranges, lemons, apples, melons, water-melons, strawberries, grapefruit, grapes, flowers and ornamental plants, and eggs.

358. In February 1992, the Brazilian Government established a special regulation (called drawback interno) by which the payment of the IPI tax was suspended on sales of inputs, intermediate products and packaging materials produced domestically and used in the production of exportable goods.

359. An IPI reimbursement credit is also made available to firms buying domestic goods for subsequent export. Such rights may be transferred, within the same firm, among different sectors. The fiscal incentives for exports, as re-introduced under Law 8.402 of January 1992, already existed in the past under the Constitution.

360. All imports receiving fiscal benefits are subject to the "similarity test", by which DECEX checks the existence of a domestic product capable of substituting for the foreign good. When a similar domestic product exists, tax benefits are not granted. In certain cases, such as under the drawback régime, the similarity test is not required.

(xi) Export finance

361. Until early 1989, Brazil provided subsidized pre- and post-shipment export financing. Pre-shipment financing was granted mainly under a special government programme for export finance that subsidized the cost of working capital for production of manufactured products (Fundo de Financiamento à Exportação, FINEX, administered by CACEX). Working capital for export production was provided at subsidized interest rates. The subsidy, varying between 5 and 7½ percentage points, was financed by government transfers.

362. Subsidized post-shipment financing was available under various programmes until 1990. One of the programmes, also administered by CACEX, allowed maximum repayment by foreign importers within six months, for products with relatively low value added, to eight years for high priority

\[83\] Pre-shipment export financing is also available at non-subsidized interest rates. This involves advances in national currency against foreign exchange contracts (Adiantamento sobre Contrato de Cambio). This financing covers up to 100 per cent of export value and is available up to 180 days prior to shipment.
products, such as turbines and planes. Exporters were required to have an export credit insurance.\textsuperscript{84}

363. Official export financing through FINEX declined from the end of 1988, and was completely eliminated in October 1990.

364. Since November 1990, the National Economic and Social Development Bank (BNDES) has operated a new pre-shipment financing facility covering exports of capital goods and equipment with high domestic value added (60 per cent) (Programa de Financiamento às Exportações de Máquinas e Equipamentos, FINAMEX). According to Brazilian authorities, no interest rate subsidy element is included in the financing of exports. Pre-shipment financing covers up to 70 per cent of the export value and the interest rate charged is the Libor rate plus 2 per cent (Table AIV.10). Since August 1991, FINAMEX also provides a new post-shipment financing facility with maturity terms of up to 96 months and participation share of up to 85 per cent.

365. External pre-shipment financing (privately and using World Bank funds) for exports of agricultural and agro-industrial products are governed by Central Bank regulations established in August 1990.

366. In June 1991, the Government established, under Law 8.187, an export financing programme (Programa de Financiamento às Exportações de Bens e Serviços Nacionais, PROEX), managed by DECEX through the Bank of Brazil and covering exports of merchandise and services.\textsuperscript{85} PROEX's purpose is to fund post-shipment exports, with two types of financing: (i) direct financing, granted by the Brazilian Government to the exporter (supplier's credit) or directly to the importer (buyer's credit, when the importer is a foreign government) for payment at sight to the exporter; and (ii) interest rate equalization, meaning the compensation for the difference between the maximum referential rate allowed by the Central Bank and the prevailing

\textsuperscript{84} Post-shipment financing was also available at non-subsidized rates involving advances in national currency against the surrender of foreign exchange (Adiantamento sobre Cambiais Entregues).

\textsuperscript{85} Law 8.187 authorizes export financing at concessional interest rates, with a view to increasing the competitiveness of Brazilian exports (Article 1). In August 1991, the Ministry of Economy, Finance and Planning established the list of goods which may benefit from PROEX financing. The list covers various manufactured products such as articles of iron or steel (HS Chapter 73); nuclear reactors, boilers and machinery and mechanical appliances (HS Chapter 84); electrical machinery and equipment (HS Chapter 85); vehicles, aircraft, vessels and associated transport equipment (HS Chapters 86 to 89); optical, photographic, etc. instruments and apparatus (HS Chapter 90); and furniture (HS Chapter 94).
interest rate for financing charged by the commercial banking system on a buyer's or supplier's credit form.

367. Official export financing under PROEX is used in "interest equalization" schemes to reduce the interest rate on commercial export finance loans. Interest rates on PROEX loans are now pegged to Libor, although borrowers are allowed to opt for floating rates. The Treasury may absorb approximately 2.5 per cent of the lending bank's risk spread.

368. PROEX programmes may cover up to 85 per cent of the f.o.b. value of merchandise exports. Interest rates for direct financing were initially applied according to two categories of importing countries at either 8 or 8.5 per cent per annum. Certain local content requirements may also be required. PROEX is financed by the national treasury. The 1992 federal budget allocated US$494 million to PROEX.

369. According to Brazilian authorities, exporters may not benefit from the two financing facilities (FINAMEX and PROEX) at the same time. The two schemes are not cumulative.

(xii) Export insurance and guarantees

370. Export insurance covering extraordinary and political risks was granted by the Government through an official insurance agency, the Instituto de Resseguros do Brasil (IRB). The IRB also provided coverage against commercial risks beyond the limitations for private insurance companies. According to Brazilian authorities, export credit insurance has now been suspended since August 1991. Currently, the Government is revising its export credit insurance legislation.

371. According to the Brazilian Foreign Trade Association (AEB), commercial and political risks are excluded from insurance coverage. The Association has asked the Government to open the Brazilian credit insurance

\[86\] Banco do Brasil (1992), Governmental Industrial Policy, text prepared by the Commercial and Industrial Department, National Economy Bureau, Ministry of Economy, Finance and Planning.

\[87\] In February 1992, the Government announced its intention to issue US$1 billion worth of Federal Public Notes to strengthen backing for official export financing under a programme designed to lower interest rates on commercial loans maturing in eight years (Journal of Commerce, 19 February 1992).


market to private companies, or to permit exporters to contract an insurance in the international market.

(xiii) Export promotion, marketing assistance

372. In February 1992, the Government announced a support programme for Brazil's foreign trade (Programa de apoio ao comércio exterior Brasileiro). This programme covers assistance for training, market research, dissemination of information materials related to foreign trade, and direct export promotion through participation in national and foreign fairs.

373. Export promotion activities, including trade information, are carried out by the Department of Trade Promotion in the Ministry of Foreign Affairs. Average annual expenses involved in trade promotion are estimated at around US$8 million.

374. Export promotion expenses have been reduced because of financial problems. In the past, the system of export promotion, as administered by CACEX, was funded by the import licence surcharge.

375. Tax incentives may also be granted by the Government in respect of expenses on export promotion, marketing and participation in foreign fairs.

(xiv) Export performance requirements

376. In the past, the Government of Brazil used certain export performance requirements to grant export incentives or to provide preferential treatment in respect of imports. For instance, export performance requirements were included in BEFIEX programmes. Currently, according to Brazilian authorities, there are no export performance requirements in place.

377. Brazil revoked the benefits of the exemption from import duties and the IPI tax based on export increases as of 31 December 1990. Exporters of manufactured products were exempted from the payment of import duties and the IPI tax on the importation of goods, the value of which could not exceed 10 per cent of the increase of exports in the previous year. The amount of benefit per unit exported was estimated at 0.005 per cent in 1987 and 0.05 per cent in 1988.

378. Export performance requirement was also present in the approval process of annual production programmes for the restricted list of informatics products. Under these programmes, firms were required to present export plans so as to ensure a positive trade balance.
(xv) Free-trade zones, export-processing zones

379. In July 1988, the establishment of Export Processing Zones (EPZ) was allowed by Decree-Law No. 2.452. EPZs were to be a special form of free trade area for foreign investment in export-based industries established in relatively less-developed regions. Investment projects had to be approved by an inter-ministerial Council on Export Processing Zones.

380. According to the 1988 law, firms located in EPZ zones were to be exempted from exchange controls. They were also to be exempted from import duties, the federal Industrialized Products Tax (IPI), the Tax on Financial Operations (Imposto sobre Operações Financeiras, IOF), and social contributions (FINSOCIAL). Dividends remitted from a company located in the zone were to be exempt from the 25 per cent withholding tax on remittances abroad.

381. The current administration initially suspended the 1988 law permitting the establishment of EPZs (Law 8.032 of April 1990 suspended the implementation of EPZs for 180 days, starting on April 13, 1990). However, in January 1992, Law 8.396 settled the basis for the creation of EPZs in Brazil. The new legislation allows foreign and local companies to lease operating space in 14 Brazilian export processing zones for 20 years with leases renewable for another 20 years. Under this new law, EPZs may be created by Decree after approval of the National Council on EPZs. Responsibility for maintaining the zones will rest with the relevant States and municipalities and participating manufacturers. The Federal Treasury is barred from spending any money on the project.

382. Production in these zones must be entirely exported; sales to the domestic market are prohibited. Imports into the zones are exempt from the payment of import duties and other taxes such as IPI, AFRMM and social contributions. They are also exempt from licensing requirements, except for sanitary controls, protection of the environment and national security. Companies located in these zones are not subject to the Informatics Law;

\[90\] According to the 1988 legislation, firms located in these zones were to be required to export at least 90 per cent of their products, which might not be the same as those already being exported from some other part of the country, nor might they be subject to international quotas or bilateral agreements. Sales to the domestic market were to be subject to a 75 per cent duty on the difference between imported components and the sale price in Brazil.

\[91\] The decision was taken so as to allow the revision of the existing legislation. The liberalization of imports and freeing of foreign exchange controls for the entire country had also removed much of the main purpose for the EPZs, which were intended to provide a base for export production with full import freedom, tax exemptions and a free exchange rate.
these companies will be free to import equipment and inputs without special import licences.

383. Companies operating within the zones will be required to purchase some of their inputs, or components used in production, in Brazil. However, the Government has not yet set minimum levels for local content.

(xvi) **Other measures**

384. Poor port infrastructure in Brazil is said to be a major barrier affecting foreign trade (imports as well as exports). Port costs in Brazil are estimated to be 3 to 6 times higher than those in other countries. High port costs increase the value of imported products in the domestic market and act against the competitiveness of Brazilian exports. Brazil's Foreign Trade Association has indicated that port services are a major impediment to an increase in export competitiveness. The "inefficiency" of the Brazilian port system is said to result from the State monopoly and from over-regulation of working conditions. The Government is currently considering the privatization of port operations, but not ownership.

385. A variety of external measures may affect, positively or negatively, Brazilian exports. Among these are, for example, on the positive side, tariff preferences granted to Brazilian products under the Generalized System of Preferences (GSP). On the negative side, trade restrictive measures against Brazilian exports include anti-dumping and countervailing actions or the imposition of voluntary restraint arrangements by importing countries. Restrictive measures affect especially exports of processed tropical products, certain temperate climate agricultural exports, iron and steel products, textiles and clothing, and shoes.

386. As noted above, other measures affecting Brazilian exports are anti-dumping and countervailing duties imposed by major trading partners, including Australia, Canada, the European Communities, and the United States. In the United States' market, such actions have affected products such as iron and steel products, paper products, plywood, tools, cotton yarn, chemical products, petrochemical products, orange juice, castor oil and footwear. Actions by the European Communities have affected mainly steel products, paper products, textiles, pig iron, footwear and soybean products. Table IV.17 contains a list of anti-dumping and countervailing

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93 According to some studies, there is some evidence that restrictions have been reduced since 1986 (Abreu (1991)).
actions against Brazil, in force at 30 June 1991. Since then, new investigations have been initiated.

387. Brazilian exports benefit from preferential treatment under the GSP schemes of the following countries: Australia, Austria, Bulgaria, Canada, the Commonwealth of Independent States (CIS), the Czech and Slovak Federal Republic, the European Communities, Finland, Hungary, Japan, New Zealand, Norway, Sweden, Switzerland, and the United States.\(^4\) It is difficult to assess the impact of GSP concessions on Brazil's export performance due to the absence of reliable data. However, some estimates by the Brazilian Government indicate that in 1988, around 23 per cent of total exports benefited from GSP preferences. The GSP gains for Brazil have in the past been estimated at 1.4 per cent of total exports.\(^5\)

(4) Measures Affecting Production and Trade

(i) Adjustment assistance

388. Brazil has no programme to promote structural adjustment in industries experiencing longer term pressures. The Government does not provide assistance to firms wishing to leave an industry because of financial problems. However, recent regulations established mechanisms to help local industries adjust to the new environment created by the liberalization of the economy through the reduction of investment costs. These mechanisms include tax exemptions (for example, from IPI) or accelerated depreciation allowances.

(ii) Assistance for research and development

389. Many research and development incentives, such as income tax breaks for investment in digital technology and exemptions from import duties on equipment, were eliminated in March 1990. The current administration has proposed a broad package of new incentives and federal financing for research and development to Congress. This package is currently being discussed in Congress.

390. Research and development assistance (financing) is currently provided through a variety of mechanisms, such as the National Fund for Technological and Scientific Development (FNDCT), the Training Programme in

\(^4\) Poland recently withdrew Brazil from its GSP scheme on the grounds that Brazil's per capita income was higher than Poland's.

Scientific and Technological Research Management (PROTAP), and the Technological Capacitation programme of BNDES.

391. Brazil also assists research and development activities in the agricultural sector through the funding of the Brazilian Agricultural Research Enterprise (EMBRAPA) (Chapter V).

(iii) Production subsidies, tax concessions

392. According to Government authorities, no production subsidies are currently granted in Brazil.

393. Until early 1990, a variety of federal and regional tax incentives were granted for industrial and agricultural activities. These included tax deductions, benefits for agricultural production in the Amazon basin, and special reduced income tax rates for exporters and agricultural companies. These incentives were suspended in March 1990. The main remaining benefits are: federal income tax exemptions on profits from approved investments in northern Brazil and the large region of the under-developed northeastern coastal States; exemptions and reductions in income, production, sales and import taxes in the Manaus free-trade zone; and a wide range of State and municipal benefits involving sales, property and other taxes and fees.

394. The criteria for granting tax incentives are based on a project's priority classification. This takes into account such factors as the industrial sector and location of the investment, its export or import substitution possibilities, use of local raw materials and number of jobs created.

395. In June 1991, the Government established certain fiscal incentives for machinery and equipment (whether imported or domestically produced), including IPI tax exemption and accelerated depreciation.

396. Press reports state that in a MERCOSUL meeting in mid-November 1991, Paraguay and Uruguay complained about Brazil's subsidies to domestic industries. Brazil denied that it was subsidizing industries through artificial public service rates. However, it was admitted that these rates were lagging behind inflation and that the taxpayer was covering the difference. The adjustment in the public service rates was used by the

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Government as an instrument to control inflation and not to subsidize industries.

(iv) Pricing and marketing arrangements

397. Price controls have been used extensively in Brazil, particularly under various stabilization plans in the 1980s (Chapter I). Firms have had to devote considerable time, effort and funds to justify existing prices and obtain authorization for increases. Some products faced on-and-off phases of controls; other products operated under permanent control. The current Government has lifted a number of price restrictions. As of December 1990, only goods and services supplied by government companies, bus and airfares, and some medicines remained formally controlled, often within a range of permissible prices rather than at a single price. However, the Government continues to pressure major companies on an individual basis to restrict price increases. The Government views these pressures as steps to restrain monopolistic behaviour. The long-standing barriers to imports have encouraged many producers in monopolistic positions to thrive on high margins and low volumes, passing cost increases on to prices. With import barriers falling, the environment is becoming more competitive, but officials believe many companies still not facing direct import competition continue to set artificially high prices.

398. A policy of guaranteed minimum prices is practised by the Government in favour of the agricultural sector. Under this mechanism, farmers may receive financing to stock their products in the expectation of better prices (Empréstimo do Governo Federal, EGF) or sell their products to the Government at a fixed minimum price (Aquisição do Governo Federal, AGF). Minimum prices are fixed annually by the National Monetary Council. Products in this scheme include beans, cotton, jute, manioc, maize, rice, sisal, soya and wheat (Chapter V).

399. The National Supplies Company (CONAB) is in charge of guaranteeing minimum prices, as well as managing regulatory and strategic stocks. Regulatory stocks result from the guaranteed minimum price programme. Strategic stocks are aimed at guaranteeing "normal" supply, in the domestic

97 Press reports indicate that on 11 October 1991, price controls were imposed on 24 products, including soap, toothpaste, ice creams, sausages, sandpaper, etc. On 28 October 1991, the Government restored price controls on 53 basic food and drug products.

98 It is reported that pressure may range from a simple request to moderate or postpone price increases to the threat of tax audits, credit difficulties or cuts in government purchasing (Business International Corporation, ILT Brazil, January 1991). In early April 1992, the Government signed an agreement with the car manufactures sector to cut car prices by 22 per cent in exchange of certain tax reductions (Financial Times, April 1992).
market, of the following basic products: beans, bovine meat, butter oil, cassava or manioc flour, maize, powder milk, rice, soya oil and wheat. The volume of strategic stocks must not exceed 1/12 of the annual apparent consumption for most products, increased to 1/6 of annual apparent consumption for products that Brazil traditionally imports.

400. Sales from public stocks are undertaken when the wholesale market price of a given product is above a threshold price (Preço de Liberação dos Estoques públicos, PLE) which is calculated as a moving average of real prices over an historical series (either 48 or 60 months).

(v) Regional assistance

401. Certain federal programmes exist to encourage the economic development of Brazil and, particularly, to promote regional development. These are aimed at favouring new activities in the poorer Northeast and Amazon regions. The federal government agencies approving the granting of incentives for feasible industrial projects or planned expansion of an existing industry are the Superintendency for the Development of the Northeast (Superintendência do Desenvolvimento do Nordeste, SUDENE), and the Superintendency for the Development of the Amazon (Superintendência do Desenvolvimento da Amazonia, SUDAM). Regional assistance is also provided through the free-trade zone of Manaus (SUFRAMA).

402. Fiscal benefits granted to companies operating approved projects in these regions include exemption from income tax for the first ten years of operation (15 years in the least developed States). An option to extend the tax holiday from 10 to 15 years as long as the firm met certain conditions is no longer available. For projects which do not qualify for the above exemption, a reduction of 50 per cent in income tax may be granted. Until recently, another incentive was the exemption from all or part of federal taxes and charges on imported equipment for new industries.

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99 SUFRAMA's main purpose is to develop an industrial, commercial, and agricultural centre in the region. Originally with the vocation of exporting, the region's industrial activities have come to be dominated by the processing of imported inputs for sale in the rest of Brazil (See the section concerning free-trade zones).

100 One of the conditions was, for example, that at least 50 per cent of the used inputs were from the region.
Other measures

403. Long-term financing (over one year) is provided by the National Bank for Economic and Social Development (BNDES). Mainly majority locally-owned firms are eligible for these funds. However, Brazilian foreign-owned companies are not excluded from this financing facility. The bank has four special financing programmes to aid Brazilian firms in modernizing their equipment, engaging in research and development projects, expanding the capital of small or medium-sized companies, and stimulating the purchase of machinery, equipment and capital goods produced in Brazil.

404. BNDES has established several funds and subsidiary agencies for special purposes (Annex IV.3). One of the funds with direct impact on industrial production is the Special Agency for Industrial Financing, FINAME (Agência Especial de Financiamento Industrial), which finances purchases or sales of locally manufactured capital goods when at least one of the two parties is a Brazilian-controlled company. Companies can finance the purchase of Brazilian-made capital goods with FINAME loans. FINAME finances only products with a minimum 60 per cent share of national content. Currently, FINAME operates four programmes: an automatic programme, a special programme (mainly for large-scale projects) with longer maturity terms, an agricultural programme (to support agricultural mechanization), and an export financing programme (FINAMEX) which started in November 1990 with pre-shipment financing.

405. Interest rates on BNDES loans vary according to the financing programme (Table AIV.10). They are specified in each of the programmes as minimum interest rates. A 3 per cent spread is added to these rates. In the case of FINAME loans, maximum interest rates are fixed. FINAME maximum annual interest rates run from 5.5 to 10.5 per cent, depending on the modality of the programme. Normally, the participation of FINAME loans covers between 30 to 70 per cent of the purchase price of the equipment.

406. In 1990, FINAME loans benefited mainly the private sector, which accounted for more than 97 per cent of approved projects.

407. Concessional rural credit has also been granted by Brazil for the development of the agricultural sector. Currently, according to the Government, there is no interest-rate subsidy element in the granting of credit to this sector. The contribution of rural credit to agricultural production is said to be very low. Special measures favouring the agricultural sector, including rural credit, are explained later in Chapter V.
Annex IV.1

Documentation procedures for imports
(Extract from Price Waterhouse, Doing Business in Brazil, 1991)

All importers must be registered with the Foreign Trade Department (DECEX), and an import document must be obtained for each import. All imports may be made either by fully prepaid letters of credit, which can be financed by local banks, or by arrangement of credit terms with a minimum term of 180 days, depending on the value and type of import. Import documents may be processed by authorized banks.

Import documentation procedures may be summarized as follows:

(i) Completing the application for an import licence (Guia de Importação), which should include general information concerning the importer, exporter, manufacturer, country and port of origin, port of unloading, description of the merchandise, f.o.b. price, and other supplementary documents as required.

(ii) Payment of the application fee.

(iii) Examination of the price of the merchandise to be imported as per the manufacturer's or exporter's catalogues, price lists, or pro forma invoices filed with the application form.

(iv) Issue of the import licence

(v) Completion of an import declaration containing all data related to the respective import, including duties and taxes incurred. This should be done after arrival of the merchandise but before customs clearance.

In certain cases, mainly for imports benefiting from special concessions or tax incentives, other formalities, such as the similarity test, are required to determine if the imported item has an "equivalent" in the local market. The transportation in Brazilian vessels may also be required.
Annex IV.2
Export documentation requirements
(Extract from the Administrative Rules for Exports, Portaria DECEX No.9)

Main documents used for exporting goods from Brazil include the following:

1. Export declaration (Declaração de Exportação): completed and issued by the exporter and submitted to the Export Support Services in the Customs offices.

2. General export licence (Guia de Exportação): completed by the exporter and issued by the authorized government agencies.

3. Special export document (Documento Especial de Exportação): Special document issued by the domestic seller of specific goods classified in HS Chapter 71 (diamonds, and other precious or semi-precious stones and articles thereof).

4. Prior sales register (Registro Prévio de Venda): completed by the exporter and issued by the authorized agencies. Its objective is to verify the commercial operations according to the contract conditions.

5. Export licence for textiles destined to the European Communities and Canada: completed by the exporter and issued by the authorized government agency. This document is required for all textile products covered by export quotas to the European Communities and Canada.

6. Certificates of origin (for textiles destined to the EC): completed by the exporter and issued by the authorized government agency. This document must accompany the export licence for textiles exported to the EC market.

7. Export Certificate (Certificado de Exportação) for iron and steel products destined to the United States: completed by the exporter and issued by the authorized agencies after the shipment of products under quota to the United States, including Porto Rico.

8. Certificate of Origin for the GSP (Form A): completed by the exporter and issued by DECEX for exports benefiting from GSP treatment.

9. Quota utilization certificate (Certificado de Utilização de Quota): completed by the exporter and issued by DECEX for products exported under the Trade Expansion Protocol signed between Brazil and Uruguay.
10. Fiscal receipt (Nota Fiscal): issued by the authorized agencies. This document may replace the export licence for special transactions such as exports by mail not exceeding US$5,000 and non-commercial samples.
Annex IV.3
National Bank of Economic and Social Development (BNDES)

The BNDES system is composed of the BNDES Bank and its subsidiary agencies: the Special Agency for Industrial Financing (FINAME) and the BNDESPAR (BNDES Participation scheme). The system has a variety of mechanisms destined to facilitate long-term investments by private enterprises and public entities. The activities of the BNDES system are aimed at increasing competitiveness in the industrial sector. In August 1990, the BNDES was also charged with the technical and financing administration of the privatization programme of the Brazilian Government.

FINAME's activities are aimed at promoting the development, consolidation and modernization of Brazilian industrial enterprises producing capital goods. FINAME provides financing facilities for the commercialization of machinery and equipment of Brazilian origin. Currently, FINAME operates four programmes: (i) the Automatic Programme; (ii) the Special Programme (mainly for large projects); (iii) the Agricultural Programme; and (iv) the Export Financing Programme for Machinery and Equipment (FINAMEX). FINAMEX, which started operating in November 1990, is destined to Brazilian enterprises exporting capital goods.

BNDESPAR's basic function is to provide financial resources, through equity participation, to priority projects agreed with enterprises. Its equity participation is deemed to be temporary and in all cases to cover only a minority share. Once the project has attained its maturity stage, BNDESPAR sells its shares. At the end of 1990, BNDESPAR participation was estimated at some US$4.1 billion, covering more than 160 enterprises mainly in the following sectors: paper, petrochemical, food processing, fertilizers, textiles, informatics, electronics, steel and capital goods (Sistema BNDES, Relatório de Atividades 1990).

Financing through the BNDES system may cover fixed investment and increases in working capital, as well as the restructuring of enterprises. Participation varies according to the financing programme. Current operational programmes are given below:
<table>
<thead>
<tr>
<th>Sector</th>
<th>Programme description</th>
</tr>
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<tbody>
<tr>
<td>Industry</td>
<td>- General Programme of Industrial Support</td>
</tr>
<tr>
<td></td>
<td>- Technological Programme (technological capacitation, productivity and quality, and</td>
</tr>
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<td></td>
<td>capitalization of technology-based enterprises)</td>
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<tr>
<td></td>
<td>- Enterprise Restructuring Programme (mainly for capital equipment, naval construction,</td>
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<td></td>
<td>informatics, micro-electronics, petrochemicals, and chemicals)</td>
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<tr>
<td>Infrastructure</td>
<td>Infrastructure Programme</td>
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<tr>
<td>Agriculture</td>
<td>Agriculture and Livestock Programme</td>
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<td>Commerce and Services</td>
<td>Commerce and Services Programme</td>
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<td>Commercialization of</td>
<td>- Internal Commercialization of M&amp;E Programme (FINAME)</td>
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<td>Machinery and equip.</td>
<td>- External Commercialization of M&amp;E Programme (FINAMEX)</td>
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<td></td>
<td>- Imports of M&amp;E Programme</td>
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<tr>
<td>Environment</td>
<td>Environment Protection Programme</td>
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<tr>
<td>Capital Markets</td>
<td>National Private Enterprise Capitalization Programme</td>
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Some specific conditions attached to financing activities of the BNDES system are given in Table AIV.10.
V. TRADE POLICIES AND PRACTICES BY SECTOR

(1) Overview

408. Brazil's past trade and industrial policies have created a strongly discriminatory structure of incentives, shifting resources from economic areas of production where Brazil has comparative advantages to support uneconomic, high-cost production. This resource misallocation has created rent-seeking, vested interests supporting the resulting structure of protection. The principal beneficiaries of these policies over the years have been import-substituting parts of the manufacturing sector, but certain areas of agriculture have also received support.

409. The strategy behind the trade and industrial policies applied by the current administration since March 1990 is mainly based on the use of market forces more effectively to raise productivity. Tariffs are being progressively reduced, subsidies have been eliminated and a variety of regulatory bodies, such as the Wheat Board, the Institute of Sugar and Alcohol and the Brazilian Coffee Institute, have been dismantled.

410. Recognition of the costs of the previous policies for overall economic performance has lead to structural change being incorporated as a key pillar of the present Government reform programme (Chapter I). However, while much of the open-ended sectoral support afforded by non-tariff barriers has been removed, the tariff structure perpetuates inter-sectoral transfers, albeit in a much reduced level. By mid-1993, planned tariff changes will further reduce, but not eliminate, such policies, leaving high levels of effective protection in some large sectors of the economy, such as motor vehicles and electronics and communication equipment (Table V.I). At the same time, some sectors, such as agriculture, minerals, chemicals and pulp, paper and paper products, continue to be penalized by the incentive structure - in effect being taxed to finance the more highly protected sectors.

1 The Brazilian trade liberalization programme followed the classical sequence starting from removal and tarification of non-tariff barriers, i.e. their replacement by tariffs near their tariff equivalents, followed by a phased reduction of these tariffs (Fritsch and Franco (1991b)).

2 The concept of effective protection must be interpreted as reflecting broad orders of magnitude, rather than precise figures, such as those given in Table V.I. From a policy perspective, effective rates estimates are a relative concept whose real value is in being able to rank industries according to the extent to which Government assistance policies affect production incentives. Those with above average effective protection may be considered to be favoured by the incentive structure while those with below average rates are penalized. The effective rate of protection is, therefore, one of the most useful tools available for assessing the economic impact of protection on domestic resource allocation. (For a discussion on the Effective Rate of Protection and Producer Subsidy Equivalents, see Annex V.I)
411. As shown in Chapter IV, Brazil's nominal tariffs escalate as between primary, semi-manufactured and finished goods for a wide range of product categories. This results in rates of effective protection to manufacturing which exceed nominal tariff protection.

412. However, as a result of the programme of nominal tariff reductions initiated in 1990, effective protection will decline considerably (Table V.1). According to one set of estimates, the average effective rate for the overall economy will decline from 32.1 per cent in 1991 to 16.6 per cent by July 1993. Furthermore, the structure of effective protection will be relatively more homogeneous, as the standard deviation of effective rates will be more than halved (from 26.8 to 10.7 per cent).

413. Until recently, the promotion of industrial development was achieved through a variety of measures such as multiple exchange rates, non-tariff barriers, tariffs, public investment decisions, investment subsidies and export incentives. Domestic producers in a variety of sectors such as motor vehicles, informatics and clothing were completely isolated from international competition by these devices. However, it is not clear that all sectoral incentives, pulled consistently in the same direction.

414. Remaining sectoral incentives, such as those applied in favour of the agricultural sector, are fewer than in the past. The overall policy environment has become more neutral. The main thrust of the current trade and industrial policies is to let market forces allocate resources.

(2) Agriculture

(a) Agricultural profile

415. Agriculture accounts for about 10 per cent of Brazil's gross domestic product and employs close to 25 per cent of the nation's labour force.

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3 The ranking of sectors according to effective rates of protection is also given in Table V.1. The first five sectors in 1990 were motor vehicles, tobacco, beverages, rubber and electronics and communication equipment. By July 1993, they will be motor vehicles, electronics and communication equipment, beverages, tobacco, and clothing. The ranking of sectors according to nominal rates of protection provides similar results, indicating somehow a consistency between nominal and effective protection. Indeed, the correlation between the nominal and effective protection in Brazil is relatively high: their Spearman rank correlation coefficient is 0.978 for 1990 and 0.946 for 1993 (calculations done by the GATT Secretariat based on Tables IV.4 and V.1).

4 According to the same estimates, the effective protection rates in 1985 varied between minus 79.5 per cent and 265.1 per cent (Hahn (1992)). In 1993, the effective rates (at the 4-digit Brazilian industrial activity classification) will be between minus 25.5 per cent (for wheat grading) and 62.5 per cent (for motor vehicles) (Kume and Piani (1991)).
Brazil ranks as one of the world's leading exporters of agricultural products. Agricultural exports account for around 40 per cent of Brazil's total export revenues. Brazil is the world's largest producer of sugar cane and coffee. It has one of the world's largest cattle herds (but still imports low-grade manufacturing beef). Other important agricultural products are cocoa, corn, cotton, oranges and frozen concentrated orange juice, rice, soybeans and tobacco. Brazil is almost self-sufficient in food production, except for wheat, which has to be imported to satisfy domestic demand (wheat accounted for 15 per cent of total agricultural imports in 1990). Brazil is the world's largest exporter of coffee and orange juice, and the second largest exporter of soybean products.

416. Brazil has two distinct agricultures. The first (located in the central-south region) is modern, has temperate rainfall, good infrastructure and produces most of Brazil's food and export crops based on high use of fertilizer inputs. The second (located in the northeast areas) is traditional, lacks well-distributed rainfall and good soils and lacks infrastructure and capital. Some expansion of fruit production is taking place in this region under irrigation.

417. Brazil is a net exporter of agricultural products (Chart V.1). In 1990, exports were valued at US$9.8 billion against imports of around US$1.2 billion. Agricultural exports were down from 1989 (US$10.6 billion) by 7.6 per cent partly as a result of currency overvaluation and other factors such as lack of export financing and increased port charges. Agricultural imports are estimated to have risen in 1990, mainly because of production shortages of corn, rice, and wheat. In 1991, agricultural exports amounted to US$11 billion, while imports were valued at US$3.1 billion.
(b) Agricultural policies

418. Over the years, the agricultural sector has benefited from substantial credit subsidies, official support prices, import quotas and prohibitions. At the same time, it has been adversely affected by export quotas, export prohibitions and price controls. Certain elements of the tax system still discriminate against agricultural exports. For example, agricultural inputs (fertilizers, chemicals and seeds) are exempt from the ICMS tax, although capital inputs (machinery) are taxed. The ICMS tax is paid on maize when sold for the production of flour for human consumption,
but it is not paid when sold for the production of animal feed. While industrial exports are exempt from the ICMS tax, agricultural exports (mainly coffee, orange juice and soybean products) are subject to this tax.

419. Since the Second World War, most Brazilian trade policies have discriminated against agricultural exports. This was the result of a policy priority favouring industrialization. Agricultural trade policy was consistently guided by a model of "exportable surplus" that treats exports as a residual factor after domestic demand is met. To ensure adequate supplies at home, outright bans and export quotas were frequently applied.

420. The discrimination against agricultural exports appears to have been lowest from 1964 to 1973, when many barriers affecting agricultural exports were eliminated and when agriculture enjoyed a lower exchange rate under the multiple rate régime then in force. In the second half of the 1970s, a series of impediments, including export authorization requirements for a large range of products, quality controls and prohibitions, developed against agricultural exports. Export taxes were also applied on a number of agricultural products. These barriers mostly affected unprocessed products and had two principal objectives: assuring adequate supplies (hence price stability) of food to the domestic market; and encouraging a greater degree of export processing (for example, of cotton, soybeans and leather). The agricultural sector was the only one in which export bans and quotas were maintained.

421. On the other hand, the Government has also provided strong support for agricultural development in Brazil. Government intervention has been both explicit, through measures targeted at agriculture, and implicit, through measures which, although targeted at other sectors, influenced agriculture's access to resources. Government expenditure on agriculture, such as that implied by the rural credit and minimum price policies

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5 (World Bank (1990d)).

6 According to Goldin and Castro de Rezende (1990), processing was encouraged by a wide range of export controls and quotas that forced agricultural producers to deliver unprocessed agricultural products to domestic processing industries at prices considerably below world levels. Whereas exporters of processed agricultural products were exempted from the ICMS tax, unprocessed primary product exporters (excluding meat, fruit and vegetables) were required to pay the tax at around 13 per cent. This policy encouraged agricultural processing and favoured the reallocation of resources within the agricultural sector towards products offering a processing opportunity. Soybean (soymeal and soyoil), citrus (juice), cotton (textile), cocoa (butter and powder) and coffee (instant) processors appears to have benefited the most from this policy.

7 According to the World Bank, despite the wide coverage of government programmes and interventions, most agricultural commodities in Brazil were marketed by the private sector and sold at market-determined prices. However, the nature and extent of government interventions has often affected markets, and, in particular, has had an impact on price formation and producer risk (World Bank (1990d)).
(explained below), constitute a transfer from the Government to the agricultural sector. An overall assessment of Government expenditure on the agricultural sector is difficult, due to the wide dispersion of funding and the allocation of around half of the expenditure from extra-budgetary accounts.

422. The financing of tractors and other agricultural machinery with four to five year subsidized credits also contributed to the rapid increase in mechanization. The extent of this subsidy was estimated to be equivalent to at least half of the sale price of the machinery by the mid-1970s.

423. Brazil's income tax policy favoured agriculture in relation to other sectors. Through special provisions in the income tax code, corporations could exclude up to 80 per cent of agricultural profits from their taxable income (90 per cent for individuals). Fixed investments could be fully depreciated in the first year and could even be depreciated two to six times over. This policy has apparently resulted in over-investment in land. In 1990, the income tax legislation was changed by the current administration in order to remove most of the favourable treatment of the sector, by making tax rates similar to those applied in other sectors and by eliminating various exemptions and deductions specific to the agricultural sector.

424. However, the Brazilian agricultural sector is apparently not heavily subsidized by international standards. Agricultural policies have historically been designed to maintain domestic prices - particularly for consumers - below world market levels. In this context, producer subsidy equivalents (PSE) levels for Brazil are relatively low, except for rice, wheat and cotton (Table V.2). For some products like soybeans, corn and beef, PSEs are negative, indicating a producer tax instead of a producer subsidy. Effective rates of protection (ERP) are also highly negative

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8 For example, in terms of the 1986 and 1987 budgetary allocation, the expenditure of the Ministry of Finance accounted for around 66 per cent of agricultural spending, with most of this expenditure reflecting the cost of rural credit. The Ministry of Agriculture had the second largest share (16 per cent), and reallocated most of this to its specialized agencies responsible for the minimum price programme and for agricultural research (EMBRAPA). The Ministry of Industry and Commerce allocated its 14 per cent share of budgeted agricultural expenditure to its coffee and sugar bureaucracies. No other ministry absorbed more than 5 per cent of the budgetary expenditure on agriculture.


10 World Bank (1990e).

11 The Producer Subsidy Equivalent (PSE) is an index of assistance to producers as measured by the value of transfers to farmers generated by agricultural policy. These transfers are generally supported by taxpayers in the form of market price support, direct payments and other support such as subsidized credit. The PSE can be expressed in value terms in aggregate, per unit of production, or in percentage terms.
(indicating implicit taxation) for most crops with the exception of wheat. (See Annex V.1 for a discussion on the PSE and the ERP)

425. Currently, a variety of policies are applied to the agricultural sector or to specific subsectors or regions. Among the most important policies affecting the entire sector are minimum-price supports, subsidized rural credit and agricultural taxation. Price supports and rural credit are apparently aimed at improving agricultural output, with a view to overcoming food shortages and improving the balance of payments.

426. The minimum-price programme is the most comprehensive programme of direct price intervention in the agricultural market. The underlying rationale for the minimum price programme is the reduction of price uncertainty to encourage domestic production. Prices are fixed every year and announced prior to the planting season. Farmers have the choice of selling their products to the market at the prevailing market price, or selling to the Government Acquisition Programme (Acquisições do Governo Federal, AGF) at the minimum price.

427. A third option for farmers is to use a Government storage loans facility, the Federal Government Loan Programme (Emprestimo do Governo Federal, EGF) to store the crop and borrow from the Government against the minimum price value of the stored crop. While the AGF guarantees minimum prices, the EGF is intended to smooth out price fluctuations by encouraging stockholding. The Government provides credit for agricultural goods stored by the producers, for a period of up to 180 days. As in the case for other rural credits, storage loan interest rates have been heavily subsidized. In the 1970s, increasing inflation added to the attractiveness of the storage loan facility (it is reported that this option became the most commonly used element of the minimum price programme). The availability of credit at negative real interest rates, together with expectations regarding future price increases, have encouraged farmers to store crops. Throughout the 1970s, storage loan support was mainly used for four major crops, soybeans, cotton, rice and maize (Table V.3).

428. The minimum price programme was modified many times throughout the 1970s and 1980s. Most changes involved the method of calculation of

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12 According to the Brazilian Government, subsidized rural credit is provided only to small farmers.

13 The minimum price programme was launched in 1943, and the first minimum prices, set two years later, applied to rice, beans, corn, peanuts, soybeans and sunflower seeds. Since that time, the programme has been successively widened and included at certain times 42 products. These ranged from major products, such as edible beans, rice and corn, to minor products such as carnauba wax and guarana (Goldin and Castro de Rezende (1990)).
minimum prices and their indexing. Until recently, stocks sales operations to control domestic prices were not governed by any specific rules. In 1988, a modified price band system was introduced for five major commodities (rice, beans, maize, soybeans and cotton). Under this system, when the market price rises above the intervention or ceiling price (defined as 12 per cent - 17 per cent in the case of beans - above the average wholesale price over the previous 60 months), the Government sells its stocks. These stocks must be sold for at least the minimum price (i.e. the price at which they were bought from the farmer) plus 5 per cent. This constitutes the floor price.

429. The minimum price programme was considered to be a key factor in explaining the relative strength of the agricultural sector in the 1980s. However, due to high support prices, Government purchases and stocks (in particular of rice and corn) rose steadily from 1985.

430. Starting in 1990, the minimum price policy was re-designed so as to take into account regional aspects. Minimum prices may now be different for the same product according to the region. The programme covers around 20 products, including barley, beans, cassava, castor-oil plant, cotton, grapes, jute, maize, maize seeds, oats, peanuts, potato seeds, rice, rice seeds, sisal, soybeans, soybeans seeds, wheat and wheat seeds.

431. Government policy with regard to rural credit has been a key factor in the performance of Brazilian agriculture over the past two decades. Although rural credit has its origins in the system instituted by the Banco do Brasil in 1937, it moved to the centre-stage of government agricultural policy only in the mid-1960s. At that time, the Government began intervening on a large scale in rural credit markets by supplying funds to the banking system (principally Banco do Brasil) to be re-lent to agricultural producers at highly concessional fixed rates of interest, and by requiring all banks with demand deposits to earmark a fixed proportion of these funds for lending to agricultural producers at the same fixed rates (compulsory applications).

432. Rural credit financed directly by the Government, has accounted for the largest, albeit decreasing, portion of rural credit operations since 1965. During the 1970s, funds provided directly by the Treasury accounted for around 80 to 90 per cent of total rural credit. This ratio declined to about 50 per cent in 1986 and to 25 per cent in 1988. In 1990, it stood at 29 per cent of total rural credit and in 1991 at 1 per cent.

\[^{14}\text{World Bank (1990d).}\]
433. During the 1970s, rural credit increased by an average rate of over 20 per cent per year (twice the rate of increase in the net value of agricultural output) (Table V.4). The substantial demand for rural credit may be explained in terms of the subsidies implicit in the credit. Interest rates on official agricultural credit until 1979 were fixed in nominal terms. Interest charges for short-term production credits (custeio) were fixed at under 15 per cent, with lower or zero rates for purchases of fertilizers and certain other agricultural inputs. Investment credits were charged at around 17 per cent, and marketing credits (used principally for storage under the minimum price programme) at nominal interest rates of around 16 per cent.

434. In 1980, when inflation exceeded 100 per cent, the interest rate ceiling for agricultural credits stood at 36 per cent, and subsidization increased. Until recently, real interest rates on official credit remained negative, and real interest rates on loans for agriculture were lower than in the non-agricultural sector. Credit subsidies have mainly benefited large farmers and have encouraged excessive mechanization and fertilizer use. Since 1983, credits have been indexed.

435. The transfers resulting from negative real interest rates were considerably reduced in 1984 and 1985. In 1984, the volume of short-term credit (operational credit) fell to less than half of its 1980 level, and investment credit contracted to a quarter of its 1980 level. In 1986, the Cruzado Plan's abolition of monetary correction and the establishment of a nominal interest rate of 10 per cent meant that credit became again highly subsidized (the real interest rate was estimated at minus 33 per cent). Indexation was reintroduced by mid-1987, prompted by soaring inflation. Until January 1989, real interest rates ranged between 7 and 9 per cent. Then, as part of the Summer Plan, the interest rate on official rural credit was raised to 12 per cent, plus monetary correction based on the CPI (12 per cent is the upper limit on real interest rates allowed by the Constitution).

436. Official rural credit has had a considerable impact on agricultural output and investment. However, according to certain analysts, the massive

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15 In 1979, an element of monetary correction was introduced by which interest rates were partially adjusted to the index applied to government bonds. However, the index failed to keep pace with inflation and the interest subsidies remained unchanged. Moreover, many special programmes were exempted from indexation.

16 Some reports state that substantial amounts of subsidized credit have been diverted to other purposes. The Association of Development Banks estimated that 23 per cent of agricultural credit was diverted to other purposes. Moreover, there was no clear empirical evidence to suggest that credit subsidies have increased production or yields (World Bank, World Development Report 1986).
credit subsidy failed to fully offset the burden imposed on the agricultural sector by overvalued exchange rates, taxes on exports and tariff protection for manufactured inputs. As purchases of fertilizers and other inputs allowed access to short-term credit at zero or negligible nominal interest rates, the rural credit system also provided substantial benefits to local manufacturing. Land prices were also distorted, because ownership was an eligibility criteria for subsidized credit and also because subsidies altered the relationship of opportunity costs between different crops.

437. Rural credit benefited relatively few products, principally major export crops. About 80 per cent of all credit went for six crops: soybeans, wheat, rice, corn, coffee and sugar cane. The primary beneficiaries (in terms of the distribution of rural income) were the larger grain and export farmers.

438. In the area of rural credit, the current Government has continued to reduce the supply of funds provided from its own resources. At present, its policy is to restrict rural credit drawn from government resources to small producers. In the past, the bulk of official rural credit went to large producers. The compulsory application system remains in place and is currently the major source of official rural credit. At present, official rural credit, either from the Government's own resources or up to 60 per cent of compulsory applications, has a real interest rate ceiling of 12 per cent. The agricultural sector has responded to the contraction of official rural credit with a much higher degree of self- and direct-financing from suppliers and marketing agents.

439. The agricultural sector was, until recently, virtually exempt from income taxes. On one side, the vast majority of the agricultural population earns below the minimum taxable income, and on the other, a variety of exemptions were granted to firms and Wealthier income recipients in this sector. The taxable income was calculated, at the taxpayer's choice, as either 10 per cent of gross income, or by subtracting costs, which included a full depreciation over the first year of investment, from revenues. According to the World Bank, only some 20 per cent of the profits remained taxable; and of this, under various provisions, some 80 to 90 per cent was again excluded. Moreover, agricultural profits were

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18 World Bank (1990d).
19 According to the Brazilian authorities, rural credit subsidy has been eliminated. Real interest rates charges on loans are now positive. The main sources for rural credit are bank's compulsory applications and savings.
then taxed at the rate of 6 per cent, compared with 35-45 per cent for corporate profits from other sectors. The net effect of these provisions was to make agricultural income virtually tax-free.

440. Under the current administration, agricultural income tax has been reformed. Rates have been raised and various deductions and exemptions removed, making them roughly comparable to those applying in other sectors of the economy. However, under the new tax law, agricultural producers can still benefit from tax exemptions by holding their income in bank deposits used for the financing of rural activities.

441. A land tax (Imposto Territorial Rural) was introduced in 1964 to encourage the more efficient use of land in Brazil. The tax is imposed on the value of the "bare land useful for agricultural production". This "useful" area is the total area of the farm less the area occupied by structures, forest reserves and uncultivable land. The impact of the tax was not, however, significant due to its low incidence (the tax rate is low, and the assessments are based on self-declarations that are rarely verified).

442. Policy changes in the agricultural sector, introduced by the present administration, are aimed at reducing government involvement and encouraging the operation of free markets. An added target for this sector is the protection of the environment, primarily through the removal or reduction of subsidies which had promoted expansion of settlements in the Amazon region.

443. In 1990, the Brazilian Government drastically reduced agricultural credit and eliminated many subsidies available to this sector. Imports were encouraged to force down prices in the 1990-91 season. According to Banco do Brasil, the elimination of agricultural incentives resulted in a 7 million tonnes shortfall in food production. This policy has been reversed since with the establishment of a new farm credit package. In March 1992, the Government also announced the release of US$1.5 billion to provide credit to the agricultural sector. The measures include the allocation of Cr$300 billion in loans for marketing purposes, at real

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20 According to Binswanger (1991), the land tax may have encouraged deforestation in the Amazon, to the extent that the tax is levied on "unused" land and that forest land is considered unused. A farm containing forests is therefore taxed at higher rates than one containing pastures or crop land. Converting forest to pasture on larger farms therefore reduces the land tax.

21 Brazil's Agriculture Minister, in defending the Government's policy reversal, argued that "subsidies should be given for harvesting in as much as they guarantee domestic supply. The classic error of Brazilian agriculture in the past was to subsidize the intention to produce" (Financial Times, 11 March 1992).
interest rates of 9 per cent a year for small- and medium-scale producers and 12 per cent for large producers (the maximum real interest rate admitted by the Constitution). A further Cr$650 billion will be released to help finance the planting of the winter crops, particularly of wheat. The remaining money will be for financing the purchase of farm machinery and soil nutrients.

444. Another element having a direct impact on the pattern of agricultural development is agricultural research. Since 1973, research and development has been given a strong impetus through the establishment of the Brazilian Agricultural Research Enterprise (Empresa Brasileira de Pesquisas Agropecuarias, EMBRAPA). Officially funded research has apparently played a vital role in the development of soybean, rice and maize production and in the improvement of crop yields. EMBRAPA's research is also accredited with pioneering soil correction techniques.

445. While EMBRAPA's research has principally benefited large and export oriented farms (including orange and pineapple growers), it has also facilitated the transfer of many subsistence farmers to commercial farming and led to important yield increases in cassava, tomatoes and wheat. Research into systems of bio-control and disease resistance have yielded important benefits for beans and other vegetables.

(i) Foodstuffs

446. Although the production of certain foodstuffs in Brazil may be an efficient activity, the foodstuffs sector as a whole still receives relatively high border protection. In 1991, the simple average nominal tariff protection was 28.6 per cent, compared with an average of 23.9 per cent for the entire economy.

447. Imports of foodstuffs enter under 589 tariff items covering fruits, vegetables, coffee, tea, cocoa, sugar, flours, cereal preparations, eggs, natural honey, etc. There is a high dispersion of nominal rates around the mean; in 1991, the minimum tariff rate in the sector was zero while the maximum was 75 per cent. Among the sub-groups, bakers' wares had the

22The Government's intention is to raise wheat production to 4 million tonnes. Domestic consumption is estimated at about 7 million tonnes (Financial Times, 11 March 1992).

23EMBRAPA is a public company attached to the Ministry of Agriculture. Its objectives are, among others, to (i) improve the quantity and quality of food supply and increase the production of raw materials for agro-industries; (ii) improve productivity and management; (iii) develop more efficient inputs and alternative energy sources while protecting natural resources and the environment; and (iv) develop non-traditional crop and livestock species.

highest average (51 per cent), followed by cereal preparations (48.9 per cent) and chocolate and other preparations containing cocoa and sugar confectionery (45 per cent) (Table AV.4).

448. There is also considerable tariff escalation. In 1991, the average nominal rate on imports of raw materials was 17.3 per cent compared with 21.8 per cent on semi-manufactured products and 37.3 per cent on finished goods (Table AV.1).

449. Health and safety regulations affect most products in this sector. Standards, special import authorizations and certain export restrictions are also applied on certain foodstuffs products, such as cocoa and sugar (Table AV.4).

450. Brazil is a net exporter of foodstuffs products (Table V.5 and AV.3). After having increased by an annual average rate of 15.1 per cent during the 1970s, foodstuffs exports declined in the 1980s by an annual average rate of 6.7 per cent. In 1990, exports were US$2,610 million, down from US$5,245 million in 1980. The main export groups by value were green coffee (US$1,106 million), raw sugarcane (US$326 million), cocoa butter and past (US$208 million), and refined sugar (US$199 million).

(a) Coffee

451. Coffee, which once dominated the Brazilian economy, has lost its leading rôle in agricultural production and exports, falling from 45 per cent of the value of total exports in 1965 to around 15 per cent in the late 1970s and less than 5 per cent in 1990. Nevertheless, Brazil is the largest coffee producer in the world, and the second largest consumer (after the United States). The share of processed coffee in total coffee exports has increased from around 2 per cent in the mid-1960s to over 20 per cent in the 1980s.

452. Coffee production has fluctuated considerably during the last two decades (Table V.6). In 1990, coffee exports totalled 16.8 million bags valued at US$1.3 billion, compared with 18.3 million bags valued at US$1.8 billion in 1989.25 Coffee exports recovered in 1991 to 21.7 million bags. On 22 March 1991, registrations for coffee exports were suspended

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25 Because of higher market prices and increased shipments of Colombian beans, Colombia replaced Brazil (on a value basis) as the leading 1990 exporter of coffee, although Brazil maintained its leading position in volume terms.
for 18 days, officially to prevent speculation. According to first estimates for 1992, coffee exports will be around 18 million bags.

453. Until the collapse of the International Coffee Agreement in July 1989, Brazil's share of the world coffee market was fixed at around 30 per cent. Currently, Brazil continues to exercise a powerful influence over the world market, so that sharp declines in its export volumes (such as those associated with droughts, floods or frosts) tend to be partially compensated for by higher world prices.

454. Until March 1990, coffee production and exports were controlled by a parastatal organization, the Brazilian Coffee Institute (IBC). The IBC was responsible for the administration of domestic minimum prices for coffee, coffee stocks and coffee exports. The minimum price for domestic farmers was supposedly fixed in relation to the world price. However, these may have tended to provide a floor price which covered average production costs. At the minimum price, the IBC was obliged to purchase all coffee offered to it, so that farmers were guaranteed a market for all their production at that price. Farmers were free to sell directly to private exporters, although exporters were constrained in their activities by export permit requirements and other restrictions imposed by the IBC, which were designed to meet the export quota restrictions of the International Coffee Agreement.

455. The IBC was in charge of auctioning quota stamps to divide up the quota received under the International Coffee Agreement. The auction system was introduced in 1986 to replace a complicated, non-transparent system for allocating quotas. Other activities of the IBC included the collection of an export tax (confisco), which was reduced in 1987-89 from 43 to 13 per cent, and the setting of minimum export registry prices (i.e. the minimum price exporters must register when their record their sales) to prevent under-invoicing.

456. Under the current Government, the IBC has been dissolved and all controls and fees have been removed. The coffee market in Brazil is now totally free. Support measures, such as the minimum price guaranteed to

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26 The Government said that this action was taken in order to protect Brazil's export revenues while it was reconsidering its negotiating position in the ICA. The Government also conducted an investigation into trade irregularities, which occurred immediately prior to the announcement of the registration suspension.


28 The revenue accruing from the sales of quotas and from the export tax were transferred to the coffee price stabilization fund (FUNCAFE), which was created in 1987. Prior to this, the export tax accrued to the Treasury.
farmers, have also been eliminated. Government policy towards the coffee sector is to place it under the same conditions as any other agricultural sector.

457. Concerning the International Coffee Agreement, Brazil supports universal quotas involving ICA member and non-member countries to avoid distortions created by a double market. Brazil also proposes to limit production and to monitor consumer country stocks. The Government rejects the re-introduction of internal intervention mechanisms to administer or regulate quotas. If quotas are agreed, they are to be administered by the private sector.

(b) Sugar

458. Brazil is the largest sugar cane producer in the world, with annual output well over 230 million tonnes of cane. It is the third largest sugar producer after India and the former Soviet Union. Sugar production has steadily increased during the past three decades. More than 70 per cent of sugar production is domestically consumed (Table V.7).

459. Brazil's cane production is unique in that it is not primarily destined for sugar for human consumption; most cane goes for the production of ethanol under the National Alcohol Programme (Proalcool). Around one-third of the cane grown in Brazil is used to produce sugar; the remainder is used to produce ethanol which is used as fuel for motor vehicles.

460. Government controls and interventions have been a major feature of this sector, limiting the industry's ability to switch cane between ethanol and sugar production. Sugar policy in Brazil is closely linked to policies favouring the consumption of ethanol over other car fuels.

461. The Government indirectly determines the structure and behaviour of the sugar cane, sugar and ethanol industries, through various interventions and controls. Annual production quotas allocated to firms and

\[29\] A World Bank study has estimated that if all cane grown were used to produce sugar, Brazilian sugar output would rise from around 8 million tonnes annually to over 20 million tonnes (Borrell (1991)).

\[30\] For the 1992/93 harvest, the Government estimates that around 80 per cent of sugar production will be domestically consumed.

\[31\] In the 1991-92 harvest, close to 70 per cent of sugar cane was used for the alcohol programme. The Proalcool programme is explained in Note V.1.

\[32\] The supply of sugar cane to ethanol distilleries is limited by production quotas and (Footnote Continued)
distilleries regulate the location, size and distribution of the sugar cane crop. Domestic prices for sugar cane, sugar and ethanol are fixed and exports are controlled. Overall, Government policy insulates producers and consumers from changes in world market conditions. The main determinant of the production structure is the system of annual quotas (of production, commercialization and exports).

462. Government policy towards sugar and alcohol was considered to have exercised the greatest single distorting influence on Brazil patterns of agricultural production and performance in the 1980s. The entire sugar sector was controlled by a web of state institutions and arrangements. The Institute of Sugar and Alcohol (IAA) and the National Alcohol Council (CNAL) controlled all elements of sugar and alcohol pricing and marketing, including imports and exports. The IAA set prices for all cane, sugar and alcohol. In addition to controlling production, pricing and marketing, the IAA controlled sugar transport, handling and warehousing.

463. Sugar prices were set on the basis of an estimation of production costs adjusted to reflect the sucrose and fibre content of the cane. All farmers received prices which aimed to cover costs and a profit margin; farmers in areas with higher production costs received higher prices. High cost and low yield farmers were thus heavily subsidized.

464. In principle, this subsidy (intended as a transfer payment) was derived from IAA’s profits (such as those from export sales or from a levy charged on domestic sugar). Low world sugar prices have meant that, in practice, sugar has in recent years been exported at a loss; the burden of support for the industry has thus fallen on the levy, which accounts for around 25 per cent of the sale price of sugar. The effect of this practice was to penalize sugar consumers and indirectly producers in the more efficient Centre-South of the country, which were unable to benefit from their greater efficiency in production.

465. During the 1980s, quota increases for ethanol production far outpaced those for sugar. The production of cane increased while sugar production

(Footnote Continued)

delivery quotas on sugar cane itself. Once the quotas to the ethanol distilleries are filled, excess supplies of cane are used for sugar production. Irrespective of whether cane is delivered to distilleries or sugar mills, growers receive the cane price fixed by the Government.


34 Producer subsidies and storage costs in 1987 were estimated at US$149 million. To encourage domestic producers to adjust to world prices, the export subsidy, running at US$34 per tonne by early 1988, was to be reduced by half for the first harvest following privatization, before being abolished altogether (GATT, Review of Developments in the Trading System, October 1987-March 1988).
was held reasonably steady. Increasing cane production was used for ethanol production. With total cane production controlled by government policies, large volumes of recent cane crops have been diverted from sugar production to meet the rising demands of the Proalcool programme. This policy may have been an important factor behind the decline of Brazil's sugar exports from US$942 million in 1980 to US$326 million in 1990.

466. The IAA has been recently abolished, and its functions have been transferred to the Secretariat of Regional Development (directly under the Presidency of the Republic). The Government has ceased any participation in domestic marketing. However, sugar exports continue to be controlled by trade bans and quotas, and all prices in the industry have remained under government control. Quotas concerning alcohol are now determined by the Ministry of Mines and Energy. Non-tariff measures restricting sugar imports have also been eliminated.

467. The simple tariff average for sugar and sugar confectionery imports (HS Chapter 17) was 30.3 per cent in 1990. This average was reduced to 25 per cent in 1991 and will be further reduced to 20 per cent by July 1993 (Table AV.2). Within this HS chapter, the highest ad valorem rate (45 per cent) in 1991 was levied on sugar confectionery. The Government intends to eliminate the tariff escalation by July 1993.

(c) Cocoa

468. Brazil is the second world's largest cocoa producer. Cocoa production expanded from 125,000 tonnes in the late 1930s to 150,000 tonnes in the 1950s. Improved credit access and the adoption of advanced farming techniques are considered to have facilitated continued expansion through the 1970s. During the 1980s, production varied between 300,000 to 400,000 tonnes; in 1990/91, production stood at 368,000 tonnes. Brazil also ranks among the world's major exporters of cocoa paste/liquor, cocoa butter and powder.

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35As already noted, government policies favour the consumption of ethanol over petroleum based fuels and regular increases in supply have been necessary to meet the energy demands of the ever-enlarging fleet of ethanol-powered cars (See section on motor vehicles).

36After accounting for just 4 per cent of Brazil's total export earnings in the 1960s, sugar exports in 1974 claimed a remarkable 17 per cent share, before falling back to around 3 per cent in the late 1970s. Soaring world prices in the early 1980s provided a brief lift to export earnings, but by 1986 they had fallen back to just 1.6 per cent of the total value of exports.

37Brazilian cocoa production is not regulated by a marketing board or a price stabilization mechanism.
469. Brazil differs from most other cocoa producers in that not only is cocoa a large-farm crop and one of the few crops that can be marketed without direct government intervention, but also because there is a large domestic processing industry which absorbs over half the country's production. Brazil accounts for approximately one-eighth of the world's cocoa grinding capacity.

470. Besides encouragement for the expansion of cocoa production from the mid-1970s, the domestic processing industry was also stimulated through various policy measures, including fiscal and credit subsidies. The Government also encouraged foreign capital, technology and marketing expertise.

471. Aggregate final consumption of cocoa in Brazil has displayed two distinct patterns during the last decades. During the 1960s and 1970s consumption displayed great variability and never exceeded 30,000 tonnes. During the 1980s, cocoa consumption increased up to 74,100 tonnes in 1989/90. Although consumption levels in Brazil are by far the highest among producing countries, they are lower than for most of the major cocoa importing countries.

472. Production of chocolate and chocolate products in Brazil has grown substantially during the past 15 years. Exports of chocolate and chocolate products, mostly to the United States and Japan, account for a small share of production.

473. Brazil is an active member of the International Cocoa Organization (ICO). Under the ICO, there is an agreement without economic clauses, i.e. without compulsory export quotas and intervention prices. A new agreement is expected to be signed by September 1992. Apparently, Brazil refuses to reintroduce export quotas for this product. Brazil's position is to rationalize production by member countries taking into account world demand and existing surpluses.

(ii) Grains

474. This sector includes a variety of grains such as wheat, rice, barley, maize, rye, oats and other cereals.

475. Brazil is a net importer of grains. Exports have declined from US$88 million in 1970 to US$1.4 million in 1990, mainly due to a drop in maize exports (Table AV.3). Grain imports increased by an annual average
rate of 26.7 per cent during the 1970s, but declined during the 1980s by about the same rate. It is reported by the United Nations Statistical Office (UNSO COMTRADE) that wheat imports decreased from US$1,051 million in 1980 to zero in 1989. However, data provided by DECEX indicate that wheat imports in 1989 were valued at US$211 million (f.o.b.).

476. In 1991, the average nominal import tariff for the sector - 27 tariff lines - was relatively low (10.7 per cent), but there was some tariff dispersion. The minimum rate was zero and the maximum was 25 per cent (Table AV.4).

477. Nominal border protection for grains may appear to be relatively low. However, policy transfers to grain producers, through price interventions and input assistance, have been considerable, mainly for wheat and rice. The Producer Subsidy Equivalent (PSE) for these products was consistently above the average for all commodities considered in the PSE calculations (Table V.2 and Annex V.1). In 1987, the percentage PSE was around 95 per cent for rice and 58 per cent for wheat. The PSE for wheat has remained high during the 1980s. It varied between 77.2 per cent in 1982 and 51.4 per cent in 1986 (Table V.2).

478. Wheat cultivation was virtually unknown in Brazil until the mid-1960s. Since 1967, cultivated area and production has increased rapidly, aided by government policies. Wheat output increased from 1.7 million tonnes in 1970 to 5.5 million tonnes in 1988 (Table V.8). Despite the growth in production, wheat self-sufficiency was not attained. Per capita consumption, which was reasonably stable at just over 30 kilogrammes per capita during the 1960s, has subsequently increased by more than 5 per cent per annum. As a consequence, Brazil remains dependent on wheat imports to fulfil its domestic food requirements.

479. Government policy on wheat covered production and consumption. Both components derive from national goals of self-sufficiency in wheat supply, control of inflation, provision of low cost food for the urban population, and improvement in the distribution of income. To implement

\[39\] The PSE estimates are from J. Link and R. Krajewski, in Webb, Lopez and Penn (1990).

\[40\] Government intervention was considered strong by Braverman et al. (1990). According to this study, the Government set producer and consumer prices for wheat sold to mills, flour and bread prices. Marketing of wheat grain was entirely in the hands of the Government, which purchased from domestic producers, imported and sold grain to millers.

\[41\] Calegar and Schuh noted the conflicting policy objectives resulting from Brazil's wheat policy. The effect of the wheat production policy, as an import substitution policy, was partially or totally overridden by the consumption policy and the distortion in the exchange rate (Calegar and Schuh (1988)).
these policies, the Government exercised both a monopolistic and a monopsonistic rôle in the wheat market; it was the only seller and buyer of all domestically produced and imported wheat. The Government also maintained rigid control over prices at the producer, wholesale, and retail levels.

480. Since 1962, Brazil has attempted to encourage or stimulate wheat production by guaranteeing producer prices at levels above estimated production costs. Producer prices were generally above border prices evaluated at official exchange rates and below border prices evaluated at the shadow exchange rate. According to the World Bank, the Wheat Board bought wheat from farmers at very high prices, consistently exceeding equivalent import parity prices. At the same time, the Government chose not to pass the full costs of its intervention at the producer level on to millers and consumers.

481. Domestic production of wheat has been associated with the development of soybean production. Generally, wheat in Brazil is grown as a winter crop, typically in lands also devoted to soybeans as a summer crop. The complementary machinery, labour and chemical input requirements have provided economies which have reduced costs of production for both activities.

482. Wheat consumption policy included an explicit price subsidy component, first articulated by the Government in 1972, as well as an implicit subsidy resulting from the overvaluation of the exchange rate. These subsidies encouraged consumption, and despite the increase in production, self-sufficiency has not been attained.

483. Total monetary cost of wheat subsidies (production and consumption) by 1986 was estimated at US$1.8 billion, equivalent to 0.7 per cent of GDP. The 1987 fiscal crisis forced the Government to make radical cuts in the consumption subsidy. The Government has not however cut the production subsidy; rather, the cost of this subsidy and of continued protection of domestic producers and wheat processors has been transferred to consumers. Consumers have been forced to carry the burden of producer


[43] An overvalued currency is an implicit (import) subsidy for consumers because it causes domestic prices to be lower than they would have been without overvaluation. An overvalued currency may also work as an export tax for producers.

subsidies and the cost of the state marketing monopoly. Additionally, wheat production subsidies mainly benefitted soybean producers and other large modern farmers, thereby compounding the negative impact of wheat subsidies on rural income distribution.

484. Domestic purchases and imports of wheat were controlled by the Department of Wheat of the Banco do Brasil. Although the buying and selling of wheat was privatized under Law 8.096 of 21 November 1990, the Federal Government authorized the Banco do Brasil to continue its purchasing and financing for the 1990 harvest, as well as importing, shipping and selling stocks to domestic milling companies.

485. The 30-year-old government monopoly on both wheat imports and domestic wheat sales was finally dismantled in June 1991. Domestic wheat processing, formerly tightly controlled through quotas to millers, has also been liberalized.

486. In 1990, the tariff rate for wheat imports was set at 25 per cent. After being increased to 45 per cent in 1991, this rate was more than halved to 20 per cent in 1992, and will be further reduced to 10 per cent by 1994. Under GATT, the import duty for wheat is bound at zero, subject to a tariff quota of 750,000 tonnes of wheat in the husk per annum. The 30 per cent import duty levied on wheat flour in 1990-91 will be reduced to 10 per cent by July 1993.

487. Brazil has a special arrangement with Argentina for the importation of wheat covering 2 million tonnes a year up to 1994.

(iii) Animals and animal products

488. This sector includes live animals, fresh, chilled and frozen meats and meat products. Brazil is a net exporter of animals and animal products. Exports increased at an average annual rate of 18.2 per cent between 1970 and 1980, and at an annual rate of 1.4 per cent during the 1980s. In 1990, exports of animals and animal products were worth US$627 million. Main exported products were poultry meat (US$338 million, which was up from zero in 1970), prepared meat (US$135 million) and bovine meat (US$100 million) (Table AV.3). Imports of animals and animal products increased from US$129 million in 1980 to US$332 million in 1989.

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45 From 1987, the market price of wheat has been set on the basis of recovering all costs incurred by the state wheat monopoly (domestic and import acquisition costs, handling, storage, transport and distribution costs).

46 In 1990, total purchases of wheat and flour amounted to 2.6 million tonnes; more than 70 per cent of which was imported (Banco do Brasil (1990), Annual Report).
489. The average nominal import tariff for the sector, covering 153 tariff lines, was 17.6 per cent in 1991. There was considerable tariff escalation and dispersion. The average rate on raw materials was 3.5 per cent, while that on finished goods was 21.1 per cent (Table AV.1). The minimum and maximum tariffs in the sector were zero and 75 per cent, respectively.

490. The entire sector is covered by health and safety regulations. For example, until recently, imports of pigmeat from Belgium were prohibited (Table AV.4).

491. Poultry production is a relatively important dynamic activity in Brazil. Originally only family-type enterprises carried out poultry production, but later big companies and production complexes entered activity. The importation of second-generation poultry was restricted in 1975, leading multinational companies established in Brazil to begin the local production of breeding stock.\(^{47}\)

492. Poultry production in Brazil grew at average annual rates of around 10 per cent during the past three decades. The share of exports in total production has continuously increased, so that between 1981 and 1986 Brazil became the second largest poultry exporter after France, displacing countries with a much longer tradition in this market, such as the Netherlands, Hungary, Denmark, China and Germany. Around 10 per cent of poultry meat production is exported (Table V.9).

493. Government intervention in this sector is mainly channelled through credit programmes that provided loans at below market rates. Government support, as measured by Producer Subsidy Equivalents (PSE), for the poultry industry was relatively small but consistently positive over 1982-87. During this period, the PSE as a ratio to producer's value varied from 12 per cent in 1983 to 1 per cent in 1986 (Table V.2).

494. Brazil is a party to the MTN Arrangement Regarding Bovine Meat. It has the second largest cattle herd in the world, expected to reach about 142 million head in 1991 (Table V.10). Cattle are raised predominantly in pastures and therefore the industry is not dependent on the grains sector for inputs. Beef and veal production has remained relatively stable during the 1980s (Table V.11).

\(^{47}\) A Brazilian firm also embarked on genetic improvement activities and was thus able to develop three strains of its own which covered 5 per cent of the market.


\(^{49}\) The latest information submitted by Brazil on domestic policies and trade measures affecting trade in bovine meat is contained in GATT document IMC/INV/1/Rev.2 (26 May 1989).
495. Since 1974, the Government has administered a buffer stock programme in order to minimize supply and demand disequilibria resulting from the production cycle. Its main objective is to create additional demand during the slaughter period, through direct purchases of chilled meat or financing of private refrigerated warehouses. The meat is then subsequently sold in periods of greater scarcity. Government policy for the meat sector is to give priority to fulfilling domestic demand and exporting excess supply.

496. In 1991, exports were apparently favoured by four major factors: large export availabilities due to the 1990's herd retention by producers (as a reaction to price freezes); a favourable exchange rate; the improvement of the domestic control of sanitary conditions which made possible the re-integration of the Brazilian industry in the list of authorized exporters to the United States and to the European Communities; and lower prices for slaughter cattle and bovine meat in the domestic market partly due to the freeze during the first half of the year. The result was a 45 per cent rise in the volume exported during the first ten months of the year, corresponding to an 83 per cent rise in value (showing a 26 per cent increase in the average price of exported products).

497. Brazil has also benefited from an enlarged export quota of high quality beef (known as Hilton beef) to the European Communities, i.e. 3,600 tonnes in 1991 instead of 1,000 tonnes in the previous years. This also partly explains the significant rise in the average price of exported products. The enlarged quota of Hilton beef to the European Communities was related to Brazil's importation of 100,000 tonnes of standard beef from the Community intervention stocks. The purpose of the importation was the constitution by the Brazilian authorities of a buffer stock to be released to the domestic market during the low season (August to October) when traditionally prices rise.

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50 Control and eradication of foot-and-mouth disease was a major concern for the Brazilian Government. On 2 December 1988, the Ministry of Agriculture established a comprehensive programme for the control and eradication of foot-and-mouth disease, as well as sanitary regulations establishing severe penalties for the use of hormones in cattle breeding. The main objective was the eradication of the disease in the following two years in the main producing and exporting regions of the country. The investments allocated to this programme, partly financed by the World Bank, amounted to US$180 million. As a result of such regulation, the production, importation and marketing of hormonal substances became illegal (the use of hormones was already forbidden). This sanitary improvement was seen as a way of ensuring the quality of the herd and production up to the levels required by the internal and external markets.

51 In recent years, the European Communities reduced its beef balance sheet import quota to zero, so that Brazil is, in principle, no longer allowed to export low-grade manufacturing beef to the EC.

498. Currently, as a general policy, there is no government intervention with respect to prices. However, there have been short phases of official controls in the context of macro-economic stabilization programmes. The only rôle played by the Government, with respect to consumption, is in guaranteeing minimum levels of supply to the internal market. This is done by releasing the intervention stocks or by means of temporarily suspending import tariffs on meat.

499. In June 1991, bovine meat prices were totally freed from any official controls. Imports and exports were also liberalized. Based on legislation approved in early 1991, the Government established rules for the selling of public stocks, under which, meat can only be sold from public stocks on the domestic market if prices are higher than the average price in the previous sixty months.

500. On 1 July 1988, a zero tariff was established for the import of live animals for reproduction. For all other types of meat and meat products, a single 30 per cent tariff was established. The rate has been reduced to 15 per cent in 1991 and further to 10 per cent in early 1992.

(iv) Oilseeds, fats and oils and their products

501. Oilseeds, fats and oils and their products are now among the most important Brazilian export products. Exports grew at an annual average rate of 30.3 per cent in the period 1970-80, and at a rate of 1.6 per cent in the period 1980-90 (Table V.5). In 1990, exports of US$3,059 million (up from US$185 million in 1970) were mainly made of soybeans, soybean oils and vegetable oil residues (Table AV.3). Brazil is the second largest exporter of soybeans, after the United States.

502. Imports of oilseeds, fats and oils and their products are relatively low (US$129 million in 1989 down from US$237 million in 1980). In 1991, the nominal average import tariff for the sector - covering 179 tariff lines - was 9.2 per cent (one of the lowest averages for all TS categories). Health and safety regulations are applied to imports of all products in the sector (Table AV.4).

503. The soybean market is probably the most open and competitive of all commodity markets in Brazil, and soybean products (beans, oil and meal)

For example, in March 1990, the Government imposed a general price freeze, which also affected meat prices. The price freeze inhibited cattle commercialization in the first half of the year. Producers retained cattle from slaughter and the value of replacement and breeding cattle increased. Subsequently, internal prices increased rendering exports less attractive and favouring imports and the consumption of poultry meat.
have become the second most important agricultural export item after coffee. Although 70 per cent of the soybean crop is exported, soybeans are also an important domestic staple, primarily as soybean oil (which has entirely displaced imported vegetable oils) and secondarily as meal for feed for Brazil's important poultry industry.

504. Brazil's soybean production has expanded considerably. Before 1960 production was insignificant, but by the end of the 1970s soybeans surpassed coffee as the principal Brazilian crop in value, covered some 17 per cent of the cropped area, and constituted 14 per cent of world soybean output. Over this period, production grew by 27 per cent a year, initially through the expansion of the area planted, and later boosted by yield improvements of more than 2 per cent a year. As soybean oils were substituted for imported vegetable oils, domestic consumption grew almost 28 per cent a year over the 1970s, and there was also growing demand for soy meal, mainly for chicken feed. In 1988, soybeans production reached 20,000 thousand tonnes (Table V.12).

505. Factors assisting the stimulation of soybean production in Brazil included: (i) world market conditions, including a rapid expansion of world demand for protein for human and animal consumption, the fact that Brazil's soybean crop comes to market during the winter period in the United States, and the United States' embargo on its soya exports in 1973; (ii) government support and promotion, mainly through subsidized agricultural credit in the 1970s; and (iii) agricultural research activities.

506. During the 1980s, government support to the soybean industry was extended through subsidized production and marketing credit. However, the Producer Subsidy Equivalent (PSE) has at times been negative (Table V.2). This has resulted mainly from domestic and export taxes (together with exchange rate adjustments) exceeding government transfers to producers. On the whole, the soybean sector has been penalized by government policy transfers to other sectors of the economy which were less efficient.


55 The Brazilian Agricultural Research Enterprise (EMBRAPA) has estimated that two-thirds of yield increases have resulted from genetic improvements. The remaining one-third has come from improving soil management practices, also derived from intensive and continuous research.
(v) **Beverages and spirits**

507. This sector includes fruit and vegetable juices, wine, and other beverages and spirits.

508. Imports of beverages and spirits have been growing regularly since 1970. Main imported products were distilled alcoholic beverages and wine (Table AV.3). The average nominal import tariff for the sector - covering 219 tariff lines - was 60.3 per cent in 1991. There was also a significant tariff dispersion; the minimum rate was zero and the maximum 75 per cent.

509. The effective rate of protection for the beverage sector - at 108 per cent - was among the highest in Brazil (Table V.1). This indicates that the sector (excluding fruit juices) ranks among the most uneconomic sectors of Brazilian industries, drawing resources away from the rest of the economy.

510. Health and safety regulations affect imports of most beverages and spirits (Table AV.4).

511. Brazil is a net exporter of beverages and spirits. Exports have grown strongly during the last two decades (mainly fruit juices). During the 1980s, the average annual growth rate was 15.2 per cent compared with 36.7 per cent in the 1970s (Table AV.3). In 1990, overall exports were worth more than US$1,550 million. Fruit juices (mainly orange juice) accounted for over 95 per cent of the sector's total exports. Exports of fruit and vegetable juices increased at an annual average rate of 37.4 per cent in the period 1970-80 and at a rate of 15.2 per cent in the period 1980-90.

(a) **Orange juice**

512. Brazil is the largest producer and exporter of frozen concentrated orange juice in the world. It achieved this position in less than two decades, during which international trade in this product gained increasing importance. Export expansion strengthened orange processing as an industrial activity and stimulated a considerable increase in the production of oranges, which rose from 8,360 million units in 1960 to 73,570 million in 1987, while the cultivated surface rose from 112,200 to

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56 The definition of beverages for ERP calculations does not include fruit juices.

57 Fruit juice production also receives a relatively high nominal tariff protection, with the exception of the orange juice sector for which the import tariff is zero.
725,600 hectares. In 1960, all production was for local consumption, while currently more than two thirds of the total volume produced are exported.

513. Exports of frozen concentrated orange juice started in 1962, at a time when Brazil already had a good experience in the production and export of oranges. Industrial plants were installed between 1963 and 1968, basically financed by foreign investors, who incorporated relatively modern technology to this sector.

514. By 1974, certain enterprises were suffering from the recession caused by the rise in oil prices and the drop in the demand in European markets. The Brazilian Government took various steps, such as fixing the minimum export price and a price for oranges on the tree, reactivating the plants of bankrupted enterprises and providing soft credits to citrus growers.

515. A number of trade measures in foreign markets affect Brazilian products. For example, orange juice is subject to anti-dumping duties in Australia and the United States. Frozen concentrated orange juice is simultaneously subject to a price undertaking, due to a countervailing measure, and a provisional anti-dumping duty when exported to the United States market.

(b) Other juices and alcoholic beverages

516. The nominal import tariff on alcoholic beverages is higher than the average for the sector. In 1991, the nominal rate on other fruit juices was 35 per cent, while that on alcoholic beverages was up to 75 per cent. Other border measures affecting imports of these products include special authorizations for imports and exports.

517. Alcoholic beverages, domestically produced or imported, are heavily affected by the Industrialized Products Tax (IPI). The IPI tax for alcoholic beverages ranges from 70 per cent for molasses and cane spirits, 80 per cent for beers, to 130 per cent for whiskies. The same rates are applied to domestic and imported products, though, in practice, the tax may affect only imported goods when there is no domestic production.

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58 Some studies link the expansion of orange juice exports from Brazil to the frosts that affected Florida's production in 1962, 1963 and 1967 (United Nations, ECLAC (1990)).

59 The IPI tax is explained in Chapter IV.
(vi) Dairy products

518. Dairy products include fresh, evaporated, condensed or dried milk and cream as well as butter, cheese and curd.

519. Brazil is a net importer of dairy products. During the last two decades, imports of dairy products have grown rapidly. In 1989, overall imports were US$282 million - showing an average annual rate of growth of 13.5 per cent since 1980 (and 20.2 per cent annually between 1970 and 1980). Dried milk and cream account for more than three-fourths of total imports (Table AV.3).

520. The average nominal import tariff for the sector - covering 54 tariff lines - was 29.1 per cent in 1991. There was little dispersion of tariff rates; the standard deviation for all subcategories was zero (Table AV.4).

521. Health and safety regulations affect imports of all products in the sector. The Brazilian Government recently established a provisional countervailing duty on milk imports from the European Communities.

522. As noted in Chapter II, Brazil is an observer to the International Dairy Agreement, created at the end of the Tokyo Round.

(vii) Tobacco

523. This sector includes unmanufactured tobacco as well as manufactured tobacco in the form of cigars or cigarettes.

524. In 1991, the average nominal import tariff for the sector - covering 24 tariff lines - was 70 per cent (the second highest average for all categories). There was significant tariff dispersion and escalation within this sector (Table AV.4). The minimum tariff rate was 15 per cent and the maximum 75 per cent. The average tariff levied on unmanufactured tobacco imports was 61.7 per cent, while the average rate for manufactured tobacco was 75 per cent (Table AV.1). Tariff escalation will be eliminated by July 1993, when a flat rate of 20 per cent will be levied on all products, except wrapper tobacco for which the tariff rate will be 10 per cent.

525. All imported tobacco products, with the exception of unmanufactured tobacco, are subject to specific duties additional to the ad valorem import duty. For example, the specific duty levied on cigars is US$1.03 per unit and that levied on cigarettes is US$0.81 per 20 units. Domestically produced tobacco is not subject to an equivalent tax.

526. Cigarettes, whether imported or domestically produced, are also subject to the Industrialized Products Tax (IPI), which is levied at a rate
of 220 per cent (330 per cent until 1992), the highest for any product in the economy.

527. The tobacco sector in Brazil is highly protected. The effective rate of protection was 117.6 per cent in 1991 - the second highest rate, only after motor vehicles (Table V.1). This is indicative of the sector's lack of competitiveness.

528. According to the established tariff reduction programme, the average nominal import duty on tobacco was reduced in January 1992 to 60.4 per cent and will be further reduced to 19.2 per cent in July 1993 (Table AV.2). The effective rate of protection will by then be 23.9 per cent.

529. Brazil is a net exporter of tobacco products. Unmanufactured tobacco accounts for more than 90 per cent of the sector's exports, which were worth US$623 million in 1990. Exports of unmanufactured tobacco have grown strongly in the 1970s (at an average annual rate of almost 25 per cent). However, in the 1980s, the average annual growth rate fell to 7 per cent (Table AV.3). Cigarette exports have increased from a mere US$10,000 in 1980 to US$57 million in 1990.

(3) Industry

530. Between 1950 and 1980, the Brazilian manufacturing sector grew at an average rate of almost 10 per cent a year. Industrial growth followed a typical sequence, first through the substitution of local production for imports of consumer non-durables, and then consumer durables. Intermediate goods and capital goods followed. The pattern of tariff protection was adjusted flexibly and gradually according to the industries' needs. Whereas in the 1960s the nominal rate of protection was high for consumer goods, medium for intermediate goods, and low for capital goods, by the early 1980s this pattern had been fully reversed. Until mid-1990, restrictive import licensing and other entry barriers were widespread in the Brazilian industrial sector.

531. Through the classic process of import substitution Brazil acquired a large, vertically integrated, diversified and relatively modern industrial sector. This became more outward-oriented from the late 1960s. Foreign

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60 Trade policy has been one instrument which has had a crucial impact on Brazilian industrial development (Peterli Guimaraes (1989)).


62 The World Bank notes that this was the result of a relatively long process of natural (Footnote Continued)
direct investment was a major contributor to Brazil's impressive post-war industrial growth, which averaged more than 8 per cent per year over the last four decades.

532. Since 1980, the output growth of Brazilian manufacturing industry has slowed significantly to an annual rate of 1.2 per cent during the period 1980-86. The slowdown in exports and manufactured output growth in the 1980s, can be traced first to the shocks experienced by the Brazilian economy in that period (see Chapter I). Another factor explaining this poor performance appears to be falling investment rates and structural rigidities introduced with the instruments used to spur industrial development. In particular, rigidities related to entry and exit barriers, over-diversified production structures, and high, mandated domestic content levels slowed down mobility and tied up resources.

533. Brazil's weak competitive position may also be an outcome of policies and institutional arrangements that shielded producers from domestic and international competition. As the industrial sector matured, these protective barriers were maintained, and firms became increasingly sure of their market positions. Protection from competition made firms less resilient and management not as responsive to rapid shifts in international markets.

534. In June 1990, the current Government implemented a new industrial and foreign trade policy. The basis for this policy, as laid down by the "Diretrizes Gerais para a Politica Industrial e de Comércio Exterior" (PICE), is to use competition as the basis for industrial policy. Its objective is to increase industrial efficiency through improved technical skills, and to raise productivity and quality through the spread of new technology. The strategy behind the current industrial policy, a major departure from old import-substitution approaches, is to use market forces

(Footnote Continued)

and policy-induced import substitution. Beginning in the 1950s, investment was attracted to new areas by a combination of trade barriers, entry regulations, and fiscal, credit and other incentives (World Bank (1990c)).

63 Between 1945 and 1980, Brazilian industrial production grew at over 8 per cent per year on average, while world industrial production grew by 5.6 and 3.5 per cent annually through 1948-71 and 1973-81, respectively. As a result, Brazil's manufacturing value added reached the seventh position in the world in 1980 (Fritsch and Franco (1991a)).

64 World Bank (1990c).

65 In May 1988, a previous "New Industrial Policy" was introduced aimed at modernizing the industry, enlarging the role of the private sector in the development of industrial technology, and reducing discretion in the application of incentives. In this context, the Government put into effect a trade reform which reduced tariffs, eliminated certain additional duties on imports and removed some of the regulations for the special treatment of imports.
more effectively through the progressive reduction of tariff protection, elimination of indiscriminate incentives and subsidies, and stronger competition mechanisms.

535. With respect to the mining sector, currently the Government does not maintain any special incentives. All mine projects are subject to environmental controls. Controls in production remain in some sectors, such as tin, uranium or gold.

(i) Coal, petroleum and natural gas

536. The sharp increases which took place in international oil prices in the 1970s affected Brazil's policy in the energy sector. Brazil's dependence on imported petroleum had increased in every year since 1970, reaching a peak of 85 per cent of total petroleum needs in 1979, making Brazil the largest net importer of petroleum among developing countries. In such circumstances, major increases in imported oil prices had a serious impact on Brazil's economy and its balance-of-payments. A national energy strategy was articulated for implementation during the period to 1985. It contained three basic aims: (i) to improve petroleum conservation, including the reduction of certain petroleum use, through inter-fuel substitution; (ii) to increase production and the proven reserves of indigenous crude oil and natural gas; and (iii) to maximize the utilization of other indigenous energy resources.

537. In terms of supply, greater emphasis was placed on: (i) investments in petroleum exploration, production and refining; (ii) hydro-electric and nuclear power plants (such as the Itaipu complex); (iii) alcohol production from sugar cane to replace gasoline in the automobile market. On the demand side, measures included a relatively favorable price for alcohol to encourage its substitution for gasoline, a relatively low diesel price to stimulate the diesel fleet (again in substitution for gasoline), the promotion of wood and coal burning in the production of ceramics, cement and steel to substitute for fuel oil; and tariff incentives for the consumption of hydro-electric power.

538. Brazil is a net importer of coal, petroleum and natural gas. This sector is the main import category in the economy. Imports increased at an average annual rate of 39.6 per cent in the period 1970-80 (Table V.5). However, in 1989, imports amounted to US$4,320 million, down from US$10,757 million in 1980. This decline was mainly due to a sharp contraction of crude petroleum imports (from US$9,773 million in 1980 to US$3,390 million in 1989) because of price changes and volume contraction resulting from specific government policies to reduce import dependence of crude oil. The share of imports in total petroleum consumption fell from 85 per cent in 1979 to 47 per cent in 1987. The share of petroleum imports dropped from 46 per cent of total imports in 1983 to 17 per cent in 1988.
The apparent success of Brazil's energy policy was achieved at a very high price, since the resources needed to increase the domestic supply of petroleum, hydro-electricity and alcohol required a major increase in the level of public expenditures.

539. The 1988 Constitution established a monopoly for the Union in: (i) the prospecting and exploitation of deposits of petroleum, natural gas and other fluid hydrocarbons; (ii) the refining of both domestic and imported petroleum; (iii) the import and export of petroleum products and derivatives; and (iv) the maritime transportation of domestic crude oil or derivatives as well as the pipeline transportation of crude oil, its derivatives and natural gas of whatever origin. This monopoly is exercised through PETROBRAS (Petroleo Brasileiro, S.A.). The granting of new risk contracts to foreign companies for the exploration of petroleum and gas is prohibited by the Constitution. However, both local and foreign companies are allowed to participate in distribution activities.

540. PETROBRAS is the only agency authorized to import petroleum products into Brazil. As the petroleum refining capacity in Brazil is sufficient to meet the country's requirements, imports of petroleum products are sporadic and are intended to offset any temporary and minor imbalances between domestic production and demand. According to the Brazilian authorities, when purchasing abroad, PETROBRAS negotiates with all possible suppliers and concludes transactions with those offering the most advantageous trading conditions.

541. As mentioned above, Brazil's ethanol fuel programme has reduced Brazil's dependence on imported oil. Until recently, the retail price of ethanol was set at a substantial discount relative to the blended gasoline/ethanol price, and many cars are fully reliant on pure ethanol (Note V.1).

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67 Legally, the Government must hold at least 51 per cent of PETROBRAS' voting shares. Ownership of the remaining shares has been closely controlled to prevent foreign domination.

68 As far as imports of crude oil are concerned, at certain periods of time, they had been mostly done through countertrade deals, involving mainly Iran, Nigeria and Iraq.
Brazil's Proalcool programme was initiated in 1975. Between 1975 and 1978, production of alcohol leapt from 500 million litres to more than 3 billion litres. The first phase of the programme relied principally on the expansion of traditional sugar areas and distillation of anhydrous alcohol (for blending up to 20 per cent with gasoline) in plants annexed to existing mills. The second phase of Proalcool was aimed at producing more than 10 billion litres of principally hydrous alcohol (for use in specifically designed alcohol powered engines) by 1985. This was based mainly on autonomous distilleries to be located nearby new cane developments in non-traditional sugar cane regions. This target having been reached, the third phase of the programme was initiated with the goal of reaching 14.3 billion litres by 1990, based principally on the expansion of existing capacity.

The programme is entirely in private hands. However, its remarkable growth has depended on extensive government intervention and assistance. The principal means of government intervention have been to provide heavily subsidized credit, to guarantee prices above production costs, to provide incentives for purchases of alcohol powered vehicles and to require motor vehicle manufacturers to produce alcohol powered vehicles.

The Proalcool programme was premised on growing import dependence on increasingly expensive oil. Brazil's commitment to fuel security and the promise of employment and other benefits ethanol would bring to non-traditional and traditional sugar areas added political weight to what appeared to be sound economic rationale. International bank support, including that of the World Bank (which provided a US$250 million loan for the financing of 62 distilleries), deepened the commitment of the Brazilian authorities to the Proalcool project.

In the 1980s, oil prices have hovered well below the break-even level of at least US$35 per barrel at which ethanol may be considered competitive (assuming sugar prices fluctuate around US$220 per tonne). In addition, Brazil has discovered large oil deposits so that its import dependence had been reduced. The opportunity costs of sugar production for ethanol has also risen, as the pressure on land and other resources has grown due to population and economic growth and the increased attractiveness of alternative crops. In addition, resource pressure has intensified with growing environmental concerns and the increased perception of the high costs of extending the agricultural production into the Amazon and other new frontiers.

Since January 1989, the Brazilian Government has attempted to reduce the cost escalation of the programme by slowing the entry of alcohol dependent vehicles into the domestic market. After previously insisting that the domestic automobile industry devote 90 per cent of its output to alcohol vehicles, the industry has been instructed to reduce the alcohol vehicle share to under half of total production. The share of alcohol-powered vehicles in total domestic sales has declined from a height of 85 per cent in 1985 to 52 per cent in 1989 and further to less than 12 per cent in 1990.
Alcohol prices are artificially maintained 25 per cent below those of gasoline. The subsidy element on alcohol was estimated at around US$0.10 per litre and the total cost well over US$1.2 billion per year.

Structural adjustment of the Proalcool-sugar complex would lead to major changes within the agricultural sector, affecting the choice of crops in the Centre-South as well as in the North-East région of Brazil. In the Centre-South, the net consequences for agricultural output and rural income may be minimal, due to the availability of alternative crops, but in the North-East the impact may be much more severe. In both régions, the phasing out of the Proalcool programme may be expected to increase income instability, as the programme has insulated an important sector of the agricultural sector from domestic and international price movements. Efficiency improvements in the allocation of agricultural resources are expected to more than offset losses from subsidies, especially in the Centre-South.
Ores and metals

542. The ores and metals sector covers a wide range of products from all ferrous and non-ferrous ores through various stages of processing to basic metal manufactures.

543. The ores and metals sector is the largest export sector in Brazil, accounting for around 25 per cent of total trade. Exports have grown at an average annual rate of 22.7 per cent in the period 1970-80 and at a rate of 10.7 per cent in the period 1980-90 (Table V.5 and AV.3). In 1990, the largest export products by value were: iron ore (US$2,406 million); unwrought aluminium alloys (US$956 million); blooms, billets, slabs and sheet bars of iron or steel (US$799 million); iron or steel coils for re-rolling (US$503 million); and pig and cast iron (US$418 million). Brazil is the world's biggest exporter of iron ore and the third largest producer. The main export markets for Brazilian iron ore are Japan, Germany and Italy.

544. This sector is the fourth largest sector in terms of imports (after coal, petroleum and natural gas; non-electric machinery; and chemicals). Imports, which had been growing at an average annual rate of 17.1 per cent during the 1970s, slightly declined in the 1980s to US$1,676 million. In 1989, the largest import item by value was copper ores (US$304 million), followed by unwrought copper alloys (US$279 million) (Table AV.3).

545. In 1991, the average nominal import tariff for the sector - covering 1,190 tariff lines - was 18.3 per cent. There was significant tariff dispersion and escalation, with a minimum rate of zero and a maximum of 35 per cent. High levels of tariffs were charged on household equipment, cutlery and tools (Table AV.4). The average nominal import tariff levied on raw materials was 0.5 per cent, compared with 13.8 per cent on semi-manufactured products and 28.6 per cent on finished goods.

546. Exports of a number of products within this category are subject to anti-dumping and countervailing measures in foreign markets. For example, iron construction castings and steel disc wheels are subject to anti-dumping duties when exported to the United States. Iron metal castings and pig iron exports are subject to countervailing duties also in the United States' market. Oxalic acid and ferrosilicon exports are affected by price undertakings and anti-dumping duties in the European Communities. Brass sheet and strip is subject to anti-dumping and countervailing duties in the United States. An EC price monitoring system affects pig iron and steel exports from Brazil.

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69 Some data on production of iron, tin and copper from 1960 to 1989 are included in Table AV.6, as well as the corresponding data for Latin America. This table shows that Brazil is a major producer of iron and tin in the region.
547. Exports of steel and steel products to the United States and the European Communities were subject to quotas since October 1984 and January 1985, respectively. Voluntary restraint arrangements expired in December 1991 (with the EC) and in March 1992 (with the U.S.). Currently, exports of steel and steel products are free of any quantitative restriction. Brazilian exporters, however, are under anti-dumping and countervailing investigations in the U.S. market.

(a) Iron and steel

548. Successive Brazilian Governments have supported the development of the steel sector. Initially through public investment in large integrated steel mills, and later through fiscal incentives. The major iron and steel firms in Brazil are state-owned. For example, iron ore production is dominated by the Government-owned Companhia Vale do Rio Doce. Among the major steel companies, Usiminas (Usinas Siderúrgicas Minas Gerais), CSN (Companhia Siderúrgica Nacional) and COSIPA (Companhia Siderúrgica Paulista) are also state-owned. However, the country's largest steel-maker, Usiminas, was the first company to be privatized in October 1991, and others are to follow. The iron and steel sector was regulated by the Steel and Non-ferrous Metals Council (CONSIDER, Conselho de Nao-Ferroso and de Siderurgia), which was abolished in March 1990.

549. A National Steel Programme was launched in 1970, which helped shift Brazil's position from a net importer of steel in the early 1970s to a significant exporter in the 1980s. Crude steel production increased from 12 million tonnes in 1979 to 20.5 million tonnes in 1985 and 22 million tonnes in 1987. Brazil's exports of iron and steel products increased steadily from 940,000 tonnes in 1978 to more than 6.5 million tonnes in 1987.

550. The steel sector in Brazil is reported to be internationally competitive when cost comparisons are based on operational expenditures.

70 Pending a new international agreement, the United States reportedly asked the countries affected to carry on observing the expired VRAs (The Economist, 11 April 1992).

71 CONSIDER was created in 1968 to coordinate the expansion of the steel sub-sector, and originally provided incentives only to steel plants. It was in charge of investment programming for the sub-sector, defining marketing and financial strategies for public steel enterprises, and establishing criteria for granting incentives. In 1974, CONSIDER's responsibilities were expanded to include the non-ferrous metals producing industries such as aluminium, lead, copper, tin, nickel, silicon and zinc (World Bank (1990c)).

72 CONSIDER (1988).

73 In 1988, estimated operational costs of Brazilian steel plants of US$300 per tonne of steel, compared favourably to higher costs of US$460 in Japan, US$430 in the United States, and US$445 in France. However, non-operational costs (interest charges, depreciation and taxes) were substantially higher in Brazil (Bulhoes (1989)).
Steel products have been frequently subject to price controls. These controls have led to a systematic fall of steel prices relative to other domestic products. Since 1977, integrated steel producers have benefited from a number of tax incentives, including accelerated depreciation, IPI tax credit on purchases of domestically manufactured capital goods, and reductions of the IPI tax and import taxes on imported equipment.

551. The IPI tax incentive has apparently attracted considerable resources to steel production. The IPI tax credit has also penalized or put non-integrated steel producers at a competitive disadvantage, including those of higher value-added and more specialized products, such as structural shapes and forged components, for which this incentive was not available. The incentive régime has helped to further consolidate the production of price-sensitive commodities such as flat steel, while pulling resources away from specialty areas in which the industry would normally move as it acquired production and technological maturity.

552. The IPI credit also operated as an anti-competitive device, by favouring incumbents over entrants, to the extent that only operating firms could benefit from the scheme. It re-enforced the strong anti-entry regulatory bias of the Steel and Non-ferrous Metals Council (CONSIDER). Law 7,554 of December 1986, has established that the IPI tax credit incentive would be available until the end of 1996.

553. In March 1992, under the MERCOSUL Agreement (see Chapter II), Brazil and its partners signed a production-sharing arrangement for the steel industry. The objectives of the arrangement are to: "co-ordinate the process of integration of the region's steel industry, foster processes of production sharing among steel companies of the region, and assure real tariff preferences." The production-sharing arrangement will be in force until 31 December 1994.

(b) Copper

554. Mining and smelting of copper in Brazil date from the early 1980s. Brazil has traditionally been a large importer of refined copper. The amount of copper imports declined in the 1980s, both in absolute terms and as a share of consumption.

555. Brazil's output of copper concentrates was insignificant until late 1982, when Caraiba Metais, a state-owned vertically-integrated copper producer, started production. Its refined output was based mainly on

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74 Apparently, steel prices were maintained at low levels with a view to reduce production costs in the Brazilian automobile industry.

75 World Bank (1988c).
imported concentrates. Final products (refined cathodes and rod) have all been sold to the domestic industry at prices determined by the Government, which were considerably above the price of imported copper. To assure a market for Caraiba's high-priced copper, fabricating industries were required by the Government to buy a given quota from this State-owned company. Acceptance of the quota was the condition for receiving a licence to import cheap copper.

556. This company has been privatized in 1988 but still operates as a monopoly (mainly in the production of refined cathodes). However, there are no regulatory barriers restricting new entrants to the industry. Economies of scale may explain the monopoly situation. Moreover, the company is price-taker due to the existence of international competitors. Some analysts noted that the copper sector in Brazil was internationally competitive.

557. Since 1988, copper imports have been liberalized and nominal import duties reduced. By 1991, the average import duty levied on copper and articles thereof (HS chapter 74) was 16.9 per cent. This nominal average will be reduced to 10.9 per cent by July 1993 (Table AV.2).

(c) Other ores and metals

558. The Brazilian tin industry has expanded rapidly, partly aided by the Government's policy of encouraging foreign investment. Brazil has become an important tin producer and one of the largest tin metal exporters in the world. Tin production increased from around 3.7 million tonnes in 1970 to 6.9 million tonnes in 1980 and 50.2 million tonnes in 1989 (Table AV.6). In 1991, tin production decreased by around 25 per cent. According to Brazilian authorities, this reduction was partly due to strong export controls implemented by the Government to check the origin of the minerals as well as export prohibitions for environmental reasons.

559. Brazil has been participating, as an observer, in the Association of Tin Producing Countries (ATPC) since 1987, under which tin exports are subject to quotas. Brazil's export quotas have varied between 28,500 in

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76 Caraiba's price for cathodes in 1984, 1985 and 1986 are reported to have exceeded the international price by 55, 59 and 70 per cent respectively (World Bank (1989c)).

77 The sector is, however, said to be affected by Brazil's taxation policy. Certain sales taxes and social contributions (ICMS and Finsocial) increase the cost of copper produced in Brazil (Tavares de Araujo and al. (1992)).

1988 and 34,500 tonnes in 1990; they have fallen from their 1991 peak to a level of 28,000 tonnes for 1992.

(iii) Precious stones and precious metals

560. This sector includes diamonds, pearls, and other precious and semi-precious stones, precious metals and their ores (with the exception of gold). It also covers imitation jewellery, carved and moulded goods, and non-gold coin.

561. Exports of precious stones and precious metals have grown at an average annual rate of 17.5 per cent in the period 1970-80 and at a rate of 10.8 per cent between 1980 and 1990. In 1990, exports amounted to US$134 million, of which almost one-half was diamonds (Table AV.3).

562. A special export document can be used for exports of precious stones and articles of jewellery. Domestic sales to foreigners (non-residents) are considered as indirect exports. Under this special documentation procedure, no prior approval is required for indirect exportation and domestic sellers are not required to be registered as "exporters" with the Foreign Trade Department (DECEX).

563. In 1991, the average nominal import tariff for the sector - covering 278 tariff lines - was 34.4 per cent, with substantial dispersion and tariff escalation. The minimum rate was zero and the maximum 75 per cent. The average rate on items classified as raw materials was 19.7 per cent compared with 21.2 per cent on semi-manufactured products and 51.8 per cent on finished goods (Table AV.1).

(iv) Raw hides and skins, leather and furskins

564. This sector includes all kinds of hides and skins, as well as leather manufactures, and leather and fur clothing and accessories.

565. Trade in the sector is relatively minor. In 1990, exports amounted to US$309 million, up from US$139 million in 1980. The main exported item was bovine leather. Imports of raw hides and skins, leather and furskins have considerably grown since 1970. The average annual growth rate was 24 per cent in the period 1970-80 and 41 per cent in the period 1980-89. Bovine leather accounted for much of the strong increase in the sector's imports (Table AV.3).

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79 According to press reports, a non-negligible volume of tin may have been smuggled to Bolivia by private small miners to avoid export controls.

80 Travel goods and footwear are classified under other Tariff Study Categories.
566. In 1991, the average nominal import tariff for the sector - covering 142 tariff lines - was 17.2 per cent. There was considerable dispersion of the rates, with the minimum at zero and the maximum at 35 per cent. There was also strong tariff escalation, as the average tariff on raw materials was 12 per cent, compared with 15.3 per cent on semi-manufactured products and 35 per cent on finished goods (Table AV.1).

567. There are no known non-tariff measures currently affecting this sector's imports.

568. Exports of raw hides and skins of wild animals are prohibited. In the past, exports of bovine raw hides (wet blue) were restrained to provide adequate access to raw materials at low prices for the domestic footwear and leather industries. Currently, exports of bovine raw hides are free of any quantitative restrictions.

(v) Rubber

569. This sector includes natural and synthetic rubber and rubber semi-manufactured and manufactured articles, such as tyres, belting, and clothing.

570. Rubber exports have grown at an average annual rate of 29.9 per cent during the period 1970-80 and at a rate of 8.9 per cent in 1980-90. Rubber tyres and tubes are the most important export items. Imports have also grown during this period. Natural and synthetic rubber are the main imported items (Table AV.3).

571. In 1991, the average nominal import tariff for the sector - covering 120 tariff lines - was 34.4 per cent. The dispersion of the rates around the mean was considerable (Table AV.4). The minimum and maximum rates were zero and 60 per cent, respectively. There was also considerable tariff escalation, as the average rate on raw materials was 24.2 per cent, compared with 35.2 per cent on semi-manufactured products and 41.4 per cent on finished goods (Table AV.1).

572. The effective rate of protection for the rubber sector was relatively high (66.1 per cent in 1990). As a result of planned tariff reductions, the effective rate of protection will progressively decline to 15.7 per cent by July 1993 (Table V.1).

573. The Federal Government has exclusive rights to purchase and sale rubber of any type, whether produced in Brazil or imported. These operations are executed by the Bank of Amazonía which may authorize firms accredited by the Rubber Superintendency of the National Rubber Council to perform import operations. Rubber imports are subject to the payment of a fee which is collected by IBAMA. Imports of natural rubber are subject to a specific regulation by which importers are required to "consume" around 30 per cent of the domestic production.
574. Rubber policy in Brazil has been established under Law 5.227 in 1967. Under this law, support prices are fixed for purchases by the Government, but rubber producers are free to sell to the manufacturing industry at market prices or to export. A reserve stock, also created by this law, is to cover at least eight months of consumption of imported natural rubber. The Ministry of Economy, Finance and Planning is in charge of fixing the price of domestic rubber as well as the reference value for the sale of reserve stocks.

(vi) Wood and cork

575. This sector includes wood, fuel wood, charcoal, pulpwood, logs, plywood, poles, posts, railway sleepers, lumber, veneer sheets, fibreboard, boxes, cork and cork manufactures.

576. Brazil is a net exporter of wood and cork. Exports amounted to US$429 million in 1990. Main exported items were shaped lumber and plywood (Table AV.3).

577. Sawn wood exports of certain species (pine, imbuia, mahogany and banak) are subject to quotas established by IBAMA for environmental reasons. Export quotas are distributed among registered Brazilian companies according to their past export performances. There are no similar quotas for domestic use of sawn wood by Brazilian wood industries.

578. Exports of logs are currently suspended, except for samples and when originating in re-forestation areas. A prior authorization is required for exporting logs from these areas. A fee of 0.5 per cent of the f.o.b. value is levied for approval procedures.

579. In 1991, the average nominal import tariff for the sector - covering 236 tariff lines - was relatively low at 8.7 per cent, but with some tariff dispersion and escalation. The minimum and maximum rates were zero and 30 per cent respectively. The average rate on raw materials was zero, while that on semi-manufactured products was 9 per cent and that on finished goods 14.2 per cent (Table AV.1).

(vii) Pulp, paper and paperboard

580. This sector includes pulp, paper, paperboards, as well as newspapers, magazines and printing and binding.

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(81) According to the Brazilian authorities, in 1991, exports of sawn wood were valued at US$139 million. The four species (out of 70 varieties normally exported by Brazil) accounted for US$77 million.
581. Since the 1980s, Brazil has been a net exporter of pulp, paper and paperboard (Table V.5). Exports, at more than US$1.2 billion in 1990, have grown strongly (at an annual average rate of 51.3 per cent in the period 1970-80 and 8.5 per cent in the period 1980-90). The main exported item was sulphate wood pulp (Table AV.3). Imports of pulp, paper and paperboard have also grown during the last two decades, although at a slower pace than exports, up to US$435 million in 1989. Main imported items were paper in bulk and newsprint.

582. The average nominal import tariff for the sector - covering 289 tariff lines - was 11.3 per cent by December 1991. The minimum and maximum rates were zero and 20 per cent, respectively. Raw materials imports enter duty-free (Table AV.1 and AV.4). There are no known non-tariff measures currently operating in the sector.

583. The average effective rate of protection for pulp, paper and paper products, at 13.1 per cent in 1991, was among the lowest in the economy (Table V.1). With the nominal tariff reduction programme, scheduled up to July 1993, the sector's effective rate of protection will be lowered to 9.2 per cent.

(viii) Textiles and clothing

584. This sector includes all kinds of fibres, textiles and manufactured articles from blankets, carpets and rugs, as well as clothing and ropes.

585. The Brazilian textile industry is characterized by the presence of rather small firms. Of some 5,000 firms, two-thirds are considered as very small ("micro") enterprises, and one fifth as medium and small. The very small firms account for less than 3 per cent of production, while large firms account for almost 80 per cent. The textile and clothing industry is the largest employer in Brazil, accounting for about 18 per cent of all manufacturing employment. In 1987, there were 750,000 employees in the textile industry and 1.6 million in the clothing industry.

586. The Government has encouraged, at times, the decentralization of production in the textiles industry by granting various incentives to firms wishing to locate in the North East region, including tax exemptions for a period of ten years. The Government paid for the installation of the

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82 Brazilian refill paper, when exported to Canada, is subject to anti-dumping and countervailing duties.
83 Anson and Simpson (1988).
84 Recent studies by the Instituto de Estudos e Marketing Industrial (IEMI) estimate the number of firms in the clothing industry at 13,000. The number of textile companies operating in Brazil fell from 5,200 in 1985 to 4,500 in 1987. The textile industry employed 836,000 people (Economist Intelligence Unit (1990)).
infrastructure and contributed a specific amount to each project. These measures have, however, been recently abolished.

587. Until recently, the Brazilian market for textiles and clothing was relatively closed. Until March 1990, import licence suspensions were the basic instrument for protection in this sector. The suspension of the issuance of import licences meant that the import of a wide range of textile products except certain man-made fibre yarns, certain industrial textiles and sails, was actually prohibited. Competing imports were also affected by high tariffs, ranging in 1989 from 10 per cent for cotton to 85 per cent for carpets and other imported clothing. Moreover, certain studies refer to an increasing cartelization of the industry.

588. Non-tariff measures affecting this sector have now been eliminated. Import tariffs have also been reduced. Currently, Brazil maintains no quantitative restrictions, bilateral agreements or any other measure which may restrict imports of textile products except for a prior import authorization for made-up articles.

589. In 1991, the average nominal import tariff for the sector - covering 1,320 tariff lines - was 34.5 per cent, with a relatively high dispersion of rates around the mean (the minimum and maximum rates were zero and 50 per cent, respectively) (Table AV.4). There was significant tariff escalation, particularly between the raw materials and later stages. The average rate on items classified as raw materials was 5.1 per cent, while the average rate on semi-manufactured items was 30.8 per cent, and the rate on finished goods was 47.6 per cent (Table AV.1). Nominal import tariff rates varied between 14.7 per cent levied on wool imports (HS chapter 51) and 50 per cent levied on carpets, and articles of apparel and clothing (HS chapters 57, 61 and 62). These rates will be reduced to a maximum of 20 per cent by July 1993 (Table AV.2).

590. The clothing sector ranked among the top five most protected sectors in 1991. The average effective rate of protection for the clothing industry was 55.8 per cent and that for the textile yarn and fabric industries 47.9 per cent (Table V.1).

85 In 1987, Brazil notified to the GATT that it did not impose "restrictions, quantitative or otherwise, on the imports of textiles within the meaning of the Arrangement regarding International Trade in Textiles" (GATT document COM.TEX/SB/1315/Add.2). However, the temporarily suspension of the issuance of import licences did affect a wide range of textile products. This measure was justified under the provisions of Article XVIII of the GATT, which was disinvoked in July 1991.

86 Protected behind "almost insurmountable tariffs" and other devices restricting imports, the industry had reportedly become dominated by oligopolies, charging excessive prices without investing on a scale necessary to maintain competitiveness or permit quality to be improved (Economist Intelligence Unit (1990)).

87 GATT documents COM.TEX/SB/1549/Add.21 and COM.TEX/SB/1619.
591. Textiles imports have grown steadily, at an annual average rate of 11.5 per cent in the 1970s and at a rate of 16.1 per cent in the period 1980-89 (Table AV.3). In 1989, imports were valued at US$509 million. The main imported item was raw cotton (US$236 million).

592. Brazil's textile imports came primarily from developed MFA members (63 per cent in 1987). However, the share has been declining since 1984, while the share of imports from developing MFA members has expanded from 15 per cent in 1985 to 33 per cent in 1987. Similarly, clothing imports from developed members declined and imports from developing members increased to 73 per cent.

593. Brazil is a net exporter of textiles and clothing. Textile exports grew strongly in the 1970s - at an annual average rate of 14.7 per cent - but the growth rate dropped back to 3.1 per cent annually in the 1980s. They amounted to almost US$1.3 billion in 1990 (Table V.5). Exports are diversified throughout the sector, but the main exported products were grey cotton yarn in bulk, other textile products and clothing accessories (Table AV.3).

594. Brazil is not a major participant in the international markets for textiles and clothing. Brazilian exports account for less than 1 per cent of the world trade on these products. Overseas markets are not considered very important for the Brazilian textile and clothing industry. According to the "Instituto de Estudos e Marketing Industrial", only exports of bathroom articles and nightmare reached an amount greater than 7 per cent of production. In most cases the proportion exported is substantially less than 5 per cent of total production and overall, only 4.8 per cent of the total volume of garment and other manufactured production is sold abroad. Around 80 per cent of textiles exports and 90 per cent of clothing exports go to developed MFA members.

595. The European Communities and the United States are the main markets for the Brazilian products, with the EC representing more than 30 per cent of Brazil's export earnings in textiles and clothing. Other export markets are Canada, Paraguay and Japan.

596. Brazil's exports of textiles and clothing are subject to three bilateral restraint agreements signed under the Multi-Fibre Arrangement (MFA). Brazil maintains bilateral agreements with Canada, the European Communities and the United States. A non-restraint agreement with Austria expired in October 1987. The bilateral agreement with the United States was renewed for one year on 31 March 1992. It covers yarn, fabric, apparel and made-up textiles products of cotton, wool and man-made fibres. The agreement with the European Communities covering the period 1 January 1987 to 31 December 1991 was also renewed on 31 December 1991. Its product coverage included cotton yarn, woven fabrics of cotton, woven fabrics of synthetic textile fibres, woven trousers, woven terry fabrics and toilet linen, bed linen, table and kitchen linen, and wool tops. The agreement
with Canada, renewed on 31 December 1991, covered bedsheets, pillowcases, cotton terry towels, washcloths and sets.

597. Export quotas are distributed among Brazilian producers according to their last year's performance. Government authorities take into account the value and volume of production to distribute quotas.

598. According to a 1990 study on the Brazilian textile and clothing industry by the Economist Intelligence Unit, Brazil has not filled its MFA quotas in the EC market (with few exceptions), completing only around 10 per cent on average in 1988, although it generally fulfilled quotas in the U.S. market (apparently because prices obtained in the United States were more attractive than in the European Communities).

599. Other trade measures affecting Brazil's exports include anti-dumping and countervailing duties. Cotton yarn exported to the United States is subject to a countervailing duty. Sisal twine exports to the European Communities are subject to price undertakings, following an anti-dumping investigation.

(ix) Fertilizers and mineral products

600. This sector includes crude and manufactured fertilizers and pesticides, stone, sand, gravel, lime, hydraulic cements, and glass and all glass products.

601. Brazil is a net importer of mineral products and fertilizers. However, while imports have declined at an annual average rate of 7.4 per cent from US$1,140 million in 1980 to US$570 million in 1989, fertilizer exports have grown at a rate of 6.7 per cent in the 1980s (Tables V.5 and AV.3). Main imported items in 1989 were potassic fertilizers (US$196 million) and sulphur (US$118 million). Exports were diversified within the sector, with the single largest items being non-refractory bricks and refractory minerals.

602. The average nominal import tariff for the sector - covering 508 tariff lines - was 14 per cent in 1991 (Table AV.4). The tariff structure for the sector showed some dispersion and escalation of rates. The minimum and maximum rates were zero and 33 per cent, respectively. The average rate on raw materials was 6.7 per cent, while that on semi-manufactured products was 10.7 per cent and that on finished goods 19.5 per cent (Table AV.1).

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88 Economist Intelligence Unit (1990).
603. Brazilian agriculture is heavily dependent on fertilizers. Thus the
growth of Brazilian agriculture cannot be divorced from policies regarding
fertilizers. Between 1965 and 1980, consumption of fertilizers expanded by
almost 20 per cent per year, from 300,000 tonnes to 4 million tonnes in
1980. Almost half of the fertilizers consumed are phosphoric, 30 per cent
potassic and the remaining 20 per cent are nitrogen products. Fertilizer
consumption decreased significantly in the early 1980s, but recovered
later. In the period 1980 to 1983, fertilizer consumption fell by
45 per cent. From 1984 it recovered and by 1987 exceeded the 1980 peak
(Table V.13). This improvement was partly attributable to stronger
incentives for agricultural production and to the recovery of agricultural
production.

604. Domestic fertilizer production was a prime beneficiary of import
substitution policies implemented in the late 1960s. Production of
nitrogenous and phosphate-based fertilizers radically increased during the
1970s (Table AV.7). Production growth in basic chemical ingredients has
also been particularly impressive. Whereas in 1972, 34 per cent of
phosphoric acid was imported, only 3 per cent was imported by 1985.

605. In 1973, when the oil price shock resulted in sharp increases in
fertilizer prices, the Government introduced a 40 per cent subsidy on
fertilizer purchases. This measure, initially aimed at assisting
agricultural activities, also benefited fertilizer sales. In 1976, this
subsidy was replaced by the incorporation of fertilizers into the rural
credit system at increasingly negative interest rates. Apparent
consumption of fertilizers peaked in 1980 to more than 4 million tonnes.

606. The Government has played an important rôle in the development of the
fertilizer industry, both through its own direct investments and through
incentives which have encouraged private investment in this sector.

607. The domestic fertilizer industry has benefited from the Brazilian
fertilizer prices, which tended to be above world market prices, and from
import restrictions applied to ensure full domestic capacity utilization.
Since the early 1970s, tariff protection has been used to restrict imports;
tariff escalation was pronounced (tariffs on raw materials were levied at
5 per cent, simple fertilizers at 30 per cent, and compound fertilizers at
50 per cent). In July 1988, tariff escalation was partially reduced (the
highest rate was cut to 25 per cent). The highest tariff rate was further
reduced to 15 per cent in 1991, and will be at 10 per cent by July 1993.

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89 In the 1970s, the parastatal organization "Petrofertil" invested about US$2 billion
in fertilizer production. Goldin and Castro de Rezende (1990), noted that it was claimed
that this investment led to import substitution valued at US$2.7 billion in the period 1980
to 1986. By 1986, Petrofertil was responsible for over half of nitrogen fertilizer consumed
in Brazil.
608. From the mid-1980s until the recent tariff reductions, fertilizer users were penalized by the high tariff rates, used to protect the domestic industry, which have raised the costs of fertilizers. Up to the mid-1980s, the additional cost of fertilizers was compensated for by subsidized credit for fertilizer purchases, so that the Government (and hence tax payers in general) paid the direct cost of the fertilizer import substitution programme. However, increasingly positive real interest rates on rural credit transferred this burden to farmers.

(x) Chemicals

609. This sector includes a wide variety of products, such as organic and inorganic chemicals, tanning materials, colouring materials, paints, varnishes, medical and pharmaceutical products, plastics, essential oils, perfumes, cosmetics, soaps, and cleaning preparations.

610. Trade in the sector is substantial and diversified, both with respect to exports and imports. Chemical exports grew considerably during the last two decades. In 1990, chemical products constituted Brazil's fifth largest export sector, amounting to almost US$2 billion up from US$717 million in 1980 and US$35 million in 1970. Chemical imports (the third largest import sector in Brazil) were valued at US$2.8 billion in 1989, only slightly up from the level in 1980 (Table V.5 and AV.3 for details). The largest export sub-sector was polymerization products with exports valued at US$383 million in 1990. It was also the fastest growing sub-group with an average annual growth rate of 141 per cent in the 1970s and 23.1 per cent in the 1980s. Other large sub-groups include hydrocarbons (with exports of US$273 million in 1990) and nitrogen function compounds (US$154 million). In 1989, the largest import sub-sector was also nitrogen function compounds with a value of US$414 million. Other large sub-groups include organic and inorganic compounds, and products of polymerization.

611. The average nominal import tariff for the sector - covering 3,336 tariff lines - was 17 per cent in 1991 (Table AV.4). There was significant dispersion of rates around the mean. The minimum rate was zero and the maximum 60 per cent. There was also some tariff escalation with the average rate on semi-manufactured products at 15.6 per cent and the average rate on finished goods at 22 per cent (Table AV.1).

612. The effective rates of protection for the pharmaceutical and plastics industries were relatively high at 38.7 and 46.2 per cent, respectively.

90 No items in the chemicals sector are classified by GATT as raw materials.
The effective rate for the chemicals sector was low at 12.2 per cent (Table V.1). These rates will be progressively reduced until July 1993.

613. The Ministry of Health maintains control over pharmaceuticals and cosmetic products domestically produced or imported into Brazil. Specific registration of laboratories and laboratory products are required before launching new products in the market. The operation of pharmaceutical companies requires a special licence. Price controls on most pharmaceutical products have now been removed (Brazil had controlled prices of all pharmaceutical products for the last 40 years).


615. As regards pharmaceutical products, the current administration has proposed to Congress (in May 1991) new legislation containing process patent protection for pharmaceuticals. In the past, lack of either product or process patent protection for chemical compounds and pharmaceutical products lay behind trade problems with the United States.

(xi) Non-electrical machinery

616. This sector includes a wide range of products, such as agricultural, metal working, industrial and office machinery, as well as steam generators, stoves and radiators, and engines and turbines.

617. Trade in the sector is substantial and diversified. Non-electrical machinery is the fourth largest export sector in Brazil. It is also the second largest import sector. Exports considerably grew in the 1970s (at an annual average rate of 36.1 per cent) and at a lower pace in the 1980s.

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91 The classification of sectors in Table V.1 is different from that used in the GATT Tariff Study classification.

92 Some industry specialists noted that price controls were the most important barrier to market access in Brazil. Brazil’s policies concerning patent protection for pharmaceutical products and processes were seen also as a problem for investment in the sector (International Trade Reporter, 8 August 1990).

93 Estimates done by ABIFARMA indicate that, for a pharmaceutical product with a retail price of Cr$100, the price composition is as follows: Cr$45.4 for operational margins of the pharmacy and distributors; Cr$14.5 on different taxes; Cr$7.5 for financial costs; and Cr$32.6 the producer price.

94 On 2 July 1990, the USTR terminated an ongoing section 301 investigation, and eliminated the 100 per cent ad valorem tariffs imposed on certain Brazilian goods pursuant to that investigation, as a result of the Brazilian administration’s intentions to revise its laws pertaining to intellectual property rights (USTR (1992)).
(at an annual rate of 5.8 per cent). In 1990, exports amounted to US$2.5 billion, the main exported products were piston engines other than for aircraft (US$887 million), pumps and centrifuges (US$354 million) and machine parts and accessories n.e.s. (US$158 million). Imports of non-electrical machinery have also grown during this period, but at a slower pace, from US$573 million in 1970 to US$2.5 billion in 1980 and US$2.8 billion in 1989 (Table AV.3). Main imported products in 1989 were aircraft engines (US$324 million), machine parts and accessories n.e.s. (US$319 million), and textile machinery (US$244 million).

618. In 1991, the average nominal import tariff for the sector - covering 1,308 tariff lines - was 23.8 per cent (roughly the average for the economy as a whole) (Table AV.4). The minimum and maximum rates were zero and 65 per cent, respectively. Office machines and heating and cooling equipment bore the highest rates. All tariff items in the sector are classified as finished goods, so that no estimates are made of tariff escalation.

619. There are no known non-tariff measures currently affecting imports, a part from a special import authorization required for office machines (Table AV.4). Exports of agricultural tillage tools are subject to an anti-dumping duty in Canada, and a countervailing duty in the United States.

(xii) Electrical machinery and apparatus

620. This sector includes the manufacture of elevators, refrigerators, sewing machines, electrical industrial machinery, radios, televisions, communication equipments and all kinds of electrical machinery and appliances.

621. Trade in the sector is substantial. Exports have grown at an average annual rate of 38.4 per cent in the 1970s and at a rate of 8.4 per cent in the 1980s. In 1990, exports amounted to almost US$1.1 billion. The main exported products were radio broadcast receivers and electric power machinery (Table AV.3). Imports, valued at US$1.5 billion in 1989, have also strongly grown during the 1970s. Main imported sub-sectors were transistors, valves and switchgear.

622. In 1991, the average nominal import tariff for the sector - covering 572 tariff lines - was 28.4 per cent, with a wide dispersion of rates.

95 The extraordinary expansion of Brazilian non-electrical machinery exports in the 1970s demonstrated the country's ability to capture new markets in a "skill intensive" sector. While the strongest branches were those producing standardized products, such as engines and pumps, it is noteworthy that export performance has also been remarkable in new and more sophisticated products (Wogart (1989)).
around the mean. The minimum rate was zero and the maximum 70 per cent. Within the sector, the highest average rate was applied on telecommunications apparatus. Special import authorizations are required for all products in the sector (Table AV.4).

623. Government policies played a fundamental rôle in the development of the electronics industry. The main sub-sectors are telecommunications, consumer electronics, informatics and microelectronics.

(a) Telecommunications

624. The telecommunications infrastructure in Brazil was poorly developed up to the mid-1970s, when strongly interventionist government policies were implemented. Since then, rapid progress has been made. In accordance with the 1974 Second National Development Plan (PND-II) priorities, the Government encouraged the establishment of joint ventures in certain sectors. The plan created a comprehensive programme for the telecommunications sector comprising heavy investment outlays in infrastructure, conversion of multinational companies' (MNCs) affiliates in the sector into joint ventures, and investment in basic research in a government-sponsored Research and Development Centre.

625. The state holding company (TELEBRAS) invested heavily in the sector (US$10 billion in 1976-83), giving the Government a virtual monopoly in the Brazilian market for telecommunications equipment. This power was further intensified by the use of import restrictions to force import substitution. Imports, at nearly US$250 million in 1975, had fallen to US$69 million by 1978, in spite of fast domestic demand growth.

626. The Government's increased bargaining power permitted the completion of the second policy objective, specifically the transformation of MNC affiliates into joint ventures controlled by private nationals. Government procurement policies were used to encourage this transformation as well as the transfer of specific technologies.

627. The third element in Government's strategy was the setting up of an R&D centre for basic research, mostly in digital technology. The centre was an important agent in technology transfer from MNCs.

628. These policies have effected drastic changes in the telecommunications industry. Before 1974, the industry was dominated by a few MNC affiliates. By 1981, 83 per cent of domestic sales of equipment

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96 The number of telephones per 100 inhabitants increased from around 1.6 in the late 1960s, to 7 in 1983 (Fritsch and Franco (1991a)).
were made by the seven largest joint venture firms. These firms also provided 98 per cent of the purchases of the TELEBRAS group.

629. In mid-1991, the Brazilian Government made a series of administrative changes which permitted foreign participation in the telecommunications sector. Efforts to privatize certain portions of the telecommunications sector will also continue. Private companies will be permitted to offer services and compete against state-owned companies for the most profitable communications services, designated as "special" or "limited" services. Such services include satellite data transmission, cellular telephone services, and special business services such as communications networks to interconnect banking branches of the same company. Private companies will continue to be excluded from the "public" service area, that is, the lines and telephones used by the general public.

630. For the last 30 years, nearly all telephone services have been exclusively supplied by the national telephone company or its subsidiaries. State companies were required to purchase all telephone equipment from one of the three certified local companies. The new regulations eliminate this monopoly by permitting all telecommunications sectors to purchase equipment from any supplier, including overseas manufacturers when the supplies are cheaper or of better quality than similar equipment made domestically. In order to participate in the cellular services market, foreign companies must form joint ventures that give local firms at least 51 per cent control.

(b) Consumer electronics

631. The recent structure and performance of the consumer electronics industry in Brazil have been influenced by government policies mainly through incentives granted in the Manaus Free-Trade Zone. In the early 1970s, new incentives to firms coming to the FTZ were created allowing the

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97 Majority-owned foreign firms can be found only in the network building segment, where dependency on TELEBRAS procurement is less pronounced. If the telecommunications industry is considered as a whole, foreign participation, measured by voting capital, would reach 23 per cent. Measured by shares of total capital, foreign participation would rise to 53 per cent (BNDES, "O Capital Estrangeiro na Indústria Brasileira: Actualidade e Perspectivas", Rio de Janeiro 1988, cited in Fritsch and Franco (1991a)).

98 Official estimates projected that increased competition would bring the average cost of a new phone line down from US$3,500 to US$2,000 (International Trade Reporter, 21 August 1991).

99 During the 1960s, MNCs held a 40 per cent share in a market dominated by black and white TVs, and about 50 per cent of the audio market. Imports were large, especially of audio products. Among the factors contributing to a change in the industry in the early 1970s, certain authors mention the adoption of the German Pal-M system of colour TV and policies that accelerated production to allow the broadcasting of the 1974 World Soccer Cup in colour (Fritsch and Franco (1991a)).
possibility of serving the domestic market. By 1985, almost all firms manufacturing colour TVs were located in the FTZ.

632. The massive migration to the Manaus FTZ allowed rapid output growth, but turned the industry into an assembler of imported kits, directing almost all its production to the domestic market. Only about 6 per cent of sales were exports. By the early 1970s, domestic demand of final goods was predominantly satisfied by domestic production. However, imports of components rose sharply during the 1970s. Imports were calculated at about 30 per cent of operating costs on average for 1983-84.

633. The average ad valorem import tariff levied on consumer electronics was 65 per cent in 1990. It will be reduced to a range of between 20 and 30 per cent by July 1993.

(c) Computer industry

634. Until the mid-1970s, the computer industry in Brazil was entirely composed of MNCs' affiliates. This situation changed radically in a few years, because of policies aimed at reserving the market for national production (the "reserved market" policies). Government efforts to ensure national participation in the computer industry started in 1974 with the founding of COBRA (Computadores Brasileiros S.A.). The manufacturing of small systems started in 1976. The development of the computer industry in Brazil was conditioned to a large extent by the Government. It appears that the policies applied were strict in terms of domestic input content, and rigid and non-transparent with regard the application of the similarity laws.

635. The responsibility of supervising the similarity requirement in this sector was assigned to a government agency created in 1972 (CAPRE, Electronics Data Processing Activities Coordination). CAPRE's activities evolved into project examination and the imposition of weighty national content requirements. In 1979, this agency was expanded and reorganized becoming the Special Secretariat of Informatics (SEI), under the National Security Council.

636. After 1979 the computer industry was divided into two groups: the lower end of the market (micros and their peripherals) which was reserved for completely national firms, and mainframes which were left to existing MNC affiliates. A large part of the Brazilian computer industry, such as the manufacture of microcomputers, printers, disk drives, modems, and their components was placed off limits for foreign firms. The domestic

Through the Special Informatics Secretariat (SEI), the Brazilian Government has imposed a wide array of restrictions that effectively limited foreign involvement in the informatics sector.
production of microcomputers increased from almost zero in 1979 to more than 50,000 in 1983, leading to an extraordinary increase in the sales of domestic firms throughout the 1980s (Chart V.2).

Chart V.2
Computer industry sales in Brazil, 1980-90
US$ million


Another factor, a part from the "reserved market" policy, behind the impressive growth of domestic firms' sales was Brazil's strict import restriction policy. The discretionary element in the application of the "reserved market" policy has been heavily criticized, mostly by industries.

\[\text{Fritsch and Franco (1991a) noted that in the absence of binding technological barriers, the radical application of the "similarity" law led to tremendous mushrooming of domestic firms.}\]
depending on imported electronic components. The SEI applied the similarity requirements on all kinds of imported products that involved any electronic component. The SEI also took a restrictive view of foreign equity participation in domestic firms in the microcomputer segment, going beyond the strict terms of the "Informatics Law" of 1984 which allowed joint ventures with a maximum foreign share of 30 per cent.

638. The 1984 Informatics Law established widespread powers to control and promote the informatics industry in Brazil (Note V.2). The instruments used included import prohibitions and special authorizations for production. Some amendments to the Informatics Law were introduced in October 1991. The main elements are the elimination of import controls and the requirement of prior authorization for the production in Brazil; and the extension of incentives to firms located in Brazil and with a maximum foreign capital share of 49 per cent. The Executive retains the power to temporarily intervene in the domestic market through either import or production prior authorizations. The "reserved market" policy is to be terminated in October 1992, as is the prior import approval requirement.

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102 Some informatics firms "migrated" to the Manaus Free Trade Zone, creating a conflict between the FTZ authorities and the SEI. This was seen as one of the inconsistencies between alternative models of industrial policies in Brazil.
In October 1984, Brazil adopted its Informatics Law, reserving the great bulk of the country's computer and data processing market to Brazilian firms for the following eight years. Law 7.232 established restrictions on foreign investment as well as on importation of informatics goods. Under Article 9 of the law, the executive branch has the authority to adopt temporary restrictions on the production, operation, sale, and importation of informatics goods to ensure adequate protection of domestic companies until they are capable of competing in the international market. The Special Secretariat for Informatics (SEI) was given authority to regulate all trade, investment, research, manufacturing, technology transfer, and marketing in Brazil of "informatics" products or services (defined as goods or services based on digital technology). Based on this authority, the SEI prohibited participation by foreign firms in product or service areas where Brazilian companies have technological capacity, thereby reserving large sectors of the computer and related markets for Brazilian firms.

The concept of a Brazilian national firm is defined more restrictively in the Informatics Law than in the 1988 Constitution. Not only must a firm be incorporated under Brazilian law and maintain its head office in Brazil, but it must also be permanently, exclusively, and unconditionally controlled by Brazilian residents or by Brazilian Government entities. National firms were granted incentives, including import duty exemption for imported items without domestic equivalents, tax exemption (IPI), deduction, as operational expenditure, for income tax purposes, of up to double the amount spent in selected programmes, accelerated depreciation, and priority in direct financing.

Companies that cannot qualify as national firms are excluded from the special incentives. They may produce informatics goods in Brazil only if they can comply with a broad array of requirements, including demonstrating that: the goods are relevant to local scientific and productive activities; national companies are unable to supply the domestic market; the foreign company has adequate technology to produce these goods; the foreign company sets aside a percentage of its gross annual income for research and development; and the foreign company submits both an export plan and a plan to establish local suppliers.

Until recently, the SEI, which had to approve all technological transfer agreements and imports relating to data processing, protected the domestic informatics market rigorously against foreign competition. According to the World Bank, the SEI had great discretionary power to decide whether to permit importation of computers manufactured abroad. It not only barred imports of computers that would compete with those being produced in Brazil, but also prohibited the importation of computers that it believed ought to be manufactured in Brazil.

In the higher technological advanced areas of informatics, where Brazilian firms do not have manufacturing capacity, foreign companies have wider participation. Thus, manufacturing and marketing of micro, mini and
super-mini computers are reserved for Brazilian companies only, but foreign firms are permitted to manufacture and market mainframe computers.

In October 1991, Law 8.248 introduced some amendments to the Informatics Law. The main changes are the modification of the concept of "Brazilian firm of national capital" (51 per cent share of the voting capital and technological autonomy for the national partner) for granting special incentives; the elimination, on 29 October 1992, of prior approval for the production of informatics goods; preference for informatics goods and services produced by Brazilian firms of national capital in all public purchases; reduction, of up to 50 per cent, in income taxes for expenses incurred in research and development; and extension, until 29 October 1992, of IPI exemptions and accelerated depreciation granted to informatics goods produced in Brazil. To be eligible to the special fiscal incentives, firms are required to use at least 5 per cent of gross sales in research and development activities in the sector.

Software Law (Law No. 7.646)

Brazil's Software Law, adopted in December 1987, provides copyright protection for 25 years on all software registered with the SEI, starting from the date a programme is first released in any country. Protection is available for software developed by both domestic and foreign companies, provided that reciprocal protection for Brazilian software exists in the foreign registrant's home country. The law requires that all software be registered ("catalogued") by the SEI before marketing in Brazil.

The Software Law generally permits "non-national companies" to sell their software in Brazil only through Brazilian "national companies". All agreements for transfer of technology of foreign computer programmes must be approved. Approval is conditioned upon the absence of a similar national product and upon the foreign company furnishing the Brazilian licencse with complete documentation. Appeals procedures exist for denials of cataloguing. Once catalogued, a programme can be freely marketed in Brazil for a period of three years.

There has been considerable dissatisfaction with the Software Law, which has made software more expensive and inaccessible. In September 1990, the Secretariat of Science and Technology (SCT) announced the creation of a Special Commission to propose reforms in the Software Law. The directives for the reform are the elimination of the similarity examination for computer programmes; ending exclusivity for the sale of software; liberalization of imports of computer programmes; and evaluation of the registration system for computer programmes. These reforms are currently under discussion in Congress.
639. There is some controversy about the effects of the market reserve policy on the performance of the informatics industry. Some analysts point to the policy's success in increasing domestic firms' sales. In a relatively short period of time, Brazil developed a substantial informatics industry of its own. According to a census by the Secretariat of Science and Technology (SCT) 95 per cent of enterprises in the informatics sector are firms financed with Brazilian capital. Only in the microelectronics segment, foreign participation reaches 35 per cent; digital instrumentation and technical services are entirely controlled by national firms (Chart V.3).

103 The "reserved market" policies share some similarities with traditional import substitution practices, especially with regard to protection from import competition and heavy local content requirements. However, the "reserved market" experiment in Brazil is distinct from traditional import substitution policies. First, the "reserved market" policy has been applied in an industry in which the technological frontier is moving very fast, meaning that product cycles are often too short to allow learning to proceed long enough to reach efficiency. Second, and perhaps more important, the SEI has not allowed even minority associations with foreign capital, and has closely monitored technological cooperation to induce national firms to develop indigenous technological capabilities. This contrasts sharply with Brazilian experience with import substitution policies, that normally combined restrictive trade policy with liberal treatment, often including incentives, of foreign capital.
Chart V.3
Enterprises in the informatics sector by type of capital, 1990
Per cent

<table>
<thead>
<tr>
<th>Segment</th>
<th>Brazilian firms of &quot;national capital&quot;</th>
<th>Foreign-owned firms</th>
</tr>
</thead>
<tbody>
<tr>
<td>Data processing</td>
<td>93.7</td>
<td>6.3</td>
</tr>
<tr>
<td>Tele-informatics</td>
<td>96.7</td>
<td>3.3</td>
</tr>
<tr>
<td>Industrial automation</td>
<td>64.3</td>
<td>35.7</td>
</tr>
<tr>
<td>Microelectronics</td>
<td>97.5</td>
<td>2.5</td>
</tr>
<tr>
<td>Computer programmes</td>
<td>100.0</td>
<td></td>
</tr>
<tr>
<td>Digital instrumentation</td>
<td>100.0</td>
<td></td>
</tr>
<tr>
<td>Technical services</td>
<td></td>
<td></td>
</tr>
<tr>
<td>All segments of the</td>
<td>94.6</td>
<td>5.4</td>
</tr>
<tr>
<td>Informatics sector</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>


640. In terms of gross sales, domestically-financed enterprises have increased their share of the Brazilian informatics market from 32 per cent in 1980 to 60 per cent in 1990 (Chart V.2). The dominance of such national firms in the domestic market started in 1984, the same year when the Informatics Law was adopted.

641. It has been noted that excessive protection plus a ban on foreign capital has produced highly uncompetitive prices (Table V.14). It is also noteworthy that output per worker, an indicator of labour productivity, of foreign firms in Brazil has evolved more favourably than for national firms (Table V.15).

642. Another costly effect of the "reserved market" policy was a serious trade dispute with the United States. Within a year of the enactment of the Informatics Law, an investigation of Brazil's market reserve was started under Section 301 of the U.S. Trade Act of 1974. Imposition of sanctions was postponed in January 1988, following the enactment of the Software Law. Following decisions of the National Monetary Council and the Central Bank permitting remittance of payments for foreign software, the
United States announced the termination of the four-year-old informatics case against Brazil in October 1989.

643. Brazil's restrictive policies have resulted in higher costs both for imported and domestic technology. These policies substantially increased transaction costs of technology transfer; ultimately these costs resulted in more expensive products for consumers including in most industries which use computer technology in management, production and as components. By largely insulating imported and domestic technology from foreign competition, the Government has permitted companies to charge higher prices in the Brazilian market. These policies have also prevented Brazil from importing the state-of-the-art technology needed to make Brazilian manufactures internationally competitive.

644. Since March 1990, the Brazilian Government has relaxed a number of restrictions in the informatics sector. The administration placed SEI, as a first step, under a new agency directly under the Presidency, the Secretariat of Science and Technology (SCT), which was charged with planning, coordinating, and supervising science and technology. As a second step, the SEI was abolished and its functions transferred to two of the SCT's organs, the National Informatics and Automation Council (Conselho Nacional de Informática e Automação, CONIN) and the Department of Informatics and Automation Policy. It has also liberalized joint-venture guidelines, lowered tariffs on computer components and ruled some goods exempt from the informatics market reserve. In June 1990, the annual import ceiling on imports of informatics products was abolished.

645. However, prior import authorization from SCT is still required on 42 categories of equipment (until February 1992) in this sector, including mini- and micro-computers. In January 1991, CONIN already removed some 250 products from the list of restricted informatics imports. However, the bulk of informatics imports, including personal computers, peripherals and fax machines, remains restricted until October 1992, when the prior import permission requirement is to be abolished. CONIN is also empowered to establish maximum prices and performance differentials between locally

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104 The SEI considerably relaxed its restrictive policies in 1989. Manufacturers were allowed to import the latest electronic components. SEI began approving imports of foreign software with no national similar much more rapidly, and it diminished its opposition to joint ventures. This change was partly attributed to a response to the threat of trade sanctions from the United States.

105 The list includes, as announced by the Brazilian Government in September 1990, most small computer parts and components, such as personal computers, micro-computers, super micro-computers, monitors, keyboards, hard drives, floppy drives, printers, fax machines, telecommunications equipment for satellite transmissions and electronic auto ignitions.

106 By the end of 1990, CONIN determined the list of products subject to prior approval for importation and production in Brazil, and defined the criteria for price monitoring and performance of domestically produced goods.
produced informatics products and those produced abroad (Decree 99.244 of May 1990). Imports of products similar to those produced domestically are to be permitted if those differentials are exceeded.

646. Government support for the sector remains relatively high. Under the National Plan for Informatics and Automation (II PLANIN) adopted in October 1991, a number of fiscal incentives were established for the Brazilian informatics industry. These incentives are granted to Brazilian firms of "national capital" (for example, special credit lines for the financing of automation are made available to the private sector when it purchases informatics products from Brazilian firms).

647. The schedule for gradual tariff reduction in the informatics sector foresees the decline of the nominal import tariff from 65 per cent in 1990 to a ceiling of 40 per cent in July 1993.

648. Imports of informatics products increased from US$300 million in 1981 to more than US$830 million in 1990 (parts and components accounted for more than one-half). The share of Brazilian firms of national capital in total imports grew from 27 per cent to 70 per cent during the same period. The predominance of these firms started in 1984.

649. The relative share of imports in gross sales by Brazilian firms of national capital has decreased from around 20 per cent during the period 1981-85 (except in 1982 and 1983) to 15 per cent since 1986. The decrease was even more impressive for foreign firms; import share in gross sales fell from 33 per cent in 1981 to 10 per cent in 1990.

650. Exports of informatics products remained at around US$250 million in the second half of the 1980s; more than 80 per cent was data processing. Foreign firms accounted for more than 90 per cent of total exports. The export orientation of the informatics industry is, however, limited. During the period 1988-90, exports represented only 4 per cent of gross sales. For Brazilian firms of national capital, exports represent less than 1 per cent of their gross sales. For foreign firms, exports account for around 9 per cent of gross sales.

(d) Microelectronics industry

651. In the early 1980s, the SEI's influence was extended to the micro-electronics industry. A special commission was formed within SEI in

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1980 to report on policies for micro-electronics, and a "National Micro-electronics Plan" was drafted. SEI's policy was to restrict MNCs' activities to assembly and testing and prevent them from introducing new products. The SEI was also to select national firms willing to perform the whole sequence of production of customized and semi-customized digital integrated circuits. Fiscal incentives would be given and a government financed research centre (the Centre for Technology in Informatics, CTI) would be created, following the successful experience of the research centre for the telecommunications industry.

(xiii) Transport equipment

652. This sector includes automobiles, commercial vehicles, tractors, motor cycles, aircraft, shipbuilding and railroad equipment.

653. Brazil is a net exporter of transport equipment, which is the fifth largest export sector in the economy. Exports grew at an annual average rate of 58.7 per cent in the 1970s and at a rate of 3.6 per cent in the 1980s (Table AV.3). In 1990, exports amounted to US$2.1 billion. The main sub-sectors were motor vehicle parts n.e.s., passenger motor vehicles, and lorries and trucks. The sector has benefited from strong protection, local content requirements and fiscal benefits. Transport equipment imports decreased at an annual average rate of 2.5 per cent in the period 1980-89. Main imported products were motor vehicle parts n.e.s. and aircraft parts.

654. The average nominal import tariff for the sector - covering 302 tariff lines - was 39.6 per cent in 1991 (compared with above 100 per cent in 1985), with substantial dispersion of rates around the mean. The minimum rate was zero and the maximum 70 per cent. The highest nominal average (47.8 per cent) was applied to motor vehicle imports (Table AV.4).

(a) Motor vehicles

655. The motor vehicle industry plays a significant rôle in the Brazilian economy, accounting for around 10 per cent of the country's gross domestic product, and directly employing 125,000 workers. It is estimated that the industry generates more than 4 million jobs. The industry was established in the late 1950s, under strong protection including, stringent

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108 The National Micro-electronics Plan had originally established that national firms would take over the market by 1988. This objective was not attained. SEI's policies in the semi-conductor industry were even more hostile to foreign companies than in the computer case, despite the fact that the three national groups favoured by the Plan, supported the formation of joint ventures in the sector and a reversal of the "reserved market" policy.

109 Transport equipment is entirely classified as finished goods, so that no estimates were made of tariff escalation.

local content requirements and fiscal benefits and foreign exchange advantages. Until mid-1970s, the sector was essentially geared towards the domestic market. The turning point in the outward orientation of the automobile sector came as a reaction to the balance-of-payments problems created by the first oil crisis.

656. In 1974, to force a swing in the industry's negative trade balance, the Industrial Development Council (Conselho de Desenvolvimento Industrial, CDI) lifted all incentives granted with the exception of those available under BEFIEX programmes. During the following two years, all car producers then operating in Brazil signed export commitments under BEFIEX programmes, initiating a period in which external markets had growing significance for the industry. This led to a considerable increase in exports (Chart V.4). The share of motor vehicle exports in domestic production grew from 8 per cent in 1975 to 13 per cent in 1980, 21 per cent in 1985 and 38 per cent in 1987. In 1990 and 1991, this share stood at around 20 per cent. Exports of engines and parts also increased during that period.

![Chart V.4](source: ANFAVEA Statistical Yearbook, 1957-1990.)

657. Export incentives granted under BEFIEX programmes played an important rôle in the export performance of the Brazilian motor vehicle industry. The growing importance of external markets was also a result of flagging
domestic demand following the first and second oil shocks and the onset of the debt crisis. In 1981, domestic demand slumped by more than 40 per cent and exports reached a peak of around US$2 billion (Chart V.5).

Chart V.5
Motor vehicle imports and exports, 1960-90
US$ million

[Diagram showing motor vehicle imports and exports from 1960 to 1990]


658. One additional effect of the second oil shock was the acceleration of the diffusion of alcohol-fuelled cars. The development of alcohol engines was part of a government-sponsored programme of gasoline substitution launched in 1975 (the Proalcool programme) to secure large-scale investments in alcohol production and distribution. Although alcohol production had increased fourfold by 1979, alcohol cars were still not widespread until the new rise in oil prices. Up to 1982, alcohol cars accounted for around a third of total sales of new cars. Sales were encouraged through tax reductions for alcohol-propelled cars and lower prices for alcohol than for gasoline.

111 As shown earlier, the Proalcool programme also affected the development of other sectors such as the cane planting and the sugar and alcohol production.

112 To encourage the demand for alcohol-powered cars, the following benefits were offered to consumers: the price of alcohol was limited to 65 per cent of the gasoline price; (Footnote Continued)
659. In 1989, nearly 400,000 alcohol-powered cars were manufactured in Brazil. This was around 50 per cent of total car production and 60 per cent of domestic sales. In 1990, fears that there would not be enough alcohol (due to decreasing sugar cane production) to power the cars, brought down domestic sales to just 82,000 units (10 per cent of production and 13 per cent of total sales) (Chart V.6).

(Footnote Continued)
the vehicle ownership tax for alcohol-powered cars was lower than for gasoline-powered cars; and consumer finance was made available at reduced interest rates and there were fiscal exemptions for taxicabs (Cadernos da ANFAVEA (1991a) and World Bank (1992)).
Chart V.6
Car production and sales by type of fuel, 1978-91
Per cent

Production

Sales

Note: Ethanol vehicle production begun in 1979.
660. The future of the alcohol-propelled car industry in Brazil will depend on the pattern of international oil prices. Alcohol consumption is apparently subsidised and current expectations are that productivity gains in cane planting and alcohol production will not compensate for the real fall in oil prices in the future (making gasoline consumption much cheaper). This may require a revision of the alcohol programme. Currently, the alcohol-combustible price as fixed by the Government, is 75 per cent that of gasoline (Note V.1).

661. The Brazilian motor vehicle producers also benefited (until recently) from artificially low steel prices fixed by the Government. These price controls were however ended by the current administration.

662. As regards parts and components, export incentives under the BEFIEX programme have had an asymmetric impact. First, the lower national content granted to car manufacturers under the BEFIEX programme has been criticised by some component manufacturers. However, the leading national firms have recently begun to take advantage of the programme. It was not until the late 1970s that BEFIEX contracts in auto parts grew, as the erosion of the wide margins of idle capacity (established early in the decade) made investment attractive again and longer-term supply contracts (especially with the United States) eased the risks of the export commitments under the programme. The impressive recent export performance of Brazilian part manufacturers has, however, given rise to growing protectionist pressures in international markets, especially anti-dumping actions.

663. Currently, vehicle manufacturing is concentrated among nine producers. The production of passenger cars, which account for over three-quarters of all vehicles produced, is fully controlled by four multi-national companies (Volkswagen, Ford, General Motors and Fiat). Ford and Volkswagen joined to form Autolatina to rationalize utilisation and explore complementarities in their Brazilian and Argentinian plants. Production of parts and components is undertaken by nearly 1,600 firms that produce around 5,000 different items.

664. Brazil's trade policies, especially import policy, have affected the industry's long-term competitiveness. Current world technological trends in car production underline the importance of trade liberalization in intermediate products and, particularly, of automated equipment with high

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113 The price of alcohol was set at 65 per cent of the price of gasoline (on a volumetric basis) until mid-1988 to give it an advantage over gasoline. Since mid-1988, the price advantage has been eroded, and the volumetric ratio stood at 75 per cent (World Bank (1992)).

114 However, it is reported that in 1990, Ford shifted the production of vans back to the United States, and cut production by 30 per cent. General Motors has also shifted its headquarters from Brazil to Mexico (Latin American Economy and Business, LAEB-91-07, July 1991).
"informatics" content within the motor vehicle industry. Large domestic producers often complained against current restrictions imposed by import controls on automated equipment and informatics-based components.

665. The importation of cars was strictly controlled until recently. Moreover, the average nominal tariff protection for this sector is the highest in the economy. In 1990, the effective rate of protection for the motor vehicle industry was 156 per cent, also the highest rate for the entire economy (Table V.1). In 1990, the import tariff on cars was levied at 85 per cent. This rate was reduced to 60 per cent in 1991, and according to the tariff reduction programme, it will be further reduced to 35 per cent by July 1993. The motor vehicle industry will even then remain, however, the most highly protected sector in Brazil, with an effective rate of protection of above 60 per cent.

666. A series of federal, state and municipal sales taxes, including those on shipping and insurance, generally raises the cost of imported cars to the Brazilian consumer to 3½-4½ times the price in other markets. The sales price of an imported car was estimated to be at between 300 and 400 per cent of the original cost. Despite the high cost of imported cars, a severe shortage of new cars in the domestic market in 1991 has boosted imports. Domestic producers blame official price controls and labour strikes for their inability to fulfil the domestic demand for new cars.

667. The Government's intentions to end some of the anti-competitive habits of the car industry were apparently frustrated by retailers' behaviour. According to certain press reports, in 1991, buyers of new cars paid large premiums, varying between 40 and 70 per cent, over list prices. Despite specific laws designed to prevent profiteering on new cars, the problem is apparently compounded by the oligopolistic nature of the motor vehicle industry. Currently, special import authorizations is still required for motor vehicle imports. The importation of certain ships and used cars is prohibited (Table AV.4).

For example, in September 1991, the price of Volvo's top model (the 960) in the Brazilian market was US$126,000, that is four times its retail price in the United States (Financial Times, 2 October 1991).

The difficulties facing the motor vehicle industry are explained by different factors according to the different social groups involved in this sector. Car manufacturers complain about high taxes, price controls, the informatics law, and "poorly-trained workers organized in militant unions". The unions decried declining real wages, poor management, lack of investment and state macro-economic policies. The Government criticizes the "oligarchy" operating the sector under a cartelized structure. (Financial Times, 26 March 1992).

Car companies were reported to have transferred new cars to secondhand car dealers, which are not subject to this law (Latin American Economy and Business, LAEB-91-08, August 1991).
of the Brazilian car market (due partly to entry barriers), to which the Government responds by price controls. Producers argued that the need to ration supplies and charge premiums come from their dealers' inability to cope with more than 60,000 cars a month.

668. The Brazilian Government, after discussions with representatives of the private sector and labour unions, decided to outline a strategy for boosting the competitiveness of the motor vehicle industry, which has to compete with imports for the first time since the 1950s. In late April 1992, the Government agreed to lower state and federal taxes by 12 percentage points in return for a 7.5 per cent cut in profit margins by manufacturers and a 2.5 per cent cut by dealers. These will result in a 22 per cent cut of car prices in Brazil.

(b) Aeronautics industry

669. The Brazilian aeronautics industry is considered to be relatively well developed. It consists mainly of the State-controlled Brazilian Aeronautics Enterprise (EMBRAER), established in December 1969. EMBRAER was originally established as a mixed enterprise, in which the public sector supplied strong financial support, shared the risks involved and provided tax incentives and protective measures.

670. The Government has supported the industry in many ways. In January 1970, a law allowed for an extraordinary one per cent tax deduction for any company in Brazil, provided this was used to buy EMBRAER shares (by 1986, 95 per cent of EMBRAER's capital was held by over 200,000 companies).

671. Other areas in which the Government supported EMBRAER's activities include the exemption of the Industrialized Products Tax (IPI) since 1974, and the Merchandise Circulation Tax (ICM) since 1976. Government credit was also made available and the Ministry of Aeronautics often deferred

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119 Fritsch and Franco (1991b) also referred to regulations enhancing non-contestability of markets.

120 In 1990, a study by Womack, Jones and Roos of the MIT, showed that 48 man-hours were needed to produce a standard vehicle in Brazil, compared with 40 man-hours in Mexico, 37 in western Europe, 34 in east Asia, 25 in the United States and 17 in Japan (Womack, Jones and Roos (1990)).

121 EMBRAER is often cited as an example of a successful state-owned enterprise with an important presence in the international light-aircraft market. Two factors are considered to be behind the firm's good performance: a highly specialized group of professionals with exceptional entrepreneurial potential, and the support of the state (United Nations, ECLAC (1990)).

122 Action and guidance by the Brazilian armed forces have been at the core of all Brazilian aeronautical developments: material resources have been provided, research and its follow up undertaken, and personal and political support supplied (Dagnino and Proença Junior (1989)).
delivery of its orders, so as to enable EMBRAER to meet other demands with little or no delay.

672. EMBRAER entered into an agreement with Piper to produce light air planes under licence. Immediately after the agreement, the import duty on light aircraft was raised from 7 to 50 per cent and the products were reclassified as luxury items. The production of the fuel-economic turbo-propelled Brazilian aircraft (the Bandeirante) was favourably affected by the international oil crisis. The Government also continued to provide favourable financial credits to EMBRAER.

673. In 1988, EMBRAER's sales totalled US$518 million. According to EMBRAER, around 30 per cent of its production is destined to the military market. Other analysts noted that in the segment of planes with relatively high technological content, nearly 70 per cent of sales are military-oriented.

(xiv) Footwear and travel goods

674. Brazil is a net exporter of footwear and travel goods. With exports of US$1.2 billion in 1990, the sector ranks amongst the ten leading export sectors of the economy (Table V.4). Exports have increased strongly, at an annual average rate of 48.5 per cent in the 1970s and at a rate of 10.4 per cent in the 1980s. Footwear is the main export sub-sector (US$1.1 billion). Brazil's main export markets for footwear are the United States, the United Kingdom and Canada.

675. Imports of footwear and travel goods are modest. However, they have also increased during the last two decades, at an annual average rate of 24.1 per cent in the 1970s and at a rate of 17 per cent in the period 1980-89 (Table AV.3). The main sub-sector was footwear with imports amounting to US$10 million in 1989.

676. In 1991, the average nominal import tariff for the sector - covering 93 tariff lines - was 38.4 per cent. Higher tariffs were applied to footwear than to travel goods (Table AV.4). There are no known non-tariff measures currently restricting imports.

677. The average effective rate of protection for the footwear and leather industries was 43.6 per cent in 1991. The effective rate will be progressively reduced down to 20.4 per cent in July 1993 (Table V.1).

124 Exports of women's leather boots and shoes are subject to both anti-dumping and countervailing duties in Canada.
125 An export prohibition is applied to footwear made of wild animals.
ANNEX V.1

Producer and Consumer Subsidy Equivalents and Related Assistance Measurement Concepts

Producer and consumer subsidy equivalents have been developed by the OECD as standard quantitative techniques for measuring and monitoring levels of assistance provided to farmers by agricultural policies. This Annex provides a brief survey of these concepts and their use in assessing the economic effects of protection, including their relationship to the measure of the effective rate of protection that has been developed as a means of assessing the resource efficiency implications of government assistance to industries.

(1) Producer and Consumer Subsidy Equivalents

The producer subsidy equivalent (PSE) measures the amount by which producers' gross returns are increased by assistance. It covers transfers through market price supports (which normally cause domestic producer prices to be higher than world market prices) as well as transfers from taxpayers through direct and indirect government subsidies. It is therefore equivalent to the subsidy that farmers would need to be paid to maintain their gross revenue if all other assistance were removed. The higher the PSE, the more heavily assisted are farmers and the relatively worse off are consumers and/or taxpayers. The PSE (in the case of livestock, net of assistance on feedstocks) is:

\[ \text{PSE} = Q(DP - WP) + S - LV - FA, \]

where

- \( Q \) = volume of production
- \( DP \) = domestic producer price
- \( WP \) = world price
- \( S \) = government subsidies (direct payments plus all other budgetary support)
- \( LV \) = production levies
- \( FA \) = feed adjustment (livestock only)

The PSE can also be expressed on a per unit of production basis, or as a percentage of the total value of production (valued at domestic prices) adjusted for direct payments and levies.

The consumer subsidy equivalent (CSE) is the value of transfers from domestic consumers to producers and to taxpayers (e.g. through tariff

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revenue paid on competing imports) resulting from the agricultural assistance policies. It therefore measures the implicit tax imposed on consumers by agricultural assistance. For this reason, the CSE is expressed as a negative figure; the larger the negative number, the greater the implicit tax on users and the transfer from consumers.

The CSE is estimated as:

\[ \text{CSE} = - \text{QC}(\text{DP} - \text{WP}) + \text{OT}, \]

where

- \( \text{QC} \) = volume of consumption
- \( \text{OT} \) = consumer subsidies

The CSE can, like the PSE, also be expressed on a per unit consumed basis, or as a percentage of the total value of consumption (valued at producer prices).

Agricultural policies that raise domestic consumer prices above world levels enter both the CSE and PSE calculations. However, direct producer subsidies alone will be recorded in the PSE as raising producers' returns, but will not be reflected in the CSE estimate since they do not increase prices to consumers.

The PSE and CSE provide measures of the transfers from one group in the community to another. However, the economic loss to the community is not the transfers themselves, but the production inefficiencies associated with the misallocation of resources induced by the distorted structure of producer incentives. These resource inefficiencies impose "dead weight" losses on the economy. Although agricultural returns may be increased, overall national welfare is likely to be reduced, by encouraging resources into activities where their contribution to production is below what it would be if employed in more efficient alternative uses.

(2) The Effective Rate of Protection

The effective rates of protection (ERP) measures the percentage increase in value added resulting from protection in an activity, taking full account of the tariff and non-tariff measures affecting outputs and inputs from the assistance structure. This measure represents a more comprehensive measure of net assistance, taking into account, in particular, the penalizing effects of higher input prices stemming from tariffs or other trade barriers assisting domestic production.

If the average tariff rates (or the equivalent of the combined tariff and any non-tariff barriers) on inputs and finished goods are identical, then the effective rate on the industrial activity is also the same level. If the nominal rate on the finished good is higher than that on inputs, then the effective rate is higher than the nominal rate on the finished good. The extent to which it is higher depends critically on the value added in the activity at free-trade prices. The lower the value added, the
higher the effective rate. Thus, an industry with a tariff on finished goods equal to 20 per cent and an average rate on inputs equal to zero could have an effective rate close to 20 per cent if there is high value added in the industry; but for low value added, e.g., 10 per cent, the effective rate could be as high as 200 per cent.

By contrast, a higher average tariff on inputs than on finished goods could lead to substantial negative effective protection.

Industries with negative or below average effective rates are in effect being taxed relative to those industries receiving higher effective rates. This is because the more highly protected industry is in a more advantageous position to bid for primary factors such as land as well as non-traded inputs. By bidding up such prices, protected industries increase costs for other sectors beyond what they would be under free trade. Thus, unprotected sectors, or sectors with relatively little protection, become less competitive. This is what is meant by saying that protection has a taxing effect on non-protected sectors and that protection results in a misallocation of resources.

The ERP, being based on value added rather than gross output (as in the PSE or CSE), yields a clearer indication of potential resource-allocation inefficiencies resulting from assistance. More importantly, the ranking of activities according to ERP is likely to differ considerably from that using PSE or CSE estimates, as the relations between value added and gross output vary among activities.

The larger the disparities in effective rates, the more likely it is that the country's production patterns have been distorted from their optimal market-determined levels, and hence the greater will the country's overall productive capacity fall short of its potential. Resources will tend to move from relatively lowly assisted - more efficient - activities into more highly assisted - less efficient - activities. Only by having its resources allocated to their most productive use will a country's national welfare be maximized. A relatively uniform and low assistance structure would normally be expected to allow resources to be allocated by market forces into their most productive uses, where the country has a comparative advantage.
VI. TRADE DISPUTES AND CONSULTATIONS

678. In Brazil, there are no statutory domestic procedures for conducting consultations or negotiations with trading partners in case of disputes. Brazil has domestic legislation (Law 3.244 of 1957) providing for retaliatory trade measures. However, these provisions have never been used. Instead, Brazil has used GATT provisions to solve trade disputes with its foreign trading partners. Twelve cases under GATT Article XXIII involving Brazil - nine as a complainant - have been registered between 1948 and 1991 (Table VI.1). Brazil was also involved in one dispute settlement case under the Tokyo Round Agreements (and held two consultations).

679. Brazil also relies on trade consultation mechanisms established within the framework of the Latin American Integration Association (LAIA). These provisions do not preclude recourse to GATT procedures if necessary.

(1) Dispute Settlement under GATT and related Agreements

(i) Complaints against Brazil

680. Only three Article XXIII complaints have been initiated against Brazil by France in 1949, the United States in 1989, and the European Communities in 1990. The first complaint, submitted to a GATT Working Party, concerned Brazil's internal taxation, which was reported to discriminate against imports. Brazil abolished the tax discrimination in August 1958, and the CONTRACTING PARTIES noted the settlement of the complaint.

681. The second request for a dispute settlement panel under Article XXIII:2, concerned import licensing restrictions by Brazil on imports of certain agricultural and manufactured products. The complaint was first raised by the United States in October 1989. The measures subject to complaint included an "import prohibition list of about 1,000 items, company- and sector-specific restrictions made effective through import licences and other measures, a lack of transparency in the Brazilian import licensing system, and the simultaneous use of different

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1GATT (1959), Basic Instruments and Selected Documents, Seventh Supplement, page 68.

2Initially, the United States requested consultations under Article XXIII:1 of the General Agreement. These were held on 11 December 1989 without satisfactory results (GATT documents DS 8/1 and 2).
import restrictions for balance-of-payments purposes". The United States argued that these restrictions were inconsistent with Brazil's obligations under various provisions of the General Agreement. In January 1990, the establishment of a panel under Article XXIII:2 was requested, but the matter was not pursued because Brazil eliminated all quantitative restrictions on imports in March 1990.

682. Most recently, a request has been made for consultations under Article XXIII:1 concerning Brazil's internal tax on raw sisal exports. The request was communicated by the European Communities to the GATT on 15 January 1990. According to the EC, Brazil's internal ICMS tax was discriminatory, in that a rate of 13 per cent was levied on the f.o.b. value of raw sisal when exported, whereas for Brazilian sisal spinners it was either reimbursed on the export of processed products or not paid at all. As a consequence of the export tax and considering that over 70 per cent of the Community's imports of raw sisal were supplied by Brazil, the Community sisal twine industry was alleged to face higher input costs than their counterparts in Brazil. The European Communities retaliated by imposing a 25 per cent tax on Brazilian sisal thread exports. Currently, the EC is investigating the existence of dumping or subsidies.

(ii) Complaints by Brazil

683. Nine complaints have been initiated by Brazil under Article XXIII, against the United States and the European Communities. Two complaints were specifically addressed to the United Kingdom and Spain.

684. Within the Tokyo Round Agreements, Brazil has been a complainant in one dispute settlement panel under the Subsidies Code; it has also held two consultations under the provisions of the Subsidies Code and the Anti-Dumping Code. A list of complaints initiated by Brazil is given in Table VI.2.

(a) United Kingdom: increase in the margin of preference on bananas

685. In December 1961, Brazil complained against the United Kingdom's increase of preferential margins for bananas. A Panel was established and its report adopted in April 1962. Following the Panel ruling, the proposed tariff increase by the United Kingdom was abandoned in October 1962.

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3 Communication from the United States on 12 January 1990 (DS8/2).

4 The Brazilian Government noted that the ICMS tax was not a new tax; it existed for more than 20 years.
(b) European Communities: refunds on exports of sugar

686. In November 1978, Brazil requested the establishment of a panel concerning EC refunds on sugar exports. In presenting its complaint, Brazil claimed that the sharp increase in EC sugar exports had been made possible by the use of substantial subsidies which in certain years had exceeded the international prices of sugar. The subsidies thus granted had allowed the European Communities to obtain a more than equitable share of the world sugar trade, to the detriment of Brazil and other contracting parties which were exporters of sugar. The Panel report, adopted in November 1980, found, inter alia, that the Community system of export refunds for sugar constituted a threat of prejudice in terms of Article XVI:1. The possibility of limiting Community subsidization of sugar exports was subsequently discussed in two working parties.

(c) Spain: tariff treatment of unroasted coffee

687. In a communication dated 13 September 1979, Brazil claimed that Spain had introduced certain modifications in the tariff treatment applied to imports of unroasted coffee, according to which imports into Spain of unroasted non-decaffeinated "unwashed Arabica" and Robusta coffees were subject to a tariff treatment less favourable than that accorded to "mild" coffee. As a main supplier to Spain, Brazil was concerned with the discriminatory character of the new tariff rates on coffee.

688. Consultations were initially held under Articles XXII:1 and XXIII:1. In June 1980, Brazil requested the examination of this matter by a panel. The Panel report, adopted on 11 June 1981, found the Spanish tariff régime for unroasted coffee not in conformity with Article I:1 of the GATT, and that it constituted as such a prima facie case of impairment of benefits accruing to Brazil within the meaning of Article XXIII. Spain was required to take the necessary measures in order to make its tariff régime for unroasted coffee conform to Article I:1. Subsequently, Spain modified its legislation to grant equal tariff treatment to unwashed Arabica and other unroasted coffees.

(d) European Communities: sugar régime

689. Brazil, together with Argentina, Australia, Colombia, Cuba, the Dominican Republic, India, Nicaragua, Peru, and the Philippines, initiated a complaint against the sugar régime of the European Communities in...
April 1982 and held consultations with the EC pursuant to Article XXIII:1 in September 1982. Following these consultations, Brazil, along with the other complainants, reserved their rights under the GATT.

(e) United States: imports of non-beverage ethyl alcohol

690. In May 1986, Brazil initiated a complaint against the United States concerning imports of non-beverage ethyl alcohol, and held consultations under Article XXIII:1. It complained against an import surtax of 60 cents per gallon imposed by the U.S. under its Deficit Reduction Act of 1984, which was causing injury to Brazilian exporters. The matter was not pursued by Brazil.

(f) United States: tariff increases and import prohibitions on products from Brazil

691. This complaint, initiated by Brazil in November 1987, resulted in consultations held under Article XXIII:1 and a request for the use of the good offices of the Director-General in helping to resolve the matter.

(g) United States: import restrictions on certain products from Brazil

692. In November 1988, Brazil made a complaint about the imposition by the United States of 100 per cent import duties on certain drugs, paper products and consumer electronic goods imported from Brazil. A Panel was established by the GATT Council in February 1989 at the request of Brazil. Brazil contended that the U.S. measure violated Article II, because the products in question had bound tariff rates at between zero and 5 per cent, and Article I, because they were directed only against Brazil. The United States said that its action had not been taken for protectionist purposes but rather in response to Brazil's refusal to provide adequate intellectual property protection for pharmaceutical products and fine chemicals. The terms of reference of a Panel were agreed at the Council meeting in June 1989.6

693. The complaint was withdrawn by Brazil in September 1990 because the dispute had been resolved through bilateral consultations.7

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6 The two parties to the dispute agreed that the scope of the dispute was the specific measure taken by the United States and not the Section 301 law in general; that in accordance with normal GATT practice, the United States could present to the Panel the reasons for its actions but that the panel should not propose rulings on the Brazilian legislation (GATT (1990), GATT Activities 1989).

7 GATT (1991), GATT Activities 1990, July. According to Abreu (1991), Brazil provided (Footnote Continued)
(h) United States: measures under the Export Enhancement Programme affecting soybean oil exports by Brazil

694. In August 1988, Brazil requested consultations under Article 12:1 of the Agreement on Interpretation and Application of Articles VI, XVI, and XXIII of the GATT (Subsidies and Countervailing Duties Code). This request was due to the alleged damage caused to Brazilian exports of soybean oil by the funding by the United States of similar exports to the world market under its Export Enhancement Programme (EEP). Consultations between Brazil and the United States were held on 27 September 1988 with no mutually acceptable solution being reached (SCM/89 and 90).

695. Brazil subsequently, in February 1990, requested consultations with the United States under Article XXIII:1 of the General Agreement. Brazil expressed concern that the United States' measures under the EEP had resulted in underpricing and hampered Brazilian exports of soybean oil. The matter has not been pursued further under the dispute settlement procedures.

(i) United States: non-rubber footwear from Brazil

696. In June 1988, Brazil notified the Committee on Subsidies and Countervailing Measures of a trade dispute concerning the collection of countervailing duties by the United States on entries of non-rubber footwear from Brazil between 1 January 1980 and 28 October 1981. The Panel, established in October 1988, submitted its report to the Committee in October 1989, with the conclusion that the collection of countervailing duties by the United States was consistent with its obligations under the Subsidies Code. Brazil, supported by a number of other contracting parties, disagreed with the conclusions of the report, considering that the case constituted a clear violation of the m.f.n. principle (SCM/96). Brazil did not agree to the adoption of the report on the grounds that it would be able to evaluate its position only after the conclusion of separate proceedings initiated under Article XXIII of the General Agreement.

(Footnote Continued)

assurances to the United States that it would change its legislation so as to protect pharmaceutical product and process patents.

8GATT document DS 13/1.

Brazil maintained that the United States had implemented the provisions of GATT Article VI in an inconsistent and discriminatory manner among signatories and non-signatories of the Subsidies Code. According to Brazil, this constituted a clear violation of GATT Article I. Specifically, Brazil cited the revocation of U.S. countervailing duties on certain textiles from Mexico, wire rod from Trinidad and Tobago, and fasteners from India (GATT Activities 1990).
697. In August 1990, Brazil requested consultations under Article XXIII:1 with the United States. They concerned an alleged denial by the U.S. of m.f.n. treatment under Article I in the implementation of its Article VI obligations with respect to a countervailing duty order on non-rubber footwear from Brazil. Consultations were held on 30 October 1990, but no mutually satisfactory solution to the matter was found. In February 1991, Brazil requested the establishment of a dispute settlement panel under Article XXIII:2.

698. Brazil complained that the United States had not accorded m.f.n. treatment to Brazil in the application of countervailing duties to imports of Brazilian non-rubber footwear. This referred to the backdating of the injury test to the date on which the U.S. assumed the obligation to provide such an injury determination under Article VI:6(a). The Panel, established in April 1991, submitted its report to the CONTRACTING PARTIES on 10 January 1992. It found that the United States had failed to grant to products originating in the territory of contracting parties, signatories to the Subsidies Agreement, the automatic backdating of the revocation of countervailing duty orders which had been issued without an injury test. Accordingly, the Panel concluded that the United States had acted inconsistently with Article 1:1 of the General Agreement. The only remedy that had been sought by Brazil in this case was a general ruling on the matter in dispute. The Panel report, therefore, did not include a recommendation on action by the United States. On 19 June 1992, the Council adopted the report.

(j) European Communities: anti-dumping proceedings on cotton yarn from Brazil

699. In September 1991, Brazil requested consultations with the European Communities under Article 15:2 of the Agreement on Implementation of Article VI of the GATT concerning anti-dumping proceedings started by the European Communities against Brazilian exporters of cotton yarn.\(^\text{10}\)

(2) Dispute Settlement outside GATT

700. The Latin American Integration Association (LAIA) has dispute settlement procedures under which members can bring cases concerning alleged non-observance of some rules or principles of the Montevideo Treaty.

\(^{10}\text{GATT document ADP/63.}\)
701. Under Annex III of the Treaty of Asuncion, establishing the Southern Common Market (MERCOSUL), any dispute between member states may be referred to the Common Market Group, and, in the event of the Group's inability to find a solution, to the Council of the Common Market.

702. Brazil has faced retaliatory actions under Section 301 of the U.S. Trade Act of 1974. Out of the 87 investigations initiated by the United States under Section 301 between 1975 and October 1991, six were against Brazil. Brazil was the only developing country which suffered retaliation. This occurred in October 1988 when the United States imposed tariffs of 100 per cent on certain Brazilian exports. The other 301 case affecting Brazil related to its informatics policy, in particular concerning software legislation. The case was initiated by the USTR in 1985 based on grievances concerning access to the Brazilian software market, protection of intellectual property in relation to both software and hardware and administrative procedures adopted by the Brazilian authorities in the informatics sector. The case was only closed in October 1989 when the relevant Brazilian policies were changed.

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