

Trade Policy Review Body
30-31 October 1996

TRADE POLICY REVIEW

BRAZIL

MINUTES OF MEETING

Chairperson: H.E. Ms Anne Anderson (Ireland)

	<u>Page</u>
I. INTRODUCTORY REMARKS BY THE CHAIRPERSON	2
II. OPENING STATEMENT BY THE REPRESENTATIVE OF BRAZIL	3
III. STATEMENT BY THE FIRST DISCUSSANT	6
IV. STATEMENT BY THE SECOND DISCUSSANT	8
V. STATEMENTS BY MEMBERS	10
VI. REPLIES BY THE REPRESENTATIVE OF BRAZIL AND ADDITIONAL COMMENTS	15
VII. CONCLUDING REMARKS BY THE CHAIRPERSON	24

I. INTRODUCTORY REMARKS BY THE CHAIRPERSON

1. The second Trade Policy Review of Brazil was held on 30 and 31 October 1996. The Chairperson welcomed the delegation of Brazil, which was headed by Ambassador Celso Lafer and included Minister José Alfredo Graça Lima, Head of the Economics Department, Ministry of External Relations, and the discussants, H.E. Dr. Wilhelm Höynck of Germany and Mr. Javier Paulinich of Peru. As usual, both discussants spoke in their personal capacities and not as representatives of their countries. In accordance with the established procedures, the discussants had made available, in advance, outlines of the main issues they intended to raise.

2. The Chairperson recalled the purpose of the Trade Policy Reviews and the main elements of the procedures for this meeting. The report by the Government of Brazil was contained in document WT/TPR/G/21 and that of the WTO Secretariat in document WT/TPR/S/21; the main issues to be raised by the discussants were contained in document WT/TPR/D/5. Copies of written questions submitted by seven delegations (Australia, Canada, Ecuador, Hong Kong, Japan, the United States and Venezuela) had been transmitted to the delegation of Brazil. Additional written questions were submitted at the time of the meeting by the delegation of the Republic of Korea. If full replies could not be provided during the meeting, supplementary written replies could be provided later.

3. Recalling that intergovernmental organizations could attend meetings of the General Council through decisions taken on the basis of ad hoc arrangements, the Chairperson proposed that the Trade Policy Review Body invite the EBRD, EFTA, FAO, IMF, OECD, UNCTAD and the World Bank, which had requested observer status, to its next meeting. It was so agreed.

II. OPENING STATEMENT BY THE REPRESENTATIVE OF BRAZIL

4. The representative of Brazil, reflecting on the meaning of trade policy reviews within the WTO, said that free trade implied a free flow of information regarding public economic policies, because what was public was common to all and should be common knowledge - the fruitful interaction of national economies in an interdependent rules-oriented world market, as conceived during the Uruguay Round. He thus welcomed the opportunity to offer and discuss Brazil's policies, their results, challenges and direction.

(i) Macroeconomic and institutional developments

5. After recalling the circumstances of Brazil's first Trade Policy Review in 1992, the representative noted that both the document presented by his Government and the Secretariat report stressed that the Brazilian economy had changed significantly since that first Review. This change had been achieved in large measure as a consequence of a broad economic stabilization programme put into force in July 1994 - the Real Plan. The Plan was built on a series of previously achieved reforms, including the opening of the economy, the deregulation and liberalization of the exchange market and the normalization of relations with the international financial community. As a result, the Real Plan had brought inflation rates to the lowest levels in 35 years. In the 12 months prior to the adoption of the Real Plan, the General Price Index (GPI) had increased by 5,000 per cent; in 1995, annual inflation rate had come down to 14.6 per cent, and was expected to fall to 10 per cent in 1996. This drop in inflation had been achieved in the absence of price or wage freezes, breaches of contracts or recession, and in the context of a fully democratic process and the rule of law. The Real Plan had been implemented on the basis of three basic elements: monetary reform, including the creation of a new currency (the "Real"), the elimination of indexation in contracts, including wages and exchange rate, and a greater reliance on market mechanisms.

6. The Brazilian Government was focusing its attention on the need to improve its fiscal situation and, in the medium run, on the reform of the rôle of the State in the economy. In 1995 the Brazilian Congress had approved a series of constitutional amendments that would consolidate the Real Plan. More flexible rules for the state petroleum monopoly would allow the Government to contract private enterprises for the exploration and exploitation of petroleum and natural gas deposits and would lift restrictions on the importation of oil and its derivatives and on refining and transportation. The liberalization of the telecommunications sector would allow the Government, through public concessions, to contract private companies to operate telephone, telegraph and other communication services. Discrimination against foreign capital had been removed from the Constitution with the elimination of the distinction between Brazilian firms of national capital and other Brazilian firms. Market reserve requirements for national flag ships in the coastal and inland navigation had been abolished. The Government was also accelerating the privatization programme. The steel and petrochemical sectors had already been privatized. The programme was entering a new phase with the creation of improved conditions for private investment and expansion in public services, such as electric energy, water, gas and transportation.

(ii) Trade trends and policy

7. With regard to trade policy, the Government had pursued a steady path towards increasing the exposure of local producers to foreign competition. The recent growth in imports had no precedent in Brazilian economic history, with imports growing by 150 per cent, from US\$20 billion to US\$50 billion, in the last three years. This strong demand for imports, resulting from the implementation of the Real Plan, had generated monthly trade deficit from November 1994, reaching a total of US\$3.2 billion in 1995. Trade in goods had increased from US\$56 billion in 1992 to US\$96 billion in 1995, equivalent to an annual rate of growth of 20 per cent, higher than the average increase in

world trade in the same period. The relevant 1995 figure for trade in goods and services was US\$134 billion. The openness of the economy, as measured by the trade to GDP ratio, had grown from 12.5 per cent in 1992 to 17 per cent in 1995. The increased demand for capital goods and raw materials were a clear indication of the resumption of investment and the improvement in Brazil's productive capacity. The amount of foreign direct investment in Brazil in 1996 would be a historical record, reaching around US\$8 billion.

8. Significant improvements had been made in Brazil's trade régime since the first Trade Policy Review. The autonomous trade liberalization programme started in 1990 had been completed on schedule in July 1993 with the lifting of import prohibitions and the elimination of non-tariff barriers. Import tariffs had been substantially reduced, the average import duty falling from 32.2 per cent in 1990 to 14.2 per cent in 1993. Following the establishment of MERCOSUL, the average import tariff had been further reduced to 12.6 per cent. The maximum tariff had fallen from 105 per cent in 1990 to 31 per cent on 1 January 1996, with a few exceptions, such as automotive vehicles and home appliances.

(iii) Trade relations

9. The representative of Brazil stated that his government had fully implemented the Uruguay Round Agreements and strongly supported the new and improved structure for the multilateral trading system. Brazil attached particular importance to improvements agreed during the Uruguay Round in areas such as dispute settlement, anti-dumping, countervailing duties and safeguards. He also said that in accordance with its commitments under the TRIPS Agreement, Brazil had approved new industrial property legislation on 14 May 1996. The legislation covered the granting of patents for invention, for utility models, registration of industrial designs and of trademarks, repression of false geographical indications and unfair competition.

10. He also noted Brazil's efforts to deepen economic integration at the regional and sub-regional levels. From a geographic perspective, and taking advantage of existing economic complementarities with neighbouring countries, Brazil's goal had been to foster convergence and development through further trade liberalization within the continent. This strategy, however, did not signal a deviation from Brazil's traditional approach to multilateralism. As a global trader, Brazil had consistently pursued open regionalism and endeavoured to ensure that disciplines negotiated under regional frameworks would be fully consistent with WTO rules.

11. The representative noted that Brazilian trade with other MERCOSUL countries had grown from US\$3.64 billion in 1990, the years prior to the signing of the Asuncion Treaty, to US\$12.97 billion in 1995, the first year of the customs union. He noted that growth of intra-regional trade between 1990 and 1995 had occurred, in the case of Brazil, in parallel with substantial growth in total foreign trade, which had increased by 85 per cent during the same period, from US\$52 billion in 1990 to US\$96 billion in 1995. He also stressed that MERCOSUL had complied with its WTO obligations, with all relevant information having been notified.

(iv) Liberalization measures

12. The representative said that despite Brazil's commitment to a comprehensive programme of trade liberalization, the growth rate of its exports was far lower than that of its imports, a situation largely explained by the persistence of several trade barriers to Brazilian exports. He then provided statistics on trade flows between Brazil and the European Union, Japan and the United States that in his opinion clearly demonstrated that situation. The statistics also showed that access to the Brazilian market was not difficult, as sometimes suggested.

13. In the pursuit of trade liberalization, Brazil had recently adopted a number of WTO-consistent measures designed to reduce the so-called Brazil Cost and to enhance Brazil's participation in international trade and financial flows. In the previous two months such measures included the rebate of the value added tax collected by States on exports of primary and semi-manufactured goods, the development of a market-based export credit insurance scheme, the enlargement of the scope of the privatization programme to include federal harbours, and the elimination of the Port Tariff Surcharge.

14. The representative of Brazil stressed that the liberalization process undertaken by his country since 1990 was irreversible. The adjustment difficulties encountered by some sectors to adapt to both the most significant market opening in Brazil's history and its most encompassing and profound stabilization plan in no way affected Brazil's commitment to trade liberalization and greater interdependence. This had been evidenced by the country's active participation in the WTO. Brazil was aware that consolidation of the Real Plan was essential, and that such consolidation would have to go hand-in-hand with trade liberalization.

15. Noting that the final stage of preparation for the first Ministerial Conference of the WTO was approaching, he underlined that Brazil attached great importance to a serious, in-depth review of implementation of the Uruguay Round Agreements. In Brazil's view, the strain faced by governments with the huge and complex task of adapting national legislations and fulfilling the wide range of obligations foreseen in the WTO agreements called for a very cautious approach to attempts to increase the already overloaded WTO agenda. Brazil would work constructively for the success of the Singapore Ministerial Conference with a view to achieving its ultimate goal of strengthening the multilateral trading system.

III. STATEMENT BY THE FIRST DISCUSSANT

16. The first discussant (Mr. Javier Paulinich) noted Brazil's importance in regional and world trade. Previously, high inflation and slow growth had been linked to balance of payments, price and employment disequilibria associated with a development strategy based on import substitution and the State's active rôle in production. Market-opening measures and changes in the international economic system, involving open regionalism and globalization, had made possible economic changes which had resulted in a sharp fall in inflation and the recovery of GDP growth. Economic policy was now aimed at stabilizing the economy through structural reforms and the new rôle of the State mostly as a regulator of economic activities. The Real Plan was based on monetary reform, the elimination of indexation and greater reliance on market mechanisms.

17. The discussant said that, notwithstanding Brazil's macroeconomic achievements, it was also necessary to take into consideration social issues. In this regard, GDP increases had not been accompanied by equivalent employment growth, with some indicators pointing to a job creation deterioration in 1995. Pointing out that such problems were common to developing countries implementing economic stabilization programmes, he sought Brazil's comments on this issue.

18. Economic reforms had created greater confidence in market solutions, which underpinned the significant policy changes towards trade and investment. The completion of Brazil's 1990-93 autonomous trade liberalization programme had reduced average tariffs as well as eliminated import prohibitions and non-tariff barriers. The programme had been accompanied by institutional and legislative changes and confirmed Brazil's commitment to free trade and its greater market openness. This would expose Brazilian industry to more foreign competition and provide incentives to increase productivity and competitiveness. Trade-related institutional changes had included the establishment of the Chamber of Foreign Trade; the discussant requested additional details on the Chamber's operation and its achievements.

19. The discussant noted the work initiated in June 1995 to harmonize Brazil's legislation with its WTO engagements and the implementation of new laws on trade defence and intellectual property. Recalling that Brazil's foreign trade was subject to numerous laws, he requested information on progress in the Government's efforts to elaborate a single trade law.

20. Reviewing the results of the trade liberalization programme, he noted that between 1992 and 1995 imports had grown 150 per cent and exports 30 per cent. These trends raised concerns as to whether the objectives of higher productivity, expansion and modernization of the Brazilian industry had been attained. Faster growth in imports than in exports had also put pressure on international reserves and the trade deficit, making it necessary to introduce measures to control import growth. In this respect, he noted that both the import substitution and trade liberalization strategies could create similar pressures on trade deficits and public finances. The main difference appeared to relate to the mechanism used to finance the deficits: public foreign debt under import substitution and foreign direct investment or private debt under Brazil's current strategy. He requested comments on this observation.

21. The discussant noted the constitutional and other legal changes made by the Brazilian Government to attract foreign investment. The distinction between a "national company" and a "national company of Brazilian capital" had been eliminated, resulting in the removal of certain public monopolies. The progressive liberalization of investment, aided by the privatization programme, had resulted on FDI increasing from US\$2.2 billion in 1990 to US\$42 billion in 1995. Believing that the trade deficit produced by higher imports necessitated more foreign investment to balance the public accounts, he pondered whether the pace of liberalization of trade determined that of investment or vice versa, and asked Brazil how the equilibrium in the balance of payments was to be maintained.

22. He stated that laws on competition and intellectual property clearly had a positive effect on production and trade. This was not necessarily true for state monopolies, price controls and fiscal incentives, although under a less orthodox view it could be argued that they were necessary instruments to achieve desired development goals during a transitional period of reform. The discussant asked for Brazil's opinion on the rôle of such measures and whether Brazil had a chronogram to extend or reduce them. The policies adopted recently by Brazil had produced positive results but had also created difficulties leading to the adoption of certain trade measures. What was then the future of the liberalization programme?

23. On services, the discussant highlighted the fact that liberalization had not reached the banking system. He noted the dominant rôle of government-controlled banks and the modest participation of foreign capital in banking and asked if there were any plans to liberalize further the banking system.

IV. STATEMENT BY THE SECOND DISCUSSANT

24. The second discussant (H.E. Dr. Wilhelm Höynck) noted the following key factors: reduction of inflation, robust real growth, and a considerable increase of trade in goods and services. He was impressed by the efforts made and the results achieved on Brazil's way to a competitive and dynamic economy.

25. A number of essential and major steps had been taken in the direction of an open market. Tariffs had become the single most important instrument of trade policy, and average applied tariffs had dropped from 21.2 per cent in 1993 to 12.5 per cent in 1996. However, the situation with regard to MERCOSUL'S Common External Tariff (CET) seemed to be rather complex. The CET allowed exemptions under a national list, in particular for capital goods. The Brazilian authorities affirmed that the CET would not be applied where it exceeded Brazil's bound rates. Moreover, bound rates were considerably higher than applied rates, leaving room for Brazil to make quick changes in applied tariffs whenever it seemed useful or necessary, without taking into account the stricter disciplines of the GATT. This did not increase predictability for Brazil's trading partners.

26. With tariffs as the main instrument of trade policy, anti-dumping and safeguard measures had become more important and been used to influence the import of certain goods. Between 1992 and 1996, 66 anti-dumping cases and 13 countervailing investigations had been initiated; it was striking that the vast majority of such measures had been directed against imports from developing countries or countries in transition. The new Brazilian safeguards legislation might help to deal with this problem. Such legislation had been first used in a provisional measure in June, affecting imports of toys. In May 1996, transitional safeguards quota under the Agreement for Textiles and Clothing had been introduced on certain textiles.

27. On non-tariffs, the second discussant observed that most imports were subject to import licences, in principle for statistical purposes. The relevant procedures had been considerably streamlined, but there were still some complaints about the level of licensing fees and the time necessary to obtain them. A specific Brazilian feature was the conditioning of import licences for certain items like textiles and cold-rolled stainless steel on the payment period of the respective contract. This practice had been justified on the grounds that longer credit periods offered by foreign trading partners were an unfair advantage for imports, in view of the high Brazilian interest rates. Apart from whether these measures were WTO-compatible, if applied systematically to special sectors, they could operate in a protective manner. The use of such measures raised the possibility that the scope for regulation and fine-tuning of imports were still too actively pursued by the Government. Brazil was encouraged to strengthen its import liberalization policy despite difficulties in certain sectors, thus increasing the confidence of Brazil's trading partners. More balanced export and import flows could be achieved through macroeconomic adjustments.

28. The discussant noted that Brazil encouraged exports through a number of schemes; including internal tax provisions, the Export Finance Programme (PROEX) and the fiscal benefits for Special Export Programmes (BEFIEX). While Brazil seemed to be fulfilling its stricter obligations under the WTO Agreement on Subsidies and Countervailing Measures, the streamlining of the different subvention schemes of the past, especially reform of internal taxes, was desirable. Noting that fundamental tax reform was a gigantic task, he enquired about the prospects for such reforms.

29. On trade policies in non-service industries, the discussant said that agriculture was a particularly complex sector loaded with specific political, social and environmental problems. He noted the sector's importance in the domestic economy and in the world market. Moreover, on the whole, Brazilian agriculture seemed to be competitive. However, although tariffs on agriculture products had been reduced in the past years (with some exceptions), Brazilian agriculture seemed to need considerable

financial support through minimum price supports and rural credits. The high indebtedness of the rural sector and the heavy burden of high interest rates had been used to justify such subsidies. It was also particularly difficult to see the economic justification for the high subsidization of the National Alcohol Programme (PROALCOOL) given that the conditions of the petroleum market had drastically changed. It seemed that the special market structures created through PROALCOOL could not be abolished or changed easily, but he would like to know how Brazil intended to deal with the question.

30. Finally, the second discussant noted the importance of the automotive sector, including the introduction in June 1995 of quantitative restrictions on car imports for BOP reasons, later withdrawn. Brazil had introduced an investment incentive programme for the industry and in March 1996 had requested a waiver from its obligations under the TRIMS Agreement, also subsequently withdrawn. This had been followed by formal consultations. Brazil had then introduced a system of tariff rate quotas for imported cars, creating a series of new problems. These measures had resulted in a rather elaborate and solid protection of one specific sector, whose effective protection had been estimated at over 250 per cent. This gave rise to some fundamental concerns. Was this really favourable for the development of a competitive export industry and for lasting foreign direct investment? What conclusions might be drawn by other newly industrializing countries if a country with the overall economic strength of Brazil resorted to such a comprehensive system of protection?

31. Since 1992, Brazil had shown courage and perseverance in introducing its Real Plan with overall positive results. There was good reason to further reduce the rôle of the State as a case-by-case regulator and concentrate on the most important task of creating a stable, equitable and predictable legal framework. Courage and a clear sense of direction were required to maintain support for change when a reform process exposed a formerly protected economy to the rough climate of global trade. The discussant encouraged the resolute continuation of Brazil's reforms and sought to generate further support for the reform programme from all those involved in decision-making within Brazil's civil society. Taking into account Brazil's economic potential and geographic position, there could be no doubt that successful economic reform in Brazil, respecting the existing parameters of the international trading system, would not only be important to Brazil but also encourage other countries to embark on the development and implementation of ambitious economic reform programmes.

V. STATEMENTS BY MEMBERS

32. Members of the TPRB thanked the Brazilian representative and the discussants for their opening statements, and extended their appreciation to the Brazilian Government and the Secretariat for their respective reports. Participants commended Brazil on its impressive record of progress since its first Trade Policy Review in 1992. The Real Plan attracted particular praise for sharply reducing inflation. Economic growth had also strengthened and barriers to trade had been lowered. Privatization had proceeded and legislation had been introduced to meet international commitments and further opened up investment to private and foreign investors. Brazil's challenge was to consolidate such gains.

33. The representative of the United States congratulated Brazil on its achievements. Brazil had set a positive example for other developing countries grappling with implementing WTO obligations, opening their economies, and sending positive signals to investors. He highlighted Brazil's decision to implement many of its WTO TRIPs obligations immediately. However, there were some Brazilian policies which did not appear WTO-consistent and could raise questions as to Brazil's long-term approach to trade liberalization. The representative's greatest concern was Brazil's auto régime, which in his view was a clear violation of a number of important WTO principles. His authorities continued to seek a modification of that régime.

34. He noted that at the last meeting of the WTO Committee on Regional Trade Agreements, Brazil acknowledged having broken a number of tariff bindings as a result of its joining MERCOSUL. He found it disturbing that Brazil had taken so long to respond to US concerns, but he was pleased that Brazil had then offered to enter into negotiations to compensate affected parties. However, to prepare for those negotiations, Brazil needed to provide import data for all trading partners for the affected items, and the representative asked when such data would be supplied. He also asked that in the future Brazil identify WTO inconsistencies and negotiate compensation prior to the implementation of any preferential agreement.

35. Highlighting Brazil's recourse to the safeguard investigation affecting toys, he expressed concern about the scope of provisional duties, which affected all imports of toys. He urged Brazil to review its policies with a view to bringing all aspects into conformity with its WTO obligations.

36. The representative of Hong Kong expressed appreciation for Brazil's continued efforts to liberalize its external trade. He noted that bilateral trade between Brazil and Hong Kong had increased substantially as a result of Brazil's liberalization efforts. However, noting that MERCOSUL was becoming the cornerstone of Brazil's trade agreements, he stressed the importance that the multilateral trading system not be undermined in any way. Although he appreciated that the Brazilian textile industry faced difficulties coping with competition from imports, he encouraged the Brazilian government to find positive ways (e.g., structural reforms, technology upgrading, etc.) to help industry adjust. He expressed his hope that contingency measures affecting textiles would not unduly restrict imports, and would be applied sparingly and in full compliance with WTO provisions.

37. The representative of Australia acknowledged the positive direction of Brazil's economic and trade policies, and the close cooperation between her country and Brazil at bilateral, regional and multilateral levels. The elimination of the concept of "national company of Brazilian capital" and progress made in the privatization programme were welcomed. She encouraged Brazil to continue its economic liberalization and constitutional reform programme as well as to address the anomalies affecting its trade régime. Highlighting one of Australia's written questions, she said that the shipping freight tax discriminated against long-distance suppliers, particularly for commodities such as coal and wheat, and looked forward to continuing discussions on this issue.

38. On regional matters, the representative welcomed the CER-MERCOSUL dialogue to promote regional integration across the Pacific and looked forward to its further development. The Australia-Brazil bilateral dialogue had diversified and improved trade and investment relations. She also welcomed Brazil's assurances that MERCOSUL would be an open arrangement, although, as indicated during the WTO consultations on MERCOSUL, concerns about trade diversion endured. Noting that changes to MERCOSUL's common external tariff had reduced market access to third countries, the delegate asked for Brazil's views on likely future changes to the common external tariff and for further information on Brazil's special tariff exemptions list. In particular, clarification was sought on whether such exemptions allowed the application of tariff levels below, as well as above, the common rate. The delegate also sought Brazil's comments on how to ensure that Brazil's emphasis on preferential regional arrangements remained compatible with the multilateral principles of openness and non-discrimination. Did Brazil expect to provide all third countries better market access subsequent to the formation of such arrangements?

39. The representative of Canada highlighted Brazil's progress on trade liberalization which, combined with the Real Plan, showed Brazil well on the way to becoming an outward oriented economy. He welcomed Brazil's plans to simplify the taxation system, the changes to the legal framework such as the amendments eliminating the concept of "national company of Brazilian capital", and the elimination of restrictions on maritime transport. However, he expressed concern that constitutional restrictions on foreign participation remained in banking and insurance. He had noted the comprehensive privatization in several sectors including steel, although in other sectors such as telecommunications, mining, transport and energy the process was still underway. Although the generally positive direction of Brazil's trade policy was recognized, he expressed concern over the depth of Brazil's commitment to trade liberalization. In this regard, the delegate made reference to the high level of protection in the automotive industry and the subsidies provided to the aircraft industry.

40. The representative of Ecuador welcomed Brazil's market opening changes but expressed concern on the WTO consistency of a special sanitary and phytosanitary directive affecting banana exports to Brazil, seeking further information on the rationale for such directive.

41. The representative of Japan welcomed Brazil's new stabilization programme and its efforts to improve market access. However, noting that the average tariff rate was still high in comparison with other countries, he encouraged Brazil to make further efforts toward liberalization. Observing that Brazil was the centre of MERCOSUL, he expressed hope that MERCOSUL would complement and strengthen the multilateral trading system and not be used as a pretext for protectionism.

42. The representative raised three issues of particular importance. First, Brazil had raised arbitrarily and suddenly its tariff rates on imported cars, seriously affecting Japanese car exports to Brazil. As the new rate of 70 per cent went against Brazil's trade liberalization efforts, he expressed his hope that the Brazilian authorities would take the necessary steps to reduce it as quickly as possible. Second, the automotive régime introduced in 1995 was not in conformity with WTO rules. Japan was participating in the dispute settlement process concerning that régime and requested Brazil to take the necessary steps to make it WTO-consistent. Third, noting that changes to the trade régime for the free-trade zone of Manaus had seriously affected business activities, he requested Brazil not to make sudden policy changes.

43. The representative of Venezuela observed that Brazil was an important partner of his country and that its liberalization process had resulted in increased trade and investment flows, although the latter were still small. The two countries had begun bilateral negotiations, with the ultimate goal of setting up a free trade area between Andean and MERCOSUL members. His delegation had submitted questions in writing to Brazil, of which he mentioned those regarding the similarity test, the Manaus free trade zone, certain policies in the agro-industrial field and export financing.

44. The representative of Argentina described several of the major macroeconomic and trade-related changes in Brazil since the previous review in 1992. Trade statistics showed a particularly sharp growth in imports, with Brazil's overall merchandise trade growing faster than the world average. Most of Brazil's trading partners had benefited from such growth. MERCOSUL had given impetus to the process of regional integration based on the premises of democracy and economic openness. This had not only promoted the concept of open regionalism compatible with the multilateral trading system but also created a dynamic regional market, which had grown from US\$4 billion to US\$14.5 billion between 1990 and 1995. During the same period, Brazil's MERCOSUL trade had increased from US\$3.6 to US\$12.8 billion, thus supporting Brazil's integration in international trade. Brazil's share in Argentina's trade had risen to 25 per cent. The representative encouraged Brazil's efforts to consolidate trade liberalization. Although such efforts would help domestic industries adapt to the stabilization programme, they also implied continuously having to overcome difficulties. Argentina trusted that Brazil would carry forward such process and its engagements with the multilateral trading system.

45. The representative of Colombia discussed the historical importance of the coffee industry for his country and Brazil. The industry continued to be of great social and trade importance, and Brazil still played a leading rôle in the coffee international market. In the early 1990s, the Brazilian Government had ceased its participation in the domestic coffee industry, leaving it in the hands of the private sector. However, to guide policies in the industry, the authorities had recently established a Deliberative Coffee Council with the participation of the private and public sectors. The delegate requested further information on the new organization. He said that the liberalization programme taking place within the MERCOSUL framework was opening up new possibilities for other Latin American countries. In this regard, Colombia would work within the Andean Group framework to establish closer links with MERCOSUL.

46. The representative of India highlighted Brazil's process of autonomous trade liberalization, fiscal reforms, privatization and efforts to reform the legal framework. During the Uruguay Round, Brazil had offered deep cuts in its bound tariff rates, eliminated most non-tariff barriers to trade and had made substantial commitments in its services schedules. He also highlighted the results of the new stabilization programme and the macroeconomic challenges Brazil still faced. There was a need to increase the domestic savings rate through permanent fiscal adjustment and to place greater emphasis on agricultural production and exports. India was facing similar problems. Although Brazil's exports were increasing, there was concern at the increasing deficit in services trade, with trade performance affected by external factors. Although structural policies, export incentives and geographical orientation had helped to improve export performance, he encouraged Brazil to diversify its trade destinations. Overall he felt that Brazil's trade policies were moving in the right direction and that Brazil should ensure their continuity, preserve a low-inflation environment and external balances, while achieving rapid economic growth and higher domestic savings.

47. The representative of the Czech Republic said that Brazil was one of the most active WTO members and since the previous review it had repeatedly demonstrated its commitment to open and stable global trade. He emphasized that for the Czech Republic Brazil remained the key trading partner in Latin America. While recognizing the largely positive rôle of Brazil in the multilateral trading system and its adherence to the international rules and principles, there were some areas of concern. Relatively frequent ad hoc changes to protect particular products and interests could have detrimental effects on the overall transparency of the trade policy régime. Czech companies considered that fluctuations in tariff protection in some sectors, such as automobiles or printing machinery, had led to considerable deterioration of market access. Recent changes in tariffs on printing machines were particularly worrisome and his authorities would probably seek further clarification on this issue from Brazil. He requested additional information on Brazil's plan to create an agency to attract foreign investment and technology.

48. The representative of the Republic of Korea acknowledged Brazil's great economic potential but expressed concern about a number of issues, particularly the incentives régime for the automotive industry. He said that Brazil's transitional safeguard measures on textiles were incompatible with various WTO articles and that the increase in textile imports had resulted from consumer preferences shifting from cotton to synthetic textiles. Moreover, if maintained until the end of 1999, the measures would be in effect for more than three years. On import licensing, he stated that Brazil's scheme had the potential to become a non-tariff barrier and asked when it would be notified to the Committee on Import Licensing. The delegate noted that Brazil reserved its right to control the annual remittance of profits and levied a high value-added tax on profit remittances exceeding a certain threshold. He enquired if there were plans to ease such restrictions. Did Brazil intend to modify the existing schemes that gave priority to domestic private companies seeking commercial loans?

49. The representative of the European Communities noted and welcomed the continued economic reforms, which were creating an increasingly competitive economy. He emphasised that his assessment of policy directions was generally positive, but noted that a number of problems had been encountered. The delegate welcomed Brazil's statement that the basic policy stance was irreversible, but noted that the Brazilian Government seemed to have taken steps to protect sectoral interests. Some sectors had come under pressure from imports, leading them to call for government help. Rather than to give in to such pressures, it was important that the Brazilian authorities maintained their liberalization policies, pursued the reform programme and took the necessary macroeconomic measures to remedy the situation. The fact that exports had not increased as much as imports was evidence that the fundamental reasons for the present trade balance situation were not measures taken by foreign countries but rather macroeconomic factors.

50. Certain sectors were still relatively closed and effective rates of protection were high. The TRIMs measures in the automotive sector deserved particular attention as they seemed to infringe fundamental WTO principles and were already subject to consultations. Concern was also expressed regarding the safeguard measures on toys, also subject to consultations, as they did not seem to be in conformity with Brazil's WTO obligations. How would Brazil bring its practices into line with WTO principles?

51. Many developments were under way in the services sector, particularly in the MERCOSUL context. Brazil was pursuing efforts to introduce or change legislation in different sectors and the delegate was interested in receiving information on latest developments and future prospects. He said that there was a need for a simplification of Brazil's trading system and for greater predictability and transparency in trade policy. He welcomed the creation of MERCOSUL, but urged that efforts be made to optimize the transparency of its common trade régime. Noting that at the previous review Brazil had said it intended to consolidate its large number of trade-related laws and regulation into a single law, he enquired on how the process was proceeding. He requested information on plans to reform the complex system of non-tariff levies, charges and domestic taxes.

52. The representative of Norway emphasised Brazil's considerable size, its vast potential and the importance of the reform programme. Noting the concurrent deficits in the current account and merchandise trade, he sought comments from Brazil on the possibility that the real effective exchange rate was overvalued. He also mentioned the decrease in the number of State-owned enterprises, and requested information on future directions for the privatization programme. He asked why Brazil had not joined the GATT Agreement on Government Procurement. On maritime transport services, he requested information on the status of the enabling legislation for the constitutional amendment eliminating restrictions on maritime navigation. Observing that it would be of mutual interest to increase the efficiency of Brazilian harbours, he asked about the progress in implementing the 1993 government decision to privatize harbours. Did the Brazilian delegation have recent information on the elimination of discriminatory practices concerning lighthouse duties?

53. The representative of the Switzerland welcomed Brazil's trade policy reforms, especially improvements made with respect to applied tariffs, non-tariff measures, government procurement, TRIPs and services. However, he stressed that Brazilian "bindings" far exceeded applied rates, thus reducing the stability and predictability of market access conditions. He expressed his hope that Brazil would use future opportunities to carry forward the trade policy reform. The delegate also expressed the wish that Brazil and its MERCOSUL partners would commit themselves not to distort international trade flows or discriminate against other countries. He was confident that the ongoing Article XXIV Consultations would confirm that MERCOSUL was in conformity with WTO rules and principles. Although his delegation was pleased that Brazil had withdrawn the quantitative limitations on imports of passenger cars and its request for a waiver for its automotive régime, he expressed the hope that any measures to foster the automotive sector would conform with the spirit and the rules of WTO agreements.

54. With regard to standards, testing and certification, the representative noted that Brazilian regulations prescribe the priority use of domestic norms and said that such requirement should not create obstacles to international trade. He asked for further information on their use. He also noted that Brazil maintained several export support programmes; on the Export Financing Programme (PROEX) he asked how Brazil justified its consistency with the national development needs and how it would be phased-out. On government procurement, he asked whether Brazil would consider signing the respective WTO plurilateral agreement to establish a multilateral agreement, or if Brazil would participate in an initiative to establish a multilateral agreement. He welcomed the restructuring of telecommunications services, but noted that foreign participation in Brazil's banking system was limited. He urged Brazil to accept the second protocol to the GATS and expressed his hope that steps would be taken to open and liberalize the sector.

VI. REPLIES BY THE REPRESENTATIVE OF BRAZIL AND ADDITIONAL COMMENTS

55. The replies by the representative of Brazil (Minister José Alfredo Graça Lima) were divided into four main themes: (i) macroeconomic environment and trade relations; (ii) general measures affecting trade; (iii) sectoral aspects and (iv) miscellaneous. Following the replies, the Chairperson opened the floor to TPRB members for further comments and questions.

(i) Macroeconomic environment and trade relations

56. The representative of Brazil observed that the Real Plan would have been in force for 29 months on 1 November 1996, while previous plans never lasted for longer than one year. He provided statistics showing the downward trend in inflation, which was expected to decrease to around 10 per cent by the end of 1996, the lowest in 39 years. The Brazilian economy was expected to grow by about 3 per cent in 1996, moving to around 4.5 per cent in 1997 and 1998, thus reversing the previous period of stagnation and impoverishment. Since the introduction of the Real Plan, the number of employed persons had increased by 934,000, equivalent to a rate of 6.1 per cent. The rate of unemployment had declined consistently over recent years, attaining 5.5 per cent during the second semester of 1996, while the average real incomes of employed persons had increased.

57. Achieving higher growth rates than the 4.7 per cent attained in the previous three years would require higher domestic savings rates, which would result from the government's ongoing efforts to lower the public deficit. These efforts had been undertaken at all levels of spending. The Brazilian government had launched in October 1996 a fiscal programme intended to reduce the operational fiscal deficit by US\$6 billion in 1997 and public sector borrowing requirements by around 1 per cent of GDP. The programme involved cutting-down payroll expenses and fringe benefits and imposing limits on cumulative pension rights. The Executive was also emphasizing broad-ranging fiscal, administrative and social security constitutional reforms. Proposals on these matters were under review by Congress. Public-sector accounts had improved significantly in 1996; the primary surplus increasing to 0.6 per cent of GDP in May 1996, the operational deficit to 3.1 per cent and the nominal deficit to 5.7 per cent.

58. Brazil had been, traditionally, an importer of capital and, as a consequence, had run a deficit in the invisibles account. Such a deficit, mainly derived from the payment of interest on foreign debt, had been financed in the 1980s by trade surpluses. This reflected the scarcity of capital inflows, but access to the international financial market had been re-established in 1992-93 after the restructuring of Brazil's foreign debt. The opening of the Brazilian economy had led to an unprecedented growth in overall flows, particularly imports. At the time the Real Plan was introduced the level of international reserves was high enough to allow policymakers to curb domestic demand through higher import levels. Greater confidence in Brazil's economic and political stability and interest rate differentials caused a surge of foreign capital and a further increase in international reserves. This made it necessary to monitor closely the inflow of capital and its composition. The predominance of short-term capital inflows in 1995 gave way to flows of a much more stable nature in 1996: foreign direct investment represented 40 per cent of total inflows and the maturity of other long-term capital had increased from five to eight years.

59. Exchange rate levels immediately before and after the implementation of the Real Plan revealed an appreciation of the domestic currency, mainly as a result of the improved confidence on the Real. Afterwards, the rate of depreciation of the currency had consistently exceeded the rate of inflation for tradeable goods. It was also noted that an analysis of the exchange rate had to take into account the gains in productivity achieved in the industrial sector during the same period.

60. On tax reform, the representative said that the Government aimed to promote structural changes to maintain fiscal balance on a sustained basis and increase competitiveness. In this regard, the Executive

had proposed tax reforms to simplify and rationalize the revenue system, facilitate action against tax evasion, and allow a fairer social distribution of the tax burden. A Government's proposal in this respect had been approved by the Chamber of Deputies on 30 August 1995. The Executive was considering proposing certain aspects of its constitutional reform package as ordinary legislation, thus subjecting its approval to a simply majority of both Houses of Congress. Moreover, Complementary Law 87/96 had been approved on 13 September 1996 exempting from the State value-added tax (ICMS) the exports of primary and semi-manufactured goods.

61. In the context of its stabilization policy, the Brazilian government had undertaken reforms that included several constitutional modifications. The elimination of the difference between "Brazilian company" and "Brazilian company of national capital" had removed the restrictions on foreign participation in the electricity and mining sectors. Elimination of the State monopoly in the telecommunications sector had taken place through the approval of legislation making possible private participation in cellular services and satellite communications. Such legislation also provided for the restructuring of the basic telecommunications sector with a view to its privatization. The elimination of the State oil monopoly allowed contracting private companies to undertake exploration and extraction of hydrocarbons as well as the refining, import, export and maritime transport of oil and oil products. The State monopoly in the distribution of pipeline gas had also been eliminated. Also eliminated were the restrictions for foreign participation in cabotage transport and the State monopoly on reinsurance.

62. New legislation allowed private participation in the provision of public services, such as railways and highways. The Executive Branch had submitted a bill to Congress to restructure the financial sector. In the meantime, the majority participation of foreign capital was subject to presidential approval on the basis of "public interest" criteria. The Supplementary Income Tax on Remittances had been eliminated in 1993.

63. The representative noted the distributional effects of the Real Plan, providing a number of statistical measures pointing to a considerable improvement in the social welfare of lower income groups. Such figures suggested that lower rates of inflation had significantly curbed the erosion of purchasing power, while renewed economic growth had led to wage increases.

64. The National Privatization Programme sought to redefine the rôle of the Brazilian State through the transfer to the private sector of all activities unnecessarily managed by the public sector, reduce public sector debts, promote the modernization and competitiveness of domestic industry, and strengthen domestic capital markets through wider share-ownership. Privatization in Brazil involved public auctions open to foreign investors, with the final price determined by the market itself. The Government set only minimum auction prices, based on appraisals by independent consultants. The privatization process involved no direct forgiveness of debts or tax holidays. When enterprises were transferred to the private sector, the State also transferred the companies' outstanding debts. Transfers to June 1996 had amounted to more than US\$4.5 billion. By mid-1996 the State had almost completely privatized the steel, fertilizer, petrochemical and aircraft industries, generating close to US\$12 billion. In 1996 the Programme had entered a new phase involving the privatization of infrastructure such as transport, electricity and telecommunications. This new stage would contribute not only to fiscal adjustment but also to the reduction of so-called Brazil Cost.

65. In 1995 the Chamber of Foreign Trade, consisting of the main economic ministries and agencies, had been created to formulate and evaluate policies, co-ordinate activities related to foreign trade and serve as a discussion forum for the public and private sectors. Regarding the single trade law, the representative said that under the coordination of the Chamber of Foreign Trade, the Brazilian Government was discussing its elaboration to consolidate and simplify all existing legislation on foreign trade. The ultimate objective would be to ensure transparency and facilitate foreign trade operations in Brazil.

66. The representative underlined that alongside its commitment to overall economic liberalization, Brazil had pursued the deepening of economic integration at the regional and sub-regional levels. This, however, was not a departure from Brazil's traditional approach to trade multilateralism, confirmed by its active participation in and support for multilateral fora such as WTO. He provided statistics to support and clarify this stance. He emphasized that regionalism had reinforced the multilateral goals since it played an important rôle in Brazil's insertion in global markets by fostering productivity gains and greater coordination of public policies.

67. MERCOSUL's external relations confirmed the concept of open regionalism. MERCOSUL had established free trade areas with Chile and Bolivia and was in the process of establishing similar areas with other neighbours as well as Mexico. Brazil was also engaged in the hemispheric integration initiative to construct a Free Trade Area of the Americas by the year 2005. Moreover, MERCOSUL had signed an interregional cooperation agreement with the European Union and had initiated a series of trade dialogues with Japan, CER and India. In respect of Article XXIV:6 negotiations, MERCOSUL had already provided a list of tariff lines for which CET levels were above GATT/WTO bindings and had also expressed its readiness to open consultations with interested Members.

68. MERCOSUL's CET allowed for exemption in two cases. The first related to a basic list of exceptions with 1,100 items common to the four members. These tariffs would converge to the CET in 1999 for capital goods, and 2006 for informatics and telecommunications. Each MERCOSUL member was also allowed a limited number of exceptions to the CET; in the case of Brazil 300 items that would converge to the CET no later than 1 January 2001. The Brazilian list included foodstuffs (powdered milk, rice), raw materials (chemicals, petrochemicals, fuel, petroleum), intermediary goods and finished goods (home appliances, automobiles, bicycles, etc.). Brazil had eliminated some products from its exception list and accelerated the convergence of others.

69. The first discussant said that the comprehensive answers provided by the Brazilian representative had assuaged most of his concerns and he only required clarification on whether the privatization programme would include state owned banks.

70. The second discussant found that Brazil's answers underlined the depth of change taking place within the Brazilian economy. He expressed appreciation for the tax reform, which would be particularly important and complicated. He also commented that it was to be expected that as tax reform progressed, trade measures related to the previous tax system would be abolished so that certain elements of the trading régime would not accumulate.

71. The representative of Venezuela, having taken note of the enterprises and sectors subjected to privatization, asked which specific sectors were still reserved to the State and whether there were plans to privatize them.

72. The representative of the Republic of Korea found Brazil's answers highly valuable and requested the Brazilian delegation to make them available in written form.

73. The representative of the European Communities asked for confirmation that MERCOSUL had provided a list of items for which applied tariff rates were above GATT/WTO bindings, and also asked what steps had been taken to enter into consultations on this issue.

74. The representative of the United States expressed appreciation for Brazil's willingness to consult on the breaking of tariff bindings and asked Brazil's when it could provide the import data required for consultations.

75. The representative of Brazil said that his delegation would endeavour to make the answers available in a consolidated, written form as soon as possible. On privatization, he indicated that of the existing 27 state banks, half were getting ready to enter the privatization process. This was an ongoing process involving discussions with the Federal Treasury on the renegotiation of internal debts. Although organizations involved in typical state activities, such as the provision of long term credit, would remain in state hands, all firms involved in production activities would be privatized in due course. He noted that at the last meeting of the WTO Committee on Regional Trade Agreements, Brazil had provided the Secretariat data on imports and other relevant information on MERCOSUL.

(ii) General measures affecting trade

76. The representative of Brazil said that as a result of the Uruguay Round Brazil had bound its entire tariff, thus ensuring predictability. Brazil had applied tariffs below those bindings to ensure the supply of goods. For Brazil's trading partners, ceiling bindings provided security of market access. Occasional increases of applied tariffs within ceiling bindings had been used as an economic policy instrument in case of sectoral difficulties and for the management of macroeconomic policies.

77. On credit term restrictions for imports, he observed that certain imports financed abroad benefitted from considerably better conditions than those offered on the domestic market. As this caused serious distortions, the authorities had established a 30-day credit limit for imports of a very limited number of products, the same term required on the domestic market. He also noted that modifications introduced in licensing procedures made licence issuance very expeditious. Licences were required to be issued before shipment and a fee charged to cover the cost of the service. The period of validity was generally 60 days and, given that licences were used mostly to gather statistics, extensions were not allowed for reasons of statistical consistency. A new licensing system was due to come into force on 1 January 1997, after which licences would be issued before the merchandise went through customs but after shipment from abroad. There would be no limit on the period of validity for such licences.

78. The representative said that the safeguard measure notified by Brazil to the Textiles Monitoring Body in June 1996 had resulted from an investigation which determined that import increases of the affected products had caused serious damage to the domestic industry. In introducing the measures, Brazil was having recourse to a right it retained under the Agreement on Textiles and Clothing. Brazil had strictly followed the established procedures for the introduction of such measures. Consultations with one of the affected Members (Hong Kong) had not produced agreement and the issue was being examined by the TMB. Consultations were still taking place with another member. The delegate gave assurances that the Brazilian Government had no intention of applying the measures beyond the period of three years, that is after 31 May 1999.

79. Regarding the safeguard measure on toys, the representative indicated that a provisional measure had taken the form of a tariff increase within the bound rates except for two HS lines. The investigation on the injury to the domestic industry caused by the import increase was to be concluded by the end of 1996. Between 1993 and 1995 toy imports had increased 275 per cent in value and 820 per cent in volume. The provisional measure had been introduced following all the appropriate procedures. Consultations with the EC on this issue, held in August 1996, had proven to be constructive, the result having been notified to the Committee on Safeguards.

80. Two types of financing were offered under PROEX: direct financing by the Brazilian Government for payment on sight to the exporter and an "interest equalization" scheme to lower interest rates on export finance to the levels prevailing in international markets. Interest rates on PROEX loans were pegged to the LIBOR plus a margin. The programme provided no subsidy as it merely equalized export financing to the conditions prevailing in the international market for similar transactions.

81. On government procurement, the representative said that, following the elimination of the concept of a "Brazilian company of national capital", bids were open on equal terms to national and foreign suppliers. Federal agencies made their acquisitions and were accountable to their respective internal control agencies and to the central control agency of the Executive Branch. At the state and municipal levels, government procurement was audited by the respective legislative chambers. At all levels, government procurement had been characterized by probity, transparency, and expeditious procedures. The Brazilian government was closely following proposals on government procurement both at the regional and multilateral levels.

82. On standards, the Minister pointed out that the relevant Brazilian body had adopted the Code of Good Practice for the Preparation, Adoption and Application of Standards. The Government was committed to transparency in the elaboration of technical standards and followed the relevant provisions of the TBT and other relevant agreements. This guaranteed that Brazilian norms would not be used as trade barriers.

83. The second discussant welcomed the prospects of a considerable improvement in the import licensing system. On the significant difference between applied and bound tariff rates, he said that trading partners appreciated applied rates below bound levels but overall this did not increase predictability for partners and reduced trade below its true potential. At a political level, such structure made attractive for firms under pressure from imports to ask the Government to increase tariffs within WTO rules. However, in this regard, the discussant noted that Brazil had apparently committed itself not to increase tariffs.

84. The representative of the Republic of Korea was pleased that Brazil had no intention to extend the safeguard measures on textiles beyond three years and expressed his hope that a bilateral understanding would be reached on this issue. However, he was not convinced that there was a justification for reducing the validity period of import licences. He asked again when Brazil would notify its import licensing régime to the relevant WTO committee.

85. The representative of Japan requested confirmation that Brazil did not intend to participate in the Plurilateral Agreement on Government Procurement, and the reasons for not joining.

86. The representative of the European Communities welcomed the prospects for improvements in the licensing system. He expressed understanding for the desire to use the system to equalize competitive conditions but pointed out that this was not a WTO principle, as if all competitive differences were to be equalized trade flows would cease. He had found useful the consultations with Brazil on toys but underlined the need for a strict implementation of the Uruguay Round disciplines, especially as this would form a precedent.

87. The representative of Venezuela asked for details on the "Law of Similar".

88. The representative of the United States expressed concern with respect to the differential between applied and bound rates and the unpredictability associated with it. He was also concerned about the number of charges and taxes assessed exclusively on imports. Many were on an ad valorem basis and appeared to bear no association to the cost of services provided. They included the additional document surcharge, the freight surcharge for the renovation of the merchant marine fleet, the warehousing contribution and the port tariff surcharge, which however appeared to have been eliminated. He sought Brazil's views with respect to such levies.

89. The representative of Brazil replied that ceiling bindings were an instrument widely used in tariff negotiations to entice members to bind their tariffs, something Brazil had fully done as a result of the Uruguay Round negotiations. Ceiling bindings increased predictability by ensuring that Members

would not raise tariffs above bound rates, while providing flexibility in emergencies cases without violating WTO commitments. Governments had responsibility for resisting calls for protection from industries wanting to use the gap between applied and bound rates. This is what the Brazilian Government had been trying to do, except in a very limited number of cases.

90. The representative also took note of the observations on import licensing by the delegate of the Republic of Korea. He was confident that changes would occur in the very near future, a new licensing system due to come into force on 1 January 1997. Licences would be issued after shipment but before merchandise went through customs and no validity period would be stipulated. On government procurement, he noted that only 20 Members were party to the Plurilateral Agreement. Some countries found it somewhat cumbersome and complicated and thus had no incentive to join it. Brazil's own laws ensured transparency and were in the spirit of the proposed agreements, which were under active consideration by Brazil. On the Law of Similars, he said that strict criteria were used and that it applied only to imports benefiting from special incentives. Since 1990, such imports had been very much reduced and the Law had largely fallen in disuse. He undertook to address the issue of taxes and charges at a later stage.

(iii) Sectoral aspects

91. Noting that tariff escalation was said to be a way to selectively protect industries, the representative of Brazil provided information to show that Brazil's tariff structure revealed a low level of dispersion. The implementation of a single import tariff would lead to substantial increases in nominal tariffs in the lower end of the tariff schedule. Countries that had resorted to such tariff structure often provided selective protection through the management of domestic value-added taxes. Observing that the ratio of import tax revenue to value of imports was also important, he indicated that such ratio was 4.8, 7.7 and 11 per cent for raw/intermediate goods, capital goods and consumer goods. The overall ratio was 7.1 per cent.

92. The Brazilian Government understood that the process of trade liberalization involved taking into account the need to remedy unfair trade practices and to respond to structural failures. The application of sectoral measures (safeguards, anti-dumping and countervailing) reflected Brazil's strong commitment to the rules and principles of the multilateral trading system. A "Deliberative Council for Coffee Policy" had been created, with responsibilities for the production and exporting programmes of the crop plans, to authorize projects on agriculture and market research, and establish technical and financial cooperation with national and international agencies. The Council integrated government and private sector representatives and its President was the Minister of Industry, Trade and Tourism. PROALCOOL had been created after the 1973 oil shock and had two components: a residual programme for the production of hydrated alcohol aimed to supply the existing fleet of vehicles using this fuel; and another programme producing anhydrous alcohol as an additive for gasoline responding to ecological requirements. The Programme was financed, with decreasing cost, from other energy sources.

93. The delegate said that the importance of minimum prices and official credit in agriculture had declined sharply during the 1990s, with the adoption of trade liberalization and an acute lack of public funds. In general, the State presence in agriculture had experienced a steep and steady decrease during the decade. Simultaneously, the Government had endeavoured to increase private sector participation in the sector, for example through new, market-based methods to finance and market commodities, such as the *Cédula de Produto Rural* and the *Contrato de Opções*. He noted that in spite of the gradual lack of government assistance, agricultural production and productivity had significantly increased.

94. On the phytosanitary measures affecting banana imports, the delegate said that Brazil was ready to import bananas from Ecuador as soon as it was scientifically established that those imports did not pose any risk of introducing into Brazil the pest *Sigatoka Negry*, according to the rules contained in

the WTO SPS Agreement. Brazil and Ecuador had already discussed this matter and Brazilian experts had visited Ecuadorian production zones. However, further research was necessary to assess the risk in transportation. In July 1996, Brazil had communicated to Ecuador present and possible future measures to overcome the difficulties. Brazil was awaiting Ecuador's response to its proposals.

95. The representative recalled the significant rôle played by the motor vehicle industry in Brazil's economy. He described changes to the import régime during the 1990s and the circumstances that had led to the adoption of particular trade measures since 1995. He emphasized that, although import quotas had been in place in 1995, the quota limit had not been reached and, thus, the quotas had been ineffective. Noting that the incentives measures in Provisional Measure 1024 were described in the Secretariat report, he clarified that Brazil had requested a WTO waiver not for such measures - which he deemed justified under the TRIMS Agreement - but for the obligation to notify the measures within the time limit specified in the Agreement. Brazil had been compelled to adopt such measures to avoid trade and investment distortion within MERCOSUL during the transition period accorded to two Members under the TRIMS Agreement. It had thus complied with MERCOSUL's decision to have a common automotive régime. Brazil had offered to consult with its affected trading partners. In light of the talks with the Republic of Korea, Japan and the European Communities, Brazil had unilaterally introduced a tariff quota system for imports of vehicles not benefitting from the incentives régime. Such a system greatly enhances market access for automobiles, as it permits the importation from August 1996 to July 1997 of 50,000 cars (based on past performance) at tariff rates similar to those applied to imports by assemblers and manufacturers.

96. The automotive régime was bringing about reductions in the costs of production and investment, as well as a higher import content per vehicle and the adoption of modern methods of production and management. Stronger competition in the domestic market was contributing to increased competitiveness. The régime envisaged tariff reductions on finished vehicles and increases for inputs, thus reducing the effective protection for vehicles.

97. The representative said that authorizations for the establishment of new foreign financial institutions, inducing insurance firms, was to be regulated by Congress, but regulations and the respective enabling laws were yet to be adopted. As the matter was rather complex, it was not possible to foresee a date for its approval. In the meantime access for new foreign financial firms took place on a case-by-case basis, subject to Presidential approval, as a result of international agreements or where there was an express Presidential finding of public interest. Public interest was also related to the sale of public financial institutions or those under liquidation to foreign investors. Foreign banks already authorized to operate in Brazil were granted national treatment.

98. Under Constitutional Amendment No. 6 of August 1995, any enterprise established in Brazil was considered a Brazilian company. This was the case for subsidiaries of foreign companies established in Brazil. A recent constitutional amendment had ended the State reinsurance monopoly by permitting the participation of private reinsurers. Such provision would have to be considered on the regulation of Article 192. The Government also wanted to promote the participation of foreign capital in health insurance to encourage competition and ultimately expand insurance coverage at reduced cost.

99. On telecommunications, Constitutional Amendment No. 8 of August 1995 provided for the granting of concessions to private sector companies providing telephone, telecommunication and data transmission services. On November 1995, the Government had issued three decrees further restructuring the sector. On July 1996, Law No. 9295 had been approved making possible the foreign ownership of up to 49 per cent of cellular, satellite and cable concessions until 19 July 1996, and as much as 100 per cent thereafter. Brazil was to be divided into ten concession areas for private cellular telephony, with concessions expected to be awarded in early 1997.

100. On maritime transport, the Constitution had reserved coastal and inland shipping to Brazilian vessels and required that the owners, the captains and two-thirds of the crew be Brazilian. Constitutional Amendment No. 7 of August 1995 had removed these provisions and transformed the rules for coastal and inland shipping into ordinary law, opening such activities to foreign vessels. In a recent decision by the National Council on Privatization, port services in all federally supervised harbours were eligible for privatization. Investment in infrastructure remained under public responsibility and followed guidelines to reduce the so-called Brazil Cost. Some specialized terminals, for example for minerals, fertilizers and bulk commodities, were already operated by private companies, and some State-owned harbours had been offered for privatization.

101. The first discussant made the general comment that Brazil's replies clearly showed the efforts made by the Government to create a more market-based economy.

102. The second discussant thanked Brazil for the explanation on PROALCOOL, which he understood to indicate that the raw materials needed for the programme would be used internally and not marketed abroad. On the automotive industry, he commented that Brazil's reply underlined the industry's importance but doubts lingered on whether the sophisticated protection and incentive system would in the medium term lead to the development of a healthy and competitive industry. He added that the information given would increase confidence in Brazil's move towards an open market economy.

103. The representative of Norway took note of Brazil's remarks on a recent constitutional amendment opening coastal and inland maritime transport services. However, other information indicated that a series of regrettable delays had prevented the adoption by the Brazilian Congress of the necessary implementing law. He expressed his hope that internal political problems would be overcome and the implementing law adopted.

104. The representative of Japan restated his question concerning the Manaus free trade zone and the drastic policy changes to its trade régime.

105. The representative of the European Communities said that Brazil's automotive régime was not in conformity with WTO rules. They had negative economic consequences for the European Communities, were a dangerous precedent and, thus, should be brought into conformity with the multilateral rules.

106. The representative of the United States apologized for the organization of his country's written questions. Such questions included clarifications on the requirement of a certificate of compliance with Brazilian automotive standards to obtain import licences for motor vehicles. How had this requirement changed since the implementation of the automotive régime in December 1995 and what had been the effect on automotive imports?

107. The representative of Brazil confirmed that the raw materials needed in the PROALCOOL programme would be used internally. He said that his statement on Brazil's automotive régime being in conformity with WTO provisions had been made as a clarification of his country's position, and pointed out that the issue was already the subject of formal consultations. On the certificate of compliance with domestic standards required to import motor vehicles, he explained that such certificate was required from importers, both natural and legal persons, to demonstrate that the products complied with environmental and traffic requirements. When such requirements were met, licences were issued automatically. Moreover, the same environmental and traffic norms applied to imported vehicles from any source and to locally manufactured products. Such requirements had not been modified since the implementation of the automotive régime in December 1995.

108. Regarding maritime transport, it was noted that the sector had undergone major restructuring, with national providers having previously handled 80-90 per cent of Brazil's foreign trade but now responsible for less than 10 per cent. Surviving firms had complained that the GATS Agreement did not have a provision on anti-dumping, as they believed that some of the main foreign providers of maritime services engaged in unfair trade. The main maritime nations, such as Norway, already had an important presence in Brazil, including in coastal and inland transportation. Delays in adopting enabling legislation in the transportation sector was linked to the complexity of the reform envisaged, which extended far beyond cabotage and aimed to an overall reduction of the so called Brazil Cost.

(iv) Miscellaneous

109. The representative of Brazil said that the shipping freight tax (AFRMM) was levied on any shipped merchandise, including commodities, at a rate of 25 per cent of freight value. He noted that the cost of imports depended on the tariff and other charges. The tariff applicable to commodities had been reduced since the early 1990s and recently the Additional Port Tariff (ATP) had been eliminated. The Lighthouse Contribution was charged on foreign vessels for the maintenance and investment in navigation safety devices. The charge applied to the vessels of countries that did not have bilateral agreements with Brazil on maritime transportation, but was under review by the Brazilian authorities. The import régime in the Manaus free zone was part of an incentives package for regional development. Between May 1995 and April 1996, imports benefitting from incentives had been subject to quantitative limits, but quota limits had not been reached. In 1996 only imports of finished goods had been subject to quantitative limits, but these limits had not been reached either. In the context of MERCOSUL, and the free trade agreements under negotiation by MERCOSUL, "imports" into Brazil from Brazilian Free Trade Zones were subject to the common external tariff.

110. The representative of the Republic of Korea requested further information about the use of minimum import prices. He noted that the Brazilian Government had not made public the minimum price system it had recently introduced for 100 items, a system that appeared to be inconsistent with the relevant WTO rules. Was the system related to levying taxes and controlling tax evasion?

111. The representative of Brazil replied that there was no system of minimum import prices nor were comparisons with a minimum price list made for customs clearance purposes. Nevertheless, minimum price lists were useful to counter under invoiced imports.

VII. CONCLUDING REMARKS BY THE CHAIRPERSON

112. The Trade Policy Review Body has now completed the second review of Brazil's trade policies and practices - the first under WTO provisions. These remarks, made on my own responsibility, summarize the main points of the discussion. They are not intended to substitute for the collective evaluation and appreciation of Brazil's trade policies and practices. Details of the discussion will be reflected in the minutes of the meeting.

113. The discussion developed under three main themes: (i) macroeconomic environment and trade relations; (ii) general measures affecting trade; and (iii) sectoral aspects.

(i) Macroeconomic environment and trade relations

(a) Achievements of the Plano Real and future developments

114. Members recognised that the significant economic reforms carried out since 1992, in particular through the Plano Real, had resulted in economic stabilization and resumption of GDP growth. They commended the continuing reforms, which included trade liberalization, privatization, deregulation of state monopolies, and opening of foreign investment. As a result, Brazil's participation in the global trading system had expanded; this was reflected in a higher ratio of total trade to GDP. Members noted that imports of goods and services had grown more rapidly than exports and asked, firstly, how Brazil planned to maintain equilibrium in the balance of payments and secondly, to comment on the possibility that its exchange rate may have been overvalued. They also noted that economic stabilization had yet to be reflected in comparable growth in employment.

115. Members welcomed the adaptation of domestic laws to WTO rules, including in such areas as anti-dumping, countervailing, safeguards, and intellectual property. In respect of investment provisions, they welcomed the elimination of the concept of "Brazilian company of national capital". They also sought information on progress in the elaboration of a single foreign trade law, and on the prospects for tax reform, given the complexities of the domestic tax system. Details were also requested on future privatization schemes, as well as on plans to reduce certain restrictions on remittances of investment profits and the high value added tax on some remittances.

116. In response, the representative of Brazil said that the latest indicators would show a further decline in the rate of inflation to around zero in September, while recovery was expected to strengthen in the next two years. Productivity, employment and real income had both increased since the introduction of the Plano Real; estimates also indicated growth in consumption by lower income groups. He gave details of plans to increase the domestic savings rate, as well as for broad-ranging fiscal, administrative and social security reforms. He noted that Brazil had traditionally financed a capital account deficit with merchandise trade surpluses; when the Plano Real was introduced reserves were reasonably high, and had increased as a result of high interest rates and growing confidence in the economy. Since the initial real exchange rate appreciation, depreciation had consistently exceeded the rate of inflation for tradeable goods.

117. The representative gave details of the tax reform and its objectives, including related constitutional measures to facilitate further tax changes. The recent elimination of the state value added tax (ICMS) for primary and semi-manufactured goods should increase the competitiveness of Brazilian exports. Details were also provided on recent investment measures benefiting foreign capital and the elimination of state monopolies in telecommunications, oil and re-insurance. He provided information on the objectives and progress of the privatization programme; in 1996 this had extended into infrastructure, transport, electricity and telecommunications. The elaboration of a single trade law was still being discussed by the Government.

(b) Multilateralism and regionalism

118. Members took note of the rapid growth of intra-MERCOSUL trade, and expressed concern about possible trade diversion. They expressed their hope that regional integration would take place in the spirit of open regionalism, complement multilateral trade liberalization and be consistent with WTO principles. The ongoing efforts to establish a free trade zone between MERCOSUL and the Andean Pact countries were noted.

119. Although Brazil's adoption of MERCOSUL's common external tariff had led to a number of WTO bindings being broken, members expressed satisfaction that Brazil had offered to enter into negotiations with affected parties. In this regard, Brazil was asked whether the import data required to conduct such negotiations were available. Noting Brazil's numerous national exceptions to MERCOSUL's common external tariff, Brazil was asked whether such exemptions allowed the application of tariff levels below, as well as above, the common rate.

120. In response, the representative of Brazil said that Brazil had pursued the deepening of economic integration at the regional and sub-regional levels, but this was not a departure from Brazil's traditional multilateral approach to trade. He said that MERCOSUL's external relations confirmed the concept of open regionalism, and illustrated this with recently concluded FTAs, ongoing negotiations for the FTAA and other agreements and dialogues outside the region. He provided detailed statistics showing the growth of trade with partners outside the region as well as within. He noted that the actual tariff rate under the MERCOSUL CET was lower than the pre-existing tariff averages. Tariff items where WTO bindings had been exceeded had been notified and the MERCOSUL members stood ready to engage in consultations with interested Members. He also provided details of Brazilian exemptions to the CET, and noted that convergence was to take place no later than 1 January 2001; Brazil was accelerating the pace of its convergence.

(ii) General measures affecting trade

121. Members welcomed Brazil's successful completion of its autonomous liberalization programme, including the elimination of import prohibitions, reductions in the average tariff and removal of non-tariff barriers. This confirmed Brazil's commitment to free trade. However, some applied tariff rates were still seen as relatively high. Moreover, bound rates were considerably higher than applied tariffs, and frequent ad hoc changes had been undertaken since 1992 to protect particular products. Those two factors reduced predictability for Brazil's trading partners and reduced the transparency of its trade policy regime.

122. While import licensing procedures had been streamlined, concerns were raised about the level of licensing fees and reduction of the validity of licences. Concerns were also expressed about the practice of considering payments terms as a factor in granting licences. Members believed that Brazil's licensing system could benefit from greater transparency and efficiency in implementation.

123. Members called attention to the significant increase in anti-dumping and countervailing activity during 1992-96, although with a decline towards the end of the period. Although understanding was expressed for the difficulties faced by the Brazilian textile industry, some members believed that the safeguard measures on textile products were not compatible with WTO provisions; Brazil was encouraged to find other ways to assist the industry. Members were also concerned about the increased tariffs on toys taken as a safeguard measure and the precedent that such increases might cause.

124. Members noted that Brazil encouraged exports through a number of schemes, including internal tax concessions, assistance to the aircraft industry, the Export Finance Programme (PROEX) and the

fiscal benefits of the Special Export Programmes (BEFIEX). Brazil was asked whether it intended to phase out those subsidies.

125. Brazil was also asked why it did not consider joining the Agreement on Government Procurement and whether it would participate in an initiative aimed at establishing a multilateral transparency agreement in that area.

126. Expressing concerns about standards creating unnecessary trade barriers, members questioned Brazil on the principles governing its use of technical regulations and how the principle of "priority use of Brazilian norms" was implemented.

127. In response, the representative of Brazil noted that, as a result of the Uruguay Round, Brazil had bound its entire tariff, ensuring greater predictability as the maximum rate was known to all members. Ceiling bindings were a widely used technique in tariff negotiations, providing both predictability and some needed flexibility within WTO commitments. Brazil had been applying tariffs below bindings to ensure the supply of goods, enhance its own competitiveness and afford improved market access to its partners. The occasional increase in applied rates within bound levels was to cope with sectoral difficulties and provided flexibility for macroeconomic management. He noted that import licensing applied basically for statistical purposes with prior import licensing affecting arms, nuclear substances, or for environmental reasons, consistent with the WTO. From January 1997, import licences would be issued before goods passed through Customs, accelerating the procedures. Limits on foreign financing periods for certain imports were intended to provide equal conditions to those available in Brazilian financial markets.

128. The representative noted that safeguard measures on imports of certain textiles had been taken only after an investigation had revealed serious damage to domestic industry. The measures were transitional safeguard measures under the Agreement on Textiles and Clothing. He provided information about consultations and noted that, in any case, the measures would not be applied beyond 31 May 1999. A provisional safeguard measure on toys involved a tariff increase within bound rates and was introduced in accordance with Article 12 of the WTO Agreement on Safeguards. The investigation was not yet completed.

129. The representative also provided information on the export finance programme (PROEX), concerning direct financing and interest rate equalization. However, he noted that there was no subsidy in the programme. He also explained Brazilian government procurement procedures at the federal, state and municipal levels; the "Law of Similars" was applied under very strict conditions. Brazil was closely following discussions on government procurement at the regional and multilateral levels. Concerning standards, Brazil had already adopted the WTO Code of Good Practice. Brazil was committed to transparency in elaborating its standards, thus guaranteeing that Brazilian norms could not be used as trade barriers.

(iii) Sectoral aspects

130. Members acknowledged Brazil's important steps towards greater economic openness and the legal changes undertaken to attract foreign investment in sectors such as energy, telecommunications and mining. Liberalization had exposed a number of sectors to strong import competition; thus, requests for assistance had increased. Members were of the opinion that macroeconomic adjustments to restore competitiveness were more effective than such sectoral assistance.

131. Members recognized that Brazil was a competitive, major producer and exporter of agricultural products. Nevertheless, agriculture received considerable financial support through minimum price supports and rural credits, while large subsidies were given to the National Alcohol Programme

(PROALCOOL). Brazil was asked to clarify the economic rationale of these subsidies and future plans for the programme.

132. Noting that the Brazilian Coffee Institute had been abolished, members asked Brazil for information on the recent creation of a Deliberative Coffee Council. Information was also requested on the justification under WTO rules for the phytosanitary measures affecting certain banana imports.

133. Brazil's automotive régime, containing high tariff as well as TRIMs measures such as local content and export performance requirements, was of great concern to members. They pointed out that the régime afforded high effective protection to the industry and appeared inconsistent with WTO rules. Members sought information on the tariff quota system for vehicles recently introduced by Brazil.

134. Members welcomed the privatization and liberalization programmes in various service industries which, however, had yet to reach some sectors. The constitutional changes to open partially activities such as telecommunications and maritime transport were also appreciated but concerns were raised on remaining constraints to foreign investment, particularly in banking and insurance. Members requested information on plans for greater liberalization in those areas.

135. The representative of Brazil, explaining the sectoral distribution of tariffs, stressed that the application of contingency measures was intended to remedy unfair trade practices and respond to structural problems in the context of a more open environment. Brazil's use of such measures thus reflected its strong commitment to WTO rules and principles.

136. The representative noted that state involvement in the agricultural sector through minimum prices and rural credit had decreased sharply during the 1990s. Simultaneously, both private involvement and the use of market-based programmes had grown. He emphasised that, despite reduced government assistance, agricultural production and productivity had increased significantly.

137. On the Deliberative Coffee Council, the representative said that the council, with government and private sector representation, had been recently created to define technical, research and financial policies and programmes for the coffee industry. On phytosanitary measures affecting banana imports, he stated that Brazil was prepared to allow banana imports as soon as there was scientific proof that they did not represent a risk. The Brazilian authorities were already engaged in discussions with the WTO member concerned.

138. The representative pointed out that PROALCOOL had two components: a residual programme aimed to supplying existing alcohol-powered vehicles, and one for the production of gasoline additives for environmental reasons. He also indicated that the programme was financed, with decreasing costs, from other energy sources.

139. The representative of Brazil recalled the importance of the vehicle sector and the reasons that had led to the adoption of Brazil's automotive régime. In Brazil's view, such a régime was required to harmonise investment conditions and avoid distortions within MERCOSUL during the transition period allowed by the TRIMs Agreement. The régime, including changes introduced in December 1995, was leading to the industry's modernization, increased competition, lower production and investment costs and a higher import content of vehicles. As a result, effective protection for vehicles was being reduced. The representative added that following talks with concerned trading partners, Brazil had unilaterally introduced a tariff quota system which, in his opinion, should greatly enhance access to the Brazilian market.

140. The representative of Brazil discussed Brazil's active participation in the Uruguay Round services negotiations and the ongoing discussions under GATS. He outlined the legal framework for the banking and insurance industries. New constitutional amendments and enabling laws were still under discussion. Given the complexity of the issues involved, it was not possible to provide a date for changes to the framework. In the meantime, access to the local market by foreign firms in both sectors was considered on a case by case basis. The representative noted the recent promulgation of a constitutional amendment ending the monopoly on reinsurance and opening it to private participation, as well as his Government's interest in promoting foreign participation in health insurance. On telecommunications, he noted that a new law had been approved allowing foreign participation, rising to 100 per cent from July 1999, in cellular, satellite and cable services; new contracts were expected to be awarded from early 1997.

(iv) Miscellaneous

141. Miscellaneous questions were raised on the implementation of the 1993 decision to privatize the harbours and the expected date for introduction of regulations to eliminate restrictions in maritime navigation. The shipping freight tax and lighthouse duties were also seen as discriminatory. It was also noted that unexpected changes to the import régime for the free trade zone of Manaus had affected traders; in this context, details were requested on the current régime.

142. The representative of Brazil noted that a 1995 constitutional amendment had opened coastal and inland shipping to foreign participation. In an effort to reduced the so called "Brazil cost", a recent government decision had allowed the privatization of federally-supervised harbour services, although certain infrastructure would remain under government control. Private ownership of certain specialized terminals and some other harbours was already possible.

143. The representative of Brazil commented that the shipping freight tax served to improve the merchant fleet, and was thus helping the sector's adaptation to a more open environment. The freight tax had been reduced since 1990, while the Additional Port Tariff had been eliminated. Lighthouse duties were navigation security-related charges levied on vessels from countries with which Brazil had no bilateral agreements on maritime transport. These duties were currently under assessment by his authorities.

144. The representative indicated that the incentives in the free trade zone of Manaus were part of a regional development programme. Import quotas - only applied to finished goods - had not been filled and thus had no trade effects. Imports from the free trade zone into Brazil were subject to the common external tariff.

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145. Members noted the impressive progress achieved over the past few years towards macro-economic stabilization, trade liberalization and a more open investment régime. They welcomed Brazil's emphasis on the irreversibility of the liberalization process, as well as its strong statement of commitment to the multilateral process and "open regionalism".

146. Despite this generally positive assessment, members voiced a number of concerns including the gaps between tariff bindings and applied rates, the relatively frequent resort to anti-dumping actions, recent safeguards measures, and continuing restrictions in the services sector. The high level of protection in the automotive sector was particularly commented on.

147. Members were conscious of the adjustment difficulties associated with radical economic restructuring and acknowledged the recent concerns in Brazil arising from trade imbalances. However,

they strongly encouraged perseverance with the macroeconomic reform programme, resistance to protectionist pressures and strict adherence to WTO rules and procedures. Given Brazil's evident importance to the region and to the world economy, success in these areas - leading to long-term stability and openness of the Brazilian economy - will have repercussions going far beyond the domestic environment.