

TRADE POLICY REVIEW BODY

Review of Brazil

TPRB's Evaluation

The Trade Policy Review Body of the World Trade Organization (WTO) conducted its second review of Brazil's trade policies on 30 and 31 October 1996. The text of the Chairman's concluding remarks is attached as a summary of the salient points which emerged during the two-day discussion.

The review enables the TPRB to conduct a collective examination of the full range of trade policies and practices of each WTO member country at regular periodic intervals to monitor significant trends and developments which may have an impact on the global trading system.

The review is based on two reports which are prepared respectively by the WTO Secretariat and the government under review and which cover all aspects of the country's trade policies, including: its domestic laws and regulations; the institutional framework; bilateral, regional and other preferential agreements; the wider economic needs and the external environment.

A record of the discussions and the Chairperson's summing-up, together with these two reports, will be published in due course as the complete trade policy review of Brazil and will be available from the WTO Secretariat, Centre William Rappard, 154 rue de Lausanne, 1211 Geneva 21.

Since December 1989, the following reports have been completed: Argentina (1992), Australia (1989 & 1994), Austria (1992), Bangladesh (1992), Bolivia (1993), Brazil (1992 & 1996), Cameroon (1995), Canada (1990, 1992 & 1994), the Czech Republic (1996), Chile (1991), Colombia (1990 & 1996), Costa Rica (1995), Côte d'Ivoire (1995), the Dominican Republic (1996), Egypt (1992), the European Communities (1991, 1993 & 1995), Finland (1992), Ghana (1992), Hong Kong (1990 & 1994), Hungary (1991), Iceland (1994), India (1993), Indonesia (1991 and 1994), Israel (1994), Japan (1990, 1992 & 1995), Kenya (1993), Korea, Rep. of (1992 & 1996), Macau (1994), Malaysia (1993), Mauritius (1995), Mexico (1993), Morocco (1989 & 1996), New Zealand (1990 & 1996), Nigeria (1991), Norway (1991 & 1996), Pakistan (1995), Peru (1994), the Philippines (1993), Poland (1993), Romania (1992), Senegal (1994), Singapore (1992 & 1996), Slovak Republic (1995), South Africa (1993), Sri Lanka (1995), Sweden (1990 & 1994), Switzerland (1991 & 1996), Thailand (1991 & 1995), Tunisia (1994), Turkey (1994), the United States (1989, 1992 & 1994), Uganda (1995), Uruguay (1992), Venezuela (1996), Zambia (1996) and Zimbabwe (1994).

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CONCLUDING REMARKS BY THE CHAIRPERSON

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.

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

Macroeconomic environment and trade relations

Achievements of the Plano Real and future developments

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.

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.

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.

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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.

Multilateralism and regionalism

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.

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.

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.

General measures affecting trade

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 régime.

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.

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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.

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.

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.

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.

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.

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.

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 Similar" 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.

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Sectoral aspects

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.

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.

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.

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.

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.

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.

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.

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.

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

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for environmental reasons. He also indicated that the programme was financed, with decreasing costs, from other energy sources.

The representative of Brazil recalled the importance of the vehicle sector and the reasons that had led to the adoption of Brazil's automotive regime. In Brazil's view, such a regime was required to harmonise investment conditions and avoid distortions within MERCOSUL during the transition period allowed by the TRIMs Agreement. The regime, 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.

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.

Miscellaneous

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 regime for the free trade zone of Manaus had affected traders; in this context, details were requested on the current regime.

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.

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.

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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Members noted the impressive progress achieved over the past few years towards macro-economic stabilization, trade liberalization and a more open investment regime. 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".

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.

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.

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