



TRADE POLICY REVIEW

REPORT BY

BRAZIL

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

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1 OVERVIEW

1.1. The Brazilian Government is pleased to submit its eighth eighth Trade Policy Report to WTO Members. Brazil considers this periodic review mechanism as a key element of the multilateral trading system embodied in the WTO, contributing to a more transparent and comprehensive understanding of Members' trade policies and regulatory frameworks.

1.2. In the period examined in this TPR (2017-21), trade has been one of the guiding lines in the process of modernizing the Brazilian economy. In this sense, Brazil has sought to expand its integration in international trade, in order to increase the productivity and competitiveness of its economy and guarantee sustainable growth. Since 2019, Brazil has been pursuing a trade agenda based on three pillars: (i) intensification of the trade agreements network; (ii) modernization of the MERCOSUR tariff structure; and (iii) trade facilitation. Although it is true that many challenges persist, significant progress has been made in several areas. For example, in July 2022, MERCOSUR Members decided to reduce permanently its common external tariff by 10%. Brazil has also removed part of its import licenses. Brazil's trade agenda has also continued to highlight its contributions to food security and to pursue the elimination of trade distortions – such as those that exist in trade in agriculture – that undermine opportunities for developing countries.

1.3. The multilateral trading system is a priority in Brazil's foreign trade policy. Brazil believes that well-functioning multilateral trade rules are essential for the efficiency of international trade and for the good functioning of the global economy, contributing significantly to counter anti-trade sentiments and protectionism. During the review period, Brazil has initiated the procedures for its accession to the WTO Agreement on Government Procurement (GPA) and to the WTO Agreement on Trade in Civil Aircraft.

1.4. Over the review period, Brazil has maintained and enhanced its engagement with the WTO in all its pillars and negotiating formats, seeking strengthen and modernize the Organization, while not neglecting longstanding issues, such as agriculture trade. This commitment to the WTO was highlighted during the Twelfth Ministerial Conference, as well as by Brazil's participation in WTO joint initiatives, i.e. e-commerce, investment facilitation for development, MSMEs (Micro, Small and Medium-sized Enterprises), and domestic regulation of trade in services.

1.5. Notwithstanding the priority it attributes to the multilateral trading system, Brazil believes that preferential trade agreements can play a complementary role in the efforts to harness the benefits of international trade towards the goal of economic and social development of all Members. In the period under review, Brazil engaged in the negotiation of new bilateral, regional, and extra-regional trade agreements with a wide range of partners throughout the world, and has undertaken talks to expand the scope of existing agreements. In Latin America, Brazil has continued to strengthen regional economic integration through the Southern Common Market (MERCOSUR) and the Latin American Integration Association (LAIA/ALADI) regional trade agreements (RTAs) by deepening existing agreements and negotiating new ones, such as the MERCOSUR-Colombia trade agreement in 2017 and the Brazil-Chile free trade agreement in non-tariff matters in 2018. In the extra-regional arena, MERCOSUR also concluded the negotiations of trade agreements with the European Union, EFTA and Singapore, while other negotiations are ongoing (MERCOSUR-Republic of Korea and MERCOSUR-Canada, for example).

2 GENERAL ECONOMIC ENVIRONMENT

2.1 Macroeconomic Overview

2.1. After two consecutive years with negative variations in GDP in 2015 and 2016 (-3.5% and -3.3%), Brazil experimented a 1.3% GDP growth in 2017. In 2018 and 2019 GDP growth was 1.8% and 1.2% respectively, signaling that the economy was moving towards a more sustainable growth path.

2.2. However, the year 2020 was marked by the outbreak of the COVID-19 pandemic, strongly affecting the country's economic recovery and stabilization process. The economy was negatively affected by health restriction measures and by supply shortages in value chains, both internally and externally, causing a strong shock on economic activity and the labor market. Broad adoption of fiscal, monetary, and regulatory stimulus measures to protect the income of families and companies

and to safeguard the liquidity of the economy helped to mitigate stronger adverse effects. Basic interest rates reached historic lows, in line with monetary measures. On the other hand, fiscal measures to support the economy led to the increase of public indebtedness. The inflation scenario remained comfortable for most of the year, following the weakening of aggregate demand, especially the reduction in demand for services. However, inflation reached 4.52% in 2020, above the Central Bank target, mainly due to a strong increase in food prices in the last months of the year. The unemployment rate reached 14.2%. The weak demand and supply bottlenecks led to a 3.9% drop in GDP in 2020.

2.3. The fiscal measures adopted in 2020 to face the crisis consisted of an increase in public spending, by launching a set of emergency measures to support the economy and to fight the pandemic, in line with those adopted internationally. These measures provided financial assistance to the population, companies, and subnational entities. The cost of these measures amounted to approximately 8.5% of GDP, which led to a fiscal primary deficit equivalent to 10% of GDP. As a result, gross government debt increased from 74.82% of GDP in January 2020 to 88.59% in December 2020. However, a series of fiscal control measures allowed that government debt indicator to fall back to 80.27% in December 2021, and in May 2022 it was further lower at 78.17% of GDP.

2.4. In 2021, the economy continued to be affected by COVID-19, but the advance in vaccination and the easing of restrictive measures began to have positive economic effects. The recovery of activity resulted in a deceleration of the unemployment rate at the end of the year (to 11.1%) and increased consumer demand and confidence. On the other hand, inflation continued to increase, mainly due to food, fuel prices and electricity prices. Inflation rose from 4.52% in 2020 to 10.06% at the end of 2021. In that year, Brazil began the cycle of raising the basic interest rate to contain inflationary pressures, moving from an annual rate of 2.0% in March to 9.75% in December, in seven consecutive rate hikes carried out by the Central Bank.

2.5. In 2022, the Brazilian economy shows signs of a sustained recovery, with an increase in employment and an improvement in business and consumer confidence.

2.2 General Legal and Regulatory Framework

2.2.1 Business environment

2.6. Brazil has promoted in the last years an ambitious supply-side reform agenda aimed at boosting productivity, potential growth, and living standards. Market friendly structural reforms have been moving ahead in Brazil despite the pandemic. Some of the most significant developments include: institutional reforms; autonomy for the Central Bank; privatizations; labour market and pension reform; efficiency and inclusiveness policies in the financial sector; new mechanisms to control mandatory spending growth; import tariffs reductions; and new laws on sanitation, startups, natural gas, and bankruptcy.

2.7. Regarding the business environment as a whole, it is worth highlighting the enactment of the Economic Freedom Act (Law No. 13,874/2019), the Regulatory Agencies' Law (Law No. 13,848/2019) and the Business Environment Act (Law No. 14,195/2021). The Economic Freedom Act main objective is to guarantee the free exercise of economic activity and free enterprise, allowing for the intervention of the State only as a subsidiary and exceptional recourse; the Regulatory Agencies Act guarantees functional, decision-making, administrative and financial autonomy to Regulatory Agencies; and the Business Environment Act advances in economic legislation in the context of the business environment.

2.8. Regarding innovation, the Brazilian government has regulated the Legal Framework for Science, Technology and Innovation (Decree No. 9,283/2018). The new rules seek to bring universities closer to companies, making research and innovation in the country more dynamic, as well as reducing the bureaucracy in investments for the area. The new legal framework should simplify the signing of agreements for the promotion of public research, facilitate the internationalization of scientific and technological institutions, and increase interaction between them and companies. Other points are the simplification of import procedures for goods and research inputs; new incentives to make technological orders and flexibility in rearranging budget resources.

2.9. It is also worth highlighting the enactment of the Legal Framework for Startups and Innovative Entrepreneurship (Supplementary Law No. 182/2021). The legislation reduces red tape for smaller businesses, increases legal protection for investors in startups, establishes measures to increase the venture capital available for startups, strengthens the legal basis for the creation of regulatory sandboxes by Brazilian agencies, and institutes a public procurement procedure for the acquisition of innovative solutions. An analysis published by the Secretariat of Economic Policy of the Ministry of Economy estimates that around 15,000 companies may be covered in the definition of startup provided by the Legal Framework, and that this legislation has the potential to save companies up to BRL 330 million a year, and to increase the venture capital available to startups by BRL 200 million a year.

2.10. The Brazilian government has also created the National Innovation Policy (NIP) (Decree No. 10,534/2020), followed by a wide-ranging plan to address various aspects of innovation development in the country. The NIP looks at six key areas, such as how to broaden Brazil's human capital pool for activities related to innovation. It also aims to stimulate research, development and innovation by companies and private non-profit entities, to boost productivity and competitiveness in the economy, wealth generation and social well-being. The NIP promotes the coordination and deployment of public resources directly or indirectly related to the promotion of innovation. It also encourages the transformation of knowledge into innovative products, processes and services. The interministerial Innovation Committee, which was created following the decree, has formulated a National Innovation Strategy. At the same time, the Innovation Diplomacy Program (PDI), ran by the Ministry of Foreign Affairs since 2017, seeks to showcase a country that generates knowledge, goods and services in sectors on the scientific frontier. The PDI is aimed at bringing together actions to promote technology abroad, in line with the NIP.

2.11. During the review period, the InovAtiva Brasil Program (<http://www.inovativabrasil.com.br>), launched in 2013, has continued to connect innovative early-stage businesses to investors and to other national programs that foster innovation, and has also continued to promote their international insertion. As of 2022, the program has accelerated more than 2,600 startups and more than 14,000 projects have been submitted.

2.12. Since 2013, EMBRAPPII (Brazilian Company of Research and Industrial Innovation) supports technological research institutions fostering the Brazilian industry innovation. EMBRAPPII operates through cooperation with scientific and technological research institutions, public or private, focusing on business demands and targeting risk sharing in the pre-competitive phase of innovation. By sharing project risks with companies, it aims to stimulate the industrial sector to innovate more and with greater technological intensity, in order to boost the competitive strength of companies both in the domestic and in the international markets. There are already more than 1,600 projects supported in different areas, benefitting companies in all regions of Brazil, with over BRL 2.2 billion invested.

2.2.2 Financial system

2.13. The stability of the Brazilian financial system has remained high in recent years, although the adverse scenario has affected credit risk indicators, resulting in cautious credit granting policy as well as low borrower demand. Banks have proved their capacity to absorb short-term liquidity shocks as demonstrated by their swift actions to improve liquid assets in the onset of the COVID-19 crisis. The structural liquidity risks stemming from potential maturity mismatches remains unchanged, with long-term assets fully supported by sources of stable funding. The system continues to exhibit capital, leverage and liquidity ratios well above the required regulatory minimums even considering the Basel III stricter conditions, the economic scenario and political turbulences. Stress tests outputs indicate that the banking system is able to absorb shocks from adverse macro-economic scenarios, as well as from abrupt changes in interest and exchange rates, from increase in defaults and from widespread decline in house prices, despite the increase in impacts due to materialization of risks from macroeconomic environment.

2.14. The Central Bank of Brazil (BCB) remains committed to enhance its regulatory framework and practices of banking supervision, with the goal of achieving a high degree of compliance with the Basel Core Principles for Effective Banking Supervision. These results were reported in the last jointly IMF-World Bank Financial Sector Assessment Program (FSAP) concluded in 2017. Brazil has continuously and promptly implemented measures to improve the financial system's regulatory framework, specially through adoption of the Basel III standards, which include capital definition, minimum capital requirements, capital buffers, liquidity ratios and a leverage ratio. Considering the

finalized Basel III post-crisis reforms published by the Basel Committee in December 2017, the BCB has worked on the implementation of the revised approaches for credit, market and operational risks. Consistent with the recommended schedule, the revised standardized approach for credit risk will be effective in January of 2023. Regulation addressing market and operational risks is under development and will be implemented in due course.

2.15. Brazil remains committed to implement the Basel III capital framework. In November 2017, the National Monetary Council (CMN) defined the Net Stable Funding Ratio (NSFR) and set the conditions for compliance with this new liquidity requirement. The NSFR and the Liquidity Coverage Ratio (LCR), which is in force since 2015, have complementary objectives. A revamped optional simplified capital requirement framework for institutions with a simplified risk profile was also published by the CMN in late 2017. In the process of aligning the domestic regulation (which was issued on 1 March 2013) to the new Basel recommendations, the BCB published in May 2022 the new methodology of calculation of risk-weighted assets (RWAs) for credit risk for institutions that use the standardized approach. The draft rules for the calculation of risk-weighted assets (RWAs) for operational risk and market risk are expected to be published later this year and in early 2023, respectively.

2.16. The BCB is fully committed to the sustainability agenda and has implemented regulation over the last few years to that end. In 2020, the BCB announced the inclusion of a sustainability dimension in its institutional agenda, with concrete initiatives in five pillars, including regulation and supervision. Among the new regulations already issued are:

- CMN Resolution No. 4,943/2021, altering Resolution No. 4,557/2017 to include a specific section on the management of social, environmental and climate risks applicable to financial institutions allocated in segments 1-4;
- CMN Resolution No. 4,944/2021, altering Resolution No. 4,606/2017 to include a specific section on the management of social, environmental and climatic risks applicable to financial institutions allocated to segment 5;
- CMN Resolution No. 4,945/2021, revoking Resolution No. 4,327/2014, to establish new requirements for all financial institutions (segments 1-5) relative to a new Social, Environmental and Climatic Responsibility Policy;
- BCB Resolution No. 139/2021, establishing the Report on Social, Environmental and Climate-related Issues (GRSAC), containing information to be disclosed by financial institutions allocated to segments 1-4, along the lines recommended by the Taskforce on Climate-related Financial Disclosure (TCFD); and
- BCB Resolution No. 140/2021, strengthening the compliance of rural credit with provisions prohibiting credit to agents with illegal social, environmental or climate practices.

2.17. The above-mentioned BCB Resolution No. 140 is one of the pillars of the Sustainable Rural Credit Bureau. Within the Bureau, the BCB has already put in place an open finance platform (BCB Resolution No. 204/2022). The Bureau also promotes integration with other environment- and land-related government databases, and upcoming regulation will make it easier for the market to identify rural credit operations that generate social, environmental or climatic benefits, one or all of them. The TCFD disclosure recommendations are gradually being incorporated into the prudential framework of financial institutions, initially comprising qualitative information and including quantitative information in Phase 2.

2.18. Interest rate spreads have increased in the period of 2017-21 in line with the monetary policy cycle – the basic interest rate decreased from 7% at the end of 2017 to 2% at the end of 2020. As price indexes have increased towards the inflation target set by the Monetary Policy Committee, the monetary cycle began to reverse. After five months at 2%, the basic interest rate has been increasing since March 2021, reaching 9.25% in December 2021.

2.19. During the review period, the Central Bank of Brazil has continued to regulate and oversee the payment systems as well as to strengthen its actions to meet the objectives of granting non-discriminatory access to payment services and market infrastructures, promoting competition,

financial inclusion, innovation, and interoperability within the Brazilian Payment System, taking into account its importance to the soundness and normal functioning of the National Financial System. In November 2020, the Central Bank of Brazil launched its instant payment system called Pix, a payment scheme that provides real-time payment operations in a 24/7 basis. Pix is free of charge for P2P transactions and its offer is compulsory for any licensed institutional holding more than 500,000 active accounts. Although its functionalities are still not fully implemented, so far Pix has already provided for cost reduction in retail payments, which led to (i) financial inclusion and (ii) reduction in the use of cash.

2.20. Over the past three years, the share of the population with an active relationship with financial institutions increased by 14%, reaching 159 million people by the end of 2020, or 96% of the population aged 15 and above. Currently, all 5,570 Brazilian municipalities have at least one point of face-to-face access to financial services. In 2020, 81% of transactions were carried out through non-face-to-face channels, such as call centers, mobile phones, internet and tablets (compared to 39% in 2010). It is worth mentioning that cell phones are now the main means of access to financial services.

2.21. First established in 2010, Brazil's National Strategy for Financial Education (ENEF), was designed as a perennial State policy, assuring the commercial impartiality of every program, including those developed within public-private partnerships. The goal of the strategy, created through Federal Decree No. 7,397/2010, and amended by Federal Decree No. 10,393/2020, is to contribute to the strengthening of citizenship by providing, supporting, stimulating, and setting strategies to programs that help citizens make well-informed financial choices. Programs comprise financial education for adults and elementary, junior high and high school students. Each of the eight governmental members of the Brazilian Forum for Financial Education (FBEF, published in 2021¹) have their own programs, developed and implemented either individually or through bilateral or multilateral partnerships. One recent example is the Central Bank of Brazil Aprender Valor Program to support public schools and municipal and state secretariats of education in providing financial education in the classroom. Another noteworthy example is the Center on Financial Education and Literacy for Latin America and the Caribbean, established in 2016, through a partnership between the Securities and Exchange Commission of Brazil (CVM) and the OECD. The Center has proved to be a successful partnership, serving as a hub for knowledge exchange on efficient financial education and related issues in Brazil and LAC since its creation.

2.22. Just like other similar initiatives worldwide, in 2021, BCB launched its Sandbox program, which is an extraordinary regulatory framework where companies are authorized by the financial regulator to test, for a period of time, an innovative project related to the financial or payment systems. The projects have to comply with a specific set of regulatory provisions that supports a controlled performance of their activities. By monitoring these projects, BCB expects to modernize its regulatory framework in order to promote new business models in the financial and the payment system. In the first call for projects, the Sandbox Strategic Committee selected 7 out of 52 projects which were submitted for the initiative. These projects are under implementation and their activities will be monitored throughout 2023.

2.23. Aligned with the principle that consumers own their personal data and therefore should be able to use it to their own benefit, including sharing with other parties, in 2020 the BCB and the CMN defined the main principles and rules for Open Banking (recently evolved into Open Finance), which allows the standardized sharing of data and services between financial institutions and other institutions licensed by the BCB. The data sharing must be previously consented by the customer. A safe and sound environment is key to reduce information asymmetry by demonopolizing data, leading to increased competition and, hopefully, cheaper and better financial services for consumers. The BCB expects that Open Finance promotes a more competitive and efficient financial system, generating new opportunities for all parties involved.

2.24. Regarding implementation, institutions are already (i) providing access to standardized information related to their service channels and to products and services that they offer to their customers; (ii) allowing customers' data sharing between institutions; and (iii) initiating payments. For the near future, we are looking forward to the interoperability between Open Finance and Open Insurance, as well as to the sharing of service of forwarding loan proposals. In terms of usage cases, institutions are using Open Finance data to improve their credit rating and pricing engines, and

¹ Available on <https://www.bcb.gov.br/cidadaniafinanceira>.

offering services related to data aggregation, financial management and payment initiation. In conclusion, Open Finance is not meant to be taken as a static model, but rather an evolutionary one. Although defining the technical standards is a challenge in the short-term, scope should be understood as dynamic in nature, enabling new solutions in the long run.

2.2.3 Insurance market

2.25. By the end of 2021, there were 124 insurance companies, 14 local reinsurers and 33 admitted reinsurers registered with SUSEP, the Superintendence of Private Insurance, as compared to 118, 16 and 36 in 2016, respectively.

2.26. In 2021, the number of foreign-owned companies was 45, with a market share of 17% (life) and 58% (non-life). The number of foreign-owned reinsurers was 114 (33 admitted, 72 occasional, 9 local) with a market share of 67%, including retrocessions from other reinsurers. Foreign insurance companies providing insurance of any kind, except reinsurance, are required to be incorporated under Brazilian law, as a corporation. Insurance companies are precluded by law from engaging in other financial activities; nevertheless, they may provide more than one type of insurance service and, therefore, may be a composite company (life and non-life insurer).

2.27. Brazil accounts for 39% of Latin America's reinsurance market. This figure is expected to grow as investments of the Brazilian government in energy and infrastructure projects advance and the country's middle class rises, requiring significant reinsurance capacity to support the thriving primary market. As of December 2021, 119 reinsurance companies were authorized to do business in Brazil (161 in 2015), of which 14 were local and 105 were foreign (33 registered as admitted and 72 as occasional), compared to 145 by the end of 2015.

2.28. All insurance, local reinsurance, capitalization and private pension fund companies are subject to a supervisory fee (Taxa de Fiscalização dos Mercados de Seguro e Resseguro, de Capitalização e de Previdência Complementar Aberta). This fee increases in line with the margin of solvency, whereas for admitted reinsurers there is a single fee per supplier. Insurance companies must pay a (higher) fee for the head office and for each risk location.

2.29. Solvency capital requirements for insurance and reinsurance companies, as well as open pension funds, are defined by CNSP Resolution 432/2021 and vary according to the region of operation, the company's type of activity and a standard risk-based model. There are no barriers to the domestic trade of insurance services as long as the company complies with these solvency requirements.

2.30. There were no major changes in the institutional framework of the insurance industry during the review period. The Federal Government is responsible for designing insurance policies, as well as for establishing standards and overseeing operations in the National Private Insurance System. CNSP (National Council of Private Insurance) remains the main body responsible for setting policies, including establishing the characteristics of the various insurance contracts, and for the regulation of the National Private Insurance System. SUSEP (the Superintendence of Private Insurance), an autonomous body under the Ministry of Economy, is in charge of the controls and supervises insurance, reinsurance, open private pension funds, and capitalization (investment plans) and brokerage operations. SUSEP implements the CNSP policies.

2.31. In 2017, new regulations facilitated the entrance of international players in the Brazilian reinsurance market, through the elimination of four classes of business from the minimum insurance retention requirements, namely Nominated Risks, Oil&Gas and Aviation (hull and civil liability) insurance. Moreover, mandatory placement with local reinsurers, as well as limits on intra-group cessions, were removed. In 2019, Decree No. 10,167 established a 95% cession from local reinsurers to foreign-owned companies. Resolution CNSP 396/2020 also enabled the issuance of debentures and other financial debt instruments (ILS – insurance-linked securities) by local reinsurers. Finally, a new framework for contractual freedom on large risks was issued by Resolution CNSP 407/2021.

2.32. The contribution of insurance activities to Brazil's GDP rose from 3.29% (2015) to 4% (2020). Rapid growth was observed in recent years, as premiums rose to BRL 289.5 billion in 2020 and to BRL 306.3 in 2021. The Brazilian population is still, nevertheless, underinsured.

2.33. Life segment remains larger than non-life segment reaching in gross premiums, respectively, USD 35.6 billion and USD 16.8 billion in 2021, from USD 48.7 billion and USD 22.3 billion in 2017. This overall 26% decrease is mainly due to exchange rate variation. In Brazilian real terms, there was real growth.

2.34. Market concentration in the insurance activity is still high. In 2021 the market share of the 10 largest companies in the industry remained around 80% in terms of direct premiums – similar to the levels observed in previous years (Table 2.1).

Table 2.1 Brazilian insurance market concentration

Year	10 largest companies (MKT share in %)		
	Non-life	Life	Total
2017	61.47	90.97	78.80
2018	60.06	90.07	79.27
2019	60.02	90.63	79.82
2020	61.26	91.03	80.55
2021	63.21	89.98	81.09

2.35. Brazil accounts for almost half of Latin America's insurance premiums. From 2017 to 2021, the total amount of assets was as follows (Table 2.2):

Table 2.2 Brazilian insurance premiums

Total asset (USD billion)	2017	2018	2019	2020	2021
Insurance and Reinsurance	60.7	55.0	55.4	44.3	44.6
Open pension funds	225.4	217.7	228.9	186.8	185.3
Capitalization	10.5	9.0	8.7	6.9	6.7

2.36. Bancassurance is significant, especially in life business; many larger banks offer a full range of insurance services whereas large stand-alone companies tend to dominate non-life insurance. Nevertheless, brokers remain an important distribution channel. Insurance brokers must register with SUSEP after passing a technical exam.

2.37. SUSEP has in place MoUs with the Federal Insurance Office-FIO (USA) and Argentina and a MoU with the International Association of Insurance Supervisors (IAIS), through which it can cooperate and exchange information with all other signatories (currently 79 insurance supervisors). In 2015, SUSEP was granted provisional equivalence to Solvency II (Article 227) by the European Insurance and Occupational Pensions Authority (EIOPA), an important step towards full equivalence. In 2022, SUSEP will become signatory to the MoU of Assal (Asociación de Supervisores de Seguros de América Latina).

2.2.4 Securities market

2.38. Despite the devaluation of the Brazilian real between 2017 and 2021, inflation was mostly under control during the review period. In that context, Brazilian securities market experienced an expansion in 2017 as compared to 2016, not only in the amount of public offerings as a whole (40.9%), both primary and secondary, but also in financial volume traded (34.1%). Registered offerings alone increased by 51.8% in quantity and 22.1% in financial volume traded in 2017, deemed as a year of resurgence of the market in comparison to previous years. There were 10 IPOs in 2017, as opposed to only one in 2016. Offerings placed through restricted effort distribution (targeting qualified investors only) increased by 42% in quantity and 39.4% in financial volume traded, mostly debentures (around 51%), which reflected a context of constant and considerable reduction of the domestic basic interest rate (SELIC).

2.39. After this recovering of the market in 2017, more volatility, in 2018, caused a retraction in registered offerings, since they require more specific and longer timeframes. Offerings placed through restricted efforts showed, in contrast, an increase in 2018, as a result of their flexibility in terms of structuring and placement processes. Regarding registered offerings, there were only three IPOs in 2018, reflecting hesitations usually observed in years of general elections in the country, the global macroeconomic instability caused by international trade disputes and a noticeable raise of the US benchmark interest rate.

2.40. In 2019, an expressive increase in quantity (27%) and financial volume traded (66%) in public offerings as a whole (both registered and waived of registration) occurred in a context of significant reduction of the domestic basic interest rate (SELIC) (Table 2.3). Registered offerings alone made 2019 the best of the previous seven years both in quantity and in financial volume traded. Offerings of stocks raised 1,750% in quantity and 1,140% in financial volume traded. Offerings placed through restricted efforts of distribution also increased 24% in quantity and 51% in financial volume traded.

Table 2.3 Brazilian stock offerings

Types of offerings	2017		2018		2019		2020	
	Offers	BRL billion	Offers	BRL billion	Offers	BRL billion	Offers	BRL billion
Primary and Secondary Offerings Registered with CVM	167	50,568	128	33,503	189	93,804	163	121,012
Registration waiver granted	14	642	5	410	-	-	3	5,006
Offerings through restricted efforts closed	804	174,908	975	247,997	1,219	374,424	1,777	295,219
Total	985	226,118	1,108	281,810	1,408	468,228	1,943	421,237

2.41. In 2020, the COVID-19 pandemic brought severe volatility to prices of financial products but did not reduce significantly offerings in the securities market. Considering all offerings, the consolidated financial volume traded in 2020 was 53% higher than the volume registered in 2018 and only 8% under what was registered in 2019. In terms of the total amount of securities issued, 2020 registered 1,362, a reduction of less than 2% in comparison with 2019 (1,382). If compared to 2018, securities issuing in 2020 showed an increase of 26%. The number of regulated market participants (not all market participants but the majority, e.g. securities issuers, service providers and the so-called non-resident investors) reached 61,776, representing a growth of 12% in relation to 2019 (54,956) and 21% in relation to 2018. Of all market participants, investment funds and autonomous investment agents had the most significant growth in 2020 compared to 2019, from 10,798 to 13,881 autonomous investment agents and from 19,427 to 22,295 investment funds. Moreover, crowdfunding platforms grew from 14 in 2018 to 26 in 2019, and reached 32 by the end of 2020. Finally, the number of natural persons registered under B3 (the Brazilian stock exchange) amounted to 99% of the 3.2 million registered as a whole (juridical and natural persons) in the country.

2.42. In the past decades, securities markets around the world have shown a constant capacity of evolution and transformation. Technological development and the integration of global financial markets are catalysts of a continuously emerging flow of new products models and arrangements, as well as services and the market structure itself. The challenge in this context is fine-tuning how to stimulate market development and efficiency, while controlling market conducts and protecting investors, and protecting the integrity of the whole market. One of the most important achievements in the securities market in Brazil during the period under review was the enactment of CVM Instruction 626/2020 and CVM Resolution 29, setting forth directions for the constitution and functioning of a regulatory sandbox administered by the Securities Commission of Brazil (CVM). In less than a year, 33 participants had submitted application for admission, out of which 3 were approved, 26 were declared inapt by the Sandbox Committee and 4 were rejected by the Board of Commissioners (being 2 for not demonstrating the need for operating outside the ordinary regime and 2 for lack of convenience and opportunity in accordance to Article 12 of CVM Resolution 29).

2.43. Structural conditions for the development of the Brazilian capital markets remained favorable from 2017 to 2020, being unaltered from 2019 to end of 2020. They benefitted these last two years of the period from a lower level of the basic interest rate and the decapitalization process of government stimulus funding through development policy and banks.

2.2.5 State-owned enterprises and privatization

2.44. Brazil took a key step towards meeting the best international governance practices for state-owned enterprises (SOEs) with the publication of Law 13,303 in 2016. It has directly contributed to the reversal of the negative economic scenario not only by providing relief to government budgets, but also by improving services for the population. An important example of this movement was the adherence of Brazil to the OECD guidelines of governance for SOEs in 2021, as result of a peer review conducted in 2019.

2.45. From 2017, Ministry of Economy's Secretariat of Coordination and Governance of State-Owned Enterprises (Sest) established its Governance Indicator – IG-Sest, an instrument created to verify the fulfillment of legal, infralegal and good corporate governance practices by SOEs. In 2021, IG-Sest reached its 5th cycle and incorporated new aspects, including non-financial items, such as ESG actions and responsible business conduct.

2.46. In 2021, the central government owned 154 companies, of which 47 were directly owned, representing 7.6% of the GDP. During the review period, two directly owned companies were liquidated (Codomar and Casemg), and another one (Ceitec) is under liquidation as of 2022. Moreover, since 2017, investments largely targeted the energy sector and included 97 SOEs (directly and indirectly owned).²

2.47. Regarding transparency, reports of SOEs' aggregated data have been published since 2020. In 2021, the first edition of SOEs Personnel Benefits' Report and the second one of SOEs in Brazil Aggregated Report, the latter in Portuguese and English.

2.48. It should be noted that SOEs are not treated differently from private companies by sectorial regulatory agencies, nor in relation to environmental legislation. The Brazilian State legally separates its functions as majority shareholder, regulator and from the control activities of public resources. Furthermore, the Brazilian Federal Constitution, in its Article 173, § 2^o, establishes that "public companies and mixed capital companies cannot have tax privileges that do not extend to private sector ones". This is a competitive neutrality tool, avoiding the granting of subsidies, tax exemptions or immunities for SOEs that could be extended to private companies operating in the same economic sector.

2.49. Since the creation of the Brazilian Investments Partnerships Program (PPI) (Law No. 13,334/2016), Brazil has witnessed the increase in the development of new and better-structured projects. The PPI aims to expand and strengthen the interaction between the state and the private sector through partnership contracts for the implementation of public infrastructure projects and other privatization measures. To this end, the program favors guidelines such as stability, legality, legal security, predictability, and transparency in the State's relations with the private entities involved.

2.50. Those infrastructure projects considered as top priorities are qualified in the program by the President of the Republic, after recommendation by a Council of Ministers. Once modelled and structured, they are offered to private investors through competitive procedures. In its activities, the PPI Council can recommend the inclusion of a SOE in the program, suggesting its privatization or liquidation (extinction). This latter assignment of the Council is due to its role in the National Privatization Program (PND). In addition, the state and municipal levels could also benefit from the PPI, as their SOEs are also covered by the privatization program.

2.51. During the review period (2017-21), 18 projects involving direct privatization of a federal SOE were included in the PPI portfolio (although one of them was excluded from the program in 2021). The included SOEs operate in different sectors such as electricity, transportation (port authority), urban mobility, IT, telecommunications, and trading hub, among others.

² Information is available at Sest panorama at: <http://www.panoramadasestatais.planejamento.gov.br/OvAJAXZfc/opendoc.htm?document=paineldopanoramadasestatais.qvw&lang=en-US&host=QVS%40srvbsaiasprd07&anonymous=true>).

2.52. Projects evolved considerably since 2017, which allowed for the privatization of two important SOEs in 2022: Eletrobras (electricity) and Codesa (port authority). In addition, two SOEs were extinguished: Casemg (bulk storage, mainly grains) and Codomar (port authority).

2.53. Indirect privatizations, considered disinvestments, were also included in the PPI between 2017 and 2022. The most important ones were subsidiaries controlled by Petrobras (oil and gas) and Eletrobras (electricity). Other types of disinvestments related to SOEs included on the portfolio have already been auctioned: airports (31 owned by Infraero), port terminals (1), national railways (2), irrigation and interbasin river transfer (1).

2.2.6 Government procurement

2.54. Brazil has a decentralized procurement system. Federal, State and Municipal authorities can make public purchases, in accordance with the Procurement Law (Law No.14,133/2021), which provides for five types of bid proceedings that can be used by agencies and public entities: open tendering; electronic reverse auction; competitive dialogue; contest; and public auction. According to this Law, public entities cannot establish differential treatment between Brazilian and foreign companies. For procurement of common goods and services, reverse auction ("Pregão") has been consolidated as the most popular modality, performed mostly by electronic means, having enhanced the efficiency and transparency of Brazil's procurement system.

2.55. An important feature of the Government procurement system in Brazil is access to information. During the period under review, the Government continued to advance towards the modernization of its procurement systems, having set a Public Procurement National Platform (PNCP), which centralizes disclosure of public notices, providing greater transparency in the procurement procedures (<https://www.gov.br/pncp/pt-br>).

2.56. Bidders can also easily find substantial information online through the Panel on Procurement (<http://paineldecompras.economia.gov.br>) and the Transparency Portal (<http://www.portaltransparencia.gov.br>). In addition, the legislation requires both federal and sub-federal governments to give wide publicity to tendering processes.

2.57. Last but not least, Brazil started in 2020 its negotiations to access the Global Procurement Agreement (GPA) of the WTO. In June 2022, Brazil presented its final offer for accession to the GPA and, as of August 2022, is awaiting the answer by the signatories.

2.2.7 Exchange rate and foreign capital regime

2.58. There is a single foreign exchange market in Brazil. Clients may freely negotiate currency and the exchange rate with institutions authorized to operate in the foreign exchange market. There is no repatriation requirement of export proceeds, and exporters are allowed to keep all their revenues abroad.

2.59. There is no approval requirement to bring foreign capital into Brazil. Nevertheless, all foreign capital – including foreign direct and portfolio investments, foreign credit and financing – entering Brazil must be registered at the Central Bank. The registration is done in declaratory and electronic forms in the corresponding modules of the Electronic Declaratory Registration (RDE), at the Central Bank Information System (Sisbacen). Repatriating investments and income related to foreign capital such as liquidated equity and bond investments, dividend payments and making payments on a foreign loan do not need Central Bank's authorization. It is important to highlight that all the regulations in charge of the Central Bank related to international capital are being reviewed due to the enactment of Law 14,286/2021 (Exchange and International Capital Law - LCCI). The new law and the new regulation will come into force together, on 31 December 2022. In compliance with the provisions of the new Law, the future regulation will innovate by using the proportionality criterion to establish the requirements for providing information to the Central Bank considering ranges of values and specific conditions. Therefore, there will be a significant reduction in the scope of foreign capital operations subject to the provision of information to the Central Bank.

2.2.8 Export insurance

2.60. One of the official mechanisms to promote Brazilian exports is the Export Credit Insurance (SCE) backed by the Export Guarantee Fund (FGE). The SCE covers the credit risk of export financing extended either by private or public financial institutions. The policy is designed so that it does not crowd out private insurers from the market. Therefore, it targets market segments where there is no substantial supply of risk coverage by private insurance companies. Given this guideline, the SCE can cover commercial risk of Brazilian exports by companies of any size for transactions with repayment terms longer than two years. It can also cover commercial risk for short term transactions (i.e. with a repayment term shorter than two years) in the case of exports by small and medium enterprises (SME) – even though this modality of the SCE has not been operational since 2018, due to budgetary issues. Under certain conditions, the SCE can also cover the risk of performance bonds, refundment bonds and bid bonds issued by financial institutions.

2.61. Between 2017 and 2021, 75 operations of export credit insurance were approved under the SCE/FGE, which corresponded to USD 16.5 billion in total approved coverage.

2.62. Although not yet a full member of the OECD, Brazil follows the pricing model approved in the framework of the OECD's Arrangement on Officially Supported Export Credits. Moreover, Brazil is a participant in the Sector Understanding on Export Credits for Civil Aircraft, applying the minimum premium rate and other conditions established in that sector understanding. Therefore, the SCE risk premia are priced according to a methodology that is reputed to accurately reflect the risk of the transaction.

2.2.9 Long run production and export finance

2.63. The National Bank of Social and Economic Development (BNDES), a state-owned bank created in 1952, is the main source of long-term credit in Brazil. Since its foundation, BNDES has played a fundamental role in stimulating the expansion of industry and infrastructure in the country. Over the course of the Bank's history, its operations have evolved in accordance with the country's social and economic challenges, and now they include support for technological innovation, sustainable socio-environmental development and the modernization of public administration. Currently, the long-term financing needed for investment in fixed assets, both direct – through capital markets – and indirect – through the banking system – is still scarce, and the activities of BNDES have complemented those of commercial banks, with a clear segmentation between short-and long-term credit. Brazil's financial market remains focused mainly on the short term, with liquidity concentrated in few assets.

2.64. Credit lines offered by BNDES encompass long-term financing for the development of investment projects and for the commercialization of new machines and equipment, as well as the financing of Brazilian exports, taking into account ethical, environmental and sustainable development principles. BNDES's credit lines also contribute to strengthen the capital of private companies and to the development of capital markets.

2.65. BNDES disbursed BRL 64.3 billion and performed 191,093 credit operations in 2021. In comparison with the previous year, disbursements were almost stable, falling less than 1%. BNDES had a net profit of BRL 34.1 billion in 2021. The Bank was able to achieve a financial performance consistent with its activities as a development bank, reaching a loans portfolio, net of provision for credit risk, of BRL 439.5 billion at the end of 2021. Total assets amounted to BRL 737.2 billion in 2021, a reduction of 5.3% over 2020.

2.66. BNDES aims to be the bank of Brazilian sustainable development and its missions are linked to the Sustainable Development Goals (SDGs). Support for micro, small and medium enterprises, for example, seeks to generate jobs, productivity and competitiveness, contributing to promote decent work and economic growth and reduce inequalities. Stimulus to basic education and professional qualification, part of the Bank's agenda for education, is a recognized strategy to reduce poverty. Building resilient infrastructure, promoting inclusive and sustainable industrialization and fostering innovation stay relevant to the institution's strategy. BNDES's missions are also aligned to the transition to a low carbon economy, with a focus on expanding renewable energy, developing the market for carbon credits and promoting productive sector operations that have a positive environmental impact.

2.67. Beyond credit, BNDES stands out in project structuring, provision of guarantees, fund investments and issuance of green bonds. At the same time, digital transformation and partnerships with agent banks and fintechs are bringing the institution closer to entrepreneurs, with a direct impact on job and income generation. Since 2016, BNDES has made debt repayments amounting to BRL 472 billion to the National Treasury. The proceeds are used in full to reduce Brazil's public debt. The amortization does not affect the BNDES's equity structure, full compliance with prudential banking rules and compliance with the disbursement schedule of operations already contracted or prospective.

2.68. Defaults on BNDES's credit portfolio represented 0.19% of the total in 2021, below the national average of 2.30% in the same period. The capital adequacy index (Basel Index) recorded by the BNDES was 40.2%, whereas the index required by the Central Bank is 10.0%. The Bank seeks to harmonize competitive interest rates with the preservation of public equity by continuously monitoring credits and guarantees that cover the debt position over the duration of the contracts.

2.69. BNDES offers two export credit lines: (a) pre-shipment credit, which supplies working capital for Brazilian exporters; and (b) post-shipment credit, which targets the commercialization of exported goods and services through buyer's or supplier's credit, in accordance with international standards. BNDES's export credit disbursements decreased from USD 815.4 million in 2017 to USD 477.9 million by the end of 2021, mainly due to reduced demand from exporters. Capital goods accounted for almost the entirety of the total export finance disbursements in 2021. This includes buses, trucks, light commercial vehicles, industrial machinery and equipment, as well as aircraft.

2.3 Social Policies

2.70. During the period under review, Brazil continued to prioritize social development by combining the strengthening of universal policies in health, education and social security with income distribution and policies focused on promoting the social inclusion of low-income and vulnerable segments of the population.

2.71. Brazil is also continuing to move forward in social development by strengthening its policies to fight forced labour and child labour by implementing plans, programs and actions, in line with international labour standards, to promote decent work. These policies also help to improve social inclusion and fight against business illegal competitive practices. Between 2017 and 2020, Brazilian authorities rescued 6,426 people from forced labour and removed 8,194 children from work.

2.72. Brazil is also implementing social dialogue practices and technological tools in order to inform, train and make the social actors aware of the national law system and the international labour standards in order to help businesses achieve sustainable decent work across the country.

2.73. 2020 was a challenging year for Brazil, requiring the structuring of quick and effective responses to face the socioeconomic impacts caused by the COVID-19 pandemic. With the Emergency Aid (Auxílio Emergencial) and the Residual Emergency Aid (Auxílio Emergencial Residual), the Brazilian assistance programs reached historic levels in 2021, benefitting 14.69 million families.

2.74. Most of the Emergency Aid beneficiaries (more than 50%) were female heads of families, who received BRL 375.00 each, per month. The beneficiaries who received the standard benefit of BRL 250.00, represented 33.4% of the payroll. Another 15.6% of the families were single persons, and each one received BRL 150.00.

2.75. The perspective of the end of Emergency Aid, in October 2021, and the challenges of the post-pandemic situation demanded a quick response from the federal government to mitigate the income losses of the most vulnerable families and promote the recovery of the economy. This took place through the creation of a strategy aimed at improving social protection and income transfer policies, made possible through the Aid Brazil (Auxílio Brasil), an assistance program which replaced the Bolsa Família Program and was instituted by Provisional Measure No. 1,061/2021, converted into the Law No. 14,284/2021.

2.76. Auxílio Brasil aims to promote citizenship with guaranteed income and support, through the benefits offered by the Unified Social Assistance System (SUAS), the articulation of policies aimed

at beneficiaries; promote, as a priority, the development of children and adolescents, through financial support to pregnant women, nursing mothers, children and adolescents in poverty or extreme poverty; promote the development of children in early childhood, with a focus on health and stimulation of physical, cognitive, linguistic and socio-affective skills, in accordance with the provisions of Law No. 13,257/2016; expand the offer of care for children in day care centers; encourage children, adolescents and young people to have excellent scientific and technological performance; and stimulate the emancipation of families in situations of poverty and extreme poverty.

2.77. The target audience is families in extreme poverty and in poverty that have pregnant women, nursing mothers or people under the age of 21 in their family composition. The five benefits of the Auxílio Brasil are foreseen in the caput of Art. 4 of Law No. 14.284/2021, and in Art. 1 of Law No. 14,342/2022.

2.78. The amount paid per family in Auxílio Brasil depends on the basket of benefits to which each family is entitled, and may vary depending on income and family composition, respecting the minimum of BRL 400.00. This is an improvement to the Bolsa Família, as it is simpler, more understandable, more equitable and, as a rule, provides higher values.

2.79. As an example of its impact, the average value of Auxílio Brasil, in May 2022, was around BRL 407.91. This is an increase of more than 100% compared to the average value per family paid by Bolsa Família in the most recent historical series (BRL 189.00), which covers the period starting in July 2018, month of the last readjustment, and disregards the months of payment of the Emergency Aid, in 2020 and 2021. If the old average value adjusted for inflation (until May 2022) of approximately BRL 227.00 is computed, the increase after the incorporation of the Extraordinary Benefit is equivalent to around 80%.

2.80. The permanence in Auxílio Brasil depends, among other issues, on the fulfillment of some conditions that aim to encourage families to exercise the right of access to public policies of social assistance, education and health. Among the criteria are a minimum monthly school attendance of 60% for children aged between 4 and 5 years, and 75% for those aged between 6 and 21, compliance with the national vaccination schedule established by the Ministry of Health, the nutritional monitoring of children up to seven years of age and prenatal care for pregnant women.

2.81. In summary, the creation of the Auxílio Brasil Program, with its new basket of benefits, its values and the upward review of the extreme poverty and poverty lines, is an important step within the gradual process of guaranteeing the right to a basic income for citizenship (minimum income), provided for in Law No. 10,835/2004.

Finally, it is worth mentioning the Gas Aid Program (Auxílio Gás) created to reduce the impact of the price of cooking gas on the budget of low-income families. The benefit of the Gas Aid Program will be paid within the limit of 1 (one) benefit per beneficiary family, in alternate months, in the amount of BRL 52.00, which represents 50% (fifty percent) of the average of the national reference price for a 13 kg bottle of liquefied petroleum gas.

3 TRADE POLICY DEVELOPMENTS (2017-21)

3.1 Latest Developments in Brazilian Foreign Trade

3.1. Brazilian foreign trade has increased since 2017, both in nominal terms and as a percentage of the GDP. The country's foreign trade value increased 40% between 2017 and 2021, from USD 379 billion to USD 532 billion. Relative to GDP, foreign trade increased from 24.3% in 2017 to 39.2% in 2021. The share of Brazilian exports in global trade increased from 1.2% in 2017 to 1.3% in 2021.

3.2. The period 2017-21 was characterized by significant surpluses in goods trade. In 2017, the surplus trade in goods reached USD 57.3 billion, decreasing to USD 43.4 billion in 2018 and USD 26.6 billion in 2019. In the next two years, the surpluses increased again to USD 32.4 billion and USD 36.4 billion, respectively. Regarding the destination of goods, exports to Asia increased 67.4%; to North America, 22.1%; to Europe, 21.7%; to the Middle East, 3.5%; and to Africa, 0.9%. Exports to South America decreased 3.4% in the period.

3.3. Manufacturing accounted for 56% of exports, mining and quarrying for 24% and agriculture, forestry and fishing for 20%. The main exported products were iron ore and concentrate, soybeans, petroleum oils and oils obtained from bituminous minerals (crudes), sugars and molasses, meat of bovine animals, soybean waste and other animal feeds, petroleum oils and oils obtained from bituminous minerals (other than crude), meat and edible offal of the poultry, pulp, and ingots and other primary forms of iron or steel.

3.4. Intermediate goods had a share of 64% of total imports in the 2017-21 period. These were followed by consumer goods (13%), capital goods (13%) and fuels and lubricants (12%). Petroleum oils and oils obtained from bituminous minerals (other than crude), fertilizers, telecommunications equipment and parts, parts and accessories of the motor vehicles and electronic goods were the main products imported by Brazil.

3.2 Tariffs

3.5. All trading partners of Brazil receive at least most-favoured-nation (MFN) tariff treatment. The MERCOSUR Common External Tariff (CET) and the Common MERCOSUR Nomenclature (NCM) are currently based on the 2022 version of the Harmonized System (HS) accordingly to the Executive Committee of Foreign Trade Chamber (Gecex) Resolution No. 272/2021. The regulation also consolidates tariffs levels applied in Brazil, enhancing transparency to domestic trade operators and foreign partners.

3.6. Brazil's 2022 applied MFN tariff is entirely *ad valorem* and has 10,435 lines at the 8-digit level. The simple average applied MFN tariff is 9.4%, as of 1 July 2022, and declined by 2.2 percentage points relative to 2017.

3.7. In response to the COVID-19 pandemic, Brazil reduced to zero the MFN import duties on certain medical and protective equipment between 18 March 2020 and December 2022. As of August 2022, the list covers 548 products.

3.8. In November 2021, Brazil also implemented a horizontal reduction of 10 percentage points across its MFN tariff, and a reduction from 2% to 0% to all tariff lines previously charged in this tariff level, with a view to lessening the pandemic's economic impact. This temporary reduction was to remain in force until 31 December 2022.³ An additional linear reduction of 10% was carried out on 1 July 2022 extending the validity of reductions until 31 December 2023.

3.9. In parallel to national measures, MERCOSUR has been reducing tariff levels since 2017. Around 200 NCM codes with applied MFN tariff equal or higher than 4% were reduced to 0% in the CET, covering, mainly, chemical, pharmaceutical and aeronautical products.

3.10. Lately, MERCOSUR approved new reductions in the CET scheduled to enter into force on 1 September 2022. They refer to cuttings from 2% to 0% to all tariff lines previously charged in this tariff level (2,123 tariff lines) and of 10% across MFN tariff covering 4,763 tariff lines.

3.3 Measures directly affecting imports

3.11. During the period under review, in line with provisions set forth in the Economic Freedom Act, and in the WTO's Trade Facilitation Agreement, Brazil has undertaken efforts to reduce the cost of government intervention on foreign trade operations to the minimum necessary to guarantee that public policies are properly applied. In this context, the Secretariat of Foreign Trade (SECEX) has removed several automatic and non-automatic import licensing requirements imposed by economic purposes. Thus, over 2020-21, imports related to trade remedies, non-preferential origin investigation, statistical monitoring and replacement of defective goods were excluded from the licensing regime.

3.12. Currently, SECEX only imposes automatic import licensing requirements to imports under the suspension and exemption drawback special regime. In turn, non-automatic import licensing requirements are applicable to imports of used goods, operations subject to similarity examination and those supported by tariff quotas. Moreover, in 2021 SECEX streamlined the import licensing

³ GECEX Resolution No. 269/2021.

process to import used production lines into Brazil by reducing the deadline of licensing analysis from 30 days to 10 days and cutting unnecessary bureaucratic procedures.

3.13. As a result of measures adopted to reduce non-tariff barriers associated with the Brazilian import licensing regime, the number of licenses issued by SECEX decreased from 1.2 million in 2019 to 380,000 in 2021. In the same period, the trade value of the licensed imports shrank from USD 37 billion to USD 20 billion. In addition, the average time to issue an import license dropped from 1.9 days to 0.6 days, with about 80% of licenses being analyzed in an automated way. All these figures are displayed on the internet through the Siscomex website.⁴

3.14. Brazil also put in place arrangements for the bilateral exchange of digitally signed certificates of origin in trade with Argentina, Colombia, Paraguay and Uruguay. In these countries, the digital certificates of origin may completely replace the hard-copy certificates of origin.

3.4 Participation in the WTO

3.4.1 Negotiations

3.15. Brazil remains firmly committed to preserving and strengthening the rules-based Multilateral Trading System and reaffirming the relevance of the WTO as a central pillar of the global economic governance.

3.16. Agriculture remains one of Brazil's top priorities. The lack of a specific outcome on agriculture at MC11 and MC12 should mark the end of a cycle and the beginning of a new stage for agriculture negotiations with new guiding principles for MC13. The only point of consensus Members have in agriculture is Article 20 of the Agreement on Agriculture – and that is the mandate the Membership should stick to for a fresh start. Brazil advocated that Members must take advantage of this clean slate in agriculture to reflect on the necessary conceptual modernization of agricultural negotiations. This conceptual modernization should include, among other things, an assessment of how the two main topics of the agricultural negotiations – domestic support, including PSH, and market access – will be dealt with under new parameters.

3.17. In the period under review, Brazil has been actively engaged in the negotiations of the joint initiatives on E-Commerce, Investment Facilitation for Development and Services Domestic Regulation. Brazil took part in conclusion of the JSI on Services Domestic Regulation in December 2021, and presented a pre-finalization schedule with five additional sectors (Postal Services, Telecommunication Services, Environmental Services, Maritime Transport Services and Air Transport Services), showing its commitment to an ambitious outcome of this initiative. Brazil has also actively participated in all negotiations during the WTO's Twelfth Ministerial Conference (MC12).

3.18. In June 2022, Brazil presented its final market access offer in the context of its accession to the WTO Agreement on Government Procurement (GPA). Brazil communicated its intention to join the GPA in May 2020, circulated its Reply to the Checklist of Issues in October 2020 and presented both the initial offer and the revised offer throughout 2021. The country has been an observer in the GPA Committee since 2017. Should the negotiation be successful, Brazil will be the first Latin American country to become a Party to the GPA. This is in line with the Brazilian agenda of concluding international procurement agreements and trade agreements with procurement chapters, such as in the case of the agreements concluded with Peru, Chile (in force), with MERCOSUR countries and between MERCOSUR-European Union and MERCOSUR-EFTA.

3.19. Brazil has also presented to the WTO in June 2022 its application for accession to the Agreement on Trade in Civil Aircraft. Brazil's intention to join this agreement reinforces the federal government's commitment to the multilateral trade liberalization agenda, along with the ongoing process of the country's accession to the GPA.

3.4.2 Dispute settlement

3.20. Brazil attaches high priority to strengthening the WTO dispute settlement system and has actively participated in the mechanism since its very first dispute that advanced beyond the

⁴ <https://www.gov.br/siscomex/pt-br/informacoes/importacao/paineis-licenciamento-de-importacao>.

consultations stage (*US – Gasoline*). To date, of 612 WTO disputes, Brazil participated in 215 of them – 34 as complainant, 17 as respondent and 164 as a third party. Most of the cases of which Brazil was or is a party have dealt with issues that are at the core of the Multilateral Trading System, such as: granting of subsidies both to industrial (*Canada–Aircraft* and *Canada–Commercial Aircraft*) and agricultural goods (*EU–Sugar*, *US–Upland Cotton*, *Indonesia–Chicken*, and *India–Sugar*), the application of trade-restrictive measures by developed countries (*US–Orange Juice*, *EU–Poultry*), the protection of the environment (*Brazil–Tyres*), and the protection of public health (*EU–Medicines in Transit*).

3.21. Considering only active disputes, with actions taken from December 2020 on, Brazil participates in 4 disputes as a complainant, and 36 as a third party. Brazil challenges the restrictions imposed by Indonesia on the importation of poultry (*Indonesia–Chicken*), the subsidies accorded by Thailand (*Thailand–Sugar*) and by India (*India–Sugar*) to their sugar industries, as well as the SPS requirements adopted by the EU on Brazilian poultry.

3.22. Brazil has recently adopted Law No. 14,353/2022, which allows for the suspension of concessions and other obligations for Members that have appealed panel reports in which Brazil is a complainant to an inoperative Appellate Body (i.e. appealed "into the void"), thereby obstructing the conclusion of a dispute. The objective of that law is to remedy the present failings of the WTO's dispute settlement system by creating incentives for achieving a solution through negotiations between the disputing parties and/or the recourse to alternative means of settlement.

3.23. In another effort to overcome the paralysis of the Appellate Body, Brazil joined in 2020 the Multi-Party Interim Appeal Arbitration Arrangement (MPIA). The MPIA is based on Art. 25 of the Dispute Settlement Understanding, and provides an alternative, provisional solution to ensure the rules-based system through the recourse to an independent and effective appeal system.

3.4.3 Special and differential treatment

3.24. In 2019, Brazil decided to begin to forego the use of special and differential treatment (S&DT) in current and future WTO negotiations, in an effort to help move the WTO forward. It is important to highlight, however, that Brazil continues to attach great importance to S&DT for least developed countries (LDCs) and developing WTO Members in accordance with their individual development needs, providing them the needed flexibility to fully integrate into the multilateral trading system. In Brazil's understanding, S&DT should be focused, needs-based and aimed towards the full implementation of WTO provisions as a way to promote development, which is one of the goals of the MTS.

3.25. Brazil also attaches great value to the role of the Committee on Trade and Development as the reviewer of regional trade agreements (RTAs) among developing countries and preference schemes favouring developing countries authorized under the Enabling Clause.

3.26. The Enabling Clause is also the WTO legal basis for the Generalized System of Preferences (GSP). During the review period, Brazil has been graduated from the GSP schemes of Japan, in 2019, and the Eurasian Economic Union (Armenia, Belarus, Kazakhstan, Kyrgyz Republic and the Russian Federation), in 2021. Brazil remains a beneficiary of the GSP schemes of Australia, New Zealand, Norway, Switzerland, and the United States.⁵

3.4.4 Trade and Environmental Sustainability Structured Discussions (TESSD)

3.27. During MC12, Brazil announced it would join the TESSD Ministerial Declaration and become a co-sponsor of that plurilateral initiative. Even while internal consultations were taking place, Brazil was the only non-cosponsor to present a proposal in the area. Document INF/TE/SSD/W/12 emphasizes the central role of the agricultural sector in promoting sustainable development and draws attention to the environmental impacts of agricultural subsidies. Brazil has also been a

⁵ Legal authorization for duty-free treatment under the USA GSP program expired on 1 January 2021 (19 U.S.C. Section 2465). The renewal of the program is still under discussion at Congress. Congressional practice has been to extend the program retroactively from the original expiration date, so that importers are refunded for the duties incurred during the time lapse.

constructive participant in the discussions on trade and sustainability held in the WTO Committee on Trade and Environment.

3.4.5 Preferential Agreements

3.28. Notwithstanding the priority it attributes to the multilateral trading system, Brazil believes that preferential trade agreements can play a supplementary role in the efforts to harness the benefits of international trade towards the goal of economic and social development of all Members.

3.29. Brazil is looking for new partners to increase, diversify and improve its trade relations, alongside its MERCOSUR associates, in order to ensure the growth and stability of the Brazilian economy and a competitive insertion of the country in the global scenario.

3.30. Within the Latin American region, Brazil participates in regional agreements under the provisions of the Latin American Integration Association (LAIA). Brazil's trade policy is structured around the MERCOSUR customs union. As detailed below, MERCOSUR has trade agreements with a number of Latin American countries and free trade agreements with all South American countries.

3.31. Since 2017, Brazil's strategy has also focused on going beyond its traditional Latin American partners, intensifying its agenda of trade negotiations, and negotiating comprehensive trade agreements. Some trade agreements entered into force during the review period (Brazil–Argentina, Brazil–Chile, Brazil–Mexico, Brazil–Paraguay, MERCOSUR–Colombia, MERCOSUR–Egypt) and some FTAs negotiations were concluded (MERCOSUR–European Union, MERCOSUR–European Free Trade Area [EFTA] and MERCOSUR–Singapore). Signing and ratification of these agreements are still pending and the negotiation of other agreements (with e.g. the Republic of Korea, Canada and Lebanon) is under way.⁶ Together with the other MERCOSUR Members, Brazil has concluded exploratory dialogues with Indonesia and Viet Nam and launched negotiations with Indonesia in December 2021. These initiatives reflect the growing openness and support of both the Brazilian government and the private sector regarding free trade negotiations.

3.5 MERCOSUR

3.32. MERCOSUR was established in 1991 by the Treaty of Asunción⁷, and its institutional structure was defined in 1994 by the Protocol of Ouro Preto. MERCOSUR is Brazil's main preferential agreement in terms of value of trade, accounting for more than 10% of its merchandise trade; it is also the backbone for further regional integration and negotiation of extra-regional agreements. The MERCOSUR market is particularly important to Brazil as its main destination for manufactured goods with higher added value.

3.33. The Common Market Group (GMC) and the Council for the Common Market (CMC) are the main decision-making bodies of MERCOSUR respectively. The Council is composed of the Ministers of External Relations and Economy of member states; its mission is to formulate policy and promote actions to develop the Common Market. The GMC oversees the application of the Treaty of Asunción, its protocols and agreements, and can make recommendations to the Council. It is entitled to issue mandatory Resolutions that apply to all member states. It is also in charge of negotiations with other countries, groups of countries and international organizations. The MERCOSUR Trade Commission (CCM) is responsible for the application of common trade policy instruments.

3.34. Dispute Settlement in MERCOSUR is regulated by the Protocol of Olivos, signed in February 2002 and in force since January 2004. Under the Protocol of Olivos, member states can choose to file disputes either within MERCOSUR or at the WTO. Upon agreement by the parties, the Common Market Group can provide mediation. Cases are handled by a Court of Ad Hoc Arbitration (TAHM) and/or by the Permanent Review Court (PRC), which is composed of five judges.

⁶ The Agreements with Chile and Colombia aim to boost the MERCOSUR-Pacific Alliance relationship in light of the July 2018 MERCOSUR-Pacific Alliance Puerto Vallarta Summit commitments, with a focus on free trade and regional economic integration, including issues such as services, investment and trade facilitation.

⁷ MERCOSUR is incorporated in the LAIA legal regime as Economic Complementarity Agreement (ECA) No. 18. LAIA economic complementarity agreements must be open for accession by any LAIA country.

3.35. Created in December 2005, the Parliament of MERCOSUR (PARLASUR) is a symbol of the political decision to strengthen and deepen the integration process and to develop common interests and values in the region.

3.36. During the period under review, MERCOSUR has taken important steps towards the consolidation and modernization of the Customs Union. MERCOSUR member states share a Common External Tariff (CET), which entered into force on 1 January 1995. For the first time, in July 2022, Mercosur Members decided to reduce permanently the CET by 10%. Different exceptions have been admitted through Decisions by the CMC. All MERCOSUR member states are currently authorized to have an exception list of products on which higher or lower tariffs vis-à-vis the CET will be applied. There are different provisions for each country. Brazil can include up to 100 tariff lines and modify as many as 20% of them every six months, until the end of 2028.⁸ Brazil is also allowed to establish special tariffs for Capital Goods (BK) and for Informatics and Telecommunications Goods (BIT) until the end of 2028.⁹

3.37. The sugar and automotive sectors are the only ones excluded from free trade within MERCOSUR. There is no schedule for the inclusion of sugar in the free trade regime, although talks on the issue resumed in 2017. Since the creation of MERCOSUR, there were plans to bring sugar into the Customs Union and an Ad Hoc Group was created to that purpose. Brazil believes it is time to make progress towards a gradual liberalization of trade for sugar in MERCOSUR. Trade in the automotive sector between Brazil and MERCOSUR Members is still largely regulated by bilateral agreements within the framework of LAIA.¹⁰ Trade flows are duty-free in the sector under specific conditions. In 2020, an automotive agreement was established between Brazil and Paraguay. The common automotive policy agreed on by member states in 2000 and 2001 did not enter fully into force as originally planned. It is Brazil's intention to advance towards the establishment of a MERCOSUR common automotive regime since bilateral sectoral agreements have been concluded with all MERCOSUR partners.

3.38. Established in 2006, the Fund for Structural Convergence of MERCOSUR (FOCEM) (Decisions CMC No. 45/2004 and No. 18/2005) epitomizes MERCOSUR's commitment to bridging the development gap between the countries in the region. It funds infrastructure development and social cohesion initiatives in MERCOSUR. The Fund receives contributions from all member states. Paraguay and Uruguay are the main beneficiaries of FOCEM and Brazil is the main contributor. Decision CMC No. 22/2015 renewed FOCEM for 10 years from the date all member states incorporate the decision into their domestic legal orders.

3.39. The Protocol of Montevideo on Trade of Services entered into force in 2005 between Argentina, Brazil and Uruguay. It establishes a schedule for services liberalization (covering both market access and national treatment measures) within MERCOSUR. Under the Protocol of Montevideo, the Parties have scheduled commitments in virtually all sectors and sub-sectors covered by the WTO Services Sectoral Classification List (MTN.GNS/W/120). In 2019, the bloc approved a revision of the Protocol to incorporate financial services, and, in 2021, MERCOSUR Parties agreed to incorporate disciplines on postal services, domestic regulation and telecommunications. A mutual recognition agreement on the qualification of certain professional services was also reached in 2021.

3.40. The Protocol on Cooperation and Facilitation of Investments (Decision CMC 03/2017) represents a milestone in the regulation of investments in the region. The Protocol addresses the business community's interest in minimizing risks and preventing disputes related to investments. It also seeks to encourage mutual investments within the region through intergovernmental dialogue mechanisms, which support companies in the process of internationalization. The Protocol will provide for greater disclosure of business opportunities, exchange of information on regulatory frameworks and appropriate mechanisms to prevent and, eventually, settle disputes. It establishes a solid framework for investment in all Member States and will be applicable to Foreign Direct Investments made before or after its entry into force. The Protocol on Government Procurement,

⁸ Provisions are identical for Argentina. Paraguay was authorized to maintain a list of up to 649 tariff headings until the end of 2030, and Uruguay can include up to 225 tariff headings until the end of 2029 (Decision CMC 11/21).

⁹ Decision CMC 08/21.

¹⁰ 44th Additional Protocol to ECA No. 14 (Brazil-Argentina), ECA No. 2 (Brazil-Uruguay) and ECA No. 69 (Brazil-Bolivarian Republic of Venezuela) and 1st Additional Protocol to ECA No. 74 (Brazil-Paraguay).

also signed in 2017, seeks to create new business opportunities for the private sector and thus generate employment and income and to reduce costs for the public sector, in order to contribute to the economic and social development of member states.

3.41. In 2020, MERCOSUR Members concluded the negotiations of the Electronic Commerce Agreement. In light of the increasing importance of e-commerce in Brazilian and regional economies, this Agreement aims at facilitating trade by electronic means, providing legal certainty and creating an environment that protects users of e-commerce, their privacy and data. In that regard, MERCOSUR's Electronic Commerce Agreement provides for non-imposition of customs duties on electronic transmissions; electronic authentication and signature; online consumer protection; protection of personal information; cross-border transfer of information by electronic means; location of computing facilities; principles on the access and use of the Internet for electronic commerce; unsolicited commercial electronic messages ("spam"); electronic commerce facilitation; and cooperation.

3.42. In 2015, the CMC approved the Action Plan for the Strengthening of MERCOSUR's Trade and Economic Mechanisms. An ad hoc group was created to identify measures deemed detrimental to free trade in the areas of technical regulations, sanitary and phytosanitary measures, domestic taxes and bureaucratic procedures. Specifically concerning Technical Regulations, Brazil strongly supports improvements to the approval and revision mechanisms of MERCOSUR's technical regulations.

3.43. In 2019, trade-related agreements were signed on the following issues: trade facilitation (eliminating fees and taxes on mutual trade); Geographical Indications for numerous products; a framework for concluding trade facilitation initiatives in the area of technical regulations; a mutual recognition agreement for digital signatures, and an agreement on the elimination of roaming taxes in telecommunications within MERCOSUR countries. In the same year, an agreement on the mutual recognition of Authorized Economic Operators was signed by MERCOSUR Customs General Directors.

3.44. It is also worth recalling that Member states have agreed on a number of instruments with a view to facilitating the movement of citizens between Member States. Active participation of civil society and social movements in discussing public policies in areas as diverse as education, health, labour, human rights and others is also contributing to social responsibility and political accountability. This is as much an institutional breakthrough as it is a commitment to advancing the social agenda of MERCOSUR integration.

3.5.1 MERCOSUR and regional agreements

3.45. MERCOSUR has a broad range of trade agreements within the framework of LAIA. These trade agreements are known as Economic Complementation Agreements (ACEs). They have been signed with the Plurinational State of Bolivia (ACE-36), Chile (ACE-35), Mexico (ACE-54, ACE-55), Peru (ACE-58), Colombia (ACE-72), Ecuador (ACE-59), the Bolivarian Republic of Venezuela (ACE-59) and Cuba (ACE-62). Besides the aforementioned agreements in the framework of MERCOSUR, Brazil has celebrated bilateral fixed tariff preferences agreements with Mexico (ACE-53) and other partial scope agreements with Guyana (AAP-38), Saint Kitts and Nevis (AAP-38), and Suriname (AAP-41).

3.5.2 MERCOSUR and extra-regional agreements¹¹

3.46. The European Union and MERCOSUR reached a political agreement in 2019 for an ambitious, balanced and comprehensive trade agreement. Once the agreement enters into force, EU will provide full tariff elimination on 92% of imports from MERCOSUR and 95% of its tariff lines, along with partial concessions under TRQs, fixed margins of preferences and entry prices, which elevates its coverage to 99% in terms of tariff lines. MERCOSUR's offer allows for full tariff elimination in 91% for both bilateral imports from the EU and tariff lines. MERCOSUR also granted partial concessions to the EU in 32 tariff lines. In addition, the agreement provides for openness, greater transparency, and legal certainty in the markets for services, investments and government procurement, as well as the reduction of non-tariff barriers and consolidation of an agenda of good regulatory practices, in addition to the establishment of modern disciplines in the area of trade facilitation and intellectual property, among other topics. As of July 2022, the agreement's texts were undergoing legal and

¹¹ Further informations regarding MERCOSUR's extra-regional trade agreements can be found at <https://www.gov.br/siscomex/pt-br/acordos-comerciais>.

formal revision, after which they will be translated and sent to the parties for signature. In 2020, the parties announced the conclusion of the negotiations on the political dialogue and cooperation part of the Association Agreement as well.

3.47. Negotiations between MERCOSUR and the European Free Trade Association (EFTA) countries were concluded in principle in 2019, two years after its first round. The conclusion of this negotiation is yet another result of efforts to expand Brazil's and MERCOSUR's network of trade agreements and took place shortly after the conclusion of the negotiations between MERCOSUR and the European Union. Brazil estimates that at the end of the implementation period, 97% of EFTA's exports would be duty-free or partially liberalized in MERCOSUR, with an equivalent figure of 98% to 99% of MERCOSUR's exports to the EFTA market, depending on the importing country. The agreement also includes provisions on services, investments, government procurement and intellectual property. As of July 2022, the agreement was undergoing formal and legal revision before the parties could send it for signature.

3.48. Negotiations for a FTA between MERCOSUR and Singapore were launched in 2018 and were substantially concluded in July 2022. The agreement covers trade in goods and services, as well as investments between the parties. Furthermore, it has commitments on modern topics such as trade facilitation, intellectual property, government procurement and electronic commerce.

3.49. In 2018, MERCOSUR launched negotiations for free trade agreements with Canada and the Republic of Korea. The last in person negotiation round between MERCOSUR and Canada was held in July 2019, in Ottawa, and achieved important progress in several negotiating groups, followed by further progress during a virtual round in 2020. The last round between MERCOSUR and the Republic of Korea was held in September 2021, virtually. In both negotiating processes, experts from different technical groups have continued the discussions through virtual meetings.

3.50. MERCOSUR and the Republic of Lebanon held their first round of negotiations for an FTA between the parties in 2019, in Beirut. In addition, MERCOSUR and Lebanon met virtually in 2020, to discuss regulatory aspects and access to the goods market, in addition to defining the next steps in the negotiation.

3.51. In 2020, Brazil approved the negotiating mandate for free trade agreements with Indonesia and Viet Nam. The exploratory dialogue between MERCOSUR and Viet Nam was concluded in 2020 and, as of July 2022, negotiations were not yet launched. In December 2021, MERCOSUR and Indonesia announced the launching of negotiations for a Comprehensive Economic Partnership Agreement, including trade in goods and services, investment, and a wide range of non-tariff matters. The first round of negotiation is expected to take place in the second half of 2022.

3.52. In 2017, the Free Trade Agreement between MERCOSUR and Egypt entered into force. Under the agreement, MERCOSUR granted full tariff elimination on 10,166 eight-digit tariff lines (99% of total tariff lines). The tariff dismantling period will end in September 2026. The Agreement also has an evolutionary clause on the possibility of future understandings for opening negotiations on market access on trade in services and investments.

3.53. In 2019, MERCOSUR and India resumed dialogue on a possible expansion of the Preferential Trade Agreement signed in 2004 and in force since 2009. Moreover, MERCOSUR and Israel have been working since 2020 on a possible expansion of the FTA signed in 2007.

3.54. Before the review period, Brazil and the other MERCOSUR countries ratified a Preferential Trade Agreements (PTA) with the Southern African Customs Union (SACU). MERCOSUR also signed an FTA with the Palestine, whose text was approved by the Brazilian Congress in 2018 and is currently under analysis in the Presidency of the Republic.

3.5.3 Global system of trade preferences¹²

3.55. Brazil continues to participate in the 1988 Global System of Trade Preferences among Developing Countries (GSTP), and, as from 1991, MERCOSUR began to participate as a bloc, with a single list of concessions. MERCOSUR grants preferences to participating countries on some

¹² <https://www.gov.br/siscomex/pt-br/informacoes/acordos-comerciais/sgpc>.

127 HS2002 tariff headings. These preferences range from 10% to 100% and their scope includes agricultural products, fuels, chemical products, hides and skins, ferrous and steel products.

3.6 Investment Agreements

3.56. During the 1990s, Brazil signed 14 traditional Bilateral Investments Agreements (BITs) but the Brazilian National Congress decided not to ratify them.

3.57. Following the rejection of BITs by the National Congress, the Brazilian Government intensified work to define new guidelines for further negotiations on investment agreements. Brazil has focused on designing a new model of investment agreement based on thorough review of studies by international organizations (UNCTAD and OECD Guidelines), extensive consultations with the Brazilian private sector, and international benchmarking. This process led to the drafting of the Cooperation and Facilitation Investment Agreement (CFIA), which seeks a balanced outcome combining the promotion of an attractive environment for investors while preserving space for public policies. The new Brazilian model sidelines the limitations identified in traditional BITs in favour of a positive approach comprising institutional cooperation and facilitation of investment flows. This model has been used since 2013.

3.58. Brazil has already signed CFIAs with Mozambique (2015), Angola (2015), Mexico (2015), Malawi (2015), Colombia (2015), Chile (2015), Peru (2016), Ethiopia (2018), Suriname (2018), Guiana (2018), UAE (2019), Morocco (2019), Ecuador (2019) and India (2020). Among the first CFIAs, the agreements with Angola and Mexico are already in force. The Cooperation and Facilitation of Investments Protocol of MERCOSUR (PCFI) was signed in 2017 and in force as well. Brazil is also engaged in an exploratory dialogue with Saudi Arabia, and has concluded, during the review period, negotiations of FTAs with EFTA and Singapore, which include investment chapters inspired by the CFIA provisions.

4 TRADE INSTITUTIONAL AND REGULATORY FRAMEWORK

4.1 Cross-Cutting Issues

4.1.1 Implementation of good regulatory practices

4.1. It is noteworthy that Brazil has been promoting several efforts to improve the quality and transparency of its regulatory process. In 2018, the Office of the Chief of Staff of the Presidency of Brazil, along with Regulatory Agencies and sectorial Ministries, launched the Guidelines and Guidebook for Regulatory Impact Analysis - RIA, providing instructions for the practical implementation of RIA by any public administration body and presenting a set of common minimum standards for the application of this tool.

4.2. In the following year, Laws No. 13,848/2019 (Regulatory Agencies' Law), and No. 13,874/2019 (Economic Freedom Act) were enacted, establishing the adoption of RIA, Public Consultations and Regulatory Result Assessment (ARR) for Regulatory Agencies and other public administration offices. At the end of 2020, the Protocol on Transparency, Business and Good Regulatory Practices with the United States was signed, and it entered into force in June 2022. The Protocol has an annex dedicated to binding commitments on good regulatory practices, expanding the requirements of RIA and social participation and bringing innovations regarding the institution of regulatory oversight, regulatory agenda and annual report of the regulatory impact caused by the regulations issued. A Presidential Decree aimed at supporting the implementation of the Protocol is on its final drafting stage.

4.3. In 2021, Law No. 14,195/2021 (Business Environment Law) was approved, which brought advances in economic legislation in the context of the business environment.

4.4. It is also worth mentioning the Decree No. 10,139/2019 (Revision Decree), which established regulatory review and consolidation procedures, encompassing all current regulations and instituting the regular review of the regulatory stock for the first year of each presidential term. The concentrated effort reached 79 public bodies, including ministries, bodies linked to the Presidency of the Republic, military commands, foundations and autarchies. Altogether, more

than 80,000 normative acts were identified, of which more than 90% were examined, resulting in the revocation of about 42% of the norms dealt with so far.

4.5. In June 2022, the OECD Review of Brazil's Regulatory Reform was completed. The Review analyzed sectors that create barriers to competition, such as regulations that create obstacles to the entry of firms, inhibit the entry of firms, or restrict activities in professional and network sectors. In a complementary way, the review also identified government efforts to develop policies and tools to improve the quality of regulations, such as ex ante assessment of draft regulations, stakeholder engagement in rule making, and administrative simplification. Based on its recommendations, action plans are being drawn up for the implementation of initiatives that bring the country closer to world best practices.

4.1.2 Technical regulations and standards

4.6. Since 2019, in accordance with the Economic Freedom Rights legislation, the National Institute of Metrology, Quality and Technology (INMETRO) has been modernizing its regulatory approval methods with a view to cutting red tape and simplifying rules. Tacit approval timelines for certain INMETRO decisions entered into force on 1 February 2020, as shown in the table below. In September 2020, INMETRO also put in place a three-level risk assessment system for legal metrology and compulsory conformity assessment activities.¹³ In addition, from July 2020, requests for revision of technical regulations that depart from international standards may be made through a request to INMETRO's Presidency. It must be highlighted, furthermore, that, on February 2022, INMETRO published Ordinance No. 30, which approved its new regulatory framework. This ordinance sets guidelines for modernizing INMETRO's regulatory approach and establishes a transition period of five years for its implementation. As of August 2022, INMETRO was planning the roadmap of such implementation (Table 4.1).

Table 4.1 INMETRO's tacit approval timelines

INMETRO's tacit approval timelines, 2022	
Decision	Maximum period (days)
Import licence or authorization	30
Inscription in the register of items	55
Inscription in the register of supplier's declarations	100
Pattern approval (measuring instrument prototypes)	150

4.7. In accordance with the Agreement on Technical Barriers to Trade (TBT), Brazil has notified to the WTO, from January 2017 to May 2022, 1,446 Technical Regulations and Procedures for Conformity Assessment, including new regulations, addenda, revisions, corrigenda and supplements. As a rule, international standards are the basis for the elaboration of technical regulations. INMETRO is the national enquiry point for technical regulations and conformity assessment procedures in Brazil. INMETRO also promotes bilateral, regional and multilateral cooperation with other WTO TBT enquiry points, aiming at improving transparency and fostering the exchange of information.

4.8. From 2017 to 2021, Brazil has intensified its participation in international organizations dedicated to the creation and implementation of standards, such as the Codex Alimentarius, ISO, IEC, ITU, the United Nations Committees on the Transportation of Dangerous Goods (SCETDG) and on the Classification and Labeling of Chemical Products (SCEGHS), among others, in order to keep its regulations aligned with international standards in the related sectors. Brazil has also intensified its participation in international harmonization and regulatory convergence initiatives in the area of medicines, medical devices and cosmetics.

4.9. Voluntary standardization in Brazil is under the responsibility of the Associação Brasileira de Normas Técnicas (ABNT), a private, non-profit entity, founded in 1940. ABNT is recognized by federal law as the only Brazilian National Standards Body, being responsible for the preparation of Brazilian National Standards for all fields of knowledge. ABNT develops Brazilian Standards through the coordination of a consensus-based process of standardization and represents Brazil in the International Standards Organizations ISO and IEC as well as in the Regional Standards Organizations Pan-American Standards Commission (COPANT) and MERCOSUR Association for Standardization (AMN). ABNT has signed in 1995 Annex 3 of the TBT Agreement – "code of good

¹³ INMETRO Ordinances No. 265 of 10 August 2020 and No. 282 of 26 August 2020.

practice for the preparation, adoption and application of standards". Brazilian Technical Standards are developed by ABNT's technical committees, where all stakeholders are allowed to contribute and to participate in the standardization process. Moreover, ABNT has established cooperation agreements with National Standards Bodies from a variety of countries in the world.

4.10. Brazil has also maintained mutual recognition agreements with multilateral bodies such as the Bureau International des Poids et Mesures (BIPM), Organization Internationale de Métrologie Légale (OIML), the International Laboratory Accreditation Cooperation (ILAC), the Inter American Accreditation Cooperation (IAAC), the International Accreditation Forum (IAF), the American Aerospace Quality Group (AAQG), the Program for the Endorsement of Forest Certification Schemes (PEFC) and the Global Partnership for Good Agricultural Practice (Globalgap), and became a full party to the OECD decisions on the mutual acceptance of data (MAD) – Good Laboratory Practice (GLP) on pesticides, their components and related products as well as on industrial chemical products.

4.11. Under the framework of MERCOSUR, Brazil has been implementing Resolution GMC No. 45/2017, Decision CMC No. 20/2018 - MERCOSUR Agreement on Good Regulatory Practices and Regulatory Coherence - and Decision CMC No. 16/2019 on General Framework on Trade Facilitating Initiatives. Brazil has been engaged in harmonizing technical regulations, which are notified to the WTO after each MERCOSUR member has carried out domestic consultations, and before they are adopted by the bloc in the form of Resolutions.

4.12. Bilaterally, Brazil and Argentina concluded, in 2022, negotiations on a Mutual Recognition Agreement on Vehicle Approval regarding safety issues. Brazil also has bilateral cooperation initiatives on technical regulations with Australia, the Plurinational State of Bolivia, Cabo Verde, China, Chile, Colombia, Costa Rica, Cuba, the Dominican Republic, Ecuador, Germany, Guatemala, France, India, Italy, Japan, Kazakhstan, Lebanon, Mexico, Mozambique, New Zealand, Panama, Paraguay, Peru, Portugal, the Republic of Korea, Singapore, South Africa, Spain, Russian Federation, Trinidad and Tobago, Türkiye, Ukraine, the United Arab Emirates, the United Kingdom, the United States, Uruguay and, Bolivarian Republic of Venezuela.

4.13. Regarding measures in response to the COVID-19 pandemic, Brazil has submitted more notifications than any other Member of the WTO. Under the TBT Agreement, Brazil has notified 65 technical regulations and conformity assessment procedures, covering pharmaceutical products, medical devices and other medical supplies. Measures adopted by the Brazilian Health Regulatory Agency (ANVISA)¹⁴ include:

- quick adoption of extraordinary and temporary procedures for handling the public health emergency related to COVID-19, to streamline or simplify technical regulations, conformity assessment procedures and related procedures and, thus, ensure the supply of safe essential products;
- temporary flexibility of certain regulations to ensure access to essential medical products; and
- adoption of closer control strategies to identify shortages of essential medicines and medical devices and extraordinary regulatory pathways to enhance production of and access to such products.

¹⁴ Further details on ANVISA's measures in response to the pandemics are available in the following links, in Portuguese: <https://www.gov.br/anvisa/pt-br/assuntos/paf/coronavirus>; and <https://www.gov.br/anvisa/pt-br/centraisdeconteudo/publicacoes/gestao/relatorio-sobre-os-500-dias-de-acoes-da-anvisa-no-enfrentamento-a-covid-19>.

4.14. Due to travel restrictions imposed by the pandemics and to challenges related to medical products marketing authorization, specifically, ANVISA adopted extraordinary measures in order to issue Good Manufacturing Practices (GMP) certification for medical products and other regulatory flexibilities, such as:

- issuing extraordinary and temporary GMP Certificates with shorter validity instead of ordinary GMP Certificates;
- issuing emergency use authorizations, emergency importation authorizations or temporary registrations instead of ordinary product registrations;
- prioritization of registration of medical devices required for the clinical management of COVID-19 (for instance, oxygen therapy, pulse oximeters, thermometers infusion and suction pumps, X-ray, ultrasound, CT scanners, in vitro diagnostics as well as personal protective equipment);
- shifting from on-site inspection only to remote inspection, where applicable;
- accepting conformity assessment results of specific health authorities that fulfilled minimum criteria;
- enhancing international regulatory cooperation to accelerate approval of vaccines and other essential medical goods; and
- maintaining relevant international standards as basis for technical regulations on selected essential medical goods, as well as relevant international standards, guides or recommendations as basis for conformity assessment procedures associated with those measures.

4.1.3 Trade facilitation

4.15. During the review period, Brazil continued streamlining foreign trade formalities and upgrading its Integrated Foreign Trade System (SISCOMEX) under its Single Window Programme (Programa Portal Único de Comércio Exterior). Launched in 2014 and jointly coordinated by the Economy Ministry's Secretariat of Foreign Trade (SECEX) and Special Secretariat of Federal Revenue of Brazil (RFB), the programme is at the center of Brazilian trade facilitation policies and aims to reduce bureaucracy. It will allow companies to present information only once, reducing time and expenses to both exporters and importers.

4.16. The Portal Único Program encompasses a series of solutions to be gradually implemented. It is based on the single window provisions of the TFA. These provisions were internalized in the Brazilian legislation through the Presidential Decree No. 8.229/2014, which amended Decree No. 660/1992. Law 12.195/2021 provided for the obligation of a Single Window for trade.

4.17. Following the publication of GECEX Resolution No. 378/2022, the Portal Único website (www.siscomex.gov.br), which already provided access to information regarding trade-related legislation, requirements, documents, forms and systems, has incorporated Brazil's national foreign trade enquiry point, Comex Responde (available in Portuguese, English and Spanish).

4.18. The tool for the submission of digital documents by importers and exporters was implemented in 2015, under the Portal Único system, and it is being used in almost all licensing and customs release procedures, reducing time and costs, particularly to traders located away from the country's borders. However, there are limits to the use of this solution, because some international agreements require paper documents to be retained by agencies.

4.19. The New Export Process was fully implemented in 2018, allowing simplification that provides greater efficiency and cost reduction for operators. This includes a reduced number of documents required to conclude foreign trade operations via Single Export Declaration (DUE); the integration of the DUE with national eInvoice system; the new cargo control and customs transit system; comprehensive licensing for more than one export; implementation of a posteriori administrative

controls; adoption of parallel instead of sequential procedures. As a result, the average export time was reduced from 13 to 5 days, leading to savings of USD 14 billion annually for the private sector.

4.20. The New Import Process (NIP) has been implemented since 2018 and should be in full effect by the end of 2025. The NIP is already capable of covering up to 40% of the total amount imported in Brazil. Although the NIP is still under development, it has already had a major impact on reducing import time. The average time to import in Brazil dropped from 17 days to 9 days, representing annual savings of USD 10 billion annually for the private sector.

4.21. During the review period, Brazil also continued making improvements to its authorized economic operator (AEO) programme, gradually supplementing the benefits¹⁵ offered to participants by the RFB with advantages conceded by other administrative bodies intervening through SISCOMEX.¹⁶ In 2021, the RFB-managed AEO Program added the participation of SECEX and initiatives are under way for the inclusion of the Secretariat of Animal and Plant Health and Inspection (SDA), the National Agency for Civil Aviation (ANAC), the Brazilian Health Regulatory Agency (ANVISA), the Brazilian Army, and the National Institute of Metrology, Quality and Technology (INMETRO).¹⁷

4.22. At end-February 2022, the AEO programme comprised 490 certified economic operators accounting for 25.79% of total trade volume and 26.54% of import and export declarations registered in that month. AEOs benefitted from significantly lower customs clearance times than non-AEO traders. Besides being party to a MERCOSUR agreement for the mutual recognition of AEO programmes, Brazil has signed bilateral agreements on the matter with the Plurinational State of Bolivia, China, Colombia, Mexico, Peru, Uruguay, Argentina, Chile, Colombia, Costa Rica, Guatemala, Paraguay, Peru, Dominican Republic and Uruguay. Exploratory talks on the mutual recognition of AEO programmes are also underway at MERCOSUR-Pacific Alliance level, and an agreement with the United States is to be signed in September 2022.

4.23. In the context of the AEO Programme, SECEX implemented, in 2021, its Integrated AEO, which seeks to broaden the AEO Programme positive effects. Companies previously certified by the Special Secretariat of the Federal Revenue of Brazil (RFB) as Authorized Economic Operators can apply to join the SECEX Integrated AEO. Benefits offered by the SECEX Integrated AEO allows low risk private companies to obtain reduction of documentation and information submitted to grant the suspension drawback special regime, as well as prioritized analysis of applications for this regime and its exemption version. Besides that, certified companies have an exclusive point of contact at SECEX to address operational difficulties related to the suspension and exemption drawback special regimes more rapidly.

4.24. In 2020, Brazil published its first Time Release Study (TRS) carried out in accordance with the World Customs Organization's methodology, based on 262,787 import transactions (by air, sea and road) registered between June and July 2019.¹⁸ The TRS found that, on average, it took 7.4 days from the goods' arrival until their effective exit from the area under customs control. The average release times for consignments arriving by air, sea and road were 5.8 days, 9.7 days and 2.3 days, respectively.¹⁹ The TRS makes a number of recommendations, including: standardization of procedures and timeframes across administrative bodies' respective nation-wide networks; minimizing risk assessment backlogs; creation of a nation-wide mechanism for prompt payment of trade-related taxes and licensing fees; separating the cargo's physical flow from its documentation and financial flows; and the replacement of sequential work flows by parallel ones.

4.25. During the review period, Brazil took active part in the Committee on Trade Facilitation, including by: notifying the definitive implementation date for its three category B commitments

¹⁵ An overview of AEO benefits can be viewed at: <https://www.gov.br/receitafederal/pt-br/assuntos/aduana-e-comercio-exterior/importacao-e-exportacao/oea/beneficios-do-programa-oea>.

¹⁶ RFB Ordinance No. 2,384/2017 and RFB Normative Instruction No. 1,985/2020.

¹⁷ Viewed at: <https://www.gov.br/receitafederal/pt-br/assuntos/aduana-e-comercio-exterior/importacao-e-exportacao/oea/beneficios-do-programa-oea/oea-integrado>.

¹⁸ Viewed at: <https://www.gov.br/receitafederal/pt-br/aceso-a-informacao/dados-abertos/resultados/aduana/estudos-e-analises/time-release-study-brasil>.

¹⁹ The data on imports by road were collected at Brazil's two main points of entry and represented approximately 46% of the total volume imported by this mode of transport.

(31 December 2019); making six experience-sharing presentations; and tabling a proposal on customs cooperation through electronic exchange of information and data.²⁰

4.26. Another important provision of the TFA implemented by Brazil in 2016 was the National Committee on Trade Facilitation (CONFAC). It was restructured by Presidential Decree No. 10.373/2020 and had its internal rules approved by GECEX Resolution No. 377/2022. The Committee remains responsible for guiding, coordinating, harmonizing and supervising the activities of federal agencies related to foreign trade operations, bearing in mind, among others, the implementation of Brazil's commitments under the TFA. The importance of private sector participation has been highlighted by the maintenance of a Cooperation Subcommittee in which public and private stakeholders can work together to improve trade facilitation in Brazil.

4.27. In 2020, Brazil and the United States signed a Protocol on Trade Rules and Transparency. Negotiated under the Brazil-U.S. Commission on Economic and Trade Relations (ATEC), the agreement includes an annex on Trade Facilitation and Customs Administration. The Protocol, which has entered into force in June 2022, includes relevant provisions on advance rulings, penalties, use of technology in import, export and transit controls, and on the mutual recognition of authorized economic operators.

4.1.4 Sanitary and phytosanitary issues

4.28. Brazil is committed to animal and plant health and food safety in accordance with the WTO SPS agreement. All measures aiming at protecting human or animal health from food-borne risks, human health from animal or plant carried diseases and animals and plants from pests or diseases are regularly notified to the Committee on Sanitary and Phytosanitary Measures – SPS Committee/WTO and made available on the internet. The relevant sanitary or phytosanitary events are also immediately reported to the competent international organizations and authorities of trade partners. The Brazilian Enquiry Points are the Ministry of Agriculture, Livestock and Food Supply and the National Health Surveillance Agency, which work in a coordinated manner. Sanitary and phytosanitary measures are normally based on standards, guidelines or recommendations produced by Codex Alimentarius, OIE, and IPPC.

4.29. Since the creation of the WTO, Brazil has signed more than 30 bilateral agreements on sanitary and phytosanitary matters, based on SPS Agreement principles, besides several regional agreements. The main purpose of these agreements is to identify common rules, simplify import controls, provide greater predictability to the parties by establishing timeframes, harmonize certification requirements, and facilitate bilateral trade and the entry of selected products. The importance of such agreements for Brazilian exporters and their trade partners can be measured by the sustainable increase in production and in volume of trade exports with more than one hundred countries and the integration of medium and small-sized agricultural producers into the international market in sectors as honeybee, organic products, fresh fruits and flowers.

4.30. However, the full potential of Brazil's agribusiness has yet to be developed, mainly due to the lack of recognition of equivalence and regionalization by some countries, as stipulated by articles 4 and 6 of the SPS Agreement. Another significant concern is that not all countries have been properly taking into account the work of the Codex Alimentarius on the harmonization of Maximum Residue Levels (MRLs), in order to base their policies on solid scientific principles and consider less trade-restrictive measures.

4.1.5 Competition policy

4.31. Since the entry into force of the Brazilian competition law (Law No. 12,529/2011), in 2012, the Brazilian Competition Policy System (SBDC) went through significant changes. Consistent with international best practices, the creation of a single autonomous competition agency and the introduction of an ex ante merger control policy led to significant efficiencies and modernized antitrust enforcement in Brazil. They also allowed the Brazilian antitrust authority, the Administrative Council for Economic Defense (CADE), to focus more on relevant precedent, predictability and legal

²⁰ WTO documents G/TFA/N/BRA/1/Add.1 of 14 March 2018 and G/TFA/W/51/Rev.1 of 11 November 2021. The experience-sharing presentations made by Brazil can be viewed at: <https://tfadatabase.org/members/brazil/experience-sharing>.

certainty, and granted it the tools and framework to reflect carefully on competition cases and provide coherent consistent and robust legal precedent in Brazil.

4.32. The ex ante merger control policy has been consolidated since then, engendering remarkable improvements in CADE's assessment of mergers, with the efficient use of fast-track case analysis, when cases are considered less-threatening from a competition perspective. The decision-making process regarding mergers created important institutional efficiencies. As the majority of merger cases are concentrated in the General Superintendence, CADE's Administrative Tribunal is able to focus on the challenged and complex merger cases, in cartels and other anticompetitive conducts cases and in its decision-making and normative competences. In other words, this institutional configuration allows the Tribunal to focus its resources on those cases that would affect most significantly the Brazilian market and the Brazilian consumers.

4.33. The efficiencies from the changes in the merger control policy and CADE's organizational set-up have benefitted developments and achievements in the investigation and assessment of anti-competitive conducts. As a result, CADE has been able to efficiently modernize its cartel enforcement activities by significantly expanding and developing its leniency program, increasing the use of investigation tools and intelligence techniques and enhancing inter-institutional cooperation with other relevant authorities.

4.34. As far as the Brazilian leniency program is concerned, it has consistently evolved since the 2012 Competition Reform and is now one of the most important aspects for cartel enforcement, driving interest from other jurisdictions around the world. In 2021, for example, CADE received five first-in leniency applications, 15 addendums to leniency agreements and 17 applications for cease and desist agreements. Leniency agreements are only available for the first whistleblower to appear before the antitrust authority. Thus, providing incentives for cartel participants to arrive first and ensure they receive the agreements' benefits, which may consist of legal immunity in the administrative and criminal legal spheres or a reduction in one to two-thirds of the fines applicable for latecomers.

4.35. To improve the efficiency of this Program, CADE has also developed ancillary instruments to the leniency agreement. Cease and desist agreements (TCCs, in their acronym in Portuguese) are agreements available for latecomers, which are not entitled to sign a leniency agreement. Although TCCs do not provide for full legal immunity to its signatories, in terms of administrative and criminal prosecution, they enable a significant reduction - of one to two-thirds - in the applicable fines for cartel offenses. The dimension of such reduction will depend on different variables, such as the order of demanding to sign the agreement with CADE (the sooner the request to sign the agreement, the highest will be the discount given to the cartel's participant), the stage of the procedures on which agreements are signed, the quality of the new evidence provided by the cartel member, among other variables. In this way, the TCC program was also implemented to create an incentive for the cartel member to come as soon as possible to CADE to receive a bigger discount on its fines.

4.36. The efficiency provided by this legal instrument relies on strengthening the evidence available for antitrust authorities to prosecute the case. Therefore, preventing that antitrust rulings in the administrative legal sphere are brought to court and, eventually, reversed.

4.37. Aside from the leniency and TCC programs, the authority has also developed the so-called leniency plus program, which enables latecomers in a first cartel investigation to denounce other cartels about which the antitrust authority does not have previous knowledge. In these situations, CADE provides to the participant of the leniency plus program the reduction of one-third of the fines applicable in the first cartel investigation, plus the signature of leniency agreements in the new offenses brought to light by the applicant.

4.38. Inter-institutional arrangements have also considerably increased in the last years. As of July 2022, CADE has technical cooperation agreements with all State Prosecution Services in Brazil. During the review period, CADE concluded technical cooperation agreements with several institutions and regulatory agencies, namely: National Agency for Data Protection (ANPD), National Telecommunications Agency (ANATEL), National Health Agency (ANS), National Agency for Waterway Transportation (ANTAQ), National Civil Aviation Agency (ANAC), National Cinema Agency (ANCINE), National Health Regulatory Agency (ANVISA), National Petroleum Agency (ANP),

National Land Transportation Agency (ANTT), National Institute of Industrial Property (INPI) and the Securities and Exchange Commission of Brazil (CVM). CADE also signed with the Central Bank of Brazil in 2018 the Normative Joint Act No. 1²¹, which establishes the procedures to be followed by the Central Bank and CADE in merger reviews and in the analysis of anticompetitive conducts in the financial market. The norm provides for the sharing of information between the two entities in these cases and for periodic meetings.

4.39. Finally, as a common widespread institutional policy that gained relevance with the COVID-19 pandemic, CADE has endeavored to improve its digital tools and launched new ones. It has been continuously improving its Screening Project or "The Brain Project", as nationally known, in line with international best practices in cartel investigation. The project is a software interface that combines data, data mining instruments and statistical tests with the purpose of detecting cartels. It is a powerful tool for identifying implausible facts and suspicious behavioral patterns. The online merger submission and the platform for leniency agreements (Clique Denúncia), which were already in place, have been fundamental in the new context brought by the pandemic as they avoid personal contact. The Case Law Search Tool and the Market Data Platform (PIM) were launched and have been important instruments for competition enforcement in Brazil. The Brazilian Competition Authority had to adapt considerably its regular operations in the context of COVID-19 to continue performing its activities effectively. It had to rely more heavily, for example, on its screening tools for investigations and on the leniency program, instead of search and seizure operations.

4.40. The internal organization of the General Superintendence and, in particular, the implementation of a Screening Unit responsible for receiving and assessing complaints and leniency applications have also considerably contributed to the detection and effective investigation of anticompetitive cases, identifying and prioritizing the most harmful ones. Regarding cartel detection, the General Superintendence activities have been made even more efficient with the implementation of an Intelligence Unit, in 2013, in charge of ex officio cartel detection, particularly on public procurement. It acts through partnerships with public institutions that can provide data on public procurements in Brazil and through the development of procedures, based on international best practices, oriented to apply screens and data-mining in order to identify conducts potentially harmful to the economic order. CADE has also recently created a specialized unit for unilateral conduct.²² This unit is responsible for receiving and analyzing complaints and investigating these practices. According to the OECD Peer Review of Competition Law and Policy: Brazil (2019)²³, there was a general perception that combining mergers with unilateral conduct in the same units inevitably meant that more resources were in practice devoted to merger review given the statutory deadlines. By creating a specialized unit for unilateral conduct, CADE will redress the balance towards more unilateral conduct investigations.

4.41. The Brazilian Competition Authority has equally sought to strengthen the robustness of the Brazilian competition policy and maintain its efficiency through its normative guidance and by ensuring the predictability of the system. In 2016, CADE published Resolution No. 17, regulating cases concerning the notification of associative contracts. In the same year, CADE published Resolution No. 16, establishing a deadline of 30 days to complete the analysis of fast-track mergers. In 2015, CADE published Resolution No. 11, which implemented the Electronic Information System as the authority's official system for information management. This initiative aims at reducing the duration of competition cases, contributing to public transparency and decreasing public expenses. Moreover, all citizens have online access to the public versions of CADE's files and documents. This feature is particularly appreciated by companies that have to notify or negotiate cases with the authority.

4.42. To enhance transparency of its activities, since 2015, the Brazilian Competition Authority has released and updated several guidelines as an effort to promote competition enforcement in Brazil through offering better predictability about the parameters used in its analysis. Examples of that are the Guidelines for the Analysis of Previous Consummation of Merger Transactions – Gun Jumping (2015); Guidelines for Competition Compliance Programs (2016); Guidelines on Cease and

²¹ https://www.bcb.gov.br/conteudo/home-ptbr/TextosApresentacoes/Ato%20normativo%20conjunto%205_12_2018%20limpa.pdf.

²² The General Superintendence is subdivided into 11 General Antitrust Analysis Coordinations ("CGAAs"), the specialized unit for unilateral conduct is CGAA 11.

²³ Available at: <https://www.oecd.org/competition/oecd-peer-reviews-of-competition-law-and-policy-brazil-2019.htm>.

Desist Agreements (2016); Guidelines on the Antitrust Leniency Program (2016), Guidelines on Dawn Raids (2017), Guidelines on Remedies (2018) and, more recently, Fighting Cartels in Public Procurement – Practical Guidelines for Procurement Officials (2021) and Guidelines on Parameters for Submitting Evidence in Leniency Applications (2021).²⁴

4.43. International cooperation is another important feature of competition law and policy in Brazil. CADE has cooperated with several foreign jurisdictions in the resolution of anticompetitive cases, assessment of mergers and a close dialogue in order to make their work converge for the purpose of more effective competition enforcement. CADE's international activities are guided by the logic that convergence of investigations, practices and procedures among authorities are essential to reduce time, costs and resources required for merger review and anticompetitive investigations. The constant information interchange about assumptions and antitrust practices adopted in different jurisdictions lead to improvements and to the progressive development of common standards for merger review and also to the enhancement of investigation techniques on anticompetitive practices.

4.44. This exchange is even more important given the constant need to coordinate antitrust responses to cross-border mergers that involve different (yet autonomous) antitrust authorities. The ultimate goal is to provide rapid and consistent decisions. Regular communication channels between technical units of antitrust authorities enable agencies to reach shared understandings on different competition issues, which, in turn, foster legal certainty and predictability, to the benefit of the business environment.

4.45. International fora tend to set agendas and thus shape important competition policy debates, and these discussions affect the behavior of companies and law firms. There has been a gradual change with regard to CADE's international cooperation over the last ten years. Nowadays, it is more widespread in terms of jurisdictions and matters.

4.46. In 2021, international cooperation maintained the dynamics observed in the previous year, with a high number of virtual interactions. Despite restrictions arising from the COVID-19 pandemic, CADE strengthened its participation in international fora for competition policy and intensified its cooperation with other antitrust authorities, with the exchange of information and experiences, as well as the performance of joint actions. CADE's main international activities are in the following forums (Table 4.2):

Table 4.2 CADE'S participation in international fora

Organization for Economic Cooperation and Development (OECD)
Competition Committee – Associate member since 2019
Working Group on Competition and Regulation (WP2)
Working Group on Cooperation and Enforcement (WP3)
Global Competition Forum
Latin American and Caribbean Competition Forum (LACCF)
International Competition Network (ICN)
Director Group – member since 2005; new mandate 2021-23
Working Group on Mergers – co-president in the 2020-23 mandate
United Nations Conference for Trade and Development (UNCTAD)
Intergovernmental Group of Experts on Competition Law and Policy
Working Group on Cross-Border Cartels
BRICS
Working Group on Competition and digital markets – coordinator with the Russian Competition Authority
Working Group on Competition on the automobile market
Working Group on Competition in the pharmaceutical sector

4.47. CADE is also very active in international co-operation in specific instances, especially with the competition authorities of the United States (DOJ), Chile and South Africa. The table below shows specific instances' cooperation of CADE with other antitrust authorities in the year of 2021 (Table 4.3):

²⁴ English version of CADE's Guidelines are available at <https://www.gov.br/cade/en/content-hubs/publications/guidelines>.

Table 4.3 CADE's cooperation with antitrust authorities in 2021

Cases	Market	Authorities
Delta/Latam	Aviation	United States (DOJ)
Danfoss/Eaton	Hidraulic solutions	United States (DOJ) European Union
Fiat/Peugeot	Automotive	Argentina
Tupy/Teksid	Iron Components	United States (DOJ)
Hapag-Lloyd/Nile Dutch	Container sea transport	South Africa
Faurecia/Hella	Automobile Components	South Africa
Discovery/Warner Media	Entertainment	South Africa Chile
Veolia Environment/Suez	Water treatment	Chile European Union
Valmet Oyj/Neles Corporation	Equipment for the Paper and Cellulose industry	Chile

4.48. To conclude, the latest numbers actually depict a significant improvement in performance terms, in spite of the challenging context brought by the pandemic. CADE held in 2021 18 ordinary and 1 extraordinary hearing, totalling 73 cases adjudicated last year. In the year 2021, CADE set a record number in its history, with 627 mergers submitted for review. Out of these, 611 deals were effectively reviewed, with an average 33 days to assess a case. Considering fast-track cases only, when cases are considered less threatening from a competition perspective, this number falls to 20 days – one of the shortest worldwide. CADE's Department of Economic Studies (DEE) published in 2021 a study to evaluate the impact of its actions. It came to the conclusion that CADE's actions (related to cartels, unilateral conduct, and mergers) in 2021 led to savings of BRL 4.2 billion, out of which BRL 3.2 billion resulted from activities related only to mergers. As for efforts against antitrust practices, BRL 610 million were collected in cartel cases and BRL 401 million in unilateral conduct cases.

4.1.6 Trade remedies

4.49. During the period under review, Brazil made use of trade remedy mechanisms, such as anti-dumping and countervailing measures, in conformity with the relevant WTO rules. The number of new measures applied each year decreased sharply and the number of measures in force has decreased from 180 in 2017 to 152 in 2021.

4.50. In 2019 Brazil's trade remedies investigative authority was renamed Undersecretariat of Trade Remedies and Public Interest (SDCOM) and there was a change in the competence to conduct public interest assessments, which are now performed by SDCOM and no longer by Technical Group for Public Interest Assessment (GTIP).

4.51. Public interest assessments seek to assess the existence of elements that exceptionally justify the suspension or amendment of definitive measures, when the impact of the imposition of the anti-dumping or countervailing measure on economic agents as a whole proves to be potentially more harmful, compared to the positive effects of the application of the measure. To this end, criteria such as the impact on the downstream and upstream supply chain, the availability of substitute products in origins not affected by the measure, as well as the structure of the market and competition may be observed. In this regard, ordinances were published to promote greater legal certainty, transparency and predictability to public and private entities on the elements that can be considered in the public interest assessment.

4.52. Brazil continued to modernize its legal framework in order to clarify existing rules as well as to give more transparency and predictability to the conduct of trade remedy investigations. Such modernization process encompassed the release of a new decree that regulates administrative procedures related to countervailing duty (CVD) investigations (Decree No. 10,839/2021), as well as the enactment of a SECEX ordinance that regulates some of the procedures provided for in such decree and that determines the information that must be submitted by the petitioner in each case (e.g. original investigations, sunset reviews and other assessments). The new decree refines the rules applied to CVD investigations, harmonizing them with the procedures already applied in anti-dumping investigations. It also incorporates relevant amendments regarding mandatory preliminary determinations for original CVD investigations and establishes a precise timetable on the stages of the investigation, such as probation and manifestation phases.

4.53. Furthermore, during the period under review, Brazil issued a decree to regulate the participation of fragmented industries in trade remedy investigation: the deadlines for filing petitions and supplementary information to petitions and for the analysis of information submitted by industries will be determined by the competent investigative authority, within the scope of each process, considering the specificities of each fragmented sector of national industry and the principles of proportionality and reasonableness. Criteria for qualifying the national production of a given product as a fragmented industry were also determined.

4.54. The overhaul of the Brazilian legislation related to trade remedies also comprised the release of new rules that provide (i) procedures for recommending the extension of anti-dumping duties in an amount lower than the duty in force; (ii) procedures and factors for recommending the extension of anti-dumping duties with the immediate suspension of its application; (iii) procedures applicable to the analysis of the export price in sunset reviews and (iv) the possibility of the optional pre-application phase in trade remedies investigations. At the end of 2021 Brazil promoted a process of consolidation of its legislation, reducing the number of ordinances and simplifying its trade remedies legal framework.

4.55. It must also be noted that several efforts were made to facilitate the participation of interested parties in trade remedy investigations conducted by Brazil. For instance, Brazil released several guides with the objective of disseminating knowledge on matters related to trade remedies to the general public.

4.1.7 Intellectual property

4.56. As part of the efforts to improve the Brazilian Intellectual Property (IP) system, the Brazilian Government launched its National IP Strategy (NIPS) in 2021. The strategy aims at reaching an effective and balanced national IP system, to be widely known, used and enforced. NIPS is expected to promote creativity, investments in innovation, and access to knowledge, contributing to improving overall competitiveness of the Brazilian economy as well as the country's socioeconomic development. The strategy is composed by 210 actions divided in 7 main axes, to be implemented in the next 10 years: (i) IP for competitiveness and development; (ii) Awareness, education and capacity building on IP; (iii) Governance and Institutional Strengthening; (iv) Legal framework modernization; (v) Enforcement and legal certainty; (vi) Intelligence and vision of future; (vii) Insertion of Brazil in the IP global system.

4.57. NIPS has already shown substantial results since its adoption, such as: reduction of 80% of the patent backlog; elimination of the mandatory participation of ANVISA (the National Health Regulatory Agency) in the patent process; creation of tools for the dissemination and commercialization of IP; elaboration of materials to tackle IP crimes in digital environment followed by enforcing actions to that end; insertion of IP in SMEs and innovation programs; elaboration of a proposal for the simplification of regulation on transfer of technology transactions.

4.58. Both the designing and implementation of the strategy bring together public and private stakeholders to discuss proposals to improve the Brazilian IP legal framework. The involvement of different institutions also aims at increasing transparency and best governance practices by bridging technical knowledge and policy aims in order to build and improve IP programs, projects and legislation. The coordination of public institutions in partnership with private ones also generates intangible results and gains that contribute to the credibility and stability of the Brazilian IP system in the medium to the long run.

4.59. One of the main actors in the Brazilian IP System, the National Institute of Industrial Property (INPI – the Brazilian patent and trademark office) has continued to improve its services, underscoring the relevance attributed to the protection and enforcement of IP rights, given that Brazil pursues further social and economic development, respecting, at the same time, the balance between rights and duties among producers and users of technology.

4.60. The most important effort carried out in recent years by INPI has been to improve its productivity. As such, INPI has also developed a number of systems in order to streamline its internal processes, eliminate unnecessary bureaucracy and increase the productivity of examiners. For instance, it was possible to implement the Industrial Property Automation System (IPAS), administered by the World Intellectual Property Organization (WIPO), which, since 2013, has

brought more consistency to management and has proved to be an important tool for trademark examination purposes. This partnership was extended to filings via The Madrid System, and now is on the way to be implemented for industrial designs. A related point to be considered is the constant revision of the normative framework, with procedures and administrative processes under review in both patent and trademark fields. INPI is developing a quality management system that will improve the conformity of examiners' decisions. Additionally, the Institute is working on modern technologies to reduce the complexity of the exam. These measures will certainly contribute to further increase the scale of exams and to reduce the backlog of trademarks and patent applications.

4.61. INPI has also promoted several actions to mitigate the impact of its patent backlog, such as the Backlog Combat Project that aimed, in two years, to reduce the total of 149,912 patent applications filed until 2016 with required examination and pending decision – (at the end of 2021, it reached 77% of reduction, compared to the 80% initially planned).

4.62. New Patent Prosecution Highway (PPH) pilot programs are being negotiated. Together with PPH pilot programs, actions on patent priority exams were in place. The first one consists of transforming the former "priority examination" (restricted to applications in the patent application queue awaiting the technical examination) in "priority procedure" (involving all activities of the patent process – from submission of documentation for filing to the end of the process at the INPI). The second action is a pilot project that allows patent applications with technology already available on the market and applications with technology resulting from public funding to be prioritized.

4.63. In conformity with other IP Offices around the world, INPI has also implemented a Home Office program, which makes it possible to carry out patent and trademarks examinations in different regional offices other than the Headquarters in Rio de Janeiro. In 2022, more than 80% of the Trademark Examiners work from home.

4.64. Following Brazil's accession to the Madrid Protocol in 2019, INPI implemented the operational requirements to creating a direct way to receive international trademark applications and for Brazilians to fill their trademarks abroad, contributing for Brazil to be ranked, in 2021, as the 14th country as Designated Office and the 36th as Certification Office. Additionally, Brazil is now on final proceedings to accede to the Hague system for registering industrial designs, and to launch a new version of the Industrial Designs Manual.

4.65. As for other IP assets, INPI has carried out relevant initiatives towards improving its services, such as the implementation of a registry of software by electronic means in an automatic and real-time manner, which is currently in progress; the development of electronic means for recording the topography of integrated circuits; the development of a system for the automatic generation of leaflet of published and letter-patent applications in an automatic manner. In the industrial design field, a workforce has been put together to streamline the examination of pending applications, bringing this backlog to zero.

4.66. In the field of copyright, from the enactment of Law No. 12,853/2013, which amended Law No. 9,610/1998 (Copyright Law), the federal government has the competence to enable, monitor, and inspect the collective management of copyright. From then on, collective management organizations (CMOs) need to be authorized by a federal public administration body and, annually, submit information and documents that allow the verification of the regularity of the exercise of their activities to guarantee a transparent and effective administration.

4.67. Currently, this attribution is the responsibility of the National Secretariat for Copyright and Intellectual Property (SNDAPI, the acronym in Portuguese), under the Special Secretariat for Culture of the Ministry of Tourism. In addition to the annual monitoring of the authorized entities, since 2018, the SNDAPI has analyzed and granted the application of 14 CMOs, enabling them to collect their respective rights.

4.68. Concerning the registration of works protected by copyright, the Brazilian federal government intensified efforts to centralize and digitize services. In this sense, Decree 10,359/2020 granted to SNDAPI the powers to propose and supervise the elaboration and application of rules on the activity of registering intellectually protected works; to support and guide federal public bodies responsible for copyright registration; and to implement and manage the database and information of the Brazilian Copyright Registration System. The system is currently under development.

4.69. Regarding the modernization of the national copyright legislation, in 2019, there was a Public Consultation to improve and update the Copyright Law in the face of new forms of distribution and consumption of intellectual works in the digital context. A Public Consultation Report was prepared after evaluation of the contributions received. In 2022, SNDAPI continues to monitor the proposal processing process and provide technical support whenever necessary.

4.70. Regarding the accession or internalization of international agreements, in July 2022, through Message nº 390, the President of the Republic sent to the National Congress a proposal for accession to the Treaty of the World Intellectual Property Organization (WIPO) on Interpretations and Phonograms (WPPT).

4.71. In addition, during the period under review, Brazil adopted measures to implement the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled (hereinafter, "Marrakech Treaty"), enacted in Brazil through Decree No. 9,522/2018. The Marrakech Treaty provides for copyright exceptions to facilitate the creation and cross-border exchange of accessible versions of books and other copyrighted works to your target audience. In 2020, SNDAPI held a public consultation to gather information and suggestions on the proposed Decree to regulate the Treaty. Subsequently, Decree No. 10,882/2021 regulated the administrative process of recognition of authorized entities, as well as their inspection and application of sanctions. In order to promote transparency and legal certainty, the SNDAPI published a Guide on the application of the Marrakech Treaty and its regulation, aimed at beneficiaries, authorization requesting entities, and society in general.

4.1.8 Micro, Small and Medium-Sized Enterprises (MSMEs)

4.72. The current Brazilian Federal Constitution from 1988 states in its Article 179 that the Union, the States, the Federal District and the Municipalities will grant to micro and small companies (MSEs) differentiated legal treatment, aiming at encouraging them by simplifying, eliminating or reducing by law their administrative, tax, social security and credit obligations.

4.73. Moreover, as defined by the Article 146 of the Federal Constitution, the Complementary Law No. 123/2006 addresses the definition and general rules of special and differential treatment to MSEs. The aforementioned law also provides definition of MSEs, special tax regime and other important provisions on legal framework for these enterprises.

4.74. Regarding technical regulation, the National Institute of Metrology, Quality and Technology (INMETRO) Ordinance No. 425/2016 establishes special and differential treatment to micro and small enterprises regarding payments obligations addressed by the referred ordinance.²⁵ In this sense, a number of technical regulations established by INMETRO provides special treatment for SMEs on allowing less burdensome conformity assessment procedures. On the conformity assessment procedures, for instance, INMETRO Ordinance No. 200/2021, which approves general requirements for product certification, exempts SMEs from audits in the process of complaints treatment.

4.75. The Decree No. 10,411/2020 rules the regulatory impact assessment and establishes the procedures, in the cases where public consultation is mandatory, for public manifestation, as the means to send comments and deadlines applied. Although the referred decree does not mention explicitly SMEs, they are encompassed by the legislation. The Decree No. 10,139/2019 provides for the review and consolidation of normative acts, according to the best international practices, which affects directly the entire regulatory environment, favoring SMEs as well, although not mentioning them explicitly. These regulations act to bring better regulatory practices to the Brazilian legal system, which ultimately favors micro and small companies.

²⁵ Available at <http://sistema-sil.inmetro.gov.br/rtac/RTAC002438.pdf>.

4.76. Complementary Law No. 123/2006 defines, in its Article 3, micro-enterprises and small businesses, as follows:

- Microenterprise, earns gross revenue equal to or less than BRL 360,000.00; and
- Small Business, earns gross revenue greater than BRL 360,000.00 and equal to or less than BRL 4,800,000.00.

4.77. According to the Enterprises Map, 2022, a tool provided by the Ministry of Economy, in Brazil there are 18,374,022 micro and small businesses, representing 94% of the total of 19,617,237 Brazilian companies. According to Getulio Vargas Foundation (FGV) and Sebrae (2020), micro and small businesses in Brazil employ 51% of total jobs and account for 30% of Brazilian GDP.

4.78. Data from the Brazilian National Institute of Statistics (IBGE) indicate the composition of micro and small Brazilian companies by the gender of workers and entrepreneurs. It is also possible to observe the number of employees by economic activity in this segment (Table 4.4).

Table 4.4 Employees in micro and small Brazilian companies

PNAD Microdata – 2021 (4Q)				
People +14 years old	Men	Women	Total	% Women
Total of people over 14 years old	83,282,000	89,001,000	172,283,000	51.70%
People over 14 years old in the labor force	60,528,000	47,230,000	107,758,000	43.80%
People over 14 years old employed	55,065,000	40,682,000	95,747,000	42.50%
People over 14 years old unemployed	5,463,000	6,547,000	12,010,000	54.50%
Unemployment rate (%)	9.00%	13.90%	11.10%	
Main Occupation	Men	Women	Total	% Women
Private sector Employee	29,207,605	17,730,621	46,938,226	37.80%
Own business	16,947,925	8,995,757	25,943,682	34.70%
Public sector employee (inclusive mixed capital companies)	4,279,707	6,308,478	10,588,185	59.60%
Domestic workers	477,307	5,220,044	5,697,351	91.60%
Employer	2,720,260	1,153,623	3,873,883	29.80%
Family unpaid worker	716,650	1,202,644	1,919,294	62.70%
Military of army, navy, aeronautics, military police or fire brigade	715,616	71,220	786,836	9.10%
Total of Entrepreneurs	19,668,185	10,149,380	29,817,565	34.04%
With enterprise registered (CNPJ)	6,046,062	3,485,983	9,532,045	
Without enterprise registered (CNPJ)	13,622,123	6,663,397	20,285,520	
% Informal	69.30%	65.70%	68.00%	
Employers	Men	Women	Total	% Women
With enterprise registered (CNPJ)	2,122,214	1,001,686	3,123,900	
Without enterprise registered (CNPJ)	598,046	151,937	749,983	
% Informal	22.00%	13.20%	19.40%	
Own Business	Men	Women	Total	% Women
With enterprise registered (CNPJ)	3,923,848	2,484,297	6,408,145	
Without enterprise registered (CNPJ)	13,024,077	6,511,460	19,535,537	
% Informal	76.80%	72.40%	75.30%	
Employers by Activity group	Men	Women	Total	% Women
Agriculture, livestock, forestry production, fisheries and aquaculture	489,990	102,398	592,388	17.30%
General industry	546,112	329,942	876,055	37.70%
Construction	780,086	53,257	833,343	6.40%
Sale, repair of motor vehicles and motorcycles	2,007,567	1,200,491	3,208,058	37.40%
Transport, storage and mail	436,554	39,860	476,415	8.40%
Accommodation and food	514,070	439,390	953,460	46.10%
Information, communication and financial, real estate, professional and administrative activities	1,095,095	563,222	1,658,317	34.00%
Education, human health and social service	229,134	328,648	557,782	58.90%
Other Services	544,038	579,042	1,123,080	51.60%
Ill-defined activities	1,460	1,670	3,130	53.30%
Total	6,644,107	3,637,920	10,282,028	35.38%

PNAD Microdata – 2021 (4Q)				
Women in Brazilian economy - statistics				
Group	Million women	% of the total		
1. Total over 14 years old)	89	100%		
1.1. Outside of the labor force	41.8	46.90%		
1.2. Inside the labor force	47.2	53.10%		
1.2.1. Unemployed	6.5	7.40%		
1.2.2. Employed	40.7	45.70%		
1.2.2.1 Workers (all kind)	30.5	34.30%		
1.2.2.2. Entrepreneurs	10.1	11.40%		
1.2.2.2.1. Informals	6.7	7.50%		
1.2.2.2.2. Formals	3.5	3.90%		

4.79. The Ministry of Economy's Special Secretariat for Foreign Trade and International Affairs (SECINT) has an institutional framework aimed at supporting MSMEs willing to export, namely the PNCE (National Plan for Exporting Culture). It promotes concerted actions through a network of national and state level institutions to help MSMEs trade overseas. The PNCE digital platform provides Brazilian enterprises with an automatically generated business assessment and a list of recommended actions to be implemented by these enterprises that will support them on their way to exporting.

4.80. Another program is Learning how to Export (Aprendendo a Exportar), which is a virtual collection guide devoted to relevant issues on exporting processes and operations. Its approach allows people from different backgrounds, regardless of their previous knowledge in international trade, to understand the process from the very first steps of internationalization to actually selling overseas. It is worth mentioning that this tool was designed not only to support MSMEs willing to export, but also to disseminate the exporting culture countrywide.

4.81. Moreover, the Brazilian government is making efforts towards the implementation of a digital platform on trade-related services, called BRAEXP, in partnership with the British government, under the Trade Facilitation Programme.

4.82. BRAEXP is designed to be a marketplace that connects different providers and their systems, in which MSMEs will be able to do an export maturity assessment and find a wide range of export services to attend their needs, from management skills courses and market research to financing, insurance and logistics. The project is pioneer in Latin America and is grounded in the concept of "Integrated Services for MSMEs in International Trade" (ISMIT), that is the digitization and integration of all services to enable an export.

4.83. This initiative is coordinated by the Ministry of Economy and counts on the participation of five other national institutions: the Ministry of Foreign Affairs, the Brazilian Trade and Investment Promotion Agency (Apex), the Brazilian Micro and Small Business Support Service (Sebrae), the Brazilian National Confederation of Industry (CNI) and the Brazilian Confederation of Agriculture and Livestock (CNA).

4.84. The Brazilian and British governments have an important partnership under the Trade Facilitation Programme to promote inclusive and sustainable economic growth in Brazil through the internationalization of the country's MSMEs. The cooperation includes the creation of BRAEXP.

4.85. Moreover, under the Brazil-United States Commercial Dialogue, the two countries are working to promote cooperation on trade facilitation for MSMEs, including the exchange of information and best practices and the engagement of relevant private sector actors in such initiatives.

4.86. Regarding RTAs, there are chapters dedicated to supporting MSMEs in cross-border trade in the Brazil-Chile Free Trade Agreement, in force since January 2022, and in the texts of the agreements in principle concluded between MERCOSUR and the European Union, in June 2019, and MERCOSUR and Singapore, in July 2022. Provisions of these chapters are mainly focused on facilitating access to trade-related information such as rates of customs duties, regulations and procedures applied to import, export and transit, among others. Additionally, there are commitments on cooperation and exchange of information with a view to enhancing the ability of MSMEs to benefit from opportunities created by such agreements.

4.2 Sectoral Issues

4.2.1 Industry

4.87. According to the Brazilian National Institute of Statistics (IBGE), taking into consideration the System of Quarterly National Accounts, from 2018 to 2021, the industrial sector performance in Brazil was impacted by various developments over the review period. In 2018, the industrial sector rose 0.7%, while GDP as a whole rose 1.8%. Although the GDP in that year was the highest since 2013, industry did not perform well, and the highlight was public utilities. Industries accounted for 21.6% of GDP, including mining and quarrying industry (3.0%), manufacturing industry (11.3%), public utilities (2.8%) and construction (4.5%). From the perspective of expenditure, the components of the Gross Fixed Capital Formation (GFCF) were construction (47.0%), machinery and equipment (38.0%) and others (14.0%). The investment rate reached 15.1%, and the savings rate was 14.5%.

4.88. In 2019, industry once again performed poorly, decreasing 0.7%, although the GDP increased by 1.2%. The industrial sector that year accounted for 20.9% of GDP, as follows: mining and quarrying industry (3.0%), manufacturing industry (11.0%), public utilities (3.2) and construction (3.7%). The GFCF comprised construction (44.0%), machinery and equipment (40%) and others (16.0%). The investment rate was 15.5%, and the savings rate was 12.2%.

4.89. In 2020, industry fell by 3.5%, in line with the GDP (-4.1%). The industrial sector accounted for 20.4% of GDP, as follows: mining and quarrying industry (2.9%), manufacturing industry (11.3%), public utilities (2.9%) and construction (3.3%). The GFCF comprised construction (42.0%), machinery and equipment (42.0%) and others (15.0%). The investment rate was 16.4%, and the savings rate was 15.0%. The performance that year was affected by the enforcements of lockdowns in the country to the outbreak of the COVID-19 pandemic, which disrupted industrial productive chains. The industrial highlights were food and pharmaceutical goods.

4.90. In 2021, industry rose 4.5%, contributing the recovery of GDP (4.6%). The industrial sector accounted for 22.2% of GDP, covering mining and quarrying industry (5.5%), manufacturing industry (11.3%), public utilities (2.7%) and construction (2.6%). The GFCF comprised construction (38.8%), machinery and equipment (48.0%) and others (13.2%) The investment rate was 19.2%, and the savings rate was 17.4%. That year represented an upturn for the industrial sector; however, its performance was affected by other challenges, such as rising inflation, the increase of the benchmark interest rate, disruption in industrial supplies chains, and rising cost of electricity and fuel for industry.

4.2.2 Agriculture

4.91. Brazil's long-standing agribusiness competitiveness and the trend of its production and exports have been supported by sustained investments in agricultural research, consolidating the country's leadership as a major agricultural producer and exporter. In 2021, agribusiness was responsible for USD 120.5 billion in exports that represented 43% of Brazil's total exports. Brazilian participation in world trade in the sector is 6.6%. Brazil is the world's main exporter of soybeans, poultry meat, bovine meat, sugar and coffee, and the second main exporter of corn and cotton.

4.92. Brazilian grain production in 2021-22 will probably reach 272.5 million tonnes, 29% higher than in 2016-17, in spite of adverse weather conditions in some important agricultural states.

4.93. Brazilian agricultural policy follows a market-oriented approach, privileging rural credit and risk management based on private rural insurance. As per WTO definition, Brazil has not provided market price support (MPS) to agricultural products between the last review and agricultural year 2019/2020.

4.94. According to the OECD Producer Support Estimates (PSE), Brazil is one of the countries that provide the least subsidies to agricultural producers, well below the OECD average.

4.95. The main sources of agricultural financing have continued to be resources from demand deposits and rural savings compulsorily destined for rural credit, resources from financial institutions, freely allocated in rural credit at free interest rates, and from Agribusiness Credit Bills (LCA) directed

to rural credit and credit lines managed by the National Economic and Social Development Bank (BNDES), as well as the "Constitutional Funds" aimed at reducing regional inequalities and promoting social and economic development through the financing of agriculture, agro-industry and other sectors, in addition to infrastructure, innovation and technology. These funds are targeted to the North, Northeast and Center-West regions (FNO, FNE and FCO).

4.96. The share of mandatory resources devoted to rural credit decreased from 34% to 25% of demand deposits, and from 74% to 59% of rural savings since 2017. In addition, since June 2015, a fraction of the balance of Agribusiness Credit Bills (LCA), which are fixed income securities backed credit transactions linked to agribusiness, are directed to rural credit. Since 2016, 35% of the balance of the funds raised by this financial instrument must be allocated to rural credit at no cost for the National Treasury.

4.97. The Government adopts national policies aimed at promoting the production of food by small farmers through public purchase programs carried out at market prices. Through the Feed Brazil Program (*Programa Alimenta Brasil*, PAB), which replaced the Food Acquisition Program (*Programa de Aquisição de Alimentos*, PAA), the Government buys food produced by family farmers and distributes it to social organizations that serve individuals and families in situation of food and nutrition insecurity. The new Program guarantees food security for both producers and consumers and strengthens local and regional commercial networks. Compared to the former PAA, the PAB has expanded the annual limits of amounts paid to families for the purchase of food. In the last 10 years, the Program has invested more than BRL 5 billion. In 2020, as a strategy to face the COVID-19 pandemic, the Program invested BRL 700 million, which guaranteed a market for farmers facing the closure of their marketing channels due to social isolation, in addition to guaranteeing a flow of food donations to social assistance entities. Another important public purchase program, the National School Feeding Program, in turn, encourages the purchase of food from family farms for use in school meals.

4.98. The Cisterns Program (*Programa Cisternas*) is part of a context of promoting climate adaptation actions and improving the quality of life of rural populations, with a high incidence in the Brazilian semi-arid territory. Law No. 12,873/2013 and Decree No. 9,606/2018 represent innovations in the process of implementing social technologies for access to water that have been supported within a strategy of universal access to water in rural areas for human consumption and for agricultural production, aiming at full human development and food and nutritional security for families in situations of social vulnerability.

4.99. Since 2003, around 1.3 million cisterns have been delivered by the Federal Government. The Program has proven to be effective, since it has significant and diverse impacts, whether on the health and quality of life of economically vulnerable families, or by enabling the increase and diversification of agri-food production, the dynamism of the local economy and the generation of income for the beneficiary families.

4.2.3 Services

4.100. In 2021, Brazil's exports of goods and services reached a total of USD 317.2 billion. Exports of goods increased 34.8% in comparison with 2020, in parallel with exports of services, which increased 16.1%, totalling USD 33.2 billion in 2021. In 2021, imports of goods and services increased 30.8% in comparison with 2020, reaching USD 297.9 billion. Imports of goods expanded 38.9%, whilst imports of services increased only 1.5%, totalling USD 50.3 billion in 2021.

4.101. From 2017 to 2021, exports of services decreased 3.8%, reducing the share of services in Brazilian exports from 13.6% to 10.5%. Imports of services contracted 30.9%, reducing participation in the composition of Brazilian imports, from 31.2% to 16.9%. The deficit in the Services Account has declined since 2018, reaching USD 17.1 billion in 2021. The deficit reduction resulted from economic contraction caused by COVID-19 pandemic in 2020-21 that weighed heavily on imports of services. In 2021, the deficit decreased by 18.3%, compared to the previous year.

4.102. Over the past years, Brazil practically maintained its participation in world trade in services, ranking 33rd among world exporters in 2021. In the same year, Brazil ranked 26th among services importing countries.

4.103. The participation of Brazil's services sector in the Brazilian Gross Domestic Product (GDP) has decreased in the past years from 63.3% (2017) to 59.4% (2021), while the share of the industrial sector increased from 18.2% (2017) to 18.9% (2021). In 2021, the services sector had a share of 47% of all formal jobs in the country, according to data from the Ministry of Labor (CAGED/MTE).

4.104. Regarding Brazilian data on foreign trade in services, it is worth noting that the Brazilian Integrated System for Foreign Trade in Services and Intangibles (Siscoserv) was discontinued in 2020. The system's shutdown was part of a broad process of reducing bureaucracy, facilitating, and improving the business environment promoted by the federal government, based on the Economic Freedom Act (Law No. 13.874/2019). The objective was to provide cost reduction and simplify processes for public and private agents. This measure did not result in loss of information, as statistics on foreign trade in services continued to be produced and published by the Central Bank of Brazil based on foreign exchange contracts, in accordance with the best practices and recommendations of the Balance of Payments and International Investment Position Manual (BPM6 - IMF).

4.2.4 Renewable energy

4.105. Brazil has one of the world's most renewable energy matrixes. According to the National Energy Balance (BEN, EPE 2022), 44.7% of the domestic energy supply comes from renewable sources. The diversification of the energy matrix, which is made possible with the expansion of the supply of sugarcane derivatives, wind energy and biodiesel is contributing to the continuation of this high share. Renewable sources will continue to account for a large share of supply, mostly due to the use of hydropower, new renewables (wind & solar) and bioenergy, including biofuels.

4.106. Only 30% of Brazil's hydroelectric potential has been exploited. The potential for increased production of this renewable and affordable energy source is an integral part of the country's long-term strategy for the sector. Widespread access to affordable energy is crucial to achieve the goals of sustainable development, to promote social inclusion and poverty reduction; to advance national integration and the reduction of greenhouse gas emissions; and to improve competitiveness. Brazil is, therefore, investing in research and in new technologies to improve the generation, transmission²⁶ and distribution of energy.

4.107. Brazil also considers bioenergy, including biofuels, an indispensable tool for the expansion and diversification of the energy matrix. Nowadays, biomass²⁷ electricity – generated mostly from sugarcane processing plants – accounts for about 8% of Brazil's total electricity energy supply. By 2031, biomass, wind and solar generation are expected to supply 22% of the country's electricity energy needs. In the transportation sector, the use of ethanol and biodiesel plays a key role in the pursuit of sustainable development, climate change mitigation and energy security. The Brazilian case shows that the long term and large scale sustainable production and use of biofuels are possible, and Brazil continues to work towards the creation of an international market for biofuels.

4.108. The Brazilian Biofuels Policy (RenovaBio), with the main objective of promoting the reduction of greenhouse gas emissions by expanding the production and use of biofuels in the transport matrix is a key development. Brazil is the second largest biofuels producer with a total of 411 kboe/d, just behind USA, the worldwide leader with a 665 kboe/d production. It is also important to point out that the Brazil's gasoline has 27% of anhydrous ethanol in its mixture, the higher percentage in the world.

4.2.5 Rail transport

4.109. In recent years, railway concessionaires and authorized operators have shown greater interest in investing to increase available rail transport capacity. Investment proposals are being analyzed by the competent areas of the Government regarding early renewals of railway concession contracts, new concessions and authorizations contracts.

²⁶ High-voltage power transmission.

²⁷ Including Urban Solid Waste and Biogas.

Early renewals of railway concession contracts

4.110. Since 2020, early renewals of railway concessions have allowed concessionaires to operate the main Brazilian railways for another 30 years in exchange for new investments. These include the following railways:

- *Rumo Malha Paulista* (2,118 km long), which is the main railway to the port of Santos;
- *Vale Carajás* (996 km long), which connects the port of Itaqui to the north of Brazil, transporting mainly iron and grains;
- *Vale Vitoria Minas* (894 km long), which connects the port of Vitória to the iron mine cluster around Belo Horizonte, transporting mainly iron and grains; and
- MRS (1,821 km long), which connects the iron mine cluster around Belo Horizonte to different ports in Rio de Janeiro and São Paulo.

New concessions

4.111. Since 2019, the Ministry of Infrastructure has developed the following important new concession projects, with the main objective of generating jobs and stimulate economic growth:

- *Ferrovía Norte Sul* (EF-151, 1,537 km long)
- *Ferrovía de Integração Oeste-Leste*, phase one (FIOL 1, EF 334, 537 km long);
- *Ferrogrão* (EF-170, 965 km long);
- *Ferrovía de Integração Oeste-Leste*, phase two (FIOL 2, EF 334, 485 km long); and
- *Ferrovía de Integração do Centro-Oeste*, phase one (FICO 1, EF 354, 383 km long).

4.112. The concession process has been concluded for the first two abovementioned projects, while the auction of the other three projects is expected to take place until 2024.

New authorizations contracts

4.113. In 2021, Brazil published the Law No. 14,273, which provides the possibility of exploration of railways through authorization contracts, similar to the model allowed by the Rail Stagers Act of 1980, in the United States. Under this new legal framework, any interested private party can request the National Land Transport Agency (ANTT) for authorization to operate greenfield railways, upon formalization of an adhesion contract.

4.114. Under the new open market rail regime, 27 new contracts have been assigned, and 54 new proposals are under analysis. If all proposals are approved, the rail network will be expanded by about 20,000 km of new railroads.

4.2.6 Air transport

4.115. Brazil remains among the world's largest domestic aviation markets and among the countries with the most airports. Air transport regulation in Brazil follows a free competition regime based on unrestricted arrangement of pricing and routes, according to commercial considerations of the market.

4.116. Due to the COVID-19 pandemic, the number of scheduled and non-scheduled flights dropped, in 2020, by 50.8% as compared to 2019. The number of passengers had its first drop since 2016, with 52 million domestic and international passengers, representing a 56.4% reduction from 2019. In this context, the Brazilian government adopted emergency measures to mitigate the negative economic effects of the crisis on the sector, while seeking to protect the interests of passengers. For example, a measure was enacted temporarily exempting companies from fines for delaying airline ticket reimbursement. Other relevant measures were the Provisional

Measure No. 925/2020 (converted into Law No. 14,034/2020), and ANAC Resolution No. 556/2020. In spite of these initiatives, the biggest Brazilian airline companies registered losses of BRL 20.4 billion in 2020.

4.117. The domestic market suffered a drastic reduction in 2020, having only 406,300 flights (-49.4%) and 45.2 million passengers transported (-52.4%) in this year. Aircraft utilization (RPK/ASK) registered an 80% decrease as compared to 2019. Revenues per Available Seat Kilometer (RASK) decreased by 53.4% and Costs and Expenses per Available Seat Kilometer (CASK) rose by 40.8%.

4.118. The international market was impacted even more heavily by the pandemic, showing a sharper reduction in both supply and demand, with only 59,900 flights performed (-58.9%) and the number of passengers transported was only 6.8 million (-72%). This resulted in a reduction in aircraft utilization (RPK/ASK) from 84% to 65%. Brazilian companies accounted for 34% of the international demand (RPK) transported in 2020.

4.119. In 2020, 21.5% of Brazil's imports (by value) and 6.1% of its exports were moved via air cargo compared to 21.3% of imports and 5.9% of exports in 2016. Brazilian companies accounted for 20.3% of total international air cargo transported in the country in 2020, compared to 24% in 2015.

4.120. Gol, a private-owned air company, maintained the largest share in the domestic passenger market, with 16.7 million passengers, followed by Latam and Azul in 2020. The average domestic fare fell by 14.5% in 2020 compared to the previous year in real terms, while the average domestic yield (price charged per kilometer flown) decreased by 23.3%. Azul had the highest average yield value, at BRL 0.347. Latam and Gol presented average yield values of BRL 0.266 and BRL 0.260, respectively.

4.121. The air transport market remains concentrated. No state-owned domestic companies operate in this segment and no mergers or take-overs have taken place since 2013, despite the suspension of operations of Avianca in May 2019. Thirteen Brazilian companies provided regular and non-scheduled public air transport services, except air taxi, of which three were mainly cargo operators in 2015 and in 2020. In 2020, a total of 106 companies provided international air transport services, of which 30 operated only in the cargo transportation market. Among Brazilian companies, three (Gol, Tam and, Azul) represented 99.5% of the domestic market share (in terms of revenue passenger kilometers - RPK) and 99% of the passengers transported on domestic flights in the country. Among the main cargo companies, LATAM Cargo Brasil (previously Absa LAN cargo) carried 30.9% of the total cargo freight in the domestic market. Brazilian companies accounted for 29.4% of international flights to and from Brazil in 2020. Latam, Gol, and, Azul accounted for 85% of international flights operated by Brazilian companies; considering both domestic and foreign carriers, these three Brazilian companies had shares of 13.5%, 7.2%, 4.3% in flights in 2020, respectively, whereas the foreign companies Tap, Aerolíneas Argentinas, Lan Cargo S.A. and Copa Airlines had shares of 7.1%, 6.4%, 5.5% and 5.4% respectively.

4.122. The institutional framework governing the aviation sector in Brazil was slightly modified during the review period, given that the Civil Aviation Council (CONAC) now serves as an advising body of the Presidency of the Republic for the formulation of the Brazilian civil aviation policy. The Ministry of Infrastructure (MInfra) coordinates and supervises actions for the development of airport and aeronautical infrastructure through the Civil Aviation Secretary. The Brazilian Civil Aviation Authority (ANAC)²⁸ regulates and inspects civil aviation activities and airport and aeronautical infrastructure. ANAC is linked to the Ministry of Infrastructure, but not hierarchically subordinated to this Ministry. The Agency has administrative independence and financial autonomy, and its directors have a fixed-term mandate. CONAERO acts as a consultative and deliberative commission composed by bodies that directly work with airport management in order to make airports more efficient. Infraero is a public company responsible for 59 airports in the country and holds 49% of the following airports: Guarulhos (SP), Viracopos (SP), Brasília (DF), Confins (MG) and Galeão (RJ). The Department of Airspace Control (DECEA) is, in its turn, subordinated to the Aeronautical Command and the Ministry of Defense. The Aeronautical Accidents Investigation and Prevention

²⁸ ANAC's monitoring report of its strategic indicators available at: https://www.gov.br/anac/pt-br/acesso-a-informacao/acoes-e-programas/arquivos/MonitoramentoIndicadoresEstrategicos2020_2021_Final_Diagramado.pdf.

Center (CENIPA) is also subordinated to the Aeronautical Command and the Ministry of Defense and is responsible for the investigation and prevention of accidents.

Regulatory and operational framework

4.123. The main legal instrument remains the Brazilian Aeronautical Code (CBA) of 1986, recently amended by Laws 13,319/2016 and 13,842/2019, which allowed airline companies with up to 100% of foreign capital to operate in Brazil. In May 2019, Air Europa was incorporated as the first 100% foreign-owned airline in Brazil. In addition, five other companies received authorization from ANAC to operate scheduled international services to/from Brazil: Norwegian, Sky Airline, FlyBondi, Italia Trasporto and Fast Colombia (Viva Air). Another important amendment to the Aeronautical Code aims at simplifying authorization processes and civil aviation in Brazil and is currently undergoing its final approval stages. For aircrafts employed in commercial air transport by Brazilian certificated operators, the standard is to use Brazilian-registered aircraft; now, the use of foreign-registered aircraft may be authorized through an interchange arrangement.

4.124. In the Brazilian market, domestic air fares are determined freely by airline companies, therefore no prior approval is necessary. However, companies must report their fares on a monthly basis to ANAC for statistical purposes.²⁹

4.125. Pursuant to Law No. 14,034/2020, emergency measures for civil aviation were introduced in the context of the COVID-19 pandemic, determining cases when indemnity for off-balance sheet damage as a result of failure to perform the air transport contract should be excluded. Moreover, Law No. 13,874/2019 established principles for the interpretation of legislation and contracts in the sector and established norms for the protection of free enterprise and free exercise of economic activity, as well as simplification of requirements for incorporation of companies and simplification of authorization processes. In its turn, Law No. 13,848/2019 provided for disciplines on the management, organization, decision-making process and social control of regulatory agencies including ANAC. These disciplines established mandatory compliance requirements for the regulatory process, ensuring that studies are carried out, guaranteeing social participation and analyzing regulatory impact prior to issuing regulations that may impose obligations on regulated persons. Finally, ANAC Resolution No. 556/2020 introduced temporary and exceptional relaxation of certain provisions in order to offset the negative effects caused by the COVID-19 pandemic. This exceptional measure expired on 30 October 2021 for domestic flights and on 31 March 2022 for international flights.

4.126. Since 2015, ANAC has been revising regulations on the general conditions of carriage and passenger rights in Brazil. The General Conditions of Carriage entered into force in March 2017, introducing regulations based on international best practices and in line with the Brazilian Consumer Protection Code, giving consumers the right to cancel a purchase before its completion. Furthermore, harmonization between the general conditions of carriage and the Consumer Protection Code is important to promote regulatory stability and to reduce judicialization.³⁰ As addressed in the previous TPR report, air transport companies continue entitled to include checked baggage in the ticket price or to charge it separately.³¹

4.127. The civil aviation policy pursues greater integration between Brazilian aviation and international markets, through the conclusion of air services agreements (ASAs). During the review period, new Air Services Agreements (ASAs) were signed with Angola; Bahrain; Colombia; Côte d'Ivoire; Czech Republic; Guatemala; Guyana; Israel; Luxembourg; the Netherlands; the Netherlands in respect of Sint Maarten; Qatar; Rwanda; Sri Lanka; Türkiye; the United Arab Emirates; and Viet Nam. Brazil currently maintains 116 bilateral ASAs, including open skies agreements with more than 69 countries. During the review period, MoUs were signed with: Cambodia; China; Colombia; Czech Republic; El Salvador; Finland; Greece; Haiti; Hong Kong; China; Iran; Luxembourg; Malaysia; Malta; Nicaragua; Portugal; Qatar; Scandinavian countries (Denmark, Norway and Sweden); Slovenia; Thailand; the United Kingdom; Cabo Verde, United Arab Emirates. Brazil has negotiated 7th freedom traffic rights but for all-cargo

²⁹ Article 49 of Law No. 11,182 of 27 September 2005, and ANAC Resolution No. 140/2010.

³⁰ ANAC Resolution No. 400 of 13 December 2016.

³¹ WTO document WT/TPR/S/358/Rev.1, 18 October 2017.

services only, bilaterally with Chile, United Kingdom, Cabo Verde, El Salvador, Dominican Republic, Czech Republic, Qatar; Finland and Oman. Negotiations with other countries are ongoing.

4.128. Brazil also participates in the Fortaleza Agreement on regional air transport services covering all routes not operated under bilateral agreements among the parties.³² The country is also a signatory to the 2012 Multilateral Open Skies Agreement for the member States of the Latin American Civil Aviation Commission (LACAC) with reservations regarding 7th, 8th and 9th freedom traffic rights. The agreement was sent to the National Congress in August 2016 and was ratified by Brazil in March 2019. Currently, a process for lifting reservations on 7th freedom traffic rights, limited to all-cargo services, is being prepared for analysis by the Brazilian National Congress. The Brazilian National Congress has recently approved the signing of ICAO's International Air Services Transit Agreement.

4.2.7 Ports and maritime transport

4.129. In 2022, the merchant fleet registered under the Brazilian flag (long-haul and cabotage) consisted of 263 vessels (184 in 2015), operated by 37 shipping companies and with a total capacity of 5.6 million deadweight tons (DWT) (3.4 dwt in 2015). Oil tankers represent 58.7% of total DWT capacity, followed by bulk carriers (21.22%) and container ships (8.99%). The predominance of oil tankers and bulk carriers reflects the overall structure of Brazilian goods exports, comprised by oil, iron ore, soybeans, sugar, and other commodities.

4.130. Considered a milestone in the development of maritime transport in Brazil, Law No. 14,301/2022 introduced the Maritime Cabotage Stimulus Program, called "BR do Mar" (meaning 'the federal highway of the sea'). This law also brought significant changes to Law No. 9,432/1997, the main legal framework that organizes Brazil's waterway transport and regulates cabotage.

4.131. This program seeks to foster competitiveness and promote accessibility to this modal, increasing the offer of better quality cabotage services, enabling the expansion of the fleet and the development of the domestic naval industry, and encouraging national seafaring education, training, and qualification.

4.132. Since the country has a coastline of 8,500 km, the transportation of goods and passengers by coastal shipping (cabotage) in Brazil has increased in recent years, and growth potential is still significant. Economic growth in the country's North and Northeast regions, as well as the rising purchasing power of an emerging middle-class, have created opportunities for the development of coastal shipping in Brazil.

4.133. Brazil's port infrastructure handled 1.214 billion tons of goods in 2021 (5.08% growth compared to 2020). This is equivalent to 81.82% of the total value (USD f.o.b.) of the country's foreign trade in the same year (88.44% of exports and 73.34% of imports) and to 96.94% of total foreign trade by tonnage (98.11% of exports and 92.33% of imports). Between 2010 and 2020, the total movement of cargo in ports and terminals in Brazil grew, on average, 3.75% annually (from 840 million to 1.214 billion tonnes). During this period, the movement of containers also increased, on average, by 6.01% per year in tonnes.

4.134. Since the entry into force of the new Law of Ports (Law No. 12.815/2013), investment in the sector has been limited to the new Grant contracts, as well as the new term extensions of current contracts. Nonetheless, the amount established in these cases is just an estimation. Its attainment is part of either the Basic Plan of Investments or the Execution Projects presented by the tenants, and it could be satisfied in different moments of the contracts' validity.

4.135. Since 2019, 51 contracts regarding private terminals have been signed, representing a total investment of BRL 15.91 billion.

4.136. The total investment in private terminals since 2013 has been BRL 48.08 billion.

³² Other signatories are Argentina, the Plurinational State of Bolivia, Chile, Paraguay, Peru, and Uruguay.

4.2.8 Telecommunications

4.137. The Brazilian telecommunications market, during the review period, had its growth particularly driven by the expansion of mobile and fixed data services broadband Internet access. Investment in the telecommunication sector increased from BRL 25.7 billion in 2017 to BRL 27.9 billion, in 2021.

4.138. The mobile telephony market went through a recovery cycle during the years under review. After a decline in the number of mobile telephone subscriptions at the beginning of the period, hitting 239 million subscribers in December 2017, this market reached 259 million subscribers in April 2022, with a teledensity of 104.7 mobile lines per 100 inhabitants.

4.139. Another development in the period was the consolidation of the main players in the telecom market, including through companies mergers, such as the Claro-Nextel, in 2019, and Oi, in 2021. Between 2017 and 2021, further decrease in prices in the wholesale and retail markets and a wide adoption of messaging apps in lieu of traditional voice and SMS services were observed. The period under review also displayed an increase in the share of post-paid lines in relation to pre-paid phones, as around 53.5% of mobile lines are currently post-paid (46.5% pre-paid), in comparison to 28.5% in 2017. Moreover, mobile services maintained their relevance as a means of access to the Internet in Brazil, considering that, according to TIC Domicílios 2020, 64% of the Brazilian population (49% in 2017) rely exclusively on a mobile connection to access Internet services. This survey reviews that the number of users of Internet that rely (not exclusively) on mobile connection has remained high, from 96% in 2017 to 99% in 2021.

4.140. Internet usage continues to report impressive growth, spurred by increased broadband access across the country, following initiatives by the Government to expand access and make broadband connections more affordable under the National Broadband Plan and other public policies. The deployment of 4G networks accelerated during the review period, surpassing the number of 3G access in October 2017 and, since then, the gap between these technologies has increased. In December 2021, access to 4G networks in Brazil reached 197.2 million, followed by 3G with 28.8 million, which significantly expanded mobile broadband access in recent years. Also the number of fixed broadband subscriptions reached 41.7 million fixed access in December 2021 against 26.8 million in December 2017.

4.141. In contrast, the number of fixed telephone lines decreased significantly during the period under review. In 2017, there were 41.4 million fixed accesses in service, whereas these accesses were reduced to only 28.9 million in December 2021. Another area that experienced decrease was pay TV subscription, which reduced from 18.1 million subscribers in December 2017 to 15.9 million on December 2021.

4.142. The expansion of investments in telecommunications and of mobile and fixed broadband are illustrated by recent data of Internet access. According to a 2021 "TIC Domicílios" survey, 82% of households in Brazil have either fixed or mobile broadband service subscriptions in 2021, in comparison to only 61% in 2017. Other initiatives, namely the Wi-fi Brasil Program (2021), aimed at increasing Internet coverage and access in underserved areas, particularly rural and remote locations, have been put forward and have helped bridge the digital divide within the country. In this regard, the rural population with access to the Internet also grew from 34% in 2017 to 71% in 2021. Brazil is home to the 5th largest digital population in the world, as 81% of its population are Internet users.

4.143. Today, Brazil's telecommunication sector is fully open to competition and presents different market dynamics. While the mobile market is concentrated, having a handful of large operators from abroad, including Telefónica (Spain), Telecom Italia (Italy) and Teléfonos de México (Telmex)/América Móvil (Mexico), almost half of the fixed market is controlled by thousands of regional providers. A recent change was the selling of the mobile telephony operation of Oi to Claro, Vivo and TIM, three big companies in this market. The operation was conditioned, in 2021, by CADE, to a merger control agreement.

4.144. As of April 2022 the fixed line market, consisting of 166 operators (32 in 2012 and 65 in 2015), was dominated by Claro (owned by Telmex, 30.6%), Oi (formerly Telemar) (39.7%) and Vivo (Telefónica, 26.0%). As of April 2022, the mobile telephony market, consisting

of 11 operators, including the MVNO operators, (18 in 2012 and 20 in 2015), continued to be mainly operated by Vivo (38.1%), Claro (32.8%) and TIM (26.5%). Between March 2021 and April 2022, the number of companies authorized to supply fixed broadband services grew by 12.7%. As of April 2022, the fixed broadband market consisted of 11,734 operators (1,725 in 2012 and 3,223 in 2015) and was dominated by Claro (Embratel/Net, 23,3%), Vivo (Telefónica, including GVT, 15.2%) and Oi (12.3%). Nonetheless, small and medium operators' market share has experienced rapid growth in recent years and accounts for more than 19.7 million subscribers as of April 2022.³³

4.145. The National Broad Band Plan (PNBL) was instituted by Decree No. 7,175/2010, with a view to boosting access to broadband services across the country and bridging the digital divide, in collaboration with private operators. The plan consists of a series of actions in several dimensions, including spectrum auctions to increase mobile broadband coverage (4G and telecommunications services for voice and data in rural and remote regions), the implementation of a national transmission network (backhaul and backbone), Agreements for the expansion of commercial broadband offers at low prices and regulatory measures aimed at promoting greater competition and network expansion.

4.146. In addition to PNBL, The Structural Plan for Telecommunications Networks (PERT), approved by ANATEL's Rule 309/2019, presents a general mapping of the broadband infrastructure in the country, enabling the regulator to diagnose the existence of infrastructure suited to meeting the demands of each region in Brazil. The overview allows the adoption of effective actions on quality of service, access expansion, spectrum availability and competition stimulus. Moreover, PERT shows clearly any gaps in transport and access networks in the Brazilian territory, supporting the preparation of lists of investment projects capable of correcting identified deficiencies, and the analysis of possible sources of funding for the Public Administration in the execution of such projects.

4.147. Regarding technological convergence measures, Law No. 12,485/2011 changed and unified the regulatory framework for pay TV services. It removed the limit on foreign investment in cable TV (which did not apply to pay TV services provided through MMDS or DTH technologies). Law No. 12,485/2011 also eliminated previous limitations on fixed-line telephony concessionaires to provide cable-TV services and removed regional restrictions on telecommunication operators, allowing them to provide pay TV services anywhere in Brazil. In 2020 ANATEL ruled that offers of subscription video on demand (sVOD) do not fall under the legal framework established in 2011. According to the ruling, most users acquire sVOD offers through a broadband or a mobile connection, which excludes applicability of Law 12,485/2011.

4.148. The "General Antenna Law", an infrastructure legislation of 2015³⁴, seeks to reduce instances of duplication of mobile-network base station in urban areas by making a requirement for operators to share infrastructure and excess capacity. In 2017, ANATEL approved Resolution 683, which further disciplined conditions for infrastructure sharing among telecommunication services providers, aiming at optimizing resources and improving the quality of services. In 2021, after Article 12 of the "General Antenna Law" was legally challenged, the Brazilian Supreme Court supported that this provision was constitutional, therefore, states and municipalities cannot charge any fee or consideration for the passage of telecommunication infrastructure through state or municipal public lands, which can greatly reduce the expected cost for the sharing of infrastructure.

4.149. In 2012, ANATEL Resolution 600 approved the General Plan of Competition Goals (PGMC), establishing that groups with Significant Market Power (SMP) in relevant wholesale markets should contract a Supervisory Entity Of Wholesale Offers (SNOA) to implement and operate the Wholesale Supply Negotiation System with the aim of mediating, in an equitable and non-discriminatory way, the process related to the procurement of wholesale services supplied by groups with SMP. In 2018, this regulation was amended to include new definitions regarding market conditions in both local and national markets. As a result, relevant market definitions encompass at least four services (broadband, voice, mobile and audiovisual content), which can be categorized locally according to the degree of competitive maturity. PGMC also established a revised threshold for asymmetric regulation of telecommunication providers (5% of market share in at least one national market).

³³ In 2020 Anatel published a practical guide regarding mandatory filings and disclosures by regulated companies. See at: <https://www.gov.br/anatel/pt-br/regulado/outorga/alteracoes-contratuais> (in Portuguese).

³⁴ <http://www.anatel.gov.br/legislacao/leis/807-lei-13116>.

The revised criteria contributed to reduce the regulatory burden for small and medium providers and to improve efficient rulemaking by ANATEL.

4.150. With regard to Internet-related measures, Brazil introduced Law No. 12,965, of 23 April 2014, on network management in the context of network neutrality, as well as on the protection and keeping of records (logs) and personal data of Internet users, which apply both to Internet connection (service) providers and to Internet application/content providers.

4.151. Furthermore, the General Data Protection Law (Law No. 13,709/2018) was enacted to protect the rights to freedom and privacy. The law disciplines treatment of personal data, available in physical or digital means, carried out by a legal or a natural person of public or private law, encompassing a vast set of operations that could take place in manual or digital means. The Constitutional Amendment 115/2022 included the protection of privacy rights in the list of fundamental rights, being elevated in the Federal Constitution's hierarchy. The National Data Protection Authority (ANPD), established in 2020 to ensure the compliance with Law No. 13,709, became a federal autarchy in 2022 and was granted more autonomy in its decision-making.

4.152. In 2019, the General Telecommunication Law (LGT, Law No. 9,472/1997) was amended by Law No. 13,879/2019 to establish a new framework that fosters investments in broadband and infrastructure. The main changes include the possibility of adapting fixed telephony concessions with market-oriented authorizations, the establishment of secondary spectrum market, and new rules for satellite license renewal. Satellite operators can now be granted 15 year licenses that can be renewed without limitations.

4.153. Another important change in the telecommunication legislation was the amendment of the Law No. 9,998/2000 by Law 14,109/2020, allowing a more efficient use of the Universal Service Fund (USF). The USF can now be used for investments in initiatives related to access and connectivity public policies, in contrast with the older stricter regime where the fund could only be invested in services under the public regime (fixed telephony).

4.154. In September 24 2021, the largest spectrum offer in ANATEL's history, the so-called "5G Auction" (Public Bidding No. 1/2021-SOR/SPR/CD-ANATEL, regarding the issuance of Authorizations for the Use of Radiofrequencies in the 700 MHz, 2.3 GHz, 3.5 GHz and 26 GHz, with the possibility of granting the Personal Mobile Service – SMP) was approved by the Agency's Board of Directors. The Bidding Notice was published in the Official Gazette of 27 September 2021. The results of the Auction amount for BRL 46.7 billion in fees and investment obligations, including the implementation of 5G standalone, coverage of federal highways and investment in connectivity projects for public schools.

4.155. Improvements in the telecommunications regulatory framework enhanced the country's business environment and contributed to consolidate Brazil's standing as the biggest telecommunications market in the region, as well as one of the biggest international players in this sector. Likewise, according to data provided by Teleco, the number of telecommunication companies grew significantly over recent years, increasing from 8,948 in 2017 to 11,043 in 2019. Brazil ranked 6th in the mobile market in the world between 2017 and 2020. The Internet Exchange point (IXP) system of Brazil, called "IX.br", is deemed as one of the world's biggest IXP and reached a peak of 20 Tbit/s of Internet traffic exchange. This landmark is a consequence of the growth of the Internet in the country and of the number of both Internet connection providers and content providers participating in the domestic Internet connection market.³⁵

Additionally, Brazil has engaged in international cooperation for the deployment of connectivity infrastructure through the deployment of submarine and terrestrial optic fiber cables, providing direct connections to Africa and Europe. In this regard, the inauguration of the Ellalink submarine cable in 2021 is an important achievement, connecting Brazil directly to Europe.

³⁵ The IX.br is an initiative of Steering Committee of the Internet in Brazil (CGI.br) that aims to install and operate Internet traffic exchange points and provide the necessary infrastructure for the direct interconnection of the Autonomous Systems (AS) to the networks that make up the Internet, helping reduce costs and improve the performance of participating networks and the entire Internet.

5 FUTURE DEVELOPMENTS

5.1. After a decrease of 3.9% in GDP in 2020, under the impact of the COVID-19 pandemic, the Brazilian economy showed a strong recovery in 2021, 4.6% GDP growth. In 2022, despite the lingering impact of the pandemic, and the global effects associated with the conflict in Ukraine, Brazilian economic indicators are resilient, with a positive outlook. The forecasts of economic indicators have been revised upwards (including by international organizations such as the IMF). As of August, the Brazilian Government estimates a growth of 2.0% in 2022, while the IMF in its last review changed its forecast from 0.8% to 1.7%. For 2023, the Brazilian Government estimates an economic growth of 2.5%.

5.2. Recent measures adopted by the government and the structural reform agenda have strengthened the Brazilian economy to face current challenges. There is a focus on fiscal sustainability and structural reforms necessary for a sustained economic recovery, while reform efforts continue to improve the social safety net, the sustainable fiscal framework, and the competitiveness of the Brazilian economy.

5.3. The Brazilian government has implemented a series of pro-market microeconomic reforms as the basis of its economic policy to consolidate the growth recovery on a sustainable basis, with increased participation of the private sector and increased productivity. The long-term growth of the Brazilian economy fundamentally depends on fiscal consolidation (which includes the reduction of the debt/GDP ratio) and on the consolidation of the pro-market reform agenda, encompassing trade liberalization, privatization of public enterprises, concessions of infrastructure, improvement of legal frameworks (reducing legal uncertainty), and improvement of the business environment in general.

5.4. Brazil has adopted a series of structuring policies in recent years, such as the pension reform, the autonomy of the Central Bank, the new bankruptcy law, and several changes designed to promote infrastructure projects and reduce the costs of doing business and investing in Brazil.

5.5. A new regulatory framework in oil & gas, sanitation, railways, and 5G networks has attracted the interest of the private sector, resulting in investment commitments of more than USD 150 billion for the next 10-12 years. New frameworks for cabotage, securitization, and startups were approved. The gradual elimination of IOF (financial transaction tax) on foreign exchange is ongoing.

5.6. On the environment, the country stands by the sustainability commitments reached in the Paris Agreement and at COP26. It is regulating the Carbon Market, and innovating in creating a methane market.

5.7. Strengthening and supporting the multilateral trading system will remain a priority. Brazil will continue to play an active role in the WTO and will contribute to the urgent reform of the Organization, aiming at recovering its original focus on open trade and market economies, without neglecting longstanding issues, such as agriculture. In that context, Brazil has proposed the holding of WTO ministerial conferences with an annual frequency, which would help foster Members' engagement with the Organization, opening space for needed fact-based discussions on pressing and structural issues regarding international trade. In light of the diversified nature of its trade and production structures, Brazil has a major stake in a multilateral trading system that is able to provide the basis for the expansion of international trade on a non-discriminatory basis. In that sense, Brazil will remain actively engaged in both multilateral and plurilateral negotiations.

5.8. Brazil will also continue to be committed to MERCOSUR, regional integration – as mandated by its Constitution – and to strengthening and fostering new bilateral and RTAs, with a view to promoting cooperation, sustainable development and mutually beneficial results. Furthermore, Brazil's future accession to the OECD will have a significant impact in the country's international and trade outlook, as well as strengthen and deepen structural reforms.
