SUMMARY

1. Brazil weathered the global economic crisis well, supported by strong domestic and foreign demand and sound macroeconomic policies. Brazil has also contributed to global economic recovery by substantially increasing imports. Solid economic growth and active incomes policies have allowed Brazil to make progress towards reducing poverty, unemployment, and income inequality.

2. Further action is required to address long-standing structural shortcomings affecting the Brazilian economy's competitiveness, such as inadequate infrastructure, insufficient access to credit, and high taxes. The Government has taken measures to deal with these problems but in its quest to support sectors affected by a loss of competitiveness it has also adopted some measures that may have a restrictive impact on trade. Given the size and importance of Brazil's economy, it is important for it to continue to open its market to trade and investment flows and for its policies be conducive to growth.

Economic environment

3. The Brazilian economy recorded a strong performance during most of the 2007-12 period, with real GDP growth averaging 3.6% a year, albeit with important fluctuations. Growth benefitted from strong domestic demand and favourable external conditions, including vigorous demand and high international prices for Brazilian commodities, which boosted the country's terms of trade. Growth was supported by sound macroeconomic policies, focused on achieving a primary fiscal surplus and strict inflation targets, and a floating exchange rate regime, which contributed to consolidate macroeconomic stability. Helped by an appreciating currency, and despite strong domestic demand growth, inflation has been kept under control, generally within the band of fluctuation allowed by the inflation-targeting policy. Sustained economic growth over almost a decade and active income policies have allowed Brazil to make important progress towards reducing poverty and income inequality, while employment figures have improved.

4. Since the second half of 2011, however, growth has decelerated significantly and the average real growth rate for 2012 was just 0.9%. This loss of dynamism may be partly attributed to the appreciation of the Brazilian real and the global economic slowdown, but it also reflects long-standing structural problems affecting the Brazilian economy's competitiveness such as inadequate infrastructure, insufficient access to credit, and a very high tax burden. To address these problems, the Government has adopted measures aimed at removing infrastructure bottlenecks, expanding concessions and private-public sector partnerships, and reducing the tax burden on certain manufacturing industries. However, to support sectors affected by a loss of competitiveness, the Government has also taken some measures that have a restrictive impact on trade, including increasing tariffs temporarily, and using preferential margins for domestic goods and services in government procurement, and has increased export credits. The authorities have also taken measures to increase the availability of credit and the low level of financial intermediation. In mid-2011 the Central Bank lowered the policy interest rate (SELIC) to record-low levels by Brazilian standards. On the fiscal side, the Government was able to provide stimulus while maintaining a primary surplus throughout the review period.

5. The period under review was particularly dynamic for Brazil's foreign trade. Exports increased at an average rate of 8.6% between 2007 and 2012, reflecting strong external demand for its commodities. Mining and agricultural exports accounted for most of this growth, increasing at annual averages of 15.4% and 12.3%, respectively. Exports of manufactured products increased at an annual average rate of only 1.8%, and their share in overall merchandise exports decreased significantly, from 46.6% in 2007 to 33.8% in 2012. The share of primary products increased from 50.1% to 62.7%, due in particular to the strong performance of mining commodities.

6. Import growth outpaced exports during the period under review, expanding at an annual rate of 13.1% between 2007 and 2012 and causing the trade surplus to shrink. Brazil's trade deficit in the manufacturing sector increased sharply, with imports of manufactured products growing at an average annual rate of 16.2% during the period, and accounting for 73.1% of total imports in 2012. Brazil's structural deficit in the services trade balance also widened during the review period, largely on account of higher payments for leasing capital equipment, travel, and transportation. After years of consecutive surpluses, Brazil's current account plunged into a deficit

in 2008; the deficit has persisted, and was around 2.4% of GDP in 2012. However, large capital inflows, especially foreign direct investment (FDI), have more than offset the current account deficit. In mid-2012, Brazil was the world's sixth largest recipient of FDI.

7. The review period was marked by a strengthening of Brazilian trade ties with Asia, in particular with China. Nevertheless, the European Union remained Brazil's major trade partner, as both an export destination and a source of imports.

Trade and investment policy framework

8. Brazil attaches particular importance to its participation in the multilateral trading system, considering it fundamental to attaining its development objectives based on sustainable and socially inclusive economic growth. The *Plano Brasil Maior* enunciates and develops a number of industrial, technological, and foreign trade policies to underpin its development objectives.

9. Brazil is one of the WTO's most active participants, individually, and within the BRICS group of leading emerging economies. Brazil remains committed to strengthening the multilateral trade system and to the successful conclusion of the Doha Development Agenda (DDA), where it has presented, independently and together with other delegations, a number of proposals related to, inter alia, agriculture, trade in services, intellectual property rights, and trade rules. Brazil did not ratify the Fourth Protocol on telecommunications and is undertaking domestic procedures to ratify fully the Fifth Protocol on financial services. From October to 2008 to October 2012, Brazil initiated three complaints under the WTO dispute settlement mechanism.

10. One of Brazil's policy aims is to strengthen regional economic integration. Brazil is a founding member of the Southern Common Market (MERCOSUR), and as such it has subscribed to preferential trade agreements with the Plurinational State of Bolivia, Chile, Colombia, Cuba, Ecuador, Mexico, Peru, and the Bolivarian Republic of Venezuela. Together with its MERCOSUR partners, Brazil also has preferential trade agreements currently in force with India and Israel, and three further agreements pending entry into force. Additionally, it has bilateral preferential agreements under LAIA with Guyana and Suriname. The European Union and MERCOSUR have re-launched negotiations in order to create a Bi-regional Free Trade Agreement.

11. Foreign investors in Brazil receive the same legal treatment as local investors in most economic sectors, following Constitutional amendments passed in 1995, which prohibit all forms of discrimination not explicitly foreseen in the law. However, foreign investment is restricted in health, mass media, and telecommunications, aerospace industry, rural property, maritime and air transport. The Federal Government seeks to promote private investment, particularly in transport infrastructure, energy, aeronautics, and other technology-intensive sectors, in order to overcome production bottlenecks, spur competitiveness, and uphold economic growth. The investment incentives offered to investors generally consist of tax exemptions and low-cost financing; normally, they do not distinguish between domestic and foreign investors.

Trade policy by measure

12. During the review period, Brazil took further steps to simplify and modernize its customs procedures. Import declarations are processed according to a risk-assessment method that provides for four channels. Over 85% of all import declarations are processed through the green channel. This percentage has increased since the last Review of Brazil.

13. Brazil's 2012 applied MFN customs tariff is entirely *ad valorem*, with rates ranging from zero to 55%. The simple average MFN tariff applied in 2012 was 11.7%, up from 11.5% in 2008. Some 8% of tariff lines were duty free in 2012, about the same percentage as in 2008. The average applied tariff for the manufacturing sector is 12%, higher than for agriculture. Brazil bound its entire tariff during the Uruguay Round at rates between 0% and 55% for agricultural products (WTO definition), and from 0% to 35% for non-agricultural products. Besides customs tariffs, imports are subject to a number of internal taxes. The application of these taxes varies depending on the product type, the competent sub-federal authority, and the importer's tax regime status, thus rendering Brazil's tax system complex.

14. Brazil maintains a system of automatic and non-automatic licences for imports of various products, regardless of their origin. Licences are non-transferrable and valid for 90 days. Non-automatic import licences are issued by some 16 agencies; the statutory timeframe for the processing of requests is 60 calendar days. The importation of some products may require licences from more than one entity. Refusals to grant a licence may be appealed before the relevant licensing agency. Some agencies may levy a fee for the import licence; according to the authorities, these fees reflect the cost of services rendered. Non-automatic licensing is also used in the administration of duty and tax concessions to benefit from such concessions, imports must undergo a "similarity exam", to ascertain that no equivalent domestic production exists.

15. Brazil is a significant user of trade remedies, particularly anti-dumping (AD) measures: during the review period, the number of new cases varied significantly from year to year, but with the exception of 2009 was above historical trends. In the first nine months of 2012, Brazil initiated 47 new investigations, exceeding the previous record of 40 in 2010. There were 83 anti-dumping measures in place in mid-2012, up from 63 reported in the last review, for October 2008. During the review period Brazil took a number of steps to strengthen trade defence. These included implementing changes to certain practices, such as anti-circumvention, and to the regulatory framework, for instance, passing new legislation providing for more stringent application of provisional measures.

16. Most technical regulations enacted in Brazil are based on international standards; whenever this is not the case, they are based on performance criteria. A period of six months is typically allowed between the publication of the measure and its entry into force. Proposed technical regulations considered to have trade effects are forwarded to the WTO for Members' comments. The recommended period for review and revision of technical regulations is four years. Brazil's sanitary and phytosanitary system is based on risk analysis that generally takes account of import origin and product characteristics. The conclusions of pest risk analyses are notified, as a draft for comments, to the pertinent authority of the country of origin and to the WTO. The importation of any product subject to sanitary and phytosanitary controls requires a non-automatic licence.

17. Brazilian law provides for the application of an export tax of 30%, which may be decreased or increased to up to 150% in order to address foreign exchange or trade policy objectives. In practice, the export tax is zero-rated, except on raw hides and skins, cigarettes, and arms and ammunition. During the review period, Brazil the rates applied on these products remained unchanged.

18. Brazil maintains a policy of export promotion through a number of programmes to enhance the competitiveness of export-oriented companies, in particular small-scale enterprises, and increase exports. Since the last Review of Brazil, several export support programmes have been modified or expanded, and some new ones have been introduced. A number of finance, insurance, and guarantee schemes offering attractive interest rates and other conditions are available to exporters. Among the main instruments are the Export Financing Programme (PROEX) and the export credit schemes under the BNDES-EXIM programme. The latter are geared to promote exports with local value added, and the stated conditions for participation often include domestic-content/production thresholds. According to the Brazilian authorities these conditions only apply for securing automatic eligibility for financing.

19. Brazil's competition legislation provides for a rule of reason approach in the consideration of all concentrations and anti-competitive practices. Brazil's competition regime was overhauled during the period under review and a new competition policy entered into force in May 2012. The main changes comprise a significant institutional restructuring, a switch from ex post to ex ante control of mergers and acquisitions, and amendments regarding the scope of prohibited conduct and sanctions. In the new Law, the non-exhaustive list of potentially anti-competitive practices has been refined and expanded with a reference to the abusive use of intellectual property rights. The compulsory licensing of intellectual property rights has been included among both the possible remedies for conditional clearance of mergers and the possible penalties for anti-competitive conduct. The existing leniency programme was strengthened. The criteria for the notification of mergers were also modified with the introduction of a cumulative criterion based on the Brazilian turnover of two of the merging parties in the previous year. This is expected to reduce the number of transactions subject to notification. Changes were also made to the basis on which fines for infractions of competition law are to be calculated; as a result, the deterrence effect of these sanctions may be reduced.

20. Incentives and government assistance are available at the federal and sub-federal levels. Incentive programmes may be regional, aimed at developing research, or targeted at specific sectors. Specific programmes are in place for the automotive, information technology, aeronautics, and petroleum industries. The range of support measures includes: loans; tax incentives; financial contributions; long-term and equity financing; accelerated depreciation; guarantees; grants; and credit insurance. Incentives granted in the context of certain programmes promoting information technology and telecommunications are linked to Basic Productive Process (PPB) criteria, which are product-specific and stipulate which stages of the respective manufacturing process must be carried out in Brazil.

21. Brazil maintains a policy of free-trade zones for imports and exports, by which fiscal and other incentives are granted to promote production in, and the development and regional integration of, border areas in the north region. Eight free-trade zones have been created. The main FTZ is the Manaus Free Trade Zone (ZFM), in the Amazon region. Companies established in the ZFM are granted tax exemptions by the federal and state governments. One of the main requirements for the concession of these benefits is observing PPB criteria; there are also a number of environmental and social requirements. All imports to the ZFM require a licence. Incentives under the ZFM programme will be in force until 2023.

22. One of the Brazilian authorities' key concerns remains the availability and cost of credit. In this respect, the authorities consider that their policy of targeting credit is necessary to correct a market failure. To this end, Brazil maintains several official credit programmes aimed at different sectors and types of producers. The national development bank BNDES is the main institution providing credit or acting as a financial intermediary and guarantor. Credit takes the form of medium and long-term loans made available at attractive interest rates. The BNDES "equalizes" interest rates, that is, covers the difference between the agreed rate and the relevant market interest rate.

23. Brazil is not a party to the Agreement on Government Procurement. Brazil's procurement system is decentralized and tendering procedures are generally used. Brazil's Tendering Law allows for preferences for goods and services produced in Brazil, or produced or supplied by Brazilian companies or by companies that invest in technology development in Brazil, in the case of equivalent offers. Small businesses may benefit from preferential measures that may include quotas, preference margins of up to 10% as well as tendering procedures restricted to small companies. A revision to the Tendering Law introduced in 2010 significantly altered Brazil's procurement legislation to make the granting of preferences a permanent feature of the regime: preferential margins of up to 25% may be granted for goods and services produced nationally and in accordance with Brazilian technical standards.

24. Brazil's intellectual property legislation covers all the major aspects mentioned in the TRIPS Agreement. In some areas, including copyright, Brazil grants rights that exceed the minimum terms laid down in the Agreement. There have been no substantial legislative modifications on intellectual property matters since 2009, except those that introduced the requirements for the registration of layout designs of integrated circuits and computer software. In April 2012, Brazil started a Pilot Programme of Priority Examination of "Green Patents", which fast-tracks patent applications filed in Brazil via the Paris Convention for the Protection of Industrial Property by either residents or non-residents, with application date starting from 2 January 2011.

Trade policy by sector

25. Brazil's agriculture sector plays an important role in its economy, particularly as a source of exports and employment. During the review period, the agri-business sector played a crucial role in sustaining Brazil's trade surplus. Agri-food exports reached a record level of US$95.8 billion in 2012. Using the WTO definition of agriculture, the average MFN tariff in 2012 was 10.1%. Groups of products facing a tariff higher than the average include: dairy products (18.6%), sugar and confectionary (16.7%), beverages, spirits and tobacco (16.5%), and coffee and tea (13.7%), while imports of cotton (7.4%) oil seeds, fats and oils and their products (7.8%), and animals and animal products (7.9%), are subject to tariffs lower than the average.

26. Brazil’s level of support to its agricultural producers is relatively low compared with other countries, but it maintains several domestic support measures, including preferential credit lines

and price support mechanisms. During the review period, new programmes were created to finance farmers, including the Medium-Scale Agricultural Producer Support Programme (PRONAMP) and the Low Carbon Agriculture Programme (Programa ABC). Official rural credit disbursements continued to rise, as well as key support programmes such as PRONAF. Brazil maintains a policy of mandatory bank reserve requirements to be allocated to finance agricultural activities. Since November 2008, the required rate of mandatory resources has been increased twice, bringing it to 34% of demand deposits from 25%. The provision of credit at fixed interest rates is the main policy instrument for the support of family farming in Brazil.

27. Brazil operates several programmes based on minimum price guarantees, which support the production of a wide range of commodities, including corn, rice, cotton, and wheat. These schemes account for more than half of transfers granted to farmers. Among them, the Policy of Guaranteed Minimum Prices (PGPM) remains an important pillar of Brazilian agricultural policy. The PGPM is aimed at supporting producers when market prices fall to levels deemed harmful to their income stability. The policy is implemented through two types of schemes: commercialization instruments, which may involve the direct purchase of products, and credit lines to finance the storage of goods covered by minimum price guarantees.

28. Brazil has a highly diversified manufacturing sector. During the review years, however, the sector lost dynamism due to an erosion of competiveness, which translated into rising imports and slow-growing exports. Imports of manufactured products have been increasing their market share and capturing a significant part of the growth in consumption, and the manufacturing sector's trade balance registered a record deficit of US$81.3 billion in 2012. In an effort to reverse this situation, the Government has strengthened the importance given to industrial policy, partly through two comprehensive nationwide plans, the Productive Development Policy (2008-10) and the *Plano Brasil Maior* (2011-14). The instruments used to promote the manufacturing sector under these plans include credit lines under favourable conditions, public procurement, fiscal incentives, and border measures.

29. Under the *Plano Brasil Maior*, the Government adopted significant fiscal incentives to help the domestic auto industry recover from the effects of the global crisis. Between December 2011 and December 2012, tax breaks were offered for companies producing vehicles with more than 65% of regional content. As From 1 January 2013, the automotive sector's fiscal regime was superseded by the INOVAR-AUTO programme. Companies eligible for the programme may benefit from an Industrial Products Tax reduction of up to 30%. In order to qualify for the programme, vehicle manufacturers must comply with energy-efficiency requirements and with certain domestic manufacturing or investment conditions.

30. Brazil's regulatory framework for oil and gas exploration and production (E&P) was amended in 2010 with a view to allowing for increased State participation. Exclusive rights were granted to state-controlled PETROBRAS in designated geographic blocks, and a production-sharing regime was introduced for strategic blocks and blocks located in the "pre-salt" polygon. Oil and gas E&P activities remain subject to local-content conditions. In 2009, Brazil adopted a new Gas Law introducing tendering for concessions in the downstream segment of the natural gas subsector.

31. Brazil is nearly self-sufficient in primary energy production; petroleum production has been expanding steadily, posting a 20.5% increase from 2007 to 2011. Notwithstanding the growing domestic demand, Brazil became a net exporter of crude oil for the first time in 2007 and has significantly expanded its oil trade surplus since then. Nevertheless, Brazil's dependency on imports of refined petroleum products has increased due to insufficient refining capacity. Brazil relies on substantial imports of natural gas, although domestic production increased by 41% between 2007 and 2012. PETROBRAS has maintained its dominant position in the production, refining, distribution, and retail market of petroleum and petroleum products, accounting for some 90% of the country's total oil production and 98% of total refining capacity. Brazil remains the world's second-largest producer of ethanol. In 2012, the BNDES launched two new programmes offering credit at attractive conditions to the ethanol sector.

32. Private-sector participation in the electricity market has been expanding through Government auctions and concessions, but state-owned companies still play an important role. The regulatory framework for the electricity sector was revamped in early 2013, with the passage of a new law, which now regulates the concessions of generation, transmission, and distribution of electricity. The new law extended the regime of concessions for electricity generation and the

system of quotas, only once, for a period of up to 30 years. The extension is contingent upon the generator's acceptance of certain conditions, including the remuneration tariffs to be applied, a guaranteed supply quota allocation, and quality standards. Quotas will be allocated through contracts.

33. The Brazilian financial system weathered the global economic crisis well, thanks to an adequate policy response and built-in financial buffers. Brazil is committed to implementing Basel III gradually and, since Brazilian current capital requirements exceed those set by Basel III, its adoption is not expected to imply a significant capitalization effort for the financial system. The establishment of new foreign financial institutions requires approval by Presidential Decree. In practice, the establishment of new foreign financial institutions has been allowed, and 17% of assets are in the hands of foreign banks.

34. Acknowledging that the high cost and scarce access to credits was a systemic issue of the Brazilian economy, the authorities have continued to promote an increase in the degree of financial intermediation and a reduction in interest rates spreads. They have promoted financial inclusion by, *inter alia*, improving distribution channels, increasing transparency, and adapting the regulation of financial services for low income customers. This has resulted in an increase of the degree of financial intermediation: the credit to GDP ratio rose from 25% in 2003 to more than 50% in 2012. The role of state banks in medium- and long-term financing continues to be very important, directly or through interest rate equalization initiatives. The decline in interest rate spreads has played an important role in increasing financial deepening. The average interest rate spread, considering the credit portfolio as a whole, dropped by almost 10 percentage points during the period under review. However, although average interest rate spreads were lowered, at over 24 percentage points in 2012, they remain wide.

35. Recent changes to the telecommunications legislation have allowed telecommunication operators more flexibility to offer converged services in line with the international trend and the development of new technologies. The sector regulator, ANATEL, controls the prices of fixed telephony services provided under a concession (public regime). It also sets interconnection prices for services provided under the public regime, while interconnection prices for services under the private regime are freely negotiated, but must be notified to ANATEL. There are no restrictions on foreign ownership in telecommunication companies. A cap on foreign investment in cable TV services was removed in 2011. In June 2012, ANATEL auctioned radio spectrum for commercial mobile services, requiring winning bidders to commit to purchase goods, equipment, systems, and data networks with national technology, and to ensure that, after five years, 50% of the equipment, telecommunications systems, and networks would be produced locally and 20% with technology developed in Brazil.

36. Concessions for the provision of Brazilian-based regular air transport services are granted only to Brazilian companies with headquarters in Brazil, managed exclusively by Brazilians, and in which 80% of voting rights are in Brazilian hands. Domestic public air transport services are reserved to Brazilian companies. During the review period, the Brazilian Government granted concessions for the operation of three of the main international airports, and two more are in the process of receiving such concessions. As regards maritime transport, cargos of government entities and enterprises, and goods benefitting from fiscal or credit programmes must be transported by Brazilian-flag vessels, unless a waiver is granted on a reciprocity basis. Exports of crude oil extracted in Brazil must also be transported in Brazilian-flag vessels. Cabotage is reserved for Brazilian-flag vessels operated by Brazilian shipping companies, unless this restriction is waived under certain conditions. A federal tax (AFRMM) is levied on import cargos; the resources are used to provide credits at attractive rates to Brazilian shipping companies and Brazilian shipbuilders. No public ports are operated under private concessions.