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Trade Policy Review Body

TRADE POLICY REVIEW

REPORT BY THE SECRETARIAT

BRAZIL

This report, prepared for the eighth Trade Policy Review of Brazil, has been drawn up by the WTO Secretariat on its own responsibility. The Secretariat has, as required by the Agreement establishing the Trade Policy Review Mechanism (Annex 3 of the Marrakesh Agreement Establishing the World Trade Organization), sought clarification from Brazil on its trade policies and practices.

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SUMMARY

1. Since Brazil's previous Review in 2017, efforts for improving economic fundamentals and strengthening macroeconomic resilience were undertaken. During the review period and prior to the COVID-19 outbreak, Brazil's annual GDP growth rate rose up to 1.8% (2018) before contracting to -3.9% (2020), due to the pandemic. It has since bounced back to an estimated 4.6% in 2021 as a result of timely adopted support measures, booming terms of trade, a pick-up in commodity prices, recovery in domestic and external demand, and robust private sector credit growth. Brazil's annual average GDP growth rate for the period 2017-21 was relatively low at 1%, although higher than the average of -0.4% in 2012-16. Developments in the country's position among the most competitive economies in the world reflect, *inter alia*, improvements in the business environment but also weaknesses in several areas where reforms have been under way. Between 2017 and 2020, inflation at rates ranging from 3.2% to 3.7% remained under the upper limit of the tolerance range established by the Central Bank of Brazil (BCB); however, since January 2021, it exceeded its upper limit attaining 8.3% that year, and rose progressively to 12.13% in April 2022, but easing subsequently to 11.7% in May 2022. Unemployment rose slightly to the historically high rate of 13.5% in 2020 and 2021, *inter alia*, due to the impact of the pandemic.

2. During the review period, trade and trade-related structural reforms focused on boosting productivity, potential growth, and living standards, among others, were undertaken in several areas including regulatory and institutional issues, privatization, and the labour market. These reforms seem to have attracted private investment into transportation, energy, and water and sewage and are expected to generate additional infrastructure investment. To protect the poor and the most vulnerable people who were disproportionally affected by the COVID-19 pandemic, Brazil put in place a large, targeted, and time-bound fiscal package focused on health spending, social assistance, and support to firms to contain layoffs. During the review period, monetary policy was gradually loosened and recently tightened. Between 2017 and 2022, the Selic policy rate was reduced progressively from a peak of 14.25% (August 2015) to a historical low of 2% (applying from 23 July 2020 to 10 March 2021) and then was raised gradually to 11.75% (29 March 2022) to address rising inflation. Brazil's floating exchange rate system continued to work as an important shock absorber. During the review period, the current account deficit peaked to 3.5% of GDP in 2019 and then shrunk to 1.7% in 2020 and 2021 due to, *inter alia*, improvements in the trade, services, and income balances. Brazil's overall gross external debt (including intercompany lending and debt securities traded in the domestic market) grew slightly by an overall rate of 0.5% during the period 2017-21; it peaked to USD 675.8 billion in 2019 and dropped to USD 670.3 billion, or the equivalent of 41.7% of GDP in 2021.

3. Brazil's openness to international trade and its integration into the world economy continued to be reflected by the ratio of the country's trade (exports plus imports) in goods and services to GDP, which rose significantly from 24.3% in 2017 to 39.2% in 2021 due to an increase of both exports and imports in 2020 and 2021. Merchandise exports have become increasingly concentrated on commodities (e.g. vegetable products, live animals, and petroleum and mineral products), whereas merchandise imports concentrated on manufactures. International trade trends reflect the rising importance of Asia, particularly China, and the relative decline of the Americas' weight; furthermore, merchandise trade with MERCOSUR partners declined considerably, notably on the exports side. In 2021, China, the European Union, and the United States were Brazil's main export markets and its main sources of imports, albeit in a different order (i.e. China, the United States, and the European Union).

4. Brazil remains open to and encourages inward foreign direct investment (FDI), which is prevalent across the economy despite certain foreign ownership prohibitions (e.g. postal services and nuclear energy) or limitations or prior authorization/approval requirements in some sectors (e.g. health services, rural land acquisition, broadcasting and publishing media, fishing, mining, and hydrocarbons exploration). During the review period, Brazil took several steps to improve the business climate via regulatory (e.g. the 2021 New Business Environment Law), institutional (e.g. the creation of the Direct Investments Ombudsman (DIO)), and procedural changes, and to facilitate foreign investment participation in air transport (lifting of foreign ownership restrictions) and financial services. Legally registered domestic and foreign companies compete on an equal footing when bidding on contracts or seeking tax and non-tax incentives; foreign companies' direct participation in government procurement bidding was eased. During the review period, FDI equity inflows bottomed, reflecting the negative impact of the pandemic, and in 2021 rose at an amount equivalent to 65.3% of their 2017 level; the European Union and the United

States were the main sources and destinations of FDI flows. Brazil continued the replacement of its bilateral investment, promotion, and protection agreements by investment cooperation and facilitation agreements, as well as the conclusion of double taxation avoidance treaties.

5. Since its last Review in 2017, Brazil undertook several constitutional amendments related to, *inter alia*, transfer of federal financial resources and emergency aid to address the social and economic consequences of the COVID-19 pandemic. The institutional framework for trade policy formulation remained broadly unchanged, except for the transfer of the Ministry of Industry, Foreign Trade and Services including the Executive Secretariat of the Foreign Trade Board/Chamber (CAMEX) and the Secretariat of Foreign Trade (SECEX) to a new Ministry of Economy created in 2019. Brazil's stated overall trade and trade-related policy objectives have remained those of industrial development, production diversification, technological upgrading, raising competitiveness of domestic products, and integration into global value chains and international markets, as well as intensifying and diversifying exports. Its three-pillar trade policy agenda consisted of intensification of the trade agreements network of the Southern Common Market (MERCOSUR), modernization of the MERCOSUR common external tariff (CET) structure, and reduction of non-tariff barriers to trade. During the review period, Brazil adopted measures to simplify regulations, increase transparency, and encourage trade, as well as to promote the use of several tools related to good regulatory practices, including the obligation of conducting Regulatory Impact Analyses/Assessments; it also made advances in e-government and anti-corruption.

6. Brazil remains committed to, and is an active participant in, the multilateral trading system. During the review period, it participated in all WTO joint statement initiatives, i.e. e-commerce, investment facilitation for development, MSMEs (micro, small, and medium-sized enterprises), and services domestic regulation. The procedure for its accession to the WTO Agreement on Government Procurement (GPA) has been under way since May 2020. Brazil applied to join the Agreement on Trade in Civil Aircraft in June 2022. In March 2019 it announced that it would begin to forgo special and differential treatment in WTO negotiations. At the same time, Brazil has continued strengthening regional economic integration through MERCOSUR and Latin American Integration Association (LAIA/ALADI) RTAs with an emphasis on deepening existing agreements and negotiating agreements with trading partners outside the region; it concluded and implemented certain RTAs (Brazil – Chile, Brazil – Paraguay, MERCOSUR – Colombia, MERCOSUR – Egypt), while signature and ratification of two RTAs (i.e. with the European Union and the European Free Trade Association) and negotiation of other agreements are ongoing. Brazil has submitted many notifications to the WTO. During the review period, it was directly involved in five new WTO disputes, four as a complainant and one as a respondent; at the same time, similar to some other Members, it took action ("appeal in the void") to address the lack of a functioning WTO Appellate Body.

7. The tariff remains one of Brazil's main trade policy instruments, and a non-negligible source of tax revenue. Brazil applies the MERCOSUR CET, with some country-specific derogations. As at 1 April 2022, Brazil's applied MFN tariff was entirely *ad valorem* with rates ranging from zero to 55%; it comprised 35 different rates (up from 19 in 2017). During the review period, Brazil eliminated the import duties on certain aeronautical goods and implemented several temporary tariff reductions in response to the COVID-19 pandemic. The simple average applied MFN tariff declined slightly from 11.6% in 2017 to 10% in April 2022 and 9.4% in July 2022. Brazil's bound tariff schedule and preferential tariffs are yet to be updated to HS22. While nomenclature differences would generate noise in most comparisons between Brazil's bound and applied tariffs, the simple average bound tariff rate was some 20.7 percentage points higher than the average MFN rate applied as of 1 July 2022.

8. Since its last Review, Brazil has continued streamlining its foreign trade formalities and gradually implementing its Single Window Programme (Programa Portal Único de Comércio Exterior) launched in 2014. Notable developments include the fully digitized export formalities, the upgraded Authorized Economic Operator (AEO) programme, and the publication of a Time Release Study (the first one in Brazil based on the World Customs Organization's methodology). Brazil has also expanded its non-preferential rules of origin (adding an alternative criterion for products deemed to have undergone substantial transformation) and updated the relevant verification procedure. Regarding preferential trade, arrangements have been put in place for the bilateral exchange of digitally signed certificates of origin with Argentina, Colombia, Paraguay, and Uruguay.

9. During the review period, Brazil maintained import prohibitions on health and moral grounds, and to comply with international conventions to which it is a party; its list of import prohibitions

remained broadly unchanged. Brazil remains a significant user of trade remedies, particularly anti-dumping measures. The regulatory framework on trade remedies was amended and its institutional setting underwent a transformation. The number of definitive anti-dumping measures dropped from 161 (2017) to 140 (2021) and no safeguard measures were taken.

10. Brazil has made limited use of export taxes, which continue to represent a negligible and declining share of federal tax revenues. Two such taxes were eliminated in 2018 and 2021, respectively (on raw hides and skins and arms and ammunition). Temporary export prohibitions have been applied on certain medical, hospital, and hygiene products deemed essential for combatting the spread of COVID-19 in Brazil. Since 2017, Brazil's drawback and export processing zone regimes have been updated, and guidelines for reforming the system of federal-level export support have been adopted. Programmes intended to increase exports and to boost the competitiveness of export-oriented companies remain in place.

11. Brazil's internal taxation regime remains complex, including in the treatment of imported goods and services. Domestic and cross-border transactions are subject to various federal and sub-federal levies, and cross-cumulation of these taxes for tax base purposes is not uncommon. In addition, their application typically varies depending on the product type, the competent sub-federal authority, and the importer's tax regime status. Whereas federal taxes are automatically deducted from the importer's bank account upon submission of the customs declaration, procedures and systems for the collection of sub-federal taxes (sometimes requiring presentation of hard copies for imports' release) still vary across Brazil's federative states.

12. Various incentive programmes remained in place during the review period. The range of support measures included administered interest rate or concessional financing, tax concessions, financial contributions, accelerated depreciation, guarantees, grants, advisory services, and credit insurance. Brazil maintains certain incentives conditional on compliance with Basic Productive Process (PPB) criteria, which are set with a view to maximizing the utilization of domestically installed productive capacity.

13. While the institutional framework for the implementation and administration of the TBT Agreement remained broadly unchanged during the review period, several initiatives aimed at cutting red tape were launched following the enactment of the 2019 Economic Freedom Rights legislation. There have been no major changes to the legal and institutional frameworks for sanitary and phytosanitary protection since Brazil's previous Review.

14. Brazil's competition regime did not undergo major changes during the review period, having been rationalized in 2012. The national competition authority, the Administrative Council for Economic Defense (CADE), implemented several initiatives aimed at enhancing transparency and service delivery through digital means. Through cease-and-desist agreements (settlements), CADE also secured divestiture commitments from the state-owned enterprise (SOE) Petrobras with a view to fostering competition in the natural gas and oil refinery markets. Prices of certain sensitive goods and services (e.g. residential electricity and fixed line telephone tariffs, pharmaceuticals) continued to be controlled or regulated.

15. During the review period, state involvement in some key sectors, such as mining, oil exploration, and electricity, was either reduced or terminated. The authorities also took steps to strengthen the governance and transparency of federal SOEs, and facilitate the entry of competitors. Nevertheless, the economic footprint of Brazil's SOEs remains large, with many federal SOEs owning shares of various private companies. In addition, there are various "public companies" owned or controlled by state and municipal governments; consolidated information on them is not available. Brazil indicated the existence of one state trading enterprise (STE), the National Company for Food Supply (CONAB), in its WTO notification for the years 2018-19.

16. A new public procurement law was enacted in 2021 and will fully supersede the previous legislation after a two-year transitional period of coexistence; it prohibits discriminatory treatment between national and foreign suppliers. SOEs remain subject to separate legislation providing for greater flexibility. In 2021, an electronic National Public Procurement Portal (PNCP) was launched. Preferences for Brazilian-based bidders and Brazilian-made supplies remain in place. An electronic system for the management of tendering processes has been implemented.

17. The legal and institutional frameworks for the protection of intellectual property (IP) rights were modified during the review period. The Intellectual Property Inter-Ministerial Group (GIPI), established in July 2019, became responsible for IP policy formulation. The main legislative amendments affecting IP protection related to patent protection. During the review period, the National Industrial Property Institute (INPI) continued taking steps to cut down processing delays and reduce its backlog of applications pending review.

18. Since its previous TPR, Brazil has maintained the broad scope of its sectoral trade policies, though it introduced relevant regulatory and institutional changes. A significant number of border measures, targeted domestic support, and administrative processes were either eliminated, simplified, or streamlined, while concessions in some important sectors were carried out enabling sectoral growth in a number of areas, despite the economic challenges posed by the global pandemic. The relatively complex tax system, lack of a fully-fledged competitive financing system, infrastructure bottlenecks, and a number of administrative measures continued to hinder the full sectoral efficiencies.

19. Brazil remains a major player in the global trade of certain agricultural commodities, in particular of soybeans, beef, poultry meat, sugar, orange juice, and coffee. In 2021, the agricultural sector's share in gross value-added and employment stood at 8.1% (5.7% in 2017) and 9.7%, respectively (including fisheries and forestry). Despite the dualistic nature of farming in Brazil (commercial and family farming), over the past decades, the agricultural sector registered faster labour productivity growth *vis-à-vis* other sectors. The sector remains crop- and export-oriented and depends on imports of agricultural inputs, in particular fertilizers. The average MFN applied tariff for agricultural products in 2022 stood at 9.1% (WTO definition). Its low levels of domestic support, minimal market price support, and low protection illustrate the country as a competitive global agriculture exporter. Agricultural or rural credit at administered and preferential interest rates remain the major policy instrument for the sector. Agricultural zoning requirements continue to link agricultural support to environmental sustainability. They condition producers' eligibility for concessional credit and subsidized insurance programmes. In addition, several specific programmes for both the commercial and family farming segments promote sustainable agricultural practices; they include credit for plantings on unproductive and degraded soils, credit for forest planting, and credit to modernize production systems and preserve natural resources.

20. Brazil also holds a significant position in the world mining industry. Brazil is among the leading producers of iron ore, manganese, niobium, bauxite, and tin. During the review period, institutional and policy developments included the creation of the National Mining Agency (ANM) in 2017 to, *inter alia*, promote the management of mineral resources and oversee the implementation of the Strategic Planning (2020-23). Tariff protection remained unchanged. Domestic support for developing mining companies and sustainable technologies through an Inova Mineral joint initiative on credits, subsidies, cooperation projects between institutions and companies is available to selected firms. In February 2021, the National Bank for Economic and Social Development (BNDES) sold its last block of shares in Vale S.A., the largest mining company in Brazil and the company with the highest market value on the Brazilian stock exchange. The Federal Government still retains specific rights (golden shares) assigned in Vale's bylaws.

21. Brazil remains a net exporter of crude oil and importer of refined oil products. Its energy matrix continued to be considered one of the greenest in the world. The state-controlled Petrobras maintained its dominant position both in upstream and downstream hydrocarbons activities. Petrobras sold all of its shares in BR Distribuidora, now named Vibra Energia, which is the main player in the oil products distribution and retail markets. In the natural gas sector, a 2021 Gas Law is to ensure an open and competitive market, enabling a robust regulatory agenda to build the new natural gas market, and opening new investment opportunities. Brazil's 2017 National Biofuels Policy (RenovaBio) to support reaching the country's climate goals has been in line with its COP21 commitments. In its third year of full operation, RenovaBio has been consolidating itself as one of the largest decarbonization programmes for the fuel matrix in the world. Brazil retained its position as the world's second-largest producer and exporter of ethanol with a mandatory ethanol blend ratio fixed at 27%; in addition, other support measures for the production and consumption of ethanol, such as credit facilities and tax differentiation and cross-subsidization, remain in place. Brazil is the world's third-largest producer of biodiesel; the mandatory blending ratio of biodiesel added to oil diesel has increased, and their production continues benefiting from incentives and a regulated domestic market. During the review period, installed capacity and power generation continued to

grow at a fast pace. In July 2021, legislation was passed allowing for the privatization of the state-owned Eletrobras through capitalization. Electricity tariffs continue to ensure cross-subsidization among different consumer categories.

22. Manufacturing remains relatively large (accounting for 11.3% of gross value-added in 2021), albeit declining, and diversified. The "Brazil Cost", incipient research, development and innovation initiatives, relatively weak integration into the world economy, and punctual shields from external competition continued to undermine Brazil's ability to fully exploit its industrial potential. Positive reforms and initiatives across the board, including shifting from sector- and industry-oriented policies and incentives towards actions aimed at major reforms, tackling infrastructure deficiencies, and streamlining the business environment are bound to bear long-lasting results and further attract FDI. The average MFN applied tariff for manufacturing products was reduced from 11.8% in 2017 to 10.3% in 2022. Clothing, textiles, and transport equipment continue to benefit from the sector's highest tariff protection. Incentives, such as remission of duties and taxes on exports remain in place; the incidence of those under the REINTEGRA scheme was seemingly diminished. General administered interest rate or concessional loans and government procurement preferences to local suppliers are still in place. Production step-related local content requirements tied to domestic support measures continue to shield domestic producers from foreign competition. Industry-specific incentives, such as for the automotive (INOVAR-Auto), were ended. Few sector-specific schemes, such as those for information technology and aeronautics, remain in place. Automotive trade agreements with Argentina, Mexico, Paraguay, and Uruguay are in place.

23. The services sector, a key component of overall export competitiveness, remains the main contributor to Brazil's gross value-added (69.8% in 2021) and job creation. However, despite improvements in certain areas, it continues to suffer from structural weaknesses hindering the growth potential of the entire economy. During the review period, Brazil's commitments under the GATS remained unchanged. Brazil undertook specific commitments on trade in services under three RTAs that contain GATS-plus services commitments. In 2020, Brazil notified an exceptional and temporary restriction on the entry of foreign natural persons (mostly non-resident) for a period of 30 days to contain the risks related to COVID-19. The government-owned banks' share of total bank assets dropped to 40% in 2020, and high interest spreads remain in place due to, *inter alia*, the lack of competitive pressure on major banks. The main legal framework for banking remained relatively unchanged and the banking system has remained resilient. Since February 2021, an "Open Banking" policy increased the sharing of customers' data between financial institutions and aimed to increase competition in the financial sector. The share of non-performing loans (NPLs) eased. Nevertheless, high interest spreads between lending rates and the remuneration of deposits remain in place. The legal framework for insurance remained largely unchanged. An "Open Insurance" policy to allow the sharing of consumers' information among different companies authorized or accredited by SUSEP by sharing data and services has been in place since 2021. Brazil continued to account for around 40% of Latin America's reinsurance market; IRB Brasil Resseguros, the former state monopoly reinsurer, continues to dominate the segment.

24. The fixed and mobile telephony markets remained fully open to competition, though they are dominated by a handful of large operators from abroad. In 2021, Brazil carried out the largest radio frequency tender of its history on the 5G mobile telephony technology. Investment barriers seemed to continue to make market entry a challenge in television broadcasting.

25. Several initiatives were undertaken in the transport sector. Due to the COVID-19 pandemic, in 2020 regular and non-scheduled flights dropped by 51% as compared to 2019. Emergency measures were introduced to mitigate the negative economic effects on the air services sector, as well as to adapt the rules applicable to the new scenario, while seeking to protect the interests of passengers. Civil aviation policy pursued greater insertion of Brazilian aviation into international markets through the conclusion of new Air Transport Agreements. In other transport modes, the main regulatory change was introduced by "BR do Mar" in January 2022 with the aim to improve cabotage and reduce costs, thus providing greater efficiency to maritime and waterways transport in Brazil. Eight port terminals in six Brazilian states were conceded to the private sector under the Investment Partnership Programme (PPI).

26. Cross-border e-commerce trade grew during the review period and Brazil holds the second position in Latin America in this segment. To offset the negative effects from the COVID-19 pandemic, the Ministry of Tourism adopted a number of initiatives and prepared a strategy for the recovery of the tourism sector. Regarding professional services, the Doctors throughout Brazil

Programme (Médicos pelo Brasil) was launched in 2019 with the objective of structuring the federal medical career in places with high social vulnerability.

27. The Brazilian economy is projected to enter a gradual recovery, but growth is expected to remain relatively weak for 2022 as uncertainty around the outlook was viewed as exceptionally high although risks to growth were being broadly balanced. Downside risks to Brazil's economic outlook include fiscal imbalance, a high unemployment rate, inflationary pressures, and rapid population ageing. Brazil's relatively low public external indebtedness and its significant cushions, such as its currency reserves and strong FDI component of capital inflows, against external financial risks remain in place; however, the authorities are cautious about the impact of the war in Ukraine on the world economy and Brazil's growth prospects. Future prosperity and sustainable growth continue to depend on the implementation of productivity-enhancing structural reforms in several areas including revamping the complex tax and incentives regime and reducing the regulatory burden on businesses, as well as closing infrastructure gaps. These reforms would increase the resilience of the Brazilian economy, thus enabling it to continue to meet its broad-based economic and welfare objectives, including inclusive growth and a narrower wealth divide.

1 ECONOMIC ENVIRONMENT

1.1 Main Features of the Economy

1.1. Brazil has a population of 214 million (as at March 2022) and remains an inward-oriented and diversified upper middle income economy underpinned by immense natural resources, a large agricultural sector, a strong industrial base with heavy industries, a sizeable domestic market, and a considerable middle class that all together generate significant growth potential despite existing challenges. In 2021, according to IMF, World Bank, and United Nations estimates, it was the largest economy in Latin America and the Caribbean, the 3rd largest in the Americas, and the 12th (8th in 2017) largest in the world in gross domestic product (GDP) terms, a drop in its global ranking partly due to the COVID-19 pandemic and the Brazilian real's (BRL) depreciation (Section 1.2.3.1).[1] According to the Harvard Growth Lab's economic complexity index, in 2019 Brazil's 49th (41st in 2017) positioning was indicative that its economy has become relatively less complex.[2] SMEs play an important role for economic growth and social inclusion in Brazil.[3] Several of Brazil's state-owned enterprises (SOEs) have significant economic size, with three of them being among the world's largest 500 enterprises (Sections 1.2.4.2 and 3.3.5).[4] Developments in the country's position among the most competitive economies in the world reflect, *inter alia*, improvements in the business environment but also weaknesses in several areas where reforms have been under way (Sections 2.2.3.2 and 2.4).[5] Reportedly, Brazil's GDP per capita and productivity indicators were 73% lower than OECD best performers in the period 2000-19.[6] As of November 2019, the so-called Brazil cost, i.e. a set of structural constraints hampering competitiveness, was estimated at BRL 1.5 trillion (USD 350 billion) or 22% of GDP.[7] According to the OECD, Brazil's informal economy is larger than that in countries at similar levels of income and its labour productivity is estimated to be only one quarter of average labour productivity in the

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[1] Brazil is considered by the Inter-American Development Bank (IDB) as being poorly integrated both with the rest of the world and internally, seemingly resulting in internal disparities in its economic and social development. IDB (2019), *IDB Group Strategy with Brazil 2019-2022*, June. Viewed at: https://idbdocs.iadb.org/wsdocs/getdocument.aspx?docnum=EZSHARE-750030607-12; Instituto Brasileiro de Geografia e Estatística (IBGE), *Population of Brazil*. Viewed at: https://www.ibge.gov.br/apps/populacao/projecao/box_popclock.php. World Bank, *Brazil*. Viewed at: https://data.worldbank.org/country/BR. Investopedia, *The Top 25 Economies in the World: Brazil*. Viewed at: https://www.investopedia.com/insights/worlds-top-economies/#toc-12-brazil; and Countryeconomy.com, *Brazil GDP*. Viewed at: https://countryeconomy.com/gdp/brazil?year=2017#:~:text=The%20GDP%20figure%20in%202017,196%20countries%20that%20we%20publish.

[2] Observatory of Economic Complexity (OEC), *Brazil*. Viewed at: https://oec.world/en/profile/country/bra#:~:text=Overview%20In%202019%20Brazil%20was,Economic%20Complexity%20Index%20(ECI).

[3] In 2016, SMEs accounted for 62% of total employment and 50% of national value added, slightly below the corresponding OECD averages (70% and 55%, respectively). OECD (2020), *SME and Entrepreneurship Policy in Brazil 2020, OECD Studies on SMEs and Entrepreneurship*, 27 April. Viewed at: https://www.oecd-ilibrary.org/docserver/cc5feb81-en.pdf?expires=1646068181&id=id&accname=ocid195767&checksum=1DEB23D093C6B39C7D91E43AC4B55099.

[4] OECD (2020), *OECD Review of the Corporate Governance of State-Owned Enterprises: Brazil*. Viewed at: http://www.oecd.org/corporate/soe-review-brazil.htm.

[5] In 2018, Brazil ranked 71st among 140 economies (80th out of 137 economies in 2017) in the World Economic Forum (WEF) Global Competitiveness Index. This improvement had been driven by, *inter alia*, a significant simplification of regulations to start and close a business, lower inflation, and a slightly better labour market efficiency (Section 1.2.4.4). In addition, the competitiveness performance of Brazil benefited from a relatively high innovation capability level and from the size of its market. However, according to the WEF, further progress on macroeconomic stability should, *inter alia*, be accompanied by greater trade openness (Section 1.3.1), especially in terms of applied tariffs and non-tariff barriers. WEF (2017), *The Global Competitiveness Report 2017-2018*. Viewed at: https://www3.weforum.org/docs/GCR2017-2018/05FullReport/TheGlobalCompetitivenessReport2017%E2%80%932018.pdf; and WEF (2019), *The Global Competitiveness Report 2019*. Viewed at: http://www3.weforum.org/docs/WEF_TheGlobalCompetitivenessReport2019.pdf.

[6] OECD (2021), *Economic Policy Reforms 2021: Going for Growth: Brazil*. Viewed at: https://www.oecd.org/economy/growth/Brazil-country-note-going-for-growth-2021.pdf.

[7] OECD (2020), *OECD Economic Surveys: Brazil 2020*, December. Viewed at: https://www.oecd.org/economy/surveys/Brazil-2020-OECD-economic-survey-overview.pdf; and Business News Americas (BNamericas) (2019), "'Brazil Cost' Hits 22% of GDP", 28 November. Viewed at: https://www.bnamericas.com/en/news/brazil-cost-hits-22-of-gdp.

formal sector.[8] During the review period, growth was irregular due to, *inter alia*, structural weaknesses as well as the COVID-19 outbreak, which exposed Brazil to an unprecedented health, social, and economic challenge, leading to a contraction in 2020 that was followed by a rebound in 2021 as a result of timely and decisive economic policies reaction (Box 1.1, Section 1.2.1, and Table 1.1).[9] During the review period and prior to the COVID-19 pandemic, income inequality and the poverty gap remained relatively stable and a policy challenge.[10]

Table 1.1 Selected macroeconomic indicators, 2017-21

	2017	2018	2019	2020	2021
National accounts (% change, unless otherwise indicated)					
Real GDP (at 1995 prices)	1.3	1.8	1.2	-3.9	4.6
Consumption	1.4	2.0	1.9	-5.2	3.2
Private consumption	2.0	2.4	2.6	-5.4	3.6
Government consumption	-0.7	0.8	-0.5	-4.5	2.0
Gross fixed capital formation	-2.6	5.2	4.0	-0.5	17.2
Exports of goods and non-factor services	4.9	4.1	-2.6	-1.8	5.8
Imports of goods and non-factor services	6.7	7.7	1.3	-9.8	12.4
XGS/GDP (%) (at current market price)	12.5	14.6	14.1	16.8	20.1
MGS/GDP (%) (at current market price)	11.8	14.2	14.8	16.1	19.1
(Urban) Unemployment rate (%)	12.9	12.4	12.1	13.5	13.5
Productivity (% change)					
Labour productivity	..	..	..	..	..
Total factor productivity	..	..	..	..	..
Inflation and interest rates (annual average)					
Inflation (CPI, % change)	3.4	3.7	3.7	3.2	8.3
Selic rate (%)	10.1	6.5	5.9	2.8	4.5
Long-term interest rate (TJLP) (%)	7.1	6.7	6.2	4.9	4.8
Non-earmarked new credit to non-financial corporations (%)	25.2	20.7	18.7	13.8	16.2
Earmarked new credit to non-financial corporations (%)	11.8	10.0	9.0	7.8	9.4
Non-earmarked new credit to households (%)	62.9	52.3	50.6	41.7	41.3
Earmarked new credit to households (%)	9.0	7.9	7.7	7.2	7.2
Exchange rate					
BRL/USD (annual average)	3.191	3.654	3.944	5.155	5.394
Nominal effective exchange rate (% change, appreciation +)	9.5	-9.6	0.0	-19.6	-5.1
Real effective exchange rate (% change, appreciation +)	8.5	-10.4	-1.8	-20.6	-3.2
Central government balance (% of GDP)					
Revenue, net	17.5	17.6	18.2	16.1	18.2
Tax revenue	6.9	7.1	7.2	6.8	8.1
Expenditure	19.4	19.3	19.5	26.1	18.6
Primary balance	-1.9	-1.7	-1.3	-10.0	-0.4
including methodological adjustments and statistical discrepancies (as shown in fiscal table)	-1.8	-1.7	-1.2	-10.0	-0.4

[8] The sectors in which informality is most common are trade and other services such as repair shops and restaurants, which account, respectively, for 26% and 33% of the value added generated by the informal economy. OECD (2020), *SME and Entrepreneurship Policy in Brazil 2020, OECD Studies on SMEs and Entrepreneurship*, 27 April. Viewed at: https://www.oecd-ilibrary.org/docserver/cc5feb81-en.pdf?expires=1646068181&id=id&accname=ocid195767&checksum=1DEB23D093C6B39C7D91E43AC4B55099.

[9] OECD (2020), *OECD Economic Surveys: Brazil 2020*, December. Viewed at: https://www.oecd.org/economy/surveys/Brazil-2020-OECD-economic-survey-overview.pdf; and World Bank (2021), *The World Bank in Brazil*, 14 October. Viewed at: https://www.worldbank.org/en/country/brazil/overview#1.

[10] According to World Bank estimates, Brazil's Gini coefficient stood at 53.3 in 2017, 53.9 in 2018, and 53.4 in 2019; according to OECD estimates, in 2017 this level was higher than the average for emerging markets (45.4) and advanced economies (30.4). The Gini coefficient is based on the comparison of cumulative proportions of the population against cumulative proportions of income they receive, and it ranges between 0 in the case of perfect equality and 1 in the case of perfect inequality. According to the OECD, large inequalities are one factor affecting well-being and they have been on the rise after years of decline. The bottom 40% of income earners receive 10% of disposable income, whereas the top 10% get more than four times as much. Furthermore, according to the same source, female workers earn 20% less than men, compared to 13% for the OECD average. Women are more likely to be in informal employment and poverty is four times the national average among informal workers. According to World Bank estimates, the poverty gap (at USD 3.20 a day (2011 PPP) data stood at 3.7% in 2017 and 2018, and 3.8% in 2019. OECD (2020), *OECD Review of the Corporate Governance of State-Owned Enterprises: Brazil*. Viewed at: http://www.oecd.org/corporate/soe-review-brazil.htm; OECD (2020), *OECD Economic Surveys: Brazil 2020*, December. Viewed at: https://www.oecd.org/economy/surveys/Brazil-2020-OECD-economic-survey-overview.pdf. World Bank, *Gini Index – Brazil*. Viewed at: https://data.worldbank.org/indicator/SI.POV.GINI?locations=BR; and World Bank, *Poverty Gap at $3.20 a Day (2011 PPP) (%) – Brazil*. Viewed at: https://data.worldbank.org/indicator/SI.POV.LMIC.GP?locations=BR.

	2017	2018	2019	2020	2021
Overall balance	-7.0	-6.1	-5.4	-13.6	-5.1
Gross general government debt	73.7	75.3	74.4	88.6	80.3
Net public debt	51.4	52.8	54.7	62.5	57.2
Net general government debt	53.2	54.7	57.3	66.6	61.8
Saving and investment					
Gross national savings	13.6	12.7	12.2	14.7	17.4
Private sector	19.2	17.2	15.7	..	..
Public sector	-5.7	-4.5	-3.5	..	..
Gross domestic investment	14.6	15.1	15.5	16.6	19.2
Private sector	13.0	13.4	13.9	..	..
Public sector	1.7	1.7	1.6	..	..
Saving-investment gap	-1.0	-2.4	-3.3	-1.9	-1.8
External sector					
Current account balance	-1.1	-2.7	-3.5	-1.7	-1.7
Net merchandise trade	2.8	2.3	1.4	2.2	2.3
Merchandise exports	10.6	12.5	12.1	14.6	17.7
Merchandise imports	7.8	10.2	10.6	12.3	15.4
Services balance	-1.9	-1.9	-1.9	-1.4	-1.1
Capital account	0.02	0.02	0.02	0.29	0.01
Financial account[a]	-0.8	-2.7	-3.4	-0.9	-2.1
Direct investment, net[a]	-2.3	-4.0	-2.5	-2.8	-1.7
Terms of trade (% change)	5.9	-0.8	0.2	0.9	..
Merchandise exports[b] (% change)	18.3	9.9	-5.7	-6.7	34.8
Merchandise imports[b] (% change)	15.0	22.1	1.6	-10.5	38.9
Service exports[b] (% change)	3.6	2.7	-3.1	-16.6	16.1
Service imports[b] (% change)	14.0	-1.9	-2.3	-29.0	1.5
Gross official reserves (USD billion, end-period)	374.0	374.7	356.9	355.6	362.2
in months of imports of goods and services	19.2	16.8	15.9	18.7	14.6
Gross external debt (USD billion, end-period)	667.1	665.8	675.8	639.3	670.3
% of GDP	32.3	34.7	36.1	44.2	41.7

.. Not available.

a Net lending (+)/net borrowing (-).
b Growth rates are based on USD.

Source: Instituto Brasileiro de Geografia e Estatística (IBGE); Central Bank of Brazil (BCB); IMF eLibrary data; and data provided by the authorities.

1.2. Downside risks to Brazil's economic outlook include fiscal imbalance (high level of public debt), high unemployment rate, inflationary pressures, and rapid population ageing.[11] Brazil's low public external indebtedness and its significant cushions, such as its currency reserves and strong foreign direct investment (FDI) component of capital inflows (Sections 1.2.5 and 1.3.2), against external financial risks remain in place; however, the authorities are cautious about the impact of the Ukraine war on the world economy and Brazil's growth (Section 1.2.1). According to the IMF, as of 2021, uncertainty around the outlook was exceptionally high but risks to growth were viewed as being broadly balanced.[12]

Box 1.1 Brazil's response to the COVID-19 challenge

To protect the poor and the most vulnerable people who were disproportionally affected by the COVID-19 pandemic, Brazil put timely in place a large, targeted, and time-bound fiscal package focused on health spending, social assistance, and support to firms and workers. It included new spending measures estimated from 8% to 11.4% of GDP in 2020, for which the constitutionally mandated expenditure rule has been temporarily suspended (Section 2.1); this large fiscal

[11] According to OECD estimates based on current policies, population ageing would slow down the economy's growth potential to around 1.5% per annum. As of 2020, according to the OECD, COVID-19 was projected to drive up gross public debt by 20 percentage points to 96.6% of GDP by the end of 2022. IDB (2019), *IDB Group Strategy with Brazil 2019-2022*, June. Viewed at: https://idbdocs.iadb.org/wsdocs/getdocument.aspx?docnum=EZSHARE-750030607-12; OECD (2020), *OECD Economic Surveys: Brazil 2020*, December. Viewed at: https://www.oecd.org/economy/surveys/Brazil-2020-OECD-economic-survey-overview.pdf; IMF (2021), *Brazil: 2021 Article IV Consultation-Press Release; Staff Report; and Statement by the Executive Director for Brazil*, Country Report No. 2021/217, 22 September. Viewed at: https://www.imf.org/en/Publications/CR/Issues/2021/09/22/Brazil-2021-Article-IV-Consultation-Press-Release-Staff-Report-and-Statement-by-the-466076.

[12] IMF (2021), Country Report No. 2021/217. Viewed at: https://www.imf.org/en/Publications/CR/Issues/2021/09/22/Brazil-2021-Article-IV-Consultation-Press-Release-Staff-Report-and-Statement-by-the-466076.

stimulus limited the annual economic growth contraction and helped to reduce the poverty level during 2020. Extraordinary financial assistance was provided by the Federal Government to federal states and municipalities, which are responsible for most health expenditures. Monetary and regulatory measures have provided additional credit extension to firms. The main measures included:

1. *Income support for low-income workers*: a new temporary emergency benefit (Auxílio Emergencial) amounted to BRL 600 per month disbursed over five months, with a budget equivalent to nearly 4% of GDP in 2020. This benefit was paid to over 67 million informal, self-employed, or unemployed workers (nearly two thirds of Brazil's pre-pandemic workforce) earning up to half the minimum wage during April-August 2020; in the remainder of the year 2020, the transfers were restricted to approximately 45 million recipients, with a payment of BRL 300 per month. A new round of emergency benefits was approved in April 2021 with benefits paid until October 2021, when this emergency programme was discontinued; this programme reached 39.2 million workers, and its transfer value ranged from BRL 150 to BRL 375 depending on the worker's family profile. The Bolsa Familia Conditional Cash Transfer (CCT) programme has been expanded and received resources to enrol 1.2 million additional beneficiaries.

2. *Emergency Program for Employment and Income Sustentation (Programa Emergencial de Manutenção do Emprego e da Renda)*: a short-time work scheme was implemented in April 2020; it was intended to last while the country was in a state of public health calamity (as declared by the Congress in March 2020). In April 2021, the programme was revamped, and its duration was fixed for another 120 days. It allowed for reductions in working hours (70%, 50%, or 25%) or labour contract suspension, thus enabling firms to save expenses with wages and taxes, while workers were paid a benefit by the Federal Government to compensate their earnings reduction. In 2020, the programme encompassed 9.76 million workers and 1.46 million firms, whereas in 2021 it covered 2.59 million workers and 0.63 million firms. Although this programme was discontinued in July 2021, the job guarantee effects for the participating workers lasted until April 2022.

3. *Business support*: support for SMEs included a low-interest credit line to cover wages for employees earning up to two times the minimum wage, with the credit risk borne by the Federal Government, a measure that expired on 31 October 2020, and a government fund to provide guarantee for SME loans that would potentially reach 3.2 million firms. Guarantee funds for SMEs are still available at the National Bank for Economic and Social Development (BNDES), but the operations of the PEAC emergency programme (Programa emergencial de accesso ao credito) ended on 31 December 2020; as of June 2022, a proposal to reopen this credit line by the end of 2023 was pending at the National Congress. Additional corporate credit lines were created by BNDES; a Pronampe (Credit Line of the National Program of Support for Micro and Small-Sized Enterprises) was transformed into a permanent programme for SMEs (Law No. 14,161, 6 February 2021), whereas the Predominantly Exporting Companies (PEC) (Credit Incentive Program) ended on 31 December 2021, although there is a proposal in the National Congress to reopen this credit line by the end of 2022. Tax liabilities and other charges on firms with a particular focus on SMEs were postponed; this measure was ended in November 2021 (Resolution CGSN 158). Temporary exemptions from certain labour regulations, the possibility to advance annual leave, and other measures created further flexibility in working hours for firms and remain in place (Medida Provisoria No. 1109, 25 March 2022).

4. *Credit and liquidity measures*: monetary policy support has reduced interest rates by a joint 250 basis points (Section 1.2.3.1), combined with prudential and regulatory measures that allowed additional credit extension of up to 18.5% of GDP until December 2020. Liquidity support measures totalled USD 56 billion, and capital requirement reductions totalled USD 142 billion.

In 2021 the Federal Government was looking for ways to wind down the relief measures with such spending to be reduced to about a fifth of its 2020 level.

Source: OECD (2020), *OECD Economic Surveys: Brazil 2020*, December. Viewed at: https://www.oecd.org/economy/surveys/Brazil-2020-OECD-economic-survey-overview.pdf; IMF (2021), Country Report No. 2021/217. Viewed at: https://www.imf.org/en/Publications/CR/Issues/2021/09/22/Brazil-2021-Article-IV-Consultation-Press-Release-Staff-Report-and-Statement-by-the-466076; World Bank (2021), *The World Bank in Brazil*, 14 October. Viewed at: https://www.worldbank.org/en/country/brazil/overview#1; and EIU (2021), *Country Commerce – Brazil*, October. Viewed at: http://www.eiu.com/.

1.2 Recent Economic Developments

1.2.1 Growth, income, and employment

1.3. During the review period, Brazil's annual GDP growth was relatively weak, rising at 1.8% (2018) and contracting to -3.9% (2020), less than in most advanced and emerging economies and the smallest contraction among the major Latin American economies, due to the COVID-19 outbreak lockdown measures, and it registered a strong rebound at a peak rate of 4.6% in 2021 (Table 1.1). This was due to, *inter alia*, the authorities' forceful policy response (Box 1.1), booming terms of trade, a pick-up in commodity prices, recovery in domestic and external demand, and robust private sector credit growth. The annual average GDP growth rate for the period 2017-21 stood at 1%, an increase compared to the average of -0.4% in 2012-16.[13] On the one hand, according to the World Bank and other analysts, the path to a full recovery in the medium term remains steep due to structural and fiscal vulnerabilities, the impact of resurgence of inflationary pressures (Section 1.2.3.2), and the exceptional drought reducing hydroelectricity generation and damaging the agricultural sector.[14] On the other hand, according to the IMF, an improving labour market and high levels of household savings would support consumption, depleted inventories would be rebuilt, and the upswing in commodity prices would support new investment.[15] Under greater than usual uncertainty, especially given the rapidly changing scenario with the start of the war in Ukraine, in March 2022 the authorities estimated that GDP (at current prices) was to rise by 1% in 2022.[16]

1.4. Since 2017, changes in the overall sectoral pattern of Brazil's GDP have mainly consisted of the increasing contribution of agriculture and mining and quarrying – important drivers of Brazilian exports, and a decline in manufacturing and services (Table 1.2); at the same time, the employment shares of different activities remained relatively stable. Reportedly, labour productivity (Section 1.1) averaged 110.31 points in the period 1988-22, reaching an all-time high of 252.77 points

[13] According to the IMF, the 2021 recovery has been led by industry and agriculture, with the authorities attributing it to their approach to shift from state-driven to private sector-led growth. WTO document WT/TPR/S/358/Rev.1, 18 October 2017; OECD (2020), *OECD Economic Surveys: Brazil 2020*, December. Viewed at: https://www.oecd.org/economy/surveys/Brazil-2020-OECD-economic-survey-overview.pdf; IMF (2021), Country Report No. 2021/217. Viewed at: https://www.imf.org/en/Publications/CR/Issues/2021/09/22/Brazil-2021-Article-IV-Consultation-Press-Release-Staff-Report-and-Statement-by-the-466076; and World Bank (2021), *The World Bank in Brazil*, 14 October. Viewed at: https://www.worldbank.org/en/country/brazil/overview#1.

[14] The authorities indicated that despite existing fiscal vulnerabilities, the primary balance for 2021 was above market expectations and debt to GDP ratio was below expected as well. Among the 50 largest economies, Brazil's nominal balance was ranked second, behind Singapore (IMF data). Primary expenditure has been at historical lows in comparison to recent years and debt ceiling rules have shown to be effective. Government payroll has been under control, having reached the lowest level in terms of percentage of GDP, in 25 years, with continuous decreases in personnel. Emergency measures during the worst stages of the pandemic ended as expected without unnecessary extensions. World Bank (2021), *The World Bank in Brazil*, 14 October. Viewed at: https://www.worldbank.org/en/country/brazil/overview#1; and EIU (2021), *Country Commerce – Brazil*, October.

[15] IMF (2021), Country Report No. 2021/217. Viewed at: https://www.imf.org/en/Publications/CR/Issues/2021/09/22/Brazil-2021-Article-IV-Consultation-Press-Release-Staff-Report-and-Statement-by-the-466076.

[16] Central Bank of Brazil (2022), *Relatório de Inflação Volume 24/Número 1*, March. Viewed at: https://static.poder360.com.br/2022/03/relatorio-trimestral-de-inflacao-bc-24mar2022.pdf?_ga=2.181271779.559419776.1648557050-1272835409.1638954301.

in January 2022.[17] The 2016 Brasil Mais Produtivo (Brazil More Productive) programme was well designed but largely focused on a few low-tech sectors (food, textiles, and furniture) and on the industrial heartland of the country; it was replaced by Brasil Mais, with a broader scope in 2020. Brasil Mais aims to improve the managerial and digital capabilities of Brazilian companies, promoting rapid improvements at low cost for entrepreneurs and guaranteeing consistent results in increasing productivity and competitiveness; the programme is available to MSMEs in the industry, commerce, and services sectors.[18] Brazil's limited participation in global value chains (GVCs) seems characterized by an intense forward participation as a primary product supplier and low backward participation, with a reduced use of imports in exports; in 2018, out of 35% of GVC participation in total gross exports, forward participation accounted for 22%, whereas backward participation for 13%, compared to 32.1% and 12.5%, respectively, in 2015.[19] According to United Nations Conference on Trade and Development (UNCTAD) estimates, in 2017, Brazil ranked 21st (22nd in 2010) among the world's 25 top exporting developing economies by GVC participation rate; its GVC participation in exports (40% upstream) stood below the average of the developing exporting economies (56%).[20]

Table 1.2 Basic economic and employment indicators, 2017-21

	2017	2018	2019	2020	2021
Real GDP at market prices (BRL billion, 1995 prices)	1,168.8	1,189.6	1,204.2	1,157.5	1,210.9
Real GDP at market prices (USD billion, 1995 prices)	366.2	325.6	305.3	224.5	224.5
Current GDP at market prices (BRL billion)	6,585.5	7,004.1	7,389.1	7,467.6	8,679.5
Current GDP at market prices (USD billion)	2,063.5	1,916.9	1,873.3	1,448.6	1,608.9
GDP per capita at current market prices (USD)	9,978.1	9,194.2	8,914.2	6,840.7	7,542.1
GDP by economic activity at constant 1995 prices (%)					
Agriculture	14.2	1.3	0.4	3.8	-0.2
Mining and quarrying	4.9	0.4	-9.1	1.3	3.0
Transformation/manufacturing	2.3	1.4	-0.4	-4.4	4.5
Electricity, gas, water, sewage and urban cleaning	0.9	3.7	2.6	-0.3	-0.1
Construction	-9.2	-3.0	1.9	-6.3	9.7
Services	0.8	2.1	1.5	-4.3	4.7
Trade	2.3	2.6	1.6	-3.1	5.5
Transport, storage and courier services	1.0	2.1	0.1	-8.4	11.4
Information and communication	1.4	1.8	4.5	0.8	12.3
Financial intermediation and insurance	-1.1	1.0	1.1	4.5	0.7
Real estate	1.3	3.3	2.4	2.6	2.2
Public administration, education and public health	0.1	0.1	-0.4	-4.5	1.5
Other services	0.7	3.5	2.8	-12.3	7.6
Value added by economic activity at current prices (%)					
Agriculture	5.3	5.2	4.9	6.8	8.1
Mining and quarrying	1.6	2.7	2.9	3.0	5.5
Transformation/manufacturing	12.4	12.3	12.0	11.2	11.3
Electricity, gas, water, sewage and urban cleaning	2.8	2.9	3.0	2.9	2.7
Construction	4.3	4.0	3.9	3.4	2.6
Services	73.5	73.0	73.3	72.7	69.8

[17] No official data on productivity were available with the authorities. Viewed at: https://tradingeconomics.com/brazil/productivity.

[18] WTO document WT/TPR/S/358/Rev.1, 18 October 2017; Decree No. 10,246 of 18 February 2020. Viewed at: http://www.planalto.gov.br/ccivil_03/_Ato2019-2022/2020/Decreto/D10246.htm#art16; and OECD (2020), *SME and Entrepreneurship Policy in Brazil 2020, OECD Studies on SMEs and Entrepreneurship*, 27 April. Viewed at: https://www.oecd-ilibrary.org/docserver/cc5feb81-en.pdf?expires=1646068181&id=id&accname=ocid195767&checksum=1DEB23D093C6B39C7D91E43AC4B55099.

[19] WTO document WT/TPR/S/358/Rev.1, 18 October 2017; Callegari, J., Massaroli Melo, T., and Carvalho, C.E. (2018), "The Peculiar Insertion of Brazil into Global Value Chains", *Review of Development Economics* (2018), Vol. 22, Issue 3; WTO, *Trade in Value-Added and Global Value Chains: Statistical Profiles*. Viewed at: https://www.wto.org/english/res_e/statis_e/miwi_e/countryprofiles_e.htm.

[20] The GVC participation rate indicates the share of a country's exports that is part of a multi-stage trade process. UNCTAD (2018), *World Investment Report 2018 – Investment and New Industrial Policies*. Viewed at: https://unctad.org/en/PublicationsLibrary/wir2018_en.pdf.

	2017	2018	2019	2020	2021
Trade	13.2	13.0	12.9	13.6	15.3
Transport, storage and courier services	4.3	4.4	4.5	4.3	3.8
Information and communication	3.4	3.4	3.4	3.5	3.4
Financial intermediation and insurance	7.6	7.0	7.2	7.1	6.1
Real estate	9.8	9.8	9.7	10.2	9.5
Public administration, education and public health	17.6	17.4	17.4	17.9	16.5
Other services	17.6	17.9	18.1	16.1	15.2
Structure of national employment (% of occupied population)					
Agriculture	9.3	9.2	9.0	9.5	9.7
Industry	13.1	13.0	13.0	13.1	13.0
Construction	7.7	7.4	7.3	7.0	7.6
Services	69.8	70.4	70.7	70.4	69.7
Wholesale trade	19.5	19.3	19.2	18.9	19.0
Accommodation and food supply	5.7	5.8	5.9	5.0	5.1
Transport, storage and courier services	5.1	5.1	5.2	5.2	5.2
Real estate	0.6	0.6	0.6	0.6	0.6
Financial intermediation and insurance	1.4	1.4	1.4	1.5	1.5
Information and communication	1.4	1.4	1.4	1.6	1.7
Public administration, education and public health	5.5	5.4	5.3	5.8	5.4
Education, health and social services	11.3	11.7	11.8	12.7	12.3
Domestic services	6.7	6.6	6.5	5.6	5.7
Other collective, social, and personal services	3.9	4.2	4.3	4.1	4.1
Other activities	8.8	8.9	9.1	9.2	9.1

Source: IBGE; and data provided by the authorities.

1.5. Following years of sluggish growth and despite recovery signs, unemployment remains relatively high and much above its levels of the previous Review.[21] During the review period, Brazil's unemployment rose slightly to the historically high rate of 13.5% in 2020 and 2021 (Table 1.1) *inter alia* due to the pandemic. The authorities indicate that overall unemployment, including informal jobs, stood at 11.2% at the quarter finishing in January 2022, the lowest figure since 2016.[22] According to the IMF, the labour market is lagging the recovery in output.[23]

1.2.2 Prices

1.6. Between 2017 and 2020, the headline and core inflation have been under the upper limit of the tolerance range established by the Central Bank of Brazil (BCB) (Table 1.1).[24] Since January 2021, inflation exceeded the upper limit of the tolerance band of the inflation target. According to the BCB, the main drivers for this move were: (i) the strong rise in prices of tradable goods in local currency, especially commodity prices; (ii) water scarcity electricity tariff flag; and (iii) imbalances between demand and supply of inputs and bottlenecks in global production chains.[25]

[21] WTO document WT/TPR/S/358/Rev.1, 18 October 2017; and OECD (2020), *OECD Review of the Corporate Governance of State-Owned Enterprises: Brazil*. Viewed at: http://www.oecd.org/corporate/soe-review-brazil.htm.

[22] IBGE. Viewed at: https://ftp.ibge.gov.br/Trabalho_e_Rendimento/Pesquisa_Nacional_por_Amostra_de_Domicilios_continua/Mensal/Quadro_Sintetico/2022/pnadc_202202_quadroSintetico.pdf.

[23] IMF (2021) Country Report No. 2021/217. Viewed at: https://www.imf.org/en/Publications/CR/Issues/2021/09/22/Brazil-2021-Article-IV-Consultation-Press-Release-Staff-Report-and-Statement-by-the-466076.

[24] *The Brazilian Report* (2022), "Inflation in Brazil Continues its Relentless Surge", 11 March. Viewed at: https://brazilian.report/liveblog/politics-insider/2022/03/11/inflation-in-brazil-continues-its-relentless-surge/; and BCB, *Inflation Targeting Track Record*. Viewed at: https://www.bcb.gov.br/en/monetarypolicy/historicalpath.

[25] Since 2015, the energy bill flags system has been a way to balance the costs of electricity production. The flags indicate whether conditions are favourable for energy generation (green flag) or whether there are additional costs (yellow flag and red flags levels 1 and 2). Viewed at: BCB, Open Letter Explaining Inflation above the Upper Limit of the Target Tolerance Band in 2021, dated 11 January 2022. Viewed at: https://www.bcb.gov.br/content/monetarypolicy/openletters/OPEN_LETTER_2022.pdf; and Singh, Y. (2021),

The annual inflation rate edged higher to 10.54% in February 2022 and 12.13% in April 2022 (a 2003 high) *inter alia* due to higher education costs, massive surges in commodity prices related to the Ukraine war, and Petrobras announcing its biggest fuel price hikes since 2016, after easing to 11.73% in May 2022.[26] According to the authorities, the inflation of services and of industrial goods remains high, and the recent shocks continue to cause a strong increase in food and fuel-related components. A June 2022 Inflation Report indicated inflation projections stand at 8.8% for 2022, 4% for 2023, and 2.7% for 2024.

1.2.3 Main macroeconomic policy developments

1.2.3.1 Monetary and exchange rate policy

1.7. The BCB remains in charge of monetary and exchange rate policy, and as from February 2021 it became *de jure* autonomous.[27] Keeping inflation around the target remains a fundamental objective of the BCB, and its main monetary policy tool is the target for the Selic interest rate, set by the Monetary Policy Committee (Copom), which meets eight times a year and pursues a data-dependent strategy to bring inflation to the target.[28] The BCB performs daily open market operations to keep the effective Selic rate at the target set by Copom. Below-target inflation has opened up space for significant monetary easing.[29] Between 2017 and 2022, the Selic rate was reduced progressively from a peak of 14.25% (set in August 2015) to a historical low of 2% (23 July 2020-10 March 2021) and then raised gradually to 11.75% (29 March 2022) in a tightening to address rising inflation driven by a surge in commodity prices and a weaker currency compared with pre-crisis levels, and keep inflation expectations well anchored in the current setting (Section 1.2.2).[30] In 2021, the BCB was confident that the current tightening cycle would lead inflation back close to target by end-2022.

1.8. Brazil maintains a floating exchange rate system with no restrictions on currency conversion and transfers for current international transactions; the system continues to work as an important shock absorber.[31] The BCB has not sought to influence the exchange rate, limiting its currency market interventions (direct market interventions and swap contracts) to containing excessive short-term volatility. During the review period, the nominal BRL/USD exchange rate depreciated by an overall (cumulative) 69% (Table 1.1); in trade-weighted terms, overall, the effective exchange

"Aneel Creates a Water Scarcity Tariff Flag, and the Electricity Bill Will Become even more Expensive", *Play Crazy Game*, 1 September. https://playcrazygame.com/2021/09/01/aneel-creates-a-water-scarcity-tariff-flag-and-the-electricity-bill-will-become-even-more-expensive/.

[26] Trading Economics, *Brazil Inflation Rate*. Viewed at: https://tradingeconomics.com/brazil/inflation-cpi.

[27] According to the IMF, the approval of *de jure* independence of the BCB, and the confirmation of its standing by the Supreme Court, would enhance further its credibility and the transmission of monetary policy. Complementary Law No. 179 of 24 February 2021 reaffirmed price stability as the core mandate of the institution, which would also tend to financial stability and smoothing the business cycle to help foster economic well-being. The Law introduced fixed, four-year mandates for BCB governors (that are staggered relative to the presidential term), and requires Senate approval for their dismissal. IMF (2021), *Brazil: 2021 Article IV Consultation-Press Release; Staff Report; and Statement by the Executive Director for Brazil*, Country Report No. 2021/217, 22 September. Viewed at: https://www.imf.org/en/Publications/CR/Issues/2021/09/22/Brazil-2021-Article-IV-Consultation-Press-Release-Staff-Report-and-Statement-by-the-466076.

[28] BCB, *Monetary Policy*. Viewed at: https://www.bcb.gov.br/en/monetarypolicy; and *Selic Interest Rate*. Viewed at: https://www.bcb.gov.br/en/monetarypolicy/selicrate.

[29] OECD (2020), *OECD Economic Surveys: Brazil 2020*, December. Viewed at: https://www.oecd.org/economy/surveys/Brazil-2020-OECD-economic-survey-overview.pdf.

[30] BRB, *Selic Interest Rate*. Viewed at: https://www.bcb.gov.br/en/monetarypolicy/selicrate; and IMF (2021), *Brazil: 2021 Article IV Consultation-Press Release; Staff Report; and Statement by the Executive Director for Brazil*, Country Report No. 2021/217, 22 September. Viewed at: https://www.imf.org/en/Publications/CR/Issues/2021/09/22/Brazil-2021-Article-IV-Consultation-Press-Release-Staff-Report-and-Statement-by-the-466076.

[31] Certain foreign exchange operations remain subject to a financial transaction tax (IOF) of up to 6.38% that is to be gradually reduced to zero by 2029 for certain foreign exchange currency settlements. The gradual reduction in the foreign transaction tax represents a step towards Brazil becoming an OECD member (Section 2.2.3.1). Presidential Decree 10,997/2022, 16 March 2022. Viewed at: https://www.ey.com/en_gl/tax-alerts/brazil-reduces-financial-transaction-tax-on-foreign-exchange-settlements; IMF (2021), *Brazil: 2021 Article IV Consultation-Press Release; Staff Report; and Statement by the Executive Director for Brazil*, Country Report No. 2021/217, 22 September. Viewed at: https://www.imf.org/en/Publications/CR/Issues/2021/09/22/Brazil-2021-Article-IV-Consultation-Press-Release-Staff-Report-and-Statement-by-the-466076.

rate appreciated, thus raising Brazil's international competitiveness. According to the OECD, depreciation was partly related to a flight for safety in the context of the pandemic, declining domestic interest rates, and an expanding domestic capital market.[32] To dampen excessive volatility, between December 2017 and May 2022, the BCB increased the outstanding stock of FX swaps by USD 76.5 billion after jumps in response to the pandemic and to Ukraine war-related uncertainty.

1.2.3.2 Fiscal policy

1.9. During the review period, Brazil's fiscal deficit declined gradually except for 2020 when it reached a peak of 13.6% of GDP, the largest fiscal deficit on record, due to COVID-19-related unprecedented fiscal support through an emergency package of fiscal and quasi-fiscal measures (Table 1.1 and Box 1.1).[33] After peaking at 88.6% of GDP in 2020, gross government debt dropped to 80.3% of GDP in 2021, and according to the IMF it should remain around that level over the medium term. A 2019 pension reform, a major milestone that has been on the agenda for many years, raised effective retirement ages and made pensions more progressive; it was key for fiscal sustainability as pension spending would have otherwise doubled by 2060. According to the OECD, although significant progress has been made in containing financial subsidies used for directed credit operations, improving fiscal outcomes remains one of Brazil's principal challenges.[34]

1.2.4 Structural policies

1.10. Trade and domestic reform are considered as intrinsically linked. According to the OECD, only productivity-boosting structural reforms would allow realizing Brazil's potential and improving well-being and living standards (Sections 1.1 and 1.2.1).[35] During the review period, an ambitious supply-side reform agenda aimed at boosting productivity, potential growth, and living standards was launched.[36] According to the authorities, Brazil is one of the very few countries in which market-friendly structural reforms have been moving ahead despite the pandemic. They, *inter alia*, involved institutional reforms; autonomy of the BCB (Section 1.2.3.1); privatization; labour market and pension reform (Section 1.2.3.2 and 1.2.4.4); efficiency and inclusiveness in the financial sector; new mechanisms to control mandatory spending growth (Box 1.1 and Section 2.1); import tariffs reductions (by 10% for 1,495 products, all import tariffs below 2% to zero) (Section 3.1.3.1); and new laws on sanitation, start-ups, natural gas, and bankruptcy. The Government is very committed structural reforms; as of June 2022, approval of further labour reform and then changes to social security regulations and a proposal for an administrative reform and several bills about taxation were under discussion at the Congress and in advanced stages.[37] According to the IMF, recent reforms have already attracted private investment of USD 8.3 billion (0.6% of GDP) into transportation, energy, and water and sewage in 2020, and are expected to generate additional infrastructure investment (Section 1.3.2). According to the OECD, further reforms to improve domestic regulation and competition, reduce barriers to foreign trade, and improve institutions and economic governance could boost annual per capita GDP growth by 0.9 percentage points over 15 years.[38]

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[32] OECD (2020), *OECD Economic Surveys: Brazil 2020*, December. Viewed at: https://www.oecd.org/economy/surveys/Brazil-2020-OECD-economic-survey-overview.pdf.

[33] IMF (2021), Country Report No. 2021/217. Viewed at: https://www.imf.org/en/Publications/CR/Issues/2021/09/22/Brazil-2021-Article-IV-Consultation-Press-Release-Staff-Report-and-Statement-by-the-466076.

[34] OECD (2020), *OECD Economic Surveys: Brazil 2020*, December. Viewed at: https://www.oecd.org/economy/surveys/Brazil-2020-OECD-economic-survey-overview.pdf.

[35] OECD (2020), *OECD Economic Surveys: Brazil 2020*, December. Viewed at: https://www.oecd.org/economy/surveys/Brazil-2020-OECD-economic-survey-overview.pdf.

[36] IMF (2021), Country Report No. 2021/217. Viewed at: https://www.imf.org/en/Publications/CR/Issues/2021/09/22/Brazil-2021-Article-IV-Consultation-Press-Release-Staff-Report-and-Statement-by-the-466076.

[37] OECD, *Brazil*. Viewed at: https://www.oecd.org/economy/growth/Brazil-country-note-going-for-growth-2021.pdf; and The Legal 500 (2021), *The Main Aspects of the Brazilian Income Tax Reform Proposal*. Viewed at: https://www.legal500.com/developments/thought-leadership/the-main-aspects-of-the-brazilian-income-tax-reform-proposal/#:~:text=The%20Corporate%20Income%20Tax%20(IRPJ,would%20be%20reduced%20to%2026%25.

[38] OECD (2020), *OECD Economic Surveys: Brazil 2020*, December. Viewed at: https://www.oecd.org/economy/surveys/Brazil-2020-OECD-economic-survey-overview.pdf.

1.2.4.1 Tax reform

1.11. According to the OECD, Brazil's fragmented tax system, in which 27 states plus the Federal Government apply their own tax codes, gives rise to one of the world's highest tax compliance costs, hurting the competitiveness of Brazilian companies, and a wide array of exemptions and special regimes, reducing fairness and the redistribution effect of taxes.[39] Although tax reform remains a priority for the administration, during the review period no changes were completed in this area.[40] A 2021 tax reform proposal *inter alia* intends to: (i) unify the PIS (Program de Integracao Social) and COFINS (Contribuição para Financiamento da Seguridade Social) taxes into a federal VAT (CBS) at a non-cumulative 12%; (ii) reduce the corporate income tax rate (CIT or IRPJ) from 34% to 27% or 26%; (iii) reintroduce dividend taxation (at 15%, now tax free); (iv) eliminate interest payments on net equity deductions from the IRPJ; (v) tax accrued capital gains in closed-end investment funds; and (vi) increase the personal income tax (PIT) exemption threshold by 31%.[41] By June 2022, discussions were ongoing in Congress. In addition, initiatives by the Congress itself include PEC 110/2019, a proposed constitutional amendment aimed at a comprehensive tax reform of consumption taxes.

1.2.4.2 Privatization

1.12. State involvement in the economy remains significant (Sections 1.1 and 3.3.5) with the Federal Government currently controlling 133 SOES (47 directly owned, 86 indirectly owned), but since 2019, the privatization of state-owned assets has been a key area of the agenda to liberalize the economy, attract new investors, and promote competition in the domestic market.[42] According to the authorities, from 2017 to 2022, two directly owned companies (Codesa and Eletrobras) were privatized, two were liquidated (Codomar and Casemg), and one (Ceitec) is under liquidation.[43] Moreover, in the same period, divestments (i.e. selling subsidiary assets, investments, or divisions of a company) largely targeted the energy sector and included 98 directly and indirectly owned SOEs, *inter alia* involving: (i) BR Distribuidora, the largest distributor and trader of petroleum derivatives and biofuels (ethanol) in Brazil and Latin America; (ii) Transportadora Associada de Gás S.A. (TAG), the largest natural gas transportation company in Brazil; (iii) Liquigás Distribuidora S.A. (Liquigás), a former subsidiary of the government-controlled Petrobras in bottling, distribution, and marketing of the liquefied petroleum gas sector; (iv) Amazonas Energia; and (v) Companhia Energética de Alagoas (CEAL). As of June 2022, the National Program of Divestment of National Public Assets (Programa Nacional de Desestatização (PND)) included 13 directly owned state companies in food storage or distribution, IT, machinery, energy, semiconductors, insurance, urban transportation, and ports. As of end-September 2021, the Investment Partnership Project (Projeto de Parcerias de Investimento (PPI)) listed 72 completed projects, 3 mothballed projects, and 164 projects in progress, ranging from ports to energy to tourism; as of June 2022, 14 SOEs were qualified in PPI for privatization purposes.[44]

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[39] OECD (2020), *OECD Economic Surveys: Brazil 2020*, December. Viewed at: https://www.oecd.org/economy/surveys/Brazil-2020-OECD-economic-survey-overview.pdf.

[40] EIU (2021), *Country Commerce – Brazil*, October. Viewed at: http://www.eiu.com/.

[41] IMF (2021), Country Report No. 2021/217. Viewed at: https://www.imf.org/en/Publications/CR/Issues/2021/09/22/Brazil-2021-Article-IV-Consultation-Press-Release-Staff-Report-and-Statement-by-the-466076; OECD, *Brazil*. Viewed at: https://www.oecd.org/economy/growth/Brazil-country-note-going-for-growth-2021.pdf; and BDO (2021), *Brazil*, Corporate Tax News Issue 60, November. Viewed at: https://www.bdo.global/en-gb/microsites/tax-newsletters/corporate-tax-news/issue-60-november-2021/brazil-tax-reform-stalls.

[42] Panorama das Estatais, *Brazil*. Viewed at: http://www.panoramadasestatais.planejamento.gov.br/QvAJAXZfc/opendoc.htm?document=paineldopanoramadasestatais.qvw&lang=en-US&host=QVS%40srvbsaiasprd07&anonymous=true; Ministry of Economy, *Bulletin of Federal State Enterprises*. Viewed at: https://www.gov.br/economia/pt-br/centrais-de-conteudo/publicacoes/boletins/boletim-das-empresas-estatais-federais; and Brazil Services and Information, *Brazil Privatization Projects*. Viewed at: https://www.gov.br/en/government-of-brazil/latest-news/2021/brazil-privatization-projects#:~:text=In%20less%20than%20three%20years,one%20we%20are%20currently%20in.

[43] The March 2022 privatization of Codesa is considered a pilot case for other public ports, especially Santos Port Authority, the biggest in Latin America. In June 2022, the privatization of Eletrobras (the largest electric energy generation company) was completed in a public offering of shares that raised approximately BRL 97 billion (USD 19.5 billion). As of June 2022, Correios' (the most relevant postal service supplier) privatization process is in process.

[44] EIU (2021), *Country Commerce – Brazil*, October. Viewed at: http://www.eiu.com/.

1.2.4.3 Competition policy and corporate governance

1.13. During the review period, Brazil's Administrative Council for Economic Defense (CADE) adopted several strategies to share experiences and stimulate discussions related to the defence of competition (Section 3.3.4). CADE's cartel enforcement programme has been thoroughly modernized. Its leniency programme has been systematic and consistently enhanced; its 2021 Guidelines for Evidence in Antitrust Leniency Agreement Proposals with CADE consolidated the standard of evidence required to negotiate leniency agreements in cartel cases.[45] Progress has been made in terms of competition advocacy. In 2021, CADE released a report on digital platforms and a report on competition cases in the private healthcare market. Complex mergers with considerable impact on different markets were reviewed and investigations involving digital platforms and media, as well as of cartels, were undertaken.

1.14. Good corporate governance contributes to sustainable economic development by enhancing the performance of companies and increasing their access to outside capital.[46] During the review period, no changes were brought to the regulatory framework in this area. Since 2017, the Securities and Exchange Commission (CVM) has obliged listed companies to report – based on a comply-or-explain approach – as per the adoption of the good practices set forth in the Brazilian Code of Corporate Governance.[47]

1.2.4.4 Labour market policies

1.15. During the review period, the labour market was liberalized under Law No 13,467/2017, which made more than 100 changes to standing rules, applying to both existing and new work contracts.[48] These changes, *inter alia*, strengthened incentives for formal hiring, rationalized and made fairer the terms for legal action in labour disputes, and regulated remote work; at the same time, core worker rights have been preserved and cannot be subject to contractual arrangements.[49] Changes included: (i) collective-bargaining agreements superseding existing laws for certain issues; (ii) work conditions becoming more flexible; (iii) enabling companies to outsource any job, not just support activities; (iv) allowing new types of work contracts (e.g. intermittent work, remote work (home office), and exclusive independent contractor); (v) lowering the salary cut-off for receiving government-subsidized legal costs; (vi) increasing flexibility in the "bank-of-hours" system; and (vii) liberalizing contract termination by adding the option of "common accord". During the pandemic, a temporary programme (Emergency Program for Employment and Income Sustentation (Box 1.1)) was established to reduce the impact of non-pharmaceutical measures (lockdowns and alike restrictions) on the labour market, allowing companies to furlough employees and reduce the hit to formal sector jobs. Furthermore, the 2019 pension reforms (Section 1.2.3.2) changed retirement ages and minimum contribution times for workers in the private and public sectors; for women in the private sector, the minimum age and contribution period are now 62 and 15 years, respectively, while for men they are 65 and 20 years.[50]

1.16. During the review period, the minimum monthly wage was increased several times, rising gradually from BRL 937 in 2017 to BRL 1,212 as of January 2022. Up until 2019, the pay floor rose according to past inflation (as defined in the Constitution) plus the real GDP growth rate of two years earlier; since the expiry of the 2011 law setting this methodology in 2019, the administration has set the minimum wage according to past inflation only.[51] In a company employing more than three people, two thirds of all employees must be Brazilian nationals receiving two thirds of the total payroll.[52]

[45] Competition Policy International, *Brazilian Competition Policy in 2021: Year in Review*. Viewed at: https://www.competitionpolicyinternational.com/brazilian-competition-policy-in-2021-year-in-review/.

[46] World Bank Group, *World Bank Group A to Z 2016: Corporate Governance*. Viewed at: http://elibrary.worldbank.org/doi/full/10.1596/978-1-4648-0484-7_corporate_governance.

[47] OECD (2020), *OECD Review of the Corporate Governance of State-Owned Enterprises: Brazil*. Viewed at: http://www.oecd.org/corporate/soe-review-brazil.htm.

[48] EIU (2021), *Country Commerce – Brazil*, October. Viewed at: http://www.eiu.com/.

[49] OECD (2020), *OECD Economic Surveys: Brazil 2020*, December. Viewed at: https://www.oecd.org/economy/surveys/Brazil-2020-OECD-economic-survey-overview.pdf.

[50] EIU (2021), *Country Commerce – Brazil*, October. Viewed at: http://www.eiu.com/.

[51] EIU (2021), *Country Commerce – Brazil*, October. Viewed at: http://www.eiu.com/.

[52] EIU (2021), *Country Commerce – Brazil*, October. Viewed at: http://www.eiu.com/.

1.17. Labour informality remains a key policy challenge as labour tax wedges for formal sector workers remain high (Section 1.1); the OECD estimates it has risen to above 40% in 2018.[53] Poverty is four times the national average among informal workers and women are more likely to be in informal employment. Female workers earn 20% less than men, compared to 13% for the OECD average.

1.2.5 Balance of payments

1.18. During the review period, Brazil's current account remained in deficit peaking to 3.5% of GDP in 2019 and then shrinking to 1.7% in 2020 and 2021 (Tables 1.1 and 1.3); according to the IMF, in 2020 it was due to improvements in the trade, services, and income balances, supported, respectively, by the currency depreciation, the contraction in tourism and transport service imports, and lower distribution of profits and dividends.[54] The 2021 outcome was the partly due to trade balance improvements resulting from high commodity prices, a record soybean harvest, and recovery in economic activity in trading partners that boosted exports, more than offsetting the rebound in imports.

Table 1.3 Balance of payments, 2017-21

(USD million)

	2017	2018	2019	2020	2021
Current account	-22,033	-51,457	-65,030	-24,492	-27,925
Goods and services balance	19,001	7,382	-8,942	11,428	19,252
Balance on goods (f.o.b.)	57,325	43,373	26,547	32,370	36,363
Exports	218,000	239,520	225,800	210,707	284,012
Imports	160,675	196,147	199,253	178,337	247,648
Services and primary income (net)	-81,494	-94,815	-92,761	-59,205	-67,584
Services balance	-38,324	-35,991	-35,489	-20,941	-17,112
Credit	34,458	35,383	34,275	28,576	33,164
Debit	72,782	71,374	69,765	49,517	50,275
Primary income balance	-43,170	-58,824	-57,272	-38,264	-50,471
Credit	23,230	13,223	25,129	20,098	29,791
Debit	66,400	72,047	82,400	58,362	80,262
Secondary income balance	2,135	-15	1,184	2,344	3,294
Capital account	379	440	369	4,141	225
Balance on current and capital account	-21,654	-51,017	-64,661	-20,351	-27,885
Financial account (net lending (+)/net borrowing (-))	-17,075	-52,339	-64,357	-12,473	-33,706
Direct investment	-47,545	-76,138	-46,355	-41,254	-27,285
Net acquisition of financial assets	21,341	2,025	22,820	-3,467	19,157
Equity capital	21,227	-2,267	20,790	-4,798	19,338
Debt instruments	114	4,291	2,030	1,330	-182
Net incurrences of liabilities	68,885	78,163	69,174	37,786	46,441
Equity capital	63,999	57,322	63,631	33,577	46,470
Debt instruments	4,886	20,840	5,543	4,209	-29
Portfolio investments	17,724	6,861	19,216	12,882	-5,694
Net acquisition of financial assets	12,371	458	8,995	11,002	15,164
Equity and investment fund shares	10,002	1,990	7,771	11,498	14,489
Debt securities	2,368	-1,532	1,224	-496	675
Net incurrence of liabilities	-5,353	-6,403	-10,221	-1,880	20,858
Equity and investment fund shares	5,674	-3,062	-1,810	-5,206	5,069
Debt securities	-11,027	-3,341	-8,411	3,326	15,789

[53] OECD (2020), *OECD Economic Surveys: Brazil 2020*, December. Viewed at: https://www.oecd.org/economy/surveys/Brazil-2020-OECD-economic-survey-overview.pdf.

[54] IMF (2021), Country Report No. 2021/217. Viewed at: https://www.imf.org/en/Publications/CR/Issues/2021/09/22/Brazil-2021-Article-IV-Consultation-Press-Release-Staff-Report-and-Statement-by-the-466076.

	2017	2018	2019	2020	2021
Financial derivatives	705	2,753	1,673	5,397	-960
Net acquisition of financial assets	-8,153	-12,079	-27,952	-23,018	-17,024
Net incurrence of liabilities	-8,858	-14,832	-29,625	-28,414	-16,064
Other investments	6,948	11,257	-12,836	24,734	-13,734
Net acquisition of financial assets	-2,261	9,582	-2,562	3,908	24,527
Net incurrence of liabilities	-9,209	-1,676	10,275	-20,826	38,261
Reserve assets	5,093	2,928	-26,055	-14,232	13,967
Errors and omissions	4,579	-1,322	304	7,878	-6,006

Source: BCB.

1.19. According to the BCB, Brazil's overall gross external debt (including intercompany lending and debt securities traded in the domestic market) grew slightly by an overall 0.5% during the period 2017-21; it peaked at USD 675.8 billion in 2019 and dropped to USD 670.3 billion (11.7% short-term) or 41.7% of GDP in 2021 (Table 1.1). According to the IMF, external debt is assessed to be sustainable over the medium term, but subject to risks as the debt path remains sensitive to real exchange rate shocks.[55]

1.20. Between 2017 and 2021, Brazil's foreign exchange reserves dropped by an overall 3.1% (Table 1.1); in 2021 they were equivalent to 22.5% of GDP, 14.6 months of imports of goods and services, and 54% of Brazil's overall gross external debt. As of 15 July 2022, they had declined to USD 340.9 billion.[56] According to the IMF, in 2021 reserves remained adequate and the 2020 external position was broadly in line with the level implied by medium-term fundamentals and desirable policies.[57]

1.3 Developments in Trade and Investment

1.3.1 Trends and patterns in merchandise and services trade

1.21. The openness of the Brazilian economy to international trade and its integration into the world economy continued to be reflected by the ratio of the country's trade (exports plus imports) in goods and services to GDP; this ratio rose significantly from 24.3% in 2017 to 39.2% in 2021 (Table 1.1), partly due to a rise in both exports and imports in 2020 and 2021. According to the OECD, Brazil is significantly less integrated into international trade than other emerging market economies and has forgone many of the benefits that these markets have reaped from international trade and investment.[58] According to the same source, stronger integration into the global economy has significant potential to raise productivity, real wages, and well-being.

1.22. Since the previous Review, Brazil's merchandise exports have become increasingly dependent on commodities, whereas merchandise imports on manufactures (Chart 1.1, and Tables A1.1 and A1.2). As of 2021, the share of vegetable products and petroleum and mineral products in total exports had risen, whereas the share of all other product categories had dropped. Minor changes were registered in imports where dependence on machinery, electrical equipment, and chemicals persisted.

[55] IMF (2021), Country Report No. 2021/217. Viewed at: https://www.imf.org/en/Publications/CR/Issues/2021/09/22/Brazil-2021-Article-IV-Consultation-Press-Release-Staff-Report-and-Statement-by-the-466076.

[56] BCB, *Selected Economic Indicators*. Viewed at: https://www.bcb.gov.br/en/statistics/selectedindicators; and BCB, *External Sector Statistics*. Viewed at: https://www.bcb.gov.br/en/statistics/externalsectorstatistics.

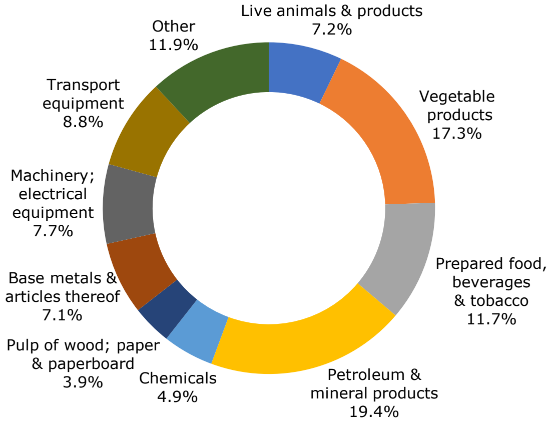
[57] IMF (2021), Country Report No. 2021/217. Viewed at: https://www.imf.org/en/Publications/CR/Issues/2021/09/22/Brazil-2021-Article-IV-Consultation-Press-Release-Staff-Report-and-Statement-by-the-466076.

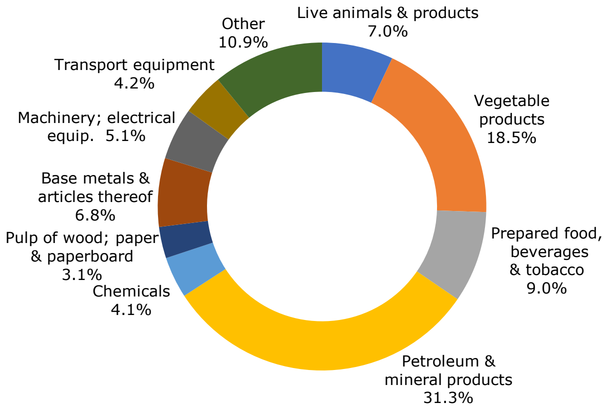
[58] OECD (2020), *OECD Economic Surveys: Brazil 2020*, December. Viewed at: https://www.oecd.org/economy/surveys/Brazil-2020-OECD-economic-survey-overview.pdf.

Chart 1.1 Product composition of merchandise trade by main HS section, 2017 and 2021

2017 **2021**

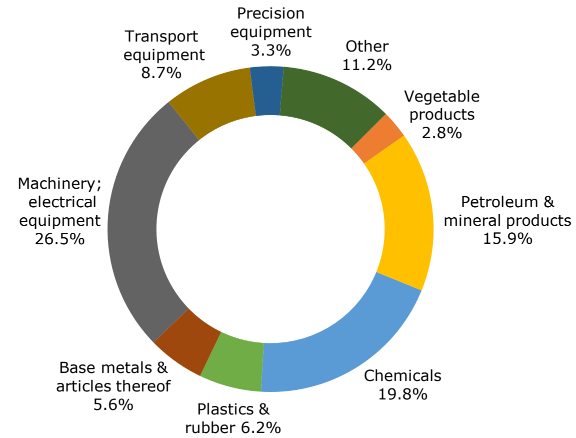
Exports (f.o.b.)

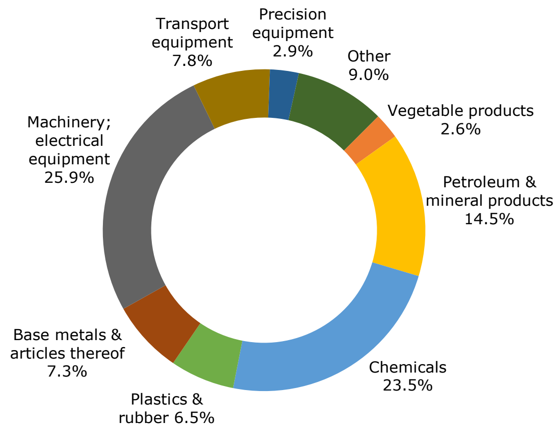




Total: USD 215.0 billion **Total: USD 280.8 billion**

Imports (c.i.f.)



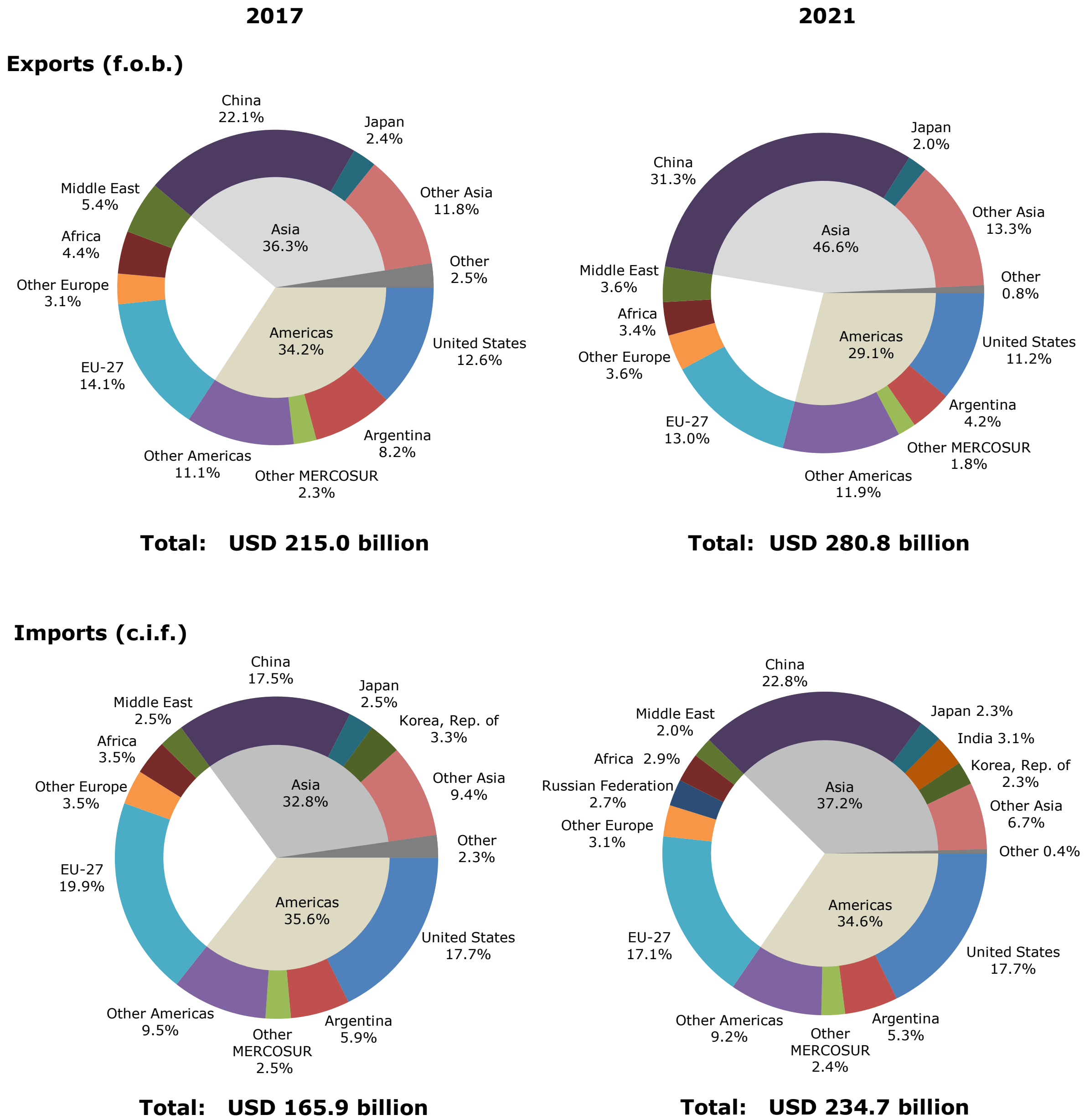


Total: USD 165.9 billion **Total: USD 234.7 billion**

Source: WTO Secretariat calculations, based on UN Comtrade database.

1.23. Brazil's merchandise trade with Asia, particularly China (which turned into its main trading partner possibly due to oil exports rise (Section 4.2.2.3)), was strengthened, whereas the share of the Americas dropped (Chart 1.2, and Tables A1.3 and A1.4). In 2021 China, the European Union, and the United States were Brazil's main individual export markets and main sources of imports although in a different order (i.e. China, the United States, and the European Union). The relative weight of trade with other Southern Common Market (MERCOSUR) partners overall declined considerably, notably on the exports side.

Chart 1.2 Direction of merchandise trade, 2017 and 2021



Source: WTO Secretariat calculations, based on UN Comtrade database.

1.24. During the review period, Brazil remained a net importer of services, running a deficit in the services account that rose to 1.9% of GDP before gradually dropping to 1.1% in 2021 (Section 1.2.5, and Tables 1.1, 1.3, and 1.4). Transportation, telecommunications, computer and information, and other business services remain the major traded services. Due to the pandemic, the weight of travel was reduced significantly; the share of operating leasing services, attributable to the oil and gas industry at the time of the previous Review, also decreased. In 2019, the United States was Brazil's main partner in services trade, accounting for 35.9% of its total services imports and 29.4% of its total exports. The European Union, notably the Netherlands and Germany, ranked as Brazil's second most important partner, accounting for 37.8% of total imports and 27.3% of total exports.[59]

[59] OECD-WTO Balanced Trade in Services Dataset.

Table 1.4 Trade in services, 2017-21

	2017	2018	2019	2020	2021
Total credit (USD million)	34,457.8	35,383.1	34,275.3	28,575.8	33,163.5
	(% of total credit)				
Manufacturing services on physical inputs owned by others	0.02	0.01	0.05	0.04	0.01
Maintenance and repair services	1.3	3.8	1.4	3.7	3.3
Transportation	16.7	16.4	16.1	17.7	19.5
Passenger	1.1	1.1	0.4	0.2	0.2
Freight	5.5	6.0	5.8	6.5	7.5
Other	10.1	9.3	10.0	11.0	11.8
Travel	16.9	16.7	17.5	10.7	8.9
Business	4.4	4.5	4.9	2.6	2.2
Personal	12.5	12.2	12.6	8.0	6.7
Construction	0.0	0.0	0.1	0.1	0.1
Insurance and pension	2.0	1.5	2.8	2.0	2.4
Financial services	2.0	2.2	3.0	2.9	3.2
Charges for the intellectual property	1.9	2.3	1.9	2.2	2.1
Telecommunication, computer and information	6.3	7.4	7.5	8.9	9.8
Operating leasing services	0.4	0.2	0.4	0.3	0.4
Other business services, including architecture and engineering	49.2	46.1	45.8	47.8	46.4
Personal, cultural and recreational services	0.9	1.0	1.5	1.4	2.0
Government goods and services n.i.e.	2.3	2.2	2.0	2.1	2.0
Total debit (USD million)	72,782.0	71,373.7	69,764.5	49,517.1	50,275.3
	(% of total debit)				
Manufacturing services on physical inputs owned by others	0.00	0.00	0.00	0.00	0.00
Maintenance and repair services	0.3	0.4	0.5	0.4	0.5
Transportation	15.3	17.1	17.0	16.8	21.7
Passenger	5.5	5.6	5.1	2.2	2.0
Freight	5.5	6.5	6.6	8.2	11.3
Other	4.3	5.1	5.2	6.4	8.4
Travel	26.1	25.6	25.2	10.9	10.4
Business	7.2	7.0	6.9	2.9	2.8
Personal	18.9	18.6	18.3	8.0	7.7
Construction	0.0	0.0	0.0	0.0	0.0
Insurance and pension	2.0	2.0	2.3	3.1	3.8
Financial services	1.0	0.7	0.9	1.0	1.3
Charges for the intellectual property	7.4	7.2	7.5	8.2	10.3
Telecommunication, computer and information	5.5	6.7	7.7	12.0	12.9
Operating leasing services	25.2	22.2	21.0	24.3	13.9
Other business services, including architecture and engineering	13.3	13.9	14.1	19.2	21.6
Personal, cultural and recreational services	1.2	1.1	0.8	0.6	0.5
Government goods and services n.i.e.	2.8	3.1	2.9	3.5	3.2

Source: BCB.

1.3.2 Trends and patterns in FDI

1.25. During the review period, Brazilian equity investment overseas outflows peaked (2018) and then decreased progressively at 17.6% below their 2017 level (Table 1.5). According to UNCTAD, overseas FDI dropped due to largely negative outflows from Brazilian firms that continued to raise funds through their overseas subsidiaries.[60] FDI equity outflows targeted a variety of economic activities, the main recipients being services (e.g. non-financial holdings, financial and auxiliary

[60] UNCTAD (2021), *World Investment Report 2021 – Investing in Sustainable Recovery*. Viewed at: https://unctad.org/system/files/official-document/wir2021_en.pdf.

services, and commerce) and industry (e.g. motor vehicles, trailers, semi-trailers and related parts, and basic metallurgy) (Table 1.5). The European Union and the United States were Brazil's main outward FDI destinations in 2021.

Table 1.5 Foreign direct investment (equity)[a] outflows, 2017-21

	2017	2018	2019	2020	2021
Total outflows (USD million)	13,026.4	14,794.7	14,229.9	14,034.9	10,731.1
% of GDP	0.6	0.8	0.8	1.0	0.7
	(% of total)				
By sector					
Crop, livestock and mineral extraction	0.5	3.4	7.0	1.7	0.9
Metallic mineral extraction	..	3.1	6.7	1.2	0.3
Others	0.5	0.0	0.2	0.4	0.6
Industry	64.3	32.1	16.4	29.6	20.8
Basic metallurgy	0.0	6.5	2.9	2.7	6.9
Chemical products	9.9	6.1	0.6	19.2	0.2
Non-metallic mineral products	0.9	0.7	6.4	1.8	1.6
Electrical machines, devices and apparatuses	0.4	0.9	0.2	0.4	0.3
Motor vehicles, trailers, semi-trailers and related parts	0.1	1.7	2.0	0.5	7.0
Foodstuff	3.7	0.7	1.2	1.3	0.0
Plastic and rubber products	0.2	0.4	0.1	0.1	0.1
Machinery and equipment	0.1	0.0	0.1	0.5	0.1
Leather and footwear	0.1	..	0.1	0.1	0.4
Textile products	0.1	0.7	0.6	0.1	0.5
Coke, oil derivatives and biofuels	46.0	..	0.1	..	0.0
Other industries	2.8	14.2	2.0	3.0	3.6
Services	33.9	63.0	75.1	67.9	77.3
Non-financial holdings	16.7	19.2	18.7	26.6	36.2
Financial and auxiliary services	6.6	33.5	27.9	29.9	22.6
Transportation	0.1	0.2	0.3	0.2	1.2
Electricity and gas	0.1	0.2	..	0.3	0.1
Infrastructure works	4.5	0.2	0.1	0.1	0.9
Telecommunications	0.0	0.1	..	..	0.1
Commerce, except vehicles	1.0	5.9	20.9	0.7	7.9
Storage and transportation auxiliary activities	0.2	0.1	0.3	0.4	0.0
Real estate activities	1.0	0.7	1.6	0.9	1.0
Buildings and specialized construction activities	0.2	0.0	0.0	0.1	0.1
Information technology services	1.6	0.2	1.1	1.5	1.5
Headquarter consulting and management activities	0.0	0.0	1.0	0.1	2.0
Office services and other services rendered to corporations	0.8	0.0	0.0	0.0	0.9
Other services	1.0	2.5	3.0	7.0	2.6
Acquisition and sale of property	1.4	1.6	1.6	0.8	1.1
By partner					
United States	10.4	24.4	13.7	29.9	26.2
British Virgin Islands	4.4	4.9	4.4	7.0	13.6
Luxembourg	2.7	7.6	7.4	9.9	11.1
Cayman Islands	8.3	18.9	19.1	6.7	10.1
Spain	0.3	0.3	0.5	0.5	7.7
Chile	0.3	0.7	0.5	0.9	7.3
Netherlands	41.0	14.4	2.3	2.1	5.6
Bahamas	2.1	3.2	11.9	29.8	4.4
Uruguay	2.5	0.9	0.5	0.6	2.4
Switzerland	0.8	1.2	1.0	1.0	2.0
Argentina	2.7	8.0	5.8	1.5	1.1

	2017	2018	2019	2020	2021
United Kingdom	4.1	0.6	0.3	0.7	1.0
Portugal	0.7	0.7	0.7	0.7	0.7
Mexico	0.1	0.9	0.6	0.9	0.6
Colombia	0.6	0.3	17.7	0.3	0.5
Austria	0.1	1.4	1.1	0.9	0.4
Bermuda	0.0	..	0.7	0.6	0.4
Panama	0.4	0.4	0.4	0.9	0.3
Germany	0.0	0.2	0.0	0.0	0.3
Peru	0.3	0.3	0.1	0.3	0.2
Italy	0.2	0.1	0.4	0.2	0.2
Canada	0.4	0.2	0.1	0.2	0.2
China	0.0	0.1	0.3	0.1	0.2
Other	17.7	10.4	10.5	4.3	3.2

.. Not available or marked as confidential, number of observations is below three.

a Other than reinvestment of earnings.

Source: BCB. Viewed at: https://www.bcb.gov.br/content/statistics/specialseriestables/InvBrai.xls.

1.26. Inward FDI is not only an additional source of capital, but it also brings with it entrepreneurship, management skills, and especially new technology, which contribute to improved total factor productivity. During the review period, FDI equity inflows bottomed in 2020 (Table 1.6), reflecting the negative impact of the coronavirus pandemic on foreign investment activity, and in 2021 rose at an amount equivalent to 65.3% of their 2017 level.[61] According to UNCTAD estimates, in 2020 Brazil was the world's 9th (same as in 2018) FDI host economy, a drop compared to its 6th position in 2019.[62] In 2021, the main FDI recipients were services (e.g. commerce, information technology services, financial and auxiliary services, non-financial holdings, and electricity and gas) and industry (e.g. motor vehicles, trailers, semi-trailers and related parts, foodstuff, oil derivatives, and biofuels) (Table 1.6). The same year, the European Union remained the leading investor, with a considerable share attributable to Luxembourg and the Netherlands. Despite a major rise in its share in 2021, the United States remained the second source of inward direct investment in Brazil.

Table 1.6 Foreign direct investment (equity)[a] inflows, 2017-21

	2017	2018	2019	2020	2021
Total inflows (USD million)	60,336.1	46,164.8	48,951.2	32,869.2	39,386.2
% of GDP	2.9	2.4	2.6	2.3	2.4
			(% of total)		
By partner					
United States	18.3	15.8	21.0	22.9	33.1
Luxembourg	7.1	5.2	5.2	4.3	12.8
Netherlands	18.1	20.0	12.7	16.4	10.3
Cayman Islands	0.8	4.0	6.0	4.5	5.4
Canada	0.5	2.9	3.2	1.7	3.8
Spain	3.8	7.4	5.9	6.1	3.2
Chile	2.7	2.2	7.8	2.3	3.1
Germany	5.3	8.2	2.9	2.6	2.9
United Kingdom	1.9	1.9	5.9	2.7	2.7
Italy	2.5	1.5	1.5	2.9	2.2
Singapore	0.3	1.2	0.3	2.4	2.1
Switzerland	2.1	2.6	1.6	2.2	2.1
Korea, Republic of	0.8	0.7	0.4	0.7	1.5

[61] EIU (2021), *Country Commerce – Brazil*, October. Viewed at: http://www.eiu.com/.

[62] UNCTAD (2020), *World Investment Report 2020 – International Production Beyond the Pandemic*. Viewed at: https://unctad.org/webflyer/world-investment-report-2020; and UNCTAD (2021), *World Investment Report 2021 – Investing in Sustainable Recovery*. Viewed at: https://unctad.org/system/files/official-document/wir2021_en.pdf.

	2017	2018	2019	2020	2021
Panama	0.4	0.3	0.1	1.5	1.5
France	5.2	2.9	5.9	6.8	1.4
Japan	0.9	2.4	4.0	6.1	1.4
Hong Kong, China	1.9	2.0	0.2	0.4	1.1
Uruguay	0.4	0.1	0.2	1.3	0.9
Bermuda	0.4	1.4	1.1	0.4	0.7
Norway	1.6	1.7	4.5	2.3	0.6
China	1.1	0.8	0.2	0.4	0.6
British Virgin Islands	15.0	3.1	1.0	0.7	0.5
Bahamas	1.9	5.7	1.0	0.9	0.5
Australia	0.3	0.3	0.3	1.0	0.4
Portugal	0.5	0.4	0.3	0.7	0.4
Belgium	0.2	0.3	1.0	0.3	0.4
Sweden	0.2	0.4	0.6	0.4	0.3
Mexico	2.5	0.8	0.8	0.3	0.3
Ireland	0.1	0.2	0.2	0.6	0.2
Denmark	0.3	0.2	0.1	0.2	0.2
Austria	0.3	0.3	0.8	0.8	0.2
Argentina	0.2	0.2	0.2	0.0	0.2
Finland	0.4	0.1	0.1	0.3	0.1
Colombia	0.4	0.1	0.1	0.0	0.1
Cyprus	0.1	0.0	0.0	0.0	0.0
Peru	0.1	0.1	0.0	0.1	0.0
New Zealand	0.1	0.0	0.1	0.0	0.0
Other countries	1.4	2.7	2.5	2.5	2.8
By sector					
Crop, livestock and mineral extraction	9.8	18.5	26.8	21.2	9.0
Oil and gas extraction	6.2	11.3	20.2	12.3	3.5
Metallic mineral extraction	1.6	2.6	2.6	4.2	1.9
Mining support service activities	0.5	3.3	1.5	3.0	0.6
Crop, livestock, and related services	1.0	0.5	2.0	1.4	2.9
Non-metallic mineral extraction	0.3	0.1	0.1	0.1	0.0
Forestry production	0.2	0.6	0.4	0.1	0.1
Industry	30.9	36.5	20.3	28.7	32.8
Basic metallurgy	5.3	2.0	0.4	0.7	0.3
Foodstuff	4.3	3.6	2.4	1.8	9.5
Chemical products	5.2	5.1	1.9	3.0	1.9
Pharmaceuticals	1.0	1.2	0.6	1.3	0.4
Motor vehicles, trailers, semi-trailers and related parts	6.5	9.8	5.1	8.1	9.7
Machinery and equipment	1.3	1.9	1.4	2.6	1.2
Electrical machines, devices and apparatuses	0.8	0.9	0.4	1.9	0.3
Pulp, paper and paper products	1.0	4.3	2.6	3.5	0.6
Computer equipment, electronic and optical products	0.8	0.8	0.4	0.5	2.1
Plastic and rubber products	0.6	1.2	0.6	1.6	0.3
Non-metallic mineral products	0.9	2.3	2.6	0.4	0.8
Other manufacturing	0.2	0.4	0.1	0.1	0.2
Beverages	0.3	0.0	0.0	0.1	0.0
Coke, oil derivatives and biofuels	0.6	0.7	0.7	0.5	4.1
Metal products, except machinery and equipment	0.6	0.2	0.1	0.3	0.2
Other transportation equipment	0.6	0.3	0.1	0.2	0.3
Wood products, except furniture	0.1	0.1	0.0	0.1	0.0
Textile products	0.1	0.2	0.0	0.1	0.0
Publishing activities	0.0	0.5	0.1	1.4	0.4

	2017	2018	2019	2020	2021
Repair of computers and personal and household goods	0.1	0.0	0.0	0.1	0.0
Tobacco products	0.2	0.2	0.1	0.1	..
Other industries	0.3	0.5	0.6	0.5	0.5
Services	59.0	44.6	52.5	49.4	57.2
Commerce, except vehicles	9.1	6.8	8.7	8.7	9.4
Financial and auxiliary services	2.1	6.8	7.2	3.4	6.3
Insurance, reinsurance, complementary social security and health assistance	0.6	1.7	0.2	3.8	1.5
Real estate activities	2.5	2.3	3.5	1.7	1.9
Electricity and gas	20.9	5.4	10.2	5.7	5.6
Office services and other services rendered to corporations	0.6	0.9	0.7	1.4	2.0
Transportation	7.0	2.3	5.8	0.9	0.5
Buildings and specialized construction activities	0.8	1.5	0.5	1.3	0.6
Non-financial holdings	0.8	1.7	1.2	6.0	5.7
Architectural and engineering services	0.6	0.6	0.5	1.3	0.5
Information technology services	1.2	4.1	2.4	2.5	6.8
Infrastructure works	0.1	0.8	0.3	0.6	0.4
Non-real-estate lease and intangible assets	0.3	0.3	0.3	0.7	1.1
Storage and transportation auxiliary activities	4.2	3.6	2.8	0.6	0.6
Telecommunications	0.6	0.9	1.2	0.7	0.6
Headquarter consulting and management activities	0.5	0.3	0.4	0.5	1.8
Advertising and market research	0.4	0.2	0.2	0.2	0.2
Commerce and maintenance of vehicles	0.7	0.4	0.4	0.1	0.8
Food and beverage service activities	0.4	0.2	0.1	0.2	0.1
Lodging	0.4	0.2	0.4	0.6	1.1
Travel agencies and tour operators	0.1	0.3	0.0	0.1	0.1
Education	0.5	0.3	1.2	3.1	1.9
Scientific research and development	0.0	0.1	0.0	0.3	0.2
Auxiliary radio and television activities	0.0	..	..	..	..
Collection, treatment and distribution of water	1.6	..	0.0	..	1.1
Other services	3.1	2.9	4.2	5.1	6.4
Acquisition and sale of property	0.3	0.4	0.4	0.7	0.9

.. Not available. Marked as confidential, number of observations is below three.

a Other than reinvestment of earnings.

Source: BCB. Viewed at: https://www.bcb.gov.br/content/statistics/specialseriestables/Investri.xls.

2 TRADE AND INVESTMENT REGIMES

2.1. Since its last TPR in 2017, Brazil undertook several constitutional amendments. The institutional framework for trade policy formulation and its trade and trade-related policy objectives remained broadly unchanged. During the review period, Brazil adopted measures to simplify regulations, increase transparency, and encourage trade, as well as to promote the use of Regulatory Impact Analyses/Assessments; it also made advances in e-government and anti-corruption.

2.2. Brazil participated in all WTO joint initiatives and the procedure for its accession to the WTO Agreement on Government Procurement (GPA) and the Agreement on Trade in Civil Aircraft are under way. At the same time, it continues to focus on strengthening regional economic integration with an emphasis both on deepening existing agreements in Latin America and, as a Southern Common Market (MERCOSUR) member, negotiating agreements with trading partners outside the region. During the review period, it was directly involved in five new WTO disputes, and took action in response to the WTO Appellate Body deadlock.

2.3. Brazil remains open to and encourages inward foreign direct investment (FDI) despite certain foreign ownership prohibitions or limitations or prior authorization/approval in some sectors. During the review period, it took several steps to improve the business climate, and to facilitate foreign investment participation in air transport and financial services, as well as government procurement bidding. Brazil continued the replacement of its bilateral investment promotion and protection agreements by cooperation and facilitation investment agreements and the conclusion of double taxation avoidance treaties/agreements.

2.1 General Framework

2.4. The 1988 Federal Constitution remains the fundamental law of the State. During the review period, 19 amendments to the Constitution were promulgated, thus bringing to 125 (as of 15 July 2022) the number of total amendments since its entry in force.[1]

2.5. The Federative Republic of Brazil is composed of the Union, the states, the municipalities, and the Federal District. The Government comprises the executive, legislative, and judiciary branches.[2] The President, assisted by the appointed Cabinet of Ministers, exercises executive power. Presidential terms are four years, and re-election is possible once. Presidential, congressional, and state elections are held every four years; the next elections are to take place in October 2022. The judiciary is composed of the Supreme Federal Court, the Superior Court of Justice, the federal regional courts and federal judges, state courts and judges, and other special courts and judges.

2.6. Legislative bodies at the federal, state, and municipal levels are in charge of drafting and issuing specific legislation as stipulated by the Constitution. Legislation for matters such as monetary policy, foreign trade, telecommunications, maritime and air transport, insurance, and utilities is dealt with by the bicameral National Congress (Chamber of Deputies and the Senate) with the sanction/approval of the President of the Republic; in addition, the National Congress has responsibility for legislating on all matters within the competence of the Union, including approving international treaties by legislative decree prior to their promulgation by the President of the Republic (ordinary law or constitutional amendments). Legislation on tax, education, social security, and health may be issued concurrently by the federal and state legislatures, while municipalities may only issue laws on areas of local interest and to supplement federal and state legislation wherever pertinent.[3] The legislative process includes the preparation and enactment of ordinary,

[1] These amendments, *inter alia*, involved: (i) an authorization to transfer federal financial resources to states, the Federal District, and municipalities through amendments to the annual budget bill; (ii) the establishment of extraordinary fiscal, financial, and contracting regime to face the national public calamity resulting from the pandemic; (iii) revoking provisions of the Transitory Constitutional Provisions Act and setting transitory rules on the reduction of tax benefits partially unlinking the financial surplus from public funds and suspending conditionalities for expenditure on granting residual emergency aid to address the social and economic consequences of the COVID-19 pandemic; and (iv) providing discipline at the distribution of financial resources by the Federal Government to the Municipal Participation Fund. Viewed at: https://www.planalto.gov.br/ccivil_03/Constituicao/Emendas/Emc/quadro_emc.htm.

[2] The bicameral National Congress consists of: an 81-seat Senate (the upper house) with representatives of the 26 states, plus the Federal District of Brasília; and a 513-member directly elected Chamber of Deputies (the lower house). Each state, as well as the district of Brasília, has its own legislature.

[3] Federal Constitution, Articles 22, 24, and 30; and Title IV (Chapter I, Section II).

supplementary, and delegated laws, as well as amendments to the Constitution. Due to the bicameral structure of the Congress, all law and amendment proposals have to pass through the same process of analysis and voting in both houses and, if approved, the proposal is sent to the President of the Republic for sanction, publication, and entry into force. Amendments to the Constitution are an exception, as they are promulgated directly after congressional approval. Legislative decrees are administrative in nature and require a simple majority in Congress.

2.7. The President may resort to provisional measures on issues considered to be of particular importance and urgency, under the provisions of Article 62 of the Constitution. Provisional measures become effective upon publication, and should be analysed by Congress upon enactment and voted on within a timeframe of 60 days, which may be extended once for an identical period of time; between 6 July 2017 and June 2022, 310 such measures were adopted.[4] In the case of tax issues, provisional measures passed before the end of the fiscal year may only be applied to the following year's budget, except for customs duties on imports, export taxes, the tax on industrial products (IPI) and the financial transactions tax (IOF), or extraordinary taxes introduced in case of war.

2.8. International treaties and conventions must be approved by the National Congress to enter into force domestically. Upon enactment, through a legislative decree and a Presidential Decree, international treaties have the same legal status as ordinary laws; nevertheless, the Supreme Federal Court has the power to deem them incompatible with the Federal Constitution and hence revoke them, but the authorities indicate that there have been no such cases so far.[5]

2.9. Brazil consists of 26 federal states and one Federal District. Reportedly, disorderly decentralization of administrative functions and financial flows has distorted the allocation of resources between the different levels of government.[6] According to the Inter-American Development Bank (IDB), it seems that the subnational governments do not receive sufficient funds so as to deliver the public services under their responsibility; in 2018 they accounted for 44.1% of total public spending, equivalent to about 24% of GDP, whereas the revenues they collected only represented 11% of GDP, which creates large imbalances and makes them highly dependent on intergovernmental transfers. Financial limitations reduce public investments, with negative social and economic consequences.

2.2 Trade Policy Formulation and Objectives

2.2.1 Trade policy formulation

2.2.1.1 Executive branches of government

2.10. The Foreign Trade Board/Chamber (CAMEX), under the Ministry of Economy since 2019 (previously under the Ministry of Foreign Affairs and Ministry of Industry, Foreign Trade and Services), remains in charge of the formulation, implementation, and coordination of policies and activities relating to foreign trade in goods and services, including tourism, with a view to promoting foreign trade, investment, and the country's international competitiveness.[7] Its main decision body is the Commercial Strategy Council, which is chaired by the President of the Republic and composed of the Ministers of Economy; Chief of Staff's Office of the Presidency of the Republic, Foreign Affairs, Defence; and Agriculture, Livestock and Food Supply. The CAMEX Executive Management Committee Resolution No. 130, which establishes procedural aspects of the Commercial Strategy Council, mandates that this body meet every six months in order to define foreign trade policy guidelines,

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[4] Portal da Legislação. Viewed at: http://www4.planalto.gov.br/legislacao/portal-legis/legislacao-1/medidas-provisorias.

[5] International treaties and conventions on human rights that are approved are equivalent to the constitutional amendments.

[6] IDB (2019), *IDB Group Strategy with Brazil 2019-2022*, June. Viewed at: https://idbdocs.iadb.org/wsdocs/getdocument.aspx?docnum=EZSHARE-750030607-12.

[7] The Ministry of Economy was established in January 2019 and merged four ministries from the previous government: the Ministry of Finance; the Ministry of Industry, Foreign Trade and Services (MDIC); most of the Ministry of Labour; and the Ministry of Planning, Development and Management (MPOG). OECD (2020), *SME and Entrepreneurship Policy in Brazil 2020*, OECD Studies on SMEs and Entrepreneurship, 27 April. Viewed at: https://www.oecd.org/publications/sme-and-entrepreneurship-policy-in-brazil-2020-cc5feb81-en.htm; and Ministry of Economy, *About Camex*. Viewed at: https://www.gov.br/produtividade-e-comercio-exterior/pt-br/assuntos/camex/sobre-a-camex.

grant negotiating mandate for trade agreements, and authorize trade disputes. The CAMEX Executive Management Committee assists CAMEX in regional integration and trade matters, and is composed of the Minister of Economy, who presides over it; the Presidency of the Republic; the Ministry of Foreign Affairs; the Ministry of Agriculture, Livestock and Food Supply; the Special Secretary for Foreign Trade and International Affairs at the Ministry of Economy; the Special Secretary for Productivity, Employment and Competitiveness of the Ministry of Economy; the Special Secretary of the Federal Revenue of Brazil; the Special Secretary of Finance of the Ministry of Economy; and the Executive Secretary of CAMEX. The Ministry of Foreign Affairs continues to represent Brazil in the WTO.

2.11. The Ministry of Economy implements trade policy in line with CAMEX guidelines through its Secretariat of Foreign Trade (SECEX). SECEX was last restructured on 8 April 2019 (Decree No. 9,745) and it now consists of five undersecretariats: Foreign Trade Operations (SUEXT); Trade Remedies (SDCOM); International Trade Negotiations (SEINT); Statistics and Intelligence (SITEC); and Trade Facilitation and Internationalization (SUFAC). The Ministry of Economy formulates and implements economic policy, and is in charge of customs and tax policy, and revenue collection.

2.2.1.2 Advisory, planning, and other bodies

2.12. The main policy advisory bodies remain the public sector's Institute for Applied Economic Research (IPEA), and the Brazilian Industrial Development Agency (ABDI), both under the Ministry of Economy.[8] IPEA provides technical and institutional support to government actions for the formulation and revision of public policies and development programmes in Brazil; actually, the ABDI's consists of promoting the debate between the Government and companies for setting public policies and strategic actions aimed at increasing the competitiveness of the Brazilian economy in the face of the challenges of the digital age.[9] Furthermore, non-governmental bodies such as the National Confederation of Industry (CNI) and the Centre for Global Trade and Investment (CGCI) of the São Paulo School of Economics – Getúlio Vargas Foundation (EESP/FGV) remain active in research and consultative work relating to trade policy formulation. Since May 2014, the CGCI has been a member of the WTO Chairs Programme.[10] Since 2017, the CGCI has organized more than 10 international events, notably the Annual Trade Conferences and several thematic workshops, some of them held in conjunction with the WTO Secretariat; it has published more than 20 books and e-books and more than 40 articles and working papers on international trade.

2.13. The private sector continues to participate in trade policy formulation through the CAMEX Private Sector Advisory Board (CONEX) (Sections 2.2.1.1 and 2.3.1). CONEX provides contributions and recommendations to CAMEX's decision-making process related to foreign trade, investment, and export financing.[11] Its membership includes up to 20 representatives from corporate associations and companies from the manufacturing, agri-business, and services sectors; consumer protection bodies; and academic institutions.

2.2.2 Trade policy objectives

2.14. Overall, according to the IDB, Brazil's economic strategy for the period 2019-22 has been structured into four key areas: (i) improve the business climate and narrow gaps in infrastructure for enhanced competitiveness; (ii) promote national and international integration to boost productivity; (iii) build a more effective public sector that promotes fiscal sustainability; and (iv) reduce social inequality and lack of opportunities by enhancing public policy efficiency.[12] The

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[8] Viewed at: http://agencia.ipea.gov.br/; and http://www.abdi.com.br/Paginas/default.aspx.

[9] Recent IPEA publications covered effective tariff assistance report to the economic sectors in Brazil (2018), international integration as a vector for the Brazilian economic recovery as well as intensity and structure of non-tariff measures on Brazilian imports (2016-18). Viewed at: https://www.ipea.gov.br/portal/images/stories/PDFs/pubpreliminar/210915_nt_assitencia_setorital_2021.pdf; exports: https://www.ipea.gov.br/portal/images/stories/PDFs/rtm/211005_rtm_26_art3.pdf; and https://www.ipea.gov.br/portal/images/stories/PDFs/TDs/201204_td_2617.pdf.

[10] Center for Global Trade and Investment, *WTO Chairs Programme*. Viewed at: http://ccgi.fgv.br/.

[11] GECEX Resolution No. 153/2021. Viewed at: https://portal.apexbrasil.com.br/regulatory_report/the-foreign-trade-chamber-camex-at-the-ministry-of-economy-reestablished-the-private-sector-advisory-board-conex-designed-to-support-camexs-decision-making-process-related-to-foreign-tra/.

[12] IDB, *Brazil*. Viewed at: https://www.iadb.org/en/countries/brazil/overview.

strategy was to address challenges related to gender and diversity, environmental sustainability and climate change, and innovation and digital transformation.

2.15. During the review period, trade policy remained focused on meeting objectives of technological upgrading, raising competitiveness of domestic products, improving the business environment, integrating into global value chains and international markets by negotiating regional trade agreements (RTAs), cutting import duties, and reducing bureaucracy.[13] Since 2019, Brazil has been pursuing a trade policy agenda based on three pillars: intensification of the trade agreements network (below and Section 2.3.2); modernization of the MERCOSUR tariff structure (Section 2.3.2.1); and reduction of non-tariff barriers to trade. Notwithstanding regulatory and institutional progress, Brazil maintained a long-standing trade and trade-related policy framework that shields certain domestic producers from external competition. The policy setting remains to some extent characterized by persisting "infant industry" protection and tariff jumping principles.[14] Its tools comprise border measures coupled with complex and possibly distortive tax and non-tax incentives, *inter alia*, involving local content requirements, administered interest rate or subsidized credit, and other targeted subsidies often leading to cross-subsidization elements affecting the economy and its prospects. As a result, despite progress made with temporary tariff reductions since 2019 and efforts to make them permanent within the MERCOSUR common external tariff (CET) (Section 2.3.2.1), Brazil remains a relatively inward-oriented and closed economy – as reflected by its low albeit significantly risen in 2020 and 2021 – international trade penetration/openness (Section 1.3.1), which by protecting its market reduces the incentives to raising efficiency and quality or product differentiation.[15]

2.16. During the review period, policies to promote exports, innovation, and micro and small enterprises have been in place.[16] The 2012 National Plan of Exporting Culture (Plano Nacional da Cultura Exportadora (PNCE)) aimed at increasing the number of exporters through the development of a network of national and state-level institutions involved in export promotion; it now provides micro, small, and medium-sized enterprises (MSMEs) interested in trading overseas with a business assessment of their main weaknesses and strengths, and offers services to prepare them to export. Work to advance in new systems integration and data-sharing solutions based on the concept of Integrated Services for MSMEs in International Trade (ISMIT) is under way via the implementation of a digital platform on trade-related services in partnership with the United Kingdom under the Trade Facilitation Programme. The 2018 Action Plan for Technological Innovation within the framework of the National Strategy for Science, Technology and Innovation, 2016-22 sets the context of innovation in Brazil by initially presenting some data from the national innovation survey (PINTEC) run by the national statistical office. The Action Plan for Technological Innovation is aimed at making Brazil's private sector the main engine of R&D investment, bridging the distance between academia and industry, and enhancing the technological content and international specialization of the Brazilian economy. The June 2019 National Policy in support of Micro and Small Enterprises (Política Nacional de Apoio e Desenvolvimento das Microempresas e Empresas de Pequeno Porte (PNADEMPE)) gathers information on ongoing initiatives for MPEs, sets out future policy directions, and outlines main policy evaluation criteria. Under Law No. 14,184/2021 the regime of export processing zones (EPZs) (Section 3.2.4.2) was significantly remodelled to consolidate them as an important vector for boosting exports; the regime was extended to the services sector, the minimum period for using the regime was set at 20 years for each beneficiary, and the creation of EPZs may now be proposed by the private sector.

2.17. Brazil remained focused on strengthening regional economic integration through MERCOSUR and Latin American Integration Association (LAIA/ALADI), which continued to proceed with negotiations with trading partners outside the region (Section 2.3.2). Brazil's trade strategy

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[13] WTO document WT/TPR/S/358/Rev.1, 18 October 2017; and Thomson Reuters, *International Trade in Goods and Services in Brazil: Overview*. Viewed at: https://uk.practicallaw.thomsonreuters.com/w-011-0773?transitionType=Default&contextData=(sc.Default)&firstPage=true#:~:text=In%20general%20terms%2C%20the%20Brazilian,Brazilian%20competitiveness%20by%20reducing%20bureaucracy.

[14] Tariff jumping refers to the establishment of a production facility within a foreign country, through FDI or licensing, in order to avoid a tariff. At the time of the previous Review, the authorities considered that the determination of whether tax and non-tax incentives are "distortive" needs to be made on a case-by-case basis, and only after having assessed specific data on a given industry.

[15] WTO document WT/TPR/S/358/Rev.1, 18 October 2017.

[16] OECD (2020), *SME and Entrepreneurship Policy in Brazil 2020*, OECD Studies on SMEs and Entrepreneurship, 27 April. Viewed at: https://www.oecd.org/publications/sme-and-entrepreneurship-policy-in-brazil-2020-cc5feb81-en.htm.

targets "productive" integration with Latin America and RTAs with major or traditional trading partners. Action to strengthen trade relations with traditional partners and open new markets for Brazilian products through the negotiation and conclusion of trade agreements covering tariffs but also aspects such as investment, services, e-commerce, public procurement, trade facilitation and technical regulations, sanitary and phytosanitary measures, technical regulations, intellectual property, state-owned enterprises, sustainable development, and transparency/anti-corruption was undertaken.

2.2.3 Trade laws and regulations

2.2.3.1 Regulatory framework and reform

2.18. During the review period, Brazil's range of legal instruments remained unchanged. They comprise, in the following hierarchical order from highest to lowest: amendments to the Constitution (Section 2.1), supplementary laws, ordinary laws, delegated laws, provisional measures, and legislative decrees.[17] These legal instruments are higher than other instruments such as resolutions, Presidential Decrees, ministerial ordinances (*portarias*), contracts, and administrative decisions. Since its last Review, Brazil has passed new trade and trade-related legislation in several areas including trade facilitation, anti-dumping, state enterprises, public procurement, taxation, tax refunds (*Reintegra*), intellectual property rights, automotive, and digital marketing (Sections 3 and 4).

2.19. During the review period, regulatory reform was initiated. Brazil's regulatory requirements on product markets appear to have long been significantly more cumbersome and restrictive than in OECD countries, and lack transparency and simplicity.[18] Following its application for full OECD membership in 2017, Brazil adopted measures to simplify regulations, increase transparency, and encourage trade, including more than 30 OECD legal instruments.[19] A 2019 joint OECD/Brazil report identified areas where discrepancies existed between Brazil's laws and OECD guidelines.[20] The review found that Brazil should enact measures such as cutting red tape to facilitate compliance, improving tax administration effectiveness, and providing legal certainty regarding taxes for international transactions. In 2019, regulatory action for the review and consolidation of normative acts below decrees (i.e. ordinances, resolutions, normative instructions, office notices, normative guidelines, guidelines, recommendations, approval orders, any other act lower than decree with normative content) was taken.[21] Recent efforts take stock of the complexity of current regulation; according to the authorities, as of September 2021, Brazil had identified 72,537 normative acts relating to 77 public entities, of which 45,704 were reviewed, 22,519 were revoked, and 3,055 were consolidated.[22] In addition, work is in progress under the National Investment Committee's

[17] The very detailed Constitution touches on numerous economic issues, thus requiring frequent amendments to update the constitutional framework when significant reforms are envisaged. Federal Constitution, Article 59; and OECD (2008), "Government Capacity to Assure High Quality Regulation in Brazil", *Reviews of Regulatory Reform: Brazil 2008*. Viewed at: http://www.oecd-ilibrary.org/governance/oecd-reviews-of-regulatory-reform-brazil-2008/government-capacity-to-assure-high-quality-regulation-in-brazil_9789264042940-4-en.

[18] The 2018 OECD Product Market Regulation (PMR) indicators measure regulatory barriers to firm entry and competition in a broad range of key economic sectors and policy areas by benchmarking a country's regulatory set-ups against internationally accepted best practices. Brazil stands out as one of the most restrictively regulated economies when the overall indicator is considered, but also in both its main sub-components: barriers to domestic and foreign entry and distortions induced by state involvement. OECD (2020), *OECD Economic Surveys: Brazil 2020*, December. Viewed at: https://www.oecd.org/economy/surveys/Brazil-2020-OECD-economic-survey-overview.pdf.

[19] On 25 January 2022, the OECD Council decided to open accession discussions with Brazil. This was done on the basis of its evidence-based Framework for Consideration of Prospective Members and the progress made by Brazil since its first request for OECD membership. OECD, *The OECD and Brazil: A Mutually Beneficial Relationship*. Viewed at: https://www.oecd.org/latin-america/countries/brazil/; and *OECD Legal Instruments*. Viewed at: https://legalinstruments.oecd.org/en/adherences.

[20] These areas included issues related to double taxation; insufficient accounting for such things as intra-group transactions, the use or transfer of intangibles, and group restructurings; and legal certainty in international transactions. EIU (2021), *Country Commerce – Brazil*, October. Viewed at: http://www.eiu.com/.

[21] Decree No. 10,139/2019. Viewed at: http://www.planalto.gov.br/ccivil_03/_ato2019-2022/2019/decreto/D10139.htm.

[22] Viewed at: https://www.gov.br/secretariageral/pt-br/noticias/2021/setembro/mais-de-22-mil-atos-inferiores-a-decreto-foram-revogados-nos-ultimos-dois-anos.

(CONINV) National Investment Plan (PNI) Regulatory Agenda for Improving the Investment Environment (Sections 2.4.1 and 2.4.4).

2.20. Progress has been made in the use of Regulatory Impact Analyses/Assessments (RIAs). Although regulatory agencies complete RIAs on a voluntary basis, the Senate approved a bill on Governance and Accountability (PLS 52/2013 in the Senate, and PL 6621/2016 in the Chamber of Deputies) into Law 13,848 (Law of Regulatory Agencies) on 25 June 2019; this Law *inter alia* makes RIAs mandatory for regulations that affect "the general interest", whereas Law 13,874/2019 (Economic Freedom Act) made them mandatory for all regulators for non-primary normative acts (i.e. non-decree or law).[23] A June 2020 Presidential Decree explicitly defined, for the first time, cases of new regulations that require an *ex ante* RIA in cases of new regulations with potential economic impacts, including on competition. The decree regulating RIAs has provided for the minimum requirements to be reviewed, as well as the criteria for making them mandatory or waiving them.[24] It *inter alia* sets the RIAs' procedure and defines a low-impact normative act and regulatory costs. The decree applies to the direct federal public administration, its independent agencies, and public foundations whenever there is a proposal of normative act of general interest to economic agents or users of their services within the scope of their competences; as from 14 October 2021, all federal administration entities (more than 150 regulators) are obliged to carry out RIAs. Moreover, Brazilian public sector agencies maintain a fairly advanced consultation systems to ensure stakeholder engagement and public participation in the process of regulation.[25] In August 2016, in partnership with the private sector and government regulatory agencies, the Brazilian Association of Regulatory Agencies (ABAR), a non-governmental organization promoting courses, studies, and meetings between regulatory agencies, launched a guide on the dimension and indicators for the monitoring and evaluation of regulatory activity at federal level.[26] RIAs can only lead to non-binding recommendations in Brazil, whereas other countries often require a systematic follow-up in such cases; systematic use of *ex post* evaluation to assess whether regulations achieve their objectives is mostly unexplored in Brazil.[27] Should the highest authority (director/board/secretary/minister) of a public sector entity/agency select an option different from the one established in the RIA, formal justification is required.

2.2.3.2 Transparency and e-government

2.21. Brazil continues to attach importance to making laws transparent and readily accessible, including by foreigners. Since 2012, the Federal Government has provided citizens, under the Access to Information Act (FOIA), with a unified platform for registering online access to information requests and for foreigners to file an online access to information request (http://www.informacao.gov.br); as of 11 March 2021, its Fala.BR platform had reached one million requests for access to information directed to bodies and entities of the federal executive power.[28] Under a 2016 National Policy on Open Data, the *Federal Official Gazette* must be available in an open format within 180 days of publication.[29] Brazilian laws can be obtained from the main legislation

[23] Law No. 13,874/2019. Viewed at: http://www.planalto.gov.br/ccivil_03/_ato2019-2022/2019/lei/L13874.htm; and U.S. Department of State (2020), *2020 Investment Climate Statements: Brazil*. Viewed at: https://www.state.gov/reports/2020-investment-climate-statements/brazil/.

[24] Decree No. 10,411/2020. Viewed at: https://www.in.gov.br/en/web/dou/-/decreto-n-10.411-de-30-de-junho-de-2020-264424798.

[25] OECD (2016), *Government at a Glance: Latin America and the Caribbean 2017*. Viewed at: http://www.oecd.org/gov/government-at-a-glance-latin-america-and-the-caribbean-2017-9789264265554-en.htm.

[26] ABAR. Viewed at: http://abar.org.br/wp-content/uploads/2016/08/Manual-Abar-03-08-16-SITE-1.pdf.

[27] Concerning *ex post* evaluation, according to Decree 10,411/2020, during the first year of each presidential mandate all public entities within the federal administration must select and publish in their respective websites at least one regulation that will integrate the Regulatory Result Endorsement (Avaliação de Resultado Regulatório (ARR)) agenda. Such regulation must be of general interest of the economic agents or users of the services provided by the entity. The regulation assessment must be published before the end of each mandate. For the current administration, the ARR agenda is to be published by 14 October 2022 and the assessment must be fulfilled by 31 December 2022. Viewed at: https://www.gov.br/economia/pt-br/assuntos/air/guias-e-documentos/GuiaARRverso5.pdf; and OECD (2020), *OECD Economic Surveys: Brazil 2020*, December. Viewed at: https://www.oecd.org/economy/surveys/Brazil-2020-OECD-economic-survey-overview.pdf.

[28] Viewed at: https://www.gov.br/acessoainformacao/pt-br/noticias/2021/03/governo-federal-atinge-a-marca-de-1-milhao-de-pedidos-de-acesso-a-informacao.

[29] In addition to the Federal Government, several states and municipalities are already disclosing legislation in an open format, as has been done by the City Hall of Sao Paulo-SP. Viewed at:

website (http://www4.planalto.gov.br/legislacao), as well as the websites maintained by relevant ministries and agencies including the Transparency Platform (Portal da Transparência do Governo Federal (Início – Portal da transparência (portaltransparencia.gov.br))). Citizens have access to webcasting on the Federal Government's legislation portal and they ca receive updates on laws ofinterest to them to their email accounts (http://www.saj.planalto.gov.br/saj/Boletins.nsf/frmInscricaoWeb?OpenForm). Some Brazilian laws are available in English or Spanish on the websites of the Ministry of Foreign Affairs and the Ministry of Economy. Moreover, the Brazilian Legal and Legislative Information Portal (LexML) consolidates within a single database legislative and legal information from the main bodies of the legislative, judiciary, and executive branches, as well as some subnational entities (http://projeto.lexml.gov.br/documentacao/resumo-em-ingles). Both the House of Representatives (http://www2.camara.leg.br/atividade-legislativa/legislacao) and the Senate (http://www25.senado.leg.br/web/atividade) have a legislation portal through which users can keep track of all the phases of the law-making process. As from 2013, CAMEX has required that all international trade-related information be published online.[30] Since 2014, an online information dissemination platform, Invest & Export Brazil (http://www.investexportbrasil.gov.br/home?l=en), has provided information including on legislation, documentation and procedural requirements, taxation, export financing, trade promotion, and business opportunities.

2.22. Brazil made significant advances in e-government during the review period.[31] It has been moving towards digital government by prioritizing policy issues such as connectivity, data governance, interoperability, open government data, and citizen-driven service delivery. This move began with the publication of the Digital Governance Policy and Strategy in 2016 and accelerated during the pandemic with the Digital Government Strategy.[32] The launch of the revised Digital Governance Policy and Strategy (2016-19), the main strategy on digital government policy providing a framework for programmes and actions, reflected the Government's commitment to advance towards a digitally transformed public sector.[33] The Digital Government Strategy (EGD) (2020-22) is organized in 6 principles, 18 objectives, and 58 initiatives, which means that the EGD provides the main guide for the transformation of government through digital technologies. The EGD seeks to offer simple and better quality public policies and services accessible at any time and place at a low cost to the citizen. Progress has been made in the digitalization of government procedures and services. By end-2021, over 3,600 government services across all areas could be delivered online, equivalent to 73% of the total of federal government services offered (4,955) at the Gov.br Platform. The number of users of the Gov.br Platform reached more than 119 million by the end of 2021 and it hosts 569 federal government Web domains, including the websites of all ministries. Its goal is to eliminate dispersion and improve the experience of users of public services. A National Digital Government Network through which federated entities have access to shared digital government platforms was established; as of December 2021, there were 16 states, 12 capitals, and 56 municipalities adhering to the Gov.Br Network, which is aimed at expanding cooperation and collaboration in structuring digital government initiatives. All federal departments must use the Comprasnet portal (https://www.gov.br/compras) before hiring suppliers (Section 3.3.6); under the new Bidding Law (Law No. 14,133/21) all public or private procurement portal systems must be integrated and in August 2021, the National Public Contracting Portal (PCNP) was launched. Despite its array of transparency tools, Brazil has initially seemingly been relatively slow to adopt innovative e-government technologies to promote transparency and fiscal sustainability, particularly at the subnational levels.[34] According to the OECD, as the public sector evolves from e-government

http://dados.prefeitura.sp.gov.br/; and the City Hall of Recife-PE. Viewed at: http://dados.recife.pe.gov.br/es/dataset/diario-oficial. Decree No. 8,777/2016.

[30] CAMEX Resolution No. 78/2013.

[31] EIU (2021), *Country Commerce – Brazil*, October. Viewed at: http://www.eiu.com/.

[32] Decree 10,332/2020 amended by Decree No. 10,996, 14 March 2022, regulating the Digital Government Law (Law No. 14,129/2021), which provides for principles, rules, and instruments for Digital Government and for increasing public efficiency.

[33] OECD (2018), *Digital Government Review of Brazil: Towards the Digital Transformation of the Public Sector*, OECD Digital Government Studies, 28 November. Viewed at: https://www.oecd-ilibrary.org/docserver/9789264307636-en.pdf?expires=1638985121&id=id&accname=ocid195767&checksum=192C408B5BFE4C25D07169F84C2BB610.

[34] The 2018 IDB Country Development Challenges report pointed out that Brazil needs to use new technologies to improve the supply of public services. In the 2020 United Nations e-Government Development Index, which measures the motivation and capacity of national governments to use information and communication technologies in the delivery of public services, Brazil ranked 54th (44th out of 193 countries in 2018), still behind Uruguay, Chile, and Argentina in the region; the biennial study ranked Brazil 18th (12th in

to digital government, a holistic and strengthened government-wide approach would ensure a public sector capable of using technology and data not only to increase efficiency but also to develop more open, inclusive, and innovative services and policies.[35]

2.23. In all countries, lack of transparency, and thus lack of public accountability, creates scope for administrative discretion and therefore corruption. With a view to fighting corruption, since 17 December 1997, Brazil has been a signatory to the 1997 OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (ratification on 24 August 2000, implementation 11 June 2002), whose 44 parties (as of 2018) are required to make foreign bribery a crime.[36] In October 2016, Brazil presented its written follow-up report to the OECD Working Group on Bribery that outlined its efforts to implement the recommendations it received during its Phase 3 evaluation in October 2014; out of 39 recommendations, 18 had been fully implemented, 13 partially implemented and 8 not implemented. Enforcement efforts in Phase 4 evaluation were scheduled for 2022.[37] In 2019 concern was expressed by the OECD Working Group on Bribery on actions taken by the Executive, Legislative and Judiciary Branches of the Federal State that could seriously affect Brazil's ability to fully meet its obligations under the OECD Anti-Bribery Convention (under Article 5 on independent investigations and prosecutions) as law enforcement capacity to investigate and prosecute foreign bribery was considered as seriously threatened.[38] Brazil is also a signatory to the 2005 UN Convention against Corruption, the first global comprehensive international anti-corruption agreement, whose 189 parties (as of 18 November 2021) are required to establish criminal and other offences to cover a wide range of acts of corruption; it ratified the convention on 15 June 2005.[39] Brazil was among the founders of the 2011 intergovernmental Open Government Partnership, which seeks to help governments increase transparency; its latest efforts in this area are found in its 2021-23 action plan.[40]

2.24. In February 2021 Brazil's Inter-Agency Committee for Combating Corruption (Comitê Interministerial de Combate à Corrupção (CICC)) released the National Anti-Corruption Strategy 2021-25, which is designed to systematize and improve the existing mechanisms for preventing and detecting corruption crimes and holding those who commit them liable, as well as to ensure the coordination of efforts of different public bodies.[41] According to the IMF, strengthening the effectiveness of anti-corruption and Anti-Money Laundering/Combating the Financing of Terrorism (AML/CFT) frameworks that would help support investment, and the ongoing transparency and open data initiatives as well as the authorities' 2020 Anticorruption Action Plan are welcome

2018) countries for e-participation, measuring usage of e-government services. Viewed at: https://publicadministration.un.org/egovkb/en-us/data-center; and IDB (2019), *IDB Group Strategy with Brazil 2019-2022*, June. Viewed at: https://idbdocs.iadb.org/wsdocs/getdocument.aspx?docnum=EZSHARE-750030607-12.

[35] OECD (2018), *Digital Government Review of Brazil: Towards the Digital Transformation of the Public Sector*, OECD Digital Government Studies, 28 November. Viewed at: https://www.oecd-ilibrary.org/docserver/9789264307636-en.pdf?expires=1638985121&id=id&accname=ocid195767&checksum=192C408B5BFE4C25D07169F84C2BB610.

[36] In 2021, Brazil ranked 96th out of 180 economies (76th out of 168 in 2015), on Transparency International's Corruption Perceptions Index (CPI), which measures the perceived level of public sector corruption. Same as in 2015, Brazil received a transparency score of 38/100 (higher is better), slightly below the Americas regional average and the global average (43/100). Viewed at: https://www.transparency.org/en/cpi/2021; https://www.oecd.org/corruption/oecdantibriberyconvention.htm.

[37] OECD (2017), *Brazil: Follow-up to the Phase 3 Report & Recommendations*, February. Viewed at: https://www.oecd.org/corruption/anti-bribery/Brazil-Phase-3-Written-Follow-Up-Report-ENG.pdf.

[38] OECD (2019), "Law Enforcement Capacity in Brazil to Investigate and Prosecute Foreign Bribery Seriously Threatened, Says OECD Working Group on Bribery", 21 October. Viewed at: https://www.oecd.org/corruption/law-enforcement-capacity-in-brazil-to-investigate-and-prosecute-foreign-bribery-seriously-threatened-says-oecd-working-group-on-bribery.htm.

[39] UN Office on Drugs and Crime, *Signature and Ratification Status*. Viewed at: http://www.unodc.org/unodc/en/treaties/CAC/signatories.html.

[40] Open Government Partnership, *Brazil*. Viewed at: https://www.opengovpartnership.org/members/brazil/.

[41] The Strategy identifies 15 key action areas: public ethics; management and governance; prevention of conflicts of interest; integrity measures; internal control; conduct of investigations; liability of natural and legal persons; financial and budgetary area; anti-money laundering measures; asset return; interagency coordination; international cooperation and coordination; scientific research, knowledge building and innovation; institution of ombudsman; and transparency and exercise of public control. HSE University Anti-Corruption Portal (2021), "Brazil Adopts a National Anti-Corruption Strategy", 21 February. Viewed at: https://anticor.hse.ru/en/main/news_page/brazil_adopts_a_national_anticorruption_strategy.

steps.[42] The Plan, which includes the review of the current regulation on beneficial ownership to intensify the validation and consolidation of information, and the proposal of a new regulation to ensure transparency on the final beneficiaries of companies receiving public funds are to be fulfilled by December 2023.

2.25. During the review period, Brazil introduced and implemented further anti-corruption legislation. On 25 December 2019, anti-crime legislation was approved (Law 13,869/2019 into force as of January 2020), which included several anti-corruption measures such as regulation of immunity/leniency agreements (for information provided by a subject in exchange for reduced sentence) that have been widely used since 2015 during the Operation Carwash (Operação Lava Jato) under the so-called Clean Company Act (Law 12,846/2013), which remains in place in its original form.[43] The 2019 legislation also strengthened the whistle-blower mechanisms, permitting anonymous information about crimes against the public administration and related offences. According to the OECD, although whistleblowing procedures have been strengthened, coordination among different agencies could be further improved and the 2019 law on the abuse of authority was unnecessarily vague, leaving room for retaliation from powerful suspects by allowing prosecution of officials if they prosecuted a case "without just cause".[44] Enhanced transparency requirements and monitoring procedures have been adopted in the context of COVID-19 emergency aid.[45]

2.26. Since 2003, the Ministry of Transparency, Oversight and the Comptroller General (CGU) has been in charge of increasing administrative transparency through internal control actions, public auditing, prevention and fighting of corruption, and its ombudsman role. The 2010 CGU Pro-Ethics Company certification encourages the voluntary adoption of integrity measures by companies through the public recognition of those that, regardless of their size and field of activity, are truly committed to preventing and fighting corruption and other types of fraud.[46] In FY2018/19, 222 companies applied for the certification and 26 companies were recognized as Pro-Ethics.

2.27. In 2020, Brazil concluded an agreement on Trade Rules and Transparency with the United States. The agreement contains annexes: on Good Regulatory Practices, Trade Facilitation, and Anti-corruption.[47]

[42] According to the IDB, bureaucratic red tape limits Brazil's international integration. IDB (2019), *IDB Group Strategy with Brazil 2019-2022*, June. Viewed at: https://idbdocs.iadb.org/wsdocs/getdocument.aspx?docnum=EZSHARE-750030607-12; IMF (2021), *Brazil: 2021 Article IV Consultation-Press Release; Staff Report; and Statement by the Executive Director for Brazil*, Country Report No. 2021/217, 22 September. Viewed at: https://www.imf.org/en/Publications/CR/Issues/2021/09/22/Brazil-2021-Article-IV-Consultation-Press-Release-Staff-Report-and-Statement-by-the-466076; and *Anticorruption Plan*. Viewed at: https://www.gov.br/cgu/pt-br/anticorrupcao/plano-anticorrupcao.pdf.

[43] Detailed information on Law No. 12,846 of 1 August 2013 and its implementing Decree No. 8,420 of 18 March 2015, which remain in place, may be found in the previous Report. Operation Carwash had uncovered a complex web of public sector corruption, contract fraud, money laundering, and tax evasion stemming from systematic overcharging for government contracts, particularly at parastatal oil company Petrobras, as well as credit subsidies or tax expenditures to the benefit of specific companies. WTO document WT/TPR/S/358/Rev.1, 18 October 2017; OECD (2020), *OECD Economic Surveys: Brazil 2020*, December. Viewed at: https://www.oecd.org/economy/surveys/Brazil-2020-OECD-economic-survey-overview.pdf; and U.S. Department of State (2020), *2020 Investment Climate Statements: Brazil*. Viewed at: https://www.state.gov/reports/2020-investment-climate-statements/brazil/.

[44] OECD (2020), *OECD Economic Surveys: Brazil 2020*, December. Viewed at: https://www.oecd.org/economy/surveys/Brazil-2020-OECD-economic-survey-overview.pdf.

[45] IMF (2021), Country Report No. 2021/217. Viewed at: https://www.imf.org/en/Publications/CR/Issues/2021/09/22/Brazil-2021-Article-IV-Consultation-Press-Release-Staff-Report-and-Statement-by-the-466076.

[46] Viewed at: http://www.cgu.gov.br/assuntos/etica-e-integridade/empresa-pro-etica.

[47] Viewed at: http://siscomex.gov.br/acordos-comerciais/protocolo-atec-relacionado-a-regras-comerciais-e-de-transparencia/.

2.3 Trade Agreements and Arrangements

2.3.1 WTO

2.3.1.1 Features

2.28. Brazil, a founding Member of the WTO, participates actively in its work, including as a prominent voice for developing countries, and within the BRICS group of leading emerging economies, and remains committed to strengthening the multilateral trade system. During the review period, it participated in all WTO joint initiatives, i.e. e-commerce, investment facilitation for development, MSMEs, and domestic regulation of trade in services. Brazil is a signatory to the joint declaration of 31 January 2022, in support of MC12 and pointing into action in areas such as the WTO response to pandemics, fisheries subsidies, and multilateral agriculture negotiations, as well as the reform of the WTO's negotiating function, dispute settlement function, and monitoring and deliberative function.[48] It accords at least most-favoured-nation (MFN) treatment to trading partners, including non-WTO Members. Brazil's trade policies have been reviewed seven times; its last Review was held on 17 and 19 July 2017.

2.29. During the review period, Brazil undertook efforts to expand its WTO commitments. Brazil has been an observer to the WTO Committee on Government Procurement since October 2017; it submitted its application for accession to the WTO Agreement on Government Procurement (GPA) on 18 May 2020, its Replies to the Checklist of Issues in October 2020 as part of the accession process, its initial market offer in February 2021, a revised market access offer in November 2021, and a final offer in June 2022.[49] The GPA accession seeks the improvement of competitiveness and FDI attraction within the country's government procurement market. Brazil ratified the WTO Agreement on Trade Facilitation (TFA) on 29 March 2016 and passed it into domestic legislation through Decree No. 9,326, 3 April 2018 upon completion of internal procedural requirements.[50] Furthermore, it has submitted its application to join the Agreement on Trade in Civil Aircraft in June 2022.[51] Concerning special and differential treatment (S&D), in March 2019 Brazil announced that it will begin to forgo S&D in the WTO negotiations.

2.30. Brazil has continued to protect its trade interests and prevent allegedly unreasonable import restrictions of other countries through effective use of the multilateral dispute settlement mechanism. Between its last Review in 2017 and April 2022, Brazil was directly involved in five new disputes, four as a complainant, and one as a respondent. During the same period, it also participated as a third party in 52 cases.[52] In May 2022, the Brazilian Congress approved a law (Law No. 14,353, 26 May 2022 (https://www2.camara.leg.br/legin/fed/lei/2022/lei-14353-26-maio-2022-792717-publicacaooriginal-165370-pl.html)) authorizing CAMEX to suspend rights and concessions (covering goods, services, and IP rights) against another WTO Member found to be in

[48] WTO document WT/GC/W/841, 31 January 2022.

[49] SECEX launched a public consultation for a period of 60 days, to collect contributions on the Brazilian accession terms to the GPA (Circular No. 55/2020 of CAMEX); these contributions could be submitted until 20 October 2020. Thomson Reuters, *International Trade in Goods and Services in Brazil*. Viewed at: https://uk.practicallaw.thomsonreuters.com/w-011-0773?transitionType=Default&contextData=(sc.Default)&firstPage=true#:~:text=In%20general%20terms%2C%20the%20Brazilian,Brazilian%20competitiveness%20by%20reducing%20bureaucracy; and ApexBrasil. Viewed at: https://portal.apexbrasil.com.br/regulatory_report/the-secretariat-of-foreign-trade-at-the-ministry-of-economy-secex-me-launched-a-public-consultation-for-a-period-of-60-days-to-collect-contributions-on-the-brazilian-accession-terms-to-the-world-t/.

[50] CONFAC. Viewed at: http://camex.gov.br/images/PDF/Confac/21-04-05_PT_CONFAC_2021-22.pdf.

[51] WTO document TCA/19, 20 June 2022.

[52] The new complainant cases were *Canada – Measures Concerning Trade in Commercial Aircraft* (DS522); *China – Certain Measures Concerning Imports of Sugar* (DS568); *India – Measures Concerning Sugar and Sugarcane* (DS579); and *European Union – Measures Concerning the Importation of Certain Poultry Meat Preparations from Brazil* (DS607). The new respondent case was *Brazil – Measures Concerning the Importation of PET Film from Peru and Imported Products in General* (DS596) with Peru as a complainant. The new third party cases are quoted as follows: DS604, DS602, DS601, DS600, DS599, DS598, DS597, DS595, DS593, DS592, DS591, DS590, DS589, DS588, DS585, DS584, DS583, DS582, DS581, DS580, DS578, DS577, DS576, DS573, DS567, DS566, DS564, DS562, DS561, DS560, DS559, DS558, DS557, DS556, DS554, DS552, DS551, DS550, DS548, DS547, DS546, DS545, DS544, DS543, DS542, DS541, DS539, DS534, DS533, DS526, and DS523. Viewed at: https://www.wto.org/english/thewto_e/countries_e/brazil_e.htm.

violation by a panel report but having chosen to appeal before the deadlocked WTO Appellate Body (the so-called "appeal in the void").[53]

2.3.1.2 Trade-related technical assistance

2.31. Between 2015 and 2018, Brazil benefited from WTO trade-related assistance via participation in 72 training activities, *inter alia,* relating to the Information Technology Agreement, notifications (agriculture, import licensing procedures), rules (trade remedies, fisheries subsidies/IUU fishing), SPS/TBT, public health, dispute settlement, intellectual property rights/TRIPS, government procurement/GPA, and services/GATS.[54] From 2019 onwards, Brazil participated in another 84 training activities, *inter alia,* relating to accessions, dispute settlement, RTAs, import licensing, trade remedies, SPS/TBT, government procurement, TRIPS (including Integrated Health, Trade and Intellectual Property Approach to Address the COVID-19 Pandemic), agriculture, services, and statistics (on trade in value added and global value chains).[55]

2.3.1.3 Notifications

2.32. During the review period, Brazil made many notifications to the WTO (Table A2.1); it also submitted tariff and trade data annually to the WTO Integrated Data Base.[56] Brazil's trade-related measures in response to the pandemic's crisis, notifications submitted by Brazil, and national enquiry points for further information as well as proposals submitted on COVID-19 are available online.[57] According to the authorities, the country's very good record of notifications was publicly recognized by the WTO Director-General during her April 2022 visit to Brazil, and there are no outstanding notifications.

2.3.2 Regional trade agreements and preferential trade arrangements

2.33. Trade agreements have been a pillar of Brazil's stated strategy of insertion into the world economy and its increase of productivity.[58] During the review period, its strategy has been focused on going beyond its traditional Latin American partners and concluding deeper "new generation" agreements. Brazil has intensified its agenda of trade negotiations. Some RTAs within the framework of the Latin American Integration Association (LAIA) and MERCOSUR (Brazil-Chile, Brazil-Paraguay, MERCOSUR-Colombia, MERCOSUR-Egypt) entered into force. Signing and ratification of agreements concluded during the review period are pending (European Union and European Free Trade Area (EFTA)) and negotiation of other agreements (e.g. the Republic of Korea, Canada, Lebanon, and Singapore) is under way (Table 2.1 and Section 2.3.2.1).[59] In October 2020, it also signed and implemented a Protocol updating the 2011 framework Brazil-United States Agreement on Trade and

[53] According to the Secretary of Foreign Trade and Economic Affairs at the Ministry of Foreign Affairs, the current paralysis of the WTO Appellate Body is at the origin of this initiative aimed to protect the country's legitimate commercial interests within the framework of the multilateral trading system and to promote the full functioning of the rules-based system and fundamental principles of the WTO. Once the WTO Appellate Body is back to normal, the initiative will have served its purpose. Furthermore, according to the Secretary of Foreign Trade at the Ministry of Economy, Brazil is committed to the WTO reform process, as well as the timely restoration of its Appellate Body. However, similar to other Members, Brazil cannot condone the use of the current situation, in detriment to its productive sector. A group of 25 WTO Members, including the European Union (27 countries) and Brazil, tried to alleviate the problem of the Appellate Body by creating a plurilateral interim appeals system where disputes between its participants have a final decision. *Valor International* (2022), "Brazil to Adopt Unilateral Retaliation in Foreign Trade", 12 January. Viewed at: https://valorinternational.globo.com/business/news/2022/01/12/brazil-to-adopt-unilateral-retaliation-in-foreign-trade.ghtml; and *Official Gazette*, Provisional Measure No. 1,098 of 26 January 2022. Viewed at: https://www.in.gov.br/en/web/dou/-/medida-provisoria-n-1.098-de-26-de-janeiro-de-2022-376276124.

[54] WTO, Global Trade-Related Technical Assistance Database, *Brazil*. Viewed at: http://gtad.wto.org/ben_country.aspx?entityID=153.

[55] WTO, Technical Assistance Management System, *Brazil*. Viewed at: https://tamis.wto.org/ta_beneficiaries/8789.

[56] WTO document G/MA/IDB/2/Rev.54, 28 September 2021.

[57] WTO, *COVID-19 and Trade – Brazil*. Viewed at: https://www.wto.org/english/tratop_e/covid19_e/covid_details_by_country_e.htm?country=BRA

[58] Viewed at: https://www.gov.br/produtividade-e-comercio-exterior/pt-br/assuntos/comercio-exterior/publicacoes-secex/serie-acordos-comerciais/arquivos/1-acordos-comerciais.pdf.

[59] The Agreements with Chile and Colombia are aimed 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.

Economic Cooperation, which addresses trade facilitation, good regulatory practices, and anti-corruption (Section 2.2.3.2). The majority of its RTAs (e.g. with Guyana/Saint Kitts and Nevis (a LAIA agreement, see WT/COMTD/84), and individual MERCOSUR agreements, see documents WT/COMTD/11, WT/COMTD/59, WT/COMTD/69, WT/COMTD/76, WT/COMTD/77, WT/COMTD/78, WT/COMTD/84, and L/5689) are under the purview of the WTO Committee on Trade and Development and some remain to be notified. The scope of the different RTAs varies widely and four of them also cover services (Table 2.1 and Section 4.4.2).[60]

Table 2.1 Brazil's RTAs in force: main features, as of 25 January 2022

RTAs in force	
RTAs entered into force during the review period (2017-22)	
Brazil – Chile (AAP.CE 35.64)	
Date of signature	12/12/2018
Entry into force	25/01/2022
End of the transition period	
Coverage (selected features)	Goods and services
Brazil's merchandise trade with Chile	1.94% of total imports; 2.50% of total exports
WTO consideration status	Notified as a change to the LAIA TM 80. Services aspects not yet notified.
WTO document series	WT/COMTD/RTA15/N/1/Add.35/Supp.30
Brazil – Paraguay (AAP.CE 74)	
Date of signature	11/02/2020
Entry into force	28/09/2020
End of the transition period	2027
Coverage (selected features)	Automotive goods
Brazil's merchandise trade with Paraguay	1.56% of total imports; 1.08% of total exports
WTO consideration status	Notified as a change to the LAIA TM 80
WTO document series	WT/COMTD/RTA15/N/1/Add.229
MERCOSUR – Colombia (AAP.CE 72)	
Date of signature	21/07/2017
Entry into force	20/12/2017
End of the transition period	2018
Coverage (selected features)	Goods
Brazil's merchandise trade with Colombia	0.93% of total imports; 1.19% of total exports
WTO consideration status	Notified as a change to the LAIA TM 80
WTO document series	WT/COMTD/RTA15/N/1/Add.229
MERCOSUR – Egypt	
Date of signature	02/08/2010
Entry into force	01/09/2017
End of the transition period	2026
Coverage (selected features)	Goods
Brazil's merchandise trade with Egypt	0.26% of total imports; 0.72% of total exports
WTO consideration status	Factual presentation issued
WTO document series	WT/COMTD/RTA10
RTAs entered into force before 2017	
MERCOSUR – Southern African Customs Union (SACU)	
Date of signature	01/04/2016
Entry into force	2016
End of the transition period	
Coverage (selected features)	Goods
Brazil's merchandise trade with SACU	0.44% of total imports; 0.43% of total exports
WTO consideration status	Factual presentation issued
WTO document series	WT/COMTD/RTA11
Brazil – Bolivarian Republic of Venezuela (AAP.CE 69)	
Date of signature	26/12/2012
Entry into force	14/10/2014
End of the transition period	
Coverage (selected features)	Goods
Brazil's merchandise trade with the Bolivarian Republic of Venezuela	0.08% of total imports; 0.39% of total exports
WTO consideration status	Notified as a change to the LAIA TM 80
WTO document series	WT/COMTD/RTA15/N/1/Add.68

[60] In LAIA/ALADI terms, a partial scope agreement means that not all LAIA parties have ratified it, but the meaning is different in the WTO context. According to the Parties, most of the original partial scope agreements now cover 80%-90% of trade among participating trading partners, and therefore the authorities consider them as FTAs.

RTAs in force	
MERCOSUR – Israel	
Date of signature	18/12/2007
Entry into force	23/12/2009 (for Brazil on 28/04/2010)
End of the transition period	2020 (for Brazil in January 2019)
Coverage (selected features)	Goods
Brazil's merchandise trade with Israel	0.52% of total imports; 0.21% of total exports
WTO consideration status	Factual presentation issued
WTO document series	WT/REG398
MERCOSUR – India	
Date of signature	25/01/2004
Entry into force	01/06/2009
End of the transition period	2009
Coverage (selected features)	Goods
Brazil's merchandise trade with India	3.08% of total imports; 1.71% of total exports
WTO consideration status	Factual presentation issued
WTO document series	WT/COMTD/N/31 and WT/COMTD/RTA/6
MERCOSUR – Cuba (AAP.CE 62)	
Date of signature	21/07/2006
Entry into force	02/07/2007
End of the transition period	
Coverage (selected features)	Goods
Brazil's merchandise trade with Cuba	0.002% of total imports; 0.10% of total exports
WTO consideration status	Notified as a change to the LAIA TM 80
WTO document series	WT/COMTD/RTA15/N/1/Add.61
Brazil – Suriname (AAP.A25 TM 41)	
Date of signature	21/04/2005
Entry into force	26/07/2006
End of the transition period	
Coverage (selected features)	Goods (rice)
Brazil's merchandise trade with Suriname	0.001% of total imports; 0.01% of total exports
WTO consideration status	Notified as a change to the LAIA TM 80
WTO document series	WT/COMTD/RTA15/N/1/Add.157
MERCOSUR – Peru (AAP.CE 58)	
Date of signature	30/11/2005
Entry into force	02/01/2006
End of the transition period	
Coverage (selected features)	Goods
Brazil's merchandise trade with Peru	0.53% of total imports; 1.09% of total exports
WTO consideration status	Notified as a change to the LAIA TM 80
WTO document series	WT/COMTD/RTA15/N/1/Add.57
MERCOSUR – Andean Community (except Plurinational State of Bolivia and Peru) (AAP.CE 59)	
Date of signature	18/10/2004
Entry into force	05/01/2005
End of the transition period	
Coverage (selected features)	Goods
Brazil's merchandise trade with Colombia, Ecuador, and the Bolivarian Republic of Venezuela	1.06% of total imports; 1.90% of total exports
WTO consideration status	Notified as a change to the LAIA TM 80
WTO document series	WT/COMTD/RTA15/N/1/Add.58
Brazil – Guyana – Saint Kitts and Nevis (AAP.A25TM 38)	27/06/2001
Date of signature	31/05/2004
Entry into force	
End of the transition period	Goods
Coverage (selected features)	0.003% of total imports; 0.04% of total exports
Brazil's merchandise trade with Guyana/San Cristobal)	Notified as a change to the LAIA TM 80
WTO consideration status	WT/COMTD/RTA15/N/1/Add.155
WTO document series	
Brazil – Mexico (AAP.CE 53)	
Date of signature	03/07/2002
Entry into force	02/05/2003
End of the transition period	2003
Coverage (selected features)	Goods
Brazil's merchandise trade with Mexico	2.03% of total imports; 1.98% of total exports
WTO consideration status	Notified under the Enabling Clause and as a change to the LAIA TM 80
WTO document series	Factual presentation issued
	WT/COMTD/RTA7 &
	WT/COMTD/RTA15/N/1/Add.52

RTAs in force	
MERCOSUR – Mexico (AAP.CE 54 and AAP.CE 55)	
Date of signature	05/07/2002-27/09/2002
Entry into force	05/01/2006-01/01/2003
End of transition period	
Coverage (selected features)	Goods (CE 54) – Automotive Agreement (CE 55)
Brazil's merchandise trade with Mexico	2.03% of total imports; 1.98% of total exports
WTO consideration status	Notified as a change to the LAIA TM 80
WTO document series	WT/COMTD/RTA15/N/1/Add.53 & Add.54
Brazil – Bolivarian Republic of Venezuela (AAP.A14TM 15)	
Date of signature	04/07/1995
Entry into force	18/10/1998
End of the transition period	
Coverage (selected features)	Goods and services
Brazil's merchandise trade with the Bolivarian Republic of Venezuela	0.08% of total imports; 0.39% of total exports
WTO consideration status	Goods aspects notified as a change to the LAIA TM 80. Services aspects not yet notified
WTO document series	WT/COMTD/RTA15/N/1/Add.115
MERCOSUR – Plurinational State of Bolivia (AAP.CE 36)	
Date of signature	17/12/1996
Entry into force	28/02/1997
End of the transition period	
Coverage (selected features)	Goods
Brazil's merchandise trade with the Plurinational State of Bolivia	0.62% of total imports; 0.54% of total exports
WTO consideration status	Notified as a change to the LAIA TM 80
WTO document series	WT/COMTD/RTA15/N/1/Add.36
MERCOSUR – Chile (AAP.CE 35)	
Date of signature	25/06/1996 (goods)
Entry into force	01/10/1996 (goods) – 19/06/2011 (services)
End of the transition period	
Coverage (selected features)	Goods and services
Brazil's merchandise trade with Chile	1.94% of total imports; 2.50% of total exports
WTO consideration status	Goods aspects notified as a change to the LAIA TM 80. Services aspects not yet notified
WTO document series	WT/COMTD/RTA15/N/1/Add.35
LAIA – Seeds (AAP.AG 2)	
Date of signature	22/11/1991
Entry into force	18/06/1993
End of the transition period	
Coverage (selected features)	Goods (seeds)
WTO consideration status	Notified as a change to the LAIA TM 80
WTO document series	WT/COMTD/RTA15/N/1/Add.80
Argentina – Brazil – Uruguay (AAP.A14TM 6)	
Date of signature	27/06/1992
Entry into force	27/06/1992
End of the transition period	
Coverage (selected features)	Environment-related goods
Brazil's merchandise trade with Argentina and Uruguay	6.08% of total imports; 4.97% of total exports
WTO consideration status	Notified as a change to the LAIA TM 80
WTO document series	WT/COMTD/RTA15/N/1/Add.106
MERCOSUR (AAP.CE 18)	
Date of signature	26/03/1991 (goods)-15/12/1997 (services)
Entry into force	29/11/1991 (goods)-07/12/2005 (services)
End of the transition period	2015
Coverage (selected features)	Goods and services
Brazil's merchandise trade with Argentina, Paraguay and Uruguay	7.64% of total imports; 6.05% of total exports
WTO consideration status	Notified under the Enabling Clause and GATS Article V and as a change to the LAIA TM 80
WTO document series	WT/COMTD/1, S/C/N/388, WT/REG238 and WT/COMTD/RTA15/N/1/Add.18
• ***MERCOSUR – Accession of the Bolivarian Republic of Venezuela***	
Entry into force	12/08/2012
WTO consideration status	Not yet notified

RTAs in force	
Brazil – Argentina (AAP.CE 14)	
Date of signature	20/12/1990
Entry into force	20/12/1990
End of the transition period	
Coverage (selected features)	Automotive goods
Brazil's merchandise trade with Argentina	5.29% of total imports; 4.23% of total exports
WTO consideration status	Notified as a change to the LAIA TM 80
WTO document series	WT/COMTD/RTA15/N/1/Add.14
Global System of Trade Preferences among Developing Countries (GSTP)	
Date of signature	13/04/1988
Entry into force	19/04/1989
End of the transition period	
Coverage (selected features)	Goods
Brazil's merchandise trade with GSTP members	25.47% of total imports; 27.90% of total exports
WTO consideration status	No report adopted
WTO document series	L/6564
LAIA – Cultural Goods (AAR.CEYC 7)	
Date of signature	27/10/1988
Entry into force	01/01/1989
End of the transition period	
Coverage (selected features)	Goods
WTO consideration status	Notified as a change to the LAIA TM 80
WTO document series	WT/COMTD/RTA15/N/1/Add.77
Brazil – Uruguay (AAP.CE 2)	
Date of signature	20/12/1982
Entry into force	16/10/1985
End of the transition period	
Coverage (selected features)	Automotive goods/free trade zones
Brazil's merchandise trade with Uruguay	0.79% of total imports; 0.74% of total exports
WTO consideration status	Notified as a change to the LAIA TM 80
WTO document series	WT/COMTD/RTA15/N/1/Add.2
LAIA – Agreement on Regional Tariff Preference (AAR.PAR 4)	
Date of signature	27/04/1984
Entry into force	01/07/1984
End of the transition period	
Coverage (selected features)	Goods
Brazil's merchandise trade with LAIA members	14.03% of total imports; 14.36% of total exports
WTO consideration status	Notified as a change to the LAIA TM 80
WTO document series	WT/COMTD/RTA15/N/1/Add.74
LAIA – Preferences in favour of Paraguay (AAR.AM 3)	
Date of signature	30/04/1983
Entry into force	01/07/1984
End of the transition period	
Coverage (selected features)	Goods
Brazil's merchandise trade with Paraguay	1.56% of total imports; 1.08% of total exports
WTO consideration status	Notified as a change to the LAIA TM 80
WTO document series	WT/COMTD/RTA15/N/1/Add.73
LAIA – Preferences in favour of Ecuador (AAR.AM 2)	
Date of signature	30/04/1983
Entry into force	01/05/1983
End of the transition period	
Coverage (selected features)	Goods
Brazil's merchandise trade with Ecuador	0.05% of total imports; 0.32% of total exports
WTO consideration status	Notified as a change to the LAIA TM 80
WTO document series	WT/COMTD/RTA15/N/1/Add.72
LAIA – Preferences in favour of the Plurinational State of Bolivia (AAR.AM 1)	
Date of signature	30/04/1983
Entry into force	01/05/1983
End of the transition period	
Coverage (selected features)	Goods
Brazil's merchandise trade with the Plurinational State of Bolivia	0.62% of total imports; 0.54% of total exports
WTO consideration status	Notified as a change to the LAIA TM 80
WTO document series	WT/COMTD/RTA15/N/1/Add.71

RTAs in force	
Latin American Integration Association (LAIA)	
Date of signature	12/08/1980
Entry into force	18/03/1981
End of the transition period	
Coverage (selected features)	Goods
Brazil's merchandise trade with LAIA members	
WTO consideration status	No report adopted
WTO document series	L/5342, WT/COMTD/RTA15
• ***LAIA – Accession of Panama***	
Entry into force	03/05/2012
WTO consideration status	Not yet notified
• ***LAIA – Accession of Cuba***	
Entry into force	26/08/1999
WTO document series	WT/COMTD/N/10
Protocol on Trade Negotiations (PTN)	
Date of signature	08/12/1971
Entry into force	11/02/1973
End of the transition period	
Coverage (selected features)	Goods
Brazil's merchandise trade with PTN members	10.85% of total imports; 13.16% of total exports
WTO consideration status	No report adopted
WTO document series	L/3598

Note: The LAIA/ALADI reference is indicated in brackets for some RTAs notified as a change to the LAIA 1980 Treaty of Montevideo (LAIA TM 80). Partial scope agreements cover some and not all LAIA parties. Further details can be found at: http://www.aladi.org and http://siscomex.gov.br/acordos-comerciais/. Merchandise trade data covering both preferential and non-preferential treatment are based on 2021 figures.

Source: WTO Secretariat, based on information from the WTO RTA database. Viewed at: http://rtais.wto.org; and UN Comtrade database.

2.34. In December 2020, Brazil's CAPTA system that provided information on tariff preferences under Brazil's RTAs was replaced by two user-friendly completely updated Siscomex web pages, i.e. Trade Agreements (https://www.gov.br/siscomex/pt-br/informacoes/acordos-comerciais) and Tariff Preferences (https://www.gov.br/siscomex/pt-br/informacoes/acordos-comerciais/preferencias-tarifarias). Information on tariff preferences of MERCOSUR agreements signed with Israel, Egypt, and SACU is available in the HS 2017 nomenclature.

2.3.2.1 MERCOSUR

2.35. MERCOSUR remains Brazil's main, albeit declining, most important preferential agreement in terms of value of trade, accounting for some 5.9% (10.5% in 2017) of its total merchandise exports and 7.4% (8.5% in 2017) of its total merchandise imports in 2020 (Tables A1.4 and A1.5). Brazil is a MERCOSUR founding member together with Argentina, Paraguay, and Uruguay; the accession of the Plurinational State of Bolivia is pending whereas that of the Bolivarian Republic of Venezuela was indefinitely suspended on 5 August 2017.[61] This suspension does not affect the validity of the preferential trade agreement between Brazil and the Bolivarian Republic of Venezuela.

2.36. In the December 2019 Heads of States summit, five trade-related agreements on the following issues were signed: trade facilitation (eliminating fees and taxes on mutual trade); geographical indications for numerous products; a revision of MERCOSUR's Trade in Services Protocol with respect to financial services; a framework for concluding trade facilitation initiatives in the area of technical regulations; and a mutual recognition agreement for digital signatures. In November 2019, an agreement on the mutual recognition of authorized economic operators was signed by MERCOSUR

[61] The block was established in 1991 by the Treaty of Asunción, and its institutional structure was defined in the 1994 Protocol of Ouro Preto. MERCOSUR is incorporated into the LAIA legal regime under Economic Complementarity Agreement No. 18. LAIA economic complementarity agreements are open for accession by any LAIA country, through prior negotiations. The Protocol of Accession of the Plurinational State of Bolivia to MERCOSUR was signed by all its State Parties in July 2015 and is in the process of being incorporated by the congresses of the State Parties. More information on MERCOSUR issues may be found in WTO document WT/TPR/S/358/Rev.1, 18 October 2017. MERCOSUR, *MERCOSUR Countries*. Viewed at: https://www.mercosur.int/en/about-mercosur/mercosur-countries/; and *Rio Times* (2021), "Bolivia Has Renewed Its Request to Be Installed as a Full Member of Mercosur", 26 March. Viewed at: https://www.riotimesonline.com/brazil-news/mercosur/bolivia-renewed-its-request-to-be-incorporated-as-a-full-member-of-mercosur/.

Customs General Directors. An automotive agreement between Brazil and Paraguay was also signed. In July 2019 MERCOSUR Parties agreed to eliminate roaming taxes in telecommunications within MERCOSUR countries. In December 2021 MERCOSUR Parties agreed to incorporate into the MERCOSUR Services Protocol disciplines on postal services, domestic regulation, and telecommunications, and a mutual recognition agreement on the qualification of certain professional services.

2.37. As part of MERCOSUR, Brazil maintains preferential trade agreements with Chile, the Plurinational State of Bolivia, Mexico, Peru, Colombia, Ecuador, the Bolivarian Republic of Venezuela, and Cuba, all under the LAIA auspices as well as with Egypt, India, SACU, and Israel (Table 2.1). In November 2018 (in force as from 25 January 2022), Brazil and Chile signed an RTA expanding, updating, and modernizing their non-tariff commitments under ACE No. 35 of 1996 (Table 2.1); it includes new disciplines on services and investment, government procurement, TRIPS, e-commerce, and trade facilitation and removes roaming fees between both Parties. The MERCOSUR-Egypt agreement, which is the only extra regional agreement that entered into force in the review period (2017), allows for tariff preferences on 10,166 eight-digit tariff lines ranging from 60% to 100% as from 1 September 2022 and the tariff dismantling is to be completed in September 2026; 104 lines are excluded.

2.38. The Common Market Group (GMC) and the Council for the Common Market (CMC) remain the main executive and decision-making bodies of MERCOSUR. MERCOSUR's Trade Commission is responsible for the application of common trade policy instruments. MERCOSUR member States share a CET, which entered into force on 1 January 1995; its rates range from zero to 35% and average 11.35% at the 8-digit level. Various exceptions (national or sectoral) for an established period have been allowed through Decisions by the CMC. All MERCOSUR member States are currently authorized to have an exception list (List of Exceptions to the Common External Tariff (LETEC)), although there are different provisions and timeframes for each country. A July 2015 Decision CMC 26/15 authorized Brazil to maintain a basic list of 100 national exceptions to the CET within its WTO bound rates until 31 December 2021 and was extended until 31 December 2028 via the December 2021 Decision CMC 11/21; it may also request temporary reduction of the CET for capital goods and informatics and telecommunication goods with tariffs lower than those of the CET in line with the December 2021 Decision CMC 08/21. There are also exceptions to the CET for toys, dairy products, and peaches. The sugar and automotive sectors are the only exclusions to the free movement of goods within MERCOSUR, and there is no schedule for the inclusion of sugar in MERCOSUR's free trade regime. Trade in the automotive sector between Brazil and MERCOSUR members remains largely regulated by bilateral agreements, two of which were negotiated or renegotiated in the period under review (Brazil-Paraguay and Brazil-Argentina, Table 2.1). During the review period, around 100 CAMEX resolutions introduced customs tariff changes. For example, under CAMEX Resolution 27, 24 April 2018, Brazil revoked the 2% tariff rate quotas set in 2017 on certain plastics (NCM 3920.91.00 and 3906.90.49), thus resetting tariffs at their 16% and 14% levels.[62] Under CAMEX Resolution 269, 4 November 2021, Brazil temporarily and unilaterally cut its tariffs by 10% until 31 December 2022, invoking Article 50 of the Treaty of Montevideo (1980). An additional reduction of 10% was approved on around 87% of the tariff lines (6,195 lines) by GECEX Resolution 353, 23 May 2022, which is to remain in force until 31 December 2023.[63] A proposal for a 10% flat-rate reduction of the CET – excluding products comprised in MERCOSUR's current exceptions – is under discussion among MERCOSUR Parties. Negotiations with MERCOSUR partners on CET exceptions and tariff reductions, renegotiation of bilateral free trade agreements, and plans to consolidate parallel RTAs are still ongoing.

2.39. The 2004 Agreement on the Elimination of Double Collection of CET and the Distribution of Customs Revenue in MERCOSUR, approved by Decision 54/04, grants local MERCOSUR status to imported products that conform to the Common Tariff Policy (PAC). Its implementation consists of

[62] Global Trade Alert, *Brazil: New Changes to the List of Exceptions to the Mercosur Common External Tariff*. Viewed at: https://www.globaltradealert.org/intervention/61313/import-tariff-quota/brazil-new-changes-to-the-list-of-exceptions-to-the-mercosur-common-external-tariff.

[63] This action was intended to mitigate the negative effects of the pandemic and the Ukraine war, including rising living expenses for lower-income Brazilians and higher costs for companies that use these products in the production and commercialization of goods; it does not affect the duty exemptions already in place under the special Ex Tarifario or any other Brazilian import regime. HKTDC Research (2022), "Brazil Again Lowers Import Duties on Most Tariff Lines", 27 May. Viewed at: https://research.hktdc.com/en/article/MTA3MzM1MTMyNg.

three stages.[64] The first stage entails the granting of a zero CET rate to all merchandise imported by a member country that is subject to 100% preferential tariff treatment under MERCOSUR agreements with third parties. The second stage would cover the remaining goods.[65] The third stage would require implementing a customs revenue distribution mechanism and the unification of customs systems in all member States. Since 2012, negotiations regarding the implementation of these three phases according to Decisions CMC 10/10 and 56/10 have been largely stalled due to difficulties to advance beyond the first phase. Under Decision CMC 27/2010, MERCOSUR approved the MERCOSUR Customs Code, which has yet to come into force.

2.40. During the review period, action for expanding the MERCOSUR RTAs network was taken. Negotiations on free trade agreements between MERCOSUR and the European Union, a priority for Brazil, and with the EFTA countries were in principle concluded in 2019.[66] Both agreements are more comprehensive than the agreements signed in the past as in addition to tariff reductions they cover issues such as services, IPRs, government procurement, and sustainable development; as of June 2022, the parties were still concluding the technical and legal review, after which the texts are to be translated, prepared for signature, and submitted for parliamentary ratification. Upon its entry into force, the agreement with the European Union is to 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, thus raising its coverage to 99% in terms of EU tariff lines.[67] MERCOSUR's offer is to allow for full tariff elimination on 91% of tariff lines; MERCOSUR also granted partial concessions to the European Union in 32 tariff lines. As of June 2022, the agreement with EFTA had not been made public; however, it is understood to be similar to the EU-MERCOSUR agreement in terms of trade liberalization and disciplines covered.[68] 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%-99% of MERCOSUR exports to the EFTA market depending on the importing country.[69]

2.41. Since Brazil's last Review, MERCOSUR has held various rounds of negotiations for the conclusion of free trade agreements with Canada, the Republic of Korea, Singapore, and Lebanon; in 2020, Brazil approved the negotiating mandate for trade agreements with Indonesia and Viet Nam.[70] 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. Impact assessment studies were prepared by Brazil for the future agreements with the Republic of Korea, Indonesia, Singapore, and Viet Nam, whereas those on Canada were under way as of June 2022.[71] Regarding the regional sphere,

[64] MERCOSUR CMC/DEC 10/10.

[65] This stage is subject to the ratification and entry into force of the Customs Code. MERCOSUR CMC/DEC 27/10 and MERCOSUR CMC/DEC 34/11.

[66] Viewed at: https://www.gov.br/produtividade-e-comercio-exterior/pt-br/assuntos/comercio-exterior/publicacoes-secex/serie-acordos-comerciais/arquivos/1-acordos-comerciais.pdf.

[67] On 28 June 2019, the European Union and MERCOSUR reached a political agreement for an ambitious, balanced, and comprehensive trade agreement covering issues such as tariffs, rules of origin, TBT, SPS measures, services, government procurement, IP, sustainable development, and SMEs. The trade agreement with the European Union is the most ambitious agreement on services that Brazil has negotiated so far. The agreement guarantees access to maritime services for the first time in MERCOSUR. It is also the first agreement signed by Brazil with provisions on e-commerce. European Commission, *Mercosur*. Viewed at: https://ec.europa.eu/trade/policy/countries-and-regions/regions/mercosur/; Thomson Reuters, *International Trade in Goods and Services in Brazil*. Viewed at: https://uk.practicallaw.thomsonreuters.com/w-011-0773?transitionType=Default&contextData=(sc.Default)&firstPage=true#:~:text=In%20general%20terms%2C%20the%20Brazilian,Brazilian%20competitiveness%20by%20reducing%20bureaucracy; and EIU (2021), *Country Commerce – Brazil*, October. Viewed at: http://www.eiu.com/.

[68] Thomson Reuters, *International Trade in Goods and Services in Brazil*. Viewed at: https://uk.practicallaw.thomsonreuters.com/w-011-0773?transitionType=Default&contextData=(sc.Default)&firstPage=true#:~:text=In%20general%20terms%2C%20the%20Brazilian,Brazilian%20competitiveness%20by%20reducing%20bureaucracy.

[69] Viewed at: https://www.gov.br/mre/pt-br/media/2019-09-03-acordo-mercosul-efta-2.pdf.

[70] Viewed at: https://www.gov.br/produtividade-e-comercio-exterior/pt-br/assuntos/comercio-exterior/publicacoes-secex/serie-acordos-comerciais/arquivos/1-acordos-comerciais.pdf.

[71] Ministry of Economy, *Publications of the Secretariat of International Trade*. Viewed at: https://www.gov.br/produtividade-e-comercio-exterior/pt-br/assuntos/comercio-exterior/publicacoes-secex/publicacoes#series_ancora; https://www.gov.br/produtividade-e-comercio-exterior/pt-br/assuntos/comercio-exterior/publicacoes-secex/serie-acordos-comerciais/arquivos/indonesia-estudo-de-impacto.pdf; and https://www.gov.br/produtividade-e-comercio-exterior/pt-br/assuntos/comercio-exterior/publicacoes-secex/serie-acordos-comerciais/arquivos/vietna-estudo-de-impacto.pdf.

MERCOSUR expects to start negotiations of a new economic complementarity agreement with Ecuador in 2022, replacing and modernizing commitments taken under ACE No. 59. In 2020, the block presented to some countries in Central America and the Caribbean a proposal of terms of reference to negotiate individual trade agreements. Brazil also attaches high priority to economic and trade relations with Mexico especially through the expansion of its bilateral with this partner (Economic Complementation Agreement (ACE) No. 53); in 2020, Brazil submitted to Mexico a proposal of terms of reference to negotiate a new agreement covering trade in goods and non-tariff matters. Since mid-March 2019, trade in automobiles and auto parts between the two countries has been duty-free, following the expiry of bilateral quotas under the MERCOSUR-Mexico automotive agreement (ACE No. 55 – not notified to the WTO).

2.42. Dispute settlement in MERCOSUR is regulated by the 2002 Protocol of Olivos, in force since January 2004. Member States may choose to file trade disputes either within the MERCOSUR or the WTO dispute settlement mechanism. Brazil did not participate in any disputes within MERCOSUR during the review period.

2.3.2.2 Preferential trade arrangements

2.43. Brazil continues to participate in the 1998 Global System of Trade Preferences among Developing Countries (GSTP) (Table 2.1); since 1991, MERCOSUR has participated as a bloc, with a single list of concessions granting preferences to participating countries on some 127 HS02 tariff headings. These preferences range from 10% to 100% and their scope includes agricultural products, fuels, chemical products, hides and skins, and ferrous and steel products.

2.44. Brazil remains a beneficiary of the Generalized System of Preferences (GSP) schemes of Australia, New Zealand, Norway, Switzerland (since 2014), Türkiye, and the United States.[72] During the review period, it has been graduated from the GSP schemes of Japan (2019) and the Eurasian Economic Union (Armenia, Belarus, Kazakhstan, the Kyrgyz Republic, and the Russian Federation (2021)).

2.4 Investment Regime

2.45. Brazil remains open to and encourages FDI, which is prevalent across the economy despite foreign ownership limitations in certain sectors (Section 2.4.2). Notwithstanding relatively irregular FDI inflows in line with global investment trends due to trade-restrictive measures in foreign markets, recent recession, several leading manufacturing transnationals announcing their partial withdrawal (e.g. Ford, Mercedes-Benz, and Sony), disinvestments (Petrobras), ongoing political turmoil, and the handling of the COVID-19 crisis that *inter alia* slowed down ongoing privatization programmes, Brazil's huge market and natural resources opportunities maintained its position as the most attractive investment location in South America, capturing 47.7% of FDI inflows (43.4% of FDI stocks) to the region in 2020.[73] Despite some improvement in registering property, starting a business, resolving insolvency, bringing expedited business registration, and decreasing the cost of the digital certificate, concerns over poor existing infrastructure, relatively rigid labour

[72] UNCTAD (2018), *Generalized System of Preferences – List of Beneficiaries*, 1 July. Viewed at: https://unctad.org/system/files/official-document/itcdtsbmisc62rev7_en.pdf.

[73] According to the authorities, the decrease in the flow of capital is a global issue rather than just a Brazilian reality as data from several international organizations, such as UNCTAD, OECD, IMF, World Bank, WTO, and others, point to a reduction in global investments on average of more than 30% in relation to the last decade. They also consider that among the main elements that have hindered FDI are protectionist measures and domestic regulatory barriers adopted by several countries in recent years. They also consider that there has been regularity and stability of investment attraction flows to Brazil that stood at USD 49.7 billion (2015), USD 53.7 billion (2016), USD 66.6 billion (2017), USD 59.8 billion (2018), USD 65.4 billion (2019), and USD 24.8 billion (2020), a pandemic-related drop. According to UNCTAD data, Brazil dropped from the world's 6th largest recipient of FDI inflows in 2019 to the 11th position in 2020 but seemingly rose to the 7th position in 2021; however, in 2019 it maintained its 3rd position in terms of FDI stock. CNN Brasil (2022), "Brazil Is the 7th Country that Attracted the Most Foreign Investment in 2021, says UNCTAD", 21 January. Viewed at: https://www.cnnbrasil.com.br/business/brasil-e-o-7o-pais-que-mais-atraiu-investimento-estrangeiro-em-2021-diz-unctad/; UNCTAD (2021), *World Investment Report 2021 – Investing in Sustainable Recovery*. Viewed at: https://unctad.org/system/files/official-document/wir2021_en.pdf; UN Economic Commission for Latin America and the Caribbean (2021), *Foreign Direct Investment in Latin America and the Caribbean 2021*, August. Viewed at: https://repositorio.cepal.org/bitstream/handle/11362/47148/4/S2100318_en.pdf; and EIU (2021), *Country Commerce – Brazil*, October. Viewed at: http://www.eiu.com/.

laws, complex tax/local content/regulatory requirements, high transportation and labour costs, low domestic productivity, and ongoing political uncertainties seemingly form part of the extra costs of doing business and hamper investment in Brazil.[74] Furthermore, a lack of coordination among federal, state, and municipal agencies is seemingly a serious cause for complexity and delays.[75]

2.4.1 Regulatory and institutional framework

2.46. During the review period, the main regulatory framework governing foreign investment in Brazil remained relatively unchanged, although action was taken to improve the business environment. In 2021, legislation (New Business Environment Law) was passed for the facilitation of starting a business (Section 2.4.3), the protection of minority shareholders, the facilitation of foreign trade, the Integrated Asset Recovery System (Sira), the charges made by professional councils, the profession of public translator and interpreter, on obtaining electricity, on corporate reduction of bureaucracy, and procedural acts.[76] The New Business Environment Law seeks to stimulate the resumption of economic activity after the pandemic and to attract foreign capital as well as to simplify the opening and operation of companies in Brazil, making the country advance at least 20 positions in the World Bank's Ease of Doing Business ranking. Other investment-related regulatory and institutional changes included the Establishment of the Declaration of Economic Freedom Rights and free market guarantees (2019), the approval of the mandate for the preparation of the Action Plan on Responsible Business Conduct (2020), and the revision of the operational setting of the National Investment Committee (CONINV) within the scope of the Foreign Trade Chamber (CAMEX) of the Ministry of Economy (2019).[77] The Regulatory Agenda for Improving the Investment Environment for the 2021-22 Biennium was issued in 2020.[78] Since the 1995 constitutional amendments, foreign and national capital have received the same legal treatment under equal circumstances, which prohibit all forms of discrimination not explicitly foreseen in the law. Legally registered companies compete on an equal footing when bidding on contracts or seeking tax and non-tax incentives. Although no rules expressly prohibit foreign takeovers, special authorization is required for deals made via share purchase on the stock market.[79]

2.47. The Brazilian Trade and Investment Promotion Agency (Apex-Brasil) continues to play a leading role in attracting FDI to Brazil by working to identify business opportunities, promoting strategic events, and lending support to foreign investors willing to allocate resources to Brazil; it also supports Brazilian companies' efforts to invest abroad under its "internationalization program".[80] In 2019, the Ministry of Economy created the Direct Investments Ombudsman (DIO) office to

[74] U.S. Department of State (2020), *2020 Investment Climate Statements: Brazil*. Viewed at: https://www.state.gov/reports/2020-investment-climate-statements/brazil/.

[75] World Bank Group (2021), *Subnational Doing Business in Brazil 2021 – Comparing Business Regulation for Domestic Firms in 27 Brazilian Locations with 190 Other Economies*, 8 November. Viewed at: https://documents1.worldbank.org/curated/en/149941636370484994/pdf/Comparing-Business-Regulation-for-Domestic-Firms-in-27-Brazilian-Locations-with-190-Other-Economies.pdf.

[76] The New Business Environment Law (Law No. 14,195, 26 August 2021) entered in force on its publication date and is to *inter alia* produce effects in three years for the procurement of electricity for consumers in specified urban areas, in 360 days for the change in the prohibition of the accumulation of positions in publicly held companies, and in 180 days for the electronic charging of taxes related to foreign trade operations.

[77] These regulations consist of Law No. 13,874, 20 September 2019; Decree No. 9,885, 27 June 2019 (http://www.planalto.gov.br/ccivil_03/_ato2019-2022/2019/Decreto/D9885.htm); and CONINV Resolution No. 2, 22 December 2020. The Economic Freedom Law 13,874 includes several provisions to simplify regulations, simplify regulatory provisions, and establish norms for the protection of free enterprise and free exercise of economic activity.

[78] The Regulatory Agenda for the Improvement of the Investment Environment is one of the actions of the National Investment Plan (PNI) for the 2021-22 biennium. The PNI is the CONINV's work programme prepared jointly with main government bodies. The Regulatory Agenda lists priority strategic rules for improving the investment environment based on the best regulatory practices. Its elaboration process was guided by the standards established in the OECD's Council Recommendation on Regulatory Policy and Governance and in the Brazilian Declaration of Economic Freedom Rights (Law No. 13,874/2019). After consulting Brazilian federal agencies, 13 themes were defined, namely: customs; metrology; air; defense; energy; financing, insurance and capital markets; mining; oil and gas; social security; health and sanitary surveillance; technology and communications; transport; and taxation. CONINV Resolution No. 3, 22 December 2020.

[79] EIU (2021), *Country Commerce – Brazil*, October. Viewed at: http://www.eiu.com/.

[80] ApexBrasil, *Who We Are*. Viewed at: http://www.apexbrasil.com.br/en/who-we-are; and U.S. Department of State (2020), *2020 Investment Climate Statements: Brazil*. Viewed at: https://www.state.gov/reports/2020-investment-climate-statements/brazil/.

provide foreign investors with a single point of contact for concerns related to FDI.[81] According to its website it is a "single window" for investors, provided by the Executive Secretariat of CAMEX. It is responsible for receiving requests and inquiries about foreign investments, to be answered jointly with the public agency responsible for the matter (at the federal, state, and municipal levels) involved in each case (the Network of Focal Points).[82] The DIO setting allows for supporting the investor, by a single governmental body, in charge of responding to demands within a short time. The following DIO competencies stand out: to support and guide investors, recommending solutions to their grievances (Policy Advocacy); and to propose to public agencies possible improvements in the legislation or in their administrative procedures.

2.4.2 Restricted activities

2.48. Brazil continues to follow a "negative" list approach in restricting FDI, and national interest provisions are found in its Constitution.[83] During the review period, foreign ownership restrictions for air carriers were lifted; as from 17 June 2019, foreigners have been authorized to hold up to 100% (previously) of voting/capital shares in air transport companies operating either domestically or internationally.[84] As from January 2020, to increase competition in the market the recognition of foreign participation in domestic financial institutions as being of national interest has been simplified and non-discriminatory treatment for foreign investors has been ensured; the authority to recognize the interest of establishment of new branches of financial institutions domiciled abroad and the increase of foreign participation in the capital of financial institutions headquartered in the country was passed to the BCB, thus simplifying the recognition procedure.[85] Furthermore, to improve the quality of the business environment in the country by streamlining the procedures for the organization and operation of companies, foreign trade and enforcement of debts (Section 2.4.1), as from 2021, individuals who occupy management positions in joint stock companies have no longer been required to reside in Brazil, as long as they keep an attorney-in-fact in Brazil for representation purposes.[86]

2.49. Restrictions on foreign investment continue to affect some activities including nuclear power, certain postal services, some health services, and mass media (Table 2.2 and Section 4.4).[87] Foreigners and foreign-controlled companies and businesses may not own land in specified areas within 150 kilometres of Brazil's national borders, directly on its coasts, or in any other geographical areas designated and defined as sensitive for national security; foreign ownership of these areas requires authorization from the Brazilian National Defense Council, among other procedures. Furthermore, the area of agricultural land bought or leased by foreigners cannot account for more than 25% of the overall land area in a given municipal district; in addition, no more than 10% of agricultural land in any given municipal district may be owned or leased by foreign nationals from the same country.[88] Draft Law No. 4,059/2012, which would lift the limits on foreign ownership of

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[81] Viewed at: https://oid.economia.gov.br/en.

[82] Viewed at: https://oid.economia.gov.br//en/menus/8.

[83] Article 172 of the Federal Constitution stipulates that the law shall regulate, based on national interests, the foreign capital investments; shall encourage reinvestments; and shall regulate the remittance of profits.

[84] Provisional Executive Measure 863, 13 December 2018, amended Law 7,565/1986, revoking its Article 182, thus eliminating any type of limit on the participation of foreign capital in the provision of air services. Provisional Executive Measure 863 was converted into Law 13,842, 17 June 2019.

[85] According to the authorities, similar to other domestic processes elsewhere, this is now an authorization requirement rather than a restriction. Decree No. 10,029/19, 26 September 2019, and BCB Circular 3,977, 22 January 2020.

[86] Law No. 14,195/2021, 26 August 2021. Lexlink (2021), "Brazil: New Law Facilitates the Organization of Companies and Improves the Quality of the Brazilian Business Environment", 4 October. Viewed at: https://lexlink.org/brazil-new-law-facilitates-the-organization-of-companies-and-improves-the-quality-of-the-brazilian-business-environment/.

[87] Constitutional and infra-constitutional legislation restricts foreign investment in nuclear power (Federal Constitution, Article 21, XXIII), certain postal services (Law No. 6,538/1978), healthcare services (Federal Constitution, Article 199; and Law No. 8,080/1990, which updates Article 142 of Law No. 13,097/2015), mass media (Federal Constitution, Article 222; Laws No. 10,610/2002 and No. 12,485/2011), rural property (Law No. 5,709/1971), maritime (Law No. 9,432/1997, Decree No. 2,256/1997), and insurance (Law No. 11,371/2006). WTO document WT/TPR/S/358/Rev.1, 18 October 2017; and EIU (2021), *Country Commerce – Brazil*, October. Viewed at: http://www.eiu.com/.

[88] U.S. Department of State (2020), *2020 Investment Climate Statements: Brazil*. Viewed at: https://www.state.gov/reports/2020-investment-climate-statements/brazil/.

agricultural land, has been awaiting a vote in the Brazilian Congress since 2015.[89] A bill (Draft Law No. 2,963/2019) to ease restrictions on foreign land ownership was approved by the Senate in December 2020 and as of June 2022 it was under consideration by the Chamber of Deputies[90]

Table 2.2 Indicative list of FDI closed and restricted sectors, 2022

Sector/business	FDI limitation
A. Closed	
Postal services	Pick-up, transport, and delivery of letters, postcards, and grouped correspondence, as well as issuance of stamps and other postage payments
Nuclear energy	Wholly closed
B. Restricted	
Financial institutions	Subject to BCB (central bank) approval
Health services	Allowed for specific activities
Rural land acquisition	Allowed up to a certain surface and subject to authorization of the National Institute of Colonization and Agrarian Reform (INCRA) and other public agencies; FDI in rural areas close to the border requires authorization from the Brazilian National Defense Council, among other procedures
Broadcasting (TV and radio) and publishing media	Up to 30% of the capital in open-broadcast and publishing media companies Broadcasting subject to local content requirement
Fishing, mining and hydrocarbons	Subject to specific authorization requirements

Source: WTO Secretariat based on information provided by the authorities.

2.4.3 Registration and approval

2.50. A company must register with the National Revenue Service (RFB) to obtain a business licence and be placed on the National Registry of Legal Entities (CNPJ). Through the digital transformation initiative (Section 2.2.3.2), as from 2019 foreign companies can open branches via the Internet.[91] Brazil streamlined the process and decreased the time it takes to open a SME to five days through its RedeSimples Program, the National Network for the Simplification of Registration and Legalization of Companies and Businesses; it also simplified the collection of up to eight federal, state, and municipal-level taxes into one single payment.[92] According to the OECD, in contrast to other countries, the Federal Government does not keep a complete count of the number of permits and licences required, thus making it hard to keep control over excessive burdens imposed by lower-level governments that may not always have an eye for competition.[93]

[89] Office of the United States Trade Representative (2021), *2021 National Trade Estimate Report on Foreign Trade Barriers*, March. Viewed at: https://ustr.gov/sites/default/files/files/reports/2021/2021NTE.pdf.

[90] Draft Law No. 4,059/2012 is attached to Draft Law No. 2,963/2019. Other legislative proposals dealing with the same topic, such as Draft Laws No. 2,289/2007, No. 2,376/2007, No. 3,483/2008, No. 4,240/2008, and No. 1,053/2015, were also added to Draft Law No. 2,963/2019.

[91] Upon filling out the registration, creating an account, and sending the necessary documentation, they can submit the request on the relevant government's portal through a legal representative; the e-documents are then analysed by the DREI (Brazilian National Department of Business Registration and Integration), which informs the applicant of any missing documentation, via the portal and email, giving a 60-day period to meet the requirements. Mondaq (2020), "Brazil: The National Department of Business Registration and Integration Enacted Normative Instruction N.59, on April 15, 2019, to Create the Online Application for the Opening of Brazilian Branches of Foreign Companies", 31 March. Viewed at: https://www.mondaq.com/brazil/corporate-and-company-law/897910/the-national-department-of-business-registration-and-integration-enacted-normative-instruction-n59-on-april-15-2019-to-create-the-online-application-for-the-opening-of-brazilian-branches-of-foreign-companies#:~:text=Through%20the%20appointment%20of%20a,portal%20%22gov.br%22; and U.S. Department of State (2020), *2020 Investment Climate Statements: Brazil*. Viewed at: https://www.state.gov/reports/2020-investment-climate-statements/brazil/.

[92] Viewed at: https://redesimples.rs.gov.br/19/o-que-e; and U.S. Department of State (2020), *2020 Investment Climate Statements: Brazil*. Viewed at: https://www.state.gov/reports/2020-investment-climate-statements/brazil/.

[93] The authorities indicate that Brazil has a federal system composed of 26 states and the Federal District plus thousands of municipalities, with legal autonomy, which could evidently create a challenge to "keep a complete count of the number of permits and licenses required". OECD (2020), *OECD Economic Surveys: Brazil 2020*, December. Viewed at: https://www.oecd.org/economy/surveys/Brazil-2020-OECD-economic-survey-overview.pdf.

2.51. The 2021 New Business Environment Law (Law No. 14,195/2021) (Section 2.4.1) provides for the facilitation for the opening of companies. For easing the opening and operation of companies the following changes *inter alia* are envisaged: the automatic granting (i.e. without human analysis) of business licences and other documents for companies classified in medium-risk activities; the unification of federal, state, and municipal tax registrations in the CNPJ; the maintenance of the electronic system by the bodies involved in the process of registering and legalizing companies; the electronic citation of legal entities; the expansion of credit modalities for limited companies; the ending of the residency requirement for foreign administrators; greater freedom for operating hours; the adoption of digital books; and the removal of the requirement that an address be provided for the establishment.

2.52. In 2019 legislation was passed for the criteria and procedures to be observed by the organs and entities of the direct, municipal, and foundational federal public administration for the classification of the level of risk of economic activity and to set the deadline for tacit approval of the public act of liberation.[94] According to the OECD, Brazil has come closer to the best practice among OECD countries to eliminate the approval requirement for all but a few high-risk activities requiring prior inspection and sanitary licensing equivalent to about 10% of all registered companies (Section 2.4.2).[95] Classification on the risk of an activity may involve the evaluation of its nature, inputs, and products, as well as sanitary, environmental, and technological conditions of the activity.[96] Opening a business is now automatic and done within a day for low-risk activities, which cover more than 90% (2021) of applications; as of end-2021, 57.1% of new businesses could open in less than one day.[97] Reportedly, sector-specific rules are often more restrictive, as professional associations can restrict the scope for new entry and provide an easy forum for price collusion, which is sometimes reflected in outright minimum charges.[98]

2.53. Incoming foreign investment in all forms must be registered online with the BCB through the Electronic Statement of Registration – Foreign Direct Investment Module (RDE-IED), on the BCB's Information System (SISBACEN). Foreign capital must be registered in specific modules according to the following classification: foreign direct investment (FDI); financial operations (e.g. loans, long-term import financing, technical assistance, and royalties contracts (ROF)); and portfolio investments.[99] This classification would be subject to some changes in the near future due to the implementation of the new Foreign Exchange Law (Law 14,286/2021) that comes into force on 29 December 2022. Procedures related to the registration of FDI were last simplified in 2017.[100] Foreign capital must be registered within 30 days of the date it enters Brazil or after customs clearance in the case of goods.[101] Remittances abroad, reinvestment of profits, dividends, other resources, and repatriation of invested capital must also be registered with the BCB. Foreign capital does not require BCB authorization provided it is registered. The invested sum must be registered in the currency in which the investment was made; this requirement remains in place until Law No. 14,286/2021 enters into force on 29 December 2022 (see above).[102] As from 2019, the Minister of Economy has been delegated the power authorize a foreign company to operate in

[94] Decree No. 10,178/2019, 18 December 2019. Viewed at: http://www.planalto.gov.br/ccivil_03/_ato2019-2022/2019/decreto/D10178.htm.

[95] CGSIM Resolution No. 62, 20 November 2020 (https://www.in.gov.br/en/web/dou/-/resolucao-cgsim-n-62-de-20-de-novembro-de-2020-289584141); OECD (2020), *OECD Economic Surveys: Brazil 2020*, December. Viewed at: https://www.oecd.org/economy/surveys/Brazil-2020-OECD-economic-survey-overview.pdf.

[96] Resolution No. 58, 12 August 2020 (https://www.gov.br/economia/pt-br/assuntos/drei/cgsim/arquivos/Resoluo58de2020.pdf) and Resolution No. 62, 20 December 2020 (https://www.gov.br/economia/pt-br/assuntos/drei/cgsim/arquivos/Resoluo622020.pdf) provide examples of classification of activities by the CGSIM.

[97] Ministério da Economía/Secretaria Especial de Desburocratização, Gestão e Governo Digital/Secretaria de Governo Digital/Departamento Nacional de Registro Empresarial e Integração (2022), *Mapa de Empresas-Boletim do 3º quadrimestre/2021*, 9 February. Viewed at: https://www.gov.br/governodigital/pt-br/mapa-de-empresas/boletins/mapa-de-empresas-boletim-do-3o-quadrimestre-de-2021.pdf/view.

[98] OECD (2020), *OECD Economic Surveys: Brazil 2020*, December. Viewed at: https://www.oecd.org/economy/surveys/Brazil-2020-OECD-economic-survey-overview.pdf.

[99] In cases of investments involving royalties and technology transfer, investors must register with Brazil's patent office, the National Institute of Industrial Property (INPI). Investors must also have a local representative. Portfolio investors must have a local financial administrator and register with the Brazilian Securities Exchange Commission (CVM).

[100] CMN Resolution No. 4,533, 24 November 2016, and BCB Circular No. 3,814, 7 December 2016, both effective as from 30 January 2017.

[101] Resolution No. 3,844, 23 March 2010.

[102] Resolution No. 3,844, 23 March 2010.

Brazil (Section 2.2.1.1).[103] Although no rules expressly prohibit foreign takeovers, special authorization is required for deals made via share purchase on the stock market.[104] According to the Security and Exchange Commission of Brazil (CVM), during the review period, at least 95% of FDI applications were approved and rejections are due to non-compliance with domestic legal requirements set forth on CMN Resolution 4,373 (disciplines on the applications of non-resident investors in Brazil in the financial and capital markets) or CVM Rules 168 (provides for operations subject to special procedures on the Stock Exchanges) and/or 361 (provides for the procedure applicable to public offers for the acquisition of shares in publicly held companies).

2.54. No restrictions on remittance of dividends or profits abroad, other than their adequate registration in the RDE-IED module, remain in place. Remittances paid to foreign shareholders or partners are not taxed. The same conditions apply for reinvestment. The capitalization of profits, dividends, interest on equity capital, and profit reserves in the receiving company in which they were produced are registered under the reinvestment item of the IED module of the RDE. The registration of reinvestment is made in the currency of the country to which income could have been remitted, or in local currency; this requirement remains in place until Law No. 14,286/2021 enters into force on 29 December 2022. Repatriation of capital is also exempt from income tax, unless it exceeds the original investment (capital gains), in which case a 15% income tax is withheld.

2.4.4 Investment promotion and facilitation

2.55. During the review period, Brazil continued to promote foreign and local investment through tax incentives, concessional finance, cash grants, and industrial site support in several areas including automobile manufacturing, transport infrastructure, and the energy sector, where FDI participation is allowed through public-private partnerships, joint ventures, or concessions (Sections 3 and 4). As from May 2020, foreign companies' direct participation in government procurement bidding involving goods and services (Sections 2.4.1 and 3.3.6) was eased as they are no longer required to have a Brazilian partner (business or individual) until the signing of the contract; they may now also enter infrastructure bidding processes under a Differentiated Contracting Regime (RDC).[105] The Ministry of Foreign Affairs – along with Apex-Brasil (Section 2.4.1), in coordination with the Ministry of Economy along with other agencies (e.g. Ministry of Agriculture) – and the National Confederation of Industry (CNI) develop tools for attracting FDI in Brazil. Furthermore, the Ministry of Foreign Affairs continues to promote investment in Brazil through its Trade Promotion Sections (SECOMs) located in 119 embassies and consulates around the world; between 2017 and 2022, the Ministry of Foreign Affairs budget for initiatives related to trade and investment promotion stood at around BRL 10 million.[106] Since 2016 CONINV (Section 2.4.1) has elaborated proposals aimed at encouraging incoming FDI. CONINV's National Investment Plan (PNI) comprising three main pillars (Governance and Transparency, Investment Facilitation, and Regulatory Improvement) was approved in August 2020. As of April 2022, PNI actions under way included: (i) delivering an Action Plan on Responsible Business Conduct in August 2022; (ii) negotiating a Patent Prosecution Highway Agreement; (iii) facilitating the implementation of digital transformation projects with an impact on facilitating investments; (iv) improving service and dialogue between the DIO (Section 2.4.1) and foreign investors; (v) facilitating the granting of visas for foreign workers and investors; and (vi) building a Regulatory Agenda for Improving the Investment Environment.[107]

2.4.5 Dispute resolution

2.56. Brazil adhered to the Convention Establishing the Multilateral Investment Guarantee Agency (MIGA) in 1992, and joined the OECD Investment Committee in 1998 as an observer. It has not joined the International Centre for Settlement of Investment Disputes, as it considers that its

[103] Decree No. 9,787, 8 May 2019.
[104] EIU (2021), *Country Commerce – Brazil*, October. Viewed at: http://www.eiu.com/.
[105] Normative Instruction, 10 February 2020 cited at EIU (2021), *Country Commerce – Brazil*, October. Viewed at: http://www.eiu.com/.
[106] SECOM. Viewed at: www.investexportbrasil.gov.br.
[107] Work on the Regulatory Agenda for Improving the Investment Environment, conducted by the Foreign Investments Secretariat of CAMEX, is aimed at improving the operational rules affecting foreign investment. For the construction of the agenda, 20 government (regulatory agencies and direct administration) bodies are involved. After broad consultation, as of April 2022 approximately 200 infra-legal rules had been selected for a review process that may positively impact on the attraction of foreign investment. These standards are being simplified, consolidated, or even revised.

rules of procedure would provide better protection to investors compared to Federal States. Prior to becoming an OECD observer, Brazil subscribed to its 1976 Declaration and Decisions on International Investment and Multinational Enterprises; it also ratified the 1975 Inter-American Convention on International Commercial Arbitration (Panama Convention) and the 1979 Inter-American Convention on Extraterritorial Validity of Foreign Judgments and Arbitration Awards (Montevideo Convention). Brazil joined the United Nations Commission on International Trade Law (UNCITRAL) in 2010, and its membership is to expire in 2022; Brazil has been recently re-elected for another six-year mandate. In 2002, Brazil ratified the 1958 Convention on the Recognition and Enforcement of Foreign Arbitration Awards. Investors may seek contracts enforcement through the judicial system or via alternative dispute resolution, although processes can be lengthy; a foreign arbitration award is recognized or executed in Brazil in conformity with the international agreements ratified by the country and, in their absence, with domestic law. The Brazilian Superior Court of Justice (STJ) must recognize foreign judgments or arbitral decisions for such verdicts to be considered valid in Brazil.[108] All administrative decisions can be subject to judicial review, which grants both domestic and foreign investors the possibility of using the judicial system, reducing the needs of external litigation. Furthermore, the internal judicial system is independent, and not only national and foreign investors, but also a foreign state or international organization, can litigate before Brazilian courts over contract matters.

2.4.6 Bilateral treaties and international cooperation

2.57. During the review period, Brazil continued the replacement of its 14 bilateral investment, promotion, and protection agreements signed between 1994 and 1999 by negotiating and signing cooperation and facilitation investment agreements (CFIAs) built upon CAMEX, UNCTAD, and OECD guidelines and based on risk mitigation, institutional governance, and thematic agendas (see below).[109] Brazil has negotiated two MERCOSUR protocols on investment: the Buenos Aires Protocol (extra-MERCOSUR) and the Colonia Protocol (intra-MERCOSUR).[110] None of these BITs or MERCOSUR protocols entered in force due to constitutionality concerns. As of June 2022, Brazil had signed 15 CFIAs (including the MERCOSUR Protocol), including 8 during the review period (i.e. since 2017). They involve Mozambique (30 March 2015), Angola (1 April 2015), Mexico (26 May 2015), Malawi (25 June 2015), Colombia (9 October 2015), Chile (23 November 2015), Peru (29 April 2016), MERCOSUR (7 April 2017, see below), Ethiopia (11 April 2018), Suriname (2 May 2018), Guyana (13 December 2018), the United Arab Emirates (15 March 2019), Morocco (13 June 2019), Ecuador (25 September 2019), and India (25 January 2020).[111] Out of these CFIAs only those with Mexico, Angola, MERCOSUR, and Chile were in force as of April 2022; those signed with Ethiopia, Suriname, Guyana, the United Arab Emirates, Morocco, Ecuador, and India are awaiting congressional approval in Brazil, and for the rest ratification by the other signatory was pending. Further exploratory dialogues on new CFIAs are ongoing with countries in Africa, the Middle East, and Southeast Asia. The Cooperation and Facilitation of Investments Protocol of MERCOSUR (PCFI), a second attempt by the trading bloc to agree on a regional discipline for investments that draws significantly from Brazil's CFIAs, was signed in April 2017 and ratified by Brazil on 21 December 2018.[112] The PCFI entered into force for Brazil and Uruguay on 30 July 2019, and for Argentina on 24 November 2020.

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[108] U.S. Department of State (2020), *2020 Investment Climate Statements: Brazil*. Viewed at: https://www.state.gov/reports/2020-investment-climate-statements/brazil/.

[109] Unlike traditional BITs, CFIAs do not provide for an Investor-State dispute settlement (ISDS) mechanism; instead they outline progressive steps for the settlement of "issue[s] of interest to an investor". U.S. Department of State (2020), *2020 Investment Climate Statements: Brazil*. Viewed at: https://www.state.gov/reports/2020-investment-climate-statements/brazil/; and WTO document WT/TPR/S/358/Rev.1, 18 October 2017.

[110] U.S. Department of State (2020), *2020 Investment Climate Statements: Brazil*. Viewed at: https://www.state.gov/reports/2020-investment-climate-statements/brazil/.

[111] U.S. Department of State (2020), *2020 Investment Climate Statements: Brazil*. Viewed at: https://www.state.gov/reports/2020-investment-climate-statements/brazil/.

[112] Brazil had negotiated two MERCOSUR protocols on investment (the Buenos Aires Protocol (extra-MERCOSUR) and the Colonia Protocol (intra-MERCOSUR) but these BITs and MERCOSUR protocols never entered in force due to constitutionality concerns and were later "derogated". Pérez-Aznar, F. and Choer Moraes, H. (2017), *The Mercosur Protocol on Investment Cooperation and Facilitation: Regionalizing an Innovative Approach to Investment Agreements*, published at EJIL Talk!, *European Journal of International Law*, 12 September. Viewed at: https://ssrn.com/abstract=3045944 and https://deliverypdf.ssrn.com/delivery.php?ID=4730810901030740660660051260130050911170050560630540050280930740640850981041150691220180630220110240190261161150280690790711160130400420010

2.58. Brazil is a signatory to 37 double taxation avoidance treaties/agreements (DTAs) of which 4 (see below) were signed during the review period (i.e. since 2017) and 36 were in force as of April 2022.[113] They involve Austria, Argentina, Belgium, Canada, Chile, China, the Czech Republic, Denmark, Ecuador, Finland, France, Hungary, India, Israel, Italy, Japan, the Republic of Korea, Luxembourg, Mexico, the Netherlands, Norway, Peru, the Philippines, Portugal, the Russian Federation, Singapore, the Slovak Republic, South Africa, Spain, Sweden, Switzerland, Trinidad and Tobago, Türkiye, Ukraine, the United Arab Emirates, and the Bolivarian Republic of Venezuela.[114] Congress ratified the DTAs with the United Arab Emirates and Switzerland in May and June 2021, respectively, and they entered into force on 1 January 2022. A DTA with Singapore, signed in 2018, was ratified in December 2021, but a Presidential Decree regulating its implementation remained to be published as of April 2022. A DTA with Uruguay, signed on 7 June 2019, remained to be ratified as of April 2022.

29098105104092101118083111070080003096023064097122095012006005092098005105071126081114075083089092015098087113103&EXT=pdf&INDEX=TRUE.

[113] Since 2017, the following DTAs have been updated via amending protocols: Argentina (signed on 21 July 2017, in force since 1 January 2019), Sweden (signed on 19 March 2019 but not yet in force), and Chile (3 March 2022, not yet in force). EIU (2021), *Country Commerce – Brazil*, October. Viewed at: http://www.eiu.com/; and U.S. Department of State (2020), *2020 Investment Climate Statements: Brazil*. Viewed at: https://www.state.gov/reports/2020-investment-climate-statements/brazil/.

[114] In the case of the United States, the United Kingdom, and Germany, the authorities recognize the reciprocity of tax treatment that permits the offsetting of tax paid in these countries against the tax due to Brazil for individuals. Regarding companies, Brazil grants unilateral tax credit.

3 TRADE POLICIES AND PRACTICES BY MEASURE

3.1. Brazil applies the Southern Common Market (MERCOSUR) Common External Tariff (CET), with some country-specific derogations. The simple average applied most-favoured-nation (MFN) tariff declined slightly from 11.6% in 2017 to 10% in April 2022 and 9.4% in July 2022. Temporary tariff reductions, as well as export prohibitions on certain medical supplies, have been implemented in response to the COVID-19 pandemic. Since 2017, Brazil has continued its trade facilitation action by streamlining foreign trade formalities, enhancing its authorized economic operator (AEO) programme, and gradually implementing its Single Window Programme. It has also expanded its non-preferential rules of origin and updated the relevant verification procedure.

3.2. During the review period, Brazil's list of import prohibitions remained broadly unchanged. Brazil made limited use of export taxes, two of which were eliminated during the review period. Brazil remains a significant user of anti-dumping (AD) measures; changes were made to the regulatory and institutional framework for trade remedies. Brazil also updated its drawback and export processing zone regimes, and adopted guidelines for reforming the system of federal-level export support. Brazil's internal taxation regime remains complex, including in the treatment of imported goods and services. Support to domestic production and trade in the form of tax and non-tax incentives continued.

3.3. Brazil's TBT, SPS, competition, and price control regimes did not undergo major changes during the review period. The economic footprint of Brazil's state-owned enterprises (SOEs) remains large, although the authorities have taken steps to strengthen governance and transparency at the federal level, reduce certain SOEs' market dominance, and facilitate the entry of competitors.

3.4. During the review period, Brazil applied for accession to the Agreement on Government Procurement (GPA). A new public procurement law was enacted in 2021 and will fully supersede the previous legislation after a two-year transitional period of coexistence. The legal and institutional framework for the protection of IPRs was also modified.

3.1 Measures Directly Affecting Imports

3.1.1 Customs procedures, valuation, and requirements

3.5. 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 Ministry of Economy's Secretariat of Foreign Trade (SECEX) and Special Secretariat of Federal Revenue of Brazil (RFB), the programme aims to reduce the time and costs for import, export, and transit of goods. Since 2017, Siscomex's development has focused on further harmonizing customs and other border agencies' procedures, accelerating information flows, and broadening the use of information technology and risk management solutions.

3.6. Whereas civil servants' access to Siscomex is managed by SECEX, all other users must obtain an accreditation (*habilitação*) from the RFB. As it was at the time of Brazil's previous Review, user accreditations are still free of charge, with unlimited validity, and come in three types: express, limited, or unlimited.[1] The terms associated with each user accreditation type were updated in 2020.[2] Access to Siscomex requires a digital certificate compliant with the Brazilian Public Key Infrastructure (ICP-Brazil).[3]

3.7. Auxiliary registration requirements were relaxed with the elimination of the Registry of Exporters and Importers (REI) and the Integrated System of Trade in Foreign Services, Intangible Assets and Other Operations (Siscoserv) in March 2021 and October 2020, respectively.[4] Import

[1] WTO document WT/TPR/S/358/Rev.1, 18 October 2017.
[2] RFB Normative Instruction No. 1,984, 27 October 2020.
[3] RFB Normative Instruction No. 2,022, 16 April 2021.
[4] SECEX Ordinance No. 85, 24 March 2021; SECINT-RFB Ordinance No. 22,091, 8 October 2020; and Law No. 14,195, 26 August 2021.

transactions with payment terms exceeding 360 days remain subject to registration with the Central Bank of Brazil (BCB).[5]

3.8. As it was at the time of Brazil's previous Review, commercial imports must still be declared in Siscomex, unless they are declared with a simplified import declaration (DSI) or a parcels import declaration (DIR).[6] The fees for registering an import declaration (ID) in Siscomex were updated in 2021.[7] The requisite supporting documentation includes suppliers' invoices; a packing list; a bill of lading (or air waybill); and, where applicable, an import licence and/or permit, a certificate of origin, or an SPS certificate. Since 2015, the RFB only accepts electronically submitted IDs and supporting documentation.[8]

3.9. IDs are assigned into one of four selectivity channels: green (automatic clearance), yellow (documentary inspection), red (documentary and physical inspection), and grey (documentary, physical, and fraud-related inspection). The risk analysis factors are regularly updated and include the importer's fiscal compliance record; operational and financial capacity; frequency of use of Siscomex; the nature, volume, and value of imports; taxation value; country of origin; and the import regime. During the review period, the share of IDs processed through the green channel increased steadily, whereas those of the yellow and red channels decreased (Table 3.1).

Table 3.1 Distribution of IDs by risk assessment channel, 2016-21

	2016	2017	2018	2019	2020	2021
Total IDs	2,057,119	2,261,156	2,253,142	2,389,902	2,132,035	2,500,265
	(%)					
Green	92.06	93.89	95.15	95.62	95.95	96.82
Yellow	3.79	2.86	2.4	2.28	2.45	1.93
Red	4.07	3.19	2.43	2.08	1.58	1.22
Grey	0.08	0.06	0.02	0.02	0.02	0.03

Source: RFB.

3.10. A streamlined import clearance process, based on a single import declaration (DUIMP), was launched in October 2018 as a pilot project covering certain imports by sea. The DUIMP may be registered in Siscomex prior to the consignment's arrival at Brazil's border, enabling faster risk assessment and coordinated interventions by the administrative bodies in charge of licensing, certification, and authorizations. The range of import operations registered with a DUIMP has been gradually expanding in parallel with continued procedural improvements.[9] The authorities indicate that the DUIMP currently accounts for approximately 30% of total imports' value and is expected to be fully implemented by the end of 2023.

3.11. During the review period, Brazil also continued making improvements to its AEO programme, gradually supplementing the benefits[10] offered to participants by the RFB with advantages offered by other administrative bodies intervening through Siscomex.[11] In August 2021, the RFB-managed core AEO facility was broadened with a SECEX-managed module.[12] Initiatives are under way for the incorporation 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).[13]

[5] BCB Circular No. 3,691, 16 December 2013.
[6] WTO document WT/TPR/S/358/Rev.1, 18 October 2017.
[7] RFB Normative Instruction No. 2,024, 28 April 2021.
[8] RFB Normative Instruction No. 1,532, 19 December 2014.
[9] A chronological overview of implemented measures can be viewed at: http://siscomex.gov.br/conheca-o-programa/cronograma-de-implementacao.
[10] 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.
[11] RFB Ordinance No. 2,384, 13 July 2017; and RFB Normative Instruction No. 1,985, 29 October 2020.
[12] SECEX Ordinance No. 107, 19 August 2021.
[13] Internal Revenue Service, *AEO-Integrated*. Viewed at: https://www.gov.br/receitafederal/pt-br/assuntos/aduana-e-comercio-exterior/importacao-e-exportacao/oea/beneficios-do-programa-oea/oea-integrado.

3.12. At end-February 2022, the AEO programme comprised 490 certified economic operators accounting for 25.8% of total trade volume and 26.5% of import and export declarations registered in that month. AEOs benefited from significantly lower customs clearance times than non-AEO traders.[14] 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, and Uruguay. Exploratory talks on the mutual recognition of AEO programmes are also underway bilaterally (with the United States) and at regional level (MERCOSUR-Pacific Alliance and a possible plurilateral agreement with Argentina, Chile, Colombia, Costa Rica, the Dominican Republic, Guatemala, Paraguay, Peru, and Uruguay).

3.13. Engaging the services of a customs broker remains optional. Both the customs brokers and their clients must obtain accreditation to use Siscomex. Apart from a Brazilian citizenship requirement, there are no regulatory restrictions to competition among customs brokers in Brazil. Customs brokers must be inscribed in a Customs Brokers Register (Registro de Despachantes Aduaneiros) and a Computerized Customs Register of Foreign Trade Agents (Cadastro Aduaneiro Informatizado de Intervenientes de Comércio Exterior (CAD-ADUANA)), both maintained by the RFB.[15]

3.14. According to the authorities, the average customs clearance time for imports across all Brazilian entry points has remained on a downward trajectory, dropping from 34.16 hours in 2016 to 23.44 hours in 2017, up slightly to 23.89 hours in 2018, and dropping to 19.52 hours in 2019, 18.5 hours in 2020, and 15.32 hours in 2021.

3.15. 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.[16] 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.[17] The TRS makes a number of recommendations, including standardization of procedures and timeframes across administrative bodies' respective nationwide networks; minimizing risk assessment backlogs; creation of a nationwide 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.

3.16. 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 (31 December 2019); making six experience-sharing presentations; and submitting a proposal on customs cooperation through electronic exchange of information and data.[18]

3.17. Customs administration decisions may be appealed in the first instance to the Federal Revenue Courts of the Ministry of Economy, and to the Taxpayers' Council in the second instance. Dispute settlement procedures may be carried out entirely by electronic means.

3.18. Brazil has customs cooperation agreements with Angola, Argentina, the Plurinational State of Bolivia, Cabo Verde, Chile, China, Colombia, Costa Rica, Cuba, the Czech Republic, the Dominican Republic, Ecuador, El Salvador, France, Guinea-Bissau, Haiti, Honduras, India, Israel, Mexico, Mozambique, the Netherlands, Nicaragua, Norway, Panama, Paraguay, Peru, Portugal, the Russian Federation, Sao Tomé and Principe, South Africa, Spain, Timor-Leste, Türkiye, Uruguay, the United States, and the Bolivarian Republic of Venezuela. Additionally, Brazil has bilateral

[14] Detailed statistics regarding the AEO programme can be viewed at: https://www.gov.br/receitafederal/pt-br/assuntos/aduana-e-comercio-exterior/importacao-e-exportacao/oea/estatisticas-do-programa-oea.

[15] RFB Normative Instructions No. 1,209, 7 November 2011 and No. 1,273, 6 June 2012.

[16] Viewed at: https://www.gov.br/receitafederal/pt-br/acesso-a-informacao/dados-abertos/resultados/aduana/estudos-e-analises/time-release-study-brasil.

[17] 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.

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

agreements on customs issues with France, India, Israel, the Netherlands, the Russian Federation, South Africa, the United Kingdom, and the United States.[19]

3.19. The dutiable value of imported goods is the sum of the purchase cost and all expenses incurred for freight and insurance (if any) up to the point of entry into Brazil.[20] Consignment handling costs incurred on Brazil's territory were excluded from the customs value in 2022.[21] Brazil applies the WTO Customs Valuation Agreement, with reservations on: (i) the inversion of the order of application of the methods stipulated in Articles 5 and 6; and (ii) the use of the unit price of the greatest aggregate quantity sold, foreseen in Article 5, paragraph 2. In such cases, procedures set out in the respective interpretative note prevail, regardless of the importer's request.

3.20. The share of IDs cleared using the transaction value method was 99.56% in 2016, 99.49% in 2017, 99.42% in 2018, 99.39% in 2019, 99.45% in 2020, and 99.48% in 2021. The authorities affirm that Brazil does not use minimum or reference prices to determine the customs value of imported goods. Brazil has applied the Decision on the Treatment of Interest Charges in the Customs Value of Imported Goods and the Decision on the Valuation of Carrier Media Bearing Software for Data Processing Equipment since 1 March 1998.[22]

3.1.2 Rules of origin

3.21. Since its previous Review[23], Brazil has expanded its non-preferential rules of origin with an alternative criterion for products deemed to have undergone substantial transformation: non-originating materials' share must not exceed 50% of the final product's FOB value.[24] The procedure for verification of non-preferential origin has also been updated.[25] As from 2021, verification of non-preferential origin is no longer a prerequisite for the granting of an import licence. The RBF and SECEX may carry out the verification at any time, up to five years after importation. False declarations of origin are liable to payment of the relevant import duty plus a fine (30% of the customs value).

3.22. Preferential rules of origin are applied in the context of Brazil's trade agreements (Section 2.3.2). Eligibility for preferential tariff treatment must be attested by a certificate of origin or a producer's/exporter's declaration of origin (if provided for in the respective trade agreement) for each shipment of the merchandise in question. In addition, some of the trade agreements to which Brazil is a party (e.g. MERCOSUR-Israel) contain provisions requiring a certificate of non-manipulation in case of transit or transhipment.

3.23. Compliance with preferential rules of origin is ascertained by the RFB during customs clearance and post-clearance audits. The procedure for verification of preferential origin was updated in 2018.[26] The penalties for false declarations of origin have not been modified since Brazil's previous Review.[27] During the review period, Brazil also put in place arrangements for the bilateral exchange of digital certificates of origin in trade with Argentina, Colombia, Paraguay, and Uruguay.

3.1.3 Tariffs

3.1.3.1 Applied MFN tariff

3.24. All trading partners of Brazil receive at least MFN tariff treatment. Brazil applies the MERCOSUR CET expressed in the Common MERCOSUR Nomenclature (NCM), which is currently based on the 2022 version of the Harmonized System (HS).

[19] Internal Revenue Service, *Customs Cooperation Agreements*. Viewed at: https://www.gov.br/receitafederal/pt-br/acesso-a-informacao/legislacao/acordos-internacionais/acordos-de-cooperacao-aduaneira.
[20] According to the authorities, import insurance is not compulsory.
[21] Decree No. 11,050, 7 June 2022.
[22] WTO document G/VAL/N/3/BRA/1, 23 October 2002.
[23] WTO document WT/TPR/S/358/Rev.1, 18 October 2017.
[24] Provisional measure No. 1,040, 29 March 2021 converted into Law No. 14,195, 26 August 2021.
[25] SECEX Ordinance No. 87, 31 March 2021.
[26] RFB Normative Instruction No. 1,864, 27 December 2018.
[27] WTO document WT/TPR/S/358/Rev.1, 18 October 2017.

3.25. Brazil's MFN tariff, as applied on 1 April 2022, was entirely *ad valorem* and had 10,433 lines at the 8-digit level (Table 3.2). While the number of distinct tariff rates increased from 19 in 2017 to 35 in April 2022, rates still ranged from zero to 55%.[28] The simple average applied MFN tariff declined by 1.6 percentage points relative to 2017. However, the simple average rate for dutiable lines increased from 12.6% in 2017 to 14% in April 2022. The modal rate was 12.6% (down from 14% in 2017) and 8.1% of all lines carried rates above 20% (Chart 3.1).

Table 3.2 Structure of the MFN tariff schedule, 2017 and 2022

	2017	2022[a]
Total number of tariff lines	10,226	10,433
Bound tariff lines (% of all tariff lines)	100.0	100.0
Simple average rate	11.6	10.0
HS 01-24	10.3	9.1
HS 25-97	11.8	10.1
WTO agricultural products	10.2	8.9
WTO non-agricultural products	11.8	10.1
Duty-free tariff lines (% of all tariff lines)	7.7	28.6
Simple average of dutiable lines only	12.6	14.0
Tariff quotas (% of all tariff lines)	0.4	0.23
Non-*ad valorem* tariffs (% of all tariff lines)	0.0	0.0
Domestic tariff "peaks" (% of all tariff lines)[b]	4.5	4.3
International tariff "peaks" (% of all tariff lines)[c]	27.0	20.8
Nuisance applied rates (% of all tariff lines)[d]	18.2	0.05
Coefficient of variation	0.7	0.9

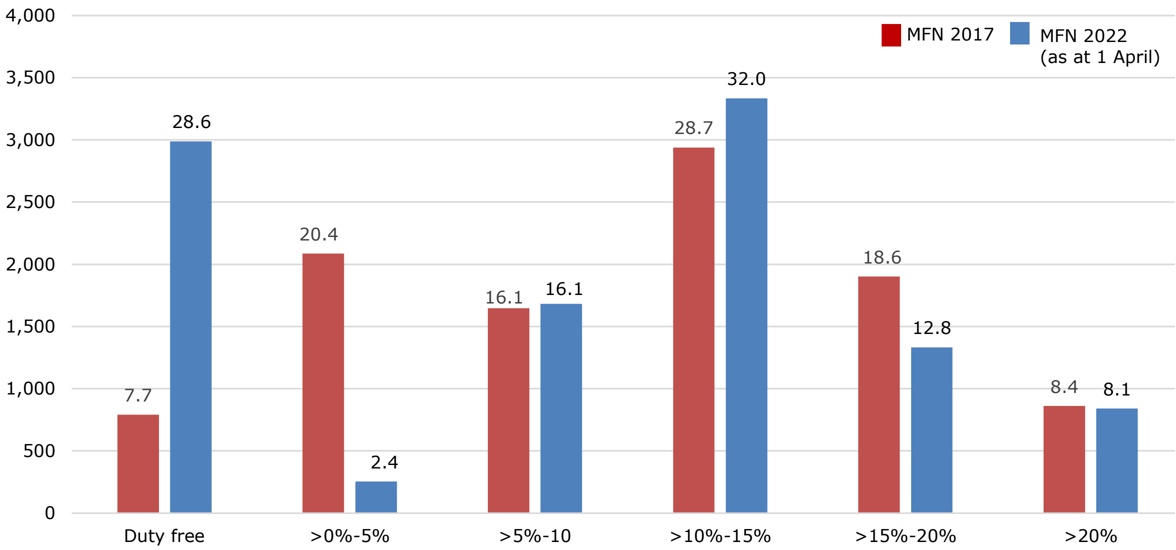
a As applied on 1 April 2022.
b Domestic tariff peaks are defined as those exceeding three times the overall simple average applied rate.
c International tariff peaks are defined as those exceeding 15%.
d Nuisance rates are those greater than zero, but less than or equal to 2%.

Note: The tariff applied in 2017 is expressed in HS17 nomenclature, whereas the 2022 tariff is in HS22. In the absence of a common nomenclature version, the calculated simple average rates are not strictly comparable.

Source: WTO Secretariat calculations, based on data provided by the authorities.

Chart 3.1 Frequency distribution of MFN tariff rates, 2017 and 2022

(Number of tariff lines)



Note: Figures above the bars refer to the percentage of total lines.

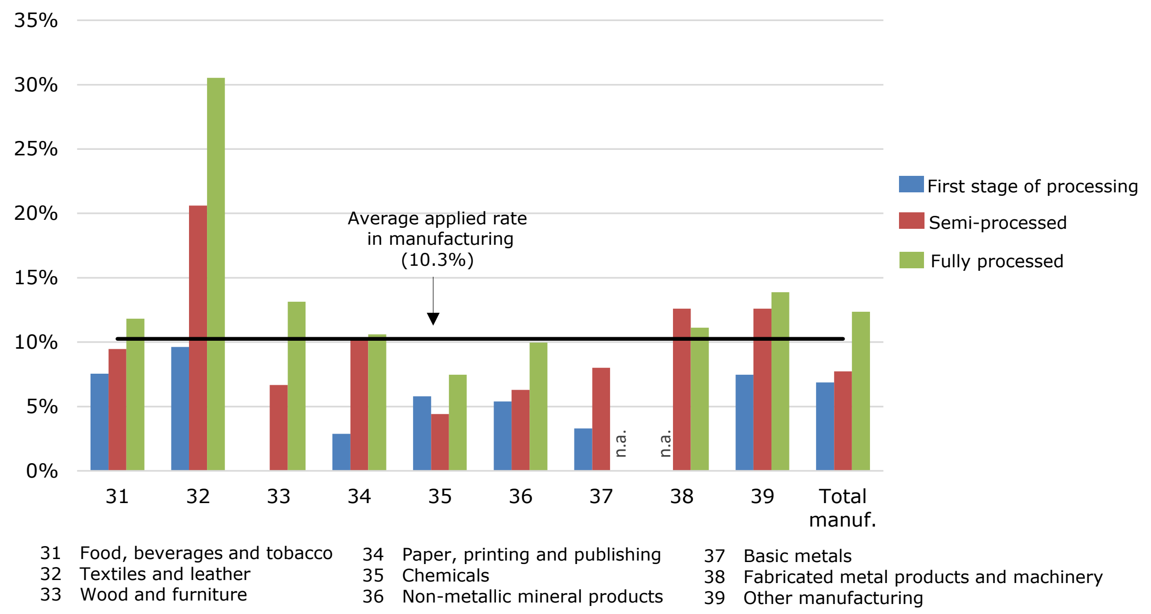
Source: WTO Secretariat calculations, based on data provided by the authorities.

[28] As in the 2017 tariff, the highest import duty rate is applied on desiccated coconuts.

3.26. During the review period, Brazil eliminated the import duties on certain aeronautical goods (40 tariff lines, including 18 lines with temporary reductions). 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 31 December 2022.[29] In November 2021, with a view to lessening the pandemic's economic impact, Brazil also temporarily reduced to zero the import duties on most tariff lines carrying a 2% rate and lowered by 10% the rates applied on most other dutiable lines. This temporary reduction was to remain in force until 31 December 2022.[30] An additional 10% reduction, covering 6,195 tariff lines, came into effect on 1 June 2022 and extended the previous temporary reduction's validity until 31 December 2023.[31] As at 1 July 2022, Brazil's simple average applied MFN tariff was 9.4% and the average rates for agricultural and non-agricultural products (WTO definition) were 8.8% and 9.6%, respectively.

3.27. The manufacturing sector continues to benefit from the highest tariff protection, followed by agriculture and mining (Table A3.1). In aggregate, the tariff continues to depict positive escalation for manufactured goods: fully processed products attract the highest average applied rate, followed by semi-processed goods and raw materials (Chart 3.2 and Table A3.1). This pattern of escalation tends to act as a disincentive to improve international competitiveness at the higher stages of value addition. The authorities note that any pattern-of-escalation assessment is fraught with methodological difficulties and therefore debatable.

Chart 3.2 Tariff escalation by 2-digit ISIC industry, 1 April 2022



n.a. Not applicable.

Source: WTO Secretariat calculations, based on data provided by the authorities.

3.28. In line with MERCOSUR rules, Brazil maintains a range of temporary, individual derogations from the CET. Three MERCOSUR mechanisms allowing for such derogations have a long-standing implementation record in Brazil: the basic list of national exemptions, the lists of exemptions for informatics and telecommunications equipment and for capital goods, and the quotas for lower tariffs.[32] Brazil's latest tariff modifications under these mechanisms came into effect on 1 April 2022.[33]

3.29. Brazil's basic list of national exemptions, intended to mitigate any difficulties stemming from the entry into force of the MERCOSUR CET, remains capped at 100 NCM lines. Modifications to the

[29] GECEX Resolution No. 17, 17 March 2020, last amended by GECEX Resolution No. 355, 20 June 2022.
[30] GECEX Resolution No. 269, 4 November 2021.
[31] GECEX Resolution No. 353, 23 May 2022.
[32] WTO document WT/TPR/S/212/Rev.1, 11 May 2009.
[33] GECEX Resolution No. 318, 24 March 2022.

list may not exceed 20% of all listed lines within a six-month period. As at April 2022, Brazil's derogations under that mechanism concerned 95 NCM lines.[34] The deadline for the elimination of Brazil's basic list of national exemptions has been extended until 31 December 2028.[35]

3.30. With a view to fostering supply-side innovation and competitiveness, MERCOSUR members may individually apply lower import duties on predetermined lists of capital goods (BK) and informatics and telecommunications equipment (BIT). Product definitions may be narrower (Ex Tarifário format) than that of the corresponding 8-digit NCM code, which may result in more than one Ex Tarifário derogation per tariff line.[36] In April 2022, Brazil's Ex Tarifário BK list covered 17,465 products relating to 722 tariff lines and its Ex Tarifário BIT list comprised 1,946 products relating to 144 tariff lines. BIT/BK derogations also applied to 1,033 full tariff lines. Brazil reduced the import duties on subsets of its BK and BIT lists in 2021 and 2022.[37] Brazil has been authorized to maintain its lists until end-2028.[38]

3.31. As a means of addressing shortages within the common market, MERCOSUR members may individually apply tariff rate quotas (with an in-quota rate of 2% or zero) on up to 100 tariff lines at a time for up to 365 days (renewable). These tariff quotas may be specified in Ex Tarifário format (i.e. as a subset of the tariff line). The quantitative restriction, in-quota rate, and duration of application are determined by MERCOSUR's Commerce Commission after consultation with all member states.[39] As at April 2022, Brazil maintained quotas covering 69 tariff lines (up from 26 in 2017), all but 6 of which with an in-quota rate set at zero.[40] The authorities indicate that quotas are usually managed on a first-come, first-served basis.

3.32. In 2021, MERCOSUR's Common Market Council extended, until 31 December 2028, the validity of the temporary mechanism allowing its members to apply higher-than-CET rates on up to 100 tariff lines to address trade imbalances due to the international economic environment.[41] The authorities indicate that Brazil made no use of this mechanism during 2017-22.

3.1.3.2 Bindings

3.33. Brazil bound its entire tariff during the Uruguay Round. Tariffs on agricultural products (WTO definition) are bound at rates ranging from zero to 55%, with the higher bindings reserved mostly for dairy products, grains, and tobacco. Bound rates for non-agricultural products range from zero to 35%. Brazil bound "other duties and charges" at zero.

3.34. The process of certifying Brazil's bound tariff schedule to incorporate the changes resulting from the introduction of nomenclature versions subsequent to HS02 has not been completed.[42] In the absence of a common nomenclature version, comparisons between Brazil's bound and applied tariffs (based on HS02 and HS22, respectively) are prone to imprecision. With that caveat, the simple average bound tariff rate (30.2%) was some 20.2 percentage points higher than the average MFN rate applied on 1 April 2022 (Chart 3.3) and 20.7 percentage points higher than the average MFN rate applied on 1 July 2022.

[34] Viewed at: https://www.gov.br/produtividade-e-comercio-exterior/pt-br/assuntos/camex/estrategia-comercial/listas-vigentes.

[35] Common Market Council Decision No. 11/21, 13 December 2021.

[36] Besides the lack of equivalent domestic production, Brazilian decisions on the granting of import duty reductions take into account considerations such as adoption of new technologies, investment in infrastructure improvements, and complexity of the imported good.

[37] GECEX Resolutions No. 173, 18 March 2021; and No. 318, 24 March 2022.

[38] Common Market Council Decision No. 08/21, 13 December 2021.

[39] Decree No. 10,291, 24 March 2020, implementing MERCOSUR Resolution GMC No. 49/19, 7 September 2019.

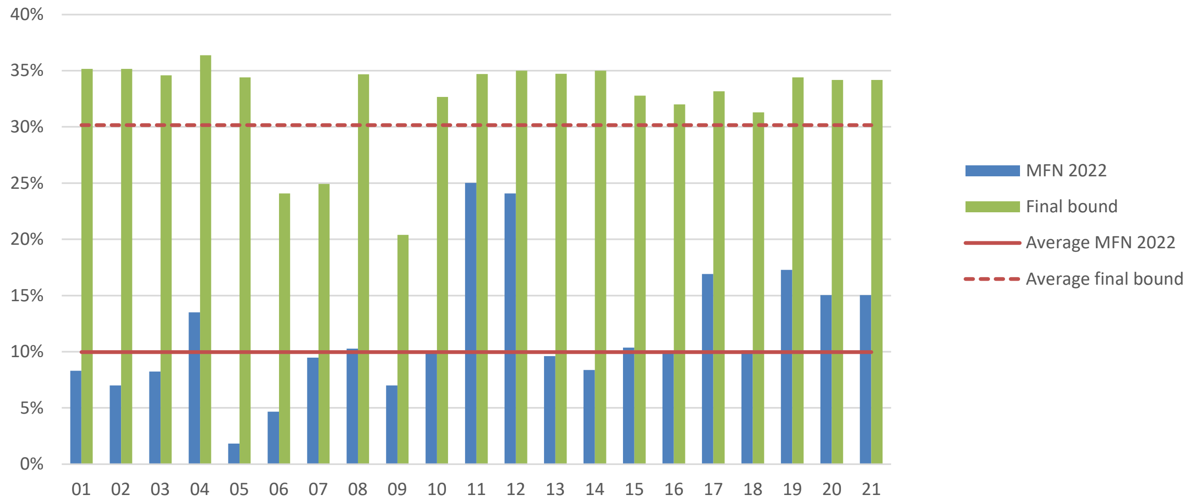
[40] Viewed at: https://www.gov.br/produtividade-e-comercio-exterior/pt-br/assuntos/camex/estrategia-comercial/resolucao-gmc-no-49-19-casos-de-desabastecimento.

[41] Common Market Council Decision No. 09/21, 13 December 2021.

[42] WTO document G/MA/W/158/Rev.3, 28 September 2021.

3.35. In April 2022, the applied rates on 90 tariff lines (down from 134 in 2017) exceeded, sometimes partially (due to differences in aggregation levels), Brazil's bindings. The authorities note that in all such cases importers may request application of the bound rate.

Chart 3.3 Average applied and bound tariff rates, by HS section, 1 April 2022



01	Live animals & products	07	Plastic & rubber	13	Articles of stones	19	Arms & ammunition
02	Vegetable products	08	Hides & skins	14	Precious stones, etc.	20	Miscellaneous manufacturing
03	Fats & oils	09	Wood & articles	15	Base metals & products	21	Works of art, etc.
04	Prepared food, etc.	10	Pulp, paper, etc.	16	Machinery		
05	Mineral products	11	Textiles & articles	17	Transport equipment		
06	Chemicals & products	12	Footwear, headgear	18	Precision instruments		

Source: WTO Secretariat calculations, based on data provided by the authorities.

3.1.3.3 Preferences

3.36. Brazil grants tariff preferences under bilateral and regional trade agreements, which may overlap in terms of trading partners but differ in terms of product coverage and rules of origin (Chart 3.4 and Table 2.2). In 2022, Brazil applied preferential tariff rate quotas under eight such agreements: Brazil-Guyana-Saint Kitts and Nevis (AAP.A25TM-38), Brazil-Suriname (AAP.A25TM-41), Brazil-Uruguay (Economic Complementation Agreement (ACE) No. 2), Brazil-Argentina (ACE No. 14), Brazil-Mexico (ACE No. 53), MERCOSUR-Colombia (ACE No. 72), Brazil-Paraguay (ACE No. 74), and the Global System of Trade Preferences among Developing Countries (GSTP).

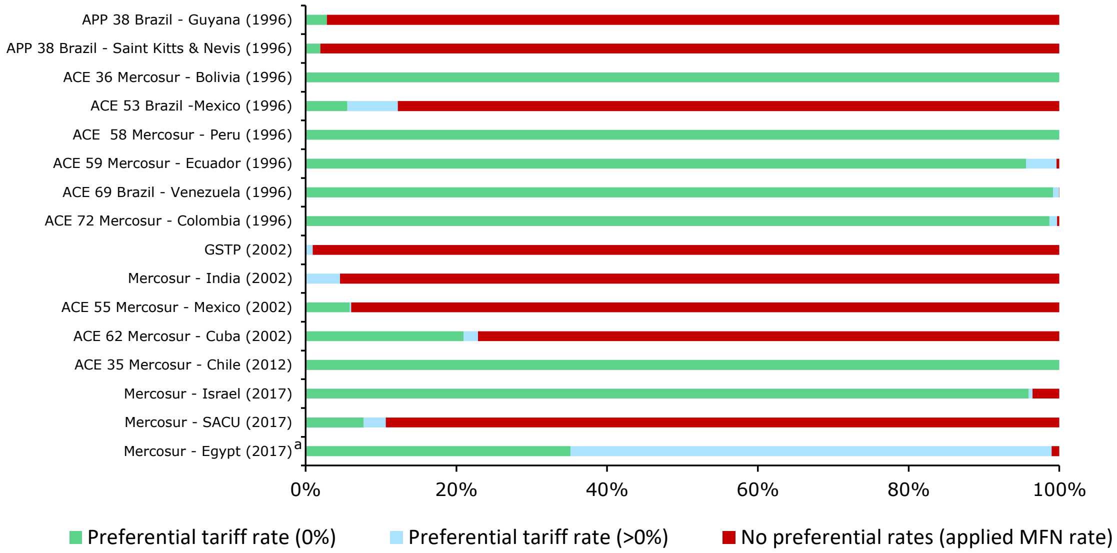
3.37. According to the authorities, the share of aggregate preferential imports in the total value of Brazil's imports was approximately 12.7% in 2017, 12.5% in 2018, 11.6% in 2019, 10.7% in 2020, and 10.8% in 2021. Data accuracy regarding preferential imports is expected to improve upon full implementation of the DUIMP.

3.38. Most of the preferential tariff schedules applied by Brazil have been set out in the LAIA nomenclature, whereas its applied tariff is in the NCM and is regularly updated to the latest HS version. The lack of a common nomenclature version precludes meaningful comparisons both across preferential agreements and against the currently applied MFN tariff.[43] In 2021, MERCOSUR's Trade Commission established a permanent technical committee in charge of updating the preference schedules of agreements with third parties to the current NCM version.[44]

[43] Notably, it is difficult to detect the erosion of preferences granted under certain agreements due to subsequent lowering of MFN tariffs.

[44] MERCOSUR CCM Directive No. 143/21, 17 December 2021.

Chart 3.4 Tariff preferences of selected trade agreements, 2022



a Preferences in effect as of 1 September 2022.

Note: Figures in brackets refer to the HS nomenclature version in which the preferential schedules are provided and on which the calculations are based.

Source: WTO Secretariat calculations, based on data provided by the authorities.

3.39. Trade in automotive products between Brazil and MERCOSUR members remains largely regulated by bilateral agreements. The bilateral agreement with Paraguay (AAP.CE 74), in force since 2020, provides for 100% reduction of import duties on 734 tariff lines, conditional on imports' compliance with the rules of origin or with certain regional content levels (within specified quotas). Brazil's regime for auto parts not produced domestically was also modified during the review period (Section 4.3.5).

3.1.4 Other charges affecting imports

3.40. Brazil's internal taxation regime remains overly complex, including in the treatment of imported goods and services. Domestic and cross-border transactions are subject to various federal and sub-federal levies, including Tax on Industrial Products (IPI), Tax on the Circulation of Goods and Services (ICMS), contributions to the social integration programme (PIS) and to finance social security (COFINS), and Tax on Services (ISS). The cross-cumulation of these taxes for tax base purposes is not uncommon. In addition, their application typically varies depending on the product type, the competent sub-federal authority, and the importer's tax regime status.

3.41. Depending on their nature, certain transactions (including cross-border ones) may also be subject to other charges, such as the Additional Freight Charge for the Renovation of the Merchant Navy (AFRMM), the Financial Transactions Tax (IOF), and the Contribution for Intervention in the Economic Domain (CIDE) (Section 4).

3.42. Whereas federal taxes are automatically deducted from the importer's bank account upon ID registration, procedures and systems for the collection of sub-federal taxes vary across Brazil's federative states. In several states, presenting hard copies of tax payment slips remains a prerequisite for imports' release.[45] The authorities indicate that all imports will be subject to paperless clearance and centralized collection of applicable duties and charges once the DUIMP is fully implemented.

3.43. During the review period, duties and other taxes on foreign trade transactions accounted for less than 14% of federal tax revenue, the largest contributions being attributable to COFINS and

[45] Viewed at: https://www.gov.br/receitafederal/pt-br/acesso-a-informacao/dados-abertos/resultados/aduana/estudos-e-analises/time-release-study-brasil.

import duties (Table 3.3). Although statistics on ICMS collection are not compiled at the federal level, the authorities affirm that this tax remains the main source of revenue for most Brazilian federative states.

Table 3.3 Federal tax revenue, by main source, 2017-21

	2017	2018	2019	2020	2021
Total (BRL million)	**903,287**	**981,769**	**1,041,784**	**1,009,408**	**1,310,871**
			(% of total)		
Import duties	3.56	3.60	4.14	4.13	4.55
Export duties	0.00	0.00	0.00	0.00	0.00
IPI – local sales	3.56	3.81	3.73	3.62	3.30
IPI – importation	1.52	1.55	1.83	1.83	2.42
Income taxes	41.26	39.82	39.81	41.64	42.82
IOF	3.81	3.82	3.70	3.92	3.71
Rural territorial tax	0.14	0.15	0.15	0.17	0.18
COFINS – domestic	19.17	19.79	19.71	19.12	15.77
COFINS – importation	3.97	4.44	4.97	5.00	6.09
PIS – domestic	5.33	5.55	5.54	5.43	4.77
PIS – importation	0.82	0.93	1.04	1.07	1.32
Social contribution on net profit (CSLL)	7.69	7.67	8.03	8.48	9.53
CIDE	0.65	0.64	0.40	0.26	0.15
Other	8.51	8.22	6.94	5.32	5.39

Source: WTO Secretariat calculations, based on data from the RFB.

3.44. The IPI is a federal tax levied on domestically produced and imported manufactured goods, following the value added principle.[46] For domestic transactions, the tax is typically levied on the ex-factory value of a product upon its release from the manufacturing facility. The IPI levied on imports is based on the c.i.f. value plus the import duty and other applicable fees and foreign exchange charges. In principle, the same rates apply on domestically produced and imported goods.

3.45. During the review period, amendments were made both to the IPI's administration and to the tax rates.[47] In February 2022, the IPI rates on certain vehicles (NCM heading 87.03) were reduced by 18.5% and the rates on most other goods (except tobacco products) were reduced by 25%.[48] Another amendment, amplifying the overall reduction of IPI rates from 25% to 35% (except for the Manaus Free Trade Zone), entered into force on 1 May 2022.[49] The resulting decrease in tax revenues is estimated at BRL 15.2 billion for the year 2022, BRL 27.4 billion for the year 2023, BRL 29.3 billion for the year 2024, and BRL 31.9 for the year 2025. The authorities expect that narrowing the variation of IPI rates across products would mitigate any misallocation of productive resources, thereby raising productivity in the long term.

3.46. The ICMS is a value added tax levied on imports, intrastate and interstate transactions involving merchandise, inter-municipal and interstate transportation services, and communication services.[50] Taxable merchandise transactions are those involving a change of ownership, as well as transfers between a company's affiliates/branches, and importation (including for own use or consumption). Being in the competence of Brazil's federative states, the ICMS is governed by 27 distinct regulatory regimes and certain overarching disciplines established at the federal level.

3.47. The taxable base, the applicable ICMS rate and any interstate transfers[51] depend on several factors, including the ship-from and ship-to tax jurisdiction, the purchaser's tax status, and the product's type and intended use. Some companies, including those under federal and sub-federal (including municipal) ownership/control, are exempted from the ICMS. In addition, product-specific

[46] For IPI tax purposes, "manufacture" is defined as any process that modifies the nature, functioning, finishing, presentation or purpose of a product, or improves it for consumption. The IPI paid on inputs used in the manufacturing process may be claimed as tax credit; this credit may be offset against IPI due on subsequent transactions or against other federal taxes.

[47] A list of legislative amendments can be viewed at: https://www.gov.br/receitafederal/pt-br/assuntos/orientacao-tributaria/tributos/ipi#8--legisla--o.

[48] Decree No. 10,979, 25 February 2022.

[49] Decree No. 11,055, 28 April 2022.

[50] Unlike intrastate and interstate electricity trade, imports of electricity are subject to ICMS.

[51] ICMS Agreement No. 236, 27 December 2021; and Complementary Law No. 190, 4 January 2022.

rates and/or (permanent or temporary) exemptions may apply for all states or within a single state. ICMS rate and/or tax base reductions may be granted within a state (Section 3.3.1.2).

3.48. In general, the ICMS is levied on the value of the transaction (including the cost of insurance and freight), net of unconditional discounts. The taxable base of imports comprises the c.i.f. value, the import duties, the IPI, the ICMS itself, and any other taxes and/or customs-related charges.[52] Typically, ICMS rates on interstate transactions are either 7% or 12%, the former rate being applied when the purchaser is located in a poor state (those in the north, north-east, and centre-west regions, and the state of Espírito Santo).[53] Since January 2013, a uniform ICMS rate of 4% has been applied to most goods imported via a state different from the state of final destination.[54]

3.49. The PIS and COFINS contributions are payable by Brazilian-based: (i) legal persons on their gross revenue or turnover; and (ii) importers (natural or legal persons) of goods and services. Import-related contributions are assessed on the customs value of goods, whereas for imported services the base is the amount (before income tax) paid or remitted abroad, augmented by a multiplier term comprising the rates of ISS, PIS, and COFINS.[55] Reductions to the calculation base are prescribed for imports of certain trucks (by 30.2%) and certain vehicles and machinery (by 48.1%). In general, a combined rate of 9.25% (1.65% for PIS and 7.6% for COFINS) applies to imported services, whereas imports of goods are subject to a rate of 11.75% (2.1% for PIS and 9.65% for COFINS).[56] Imports of certain goods, including pharmaceuticals, cosmetics, machinery and vehicles, new rubber tyres and air chambers, and vehicle parts, are subject to higher rates than their domestically supplied equivalents. In addition, non-*ad valorem* rates are levied on the importation of soft drink and beer containers, and fuels. Provisions for zero-rating or exemption are in place for a wide range of goods.[57]

3.50. The ISS is a municipal tax levied on a cumulative (cascading) basis on revenues derived from the provision of certain services (including from abroad). The relevant list of services and the minimum and maximum tax rates (2% and 5% of the transaction value, respectively) are fixed by federal law.[58] In general, services subject to the ISS are exempted from the ICMS even if the service transaction also involves the sale of goods. In principle, the service provider is liable for the ISS; however, municipal tax legislation may impose a withholding responsibility on the contracting entity that receives the service.

3.51. The Federal Government grants duty and tax concessions under various initiatives aimed at promoting investment and innovation or achieving social objectives. A range of tax breaks, including on imported goods and services, are made available to companies established in export processing zones (Section 3.2.4.2) and Free Trade Zones (Section 3.3.1.2). Sub-federal authorities also grant rebates on taxes that fall within their remit (Section 3.3.1). According to RFB estimates and projections, import duty concessions would result in forgone revenue in the range of BRL 2.5 billion-BRL 7.2 billion over the 2017-21 period. Revenue losses on import-related IPI concessions were estimated at nearly the same magnitude (Table 3.4). In both cases, the Manaus Free Trade Zone accounted for approximately 80% of the respective revenue losses.

Table 3.4 Forgone federal tax revenue, 2017-21

(BRL billion)

Tax heading	2017	2018	2019	2020[a]	2021[a]
Import duties	2.46	3.16	4.18	5.02	7.22
IPI –importation	2.59	3.23	3.66	4.22	5.89
IPI – local sales	22.76	28.59	25.17	22.19	29.10
COFINS	65.38	71.64	81.17	81.46	67.83
PIS	12.78	13.93	16.56	16.52	13.58
Income taxes	108.10	112.27	111.64	113.26	108.98

[52] Details regarding the ICMS tax base for imports are available at: http://www4.receita.fazenda.gov.br/simulador/glossario.html#ncm.

[53] Subsequent interstate transfers may compensate the ICMS rate differences between the ship-from and ship-to tax jurisdiction.

[54] Federal Senate Resolution No. 13, 25 April 2012.

[55] RFB Normative Instruction No. 1,911, 11 October 2019.

[56] The COFINS contribution rate is augmented by 1 percentage point for certain goods listed in Annex I of Law No. 12,546, 14 December 2011.

[57] Law No. 10,865, 30 April 2004, as amended.

[58] Complementary Law No. 116, 31 July 2003, as amended.

Tax heading	2017	2018	2019	2020[a]	2021[a]
IOF	2.58	3.43	4.26	4.25	4.79
CSLL	9.80	12.70	13.15	14.13	7.98
AFRMM	0.89	1.04	1.14	1.13	1.28
Other	60.59	61.23	56.70	50.19	30.18

a Projections.

Source: RFB (2019), *Statement of Tax Expenditures* (*Demonstrativo dos Gastos Tributários, Estimativas Bases Efetivas*).

3.1.5 Import prohibitions, restrictions, and licensing

3.52. In general, Brazil maintains import prohibitions on health and moral grounds, and to comply with international conventions to which it is a party. The Brazilian list of import prohibitions remained broadly unchanged during the review period, apart from an update of the legislation governing controls on weapons and ammunition (Table 3.5).

Table 3.5 Import prohibitions, 2021

Product	Description	Legal basis
Cigarette replicas intended for the under-aged	The importation, production, commercialization, distribution and propaganda of any products (and packaging) intended for the under-aged that replicate the shape of cigarettes (or the like) are prohibited	Law No. 12,921, 26 December 2013
Endangered animals and plants	Animals and plants listed as endangered by CITES	Decree No. 3,607, 21 September 2000
Hazardous waste	Import ban; other movements must follow Basel Convention procedures	National Environment Council (Concelho Nacional do Meio Ambiente (CONAMA)) Resolution No. 452, 2 July 2012
Hormone-treated meat and poultry	The importation, production, commercialization and use of natural or artificial substances with anabolic hormonal properties, for the purpose of promoting growth and weight, are prohibited	Ministry of Agriculture, Livestock and Food Supply (MAPA) Normative Instruction No. 17, 18 June 2004
Illicit drugs	Substances and plants that may cause physical or psychological dependence	Secretariat for Health Surveillance (Secretaria de Vigilância em Saúde (SVS))/Ministry of Health (Ministério da Saúde (MS)) Ordinance No. 344, 12 May 1998
Programmed electronic machines for gambling	Prohibited on moral grounds	Law No. 37, 18 November 1966
Substances that deplete the ozone layer	Prohibited substances in accordance with the Montreal Protocol	CONAMA Resolution No. 267, 11 December 2000
Toys that replicate firearms	Imports and domestic production are prohibited	Article 26 of Law No. 10,826, 22 December 2003
Used and retreaded tyres	Used/retreaded tyres under HS heading 4012, even if the intended use is as raw material; re-imports after outward processing of tyres used in aeronautics (HS 4012.13.00) are exempted	CONAMA Resolution No. 452, 2 July 2012
Used consumer goods[a]	May only be imported by the State or educational and scientific institutions	SECEX Ordinance No. 23, 14 July 2011
Weapons and ammunition	Private imports of goods intended for exclusive use by military or police forces	Decree No. 10,030, 30 September 2019
Wines	Prohibited if transported in containers of more than five litres	Law No. 7,678, 8 November 1988, Article 26

a Imports of used non-consumer goods (except aeronautic goods and packaging materials in temporary admission or re-importation) are subject to non-automatic licensing.

Source: Information provided by the authorities.

3.53. Brazil's latest notifications to the Committee on Import Licensing date from 2016.[59] During the review period, Brazil provided replies to several follow-up questions on its import licensing system.[60]

3.54. Brazil maintains automatic and non-automatic import licensing requirements for various products, regardless of their origin.[61] Requests for both types of licences are submitted online through Siscomex and processed by 18 competent administrative bodies.[62] The granting of some import licences may require intervention (approval) by more than one body. Import licences are non-transferrable and valid for 90 days. Refusal to grant a licence may be appealed before the relevant licensing body. Some bodies may levy a fee for the import licence; according to the authorities, the fees reflect the cost of services rendered.

3.55. The authorities indicate that a new licensing system is being rolled out with the DUIMP and is already fully operational for exports (Section 3.2.3). The system's full implementation is expected to take place by the end of 2023.

3.56. The scope of Brazil's licensing requirements was narrowed down during the review period. SECEX discontinued automatic import licensing for statistical monitoring purposes in August 2020 and non-automatic import licensing for trade remedies and origin verifications in April 2021. A contract delegating certain licensing competences to Banco do Brasil S.A. was terminated in October 2021. The authorities indicate that SECEX currently applies automatic licensing requirements to imports under the drawback regime's suspension and exemption modalities, as well as non-automatic licensing requirements to imports of used goods[63], goods subject to similarity examination[64], and goods under tariff quotas. Non-automatic licensing requirements also remain in place to prevent environmental damage and harm to human, plant, or animal health, as well as to control imports of products classified as weapons.

3.57. Besides any product-specific import controls, the customs release of consignments shipped to Brazil in wooden packaging also requires analysis of the packaging and consent by the Ministry of Agriculture, Livestock and Food Supply (MAPA). The analysis may be carried out before or after cargo arrival, depending on established procedures at each MAPA local unit. MAPA local units have some discretion over the way their operations are organized, including with regard to implementing manual or automated processes and using a risk assessment framework for selection of wooden packaging containers to be inspected. As a result, at certain border posts all consignments in wooden packaging are physically inspected.[65]

3.1.6 Anti-dumping, countervailing, and safeguard measures

3.58. Since Brazil's previous Review, the institutional framework on trade remedies underwent a transformation, resulting in the transfer of responsibilities for public interest assessments to SECEX's

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[59] WTO documents G/LIC/N/1/BRA/7/Corr.1, 6 September 2016; G/LIC/N/2/BRA/7, 31 August 2016; and G/LIC/N/3/BRA/11, 31 August 2016.

[60] WTO documents G/LIC/Q/BRA/21, 17 July 2017; G/LIC/Q/BRA/22, 5 April 2018; G/LIC/Q/BRA/23, 17 April 2018; G/LIC/Q/BRA/24, 15 May 2019; G/LIC/Q/BRA/25, 14 October 2019; and G/LIC/Q/BRA/26, 11 February 2021.

[61] A compilation of import licensing regulations is provided in SECEX Ordinance No. 23, 14 July 2011, and its subsequent amendments. Lists of tariff lines subject to Internet-based licensing procedures are available in Siscomex, and any modifications to licensing formalities are published in Siscomex notifications. For up-to-date information on applicable requirements, traders are advised to consult Siscomex's simulator of administrative treatment. Viewed at: http://www.siscomex.gov.br/informacoes/importacao/tratamento-administrativo-na-importacao/.

[62] Requests for automatic licensing must be processed within 10 business days, whereas those for non-automatic licensing must be processed within 60 calendar days of registration in Siscomex (SECEX Ordinance No. 23, 14 July 2011, Articles 22 and 23).

[63] Imports of used machinery and equipment remain conditional on proof that such items are not produced in Brazil and cannot be substituted by a similar item currently produced in Brazil.

[64] The lack of equivalent domestically produced goods remains an eligibility requirement for certain duty and tax concessions. The similarity examination is carried out by SECEX prior to the submission of the import declaration; the relevant modalities are set out in Decree No. 6,759, 5 February 2009. Imports from other ALADI countries are considered as "special cases".

[65] Viewed at: https://www.gov.br/receitafederal/pt-br/acesso-a-informacao/dados-abertos/resultados/aduana/estudos-e-analises/time-release-study-brasil.

Department of Trade Remedies (DECOM) as from 30 January 2019.[66] Accordingly, DECOM was renamed Undersecretariat of Trade Remedies and Public Interest (SDCOM).[67] In addition to its recently assumed public interest responsibilities, SDCOM remains in charge of carrying out anti-dumping (AD), countervailing (CV), and safeguard investigations (i.e. fact finding and analysis).[68] Decision-making regarding the application, modification, and suspension of contingency measures, as well as the exporting economy's market status, remains the remit of the Council of Ministers of the Chamber of Foreign Trade (CAMEX), which takes into account SDCOM recommendations. CAMEX may levy provisional duties on imports from the date of preliminary determination.

3.59. The main regulatory framework amendments undertaken since Brazil's last Review concerned the use of electronic means, modalities applicable to fragmented industries in trade remedies investigations, and COVID-19-related procedural adjustments. These legislative amendments have been notified to the WTO and discussed in the Committees on Anti-Dumping Practices, on Subsidies and Countervailing Measures, and/or on Safeguards.[69] The existing legislation on administrative procedures for AD and CV investigations was also consolidated and updated.[70] The authorities indicate that these amendments are being translated in view of notifying them to the WTO.

3.60. Under Brazil's legislation, AD and CV investigations may be initiated simultaneously for the same product. However, an AD measure and a CV measure cannot be imposed simultaneously on a given product for the purpose of neutralizing the same situation of dumping or export subsidy.[71]

3.61. Brazil has regularly submitted semi-annual reports on AD and CV actions to the relevant WTO Committees. At end-December 2021, there were 149 definitive AD measures (including 3 price undertakings and 6 anti-circumvention extensions) in force in Brazil, down from 179 measures (including 9 price undertakings and 9 anti-circumvention extensions) at end-December 2017 (Table 3.6). During 2017-21, three CV investigations resulted in final rulings with imposition of duties, one of which was suspended on public interest grounds. No safeguard measures were applied in Brazil during that period. At end-2021, 113 Brazilian trade remedy measures were in force for more than 5 years. According to the authorities, the share of Brazil's total merchandise imports affected by its trade remedy measures was 1.14% in 2017, 1.04% in 2018, 1.02% in 2019, 1.08% in 2020, and 1.09% in 2021.

Table 3.6 Trade remedy actions, 2017-21

	2017	2018	2019	2020	2021
Industry petitions (complaints)	19	12	8	27	13
Original investigations initiated	8	7	1	10	13
Anti-dumping	7	7	1	9	11
Countervailing	1	0	0	0	2
Safeguard	0	0	0	1	0
Reviews initiated	2	0	2	2	2
Anti-circumvention	0	0	0	0	0
Scope ruling	2	0	2	1	1
Changed circumstances	0	0	0	1	1
Provisional measures imposed	3	3	0	0	0
Definitive measures imposed	10	7	3	0	4
Anti-dumping duty	7	9	6	0	1
Anti-dumping duty and price undertaking	3	0	0	0	0
Countervailing duty	0	1	1	0	0
Price undertaking	0	0	0	0	0
Safeguard measure	0	0	0	0	0
Sunset review petitions	2	43	42	17	25

[66] Decree No. 9,679, 2 January 2019.
[67] Decree No. 9,745, 8 April 2019.
[68] While SDCOM may not initiate a review without a request from a Brazilian industry, it may decide to include additional exporting countries in duly initiated proceedings whenever there is sufficient information justifying such a decision.
[69] Written questions and answers regarding the notified laws and regulations are contained in WTO documents G/ADP/Q1/BRA/35-46, G/SCM/Q1/BRA/35-46, and G/SG/Q1/BRA/4-15.
[70] SECEX Ordinance No. 171, 9 February 2022; and Decree No. 10,839, 18 October 2021.
[71] Decrees No. 8,058, 26 July 2013 and No. 10,839, 18 October 2021.

	2017	2018	2019	2020	2021
Sunset review: measures extended	7	8	26	18	35
Anti-dumping	5	8	26	18	35
Anti-dumping duty and price undertaking	2	0	0	0	0
Countervailing	0	0	0	0	1
Safeguard	0	0	0	0	0
Measures suspended for public interest reasons	0	7	3	4	1
Measures reflecting public interest reasons[a]	3	0	4	1	0
Measures in force (at 31 December)	180	179	177	163	152
Anti-dumping (definitive)	161	161	159	146	140
Anti-dumping (provisional)	3	3	0	0	0
Anti-circumvention	9	9	9	9	6
Price undertaking	9	7	6	5	3
Countervailing	1	2	3	3	3
Safeguard	0	0	0	0	0

a Measures diverging from the respective investigation's recommendations for reasons of public interest.

Note: The accounting basis is the product-origin pair.

Source: Data provided by the authorities.

3.62. Judicial reviews of CAMEX decisions follow Brazil's general procedures for appeals of governmental acts. Statistics on appeals are not available, due to the lack of a centralized court registry. Brazil's Tax on Industrial Products (IPI) and trade remedy measures concerning imports of biaxially-oriented polyethylene terephthalate (PET) film have been the subject of consultations pursuant to the Dispute Settlement Understanding since July 2022.

3.1.7 Other measures affecting imports

3.63. Brazil observes the trade sanctions imposed by the United Nations or the regional organizations to which it belongs. The authorities affirm that Brazil is not a party to any agreements or arrangements seeking to influence the quantity or value of goods and services exported to Brazil. Brazil does not have in place any reserve stock requirements.

3.2 Measures Directly Affecting Exports

3.2.1 Customs procedures and requirements

3.64. During the review period, the registration and customs clearance procedures for commercial exports were streamlined as part of the gradual improvements being made to Siscomex (Section 3.1.1). Data entry requirements were significantly reduced (by 60%) through the consolidation of the previously used export registry and export declaration into a single export declaration (DU-E) and the automatic sourcing of information from electronic invoices. Processing times were also reduced through improved coordination among administrative bodies and the replacement of sequential workflows by parallel ones. The DU-E fully replaced the legacy export clearance systems as from October 2018. A Single Cargo and Traffic Control System also became operational from that date.

3.65. In general, export declarations must be processed in Siscomex before the merchandise is loaded for exportation.[72] Brazil's AEO programme offers trusted exporters various trade facilitation advantages (Section 3.1.1).

3.66. The responsibility for certifying Brazilian exports' compliance with most[73] preferential rules of origin remains delegated to 48 private entities.[74] Regardless of the format (hard copy or digital) in which the certificate of origin is requested, all issuing entities must have computerized systems compliant with the parameters established by LAIA's Digital Certification of Origin Project (COD).[75] All 48 entities have been authorized to issue a Digital Certificate of Origin for preferential trade with

[72] The exceptions include supplies of fuel and food to airlines and ships in international traffic, and domestic sales of precious stones and jewellery to non-residents.

[73] Exceptions include certificates of origin for in-quota exports of sugar to the European Union, issued by SECEX; and GSP treatment and in-quota poultry exports to the European Union, issued by the BCB.

[74] SECEX Ordinance No. 39, 9 October 2019.

[75] SECEX Ordinance No. 23, 14 July 2011.

Argentina, Colombia, Paraguay, and Uruguay.[76] Certificates of origin are valid for 180 days, and must be issued within 60 days of the commercial invoice's issuance if the export destination is a LAIA or a MERCOSUR partner. The request for a certificate of origin must be accompanied by the commercial invoice and a declaration by the producer.

3.2.2 Taxes, charges, and levies

3.67. Brazil's legislation provides for the possible application of an export tax with a headline rate of 30%, which may be decreased or increased (up to 150%) by CAMEX for foreign exchange or trade policy purposes.[77] In practice, Brazil has made limited use of non-zero export taxes. Two such taxes were eliminated in 2018 and 2021, respectively (Table 3.7). During the review period, export taxes represented a negligible and declining share of federal tax revenues (Table 3.3).

Table 3.7 Export taxes, 2017-22

HS Heading	Products	Destination	Rate (%)	Purpose (Legislation)	Situation as at June 2022
2402.20.00	Cigarettes containing tobacco	South and Central America and the Caribbean	150	Control the regularity of trade flows (Decree No. 2,876, 14 December 1998)	In place
4101, 4102, 4103, 4104.11, 4104.19	Raw hides and skins (bovine, equine, sheep or lamb)	Any country	9	Ensuring supply to the domestic market (CAMEX Resolution No. 42, 19 December 2006)	Terminated, CAMEX Resolution No. 65, 12 September 2018
Chapter 93	Arms and ammunition, parts and accessories thereof[a]	South and Central America and the Caribbean[b]	150	Control the regularity of trade flows (CAMEX Resolutions No. 17, 6 June 2001; and No. 88, 14 December 2010)	Terminated, CAMEX Resolution No. 218, 14 July 2021

a Except when destined for authorized consumers and for the military and police forces; firearms under HS 9302.00.00 (MERCOSUR classification NCM 9303) with intrinsic safety and identification features, arms and ammunition under HS 9304.00.00 (NCM 9306.29.00), and ammunition under NCM 9306.21.00, 9306.29.00, and 9306.30.00.
b Excluding Argentina, Chile, and Ecuador.

Source: Information provided by the authorities.

3.68. The basis for assessing the export tax is the f.o.b. value or the price of the good in the international market at the time of exportation.[78] The price must not be lower than the cost of acquisition or production of the good, increased by taxes and other contributions and a profit margin of 15% on the sum of costs and taxes. Brazil does not maintain minimum export prices, except as a basis for calculating the export tax.

3.2.3 Export prohibitions, restrictions, and licensing

3.69. Brazil maintains export prohibitions for health and environmental protection reasons, and in compliance with international agreements and United Nations resolutions.[79] Exports of certain medical, hospital, and hygiene products (18 tariff lines) deemed essential for combating the spread of COVID-19 in Brazil were prohibited between April 2020 and May 2022 unless the Ministry of Health deemed that there was sufficient supply for the domestic market.[80]

3.70. Export authorization or licensing requirements remain in place for several products, mainly for safety, health, security, environmental, or native fauna protection reasons. SUEXT remains in charge of licensing Brazilian exports that are subject to tariff quotas in certain destination markets.[81] In addition to SUEXT, 15 administrative entities have export authorization competences, and some

[76] SECEX Ordinance No. 144, 10 November 2021.
[77] Law No. 9,716, 26 November 1998; and Decree No. 6,759, 5 February 2009.
[78] Decree Law No. 1,578, 11 October 1977; and Provisional Measure No. 2,158-35, 24 August 2001.
[79] A compilation of export prohibitions and licensing regulations is provided in SECEX Ordinance No. 23, 14 July 2011, and its subsequent amendments. A list of tariff lines subject to export prohibitions and licensing procedures is available in Siscomex. For up-to-date information on product-specific requirements, traders are advised to consult Siscomex's simulator of administrative treatment. Viewed at: http://www.siscomex.gov.br/informacoes/tratamento-administrativo-de-exportacao/.
[80] Law No. 13,993, 23 April 2020; Decree No. 10,407, 29 June 2020; and SECEX Ordinance No. 188, 12 May 2022.
[81] Details regarding export quotas can be viewed at: http://siscomex.gov.br/servicos/cotas-de-exportacao/.

products require authorization by more than one entity. As at June 2022, exports classifiable under 1,832 eight-digit tariff lines (representing around 17.7% of Brazil's tariff) were subject to some form of prior authorization.[82] The main product categories requiring prior export authorization included chemicals, pharmaceuticals, wood products, and live animals.

3.71. A new system for export licensing was implemented in 2018 and is being gradually rolled out for import licensing as well. The authorities indicate that system introduced support for multiple operations per licence, differentiated licence validity periods, and use of the licence by different branches of the same company.

3.2.4 Export support and promotion

3.2.4.1 Export support schemes

3.72. Under Brazil's Predominantly Exporting Companies (PEC) programme, companies deriving more than 50% of their gross sales income from abroad remain eligible for suspension of the PIS, COFINS, and IPI taxes on locally purchased and imported inputs.[83] As at April 2021, there were 598 enterprises with PEC status, up from 505 enterprises in March 2017.

3.73. A similar eligibility criterion continues to apply under the Special Regime for the Purchase of Capital Goods for Exporting Companies (RECAP), which suspends the PIS and COFINS on purchases of new (unused) capital goods (machines, equipment, and instruments) for incorporation in the beneficiary company's fixed assets.[84] Enterprises that, in the calendar year preceding application to RECAP, made at least 50% of their total gross sales abroad may benefit from the programme, provided they commit to attaining a minimum export sales threshold for the following two calendar years. Start-up companies with a lower share of export sales are eligible for RECAP benefits on condition that they reach and maintain the 50% threshold over three years. Brazilian shipyards are also eligible for RECAP benefits, irrespective of their export turnover, and do not need to undertake export commitments. As at April 2021, 446 enterprises were qualified to participate in RECAP, up from 359 enterprises in March 2017.

3.74. The PEC and RECAP programmes were among Brazilian measures that had been the object of two dispute settlement cases examined in a harmonized procedure. In December 2018, the Appellate Body ruled that the tax suspensions granted under the PEC and RECAP programmes did not constitute subsidies within the meaning of Article 1.1 of the SCM Agreement.[85]

3.75. During the review period, Brazil maintained its Special Regime for the Reimbursement of Taxes for Exporters (Reintegra) with some amendments.[86] As from June 2018, the scheme enables exporters of certain Brazilian-manufactured goods to claim up to 0.1% of their gross export receipts as an offset for non-value added (cascading) taxes along the production chain, such as the ISS, IOF, and CIDE.[87] In general, the Brazilian-manufactured exports eligible for Reintegra are drawn from the IPI incidence list (Tabela de incidência do IPI) (Section 3.1.4) and their imported content may not exceed 40% of their export price.[88] The authorities indicate that refunds and tax credits granted under Reintegra totalled BRL 17.4 billion between January 2017 and June 2022.

3.76. Brazil's drawback regime provides for the suspension, exemption or refund of import duties and indirect taxes (IPI, PIS, COFINS, ICMS, and AFRMM) on local or imported inputs and parts used to produce exportable goods. The drawback regime's suspension modality allows *ex ante* deferral of duties and taxes on inputs, whereas the exemption modality provides for the rebuilding of stocks

[82] Viewed at: http://www.siscomex.gov.br/informacoes/tratamento-administrativo-de-exportacao/.
[83] Laws No. 10,637, 30 December 2002; No. 10,865, 30 April 2004; No. 11,196, 21 November 2005; and No. 12,715, 17 September 2012.
[84] Law No. 11,196, 21 November 2005, as amended by Law No. 12,715, 17 September 2012.
[85] WTO document series WT/DS472 and WT/DS497.
[86] Law No. 13,043, 13 November 2014; and Decree No. 8,415, 27 February 2015, amended by Decree No. 9,393, 30 May 2018.
[87] The offset may take the form of either a credit against federal tax liabilities or a cash payment. Between 1 January 2017 and 31 May 2018, the offset was capped at 2% of gross export receipts.
[88] A 65% imported content threshold applies to pharmaceuticals; electric appliances and materials; aircraft and parts; optical, precision measuring, medical or surgical instruments and apparatus; and clocks and watches (Decree No. 8,415, 27 February 2015).

ex post, after the final good has been exported. The refund modality provides for the refund of duties and taxes paid on imported inputs that have been used in the production of an exported good.

3.77. Several changes to the drawback regime took place during the review period. During 2018-22, inputs imported under the drawback exemption modality were subject to the AFRMM; the relevant legal provision will cease to apply on 1 January 2023.[89] In 2020, updates of the drawback regime clarified its eligibility criteria and formalized a quantity-based (as opposed to a value-based) approach to compliance control.[90] In September 2021, the RFB launched a "fast-track" drawback facility offering companies in good standing priority in the analysis of their refund/tax credit applications.

3.78. During 2017-21, annual exports under drawback represented some 20%-23% of total exports, whereas the corresponding figures for imports ranged between 4% and 6% (Table 3.8).

Table 3.8 Drawback regime implementation, 2017-21

	2017	2018	2019	2020	2021
Exports under drawback (USD million)	50,102.0	48,965.6	49,523.9	42,090.0	58,090
Share of total exports (%)	23.0	20.4	22.0	20.1	20.7
Imports under drawback (USD million)	8,920.6	9,144.1	7,693.5	6,567.5	10,787
Share of total imports (%)	5.9	5.1	4.3	4.1	4.9
Fiscal footprint of imports under drawback (BRL million)[a]	7,217.1	8,537.5	7,368.6	8,291.2	10,670.4

a Comprises import duties and IPI, PIS, and COFINS taxes. Does not include ICMS and AFRMM taxes.

Source: Information provided by the RFB.

3.79. The Special System of Industrial Warehouses under Standardized Control (RECOF/RECOF-SPED) was updated during the review period. Besides procedural changes, eligibility requirements were relaxed with the elimination of a BRL 10 million minimum equity threshold.[91] The scheme provides for the suspension (for one year, extendable once) of import duties and indirect taxes (IPI, PIS, COFINS, and, in some cases, ICMS[92]) on imported or local inputs employed in the industrial transformation of products destined for export or the domestic market. Domestic sales of any (local or imported) inputs or the final good are subject to all applicable duties and taxes. As at 2 May 2022, there were 97 companies authorized under RECOF/RECOF-SPED, of which 80 were authorized during 2017-22.[93]

3.80. Brazil continues to apply the Special Regime for the Information Technology Exportation Platform (REPES), targeting companies dedicated exclusively to the development of software and the provision of IT services. REPES suspends the IPI on imported goods without a domestic equivalent (except second-hand ones) for their incorporation as fixed assets, as well as the PIS and COFINS on purchases of IT services and new goods. Beneficiaries must export software and IT services worth at least 50% of their annual gross income.[94] The authorities indicate that, as of June 2022, there were only six beneficiary companies under REPES.

3.2.4.2 Export processing zones

3.81. Brazil updated its legal framework for export processing zones (EPZs) in 2021, with most federal tax-related amendments becoming effective as from January 2022.[95] Pursuant to the updated legal framework, private companies may make proposals for the creation of EPZs on equal footing with Brazil's federative states and municipalities. EPZ-resident companies are no longer required to export 80% of their gross income from sales of goods and services. While the fiscal and administrative benefits (as well as the 20-year legal guarantee clause) available to authorized

[89] Law No. 14,366, 8 June 2022.
[90] SECEX Ordinance No. 44, 24 July 2020.
[91] COANA Ordinance No. 57, 2 October 2019.
[92] Payment of ICMS may be suspended for beneficiaries in the states of São Paulo and Paraná. In the state of Rio de Janeiro, ICMS suspension is admissible for companies in the aeronautical sector.
[93] Viewed at: https://www.gov.br/receitafederal/pt-br/assuntos/aduana-e-comercio-exterior/regimes-e-controles-especiais/regimes-aduaneiros-especiais/recof-sped.
[94] Law No. 11,196, 21 November 2005, amended by Law No. 12,715, 17 September 2012.
[95] Law No. 14,184, 14 July 2021.

EPZ companies remain broadly unchanged[96], an amendment was made to the tax treatment of their sales to Brazil's customs territory.[97] As from January 2022, authorized EPZ companies may choose to pay, upon acquisition, all indirect taxes on inputs used in the production of goods sold on the Brazilian market, thereby avoiding penalties and interest on the tax obligation arising from the sale.

3.82. The National Council of Export Processing Zones (CZPE) remains in charge of implementing Brazil's EPZ policy, including authorizing the creation of EPZs and the establishment of companies therein.[98] The operationalization of an EPZ also requires the Brazilian customs authority's permission and final approval from the President of the Republic. Approved EPZs that fail to start operations within 48 months of their agreed installation timetable may lose their right to establish. As of April 2022, Brazil had 14 approved EPZ projects, of which 2 were operational and 12 were in the process of establishment.

3.2.4.3 Export promotion

3.83. The Ministry of Foreign Affairs (MRE), working in coordination with the Chamber of Foreign Trade (CAMEX) under the Ministry of Economy, has primary responsibility for the promotion of cross-border trade and investment. The MRE supervises the Brazilian Trade and Investment Promotion Agency (ApexBrasil), which carries out export and investment promotion activities in accordance with the terms of a management contract signed between the two entities.[99] In March 2022, the MRE re-established the Department of Trade and Investment Promotion (DPR), linked to its Foreign Trade and Economic Affairs Secretariat (SCAEC), with the aim of better integrating the economic and commercial dimensions into Brazilian diplomacy, as well as ensuring even closer integration of the Ministry's trade and investment promotion activities with those carried out by ApexBrasil.

3.84. Although it supports companies of all sizes, ApexBrasil maintains a particular focus on activities that help enhance exports of SMEs, foster competitiveness, and create jobs. Other strategic priorities include: (i) increasing the participation of Brazilian companies in international value chains; (ii) fostering innovation, design, and technology transfer; and (iii) encouraging the use of "sociobiodiverse" resources. ApexBrasil provides services such as market intelligence, business capacity-building, trade and image promotion, and development of internationalization strategies. Its trade promotion activities include the participation in trade missions and international trade fairs, as well as visits of foreign buyers to Brazil. Export promotion support generally takes the form of technical and financial cooperation agreements between ApexBrasil and private-sector associations, which include co-financing for up to 60% of a project's total value.

3.85. In addition to ApexBrasil, trade information and support services to exporters are made available by several public and private institutions, including the Economy Ministry, the MRE, and Banco do Brasil S.A. These entities maintain several online platforms aimed at facilitating the internationalization of Brazilian companies.[100] Banco do Brasil S.A. continues to offer Brazilian enterprises with gross annual sales of up to BRL 10 million a credit line (Proger Exportação Promoção Comercial) for export promotion activities, such as participation in trade fairs, shipment of samples, and investments in marketing.[101]

3.86. Outward payments for the promotion of Brazilian products and services abroad remain eligible for a reduction of the applicable income tax withheld at source (IRRF) to 0% (from the standard 25%).[102] Forgone revenue from the IRRF reduction was estimated at BRL 31.6 million

[96] WTO document WT/TPR/S/358/Rev.1, 18 October 2017.

[97] As a rule, products sold in Brazil's customs territory, as well as the inputs used in their production, remain subject to all duties and indirect taxes levied on domestic acquisition or importation. The duty and tax amount due must be paid with penalties and interest.

[98] Decree No. 9,933, 23 July 2019.

[99] Decree No. 8,788, 21 June 2016; No. 10,044, 4 October 2019; and No. 11,024, 31 March 2022.

[100] Details on entities and tools assisting exporters can be viewed at: http://www.investexportbrasil.gov.br/ and http://siscomex.gov.br/aprendendo-a-exportar/onde-buscar-apoio-ou-informacoes/.

[101] Viewed at: https://www.bb.com.br/pbb/pagina-inicial/empresas/produtos-e-servicos/comercio-exterior/vendas-para-o-exterior/proger-exportacao#/.

[102] Decree No. 6,761, 5 February 2009, amended by Decree No. 9,904, 8 July 2019.

in 2017, BRL 35.6 million in 2018, and BRL 41 million in 2019, and projected at BRL 13.2 million in 2020 and BRL 9.9 million in 2021.[103]

3.2.5 Export finance, insurance, and guarantees

3.87. CAMEX, though its Export Financing and Guarantee Committee (COFIG), remains in charge of setting guidelines and conditions for granting federal financial assistance and/or guarantees to Brazilian exports, as well as overseeing the operations of the Export Financing Programme (PROEX) and the Export Guarantee Fund (FGE). The National Bank for Economic and Social Development (BNDES) continues operating several federally funded export credit schemes under the BNDES-EXIM programme. Resources of Brazil's three region-specific constitutional financing funds (Section 3.3.1) may also be used to finance eligible export projects. Federal funding in support of Brazilian exports is generally provided regardless of the exporter's ownership. No information was available on sub-federal export support.

3.88. In January 2020, CAMEX adopted guidelines for reforming the system of federal-level export support, including export insurance and financing policies. The guidelines envisage, *inter alia*, greater efficiency in the use of public resources and a review of the legislation related to the Export Financing Programme (PROEX), the Export Guarantee Fund (FGE), and the Export Credit Insurance (SCE) scheme backed by the FGE.[104] The authorities indicate that, to date, actions to implement the guidelines have been taken mainly with respect to PROEX.

3.89. Funded with outlays from the federal budget and administered by Banco do Brasil S.A., PROEX has two modalities: direct financing (PROEX-Financing) and interest rate equalization (PROEX-Equalization). In principle, the programme is aimed at addressing financing gaps where the private sector may not be able to fully respond to the needs of Brazilian businesses. The legal framework governing PROEX was consolidated and amended in 2021; previously restricted operational rules were also made public in the process.[105] Under the updated framework, COFIG's remit no longer includes setting conditions for and approving individual PROEX operations. Other noteworthy amendments to PROEX include the replacement of the LIBOR by the OECD's Commercial Interest Reference Rates (CIRRs) as the benchmark for PROEX-Financing loans and the revision of some eligible goods' maximum repayment terms to bring them in line with the terms set out in the OECD's Arrangement for Officially Supported Export Credits and its sector understandings.

3.90. Primarily intended for businesses with an annual turnover of up to BRL 600 million, PROEX-Financing provides direct credit to the exporter or overseas buyer of eligible Brazilian goods and services. Financing is available for up to 100% of the value of exports for credit periods of between two months and 2 years, and up to 85% for longer periods (up to 10 years). PROEX-Financing may also provide concessional credits in support of Brazilian exports under Brazil's technical cooperation projects.

3.91. PROEX-Equalization bears part of the cost of credits contracted (by exporters or by overseas buyers) from private financial institutions (in Brazil or abroad) to finance Brazilian exports. The credit terms (interest rates, financing percentage, and collateral) are negotiated between the financing institution and the exporter/overseas buyer.[106] Equalization may be granted on credits financing up to 100% of the exports' value for periods ranging from 60 days to 15 years.

3.92. During 2017-21, PROEX-Financing was granted mainly for exports to Cuba, Mexico, the United States, and China, whereas exports benefitting from PROEX-Equalization were mostly shipped to the United States, Argentina, Peru, and Chile. Disbursements under both modalities peaked in 2018 and decreased somewhat thereafter (Table 3.9).

[103] RFB (2019), *Statement of Tax Expenditures* (*Demonstrativo dos Gastos Tributários, Estimativas Bases Efetivas*).
[104] CAMEX Resolution No. 12, 30 January 2020.
[105] GECEX Resolution No. 166, 23 March 2021; CMN Resolution No. 4,897, 25 March 2021; Ordinance No. 8,623, 20 July 2021; and COFIG Normative Instruction No. 82, 1 September 2021.
[106] Equalization is paid by way of National Treasury Notes (NTN-I) to the institution granting the export credit.

Table 3.9 PROEX implementation, 2017-21

Year	Budget[a] (BRL)	Total financing granted (USD)	No. of beneficiaries	Export business volume (USD)	Main beneficiary industries
PROEX-Financing					
2017	2,500,000,000	340,033,757	170	367,706,497	Food (38%); mineral extraction (28%); textiles and footwear (19%)
2018	2,049,189,000	336,132,756	184	350,112,177	Mineral extraction (37%); food (17%); machinery and equipment (15%)
2019	2,100,000,000	325,315,186	192	328,029,169	Mineral extraction (39%); machinery and equipment (25%); textiles and footwear (16%)
2020	2,100,000,000	265,914,843	147	267,827,961	Mineral extraction (45%); others (23%); textiles and footwear (20%)
2021	1,999,999,999	161,735,286	94	169,095,541	Machinery and equipment (24%); textiles and footwear (20%); mineral extraction (16%)
PROEX-Equalization					
2017	2,260,000,000	182,239,627	20	6,519,678,408	Machinery and equipment (55%); aircraft (17%); vehicles (15%)
2018	1,556,282,700	225,959,115	17	7,692,934,899	Machinery and equipment (64%); vehicles (18%); aircraft (15%)
2019	1,599,999,999	57,909,717	19	2,139,258,309	Machinery and equipment (40%); vehicles (36%); aircraft (19%)
2020	600,000,000	52,810,226	20	2,444,950,159	Machinery and equipment (48%); vehicles (30%); aircraft (19%)
2021	560,000,000	100,702,303	16	3,908,365,281	Machinery and equipment (44%); aircraft (34%); vehicles (20%)

a Outlay initially set in the annual budget law. Outlay values may be revised during a fiscal year.

Source: Information provided by the authorities.

3.93. Under the BNDES-EXIM programme, financing is made available both for the production of exportable goods and services (pre-shipment) and for their commercialization overseas (post-shipment).[107] Credit operations are conducted either directly by BNDES or through accredited financial institutions. Resources for BNDES operations, including BNDES-EXIM, come mostly from public funds (Section 3.3.1.3).

3.94. Access to export financing is governed by a general list of eligible goods and services.[108] For most BNDES-EXIM sub-programmes, automatic qualification for financing remains conditional on meeting Basic Productive Process (PPB) thresholds (Section 3.3.1.1) or industrial policy type accreditation criteria established by BNDES (Table A3.2). According to the authorities, goods and services that do not meet these conditions may also benefit from the sub-programmes after receiving a favourable assessment (non-automatic qualification).

3.95. During 2017-21, BNDES-EXIM financing was predominantly directed at exports of goods, with annual disbursements fluctuating considerably (Table 3.10). Export financing represented between 3.4% and 9.1% of the total resources loaned by the BNDES over the same period. The main beneficiary industries were machinery and equipment and transport equipment. The main

[107] Post-shipment financing may take the form of, *inter alia*, exporter credit, buyer's credit, and credit lines to an accredited overseas financial institution.
[108] BNDES AEX Circular No. 09/2017, 25 August 2017. Viewed at: https://www.bndes.gov.br/wps/wcm/connect/site/6d007fe6-a658-442f-8f0e-e7e5ddb1ac16/Circular-AEX-09_2017.pdf?MOD=AJPERES&CVID=mARRL4z.

export markets for projects benefitting from post-shipment financing were the United States, Paraguay, and Norway. The authorities indicate that the lack of services exports financing during 2018-21 is reflective of demand dynamics.

Table 3.10 BNDES-EXIM disbursements, 2017-21

(USD million)

Year	Beneficiaries	Total disbursements	For exports of goods	% of total exports of goods	For exports of services	% of total exports of services
2017	74	815.41	726.66	0.3	88.76	0.0
2018	66	1,113.36	1,113.36	0.5	0.00	0.0
2019	65	470.88	470.88	0.2	0.00	0.0
2020	39	1,131.44	1,131.44	0.5	0.00	0.0
2021	17	477.87	477.87	0.2	0.00	0.0

Source: WTO Secretariat, based on information provided by BNDES.

3.96. The Brazilian Funds Management and Guarantees Agency (ABGF), a public enterprise, continues acting on behalf of Brazil (the Union) in the administration of the federal export credit insurance (SCE) scheme backed by the FGE.[109] The ABGF is responsible for the structuring, management, and monitoring of SCE operations. The granting of SCE coverage is underwritten by the Chamber of Foreign Trade (CAMEX) under the Ministry of Economy. The FGE is financed by resources from the federal budget and by proceeds and financial gains from the fund's own activities and financial operations. According to the authorities, there are no other export insurance or guarantee schemes funded by federal resources in Brazil.

3.97. The SCE covers export credit operations against various risks that may affect the production or overseas commercialization of Brazilian goods and services. There are no minimum local content requirements and no eligibility restrictions as to the type of exported goods and services; destination country eligibility may be affected by internal risk exposure limits. The scheme may be used by exporters, financial institutions, and export credit agencies that finance, refinance, or guarantee Brazilian exports. In February 2020, COFIG suspended SCE operations for MSMEs[110] until completion of the ongoing reform of the system of federal-level export support.[111]

3.98. During the review period, the number of SCE policies issued annually maintained a downward trajectory, dropping from 11 in 2016 to 6 in 2017 and to 1 in 2021, mainly due to the suspension of operations for MSMEs and the drop in Brazilian construction services exports. Having contracted in 2017-19, the total amount of premiums underwritten rebounded strongly in 2020-21 (Table 3.11). The FGE's total risk exposure declined over the same period and was dominated by export transactions to the United States, the Bolivarian Republic of Venezuela, and Cuba. The main beneficiaries of the SCE scheme were from the aircraft, infrastructure, and defence sectors.

Table 3.11 SCE/FGE activity, 2017-21

Year	Policies issued	Exporters[a]	Total premiums (BRL)	FGE risk exposure, end of the year (USD)
2017	6	61	258,0449,659.48	18,301,936,085.12
2018	5	25	72,817,357.71	13,502,852,279.79
2019	0	3	70,447,249.48	9,284,106,092.77
2020	1	6	238,197,401.32	7,259,427,527.16
2021	1	4	258,204,205.81	7,184,189,760.23

a Indicates only exporters that have made a risk premium payment during the year.

Source: Information provided by the authorities.

[109] Law No. 12,712, 13 August 2012; and Decree No. 7,976, 1 April 2013.

[110] For the purposes of the SCE scheme, MSMEs are defined as companies with sales of up to BRL 90 million and exports of up to USD 3 million in the previous calendar year.

[111] Viewed at: https://www.abgf.gov.br/abgf-na-midia/reforma-do-modelo-de-seguro-de-credito-a-exportacao/.

3.3 Measures Affecting Production and Trade

3.3.1 Incentives

3.3.1.1 Overview

3.99. Brazil offers incentives and assistance to businesses in various configurations. Most state and municipal governments implement stimulus measures independently of the federal programmes in place. The scope of incentive programmes may be regional, sectoral, or outcome-specific (e.g. fostering research). Most initiatives aim at promoting entrepreneurship, technological and infrastructure upgrades, innovation, exports (Section 3.2.4), energy efficiency, and regional development. Specific federal programmes remain in place for the automotive, information technology, aeronautics, and petroleum industries (Section 4). The range of support measures includes targeted long-term loans, tax incentives, non-repayable financial contributions, equity financing, accelerated depreciation, guarantees, grants, advisory services, and credit insurance.

3.100. The Brazilian Agency for Industrial Development maintains an online database with non-exhaustive information on federal and sub-federal industrial development support initiatives.[112] An overview of federal incentive schemes is presented in Table A3.3.

3.101. Federal government expenditure on incentive and support programmes (excluding forgone revenue) amounted to BRL 12,234 million (0.14% of GDP) in 2021, down from BRL 21,952 million (0.33% of GDP) in 2017.[113]

3.102. Incentives granted in the context of certain federal programmes promoting the production of information technology, telecommunications, and automation goods remain linked to Basic Productive Process (PPB) criteria, which are set with a view to maximizing the utilization of productive capacity installed in Brazil. Compliance with PPB criteria also remains an eligibility requirement for incentives provided in the Manaus Free Trade Zone (ZFM). There have been no major changes to the institutional framework and the factors taken into consideration in the definition of PPB criteria since Brazil's previous Review.[114] The authorities indicate that, as from 2019, the beneficiaries of PPB-linked incentives are given the flexibility to choose which production processes they would carry out locally. As from April 2020, provisional approvals for PPB compliance are no longer granted.[115] Between January 2017 and May 2022, 67 new PPBs were adopted, and 269 PPBs were altered. PPBs were among Brazilian measures that had been the object of two dispute settlement cases examined in a harmonized procedure.[116]

3.103. Brazil's most recent notifications to the WTO Committee on Subsidies and Countervailing Measures cover fiscal years 2017 through 2020.[117] Further to its notifications, Brazil has replied to questions posed by the United States and the United Kingdom.[118]

3.3.1.2 Free trade zones

3.104. Brazil maintains a range of incentives for businesses residing in any of the free trade zones (FTZs) established to promote the development of the country's northern region. There have been no major changes to the legal and institutional framework governing FTZs, as well as to the fiscal incentives offered, since Brazil's last Review.[119] Federal tax incentives remain in place for the Manaus Free Zone (ZFM), the other seven FTZs, and the western Amazon region until the years 2073, 2050, and 2023, respectively. The Manaus Free Zone Superintendence (SUFRAMA), an autonomous agency linked to the Ministry of Economy, remains in charge of administering these incentive regimes. Additional state-level fiscal incentives also remain in place.

[112] Viewed at: http://guia.abdi.com.br/default.aspx.

[113] Viewed at: https://www.tesourotransparente.gov.br/publicacoes/boletim-trimestral-de-estatisticas-fiscais-do-governo-geral/2021/25.

[114] WTO document WT/TPR/S/358/Rev.1, 18 October 2017.

[115] Law No. 13,969, 26 December 2019.

[116] WTO document series WT/DS472 and WT/DS497.

[117] WTO documents G/SCM/N/343/BRA, 11 July 2019; and G/SCM/N/372/BRA, 1 July 2021.

[118] WTO documents G/SCM/Q2/BRA/53-56, 26 August 2019-13 April 2022.

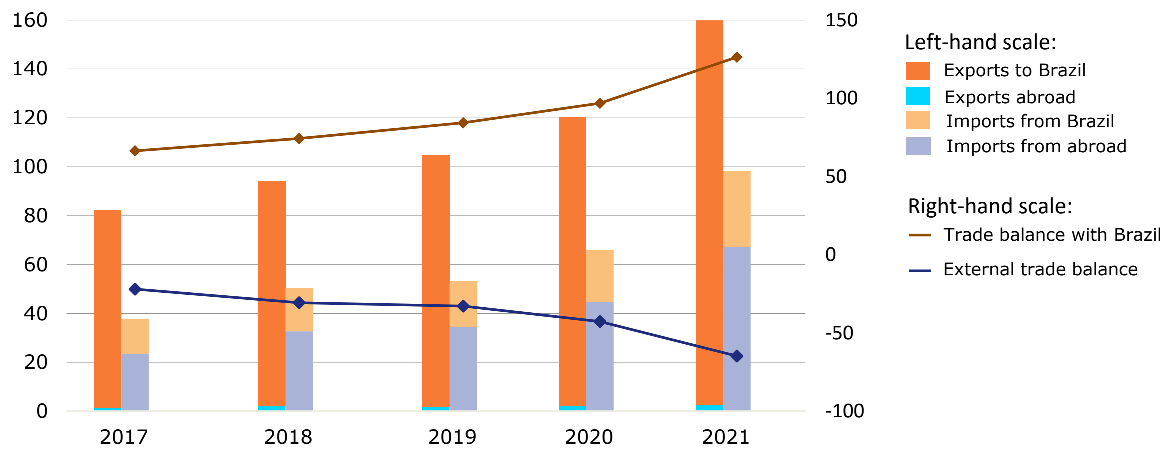
[119] WTO document WT/TPR/S/358/Rev.1, 18 October 2017.

3.105. The number of incentive beneficiaries grew considerably during the review period. As at June 2022, the ZFM had 17,032 accredited companies whereas the remaining FTZs had a total of 10,046 companies. In addition, 12,854 companies benefited from the incentives regime for the western Amazon region. Eligibility for establishment in the ZFM remains conditional on observing PPB criteria (Section 3.3.1.1), as well as a number of environmental and social requirements. The authorities indicate that the ZFM remains the only FTZ hosting production operations.

3.106. The ZFM is an industrial hub, producing mainly electronics, motorcycles, chemicals, thermoplastics, mechanical machinery, metallurgical products, consumer goods, and watches. Its trade balance with Brazil remained in surplus, and that with the rest of the world was in deficit, throughout 2017-21. As at the time of Brazil's previous Review, ZFM resident businesses purchased inputs mostly overseas, whereas the bulk of their sales revenue came from the Brazilian market (Charts 3.5 and 3.6). During 2017-21, investments in the ZFM totalled USD 40.5 billion. The ZFM employed on average 88,240 persons (excluding temporary workers and subcontractors) in 2021, up from 79,408 in 2017.[120] ZFM incentives represented 0.54% of all forgone federal tax revenue in 2019 (up from 0.45% in 2017), with the figure projected to reach 0.84% in 2022.[121]

Chart 3.5 ZFM trade balance, 2017-21

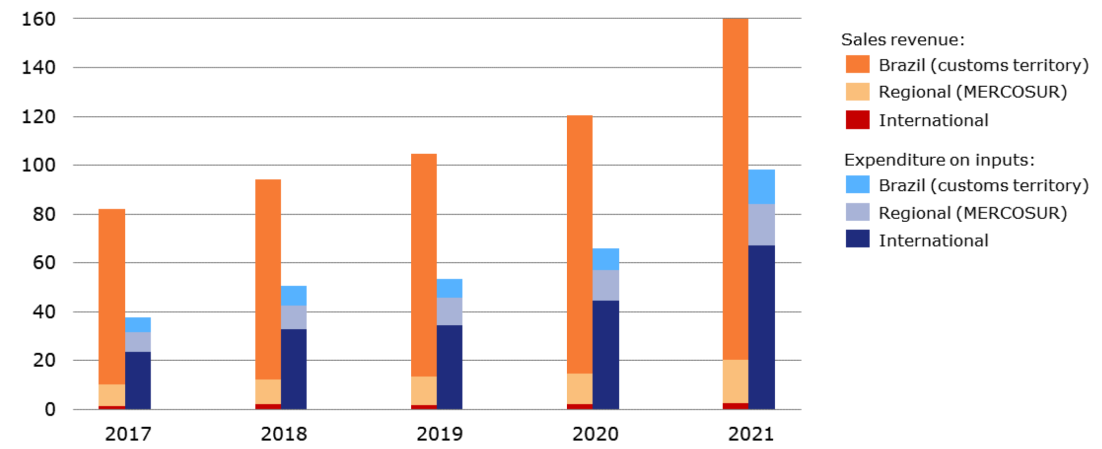
(BRL billion)



Source: SUFRAMA (May 2022), *Indicadores de Desempenho do Polo Industrial de Manaus*.

Chart 3.6 ZFM expenditure on inputs and sales revenue, 2017-21

(BRL billion)



Source: SUFRAMA (May 2022), *Indicadores de Desempenho do Polo Industrial de Manaus*.

[120] SUFRAMA (May 2022), *Indicadores de Desempenho do Polo Industrial de Manaus 2016-2022*.
[121] RFB (2019), *Statement of Tax Expenditures* (*Demonstrativo dos Gastos Tributários, Estimativas Bases Efetivas*).

3.3.1.3 Federal financing facilities

3.107. The BNDES remains the main entity providing federal financing to entrepreneurs in Brazil.[122] The range of its operations includes tailored financing, equity participation, non-reimbursable financial contributions, and guarantees. The authorities affirm that the BNDES remains without competitors in the Brazilian market for long-term, local-currency financing solutions, and its portfolio comprises mostly greenfield projects in nascent industries that have no other source of financing. There were no major changes to the eligibility criteria for BNDES support during 2017-22.[123] Support granted by the BNDES over 2017-21 totalled BRL 324.6 billion (Table 3.12), against BRL 602.5 billion over 2013-16. The authorities attribute the relative decline in BNDES support to lower demand for financing, as well as to the termination of the Programme for the Sustainability of Investment (PSI) in 2015.

Table 3.12 Brazilian development bank support, 2017-21

(BRL million)

	2017	2018	2019	2020	2021	2017-21
Agriculture	14,375.22	14,659.68	15,869.73	16,619.81	16,721.0	78,245.4
Industry	15,044.08	12,304.20	8,815.69	13,263.20	10,408.7	59,835.9
Infrastructure	26,854.15	30,433.33	24,406.85	24,764.90	26,170.6	132.629.8
Trade/services	14,477.33	11,906.00	6,221.58	10,273.55	11,001.6	53,880.1
Total	70,750.79	69,303.22	55,313.84	64,921.47	64,301.9	324,591.2

Source: Information provided by the authorities.

3.108. The BNDES maintains several schemes that facilitate access to credit, either directly or through accredited financial institutions. Projects eligible for financing include implementation, expansion, and modernization of fixed assets; new machinery and equipment produced in Brazil and accredited by the BNDES; production of various goods and services for export and their overseas commercialization (Section 3.2.5); and working capital associated with a fixed investment. Indirect schemes (through the banking sector) represented 53.5% of total financing granted over 2017-21. The BNDES FINEM programme remained the largest, accounting for 40.3% of total disbursements, followed by the FINAME with 29.5% (Table 3.13). During 2017-21, there were 452,414 beneficiaries of BNDES financing, with projects in agri-business, electricity and gas, trade, and land transport accounting for the bulk of disbursements.

Table 3.13 BNDES disbursements by credit scheme, 2017-21

(BRL million)

Credit scheme	2017	2018	2019	2020	2021	2017-21
Direct schemes	**29,185.2**	**34,535.7**	**26,344.5**	**31,347.4**	**29,491.4**	**150,904.3**
BNDES FINEM	25,228.8	29,213.5	23,541.2	24,258.6	20,840.4	123,082.4
BNDES-EXIM	2,819.5	3,934.2	1,490.5	5,865.3	2,308.3	16,417.7
BNDES Não reembolsável	485.5	437.2	230.8	282.0	256.4	1,691.9
BNDES Mercado de Capitais	573.8	695.4	981.3	444.2	2,732.2	5,426.9
BNDES Microcrédito	77.6	112.5	65.0	52.2	196.0	503.3
BNDES FINAME	-	143.0	35.8	415.6	3,146.4	3,740.8
BNDES Médias Empresas	-	-	-	29.5	11.8	41.3
Indirect schemes[a]	**41,565.6**	**34,767.5**	**28,969.3**	**33,574.1**	**34,810.5**	**173,686.9**
BNDES FINAME	14,646.0	19,006.3	16,586.3	16,113.1	20,447.2	86,798.9
BNDES FINEM	3,828.5	1,354.4	994.8	633.7	913.6	7,724.9
BNDES Automático	15,205.4	12,254.3	9,391.4	15,571.4	12,191.6	64,614.1
BNDES FINAME Agrícola	4,940.3	5.9	0.3	-	-	4,946.5
BNDES-EXIM	150.5	266.5	353.4	59.4	258.7	1,088.5
BNDES FINAME Leasing	109.7	-	-	-	-	109.7

[122] BNDES activities are funded by returns on its operations; resources raised in foreign markets; a portion of all contributions to the Worker Support Fund (FAT); and public funds provided by the Federal Government, its sole shareholder, either in the form of paid-in capital or debt instruments.

[123] Under the BNDES Automatic and FINAME schemes, products with a previously confirmed domestic content of at least 50% (in value terms) are automatically eligible for financing, while products with domestic content below that threshold are subject to a non-automatic analysis procedure. The domestic content threshold for automatic eligibility was reduced from 60% to 50% in December 2018.

Credit scheme	2017	2018	2019	2020	2021	2017-21
Cartão BNDES	2,685.3	1,880.2	1,643.2	1,196.5	999.3	8,404.5
Total	**70,750.8**	**69,303.2**	**55,313.8**	**64,921.5**	**64,301.9**	**324,591.2**

- Nil.

a Through the banking sector.

Source: Information provided by the authorities.

3.109. Several BNDES schemes are operated on an interest rate equalization principle, whereby resources from the National Treasury are used to cover the difference between the rate charged by the BNDES and that effectively paid by borrowers. During 2017-21, disbursements under interest rate equalization schemes totalled BRL 79.5 billion, representing 24.5% of total BNDES disbursements.

3.3.1.4 Research and development (R&D) programmes

3.110. Brazil's Scientific and Technological Development Fund (Fundo Nacional de Desenvolvimento Científico e Tecnológico (FNDCT)), created in 1969, remains a major source of financing for science, technology, and innovation (S, T&I) projects. The Financiadora de Estudos e Projetos (FINEP), a public enterprise linked to the Ministry of Science, Technology and Innovation (MCTI), continues acting as the FNDCT's executive secretariat, with responsibility for accounting and administrative operations. FINEP also serves as financial agent for specific programmes funded by, *inter alia*, the National Treasury and the Worker Support Fund (FAT).

3.111. The FNDCT comprises 15 sectoral and 2 cross-cutting sub-funds, each with specific focus and with its own resources (Table 3.14).[124] While there cannot be any transfer of resources between sub-funds, they may jointly finance strategic projects. In administering the sectoral sub-funds, FINEP follows a regional policy: at least 30% must be invested in Brazil's north, north-east, and mid-west regions.[125]

Table 3.14 Sectoral science, technology and innovation (S, T&I) funds, 2022

Fund/Law	Resources
Petroleum and Natural Gas Fund (CT-PETRO), Law No. 9,478, 6 August 1997, amended by Law No. 12,734, 30 November 2012	25% of the share of the value of royalties exceeding 5% of the production of petroleum and natural gas (contracts until 3 December 2012)
Energy Fund (CT-ENERG), Law No. 9,991, 24 July 2000	0.4% of revenues of concessionaries for the generation and transmission of electricity; 0.2% for distribution
Hydric Resources Fund (CT-HIDRO), Law No. 9,993, 24 July 2000	4% of the financial compensation of electricity generation companies
Land Transport Fund (CT-TRANSPORTE), Law No. 9,992, 24 July 2000	10% of the receipts obtained by the National Transportation Infrastructure Department stemming from contracts for the use of roads by communications and telecommunications systems
Mining Fund (CT-MINERAL), Law No. 9,993, 24 July 2000	2% of the financial compensation of the mining sector
Space Fund (CT-ESPACIAL), Law No. 9,994, 24 July 2000	Licensing revenues of Brazilian Space Agency and 25% of federal revenues from space operations
Information Technology Fund (CT-INFO), Law No. 10,176, 11 January 2001	0.5% of informatics enterprises' revenues
University and Enterprise Fund (CT-VERDE AMARELO), Laws No. 10,168, 29 December 2000 and No. 10,332, 19 December 2001	40% of the CIDE, plus 43% of the IPI on informatics products
Infrastructure Fund (CT-INFRA), Law No. 10,197, 14 February 2001	20% of other funds
Water Transport and Naval Construction Fund (CT-AQUAVIÁRIO), Law No. 10,893, 13 July 2004	3% of the AFRMM tax revenue accruing to the Merchant Marine Fund (FMM)
Amazon Fund (CT-AMAZÔNIA), Laws No. 8,387, 30 December 1991; No. 10,176, 11 January 2001; and Decree No. 4,401, 1 October 2002	At least 0.5% of gross sales of ZFM residents that produce informatics-related goods and services
Biotechnology Fund (CT-BIO), Law No. 10,332, 19 December 2001	7.5% of proceeds from CIDE

[124] The CT-INOVAR-AUTO sub-fund expired on 31 December 2017.

[125] The only exception is the sub-fund for the Amazon region dedicated to financing activities in the states of Amazonas, Rondônia, Roraima, and Acre.

Fund/Law	Resources
Agri-business Fund (CT-AGRO), Law No. 10,332, 19 December 2001	17.5% of proceeds from CIDE
Aeronautical Fund, (CT-AERO), Law No. 10,332, 19 December 2001	7.5% of proceeds from CIDE
Health Fund (CT-SAÚDE), Law No. 10,332, 19 December 2001	17.5% of proceeds from CIDE

Source: Information provided by the authorities.

3.112. FINEP finances Brazilian research institutions and companies active at every phase and dimension of the scientific and technological development cycle (e.g. basic research, applied research, and technological innovation). It also provides financial support for the organization of conferences, seminars, and fairs approved by the National Council for Scientific and Technological Development (CNPq). The authorities affirm that eligibility requirements for FNDCT support are not based on any nationality, residency, or domestic ownership criteria.

3.113. FINEP support may take the form of repayable financing, non-repayable financing to non-profit institutions, grants (*subvenção econômica*) to enterprises, and investments in projects and companies.[126] FINEP accepts and analyses repayable financing applications continuously, whereas applications for non-repayable financing must be submitted in response to a public call for proposals. Non-repayable funding is made available to universities and research centres to improve R&D infrastructure, and in programmes and areas determined by the FNDCT's steering committees.

3.114. Over the 2017-21 period, FNDCT disbursements totalled BRL 10.1 billion for 14,039 projects. Significant shares of this amount were attributable to the cross-cutting, CT-INFRA, and CT-SAÚDE sub-funds.

3.3.2 Standards and other technical requirements

3.115. Brazil's institutional framework for the implementation and administration of the TBT Agreement has remained broadly unchanged since its previous Review.[127] The National Institute of Metrology, Quality and Technology (INMETRO) continues serving as the executive secretariat of the National Council of Metrology, Standardization and Industrial Quality (CONMETRO); the coordinator of the Brazilian Network of Legal Metrology and Quality (RBMLQ-I); the regulatory and supervising authority for legal metrology and compulsory conformity assessment in the areas of security, environmental, and health protection, and prevention of deceptive trade practices; and the national enquiry point and notification authority under the TBT Agreement. INMETRO also represents Brazil at the Inter-American Accreditation Cooperation, the International Accreditation Forum, the International Laboratory Accreditation Cooperation, the International Bureau of Weights and Measures, the International Organization of Legal Metrology, and in relevant initiatives within MERCOSUR, LAIA, and the Organization of American States.

3.116. The Brazilian Association for Technical Standardization (ABNT) remains in charge of coordinating the consensus-based development of Brazilian standards, and represents Brazil in the ISO/IEC and in regional normalization forums. Besides CONMETRO and INMETRO, some 31 federal agencies are responsible for issuing technical regulations and determining conformity assessment systems in their respective areas of competence. Any of these competent agencies may request that INMETRO coordinate conformity assessment activities for a particular technical regulation.

3.117. The marketing of products and services, which are both under INMETRO's authority and subject to compulsory conformity assessment, remains conditional on inscription in INMETRO's Register of items.[128] In addition, importers of products regulated by INMETRO must apply for an import licence through Siscomex and request its analysis for approval at INMETRO.[129] Other regulatory agencies, such as ANVISA, MAPA, and ANATEL, also have competence to require

[126] Investments may be made either directly or by way of venture capital and seed money funds.
[127] WTO document WT/TPR/S/358/Rev.1, 18 October 2017.
[128] This requirement does not apply to products and services under the regulatory competence of other federal agencies. Items subject to pattern approval by INMETRO are exempted.
[129] INMETRO Ordinance No. 18, 14 January 2016.

inscription in their respective registers. Pharmaceutical raw materials can only be imported by companies holding an authorization to operate in Brazil, issued by ANVISA.

3.118. In accordance with the Economic Freedom Rights legislation (Section 2.4.1), 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 (Table 3.15). In addition, as from July 2020, interested parties may request the revision of outdated technical regulations that depart from international standards.[130] In September 2020, INMETRO also put in place a three-level risk assessment system for legal metrology and compulsory conformity assessment activities.[131] In February 2022, INMETRO formally adopted a new regulatory model, which was the result of extensive analysis and public consultations.[132]

Table 3.15 INMETRO tacit approval timelines, 2022

Decision	Maximum period (days)
Import licence	30
Inscription in the register of items	55
Inscription in the register of supplier's declarations	100
Pattern approval (measuring instrument prototypes)	150
Repair and maintenance authorization (regulated measuring instruments)	60

Source: INMETRO Ordinance No. 161, 13 April 2021.

3.119. Brazil's modalities for elaboration, adoption and revision of standards, technical regulations, and conformity assessment procedures have not changed significantly since its previous Review.[133] Nevertheless, initiatives aimed at improving MERCOSUR's regulatory environment brought about updated procedures for elaboration, revision, and repeal of MERCOSUR technical regulations and for carrying out MERCOSUR conformity assessments[134], as well as a MERCOSUR Agreement on Good Regulatory Practices and Regulatory Coherence and a General Framework for Trade Facilitating Initiatives Within MERCOSUR.[135]

3.120. Brazil's approach to granting equivalence remains based on the acceptance of some conformity assessment outcomes, including test results and audit reports, without explicit recognition of foreign technical regulations. Brazil did not notify to the WTO any plurilateral or bilateral agreements on TBT matters during the review period. Through INMETRO, Brazil is a party to some 120 TBT-related technical cooperation instruments, of which 89 (including 19 in the field of accreditation) are currently in force.

3.121. At the national level, CONMETRO's non-binding Guide on Good Regulatory Practices continues to frame the elaboration, dissemination, periodic review, and elimination of technical regulations and conformity assessment procedures. Technical regulations may be established through laws, decrees, ordinances, normative instructions, or resolutions, and should be published in the *Official Gazette*. A period of six months is typically allowed between the publication of a measure and its entry into force. Ministries and agencies with authority to elaborate and issue technical regulations may do so *ex officio* or at the request of a third party. The holding of public consultations is generally required, except in exceptional cases. The authorities indicate that most technical regulations enacted in Brazil are based on international standards or MERCOSUR regional standards; when this is not the case, they are based on performance criteria. The recommended period for review and revision of technical regulations is five years.

3.122. Generally, the process for adopting conformity assessment procedures is similar to the one for technical regulations. Conformity assessment may involve certification, performance verification, sampling, labelling, inspection, and a conformity declaration by the supplier; certain activities (e.g. certification) may be delegated to accredited third parties. The supplier's declaration of conformity is an admissible instrument only for products or services of low to medium risk to

[130] Decree No. 10,229, 02 May 2020.
[131] INMETRO Ordinances No. 265, 10 August 2020; and No. 282, 26 August 2020.
[132] Viewed at: https://www.gov.br/inmetro/pt-br/assuntos/regulamentacao/modelo-regulatorio-do-inmetro.
[133] WTO document WT/TPR/S/358/Rev.1, 18 October 2017.
[134] Common Market Group (GMC) Resolution No. 45/17, 19 December 2017.
[135] Common Market Council (CMC) Decisions No. 20/18, 17 December 2018; and No. 16/19, 4 December 2019.

human health and safety. In general, labelling requirements relate to the products' quality, quantity, composition, guarantee, shelf life, origin, and risks to consumer health and safety. All labels must bear this information in Portuguese and indicate the brand or name of the manufacturer.

3.123. The ABNT coordinates the consensus-based development of Brazilian standards, and represents Brazil in international and regional standardization forums (ISO, IEC, and MERCOSUR Standardization Association (AMN)). The ABNT accepted the Code of Good Practice for the Preparation, Adoption and Application of Standards (Annex 3 of the TBT Agreement) in 1995.[136] Standardization work is carried out by approximately 150 technical committees. Draft standards undergo a process of public consultations for 30 days. Once a technical consensus is reached, the standard is published by the ABNT. Standards older than five years are reviewed to ensure that they remain up to date. Brazilian standards may be used as base reference for technical regulations adopted by INMETRO.

3.124. As at May 2022, there were 8,934 standards in force in Brazil. Between January 2017 and May 2022, Brazil published 3,093 new standards, some 41% of which were adoptions of international (ISO/IEC) standards. As at 31 May 2022, INMETRO applied the following 132 compulsory conformity assessment procedures: certification (90 products and 8 services); conformity declaration by the supplier (16 products and 10 services); inspection (7 products); and audit (1 process). Additional compulsory conformity assessment procedures are administered by other competent entities, such as the Brazilian Health Regulatory Agency (ANVISA), the National Telecommunications Agency ANATEL, and MAPA. Information on conformity assessment measures affecting imports is made available in Siscomex (Section 3.1.1.).

3.125. Between January 2017 and May 2022, Brazil made 1,446 notifications to the WTO TBT Committee, of which 689 were regular notifications mostly made under Article 2.9 of the TBT Agreement. For 74 regular notifications (11% of all regular notifications made), the timeliness of the submission allowed for a comment period of 60 days or more. Over the same period, Brazil was asked to respond to six newly raised specific trade concerns at the TBT Committee.[137]

3.126. INMETRO's General Coordination of Accreditation (CGCRE) remains Brazil's national accreditation body in the field of conformity assessment.[138] It accredits entities engaging in certification, inspection, calibration, and testing. According to the authorities, entities seeking accreditation to carry out compulsory conformity assessment activities are generally not required to have a permanent office in Brazil, but a few technical regulations stipulate it as a prerequisite.

3.127. As at 31 May 2022, 493 calibration laboratories and 1,274 testing laboratories were accredited in Brazil, down from 382 and 1,046, respectively, in January 2017. There were also 1,176 entities with active accreditations to perform conformity assessments (certification, inspection, and performance verification), up from 879 in January 2017. Among the Brazilian-accredited entities, five laboratories were located overseas.

3.3.3 Sanitary and phytosanitary requirements

3.128. There have been no major changes to the legal and institutional frameworks for sanitary and phytosanitary (SPS) protection since Brazil's previous Review.[139] MAPA, through its Secretariat of Animal and Plant Health and Inspection (SDA), remains in charge of SPS measures related to animal and plant health. ANVISA, an autonomous body, retains regulation and surveillance responsibilities for the protection of human health, including the setting of maximum residue levels of pesticides.[140] The National Technical Commission on Biosafety (CTNBio), a multidisciplinary advisory body to the Federal Government, remains Brazil's authority for all activities involving genetically modified

[136] WTO document G/TBT/CS/2/Rev.22, 29 February 2016.
[137] Viewed at: https://epingalert.org/.
[138] Decree No. 7,938, 19 February 2013.
[139] WTO document WT/TPR/S/358/Rev.1, 18 October 2017.
[140] Besides coordinating the National Sanitary Surveillance System and sanitary controls at Brazil's borders, ANVISA regulates health services, public health laboratories, and health-related products (including their advertising). ANVISA is connected to the Ministry of Health through a management contract, which is renewed periodically.

organisms (GMOs). ANVISA and MAPA continue sharing regulatory and surveillance competences over certain vegetable products.

3.129. Brazil's enquiry points and notification authority for SPS matters have not changed since its last Review.[141] Between January 2017 and May 2022, Brazil submitted to the WTO 1,155 notifications, including 2 emergency and 834 regular. Approximately 14% of the measures announced in regular notifications allowed for a comment period of at least 60 days, and 11% were based on international standards. Over the same period, Brazil was asked to respond to one newly raised specific trade concern at the Committee on Sanitary and Phytosanitary Measures.[142]

3.130. Competence for the adoption of SPS measures remains vested in ANVISA and MAPA. The authorities indicate that there have been no major changes to either entity's adoption procedures since Brazil's last Review.[143] A non-automatic licensing system remains in place for imports subject to SPS controls. The importation of some of these goods may also require prior authorization, certification (for unrestricted commercialization or quality), and/or inscription in a register.

3.131. In general, SPS controls for exports from Brazil include registration and accreditation of the producer and certification of the exported good. As from October 2021, registration certificates for exports of pesticides may be granted on the basis of the product's registration in the destination jurisdiction, thereby enabling Brazilian-based producers to export pesticides that do not comply with the requirements for commercialization on the Brazilian market.[144] Product-specific import and export formalities (including phytosanitary, quality, and identity requirements) can be consulted and fulfilled through Siscomex.

3.132. The prerequisites for the importation of products of animal (including aquatic animal) origin into Brazil include assessment or recognition of the exporting country's sanitary inspection systems as equivalent to Brazil's, accreditation of the exporting establishments, and approval of each establishment's products and labels.[145] Each shipment to Brazil must be accompanied by a sanitary certificate issued by the exporting country's competent authorities, and carry approved labels or stamps. Imports of animal products and their sub-products may be physically inspected at the port of entry, with samples taken for laboratory testing whenever necessary, depending on the foreign establishment's compliance record.[146]

3.133. Imports of plants and plant products are subject to documentary and inspection requirements that vary according to the product's intended use and its classification in one of five risk categories. Plant products commercialized in Brazil, including imports, must comply with quality-related characteristics (e.g. size, purity, and maturity) laid out in the Brazilian classification system, whenever a specific standard to that effect is in place; the classification of imported plant products is done by MAPA.[147] The importation of seeds for commercial purposes is strictly limited to the species and varieties contained in the National Register of Plant Varieties (RNC) maintained by MAPA.[148] The conformity of imports is verified at the border, either by the SDA or by accredited private companies.[149]

3.134. Importers of controlled foodstuffs must obtain an authorization from ANVISA and a licence from a state or municipal sanitary authority; the licence serves as an authorization from the National Sanitary Surveillance System and is valid throughout Brazil. Some of these products can only be imported after inscription in ANVISA's sanitary register.[150]

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[141] WTO document WT/TPR/S/358/Rev.1, 18 October 2017.

[142] Viewed at: https://epingalert.org/.

[143] WTO document WT/TPR/S/358/Rev.1, 18 October 2017.

[144] Decree No. 10,833, 7 October 2021.

[145] Normative Instruction No. 35, 25 September 2018.

[146] In general, testing is carried out at MAPA laboratories; when necessary, laboratories officially accredited by MAPA may also be used. Testing costs are paid by the owner of the products.

[147] Law No. 9,972, 25 May 2000; and Decree No. 6,268, 22 November 2007.

[148] New plant varieties may be included in the register after specific trials designed to verify their adaptation to Brazilian conditions (Normative Instruction No. 50, 15 December 1998).

[149] The rules and guidelines that regulate inspections of imported plants and their products are laid out in Normative Instruction MAPA No. 36, 10 November 2006 (WTO document G/SPS/N/BRA/144/Add.1, 28 November 2006 and addenda).

[150] Products that require registration are listed in ANVISA Resolution RDC No. 278, 22 September 2005.

3.135. Brazil maintains an Importation Alert Regime (RAI) targeting foreign establishments whose shipments of edible animal products have been found to be non-compliant with Brazilian SPS requirements. Whenever an irregularity is detected and an alert is issued, the overseas establishment's subsequent shipments (at least 10) of the same product are subject to 100% physical inspections and laboratory testing. Repeated irregularities of the same nature would trigger suspension of the establishment's licence to export to Brazil. Shipments of goods produced and certified after the suspension date will not be allowed to enter Brazil, even though importation may have already been authorized. If no sufficient evidence of corrective measures taken is received 90 days after notification of the exporting country's competent authorities, the SDA may revoke the establishment's accreditation. In case of recurrent serious irregularities, the SDA may suspend the accreditation of all similar establishments from that country or of the entire country.

3.136. Whenever required by the destination jurisdiction, Brazilian-based exporters of products of animal origin must obtain accreditation (*habilitação*) for their target market, conditional on a favourable official opinion (*parecer official*) by the SDA as to the applicant's documentary conformity and capacity to comply with any market-specific SPS requirements. A sanitary certificate must also be obtained from the SDA for each export shipment.

3.137. Brazil prohibits the commercialization, including imports and exports, of hormonal substances with anabolic characteristics, unless intended for therapeutic or research use.[151] The use of substances with anabolic hormonal properties for the purpose of promoting growth and weight in bovines and poultry destined for slaughter is banned.[152]

3.3.4 Competition policy and price controls

3.3.4.1 Competition policy

3.138. The Brazilian competition regime did not undergo major changes during the review period, having been rationalized in 2012.[153] The Administrative Council for Economic Defense (CADE) remains Brazil's authority for the protection of competition.[154] Consumer protection remains the remit of the National Secretariat for Consumers (SENACON). Responsibility for competition advocacy is currently shared between CADE and the Secretariat for Economic Monitoring, and Competition and Competitiveness Advocacy under the Ministry of Economy.[155]

3.139. As in most other jurisdictions, Brazil's competition regime does not apply to export-oriented anti-competitive practices (including cartels) that have no effect on the domestic market. Additionally, CADE's remit does not include the regulation of prices, the control of public aid, and the analysis of anti-competitive conduct's criminal aspects.[156] CADE and Brazil's specialized regulatory agencies have complementary competences in regulated sectors; the former has authority over competition-related matters, and the latter are competent to issue rulings on regulatory grounds.[157]

[151] MAPA Normative Instruction No. 55, 1 December 2011.
[152] MAPA Normative Instruction No. 17, 18 June 2004.
[153] WTO Document WT/TPR/S/283/Rev.1, 26 July 2013.
[154] The enactment of Law No. 13,848, 25 June 2019, conferred on CADE the same status as other regulatory agencies, with administrative, budgetary, and financial autonomy.
[155] Decree No. 11,036, 7 April 2022.
[156] CADE remains composed of three bodies: the Administrative Tribunal for Economic Defence, the General Superintendence, and the Department of Economic Studies. CADE's activities are governed by Law No. 12,529, 30 November 2011; and Resolution No. 1, 29 May 2012.
[157] At end-June 2022, CADE had technical cooperation agreements with the National Agency for Data Protection (ANPD), the National Telecommunications Agency (ANATEL), the National Supplementary Health Agency (ANS), the National Agency for Waterway Transportation (ANTAQ), the National Civil Aviation Agency (ANAC), the National Cinema Agency (ANCINE), the National Health Regulatory Agency (ANVISA), the National Petroleum Agency (ANP), the National Land Transportation Agency (ANTT), the National Institute of Industrial Property (INPI), and the Securities and Exchange Commission (CVM). A Joint Normative Act, adopted by CADE and the BCB in December 2018, sets out the procedures for coordinated action in merger reviews and in the analysis of anti-competitive conduct in Brazil's financial system. Viewed at: https://www.bcb.gov.br/conteudo/home-ptbr/TextosApresentacoes/Ato%20normativo%20conjunto%205_12_2018%20limpa.pdf.

3.140. A review of competition policy in Brazil, carried out by the OECD in 2019[158], recognized the considerable advances made to date but found scope for further improvements to the legal and institutional frameworks. Reform recommendations included making a clearer delineation of the investigative and adjudicative functions within CADE, disciplining the recourse to settlement agreements, modernizing merger notification criteria, reinforcing penalties and their application, fostering private enforcement activity, and boosting international cooperation through provisions on investigative assistance and exchange of confidential information (without investigated parties' consent) with enforcers in overseas jurisdictions. CADE was also encouraged to speed up investigations and reduce case backlog, dedicate more resources to the investigation of conduct cases, address the relatively high staff turnover, and focus on issuing substantive guidelines, in addition to procedural ones.[159]

3.141. As a follow-up to the OECD review's recommendations, CADE has created a dedicated unit for unilateral conduct analysis and has implemented several transparency-enhancing initiatives. During 2017-22, CADE issued or updated guidelines on submitting data to its Department of Economic Studies, fighting cartels in public procurement, antitrust remedies, applying for leniency, and submitting evidence in leniency applications. In June 2021, CADE also published the Cade Mecum – a compendium of Brazil's antitrust-related legislation. In addition, CADE continued improving service delivery through digital means. Besides strengthening its artificial intelligence-based investigative means, CADE has launched several online tools, such as a digital questionnaire for market information-gathering, a case law database, and a leniency application portal (Clique Denúncia). The authorities indicate that Senate Bill No. 283/2016, intended to establish a new framework for private antitrust enforcement in Brazil, is currently undergoing a legality review at the Chamber of Deputies, which is the last stage before presidential approval.

3.142. Since 2017, CADE has investigated various cases of unilateral conduct in the transportation sector. It has also investigated bid-rigging in public procurement related to construction works and outsourced services. In addition, it has been investigating cartels in the construction and automobile manufacturing markets. During that period, with a view to providing inputs for regulatory reforms, CADE (in collaboration with the OECD) carried out a review of Brazil's federal-level public procurement framework and launched an assessment of public policies governing ports and civil aviation.

3.143. As part of its leniency programme, CADE may conclude cease-and-desist agreements with investigated undertakings. The settlement would suspend CADE's investigation conditional on the fulfilment of specific commitments, including payment of reduced fines, within a set timeframe. Settlement agreements are not reviewed by Brazil's courts and no finding of an infringement is put on record in non-cartel cases. During the review period, CADE concluded a significant number of cease-and-desist agreements, although annual figures indicate a downward trend (Table 3.16).

3.144. In 2019, two settlement agreements suspended CADE's investigations of alleged abuse of dominance in the oil refinery market and of alleged anti-competitive practices in the natural gas market by the SOE Petrobras. Under the agreements, Petrobras committed to divest eight refineries, fuel transportation assets, its three natural gas carriers, and any indirect ownership of gas distribution companies.

Table 3.16 Competition enforcement, 2017-21

	2017	2018	2019	2020	2021
Applications and complaints	**503**	**497**	**548**	**556**	**711**
Merger applications submitted	369	405	442	471	627
Reviewed	354	392	420	447	607
Not reviewed	9	9	17	22	19
Merger applications withdrawn	6	4	5	2	1
Leniency applications	26	11	14	6	20
Requests for advisory opinions	3	7	3	3	4
Investigations launched	105	74	89	76	48
Reviews and investigations[a] concluded	**392**	**429**	**461**	**471**	**636**

[158] OECD (2019), *OECD Peer Reviews of Competition Law and Policy: Brazil.* Viewed at: www.oecd.org/daf/competition/oecd-peer-reviews-of-competition-law-andpolicy-brazil-2019.htm.

[159] OECD (2019), *OECD Peer Reviews of Competition Law and Policy: Brazil.* Viewed at: www.oecd.org/daf/competition/oecd-peer-reviews-of-competition-law-andpolicy-brazil-2019.htm.

	2017	2018	2019	2020	2021
Mergers	379	404	433	454	611
Cleared unconditionally	353	384	406	423	585
Cleared subject to remedies	5	6	5	7	6
Blocked	3	1	0	0	0
Abuse of dominance[b]	1	4	10	3	2
Restrictive practices[b]	12	21	18	14	23
Settlements (cease-and-desist agreements) approved	70	60	19	17	9
Total administrative fines (BRL million)	941.7	1,955	960.2	279.4	1,356

a Investigations launched by the Office of the Superintendent General.
b Cases adjudicated by the Administrative Tribunal for Economic Defence.

Source: CADE.

3.145. During the review period, Brazil continued to strengthen and formalize its international cooperation efforts on competition policy. As at June 2022, CADE had 21 non-binding technical cooperation agreements with overseas competition authorities and international organizations. Besides playing a leading role in the discussion of antitrust-related matters within MERCOSUR, Brazil is also an active participant in international forums on competition policy, including the International Competition Network, the BRICS International Competition Conference, and the Inter-American Alliance for Competition Defence.

3.3.4.2 Price controls

3.146. The consumer price index (IPCA) used in Brazil's inflation targeting regime contains several goods and services whose prices are deemed insensitive to supply and demand fluctuations, because they have been stipulated in long-term contracts or set by a public sector entity (Table 3.17).

Table 3.17 Regulated prices, 2022

	Competent entity
Regulated at the federal level	
Residential electricity	Brazilian Electricity Regulatory Agency (ANEEL)
Landline phone services	National Telecommunications Agency (ANATEL)
Healthcare plans	National Regulatory Agency for Private Health Insurance and Plans (ANS)
Pharmaceutical products	Drug Market Regulation Chamber (inter-ministerial body)
Gambling (lottery tickets)	Caixa Econômica Federal (federal state-owned bank)
Interstate bus service	National Transportation Agency (ANTT)
Postal services (letters)	Empresa Brasileira de Correios e Telégrafos/MCTI
Regulated at the sub-federal level	
Compressed natural gas (vehicle fuel)	State governments
Subway	State governments
Public transport: city bus fares, intercity bus fares, city train fares	Municipalities
Water and sewage fees	Municipalities or state regulatory agencies
Taxi fares	State governments
Vehicle registration fees	State governments
Notary services	State governments
Natural gas (piped cooking gas)	Rio de Janeiro, São Paulo, and Curitiba municipalities
Road tolls	State governments
Traffic fines	State governments
Regulated professions fees	Regulatory bodies

Note: The BCB compiles this information for illustrative proposes only. It does not have any formal control over the respective policies.

Source: BCB.

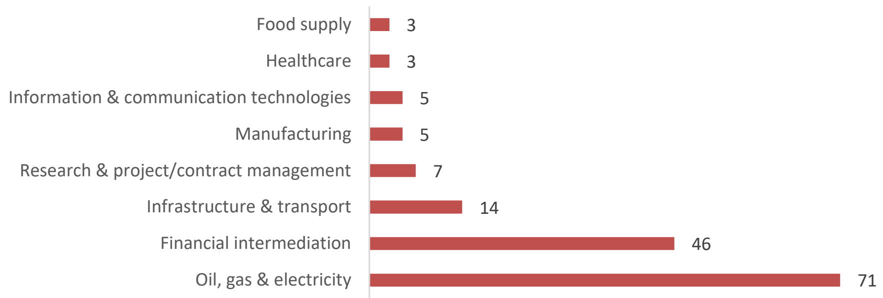
3.147. Although formally deregulated since 2002, prices of refined petroleum products could be influenced by the state-controlled Petrobras, which still holds a dominant position in certain market segments in Brazil (Section 4.2.2.3.1.3). Residential electricity and fixed-line telephone tariffs are set through concession contracts awarded by the Federal Government. Since 2006, their annual readjustments are linked to general price indices. Prices for some 90% of pharmaceutical products are regulated by way of maximum manufacturer and consumer prices, which are adjusted annually. The timing and size of readjustment of the remaining regulated prices are at the discretion of the respective competent entities.

3.3.5 State trading, state-owned enterprises, and privatization

3.148. Brazil indicated the existence of one state trading enterprise (STE), the National Company for Food Supply (CONAB), in its WTO notification for the years 2018-19. Its previous notification on the matter, dated 11 September 2018, had not identified any STEs "that fall within the working definition of such enterprises".[160] Brazil's STE notifications have been the subject of discussions at the Working Party on State Trading Enterprises.[161]

3.149. The Federal Government continues to control a relatively large number of companies with commercial activities in a range of industries (Chart 3.7).[162] Many federal SOEs are also shareholders in various private companies. In addition, there are various "public companies" owned or controlled by state and municipal governments; consolidated information on them is not available.

Chart 3.7 Federal SOEs by sector, December 2021



Source: Ministry of Economy, *Federal State-Owned Enterprises Bulletin*, Fourth Quarter 2021.

3.150. In December 2021, the Ministry of Economy reported the existence of 154 federal SOEs (down from 220 at end-2017), including 47 directly controlled enterprises. These SOEs employed 446,607 people, down from 503,376 in 2017.[163] As at the time of Brazil's previous Review, 18 SOEs remained dependent on Federal Treasury funding for their operations; in 2021 their combined budgetary allocations amounted to BRL 26.8 billion.[164] The authorities indicate that, at end-June 2022, federal SOEs numbered 133, following the dilution of Brazil's shareholdings in Eletrobras from 72% to 45% and the privatization of other state-owned assets (Sections 1.2.4.2 and 4.2.2.4).

3.151. Following the establishment of the Ministry of Economy in 2019, its Special Secretariat for Denationalization, Divestment and Markets (SEDDM) has been assigned to, *inter alia*, oversee the reorganization of the State's role in the economy, the formulation of downsizing and divestment policies, and the management of the Union's real estate assets. The SEDDM's responsibilities, within the Ministry of Economy's remit, also include: (i) proposing, coordinating, and executing policies and actions related to privatization and divestment; (ii) coordinating and supervising the execution of the National Privatization Programme; (iii) formulating guidelines, and coordinating and defining corporate governance criteria for federal SOEs; and (iv) advising on strategic corporate issues of SOEs linked to the Ministry of Economy. The Secretariat for Coordination and Governance of State Enterprises (SEST) under the SEDDM is responsible for, *inter alia*, coordinating the preparation of

[160] WTO documents G/STR/N/18/BRA, 2 November 2020; and G/STR/N/17/BRA, 11 September 2018.
[161] WTO document G/STR/M/34, 6 December 2018.
[162] According to the authorities' definition, federal SOEs are those companies in which Brazil (the Union) owns more than 50% of voting shares.
[163] Although Brazil's federal SOEs have broad autonomy in the management of their workforce, they must seek authorization from the Ministry of Economy's Secretariat for Coordination and Governance of State Enterprises in specific cases involving hiring or dismissal of staff.
[164] Ministry of Economy (2021), *Federal State-Owned Enterprises Bulletin*, Fourth Quarter. Viewed at: https://www.gov.br/economia/pt-br/centrais-de-conteudo/publicacoes/boletins/boletim-das-empresas-estatais-federais/arquivos/boletim-das-empresas-estatais-federais-20o-edicao.

SOEs' expenditure and investment programmes; monitoring SOEs' budget execution; elaborating guidelines and actionable parameters on personnel, governance, and budget policies; compiling and publishing data submitted by SOEs; and advising on SOE-related matters.[165]

3.152. During the review period, the main legal framework amendments concerning SOEs included rules disciplining the divestment of assets by federal mixed-capital companies[166], procedures and criteria for SOE liquidation[167], and governance matters.[168] The authorities indicate that SEDDM and SEST also took steps to increase transparency regarding federal SOEs' activities and to improve their internal control and strategic planning mechanisms.

3.153. Some federal SOEs continue to hold dominant positions in their respective markets or segments thereof. During the review period, Brazil took steps to stem certain SOEs' market dominance and facilitate the entry of competitors. In July 2019, under two settlement agreements with CADE (Section 3.3.4.1), Petrobras committed to divest various assets with a view to fostering competition in the natural gas and oil refinery markets. Besides diluting the Union's shareholding in Eletrobras, the company's additional equity financing in June 2022 was conditional on the granting of two new concessions for electricity generation (Section 4.2.2.4).[169]

3.3.6 Government procurement

3.154. Brazil became an observer to the Committee on Government Procurement in October 2017 and applied for accession to the WTO 2012 Agreement on Government Procurement (GPA 2012) in May 2020. In October 2020, Brazil circulated its Replies to the Checklist of Issues and an informal English translation of its government procurement laws and regulations. Brazil circulated its initial market access offer in February 2021, its revised market access offer in November 2021, and its final offer in June 2022. GPA Parties welcomed Brazil's application and active engagement and indicated their readiness to engage with Brazil to move this accession process forward.[170]

3.155. The value of government procurement across all levels of government in Brazil was estimated at BRL 874 billion in 2010.[171] In 2020, at the federal level, the value of government procurement was estimated at BRL 87,644.6 million, accounting for 1.17% of Brazil's GDP. These figures are similar to those available from 2016 to 2020, except for 2019, which has slightly lower figures. From 2016 to 2020, the amount of procurement subject to international competitive bidding continued to be very low, ranging from 0% to 0.23% (Table 3.18).

Table 3.18 Value of federal government procurement in Brazil, 2016-20

(BRL million)

Year	Total value of procurement	Share (%) of GDP	Procurement subject to international competitive bidding	
			Total value	Share (%) of total procurement
2016	94,039.2	1.50	162.2	0.17
2017	78,190.8	1.19	16.3	0.02
2018	87,651.4	1.25	196.8	0.23
2019	72,035.1	0.97	0.8	0.00
2020	87,644.6	1.17	16.3	0.02

Source: Information provided by the Ministry of Economy.

3.156. Brazil's decentralized system comprises independent procurement jurisdictions at all levels of government that share a common set of rules established by the Federal Government. The common elements used to be mainly set out in the 1993 General Procurement Act (Federal

[165] Decree No. 9,745, 8 April 2019, amended by Decrees No. 10,761, 2 August 2021; and No. 11,036, 7 April 2022.
[166] Decree No. 9,188, 1 November 2017.
[167] Decree No. 9,589, 29 November 2018, amended by Decree No. 10,549, 23 November 2020.
[168] Resolutions issued by the Interministerial Commission on Corporate Governance and Administration of the Union's Equity Interests (CGPAR) can be viewed at: https://www.gov.br/economia/pt-br/assuntos/empresas-estatais-federais/legislacao/resolucoes/resolucao.
[169] Provisional Measure No. 1,031, 23 February 2021, converted into Law No. 14,182, 12 July 2021.
[170] For additional details on Brazil's accession to the GPA 2012, see WTO documents GPA/AR/3, Section 3.1.2; and GPA/AR/4, Section 3.1.2.
[171] IPEA and CEPA (2021), *Cadernos Brasil na OCDE – Compras Públicas*. Viewed at: https://repositorio.cepal.org/bitstream/handle/11362/47061/S2100424_pt.pdf?sequence=1&isAllowed=y.

Law No. 8,666/1993).[172] During the period under review, the Federal Government enacted a new Government Procurement Law (Law No. 14,133, 1 April 2021 – Procurement Process and Administrative Contract Law), which aimed at updating and simplifying rules and procedures currently regulated by the 1993 Procurement Law.[173] The 2021 Procurement Law includes provisions on transparency, procurement methods, evaluation of bids, exemptions, appeals, and contract management, and it applies to procurement procedures, and contracts entered into by entities at the federal, state and federal district, and municipal levels in all three branches of government (executive, legislative, and judicial). SOEs are not covered by the 2021 Procurement Law.[174]

3.157. The 2021 Procurement Law entered into force on 1 April 2021 and will co-exist with the 1993 Procurement Law for a period of two years, i.e. until 1 April 2023. At that date, the 1993 Procurement Law will no longer be in force. During the coexistence period, procuring entities may choose which of the two laws to apply for each procurement. The electronic systems of the Federal Government will accommodate both regimes during the coexistence period.

3.158. To facilitate the implementation of the 2021 Procurement Law, the Secretariat of Management of the Ministry of Economy (SEGES) has enacted normative rulings and ordinances, including to establish: (i) administrative procedures for price research for the procurement of goods and services; (ii) procedures for direct awards using electronic procurement tools/platforms; (iii) rules to define the estimated total value for the procurement of goods and services; (iv) rules for the designation and performance of contract inspectors and managers; and (v) the Management Committee of the National Network of Government Procurement.[175]

3.159. Article 11 of the 2021 Procurement Law provides that the procurement process should aim at: (i) ensuring the selection of the proposal capable of delivering the most advantageous results for the procuring entity, including by taking into account the life cycle cost of the procured object; (ii) ensuring fair competition and equal treatment among suppliers; and (iii) encouraging innovation and sustainable national development. Article 28 provides for the use of the following procurement methods: (i) reverse auction (*pregão*); (ii) competition (*concorrência*); (iii) open tendering (*concurso*); (iv) auction (*leilão*); and (v) competitive dialogue (*diálogo competitive*). Competitive dialogue has not previously existed in the Brazilian system. It allows procuring entities to engage in dialogue with selected suppliers with the aim of developing technical solutions capable of meeting the needs of the procuring entities. The selected suppliers are expected to submit their final proposals at the end of the dialogue phase.

3.160. In addition, direct award contracting (or limited tendering) remains possible under the 2021 Procurement Law. For example, Articles 74 and 75 provide a list of cases in which procuring entities may or must resort to limited tendering, including for procurement aimed at fostering scientific and technological development, procurement of strategic products for the Unified Health System (SUS), procurement to respond to emergencies, and the procurement of goods and services between public entities.

3.161. In 2021, 99% of all federal administration procurement took place through reverse auction (Table 3.19). Pursuant to this procurement method, a contract is awarded based on the lowest price criterion or highest discount. The 2021 Procurement Law requires this method for the acquisition of ordinary goods and services. Reverse auction does not apply, however, to the procurement of some specialized technical services and engineering works and services. Reverse auctions must be conducted electronically by entities at the federal level and when states, municipalities, and the Federal District conduct procurement with federal resources.[176]

[172] WTO documents WT/TPR/S/283/Rev.1, Section 3.4.4; and WT/TPR/S/358, Section 3.3.6.
[173] Law No. 14,133, 1 April 2021. Viewed at: http://www.planalto.gov.br/ccivil_03/_ato2019-2022/2021/lei/L14133.htm; and WTO document GPA/ACC/BRA/2/Add.2, 7 October 2021.
[174] SOEs at the central and subcentral levels of government continue to be governed by Law No. 13,303/16, which provides additional flexibility and autonomy in terms of procurement procedures.
[175] Normative Rulings of SEGES No. 65, 7 July 2021; No. 67, 8 July 2021; No. 72, 12 August 2021; and No. 75, 16 August 2021; and Decree No. 10,764, 9 August 2021.
[176] Decree No. 10,024, 20 September 2019.

Table 3.19 Federal administration procurement by method, 2017-21

(BRL million)

Method	2017		2018		2019		2020		2021	
	Value	%	Value	%	Value	%	Value	%	Value	%
Reverse auction (*pregão*)	59,582.89	95	64,648.53	97	62,186.29	98	73,808.20	98	94,855.60	99
Competition (*concorrência*)	2,838.25	5	1,278.92	3	808.50	1	891.60	1	494.87	0
International tendering (*concorrência internacional*)	16.32	0	196.81	0	0.80	0	0.61	0	0.09	0
Open tendering (*concurso*)	1.06	0	1.26	0	0.85	0	1.36	0	0.29	0
Price consultation (*tomada de preços*)	185.94	0	323.49	0	348.62	1	433.92	1	201.20	0
Invitation (*convite*)	5.78	0	10.85	0	16.33	0	8.27	0	2.97	1
Total	**62,630.26**	**100**	**66,459.86**	**100**	**63,361.39**	**100**	**75,143.95**	**100**	**95,555.01**	**100**

Note: These figures do not include procurement by federal SOEs. Data regarding the use of direct award contracting (limited tendering) by the federal administration were not available.

Source: Information provided by the Ministry of Economy.

3.162. As a general principle, the 2021 Procurement Law prohibits discriminatory treatment between national and foreign suppliers. Article 9 provides that procuring entities may not accord differentiated commercial, legal, labour, or social security treatment to Brazilian and foreign companies, including regarding the currency, and the method and location of payments, even when financing from international agencies is involved. Similarly, procuring entities may not establish preferences based on the place of birth, the principal place of business, or the domicile of suppliers.

3.163. To facilitate participation by foreign suppliers in government procurement, the Ministry of Economy adopted the Normative Instruction SEGES No. 10, 10 February 2020. The Normative Instruction allows foreign suppliers from any country to register in the Unified Suppliers Registration System (SICAF) and participate in government procurement opportunities. There is, however, a need to have legal representative with powers to receive citation in Brazil at the beginning of the procurement process (upon registration). The Normative Instruction also simplifies requirements related to the qualification of suppliers, for instance by only requesting sworn translations of qualification documents in Portuguese at the time of signing the contract.

3.164. The 2021 Procurement Law further facilitates the submission of bidding documents by foreign suppliers. For example, Article 67:4 provides that certificates and other documents related to the technical and professional qualification issued by foreign entities must be accepted if they are accompanied by a Portuguese translation. Also, registration with the competent professional body in Brazil is no longer a prerequisite for foreign suppliers to submit bids and participate in government procurement opportunities. Pursuant to Article 67:7, foreign suppliers will only need to submit their applications for registration with the relevant professional boards in Brazil at the time of executing the contracts.

3.165. Possibilities continue to exist to provide Brazilian goods, services, and suppliers treatment more favourable than that accorded to foreign goods, services, and suppliers.

3.166. Article 60 of the 2021 Procurement Law provides that in case of a tie between two or more bids, several criteria may be used to break the tie, including the possibility of giving preference to goods and services produced by: (i) locally established companies; (ii) Brazilian companies; and (iii) companies that invest in research and in the development of technology in Brazil. Similar rules also apply to procurement by SOEs.[177]

3.167. Article 26 of the 2021 Procurement Law provides that a margin of preference of up to 10% may be applied to domestically manufactured goods and services. The preference may be extended

[177] Laws No. 12,462/11 and No. 13,303/16.

to goods and services of MERCOSUR countries, under certain conditions. The margin of preference may be up to 20% for domestic goods resulting from technological innovation and development carried out in Brazil. The authorities indicate that this provision is not yet enforced due to the lack of implementing regulations.

3.168. Complementary Federal Law No. 123/2006 institutes the National Statute of Micro and Small Enterprises (MSEs) and provides preferential measures for MSEs[178], including set-asides, quotas, and a preferential right to bid one more time if their original bid exceeded the best offer by up to 10%[179], for procurement taking place at the Federal, state and Federal district, and municipal levels. The preferences apply to all levels of the Brazilian public administration, unless more favourable terms are stipulated in any sub-federal legislation or procuring entity-specific regulations. Foreign-owned or controlled MSEs locally established as Brazilian companies are eligible for the preferential treatment provided by Law No. 123/2006. The proportion of procurement covered by this measure is estimated at around 26% at the federal level.

3.169. For procurement related to information technology and communications systems deemed strategic by the Federal Government, Article 26:7 of the 2021 Procurement Law provides that it may be restricted to technologies developed and manufactured in Brazil. Moreover, Law No. 8,248/91 provides that, for the procurement of goods and services related to information technology and automation, federal procuring entities must grant a preference to domestically developed goods and services. The authorities indicate that this provision is not yet enforced due to the lack of implementing regulations.

3.170. Preferential treatment is also provided to locally established family farmers, as defined by Law No. 11,326/06. For example, pursuant to Decree No. 8,473/2015, the Federal Public Administration must direct 30% of the total resources allocated in each fiscal year for the purchase of foodstuffs to Brazilian family farming. Also, procuring entities of the executive branch at all levels may resort to limited tendering to purchase foodstuffs from Brazilian family farmers.[180]

3.171. In addition, Article 26:6 of the 2021 Procurement Law allows the use of offsets. Specifically, it provides that, upon justification by the competent governmental authority, procuring entities may require commercial, industrial, technological compensation measures, or access to beneficial financing conditions, on terms established by the Federal Government. The use of offsets is further regulated by Decree No. 7,546/11, which sets out an indicative list of compensation measures (e.g. co-production, production under licence, sub-contracted production, technology transfer, and capacity-building). Additional compensation provisions in the environment and cultural/historical sectors can be found in Laws No. 12,462/11 (Article 4) and No. 13,303/16 (Article 32). For example, pursuant to both laws, procurements that are deemed to have a negative impact on the environment must provide for appropriate environmental compensation.

3.172. Administrative and judicial review procedures available in Brazil can be used by suppliers to challenge the conformity of any procurement act by a procuring entity with the applicable legislation. In this regard, Chapter II of the 2021 Procurement Law provides details on the applicable administrative review procedures, including regarding oppositions, requests for clarification, and appeals. These procedures also apply to foreign suppliers when participating in international tendering. A novelty in Brazil's 2021 Procurement Law concerns the introduction of Chapter XII on alternative dispute resolution, which encourages contractual parties (i.e. suppliers and procuring entities) to solve their disputes by non-judicial methods, including conciliation, mediation, and arbitration.

3.173. During the review period, a new electronic National Public Procurement Portal (PNCP) was launched.[181] Since April 2021, the PNCP has served as the official website for the centralized and mandatory disclosure of documents required by the 2021 Procurement Law. The PNCP also includes

[178] Article 3 of Law No. 123/2006 defines Micro and Small Enterprises, respectively, as those that: (i) earn less than BRL 360,000 per year; and (ii) earn between BRL 360,000 and BRL 4,800,000 per year.

[179] Specifically, Article 48 of Complementary Law No. 123/2006 provides that procuring entities: (i) must restrict procurement below BRL 80,000 to MSEs; (ii) may require sub-contracting to MSEs in the procurement of works and services; and (iii) shall establish a quota of up to 25% for MSEs in the acquisition of goods of a divisible nature.

[180] Law No. 10,696/03, Article 19; and Law No. 12,512/11, Chapter 3.

[181] The creation of the PNCP was provided for in Article 174 of the 2021 Procurement Law. Viewed at: https://pncp.gov.br.

other procurement-related information (e.g. information on registration and pre-qualification, award notices and tender documentation, tender proposals, and awarded contracts) and offers several other functionalities (e.g. a unified registration system, and an e-system to hold public sessions). Over time, the PNCP is also expected to become an important source of procurement statistics. SOEs and entities at the state and Federal District and municipal levels continue to enjoy additional flexibility in terms of publishing procurement notices and related information and may opt to do it via their own systems or, when appropriate, in the *Official Gazette*.

3.3.7 Intellectual property rights

3.3.7.1 Overview

3.174. Brazil's institutional framework for the protection of intellectual property (IP) rights was modified during the review period. The Intellectual Property Inter-Ministerial Group (GIPI), established in July 2019 and chaired by the Ministry of Economy[182], became responsible for IP policy formulation. The National Industrial Property Institute (INPI) continues to administer the granting and registration of industrial property rights, whereas copyright administration is overseen by the Special Secretariat for Culture under the Ministry of Tourism.[183]

3.175. GIPI is in charge of implementing and monitoring the national IP strategy (ENPI) for the period 2021-30, elaborated as part of a broader National Innovation Policy.[184] With the objective of making Brazil a world-class hub for innovation and creativity, the ENPI sets out five bi-annual action plans comprising 210 actions organized in 7 strategic axes. Key strategic directions include updating the national IP legislation in response to the business environment's digital transformation, strengthening and modernization of INPI, and better insertion of Brazil in the global IP system.

3.176. Since its previous Review, Brazil has enacted several legislative amendments affecting IP protection. Noteworthy developments occurred in the patents, utility models, and trademarks systems. As of June 2022, Brazil was a party to 15 of the 26 treaties administered by the World Intellectual Property Organization (WIPO), having ratified the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks in July 2019.[185] In addition, Brazil ratified the Budapest Convention on Cybercrimes in 2020 and the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization (the Nagoya Protocol) in 2021. The authorities indicate that Brazil is in the process of evaluating the possibility to accede to the Hague Agreement Concerning the International Registration of Industrial Designs.

3.177. The 2021 WIPO Global Innovation Index ranked Brazil 57th of 132 economies in terms of innovation capabilities, up from 69th (of 127 economies) in 2017. The gap between Brazil's rankings in the innovation input and innovation output sub-indexes also narrowed significantly, from 60th and 80th place, respectively, in 2017 to 56th and 59th place in 2021.[186]

3.178. In May 2021, INPI published a comprehensive assessment of the economic impact of Brazilian IP-intensive industries.[187] Focusing on applications for IP registration received during 2004-08, the study estimates their share in the Brazilian economy's total employment, wages, gross value added, and total exports and imports over three periods (2008-10, 2011-13, and 2014-16). On average during 2014-16, IP-intensive industries were estimated to account for 44.2% of total gross value added, 36% of the workforce, and a trade deficit of USD 29 billion. In that period, they also paid an average salary that was 11% higher than the average salary across non-IP-intensive sectors.

[182] Decree No. 9,931, 23 July 2019.
[183] Decree No. 10,359, 20 May 2020.
[184] Decrees No. 10,534, 28 October 2020; and No. 10,886, 7 December 2021.
[185] WIPO, *WIPO-Administered Treaties: Brazil*. Viewed at: http://www.wipo.int/treaties/en/ShowResults.jsp?country_id=23C.
[186] The Global Innovation Index published by the WIPO aims to capture the multi-dimensional facets of innovation through approximately 80 indicators, grouped into innovation inputs and outputs. Viewed at: https://www.wipo.int/publications/en/series/index.jsp?id=129.
[187] INPI (March 2021), *IPR-Intensive Sectors in the Brazilian Economy*. Viewed at: https://www.gov.br/inpi/pt-br/central-de-conteudo/estatisticas/arquivos/publicacoes/setores-intensivos-em-direitos-de-propriedade-intelectual.pdf.

3.3.7.2 Industrial property

3.179. Following an amendment of Brazil's Industrial Property Law (IPL) in August 2021, the term of patent protection (20 years for inventions and 15 years for utility models) commences from the patent application's filing date.[188] Previously, the Law also provided for a minimum protection period (10 years for inventions and 7 years for utility models) counted from the patent's granting date. The latter provision was revoked after a Supreme Court ruling declared it unconstitutional. The amendment of the IPL also eliminated a provision requiring ANVISA's prior consent for the technical examination of patent applications related to pharmaceutical products and processes.

3.180. In September 2021, the IPL was further amended to clarify the compulsory licensing provisions therein.[189] The amendment expanded the definition of emergencies that may justify recourse to compulsory licences, extended the compulsory licensing mechanism to also cover patent applications, and determined the licensing fees to be paid until the patent's value is effectively established.

3.181. During the review period, INPI issued patent examination guidelines for software-implemented inventions (updated in 2020) and chemistry-related inventions, published a Manual of Industrial Designs, and issued the third revision of its Trademarks Manual.[190] Having made the necessary adjustments to its procedures and IT systems, INPI in October 2019 started acting as an Office of Origin and a Designated Office for trademark registration via the international route provided for by the Madrid Protocol. The harmonization of trademark registration procedures brought about the acceptance in Brazil of trademark co-ownership, the possibility of multiclass trademark applications via the international route, and the registration of position trademarks.[191]

3.182. Agreements involving industrial property rights licensing and/or assignment, technology supply, technical assistance services, and franchising may be registered at INPI. Although registration is not mandatory, it is necessary in order to have effect for third parties, enable the remittance of foreign exchange in the form of royalties and licence fees, and qualify for income tax deductions. In 2017, the registration procedure was updated to streamline the formal and technical examination of requests.[192]

3.183. During the review period, INPI continued taking steps to reduce processing delays and its backlog of applications pending review (Table 3.20). Procedural developments included modification of the preliminary requirements for patent applications[193], expansion of fast-track examination facilities[194], and a growing network of bilateral work-sharing agreements under the Patent Prosecution Highway (PPH) initiative.[195]

Table 3.20 Industrial property applications and decisions, 2017-21

	2017	2018	2019	2020	2021
New applications					
Patents	25,658	24,857	25,396	24,339	24,238
Utility models	2,918	2,587	2,824	2,663	2,574
Industrial designs	6,000	6,111	6,433	6,263	6,711
Integrated circuit layout designs	3	3	3	2	0
Technology transfers	1,166	1,207	1,165	1,045	1,135
Trademarks	186,103	204,419	245,197	293,502	386,845
Geographical indications	10	7	16	17	9
Computer software	1,692	2,511	3,049	2,999	3,259

[188] Law No. 9,279, 14 May 1996, amended by Law No. 14,195, 26 August 2021.
[189] Law No. 14,200, 2 September 2021.
[190] Resolutions No. 158, 28 October 2016; No. 208, 27 December 2017; No. 232, 7 January 2019; and No. 249, 9 September 2019; and Ordinance No. 411, 23 December 2020.
[191] Resolutions No. 244 and No. 245, 27 August 2019; No. 247 and No. 248, 9 September 2019, and Ordinance No. 37/2021, 21 September 2021.
[192] Normative Instruction No. 70, 11 April 2017.
[193] INPI Resolutions No. 240 and No. 241, 3 July 2019.
[194] INPI Ordinances No. 149, 7 April 2020; and No. 53, 21 December 2021.
[195] Brazil's PPH cooperation agreement framework covers the following jurisdictions: Austria, China, Denmark, Europe (European Patent Office), France, Japan, the Republic of Korea, Portugal, Singapore, Sweden, United Kingdom, and United States.

	2017	2018	2019	2020	2021
Applications pending examination					
Patents	158,924	150,039	137,777	97,317	67,682
Utility models	6,001	4,990	4,343	3,818	3,837
Industrial designs	9,288	3,433	2,577	2,437	2,861
Integrated circuit layout designs	0	0	0	0	0
Technology transfers	0	0	0	0	0
Trademarks	359,562	191,535	129,713	205,685	312,125
Geographical indications	0	0	0	0	0
Computer software	2,629	0	0	0	0
Granting decisions					
Patents	5,448	9,968	12,704	20,416	26,887
Utility models	787	1,098	1,022	857	701
Industrial designs	6,212	8,699	5,835	5,391	5,468
Integrated circuit layout designs	22	0	5	2	0
Technology transfers	1,107	1,085	1,022	890	1,037
Trademarks	123,362	191,813	205,846	141,775	168,413
Geographical indications	4	6	6	9	13
Computer software	5,507	5,140	3,051	2,920	3,180

Source: INPI.

3.184. The authorities indicate that between 2017 and 2021, annual average pendency times declined as follows: industrial designs, from 15.9 to 2.5 months; geographical indications, from 23.4 to 20 months; and patents, from 11 to 5 years. Patent filings in the areas of (bio)pharmaceuticals and information and communication technologies had the longest average pendency times. During the same period, most appeals of INPI decisions related to trademarks.

3.3.7.3 Copyright

3.185. Copyright protection is enshrined in the Constitution and remains governed by the Copyright Law.[196] Brazil maintains a declarative system whereby registration is not a prerequisite for copyright protection but provides a presumption of authorship, which may be helpful in judicial procedures. Right holders may opt for registration with the Brazilian National Library (literary works), the School of Music or the School of Fine Arts of the Federal University of Rio de Janeiro (musical works and visual art), the National Cinema Institute (audiovisual works), the Federal Council of Engineering and Agronomy (artistic works related to agronomy, engineering, geography, geology, and meteorology), the Council of Architecture and Urbanism of Brazil (artistic works related to architecture and urbanism), or INPI (software).

3.186. The regulations governing the collective management of copyrights were consolidated and updated during the review period.[197] The authorities indicate that work on a legal framework for the development and use of artificial intelligence is ongoing.

3.187. The Copyright Law does not contain provisions with respect to the international exhaustion of rights; decisions are taken on a case-by-case basis. The authorities indicate that jurisprudence on the subject is not presently available, since there is no final decision by higher courts on the issue. Under Brazilian law, copyright holders may initiate procedures for the prosecution of importers of pirated goods.

3.188. Brazil's civil rights framework for the Internet contains provisions addressing certain aspects of online copyright infringement.[198] Although a comprehensive mechanism for the expeditious removal of copyright-infringing content has not yet been formalized in Brazilian legislation, Brazil's Superior Court of Justice (Superior Tribunal de Justiça) has ruled that failure to act within 24 hours of receipt of a private (extrajudicial) notification containing the precise address (URL) of the allegedly infringing content may result in civil liability of the Internet service provider.[199]

[196] Law No. 9,610, 19 February 1998.
[197] Decree No. 9,574, 22 November 2018; and Normative Instruction No. 5, 29 November 2021.
[198] Law No. 12,965, 23 April 2014.
[199] Superior Court of Justice, Special Appeals No. 1,512,647 and No. 1,707,859.

3.3.7.4 Enforcement

3.189. The civil and criminal penalty provisions in Brazil's legislation for violations of industrial property, copyright, and related rights remained unchanged during the review period. Pursuant to Brazil's customs legislation, the RFB has authority to seize IP-infringing goods *ex officio* or at the request of the right holder.[200]

3.190. The National Council for Combating Piracy and Intellectual Property Offenses (CNCP), a body regrouping public and private sector representatives created in 2004, coordinates the elaboration and implementation of public policies aimed at combating IP offences. In 2021, the Ministry of Justice and Public Security approved a new National Plan to Combat Piracy for the period 2022-25, elaborated by the CNCP. The plan sets out 62 crime-fighting targets with short-, medium-, and long-term actions to achieve them.[201]

3.191. In 2019, Brazil's Federal Police carried out "Operation Copyright", taking coordinated action in five Brazilian states to shut down websites with pirated content and seize equipment. As a result, 100 applications and 136 websites were closed down. During 2019-21, the Integrated Operations Secretariat of the Ministry of Justice and Public Security led enforcement operations in three phases of "Operation 404 against piracy". The coordinated actions resulted in the shutdown of 334 websites and 94 streaming applications offering copyright-infringing content, the execution of over 60 search and seizure warrants across 12 Brazilian states, and several arrests.

3.192. The authorities indicate that during the review period the most common types of IPR infringement included audiovisual piracy and counterfeit goods (mostly cigarettes and toys).

[200] Decree No. 6,759, 5 February 2009.
[201] Resolution No. 3, 3 December 2021.

4 TRADE POLICIES BY SECTOR

4.1. Brazil remains a major player in the global trade of certain agricultural commodities. In 2021, the agricultural sector's share of gross value added and employment stood at 8.1% (5.7% in 2017) and 9.7%, respectively (including fisheries and forestry). The average MFN applied tariff for agricultural products in 2022 stood at 9.1% (WTO definition) (HS17 definition). Its low levels of agricultural support, minimal market price support, and low protection corroborate the country as a competitive global agriculture exporter.[1] Agricultural or rural credit at administered and preferential interest rates remain the major policy instrument for the sector. Agricultural zoning requirements continue to link agricultural support to environmental sustainability.

4.2. Brazil holds a significant position in the international mining industry. During the review period, institutional and policy developments took place. Tariff protection remained unchanged. Domestic support for developing mining companies and sustainable technologies was made available to selected firms. BNDES sold its last block of shares in Vale S.A.

4.3. Brazil is a net exporter of crude oil and importer of refined oil products. The Brazilian energy matrix continued to be one of the greenest in the world, and solar energy capacity increased by 70% from 2020 to 2021, reaching 13 GW in installed capacity. Its state-controlled Petrobras maintained its dominant position both in upstream and downstream hydrocarbons activities; for the oil products distribution and retail markets, Petrobras sold all of its shares in BR Distribuidora, now called Vibra Energia. In the natural gas sector, a new Gas Law is set to ensure an open and competitive market. Brazil started implementing its National Biofuels Policy (RenovaBio). During the review period, Brazil's installed capacity and power generation continued to grow in a fast pace. In July 2021, legislation was passed allowing for the privatization of state-owned Eletrobras.

4.4. Manufacturing remains relatively large (11.3% of gross value added in 2020), albeit declining, and diversified. Several factors continued to inhibit Brazil's ability to fully explore its industrial potential. Positive reforms and initiatives across the board are bound to bear long-lasting results and further attract FDI. The average MFN applied tariff for manufacturing products was reduced. Clothing, textiles, and transport equipment sectors continue to benefit from the highest tariff protection. Incentives, such as remission of duties and taxes on exports remain in place. General administered interest rate or concessional loans and government procurement preferences to local suppliers are still in place. Production step-related local content requirements tied to domestic support measures were continued. Industry-specific incentives as the automotive (INOVAR-Auto) were finalized. Few sector-specific schemes are still in place. RTAs for motor vehicles are operational.

4.5. Services, a key component of overall export competitiveness, remain the main contributor to Brazil's gross value added (69.8% in 2021). Due to the pandemic, services exports dropped from USD 34.3 billion in 2019 to USD 28.5 billion in 2020, before reaching USD 33.2 billion in 2021. Services imports fell from USD 69.4 billion in 2019 to USD 48.4 billion in 2020, and reached USD 50.3 billion in 2021. Despite improvements in certain areas, services continue to suffer from structural weaknesses. During the review period, Brazil's commitments under the GATS remained unchanged. Brazil undertook specific commitments on trade in services under three RTAs which contain GATS-plus services commitments. The main legal framework for banking remained relatively unchanged and the banking system has remained resilient. Since 2021, an "Open Banking" policy has been in place. The share of non-performing loans (NPLs) dropped. Nevertheless, high interest spreads between lending rates and the remuneration of deposits remain in place. An "Open Insurance" policy to allow the sharing of consumers' information among different insurance companies authorized or accredited by the Superintendence of Private Insurance (SUSEP) by sharing data and services was implemented through openness and systems integration since 2021.

4.6. The fixed and mobile telephony markets remained fully open to competition, though dominated by a handful of large operators from abroad.

4.7. Due to the COVID-19 pandemic, in 2020 regular and non-scheduled flights dropped. Emergency measures to, *inter alia*, mitigate the negative economic effects of the pandemic on the air services sector were introduced. Civil aviation policy pursued the conclusion of new Air Transport

[1] OECD/FAO (2021), *OECD-FAO Agricultural Outlook 2021-2030*. Viewed at: https://doi.org/10.1787/19428846-en.

Agreements. In other transport modes, the main regulatory change was introduced by "BR do Mar" programme in 2022. Eight port terminals were conceded to the private sector under the Investment Partnership Programme (PPI).

4.8. To offset the negative effects from the COVID-19 pandemic, the Ministry of Tourism adopted a number of initiatives and prepared a strategy to recover the tourism sector.

4.9. Regarding professional services, the Doctors throughout Brazil Programme (Médicos pelo Brasil) was launched in 2019.

4.1 Agriculture, Forestry, and Fisheries

4.1.1 Main features

4.10. Agriculture accounts for a relatively stable share of gross value added and employment that stood at 8.1% (5.7% in 2017) and 9.7% in 2021, respectively (including fisheries and forestry).[2] The average annual total factor productivity (TFP) growth was 3.18% in the period 2000-20.[3] Over the past decades, the labour productivity gap between agriculture and other sectors of the economy has sharply declined, with the agricultural sector registering faster labour productivity growth *vis-à-vis* other sectors. Brazil is endowed with the world's fourth-largest agricultural area, of which over one quarter is arable. Brazilian agriculture is crop- and export-oriented, accounting for 48.1% in 2020 and 43% in 2021 of Brazil's total exports.[4] Almost half of exports are primary commodities used as inputs into further processing. The sector continues to provide substantial value added in agriculture-related activities; the entire agri-business chain (including agricultural inputs, as well as processing and distribution activities) contributed by 26.6% of the GDP in 2020 (20.5% in 2019).[5] Agriculture also remains an important contributor to the country's energy supply (Section 4.2) as, *inter alia*, sugar cane by-products provide around 20% of the country's energy output. According to the OECD, Brazil's low levels of agricultural support, minimal market price support, and low protection corroborate the country as a competitive global agriculture exporter.[6]

4.11. During the review period, the agri-business sector (including forestry products) maintained its crucial role in sustaining Brazil's trade surplus (Table 4.1). The sector's trade surplus reached USD 105 billion in 2021 (19.8% rise to 2020) due to a record export volume of over USD 120 billion, mainly due to high agriculture commodities prices.[7]

Table 4.1 Brazil's agri-business trade balance, 2014-21

(USD million)

	2014	2015	2016	2017	2018	2019	2020	2021
Agri-business exports	96,659	88,168	84,937	96,014	101,167	96,851	100,702	120,521
Agri-business imports	16,613	13,072	13,628	14,153	14,038	13,769	13,047	15,528
Agri-business trade balance	80,046	75,096	71,310	81,861	87,130	83,082	87,655	104,993
Total trade balance	-4,153	19,512	47,646	66,990	58,033	48,036	50,941	61,407

Note: The agri-business numbers include 3,001 HS codes of common Mercosur's nomenclature, i.e. NCM (https://indicadores.agricultura.gov.br/agrostat/index.htm).

Source: MAPA. Viewed at: https://indicadores.agricultura.gov.br/agrostat/index.htm; and information provided by the authorities.

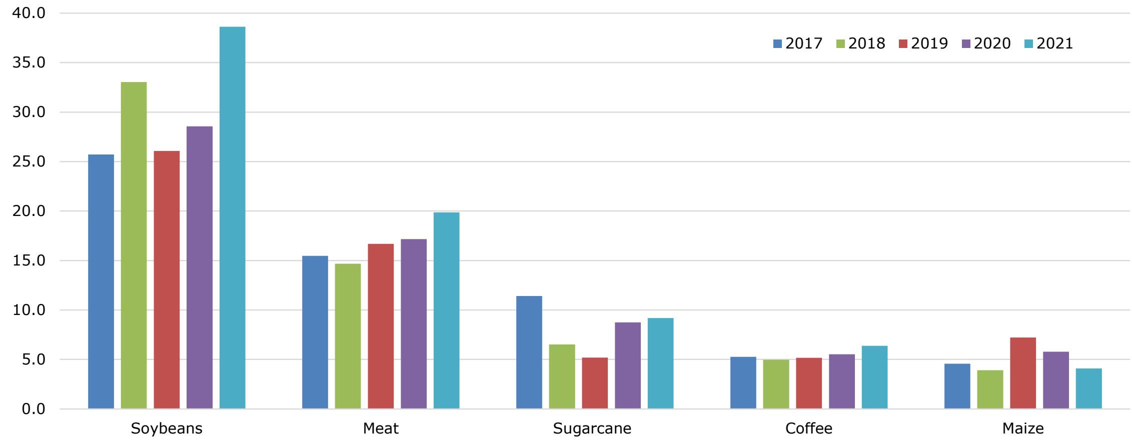
4.12. Brazil remains a major player in global agricultural trade, accounting for 5.2% (WTO definition) of the world's total agricultural exports in 2020, basically a similar share as registered at the time of the previous Review (5.1%). It continued to be the world's third-largest

[2] Information provided by the authorities.
[3] Viewed at: https://www.ipea.gov.br/portal/images/stories/PDFs/TDs/220602_td_2764.pdf.
[4] Viewed at: https://www.ipea.gov.br/cartadeconjuntura/index.php/category/agropecuaria/.
[5] Viewed at: https://www.cnabrasil.org.br/boletins/pib-do-agronegocio-alcanca-participacao-de-26-6-no-pib-brasileiro-em-2020.
[6] OECD/FAO (2021), *OECD-FAO Agricultural Outlook 2021-2030*. Viewed at: https://doi.org/10.1787/19428846-en.
[7] Viewed at: https://www.gov.br/agricultura/pt-br/assuntos/noticias/exportacoes-do-agronegocio-batem-recorde-em-dezembro-e-no-ano-de-2021 and https://www.ipea.gov.br/portal/index.php?option=com_content&view=article&id=38868.

exporter of agricultural products, behind the European Union and the United States.[8] In 2020, Brazil maintained its position as the world's biggest supplier of sugar, orange juice, coffee, poultry meat, beef, and soybeans.[9] In 2021, soybean products remained the largest agricultural export (39.8%), followed by meat products, especially poultry and beef (16.4%), wood pulp (11.5%), sugarcane (8.5%), and coffee (5.3%).[10] The performance of Brazil's main agricultural exports from 2017-21 is shown in Chart 4.1 below.

Chart 4.1 Brazil's main agricultural exports, 2017-21

(USD billion)



Source: MAPA, *AGROSTAT – Estatísticas de Comércio Exterior do Agronegócio Brasileiro*.

4.13. In 2021, the main destinations for Brazilian agri-food exports were China (34%), the European Union (15%), the United States (7.5%), Japan (2.1%), and Thailand (2%).[11] The weight of China as a trading partner for Brazilian agri-business increased during the previous review periods. In 2012, China purchased 19.3% of Brazilian agri-food exports, which represented some USD 16.1 billion; this amount rose to USD 17.8 billion (24.9%) in 2016 and to over USD 41 billion (34%) in 2021.

4.14. Imports of agri-food products increased between 2012 and 2021, from USD 11.2 billion to USD 15.5 billion. Wheat remains the single most important import commodity. Other major imports include maize, malt, wine, olive oil, rice, potatoes, and garlic.[12] Brazil also continues to depend on substantial imports of agricultural inputs, in particular fertilizers from the Russian Federation and Belarus.

4.1.2 Policy and institutional framework

4.15. During the review period, Brazil's basic agricultural policy was significantly shaped by the Pluriannual Planning (PPA) (2020-23).[13] In addition to its three main components, i.e. market price policy, rural credit, and crop insurance subsidies (Section 4.1.4), which, *inter alia*, support commercial agriculture and small-scale family agriculture, other important policy measures include promoting sustainable agriculture, livestock, fisheries, and aquaculture[14]; regularization of land ownership; and promotion of health-related aspects in the agriculture, livestock, and input production. With respect to the institutional framework, the main change was the transfer of the Ministry of Social and Agrarian Development (MDSA) and its Special Secretariat for Family Farming and Agrarian Development (SEAD) to the Ministry of Agriculture, Livestock and Food Supply (MAPA).

[8] WTO (2021), *World Trade Statistical Review 2021*. Viewed at: https://www.wto.org/english/res_e/statis_e/wts2021_e/wts2021_e.pdf.
[9] Viewed at: https://www.fao.org/faostat/en/#rankings/major_commodities_exports.
[10] MAPA. Viewed at: https://indicadores.agricultura.gov.br/agrostat/index.htm.
[11] MAPA. Viewed at: http://indicadores.agricultura.gov.br/agrostat/index.htm.
[12] Viewed at: https://www.fao.org/faostat/en/#rankings/commodities_by_country_imports.
[13] Plano Plurianual (2020-23). Viewed at: https://www.gov.br/agricultura/pt-br/acesso-a-informacao/acoes-e-programas/ppa.
[14] Viewed at: https://www.gov.br/agricultura/pt-br/acesso-a-informacao/acoes-e-programas/ppa/plano-plurianual-ppa-202020132023/cadastro_programa_1031-agropecuaria_sustentavel_ano-base2021.pdf.

The Secretariat has been renamed to Secretariat for Family Farming and Cooperativism.[15] The Secretariat of Trade and International Relations in MAPA (SCRI/MAPA)[16] – former Secretariat of Agribusiness International Relations – is responsible for foreign trade issues and WTO notifications under the Agreement on Agriculture and the Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement). The National Food Supply Company (CONAB), a state company linked to MAPA, is responsible for administering a number of agricultural policy measures, including those related to strategic storage and minimum price guarantees.

4.16. The Agricultural and Livestock Plan 2021-22 (Plano Safra) continues to be administered by MAPA. The Plan has been adjusted to meet the objectives and criteria of the broader PPA 2020-23 under four main pillars: sustainability, family farming, investments, and agricultural insurance. Accordingly, the Agricultural and Livestock Plan 2021-22 aims at promoting agricultural development on a sustainable basis, as it encourages technological modernization and the application of best agricultural practices in the field following the Brazilian environmental legislation. Aligned with those goals, the Plan promotes the financing for the production of bio-inputs, use of renewable energy, and the adoption of environmental conservationist practices in the use and management of natural resources. Furthermore, the Plan focuses on small producers fostering credit lines for irrigation, purchase and implementation of technological innovations, and construction of warehouses. [17] The budget for the Plan has increased by 6.3%, amounting to BRL 251.2 billion (BRL 177.8 billion for costs and marketing and BRL 73.4 billion for investments, representing a 29% increase from the previous plan).[18] Banco do Brasil is responsible for handling a significant part of the Plan, reaching BRL 135 billion, of which BRL 34 billion targets small producers.[19] The National Development Bank (BNDES) will be responsible for BRL 20 billion of the funding via accredited financial institutions, of which 25% has been allocated to small producers. This represents a 58% increase in the resources targeting family farming under the National Program for Strengthening Family Farming (PRONAF).[20]

4.1.3 Border measures

4.17. In 2022, average MFN applied tariff for agricultural products stood at 8.9% (WTO definition) (HS17 definition) (Tables 3.2 and A3.1). The 55% peak applied rate of the entire Customs Tariff affects desiccated coconuts. Tariffs higher than the average MFN applied tariff for agricultural products continued to apply to dairy products (17.6%); beverages, spirits, and tobacco (15.4%); sugar and confectionery (14.4%); coffee and tea (12.3%); and cereals and preparations (10.2%), while imports of cotton (5.7%); oil seeds, fats and oils and their products (6.9%); and animals and animal products (7.0%) are subject to average tariffs lower than the sector's average (Table A3.1 and Chart 3.3).[21]

4.18. According to Brazil's recent notifications, the tariff rate quota for apples and pears, under its multilateral agricultural market access commitments, was not implemented in 2017, 2018, 2019, and 2020, given that the applied MFN tariff (10%) was below the in-quota rate (13.5%) for both products (Section 3.1.3.1). By the end of 2019, the Brazilian government re-established a tariff rate

[15] Viewed at: https://www.gov.br/agricultura/pt-br/assuntos/agricultura-familiar/secretaria-de-agricultura-familiar-e-cooperativismo.

[16] MAPA structure. Viewed at: https://www.gov.br/agricultura/pt-br/acesso-a-informacao/institucional/documentos/organogramas/copy_of_OrganogramadaAdministracaoDireta.pdf.

[17] Viewed at: https://www.gov.br/agricultura/pt-br/assuntos/politica-agricola/plano-safra/2021-2022/um-plano-safra-mais-verde.

[18] Viewed at: https://www.gov.br/agricultura/pt-br/assuntos/noticias/com-total-de-r-251-2-bilhoes-plano-safra-21-22-aumenta-recursos-para-tecnicas-agricolas-sustentaveis/ApresentacaoPlanoSafra20212022_finalizado_7.pdf; https://www.gov.br/agricultura/pt-br/assuntos/noticias/com-total-de-r-251-2-bilhoes-plano-safra-21-22-aumenta-recursos-para-tecnicas-agricolas-sustentaveis.

[19] Viewed at: https://www.gov.br/agricultura/pt-br/assuntos/noticias/banco-do-brasil-vai-destinar-r-135-bilhoes-para-a-safra-2021-2022.

[20] BNDES. Viewed at: https://www.bndes.gov.br/wps/portal/site/home/imprensa/noticias/conteudo/bndes-destinara--rs-5-1-bilhoes-do-plano-safra-2021-2022-a-pequenos-agricultores.

[21] Pursuant to MERCOSUR's Common Market Council (CMC) Decision No. 12/21 the duration of the CMC Decision No. 29/15 raising three Common External Tariff (TEC) lines of prepared or preserved peaches (NCM 2008.70.10, 2008.70.20, and 2008.70.90) to 35% and the duration of CMC Decision No. 30/15, which raised the TEC of 11 dairy tariff lines to 28%, were both extended until 31 December 2030. Other agricultural products with high applied tariffs are garlic (TEC 0703.20.90) with a 35% *ad valorem* tariff, and wine (TEC 2204.21.00) with an *ad valorem* tariff of 27%.

quota for wheat amounting to a volume of 750,000 MT benefitting from a duty-free intra-quota rate.[22]

4.19. Imports of agricultural products may also benefit from tariff rate quotas applied individually by Brazil, in accordance with MERCOSUR's rules on temporary measures regarding supply shortages (Section 3.1.3.1). From 2018 to 2021, in accordance with MERCOSUR rules on temporary shortages, seven different products had import tariffs temporarily reduced in a rate of 0% by specific quotas for a period of 12 months.[23] Moreover, nine agricultural products had their tariffs reduced through the List of Exceptions to the Common External Tariff (LETEC) mechanism.[24] Mexican exports of garlic to Brazil benefited from a zero in-quota tariff in 2011 under the Economic Complementation Agreement (ACE) No. 53 between the two countries.

4.20. Since 1996, all exports from Brazil, including soybeans and maize, have been exempt from the interstate tax on the circulation of goods and services (ICMS) (Section 3.1.4).[25]

4.21. From 2019 to 2021, bilateral discussions have been held to open more than 200 new markets for Brazilian agricultural products including, *inter alia*, beef, poultry, plants, animal genetic materials, and fruits to a number of countries: Argentina, Canada, China, Egypt, Singapore, and Thailand, which are either eliminating previous non-tariff restrictions on these products or resuming their importation.[26]

4.22. According to Brazil's recent WTO notifications and information, similar to past practice, no export subsidies were granted to agricultural products in the period 2017-20.[27] Brazil's food aid abroad decreased considerably from 14,478.7 tonnes of rice in 2018, 4,059 tonnes in 2019 also of rice and none in 2020.[28] In 2020 and 2021, Brazil provided humanitarian financial aid only in fully grant form.[29]

4.1.4 Domestic support

4.23. During the review period, Brazil continued to provide a broad range of assistance programmes to its agricultural sector targeting different categories of producers and for reaching different objectives, including, *inter alia*, in the form of administered interest rate or concessional credit lines, price support mechanisms, and insurance premium subsidies (Section 4.1.4).[30] No new

[22] WTO documents G/AG/N/BRA/56, 12 February 2020; G/AG/N/BRA/59, 28 October 2020; and G/AG/N/BRA/64, 15 October 2021. In 2019, the referred tariff rate quota for wheat was implemented through SECEX Ordinance No. 44/2019, then replaced by Ordinance No. 60/2020, and later made definitive through Decree No. 10,557/2020.

[23] List available at: https://www.gov.br/produtividade-e-comercio-exterior/pt-br/assuntos/camex/estrategia-comercial/arquivos-listas/anexo_iv_desabastecimento.xlsx.

[24] The corresponding tariff lines are: NCM 1107.10.10, NCM 2207.10.10, NCM 2207.20.11, NCM 1006.10.92, NCM 1006.30.21, NCM 1201.90.00, NCM 1507.10.00, NCM 2304.00.10, NCM 1005.90.10.

[25] The ICMS affects products that are produced in one state, but utilized in another state. Each state in Brazil is allowed to determine the amount of ICMS tax, which generally is in the range of about 9%-12% (Section 3.1.4). Exempt pursuant to Article 155, item X-a of the Federal Constitution, and Complementary Law No. 87/1996.

[26] According to the authorities, these agreements concerned SPS requirements and comprised: exchange of general information regarding SPS status of the countries involved; response on SPS-related questionnaires and questionnaires on the inspection and surveillance system of the exporting country; risk assessment; and, if needed, an onsite mission. These processes were followed by further technical exchanges and agreement on a sanitary or phytosanitary certificate. List of agreements available at: https://www.gov.br/agricultura/pt-br/assuntos/relacoes-internacionais/negociacoes-nao-tarifarias/documentos/acordos-sanitarios-e-fitosanitarios. Also viewed at: https://www.gov.br/agricultura/pt-br/assuntos/noticias/brasil-abre-100-novos-mercados-externos-para-produtos-agropecuarios/ABERTURADEMERCADOS_geral.pdf and https://www.gov.br/pt-br/noticias/agricultura-e-pecuaria/2022/03/produtos-da-agropecuaria-brasileira-chegam-a-mais-de-200-novos-mercados-mundiais-nos-ultimos-tres-anos.

[27] WTO documents G/AG/N/BRA/50, 31 January 2019; G/AG/N/BRA/53, 11 February 2020; G/AG/N/BRA/60, 3 November 2020; and G/AG/N/BRA/65, 3 December 2021.

[28] WTO documents G/AG/N/BRA/54, 11 February 2020; G/AG/N/BRA/62, 3 November 2020; and G/AG/N/BRA/67, 3 December 2021.

[29] Further information in WTO document G/AG/W/125/Rev.16/Add.3, 30 May 2022.

[30] According to the authorities, not all the agricultural assistance programmes available were implemented during the review period, although they remained foreseen in the Brazilian legislation.

support programme other than the 2021 Feed Brazil (Programa Alimenta Brasil) was introduced during the review period.[31]

4.24. Domestic support to agricultural producers remained at a low level compared to that of OECD countries.[32] According to the OECD, Brazil's total support estimate (TSE) to agriculture averaged 0.3% of GDP in 2018-20 (0.35% in 2012-15), well below the OECD average of 0.63% (Table 4.2).[33] In 2020, support to farmers as measured by the producer support equivalent (PSE) corresponded to 1.3% of gross farm receipts in the period, also below the OECD average of 18.1%.[34] OECD notes that, in the last five years, PSE fell both in nominal terms and as a percentage of gross farm receipts. In this respect, there was very little market price support (MPS) and domestic prices almost fully align with international markets. According to the OECD, most support to producers is through input payments, in particular concessional credit and, to lesser extent, crop insurance. Wheat, rice, and cotton are the products with the highest rates of specific commodity transfer (SCT). The share of potentially most-distorting support fell to 21% of cumulated gross producer transfers in 2018-20 compared to 66% in 2000-02. OECD also noted that more than 90% of support to general services (GSSE) covers research, development, and innovation, and represented 39% of the TSE in 2018-20[35] (Table 4.3, Section 4.1.4).

Table 4.2 Agricultural support, by commodity, 2016-21

	2016	2017	2018	2019	2020	2021 (provisional)
Total support estimate (TSE), USD million	7,832	6,465	5,122	5,254	4,687	9,045
Percentage of TSE to GDP (%)	0.482	0.353	0.321	0.28	0.32	0.56
Total PSE (USD million)	5,450	3,760	2,650	2,282	2,362	6,798
Support based on commodity output – payments based on output	..	..	..	63	862	4,917
Support based on commodity output – MPS	..	..	..	56	860	4,915
Direct payment	..	..	..	..	..	..
Percentage PSE to gross farm receipts (%)	3.55	2.18	1.77	1.52	1.56	3.36
General services support estimate (GSSE), USD million	2,226.6	2,271.1	2,220.7	1,969	1,487	1,447
Consumer support estimate (CSE), USD million	-422.0	1,012.3	912.7	872	-4	-2,023
Total producer SCT (USD million)	..	..	..	..	..	..
Share of producer SCT in total PSE (%)	..	..	..	..	..	..
Percentage SCT (%)	..	..	..	..	..	..
Refined sugar	..	..	..	..	..	..
Milk	..	..	..	..	..	..

.. Not available.

Source: Provided by the authorities.

Table 4.3 Direct payment and general services support, 2017-21

(USD million, unless otherwise indicated)

	2017	2018	2019	2020	2021 (provisional)
Direct payment	..	..	..	..	..
Share of direct payment to PSE (%)	..	..	..	..	..
Based on input use	..	..	2,100	1,410	1,794
Based on current area planted/animal numbers/receipt/income, production required	..	..	119	91	87
General services support estimate (GSSE)	..	..	1,969	1,487	1,447
Agricultural knowledge and innovation system	..	..	..	..	..
Inspection and control	..	..	..	..	..

[31] WTO document G/AG/N/BRA/68, 9 February 2022.

[32] The OECD has been publishing reviews of agricultural policies in OECD countries and some other economies, including Brazil, for several years. In these publications, the value of transfers to agricultural producers is measured using the producer support estimate (PSE) and associated indicators. The methodology for calculating these indicators is different from that used to calculate the aggregate measure of support (AMS), and the two sets of data are neither compatible nor comparable.

[33] OECD (2021), *Agricultural Policy Monitoring and Evaluation 2021: Addressing the Challenges Facing Food Systems*. Viewed at: https://doi.org/10.1787/2d810e01-en.

[34] Viewed at: https://data.oecd.org/agrpolicy/agricultural-support.htm.

[35] OECD (2021), *Agricultural Policy Monitoring and Evaluation 2021: Addressing the Challenges Facing Food Systems*. Viewed at: https://doi.org/10.1787/2d810e01-en.

	2017	2018	2019	2020	2021 (provisional)
Development and maintenance of infrastructure	..	..	..	..	..
Marketing and promotion	..	..	..	..	..
Cost of public stockholding	..	..	63	6	5
Share of GSSE to TSE (%)	..	..	37.47	31.73	15.99

.. Not available.

Source: OECD (2022), *Agricultural Policy Monitoring and Evaluation 2022*.

4.25. According to Brazil's WTO notifications on domestic support measures during the review period, the product-specific aggregate measurement of support (AMS) was USD 91,461.9 million in FY2017/18 (maize), USD 9,467.4 million FY2017/18 (rice), and USD 89 million in FY2019/20 (orange) (all below their *de minimis* level, and for each year overall AMS was much below the final bound level of USD 912.1 million). The non-product-specific AMS stood at USD 1.46 billion in FY2017/18, USD 978 million in FY2018/19, and USD 1.285 billion in FY2019/20, all below the respective yearly *de minimis* levels.[36] The following products may be supported by non-exempt support programmes, according to the available funds and the market price: barley, Brazilian wax, canola, cashew nut, cassava, cassava flour, cassava starch, castor beans, coffee, cotton, cottonseed, edible beans, ethanol, garlic, grapes, guaraná, jute, maize, malva, milk, oat, orange, peanuts, rice, silk cocoon, sisal, sorghum, soybeans, sugar cane, sunflower, triticale and wheat. No product-specific support has been granted for those products in the last notified period. Total domestic agricultural support notified by Brazil (including green box, special and differential treatment, and *de minimis* support not subject to reduction commitments) dropped from USD 4.254 billion in FY2016/17 (USD 1.947 billion excluding green box and S&D assistance) to USD 2.846 billion in FY2017/18 (USD 1.147 billion excluding green box and S&D assistance) and to USD 2.456 billion in FY2018/19 (USD 0.97 billion excluding green box and S&D assistance). The domestic agricultural support notified by Brazil in green box decreased from USD 1.66 billion in agricultural year 2016/17 to USD 1.40 billion in FY2018/19. In FY2018/19, green box support was equivalent to approximately to 150% the size of Brazil's total product- and non-product-specific AMS in the same period. For more information, please consult Table A4.1.

4.1.4.1 Agricultural/rural credit[37]

4.26. Agricultural or rural credit at administered and preferential interest rates remained the major policy instrument for the sector; it is provided to both commercial and small-scale family farms (Table 4.4).[38] According to the OECD, the Programme to Strengthen Household Agriculture (PRONAF) reduced the preferential annual interest rates for rural credit by between 1% to 2%, down to 2.75% for some credit lines for small producers. In addition, Brazil improved preferential conditions on some credit lines and postponed credit reimbursement in response to the COVID-19 situation. According to the authorities, this measure was aimed at offsetting the country's high market interest rates (see below) and to promote access to credit for farmers who would not obtain it otherwise in the domestic financial system. At the same time, as it is used for financing a major share of food production for domestic consumption, thus considered an important food security tool. Since 1965, the National Rural Credit System (SNCR), which is under the control of the BCB, has directed credit to farmers at administered and preferential interest rates. For commercial agriculture, the SNCR system provides credit for marketing, working capital, and investment. The National Monetary Council (CMN) is in charge of issuing regulations for agricultural credit schemes, which are spelled out in the BCB's *Rural Credit Manual* (see below). These regulations must be followed by all institutions participating in the SNCR, which includes public banks, cooperatives, and private commercial banks. As of January 2022, 589 (468 in 2012) financial institutions participated in the SNCR, of which 49 (28 in 2012) were private banks.

[36] WTO document G/AG/N/BRA/58, 19 February 2020; G/AG/N/BRA/63, 17 May 2021; and G/AG/N/BRA/69, 18 February 2022.
[37] More information on this measure is available in WTO document WT/TPR/S/283/Rev.1, 26 July 2013.
[38] OECD (2021), *Agricultural Policy Monitoring and Evaluation 2021: Addressing the Challenges Facing Food Systems*. Viewed at: https://doi.org/10.1787/2d810e01-en.

4.27. In 2021, public banks provided 58% (58% in 2016) of total rural credit, followed by private banks 21% (30% in 2016) and cooperatives 20% (12% in 2016).[39]

Table 4.4 Brazil's federal government agricultural support programmes, 2017-21 (prevailing norms for crop-year 2021/22)

Products/projects	Beneficiaries	Credit limit	Annual interest rate	Duration	Disbursement (BRL million)
Medium-Scale Agricultural Producer Support Programme (PRONAMP)					
Investment in goods and services aimed at increasing productivity and income. Financeable items: financing, investment and technical assistance. In case of financing, it is also allowed to include funds to small expenses considered as investments (repair and conservation of production assets, installation, acquisition of service animals, deforestation)	Farmers with gross annual income up to BRL 2.4 million	Financing: BRL 1.5 million; investment: BRL 430 million	Financing (working capital): 5.5%; Investment: 6.5%	Financing: up to 3 years; investment: up to 8 years (3-year grace period)	2017: 19,538 2018: 20,031 2019: 25,239 2020: 28,783 2021[a]: 29,070
Agricultural Cooperatives Capitalization Programme (PROCAP-Agro)					
Acquisition of capital shares (paid-in shares – parts and working capital)	Farmers and cooperatives	BRL 65 million	Fixed: 8.0%; Post-fixed; 3.05% + monetary updating factors	6 years (2-year grace period); working capital: 2 years (6-month grace period)	2017: 610 2018: 94 2019: 44 2020: 36 2021[a]: 987
Sectoral Plan for Mitigation and Adaptation to Climate Changes for the Consolidation of a Low-Carbon Emission Economy in Agriculture (Plan ABC)					
Projects to reduce greenhouse gas emissions (e.g. recovery of pastures, recovery of degraded areas, organic crops, directing planting, integration of crops, cattle production, forest, forest plantation, environmental recuperation, waste treatment, Dendê plantation, biological nitrogen fixation, soil management and production of bio-inputs or biofertilizers)	Farmers and cooperatives	BRL 5 million	Fixed: 5.5%; post-fixed: 0.67% + monetary updating factors - environmental recuperation; Fixed: 7%; post-fixed: 2.10% + monetary updating factors - other applications	Up to 12 years	2017: 1,437 2018: 2,093 2019: 2,079 2020: 2,296 2021[a]: 2,154

[39] Available at: https://www.bcb.gov.br/estabilidadefinanceira/reportmicrrural/?path=conteudo%2FMDCR%2FReports%2FqvcSegmentoIF.rdl.

Products/projects	Beneficiaries	Credit limit	Annual interest rate	Duration	Disbursement (BRL million)
Programme for the Modernization of Agriculture and the Conservation of Natural Resources (MODERAGRO)					
Projects related to sanitary and/or environmental adaptation needs limited to 35% of the amount of the investment in the following activities/crops: apiculture, aquaculture, poultry, chinchilla production, rabbit breeding, floriculture, fruit, palm trees, olive growing, production nuts, horticulture, sheep and goat farming, milk, fishing, frog culture, sericulture and pig farming. Combat brucellosis and tuberculosis; construction and expansion of farm sheds	Farmers and cooperatives	BRL 880,000 (individual farmer) and BRL 2.64 million (collectively taken); BRL 400,000 for purchase of animals	Fixed: 7.5%; Post-fixed; 2.58% + monetary updating factors	Up to 10 years (3-year grace period)	2017: 624 2018: 1,123 2019: 996 2020: 1,398 2021[a]: 848
Incentives Programme for Irrigation and Protected Cultivation (PROIRRIGA) - (Former Moderinfra)					
Irrigation and protected cultivation projects	Farmers and cooperatives	BRL 3.3 million (individual farmer) and BRL 9.9 million (collectively taken)	Fixed: 7.5%; Post-fixed; 2.58% + monetary updating factors	Up to 10 years (3-year grace period)	2017: 488 2018: 489 2019: 550 2020: 647 2021[a]: 707
Cooperative Development Programme for the Enhancement of Agricultural Value Added (PRODECOOP)					
Projects to improve production systems and marketing (installation of industries regardless of sector – improvement or processing). It may be financed: studies, projects and technology, civil engineering, installations, national equipment, pre-operational expenses, landed costs, working capital related to the investment project, pay in of shares related to the project	Cooperatives	Up to BRL 150 million (up to 90% of the project value)	Fixed: 8%; Post-fixed; 3.05% + monetary updating factors	Up to 10 years (3-year grace period)	2017: 696 2018: 961 2019: 635 2020: 620 2021[a]: 306
Tractor Fleet Modernization Incentives Programme (MODERFROTA)					
Agricultural mechanization (purchase of tractors, implements, harvesters, sprayers, self-propelled, and equipment for preparation, drying, and processing of coffee)	Farmers and cooperatives	Up to 85% of the financed good	Fixed: 8.5%; Post-fixed; 3.53% + monetary updating factors	Up to 7 years (new) or 4 years (used)	2017: 7,093 2018: 9,099 2019: 6,938 2020: 7,525 2021[a]: 3,943
Warehouse Construction and Expansion Programme (PCA)					
Expansion and construction of new warehouses	Farmers and cooperatives	Up to 100% of the project value for grains storage; up to BRL 25 million in other investment	Fixed: 5.5%; Post-fixed; 0.67% + monetary updating factors - below 6,000 tonnes; Fixed: 7%; Post-fixed; 2.10% + monetary updating factors - other investment	Up to 12 years (3-year grace period)	2017: 767 2018: 1,323 2019: 1,313 2020: 1,927 2021[a]: 1,047

Products/projects	Beneficiaries	Credit limit	Annual interest rate	Duration	Disbursement (BRL million)
Programme to Encourage Innovation in Agricultural Production (INOVAGRO)					
Technical innovation (e.g. incorporation of new technologies to rural areas, automation and adaptation of poultry industry, pig breeding, dairy cattle farming, protected cultivation, computerization, training, precision farming)	Farmers and cooperatives	BRL 1.3 million (individual farmer); BRL 3.9 million (collectively taken)	Fixed: 7%; Post-fixed; 2.1% + monetary updating factors	Up to 10 years (3-year grace period)	2017: 752 2018: 1,281 2019: 1,211 2020: 1,625 2021[a]: 1,280
Programme to Strengthen Household Agriculture (PRONAF)					
Provides credit to small-scale producers with annual income of BRL 500.000 per family; to families within the land reform framework; to small-scale fishermen; to aquaculture farmers; to forestry; to indigenous; to small-scale extractivists; to *quilombola* communities	Small-scale producers	Up to BRL 400,000 to pig breeding, poultry farming and fruit farming	Up to 3% and 4.5%	Up to 10 years (3-year grace period)-investment; 12 months - working capital	2017: 22,740 2018: 24,653 2019: 25,957 2020: 31,171 2021[a]: 33,083
Federal Fund for the Defence of the Coffee Economy (FUNCAFÉ)					
Provides credit to marketing, researching, stocking, plantation and other expenses to coffee farmers and traders	Producers, cooperatives, roster and instant coffee producers, coffee benefactor and exporters	For farmers: BRL 3 million (working capital) or BRL 4.5 million (commercialization); for industries: BRL 50 million (commercialization)	7%	one year	2017: 2,482 2018: 3,423 2019: 3,280 2020: 2,736 2021[a]: 3,437
Programme to Support the Renewal and the Implementation of New Cane Fields (Prorenova Rural)					
Increase cane production by financing the renewal and the implementation of new cane fields	Farmers and cooperatives	without limit	Up to TJLP rate plus 1.45% remuneration rate for BNDES plus a rate negotiated between the beneficiary and the accredited financial institution	Up to 7 years (3 years grace period)	2017: 13 2018: 9 2019: 0 2020: 0 2021[a]: 0
Others					
Without programme (*Sem Programa*)	..	..	..	..	2017: 110,394 2018: 116,953 2019: 110,340 2020: 127,118 2021[a]: 155,716
Total					**2017: 167,634** **2018: 181,531** **2019: 178,583** **2020: 205,881** **2021[a]: 232,578**

.. Not available.

a Until October 2021.

Source: BCB. Viewed at: https://www.bcb.gov.br/estabilidadefinanceira/micrrural; MAPA (2021), Plano Agrícola e Pecuário 2021-2022 Brasília; Manual do Crédito Rural. Viewed at: http://www3.bcb.gov.br/mcr; and BNDES. Viewed at: http://www.bndes.gov.br/wps/portal/site/home/financiamento/produto/prorenova-rural.

4.28. Since Brazil's last Review, the various sources of funding of administered interest rate and concessional credit oscillated (Table 4.5). They consisted of mandatory/compulsory resources, rural savings, Agribusiness Credit Bills (LCAs), constitutional funds, credit lines managed by the National Bank for Economic and Social Development (BNDES), free resources, the Brazilian Coffee Fund (FUNCAFÉ), the Worker Support Fund (FAT), as well as other funds and sources. Between 2010 and 2020, the share of credit financed with mandatory resources continued to decline, while sources such as rural savings, free resources, and LCAs rose in importance (Table 4.5). In 2021, LCAs continue was the fourth most important source of credit, after rural savings, mandatory resources, and free resources.

Table 4.5 Sources of agricultural/rural credit, 2010-21

(USD million)

	Mandatory resources	Rural Savings	LCA	Constitutional Funds	BNDES	Free resources	FUNCAFÉ	FAT	Other resources
2010	46.8	30.2	-	7.9	6.6	2	1.9	1.2	3.4
2011	47.3	30.8	-	7.6	6.8	2.8	1.6	1.3	1.7
2012	34	31.8	-	8.5	9.9	4.4	1.6	1.3	8.5
2013	41	32.5	-	7.2	11.3	3.1	1.5	0.2	3.3
2014	38.4	38.6	-	6.3	10.5	3.4	1.7	0.2	0.9
2015	38.6	31.6	3.3	7	10.8	4.7	1.7	0.3	2
2016	28.2	35.3	11.2	7.1	10.4	3.2	1.6	0.1	2.9
2017	31.2	32.6	11.3	8.6	8.8	2.5	1.5	0	3.6
2018	31.5	26.4	14.8	9.7	9.2	4.6	1.9	0	1.9
2019	24.1	29	18.3	9.1	9.4	7	1.8	0	1.3
2020	24.8	35.4	13.4	8.5	8.5	7.1	1.3	0	0.9
2021	13.4	9.4	8.3	4.8	3	13.9	0.9	0	1.9

Source: BCB. Viewed at: https://www.bcb.gov.br/estabilidadefinanceira/reportmicrrural/?path=conteudo%2FMDCR%2FReports%2FqvcFonteRecursosRelat.rdl.

4.29. Funding from mandatory/compulsory resources, where public and private banks participating in the SNCR are obliged to either hold their sight deposits as obligatory reserves at the BCB at zero interest rate or to allocate the same proportion in loans to agricultural activities at below market interest rates, remained in place. As of July 2021, 25% (34% in 2012) of these sight deposits, a ratio set at the discretion of the CMN, should be used for agricultural credit at a preferential interest rate, at no cost for the National Treasury.

4.30. Rural savings (Poupança Rural) schemes maintained by public banks (Banco do Brasil, Banco da Amazônia, Banco do Nordeste) and cooperative banks are obliged to hold 59% (74% as from June 2015, previously 67% (June 2013-May 2015) and 68% (June 2011-May 2013)) of their sight savings deposits for agricultural credit at market or preferential interest rates for as long as the National Treasury decides to equalize the difference between these rates (see below). For the remaining, 20% are reserve requirements, and the other 20% can be negotiated freely.

4.31. Agribusiness Credit Bonds (Letras de Crédito do Agronegócio (LCAs)), which are fixed income securities backed by credit transactions linked to agri-business, remained in place. They differ from traditional fixed income instruments because they are exempt from Income Tax (IR) for individuals. Since January 2019, 35% of the funds raised by this instrument are compulsorily allocated to rural credit, while the remaining 65% are freely negotiated. In either case, there is no cost for the National Treasury. Between June 2015 and May 2016, the mandatory ratio stood at 50% of LCAs backed by certain types of credit transactions; as of June 2016, it was reduced to 35% of which 40% at a fixed rate of up to 12.75% per year and 60% at market rates. According to the authorities, currently there is no fixed rate.

4.32. The Constitutional Funds are aimed at reducing regional inequalities through the financing of production activities including agriculture. They consist of three regional funds: the FNO (North Region), the FNE (North-East), and the FCO (Centre-West) that similarly to rural savings schemes are administered by Banco da Amazônia, Banco do Nordeste, and Banco do Brasil, respectively; they are capitalized with federal resources deriving from the Tax on Industrial Products (IPI) and the Income Tax (IR).

4.33. Some investment credit allocations under the SNCR, such as Plan ABC, BNDES Agro, BNDES Credit for Cereals Producers, BNDES Rural Credit, BNDES Prorenova, BNDES, INOVAGRO, Moderagro, Moderfrota, PROCAP-Agro, PRODECOOP, PCA, PROIRRIGA, PRONAF, and PRONAMP, are funded by BNDES under the guidance of MAPA (Table 4.4).[40] These programmes are provided through 26 financial institutions.[41] BNDES also funds investment under the Programme of Support to the Sugar and Ethanol Sector (PASS), an ethanol stock programme also managed by MAPA, and PAISS Agricola, a programme for the development of agricultural research.[42]

4.34. Rural credit lines operated by banks with capital deriving from mandatory and free resources remain subject to the rules contained in the *Rural Credit Manual* (last updated in July 2021).[43] Since 2013, the main changes to the Manual have involved, *inter alia*, a revision of the financing terms, mainly on interest rates and limits of financing, as well as the creation of new investment programmes (INOVAGRO and PCA). Under the equalization principle, resources from the National Treasury are used to cover the difference between market rates and those applied to certain rural credit operations. The equalization principle applies only to resources from federal official banks (Banco do Brasil, Banco do Nordeste, Banco da Amazônia, and BNDES) and cooperative banks. The available amount of credit resources subject to equalization for agriculture is set for the annual crop period, from July to June. No data on the annual credit equalization expenditures by the National Treasury were provided. To access credit resources for working capital of up to BRL 300,000, beneficiaries must join PROAGRO, but they can choose a rural insurance, to avoid debt renegotiation and prevent losses to public and private banks. According to the general rules for rural credit programmes, beneficiaries must reside in Brazil, though they are not required to be Brazilian nationals. In the case of rural credit lines operated by majority government-owned financial institutions, financing may not be granted to companies headquartered abroad or companies whose voting capital is majority-owned by foreigners.

4.35. Agricultural credit resources available to commercial farmers under the Agricultural and Livestock Plans reached BRL 251.2 billion in FY2021/22.[44] The FY2019/20 Plan rose by 8.6% to BRL 222.7 billion (USD 56.4 billion) when compared to the FY2018/19. Compulsory share of sight deposits allocated to medium-size producers (PRONAMP) increased from 15% to 25%. Conditions for the allocation of 35% of resources from LCAs to rural credit, allowing these credits to be provided at non-preferential rates following a resolution by the Central Bank. LCA resources, which are to represent 25% of the National Rural Credit System funds and to be provided at rates freely determined by the banks. Preferential interest rates were kept constant in several rural credit programmes at 0.5% to 4.6% for small producers (PRONAF), 6% for medium-size producers (PROMAMP) and 5.25% for the Sectoral Plan for Mitigation and Adaptation to Climate Changes for the Consolidation of a Low-Carbon Emission Economy in Agriculture (Plan ABC). Repayment terms of credits for machinery were reduced from 10 to 7 years, and the grace period increased from 12 to 14 months.[45]

4.36. For 2020-21, the actual amount of administered interest rate was BRL 152 billion (56% of total), while BRL 119 billion were at market rates. The administered interest rates for PRONAF were 2.75% to 4% per year, PRONAMP 5% per year, and between 6% to 7.5% for the remaining producers. Seventy-six percent of the rural credit is targeted to production costs, marketing, and industrialization, and 24% for investment. Total rural credit disbursements for family farming stood at BRL 22.9 billion (FY2017/18), BRL 23.4 billion (FY2018/19), BRL 28.8 billion (FY2019/20), and BRL 33.1 billion (FY2020/21). Total rural credit disbursements for commercial farmers stood at BRL 127.7 billion in FY2017/2018, BRL 128.7 billion in FY2018/2019, BRL 133.4 billion in FY2019/20, and BRL 182.9 billion in FY2020/21.

4.37. According to the authorities, rural debt has been being addressed since the early 1990s.[46] The authorities reported that during the review period, the renegotiation of rural financing was governed by a number of regulations, including Central Bank Resolutions in accordance with ordinary laws and

[40] Viewed at: BNDES Apoio à Agroindústria.
[41] Viewed at: https://www.bndes.gov.br/wps/portal/site/home/onde-atuamos/agropecuaria/credito-rural-desempenho-operacional.
[42] Viewed at: https://www.bndes.gov.br/wps/portal/site/home/financiamento/produto/programa-bndes-de-apoio-ao-setor-sucroalcooleiro; and https://www.bndes.gov.br/wps/portal/site/home/financiamento/plano-inova-empresa/paiss-agricola.
[43] BCB, *Rural Credit Manual*. Viewed at: http://www3.bcb.gov.br/mcr/completo.
[44] Ministry of Agriculture, Livestock and Food Supply. Viewed at: https://www.gov.br/agricultura/pt-br/assuntos/politica-agricola/plano-safra/2021-2022/banners/grafico-valores-1.png/view.
[45] OECD (2020), *Agricultural Policy Monitoring and Evaluation 2020*. Viewed at: https://doi.org/10.1787/8f4be872-en.
[46] Law No. 9,866/1999.

National Monetary Council decisions. The oldest rural debts have been subject to renegotiations regarding payment deadlines due to the difficulties faced by producers. The authorities asserted that Brazil's agriculture notifications to the WTO considered all debt rescheduling for each year as subsidies, which reflects the cost to the Government during the implementation period of each programme. The authorities informed that among the various initial rescheduling programmes, only securitization remains in force and the debt rescheduling programme for Rural Debt Securitization was USD 1.01 billion in agricultural year 2016-17, USD 957.8 million in 2017-18 and USD 783.4 million in 2018-19, also falling under "development programmes".

4.38. According to the OECD, agricultural credit at preferential interest rates represents an important share of agricultural support. In this regard, Brazil could consider a reform of the concessional credit system for a gradual downsizing of concessional loans for working capital to commercial farms. Furthermore, due to the reduction in the overall market interest rate in Brazil, access to credit by rural borrowers could be further facilitated through the simplification of regulations and procedures for accessing commercial credit. Refocusing supports provided for on-farm investments that explicitly incorporate technological innovations and advanced farm management and environmental practices should be considered. Those could be provided in addition to the existing insurance and credit support conditional on environmental criteria and zoning rules that encourage environmental aspects. The National Policy on Climate Change has emission reduction targets for agriculture of around 5%-6%. Some preferential credit is available to modernize sustainable production systems and mitigate emissions as embedded into the Plan ABC.[47]

4.39. The expectation for the next Plano Safra is the continuation of the trend observed since 2019-20 with reduction of the explicit subsidy and of its fiscal cost and the expansion of operations at market rates, with greater focus of public resources on small and medium rural producers. With this, it is expected to preserve (and even advance) the total amounts of rural credit for agricultural activity and agro-industry, without compromising the fiscal adjustment process that the country is going through.[48]

4.1.4.2 Minimum price guarantees

4.40. During the review period, Brazil maintained unchanged its 1966 policy of guaranteed minimum prices (PGPM), an important pillar of its agricultural policy. The basic element of this policy remains the regionally-set minimum guaranteed prices that cover a broad range of crops from rice, wheat, maize, cotton, and soybeans, to regional crops like cassava, beans, açaí, guaraná, and sisal, as well as a few livestock products like cow and goat milk and honey (Table 4.6). On the basis of these minimum guaranteed prices, the Government implements several price support mechanisms (Table 4.6), including direct government purchases (AGF); premiums to commercial buyers who pay minimum prices to supply producers (PEP, VEP); and public and private options contracts backed by private risk premium options (COV, PROP, PEPRO). In addition to these programmes, producers receive various reduced-interest marketing loans that enable them to withhold the sale of a product in anticipation of a higher market price (FPPG, FEPM, and FEE below). The state-owned National Food Supply Agency (CONAB) operates both the AGF set by the MAPA Secretary of Agricultural Policy (SPA) for commercial and small-scale farms, and the equivalent programme set by the Secretariat for Family Farming and Cooperatives for small-scale agriculture (PAA, Section 4.1.4.3) as well as the minimum prices programme for family farms (PGPAF programme). The CONAB operates these programmes on behalf of MAPA. Guaranteed prices for small-scale farmers are based on the average regional production cost of family farms.

Table 4.6 Price support programmes, FY2019/20

Price support programme/description
Regulated by Decree No. 57,391, 12 December 1965, and Decree-Law No. 79, 19 December 1966. The PGPM fixes minimum guaranteed prices annually for some of Brazil's main crops. Prices are promulgated by the National Monetary Council (CMN) through Ordinances. Ordinance No. 854, 20 August 2014, fixes minimum prices for a number of products for the 2014/15 summer harvest. When determining minimum prices, the CMN takes into account production costs in the different regions, as well as several factors affecting domestic and international market prices. The PGPM is implemented through credit lines (EGF and LEC) and commercialization instruments (AGF, PEP, VEP, PEPRO, COV and PROP; see below).

[47] OECD (2020), "Brazil", in *Agricultural Policy Monitoring and Evaluation 2020*. Viewed at: https://doi.org/10.1787/8f4be872-en.

[48] IPEA Technical Note No. 3, 2nd semester of 2019. Viewed at: https://www.ipea.gov.br/portal/images/stories/PDFs/conjuntura/190528_cc_43_nota_tecnica_agricola.pdf.

Price support programme/description
The AGF allows producers and cooperatives to sell their products to the CONAB at a guaranteed minimum price, so as to support farmers' income stability and form public stocks. The instrument is applied on specific products and regions, for up to 100% of a farmer's production. Products purchased under the AGF must be stored in warehouses accredited by the CONAB.
The CONAB grants an equalization premium to wholesalers who agree to pay farmers a reference price. The premium is determined in public auctions and generally reflects the difference between the reference price and the market price. In addition to guaranteeing minimum prices for producers, the PEP is used to shift the supply of agricultural products across regions, so as to avoid shortages and prevent the accumulation of stocks. In theory, all products included in the PGPM can participate in the PEP; however, the programme has been used for only a few products so far, mainly cotton, corn, wheat, sisal, beans, rice, and wine.
As in the PEP, the VEP consists of payments of equalization premiums to buyers who agree to pay a minimum price to agricultural producers. The premiums are also determined in public auctions. However, in contrast with the PEP, where wholesalers acquire products from private stocks, the VEP is used to dispose of government stocks.
The Government offers option contracts to producers and cooperatives through public auctions. Winning bidders acquire the right to sell their products to the Government at a future date, for a predetermined "execution price" (a minimum price plus storage and financial costs). If the execution price is lower than the market price on the due date, the option contract is not used. When it deems convenient, the Government may transfer its obligation to buy to another party. The scheme may be used for any product covered by the PGPM.
Similar to the COV; the main difference is that the offer of option contracts comes from private entities. To limit the private-sector risk, the Government offers a risk premium. The value of the premium is determined in public auctions, with a maximum price set by the Government. Winning bidders are those willing to accept the lowest premium value.
This scheme offers producers and cooperatives the possibility to sell their product at a premium, equal to the difference between reference and market prices, fixed through an auction. In contrast to the PEP, premiums are paid directly to producers.

Note: The use and costs of these programmes were unavailable.

Source: MAPA, based on CONAB data.

4.41. The Producer Price Guarantee (FPPG) for the agro-industry; the Financiamento Especial para Estocagem de Produtos Agropecuários Integrantes da PGPM (Special Financing for Stockholding of Agricultural Products Pertaining to PGPM) for PGPM agricultural products storage for farmers; the Financiamento Especial para Estocagem de Produtos Agropecuários não Integrantes da PGPM (Special Financing for Stockholding of Agricultural Products Not Pertaining to PGPM) to cover storage of non-PGPM agricultural products for farmers allow farmers to withhold the sale of products for up to 240 days in anticipation of higher price levels. Agricultural products are used as collateral and must be stored in warehouses accredited by the CONAB. The annual interest rates were set at 9.5% for FEPM loans with reimbursement deadlines of up to 240 days for PGPM listed products (180 days for non-PGPM listed products) with maximum credit of BRL 25 million for up to 80% of stocked seeds and BRL 2.4 million for up to 100% of other stocked products.[49] The FEE does not use the minimum price as a parameter for calculating the amount to be financed.

4.42. According to the OECD, despite the variety of regional price support programmes, prices received by domestic agricultural producers are aligned with international levels and there is very little MPS. MPS in Brazil is net of producer levies and excess feed cost for wheat, maize, rice, soybean, sugar, milk, beef and veal, pig meat, poultry, cotton, and coffee. In 2017 it stood at USD 350 million, while in 2018 it rose to USD 443 million.[50]

4.43. The authorities informed that the CONAB data, which usually cover operations and amounts under both the PGPM and PAA programmes, and its warehouses facilities, were no longer relevant, as CONAB has shifted its role away from holding and distributing stocks. Instead, producers benefitting from the referred programmes are required to handle their products directly to beneficiaries (e.g. families, schools, hospitals), with the aim of removing the Government as the intermediary. Data on PGPM operations were not provided by the authorities.

4.1.4.3 Measures to promote family farming

4.44. Support for family farming remains an important component of agricultural policy. Since 2019 small-scale family agriculture is also under the responsibility of MAPA, as it had been incorporated

[49] Banco do Brasil, FEPM and FEE. Viewed at: https://www.bb.com.br/pbb/pagina-inicial/cooperativas/cooperativas-rurais/comercializacao/fepm-e-fee#/.

[50] OECD (2020), "Brazil", in *Agricultural Policy Monitoring and Evaluation 2020*. Viewed at: https://doi.org/10.1787/8f4be872-en. The authorities state that Brazil does not provide MPS according to the definitions of the WTO, as reflected in its agricultural notifications for agricultural years 2015/16, 2016/17, 2017/18, and 2018/19.

under the Secretariat for Family Farming and Cooperatives (SAF), which has the key aim of fighting poverty. It also plays a strategic role in controlling prices and the food supply. Support includes preferential credit lines (PRONAF), rural extension (ATER), preferential rules in public procurement (PAA, PNAE), rural insurance (PROAGRO MAIS), price guarantees, and debt rescheduling (Table 4.6, Section 4.1.4.2). Access of family farmers to the biodiesel market continues to be promoted under the Social Fuel Seal initiative (Section 4.2.2.3.3.2). Most of the data on the total budgetary outlays for family farming under most of the programmes were not provided by the authorities (Table 4.7).

Table 4.7 Budget allocated to family farming programmes and measures, FY2020/21

Programme	Description	Budget
Programme to Strengthen Household Agriculture (PRONAF)	Preferential credit to small-scale producers with a gross annual income of up to BRL 500,000 per family.	BRL 39.3 billion
Food Purchase Programme (PAA)	Support for commercialization of food products from family farms. The Government may buy directly from producers, to form strategic public stocks, supply public institutions or make donations to vulnerable populations. It may also finance the storage of food products by family farming organizations, so as to allow later commercialization under more favourable conditions.	..
National School Feeding Programme (PNAE)	Transfer of federal government funds to support the supply of free meals in public schools. At least 30% of the amount transferred by the Federal Government under the PNAE must be used to acquire food products from family farmers.	..
Rural Extension and Technical Assistance (ATER)	Provision of free educational services aimed at raising the income of family farmers by improving production systems and promoting access to services and resources.	..
Family Farming Insurance Programme (PROAGRO MAIS)	Guarantees for small farmers taking out credit for production activities under the PRONAF. The insurance covers 80% of the expected revenues. Indemnities are up to a maximum of BRL 20,000 per farmer per harvest year.	..
Harvest Guarantee Programme (Garantia-Safra)	Guarantees to family farmers affected by droughts or excessive rain in north-eastern and north of Minas Gerais. Insurance payments are fixed at BRL 850 and transferred in five instalments. The number of insured farmers are up to a maximum of 1.35 million. The programme is finance by a fund composed of contributions from municipalities, states and the federal union.	..
Price Guarantee Programme for Family Farming (PGPAF)	An indexation of the credit taken out by family farmers under the PRONAF, through which the price is fixed when the credit is granted. Upon repayment of the PRONAF's credit, if the price of the product financed has decreased, the farmer benefits from a discount from the amount due, equivalent to the difference between the product's market price and the price set in the programme's index. The limit for the PGPAF bonus per farmer is BRL 7,000 each year. The programme covers 49 products, including corn, cotton, rice, milk, and oranges.	BRL 0.2 billion
Support for rural production activities under the Brazil Without Extreme Poverty Plan	Provision of technical assistance, seeds, and direct cash transfers to family farmers living in extreme poverty (with a family income of less than BRL 85 per capita). Those resources, which are non-refundable, are limited to BRL 2,400 per family and must be used in rural production activities. The resources are divided into three parcels conditioned to the implementation of production projects guided by the technical assistance.	..
Total budget		**BRL 39.5 billion**

.. Not available.

Source: Information provided by the authorities.

4.45. According to the OECD, agricultural credit is the major policy instrument for medium- and small-scale family farmers, under the cooperation between the BCB, the Treasury (Ministry of the Economy), and the Ministry of Agriculture. The rural credits are mostly earmarked under the National Rural Credit System (SNCR) and provided at preferential interest rates with differentiated conditions for small farmers (PRONAF) and medium-size farmers (PRONAMP). Moreover, three main agricultural insurance programmes provide insurance premium subsidies or by compensating farmers for production losses due to climatic adversities: PROAGRO, Price Premium Subsidy Program (PSR), and Garantia-Safra (GS). PROAGRO is divided into PROAGRO Mais (or Family Agriculture Insurance) and PROAGRO for medium-sized, basically linked to PRONAMP. The Rural Insurance Price Premium Subsidy Programme (PSR) in its turn aims to cover damages mainly to small or medium farmers. Over 80% of the operations are concentrated in the production of soyabeans, corn, and wheat and in the states of Rio Grande do Sul and Paraná. Small-scale family farmers in Minas Gerais and the Northeast – generally planting corn and beans on less than five hectares – can benefit from the GS Programme, targeted to cover systematic losses due to droughts. In addition, because of the COVID-19 crisis, special lines of credit for family farmers exist through PRONAF and for medium-size farmers through PRONAMP and "a new emergency monthly financial assistance of BRL 600 (USD 152) for three months was granted to informal workers (without an employment contract), unemployed, individual "micro-entrepreneur[s]" and to the poorest families. For spouses who are in support of the family, the family allowance [was] BRL 1,200 (USD 304) per month".[51]

4.1.4.4 Other measures

4.1.4.4.1 Agricultural/rural insurance

4.46. Agricultural insurance support continued to be provided to producers through four main programmes, either in the form of insurance premium subsidies covering the difference between a fixed premium and market rates through a discount in the fee to farmers (fixed percentage), or by compensating farmers for production losses due to natural disasters. Two of the programmes target commercial farmers (the rural insurance premium programme (PSR) and the general agriculture insurance programme (PROAGRO)) and the other two target small-scale family farms (the family agriculture insurance programme (PROAGRO MAIS) and the crop guarantee programme (GS)) (Section 4.1.4.3).[52] The operation of these risk management programmes is currently shared among federal institutions, including some Ministries and the BCB. During the review period, a number of initiatives to improve the effectiveness of the rural insurance premium programme (PSR) included: (i) a pilot programme to facilitate collective negotiation for producers; (ii) greater dissemination of the programme's availability through budget increase and communication plan; (iii) disclosure of statistical information on the programme; (iv) greater involvement of the private sector through advisory committees; (v) development of the PSR application; and (vi) encouraging the training of rural experts with the development of basic training material and a national register of those in charge of loss-proofing services. Resources allocated to all agricultural insurance programmes amounted to USD 253 million in the 2020 agricultural plan; subsidy rates ranged in PSR were significantly reduced to 20% for soybeans producers and set between 20% and 40% of the premium for livestock and all the other crops, of minimum coverage requirements of 65%.[53] Resources allocated to the PSR stands at BRL 990 million (USD 186 million) in 2022.[54] In 2021, the insurance contracts supported by the PSR covered about 14 million hectares, compared to 13.7 million hectares in 2020 and 5.5 million hectares in 2017, allowing more than 217,934 of insurance contracts, totalling BRL 68.3 billion of insured value. In 2021, resources allocated to PSR subsidies were increased by 34% to BRL 1.18 billion (USD 221 million). The subsidy rates ranged from 20% to 40% of the premium, depending on the crop and the risk coverage. Since 2019, compliance with

[51] OECD (2020), "Brazil", in *Agricultural Policy Monitoring and Evaluation 2020*, p. 130. Viewed at: https://doi.org/10.1787/8f4be872-en.

[52] The PSR, which covers all agricultural and livestock activities, as well as forestry and aquaculture, has granted insurance premium subsidies of up to BRL 120,000 per beneficiary to commercial producers who establish contracts with insurance companies listed by the Government, although historically the average amount of subsidy is under BRL 10,000 per farmer according to the authorities. The PROAGRO and its PROAGRO MAIS, which targets mid-sized and family farmers, offer eligible farmers partial compensation of the bank debt on working capital loans used in production of the damaged crop and provides indemnity on loss of own resources invested in production; most of its resources are directed to the southern region and to grain crops, mainly soybeans. To benefit from the PROAGRO facilities, producers must pay a premium fee, but no data were provided by the authorities on the fees or on the indemnities paid through PROAGRO to producers (including family farmers).

[53] OECD (2020), "Brazil", in *Agricultural Policy Monitoring and Evaluation 2020*. Viewed at: https://doi.org/10.1787/8f4be872-en.

[54] Resolution No. 93/2022 from the Interministerial Rural Insurance Management Committee. Viewed at: https://pesquisa.in.gov.br/imprensa/jsp/visualiza/index.jsp?data=17/05/2022&jornal=515&pagina=3.

the Agricultural Zoning Program (ZARC) is compulsory for farmers participating in subsidized insurance programmes.[55]

4.1.4.4.2 Advance sale facilities

4.47. Two facilities allowing farmers to cash in their products prior to sale remain in place and are operated by the Banco do Brasil and/or other private or state-owned financial institutions. The Rural Product Certificate (CPR) continues to allow producers to sell their crops prior to the harvest and, thus, obtain resources to finance rural activities. The CPR may be issued by producers or cooperatives, who assume the obligation to deliver a certain amount of commodities at a future date. The "CPR Financeira" allows for liquidation in cash and is often used as collateral for acquiring credit. Farmers may obtain guarantees for the CPR. Up to 5% of mandatory resources to finance rural credit may be used by banks to discount CPRs (Section 4.1.4.1). Farmers and cooperatives that sell their products in the futures market may access credit lines by discounting a rural promissory note (NPR) or a rural duplicate (DR), which allow them to receive proceeds from the sale before the harvest.

4.1.4.4.3 Zoning, land, and other requirements

4.48. Agricultural zoning requirements continue to link agricultural support to environment sustainability.[56] They condition producers' eligibility for concessional credit and subsidized insurance programmes. Compliance with zoning applies to all concessional credit and all insurance premium subsidies for any product covered by the zoning (Section 4.1.4.1). In addition, several specific programmes for both the commercial and family farm segments promote sustainable agricultural practices; they include credit for plantings on unproductive and degraded soils, credit for forest planting, and credit to modernize production systems and preserve natural resources (Section 4.1.4.1).

4.49. Foreign investment in agricultural land remains restricted and administered by the National Land Reform and Settlement Institute (INCRA) (Section 2.4.2).[57] The area of agricultural land bought or leased by foreigners shall follow the limits for any given municipal district as indicated in the National System of Rural Registry.

4.1.4.4.4 Other

4.50. The Brazilian System of Inspection of Animal Origin Products (SISBI-POA), which is part of the Unified Agricultural Health Care System (SUASA), at state, district, and municipal levels is applied to animal origin products traded at local markets and does not affect international trade.[58]

4.2 Mining and Energy

4.2.1 Mining (excluding hydrocarbons)

4.2.1.1 Main features

4.51. Brazil continued to hold a significant position in the international mining industry as the world's second-largest producer of iron ore and manganese, the world's leading producer of niobium, and one of the top producers of bauxite and tin in 2020. Brazil has large mineral reserves and produces a total of 72 mineral substances (45 non-metals, 23 metals, and 4 energy minerals).[59] In

[55] Further information available at: https://www.gov.br/agricultura/pt-br/assuntos/riscos-seguro/seguro-rural/dados.

[56] OECD (2020), "Brazil", in *Agricultural Policy Monitoring and Evaluation 2020*. Viewed at: https://doi.org/10.1787/8f4be872-en.

[57] Viewed at: https://www.gov.br/incra/pt-br/assuntos/governanca-fundiaria/aquisicao-terras-estrangeiros; https://www.gov.br/pt-br/servicos/obter-autorizacao-para-estrangeiro-adquirir-ou-arrendar-terras.

[58] Ministry of Agriculture, Livestock and Food Supply, *SISBI-POA*. Viewed at: https://www.gov.br/agricultura/pt-br/assuntos/suasa/sisbi-1.

[59] CETEM/MCTIC (2018), *Mineral Resources and Territories: Human, Socio-Environmental and Economic Impacts*, Serie Estudos e Documentos n. 96. Viewed at:

terms of production value, iron (68%), gold (11%), and copper (7%) are Brazil's main mining products.[60] During the review period, the contribution of the mining and quarrying sectors to Brazil's value added GDP grew significantly from 1.6% in 2017 to 5.5% in 2021 (Table 1.2). From 2010 to 2019, the mining sector accounted for around 2.74% of the labour force in the country with around 1.1 million workers in 2019, of which 85% were engaged in mineral transformation activities.[61] FDI inflow in mining support service activities reached almost 3% of Brazil's GDP in 2020.

4.52. Mining products also have a major role in Brazil's trade. Export revenue for HS 26[62] in 2021 reached USD 49 billion while imports amounted to USD 1 billion compared to USD 22.4 billion of exports and USD 1.2 billion of imports in 2017. Iron ore, iron ore concentrates, and pellets were Brazil's main exported products in 2020, reaching USD 26 billion (over 20% of Brazil's total exports).[63] In 2021, Brazil iron ore exports reached USD 45 billion, while copper exports amounted to BRL 3.4 billion.[64] The five main destinations of iron ore exports in 2021 were: China (65%), Malaysia (6%), the Kingdom of Bahrain (4%), Japan (4%), and Oman (3%).

4.2.1.2 Institutional and policy framework

4.53. The National Mining Agency (ANM) was created in 2017 as an autonomous agency and with the aim of promoting the management of Brazil's mineral resources, as well as to regulate and inspect activities involving the use of mineral resources in the country.[65] Some ANM functions include implementing the national policy for mining activities; establishing norms and standards for the use of mineral resources; managing mining rights and titles for the purpose of benefitting from resources minerals; adjudicating and regulating administrative processes, such as the granting of mining titles, inspection of mining activities, and enforcement of sanctions; determining precautionary measures; managing the credits collected from the Financial Compensation for the Exploration of Mineral Resources (CFEM), of the annual fee, per hectare and from fines imposed by the ANM; mediating and deciding conflicts between mining activity agents; exercising inspection, on a complementary basis, for environmental control, sanitary conditions, and safety of mining activities, in conjunction with other agencies; and fostering competition between economic agents, monitoring and following up on market practices in the country's mining sector, and cooperating with competition agencies.

4.54. The Secretariat of Geology, Mining and Mineral Transformation of the Ministry of Mines and Energy (SGM/MME) is responsible for elaborating policies that the ANM implements. The MME is also responsible for overseeing the performance of the geology, mining, and mineral transformation sectors, so as to keep those up to date with best practices.[66]

4.55. The National Nuclear Safety Authority (ANSN), created by Law No. 14,222/2021, is a federal autarchy with administrative, technical, and financial autonomy under the oversight of the MME. The ANSN establishes the technical standards of uranium mining operations. Brazil's Nuclear Industries (INB), a privately held public company linked to the MME, is responsible for mining nuclear ores, a constitutional monopoly pursuant to Article 21 of the Constitution. ANSN replaced the National

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http://mineralis.cetem.gov.br:8080/bitstream/cetem/2231/3/SED-96.pdf; and U.S. Geological Survey (2020), *Mineral Commodity Summaries 2020*. Viewed at: https://doi.org/10.3133/mcs2020.

[60] OECD (2022), *Regulatory Governance in the Mining Sector in Brazil*. Viewed at: https://www.oecd.org/gov/regulatory-policy/regulatory-governance-in-the-mining-sector-in-brazil-63d60aa8-en.htm.

[61] OECD (2022), *Regulatory Governance in the Mining Sector in Brazil*. Viewed at: https://www.oecd.org/gov/regulatory-policy/regulatory-governance-in-the-mining-sector-in-brazil-63d60aa8-en.htm.

[62] The authorities mentioned that for mining products beyond HS 26 (e.g. fertilizers) the balance of trade would be different. Only HS 26 products were considered to apply a similar approach *vis-à-vis* other Members' Reviews.

[63] WTO (2021) *World Trade Profiles 2021.* Viewed at: https://www.wto.org/english/res_e/booksp_e/trade_profiles21_e.pdf.

[64] Comex Stat. Viewed at: http://comexstat.mdic.gov.br/pt/home.

[65] ANM substituted the National Department of Mineral Production (DNPM).

[66] The MME is in charge of granting mining concessions for materials not covered by the ANM, e.g. metallic substances and mineral waters.

Nuclear Energy Commission (CNEM) in its regulatory functions. CNEM now is responsible exclusively for research and development studies.[67]

4.56. The Mineral Resources Research Company (CPRM) is a Brazilian government company under the MME. The CPRM is responsible for the geological service of Brazil, including carrying out geological, geophysical, geochemical, hydrological, and hydrogeological surveys and the management and dissemination of geological and hydrological information.[68]

4.57. The National Mining Plan (PNM) 2030 is the actual long-term planning instrument. PNM 2050 is being prepared to be released by the end of 2022, and will set guidelines for public policies towards competitive and sustainable development for the mining sector.[69] The ANM's Strategic Planning (2020-23) sets important guidelines for the newly created agency and for the mining sector as a whole, including the use of good regulatory policy tools, improvement projects, regulatory impact assessment, social participation processes (PPCS) with stakeholder engagement, and regulations regarding tailings dams' safety and mine closures following two large-scale recent disasters (Mariana in 2015, and Brumadinho in 2019), among others.

4.2.1.3 Regulatory and operational framework

4.58. Pursuant to the Constitution, mineral resources, including those in the subsoil, are the exclusive property of the Federal Government, though the mined product is owned by those who had received exploration rights through specific concession titles. The Federal Government has the sole responsibility to establish the areas and conditions for the exercise of mining activities in Brazil. The Constitution also grants the Federal Government the exclusive responsibility to legislate on mining resources.[70]

4.59. The Mining Code[71] regulates the mining rights over Brazil's mineral resources, including by setting specific regimes, and by determining the inspection by the Federal Government on research, mining, and other aspects of the mining industry; rights and obligations of the owners of the mines and land; and the corresponding sanctions in cases of non-compliance. The Mining Code establishes five mining regimes: concession; authorization; licensing; mining prospecting permit; and monopolization. The authorities did not have information on foreign capital ownerships involving mining activities in Brazil, though reference was made to the obligation of registration when foreign capital corresponds to more than 51% of the company's ownership.[72] The authorities noted Chinese state-owned companies acquiring mining assets in Brazil as part of CBMM (Anglo Niobium/phosphate in Catalão).

4.60. Between 2017 and 2022, 55,635 titles were granted (Table 4.8).[73]

Table 4.8 Licences and titles for mining granted (2017-June 2022)

Year	Licensing	Mining concession	Lavra Garimpeira permission	Mineral research
2017	1,515	206	286	9,569
2018	1,013	336	216	9,295
2019	1,008	497	178	7,210
2020	1,154	527	265	5,308

[67] Law No. 4,118, 27 August 1962; Law No. 6,189, 16 December 1974; and Law No. 7,781, 27 June 1989 establish guidelines for the exploration and commercialization of nuclear ores and materials of interest to nuclear energy. The latter also establishes the conditions of importation and exportation of nuclear ores, minerals, and ores of interest to nuclear energy in addition to uranium and thorium associated minerals and ores, their concentrates, products, and by-products.

[68] Geological Survey of Brazil. Viewed at: http://www.cprm.gov.br/.

[69] Ministry of Mines and Energy, *National Mining Plan 2050*. Viewed at: https://www.gov.br/mme/pt-br/assuntos/secretarias/geologia-mineracao-e-transformacao-mineral/pnm-2050.

[70] Federal Constitution (1988), Articles 20, 21, 22, 49, and 176.

[71] Decree Law No. 267/67.

[72] According to the authorities, companies with more than 51% of foreign capital ownership are obliged to obtain a previous licence to operate given by the Defence National Council within a 150 kilometre strip along the border, pursuant to Law No 6,634/1979.

[73] National Mining Agency, *Mining Statistics in Brazil*. Viewed at: https://www.gov.br/anm/pt-br/centrais-de-conteudo/mineracao-em-numeros.

Year	Licensing	Mining concession	Lavra Garimpeira permission	Mineral research
2021	1,115	760	161	10,098
2022	508	199	148	4,068

Source: Information provided by the authorities.

4.61. The process of obtaining a mining title is described in the Mining Code, Ordinance No. 155/2016 of the DNPM, and Decree No. 9,406/2018.[74] Law No. 13,540/2017 changed the distribution of the CFEM as follows: (i) 7% to the regulatory entity of the mining sector; (ii) 1% for the National Fund for Scientific and Technological Development (FNDCT); (iii) 1.8% for the Mineral Technology Centre (CETEM), linked to the Ministry of Science, Technology, Innovations and Communications; (iv) 0.2% to the Brazilian Institute for the Environment and Renewable Natural Resources (IBAMA); (v) 15% for the Federal District and the states where production takes place; (vi) 60% for the Federal District and the municipalities where production takes place; and (vii) 15% for the Federal District and municipalities, when affected by mining activity and production does not occur in their territories. There are no export taxes on minerals. Further information is provided by the authorities in the Tables 4.9 and 4.10 below.[75]

Table 4.9 Financial Compensation for the Exploration of Mineral Resources (CFEM) rates

Rate (%)	Mineral substance
1.0	Rocks, sand, gravel, gravel and other mineral substances when intended for immediate use in civil construction; ornamental rocks; mineral and thermal waters
1.5	Gold
2.0	Diamond and other mineral substances
3.0	Bauxite, manganese, niobium and rock salt
3.5	Iron

Source: Law No. 13,540/2017.

Table 4.10 CFEM annual revenue

(BRL million)

2017	2018	2019	2020	2021
1.839	3.036	4.504	6.081	10.289

Source: Information provided by the authorities.

4.62. In February 2020, the Government presented Bill No. 191/2020 to the Chamber of Deputies to allow mining in indigenous lands. As of June 2022, it remains on an urgent basis and was still without an estimation for its approval. These lands correspond to 11.6% of the Brazilian territory (an area equivalent to the territories of France and the United Kingdom combined).[76]

4.2.1.4 Border measures and domestic support

4.63. Brazil's average applied tariffs for minerals and metals in 2020 stood at 10.1%, with maximum tariffs at 20%, the same rates since in 2017.[77] No further information on non-tariff measures were provided in addition to those applicable to nuclear minerals above. No domestic processing requirements currently exist.

4.64. Similar to other sectors, mining benefits are provided by the Federal Government (Section 3.3.1.4). Inova Mineral, a joint initiative of the National Development Bank (BNDES) and

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[74] OECD (2022), *Regulatory Governance in the Mining Sector in Brazil*. Viewed at: https://www.oecd.org/gov/regulatory-policy/regulatory-governance-in-the-mining-sector-in-brazil-63d60aa8-en.htm.

[75] Law No. 13,540/2017 introduced new rates for CFEM and changed the form of application on gross sales revenue, after deducting taxes on its commercialization.

[76] Câmara dos Deputados (2020), "Government Project Enables Mining of Ores on Indigenous Lands", 6 February. Viewed at: https://www.camara.leg.br/noticias/634893-projeto-do-governo-viabiliza-exploracao-de-minerios-em-terras-indigenas/; and Câmara dos Deputados (2022), "House Approves Urgency for Project on Mining in Indigenous Lands; Text Will Be Analyzed by Working Group", 9 March. Viewed at: https://www.camara.leg.br/noticias/856872-camara-aprova-urgencia-para-projeto-sobre-mineracao-em-terras-indigenas-texto-sera-analisado-por-grupo-de-trabalho.

[77] WTO (2021) *World Tariff Profiles 2021.* Viewed at: https://www.wto.org/english/res_e/booksp_e/tariff_profiles21_e.pdf.

Financing of Studies and Projects (FINEP) for the promotion and selection of investment plans that contemplate the technological development, production, and commercialization of innovative and more sustainable products, processes, and/or services in the production chains of the mining and mineral transformation industries, has been in place since 2017. In 2017 and 2018, it allocated BRL 1.18 billion in form of credits, subsidies, and cooperation projects between institutions and companies, and also through equity participation in selected business plans from Brazilian companies meeting criteria, though only BRL 100 million were disbursed. According to the authorities, this amount was allocated by BRL 88.4 million to FINEP, BRL 7.5 million in credits, BRL 17.9 million in subsidies, BRL 2 million in cooperation, and none in equity participation. The authorities also informed that the initiative has since been terminated.[78]

4.65. In February 2022, the MME signed a cooperation agreement with BNDES on proposals for the sustainable development of the mining sector.[79] The purpose of the protocol is the combination of efforts between the MME and the BNDES to establish the basis for future and eventual cooperation between the participants, in order to study, discuss, and propose actions aimed at the development of the mining sector, including adequate financing policies; environmental, social, and governance (ESG) aspects; and research, development, and innovation (RD&I) activities. According to the authorities, the Protocol of Intent states that it will not entail the transfer of financial resources between the participants and/or to third parties.

4.66. Under the initiative of the Secretariat of Geology, Mining and Mineral Transformation (SGM/MME) in partnership with BNDES and supported by the ANM in 2021, the Government and the private sector launched a financing network for the mineral sector named Invest Mining. Invest Mining is a network of focal points, formed by representatives of public bodies, institutions, and private entities, aimed at contributing to expand and diversify mineral production by fostering the conditions that favour financing companies in the sector in Brazil. According to the authorities, there is no application of public resources at Invest Mining.

4.67. In February 2021, BNDES sold its last block of shares in the Vale S.A. mining company. As of 30 April 2022, foreign investors represented around 60% of the mining company's shareholding control. Vale is the company with the highest market value on the Brazilian stock exchange (B3), exceeding BRL 500 billion. The Government has specific rights (golden shares) assigned in Vale's bylaws, including change of corporate purpose related to the exploration of mineral deposits; modification of the rights attributed to the types and classes of shares issued by the company; sale of the company; termination of activities of mineral deposits, ore deposits, mines, railways, ports, and maritime terminals.[80]

4.68. The Government has control of Indústrias Nucleares do Brasil (INB), a public company, incorporated as a privately held corporation, pursuant to Law No. 5,740/1971, Law No. 6,189/1974, and Decree Law No. 2,464/1988, linked to the MME, under Brazil's shareholding control. INB carries out the activities of the nuclear fuel cycle, acting in the uranium production chain, which is a state monopoly, in the stages of mining and its improvement, isotopic enrichment, manufacture of uranium powder and pellets, and assembly of the fuel element used in Brazilian nuclear plants for electricity production.

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[78] BNDES, *Inova Mineral*. Viewed at: https://www.bndes.gov.br/wps/portal/site/home/financiamento/produto/inova-mineral; FINEP, *Inova Mineral*. Viewed at: http://www.finep.gov.br/apoio-e-financiamento-externa/historico-de-programa/programas-inova/inova-mineral.

[79] Agência Brasil (2022), "BNDES Will Present Proposals to Boost Mining Sector", 8 February. Viewed at: https://agenciabrasil.ebc.com.br/radioagencia-nacional/economia/audio/2022-02/bndes-vai-apresentar-propostas-para-dinamizar-setor-de-mineracao.

[80] Vale, *Investors*. Viewed at: http://www.vale.com/brasil/PT/investors/company/shareholding-structure/Paginas/default.aspx. According to the authorities, Vale S.A.'s bylaws establishes that the company's shares are common and preferred of the "special" class, and Vale will not be able to issue other preferred shares, which will belong exclusively to the Federal Government and will have the rights that are expressly and specifically assigned in these Bylaws. Furthermore, Vale's capital stock is BRL 77.3 billion, fully subscribed and paid in, divided into 5,284,474,782 book-entry shares, of which BRL 77.3 billion, divided into 5,284,474,770 common shares and BRL 176.88, divided into 12 special class preferred shares, all without par value. Vale, *Bylaws*. Viewed at: http://www.vale.com/PT/investors/corporate-governance/Documents/Estatuto-Social-2021_p.pdf.

4.69. Furthermore, several state governments make direct investments in mineral interests, aiming to promote production in partnerships with private companies, such as Copanhia Baiana de Pesquisa Mineral (CBPM) in Bahia, and Companhia Mineradora do Pirocloro de Araxá (COMIPA) in Minas Gerais.

4.2.2 Energy

4.2.2.1 Main features

4.70. Brazil, a net exporter of crude oil since 2006, remains self-sufficient in primary energy (except for natural gas, coal, refined oil products, and hydropower). In 2021, it produced 425.1 million barrels of oil, of which more than 47.2% were exported to China.[81] Locally refined oil increased by 2.5% year-on-year to 1.8 million barrels a day.[82] In 2021, imports of refined oil increased to 116.7 million barrels.[83] In 2021, total energy demand was 301.5 million tonnes of oil equivalent (mtoe) (299.6 mtoe in 2015 and 268.7 mtoe in 2010). The Brazilian energy matrix (or total energy demand) continued as one of the greenest in the world; in 2021, 45% (41.3% in 2015 and 44.7% in 2010) of energy came from renewable sources compared to an average of less than 15% for the rest of the world. In 2021, it consisted of oil and oil derivatives (34.4%) (37.2% in 2015), sugarcane (16.5%) (16.9% in 2015), natural gas (13.5%) (13.7% in 2015), hydropower (11%) (11.3% in 2015), wood and vegetable coal (8.6%), coal (5.7%), other renewables (8.3%) (4.7% in 2015), uranium (1.3%), and other non-renewables (0.7%). Solar energy capacity increased by 70% from 2020 to 2021, reaching 13 GW in installed capacity. Of the final consumption, transport accounted for 32.7%, industries 30.4%, energy sector 11.2%, households 10.3%, services 5.1%, and agriculture and livestock 4.9%.[84]

4.2.2.2 Policy and institutions

4.71. Brazil's plan for energy expansion from 2021-31, named Ten-year Energy Expansion Plan 2030 (PDE 2030), is focused on striking a balance between the economic growth projections and the necessary expansion of energy supply, as well as ensuring energy supply at the appropriate cost and on a technical and environmentally sustainable basis. It also aims, *inter alia*, at raising the share of renewable sources in the energy and electricity generation matrices to 48% and 83% by 2031, respectively.[85] To attain these objectives, a total investment of BRL 3.2 trillion is planned, of which BRL 2.7 trillion in oil, natural gas, and biofuels, and BRL 528 billion in electricity generation, distribution, and transmission.[86] Worth mentioning that nuclear energy is expected to grow with the start of operations by Angra 3 power plant estimated for 2026.

4.72. Brazil has also launched the National Energy Plan 2050, which integrated planning of energy resources by the Government as prepared by the Energy Research Company (EPE) in close collaboration with the MME. The plan lays the basis for the formulation of a strategy to expand the supply of economic and sustainable energy with a view to meeting the evolution of demand, according to a long-term perspective, and by covering electric energy, as well as other energy sources, notably oil, natural gas, and biomass.[87]

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[81] Comex Stat, *General Exports and Imports*. Viewed at: http://comexstat.mdic.gov.br/pt/geral/5687.

[82] Ministry of Mines and Energy, *Statistical Data*. Viewed at: https://www.gov.br/anp/pt-br/centrais-de-conteudo/dados-estatisticos.

[83] EIU (2022), *Industry Report – Energy – Brazil*, 17 February.

[84] EPE, *Brazilian Energy Balance 2020, Summary Report Year 2019*. Viewed at: https://www.epe.gov.br/sites-en/publicacoes-dados-abertos/publicacoes/PublicacoesArquivos/publicacao-217/SUMMARY%20REPORT%202020.pdf.

[85] EIU (2022), *Industry Report – Energy – Brazil*, 17 February. The main changes planned in Brazil's energy mix in 2022-31 are reductions in the shares of petroleum products (from 34% to 32%), sugarcane-based ethanol biofuels (from 19% to 17%), firewood and charcoal (from 8% to 7%), and coal (from 5% to 4%). Shares will rise for natural gas (from 11% to 14%), renewables (from 8% to 11%), and nuclear power (from 1% to 2%), and hydropower will remain at 13%.

[86] Ministry of Mines and Energy and EPE (2021), *Plano Decenal de Expansão de Energia 2030*, 25 February. Viewed at: https://www.epe.gov.br/pt/publicacoes-dados-abertos/publicacoes/plano-decenal-de-expansao-de-energia-2030.

[87] Ministry of Mines and Energy and EPE (2021), *Plano Decenal de Expansão de Energia 2030*, 25 February. Viewed at: https://www.epe.gov.br/pt/publicacoes-dados-abertos/publicacoes/Plano-Nacional-de-Energia-2050.

4.73. Under the Federal Constitution, Brazil's hydropower sources and mineral resources (including oil and gas), whether in the subsoil, the continental shelf, or in the exclusive economic zone, are the exclusive property of the Union.[88] The sector remains dominated by state companies. The MME implements the general policy for the sector and chairs the National Energy Policy Council (CNPE), which proposes policies and regulations pertaining to hydrocarbons, biofuels, and electricity to the President.[89] Two autonomous regulatory agencies are linked to the MME: the National Agency for Petroleum, Natural Gas and Biofuels (ANP), which regulates hydrocarbons and biofuels (except for state-level distribution of natural gas); and the National Agency for Electrical Energy (ANEEL), responsible for regulating and overseeing the electricity sector. In the downstream segment, all activities involving petroleum products, as well as the transportation, processing, storage, liquefaction, and re-gasification of natural gas remain subject to ANP authorization, while importation and exportation are subject to authorization by the MME. Gas transmission pipelines and storage facilities projects must also, in general, be proposed by the MME and undergo an auction conducted by ANP. The EPE supports planning, *inter alia*, in areas such as electricity, oil, natural gas and its derivatives, coal, renewable energy sources, and energy efficiency.[90]

4.2.2.3 Hydrocarbons and biofuels

4.2.2.3.1 Oil

4.2.2.3.1.1 Main features

4.74. Crude oil represented 11% of Brazilian exports in 2021.[91] No information on the oil sector share of Brazil's GDP was provided. Output of oil picked up with pre-salt production. In 2019, total annual oil production reached 1,018 billion barrels (7.78% higher than in 2018) and more than 60% of national production from the "pre-salt" layer. From 2014 to 2019, the well-lifting costs have sharply dropped by 61% (from USD 15.3 per barrel to USD 6).[92] Brazil remains a net exporter of crude oil with an average of 1.16 million barrels a day in 2021[93] and a net export income (f.o.b.) of USD 17 billion in 2020 and USD 26.6 billion in 2021. According to the authorities, more than 40% of exports went to China in 2021.[94] According to market specialists, more than 70% of crude-oil exports went to China in 2021.[95] This increase is due to a signed loan between Petrobras and the Chinese Development Bank in May 2015.[96] However, as much of the locally produced heavy crude oil cannot be refined domestically, its refined products are imported. Consequently, since 2011, Brazil has remained a net petroleum importer, driven by demand for refined oil products much of which originate in the United States, Argentina, Spain, the Netherlands, India, and Angola.[97] In 2021, petroleum products imports averaged 621,000 barrels per day, a 27% increase from the 2020.[98] It was mainly imported from the United States, approximately to 361,000 barrels per day.[99] In 2021, Brazil ranked as the 9th largest oil producer in the world for petroleum and other liquid fuels.[100]

[88] Federal Constitution, Article 20.
[89] According to the authorities, the Interministerial Council for Sugar and Alcohol (CIMA) has been terminated.
[90] More information on the sector's institutional framework is available in WTO document WT/TPR/S/283/Rev.1, 26 July 2013.
[91] Comex Stat. Viewed at: http://comexstat.mdic.gov.br/en/comex-vis.
[92] International Trade Administration, *Brazil Country Commercial Guide: Energy*. Viewed at: https://www.trade.gov/country-commercial-guides/brazil-energy.
[93] Ministry of Mines and Energy, *Statistical Data*. Viewed at: https://www.gov.br/anp/pt-br/centrais-de-conteudo/dados-estatisticos.
[94] Comex Stat, General Exports and Imports. Viewed at: http://comexstat.mdic.gov.br/pt/geral/56877.
[95] EIU (2022), *Industry Report – Energy – Brazil*, 2nd quarter.
[96] U.S. Energy Information Administration, *Brazil*. Viewed at: https://www.eia.gov/international/analysis/country/BRA.
[97] EIU (2022), *Industry Report – Energy – Brazil*, 2nd quarter.
[98] Ministry of Mines and Energy, *Statistical Data*. Viewed at: https://www.gov.br/anp/pt-br/centrais-de-conteudo/dados-estatisticos.
[99] Ministry of Mines and Energy, *Table 2.53: Imports of Petroleum Derivatives*. Viewed at: https://www.gov.br/anp/pt-br/centrais-de-conteudo/publicacoes/anuario-estatistico/arquivos-anuario-estatistico-2021/tabelas-e-quadros/industria-nacional-do-petroleo/t2-53.xls.
[100] BP (2021), *Statistical Review of World Energy*. Viewed at: https://www.bp.com/content/dam/bp/business-sites/en/global/corporate/pdfs/energy-economics/statistical-

4.75. During the review period, the state-controlled Petrobras maintained its dominant position in the production and refining markets of petroleum and petroleum products in Brazil. According to the authorities, the Government has 50.3% of Petrobras' voting shares and 36.6% of its capital stock. Private Brazilian investors hold 18.9% of capital stock, while foreign investors hold 44.5%.[101] Petrobras is not obliged to meet domestic demand of crude oil before exporting the remainder. During the review period, the company continued to account for over 90% of total oil production. Whereas Petrobras is responsible for most of Brazil's crude oil production, other producers may export all of their production of heavy oil, since there is no obligation to sell to refineries in Brazil.[102] The dive in oil prices and adverse impact of COVID-19 led Petrobras to reduce its investments by 30% in 2020 to USD 8.5 billion. Investments from other oil companies are also expected to drop by up to 30%.[103] Reportedly, Petrobras currently accounts for less than 75% of oil output in Brazil, as foreign firms – including Shell, Repsol-Sinopec (Spain-China), Petrogal (Portugal), and Equinor (Norway) – have increased their production.[104] Brazil was the only South American country to increase crude oil production in 2020.[105]

4.2.2.3.1.2 Upstream – Exploration and production (E&P) arrangements

4.76. Brazil's two parallel regimes (transfer of rights and production sharing) for selected exploration blocks remained unchanged during the review period (Table 4.11).[106] The ANP may grant authorizations and/or concessions for specific activities to private companies and consortia incorporated under Brazilian law, with headquarters and management in Brazil. Besides creating the appropriate entities in Brazil, foreign companies must comply, *inter alia*, with technical-capacity and financial-standing requirements. Since 2010, a fully state-owned enterprise Pré-sal Petróleo S.A. (PPSA) has represented the Government's interests in the consortia performing E&P operations and managed the commercialization of the State's share of output produced under the production-sharing agreements.[107]

Table 4.11 Regulatory framework for oil and gas exploration and production, 2021

	Transfer of rights regime	Production-sharing regime
Legislation	Law No. 12,276, 30 June 2010	Law No. 12,351, 23 December 2010; Law No. 12,304, 2 August 2010; and Law No. 13,356, November 2016
Coverage	Seven designated "pre-salt" blocks granted in September 2010	Blocks located in the "pre-salt" polygon[a] and strategic blocks; the CNPE may extend the list of blocks covered
Exclusive rights transferability	Not transferable	Transferable upon MME authorization
Petrobras participation in E&P contracts	Holds exclusive rights for exploration and production, initially up to a total of 5 billion barrels of oil equivalent; once the 5 billion barrels limit is reached, blocks will be granted under the production-sharing regime	Operatorship by Petrobras is no longer required as well as minimum 30% interest for new pre-salt acreage
Federal Government participation in E&P contracts	Not possible	Possible through specific fund created by law; may participate in investments. PPSA represents the Government's interests in the Operational Committee as the PSC manager

review/bp-stats-review-2021-full-report.pdf; and U.S. Energy Information Administration, *Brazil*. Viewed at: https://www.eia.gov/international/analysis/country/BRA.

[101] The Federal Government's participation in its voting capital must be at least 50% plus one share (Law No. 9,478, 6 August 1997, Article 62). More information available at: https://www.investidorpetrobras.com.br/en/overview/fact-sheet/.

[102] WTO document WT/TPR/S/358/Rev.1, 18 October 2017.

[103] International Trade Administration, *Brazil Country Commercial Guide: Energy*. Viewed at: https://www.trade.gov/country-commercial-guides/brazil-energy.

[104] Economist Intelligence Unit (2022), *Energy: Brazil*, 19 May. Viewed at: https://viewpoint.eiu.com/analysis/geography/XC/BR/reports/energy.

[105] U.S. Energy Information Administration (2021), "Brazil Was the Only South American Country to Increase Crude Oil Production in 2020", 6 December. Viewed at: https://www.eia.gov/todayinenergy/detail.php?id=50538.

[106] In 2010, Brazil discontinued the exclusive use of the concession regime for the exploration and production of oil and natural gas, originally regulated by Law No. 9,478, 6 August 1997. From 2010 onward, Brazil started having two new regimes: onerous transfer and production sharing. The law that regulated this change was Law No. 12,351, 22 December 2010. More information on the institutional and procedural aspects of the current regime is available in WTO document WT/TPR/S/283/Rev.1, 26 July 2013.

[107] WTO document WT/TPR/S/358/Rev.1, 18 October 2017.

	Transfer of rights regime	Production-sharing regime
Private sector participation in E&P contracts	Not possible	Winning bidders in E&P auctions can have up to 100% participation in the consortium's share
Local content	Exploration phase: an overall minimum of 37%, with item-specific minimums between 5% and 85%; development phase: an overall minimum of 55% to 65% (depending on the year production began), with item-specific minimums between 29% and 100%	Thresholds to be defined
Government revenue from E&P contracts	Signing bonus of BRL 74.8 billion; royalties for production of hydrocarbons (10% of gross revenues)	Signing bonus; royalties (15% of gross revenues)

a The geographical coordinates of the "pre-salt polygon" are defined in the Annex to Law No. 12,351.

Source: Information provided by the authorities.

4.77. The production-sharing regime is aimed at lowering the exploration risk, maximizing the government take from oil production, and achieving a more equal distribution of its proceeds among Brazilians; revenue from production-sharing contracts is to finance education, poverty reduction, and environmental initiatives.[108] To preserve national interests or achieve other energy policy goals, the production-sharing regime includes the possibility of direct contracts (i.e. without bidding procedures) with Petrobras; nevertheless, there have been no such cases so far. The selection of winning bids is based on the portion of crude oil output (*excedente em óleo*) to be shared between the Government and the contractor, after deducting a percentage of the total production volume to cover royalties and costs incurred by the latter. Stiff local content rules and the requirement that Petrobras must have a minimum 30% stake in pre-salt fields seem to have caused development delays. As of November 2016, the requirement that Petrobras must be the sole operator and hold a minimum 30% stake in the country's massive offshore pre-salt oil reserves has been eliminated.[109] Since 2017, Brazil has held eight auctions of pre-salt blocks, attracting significant foreign investments.

4.78. The National Council on Energy Policy (CNPE) has removed local content requirements as a bid evaluation parameter in auctions, according to the offer made, between a minimum and a maximum value. Instead, it has specified predefined and lower percentages from an average 79.5% in the 13th bidding round in 2015, to 18% and 40% for subsequent rounds.[110] Concessionaries that fail to meet their local content commitments are subject to fines, which vary according to the shortfall.[111] Between 2017 and 2021, the ANP levied 127 fines totalling BRL 1.40 billion, of which 94% (BRL 1.32 billion), were applied only to Petrobras.

4.79. By the end of 2021, 897 fields were under E&P contracts, of which: 248 were blocks in the exploration phase; 38 fields in the production development phase; 33 fields in the production phase; and 66 fields in the process of being returned to the ANP.[112] Petrobras had participation in 65 blocks at the exploration phase, of which 26 were exclusive concessions to this company, and another 39 in partnership with other firms. In total, Petrobras operates 94% of oil and gas production in Brazil and it has rights of 71.9%. Additionally, 67 local and 48 foreign companies hold oil rights to exploration and appraisal areas in Brazil.[113] Petrobras had the operation of 65 blocks, Shell 18 blocks, Exxon 17 blocks, Eneva 17 blocks, and other operators 129 blocks.[114] With respect to 38 fields in

[108] Law No. 12,351/2010.
[109] WTO document WT/TPR/S/358/Rev.1, 18 October 2017.
[110] International Trade Administration, *Energy Resource Guide: Brazil – Oil & Gas*. Viewed at: https://www.trade.gov/energy-resource-guide-brazil-oil-and-gas
[111] These commitments add an administrative burden involving a tangle of obligations requiring concessionaries to hire certification companies in order to prove compliance and to submit periodic expenditure's reports to ANP; furthermore, there is still a lack of regulatory provisions on waiver requests by non-compliant concessionaries to be analysed and judged, that can led to additional fines for the period.
[112] ANP (2021), *Brazilian Oil, Gas, and Biofuels Statistics Yearbook 2021*, p. 53. Viewed at: https://www.gov.br/anp/pt-br/centrais-de-conteudo/publicacoes/anuario-estatistico/arquivos-anuario-estatistico-2021/anuario-2021.pdf.
[113] International Trade Administration, *Energy Resource Guide: Brazil – Oil & Gas*. Viewed at: https://www.trade.gov/energy-resource-guide-brazil-oil-and-gas.
[114] ANP (2021), *Brazilian Oil, Gas, and Biofuels Statistics Yearbook 2021*, p. 53. Viewed at: https://www.gov.br/anp/pt-br/centrais-de-conteudo/publicacoes/anuario-estatistico/arquivos-anuario-estatistico-2021/anuario-2021.pdf; and ANP (2021), *Relatório Anual de Exploração 2020*, p. 27. Viewed

development, Petrobras was the sole contractor for 3 fields, and a joint operator in another 9 fields. With respect to the 335 fields in production, Petrobras was the sole contractor for 124, and a joint operator in another 12 fields. Government revenue from E&P activities continues to be collected through signature bonuses and royalties applicable to concession agreements and production share contracts, as well as special participation and area retention taxes applicable to concession agreements only. According to the authorities, between 2017 and December 2020, annual revenue from E&P activities accounted for BRL 275.1 billion (from BRL 18 billion in 2016); royalties contributed to 31% and special participation 37% of the total revenue, which was channelled to the Federal Government (42%), states and municipalities (58%), and health and education (0.11%).

4.80. During the review period, Brazil approved initiatives to build confidence with investors and increase predictability. These included Law No. 13,586/2017, as regulated by the Normative Instruction RFB No. 1,781/2017, extending REPETRO SPED, which exempts goods exports and imports of certain taxes until 2040. A special tax regime was established allowing certain investments to be tax deducted, aimed at fostering investments on new and existing oil fields. Furthermore, concessions of older, mature fields have been extended to improve recovery rates and to stimulate further investments.[115]

4.2.2.3.1.3 Downstream

4.81. Brazil was the eighth-largest producer and the seventh-largest consumer of crude oil, all other petroleum liquids, and biofuels consumer in the world in 2019, consuming 3.14 million barrels/day (b/d).[116] Gross domestic consumption of petroleum products decreased by an estimated 5.0% year-on-year in 2021, to 99.2 mtoe, primarily used for transport and industrial activities.[117] Brazil is a net import of refined-oil products, which increased by 96% year-on-year to 116.7 million barrels in 2021 mainly of imports of diesel, naphtha, and LPG from the United States, Argentina, Spain, the Netherlands, India, and Angola. [118] A total of 19 refineries with a cumulative capacity of 2.4 million b/d was responsible for the domestic refined-oil output of 1.8 million b/d, an increase of 2.5% on a year to year.[119] In 2020, 41,673 gas stations were in operation in Brazil, by Vibra Energia (27.51% of Brazil's fuel distribution market), Raízen, Ipiranga, and several other smaller fuel distributors.[120] Petrobras sold all of its shares in BR Distribuidora, now renamed as Vibra Energia, with the aim to achieve more effective competition on the wholesale of oil products.[121]

4.82. Brazil's import tariff for hydrocarbons remains set at zero.

4.83. Since 2002, all fuel and oil product prices must be set freely (e.g. without government approval) by the market. Fuel prices track international oil prices and were increased in 2021.[122] The gasoline sold at gas stations is composed of a blend of 73% of gasoline and 27% of ethanol. Petrobras accounts for 38.8% of the price sold to consumers; 24.1% for state-level tax ICMS; 9.5% for federal-level taxes of Contribution for Intervention in the Economic Domain (CIDE), PIS/PASEP, and COFINS; 13.2% for the value of ethanol, and the remaining 14.3% the retail and distribution profits. For diesel, Petrobras' share of the price sold to consumers corresponds to 63.2% of the price, followed by 11.7% of ICMS, federal taxes including PIS and COFINS combined account for 0%, 10.4% of biodiesel, and the remaining 14.7% the retail and distribution profits. In 2022, a minimum blend of 10% of biodiesel is required, according to National Energy Policy Council (CNPE)

at: https://www.gov.br/anp/pt-br/assuntos/exploracao-e-producao-de-oleo-e-gas/gestao-de-contratos-de-e-p/fase-de-exploracao/copy_of_raexp2020.pdf.

[115] WTO document WT/TPR/S/358/Rev.1, 18 October 2017; and International Trade Administration, *Energy Resource Guide: Brazil – Oil & Gas*. Viewed at: https://www.trade.gov/energy-resource-guide-brazil-oil-and-gas.

[116] International Trade Administration, *FAQs*. Viewed at: https://www.eia.gov/tools/faqs/faq.php?id=709&t=6.

[117] EPE (2021), *Brazilian Energy Balance, Year 2020*. Viewed at: https://www.epe.gov.br/sites-pt/publicacoes-dados-abertos/publicacoes/PublicacoesArquivos/publicacao-601/topico-596/BEN2021.pdf.

[118] EIU (2022), *Industry Report – Energy – Brazil*, 17 February.

[119] Ministry of Mines and Energy, *Statistical Data*. Viewed at: https://www.gov.br/anp/pt-br/centrais-de-conteudo/dados-estatisticos.

[120] Ministry of Mines and Energy, *Dynamic Panels on Fuels*. Viewed at: https://www.gov.br/anp/pt-br/centrais-de-conteudo/paineis-dinamicos-da-anp/paineis-dinamicos-sobre-combustiveis.

[121] International Trade Administration, *Energy Resource Guide: Brazil – Oil & Gas*. Viewed at: https://www.trade.gov/energy-resource-guide-brazil-oil-and-gas.

[122] EIU (2022), *Industry Report – Energy – Brazil*, 17 February.

Resolution No. 25/2021. This share should reach 15% in 2023, according to CNPE Resolution No. 16/2018. Distributors and resellers account for 14% of the amount paid.

4.2.2.3.2 Gas

4.84. Brazil's proven natural gas reserves reached 338 billion m^3.[123] Natural gas extraction increased from 38 billion m^3 (2016) to 44.72 billion m^3 (2019)[124]; Petrobras accounted for 75% of the output in 2020 (93.9% in 2016) whereas foreign firms – including Shell, Repsol-Sinopec (Spain-China), Petrogal (Portugal), and Equinor (Norway) – increased their shares.[125] Natural gas demand stood at 86 million m^3/day.[126] In 2020, domestic gas production accounted for 58%, while imports from the Plurinational State of Bolivia represented 23%, followed by liquefied natural gas (LNG) imports (20%).[127] Reportedly, Brazil's natural gas imports fell by 20.1% year-on-year to 7.9 billion m^3 in 2020, followed by an increase in 2021 to fuel gas-fired power generation.[128] Most of natural gas in Brazil is imported via the pipeline from the Plurinational State of Bolivia. A pipeline from Argentina was used as well. In 2020, Brazil sourced around 17% of imported LNG from the United States, Trinidad and Tobago, Argentina, Angola, and Nigeria. These are mostly imported via three Petrobras terminals, in the states of Bahia, Ceará, and Rio de Janeiro.[129] Currently, five LNG terminals were in operation, of which three are owned by Petrobras. Another three were in the development stage, while a few others are planned for the coming years.[130] Brazil continued to host 9,409 km of gas transmission pipelines, and a 38,620 km distribution network.

4.85. A newly adopted Gas Law (Law No. 14,134/2021) has been a significant step towards an open and competitive market, enabling a robust regulatory agenda to build the new natural gas market, and opening new investment opportunities in Brazil.

4.2.2.3.3 Biofuels

4.86. At the end of 2017, Brazil instituted the National Biofuels Policy (RenovaBio)[131], with the objective to contribute to the decarbonization of the Brazilian transport matrix in line with the COP21 commitments. To achieve this, the programme takes into account the relationship between energy efficiency and the reduction of greenhouse gas emissions, and it draws on three main instruments: (i) annual carbon intensity reduction targets (CO_2/MJ) for a minimum period of 10 years; (ii) certification of biofuels by efficiency in reducing GHG emissions; and (iii) decarbonization Credits (CBio). From these instruments, the environmental costs of using fossil fuels are converted into income for biofuel producers, offering efficiency incentives for their sustainable growth. In 2021, it avoided the emission of 24.4 million tonnes of GHG due to the commercialization of 24.4 million CBios by distributors of fossil fuel, which met about 98% of the 2021 target.[132]

4.2.2.3.3.1 Ethanol

4.87. During the review period, Brazil retained its position as the world's second-largest producer and exporter of ethanol in the world after the United States[133], although production decreased

[123] International Trade Administration, *Energy Resource Guide: Brazil – Oil & Gas.* Viewed at: https://www.trade.gov/energy-resource-guide-brazil-oil-and-gas.

[124] International Trade Administration, *Brazil Country Commercial Guide: Energy*. Viewed at: https://www.trade.gov/country-commercial-guides/brazil-energy.

[125] EIU (2022), *Industry Report – Energy – Brazil*, 17 February.

[126] ANP (2021), *The O&G Industry in Brazil*. Viewed at: https://www.gov.br/anp/pt-br/centrais-de-conteudo/apresentacoes-e-palestras/2021/arquivos/PPT_DG_Evento_EmbaixadadoBrasilnoJapao.pdf.

[127] International Trade Administration, *Energy Resource Guide: Brazil – Oil & Gas*. Viewed at: https://www.trade.gov/energy-resource-guide-brazil-oil-and-gas.

[128] EIU (2022), *Industry Report – Energy – Brazil*, 17 February.

[129] EIU (2022), *Industry Report – Energy – Brazil*, 17 February.

[130] International Trade Administration, *Energy Resource Guide: Brazil – Oil & Gas*. Viewed at: https://www.trade.gov/energy-resource-guide-brazil-oil-and-gas.

[131] Law No. 13,576/2017; and Ministry of Mines and Energy, *RenovaBio*. Viewed at: https://www.gov.br/anp/pt-br/assuntos/renovabio.

[132] USDA Foreign Agricultural Service, *Brazil Biofuels Annual - Annual Report 2021*, Global Agricultural Network Report Number BR2021-0030, 30 August. Viewed at: https://apps.fas.usda.gov/newgainapi/api/Report/DownloadReportByFileName?fileName=Biofuels%20Annual_Sao%20Paulo%20ATO_Brazil_08-02-2021.pdf.

[133] U.S. Energy Information Administration, *Brazil*. Viewed at: https://www.eia.gov/international/analysis/country/BRA.

in 2021 by 8.6% year-on-year to 188.5 million barrels due to droughts affecting the sugarcane harvest.[134] The average annual growth rate of the ethanol production for the period 2011-20 was 3.7%. In 2020, the state of São Paulo accounted for 44.8% of the national production, and had its relative share decreased by 11.9%, comparison with 2019.[135] The national production of anhydrous ethanol was 10.3 million m^3 in 2020, 1.5% lower compared to 2019. The average annual growth rate of anhydrous ethanol production for the period 2011-20 was 1.7%. The production of hydrous ethanol decreased by 9.5%, totalling 22.6 million m^3, 68.8% of national ethanol production. The average growth rate in the period 2011-20 was 4.7%.[136] The ethanol fuel industry remained dependent on sugar output, support, and international oil pricing developments.

4.88. In March 2022, Brazil reduced its import tariff on ethanol (HS 2207) from 18% to zero until 31 December 2022.[137] The tariff rate quota (TRQ) for ethanol expired on 14 December 2020.[138]

4.89. During the review period, the mandatory ethanol blend ratio stood fixed at 27% (E27). Ethanol prices are not controlled, and fluctuations in relative prices lead to changes in consumption patterns; as sugarcane represents 60%-70% of the cost of producing ethanol, high sugarcane production costs and therefore ethanol (E100) prices act as a disincentive for the use of ethanol (E100) at petrol stations. The Contribution for Intervention in Economic Domain (CIDE) and PIS/COFINS taxes are zeroed until December of 2022 for gasoline, anhydrous ethanol, and E100 (hydrous ethanol). According to the authorities, there is no preferential tax treatment for ethanol compared to gasoline under both the CIDE and PIS/COFINS; however, four producer states (São Paulo, Goiás, Mato Grosso, and Minas Gerais) provide differential treatment for ethanol by using different rates of state taxes for circulation of goods and services (ICMS) on ethanol (12%-14%) in comparison to gasoline (17%-18%). The remaining 23 states have the same ICMS for ethanol (E100) and gasoline (17%-20%).

4.90. During the review period, in addition to mandatory fuel blending, other support measures for the production and consumption of ethanol involving cross-subsidization, credit facilities, and tax incentives remained in place. Sugarcane producers from the north and north-eastern states received a direct subsidy, the Regional Producer Subsidy. Tax incentives for flex-fuel cars (around 80% of all motor vehicles sales), involving lower rates for the tax on Industrialized Products (IPI), the Contribution to the Social Integration Program/Contribution for Financing Social Security (PIS/COFINS), and the state tax for circulation of goods and services (ICMS), continued to play an important role in supporting ethanol consumption.[139]

4.91. BNDES has changed the specific administered interest rate credit lines for investments on sugarcane production, expansion of industrial capacity for sugar and ethanol, sugarcane biomass technology, cogeneration, logistics, and multimodal transportation to a specific credit line with interest discount rates attached to improvements in RenovaCalc scores for RenovaBio certified units. The Brazilian Agricultural Crop and Livestock Plan for 2021/22 gives greater emphasis on support for the Sectoral Plan for Mitigation and Adaptation to Climate Changes for the Consolidation of a Low-Carbon Emission Economy in Agriculture (Plan ABC) on sustainable agricultural practices. The

[134] EIU (2022), *Industry Report – Energy – Brazil*, 17 February. Corn-based ethanol production, however, has been sharply increasing.
[135] ANP (2021), *Brazilian Oil, Gas, and Biofuels Statistics Yearbook 2021*, pp. 178. Viewed at: https://www.gov.br/anp/pt-br/centrais-de-conteudo/publicacoes/anuario-estatistico/arquivos-anuario-estatistico-2021/anuario-2021.pdf.
[136] ANP (2021), *Brazilian Oil, Gas, and Biofuels Statistics Yearbook 2021*, pp. 180-182. Viewed at: https://www.gov.br/anp/pt-br/centrais-de-conteudo/publicacoes/anuario-estatistico/arquivos-anuario-estatistico-2021/anuario-2021.pdf.
[137] Ministry of Economy/Chamber of Foreign Trade (CAMEX) Ordinary Meeting 192, 21 March 2022. Viewed at: https://www.gov.br/economia/pt-br/assuntos/noticias/2022/marco/camex-reduz-a-zero-imposto-de-importacao-de-sete-itens-da-cesta-de-consumo-da-populacao.
[138] USDA Foreign Agricultural Service, *Brazil Biofuels Annual - Annual Report 2021*, Global Agricultural Network Report Number BR2021-0030, 30 August. Viewed at: https://apps.fas.usda.gov/newgainapi/api/Report/DownloadReportByFileName?fileName=Biofuels%20Annual_Sao%20Paulo%20ATO_Brazil_08-02-2021.pdf.
[139] USDA Foreign Agricultural Service, *Brazil Biofuels Annual - Annual Report 2021*, Global Agricultural Network Report Number BR2021-0030, 30 August. Viewed at: https://apps.fas.usda.gov/newgainapi/api/Report/DownloadReportByFileName?fileName=Biofuels%20Annual_Sao%20Paulo%20ATO_Brazil_08-02-2021.pdf.

Plan ABC credit line is set at BRL 5.05 billion with a 5.5%-7% interest rate.[140] The total financing for the industry was BRL 1.39 billion (BRL 2.74 billion in 2015).

4.92. In 2019, Brazil's ethanol exports averaged approximately 33,000 barrels/day.[141] The United States was the main destination for Brazil's ethanol exports (13,000 barrels/day), mainly through California because of the fuel's favourable treatment compared with domestic corn ethanol under California's Low Carbon Fuel Standard (LCFS), as Brazil's sugarcane ethanol emits less carbon dioxide than corn-based ethanol.[142]

4.93. Despite being a major ethanol producer, between sugarcane harvest seasons Brazil imported more than 22,000 b/d of ethanol from the United States in 2019.[143] According to the authorities, in 2021 Brazil imported more than 5,000 barrels/day of ethanol from the United States.[144]

4.2.2.3.3.2 Biodiesel

4.94. During the review period, Brazil's biodiesel output grew steadily to 6.76 million m^3 (2021), compared to a rise from 2.7 million m^3 (2012) to 3.9 million m^3 (2015), *inter alia*, supported by the increase of the biodiesel use mandate (see below). Brazil is the world's third-largest producer of biodiesel after the United States and Indonesia. As of 2021, Brazil had 55 plants authorized to produce biodiesel and their capacity represented 35,679 million m^3/day.[145]

4.95. The customs tariff on biodiesel (HS 3826) is 12.6%.[146] However, external trade of biodiesel is very low: imports reached USD 119,605 in 2021, USD 23,292 in 2020, and USD 15,751 in 2019, while biodiesel exports reached USD 9 million in 2021, USD 3 million in 2020, and USD 565,661 in 2019.

4.96. The 2004 National Biodiesel Production Programme (PNPB) remains in place. Its aim is to promote domestic biodiesel production, reduce petroleum import dependency, lower pollutant emissions and health-related costs, generate jobs and income, and alleviate regional economic disparities by passing on benefits to family farmers. It is implemented through blending requirements. Public auctions were carried out by the Brazilian Regulatory Agency until 31 December 2021. On 1 January 2022, a new biodiesel commercialization model was implemented, replacing the public auctions for direct negotiations among buyers and biodiesel producers, as defined by CNPE Resolution No. 14/2020, where 80% of the biodiesel market is reserved to sugarcane plants that have the Social Fuels Seal.[147]

4.97. The mandatory blending ratio of biodiesel added to the oil diesel has increased to 12% as of March 2020, in volume, according to Law No. 13,263/2016. Throughout 2020, the percentage of mixture varied from 10% to 11%. In 2021, this mandatory blending ratio varied between 10%

[140] USDA Foreign Agricultural Service, *Brazil Biofuels Annual - Annual Report 2021*, Global Agricultural Network Report Number BR2021-0030, 30 August. Viewed at: https://apps.fas.usda.gov/newgainapi/api/Report/DownloadReportByFileName?fileName=Biofuels%20Annual_Sao%20Paulo%20ATO_Brazil_08-02-2021.pdf.

[141] ANP (2020), *Oil, Natural Gas, and Biofuels Statistical Yearbook 2020*, Table 4.5 (October 2020). Viewed at: https://www.gov.br/anp/pt-br/centrais-de-conteudo/publicacoes/anuario-estatistico/anuario-estatistico-2020.

[142] U.S. Energy Information Administration, *Brazil*. Viewed at: https://www.eia.gov/international/analysis/country/BRA.

[143] U.S. Energy Information Administration, *Brazil*. Viewed at: https://www.eia.gov/international/analysis/country/BRA.

[144] According to the authorities, from September 2019 to August 2020, there was a quota that allowed imports of up to 750 million litres/per year. From August 2020, this quota was no longer in place and the import tariff of 20% comes back into effect, being in force until the recent decision by CAMEX to zero the import tariff in March 2022 (until the end of the year). Furthermore, due to the increase in fuel prices in 2021, Brazilian plants (hybrid for sugar or ethanol production) started to produce more ethanol, thus reducing the need to imports.

[145] Ministry of Mines and Energy and ANP (2021), *Anuário estatístico brasileiro do petróleo, gás natural e biocombustíveis - 2021*. Viewed at: https://www.gov.br/anp/pt-br/centrais-de-conteudo/publicacoes/anuario-estatistico/arquivos-anuario-estatistico-2021/anuario-2021.pdf.

[146] GECEX Resolution No. 272/2021, Annex II.

[147] Viewed at: https://www.in.gov.br/en/web/dou/-/despacho-do-presidente-da-republica-296859038; and CNPE Resolution No. 14/2020.

and 13%, depending on the auction, as a way to alleviate the impacts of biodiesel high cost on the diesel prices.[148]

4.98. Biodiesel benefits from subsidization through federal tax exemptions and incentives for PIS/PASEP and COFINS taxes depending on the nature of the raw material, size of producer, and region of production, in order to encourage the production of biodiesel and to promote social inclusion, as well as ICMS benefits at the state level. This scheme also requires a Social Fuel Seal Certificate.[149] The prices have remained high, over BRL 6/litre since the middle of 2021.

4.2.2.4 Electricity

4.2.2.4.1 Main features

4.99. During the review period, Brazil's installed capacity and power generation continued to grow at a fast pace. In 2021, Brazil had 190.2 GW of installed capacity for electricity generation (140.9 GW in 2015), generated 653 TWh of electricity, imported 23 TWh, and consumed 570 TWh. Hydroelectric sources accounted for 57.5% of installed capacity (65.1% in 2015), followed by wind and solar (17.7%), fossil fuel-fired (15.5%), biomass (8.3%), and nuclear (1%) sources.[150] Brazil's shares of renewables in the 2021 installed capacity of electricity was 84%, much above the shares of the world (38%) and OECD countries (40%). Electricity produced by the Itaipu plant and imported from Paraguay continues to account for most of Brazil's imports.[151] In 2021, Brazil imported 17.2 TWh from Paraguay, 3.77 TWh from Argentina, and 2.18 TWh from Uruguay, and exported 0.04 TWh to Argentina. In 2021, the main power consumption groups consist of manufacturing (38.5%), residential consumers (26.6%), service activities (23.4%), agriculture (5.8%), and the energy sector (5.4%). In 2020, Brazil imported USD 1,453.9 million from Paraguay and USD 34,628 million from Argentina, and exported USD 1,950 million to Argentina.[152] New hydro projects were delivered, most notably, the Belo Monte plant in the Amazon Basin, in full operation since 2019, and the fourth-largest hydroelectric plant by capacity in the world. Other major hydro projects are being developed, such as the 400 megawatt (MW) Tabajara hydropower project, the 650 MW Bem Querer hydropower project, and smaller hydro projects with 500 MW or less.[153]

4.100. Solar energy in Brazil increased 70% from 2020 to 2021, reaching 13 GW[154] in installed capacity.[155] Energy auctions from solar energy is expected to reach over USD 5 billion in 2022, in addition to USD 1 billion already invested in solar distributed generation since 2012, expected to significantly increase in the coming few years.[156]

4.101. Brazil currently has two nuclear reactors (Angra-1 and Angra-2) with a combined capacity of 1,884 MW, and they supplied 14.1 billion kilowatt-hours (kWh) of electricity in 2020. The

[148] Ministry of Mines and Energy and ANP (2021), *Anuário estatístico brasileiro do petróleo, gás natural e biocombustíveis - 2021*. Viewed at: https://www.gov.br/anp/pt-br/centrais-de-conteudo/publicacoes/anuario-estatistico/arquivos-anuario-estatistico-2021/anuario-2021.pdf.

[149] Law No. 12,546/2011 and Law No. 12,865/2013. Ministry of Agriculture, Livestock and Food Supply, *Social Biofuel Seal*. Viewed at: https://www.gov.br/agricultura/pt-br/assuntos/agricultura-familiar/biodiesel/selo-biocombustivel-social.

[150] Ministry of Mines and Energy, Installed Capacity data: *Boletim de Monitoramento do Sistema Elétrico*.

[151] Itaipu is jointly administered by Brazil and Paraguay; each country has rights on half of its 14-GW capacity. The treaty between both countries is set to expire in 2023. Currently, Paraguay uses less than 20% of its entitlements, selling the remaining to Brazil. In May 2019, the agreement reached by both countries for a new power-sharing deal was cancelled due to public outcry in Paraguay, and the final costs to Brazil remain unclear. Ministry of Mines and Energy 2021 data: Boletim Mensal de Energia and Energy Information System of Brazil (SIE Brasil).

[152] Data for imports available at: http://comexstat.mdic.gov.br/en/geral/56468. For exports: http://comexstat.mdic.gov.br/en/geral/56467.

[153] Viewed at: https://www.eia.gov/international/analysis/country/BRA/background#electricity.

[154] These values includes Distributed Generation in total.

[155] Viewed at: https://www.gov.br/mme/pt-br/assuntos/secretarias/energia-eletrica/publicacoes/boletim-de-monitoramento-do-sistema-eletrico.

[156] International Trade Administration, *Brazil Country Commercial Guide: Energy.* Viewed at: https://www.trade.gov/country-commercial-guides/brazil-energy.

third nuclear reactor (Angra-3) is expected to be completed between 2026 and 2027 with a generating capacity of 1,340 MW.[157]

4.102. Eletrobras continued to play a major role in the electricity sector. In July 2021, Law No. 14,182/2021 allowed the privatization of Eletrobras through capitalization (issuance of new shares). In September 2021, a state-owned holding company was established to take over those operations that have been excluded from the Eletrobras privatization plan, i.e. Eletronuclear (nuclear power subsidiary) and the 50% participation Itaipu hydropower project. The capitalization was pending valuation studies coordinated by the BNDES, which needed to be approved by the Investment Partnership Program Council (CPPI) and the Federal Audit Court (TCU). According to media sources, the privatization occurred on 14 June 2022. In the third quarter of 2021, the company accounted for 30.1% of Brazil's installed generation capacity, as well as 44% of its transmission lines compared to 31% and 48.9% in 2017, respectively. As of 2021, there were 156 companies responsible for transmission networks and 102 distribution companies (64 in 2017), including state- and privately owned enterprises, such as international companies Spanish Ibedrola and Italian ENEL. The annual investment for distribution is around USD 2.2 billion per year, 69% of which is in expansion, 19% in improvement, and 12% in renewal of distribution networks. Whereas total investments in the power transmission sector until 2029 are projected to reach USD 22 billion, representing USD 15 billion in transmission lines and USD 7 billion in substations.[158]

4.2.2.4.2 Policy and institutions

4.103. Brazil's Ten-year Energy Expansion Plan 2030 (PDE 2030)[159] covering the electricity sector consolidates strategic objectives and initiatives to improve its performance. It aims to anticipate discussions and assess how technological changes, combined with economic, environmental, and consumers' preferences, should affect the national electricity system, as well as the opportunities to expand the matrix of generation and transmission. The PDE 2030 indicated the need to invest around BRL 365 billion in generation, distribution, and transmission of electric energy over the next 10 years.

4.104. The PDE reaffirmed the commitment for the supply of electricity from renewable sources to reach 85% in 2020, set the objective to reach the level of 88% by 2030, in line with Nationally Determined Contribution (NDC) assumed under the Paris Agreement, as well as the determinations of Decree No. 9,578/2018. The Plan also set focus on the decarbonization of matrices. The challenges related to the participation of renewable sources variables, such as wind and solar photovoltaic, are increasingly present in the technical aspect as well as in the commercial and regulatory aspects of the Plan.

4.105. The electricity sector's institutional framework remained unchanged and comprised the MME and the CNPE, the main decision-making bodies; the regulatory agency (ANEEL); the new National Power System Operator (ONS), which coordinates and controls the National Integrated Grid (SIN); the Energy Research Enterprise (EPE), conducting informative studies for energy policy-making; the Electric Energy Commercialization Chamber (CCEE), a non-profit private entity managing electricity trading; and the Electricity Industry Monitoring Committee (CMSE), which monitors the continuity and safety of electricity supply.[160]

4.2.2.4.3 Regulatory and operational aspects

4.106. During the review period, the main regulatory framework of the electricity sector was gradually modernized. Law No. 12,783 of 11 January 2013, which governs electricity generation, transmission, and distribution concessions, was amended by Law No. 13,203 of 8 December 2015, which provides for the renegotiation of the hydrological risk of electricity generation and establishes the bonus for the granting of a concession. Two bills are passing through Congress (PL 1917, 2015 and PL 414, 2021) setting the basis for updating the legal framework of the sector, after a public

[157] Viewed at: https://www.eia.gov/todayinenergy/detail.php?id=49436.

[158] International Trade Administration, *Brazil Country Commercial Guide: Energy.* Viewed at: https://www.trade.gov/country-commercial-guides/brazil-energy.

[159] Viewed at: https://www.epe.gov.br/sites-pt/publicacoes-dados-abertos/publicacoes/PublicacoesArquivos/publicacao-490/PDE%202030_RevisaoPosCP_rv2.pdf.

[160] WTO document WT/TPR/S/358/Rev.1, 18 October 2017.

consultation promoted by the MME in 2017. The main goal is to promote further opening of the market while guaranteeing centralized capacity procurement, fostering improvements in the spot price formation mechanisms, and reducing sectoral charges paid through tariffs.

4.107. Since 2019, the MME has been improving, together with the ANEEL, the EPE, the CCEE, and the ONS, the infra-legal and regulatory frameworks through a joint task force called "The Modernization of the Power Sector".

4.108. As preliminary results of this joint work, the sectoral institutions have already enabled the implementation of hourly spot prices (a sectoral claim since the 1990s); the procurement of new generation projects to provide for capacity reserves; the reduction of sectoral charges related to the construction of new renewable energy projects; and the opening of the market for large consumers enabling them to buy electricity from any supplier.

4.109. In terms of competencies, ANEEL grants concessions for electricity generation, transmission, and distribution through authorizations or public tender procedures; the latter may involve auctions, which are organized by ANEEL and carried out by the CCEE. The generation concessions granted for hydropower may be extended at the discretion of the Government, only once for up to 30 years, in order to ensure the continuity and efficiency of the service provided as well as low electricity tariffs. According to Law No. 12,783/2013, the extension is contingent upon the generator's acceptance of certain conditions set by ANEEL, including the remuneration tariffs to be applied, a guaranteed supply quota allocation, and quality standards. Quotas are allocated through contracts and they are revised periodically by ANEEL. Regarding self-generation of hydropower, concessions for up to 50 MW may be extended once for up to 30 years; generators may sell any non-consumed surplus in the spot free market. Those not linked to the National Interconnected Grid (SIN) are not bound by the 50 MW threshold. In the case of thermoelectric power generation, the renewal of concessions is allowed for up to 20 years and must be requested by the concessionary at least 24 months prior to the expiration of the concession.

4.110. Setting up thermoelectric plants with a capacity of more than 5 MW requires ANEEL authorization; the same applies to hydroelectric plants with a capacity greater than 15 MW but equal to or lower than 50 MW. Hydroelectric projects with capacity greater than 50 MW require public-provider concessions in order to trade part of their electricity via auctions. Authorizations for building and operating new thermoelectric generators and certain hydropower plants are granted for 30 years, non-renewable. A renewable period of 35 years is envisaged for new hydroelectric generators. Concessions for building hydropower plants with a capacity greater than 50 MW are granted for 35 years, non-renewable. Legislation in this area included the possibility of undertaking existing hydropower plants auctions as a means of collecting a bonus for the concession (a payment for the concession right).

4.111. Brazil's electricity market remains organized around two trading environments: the Regulated Contracting Environment (ACR) and the Free Contracting Environment (ACL). In the ACR, distribution companies hold the exclusive right to supply electricity to captive consumers. These companies are not allowed to operate in the ACL, where large consumers (above 2 MW/year in 2020, 1.5 MW/year in 2021, 1 MW/year in 2022, and 0.5 MW/year from January 2023 onwards) may purchase energy from generating or trading companies through freely negotiated bilateral contracts. Generating companies may sell electricity in both environments.[161] In 2021, the size of the ACL market had 9,930[162] (6,000 in 2016 and 1,427 in 2012) entities registered as free and special consumers at the CCEE, and estimated to account for 34.4%[163] (25% in 2016 and 27.2% in 2012) of domestic electricity consumption.

4.112. Energy auctions organized by the MME are the main procurement mechanism for distribution companies to acquire energy from generating companies. Under auction rules, all distribution companies buy energy at the same price.[164] Between 2017 and 2021, 13 energy purchase auctions

[161] Decree No. 5,163, 30 July 2004.

[162] Viewed at: https://www.ccee.org.br/web/guest/dados-e-analises/dados-mercado-mensal.

[163] Viewed at: https://public.tableau.com/app/profile/ccee.informa.es.ao.mercado.

[164] The price is set by auction. Generators must offer quotas of energy to be sold at decreasing prices until the sum of the quotas equals total demand by the distributors. At this point, an average price for all quotas offered is calculated; this price is the single price to be paid by all distribution companies in their purchases of quotas.

for new power plants were conducted. In 2021, 8,300 MW of new capacity was contracted by distribution companies, with contracts ranging from 15 to 30 years. Imports and exports of electricity may only take place through the national grid (SIN) and require ANEEL authorization; they may take place under free contracts or in the regulated market. Authorizations are non-automatic and are granted through the integrated foreign trade system Siscomex. ANEEL approved the final result of the New Energy Auction A-5 from September 2021, whose investments attracted up to BRL 3.067 billion, enabling the operation of 40 plants with a combined capacity of 860,796 MW. The supply of electricity from this auction is scheduled for January 2026. The auction included electricity from new generation projects, including hydropower, wind, and solar photovoltaic sources, as well as biomass, natural gas, mineral coal, and urban solid waste treatment plants. In total, 1,510 lots were traded and reaching 25,145,452.80 MWh at an average selling price of BRL 238.37 per MWh. The contracts total BRL 5.9 billion. Distributors were already interested in acquiring the energy offered by the participating plants. The supply will be for a period of up to 25 years. In December 2021, the MME defined the auction schedules for contracting generation and concession for electricity transmission over the triennium 2022-24. The two transmission auctions scheduled for 2022 indicate investment opportunities in lots that add up to around BRL 11 billion in both events.[165]

4.113. Average electricity supply tariffs increased by 14.99% in 2018 and then rose progressively by 1.67% (2019), 3.25% (2020), and 8.23% (2021) to BRL 602.73 per MWh excluding taxes; these developments were broadly in line with the average inflation rate of 16.6% (IGPM) and 7.0% (IPCA) in the period 2017-21. These tariff developments, *inter alia*, were due to application of contractual rules for tariff adjustment and review, generation costs, and increase in sector charges (in particular, subsidies paid for in the Energy Development Account (CDE), rainfall scarcity directly impacting hydroelectricity offer, and recourse to generation from thermal plants).[166]

4.114. The tariffs charged to the final consumers remain regulated by ANEEL and vary depending on operational and other costs incurred by the distribution company. Several changes were introduced during the review period. A tariff flag system, which allows the monthly pass-through of the extra costs of generating thermal energy to consumers, continued to be applied by all concessionaires connected to the SIN and to energy distribution concessionaires; the system is aimed at preventing energy distributors from experiencing financial problems again.[167] Electricity tariffs continue to ensure cross-subsidization among different consumer categories; in 2021, aquafarming, agricultural irrigation, and manufacturing benefited from lower electricity tariffs (excluding taxes) than those set for services activities. The tax burden on end-user electricity tariffs remains significant and differs greatly across consumer groups.[168] Industries can be credited with ICMS according to their production processes.[169] The tariff subsidies are funded by the tariff

[165] Viewed at: https://epbr.com.br/aneel-homologa-resultado-do-leilao-de-energia-nova-a-5-de-setembro-de-2021/ and https://www.gov.br/mme/pt-br/assuntos/noticias/mme-define-cronograma-de-leiloes-de-energia-e-de-transmissao-para-o-trienio-2022-2013-2024.

[166] EIU (2022), *Industry Report – Energy – Brazil*, 17 February: "Severe drought afflicted Brazil's hydropower-dependent economy in 2021. To address this, the state authorities permitted thermal-power plants to operate for up to six months without power-purchase agreements, the ramping-up of natural gas imports, and increasing electricity imports from Argentina and Uruguay".

[167] The system is operated through three flags depending on the conditions of electricity generation: green flag (favourable generation conditions, no tariff increase); yellow flag (less favourable generation conditions, tariff increase by BRL 0.01874 per kWh); and, red flag - tier 1 (more costly generation conditions, tariff increased by BRL 0.03971 per kWh) and red flag - tier 2 (even more costly generation conditions, tariff increase by BRL 0.09492 per kWh consumed). ANEEL. Viewed at: https://www.gov.br/mme/pt-br/assuntos/noticias/saiba-como-funcionam-as-bandeiras-tarifarias-de-energia-eletrica.

[168] According to the authorities, it was not possible to identify the impact of charges because they compose the tariff in several tariff components.

[169] There are federal (PIS/COFINS), state (ICMS), local (CIP or COSIP (Contribuição para Custeio do Serviço de Iluminação Pública or Contribution for the Cost of Public Lighting) and other taxes/taxes CCC (Conta de Consumo de Combustíveis or Fuel Consumption Account); ECE (Encargo de Capacidade de Emergência or Emergency Capacity Charge); RGR (Reserva Global de Reversão or Global Reservation of Reversion); TFSEE (Taxa de Fiscalização de Serviços de Energia Elétrica or Electric Energy Services Supervisory Tax); CDE (Conta de Desenvolvimento Energético or Energetic Development Account); ESS (Encargos de Serviços do Sistema); P&D (Pesquisa e Desenvolvimento e Eficiência Energética or Research and Development and Energetic Efficiency); ONS (Operador Nacional do Sistema or National System Operator); and CFURH (Compensação financeira pelo uso de recursos hídrico or Financial Compensation for the Use of Water Resources) included in the electricity bill.

itself based on a transfer quota from the CDE funding. According to the authorities, during the review period there were no budget disbursements to fund these subsidies.

4.115. During the review period, the CDE, which is a fund regulated by ANEEL and managed by the Electric Energy Commercialization Chamber (CCEE) (took over from Eletrobras in May 2017), continued to be used for the promotion of universal access to electricity (see below); the granting of electricity tariff discounts to various end-users (e.g. low-income consumers, agricultural producers, and irrigation); power generation in isolated electrical systems (fuel consumption account (CCC)); payment of compensation for concessions; the maintenance of a moderate tariff; and the promotion of the competitiveness of energy produced from coal, among others.[170] The CDE is financed through annual fees paid by all agents commercializing electric energy, fees paid for the use of the distribution and transmission systems, the annual payments made by the concessionaires, fines paid to ANEEL, and federal government credits. Law No. 13,360/2016 sets the objective of promoting a better distribution of CDE resources, as well as measures to promote the privatization of power distribution companies whose concessions expired and were not renewed but remain operated by Eletrobras because a legislative amendment provided for the possibility of their privatization. Between 2017 and 2021, the CDE funding rose from BRL 16 billion to BRL 23.9 billion, of which 43% was channelled to the fuel consumption account and 56% to support tariff discounts to certain end-users; in 2020 and 2021, 92% and 82% of its funding originated in fees for the use of the distribution and transmission systems.

4.116. Due to a historically dry period in 2021 in Brazil (the worst rainfall shortage for the past 91 years), ANEEL, MME, and CCEE held in December 2021 the first auction for contracting a reserve of energy generation capacity. Power availability of 4.6 GW was negotiated, an amount equivalent to one third of the generation of the Itaipu Binacional plant. The contracted capacity from new and existing thermoelectric plants, with supply starting in 2026 and 2027, may be activated or not, as needed. The novelty in the auction consisted of 17 thermoelectric plants that participated and contracted directly with energy consumers, through the Federal Government, at an average cost of BRL 824,500 per megawatt-hour per year, reflected in savings of more than BRL 10 billion for energy consumers according to ANEEL. The contracts will be valid for 15 years.[171]

4.117. No major changes were made to the 2003 Light for All (Luz Para Todos) programme, aimed at promoting universal access to electricity, in addition to the subsidized electricity tariffs to low-income families, involving invoice discounts ranging from 10% to 100%. Since 2004, the programme had brought electricity to over 16 million people in rural areas.[172] Originally intended to terminate in 2008, the programme was extended until 2022.[173] By 2021, an amount of BRL 29.96 billion was invested under the programme, of which BRL 21.76 billion (73%) was financed by the Energy Development Account (CDE) and Global Reversion Reserve (RGR).[174]

4.3 Manufacturing

4.3.1 Main features

4.118. Brazil has a large and diversified manufacturing sector, but while parts of it are thriving, others still struggle due to the "Brazil Cost" (Section 1.1); incipient research, development and innovation initiatives; weak integration into the world economy; and punctual shields from external competition. During the review period, positive and significant changes took place due to actions aimed at major reforms, the tackling of infrastructure deficiencies, streamlining the business environment, and across-the-board tariff reductions. Manufacturing's share of total gross value added decreased progressively from 12.6% in 2012 to 11.3% in 2021 (Table 1.2); its share in employment also declined slightly from 12.8% in 2012 to 11.3% in 2019. Manufacturing accounted for 51.3% of total merchandise exports in 2021 (60.7% in 2012 and 66.2% in 2016), mainly meat and meat preparations, iron and steel, sugars and sugar preparations and honey, and road vehicles, as compared to 90% of total imports (86.6% in 2012 and 89.2% in 2016) with major

[170] Viewed at: https://www.ccee.org.br/mercado/contas-setoriais/conta-de-desenvolvimento-energetico-cde.
[171] Viewed at: https://agenciabrasil.ebc.com.br/economia/noticia/2021-12/governo-contrata-46-gw-de-potencia-em-leilao-de-reserva-de-energia.
[172] Viewed at: https://eletrobras.com/pt/Paginas/Luz-para-Todos.aspx#comites.
[173] Decree No. 9,357, 27 April 2018.
[174] Viewed at: https://eletrobras.com/pt/Paginas/Luz-para-Todos.aspx#comites.

categories remaining – electrical machinery, parts and pieces, n.e.s.; fertilizers; petroleum, petroleum products and related materials; and road vehicles.[175]

4.3.2 Policy and institutions

4.119. During the review period, Brazil shifted a number of industrial stimuluses away from direct support towards structural reforms (e.g. pension rules, new government procurement law), privatization, expansion and modernization of infrastructure, taxes reductions across the board including the reduction of a number of tariffs on imported goods, simplification of procedures and de-bureaucratization aimed at long-lasting benefits and resilient industrial sectors.[176] Brazil notably scrapped out a number of distorting, inefficient, and obscure industrial plans, which were claimed to lead to suspicious and illegal benefits and corruption schemes. Previous schemes targeting specific sectors or industries, such as Plano Brasil Maior and Brazil More Productive (Brasil Mais Produtivo) (Section 1.2.1), which focused on credit lines under administered interest rate or favourable conditions, public procurement preferences, fiscal incentives, and border measures, were terminated.[177]

4.120. In 2019, the Ministry of Economy (ME) (Section 2.2.1) incorporated the functions of the abolished Ministry of Industry, Foreign Trade and Services (MDIC) and is now responsible for, *inter alia*, policy development on industry, trade, and services, which is implemented mainly through the Special Secretariat for Productivity, Employment and Competitiveness (SEPEC) and the Special Secretariat for Foreign Trade and International Affairs (SECINT). The Secretariat for the Development of Industry, Commerce, Services and Innovation (SDIC) operates under SEPEC.[178]

4.121. During the review period, Brazil undertook noticeable reforms and actions that positively assisted its manufacturing sector, including: (i) the pension reform that was passed in 2019, making it more sustainable and strengthening its redistributive character; (ii) a temporary emergency programme to offset the economic effects of the COVID-19 pandemic and supported over 67 million families; (iii) doubling the federal government contribution to the Basic Education Development Fund (FUNDEB) and providing monetary incentives for local governments to raise the quality of education; (iv) expansion and improvement of vocational training programmes by, *inter alia*, the engagement of the private sector; and (v) new legislation to reduce the bureaucracy and facilitate the opening of a business and obtaining licences in Brazil.[179]

4.122. Nevertheless, according to the OECD, a number of structural reforms are still needed to continue to improve the international competitiveness of Brazilian manufacturing (Section 1.2.4). Some of the key reforms that could unleash significant unexploited potential and play a leading role in raising productivity would be: (i) reform the tax system, including by consolidating consumption taxes into one value added tax; (ii) continue to simplify licence requirements for starting a company; (iii) implement one-stop shops for business operations, wherever feasible; (iv) reduce, with a view of eliminating, tariffs and non-tariff barriers in selected sectors with low competition levels or where local production is non-existent or stagnant for several years, also covering capital goods and intermediate inputs; (v) expand vocational and professional trainings aligned with local labour market needs; (vi) prioritize education outcomes and ensure equality of educational opportunities by expanding early-childhood education, and guaranteeing a better selection and training of

[175] Data on manufacture exports and imports provided by the authorities were calculated according to the new methodology of classification by economic activity developed by the Secretariat of Foreign Trade Statistics available at https://balanca.economia.gov.br/balanca/metodologia/Nota_ISIC-CUCI.pdf. According to the authorities, this new methodology is based on the International Standard Industrial Classification of All Economic Activities (ISIC) published by the United Nations Statistics Division (UNSD).

[176] For example, the Economic Freedom Law (Lei de Liberdade Econômica), Law No. 13,874/2019 (Section 2.4.1) determines free market guarantees for private operators and specifies the role of the State as a normative and regulatory agent. The claimed objective of the law is to provide greater administrative simplification for a better business environment, clearer rules, and stimulation of competitiveness. Viewed at: https://www.gov.br/pt-br/campanhas/liberdade-economica/aspectos-tecnicos-da-lei-de-liberdade-economica.

[177] According to the authorities, Plano Brasil Maior was terminated in 2016.

[178] Ministry of Economy. Viewed at: https://www.gov.br/economia/pt-br.

[179] OECD (2021), *Economic Policy Reforms 2021: Going for Growth*. Viewed at: https://www.oecd.org/economy/growth/Brazil-country-note-going-for-growth-2021.pdf.

teachers; and (vii) envisage a stronger and more universal social safety net by including informal workers.[180]

4.123. These changes could enable Brazil to foster its participation into international trade and spark a better integration into global value chains by replicating the trends that have shaped industrial production elsewhere. This would also ensure that Brazil taps the benefits of scale from its large domestic market, develops value chains from its existing areas of strong comparative advantage, as well as develops a more resilient, diversified, sophisticated, and cutting-edge manufacturing sector, coupled with a well-designed, competitive, and efficient services providers to fully maximize the benefits from structural reforms towards achieving developing goals.

4.3.3 Border measures

4.124. The average MFN applied tariff rate for manufacturing products decreased from 11.8% in 2017 to 10.3% in 2022 (HS definition, Table A3.1). Clothing, textiles, and transport equipment benefit from the highest tariff protection among WTO categories of products, with average MFN applied tariffs of 35%, 22%, and 17.7%, respectively. The number of manufactured products subject to non-automatic import licensing where quotas, policies, and other requirements are imposed continues to be high and unclear.[181] Trade defence measures in force fell from 180 in 2017 to 152 in 2021.

4.125. Several export incentives remain available (e.g. drawback programme)[182]; Special Customs Regime for Industrial Warehouse under Computerized Customs Control (RECOF and RECOF-Sped)[183]; refund or exemption of Social Integration Program (PIS), Contribution for the Financing of Social Security (COFINS), Financial Transaction Tax (IOF), Industrialized Goods Tax (IPI), Tax on Services (ISS); official export financing mechanisms[184], the Special Regime for the Acquisition of Capital Goods by Exporting Enterprises (RECAP)[185], and special zones (e.g. export-processing zones).[186] Noteworthy to highlight that tax refunds on exports under the Reintegra scheme basically disappeared as the refund rate was set at 0.1% of export revenue since 2018 (Section 3.2.4.1).[187] This has been criticized by some sectors, which claim that under the complex Brazilian tax system, companies that tend to systematically accumulate tax credits and do not generate enough tax debits to offset them are unable to deduct some indirect tax on their purchases of inputs and capital goods, and are thus prevented from avoiding accumulation of taxes levied on exported goods.

4.3.4 Domestic support

4.126. During the review period, Brazil shifted a number of industrial stimuluses away from direct domestic support towards structural reforms. Previous industrial plans, such as the Plano Brasil Maior

[180] OECD (2021), *Economic Policy Reforms 2021: Going for Growth*. Viewed at: https://www.oecd.org/economy/growth/Brazil-country-note-going-for-growth-2021.pdf.

[181] According to the authorities, since 2020 the Secretariat of Foreign Trade (SECEX) does not impose non-automatic import licensing procedures for minimum price control, in line with Article 4 of Law No. 13,874/2019 (Economic Freedom Law), which considers an abusive practice issuing regulation, which means a restraint of trade or otherwise a limitation to carry out economic activities in Brazil. In addition, the provisions established by Decree No. 10,178/2019 establishes the need for governmental authorities to classify (and publish) the potential risk of economic activities when imposing licensing requirements.

[182] Viewed at: https://www.gov.br/receitafederal/pt-br/assuntos/aduana-e-comercio-exterior/regimes-e-controles-especiais/regimes-aduaneiros-especiais/drawback.

[183] Viewed at: https://www.gov.br/receitafederal/pt-br/assuntos/aduana-e-comercio-exterior/regimes-e-controles-especiais/regimes-aduaneiros-especiais/recof-sped and https://www.gov.br/receitafederal/pt-br/centrais-de-conteudo/formularios/regimes-especiais/recof-sped-regime-aduaneiro-especial-de-entreposto-industrial-sob-controle-informatizado-do-sistema-publico-de-escrituracao-digital.

[184] Viewed at: https://www.bndes.gov.br/wps/portal/site/home/onde-atuamos/exportacao/como-funciona-apoio-exportacao.

[185] Viewed at: https://www.gov.br/receitafederal/pt-br/centrais-de-conteudo/formularios/regimes-especiais/recap-regime-especial-de-aquisicao-de-bens-de-capital-para-empresas-exportadoras.

[186] Viewed at: https://www.gov.br/produtividade-e-comercio-exterior/pt-br/assuntos/zpe and https://www.gov.br/produtividade-e-comercio-exterior/pt-br/assuntos/zpe/brazilian-export-processing-zones-epz.

[187] The stated purpose of Reintegra is to exempt taxes that are charged throughout the production process of industrialized goods, such as ISS, IOF, and CIDE. Presidential Decree No. 9,393/2018. Viewed at: http://www.planalto.gov.br/ccivil_03/_ato2015-2018/2018/decreto/D9393.htm.

had several of its programmes expire and not extended. As of April 2022, the following general incentives remained in place: financing in the form of administered interest rate or concessional loans by the BNDES – including preferential equipment financing through FINAME[188], the Brazilian Innovation Agency (FINEP)[189] or federal states; government procurement preferences to local suppliers; federal, state, and municipal tax and non-tax incentives (e.g. IPI tax reductions on several consumer and capital goods, exempt or reduction of Municipal Services Tax (ISS) and Urban Real Estate Tax (IPTU), rental subsidies, and donation of land sites); and R&D and information technology tax incentives. Industry-specific incentives remained available for some sectors, including automotive, aeronautics, computing, infrastructure, and defence.[190] Some support programmes such as those linked to Basic Productive Process (PPB) criteria[191], to local manufacturing clusters[192], and assistance for improving productivity processes (Brasil Mais)[193], had either been maintained or were introduced to increase competitiveness.

4.127. Public procurement preferences to domestic suppliers[194], tax reductions, or financing from public banks linked to production step-related local content requirements have to some extent continued to shield certain domestic producers from foreign competition.[195] According to the authorities, BNDES provides long-term financing in wind and solar greenfield plants[196] for up to 80% of the whole investment (which includes domestic- and foreign-produced equipment). Since January 2021, there are no minimum requirements of Brazilian steel for building wind towers. Since August 2020, financing of photovoltaic energy projects of systems above 375 kW is subject to having one of the following components accredited with BNDES: modules, trackers, or inverters.[197] BNDES funding for FINAME was approximately BRL 23.6 billion in 2020 (BRL 16.6 billion in 2014 and BRL 16.5 billion in 2015).[198]

4.128. On 11 January 2019, the Dispute Settlement Body (DSB) adopted its recommendations and rulings in *Brazil – Certain Measures Concerning Taxation and Charges* (WT/DS472 and WT/DS497) brought by the European Union and Japan, respectively. On 17 January 2020, Brazil informed Members that it had agreed that the reasonable period of time (RPT) with the European Union to implement the recommendations and rulings of the DSB was by 31 December 2019. According to Brazil, three programmes had expired before the adoption of the reports of the Panel and of the Appellate Body: INOVAR-AUTO expired on 31 December 2017, pursuant to Law No 12,715/2012; PATVD expired on 22 January 2017, pursuant to Law No 11,484/2007; and Digital Inclusion expired on 30 December 2015, pursuant to Law No 13,241/2015. Concerning the findings on PPBs, Brazil claimed it had either revoked or substituted all implementing orders found to be inconsistent with the reports. With regards to the findings on the Informatics and PADIS programmes, Brazil mentioned it had enacted Law No 13,969 of 26 December 2019, bringing those measures into conformity.[199]

4.129. In September 2019, Brazil established a Chamber for Industry 4.0 (advanced manufacturing or the Fourth Industrial Revolution). This Chamber has the objective of increasing the

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[188] Viewed at: https://www.bndes.gov.br/wps/portal/site/home/financiamento. A significant shift has been noticed with the increased focus on SMEs.

[189] Viewed at: http://www.finep.gov.br/.

[190] WTO document WT/TPR/S/358/Rev.1, 18 October 2017.

[191] PPB constitutes the minimum set of operations to be carried out in Brazil in order to be recognized as effective local industrialization of any given product. Viewed at: https://www.gov.br/produtividade-e-comercio-exterior/pt-br/assuntos/competitividade-industrial/processo-produtivo-basico-ppb.

[192] Viewed at: https://www.gov.br/produtividade-e-comercio-exterior/pt-br/assuntos/competitividade-industrial/arranjos-produtivos-locais-apl.

[193] Viewed at: https://brasilmais.economia.gov.br/.

[194] Law No 14,133/2021, Article 26.

[195] WTO document WT/TPR/S/358/Rev.1, 18 October 2017.

[196] According to the authorities, investors are predominantly of foreign origin, who bring in their own technological solutions and choose the optimal combination of imports and local production of components to meet their risk and return strategies.

[197] According to the authorities, for both wind and photovoltaic equipment suppliers, BNDES has a policy to mirror the market supply conditions, considering new technologies and production lines developed.

[198] According to the authorities, the reduction of yearly funding for FINAME from 2018 to 2020 in comparison with that at the time of the previous Review, besides the reduction in demand, was due to the fact that a majority of disbursements in 2014 and 2015 where under the Programme for the Sustainability of Investment (PSI), which expired in 2015. PSI disbursements through FINAME totalled BRL 52.42 billion in 2014 and BRL 20.80 billion in 2015.

[199] WT/DS472/16/Add.2, 17 January 2020.

competitiveness and productivity of Brazilian companies through policy and strategy coordination between government, private sector, and academic institutions. Among other things, the Chamber for Industry 4.0 encompasses action related to innovation, automation, use of the Internet of Things, robotics, and cloud computing.[200]

4.3.5 Automotive sector

4.130. Brazil remained an inward-focused and protected automotive sector that accounted for 3% of the total GDP and 18% of the transformation industry output in 2017. The automotive industry employed 1.3 million people (direct and indirect jobs) in 65 factories distributed across 10 states. Brazil's motor vehicle industry, the world's eighth largest in 2019 (up from ninth in 2015), and the sixth largest domestic market, had an overall revenue of USD 61.9 billion in 2018, generating BRL 65.6 billion in direct taxes. Production stood at 2,944 million units in 2019, comprising 2,448 million passenger cars, 355,000 light commercials vehicles, 113,000 trucks, and 27,000 buses. Installed capacity is estimated at 5.05 million units, suggesting that there is overcapacity. In 2021, passenger car sales fell by 3.6%, while new commercial vehicles grew by 26.9% in a year-on-year basis.

4.131. Sales remain dominated by European carmakers followed by those from the United States and Asia. High taxation, weak competition, and border protection continue to keep cars relatively expensive. According to the industry, the "Brazil Cost" continued to harm its performance mainly due an old tax system, outdated laws, excessive bureaucracy and infrastructure deficiency. The industry spent BRL 2.3 billion every year to calculate taxes levied on businesses, coupled with tax residues of around 12% on exports that negatively impact international competitiveness.[201]

4.132. Import penetration ratio was not provided (7% in 2006, 27% in 2011, and 15.1% in 2016). Imported new vehicles stood at 310,505 in 2018 and 297,658 in 2019.[202] Imports' shares in 2019 were: Argentina 26.1% (22.9% in 2006), the European Union 21.1% (36.9% in 2006), China 10.5% (4.2% in 2006), Mexico 10.2% (4.5% in 2006), the United States 8.6% (13.8% in 2006), Japan 6% (11.4% in 2006), and the Republic of Korea 5.5% (1.9% in 2006).

4.133. Exports accounted for 784,749 units in 2017, 643,421 in 2018, and 435,044 in 2019. Brazil's main export markets in 2019 were: Argentina 25.3% (23.1% in 2006), theUnited States 16.4% (17.7% in 2006), Mexico 10.7% (12.7% in 2006), and the European Union 10.1% (14.1% in 2006). Motor vehicle export earnings dropped significantly from USD 10.7 billion in 2017 to USD 5.8 billion in 2019.[203]

4.134. Border protection, including a 35% MFN tariff rate on motor vehicles, remained unchanged. The bilateral agreement with Mexico was expanded to duty-free, quota-free for vehicles and auto parts in 2019[204] (conditional to a regional content index of 40%) and to buses and trucks by 2023.[205] Similar agreements exists with Uruguay (December 2015), Argentina (June 2016, expanded in September 2019), and Paraguay (February 2020).[206] As of 1 June 2022, the MFN import tariff on

[200] Viewed at: https://www.gov.br/economia/pt-br/assuntos/noticias/2019/09/governo-federal-lanca-plano-para-alavancar-industria-4.0.
[201] ANFAVEA (2020), *Anuario da Industria Automobilistica Brasileira 2020*. Viewed at: https://anfavea.com.br/anuario2020/anuario.pdf.
[202] ANFAVEA (2020), *Anuario da Industria Automobilistica Brasileira 2020*. Viewed at: https://anfavea.com.br/anuario2020/anuario.pdf.
[203] ANFAVEA (2020), *Anuario da Industria Automobilistica Brasileira 2020*. Viewed at: https://anfavea.com.br/anuario2020/anuario.pdf.
[204] Viewed at: https://www.gov.br/produtividade-e-comercio-exterior/pt-br/assuntos/comercio-exterior/regimes-de-origem/certificado-de-origem/cdo-ace-55-mercosul-mexico and http://www2.aladi.org/biblioteca/publicaciones/aladi/acuerdos/ace/pt/ace55/ACE_055_005_Apendice_002_pt.pdf.
[205] Viewed at: http://www2.aladi.org/biblioteca/publicaciones/aladi/acuerdos/ace/pt/ace55/ACE_055_007_Apendice_002_pt.pdf and https://agenciabrasil.ebc.com.br/economia/noticia/2020-06/brasil-e-mexico-ampliam-livre-comercio-automotivo.
[206] The bilateral agreements with Argentina and Uruguay are "Additional Protocols" updating provisions in original agreements that entered into force in 1990 and 1983, respectively.

electric and cell-powered vehicles and hybrid vehicles ranged from zero to 35%. However, most of the imports benefits from reduced tariffs range from zero to 4%.[207]

4.135. From 1 January 2022, the Foreign Trade Chamber (CAMEX) reduced the tariff rates levied on the imports of 12 auto parts products without national production from 16% to 2%. A total of 3,420 auto parts now benefit from a 2% tariff.[208]

4.136. In May 2022, CAMEX published a decision for reducing tariffs to 18% for semi-dismantled vehicles (SKD) and 16% for fully disassembled vehicles (CKD) for a period of up to two years. The reduction may be granted to cars and light commercial vehicles with up to 1,500 kg of load capacity without domestically equivalent production and it is only applicable to new vehicles in alignment with the current automotive policy and upon a request to the Department of Development of Industry, Commerce, Services and Innovation of the ME, via the Electronic Information System (SEI), until 31 December 2022. This period may be extended by decision of the CAMEX Executive Management Committee.[209]

4.137. The Non-Produced Auto Parts Regime (Regime de Autopeças Não Produzidas), which allows the importation of auto parts without domestically produced equivalent, grants import tariff exemption. Its stated objectives were to develop the automotive sector, stimulate the consolidation of the auto parts production chain, and promote the absorption of new technologies in vehicles produced in Brazil, based on the 2008 "Agreement on the Common Automotive Policy between Argentina and Brazil".[210] Pursuant to Law No. 13,755/2018, there is no longer the option of allowing the importation of auto parts directly for resale; thus, such importation is applicable only when directly destined for the industrialization of automotive products. A mandatory application of 2% of the imported value is requested in RD&I projects with priority programmes to support industrial and technological development for the automotive sector and its chain, conditional to prior accreditation by the ME.

4.138. Since its last Review, Brazil informed Members that it had ended the automotive industry's support programme named the Programa de Incentivo à Inovação Tecnológica e Adensamento da Cadeia Produtiva de Veículos Automotores (Incentive Programme for Technological Innovation and Consolidation of the Automotive Vehicle Supply Chain) or INOVAR-Auto, which aimed at promoting technological development in the Brazilian automotive industry and addressing competition challenges by providing benefits from IPI reduction. The reduction of the IPI tax rates on automobiles manufactured or imported by accredited companies was provided in the form of discount of presumed IPI tax credits; and reduced IPI tax rates on the importation of vehicles originating in certain countries as well as on certain domestic vehicles.

4.139. On 17 January 2020, Brazil informed Members that it had agreed that the RPT with the European Union to implement the recommendations and rulings of the DSB would end on 31 December 2019 (or 21 June 2019 for prohibited subsidies) in the dispute entitled *Brazil – Certain Measures Concerning Taxation and Charges* (WT/DS472 and WT/DS497) brought by the European Union and Japan, respectively. According to Brazil, three programmes had expired before the adoption of the reports of the Panel and of the Appellate Body, notably INOVAR-AUTO, which expired on 31 December 2017 pursuant to Law No 12,715/2012.

[207] According to the authorities, although the reductions are temporary, there is no timeframe for termination.

[208] Viewed at: https://agenciabrasil.ebc.com.br/economia/noticia/2021-12/camex-reduz-para-2-imposto-de-importacao-para-autopecas and https://www.in.gov.br/web/dou/-/resolucao-gecex-n-284-de-21-de-dezembro-de-2021-369766147.

[209] Viewed at: https://agenciabrasil.ebc.com.br/economia/noticia/2022-03/camex-regulamenta-reducao-do-imposto-de-importacao-de-veiculos and https://www.in.gov.br/en/web/dou/-/resolucao-gecex-n-314-de-24-de-fevereiro-de-2022-383084244.

[210] Viewed at: https://www.gov.br/produtividade-e-comercio-exterior/pt-br/assuntos/competitividade-industrial/setor-automotivo/regime-de-autopecas-nao-produzidas.

4.140. In 2018, Brazil launched the ROTA 2030 programme, which provides for a tax incentive of up to 12.5% reduction in corporate income tax rate (IRPJ) and Social Contribution on Net Income (CSLL) for companies of the automotive sector that invest in R&D activities.[211]

4.3.6 Information technology

4.141. The development of the information technology (IT) industry continued as a long-standing policy objective in Brazil. According to the authorities, the IT industry's share of GDP was 1.29%[212] in 2019, whereas its share in gross value added stood at 0.3% in 2019, employing 121,026 workers in 2019 (134,295 in 2015 and 90,000 in 2017). The trade balance in IT products stood at BRL 40 billion of imports and BRL 5.7 billion of exports in 2021.

4.142. In March 2022, CAMEX reduced by an additional 10% the tariffs on IT goods. This followed a previous 10% reduction granted in March 2021, seeking to increase the productivity and competitiveness of the Brazilian economy by reducing the costs in strategic products.[213]

4.143. Currently, the IT industry benefits from tariffs ranging from zero to 12.8%.[214] Brazil remains a non-participant in the WTO plurilateral Information Technology Agreement (ITA).

4.144. The Special Regime for the Information Technology Exportation Platform (REPES) remained in force by suspending Social Integration Program (PIS) and Contribution to Social Security Financing (COFINS) taxes on goods imported and IT services provided by companies that commit to export software and IT services to the extent that those exports account for more than 50% of the company's annual gross income.[215]

4.145. On 11 January 2019, the DSB adopted its recommendations and rulings in *Brazil – Certain Measures Concerning Taxation and Charges* (WT/DS472 and WT/DS497) brought by the European Union and Japan, respectively. On 17 January 2020, Brazil informed Members that it had agreed that the RPT with the European Union to implement the recommendations and rulings of the DSB would end on 31 December 2019. According to Brazil, PATVD expired on 22 January 2017, pursuant to Law No 11,484/2007; and Digital Inclusion expired on 30 December 2015, pursuant to Law No 13,241/2015. Concerning the findings on Processos Produtivos Básicos (PPBs), Brazil claimed it had either revoked or substituted all implementing orders found to be inconsistent with the reports. With regards to the findings on the Informatics and PADIS programmes, Brazil mentioned it had enacted Law No 13,969/2019, bringing those measures into conformity.[216]

4.146. Since the previous Review, BNDES has terminated its Information Technology and Software Development Programme (Programa para o Desenvolvimento da Indústria de Software e Serviços de Tecnologia da Informação—Prosoft), which provided administered interest rate loans to companies that include Brazil in their development plans and add value in exports from the country.

4.147. The total amount of domestic support to the IT industry (e.g. forgone tax revenue, budgetary outlays) and an appraisal on its achievements (e.g. investment, output, employment, and exports) were estimated at BRL 5.277 billion in 2022.

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[211] Law No. 13,755/2018; and Ministry of Economy. Viewed at: https://www.gov.br/produtividade-e-comercio-exterior/pt-br/assuntos/competitividade-industrial/setor-automotivo/rota-2030-mobilidade-e-logistica.

[212] Provided by the authorities, based on code 26 of the International Standard Industrial Classification of Economic Activities (ISIC), which encompasses the "Manufacture of computer, electronic and optical products".

[213] Viewed at: https://www.gov.br/economia/pt-br/assuntos/noticias/2022/marco/camex-reduz-a-zero-imposto-de-importacao-de-sete-itens-da-cesta-de-consumo-da-populacao and https://in.gov.br/en/web/dou/-/resolucao-gecex-n-318-de-24-de-marco-de-2022-388323757.

[214] According to the authorities, the IT industry benefits from tariffs ranging from zero to 16%, but most of the tariff lines have been reduced by 20%. After the reductions in April 2022, 79% of the tariff lines at the 8-digit level are below 10.8%. Tariff average for the IT sector (using the maximum tariff per 8-digit code), is 6.7%.

[215] WTO document WT/TPR/S/358/Rev.1, 18 October 2017.

[216] WTO document WT/DS472/16/Add.2, 17 January 2020.

4.3.7 Aeronautics

4.148. In aeronautics, Brazil's privately owned Empresa Brasileira de Aeronautica (Embraer) is the third-largest producer of commercial jets in the world, having produced over 8,000 aircraft, and is a global leader in the 70- to 130-seat aircraft segment, where it accounts for 60% of global deliveries. The Brazilian State continued to retain interest through possession of golden shares allowing it veto power. Embraer has always been strongly integrated into global production chains, and imports still account for 70% of its value added. Aircraft imports (HS 8802 and 8803) remain subject to zero customs duty and several parts had recently benefited from elimination of tariffs.[217] Embraer is Brazil's third-largest exporting company. Exports had significantly been impacted during the COVID-19 pandemic. The aeronautics industry contributed approximately to 0.5% to Brazil's GDP (2020), providing for 25,000 jobs (directly), and accounted for USD 2.6 billion in export revenue (2021).

4.149. A strategic partnership between Embraer and the US aerospace manufacturer Boeing signed in July 2018, where the latter would take an 80% stake in the commercial aircraft business of Embraer, while the Brazilian company would retain the other 20% stake, as well as the entirety of its military and private jet businesses, fell apart in April 2020.[218]

4.150. According to the authorities, the aeronautics industry-specific tax incentives under the RETAERO scheme terminated on 14 June 2020.

4.151. In April 2022, the Brazilian Council for Commercial Strategy (CEC) approved a mandate for requesting Brazil's accession to the WTO Agreement on Trade in Civil Aircraft, claiming it reinforces the commitment to the multilateral trading system and granting more predictability and legal certainty for productive value chains of the segment.[219] The accession request was formalized during the 12th Ministerial Conference (MC12).

4.3.8 Other

4.152. The renewal and effective entry into force of the 2013 Special Regime for the Development of the Fertilizer Industry (REIF), which aimed to provide to fertilizer producers tax benefits, has been under consideration in the Chamber of Deputies since 2021.[220]

4.4 Services

4.4.1 Main features

4.153. The services sector continues to be the main contributor to Brazil's gross value added and job creation. The sector's gross value added share reached 69.8% (2021) (Table 1.2); its share in total employment stood at 69% in 2020, suggesting a high labour productivity ratio.[221]

4.154. While not always producing a direct export, the performance of the services sector remains a key component of the country's overall export competitiveness. In 2020, Brazil was the world's 33rd-largest exporter (21st excluding intra-EU trade) and 24th importer of services (14th excluding intra-EU trade). Trade in services remains a minor component of Brazil's foreign trade.

4.155. Services exports dropped from USD 34.3 billion in 2019 to USD 28.5 billion in 2020, before reaching USD 33.2 billion in 2021. Services imports fell from USD 69.4 billion in 2019 to

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[217] Viewed at: https://agenciabrasil.ebc.com.br/economia/noticia/2021-09/brasil-atualiza-regra-que-trata-da-importacao-de-produtos-aeronauticos.

[218] *Reuters* (2020), "Embraer Hits Out after Boeing Scraps $4.2 Billion Tie-Up", 25 April. Viewed at: https://www.reuters.com/article/us-embraer-m-a-boeing-idUSKCN2270KN.

[219] Viewed at: https://www.gov.br/produtividade-e-comercio-exterior/pt-br/assuntos/comercio-exterior/noticias/2022/abril/brasil-vai-negociar-adesao-ao-acordo-sobre-comercio-de-aeronaves-civis-da-omc.

[220] Viewed at: https://www.camara.leg.br/noticias/846827-projeto-cria-programa-de-beneficio-fiscal-para-incentivar-producao-nacional-de-fertilizantes.

[221] More information: http://i-tip.wto.org/services/SearchApplied.aspx, https://qdd.oecd.org/subject.aspx?Subject=063bee63-475f-427c-8b50-c19bffa7392d and https://www.oecd.org/trade/topics/services-trade/documents/oecd-stri-country-note-bra.pdf.

USD 48.4 billion in 2020, and climbed to USD 50.3 billion in 2021.[222] Domestic services value added represented 40.6% of Brazil's gross exports in 2018.[223]

4.156. On 12 October 2020, Brazil notified an exceptional and temporary restriction on the entry of foreign natural persons (mostly non-resident) for a period of 30 days to contain the risks related to COVID-19. The notification was made based on the potential effects on services supplies on commercial presence and movement of natural persons into the country modes.[224]

4.4.2 Commitments under the General Agreement on Trade in Services and RTAs

4.157. Brazil's commitments under the GATS were last changed in March 2016 with the ratification and insertion of the Fifth Protocol undertakings in the area of financial services.[225] Brazil's Schedule of Specific Commitments contains undertakings in certain business services (including professional services), construction services, courier services, distribution services, financial services, hotels and restaurants services, as well as rail, road, and pipeline transport services and those auxiliary to all modes of transport.[226] It covers less than one third of all services subsectors in the Services Sectoral Classification List; measured in such a way, this is less than the average sectoral coverage among WTO Members.[227] Brazil does not have commitments in such sectors as computer, audiovisual, education, environmental, health, maritime transport, and telecommunication services. Brazil has not ratified the Fourth Protocol on basic telecommunications.[228] Its list of Article II (MFN) Exemptions covers measures in relation to audiovisual co-production agreements, the supply of land transport services with countries of South America, and bilateral maritime transport agreements on cargo reservation and cargo sharing.[229]

4.158. As of June 2022, Brazil maintains only two RTAs involving commitments on trade in services: MERCOSUR (ACE No. 18) (2005); and MERCOSUR-Chile Agreement (ACE No. 35) (2009). However, the entry into force of a third agreement, the Agreement on Economic and Trade Expansion between Brazil and Peru, concluded in April 2016 and covering trade in services, is pending. In 2018, Brazil also concluded an additional protocol to its Agreement with Chile (ACE No. 35), which entered into force in January 2022, covering services (cross-border trade in services, telecommunication services, financial services, temporary entry of business travellers), as well as e-commerce. Moreover, in 2020, MERCOSUR negotiated an additional protocol to its RTA with Colombia (ACE No. 72), currently under evaluation by the Brazilian Congress, which also expands the disciplines and commitments to trade in services. Brazil has notified one MERCOSUR RTA under Article V of the GATS. In MERCOSUR, Brazil undertook specific commitments on trade in services that went significantly beyond the commitments under the GATS (Section 2.3.2.1). These commitments covered new sectors (computer, R&D, telecommunication, audiovisual, educational, environmental, and maritime transport services) and improved sectoral coverage and/or the level of treatment bound in a number of other sectors (professional, distribution, financial, and other business services). Under the Brazil-Peru agreement, Brazil undertook market access commitments in sports event promotion and organization, and sport facility operation services.[230]

[222] Viewed at: https://www.gov.br/produtividade-e-comercio-exterior/pt-br/assuntos/comercio-exterior/publicacoes-secex/boletins-de-comercio-exterior/arquivos/relatorio-servicos-2020.pdf and https://www.gov.br/produtividade-e-comercio-exterior/pt-br/assuntos/comercio-exterior/publicacoes-secex/boletins-de-comercio-exterior/arquivos/relatorio-servicos-2021.pdf.

[223] WTO, *Brazil: Trade in Value Added and Global Value Chains*. Viewed at: https://www.wto.org/english/res_e/statis_e/miwi_e/BR_e.pdf.

[224] WTO document S/C/N/1023, 12 October 2020.

[225] More information on Brazil's GATS commitments may be found, *inter alia,* in WTO documents GATS/SC/13, 15 April 1994; and GATS/SC/13/Suppl.3/Rev.1, 27 June 2016.

[226] Sectors in which there are no commitments include computer, telecommunication, audiovisual, education, health, environmental, recreational, maritime transport, and air transport services.

[227] WTO document MTN.GNS/W/120, 10 July 1991.

[228] During the negotiations of the Fourth Protocol of GATS, certain WTO Members raised reservations about Brazil's offer, because it referred to Article 18 of the General Law of Telecommunications (Law No. 9,472/97), which allowed the Executive Branch to review the participation of foreign capital in telecom operators established in Brazil. As a result, Brazil withdrew its telecom offer. Nevertheless, in the context of the Doha Round, Brazil did include telecommunications services in its revised offer of 2005 (WTO document TN/S/O/BRA/Rev.1, 22 June 2005).

[229] WTO document GATS/EL/13, 15 April 1994.

[230] WTO document WT/TPR/S/358/Rev.1, 18 October 2017.

4.159. MERCOSUR RTAs with Egypt and Israel do not cover trade in services, but the parties inserted evolutionary clauses aimed at achieving gradual liberalization and the opening of their services markets in the future (Section 2.3.2.1).[231] Brazil has negotiated FTAs with the European Union and the European Free Trade Area (EFTA), which contain a GATS-plus coverage of trade in services. Ongoing negotiations between MERCOSUR and Canada, the Republic of Korea, and Singapore also intend to have a comprehensive coverage of services.

4.160. As from 4 November 2015, Brazil has accorded preferential market access treatment to services and services suppliers of least developed countries (LDCs) on certain business, construction and related engineering, distribution, insurance and insurance-related, travel agency and tour operator/guide, sporting, auxiliary maritime transport, and freight transportation services.[232] Preferences are predominantly accorded to the supply of these services through commercial presence.

4.4.3 Financial services

4.161. Brazil remains the largest financial services market in Latin America. The financial sector has already showed signs of rebound from the economic effects of the COVID-19 pandemic. The banking system is still well capitalized mainly after years of high interest rates and charges, which continue to ensure high profitability.[233] During the review period, the contribution of financial and insurance services to gross value added went from 7.6% in 2017 to 7.1% in 2020 (Table 1.2); in 2019, the sector employed only 1.3% of the labour force, while the sector participation in GDP has skyrocketed from 1.1% in 2019 to 4.5% in 2020. The financial system assets dropped from USD 4.257 billion in 2019 to USD 3.822 billion in 2020 (Table 4.12). In 2020, banks accounted for 53.3% of the system's assets, whereas insurance companies accounted for 1.2%, compared to 59.4% and 1.3% in 2016, respectively; investment and pension funds held 30.8% and 10.2% of the remaining assets.

Table 4.12 Structure of the financial system, 2017-20

(USD billion)

	2017	2018	2019	2020
Total financial system assets, of which	**4,382.8**	**4,056.9**	**4,257.4**	**3,822.2**
Banks	2,414.3	2,191.6	2,183.6	2,036.4
Assets of state-owned banks	1,121.2	961.2	929.2	814.7
Non-bank financial and credit institutions (NBFCIs)	93.9	94.2	97.6	106.3
Insurance companies	58.9	52.3	54.9	44.3
Pension funds	472.0	438.7	471.1	389.0
Investment funds	1,275.4	1,213.7	1,374.2	1,178.2
Other	68.3	66.3	76.2	67.9
Credits, of which	**990.5**	**872.2**	**880.7**	**800.7**
Banks	951.7	835.0	836.5	755.5
State-owned banks	509.5	430.7	401.2	345.9
NBFCIs	38.7	37.2	44.2	45.2
Loans in foreign currency/total loans (%)	14.0	15.0	16.4	15.4
Credits/GDP (%)	49.8	48.3	48.0	55.7
Deposits, of which	**728.9**	**704.3**	**733.1**	**787.1**
Banks	673.7	650.4	676.4	719.5
State-owned banks	320.5	288.0	288.4	266.7
NBFCIs	55.2	53.9	56.7	67.5
Deposits in foreign currency/total deposits (%)	23.1	21.8	21.8	19.8
Deposits/GDP (%)	36.6	39.0	40.0	54.8
Interest rate spread (domestic currency) (%)	18.47	16.52	17.81	14.48

Source: BCB.

4.162. Brazil's financial sector is large and varied, where private multi-purpose commercial banks (*bancos múltiplos*) are the main leading intermediaries in the financial sector. On the other hand, public financial institutions also play an important role as lending intermediaries, in addition to supporting rural economic activities and agricultural production through targeted loans. A number of smaller credit cooperatives serve lower-income retailers, microbusinesses, and SMEs.[234]

[231] WTO document WT/COMTD/RTA10/1/Rev.1, 28 November 2019; and WT/REG398/1/Rev.1, 2 October 2020.
[232] WTO document S/C/N/839, 5 November 2015.
[233] EIU (2022), *Industry Report – Financial Services – Brazil*, 26 April.
[234] EIU (2022), *Industry Report – Financial Services – Brazil*, 26 April.

4.163. The main National Financial System (SFN) regulators continue to be the National Monetary Council (CMN) and the National Council of Private Insurance (CNSP). The CMN sets policies and issues regulations for financial institutions in line with recommendations from the BCB, the Brazilian Securities Exchange Commission (CVM), and the Superintendence of Private Insurance (SUSEP). In 2019, Law No. 13,820/2019 safeguarded the BCB's operational autonomy: the Treasury must issue securities in order to ensure an adequate amount of securities for monetary policy purposes in the BCB's portfolio, and defines when reserve of results should be settled through a transfer to the Treasury. In 2021, Complementary Law No. 179/2021 was passed defining the objectives of the BCB, and establishing its technical and operational autonomy but not its administrative and financial autonomy (Section 1.2.3.1). The president and directors of the BCB now have fixed four-year terms of office not coinciding with the term of office of the President of the Republic, and may be reappointed once, by decision of the President of the Republic.

4.4.3.1 Banking and finance

4.164. As of 2021, the banking system consists of 1,631 institutions authorized, regulated, and/or supervised by the BCB. Of these institutions, there are 135 multi-purpose banks and 15 commercial banks. Itaú Unibanco, Banco do Brasil, Caixa Econômica Federal, Banco Bradesco, and Banco Santander are the largest banking conglomerates in amount of assets.[235] Private banks accounted for 59.7% of all financial system loans by the end of 2021.[236] According to Brazilian legislation, every financial institution (FI) established in the country is considered a national FI. As of December 2021, 214 (173 in 2016) financial institutions had foreign participation from a total of 27 countries, of which 160 (133 in 2016) were under foreign control and 54 (40 in 2016) with qualified foreign participation (between 10% and 50% of the institution's voting capital). Among the 214 institutions with foreign participation, there were 73 multiple-purpose banks, 5 commercial banks, 28 security brokerage companies (CTVM), 29 security distribution companies (DTVM), and 15 payment institutions. Government-owned banks' share of total bank assets significantly decreased from 46% in 2017 to 36.2% in 2021 (Table 4.12); these banks received 32.6% of deposits and issued 40.36% of total domestic loans, including those directed to agriculture, housing, and infrastructure. No divestment/privatization action or plans were undertaken during the review period. The CMN is entitled to channel the allocation of resources of private financial institutions towards priority regions or sectors. Law No. 13,483/2017 determines that long-term interest rate (TLP) on the remuneration of constitutional funds or financing granted by the National Treasury to the BNDES as a floating and inflation sensitive loan cost, hence reducing the spread between interest rates in direct and in earmarked credit lines.

4.165. According to IMF, the BCB continued to promote financial sector efficiency and inclusion, notably through an instant electronic payment system (PIX), which is provided by 769 financial suppliers, and used by approximately 110 million individuals as of December 2021.[237] PIX transfers and payments increased from BRL 34 million in December 2020 to BRL 1.6 billion in March 2022. Also, from 2016, 74 credit fintechs and 37 payment institutions have been authorized to operate in Brazil by the BCB. Since February 2021, the "Open banking" policy was regulated in four phases to allow the sharing of data and services among financial institutions, payment institutions, and other institutions licensed by the BCB, through the opening and integration of systems, aimed to increase competition in the financial sector. In 2020, the BCB introduced the Controlled Testing Environment for Financial and Payment Innovations (BCB Sandbox), aiming to establish a proper framework for assessing financial innovations within the National Financial System (SFN) and the Brazilian Payments System (SPB). Growth in the credit database (Cadastro Positivo) also has led to a 10.3% reduction in borrowing costs on non-payroll loans. The BCB has also implemented a number of efforts to strengthen the financial education.

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[235] Multi-purpose commercial banks are private or public financial institutions that carry out the asset, liability, and ancillary operations of the various financial institutions, through the following portfolios: commercial, investment and/or development, real estate credit, leasing and credit, financing and investment.

[236] EIU (2022), *Industry Report – Financial Services – Brazil*, 26 April.

[237] IMF (2021), *Brazil - Staff Report for the 2021 Article IV Consultation*, Country Report No. 2021/217, 22 September. Viewed at: https://www.imf.org/-/media/Files/Publications/CR/2021/English/1BRAEA2021001.ashx.

4.4.3.1.1 Institutional framework

4.166. The BCB has enjoyed operational autonomy since the mid-1990s but became independent in 2021 via Complementary Law No. 179/2021 (Section 1.2.3.1). The BCB continues to authorize financial institutions and supervise deposit-taking financial institutions, other financial institutions, financial intermediaries, payment institutions, consortium companies, leasing companies, and payment schemes. The BCB and the CVM continued to concurrently supervise securities brokers and dealers, investment brokers, foreign investor portfolios, and the clearing and settlement system. The CVM supervises stock and futures exchanges, mutual funds, securities issuers, portfolio managers, broker/dealers, and individuals operating in the securities markets. The BCB supervises prudential aspects, as well as financial conduct and competition issues, and the CVM supervises capital market operations.[238]

4.4.3.1.2 Regulatory framework

4.167. During the review period, the main legal framework for banking remained unchanged, except for the changes introduced by Complementary Law No. 179/2021 to Law No. 4,595/1964.[239] The banking sector and other financial services are regulated at the federal level. The BCB's normative acts are undergoing simplification and streamlining procedures. Those are all available online.[240]

4.168. Market access conditions in financial activities remain similar to those outlined in the previous report. Foreign banks continue to be allowed to establish only subsidiaries; those directly responsible for the administration of the financial institutions must be Brazilian residents. Direct branching of foreign banks is not allowed. The establishment of new subsidiaries of foreign financial institutions and the increase in participation of foreign individuals or legal entities in the equity of national financial institutions can now be authorized direct by the BCB following the fulfilment of requirements by CMN.[241] Applications by foreign investors must specify, *inter alia*, the amount of foreign participation in total capital, the investor's existing activities in the Brazilian financial system, and the benefits to the Brazilian economy. Representation within Brazil of financial institutions headquartered abroad continued to require prior authorization by the BCB; local representatives must be individuals or legal entities resident in Brazil. Representative offices are prohibited from taking deposits or undertaking any other financial transactions. Cross-border supply of banking services is not permitted. Consumption of banking services abroad is not regulated.

4.4.3.1.3 Prudential requirements and soundness

4.169. Since March 2013, Brazil has implemented the Basel III framework recommendations on banking supervision. According to a report by the Basel Committee on Banking Supervision of November 2020, Brazil had implemented all provisions, except the one on a measure related to banks' disclosure of their overall capital buffers, i.e. total loss-absorbing capacity[242], which establish minimum capital requirements of 10.5% (8% requirement + 2.5% conservation buffer) similar to the Brazilian requirements (9.25% requirement + 1.25% conservation buffer in 2017).[243] Rules regarding the countercyclical capital buffer (0% requirement of risk-weighted assets (RWA)) and additional requirement for systemically important banks have already been implemented (0.25% requirement of RWA in 2017). Implementation of the capital framework follows the schedule recommended by Basel III, ending in 2019. Recommendations on liquidity and leverage ratios have also been implemented according to the Basel III schedule. A requirement that systemically important banks adopt a recovery plan has been in place since 2016. The 1995 Credit Guarantee Fund (FGC), a private not-for-profit entity, administers a compulsory deposit insurance scheme contributing to the SFN's stability. As of December 2020, the credit covered by the FGC (BRL 1.673 trillion) was equivalent to around 53% of total deposits (BRL 3.162 trillion). The

[238] WTO document WT/TPR/S/358/Rev.1, 18 October 2017.

[239] The main legislation includes Article 192 of the Federal Constitution; Article 52 of the Temporary Constitutional Provisions Act; Law No. 4,595, 31 December 1964; Law No. 4,728, 14 July 1965; Law No. 6,024, 13 March 1974; Law No. 7,492, 16 June 1986; Law No. 9,613, 3 March 1998; Supplementary Law No. 105, 10 January 2001; and Resolution No. 3,040/2002. WTO document WT/TPR/S/358/Rev.1, 18 October 2017.

[240] BCB. Viewed at: https://www.bcb.gov.br/estabilidadefinanceira/buscanormas.

[241] Presidential Decree No. 10,029, 26 September 2019.

[242] EIU (2022), *Industry Report – Financial Services – Brazil*, 26 April.

[243] On 16 March 2020, the BCB reduced the Conservation Capital Buffer from 2.5% to 1.25% for one year. Viewed at: https://www.bcb.gov.br/en/pressdetail/2322/nota.

individual coverage ceiling is BRL 250,000 (USD 50,000).[244] A new resolution guarantees the coverage of credits up to BRL 1 million (USD 250,000) within a four-year period, including to foreign investors.[245] Since September 2013, the credit unions have had their own guarantee fund (FGCoop), which follows the same general conditions applicable to the FGC, including individual coverage ceilings.

4.170. According to the IMF, the banking system has remained resilient and real credit growth is supporting the recovery and a stress tests suggested that the banking system can withstand a severe adverse shock.[246] Profitability declined in 2020 to a pre-tax profit of BRL 94.2 billion from BRL 129 billion in 2019.[247] However, according to the IMF, bank profitability remains high and capital buffers are adequate. An increase in household and corporate deposits during the pandemic had increased liquidity buffers, where credit growth exceeded 10% for both private and corporate in 2020.[248]

4.171. During the review period, the system-wide capital ratios decreased but remained well above the regulatory *minima* (Table 4.13).[249] The share of non-performing loans (NPLs) eased to 2.24% at end-2020, from 3.11% at end-2019. No data on the loan loss reserves to cover for NPL have been provided for the review period. The overall ratio loan-deposit was 75.1% at end-2020, down from 78.9% in September 2021, suggesting that banks have little net reliance on international or domestic capital markets.[250]

4.172. The IMF also noted that the elimination of the tax asymmetry between investments overseas and their corresponding foreign exchanges (FX) hedges had reduced banks' incentive to "over-hedge" FX risks and lessened banks' vulnerability to currency depreciation. [251]

Table 4.13 Banking soundness indicators[a], 2017-20

(%)

	2017	2018	2019	2020
Capital adequacy ratio	18.2	18.0	17.1	16.8
Tier 1 capital ratio	14.5	14.6	14.2	14.6
Return on assets	1.5	1.6	2.0	1.2
Non-performing loans/total loans (%)	3.6	3.1	3.1	2.2
Non-performing loans/bank loans (%)	3.5	3	3	2.2
Non-performing loans/NBFCI loans (%)	4.8	4.2	4.3	2.9
External funding to total funding	10.3	11.7	12.5	12.2

a Includes public and private banks.

Source: BCB.

4.173. High-interest spreads between lending rates and the remuneration of deposits remain in place despite the decline following a drop in Selic, which reached as low as 2% in the end of 2020 and beginning of 2021, before climbing to 11.75% in April 2022 to contain the economic effects in the aftermath of the pandemic (Table 4.12, Chart 4.2, Section 1.2.3.1). The recent rising trend has been attributed to inflationary pressures and external conditions. Credit allocation, however, was

[244] The FGC is financed by associated financial institutions, which must contribute 0.0125% of the balance of the accounts guaranteed (current accounts, savings accounts, and term deposits). Credits of up to BRL 250,000 (approximately USD 50,000) per person per financial institution are eligible for FGC coverage. Viewed at: https://www.fgc.org.br/backend/upload/media/arquivos/Nossos%20Numeros/Demonstrac%CC%A7o%CC%83es%20Financeiras/Relatorio%20Anual/relatorio_semestral_2021.pdf.

[245] Viewed at: https://www.fgc.org.br/garantia-fgc/fgc-nova-garantia.

[246] IMF (2021), Country Report No. 2021/217. Viewed at: https://www.imf.org/-/media/Files/Publications/CR/2021/English/1BRAEA2021001.ashx.

[247] Decline in banks' profits in 2020 were also due to a fall in net interest income (NII), which fell by 9.1% in 2020, to BRL 318 billion, as interest rates fell. EIU (2022), *Industry Report – Financial Services – Brazil*, 26 April 2002.

[248] IMF (2021), Country Report No. 2021/217. Viewed at: https://www.imf.org/-/media/Files/Publications/CR/2021/English/1BRAEA2021001.ashx.

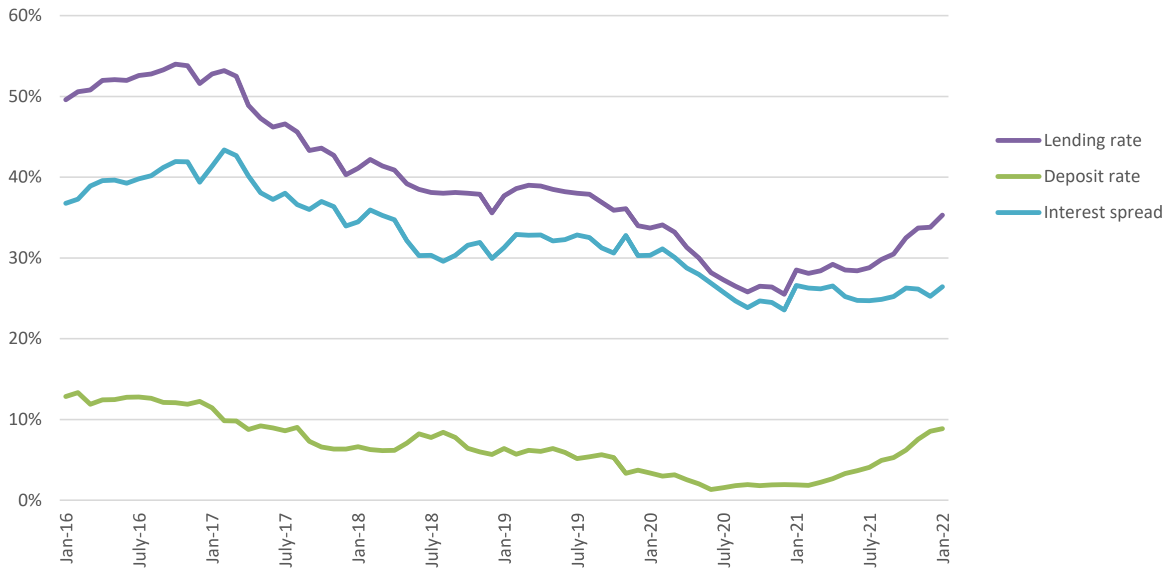
[249] EIU (2022), *Industry Report – Financial Services – Brazil* – 26 April.

[250] EIU (2022), *Industry Report – Financial Services – Brazil* – 26 April.

[251] IMF (2021), Country Report No. 2021/217. Viewed at: https://www.imf.org/-/media/Files/Publications/CR/2021/English/1BRAEA2021001.ashx.

positively benefited from the changes in BNDES lending and that of other state-owned banks to favour SMEs.

Chart 4.2 Interest rate spread, January 2016-January 2022



Source: IMF, International Financial Statistics.

4.174. Brazil maintains information-sharing agreements with the European Central Bank and financial supervisory authorities of 32 countries and territories: Argentina, Andorra, Australia, Austria, the Bahamas, the Kingdom of Bahrain, the Cayman Islands, Chile, China, Colombia, Ecuador, Germany, India, Indonesia, Italy, Japan, the Republic of Korea, Liechtenstein, Luxembourg, Mexico, Panama, Paraguay, Peru, Poland, Portugal, South Africa, Spain, Switzerland, the United Kingdom, Uruguay, the United States, and the Holy See.

4.4.3.1.4 Securities

4.175. Brazil's stock exchange, which was renamed from the São Paulo Stock Exchange (BM&FBovespa) to B3 in March 2017, after taking over the publicly held company Cetip, which organized the over-the-counter markets. B3 is the largest stock exchange in Latin America and it is the only formal market for trading in securities and derivatives in Brazil. B3 is itself a shareholder-owned company, and its stock are traded on its own market. The number of listed companies in B3 stood at 1,297 in 2021, and the number of Brazilian companies with listed stocks for trading was 463; the latter represented a market value of USD 853 billion, equivalent to 53% of GDP (2021). As at end-December 2021, there were 204 securities companies authorized to trade on B3 and they represented a net aggregate income of USD 1.455 billion.

4.176. The CVM, an independent government entity under the ME, remains in charge of regulating and supervising the securities markets in Brazil, with the exception of government and private bonds, which are regulated by the BCB. [252] Administrators of stock exchanges and of organized over-the-counter platforms, as well as some market associations, have been granted self-regulatory power and are considered auxiliary entities of the CVM.[253]

4.177. No changes had been made to the main laws governing the securities market since 2017. Activities and products related to public offering of securities, tender offers, intermediation or brokerage as regards trading involving securities or derivatives, clearing and settlement of such

[252] The main legislation includes Law No. 6,385/76 (the Securities Law) and Law No. 6,404/76 (the Corporation Law) as amended by Law No. 10,303 of 31 October 2001 and Law No. 10,411 of 26 February 2002; and Law No. 11,638 of 28 December 2007. More information on regulatory, institutional, and procedural matters in this area is available in WTO document WT/TPR/S/283/Rev.1, 26 July 2013.

[253] WTO document WT/TPR/S/358/Rev.1, 18 October 2017.

operations, investment funds, and securitization, among others, are regulated and subject to registration and authorization.[254]

4.178. A Financial Transaction Tax (IOF) on capital for investment in equity and debt securities remains in place to reduce the volatility, and to correct imbalances in the foreign exchange market; it is levied on financial transactions on foreign exchange conversions (IOF-FX) and transactions involving bonds and securities (IOF-Securities). Currently, the IOF rates on the investments of non-resident investors in the financial and capital markets are all zero.

4.179. In September 2021, the IOF rate was increased to fund the social programme Auxílio Brasil. The new daily rate for corporates increased from 0.0041% (referring to the annual rate of 1.50%) to 0.00559% (referring to the annual rate of 2.04%), and for individuals, the current daily rate jumped from 0.0082% (referring to the annual rate of 3.0%) to 0.01118% (referring to the annual rate of 4.08%). These rates reached the credit operations whose events occurred between 20 September 2021 and 31 December 2021. As of 2022, the rates decreased back to 0.0041% for companies and 0.0082% for citizens. The Government had zeroed the IOF rate on loans from 3 April 2020 until 26 November 2020, and from 15 until 31 December 2020 to facilitate access to credit during the COVID-19 pandemic, but reinstated the tax at the beginning of 2021.

4.180. No distinction is made between financial institutions on the basis of origin, as institutions registered in Brazil are considered local entities. Foreign investors have access to all the investment products available to domestic investors, including forward, futures, and options contracts of farm products.[255] Foreign investors receive national tax treatment in relation to operations in the financial and capital markets.

4.4.3.2 Insurance

4.181. In 2020, the contribution of insurance activities to GDP stood at 4%, up from 3.29% in 2015. Despite rapid growth over recent years, Brazil's population remains underinsured, premiums rose from BRL 289.5 billion in 2020 and to BRL 306.3 in 2021.[256] Between 2017 and 2020, insurance companies' assets, in USD, shrunk from USD 58.9 billion to USD 44.3 billion owing to the real's depreciation and the effects from the pandemic. According to the "World Insurance" (Swiss Re Institute), the insurance market in Brazil ranked 14th in the world ranking in 2019 in terms of total premium issuance (life and non-life). Market concentration in the insurance industry, albeit still high, was slightly reduced; in 2020, the market share of the five largest companies in the industry stood at 33% in terms of direct premiums, as compared to 38% in 2002 and 34% in 2010. The same analysis covering economic groups instead of companies shows a higher concentration, where the five largest economic groups account for 43% of market share in 2020.[257] Bancassurance plays a significant role, particularly in life business; many larger banks (e.g. Banco Bradesco, Itaú Unibanco, Santander, and public banks such as Banco do Brasil and Caixa Econômica Federal) continue to offer a full range of insurance services, whereas large stand-alone insurers (e.g. Brasilseg, Porto Seguro, Mapfre Spain, Tokio Marine, Allianz Seguros, Zurich Santander Brasil, Zurich Minas Brasil, and Liberty Seguros) tend to dominate non-life insurance. Stand-alone insurers such as Porto Seguro and Mapfre have access to Bancassurance distribution channels through corporate arrangements/cross-ownership.

4.182. By the end of 2021, there were 124 insurance companies, 14 local reinsurers, and 33 admitted reinsurers registered in Brazil before the SUSEP, compared to 118, 16, and 36 in 2016, respectively.

4.183. As of December 2021, considering 72 occasional reinsurers in addition to the local and admitted reinsurers, 119 reinsurance companies in total were authorized to do business in Brazil, as compared to 133 in late 2016. IRB Brasil Re, the sole provider of reinsurance in Brazil until 2007, remains the top reinsurer operating in the country. In 2021, there were 45 foreign-owned companies

[254] WTO document WT/TPR/S/358/Rev.1, 18 October 2017.
[255] Resolution CMN 4,373, 29 September 2014.
[256] Premium expenditure in OECD countries is typically 7%-12% of GDP. EIU (2022), *Industry Report – Financial Services – Brazil*, 26 April.
[257] Superintendence of Private Insurance (SUSEP), 9º *Relatório de Análise e Acompanhamento dos Mercados Supervisionados*. Viewed at: http://www.susep.gov.br/menuestatistica/SES/relat-acomp-mercado-2021.pdf.

with a market share of 17% (life insurance) and 58% (non-life insurance). 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. Insurance companies are precluded by law from engaging in other financial activities; nevertheless, they may provide more than one type of insurance services and may hence be composite (life and non-life insurer).

4.184. Premiums in insurance of persons is the largest segment accounting for BRL 177 billion in 2021; followed by damage insurance at BRL 90.2 billion for which automobile coverage accounts for nearly half. The sector was boosted by the obligation of vehicle owners to carry liability insurance. Premiums for investment-linked policies reached BRL 24.2 billion, while other types of retirement savings – including Planos Gerador de Benefício Livre (PGBLs) pension schemes – accounted for around BRL 15 billion.[258]

4.4.3.2.1 Institutional framework

4.185. No changes were made to the institutional framework of the insurance industry since 2017. The Federal Government has the responsibility for formulating insurance policy, as well as for establishing standards and overseeing operations in the national insurance system (SNSP). The National Council of Private Insurance (CNSP) remains the main body responsible for setting policies for the private insurance industry, including establishing the characteristics of the various insurance contracts, and for the regulation of the national private insurance system. SUSEP, an autonomous body under the ME, is in charge of the control and supervision of insurance, reinsurance, open private pension funds, and capitalization (investment plans) and brokerage operations. SUSEP implements the CNSP policies. SUSEP signed MoUs with the Federal Insurance Office (FIO) of the United States and with Argentina, and a multilateral MoU (MMoU) with the International Association of Insurance Supervisors (IAIS) through which it can cooperate and exchange information with all other signatories (currently 77 insurance supervisors). In 2015, SUSEP was granted provisional equivalence to Solvency II (article 227) by the European Insurance and Occupational Pensions Authority (EIOPA), a step towards full equivalence.[259] In 2022, SUSEP will become a signatory to the MMoU of Assal (Asociación de Supervisores de Seguros de América Latina).

4.4.3.2.2 Regulatory framework

4.186. During the review period, the legal framework for insurance remained largely unchanged.[260] CNSP Resolutions and SUSEP Circulars regulate the industry's operational activities. Insurance companies are precluded by law from engaging in other financial activities; nevertheless, they may provide more than one type of insurance service and may hence be composite (life and non-life). Bancassurance remains the main distribution channel of insurance in Brazil. The only exceptions apply to health insurance companies, which must be specialized; life insurance companies, which may deal in open pension funds; and reinsurance companies. Insurance policies issued by insurers belonging to the same economic group, such as banks, are commonly sold inside bank branches as part of the services mix offered therein.

4.187. In July 2021, SUSEP published Resolution No. 11/2022 with its Regulatory Plan for 2022. Among other things, it sought to continue the process of simplifying the regulation of the sector, reducing complexity and costs of the regulatory framework, in addition to adhering to the best international practices, stimulating the development of the insurance market, and adopting an increasingly less prescriptive and more principled approach. These included rules that deal with reinsurance and retrocession operations (including assignment limit), co-insurance operations, operations in foreign currency, and insurance contracts abroad. For transport group insurance, the revision of current norms and the consolidation of regulations on carrier's civil liability insurance were envisaged. In the field of rural insurance, SUSEP proposed revisions to Decree No. 5,121/2004,

[258] EIU (2022), *Industry Report – Financial Services – Brazil*, 26 April.

[259] WTO document WT/TPR/S/358/Rev.1, 18 October 2017.

[260] The main legislation includes Decree Law No. 73/ 1966, as modified by Decree No. 60,459/1967, Decree Law No. 261/1967, Law No. 10,190/2001, Supplementary Law No. 109/2001, Supplementary Law No. 126/2007, and Law No. 12,249/2010.

along with revisions to personal insurance plans, house insurance, and open supplementary pension plans to meet the needs of consumers and further competition in the sector.[261]

4.188. All insurance, local reinsurance (see below), capitalization/investment, and private pension fund companies remain subject to a supervisory fee (Taxa de Fiscalização dos Mercados de Seguro e Resseguro, de Capitalização e de Previdência Complementar Aberta); the 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.[262]

4.189. Insurance brokers must register with SUSEP after passing a technical exam. New insurance products do not require SUSEP's prior approval (except for large risks[263]) but they should be submitted for analysis and filing prior to their marketing. Life insurance products that offer survivor coverage and annuities, as well as capitalization plans and open pension products, require prior approval from SUSEP. SUSEP may suspend any product that is found not to comply with the industry's regulatory framework or specific provisions thereof, including technical flaws. The number of new products submitted to SUSEP and those rejected could not be provided by the authorities.

4.190. Market access conditions remained unchanged, except for improvements in reinsurance (see below). Establishment of a foreign life or non-life insurance company, be it a locally incorporated company or a subsidiary, requires prior approval from SUSEP, whose authorization ensures the granting of national treatment to the foreign company concerned. The number of registration approvals and rejections could not be provided by the authorities. Foreign insurance companies providing insurance of any kind, including reinsurance, can be incorporated under Brazilian law in the form of a legal entity. Direct branches of foreign insurance companies require an additional level of approval by the Federal Government and must follow the same regulatory rules as locally incorporated companies, including capital requirements.

4.191. Solvency capital requirements for insurance, reinsurance companies, and open pension funds are defined by CNSP Resolution No. 432/2021 and vary according to the region of operation, the type of activity, and standard risk-based model. According to the authorities, there continued to be no barriers to the domestic trade of insurance services as long as a company complies with these solvency capital requirements.[264]

4.192. The contracting of insurance abroad by resident natural persons or legal persons established in Brazil is allowed to cover risks for which there is no provision of insurance in Brazil, provided that this represents no violation of existing legislation; cover risks abroad where the insured is a resident natural person in Brazil, for which the term of the insurance contract is limited exclusively to the period in which the insured person is abroad; and insurance policies that are the subject to international agreements ratified by Brazil. Supplementary Law No. 126/2007 continued to allow Brazilian legal persons to contract insurance abroad to cover risks abroad upon notification to SUSEP.[265]

4.193. A new approval system for innovative insurance services and products has been implemented since 2020, known as regulatory sandbox in insurance, allowing differentiated regulatory requirements during a determined time period under tight scrutiny by SUSEP.[266]

4.194. Since December 2021, Brazil has been implementing the "Open Insurance" policy to allow the sharing of consumers' information among different companies authorized or accredited by SUSEP by sharing data and services through openness and systems integration. At phase 1, from December 2021 to June 2022, implementation of the sharing of services offered and clients communication channels was possible. At phase 2, from September 2022 to June 2023, implementation of the sharing of personal data of customers or services within the scope of "Open Insurance", conditional to the prior consent of the respective customers. For phase 3, from

[261] Viewed at: https://www.gov.br/economia/pt-br/orgaos/orgaos-colegiados/conselho-de-recursos-do-sistema-nacional-de-seguros-privados-de-previdencia-aberta-e-de-capitalizacao/acesso-a-informacao/noticias/2022/susep-aprova-plano-de-regulacao-de-2022.
[262] WTO document WT/TPR/S/358/Rev.1, 18 October 2017.
[263] SUSEP Resolution No. 407/2021.
[264] WTO document WT/TPR/S/358/Rev.1, 18 October 2017.
[265] WTO document WT/TPR/S/358/Rev.1, 18 October 2017.
[266] CNSP Resolution No. 381/2020.

December 2022 to June 2023, implementation of the Open Insurance services, including portability, modifications, and other actions as envisaged in the main policy.[267]

4.195. Other regulatory improvements included the possibility of issuing subordinated debt[268], use of remote means (insurance contracting via mobile applications)[269], market conduct practices[270], and flexibilization of non-life retail insurance.[271]

4.4.3.2.3 Reinsurance

4.196. Brazil accounts for 39% of Latin America's reinsurance market, and the volume of business written in Brazil is expected to grow as the Government invests in energy projects and infrastructure upgrades, along with growing middle class, which should require huge reinsurance capacity to sustain the primary market.[272] As at December 2021, 119 reinsurance companies were authorized to do business in Brazil (161 in 2015), of which 14 were local and 105 foreign-owned (33 registered as admitted and 72 as occasional, compared to 145 in late 2015).

4.197. Since 2007, the reinsurance business has been open to private reinsurance companies, including foreign-owned and foreign-based companies.[273] In 2017, new regulations facilitated for international players entering the Brazilian reinsurance market through the elimination of four classes of business from minimum insurance retention requirements. Also mandatory placements with local reinsurers were eliminated, as well as limits on intra-group cessions.[274] Since 2019, a 95% cession from local reinsurers to foreign-owned companies has been established.[275] The issuance of debentures and other financial debt instruments (insurance linked securities (ILS)) by local reinsurers was enabled[276] and a new contractual freedom framework on large risks was issued.[277]

4.198. IRB Brasil Re, the former state monopoly reinsurer, continues to dominate the segment with a market share of 48% of reinsurance premiums ceded by insurers in 2021, followed by Munich Re do Brasil Resseguradora, Mapfre, Austral, Allianz, Swiss Re, Scor, Zurich, Junto, Chubb Resseguros, and Lloyd's.[278] IRB Resseguros also has a market share of 25% of total reinsurance premiums (i.e. ceded to local, admitted, and occasional reinsurers), followed by Munich Re do Brasil Resseguradora, Mapfre Reaseguros, Austral, Lloyd's, Scor, and Allianz.

4.4.4 Telecommunications

4.199. Telecommunications market and information services (including telecom, computer, and broadcasting services) accounted for 3.5% of gross value added in 2020 compared with 3.4% in 2017 (Table 1.2). In 2022, Brazil continued as the world's fourth-largest mobile telephony market on a subscription basis (behind China, the United States, and India). As elsewhere in Latin America, the introduction of pre-paid cards has been a major spur to deeper mobile-phone penetration; nevertheless, the share of pre-paid subscriptions has fallen from above 80% in 2004-12 to 70% in July 2016 and then to 46.6% in January 2022. As of August 2021, the number of mobile telephony users, 258.3 million, roughly registered the same levels of 2015, 257.8 million. 4G technology accounted for 77.5% of active mobile subscriptions on the network, followed by 11.1% for 3G and 10.8% for 2G (September 2021). During the review period, the number of fixed broadband service users continued to increase (17%) and in 2022 there were 40.8 million access points. Fixed-line telephony penetration continued to fall steadily from 20.1 per 100 people in 2007 to 14.9 per 100 in 2015 and then to 13.2 per 100 in 2022; this has occurred on the back of cheaper

[267] Viewed at: https://openinsurance.susep.gov.br/.
[268] CNSP Resolution No. 391/2020.
[269] CNSP Resolution No. 408/2021.
[270] CNSP Resolution No. 382/2020.
[271] SUSEP Circulars No. 620/2020, No. 621/2021, and No. 639/2021.
[272] EIU (2022), *Industry Report – Financial Services – Brazil*, 26 April 2022.
[273] Supplementary Law No. 126, 15 January 2007.
[274] A cession is the portion of insurance transferred to a reinsurer by the ceding company. CNSP Resolution No. 322, 20 July 2015.
[275] Decree No. 10,167/2019.
[276] CNSP Resolution 396/2020.
[277] CNSP Resolution 407/2021.
[278] EIU (2022), *Industry Report – Financial Services – Brazil*, 26 April.

mobile-phone technology and services, a particular driver of telephony penetration among low-income users.[279]

4.200. During the review period, the telecommunications market remained fully open to competition, though dominated by a handful of large operators from abroad, including Telefónica (Vivo) (Spain), Telecom Italia (TIM Brasil) (Italy) and Teléfonos de México (Telmex)/América Móvil (Claro) (Mexico), as well as a domestic company, Oi, which filed for bankruptcy protection in 2016 and had been taken over by Telefónica, TIM Brasil, and Telmex/América Móvil, a transaction that was approved by the Administrative Council for Economic Defense (CADE) in the end of 2021.[280] Oi will keep its fibre network assets with focus on fibre-optic business.[281] In the broadband retail market, small and regional operators account for almost a half of the connections nationwide, which dominate the market in several municipalities.

4.201. As of January 2022, the fixed-line market consisted of 172 operators (32 in 2012 and 65 in 2015), and was dominated by Claro (formerly Embratel) (30.7%), Oi (formerly Telemar) (30.1%), Vivo (Telefonica) (26.2%), Algar (Telecom) (4.7%), and TIM (Telecom Italia) (2.8%). The mobile telephony market, consisting of 11 operators (18 in 2012 and 20 in 2015), continued to be dominated by Vivo (33%), Claro (27.8%), TIM (20.3%), Oi (16.3%), and Algar (1.5%). The number of companies authorized to supply fixed broadband service stood at 6,922 operators in 2021 (1,725 in 2012 and 3,223 in 2015), and continued to be dominated by Claro (23.9%), Vivo (15.5%), and Oi (12.6%).[282]

4.202. In 2021, Brazil carried out the largest radio frequency tender in its history on the 5G mobile telephony technology. The 45 lots collected in the 5G auction totalled BRL 47.2 billion, and included several commitments for the winning bidders, such as coverage of all 5,570 Brazilian municipalities with 5G; service 2,349 stretches of highway with 4G, totalling 35,784 km (all federal paved highways); deployment of fibre-optic backhaul in 530 municipal seats; and investment reaching BRL 3.1 billion for public school connectivity.[283]

4.203. In 2020, the number of active mobile-broadband subscriptions per 100 inhabitants reached 90 (compared to an average of 67.5 across all developing countries), while that of fixed broadband subscriptions increased to 17 (compared to 12.1 for developing countries). The percentage of the Brazilian population using the Internet reached 81% in 2020, up from 41% in 2010 and 58% in 2015. While ICT prices have generally declined in recent years, the price of a fixed mobile basket, expressed as a percentage of GNI has increased during the COVID-19 pandemic, from 1.43% in 2018 to 3.49% in 2021. The average for countries in the Americas was 5.13% of GNI in 2021, while the world average was 2.98%. For their part, the prices for mobile data and voice baskets (high consumption) have decreased, from 1.8% to 1.05% of GNI, over the same period. The average for countries in the Americas was 3.91% of GNI in 2021, while the world average was 2.86%.[284]

4.4.4.1 Policy and institutions

4.204. The sector's 2015-24 Strategic Plan was renewed and is aimed at expanding access to and use of services of an adequate quality and at affordable prices, stimulating competition and sustainability, supporting consumer satisfaction, and promoting the dissemination of sectoral data and information.[285] Its Management Plan 2021-22 prioritized the set objectives: (i) promote improved performance in the provision of telecommunications services; (ii) optimize the granting and licensing of stations; (iii) improve the management of resources for the provision of telecommunication services; (iv) improve economic regulation and encourage innovation in the sector; (v) improve and simplify sectoral regulation; (vi) improve transparency and social participation; (vii) develop strategic management; (viii) intensify and improve the use of IT in

[279] EIU (2022), *Industry Report – Telecommunications – Brazil, 17 March*.

[280] Oi's mobile operation assets, such as spectrum, network elements, and users were transacted, but not the company itself. The operation was also approved by ANATEL regarding the regulatory aspects.

[281] EIU (2022), *Industry Report – Telecommunications – Brazil*, 17 March.

[282] Agência Nacional de Telecomunicações (ANATEL), *Panorama*. Viewed at: https://informacoes.anatel.gov.br/paineis/acessos/panorama.

[283] Agência Nacional de Telecomunicações (ANATEL) (2022), *Relatório Anual 2021*.

[284] ITU, *Statistics*. Viewed at: https://www.itu.int/en/ITU-D/Statistics/Pages/stat/default.aspx.

[285] Viewed at: https://www.gov.br/anatel/pt-br/acesso-a-informacao/acoes-e-programas/planejamento-estrategico.

regulation; (ix) ensure adequate infrastructure and facilities; (x) promote management by results; and (xi) secure resources and strengthen budget management.[286]

4.205. The Ministry of Communications, through the Secretariat of Telecommunications, is the federal body responsible for policy formulation and planning for the sector.[287] The National Telecommunications Agency (ANATEL), the sector's administratively independent and financially autonomous regulator, is responsible for policy implementation, licence regulation, overseeing incumbents' operations, managing the electromagnetic spectrum, certifying telecommunications equipment, and protecting consumers' rights. It also has the legal authority to review and control retail prices of fixed telephony services under the public service regime as well as to approve mergers in the sector from a regulatory perspective, whereas competition issues *per se* are analysed by CADE (the competition authority).[288]

4.4.4.2 Regulatory and operational framework

4.206. During the review period, the major changes were the revision of the General Telecommunications Law (LGT) in 2019, implementing the possibility of changing the telecommunications service concession contracts to an authorization regime and the possibility of successive extension of the grants.[289] In 2020, the concession instrument for authorization of telecommunications services was revised, as were other extension and transfers of authorizations for radio frequencies, in addition to granting telecommunications services and rights to operate satellites.[290] Also in 2020, the regulation of the General Antenna Law (Law No. 13,116) established rules for deploying and sharing of telecommunications infrastructure, and for simplifying and harmonizing rules to promote the expansion of network coverage. It is an important milestone for the advancement of 5G in Brazil.[291] In 2020, the revision of the Law on the Fund for Universalization of Telecommunications Services (FUST) through modernization of the fund's application rules and guidelines for promotion of broadband Internet connection.[292] Decree No. 9,612/2018 on the 5G Public Notice and establishing guidelines for conducting the spectrum auction for 5G networks, as well as the commitments of the offsets linked to the concessions with a view to universal coverage of telecommunications services.[293,294]

4.4.4.3 Interconnection

4.207. Network interconnection under non-discriminatory conditions and at reasonable rates continued to be mandatory for the provision of public telecommunication services.[295] Cross-subsidization, discriminatory discounts, abusive behaviour, and other anti-competitive practices are prohibited.[296] ANATEL sets the interconnection prices for the public service regime operators and operators with significant market power (SMP) under cost-oriented methodologies.[297]

4.4.4.4 Domestic support

4.208. In 2020, the changes in the use of the FUST, previously restricted to fixed telephony, are now also to be applied in other telecommunications services, such as fixed broadband and mobile

[286] Viewed at: https://www.gov.br/anatel/pt-br/acesso-a-informacao/acoes-e-programas/planejamento-estrategico/plano-de-gestao.
[287] The Ministry of Communications was re-created in 2020 after being detached from the Ministry of Science, Technology, and Innovation.
[288] WTO document WT/TPR/S/358/Rev.1, 18 October 2017.
[289] Law No. 9,472/97 updated by Laws No. 13,879/2019 and No. 14,173/2021.
[290] Decree No. 10,402/2020.
[291] Decree No. 10,480/2020.
[292] Law No. 9,998/2000 revised by Law No. 14,109/2020 and Law No. 14,173/2021.
[293] Decree No. 9,612/2018 with its amendments and regulations.
[294] More information on the issues discussed in this section is available in WTO documents WT/TPR/S/283/Rev.1, 26 July 2013; and WT/TPR/S/358/Rev.1, 18 October 2017.
[295] Law No. 9,472/97, Articles 146, 147, and 152.
[296] General Regulation on Interconnection, annexed to ANATEL Resolution No. 693 of 17 July 2018.
[297] Criteria for defining "significant market power" are established in ANATEL Resolution No. 438 of 10 July 2006. According to the authorities, ANATEL does not control interconnection tariffs in a direct manner in the context of private service regimes. When service suppliers are unable to resolve negotiation disputes, they can resort the matter to ANATEL, which may set terms for settling the dispute.

telephony. These changes included the obligation to provide all Brazilian public schools with broadband Internet access with resources from FUST by 2024.

4.209. The Contribution for the Promotion of Public Broadcasting (CFRP), the Contribution for the Development of the National Film Industry (CONDECINE), and the Inspection Fee of Installation (TFI), which makes up the Telecommunications Inspection Fund (FISTEL), had been reduced until the end of 2025. The measure is valid for stations in small plots of land controlled by a central station, known as antennas or VSAT stations, used to connect to the Internet via satellite. The Functioning Inspection Fee (TFF) was also reduced for these stations.

4.210. Furthermore, Law No. 14,172/2021 allocated BRL 3.5 billion to the states and the Federal District to guarantee access to the Internet for educational purposes, targeting teachers and students of basic education in the public education system. To receive the benefit with resources from FUST, the student must belong to a family registered in the Single Registry for Social Programmes of the Federal Government (CadÚnico) or be enrolled in schools in indigenous or *quilombola* communities.

4.211. Law No. 14,351/2022 established the Internet Brazil Programme within the Ministry of Communications with the purpose of promoting free access to the Internet in mobile broadband to basic education students of the public education system, as well as to families enrolled in the Single Registry for Social Programmes of the Federal Government.[298]

4.212. Law No. 14,180/2021 instituted the Innovation Education Connected Policy with the objective of supporting the universalization of high-speed Internet access and promoting the pedagogical use of digital technologies in basic education. The policy envisages financial support including with resources from FUST, which may occur through the transfer of resources to states, the Federal District, municipalities, and schools to purchase an Internet access service, electronic devices, and licences for digital educational resources.

4.213. The Integrated and Sustainable Amazon Programme (Programa Amazônia Integrada e Sustentável (PAIS)) enabled the construction of the Federal Public Administration's Private Communication Network resources for the implementation of fibre-optic transport networks in the Northern Region. The resources from the 26 GHz band authorizations will be allocated to public school connectivity projects to be defined through the Group for Monitoring the Costing of School Connectivity Projects (GAPE).

4.214. The Connected Amazon Project (PAC) aims to launch optical sub-fluvial cables, bringing high-capacity transport infrastructure to connect dozens of municipalities in the Amazon Region. Schools, hospitals, judicial courts, and public security and national security agencies will be served and are part of the North Connected Programme. ANATEL will monitor, through the Monitoring Group for the Implementation of Solutions for Interference Problems in the 3,625 to 3,700 MHz band (Gaispi), the implementation of six more Infovias on the rivers of the Amazon, totalling 9,000 km of sub-fluvial optical cables.

4.215. The Broadband in Schools Programme (PBLE) started in April 2008, after the signature of Addendums to the Authorization Terms for the exploitation of fixed broadband service between ANATEL and the local fixed telephony concessionaires. The main obligation assumed by the companies was to connect all urban public schools to the Internet, free of charge, until December 2025. In the PBLE, each urban school must be served with broadband at a speed equivalent to the best offer commercially disseminated to the public or, at least, with 2 Mbps when provided by terrestrial medium technology and 500 Kbps when provided by satellite. The management of the programme is carried out jointly by ANATEL, the Ministry of Education, in partnership with the Ministry of Communications, and with the state and municipal education secretariats. ANATEL is responsible for monitoring the programme implementation. The programme counted, in November 2021, almost 65,000 urban public educational institutions connected to the Internet.

[298] *Agência Brasil* (2021), "Provisional Measure that Creates the Internet Brazil Program Published", 8 December. Viewed at: https://agenciabrasil.ebc.com.br/en/educacao/noticia/2021-12/provisional-measure-creates-internet-brazil-program-published.

4.216. Pursuant to Decree No. 10,610/2021, which approved the General Goals Plan for Universalization of the Fixed Telephone Service Commuted Provided in the Public Regime (PGMU V), ANATEL made available a subsidy on the existence of high-capacity telecommunications network infrastructure used in the provision of telecommunications services (backhaul) in municipalities that did not have fibre-optic backhaul infrastructure.

4.217. In 2021, ANATEL raised BRL 1.3 billion for FUST, BRL 3.56 billion for the Telecommunications Inspection Fund (FISTEL)[299], and BRL 223.6 million for the Contribution for the Promotion of Public Broadcasting (CFRP).

4.218. To achieve its policy objectives, the Government uses its 2012 Geostationary Satellite Defence and Strategic Communications (Satélite Geoestacionário de Defesa e Comunicações Estratégicas (SGDC)) project, which implemented via Visiona Tecnologia Espacial a joint venture between Embraer (51%) and Telebras (49%).[300] The satellite was launched on 4 May 2017 providing for high-speed broadband Internet connection in 100% of the Brazilian territory.

4.219. According to the authorities, the 2012 National Broadband Programme Special Taxation Regime (REPNBL) with local content requirements was terminated on 31 December 2016.

4.220. Since December 2018, government agencies are no longer required to procure email, file-sharing, teleconferencing, and Voice-over-Internet-Protocol (VoIP) services from SERPRO, Brazil's Federal Data Processing Agency.[301] According to the Ordinances No. 141 and No. 54 of the former Ministry of Planning, Budget and Logistics, access to the source code for hardware and software used in the Federal Government's email, file-sharing, teleconferencing, and VoIP solutions may be required.[302]

4.4.4.5 Number portability

4.221. Number portability has been required since 2007.[303] A private association, contracted through public bidding, continues to manage the central reference databank for number portability. As a result of the bidding process, the management of portability operations was delegated by ANATEL to the Brazilian Telecommunication Resources Association (ABR Telecom). ANATEL also supervises wholesale infrastructure in the country and has representatives of the largest telephone operators, as well as representatives of small and regional operators, on its board. Number migration is subject to conditions set by ANATEL and ABR Telecom, including a fee of BRL 4.[304] In 2022, around 700,000 fixed-line and mobile-phone subscribers in Brazil carry their number to a new operator each month. Between 2008 and January 2021, 8,382,861 lines including 1,243,657 fixed lines and 7,139,204 mobile phones were carried to a different operator.[305]

4.4.4.6 Tariffs

4.222. Under the LGT, ANATEL reviews and controls the retail prices of fixed telephony services rendered by the companies operating under the public service regime (see above). It sets maximum rates for the basic service plan, although concessionaries may still offer alternative plans on a non-discriminatory basis. Prices for local, national, and international long-distance calls are subject to specific regulations. No retail price caps for mobile telephony or for fixed telephony provided under the private service regime are in place; caps are only fixed under the public service regime (i.e. public concession). Cross-subsidization between different services or user markets is prohibited. Telecom operators under the private service regime are free to set retail prices for their services. The cost of wholesale (carrier-to-carrier) leased lines up to certain capacities is also

[299] The FISTEL Law (Law No. 5,070/1966) determines the charge of BRL 26.83 whenever a new cell phone comes into operation and that one third of this amount is paid annually for the operation of the device.
[300] WTO document WT/TPR/S/358/Rev.1, 18 October 2017.
[301] Decree No. 9,637/2018 revoked Decree No. 8,135/2013.
[302] WTO document WT/TPR/S/358/Rev.1, 18 October 2017.
[303] ANATEL Resolution No. 460, 3 March 2007.
[304] TechinBrazil, *Telephone Number Portability in Brazil*. Viewed at: http://techinbrazil.com/telephone-number-portability-in-brazil.
[305] Available at: https://www.abrtelecom.com.br/numeros-portabilidade/total-geral.

regulated by ANATEL as well as certain interconnection charges when involving suppliers with SMP.[306]

4.223. Strong market competition continued to lead to further improvements in the quality of service and to reductions in tariffs. According to the International Telecommunications Union's ICT Price Basket (IPB) index, in 2019 Brazil's average prices for low usage voice and data (70 min + 20 SMS + 500 MB) represented 1.8% of GNI per capita (4.8% in 2010 and 1.8% in 2014) and Brazil ranked 79th out of 179 countries.[307] Between December 2017 and January 2022, the average price per minute for calls from fixed-line to fixed-line rose by 19.26% (from BRL 0.07562 to BRL 0.09019); the rates on local and long-distance calls made from fixed to mobile phones were varied from BRL 0.21100 in 2017 to BRL 0.22809 in 2021. In 2021, ANATEL authorized fixed telephony tariff adjustments of 11.68%. It is estimated that the average price per minute of mobile phone calls fell by 37.48% (from BRL 0.14 to BRL 0.09) from 2017 to 2021. Between 2017 and 2021, the average monthly broadband prices for GB consumed also dropped by 47.53% (from BRL 0.75 to BRL 0.39).

4.4.4.7 Competition-related issues

4.224. ANATEL is responsible for approving mergers in the telecommunications sector from a regulatory perspective. The General Plan of Competition Goals addresses the asymmetric obligations placed on groups deemed to have SMP in identified relevant markets. In 2018, it was updated and established a new regulatory framework based on asymmetric measures applied where there is a high probability of the exercise of market power by an economic group holding SMP, according to its degree of competition in categorized geographic areas. ANATEL will reassess the Relevant Markets and asymmetric Regulatory Measures, as well as the holders of SMP, every four years. It may also, *ex officio* or at the request of the interested party, modify the Asymmetric Regulatory Measures as long as they are submitted to Public Consultation.[308] Another condition for reassessment occurs when the original measure is deemed inefficient. During the review period, ANATEL dealt with 147 proceedings involving interconnection-issues.

4.225. The level of concentration in the mobile telephony market measured by number of operators in Brazil and by the Herfindahl-Hirschman Index (HHI) Index show less concentration as compared to other countries in Latin America.[309]

4.4.4.8 Universal Service Obligations

4.226. Universal Service Obligations (USO) continue to apply to telecommunications operators under the public service regime (i.e. the incumbents of local fixed telephony services), which must meet the goals established by the legislation.[310]

4.227. The 5th General Plan of Goals for the Universalization of the Fixed Commuted Telephone Service Provided in the Public Regime (PGMU V) came into force in January 2021 determining the obligation on fixed telephony concessionaires to implement fibre-optic backhaul (transport network) in municipalities, isolated urban areas, and rural agglomerations that do not yet have this infrastructure, reaching 100% of the locations before 31 December 2024. On the other hand, PGMU V revoked the obligation to install 4G antennas in 1,473 locations, which was provided for in PGMU IV. The PGMU V also provided that the locations that would be served by fixed wireless access system for the Fixed Commuted Telephone Service under previous PGMU IV will be prioritized for mobile telephony in biddings for the radio frequency bands of 700 MHz, 2.3 GHz, 3.5 GHz, and 26 GHz (5G Notice). To date, isolated and remote areas have been reached only through the implementation of PGMU obligations established under the five fixed-line operators of public service regime concessions that contain their investment targets in these areas.[311]

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[306] WTO document WT/TPR/S/358/Rev.1, 18 October 2017.

[307] ITU, *ICT Price Baskets*. Viewed at: https://www.itu.int/net4/ITU-D/ipb/#ipbcomparison-tab.

[308] Viewed at: https://www.gov.br/anatel/pt-br/regulado/competicao/mercados-de-atacado.

[309] OECD (2020), *OECD Telecommunication and Broadcasting Review of Brazil 2020*. Viewed at: https://doi.org/10.1787/30ab8568-en.

[310] Presidential Decree No. 10,610/2021.

[311] FUST funds totalled BRL 1.32 billion in 2021. From 2017 until June 2022, the Fund has raised BRL 5.35 billion. FISTEL funds totalled BRL 3.56 billion in 2021. Since 2017 until June 2022, the Fund has

4.4.5 Audiovisual and broadcasting services

4.228. Brazil remains Latin America's largest media market and the only Portuguese-speaking country on the continent; in 2021, it boasted a USD 30 billion media and entertainment industry (M&E).[312] Brazil has thousands of radio stations and hundreds of TV channels, both very influential media with highly concentrated ownership that are tightly regulated by the Government.[313] According to the authorities, there are 632 digital TV generators and 146 analogue TV generators. And close to 20,000 retransmission stations.

4.229. The Broadcasting Secretariat (SERAD), under the Ministry of Communications, is in charge of formulating and assessing the implementation of public policies, guidelines, objectives, and goals related to broadcasting services and their auxiliary services, as well as to propose studies and activities aimed at technological innovation in the sector. Quotas on content are determined by the Films National Agency (ANCINE), under the Ministry of Tourism.

4.230. The digital TV transition scheduled to switch off analogue in 2016 was held off until 2018 in 1,326 cities, where the analogue shutdown is mandatory for the operation of 4G mobile services in the 700 MHz band, whereas the remaining 2,865 cities will have their analogue shutdown processes completed by 2023.[314] Over 12 million digital TV set-top boxes were distributed for low-income families under the Digitalize Brazil programme, set to in the end of 2023.

4.231. The Brazilian public service broadcaster (PSB) is the Empresa Brasil de Comunicação (EBC), with a budget of around USD 178 million (BRL 650 million), of which USD 109 million (BRL 400 million) is used to operate the network. Resources come from the Contribution to Foster Public Broadcasting (Contribuição para o Fomento da Radiodifusão Pública), disbursed by the Telecommunications Fund (Fundo de Fiscalização das Telecomunicações (FISTEL)). In April 2019, EBC unified TV Brasil (the main public channel in the country) with the government channel TV NBR and rebranded it as the new TV Brasil.[315]

4.232. Investment barriers seemed to continue to make market entry a challenge.[316] Foreign ownership in "free-to-air" television broadcasting is limited to 30%, while 80% of the programming aired on "free-to-air channels" must be Brazilian. In the subscription television market, including satellite and cable television, content quotas require most channels[317] to air at least 3.5 hours per week of Brazilian programming during prime time, with at least half of these productions made by independent Brazilian production companies, thereby creating enormous demand for independently produced national content to be acquired or co-produced by channels in order to fulfil the quotas.[318] There are also quotas for Brazilian channels in subscription television, that is, one third (limited to a maximum quota of 12 channels) of all channels included in any television package must be Brazilian and specialized in "qualified content", such as films and series. Subscription television programmers are also subject to the 11% CONDECINE levy on remittances, which can be waived if an amount equal to at least 3% of remittances is invested in local productions.[319]

raised BRL 12.51 billion. So far the revenue collected through FUST and FISTEL has been retained by the National Treasury and never been used in USO-related activities. Viewed at: https://informacoes.anatel.gov.br/paineis/arrecadacao/.

[312] Data provided by the authorities.

[313] Free-to-air (FTA) broadcasting services are considered public services in Brazil through a bidding and licensing regime. The broadcasting licences are administered by the Ministry of Science, Technology and Innovation (Ministério da Ciência, Tecnologia, Inovações e Comunicações (MCTIC)) pursuant to the National Broadcasting Licensing Plan. A President's Office approval is needed before final approval by National Congress (Federal Constitution, Article 223). ANATEL then is responsible for authorizing the use of the radiofrequency spectrum. The rights to operate stations dedicated to retransmitting (Retransmissão de Televisão (RTV)) and to repeat the signal (Repetição de Televisão (RpTV)) produced by a content-generating station (television retransmission) are granted by MCTIC. As of 2020, there were 8,470 digital television retransmission authorizations and 680 television licences.

[314] WTO document WT/TPR/S/358/Rev.1, 18 October 2017.

[315] OECD (2020), *OECD Telecommunication and Broadcasting Review of Brazil 2020*. Viewed at: https://doi.org/10.1787/30ab8568-en.

[316] WTO document WT/TPR/S/358/Rev.1, 18 October 2017.

[317] According to the authorities, quotas are applied only on channels with qualified content and not on all channels.

[318] Law No. 12,485/2011.

[319] WTO document WT/TPR/S/358/Rev.1, 18 October 2017.

4.233. The Federal Government has dedicated many resources to support the domestically filmed entertainment sector through the Audio-visual Sector Fund (FSA), with resources from the Contribution for the Development of the National Film Industry (CONDECINE). The FSA provides resources to the Programa de Apoio ao Desenvolvimento do Cinema Brasileiro (PRODECINE), the Programa de Apoio ao Desenvolvimento do Audiovisual Brasileiro (PRODAV), and the Programa de Apoio ao Desenvolvimento da Infraestrutura do Cinema e do Audiovisual (PROINFRA). The industry also benefits from tax incentives based on the Audio-visual Law[320], where companies can support different types of audiovisual projects in order to obtain tax reductions. The amount of tax forgone was not provided by the authorities.

4.234. A fixed tax is levied on each foreign film released in theatres, foreign home entertainment products, and foreign programming for broadcast or subscription television; the taxes seem significantly higher than the corresponding taxes levied on domestic productions, and are also assessed on audiovisual content for advertising. Remittances to foreign right holders of audiovisual works are subject to a 15% or a 25% income withholding tax; however, the recipient of that remittance may obtain a deduction of 70% of this tax, provided that these resources are invested in local independent productions. In addition, local distributors of foreign films are subject to a levy of 11% of remittances to the foreign producer. This levy, a component of the CONDECINE, is waived if the recipient of the remittance agrees to invest 3% of the remittance in local independent productions, the same as for subscription TV programming.

4.235. All films and television shows must be printed locally, as importation of colour prints for the theatrical and television markets is prohibited; audiovisual content distributed in six copies or less does not need to be printed locally. Domestic film quotas also exist for theatrical screening and home video distribution.[321]

4.236. Brazilian audiovisual titles included in over-the-top (OTT) libraries are increasing.[322] Netflix ordered the production of 11 original Brazilian titles by 2019 and announced the development of 40 projects in 2022. Amazon Prime ordered its first original Brazilian title in 2019 and has continued to announce new productions since then. HBO MAX is investing in new formats based on Brazilian popular soap operas. Brazilian movies represented about 6.3% of the movie libraries on the seven largest OTT platforms. Meanwhile, Brazilian series accounted for 23.1%.[323]

4.237. The Cultural Incentive Law (Law No. 8,313/91), known as Rouanet Law, the main mechanism for promoting culture in Brazil and for the production of creative activities, was simplified from approval process to accountability in order to reduce bureaucracy and expand the cultural sector. Targeting the financing of smaller and widespread cultural incentives, the ceiling for support was reduced from BRL 1 million to BRL 500,000, while the new artist ceiling was set at BRL 3,000 for each approved project. This shift sought to increase the number of projects in different parts of the country.[324]

4.238. Competition in the telecommunications sector is protected and promoted via *ex ante* sectoral regulation and *ex post* antitrust regulation.

4.4.6 Transport

4.239. During the review period, the share of transport (including storage and courier) in total trade in services remained stable, 4.3% in 2017, 4.4% in 2018, 4.5% in 2019, and 4.3% in 2020 (Table 1.2). In 2020, transport services accounted for 17% (13% maritime, 3.5% air, 0.5% road) of services imports and 18% (15% maritime, 2% air, 1% road) of services exports.

[320] Law No. 8,685/93.
[321] WTO document WT/TPR/S/358/Rev.1, 18 October 2017.
[322] Currently, there is no local content quotas applicable for OTT services.
[323] OECD (2020), *OECD Telecommunication and Broadcasting Review of Brazil 2020*. Viewed at: https://doi.org/10.1787/30ab8568-en.
[324] Viewed at: https://www.gov.br/pt-br/noticias/cultura-artes-historia-e-esportes/2022/02/governo-federal-divulga-novas-regras-da-lei-de-incentivo-a-cultura.

Brazil's merchandise export transportation mix is as follows: 88.4% maritime, 5.3% air, 5.3% road, 0.1% river, and 0.1% rail.[325]

4.240. According to the last edition of the World Bank's Logistics Performance Index for 2018-19, in terms of quality of infrastructure Brazil ranked 56th out of 160 countries.[326]

4.241. Road transportation by truck is still the primary method of transport for goods domestically. Around 61% of cargos transportation is by highway, 21% by rail, 12% by cabotage, 4% by pipeline, 2% by waterway, and less than 1% by air.[327] Logistics costs are estimated at around 12% of Brazil's GDP (4% more than in the United States), resulting in approximately USD 845 million in extra logistics costs. According to the World Bank, logistics bottlenecks represent up 7% to the exports' costs in Brazil.[328]

4.4.6.1 Air transport

4.4.6.1.1 Airline services

4.242. Brazil remains among the world's largest domestic aviation markets and in number of airports.

4.243. Due to the COVID-19 pandemic, in 2020 scheduled and non-scheduled flights dropped 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 over 2019.[329] Emergency measures to mitigate the negative economic effects on the sector, as well as to adapt the rules applicable to the new scenario, while seeking to protect the interests of passengers, such as temporarily exempting them from fines for delayed airline ticket reimbursement were adopted, pursuant to Provisional Measure No. 925/2020 (converted into Law No. 14,034/2020), and ANAC Resolution No. 556/2020. Brazilian main companies registered losses of BRL 20.4 billion in 2020.

4.244. For regular flights only, the domestic market suffered a drastic reduction in 2020 with 406,300 flights (-49.4%) and 45.2 million passengers transported (-52.4%). Aircraft utilization (revenue passenger kilometres/available seat kilometre (RPK/ASK)) registered an 80% decrease as compared to 2019. Revenues per ASK (RASK) dropped 53.4%, and costs and expenses per ASK (CASK) rose 40.8%.

4.245. While the international market, which was more heavily impacted by the pandemic, showed a sharper reduction in both supply and demand, with 59,900 flights performed (-58.9%), while the number of passengers transported fell by 72%, to 6.8 million. This resulted in a reduction in RPK/ASK from 84% to 65%. Brazilian carriers accounted for 34% of the share in international demand (RPK) transported in 2020.

4.246. In 2021, 62,583,147 revenue passengers were transported in Brazil (+38.3% compared to 2020).[330]

4.247. 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.[331] According to the authorities,

[325] FOB value for 2021, available at: http://comexstat.mdic.gov.br/pt/home. By volume, available at: https://cnt.org.br/boletins.
[326] Viewed at: https://lpi.worldbank.org/.
[327] Innovation Norway (2020), *Overview of the Logistics Sector in Brazil (Abridged Version)*. Viewed at: https://fgvcelog.fgv.br/sites/gvcelog.fgv.br/files/innovation_norway_-_relatorio_reduzido_-_23-12-2020.pdf.
[328] International Trade Administration, *Brazil Country Commercial Guide: Infrastructure.* Viewed at: https://www.trade.gov/country-commercial-guides/brazil-infrastructure.
[329] Agência Nacional de Aviação Civil – ANAC (2020), *Anuário do Transporte Aéreo 2020*. Viewed at: https://www.gov.br/anac/pt-br/assuntos/dados-e-estatisticas/mercado-de-transporte-aereo/anuario-do-transporte-aereo/anuario-do-transporte-aereo.
[330] Viewed at: https://www.gov.br/anac/pt-br/canais_atendimento/consumidor/boletins/BoletimdeMonitoramentodoConsumidor.gov.br_ANUAL_20212.pdf.
[331] Comex Stat. Viewed at: http://comexstat.mdic.gov.br/pt/home.

Brazilian companies accounted for 20.3% of total international air cargo transported in the country in 2020, compared to 24% in 2015.

4.248. Gol, a private-owned air company, maintained the largest share in the domestic passenger market, with 16.7 million passengers transported, 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 kilometre flown) decreased by 23.3%. Azul had the highest average yield value, at BRL 0.347. Latam and Gol had average yield values of BRL 0.266 and BRL 0.260, respectively.

4.249. The air transport market remains highly concentrated; no domestic companies with state participation operate in this segment and no mergers or takeovers took place from 2013 onwards in this market. Avianca suspended its operations in the country in May 2019.[332] In 2020, 13 Brazilian companies provided scheduled and non-scheduled air transport services (excluding air taxi), of which three provided mainly cargo operations. In the same year, a total of 106 companies provided international air transport services, of which 30 operated only in the cargo transportation segment. Among Brazilian companies, three (Gol, LATAM, and Azul) represented 99.5% of the domestic market share (in terms of RPK). 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%, and 4.3% in flights in 2020, respectively; whereas foreign companies TAP, Aerolineas Argentinas, Lan Cargo S.A., and Copa Airlines had shares of 7.1%, 6.4%, 5.5%, and 5.4%, respectively.

4.4.6.1.2 Regulatory and operational framework

4.250. The main legal instrument remains the Brazilian Aeronautical Code (CBA) of 1986, last amended in 2016.[333] The major change in the sector was introduced by Law No. 13,842/2019, which permitted international companies with up to 100% foreign capital to operate in Brazil. In May 2019, Air Europa was incorporated as the first 100% foreign-owned airline in Brazil. In addition to this, five other companies had received authorization from ANAC to operate scheduled international services to and from Brazil: Norwegian, Sky Airline, FlyBondi, Italia Transporto, and Fast Colombia (Viva Air). The lease of foreign aircraft requires prior authorization. Another important amendment on the Aeronautical Code aims at significantly simplifying authorization processes and civil aviation in general.[334] For aircraft that will be used in commercial air transport by Brazilian certified operators, Brazilian-registered aircraft should be used; however, foreign-registered aircraft may be authorized in cases where agreements exist.

4.251. The institutional framework governing the aviation sector was slightly modified where the Council for Civil Aviation (CONAC) 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)[335] regulates and inspects civil aviation activities and airport and aeronautical infrastructure. ANAC is linked to the Ministry of Infrastructure. The Agency is not hierarchically subordinate to the Ministry and it has administrative independence, financial autonomy, and fixed mandates for its directors.

4.252. Domestic air fares are determined freely by airline companies, with no prior approval being necessary. However, companies must report their fares on a monthly basis to ANAC for statistical purposes.[336]

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[332] Nevertheless, in May 2022, Gol and Avianca announced a merger and creation of a new group named Abra. The transaction needs to be reviewed by CADE. Viewed at: https://exame.com/exame-in/nasce-o-grupo-abra-gol-e-avianca-debaixo-do-mesmo-controle-e-mais/.

[333] Laws No. 7,565 of 19 December 1986; and No. 13,319, 25 July 2016.

[334] Law No. 14,368/2022.

[335] 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.

[336] Law No. 11,182, 27 September 2005, Article 49; and ANAC Resolution No. 140/2010.

4.253. Pursuant to Law No. 14,034/2020, emergency measures for civil aviation to tackle the effects of the COVID-19 pandemic were introduced, determining the cases that exclude the possibility of indemnity for off-balance sheet damage as a result of failure to perform the air transport contract. Law No. 13,874/2019 established principles for the interpretation of legislation and contracts in the sector and establishing 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. Law No. 13,848/2019 provided 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 analysing the regulatory impact prior to issuing regulations that may impose obligations on those regulated; ANAC Resolution No. 556/2020 introduced temporary and exceptional relaxation of the provisions to offset the effects of the COVID-19 pandemic. It expired on 30 October 2021 for domestic flights and on 31 March 2022 for international flights.

4.254. 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, and introduced regulations based on international best practices and in line with the Brazilian Consumer Protection Code (allowing the consumer the right to cancel a purchase before its completion); the harmonization between the general conditions of carriage and the Consumer Protection Code is important to promote regulatory stability and to reduce judicial cases.[337] As reported in the previous Review, air transport companies continue to be entitled to include checked baggage in the ticket price or to charge it separately.[338]

4.255. Civil aviation policy pursued greater insertion of Brazilian aviation into international markets to improve the country's connectivity through the conclusion of Air Transport Agreements.[339] During the review period, new Air Services Agreements (ASAs) or MoUs were signed with Angola; the Kingdom of Bahrain; Colombia; Côte d'Ivoire; Czech Republic; Guatemala; Guyana; Israel; Luxembourg; Netherlands; Qatar; Rwanda; the United Arab Emirates; the Netherlands-Saint Maarten, Viet Nam; Sri Lanka; and Türkiye (Table A4.2). Brazil currently maintains 116 bilateral ASAs (102 in 2017), including open skies agreements with more than 69 countries. During the review period, MoUs were signed with Cabo Verde; Cambodia; China; Colombia; Czech Republic; El Salvador; Finland; Greece; Haiti; Hong Kong, China; the Islamic Republic of Iran; Luxembourg; Malaysia; Malta; Nicaragua; Portugal; Qatar; Scandinavian countries (Denmark, Norway, and Sweden); Slovenia; Thailand; the United Kingdom; and the United Arab Emirates. According to the authorities, bilateral negotiations with Chile, the United Kingdom, Cabo Verde, El Salvador, Dominican Republic, Czech Republic, Qatar, Finland, and Oman introduced 7th traffic rights for all-cargo services only.

4.256. Brazil participates in the Fortaleza Agreement on regional air transport services covering all routes that are not operated under bilateral agreements among the parties.[340] It 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.[341] Currently, a process for lifting reservations on 7th freedom traffic rights for all-cargo services only is under analysis by the Brazilian National Congress. The ICAO's International Air Services Transit Agreement had just been approved, permitting liberalization of 7th freedom just for cargo and considered an open sky agreement. Agreements to

[337] ANAC Resolution No. 400, 13 December 2016.

[338] WTO document WT/TPR/S/358/Rev.1, 18 October 2017.

[339] The term "Air Transport Agreements" is used here to refer to Air Services Agreements, Memoranda of Understanding, Exchange of Notes, and other such relevant instruments. Those agreements are available at: https://www.gov.br/anac/pt-br/assuntos/internacional/acordos-internacionais/acordos-de-servicos-aereos/acordos-bilaterais.

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

[341] As part of the COVID-19 response and aviation recovery, at the end of 2020 LACAC concluded a new multilateral agreement to liberalize air cargo services in the region. The agreement came into effect immediately among its 10 signatories, and establishes expanded traffic rights, namely "seventh freedom" traffic rights, permitting airlines from one LACAC member State to provide all-cargo services between two other signatory States without restrictions on routes and capacity. The agreement will remain in effect for one year, until 31 December 2021, and may be extended for a further year, at the discretion of LACAC member States.

facilitate vaccine and medical supplies were also established during the pandemic until the end of December 2022.

4.4.6.1.3 Airport and auxiliary services

4.257. The National Commission of Airport Authorities (CONAERO) acts as a consultative and deliberative commission composed by bodies that directly work with airport management in order to make airports more efficient.

4.258. The Department of Airspace Control (DECEA) is subordinated to the Aeronautical Command and the Ministry of Defence. The Aeronautical Accidents Investigation and Prevention Center (CENIPA) is also subordinated to the Aeronautical Command and the Ministry of Defence and is responsible for the investigation and prevention of accidents.[342]

4.259. During the review period, almost BRL 7 billion were invested in Brazilian airports, ensuring significant improvements in infrastructure and operations. The punctuality index (delays up to 30 minutes) of flights worsened from 91.9% in 2016 to 89.9% in 2021. From January to October 2021, the 10 busiest airports with number of boarding and disembarking passengers were: Guarulhos (18.180 million), Viracopos (8.088 million), Brasília (8.001 million), Congonhas (7.010 million), Recife (5.928 million), Confins (5.257 million), Santos Dumont (5.256 million), Salvador (4.102 million), Porto Alegre (3.536 million), and Fortaleza (2.960 million). Combined these airports accounted for 64.5% of taking-off and 64.5% of landings. For cargo in 2021, around 89% of boarded cargo was concentrated in 10 airports: São Paulo (GRU), Manaus, Brasília, São Paulo (Congonhas), Rio de Janeiro (Galeão), Fortaleza, Recife, Salvador, Belém, and São Paulo (Campinas). The three biggest airports in terms of domestic cargo – Guarulhos, Manaus, and Campinas – accounted for 49% of the cargo transported in the country.

4.260. Brazilian aeronautical infrastructure includes 4,004 private aerodromes registered by the National Civil Aviation Agency (ANAC), 1,325 helipads, and 510 public aerodromes. Among the latter, 152 operate regular flights and 22 offer international flights.

4.261. As of 2021, Brazil counted 3,184 airports (45 international) and airstrips, of which 503 were state-owned compared to 2,564 and 606 in 2016, respectively. INFRAERO, a public enterprise linked to the MInfra, remains in charge of the operation and management of commercial airports, air navigation support stations, and cargo terminals across the country, though data were not provided by the authorities. INFRAERO participation reduced due to the implementation of the airports concessions programme.[343] Since the beginning of 2019, Brazil has granted 34 airports to the private sector. The 5th, 6th, and 7th concession rounds offered flexible regulations, compatible and proportional to the size of each airport in relation to tariffs, investments, and quality of services. The requirements regarding the level of service will adhere to the reality of each airport, aimed at the best service to the user. The 7th round of airport concessions involve 16 airports, and the auctions were scheduled for the first half of 2022 with an estimated investment of BRL 8.8 billion during the duration of the contracts. These included the following airports: SP-MS-PA Block: Congonhas and Campo de Marte in São Paulo/SP, Campo Grande/MS, Corumbá/MS, Ponta Porã/MS, Santarém/PA, Marabá/PA, Parauapebas/PA, and Altamira/PA; RJ-MG Block: Santos Dumont and Jacarepaguá in Rio de Janeiro/RJ, Montes Claros/MG, Uberlândia/MG, and Uberaba/MG; and the North Block II: Belém/PA and Macapá/AP. The future concessionaires of the two terminals will have five years, instead of three, to complete works to correct non-conformities at airport sites, obtaining environmental and other certifications and licences. The same period applies to infrastructure improvements, which will allow for an increase in the number of passengers served. For these airports, the factoring index initially calculated at 90% was limited to 80%, which means that they will have 30 movements per hour at peak times, instead of 32 as initially planned. Together, the

[342] Viewed at: https://www.gov.br/anac/en/about-anac/brazilian-civil-aviation-sector.

[343] WTO document WT/TPR/S/358/Rev.1, 18 October 2017. It is expected that all INFRAERO airports will be transferred to the private sector, as it is undergoing a gradual extinction, with employees and assets being transferred to the state-owned NAV Brasil Serviços de Navegação Aérea S.A., created in mid-2018.

16 air terminals were responsible for hosting 39.2 million passenger departures and arrivals and 26% of passengers who paid for airfare in the Brazilian air transport market in 2019.[344]

4.262. Currently, ANAC is responsible for coordinating slots in five airports in Brazil: Congonhas (CGH), Guarulhos (GRU), Pampulha (PLU), Recife (REC), and Santos Dumont (SDU). In addition to the coordinated airports, there were eight airports that have been declared by ANAC as airports of interest – Brasília (BSB), Confins (CNF), Florianopolis (FLN), Fortaleza (FOR), Galeão (GIG), Porto Alegre (POA), Salvador (SSA), and Viracopos (VCP) – whose coordination and schedule allocation process is carried out by the airport operator itself. According to the authorities, ANAC has recently published a revised regulation for slots in Brazil, which takes into consideration efficiency and competitiveness and enables easier access for new entrant airlines.

4.263. Since May 2011, private investors have been allowed to build, manage, and operate airports through concessions, a fundamental factor for the development and modernization of the airport infrastructure in Brazil. No legal restrictions for the participation of foreign investors in Brazilian airports are in place.[345]

4.264. ANAC determines ceiling fees for different airport services and adjusts them annually; the fees are applied to the service provided (i.e. boarding, connection, landing, and permanence).[346] The boarding fees for domestic and international flights are different, but according to the authorities there is no discrimination between national and foreign air carriers, as the fee charged is the same for the same service provided.[347]

4.265. Foreign airlines are automatically granted authorization to provide ground-handling services for their own aircraft, as long as their home country grants reciprocal treatment to Brazilian airlines. Operators other than airlines, domestic or foreign, are required to set up a company in Brazil in order to provide auxiliary services. Domestic and foreign companies may provide aircraft maintenance services in Brazil, provided they obtain a Brazilian maintenance-shop certification and a Certification of Approval of the Company issued by the ANAC. Brazilian airlines may contract maintenance services abroad.[348]

4.4.6.2 Maritime transport and ports

4.4.6.2.1 Shipping

4.266. During the review period, 95% (94.8% in the previous report) of Brazil's merchandise trade (domestic and foreign) was carried by sea of which 1% was transported by national flag vessels. Brazil's national flag merchant fleet capacity rose from 3.4 million deadweight tonnes (dwt) in 2010 to 4.3 million dwt in 2016 and to 9.6 million dwt in 2020.[349] According to UNCTAD data, in 2021 Brazil ranked 17th as ship-owning economy with USD 16 billion of commercial value of the fleet. In dwt terms, Brazil owned the world's 26th (21st in 2011 and 25th in 2016) largest fleet (0.65% of total dwt) consisting of 13.9 million dwt (15.8 million dwt in 2016) for 383 vessels (387 in 2016). National flag vessels are 292, while foreign flag vessels are 91.[350] In 2021, the national flag fleet in thousands dwt terms consisted of oil tankers (37.53%) (39.8% in 2015), bulk carriers (12.53%) (19.5% in 2015), and container ships (5.93%) (17.6% in 2015).[351] The market remains concentrated, with the five largest operators controlling 50% in 2022 of the dwt (88.3% in 2016). As at 2021, the largest Brazilian flagged fleet (international and domestic routes) was owned by the

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[344] Viewed at: https://www.gov.br/infraestrutura/pt-br/assuntos/noticias/2021/12/anac-aprova-documentos-da-7a-rodada-de-concessoes-e-processo-segue-ao-tcu.

[345] WTO document WT/TPR/S/358/Rev.1, 18 October 2017.

[346] ANAC Resolution No. 216, 30 January 2012.

[347] WTO document WT/TPR/S/358/Rev.1, 18 October 2017.

[348] WTO document WT/TPR/S/358/Rev.1, 18 October 2017.

[349] UNCTAD, *Maritime Profile for 2020*. Viewed at: https://unctadstat.unctad.org/CountryProfile/MaritimeProfile/en-GB/076/index.html.

[350] UNCTAD (2021), *Review of Maritime Transport 2021*. Viewed at: https://unctad.org/system/files/official-document/rmt2021_en_0.pdf. The authorities indicated that the number of national flag vessels are 2,746, while foreign flag vessels are 1,080.

[351] UNCTAD, *Maritime Profile for 2020*. Viewed at: https://unctadstat.unctad.org/CountryProfile/MaritimeProfile/en-GB/076/index.html.

state company Petrobras/Transpetro, with 24 ships and 15% of total dwt, followed by Aliança (8 ships, 3%), ELCANO (10 ships, 3%), Log-in (6 ships, 1.5%), and Norsul (20 ships, 1.7%).[352]

4.267. In 2020, Brazil figured as the second-largest shipping source of tonne-miles and tonnes generated by bulkers of over 100,000 dwt after Australia. Notably, Brazil also ranked 2nd of world iron ore exports with 23%, much of which is destined for China.[353]

4.268. In 2021, 1.21 billion tonnes of exported cargo were transported by maritime shipping, composed by 58% of solid bulk cargo, 26% of liquid bulk cargo, 11% of containers, and 5% of general loose cargo. The main exported products by maritime shipping were iron ore (53%), soyabeans (13%), and petroleum and derivatives (8%). The main destined markets were China (51%), the United States (4%), Malaysia (4%), Singapore (4%), and Japan (3%).[354]

4.4.6.2.1.1 Policy and institutions

4.269. Brazil's national maritime policy plan dates back to 1994, and was recently changed by Law No. 14,301/2021.[355] In 2019, the Secretariat of Ports was renamed to National Secretariat of Ports and Waterways Transports and integrated into the Ministry of Infrastructure (MInfra). The Secretariat of Ports formulates policies and guidelines for the development and promotion of the maritime, river, and lake ports and port facilities sector. Brazil's regulatory agency for maritime services remains the National Waterways Transport Agency (ANTAQ), a public-law independent agency now linked to the MInfra. The ANTAQ regulates and supervises the Port Authority, the federal waterway infrastructure, private terminals, and shipping companies.[356]

4.4.6.2.1.2 Regulatory and operational framework

4.270. The main regulatory change was introduced by Law No. 14,301/2022 establishing the "BR do Mar".[357] Its main aim is to improve cabotage and reduce costs, thus providing greater efficiency to maritime and waterways transport in Brazil. The Law also aims at encouraging competitiveness, increasing the availability of the fleet in the national territory, and promoting the entry of new cargo transport companies in Brazil. Brazilian shipping companies (EBNs) can operate without having their own fleet of vessels by chartering EBN-i (Empresa Brasileira de Investimento na Navegação) vessels, using bareboat chartered vessels with flag suspension or time-chartered vessels, from a wholly owned subsidiary of Brazilian shipping companies abroad, to fulfil a long-term contract or to fulfil a special cabotage operation that has the purpose of transporting cargo in type, route, or market not yet existing or consolidated in Brazilian cabotage. Hence, the Law continued to make possible the chartering of foreign vessels by the contractual modality "by time" (time charter) and "by trip" (voyage charter), and innovated by allowing it without requiring ballasts, as well as the innovative flexibility regarding the chartering of foreign ships under the modality called "bareboat charter". The chartering of foreign ships in the "bare hull" modality, with flag suspension, can be formalized through a contract between an EBN and its wholly owned foreign subsidiary (whose all shares belong to the Brazilian company) or wholly owned subsidiary of another EBN.

4.271. The chartering of foreign ships in the time charter modality can be formalized through a contract between EBN and its wholly owned foreign subsidiary (whose shares belong to the Brazilian company) or wholly owned subsidiary of another EBN. The chartering of a foreign ship in the "bareboat" modality, with flag suspension, is authorized by Brazilian shipping companies for cabotage navigation, without ballast on property, according to a phased-out time-frame.

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[352] Painel de Autorizações de Navegação. Viewed at: http://outorgasnav.antaq.gov.br.

[353] UNCTAD (2021), *Review of Maritime Transport 2021*. Viewed at: https://unctad.org/system/files/official-document/rmt2021_en_0.pdf.

[354] ANTAQ (2021), *Anuário Estatístico 2021*. Viewed at: https://www.gov.br/antaq/pt-br/noticias/2022/setor-portuario-movimenta-1-2-bilhao-de-toneladas-de-cargas-em-2021/anuario-2021-vf-003.pdf.

[355] In January 2021, a Presidential Decree created an Interministerial Working Group (GTI) to update the National Maritime Policy, provided for in Decree No. 1,265/1994. The reform should cover the current use of the marine space, and seek better conditions to explore economic activities related to the sea.

[356] Viewed at: https://www.gov.br/antaq/pt-br/acesso-a-informacao/institucional/copy_of_competencias.

[357] The main regulation consists of Laws No. 9,432, 8 January 1997; No. 7,652, 3 February 1998; and No. 10,233, of 5 June 2001.

4.272. Another innovation worth mentioning is that chartered vessels are no longer obliged to have a crew composed of at least two thirds of Brazilians, conditional to their registration to the "BR do Mar" programme and performing cabotage navigation. However, it is still mandatory that the captain, the chief engineer, and, in certain cases, the cabotage master and engine conductor are Brazilian nationals.[358]

4.273. Brazilian-flag vessels must be owned by natural persons residing or domiciled in Brazil, or by a Brazilian shipping company. The captain, the chief engineer, and two thirds of the crew of a Brazilian-flag vessel must be Brazilian nationals. Brazil does not impose foreign equity restrictions. No restrictions apply to the origin of capital for the establishment of a multimodal transport operator commercially registered in Brazil.[359]

4.274. Brazil requires reciprocity treatment in international maritime transport services agreements signed with foreign countries.[360] As of 2021, Brazil had bilateral agreements on maritime transport services with 8 countries, compared to 11 in 2017.[361] The agreements with Chile, Argentina, and Uruguay were not renewed.

4.275. Law No. 14,195/2021 revoked the obligation that required that cargo of government entities (including public enterprises), and goods benefitting from official tax or credit programmes having to be transported by Brazilian-flag vessels. Exports of crude oil extracted in Brazil must be transported by Brazilian companies. In case of non-availability of a ship with a Brazilian flag or the flag of the importer or exporter for transporting freight, ANTAQ may release the shipment to a specifically designated third flagship. When no Brazilian flagship is available or the fares are considered unreasonable, a permit (certificate of release of cargo prescribed (CLCP)) may be issued for the carriage of import cargos by foreign flagged vessels; 2,104 certificates were issued in 2018, 2,217 in 2019, and 3,317 in 2020. Foreign vessels that enter Brazilian ports are charged a specific lighthouse fee, with exemptions for vessels under 1,000 dwt and in cases of reciprocity under bilateral trade agreements.[362]

4.4.6.2.1.3 Domestic support

4.276. Domestic support in the form of tax measures remains in place. The Additional Freight Charge for the Renovation of the Merchant Navy (AFRMM), a federal tax levied on maritime freight, continues to be applied on the combined cost of freight and insurance though it was reduced from 25% to 8% for long-distance navigation (international routes) by Brazilian and foreign ships; from 10% to 8% for cabotage navigation; and 40% for inland waterway transportation of liquid bulk cargos in Brazil's north and north-east regions.[363] The AFRMM is levied only on unloaded (domestic and import) cargos; transit and export cargos are exempt. The tax does not apply to countries with which Brazil has negotiated a specific clause in LAIA Economic Complementary Agreements. The AFRMM on international maritime freight increases the cost of imported goods.

4.277. AFRMM resources are deposited in the Merchant Marine Fund (FMM), which is managed by the MInfra, with BNDES, Banco do Brasil and Caixa Econômica Federal as its financial agents to finance the development of the Brazilian merchant fleet and shipyard industry through administered interest rate loans to domestic shipping companies ordering ships from domestic shipyards and to local shipbuilders producing, reforming, or repairing vessels for domestic and foreign shipping companies. The conditions of these loans depend on the amount of "national content" used in the production of the vessels or in the construction, expansion, and modernization of shipyards; the origin of the goods or equipment to be financed; and the type of vessel (cargo, passengers, etc.).[364] Between 2017 and 2021, the FMM allocated a total of BRL 7.56 billion in credits to the shipping

[358] Normative Resolution CNIG MJSP No. 6, 2017; and Resolution No. 42/2020 of National Council for Immigration.

[359] Law No. 9,611, 19 February 1998; Decree No. 3,411; and WTO document WT/TPR/S/358/Rev.1, 18 October 2017.

[360] Federal Constitution, Article 178; and Law No. 9,432, 8 January 1997, Article 5.

[361] These countries are Algeria, China, France, Germany, Poland, Portugal, the Russian Federation, and the United States.

[362] WTO document WT/TPR/S/358/Rev.1, 18 October 2017.

[363] Law No. 10,893, 13 July 2004, governs the AFRMM. Law No. 12,599/2012 clarified that the AFRMM is a tax, not a customs duty that must be included for purposes of determining the sales tax (ICMS) on imports. Reduction by Law No. 14,301/2022, "BR do Mar".

[364] BCB Resolution BACEN No. 4,919, 24 June 2021.

industry compared to BRL 19.7 billion from 2012 to 2015 and BRL 8.9 billion in the period 2008-11.[365]

4.278. Freight revenues from goods carried between Brazil and a foreign country by vessels registered at the Special Brazilian Registry (REB) remain exempt from the Contribution to the Social Integration Programme (PIS) and the Contribution to the Social Security Financing (COFINS).[366] The construction, maintenance, repair, and modernization of vessels registered under the REB in Brazilian shipyards enjoy the same fiscal treatment as exports of industrial goods in general, e.g. reimbursement of domestic indirect taxes. Moreover, in some states, inputs and other materials for the construction of ships and petroleum platforms are exempt from the Tax on the Circulation of Goods and Services (ICMS).[367] Reciprocal income tax exemption applies to foreign shipping companies domiciled in countries where Brazilian shipping companies benefit from the same treatment for international shipping traffic activities.[368] Neither an estimate of the amount of forgone tax revenue through these measures nor an appraisal on the attainment of any targets set (e.g. investment, output, employment, or exports) was available.[369]

4.279. Brazil has not undertaken any commitment on maritime transport under GATS. Brazil signed the UN Convention on a Code of Conduct for Liner Conferences in 1975 but has not ratified it yet, as its provisions on rejection of proposals on freight rates put forward by Liner Conferences (article 14, paragraph 6) do not conform with Brazilian law.[370] Brazil is a member of the International Maritime Organization (IMO) and has ratified a number of IMO conventions related to maritime safety, prevention of maritime pollution, and civil liability, among others. During the review period, no action was taken to either sign or ratify any other IMO conventions or recent amendments to those to which it was already a signatory. Brazil is a party to the Multilateral Agreement on Inland Waterway Transportation through the Paraguay-Parana Rivers, together with Argentina, the Plurinational State of Bolivia, Paraguay, and Uruguay.[371]

4.4.6.2.2 Port services

4.280. During the review period, port cargo movement continued to increase. Between 2015 and 2021, it rose from 1 billion tonnes to 1.21 billion tonnes. In the same period, private terminals handled about 66.3% of total cargo movements, which consisted of loading 65.2% rather than unloading merchandise.[372] The main products transported remain commodities, including iron ore, petroleum and petroleum products, soybeans, bauxite, corn, coal, and sugar, which all together continue to account for almost three quarters of all cargo moved. The average waiting time in Brazil is 5.5 days. Brazil has one of the highest waiting times for loading, on average more than a week. Median time in port is 0.77 days for container ships. For dry bulk carrier, the loading of tonnes per minute is 25, while discharge is 9 tonnes per minute. Average waiting time to load is 174 hours; for discharge it is 131 hours.[373]

4.281. In 2021, there were 36 (35 in 2012 and 37 in 2016) "organized" maritime and fluvial public ports under the jurisdiction of the MInfra, of which 18 were operated by state or municipal governments or public consortia, and 17 (18 in 2012 and 19 in 2016) were administered by the publicly owned Companhia Docas. The MInfra is in charge of another 46 inland fluvial ports.[374] As at May 2021, there were 204 (134 in 2012 and 188 in 2016) private port facilities/terminals (TUPs);

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[365] The main reason for reduction in disbursements from FMM resources is associated with the change in the purpose of the projects, predominantly construction before being gradually replaced by repair and docking projects, which have significantly lower financial amounts. According to the authorities, the pandemic was also a catalyst for this reduction, as industrial activities between 2020 and 2021 were paralyzed or reduced.

[366] Provisional Measure No. 2,158-35, 4 August 2001.

[367] Decree No. 25,403, 2 July 1999.

[368] Income Tax Code (Article 176); and Decree Law No. 5,844, 1943, Article 30.

[369] WTO document WT/TPR/S/358/Rev.1, 18 October 2017.

[370] UN, *Declarations and Reservations*. Viewed at: https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XII-6&chapter=12&clang=_en#EndDec.

[371] WTO document WT/TPR/S/358/Rev.1, 18 October 2017.

[372] ANTAQ (2021), *Anuário Estatístico 2021*. Viewed at: http://ea.antaq.gov.br/.

[373] UNCTAD (2021), *Review of Maritime Transport 2021*. Viewed at: https://unctad.org/system/files/official-document/rmt2021_en_0.pdf.

[374] Viewed at: https://www.gov.br/infraestrutura/pt-br/assuntos/transporte-aquaviario/sistema-portuario.

many companies operate TUPs, mostly used for exporting their own cargos.[375] Some of the ports and terminals specialize in the shipment of a single commodity (e.g. mineral ore in the ports of Ponta da Madeira and Tubarão). In 2021, the main Brazilian ports in terms of tonnes of cargo handled were Santos (27.7%), Itaguaí (12.6%), and Paranaguá (12.6%). Concerning TUPs, Ponta da Madeira (22.7%), Tubarão (8%), and Angra dos Reis (8%) were the leaders in cargo handled.[376]

4.4.6.2.2.1 Policy and institutions

4.282. During the review period, MInfra's Ordinance No. 123/2020 instituted the Integrated Transport Planning, which includes the federal road, rail, waterway, and air subsystems, and the interlinks and logistical connections between them. The Ordinance provides for the establishment of the National Logistics Plan (PNL), and the Sectoral Plans of each of the subsystems making the connection between the PNL and the actions of MInfra. Ordinance No. 61/2020 establishes the current guidelines for the preparation and review of the following planning instruments for the port sector: Master Plan (PM) for the planning of port complexes aiming to direct short-, medium-, and long-term actions and investments in ports; Development and Zoning Plan (PDZ), which includes strategies and actions for the expansion, integration, and orderly and sustainable development of the areas and facilities of the organized ports; and General Plan for Concessions (PGO) for guiding investors and consolidating concession projects in the port sector.[377]

4.283. The Sectoral Plans, including for ports, will link the National Logistics Plan and the actions of the MInfra and should contemplate the study of initiatives for execution through partnership with the private sector, called Sector Partnership Plans.[378]

4.284. Decree No. 10,703/2021 established the National Commission of Ports Authorities (CONAPORTOS) composed of representatives of the MInfra, which will preside over it; the Civil House; the Ministry of Justice and Public Security; the Ministry of Defence; the Ministry of Economy; the Ministry of Agriculture, Livestock and Food Supply; the National Health Surveillance Agency (ANVISA); the National Waterway Transport Agency (ANTAQ); and the National Department of Transport Infrastructure (DNIT). Representatives of sectoral associations and other relevant public or private entities may also be invited to participate in its meetings, without the right to vote. Its competences are, *inter alia*, to: (i) promote the integration of the activities of public entities in organized ports and port facilities; (ii) promote improvements in regulatory acts with a view to optimizing the flow of vessels, goods, products, and people and the occupation of physical spaces in organized ports and increasing the quality, safety, and speed of operational processes; (iii) establish and monitor performance parameters for public entities in organized ports and port facilities and propose their revision, when necessary; (iv) establish mechanisms that ensure efficiency in the release of goods and products to operators who meet the requirements established by public entities in organized ports and port facilities; (v) propose measures to the competent bodies or entities to implement international standards and practices related to port operations and maritime transport.

4.285. Decree No. 10,858/2021, which aims to improve and modernize certain ports, listed eight port terminals in six Brazilian states for concession to the private sector under the Investment Partnership Programme (PPI), including a terminal in the Port of Santos, the largest container port in Latin America, and the ports of Rio de Janeiro/RJ, Salvador/BA, Ilhéus/BA, Mucuripe/CE, and Itaqui/MA. These ports receive cargo, such as solid mineral and vegetable bulks and fuels. One of the terminals, Ilhéus, also receives passengers. The estimation was for the terminals to be auctioned by the end of 2022.[379]

4.4.6.2.2.2 Regulatory and operational framework

4.286. During the review period, the Port Law, which regulates direct and indirect public use of ports and their installations along with activities deployed by port agents, enacted in 2013, remained

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[375] ANTAQ, *Painel de Monitoramento de Instalações Privadas*.

[376] ANTAQ (2021), *Anuário Estatístico 2021*. Viewed at: http://ea.antaq.gov.br/.

[377] Viewed at: https://www.gov.br/infraestrutura/pt-br/assuntos/transporte-aquaviario/copy_of_planejamento-portuario.

[378] The National Logistics Plan 2035. Viewed at: https://ontl.epl.gov.br/wp-content/uploads/2021/10/PNL_2035_29-10-21.pdf.

[379] Viewed at: https://www.gov.br/infraestrutura/pt-br/assuntos/noticias/curtas-infraestrutura/2021/11/ppi-qualifica-oito-terminais-portuarios-para-concessao-a-iniciativa-privada.

in force.[380] The regulatory framework still allows the leasing of public port areas and facilities to the private sector, including foreign companies. Many activities in the public ports are carried out by private local and foreign companies under leasing contracts, which have an initial duration of 25 years that is renewable for another period of 25 years. Firms supplying auxiliary port services (such as handling and logistics) must be established in Brazil, but foreign capital may participate and receive national treatment.[381] The REPORTO scheme continues to provide for IPI, COFINS, PIS, and import duty exemption on machinery and equipment used to modernize and expand ports. The Programme Future of the Port Sector was launched in September 2021, with the aim of stimulating the modernization of organized ports and increasing their competitiveness, with a focus on reducing bureaucracy, improving management, increasing training of managers and port workers, and implementing new technology for promoting more logistical efficiency.

4.287. The lighthouse fee (TUF) on foreign vessels to cover lighthouse operation costs, which is charged each time a foreign ship uses a port in a different Brazilian state, remains in place at the following rates: USD 1,500 for vessels from 1,000 dwt to 50,000 dwt; USD 2,250 for vessels from 50,000 dwt to 100,000 dwt; and USD 3,000 for vessels of over 100,000 dwt. Vessels under 1,000 dwt are exempt. The TUF revenue is used for repair and maintenance of navigation signals (e.g. lighthouses) along the Brazilian coast, with a view to maintaining safety levels for navigation in Brazilian territorial seawaters.[382] The total TUF revenue was not provided.

4.288. Port charges in Brazil are at a similar level to those at other ports in Latin America. For the organized ports (public ports), the Organized Ports Tariff Regulation Procedure (ProREP) sets the instructions or technical notes explaining the methodology used, and it is integrated with other ANTAQ electronic systems. A tariff structure can only be changed upon submission and acceptance of a project via ProREP for tariff adjustment for an ordinary tariff review, or for changes in the current tariff structure.[383] For the leased terminals (inside public ports), the price is generally free, but a "price cap" model may be established at the lease contract and discounts can be freely negotiated among the parties. Private terminal prices are not subject to control.

4.4.7 Distribution and e-commerce

4.4.7.1 Distribution

4.289. Distribution services (including retail and wholesale) accounted for 15.3% of gross value added in 2021 (12.5% in 2016) and 19% of total employment (Table 1.2). The sector consists of large national and international distribution networks as well as of a large number of micro and small family establishments; in 2019, there were 1,222,965 retail companies and 225,089 wholesale companies employing 7,544,289 and 1,714,732 people, respectively.[384] The importance of retail in the economy continues to be increasingly recognized and highlighted, besides being the largest generator of formal jobs. The Brazilian distribution market (retail and wholesale) is heterogeneous. Retail supermarkets and the retail appliance market are concentrated. Companies with up to 19 employees corresponded to 27.7% of the net revenue of the sector in 2018, while companies with more than 500 persons accounted for 32.4% of the net revenue.[385] In 2020, the supermarket chains segment registered revenue of BRL 554 billion and accounted for 7.5% of GDP.[386] In 2021, the five largest companies (Carrefour Com Ind Ltda, Assaí Atacadista, Grupo Pão de Açúcar, Mateus Supermercados, and Ceconsud Brasil Comercial Ltda) accounted for 68% of the outlets and

[380] Law No. 12,815/2013; Presidential Decree No. 8,465/2015; Ministerial Decree No. 499/2015; Ministerial Decree No. 349; Normative Resolution No. 01-ANTAQ, 13 February 2015; and Normative Resolution No. 05-ANTAQ, 23 February 2016.

[381] For more information on port regulations, please consult the previous TPR report in WTO document WT/TPR/S/358/Rev.1, 18 October 2017.

[382] Viewed at: https://www.gov.br/pt-br/servicos/realizar-pagamento-da-tarifa-de-utilizacao-de-farois-tuf.

[383] Viewed at: https://www.gov.br/antaq/pt-br/assuntos/instalacoes-portuarias/portos/tarifas-das-autoridades-portuarias.

[384] Brazilian Institute of Geography and Statistics (IBGE), *Pesquisa Anual de Comércio*. Viewed at: https://www.ibge.gov.br/estatisticas/economicas/comercio/9075-pesquisa-anual-de-comercio.html?=&t=destaques.

[385] IBGE, *Brazil in Figures.* Viewed at: https://biblioteca.ibge.gov.br/visualizacao/periodicos/2/bn_2021_v29.pdf.

[386] Brazilian Association of Supermarkets (ABRAS). Viewed at: https://www.abras.com.br/economia-e-pesquisa/ranking-abras/dados-gerais.

78% of the turnover of the 20 major chains operating in Brazil.[387] Four of the world's top 250 retailers in total revenue are Brazilian (Magazine Luiza S.A. (No. 195), Varejo S.A. (No. 196), Lojas Americanas S.A. (No. 247), and Raia Drogasil S.A. (No. 249)), though those retailers' operations are focused on the Brazilian market. All four retailers achieved double-digit growth in 2020, with Magazine Luiza, the leading Brazilian retailer, reaching revenue growth of 46.2%. During the pandemic, its Internet sales grew by 123%.[388] Magazine Luiza was the largest e-commerce operator in Brazil, with revenue of USD 3.3 billion in 2021.[389]

4.290. The main legislation on distribution services remains the 2002 Brazilian Civil Code. Several municipal and state-level regulations, the Code of Consumer Protection (CDC) and the new legislation on e-commerce govern the activity. No foreign equity limit is imposed in the sector, and no quotas or economic needs tests are applied in relation to the establishment or expansion of distribution services suppliers. No products are subject to exclusive distribution rights, and both franchising and direct selling are allowed.[390] Commercial presence in retail services and franchising is unrestricted. Foreign entry in wholesale is allowed except for wholesale trade services of solid, liquid, and gaseous fuels and related products where the foreign company must be legally established in Brazil and meet domestic requirements.[391] Distribution sector activities are subject to the competition policy and consumer protection legislation.[392]

4.291. The Agreement on Economic and Trade Expansion Brazil-Peru, whose implementation is pending, contains WTO-plus commitments in distribution services (commissioned agent services, wholesale, retailing services, and franchising) for which there is no limitation in cross-border supply, consumption abroad, and commercial presence.[393] According to the authorities, an agreement with Colombia also allows commercial presence abroad (mode 3) covering distribution services.

4.4.7.2 E-commerce

4.292. In 2019, Brazil's retail e-commerce sales reached USD 20 billion, only behind Mexico (USD 31 billion) in the retail e-commerce sales in Latin America. E-commerce sales correspond to 1.1.% of Brazil's GDP and registered at 7.6% increase from 2018 to 2019.[394] Brazil ranked 10th in the total worldwide retail e-commerce in 2021, with 0.8% of the global share, and registered the world's 2nd largest growth rate of e-commerce sales, 26.8%.[395] According to UNCTAD, the share of individuals using the Internet is around 74%. However, in 2020 the country ranked only 62nd (60th in 2018 and 72nd in 2019) among 152 countries in the B2C (business to consumer) E-Commerce Index 2019 also due to low Universal Postal Union (UPU) postal reliability score (46 out of 100).[396] Internet shoppers share of Internet users is 34%, corresponding to 24% of the population.[397] During the COVID-19 pandemic, 7.3 million Brazilians shopped online for the first time. E-commerce sales rose by 47% in the first half of 2020, which was the biggest increase in 20 years.[398] All five largest B2C e-commerce sites in Latin America operate in Brazil:

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[387] Superhiper (2021), *Ranking ABRAS 2021*, No. 537. Viewed at: https://superhiper.abras.com.br/pdf/270.pdf. In 2018, Walmart's shareholders sold its operations in Brazil. Walmart had over 500 units and employed over 50,000 people.

[388] Deloitte (2022), *Global Powers of Retailing; Resilience Despite Challenges*.

[389] ECommerceDB, *The eCommerce Market in Brazil*. Viewed at: https://ecommercedb.com/en/markets/br/all.

[390] Law on Franchising (*Lei sobre o contrato de franquia empresarial*), 15 December 1994. Viewed at: http://www.planalto.gov.br/ccivil_03/Leis/L8955.htm.

[391] WTO document S/DCS/W/BRA, 24 January 2003; and ANP Resolution No. 58, 17 October 2014.

[392] WTO document WT/TPR/S/358/Rev.1, 18 October 2017.

[393] These commitments exclude CPC 62118 - Sales on a fee or contract basis of goods; CPC 62271 - Wholesale trade services of solid, liquid and gaseous fuels and related products; and CPC 63297 - Retail sales of fuel oil, bottled gas, coal and wood.

[394] UNCTAD, *The UNCTAD B2C E-Commerce Index 2020 - Spotlight on Latin America and the Caribbean*. Viewed at: https://unctad.org/system/files/official-document/tn_unctad_ict4d17_en.pdf.

[395] Insider Intelligence (2021), "These Are the Top Global Economic Markets", 14 July. Viewed at: https://www.emarketer.com/content/top-global-ecommerce-markets.

[396] UNCTAD, *The UNCTAD B2C E-Commerce Index 2020 - Spotlight on Latin America and the Caribbean*. Viewed at: https://unctad.org/system/files/official-document/tn_unctad_ict4d17_en.pdf.

[397] UNCTAD, *UNCTAD B2C E-Commerce Index 2019*. Viewed at: https://unctad.org/system/files/official-document/tn_unctad_ict4d14_en.pdf.

[398] UNCTAD, *The UNCTAD B2C E-Commerce Index 2020 - Spotlight on Latin America and the Caribbean*. Viewed at: https://unctad.org/system/files/official-document/tn_unctad_ict4d17_en.pdf; and UNCTAD (2021),

Mercado Livre, B2W, Amazon, Casas Bahia, and Dafiti. From those, B2W (Americanas, Submarino, and Shoptime) and Casas Bahia operate only in Brazil. In 2019, the market's largest segments were electronics (42%), travel (29%), household goods (6%), clothes and apparel (4%), health and beauty (3%), and groceries (1.5%).

4.293. Home and decoration goods registered a 155% increase in the number of orders and 67% in revenue, followed by increases in online pet shops (56%), sports items (48%), department stores (37%), food (34%), and self-service (32%). From 2020 to 2021, sales increased by 31%, the average price of purchased items increased 22%, the number of orders increased by 7.4%, the number of orders with free shipping grew by 8%, and mobile sales increased by 56.2%.[399]

4.294. Cross-border e-commerce trade grew by 15% in 2021 compared with 2020 in Brazil. Brazilian shoppers who make purchases on international websites typically purchase more. Important to note that many Brazilian websites do not accommodate international credit cards, which creates hurdles for foreigners while in Brazil.[400] In 2020, cross-border e-commerce accounted for 21% of total sales, around BRL 22.7 billon. Partnerships between Correios (Brazil state-owned postal services company) and foreign e-commerce sellers enabled faster long-haul cargo into Brazil by the foreign company in charge of delivery up to Brazil's borders, while Correios completes the service for delivery in the country. Border clearance was undertaken in only 2.6% of all cross-border postal shipments, from which over 90% were audited for customs tariff purposes. Consumer protection agencies (Procon) have been active pursuing and collecting fines on counterfeit products or contraband sold on cross-border platforms.

4.295. Most online shoppers are in the age range between 36 to 50 years old (35%), followed by those 25 to 35 years old (32%), 51 years old and above (16.6%), and 18 to 25 years old (16.4%).[401] Digital payment with PIX are likely to reshape e-commerce payment methods. Currently, cards (59%) are the most used form, followed by cash (23%), digital wallet (8%), and bank transfer (6%).

4.296. The main e-commerce regulatory framework involves e-commerce requirements such as full identification of the supplier on the site, provision of the physical and electronic address on the site, clear and precise information, the delivery of a summary and a full agreement, purchase confirmation, rules for online customer service, information security, the right of cancellation, rules for requested chargebacks, and rules for collective purchases.[402] Furthermore, the General Personal Data Protection Law (LGPD), Law No. 13,709/2018, was enacted to protect the fundamental rights of freedom and privacy, as well as to protect the free formation of the personality of each individual. The Law talks about the processing of personal data, available in physical or digital media.

4.297. Brazil has no *de minimis* rule whereby goods below a certain value are exempt from customs duties and taxes. Virtually all international e-purchases are subject to a 60% flat/single equalization tax on the purchase price covering/compensating customs duty and other internal taxes/charges on imports and can also be charged for the state-level VAT (ICMS) ranging from 17% to 25%. Certain medicines (upon submission of specific documentation) and printed books or periodicals are the only exceptions to these tax requirements. An exemption (excluding the ICMS tax) for packages valued at USD 50 or less applies only to remittances from a person to another person for personal use or gifts of lower value but not for commercial operations. A Simplified Taxation Regime applies to goods not exceeding USD 3,000.[403] According to the authorities, a new legislation on customs duties and procedures for e-purchases was under consideration.

"Switzerland Climbs to the Top of Global E-Commerce Index", 17 February. Viewed at: https://unctad.org/news/switzerland-climbs-top-global-e-commerce-index.

[399] International Trade Administration, *Brazil Country Commercial Guide: eCommerce.* Viewed at: https://www.trade.gov/country-commercial-guides/brazil-ecommerce.

[400] International Trade Administration, *Brazil Country Commercial Guide: eCommerce.* Viewed at: https://www.trade.gov/country-commercial-guides/brazil-ecommerce.

[401] Viewed at: https://www.statista.com/statistics/519746/age-distribution-of-on-line-shoppers-in-brazil/.

[402] The 1990 Consumer Defence Code (CDC), Decree No. 7,962, 15 March 2013, which regulates the CDC in order to adapt it to Brazil's e-commerce reality, and Law No. 12,965 (Marco Civil da Internet), 23 April 2014.

[403] WTO document WT/TPR/S/358/Rev.1, 18 October 2017.

4.4.8 Tourism

4.298. Brazil ranked 54th in the world in 2019 in terms of passenger arrivals, totalling 6.4 million tourists, and ranked 47th in travel receipts.[404] Brazil's travel and tourism sector amounted to BRL 597 billion in 2019 and BRL 402 billion in 2020, registering a sharp 32.6% drop after the start of the COVID-19 pandemic. These values corresponded to 7.7% and 5.5% of Brazil's GDP. The sector employed 7.64 million people in 2019 and 6.19 million in 2020, registering a 19% reduction during the first year of the pandemic. These numbers corresponded to 8.2% and 7.2% of the total employees, respectively.[405] In 2019, domestic spending in tourism reached USD 75.7 billion, while international spending accounted for USD 4.8 billion, representing 94% and 6% of total spending, respectively. In 2020, domestic spending registered USD 48.8 billion (94%) while international spending dropped to USD 2.9 billion (6%). Leisure spending represented 89% of the spending, while business spending the remaining 11%. In 2019, the main source markets were Argentina (31%), the United States (9%), Paraguay (6%), Chile (6%), and Uruguay (4.2%).[406] In terms of travel balance, in 2018 Brazil registered USD 5.917 billion in travel receipts against USD 18.263 billion in travel expenditures, with a deficit of USD 12.346 billion.[407] All hotels are privately owned, and there is foreign participation in hotel management activities.

4.299. The National Council of Tourism (CNT) remains responsible for bringing together government and non-government stakeholders to jointly establish the strategic direction for tourism in Brazil; its activities are coordinated by the Ministry of Tourism.[408] Pursuant to Decree No. 10,359/2020, the competences of the Ministry of Tourism are, *inter alia*, the development of the national tourism policy; promotion of national tourism; fostering public and private initiatives to encourage tourist activities; planning, coordination, supervision, and evaluation of tourism incentive plans and programmes; management of the General Tourism Fund; regulation, inspection, certification, and classification of activities and equipment of tourism service providers; national culture policy; and protection of historical, artistic, and cultural heritage. The Brazilian Tourist Board (Embratur), an autonomous social service, gained more autonomy and agility to carry out its functions, including the dissemination of "Marca Brasil" abroad.[409]

4.300. During the review period, the National Tourism Plan 2018-22 established guidelines and strategies for the implementation of the National Tourism Policy and organized the actions to be adopted by the public sector. One of the set objectives in the policy is that tourism contributes to the reduction of regional, social, and economic inequalities by increasing the labour supply and improving income distribution through reduction of bureaucracy in the sector, expansion of investments, and access to credit to stimulate competitiveness and innovation. Due to the COVID-19 pandemic, the goals established (increased foreign tourists, increased travel receipts, and new jobs in the sector) were missed.

4.301. The main regulatory framework governing tourism remains virtually unchanged.[410]

4.302. In addition to the general programmes available to all business activities, other specific programmes that provide concessional or administered interest rate loans to investors are: FUNGETUR – General Tourism Fund; PROGER – Tourism Investment; FNE – Programme for Supporting Regional Tourism in the North-East; FNO – Financing Programme for the Sustainable Development of the Amazon (Tourism); FCO Entrepreneurship – Credit Line; BNDES Automatic; BNDES FINEM – Enterprise Financing; BNDES – FINAME Machinery and Equipment; BNDES Card;

[404] United Nations World Tourism Organization (UNWTO). Viewed at: https://www.unwto.org/tourism-data/country-profile-inbound-tourism.
[405] World Travel & Tourism Council, *Brazil: 2022 Annual Research: Key Highlights*. Viewed at: https://wttc.org/Research/Economic-Impact/moduleId/704/itemId/77/controller/DownloadRequest/action/QuickDownload.
[406] World Travel & Tourism Council, *Brazil: 2022 Annual Research: Key Highlights*. Viewed at: https://wttc.org/Research/Economic-Impact/moduleId/704/itemId/77/controller/DownloadRequest/action/QuickDownload.
[407] OECD (2020), *OECD Tourism Trends and Policies 2020*. Viewed at: https://www.oecd.org/cfe/tourism/OECD-Tourism-Trends-Policies%202020-Highlights-ENG.pdf.
[408] Viewed at: https://www.gov.br/turismo/pt-br/composicao/conselho-nacional-de-turismo.
[409] Pursuant to Law No. 14,002/2020, the Brazilian Institute of Tourism was transformed into the Brazilian Agency for the International Promotion of Tourism but kept the same "commercial name" Embratur.
[410] It mainly consists of the General Tourism Law (Law No. 11,771, 17 September 2008).

and Proger (as from May 2016).[411] FUNGETUR (managed by the Ministry of Tourism) and the constitutional financing funds (FNO, FNE, FCO) have tourism-specific credit lines, whereas the Worker Support Fund (FAT) has two general credit lines (Proger Urban Investment and Proger Urban Working Capital) that cover the activities of the sector. According to the authorities, between January 2019 and December 2021, the total amount disbursed for tourism infrastructure projects stood at BRL 1.8 billion. In the same period, 2,582 tourism infrastructure projects were concluded and around 40,000 jobs were created.[412]

4.303. The Ministry of Tourism, Sebrae, and Embratur launched the Programme Invest in Tourism to accelerate the development of the sector and to increase its quality and competitiveness in 30 Strategic Tourist Routes in Brazil, with a focus on job creation. The initial investment was estimated at BRL 200 million.[413] Furthermore, other sector-specific programmes include the Support for Events Generating Tourist Flows; Programme More Credit More Tourism targeting special credit lines to public civil servants and retirees for contracting domestic tourism services; Touristic Gastronomy Programme, aimed at promoting local aspects for sustainable development of tourism; and Project Experiences of Rural Brazil fostering the tourism sector trade of goods and services made by family agriculture.

4.304. Brazil also kept an investment portal with detailed information and opportunities for domestic and foreign investors targeting the tourism sector.[414] The Ministry of Tourism released a Strategy Plan for 2020-23 to strengthen the sector with a focus on sustainable development.[415]

4.305. To offset the negative effects from the COVID-19 pandemic, the Ministry of Tourism adopted a number of initiatives and prepared a strategy to recover the tourism sector, such as the Programme Safe Tourism, with behaviour guidelines, certifications, and other actions to enhance safety in the tourism sector.[416] A number of certification schemes, conduct guide, and sustainability and security plans and strategies on touristic mobility and connectivity were also implemented in the sector.[417]

4.4.9 Professional services

4.306. Professional services remain an important component of Brazil's economy, reaching BRL 347 billion in 2019 for value added, and employing 5.255 million people in over 450,000 companies.[418] The Siscoserv data compiling information on services exports and imports was discontinued as from July 2020. Since the discontinuation of the Siscoserv, the Foreign Trade Secretariat, within the Ministry of the Economy, publishes annual reports on Trade in Services, with statistics compiled by the BCB for the balance of payments, in line with the Manual on Statistics on International Trade in Services recommendations, including EBOPS classification.[419]

4.307. Under the Constitution, the Federal Government has exclusive powers to regulate the practice of professions.[420] Registration in professional associations is mandatory for the provision of certain services, such as legal, accounting, architectural and engineering services, and veterinary,

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[411] WTO document WT/TPR/S/358/Rev.1, 18 October 2017.

[412] According to the authorities, PRODETUR+Tourism was no longer in operation and it was about to be formally terminated.

[413] Viewed at: https://www.gov.br/turismo/pt-br/acesso-a-informacao/acoes-e-programas/investe-turismo and https://www.gov.br/turismo/pt-br/centrais-de-conteudo/mtur-cartilha-investe-turismo-pdf.

[414] Website address of the Tourism Investment Portal: https://investimento.turismo.gov.br/.

[415] Viewed at: https://www.gov.br/turismo/pt-br/acesso-a-informacao/acoes-e-programas/planejamento-estrategico-institucional-2013-pei and https://www.gov.br/turismo/pt-br/acesso-a-informacao/acoes-e-programas/planejamento-estrategico-institucional-2013-pei/Plano_Estrategico_MTur___2020_.pdf.

[416] Viewed at: https://www.gov.br/turismo/pt-br/acesso-a-informacao/acoes-e-programas/retomada-do-turismo and https://www.gov.br/turismo/pt-br/acesso-a-informacao/acoes-e-programas/retomada-do-turismo/GuiadeRetomadaEconmicadoTurismoResumoExecutivo.pdf.

[417] Viewed at: https://www.gov.br/turismo/pt-br/acesso-a-informacao/acoes-e-programas/turismo-responsavel and https://www.gov.br/turismo/pt-br/acesso-a-informacao/acoes-e-programas/forum-mob-tur.

[418] IBGE, *Pesquisa Anual de Serviços 2019*. Viewed at: https://www.ibge.gov.br/estatisticas/economicas/servicos/9028-pesquisa-anual-de-servicos.html?=&t=destaques.

[419] SECEX 2021 Annual Report on Trade in Services. Viewed at: https://www.gov.br/produtividade-e-comercio-exterior/pt-br/assuntos/comercio-exterior/publicacoes-secex/boletins-de-comercio-exterior/arquivos/relatorio-servicos-2021.pdf.

[420] Federal Constitution, Article 22.

dental, and medical care.[421] No professions are reserved for Brazilian nationals, but practice of the legal, medical, health, and other professions require residence in Brazil.[422] Nationals and foreign professionals with foreign qualifications (graduation diploma) must obtain revalidation of their degrees from a university recognized by the Ministry of Education, and meet the requirements established by law to practise in Brazil. The National Education Council of the Ministry of Education regulates the revalidation of foreign diploma, titles, and certificates.[423]

4.308. The request for revalidation must be submitted to a recognized Brazilian university through a new online platform.[424] The revalidation process is facilitated if the university has an Equivalence or Reciprocity Cooperation Agreement with the foreign university. In practice, procedures for revalidation of foreign diplomas remain complex and time consuming.[425] Brazil does not have any agreement for automatic recognition of qualifications other than with Portugal; therefore, the rules are the same for all countries, except Portugal. Furthermore, diplomas and transcripts must be legalized in the Brazilian consulates where the studies were conducted. Foreign professionals with a work contract are subject to the same legal labour rights and requirements as locals.

4.309. Under MERCOSUR Decision No. 25/2003[426], a regulatory framework allows for granting temporary work permits to service providers in member countries.[427] A framework agreement for reciprocal recognition and grant of registration for temporary professional exercise in agro-measurement engineering, agronomy, architecture, geology, and engineering was agreed in March 2022. Brazilian professional associations can issue regulations for granting temporary licences, for instance, for architectural, urban planning, engineering, geology, and agronomy professionals. However, applicants must have a temporary work contract and a resident visa, either permanent or temporary, enabling them to apply for a temporary professional licence.[428]

4.4.9.1 Legal services

4.310. The regulatory framework governing legal services remains unchanged.[429] The Brazilian Bar Association (OAB) continues to regulate and set the standards of conduct and qualifications for the legal profession at the federal level, and has exclusive authority to admit and discipline attorneys. Only lawyers registered with the OAB may receive the title of attorney and perform legal activities in Brazilian law. Anyone possessing a foreign law degree may be admitted to practise law in Brazil as an attorney, provided the law degree is validated at a recognized Brazilian law school, and the applicant passes the OAB Bar exam, and registers with the OAB. An attorney's main registration must be at the sectional council of the federative unit where he/she intends to establish professional domicile. The licence to practise law as an attorney is valid for an indefinite term and attorneys are allowed to practice Brazilian law. Brazilian law firms are organized as limited liability entities, with unlimited liability of the partners with respect to losses attributed to the practice of law. The association of lawyers with non-lawyers is prohibited.[430]

4.311. Foreign-qualified lawyers may also practice in Brazil as foreign law consultants. A foreign lawyer may establish a consultancy firm in foreign law in Brazil. In this case, the foreign lawyer is not required to validate the law degree or to pass the Bar exam. However, OAB authorization and registration for legal consultancy services are required and are granted for renewable periods of three years. Requirements for obtaining a licence to practise as a foreign law consultant include proof of a legal instrument granting reciprocal treatment to Brazilian attorneys in the

[421] For some professions, registration is straightforward, as some professional councils, e.g. the Council of Psychology and the Council of Administration, allow foreigners to be registered only after revalidating their foreign diploma and showing a proficiency test in the Portuguese language. International Trade Administration, *Brazil Country Commercial Guide: Licensing Requirements for Professional Services*. Viewed at: https://www.trade.gov/country-commercial-guides/brazil-licensing-requirements-professional-services.

[422] Immigration Law, Law No. 13,445, 24 May 2017.

[423] Resolution No. 3, 22 June 2016, on the norms; and Ordonnance of 13 December 2016 on the procedures.

[424] Viewed at: https://www.gov.br/pt-br/servicos/reconhecer-ou-revalidar-diploma-de-curso-superior-obtido-no-exterior. The Platform portal: https://plataformacarolinabori.mec.gov.br/usuario/acesso.

[425] WTO document WT/TPR/S/283/Rev.1, 26 July 2013.

[426] Internalized through Legislative Decree No. 347, 23 December 2008.

[427] The National Education Council Resolution No. 106/2007 provides for the implementation of Decision No. 25/2003 in Brazil.

[428] WTO document WT/TPR/S/358/Rev.1, 18 October 2017.

[429] Law No. 8,906, 4 July 1994 (as amended).

[430] WTO document WT/TPR/S/358/Rev.1, 18 October 2017.

applicant's country of origin. Foreign law consultants are forbidden from offering consultancy services or counselling in Brazilian law and from exercising work as an attorney-at-law. They are only allowed to provide consultancy on the foreign law of the country where they are licensed to practise law. Brazil maintains a Registry of Foreign Law Consultants.[431] According to the authorities, 217 foreign lawyers are registered in Brazil as consultants in foreign law.

4.312. A consultancy firm providing foreign law services must be constituted and registered in Brazil, and all of its lawyers must be authorized by the OAB. A foreign law consultancy firm cannot enter into partnership with a Brazilian attorney practicing Brazilian law or hire Brazilian lawyers unless employed as foreign law consultants.[432]

4.313. A reciprocity agreement with Portugal allows for Portuguese nationals registered at the Portuguese Bar Association to register with OAB and practise law in Brazil subject to a law degree obtained from an officially authorized and accredited educational institution in Portugal.[433]

4.4.9.2 Accounting and auditing services

4.314. According to the Federal Accounting Council (CFC), there are currently 522,798 accounting professionals registered in the country.[434] The number of foreign accountants operating in Brazil could not be provided.

4.315. The regulatory framework governing the accounting and auditing services remains unchanged. The profession remains regulated by the Federal Accounting Council (CFC), a special corporative body of public law, which remains, *inter alia*, responsible for compiling and updating the Brazilian Rules of Accountancy. The CFC comprises 1 representative from each of the 27 Regional Accounting Councils (CRCs), which are responsible for implementing the CFC Directives and for the registration and supervision of accountants in their respective jurisdictions.[435]

4.316. Similar to other professional services, persons holding an accountancy degree from a foreign university are required to revalidate their diploma with a Brazilian public university and attend an accountancy graduation course to become acquainted with Brazilian accountancy standards. After passing a CFC Sufficiency Exam, professional registration with the local CRC is required.[436]

4.4.9.3 Architectural and urban planning services

4.317. As of June 2022, there were 212,525 architects and urban planners registered at the Council of Architecture and Urbanism of Brazil (CAU/BR). There were 29,984 architecture and urban planning companies in Brazil during the same period. A total of 8,853,390 architecture and urbanism projects were undertaken.[437]

4.318. The regulatory framework governing architectural and urban planning services remains unchanged.[438] The CAU/BR at the national level and the Councils of Architecture and Urbanism (CAU/UF) in each of the federative states remain responsible for overseeing the exercise of these professions. Registration with the relevant CAU/UF is mandatory to exercise the profession of architect and urban planner, and is valid throughout the national territory.[439]

4.319. Brazilian citizens and foreigners holding a permanent residence visa who have a university degree in architecture and urban planning from an officially recognized foreign institution may obtain CAU registration provided they meet certain requirements. Their degree must be duly

[431] WTO document WT/TPR/S/358/Rev.1, 18 October 2017.
[432] More information about the relevant procedures is available in WTO document WT/TPR/S/283/Rev.1, 26 July 2013.
[433] OAB Provision No. 129/2008 regulates the registration of Portuguese lawyers in Brazil.
[434] Viewed at: https://www3.cfc.org.br/spw/crcs/ConselhoRegionalAtivo.aspx.
[435] WTO document WT/TPR/S/358/Rev.1, 18 October 2017.
[436] WTO document WT/TPR/S/358/Rev.1, 18 October 2017.
[437] CAU/BR, *Anuário de Arquitetura e Urbanismo 2019*. Viewed at: https://caubr.gov.br/wp-content/uploads/2019/06/ANU%C3%81RIO-FINAL-WEB.pdf.
[438] Law No. 12,378, 31 December 2010.
[439] WTO document WT/TPR/S/358/Rev.1, 18 October 2017.

legalized by the competent Brazilian consulate and revalidated by an authorized institution in Brazil.[440]

4.320. Fixed-term registration may be granted to Brazilian and foreign architects in possession of a foreign diploma and a fixed-term work contract in Brazil or to winners of an international architecture and urbanism competition (international awards).[441] In these cases, validation of the foreign diploma is not required, but it must be issued by an officially recognized institution in the country of origin. The fixed-term registration is valid for the contract duration and only for the activities specified therein; proof of residency in Brazil is required.[442] Exceptionally, foreign professionals with no permanent residency in Brazil may obtain fixed-term registration, provided they are accompanied in all their professional activities by a registered Brazilian architect or architect association with residence in Brazil.[443]

4.321. From January 2014 to January 2019, a registration facilitation agreement between Brazil and Portugal, which was aimed at promoting the bilateral exchange of knowledge and cooperation, as well as reciprocity in registration conditions, allowed for registration of Brazilian and Portuguese architects and urban planners in the other country's register (the CAU/BR or the Order of Architects (OA/PT) of Portugal) upon fulfilment of the following requirements: holding a definitive registration in their respective country; Brazilian professionals having at least one year of registration at CAU and Portuguese professionals having completed a year of compulsory internship; and registration at the Register of Individual Taxpayers (CPF) in Brazil for the members of OA/PT or a Tax Identification Number (TIN) in Portugal for those enrolled at CAU/BR.[444] The agreement applied only to native or naturalized Brazilian and Portuguese persons. For definitive registration, the professional had to prove residence in the host country and present the diploma revalidated by the competent authority. According to CAU/BR, there are 9 Brazilian architects registered in OA/PT and 66 Portuguese professionals in Brazil. A new MoU between OA/PT and CAU/BR was signed in June 2022 to evaluate, among other aspects, new conditions for implementation of the previous Cooperation Agreement. A mutual recognition agreement negotiated between the Federal Council of Engineering of Brazil and Portugal's Order of Engineers entered into force in 2015, and a Cooperation Agreement between CAU/BR and the Superior Council of Colleges of Spain Architects (CSCAE) was signed in May 2022. CAU/BR also maintains MoUs with other foreign architectural councils, i.e. the United States (NCARB and AIA), the United Kingdom, Costa Rica, Angola, France, Cabo Verde, China, the European Union (Architects Council of Europe), and the United Nations Office for Project Services (UNOPS).[445]

4.4.9.4 Medical services

4.322. During the review period, the main regulatory framework governing medical services remained largely unchanged. Healthcare services are still relatively open to foreign investment conditional to limitations set out in the Federal Constitution and corresponding laws.[446]

4.323. Medical doctors in Brazil are regulated by the Federal Council of Medicine (CFM)[447], and the legal practice of medicine is subject to registration under the competent Regional Council of Medicine (CRM).

4.324. The supplementary health sector in Brazil, which comprises around 50 million people and has annual revenues of more than BRL 240 billion, is also open to foreign investment. This sector is regulated by the National Supplementary Health Agency (ANS), a federal regulatory agency with administrative, technical, and decision-making autonomy. ANS' role includes the enactment of rules and inspection of market segments, with the aim of promoting the public interest in supplementary health care, in addition to regulating sector operators, including with regard to their relationships

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[440] WTO document WT/TPR/S/358/Rev.1, 18 October 2017.
[441] CAU Resolution No. 35, 6 October 2012.
[442] CAU Resolution No. 26, 6 June 2012.
[443] Law No. 12,378, 31 December 2010, Article 6.
[444] CAU. Viewed at: http://www.caubr.gov.br/acordo-entre-brasil-e-portugal-permite-que-arquitetos-trabalhem-nos-dois-paises/.
[445] Viewed at: https://transparencia.caubr.gov.br/cooperacao/.
[446] Federal Constitution, Article 199, para. 3; Law No. 8,080/1990; and Law No. 13,097/2015.
[447] Law No. 3,268/1957 regulated by Decree No. 44,045/1958, Law No. 11,000/2004, and Decree No. 6,821/2009.

with providers and consumers, in order to guarantee the sector's sustainability and the quality of the services provided.

4.325. The More Doctors (Mais Médicos*)* Programme, which aimed at attracting doctors for the National Public Health Services (SUS) in response to much-needed health care in smaller municipalities and remote locations[448], was replaced by the Doctors throughout Brazil Programme (Médicos pelo Brasil), launched in 2019 with the objective of structuring the federal medical career in places of high social vulnerability. The latter programme is managed by the Agency for the Development of Primary Health Care (ADAPS).[449]

4.326. For the Doctors throughout Brazil Programme, the Government foresaw that over 4,600 professionals would be hired in 2022 under the general Consolidation of Labour Laws (CLT). According to the authorities, the new programme aims to hire 18,000 physicians. Any physician with a diploma issued by a Brazilian educational institution and professionals trained in foreign institutions with (i) a diploma revalidated in Brazil via the Foreign Higher Education Institutions (Revalida), (ii) a permanent visa, (iii) enrolment in the Regional Medical Council (CRM), and (iv) a certificate of proficiency in Portuguese are eligible to apply to the programme.[450]

4.327. To deal with the health emergency, the use of telemedicine for medical services, including medical consultation and digital medicine prescription, was permitted on an exceptional and temporary basis.[451] In May 2022, the CFM approved a new regulation establishing rules for the practice of telemedicine. It is defined as the exercise of medicine mediated by digital, information, and communication technologies, for the purposes of assistance, education, research, disease and injury prevention, management, and health promotion. Doctors can choose telemedicine based on their assessment that face-to-face care is not more appropriate (i.e. based on the safety and quality of patient care). Telemedicine is only allowed for service providers established or located in the national territory. Health service providers have to be registered with the relevant Regional Council of Medicine. Telemedicine is the subject of Bill No. 1,998/2020, which authorizes and defines the practice of telemedicine. The bill was approved in April by the House of Representatives and is pending Senate approval. In the meantime, telemedicine is regulated by the CFM resolution.[452]

[448] OECD (2021), *Primary Health Care in Brazil*, OECD Reviews of Health Systems.
[449] Law No. 13,958/2019.
[450] Viewed at: http://maismedicos.gov.br/.
[451] Ministry of Health Ordinance No. 467/20.
[452] CFM Resolution No. 2,134/2022; and Law No. 13,989/2020.

5 APPENDIX TABLES

Table A1.1 Merchandise exports by HS section and major HS chapter/subheading, 2017-21

HS Section/chapters/subheadings	2017	2018	2019	2020	2021
Total exports (USD billion)	215.0	231.9	221.1	209.2	280.8
	(% of total exports)				
01 Live animals and products	7.2	6.5	7.6	8.2	7.0
02 Meat and edible meat offal	6.5	5.7	6.9	7.6	6.5
0202 Meat of bovine animals; frozen	2.0	2.0	2.6	3.2	2.5
0207 Meat and edible offal of poultry, fresh, chilled or frozen	3.1	2.6	2.9	2.7	2.5
02 Vegetable products	17.3	18.9	18.3	20.2	18.5
08 Edible fruit and nuts	2.3	2.0	2.2	2.6	2.2
09 Coffee, tea, maté and spices	2.3	2.0	2.2	2.6	2.2
0901 Coffee	2.1	1.9	2.1	2.4	2.1
10 Cereals	2.3	1.9	3.5	3.1	1.7
1005 Maize (corn)	2.2	1.7	3.3	2.8	1.5
12 Oil seeds and oleaginous fruit	12.1	14.4	11.9	13.9	13.9
1201 Soya beans, whether or not broken	12.0	14.3	11.8	13.7	13.8
03 Fats and oils	0.7	0.6	0.5	0.6	1.0
04 Prepared food, beverages and tobacco	11.7	9.4	9.0	10.9	9.0
17 Sugars and sugar confectioner	5.4	2.9	2.4	4.2	3.3
1701 Cane or beet sugar and chemically pure sucrose, in solid form	5.3	2.8	2.3	4.2	3.3
22 Beverages, spirits and vinegar	5.3	2.8	2.3	4.2	3.3
23 Residues, waste of food industry; animal fodder	2.5	3.1	2.9	3.1	2.8
2304 Oil-cake and other solid residues, resulting from the extraction of soya-bean oil	2.3	2.9	2.6	2.8	2.6
05 Mineral products	19.4	23.3	25.7	26.0	31.3
26 Ores, slag and ash	10.4	10.2	11.7	13.8	17.4
2601 Iron ores and concentrates; including roasted iron pyrites	8.9	8.7	10.3	12.3	15.9
27 Mineral fuels and oils	8.7	12.8	13.7	11.9	13.7
2709 Petroleum oil (..), crude	7.7	10.9	10.9	9.4	10.9
2710 Petroleum oils (..), other than crude	0.8	1.7	2.7	2.4	2.6
06 Chemicals and products thereof	4.9	4.7	4.6	4.3	4.1
28 Inorganic chemicals, precious metal compound, isotopes	1.8	1.8	1.8	1.6	1.5
07 Plastics and rubber	2.5	2.2	2.1	1.8	1.9
39 Plastics and articles thereof	1.6	1.4	1.4	1.2	1.3
08 Raw hides and skins; leather, furskins and articles thereof	0.9	0.7	0.6	0.5	0.5
09 Wood, cork, straw	1.3	1.4	1.3	1.5	1.6
44 Wood and articles of wood, wood charcoal	1.3	1.4	1.3	1.5	1.6
10 Pulp of wood; paper and paperboard	3.9	4.5	4.3	3.7	3.1
47 Pulp of wood; recovered paper and paperboard	3.0	3.6	3.4	2.9	2.4
4703 Chemical wood pulp, soda or sulphate, other than dissolving grades	2.8	3.4	3.2	2.7	2.3
11 Textiles and textile articles	1.1	1.1	1.6	1.9	1.6
52 Cotton	0.7	0.8	1.3	1.6	1.3
12 Footwear, headgear, etc.	0.6	0.5	0.5	0.4	0.4
13 Articles of stone, plaster, cement	0.9	0.8	0.8	0.8	0.8
14 Precious stones and metals	1.5	1.4	1.9	2.6	2.2
7108 Gold (..) unwrought or in semi-manuf. forms, or in powder form	1.3	1.2	1.7	2.3	1.9
15 Base metals and articles thereof	7.1	7.1	6.9	5.8	6.8
72 Iron and steel	5.0	5.1	5.0	4.1	5.1
7207 Iron or non-alloy steel; semi-finished products thereof	1.5	1.7	1.4	1.3	2.0

HS Section/chapters/subheadings	2017	2018	2019	2020	2021
16 Machinery, electrical equipment	7.7	7.7	7.1	5.4	5.1
84 Machinery and mechanical appliances, parts thereof	6.2	6.2	5.5	4.0	3.8
85 Electrical and electronic equipment	1.6	1.5	1.6	1.4	1.3
17 Transport equipment	8.8	7.2	6.0	4.4	4.2
87 Vehicles, other than railway, tramway	6.8	5.4	4.2	3.2	3.2
18 Precision equipment	0.4	0.4	0.5	0.3	0.3
19 Arms and ammunition	0.2	0.1	0.2	0.2	0.1
20 Miscellaneous manufactured articles	0.4	0.4	0.4	0.4	0.5
21 Works of art, etc.	0.1	0.1	0.2	0.0	0.1
Other	1.2	1.0	0.0	0.0	0.0

Source: WTO Secretariat calculations, based on UN Comtrade database.

Table A1.2 Merchandise imports by HS section and major HS chapter/subheading, 2017-21

HS Section/chapters/subheadings	2017	2018	2019	2020	2021
Total imports (USD billion)	165.9	192.8	193.2	166.3	234.7
	(% of total imports)				
01 Live animals and products	1.5	1.2	1.2	1.2	1.0
02 Vegetable products	2.8	2.4	2.5	3.0	2.6
10 Cereals	1.2	1.1	1.2	1.4	1.3
03 Fats and oils	0.6	0.6	0.5	0.8	0.7
04 Prepared food, beverages and tobacco	2.2	1.9	1.8	1.9	1.4
05 Mineral products	15.9	16.2	14.9	10.9	14.5
27 Mineral fuels and oils	14.7	15.1	13.9	10.1	13.6
2709 Petroleum oils and oils obtained from bituminous minerals; crude	1.8	2.7	2.5	1.7	1.7
2710 Petroleum oils and oils from bituminous minerals, not crude	7.5	7.0	7.0	4.8	5.9
2711 Petroleum gases and other gaseous hydrocarbons	1.6	2.0	1.5	1.1	2.7
06 Chemicals and products thereof	19.8	19.9	20.5	22.5	23.5
28 Inorganic chemicals	1.3	1.3	1.2	1.2	1.2
29 Organic chemicals	5.3	5.7	5.8	6.5	5.9
2933 Heterocyclic compounds with nitrogen hetero-atom(s) only	1.2	1.2	1.4	1.6	1.5
30 Pharmaceutical products	4.1	3.9	3.9	4.4	4.8
3002 Human blood, antisera, other blood fractions (..)	1.8	1.8	1.7	2.1	3.0
3004 Medicaments therapeutic or prophylactic use (..)	2.0	1.9	2.0	2.0	1.7
31 Fertilizers	4.8	4.8	5.1	5.2	7.1
3102 Fertilizers; mineral or chemical, nitrogenous	1.3	1.3	1.4	1.7	2.1
3104 Fertilizers; mineral or chemical, potassic	1.6	1.8	1.9	1.7	2.0
3105 Fertilizers; mineral or chemical, other (..)	1.6	1.5	1.5	1.7	2.5
38 Miscellaneous chemical products	2.6	2.6	2.8	3.4	2.9
3808 Insecticides, rodenticides, fungicides, herbicides, and the like (..)	1.5	1.6	1.9	2.2	1.8
07 Plastics and rubber	6.2	5.7	5.6	5.9	6.5
39 Plastics and articles thereof	4.2	4.0	3.9	4.2	4.6
40 Rubber and articles thereof	2.0	1.7	1.7	1.7	1.9
08 Raw hides and skins; leather, furskins and articles thereof	0.3	0.3	0.3	0.2	0.2
09 Wood, cork, straw	0.1	0.1	0.1	0.1	0.1
10 Pulp of wood; paper and paperboard	0.8	0.7	0.7	0.6	0.6
11 Textiles and textile articles	3.2	3.0	2.9	2.8	2.5
12 Footwear, headgear, etc.	0.3	0.3	0.3	0.3	0.2
13 Articles of stone, plaster, cement	0.7	0.7	0.7	0.8	0.8
14 Precious stones and metals	0.3	0.3	0.4	0.4	0.4
15 Base metals and articles thereof	5.6	5.9	5.8	6.1	7.3
72 Iron and steel	1.2	1.3	1.2	1.1	2.1
73 Articles of iron and steel	1.5	1.5	1.5	1.6	1.6
74 Copper and articles thereof	0.9	0.9	0.8	0.9	1.2
76 Aluminium and articles thereof	0.9	1.1	1.1	1.1	1.2
16 Machinery, electrical equipment	26.5	25.0	26.4	28.2	25.9
84 Machinery and mechanical appliances, parts thereof	13.2	12.9	14.0	14.7	13.4
8411 Turbo-jets, turbo-propellers and other gas turbines	1.9	1.8	2.2	2.0	1.8
85 Electrical machineries and parts thereof	13.3	12.2	12.4	13.5	12.6
8517 Telephone sets, including telephones for cellular networks (..)	2.7	2.3	2.4	2.8	2.0
8542 Electronic integrated circuits	2.5	2.4	2.2	2.4	2.2
17 Transport equipment	8.7	11.3	11.0	9.8	7.8
87 Vehicles other than railway, tramway	7.4	8.1	7.7	6.1	6.5
8708 Parts and accessories of motor vehicles of heading No. 8701 to 8705	3.8	3.7	3.7	3.2	3.3
88 Aircraft, spacecraft, and parts thereof	1.1	1.1	1.2	1.2	0.9

HS Section/chapters/subheadings	2017	2018	2019	2020	2021
18 Precision equipment	3.3	3.3	3.3	3.4	2.9
90 Optical, photo, technical, medical, etc. apparatus	3.2	3.2	3.2	3.3	2.8
19 Arms and ammunition	0.02	0.04	0.03	0.1	0.1
20 Miscellaneous manufactured articles	1.2	1.1	1.1	1.1	1.0
21 Works of art, etc.	0.01	0.01	0.01	0.01	0.003

Source: WTO Secretariat calculations, based on UN Comtrade database.

Table A1.3 Merchandise exports by destination, 2017-21

	2017	2018	2019	2020	2021
Total exports (USD billion)	215.0	231.9	221.1	209.2	280.8
	(% of total exports)				
Americas	34.2	32.8	31.3	26.3	29.1
United States	12.6	12.5	13.5	10.3	11.2
Other America	21.6	20.3	17.8	16.0	17.9
Argentina	8.2	6.4	4.4	4.1	4.2
Chile	2.3	2.8	2.3	1.8	2.5
Mexico	2.1	1.9	2.2	1.8	2.0
Canada	1.3	1.4	1.5	2.0	1.8
Colombia	1.2	1.2	1.4	1.1	1.2
Peru	1.0	0.9	1.0	0.8	1.1
Paraguay	1.2	1.3	1.1	1.0	1.1
Saint Lucia	0.2	0.2	0.0	0.0	0.8
Uruguay	1.1	1.3	1.1	0.8	0.7
Europe	17.2	18.0	17.1	17.1	16.6
EU-27	14.1	14.8	13.6	13.2	13.0
Netherlands	3.4	3.5	3.2	3.2	3.3
Spain	1.8	2.2	1.8	1.9	1.9
Germany	2.3	2.2	2.1	2.0	1.8
Italy	1.7	1.5	1.4	1.5	1.4
Belgium	1.5	1.4	1.4	1.3	1.2
Portugal	0.7	0.6	0.5	0.8	0.9
France	1.0	1.1	1.2	1.0	0.9
EFTA	0.8	0.8	1.1	1.2	1.3
Switzerland	0.4	0.4	0.6	0.7	0.7
Other Europe	2.3	2.4	2.4	2.7	2.4
Türkiye	0.8	1.0	1.0	1.3	1.1
United Kingdom	1.3	1.3	1.3	1.2	1.1
CIS[a]	1.4	0.9	1.0	0.9	0.8
Africa	4.4	3.5	3.4	3.8	3.4
Egypt	1.1	0.9	0.8	0.8	0.7
Middle East	5.4	4.2	4.9	4.2	3.6
United Arab Emirates	1.2	0.9	1.0	1.0	0.8
Iran, Islamic Republic of	1.2	1.0	1.0	0.6	0.7
Asia	36.3	39.8	42.3	47.7	46.6
China	22.1	27.6	28.7	32.4	31.3
Japan	2.4	1.9	2.5	2.0	2.0
Other Asia	11.8	10.3	11.2	13.3	13.3
Singapore	0.9	1.0	1.3	1.8	2.1
Korea, Republic of	1.4	1.5	1.6	1.8	2.0
India	2.2	1.7	1.3	1.4	1.7
Malaysia	1.2	0.9	1.3	1.5	1.7
Thailand	0.8	0.8	0.8	1.0	1.0
Viet Nam	0.8	0.8	0.9	1.1	0.9
Indonesia	0.8	0.6	0.8	1.0	0.7
Hong Kong, China	1.2	1.2	1.1	1.1	0.7
Other	1.0	0.8	0.0	0.0	0.0
Memorandum:					
EU-28	15.4	16.1	14.9	14.4	14.1
MERCOSUR	10.7	9.2	6.9	6.3	6.4

a Commonwealth of Independent States, including certain associate and former member States.

Source: WTO Secretariat calculations, based on UN Comtrade database.

Table A1.4 Merchandise imports by origin, 2017-21

	2017	2018	2019	2020	2021
Total imports (USD billion)	165.9	192.8	193.2	166.3	234.7
	(% of total imports)				
Americas	35.6	35.4	35.3	33.2	34.6
United States	17.7	18.0	19.0	17.9	17.7
Other America	17.9	17.4	16.3	15.3	16.9
Argentina	5.9	6.0	5.7	4.9	5.3
Mexico	2.8	2.8	2.7	2.4	2.0
Chile	2.2	1.8	1.7	1.8	1.9
Paraguay	1.7	1.5	1.5	1.8	1.6
Saint Lucia	0.0	0.0	0.0	0.0	1.3
Canada	1.2	1.3	1.3	1.2	1.2
Colombia	0.9	1.0	0.8	0.8	0.9
Uruguay	0.8	0.6	0.6	0.7	0.8
Plurinational State of Bolivia	0.9	0.9	0.8	0.7	0.6
Peru	1.0	1.0	0.8	0.5	0.5
Europe	23.4	22.4	22.2	22.5	20.3
EU-27	19.9	19.1	18.6	18.9	17.1
Germany	5.9	5.9	5.8	5.8	5.1
Italy	2.6	2.6	2.5	2.5	2.5
France	2.9	2.8	2.6	2.6	2.1
Spain	1.9	1.7	1.6	1.7	1.5
Belgium	1.1	1.0	0.9	0.9	1.1
Netherlands	1.2	0.9	1.2	0.9	0.9
Sweden	0.7	0.7	0.7	0.8	0.8
EFTA	1.6	1.5	1.7	1.6	1.3
Switzerland	1.2	1.2	1.4	1.2	1.0
Other Europe	1.9	1.8	1.9	2.0	1.9
United Kingdom	1.5	1.3	1.4	1.4	1.1
Türkiye	0.4	0.4	0.4	0.5	0.6
CIS[a]	2.1	2.3	2.4	2.2	3.1
Russian Federation	1.7	1.9	2.1	1.8	2.7
Africa	3.5	3.6	3.0	2.3	2.9
Morocco	0.6	0.5	0.5	0.7	0.9
Middle East	2.5	2.8	2.8	2.8	2.0
Asia	32.8	33.4	34.1	36.9	37.2
China	17.5	19.0	19.4	22.1	22.8
Japan	2.5	2.6	2.5	2.6	2.3
Other Asia	12.7	11.8	12.2	12.2	12.1
India	1.9	2.1	2.4	2.6	3.1
Korea, Republic of	3.3	2.9	2.7	2.8	2.3
Viet Nam	1.4	1.3	1.4	1.5	1.3
Chinese Taipei	1.3	1.2	1.2	1.3	1.2
Thailand	1.0	0.9	0.9	0.9	1.0
Indonesia	0.9	0.7	0.7	0.7	0.8
Malaysia	0.9	0.9	0.7	0.7	0.8
Australia	0.9	0.6	0.5	0.4	0.5
Other	0.1	0.2	0.2	0.2	0.0
Memorandum:					
EU-28	21.4	20.4	20.0	20.3	18.3
MERCOSUR	8.7	8.2	7.8	7.5	7.9

a Commonwealth of Independent States, including certain associate and former member States.

Source: WTO Secretariat calculations, based on UN Comtrade database.

Table A2.1 Notifications to the WTO, 1 January 2017-31 January 2022

Agreement	Description	Periodicity	WTO document (last if recurrent)
Agreement on Agriculture			
Articles 10 and 18.2 - ES:1	Export subsidies commitments	Annual	G/AG/N/BRA/65, 03/12/2021
Articles 10 and 18.2 - ES:2			G/AG/N/BRA/66, 03/12/2021
Articles 10 and 18.2 - ES:3			G/AG/N/BRA/67, 03/12/2021
Article 18.2 - DS:1	Total aggregate measurement of support	Annual (or longer for developing and least developed Members)	G/AG/N/BRA/63, 17/05/2021
Article 18.2 - MA:1	Market access - administration of tariff and other quota commitments	One-off then changes *ad hoc*	G/AG/N/BRA/55, 12/02/2020
Article 18.2 - MA:2	Market access - volume of imports under tariff and other quotas	Annual	G/AG/N/BRA/64, 15/10/2021
Article 18.3 - DS:2[a]	New or modified exempt domestic support measures	*Ad hoc*	G/AG/N/BRA/34, 26/01/2015
			G/AG/N/BRA/31, 18/11/2013
General Agreement on Trade in Services (GATS)			
Article III:3	Trade in Services - Laws/regulations (GATS)	*Ad hoc*	S/C/N/1023, 12/10/2020
Article III:4 and/or Article IV:2	Contact and enquiry points	Once	S/ENQ/78/Rev.20, 25/03/2020
WT/L/847[a]	Preferential treatment to services and service suppliers of LDCs	Once; *ad hoc* for changes thereafter	S/C/N/839, 05/11/2015
Agreement on the Implementation of Article VI of the GATT 1994			
Article 16.4	Anti-dumping actions	*Ad hoc*	Multiple notifications; from G/ADP/N/295, 30/01/2017 to G/ADP/N/363, 08/12/2021
	Anti-dumping actions (taken within the preceding six months)	Semi-annual	G/ADP/N/357/BRA, 19/10/2021
Article 18.5[a]	Laws/regulations (and changes thereto, including changes in the administration of such laws)	Once; *ad hoc* for changes thereafter	G/ADP/N/1/BRA/3, 20/09/2013
GATT 1994			
Article XVII:4(a) - Understanding on the Interpretation of Article XVII	State trading activities	Annual (triennial full notification and annual changes)	G/STR/N/18/BRA, 02/11/2020
Article XXIV:7(a) - Free-Trade Areas	Free trade areas (agreement)	*Ad hoc*	WT/REG98/N/1, 01/04/2019
Article XXVIII:5	Modification of schedules (reserve the right to modify schedules for a three-year period)	Triennial	G/MA/378, 01/10/2020

Agreement	Description	Periodicity	WTO document (last if recurrent)
Agreement on Import Licensing Procedures			
Article 1.4(a)[a]	Sources in which rules and information relevant to the Agreement are published and copies of publications	Once; *ad hoc* for changes thereafter	G/LIC/N/1/BRA/7, 31/08/2016
Article 8.2(b)[a]	Changes in laws/regulations and administrative procedures (first notification: full text of relevant legislation)		G/LIC/N/1/BRA/6, 22/10/2014
Articles 5.1, 5.2, 5.3[a]	Institution of import licensing procedures or changes thereto	*Ad hoc*	G/LIC/N/2/BRA/7, 31/08/2016
			G/LIC/N/2/BRA/6, 22/10/2014
Article 7.3[a]	Replies to Questionnaire on Import Licensing Procedures	Annual	G/LIC/N/3/BRA/11, 31/08/2016
Agreement on Subsidies and Countervailing Measures			
Article 25.1 and Article XVI:1 of the GATT	Subsidies	Annual (triennial full notification and annual changes)	G/SCM/N/372/BRA, 01/07/2021
Article 25.11	Countervailing duty actions	*Ad hoc*	G/SCM/N/384, 11/11/2021
			G/SCM/N/382, 15/09/2021
			G/SCM/N/381, 06/08/2021
			G/SCM/N/340, 28/11/2018
			G/SCM/N/338, 17/09/2018
			G/SCM/N/330, 22/02/2018
			G/SCM/N/316, 21/02/2017
	Countervailing duty actions (taken within the preceding 6 months)	Semi-annual	G/SCM/N/379/BRA, 19/10/2021
Article 32.6	Laws/regulations (and changes thereto, including changes in the administration of such laws)	Once (at the date of entry into force of the WTO Agreement for existing laws and regulations); *ad hoc* (as and when a Member establishes such laws and regulations, or makes changes in existing laws and regulations or in the administration of such laws)	G/SCM/N/1/BRA/2/Suppl.16, 20/10/2020
			G/SCM/N/1/BRA/2/Suppl.15, 14/10/2020
			G/SCM/N/1/BRA/2/Suppl.14, 30/01/2019
			G/SCM/N/1/BRA/2/Suppl.13, 30/01/2019
			G/SCM/N/1/BRA/2/Suppl.12, 08/02/2018

Agreement	Description	Periodicity	WTO document (last if recurrent)
Agreement on Safeguards			
Article 12.5 and 8.2	Suspensions of equivalent concessions	*Ad hoc* (when relevant action is taken)	G/L/1422; G/SG/N/12/BRA/5, 14/12/2021
Article 12.6	Laws/regulations and administrative arrangements (and changes thereto), or absence thereof	Once (promptly after the date of entry into force of the WTO Agreement); *ad hoc* (promptly after the establishment of such laws, regulations and administrative procedures, with updates as necessary to reflect modifications)	G/SG/N/1/BRA/3/Suppl.7, 20/10/2020
			G/SG/N/1/BRA/3/Suppl.6, 14/10/2020
			G/SG/N/1/BRA/3/Suppl.5, 30/01/2019
			G/SG/N/1/BRA/3/Suppl.4, 30/01/2019
			G/SG/N/1/BRA/3/Suppl.3, 08/02/2018
Agreement on the Application of Sanitary and Phytosanitary Measures			
Article 7, Annex B	Sanitary/phytosanitary regulations	*Ad hoc*	Multiple notifications; from G/SPS/N/BRA/1204, 05/01/2017 to G/SPS/N/BRA/2000, 28/01/2022
Agreement on Technical Barriers to Trade			
Article 10.7[a]	Bilateral and multilateral agreements; conformity assessment procedures; standards; technical regulations	*Ad hoc*	G/TBT/10.7/N/132, 01/07/2016
			G/TBT/10.7/N/131, 01/07/2016
			G/TBT/10.7/N/130, 30/06/2016
			G/TBT/10.7/N/129, 30/06/2016
Article 2.10	Technical regulations (urgent)	*Ad hoc*	G/TBT/N/BRA/1155, 26/03/2021
Article 2.9	Technical regulations	*Ad hoc*	Multiple notifications; from G/TBT/N/BRA/702, 05/01/2017 to G/TBT/N/BRA/1305, 25/01/2022
Articles 2.9 and 5.6	Technical regulations and conformity assessment procedures	*Ad hoc*	Multiple notifications; from G/TBT/N/BRA/806, 11/04/2018 to G/TBT/N/BRA/1264, 22/09/2021
Article 5.6	Conformity assessment procedures	*Ad hoc*	Multiple notifications; from G/TBT/N/BRA/927, 22/10/2019 to G/TBT/N/BRA/1157, 30/03/2021
Article 5.7	Conformity assessment procedures	*Ad hoc*	G/TBT/N/BRA/978, 16/03/2020
Unspecified	Technical regulations	*Ad hoc*	G/TBT/N/BRA/635, 22/04/2015
Trade Facilitation Agreement (WT/L/911)[a]			
	Category A commitments	Once	WT/PCTF/N/BRA/1, 29/07/2014

Agreement	Description	Periodicity	WTO document (last if recurrent)
TRIPS Agreement			
Article 63.2	Laws / regulations	Once (as soon as possible after an obligation under the TRIPS Agreement becomes effective for the Member in question); *ad hoc* (in case of subsequent modifications of laws and regulations or the introduction of new ones)	IP/N/1/BRA/4; IP/N/1/BRA/P/6; 14/11/2019
Regional Trade Agreement			
Enabling clause - RTA	Preferential arrangements	*Ad hoc*	Multiple notifications; from WT/COMTD/N/53, 20/06/2017 to WT/COMTD/RTA15/N/1, 03/03/2020
Notification of category commitments under the TFA			
Article 1.4	Trade Facilitation (category commitments under the TFA)		G/TFA/N/BRA/2, 17/03/2017
	Trade Facilitation (category commitments under the TFA)		G/TFA/N/BRA/1, 17/03/2017
Agreement on Rules of Origin			
Article 5 §4 A II	Laws / regulations	Once (within 90 days of the date of entry into force of the WTO Agreement for the Member concerned)	G/RO/N/186, 15/04/2019
Decision on Notification Procedures for Quantitative Restrictions (G/L/59)			
	Quantitative restrictions (complete notification)	Biennial	G/MA/QR/N/BRA/2, 28/09/2018

a Latest notification so far.

Source: WTO Secretariat

Table A3.1 Summary analysis of Brazil's MFN tariff, 1 April 2022

	Number of lines	Average (%)	Range (%)	Coefficient of variation (%)	Duty-free (%)
Total	**10,433**	**10.0**	**0-55**	**0.9**	**28.6**
HS 01-24	1,341	9.1	0-55	0.6	11.7
HS 25-97	9,092	10.1	0-35	0.9	31.1
By WTO category					
WTO agricultural products	1,081	8.9	0-55	0.6	15.3
Animals and products thereof	139	7.0	0-14.4	0.6	20.1
Dairy products	37	15.8	0-55	0.7	16.2
Fruit, vegetables, and plants	297	8.6	0-55	0.6	13.8
Coffee and tea	30	11.4	0-18	0.4	10.0
Cereals and preparations	140	10.1	0-18	0.5	15.7
Oils seeds, fats, oil and their products	131	7.0	0-12.6	0.5	15.3
Sugars and confectionery	23	13.8	0-18	0.3	8.7
Beverages, spirits and tobacco	78	15.1	0-27	0.2	1.3
Cotton	7	5.7	5.4-7.2	0.1	0.0
Other agricultural products, n.e.s.	199	6.8	0-12.6	0.6	21.1
WTO non-agricultural products	9,352	10.1	0-35	0.9	30.2
Fish and fishery products	367	9.1	0-32	0.3	4.6
Minerals and metals	1,231	8.6	0-18	0.6	19.3
Chemicals and photographic supplies	3,298	5.0	0-18	1.2	55.9
Wood, pulp, paper and furniture	432	9.2	0-18	0.6	15.5
Textiles	836	22.1	0-35	0.4	5.5
Clothing	243	35.0	35-35	0.0	0.0
Leather, rubber, footwear and travel goods	234	13.8	0-35	0.7	7.3
Non-electric machinery	1,135	9.7	0-18	0.5	19.6
Electric machinery	614	10.7	0-22.5	0.6	24.6
Transport equipment	246	17.3	0-35	0.7	20.7
Non-agricultural products, n.e.s.	689	11.3	0-30	0.6	21.3
Petroleum	27	0.3	0-5.4	3.6	92.6
By ISIC sector[a]					
ISIC 1 - Agriculture, hunting and fishing	544	6.4	0-55	0.7	25.6
ISIC 2 - Mining	126	2.3	0-9	0.9	29.7
ISIC 3 - Manufacturing	9,762	10.3	0-55	0.9	28.7
Manufacturing excluding food processing	8,921	10.2	0-35	0.9	30.7
By stage of processing					
First stage of processing	1,068	6.0	0-55	0.8	26.0
Semi-processed products	3,964	7.7	0-26	1.0	42.0
Fully processed products	5,401	12.4	0-55	0.7	19.3
By HS section					
01 Live animals and products	522	8.3	0-55	0.6	11.3
02 Vegetable products	420	7.0	0-55	0.6	20.7
03 Fats and oils	79	8.2	0-10.8	0.3	3.8
04 Prepared food, beverages and tobacco	320	13.5	0-35	0.3	2.5
05 Mineral products	208	1.8	0-5.4	1.0	50.0
06 Chemicals and products thereof	3,096	4.7	0-16.2	1.2	57.4
07 Plastics, rubber, and articles thereof	432	9.5	0-18	0.7	29.2
08 Raw hides and skins, leather, and its products	113	10.3	0-35	0.6	11.5
09 Wood and articles of wood	182	7.0	0-12.6	0.6	20.3
10 Pulp of wood, paper and paperboard	223	9.9	0-16	0.5	13.5
11 Textiles and textile articles	1,051	25.0	0-35	0.4	3.4
12 Footwear, headgear, etc.	70	24.1	0-35	0.4	1.4
13 Articles of stone, plaster, cement	222	9.6	0-18	0.4	7.7
14 Precious stones and metals, pearls	65	8.4	0-16.2	0.7	26.2
15 Base metals and articles thereof	748	10.4	0-18	0.5	13.6
16 Machinery, electrical equipment, etc.	1,761	10.1	0-22.5	0.6	21.5
17 Transport equipment	259	16.9	0-35	0.7	21.2
18 Precision equipment	444	10.1	0-20	0.7	26.8
19 Arms and ammunition	25	17.3	0-18	0.2	4.0
20 Miscellaneous manufactured articles	174	15.0	0-20	0.3	9.2
21 Works of art, etc.	19	3.6	3.6-3.6	0.0	0.0

a ISIC (Rev.2) classification, excluding electricity (1 line).

Source: WTO Secretariat calculations, based on data provided by the authorities.

Table A3.2 BNDES selected export finance programmes, 2017

Activity/products targeted	Conditions	Rates/charges
EXIM Pre-shipment (BNDES Circular No. 007/2018, 20 August 2018)		
Finances working capital for Brazilian exporters of goods. Applications above BRL 20 million can be made directly with BNDES, without agent bank intermediation.	Financing granted for up to 48 months for capital goods from large companies and 36 months for all other products. Covers up to 100% of exports' value for MSMEs and 80% for other companies.[a] To qualify automatically, goods must be accredited[b] by BNDES, or have a previously known reference of local content, or meet PPB criteria.[c]	Interest rates: BNDES Fixed Rate[d] (MSMEs), TLP[e], Selic[f] or LIBOR. BNDES spread: 1.2% p.a. to 1.5% p.a. + BNDES risk premium; or + agent bank spread: negotiated between the institution and the exporter.
EXIM Pre-shipment "anchor" (BNDES Circular No. 008/2018, 20 August 2018)		
Finances working capital for companies that carry out indirect exports (goods produced by other companies).	Financing period, coverage and eligibility criteria same as EXIM Pre-shipment.	Interest rates same as for EXIM Pre-shipment.
EXIM Automatic (BNDES Circular No. 009/2015, 24 August 2015)		
Finances commercialization of Brazilian goods abroad (at the post-shipment phase) through a network of accredited banks in Latin America and Africa. Capital and consumer goods are eligible.	Financing up to 100% of exports' value, with a credit limit of USD10 million per application. Financing period: up to 7 years.	Interest rates: LIBOR + BNDES spread (0.4% to 1.35% p.a., depending on the importing country's political risk) + spreads of the intermediary financial institutions in Brazil and overseas.
EXIM Post-shipment (BNDES Circular No. 008/2015, 27 July 2015, and annexes)		
Finances commercialization of Brazilian goods and services abroad. Can be granted to the importer via the exporter (supplier's credit modality) or directly to the importer (buyer's credit modality). Eligible services include those associated with the export of qualified goods, as well as construction, engineering and aircraft maintenance and repair services.	Financing for up to 15 years, and 100% of the export value (85% for aircraft and related exports). To qualify automatically, goods must be accredited[b] by BNDES, or have a previously known reference of local content, or meet PPB criteria.[c]	Interest/discount rates: (LIBOR, US Treasury Bonds, Euro Area Yield Curve, or EURIBOR) + BNDES spread (at least 0.9% p.a.) + a risk premium. BNDES also levies a management fee (up to 1% of disbursed amount) and a commitment fee (up to 0.5% p.a. on the unused credit balance). The intermediary bank levies an administration fee (up to 1% of disbursed amount).

a BNDES defines MSMEs as those whose annual gross operating revenue does not exceed BRL 300 million.

b A new methodology for goods' accreditation became effective on 3 December 2018. As a result, the formerly used index of nationalization (measuring a product's domestic content in value or weight terms) was replaced by an index that takes into account the national production chain's involvement, the product's technological content, R&D investments' share in turnover, export sales' share in turnover, value added per employee, and qualified workers' share in the workforce. For more details, see https://www.bndes.gov.br/wps/portal/site/home/financiamento/servicos-online/credenciamento-de-equipamentos.

c PPB criteria are a set of predefined manufacturing steps that must take place in Brazil (Section 3.3.1.1).

d The BNDES Fixed Rate is calculated daily. It was 12.22% p.a. for credits up to 36 months and 11.95% p.a. for credits up to 48 months as of 12 April 2022.

e The TLP is based on fixed and variable components. Its fixed component is the three-month average real interest rate on five-year National Treasury Notes (NTN-B) multiplied by fixed adjustment factor. The variable component is inflation, as measured by the IPCA. As of 12 April 2022, the TLP was IPCA + 4.94% p.a.

f The Selic rate is the overnight rate set daily by the Central Bank of Brazil.

Source: Information provided by the authorities.

Table A3.3 Selected federal incentive schemes, 2022

Description	Beneficiaries	Total revenue forgone 2017-22 (BRL million)[a]
Programme for Technological Development of the Semiconductor Industry (PADIS)		
Zero-rated PIS, COFINS, and IPI on imported or locally purchased machinery, appliances, and equipment to be incorporated into fixed assets. Zero-rated CIDE on sales of transmitters; Zero rated IRPJ and financial credit to offset the IRPJ, proportional to the expenditure on research, development and innovation. Expiry date: 31 December 2026.	Semiconductor and display manufacturers that invest at least 5% of their gross domestic earnings in R&D.	2,658.9
Programme for Technological Development of the Digital TV Equipment Industry (PATVD)		
Zero-rated IPI, PIS, COFINS, and CIDE on sales of transmitters, as well as on overseas payments for capital goods and for the use of technology or software. Expiry date: 22 January 2017.	Companies that invest in R&D and manufacture transmitters.	0.2
Special Regime of Incentives for Infrastructure Development (REIDI)		
Suspends PIS and COFINS on machinery and equipment acquired for incorporation as fixed assets in infrastructure works.	Builders of infrastructure facilities for transportation, energy (electricity and gas), basic sanitation, and irrigation.	7,772.5
Special Tax Regime for the Defence Industry (RETID)		
Suspends PIS, COFINS, and IPI on imports by RETID beneficiaries, and on domestic suppliers' sales to RETID beneficiaries. Expiry date: 22 March 2032.	Companies admitted to RETID and their suppliers of inputs and services.	494.7
Special Tax Regime for the Modernization and Expansion of Ports (REPORTO)		
Acquisition of machinery and equipment is exempt from IPI, COFINS, PIS, and import duty (in case of goods without domestic equivalent). Expired on 31 December 2020 and reinstated during 1 January 2022-31 December 2023.	Port operators, concessioners and users, as well as railroad concessioners and dredging companies.	903.5
Special Regime for the Brazilian Aerospace Industry (RETAERO)		
Suspends PIS and IPI on domestic sales and imports of specific goods. Expiry date: 14 June 2020.	Companies that manufacture inputs or provide technology services to RETAERO beneficiaries in the production, modernization, maintenance or repair of aircraft.	16.0
IT Capacity-Building and Competitiveness-Enhancement (Lei da informática)		
Reduces IPI rates on IT goods manufactured according to a predefined PPB. Financial credit to offset the IRPJ, proportional to the expenditure on research, development, and innovation.	Computing, automation, telecommunications, microelectronics, software and technical services industries.	39,426.8
Innovation Law		
Halves IPI rates on relevant machinery, equipment, appliances and instruments. Zero-rates income tax (IR) on overseas payments to register/maintain IPRs. Allows various tax base reductions (deductible expenses, same-year depreciation, and accelerated amortization).	Companies investing in technology R&D	19,084.9

a Includes estimates for the years 2020-22.

Source: RFB, *Statement of Tax Expenditures* (*Demonstrativo dos Gastos Tributários, Estimativas Bases Efetivas*, 2019)

Table A4.1 Domestic agricultural support notified to the WTO, 2016/17, 2017/18, 2018/19, 2019/20

(USD '000)

	Agricultural Year 2016/17		Agricultural Year 2017/18		Agricultural Year 2018/19		Agricultural Year 2019/20	
		Below *de minimis*		Below *de minimis*		Below *de minimis*		Below *de minimis*
Product-specific AMS	**75,291.2**		**100,929.3**		**0**		**88,995**	
Coffee	9,130.9	Yes	..		..		..	
Maize	64,146.6	Yes	91,461.9	Yes	..		..	
Rice	..		9,467.4	Yes	..		..	
Sugar cane	247.5	Yes	..		..		..	
Wheat	1,766.2	Yes	..		..		..	
Orange	..		..		..		88,995	Yes
Non-product-specific AMS	**1,872,553.9**	Yes	**1,046,534.3**	Yes	**977,836**	Yes	**1,285,543**	Yes
Non-product-specific production and marketing credit	650,476.2		..		10,309		..	
Debt rescheduling programmes	1,015,427.9		957,774.5		783,449		738,138	
Insurance programmes	206,649.8		88,759.8		184,078		547,405	
Total AMS	**0**		**0**		**0**		**0**	
Green box assistance	**1,660,735.3**		**1,590,668.5**		**1,404,471**		**1,085,762**	
Research	63,456.8		65,625.7		50,670		16,055	
Pest and disease control	20,591.1		19,704.1		16,568		12,588	
Training services	1,930.4		1,554.8		1,171		3,123	
Extension and advisory services	87,561.9		107,878.8		68,689		42,082	
Inspection services	643.5		728.2		507		5,441	
Marketing and promotion services	2,639.2		6,811.2		3,776		1,323	
Infrastructural services	15,757.3		58,720.5		19,405		10,472	
Other general services	43,315.6		45,645.8		57,863		37,600	
Public stockholding for food security purposes	89,685.4		77,681.9		63,371		28,985	
Domestic food aid	1,219,999.6		1,173,778.6		1,003,748		837,270	
Payments for relief from natural disasters	115,154.5		32,539.0		118,703		90,823	
S&D assistance	**645,925.9**		**108,272.1**		**74,210**		**84,955**	
Investment subsidies generally available to agriculture	534,046.6		54,703.3		52,225		60,030	
Input subsidies available to low-income or resource-poor producers	111,879.3		53,568.8		21,985		24,925	
Support for diversification from growing illicit narcotic crops	..		..		..		..	
Total notified assistance	**4,254,506.3**		**2,846,404,2**		**2,456,517**		**2,545,255**	

.. Not available.

Source: WTO document G/AG/N/BRA/52, 1 February 2019; G/AG/N/BRA/58, 19 February 2020; G/AG/N/BRA/63, 17 May 2021; and G/AG/N/BRA/69, 18 February 2022.

Table A4.2 Brazil's air transport agreements and related action, 2022

Partner (signature)	Entry into force	Traffic rights (freedoms)			Cooperative arrangements[a]	Multiple designation[b]	Pricing					Capacity			Withholding clause[f]	Statistics	ALI
		5th	7th	cabotage			Dual approval	Dual disapproval	Country of origin	Zone pricing	Free pricing	Predetermination	Free determination	Other			
Albania (ASA signed on 04/11/2015)		x			x	x					x		x		x	x	29.0
Angola (signed on 16/12/1993, new ASA signed on 24/09/2019)	16/12/1983				x	x					x	x			x	x	10.0
Argentina (signed on 02/06/1948, new ASA negotiations initiated on 19/10/2006)	30/06/1967	x			x	x			x			x			x	x	16.0
Aruba (MoU signed on 23/06/2006, new ASA signed on 16/09/2014)		x			x	x					x		x		x	x	29.0
Australia (signed on 21/04/2010, MoU signed on 08/07/2008)		x			x	x			x			x			x	x	16.0
Austria (signed on 16/07/1993, MoU signed on 15/11/1995)	10/10/1995				x	x	x					x			x	x	13.0
Azerbaijan (negotiations initiated on 10/12/2012)					x	x					x		x		x	x	23.0
Bahrain, Kingdom of (ASA signed on 14/11/2018)	28/08/2021	x			x	x					x		x		x	x	29.0
Bahamas (signed on 07/12/2016)		x			x	x					x		x		x	x	29.0
Barbados (signed on 26/04/2010, MoU signed on 19/05/2005)		x				x	x					x			x	x	10.0
Belgium (signed on 04/10/2009, MoU signed on 20/05/2008)	22/09/2011	x			x	x			x			x			x	x	16.0
Benin (MoU signed on 07/12/2016, ASA signed on 26/04/2018)					x	x					x		x		x	x	24.0
Bolivia, Plurinational State of (signed on 02/06/1951, new MoU signed on 02/09/2004)	18/06/1954	x				x	x					x			x	x	10.0
Botswana (ASA negotiations initiated and MoU signed on 08/12/2016)		x			x	x					x		x		x	x	29.0
Burkina Faso (ASA negotiations initiated and MoU signed on 18/04/2012)					x	x					x		x		x	x	23.0
Cambodia (ASA negotiations initiated and MoU signed on 27/03/2017)		x			x	x					x	x			x	x	29.0

Partner (signature)	Entry into force	Traffic rights (freedoms)			Cooperative arrangements[a]	Multiple designation[b]	Pricing					Capacity			Withholding clause[f]	Statistics	ALI
		5th	7th	cabotage			Dual approval	Dual disapproval	Country of origin	Zone pricing	Free pricing	Predetermination	Free determination	Other			
Cameroon (ASA negotiations initiated and MoU signed on 19/01/2006)						x			x			x			x	x	13.0
Canada (signed on 15/05/86, MoU signed on 18/02/2011, new ASA signed on 08/08/2011)	09/03/1990	x			x	x					x		x		x	x	29.0
Cabo Verde (signed on 29/07/2004, new ASA signed on 31/10/2016, MoU signed on 09/12/2021)	13/03/2008	x	x[c]		x	x					x		x		x	x	29.0
Chile (signed on 30/07/2009, MoU signed on 13/05/2010, new Route Scheduled updated via exchange of correspondence and in force since 13/04/2020)	13/04/2020	x	x[c]		x	x					x		x		x	x	35.0
China (signed on 11/07/1994, MoU signed on 13/09/2017)	16/02/1998	x			x	x			x			x			x	x	16.0
Colombia (ASA signed on 28/05/1958, new ASA signed on 19/10/2021 and MoU signed on 12/12/2018)	02/07/1975	x			x	x			x			x[d]			x	x	16.0
Congo, Dem. Rep. of (ASA negotiations in course, MoU signed on 08/12/2021)					x	x					x		x		x	x	29.0
Costa Rica (ASA signed on 04/04/2011)	24/09/2018	x			x	x					x		x		x	x	29.0
Côte d'Ivoire (ASA signed on 13/10/2017)					x	x					x		x		x	x	23.0
Cuba (signed on 27/05/98, MoU signed on 25/02/2011, new ASA signed on 31/01/2012)	17/05/2000				x	x					x	x			x	x	15.0
Curaçao (negotiations initiated on 01/07/2011, new ASA signed on 03/12/2013, new MoU signed on 20/05/2015)		x			x	x					x		x		x	x	29.0
Czech Republic (ASA negotiations finished (waiting for signature) and MoU signed on 08/12/2021)		x	x[c]		x	x					x		x		x	x	29.0
Dominican Republic (signed on 14/05/2018, MoU signed and Protocol of Amendment of the ASA initialled on 07/12/2021)		x	x[c]		x	x					x		x		x	x	29.0
Ecuador (ASA negotiations initiated and MoU signed on 19/04/2012, ASA signed on 02/05/2013)		x	x[c]		x	x					x		x		x	x	29.0

Partner (signature)	Entry into force	Traffic rights (freedoms)			Cooperative arrangements[a]	Multiple designation[b]	Pricing					Capacity			Withholding clause[f]	Statistics	ALI
		5th	7th	cabotage			Dual approval	Dual disapproval	Country of origin	Zone pricing	Free pricing	Predetermination	Free determination	Other			
Egypt (negotiations initiated on 24/06/2005, new MoU signed on 22/10/2015)					x	x			x			x[d]	x[d]		x	x	16.0
El Salvador (ASA negotiations finished and MoU signed on 06/12/2021)		x	x[c]		x	x					x		x		x	x	21.0
Ethiopia (negotiations initiated on 01/07/2010, ASA signed on 24/05/2013)		x			x	x					x		x		x	x	21.0
Finland (ASA negotiations initiated and MoU signed on 14/09/2018)		x	x[c]		x	x					x		x		x	x	29.0
France (signed on 29/10/1965, new ASA negotiations initiated on 13/03/2008, updated via exchange of correspondence on June 2012)	19/02/1967	x			x	x			x			x			x	x	18.0
French Polynesia, France (MoU signed on 03/06/2016, complementing the ASA between Brazil and France signed on 29/10/1965)	19/02/1967	x			x	x			x				x		x	x	29.0
Germany (signed on 29/08/57, new ASA negotiations initiated on 23/11/2007)	15/08/1964	x			x	x			x			x			x	x	18.0
Ghana (ASA signed on 12/04/05, new MoU signed on 29/06/2010)		x			x	x					x	x[d]			x	x	21.0
Greece (ASA negotiations finished (waiting for signature) and MoU signed on 07/12/2021)		x			x	x					x	x[d]			x	x	21.0
Guatemala (ASA signed on 30/10/2017)		x			x	x					x		x		x	x	29.0
Guinea, Republic of (ASA negotiations initiated and MoU signed on 08/12/2016)					x	x					x		x		x	x	23.0
Guinea-Bissau (MoU signed on 21/10/2015)		x[e]			x	x						x[d]			x	x	7.0
Guyana (New ASA signed on 28/06/2017)		x			x	x					x		x		x	x	29.0
Haiti (ASA negotiations initiated and MoU signed on 21/12/2018)		x[e]			x	x					x		x		x	x	29.0
Hong Kong, China (signed on 06/09/1991, new ASA negotiations initiated and new MoU signed on 06/12/2017)	04/07/1994	x			x	x			x				x		x	x	24.0
Hungary (signed on 03/04/1997)	16/07/1999					x	x					x			x	x	4.0
Iceland (ASA negotiations initiated and MoU signed on 01/07/2010)		x			x	x					x		x		x	x	29.0

Partner (signature)	Entry into force	Traffic rights (freedoms)			Cooperative arrangements[a]	Multiple designation[b]	Pricing					Capacity			Withholding clause[f]	Statistics	ALI
		5th	7th	cabotage			Dual approval	Dual disapproval	Country of origin	Zone pricing	Free pricing	Predetermination	Free determination	Other			
India (signed on 10/09/06, MoU signed on 04/05/10, new ASA signed on 08/03/2011)		x			x	x					x	x[d]	x[d]		x	x	21.0
Iran, Islamic Republic of (ASA negotiations initiated and MoU signed on 11/12/2018)		x[e]			x	x					x	x[d]	x		x	x	29.0
Iraq (signed on 21/01/1977)	12/12/1979						x					x			x	x	0.0
Israel (signed on 22/07/2009, new ASA signed on 31/03/2019)	14/06/2011	x			x	x					x		x		x	x	21.0
Italy (updated via exchange of correspondence in November 2010)	10/09/1952				x	x					x	x			x	x	15.0
Jamaica (MoU signed on 12/12/2013, ASA signed on 13/02/2014)		x			x	x					x		x		x	x	29.0
Japan (ASA signed on 14/12/1956, MoU signed on 10/04/2014)	28/11/1962	x			x	x			x			x			x	x	16.0
Jordan (signed on 05/11/1975, new ASA negotiations initiated and MoU signed on 09/12/2012)	12/08/1976	x			x	x					x		x		x	x	29.0
Lebanon (signed on 04/02/1997, MoU signed on 08/02/1995)	23/04/1998	x				x	x					x			x	x	10.0
Kenya (ASA signed on 14/09/2010, new ASA negotiations initiated and MoU signed on 10/09/2010)	06/06/2016	x			x	x					x		x		x	x	29.0
Korea, Rep. of (signed on 11/08/1992, new ASA negotiations initiated on 24/04/2009)	31/05/1995	x			x	x					x		x		x	x	29.0
Kuwait, State of (signed on 22/07/2010)	29/01/2019	x			x	x					x		x		x	x	29.0
Luxembourg (MoU signed on 06/06/2018, new ASA signed on 22/11/2018)		x			x	x					x		x		x	x	29.0
Macao, China (signed on 15/07/1994)	08/02/1996	x			x	x	x					x			x		14.0
Malaysia (signed on 18/12/1995, new ASA negotiations initiated and MoU signed on 07/12/2017)	06/08/1998	x			x	x	x						x		x	x	21.0
Malta (ASA negotiations initiated and MoU signed on 25/06/2019)		x			x	x					x	x[d]	x[d]		x	x	21.0
Mauritius (MoU signed on 07/12/2016)		x[e]			x	x					x	x[d]	x[d]		x	x	15.0

Partner (signature)	Entry into force	Traffic rights (freedoms)			Cooperative arrangements[a]	Multiple designation[b]	Pricing					Capacity			Withholding clause[f]	Statistics	ALI
		5th	7th	cabotage			Dual approval	Dual disapproval	Country of origin	Zone pricing	Free pricing	Predetermination	Free determination	Other			
Mexico (new ASA signed on 26/05/2015)	29/09/2018	x			x	x			x			x[d]	x[d]		x	x	24.0
Morocco (new ASA negotiations initiated and MoU signed on 11/09/2009)	07/03/1979				x	x			x			x			x	x	10.0
Mozambique (ASA signed on 17/06/2010, MoU signed on 04/06/2009)		x			x	x			x			x			x	x	16.0
Namibia (ASA negotiations initiated and MoU signed on 12/12/2013)		x			x	x					x		x		x	x	29.0
Netherlands (new ASA signed on 08/07/2019)	01/07/2021	x			x	x					x	x[d]	x[d]		x	x	29.0
New Zealand (signed on 18/06/1996, MoU signed on 12/12/2012 and new ASA signed on 11/03/2013)	29/10/1998	x			x	x					x		x		x	x	29.0
Nicaragua (ASA negotiations initiated and MoU signed on 29/10/2018)		x			x	x					x		x		x	x	29.0
Nigeria (signed on 06/09/2005, new MoU signed on 13/12/2005)	25/09/2008	x[e]			x	x					x	x			x	x	15.0
Oman (ASA negotiations initiated and MoU signed on 01/07/2010, new MoU signed on 08/12/2021)		x	x[c]		x	x					x		x		x	x	29.0
Panama (ASA signed on 25/05/2007, updated via exchange of correspondence in July 2014)	11/01/2010	x	x[c]		x	x					x		x		x	x	29.0
Paraguay (signed on 20/12/1952, new ASA signed on 08/06/2016)	20/05/1954	x	x[c]		x	x					x		x		x	x	29.0
Peru (signed on 11/12/2009, new MoU signed on 15/08/2008)	21/08/1957	x	x[c]		x	x			x		x		x		x	x	24.0
Philippines (ASA negotiations initiated and MoU signed on 20/05/2013)		x			x	x			x				x		x	x	24.0
Poland (signed on 13/03/2000, updated by exchange of correspondence in April 2001)	09/12/2019				x	x	x								x	x	24.0
Portugal (MoU 2019)	08/03/2007	x			x	x					x		x		x	x	29.0
Qatar (ASA signed 28/10/2018 MoU 13/12/2019)		x	x[c]		x	x					x		x		x	x	29.0

Partner (signature)	Entry into force	Traffic rights (freedoms)			Cooperative arrangements[a]	Multiple designation[b]	Pricing					Capacity			Withholding clause[f]	Statistics	ALI
		5th	7th	cabotage			Dual approval	Dual disapproval	Country of origin	Zone pricing	Free pricing	Predetermination	Free determination	Other			
Russian Federation (signed on 22/01/1993, MoU signed on 14/02/2008 and new ASA negotiations initiated on 09/02/2011)	07/11/1995				x	x					x	x			x	x	15.0
Rwanda (ASA signed on 14/08/2019)		x			x	x					x		x		x	x	29.0
Saint Maarten (ASA signed on 08/07/2019)	01/07/2021	x			x	x					x		x		x	x	29.0
Saudi Arabia, Kingdom of (ASA signed on 14/04/2015)	01/09/2021	x			x	x					x				x	x	21.0
Scandinavia (Denmark, Norway, and Sweden) (signed on 18/03/1969, new ASA negotiations initiated and MoU signed on 13/12/2018)	19/02/1970 08/12/1969	x			x	x					x		x		x	x	29.0
Senegal (ASA signed on 16/05/2007, new ASA negotiations initiated and MoU signed on 10/12/2021)	06/11/2009	x			x	x			x			x			x	x	16.0
Serbia (ASA negotiations initiated and MoU signed on 19/10/2015, new MoU signed on 22/03/2022)		x			x	x					x		x		x	x	23.0
Seychelles (MoU signed on 12/12/2013, ASA signed on 19/05/2015)		x			x	x					x		x		x	x	29.0
Sierra Leone (ASA negotiations initiated and MoU signed on 12/12/12)		x			x	x					x		x		x	x	29.0
Singapore (signed on 25/11/2008, new ASA negotiations initiated on 27/06/2008, MoU signed on 29/06/2010)	02/09/1999	x			x	x					x		x		x	x	29.0
Slovenia (ASA negotiations initiated and MoU signed on 22/03/2021)		x			x	x					x		x		x	x	29.0
South Africa (signed on 26/11/1996, MoU signed on 27/05/2008)	17/10/2001	x			x	x			x			x			x	x	16.0
Spain (signed on 28/11/1949, new ASA negotiations initiated on 13/07/2018)	11/03/1954	x			x	x					x	x[d]	x[d]		x	x	21.0
Sri Lanka (ASA negotiations initiated and MoU signed on 08/08/2014)		x			x	x					x		x		x	x	29.0
Sudan (ASA negotiations initiated and MoU signed on 10/12/2013)		x			x	x					x		x		x	x	29.0

Partner (signature)	Entry into force	Traffic rights (freedoms)			Cooperative arrangements[a]	Multiple designation[b]	Pricing					Capacity			Withholding clause[f]	Statistics	ALI
		5th	7th	cabotage			Dual approval	Dual disapproval	Country of origin	Zone pricing	Free pricing	Predetermination	Free determination	Other			
Suriname (signed on 28/01/1980, new ASA negotiations initiated and MoU signed on 21/08/2009)	13/07/1983	x			x	x			x		x		x		x	x	24.0
Switzerland (ASA signed on 08/07/2013)	13/06/2021	x			x	x					x		x		x	x	29.0
Tanzania (negotiations initiated on 30/08/1989, new ASA negotiations initiated and MoU signed on 10/12/2013)		x			x	x					x		x		x	x	29.0
Thailand (signed on 21/03/1991) MoU signed 12/4/2017	22/06/1994	x			x	x					x	x	x		x	x	29.0
Trinidad and Tobago (signed on 23/07/2008, MoU signed on 01/12/2005)		x				x			x			x			x	x	13.0
Togo (ASA negotiations initiated and MoU signed on 12/12/2013)		x			x	x					x		x		x	x	29.0
Türkiye (signed on 21/09/1950, new ASA negotiations initiated on 11/05/2006, MoU signed on 19/10/2015), new ASA signed 12/5/2017	29/03/1952	x			x	x					x	x			x	x	21.0
Ukraine (ASA signed 13/12/1996, new ASA negotiations initiated and MoU signed on 02/12/2009, MoU signed on 19/02/2008)		x			x	x			x						x	x	16.0
United Arab Emirates (ASA signed on 16/03/2017)	17/10/2018	x			x	x					x		x		x	x	29.0
United Kingdom (signed on 31/10/1946, new ASA negotiations initiated on 22/10/2008, updated via exchange of correspondence in October 2010, MoU signed on 4/11/2020)	18/08/1950	x	x[c]		x	x					x		x		x	x	35.0
United States (New ASA signed on 19/03/2011)	21/05/2018	x			x	x					x		x		x	x	29.0
Uruguay (signed on 10/03/2009, MoU signed on 11/07/2012)	11/01/2011	x	x[c]		x	x					x		x		x	x	29.0
Venezuela, Bolivarian Republic of (ASA signed on 30/09/2008, MoU signed on 07/08/2008)	10/10/1991	x			x	x			x			x			x	x	16.0
Viet Nam (MoU signed on 22/10/2015, new ASA signed on 02/07/2018)					x	x					x		x		x	x	23.0

Partner (signature)	Entry into force	Traffic rights (freedoms)			Cooperative arrangements[a]	Multiple designation[b]	Pricing					Capacity			Withholding clause[f]	Statistics	ALI
		5th	7th	cabotage			Dual approval	Dual disapproval	Country of origin	Zone pricing	Free pricing	Predetermination	Free determination	Other			
Yemen (ASA negotiations initiated and MoU signed on 03/07/2013)		x			x	x					x		x		x	x	29.0
Zambia (ASA negotiations initiated and MoU signed on 10/12/2013)		x			x	x					x		x		x	x	29.0
Zimbabwe (ASA negotiations initiated and MoU signed on 11/03/2010)		x			x	x					x		x		x	x	29.0

a One party's airlines may sign code-share and other cooperation agreements with the other party's airlines and with third countries' airlines.
b Parties are allowed to grant authorization to more than one airline to exploit the rights agreed.
c Up to 7th traffic rights for all-cargo services only.
d Free determination of capacity for all-cargo services and predetermination for passenger-combination services.
e Up to 5th traffic rights for all-cargo services and up to 4th traffic rights for passenger-combination services.
f "Withholding clauses" exist in all ASAs signed by Brazil covering capacity as well as safety and security aspects, as a breach of contractual clauses and precaution.

Note: The term "Air Transport Agreements" is used here to refer to Air Services Agreements, Memoranda of Understanding, Exchange of Notes, and other such relevant instruments.

Source: WTO Secretariat, based on information provided by the authorities.