SUMMARY

1. Since its previous Trade Policy Review in 2013, Brazil's largely domestic demand-driven economy slowed down and entered a severe recession in 2015-16, triggered by deteriorating terms of trade and exacerbated by a bout of political uncertainty. Annual GDP growth dropped from 3% in 2013 to 0.9% in 2014 and then turned negative in 2015 and 2016 with consumption and gross fixed capital formation following a similar trend. The recession, one of the most severe in Brazil's history, has been accompanied by a steep rise in inflation (8.7% in 2016) and unemployment (11.3% in 2016) as well as fiscal discipline challenges. While the Brazilian financial system was not significantly impacted by the economic downturn, domestic lending became more cautious and borrower demand decreased.

2. During the review period, trade and trade-related reform initiatives aimed at buttressing growth were undertaken in several areas, including in trade facilitation, anti-dumping, production and trade incentives (e.g., SME support), state-owned enterprises, energy, manufacturing, transport infrastructure, and more are under consideration. Monetary policy interventions were calibrated to contain inflation, which remained at the upper limit of the tolerance range established by the Central Bank of Brazil (BCB) during most of the period under review. The easing of inflationary pressures since October 2016 has enabled the BCB to progressively cut its policy rate from a peak of 14.15%, which should help rekindle growth. The BCB has not sought to influence the exchange rate, limiting its currency market interventions to containing excessive short-term volatility. During 2013-15, the real depreciated by around 20% in real effective terms, moving towards levels more consistent with fundamentals, but appreciated by around 6% in 2016.

3. Fiscal policy has experienced difficulties responding to the severe economic downturn and public expenditure pressures arising from Brazil's demographic dynamics. As a result, the federal budget's primary balance registered widening deficits during 2014-16, interrupting a decade-long succession of surpluses. The downward trajectories of gross and net public sector debt were also reversed, with respective increases from 51.5% to 69.9% of GDP and from 30.5% to 46.2% of GDP between 2013 and 2016. The loss of investment grade in the last quarter of 2015 did not trigger much volatility in public debt management, due to low levels of exposure to foreign currencies and overseas investors. The authorities have taken steps towards fiscal consolidation, including measures to improve the management of public finances and state-controlled enterprises, and the adoption of a New Fiscal Regime in December 2016. Nevertheless, structural deficiencies, such as the complex and burdensome tax system, and federal and sub-federal budget rigidities, are yet to be addressed.

4. The Brazilian economy remains inward oriented, with aggregate two-way trade in goods and services representing about 25% of GDP throughout the review period. International trade and foreign direct investment (FDI) trends reflect the continued importance of the European Union as Brazil's main supplier and a key destination market, although in 2015 China became the single most important destination for Brazilian merchandise exports. Brazil continued to attract sizable FDI inflows, ranging between 2% and 3.3% of GDP, which fully financed the current account deficit in both 2015 and 2016.

5. Brazil remains open to and encourages inward FDI, which is prevalent across the economy. There are several sector-specific foreign ownership prohibitions (certain postal services, and nuclear energy) or limitations (e.g. air transport, financial institutions, health services, rural land acquisition, broadcasting and publishing media, fishing, mining, and hydrocarbons exploration). During the review period, certain healthcare services were further opened to FDI. In addition, a new model of investment agreements, built upon UNCTAD and OECD guidelines, was used to negotiate and sign a series of bilateral investment, promotion and protection treaties whose ratification is under way.

6. Since its last TPR in 2013, Brazil undertook several constitutional amendments including one related to curbing public spending growth. The institutional framework for trade policy formulation remained broadly unchanged except for the transfer of the Executive Secretariat of the Foreign Trade Board (CAMEX) from the Ministry of Industry, Foreign Trade and Services to the Ministry of Foreign Affairs.

7. The overall thrust of Brazil's trade and trade-related policies has not changed during most of the period under review. Their stated trade and trade-related policy objectives have been those of integration into global value chains and raising the competitiveness of domestic products.

Notwithstanding some adjustments, *inter alia*, due to the recent economic slowdown, its longstanding programmes aimed at fostering technological development, shielding certain domestic producers from external competition, attracting investment, and promoting and diversifying exports, remain relatively unchanged.

8. Brazil remains committed to, and an active participant in, the multilateral trading system. During the review period, it improved its WTO commitments by ratifying the Trade Facilitation Agreement (TFA) and depositing its instrument of acceptance of the Fifth Protocol on Financial Services. It now also grants preferential treatment to services and service suppliers from least developed countries (LDCs). During the review period, Brazil made many notifications to the WTO, though most of its trade agreements under the Latin America Integration Association (LAIA) have not yet been reviewed; according to the authorities, action is being taken to address this matter. Brazil was directly involved in seven WTO disputes, five as a complainant and two as a respondent.

9. While Brazil continues to work on strengthening regional economic integration through RTAs negotiated within the framework of the Southern Common Market (MERCOSUR) and the Latin American Integration Association (LAIA), it has also placed emphasis on RTAs negotiated with trading partners outside the region. During the review period, three agreements entered into force (Bolivarian Republic of Venezuela, Guyana/Saint Kitts and Nevis, and Southern African Customs Union), four were concluded with their entry into force pending (Egypt, Colombia, Palestine, and Peru), and two (European Union, and Mexico) are still being negotiated. The lack of a common nomenclature for tariff preferences granted by Brazil under its RTAs undermines their comprehension and full utilization by traders; consequently, the share of aggregate preferential imports in Brazil's total imports remains rather modest, ranging between 13% and 14.5% during 2013-16.

10. No major regulatory reform was undertaken during the review period. The trade-related regulatory policy agenda remains strongly focused on procedural aspects within competent agencies, rather than on an overall simplification of the relatively complex regulatory system. Carrying out regulatory impact assessments (RIA) is not yet a consistent practice across the whole administration. Negative economic growth and fiscal scarcity brought the issue of improving the regulatory system to a strategic position in the policy agenda, so as to attract investment, raise competitiveness and create jobs. Brazil attaches importance to making laws transparent and readily accessible, including by foreigners; additional efforts have been undertaken to make trade and trade-related information available online.

11. The tariff remains one of Brazil's main trade policy instruments, and a significant, albeit declining, source of tax revenue (3.6% of total fiscal revenue in 2016). Brazil applies the MERCOSUR Common External Tariff (CET), with some country-specific derogations. It grants at least most-favoured-nation (MFN) tariff treatment to all trading partners. Brazil's 2017 applied MFN tariff is entirely *ad valorem* and comprises 19 bands, with rates ranging from zero to 55%. The simple average applied MFN tariff declined slightly from 11.7% in 2012 to 11.6% in 2017; for dutiable lines, the decline was from 12.7% to 12.6%. During the review period, Brazil phased out the higher-than-CET rates introduced in 2012 on 100 tariff lines under a temporary MERCOSUR mechanism.

12. Brazil bound its entire tariff during the Uruguay Round at rates between zero and 55% for agricultural products (WTO definition), and from zero to 35% for non-agricultural products. The gap between the average bound and applied rates is some 18.5 percentage points. Applied MFN rates on some 134 tariff lines (up from 120 in 2012) exceed, sometimes partially (due to differences in aggregation levels), Brazil's bindings, *inter alia*, due to CET commitments; in these cases the importer may request application of the bound rate.

13. During the review period, in addition to ratifying the TFA, Brazil took steps to upgrade its single window and its authorized economic operator programme. Brazil maintains a system of automatic and non-automatic licences for imports of various products, regardless of their origin. At end-2016, imports classifiable under some 137 tariff lines were subject to automatic licensing, whereas imports subject to non-automatic licensing requirements spanned at least 5,460 tariff lines (more than half of Brazil's entire tariff). Import licences must be obtained prior to customs clearance; if non-automatic licensing requirements apply, importers are generally advised to obtain the licence before the goods are shipped. Non-automatic licensing is also used in the administration of duty and tax concessions, whereby imports must undergo a "similarity exam" to ascertain that no equivalent domestic production exists.

14. Brazil remains a significant user of trade remedies, particularly anti-dumping (AD) measures. During the period under review, 123 new AD investigations were initiated, and at 31 December 2016, 163 definitive AD measures were in place, covering a wide range of sectors. The regulatory framework for investigation and application of AD measures was amended in 2013 with a view to strengthening trade defence. The main innovations included: mandatory preliminary determinations; refinements to the definition of domestic industry; a lower industry representativeness threshold for the admissibility of AD investigation requests; retroactive application of AD duties; and formalization of on-site investigation procedures. As from end-July 2015, administrative procedures relating to AD investigations have been carried out electronically.

15. Brazil's legal and institutional framework relating to the implementation and administration of the TBT Agreement remained broadly unchanged during the review period. Brazil's approach to granting equivalence remains based on the acceptance of test results, without explicit recognition of foreign technical regulations. Most technical regulations enacted in Brazil are based on international or MERCOSUR standards; whenever this is not the case, they are based on performance criteria. Proposed technical regulations deemed to have trade effects are forwarded to the WTO for Members' comments; during the review period, most such notifications were made less than 60 days before entry into force.

16. Brazil's sanitary and phytosanitary system is based on risk analysis which generally takes account of import origin and product characteristics. The conclusions of pest risk analyses are notified, as a draft for comments, to the pertinent authority of the country of origin and to the WTO. Brazil maintains an Importation Alert Regime (RAI) targeting foreign establishments whose shipments of animal products have been found to be non-compliant with Brazilian SPS requirements.

17. Export taxes remain in place for raw hides and skins, cigarettes, and arms and ammunition. Brazil maintains a number of programmes intended to enhance the competitiveness of export-oriented companies, in particular small-scale enterprises, and to increase exports. A number of finance, insurance, and guarantee schemes offering attractive interest rates and other conditions are available to exporters. Among the main instruments are the Export Financing Programme (PROEX) and the export credit schemes under the BNDES-EXIM programme. The latter is geared towards promoting exports with local value added, and the stated conditions for participation often include domestic-content/production thresholds. According to the Brazilian authorities, these conditions only apply to securing automatic eligibility for financing.

18. Brazil's internal taxation regime remains overly complex, including in the treatment of imported goods and services; customs duties and other taxes on foreign trade transactions account up to 15% of federal tax revenue. Domestic and cross-border transactions are subject to various federal and sub-federal levies; their cross-cumulation for tax base purposes is not uncommon. Incentives and government assistance for production and trade are available at both the federal and sub-federal levels. The scope of Brazil's incentive programmes may be regional, sectoral, or outcome-specific (e.g. fostering research). The range of support measures includes: administered interest rate or concessional financing; tax concessions; financial contributions; accelerated depreciation; guarantees; grants; advisory services; and credit insurance. Incentives granted in the context of certain programmes promoting information technology, telecommunications and automation goods are linked to Basic Productive Process (PPB) criteria, which are product-specific and stipulate which stages of the respective manufacturing process must be carried out in Brazil. Incentives conditional on compliance with PPB criteria are also granted within designated free-trade zones, with a view to promoting the development and regional integration of border areas in Brazil's north region.

19. Brazil, a non-party to the plurilateral Agreement on Government Procurement, maintains a decentralized system of independent procurement jurisdictions at all levels of government that share a common set of rules established by the Federal Government. Tendering via reverse auction is the main mode of awarding contracts. In case of equivalent offers, the legislation allows for preferences for goods and services produced in Brazil, or produced/supplied by domestic companies or by companies that invest in technology development in Brazil. The preferential treatment may include quotas, preference margins, as well as tendering procedures completely restricted to small enterprises based in Brazil. Specific provisions regulate the preferences applicable to micro and small enterprises, and to PPB-compliant goods and services. Seventeen

decrees establishing public procurement preference margins, ranging from 8% to 25%, for various PPB-compliant products, expired at end-December 2016 and March and June 2017.

20. The Federal Government still controls a relatively large number of companies with commercial activities in a wide range of industries, including hydrocarbons, electricity, port services, financial services, transportation, telecommunications, and health services. Some federal state-owned enterprises (SOEs) continue to hold dominant positions in their respective markets. In addition, there are many "public companies" owned or controlled by state and municipal governments. In 2016, Brazil amended the legal status of enterprises with public participation at any level of government, with a view to strengthening their governance and transparency, including in procurement operations.

21. Brazil's intellectual property rights (IPR) legislation covers all the major aspects covered by the TRIPS Agreement. In some areas, including copyright, rights exceed the minimum terms laid down in the Agreement. It continues to struggle with significant backlogs and delays in the processing of applications for IPR protection, which may be hampering technological innovation. Protection was further enhanced with the expansion of international commitments, and the introduction of penalty provisions for infractions in certain areas.

22. Brazil remains a major player in the global trade of certain agricultural commodities. During the review period, the sector's share in gross value added (5.5% in 2016) remained relatively stable, and labour productivity seemingly low, compared to the rest of the economy. The average MFN tariff for agricultural products (10.2%) remains unchanged and the 55% peak rate of the Customs Tariff affects only desiccated coconuts. Although it continues to provide a low and decreasing level of support to its agricultural producers compared with other countries, Brazil maintains several domestic support measures, including administered interest rate and concessional credit lines (e.g. under the equalization principle), price support mechanisms, and crop insurance premium support to which emphasis has lately been shifted. Mandatory bank reserve requirements for the financing of agricultural activities remain in place. The high level of rural debt, a major challenge, is being addressed. A state company continues to be involved in the operation of some agricultural policy measures (e.g. storage and minimum price guarantees).

23. Brazil, a net exporter of crude oil with one of the greenest energy matrixes in the world, remains nearly self-sufficient in primary energy production. Its state-controlled PETROBRAS has maintained its dominant position both in upstream and downstream hydrocarbons activities. To address fuel sales-related financial losses, in 2016, PETROBRAS, a price setter in the domestic fuels market, implemented a new pricing policy for gasoline and diesel at the refinery gate. Tax incentives for oil and gas exploration and production remain in place. The requirement for a minimum 30% stake of PETROBRAS in pre-salt fields – which together with local content requirements seems to have caused development delays – and PETROBRAS' right to be the sole operator in pre-salt oil reserves were removed in November 2016. Efforts to reform the local content regime in this area are also under way. Biofuel production, an activity subject to cross-subsidization elements, continued to be assisted, *inter alia*, through: support to sugarcane production and fuel-flex cars; lending incentives to expand the industrial capacity for sugar and ethanol production; and, increased mandatory blending ratios for both gasoline and diesel. The state-owned ELETROBRAS continues to play a major role in the electricity sector and an alternative bidding criterion for concessions of hydropower plants was introduced. Since 2015, a tariff flag system has been applied allowing the monthly pass-through of the extra costs of generating thermal energy to consumers. Electricity tariffs, set by the regulator ANEEL, continue to ensure cross-subsidization among different consumer categories; in addition, the tax burden on end-user electricity tariffs remains significant and differs greatly across consumer groups.

24. Manufacturing remains large (11.7% of gross value added, 2016), albeit declining, and diversified. Activities are either thriving or facing hard times, partly because of their weak integration into the world economy (e.g. the automotive industry) as several structural issues, including the so-called "Brazil cost", continue to affect the sector's competitiveness. A 2016 More Productive Brazil initiative is aimed at implementing lean manufacturing principles to raise productivity levels. The average MFN applied tariff for manufacturing products (11.8%) remains virtually unchanged. Clothing, textiles, and transport equipment continue to benefit from the activity's highest tariff protection (35%), the main tool in an apparent tariff-jumping policy to attract FDI. In addition to several export incentives, remission of duties and taxes on exports under the Reintegra scheme, originally due to expire at end-2013, were made permanent.

Domestic support remained in place in the form of tax and other non-tax incentives including administered interest rate or concessional loans, rental subsidies, and temporarily expanded government procurement preferences to local suppliers. Production step-related local content requirements tied to domestic support measures continue to shield domestic producers from foreign competition. Industry-specific incentives were continued for some sectors, including the automotive (INOVAR-Auto, until 2017), information technology, aeronautic, fertilizer, and pharmaceutical industries. Action was taken to reduce tariffs of cell-powered and electric cars, while the duty-free treatment of motor vehicles from Argentina, Mexico and Uruguay was delayed until 2019.

25. Services, a key component of overall export competitiveness, remain the main contributor to Brazil's gross value added (73.3% in 2016) and job creation. However, despite improvements in certain areas, services continue to suffer from structural weaknesses hindering the growth potential of the entire economy. During the review period, Brazil's GATS commitments were improved and three of Brazil's RTAs now contain WTO-plus services commitments. The Government-owned banks' share of total bank assets rose, and high interest spreads remain in place, *inter alia*, due to the lack of competitive pressure on major banks. Although non-independent the Central Bank continues to enjoy administrative autonomy; legislation allowing for more autonomy could possibly be considered in the future. A significant relaxation was undertaken of reinsurance requirements on foreign insurance companies, such as the obligation to make a cession to a local reinsurer and an intra-group cession cap.

26. Strong market competition continued to lead to further improvements in the quality and tariffs of telecommunication services. During the review period, local content requirements were used for auctioning radio spectrum frequencies. Certain audiovisual and broadcasting services remain, *inter alia*, subject to foreign investment limitations and local content requirements or preferences.

27. Initiatives were undertaken to address transport and related infrastructure bottlenecks. The domestic aviation market remains highly concentrated and domestic public air transport services (cabotage) reserved for Brazilian legal persons. The main commercial airports remain state owned and operated by a public enterprise. In maritime transport, the national flag fleet remains concentrated and dominated by vessels of the state company PETROBRAS. Cabotage remains reserved for Brazilian flag vessels, except under certain conditions. The main ports continue to be either operated by state or municipal governments or are administered by a public-owned firm, although the majority of cargo movements are undertaken by private terminals. Foreign vessels remain subject to a lighthouse fee.

28. Foreign entry into wholesale trade services is allowed except for solid, liquid and gaseous fuels and related products unless domestic requirements are met, whereas commercial presence in retail services and franchising remains unrestricted. A 2014 digital marketing law established the framework for the use of the Internet. Virtually all international e-purchases are charged with a 60% flat equalization tax. In addition to existing tax incentives, tourism-specific concessional or administered interest rate finance programmes were introduced to cope with the high demand from the mega events hosted during the review period.

29. Regarding professional services, bilateral arrangements were signed in 2014 (architects and urban planners, Portugal), 2015 (engineers) and, 2016 (architects and urban planners, France). A 2013 More Doctors Programme has allowed foreign doctors to work in Brazil without meeting the standard working requirements. In 2015, healthcare services were opened to foreign investment.

30. The Brazilian economy is projected to enter a gradual recovery in 2017, but growth is expected to remain weak for a prolonged period. Despite Brazil's mainly solid economic fundamentals, downside risks to the economic outlook remain. The economy remains vulnerable to a re-intensification of political uncertainty, as well as to delays in addressing fiscal imbalances. Future prosperity and sustainable growth depend on the implementation of productivity-enhancing structural reforms in several areas including revamping the overly complex tax and incentives regime and reducing the regulatory burden on businesses, as well as closing infrastructure gaps and addressing pension and labour market issues. 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.