WTO TRADE POLICY REVIEW OF BRAZIL

世界贸易组织关于巴西贸易政策的审议

July 17&19, 2017, Geneva

2017年7月17-19日，日内瓦

Questions from the P. R. China

中方提出的问题

**Part I. Questions based on Report by the Secretariat**

**第一部分：基于秘书处报告提出的问题**

Summary , para 5

摘要，第5段

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.

巴西依然开放和鼓励外国对巴直接投资，此类经济形式在巴西经济中十分盛行。但部分特定部门禁止（某些邮政服务和核能产业）或限制（例如空中运输、金融机构、医疗卫生服务、农村征地、出版和广播媒体、渔业、采矿和碳氢化合物勘探）外商投资。审议期间，某些医疗服务进一步对外国直接投资开放。此外，一种建立在联合国贸易和发展会议(UNCTAD)和经合组织(OECD)的指导方针之上的新型投资协定模式正在批准之中。该模式可用于磋商和签署一系列双向投资、推广和保护条约。

**Question 1:** Is there any plan for Brazil to further loosen its foreign investment limitations to financial institutions, healthcare services, publishing and broadcasting media? If any, please provide further explanation.

**问题1：**请巴方介绍是否有计划进一步放开对金融机构、医疗卫生服务、出版和广播媒体等领域的外商投资限制。如果有，请予以说明。

FDI restrictions in specific sectors are defined by law. Congress has the mandate to approve further changes.

特定领域的外国直接投资限制受法律规定的制约。国会有权批准进一步的变更。

Market access conditions and FDI restrictions in financial activities remain unchanged. Foreign banks are allowed to establish only subsidiaries; those directly responsible for the administration of the financial institutions must be Brazilian residents. Direct branching by 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 remain subject to authorization by Presidential Decree, *once the prudential and regulatory requirements are assessed by the Central Bank of Brazil. Those requirements are non‑discriminatory. Residency requirements also apply to foreigners seating on the boards of such institutions.*

金融领域内的市场准入条件和外国直接投资限制保持不变。外国银行可建立支行，但直接管理金融机构的单位应为巴西本土单位。不允许外国银行直接开展分支业务。外国金融机构新分支机构的建立和外国个人或法律实体以参股方式不断参与巴西国家金融机构的行为均应得到总统令的授权，*且通过巴西中央银行的审慎和监管要求。这些要求为无差别对待要求。*当地身份要求同样适用于所述机构董事会中的外国人员*。*

*In the healthcare services sector, Law 13.097 of 2015 altered Law 8,080/1990, allowing the direct or indirect participation of foreign capital in health assistance in Brazil, in the following cases: (i) donations of international bodies linked to the United Nations, of technical cooperation and funding organizations; (ii) legal entities intended to install, operate and exploit: general hospitals, including philanthropic, specialized hospitals, polyclinics, general clinics and specialized clinics; and actions and researches related to family planning; (iii) health services maintained, non for profit, by companies, for healthcare services for their employees and dependents, at no cost to the social security; and (iv) other cases that may be regulated under specific legislation.*

*就健康服务领域而言，2015年第13.097号法律（修正8,080/1990）允许外国资本在如下情形下直接或间接地进入巴西的健康服务领域：（i）联合国相关国际机构、技术组织和基金组织的捐款；（ii）计划开展安装、运营和开采活动的法律实体：各类医院，包括慈善医院和专业医院、综合诊所、各类其他诊所和专业诊所；以及有关计划生育的活动和研究；（iii）公司为了其雇员及其家属的健康而开展的非盈利健康活动，不占用社会保险费用；及（iv）根据具体法规的规定可允许的其他情形。*

*In the media sector, including television networks, magazines, newspapers and radio broadcasting stations, legislation stipulates that at least 70% of the total capital of media companies must be owned directly or indirectly by Brazilians born in Brazil or naturalized for more than ten years. This restriction does not apply to cable TV and news services delivered through Internet.*

*在媒体领域内——包括电视网络、杂志、报纸和广播电台，法律规定：媒体公司至少70%的总资本应直接或间接地为巴西境内的本土或巴西境内非本土但已经落地超过十年的公司或实体拥有。本规定不适用于有线电视和通过互联网传播的新媒体服务。*

**Question 2:** Certain healthcare services were further opened to FDI. What sectors are included in certain healthcare services? Is traditional Chinese Medicine one of the sectors?

**问题2：**医疗卫生服务领域进一步对外国直接投资开放。医疗卫生服务领域具体指哪些部门？是否包含中医药？

*The new legislation also added the Article 53-A to the Law 8,080/1990 allowing foreign investments in activities that support health assistance, such as laboratories of human genetics, production and supply of pharmaceutical and other products for health sector, and laboratories for clinic analysis and diagnostic imaging. Therefore, all healthcare services are open to foreign investments, except in specific cases in which all commercialization is prohibited, for both national and foreign investors, such as the prohibition of commercial activity of blood and blood products, organs, tissues and cells and the prohibition of the export of blood and blood products.*

*新的立法还补充了第8,080/1990号法律的第53-A条，规定允许外国资本参与健康促进相关的领域，例如人类基因实验室、健康领域内药物及其他产品的生产和供应以及临床分析和诊断成像实验室。因此，所有的健康服务都为外国投资开放，除非有特殊的、禁止国家和外国投资者商业行为的特殊情形，例如禁止有关血液和血液产品、器官、组织和细胞的商业行为以及禁止出口血液和血液产品。*

FDI in Brasil doesn't required prior official authorization and it occurs in a non-discriminatory basis. Legal restrictions regarding foreign capital participation or control apply in some specific sectors. On healthcare services, Article 142 of Federal Law 13.097/ 2015, please refer to question 1.

巴西的外国直接投资无需实现获得有关部门的批准，且为无差别对待。有关外国资本参与或控制的法律规定适用于部分特定的领域。对于13.097/ 2015法律第142条所述健康服务，请参见问题1。

Summary, para 27

摘要，第27段

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.

国内航空市场依然高度集中，国内公共航空运输服务(国内载运权)仍然仅限于巴西法人。主要商业机场依然由国有企业经营。在海运方面，国家船队仍然由巴西国家石油公司的船只所主导。

**Question 3:** Are there any access restrictions to foreign investment in civil aviation services such as air transportation, general aviation, airport management, air traffic control, aircraft maintenance, air-ground service, aviation fuel, and computer reservation system? If any, please list and describe in details.

**问题3：**对于外商投资运输航空、通用航空、机场管理、空管、飞机维修、地勤服务、航空燃料、计算机订座系统等民航运输服务领域是否存在准入限制？如果有，具体限制措施是什么？

*The limit of 20% of voting capital to foreign investments applies to regular and non-scheduled public air transport, including passenger and cargo transport companies, air taxi companies and specialized air services companies (aerial photography, aerial photogrammetry, aerial cinematography, aerial topography; prospecting, exploration or detection of elements over the soil or subsoil, the sea, the undersea platform, water surface and its depths; aerial advertising of any kind; promotion or protection of agriculture in general; sanitation, research or technical or scientific experimentation; teaching and training of flight personnel; artificial make of rains or weather modification; and any paid modality other than public transport).*

*有关外国投资有表决权的资本不得超过20%的规定适用于定期和非定期公共航空交通领域，包括各客运和货运公司、空中出租车公司和专业的航空服务公司（航空摄影、航空摄影测量、航空电影拍摄、航空地形测量、勘探、开发或土壤/下层土元素检测、海洋、海底平台、水面及其深度、任何形式的空中广告；农业的开发或保护；卫生、研究/技术/科学实验；飞行人员的培养；人工降雨或气候干预；及公共交通之外的其他有偿方式）。*

**Question 4:** Is there any plan for Brazil to further open its transportation services and grant foreign investment the access to domestic air and sea transportation market in the form of joint venture or sole proprietorship? If any, please describe in details.

**问题4：**请巴方介绍是否有计划进一步扩大交通运输服务的对外开放力度，允许外商以合资或独资形式进入巴西国内航运和海运市场。如果有，请具体做出说明。

*Regarding the air transportation market, the Presidency sent to Congress, in April 2017, bill PL 7425/2017, which eliminates all restrictions for foreign investment on Brazilian air carriers. Therefore, Brazilian air transport companies could hold up to 100% foreign capital. PL 7425/2017 is still under consideration by the Legislative branch – currently, at the Chamber of Deputies (the Lower House).*

*对于航空运输市场，总统于2014年4月向国会发出第PL 7425/2017号令，取消了有关巴西航空航空运输外国投资的全部限制。因此，巴西航空运输公司的外资比例可达到100%。立法部门仍在考虑第PL 7425/2017号令——目前交由巴西众议院审议。*

*No restrictions apply to foreign capital in the domestic market for sea transportation, either through joint ventures or individual enterprises. Maritime companies have to be established under Brazilian law and have its headquarters and administration in Brazil.*

*在国内市场的海洋运输领域，外国资本不受任何限制——无论是合资企业或是独资企业。海洋公司必须按巴西法律的规定成立，并将其总部和注册地设在巴西。*

Summary , para 29

摘要，第29段

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.

在专业服务方面，巴西分别在2014年（建筑师和城市规划师，与葡萄牙）、2015年（工程师）和2016年（建筑师和城市规划师，与法国）签署了双边协议。2013年《医生数量提升计划》(More Doctors Programme)允许外国医生在巴西工作，无需符合标准工作要求即可。

**Question 5:** Please introduce the specific policies for movement of natural people regarding professional services in the bilateral arrangements signed by Brazil?

**问题5：**请介绍一下巴西签署的关于专业服务方面双边协议中有关自然人流动的具体政策？

*The bilateral arrangements mentioned are not related to the movement of natural persons in itself, but to the recognition of qualifications between the respective professional associations of architects and engineers in Brazil and Portugal.*

*上述双边协议与自然人本身的迁移无关，而与巴西和葡萄牙各专业建筑师协会和工程师协会的资质认定有关。*

*The program More Doctors allows foreign doctors to be hired directly by the Brazilian government to work exclusively within the Public Healthcare System (SUS). The program is applied under governmental authority to meet the public policy objective of enhancing access to medical care in poor areas and isolated regions of Brazil.*

*“医生数量提升计划”允许巴西政府聘请更多的外国医生参与公共健康系统的工作。本项目为政府机构批准项目，是为了达到增强巴西贫困和偏远地区医疗保障的公共政策目标而开展的项目。*

**Question 6:** What are the minimum restrictions (requirements) in *2013 More Doctors Programme* for foreign doctors to work in Brazil? Does the requirements in the *More Doctors Programme* apply to Traditional Chinese Medicine practitioners or will the requirements possibly apply to such practitioners in the future?

**问题6：**2013年《医生数量提升计划》中对外国医生在巴西工作的最低限制（要求）包括哪些？该计划是否适用于中医医师？该计划是否可能在将来适用于中医医师？

*The requirements for participation in the More Doctors Programme are (i) a valid medical degree from a Brazilian university or from a foreign university, provided it has been validated by the Ministry of Education, according to the procedures established by the Law Number 9.394, which is known as the Law on the Guidelines and Basis of National Education ("LDB")[[1]](#footnote-1); (ii) registry at one of the Regional Medicine Councils of Brazil (CRM); (iii) license for the practice of medicine abroad, which must be proved by means of a document issued within two (2) years prior to the date of publication of the call notice, issued by the competent authorities of the country in which the doctor is qualified to practice; (iv) certificates of clean criminal record issued by the competent Brazilian authorities if the practicioner is a national, and, in the case of foreigners, if he/she resides in Brazil; (v) knowledge of Portuguese; (vi) the country of qualification for professional medical practice of the doctor must present a density of physicians equal to or greater than 1.8/1000, according to the World Health Organization (WHO) data, to be verified by the Ministry of Health of Brazil. Foreign doctors who are in Brazil as refugees, under the terms of Law 9.474/1997, are dismissed from this requirement. The program represents an effort to expand the access to healthcare in underserved regions of Brazil; therefore, the focus is in the field of family and primary care, but there are no hindrances in the participation of Traditional Chinese Medicine practitioners with a medical degree who are able to fulfill the mentioned requirements.*

*参与“医生数量提升计划”的要求包括：（i）有效的巴西大学或国外大学医学学位，若为国外大学则应通过教育部的认证，符合第9.394号法律规定的程序（该法律也被称为《国家教育指南与基础法》）[[2]](#footnote-2)；（ii）在巴西任意一家地区医疗理事会注册；（iii）国外医疗行业从业许可证，必须在发布资质提供通知前两（2）年内出具文件批准，且由医生执业所在国的有关部门办法该许可证；（iv）提供由巴西有关部门出具的无犯罪记录证明（针对巴西国民或居住在巴西的外国人）；（v）葡萄牙语的能力；（vi）根据世界卫生组织的数据，医生职业医疗从业许可证颁发国必须保证等于或大于1.8/1000的从业医师人口密度，并经巴西卫生部验证。根据第9.474/1997号法律的规定，本条要求不适用于在巴西国内避难的外国医生。本计划表明了巴西政府加强巴西落后地区医疗保障的努力。因此，其重点在于家庭和基层医疗，但并不妨碍拥有医学学位且可达到上述要求的中医执业者参与该计划。*

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It is reported that with its multiplicity of taxes, tax regimes, and sub-national jurisdictions, the Brazilian tax system remains overly complex, burdensome and unpredictable (notably with respect to the settlement of tax credits and the legality of tax concessions granted). Consequently, Brazil ranked 181st out of 190 economies on the ease of paying taxes in the 2017 World Bank *Doing Business* survey, with an estimated tax compliance time of 2,038hours (85 days). According to the authorities, reforming the tax system is one of the Brazilian Government's priorities; the reform process is expected to begin in 2017.

报道称，伴随复杂的税收、税制和次国家管辖权（sub-national jurisdictions），巴西的税收体制过于复杂、累赘和不可预测。（尤其是税额减免的解决和税收优惠的合法性问题。）因此，2017年世界银行的年度全球营商环境调查减轻纳税一项中，巴西在190个经济体中排名第181位，税收遵从时间约为2038个小时（85天）。巴西官方表示，税制改革是巴西政府的首要工作之一；预计改革将于2017年开始。

**Question 7:** Please explain the possible taxes and tax barriers foreign investment may encounter in Brazil. Could you please provide a detailed list? Please introduce what tax reform measures will Brazil take to improve its business environment?

**问题7：**请说明外商投资在巴西可能面临哪些税收及税收障碍，可否提供详细列表? 请巴西介绍将采取哪些税制改革手段来改善营商环境？

*The simplification of the tax system and of some taxes has been studied. As a first result, there is already a draft bill to create a new tax (social contribution) replacing the two federal taxes (PIS and COFINS) that are, at the federal level, the most complex ones to comply with and to enforce. This new tax will be fully compliant with OECD guidelines. The aforementioned bill has not yet been introduced for consideration of the National Congress.*

*已研究了税收系统和部分税种的简化。因此，在联邦层面上已经有了关于用新的税种（社会贡献）替代两个联邦税种（社会一体化费用和社会保险融资税）——这也是在遵守和实施时最为复杂的两个税种——的法律草案。新税将完全符合经济合作暨发展组织的指南。上述法案尚未提交国会审议。*

**Question 8:** Please specify the detailed contents of the tax reform in 2017, especially the tax reforms related to natural resources such as land, mining, oil and gas.

**问题8：**请具体说明2017年税制改革主要内容，特别是土地、矿产、油气等自然资源相关税制改革方面的内容。

*Please refer to the reply to question 7.*

*请参见问题7的回复。*

Page 25, para 2.3 & page 110, para 4.47 & page 112, para 4.52

第25页第2.3段 & 第110页第4.47段 & 第112页第4.52段

Brazil remains open to and encourages inward foreign direct investment (FDI) which is prevalent across the economy despite foreign ownership prohibitions (certain postal services and nuclear energy) or limitations in certain sectors (e.g. air transport, financial institutions, health services, rural land acquisition, broadcasting and publishing media, fishing, mining and hydrocarbons exploration).

巴西继续保持开放并鼓励对巴外国直接投资。尽管存在外资所有权禁止的规定（某些邮政服务和核能领域）或某些领域内的限制（如航空运输、金融机构、健康服务、农村用地、广播和出版媒体、渔业、采矿业和烃类开发），但巴西经济内已有广泛的外国直接投资参与。

Under the 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 State. The sector remains dominated by state companies (Sections4.4.3 and 4.4.4)

根据宪法规定，巴西的水电资源和矿产资源（包括油气资源），无论是在地下、大陆架上或在专属经济区内，都属于国家的独有财产。这一领域主要由国有公司参与（第4.4.3节和第4.4.4节）。

Local-content commitments have been among the selection criteria in all concession rounds carried out since the 7th Bidding Round in 2005. On 14 December 2016, the Government cancelled local content requirements for fields subject to the 4th Bidding Round of Areas with Marginal Accumulations scheduled for 2017. A new Local Content Policy is under discussion (see below). Concessionaries that fail to meet their local-content commitments are subject to fines, which vary according to the shortfall. Between 2011 and 2016, the ANP levied 110 fines totaling R$570million, of which 62% (R$353.4 million) were applied only to PETROBRAS.

自2005年第7轮投标以来，在各轮特许权的选定标准中都纳入了有关本地化程度的承诺。2016年12月14日，政府取消了预定在2017年第4轮差额积累区域投标中的本地化程度要求。新的本地化程度政策正在讨论之中（见下文）。未能达到本地化程度要求的特许权获得者将被处以罚金，罚金金额视差额而定。2011年到2016年间，巴西国家石油局总计征收了5.7亿巴西雷亚尔的罚款，其中62%（3.534亿巴西雷亚尔）的罚单开给了巴西石油股份有限公司。

**Question 9:** Brazil takes such measures as ownership restriction, local content and state corporation dominance in mining, oil, and gas investment. Please explain the considerations behind these measures? Please explain the consistency of these measures with WTO rules as well as the commitment made by Brazil in the WTO. Please indicate whether these measures affect foreign investment in mining, oil, and gas or not? Does Brazil have any plan to relax foreign investment restrictions in such sectors?

**问题9：**在矿业和油气投资方面，巴西采取了所有权限制、本国成分要求、国家公司起主导作用等措施，请说明采取这些措施的考量是什么？请巴西解释这些措施与世贸组织规则及巴西在世贸组织中的承诺的一致性。这些措施是否影响在这些部门的外商投资，巴西是否有放宽这些部门外资限制的计划？

*All applied measures are mandated under the Brazilian Constitution and/or Brazilian legislation. They are consistent with WTO rules as well as with commitments made by Brazil in the WTO. Brazil is one of the main recipients of FDI worldwide and the measures in effect do not negatively impact investments. Potential future changes in foreign investment rules will be made in accordance with decisions made by the Brazilian Government, in consultation with interested sector of Brazilian society.*

*所有适用的措施都为巴西宪法和/或巴西立法的强制规定。符合世界贸易组织的规章和巴西对世贸组织做出的承诺。巴西是世界上主要的外国直接投资对象国之一，这些措施在事实上并未对投资产生负面影响。将根据巴西政府的决议并在咨询巴西社会上利益相关各方的意见后确定未来对外国投资规定的修订。*

*Historically, the Brazilian Government has aimed at boosting technological development, innovation and production of the Brazilian industry, in order to promote development of its economy. It does not discriminate between foreign and domestic investments. The broad, horizontal objectives pursued by Brazil, both in goods and in services, include increasing energy efficiency and diminishing the environmental impact of the economy as a whole, expanding and modernizing infrastructure, promoting consumer protection, supporting small and medium-sized enterprises and reducing socio-economic and regional disparities.*

*在以往，巴西政府的目标是促进技术发展、创新和巴西工业的发展，从而实现经济增长。并未对外国投资和国内投资区别对待。巴西在货物和服务方面高瞻远瞩的目标包括提高能源效益和降低整体经济的环境影响、扩大和现代化改造基础设施、促进消费者保护、支持中小型企业以及减少社会经济和地区差异。*

*There are, however, a few limitations on foreign investment, related to national security and the protection of the national interest. A few examples of such limitations are: (i) activities involving the use of nuclear energy; (ii) certain postal activities and telegraph services; (iii) acquisition of property alongside border areas; and (iv) entry of foreign capital is capped at 20% of ordinary shares in Brazilian air transportation companies. It is important to note that a number of such limitations are being reviewed by the government, in the context of a wide range of economic reforms.*

*但在国家安全和国家利益的保护方面则对外国投资做出了一些限制。这些限制包括但不限于：（i）涉及核能使用的活动；（ii）某些邮政活动和电报服务；（iii）边境地区的财产取得；及（iv）外国资本进入巴西航空运输公司的份额控制在普通股20%。值得注意的是，在广泛经济改革的过程中，政府正在审视其中的一些限制规定。*

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To address key shortcomings in traditional BITs' legal loopholes, a new model of investment agreements, the Cooperation and Facilitation Investment Agreement (CFIA) built upon CAMEX, UNCTAD and OECD guidelines and based on risk mitigation, institutional governance and thematic agendas, was developed and used as from 16 July 2013.

为解决传统双边投资协定法律漏洞的重要缺陷，在外贸理事会执行秘书处、联合国贸发会议和经合组织的指导方针上，基于风险缓解、制度治理和主题议程，建立了一种新型的投资协定模式——投资合作与便利化协定（CFIA），自2013年7月16日起运用。

**Question 10:** Compared with the traditional BITs, how does CFIA work as a new model of investment agreement and what legal loopholes can be corrected or fixed by CFIA?

**问题10：**与传统双边投资协定相比，CFIA新在何处，主要能够弥补哪些法律漏洞？

*The traditional model of investment agreement, establishing strong protection clauses for foreign investors and allowing them to initiate international arbitration against the host state without prior recourse to the local judiciary, has had negative effects on host countries. Among several other criticisms, their provisions were excessively burdensome for capital-importing states, particularly when the specific needs of developing countries are considered. Many clauses have been interpreted in a way that limits or prevents states' right to regulate, restricting the implementation of legitimate public policies.*

*传统的投资协议为外国投资者提供了强有力的保护条款，允许后者无需事先求助于地方法院便可提起国际仲裁，为此对所在国带来了不利影响。除了一些其他的批评之外，这些条款显然增加了资本输入国的负担，尤其是考虑到发展中国家的特定需求。很多条款的解释都旨在限制或防止国家履行调节的权利，从而限制了合法公共政策的实施。*

*Indirect expropriation clauses, for example, have allowed foreign investors to challenge legitimate public policies aimed at protecting the environment or human health before arbitral tribunals.*

*例如，间接征收条款使得外国投资者可在仲裁法庭上挑战为了保护环境或人体健康而出台的合法公共政策。*

*Many of the investor–state arbitration cases known to date have had major political repercussions in the countries involved. Investment tribunals have awarded large amounts of compensation and are often perceived as favouring individual business interests over social and public considerations of the host state.*

*目前已知的很多投资者与国家之间的仲裁案例都对所在国家产生了重大的政治反响。投资法庭判定了大额的补偿金，且常常被认为在个体商业利益和所在国社会公众考虑之间偏向于前者。*

*With a focus on the dispute settlement mechanism and with a structure that stimulates challenges to domestic regulations that somehow affect investments, BITs have created an adversarial dynamic, which does not contribute to create a good business environment nor long-term investor–state relations. Despite often having the name "Agreements for the Promotion and Protection of Investments," these traditional texts do not have an actual promotion concern,[8] but almost exclusively the protection one, and their effectiveness in promoting investments has not been confirmed, after all these years, by any available data.*

*双边投资协定侧重于争议解决机制并采用了刺激对国内监管挑战从而可能影响投资的结构，事实上已经产生了反面的动态，不离开于营造良好的商业环境或构建长期的投资者-国家相互关系。尽管常常提到“促进和保护投资协定”，但这些传统的文本并无实际的促进考虑，[8]而几乎完全是侧重于保护，且其促进投资的效果并未得到数年来任何可用数据的证实。*

*Developing and developed countries alike have started to think of reforming the international investment agreements regime and to promote changes in their investment treaty models, including clauses aimed at clarifying and delimiting states' obligations toward investors and limiting the possibilities of initiating arbitration. Even so, many concepts used for that purpose maintain large room for interpretation by arbitrators and do not solve the problem.*

*发展中国家和发达国家都开始思考改革目前的国际投资协定框架和促进各自投资协定模式的变化，包括提出旨在澄清和明确国家对于投资者的义务以及限制提起仲裁的可能性等方面的条款。即便如此，于此相关的很多概念在仲裁者实际理解时也可能大相径庭，为此无法解决问题。*

*Brazil's response to the criticisms of the current regime was to move away from the adversarial approach and to adopt a cooperative approach, focusing on the elements of mutual benefit to investors and states. It sought to avoid the problems of traditional agreements and look for a model that really aimed at promoting investment, and not just protecting it.*

*巴西对于那些对现行政权制度的批评所做出的反应是摆脱对抗的态度而采取更加合作的态度，重点关注投资者和国家的双向利益。巴西力求避免传统协议带来的问题，寻求可真正促进投资而非仅仅提供保护的模式。*

*With that in mind, a governmental team led by the Ministries of Finance (MF), Foreign Relations (MRE) and Industry and Foreign Trade (MDIC), in consultations with other institutions and private sector coalitions, developed the CFIA model. The creation of this model also took into account debates and studies of international organizations and economic forums such as the Organisation for Economic Co-operation and Development (OECD), the United Nations Conference on Trade and Development (UNCTAD), the International Institute for Sustainable Development (IISD) and the G20, besides valuable benchmarks on the theme and country examples.*

*为此，在财政部、外交部和工业与外贸部的联合领导下成立了政府工作小组，经过咨询其他机构和私人企业协会，建立了合作和便利化投资协定模式。除了关于主题和国家示例的有价值的基准之外，创建这一模式时还考虑到了各国际组织和经济论坛的辩论与研究，例如经济合作与发展组织（经合组织）、联合国贸易和发展会议（贸发会议）、国际可持续发展研究所 发展和二十国集团，除了关于主题和国家示例的有价值的基准。*

*The premise of the CFIAs is the long-term perspective that states need to cooperate and maintain fluent and organized dialogue with investors to foster sustained investments. It is a new concept of agreement focused on stimulating and supporting mutual investments (adopting the concept of investment facilitation), aiming at boosting reciprocal investment flows and opening new and sustainable integration activities between the states. The model is therefore in line with the development agendas at the G20 and other international forums, especially with the more recent discussions on investment facilitation—which have benefited a lot from the Brazilian model agreement as an example—as it fosters the improvement of investment conditions to amplify business opportunities and stimulate private sector investments.*

*合作和便利化投资协定的前提是：就长远来看，各国需要合作和保持与投资者之间的顺畅、有组织的对话以保证可持续的投资。这一新的协议概念侧重于刺激和支持相互投资（投资便利化概念），旨在推动相互投资流动并在各国之间开辟新的、可持续的一体化活动。因此，这一模式符合二十国集团和其它国际论坛的发展议程，尤其是近期有关投资便利化的讨论——得益于巴西示范协议，促进了投资条件的改善、扩大了商机，刺激了私人领域内的投资。*

*The CFIA model is composed of four main substantive parts, discussed in detail as follows.*

*合作和便利化投资协定模式包括四个主要部分，详细讨论如下。*

*(a) Scope of the agreement and definition*

*(a)* *协议的范围和定义*

*The definition of investment plays an essential role, since the CFIAs cover only FDI, which is the kind of investment seen as able to play a more decisive role in the development of the states. Portfolio investments are explicitly excluded from the scope of the CFIAs, since they encompass essentially short-term and speculative investment.*

*投资的定义有着重要的意义——考虑到合作和便利化投资协定仅仅覆盖了外国直接投资，而这一投资形式可在国家发展中扮演更加举足轻重的角色。合作和便利化投资协定明确排除了组合投资，这是因为其主要涵盖短期投资和投机性投资。*

*(b) Regulatory measures and risk mitigation*

*(b)* *监管措施与风险缓解*

*The national treatment and most-favoured-nation (MFN) treatment clauses establish that foreign investors must be treated no less favourably than domestic investors or investors from third parties. A few existing exceptions are preserved, such as the prohibition of investments in border regions. The model does not limit new public policy measures, if they are not discriminatory. There also are articles on transparency, on the freedom of investment-related transfers, and an article about expropriation, which determines that direct expropriations are not allowed, unless they are made in the public interest, in a non-discriminatory way, in accordance with due process of law and on payment of effective compensation. The expropriation article does not cover indirect expropriation.*

*国民待遇和最惠国待遇条款规定：外国投资者所得到的优待不得低于国内投资者或第三方的投资者的待遇。保留了一些现有的例外条款，例如禁止在边境地区投资等。这一模式并不限制非区别对待的新公共政策。同时还提出了有关于透明度、投资转让自由和关于征用的条款。这些条款规定：除非按照非区别对待的方式，否则直接征用是不符合公共利益的，除非根据法律程序和有偿赔偿。征用条款并不涵盖间接征用。*

*An important innovation in relation to other investment agreement models is the introduction of clauses on corporate social responsibility based on the OECD Guidelines for Multinational Enterprises,[10] provisions against corruption and, in the most recent negotiations, specific exceptions for the protection of human, animal and plant life. This is in line with Brazil's wish that investments be socially responsible and contribute to sustainable development.*

*与其它投资协议模式相关的重要创新：根据经合组织的跨国企业准则、[10]反腐败条例和最近的谈判中有关保护人类、动植物的例外规定而引入了关于企业社会责任的条款。这也符合巴西的意愿，即投资应具有社会责任性且有助于实现可持续发展。*

*(c) Institutional governance and dispute prevention and settlement*

*(c)* *机构管治与争议预防和解决*

*Under the CFIAs, each partner state must create a centralized mechanism (Ombudsman or Focal Point) to receive investors' queries and demands. The Ombudsman analyzes the demands and questions posed and, coordinating with the governmental entities related to the issue through expedited proceedings, provides the investor with an answer or solution. The objective is that foreign investors have at their disposal effective means to overcome hardships and challenges faced to make and maintain the investment and to foster a good business environment. Brazil's Ombudsman was established within the Chamber of Foreign Trade (CAMEX), an inter-ministerial body responsible for formulating, adopting and coordinating trade and investment policies.*

*根据合作和便利化投资协定，各成员国必须建立集中机制（监察员机制或焦点机制）以听取投资者的要求和需求。监察员分析所提出的要求和问题，通过快速诉讼与问题相关的政府协调，为投资者提供答案或解决方案。目标是让外国投资者能通过有效手段来克服困难和面临的挑战，保持投资并营造良好的商业环境。巴西监察员制度成立于对外贸易商会（对外贸易商会部长理事会），主要负责制定、通过和协调贸易和投资政策。*

*The CFIAs also innovate through the constitution of a Joint Committee for state–state cooperation and dispute prevention. The dispute prevention component works through a mechanism in which representatives of the investors and governments involved can share their views on the issue raised by the investors and look for a solution on a common ground.*

*合作和便利化投资协定同时也通过设立国家联合委员会实现了国家合作和争议预防方面的创新。争议预防工作通过一种使投资者和政府代表能够就投资者提出的问题交换意见的机制来寻求有共同点的解决方案。*

*If the parties fail to find a common ground, the states involved can initiate international arbitration as a last resort. The CFIAs do not provide for investor–state arbitration. The main purpose of the state–state arbitration is to determine whether the host state violated any of the disciplines of the agreement and, if so, recommend that the state adjust or eliminate its nonconforming measure.*

*若双方未能达成一致，所在国启动国际仲裁作为最后的手段。合作和便利化投资协定并不包括投资者与政府的仲裁。国家之间仲裁的主要目的是确定所在是否违反了协议中的任何规定，如是，则建议该国调整或消除其不符合要求的措施。*

*(d) Agenda for Further Investment Cooperation and Facilitation*

*(d)* *进一步投资合作与便利化日程*

*The cooperation aspect of the Joint Committee's attributions is exercised especially through the development of the Agenda for Further Cooperation and Facilitation, which can include themes such as business visa facilitation, exchange of legislation information and logistics. These topics move forward depending on the common interest of the partner states. Therefore, the agenda is intended to be a living document, which can be adapted to each case, including topics of mutual interest.*

*联合委员会的合作职能特别是通过制定“进一步合作与便利化日程”来实现，其中可包括商业签证便利化、立法信息交流和物流等主题。根据成员国的共同利益继续提出相关的主题。因此，这一日程应是高度灵活的文件，可根据不同的需求制定（包括双方利益主题）。*

*In short, excessive litigation resulting from BITs affects the business environment and the effort to attract investments to developing countries, as well as the regulatory capacity of the State to pursue legitimate policy interests of the population in areas such as health, environment and public safety. Therefore, dispute prevention and investment facilitation become a preferred and superior choice, both in attraction and in the maintenance of the investment.*

*简而言之，双边投资协定导致的过多诉讼影响到了商业环境和发展中国家吸引投资的努力，以及各国平在健康、环境和公共安全等领域追求人民合法政策利益的监管能力的实施。因此，争议的预防和投资的便利化成为了在吸引力和保持投资方面的首选和优先选择。*

*The main resistances regarded provisions on Investor-State Dispute Settlement (ISDS), that were considered discriminatory against national investors, and the indirect expropriation clause, that was seen as a possible hindrance on the adoption of public policies.*

*存在的主要阻力阻碍了投资者-国家争议解决条款的引入（被认为是对于国家投资者的差别对待条款）以及间接征用条款的引入（被认为可能阻碍公共政策的实施）。*

*By focusing in facilitating investment, improving institutional governance, improving government relations with the private sector and in preventing disputes, the CFIA presents an innovative alternative to traditional investment agreements and its legal loopholes.*

*专注于促进投资、改善机构管治、改善政府与私营部门的关系和防止争端，合作和便利化投资协定提供了新型的替代方案以替代传统投资协定及其法律漏洞。*

**Question 11:** Does Brazil plan to encourage the application of CFIA to all its investment partner countries?

**问题11：**巴西是否计划将合作和便利化投资协定推广运用到所有投资伙伴国？

*Yes. The CIFA is the current model of investment agreement that Brazil adopts in its international negotiations.*

是。*合作和便利化投资协定是目前巴西在国际谈判中所采用的投资协定模式。*

Page 45, para 3.1.3.1

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The simple average applied MFN tariff declined slightly from 11.7% in 2012 to 11.6% in 2017.

简单平均应用的最惠国关税从2012年的11.7％略微下降到2017年的11.6％。

**Question 12:** We note that the simple average applied MFN tariff of Brazil declined slightly in the past five years. Is there any plan to further lower the MFN tariff?

**问题12：**我们注意到最近五年巴西适用的简单平均最惠国关税略有下降，是否有进一步降低最惠国关税的计划？

*There is no overall plan to lower the MFN tariff.*

*目前尚无降低最惠国关税的总体计划。*

Page 50, para 3.1.4

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Brazil's internal taxation regime remains overly complex, including in the treatment of imported goods and services....In addition, their application typically varies depending on the product type, the competent sub-federal authority, and the importer's tax regime status.

巴西的内部税收制度仍然过于复杂，包括对进口商品和服务的征税。此外，内部税收制度的应用通常取决于不同的产品类型、次级主管联邦当局和进口商的税收状况。

**Question 13:** Brazil's import taxation regime remains overly complex with poor transparency. Is there any plan to integrate and optimize Brazil's taxation regime? If yes, please specify.

**问题13：**目前巴西进口税务政策框架依然过于复杂，透明度较低，是否有进一步整合和优化税务政策的计划？如果有，请具体说明。

*Brazil does not agree with the assertion that its import taxation is not transparent. The simplification of the tax system and of some taxes has been studied. As a first result, there is already a draft of a bill to create a new tax (social contribution) to replace two federal taxes (PIS and COFINS) that are, at federal level, the most complicated ones to comply with and to be enforced. This new tax will be fully compliant with OECD guidelines. The aforementioned bill has not yet been introduced for consideration of the National Congress.*

*对于其进口税收不透明这一论断，巴西并不认可。已研究了税收系统和部分税种的简化。首先，在联邦层面上已经有了关于用新的税种（社会贡献）替代两个联邦税种（社会一体化费用和社会保险融资税）——这也是在遵守和实施时最为复杂的两个税种——的法律草案。新税将完全符合经济合作暨发展组织的指南。上述法案尚未提交国会审议。*

Page 54, para 3.52 & page 58, para 3.70

第54页第3.52段 & 第58页第3.70段

According to the authorities, the purpose of non-automatic licensing is to prevent environmental damage and harm to human, plant or animal health

据当局介绍，实施非自动许可制度的目的是为了防止对人体、植物或动物健康的环境产生破坏和危害。

Export authorization or licensing requirements remain in place for a relatively large number of products, mainly for safety, health, security, environmental, or native fauna protection reasons.

对于相对较大数量的产品，若主要用于安全、健康、安全、环境或本地动物保护，出口批准或许可要求将继续存在。

**Question 14:** Please provide specific measures and related procedures of the non-automatic licensing which are used to prevent environmental damage.

**问题14：**请提供为防止破坏环境而采取的非自动许可制度的具体措施及相关程序。

**Question 15:** Please provide the specific export authorization or licensing measures taken by Brazil for environmental reasons.

**问题15：**请巴方提供因环境因素而采取的出口批准或许可管理措施的具体内容。

Page 55, para 3.53

第55页第3.53段

The Technical Group for Public Interest Assessment (GTIP), established by CAMEX in 2012, remains in charge of examining requests to suspend or modify provisional or definitive measures for reasons of public interest.

2012年巴西外贸委员会建立公共利益评估技术组（GTIP）,负责出于公共利益原因中止或修改临时措施或最终措施。

**Question 16:** Please introduce the procedures of Public Interest Assessment as well as the main factors and the main economic indicators to be considered in the assessment.

**问题16：**请介绍一下公共利益评估的程序，评估时考虑的主要因素和主要经济指标。

*Regarding procedures, any claim to suspend or modify antidumping or countervailing measures under a public interest claim shall be submitted to the Secretariat for International Affairs (SAIN), of the Ministry of Finance, which works as a secretariat of the GTIP.*

*就程序而言，任何以公共利益为由要求暂停或修改反倾销或反补贴措施的索赔应都应提交给作为巴西公共利益评估小组秘书处的财政部国际事务秘书处处理。*

*Any company, member of the GTIP, other public offices or CAMEX by itself can file a case for trade remedies measure evaluation within the GTIP's secretariat – SAIN –, based on factual and legal elements. If the request fulfils all the technical requirements and is accepted, the process of public interest is officially opened and follows an autonomous path to the one of trade remedies to which it is linked.*

*任何公司、巴西公共利益评估小组成员、其它公共机构或对外贸易商会部长理事会本身都可根据事实和法律要素向公共利益评估小组秘书处——财政部国际事务秘书处——提请贸易救济措施评估。若请求符合技术要求并被接受，则公共利益过程将正式开放，并遵循与之相的贸易救济的自主途径。*

*GTIP has 6 months – which can be expanded to more 6 months – to present its solid and motivated conclusions before CAMEX, which will be able to have its ultimate decision through a public resolution accepting or not accepting the results of the public interest assessment by GTIP.*

*巴西公共利益评估小组成员有6个月的时间——可另行延长6个月——来向对外贸易商会部长理事会提出坚定和积极的结论，后者可通过接受或不接受巴西公共利益评估小组公共利益评估的公共决议做出最后决定。*

*As for the main factors and main economic indicators to be considered, the guideline is based on a cost-benefit approach as follows: Accordingly to art. 3, of the Annex of the CAMEX Resolution n° 29, of 7/2017, "Public Interest is identified when the impact of a trade remedies measure over the economic agents as a whole demonstrates to be potentially more harmful if compared to the positive effects of the application of the measure".*

*就需考虑的主要因素和主要经济指标而言，指南以成本效益法作为依据，具体如下： 根据2010年7月对外贸易商会部长理事会第29号决议附件第3条之规定，“当贸易救济措施对整个经济体的影响与积极效应相比其有害后果更深，则应视为公共利益”。*

*Specifically, paragraph 1 indicates some factors and economic indicators that might be considered, amongst others: "the impact on the downstream and upstream chain, the availability of substitute products in non-affected origins by the trade remedies measures, the market structure and the competition, and the adequacy to the current public policies".*

*具体而言，第一段指明了需考虑的一些因素和经济指标：“对下游和上游链的影响、通过采用贸易救济措施利用非受影响原产地替代产品的可行性、市场结构和竞争以及当前公共政策的充分性”。*

**Question 17:** Please introduce what kind of factors or economic indicators will make GTIP suspend or modify the measures? Are there any objective criteria?

**问题17：**请介绍一下何种因素或经济指标将使GTIP中止或修改措施。有无客观标准?

*Factors and economic indicators considered by GTIP are listed in the answer to question 16 and they include technical and policy criteria.*

*在问题16的答复中列出了巴西公共利益评估小组所考虑的因素和经济指标，其中包含了技术标准和政策标准。*

**Question 18:** Footnote 73 mentioned that since its creation, the GTIP has initiated 15 examinations of AD measures, of which 3 resulted in suspension, 1 in a partial suspension and 1 still going. Please elaborate on GTIPs examinations of 15 cases.

**问题18：**脚注73中提到，GTIP自成立伊始已对15项反倾销措施进行审查，其中3项被暂停，1项被部分暂停，1项仍在继续实施。请详细阐述GTIP对15项反倾销措施进行审查的情况。

*The grounds on which AD measures were suspended from 2013 to 2016 were mostly related to the end production by domestic industry; ;the need to preserve price stability within the domestic market, whether to the involved chains of production or to the final consumers, was also a factor.*

*2013年到2016年，反倾销措施的暂停主要与巴西国内工业的终端生产有关；无论是涉及生产链还是最终消费者，在国内市场上保持价格稳定的需要，也是要考虑因素之一。*

Page 78, para 3.160

第78页第3.160段

In 2016, CADE strengthened merger notification criteria with the establishment of notification requirements for associative contracts.

2016年，CADE建立了关联合同申报标准，完善了并购申报标准。

**Question 19:** Please explain the concept of associative contracts and introduce the main content of notification criteria for associative contracts.

**问题19：**请解释“关联合同”概念，并介绍有关“关联合同”的申报标准的主要内容。

**(CADE)**

**(CADE)**

*According to CADE's Resolution 17/2016, associative contracts are agreements held for at least two years that establish businesses' joint effort regarding their economic activities. Associative contracts have necessarily to: (i) involve parties that are competitors in the relevant market related to the contract itself and (ii) foresee that the parties share the risks and the results from the economic activity. After the adoption of the Resolution 17/2016, associative contracts have to be notified and analysed following the same procedures (thresholds, market share, etc.) than actual mergers and acquisitions.*

*根据经济保护和行政委员会第17/2016号决议，联合合同为至少两年的协议以确立企业共同努力的经济活动。联合合同需：（i）涉及在合同本身相关的市场中为竞争对手的各方；及（ii）预见各方共同分享经济活动带来的风险和结果。通过第17/2016号决议后，联合合同必须按照与实际相同的程序（门坎、市场份额等）进行公布和分析。*

Page 79, para 3.162

第79页第3.162段

Compulsory licensing of intellectual property rights is explicitly mentioned among the possible remedies for conditional clearance of mergers and the possible penalties for anti-competitive conduct.

知识产权强制许可被（监管机构）明确提及作为附条件批准的可能救济措施之一...

**Question 20：**Please introduce the relevant legislation, guidelines and cases of compulsory licensing of intellectual property rights in the remedies for mergers.

**问题20：**请介绍并购救济措施中的知识产权强制许可措施的有关立法、指南和案例。

*The Industrial Property Act (Law 9.279/2016) states that a patent may be "licensed on a compulsory basis" if the right holder "exercises his rights (…) in an abusive manner, or by means thereof engages in abuse of economic power, proven pursuant to law in an administrative or judicial decision" (Art. 68). Brazil's competition authority (Cade) adjudicates on whether a merger will hurt competition based on the guidelines laid out by law 12.529/2011, which in its Article 61, par. 2, item V lists compulsory licensing of intellectual property rights as one of the possible remedies for a situation of excessive market concentration.*

*《工业产权法》（第9.279/2016号法）规定，若根据法律规定以行政或司法裁决的方式证明权利人“以滥用行为或以其滥用经济权力的方式行使权利（...），可采取强制许可”（第68条）。巴西的竞争管理机构（经济保护和行政委员会）根据第12.529 / 2011号法规定的指导原则，判断某一合并是否会损害竞争。其中第61条第2部分第五项将知识产权强制许可列为市场过度集中情况下可能的补救措施之一。*

page 82, para 3.173

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3.173. According to the authorities, since 2013 there has been no privatization activity, and no new SOEs have been created. 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. All such enterprises are required to comply with a set of mechanisms for internal control, transparency, and long-term strategic planning.

3.173.根据有关部门的规定，自2013年起便再无私有化活动，因此也无新的国有企业公司创建。2016年，巴西对涉及各级政府参与的企业的法律地位进行了修订，以加强对包括采购业务在内的公司治理和透明度。所有此类公司都需要遵守一系列的内部控制机制、透明度和长期战略规划要求。

**Question 21:** 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. Please specify how has the legal status of enterprises with public participation at any level of government changed since the amendment in 2016? What measures have the Brazilian government taken or will take to ensure the governance and transparency of SOEs?

**问题21：**2016年，巴西对涉及各级政府参与的企业的法律地位进行了修订，以加强对包括采购业务在内的公司治理和透明度。请问：2016年修订后，巴西涉及各级政府参与的企业的法律地位发生了何种变化，能否详细说明？为保障国有企业的治理和透明度，巴西政府采取了哪些措施？将要采取哪些措施？

*In 2016, the Brazilian Federal Government privatized Eletrobras' subsidiary, CELG D. Other companies are being considered for privatization this year.*

*2016年，巴西联邦政府完成了巴西电力子公司——CELG D公司——的私有化。今年正在考虑进行其他公司的私有化。*

*Law 13.303/2016 establishes the Legal Status of State Companies organized in two thematic axes: corporate governance and bidding rules and contracts. This general discipline is applicable to all Brazilian state-owned companies at all levels (federal, state and municipal),including subsidiaries, dependent companies and public service providers.*

*第13.303/2016号法规定了按两个主题轴组织的国有公司法定状态：公司管治和投标规则与合同。这一通用原则适用于所有级别（联邦、州和市）的巴西国有企业，包括子公司、附属公司和公共服务提供商。*

*On governance, the main highlights of Law 13303/2016 refer to the structure of control and the professionalization of management. With regard to control, the Law strengthened the powers of the supervisory bodies, expanded active transparency on the Internet, created two channels of spontaneous denunciation, instituted annual training, established three internal "lines of defense", created an Audit Committee with members independent from the Board of Directors. On management, the Law defines more rigid criteria for appointment of managers, imputes responsibility to the authorities that do not respect these criteria, establishes an Eligibility Committee, imposes the definition of business goals linked to long-term strategic planning, limits spending in advertising and sponsorship and requires full transparency for the implementation of public policies.*

*就管治方面而言，第13.303/2016号法主要强调了控制结构和管理的专业化。在控制方面，该法加强了监督机构的权力、增强了互联网的透明度、设置了两条自高发渠道，同时推行年度培训，建立了三条内部“防线”，并设立了其成员独立于董事会之外的审计委员会。在管理上，该法规定了更为严格的任命管理人员的标准。对不遵守标准的当局追究责任。同时设立了资格委员会，规定了与长期战略规划有关的业务目标的定义、控制广告支出和赞助限额并要求全面透明地执行公共政策。*

*Decree 8.945/16 clarifies and reaffirms the need for accountability within state companies and imposes the segregation of functions. The aim is to give greater transparency to the decision‑making process and ensure the accuracy of the controls.*

*第8.945/16号令明确和重申了国有公司内部责任制并提出了职能分工。其目的是为决策过程保证更大的透明度并确保控制的准确性。*

*To guarantee the governance and transparency of Brazilian state-owned enterprises, in 2007 the Brazilian Federal Government created the Inter-ministerial Commission on Corporate Governance and Administration of Corporate Partnerships - CGPAR. The purpose of this Committee is to deal with issues related to corporate governance in federal state-owned enterprises and to the management of corporate equity in the Union. Its main objective is to improve government action in its shareholder role by encouraging the adoption of modern management practices Corporate Governance and ensuring more transparency in the relationship with state-owned companies, as well as establishing strategic guidelines for the performance of federal state-owned companies and the administration councils representing the Union.*

*为了保障巴西国有企业的治理和透明度，2007年，巴西联邦政府成立了公司治理与企业合作管理部际委员会。该委员会的目的是处理有关联邦国有企业管制方面的问题以及管理联邦内的公司实体。其主要目标是鼓励采用现代管理的方式来改进政府作为股东的行为。实施公司治理，确保与国有企业的关系更加透明，并为联邦国有企业的业绩制定战略方针和建立代表联盟的各行政委员会。*

*Following the promulgation of Law 13303/2016 and Decree 8.945/2016, CGPAR has focused its work on new Resolutions aimed at implementing the rules of governance and transparency set forth in the new legislation.*

*在颁布第13303号法和第8.945/2016号令之后，公司治理与企业合作管理部际委员会将工作重点放在执行新立法规定的治理规则和透明度的新决议上来。*

*The Secretariat for Coordination and Governance of State-Owned Companies developed a series of educational materials aiming to SOE's, such as the Standard Statuts Model, Manual of the Board of Directors, Practical Guide of the Board of Directors, SOE's Magazine and Guide of Questions and Answers related to the new legislation.*

*国有企业协调与治理秘书处制定了一系列针对国有企业的教育材料，如标准会计模范、董事会手册、董事会实务指导、国有企业杂志和问题指南及有关新立法的回答。*

Page 82, para 3.174

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Brazil is neither a party nor an observer to the WTO Plurilateral Agreement on Government Procurement (GPA). The Agreement on Economic and Trade Expansion between Brazil and Peru, signed in April 2016, contains a chapter on government procurement. Brazil is involved in ongoing negotiations on a MERCOSUR Public Procurement Protocol, as well as in FTA negotiations between MERCOSUR and the EU that also include a chapter on public procurement.

巴西不是WTO《政府采购协定》（GPA）的参加方或观察员。但巴西与秘鲁2016年4月签署的经贸扩大协定中涵盖政府采购章节，目前巴西正在商谈南方共同市场公共采购协议，南方共同市场与欧盟的自贸协定谈判中也将纳入公共采购章节。

**Question 22:** Does Brazil intend to join the WTO Plurilateral Agreement on Government Procurement (GPA)?

**问题22：**巴西是否有意向加入WTO《政府采购诸边协定》（GPA）？

*Brazil has engaged in bilateral or regional initiatives related to public procurement commitments based on the WTO GPA principles*

*巴西根据世贸组织的“全球行动计划”原则参与了公共采购承诺有关的双边或区域性方案。*

**Question 23:** What contents are mainly covered in the chapter of government procurement in the Economic and Trade Agreements signed by Brazil and those in the process of negotiating? Is market access involved?

**问题23：**巴西已经签署和正在商谈的经贸协定中的政府采购章节主要涵盖哪些内容，是否涉及市场准入？

*Public procurement commitments in the agreements signed or under negotiation are based in principles such as transparency, non-discrimination and market access. Preserving public policy space in key sectors, such as small enterprises, health and innovation is a central concern.*

*已经签署或正在协商的协议中的公共采购承诺均基于透明度、无差别对待和市场准入等原则。重点问题是保留关键领域内如小型企业、健康和创新等的公共政策空间。*

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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. Common elements are mainly set out in the Tendering Law of 1993, and include provisions on transparency, procurement methods, exemptions, and appeals. The common rules also apply to state‑controlled enterprises (public enterprises and mixed companies) and at all levels of government, except those subject to specific procurement regimes established by the authorities in the respective jurisdiction of incorporation. At the federal level, a company‑specific procurement regime, established by presidential decree, remains in place for PETROBRAS. In 2016, a set of uniform rules and guidelines were adopted for procurement operations by enterprises with public participation at any level of government, as part of a broader initiative to strengthen their governance. PETROBRAS must adapt to the new framework by 30 June 2018.

巴西实行分散采购，各级政府根据联邦政府制定的共同规则独立开展采购。该共同规则主要源于1993年招标法，包括透明度、采购方式、豁免和申诉等条款。共同规则同样适用于各级国有企业（公共企业和混合企业），除非有关主管部门建立了特定的采购机制。在联邦层面，巴西石油公司仍适用总统令确立的特殊采购制度。2016年，各级国有企业的采购活动将适用一套统一的规则和指南，从而加强公司治理。巴西石油公司应在2018年6月30日前适用新框架。

**Question 24:** Please introduce the basic contents of the set of uniform rules and guidelines adopted for the procurement operations by state-owned enterprises with public participation at any level of government since 2016. What are the differences between this set of rules and the previous common rules?

**问题24：**请介绍2016年起适用于各级国有企业的统一采购规则和指南的基本内容，该套规则与之前的共同规则有什么区别？

*Unlike previous legislation, the new Law prescribes a specific system of public tenders and contracts, which excludes the traditional bidding regimes of the Public Administration, based on Law n. 8666/1993, Law no. 10520/2002 (trading modality) and Law no. 12462/2012 (Differential Contracting Regime - RDC).*

*与以往的立法不同，新法提出了具体的公共招标和合同制度。根据第8666/1993号法、第10520/2002号法（交易模式）和第12462/2012号法（差价合约制）废除了公共行政的传统招标制度。*

*The trading session, as regulated by Law 10,520/2002, will be preferentially adopted in public companies and mixed-capital companies for the acquisition of common goods and services.*

*第10,520/2002号法规定的交易时段将优先在公共公司和混合资本公司的普通货物和服务采购中应用。*

*State companies will no longer use the tendering procedures provided for in Law 8.666/93 (invitation, competition, price-making, tendering and auctioning), but rather the procedures provided for in Law 13303, and for the acquisition of Goods and services, they should preferentially adopt the floor.*

*国有公司将不再使用第8.666/93号法（邀标、竞争、价格制定、招标和拍卖）规定的招标程序，而是采用第13303号法规定的程序。关于货物和服务的采购，应优先采用最低价格。*

*Other important aspects of tenders and contracts provided for in Law 13303 are:*

*第13303号法有关投标和合同的其他重要规定如下：*

*Specific hypotheses of bidding waived (Article 28, §3), dispensable (Article 29) and unenforceable (Article 30);*

*有关弃标（第3节第28条）、非必要标（第29条）和无法执行标（第30条）的具体假设；*

*Principles to be observed (article 31);*

*应遵循的原则（第31条）；*

- *Budget with a price estimate as a rule should be confidential (article 34);*

- *原则上有价格预测的预算应当保密（第34条）；*

- *Deadlines for disclosure of the public notice according to the criterion of judgment employed (article 39); melhor tirar pois não faz sentidoModes of open dispute, with the possibility of bidding, or closed, without bids (article 52);*

- *根据所采用的判决标准披露公告的最后期限（第39条）；公开争议的方式，投标的可能性或者没有投标则关闭（第52条）；*

- *adjudication criteria: lower price, higher discount, better combination of technique and price, better technique, better artistic content, greater price offer, greater economic return and better allocation of alienated goods (article 54);*

- *裁决标准：更低的价格、更高的折扣、更好的技术与价格的结合、更优良的技术、更好的艺术内容、更高的报价、更大的经济回报和更好地分配货物（第54条）；*

- *Negotiation with the first party to obtain more favorable conditions, and may be extended to other bidders when the price of the first place, even after negotiation, remain above the estimated budget (article 57);*

- *如谈判之后的原价格仍然高于预算，则与第一方谈判获得更有利的条件可以延伸到其它投标人（第57条）；*

- *Single appeal phase, as a rule (article 59);*

- *单一上诉阶段，原则上（第59条）；*

- *Duration of contracts of five years as a rule, certain exceptions allowed (article 71);*

- *原则上合同期限为五年，可有例外情形（第71条）；*

- *Changes in contracts only by agreement between the parties: no unilateral amendment by the state company (article 72);*

- *合同变更仅应在各方协议后进行：国有公司不可单方面更改合同（第72条）；*

- *the contractor may but is not obliged to accept changes in quantitative terms, as a rule, up to 25% for additions or deletions (article 81);*

- *承包商可能、但是没有义务接受任何原则上可增加或减少至25％（第81条）的数量上的改变；*

- *Schemes for integrated or semi-integrated contracting (Article 42).*

- *整合或半整合承包方案（第42条）。*

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The obligation to tender may be waived under various provisions for exemption (dispensa de licitao) or non-applicability (inexigibilidade). State-controlled companies at any level of government are subject to specific waiver provisions, which were redefined in 2016.

招标义务可依据各种豁免或不适用条款予以排除，各级国有企业适用2016年重新定义的特殊例外条款。

**Question 25:** Under what circumstances will the obligation to tender be waived for exemptions and non-applicability respectively?

**问题25：**关于招标义务的豁免和不适用情形分别有哪些？

*Articles 24 and 25 of Law 8666 of 1993 establish the circumstances under which the obligation to tender may be exempted or non-applicable, respectively. As detailed information can be extensive, consultation to the Law 8666/93 text is available at: http://www.planalto.gov.br/ccivil\_03/leis/L8656.htm.*

*1993年第8666号法的第24条和25条分别规定了投标义务可得到免除或不适用的情形。详细信息众多不可一一罗列，可访问了解第8666/93号法的内容：http://www.planalto.gov.br/ccivil\_03/leis/L8656.htm.*

**Question 26:** State-controlled companies at any level of government are subject to specific waiver provisions, which were redefined in 2016. What waiver conditions are included in the specific waiver provisions applicable to the procurement for state-controlled companies?

**问题26：各级政府管理下的国有企业都适用不同的豁免条款，这些条款已在2016年重新进行定义。**适用于国有企业采购的具体豁免条款都包含哪些豁免情况？

*Under the new legislation, state-owned companies are exempted from bidding on contracts with third parties for the direct sale, supply or exercise of products, services or works specifically related to their respective corporate objects and in cases where the choice of the commercial partner is associated with its particular characteristics, linked to defined and specific business opportunities, justified the infeasibility of competitive procedure.*

*根据的新立法，国有企业可免于与第三方签订直接销售、供应或行使与其各自公司对象特别相关的产品、服务或作品的合同。如果商业伙伴的选择与其特征相关联和与明确具体的商业机会相关联，则证明了竞争程序的不可行性。*

*In addition, as example, it is not necessary to bid for:*

*此外，例如，不需要对下列工程和服务竞标：*

- *works and engineering services up to R$ 100,000.00;*

- *价值不超过10万巴西雷亚尔的工程和工程服务；*

- *other services and purchases of up to R$ 50,000.00 and for disposals.*

- *价值不超过5万巴西雷亚尔的其他服务和采购及处置。*

*All exceptions provided for exemption from bidding are in Law 13303/2016, Articles 28, 29 and 30.*

*第13303/2016号法第28、29和30条列出了免于竞标的所有例外情形。*

Page 83, para 3.178

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Participating in electronic procurement proceedings requires a digital certificate compliant with the ICP-Brazil. To take part in national tendering, foreign suppliers must be legally established in Brazil. In the case of international tendering, foreign companies must have legal representation in Brazil or be associated with a Brazilian firm. International tendering is mainly used for procurement contracts funded by international institutions or cooperation agencies, and follows the rules of the financing institution.

参加巴西国内招标，外国供应商应在巴西依法设立。在国际招标中，外国公司应在巴西有法律代表处或与巴西本地公司有关联。国际招标主要用于使用国际组织或合作机构援助资金的采购合同，并适用该机构的采购规则。

**Question 27:** Are foreign branches and offices legally established in Brazil eligible to participate in Brazil's national tendering? Will there be any restrictions or barriers?

**问题27：**外国企业在巴西依法设立的分支机构和办事处是否有资格参与巴西国内招投标？可能会遇到哪些障碍？

*Yes, foreign branches or offices (of foreign companies) established in accordance with national legislation are considered Brazilian companies.*

*是的，所有依照国家法律成立的外国公司的分公司或办事处都视为巴西公司。*

Page 83, para 3.179

第83页第3.179段

In the awarding of contracts, preference may be given to goods and services: (i) produced in Brazil; (ii) produced or supplied by Brazilian companies; or (iii) produced or supplied by companies that invest in technology development in Brazil. The preferential treatment may include quotas, preference margins, and tendering procedures completely restricted to small enterprises based in Brazil. Specific provisions regulate the preferences applicable to micro and small enterprises (MSEs), and to goods and services produced domestically in accordance with Brazilian technical standards.

在合同授予中，将对以下货物和服务给予采购优惠：i.在巴西生产的；ii.由巴西企业生产或提供的；iii.由在巴西进行技术发展投资的企业生产或提供的。优惠待遇可包括配额、优惠差额和完全限于巴西的、小型企业的招标程序。小微企业以及根据巴西技术标准在本地生产的货物和服务适用特定的优惠条款。

**Question 28:** Can a foreign enterprise legally set up in Brazil be entitled to the same preference in tendering for goods and services as the Brazilian local enterprises?

**问题28：**外国企业依法在巴西设立的法人能否在货物和服务招投标中与巴西本地企业享有同等优惠？

*Yes, all companies established in accordance with national legislation are considered Brazilian companies.*

*是的，所有按照国家法律成立的公司都视为巴西公司。*

**Question 29:** What are the preferential measures in Brazilian government procurement to support medium, small and micro enterprises?

**问题29：**巴西政府采购在支持中小微企业方面有哪些优惠措施？

MPDG/SEAIN

MPDG/SEAIN

*A 10% preference to cover a better proposal made by a non-small and micro enterprise is applicable in favour of small and micro enterprises in Brazil.*

*对非微小企业提出的、更好的10%优惠适用于巴西的微小企业。*

Page 84, para 3.182

第84页第3.182段

All but two of these decrees expired on 31 December 2016; one remained partially in force until 30 March 2017 and one was in force until 30 June 2017.

所有法令中除了两项法令于之外均于2016年12月31日到期; 一项到2017年3月30日仍然部分生效，一项有效至2017年6月30日。

**Question 30:** When Brazil imports toys, computers and other products from other countries outside the MERCOSUR, a 10% additional tax will be levied apart from tariff. We learned that the 17 relevant decrees will expire successively before June 30th, 2017. Could Brail please indicate whether the relevant decrees will be canceled as scheduled and similar new decrees will be introduced?

**问题30：**在巴西从南方共同市场(MERCOSUR)以外的其他国家进口玩具、电脑等产品时，除需征收关税，还需征收10%的附加税。但与其相关的17个法令应陆续于2017年6月30日前到期，请巴西明确这些相关法令是否会如期取消，是否出台新的类似法令？

*Those preferential margins put into force in Brazil were temporary, product-specific and based on prior studies and assessments. As of today, there are no preferential margins in force and there are no other preferential margins decrees currently under study.*

*这些在巴西生效的优惠差额是暂时的、针对具体产品的，且以先前的研究和评估为基础。截至目前，无任何优惠差额正在实施中。且目前的研究中并未表明有任何其他优惠差额条令正在实施。*

Page 103, table 4.6

第103页，表4.6

Products benefited by PGPM in the 2014/15 were cotton, corn, orange and edible beans.

最低价格保护政策（PGPM）在2014/15支持了棉花、玉米、柑橘和食用豆。

**Question 31:** Please provide the variety-specific quantity, amount, specific operation procedures and measures for the above agricultural products benefited by PGPM from 2014 to 2016.

**问题31：**请提供2014-2016年，最低价格保护政策对上述农产品具体品种的支持数量、金额、具体操作程序和措施办法。

*Among the products mentioned, per notification of 2015/2016 (that is about to be sent to the WTO), only coffee received support, not under PGPM. The amount of support, at US$13,4 million, is related to the Brazilian Coffee Fund – FUNCAFE credit. All other products mentioned did not receive any product-specific support.*

*在所述产品中，根据2015年第2015/2016号通知（即将提交给世贸组织），只有咖啡得到支持，而不是根据“价格支持”的内容。支持的金额（1340万美元）与巴西咖啡基金会的信用度有关。其他所述产品并未得到任何具体的支持。*

Page 106, para 4.38

第106页第4.38段

Support for family farming remains an important component of agricultural policy, which in this area is administered by the SEAD and the MDSA (Section 4.2.2); it is key in fighting poverty and plays a strategic role in controlling prices and the food supply. Programmes to promote family farming and improve farmer incomes remain unchanged during the review period (Table4.8). They include: preferential credit lines (PRONAF), rural extension (ATER), preferential rules in public procurement (PAA, PNAE), rural insurance (PROAGRO MAIS), price guarantees and debt rescheduling (Table4.6, Sections 4.2.4.1 and 4.2.4.2). Access of family farmers to the biodiesel market continues to be promoted under the Social Fuel Seal initiative (Section 4.4.3.3.2). Between 2012/13 and 2016/17, total budgetary outlays for family farming under these programmes rose from R$22.3 billion to R$35.3 billion of which PRONAF spending accounted for 80.7% and 84.9% respectively (Table 4.8).

对家庭农业的支持仍然是农业政策的重要组成部分。在这一领域的支持由家庭农业和农业发展特别秘书处和社会和农业发展部管理（第4.2.2节）；扶贫，在控制价格和粮食供应方面发挥战略作用。审查期间，促进家庭农业和提高农民收入的各项方案保持不变（表4.8）。具体包括：优惠信贷额度、农村延期、公共采购优惠制度、农村保险、价格担保和债务重组（表4.6、第4.2.4.1和4.2.4.2节）。根据“社会燃油印章”计划（第4.4.3.3.2节）继续推动农民进入生物柴油市场。2012/*2013*年至2016/*2017*年期间，计划下的家庭农业预算支出总额从223亿巴西雷亚尔上升到353亿巴西雷亚尔，其中优惠信贷额度支出分别占80.7％和84.9％（表4.8）。

**Question 32:** What is the average land management scale in farming for these small-scale producers in Brazil?

**问题32：**巴西这部分小规模生产者的种植业平均土地经营规模有多大？

*According to the last Agriculture and Livestock Census of Brazil, the average size of a family farm is estimated in 23,47 hectares.*

*根据巴西最新的农业和畜牧业普查，一座家庭农场的平均面积约为23.47公顷。*

**Question 33:** What is the current quantity of small-scale producers? What is the proportion of small-scale producers among all agricultural producers?

**问题33：**目前“小规模生产者”的数量有多少，在农业生产者中所占的比例有多大？

*According to the last Agriculture and Livestock Census of Brazil, family farms represents 84,4% of the total establishments and 74,4% of the employment in rural areas. The total quantity of family farmers is estimated to be more than 12 million individuals.*

*根据巴西最新的农业和家畜普查，家庭农场占农村总人口的84.4％，占农村就业人数的74.4％。家庭农业人口总数预计超过1200万人。*

**Question 34:** We note that in the last Secretariat Report Table 4.6 provided the data for the Budget allocated to family farming programmes and measures during the harvest year 2012/13, while in this report, Table 4.8 provide the same information for the harvest year 2012/13 but with obviously different data. Could Brazil explain which harvest years does Table 4.8 refer to?

**问题34：**上次秘书处报告中表4.6“家庭农场计划与措施的预算分配”提供了2012/13收获年度的数据，本次报告中同样的内容出现在表4.8，两个表格的年份表示均为“2012/13收获年度”，但数据已明显不同，本次报告表4.8确切所指应是哪一收获年度？

*Table 4.8 refers to the Budget allocated to family farming programmes and measures in the harvest year 2016/17.*

*表4.8说明了2016/2017丰收年间为家庭农业计划和措施分配的预算。*

Page 110, para 4.2.3

第110页第4.2.3段

**Question 35:** The Secretariat Report discusses the Brazils policies in the oil sector with a specific section. We are pleased to note that, new local-content policy was applied to Brazilian government's recent tendering of oil and gas exploration (the 14th round exclusive right tendering and the third contract tendering of production sharing) , which substantially lowered the requirement for localization proportion. We have also learnt that Brazilian government is formulating new regulations to fix this new policy in the form of statute. Please describe the concrete contents of the new regulations that the Brazilian government will possibly introduce. Are the new regulations in compliance with Brazils commitments made to WTO Agreement, especially the commitment to Agreement on Trade-Related Investment Measures and General Agreement on Trade in Services?

**问题35：**秘书处报告用专章讨论巴西在石油行业的相关政策，很高兴看到巴西政府在最近油气开采权的招标中（第十四轮特许权招标和第三次产品分成合同招标）采纳了新的本地化政策，实质性地降低了本地化比例要求。同时，我们了解到，巴西政府正在制定相关法规，拟将这一新政策通过法规的形式固定下来。请说明巴西政府可能出台新法规的具体内容，以及新法规是否符合巴西在《世贸协定》中所做的承诺，特别是《与贸易有关的投资措施协议》和《服务贸易总协定》下的承诺。

*The new regulations are still under discussion and the Brazilian Government works to guarantee compliance with the commitments mentioned in Question 35. Brazil considers compliance a requisite to attract foreign direct investments (FDI) for this industry. The new regulations will be in compliance with Brazil's commitments under the WTO.*

*新的规定仍在讨论中，巴西政府将努力保证遵守在问题35所述的承诺。巴西认为，合规是吸引外国直接投资的必要条件。新的法规将符合世贸组织框架下巴西做出的各项承诺。*

Page 132, para 4.114

第132页第4.114段

In MERCOSUR, Brazil undertook specific commitments on trade in services that went significantly beyond the commitments under the GATS. These commitments covered new sectors (computer, R&D, telecommunication, audiovisual, educational, environmental, and maritime transport services)

在南方共同市场上，继《服务贸易总协定》的承诺之后，巴西做出了有关服务贸易的具体承诺。这些承诺涉及新的领域（计算器、研发、电信、音像、教育、环境和海运服务）。

**Question 36:** Please provide the schedule of Specific Commitments on Environmental Services in the following three free trade agreements: MERCOSUR, the Mercosur-Chile Agreement and the Agreement on Economic and Trade Expansion between Brazil and Peru.

**问题36：**请巴方提供其在南方共同市场（MERCOSUR）、南方共同市场-智利（Mercosur-Chile Agreement）、巴西-秘鲁（the Agreement on Economic and Trade Expansion between Brazil and Peru）三个自贸协定中的环境服务承诺减让表。

*Considering that the current TPR relates to Brazilian commercial policy and acknowledging that all agreements mentioned in the above question use the UN Central Product Classification List (CPC) as reference, the specific commitments of Brazil are as follows:*

*考虑到目前的《跨太平洋伙伴关系协定》与巴西商业政策有关，并承认上述问题提及的所有协议均以联合国中央产品分类表作为参考，巴西做出如下具体承诺：*

*• MERCOSUR Montevideo Protocol on Trade in Services:*

*•* *南方共同市场服务蒙得维的亚贸易协议：*

*Decisão CMC 21/09. After the Seventh Round of negotiations of Specific Commitments in Services, Brazil presented the following commitments in environmental services:*

*Decisão CMC 21/09.在第七轮具体服务承诺谈判后，巴西在环境服务方面做出以下承诺：*

*(i) Sewage services (CPC 9401); (ii) Refuse disposal services (CPC 9402); (iii) Sanitation and similar services (CPC 9403); (iv) Cleaning services of exhaust gases (CPC 9404); (v) Noise abatement services (CPC 9405); (vi) Nature and landscape protection services (CPC 9406); (vii) Other environmental protection services.*

*(i)* *污水处理服务（CPC 9401）；（ii）垃圾处理服务（CPC 9402）；（iii）卫生及和类似服务（CPC 9403）；（iv）废气清洁服务（CPC 9404）；（v）减噪服务（CPC 9405）；（vi）自然景观保护服务（CPC 9406）；（vii）其它环保服务。*

*• MERCOSUR-Chile Agreement*

*•* *南方共同市场-智利协议*

*(i) Refuse disposal services (CPC 9402); (ii) Cleaning services of exhaust gases (CPC 9404); (iii) Noise abatement services (CPC 9405).*

*(i)* *垃圾处理服务（CPC 9402）；（ii）废气清洁服务（CPC 9404）；（iii）减噪服务（CPC 9405）。*

*• Agreement on Economic and Trade Expansion between Brazil and Peru*

*•* *巴西-秘鲁经济与贸易扩大协议*

*(i) Sewage services (CPC 9401); (ii) Refuse disposal services (CPC 9402); (iii) Sanitation and similar services (CPC 9403); (iv) Cleaning services of exhaust gases (CPC 9404); (v) Noise abatement services (CPC 9405); (vi) Nature and landscape protection services (CPC 9406).*

*(i)* *污水处理服务（CPC 9401）；（ii）垃圾处理服务（CPC 9402）；（iii）卫生及和类似服务（CPC 9403）；（iv）废气清洁服务（CPC 9404）；（v）减噪服务（CPC 9405）；（vi）自然景观保护服务（CPC 9406）。*

*It is important to note that the concession of services related to the environment shall be done exclusively at the Municipal level of Public Administration, and must follow the rules established by the legislation in force, regarding public companies, public service concessions and biddings.*

*注意，环境有关服务的特许经营应完全由市级公共行政部门进行。必须遵守现行法规有关上市公司、公共服务特许权和投标的规定。*

*Additional d*ata can be found at: *Mercosul and Mercosul-Chile http://www.mdic.gov.br/index.php/comercio-exterior/negociacoes-internacionais/217-negociacoes-internacionais-de-servicos/1944-ni-acordos-internacionais.*

其他信息可参见：*南方共同市场和南方共同市场-智利http://www.mdic.gov.br/index.php/comercio-exterior/negociacoes-internacionais/217-negociacoes-internacionais-de-servicos/1944-ni-acordos-internacionais*

*Agreement on Economic and Trade Expansion between Brazil and Peru: http://www.acuerdoscomerciales.gob.pe/images/stories/brasil/AnexoI\_BRASIL\_Lista\_de\_Compromisos\_Especificos\_Espanol.pdf.*

*巴西-秘鲁经济与贸易扩大协议：http://www.acuerdoscomerciales.gob.pe/images/stories/brasil/AnexoI\_BRASIL\_Lista\_de\_Compromisos\_Especificos\_Espanol.pdf.*

**Question 37:** Please provide information on whether Brazil has set an independent chapter on environment in the FTA / RTA or BIT which has been signed and implemented. If there is such a chapter, please provide the English version of it.

**问题37：**请巴方介绍现已签署并实施的自贸协定（FTA/RTA）或投资协定（BIT）中是否设置独立环境章节，如果有，请提供环境章节英文文本。

*Brazil does not have an independent chapter on environment in any FTA/RTA or BIT. Nonetheless, the Cooperation and Facilitation Investment Agreement (CFIA) model does provide for an article of Corporate and Social Responsibility, where environment issues are addressed. Please find below a version of this article, which is present in all of the CFIAs signed by Brazil:*

*巴西在任何自由贸易协定/区域贸易协定或双边贸易协定中都未独立成章。尽管如此，合作和便利化投资协定模式实际上构成了解决环境问题的企业和社会责任的篇章。下文附有出现在所有合作和便利化投资协定中的、由巴西方签署的文章：*

*Corporate Social Responsibility*

*企业的社会责任*

*1. Investors and their investment shall strive to achieve the highest possible level of contribution to the sustainable development of the Host Party and the local community, through the adoption of a high degree of socially responsible practices, based on the voluntary principles and standards set out in this Article.*

*1.投资者及其投资应根据本协议规定的自愿原则和标准，采用高度社会责任的做法，努力实现对所在国家和当地小区可持续发展的贡献。*

*2. The investors and their investment shall endeavour to comply with the following voluntary principles and standards for a responsible business conduct and consistent with the laws adopted by the Host Party receiving the investment:*

*2.投资者及其投资应遵守以下志愿原则和标准，对其商业行为负责，并遵守接受投资所在国的法律：*

*(a) Stimulate the economic, social and environmental progress, aiming at achieving sustainable development;*

*(a)*  *促进经济、社会和环境进步；着力实现可持续发展；*

*(b) Respect the human rights of those involved in the companies' activities, consistent with the international obligations and commitments of the Host Party;*

*(b)*  *尊重参与公司活动的人员的人权，遵守缔约国的国际义务和承诺；*

*(c) Encourage the strengthening of local capacities building through close cooperation with the local community;*

*(c)*  *鼓励与当地小区密切合作，加强地方能力建设；*

*(d) Encourage the development of human capital, especially by creating employment opportunities and facilitating access of workers to professional training;*

*(d)*  *鼓励发展人力资本特别是创造就业机会，促进工人的职业培训；*

*(e) Refrain from seeking or accepting exemptions that are not established in the legislation of the Host Party, relating to environment, health, security, work or financial incentives, or other issues;*

*(e)*  *不由寻求或接受所在国缔约方立法中关于环境、健康、安全、工作或经济奖励或其它问题的豁免；*

*(f) Support and maintain good corporate governance principles, and develop and apply good practices of corporate governance;*

*(f)*  *支持和维护良好的公司管治原则；制定和运用公司管治良好实践；*

*(g) Develop and apply effective self-regulatory practices and management systems that foster a relationship of mutual trust between the companies and the society in which the operations are conducted;*

*(g)*  *制定和实施有效的自律实践和管理制度，促进公司与经营所在社会团体的相互信任；*

*(h) Promote the knowledge of workers of the corporate policy, through appropriate dissemination of this policy, including programs for professional training;*

*(h)*  *通过适当传播（包括专业培训方案）提高工人对公司政策的了解；*

*(i) Refrain from discriminatory or disciplinary action against the employees who submit grave reports to the board or, whenever appropriate, to the competent public authorities, about practices that violate the law or violate the standards of corporate governance that the company is subject to;*

*(i)*  *对于向董事会或适当时向主管公共机关报告违法法律或公司管治标准行为的员工，不得对其采取区别对待或纪律措施；*

*(j) Encourage, whenever possible, the business associates, including service providers and outsources, to apply the principles of business conduct consistent with the principles provided in this Article; and*

*(j)*  *鼓励业务伙伴（包括服务提供商和外包商）尽可能地擦用符合本条规定的商业行为原则；及*

*(k) Respect local political activities and processes.*

*(k)*  *尊重当地的政治活动和流程。*

Page 132, para 4.116

第132页第4.116段

Brazil remains the largest financial services market in Latin America. During the review period, its financial system (SFN) remained sound amidst the recession and low credit growth. The contribution of financial and insurance services to gross value added rose between 2012 and2016, from 6.4% to 8.3% (Table 1.1); in 2014, the sector employed 1.2% (1.1% in 2012) of the labour force, suggesting a rise in labour productivity. The sector's assets peaked in 2012 and then dropped by 25.4% as of 2015, followed by a rise of 26.3% in 2016 (Table 4.11). In 2016, banks accounted for 59.4% of the system's assets, whereas insurance companies accounted for 1.3%, compared to 60.5% and 1.5% in 2012, respectively; investment and pension funds held 26.4% and 11.1% of the assets. Within services, financial services constitute the largest recipient of foreign capital and the sector where most mergers and acquisitions take place. According to the IMF, there seems to be scope for making SFN even more robust by enhancing the financial safety net as well as ensuring continued vigilance and close monitoring of the health of the corporate sector and its links to the banking sector.

巴西仍然是拉美地区最大的金融服务市场。审查期间，其金融体系在经济衰退和信贷增长低的情况下仍然保持稳健。2012年至2011年期间，金融和保险服务对总增加值的贡献从6.4％增加到8.3％（表1.1）；2014年，该领域雇用了1.2％（2012年为1.1％）的劳动力，说明劳动生产率有所提高。该领域的资产在2012年达到最高点，随后在2015年下降了25.4％，其后在2016年上升了26.3％（表4.11）。2016年，银行占系统资产的59.4％，保险公司占比为1.3％（2012年分别为60.5％和1.5％）。投资和养老基金持有资产26.4％和11.1％。在服务业内部，金融服务是外资涌入最大的受益者，也是大多数并购发生的领域。据国际货币基金组织称，通过加强金融安全网和和继续保持警惕并密切监测企业部门健康状况及与银行部门的联系，其金融体系变得更加强大。

**Question 38:** What are the main access and regulatory requirements for foreign financial institutions in Brazil? Will it follow the principle of national treatment?

**问题38：**请问巴西对外资金融机构设定的准入及监管要求主要是什么？这些机构是否会受到国民待遇？

*The Banking Law, with the wording of Law 7730/1989, establishes that the Central Bank of Brazil (BCB) has exclusive competence to, among others, authorize financial institutions to:*

*《银行法》采用了第7730/1989号法的措辞规定：除其它权力之外，巴西中央银行有独家权限以授权金融机构：*

● *operate in the country;*

● *在巴西境内运营；*

● *establish or transfer their headquarters or offices abroad;*

● *设立或转移其总部或海外办事处；*

● *be transformed, merged or incorporated; and*

● *变革、合并或整合；及*

● *transfer their equity control.*

● *转让股权控制*

*With the enactment of the current Brazilian Constitution, of 1988, the inflow of foreign capital to the Brazilian Financial System (SFN) was subjected to the provisions in the Act of Transitory Provisions of the Constitution (article 52, line I and II). This rule prevents the establishment, in the country, of new branches of foreign financial institutions and the increase in participation of foreign individuals or legal entities in the equity of national financial institutions. However, the same constitutional provision provides for exceptions in case of authorizations resulting from international agreements, reciprocity, or of national interest. The manifestation of such interest takes the form of a presidential decree.*

*随着1988年《巴西宪法》的颁布，流入巴西金融体系的外资将遵守“宪法暂行规定”（第52条之第一行和第二行）的规定。这一规定阻碍了外资在巴西国内设立外国金融机构的新分支机构，以及外国个人或法律实体获得更多的国家金融机构股权。但是，同样的宪法条款也规定了对于国际协议、互惠条款或国家利益所产生的授权的例外情况。总统令就是这一利益的表现形式。*

*BCB must submit, for presidential approval, the applications of foreign banks for a license to establish or to participate in the capital of financial institutions. With the exception of the above-mentioned presidential decree, all other procedures for licensing a foreign financial institution to establish in Brazil are identical to the ones applicable to the licensing of a Brazilian financial institution. Once a foreign financial institution is established in Brazil, national treatment applies.*

*巴西中央银行必须向总统提交外国银行申请设立或入资金融机构的许可证以供批准。除上述总统令外，在巴西设立外国金融机构许可证的所有其它程序均同于于巴西金融机构许可证的程序。。一旦外国金融机构在巴西设立，则适用国民待遇。*

*Resolution CMN 4122, of 2012, defines the requirements and procedures for the licensing authorization, change of control, structural changes and corporate reorganizations, and the procedures required to obtain the approval for such operations are listed in Circular 3,649/2013.*

*2012年第CMN 4122号决议规定了许可授权、更改控制权、结构变更和企业重组的要求和程序。获得此类操作批准所需的程序列于第3,649/2013号通告。*

*Circular 3317, of March 29, 2006, in addition to the provisions of Circular 3,649/2013, establishes procedures to be followed in order to request participation or increase of foreign ownership of financial institutions and other institutions licensed to operate by the BCB, as well as for opening branches of financial institutions that are domiciled abroad.*

*除了第3,649/2013号通知的规定外，2006年3月29日第3317号通告还规定了要求参加或增加巴西中央许可经营的金融机构和其它机构的外国所有权的程序，以及住所在国外的金融机构开设分支机构的规定。*

*For prudential reasons, the BCB only admits subsidiaries of foreign financial institutions.*

*为谨慎起见，巴西中央银行仅认可外国金融机构的分支机构。*

*Brazilian licensing procedures are in line with the Core Principles for Effective Banking Supervision issued by the Basle Committee on Banking Supervision. It is important to remark that all foreign financial institutions that want to establish in Brazil and fulfil the prudential requirements are operating in Brazil.*

*巴西的许可授予程序符合巴塞尔银行监管委员会颁布的有效银行监管核心原则。应注意，计划在巴西成立并符合审慎要求的所有外国金融机构都在巴西开展业务。*

*The above-mentioned regulations and the licensing procedures summary are available at the BCB's website (http://www.bcb.gov.br/en/#!/n/LICENSINGPROC).*

*可访问巴西央行网站了解上述各项法规和许可授予程序摘要：*

*（http://www.bcb.gov.br/en/#!/n/LICENSINGPROC）。*

*Decree-Law 73/1966 establishes jurisdiction of SUSEP for controlling and supervising the insurance, open private pension, capitalization and reinsurance markets (with the exception of health insurance, jurisdiction of ANS)*

*第73/1966号法规定了由巴西私营保险管局控制和监督保险、公开私人养老金、资本化和再保险市场（除了健康保险，该保险属于国家补充医疗局的管辖权）。*

*In general, to provide insurance in Brazil, any company should be incorporated as a domestic corporation and, therefore, it is required to be incorporated under Brazilian law and treated as national.*

*一般来说，为了在巴西提供保险，任何公司都应当作为巴西国内法人注册成立，因此所述公司需要根据巴西法律成立并被视为国民。*

*Brazilian licensing procedures for the insurance market largely observe the Insurance Core Principles issued by the International Association of Insurance Supervisors - IAIS.*

*巴西保险市场的发牌程序主要遵守国际保险监督管理协会发布的“保险核心原则”。*

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Investment barriers seem to make market entry a challenge. Foreign ownership in "free to air" television broadcasting is limited to 30%, and 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 every channel to air at least three and a half hours per week of Brazilian programming during prime time, thereby creating enormous demand for independently produced national content to be acquired or coproduced by channels in order to fulfil the quotas. One third of all channels included in any television package must be Brazilian. 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.

投资壁垒似乎会对市场进入构成挑战。“免费播放”电视广播中的外资所有权限制在30％，而在“免费信道”播出的节目的80％必须是巴西节目。在包括卫星和有线电视在内的订阅电视市场中，内容配额要求每个频道每周在黄金时段至少播放三个半小时的巴西节目，从而为独立制作的本国节目提供了巨大需求。通过多个频道购买或共同制作以满足配额要求。任何电视节目包至少有三分之一的频道为巴西频道。订阅电视节目的制作人也需要收取11％的汇款费用。若相当于至少3％的汇款投入本地制作，则可免除汇款。

**Question 39:** Please provide the legal basis including the name of laws and related provisions regarding such concrete barriers as Brazil's restrictions to foreign investment on public TV stations, the requirements for the Brazilian programming and for the number of Brazilian channels in the television services.

**问题39：**请提供巴西有关公共电视台外资限制、电视服务中本国节目播出限额和巴西频道数量要求等具体壁垒的法律依据，包含法律名称和相关条款。

*According to Article 222 of the Brazilian Federal Constitution, the ownership of media companies (including broadcasting and of sound and images, as well as news outlets) is exclusive of Brazilians citizens born in the country or having obtained the nationality for more than ten years, or legal entities established under Brazilian law and having their headquarters in Brazil. In any case, at least seventy percent (70%) of the total capital and voting capital of press, broadcasting and "sound and images" companies must belong, directly or indirectly, to Brazilian citizens born in the country or having obtained the nationality for more than 10 years. Management and program content is mandatorily incumbent to them. Editorial responsibility and selection and direction of programs are exclusively reserved to Brazilian citizens born in the country or having obtained the nationality for more than 10 years in any media.*

*根据《巴西联邦宪法》第222条的规定，广播、声像和新闻媒体等媒体公司的所有权不包括在该国出生或获得国籍超过十年的巴西公民，或根据巴西法律成立的总部设在巴西的法律实体。无论何种情况，新闻、广播和声像公司的总资本和投票资本的至少百分之七十（70％）必须直接或间接属于在该国出生或获得国籍超过十年的巴西公民。管理和节目内容是强制性的。编辑和节目的选择与导播专属于媒体中巴西本国出生或获得国籍超过十年的公民。*

*Law No. 12.284/2011 regulates the quota rules for programming and the number of Brazilian channels in the television services. The main requirements established are: (i) in the channels of qualified space, at least 3h30 (three hours and thirty minutes) a week of the content transmitted in prime time must be Brazilian, and half must be produced by independent Brazilian producers (Article 16); (ii) in all packages offered to the subscriber, of every 3 (three) qualified space channels in the package, at least 1 (one) shall be qualified Brazilian space channel (Art. 17); (iii) companies can only offer channels that contain advertising of services and products in the Portuguese language, subtitled in Portuguese or in any way directed to the Brazilian public, which have been produced by a national advertisement agency.*

*第12.284/2011号法规定了电视服务中的节目配额规则和巴西频道数量。主要的要求如下：（i）在空间合格的频道中，黄金时段内播放的内容每周至少有3小时30分必须是巴西节目，其中一半由巴西独立制片人制作（第16条）；（ii）在提供给用户的所有节目中，每三（3）个合格的空间频道至少应有一（1）个巴西空间频道合格（第17条）；（iii）公司只能提供包含葡萄牙语服务和产品广告的频道，以葡萄牙语或以任何形式向巴西公众转载由国家广告公司制作的广告。*

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A fixed tax on each foreign film released in theatres, on foreign home entertainment products, and on foreign programming for broadcast television is levied; the taxes seem significantly higher than the corresponding taxes levied on domestic productions. Remittances to foreign producers of audiovisual works are subject to a 25% income withholding tax; the producer can elect to invest 70% of this tax in local independent productions. In addition, local distributors of foreign films are subject to a levy of 11% of remittances to the foreign producer; the authorities indicated that the same rules apply to local films. This levy, a component of the CONDECINE (Contribution to the Development of a National Film Industry), is waived if the producer agrees to invest 3% of the remittance in local independent productions same as for subscription TV programming. The CONDECINE levy is also assessed on foreign video and audio advertising.

对外国电影、外国家庭娱乐用品以及外国广播电视节目征收固定税费；税收明显高于对国内生产费用征收的相应税费。对外国视听作品制作人的汇款应缴纳25％的预扣税；制片人可以选择将70%的预扣税投入当地独立制片活动中。此外，本地外国电影分销商将向境外制片商征收11％的汇款费用；当局表示同样的规定也适用于本地电影。若制片人同意将3％的汇款投入本地的独立作品中，这笔征收的税费将作为国家电影工业发展费的一部分用于制作收费电视节目。国家电影工业发展费用同样也适用于外国的影视广告。

**Question 40:** Please provide the legal basis including name of laws and related provisions for Brazil to levy taxes on foreign movies, foreign home entertainment products and foreign programming for broadcast television with rates higher than those for domestic productions in Brazil.

**问题40：**请提供巴西针对外国电影、外国家庭娱乐产品和电视播放的外国节目征收高于巴西国内产品税率的法律依据，包含法律名称和相关条款。

*The value ​​of CONDECINE shall be reduced to (i) twenty percent, in the case of cinematographic or non-advertising audiovisual work; (ii) 20% (twenty percent) in the case of (a) audiovisual works for public exhibition that are operated with up to six (6) copies, (b) cinematographic and video works intended for image and sound broadcasting services that were produced more than twenty years prior to the registration of the contract in the National Film Agency (ANCINE), and (c) cinematographic works intended for sound and image broadcasting services and electronic mass subscription services, when they have been previously explored in cinema theatres with a limit of up to six (6) copies or in case they have been exhibited at festivals or public exhibitions, with prior permission of ANCINE; and (iv) 10% (ten percent), in the case of Brazilian advertising carried out by a micro or small business, according to the definitions of art. 3 of Complementary Law no. 123/2006.*

*在电影或非广告视听作品的情况下，国家电影工业发展费的费率应降低为（i）百分之二十，适用于电影摄影或非广告音视频作品；（ii）在以下情况中，20％（百分之二十）（a）公开展出的影视作品最多可以播放六（6）份，（b）在国家电影局（ANCINE）的合同注册之前二十多年前制作的、为影像和声音广播服务制作的电影和视频作品以及（c）用于声像和图像广播服务和电子大规模订阅服务的、曾在影院上映不超过六（6）份，或者若要节日或公开展览会上展出，则经巴西国家电影局事先许可；及（iv）根据艺术的定义，在由微型或小型企业进行广告的情况下，适用10％（百分之十），具体依照第123/2006号补充法第3条的规定实施。*

**Question 41:** Please provide the legal basis including name of laws and related provisions for Brazil to establish, manage and use CONDECINE(Contribution to the Development of a National Film Industry).

**问题41：**请提供巴西设立、管理和使用“国家电影产业发展贡献金”（CONDECINE, Contribution to the Development of a National Film Industry）的法律依据，包含法律名称和相关条款。

*The Contribution to the Development of a National Film Industry (CONDECINE) is the subject of Chapter VI of Provisory Measure Nº 2.228-1/2001, which establishes the general principles of the National Film Policy, including the creation of the National Film Agency (ANCINE) and the directives for the funding of the Brazilian film industry.*

*国家电影工业发展费为“暂行措施”第2.228-1/2001号第四章的主要内容，规定了国家电影政策的一般原则，包括设立国家电影局以及为巴西电影业提供资金的指示。*

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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 do not need to be printed locally. Domestic film quotas also exist for theatrical screening and home video distribution.

电影和电视节目必须本地印制，这是因为禁止进口戏剧和电视市场所需的彩色印刷品。音视频内容分布在六份以内的不需要在本地印制。国产电影配额规定同样适用于电影的筛选和家庭视频制品的分配。

**Question 42:** Please provide the legal basis including name of laws and related provisions for Brazil's ban on the importation of films, television shows and color prints.

**问题42：**请提供巴西禁止进口电影和电视剧彩色印刷品的法律依据，包含法律名称和相关条款。

*According to article 24 of Provisional Measure 2228-1/2001 the technical services of copying and reproduction of matrices of cinematographic and video-phonographic works that are destined for commercial exploitation in the Brazilian market must be performed in laboratories installed in the country. The compulsory copying in the country can be waived up to the limit of 6 (six) copies.*

*根据“暂行措施”第2228-1/2001号第24条的规定，复制和复制巴西市场内商业开发的电影和录像工作矩阵的技术服务必须在该国国内实验室进行。若份数不超过6（六）份，则可不采用国内强制拷贝规定。*

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The institutional framework governing airports and auxiliary services remains unchanged...

有关机场及附属服务的机构框架保持不变……

Question 43: Please introduce the collection standard, the management and use of the Brazilian National Civil Aviation fund.

问题43：请介绍巴西全国民航基金的征收标准和使用管理情况。

*The National Civil Aviation Fund (FNAC) is regulated by Decree no. 8.024/2013 and is currently financed through the revenues from airport concession fees, part of the international boarding fees and financial investments. The Fund is administered by SAC/MTPA and is used to foster the civil aviation sector through the financing of initiatives, such as: studies, plans and projects for the development of the civil aviation sector; investments in airport and civil aeronautics infrastructure; capacity building programs; programs for the improvement of airport management; programs and investments in civil aviation security; programs and investments to avoid acts of unlawful interference in the civil aviation sector; etc.*

*国家民航基金受第8.024/2013号法令的管辖。目前的资金来源包括机场特许经营费用、国际寄宿费用和金融投资的部分收入。该基金由巴西航空署/运输、港口和民航部管理，通过资助措施促进民航业的发展，如：民航部门发展研究、计划和项目；对机场和民用航空基础设施的投资；能力建设方案；机场管理改进方案；民航安全方案和投资；避免非法干扰民航部门的行为的方案和投资等等，*

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Upgrading infrastructure remains critical for improving international competitiveness.

基础设施升级对于提高国际竞争力仍然举足轻重。

**Question 44:** Please introduce the Brazils airport management system and the funding sources for airport construction. In addition, is there any subsidy policy or program introduced by the Brazilian government for airport operations? If any, please introduce.

**问题44：**请介绍巴西机场管理体制、机场建设资金来源；此外，巴西政府对于机场运营是否有补贴政策？ 若有，请介绍。

*Airport management is subject to public concessions, whose terms vary for different airports. More recently, airport concessions allowed full participation of private capital, whether national or foreign.*

*机场管理需取得公共用地租界，不同机场的期限不同。近来，机场商业特许权允许了私人资本的全面参与——无论是国内还是国外。*

*Public funds are available for the construction and repair of airports. For instance, the construction of the new airport in Vitória da Conquista (in the state of Bahia) and the expansion of the airport of São Luís (in the state of Maranhão) were public funded. A third lane for the airport of Curitiba (in the state of Paraná) is part of the Growth Acceleration Programme (PAC) budget.*

*机场的建设和维修也可利用公共基金。在巴伊亚洲的Vitóriada Conquista建造新机场以及扩建圣刘易斯机场（Maranhão州）的资金都来自于公共基金。在增长加速计划的预算中也包括了Curitiba（帕拉纳州）机场的第三条跑道。*

Page 160, para 4.214

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Under MERCOSUR Decision No. 25/2003, a regulatory framework allows for granting temporary work permits to service providers in member countries. During the review period, some Brazilian professional associations issued 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.

在MERCOSUR决定（2003年，第25项）中建立了给予成员国的服务提供者临时工作许可证的监管框架。在审查期间，一些巴西专业协会颁布规定，例如建筑、城市规划、工程、地质学、农学等协会，可以发放临时工作许可，然而，申请人必须有一个临时工作合同和居留许可（永久的或暂时的），使他们能够申请临时专业护照。”

Question 45: Please introduce the specific procedures of applying for temporary work permits? Is there a time limit for the temporary period? What is the difference between a temporary work permit and a long-term one?

问题45：请介绍一下临时工作许可办理的具体流程？“临时”是否有时限要求？临时工作许可与长期工作许可有何区别？

*Temporary work contracts must be submitted to the Ministry of Labor and Employment for approval. Such contracts must be celebrated between two juridical persons, one established in Brazil and the other abroad. The natural person must be originally employed by the foreign enterprise, which, in some cases, will be responsible for the payment of the worker. Temporary work contracts can have different periods, from months to years, depending on the nature of the service to be provided or the employment relationship established. After the contract is approved, the natural person is entitled to be granted a work visa.*

*必须将临时工程承包合同提交劳动与就业部审批。所述合同必须由两个法人达成，其中一个法人为巴西国内法人，另一方为外国法人。自然人必须由外国企业雇佣。在某些情况下，外国企业将负责支付工人的工资。临时工作合同可以有不同的期限——从几个月到几年，具体取决于所提供服务的性质或建立的就业关系。合同审批后，自然人有权获得工作签证。*

Question 46: Please introduce the relevant policies and procedures for foreigners to apply for work permits in the area of natural person movement.

问题46：请巴西介绍一下自然人流动地区外国人办理工作许可的相关政策和流程？

*Temporary work contracts must be authorized by the Ministry of Labor and Employment. Brazilian Companies must submit an application in order to hire a worker from abroad. The worker must have professional bonds with a juridical person abroad, which is responsible for the contact with the Brazilian employer. The Brazilian firm must express the reasons for contracting a foreigner. A specific ratio of one third of nationals and foreigners within the firm must be maintained, and the foreign workers shall not comprise more the one third of the total payroll of the company.*

*临时工程承包合同必须由劳动与就业部审批。巴西公司必须提交申请以雇佣国外工人。该工人必须与国外法人保持专业联系，后者负责与巴西雇主的联系。巴西公司必须说明雇佣外国人的原因。必须保持公司国民-外国人的比例为三比一，外国工人不得超过公司总工资表人数的三分之一。*

**Part II. Questions based on Report by the Government of Brazil**

**第二部分：基于巴西政府报告的问题**

Page 5, para 2.8

第5页第2.8段

Regarding foreign trade, after an increase in 2013, it declined at an annual average rate of ‑8.5% in exports and -16.9% in imports.

外贸方面，自2013年外贸增加后，出口年均下降8.5％，进口下降16.9％。

**Question 47:** Which products are subject to the import decline? Which countries and regions are affected? What is the main reason?

**问题47：**进口下降主要体现在哪些产品？涉及哪些国家和地区？主要原因是什么？

*Considering the average rate for the period for 2013 /2016, the decline in imports concerns all groups of products: capital goods (-12,2%), consumer goods (-9,7%), intermediate goods (8,2%), and fuels and lubricants (-18,8%).*

*考虑到2013/2016年期间的平均水平，进口下降涉及到所有各类产品：资本货物（-12.2%），消费品（-9.7%），中间货物（8.2%），燃料及润滑油（-18.8%）。*

*All world regions were affected by the decline in imports: Asia (-10,2%); Europe (-9,8%); North America (-7,7%), South America (-10,8%), Africa (-19,0%), Middle East (-14,6%), Central America and Caribbean (-18,2%), e Oceania (-9,8%).*

*世界各地都受到进口减少的影响：亚洲（-10.2%）；欧洲（-9,8%）；北美（-7.7%），南美（-10.8%），非洲（-19.0%），中东（-14.6%），中美洲及加勒比（-18.2%），大洋洲（-9.8%）。*

*The main reasons for this performance were the slowdown in the world economy and in the domestic market.*

*主要原因在于世界经济增长放缓和国内市场。*

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第6页第2.12段

The Government is developing partnerships and new instruments for international cooperation, in order to encourage joint research, development and innovation (RD&I) between Brazilian and foreign companies. The Ministry of Industry, Foreign Trade and Services launched four calls for proposals for joint RD&I projects between Brazilian and foreign companies, in partnership with the Governments of Israel, France, Germany and the United Kingdom.

政府正在开发国际合作伙伴关系和新工具以鼓励巴西和外国公司之间进行联合研究、开发和创新。工业、外贸和服务部与以色列、法国、德国及英国的政府合作，启动了四项巴西企业和外国企业合作研究、开发和创新项目提案征集活动。

**Question 48:** Are there any relevant policies or guiding principles for the above-mentioned cooperation? Is there any access threshold?

**问题48：**此类合作是否有相关的政策或指导原则？是否有准入门槛限制？

**Question 49:** What areas are the current RD & I focusing on? How is the effect?

**问题49：**目前的研究、开发和创新主要集中在哪些方面？成效如何？

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第6页第2.12段

In addition, the Government is developing partnerships and new instruments for international cooperation, in order to encourage joint research, development and innovation (RD&I) between Brazilian and foreign companies.

此外，政府也在不断发展国际合作的伙伴关系和新手段，以鼓励巴西企业和外国企业之间的合作研究、开发和创新活动。

**Question 50：**In terms of mining investment and policy research, what measures has Brazil taken to develop international partnership and what achievements have been made?

**问题50：**在矿业投资与政策研究方面，巴西采取了哪些措施发展国际合作伙伴关系？取得了哪些成果？

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第11页第2.44段

According to the general Law, public entities cannot establish differential treatment between Brazilian and foreign companies.

根据一般法律，公共实体不能对巴西企业和外国企业实施差别待遇。

**Question 51:** In Brazil's government procurement, there are quite some measures giving priority to Brazilian products, which obviously against the general law that public entities cannot establish differential treatment between Brazilian and foreign companies. Please give further explanation.

**问题51：**巴西政府采购中有不少优先采购国货的措施，这是否与不能对巴西企业和外国企业实施差别待遇的规定相违背？

*Brazil does not agree with the assertion by China and notes that it is not a signatory of the Government Procurement Agreement of the WTO.*

*巴西不同意中国的主张，并表明其并非世界贸易组织“政府采购协议”的签约国。*

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第11页第2.2.6段

**Question 52:** Brazil is the second Latin American country that signed currency exchange agreement with China. As both China and Brazil enjoy adequate foreign reserves with capital control on the two currencies, the China-Brazil Currency Exchange Agreement not only demonstrates the cooperation mechanism of the two countries under the BRIC framework, but also sets an example for the developing countries to carry out financial cooperation and change the old international financial order. Will Brazil consider settling in RMB in the trade between China and Brazil to facilitate the trade intercourse between the two countries?

**问题52：**巴西是拉美第二个与中国签订货币互换协议的国家，由于中巴两国都拥有充足的外汇储备，加上两国货币都受到资本管制，中巴货币互换协议不仅体现了两国在金砖国家框架下的合作机制，并且为广大发展中国家开展金融合作、改变国际金融旧秩序树立了榜样。巴西是否考虑在未来中巴两国贸易中使用人民币计价结算，以利于两国企业贸易往来？

*Central Bank of Brazil has been negotiating Local Currency Payments Systems (SML) with several countries and aims to expand this process, including evaluating a multilateral mechanism. The partnership between Brazil and China is an important one and has been intensified through a close dialogue and trade. Given the already important relationship between the two countries, Brazil welcomes the opportunity to discuss with China possible alternatives and mechanism to settle payments in local currencies, through an SML or another feasible mechanism in SML framework basis.*

*巴西央行已经在与多个国家商讨“本地货币支付系统（SML）”事宜，并计划扩展这一项目内容，包括对多边机制进行评估。中巴合作关系十分重要，并通过密切的对话和贸易而得到加强。鉴于两国已有的重要合作关系，巴西期待与中国一同探讨本地货币结算的潜在方案和机制，也许采用本地货币支付系统或该系统框架基础内的其他可行机制。*

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第14页第2.66段

Brazil understands that social housing plays a central role in promoting sustainable urban development and economic development, in accordance with the principles emanating from the New Urban Agenda recently approved in Quito. The Brazilian Government is focusing its efforts on improving quality and expanding the number of homes offered, as well as increasing the efficiency of the system.

巴西理解依据最近在基多通过的“新城市议程”的准则，社会住房在推动可持续城市发展和经济发展中起着核心作用。巴西政府正集中精力提高所供住房的质量和数量，同时提高该体制的效率。

**Question 53:** Please briefly describe the principle, in the New Urban Agenda, regarding social housing and how the Brazilian government accommodates the increasing demand for housing.

**问题53：**请简述“新城市议程”中关于解决社会住房所规定的准则，以及巴西政府是如何满足日益增长的住房需求的？

*The concept of adequate housing is considered a right that covers: accessibility; legal security of tenure; habitability; affordability; cultural adequacy; location; availability of services, materials, facilities and infrastructure; safe spaces; employment and education in an average city's standard are principles present in the New Urban Agenda and guaranteed in all guidelines and norms of the Ministry of Cities' programs. Through the National Cities' Council, this right to adequate housing is spread to all instances of popular participation and decision making, and has also been seen as an objective to be pursued by subnational policies. Beyond that, the National Housing Secretariat (SNH) has been monitoring the quality and the social effectiveness of its policies through interinstitutional cooperation.*

*适当住房的概念系指一种包含下列内容的权利：城市平均标准下的可及性，使用期的法律保障，可居性，可承受性，文化适宜性，位置，服务、材料、设备及基础设施可用性，安全空间，就业和教育；以上是“新城市议程”中的准则，也是城市部项目所有指南和规范中保证的内容。通过国家城市委员会，这一适当住房权利已经扩展到公众参与和决策的所有事例，也已成为地方政策追求的目标。除此之外，国家住房秘书处（SNH）也通过机构间合作对其政策的质量和社会效力进行监控。*

*The National Housing Plan guidelines, published in 2009 and now in revision, are in line with the directives of the specific legislation and agreements that veto any kind of discrimination and that promote human rights, as well as the fight against inequalities. The My House My Life Program (Programa Minha Casa Minha Vida – PMCMV), the Slum Upgrading Program (PAC-UAP) and the Reform Card Program are three important instruments aimed to respond to the Brazilian housing issues of mass-scale production and inadequate housing qualification.*

*2009年发布、目前正在修订的“国家住房计划”指南与禁止任何歧视、倡导人权、对抗不平等的明确法律、协议指示相一致。“我的房子——我的生活”计划（Programa Minha Casa Minha Vida – PMCMV）、“贫民窟改造计划”（PAC-UAP）、“改革卡计划”是应对巴西住房问题的三大重要手段，这些问题包括大规模生产和不适当住房条件。*

*The PMCMV was created in 2009 with the intents of filling the gap in the housing provision for low-income households, boosting the economy and fighting the country's housing deficit. Coordinated by the National Housing Secretariat of the Ministry of Cities (SNH/MCidades), this program is highlighted among the social policies of the Brazilian government. Up to June 2017, the PMCMV had an investment of more than 353 billion Reais, with more than 3.4 million housing units delivered and more than 3.8 million housing units contracted.*

*“我的房子——我的生活”计划于2009年启动，旨在填补低收入家庭的住房供应缺口、促进经济发展、缓解本国的住房短缺问题。通过与城市部国家住房秘书处（SNH/MCidades）的协作，该计划在巴西政府的社会政策中得到特别关注。截止2017年6月，“我的房子——我的生活”计划已有投资3530亿巴西雷亚尔，已交付超过340万套住房，签约超过380万套住房。*

*The Slum Upgrading Program (PAC-UAP), created in 2007, addresses the issues of precarious settlements and favelas, seeking to keep families in their place of residence, urbanizing areas and providing infrastructure, as well as providing social housing through the linked PMCMV. This Program focuses not only on the quantitative housing deficit - building new housing units through linked PMCMV operations, but also on the qualitative intervention of the settlements, executing actions of housing improvements, land regularization, environmental recovery, among others. PAC-UAP has already benefited more than 330 thousand families.*

*“贫民窟改造计划”创建于2007年，旨在解决危房和贫民窟问题，致力于保障家庭留在原有居住地、区域都市化、提供基础设施，并通过“我的房子——我的生活”计划提供社会住房。该计划不仅关注住房短缺的数量（通过“我的房子——我的生活”计划建造新的住房），还注重干预居住点质量，在改善住房、土地规划、环境恢复等方面都在采取行动。“贫民窟改造计划”已经造福了超过33万家庭。*

*The Reform Card Program was launched in 2016 and aims to improve the living conditions of low-income families by means of an economic subsidy for the acquisition of construction materials, for the renovation, expansion or completion of housing units for low-income families, including the service of technical assistance of professionals of the area of civil construction. This Program is in the initial phase of operation.*

*“改革卡计划”于2016年启动，旨在通过对建筑材料购买、低收入家庭住房翻修、扩建或完工（包括土木建筑领域专业人员的技术支持服务）提供经济补助来改善低收入家庭的生活条件。该计划仍在运营的初始阶段。*

*Despite the current efforts of the Brazilian Government to meet the existing demand for housing, it is known that this need constantly varies. Therefore, aiming to adequately plan and allocate available resources, the National Housing Secretariat in addition to revising housing programs, undertakes studies by means of technical cooperation with academic institutions, amongst which we can highlight the studies of future demand for housing. These studies measure, from the population projection, not only the total amount of housing required, but also clippings related to gender, income, territorial cut, among others. The latest survey on future demand for housing was published in 2009 and covered the periods between 2003 and 2023. Currently, this research is under review and will focus on a new period, from 2010 to 2040, the results are expected to be disclosed in October 2017.*

*尽管巴西政府正努力满足现有住房需求，但众所周知这一需求不断在变化。因此，为了适当规划和分配可用资源，国家住房秘书处除了修订住房计划外，还通过与学术机构的技术合作开展研究，其中我们可以特别关注关于未来住房需求的研究。这些研究从人口预测的角度，不仅估量了所需住房的总量，同时预测了性别、收入、区域划分等其他细节内容。最新的未来住房需求调查发布于2009年，涵盖了2003年至2023年的时间段。目前，正在对这项研究进行审核，将更新其研究时间段，从2010年到2040年，预计结果将于2017年10月发布。*

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The period 2015-2016 was characterized by significant surpluses in goods trade: US$19.7billion and US$47.7 billion, respectively.

2015-2016年的特点是明显的商品贸易过剩：分别为197亿美元和477亿美元。

**Question 54:** What is the reason for the significantly increased trade surplus in 2016? What are the main export products that contribute to the surplus? What is the distribution of the export destinations and the export proportion they account for?

**问题54：导致**2016年顺差大幅上升的原因是什么？促成顺差的主要出口产品是哪些？出口目的地主要分布及比例情况如何？

*Detailed information can be found at the following address: http://www.mdic.gov.br/index.php/comercio-exterior/estatisticas-de-comercio-exterior.*

*可在以下网址查看详细信息：http://www.mdic.gov.br/index.php/comercio-exterior/estatisticas-de-comercio-exterior。*

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Raw materials and intermediate products had a share of 57% of total imports in the 2013‑2016 period.......Pharmaceutical goods, auto-parts, oil, fertilizers, automobiles and electronic goods were the main products imported by Brazil

2013-2016年期间，原材料和中间产品占总进口量的57%……医药产品、汽车部件、石油、肥料、汽车以及电子产品是巴西的主要进口产品。

**Question 55:** What are the main trade restrictive measures taken by Brazil in import?

**问题55：巴**西在进口方面的主要贸易限制性措施有哪些？

Are there any trade restrictive measures for the main import products? If any, please specify.

主要进口产品是否有贸易限制性措施？如果有，具体是哪些？

*Brazil does not understand what China means by trade restrictive measures. Brazil only adopts measures that are authorized by the WTO or are in accordance with its preferential trade agreements.*

*巴西不明白中国所说的“贸易限制性措施”的意思。巴西只采用世界贸易组织授权的措施或符合其特惠贸易协定的措施。*

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Most of the cases dealt with issues that are at the core of the Multilateral Trading System, such as: granting of subsidies both to industrial (Canada Aircraft) and agricultural goods (EU Sugar and US Upland Cotton) and the application of trade restrictive measures by developed countries (US - Orange Juice), the protection of the environment (Brazil Tires) and public health (EU Medicines in Transit).

大多数情况处理“多边贸易体制”核心问题，例如：对工业（加拿大飞机）和农业产品（欧盟食糖和美国陆地棉）授予补助，发达国家贸易限制性措施的应用（美国——橙汁），环保（巴西轮胎），以及公共卫生（运输中的欧盟药物）。

**Question 56:** Please introduce Brazils experience in dealing with the dispute of Tire Case initiated by the European Union in the WTO?

**问题56：**请巴方介绍一下在WTO应对欧盟提起的“轮胎案”争端案例上的相关经验。

*Brazil understands that WTO agreements preserve a member right to adopt measures necessary to protect the environment and other legitimate objective as long as those measures are not applied in a non-discriminatory and non-arbitrary measures nor amount to a disguised restriction to trade. In Brazil – Retreaded tyres, the European Union challenged Brazil´s ban on the importation of retreated tires. Brazil successfully demonstrate that the ban was justified under Article XX(b) of the GATT as it was necessary to protect human life and health. As tires can be retreaded only once, the importation of retreated tires accelerates the accumulation of solid residues. This increases Brazil´s environmental burden – since there are no viable ways to dispose of used tires -, and results in serious risk to public health, given that the accumulation of used tires increases the risk of proliferation of diseases, such as dengue fever.*

*巴西理解世界贸易组织协议保留了成员国采取必要措施保护环境和实现其他合法目标的权利，只要这些措施无歧视、不武断，也不会形成对贸易的变相限制。在巴西——翻新轮胎，欧盟对巴西针对翻新轮胎进口的禁令提出了挑战。巴西凭“关税暨贸易总协定”（GATT）第XX（b）条成功证明了该禁令的正当性，因巴西必须保护人民的生活和健康。鉴于轮胎只能翻新一次，进口翻新轮胎会加快固体废物的累积。由于没有处理废旧轮胎的可行方法，这将加重巴西的环境负担，同时，考虑到废旧轮胎累积会增加疾病（如登革热）扩散风险，这也会带来严重的公共卫生风险。*

**Question 57:** Would Brazil introduce the specific practices of using trade measures to protect Brazil's environment while complying with WTO rules.

**问题57：**请巴方介绍在符合WTO规则下利用贸易措施保护巴西国内环境的具体实践。

*As explained in the reply to question 56, Brazil understand that WTO agreements preserve a member´s right to adopt measures necessary to protect the environment and other legitimate objective as long as those measures are not applied in a non-discriminatory and non-arbitrary measures nor amount to a disguised restriction to trade.*

*正如对问题56的回复，巴西理解世界贸易组织协议保留了成员国采取必要措施保护环境和实现其他合法目标的权利，只要这些措施无歧视、不武断，也不会形成对贸易的变相限制。*

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MERCOSUR and extra-regional agreements.

南方共同市场（MERCOSUR）和域外协议

**Question 58:** We note that, besides MERCOSUR, Brazil has also entered into free trade agreement with such countries and regions as India, South Africa and European Union. Will Brazil consider a joint feasibility study in order to initiate free trade zone negotiation with China?

**问题58：**我们注意到，除了与南共市之外，巴西还与印度、南非以及欧盟等国家和地区签署了自贸协定。巴西是否考虑与中国启动自贸区谈判的联合可行性研究？

*According to MERCOSUR Decision Nº 32 (29th June 2000), MERCOSUR members are committed to negotiate as a bloc any agreement of commercial nature. Considering that Mercosur is already engaged in multiple trade negotiations, the bloc's overloaded agenda would discourage taking up additional initiatives at this juncture.*

*根据南共市第32号决定（2000年6月29日），对于任何商业性质的协议，南共市成员国应作为一个集团进行商讨。鉴于南共市已参与多项贸易谈判，集团议程过满，因此目前不会再采取新的举措。*

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第22页第4.21段

Since May 2012, with the entry into force of the Brazilian competition law Law No.12,529/11 , the Brazilian Competition Policy System SBDC went through significant changes. These changes resulted in a unified approach to competition policy, bringing together the investigatory and decision-making powers of competition enforcement and leading to increasing efficiencies. They also allowed the Brazilian antitrust authority, the Administrative Council for Economic Defense CADE, to focus more on relevant precedent, predictability and legal certainty, and granted it the tools and framework to reflect carefully on competition cases and provide coherent consistent and robust legal precedent in Brazil.

自2012年5月起，巴西竞争法（第12,529/11号法律）实行后，巴西竞争政策体制（SBDC）经历了明显的改变。这些改变使竞争政策更为统一，联合了竞争执法的调查机构和决策机构，提高了效率。也使巴西反垄断当局经济保护和行政委员会（CADE）可以更关注相关先例、可预测性及法律确定性，为其仔细审视竞争案例及在巴西提供连贯一致、有力的法律先例提供了工具和框架。

**Question 59:** Please briefly introduce the institutional structure of Brazils competition enforcement authority

**问题59：**请简要介绍巴西竞争执法机构的机构设置情况。

*The Administrative Council for Economic Defense - CADE is the body from the Executive branch of the Brazilian government, reporting to the Ministry of Justice, responsible for investigating and deciding, ultimately, on competition issues. The authority has jurisdiction over the national territory and performs its legal functions given by the Law 12,529/2011, which entered into force in May 2012. According to the Law, CADE is responsible for the instruction of administrative proceedings related to violations against the economic order, as well as for the pre-merger review. The authority is composed by: (i) the Administrative Tribunal, (ii) the General Superintendence, and (iii) the Department of Economic Studies. The General Superintendence is mostly responsible for investigating and instructing proceedings in order to rebuke anticompetitive conducts and to develop the merger control. The Department of Economic Studies is responsible for improving economic analyses and providing greater security on the effects of CADE's decisions in the market. And, the Administrative Tribunal judges all anticompetitive conducts and complex mergers, issuing the authority's final decision.*

*经济保护和行政委员会是巴西政府行政部门下设机构，向司法部报告，负责竞争问题的最终调查和决策。该机构在国家领土范围内拥有司法权，依据2012年5月颁布实行的第12,529/2011号法律履行其法律职能。根据法律规定，经济保护和行政委员会负责违反经济秩序相关行政诉讼的指示，以及并购前审核。该机构由以下部门组成：（i）行政法庭，（ii）一般监督，（iii）经济研究部。一般监督主要负责为制止反竞争行为或进行并购控制而进行的调查及诉讼指示。经济研究部负责改善经济分析，并保证经济保护和行政委员会的决策对市场的影响更具安全性。行政法庭对所有反竞争行为和复杂并购进行审判，并发布机构的最终决定。*

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Moreover, all citizens have online access to the public versions of CADE's files and documents.

所有人能够在线获取CADE的公开文件和资料。

**Question 60:** Please introduce the scope and form of files and documents disclosed by CADE.

**问题60：**请介绍巴西经济保护和行政委员会（CADE）公开文件和资料的范围和形式。

*CADE discloses all information that is not confidential nor has a legal restriction, such as documents resulting from a leniency agreement or personal information. In order to ensure public access to the authority's proceedings, CADE's website provides a search tool that allows any user to the available public information -- http://en.cade.gov.br/case\_search.*

*经济保护和行政委员会披露所有非保密和不受法律限制的信息，例如宽待协议相关文件或个人信息。为保证公众可以了解机构的诉讼情况，经济保护和行政委员会的网站提供搜索工具，任何用户可以访问可用公共信息——http://en.cade.gov.br/case\_search。*

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International cooperation is also an important feature of competition law and policy in Brazil. CADE has cooperated with several foreign jurisdictions in the resolution of anticompetitive cases, assessment of mergers and a close dialogue in order to make their work converge for the purpose of more effective competition enforcement. In addition, the Brazilian competition authority is part of relevant international competition fora, such as the ICN, OECD and UNCTAD, with an actively and fruitful participation, which contributes for the development of the best practices within the international competition community.

国际合作也是巴西竞争法和竞争政策的一个重要特点。经济保护和行政委员会已就反竞争案例的裁决、并购评估、密切对话与多方外国司法辖区开展了合作，以达成工作接轨，实现更有效竞争执法的目标。此外，巴西竞争当局还积极参与相关国际竞争论坛，如国际竞争网（ICN）、经济合作与发展组织（OECD）、联合国贸易暨发展会议（UNCTAD），收效颇丰，为国际竞争社区内最佳实践的制定做出了贡献。

**Question 61:** Please introduce the cooperation between CADE and other jurisdictions in the investigation on merger and acquisition cases?

**问题61：**请介绍巴西经济保护和行政委员会（CADE）与其他司法辖区在并购案件审查方面的合作开展情况。

*CADE has been experiencing a continuous employment of international cooperation in the coordination with other competition authorities on matters of competition enforcement and policy, especially concerning merger control. The international cooperation generally occurs by means of the exchange of non-confidential information and public documents.*

*经济保护和行政委员会持续与其他竞争当局就竞争执法、政策（尤其是针对并购控制）开展国际合作。此类国际合作一般通过交换非保密信息和公共文件进行。*

*In the cases involving the exchange of confidential information, in order to overcome the barriers that may hinder investigations, CADE is engaged in using formal instruments of cooperation, according to its legal provisions, such as waivers from the merger parties. In 2016, CADE cooperated with 11 foreign competition authorities on 27 merger cases.*

*如需涉及交换保密信息，为克服可能阻碍调查的障碍，经济保护和行政委员会根据法律规定采用正式合作手段，例如并购方的弃权声明。2016年，经济保护和行政委员会与11家外国竞争当局就27项并购案例进行了合作。*

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Although the number of measures in force has increased since 2012, the number of measures applied each year constantly and significantly decreased during the period under review.

虽然自2012年起开始实行的措施数量有所增加，但每年实际应用的措施数量在审核时间段内却不断显著减少。

**Question 62:** What is the average number of trade remedy measures applied every year since 2012?

**问题62：** 2012年至今每年的平均贸易救济措施数量是多少？

*In 2012, 18 definitive measures were applied. In the following two years, 43 and 42 measures were applied, and since then this index has been falling. In 2015, 36 measures were applied and in 2016, 29 measures. Thus, in the period between 2012 and 2016, an average of 33.6 trade defense measures were applied annually.*

*2012年，使用了18项决定性措施。随后两年，分别使用了43项和42项措施，自此开始，这一指数一直在下降。2015年，使用了36项措施，2016年则为29项。因此，2012至2016年期间，每年平均使用33.6项贸易保护措施。*

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In order to make investigations more transparent and to facilitate the submission and the access to the case files of an investigation by all interested parties, Brazil implemented the DECOM Digital System (DDS), through SECEX Ordinance No. 58, of 2015.

为使调查更透明、便于利益相关方提交和获取相关材料，巴西发布2015年外贸委员会第58号令，启用贸易保护局数字系统（DDS）。

**Question 63:** Please briefly introduce how stakeholders submit and obtain related files by using DDS?

**问题63：**请简单介绍一下利益相关方如何使用贸易保护局数字系统提交和获取相关材料。

*In accordance with SECEX Ordinance No. 58, dated July 29th, 2015, interested parties shall participate in trade remedies investigations necessarily through Decom Digital System (DDS), where they can either submit and obtain files related to the investigation. The address of DDS is http://decomdigital.mdic.gov.br.*

*依据2015年7月29日颁布的外贸委员会第58号令，利益相关方必须通过贸易保护局数字系统（DDS）参与贸易救济调查，通过该系统利益相关方可以提交和获取调查相关文件。DDS地址为http://decomdigital.mdic.gov.br。*

*In this context, all the documents submitted by the interested parties, including the answer to the questionnaires, must necessarily be filed through the DDS. For this purpose, it is mandatory for the interested party or their legal representatives to acquire a digital certificate issued under the Brazilian Public Key Infrastructure (ICP-Brazil) in order to consult or comment on the case file. To acquire the digital certificate, the representative of the interested party must follow the guidelines established by the Instituto Nacional de Tecnologia da Informação - ITI (National Institute of Information Technology) at the website http://www.iti.gov.br.*

*这种情况下，利益相关方提交的所有文件（包括问卷调查）必须通过DDS存档。为此，利益相关方或其法定代表人必须获得巴西公钥基础设施（ICP-Brazil）发布的数字证书，才能对案例文件进行查阅或评论。为获得数字证书，利益相关方代表必须遵循国家信息技术研究所（Instituto Nacional de Tecnologia da Informação - ITI）制定的指导方针，发布于网站http://www.iti.gov.br。*

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Strengthening and supporting the multilateral trading system will remain a priority. Brazil will continue to play an active role in the WTO and will contribute to counter anti-trade movements and protectionist pressures.

加强和支持多边贸易体系仍然会是我们的优先选择。巴西仍将积极参与世界贸易组织，为打击反贸易运动和贸易保护主义压力做出贡献。

**Question 64:** How will Brazil strengthen and support the development of multilateral trade system in terms of trade and investment of resources?

**问题64：**在资源贸易与投资方面，巴西将如何加强和支持多边贸易体系的发展？

*Brazil will continue to participate actively in the the three pillars of the WTO: monitoring, dispute settlement and negotiations. Brazil is currently engaged in the negotiations leading to the Buenos Aires Ministerial Declaration and is participating in discussions of both the Doha agenda and the so called "new issues".*

*巴西将继续积极参与世界贸易组织的三大支柱：监控、解决纠纷、谈判。巴西目前正在参与推进“布宜诺斯艾利斯部长宣言”的谈判，并参与多哈议程和所谓的“新问题”的讨论。*

**Part III. Other questions**

**第三部分 其他问题**

**Question 65:** What requirements must be met by foreigners to obtain certified public accountant (CPA) license of Brazil? Are there any limitations to the scope of business for foreigners who have obtained the license? If any, please list and specify. How many foreign CPAs are there in Brazil at the moment?

**问题65：**外国人取得巴西注册会计师执业执照需要满足哪些条件？已取得巴西注册会计师执业执照的外国人在执业范围上是否有限制？如果有，具体有哪些限制？目前，巴西有多少名外籍注册会计师？

*The concession of a professional license by the Regional Accounting Councils (CRCs) to persons who have obtained their diplomas abroad is subject to the validation of the diploma by a Brazilian federal university, as determined by the Ministry of Education. Moreover, candidates must pass a proficiency exam in Portuguese by The Federal Accounting Council - CFC (Article 32 of CFC Resolution No. 1494/15).*

*地区会计委员会向在国外取得证书的人员授予执业执照，需要有教育部指定的一所巴西联邦大学对证书进行审核。此外，申请者必须通过联邦会计委员会（CFC）的葡语能力测试（联邦会计委员会第1494/15号决议第32条）。*

*Once the professional registration has been obtained, under the conditions set out in the previous paragraph, there is no limitation to the scope of business of the registered accountants.*

*一旦按前段所述条件获得了职业注册，注册会计师的执业范围不受限制。*

*There is no statistical publication of how many professionals registered in Brazil who have obtained a diploma abroad.*

*对于巴西有多少在国外获得证书的注册会计师，目前尚无统计数据。*

*The table below shows the total of accounting professionals registered at the CFC since 2013. Please note that we do not have information on the number of foreign accountants registered in Brazil. In the process of obtaining registration, they are submitted to a Proficiency Exam in Accounting. As described above, in order to take the exam, foreigners must revalidate their diploma at a Brazilian public university.*

*下表显示了2013年起在联邦会计委员会注册的会计人员总数。请注意我们没有巴西外籍注册会计师数量的相关信息。在获得注册的过程中，他们将接受会计能力测试。如上所述，为能参与测试，外籍人员必须在一所巴西公立大学重新验证证书。*

|  |  |  |  |
| --- | --- | --- | --- |
| *2013* | *2014* | *2015* | *2016* |
| *493.952* | *508.661* | *532.065* | *536.240* |

**Question 66:** What requirements must be met by foreigners to be partners (shareholders) of accounting firms in Brazil? Are there any limits to the shareholding ratio or the proportion of partners? If any, what is the ratio or proportion? At present, how many foreign partners (shareholders) are there in the accounting firms in Brazil?

**问题66：**外国人在巴西会计师事务所担任合伙人（股东）需满足哪些条件？ 对外国人是否有持股比例或合伙人占比上的限制？如果有，具体比例是多少？目前，巴西会计师事务所中有多少名外籍合伙人（股东）？

*In order to become a shareholder or a partner of an accounting firm in Brazil, the foreign accountant must be registered in a Regional Accounting Council (CRC), under the conditions set out in the answer to question 65. Therefore, there is no possibility for foreigners without a CRC registration to participate in any accounting firm, in light of the legislation that regulates the accounting profession in the country. (Law No. 9295/1946).*

*要成为巴西会计师事务所的股东或合伙人，外籍会计师必须在地区会计委员会注册，如对问题65的回答所述。因此，鉴于法律对本国会计执业的管理规定，如果外籍人员未能获得地区会计委员会注册，是不可能参与任何会计师事务所的。（第9295/1946号法令）*

**Question 67:** What accounting codes should be followed in formulating financial statements when foreign enterprises issue securities in the capital market of Brazil? What are the requirements for the auditors? Can foreign accounting firms serve as the auditors for foreign enterprises to issue securities in Brazil? Is approval by or registration in related supervising authorities needed?

**问题67：**外国企业在巴西资本市场发行证券，需要按照什么会计准则编制财务报表？ 对其审计师有何要求？外国会计师事务所可否担任外国企业在巴西发行证券的审计师？是否需经相关主管部门审批或备案？

*Brazil is a full member of the IFRS Foundation and adopts IFRS standards, which are mandatory with no exception. In order to issue securities in the Brazilian capital market, foreign companies must prepare their financial statements in Portuguese, according to the International Financial Reporting Standard (IFRS), issued by the International Accounting Standard Board (IASB), or based on the Brazilian Accounting Standards issued by the Federal Accounting Council (CFC) and the Securities and Exchange Commission (CVM), which are already converging to the international standard referred to. These financial statements, even if they have been audited by companies in the country of origin, must be submitted to review by a Brazilian audit firm registered with the Regional Accounting Council (CRC) and the CVM. Therefore, the issuance of securities in Brazil is subject to mandatory registration with the CVM and so must auditors for the auditing of securities issued in the Brazilian market.*

*巴西是国际财务报告准则基金会（IFRS Foundation）的正式成员，采用IFRS标准，该标准为强制标准，没有例外情况。要在巴西资本市场发行证券，外国企业必须准备葡语的财务报表，由国际会计准则委员会（IASB）根据国际财务报告准则（IFRS）发布，或由联邦会计委员会和证券交易委员会（CVM）根据巴西会计准则发布，后者已与所述国际准则接轨。此类财务报表即使已由来源国的公司审计过，也必须提交经地区会计委员会和证券交易委员会注册的巴西审计事务所审核。因此，在巴西发行证券必须经证券交易委员会注册，巴西市场上发行的证券的审计人员也必须经证券交易委员会注册。*

*Auditors must be registered with the Securities and Exchange Commission of Brasil (CVM) and follow the rules issued by IBRACON and the CVM for the auditing of publicly-held companies.*

*审计人员必须经巴西证券交易委员会注册，并遵守巴西独立审计师协会（IBRACON）和证券交易委员会发布的上市公司审计准则。*

*Foreign accounting firms cannot serve as the auditors for foreign enterprises to issue securities in Brazil. The issuance of securities in Brazil is subject to mandatory registration with the CVM and so must auditors for the auditing of securities issued in the Brazilian market.*

*外国会计师事务不可担任外国企业在巴西发行证券的审计师。在巴西发行证券必须经证券交易委员会注册，巴西市场上发行的证券的审计人员也必须经证券交易委员会注册。*

*Issuance of securities and auditors must be registered with the CVM and Mode 3 requirements apply, regardless of approval by or registration in related supervising authorities, which can be seen as a plus.*

*证券发行和审计人员均须经证券交易委员会注册，适用“模式3”的要求，相关主管部门的审批或备案仅可作为补充。*

**Question 68:** According to No.1356 Decree from the Ministry of Finance of Brazil, the customs authorities commenced to practice the new customs provisions from May, 2013. To improve good clearance efficiency and streamline import procedures, importers can take goods without presenting bills of lading. So once the ship owners collude with importers to make the goods declared and enter the green channel, the importers can take away goods without the settlement of exchange, which causes considerable losses to the exporting enterprises and the exporters banks. Is there any plan for Brazil to introduce relevant policies to avoid the occurrence of the above case? If any, please describe.

**问题68：**依据巴西财政部1356 号令，巴西海关从2013 年5 月开始实行新的海关规定，为提高货物清关效率而简化了进口程序，进口方无需再出示正本提单即可提货。因此一旦船东与进口商勾结，报关货物进入绿色通关通道，进口商可以不结汇就提走货物，给出口企业和出口方银行都会带来巨大损失。巴西是否有计划出台相关政策避免上述情况的发生，如果有，请予以说明。

*We believe there is a misunderstanding on this issue. The bill of lading is an obligatory support document for customs clearance, as provided for in the Article 553 of the Customs Code (Decree No. 6,759 of 5 February 2009) and in the Article 18 of the Normative Instruction No. 680/2006. Furthermore, the Normative Instruction No. 1,356/2013 established the possibility of electronic submission of the bill of leading for customs clearance, instead of paper documentation, consequently, the importer does not need to produce it to customs authority. However, the cargo depositary (terminals and customs bonded warehouses) are supposed to require the presentation of the original bill of lading as condition to release the goods.*

*我们认为对于这一问题我们有一些误解。根据海关法第553条（2009年2月5日第6,759号令）以及第680/2006号规范指令第18条，提货单是通关时必须出示的证明文件。此外，第1,356/2013号规范指令规定可以通过提交电子提货单（而非纸质文件）通关，所以，进口方无需向海关当局出示纸质提货单。然而，货物保管人（码头和海关保税仓库）应要求出示正本提货单作为放货条件。*

**Question 69:** Based on the localization proportion, Brazil levies different tax rates on the products produced locally in Brazil by foreign enterprise and levies full import tax rate for products whose localization proportion fails to reach a certain threshold. Is there any plan for Brazil to adjust or cancel the proportion? If any, please describe.

**问题69：**巴西针对外商投资企业在巴西本地生产的产品，根据国产化比例征收不同税率，国产化率达不到一定标准甚至会按全品进口进行征税。请巴西介绍是否会就这一比例做出调整或取消？如果有，请予以说明。

*Brazil levies import taxes on foreign products on non-discriminatory basis in accordance with the most favoured nation principle.*

*巴西根据最惠国原则以非歧视的方式对外国产品征收进口税。*

**Question 70:** On November 21, 2016, Brazil launched investigation on the countervailing of hot-rolled steel flat products originated from China, which was the first time for Brazil to launch a countervailing investigation against China. Prior to this, Brazil initiated anti-dumping investigation on the same product on July 20, 2016. China has the following three major concerns

**问题70：**2016年11月21日，巴西对原产自中国的热轧钢板发起反补贴调查，此次是巴西历史上首次对中国发起反补贴调查。此前巴方已于2016年7月20日对同一产品发起反倾销调查。中方主要关注以下三点：

Firstly, the Brazilian investigation authorities filed the case without adequate supporting evidence from the applicant. The applicant of the case failed to submit, in accordance with the countervailing law of Brazil and *Agreement on Subsidies and Countervailing Measures* of WTO, adequate and accurate proof to prove the existence of the subsidies and benefits received by the Chinese companies in the application letter. Some items the application letter accused of had been terminated before the submission of the application. Many items accused of by the applicant do not constitute subsidy at all.

一是巴西调查机关在申请书缺乏足够证据支持的情况下立案。本案申请人未按照巴西反补贴法律、世贸组织《补贴与反补贴措施协定》有关规定，提交充足、准确证据证明存在申请书指控的补贴、中国相关公司收到利益。申请书指控的某些项目在申请提交前已终止；申请人指控的许多项目根本不构成补贴。

Secondly, it lacks legal basis to require the Chinese government to answer the accusation items not used by the responding companies. In accordance with the provisions of the countervailing laws of Brazil and *Agreement on Subsidies and Countervailing Measures* of WTO, CGMC, when calculating the subsidy margin, should target the investigation at every indictable subsidy item and calculate the subsidy margin based on the investigation results.

二是要求中国政府回答应诉公司未使用的指控项目缺乏法律依据。按照巴西反补贴法律、世贸组织《补贴与反补贴措施协定》有关规定，CGMC在计算补贴幅度的时候，应针对应诉公司所使用的每个可诉补贴项目进行调查，根据调查结果计算补贴幅度。

Thirdly, there are procedural problems. The Brazilian investigation authorities informed the Chinese government of the receipt of adequate proof for the filing of the case and invited the Chinese government for negotiation 5 days before the authorities received the documents of sworn translation. Up to now, the applicant has only provided a small part of the sworn translation of the Chinese original documents attached to the application letter.

三是存在程序问题。巴西调查机关在收到申请人提交宣誓翻译（sworn translation）文件之前5天，即通知中国政府说已收到请求立案“足够证据”，邀请中国政府磋商，截至目前，申请人只提供了申请书所附中文原文文件的小部分宣誓翻译。

Please respond or explain the above-mentioned concerns from China.

请巴方对中方的上述关注内容进行具体回应或解释。

*The Brazilian investigative authority values ​​transparency in the conduct of its investigations, and all its acts and recommendations are made in compliance with the regulations and agreements reached within the framework of the WTO.*

*巴西调查机关重视其调查行为的透明性，其所有行动和建议都是按照世界贸易组织框架下达成的规定和协议进行的。*

*In this regard, the petition was analyzed according to the requirements established in the SCM Agreement and was considered adequately documented based on the elements of proof, which at that time fulfilled the language requirements provided for in Brazilian law. In this regard, it should be emphasized that according to article 18 of Law No. 12.995, of 2014, documents produced in the official languages ​​of the World Trade Organization (WTO) may be incorporated into the investigation files. The opportunity for consultations also fulfilled the legal requirements.*

*就这点而言，请愿已根据供应链管理协议的要求进行了分析，并认为已有充分证据材料进行支持，此类证据材料当时已满足巴西法律规定的语言要求。就这点而言，我们需要强调，根据2014年第12.995号法令第18条，以世界贸易组织（WTO）官方语言制成的文件可以纳入调查文件。磋商机会也同样满足法律要求。*

*In addition, DECOM, the investigative authority, points out that the investigation is being conducted strictly in observance of the SCM Agreement and the Brazilian Regulation (Decree 1,751, of 1995). In compliance with Article 12 of the SCM Agreement, all interested parties and the Chinese Government were notified of the information required and are being given full opportunity to present all evidence which they consider relevant in respect of the investigation in question, given that it is still in progress.*

*此外，调查机关贸易保护局指出，该调查严格按照供应链管理协议和巴西法规（1995年第1,751号令）执行。依据供应链管理协议第12条，所有利益相关方和中国政府都已得到所需信息的通知，并知悉只要调查尚未结束，他们就有充分的机会提供他们认为与所述调查相关的所有证据。*

WTO TRADE POLICY REVIEW OF BRAZIL

世界贸易组织关于巴西贸易政策的审议

July 17&19, 2017, Geneva

2017年7月17-19日，日内瓦

Follow-up Questions from the P. R. China

中方的后续问题

**Part I. Questions based on Report by the Secretariat**

**第一部分：基于秘书处报告提出的问题**

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“Airborne expedited shipments (valued at US$3,000 or less) are declared with an express shipment declaration (*Declaração de Importação de Remessas Expressas* (DIRE)), which must be registered in the system for Computerized Control of Expedited Shipments (REMESSA). The courier company, rather than the importer, is responsible for customs procedures. Commercial imports declared with a DIRE are subject to a Simplified Tax Regime (*Regime de Tributação Simplificada*) and are taxed at 60% of their customs value, regardless of the tariff line under which they are classified; books, newspapers, and magazines are tax-exempt.”

“空运加速发货（估价3000美元或更低）以快件货物报关单（DIRE）通关，必须在“加速发货计算机控制（REMESSA）”系统内注册。由货运公司（而非进口方）负责海关手续。以快件货物报关单通关的商业进口货物按照简化税制（*Regime de Tributação Simplificada*），不论货物分类的关税细目，都以海关完税价值的60%征税；书籍、报纸、杂志免税。”

**Question 1:** Do the express shipments only refer to the airborne expedited shipments?

**问题1：**快递货物是否只有航空快递货物？

*Yes*.

是。

**Question 2:** How are the express shipments classified?

**问题2：**快递货物是怎样分类的？

*Express shipment means goods designated as such by an expedited shipment provider.*

*快递货物系指由快递供应商指定的此类货物。*

**Question 3:** What’s the difference between the express shipment declaration and the simplified import declaration mentioned in Paragraph 3.10?

**问题3：**快递货物报关单与3.10段提到的简化报关单有何区别？

*Basically, the DIRE is submitted by an expedited shipment provider, which has also to submit specified information in advance of the arrival of the expedited shipments and to assume liability for payment of all customs duties, taxes, fees, and charges for the goods*

*基本上而言，快件货物报关单由加急运输供应商提交。该供应商还必须在加急货物到达之前提交指定的信息，并承担支付货物的所有关税、税费和费用的责任*

**Question 4:** It is stated in the Report that “Commercial imports declared with a DIRE are subject to a Simplified Tax Regime (*Regime de Tributação Simplificada*) and are taxed at 60% of their customs value, regardless of the tariff line under which they are classified”, and is it necessary to classify the express shipments under such circumstances? How to determine the duty-paid value?

**问题4：**按照报告中所述“使用快件货物报关单（DIRE）申报的商业性进口货物须按照简化税收制度缴纳相当于完税价格60%的税款，不论该货物按照税则应归入何种税号”，那么在此情况下，是否还需要对快件货物进行归类，如何审定完税价格？

*No. It is determined based on the customs value of the goods.*

*不需要，完税价格是根据货物的海关价值审定的。*

Page 45, para 3.26 & Table 3.2 & Chart 3.1

第45页第3.26段 & 表3.2 &图表3.1

“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%. Some 7.7% of tariff lines are duty free (down from 8% in 2012), the modal rate is 14%, and 4.6% of all lines have rates of over 26% (Chart 3.1).”

“最惠国关税从2012年的11.7％略微下降到2017年的11.6％，应课税额从12.7%下降到12.6%。约7.7％的关税条目是免税的（低于2012年的8％），模态率为14％，所有条目的4.6％都有26％以上的比率（图表3.1）。”

**Question 5:** The proportion of Brazilian duty-free tariff lines declined from 8% in 2012 to 7.7%. According to Chart 3.1 Frequency distribution of MFN tariff rates, Brazilian duty-free tariff lines still account for a small proportion. Does Brazil have any arrangements for further tariff concession in the future? Please specify if any.

**问题5：**巴西的免税货物条目占比从2012年的8%下降至7.7%。从chart3.1巴西各关税税率下货物条目占比分布图中可以看出，巴西的免税货物条目所占比例仍较低，请问，巴西未来是否有进一步的关税减让安排？如果有，请详细说明。

*Brazil applies the MERCOSUR Common External Tariff (CET) and maintains a range of temporary, individual derogations from the CET, in line with MERCOSUR rules.*

*巴西施行南方共同市场共同对外关税（CET），并根据南方共同市场的规则，保持一系列临时性的个人减免措施。*

*Three MERCOSUR mechanisms allowing for such derogations have a longstanding implementation record in Brazil: the basic list of national exemptions, the quotas for lower tariffs, and the Ex Tarifário mechanism. The deadline for elimination of these mechanisms has been extended until 31 December 2021 (Common Market Council Decision No. 26/15 of 16 July 2015).*

*允许这种减免的三种南方共同市场机制在巴西有长期实施记录：国家豁免的基本清单、降低关税的配额以及ExTarifário机制。取消这些机制的截止日期已延长至2021年12月31日（共同市场理事会2015年7月16日第26/15号决定）。*

*The Council of Ministers of the Foreign Trade Board (CAMEX), responsible for the implementation of changes in the CET, has recently agreed on declining the tariff applied for capital goods and computing and telecom goods under the scope of the Ex Tarifário mechanism, from 2% to 0%.*

*负责实施共同对外关税的变更的对外贸易商会部长理事会（CAMEX），最近已经同意将ExTarifário机制范围内的资本货物和计算机及电信产品的关税从2％降至0％。*

*Other specific tariff changes, either permanent or temporary, are constantly being discussed either in MERCOSUR or as derogations allowed by it.*

*其他具体的关税改动，无论是永久性还是暂时性的，无论是南方共同市场还是作为其允许的减免措施，都在一直被讨论中。*

Page 54, para 3.51

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“At end-2016, imports classifiable under some 137 tariff lines were subject to automatic licensing, whereas non-automatic licensing requirements could apply to at least 5,460 tariff lines (more than half of Brazil's entire tariff). During 2013-16, the main additions to the list of imports subject to non-automatic licensing included endangered species (some 200 tariff lines) and several manufactured goods (i.e. automotive parts). According to the authorities, the implementation of the Single Window Programme (Section 3.1.1) would bring about more efficient solutions for the enforcement of public policies, thereby significantly reducing the number of import licensing requirements.”

“在2016年底，可分类到137个关税条目下的进口能够自动许可，非自动许可要求可适用于至少5,460个关税条目（巴西全部关税的一半以上）。2013年至2016年期间，非自动许可进口清单中加入的几项包括濒危物种（约200个关税条目）和几种制成品（例如汽车零部件）。根据当局介绍，单窗口计划（第3.1.1节）的实施将为执行公共政策提供更有效的解决方案，从而大大减少进口许可证要求的数量。”

**Question 6:** Please clarify the reasons to apply non-automatic licensing for almost half of the Brazil's entire tariff.

**问题6：**请澄清将非自动许可证应用于巴西近一半关税的原因。

*The Brazilian government is currently working on the revision of importing procedures in order to build a solution that fulfills the needs of information of all agencies involved in foreign trade. The “Portal Único de Comércio Exterior” (the Brazilian Single Window initiative), has as its basic premises the revision of the importing process as a whole and the complete integration between the new tools and systems among all agencies. The current foreign trade procedural structure dates from the 90´s, when the Siscomex system was introduced. Since then, with the expressive growth of the Brazilian trade flows, new necessities of control arose to fulfill important public policies coordinated by several agencies concerning human health, environment, food safety, consumer safety etc. At each new control that was established, new procedural steps were introduced, not always in a harmonious way.*

*巴西政府目前正在修改进口手续，以便建立一个满足所有涉及外贸机构信息需求的解决方案。“巴西单窗口计划”的基本前提是对整个进口过程进行修订，并且完全整合所有机构之间的新工具和系统。目前的外贸程序结构可追溯到20世纪90年代，Siscomex系统就是在当时引入的。此后，随着巴西贸易流量的快速增长，为实现多个机构在人体健康、环境、食品安全、消费者安全等方面的重要公共政策，出现了新的控制需求。每个新建立起来的控制需求都引入了新的程序性措施，但是这些措施并不总是和谐的。*

*The new process flow in implementation by the Brazilian Single Project (Portal Único de Comércio Exterior) aims to harmonize these procedures and is expected to be fully operational by the end of 2018.*

*巴西单一项目——单一外贸门户网站（Portal Único de Comércio Exterior）实施了新流程，旨在协调这些程序，预计到2018年底将全面运行。*

Page 56, para 3.56

第56页第3.56段

“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.”

“根据巴西法律，反倾销调查和反补贴调查可针对同一产品同时发起。但是，反倾销措施和反补贴措施不能为了中和倾销或者出口补贴的目的而同时向给定的产品施加。

**Question 7:** Concerning the NME issue, is there any plan of amendment concerning calculating the normal value by using the Chinese Respondent’s domestic sales price, production cost, or constructed value, instead of using "surrogate country" approach, especially from December 12th 2016 as per Article 15 of the China’s concession to WTO?

**问题7：**关于NME问题，对使用中国被告人的国内销售价格、生产成本、推定价值而非“代理国”的方法计算正常价值是否有修改计划？特别是从2016年12月12日起，中国对世界贸易组织的做出让步之后。

*The Brazilian AD Regulation is not specific to any country. So, provisions related to NME are not supposed to be amended as a result of the expiration of a specific clause. Particularly in the case of China, it must be highlighted that its Protocol of Accession to WTO was incorporated into the Brazilian legal framework in 2005. Consequently, the provisions contained in such document shall be observed by Brazilian authorities.*

*巴西的反倾销规定并不具体到任何国家。所以与NME相关的规定不应由于某个条款的到期而被修改。尤其是对于中国而言，必须强调的是，中国2005年加入世贸组织议定书已纳入巴西的法律框架。因此，巴西当局应当遵守该文件中所载规定。*

Page 59, para 3.76 & page 60 para 3.77

第59页第3.76段 & 第60页第3.77段

“Predominantly export-oriented enterprises (deriving more than 50% of their gross sales income from abroad) remain eligible for suspension of the PIS, COFINS, and IPI taxes on the purchase of inputs, whether local or imported.”

占主要地位的出口导向性的企业（占国外总销售收入的50％以上）仍然有资格在购买投入品时停止征收社会一体化费用（PIS）、社会保险融资税（COFINS）和工业产品税（IPI），无论是本地还是进口。”

“A similar eligibility criterion is applied under the Special Regime for the Purchase of Capital Goods for Exporting Enterprises (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. Enterprises that, in the calendar year preceding application to RECAP, made at least 50% of their total gross sales abroad may benefit from the scheme, provided they commit to complying with the minimum export sales threshold for the following two calendar years. Start-up companies without the predominantly export-oriented status are eligible on condition that they reach and maintain that status over three years. Brazilian shipyards are also eligible for RECAP benefits, irrespective of their export turnover, and do not need to undertake export commitments.”

出口企业购买资本货物特别制度（RECAP）应用类似的资格标准，停止对新购买的资本货物（机器、设备和仪器）征收社会一体化费用和社会保险融资税，以便纳入受益公司的固定资产。在前一个日历年施行出口企业购买资本货物特别制度、至少有50%的销售额来自国外的企业，只要他们承诺遵守下两个日历年的最低出口销售门槛，都可以从这个制度中获益。没有主要出口导向地位的初创公司达到这个地位并保持三年以上同样有资格施行这个制度。巴西造船厂也有资格获得出口企业购买资本货物特别制度福利，不论出口交易额是多少，都不需要承担出口承诺。”

**Question 8:** It seems that the above-mentioned measures constitute the export subsidies prohibited in the WTO Agreement on Subsidies and Countervailing Measures. Could Brazil please provide further explanation?

**问题8：** 上述措施似乎构成了《世贸组织补贴和反补贴措施协定》所禁止的出口补贴。巴西方面可否提供进一步说明？

*The measures are not export subsidies. The "Special regime for the acquisition of capital goods for exporting companies" (RECAP) suspends the levy of the PIS/COFINS on new machinery, tools, apparatuses, instruments and equipment for incorporation into tangible fixed assets by predominantly exporting companies.*

*这些措施并不是出口补贴。出口企业购买资本货物特别制度暂停对主要出口公司纳入有形固定资产的新的机械、工具、仪器和设备征收社会一体化费用/社会保险融资税。*

*The purpose of this program is to avoid the structural accumulation of tax credits.*

*该制度的目的是避免税收抵免的结构性积累。*

*Brazil has a system of value-added taxation along the production chain, which means that the taxes paid in prior steps of the production chain may be used as credits, which, as a general rule, are offset against the debits accumulated in subsequent steps of the production chain.*

*巴西在整个生产链实行增值税制，这就意味着在生产链的先前步骤中支付的税款可以用来税费抵免，一般情况下，这些抵免可以抵消在生产链的后续步骤中累积的借项。*

*Some companies in Brazil tend to structurally accumulate tax credits, since their sales are subject to low or no taxation at final stages of production. As a result, these “predominantly credit-accumulating companies” structurally accumulate tax credits and must submit a great number of tax reimbursement requests on a regular basis, putting a heavy burden on them and on the tax authorities. All those companies that structurally accumulate credits can apply for an alternative method of tax administration, under which taxes are suspended on purchases of inputs and capital goods and, in consequence, taxes resulting from sales must be paid in full without the utilization of any credits.*

*巴西的一些公司往往在结构上累积税收抵免，因为在生产的最后阶段他们的销售是低税率或不征税的。结果，这些“主要抵免积累的公司”在结构上积累了税收抵免，必须定期提交大量的报销费用，这给他们和税务机关造成沉重的负担。所有在结构上积累税收抵免的公司都可以申请另一种税收管理办法，在这种税收管理办法下，对于购买投入品和资本货物暂停征税。因此，销售所产生的税款必须在不使用任何抵免的情况下全额支付。*

*"Predominantly exporting companies" are among those taxpayers that naturally tend to accumulate credits along the production chain, since taxes are not levied on their exports. So, the tax suspension under the RECAP regime simply prevents the accumulation of tax credits and the administrative burden – for the government and the companies – related to the reimbursement of taxes not due in the first place that would be collected.*

*“主要出口公司”自然倾向于在生产链上积累抵免，因为他们的出口不会被征税。因此，根据出口企业购买资本货物特别制度暂停征税只是防止公司税务抵免的累积和政府行政负担的产生，因为本该征收的这些税款需要退税。*

Page 60, para 3.80 & page 61, para 3.81

第60页第3.80段 & 第61页第3.81段

“The Special System of Industrial Depots subject to Standardized Control (RECOF) allows the suspension (for one year, extendable once) of import duties and indirect taxes (IPI, PIS, COFINS) 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. During the period under review, Brazil relaxed several eligibility criteria (paid-in capital, prior accreditation to the "blue line" express clearance facility, and annual export volume) and removed the sector-specific and product-specific limitations on the scheme's scope. As from 2016, beneficiaries are no longer required to acquire purpose-built control systems because the RFB switched to compliance monitoring through the Public System of Digital Bookkeeping (SPED). Under the upgraded RECOF-SPED, beneficiaries must: (i) regularly submit their digital fiscal records (EFD); (ii) export final goods worth at least 80% of the annual value of imports and not less than US$5 million; and (iii) carry out the industrial transformation of at least 80% of the imported goods. As at January 2017, there were 25 companies qualified under RECOF.”

“标准化管理下的工业园区特殊制度（RECOF）同意对将要出口或者投放到国内市场的产品的产业转型中使用的进口或者本地的投入品暂停（暂停一年，可延长一次）征收进口关税和间接税（工业产品税、社会一体化费用、社会保险融资税）。任何（本地或进口）投入品或最终产品的国内销售均须缴纳所有适用税款。在本报告所述期间，巴西放宽了若干资格标准（实收资本、事先认定“蓝线”快递清关设施、年出口量），删除了该方案范围内针对具体行业和具体产品的限制。从2016年起，受益公司不再需要购买专用的控制系统，因为RFB通过数字记账公共系统（SPED）切换到了合规监控。在升级后的标准化管理下的工业园区特殊制度下，受益公司必须：（1）定期提交数字财务记录（EFD）；（2）出口最终货物价值至少为进口年值的80％，不低于500万美元；以及（3）对至少80%的进口商品实施工业转型。截至2017年1月，共有25家公司符合标准化管理下的工业园区特殊制度标准。

“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 80% of their annual gross income.”

“巴西继续针对专门开发软件和提供IT服务的公司实施信息技术出口平台特别制度（REPES）。信息技术出口平台特别制度暂停对国内没有同类产品的进口商品（二手除外）征收工业产品税，以及对购买的IT服务和新产品暂停征收社会一体化费用和社会保险融资税。受益人必须出口价值至少为其总收入的80％的软件和IT服务。”

**Question 9:** Does Brazil permit the processing trade outside the export-processing zones? If so, could Brazil introduce the relevant policies?

**问题9：**巴方是否允许在出口加工区外开展加工贸易，如果是的话，请巴方介绍其在区外开展加工贸易的基本政策情况。

*The establishment of Brazilian export companies is not restricted to the export-processing zones. The regulatory framework to the Brazilian EPZ regime is applied only to the companies established in the export-processing zones.*

*巴西出口公司的设立并不限于出口加工区。巴西出口加工区制度的监管框架仅适用于出口加工区建立的公司。*

Page 61, para 3.82

第61页第3.82段

“The legal and institutional framework for export-processing zones (EPZs) remains unchanged since Brazil's last Review. 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. 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 January 2017, Brazil had 25 approved EPZ projects, of which 1 was operational and 18 (located in 17 Brazilian states) were in the process of establishment.”

“自巴西上次审查以来，出口加工区（EPZ）的法律和体制框架保持不变。出口加工区国家委员会（CAPE）仍然负责实施巴西的出口加工区政策，包括授权出口加工区的建立和公司的成立。出口加工区的实施也要求巴西海关当局同意并得到共和国总统的最后批准。经批准的出口加工区在其商定的就位时间表后48个月内未能开始运行，可能会失去其设立权。截至2017年1月，巴西已经批准了25个出口加工区项目，其中1个正在运作，18个（位于巴西的17个州）正在建立过程中。

**Question 10:** Please clarify the detailed policies regarding the establishment of companies in the export-processing zones(EPZs) and whether the preferential policies provided in the EPZs are against the rules stated in the WTO Agreement on Subsidies and Countervailing Measures.

**问题10：**请阐明有关在出口加工区设立公司的详细政策，以及出口加工区提供的优惠政策是否违反《世贸组织补贴和反补贴措施协定》中的规定。

*The measures comply with the WTO Agreement on Subsidies and Countervailing Measures. The legal framework for EPZ in Brazil includes Law No. 11,508 of 20 July 2007, as amended by Law No. 11,732 of 30 June 2008, Law No. 12,507 of 11 October 2011, and Law 12,865 of 9 October 2013, as well as Decree No. 6,634 of 5 November 2008, Decree No. 6,814 of 6 April 2009 , Normative Instruction RFB No. 952 of 2 July 2009 , and CZPE Resolutions.*

*这些措施符合《世贸组织补贴和反补贴措施协定》。巴西的出口加工区的法律框架包括2007年7月20日第11,508号法律，经2008年6月30日第11,732号法修正，2011年10月11日第12,507号法律、2013年10月9日第12,865号法律，以及2008年11月5日第6,634号法令、2009年4月6日第6,814号法令、2009年7月2日RFB第952号规范性指示和出口加工区国家委员会决议。*

*The National Council of Export Processing Zones (CZPE) oversees the implementation of Brazil's EPZ policy and is responsible for granting companies authorization to establish in EPZs. Authorizations are valid for until 20 years, renewable for the same number of years. Companies that wish to establish in an EPZ must submit an application to the CZPE in accordance with the procedures laid out in Decree No. 6,814 of 6 April 2009 and Resolution CZPE No. 5 of 28 September 2011. Proposals for the creation of an EPZ are to be submitted by state or municipal authorities to the CZPE, in accordance with the procedures established in Decree No. 6,814 of 6 April 2009, and the CZPE Resolution no. 2 of 15 May 2009. Final approval to the EPZ creation rests with the President of the Republic. Permission from the Brazilian Customs Authority is also required for the operation of an EPZ. Approved EPZs that fail to start operations within 48 months of their agreed installation timetable may lose their right to establish.*

*出口加工区国家委员会监督巴西出口加工区政策的执行情况，并负责授权公司在出口加工区设立。授权有效期至20年，更新的有效期同样为20年。希望在出口加工区设立的公司必须按照2009年4月6日颁布的第6,814号法令和2011年9月28日第5号CZPE号决议的规定向出口加工区国家委员会提交申请。建立出口加工区的提案由国家或者市政当局根据2009年4月6日第6,814号法令规定的程序和2009年5月15日出口加工区国家委员会2号决议提交给出口加工区国家委员会。出口加工区最后是否得以设立由共和国总统决定。出口加工区的运作也需要巴西海关的许可。经批准的出口加工区在其商定的就位时间表后48个月内未能开始运行，可能会失去其设立权。*

Page 61, para 3.87

第61页第3.87段

“Outward payments for the promotion of Brazilian products and services abroad are eligible for a reduction of the applicable income tax (IR) to 0% (from the standard 25%). To benefit from the reduction, the legal person making the outward payment must register the promotion transaction in the Registration System for Promotion Information (SISPROM) prior to remitting the amount due. SISPROM registration is declined if the payment beneficiary is based in a jurisdiction that taxes income at less than 20%. During 2013-16, there were 1,102 registered beneficiaries and 10,506 promotion transactions. Forgone revenue from the IR reduction was estimated at some R$23.9 million in 2013 and projected at R$23.3 million in 2014, R$31.7 million in 2015, and R$38.6 million in 2016.”

“因在国外推广巴西产品和服务的向外付款有资格享受将适用的所得税（IR）降低至0%（从标准的25％）。为了从降低所得税中受益，向外支付的法人在汇出应付金额之前，必须在促销信息登记制度（SISPROM）中登记促销交易。如果支付受益人位于税收收入低于20％的管辖区内，SISPROM注册会被拒绝。2013年至2016年期间，有1102名注册受益人和10506名促销交易注册。因所得税（IR）降低而放弃的收入在2013年估计为2390万巴西雷亚尔，在2014年估计为2330万巴西雷亚尔，2015年为3170万巴西雷亚尔，2016年为3860万巴西雷亚尔。”

**Question 11:** It seems that the above-mentioned measures constitute the export subsidies prohibited in the Subsidies and Countervailing Measures Agreement. Could Brazil please provide further explanation?

**问题11：**上述措施似乎构成了《补贴和反补贴措施协定》所禁止的出口补贴。巴西方面可否提供进一步说明？

 *As a rule, Brazil applies withholding tax to any payment for services provided by non-residents. This measure consists in a reduction to 0% of the withholding tax rate applied on outbound payments to some services provided by non-residents, therefore, it does not represent a reduction of the tax applied on exported products, nor on the profit that Brazilian exporters may have.*

*通常而言，巴西对于由非巴西居民提供的服务的付款采用代扣所得税。这项措施包括将非居民提供的一些服务的外向付款应用于预扣税率的0％，因此，这并不代表出口产品的税收减免，也不代表巴西出口商可能获得的利润降低。*

*This measure aims at some services related to the promotion of Brazilian products and tourism in Brazil, and the reduction applies only on services related to:*

*这项措施是为了在巴西推广巴西产品和旅游方面的一些服务，并且税收减免仅适用于与以下相关的服务：*

*a) market research;*

*a)* *市场调查；*

*b) rent of exhibition stands;*

*b)* *展台租赁；*

*c) rent of venues for exhibitions and fairs;*

*c)* *展览和展览会场地租赁；*

*d) promotion and advertising in the venues in letter c.*

*d)* *字母c中的场地的推广和广告。*

*Furthermore, there is no export performance criteria, nor nothing related to the use of domestic over imported goods related to the measure, so there is no relation to prohibited subsidies in the light of the SCM Agreement.*

*此外，并不存在出口表现标准，与使用国内与进口货物有关的措施也不存在任何关系，因此，这些措施与《补贴和反补贴措施协定》中的禁止的补贴没有任何关系。*

Page 64, para 3.95

第64页第3.95段

While access to export financing is framed by a general list of eligible goods and services, certain BNDES-EXIM sub-programmes may target specific products or industries. In addition, for most sub-programmes, automatic qualification for financing is conditional on meeting a certain index of nationalization (typically 50%-60% in value or weight terms), Basic Productive Process (PPB) thresholds (Section 3.3.1.1), or other criteria established by BNDES (Table A3.1). According to the Brazilian 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).

虽然获得出口融资是通过合格商品和服务的一般名单来确定的，但是某些进出口银行（BNDES-EXIM）分项目可能针对特定的产品或行业。另外，对于大多数分项目而言，自动获得融资资格的条件是满足一定的国有化指数（通常为价值或重量的50％-60％）、基本生产过程（PPB）阈值（第3.3.1.1节）、或者由国家社会经济发展银行（BNDES）建立的其他标准（表A3.1）。‑根据巴西当局的介绍，不符合这些条件的货物和服务在获得有利评估（非自动资质）后也可从分项目中受益。

**Question 12:** Could Brazil please provide detailed information on the conditions and requirements that should be met in order to benefit from g BNDES-EXIM sub-programs?

**问题12：**巴西方面可否提供详细的资料，说明为了从进出口银行（BNDES-EXIM）分项目中受益而应满足的条件和要求？

*Companies applying for loans of BNDES must:*

*申请国家社会经济发展银行（BNDES）贷款的公司必须：*

*i. Be legally incorporated in Brazil and have established operations in Brazil;*

*i.* *在巴西合法成立，并在巴西建立业务；*

*ii. Have a satisfactory credit rating;*

*ii.* *具有令人满意的信用评级；*

*iii. Be compliant with all legal, tax, and social obligations;*

*iii.* *遵守所有法律、税务和社会义务；*

*iv. Have no extraordinary restrictions or conditions on record;*

*iv.* *没有记录在册的非常限制或条件；*

*v. Present a project plan that is viable; and*

*v.* *提出一个可行的项目计划；并且*

*vi. Provide suitable and sufficient collateral to cover the risk of the operation.*

*vi.* *提供适当和足够的抵押品以应付经营风险。*

*All enterprises shall observe existing legislation for the protection of the environment and the conservation and rational use of energy, the expenses for which may also be financed by the Bank.*

*所有企业应遵守现行保护环境法律，节约合理利用能源，这些举措的费用也可以由本行资助。*

*BNDES-EXIM subprograms provide export finance at conditions compatible with those practised by other Export Credit Agencies (ECAs) around the world.*

*如果与世界其他出口信贷机构（ECA）实践的条件相符，进出口银行（BNDES-EXIM）分项目提供出口融资。*

**Question 13:** The automatic qualification is conditional, such as “certain index of nationalization (typically 50%-60% in value or weight terms)”. This policy is suspected of violating WTO’s basic principle of non-discrimination. Could Brazil please provide further explanation?

**问题13：**自动获得融资资格是有条件限制的，例如满足一定的国有化指数（通常为价值或重量的50％-60％）。这项政策涉嫌违反世贸组织的不歧视的基本原则。巴西方面可否提供进一步说明？

*The eligibility or receipt of loans is not affected by the use of domestic or imported goods. Items produced in Brazil with a previously known reference of local content are eligible for financing in a more automatic way, and products that do not reach such a reference also benefit from the program subject to a less automatic analysis procedure. Thus, the eligibility for financing under BNDES-EXIM is not contingent, either in law or in fact, upon local content requirements.*

*贷款的资格或认可不受使用国内或进口货物的影响。在巴西生产参考本地内容的产品有资格以更为自动的方式融资，没有达到这样的参考的产品也受益于该程序，但是需要较少的自动分析程序。因此，根据当地内容要求，在进出口银行（BNDES-EXIM）融资的资格无论在法律上还是事实上都不是偶然的。*

Page 65, para 3.100

第65页第3.100段

“As from 2014, the Brazilian Guarantees Agency (ABGF), a public enterprise reporting to the Ministry of Planning, Development and Management, provides support in the administration of the federal export credit insurance (SCE) scheme backed by the FGE. The ABGF is responsible for the structuring, management and monitoring of SCE operations. The granting of SCE coverage is underwritten by the Secretariat for International Affairs (SAIN) of the Ministry of Finance. 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.”

“从2014年起，巴西保证局（ABGF）——向规划、发展和管理部报告的公共企业，在由出口担保基金（FGE）支持的联邦出口信贷保险（SCE）计划的管理中提供支持。巴西保证局负责联邦出口信贷保险业务的组织、管理和监督。联邦出口信贷保险由财政部国际事务秘书处（SAIN）承保。出口担保基金由联邦预算的资金以及基金自身活动和财务业务的收益和财务收益提供资金。根据当局介绍，巴西不存在其他由联邦资源出资的出口保险或担保计划。”

**Question 14:** Is a balance achieved between financial revenues and expenditures judging from the net profits from the export credit insurance business of Brazilian Guarantees Agency (ABGF) during 2014-2016?

**问题14：**根据2014-2016年巴西保证局（ABGF）出口信用保险业务的净利润情况，是否达到了财务收支平衡？

*ABGF is hired by the Federal Government for the structuring, management and monitoring of Export Credit Insurance (SCE) operations. The public company does not undertake the risks from operations it analyses, since the granting of coverage is underwritten by the Ministry of Finance. The SCE support is backed by the Export Guarantee Fund (FGE). Therefore, the balance between financial revenues and expenditures of the Export Credit Insurance should be measured from the FGE perspective.*

*巴西保证局由联邦政府雇用，用于组织、管理和监督出口信贷保险业务。该上市公司并不承担其分析的经营风险，因为该保险由财政部承保。联邦出口信贷保险由出口担保基金提供支持。因此，应当从出口担保基金的角度衡量联邦出口信贷保险的财务收入和支出之间的平衡情况。*

**Question 15:** Is there any legal basis for Brazilian Guarantees Agency (ABGF) to provide relevant policy support of export credit insurance to the steel, automobile and electric appliance industries? If any, please provide detailed provisions of the laws or regulations.

**问题15：**巴西政府是否有相关法律规定，要求巴西保证局（ABGF）对钢铁、汽车、电器等行业提供出口信用保险相关政策扶持？如果有，请详细说明。

*The export credit insurance is provided by the Federal Government, represented by the Ministry of Finance, which contracts ABGF for the structuring, management and monitoring of SCE operations. The export credit insurance (SCE) is backed by the Export Credit Fund (FGE).*

*出口信贷保险由财政部代表联邦政府提供，财政部与巴西保证局签订合同，以组织、管理和监督出口信贷保险业务。出口信贷保险由出口信贷基金（出口担保基金）支持。*

*The Export Credit Insurance is regulated by Law No 6,704 of 26 October 1979 and Decree No 3,937 of 25 September 2001. The Export Credit Fund is regulated by Law No 9,818 of 23 August 1999. According to these regulations the SCE can cover political, extraordinary and commercial risks in transactions above 2 years. Only Small and Medium companies could have their transactions in shorter tenors.*

*出口信贷保险由1979年10月26日第6,704号法律和2001年9月25日第3,937号法令进行管理。出口信贷基金受1999年8月23日第9,818号法律管制。根据这些规定，出口信贷保险可以覆盖2年以上交易中的政治风险、特殊风险和商业风险。只有中小型企业才能在短时间内进行交易。*

*The product export credit insurance is not sector-limited. In other words, the SCE can be provided to any exporter, regardless of its sector. For informational purposes only, SCE/FGE haven't provided support to steel and electric appliance industries. When it comes to the automotive sector, coverage was provided to long term transactions to supply city busses systems.*

*产品出口信贷保险不受行业限制。换句话说，出口信贷保险可以提供给任何出口商，不管哪个行业。仅供参考，出口信贷保险/出口信贷基金尚未向钢铁和电器行业提供支持。涉及到汽车行业，向长期交易出口信贷保险/出口信贷基金，以供应城市公共汽车系统。*

Page 74, para 3.135

第74页第3.135段

“At the national level, CONMETRO's non-binding Guide on Good Regulatory Practices continues to frame, in principle, 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 Journal*.”

“原则上，在国家层面，巴西国家计量、标准化和质量委员会关于良好监管做法的非约束性指南机构继续制定、传播、宣传、定期检查和删除技术规范和合格评定程序。技术条款可以通过法律、法令、条例、规范性指示或决议建立，并应在官方公报上刊登。

**Question 16:** Is there any English version of CONMETRO’s non-binding Guide on Good Regulatory Practices? Is it available on the Internet? Please kindly provide the website link if any.

**问题16：《**巴西国家计量、标准化和质量委员会关于良好监管做法的非约束性指南**》**是否有英文版本？可否在网上查询到具体内容？如果有，请提供网址链接。

*http://www.inmetro.gov.br/qualidade/pdf/guia\_ingles.pdf*

*http://www.inmetro.gov.br/qualidade/pdf/guia\_ingles.pdf*

**Question 17:** What are the differences, relations and/or subordination between the technical regulations established in different forms (laws, decrees, ordinances, normative instructions or resolution)?

**问题17：**通过不同形式（法律、法令、条例、规范性说明或决议）确立的技术条款之间存在什么样的区别、联系和/或从属关系？

*The national Constitution rests above all laws; laws above decrees. Constitutional amendments and laws are discussed and approved by Congress (Chamber of Federal Deputies and then Federal Senate, or the two together). Decrees are issued by the President of the Republic in order to ensure the strict application of laws. It is not usual to have a particular technical regulation explicitly mentioned in a law, only that a specific matter will be regulated by a certain federal regulatory body. Decrees, in general, regulate the laws and also determine that the specific matter in question will be regulated by the said body. Ordinances, normative instructions and resolutions, once issued by the regulatory body, under its field of competence, and published in the Official Journal, become mandatory, having the same status.*

*国家宪法高于任何法律，法律高于法令。宪法修正案和法律由国会（首先是联邦议会，然后是联邦参议院，或两者在一起）讨论和批准。共和国总统颁布的法令是为了确保严格执行法律。法律并不会常常明确提到技术条款，只有在具体事宜需要由联邦监管机构进行监管时才会发生。一般来说，法令规范法律，并确定具体问题由上述机构管理。条例、规范性指示和决议一经监管机构在其职权范围内发布，并在官方公报上公布，即具有强制性效力，同上述法律等具有同等效力。*

Page 74, para 3.136

第74页第3.136段

“In general, labelling requirements relate to the products' quality, quantity, composition, guarantee, shelf life, origin, and risks to consumer health and safety.”

“一般来说，标签要求说明产品的质量、数量、成分、保证、保质期、产地以及消费者健康和安全的风险。”

**Question 18:** What does “risks to consumer health and safety” specifically refer to? Are food allergens included?

**问题18：**此处的“消费者健康和安全”(risks to consumer health and safety)具体是指哪些方面的风险？是否包括食品过敏原风险？

*Risks to consumer health and safety are usually related to composition aspects that might represent risks to specific consumers groups. Food allergens and intolerances warnings are examples of this type of labelling requirements.*

*消费者健康和安全的风险通常与成分方面有关，可能代表特定消费群体的风险。食物过敏原和不耐受性警告是这种标签要求的示例。*

**Question 19:** Could Brazil please introduce its compulsory or recommended standards or requirements of the labels and logos indicating food allergens?

**问题19：**请巴西方介绍贵方在针对食品过敏原的标签标识方面有何强制或推荐性的标准或要求？

*The requirements for the labelling of food allergens are set by Resolution RDC 26/2015.*

*食品过敏原标签的要求是按照RDC 26/2015决议设定的。*

Page 75, para 3.143

第75页第3.143段

“As at March 2017, there were 7,815 standards in force in Brazil. Between January 2013 and January 2017, Brazil adopted 2,557 new standards, some 33% of which were adoptions of international (ISO/IEC) standards. Similar statistics on technical regulations were not made available. Between January 2013 and April 2017, Brazil made 193 regular notifications to the WTO Committee on Technical Barriers to Trade, for the most part under Article 2.9 of the TBT Agreement. In only 12 of the notified cases (6.2% of the total), the timeliness of the submission allowed for a comment period of 60 days or more, whereas in 21.7% of all cases the comment period was less than 45 days.”

“截至2017年3月，巴西有7,815个标准在实施中。2013年1月至2017年1月，巴西通过了2,557项新标准，其中约33％采用国际（ISO/IEC）标准。没有提供类似的技术法规统计资料。2013年1月至2017年4月期间，巴西向世贸组织贸易技术壁垒委员会发出了193条定期通知，大部分是根据TBT协议的第2.9条发出的。在以上通报案例中只有12起（占总数的6.2%）的提交的限期允许有60天以上的评议期，而以上所有通报案例的21.7％中，评议期不到45天。

**Question 20:** Please provide the ratio between domestic standards and international standards.

**问题20：**请提供国内标准与国际标准的比例。

*As explained in paragraph 3.143, about a third of the Brazilian voluntary standards, issued by ABNT, the only Brazilian National Association of Technical Standards, are translations of ISO/IEC standards*.

如第3.143段所述，大约三分之一的由巴西唯一的国家技术标准协会（巴西国际技术标准协会）签发的自愿约守的标准是ISO / IEC标准的翻译。

**Question 21:** Please provide more details on the procedural reporting system.

**问题21：**请提供有关程序性报告制度的更多详细信息。

*Inmetro (National Institute of Metrology, Quality and Technology) is the National Notification Authority and the Enquiry Point to the WTO, under the TBT Agreement. Technical regulations that should be notified are identified daily upon their publication in the Official Journal and the corresponding notifications are prepared and submitted to WTO. If any doubt arises during the preparation of a notification, the regulatory body is contacted for clarification. The electronic link to the full text in Portuguese is always provided in the notification form. Most of public consultations, more than 60%, allows for comments during 60 days, as from publication in the Official Journal.*

*根据TBT协议，国家计量、质量和技术研究所（Inmetro）是国家通报机构和世界贸易组织的查询点。应当通知的技术条款每天在官方公报上刊登后予以确定，编制相应的通知并提交给世贸组织。如果在编制通知的过程中存在任何疑问，联络监管机构进行澄清。通知单中始终提供全文为葡萄牙语的电子链接。超过60%的公开咨询自于官方公报上公布之日起，允许有60天的评议期。*

Page 124, para 4.92

第124页第4.92段

“Several export incentives are available…Although the Reintegra refund rate was to vary from 0.1% to 3% of export revenue, with a possible additional credit of 2% subject to certain criteria, during the review period, the rate of additional tax refunds was reduced as part of the Government's budget-cutting efforts. Its maximum refund rate was reduced temporarily from 3% of the export revenue to 1% in March 2015, and 0.1% in 2016; the National Export Plan set the rate at 2% in 2017 and 3% in 2018. In order to be eligible, exports must not contain more than 40% imported content. Exceptions apply to goods deemed high-tech (such as aircraft, electronics and pharmaceuticals), which are allowed a 65% imported-content limit.”

“存在几种出口激励措施......虽然巴西出口企业的税赋特别整合制度的退税率是出口收入的0.1％到3％不等，而且根据某些标准，可能需要2％的额外信贷，但是在审议期间，作为政府削减预算的一部分，额外的退税率有所减少。其最高退税率由2015年3月份的出口收入的3％暂时降低到1％，2016年降低到0.1％。国家出口计划将2017年的比例设定为2％，2018年的比例设定为3％。为了符合条件，出口商品不得超过进口商品内容的40％。高科技（如飞机，电子和制药）的货物允许存在例外情况，允许进口商品含量达到65%的限制。”

**Question 22:** The above-mentioned export incentives are suspected of constituting the prohibited subsidies contingent upon the use of domestic over imported goods in the WTO Agreement on the Subsidies and Countervailing measures. Could Brazil provide further explanation?

**问题22：**上述出口激励措施涉嫌构成《世贸组织补贴和反补贴措施协定》中禁止的出口补贴（视使用的国内商品与进口商品的比例而定）。巴西方面可否提供进一步说明？

*Reintegra provides for a rebate of the indirect taxes levied on the inputs that are consumed in the production process of the exported product. Reimbursements under Reintegra are currently 2% of the value of the exported product. Brazil has established that, in all sectors, these percentages are considerably lower than the tax residue in the supply chain of exported products. As such, Reintegra is fully compatible with footnote 1 and Annex I of the SCM Agreement, given that reimbursements are not "in excess of" of accrued taxes. If the majority of the inputs are from abroad, the residue to be reimbursed is negligible.*

*巴西出口企业的税赋特别整合制度对出口产品的生产过程中消耗的投入品征收的间接税提供折扣。巴西出口企业的税赋特别整合制度的退税率目前为出口产品价值的2％。巴西已经确定，在所有行业，这些百分比都远低于出口产品供应链的税收减免。鉴于此，巴西出口企业的税赋特别整合制度与供应链管理协议的脚注1和附件I完全兼容，因为退税不超过应计税款。如果投入品的大部分来自国外，则退税的残值可以忽略不计。*

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“Investments now tend to be more focused on sales within Brazil rather than part of a regional strategy implemented as a result of high tariff protection on automotive products from outside MERCOSUR. Most foreign producers have not integrated their Brazilian plants into global value chains.”

“目前，投资更侧重于在巴西的销售，而非南方共同市场以外的汽车产品的高关税保护而实施的区域战略的一部分。大多数外国生产商尚未将他们的巴西工厂整合到全球价值链中来。”

**Question 23:** The foreign capital inflow into Brazil’s automotive sector is on the rise, but domestic auto manufacturers still have low production efficiency due to the low degree of participation in the international division of labor in the industry. Considering the devaluation of Real and the high tariff protection on automotive products, the cost of importing whole automobiles still remains high in Brazil. Is there any plan for Brazil to attract foreign capital inflow with preferential investment policies , in order to enhance the production efficiency of domestic automobile manufacturing industry and satisfy the domestic demands for automobiles? If any, please specify in details.

**问题23：**巴西汽车行业的外资流入呈增长趋势，但巴西国内该行业的国际分工参与度仍较低，导致国内汽车生产商的生产效率偏低。考虑到巴西雷亚尔贬值和汽车关税升级保护的结构，巴西进口汽车整车的成本相对较高。请问，巴西是否有计划采取投资优惠政策吸引外资进入，以提高国内汽车制造业的生产效率并满足国内汽车需求？如有，请详细说明。

*Aiming at increasing the competitiveness of the automotive sector and its competitive integration to global value chains, Brazil´s Government and private sector are debating the next cycle of automotive policy, named as Rota 2030 Mobilidade e Logística. The features of this future Brazilian automotive policy are still under discussions.*

*为了提高汽车行业的竞争力及其与全球价值链的竞争优势，巴西政府和私营领域正在对下一轮汽车政策进行辩论，称为Rota 2030 Mobilidade eLogística。巴西未来汽车政策的特点仍在讨论之中。*

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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. 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 US$50 or less applies only to remittances issued by an 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 US$3,000.

巴西没有最低限度的规定，即对低于一定价值的货物免征关税和税收。几乎所有的国际电子采购都将按照采购价格收取60％的统一/单个平衡税，其中包括/补偿关税和其他内部税收/进口费用。某些药品（提交具体文件后）和印刷书籍或期刊是这些税务要求的唯一例外情况。价值50美元或以下的套餐的豁免（不含ICMS税）仅适用于个人向另一个人发出的个人使用或较低价值的但不用于商业运作礼物的汇款。简化税收制度适用于价值不超过3000美元的货物。

**Question 24:** Please clarify the legal basis of the 60% flat/single equalization tax for the e-purchases.

**问题24：**请说明电子采购60％统一/单个平衡税的法律依据。

*In addition to the regular system of taxation, based on MERCOSUR Common External Tariff, optionally the imports through postal or courier services can be levied at a flat rate of 60%. This tariff replaces all federal taxes normally levied on regular imports, and the taxable base is the customs value of the goods (CIF bases) regardless of the tariff classification of the goods (they don’t need to be classified). The legal basis of the regime is the Decree-Law No. 1,804 of 1980 and Portaria MF No. 156 of 24 June 1999.*

*除了常规税收制度外，根据“南方共同市场共同对外关税”，可以选择通过邮政或快递服务进口，以60％的统一税率征收。这个关税取代了正常进口通常征收的所有联邦税，而不论货物的关税分类如何（不需要分类），应税基础是商品的海关价值（CIF基数）。该制度的法律依据是1980年第1,804号法令-法律和1999年6月24日第156号Portaria MF.*

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“E-commerce…”

“电子商务......”

**Question 25:** When are the existing tax policies for cross-border e‑commerce import formulated and implemented? Which factors are mainly considered during the formulation and implementation? How are the scope of the commodity and import tax rate determined? What are the differences compared with the tax policies for general import?

**问题25：**目前适用于跨境电商进口的税收政策是何时制定和实施的，有哪些政策考虑，商品范围和进口税率是如何确定的，与一般贸易进口税收政策相比有哪些不同？

 *There is no difference between cross-border e-commerce imports and general imports regarding tax policies. The goods are subject to the same treatment at customs regardless of the nature of the transaction (electronic or otherwise).*

*跨境电子商务进口与一般进口方面的税收政策没有差异。不管交易的性质如何（电子的或其他的），货物都要在海关经过相同处理.*

**Question 26:** What problems and challenges does the cross-border e-commerce face in terms of import tax policies? How does Brazil solve the problems and challenges?

**问题26：**跨境电商在进口税收政策方面遇到了哪些问题和挑战，巴方是如何解决的？

*The main problem related to e-commerce is the huge volume of consignments that need regularly and properly to be controlled by Customs administration and it has been managed with risk management and technology.*

*电子商务的主要问题是海关管理部门需要定期妥善管理的庞大的货物量，这些货物已经通过风险管理和技术管理。*

**Question 27:** Does Brazil supervise the cross-border e commerce platforms? If so, please specify the supervisory requirements.

**问题27：**巴方是否对跨境电商平台企业进行监管，如果是，有哪些监管方面的要求？

*There is no specific supervision regarding transaction of goods through electronic platforms. Once they arrive at customs, goods purchased through electronic transactions are treated the same way as other imports, subject to the same procedures. As regards digital trade of services between juridical persons, the parties are required to register their operations in Siscoserv, a computer-based system in which are registered the sales and purchases of services, intangibles and other operations that modify the enterprise´s balance of assets, made by residents or domiciled in Brazil to residents or domiciled abroad. The System was structured in accordance with the concepts provided by the General Agreement on Trade in Services (GATS) of the World Trade Organization (WTO). It generates a statistical database of cross-border trade in services for both imports to and exports from Brazil.*

*对于通过电子平台交易的没有具体的监管.通过电子交易购买的货物一旦到达海关,对于它们的处理方式与其他进口货物相同，须遵守的程序也相同。关于法人之间的数字化贸易服务,当事人需要在服务贸易一体化系统（Siscoserv）上登记他们的业务,Siscoserv是一种以计算机为基础的系统,其中巴西居民或者定居在巴西的人向国外居民或者定居在国外的人注册服务销售和采购、无形资产等改变企业资产余额的业务。这个系统是按照世界贸易组织（WTO）服务贸易总协定（GATS）提供的概念构建的。它为巴西进出口服务的跨境贸易产生一个统计数据库。*

**Part II. Questions based on Report by the Government of Brazil**

**第二部分：基于巴西政府报告的问题**

Page 21, para 4.15

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“A new general procedure for exports was developed in 2014 in cooperation with the private sector. In December 2016, the new electronic procedures for export declaration and export cargo registration were made available for tests by the private sector. In March 2017, the new export process was implemented for the air transportation modal, and it is expected that the full implementation of the new procedures will occur by the end of 2017.”

“2014年，政府和私营部门合作开发了一套新的出口程序。2016年12月，新的出口申报和出口货物备案电子程序向私营部门开放测试。2017年3月，空运渠道实施了新的出口流程。新程序预计将于2017年年底全面启用。”

**Question 28:** Could Brazil please introduce in detail the newly developed procedure for exports including the specific procedures for export cargo registration and the implementation of the new export process for air transportation modal?

**问题28：**请巴西方对其新开发的出口程序进行具体介绍，具体解释出口货物备案程序如何进行，并提供空运渠道新出口流程的实施情况。

Information is available at the following address: http://portal.siscomex.gov.br/informativos/noticias-orgaos/noticias/portal-siscomex/portal-unico-de-comercio-exterior-passa-a-valer-para-exportacoes-feitas-nos-modais-maritimo-e-rodoviario

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**Part III. Other questions**

**第三部分 其他问题**

**Question 29:** It is understood that Brazilian Government promulgated the policy to improve of the IPI taxes on industrialized automobile products on September 15, 2011. According to the policy, the IPI tax rate levied on imported automobiles (including various types of trucks) or auto products manufactured by manufacturers that fail to realize the localization rate of 65% as required by Brazilian Government shall be improved by 30%, i.e. from 7%-25% to 37%-55%. As a result, the cost of imported automobiles in the Brazilian market increased from 25% to 28%, which directly affected the competitiveness of imported automobiles in the Brazilian market. Since the aforesaid measures are suspected of violating WTO’s basic Principle of National Treatment could Brazil please kindly provide further explanations?

**问题29：**据了解，巴西政府于2011年9月15号颁布了有关提高汽车工业产品税的政策。政策规定，对进口汽车（包括各类形式的卡车）或没有按巴西政府要求达到65%国产化率指标的汽车生产企业生产的汽车产品，征收的汽车工业产品税（IPI）率提高30%，也就是从7%-25%，调整为37%-55%。受此项措施影响，巴西市场上的进口汽车成本将上涨25%-28%，直接导致进口汽车无法在巴西市场展开竞争。以上措施涉嫌违反世贸组织国民待遇原则，请巴西给予进一步解释。

*This matter is under WTO dispute settlement procedures. As established in Article 1 of Decree 7.819 of 2012, INOVAR- AUTO will expire on December 31, 2017. The features of the future Brazilian automotive policy are still under discussion.*

*对于这个问题正在进行世界贸易组织争端解决程序。根据2012年第7.819号法令第1条规定，INOVAR-AUTO将于2017年12月31日到期。未来巴西汽车政策的特点仍在讨论之中。*

1. Law No. 9.394/1996 establishes that undergraduate and postgraduate diplomas awarded by foreign universities must be revalidated by Brazilian public universities that have a similar course and equivalent field of study. This provision is complemented by the principle of university autonomy guaranteed by article 207 of the Federal Constitution. [↑](#footnote-ref-1)
2. 第9.394/1996号法律规定，国外大学颁予的本科和研究生学历必须经开设类似课程、属于同一研究领域的巴西公共大学重新验证。本规定基于联邦宪法第207条所述大学自主权。 [↑](#footnote-ref-2)