CONTEMPORARY BRAZILIAN TRADE POLICY: CONTENT, PROCESSES, AND POLITICS

By

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To Zoila, who provided the love, support, and the occasional prodding that I needed.
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Tariffs: A tax placed on imported goods to raise the price of those goods, making them less attractive to consumers. Tariffs are used at times to raise government revenue (particularly LDCs). Tariffs are more commonly a means to protect domestic industry from foreign competition.

Import Quotas: A limit on the quantity of an item that can be imported into a nation. By limiting the quantity of imports, the quota tends to drive up the price of a good at the same time it restricts competition.

Export Quotas: These international agreements limit the quantity of an item that a nation can export. The effect is to limit the number of goods imported into a country. Examples include Orderly Marketing Arrangements (OMAs), Voluntary Export Restraints (VERs) or Voluntary Restraint Agreements (VRAs). The multifibre agreement establishes a system of textile export quotas for less developed countries, for example.

Export Subsidies: Any measure that effectively reduces the price of an exported product, making it more attractive to potential foreign buyers.

Currency Devaluations: The effect of devaluing one’s currency is to make exports cheaper to other countries while imports from abroad become more expensive. Currency depreciation thus tends to achieve the effects, temporarily at least, of both a tariff (raising import prices) and an export subsidy (lowering the costs of exports). Currency changes affect the prices of all traded goods, however, while tariffs and subsidies generally apply to one good at a time.

Nontariff Barriers (NTBs): Other ways of limiting imports include government health and safety standards, domestic content legislation, licensing requirements, and labeling requirements. Such measures make it difficult for imported goods to be marketed or significantly raise the price of imported goods.

Strategic Trade Policies: Efforts on the part of the state to create comparative advantages in trade by methods such as subsidizing research and development of a product, or providing subsidies to help and industry increase production to the point where it can move down the “learning curve” to achieve greater production efficiency than foreign competitors. Strategic trade practices are often associated with state industrial policies, that is, intervention in the economy to promote specific patterns of industrial development.

Dumping: The practice of selling an item for less abroad than at home. Dumping is an unfair trade practice when it is used to drive out competitors from an export market with the goal of creating monopoly power.

Countervailing Trade Practices: Defensive measures taken on the part of the state to counter the advantage gained by another state when it adopts protectionist measures. Such practices include antidumping measures and the imposition of countervailing tariffs or quotas.

Safeguards: Another defensive measure used when, after tariffs are reduced, a product is imported in quantities that threaten serious injury to domestic producers of like or directly competitive products.

Source: Balaam and Veseth 2001: 115
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International trade is one of the most charged issues in today’s globalized world. Free trade agreements and trade negotiations are commonplace but often the positions held by important players in these processes are not entirely understood. Brazil, as a rising medium-sized country, is often at the center of important trade issues, including some of the most controversial, such as agricultural subsidies, government procurement, and investment policy.

Since the 1990s, Brazil’s trade policy has undergone a transformation from a closed, inward-looking system that favored import-substitution industrialization to one that is modestly open to foreign trade and investment. Yet little work has been done to comprehensively examine the inner workings of their trade policy. International markets, as recently as 2002, were uncertain whether Brazil’s new economic and trade openness had consolidated and was able to withstand governments that were more critical of the neoliberal model which had been implemented by Collor, Franco, and Cardoso.

This thesis suggests that Brazil’s trade policy-making regime has undergone a process of democratization that serves to insulate the system from electoral changes in government and the desires of individual policymakers or dominant ministries. One of the most important aspects of
this transformation is the inclusion of civil society in the policy-making process, albeit through an *ad hoc* mechanism.

In order to understand Brazil’s trade policy, it is important to understand its content and how trade liberalization continues to take place, the process by which trade policy is developed and implemented, how certain political arrangements affect the policy-making process, and how these political concerns can supersede economically-based policy objectives.

This thesis finds that the stability of Brazil’s trade policy regime is due to multiple and often competing explanations. On the one hand there has been an opening in the policy-making structure to broader civil society participation that reflects the global involvement of civil society actors in trade negotiations; civil society and private interests play a larger role in policy making today in Brazil than they have in the past. On the other hand, the Ministry of Foreign Relations continues to operate as an opaque organization that does little to justify its actions or include regular outside inputs into society formation. Rather, participation of outside actors is *ad hoc* and is subject to the whims of Itamaraty. Furthermore, despite a constitutional amendment, the Brazilian executive maintains the ability to virtually govern by decree, a serious implication when considering the democratization of trade policy making. Because of the role international trade plays in Brazil’s economy and the likelihood that this trend will continue, understanding Brazil’s trade regime will increase in importance along with the country’s rise in the global economy.
CHAPTER 1
INTRODUCTION

General History of Brazil

Brazil is located in the southern half of the Western Hemisphere and occupies the majority of the South American continent. Its “discovery” in April 1500 was the product of a century-old expansionist project in Portugal designed to increase trade flows for merchants, find new sources of wealth for the Portuguese crown, occupy the Portuguese nobles, and spread Christianity to the heathen (Fausto 1999).

Mostly the result of geographic ignorance, the eastern portion of Brazil became Portuguese territory because of a provision of the Treaty of Tordesillas that ceded territory east of a north-south meridian to Portugal and territory to the west to Spain. Later Portugal conducted westward expansionist expeditions that significantly increased Brazil’s size.

One issue that continues to affect Brazil today is Dom João III’s decision to divide Brazil into 15 hereditary captaincies. These captaincies were sections of vast territory distinguished by lines running parallel to the equator and toward the Line of Tordesillas and effectively became small fiefdoms in which the overseers had very few limitations other than loyalty to the crown and payments of a percentage of economic activity coming from brazilwood,\(^1\) precious metals, etc . . . (Fausto 1999). This system of land tenure has to some extent persisted until the present. Captaincies were divided into *sesmarias* which were supposed to be cultivated within five years, although this was rarely the case. Often the lands remained uncultivated (Fausto 1999). Brazil (and other Latin American countries) is still haunted by this history of inequitable land

\(^1\) This wood was used for two purposes. It produced a dye used extensively in Europe and was the product of choice for European violin makers who fashioned the bow from brazilwood. While today the species is endangered due to centuries of exploitation, bow makers are still allowed to use the wood for their products.
distribution, a situation that gave rise to organizations such as the Landless Workers Movement\(^2\) (MST, Movimento dos Trabalhadores Rurais Sem Terra). These organizations advocate a more equitable distribution of resources and land, often occupying uncultivated lands that are part of immense *latifundios* originating in the colonization period.

Fausto (1999) divides Brazilian history into six periods: colonial Brazil (1500-1822), Imperial Brazil (1822-1889), the First Republic (1889-1930), the Vargas State (1930-1945), the Democratic Experiment (1945-1964), and the Military Government and the Transition to Democracy (1964-1984).

**Brief Economic History**

Like any other colony, Brazil was prized for its extractable resources that would bring wealth to the metropolis, although the absence of gold during preliminary expeditions caused some to initially underestimate Brazil’s economic potential. Brazilwood, mineral extraction,\(^3\) coffee, sugar, tobacco, and cotton all came to occupy important positions within the Brazilian economy, and with the exception of brazilwood, are still important in the Brazilian economy.

It was during the Vargas State that industrialization began to take off in Brazil, although more as a result of government policies than private initiative. The *Companhia Vale do Rio Doce*\(^4\) is a product of governmental development activities in the 1930s and 1940s (Fausto 1999). This period is important because industrial activities doubled whereas traditional agriculture was reduced significantly (Fausto 1999).

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\(^2\) For a thorough overview of organizations like the MST and others who are seeking an alternative version of livelihood in Latin America, see Deere and Royce forthcoming.

\(^3\) These include an immense iron ore reserve, manganese, bauxite, copper, lead, zinc, nickel, tungsten, tin, uranium, quartz crystals, industrial diamonds, and gemstones (Baer 2001, 6)

\(^4\) CVRD would later be privatized as part of the economic overhaul in the 1990s. It is now one of the world’s largest mining companies
After World War II, Brazil entered a period of economic isolationism. Import-substitution industrialization\(^5\) (ISI) theory influenced Brazilian development policy and trade between Brazil and the rest of the world was significantly reduced as the country looked inward for development answers.

Table 1-1 shows that the ISI strategy used by Brazilian governments from 1949-1966 had an effect. Although policy began to be developed and implemented in the late 1940s and 1950s, its effects were most drastically seen in the 1960s. By 1962, only 1.1% of all consumer goods were imported. Even imports of capital goods, which are generally more difficult to produce domestically, had been reduced from 59% in 1949 to only 8.2% in 1965. While the merits of shifting the economy away from primary product exports at the moment when these products were increasing in value on the international market can be argued,\(^6\) Brazil was certainly successful in achieving its goal of reducing imports and fostering industrial production.

In 1974 the military government made certain adjustments to these schemes in response to the 1973 oil shocks that quadrupled the price of petroleum and resulted in a shift from a trade surplus in 1973 to a trade deficit of US$ 4.7 billion in 1974 (Baer 2001). The country faced two options as a result: restrain growth to limit debt or finance growth with foreign loans. The country chose the second alternative justifying it on the grounds that increased production and export earnings would be sufficient to repay loans (Baer 2001). A limited export promotion program was also begun, although Brazil continued to adhere to the general principles of ISI in

\(^5\) ISI is rooted in the Prebisch-Singer thesis that argues that primary commodities loose value over time in relation to manufactured products. For example, over time it takes more and more coffee to purchase a television set. The increasingly unfavorable terms of trade resulting from a reliance on primary products were seen as one of the primary causes for many developing countries’ inability to “catch up” economically with industrialized countries. ISI suggests that countries should produce finished manufactured products rather than importing them to end their reliance on commodity exports and other countries’ manufactured products which became more and more expensive as the terms of trade continually decrease for commodity-exporting countries.

\(^6\) See Bulmer-Thomas 2003 for discussion on ISI in Latin America and the growth opportunities that were foregone as a result of these decisions.
terms of domestic production of most consumer and intermediate goods. After the first oil
shocks, international creditors were flush with petrodollars and Brazil was able to obtain
relatively low-interest loans which, along with exports, helped to maintain foreign exchange
reserves (Baer 2001). International trade increased but was still limited by government
regulation and taxes. Exports alone could not service debt, however. In 1965 the debt to export
ratio was 161.8 % and by 1986 it had climbed to 426.1 % (Baer 2001, 99).

By the 1990s Brazil had arrived at a point where economic and trade reform was
necessary. Inflation was unmanageable, the country had defaulted on sovereign debt, and the
currency was unstable. The Real Plan was the major turning point and called for government-
run industries to be privatized. Fiscal conservatism was implemented, the government switched
currencies and pegged the new Real to the dollar, and there was a significant opening in trade
with the outside world by way of further export promotion, unilateral and multilateral tariff
reductions, as well as participation in regional, hemispheric, and global trade negotiations.

Figure 1-1 shows the dramatic decrease in the unweighted, average applied tariff during
this period. In 1987 this rate was approximately 51 % and by 1994 it had been reduced to a mere
11.9 %. Sáez (2005) also uses variations of simple tariff averages as one component of
determining the extent of trade reform in Latin American countries.

By the end of the millennium it appeared that Brazil had embarked on a steady course of
moderate neoliberalism designed to boost the economy through international trade and economic
openness, both in traditional commodity exports (low value-added agricultural products, mineral
extraction, etc.) as well as more complex manufactured products (jet airplanes, electronics, etc.).
Even F.H. Cardoso, once an ardent critic of such development policies, had converted and was
leading the calls for economic reform, first as Finance Minister and then as President. The
election of Luiz Inácio Lula da Silva in 2002 caused many to question whether or not the policies begun during the 1990s would continue since Lula had been elected as a Labor Party (PT, Partido dos Trabalhadores) candidate and made no secret of the fact that he opposed the U.S.-proposed Free Trade Area of the Americas and other neoliberal trade policies.

**Brazilian Trade Policy Today**

During an era in which the world is increasingly globalized and international trade is a higher percentage of gross domestic products in countries around the world, it is essential to understand the differing viewpoints and national interests that affect this process. While this information is complex (trade terminology can be very difficult to decipher), it is not an abstract issue that resides in ivory towers. The way trade policy plays out in everyday life for millions of ordinary citizens all over the world can have dramatic effects on livelihoods and national economies, economies that are increasingly interdependent as trade agreements and trade flows connect the world in a way never experienced before.

Brazil plays a pivotal role in today’s global economy. It is the world’s ninth-largest economy in purchasing power parity gross domestic product (PPP GDP), is a world leader in industrialized production of value-added manufactured goods, and supplies huge quantities of staple agricultural products to the world. It is the largest coffee producer in the world, grows and processes a large percentage of the world’s soy products, as well as sugar, citrus, cotton, beef, and sugar-based ethanol (álcool).

International economic integration, a process that has been both lauded and loathed, depends on the cooperation of nations with different priorities that often have very different ideas about what constitutes free and fair trade. Not surprisingly, conflict often arises between the industrialized countries of Japan, Western Europe, and the United States and less-developed
countries which are mostly located in the Southern Hemisphere, leading to what has been termed the North-South Divide.

If trade openness is to be advanced, it is imperative that the trade policies and the goals behind them be understood to the highest degree possible. Given Brazil’s size (economic, geographic, and population), its trade policies cannot be disregarded. It has successfully challenged U.S. and European models for trade integration in the past several years, leading to an impasse at the highest levels of trade negotiation, the Doha Round of the World Trade Organization (WTO).

This thesis has three goals: 1) to define the content of Brazil’s contemporary trade policy – its tariff structure and barriers to trade, trade remedies, export promotional activities, and use of the WTO dispute resolution system; 2) to understand the processes involved in making these policies, including the actors (governmental and non-governmental) and their role in defining these policies; and 3) to understand the politics involved in Brazil’s trade policy, especially pertaining to Mercosul and the Free Trade Area of the Americas proposal. The thesis hypothesizes that Brazil’s trade policy-making system has undergone a process of

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7 Near the final stages of this research negotiators once again failed to reach an agreement over the sensitive issues of agriculture, government procurement and foreign investment in a special meeting of the Doha Round in Germany. Brazil and India were the leading representatives of less-developed countries trying to obtain access for their products in industrialized markets. Brazil argued that they had already conceded too much in the TRIPS and TRIMS agreements and would not grant further accessions in the absence of a significant change in European and US policies on domestic agricultural subsidies. See BBC 2007a.

8 The Common Market of the Southern Cone is most often referred to as Mercosur, its Spanish acronym. However, because this thesis deals with Brazilian trade policy, the Portuguese name, Mercado Comum do Sul and its acronym, Mercosul, will be used throughout with the exception of direct quotes that use the more common Spanish version.

9 The Free Trade Area of the Americas (FTAA) (or ALCA in Spanish and Portuguese Latin America) is a proposed free trade area that would span the entire Western Hemisphere (minus Cuba) and join these countries in a tariff-lowering agreement similar to the NAFTA. Although getting off to a promising start in the 1990s, talks have collapsed over disagreements on issues such as agricultural subsidies, government procurement, and foreign investment.
democratization, opening participation to new segments of society and therefore the process we observe today is likely to continue to be more and more inclusive. Sáez states that

the result of the level of depth of democratic regimes, to what extend [sic] there is a long tradition of democratic ruling in a country, the strength of the political system, ‘presidential’ or semi-presidential, the role played by political parties, and the organization of civil society, that will determine the quality of policies (2005, 17).

The continuation of relative trade openness and fiscal conservatism following the first and second elections of President Lula da Silva support this hypothesis since the system has showed resilience to changes in government and the current pro-labor government has either been unable or unwilling to reverse this course. Despite the return to broad international confidence in Brazil’s economy and trade policy after a moment of doubt in the period leading up to Lula’s election and for several months thereafter, there has been little work done to comprehensively understand Brazil’s trade policy-making process. It is complex and involves a variety of actors, encompassing multiple issues. Broad policy consensus\(^{10}\) is often lacking due to contradictory interests – Brazilian industrialists are not always best served by policy favoring agriculture and vice versa. Yet one trend remains throughout: opposition to U.S. and European dominance in trade and a desire to attain more benefits for Brazilian business in international trade.

**Literature Review**

The body of literature on trade is vast; trade agreements themselves are often so voluminous that few people read them in their entirety. Yet for such a prolific field, relatively little has been written about Brazil’s trade policy and what has been written tends to focus on specific issues. It is often unclear who is making policy decisions in Brazil since policy actors

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\(^{10}\) As Sáez points out when discussing society’s participation in formulating trade policy, “Participation is not a synonym of consensus. In fact, the confusion that exists between the two terms can lead to conflict and frustration in the society…the society’s objective is to allow policy-makers to choose between different actions and identify more accurately the transactions that arise from them, and the related costs and benefits” (2005, 16).
can take on overlapping roles. Also, some ministries within the executive branch are very transparent and readily provide information while others proffer very little.

Trade policy-making in Latin America is of significant interest due to the robust trade negotiations that have taken place in the past two decades. Sáez (2005) examines these countries with a comparative analysis between several countries in the region. Claims that the quality of policies and the implementation of these policies have been tainted by the structural characteristics of the policy-making process led to this examination of structural reforms, including trade policy. Sáez’s approach scrutinizes international actors (multilateral, plurilateral, and bilateral), how deep democratic reforms have been in individual countries, and the degree of complexity and organization of civil society. Within this framework he discusses bureaucracies that design trade policies, the legislative powers that must ultimately approve or reject the negotiated agreements, and the consultation mechanisms used to incorporate civil society in the process.

Brazil’s trade negotiation system usually resembles patterns found in other Latin American countries. Its Minister of Foreign Relations handles trade negotiations (as in Argentina, Bolivia, and Chile), it has a formal public policy coordination mechanism (as in Bolivia, Colombia, Chile, and Mexico), and has an ad hoc public-private coordination mechanism (as in Argentina, Bolivia, Peru, and Uruguay). But Sáez notes that Brazil’s trade liberalization process has been decidedly slower than its Latin American neighbors, as measured by shifts in percentages of imports and exports (2005, 13).

The regional and transregional dimensions of Brazilian trade policy, as explained by da Motta Viega, are responsible for the gradualism of Brazil’s economic and trade reform. This is logical in light of Brazil’s defensive approach to negotiation, especially with the United States,
and da Motta Viega credits this stance to Brazil’s position as a global trader with interests in multiple countries and regions. A binding agreement with one (e.g., with the United States in the FTAA) would “impose trade preferences with one region or another” (da Motta Viega 2004, 175).

The core argument posed by da Motta Viega is that Brazil’s negotiating position is “not based on a rational assessment of the costs and benefits associated with these negotiations from an economic standpoint” (2004, 176). Moreover, he posits, Brazil’s foreign policy over the past four decades is characterized by competition with the United States “and the objective of developing the nation’s industrial capacity as a key condition for independent activities within the international system” (2004, 177). Mercosul plays a central role in this strategy because it allows Brazil to negotiate as a bloc rather than as a single country, particularly important when the negotiating partner is a powerful international player like the United States or the European Union.

Although there are many publications dealing with Mercosul’s negotiating strategies and objectives, few sources deal directly with the policy-making process internally in Brazil. Marconini (2005) first gives an overview of trade – industrial protectionism, foreign trade negotiation policy, and “the Lula Factor” – and then breaks down the process itself into procedure, participation, timing, and structure. Marconini characterizes this process as “very complex and dynamic…which is also highly sensitive to timing and politics” (2005, 6).

The beginning of FTAA negotiations is a watershed in the Brazilian trade policy-making system, according to Marconini (2005). First, it shifted focus away from “traditional” trade to include a much broader scope of themes that had recently appeared as part of the NAFTA. Second, there was a sudden inclusion of ministries across the executive branch in order to
effectively deal with these new issues. Third, these new issues attracted the interest of civil society groups that had hitherto been disinterested in trade. Fourth, apart from including new governmental players in the trade policy formation process, the government had to include a new bevy of private sector interests and other stakeholders, which led to the creation of the National FTAA Secretariat (SENALCA). Finally, these negotiations marked the first time in Brazilian trade history that thematic groups were formed around specific negotiating issues (Marconini 2005).

The main characteristics of the system are defined by Marconini (2005) as the following: an agenda set by the Ministry of Foreign Relations, a closed strategy-formation process defined by geopolitical arrangements and not necessarily by economic interests, and a modest increase in transparency brought on by the formation of thematic groups and private sector/civil society participation.

Brazilian president Lula da Silva attracts special attention for the role he plays in defining trade policy. While Marconini acknowledges Lula’s affiliation with the PT and his anti-FTAA campaign rhetoric, he also gives the indication that Lula was prepared to negotiate an FTAA that was pursuant to Brazilian interests. Lula also took the initiative to negotiate agreements with global partners from the South, a strategy embodied in the “New Delhi Plan of Action” in which Brazil met with leaders from India and South Africa. Marconini points out, as does da Motta Viega (2004; 2006), that trade has been high on Brazil’s foreign policy agenda “even if it is in the absence of palpable concrete economic gains” (2005, 5). Lula is further credited (accused) by da Motta Viega of partially returning Brazil to the “national development tradition of
Brazilian foreign policy”\textsuperscript{11} that was the dominant paradigm in the mid-twentieth century (2006, 41).

Mercosul has been written about much more extensively and extrapolations can be made regarding Brazil’s trade policy process. Cason (2000) characterizes Brazil as the dominant partner in the bloc whose relative power “has led it to adopt a modus operandi of shooting first and asking questions later” in terms of erecting barriers to specific products and then negotiating only when other members protest. This position contrasts with da Motta Viega (2006) who fears Brazil’s “benevolent leadership” has been costly in terms of market access within Mercosul. Also, while Cason (2000) paints a rosy picture of Mercosul’s path to becoming “Latin America’s first robust trading organization” (because of the sheer volume of trade), Brazil’s trade involvement with the bloc is scanty when measured as a percentage of total national trade (see figures in Chapter Four).

A varied approach is used by Mecham who sees Mercosul as “an adaptation to the contemporary political climate” (2003, 376). Mecham perceives Mercosul as a politically-conceived development project more than an economically-minded union, and he calls into question the success of the social development goals. The Inter-American Development bank also criticized the bloc for failing to improve the strength and quality of institutions, stating that “Mercosur suffers from a juridical and institutional deficit” (quoted in Mecham 2005, 381). It would appear however, that Brazil is mostly to blame for this shortcoming. “Brazil is the dominating partner…and Mercosur is a foreign policy tool for strengthening its negotiating position globally” (Mecham 2005, 385). Ultimately, Mecham asserts, Brazil is unlikely to make

\textsuperscript{11} All English translations of literature originally written in another language should be considered the work of the author unless otherwise stated. The author takes full responsibility for the accurateness of these translations and any inaccuracies are
integration concessions unless they further Brazil’s domestic interests and its broader foreign policy agenda.

Burliai (2005) also labels Brazil as Mercosul’s leader and acknowledges that much of Brazil’s interest in Mercosul lies in the perceived utility of the bloc as a negotiating platform to counter U.S.-dominated trade talks. As such it forms an integral part of Brazil’s national trade strategy.

There are also a host of governmental, intergovernmental, and other international sources on trade-specific topics. The World Trade Organization performs periodic Trade Policy Reviews. This thesis makes a point of comparing changes between the 2000 Trade Policy Review and the 2004 Trade Policy Review in order to highlight the deepening of trade reforms in Brazil and the entrenchment of the current system. The World Bank, the Economic Commission for Latin America and the Caribbean (CEPAL), and the Inter-American Development Bank all provide technical data to support the thesis’ findings. Finally, Brazilian government agencies such as the Ministry of Development, Industry, and Foreign Trade, the Ministry of Finance, and the Ministry of Foreign Relations all give insights as to their specific duties as well as papers outlining their positions on specific concerns (e.g., Ministry of Agriculture).

**Approach**

Understanding Brazil’s trade policy regime is crucial in order for today’s policymakers to arrive at informed decisions as well as for those with interests in international trade. Upcoming global agreements on sensitive issues such as agriculture (subsidies) will determine the course of future trade agreements and the viability of globalization. Brazil is currently at the center of this drama, along with India, China, and other rising medium-sized economies.

In order to understand this regime, it is necessary to have a clear grasp of the major events in Brazil’s history that have led to its current policy. Import-substitution industrialization (ISI)
influenced Brazil’s decisions and policy for several decades in the twentieth century and to an extent continues to inform the country’s trade policy. Chapter Two discusses the history of Brazil’s trade policies and the major transformation this policy underwent in the 1990s. The chapter then turns to contemporary trade policies and deals with specific issues such as tariffs, tariff-rate quotas, trade remedies, and Brazil’s use of the WTO as an integral part of its trade strategy.

Chapter Three gives an analysis of the various components in the trade policy-making processes. There are essentially two main categories that these players fall into: governmental and non-governmental. While some governmental actors (e.g., the president) are obviously an integral part of the process, as Marconini (2005) and Sáez (2005) point out, the inclusion of a broader scope of governmental actors across the executive branch is a relatively new phenomenon, findings its beginnings in the 1990s. These authors also underscore this period as the point at which civil society both became interested in the trade policy-making process and was granted access to the process, although it remains an imperfect and *ad hoc* arrangement.

Mercosul and the FTAA are the best examples of the political influences shaping Brazilian trade policy. Chapter Four explains the origins of these regimes and how they have been influenced by Brazilian domestic politics. The chapter draws special attention to the ordering of priorities in Brazil and how they differ from other countries, particularly Western industrialized countries. Brazil has placed an emphasis on achieving and maintaining a position of influence and power vis-à-vis these industrialized countries. Mercosul has been used as a tool to sustain and extend this position while the FTAA is widely viewed as a step toward subservience to U.S. interests in the hemisphere and on the global stage as it might preclude Brazil from attaining significant concessions in the WTO.
The final chapter gives a summary of what has been presented throughout the thesis. It restates the fact that Brazil’s trade policy-making system has undergone a dramatic change that has incorporated other members of government and civil society that parallels the political democratization that began a few years earlier. In analyzing the findings of this research, it advances the idea that Brazil’s trade regime is a complex system that involves multiple actors and should not be viewed as overly susceptible to changes in government (e.g., Lula’s election). Finally, it offers prospects for the future and what is likely to happen both with Brazil’s trade policy-making process as well as with Brazil’s strategy for negotiating sensitive issues like agricultural subsidies in highly industrialized countries.
Table 1-1 – Imports as a Percentage of Total Supply, 1949-1966

<table>
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<tbody>
<tr>
<td>Capital Goods</td>
<td>59.0</td>
<td>43.2</td>
<td>23.4</td>
<td>12.9</td>
<td>8.2</td>
<td>13.7</td>
</tr>
<tr>
<td>Intermediate Goods</td>
<td>25.9</td>
<td>17.9</td>
<td>11.9</td>
<td>8.9</td>
<td>6.3</td>
<td>6.8</td>
</tr>
<tr>
<td>Consumer Goods</td>
<td>10.0</td>
<td>12.2</td>
<td>4.5</td>
<td>1.1</td>
<td>1.2</td>
<td>1.6</td>
</tr>
</tbody>
</table>

Source: Baer 2001, 66

Figure 1-1. Brazil’s Average Applied Tariff (1981-2005). The World Bank.
This chapter provides an analysis of the major issues involved in Brazilian trade policy. There are a wide variety of topics related to imports including trade balances, regulation (including tariffs, non-tariff barriers, sanitary and phytosanitary measures, rules of origin, etc.), customs valuation, and licensing. Important export issues include documentation, taxes, prohibitions, finance, promotion, and licensing. However, the most important aspects of the overall trade regime from the perspective of this thesis are tariff structures, export strategy, anti-dumping (hereinafter referred to as AD) measures, countervailing duties (hereinafter referred to as CVD), safeguards, and dispute settlement in the World Trade Organization (hereinafter referred to as WTO). Throughout this discussion the principal economic sectors – agriculture, manufacturing, and services – will be incorporated as relevant in order to draw attention to the issues most relevant to Brazilian trade.

These aspects of trade policy are noticeable because of the dichotomy between the anti-market political rhetoric articulated during President Lula’s campaign and the consistency with and deepening of market reforms begun by former Presidents Collor, Franco, and Cardoso after assuming the presidency in 2003. The 2004 WTO Trade Policy Review of Brazil makes note of several trade inhibiting policies in place in 2000 that by 2004 had been removed entirely, reduced, or marked for future scaled removal (Trade Policy Review: Brazil 2000; Trade Policy Review: Brazil 2004). These seemingly contradictory stances are part and parcel of the underlying questions in the following chapters on processes and politics. Why does the leftist, Labor Party (PT, Partido dos Trabalhadores) president support neoliberal trade policy? Does Lula, in fact, have much control over the process, or is it instead a multi-actor system in which
the president is only one of many influential voices? What political restrictions are imposed on trade policy actors and how does the political system render some options untenable or unlikely?

The goal of this chapter is to establish a basis on which further discussion of Brazil’s trade policy may take place. It is difficult to engage in analysis of processes and politics without first having a comprehensive understanding of the current trade policy regime. In short, in order to discuss the “why” behind many of these issues, one must first understand what these issues are and how they are relevant to various sectors.

**Historical Perspectives**

Like most of Latin America, Brazil underwent a period of closed economic policy, commonly known as Import-Substitution Industrialization (ISI).¹ This strategy, according to Balaam and Veseth, “attempts to encourage industrial development, often by restricting imports of industrial productions or encouraging exports of these items… [one may c]ontrast this strategy with export-oriented growth (2001, 262).” Bulmer-Thomas goes on to explain this phenomenon as a period when “the export sector ceased to be dynamic and the commodity lottery² lost its relevance, although primary-product exports remained the main source of foreign-exchange earnings” (2003, 17).

In Brazil ISI began around the end of World War II and stretched, in one form or another, until the mid-1980s. The first categories to be affected were consumer goods and intermediate goods in the late 1940s while capital goods were not so easily replaced and took several more years to substitute (see Table 1-1 in Chapter 1). The roots of this movement in Brazil are in the

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¹ See CEPAL 1985; Marconini 2005.

² The commodity lottery refers to the phenomenon in which many developing countries depended on the export of a few commodities, some of which were more volatile than others. Copper in Chile has the potential for a more volatile demand curve than petroleum in Venezuela, yet both are commodities that were discovered after territorial demarcation. As such, the term commodity lottery refers to this system where certain countries have resources that are less subject to price fluctuation than others.
political ideas of corporatism that were prevalent in the Vargas State in the 1930s. CEPAL economist Raul Prebisch furthered the idea with his seminal work *The Economic Development of Latin America and its Principal Problems* where he proposed that the system was inherently tilted in favor of the center countries who imported primary products from periphery nations who suffered from increasingly worsening terms of trade. As Brazil began to adopt this theory as a developmental model, it shifted emphasis from primary product exports toward domestic production of manufactured goods. Many government-run corporations have their foundations in this period.

**Trade in the 1970s and 1980s**

Although Brazil focused its energies on internal production and self-reliance, petroleum was not easily substituted in the short-term and the country continued to rely on imports of this vital commodity.\(^3\) In fact, the paradox was that in order to develop domestic production capacities, foreign oil would have to be imported. This, coupled with two oil shocks, led to more expensive domestic production throughout the period of 1974-1977 (Castelar Pinheiro 1993, 19).

While the rest of Latin America largely acquiesced to the prescriptions of the Washington Consensus\(^4\) – a broad policy of structural adjustment also commonly known as neoliberalism – Brazil continued to be a relatively closed economy up to the 1990s. Castelar Pinheiro, using imports as a gauge, points out that “in absolute terms and principally in relation to the rest of the developed and developing world, Brazil was, in 1991, a much more closed economy than it was in 1974 (1993, 19).”

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\(^3\) This dilemma would later lead to Brazil’s development of alternative energy production, mainly sugarcane-based ethanol, but also bio-diesel. In 2006 Brazil achieved energy independence, no longer relying on foreign imports to satisfy its energy demands.

\(^4\) See the following discussion on the implementation of the Real Plan. Many of its premises were similar to those laid out in the Washington Consensus.
As Table 2-1 illustrates, imports fell, especially intermediate and consumer goods during the end of the 1980s and the beginning of the 1990s. Castelar Pinheiro illustrates the apparent failure of the ISI strategy by noting that “the fall in non-petroleum imports in the 80s was more a result of the restrictions imposed on foreign purchases than of a successful advance in the import substitution process (1993, 22).”

The oil shocks of the 1970s had profound impacts on the Brazilian economy and heavily influenced the trade policies of the 1970s and 1980s. An oil-led balance-of-trade crisis in 1980 prompted further import controls, including the 15% Financial Operations Tax (CEPAL 1985). A 12.9 billion dollar current account deficit in 1980 was caused by two primary factors: first, a nearly 50% increase in world oil price; and second, a rise in international interest rates. Apart from these reasons, balance-of-payment troubles were complicated by import stockpiling as distributors feared increased import controls (CEPAL 1985, 50).

Trade in the 1990s and the New Millennium

Inflationary tendencies during the later portion of the 1980s and the early to mid-1990s led the Brazilian government to adopt five different stabilization plans. According to Levitsky, “[e]ach of these plans included interventionist measures such as wage and price freezes and, under Collor, an outright lock on bank accounts (1998, 54).” While this appears extreme by most contemporary measures, yearly inflation (measured by increases in the CPI) had reached 2,489.1% (CEPAL 2001). The Real Plan was implemented in 1994 when inflation measured 929.3%. By 1995 inflation had been reduced to only 22% and a year later to a mere 9.1%, an astronomical reduction by any standard.

The principal characteristics of the Real Plan closely resembled the 10 objectives outlined seven years earlier by the Washington Consensus. Among the most important aspects were:
a strong new currency (the *real*) which debuted with parity to the dollar; tariff reduction and market opening policies using competition from foreign imports to lower and stabilize prices; high interest rates to cool down the economy and attract foreign capital; strict controls on government spending; and the privatization of state enterprises to reduce government costs and the debt, promote foreign investment and enhance the efficiency and competitiveness of Brazilian industry (Levitsky 1998, 55).

Among other things, unstable fiscal and monetary policy during Brazil’s ISI period led to wild variations in inflationary tendencies and to the conclusion that adopting at least some of the structural adjustment recommendations was necessary for economic stability. One of the chief components in this adjustment was the liberalization of trade policies, including the lowering of tariffs, halting exchange rate manipulation, and generally opening the economy to participate in the global economy.

During the later half of the 1990s, Brazil moved ever further toward free trade policies under the leadership of President Fernando Henrique Cardoso, a sociologist-turned-politician once highly critical of the West’s economic prescriptions for developing countries. Cardoso opened trade channels for foreign companies and privatized once state-owned companies such as Companhia Vale do Rio Doce (CVRD).

This period was not without its crises, perhaps most evident in the 1999 real devaluation. Because of the combination of an overvalued currency, loose fiscal policies, and contagion (Russian and Asian devaluations), Cardoso was forced to float the real in January 1999. Two months later the currency had lost 35% of its value (The Devaluing of a Presidency 1999); the

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5 See his seminal work *Dependency and Development in Latin America*

6 CVRD is one of Brazil’s largest companies and operates on five continents. As a previously state-owned enterprise, it is now a prosperous private company. The company was created in the 1940s as a result of the Vargas State developmental policies.

immediate effects were more dramatic as the exchange rate fell from 1.21 (real/dollar) to 2.06 on January 29, 1999 (Thompson Datastream 2006).

The implication of the devaluation was a dramatic loss in purchasing power and disillusionment with the hitherto celebrated Real Plan. In terms of trade, however, Brazilian exporters received a much needed boost as their products suddenly became much more competitive vis-à-vis the U.S. dollar and the Argentine peso. According to the 2000 Trade Policy Review of Brazil by the WTO, steps had been taken to “offset the existing anti-export bias created by tariff structure and, until recently, an overvalued exchange rate (WTO 2000, 26).”

Other trade-related measures taken during this period include a reduction of the tariff dispersion, a general tariff rate escalation, a reduction of Brazilian regional automotive production benefits, and a withdrawal of tariff quota on wheat. Also, Brazil implemented anti-dumping measures against several countries and countervailing measures against others (WTO 2000).

**Current Trade Policy**

In the contemporary international trade environment, Brazil occupies a place that is somewhat of an anomaly when compared to the rest of Latin America. It is the world’s ninth-

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8 This situation reversed following the 2001 collapse of the Argentine economy, but for at least a year and a half Brazil enjoyed an advantageous export situation with its southern neighbor.

9 A calculation made by dividing the standard deviation by the average to produce the coefficient of variation.

10 Bangladesh, Bosnia Herzegovina, Chinese Taipei, Croatia, the Former Yugoslav Republic of Macedonia, France, Germany, India, Japan, Kazakhstan, Mexico, Romania, the Russian Federation, Slovenia, South Africa, Spain, Thailand, the Ukraine, the United Kingdom, the United States, and Yugoslavia.

11 Côte d’Ivoire, Indonesia, Malaysia, the Philippines, and Sri Lanka.
largest economy\textsuperscript{12} and industry and services make up approximately 92 \% of economic activity (CIA World Factbook 2007), a marked difference from most other developing countries in Latin America where agriculture often dominates the economy. But agriculture continues to be a very important part of Brazil’s economy. Brazil’s production of ethanol from sugarcane (\textit{álcool}), cattle ranches, citrus groves, and soybean crops are of global importance and their producers are not always in agreement with industrial and service sectors on how trade policy should be defined and what measures should be implemented. This section provides an analysis of the most important content of Brazilian trade policy with the objective of defining the issues that are debated in the processes and politics of policy formation.

\textbf{Export Strategy}

Although the days of heavy export regulation are, for a most part, a thing of the past, some remnants remain today. As of January 2004 eight product categories were still subject to export taxes. While in some cases taxes are only applied when exports are destined for certain markets (presumably for political reasons\textsuperscript{13} or Mercosul pricing compliance), the Brazilian authorities have noted that when a tax is levied uniformly for all export markets, the purpose is to assure domestic market supply (Trade Policy Review: Brazil 2004, 75). The product categories that are subject to export tax include cashew nuts with shells, tobacco and its substitutes (to Paraguay and Uruguay), cigars, leathers and skins, paper for cigars, cylinders for cigar filters, and arms and ammunition. Each of these categories is subject to further stipulations, such as quota rates (cashews), variation in rate (ranging from 4 to 150 \%), and graduated reductions and

\textsuperscript{12} Brazil ranks 10\textsuperscript{th} in total GDP in 2005 with US$ 794.1 billion (see World Bank 2007). But when Purchasing Power Parity is taken into account, Brazil is in 9\textsuperscript{th} place (see World Bank 2006). PPP GDP is used to express economy size more often than simple total GDP.

\textsuperscript{13} Brazil has maintained a certain degree of camaraderie with other developing nations around the world. This solidarity has led Brazil to occasionally provide trade benefits for political more than economic reasons.
eliminations of taxes (e.g., leathers and skins were taxed at seven percent through 2004, at four percent through 2005). CAMEX\textsuperscript{14} Resolution No. 42, 19 DEC 2006 increased the export tax on leathers and skins to nine percent in accordance with descriptions laid out in NCM guidelines (Resoluções CAMEX, Ministério de Desenvolvimento, Indústria e Comércio Exterior).

There are of course numerous export prohibitions that have various rationales behind them. Exports of weapons and military equipment have been prohibited to Iraq, Liberia, Sierra Leone and Somalia in compliance with United Nations’ resolutions (Trade Policy Review: Brazil 2004, 76). Also, some natural products are restricted or banned for export because of the potential for their depletion. Jacaranda wood from the state of Bahia is an example of this (Trade Policy Review: Brazil 2004, 76). Successful countervailing duty campaigns carried out by other countries have also brought Brazil to limit exports of products such as hot-rolled flat-rolled carbon quality steel (Trade Policy Review: Brazil 2004, 77). Yet these are hardly indicative of an export-diminishing strategy by the government. Rather, they are examples of typical actions taken by governments around the world to comply with international standards.

In terms of export promotion, Brazil employs an Export Financing Program (PROEX\textsuperscript{15}) and also grants certain products a subsidized position. The primary goal of the Brazilian government in this program is to generate foreign exchange earnings and increase exports of manufactured products (Trade Policy Review: Brazil 2004, 78). Products may be exempted from export tax, or the IPI tax, or producers may be given access to duty-free imports on machinery and raw materials utilized in production (Trade Policy Review: Brazil 2004, 78).

\textsuperscript{14} Câmara de Comércio Exterior (Chamber of Foreign Trade)

\textsuperscript{15} PROEX is a federal government program run by Banco do Brasil which provides funding for medium and small companies wishing to engage in international trade (Trade Policy Review: Brazil 2004, 81).
In addition to PROEX, the Brazilian government created the Export Promotion Agency (APEX) in 1997 as a subsection of the Brazilian Service of Support to Micro Businesses (SEBRAE) (Trade Policy Review: Brazil 2004, 86). APEX began operations in 1998 and by 2004 it had approved 431 projects including food and beverages, furniture, textiles and clothing, construction, machinery and equipment, audiovisual and international market penetration. Throughout this time the agency invested US$152.9 million (Trade Policy Review: Brazil 2004, 86).

In comparison to other industrialized or highly industrialized countries, Brazil’s export taxation may appear to be somewhat draconian, yet not when examined in the light of past policies. Former Brazilian finance minister Marcilio Marques Moreira explains Brazil’s attitude toward exports in the following way:

Our economic history was marked by cycles of exports, beginning with exports of wood, especially Brazil wood, which was a very important red dye in the 16th century…[sugar, cattle and coffee followed and it was mainly agrarian exports. So when we entered the industrialization process, exports were somewhat demonized. Import substitution was the word. That mentality still persists (Salmon 2001).

Exports today are subject to temporary regulations as opposed to being discouraged or even prohibited, as was often the case during the ISI period. In addition to the smaller agencies such as PROEX and APEX, Brazil’s national development bank (BNDES, Banco Nacional de Desenvolvimento Econômico e Social) is also involved in financing exports. According to Salmon, BNDES began this financing in the beginning of the 21st century following the failure of Brazil’s 1999 currency devaluation to reverse the current account deficit. By using exports as a method of attracting foreign currency inflows, Brazil hoped to stop the deficit trend and it would appear that this strategy, at least in part, has worked, because the country has had a current account surplus for several years running. Figure 2-1 shows a historical view of Brazil’s trade balance from the end of World War II to present.
Import Regulations

Brazil has a tradition of changing regulations on both imports and exports, depending on the current politico-economic climate. While import regulations have been relaxed significantly since the days of ISI, the country still maintains some elements of protectionism. Cason notes that “Brazil has traditionally been viewed as an extraordinarily protectionist country, the last holdout against a neoliberal tide sweeping the Latin American region, and it has only recently come around to more market-oriented policies” (2000a, 204).

One of the major concerns prior to the ISI period was that Brazil was relying too heavily on imports from developed countries to meet its consumption needs and only receiving foreign exchange from primary-product exports such as sugar and coffee. Consequently, import restrictions were imposed on most products that could be produced domestically in order to make the domestic market competitive with foreign producers.

The 1990s saw a reversal in this trend and a subsequent increase in imports. In 1995 the current account balance of goods and services showed a US$ 10.6 billion deficit (Anuario Estadístico 2006, 160). By 2000 this deficit was reduced to US$ 7.9 billion and in 2002 an US$ 8.2 billion surplus was reported. In 2004 this surplus nearly surpassed US$ 29 billion (Anuario Estadístico 2006, 160). Although not necessarily indicative of Brazil’s overall global trade position, it is interesting to note that Brazil’s trade balance with the United States mirrors its current account balance during this period. In 1995 Brazil had a US$ 2.6 billion deficit with the U.S. In 2000 this deficit had shrunk to US$ 1.5 billion, and by 2004 Brazil had a trade surplus of US$ 7.3 billion (U.S. Department of Commerce n.d.).
Tariffs

Probably the most oft-cited evidence of protectionism is a country’s tariff levels on imported goods and services. Although nominal tariffs can be deceiving\(^\text{16}\), it is nonetheless a good place to begin an analysis of trade policy, being one of the oldest and most common forms of trade regulation and governmental income generation.

Brazil’s simple average applied most favoured nation (MFN)\(^\text{17}\) tariff in January 2004 was 10.4 %, which had decreased from 11.4 % in October 2003 and 13.7 % in 2000 (Trade Policy Review: Brazil 2004, 43). This reduction was largely a result of the elimination of the general temporary tariff increase that had been in effect since 1997 (Trade Policy Review: Brazil 2004, 43). The 2004 average is calculated based on the entire tariff structure which ranges from 0 to 55 %, depending on the product (Trade Policy Review: Brazil 2004, 43). One interesting point is that Brazil’s average agricultural tariffs are lower than most WTO members, although the United States had a lower average applied agricultural tariff in 2006 (Brazil – 10.2 %\(^\text{18}\), US – 5.3 %\(^\text{19}\)). The implication is that many of Brazil’s agricultural products are globally competitive (e.g., sugar, tobacco, soybeans, and citrus).

\(^{16}\) For instance, the United States overall average tariff rate (in 2005 simple \textit{ad-valorem} on all goods imported into the U.S. was 3.7 % according to the WTO’s Trade Profiles statistical database) is less than Brazil’s, especially in industrial goods. Yet this figure conceals extremely high protectionist tendencies in specific categories and subcategories. For example, tariff rate quotas (national quotas on imports which set different tariffs depending on the quantity) are used to protect domestic production of sensitive products such as tobacco and sugar.

\(^{17}\) Most Favoured Nation status is a term used in international trade law. It refers to the act of a nation giving the same trade benefits (low tariffs, etc.) that it gives to a third nation. It is frequently used within the WTO framework where members are required to accord this status to other members. There are, of course, exceptions which occupy the realm of preferential trade agreements, free trade areas and custom unions. This concept is essentially the basis for the GATT, the details of which may be found in Article 1.

\(^{18}\) See International Centre for Trade and Sustainable Development 2004; World Trade Organization 2007b.

\(^{19}\) See World Trade Organization 2007c.
Also, in terms of tariff structure, the mean and median\textsuperscript{20} of Brazil’s tariffs are very close, which is indicative of a tariff structure with few peaks (megatariffs) as well as few troughs, or tariff-less items. By contrast, the United States has a very high differential between its tariff mean and median (there is a high mean and low median), indicating that while most of its tariffs are quite low (which creates a low median), it has a few items that receive especially high protection (which creates a higher mean), resulting in a situation indicative of “tariff peaks” or “megatariffs” (Jank 2003, 10).

If all tariff lines are divided up into three categories (0-10 %, 10-20 %, and 20-55 %), 55 % of Brazil’s tariff lines fall into the 10-20 % category. This is an increase from 2000 when 50 % of tariff lines were contained in this category. However, this change actually reflects a decrease in overall tariff rates since the additional tariff lines in the 10-20 % category were previously found in the higher category (Trade Policy Review: Brazil 2004, 43).

As mentioned above, tobacco is a particularly sensitive product in the United States’ market and on the world market. Brazil’s average applied tariff on tobacco in 2004 was higher than the average applied WTO agriculture tariff, but relatively low by U.S. standards at 15.3 % and notably has no tariff rate quota (Trade Policy Review: Brazil 2004, 44, table III.1). Dairy products, coffee, tea, cocoa, sugar, beverages and spirits, and fruit and vegetables are among the agricultural products with the highest tariffs on the tariff schedule, although they range between 10 and 19 % (Trade Policy Review: Brazil 2004, 55, table III.1), still low when compared to U.S. megatariffs on citrus, sugar and tobacco.

\textsuperscript{20} The arithmetic mean refers to what is more commonly known as the average. This is a measure of central tendency produced by dividing the sum of all scores by the number of scores. The median, another measure of central tendency, is simply the number in the middle of the set, that is, there are an equal number of scores above and below the median.
Brazil collected US$2.74 billion in tariff revenue in 2002, which was a 29.7% decrease from the previous year, a figure that supports the claim of steady reductions in overall tariff barriers (Trade Policy Review: Brazil 2004, 47). Of course, the extent to which these reductions can be continued is limited by the extent to which Mercosul reduces its common external tariff (CET); Brazil has been bound to the Mercosul CET since 1 January 1995. And in fact, the most recent figures reported by the WTO show that there has been a slight increase in overall tariffs since 2004. The simple average of *ad-valorem* duties applied in 2005 was 12.4% (World Trade Organization 2007b).

As previously mentioned, Brazil has relatively few tariff-rate quotas. If they are employed, it is usually in relation to a product shortage or excess. In 2004, the only product listed under a Common Mercosul Nomenclature (NCM, Nomenclatura Comum do MERCOSUL) sub-heading was sardines. In 2006 the quota rate was set by CAMEX at 40,000 tonnes to be divided equally between two periods of six months (CAMEX Resolution No. 7, 17 APR 2006). Brazil is also allowed to apply an MFN tariff quota for pears and apples, but it is normally not utilized because imports often do not reach the quota of 10,000 tonnes (Ibid. 50).

Brazil’s current tariff regime is illustrative of a country with a protectionist past that has made great strides in reducing this legacy. Major concessions were made in the early and mid-1990s in order to bring macroeconomic fluctuations under control and better adapt to a globalized market.

Two related factors have narrowed the possibilities of continuing this trend, however. First, Brazil is bound by its obligations to Mercosul’s CET and is only allowed to make exceptions to minimum tariffs in the event of insufficient supply of goods for a period of up to 12 months (Ibid. 48). Any change in Brazil’s tariff structure is by definition partially dependent
on a comprehensive adjustment at the regional level, involving interests in Argentina, Uruguay, Paraguay, and most recently, Venezuela; they may not lower their tariffs below the tariff floor established by the Mercosul CET.

Second, the consensus in Brazil seems to be that the country has already made enough concessions to industrialized countries in agreeing to TRIPS\textsuperscript{21} and TRIMS\textsuperscript{22} and it is now time for developed countries to make serious concessions to developing nations, especially in agriculture. Jank draws attention to this disparity.

It is interesting to notice that all South American countries except Peru have [tariff] means and medians that are very close. This shows that the process of liberalization after the 1980’s was accomplished without exclusions in the agricultural sector. Mercosur countries in particular have experienced a strong convergence in their agricultural tariffs (Jank 2003, 12).

In short, Mercosul countries complied with Washington Consensus demands to liberalize trade and did not exclude any specific domestic markets for special protection through the use of megatariffs. The United States, Japan, and Europe, however, have thus far sequestered the most important products in their agricultural sectors from the effects of trade liberalization.

Brazil, as the founding member of the G-20\textsuperscript{23}, is holding out for greater market access in the United States, the European Union, and other industrialized countries before it cedes more

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\textsuperscript{21} The Agreement on Trade Related Aspects of Intellectual Property Rights
\textsuperscript{22} The Agreement on Trade Related Investment Measures
\textsuperscript{23} The Group of 20 was conceived as the product of widespread discontent in the lead up to the fifth Ministerial Conference of the WTO held at Cancun in September of 2003. The common thread that integrates the group is the importance of agriculture to the member countries’ economies and the perceived lack of access these countries’ agricultural goods receive in industrialized countries, especially the United States and the European Union. The group has fluctuated from time to time in actual numbers (currently there are 21 members) but has kept the 20 as part of its official name in keeping with the original number of members in 2003. Current members include 5 from Africa (Egypt, Nigeria, South Africa, Tanzania and Zimbabwe), 6 from Asia (China, India, Indonesia, Pakistan, Philippines and Thailand) and 10 from Latin America (Argentina, Bolivia, Brazil, Chile, Cuba, Guatemala, Mexico, Paraguay, Uruguay and Venezuela). (See Appendix A for a world map highlighting G-20 countries.) As a share in world totals, the G-20 accounts for 11.9 % of total GDP, 19.3 % of total agricultural GDP, 56.9 % of total population, and 69.8 % of total agricultural population. Agricultural exports from the G-20 account for only 19.5 % of world totals (G-20 2003b). Additionally, the G-20 produces 62.1 % of the world’s soybean, 61.9 % of its sugar, 70.5 % of tobacco, and 72 % of rice (G-20 2003a).
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trade access to American and European exports. Agricultural products are high on the list of items for which Brazil is seeking concessions in Europe and the United States. U.S. President Bush’s recent tour through Latin America highlighted this ongoing debate as Brazilian President Lula da Silva once again protested high U.S. tariffs on Brazilian ethanol designed to protect U.S. corn producers (Greene 2007).

There are multiple issues involved in the debate on trade liberalization; however, agricultural issues have been at the forefront of both the moribund Free Trade Agreement of the Americas (FTAA) and the stalled WTO Doha round. As such, this issue warrants a detailed overview of the tariff barriers and negotiations.

Table 2-2 outlines the development of protectionism in world markets naming a general policy instrument (e.g. tariffs and tariff rate quotas) and then listing the regulatory institution or agreement that governs the use of that certain policy instrument as it relates to agriculture. It is important to have a general understanding of the origins of these instruments in order to understand the current debate over agricultural issues in the WTO.

While agricultural trade liberalization remains high on Brazil’s trade policy agenda, the country is relatively better off than many of its Latin American neighbors, both agricultural trade balance, in terms of percent of GDP (nearly two percent surplus in 2000), as well as in the level of diversification in agricultural exports (scored 8.1 on the Hirschman-Herfindahl Index (HHI))

24 The Hirschmann-Herfindahl Index (HHI) is equal to the sum of the squared shares of all products (tariff lines) exported, where \( i \) stands for a particular product and \( n \) is the total number of products. When a single export product or tariff line produces all the revenues, the HHI equals 100; when export revenues are evenly distributed over a large number of products, HHI approaches zero (Jank 2003: 6).
Still, Brazil, for all its potential and economic size, falls behind Uruguay, Argentina, the Dominican Republic, Chile, Antigua and Barbuda, Trinidad and Tobago, Venezuela, and Mexico (not to mention the United States and Canada) on the HHI, indicating a bigger problem with category concentration than in these other countries (Jank 2003, 6).

**Trade Remedies**

When trade contingency measures are discussed, the trading community normally considers three principal components: safeguard measures, countervailing duties (CVD) and anti-dumping measures (AD) (Cottier and Oesch 2005: 274). These three remedial actions are exceptions to the most-favored nation tariffs to which WTO members have bound themselves (World Trade Organization 2007d).

Dumping is the sale of products on a foreign market for prices below those charged in the domestic market. This practice is considered unfair by the WTO and measures to offset the effects of dumping are allowed under the General Agreement on Tariffs and Trade (GATT) law, Article 6, as clarified by the WTO Anti-Dumping Agreement, if the dumping causes material injury (World Trade Organization 2007d). These two agreements allow countries to act in a way that would normally break the GATT principles of binding a tariff and not discriminating between trading partners — typically anti-dumping action means charging extra import duty on the particular product from the particular exporting country in order to bring its price closer to the “normal value” or to remove the injury to domestic industry in the importing country (Ibid.).

Countervailing duties are also regulated by the WTO. The WTO Agreement on Subsidies and Countervailing Measures (ASCM) “disciplines the use of subsidies, and…regulates the actions countries can take to counter the effects of subsidies” (World Trade Organization 2007d).

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25 For example, a St. Kitts and Nevis scored the highest (57.7) due to an extreme concentration of agricultural exports in a single product category, i.e. raw sugar represents 75% of all agricultural exports (Jank 2003: 6).
Countries that consider other countries’ subsidies harmful to their domestic economy may choose from two courses of action. The first is to launch a complaint using the WTO’s Dispute Settlement Procedure to seek the removal of the subsidy in whole or the removal of “its adverse effects” (World Trade Organization 2007d). The agreement includes a definition of subsidy26 as well as subcategories of subsidies, including prohibited, actionable, and non-actionable.27

The second course of action available to WTO members is the imposition of a countervailing duty (World Trade Organization 2007d). In this instance, states conduct their own investigations and if the conclusion shows actionable subsidies and material injury by another country’s exports, the country conducting the investigation may impose duties on imports in order to offset injury to domestic producers (World Trade Organization 2007d).

While antidumping duties and countervailing measures are essentially punitive actions to offset and punish unfair trading practices, safeguards are temporary measures used to prevent the collapse of a domestic industry in the face of fair but intensifying and unforeseen international competitive pressure. The goal is to bolster the domestic producer on a temporary basis by

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26 The definition of a subsidy, for the purposes of the WTO, is as follows: Article 1, 1.1 For the purpose of this Agreement, a subsidy shall be deemed to exist if:
(a)(1) there is a financial contribution by a government or any public body within the territory of a Member (referred to in this Agreement as "government"), i.e. where:
(i) a government practice involves a direct transfer of funds (e.g. grants, loans, and equity infusion), potential direct transfers of funds or liabilities (e.g. loan guarantees);
(ii) government revenue that is otherwise due is foregone or not collected (e.g. fiscal incentives such as tax credits);
(iii) a government provides goods or services other than general infrastructure, or purchases goods;
(iv) a government makes payments to a funding mechanism, or entrusts or directs a private body to carry out one or more of the type of functions illustrated in (i) to (iii) above which would normally be vested in the government and the practice, in no real sense, differs from practices normally followed by governments; or (a)(2) there is any form of income or price support in the sense of Article XVI of GATT 1994; and (b) a benefit is thereby conferred.

27 This category has expired as of 31 December 1999 and has not been renewed.
allowing time to catch up with foreign competitors before their products are released on the
market on a tariff-free or low-tariff basis (Santos Barroca 2005).

Brazil became a signatory to the GATT agreements on Antidumping and Countervailing
Measures in 1979 at the end of the Tokyo Round, although the components of these agreements
were not ratified as Brazilian law until 1987 (Ministério do Desenvolvimento, Indústria e
Comércio Exterior n.d.c). The primary reason for the delay in implementation of these
agreements is that at the time Brazil had “other commercial protection mechanisms, such as
various special import regimes and strict administrative controls on imports. As such, domestic
production was relatively immune to illegal trade practices” (Ministério do Desenvolvimento,
Indústria e Comércio Exterior n.d.c).

In 1994 the Brazilian congress ratified the new WTO agreements on Antidumping,
Countervailing Duties, and Safeguards and at the same time created the Department of
Commercial Defense (DECOM, Departamento de Defesa Comercial) as a sub-department of
SECEX. DECOM, which operates on a relatively small staff, was designated as a specialized
organ to investigate illegal trading practices (Ministério do Desenvolvimento, Indústria e
Comércio Exterior n.d.c). The responsibility to implement these measures was transferred from
the Ministry of Industry, Commerce and Tourism (later Development, Industry and Foreign
Trade) and the Ministry of Finance to the newly formed Chamber of Foreign Trade (CAMEX,
Câmara de Comércio Exterior) (Santos Barroca 2005). As of 2001, the DECOM was charged
with supervising the phases of anti-dumping and countervailing duties cases, including:

- Application of provisional measures;
- Ratification of pricing agreements;
- Closing investigations and implementing definitive measures;
- Suspension, alteration or extension of definitive measures;
- Carrying out revisions of definitive rights or pricing agreements (Santos Barroca 2005)
While investigations are usually initiated at the request of domestic industries, SECEX is at liberty to undertake investigations of its own accord, although it seldom does. The DECOM is responsible for reviewing investigation requests and gives the SECEX its recommendation for either carrying out an investigation or rejecting the request. In turn, the SECEX decides whether or not to initiate the investigation. If the investigation proceeds, the DECOM should determine the margin of dumping or the amount of subsidy, the existence of material injury or threat thereof or material retardation, and the causal link between them. If the existence of dumping or subsidies or of injury or threat thereof caused is not established, the SECEX terminates the investigation, with no application of measures (Trade Policy Review: Brazil 2004, 61).

During the period of the investigation provisional measures may be executed taking the form of either provisional duties or a security (cash deposit or bank guarantee). If the investigation concludes that the measure is justified, it is implemented as a non-provisional measure. If the DECOM/SECEX concludes that the measure is unjustified, the duty or deposit is returned (Trade Policy Review: Brazil 2004, 61).

In addition to investigating possible instances of dumping or subsidies, the DECOM offers aid to Brazilian exporters facing AD, CVD, or safeguard investigations abroad, offering advice on how to prepare their defense. The DECOM also assures that WTO rules are adhered to during the course of an investigation abroad. In this role the Department operates in concert with the Ministry of Foreign Affairs (Trade Policy Review: Brazil 2004, 62, Santos Barroca 2005, 26). In 2005 the DECOM assisted Brazilian exporters to South Africa (sunflower and soy oil, biaxial oriented propylene polymers, steel wheels for cargo transport vehicles), Argentina

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28 The measure would be unjustified if either no dumping or counteravailable duty exists, or the dumping or a counteravailable subsidy does exist but does not cause or threaten injury to the domestic industry (Trade Policy Review: Brazil 2004).

29 Investigation closed without action

30 Investigation closed without action
(ceramic sanitary articles, polyethylene terephthalate, new bicycle tires, stainless steel tubes, flat-rolled iron and steel), the United States (orange juice), India (nitrile rubber), Mexico (tube condensers and refrigeration wire, multilayered bags for lime and cement), and Peru (denim fabric\textsuperscript{31}, polyester and cotton fabric). All of these investigations were for antidumping causes and no investigations were carried out on imports of Brazilian origin for CVD or safeguard reasons (Santos Barroca 2005, 26-27).

**Antidumping, countervailing measures and safeguards**

As of March 2007 there were 49 contingency measures\textsuperscript{32} in place in the SECEX (Santos Barroca 2005: 40). The vast majority of these remedies (47) involve antidumping rights claimed by Brazil. The remaining two remedies are CVD investigations (Direitos Antidumping e Medidas de Salvaguarda em Vigor Posição em Março de 2007; Santos Barroca 2005, 40).

The countries whose exports are affected by these measures are Argentina, Bangladesh, China, the European Union, Finland, France, Germany, Greece, Italy, Japan, Kazakhstan, Mexico, New Zealand, Romania, Russia, South Africa, Spain, Thailand, the United Kingdom, the United States, and Venezuela. Argentina, Chile and Uruguay were involved in pricing agreement discussions, but these did not involve antidumping remedies. Subjects of antidumping measures ran the full gamut from new rubber bicycle tires to peach preserves to ring-shaped ferrite magnets to powdered milk (Ibid.).

The 2005 Relatório DECOM, the most recently available as of April 2007, outlines the year’s investigations for AD, CVD, and safeguards. In total there were six open antidumping investigations, seven open reviews of antidumping duties, six closed investigations and eight

\textsuperscript{31} Investigation closed without action.

\textsuperscript{32} Use of these measures is governed by Legislative Decree No. 30 of 15 December 1994, Decree No. 1,355 of 30 December 1994, Law No. 9,019 of 30 March 1995, Decree No. 1,602 of 23 August 1995, and Decree No. 4,732 of 10 June 2003 (Ministério do Desenvolvimento, Industria e Comércio Exterior 2007b; Santos Barroca 2005)
closed reviews (Santos Barroca 2005). The countries affected were South Africa, the United States, Chinese Taipei, Argentina, the European Union, Mexico, Venezuela, Spain, France, Japan, China, Romania, Uruguay, and Russia (Santos Barroca 2005).

China, under WTO accession agreements, is subject to special safeguard measures which do not necessarily have to follow guidelines for safeguards in other cases. Of specific concern to Brazil is the import of Chinese textiles, and these are subject to safeguard measures, although the DECOM points out that these measures are not merely a protectionist or aggressive act, but simply the exercise of a right. Safeguards differ from other protectionist instruments because they do not require proof of an unfair trading practice, but rather the observation of a threat to domestic industry from which derives a temporary limitation of imports (Santos Barroca 2005, 18).

Although Brazil has taken decisive action to counter the effects of China’s under-priced exports (and they point out that the U.S. and the E.U. have acted similarly), they are not closed to the possibility of negotiating an end to these safeguards on a bilateral basis with China.

Based on the first requests for safeguards, the Brazilian Government will invite the Chinese Government to begin preliminary consultations. In the instance that these negotiations do not result in an agreement, Brazil will open an investigation. This position does not indicate (it is important to be quite clear on this point) a display of aggressiveness, rather it is, above all, an effort to resolve the natural bilateral commercial demands between partners by means of a mutual understanding (Santos Barroca 2005, 19).

It is interesting to note that there is an extensive list of countries whose exports to Brazil are exempted from safeguard measures by law. Although there is not specific reason given for

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33 The WTO term for Taiwan used to appease the mainland Chinese “One China” policy.
34 These include (in order listed in Direitos Antidumping e Medidas de Salvaguarda em Vigor Posição em Março de 2007): Angola, South Africa, Antigua and Barbuda, Bahrain, Bangladesh, Barbados, Belize, Benin, Bolivia, Botswana, Brunei, Burkina Faso, Burundi, Cameroon, Central African Republic, Chad, Chile, China, Cyprus, Colombia, Congo, Costa Rica, Cuba, Democratic Republic of the Congo, Djibouti, Dominica, Ecuador, Egypt, El Salvador, United Arab Emirates, Fiji, Gabon, Gambia, Granada, Guatemala, Guinea, Guinea Bissau, Guiana, Haiti, Honduras, Jamaica, Jordan, Lesotho, Madagascar, Malawi, Maldives, Mali, Malta, Mauritania, Mauritius, Moldova, Morocco, Mozambique, Myanmar, Namibia, Nicaragua, Niger, Nigeria, Oman, Pakistan, Panama, Papua New Guinea, Peru, Qatar, Ruanda, St. Kitts and Nevis, Saint Lucia, St. Vicente and Grenadines, Senegal, Sierra Leone, Salomon Islands, Swaziland, Suriname, Thailand, Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu, Tanzania, Trinidad and Tobago, Togo, Tunisia, Turkey, Uganda, Venezuela, Zambia, and Zimbabwe.
these countries’ exemption, it is reasonable to assume that much of the rationale is politically rather than economically based. Brazil’s solidarity with other developing nations leads it to grant special concessions not given to developed and industrialized countries.

This list of countries seems to have political implications, consisting of less-developed countries (LDC) that are not part of the OECD, the G-7, nor do any of them sit as permanent members of the United Nations Security Council; the implication is that Brazil reserves this trade remedy for highly industrialized, powerful economies that continue to engage in what Brazil considers to be trade distorting activities.

When looking at the history of Brazil’s investigations into unfair trading practices and safeguard measures, the vast majority have been for AD reasons (225 from 1988-2005). The possibility of imposing CVD has been initiated only 14 times during the same 17 year span with 9 of the 14 investigations resulting in the imposition of duties. Finally, safeguards are rarely employed by Brazil, having been contemplated (and imposed) only four times in this 17 year period (Santos Barroca 2005: 29-36). In total, over the entire span, there have been 122 definitive measures applied and 97 cases in which no measure was applied, meaning that only in a slight majority of cases are duties imposed (Santos Barroca 2005, 37-38). Of the 122 applied measures, China\textsuperscript{35} was the target of 25, the United States of 13, India of 10, Russia of 6, and the European Union\textsuperscript{36} of three (Santos Barroca 2005, 39). By sector, nearly 40 % of investigations have been of chemical, petrochemical and rubber products, followed by approximately 20 % on

\textsuperscript{35} China could almost be considered an outlier and if this were so, more cases would have been dismissed than approved for protective measures under the regime.

\textsuperscript{36} It is important to note that Brazil separates individual European Union members from the EU bloc when categorizing these numbers. For instance, while the EU as a whole was only targeted three times, Germany had two, Spain had two, France had two, Italy had one, the United Kingdom had three, etc…When totaled the number approaches the number of the United States, showing their approximate equivalency in trade disputes with Brazil.
capital goods and other manufactured products (Santos Barroca 2005, 41). While China may have ultimately been the target of more unfair trade practice sanctions, the United States has been by far the biggest target of investigations at 35 total investigations and four reviews (Santos Barroca 2005, 42-43).

In a continuing effort to improve the trade policy system in Brazil, the Ministry of Development, Industry and Foreign Commerce unveiled a new strategy for economic defense in 2003. This strategy consists of eight main principles:

- Full disclosure of investigation proceedings;
- Accelerating procedures for beginning investigations (e.g., using electronic filing\(^{37}\));
- Proposing application of provisional contingency measures for a maximum of 120 days in order to guarantee a faster response to the defense of domestic industry;
- Reducing investigation time to a maximum of 10 months;
- Prioritizing the use of specific contingency measures in order to incentivize exporters to reduce or eliminate unfair activity;
- Conducting sectoral studies that evaluate the performance of imports and their impact in order to offset the use of trade contingency measures;
- Implementing continuous import monitoring in order to check its efficacy;
- Intensifying support for exporters as well as investigating foreign research institutions (Ministério do Desenvolvimento, Industria e Comércio Exterior 2003).

**WTO dispute resolution**

An important part of Brazilian trade policy is using the WTO dispute settlement body to pursue its national interests. Since the WTO came into effect in 1995, there have been 36 cases referred to dispute resolution in which Brazil was either a complainant or respondent; 22 times as a complainant and 14 times as a respondent (World Trade Organization 2007a). Of the 22 complaints made, 8 (36 %) have been against the United States (DS4, DS217, DS218, DS224, \(^{37}\) See Trade Policy Review: Brazil 2004, 63
DS239, DS250, DS259, and DS267), 6 (27%) have been against the EU (DS69, DS154, DS209, DS219, DS266, and DS269), 3 (14%) have been against Canada (DS70, DS71, and DS222), and the remaining five against Argentina, Mexico, Peru, and Turkey (World Trade Organization 2007a). Figure 2-2 gives a graphical representation of these percentages.

**United States – subsidies on upland cotton**

As mentioned above, there have been 22 instances in which Brazil launched a complaint against other WTO members, yet in recent years perhaps none has been so controversial and aggressively pursued as *DS267 United States – Subsidies on Upland Cotton* (hereinafter referred to as *Cotton*). *Cotton* was originally filed by Brazil in 2002 and several other countries claimed third-party rights, including Argentina, Australia, Benin, Canada, Chad, China, Chinese Taipei, European Communities, India, New Zealand, Pakistan, Paraguay, Venezuela, Japan, and Thailand (World Trade Organization 2007). Because of the ongoing nature of this case as well as the fundamental importance of the issue of agricultural subsidies in developed countries, this section will focus on this case as an example of Brazil’s approach in utilizing the WTO as part of its overall trade strategy. Other cases could be examined – and will be referred to generally in following chapters – but in the interest of conciseness and in keeping with the overall theme of the chapter, this section will be limited to this one example.

The central issues in *Cotton* are the “domestic support” measures provided by the United States to its domestic cotton producers, including “export credit guarantees and other measures alleged to be export and domestic content subsidies” (World Trade Organization 2007f). While the actual findings of the Dispute Settlement Body (DSB) and the subsequent findings of the Appellate Body (AB) are quite lengthy, the case summary (World Trade Organization 2007f) outlines the principal concerns of the parties to the case and the findings of the DSB and the AB.
First, the AB found that Article 13\textsuperscript{38} (Due Restraint, more commonly known as the Peace Clause) of the Agricultural Agreement (AA) did not apply to a number of U.S. products, including upland cotton. Second, the AB upheld the DSB’s findings that U.S. subsidies—marketing loan program payments, Step 2 payments, market loss assistance payments, and counter-cyclical payments—constitute a violation of Article 6.3(c)\textsuperscript{39} of the Agreement on Subsidies and Countervailing Measures (ASCM), significantly reducing prices and causing prejudice to Brazil’s interests as per Article 5(c)\textsuperscript{40}. Third, in regards to Step 2 payments, the AB upheld the DSB’s findings that this program constituted a subsidy under Articles 3.1(b)\textsuperscript{41} and 3.2\textsuperscript{42} of the ASCM and that these subsidies were inconsistent with Articles 3.3\textsuperscript{43} and 8\textsuperscript{44} of the Agriculture Agreement (AA). In addition, the AB found that these subsidies also violated 3.1(a)\textsuperscript{45} and 3.2 of the ASCM. Fourth, the AB upheld the findings of the DSB that export credit

\textsuperscript{38} For full reference see WTO Legal Texts at http://www.wto.org/english/docs_e/legal_e/legal_e.htm#ag

\textsuperscript{39} “the effect of the subsidy is a significant price undercutting by the subsidized product as compared with the price of a like product of another Member in the same market or significant price suppression, price depression or lost sales in the same market” (Agreement on Subsidies and Countervailing Measures).

\textsuperscript{40} “…serious prejudice to the interests of another Member” (Agreement on Subsidies and Countervailing Measures).

\textsuperscript{41} “…the following subsidies, within the meaning of Article 1, shall be prohibited… [(b)]… subsidies contingent, whether solely or as one of several other conditions, upon the use of domestic over imported goods (ASCM).”

\textsuperscript{42} “…A Member shall neither grant nor maintain subsidies referred to in paragraph 1 (ASCM).

\textsuperscript{43} “…Subject to the provisions of paragraphs 2(b) and 4 of Article 9, a Member shall not provide export subsidies listed in paragraph 1 of Article 9 in respect of the agricultural products or groups of products specified in Section II of Part IV of its Schedule in excess of the budgetary outlay and quantity commitment levels specified therein and shall not provide such subsidies in respect of any agricultural product not specified in that Section of its Schedule (Agreement on Agriculture).”

\textsuperscript{44} “Each Member undertakes not to provide export subsidies otherwise than in conformity with this Agreement and with the commitments as specified in that Member’s Schedule (Agreement on Agriculture).”

\textsuperscript{45} “…the following subsidies, within the meaning of Article 1, shall be prohibited: (a) subsidies contingent, in law or in fact, whether solely or as one of several other conditions, upon export performance, including those illustrated in Annex I… (ASCM).”
guarantees were export subsidies and fell afoul of the U.S.’ obligations under Article 10.1\textsuperscript{46} of the AA and Articles 3.1(a) and 3.2 of the ASCM. The Panel recommended that the United States withdraw the prohibited subsidies without delay and also take steps to mitigate the effects or remove subsidies that were found to cause serious prejudice (World Trade Organization 2007f).

This process has taken place over the course of several years, beginning in 2002 with the initial complaint being filed (Request for Consultations) on 27 September 2002. Nearly two years later on 8 September 2004 the Panel report was released. This was appealed by the United States and the AB decision upholding the findings of the DSB was released on 3 March 2005 (World Trade Organization 2007).

While this case is specific to cotton, there are many in the United States (and most likely the European Union and Japan as well) concerned that this case sets precedent on other agricultural subsidies in developed countries. Buji states that “the WTO Cotton Panel decision unilaterally convicts the U.S. of causing all of Brazil's perceived woes while mandating compliance with a blank check (2005, 238). The logic behind this statement is that the illegality of U.S. subsidies is not limited to the cotton sector. Rather, they (marketing loan program payments, Step 2 payments, market loss assistance payments, and counter-cyclical payments) are common to many U.S. agricultural programs and therefore domestic subsidies for crops such as corn, wheat, rice, feed grains and soybeans are also in danger of being disputed before the WTO and ultimately losing their protected status within the U.S. economy (Buji 2005, 237; Baumes 2005).

\textsuperscript{46} Export subsidies not listed in paragraph 1 of Article 9 shall not be applied in a manner which results in, or which threatens to lead to, circumvention of export subsidy commitments; nor shall non-commercial transactions be used to circumvent such commitments (Agreement on Agriculture).”
The other issue brought up by Buji is that Brazil was not compelled to provide exact figures on the amount of injury suffered at the hands of U.S. subsidy programs, although the Brazilians had already devised complex econometric calculations on their own accord. The extent of damage reported by Brazil and other cotton-producing countries is accused of being exaggerated by the Cotton Economics Research Institute (CERI) at Texas Tech University\textsuperscript{47}, the United Nations Food and Agricultural Organization and the IMF (Buji 2005, 249).

Baumes notes three issues at stake. First, a ruling in favor of Brazil provides an opportunity for developing countries to launch an attack against agricultural subsidy programs in developed countries, especially the United States, the EU and Japan. Second, this case provides a precedent to challenge domestic subsidy programs and presumably future complaints would not be limited to export subsidies only. Third, the entire case has given rise to a more assertive developing world within the WTO forum and it is unlikely that this trend will diminish in the near future (Baumes 2005).

\textit{Cotton} is representative of Brazil’s trade policy strategy. While maintaining generally friendly diplomatic terms with the United States overall, Brazil is aggressive in the WTO arena and uses Western-dominated institutions to its full advantage. Furthermore, it is evidence to support the theory posited earlier in this chapter that Brazil has come to the point at which it is no longer willing to make concessions to developed countries (recall TRIPS and TRIMS) unless it receives tangible concessions in areas important to its international economic welfare, such as agriculture. And if Brazil is unable to convince developed countries to make these concessions out of reciprocity and fairness, it is more than willing to utilize the legal weight of organizations such as the WTO to compel these concessions. While the U.S. quibbles over consistency in

terminology in the WTO agreements in question, arguing that words such as “may” and “are” seriously call into question whether its subsidies should be allowed to continue, the broad consensus coming from the developing world – and the strong condemnation of unfair agricultural practices in the U.S. by the WTO Panel and Appellate Body – is that developed countries risk undermining the legitimacy of the WTO if they do not intend to abide by its rulings and truly live according to the ideals of free trade, even when it comes to developing countries.

In 2006 the U.S. Congress approved a bill repealing the Step 2. Although this is a step in the right direction in terms of satisfying the WTO DSB and AB demands, the dispute has not come to an end. In July 2003 the current Doha Round began to unravel in Cancun amid disagreements over agricultural subsidies in developed countries, a dilemma which was compounded by the collapse of the FTAA in November 2005 in Mar del Plata and the failure to negotiate an end to the disagreements in the Doha Round in Geneva in July 2006. In all of these developments, Brazil has played an important role, whether as a single player (Cotton), part of a regional group (Mercosul vs. FTAA) or as part of a broad coalition (Cairns, Group of 20).

It should be noted that the United States is not the only industrialized country to be accused by Brazil of behaving badly. In DS266 (European Communities – Export Subsidies on Sugar) Brazil accused the EC of violating Articles 3.3, 8, 9.1(a) and (c), and 10.1 of the Agreement on Agriculture; Articles 3.1(a) and 3.2 of the SCM Agreement; and Articles III:4 and XVI of GATT 1994. However, in the interest of brevity, this chapter will not deal with this case in depth. The main point expressed in this section is Brazil’s use of the WTO as part of its trade policy strategy.

54
Conclusions

While trade policy in Brazil is a product of a combination of interests, both economic and political, the outcome tends to have a fairly coherent structure following the path of moderate trade liberalization. Unlike other countries in the region which have at times made wild swings in policy, often as a result of national elections that sweep a new government into place (Venezuela, Bolivia, Ecuador), Brazil’s trade policy remains rather insulated from political changes, as evidenced by a continuation of trade liberalization after Lula’s inauguration in 2003. Although running on what many characterized as a leftist-populist or pro-labor platform, Lula has not only maintained past trade policies but has even deepened the reforms begun in the 1990s (e.g. continued lowering of tariffs and removal of special protections).

When the United States and other developed countries sought to incorporate developing countries into a global trading organization (WTO) and to make the rules of the game binding, it ran the risk of having its own policy constrained by multilateral decisions (a prospect especially unpleasing to the current U.S. administration). It would appear that this is exactly what has happened as evidenced by Brazil’s successful use of the WTO as a trade remediying instrument. In fact, Brazil has gone from being a nearly closed economy to being a global heavyweight in a relatively short period of time. Its extensive use of AD measures as well as repeated targeting of perceived unfair trading practices by the United States in the WTO forum show both its determination to level the playing field and its preference for multilateral negotiation, as opposed to the favored bilateral style currently employed by the USTR and the White House (e.g., current trade agreement negotiations with Colombia, Panama, and Peru and the CAFTA-DR agreement).

While this chapter has laid out the principal issues relevant to Brazil’s trade policy, the following chapters will examine the logic and rationales behind these decisions. For example, Mercosul is probably the most important trade agreement to which Brazil is party, although not
necessarily for purely economic reasons. In fact, the efficacy of Mercosul’s ability to enhance trade and improve the economic lot of its members has been frequently called into question. Yet Brazil remains steadfastly dedicated to its success even if its economic record is wanting. The Mercosul CET is not necessarily beneficial to Brazil from a purely economic standpoint, but in contrast with other countries semi-independent trade negotiators (e.g., USTR), Brazilian trade policy often appears to be a means in the overall foreign policy strategy rather than an end in itself.

These issues set the basis for a more revealing discussion of the way in which Brazilian trade policies are formulated and implemented as well as the political impetuses behind these decisions. As this chapter has demonstrated, there are numerous players in this process that come from a variety of government ministries, at times with conflicting agendas.

Chapter Three will focus on these organs (e.g. the executive branch, Itamaraty, Congress, the President, civil society and private business interests) to better define the channels through which policy is conceived, developed, and implemented. Chapter Four focuses on the reasons behind policy choices while the conclusion will provide both a summary as well as a discussion of prospects for the future, especially in light of Lula’s reelection and the possibilities this holds for future Brazilian trade policy.
Table 2-1 – Importation Indices Categorized by Use (US$)

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<thead>
<tr>
<th>Year</th>
<th>Intermediate Goods</th>
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<th>Consumer Goods</th>
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<td></td>
<td>Price</td>
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<td>Price</td>
<td>Quantity</td>
</tr>
<tr>
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<td>69.1</td>
<td>92.6</td>
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<td>80.2</td>
<td>111.5</td>
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<td>99.7</td>
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<td>92.9</td>
<td>420.1</td>
</tr>
</tbody>
</table>

Source: Castelar Pinheiro 1993: 21, Table 9
Figure 2-1. Brazil’s Trade Balance. Banco Central do Brasil.
Table 2-2 – The Evolution of World Agricultural Protectionism

<table>
<thead>
<tr>
<th>Policy Instruments</th>
<th>Regulatory Institution/Agreement</th>
</tr>
</thead>
<tbody>
<tr>
<td>· Tariffs and Tariff Rate Quotas</td>
<td>Agreement on Agriculture (UR)</td>
</tr>
<tr>
<td>· Non-Tariff Barriers (Technical/Sanitary)</td>
<td>TBT(^2) &amp; SPS(^3) (UR)</td>
</tr>
<tr>
<td>· Subsidies (Domestic, Export)</td>
<td>Agreement on Agriculture (UR)</td>
</tr>
<tr>
<td>· Export Credits and Food Aid</td>
<td>No multilateral discipline</td>
</tr>
<tr>
<td>· Antidumping and Safeguards</td>
<td>GATT Article VI(^4) and ASCM.(^5)</td>
</tr>
<tr>
<td>· Labor standards</td>
<td>No multilateral discipline</td>
</tr>
<tr>
<td>· Environmental issues</td>
<td>Issue for WTO Doha Round</td>
</tr>
<tr>
<td>· Non Trade Concerns</td>
<td>Issue for WTO Doha Round</td>
</tr>
</tbody>
</table>

Source: Jank 2003: 4

\(^1\) UR – GATT Uruguay Round of Multilateral Negotiations  
\(^2\) TBT – Agreement on Technical Barriers to Trade  
\(^3\) SPS – Agreement on Sanitary and Phytosanitary Measures  
\(^4\) Article VI – Antidumping Measures  
\(^5\) ASCM – Agreement on Subsidies and Countervailing Measures  
\(^6\) Jank failed to include the International Labor Organization’s 1998 Declaration on Fundamental Principles and Rights at Work
Figure 2-2. Respondents to Brazil’s WTO Complaints. World Trade Organization 2007a.
CHAPTER 3
PROCESSES IN BRAZILIAN TRADE POLICY FORMATION

Marconini posits that “trade-policy-making in Brazil is a very complex and dynamic process which is also highly sensitive to timing and politics” (2005, 6). Furthermore, the existing process is relatively new and represents changes that began in 1990s in which “traditional” trade negotiations – dealing with the movement of goods and services – underwent a transformation to include both international and domestic political concerns. Governmental ministries and agencies that had hitherto not been very involved in trade-policy-making or consulting were called upon to participate in matters that did not fit into the old paradigm of what constituted “trade”. In addition to including a wider array of public actors, the government also began to include civil society groups and the private business sector through the creation of SENALCA (the National Free Trade Area of the Americas Secretariat) by the Ministry of Foreign Relations, a forum for dialogue between various government agencies and civil society (Marconini 2005).

In essence, the catalyst for these major changes in Brazilian trade policy-making was the advent of the FTAA. These new multilateral regional trade negotiations necessitated a drastic overhaul of Brazil’s previously closed and secretive policy-making apparatus. To be sure, the Ministry of Foreign Relations retains many decision-making prerogatives, but the process has been made significantly more inclusive to incorporate broader participation within the government itself as well as non-government participants. Critics complain that the opening does not go far enough and that civil society continues to play only a token role in the opening up of the process, but the change is noteworthy nonetheless (Marconini 2005).

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1 For instance, domestic labor representatives began to have a voice. Issues such as the environment and social pacts began to play an important part in trade negotiation.
This chapter aims to explore both the principal actors (individuals, ministries and economic sectors) as well as some of the lesser-known actors (sub secretariats, departments, etc…) within the Brazilian trade policy-making community in order to understand current policy. I argue that diverging interests and separation of powers has encouraged a trade policy that challenges the image of a monolithic leftist-populist policy in Brazil under the Lula administration. This is not to say that all of the processes are transparent and democratic; the private sector has argued that the process is still shielded from public scrutiny, especially when it comes to decisions made by Itamaraty,\(^2\) and at first glance this opinion may appear quite valid since it is extremely difficult to find information on the Ministry of Foreign Relations’ website, unlike the Ministry of Development (MDICE) (Marconini 2005). Furthermore, Marconini points out that since outside consultation is often left until the last minute, relegating it to a nearly token gesture, non-business civil society groups often have an advantage over business interests since their goals tend to converge with those of the Lula government while private business is more interested in an economically-driven strategy.

However, the argument is not that the process is decidedly democratic, rather that there has been a pattern of power dispersion since the end of the military dictatorship which has granted access to diverse and oftentimes conflicting policy interests. In short, while the trade policy-making processes might not be accurately described as democratic per se, the government has taken a path of power-sharing and at least minimum levels of non-governmental consultations since the end of the military era and it would appear that this scenario will be strengthened rather than weakened.

\(^2\) Itamaraty is used interchangeably with Ministry of Foreign Relations. Technically it is the building where the ministry is housed in Brasilia, Itamaraty Palace, but is used the same way Americans refer to the Pentagon.
**Historical Considerations**

As discussed in chapter two, Brazil adopted a policy of import-substitution industrialization (ISI) following World War II. Upon the realization of the need to obtain foreign currency in the 1970s, Brazil also began to implement some export promoting policies although adherence to ISI policies would not disappear completely until the early 1990s (Marconini 2005, 2). A combination of ISI strategy and an authoritarian, military-run government led to the creation of the Foreign Trade Portfolio of the Bank of Brazil (CACEX, Carteira de Comércio Exterior do Banco do Brasil) in 1971 as a subsidiary of the Central Bank of Brazil (Marconini 2005, 2; Ministério do Desenvolvimento, Indústria e Comércio Exterior 2007a). The CACEX was a secretive organization, giving limited and sporadic access to public scrutiny, a policy that “tracked broadly with the authoritarian government that had invented it (Marconini 2005, 2). The department was the predecessor of the CAMEX and other trade-regulating bodies in Brazil. Power was concentrated in this body, a problem that was at least partially rectified upon the creation of the CAMEX and other trade-related agencies.

While the CACEX carried out a wider variety of monitoring and regulating activities than its predecessor the General Directory of Specialized Statistical Distribution (Diretoria Geral da Repartição Especial de Estatística do Tesouro Nacional), its role was inherently limited by the ongoing use of ISI strategy, which maintained trade regulation activity as a domestic concern. Trade negotiations (other than the limited-scope ALADI agreements that had little if any effect on the domestic economy) were essentially nonexistent during this period and as such there was little use for a vigorous trade authority. In addition, the Ministry of Foreign Relations had little

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3 See Appendix D for a diagram outlining the broad changes in Brazilian trade policy

4 ALADI, or the Latin American Integration Association, is composed of 12 members: Argentina, Bolivia, Brazil, Chile, Colombia, Cuba, Ecuador, Mexico, Paraguay, Peru, Uruguay, and Venezuela. The organization was formed in 1980 with the goal of achieving a Latin American common market.
contact with trade policy for the above-mentioned reasons and did not become an active participant in the formation of trade policy until the opening of the Brazilian economy in the 1990s at which time CACEX ceased to exist (Marconini 2005).

Although Chapter Four will offer an in-depth examination of Mercosul and its importance in the political considerations involved in trade policy, it is also necessary to discuss how Mercosul’s beginnings affected the Brazilian trade policy-making process. Intra-regional trade was central to the Treaty of Asuncion, the legal origin of Mercosul. The treaty was followed by the Protocol of Brasilia and the Protocol of Ouro Preto which together deal with dispute resolution and organizational structure, respectively. Due to the mixed nature of the Mercosul agreement (both political and economic aspects), the Brazilian Ministry of Foreign Relations was the logical choice to spearhead the negotiations and trade policy fell under the purview of the Ministry, both de jure and de facto.

Not everyone is happy with Itamaraty’s domination of trade negotiation. One of the chief complaints lodged against the Ministry of Foreign Relations by the private sector was and continues to be the lack of transparency in trade policy-making.

...the private sector still complains today about how in the beginning of the nineties they were not consulted on the unilateral or the sub-regional (Mercosur) market opening initiatives undertaken at the time. As to being democratic within the government, by 1995 a Câmara de Comércio Exterior (Board of Foreign Trade--CAMEX) would be created with a view to correcting the perceived lack of coordination among ministries and agencies involved in trade policy. Many believe that institutional coordination still has not been satisfactorily resolved (Marconini 2005, 3).

As a result, much of the information about the Ministry of Foreign Relations in this chapter – and those preceding and following it – comes from sources other than the Ministry

5 Among the many provisions of the treaty is a commitment to develop a common market and adhere to a common external tariff (SICE 1991: Chapter 1, Article 1).
itself. This fact alone seems to support the idea of a general aversion to public scrutiny within the Ministry.

**Institutional Environment**

When considering the actors involved in all stages of trade policy development (from inquiry/complaint to imposition of policy) there are multitudes of interested parties. These actors may be divided into two categories: public actors who are able to initiate investigations as well as write and implement trade law and private actors who, although unable to directly implement policy have varying degrees of influence depending on their economic power and social standing. Governmental actors range from ministries to the congress to the president while private interest groups are made up of mostly business interests and non-governmental organizations.

While broader representation and input from many government agencies takes into account more points of view and would generally seem to make for better policy, this diversity has created other problems. One of the criticisms of the Brazilian trade system is the complexity of trade law itself. Because the trade regime is governed by a large number of laws, provisional measures (MPs, medidas provisórias), decrees, and resolutions, the system is prone to a lack of transparency as well as general uncertainty about who makes the rules and where they originate. The WTO Trade Review of Brazil has recommended a consolidation process, a simplification into a single trade law rather than the current hodgepodge of somewhat unorganized inputs (Brazil: November 2000).

This chapter will first examine those actors responsible for implementing and enforcing trade policy – the public actors – and then how public actors’ decisions are informed by private actors’ interests.
Public Actors in Trade Policy Making

Although it is arguable whether or not the president holds the most authority in terms of determining trade policy, he is certainly recognized as the central policy-making figure in the federal republican system Brazil has employed since 1930. Therefore, it makes sense to first examine the executive’s role in trade policy formation and then to explore other public actors’ roles.

The president

The president of Brazil plays an important role in trade policy development. While Itamaraty may provide the machinery and expertise for trade negotiations, the president is the face of trade policy. Fears of a radical alteration in Brazilian financial and economic policy at the behest of newly-elected President Lula da Silva may have been exaggerated by domestic and international pundits, but the executive does wield significant power both in his ability to appoint cabinet-level ministers as well as his constitutional right to issue provisional measures.

The issue of provisional measures is of particular interest to this section for they have been among the most controversial uses of power by the executive in Brazil, so much so that on September 11, 2001 Brazil amended the constitution to further limit the power and breadth of these measures. Amendment 32 of Article 62 of the constitution states that “In pressing and urgent cases, the President of the Republic may adopt provisional measures, having the force of law, and shall immediately submit them to the National Congress” (Presidência da República, Casa Civil, Subchefia para Assuntos Jurídicos n.d.a). This general allowance is followed by numerous restrictions and caveats to the executive privilege of issuing provisional measures. The constitutional ability to issue such measures was included to allow the executive branch to

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6 Hirst (2005) posits that, beginning with the Cardoso administration, Brazilian international affairs rested on four pillars, one of which was presidential diplomacy.
deal with emergencies. Instead, it has often been used as a way for executive legislation. Prior to the 2001 amendment, provisional measures were often allowed to expire and immediately reissued in exactly the same language, essentially allowing the executive to legislate in perpetuity without the input of Congress.

Arguably the most notorious use of provisional measures affecting trade was the Real Plan, which was instituted as a provisional measure and “re-issued” over eighty months before finally becoming permanent law (Brazil Laws n.d.). Since the 2001 amendment of Article 62, presidential ability to issue provisional measures has been somewhat restrained, at least technically; however, in practice little seems to have changed. At the time of this writing, President Lula da Silva had issued 33 provisional measures in 2007 and only 11 of these (33%) had been voted into law by Congress, a trend which would suggest that the executive has continued to legislate without the participation of congress (Presidência da República, Casa Civil, Subchefia para Assuntos Juridicos n.d.b).

Apart from his role as part of the legislative process, in which he signs or vetoes laws or issues provisional measures, the president also plays the part of spokesman for Brazil’s trade regime. Moreover, he may chose to involve the country in multilateral agreements or groups that further Brazil’s trade interests.

President Lula has been an adamant proponent of developing countries’ rights in regional and global trade negotiations. Perhaps his most prominent role has been as one of the leading advocates of the G-20’s position. As an exporter of many agricultural products that face trade barriers in the United States and the EU, Brazil has a vested interest in sustaining the coalition of agricultural-producing countries that have formed in response to the Doha Round which tends to be dominated by industrialized nations.
One of the central themes in this thesis is that trade policy has undergone a transformation so as to include many sectors, both public and private, and that the presidential role in policy-making should not be overestimated. However, da Motta Viega points out that there has been a noticeable shift from the strategy employed by Cardoso in the 1990s back toward a national development policy. The North-South opposition that has emerged under Lula is part of this trend and Lula uses this concept to explain the problems with development faced by countries such as Brazil as well as to understand the current international economic order (da Motta Viega 2006, 87).

In addition to actively promoting the G-20 agenda, President Lula is personally involved in forging regional and hemispheric trade agreements. Until the collapse of the FTAA in Mar del Plata in November 2005, summits were held at the presidential level, beginning in Miami in 1994, followed by summits in Santiago, Quebec and Monterrey. The end of the Cardoso administration marked the beginning of the co-chairmanship of the FTAA summits by Brazil and the United States, giving the two largest FTAA countries joint control of what were to be the final two years of negotiations. This placed newly-inaugurated Lula at a unique advantage in his quest to balance U.S. plans for an American-dominated free trade area. Lula traveled extensively after taking the reigns in Brazil, trying to form an alliance of South American countries (the Andean Community plus Mercosul) in order to balance what he termed U.S.-promoted “annexation politics” (United Press International 2003).

Another strategy used was to unite the members of Mercosul in a 4+1 agreement with the United States to avoid having the group’s political and economic goals sidetracked by an overarching regional agreement. Since the time of his campaign as a Labor Party candidate in 2002, Lula da Silva has spoken out against the proposed free trade area, a sentiment popular with
many Brazilians. Hirst emphasizes the role democratization has played on the tack taken by Brazil with relation to the FTAA:

While internal politics have always been a crucial aspect of foreign trade policies in the United States, domestic political involvement and pressure regarding trade negotiations in Brazil represent a very recent phenomenon linked to the consolidation of democracy. Never before have trade negotiations been so politicized within the Brazilian society – especially those regarding the FTAA (2005, 32).

Mercosul itself has been said to rest on the foundations of presidential diplomacy (Malamud 2005; Cason 2000b), and since Brazil is ostensibly the key partner in the agreement, the Brazilian president plays a fundamental role in Mercosul policy formation. Malamud (2005) presents the theory that Mercosul has been relatively successful despite many reasons that it should not be. Mainstream integration theory says that factors such as previous interdependence and major regional institutions are needed in order to assure the success of integration agreements such as Mercosul. South America does not have either of these traditions and Malamud suggests that the organization is held together by high-level intervention, that is, presidential diplomacy. Whenever crucial decisions must be made or serious disputes arise, the presidents meet to sort things out. This is juxtaposed with other regional agreements such as the EU\(^7\) which relies on deeply-entrenched regional institutions to settle disputes and make policy decisions.

Brazil’s primary motivation for pursuing an agreement of this type has always been that of trying to improve market access for certain sensitive products that the United States has avoided opening its markets to. Absent these concessions Brazil has little to gain and much to lose from such an agreement. The fundamental cause for this discord is the perception that Brazil’s rise to preeminence in South America has put it at odds with the United States from an economic

\(^7\) For a comparison between the European Union and Mercosur see Bajo 1999.
The fact that Latin American markets have increased in importance for both Brazil and the United States in recent years “creates competition between the United States and Brazil” (Hirst 2005, 37; da Motta Viega 2004).

**Congress**

As in many countries, an office, department, or ministry may be charged with the duty of negotiating international treaties and agreements (in Brazil’s case the Ministry of Foreign Relations), yet the Congress has the ultimate duty to approve or reject these treaties once they have been negotiated. This process is most commonly referred to as ratification.

Article 49 of the Brazilian Constitution states that “it is the exclusive competence of the National Congress to 1) definitively resolve on matters of treaties, agreements or international acts that involve serious charges or commitments of the state” (Presidência da República, Casa Civil, Subchefia para Assuntos Jurídicos n.d.a). While Congress regularly involves itself in these matters (Brazil: November 2000), the fact that some of the law-making authority has been delegated (*de facto* or otherwise) to other government ministries (i.e. MDICE) makes the question “Who makes Brazilian trade law?” difficult to answer. The truth is that it is not as clear cut as many (e.g., the WTO) would like.

As noted above, trade law in Brazil is really a combination of several different legal instruments which produces a complicated arrangement of intersecting laws, provisional measures, decrees and resolutions. Perhaps the best way to describe this system is organized chaos; while the overall effect is a system that is functional, it is not nearly as efficient and straightforward as the WTO and private business would like. Nevertheless, the fact that Brazilian trade law finds its origin in a variety of sources that span several ministries as well as the Congress and the presidency supports the hypothesis posited early in the chapter that the Brazilian trade regime has embarked on a path towards democratization insofar as the processes
of policy-making are concerned. Although the criticism that further transparency and participation are required to produce a fair, efficient and economically viable system is still valid, the system as it stands today is a vast improvement over the military-run autocracy that sharply limited civic and private participation in the policy formation.

**Executive Branch Ministries**

This section focuses on the ministries specifically included in the trade policy-making process. It is important to understand not only their role but also their interest in being involved in these processes. Some ministries are obvious candidates for inclusion (e.g. the Ministry of Development, Industry and Foreign Commerce) while the inclusion of others may not be so explicable at first glance. The intermittently diverging interests held by these ministries are indicative of the overall process, which is often fraught with contradictory interests and demonstrates the multilateral nature of trade policy formation.

The Chamber of Foreign Trade (CAMEX, Câmara de Comércio Exterior) of the Ministry of Development, Industry, and Foreign Trade specifically lists all the government ministries and agencies involved under its umbrella-like trade-policy making structure. CAMEX is divided up into several sub-committees that collaborate in order to determine appropriate policy. The members of the board of ministers are:

- The Minister of Development, Industry and Foreign Commerce (presiding minister);
- President’s chief-of-staff (Chefe da Casa Civil);
- The Minister of Foreign Relations;
- The Minister of Finance;
- The Minister of Agriculture, Livestock and Supply;
- The Minister of Planning, Budgets and Management;
- The Minister of Agricultural Development (Ministério de Desenvolvimento, Indústria e Comércio Exterior n.d.).
In addition to the Board of Ministers, there is an Executive Management Committee comprised of the 24 members from across the governmental spectrum.\(^8\)

**Ministry of Development, Industry and Foreign Commerce**

The Ministry of Development, Industry and Foreign Commerce should be viewed as the nuts and bolts member of the policy-development group. While it can be argued that its does not necessarily wield the type of power the U.S. Trade Representative holds, it is certainly the primary formulator and implementer of trade policy in Brazil. Under its purview are the following:

- Industrial trade and services development policy;
- Intellectual property and technology transfers;
- Metrology, normalization and industrial quality;
- *Foreign trade policy* (emphasis added);
- Regulation and implementation of programs and activities related to foreign trade;
- Application of trade defense mechanisms and participation in international negotiations related to foreign trade;
- Policy formation to support small business and craftwork;

In comparison to other ministries, the MDICE has more explicit vested interest in trade-related issues than any other ministry, and consequently the MDICE minister chairs the CAMEX Board of Ministers. The ministry itself is subdivided into secretariats (Executive, Production Development, Foreign Trade (SECEX), Industrial Technology, Trade and Services and the Chamber of Foreign Trade (CAMEX)) and while CAMEX serves as a general overseeing body comprised of multiple actors from across the governmental spectrum, SECEX is the body of experts on foreign trade. Its members

I. Formulate proposals for foreign trade policy and programs and establish the norms necessary for their implementation;

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\(^8\) For a more complete understanding of the origin and functions of these members, see Appendix B which contains the organizational flow charts of the various ministries and departments.
II. Propose measures, in the fiscal and exchange rate policies environment, for financing, for export credit recuperation, insurance, transportation and freight, as well as trade promotion;

III. Propose directives that articulate customs instruments that have general objectives of foreign trade, such as proposing brackets for import taxes, as well as their alterations;

IV. Participate in negotiations of international agreements or conventions related to foreign trade;

V. Implement trade defense mechanisms; and

VI. Lend support to exporters under trade defense investigations abroad (A SECEX n.d.).

This ministry is quite transparent regarding its actions when compared with the Ministry of Foreign Relations, but the nature of its mission is quite different too. It serves as the primary point of contact for both importers and exporters and as such has more day-to-day contact with individuals and companies involved in the trade policy process. Whereas Itamaraty tends to engage in loftier, more abstract conceptualizations, MDICE is where policy ideals meet reality.

There are easily accessible and practical tools for exporters, importers and domestic business affected by these activities on the MDICE website. The SECEX manages drawbacks, trade remedies (defesa comercial), export financing and promotion, international trade negotiations, as well as maintaining a large database of trade statistics, such as the trade balance (A SECEX 2007).

Although the MDICE plays less of a role in developing grand strategy, it would be erroneous to conceive of the MDICE as merely an implementer of policy. In addition to

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9 This is the repayment of a duty previously paid for exporting taxable articles or for re-exporting foreign goods.
handling the specific issues pertaining to trade policy, the MDICE is one of the ministries that
issues resolutions\textsuperscript{10} which are effectively new Brazilian trade law.

\textbf{Ministry of Foreign Relations}

In terms of information available for public access, the Ministry of Foreign Relations
(MFR) has two main information sources. First, its trade promotion program\textsuperscript{11} covers nearly
every product exported by the country. The second aspect is the Brazil Trade Net which is “the
Ministry of Foreign Relations’ trade promotion portal and the largest and most complete trade
information network in Latin America, created to stimulate Brazilian exports and attract direct
investment to the country (Ministério das Relações Exteriores n.d.a).”

These are important resources, but the Ministry of Foreign Relations’ most important
contribution to the trade policy regime is as the chief negotiator of international trade agreements
(Sáez 2005; Hirst 2005\textsuperscript{12}). Marconini indicates the run-up period before the FTAA Miami
Ministerial as a key moment in defining the Ministry of Foreign Relations’ position as lead trade
negotiator when President Lula informed the other ministries that “trade negotiations and matters
directly related to them were to be headed by the Ministry of External [sic] Relations” (2005, 5).

According to Marconini, the initiation of the FTAA talks was the catalyst for a significant
alteration in the trade policy-making process. First, following the course of the recently-signed
NAFTA, the FTAA incorporated non-traditional aspects of trade negotiation\textsuperscript{13} that expanded the

\textsuperscript{10} For a completely list of resolutions issued by the MDICE from 2001-2007, see

\textsuperscript{11} See http://www.mre.gov.br/index.php?option=com_content&task=view&id=55&Itemid=417

\textsuperscript{12} Hirst notes that during the period of the First Republic (1889-1930) “Brazil’s Foreign Ministry affirmed its
position as the dominant actor in formulating and conducting Brazil’s foreign affairs” (2005: 2).

\textsuperscript{13} The NAFTA includes provisions on labor and environment which was extremely significant given the lack of
these types of arrangements in most previous agreements. Although the enforcement mechanisms for these
provisions are vague and generally weak, the subsequent U.S.-Chile FTA sought to strengthen these provisions and
provide real consequences for noncompliance. See Reynolds 2006.
previous paradigm which centered only on the movement of goods. Second, the enlarged scope of trade negotiations necessitated the cooperation of multiple layers of Brazilian bureaucracy in order to effectively contend with new demands in trade negotiation, including “matters which were…no longer ‘trade-related’ in the old conception of the term” (Marconini 2005, 6). Third, numerous civil society groups suddenly became interested in trade negotiations that were perceived as being ambitious and demanding and the fact that the United States was the lead protagonist in the process also drew much attention. Fourth, the government was essentially forced to begin a dialogue not only among its own branches but also with members of the private sector. The result of this demand was the National FTAA Secretariat, (SENALCA). While the creation of the SENALCA (and other similar working groups for other trade agreements) is a positive step, the process is still ad hoc and the system suffers from a lack of formality in this area (Sáez 2005). Finally, the government found itself in a position requiring the formation of thematic groups to deal with specific trade issues. While these responsibilities were broadly shared among appropriate government agencies, the Ministry of Foreign Relations found itself at the forefront of this effort, especially in terms of setting the agenda (Marconini 2005).

In addition to assuming a lead role in trade negotiations for Brazil, the Minister of Foreign Relations, Ambassador Celso Amorim has acted as the chief negotiator for the G-20, supported in this role by President Lula. According to the Center for International Development at Harvard University, Ambassador Amorim has been “the group's foremost voice and along
with Brazil's left-leaning president, has emerged as a leading advocate for the interests of the developing world” (Center for International Development 2004).

The position occupied by the Ministry of Foreign Relations as the leader of the G-20 is indicative of their role in trade policy formation, although much can be deduced simply by observing which parties are involved in trade negotiations. When the United States and Brazil discuss trade issues, it normally takes place between the US Trade Representative and the Brazilian Ministry of Foreign Relations. For example, in 2001 US President George W. Bush “directed U.S. Trade Representative Robert Zoellick to ask the International Trade Commission, the independent U.S. agency that administers trade laws, to launch an investigation under Section 201 of the 1974 Trade Act into whether American steel companies are being seriously injured by imports” (Gopinath 2001). Brazil, Germany, Russia and South Korea were among the countries named for flooding the US market with cheap steel imports. Luiz Felipe de Seixas Corrêa, Brazil’s secretary general of the Ministry of Foreign Relations responded in the following way: “We are dismayed, discouraged and disappointed…The end result may be to discourage further negotiations” (quoted in Gopinath 2001). The fact that the Ministry of Foreign Relations was the respondent to the claim supports the idea that this ministry plays a dominant role in the trade policy-making process.

In general, the Ministry of Foreign Relations tends to be critical of Western trade policies and seeks to use Brazil’s position as a regional and world leader among developing countries to counter industrialized countries’ ambitions. High-ranking individuals at Itamaraty have come out publicly against certain positions taken by the United States, which is an issue explored more in Chapter 4. Marconini also points out that President Lula has integrated high-level officials that opposed the FTAA into the Ministry. In addition, “Brazil’s prevailing approach [to trade
negotiation] has been shaped by caution or, more accurately, by a *defensive* stance*, a characterization that can be applied to the Ministry specifically (da Motta Viega 2004, 175, emphasis added).

**Ministry of Finance**

The Ministry’s involvement in all things trade-related may seem obvious but the details are not. According to Article 237 of the Brazilian Constitution, “The supervision and control of foreign trade, which are essential to the defense of national financial interests, shall be exercised by the Ministry of Finance” (Constituição da República Federativa do Brasil de 1988). The Ministry directs macro and microeconomic policy that directly affects trade policy and for this reason it must act in concert with the applicable trade policy-development bodies. For example, the Ministry of Finance is charged with regulating interest and exchange rates, which are extremely important in trade matters. When the Real appreciates vis-à-vis the dollar, exports become more expensive on a dollar basis and dollar-based imports become more affordable, and vice versa. Obviously the involved ministries must coordinate their efforts in order to avoid drastic changes in the economy. At times one ministry has more control than another. For example, after the Real was floated in 1999, the exchange rate was more dependent on international monetary trading and speculation than on the Ministry of Finance. Despite the possible negative implications in a devaluing currency, the devaluation was in part responsible for the reversal in the balance of trade in which Brazil went from a net deficit to a net surplus, which has been maintained since 2002 when a surplus of US$ 8.2 billion was recorded (CEPAL 2006, 160).
Figure 3-1 illustrates the historical trends in the exchange rate between the Real and Dollar. The graph shows how speculation\textsuperscript{16} over a change in fiscal policy during the time leading up to Lula’s election affected the Real’s value, significantly diminishing it and then recovering after it became clear that Lula would continue past fiscal policy.

Since 2004 the Real has again gained value and its strength has begun to worry Brazilian exporters who are finding their products less competitive due to the Real’s increasing strength vis-à-vis the dollar. According to the Economic Intelligence Unit the Real increased in value by 40 \% from 2004 to 2006 and while 2006 saw relative stagnation in price per dollar, 2007 is again showing signs of appreciation (Economic Intelligence Unit 2007a). The EIU found that despite the Brazilian Central Bank’s attempt to curb appreciation by purchasing large quantities of US dollars, the Real continues to be strong due to a persistent trade surplus as well as high domestic interest rates.\textsuperscript{17} Since the currency’s value is determined by market forces, the Ministry of Finance cannot simply alter the exchange rate. However, while monitoring this trend, the Ministry does other things to maintain stability in the system and favor imports. While the Selic remains high, it has continued on a downward trend and this is important for smaller exporters who need access to inexpensive credit in order to turn a profit. Fiscal responsibility is also important so as to maintain responsible levels of public debt, which plays a role in determining the country’s sovereign risk rating.\textsuperscript{18}

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\textsuperscript{16} See Williamson 2003.

\textsuperscript{17} Although the Selic continues to be quite high by US standards, on April 16, 2007, the Latin American Advisor reported that HSBC in Brazil expected the Compom to reduce the Selic by another 25 base points, bringing it to a record low of 12.50 \% (Latin American Advisor 2007; EIU 2007b).

\textsuperscript{18} In May 2007 Brazil’s sovereign risk was BB according to the EIU’s ViewsWire. Currency risk and political risk scored BBB, while Economic Structure Risk was the only category to score an A. Still, since the political and economic reforms of the 1980s and 1990s, these scores have been steadily improving. On July 17, 2002, the EIU warned that if “Mr. Serra [Lula’s opponent in the presidential election] fails to narrow Lula's lead as the election campaign begins in earnest, the country risk premium could rise further.” Lula was also listed as a political risk that
An issue of vital importance to the Ministry of Finance – and to the country as a whole – is increasing exports. There are several reasons to promote exports – attracting foreign currency, expanding the economy, increased tax revenue, etc…One important reason from the standpoint of the Ministry of Finance is the lowering of the debt to export ratio. While the actual amount of debt may not be reduced, or may even be increased, as a percentage of exports, debt has been steadily reduced over the past several years.

In recent decades investment has become an integral part of trade agreements. Since the Ministry of Finance controls investment regulations in Brazil, any negotiations on investment as part of a trade package must necessarily involve this ministry. Brazil will continue to deal with investment questions for the foreseeable future and thus the Ministry of Finance will continue to be intimately involved in these aspects of trade negotiation.

Finally, the Secretaria de Receita Federal – the equivalent of the US Internal Revenue Service – falls within the purview of the Ministry of Finance. This body enforces tax codes, including those taxes imposed on exports. This is yet one more example of the direct impact the Ministry of Finance has on the formation of trade policy in Brazil.

**Ministry of Agriculture, Livestock and Supply**

The role assumed by this ministry is essential in the current rounds of negotiations taking place on the regional, hemispheric, and global level because agricultural issues have become the nemesis of successful trade agreements on the international stage. As discussed in Chapter Two, Brazil is an active member of the G-20 and is dedicated to obtaining what it defines to be fair terms of trade in agricultural goods.

could increase risk premiums. At this time Brazil had a political risk score of C and an Economic Structure risk of D (Economic Intelligence Unit 2002).
Brazil exports many of the products that elicit the most controversy in world forums, namely the WTO. These include sugar, tobacco, citrus products, soy, ethanol and other bio-fuels, and coffee. The treatment of these products on the U.S. tariff schedule places the Ministry of Agriculture at the epicenter of all trade negotiations with the United States, Europe, and in the WTO in general. Brazil has utilized two different tactics to combat this perceived unfairness. The first is a long-term solution and consists of reducing the percentage of agricultural exports in order to diversify the export market. In 1970 total exports equaled US $2.7 billion and agricultural exports were US $2.0 billion, or 74.1 % of all exports (Coelho 2003). In 2000 exports reached US $55.1 billion and agriculture only accounted 28.5 % (Coelho 2003). Coelho goes on to explain that “[t]he export policy was practically dominated, until the middle of the 70s, by coffee and sugar, which together contributed more that 88 [%] of the total in 1965” (2003, 18). The long term diversification process was twofold. Generally there was a move towards manufactured exports but also within agriculture there was a diversification. Coffee, once “king”, lost its place to soy, which by 1995 accounted for 8.2 % of all exports and 23.9 % of agricultural exports (Coelho 2003).

The second tactic Brazil uses to counter disadvantages is trade negotiation – using the WTO and FTAA forums to obtain more favorable terms for agricultural products on world markets. The discussion on WTO dispute resolution in Chapter Two outlines some of these cases which often have to do with agriculture (Cotton).

The Ministry of Agriculture plays the role of consultant, advisor and researcher. It keeps the Ministry of Foreign Relations updated on agricultural concerns in Brazil so that they can effectively negotiate trade agreements in international fora. As far as making trade policy
directly, the Agriculture Ministry is less involved than others (it does not issue resolutions), yet it plays an important role in the process and is intimately linked to the outcomes.

**Non-Governmental Policy Actors**

Broader participation in policy making is one of the important themes in this thesis. Sáez states that

participation [of society in trade policy-making] favours [sic] the adoption of better-informed decisions…it allows for the creation of alliances of various interests in favor of set objectives…it creates a sense of ownership of adopted decisions…it contributes to the sustainability of policies over time…[it] favours [sic] increased policy effectiveness because it fosters order and sequence for more informed decisions…[and finally it] permits society to demand more accountability of those in charge of public policies…[T]he existence of conflicting interests in the society together with an increasingly complex trade agenda makes participation in the trade policy field more necessary (2005, 16).

The following groups are actively involved in influencing Brazilian trade policy formation; however, they do not hold an official role in policy production other than being government-invited consultants. Because of this distinction, their role is better analyzed in a political actor context. That is, while these groups may not have official policy-making powers, they hold varying degrees of political sway which may be considerably more powerful than some of the official sources discussed above. Marconini (2005) organizes non-government participants in the trade formation process into three distinct groups: the business sector, trade unions, and NGOs.

**Business sector**

Analyzing the impact and participation of private business in trade policy-making in Brazil is the substance of another thesis. However, one organization that is particularly important and probably the closest to actually determining policy is the National Industry Confederation (CNI, Confederação Nacional da Indústria). This confederation has traditionally represented business

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19 Sáez (2005) categorizes Brazil’s public-private coordinating mechanisms for trade policy-making as ad hoc.
in trade policy-making fora. In 1996 the CNI formed a broad-based coalition of business interests called the Brazilian Business Coalition (CEB, Coalizão Empresarial Brasileira). This was the first time that agricultural, industrial and service sector interests were brought together under one umbrella to advocate private business interests in international trade negotiation (Marconini 2005).

The CEB’s objective is to “coordinate the process of the Brazilian business sector’s influence on the processes of international trade negotiations in which Brazil is involved, seeking the formation internal consensus, the establishment of channels of dialogue with the Brazilian government and coordinated participation in international business fora” (Coalizão Empresarial Brasileira n.d.). Among their activities are disseminating information, organizing thematic working groups, taking part in discussions with Brazilian negotiators and defining strategies for action in international fora (Coalizão Empresarial Brasileira n.d.).

**Trade unions**

Probably the most well-known trade union is the *Central Única dos Trabalhadores*, CUT which first began to delve into international trade issues in conjunction with the establishment of Mercosul. However, since that time they have broadened their scope to include negotiations on the FTAA, the Mercosul-EU trade agreement talks and the WTO Rounds (Marconini 2005).

One of the historic goals of the CUT has been to include a social clause into any trade agreement that Brazil signs, although this has wavered from time to time depending on the particular political situation confronted by the union (Marconini 2005).

The international secretariat for CUT works in conjunction with several business and civil organizations to produce a publication entitled Boletim REBRIP (*Rede Brasileira pela Integração dos Povos*) which updates members on a variety of international trade-related news, including WTO happenings, FTAA updates and working group information.
Non-governmental organizations

As with the business sectors and trade unions, international trade agreements did not emerge as important issues for Brazilian NGOs until the FTAA held a Ministerial in Belo Horizonte. Marconini describes the advent of the hemispheric trade negotiations as the catalyst for awakening these non-governmental groups to the possibility of and need for their involvement in the process, lest their interests be ignored in the process.

The REBRIP\textsuperscript{20} is one of the leading NGOs in Brazil that deals with trade issues. In fact, REBRIP is actually a network of more than 35 NGOs, trade unions (including the CUT) and other social movements. Of specific concern to them is assuring that the government seeks and allows the participation of non-governmental groups in the trade policy-making process (Marconini 2005).

Among their criticisms include a report on the proposed Mercosur-EU trade agreement which have broader significance for trade agreements in general. REBRIP lists the following concerns:

- The profound economic and technological asymmetries between Mercosur countries and the EU would produce an unequal trade agreement in which the advantages obtained by the weaker side, Mercosur, would pale in comparison to the great disadvantages the bloc would suffer were it to sign the agreement;

- The EU’s demand for lowered barriers to government procurement in Mercosur countries while offering a small concession in agricultural subsidies in the form of quotas is potentially harmful to Mercosur members. Mercosur has placed these demands in the same category as agricultural subsidies to be sorted out in the context of the WTO;

- The offer to open certain sectors in Mercosur, such as financial and telecommunications services, to EU businesses. More disturbing is the possibility of European businesses operating essential services such as water and sanitation. In terms of investments, it is also worrisome that the EU has placed so much emphasis on access to natural resource extraction, including petroleum and natural gas, the exploitation of which is essential to the development of countries in the region;

\textsuperscript{20} REBRIP is funded in part by eminent organizations such as the Ford Foundation and OXFAM.
• The enthusiasm with which the EU is approaching these negotiations, especially when considered in terms of the recent G-20 movement to improve the lots of developing countries, could actually be an effort to break up the bloc and prevent a more just approach to international trade negotiation, and;

• As opposed to the FTAA negotiations and the WTO environment where non-governmental organizations were able to achieve access to documents and official gatherings, the Brazilian government has not made an effort to guarantee the presence of civil society groups in the Mercosul-EU negotiations (Rede Brasileira pela Integração dos Povos 2004).

In a final observation about the nature of these four categories of non-governmental groups involved in Brazilian trade-policy-making process, Marconini notes that their participation is at once informal and unpredictable.

Even though participation has increased and broadened over the last ten years, the fact remains that it is not formalized any place and that participating groups are invited to the proceedings on the basis of unspoken criteria by the government...the structure [of the negotiations] does not ensure the participation of all interested in all potentially interesting fora (Marconini 2005, 9).

**Conclusions**

The processes involved in creating and implementing Brazilian trade policy are anything but simple. They involve many actors and interests, which are at times at odds with each other. For example, while agricultural producers in Brazil might be willing to make a compromise that would allow for greater competition in government procurement, many in the industrial sector would balk at this option since it would be the death knell for their livelihood. The Ministry of Foreign Relations seems to be mostly concerned with the success of Mercosul and Brazil’s continued allegiance to the group has not always been the economically-efficient choice. For instance, the Mercosul CET holds the group together, but a certain amount of national interest is sacrificed to keep such an arrangement operational.

Over the past decade Brazilian society has experienced a trend of democratization in general and also within its trade policy development processes. Beginning with the creation of
CAMEX, the Brazilian government began to share the responsibilities of policy making and incorporate civil society actors into the process. While the dissemination of power is a positive step, the current system is problematic in terms of organization. Trade law has multiple sources (presidential, congressional, and executive) and multiple forms (MPs, law, resolutions, decrees). The WTO has complained about the level of complexity in the system and civil society has complained about continued lack of access to policy-making organs.

In short, while the system is not perfect, the economy is performing well and trade policy continues to be created by consensus among various groups, and despite the Lula government’s affiliation with the PT, there is little chance for a reversal in this trend. The most likely scenario will be a continuance of the integration of civil society along with government in trade policy-making processes in a way that supports Mercosul and remains skeptical of any attempt by the United States to impose its will for any hemispheric-wide trade agreement.
Figure 3-1. Brazilian Real to US Dollar Exchange Rate 2002-2006. Thompson Datastream.
Brazil’s trade strategy can be explained only in part by economic incentives. Its “trade preferences” also reflect deeply embedded macroeconomic, industrial, and foreign policies. Whereas U.S. trade strategy emphasizes the negotiation of comprehensive trade agreements on multiple fronts, Brazil is focused primarily on market access issues as they pertain to its economic dominance in South America. Brazil exercises this priority in all trade arenas, such as pursuing changes to agricultural policies in the WTO, expanding the Southern Common Market (Mercosul) in South America, and resisting the FTAA for lack of a balance conducive to Brazilian interests (Hornbeck 2006, 2).

Introduction

As the above excerpt notes, Brazil’s trade policy is only partially explained by economic dynamics. Many of Brazil’s decisions are informed by the country’s political goals in the region and the hemisphere; this approach sheds new understanding on Brazil’s resistance to the U.S.-proposed FTAA. It also fills in the cognitive gaps many outsiders might find when considering the rationale of the Mercosul agreement, which has rightly been accused of being soft on economic functionalism. This assessment was previously given by da Motta Viega.

…Brazil’s negotiating position, particularly in its talks with developed countries, is not based on a rational assessment of the costs and benefits associated with these negotiations from an economic standpoint. On the one hand, Brazil’s position in its trade negotiations is certainly shaped by the interests and lobbying capacity of public and private players. However, it is also grounded on cost-benefit assessments based on implications for the nation’s foreign policy – and the paradigm shaping this policy – more than on economic or trade considerations or concerns (2004, 176).

Political and economic gains are not diametrically opposed since the two are intertwined in such a way making it difficult to determine a single motive for a policy. For example, Brazilian exports to Mercosul only account for 10% of total exports. This would seem to diminish Mercosul’s trade importance for Brazil, yet the advantages of negotiating with the United States and the European Union as a regional bloc of four or more countries should not be underestimated.
It is erroneous to assume that political and economic goals are independent of each other. There is a large overlap and oftentimes economic actions have political ends and vice versa. Brazil’s foreign policy overhaul in 1974 is illustrative of this fact. In an attempt to free the country from a restrictive alliance with the United States that placed them at polar odds with Soviet-aligned countries, Brazil sought an “autonomous” position vis-à-vis the United States, one that involved disentanglement from the Cold War agenda and closer ties with the Third World (Hirst 2005). While these repositioning actions appeared to be more political than economic, Brazil’s foreign policy agenda in 1974 was strongly motivated by the 1973 oil crisis and Brazil’s rising industrial aspirations, and the assumption was that these needs could not be met within the bipolar world paradigm. “Brazilian foreign policy went through major changes in the mid-1970s, based on the assumption that foreign affairs should meet national interests and become a crucial tool for economic development…It was now considered that while the diversification of trade, as well as foreign investors and financial sources, would strengthen the economy, an autonomous foreign policy would open doors for Brazil’s interests abroad” (Hirst 2005, 8).

A caveat is in order. Although this chapter is not an analysis of Brazilian-U.S. bilateral relations,¹ the nature of the subject (politics of trade) necessarily involves the discussion of U.S.

¹ Hirst (2005) outlines four distinct phases of Brazilian-U.S. relations. During the period of the First Republic (1889-1930), the two countries had an alliance which was almost totally anchored in trade. This period ended with the administration of Getúlio Vargas and his overtures toward Germany at the expense of Brazil’s relationship with the United States. The second phase was alignment, which was essentially a product of a lack of other viable foreign policy options in light of the Cold War between the United States and the Soviet Union. The period was more a political relationship in a polarized world where countries were usually forced to choose between one superpower or the other, although Brazil was largely unable to extract significant benefits from the United States in terms of economic aid for development projects. The third phase is autonomy, a product of a shift in priorities at the midpoint of the Brazilian military dictatorship. The two countries’ paths diverged on many issues, including trade. Brazil began to feel the pinch of U.S. protectionist measures as well as coercive diplomatic practices and these disputes played out in global fora such as the WTO where Brazil opposed U.S. initiatives to include services and intellectual property in multilateral negotiations. The most recent phase has been adjustment, which could describe both Brazil’s gradual adherence to neoliberal recommendations as well as its repositioning so as to have a more
policies and positions toward Brazil on a repeated basis, especially as concerns the FTAA. Brazil has historically been the natural counterweight to U.S. influence in Latin America, a competitor for power and influence in the hemisphere based on its approximate geographic size and population as well as competitive (as opposed to complementary) production of similar natural resources and industrial goods.\(^2\) Yet despite these similarities, the relationship has been asymmetrical, with the United States having more military and economic power at its disposal than Brazil.\(^3\) These power arrangements are important to keep in mind when analyzing Brazil’s stance on regional and hemispheric trade agreements and WTO negotiations.

Two of the most important facets in Brazilian trade policy developed in the 1990s: Mercosul and the FTAA. Consequently, this chapter focuses on understanding these arrangements and where Brazil’s interests lie in relation to them. They offer insight into a picture of Brazil’s position – Mercosul embodies Brazilian hopes of regional preeminence while the FTAA is antithetical to Brazil’s aspirations.

The conclusion will draw on these analyses and briefly speculate what might be expected in the coming years for these two arrangements. Both Mercosul and the FTAA have gone through trying times and speculations on their demise have been numerous. Mercosul approached disaster following the Real devaluation and the Argentine crisis two years later but has slowly rebounded while the FTAA is currently in urgent need of resuscitation if it is to have any hope of survival.

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\(^2\) Orange juice and airplanes are good examples.

\(^3\) This has led Brazil to take a different approach to leadership in the region. While the United States has been able to attain cooperation through dollar diplomacy and military pressure, Brazil has often lacked the resources to utilize this coercive technique. Instead, it has had to rely on much subtler types of leadership styles to elicit cooperation. Mercosul is partially a product of this phenomenon. See Burges 2006 for a full explanation of these ideas.
Mercosul

Officially established with the Treaty of Asuncion in 1991, Mercosul is a customs union with the stated goal of becoming a common market. According to the Treaty of Asuncion, the Mercosul common market would entail the following characteristics:

- The free movement of goods, services and factors of production between countries through, inter alia, the elimination of customs duties and non-tariff restrictions on the movement of goods, and any other equivalent measures;
- The establishment of a common external tariff and the adoption of a common trade policy in relation to third States or groups of States, and the co-ordination of positions in regional and international economic and commercial forums;
- The co-ordination of macroeconomic and sectoral policies between the States Parties in the areas of foreign trade, agriculture, industry, fiscal and monetary matters, foreign exchange and capital, services, customs, transport and communications and any other areas that may be agreed upon, in order to ensure proper competition between the States Parties;
- The commitment by States Parties to harmonize their legislation in the relevant areas in order to strengthen the integration process (Treaty of Asuncion 1991⁴).

Sixteen years later Mercosul remains an incomplete common market. There is not total free movement of goods, services, and factors of production (e.g. labor) and while tariffs have been removed or reduced and harmonized, there are still barriers to intraregional trade. These fundamental problems call into question the ability of the organization to achieve its goal of common market integration since further integration will be more difficult, not easier.

This project did not begin in Asuncion, however.⁵ South American integration finds its roots in Simon Bolivar’s 19th century vision of a unified South American continent. La Gran Colombia was the first effort at uniting Latin America, an experiment that ultimately ended in failure as the country broke into three separate nation-states: Colombia, Ecuador, and

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⁴ The official text of this treaty is in Spanish and Portuguese. However, SICE provided the text in English.

⁵ See Birch 2000.
Venezuela.\textsuperscript{6} Mercosul itself is built on the foundations of the Latin America Free Trade
Agreement (LAFTA), which was later transformed into the Latin American Integration
Association (ALADI, Asociación Latinoamericana de Integración) which was established by the
Treaty of Montevideo in 1980 (Pena 1995). According to Chapter 1 of this treaty the “long-term
objective…shall be the gradual and progressive establishment of a Latin American common
market” (SICE 1980). Members include Argentina, Bolivia, Brazil, Chile, Colombia, Ecuador,
Mexico, Paraguay, Peru, Uruguay, and Venezuela. As we know today, this common market
never materialized and it seems unlikely that it will.

Following years of rivalry under both civilian and military governments, Argentina and
Brazil took the first steps to form Mercosul with the signing of the 1986 Act of Friendship,
Democracy, Peace and Development, which was then deepened by the 1990 Act of Buenos Aires
(Mecham 2003, 377). Then, in 1991, the Treaty of Asuncion was signed. Whether these events
represent modifications of historical ideas\textsuperscript{7} (Bolivarianism), a relatively recent phenomenon,\textsuperscript{8} or
a combination of new and old ideas,\textsuperscript{9} is the subject of some debate. Nonetheless, the key
protagonists of Mercosul were Argentina and Brazil, with Brazil being especially interested in
the success of the agreement (Cason 2000b). Argentina has at times entertained ideas of a free-
trade agreement with the United States, but Brazil has done its best to prevent this cooptation.

The Protocol of Ouro Preto, signed in December 1994, brought structure to what had
previously been only an agreement to proceed with plans for a common market. In other words,

\textsuperscript{6} All three countries have similar-looking flags, derivatives of the flag of La Gran Colombia. The same can be observed in the flags of Guatemala, El Salvador, and Honduras, some of the countries that made up the short-lived Federal Republic of Central America. Both cases are examples of the difficulty faced by Latin American countries in unification attempts.

\textsuperscript{7} See Williams 1996.

\textsuperscript{8} See Pena 1995.

\textsuperscript{9} See Birch 2000.
the Treaty of Asuncion was an agreement to form the common market while the Ouro Preto Protocol outlined the structure necessary to make such a union. According to the Brazilian Ministry of Foreign Affairs, this Protocol established three basic features of the bloc: decision-making bodies of inter-governmental nature; a consensual system of decision-making; and an arbitration system to resolve disputes (Ministério das Relações Exteriores n.d.b). Article 1 establishes the organs needed to carry out these tasks: the Council of the Common Market, the Common Market Group, the Mercosul Trade Commission, the Joint Parliamentary Commission, the Economic-Social Consultative Forum, and the Mercosul Administrative Secretariat (Presidencia Pro Tempore Brasileira do Mercosul 1994; SICE 1994).

Mercosul is based on two key pillars: open regionalism; and the political significance of Mercosul as a joint development project (Mecham 2003, 377). Social justice, appearing in the first paragraph of the preamble is a central theme and underscores the fact that this agreement is quite ambitious in terms of political integration. With these points in mind, one can understand the difference between existing agreements such as the NAFTA, proposed agreements (the FTAA), which are predominately trade-based, and Mercosul, which is a regional, politically-motivated development project that includes provisions on trade.

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10 This organ, along with the Common Market Group and the Mercosul Trade Commission, has decision-making powers according to Article 2. The Council of the Common Market has the highest decision-making authority. It is composed of the ministers of foreign relations and ministers of economy of each member state. This is an interesting point because it reinforces the position of the Brazilian Ministry of Foreign Relations as the lead trade negotiator in the bloc as opposed to giving this power to the Minister of Development, Industry and Foreign Trade. The Ministry of Finance (the equivalent to the Ministry of Economy in Brazil) is already constitutionally charged with trade regulation. Chapter 3 discusses this power arrangement between the MDICE, which actually issues resolutions, the Ministry of Finance, and the MRE, which has both de facto and, in the case of Mercosul, de jure authority in terms of regulating trade in and out of Brazil. In addition, as per Article 7, the Ministers of Foreign Relations are in charge of calling meetings of the Council as well as inviting other ministries to attend (SICE 1994).

11 See Bergsten 1997.

12 Paragraph 1 of the Preamble: “CONSIDERING that the expansion of their domestic markets, through integration, is a vital prerequisite for accelerating their processes of economic development with social justice…” (SICE 1991).
Brazil has staked much of its foreign policy future in the success of Mercosur as a response to U.S. hegemony, a way of countering U.S. power through regional political unification. Logic dictates that a highly-integrated political union is more resilient to internal and external pressure than a trade agreement where each party attempts to extract as many benefits as possible while investing as little as possible. Carranza expands on the idea by stating that:

The globalization-regionalization debate has focused almost exclusively on whether the new regional trading blocs...are building blocks or stumbling blocks in the movement toward multilateral trade and globalization. The debate has been monopolized by economists, with an excessive focus on the “trade creation-trade diversion” issue...thus neglecting the political dimensions of the new regionalism (2003, 70).

Many problems have beleaguered Mercosur in recent years. From a functionalist point of view, presidential diplomacy (probably better termed “presidential interference”) has thwarted the formation of strong regional institutions that should be making the important decisions in terms of dispute resolution in order to build effective structures capable of sustaining the bloc. Carranza (2003) further argues that the “trade wars” between Argentina and Brazil, provoked by Brazilian devaluations and worsened by the Argentine economic crisis of 2001, threatened Mercosur’s survival. His answer for recovery is a deepening of democratic tendencies as well as the construction of supranational institutions and dispute-resolution mechanisms.

**Mercosur and Brazilian Trade**

Because Brazil’s trade within Mercosur is a much smaller percentage of its total trade than other Mercosur members, it is logical to presume that the highest order of Mercosur’s

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13 Mercosur has been recovering since the 2001 Argentine economic crisis. Expanding trade among current members and an expansion of the bloc to include Venezuela are indicators of this revitalization.

14 In general, the amount of intra-Mercosur trade is inversely related to the size of the member country. For example, Paraguay, by far the most underdeveloped country in the bloc, is the most dependent on its Mercosur trade partners (54% of Paraguay’s foreign trade is accounted for by Mercosur). Argentina’s intra-Mercosur trade in 2000 was 30 per cent of all world trade, whereas for Brazil it was only 14% (Mecham 2003, 377). By 2006 48% of Paraguay’s exports where intra-Mercosur, as were 24% of Uruguay’s, and 21% of Argentina’s. Brazil’s exports to Mercosur in 2006 made up only 10% of total exports (Centro de Economia Internacional 2006).
importance to Brazil is political, with the possibility of an economic payoff (not vice versa), although Montoya perceives a payoff for Brazil as a result of it’s involvement in Mercosul that will favor its own economic development to the detriment of other Mercosul neighbors (Montoya 2001). Nevertheless, Brazil’s economy, while certainly benefiting from Mercosul, does not depend on it, a statement that is not as true for Argentina and Uruguay and most certainly not for Paraguay. Figures 4-1 and 4-2 graphically illustrate this point.

This figure 4-1 illustrates the staggering dominance of Brazil’s export economy in comparison to its Mercosul partners. Paraguay is virtually insignificant, as is Uruguay. Argentina comes closer, but is still dwarfed by Brazil’s economic power.

Figure 4-2 shows the dependence of the three smaller members on intra-Mercosul export trade. Forty-eight percent of Paraguay’s exports in 2006 were within the bloc, whereas Brazil exported only 10 % of its products to Mercosul countries.

These two figures might disguise the fact that trading patterns within Mercosul have not been stable throughout the years. Figure 4-3 shows that this is true. As the graph illustrates, intra-Mercosul trade has been volatile. After the 1999 Real devaluation and the 2001 Argentine crisis, many wondered if Mercosul would survive at all.

Conclusions on Mercosul

Brazil’s trade interest in Mercosul is relatively low and it does not appear that there are immediate plans to increase Brazil’s trade with other Mercosul partners. For the two smaller countries, Uruguay and Paraguay, the bloc represents a much higher percentage of total exports and trade. As such, these countries are benefiting more from the CET than Brazil. Yet Brazil is not simply a benevolent partner. Brazil’s larger political aspirations such as regional dominance and hemispheric bi-polarity are goals that may only have a chance within the Mercosul structure. Both the Brazilian government and the general population seem to agree that the FTAA is a path
that would buttress the United States’ position as economic hegemon and leave Brazil as a secondary power and this popular sentiment is at least partially responsible for Lula’s electoral victory in 2002.

It is also apparent that Brazil’s policy makers consider the trade linkages in Mercosul to be only one part of the larger picture. “The trade component is perceived by the policy-makers as only one of the elements of Brazil’s strategy to strengthen regional ties…in the case of Mercosul, for example, they affirm the need to include on the agenda topics related to industrial policy [and] investment financing, while, in the case of relations with the rest of South America, the topic of infrastructure receives priority by Brazil” (da Motta Viega 2006, 41).

The next section examines the FTAA proposal, its origins, and its demise, largely at the behest of Brazil with the support of Argentine president Kirchner and Venezuelan president Chavez.15

**Free Trade Area of the Americas (FTAA)**

Also known as the ALCA by its Spanish and Portuguese acronym, this proposed hemispheric free trade agreement has proved extremely controversial and is now virtually dead despite its promising beginnings at the Miami Summit in 1994. While the 1990s seemed to offer hope for a successful agreement, an expectation enhanced when the U.S. Congress passed Trade Act of 2002 which contained Trade Promotion Authority,16 the end of 2005 saw the demise of

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15 Chavez was the outspoken critic of the FTAA at Mar de Plata (he was quoted to have said to bring shovels because the FTAA was going to die and be buried in Mar de Plata). However, Brazil’s unwillingness to acquiesce to U.S. terms on the agreement was what had the most profound effect on the FTA’s demise, although rhetoric coming out of Brazil was significantly less fiery than the Venezuelan version.

16 Trade Promotion Authority (TPA) (also known as Fast Track Negotiating Authority) gives the U.S. president the ability to negotiate trade agreements with the expectation of an up or down vote in the U.S. congress as part of the ratification process. Congress temporarily ceded its power to add amendments to such agreements in order to facilitate trade agreements between the U.S. and other countries or blocs. The purposes are the following:

“TPA will promote freer trade by giving other countries confidence that the agreements they negotiate with the United States will not be subject to subsequent renegotiation. TPA will bring important economic benefits to the
the FTAA at the Mar del Plata Summit in Argentina. Brazil, Argentina, and Venezuela were the key opponents that led to U.S. defeat in this endeavor (Wainwright and Ortiz 2006). While 2005 was perhaps the final nail in the coffin, it was only the end of a drawn-out death.

The FTAA was first introduced during a promising time in Latin America. Brazil had recently returned to civilian rule, as had Argentina and many other countries in the region. Most countries of the region were pursuing the neoliberal economic paradigm outlined by the Washington Consensus. NAFTA had only recently been ratified and implemented and as a result, Brazil had proposed the formation of a South American Free Trade Agreement in order to prevent a decline in its own regional importance. The Clinton administration was worried by this prospect, however, and “[t]o repair the damage of the NAFTA debate and forestall the emergence of Brazil as a competing leader, the White House decided in 1993 to propose that a 1994 presidential summit launch negotiations for a Free Trade Area of the Americas (FTAA)” (Burges 2006, 29).

The Miami Summit set the groundwork for the proceedings, which was to be followed by regular ministerial meetings17 in different countries through the hemisphere. The principal components to be negotiated were:

- Market access;
- Customs procedures and rules of origin;
- Investment;
- Technical standards and barriers;
- Agricultural subsidies/anti-dumping measures/compensatory measures;
- Competition;
- Government procurement;

United States and its trading partners. This authority will be used to implement trade agreements that will encourage trade and investment, including in environmental goods and services. Increased trade is a proven strategy for building global prosperity and adding to the momentum of political freedom. Trade is an engine of economic growth. It uses the power of markets to meet the needs of the poor…” (U.S. Department of State 2002).

17 Denver, Cartagena, Belo Horizonte, and San Jose.
- Intellectual property;
- Services (Coelho 2003, 5).

The San Jose Declaration of March 1998 recommended that the participating states begin to officially negotiate the proposed agreement. In April 1998 the second Summit of the Americas in Santiago de Chile established the structure for the negotiations, a conference followed by the fifth and sixth ministerial meetings in Toronto and Buenos Aires, in 1999 and 2001, respectively. At this point the negotiations really started to take form as drafts of the proposed FTAA were written and submitted. Brazil had consistently pushed for a more gradual process while the U.S. favored a fast-paced negotiation. By 2002 Brazil and the United States had begun to co-chair the negotiations and the deadline for a successful conclusion was set for January 2005 (Free Trade Area of the Americas n.d.)

At the eighth ministerial meeting in Miami in 2003 the FTAA negotiations stalled, with Brazil and the U.S. at loggerheads. Only months before Brazil’s concerns on agriculture at the Cancun WTO meeting and subsequent formation of the G-20 derailed the Doha Round. Its opposition in Miami to the U.S. initiative for a single, uniform agreement on trade in the Americas led to a breakdown in FTAA negotiations as well. Brazil instead proposed an “FTAA-lite”, under which each country would agree to a significantly less stringent agreement and then agree – or not – to negotiate further amendments on a case-by-case basis. Wainwright and Ortiz consider this to be a “watershed moment in hemispheric relations and a challenge to the US neoliberal hegemony” (2006, 350). And while negotiations were collapsing inside, a coalition of political activists, environmentalists, anti-poverty groups, and labor unions that opposed hemispheric free trade integration for a variety of reasons demonstrated in the streets of Miami (Wainwright and Ortiz 2006).

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18 The proposed members were every state in the Western Hemisphere with the exception of Cuba.
The near-simultaneous breakdows in negotiation in the Doha Round and the FTAA were due to sensitive domestic issues for the United States and Brazil. Brazil has pushed for FTAA negotiation on eliminating agricultural subsidies provided by the U.S. The U.S. has always held the position that these matters should be settled in the WTO. For its part, Brazil argued that areas where the U.S. hoped to be granted access, like government procurement and foreign investment (the so-called “Singapore issues”), should also be left to multilateral negotiation, a position directly contrary to U.S. hopes for the FTAA. Facing this impasse\(^\text{19}\) it is difficult to imagine much progress in the FTAA without a simultaneous breakthrough in the Doha Round on agricultural and Singapore issues, a development that necessarily involves the European Union and Japan (Fishlow 2004).

It is important to understand the transnationalist element involved in opposition to the FTAA. While it is true that many people in the United States oppose this plan, Klein stated on November 25, 2003 that “[T]he dream of a hemisphere united into a single free-market economy died last week…[though] [i]t was killed not by demonstrators in Miami, but by the populations of Brazil, Argentina, and Bolivia, which have let their politicians know that if they sign away any more power to foreign multinationals, they may as well not come home (as quoted in Wainwright and Ortiz 2006, 356). Brazilian trade negotiators found themselves under intense pressure at home, both from within the government and the influential non-government actors, to prevent a South American acquiescence to American designs for the region. In fact, there are very high-ranking members of the Brazilian government (other than Lula) who vehemently

\(^{19}\) On June 21, 2007, negotiations in Potsdam, Germany failed to restart the Doha Round negotiations on agriculture. Brazil and India blamed the US and the EU for not offering enough concessions on agriculture while the EU and US countered that Brazil and India weren’t opening their markets sufficiently to Western manufactured products. Brazil’s foreign minister, Celso Amorim, stated that Brazil had left the negotiations because they were “useless”. Pascal Lamy, head of the WTO, warned that this development could lead to the Doha Round being put on hold for several more years. See BBC 2007a.
oppose the FTAA. Ambassador Samuel Pinheiro wrote in the *Estado de São Paulo* that, “Brazilian society ought to mobilize in defense of preserving the sovereign right of Brazil to have a development policy…that a future FTAA would come to prevent definitively and legally” (quoted in Fishlow 2004, 294). As such, political pressure exerted on Brazilian politicians has been one of the major causes of the demise of the FTAA; after all, Lula was elected partially for his opposition to the FTAA.

The pressure exerted by Brazilians against an FTAA stems both more than just concerns over market access inequalities, although this would appear to be the dominant reason. Attitudes towards U.S. policy in general (war in Iraq) and specifically President George W. Bush seem to have affected South American’s willingness to accept an FTAA in which the United States calls the shots. Haugaard points out that 78% of Brazilians felt that Bush’s 2004 reelection was “negative for peace and security in the world” (2006, 7). Fifty-one percent of Brazilians felt that the United States was a “mostly negative influence in the world” but Brazil was the country with the highest amount of people in the region that held positive views of the United States (Haugaard 2006, 7). Considering that these negative impressions in Brazil are among the highest ratings for the United States in Latin America, it is not surprising that the FTAA has ground to a halt, even without considering all the complex details of what that agreement would actually entail.

Yet some suggest that these political pressures may stem more from independent-minded South Americans’ resentment of a U.S. predilection toward hegemonic domination of trade flows than a detached cost-benefit analysis of the economic possibilities. Brazilian authors Cunha and Teixeira (2004) from the Fundação Getúlio Vargas write that both a reduction in Argentine tariffs on Brazilian exports as well as a successfully-implemented FTAA would engender
welfare gains. However, they suggest that an FTAA implemented in tandem with a tax cut for Brazilian businesses would be the best scenario. In fact, Brazilian businesses are reluctant to support the FTAA in large part because they fear that they would not be able to compete with U.S. producers due to the high domestic tax burden in Brazil (Cunha and Teixeira 2004). Similarly, Philippidis and Sanjuán (2007) calculate that a Mercosul-FTAA trade deal would generate much larger benefits than a Mercosul-EU Regional Trade Agreement (RTA).

**Conclusions**

Mercosul\(^20\) is an important regional trade arrangement. In 2006 intra-Mercosul trade topped $51 billion\(^21\) and continues to grow. Total population of the bloc reached 231.7 million in 2004 and the combined GDP\(^22\) was $2.08 trillion. International markets for commodities continue to expand, especially in China where there is a heavy demand for energy and minerals.

Yet many hurdles remain. Inequality remains a major problem; Brazil and Paraguay have Gini Coefficients of 58.0 and 57.8, respectively. Twenty-two percent of Brazilians live on less than $2 per day as do 21.8% of Paraguayans.

While these developmental deficits are disturbing, even more troublesome for the stability of the bloc is the lack of continuous integration and advancement toward their goal of a common market. Barriers to trade continue to exist and presidential diplomacy continues to be the primary and preferred way of resolving disputes and negotiating agreements despite the existence of multiple, legally-mandated Mercosul organs designed to carry out the majority of these tasks; the

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\(^{20}\) Any of the following figures on population, GDP, Gini Coefficients, and poverty not specifically cited are based on the 2006 United Nations Development Program Human Development Report and reflect data for Argentina, Brazil, Paraguay and Paraguay.

\(^{21}\) Centro de Economia Internacional 2007.

\(^{22}\) GDP is figured in purchasing power parity (PPP), not simple GDP.
Brazilian president and Minister of Foreign Relations play a large role in maintaining and steering the organization.

Although the political advantage of extending full membership to Venezuela might be significant, this step will only make economic integration a more difficult process. Although Venezuela is technically a full member as of 2006, it is scheduled to gradually adhere to the norms of Mercosul, with the free trade between it and other members only beginning in 2010. Furthermore, Venezuela’s attempts to maintain a foot on both sides of the fence (Mercosul on the one hand and the Andean Community on the other) seem to call into question its ability to fully integrate. Finally, and perhaps most important, is what many would regard as Venezuela’s lack of adherence to the Mercosul democracy clause enshrined in the Ushuaia Protocol. Article 4 calls for an intervention from member states in case of a “rupture in the democratic order” (Mercosul 1998). Although President Chavez claims to have a fair and uncorrupted electoral mandate, events such as the closure of Radio Caracas TV\(^{23}\) seriously call into question the government’s democratic credentials. The accession of a questionable democracy such as Venezuela, while perhaps politically expedient on some fronts, weakens Mercosul, its institutions, and its laws.

Brazil still has much to gain from its leadership in Mercosul, however. It has been the political weight of the group that was able to challenge U.S. hegemony and plans for a U.S.-dominated hemispheric trade agreement. Through cooperative leadership (as opposed to coercive leadership involving military threats or carrot-dangling in the form of aid), Brazil has managed to form a coalition of countries interested in advancing values such as social inclusion and developmentalism (desarrollismo). Ultimately, this leadership role benefits Brazil in terms

\(^{23}\) See BBC 2007b.
of trade. It has more leveraging capabilities in South America, the Western Hemisphere, and on the multilateral stage, although da Motta Viega suggests that Brazil’s “benevolent leadership” has cost the country in terms of trade access (2006).

The Free Trade Area of the Americas seems to be nearly out of steam, due much in part to Brazil’s efforts to block U.S. aims of hemispheric trade dominance. The U.S. had hoped to be able to negotiate issues such as government procurement and foreign investment while avoiding domestically-sensitive issues (i.e. agricultural subsidies). While smaller Latin American states have little leveraging ability against the United States, Brazil’s market (and that of Mercosul) is simply too important to be left out of any hemispheric agreement. The demise of the FTAA has forced the U.S. to search for other options on the bilateral front.²⁴

What does all this mean for Brazil’s trade policy? Because Brazil has acquired this leverage, it is likely that holdouts on agreements such the FTAA will continue until concessions are granted on agriculture. Despite disappointing growth in recent years, Brazil’s economy is stable with low inflation, steadily declining interest rates and sound fiscal policy. This success has allowed Brazil to pursue a development policy to a greater extent than some other Latin American countries. The 1990s saw significant openings in Brazilian trade and economic policy in combination with a massive privatization campaign. While these reforms will not be reversed, it is unlikely that there will be many more openings in the economy, at least in terms of access for U.S. products and services, until Brazilian demands are met. In short, the most likely scenario is impasse on the FTAA and minor progress for Mercosul.

²⁴ Current negotiations are in final stages with Colombia, Panama, and Peru and do not include any proposed bilateral agreement with Brazil.
Figure 4-1. Intra and Extra-Mercosur Exports. Centro de Economía Internacional.
Figure 4-2. Intra-Mercosul Exports as a Percentage of Total National Exports. Centro de Economía Internacional.
Figure 4-3. Trade Trends for Mercosul 1993-2006. Centro de Economía Internacional.
Trade policy in Brazil has changed dramatically since the end of the military dictatorship in 1985 and the subsequent adhesion to neoliberal economic principles in the 1990s under the administrations of Collor, Franco, and Cardoso. While Brazil has been an important international player for a long time, it was the opening of its market during this phase that catapulted the country into a position of global economic importance and led to Brazil’s international competitiveness in products ranging from orange juice to airplanes.

This thesis began by hypothesizing that Brazil’s trade policy-making structure underwent a process of democratization that opened the regime to new input, both from government agencies that had either been previously excluded or did not even exist, and also from non-governmental members of civil society such as private business interests, unions (sindicatos), and non-profit organizations. Chapter One listed the three major goals: 1) to define the content of Brazil’s contemporary trade policy – its tariff structure and barriers to trade, trade remedies, export promotional activities, and use of the WTO dispute resolution system; 2) to understand the processes involved in making these policies, including the actors (governmental and non-governmental) and their role in defining these policies; and 3) to understand the politics involved in Brazil’s trade policy, especially pertaining to Mercosul and the Free Trade Area of the Americas proposal.

The answers to these questions are important because of Brazil’s crucial role in defining contemporary trade policy, beginning domestically and expanding to Mercosul, the FTAA, and the World Trade Organization. Brazil’s influence on the outcomes of the Doha Round has been especially important; it has consistently acted as an effective counterweight to U.S. economic objectives both independently and multilaterally as the leader of the G-20 group, the agriculture-
producing nations that are seeking increased access to industrial countries’ agriculture markets. As the world’s ninth-largest economy and one that has steadily increased its international trade connections, it is important to have a clear grasp of what Brazil’s trade policies are, who makes them, and what are the major political arrangements that involve and inform trade policy.

**Findings**

One of the important findings of this thesis was the extent of trade liberalization that has taken place in Brazil since the 1990s. Chapter Two compares several important aspects of trade policy that have changed between 2000 and 2004 as described by the WTO Trade Policy Reviews on Brazil. Among these include a reversal of the anti-export bias that previously existed in Brazil for many decades, accomplished by creating agencies such as PROEX and APEX and using BNDES to finance exports. Average applied most-favored nation tariffs have also steadily decreased during this period, which is probably the easiest-understood indicator of increasing trade liberalization. In a similar vein – and a partial result of export promotion activities – Brazil has maintained a trade surplus for the last several years, and although it has decreased somewhat over the past two years, it does not appear that this surplus will disappear in the near future.

Even Brazil’s use of trade remedies such as anti-dumping measures, countervailing duties, and safeguards demonstrate its commitment to the international trading system, although these indicators are defensive in nature. More important is how the WTO dispute resolution system has become an integral part of Brazil’s trade regime. In the 36 cases before the Dispute Settlement Body that have involved Brazil, over 60% have listed Brazil as the complainant. Its actions against the United States in *Cotton* and the E.U. in *Sugar* are particularly important as they underline Brazil’s willingness and ability to challenge some of the most protected agriculture interests in the world.
Another important finding is the expansion of participation in trade policy-making. The CAMEX is representative of this shift as a central government coordinating mechanism. Its creation began an inclusionary process that sought to draw on a broader segment of government expertise in creating policy and also to involve civil society in the process. The coordination process is reinforced by agencies such as the SECEX, a group of trade specialists that support the formation process by proposing policies and specific measures as well as providing research data for Brazilian exporters.

While the democratization of trade policy-making in Brazil has advanced, civil society participation is still considered *ad hoc*. The role civil participants should play is not plainly defined and there are no clear indicators or rules that delineate the intersections of public and private participation. The informal nature of this arrangement threatens the continuance of civil involvement in the policy-making process since this sector has no legal claim or right to be involved; it is a by-invitation-only system.

Initially this thesis operated on the supposition that the Brazilian executive did not have as much control over the policy-making process as many sources had reported. The election of Lula was deemed by some as the point at which renovations in Brazilian fiscal and trade policy would be reversed. This did not happen for a number of reasons, one of which is the more transparent and inclusive policy-making system that precludes the executive from radically altering the status quo. One of the important findings of the research was, however, that the executive continues to play a crucial role in policy making and the office retains several powerful instruments such as the authority to issue provisional measures. Furthermore, the fact that Mercosul has failed to institutionalize intra-regional policymaking and continues to rely on presidential diplomacy to solve its problems gives the president of Brazil considerable influence.
over trade policy. The conclusion cannot, therefore, fully support the initial hypothesis. While there is evidence for a broadening involvement of public and private actors in trade policy making, enclaves of secrecy and exclusion remain, primarily in the form of presidential decrees and Itamaraty’s domination of all things trade-related.

Despite a constitutional mandate for the Ministry of Finance to control foreign trade and the Ministry of Development, Industry, and Foreign Trade’s involvement in the details of trade policy implementation, the Ministry of Foreign Relations (Itamaraty) occupies an indistinct position as the *de facto* authority on trade policy negotiation in Brazil. President Lula has mandated this authority by placing Itamaraty in charge of the FTAA negotiations and Mercosul adds to this authority by assigning the member’s ministers of foreign relations the role of chief negotiator for Mercosul meetings. Because the Ministry of Foreign Relations is reticent to offer the type of transparency and access granted by the MDICE, democratization of trade policy making is far from consolidated.

Mercosul is one of the primary pillars in Brazil’s foreign policy strategy. This research examined how the political value of Mercosul in terms of advancing Brazil’s position as a regional and hemispheric counterweight to the United States have often outweighed economic rationales. Writers such as da Motta Viega suggest that decisions made favoring Brazil’s political dominance over economically-oriented choices have cost the country in terms of trade access. Yet this thesis has found that economic and political choices should not be viewed independently of one another. Brazil’s bloc negotiating strategy is arguably one of the main reasons it has succeeded in opposing U.S. trade agendas, particularly the Free Trade Area of the Americas.
Brazil has led the effort in thwarting an FTAA that excludes a significant agricultural agreement. As such, the United States has been forced to alter its negotiating strategy and adopt a bilateral approach instead of the once-favored multilateral tactic. Both Brazilian bureaucrats in influential ministries such as Itamaraty as well as civil society groups have successfully lobbied to reject trade agreements that would further limit Brazil’s options on the multilateral front. In the aftermath of the collapse of FTAA negotiations, Brazil has continued to forge South-South linkages with countries such as India and South Africa. These steps away from a NAFTA-like agreement with the United States, while at the same time maintaining trade openness and relatively low barriers to trade, indicates that Brazil will continue down a path of moderate trade-policy. International trade will continue to be a major part of Brazil’s economy, but it is clear that Brazilians are not prepared to acquiesce to U.S. desires absent a major breakthrough in agriculture.

**Significance**

The globalization of commerce is one of the most controversial and complex issues of the twenty-first century. Bestsellers have been written about how this phenomenon is leveling the playing field and giving individuals in developing countries an opportunity to compete in the global market. Yet there are serious concerns surrounding this process. Wealth distribution, both in developed and developing nations, is increasingly concentrated. Inequalities, real and perceived, are causing a backlash against globalization with issues like access to industrialized countries’ agricultural markets at the forefront. Goldman Sachs’ thesis\(^1\) on the imminent rise of the BRIC countries\(^2\) places Brazil squarely in the middle of this debate. Brazil’s economy has

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1 See Wilson and Purushothaman 2003.

2 Brazil, Russia, India, and China
both agricultural and advanced industrial interests that are influencing the way trade policy is formulated and the direction it will take in the future.

Understanding Brazil’s trade policy is vital within the BRIC hypothesis. Brazil’s positions on trade in regional, hemispheric, and global arenas will affect the future of globalization and the direction of global trade arrangements such as the WTO. In order to understand Brazil’s position, one must have a firm grasp of how historical patterns continue to affect trade policy today as well as the varying and sometimes divergent interests of individuals and groups within the trade policy-making regime. This historical perspective explains the pace of trade reform as well as the reluctance to remove the national development paradigm from a system that was largely informed by this model in previous decades.

**Limitations and Future Research**

This thesis takes a broad approach to Brazilian trade policy and there are several issues that could be explored in greater depth. For example, Brazil’s use of the Dispute Settlement Body in the World Trade Organization and the various cases it has argued there should be studied in more depth. This thesis should not be taken as a detailed discourse on specific aspects of trade policy – although it contains several references to these in order to give a more complete picture. Rather it is an attempt to understand the chief components in this country’s policy. I consider these to be content (laws, regulations, and remedies), processes (actors and procedures), and politics (regional agreements and domestic objectives that sometimes run contrary to what is considered economically prudent).

One component lacking in this research is a more detailed analysis of the Ministry of Foreign Relations. Since this thesis does not rely on field-based research, sources are limited to what is available on the internet, in libraries, and in databases. To be sure, there is an abundance of information offered by these resources. However, this particular ministry publishes very little
information about itself and few academics have been given access to its inner workings. In order to obtain a more thorough understanding of the role of this critical component of policy making, more research should be done on Itamaraty, preferably as a field-based project interviewing bureaucrats and other individuals associated with the ministry.

The biggest limitation to this research was the lack of access to information on political players in the Brazilian trade policy-making process. Chapter Four attempts to address this complex issue, but the nature of this subject necessitates research done through interviews and personal access to the system. Without this type of information it is difficult to determine the impact that these players have on trade policy. Future field-based research should explore the impact of political players on trade policy.
APPENDIX C
KEY BRAZILIAN MINISTERIAL WEBSITES RELATED TO FOREIGN TRADE

Ministry of Foreign Relations

- Trade Promotion Topics (Ministério das Relações Exteriores n.d.c)
- Brazil Trade Net
  http://www.braziltradenet.gov.br/

Ministry of Development, Industry and Foreign Trade (MDICE)

- Home Page
- Legislation
- CAMEX Resolutions
- Indicators and Statistics

Ministry of Finance

- Home Page
  http://www.fazenda.gov.br/

Ministry of Agriculture

- Home Page
  http://www.agricultura.gov.br/
  (Follow link to Relações Internacionais)
APPENDIX D
PATH OF BRAZILIAN ECONOMY OVER TIME

Import-Substitution Industrialization

ISI Post-WWII
(1940s-1960s)

Outward Oriented

Economic Rationalization
(1964-1974)

Oil Shocks/Debt Crisis
ISI Renewal
(1974-1980s)

Privatization/Plano Real/Heterodoxy
(1990s-Present)

Figure D-1. Brazilian Foreign Trade Orientation (1940s-1990s). Baer 2001: 223.
LIST OF REFERENCES


BIOGRAPHICAL SKETCH

Jacob Schultz graduated magna cum laude from Florida State University in 2005 with a Bachelor of Arts degree in international affairs and a concentration in political science. Most of Jacob’s undergraduate studies took place in the Republic of Panama at Florida State University. Jacob also worked as an intern at the United Nations Development Program regional office for Latin America and the Caribbean while finishing his undergraduate degree. After graduation, he moved to Florida to continue his studies at the University of Florida in Gainesville. There he worked as a graduate assistant at the Center for Latin American Studies and as a free-lance interpreter and translator. As a student in an interdisciplinary program, Jacob participated in classes from several departments, including law, business, and romance languages. During summer 2006, he studied business as a FLAS fellow at the Pontifícia Universidade Católica (PUC-Rio) in Rio de Janeiro, Brazil and traveled to Buenos Aires, Argentina in October 2006 to participate in an international finance course. He graduated in the summer of 2007 with a Master of Arts in Latin American studies with a specialization in the Latin American business environment.