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## Privatization and regulation in Brazil: The 1990-92 policies and the challenges ahead

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DEPARTAMENTO DE ECONOMIA  
PUC-RIO

TEXTO PARA DISCUSSÃO  
Nº 300

**PRIVATIZATION AND REGULATION IN BRAZIL:  
THE 1990-92 POLICIES AND THE CHALLENGES AHEAD**

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February 1993

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## 1. INTRODUCTION<sup>1</sup>

With the melancholic end of the Collor Administration an appraisal of the privatization and deregulation programs carried on in Brazil since 1990 and an evaluation of what was left to be done have become especially timely.

It is still not entirely clear how the new President will handle the broader program of economic reforms that constituted the core of the medium and long run policy of the previous Administration. What is most feared is a contamination process, in which a sizable part of the public opinion may be led to develop resistance to the economic reforms program, simply because it has been defended by a President who ended up impeached by Congress in the wake of a public outcry about extensive corruption on the highest ranks of the federal government. On the other hand, there seems to be limits to backing off in what concerns the economic reforms. During the last few years, there has been an impressive dissemination of the idea that such reforms cannot be delayed any longer. This is best evidenced by the fact that, so far at least, arguments against the reforms have generally been careful, more often disguised as criticisms to the pace rather than to the direction of the required changes.

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<sup>1</sup> A preliminary version of this paper was presented in The Illinois Texas Forum Conference on Property Rights, Privatization and Regulation in Latin America held in The University of Illinois at Urbana-Champaign, November 19-20, 1992. The original text has been slightly revised and a new section on developments since President Collor's impeachment has been included. The authors are grateful to Marina Figueira de Mello, Maria Victória Coates de F. Werneck and Dionísio Carneiro for helpful comments and to Ana Chistina G. A. Rodrigues for research assistance.

But there is not much room even for reducing the pace of the reforms. Quite on the contrary. Though the Collor Administration was very eloquent in defending some of the reforms since 1990, what was effectively achieved was in general not very impressive. The Franco Administration has twenty seven months ahead till the end of the current presidential term. Failing to push the reforms through with determination would mean in fact to leave them as a task to the next President, to take office in early 1995. On the other hand, the simple possibility that the new Administration may be less sanguine about the economic reforms seems to have already opened up room for more vigorous reactions on the part of those interests that would be more affected by the proposed changes. The debate on both the nature and the opportunity of the required economic reforms program seems to be reopening in Brazil, and has added a new element to the already high economic uncertainty which has prevailed in the country. The moment calls therefore for clear ideas about the direction and the purposes of the required reforms.

The analysis conducted in this paper focus on only part of the broader economic reforms: the privatization and deregulation programs. In the next section there is a brief review of the 1990-92 efforts in both fronts. The following section discusses the challenges ahead if those programs are to be pushed through in the future. Section 4 presents some concluding remarks. A final section is a postscript on developments since President Franco succeeded President Collor in late September 1992.

## 2. TOWARDS A MORE EFFICIENT ECONOMY: THE 1990-92 POLICIES

The purpose of part of the economic reforms is to make the Brazilian economy more efficient and competitive. It is well known that competition induces efficiency. Under the pressure of competition firms are compelled to push their costs down as much as possible and to shift to consumers of their products the benefits of cost reduction. But in many sectors of the Brazilian economy products are sold in highly concentrated markets, in which these efficiency inducing effects of competition are not present. This is partly explained by the relatively small market scale of certain segments of the economy. It also reflects the results of past industrial policies that deliberately attempted to avoid decisions leading to "wasteful investments". But the main reason for the existence of so many concentrated markets, in the case of tradable goods at least, is to be found in the long period during which the economy has remained closed to the competition of imports.

To stimulate domestic competition and to open up the economy to competitive imports are, therefore, the fundamental steps to make it more efficient and internationally competitive. To foster domestic competition, an anti-trust legislation and proper institutions to enforce it are required. There is much to do in this area, following the very preliminary, though commendable, recent efforts to create legal instruments to protect competition. In the sectors producing non-tradable goods, inhibiting non-competitive practices crucially depends on the availability of such instruments. But it is also important to eliminate government regulations that often have no other function but to hamper the development of more competitive markets in those sectors.

In the pursuit of a more efficient economy, privatization has also a fundamental role to play. The soundest of all arguments in favor of privatization stresses the positive effects which public assets sales are bound to have on the overall efficiency of the economy. There are reasons to believe that under the incentive system that normally pervades private management, costs of privatized enterprises could be significantly reduced. But that will only lead to lower prices if the privatized enterprises are submitted to competition. It should be permanently born in mind that what fosters overall efficiency is the combination of private incentives and competition.

## 2.1 Privatization

Since the presidential campaign in 1989, privatization was flagged by Collor as one of the main objectives to be pursued by his government.<sup>2</sup> But the Collor Administration was only able to make its first assets sales operation in late October 1991, more than eighteen months after the new government had taken office. This has raised a wave of criticisms, both domestic and external, denouncing that the program had been unnecessarily slowed by lack of determination and excessive red tape. In fact, an assessment of the privatization program during the Collor Administration calls for a more cautious view of what was really achieved. In striking contrast to the unbridled and careless style of the

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<sup>2</sup> Privatization has been mentioned as an explicit public policy objective in Brazil since at least mid-1979, when government started passing legislation on the issue. Concrete results in terms of public assets sales were extremely modest during most of the eighties. The accumulated value of sales proceeds from 1980 to 1987 was less than US\$ 220 million. In the 1988-89 period privatization gathered some strength, but the accumulated sales proceeds over the decade was only about US\$ 730 million. In the most important sales, as much as 80% of the sales value were often financed by the state to be paid in eight years. See Werneck [1989], and especially Mello [1992a], for an account of the Brazilian privatization experience during the eighties.

Collor Administration -- which would eventually lead to its sudden end -- the privatization program moved forward through a secure and well paved way.

The delay in launching the first assets sale operation is partially explained by the serious economic crisis which the Collor Administration had to face when it started in March 1990. With the monthly inflation rate above 80%, implementing a stabilization program that could confront the hiperinflation threat became the primary policy objective of the new Government. Structural reforms, such as privatization, were at first dwarfed by the urgency of the stabilization program.

But the main explanation for the relatively slow take-off of the privatization program is to be found in the time consumed in setting up a program that could go forward in spite of widespread resistance to public assets sales in Brazil. Though the coalition favoring a bolder privatization program had been significantly broadened by 1990,<sup>3</sup> privatization still remained a very controversial issue in the country. Important segments of the Brazilian society, with strong representation in the National Congress, were showing firm and consistent opposition to the privatization idea. That led the designers of the new privatization procedures to be especially concerned with assuring that assets sales would be as immune as possible from denunciations of lack of either transparency or fairness, which have marked previous privatization experiences in other countries. To let such flanks unnecessarily vulnerable could jeopardize the whole program after the first assets sales.<sup>4</sup>

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<sup>3</sup> The then Vice-President Franco included.

<sup>4</sup> The Brazilian privatization program is being implemented without the strong political backing that clearly marked the Chilean experience and, to some degree, the Mexican one. It could not count either on the public support to privatization induced by the much more advanced degree of decay of public production, observed in Argentina, which aroused widespread indignation against the resulting inefficiency.



A set of general rules has been established creating a ritual that should be followed in each privatization case.<sup>5</sup> The whole program is directed by a Privatization Committee, which reports directly to the President and is formed by four top public officials and seven other members from the private sector. The names of all members of the committee are selected by the President but have to be approved by Congress. The President of the National Bank for Economic and Social Development (BNDES) was named head of Privatization Committee. The bank provides executive support to the Committee, acting as the privatization program's manager.

The privatization ritual starts when the committee suggests to the President that a public enterprise should be privatized. In case the suggestion is approved, two independent assessments of the enterprise, prepared by private consultancy firms selected by public tender, are then required. One of these firms should also act as a privatization agent and have part of its fees determined according to the degree of success of the operation. The assessments should be closely monitored by independent auditors, also selected by tender. The required consultancy firms and auditors are hired by BNDES. Based on the recommendation of the consultancy firm which has acted as privatization agent, the Committee suggests to the President the manner of sale and the minimum price to be charged for the assets.

When a final decision is reached, BNDES is supposed to carry out the privatization operation. Expectations are that most assets sales will be undertaken, as they have been so far, by public auction. The share of foreign capital in the

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<sup>5</sup> See BNDES (1991b).

privatized enterprises has been limited by Congress to 40% of the voting shares. The average time taken for a public enterprise to go through the whole privatization ritual has been estimated by BNDES to be approximately eight months.

A distinctive aspect of the new privatization program is the ample spectrum of private-sector's financial assets that are acceptable as legal tenders in state-owned assets sales. Foreign debt reduction schemes -- debt-equity conversions, in special -- have already played an important role in some privatization programs in Latin America. But in Brazil there has also been room for converting various forms of the public-sector's domestic debt into equity in the privatized enterprises. Privatization is seen therefore as part of broader public debt reduction effort, involving both external and domestic debt. All forms of securitized domestic public debt have been accepted as legal tender in the assets sales operations, all of them at par value, though each one commanded a different discount price in secondary markets.<sup>6</sup>

In what concerns external debt conversions, it was established that the government would accept a flat 25% discount rate on conversions for privatization purposes. The registration of the resulting foreign investment value in the Central Bank could be based on a share price amounting to as much as one and half times the

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<sup>6</sup> Those forms include:

- a. balances denominated in cruzados novos (the old currency before the Collor Government), which were blocked for 18 months in the Central Bank, as part of the stabilization shock, in March 1990 (VOB) and released in twelve monthly installments from August 1991 onwards;
- b. unpaid public-enterprises' debt to domestic financial institutions and institutional investors;
- c. compulsory deposits in the National Development Fund (FND);
- d. agrarian debt bonds (TDA);
- e. privatization certificates, compulsorily subscribed by financial institutions in 1990 (CP).

For more details on those debt forms see Werneck [1992].

minimum share price set in the privatization operation.<sup>7</sup> In the case of a foreign investor willing to add new money to the debt conversion operation, the registered value could reach as much as the face value of his total investment in the privatization operation. After two years, the invested capital could be reallocated to other investment opportunities within the country, though the minimum permanence period in Brazil would be twelve years. Since early 1992, however, that limit was lowered to six years. Though foreign participation in privatized enterprises was restricted by Congress to 40% of the voting shares, these conditions were initially believed to be favorable enough to attract the interest of foreign investors in the Brazilian privatization program.

The initial effort of the privatization program concentrated on manufacturing enterprises, especially in the steel, petrochemical and fertilizer industries, as may be seen in table I below. In manufacturing industries privatization is bound to be an easier task, since a major simultaneous reform of the regulatory apparatus is generally not required, as is the case of public utilities. Import liberalization will probably provide sufficient additional efficiency incentives in most manufacturing industries to be privatized.

From late October 1991 to early October 1992, sixteen public enterprises were transferred to the private sector, as shown in table I.<sup>8</sup> The net sales value of government shares in those enterprises reached almost US\$ 3.4 billion. The Privatization Committee decided to initiate the scheduled assets sales program with Usiminas -- the largest steel producer in the country --, in order to establish

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<sup>7</sup> The registered value of foreign direct investment in the Central Bank serves as a basis for the determination of the threshold value of profit remittances above which a stiffly progressive tax is levied..

<sup>8</sup> Two small river transportation public enterprises -- Frenave and Enasa -- were simply closed down.

an impressive privatization showcase from start.<sup>9</sup> CST, another large steel mill, was sold in mid-1992 after long negotiations with foreign minority shareholders were completed. Both Usiminas and CST were reasonably efficient enterprises, seen as attractive investment opportunities in a privatization process. Adding the proceeds from the privatization of two other minor steel mills -- Cosinor and Piratini -- the net sales value of government shares in the four privatized steel producing enterprises reaches US\$ 1.8 billion, roughly 55% of the total assets sales operation. Privatization of eight enterprises in the petrochemical and fertilizer industries generated another 42%, corresponding to a net sales value of government shares amounting to approximately US\$ 1.4 billion.

In some cases, the preparation of the first enterprises for privatization has faced strong opposition from sectoral ministries and state-owned holding companies. Either they were against privatization of certain enterprises altogether or they would have liked to take care of the privatization process themselves, independently from the Privatization Committee. The President was often forced to intervene in order to assure the advancement of the privatization program in some cases.

On the other hand, the simple preparation of some enterprises for privatization brought the opportunity to dismantle inefficient arrangements stemming from past rent-seeking behavior. The steel industry provides meaningful examples. As will be mentioned in section 2.2 below, a road hauling cartel was simply dismantled, as the state-owned steel mills opened up transportation contracts to any trucking

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<sup>9</sup> Usiminas has a crude steel output of approximately 4 million tons per year.

TABLE I  
PRIVATIZED ENTERPRISES  
October 1991 -- October 1992

Enterprise	Industry	Employees (1990)	Revenue (1990) US\$ million	Auction Date	Net Sales Value of Government Shares US\$ million
Usiminas	steel	13547	930	Oct/91	1374.3
Celma	aircraft engine maintenance	1681	60	Nov/91	90.7
Mafersa	railway equipment	1910	86	Nov/91	48.4
Cosinor	steel	693	18	Nov/91	13.6
SNBP	river transportation	235	9	Jan/92	12
Indag	fertilizer	804	19	Jan/92	6.8
Piratini	steel	2500	74	Feb/92	106.2
Petroflex	petrochemical	1759	248	Apr/92	215.6
Copesul	petrochemical	1449	482	May/92	797.1
Alcalis	soda	n.a.	80	Jul/92	78.9
CST	steel	9320	454	Jul/92	332.3
Nitriflex	synthetic rubber	799	94	Aug/92	26.2
Fosfertil	fertilizer	2190	125	Aug/92	177.1
Polisul	petrochemical	570	116	Sep/92	56.8
PPH	petrochemical	592	110	Sep/92	40.0
Goiasfertil	fertilizer	716	23	Oct/92	12.7
Total		38765	2928		3388.7

Source: BNDES. Employment and revenue figures from Castelar and Giambiagi [1992].

company. A complex cross subsidy scheme which assured only two national CIF prices for each flat steel product in such a large country as Brazil was also eliminated. This supports the view that a large part of the efficiency gains from privatization is obtained when enterprises are being prepared to be transferred to the private sector.<sup>10</sup>

The privatization program conducted by the Collor Administration has been criticized on at least five different grounds: (a) it was slower than it could be; (b) there were no cash proceeds from the assets sales; (c) the wrong kind of domestic public debt was accepted as legal tender; (d) it did not foster external debt reduction and foreign investors played practically no role in it; and (e) it left out an important part of the public sector.

Point (a) has already been discussed in the beginning of the present section, when it was argued that the main explanation for the relatively slow take-off of the privatization program is to be found in the time consumed in setting up a program that could go forward in spite of widespread resistance to public assets sales in Brazil. Such resistance led to the design of careful -- and relatively slow -- procedures that could assure that assets sales would be as free as possible from denunciations of lack of either transparency or fairness, since that could lead to the interruption of the whole program after the first privatization operations.<sup>11</sup>

As was seen above, from late October 1991 to early October 1992 sixteen public enterprises were transferred to the private sector. Government shares in those

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<sup>10</sup> See Vickers and Yarrow (1988) who present evidence supporting this point in the British privatization experience.

<sup>11</sup> It is worth noticing that all privatization sales so far have had to face a wave of petitions to courts of law --from a varied range of political actors -- demanding the suspension of the scheduled auctions.

enterprises were sold for about US\$ 3.4 billion. And though those sales were made by an Administration plagued by charges of corruption in many other areas, including the office of the presidency, the privatization process was set up in such a way that certainly helped to keep charges of corruption at bay. However, just before the beginning of the Congressional inquiry that led to the impeachment of Collor, there was a strong lobby -- backed up by a couple of influential ministers -- in favor of new privatization procedures, that could allow fast sales of public enterprises by a "government business bureau" in Brasília. Of course, that kind of proposal became even less persuasive as the facts revealed by the inquiry were made public, suggesting that the cautious procedures that have been established to sell billions of dollars of public assets were definitely justified. Political support to privatization survived the end of the Collor government thanks to those procedures.

There is still another reason for the slow take-off of the program that should also be taken into account. The public enterprises which were considered to be the most attractive, from the point of view of private investors, and which were therefore chosen to be in the forefront of the privatization process, were not wholly state-owned. They were corporations in which minority private shareholders had a sizable stake.<sup>12</sup> Difficult negotiations with those shareholders were an important factor in retarding the privatization of those enterprises. That was certainly the case in the sales of both Usiminas and CST, hampered by long and complex negotiations with foreign shareholders.<sup>13</sup>

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<sup>12</sup> That is a distinctive feature of most public enterprises in Brazil. In many countries public enterprises are generally wholly owned by the state.

<sup>13</sup> See Mello [1992a] for a detailed analysis of this point.

Points (b) and (c) are closely related and should be discussed together. As in other countries, there are many who see the privatization program mainly as a device to generate cash and reduce the public sector borrowing requirements. Though it is well established in the literature that selling public assets is a temporary form of financing the public sector deficit rather than a way to reduce it, privatization continues to be seen by many in the Brazilian economic debate as the fast lane to fiscal adjustment. A less objectionable argument views cash proceeds in public assets sales as a way to avoid the issuing of new public debt while real -- and slower -- fiscal adjustment measures are under way. As not issuing new public debt is seen by most economic agents as eliminating the deficit, inflationary expectations may be positively affected well before the real fiscal adjustment takes place.

Naturally, the fact that Minister Cavallo seems to be, so far at least, exploiting that possibility quite effectively in Argentina, is of course making it even more tempting on the eyes of many in Brazil. On the other hand, access to the cash proceeds of privatization could soften the growing political coalition that supports the implementation of enduring fiscal adjustment measures in the country. The same misleading perception of the deficit being eliminated rather than financed through public assets sales could make the Congress even less willing to approve the required fiscal adjustment measures.

This seems a good argument for public debt reduction schemes in privatization, that leads to point (c) about the supposed wrong kind of domestic public debt that has been accepted as legal tender in assets sales so far. A large part of the domestic debt forms which effectively were used to pay for the auctioned shares of privatized enterprises were medium and long term securities traded in secondary



markets at highly discounted prices. This fact led to two different objections. One of them is harder to defend but, nevertheless, extremely popular. It says that it is not fair to exchange good public assets for "rotten" public debt securities accepted at par value, even when competition among the bidders in the sales auctions leads to a debt reduction which in fact reflects the discount price of the securities. What is implicitly -- and sometimes explicitly -- assumed is that those securities correspond to a debt that would never be paid back.<sup>14</sup>

The other objection seems to carry more weight. It says that the short term domestic public debt, rather than the medium and long term one, should be accepted as legal tender in public assets sales.<sup>15</sup> But short term public bonds are extremely liquid assets. To argue that debt conversions should be restricted to them seems to be a variant of the argument in favor of cash payments in privatization operations, earmarked to short term debt repayment. But this is certainly a sounder variant. Without the possibility of using the proceeds of assets sales to finance public expenditures and without resort to the window dressing of public accounts by deducting those proceeds from the PSBR, it would be easier to preserve the political coalition in favor of fiscal adjustment measures.<sup>16</sup>

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<sup>14</sup> Notice that most of those public debt securities were issued to pay for previously unpaid public debt.

<sup>15</sup> See Mello [1992b] for a recent discussion of this kind of objection.. The possibility of restructuring the public sector balance sheet, by selling public assets to reduce short term public debt has been considered since the late eighties, at least. But if the public deficit is larger than the feasible assets sales, as seems to be the case so far, there would be no public debt reduction, but only a cheaper financing of the deficit. See Werneck [1989] and Mello's [1992b] recent estimates of the relevant magnitudes.

<sup>16</sup> Apparently, the initial plan of the Collor Administration was to swap public enterprises shares for short term public debt. As already mentioned above, the financial assets which were blocked for eighteen months in the Central Bank, as part of the stabilization shock, in March 1990, were acceptable as legal tender in sales of public enterprises' shares. Most of those assets corresponded, either directly or indirectly, to short term public debt bonds. But when the first public enterprise was auctioned in October 1991, the Central Bank had already started to unblock the assets, and using them in the auctions did not look as attractive as it seemed in March 1990, when there was a widespread fear that part of those assets had been in fact confiscated by the government.

Point (d) is partially true. Foreign investors did participate in some auctions -- in the Usiminas and Celma sales, for example -- but they used domestic public debt conversions to pay for the shares they bought. Though there were more than US\$ 40 billion of public-sector's medium and long run foreign debt that could in principle be converted in investment, there were no external debt conversions tied to public assets sales. The reasons are not hard to find. As seen above, the privatization legislation limited foreign participation in privatized enterprises to 40% of the voting shares and established a 25% discount rate on conversions for privatization purposes. Such discount was supposed to be an attractive deal given the tough and conflicting foreign debt renegotiation stance which marked the first fifteen months of the Collor Administration. That stance was radically altered after May 1991, when Marcílio M. Moreira took office as Minister of Economy. But renegotiation with the creditor banks were only reopened in August 1991 and it seems that a new agreement will not be signed before March 1993. Many banks resisted to accept the official 25% discount rate since they would be legally compelled to write-off their assets. Pressures from the Privatization Committee to reduce the discount rate met the resistance of the Ministry of Economy that wanted to negotiate that reduction within the broader foreign debt negotiation under way.

Finally there is point (e). An important part of the public sector was left out of the privatization process. That is certainly true and will be discussed more fully in section 3.1 below.

## 2.2 Deregulation

Deregulation initiatives adopted in the past two years in Brazil can be roughly classified into three broad categories which will be briefly considered below: diffuse efficiency enhancing deregulation, competition enhancing deregulation affecting directly the domestic market and trade-related competition enhancing deregulation.

Efficiency enhancing deregulatory efforts of a general and diffuse nature, aiming at a reduction of "bureaucracy", have become almost the rule as part of the programs of new administrations which took office in Brazil since the early 1980s. This in itself is a clear indication of the limited success of such efforts which have always tended to become at best window dressing exercises. The new Administration which took office in March 1990 was no exception to this rule and included in its inadequate reform of public administration both a program of deburocratization (reduction of legally defined bureaucratic requirements) and the elimination of redundant legislation.<sup>17</sup> Assessment of concrete results achieved is notoriously difficult in this area but in any case so many features of the attempted administrative reform were ill-devised and/or badly implemented that most of these broad efficiency enhancing initiatives lost much if not all their strength.

There was a large potential scope for the introduction of competition enhancing deregulation measures directly affecting the domestic market in early 1990. Industrial policy instruments, such as subsidies and fiscal or financial incentives, in general associated to restrictions of right of establishment in specific branches

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<sup>17</sup> Out of roughly 127,000 federal decrees that were issued since 1889, approximately 111,000 were revoked in 1991.

of activity, had been widely used in the past. A long tradition of price controls effectively blunted competition on a comprehensive basis.

It is in the services sector that this type of deregulation is likely to generate more spectacular results as it will open to competition heavily regulated subsectors such as telecommunications services, construction, air transportation, maritime transportation and operation of ports. The deregulation of commercialization of many products, in some cases coupled with deregulation of transportation services, was also a potential source of significant results.

The most important cases of competition enhancing deregulation effectively implemented in Brazil in the recent past affected commercialization of steel products and fuels, as well as road transportation of steel products. Policies applied nationwide regulated the retail prices of steel products and fuels. Previously the pricing of steel products followed two basic equalization procedures: in the Southeast the three big producers of flat steel products (all state enterprises) followed a policy of price equalization CIF so that in each locality the same price was charged by all producers; in the rest of Brazil there was a single list of uniform CIF prices for all destinations. These pricing policies, of course, required heavy regulation of road freights applied to flat steel products and complicated compensatory rules.<sup>18</sup> While there are still indications of collusion in price fixing of steel products -- in spite of the privatization of Usiminas -- price equalization procedures were abandoned.

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<sup>18</sup> For a detailed analysis this complex steel pricing system see Portugal (1988).

Wholesale steel commercialization was also regulated in such a way that wholesalers enjoyed great market power specially in relation to their smaller customers. There are indications that such practices are being abandoned: Cosipa, one of the two big steel mills still publicly owned, has drastically reduced the size of minimum orders directly acceptable by the mill.

In the past the same prices for liquid fuels were valid nationwide and price cutting was ruled an illegal practice. Now prices reflect differentiated transportation and other distribution costs as well as diversified competitive conditions so that there is competition among services stations. Maximum prices are, however, still centrally controlled by the government.

The most dramatic governmental move in deregulation related to foreign trade was the abolition, in March 1990, of the list of products for which no import license could be issued thus ending a long period of absolute protection for many branches of activity, especially so for consumer durables such as motor cars. Piecemeal tariff liberalization was introduced in successive waves in 1990, affecting textiles and clothing, textile machinery and inputs, agricultural inputs and machinery, capital goods not produced domestically. This was followed by a general tariff reduction schedule whose aim is to bring the average import tariff from 32.2% in the end of 1990 to 14.2% in mid-1993.

Import liberalization is, after an adjustment lag which will probably be reasonably long, a powerful competition enhancing policy. Its effectiveness will of course depend on market power exerted by oligopolies in the relevant markets. In principle reduction of tariff and nontariff trade barriers is likely to affect more significantly those branches of activity where supply is less concentrated.

Similarly, control of marketing channels may erode the beneficial competition enhancing consequences of import liberalization. Trade liberalization initially involved the mere partial redistribution of scarcity rents - from production of goods competing with imports to wholesale import commercialization - as access to import licenses was restricted to firms. As access to licenses was afterwards extended to consumers this newly created source of scarcity rents was discontinued.

Straightforward deregulation affected wheat commercialization since the governmental monopoly, introduced in 1967, was abolished in September 1990. Regulations which established a government import monopoly as well as the control of domestic purchases from producers and of sales to private flour mills were discontinued. Coffee and sugar export government monopolies were also abolished. In the case of many other products the previous import and export regimes which required prior approval by governmental agencies was also discontinued.

### 2.3 Competition Enhancing Regulation

Competition enhancing regulation has occupied a central role in successive governmental reformist efforts, as price stabilization programs faced difficulties with the price setting behavior of oligopolized sectors which were relatively immune to import competition, such as cement or some dairy products. In a high inflation ambience, pressures to effectively use competition enhancing instruments tend to be correspondingly weaker. Powerful wealth effects and portfolio recomposition generated by abrupt changes in inflationary expectations have often

created artificial scarcities which resulted in the full exploitation of market power by certain sectors such as the automobile industry firms or their dealers. This placed heavy pressure on competition regulation as import liberalization could play no role in the short term to wipe out such demand peaks. Much attention has been concentrated on conventional antitrust regulation as a reflection of the priority accorded to the control of inflation. But the acceleration of inflation since early 1991 contributed to weaken this initial intention.

Cartel regulation has a relatively long and rather ineffective tradition in Brazil. CADE (Conselho Administrativo de Defesa Econômica)<sup>19</sup> created in 1962 had opened only 117 administrative processes until 1989; of these most are post 1986. These were generally the outcome of complaints of small firms against firms holding a sizable proportion of the relevant markets. Maximum fines were generally rather low and law courts in many cases ruled against CADE administrative decisions. During the same period there were in any case only 17 condemnations.<sup>20</sup> CADE activities were plagued by lack of independence in relation to the Executive, more markedly when there were expectations that it should show clout in the short term to discipline cartels. It is not surprising that these expectations should be frustrated.

The institutional and legal overhaul of "economic protection" policies occupied a relatively important role in the structural reform projects of the Collor administration. New legislation created a Departamento Nacional de Proteção e Defesa Econômica<sup>21</sup> (DNPDC) in the Ministry of Justice<sup>22</sup>. CADE was

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<sup>19</sup> Administrative Council of Economic Defense.

<sup>20</sup> See Farina [1990].

<sup>21</sup> National Department of Economic Protection and Defense.

<sup>22</sup> Law 8158 of January 8, 1991.

institutionally strengthened as its powers were widened and its procedures expedited. The right to complain was extended to consumers. Mergers were to be approved by DNPDC. Possible penalties were increased: the value of fines became relevant at least temporarily, new penalties included the inability to participate in public tenders and to parcel federal tax payments.

Increased regulatory activity in 1991-92 included quite diversified investigations.<sup>23</sup> The more significant - and misplaced - regulatory efforts targeted the pharmaceutical industry as several firms were fined following retention of stocks in an effort to raise prices above the levels established by the government. But evidence on pricing policies adopted by major sectors such as flat steel products and automobiles indicates that, in some cases even in spite of privatization, collusive practices are still the rule in Brazil.

### 3. BROADENING THE SCOPE OF THE REFORMS

#### 3.1 Privatization: Beyond Sales of Manufacturing Enterprises

As mentioned above, the privatization program conducted by the Collor Administration concentrated on public enterprises in the manufacturing sector. It is true that only a fraction of those enterprises were sold, but a closer look reveals some important achievements. When the Collor Administration reached its end with the beginning of the impeachment process in early October 1992, thirteen

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<sup>23</sup> These included the tied sales of inputs in the provision of photocopying services; tied sale of lifts, lift components and lift maintenance services; definition of price lists by professional organizations; price collusion in the sale of restaurant tickets; price collusion of suppliers of nutritional products in public tenders.



other public enterprises were being assessed and prepared to be sold and had auction dates already scheduled for the period October 1992 -- March 1993, as shown in table II. President Franco has already declared that, even though he intends to introduce some changes in the privatization program, the scheduled auctions will take place exactly as planned. In fact, the first of those auctions,

TABLE II  
SCHEDULED AUCTIONS OF PUBLIC ENTERPRISES  
October 1992 -- March 1993

Enterprise	Industry	Employees (1990)	Revenue US\$ million (1990)	Auction Date	Minimum Price (million US\$)
Acesita	special steel	8693	339	Oct/92	352.7
Arafertil	fertilizer	804	81	Nov/92	13.0
Cia Brasileira de Estireno	petrochemical			Nov/92	10.9
Ultrafertil	fertilizer	2303	142	Nov/92	(*) 202.3
Poliolefinas	petrochemical	(a) 777		Nov/92	91.6
Petrocoque	petrochemical	(a) 150		Dec/92	20.5
Oxiteno do Brasil	petrochemical			Dec/92	65.1
Poliderivados	petrochemical			Dec/92	9.2
Polibrasil	petrochemical	(a) 780		Dec/92	78.1
CSN	steel	20303	1024	Dec/92	1580.0
PQU	petrochemical	1375	321	Jan/93	560.0
Cosipa	steel	15285	1054	Feb/93	to be set
Açominas	steel	5849	429	Mar/93	to be set

Sources: BNDES. Employment and revenue figures from Castelar and Giambiagi [1992], except those marked with an (a) which are from "Balanço Anual" of Gazeta Mercantil.

Note: (\*) price to be confirmed.

involving Acesita -- a special-steel mill -- was already held in mid October. If the rest of the scheduled auctions take place, as the new Administration promises, by the end of the first quarter of 1992 the public enterprises sector will look quite different from what it was in 1990.

The most striking difference would be in the steel sector where for the last fifty years state-owned enterprises have held a dominant share, which includes monopoly in flat steel products and most special steels.<sup>24</sup> If CSN, Cosipa and Açominas are indeed transferred to the private sector, following the other five steel mills already privatized since 1990 -- Usiminas, Cosinor, Piratini, CST and Acesita -- the state will have simply stepped out of the steel sector by March 1993. An impressive fall back will also have taken place in the petrochemical and fertilizer industries.

Efficiency enhancing effects of privatizing of the steel sector are bound to be large, because privatization is being combined with competition. Steel price controls and import restrictions have been eliminated, and the average import tariff on steel products, which was 18% in 1990, was reduced to 9% in early October 1992 and scheduled to be lowered to 7.5% in July 1993. Moreover, the steel sector is being privatized in a way which fosters domestic competition as well, since the huge state-owned holding company Siderbrás was simply closed down, and the various steel mills are being sold separately.<sup>25</sup> Something similar is happening in the fertilizer industry. Since October 1992 privatized enterprises in that industry

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<sup>24</sup> In the late eighties state-owned enterprises were producing 70% of the country's crude steel output of approximately 25 million tons.

<sup>25</sup> Note however that, according to the present privatization rules, it is perfectly possible for a single buyer to acquire control on all the auctioned steel mills. In fact, the largest non-flat steel producer in the country has significantly strengthened its market position by acquiring the Cosinor and Piratini mills in privatization operations.

are facing a maximum 10% tariff on competitive imports. The resulting fierce competition from imports is leading to a partly successful lobby to impose dumping countervailing duties.

Notwithstanding the privatization effort under way, public enterprises would still have a stronghold in the mining and oil industries. Outside the manufacturing and mining sectors public enterprises would still hold a firm control over the electricity and communications industries, rail transportation, port and airport services and keep a substantial share of shipping services. Those constitute the areas where privatization could advance in the future. But the difficulties involved are not difficult to spot.

First there are the legal and political obstacles. The Constitution establishes that the oil and communications industries are to be controlled by state-owned enterprises. The Collor Administration was pressing Congress for an amendment that would remove that difficulty. Normally, an amendment requires a 60% majority, in two voting sections held in different days, both in the Senate and in the Chamber of Deputies. However, the Constitution establishes that in October 1993, five years after its promulgation, there will be an opportunity for amendments to be approved by a simple majority without the need of two voting sections.

Though recent studies have shown that since 1988 -- when the Constitution was promulgated -- there has been a striking change on Congressmen's stance on the role of the state in those sectors, such an amendment seems unfeasible without a strong pressure from the Executive. It is hard to see President Franco doing that. Quite on the contrary, it seems that his Administration is more likely to strengthen the defense of the permanence of state enterprises in the communications and oil

sectors, as well in the mining sector from which foreign enterprises have been barred by the 1988 Constitution.

Besides the legal and political obstacles, other difficulties may hinder the advancement of privatization in the country. There is much to be done yet in terms of both building up a new regulatory framework for those sectors where regulation is unavoidable and dismantling regulation where it is hampering private investors interest. The challenges involved are discussed in the two following sections.

### 3.2 Building up a New Comprehensive Regulation Framework

As it is well known, regulation is not necessarily undesirable. It is essential in the case of natural monopolies and in industries where import liberalization provides a weak price discipline.<sup>26</sup> Not only it has a role to play in avoiding the unfair exploitation of market control but it is also crucial as an incentive to increase productivity in sectors insulated from the benefits of competition.

When the privatization program starts to include public utilities -- which are typically natural monopolies -- it will be necessary to create the mechanisms that will assure that privatization will not be reduced to a simple transformation of public monopolies in unregulated private ones, probably without any clear overall efficiency gain for the economy. What is required is the design of a proper regulatory framework able to assure at the same time an attractive rate of return to the capital invested in public utilities, reasonable prices and consumers'

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<sup>26</sup> The cement industry is a good example of the latter.

satisfaction with the services quality. Not giving the right attention to that point could undermine the credibility of the privatization program itself. Privatization should not lose sight of its main purpose: to enhance overall economic efficiency.

Designing and implementing an efficiency inducing regulatory apparatus for public utilities has proved to be a challenge not only for developing countries, but for developed ones as well.<sup>27</sup> The complexity of regulation has been consistently played down by the defenders of a fast privatization program in Brazil.<sup>28</sup> But the public assets sales program conducted since 1990 suggests that the Privatization Committee was aware of the difficulties of implementing rapidly enough a suitable reform of the regulatory framework before privatizing public utilities.<sup>29</sup> Indeed, in contrast to decisions taken in other Latin American countries, privatization in Brazil started with manufacturing enterprises and not with public utilities.

In Brazil, as in most developing countries, difficulties involved in having a good regulatory framework are bound to be much amplified. Public policy stability has been difficult to obtain in almost any area. It is hard to believe things will change for the better very fast exactly in the regulatory agencies. Of course they have to, if privatization is to reach public utilities. That is the challenge to be faced, as the Brazilian privatization program unfolds in the coming years.

But the past experience indicates there is much scope for regulation failure as regulatory tradition is little short of appalling. When the provision of public

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<sup>27</sup> See, for example, "Can the Regulators Hold Them?", *The Economist*, June 1st-8th, 1991.

<sup>28</sup> The new economics of regulation, exploring the idea of asymmetric information, has brought forth new and interesting insights on the difficulties of regulation. See Laffont [1992].

<sup>29</sup> Of course, if regulatory rules are not known in advance it is impossible to establish a fair price for the assets sold.

services was controlled by foreign firms, the problem of readjusting tariffs of public services in a context of persistent inflation and exchange devaluation was never adequately solved.<sup>30</sup> On the other hand, electricity services regulatory authorities in many cases had much difficulty in matching the political muscle of private suppliers. When the State took over from foreign firms the provision of public services regulation remained to a large extent a dead letter as regulators were not independent from providers of services. The provision of electricity services is a clear example of the extent of such capture problem. This, perhaps to a less serious extent, applied also to other sectors such as the concession of mining rights. Moreover, there is no tradition of either transparency of the activities of regulating authorities or of accountability.

It is, of course, true that much inefficiency is being generated by state enterprises operating outside the disciplines of an adequate regulatory framework. Many of the distortions related to the operation of state enterprises are, however, likely to outlive their privatization if a regulatory tradition cannot be created and sustained. In other Latin American countries, such as Argentina and, to a lesser extent, Mexico, there is more political room to accept privatization of natural monopolies without adequate regulation, at least in the first instance, simply because of the generally much worse quality of publicly supplied services as compared to Brazil. Privatization may require competition enhancing regulation not only in the case of natural monopolies but also if it results in the establishment of monopolist positions, especially so if the competition enhancement aspects of import liberalization are blunted by counter lobbying. What happened in the manganese ferro-alloys market illustrates this point very clearly. When Sibra

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<sup>30</sup> See Tendler [1968].

(Elektrosiderúrgica Brasileira) was privatized -- by the Sarney Administration, in 1988 -- it was sold to its largest competitor, Cia. Paulista de Ferro Ligas, that paid more than 300% above the minimum price set in the privatization auction, beating ten other bidders, in order to increase its market share to 85%. It is interesting to note not only that ferro-alloys producers have been very active in petitioning the imposition of antidumping duties on imports from the Community of Independent States, Kazakhstan, the Ukraine and South Africa, but also in attempting to slowdown the pace of tariff liberalization which will affect imports of ferroalloys from all origins.

Decision-making on deregulation and privatization in Brazil has consistently ignored the complexities of comprehensive deregulation. Unless competition enhancing deregulation is assured in all relevant markets, deregulation may only mean a transfer rather than the elimination of scarcity rents and/or X-inefficiencies. Good examples of such incomplete focusing of deregulation is the concentration of reforming interest in certain segments of the transport services industry. The deregulation of restrictions to the use of labor services in ports, even if coupled with a more competitive access to the control of port installations, will be not be sufficient to assure a substantial reduction in transportation costs which today are eroding the competitiveness of Brazilian exports and the advantages of opening the economy to imports. Shipping services also need to be deregulated as well as transportation and ancillary services between ports and consumers. A similarly comprehensive regulatory approach is required in sectors such as fertilizers in connection with new regulatory demands generated by privatization which allows significant market control of the supply of inputs by firms which are also of relevant size among users of such inputs.

There is ample scope for the improvement of existing competition enhancing policies. While a more active anti-trust policy would be desirable the obstacles to its implementation seem more significant than those facing deregulation, specially so in relation to foreign trade.

### 3.3 Deregulation: Major Untouched Areas

The scope for further deregulation efforts is still immense in Brazil. This subsection cannot hope for more than present a very selective list of the tasks ahead. It should be mentioned that there is legislation pending on many issues considered below - ports, public tenders, provision of public services - but it is uncertain to what extent it will effectively entail progress in relation to present legislation.

It must be stressed that emphasis on the importance of deregulation has been to a large extent limited to the Collor administration. More markedly than in relation to privatization it is misleading to speak of a newly acquired national consciousness about the advantages of deregulation. Even in the Federal government, commitment to deregulation or competition enhancing seemed somewhat short-lived as hopes concerning the role of such policies to counter inflation were stronger than any commitment related to efficiency or the elimination of scarcity rents. Partly because of the concentration of reforming ideas in the upper levels of Federal Administration it is very difficult to detect symmetrical modernizing moves at the lower levels of public administration. State governments fight for the survival of their state banks, do little to either privatize or deregulate in their respective spheres of action. Efforts to reregulate and/or improve regulation in the



provision of urban transportation services, which are as a rule very inefficiently run, were not comprehensive.

Transportation is a sector in which much undesirable regulation is still relevant. The operation of ports provides perhaps the most spectacular case of inefficiency and rent appropriation in Brazil. Main ports are operated by public authorities, the supply of labor in the ports is heavily regulated as well as the provision of related services. Bulk cargo terminals -- oil, iron ore, paper pulp, fertilizers -- are operated by the private sector or state enterprises but they cannot compete with other ports by selling services to other parties. Market control in the provision of labor services contributes to increase dramatically costs in Brazilian ports compared to those elsewhere. While such comparisons are always debatable, given the heterogeneity of capital intensity and divergent labor and financial costs, the scale of the differences is so wide that these provisos lose all their strength: rates applied to nonflat steel products are about eight times higher in Santos than in Antwerp; for containers rates in Santos are about four times those in Rotterdam. Increased efficiency and resulting lower costs in the operation of ports as well as reduced freight rates would make more efficient the discipline imposed by import liberalization on sectors where market control has been exerted under the protection of a high tariff. It would also improve overall efficiency by diverting cargoes now inefficiently transported by road as well as improve the competitiveness of exports.

While other transportation modes , such as air passenger transportation, have been modestly affected by deregulation, road transportation was practically untouched. Concessions for interstate and inter municipal bus lines have been traditionally distributed following administrative criteria which are vulnerable to political

pressure or plain corruption. Together with concessions to explore radio and television services they have been traditionally treated as an almost acceptable form of obtaining political support by those in power. The obvious argument that these rights should be auctioned is rarely heard in Brazil as the market for information is one the most seriously affected by abuses generated by excessive concentration. Heavy regulation still exists in restricting access to certain labor services to specific professions: in theory nobody can work, say, in the press, without a professional qualification as a journalist. But perhaps lack of progress here is to be ascribed more to an a priori assessment of the limited economic impact of deregulation than to lobbying by those facing losses with deregulation.

The limits of the privatization program as initially designed are shown by the exclusion of institutions such as the notoriously inefficient Banco do Brasil. One of the unfortunate consequences of this politically motivated exclusion was that there was no debate concerning deregulation which would dismantle its effective monopolist position as the government's commercial banker in many markets. This is one of the many areas of government procurement whose deregulation would generate very considerable efficiency gains.

Regulations which either restrict or block access of foreign investment to many branches of activity and are still in place could in most cases be dismantled. Not only the 1988 Constitution, as already mentioned, radically limits the role of foreign investment in sectors such as mining, telecommunications and oil, but administrative inertia still restricts foreign investment in, among other sectors, road transportation, private security services and software commercialization. In some cases, such liberalization moves should be accompanied by the creation of an effective regulatory framework which prevents abuses on the use of market power.

In spite of much progress in deregulation related to foreign trade there is scope for further efforts. Export quotas, non tariff barriers to imports, residual import prohibitions, national content requirements and right of establishment restrictions still constitute important distortions.

With the objective of protecting inefficient domestic producers, while at the same time formally respecting their undertakings in the GATT, which strictly limit the use of quantitative barriers to trade, developed countries in the last decades have been consistently pressing developing countries to adopt "voluntary export restrictions". These VERs, by limiting supply in developed markets, generate important price differentials between world prices and prices in protected markets. There is thus a concrete price advantage for the Brazilian exporter of, say, textiles to the US market as the market clearing price in the US is higher than it would have been in an unregulated market. Exporters which have access to export quotas will be able to extract scarcity rents generated by VERs. For a long period VERs were the main protectionist instrument used by the US in relation to iron and steel products. The existence of a net benefit to exporters will depend on their capacity to divert exports to alternative markets so as to compensate export contraction in protected markets.

In Brazil such quotas exist in the case of exports of sugar to the United States, steel products to the European Communities and textile and clothing products to almost all destinations in developed countries.<sup>31</sup> They have been distributed in the past based on inertial criteria such as export performance in previous periods.

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<sup>31</sup> For a study of Brazilian steel quotas (VERs) in the US market in the eighties see Piani [1989].

Effective deregulation concerning the distribution of export rights should be based on an at least partial devolution of their allocation to the market as compared to the present administrative criteria. There is some experience in other countries of auctioning textile and clothing export quotas. This has the advantage of, besides improving the transparency of quota allocation, allowing a partial appropriation of quota rents by the government.

Nontariff barriers of several types still subsist: imports of luxury boats are prohibited; rubber imports are tied to requirements to purchase domestic rubber. Minimum national content requirements are still retained in public procurement and as a precondition to qualify as a recipient of public loans related to either exports or purchase of capital goods. Imported products do not qualify for access to certain lines of credit such as those financing the purchase of taxi cabs. Distortions are also created by the compulsory mixture of alcohol to gasoline.

In relation to services, one of the new themes under discussion in the Uruguay Round in the GATT, the role of deregulation is very substantial as, except in a few particular cases, the provision of services requires physical presence in the market.<sup>32</sup> This depends crucially in conditions regulating both right of establishment and national treatment of foreign firms, that is, no discrimination either in relation to decisions to initiate business or in running a business in comparison to domestically owned competitors.

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<sup>32</sup> Relevant sectors in the provision of services are, among others: insurance and banking, air and shipping, professional services including engineering, tourism, telecommunications and construction.

#### 4. CONCLUDING REMARKS

Reconstructing a new state-sector is the great economic challenge to be faced by the Brazilian society in the nineties. That means implementing the fiscal adjustment measures that have been procrastinated for more than a decade and redesigning the economic role of the state as part of a broader effort to build up a more efficient economy. The economic reforms which were analyzed above are an important part of that effort. But the advancement of privatization and competition enhancing policies will call for reliable and competent public servants. Developing and operating the required regulatory framework, designing effective competition enhancing policies and enforcing the relevant legislation are no simple tasks. They will only be possible as part of a wider and parallel task of building up a scrupulous and competent public service, that should be one of the main purposes of the reconstruction of the state-sector in the country.

#### 5. A POST COLLOR POSTSCRIPT<sup>33</sup>

Developments during the last quarter of 1992 -- after Collor had been removed from office in late September, on charges of corruption -- broadly confirmed expectations that sales of public assets would become at best a half hearted and muddled continuation of the program as initially proposed. In October, while Collor's impeachment process was still proceeding<sup>34</sup>, two enterprises were privatized as scheduled: Goiásfertil, a small fertilizer producer, and Acesita, a

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<sup>33</sup> Written in early 1993.

<sup>34</sup> Collor would be finally impeached by Congress on December 27, 1993.

relatively large and profitable special steel producer.<sup>35</sup> The control of the latter was sold for US\$ 451 million -- 100 million above the minimum price set -- to a consortium of its employees, two pension funds of employees of other state enterprises and two private banks, what raised some doubts about whether it was a privatization operation at all. Government shares in a small petrochemical company, Companhia Brasileira de Estireno, were auctioned in early December. The remaining enterprises scheduled to be privatized before the end of 1992 could not be transferred to the private sector. There was no buying offer for Arafertil, a fertilizer producer, and the auction of Ultrafertil, another fertilizer producer, was suspended by a court order, based on doubts about the fairness of the minimum price set. All other scheduled sales were postponed till the Administration could produce new rules under which the privatization program could proceed.

In late 1992 the concept and procedures related to the privatization process became a crucial bone of contention between, on the one hand, some of the authorities in the economic ministries and BNDES, on the whole favoring a continuation of formerly adopted criteria, and, on the other hand, legal officers and ministers very close to President Franco. While the latter were not prepared to clearly state their opposition to privatization, under the guise of protecting public interest they were pressing to transform the whole initiative into something less transparent, more vulnerable to political pressures and less likely to succeed.

After two different set of rules had been announced, a third, and supposedly final, one was published as a presidential decree in mid January 1993.<sup>36</sup> The idea of universal rules was abandoned in favor of a case by case approach, with more

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<sup>35</sup> Goiásfertil has been already included in table I above, among other privatized enterprises.

<sup>36</sup> Decree n. 724 of January 19, 1993.

room for a discretionary management of the program. Much of that room was left to the presidential office itself, which will decide what proportion of the sales price will have to be paid in cash in each case and will be formally able to interfere in any point of the privatization process. Foreign investors participation in public assets sales remained limited by a 40% ceiling, unless Congress decides otherwise, again on a case by case basis. The top executive of each enterprise to be privatized is now formally entitled to participate in its evaluation. Strangely, not only pension funds of employees of other public enterprises, but all pension funds were banned from privatization, raising a wave of criticisms.

The obligation to carry on a training program for employees to be fired, stricter environmental protection assurances and a new requirement to quickly pay previous accumulated labor related liabilities will certainly make enterprises less attractive to prospective buyers. Cash proceeds from assets sales were earmarked to finance certain public expenditures, meaning that the idea of using privatization to cutback public debt was also abandoned. The new rules also incorporate the possibility of a golden share arrangement, in which the state would retain the possibility of vetoing certain decisions taken by the management of the privatized enterprise, but the matters that could be subjected to veto will also be decided on a case by case basis. A new Privatization Committee was created and though BNDES was kept as the manager of the program the bank's president was not kept as head of the Privatization Committee, after having clashed on many issues with the presidential office.

Public assets sales are scheduled to restart in March, but there is great skepticism on how deep privatization will advance, given the new set of rules and the still unconvincing political will of the Franco Administration to carry on the program.

Some of the few good aspects of the 1990 reform of public administration -- such as the creation of a single ministry of the economy in place of the traditional ministries of Finance, Planning and Industry -- have been reverted. The main argument raised in favor of the revival of such a bad arrangement was that a newly found composition of pro Franco political forces requires a larger number of ministerial slots than the previous arrangement.

In some areas such as commercial policy the confusion of attributions among the three recreated ministries is immense and adds considerably to the lack of effectiveness of public administration. There is also intense competition between the Ministries of Justice and Finance about control of SNDE the main - rather ineffectual as discussed above - competition regulatory department. As always regulatory qualms seem to be closely linked with concerns about inflation acceleration rather than about efficiency and equity consequences of lack of competition.

Some deregulatory legislation is being passed by Congress but this may be characterized as at least partly explained by inertia. The much reduced governmental political commitment in relation to efficiency enhancing reform has meant in some cases the watering down of initial proposals. New legislation was introduced on electricity prices, formerly fixed on nationwide basis. Now reference generation prices have been defined for the Northeast and the rest of the country, partly based on regional (and not cost) criteria. Electricity distributors are now free to define their own prices, including private suppliers. There are well grounded fears that the present regulatory framework is unlikely to cope with problems which may be raised by the operation of such natural monopolies.



A new legislation on deregulation of port services has been approved by Congress in early 1993. Choice of port operators and conditions of labor supply were the most politically sensitive issues. The new law intends to assure fairness in the selection of port operators and removes controls on port charges. Its most controversial features concern labor supply: port authorities can only use either workers with a permanent labor contract or eventual workers whose names have been previously registered. Permanent labor can only be hired among registered eventual workers; recruitment of eventual labor is to be based on criteria agreed by workers and employers; if after 90 days no agreement is reached on the terms of the collective labor contract, a manpower management body controlled by port operators is activated; eventual laborers who prefer to cancel their registration will receive a minimum lump sum of around US\$13,000; these payments will be funded by an additional charge on freight movements.

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