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**IMPLEMENTATION OF THE INTERNATIONAL COVENANT ON
ECONOMIC, SOCIAL AND CULTURAL RIGHTS**

Initial reports submitted by States parties under articles 16 and 17 of the Covenant

**Addendum
BRAZIL***

[21 August 2001]

* The information submitted by Brazil in accordance with the guidelines concerning the initial part of reports of States parties is contained in the core document (HRI/CORE/1/Add.53).

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854. From here on, the Brazilian Government will refer more specifically to the fields of science and technology, from the standpoint indicated by article 15 of the International Covenant on Economic, Social and Cultural Rights.

855. The Brazilian Constitution also includes scientific, artistic and technological creations as part of the nation's cultural heritage. Furthermore, it defines as being the right of all the enjoyment of an ecologically well-balanced environment. Consequently, it assigns various government sectors the duty of preserving these assets, as follows: (i) protecting the environment and combating pollution in any form whatsoever; (ii) preserving forests, plant life and wildlife; (iii) recording, monitoring and overseeing the granting of prospecting and exploration rights for water and mineral resources within their territories. It also establishes that the sphere of competence of these levels of Government should include legislating on: (i) nature conservation and the protection of the soil and natural resources, environmental protection and pollution control; (ii) protection of tourist attractions and heritage landscapes; and (iii) responsibility for damage to the environment as well as assets and rights of value to tourism and the landscape. The jurisdiction for protecting the environment and overseeing its use falls under the Brazilian Institute for the Environment and Natural Resources (IBAMA – Instituto Brasileiro para o Meio Ambiente e Recursos Naturais).

856. At the constitutional level, the State is obliged to undertake technological research seeking solutions to the problems of Brazil and the development of its production system (art. 218). Access to science is also a right covered by the Brazilian Constitution in article

23, with the State being responsible for providing the means required for such access. The Brazilian Government has been striving to deal with countless shortcomings in this field and has assigned high priority to basic science, supporting training courses and providing the conditions and means required for scientific output. The Government funds these activities through budget allocations to Government-run research incentive entities, and offers incentives to companies investing in this field.

857. In order to foster the dissemination of information on scientific progress, the Ministry of Science and Technology is undertaking a set of activities, including the following under the Pluri-Annual Plan (2000-2003):

- (a) Encouraging the dissemination of scientific and technological output;
- (b) Producing and disseminating science and technology indicators;
- (c) Strengthening the State Information System for science and technology.

858. In the guidelines for the report the Committee clearly states its interest in learning about measures that block the use of scientific and technical progress for purposes running counter to the full enjoyment of all human rights, including the right to life, health, individual freedom, privacy and similar rights.

859. In other parts of this report, the Brazilian Government comments on several of these aspects. It would like to stress here that Brazilian legislation and government actions work together to safeguard these rights, without this imposing constraints on legitimate freedom of expression, research and the use of scientific and technological progress. However, the State must necessarily be present through the regulatory authority in order to maintain an even balance between these two approaches: individual freedom and respect for human rights. In illustration, it is worthwhile mentioning here that the State has jurisdiction over research in and the manipulation of genetic materials in Brazil, as well as controlling the output, marketing and use of techniques, methods and substances that threaten life and the quality of life or the environment.

860. In terms of scientific, literary or artistic output, there is an entire framework established in Brazil that is designed to protect not only material interests but also safeguards moral aspects. Authors' rights are guaranteed by article 5 of the Brazilian Constitution through items XXVII and XXVIII, whose provisions are also regulated in lengthy laws that confirm the moral and material rights of the author. After the updating of the Brazilian Criminal Law Code and the signature of international conventions on this matter, Law No. 9,610 was approved on 19 February 1998, updating Brazilian legislation on authors' rights, which dated back to December 1973 (Law No. 5,988).

861. As part of the fundamental guarantees and rights of authors the Brazilian Constitution extends to their heirs the exclusive right of use, publication or reproduction of their works. Furthermore, it also guarantees the protection of individual works in group shows, the reproduction of human voices and images, including in sports, as well

as the right to oversee the economic use of works in the creation of which the authors have participated, with actors and their respective trade unions and associations. Similarly, industrial inventors are endowed with the temporary privilege of use, in addition to protection covering industrial creations, ownership of trademarks and brand names, company names and other distinctive signs, in accordance with social interests and the technological and economic development of Brazil. This constitutional guarantee was ratified in 1996 by Brazil's new Industrial Property Act (1996) and its Authors' Rights Act (1998), which altered and updated general legislation on intellectual property.

862. This new Industrial Property Law assigns the National Industrial Property Institute (INPI - Instituto Nacional da Propriedade Industrial) the duties and responsibilities of implementing the rules and standards regulating industrial property nationwide in Brazil and to decide whether to sign, ratify or withdraw from conventions, treaties, covenants and agreements on industrial property.

863. Intellectual property is a matter of rising importance for the Brazilian economy, opening up a channel for entering the international community. INPI is seeking to become an increasingly powerful tool for Brazil's industrial and technological policies by extending the modernization process and decentralizing its activities. One of its key targets is to become more active and dynamic with its customers, assigning high value to innovation and meeting fresh demands. Consequently, INPI has been making available the technical information in its permanent collection, stored in over 24 million patent documents filed by companies, government entities and others, through specific programmes.

864. In order to comply with Brazilian law on authors' rights, the Central Royalties Collection and Distribution Bureau (ECAD - Escritório Central de Arrecadação de Distribuição) opened in 1997. In 1998, the volume of funding brought in by this entity reached some US\$ 77 million. It is important to stress that it is hard to ensure compliance with Brazil's Authors' Rights Act, owing to the limited human resources available for inspecting this continent-size country.

865. The conservation, development and dissemination of science and culture are backed by measures introduced at the constitutional level covering Brazil's teaching system and the communications media. According to article 218 of the Brazilian Constitution, basic research should be allocated top priority by the State, while technological research should focus mainly on seeking solutions to Brazilian problems as well as furthering the development of domestic and regional production systems. Consequently, the State is responsible for supporting human resources training in the fields of science, research and technology, as well as for offering special conditions for the performance of these activities. As a result, the individual states may assign a portion of their budget revenues to government research-support entities.

866. As stipulated in the Brazilian Constitution, the Federal Government is responsible for maintaining a range of institutions of higher learning which produce much of Brazil's scientific output. Furthermore, it makes provision for encouraging companies investing in

research and technological development, as well as in human resources training; enhancing the value of teaching professionals; introducing career plans for the Government-run teaching system with a wage threshold and entry permitted only through public competition based on tests and diplomas; the introduction of a single juridical system for all the institutions maintained by the Federal Government.

867. It is also important to stress that at the government level, incentives for scientific and technological output are basically the responsibility of two government entities: the National Scientific Research Council (CNPq - Conselho Nacional de Pesquisas Científicas) and CAPES, whose 1998 budgets totalled some Cr\$ 937 million. Their actions are focused on training human resources, underwriting research, and disseminating scientific knowledge.

868. In the field of training researchers, these two institutions expended some Cr\$ 600 million on study grants. Research incentives were also handled through financing research projects, as well as remunerating researchers and allocating funds to research centres. Furthermore, fresh support for the field of science and technology and human resources training has become feasible through the appearance of foundations providing support for university-level educational institutions working mainly with federal entities. The dissemination of knowledge is handled through specific lines of financing established by these entities, as well as university institutions through their publishing houses.

869. Freedom of scientific research and creation is assured once again by the Brazilian Constitution, whose article 5 stipulates freedom of expression for intellectual, artistic, scientific and communications activities with no censorship or licences. To a certain extent, its article 206 reiterates this concept by ensuring freedom for teaching, research and disseminating thought, art and knowledge.

870. Similarly, the freedom to exchange information, opinions and experiences at the scientific, technical and cultural levels is also assured and safeguarded through the Brazilian Constitution as a basic right of citizens. The Brazilian Government feels that it is important to stress to the Committee on Economic, Social and Cultural Rights that article 5 of the Brazilian Constitution enshrines the concerns reflected in the guidelines for the preparation of the reports of the States parties on the International Covenant. Consequently, the Brazilian Constitution imposes conditions applicable to both the Government and society ensuring that the manifestation of thoughts and the expression of intellectual, artistic and scientific activities, as well as communications, meet the need to safeguard the inviolability of intimacy and private life, as well as the good name and reputation of individuals, without censorship and guaranteeing the right to compensation for material or moral damages in case of violation.

871. Simultaneously, the freedom to exercise any type of work, craft or profession, in accordance with the professional qualifications stipulated under law, is assured, with access for all to information, with the necessary protection for the confidentiality of sources when required for professional reasons.

872. When requested, and under the aegis of certain programmes, the Ministry of Culture supports cultural associations in many different areas. Consequently, 152 municipal projects all over Brazil received backing from the National Culture Fund, which also underwrote repairs to buildings where cultural centres were established and equipment was installed, endowing communities with areas designed to boost the dynamics of cultural life in these communities. The implementation of these cultural centres is based on assigning high priority to restoring buildings with historical value, so that these investments also foster the preservation of Brazil's cultural heritage.

873. Support for international scientific and cultural activities is reflected in countless educational exchange agreements with many different countries, providing access to Government-run universities in Brazil for foreign students, while Brazilian students can take courses at foreign universities. At the graduate and research levels, CAPES and the CNPq run grant programmes underwriting studies abroad. In the field of scientific research, Brazil has signed bilateral cooperation agreements and in 1998 was a member of 17 international entities specializing in science and technology. It also signed agreements with 46 foreign entities linked to the fields of science and technology.

874. International assistance is perceived by the Brazilian Government as highly significant. The development of new knowledge, expertise, know-how and technologies leaps national and cultural borders, particularly through the internationalization of companies and capital. The nature of research is in itself international. The Brazilian Government consequently feels that it is vital to encourage technological transfers and support basic and strategic scientific research implemented through universities and many different research entities and councils, as well as other related organizations. A number of institutions have been participating in these developments, including the National Scientific Research Council (CNPq), EMBRAPA, EMATER, the National Confederation of Industry (CNI - Confederação Nacional da Indústria), IBICT and the Studies and Projects Financing Agency (FINEP - Financiadora de Estudos e Projetos). All these entities open up significant opportunities for research and its dissemination among micro-, small and medium-sized enterprises, as well as Brazilian companies or corporations operating in Brazil. A particularly noteworthy programme that rates high in importance for encouraging research and consolidating an effective monitoring system for the development of scientific and technological research is the Centres of Excellence Support Programme (Programa de Apoio a Núcleos de Excelência).

875. Scientific and technological research activities can be undertaken by universities, research centres, specialized institutions, Government-run enterprises and private corporations, as well as small and medium-sized companies, but in many cases networking and links are required to many different segments of society through partnerships, as well as international assistance and cooperation programmes. The Brazilian Government assigns particular importance to international cooperation programmes that include activities for which Brazil is not endowed with comparative advantages in terms of building up know-how, expertise and specialized technologies.

876. The assistance heading includes joint research and technological development projects; scientific, technological and technical exchanges as well as training and qualification activities; expanding programmes, projects and understandings between institutions in the countries involved that specialize in the basic and applied sciences; the organization of congresses, conventions, seminars, workshops, etc. attended by researchers from various countries; exchanges of scientific and technological information.