

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

BOP/3

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Limited Distribution

Committee on Balance-of-Payments
Restrictions

1962 CONSULTATIONS UNDER ARTICLE XII:4(b)
(UNREVISED) WITH

B R A Z I L

Basic Document for the Consultation¹

1. Legal and administrative basis of the restrictions

The laws and decrees which are of particular relevance to the Brazilian import control system are:

Decree Law No. 7,293 of 2 February 1945;
Law No. 1,807 of 7 June 1953;
Law No. 2,145 of 29 December 1953;
Law No. 3,244 of 14 August 1957;
Decree No. 42,020 of 16 December 1957;
Regulation 204 of SUMOC of 13 March 1961; and
Regulation 208 of SUMOC, dated 27 June 1961.

The last two have been circulated as L/1452 and Add.1 and are annexed hereto for convenience of reference.

The Bank of Brazil, under the direction of the Council of the Superintendence of Money and Credit (SUMOC) administers the system of import controls which in its present form relies largely on the market mechanism for the selection of imports.

2. Methods used in restricting imports

In accordance with the Customs Tariff Law (Law No. 3,244 of 14 August 1957), imports are grouped into two categories: "general" and "special". The general category includes: raw materials, equipment and other commodities for production, as well as current consumer goods of which the supply in the internal market is inadequate. The special category includes goods of restricted consumption and other items of any nature of which the supply in the internal market is satisfactory.

¹Prepared by the secretariat on the basis of information supplied by the authorities of Brazil and circulated subject to verification and amendment.

A. General category

Goods in the general category are not subject to any restriction other than the limitation in the amount of foreign exchange cover certificates, required for customs clearance, available each week to each firm.

B. Special category

For the importation of goods included in the special category it is necessary to obtain a prior licence, issued by the Carteira de Comércio Exterior on submission of a certificate that the importer has acquired a "licence promise". Licence promises are offered in lots of US\$ 100 and US\$ 500, or the equivalent in other currencies, at publicly held weekly auctions in accordance with the annual global quota established by the Council of SUMOC for commodities included in this category.

The issue of an exchange certificate for imports by the Carteira de Câmbio of the Bank of Brazil depends:

- (a) on the conclusion of an exchange contract with the Bank of Brazil or an authorized bank (in the latter case subject to a time limit which shall not exceed 180 days). Contracts for exchange transactions shall not exceed the equivalent of US\$ 50,000 per firm, per week in convertible currencies. The limit may be augmented, up to a specified maximum amount, if non-convertible currencies are included in the exchange contract, or when it is considered desirable by the Council of SUMOC to extend these limits;
- (b) on evidence of deposit in national currency at the Bank of Brazil, within five days of the conclusion of the exchange transaction, of a sum equivalent, at present, to 110 per cent of the value of the exchange contract against delivery of 150-day negotiable Bank of Brazil notes carrying interest at the rate of 6 per cent per annum;
- (c) on the supply of certain information, such as foreign prices of the goods to be imported, judged necessary by the Carteira de Comércio Exterior.

In accordance with Regulation 221 of SUMOC, dated 15 December 1961, the rate of deposit is to be decreased each month by 10 per cent. In implementation of this Regulation the rate of deposit has been reduced from 150 per cent in December 1961 to 110 per cent at present. The rate of deposit is to decrease to 100 per cent by May 1962 and to zero by March 1963 at which time the requirement of subscription of Bank of Brazil notes by importers is scheduled to be discontinued.

The following imports are exempted from the prior deposit requirement referred to above:

- (i) imports originating from countries participating in the Latin American Free Trade Association;
- (ii) imports of machinery and equipment for the establishment of industrial units or to supplement existing units;
- (iii) imports effected directly by official agencies, except independent federal agencies (autarquias), mixed capital companies and State Government Organizations;
- (iv) imports of wheat, petroleum and petroleum derivatives. (For these products the Carteira de Câmbio of the Bank of Brazil draws up quarterly contracts for the sale of foreign exchange.)

Imports of machinery and equipment for the establishment or enlargement of industrial units financed abroad or effected without exchange cover are subject however to licences, issued by the Carteira de Comércio Exterior in consultation with the Director of the Carteira de Câmbio of the Bank of Brazil and the Executive Director of SUMOC.

Since Regulation 208 of SUMOC became effective in June 1961 all exchange transactions are effected through the free market, except for the period October-December 1961 when certain limitations were applied in accordance with Regulation 219 of SUMOC. The preferential exchange categories and the practice of selling convertible currencies with a target of 120 days, compared with spot exchange for non-convertible currencies, have been discontinued. Foreign exchange sales by the Bank of Brazil of certain non-convertible currencies are made, however, at a discount of 5 per cent.

3. Treatment of imports from different sources

As noted above, imports originating from countries participating in the Latin American Free Trade Association are exempted from the prior deposit requirement. Also, "general category" treatment is afforded for several commodities classified in the "special category" if imported from LAFTA countries. Except for this distinction and with the exception of the differences in effective exchange rates for imports from certain bilateral agreement countries, there is no discrimination in import treatment between different sources of supply.

It is the stated policy of the Government of Brazil to rely less and less on bilateralism where trading partners use no or only global restrictions on imports. Consequently, bilateral trade-and-payments agreements were discontinued since 1960 with Argentina, Chile, Finland, Japan, Norway, Spain and Uruguay. At present bilateral payments agreements continue to be in force with the following State-trading countries: Albania, Bulgaria, mainland China, Czechoslovakia, Cuba, East Germany, Hungary, Poland, Rumania and the USSR as well as six other countries.

4. Commodities or groups of commodities affected by various forms of restrictions

See under 2 above

5. Use of State-trading or government monopoly in restricting imports

There is only one important instance of State trading in Brazil, namely the monopoly exercised by the Foreign Trade Department on wheat imports. State trading in this commodity is not designed to restrict imports but to assure adequate supplies at reasonable prices to the consumer of this important bread grain. The different industrial enterprises of the Brazilian Government, or enterprises in which the Brazilian Government participates, are guided in their import policy purely by commercial considerations and, as indicated under point 2(iii) above, are on the whole subject to the same import régime as private enterprises.

6. Measures taken in relaxing or otherwise modifying restrictions

Since the time of the last consultation with the Committee, a number of major changes in the Brazilian import control system were put into effect. Under Regulation 204 of SUMOC, dated 13 March 1961, exchange auctions were discontinued except for the purchase of import licences for commodities included in the "special category". Also the preferential exchange rate which had been maintained at a level of Cr.\$ 100.00 per US\$ 1 since June 1959 was increased to Cr.\$ 200.00.

The requirement of a 100 per cent prior deposit of the cruzeiro value of the exchange contract, introduced in March 1961 and later increased to 150 per cent, was relaxed under Regulation 221 of SUMOC, of 15 December 1961, which provides for a gradual reduction of the prior deposit rates by 10 per cent each month with the view to their elimination by March 1963.

The exchange reform initiated with SUMOC Regulation 204 was completed with Regulation 208 of 27 June 1961 which, inter alia, eliminated the preferential exchange rate applied to certain imports.

Progress was made also in increasing the number and the range of commodities included in the "general category". Since May 1960 fifty-one items have been transferred from the "special category" to the "general category". There were no transfers from the "general category" to the "special category".

The decreased reliance on bilateralism was noted above.

7. Effect on trade, and general policy in the use of restrictions for balance-of-payments reasons (statement by the authorities of Brazil)

The Brazilian customs tariff, approved in 1957, is the only instrument basically adopted by the authorities for protective purposes. The "special category" of imports, as stated in the Tariff Law, is maintained as long as it is deemed necessary to combine exchange controls with the tariff. Clearly this reflects only a protection of the balance of payments against the pressure of a highly elastic demand of certain commodities resulting from the income redistribution brought about by the inflationary process. The Brazilian authorities believe that the comprehensive anti-inflationary programme now in force will make it possible to rely less and less on the "special category" for balance-of-payments reasons. However, it is easily understood that unfavourable international markets for Brazil's major exports, combined with pressures on the balance of payments arising from inflation, even though at a declining tempo render it difficult to suddenly discontinue the "special category".

ANNEX I

A. Instruction No. 204 of 13 March 1961 of the Superintendence of Money and Credit

SUMOC decides, in accordance with the deliberations of the Council on 13 March 1961 and with the provisions of Article 3, paragraph "h", and 6 of Legislative Decree No. 7293 of 2 February 1945, and of Article 2 of Law No. 2145 of 29 December 1953, in conjunction with the provisions of Law No. 3244 of 14 August 1957:

I. To allow all exchange transactions for the importation of goods to take place on the free exchange market, with the exception of the cases provided for in Nos. V and IX of the present Instruction.

Transactions in non-convertible currencies shall continue to take place at the rates fixed by the Carteira de Câmbio of the Bank of Brazil.

II. To subordinate the granting of a consular visa and the customs clearance of "general" imports to the production of a certificate of foreign exchange to be issued by the Carteira de Câmbio of the Bank of Brazil. The issue of such a certificate shall depend:

- (a) On the conclusion of an exchange contract with the Bank of Brazil or other authorized bank, subject to a time limit which in the latter case shall not exceed 180 days, transactions being limited to US\$ 20,000 (twenty thousand dollars) per firm per week for all the financial centres of the country.

The Council of SUMOC shall fix special exchange quotas to be supplied direct by the Carteira de Câmbio of the Bank of Brazil in cases in which it is considered absolutely necessary to extend the limits fixed above.

- (b) On evidence of the deposit in national currency at the Bank of Brazil, within five days of the conclusion of the exchange transaction, of a sum equivalent to the contract mentioned above against delivery of 150-day (one hundred and fifty day) bills to the order of the importer and carrying interest at the rate of 6 per cent (six per cent) per annum.
- (c) On the supply of information as to the price of the goods abroad and any other information judged necessary by the Carteira de Comércio Exterior.

III. To limit "special" imports to the aggregate value determined by the Council of SUMOC.

For these imports it shall be necessary to obtain a prior licence (licença prévia), issued by the Carteira de Comércio Exterior on submission of a certificate that the importer has acquired a "licence promise" at a public auction on a Brazilian stock exchange, and on compliance with the requirements laid down in No. II (a), (b) and (c) of the present Instruction.

IV. To reduce gradually, as from the second half of the current year, the deposit limitations and time limits specified in No. II (a) and (b).

V. (a) To adopt the rate of Cr.\$ 200.00 per dollar or the equivalent in other currencies, exclusive of banking, fiscal and brokerage charges, for the sale of foreign currency applicable to imports of goods mentioned in Article 50, paragraph 1 of Law No. 3244 of 14 August 1957, the said amount to be payable in two instalments, the first of Cr.\$ 150.00 at the time of import authorization, and the second of Cr.\$ 50.00 within 120 days.

(b) To adopt the rate of Cr.\$ 200.00 per dollar or the equivalent in other currencies, exclusive of banking, fiscal and brokerage charges, for the transfers of funds abroad indicated in Article 51, paragraph 1, sub-paragraphs I, II, III (a) and (b) of Law No. 3244 dated 14 August 1957, the said amount to be payable in two instalments, the first of Cr.\$ 150.00 per dollar or the equivalent in other currencies at the time of transfer, and the second of Cr.\$ 50.00 within 120 days.

Undertakings which have to await government authorization to readjust the price of their goods or services may ask SUMOC for an extension of the time limits indicated with regard to an increase in the rate of exchange provided for in this paragraph.

The case of undertakings which, as a result of this Instruction, may need to be granted a subsidy or have their subsidy readjusted will be examined by Congress.

Undertakings which are still in the stage of realizing investments financed abroad may consult with the National Bank of Economic Development as to the possibility of undertaking financing operations or issuing shares in order to obtain additional capital resources.

VI. To eliminate gradually, as from the second half of the current year, the difference between the fixed rate of Cr.\$ 200.00 mentioned in the foregoing paragraphs and that of the free exchange market.

VII. To stipulate that:

(a) the difference in cruzeiros between the rate of exchange for the exportation of green coffee beans, roasted, ground or not, fixed at Cr.\$ 90.00 per dollar or the equivalent in other currencies, exclusive of banking, fiscal and brokerage charges, and the rate at which the corresponding foreign currency is sold by the Bank of Brazil, shall be deposited at SUMOC to cover

expenses in connexion with price defence operations abroad and with the stimulation of consumption, and to defray the costs incurred in connexion with the improvement of present methods of coffee cultivation or the partial replacement of coffee by other more suitable crops:

(b) the difference in cruzeiros between the rate of exchange fixed for the export of cocoa beans and their derivatives with a view to the maintenance of the present domestic price and the rate at which the corresponding foreign currency is sold by the Bank of Brazil, shall be deposited at SUMOC to make up the guaranteed domestic price in case of a marked decline in the international quotation, to maintain an adequate price ratio between cocoa beans and their derivatives and to improve methods of cultivation.

VIII. To add to the sums paid to SUMOC as mentioned under VII the proceeds of the sale of "licence promises" by auction, and of the total "premiums" due to the Bank of Brazil, and to exclude therefrom the amount necessary to cover the deficit in the "premiums" and the debits derived from purchase and sale transactions in export products.

IX. To maintain the former rate of Cr.\$ 18.92 per dollar or the equivalent in other currencies for outstanding promises to sell foreign exchange.

X. Purchases of foreign currency arising from exports on the free market shall be paid for as follows:

- (a) Cr.\$ 100.00 per dollar or the equivalent in other currencies by means of the bills referred to in paragraph III (b) of Instruction No. 192 of 30 December 1959 at 120 days and carrying interest at the rate of 6 per cent per annum;
- (b) the balance in ordinary currency.

B. Instruction No. 208 of 27 June 1961 of the Superintendence of Money and Credit

The SUMOC has decided, in accordance with the deliberations of the Council on 27 June 1961, and with the provisions of Article 3, paragraphs (h) and (i) and Articles 4 and 6 of Legislative Decree No. 7293 of 2 February 1945, and in conjunction with the provisions of Instruction No. 204 of 13 March 1961, that:

I. The following imports will be exempted from the prior import deposit referred to in SUMOC Instruction No. 204, Section II, paragraph (b):

- (a) imports originating from countries participating in the Latin American Free Trade Association;
- (b) imports of machinery and equipment for the establishment of industrial units or to supplement existing units;
- (c) imports effected directly by official agencies;
- (d) imports of products mentioned in Section V of this Instruction.

II. Imports of machinery and equipment for the establishment or enlargement of industrial units, financed abroad or effected without exchange cover, will be subject to licences to be issued by the Carteira de Comércio Exterior (CACEX) after consultation with the Director of the Carteira de Câmbio of the Bank of Brazil and the Executive Director of the SUMOC; the SUMOC will keep a record of these operations for the purpose of compiling statistics and estimates for balance-of-payments purposes.

The SUMOC Council will establish the general procedure for the granting of licences and will examine individual cases which are contested or when requested to do so by one of the directors.

III. The percentages of 12 and 6 established for compulsory bank deposits by SUMOC Instruction No. 207 are reduced to 10 and 5 per cent, respectively. Banks using this facility for supplementing their credit resources must increase the repayment mentioned in Section II of Instruction No. 207 by 70 per cent, if on 1 October next they still have not reached the levels of 14 and 7 per cent required by the said provision.

IV. The Executive Director of the SUMOC is authorized to intervene in the stock markets through the intermediary of the Carteira de Redescontos when he deems necessary and in accordance with the levels fixed by the Minister of Finance.

V. Exchange operations referred to in SUMOC Instruction No. 204, Section V¹, will be effected in the free exchange market. The Carteira de Câmbio of the Bank of Brazil will draw up quarterly contracts for the sale of foreign exchange for imports of wheat, petroleum and petroleum derivatives.

Public corporations, public service companies, publishing houses and undertakings still in the course of effecting investments financed or guaranteed by the National Bank for Economic Development and which do not have the immediate resources required to cover the increased rate of exchange, may submit to the SUMOC requests for short-term credits. For this purpose, with the exception of amounts that are specifically allocated, temporary use may be made of the cruzeiro counterpart of financing obtained abroad by the Brazilian Government.

In the case of the Federal Government, State governments or municipal authorities, a financial programme will be established compatible with their respective budgetary position.

¹Payments for imports of newsprint, paper, fertilizers and insecticides, wheat, petroleum and its derivatives, equipment for the petroleum industry, equipment for printing and publishing activities, maps, books, newspapers, magazines, etc., and equipment for investments considered essential to the country's economic development or political security.