

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

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1964 CONSULTATIONS UNDER ARTICLE XVIII:12(b) WITH

B R A Z I L

Basic Document for the Consultation¹

1. Legal and administrative basis of the restriction

The laws and decrees which are relevant to the Brazilian import control system include the following:

- (i) Decree Law No. 7,293, of 2 February 1945, which gives authority to the Council of the Superintendency of Money and Credit (SUMOC), administered by the Minister of Finance, to decide on exchange policies;
- (ii) Law No. 1,807, of 7 January 1953, which lays down the basis for control of foreign trade and establishes the official and free exchange markets;
- (iii) Law No. 2,145 of 29 December 1953, which instituted the Foreign Trade Department (CACEX) of the Bank of Brazil and lays down general rules for authorizing imports;
- (iv) Law No. 3,244 of 14 August 1957, which establishes the new customs tariff, institutes a Customs Policy Council and introduces various changes in the import control system;
- (v) Decree No. 42,820 of 16 December 1957, which regulates all basis put in effect for foreign exchange system and control of foreign trade contained in (ii), (iii) and (iv) above.
- (vi) Instruction No. 263 of SUMOC dated 19 February 1964. This regulation established a free market for exchange rates with some exceptions (imports of wheat, oil and newsprint, and some exports).
- (vii) Instruction No. 270 of SUMOC dated 9 May 1964. Abolished the preferential rate still existing in Instruction 263.

¹Statement supplied by the authorities of Brazil.

2. Methods used in restricting imports

The system now in force is based mainly on the market mechanism to select imports. There are two exceptions:

- (a) the special categories imports are subject to an annual quota established by the Monetary Board (Council of SUMOC);
- (b) the importing firms are subject to a weekly limit of US\$50,000 for convertible currencies and US\$20,000 for non-convertible currencies (mainly trade agreement currencies). The unused quota of convertible currencies may be used for unconvertible ones. These limits may be waived by the monetary authority, in particular cases, and often are.

The last consultation was held when the Brazilian exchange market was ruled by SUMOC Instructions 204 and 208. However, since then, due to a difficult financial situation, many exchange restrictions have been imposed. Under Instruction 219, a start was made toward reducing the amount required for advance deposits, at a rate of 10 per cent monthly. This reduction was suspended on 18 May 1962. On 15 August of the same year, the weekly quota in convertible currencies was reduced from US\$50,000 to US\$30,000. On 23 April 1963 the period of retention was increased from 150 days to 240 days. At this time the retention deposit amounted to 80 per cent of the value of the import. On 11 October, the deposit was raised to 100 per cent and the retention period fixed at 210 days. On 23 October, the deposit was raised to 200 per cent for special categories imports and some other imports deemed less essential.

The trend toward more restrictions was reversed on 19 February 1964 when SUMOC Instruction 263 was issued.¹ This Instruction established a free fluctuating market for exchange operations with the exception of imports of oil, wheat and newsprint and exports of coffee, sugar and oil. A further step toward liberalization was Instruction 270, the first issued under the new Government, which abolished the fixed rate for the aforementioned import products. Since then all imports are negotiated at a free fluctuating rate.

Further steps were taken in the direction of a liberalized exchange market. Thus, on 3 August 1964 the deposit on imports was reduced from 100 per cent to 60 per cent, in the general category. Special category imports had their retention deposit curtailed from 200 per cent to 100 per cent. This decrease was partly offset by a new financial charge of 20 per cent, applied to all contracts to buy foreign exchange, including imports, whenever these contracts are subject to deposit.

¹For text of this and other recent SUMOC Instructions, see Annex .

The retention deposit for general category imports was further reduced on 9 September from 60 per cent to 50 per cent. At the same time, the imports of used machinery, with some exceptions, were accorded the same treatment as that previously applicable only to imports of new equipment. The following day, the procedure to meet financial obligations abroad was eased for exporters of industrial goods, who can now use 50 per cent of their export earnings to pay directly their debts, including those arising from imports.

An abnormal situation in the exchange market made it necessary to raise the financial charge, created by Instruction 275, from 20 per cent to 30 per cent. As provided for in the Instruction itself, this measure is temporary, and does not mean a reversal of the trend toward liberalization.

3. Treatment of imports from different sources

The policy adopted by the Brazilian authorities is to rely less and less on bilateralism if partner countries use no or only global restrictions on imports. Since the last consultation, and following the tendency to multilateralize our trade, the payment agreement with Turkey was suspended on 15 May 1963, and the trade agreement expired on 12 August 1963. After this, there remained only five payments agreements in force with countries of non-planned economies: with Greece, Iceland, Denmark, Portugal and Israel.

The only discriminatory exchange treatment between convertible and trade agreement currencies has been a 5 per cent discount on some of the latter. Even this discount is being gradually discontinued. In the agreements with non-planned economies the discount has been suspended for Portugal, Greece and Israel. It has also been discontinued for a number of agreements with planned economies.

Besides these bilateral agreements, Brazil is earnestly engaged in the Latin American Free Trade Area (LAFTA). Political and economic considerations led to the setting up of a system of preferential treatment on imports from other Latin American countries. The system was established under Article XXIV:5(a) of GATT, and the liberalization of the intra-zonal trade has caused a great increase in the exchange of goods and services between the countries concerned. Thus, total imports (c.i.f.) from LAFTA countries increased from US\$360 million in 1961 (year of Montevideo Treaty), to US\$525 million in 1963. Total exports (f.o.b.) to those countries increased from US\$298 million to US\$425 million. Total intra-zonal trade rose from an index 100 in 1961 to 144 in 1963, while extra-zonal trade increased only from index 100 to 101. This, however, is only the beginning of what is expected to be a long-continuing progression towards a greater degree of regional specialization.

4. Lists of products affected by the different forms of restriction

The most recent list of products included in the general category is contained in a document dated 31 December 1963 (with supplement) in Portuguese, one copy of which is on file in the secretariat of the GATT.

5. Use of State trading or government monopoly in restriction of imports

There are two cases of substantial State trading in Brazil. The first is the monopoly exercised by the Foreign Trade Department (CACEX) on wheat imports. There is no intention of restriction in this case. Much to the contrary, this monopoly in many cases has enhanced consumption, either by subsidizing the price or by making available, through Public Law 480, a greater quantity than would be possible through normal market channels. Also the import monopoly in this case has the purpose of ensuring that no shortage will occur in this staple food for Brazil's urban population.

The second important case of government import monopoly is that of petroleum and derivatives. This monopoly is exercised by PETROBRAS, the Government oil concern. The legal basis for it is the recent Decree 53,982, of 25 June 1964. Under this Decree, the Government buys oil from the bidder which offers the best conditions. Any offer made by the bidder, as often occurs, to promote exports of Brazilian industrial products is taken into account. When the proposed purchase exceeds a certain amount, it is mandatory that at least 20 per cent of the cost be financed by the exportation of Brazilian manufactures, promoted by the oil exporters. The oil exporter is paid directly from the exchange receipts of the Brazilian export so promoted. These exports do not benefit from the provisions of Instruction 279, of SUMOC.

Various industrial enterprises of the Brazilian Government or in which the Brazilian Government participates conduct their import policy purely on commercial considerations and are therefore not included under this heading.

6. Measures taken last year in relaxing or otherwise modifying restrictions

As was noted above, Brazil had a turning point on 19 February 1964, when SUMOC Instruction 263 allowed the greater part of exchange transactions relating to imports to take place in the free market. The general idea, further reinforced by Instruction 270, was to obtain a balance in the market through the forces of supply and demand, and their effects on the exchange rate. To make the Brazilian currency fully convertible remains the ultimate goal of the Brazilian authorities, and this presupposes, at some stage, the fixing of a parity for our money. However, we will be able to do so only when a reasonable degree of internal stabilization is achieved. Until then, our policy will be to leave the free fluctuating exchange market as unhampered as possible, and the effects of this orientation are easy to see in the modifications which occurred after Instruction 270. Besides easing the procedure for imports the deposits declined from 100 per cent to 50 per cent in the general category, and from 200 per cent to 100 per cent in the special category.

The reduction of bilateralism continued in the period since the last consultation. As we have mentioned, our trade with Turkey is now conducted on multilateral terms. Also, the 5 per cent discount on trade-agreement currencies has been discontinued in many cases, both in the planned and non-planned economies. Among the bilateral agreements with non-planned economies, only those with Denmark and Iceland are still favoured by the discount.

The Customs Policy Council has followed a policy directed toward more liberalization, transferring a great number of items from the special to the general category. Up to 30 June 1964, 232 items had been so transferred.

7. Effects of restrictions on trade and general policy in the use of restrictions for balance-of-payments purposes

The effects of the existing restrictions on trade cannot be precisely measured, for a number of reasons. First, an abnormal situation has existed in the Brazilian balance of payments for years, and in these years the Brazilian economic structure has undergone profound transformations, so that it is impossible, for all practical purposes, to estimate what would be a "normal" level of foreign trade, free from restrictions. Second, existing restrictions do not play a major rôle in the demand for imports, except in the case of commodities in the special category. In other cases the demand for imports is quite inelastic, and would be more or less the same even if most restrictions were abolished. As is frequently mentioned, this makes it difficult to curb our imports. Thus, in recent periods even severe restrictive measures failed to have a noticeable effect on the over-all level of imports.

In this line of thought, the Brazilian authorities have no intention of resorting to restrictive measures, but wish rather to try to promote exports. It is stated in the recently published "Summary" of the Government's programme of economic action on page 29, that "we should concentrate our efforts in the export sector, for it is that part of the balance of payments which presents the best prospects in the short run".

Notwithstanding, the high degree of inflationary instability still existing in the Brazilian economy makes it necessary to resort to temporary restrictive measures in exceptional occasions, like the one which causes the Instruction 280. With the implementation of the Government programme it is expected that these circumstances will be less and less frequent, until full stabilization is achieved.

ANNEX

Texts of Certain Recent SUMOC Instructions

INSTRUCTION NO. 263 DATED 19 FEBRUARY 1964 OF THE
SUPERINTENDENCY OF CURRENCY AND CREDIT, PUBLISHED IN
THE "DIARIO OFICIAL" OF 20 FEBRUARY 1964

The Superintendency of Currency and Credit, in the form of a decision of its Council at a meeting today, and in accordance with what is laid down in Articles 3 letter (h) and 6 of Decree Law No. 7,293, of 2 February 1945, and supported by Law No. 3,244 of 14 August 1957 (Brazilian Customs Tariff Law), has decided to issue the following regulations, without prejudice to other provisions in force:

- I. Exchange operations for the export of merchandise shall be conducted at rates agreed between the parties, with the exception of the cases envisaged in item VII.
- II. Importation of merchandise and financial transfers abroad - the latter being subject to the strict observance of Law No. 4,131 of 3 September 1962 and Decree No. 53,451 of 20 January 1964 which regulates it - shall have their exchange operations conducted in the form of the preceding item and shall be subject to the payment of 100 per cent of the value of the exchange contract, in the terms of item I of Instruction No. 254 of 11 October 1963, and of 200 per cent for the cases specified in item I of Instruction No. 256 of 29 October 1963.
- III. The weekly limit for the purposes of importation, to which item II of Instruction No. 206 of 22 May 1961 refers, shall be maintained at US\$30,000.00 (thirty thousand dollars), this ceiling not to affect, however, imports of products from countries making up the Latin American Free Trade Association (LAFTA), in accordance with item V of Instruction No. 256 of 29 October 1963.
- IV. The importation of wheat, petroleum and its sub-products, and equipment, parts and spares without a national similar, and intended for Petróleo Brasileiro S.A. (Petrobrás), shall be conducted at the rate of Cr\$620,00 per dollar or its equivalent in other currencies.
- V. The present rate for the importation of newsprint, of Cr\$620.00 per dollar or its equivalent in other currencies, shall remain in force for a period of sixty days, at the end of which the advisability of its readjustment will be examined, in relation to the absorption of national production.

VI. Financial remittances for payments of the Brazilian external debt, government liabilities vis-à-vis the Treasury Delegacy in New York, the Eximbank and the International Monetary Fund, loans with a guarantee in gold and other government liabilities of an identical nature, shall be settled at the rate of Cr\$620,00 per dollar or its equivalent in other currencies.

VII. The export of coffee, sugar and petroleum, shall be conducted at the rate of Cr\$600,00 per dollar or its equivalent in other currencies, the contribution quotas for coffee and cocoa being maintained.

VIII. Transfers to the Bank of Brazil of exchange earned by the export of sugar and petroleum shall be made at their total value.

IX. The repass percentage referred to in Instruction No. 262 of 27 December 1963 for coffee, is hereby raised from 80 per cent to 100 per cent.

X. Operations in inconvertible or covenant currencies shall continue to be conducted at the exchange rates established by the Exchange Bureau of the Bank of Brazil.

XI. The present regulations shall apply to exchange contracts closed as from the date of publication of this Instruction.

INSTRUCTION NO. 270 DATED 9 MAY 1964 OF THE
SUPERINTENDENCY OF CURRENCY AND CREDIT, PUBLISHED
IN THE "DIARIO OFFICIAL" OF 11 MAY 1964

The Superintendency of Currency and Credit, in the form of the deliberation of its Council in session on 9 May 1964 and in accordance with what is laid down in Article 3, letter (h) and Article 6 of Decree Law No. 7,293 of 2 February 1945, resolves:

I. The exchange operations referred to in items IV, V, VI and VII of Instruction No. 263 dated 19 February 1964 of this Bureau shall be conducted under the conditions laid down in items I and II of the said Instruction No. 263, with the exception of operations relating to the export of coffee, which shall continue to follow the ruling laid down in the above mentioned item VII.

II. The Exchange Bureau of the Bank of Brazil may contract, quarterly, the exchange operations for the importation of petroleum and its sub-products and, for the current quarter, may fix conditions different from those referred to in the preceding item for fuel oil and liquid gas.

III. The remaining regulations established in SUMOC Instruction No. 263 shall be maintained.

INSTRUCTION NO. 276 DATED 9 SEPTEMBER 1964 OF THE
SUPERINTENDENCY OF CURRENCY AND CREDIT, PUBLISHED IN
THE "DIARIO OFICIAL" OF 10 SEPTEMBER 1964

The Superintendency of Currency and Credit, in the form of the deliberation of its Council in session on 11 August 1964, having in view what is laid down in Articles 47 and 48 of Law No. 4,131 of 3 September 1962 and in conformity with Articles 3, letter (h) and 6 of Decree Law No. 7,293 of 2 February 1945 resolves:

I. To authorize the Foreign Trade Bureau to license, without the acquisition of a "promise of licence", the importation of used machinery and equipment (classified in the general category when new), reconditioned or not, provided the following requirements are met, cumulatively, and the undernoted procedure is observed:

- (a) that they are intended for the importing company's own use;
- (b) that it is proved - by means of a certificate furnished by a specialized and idoneous organization, accepted by the Brazilian Consular Authority charged with the legalization of the shipping documents, and in which the actual value and year of manufacture are shown - that the machinery and equipment:
 - are not obsolete;
 - offer conditions of efficiency and appropriate use;
 - have or have not been reconditioned;
- (c) that they have no national similar or cannot be supplied by national manufacturers in the necessary time;
- (d) that they participate directly in the productive process or are intended for the maintenance of the respective equipment.

II. To establish that, in each case, the interested parties must address themselves, previously, in writing, to the Foreign Trade Bureau, forwarding to it the documents necessary to satisfy the above requirements.

III. To establish that, once it is verified that these requirements have been observed and the other regulation exigencies fulfilled, the interested parties shall be notified by means of a letter which will enable them to arrange for the closing of exchange and, thereafter, obtain the competent import licence.

IV. To revoke Instruction No. 177 of 13 January 1959.

INSTRUCTION NO. 277 DATED 9 SEPTEMBER 1964 OF THE
SUPERINTENDENCY OF CURRENCY AND CREDIT, PUBLISHED IN
THE "DIARIO OFICIAL" OF 10 SEPTEMBER 1964

The Superintendency of Currency and Credit, in the form of the deliberation of its Council in session on 28 August 1964 and in accordance with what is laid down in Article 3, letter (h) and Article 6 of Decree Law No. 7,293 of 2 February 1945 resolves:

- I. To establish that, as from 1 October 1964, the deposits dealt with in items I and II of Instruction No. 275 of 3 August 1964 shall be reduced in the following proportions:
- (a) from 60 per cent (sixty per cent) to 50 per cent (fifty per cent) on the value of the exchange contract for the importation of merchandise referred to in item I of Instruction No. 254 of 11 October 1963, and item I, letters (a) and (b) of Instruction No. 256 of 29 October 1963;
 - (b) from 100 per cent (one hundred per cent) to 90 per cent (ninety per cent) on the value of the exchange contract for financial transfers referred to in item I of Instruction No. 254 of 11 October 1963 and item I, letter (c) of Instruction No. 256 of 29 October 1963.
- II. To revoke items I and II of Instruction No. 275 of 3 August 1964.

INSTRUCTION NO. 278 DATED 10 SEPTEMBER 1964 OF THE
SUPERINTENDENCY OF CURRENCY AND CREDIT, PUBLISHED IN
THE "DIARIO OFICIAL" OF 14 SEPTEMBER 1964

The Superintendency of Currency and Credit, in the form of the deliberation of its Council, in session today, and in accordance with what is laid down in Article 3, letter (h) and Article 6 of Decree Law No. 7,293 of 2 February 1945, resolves:

To modify item III of Instruction No. 215 of 25 September 1961, revised by Instruction No. 250 of 3 September 1963 to read as under:

"III - The Bank of Brazil may grant refinancing to exports that comply with the conditions indicated in items I and II, on the following bases:

- (a) operations for periods not exceeding 360 days from the date of negotiating with the Bank: by the Exchange Bureau, for the total value of the part financed;
- (b) operations for periods in excess of 360 days: by the Foreign Trade Bureau, for the total value of the part financed redeemable in the first 360 days from the date of negotiating with the Bank and for 75 per cent of the balance of the financing payable to the remainder of the period;
- (c) when the payment at sight, made by the importer in the form of item II, is in excess of the minimum of 20 per cent fixed therein, the refinancing of the part payable in the period subsequent to the first 360 days may, in proportion to that excess and at the discretion of the Foreign Trade Bureau, go beyond the index of 75 per cent indicated above."

INSTRUCTION NO. 279 DATED 10 SEPTEMBER 1964 OF THE
SUPERINTENDENCY OF CURRENCY AND CREDIT, PUBLISHED IN
THE "DIARIO OFICIAL" OF 14 SEPTEMBER 1964

The Superintendency of Currency and Credit, in the form of the deliberation of its Council, in session today, and in accordance with what is laid down in Article 3, letter (h) and Article 6 of Decree Law No. 7,293 of 2 February 1945, resolves:

I. To permit industrial enterprises which export the products of their manufacture and which prove to the Exchange Bureau of the Bank of Brazil that they have liquidated the corresponding exchange contracts, to utilize, with exemption from the compulsory deposit and the financial charge dealt with in Instructions Nos. 275 and 277 of 3 August 1964 and 3 September 1964 respectively, special quotas up to the limit of 50 per cent (fifty per cent) of the exchange accruing from the exportation effected, for the following purposes:

(a) without prejudice to the weekly quotas assured by the régime in force:

1. the importation of raw materials, parts or pieces classified in the general category, not having a national similar and employed in the manufacture, preparation or packaging of their products;

2. the importation of machinery and equipment classified in the general category, not having a national similar and intended for the industry itself, the current criteria and regulations of a general nature being observed;

(b) the payment of financial commitments abroad, registered with the Superintendency of Currency and Credit in conformity with the legislation in force.

II. To authorize the Foreign Trade Bureau to concede exemption from exchange cover in the case of drawback operations, against the guarantees it may consider convenient.

III. To authorize the Exchange Bureau of the Bank of Brazil, in the cases dealt with in item I, (a), 1 and against suitable guarantees:

(a) to concede the special exchange quotas prior to the export of the manufactured goods, when referring to imports subject to drawback or in fully justified special cases; and

(b) to permit the simultaneous closing of the purchase and sale of exchange, when referring to credit exports, with observance of the current criteria and regulations of a general nature and so that the period of the exchange sale contract is equal to or greater than that of the exchange purchase contract.

IV. To revoke Instruction No. 249 of 3 September 1963.