1960 CONSULTATION UNDER ARTICLE XII:4(b) WITH BRAZIL

Basic Document for the Consultation

1. Legal and Administrative Basis of the Restrictions

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, 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 the above legal acts.

2. Methods used in restricting Imports

The official import control is guided towards the goal of the overall economic development policy and relies mainly on broad and automatic devices for its execution.

Direct allocation of exchange to individuals and firms is made effective by the authorities only in case of highly essential items which deserves favourable import rates, according to the law. The general rule is that the distribution of foreign currencies to individuals and firms is made through the exchange market, the interference of the authorities being limited to the control of the total amount of exchange that flows into the market.

Prepared by the secretariat but supplemented and completed by the Brazilian Authorities.
(A) Imports subject to the Purchase of Exchange Certificates at Auction

For the purpose of auctioning foreign exchange, commodities are classified in two categories: "general" and "special", on the basis of the relative degree of essentiality of the commodities to the national economy.

The "general" category includes raw materials, industrial equipment and other capital goods, as well as essential consumer goods which are in short supply in the domestic market. All other commodities are in the "special" category. The classification, and the allocation of various foreign currencies to each category, are determined by the Council of SUMOC, taking account of the traditional pattern of imports, commitments under bilateral or multilateral agreements and the requirements of the Brazilian economy. A small proportion of exchange is at present allocated for imports in the "special" category. Particular currencies are sometimes offered at auctions without limitation of amount.

Special auctions of foreign exchange are held for certain imports used exclusively in agriculture, such as specified fertilizers, insecticides, fungicides and fumigants, for imports of parts of cars or cars having certain specifications, and occasionally for imports of particular commodities (e.g. Christmas decorations) from specified countries. Premia obtaining in such auctions have been considerably lower and close to the set minimum (Cr$82 - Cr$83 per United States dollar).

(B) Imports not subject to the Auction System

(i) Public sector and economic development: Government, State and Municipal bodies, autonomous and semi-autonomous institutions and semi-public enterprises are allowed to obtain foreign exchange for the import of specified commodities at preferential rates of exchange and without the purchase of exchange certificates at auction. The preferential import rate applies to more goods and services specified in the law or related to projects considered highly essential to the economic development of the country. Foreign exchange is supplied by the Exchange Department of the Bank of Brazil within the limits set in the foreign exchange budget.

(ii) Imports by private concerns of equipment, machinery and other items which the Council of SUMOC considers to be highly essential for economic development in accordance with the Instruction No. 166 of 4 October 1958, also benefit from a preferential rate of exchange.

The following imports are enjoying preferential treatment at the effective rate of exchange of Cr$100 per United States dollar (official rate of exchange Cr$18.92 plus surcharge Cr$81.08):

(I) Importation of equipment, components and spare parts, without a national equivalent shall be considered essential to the economic development of the country when they represent investments destined for:
(a) the manufacture of agricultural equipment of unquestionable utility to the country;

(b) installation of silos and cold storage plants when fully justified by the exploitation of a cold storage industry;

(c) the manufacture of fertilizers, insecticides and similar products for exclusive use in agricultural and cattle-raising activities;

(d) the production, transmission and distribution of electric power by public service concessionaries as long as the foreseen revenues are not re-adjusted by the entity granting the concession in such a manner as to make the exchange subsidy unnecessary; and

(e) the production of mineral coal.

(II) (f) importation of newsprint and paper imported by publishers or book publishers, destined to their publication, abiding by the disposition of Article 50, paragraph 3 of Law No. 3,244 of 14 August 1957;

(g) importation of fertilizers, insecticides and similar products destined for exclusive use in agricultural and cattle-raising activities, except for compound and complex fertilizers, in granules or not;

(h) importation of wheat and petroleum and its by-products, referred to in Law No. 2,975 of 27 November 1956;

(i) importation of equipment, components and spare parts, without a registered national equivalent, destined for prospecting and production of crude oil and for refining, pipelines and maritime transport of petroleum and its by-products;

(j) importation of equipment, components and spare parts, without a registered national equivalent, destined for journalistic enterprises, through previous consultation with the respective syndicate, and depending on the fulfilment of the conditions established in Law No. 1,386 of 18 June 1951;

(k) importation of equipment, components and spare parts, without registered national equivalent, destined for book publishers;
(1) importation of maps, books, newspapers, magazines, similar publications which deal with technical, scientific, didactic or literary material, written in foreign languages, as well as works printed in Portugal, in Portuguese, and religious books, written in any language and from whatever origin.

3. **Treatment of Imports from Different Sources**

Exchange certificates supplied on the basis of auction are valid for specified sources of imports, viz: (i) countries, which use convertible currencies, (ii) bilateral agreement partners (clearing account currencies), (iii) other countries (non-convertible currencies).

The system of foreign exchange auctions does not apply to imports from Bolivia and Paraguay, with which the trade-and-payments agreements in force provide for payment settlement in free market, due to certain conditions arising from the special nature of trade with those countries which Brazil maintains trade agreements.

For imports from other trade agreement partners, foreign exchange is allocated in ad hoc auctions. Exchange certificates are auctioned in the light of the availability of the partner's currency, and in accordance with bilateral quota commitments.
4. Measures taken in the Last Year in Relaxing or otherwise Modifying the Restrictions

During 1959 Brazilian authorities took additional steps towards progressive flexibility and liberalization of exchange controls, the main feature being a larger inter-connexion between the official market and the free market.

Relevant export items, on the one side, and all freight and insurance payments for imports, on the other side, were transferred to the free market, where no control whatsoever is exercised by the authorities (Instruction No. 181, of 22 April 1959, of the SUMOC).

Another important step was the fixing of a minimum bid level for the auctions of bilateral agreement currencies, on the basis of 85 per cent of previous week average exchange rate for convertible currencies. The Government's objective was to substantially reduce possible differentials between exchange rates for convertible currencies and rates for bilateral agreement currencies, thus avoiding the disorderly broken cross rates registered in the first phase of the exchange auction system.

Prior to Instruction No. 181 of 22 April 1959, exchange bought at auctions normally comprised the c.i.f. value of the goods to be licensed by CAEX. By virtue of this Instruction, however, exchange quotas to be offered for sales auction came to include the f.o.b. value of imports only, the value of the corresponding freights and insurances being settled up on the free market.

By such a measure, not only did the import trade gain more foreign currencies at auctions for the buying of goods as also saw its purchasing power increased owing to a lower cost of the free market exchange rates as compared to those at auctions of the general category (official market).

Although in 21 December 1959 Instruction No. 190 stipulated that importers should deposit 80 per cent of the value of the contracted exchange for a long term settling up of freights and insurances of goods to be imported, even so the retention (the objective of which was above all to avoid speculative rises on the free exchange market) represents a restriction perceptually smoother than a previous payment of the agio on the exchange brought at auction for the same purpose, as it was in force before the setting forth of Instruction No. 181.

On the other hand, as a result of the policy of export encouragement as promoted by Brazil's monetary authorities, the amount of availabilities in convertible currencies offered at auctions of the "general" category has been increased lately, thus diminishing also, under this aspect, the quantitative restrictions in force in the exchange system of importations.

Really, from November 1959, availabilities in convertible currencies to be weekly auctioned, under the general category, have been augmented by $1 million, an increase which was followed by another one, in February 1960, for an additional amount of $300 thousand weekly.
For such a reduction of restrictions, the positive results that Brazil's monetary authorities are obtaining through their encouragement policy regarding general exportation have significantly contributed, such a policy being consolidated by Instruction No.192 of 30 December 1959, through a greater liberality and better remuneration of our exportable surpluses, the bills of exchange which came to be traded on the free taxes market with the exception of those covering coffee, cocoa, mamona berries and mineral crude oil and sub-products.

Finally, it should be noted that since the enforcement of the new Tariff Law, the area of trade agreement currencies has been substantially reduced.

In 1958 and 1959 the use of trade agreement currencies with Paraguay and Bolivia were discontinued.

In 1959, the limited convertibility regimen for imports from Great Britain, Western Germany, Benelux, France, Italy and Austria was suspended in favour of a freely convertible system.

Recently the bilateral payments arrangements with Japan and Sweden were suppressed. At the moment identical steps are under consideration in connexion with other Scandinavian countries.

5. **Effects of Restriction on Trade, and General Policy in the use of Restrictions for Balance-of-Payments Reasons** (Statement by the Brazilian Government)

The establishment of restrictions for balance-of-payments reasons is intended to limit imports down to the level of available exchange. Among these restrictions there are no import prohibitions.

In the use of the restrictions, which is basically limited to the allocation of foreign exchange to a few broad groups of commodities, the main purpose being the maintenance of a composition of imports according to the minimum requirements of the Brazilian economy.

Consequently, the most important effect of the restrictions on trade must be looked at from the composition of imports related to those broad groups.

Before the changes introduced on the occasion of the tariff reform in 1957 the composition of imports was:

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<td>1st</td>
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<td>28</td>
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Taking into account that in a broad sense the criteria for classification of goods in the five categories was:

1st category - basic raw materials and fertilizers;
2nd " raw materials, chemical products and consumption goods whose supply in the domestic market is not satisfactory;
3rd " production equipment for basic industries;
4th " other equipment;
5th " other goods

The relevant items in the imports composition as above, were the following: basic raw materials, raw materials, chemical products, and equipment.

After the tariff reform, the composition of imports is the following:

"general" category = 96 per cent
"special" category = 4 per cent

The comparison between the composition of imports pre and post tariff reform, considering that the prevailing "general" category includes the old 1st, 2nd, 3rd and 4th categories, shows that no substantial changes have occurred.

The Brazilian Government, as a general policy, does not apply import restrictions for protective purposes. Furthermore, it should be noted that the Customs Policy Council is continually transferring products from the "special" category (less favoured) to the "general" category.

The only case of a transfer from the "general" to the "special" category related to fertilizers and was a device for maintaining the framework of the new law. The favourable treatment dispensed to said goods through "ad hoc" auctions.

The Brazilian Government in its general policy, aware of the fact that the efficiency of the efforts to restore balance-of-payments equilibrium is to be judged not by the excellence of the system of restrictions but by the speed in which shortages are eliminated and restrictions rendered unnecessary, tries to improve their exports by the measures already mentioned.

Nevertheless, the behaviour of the international market for the Brazilian main export commodities does not authorize optimistic forecasts.