

The Passing of the Profit Remittance Limitation Law during the Goulart Administration and Brazilian and Foreign Entrepreneurs (1961-1964)¹

A aprovação da lei de limitação de remessa de lucros no governo Goulart e o empresariado nacional e estrangeiro (1961-1964)

Felipe Pereira Loureiro*

RESUMO

O artigo analisa o processo de aprovação da lei de limitação de remessa de lucros pelo Congresso Nacional durante o governo Goulart (1961-1964), tendo como foco as reações e as opiniões de empresários nacionais e estrangeiros. Argumenta-se que o entendimento das razões por detrás da aprovação da lei passa por dois aspectos pouco abordados pela literatura: o papel das pressões exercidas por setores empresariais nacionalistas sobre os parlamentares, e o das articulações do presidente Goulart para retomar plenas prerrogativas presidenciais. Acredita-se que as conclusões são relevantes na medida em que trazem novas evidências acerca do papel do empresariado para a aprovação de uma das mais importantes leis da administração Goulart.

Palavras-chave: remessa de lucros; capital estrangeiro; João Goulart.

ABSTRACT

The paper analyzes the passing of the Profit Remittance Limitation Law by the Brazilian Congress during the administration of President João Goulart (1961-1964), focusing on the reactions and opinions of foreign and domestic entrepreneurs. We argue that to understand the reasons behind the passing of the law we need to look at two aspects relatively neglected by the literature: first, the lobbying by some domestic entrepreneurs of members of the Brazilian congress; and, second, President Goulart's maneuvers to regain full presidential powers. We believe our conclusions are important as they present new evidence about the role played by part of Brazilian entrepreneurs in the passing of one of the Goulart administration's most important pieces of legislation.

Keywords: profit remittance; foreign capital; João Goulart.

* Instituto de Relações Internacionais, Universidade de São Paulo (IRI-USP). São Paulo, SP, Brasil. felipeloureiro@usp.br ²

The beginning of the 1960s was marked by strong imbalance in the Brazilian balance of payments. The increase in foreign debt and the strong influx of foreign capital which occurred during the Kubitschek administration (1956-1961) culminated in the growing exit of funds in the form of interest, profits, and dividends. Furthermore, the pressure that these payments exerted on the debt servicing account was even more serious to the extent that the capacity of the country to create foreign reserves was falling. The value of exports was reduced in the second half of the 1950s, dragged down by low coffee prices and the range of imports was increasingly inflexible. In addition, although the advance of the process of substitute industrialization had resulted in a reduction in the global coefficient of imports, it increased dependency on certain types of products, especially fuels, raw materials, machinery and equipment. A reduction in imports of these goods signified a lower GDP growth rate. As a result, there was a need for a debate in the country about the measures to be taken to reduce the difficulties in the balance of payments (Mesquita, 2014; 1992, Chapter 1; Monteiro, 1999, Chapter 2).

It was in this context that the proposal to impose limits on the remittances of profits and dividends of foreign capital gained strength in the National Congress, culminating in the approval in September 1962 of Law 4.131, better known as the Profit Remittance Limitation Law. This legislation stipulated quantitative restrictions on the remittances of profits and dividends of foreign investments in Brazil. Foreign investors could only send abroad a value equivalent to 10% of the company's corporate capital registered with the Superintendency of Currency and Credit (*Superintendência da Moeda e do Crédito* – Sumoc). Remittances above this limit would be classified as the return of capital, entering into another type of taxation and involving the reduction of the capital registered for the purposes of future remittances. It is also stipulated that profits higher than 10% of the registered capital, and which were not sent abroad as remittances, could not be added to the company's capital. As a result, reinvestments made after the enactment of the law could not be entered into the company's books for the purposes of future remittances. The passing of the law created strong protests from foreign investors, and in the vision of some authors was the principal factor responsible for the abrupt fall in external investments in the country between 1962 and 1964 (Monteiro, 1999, p. 2).

This article has the purpose of analyzing the passage of the Remittance Limitation Law through the Brazilian Congress, highlighting the actions and reactions of Brazilian and foreign entrepreneurs. The Remittance Limitation

Law perhaps was one of the most controversial laws of the Goulart administration, comparable with the president's defense of the need to pass the basic reforms, amongst which were agrarian and tax reform. Despite this, with the exception of some sparse references, few studies have focused on the question (Dulles, 1970, p. 177; Skidmore, 2010, pp. 269-270). Those who have done so have emphasized the debates between parliamentarians, not really discussing the conditions which allowed its passing and the manner in which the actions of entrepreneurs influenced the process (Gennari, 1999, Chapter 2).

More specifically, this paper aims to answer a question which, *a priori*, appears a paradox: how is it possible to understand the passing of a leftwing law, such as the law limiting the remittance of profits, in a Congress which had a conservative majority? The few authors who tried to resolve this problem, such as Thomas Skidmore (2010, p. 270), emphasized that the nationalist deputies, despite being a minority in the parliament, were capable "of forming a majority exploring the generalized suspicion of foreign investors which moderate deputies generally shared."³ Although it is plausible, this explanation seems insufficient to us.

To reflect on the theme, the article will analyze the position of Brazilian and foreign businessmen from the commercial and industrial sectors. Public and confidential sources will be used from regional interest groups, especially entities from the states of Guanabara, Rio de Janeiro, and São Paulo. The corporatist class representation structure in Brazil, by conceding similar weights to federations within national associations, tended to increase the relative importance of state entities to the detriment of national representation bodies. (Leopoldi, 2000, Chapter 7; Schmitter, 1972). This explains why we have privileged state bodies. It should be clarified that, with the exception of the Federation of Industries of the State of São Paulo (*Federação das Indústrias do Estado de São Paulo* – Fiesp), which did not give us access to confidential documents, the other entities authorized us to carry our research in their private archives. Although the loss was significant, since Fiesp was one of the most important entrepreneurial pressure groups in Brazil, and where the majority of nationalist entrepreneurs was concentrated, this limitation was in part compensated by the consultation of official US sources. US diplomatic authorities had a wide range of contacts in Brazil, presenting meticulous reports to Washington. Among the members of this extensive network included political leaders and high ranking entrepreneurs, including representatives of Fiesp.

Some writers have emphasized that divisions within the entrepreneurial class in Brazil deepened in the middle of the 1950s, particularly amongst those

which had little or no participation of foreign capital in their business, defending positions identified as ‘nationalist,’ and those which had strong links with foreign investors, whether they were associated with them or were their representatives in Brazil (Dreifuss, 1981, Chapter 3). This division became clear in the class based associations. Some business groups, such as the Commercial Association of Rio de Janeiro (*Associação Comercial do Rio de Janeiro – ACRJ*), the Federation of Industries of the State of Guanabara (*Federação das Indústrias do Estado da Guanabara – Fiega*) and, to a lesser extent, the Commercial Association of São Paulo (*Associação Comercial de São Paulo – ACSP*) had been hegemonized by international entrepreneurs or those associated with them, presenting a wide-ranging convergence with the positions defended by the Foreign Commerce Chambers. In fact, the foundation of the Institute of Research and Social Studies (*Instituto de Pesquisa e Estudos Sociais – Ipes*) in November 1961 – a organization which from then on brought together the principal foreign and associated leaders in Brazil, and which would have an important role in the civil networking of the 1964 coup – emerged exactly in the context of the passing of the profit remittance law by the Chamber of Deputies, with a strong presence of members of ACRJ and Fiega (Dreifuss, 1981, pp. 163-165). São Paulo industries, however, had a greater heterogeneity. Within the Federation of Industries of the State of São Paulo (Fiesp) could be found, according to the words of Leopoldi (2000, p. 273), a more balanced division between the ‘nationalist’ and ‘foreign’ wings, which shared strategic positions within the body. The 1962 Fiesp election, in which Raphael Noschese was elected president, resulted from an agreement between the two wings, avoiding a split (Leopoldi, 2000, p. 275). It should be noted that São Paulo state concentrated more than half of the industrial capacity of the country in this period, as well as practically monopolizing the production of capital-intensive manufactured items (Moraes, R., 2014; Negri, 1996, p. 117). It was in São Paulo above all that laws impacting business performance tended to create the greatest discussions.

The article presents evidence which highlights the importance of entrepreneurs in the debates about the passing of the Profit Remittance Limitation Law, especially those who defended a nationalist line for Brazilian economic development. This conclusion is relevant because it suggests a more complex scenario about the role of the so-called ‘national bourgeoisie’ during the Goulart administration. Even though the entrepreneurial sector had assumed conservative postures in relation to the distributive reforms (agrarian and tax) and the worsening of social conflicts (strikes, manifestations), it can be seen

that in questions like the limitation of profit remittances, there was space for convergence between progressive wings of the entrepreneurial sector and workers.⁴ It should be noted that the unity of nationalist sectors was defended by important leftwing groups in Brazil, especially the Brazilian Communist Party (PCB), which would later be interpreted as having been infeasible due to the support of the business for the 1964 coup (Prado Jr., 1966, pp. 108-111; Moraes, M., 2014, p. 55). Although the article does not refute this position, our conclusions suggest that the pre-coup social context was more complex than is normally supposed.

A second relevant conclusion of this paper refers to the role of President João Goulart during the voting of the remittance limitation bill in Congress. The article shows that Goulart's participation was marked by two moments: in the initial phase, when the bill was passed by the Chamber of Deputies at the end of 1961, Goulart did not really play any role. However, later, when the bill was passed with modifications in the Senate and returned to the Chamber of Deputies in the middle of 1962, Goulart's role was extremely significant. It is argued that the president was motivated in a more incisive manner in the second stage for pragmatic reasons and not for reformist ideals. In other words: Goulart had used the slogan of the basic reforms (including the question of the remittances of profits) as a means to pressurize Parliament to approve the anticipation of the plebiscite which would decide about the continuity of parliamentarianism. What also calls attention is the fact that this aspect has been little dealt with in the literature, despite its relevance.⁵

In addition to this introduction, the article has three sections. The second section discusses the passage of Celso Brandt's Bill limiting the remittance of profits through the Chamber of Deputies in November 1961. After this, the case of Mem de Sá's bill in the Senate in July 1962 is looked at, as well as its modification by the Chamber of Deputies in August of the same year, culminating in the Profit Remittance Limitation Law. Presented in the last section are the conclusions.

THE PASSING OF CELSO BRANDT'S PROFIT REMITTANCE BILL IN NOVEMBER 1961

Celso Brandt's Profit Remittance Limitation Bill, passed on 29 November 1961 by the Chamber of Deputies, established severe restrictions on the action of foreign capital in Brazil.⁶ Among its principal determinations, the most

famous was the imposition of an annual limit for the remittance of profits and dividends corresponding to 10% of the corporate capital of foreign companies. The text prohibited any type of reinvestment from being included in the accounting books as part of a company's assets, which would negatively influence the calculation of remittances. It was also established that foreign banks were prohibited from having deposit portfolios in Brazil, respecting the principle of reciprocity. Foreign firms were also forbidden from acquiring operating Brazilian companies and from receiving loans from Brazilian public banks. Finally, companies which camouflaged export and import values for the purposes of illegal remittances were prohibited from participating for an undetermined time from foreign trade in Brazil (*Câmara aprova...*, *OESP*, 30 nov. 1961). The communists effusively praise the bill, which represented, according to the PCB, a victory of nationalist forces over imperialism (*Que é o projeto...*, *Novos Rumos*, 1961).

The criticisms of entrepreneurs, notably from foreign companies or those associated with them, were scathing. Days after the text had been passed, members of the US National Foreign Trade Council criticized the project to the Secretary of State Dean Rusk, highlighting the need to prevent it being passed in the Brazilian Senate.⁷ Business entities in Brazil also manifested their profound discontentment with the Chamber of Deputies' attitude, seen as 'ruinous' for attracting foreign capital.⁸ According to the president of Fiesp, the profit remittance law would condemn Brazil to 'stagnation' (*Remessa de lucros...*, *OESP*, 1 dez. 1961). Giulio Lattes, director of the São Paulo Commercial Association (ACSP) and Chilean representative in the Council of Foreign Trade Chambers of São Paulo, classified the text as "an open road to the introduction of communism in Brazil."⁹ According to Rui Gomes de Almeida, president of the Commercial Association of Rio de Janeiro (ACRJ), linked to US and Canadian business interests, and one of the principal leaders of Ipes, the Brandt Bill created 'insuperable problems' for the economy. Even if the Senate annulled the "disastrous proposal," it would not be possible to regain immediately the trust of international investors (*A indústria paulista...*, *OESP*, 6 dez. 1961; Dreifuss, 1981, p. 502, 526).

As well as analyzing the perception of entrepreneurs, or considering the economic implications of the bill – in part responsible for the fall in the influx of Foreign Direct Investment (FDI) after 1961 –, it interests us to understand the conditions which allowed it to pass (Mesquita, 1992, pp. 145-146).¹⁰ Many scholars implicitly assume that the Brant Bill was passed because the presidency was in the hands of João Goulart, in other words, under the command

of a president identified in the national imagination with the struggle for the basic reforms, the nationalist political ideal, and the defense of workers (Ferreira, 2011, p. 278, 293, 317; Moreira, 2014, chapter 4; Moraes, M., 2014, p. 54; Silva, 2014, pp. 30-31).¹¹ However, there are problems in interpreting the question in this manner. First, the evidence points to a restricted participation of President Goulart in the negotiation process to pass the bill, at least during the initial vote in the Chamber of Deputies.¹² Given his delicate political situation at the beginning of his mandate, the president appeared more interested in cultivating a good relationship with the elites, even groups associated with foreign capital, than in pressurizing the Parliament to pass the basic reforms (*Inovações do projeto...*, OESP, 23 set. 1961).¹³ Second, even if Goulart had acted secretly with members of congress, the Council of Minister, which divided authority with Jango had marked a clear proposal in favor of a more moderate version of the proposal. Evidence suggests that the order of the government leadership in the Parliament against the Brandt Bill had been disrespected by the base of allied parties (*Remessa de lucros...*, OESP, 1 dez. 1961).¹⁴ Finally, and this is perhaps the most relevant aspect, even hypothetically assuming that even the Council of Ministers had adhered to the struggle for the approval of the project, its passing by the Chamber could not have been approved with such a broad margin (150 votes in favor and only 61 against), taking into account the vast presence of conservatives in Congress.¹⁵ The US ambassador in Brazil, Lincoln Gordon, classified the easy passing of the bill as a “disturbing factor.” In fact, it was exactly the significant presence of conservative groups in Parliament which prevented the approval of reformist projects defended by Goulart in 1963, including agrarian reform (Figueiredo, 1993, Chapter 3). It is therefore necessary to find more solid reasons to explain the passing of the Brandt Bill in the Chamber of Deputies.

An alternative is to analyze the perceptions of entrepreneurial representatives about the subject. What calls attention here is the fact that the same surprise caused today had been demonstrated at the time by entrepreneurs and even by politicians in the Parliament. In a debate in the Federation of Industries of the State of Guanabara (Fiega) with the presence of Federal Deputy Othon Mader (*União Democrática Nacional*, UDN-PR), member of Parliamentary Democratic Action (*Ação Parlamentar Democrática*, ADP), the board of the Carioca federation expressed its surprise with the passing of the project, especially because 72 of the 155 members of ADP had voted in favour of the proposal.¹⁶ Mader answered that the isolation of the recently opened federal capital

and the fact that most members of Congress only had electoral interests had allowed that the 'left-wing leaders' to control Congress.¹⁷

In the Commercial Association of São Paulo (ACSP), the directors demonstrated the same sense of disorientation. One of the ACSP councilors, Azevedo e Sá, said that he had had the opportunity to talk with 'various deputies' and he had been impressed by the fact that many of them had not been "aware of the importance of the decision and the immense prejudice this law would cause Brazil." Azevedo e Sá even stated that numerous deputies had asked him: "why did you (*from ACSP*) not clarify this before?" The director of ACSP concluded similar to what had been presented to Fiega: "When a project like this comes, the communists unite... seeking, behind a curtain of smoke, to cover up what this project is about and to present the aspect of nationalism and individuals hear them."¹⁸

Similarly, during the investigations made by the US ambassador, one of the diplomatic representatives heard a similar explanation from Deputy José de Souza Nobre (*Partido Trabalhista Brasileiro*, PTB-MG). According to Souza Nobre, most of those who had voted in favor had been 'tricked' by the tables and figures presented by the 'communists' before the vote, or they had the intention of gaining popularity with progressive groups in society, throwing the political cost of the project on the Senate.¹⁹ It can be seen that the explanation of personalities from the period appears very like the interpretation present in the historiography, as exemplified in Skidmore's work.

Is it thereby possible that the cunning and ingenuity of leftwing groups in the Parliament, allied to the electoral interest of some deputies, had been capable of passing the Brandt Bill by such a wide margin? From what it appears, no. These factors may even have contributed to this result, but there is evidence that something else had been even more determinant: the lobbying of members of Congress by nationalist industrialists, notably the so-called 'nationalist group' of Fiesp. The term is used by Maria Antonieta Leopoldi (2000, p. 273) to describe the industrial wing within the Federation which had little or no contact with foreign capital. Among its principal representatives were important industrialists and leaders of key federations of São Paulo industry, including José Ermírio de Moraes Filho (Union of Cement Industries), Fernando Gasparian (Union of the Spinning and Weaving Industry) and Ramiz Gattás (Union of the Auto-Parts Industry).

Ermírio de Moraes was the owner of the Votorantim group, the largest nationally owned manufacturing conglomerate in Brazil, with more than fifty companies, distributed among the areas of cement, aluminum, chemicals, and

textiles (Leopoldi, 2000, p. 273; Queiroz, 1972, pp. 65-68, 157). As well as being from the textile industry, Fernando Gasparian had enormous political capillarity in Brazil, even among the deputies from the Nationalist Parliamentary Front (FPN) in Congress. When the Ministry of Labor intervened in the National Confederation of Industry (CNI) in April 1961, due to the supposed irregularities of the then president Lídio Lunardi, Gasparian assumed interim control of the organization between October 1961 and January 1962 (actually coinciding with the exact moment when the Brandt Bill was passed by the Chamber of Deputies) (Leopoldi, 2000, p. 274). Finally, Ramiz Gattás, also an important industrialist from the auto-parts sector, led the union of one of the most dynamic branches of manufacturing in the country, stimulated by the boom in the production of vehicles at the end of the 1950s (Gattás, 1981). Operating out of São Paulo – a state in which was concentrated more than 55% of the value of manufacturing production in the country in 1962 (Queiroz, 1972, p. 157) –, there was no doubt that these industrialists led a group with great power to apply pressure to achieve their interests.

At the end of the 1950s, nationalist manufacturing leaders were harshly critical of what they considered to be the excessive benefits conceded to foreign capital by the Kubitschek administration, especially the maintenance of Sumoc Instruction 113, issued by the brief administration of Café Filho (1954-1955) (Caputo; Melo, 2009, pp. 513-538). The theme of the disciplining of foreign capital through the remittance of profits was frequently cited by nationalist industrial leaders as a form of reducing what they considered was an excessive penetration of foreign capital in the country. In fact, this rapid entrance of foreign firms and their associates strengthened domestically owned foreign groups and industrial entities (also within Fiesp), who defended the maintenance of a widespread freedom of investment in Brazil (Dreifuss, 1981, Chapters 2-3; Gattás, 1981, pp. 305-306; Leopoldi, 2000, Chapter 8).

With the economic deceleration at the beginning of the 1960s, the conflict between nationalist and foreign business groups became stronger. The passing of the Brandt Bill by the Chamber of Deputies was a striking episode in this sense. Various indications point to a determinant role played by nationalist industrialists here. For example, in a conversation with Ambassador Lincoln Gordon in December 1961, Augusto Schmidt, advisor of the senator and former president Juscelino Kubitschek, commented that conservative deputies, such as Mendes de Moraes (no party-GB), had “sold their votes to the industries of São Paulo.”²⁰ In the same period, in a meeting with members of the State Department, US bankers stated that the Brazilian ambassador in

Washington, Roberto Campos, said that the approval of the project had resulted from a “profane alliance between nationalists, leftwing elements, and Brazilian industrialists.”²¹ Finally, after obtaining information from confidential sources, Lincoln Gordon noted that “some large industrialists, notably from São Paulo,” through “efforts probably coordinated with nationalist-left-wingers,” had encouraged “Congress and the Executive to approve a nationalist legislation, in order to reduce foreign competition.”²²

The hypothesis that nationalist industrialists had been involved in the passing of the Brandt Bill was not restricted to the secret communications of the US embassy. A day after the law was passed, *Correio da Manhã* newspaper reported that Fiesp had submitted a memorial to President Goulart and Prime Minister Tancredo Neves with proposals about the disciplining of foreign capital in a similar manner to those contained in the Brandt Bill. The newspaper also identified the industrialist José Ermírio de Moraes Filho, heir of the Votorantim group, as one of the principal defenders of the remittances law (A Fiesp e a remessa..., *OESP*, 15 dez. 1961). In response, the president of Fiesp, Antônio Devisate, stated that the Federation had offered a memorial to the federal authorities, but that the suggestions about foreign investment did not coincide with the lines of the Brandt Bill (A indústria paulista..., *OESP*, 6 dez. 1961). According to Fiesp, Devisate concluded, the law passed by the Chamber of Deputies would condemn “our country to the reduction of investment that would cause a stagnation in the march of its development,” since it had not distinguished “false investment from legitimate foreign capital” (Remessa de lucros..., *OESP*, 1 dez. 1961). José Ermírio de Moraes Filho also refuted the accusation that he had put pressure on the deputies for the law to be passed (Objecções à lei..., *OESP*, 7 dez. 1961).

The analysis of the controversial memorial of Fiesp about the subject, written by José Ermírio de Moraes Filho himself shows, however, that the entity had proposed various measures aimed at disciplining the ‘return of foreign capital’ to its countries of origin. While, on the one hand, there did not appear in the memorial one of the most controversial articles of the Brandt Bill (which stipulated the annual limits of remittances of up to 10% of the registered capital, without taking into account future inversion), on the other hand Fiesp asked that “the return or transfer of the equivalent of foreign investment without currency coverage... can only be authorized five years after it entered country, in annual parcels of 20%.” Taking into account that foreign investments ‘without exchange coverage’ (made in accordance with Instruction 113) reached a peak under the Kubitschek administration, the implementation of

this demand would certainly hinder the interests of foreign investors and their Brazilian associates. It is not possible to know up to which point it was negotiated with leftwing deputies, being changed for others which appeared in the final version of the bill, but it is a fact that a Fiesp group defended more rigid controls on foreign capital, and this segment of the business sector had some weight (apparently determinant) in the passing of the Brandt Bill.

Antônio Devisate, president of Fiesp, opposition to the remittances law can be interpreted as a form of disguising his organization's relationship with the passing of the bill, or as an expression of the foreign wing of Fiesp against the measure. The actions of Fernando Gasparian, the textile leader of São Paulo and then president of CNI, also appears to have been fundamental in the pressure exerted on members of Congress. In an editorial in *Última Hora* newspaper, João Pinheiro Neto identified Gasparian and José Ermírio de Moraes Filho as the two principal figures responsible for the passing of the bill (Editorial, *Última Hora*, 5 jan. 1962). Similarly, according to José Gregori, who would become an advisor to San Tiago Dantas in the Ministry of Finance in 1963, Fernando Gasparian played a fundamental role in the lobbying to pass the law.²³ Evidence also points to the emergence of Ipes in November 1961 as being in part a response of the foreign business and associates group, so that foreign business sectors could have greater influence on Parliament, preventing the passing of similar nationalist bills in the future (Loureiro, 2012, pp. 222-224). What can, thus, be noted is a clear division of positioning between national entrepreneurs and foreign ones (and those associated with them) about relevant public issues. This division had already appeared in the 1950s with the question of Instruction 113 and was reinforced with the debate on the remittances limitation law (Leopoldi, 2000, Chapter 5).

THE MEM DE SÁ BILL AND THE PASSING OF THE PROFIT REMITTANCES LIMITATION LAW, SEPTEMBER 1962

The passing of the Brandt Bill in November 1961 triggered the mobilization of conservative groups in Congress, stimulated by Ipes leaders, to prevent it becoming a law.²⁴ At the beginning of 1962, a mixed commission was formed consisting of senators and federal deputies to prepare a new proposal, removing the most radical terms from the bill. The relator of this conciliatory proposal was the Senator Mem de Sá (*Partido Libertador*, PL-RS). After months of negotiation between the parliamentarians and conversations with representatives

from civil society, Mem de Sá's bill was presented to the Senate in June 1962 (Propostos à comissão.... *OESP*, 20 jun. 1962). Basically, the most controversial articles were removed from the Brandt Bill, such as the quantitative limitation of 10% for the remittances of profits; the prohibition of official credit institutions from providing loans to foreign companies; the permanent suspension from participation in foreign trade of companies sued for manipulating the remittances of profits; and the creation of a Foreign Investment Council to monitor the actions of foreign capital. In contrast, the Mem de Sá Bill stipulated a limit of 8% of profit remittances for companies that produced 'sumptuary goods' (the definition of a 'sumptuary good' was to be made by Executive Decree). Moreover, the bill gave the power to Sumoc to limit the remittances of profits in the case of 'serious imbalances' in the external accounts of the country. Companies which made illegal remittances would be prohibited from participating in foreign trade activities for a period of 1–5 years (Propostos à comissão..., *OESP*, 20 jun. 1962). In general terms, this was the bill which the Senate passed in July 1962, afterwards sending it to the Chamber of Deputies for ratification (Aprovou o Senado..., *OESP*, 17 jul. 1962).

Even this moderate version of the bill did not please certain business sectors, notably those linked to foreign groups. In ACSP, for example, Councilor Giulio Lattes admitted that the Mem de Sá Bill would be "more liberal and less xenophobic" than the Brandt Bill. However, Lattes complained about the article which limited to 8% a year the remittance of companies that produced 'sumptuous goods.' The president of the Association, Paulo Barbosa, pondered that, due to the circumstances, it would be better to have had the bill passed as it was. At the end, Lattes resigned himself: "we chose the lesser of two evils."²⁵ In Fiega, the mood was less friendly. One of the councilors of the Carioca federation, Mário Ludolf, stated that the passing of the Mem de Sá Bill had been "ruinous for the development of the Brazilian economy and if transformed into law [it would result] in the end of the investment of foreign capital in Brazil." According to Ludolf, not all the "incoherencies" and "absurdities" of the Brandt Bill had been removed, including the obligation for the "permanent registration of foreign capital."²⁶

Despite not having pleased everyone, the Mem de Sá bill was much more moderate than the Brandt one. It was expected that its passing by the Chamber of Deputies would be routine, since it had been the fruit of a mixed commission formed of senators and deputies – created to construct consensus about the subject. However, this did not happen. The Chamber of Deputies passed Mem de Sá's bill on 17 August 1962, but with two important modifications.

Included in the text were articles which had appeared in the old Brandt Bill, amongst which were limitations on the remittances of profits at 10% of the value of the registered capital, and the prohibition that higher profits be added to the capital, impacting on the calculation of future remittances. The reaction of business sectors linked to foreign capital was immediate. ACSP highlighted the ‘treason’ of the deputies, since, according to Giulio Lattes, it was of “public knowledge that the two houses of the legislature had committed themselves to adopt the substitute prepared by the mixed commission.”²⁷ Similar criticisms were made by Fiega and the Center of Industries of the State of Rio de Janeiro (Cierj). It was highlighted that the law would represent the end of foreign investment, halting Brazilian economic development (Fiega e Cierj criticam..., *OESP*, 31 ago. 1962).

In contrast with what happened during the passing of the Brandt Bill, when the action of President Goulart was not decisive, in the case of the passing with alterations of the Mem de Sá Bill, the situation was different. The country has undergone a profound political crisis in July 1962, culminating with the ascension of a prime minister (Brochado da Rocha) totally aligned with the purposes of the president (Loureiro, 2012, pp. 276-295). Among these purposes, of most importance was the anticipation of the plebiscite on parliamentarianism, something which is a consensus in the literature, even among authors with profound interpretative divergences (Ferreira, 2011, p. 304; Villa, 2004, pp. 66-67). As is known, Goulart assumed the Presidency in September 1961 after the turbulent resignation of Quadros and with the condition of having limited powers, through a constitutional amendment which instituted a parliamentary regime. This amendment stipulated that, six months before the end of the Goulart’s mandate (in the middle of 1965), a plebiscite would be held for the population to decide about the continuity of parliamentarianism. Goulart wanted to anticipate this plebiscite this as quickly as possible, in order to return to full presidential prerogatives. However, this was not easy, since the Congress had an ample majority of members favorable to the continuity of parliamentarianism.

Goulart’s strategy to overcome this problem was to strengthen a pro-basic reforms discourse, letting the population understand that these reforms could not be implemented due to the inoperability of Congress and, above all, a lack of presidential powers (Dulles, 1970, p. 177; Loureiro, 2012, pp. 295-309). Prime Minister Brochado da Rocha was fundamental in this sense. In July 1962, apparently encouraged by Goulart, Brochado announced that if Congress would not approve the anticipation of the plebiscite and a wide ranging

delegation of powers to the Council of Ministers by 17 August, he would resign, which would open a new political crisis the country. It was not by chance that the influential journalist Carlos Castello Branco called Brochado “a premier to be sacrificed” (Castello Branco, 1975, p. 21). Amongst the requests to Congress for the delegation of powers were for decrees on agrarian reform, tax reform, anti-trust legislation, and legislation limiting the remittances of profits. In relation to the latter, Brochado stated that it signified including an annual limitation of 10% on the remittances of foreign capital. In other words, the prime minister, indirectly supported by the president, started to defend the perspective of the Brandt Bill, which had recently been repudiated by the Senate through the passing of Mem de Sá’s text (Loureiro, 2012, Chapter 6).

As a form of responding to the prime minister’s offensive, Congress acted on two fronts: first, special commissions were established to analyze the delegation of power requests, showing that Parliament was willing to analyze them quickly (Compostas as oito..., *OESP*, 12 ago. 1962; Escolhidos os presidentes..., *OESP*, 15 ago. 1962). The most inoffensive of the requested demands were approved, such as the creation of two extraordinary ministerial positions and permission for the government to enact laws to deal with supply problems (As comissões ultimam..., *OESP*, 16 ago. 1962; A Câmara aceita..., *OESP*, 17 ago. 1962; Dados mais dois poderes..., *OESP*, 18 ago. 1962). Second, in the case of the issues considered sensitive, Congress made an effort to pass laws, instead of giving this prerogative to the cabinet, as reported by various members of Congress to Ambassador Lincoln Gordon.²⁸ The most important examples were the passing of the anti-trust and profit remittance limitations laws, both passed on the final day of the deadline given by Brochado da Rocha (Aprovado pela Câmara..., *OESP*, 17 ago. 1962; Aprovada pela Câmara..., *OESP*, 18 ago. 1962). Although the content of these laws displeased some sectors of society, especially in the case of the remittance law and in reference to foreign companies and the entrepreneurs associated with them, there can be no doubt that the texts passed were much less radical than would have been the case if they have been prepared by the Council of Ministers through the delegation of powers.

The evidence thereby suggests that the reinsertion of the controversial articles from the Brandt Bill in the one formulated by the Mixed Commission (Mem de Sá Bill) was the fruit of the context of the political struggle over the maintenance of parliamentarianism. Members of Congress wanted to show society that the basic reforms could be passed in a parliamentarian system. This strengthened the position of nationalist deputies in the sense that the remittances law would only be legitimate if was similar to the prime minister’s

proposal, which defended the imposition of quantitative limits on remittances of all types of investment – and not only for the producers of ‘sumptuous goods,’ as appeared in the original version of Mem de Sá’s bill.²⁹

Moreover, there was another factor which contributed to the passing of a more radical version of the profit remittances law by the Chamber of Deputies in August 1962. Evidence shows that once again nationalist entrepreneurs had lobbied parliamentarians, as had occurred at the end of 1961. In a debate in the São Paulo Commercial Association (ACSP) about the question, Councilor Paulo Egydio Martins, one of the most important members of Ipês in São Paulo, stated that the law would not have been passed if it had not been, once again, for the actions of ‘nationalist’ entrepreneurial groups. For reasons of clarity, it is worth reproducing his words to ACSP:

At a moment which the productive classes should unite, we can see that through these restrictions on foreign capital... (*there is*) an incentive for the formation of national trusts. And we can see at this moment the large representatives of the productive classes being the greatest adepts of Celso Brandt ... not in defense of the common good, but of national trusts, without being aware that they are following the path to national socialism ... These men should be denounced to the Nation, whoever they are, because they are, under the cloak of industrialists, of conservative classes, and often even reactionaries, working for the communization of Brazil.³⁰

The logic behind the actions of these nationalist entrepreneurs, according to the logic of Paulo Egydio Martins, was to make foreign investment in Brazil unfeasible, in order to keep the domestic market captive for nationally owned property. A less radical position would be to interpret the lobbying of these entrepreneurs as a form of reducing pressure on the balance of payments, allowing the continuity of the imports necessary for substitute industrialization. In one way or another, taking into account that the majority of the documentation which refers to the actions of nationalist entrepreneurial sectors is of a confidential nature and belongs to representative associations (ACSP and Fiega), it is difficult to imagine that the comments reproduced here had no foundation. Even in the case of Fiesp, where most of the nationalist business sectors were concentrated, the public documentation of the Federation is complemented by official restricted US documents, which suggest similar conclusions.

After the passing of the profit remittances law by the Chamber of Deputies in August 1962, the text was submitted to the Executive to receive presidential sanction. Goulart, who did not want to publically commit himself to the content of the law, decided to let the deadline for its approval elapse. As a result, according to constitutional procedures, the president of the Senate, Auro de Moura Andrade, was obliged to sanction it on 3 September 1962 (Promulgada... *OESP*, 5 set. 1962).

However, the problem did not end there. The remittances law had purposefully left some questions open, which demanded presidential regulation. Of these the most important referred to the doubt about whether the reinvestments of profits which occurred before the enactment of the law could be incorporated in the corporate capital registered with Sumoc. The legal text was clear about reinvestments after the enactment of the law (which could not be incorporated), but not about those which occurred beforehand. Behind this apparently technical debate there was a fundamental point: if reinvestments occurred beforehand were considered legitimate, as the representatives of foreign and associated capital defended, this would allow foreign companies to have permission to remit more profits abroad.

President Goulart delayed as much as he could to regulate the law. The first semester of 1963 was marked by the attempt to implement the Triennial Plan, an economic stabilization program which aimed, as well fighting inflation, to maintain GDP growth. It was therefore fundamental to attract foreign capital, Goulart left the question of the regulation of the law aside. After the abandonment of the Triennial Plan in the middle of 1963 and the political radicalization which took over the country in the second half of the year, Goulart ended up uniting with the most radical sectors of the left, finally implementing this regulation in January 1964. This met the aims of leftwing sectors by considering registered capital as only what was directly invested from abroad; profits, to the contrary, were interpreted as 'Brazilian,' and could not constitute the base for future remittances (Ferreira, 2011, Chapter 8; Mesquita, 1992, Chapter 4; Monteiro, 1999, Chapter 3). The implementation of this radical version of the law, however, did not last long. Following the 1964 coup, one of the first measures of the Castelo Branco administration was to approve new legislation in Congress (L no. 4.390, from August 1964), which changed various aspects of the 1962 law, aiming to encourage the entrance of foreign capital through a liberal policy for remitting profits and dividends (Gennari, 1999, p. 185).

FINAL CONSIDERATIONS

The evidence presented in this article suggest that the reasons commonly given to explain the passing of the law limiting remittances of profit under the Goulart administration are unsatisfactory. It is plausible to assume, as Thomas Skidmore points out, that the organization of nationalist parliamentarians, linked to disinformation and the moderation of a group of deputies, contributed to the result of the votes. Nevertheless, the large majority conquered in favor of the law, in a Congress which had a substantial number of conservative members, suggest that other aspects were more important. It is argued here that the two factors were fundamental in this sense: first, the pressure exerted by nationalist entrepreneurial sectors on Parliament; and second, the use of a pro-basic reform agenda by President Goulart in the middle of 1962, including the approval of a more radical version of the profit remittances law, to anticipate the plebiscite about parliamentarianism and to reconquer full presidential prerogatives.

In relation to the first aspect, evidence was presented, principally obtained from US diplomatic documents and public and private sources from entrepreneurial entities, which suggests that the so called nationalist wing of Fiesp played an important role both in the lobbying for the passing of the Celso Brandt Bill about profit remittances in November 1961, and also the inclusion of nationalist articles in the Mem de Sá Bill when it was going through the Chamber of Deputies in the middle of 1962. What this group was interested in, according to entrepreneurs associated with foreign investors, was to limit the conditions of the penetration of foreign capital in Brazil, guaranteeing a reserved market for Brazilian businesses.

The second aspect which helps to explain the conditions for the passing of the remittances law is related to the adoption of a radical pro-basic reform banner by the Brochado da Rocha cabinet in the middle of 1962 – a cabinet which is acknowledged by the literature as having strongly acted in alignment with the political interests of President Goulart. Through the evidence of national newspapers and US diplomatic sources, it is suggested that the pro-reform discourse of Jango was, above all, a means for forcing Congress to anticipate the date of the plebiscite which would decide on the continuity of parliamentarianism in the country. The presidential logic appears to have been to impose a reform agenda that was impossible for Parliament to pass quickly, in order to demonstrate the ineffectiveness of parliamentarianism and to open the way to the reinstallation of presidentialism. The presentation of a

(relatively short) deadline by Brochado da Rocha to Parliament to vote an extensive delegation of powers (including delegation for the decree of a radical remittances law) is a strong indication of this. Also suggested by the evidence is that conservative parliamentarians (correctly) calculated that it would be better for Congress to pass some legislation limiting remittances than to leave the question to the decision of the Council of Ministers. This gave strength to leftwing deputies who, with the support of nationalist business sectors, managed to reintroduce articles from the Brandt Bill in the final version of the law, approved by the president of the Senate in September 1962.

These conclusions are important because they point to a less pessimistic perspective in relation to the actions of the so-called 'Brazilian bourgeoisie' in the context of the pre-1964 coup era. Some scholars have argued that the posture of the old PCB at the beginning of the 1960s – i.e., favorable to the construction of an alliance between workers, peasants, and the 'national bourgeoisie,' in opposition to foreign domination, or 'imperialism' – was naive, to the extent that it underestimated the nature of class intrinsic to all of the bourgeoisie and neglecting the fact that various elements of the national business sector had ties, to greater or lesser degrees, with foreign capital.³¹ It is reasonable to argue that, in themselves, the connections made by nationalist entrepreneurs to pass the profit remittances law were not enough to conclude that the PCB was correct, since the nationalist positions of parts of the business sector in relation to foreign capital coexisted with conservative postures towards other questions – such as the reactionary tendency opposed to the basic reforms, or even the opposition to the intensification of strikes at that time. Nevertheless, although it is necessary to advance further in knowledge about the question, the conclusions presented here suggest that the game of social forces which culminated in the end of democracy in Brazil was more complex, deserving to be examined in light of new sources and also in relation to representative associations, based on new thematic, sectorial, and geographic foci.

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NOTES

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² Doctorate in Economic History, FFLCH/USP.

³ The work of Gennari (1999), one of the few who focus on the profit remittances law, does not deal with this question.

⁴ For the conservative position of the entrepreneurial sector about questions such as agrarian

reform, tax reform, and strikes, as well as their support for the 1964 military coup, see Figueiredo (1993), Loureiro (2012), and Rafael Moraes (2014).

⁵ For examples of works which do not explore this question, see: Alonso and Dolhnikoff (2015), Ferreira (2011, Chapter 7), Ferreira and Gomes (2007, Chapter 5; 2014, Chapter 8), Figueiredo (1993, pp. 75-86), Labaki (1986), Mário Moraes (2014), Napolitano (2014, Chapter 1), Santos (1986, Chapter 3), Skidmore (2010, Chapter 7), and Toledo (2014).

⁶ Deputy Celso Brandt (PR-MG) was an arduous defender of a nationalist policy and for the autonomous development of the country, having joined in 1959 the Nationalist Parliamentary Front (*Frente Parlamentar Nacionalista* – FPN) – a super-party organ created in 1957 which defended similar principles. For more information, see Abreu et al., 2001, pp. 786-787.

⁷ Telegram 1583, State Department to the United States Embassy in Brazil, 6 Dec. 1961, Classified General Records, compiled 1941-1963 (hereafter CGR), Folder 501, Box 129, Record Group 84 (hereafter RG), National Archives and Records Administration, College Park, United State (hereafter NARA), p. 1.

⁸ Federação das Indústrias do Estado da Guanabara (hereafter FIEGA), Ata da Reunião do Conselho de Representantes do Centro das Indústrias do Estado do Rio de Janeiro, and Federação das Indústrias do Estado da Guanabara (hereafter CIERJ-FIEGA), 24 jul. 1962, Rio de Janeiro, p. 2.

⁹ Associação Comercial de São Paulo (hereafter ACSP), Ata de Reunião de Diretoria Plena da ACSP, 5 dez. 1961, São Paulo, p. 7.

¹⁰ For a different perspective, see Monteiro (1999, p. 79).

¹¹ Reis (2014, pp. 32-36) recognizes the predominance of conservative members of the National Congress, but leaves it understood that popular pressures had pressurized the reformist agenda in society. A similar position is advocated by Campos (2014, p. 14), who credits the passing of the law to the “struggles of the national-popular complex,” although the author does not present evidence of how this struggle would have occurred in the context of approval.

¹² Telegram 1326, United States Embassy in Brazil to the Secretary of State, 1 Dec. 1961, p. 2; Telegram 1390, United States Embassy in Brazil to the Secretary of State, 11 Dec. 1961, CGR, Folder 501, Box 129, RG 84, NARA, p. 2.

¹³ Telegram w/n, United States Embassy in Brazil to the Secretary of State, 1 Mar. 1962, CGR, Folder 350, Box 135, RG 84, NARA, p. 1.

¹⁴ Telegram 1326, United States Embassy in Brazil to the Secretary of State, 1 Dec. 1961, p. 2; Telegram 1390, United States Embassy in Brazil to the Secretary of State, 11 Dec. 1961, CGR, Folder 501, Box 129, RG 84, NARA, p. 2.

¹⁵ Telegram 1326, United States Embassy in Brazil to the Secretary of State, 1 Dec. 1961, CGR, Folder 501, Box 129, RG 84, NARA, p. 2.

¹⁶ ADP was an inter-party bloc created in 1961 with the purpose “of combating communist infiltration in Brazilian society.” Its ideological counterpoint in the National Congress was the Nationalist Parliamentary Front (*Frente Parlamentar Nacionalista* – FPN), formed in

1956 to defend “nationalist policies and solutions for the problems of development” in the country. See Abreu et al. (2001, pp. 24-25 and 2397).

¹⁷ FIEGA, Ata do Conselho de Representantes do CIERJ-FIEGA, 5 dez. 1961, Rio de Janeiro, pp. 1-2.

¹⁸ ACSP, Ata de Reunião de Diretoria Plena da ACSP, 5 dez. 1961, São Paulo, pp. 18-19.

¹⁹ Memorandum of Conversation, Souza Nobre, Eugenio Delgado Arias et al., 1 Dec. 1961, CGR, Folder 350, Box 124, RG 84, NARA, p. 2.

²⁰ Memorandum of Conversation, Juscelino Kubitschek, Sebastião Paes de Almeida, Augusto Schmidt, Lincoln Gordon, 7 Dec. 1961, CGR, Folder 350, Box 124, RG 84, NARA, p. 2.

²¹ Memorandum of Conversation, Frank Mitchell, Jack Camp et al., 5 Dec. 1961, CGR, Folder 350, Box 124, RG 84, NARA, p. 1.

²² Telegram 1441, United States Embassy in Brazil to the Secretary of State, 18 Dec. 1961, Folder “Brazil General 12/1/61-1/16/62”, Box 12, National Security Files (hereafter NSF), John F. Kennedy Library, Boston, United States (hereafter JFKL), pp. 1-2.

²³ José Gregori, interview, 6 Apr. 2010, São Paulo.

²⁴ For the intense connections between the leaders of IPES and members of Parliament, see Ata de Reunião da Comissão Executiva, IPES, 16 mar. 1962; Ata de Reunião da Comissão Diretora, IPES, 27 mar. 1962; Relatório do Setor de Estudos para o Comitê Diretor, IPES, 29 mar. 1962, Caixa 29, PAC 2, Arquivo Nacional-RJ (AN).

²⁵ ACSP, Ata de Reunião de Diretoria Plena da ACSP, 27 jul. 1962, São Paulo, p. 7.

²⁶ FIEGA, Ata do Conselho de Representantes do Cierj-Fiega, 24 jul. 1962, Rio de Janeiro, p. 2.

²⁷ ACSP, Ata de Reunião de Diretoria Plena da ACSP, 21 ago. 1962, São Paulo, p. 26.

²⁸ Telegram 410, United States Embassy in Brazil to the Secretary of State, 16 Aug. 1962, Folder “Brazil General 8/16 – 8/31/62”, Box 13, NSF, JFKL, p. 1.

²⁹ *Ibid.*, p. 1.

³⁰ ACSP, Ata de Reunião de Diretoria Plena da ACSP, 21 ago. 1962, São Paulo, pp. 27-28.

³¹ An example of this position can be found in Prado Jr. (1966, pp. 108-111). This position also provides the foundation for works based on Dependency Theory, see Faletto and Cardoso (2004, Chapter 4). For a recent study which advocates a similar perspective, see Mário Moraes (2014, p. 55).

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