



DECISION-MAKING PROCESS IN BRAZILIAN FOREIGN POLICY: PRESIDENT, NATIONAL CONGRESS, ITAMARATY AND THE RESOLUTION OF THE CRISIS IN MERCOSUR (1999-2002)¹²

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Abstract: The scientific literature on decision-making process generally emphasizes a President that emerges as a major actor in the international scene, in contrast to a Ministry of External Relations that no longer manages to control the decision-making process, and a Legislative Branch unconnected to international themes due to its low electoral benefits. However, these interpretations were rarely confronted with case studies. For that reason, this article discusses whether it is possible to find empirical basis to these established assessments, in the context of Mercosur's crisis and rebuilding (1999-2002). We intend to discuss: (1) the power of the President on agenda-setting; (2) the influence of the Ministries in crisis solutions; (3) the actions of Brazil's House of Representatives. As a result, we assess that, although Allison's bureaucratic model helps to understand MRE's performance, it is not enough to understand the decisive role of the President, who acts as a non-bureaucratic actor. The Legislature, in turn, seeks to use the procedures available to it as a way to reduce the informational imbalance between the Powers.

Keywords: Decision-Making Process; Foreign Policy Analysis; Presidential Diplomacy; Legislative Branch; Mercosur.

1 Introduction

Since the end of the military dictatorship period, the Brazilian democratic state favors political convergence with Argentina in the quest to overcome mutual historical animosities. In the negotiation phase of the cooperation treaties that culminated in the creation of the Common Market of the South (Portuguese acronym: Mercosur), three actors emerge as key figures. The first of these is the specialized bureaucratic body, the Ministry of Foreign Affairs (Portuguese acronym: MRE) or Itamaraty, traditionally main agent, in the conception of the country's international insertion. The second important actor to intervene is the President of the Republic, assuming an increasing role in solving problems. The third is the National Congress, which, according to article 49 of the Federal Constitution of 1988, has exclusive jurisdiction to "To settle definitively on international treaties, agreements or acts that entail burdens or burdensome commitments to the national patrimony".

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The literature on decision-making in general emphasizes an Executive Branch that gains foreign policy projection, to the detriment of an MRE that no longer monopolizes decision-making power, and a Legislative Branch unrelated to foreign policy issues because of its low electoral repercussion. However, these new interpretations have rarely been tested against concrete cases. This paper aims to discuss whether, within the framework of the Mercosur crisis and reconstruction between 1999 and 2002, it is possible to find an empirical basis for established assertive, when analyzing the dynamics of interactions in the specific case of regional integration. To do so, we discuss: (1) the decision-making and the agenda of the President of the Republic through two case studies and (2) the parliamentary performance through the presidential messages in the National Congress.

The explanation is divided into four parts. Initially, (1) theoretical frameworks of foreign policy analysis and the role of the Legislative in its implementation are established. Then, (2) two case studies are analyzed to understand the role of the President of the Republic in solving the Mercosur crisis. Finally, (3) the role of Parliament in resolving the crisis is questioned. It is concluded that, despite the importance of the bureaucratic model to understand the performance of the MRE, it is insufficient to understand the decisive role of the President of the Republic, whose role is a non-bureaucratic actor. The Legislature, in turn, seeks to use the procedures available to it to reduce the informational imbalance between the Powers (4).

2 Analysis of foreign policy, neo-institutionalisms and the Legislative

Foreign policy analysis was heavily influenced by Graham Allison in his book “Essence of Decision”. In discussing the missile crisis between the United States and the Soviet Union, Allison (1971, p.5) identifies the frames of reference used by researchers in studying foreign policy formulation. The author states that each frame is a "conceptual lens", which means that it fundamentally influences the observer's perception of reality on screen, thus establishing the basis for explanations and predictions. The models discussed are nicknamed by Allison of classic or rational actor, organizational process and bureaucratic politics.

For Allison (1971), the observer, when analyzing a foreign policy problem, usually takes the place of a national government and then attempts to explain a determined decision. One perceives a personification of the government, that is, its performance is understood as that of a rational individual. With foreign policy valued in terms of nations, individuals and their ideas are often disregarded. Rationality becomes an analytical concept of fundamental importance and is associated with a maximization of utility.

The rational actor model has significant limitations that prevent it from explaining much of the foreign policy decisions. After all, decision-making is not concentrated on a unitary actor who responds by the government, but rather on a complex of loosely articulated organizations with a reasonable degree of independence (ALLISON, 1971). Within the organizations that form

the government, the primary responsibility for a task is divided among several employees. In addition, organizations work with different perspectives of a problem and do not always interact to ensure its solution.

It is necessary to point out that few topics can be encapsulated in a single bureaucratic organization. Take, for example, the theme of foreign trade in Brazil. The competence on this matter is, at the federal level, shared between the Ministry of Foreign Affairs, the Ministry of Development, Industry and Foreign Trade (Portuguese acronym: MDIC) and, to a lesser extent, the Foreign Trade Chamber. Their actions are not always coordinated, and certainly these three organizations cannot be understood as a single rational actor.

In the paradigm of the organizational process, in turn, the basic unit of analysis is the governmental action as an organizational result: before the leaders' decision, there are organizational routines capable of filtering the existing options. This means that most of a State's actions are determined by established procedures (ALLISON, 1971).

In considering the foreign policy influencing agents, Christopher Hill (2003) emphasizes the need to understand both the individuals who have formal responsibility for the conduct of foreign affairs and the associated bureaucracies - as these bureaucracies respond for expertise and continuity which make foreign policy understandable. In most states, there are few individuals responsible for formulating foreign policy; however, this context is clearly changing, since globalization has the power to bring the domestic space closer to the international (giving rise, according to Hill, to an "intermestic" policy).

Although there is a trend of deconcentration of foreign policy, it is of fundamental importance to establish which is the decision-making unit prevailing in a determined context and theme. It should be noted that those who are better placed in the hierarchy of political institutions have more potential to decide. In the case of a political system whose power is highly concentrated on the chief of Executive, as is the case in Brazil, the president may delegate or concentrate the decision at his or her convenience.

Nevertheless, even if they so wished, neither the chancellor nor the president can concentrate all the subjects of the Ministry of Foreign Affairs. For this reason, an organized and hierarchical bureaucracy in which the important choices are at the top and the more routine acts performed by the lower echelons is of extreme necessity. From this perception on the bureaucracy, a debate begins on what its importance is, in fact, in the conduct of foreign policy - a question well developed by the theory of bureaucratic politics.

For Hill (2003), a Ministry of Foreign Affairs, although it has to divide its powers with the other bureaucratic organisms of the government, it fulfills three vital functions: the organization and filtering of routine information, ie, the collection of data on events that may be of interest of the country (I); the formulation of policies, namely the manipulation of the information received so that it is useful to the country's foreign policy (II); and the constitution of

a memory, which implies maintaining the continuity of the system and institutionalizing positions in terms of external relations in the country (III).

In addition to these traditional functions, in countries where Ministries of Foreign Affairs enjoy prestige, they develop other institutional strengths (HILL, 2003). Diplomatic corps can attract skilled bureaucrats, who maintain a high degree of cohesion and relative detachment from other bureaucracies. However, as Hill (2003, p. 82), points out, the Ministries of Foreign Affairs are in a context of "structural rivalry" with other bureaucratic institutions. In the case of Brazil, as will be seen throughout the work, in Mercosur trade topics, there is considerable participation of the Ministry of Development, Industry and Foreign Trade (MDIC), the Ministry of Finance and the Ministry of Agriculture (Portuguese acronym: MAPA) and the need of approval of international agreements by the National Congress. These different political instances are not always able to coordinate preferences and the interest of the MRE does not always prevail, which can lead to a "horizontal decentralization" of foreign policy.

As Faria (2012, 312) states, the Itamaraty had to adapt to a reality in which it no longer holds the monopoly of foreign policy formulation. If, over the 1990s, the perception that the Itamaraty practically had a monopoly on the elaboration of foreign policy prevailed, there is now a perception that the Ministry needs to coordinate with a range of ministries and specialized agencies. To this, there is a growing academic community, as well as specialized public opinion, which follows the agenda of the Ministry of Foreign Affairs and demands greater transparency in the conduct of Brazilian foreign policy. All these factors affect the performance of Itamaraty, which seeks to adapt to the complexity of new interactions and the need to be more responsive to external demands.

To understand specifically the new functions assumed by the President of the Republic, Danese (1999, p. 51) popularizes in the literature the concept of presidential diplomacy, characterized "whenever the president acts independently of this protocolary foreign policy action". Presidential diplomacy necessarily represents a distancing from traditional diplomacy, since it incorporates missing elements in it (DANESE, 1999). There is a need to present results to a public opinion that can guarantee the president electoral benefits. For this reason, the speed in approving agreements and the visibility of the action of the driver of foreign policy are exponentially greater than in traditional diplomacy.

Despite the importance of the President of the Republic, the Brazilian Constitution also gives the Legislature influence in the approval of international agreements. It is necessary to question, therefore: (1) how the national and international literature has perceived the parliamentary participation, with respect to the international acts that process in the Legislative Branch? In addition, (2) regarding the 2001 crisis in Mercosur, focus of the present study, what can be inferred from the activity of Brazilian deputies?

In the last decade, several studies have emerged that use Putnam's (1988) explanatory

model to think about the importance of household variables under international relations. One of the most cited in the literature is Lisa Martin (2000). In it, the author seeks to analyze the external commitments of the States through household political determinants, specifically, the Legislative Branch. Thus, three research questions are present in their work: (1) do national legislatures influence the decision-making process in foreign policy matters? (2) Are congressional preferences considered? (3) If the answers to the first two questions are positive, what is the impact of such participation on the whole process?

The starting point for Martin's analysis is the inclusion of elements of the literature on legislative organization, interaction between Executive and Legislative and credible commitment. From this, she concludes that the action of the parliamentarians in foreign policy exceeds the common perception. The Legislature may delegate powers to the Executive to negotiate but remains with the prerogative to disapprove the projects appreciated in its field. The main consequence pointed out by Martin (2000) of this reactive competence of the Legislative is the ability to make international agreements more credible. That is, the institutionalized interaction between the powers, in the eyes of the external dealer, shows a greater commitment of the State to the commitments assumed, thus pointing to more stable patterns of international cooperation.

In Martin's view (2000), the more states become interdependent, the notion of credibility becomes increasingly important, and so Parliament becomes a key actor in establishing cooperation between nations. This is because when decisions are taken by the Executive, with the approval of parliamentarians, the policy shows that it originated after a domestic debate and due democratic arenas. On the other hand, these decisions would also be considered more stable, because they could not be annulled from the whim of the Executive, since it is necessary the endorsement of the Legislative. These elements would thus give greater credibility to the international commitments assumed by States.

In Latin America, based on his case studies, Pinheiro (2008) concluded that the Chilean Legislative Branch has the capacity to influence the decision-making process of trade policy. He believes it is perfectly reasonable to say that even restricted to ex-post action, parliamentarians make their preferences considered before the Executive submits the proposal for evaluation. And, more than that, the author further states that according to the cases analyzed, the Executive was not able to stop the participation of the Congress, which shows that even having a *posteriori* participation its powers and prerogatives are assured.

In the same situation, the Mexican government passed during the commercial liberalization that took place in the 1980s. Mena (2004) argues that in this context there was a significant increase in the participation of the National Congress in foreign policy, fundamentally as a result of the NAFTA ratification process in 1994. It should be noted, however, that this growth in the participation of the Legislative was not accompanied by an increase in the constitutional prerogatives of this power in issues related to foreign policy, but by the use of constitutional

mechanisms already existing, but previously underutilized.

These views, on the other hand, go against an analysis by Lima and Santos (2001) for the Brazilian case. The authors conducted a study where the guiding argument is that the abdication of authority from Congress to the Executive in the decision-making process of Brazilian foreign policy is predominant. For the authors, the position of the President, the initiator of the policy, and that of the Parliament, as a post facto ratification, creates a balance where the median legislator is obliged to abdicate by the policies negotiated by the Executive in international forums, according to the political cost to reject them.

The action of the Legislature and the President of the Republic, within Mercosur, is more sensitive in a specific time frame: that of crisis. In 1999, the regional bloc faced many operational problems in its main sector, the commercial sector. There have been cases of illegal customs protection, establishment of safeguards and maintenance of a list of exceptions with no deadline to be extinguished. In the scenario described, the divergences no longer represent an isolated problem in member countries, beginning to question the efficiency of the Mercosur institution. As a research hypothesis, regarding the Executive, it is established that a greater participation of the President of the Republic in the conflicts of Mercosur generated a faster solution of the crises but did not guarantee the strengthening of the regional bloc. As far as the Legislative is concerned, there is a diversified parliamentary participation, from the reactive aspects to the informational ones, to establish its position in the face of the crisis.

In the following sections, we discuss: (1) the role of the president of the Republic with two case studies at the time of the Mercosur crisis. And then (2) the role of the Brazilian Parliament in the discussion on the directions of the bloc.

3 Testing hypotheses: the role of the President of the Republic in times of Mercosur crisis

The hypothesis test based on two case studies was chosen because it is intended to capture the causal complexity related to the actions of the President of the Republic in different scenarios. As Della Porta (2008) points out, through the case study it is possible to go beyond mere statistical description and go in the direction of the deep understanding of historical processes and individual motivations. This "cause of effects" search emphasizes the contribution of interpretive work and the qualitative approach, including concept formation and descriptive refinement. Thus, the data inform on contingential, contextual questions and mechanisms, besides contributing in the different levels of the causal inference (RAGIN, 2000; BRADY AND COLLIER, 2004; REZENDE, 2011; SANTIAGO, 2014).

As Vennesson (2008, p. 226) defines, a case is a phenomenon, or an event, chosen, conceptualized, and analyzed empirically as the manifestation of a broader class of phenomena or events. A case study is a research strategy based on a deep empirical investigation of one or a small number of phenomena to explore the configuration of all cases and elucidate features of a

larger class of similar phenomena by developing and evaluating explanations theoretical. According to Bennett and Elman (2006), researchers use the case study to develop and evaluate theories, as well as formulate hypotheses or explain phenomena using causal theories and mechanisms.

to test the hypotheses established with respect to the actions of the President of the Republic, two case studies with changes in the independent variable are proposed. Whereas, in the first analysis, it is considered that there was no direct influence of the President of the Republic in the solution of the controversy in Mercosur, in the second case the President of the Republic is perceived as predominant actor. It was sought, as far as possible, to use the sources available in the archives of Itamaraty to support the research; however, most documents are still unavailable to researchers, given their reserved character. As a result, the meeting minutes of the Common Market Group (Portuguese acronym: GMC) and the Common Market Council (Portuguese acronym: CMC) and newspaper reports informing dates of meetings, conclusion of agreements and presidential visits were used as sources of support.

3.1 “For the Brazilian interests, it is necessary a dynamic Argentina”: the discussion of Resolution No. 258/2001 in the ambit of Mercosur

The president's participation in resolving conflicts between Mercosur members became stronger at the time of the Argentine crisis, which became evident in early 2001. The international financial market feared that Argentina could not sustain the peso-dollar parity (currency board), adopted in 1991 and guaranteed constitutionally. In March 2001, the country's risk rate reached 10.1 percentage points, and in the same month the President of Argentina, Fernando de la Rúa, appointed Domingos Cavallo as Minister of Economy - which was initially well accepted by market analysts⁵.

In the first week of his administration, Cavallo prepared a package of measures to combat the crisis. Among the proposed measures was to reduce custom tariffs on capital goods and extra-Mercosur consumption, which would modify the Common External Tariff (TEC). The then Undersecretary of Trade Affairs of Itamaraty, Ambassador José Alfredo Graça Lima, stated that the change in the TEC was foreseen in the Bloc, but that it could not be carried out unilaterally by Argentina⁶.

On March 21, 2001, the Ministry of Foreign Affairs, Minister of Finance and the Minister of Development, Industry and Foreign Trade of Brazil expressed their opposition to the proposals of the Mercosur package. The joint preparation of the note demonstrates that the solutions to the Argentine demands were discussed among ministries and that they sought to decide the issue in the appropriate regional instance. From the new plan, Cavallo began to question the tariff of a

⁵ "Cavallo's challenge is to resolve exchange rate issues" O Estado de S. Paulo newspaper; March 21, 2001.

⁶ "Cavallo Package Still Depends on Congress", O Estado de S. Paulo newspaper; March 22, 2001.

series of products covered by TEC. Already on March 23, 2001, the Minister of Economy, Pedro Malan, after talking with Cavallo, decided to accept the zeroing of tariffs on machinery and the increase of import tax on consumer goods. The Minister of Foreign Affairs, Celso Lafer, attended the meeting and agreed to the measures. It should be noted that the exception to TEC was only valid for Argentina, which displeased Uruguay⁷.

The reduction of tariffs also provoked the dissatisfaction of the Brazilian business community. By eliminating tariffs on industrial goods, Argentina has considerably reduced Brazil's competitive advantages. It was up to the Minister of Development, Alcides Tápias, to negotiate with Cavallo, in Argentina, the exclusion of computer and telecommunication products from the list of zero tariff goods. Shortly before the meeting, Cavallo learned that (President) Fernando Henrique Cardoso had canceled a visit to Buenos Aires, planned for April 15 and 16, 2001, and this would have ensured the success of the Brazilian claims. Although it sounds like reprisal to the Argentine actions, the reasons for the postponement of the trip are not evident⁸.

Due to the crisis in Argentina, Central Bank President, Armínio Fraga, and the Minister of Finance, Pedro Malan, supported the reduction of the TEC. This initiative made business entities in the electronics sector, which, in general, were not in dialogue, would meet again to try to change the government's decision. The Brazilian Association of Electrical and Electronic Industry (Portuguese acronym: Abinee), the National Association of Manufacturers of Electronic and Electrical Products (Portuguese acronym: Eletros) (e) of the producers of Manaus, disclosed, together with the Federation of Industries of the State of São Paulo (Portuguese acronym: Fiesp) and Institute for Industrial Development Studies (Portuguese acronym: Iedi), a harsh protest note. For the defenders of an industrial policy of Brazil, the sector would be greatly impaired. The President of the Republic, influenced by these demands, decided not to sign the decree to reduce the TEC in the sector.

It is in this context that Cavallo travels to Brazil in early June 2001, to anticipate to the Brazilian government, the new economic policies that would be adopted by the Argentine government. The Argentine Minister of Economy attended a luncheon with the President of the Republic and affirmed his commitment to the revitalization and reconstruction of Mercosur. A week after Cavallo's visit, Argentine Minister of Foreign Affairs, Adalberto Giavarini, also traveled to Brazil to secure political support for his country's new economic measures. In his meeting with Lafer, he ensured that Mercosur should not retreat to the status of a free trade zone⁹.

On July 2, 2001, Argentina adopted tariff measures that favored the importation of computer and automotive goods from countries outside Mercosur. This was done through the edition of Resolution No. 258/01, which eliminated the tariff preference for Brazilian products by

⁷ "Uruguay also intends to change common external tariffs", O Estado de S. Paulo, newspaper; March 24, 2001.

⁸ "Cavallo goes back on the decision to zero tariffs", O Estado de S. Paulo newspaper; April 6, 2001.

⁹ "Brazil and Argentina hit the pointers of Mercosur", O Estado de S. Paulo newspaper; May 21, 2001.

establishing a convergence factor. By means of the legislative act, Argentina determined that the convergence factor, in an amount of eight percentage points, should be deducted from the extra zone import rights in force for goods of the automotive sectors; computer science and telecommunications; of capital; and inputs for the gas and oil sectors. In practice, this led to the granting of a considerable advantage to imports from countries not forming part of the regional bloc, since the decree provided for the exemption of extra zone imports by discounting the convergence factor. By burdening intra zone imports, Argentina discriminated against several Brazilian strategic sectors.

Following the publication of Resolution No. 258, Brazil announced the suspension of bilateral negotiations with Argentina on divergent points in foreign trade matters. The decision was taken by the Ministries of Finance, Foreign Affairs and Development as a reaction to the recent Argentine initiative to change the content of an agreement between the two countries. With the Brazilian decision, bilateral negotiations of interest of Argentina were paralyzed - among them, the proposal for the Mercosur automotive regime. In addition, the talks on the TEC, mainly IT and telecommunications items, remained suspended.

The president of the Republic directly charged the repeal of the measures, by means of a letter sent on July 6, a Friday¹⁰. He stressed that he was surprised by the measure, considering it a violation of the essence of Mercosur. After a conversation with President De La Rúa, President Cardoso drew up a crisis-containment strategy, seeking to limit the conflict to the reduction of import tax rates for electronic and computer products.

In an attempt to help Argentina overcome its internal crisis, Brazil decided to discuss Resolution No. 258/01 within the scope of Mercosur, which is in line with the Brazilian government's intention to prevent the conflict. This expressed strategy eventually makes subsequent discussions a representative example of the use of the regional scope for resolving trade disputes. Although the president, at first, interferes personally in the solution of the conflict, the negotiations are quickly transferred to Mercosur.

From the decision of the president, the complaint followed the normal procedures of the regional institution. Initially, the issue of informatics was introduced at the 51st meeting of the Mercosur Trade Commission (Portuguese acronym: CCM), which took place on September 6, 2001. Brazil initiated a consultation procedure in the CCM, in which it questioned the Resolution No. 258/01 of the Argentine Ministry of Finance, which made it difficult to import computer goods, telecommunications, capital goods and inputs into the gas and oil sectors (Consultation 1501). On October 6, 2001, at its 52nd Regular Meeting, the CCM stated that it had not received an answer from Argentina regarding the consultation.

¹⁰ " Fernando Henrique Cardoso demands from Argentina the repeal of the measures", O Estado de S. Paulo newspaper, July 10, 2001.

Due to the lack of response, Brazil decided to initiate a controversy procedure with the Common Market Group (GMC), which made it impossible to maintain the consultation in the CCM - according to art. 11 of CCM Directive 17/99. At the 44th regular meeting of the Common Market Group on December 5, 2001, the Argentine and Brazilian delegations reported that they had conducted direct negotiations between November 29 and 30, 2001, at which time the Brazilian delegation offered some solutions to the controversy. However, none of the proposed solutions was accepted by Argentina. With this, the GMC - at the request of the Argentine delegation - decided to keep the controversy under its control, since the agreement had not exceeded the maximum time for its solution¹¹.

In December, one of the greatest social unrests in Argentina occurs, with the decree of a state of siege in the country, on the 18th, and the resignation of President De LaRúa. To rebuild the country's political and financial situation, the government that emerged from the crisis - led by Eduardo Duhalde - favored relations with Brazil. This is evidenced by the repeal of Resolution No. 258/01, through Decree No. 191/02, thus eliminating the convergence factor. As a result, the controversy was without object and was extinguished on April 18, 2002, at the 45th Ordinary Meeting of the GMC.

It is noticed that, when the president chooses not to interfere in the resolution of the commercial problem, the Brazilian complaint follows the procedures established by the Brasília Protocol (1991) and the Directive 17/99 for the settlement of disputes. However, while the president was present at the tariff discussion, the dispute was not presented to Mercosur. It should be emphasized that there is a forecast of the resolution of the trade dispute bilaterally, without the use of Mercosur bodies (art. 02, Brasília Protocol); however, the bilateral negotiations have a maximum term of fifteen days, which was disregarded in this case. The president delegated the decision when he realized that the strengthening of Argentina and the bloc should override the interest of certain commercial sectors. The losses would, in fact, be greater with the worsening of the Argentine crisis. As the president of the Republic summarized at the time, "to the Brazilian interests it is necessary a dynamic Argentina "¹²".

3.2 "The TEC cannot be transformed into a sieve": the case of the Argentine safeguards

As the pillar of trade integration in Mercosur, the Brazilian government has always found it difficult to accept a substantial change in the common external tariff (TEC). This refractory behavior also runs through a conflict between ministries, which did not gain consensus when discussing the issue.

¹¹ Article 6 of the Protocol of Brasilia states: "The procedure described in this chapter may be extended for more than thirty (30) days from the date on which the controversy was submitted to the consideration of the Common Market Group"

¹² "Suspended negotiations with Argentina", O Estado de S. Paulo, newspaper, July 10, 2001.

In the second half of 2001, the suspension of TEC became the main Argentine claim, on the grounds that Brazil's devaluation policy made it impossible to maintain prior agreements. In September 2001¹³, Cavallo stated that if Brazil did not change its floating exchange rate system and defend the population's saving capacity, it would be necessary to rethink the integration scheme. The next day, the president of the Republic of Brazil reacted, saying that the Argentine Minister of Economy had crossed the line. In a meeting with party leaders, Fernando Henrique Cardoso stated that Cavallo had exceeded himself by threatening to force Argentina to break relations with Brazil and Mercosur if the Brazilian government maintained the floating exchange rate system¹⁴. From the position of the president, the MRE sent an official note to Argentina, reinforcing the maintenance of the floating exchange rate.

Other statements by the minister followed, which generally put in doubt on the direction of the integration process. This made the ministers must position themselves publicly on the subject. When questioned, Finance Minister Pedro Malan said that Mercosur could decide on a flexibilization of the TEC, but not on a suspension or elimination of the tariff, since it is one of the pillars of the regional bloc's customs union. "In practice, we have already shown this flexibility. But flexibilization does not mean suspension"¹⁵.

At this moment of doubt regarding the position to be adopted, the President was strongly in favor of the maintenance of the TEC, uttering a phrase that was famous at the time: "TEC cannot be transformed into a sieve¹⁶". The president defends the adaptation of Brazil to the reality of the other members of Mercosur but said he did not agree with the distortion of tariff protection. It was with this directive of the Chief Executive that the Brazilian Minister of Finance discussed the issue with Domingos Cavallo at the beginning of October 2001. The ministers agreed to preserve Mercosur as a customs union, maintaining a TEC with exceptions. This coordination among ministers was followed by a presidential visit from De la Rúa to Fernando Henrique Cardoso. At the time, the presidents announced to the press that the TEC would be preserved¹⁷.

With the position of the presidents consolidated, the ministers began to meet to discuss how the TEC could be relaxed. Three days after De la Rúa's presidential visit, the Ministers of Foreign Affairs, Finance and Development met with Argentine authorities in Sao Paulo to politically articulate the revision of the TEC. On that occasion, safeguards were agreed upon within Mercosur, Argentina being granted the possibility of imposing tariffs on certain Brazilian products¹⁸. Some peculiarities of the negotiation are perceived. At the same time, the Common

¹³ "Cavallo talks about reviewing relations if the devaluation of the real (BRL currency) continue". O Estado de S. Paulo newspaper, September 13, 2001.

¹⁴ "Fernando Henrique Cardoso reacts and says Cavallo has crossed the line". O Estado de S. Paulo newspaper, September 14, 2001.

¹⁵ TEC can be relaxed, says Mala. O Estado de S. Paulo newspaper, October 2, 2001.

¹⁶ "TEC cannot be transformed into a sieve". O Estado de S. Paulo newspaper, October 1st, 2001.

¹⁷ "De la Rúa demands understanding from Brazil". O Estado de S. Paulo newspaper, October 3, 2001.

¹⁸ "Brazil and Argentina hit safeguards in the bloc". O Estado de S. Paulo newspaper, October 10, 2001.

Market Group met in Montevideo without the issue of safeguards being addressed¹⁹.

Another important point is that only representatives of the Brazilian and Argentine governments were present at the meeting in São Paulo, when in fact the discussion, in theory, should include representatives of Uruguay and Paraguay. It appears that, with the active participation of the president, safeguards were not discussed in the regional institutions. The imposition of safeguards also demonstrates that the President of the Republic is able to ensure the cohesion of the government, as the three ministers, who seemed to differ on how to deal with the TEC, participated in the safeguards negotiations unequivocally.

With the internal crisis in Argentina, the issue of safeguards has cooled and Brazilian foreign policy has turned to minimize the risks of contagion and to help the neighbor. In early January 2002, Brazil sent a mission to resolve disagreements in the commercial area. Negotiators from both countries agreed that no new disputes would be opened on the trade scene and that they would seek to resolve the lawsuits in progress. In addition, Argentina reversed the conversion factor that was dearer to Brazilian products and was being analyzed under the GMC. In February, President Fernando Henrique Cardoso went to Argentina on an official visit to reaffirm his support for the country²⁰.

It is noticed that the regional institutions were not activated, prevailing bilateral agreements between the Brazilian and Argentine Executives. The president therefore functioned as a non-bureaucratic body capable of overlapping the competencies of the regional bodies. The discussions were not taken to the Common Market Council, the decision-making body of Mercosur, maintaining itself bilaterally.

4 The Mercosur crisis and the parliamentary performance analyzed from the Chamber of Deputies

Considering the theoretical frameworks used and the draft standards that involve Mercosur, it is indispensable to observe that it is not possible to conclude anything about the question of the pro-activity / passivity of the parliamentarians, if the researcher does not include aspects of the decision-making process typical of the system committees and plenary. In other words, this study advocates a new perception in the work on foreign policy²¹ for the Brazilian case. It was not enough to know if the bill had been approved in the plenary of the Chamber of Deputies or if the opinion had been approved in the Committee of Foreign Affairs and National Defense (Portuguese acronym: CREDN). In this article, the important thing was to verify the

¹⁹ Agenda of the 43rd Meeting of the Common Market Group. Montevideo, October 9 and 10, 2001. Available in www.mercosur.int Accessed in: July 9, 2001, at 5:14 pm.

²⁰ "Fernando Henrique Cardoso goes to Argentina to reaffirm support for the country". O Estado de S. Paulo newspaper, February 17, 2002.

²¹ The 'elaboration of foreign policy' is understood as the appreciation of international acts (Diniz and Ribeiro, 2010). By the way, as Ferrari (2011, p. 75), reminds us, the 1988 Constitution does not distinguish between treaties, acts and international agreements. So, like him, I use these terms as synonyms.

entire process of the presidential message (MSC) and other forms of projects also related to Mercosur (1999-2002). Only in this way would it be possible to conclude or, at least, to find evidence of alleged parliamentary apathy. The descriptive analysis of the data follows.

There are two groups of projects in the elaborated database. The first refers to projects originating from the Presidential Messages (MSC) that are the product of the international agreements and constitutionally prerogative of the Executive Branch. These messages after being admitted to the Chamber of Deputies are transformed into Draft Legislative Decree (Portuguese acronym: PDC). As can be seen in Chart 1, matters initiated by the President of the Republic amount to 17, with 15 international acts, 1 provisional measure (Portuguese acronym: MPV) and 1 bill (Portuguese acronym: PL).

Graph 1 – Matters initiated by the Executive Branch



Source: Own database from the website of the Chamber of Deputies

In the case of the projects mentioned above, they will still be scrutinized by the parliamentarians. However, the latter have expressed their preferences via two sets of matters. These are: bills (PL), complementary bills (PLP) and draft resolutions (PRC). The latter, if approved, become legislation. However, deputies may also stand by asking for: indications (INC²²), requirements (REQ) and information requirements (RIC). In Graph 2, it is possible to observe the total number of times each one of these instruments was required.

Graph 2 – Matters initiated by the Legislative Branch



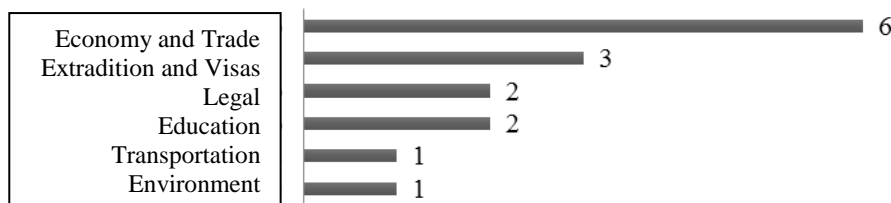
Source: Own database from the website of the Chamber of Deputies

The main theme discussed in the Draft Legislative Decree was economy and trade, as can be seen in Graph 3. Issues such as that dealt with in PDC No. 301/1999 concerning the approval of the protocol to protect investments from States that are not members of Mercosur; or PDC No.

²² Its purpose is to suggest to another Branch to act or to suggest that one or more Commissions should manifest itself on a certain subject.

414/2000 that discussed the agreement on international commercial arbitration of Mercosur. Two topics that were totally relevant to the economic moment in which States were part of the bloc.

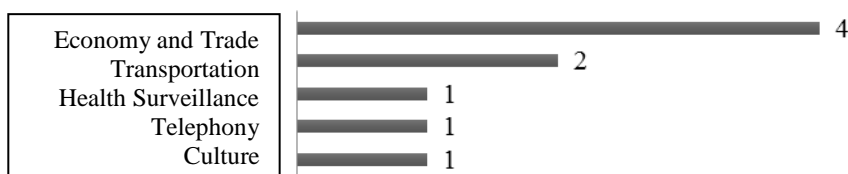
Graph 3 – Topics discussed in the PDCs



Source: Own database from the website of the Chamber of Deputies

Regarding the bills (PLs), the main theme was also economy and trade, as can be seen in Graph 4. Examples are PL No. 1017/1999 which determines the provisional imposition of tariff ceilings on agricultural imports; and PL No. 5821/2001 which prioritizes the acquisition of goods and services produced in the Mercosur area.

Graph 4 – Subjects discussed in the PLs



Source: Own database from the website of the Chamber of Deputies

After analyzing the topics of the subjects, it is necessary to observe the parliamentary work, that is, their work during the projects in the committees of the House and in the plenary. However, an initial aspect draws attention: the procedure regime. The Executive can interfere in the legislative process in the following ways²³: (1) Through the reactive legislative powers (MAINWARING AND SHUGART, 1997) that are powers that allow the president to block legislation and, as a consequence, defend the *status quo* against anyone who wants to change it, they are characterized by total or partial vetoes; and, (2) through the Emergency Request, which is an instrument of interference in legislative activity, which restricts the time for consideration of the matters in the Committees, to send them to the plenary.

While a project in process under ordinary regime has 40 sessions to be discussed, one that is under a priority regime has 10 sessions and under emergency regime, 5 sessions²⁴. Thus, the

²³ In this article we are not working with other forms of executive activity such as: Power of Decree and Constitutional Amendment. On the subject, see Carey and Shugart (1998) and Figueiredo and Limongi (1999).

²⁴ For more details, consult BRASIL (2009), art. 52.

procedural regime may have a direct impact on the approval or non-approval of a matter, since depending on its modality, it may restrict the discussion time. As can be seen in Table 1, more than 3/5 of the subjects have already started their process by the Chamber of Deputies under some special regime.

Table 1 – Type of process regime of materials

Matter	Ordinary	Priority	Urgent	Special	Missing
MPV	-	-	1	-	-
PDC	1	-	13	-	1
PL	9	1	-	-	-
PLP	-	1	-	-	-
PRC	-	-	-	1	-

Source: Own database from the website of the Chamber of Deputies

The right to propose legislation (Provisional Measures - MP), the power to withdraw proposals of the committees by urgent request and the power to veto legislation passed in the House gives the executive significant powers to pursue their interests (FIGUEIREDO AND LIMONGI, 1999; SANTOS, 2003; PEREIRA AND MUELLER, 2000). Even using these privileges primarily through the processing system, and then via MP, deputies exercised their constitutional function of discussing and sanctioning international agreements and treaties (CF, 1988, art. 49, incise I).

In Table 2, there are the subjects in which there was parliamentary resistance and what were their actions. MPV 66/2002, also known as "Tax Mini Reform", which Mercosur had on customs legislation was a project that took about 7 years to complete. Among the main interventions of the congressmen are the transfer of agenda, the point of order and the discussion in plenary. Also remembering that the project dealt with urgency which made it impossible to discuss it in the permanent committees of the House.

It is interesting to note, still in Table 2, that 60% of PLs had legislative intervention, and in the case of PDCs this value drops to 20%. This is due to the clear interference of the Executive Branch in the specification of the processing regime. Looking at Table 1, it is seen that PLs that are almost exclusively of parliamentary origin, are processed in the ordinary regime, while the PDCs that are of interest to the approval of the Executive process almost completely in the emergency regime.

Table 2 – Parliamentary Action

Matter	Parliamentary Action
MPV 66/2002	Transferred Agenda, Question of Order, Plenary Discussion
PDC 301/1999	Amendment, Votes and Withdrawal of Process
PDC 310/1999	Withdrawal of Process
PDC 1093/2001	Plenary Discussion
PL 889/1999	Substitute, Reverse Opinion and Rejection Opinion
PL 2750/2000	Rejection, Withdrawal of Agenda and Joint Access
PL 3087/2000	Substitute
PL 1017/1999	Substitute, Request for Access, Opinion on Non-juridicity
PL 1477/1999	Substitute
PL 910/1999	Substitute

Source: Own database from the website of the Chamber of Deputies

Another form of parliamentary control over the subject under consideration may be materialized by the request for a public hearing - it represents a space where society can participate in the legislative discussions. According to Oliveira (2006), the existence of the public hearings represents an advance in the relations between representatives and represented. They, however, have no decisive character, so the visions defended in them do not necessarily have relation with the conclusion of the parliamentarians.

As seen in Graph 2, this parliamentary search for specialization and / or influence took place via three distinct mechanisms during the study period. The first of them are the indications (INC), where the deputies suggest to the Executive Branch in the figure of the Head of the Civil House the realization of a certain policy. In this period, we highlight the series of indications by MP Hermes Parcianello (PMDB-PR) requesting the inclusion of municipalities of the Paraná state in the program of the Ministry of National Integration - Large Border Meso-region of Mercosur (see for example INC No. 3440/2002). Another example of an indication is INC No. 562/1999 by the deputy Luiz Bittencourt (PMDB-GO). It intended to remove the wheat from the Mercosur TEC list.

The other two mechanisms are eminently informational in nature. In the requirements (REQ) the congressmen try to approve the holding of public hearings, forums, convocation of individuals for CPIs (Parliamentary Investigation Committees), for example. One can cite as illustrative REQ No. 92/2001 CREDN from the deputy Fernando Gabeira (PT-RJ) that required the holding of a public hearing on the Argentine economic crisis and Brazil's role in the recovery of Mercosur. Or REQ No. 125/2001 CPIOBRAS (Deputy Norberto Teixeira – PMDB-GO) that had the character of providing clarification on the work of Adequacy of Road Excerpts in the Mercosur Corridor / BR 386 at the CPI of the unfinished works.

Finally, we have the information requirements (RIC) that are requests for information

sent directly to the ministers of state involved with the issue. For example, RIC No. 3690/2001 requesting information from the Minister of State for Foreign Affairs on matters pertaining to the Ouro Preto Protocol on the Mercosur Treaty - Treaty of Asuncion. On another subject, we have RIC No. 3485/2001 that required information to the Ministry of Transport on the privatization process of the "Mercosur Corridor".

So, while recognizing these moments in the legislative process as important, it is known that their weight is smaller than that of other forms of participation. Nevertheless, they indicate an attempt of specialization of the congressmen by the legislation in debate. As evidenced, requests for information and the convocation of the Minister of State to the commission have the role of reducing the asymmetry of information between Executive and Legislative (FUCHS AND NOLTE, 2005). Through it, the parliamentarian can request the complement of information that not only places him/her in the debate but may indicate that certain issues are of more interest than others, for example, the moment of Mercosur crisis verified and the Brazil-Argentina relations.

5 Conclusion

The present work sought to integrate, in the analysis of foreign policy, the actions of the President of the Republic, Itamaraty and Legislative. In the case studies presented, it was observed that Allison's bureaucratic model helps to explain the MRE's action. In the case of the solution of computer goods contention, the strategy used was to explore the regional mechanisms for solving the controversy. Itamaraty is responsible for dealing with the issue, using established procedures. The negotiations follow the procedures provided for in the protocols, which allows Mercosur to be used in the context of dispute settlement

In turn, when the President of the Republic acts, it functions as a non-bureaucratic instance in the decision-making process. In fact, the Argentine election elimination of the TEC was not brought to the CMC, but to President Fernando Henrique Cardoso and the ministers involved. National and regional institutions, therefore, seem to be used in sectoral conflicts, but at the moment of solving deeper crises, non-bureaucratic actors were the protagonists.

In relation to the role of the Legislative (DINIZ, 2009; DINIZ AND RIBEIRO, 2008, 2010; RIBEIRO AND ONUKI, 2009), The adoption of a differentiated approach offers an empirical / methodological contribution to the academic production in the studies on foreign policy. As seen, the empirical character of the research comes from the perception of the Legislature as an actor capable of preventing or changing the *status quo* of a policy initiated by the Executive. In other words, Parliament is a veto point (TSEBELIS, 1997, 1998, 2002) in the process of matters in the field of foreign policy.

It was seen that in the critical years from 1999 to 2002, for the Mercosur, the Brazilian deputies discussed, for the most part, issues related to the economy and commerce. They, even having the time for discussion in the commissions reduced, due to the material process regime,

cannot be considered as missing or passive. What makes us believe that? Firstly, in addition to the Executive having the constitutional prerogative to initiate / elaborate foreign policy, this Branch still uses the special procedures for dealing with matters that are within its purview (Table 1). In addition, even in an ex-post fashion and faced with reduced debate time, parliamentarians used reactive powers, such as those seen in Table 2, or the indications (INC). Although both the President and the Ministry of Foreign Affairs have inside information on foreign policy, the Requests for Requirements (REQ) and the Information Requirements (RIC) demonstrate a proactive Legislative in an attempt to reduce the informational gap between the Branches.

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