

University of Oxford Centre for Brazilian Studies

Working Paper Series

Working Paper CBS-24-01

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A CASE STUDY OF FOREIGN POLICY DECISION-
MAKING PROCESS IN THE KUBITSCHEK
ADMINISTRATION**

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**THE ROBORE AGREEMENTS (1958):
A CASE STUDY OF FOREIGN POLICY DECISION-MAKING
PROCESS IN THE KUBITSCHER ADMINISTRATION**

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Oxford, July 2001

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ABSTRACT

The article analyses the Roboré Agreements signed by the Chancellors of Brazil and Bolivia in 1958 about the exploitation of Bolivian oil, the Corumbá-Santa Cruz de la Sierra railway, and the demarcation of the border between the two countries, as a case study of foreign policy-making in Brazil. More specifically, it examines the case from as an instance of inter-bureaucratic decision-making and in terms of relations between the executive and the legislative branches.

The article begins with an analysis of the foreign policy of President Juscelino Kubitschek foreign policy and its ambiguities in the context of the Cold War, as well as background concerning the Bolivian revolution and the oil sector. The contents of the agreements and the objections raised against them by nationalist sectors of the opposition are then discussed, followed by an analysis of the stalemate caused by the Chamber of Deputies' decision to appraise the agreements, which eventually blocked their execution.

The author argues four main points on the basis of the evidence gathered. First, he argues that the decision-making process of the foreign policy of the Kubitschek period was influenced by different government agencies. In the author's view, the collaboration of different Brazilian governmental agencies in the process of formulating policy indicates an inter-bureaucratic decision-making process. Second, he shows that there were various approaches to foreign policy within the Itamaraty, and between different federal agencies. He also shows that the Itamaraty enjoyed a relatively wide margin of autonomy to conduct talks with Bolivia and determine the final terms of the agreements. Finally, by examining Congressional arguments against the agreements and the administration's reasons for endorsing them, he concludes that the opposition seized on the Roboré case with which to cudgel the government. Although some critiques were well intentioned, there was deliberate exploration of the subject to hinder the government in the foreign policy arena.

RESUMO

O trabalho analisa os Acordos de Roboré assinados pelos ministros de negócios estrangeiros brasileiro e boliviano em 1958, sobre, entre outros temas, a exploração de petróleo boliviano, a ferrovia Corumbá-Santa Cruz de la Sierra, e a demarcação da fronteira entre os dois países, como estudo de caso da política exterior do Brasil. No concreto, analisa o caso como um exemplo da toma de decisões inter burocrática, e em termos das relações entre os poderes executivo e legislativo.

O trabalho começa com uma análise da política externa do governo do Presidente Juscelino Kubitschek e as suas ambigüidades no contexto da Guerra Fria, bem como uma análise do contexto boliviano, em especial da revolução e do setor petrolífero. Em seguida, o autor analisa os conteúdos mais importantes dos acordos e os argumentos da oposição nacionalista em seu contra, analisando posteriormente a paralisa da negociação provocada pela decisão da Câmara de Deputados de avaliar os acordos, o que acabou por bloquear a sua execução.

O autor argumenta quatro pontos principais com base no estudo realizado. Primeiro, confirma que várias agências governamentais influenciaram o processo de toma de decisões na política externa durante o período Kubitschek. Na perspectiva do autor, a colaboração entre várias agências governamentais indica que existiu um processo de toma de decisão inter burocrática. Em segundo lugar, o autor demonstra que houve várias posturas distintas sobre a questão dentro do Itamaraty. Ele também identifica diferenças de opinião no seio de outras agências federais envolvidas no processo. Em terceiro lugar, ele demonstra que o Itamaraty gozou de uma margem de autonomia significativa na condução de negociações com a Bolívia, e na determinação dos termos finais dos acordos. Finalmente, após uma análise dos argumentos legislativos contra os acordos, e as razões do governo para apoiá-los, o autor conclui que a oposição aproveitou o caso Roboré para atacar o governo. Embora algumas das críticas esgrimidas tivessem sido bem intencionadas, houve um deliberado aproveitamento político do tema para travar a ação do governo.

1.GENERAL INTRODUCTION: ROBORÉ, JK AND BOLÍVIA

1.1. The Roboré Agreements: Legislature versus Executive

What were the Roboré Agreements?

On 29 March 1958, assembled in La Paz, the foreign relations ministers of Brazil, José Carlos de Macedo Soares, and Bolivia, Manoel Barrán Pelaez, signed a combination of thirty-one diplomatic instruments that became known as the 'Roboré Agreements'. The name came from the tiny village in the east of Bolivia where two months before the negotiations had been launched.

Amongst the instruments concluded in La Paz after long and difficult talks, those related to the exploitation of Bolivian oil, to the railroad Corumbá-Santa Cruz de la Sierra, and to the demarcation of the border between the two countries were the most controversial. The Notes that treated these themes – numbers 1, 2, 6, and 7 – were the source of vehement objections from the nationalist opposition in Congress and generated an embittered dispute between the Legislature and the Executive. From Congress, a nationalistic cross-party front - the *Frente Parlamentar Nacionalista* (FPN) - promoted a campaign against the agreements. The divide in Brazilian public opinion between the “nationalists” and the “cosmopolitans” was subjacent in the Roboré debate, in which the former were against the agreements and the latter supported them.

The Roboré Agreements represented the high-water mark – not the end – of a long process of negotiation between the two countries, which had its starting point in the treaties on “Utilization and Outflow of Bolivian Oil” and on “Railroad Connection”, both signed in 1938. In the former, the main provision fixed that “Brazilian-Bolivian joint ventures” would enjoy the virtual monopoly of supply to the Brazilian market since Brazil had become obliged to buy from Bolivia all the oil it needed, as long as it was offered under the same conditions as oil from other origins. Almost twenty years elapsed and the treaty remained without execution. Considering it an anachronism and overcome by the actual economic circumstances of both countries, Bolivia then insisted on renegotiating it. From this arose the negotiations that were to result in the agreements of 1958.

The Roboré case did not originally represent a high priority among Kubitschek's foreign policy goals, dominated by the relations with United States and, from May 1958 on, by Operation Pan-America (OPA), which reoriented the latter by emphasizing a multilateral approach to discussing solutions to economic underdevelopment. Relations with Bolivia became an increasingly relevant subject in the diplomatic agenda as the Agreements raised serious contentions both in public opinion and in Congress. The controversy and the polarization between nationalists and cosmopolitans on the issues of oil and frontiers eventually became a major theme even in internal politics. Precisely because they did not occupy the epicentre of diplomatic priorities, relations with La Paz constituted in this period an example in which Itamaraty enjoyed a relatively autonomous stance, despite the interbureaucratic process defining a policy towards Bolivia.

Problems and hypothesis

Bringing in the wider issue of how foreign policy was decided during the Juscelino Kubitschek administration, analysis of the Roboré Agreements represents an important example on how the Executive operated in international subjects and, at the same time, of how the Legislature followed the diplomatic movements where the leading role was played by the Presidency and Itamaraty.

The campaign against the agreements launched by the opposition resulted in a paralysis of the Notes, thus bringing to nothing the negotiations conducted previously. In what seems to have been a deviation for political purposes from a technical critique of the legitimacy of the agreements for political objectives, the campaign against Roboré turned into a passionate defence of the state monopoly on oil, by then totally consolidated in Brazil. From the moment the Committee on External Relations of the Chamber of Deputies accepted the Counsel by Deputy Gabriel de Rezende Passos (UDN/MG) and the assembly in plenary session passed Legislative Act 37, it became mandatory that the Chamber as a whole should examine the Notes.

The present article intends to identify the arguments brought about against the Agreements and evaluate whether they were juridically consistent or whether they were simply developed to obstruct a government initiative. It also intends to

identify the Kubitschek administration's objectives when it endorsed the set of Roboré instruments.

Since this article is related to a wider research on the foreign policy decision-making process during Juscelino Kubitschek's term, it will try to address some issues concerning the theoretical discussion on decision-making. Two general propositions may be stated as a basis for further discussion:

1) That, in presidential regimes, like the Brazilian one, there is a trend towards the monopolization of foreign policy decision-making by an intimate circle round the head of the Executive. In consequence, the Legislature tends to be superficial; limited to ceremonial, technical or judicial approach in all matters concerning foreign policy; thus not participating in the formulation of the general principles of foreign conduct.

2) That congressmen are only secondarily interested in matters of international politics. The idea that foreign policy themes do not yield valuable political rewards or that they are irrelevant to gain votes contributes to relegating them to second-rank political issues in the eyes of congressmen.

During the research three preliminary hypotheses will be attested:

- The decision-making process of the foreign policy of Kubitschek's period was influenced by different government agencies.
- Inside Itamaraty various approaches to foreign policy coexisted.
- Itamaraty enjoyed some degree of autonomy in the conduction of the Roboré negotiations and had the responsibility of defending the Notes before the Congress in the name of the government.

Models of analysis of the decision-making process: an attempt to dialogue

The use of some models of analysis of the foreign policy decision-making process will certainly be helpful in enlightening the study of the controversial Roboré Agreements. These represent an interesting example of how different methodological perspectives may lead to different but complementary conclusions. In the midst of description and analysis, then, an attempt will be made to establish a dialogue with the theoretical literature.

In a first approach, the myriad of governmental agents somehow involved in the negotiation and execution of the Roboré Agreements would suggest the

suitability of a 'governmental politics' model of analysis, which underlines the internal disputes between different government agencies and sees the decisions themselves as the result of a political bargain.

The coexistence within the same governmental agency of different conceptions as to which policy to choose indicates the pertinence of the 'organizational behaviour model', which takes into account the agent's different perspectives derived from their position in the decisional structure.

The use of the 'rational choice' model would be rather complex, given the divergent perceptions of the national interest as well as the variety of agents engaged in the foreign policy decision-making process. This model focuses on both the information-gathering and –selecting processes and the personality of those defining the policies.

Although leaning towards simplification, the 'state as a unitary actor' model, which presupposes the state to be a coherent and logic actor seeking to maximise its gains, cannot be entirely dismissed in any analysis of interstate relations¹.

As a historical study, it would not be proper in the present work to avoid the descriptive and narrative dimensions or the required reference to primary sources. Through these it will try to set the Roboré Agreements in context and bring about an empirical basis for future discussions on theoretical issues.

1.2. The Old and the New in Kubitschek's Diplomacy

The foreign policy of JK: international accomplishments in a "golden age"?

The foreign policy of the Kubitschek administration could not avoid being related to the image of progress and modernization that is normally associated with the period. As long as there is a possibility of a net separation between economic and diplomatic performances, it is quite possible that the international achievements during his term were much less visible than the economic conquests. However, it

¹ The following works were used to synthesize the features of the different models of analysis of the foreign policy decision-making process: Graham Allison & Philip Zelikow, Essence of Decision/Explaining the Cuban Missiles Crisis, New York, Longman, 1999, passim; Jean-Baptiste Duroselle, Todo Império Perecerá/Teoria das Relações Internacionais, Brasília/São Paulo, UnB/Imprensa Oficial do Estado, 2000, p. 221-39; Marlis G. Steinert, A decisão em matéria de política externa/Ensaio sobre a utilização das teorias, in: Duroselle, 2000, p. 443-59; James E. Dougherty & Robert L. Pfaltzgraff, Jr., Contending Theories of International Relations/A Comprehensive Survey, New York, Longman, 1996, p. 457-502; e Charles W. Kegley, Jr. & Eugene R. Wittkopf, World Politics/Trends and Transformation, New York/Boston, Bedford/St. Martin's, 1999, p. 43-72.

cannot be disregarded that the economic growth during 1956-1961 – with the effervescent cultural production, mainly responsible for the “golden age” image that continues to characterize those years – could only be possible through the combination of a favourable international financial context and a diplomatic performance that succeeded in attracting foreign investments that eventually hastened the industrialization process.

On one hand, Brazil was favoured by the relative availability of international capital in a phase generally characterized as one of general prosperity and economic growth in the capitalist world. The economic and financial recovery of Western Europe was as important a factor as the prosperity of the United States through most of the period. For countries like Brazil, desperately in need of foreign investors – and with an ambitious project of economic growth - finding those resources from abroad was not an easy task. In the end, the Kubitschek administration can be given credit for both obtaining financial support and turning into practice a structural plan for growth. To assess the importance of the availability of capital in the international financial market, it is worth recalling that foreign investment represented the main basis of sustainability of the *Programa de Metas*, which was also based upon state and private Brazilian investments.

On the other hand, the freezing of the international system around two antagonistic superpowers – in spite of the cracks in each bloc – curbed the freedom of international mobility of those countries that were looking for economic diversification and “development”. To Brazil, the constraints of the Cold War represented the inhibition of the possibility of establishing closer commercial and financial ties with new partners. In this sense, subordination to the international policy of the United States prevented an effective economic approximation both with the Soviet Union – which by 1956 had started an aggressive policy of cultural and economic penetration in the Third World – and with the newly independent nations emerging from decolonization.

Relations between the United States and Latin America during the Cold War

Latin America inclusion in world politics was bound both by its economic dependence on the United States and by its being under the sphere of influence of the leading power of the capitalist world. American hegemony over Latin America

had been established with the collaboration and help of the Latin leaders themselves; they had politically legitimised the build-up of an “American system” based upon two multilateral instruments: the Inter-American Treaty of Reciprocal Assistance, signed in 1947, formalizing the military dependency, and the Organization of American States (OAS), created in 1948 to work as a regional forum for diplomatic negotiation.

From a strategic point of view, the most relevant to the US, the emphasis was laid upon “hemispheric security” through the condemnation of nationalism – then effervescent in the subcontinent – and, most of all, of communism.

From an economic perspective, US policy for Latin America sustained free trade and better conditions and fairer treatment for foreign investors and condemned state interventionism and protectionism.

Thus, the general objectives of US policy for Latin America can be summoned up in four points: (1) to preclude Soviet ideological, economic and military penetration; (2) to promote internal stability for friendly governments, regardless of their dictatorial or democratic nature; (3) to secure the continuity of the raw materials trade to US industry; and (4) to assure Latin American support for Washington’s foreign policy.

United States emphasis on security and anticommunism contrasted with Latin American insistence on demanding international aid for development. Influenced by the theories formulated in the United Nations’ Economic Commission for Latin America (ECLA), several governments of the region joined the chorus demanding both protection for primary products – denouncing the deterioration of the terms of trade – and financial support through official and private loans at low interest. Latin American dissatisfaction with US policy was generalized in the region: traditional and loyal allies, they considered themselves as being disregarded while other regions around the world were receiving more attention with loans and aid (Moura, 1991, pp. 27-30; and Rabe, 1988, *passim*).

The ambiguities of JK’s diplomacy

Brazilian diplomatic manoeuvring during the Kubitschek administration makes a positive contrast with the immediately preceding periods. If one considers world projection and diffusion of the country amidst the opportunities and constraints

presented by the configuration of the international system, Brazil had become more present on the world stage. Not only had economic performance, sports conquests, or brilliant artistic manifestations contributed to the aura of modernization and creativity that characterized the JK years, in international relations, Operation Pan-America (OPA), an initiative that represented an improvised “target synthesis” of Kubitschek’s foreign policy, symbolized a new profile of diplomatic exposure. The greatest diplomatic conquest, however, seems to have been the fact that the claiming rhetoric – although not quite self-confident and affirmative – had not jeopardized the economic development programme. In other words, the greatest achievement had been to create an opportunity to establish the industrial take-off, and the diplomatic performance had not embarrassed this objective. Foreign investors and international capital did come to Brazil, and Juscelino’s famous slogan *Fifty years in five* was not so hyperbolic as it might have seemed.

Nevertheless, a closer look into international performance during the period allows one to identify various arenas where Brazil remained far behind from what should be expected of a state boosting its “modernity”. And this was mainly because it limited itself to the rhetorical dimension.

The available literature underlines the ambiguous character of Brazilian foreign policy under Kubitschek. Elements of attachment to the past – like the strengthening of the traditional friendship with Portugal – appear side by side with new features – like the opening up to Asia and the furthering of links with the Soviet Union. Operation Pan-America constituted an opportunistic attempt to give priority to Latin America, but it was not easy to give consistency and substance to the traditional Pan-American rhetoric. According to Gerson Moura, ambiguities, contradictions and imbalances were traces that characterized Brazilian diplomatic performance under Kubitschek in both regional and world contexts.

Relations with the United States, pivotal in the whole of Brazilian foreign policy, displayed a new pattern that incorporated both explicit divergences and critical questioning, particularly after the launching of OPA. At no moment, though, was there any sign of a distancing from the often-quoted ‘Western solidarity’ and ‘adhesion to Christian values’.

Presenting case studies

With no intention of transplanting this dichotomy between the “old” and the “new” in the foreign policy of JK, Paulo Visentini suggests the following periodization for the years 1956-1961: (1) up to mid-1958, a period of automatic alignment with the US; (2) from mid-1958 to the end of Kubitschek’s term, a period of nationalistic bargaining with the US (Vizentini, 1996, pp. 231-51). During the second phase, manifestations of dissatisfaction were no longer complaints about non-generous treatment by the United States; they had gradually started to incorporate deeper criticisms of international order, the arms race, and the distortions of international trade to the disadvantage of developing countries.

If one chooses some meaningful events to assess how conservative or how modernizing were Brazilian positions in international affairs during the Kubitschek years, the overall result would probably be negative with a predominance of a conservative approach in foreign policy. Although signs of continuity prevailed, some new elements appeared and had a lasting influence on the decades to follow. The following paragraphs contain preliminary evaluations of the expressive events that marked Kubitschek’s foreign policy.

In his first year in office, two decisions can be taken as examples of his policy of alignment with the US: (1) the agreement through which an American military base for missile tracking was installed in the Atlantic archipelago of Fernando de Noronha and, (2) the dispatching of Brazilian troops to join United Nations’ peace-keeping forces in the Middle East, following the Suez crisis. Both decisions stress a traditional aspect of Brazilian foreign policy throughout the twentieth century: to cultivate Washington’s friendship, in this case, to guarantee its co-operation in requests for credits, “technical assistance” and “aid for development”.

Operation Pan-America was the great diplomatic initiative of Kubitschek and represented a new approach, as it associated the fight against communism with the need for economic development. It displayed a rather thin sense of opportunity by exploring Nixon’s disastrous visit to South America in May 1958 to unleash a movement, though diffused, favourable to Latin American’s yearnings for development. Even if it lacked adequate internal and regional preparations and although its practical results were meagre, OPA inaugurated a new pattern of relationship with the hegemonic power as it made it possible to antagonize its representatives in regional meetings, to openly criticize US policy for Latin America,

and to formulate clear and specific demands for economic development. This new pattern would flourish in the 'Independent Foreign Policy' of Quadros and Goulart and in Geisel's 'responsible pragmatism'.

Disengaging negotiations with the International Monetary Fund (IMF) in 1959 was closely related to internal politics: it meant, in summary, that the *Programa de Metas* was the priority, even at the cost of monetary stability. Through the breach, Kubitschek was able to gather support among the nationalistic left wing. Together with OPA, the so-called rupture with the IMF constitutes an emblematic example of the policy of bargaining with the United States.

The succession of attempts to mediate the conflict between Washington and Havana should be viewed in the same vein as bargaining for American financial support. Through these attempts, made during his final year, Kubitschek's foreign policy demonstrated once again its desire to play a protagonist role in inter-American affairs. Behind the offering of good offices, it aimed at calling Washington's attention to the importance of Brazil and to the need for implementing the proposals discussed and approved in a series of inter-American meetings, in a great measure convened due to OPA.

Persistent support for the Portuguese colonialist policy, as well as the excessive precaution with which Brazil re-established commercial relations with the Soviet Union, constitute paradigmatic cases of a seemingly blind adherence to the past. On the first question, neither the wave of political independences taking place in Asia and in Africa nor the resultant emergence of a new international coalition were enough to divert Brazil from its traditional policy of friendship with Portugal. It still remains to be explained which national interest was envisaged by the stubborn support shown towards Portugal. Regarding relations with the USSR and the socialist countries, the fear of compromising the bargaining with the US and the internal repulsion towards communism precluded a pragmatic view that would take advantage of the approximation.

Last but not least, the Roboré Agreements with Bolivia, particularly the Notes on oil exploitation, represent an example of an unarticulated and rather unrealistic diplomatic performance. Owing to the lack of financial, political or legal conditions, Brazil had since 1938, when it had obtained legal expectations of future oil concessions, not known how to exploit Bolivian oil – either through private

companies or eventually through Petrobrás. In the end, it was not able either to obtain economic advantages or establish a geopolitical presence, maybe as a by-product of the fear of disturbing US interests, represented by the great oil companies.

The provisional conclusion from the cases briefly presented above is that JK's foreign policy was unable to create new possibilities and extract all the possible advantages the international system could present. Even if one considers the centrality of the relations with the United States as a stimulus to the preservation of the "special allied" paradigm – and, thus, as a constraint to more independent moves - adherence to the dogma of Western solidarity hindered Brazil's diplomatic performance. Thus it does not seem to be inappropriate to consider as the greatest achievement of the foreign policy during the JK years the fact that it did not jeopardize the economic drive.

1.3. The Bolivian Revolution between nationalism and oil companies

The April 1952 revolution and the first measures of the MNR

When the Bolivian military instigated a coup to prevent Victor Paz Estensoro, president-elected in May 1951, from assuming power they could not imagine that less than a year later they would be expelled from power and the army as a political and military force would be entirely disintegrated by a revolutionary government. After a violent insurrection in April 1952, the outcome of the elections was recognized under the rule of the *Movimiento Nacionalista Revolucionario* (MNR), a left wing group where middle class intellectuals and entrepreneurs, young military officers, rural workers and miners were represented. If one could find some fascist features in its original program from the early 1940s², the MNR, once in power, put

² The origins of the MNR go back to the "Busch Club", group created during Peñaranda government (1940-1943) to honour former president/dictator Germán Busch, who had introduced fascist corporatist ideas in Bolivia and fostered nationalism. Declared illegal, it was dissolved and later reorganized as MNR under the leadership of Victor Paz Estensoro. It had already tasted power from 1943 to 1946 after a coup orchestrated in

into effect some state-oriented reforms aimed at dismantling the oligarchic power structure, which until that time had rested in the hands of mine owners, landlords and a corrupt civil and military bureaucracy.

Amongst the revolutionary government's first measures, one could count the dismantling of the army and the institutionalisation of popular militias, the concession of the right to vote to the illiterate, agrarian reform, and the nationalization of tin mines, the country's main resource (Rabe, 1988, pp. 77-82; and Boersner, 1996, pp. 189-90).

American support – and demands – to the MNR

The global antagonism between the United States and the Soviet Union during the 1950s helps to explain the concern on the part of American foreign policy decision-makers about the emergence of a Marxist regime in Latin America. The singularity of the Bolivian case derives from the fact that between 1953 and 1961 Bolivia *received, on a per capita basis, more economic aid from the United States than any other country in the world* (Rabe, 1988, pp. 77-8). Two other features make this singularity remarkable. In the first place, by granting public loans and artificially supporting tin prices, Washington's economic aid to La Paz refuted the principles repeatedly announced by both the Truman and Eisenhower administrations, according to which Latin American development should be based upon private investments and free trade. Secondly, the aid was given to a revolutionary regime, if not openly socialist, at least clearly state-oriented (Bandeira, 1998a, pp. 215-7).

As Rabe observes, the support given by the US to the MNR government followed the strategy of preventing the reforms from going further and the ruling coalition from leaning towards the Soviet sphere: the rationale was to avoid further radicalisation, and thus containing the revolutionary impetus. Therefore, there was no contradiction between American support to the MNR and its policy of eradication of communism from the Western hemisphere. Through financial aid the United States would eventually increase their influence, make free trade prevail, and impose the adoption of a favourable policy to foreign private investments. Despite MNR's

alliance with former participants of the Chaco war under the front RADEPA (Razón de la Patria). See Memorando CAB/51, confidential, 29 July, 1960, from Bastos do Valle to Escorel de Moraes. For a Marxist view of 20th century Bolivian history, see René Zavaleta Mercado, *Considerações gerais sobre a história da*

nationalist stance, always suspicious to Washington, both Victor Paz Estensoro (president from 1952 to 1956 and from 1960 to 1964) and Hernán Siles Suazo (president from 1956 to 1960) were representatives of the moderates in the front who desired change through reform and development. To support the forces behind these leaders meant weakening the more radical elements of MNR, gathered round Juan Lechín, a miner trade unionist. Additionally, to counterbalance the MNR, the US could neither count on the former conservative elite nor on the military without compromising its reputation (Rabe, 1988, pp. 78-9).

Taking into account that United States economic presence in Bolivia was not relevant if weighed up in the context of global US investments, the hypothesis that political and strategic calculations prevailed over economic ones in the decision to support the MNR seems to be a valid one. This support, however, came side-by-side with demands such as the implementation of the principle of adequate and immediate economic compensation to US investors whose assets had been affected either by the nationalizations or by the land distribution programme. These exigencies were made basically in defence of the owners of tin mines.

Proportionate to their presence in the Bolivian economy, US capitalists' stakes in Bolivia were minor. On the other hand, Bolivian dependence on US imports of tin was immense: the American market absorbed 50 percent of all Bolivian tin. The end of the Korean War (1950-1953) and the subsequent surplus of world tin supply caused a sharp fall in its international quotation resulting in a considerable loss of government revenues. At the same time, agrarian reform provoked a steep reduction of agricultural production from which followed the desperate need for food imports. During 1953, in the midst of a threatening national catastrophe, the United States intervened with an emergency food supply programme. The economic crisis and the scarcity of resources were aggravated by the expensive government's welfare and economic diversification programmes which eventually led to inflation.

Wrapped up by the crisis, MNR's government could only acquiesce to US demands. The nationalist revolution gradually became "stable". The conclusion of an investments guarantee treaty with the US in 1955 indicated that Bolivia was open to

Bolivia (1932-1971), in: Pablo G. Casanova (org.), *América Latina: História de Meio Século*, Brasília, UnB, pp. 15-73.

foreign investors. However, the most symbolic feature of American pre-eminence over the Paz Estensoro administration was the Bolivian oil code, adopted in 1956.

The Bolivian national oil code

In 1937, after the end of the Chaco War (1932-1935), the Yacimientos Petrolíferos Fiscales Bolivianos (YPFB) was created as an attempt to foster national economic recovery. Huge US oil companies were nationalized and expelled from the Bolivian market. Amongst them, Standard Oil was expropriated on the grounds that it had helped the Paraguayans during the conflict.

Thanks to a loan received through the US technical assistance programme for Latin America, the Estensoro administration was able to pay Davenport, Huess & Company, an American law company, to write a new national oil code. It was conceived to allow foreign private investments in the Bolivian oil industry. The new code expressly prohibited the presence of state companies in the exploitation of Bolivian oil. Rabe maintains that Assistant Secretary of State, Henry F. Holland, himself a lawyer with large experience in defending US companies' interests in Latin America, personally assisted the writing of the code. As a result, in a few years, ten US companies were exploiting Bolivian oil concessions.

The Eder Plan for economic stability

During the Hernán Suazo administration, the influence of the United States on Bolivian affairs became even more marked. As a condition for new loans, Washington demanded the stabilization of the Bolivian economy. Suazo accepted the conditions and welcomed George Eder, an economist from the International Cooperation Administration, charged with restoring the state's finances and reintroducing a market economy in Bolivia.

Following the basic principle of attracting and protecting foreign investments, the so-called 'Eder Plan' recommended typically anti-state and liberalizing steps such as: (a) cuts in governmental expenditures; (b) restrictions on the subsidies to state companies; (c) end to consumer goods' subsidies; and (d) freezing salaries. The stabilization of the economy, nevertheless, did not avoid serious internal disputes expressed by the renunciation of the vice-president, a general strike summoned by Lechín, and a hunger strike by President Suazo. As he enjoyed

immense prestige owing to his leadership in the April 1952 armed movement, Suazo succeeded in appeasing political disputes.

The Eder Plan denied further loans to state companies and to development and economic diversification projects; it also halted the programme of buying and stockpiling tin. It represented thus the end of economic nationalism in Bolivia.

To sum up, the “soft” intervention of the United States in Bolivia – as opposed to the armed intervention to oust reformist president Arbenz in Guatemala in 1954 – resulted in the preservation of a commodities export-oriented economy. In a subtler but equally efficient way, the growing US influence in Bolivia after 1952 had met its objective of preventing the emergence of a communist regime in Latin America (Rabe, 1988, pp. 80-2).

For the sake of this analysis, it is of particular interest to stress that the Bolivian oil legislation had been worked out to favour the huge US oil companies. The oil code not only ended the YPFB’s monopoly but also precluded the participation of any foreign state companies, or subsidiaries, in the Bolivian oil industry.

Against the presumption shared by the opponents to the Roboré Agreements, the 1938 Treaty on the Utilization and Outflow of Bolivian Oil had not expressly established the joint exploration of the sub-Andean region by state companies of Brazil and Bolivia. Therefore the Bolivian oil code had not thwarted the provisions of the 1938 Treaty, as the Brazilian nationalist Deputy Gabriel Passos pleaded. Both the end of the state monopoly and the penetration of American oil companies into the Bolivian market after 1956 deeply changed the conditions upon which the 1938 Treaty should be executed. The need for its renegotiation could no longer be avoided.

2. BRAZILIAN-BOLIVIAN RELATIONS BETWEEN 1938 AND 1958

This section intends to describe the evolution of the Brazilian government's stance, particularly that of the Ministry of External Relations (Itamaraty), on bilateral relations with Bolivia from the conclusion on 25 February 1938 of the treaties on the Utilization and Outflow of Bolivian Oil and Railroad Interconnection to the signing of the Roboré Agreements on 29 March 1958. Simultaneously it intends to point out some of the criticisms raised by opposition parliamentarians against the Executive's guidance in Bolivian affairs.

Preceding the description, an attempt will be made on a preliminary theoretical discussion on the foreign policy decision-making process as a means to support the analysis. The problems concerning the execution of the Agreements as well as the political and juridical debate on their validity will be treated in sessions 3 and 4.

2.1. Theoretical approach: models of analysis of the decision-making process

The Ministry of Foreign Relations' documentation clearly shows that within Itamaraty itself there were different points of view regarding the conduct of relations with Bolivia. The position defended by the bureaucratic unity with direct responsibility on a particular subject was not necessarily the one adopted by the government. The Frontiers Division (DF), for instance, utterly disagreed with the terms of Note 1 on limits; the Economic Division (DE) suggested a different solution from the one adopted in Note 6 on oil exploration.

In addition to the divergences between different bureaucratic units from the same governmental agency, the documentation from Itamaraty also reveals the interbureaucratic character of the decision-making process. Besides Itamaraty and the military ministries – agencies naturally active in external relations – other organizations took part in the foreign policy decision-making process on Bolivia. This was the case of the Ministry of Transport and Public Works (MVOP), the National Security Council (CSN), the National Bank for Economic Development (BNDE), and the National Oil Council (CNP).

The 'organizational behaviour' and 'governmental politics' models

To look at the Roboré Agreements from the perspective of the decision-making process makes it unavoidable to consider, even briefly, the models of analysis utilized in the specialized literature on the subject. Two models of analysis seem to be most useful: the “organizational behaviour” model and the “governmental politics” model.

According to the definition given by Allison and Zelikow, the organizational behaviour model sees government actions as the by-product of the simultaneous and often independent working of different governmental agencies or organizations. Positioned at the top of a hierarchical network of organizations, the leaders are responsible both for co-ordinating the autonomous functioning of each agency involved and policy decision. The adoption of some ‘standard operational procedures’ (SOPs) is required in order to allow co-ordination. These SOPs constitute rules according to which actions are taken. Most governmental decisions are primarily taken in accordance with these SOPs; that is to say, in accordance with pre-established routines. The agents involved in foreign policy decision-making process thus constitute a constellation of organizations loosely co-ordinated by those who decide upon this or that line of action. (Allison & Zelikow, 1999, pp. 143-7).

The governmental politics model, a variant of, and to a certain extent complementary to, the former model, focuses on governmental actions as a by-product of internal political processes. Located closer or further away from the core of decision-making, a variety of agents interact in a bargaining process that characterizes politics. As a result of political bargaining inside the state bureaucracy, the position defended by a certain agent may prevail over the suggestions of other agencies, or it may be that the eventual course of action pursued is different from all the previously proposed ones. In explaining the decisions taken by the leaders, the governmental politics model takes into account the role of agents, internal politics, coalitions, bargaining, and compromising that precede action. The fact that each agent occupies a different position in the government structure implies different perceptions and priorities among them. This model then underlines the competition rather than the co-ordination between different agents taking part in the foreign policy decision-making process (Allison & Zelikow, 1999, pp. 143-7).

The interbureaucratic character of Kubitschek's foreign policy decision-making process

Both traditional bureaucratic agencies and new administrative unities characteristic of the so-called "parallel administration" were involved in the foreign policy decision-making process during Kubitschek's administration. The array of newly created public agencies was a means by which the Executive could by-pass the traditional levels of public administration; it also responded to the need for more specialized public service when the state was widening its range of action. Skidmore thus commented on the way the Kubitschek administration operated:

The Kubitschek presidency demonstrated the limits of a policy of improvisation not only in economic policy and political style, but also in institutional life. As part of his policy of shunning conflict, Kubitschek had seldom attempted to abolish or radically alter existing administrative institutions. He preferred the more practical course of creating a new organ to meet a new problem (Skidmore, 1986, p. 185).

Symptomatic of the Kubitschek's highly personal style and frequent recourse to improvisation was the so-called "parallel diplomacy", which supplemented the traditional external relations conducted by Itamaraty³. From the perspective of the foreign policy decision-making process, this peculiar style of conducting foreign policy strengthens the hypothesis of an intimate circle around the president as the core of the decision-making process.

In the case of the Roboré Agreements, besides Itamaraty, the MVOP (Ministry of Transport and Public Works) also took part in the process since the construction of the Corumbá-Santa Cruz de la Sierra railroad was among the most pressing subjects in bilateral relations. The military branches of the Executive were directly concerned about the preservation of the territorial integrity of the country.

Furthermore, a variety of military officers were occupying technical offices in the civil service: for instance, Colonel Alexínio Bittencourt was president of the CNP (National Oil Council) while Colonel Janary Nunes was president of Petrobrás. Although supporters of the state monopoly on oil and sharing nationalistic views, they disagreed about oil exploitation in Bolivia. To the latter, Petrobrás should be

granted concessions with exclusivity; to the former, private companies should be allowed to join in the exploration (Benevides, 1979, pp. 173-4). The final decision, however, was to be taken by the CSN (National Security Council), where Itamaraty was also represented but the military predominated.

To elaborate on the hypothesis of the monopolization of the decision-making power by a small group of advisors close to the president, one should consider that relations with Bolivia affected different governmental organizations, each carrying out their respective duties with some margin of relative autonomy. Since those relations involved technical issues such as geological surveys, railroad construction, and border demarcation, it would seem natural that the presidency would rely on the expertise of each agency concerned with each particular theme. If this reasoning is correct, it reinforces the hypothesis about the autonomy of the bureaucratic agencies implicit in the organizational behaviour model.

Additionally, if one considers the Roboré Agreements both as a result of the autonomous procedures of different agents and as the result of interbureaucratic political disputes, it might be suitable to ponder that

Presidents rarely, if ever, make decisions – particularly in foreign affairs – in the sense of writing their conclusions on a clean slate... The basic decisions, which confine their choices, have all too often been previously made (Sorensen, quoted by Allison & Zelikow, 1999, pp, 164-5).

In spite of the fact that some parliamentarians did comment on Brazilian-Bolivian relations both to applaud Brazil's stance and to criticize it, particularly its inability to put into effect the 1938 Treaty on oil, it seems to be indisputable that the Executive enjoyed wide hegemony in the decision-making process that led to the Roboré Agreements. Opposition parliamentarians followed bilateral negotiations and disagreed with the provisions of the Roboré notes. They eventually succeeded in preventing their execution. This means that the Legislature was able to intervene in foreign relations and to obstruct the conduction of foreign policy as the Executive had wished. It does not mean, however, that the Legislature – even less the opposition minority – had any participation in the decision-making process. As shall

³ The letter sent to Eisenhower on May 1958, launching OPA, was probably the most notorious example of the "parallel diplomacy". Bypassing the command of Itamaraty on foreign relations, Kubitschek utilized Augusto

be seen below, it was only after the diplomatic crisis with Bolivia provoked by the non-execution of the Roboré Agreements that the Executive started talks with Congress leaders to re-articulate a policy towards Bolivia.

2.2. Geopolitical reasoning to put into effect the 1938 Treaty

The main provisions of the 1938 Treaty on oil exploration

To understand the evolution of bilateral relations, it is necessary to fix the main points covered by the diplomatic instrument that staked out Brazilian-Bolivian relations from 1938 to 1958. Negotiated right after the peace agreement between Bolivia and Paraguay that put an end to the Chaco War, at a moment of decreasing world trade and growing political instability among the great-powers, the 1938 treaties reflected the concerns of Brazil and Bolivia over their economic development. In both countries the governments were endeavouring to implement nationalist economic policies.

Below, the main provisions contained in the 1938 Treaty on the Utilization and Outflow of Bolivian Oil:

- 1) The assessment of the industrial value of the oil mines in sub-Andean Bolivia would be carried out by both governments through a series of geological and topographical studies.
- 2) The companies that would eventually be granted concessions to prospect for oil in Bolivia would reimburse both governments on the expenses incurred to carry out those studies.
- 3) The exploration of oil in the region - which were vaguely delimited - would be carried out by Brazilian-Bolivian joint ventures, constituted in accordance with the respective national legislation, and these companies would be obliged, after satisfying Bolivian oil needs, to supply the Brazilian market; this provision also established the virtual monopoly of supply to Brazil by the joint ventures (later on, the suppression of this monopoly by Notes 6 negotiated in Roboré was used as an argument by Itamaraty in favour of the agreements).
- 4) The surplus oil could be exported through Brazilian territory, preferably through the Corumbá-Santa Cruz de la Sierra railroad.

Frederico Schmidt as an informal ambassador. (Danese, 1999, p. 315; e Silva, 1992, pp. 20-1)

5) When the oil production was large enough to justify, it the Bolivian government would agree to grant concessions to Brazilian-Bolivian joint ventures to build and manage pipelines from the production area to the border or to a port by the Paraguay River.

Greeted with high expectations by the Bolivians, who look at the Brazilian market as the natural spillover for their oil production, the 1938 Treaty on oil was never put into effect despite repeated negotiations and the bilateral commitments assumed along the following years. The Brazilian-Bolivian Committee on Oil Studies was created to carry out what had been agreed; eventually it came out with only research, calculations and plans. In fact, Brazil had done very little to start the oil exploration. As a result, an anti-Brazilian sentiment grew among Bolivian politicians and public opinion; which, to a certain extent, rekindled old resentments dating back to the 1867 border treaty and the 1903 Petrópolis Treaty that put an end to the Acre dispute.

The rivalry with Argentina, the 1952 and 1953 notes and the Negrão de Lima mission

After difficult negotiations conducted during both the Dutra and Vargas administrations by their respective chancellors, Raul Fernandes and João Neves da Fontoura, on 19 January 1952 notes delimiting the area where the joint Committee would carry out the studies were endorsed.

An example of the interbureaucratic character of the decision-making process was the interdepartmental meeting held at Itamaraty on 5 March 1952 to define the general policy towards Bolivia, in particular the prosecution of the Corumbá-Santa Cruz railroad works. Besides the Chancellor and Itamaraty's Secretary-General, the head of MVOP, the Ambassador in La Paz, and high officials of the military ministries took part in the assembly.

All participants agreed that the railroad should be concluded not only because it would represent a stimulus to bilateral trade but also because it could be used as a means to put pressure on the Bolivian government to renovate Brazilian rights over the area reserved for future exploration. An entirely pragmatic approach to bilateral

relations predominated during the gathering as can be seen through these interventions:

The key issue is to avoid new commitments before Bolivia endorse the notes on oil...

...We cannot think of new commitments while Bolivia does not comply with what has been agreed⁴.

The oil exploration in eastern Bolivia was seen as a guarantee to the financial commitments Brazil had incurred to finance the railroad. The possibility that Brazil might concede a free port to Bolivia in Santos, Manaus or Corumbá was envisaged and the negotiations for a bilateral trade agreement were encouraged.

The geopolitical dimension of bilateral relations, however, received special attention from the participants. The decision-makers shared a general concern in relation to the Argentine expansion towards eastern Bolivia and, as a consequence, towards the Amazon basin. The projection of Argentine influence over Bolivia was held as the main reason for delaying the execution of the 1938 oil treaty.

In fact, in 1941 the Bolivians and Argentines had concluded an agreement on the construction of a railroad linking Yacuiba to Santa Cruz de la Sierra. Later on, in 1945, both agreed that the payment for the railroad construction could be made with oil found in the region crossed by the railroad. Since this provision directly affected Brazilian interests and rights, for the Argentine railroad would cross the area reserved by the 1938 Treaty to be explored by Brazilian-Bolivian joint ventures, a new accord between Rio de Janeiro and La Paz had to be concluded. On 19 January 1952, then, as mentioned, notes precisely defining the area reserved for the joint ventures were signed.

All the representatives of different agencies in the meeting shared the view that Brazilian engagement in the exploration of Bolivian oil was the best way to counterbalance Argentine influence. As general guidelines for bilateral relations with La Paz, it was recommended that Brazil should (a) insist on the implementation of the 1952 Notes; (b) proceed with the regulation of the Brazilian companies that would commercially prospect for oil with Bolivian companies in the reserved area; (c)

⁴ Memorando D/F, March 1953, from Teixeira Soares to Neves da Fontoura.

conclude the railroad, although it was admitted that it should not be given over to Bolivian administration⁵.

In August 1953, a diplomatic mission headed by Francisco Negrão de Lima was dispatched to La Paz to resume talks on the implementation of the 1938 Treaty. The discussions resulted in notes by which Brazil committed itself to US\$ 4 millions to finance the first drillings. The Joint Committee on Oil would administrate that sum. Serious financial and monetary problems in Brazil soon nullified the commitment. Once again, what the two countries had agreed upon could not be put into effect; as a result, suspicions grew in Bolivia as to Brazilian conditions and intentions to explore Bolivian oil.

When Alvaro Teixeira Soares assumed the Brazilian Embassy in April 1954, an anti-Brazilian feeling predominated in La Paz. The local media had launched a campaign accusing Brazil of imperialism and of deliberately precluding the exploration of oil in eastern Bolivia (Soares, 1973, p. 232).

The meeting in Corumbá and the 'Memorandum Estensoro'

In January 1955, the railroad Corumbá-Santa Cruz de la Sierra was officially inaugurated in a solemn meeting in Corumbá attended by presidents Paz Estensoro and Café Filho. By concluding the railroad, Brazil had complied with the obligation assumed in the 1938 Treaty on Railroad Interconnection, which had its origins in the negotiations for the 1903 Petrópolis Treaty.

A few days after the meeting in Corumbá, the Bolivian Embassy in Rio de Janeiro sent a document to Itamaraty signed by President Estensoro, in which he formalized his opinions on the subjects personally discussed with Café Filho. In the document, Estensoro insisted upon the need to renegotiate the 1938 Treaty, no longer applicable to the economic conditions of both countries.

The so-called Memorandum Estensoro provoked a nervous reaction in the Brazilian Chancellery as it tried to illustrate the inapplicability of the 1938 Treaty and proposed its revision on the following terms:

- 1) Elimination of the concept of geographical guarantee;
- 2) Beginning of research by YPFB in the Santa Cruz region;

⁵ Memorando D/F, March 1953, from Teixeira Soares to Neves da Fontoura.

- 3) The area held in reserve for Brazilian-Bolivian joint ventures would be opened to private companies from different nationalities;
- 4) The royalties these companies would pay to the Bolivian government would be reserved for paying the Bolivian debt to Brazil;
- 5) These amortizations to Brazil would start after the conclusion of the bridge across Grande River, the last stage of the railroad⁶.

After the Memorandum Estensoro, it would no longer be possible for the Brazilian government to ignore the urgent need to renegotiate the 1938 Treaty. It would take another three years, though, before the two countries could reach an agreement.

Persistence of geopolitical concerns: prevent Argentinean projection

As has been pointed out above, the National Security Council (NSC) had the final say on Brazilian policy towards Bolivia. In March 1955, during the 18th Session of the Council, it had been decided that Itamaraty was authorised to initiate talks with the Bolivian government concerning the revision of the 1938 Treaty. It had been established, however, that the final decision would depend on another pronouncement of the NSC⁷. By then, the same concerns about preserving the rights of Brazilian companies to explore Bolivian oil still prevailed among Brazilian decision-makers.

The possibility of losing the rights granted by the 1938 Treaty was dismissed out of hand, and the main reason was not on the grounds of economics: national security dictated the need to prevent or counter Argentinean expansion. According to the geopolitical perspective that prevailed in the High Command of the Armed Forces, the potential enemy was spreading its influence northwards and the railroad and oil interconnections in an East-West sense would neutralize the Argentine project. The loss of the reserved area would mean a strategic shortcoming rather than an economic disadvantage.

The Bolivian proposal of eliminating the concept of geographical guarantee of the area destined to be explored by Brazilian-Bolivian joint ventures according to the 1938 Treaty was ascribed to both US and European pressures as well as to

⁶ Speech by Senator Othon Mäder in the Senate plenary on 28 August 1956, Anais do Senado, pp. 759-63.

⁷ Memorandum DPo/45, secret. 31 March 1955, from Deloy Gibbon to the head of DPo.

Argentine influence. The Brazilian Embassy in La Paz felt that the Bolivian government wanted to disqualify the 1938 Treaty; for this reason, it was blocking the creation of the joint ventures.

2.3. Fruitless attempts to establish Petrobrás in Bolivia

In the 1938 Treaty there was no explicit recommendation about the private or public nature of the companies that would form the joint ventures. During the contention on the Roboré Agreements, the supporters of the agreements considered the use of the plural form in the 1938 text as an indication that the negotiators leaned towards private companies. Even before the promulgation of the new Bolivian oil code in 1956, the legislation after the 1952 Revolution prevented any foreign public company to take part in the exploration of Bolivian oil. In spite of that, Itamaraty unsuccessfully tried to obtain oil concessions for Petrobrás in eastern Bolivia.

Itamaraty's Political Division reaction to the Memorando Estensoro

In the Chancellery, the Political Division (DPo) tried to follow the specific instructions Macedo Soares had given:

I believe that the Brazilian government should unreservedly keep the agreements with Bolivia on oil exploration in the sub-Andean region, which has been delimited for this purpose. It is essential that the government be able to start to explore the oil wells: it is our declared interest and it is also the incontestable Bolivian interest. In the case that – after consulting CNP and Petrobrás - we cannot assure the Bolivians that we have the means to immediately start those drillings, we will not be able to refuse re-discussing the existing agreements to allow the Bolivian government to carry out that work, observing Brazilian rights both regarding fiscalization and priority in the oil supply⁸.

Complying with this general guideline, the DPo suggested that the Bolivian proposal to eliminate the geographical guarantee should be rejected. The idea that

⁸ Dispatch from Minister José Carlos de Macedo Soares quoted in Memorandum DPo/45, secret, 31 March 1955, from Deloy Gibbon to the head of DPo.

YPFB operated in the reserved area could only be accepted if that same facility were also granted to Petrobrás. Considering that the Brazilian capability to start drilling depended on both Petrobrás and the CNP, and that it was quite improbable that CNP would allow Petrobrás to explore oil in Bolivia since new wells had just been discovered in Brazil, the commitment to immediately start drilling had become very difficult to meet. In the case Brazil admitted that it could not start the operations, the DPo proposed that it should not be considered obliged to advance the US\$ 4 million agreed upon by the August 1953 Notes since the Bolivians had declared that they had means to start the drillings.

Itamaraty's Economic and Commercial Department presents a proposal

The different governmental organizations engaged in the negotiations with Bolivia unanimously agreed that Brazil would struggle to maintain the force of the 1938 Treaty on oil. Despite the fact that the Bolivian oil code, accepted on 8 March 1956, expressly forbade the participation of public companies or subsidiaries in the Bolivian oil industry, Itamaraty repeatedly envisaged obtaining concessions in eastern Bolivia for Petrobrás.

In May 1956, YPFB's president, Doctor José Paz Estensoro, the president's brother, made a visit to Rio de Janeiro to sign an accord with Petrobrás on the importation of gasoline and other oil products. Foreseeing that the Bolivians would certainly insist in reviewing the 1938 Treaty, the Economic and Commercial Department (DEC) of Itamaraty recommended a series of measures to be presented to them⁹.

A deposit of twenty cents per dollar per each hectare of the areas to be prospected by concessionaries was foreseen in the Bolivian oil code draft. The DEC suggested that Brazil should accede to this but, at the same time, should seek to be exempted on the grounds that it had already advanced huge sums to the Joint Committee on Oil. To complement its recommendation, the DEC proposed that the Brazilian government or the private company that would eventually explore the oil concessions should agree to annually invest eighty cents per dollar per hectare.

According to the DEC's view, Brazil should negotiate an authorization with the Bolivian government for a Petrobrás subsidiary to research and prospect for oil in the

⁹ Memorandum DE/?, secret, 11 May 1956, from Paes de Carvalho to the head of the Economic Division (DE).

area held in reserve by the 1938 Treaty. This subsidiary would be allowed to have private capital and Petrobrás would only have a minority of its shares. In order to create subsidiaries to Petrobrás, however, it would be necessary to arouse Brazilian private oil companies' interests to associate with Petrobrás.

The Juridical Consultant's view: Petrobrás versus private oil companies

A few months later, in September 1956, Itamaraty's Juridical Consultant, Ambassador Hildebrando Accioly, was asked to give his opinion on the juridical and political dimensions of the Brazilian participation in the Bolivian oil industry¹⁰. He restated the convenience of implementing the 1938 Treaty on oil, simultaneously negotiated with the one on the railroad interconnection. From the Brazilian point of view, the rationale that presided over the 1938 discussions was that the concessions for oil exploration to be carried out in the area crossed by the railroad would represent a warranty to the Brazilian railroad investments. As Juridical Consultant, Accioly considered his duty to point out the Bolivian internal provisions that prevented Petrobrás from taking part in its oil industry. Aware that the Bolivian oil code was chiefly designed to favour US oil companies, he sceptically suggested that diplomatic moves would not be enough to change Bolivian legislation, but they should be tried anyway.

Accioly argued that the juridical validity of the 1938 treaties was indisputable because only its violation or non-fulfilment, as long as recognized by either parts or a competent international authority, could deny its force. He underlined the contradiction of the Brazilian oil policy: on the internal dimension, state monopoly; in Bolivia, defence of foreign companies. He acknowledged the hostility shown by the Bolivians towards the participation in their oil industry of foreign state-owned companies that practised monopoly at home was natural.

To sustain his recommendations to the Minister, Accioly relied on the information and analysis advanced to him by João Baptista Pinheiro, a diplomat serving as technical assistant in the Development Council, a new executive agency created by Kubitschek under the umbrella of the Presidency to co-ordinate the *Programa de Metas*. He repeated but did not entirely endorse Pinheiro's view that Petrobrás should give up exploring oil in Bolivia. According to Pinheiro, it should do

¹⁰ Opinion, confidential, 24 September 1956, from Accioly to Macedo Soares.

so, firstly, because the Bolivian oil code simply prohibited foreign public companies in the oil industry. Secondly, for both entrepreneurial prudence and political caution: given the socializing profile of the MNR's government, it was not totally unreasonable to fear the nationalization of the oil industry, which would entail diplomatic contentions.

For Pinheiro, the nature of the companies that would take part in the oil exploitation should unmistakably be private. He considered that option an advantage to Brazil for several reasons: it would halt Bolivian claims to review the 1938 Treaty; it would enable Brazilian private oil companies to acquire international experience; and it would represent an opportunity to use the *Fundo de pesquisa* (Research fund) – formed with the contributions paid by the private oil refineries – in an activity that promised great opportunities for investment return. As a result of that solution, Pinheiro argued, Bolivian delaying tactics would be avoided and the Brazilian policy of economic cooperation with Bolivia through oil supply would be sustained. It would also, he concluded, keep the spheres of influence in the region balanced.

Even if this reasoning were to be followed, Ambassador Accioly pondered, it would not prevent the required revision of the 1938 Treaty, given the impossibility of Petrobrás' operations in Bolivia and the weakness of private capital in Brazil, which could together jeopardize the implementation of the treaty. Although considering quite unlikely that the Bolivians would agree to review their preclusion of Petrobrás involvement, the Juridical Consultant summed up advocating diplomatic attempts to negotiate a revision of the Bolivian oil code.

As could be seen, different sectors from Itamaraty – from the political to the economic and juridical areas - shared the conviction that the 1938 Treaty on the Utilization and Outflow of Bolivian oil had to be put into effect. It was also noted that all those units considered obtaining a share in the Bolivian oil industry for Petrobrás. As to the treaty on Railroad Interconnection, true it was that Brazil, despite all the financial hindrances, had complied with its obligation to finance and build the Corumbá-Santa Cruz de la Sierra railroad, whose work had nearly been concluded one year before Kubitschek assumed power.

2.4. The border: different perspectives within Itamaraty

Divergences between Brazil and Bolivia on the demarcation of boundaries

From the Brazilian perspective, the divergences with Bolivia regarding frontiers were limited to the demarcation of the border. The basic references for the 3,125 kilometres long border between Brazil and Bolivia had been established by the 1867 treaty as well as by the 1903 Petrópolis Treaty which brought to an end the dispute over Acre. Nevertheless, geographical miscalculations and slightly different interpretations had resulted in few minor cases that were exaggerated by the Bolivians throughout the negotiations on oil exploration and railroad connection.

Three out of the four differences that the Corumbá-Roboré-La Paz talks were intended to solve derived from geographical miscalculations: the issue concerning the Verde River's spring, wrongly fixed in 1909 by a demarcation expedition led by the English explorer Colonel Fawcett; the demarcation in the São Matias interval, fixed in 1951 but not acknowledged by Itamaraty; and the Jacadigo boundary mark, wrongly placed 567 metres within Bolivian territory. The fourth divergence regarded the Guajarámirim Island (Suárez Island for the Bolivians), claimed by La Paz in spite of the formal recognition of Brazilian sovereignty by previous Bolivian governments.

The disputed areas had neither economic nor strategic value. Bolivian territorial claims were clearly an attempt to capitalize on strongly symbolic issues – which in reality were mere technical details regarding the implementation of former treaties – to gather internal support for the negotiations with Brazil.

'Territorial irredentism' versus political-diplomatic approach

As to the negotiations regarding boundary demarcation, the Itamaraty documentation revealed that Foreign Minister Macedo Soares and a small group of close collaborators had the final say on the terms of the Roboré Notes. During the Corumbá-Roboré-La Paz talks, the decision-makers neither sought the advice of Itamaraty's Frontier Division (DF) nor followed its long held positions.

The DF had always refuted Bolivians claims, and considered any border dispute as a grave issue because it might threaten the territorial integrity of the

country. Attached to the geographical and territorial dimensions of the border disputes, the DF made a technical approach to the subject. Conversely, the Political Division (DPo) valued political considerations and was inclined to take a more compromising approach. Two examples illustrate the different perspectives.

While commenting on a memorandum by Teixeira Soares on bilateral relations with Bolivia, the head of DF, Altamir de Moura, disagreed with the Ambassador's assertion that the Brazilian-Bolivian borderline was the only one that still presented intervals to be defined. He even refused to acknowledge the existence of any border dispute. He accepted Bolivian claims to have access to and possession of half of the Grande Lagoon, the sole water supply in an extensive area of the border. In this case, he considered that it was reasonable to negotiate since the Bolivian demand was legitimate. In regard to the Guajarámirim Island, however, while Teixeira Soares defended the preservation of the status quo for a future global solution of the contention, Moura was decidedly against any concession:

There is nothing to negotiate regarding what belongs to us. (...) There is nothing to ask or to consult when we are consciously acting within our borders. (...). If it so wishes, Brazil may negotiate over the Guajarámirim Island, deprived of any significant value, but it can never admit doubts what is ours¹¹.

The same refusal to accept the idea of negotiating over unquestionably recognized national territory is revealed by the memoranda signed by João Guimarães Rosa, who replaced Moura as head of the DF. Aware that the issue of the reclaimed island transcended the technical dimension of border demarcation cases, Rosa had refused to accept the solution proposed by Vázquez Machicado, Bolivian Ambassador in Rio de Janeiro, who maintained that Brazil should rather accept arbitration, relinquish and be given territorial compensations in return, or, *in a great gesture*, cede without compensation. For Rosa, these would all be misguided positions to take. As the Brazilian sovereignty over the island was apparent and lavishly documented, he deemed it a dangerous example to accept arbitration. The smallest cession of Brazilian territory would constitute an extremely serious case. As he put it: *the ground is permanent; all the rest is transient*.

¹¹ Memorandum DF/, confidential, January 1956, from Altamir de Moura to the head of the Political and Cultural Department (DPC).

The head of the DPo, Luis Bastian Pinto, in turn, would follow a different line. Commenting on the border dispute with Bolivia, Bastian maintained that

It would be extremely relevant to consider the small Bolivian demands. Besides, it would be perfectly immoral for Brazil to insist on obtaining insignificant territorial advantages in a region without resources and where we had obtained all that we desired¹².

With respect to the island's case, impregnated with an emotional dimension in Bolivia, and particularly in respect to the arbitration hypothesis, the DPo's different perspective from the DF's was blatant:

It would not be advisable, from the political standpoint, to deny negotiating the subject. Although recognizing that it is hard to accept arbitration on something that apparently belongs to us, it seems to me that this hypothesis should be carefully examined because it might result in a solution.

The head of DPC conveyed to the Secretary-General the conflicting views of his subordinates and recommended a debate between them and the Minister's assistants who were familiar with Bolivian affairs. As has been mentioned above, in the Roboré Agreements, political reflections prevailed and, contrary to the DF's opinions, the ultimate policy option was favourable to all Bolivian border claims.

Bolivian manoeuvring to obtain territorial compensations

The Bolivian proposal to transfer to La Paz the 13th conference of the Joint Committee on Borders Demarcation - scheduled to be held in Rio de Janeiro in mid-1957, respecting the rule so far observed that these meetings should be held alternately in Brazil and Bolivia - was a clear expression of an attempt to capitalize on the border contentions with political aims. In a note sent to the Brazilian Embassy in La Paz, the Bolivian government advocated that the Borders Committee conference should be held at the same time and place as the Oil Committee meeting. Despite their different purposes, the note explicitly associated the results of each meeting.

¹² Memorandum DPo/142, confidential, 16 August 1957, from Bastian Pinto to the head of the Political and Cultural Department (DPC).

The head of DF correctly saw vested interests in the Bolivian suggestion, which displayed *the primitivism with which those neighbours of ours conduct their international relations*¹³. Furthermore, it revealed Bolivian pretensions to obtain territorial compensations during the negotiations on oil. The whole discussion on the oil issue was subject to the condition that some territorial compensation was to be considered. Rosa thought correlating technical subjects, such as demarcation, to political and economic issues, like the oil discussions, would not be convenient to Brazilian negotiators. Sensitive to the likelihood of internal political mistreatment of potential concessions, he suggested the rejection of the Bolivian proposal.

¹³ Memorandum DF/25, confidential, 3 May 1957, from Guimarães Rosa to the Secretary-General.

3. THE ROBORÉ AGREEMENTS

3.1. The border issues according to Notes 1

In Notes 1 signed on 29 March 1958, the Brazilian government accepted the four Bolivian border claims. During the negotiations conducted in Corumbá, Roboré, and La Paz, the points of view upheld by the Itamaraty Frontier Division (DF) not only were not taken into account but the DF was not even asked to state its position on the subject. The following paragraphs synthesise the four issues as they were treated in Notes 1.

In the case of the Quatro Irmãos-Green River interval, whose origins go back to the 1877 boundary demarcation campaign, the geographical accuracy had been established in 1945 when the expedition headed by General Bandeira Coelho discovered the actual spring of the Verde River, the extremity of the geodesic dividing line that started in the Quatro Irmãos mountain. Nevertheless, Bolivia still regarded as the reference to the borderline the “historical” spring, discovered in 1909 by the Fawcett expedition. Notes 1 did not acknowledge the proper spring and maintained the Fawcett one as a border reference, as had been previously made by the 1928 Christmas Treaty on limits and by notes exchanged in 1941. By the terms of article I, Brazil gave up the recognition of the actual spring of the Verde River as the extreme point of the geodesic. As a result, the acceptance of the Fawcett spring meant a territorial “loss” of approximately one thousand square kilometres.

This was one of the most contentious points of the whole Roboré Agreements. Exploited by the opposition, it had a negative effect upon public opinion, which could not understand how a geographical mistake could be taken as a basis for an international accord. Moreover, it did not accept that the mistake implied territorial losses.

As a matter of fact, it was a particularly delicate issue because the opposition's criticism called into question a principle systematically adopted by Brazil in all border negotiations. In Itamaraty, the diplomat in charge of Bolivian affairs raised the possibility that several border disputes would resurface if this principle were compromised:

It has been a regular procedure for Brazil, with no exception that I know of, not to accept that the geographical exactness later found out modified a previous juridical situation. The first time Brazil publicly admits the rectification of a written mark or a perfect juridical situation by the later confirmation that the geographical exactness is different, all of our now settled border disputes would resurface¹⁴.

The issue of the Jacadigo boundary mark also resulted from geographical miscalculation. During the 1909 border demarcation campaign, in the interval Negra Bay- Taquaral, a secondary mark was placed inside Bolivian territory, 576 metres from the correct borderline. This error meant to Bolivia the loss of twenty square kilometres. In the article II, Notes 1 explicitly invalidated the Jacadigo mark. The effective displacement of the mark to the proper borderline would still depend, though, on express instructions from Itamaraty¹⁵. After the 1958 agreements, it was judged that the Jacadigo issue did not deserve to be included in the notes since mere instructions from the DF to the Joint Border Demarcation Commission would suffice to displace the mark¹⁶

During the 1951 border demarcation campaign, representatives of both countries in the Joint Commission reached the conclusion that there was an inconsistency between the General Chart of the Frontier, accepted in 1879, and the descriptive memory of the demarcation work. In the region of São Matias they then placed marks on an intermediate line that was not accepted by Minister João Neves da Fontoura. According to the terms of Notes 1 article III, the ministerial decision of not accepting the 1951 demarcation became invalid, which meant to Brazil the loss of approximately twenty square kilometres in relation to the General Map of the Frontier.

¹⁴ Memorandum CAB/28, confidential, 19 May 1959, from Souza Braga to the Secretary-General, dispatched to the Minister on 21 May 1959.

¹⁵ Memorandum DF/30, confidential, 11 August 1958, from Gouvea Portella to Guimarães Rosa.

¹⁶ Memorandum CAB/28, confidential, 19 May 1959, from Souza Braga to the Secretary-General.

The sovereignty over Guajarámirim Island was unquestionably Brazilian. Notes exchanged in 1879 had given evidence of Bolivian recognition of Brazilian sovereignty over the small island. Article IV of the 1958 Notes 1, however, admitted future discussions on the juridical status of the island, implying a clear recognition of the possibility of arbitration.

3.2. Notes 2 on the railroad

The first criticism made of Notes 2 related to the transfer of the chairmanship of the Joint Railroad Commission to a Bolivian delegate. Since the the railroad were financed by Brazilian loans, the opposition in Congress deemed it unacceptable to place a Bolivian at the head of the Joint Commission. When laying down the conditions of the transfer, the Itamaraty's administrative unit responsible for Bolivian affairs struggled to keep the Brazilian representative in control of the enterprise.

Another disapproval referred to the dates fixed for the conclusion of the railroad works. According to Notes 2, by the end of 1959 Brazil had to disburse a sum that it could afford. Accepting the criticism, Itamaraty suggested as a solution leasing the railroad after Brazilian oil companies were granted concessions to prospect for oil¹⁷.

The main censure, however, concerned the obliteration of the guarantee of the Bolivian debt. According to Deputy Gabriel Passos, by discarding actual guarantees to Bolivia's debt, this concession was an undue modification of the 1938 Treaty. In this sense, having abolished a provision of a previous treaty, Notes 2 should also be considered a treaty; as such, they should be subject to Legislative sanction. Moreover, as they had not observed national interest, they had to be denied ratification (Passos, 1960, pp. 61-7).

Trying to justify it, Itamaraty considered the concession had taken for granted that the payments in oil agreed upon by Notes 6 on oil would automatically compensate the elimination of the guarantee.

3.3. The immediate antecedents of the notes on oil

¹⁷ Memorandum CAB/28, confidential, 19 May 1959, from Souza Braga to the Secretary-General.

An interbureaucratic dispute: the CNP against foreign capital

On 21 February 1957, Chancellor Macedo Soares sent the President a memorandum presenting the conclusions reached by the “Great Special Committee”, constituted to discuss the execution of the 1938 Treaty on oil. In the same document, the Chancellor recommended that an ad hoc working group, under the direction of CNP’s president, be responsible to make the eventual selection of the private companies¹⁸. As had been fixed in the 1938 Treaty, the selected companies would join Bolivian companies to prospect for oil in Bolivia.

The Great Special Committee had unanimously accepted the votes of the Minister of Aeronautics and the General-Attorney, which established that the Brazilian companies should be funded by Brazilian capital but, if this was not enough, they could be supplemented with foreign investment capital.

The working group was created and assessed nine applications. On 25 March 1957, it concluded that only three met the pre-established conditions for the candidates to explore oil in Bolivia. The BNDE had produced a technical-economical study on the capability of the applications. Colonel Mário Poppe de Figueiredo, CNP’s president, then asked Macedo Soares that the Great Committee be summoned again to discuss and clarify some alleged doubts raised by BNDE’s study. Macedo Soares’ answer insisted on the definitive character of the Great Committee’s deliberation, and considered it totally unnecessary to convene again¹⁹.

Colonel Poppe’s demand reveals that the CNP probably wanted to re-examine the criteria for the formation of the Brazilian private companies candidates to prospect for oil in Bolivia. CNP seemed particularly interested in preventing the participation of foreign capital in those companies. The divergence between the Chancellor and the military was an expression, within the state bureaucracy, of the ideological divide between ‘nationalists’ and ‘cosmopolitans’ in Brazilian public opinion.

Less than a year before the negotiations in Corumbá, Roboré, and La Paz that would lead to the conclusion of the Roboré Agreements, the decision-makers of Brazilian foreign policy towards Bolivia had already decided that: (1) Brazilian private oil companies would explore oil in the area held in reserve by the 1938 Treaty; (2)

¹⁸ Exposition to the President G/14, 11 February 1958, from Macedo Soares to Kubitschek.

¹⁹ Ofício G/DPo/16, secret, 23 April 1957, from Macedo Soares to Poppe de Figueiredo.

these companies were allowed to have foreign capital in their shares. CNP seemed to insist on the possibility of Petrobrás prospecting oil in eastern Bolivia, which was precluded by the Bolivian oil code. Eventually, CNP lost the interbureaucratic dispute.

Siles Suazo's visit and the resumption of negotiations

During his visit to Rio de Janeiro, in June 1956, as president elect, Hernán Siles Suazo told Juscelino Kubitschek that he hoped the negotiations on oil, deferred since Negrão de Lima mission and the innocuous 1953 Notes, could be resumed. Kubitschek welcomed the initiative and accepted to discuss a global policy for bilateral relations.

After an exchange of letters between the chancellors, the agenda for the talks was established at the end of 1957: oil, railroad, limits, duty-free zone and trade. In Itamaraty, whilst the political sector was in charge of the first three themes, the economic sector was responsible for the last two.

Charges of 'entreguismo': foreign capital funding private oil companies

The single most important consequence of the negotiations that had taken place in Corumbá and Roboré between 21 and 28 January 1958 was the understanding that oil exploration in eastern Bolivia would no longer be carried out by Brazilian-Bolivian joint ventures, but by private Brazilian oil companies. Before the agreements were effectively signed two months later, Macedo Soares maintained that Brazil should

*set up norms and criteria to fix the political, economical, technical, financial, and juridical conditions to which the private companies should submit in order to apply for oil concessions in Bolivia*²⁰.

The Foreign Minister then suggested to the President that a new working group be created to establish these norms. The group would have as its members the following officials: the Foreign Minister, replaceable by the Ambassador in La Paz, Alvaro Teixeira Soares; the minister of Transport and Public Works; the Finance minister; the secretary-general of the CSN; the presidents of CNP, BNDE, Petrobrás and *Banco do Brasil*; and the directors of SUMOC, CACEX and *Banco do*

²⁰ Exposition to the President G/14, 11 February 1958, from Macedo Soares to Kubitschek.

Brasil's Exchange Fund. Two weeks later, Macedo Soares presented to the President the document that resulted from the meetings of the working group²¹.

In accordance with the general principles defined by the interbureaucratic working group, the BNDE was charged with ultimately selecting the Brazilian companies that would prospect for oil in Bolivia. For Roberto Campos, who had replaced Lucas Lopes as BNDE's president, the criteria that presided over a crystal-clear technical judgement were the following: (1) capability to raise resources in *cruzeiros*, assessed by its own capital, the capital of its support group, and by the limits of bank credit and registration; (2) technical capability; and (3) ability to raise foreign currency resources. According to him, BNDE did not impose any conditions apart from those defined by the interbureaucratic group (Campos, 1994, pp. 366-76).

To Campos, the financing strategy that seemed most realistic was the one he called "fortuitous loans" (*empréstimos aleatórios*), whose paying back depended on the results of the investment. These "fortuitous loans" actually referred to the participation of foreign investments in the capitalization of the Brazilian private oil companies. The label given to these kinds of investments was apparently chosen to disguise the penetration of foreign capital in a sector such as oil, subject to political exploitation by the opposition.

Months later, during the work of the Parliamentary Committee originally created to find out about alleged wrongdoings in Petrobrás, the BNDE's criteria to select the oil companies were questioned. Among the charges, it was said the BNDE had put pressure on the candidates to associate with foreign companies; that the non-qualified companies were not selected because they had refused foreign participation; and that the "fortuitous loans", foreign financing with participation in the results, was against the usury law. At the time, Campos made public a document refuting each one of the conclusions of the Parliamentary Committee.

Campos was accused of favouring foreign interests. The mobilization of the nationalist sectors of public opinion – which included street demonstrations, organized by UNE (the students' national union) – led Kubitschek to eventually dismiss Campos (Bandeira, 1998, p. 308 e Benevides, 1979, p. 174).

According to Campos, the decision of allowing foreign capital in the Brazilian applicants to oil exploitation in Bolivia was eventually revised and only exclusively

²¹ Exposition to the President G/21, 26 February 1958, from Macedo Soares to Kubitschek.

Brazilian companies were effectively allowed to engage in the Bolivian oil industry. Campos' appraisal of the Roboré case and the Brazilian attempt to take part in the Bolivian oil industry is thus summed up:

The failure was as inescapable as predictable since our companies did not have enough financial capability to support the risks of oil research. (...) They lacked technology and the Brazilian government did not have the resources to finance the necessary equipment (Campos, 1994, p. 365).

3.4. The Passos Counsel and Itamaraty's justification: an exegesis of Notes 6 on oil

On 5 and 10 October 1959, Deputy Gabriel Passos (UDN/MG) put forward his Counsel on the Roboré Agreements to the floor of the Chamber of Deputies. In the Counsel, he suggested that Congress should examine Notes 1, 2, 6 and 7 and should reject them. By then, four Brazilian oil companies had already been granted concessions by the Bolivian government, which meant that Notes 6 on oil had begun to be put into effect.

Passos Counsel condemned the terms of Notes 6 on oil. After dissecting the accord, carefully examining each article, he thought it was damaging to Brazilian interests. His two basic conclusions were: (1) the Notes improperly dealt with subjects that should be dealt with in other treaties, but not in notes; therefore, they ought to be submitted to Legislative sanction; (2) since they were detrimental to national interest, Congress should refuse their ratification.

The following paragraphs are devoted to a summary of Passos' criticisms of Notes 6 and the responses made by Dr Olympio Guilherme, a legal counsellor working for Itamaraty. Whenever possible, the position of the CAB (*Comissão de Acordos com a Bolívia*), a special unit created within the Itamaraty to follow up the agreements with Bolivia, was attached.

'Update' and 'modify'

In the introduction to Notes 6, it is declared that the 1938 Treaty and its complementary agreements should be updated. According to Passos, to 'update'

something means *take something out of the past and bring it up to the present*, which implies the need to 'modify' it. A treaty could only be amended by another treaty, and notes do not have the power to modify previous treaties (Passos, 1960, pp. 64-5). Olympio Guilherme, in turn, refused to accept that updating an international agreement does necessarily mean modifying it. For him, notes could update a treaty if *the spirit, the essence, and the guidelines that worked as a basis for its conclusion* were preserved. Notes 6 thus had worked, as they had made the 1938 Treaty feasible (Guilherme, 1960, pp. 9-11).

Reduction of the area held in reserve

Commenting on article I, Passos disapproved of what he believed was a reduction of the area to be jointly explored by Brazil and Bolivia according to the 1938 Treaty. Olympio Guilherme explained that, in the first place, the 1938 Treaty had not delimited an area for oil prospecting, but vaguely set the limits of an area where both governments would start studies and research. Secondly, there could be no area reduction precisely because the 1938 Treaty had not bestowed any *delimited concession* to Brazil. Notes exchanged in August 1938 and January 1952 had fully defined the limits of the *study zone*.

Notes 6 effectively divided the *study zone* into two unequal areas, 'A' and 'B', each corresponding to sixty and forty per cent of the total respectively. Section 'B' was assigned to Brazilian companies. Doctor Olympio Guilherme pondered that this was a suitable solution for Brazil both because it granted the most promising area to the south and prevented the Brazilian companies from depending on the pressures and decisions of joint ventures, which, due to the Bolivian oil code, had to have a minimum of fifty-one per cent Bolivian shareholders (Guilherme, 1960, pp. 13-9).

Oil exploration by private companies

Passos affirmed that what had been conceived as a joint oil exploration by Brazil and Bolivia had turned into a private enterprise (Passos, 1960, p. 61). Conversely, Olympio Guilherme maintained that the 1938 Treaty had not established that both countries would explore eastern Bolivian oil together. Brazil and Bolivia had only agreed to carry out *geological and topographical studies* in order to determine the industrial value of the oil wells. Once oil had been found in amounts sufficient to

justify its exploration, it would be prospected for by Brazilian-Bolivian joint ventures (Guilherme, 1960, p. 19-21).

The companies' nationality

Notes 6 had instituted that the prospecting for Bolivian oil in the *study zone* would be reserved no longer for Brazilian-Bolivian joint ventures but for *private companies exclusively with Brazilian capital*. Given the possibility that those Brazilian companies could be either expropriated or nationalized by the Bolivian government or absorbed by the US companies operating in Bolivia, Deputy Passos expressed strong reservations as to the lack of a precise definition of the companies' nationality and their constitutive capital.

Dr Olympio replied that a special interbureaucratic committee had been created in February 1958 to fix the juridical, economical, financial and technical principles that would preside over the formation of those companies. According to those principles, the shares with voting rights should be personalized and belong to Brazilians in a proportion of two thirds. He added that *any action that distorts the private character and the Brazilian nationality of the companies the Bolivian government granted oil concessions will not be recognized by Brazil or Bolivia*. The implicit penalty consisted in the loss of the Brazilian market, which would be the only import market for the oil produced by those companies (Guilherme, 1960, p. 25-9).

Regarding the capital and the financing of the Brazilian companies applying for oil concessions in Bolivia according to criteria defined by BNDE, the jurist noted that Passos had not referred to the contention between Brazilian entrepreneurs and BNDE. Whilst Passos blamed Notes 6 for favouring US oil companies and devoting a less favourable treatment to Brazilian companies, Olympio Guilherme pointed towards the attempt to infiltrate giant oil trusts in the capital of Brazilian companies. In this case, he also blamed – not Itamaraty, as Passos did – but BNDE, which had *solicitously* cooperated with those trusts by defending the so-called fortuitous loans to make possible the participation of foreign capital in the formation of the Brazilian companies.

The Petrobrás formula

According to Deputy Passos' interpretation of the 1938 Treaty, eastern Bolivian oil had to be explored by Petrobrás and not by private companies (Passos, 1960, pp. 97-8). Doctor Olympio argued in turn that the 1938 Treaty had established that Brazil and Bolivia would pay for preliminary research to be carried out in the *study zone*. The companies that would be granted oil concessions would refund these advancements. In his view, this provision was a sign of the private character of the companies that would prospect for oil in the region, for if they were to be public companies, there would be no reason to contemplate reimbursements to both governments. In addition, the so-called Petrobrás formula did not comply with the Bolivian oil code, which prohibited granting concessions to foreign public companies.

Expiration of the right to concessions

Article IV of Notes 6 determined that the applications for oil concessions should be sent within eighteen months from the conclusion of the agreement. According to Passos's Counsel, by establishing a deadline for the exercise of rights granted to Brazil by the 1938 Treaty, Notes 6 were violating that Treaty, whose provisions had no time limit. This was an unjustifiable revision of the Treaty that actually modified it (Passos, 1960, pp. 100-2).

Dr Olympio replied to this interpretation claiming it was exactly because the 1938 Treaty had not been executed for twenty years that it has been decided to include in Notes 6 a time limit to apply for the concessions. Though admitting that it was an innovation, the jurist did not actually discuss the capability of a note to amend the provisions of a previous treaty. For him, one of the reasons for negotiating Notes 6 was precisely the non-fulfillment of the 1938 Treaty. So, fixing a deadline was consistent with the updating objectives sought by the Roboré negotiators.

CAB, in turn, summarised the arguments put forward by Deputy Passos on this subject and considered them weak; it did not, however, offer either a justification or an alternative interpretation²².

²² Memorandum CAB/84, confidential, 30 November 1959, from Miguel do Rio-Branco to the Secretary-General.

Bolivian participation in the Brazilian private companies

Deputy Passos saw the option granted to Bolivians to participate in the Brazilian private oil companies as a *comfort to the Bolivian people*. He also suggested that it would make it easier to American interests to take up the Brazilian oil companies (Passos, 1960, p. 102).

From the point of view of CAB, the abolition of the compulsory character of the association with Bolivian capital was to Brazil's advantage, since Brazilian companies would be freed from the pressures of Bolivians shareholders, who had to have the absolute majority of the interests, following a prescription from the national oil code, as has been mentioned²³.

To Olympio Guilherme, allowing Bolivians to share Brazilian companies interests was entirely consistent with the spirit of the 1938 Treaty, after all it was natural that the proportionality of Bolivian participation and its mandatory character were revised since the *study zone* had been delimited and divided. As to the Deputy's allegation about favouring American interests, the jurist asserted that the legal statutes of the Brazilian private oil companies were constituted according to Brazilian legislation, and determined that they had to have their head offices in Brazil and their voting capital, represented by personalized shares, had to belong to Brazilians in a proportion of two thirds. These provisions could not be disrespected unless circumventing the law (Guilherme, 1960, p. 42).

Obligation to buy and sell oil and oil products

Articles VI and VIII of Notes 6 established that Brazil had to buy from the companies operating in area 'B', in *international market quotations*, a hundred thousand oil barrels per day and five thousand oil product barrels per day. Deputy Passos judged this obligation totally deleterious to Brazil (Passos, 1960, 102-11). CAB maintained that the obligation was not to buy those amounts: it fixed the maximum amount Brazil was entitled to buy, but not the minimum²⁴.

Dr Olympio in turn replied that any oil exporter uses the international market quotations. He added that Brazil had been granted an exceptional advantage through article IX, which implicitly allowed Brazil to pay in *cruzeiros* for the oil

²³ Memorandum CAB/84, confidential, 30 November 1959, from Miguel do Rio-Branco to the Secretary-General.

produced in area 'B', when the international norm was to trade in dollars or pounds. By establishing a limited quota to Brazilian oil imports from Bolivia, article VI of Notes 6 eventually terminated the virtual monopoly of supply to the Brazilian market that the 1938 Treaty granted to would-be producers in area 'B'. This virtual monopoly, claimed the jurist, might put at risk the economic stability of Petrobrás and could even threaten the state monopoly in the oil industry. Passos regarded *the ideal solution, one of the trump cards of Notes 6* disastrous (Guilherme, 1960, p. 42-50).

Obligation to buy and sell natural gas

Passos criticized article VII because it obliged Brazil to buy all the natural gas produced in area 'B'. He claimed that it represented a new and deleterious commitment since it had not been contemplated in the 1938 Treaty and was of no use to Brazil because of the vast distance between the production area and the major consuming centres of the country (Passos, 1960, pp. 108-10).

To defend the agreement, Olympio Guilherme argued that in the two decades since the 1938 Treaty, the importance of natural gas as fuel had developed as well as its transportation technology. He adjoined that natural gas, as a combine of hydrocarbons, was implicit in the 1938 Treaty when it aimed at *safeguarding Brazil the utilization of Bolivian oil and its by-products*. Concerning the alleged inconvenience of distance, Dr Olympio referred to article XIII, which stipulated the laying of a gas pipeline provided that the amount produced economically justified the project, and concluded that laying and operating a gas pipeline would represent *excellent business* for Brazil (Guilherme, 1960, pp. 50-5).

The laying of oil and natural gas pipelines

Deputy Passos also attacked the obligation Brazil assumed to lay oil and natural gas pipelines from the production area to Santos. CAB admitted that Brazil had in fact committed itself in articles XII and XIII to lay both oil and gas pipelines with the proviso, though, that it would only engage in that work when it judged it economically convenient. This was equivalent to not assuming any commitments whatsoever, recognized CAB cynically²⁵. Passos attacked those clauses on the

²⁴ Memorandum CAB/28, confidential, 19 May 1959, from Souza Braga to the Secretary-General.

²⁵ Memorandum CAB/28, confidential, 19 May 1959, from Souza Braga to the Secretary-General.

grounds that they would only benefit US oil companies because there were no other means to export Bolivian oil (Passos, 1960, pp. 118-22). CAB pointed out that Passos' reasoning was misleading not only because a pipeline to the Pacific had already been laid – and other ones were under construction – but also because Brazil could always decide upon the capacity of the pipeline²⁶. Moreover, as Dr Olympio remarked, there would not be any American oil company prospecting for oil in area 'B'.

Contrary to Deputy Gabriel Passos' opinion that the implementation of Notes 6 would be economically damaging for Brazil, Dr Olympio Guilherme maintained that it would result in economic compensations. Supported by the personal opinion of two economists from the CNP, he concluded:

Dispassionately answering Mr. Gabriel Passos' accusations on the "deleterious charges" of Notes 6, it can be said that, besides saving resources, they will provide the National Treasury with relevant funds from the profits made by Brazilian concessionaries (Guilherme, 1960, p. 69).

Commenting on the final article of Notes 6, the head of CAB apparently accepted, for the first and only time, Deputy Passos' criticism:

This article really presents a difficult case for Itamaraty to defend since it states: "This Note and its copy in the possession of Your Excellence, in the same terms, constitutes a formal agreement between both governments..."²⁷.

Miguel do Rio-Branco seemed to agree with Passos' opinion that Notes 6 did go beyond the executive character that, as notes, they were supposed to have when they established that their provisions would invalidate the 1938 Treaty in everything they had not anticipated. The head of CAB recommended that Ambassador Accioly be heard on this international law issue and considered the *Notes on the Brazilian-Bolivian agreements, taking into account the conclusions of the Passos Counsel*, by Dr Olympio Guilherme, a basic contribution in support of Itamaraty's position. Later on, these *Notes* were published under the title of *The Truth about Roboré* and

²⁶ Memorandum CAB/28, confidential, 19 May 1959, from Souza Braga to the Secretary-General.

contained a detailed examination of the Passos Counsel, upon which the synthesis above was based.

As Miguel do Rio-Branco remarked at the end of his nineteen-page long memorandum, the criticisms of the Roboré Agreements by the Bolivian nationalist opposition were curiously very similar to the accusations of the Brazilian nationalists.

²⁷ Memorandum CAB/84, confidential, 30 November 1959, from Miguel do Rio-Branco to the Secretary-General, underlined in the original.

4. STALEMATE AFTER SIGNING

From the conclusion of the set of thirty-one diplomatic instruments that constituted the Roboré Agreements to the end of the Juscelino Kubitschek administration, Brazilian-Bolivian relations were at a stalemate. The vast majority of the agreements were totally frozen owing to the nationalist opposition's criticisms in Congress. Throughout this period, Itamaraty became something like a hostage both to Congress and the Presidency, from whom it expected moves to win over party leaders to endorse the agreements.

During the same period two changes had taken place in the Ministry of External Relations. José Carlos de Macedo Soares was replaced as Minister by Francisco Negrão de Lima in July 1958. Both were experienced politicians from the PSD, the major ruling party. After a little more than a year, Horácio Lafer - another PSD member - businessman and politician succeeded Negrão de Lima. Lafer had previously been Minister of Economy during Getúlio Vargas' last term (1951-1954). Not exactly a rupture, the replacement of Macedo Soares coincided with a change in the overall guidelines of Brazilian foreign policy towards a return to the paradigm of diplomatic bargaining with the United States.

Macedo Soares' replacement was related to internal divergences within the government over relations both with the US and Latin America that had assumed new form and substance after the launching of Operation Pan-America (OPA). JK's letter to Eisenhower, as well as the instruction sent to the Embassy in Buenos Aires to gain the support of President Frondizi for OPA – both initiatives taken without prior knowledge of Itamaraty – were expressions of the so-called “parallel diplomacy”. JK ignored and therefore discredited Itamaraty's hierarchical structure. Upset by the way OPA was being conducted and disagreeing with its contents - which neglected a bilateral approach to the relations with the US and raised the struggle against underdevelopment as the axis of a claiming rhetoric - Macedo Soares pleaded illness and left the government.

Negrão de Lima was Vargas' former Minister of Justice and an old friend and collaborator of Kubitschek's. He assumed OPA as the main objective of foreign

policy and only left his ministerial appointment to become Ambassador in Lisbon. By this appointment JK meant to signal to the Portuguese government that he rated Brazilian-Portuguese relations as a high priority in his foreign policy. These relations had just passed through a delicate test, caused by Ambassador Álvaro Lins' granting of political asylum to the reformed General Humberto Delgado, former presidential candidate and highly critical of Salazar's regime. Horácio Lafer maintained Brazilian participation in the regional multilateral meetings that discussed the issues raised mainly by OPA.

4.1. Government's ambiguities in the execution of the Notes

After the conclusion of the Roboré Agreements, doubts remained in Itamaraty as to the implementation of the Notes, particularly the one on limits. At the same time, private Brazilian companies seemed to be unable to effectively explore oil in the Bolivian east. The creation of a new bureaucratic unity in Itamaraty exclusively charged to follow the implementation of the Roboré Agreements indicated the importance attached to relations with La Paz.

During the negotiations that led to the final terms of the agreements, Macedo Soares was assisted by a small group of close collaborators. This may suggest the relatively high degree of autonomy with which Itamaraty conducted the understandings. To reinforce this reading, it must be taken into account that relations with Bolivia were not a high priority in Brazil's international agenda. As to relations with the United States – now conceptually mediated by “hemispherical relations”, according to the formula used in the OPA rhetoric – there was no freedom of movement for Itamaraty since both the original conception and the declarations had been directly put out by the Presidency.

An interbureaucratic decision-making process to define Brazilian policy towards Bolivia, however, preceded the autonomy that seems to have prevailed during the discussions in Corumbá-Roboré-La Paz. It must be stressed that Itamaraty's negotiating autonomy also had its price: the burden of defending the agreements alone, when their validity and legitimacy were under attack by the opposition in Congress.

Notes 1 and the Congress' constitutional prerogative to decide on limits

According to Notes 1, the Brazilian-Bolivian Border Demarcating Commission was in charge of the demarcation proceedings. The Frontiers Division (DF) was still involved in the issue although it had not taken part in the negotiating process of the Note. It was responsible for instructing the Brazilian Delegation during the meetings of the Commission.

Brazilian representatives in the XIV Conference of the Border Demarcating Commission – held in Rio de Janeiro in July 1958 – were given instructions not to accept a Bolivian proposal to include in the agenda *in order to begin immediate implementation* the questions of the boundaries on the sector *Cerrinho de São Matias-Corixa do Destacamento*, which implied recognizing demarcation procedures once rejected by Minister Neves da Fontoura in 1951. It was an *urgent defensive measure*. The head of the DF's reasoning was based on the constitutional provision (Article 65, item VIII) that had established that it was within the competence of the National Congress, with the sanction of the President of the Republic, to decide on the limits of Brazilian territory. So, according to Guimarães Rosa, to execute Notes 1 it was mandatory to first submit them to Congress.

To sustain and justify the instructions he gave to the Delegation, Rosa referred to the Ministry's juridical Counsellor's Opinions SJ/1.629 and SJ/1.630, in which Ambassador Accioly defended that Notes 1 should be submitted to Congress. All the hierarchical superiors to whom Memorandum DF/23 was dispatched agreed with its contents, that is, with the idea of submitting Notes 1 to Congress.

This illustrates the uncomfortable position DF and the whole Itamaraty were in. Both Araújo Castro, head of the Political and Cultural Department (DPC), and Mendes Viana, Secretary-General, as well as Negrão de Lima signed their respective consent to the document. So, the Chancellor who succeeded the negotiator of Roboré agreed with his collaborators in accepting that mere notes on limits demarcation should be submitted to Congress.

By submitting the Notes 1 to Congress, however, Itamaraty would be endorsing the concessions to Bolivia. Rosa's immediate superior, Ambassador Araújo Castro, had not excluded the possibility that the concessions were justifiable, since they were reached as part of a wide and complex political solution to the partial execution of the 1938 agreements on oil. In his opinion, the border issues had not

been adequately treated in the Roboré negotiations. He then proposed to the Secretary-General that the plenary assembly of the National Security Council (NSC) – which had apparently not been consulted during the negotiations – should be heard as a means to have the theme more properly examined and before an irreversible position was taken.

The creation of the Commission on the Agreements with Bolivia (CAB)

Soon neither DF nor DPC would be directly involved in the Roboré case. According to a decision taken by the NSC, Itamaraty would be the agency in charge of following up the implementation of the agreements²⁸. The complexity and wide range of themes provoked the creation of a new administrative unity in the Chancellery that would be exclusively dedicated to the Roboré follow-up. Directly subordinated to the Secretary-General, the *Comissão de Acordos com a Bolívia* (Commission on the Agreements with Bolivia, CAB) was created at the beginning of 1959.

Even before CAB was formed it was thought that Bolivian affairs should be concentrated in the Political Division (DPo). Pleading that his division had neither personnel nor means to carry out this new duty, Bastian Pinto, head of DPo, refused to accept the responsibility²⁹.

The extent of the themes negotiated and the growing reverberation that the Roboré Agreements had started to have in public opinion were demanding the exclusive attention of a special sector in the Chancellery.

Stalemate and plea for presidential intervention

In the middle of a growing campaign against the agreements nourished by the nationalist opposition, the Bolivian government officially asked for the beginning of the demarcation of the open boundaries in accordance with what had been settled by Notes 1. In the same period, Itamaraty received a request of information from Deputy Mendes de Moraes.

²⁸ Memorandum CAB/28, confidential, 19 May 1959, from Souza Braga to Mendes Viana.

²⁹ Memorandum DPo/170, confidential, June 3, 1958, from Bastian Pinto to Carvalho e Souza.

By then, in the first half of 1959, the President had already approved by decree the companies that had applied to explore oil in Bolivia which were subsequently accredited by Itamaraty to Bolivian authorities. In the Chamber of Deputies a request by Deputy Gabriel de Rezende Passos (UDN/MG) demanded that all the agreements signed on 29 March 1958 be sent for Congress evaluation³⁰.

If the presidential decree, on the one hand, revealed Government intentions of putting into effect Notes 6 on oil exploitation, on the other, Passos' request would preclude the immediate execution of all the agreements. According to Notes 1 on limits, the Demarcating Commission should implement the agreement in the demarcation campaign foreseen for mid-1959. By then, owing to Passos' request, Notes 1 would still be under Congress evaluation. The political forces against the Roboré Agreements intended nothing less than their total rejection. Clustered in the Nationalist Parliamentary Front (FPN), the opposition congressmen would rather postpone the final appreciation since they were not sure about their final victory in the plenary assembly (of a total of 326 federal deputies, 110 were counted in the FPN). For this reason they made requests just a few months before the Notes' expiry dates: July 1959 for the one on limits and September 29 for the one on oil.

The stalemate was clear and worrying to Itamaraty, particularly to CAB, which had no precise directions on how to proceed. The Government had put into effect a diplomatic instrument whose validity and legitimacy could be denied by the National Congress at any time! The Roboré Agreements were under serious risk of not being implemented owing to a manoeuvre by parliamentary opposition. Besides, it was quite improbable that the Bolivian Government would accept the executing of Notes 6 on oil if Notes 1 on limits should become invalid³¹.

In Souza Braga's opinion, the case was a *tacit, accidental and spurious* convergence of interests between nationalist forces and international trusts. The fear that under Notes 6 private companies might succeed in oil exploitation in Bolivia and then provoke a "depoliticization" of Petrobrás was the main concern of the nationalist and leftist political forces against the Roboré Agreements. This would compromise the instrumentalization of the oil state monopoly as a political weapon. If this reasoning is acceptable, it reinforces the hypothesis that the opposition, lacking

³⁰ Memorandum CAB/28, confidential, May 19, 1959, from Souza Braga to Mendes Viana.

³¹ Memorandum CAB/28, confidential, May 19, 1959, from Souza Braga to Mendes Viana.

more significant political claims, was seizing upon the oil monopoly issue as a means to put obstacles before the Government. As for the trusts, they would profit from the non-execution of Notes 6, since they would soon dominate “zone B” that Brazil or Brazilian companies could not exploit.

According to the head of CAB, the Government had the following alternatives to choose from:

- a) To consider whether the Roboré Agreements should be ratified and, as a consequence, begin a diplomatic campaign with the Bolivian Government to minimize the inconveniences of that *belated discovery*. Just to give an idea of the hindrances Itamaraty would have to face if this line of action was to be chosen, Souza Braga observed:

For more than thirty years we have owed the Government and the people of Bolivia a manifestation of effectiveness and good faith. Effectiveness would be the immediate action of the Brazilian companies that would erase the pitiful impression of weakness that followed Brazil's declaration that it could not dispose of the 4 billion dollars to make work the concessions it had had for many years in Bolivia and never used. Good faith would be shown in the correct implementation of the 1928 limits agreement and in not trying to cheat the weakest of the 21 countries of Latin America.

To encourage the acceptance of the Agreements by the Brazilian Government, he added:

I have no doubt that the non-execution of the Roboré Agreements will leave in the Continent an inevitable impression of weakness and lack of national power on the part of Brazil and its final consequence could be the demoralization of Operation Pan-America³².

- b) To adopt an attitude of mere spectator of the proceedings in Congress and, at the same time, put into effect, by decree, the Notes on oil accrediting Brazilian private oil companies to exploit zone B. This line of action was so incoherent and irresponsible that it required no comment on the part of the head of CAB.

³² Memorandum CAB/28, confidential, May 19, 1959, from Souza Braga to Mendes Viana. The reference to OPA indicates the centrality of that initiative for Brazilian foreign policy.

c) To charge the leaders in Congress to examine the possibility of the Chamber of Deputies deciding that the Agreements not be sent to the Legislature. In this case, the direct and personal intervention of the President would be required since he was the only authority capable of influencing the performance of political leaders in Congress. Souza Braga considered that there were good chances of success in the Legislature because the forces contrary to the Agreements would not be able to win over enough support to block them and because UDN, the main opposition party, had not yet decided on its position concerning Roboré.

Souza Braga ended his long and densely detailed memorandum with a series of questions about what should be done by CAB. His main doubt consisted of defining whether CAB should or should not defend the Agreements. In other words, the head of the administrative unity charged with following up the execution of the agreements with Bolivia did not have clear directions about Government's real intentions, namely whether it did or did not want to comply with the Roboré Agreements. Among other things, he asked the Secretary-General for instructions about his explanations to politicians, journalists and military regarding the substance of the Agreements or if he were authorized to discuss the issue with the Army High Command.

The head of CAB valued the Roboré case as a key feature of Brazilian foreign policy in the Americas. In a daring interpretation of the geopolitical and historical role reserved for Brazil in Latin America – not frequently found in a memorandum - he judged that putting into effect the Agreements meant for Brazil

the wide first step to take possession of the “manifest destiny” (...) of conducting Latin America; and maybe to inaugurate in the world the apparent and miraculous contradictio in adjecto of what could be called “honest expansionism”, historically the common aim of Brazilians and what make us a Nation³³.

Government's ambiguities: executes Notes on oil, postpones the ones on limits

The Kubitschek administration's intention of executing Notes 6 on oil was made clear not only by the endorsement on a presidential decree of the formation of

³³ Memorandum CAB/28, confidential, May 19, 1959, from Souza Braga to Mendes Viana.

Brazilian oil companies. On the eve of the expiration of Notes 6, Itamaraty decided to send letters to the four accredited companies calling their attention to the fact that 22,5 percent of the area reserved for Brazilian private enterprises was still available. The Bolivian government had just granted permission to four companies to exploit oil in zone B, though 317.000 hectares of the area had not been taken. Noting that none of the companies had shown any interest in the remaining area, the Embassy in La Paz informed the Secretary of State. Letters were then sent to the four companies notifying them that if none of them were interested in the area the Bolivian government would be free to dispose of it from 29 September 1959, in accordance with Notes 6³⁴.

As to Notes 1 on demarcation of limits, both its assessment by the Commission on External Relations of the Chamber of Deputies and the contention opposing the Nationalist Parliamentary Front and the Government precluded its total execution. CAB was concerned about disrespecting the works on course in the Chamber and, at the same time, it wanted to satisfy the Bolivians regarding the observation of the agreement. It then devised an ingenious strategy that allowed it to fulfil both seemingly contradictory objectives.

The conditions under which the 1959 demarcating campaign was being carried out indicated that it would not be possible to densify the boundary marks up to the Jacadigo mark before the rainy season which would halt field-work up to the following year. It was then possible to pretend that the agreement was been observed and simultaneously to gain time while Congress was assessing the Notes. The directions sent to the Demarcating Commission read that the Jacadigo boundary mark should only be displaced after express orders from the Secretary of State. To the opponents of the Roboré Agreements, the Jacadigo issue symbolized an undue yielding of national territory. Souza thus identified the advantages of that solution:

a) Externally, towards Bolivia, where both public opinion and Congress are quite sensitive to territorial issues, proceeding southwards with the demarcation will allow the Bolivian government to honestly declare that Brazil is already putting into effect Notes 1.

b) Internally, in Brazil, it would not serve as a pretext to demagogical exploration. Densification is a normal and useful procedure: besides, it

³⁴ Memorandum CAB/DPo/Dam/68, secret, urgent, September 18, 1959, from Ovídio Mello to Souza Braga.

*will help to identify and amend the mistake, if there were any. It will also diminish the area supposedly yielded by the Roboré negotiators*³⁵.

Political directions for the Counsellor's statement in the Chamber of Deputies

The Ministry's juridical Counsellor was summoned before the Chamber of Deputies Commission on External Relations to comment on the Agreements. Coherently with its own suggestion that Itamaraty should not remain a mere spectator of Congress's proceedings regarding the Roboré Agreements, Souza Braga wrote a long memorandum to Ambassador Accioly in July 1959 with political directions to strengthen the Executive's position. According to him, it would be convenient if Accioly gave judgement on three particular questions: the spring of the Verde River, the need to submit the agreements to Congress, and their international implications³⁶.

As mentioned above, the question of the spring of the Verde River derived from the recognition by the 1928 Christmas Treaty of the spring discovered in 1909, which was in 1945 found to be a geographical error. Those against Roboré sustained that Brazil could not acquiesce in thinking that a geographical mistake that implied territorial losses should be accepted. To foster a favourable reaction to Itamaraty's position, Souza Braga suggested that Accioly stress in Congress that the spring contemplated in the 1928 Treaty could only have been the one discovered in 1909 for the only reason that there were no other springs then known. So, by concluding the 1928 Treaty Brazil solemnly assumed an international obligation to accept the boundary line established by the agreement. The boundary then constituted a perfect juridical situation.

Regarding the necessity to submit the Notes to Congress, the head of CAB affirmed that by then – July 1959 – sending the Roboré Agreements for Congressional approval would mean their non-fulfilment because the expiration dates would soon be reached. He suggested to Accioly that his reasoning should admit that Itamaraty had thought of sending all the agreements to Congress for approval by the time of their conclusion. The proximity of the elections and the consequent lack of a quorum in Congress, however, had led the Ministry to opt for

³⁵ Memorandum CAB/DPo/74, confidential, October 5, 1959, from Ovídio de Mello to Souza Braga.

³⁶ Memorandum CAB/DPo/43, confidential, July 7, 1959, from Souza Braga to Accioly

sending only the treaties and not the Notes. Proceeding this way – he suggested - Accioly should argue that Itamaraty was not restraining Congress' prerogative to intervene in the execution of the Notes since most of them depended on the treaties sent to the Chamber of Deputies. The key argument to be advanced by Accioly was that Itamaraty had not sent the Notes to Congress because it was concerned that the advantages Brazil had obtained could be lost with the Notes' expiration.

As for the international implications of the Executive's eventual incapacity to fulfil the Agreements, Souza Braga stressed that the Counsellor's statement should aim at dissolving the impression shared by many congressmen that the Legislative's rejection of Roboré would exempt Brazil from fulfilling its commitments. He listed the main reasons for this:

- a) The Minister of External Relations had himself signed the Notes, acting as the legal and legitimate representative of the President for international issues through automatic and permanent delegation.
- b) Notes 6 on oil were partially put into effect when the Brazilian government accredited oil companies that were subsequently given concessions by the Bolivian government.
- c) Both reasons endorsed Brazil's intention to observe the agreements. This animus contractandi could not be questioned for the Notes had neither been submitted to Congress nor had Brazil given any indication that it might be willing to reject the agreements.
- d) Even if the Notes on limits or anything else were against the Brazilian Constitution, this would not affect Bolivian rights:

the Legislature may preclude the execution of the notes, but cannot exempt Brazil from the international responsibility it has already assumed since the signing of the agreements as some deputies think it can.

Souza Braga concluded that the non-fulfilment of the Notes would mean the loss of the oil concessions and the discredit of Brazil in the Americas that would nullify *for many years any honest intention of leadership in the continent*³⁷.

4.2. The juridical dimension of the contention on Roboré

³⁷ Memorandum CAB/DPo/43, confidential, July 7, 1959, from Souza Braga to Accioly.

Treaties and notes: Passos' criticisms and the juridical debate

The evaluation of the Notes by the Commission on External Relations resulted in the extremely critical Counsel by Deputy Gabriel de Rezende Passos (UDN/MG), published in the National Congress Journal on 25 November 1959. The Deputy defended the view that the Notes should be totally rejected. According to him, the contents of Notes 1, 2, 6 and 7 went far beyond what they should prescribe: clarifications or details about the execution of previously signed treaties; notes should never modify previous treaties. If they did, they should be considered as de facto treaties and, as such, should be submitted to Congress. Besides, Passos claimed, they were prejudicial to national interests; therefore they should have their ratification denied.

The first argument raised by Deputy Passos against the Notes referred to the mistaken designation given to those international instruments. Notes 1, 2, 6 and 7 perverted the original idea of "notes", which as instruments of subordinate importance are not empowered to revoke treaties (Passos, 1960, p. 35). Passos' key point was that the Roboré notes were in fact true treaties disguised as notes.

For the head of CAB, however, the fact that congressmen were expressing their opinions about the designation of international instruments was deemed a "dangerous precedent". He recommended to the Secretary-General that the juridical Counsellor should be heard on the matter as well as the criticism of the opposition deputy³⁸. The argument of the diplomat reveals the point of view according to which Itamaraty, as the main executor of the directions given by the President, disposed of total autonomy in the conduction of foreign policy, denying Congress any influential role and neglecting its opinions.

From the juridical perspective, the designation of an international instrument represents a minor aspect in its appreciation. What really matter are its contents (Passos, 1960, p. 52). Since Notes 6 on oil expressly admitted the modification of the 1938 Treaty, it seems to be relevant to ask if those alterations were legitimate. To Passos, the modification of a treaty by a note was inadmissible; to Olympio

³⁸ Memorandum CAB/84, confidential, November 30, 1959, from Miguel do Rio-Branco to the Secretary-General. Not without some aloofness the diplomat wrote: "*The fact that the Congress should express that this or that diplomatic document should be considered a treaty, convention or note seems to me a pernicious precedent*".

Guilherme it could be accepted if both the essence and the spirit of the treaty were preserved.

Updating the 1938 Treaty, Notes 6 intended to adapt it to the new economic conditions of both countries thus rendering it executable. Why then were not the amendments to the 1938 Treaty negotiated in another treaty? Following Passos' line of thought, because the Executive intended to avoid Congress' evaluation. If the reasoning of Olympio Guilherme is to be accepted, because Notes 6 kept the spirit of the 1938 Treaty in spite of the modifications they introduced. Again, were those modifications not sufficiently significant to justify another treaty? After all, the area to be explored had been reduced and exploitation was no longer reserved for mixed societies but only for private Brazilian companies. Additionally, new commitments were established. It is reasonable to think, on the one hand, that the modifications introduced by the notes on the 1938 Treaty justified another treaty. On the other hand, it would be equally acceptable to think that the modifications did not pervert the 1938 Treaty's main objectives: exploitation of oil in the Bolivian east by Brazilian capital to supply the Brazilian market, foreseeing the financing of the means of transportation of oil to Brazil.

This question passed far from the agenda of the debate among internationalists about the validity of agreements signed in simplified form, which dispensed legislative approval and of which the Roboré notes were an example³⁹. Passos himself admitted that notes did not require legislative ratification as long as they were limited to clarifying or detailing a previous treaty, and thus recognizing the legitimacy of simplified agreements (also known as "executive agreements") (Passos, 1960, p. 51). What seemed totally inadequate to him was that notes might change treaties. Because they contemplated matters that were proper in treaties, the Roboré notes, regardless of their designation, should depend on Congress ratification.

Itamaraty's juridical Counsellor from 1952 to 1961, Ambassador Hildebrando Accioly sustained that Brazil could take part in international agreements that dispensed legislative approval. In a series of articles published between 1948 and 1953 in the *Boletim da Sociedade Brasileira de Direito Internacional*, Accioly maintained his position and took part in a learned controversy with Haroldo Valladão

³⁹ About the debate among internationalists, see Mello (1986), pp. 161-5; and Medeiros (1995), pp. 289-96.

(Medeiros, 1995, pp. 289-96). Accioly's interpretation accepted the legitimacy of simplified agreements, a practice that successive Brazilian governments had been observing. According to him, notes did not need legislative approval. Consulted on the Roboré notes, however, Accioly stated that the one on limits should be submitted to Congress as Guimarães Rosa had remarked, reiterating Accioly's opinion. The Counsellor was certainly based upon the Federal Constitution, Session IV, "Of the attributions of the Legislative", Article 65, and item VIII:

Art. 65: It is the competence of the National Congress, with the sanction of the President of the Republic:

VIII: to decide on the limits of the national territory.

At the height of the controversy about Roboré, the Counsellor's Opinion SJ/1.629 of April 1958 leaked to the press and was published in its entirety in *O Semanário* in August 1960⁴⁰. Besides the seriousness of the case regarding the safety of the archives and the discipline of the employees, the publication of a document where the leading Brazilian internationalist recognized the need to submit to Congress the Roboré notes on limits could only provoke astonishment. Published at that time, the document undermined the Executive's stand in the controversy and supported the congressmen who were against the Roboré Agreements with a decisive argument.

4.3. A gloomy outcome for the Executive

The Bolivian Government's position concerning the Roboré Agreements

The Passos Counsel was made public in November 1959, and as could only be expected the Bolivians were not at all pleased. Bolivian public opinion had become increasingly sensitive to the Roboré issue. During the following January a series of articles about the case signed by a certain "Jean Paul" was published in *La Tarde*, a daily newspaper in La Paz. According to the Brazilian Embassy, "Jean Paul" was no one less than the elected president, Victor Paz Estensoro. The general tone of the articles was moderate and not anti-Brazilian: the MNR's leader intended to stress the Bolivian stand about Roboré. To the Bolivians they represented an

⁴⁰ Memorandum CAB/52, confidential, August 3, 1960, from Escorel de Moraes to Pio Correa.

impartial and good-sense solution that favoured both countries, while the 1938 Treaty had been shown to be unfeasible and therefore unacceptable⁴¹.

The Bolivian apprehension regarding the possibility of non-fulfilment of the agreements by Brazil had already become manifest when Chancellor Victor Andrade declared in the National Senate that

*although convinced that Itamaraty would never ignore what has been agreed, Bolivia, despite its weakness, has its own resources to defend its rights and makes respected perfect international instruments such as the Roboré ones, adjectives to the 1938 Treaty. And for that there are the OAS, arbitration, the United Nations and the International Court of Justice*⁴².

Contrary to the dominant opinion in the Chamber of Deputies, Escorel de Moraes had made clear, that in the event of the rejection of the Roboré notes, the 1938 treaties would no longer be accepted. He referred to the terms of the “Estensoro Memorandum” of 1955 and asserted that Itamaraty held the conviction that, had the 1938 treaties not been modified by the 1958 agreements, La Paz would have considered their unilateral denouncement⁴³.

Following directions received from Rio de Janeiro, the Brazilian Chargé d’Affaires in La Paz asked President Estensoro what the Bolivian attitude would be if the Brazilian Congress denied ratification of the Roboré notes. This was Estensoro’s answer:

*a) the situation of the Brazilian oil companies would become precarious; b) the seriousness of the stalemate was such that it might affect the good relations between Bolivia and Brazil; c) it would be very difficult to prevent a campaign in Bolivia denouncing and blaming Brazilian imperialism; d) although he had proposed to President Café Filho the denunciation of the 1938 oil treaty, he regarded Roboré as an acceptable solution; e) a renegotiation aiming at favouring Brazil would be unthinkable*⁴⁴.

⁴¹ Memorandum CAB/DPC/62, secret, September 29, 1960, from Escorel de Moraes to Pio Correa.

⁴² Speech by Chancellor Victor Andrade in the Bolivian National Senate in September 16, 1959, partially quoted in Memorandum CAB/DPo/46, confidential, July 12, 1960, from Bastos do Valle to Escorel de Moraes.

⁴³ Memorandum CAB/DPC/62, secret, September 29, 1960, from Escorel de Moraes to Pio Correa.

⁴⁴ Memorandum CAB/DPC/62, secret, September 29, 1960, from Escorel de Moraes to Pio Correa.

As the stalemate between the Brazilian Legislative and Executive hindered the execution of the Agreements, Bolivian concern increased throughout 1960. *La Tarde* published in its editorials its repulsion to *Brazilian imperialistic geopolitics* and declared that Bolivia would neither accept the introduction of Petrobrás in its territory nor any violation of the 1938 and 1958 agreements.

Legislative Act 37: endeavouring to avoid a definitive decision from Congress

In February 1960 the Chamber of Deputies Commission on External Relations approved the Passos Counsel and passed Legislative Act 37. If the plenary assemblies of both houses validated the act the Roboré notes would necessarily have to be submitted to the Legislature. The approval of the Passos Counsel also meant a diplomatic crisis with Bolivia, where congressmen and even the President had already announced that the Roboré Agreements were considered perfect diplomatic instruments and that their revision was unacceptable.

At the beginning of June Act 37 was taken to the floor. Deputy Abelardo Jurema, leader of PSD, the ruling party, presented a petition requiring the manifestation of the Chamber Commissions on 'Constitution and Justice' and on 'National Security' about the subject. Opposition deputies pleaded that the subject was technical; as such it was to be privately examined by the Commission on External Relations. The petition was not passed. Votes were however recounted, and it was ascertained a lack of minimum quorum. The government supporters in Congress could thus temporarily postpone the final pronouncement of the Chamber⁴⁵.

Expecting the issue to come back to the plenary assembly at any moment, Escorel de Moraes analysed three alternative scenarios the Executive would have to face:

- 1) Given the high probability of the Act being approved and the Notes being rejected by the Chamber as prejudicial to the national interest, Escorel wondered if it was not the case for the Executive to voluntarily present the Notes to Congress. Weighing up that it would be difficult to obtain a clear pronouncement from the majority about the most controversial points in the Agreements - by then under an *intense atmosphere of political emotionalism* - and considering that both the

⁴⁵ Memorandum CAB/38, confidential, June 7, 1960, from Escorel de Moraes to Pio Correa.

Bolivian Government and public opinion would certainly react negatively to such a move, Escorel did not judge it appropriate to send the Notes to Congress.

- 2) The Government would succeed in assembling a majority to approve Jurema's petition. This would mean that the Notes would have to be examined by both the Constitution and Justice and the National Security commissions, and the case would not come back to the plenary assembly before the end of Juscelino's term. Commenting that this alternative would require a serious pledge from the Executive towards the deputies, Escorel valued this as the most convenient course of action.
- 3) Once the Act 37 had been approved and the Notes rejected, negotiations with Bolivia would return to the starting point and the 1938 Treaties would no longer be valid. Under these circumstances, Itamaraty should be prepared to eventually renegotiate the main points of the Roboré Agreements.

Escorel then suggested as a provisional solution that the Executive try to postpone the final pronouncement of the Congress and, simultaneously, explain to La Paz that the delay in the process of legislative approbation was due to the need to wait for a better moment, avoiding the risks of a definitive rejection⁴⁶.

Aware that the rejection of the Roboré Agreements would be disastrous for the prestige of Brazilian foreign policy, the Secretary-General Ambassador Fernando de Alencar accepted Escorel's reasoning and recommended to the Minister that the course of action should be to try to postpone the final decision of Congress.

Government defeat: the Chamber of Deputies accepts Legislative Act 37

In the session on 26 October 1960 the Chamber of Deputies accepted Legislative Act 31 disposing that the Executive should submit the Roboré notes to Congress because they touched on subjects proper to treaties. As the conclusions advanced in the Passos Counsel, endorsed by Act 37, were not contested in the plenary assembly, CAB inferred that the deputies would probably refuse the notes⁴⁷.

The diplomatic crisis with Bolivia was fully characterised when La Paz – which did not recognize the notes' ratification process in the Brazilian legislative – threatened to present a formal protest and take the issue to international

⁴⁶ Memorandum CAB/38, confidential, June 7, 1960, from Escorel de Moraes to Pio Correa.

⁴⁷ Memorandum CAB/DPC/66, confidential, October 28, 1960, from Escorel de Moraes to Pio Correa.

organisations. Meanwhile, Escorel suggested that high-level negotiations should be immediately started with party leaders in order to prevent a final decision by the Federal Senate. He also recommended that a high official from the Ministry be dispatched to La Paz to discuss with President Estensoro the possibility of renegotiating the notes and prevent the Bolivian Government resorting to the international courts⁴⁸.

At the same time, Escorel proposed that the Brazilian-Bolivian issue should be studied by all the administrative unities dealing with American themes and not be confined exclusively in CAB. He finally proposed the formation of a Planning Commission that would be in charge of analysing the bases for new agreements with Bolivia that might be ratified by both countries' legislatures⁴⁹.

By the end of Kubitschek's term the situation of the Roboré Agreements was precarious. Of the thirty-one instruments signed in March 1958, twenty-nine were totally paralysed. Only two notes had started to be implemented: the one on the opening of a Banco do Brasil's agency in La Paz and the one on oil. Of the four Brazilian companies that had been granted oil concessions by the Bolivian government, only two had effectively become interested in exploiting them⁵⁰.

Still unaware of the orientation the new government would give to the subject, Escorel saw it under two excluding alternatives: either the agreements would benefit national interests or they were against those interests. In the first case, he believed the Executive should launch a campaign to explain public opinion concerning the nature of the Agreements and to win over senators to vote against Legislative Act 37 or, the latter being approved, to ratify the notes. In the second case, it was inevitable to try to convince the Bolivians to renegotiate the critical points of the notes.

Taking into consideration the emotional exploitation of Roboré and the *barrier of political irrationality* built around it, Escorel in defence said that the Executive should be prepared for political dispute in Congress by identifying to what extent the opposition to the notes was consistent and deeply rooted in public opinion. He wanted to evaluate the margin of manoeuvre the Government could count on⁵¹.

⁴⁸ Memorandum CAB/DPC/66, confidential, October 28, 1960, from Escorel de Moraes to Pio Correa.

⁴⁹ Memorandum CAB/DPC/66, confidential, October 28, 1960, from Escorel de Moraes to Pio Correa.

⁵⁰ Memorandum CAB/DPo/5, confidential, January 10, 1961, from Escorel de Moraes to Raul Moscovo(?).

⁵¹ Memorandum CAB/DPo/5, confidential, January 10, 1961, from Escorel de Moraes to Raul Moscovo(?).

Fearing that the resistance against the notes might go on indefinitely, he knew that a renegotiation would depend on the Bolivians' disposition. He believed the Estensoro administration, so far steadily defending the notes and in the expectation of a final decision from the Brazilian legislature, would be receptive to a proposal putting onto new bases economic cooperation between the two countries. On this proposal, the points on which the opposition was irreducible should be clearly stated. So the Executive had to negotiate with the Congress leaders on the vital points of the Roboré notes before conceiving a new general scheme for bilateral relations.

For analysis of Executive-Legislative interrelations regarding foreign policy it is relevant to point out that only in a moment of crisis did the Executive decide to cooperate with the Congress leaders. The causes of the crisis could be ascribed both to the parliamentary opposition's disposition to block a foreign policy initiative and to the opacity with which the Executive conducted external relations. It should be underlined that the willingness to discuss with the legislative branch the formulation of a new policy towards Bolivia only occurred to the Executive as the reaction to a stalemate. The unusual character of this cooperation was made manifest by Escorel himself when he affirmed:

This exceptional collaboration of the Executive and the Legislative in the formulation of a new policy for Bolivia seems to me to be essential considering the context in which those agreements are involved. In fact, it will be worth nothing to negotiate a new agreement with Bolivia without being sure that it will receive the approval of the Congress⁵².

The head of CAB sensibly understood that a new agenda for the negotiations with Bolivia depended on balancing the margin of manoeuvre that Congress would allow and, besides this, on obtaining La Paz's acquiescence in reopening for discussion the points covered by Roboré. He knew, as well, that other federal agencies needed to be heard, particularly the CSN (National Security Council), where some military had already manifested their repulsion to Notes 1 on limits.

4.4. The new administration and the Roboré Agreements

⁵² Memorandum CAB/DPo/5, confidential, January 10, 1961, from Escorel de Moraes to Raul Moscovo(?).

CAB was endeavouring to supply the new administration with the best information so that the Roboré stalemate could be overcome. At the beginning of Jânio Quadros' term, the Minister of External Relations, Afonso Arinos, was summoned before the Chamber of Deputies to make a statement, as Horácio Lafer had already done. In order to advise the new administration on the Roboré issue and to alert it of the political alternatives to reaching a definitive solution to the case, CAB prepared two documents:

- The “Basic Document on the Roboré Agreements”, which consisted of a historical résumé and was presented with two addenda, respectively on oil and on limits, this one elaborated by the Frontiers Division.
- And the “Interdepartmental Working Group Report”, which discussed and analysed the diplomatic, political and juridical aspects of the contention.

Both documents resulted from Escorel's initiative, as he was in the uncomfortable position of leading a bureaucratic unit created to follow the execution of agreements obstructed by parliamentary opposition.

The consequences of the Roboré deadlock

The consequences of the Roboré deadlock for Brazilian foreign policy were significantly negative. In regional terms, the non-fulfilment of the agreements with Bolivia did not help strengthen the intended role of leadership in Latin America, cautious and implicitly embraced in Operation Pan-America's speeches. Bilateral trade stagnated and, following the decline of Brazilian influence in Bolivia, the Argentine presence grew. Buenos Aires took advantage of Brazil's retreat and increased its stake in Bolivian economy and foreign relations.

Throughout 1959 and 1960, La Paz and Buenos Aires developed closer ties expressed in the exchange of visits between Arturo Frondizi and Victor Paz Estensoro. The growing density of Bolivian-Argentine relations can be illustrated by such events as: a) the dispatch of an Argentine military mission to Bolivia and the proposal that this should become permanent, which was rejected because Bolivian commitments with Washington prevented it; b) the announcement and the effective concession of a loan to conclude the Yacuiba-Santa Cruz de la Sierra railroad; c) the expansion of *Banco de La Nación Argentina's* network in Bolivia; d) the

announcement that a partnership was being assembled in Argentina to exploit Mutum's iron mines; and e) the announcement of the concession of a free port on the Paraná River to Bolivia, which would thus no longer depend on Brazilian territory to reach the Atlantic.

The new Government accepts the submitting of the Notes to Congress

To CAB's relief, President Jânio Quadros had a more defined stance towards Roboré than had Juscelino Kubitschek. The new administration confronted the issue with two decisions that made CAB's job much easier: 1) Reversing the previous government's position, the new Executive did consent, in principle, to refer the Notes to Congress; and 2) additionally, it fully accepted the terms of Notes 1 on limits despite the fact that they had been the most exploited ones by the opposition.

Escorel thus recorded the new approach to Roboré:

in obedience to juridical doctrine and to the commanding constitutional provision which require legislative appreciation of international instruments – regardless of their designation - that embrace matters proper to treaties, the Executive can not prevent the Congress from deciding whether Notes 1, 2, 6 and 7 should be submitted to the Legislative⁵³.

This new stance implicitly meant that the designation chosen for the Roboré Agreements was at the least a juridical mistake. Deputy Gabriel Passos' opinion that those designations were, in reality, an Executive trick to avoid legislative judgement has not been discredited by the present research. To a certain extent, the new government attitude endorses this interpretation as it expressed Quadros' unconformity with his predecessor's policy, which was hence indirectly considered responsible for the stalemate between the Executive and the Legislative.

Nevertheless, consenting in principle to Congress' final decision did not mean that the Executive would put into practice its inclination to submit the Notes. The new policy towards Bolivia reserved the Executive's right to abstain from sending the

⁵³ Memorandum CAB/DPC/14, secret, March 14, 1961 from Escorel de Moraes to José Chermont.

controversial Notes to the Congress for it would, meanwhile, negotiate with La Paz potential modifications so that the agreements would become more acceptable to Congress⁵⁴. The decision not to send the Notes to Congress then followed CAB's recommendation to both re-discuss with La Paz the contents of the Roboré Agreements and to seek Congress support to have them accepted.

If the new government agreed that the substance prevailed over the designation of international acts – hence distinguishing itself from JK's administration - it was firmly decided to sustain the main provision of Notes 6 on oil: the exploitation of Bolivian oil was to be accomplished by private Brazilian oil companies. There was no breach therefore with the directions set by the Roboré negotiations. On the same line were the full endorsement of Notes 1 on limits and the nomination of a Roboré supporter, General Amaury Krueel, to the Embassy in La Paz.

The announcement that the Brazilian government was willing to put immediately into effect Notes 1 on limits would have, according to Escorel, two opposing effects: in Bolivia where the question of limits was the most sensitive, it would provoke general contentment whereas in Brazil it would be followed by a wave of protest led by public opinion nationalist forces.

Concerned with the definition of a policy to overcome the Roboré deadlock, CAB suggested that Minister Afonso Arinos send a memorandum or an exposition to President Quadros so that he could expressly approve the basic lines of the policy towards Bolivia. Escorel referred once more to the need to hear the National Security Council, particularly after some military had raised objections to the Notes.

In spite of greater clearness in the purposes of the new administration, the head of CAB cunningly identified the contradiction between the disposition to sustain and execute the Notes as the previous government had concluded them and the disposition to renegotiate with Bolivia potential modifications to them. If the Executive were decided to pledge for the approval of the Agreements within the Congress, argued Escorel, there would be nothing to renegotiate with La Paz.

The Quadros administration strategy followed CAB's suggestions and contemplated negotiations in the National Congress to hasten the Senate sanction of Legislative Act 37. Only after the crisis of Quadros' renunciation and without the Senate manifestation on Act 37, did the new Chancellor, Santiago Dantas, announce

⁵⁴ Memorandum CAB/DPC/14, secret, March 14, 1961 from Escorel de Moraes to José Chermont.

on October 1961 the submission of the Notes for discussion by Congress (Cervo & Bueno, 1992, p. 272-3).

CONCLUSIONS

The collaboration of different Brazilian governmental agencies in the process of formulating a policy towards Bolivia was identified during this research. The hypothesis of an interbureaucratic decision-making process was thus attested.

It has been noted that, during the final phase of negotiation, Itamaraty enjoyed a relatively wide margin of autonomy to conduct understanding with Bolivia and to reach the final terms according to the Chancellors' own views. Additionally, it seems that the Presidency kept a somewhat distant stance. This does not mean, however, that Macedo Soares acted without Juscelino Kubitschek's sanction. Conversely, the option for Brazilian private companies to operate in the Bolivian oil industry complied with the developmentalist thesis of strengthening national entrepreneurship.

Equally identified was the coexistence of different perspectives on the issue both within the same governmental agency as well as between different federal agencies.

In the case of limits demarcation, the Itamaraty's Frontiers Division viewed the theme under a technical perspective and adopted a sort of "territorial irredentism" stance opposed to the Political Division's diplomatic and more comprehensive approach, which eventually prevailed.

In the case of defining the criteria for the formation of the Brazilian private companies that would exploit oil in Bolivia, it has been noted that the hegemonic position shared by Itamaraty and BNDE faced the opposition of a 'nationalist' view

defended by the National Oil Council (CNP), which disapproved of foreign capital participating in the constitution of the companies.

As to Executive-Legislative relations, it has been seen how the opposition was able to paralyse the execution of the Roboré Agreements. Only after the stalemate had provoked a diplomatic crisis with Bolivia did the Executive consider the opportunity of dialoguing with parliamentary leaders in order to reach a solution that might allow the Notes to be put into effect.

The campaign against the Agreements and their resulting paralysis can be analysed from two complementary points of view:

1) Launched by nationalist forces concentrated in the cross-party coalition Nationalist Parliamentary Front, the campaign's basic reasoning sustained that the Notes were prejudicial to national interests:

- Because they precluded Petrobrás from exploiting Bolivian oil; assumed onerous commitments to Brazil; and favoured American oil companies, which were allowed to take part in the capital formation of the Brazilian private companies qualified for the Bolivian concessions.
- Because they allowed undisputable parcels of national territory to be ceded.
- Because through them Brazil gave up rights on the Bolivian debt derived from the construction and maintenance of the railroad Corumbá-Santa Cruz de la Sierra.

2) The campaign against Roboré represented a chance for the opposition to attack the government in an area such as foreign relations where it would be quite improbable for it to achieve popular mobilization in its favour. On the other hand, the political exploration of Roboré was able to mobilize leftist political forces that demonstrated against and succeeded in ousting the President of BNDE. In this manner, holding the standard against Roboré meant a challenge to the government, imposing hindrances.

- For the want of more relevant and consistent critiques, the opposition seized on the Roboré case with which to cudgel the government.
- The opposition exaggerated the rejection of Roboré, denouncing the alleged antinational behaviour of Kubitschek administration without a sound and impartial evaluation of its positive aspects.

On the one hand, there was a well-intentioned critique that was eventually diverted by the introduction of the state monopoly on oil debate as if the monopoly itself was threatened. On the other, there was deliberate exploration of the subject to hinder a foreign policy initiative.

Even if there were good intentions on the part of some of Roboré's critics of Roboré, the attempt to associate the agreements with a campaign plotted against Petrobrás and the state monopoly on oil, as Deputy Gabriel Passos had suggested in his Counsel, does not seem to be confirmed by the facts. And for the following reasons:

- The possibility of Petrobrás exploiting oil in Bolivia was forbidden by Bolivian legislation.
- After the sanctioning of Bolivian Oil Code in 1956, Itamaraty still envisaged negotiating concessions for Petrobrás or subsidiaries.
- By the time Juscelino assumed power, state monopoly on oil was consolidated in Brazil: there were no indications that it could be revoked or even seriously questioned. There were no threats to it whatsoever⁵⁵.

As for the alleged benefits to giant American oil companies, it has to be taken into account that the private Brazilian companies were unable to exploit by themselves Bolivian oil both for lack of technological expertise and for weak financial support. The four companies qualified by BNDE and Itamaraty were especially constituted to take advantage of the Bolivian concessions. As Roberto Campos admitted, to awaken the American giants' interest in creating partnerships with Brazilian firms, fragile as they might be, was probably the best way to guarantee Brazilian participation in the Bolivian oil industry. The supposition of *entreguismo* (deliverism) in Campos' behaviour found no support in the researched documents.

As for the concessions given to Bolivia through Notes 1 on limits, the justification that they were included as part of a Brazilian compensation in the global negotiation whose most important subject was oil seems to make sense. Additionally, the "cession" of approximately one thousand square kilometres derived from the acceptance of the Fawcett spring was entirely in the spirit of the doctrine followed by South American countries, according to which geographical mistakes

⁵⁵ According to Benevides (1979, p. 173), the preservation of state oil monopoly constituted one of the basic principles upon which the military essential support to the administration's economic policy rested.

belatedly discovered cannot invalidate previous international commitments. As Souza Braga observed, not to recognize spring Fawcet and to insist in the adoption of the correct geographical spring as a boundary mark meant risking reopening several border disputes with neighbouring countries.

The issue of the Bolivian debt for the financing of the railroad, which Notes 2 dismissed, could also be justified by the same argument: a Brazilian return in global negotiations where it was, together with the frontiers questions, subordinated to the central theme of oil exploitation.

The examination of Itamaraty's documents seems to indicate that there was a political exploration of the Roboré Agreements by the opposition, despite the good intentions of some nationalists and the juridical consistency of some of the arguments raised by Gabriel Passos in his Counsel. Simultaneously, it also suggests the appropriateness of asking whether the important modifications to the 1938 Treaty could be negotiated in another treaty. As far as the research was able to verify, the best answer lies in the assumption that the Executive manoeuvred to avoid submitting the Notes to Congress.

In sum, the analysis of the stalemate between the Executive and Legislative on the Roboré Agreements points to, on one side, the arrogance of the Executive, which tried to elude the Congress by designating "notes" agreements that embraced subjects proper to treaties and, on the other, to a sensationalist and electoral manipulation of nationalist and leftist forces, whose "conspiratorial syndrome" eventually succeeded in hindering foreign policy.

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GLOSSARY OF TERMS AND ACRONYMS

Banco do Brasil

(Bank of Brazil, combine of state-owned commercial bank and central monetary authority)

BNDE Banco Nacional de Desenvolvimento Econômico

(National Bank for Economic Development)

CAB Comissão dos Acordos com a Bolívia (do Itamaraty)

(Commission for the Agreements with Bolivia, from MRE)

CACEX Carteira de Comércio Exterior

(Foreign Trade Department, from Bank of Brazil)

CNP Conselho Nacional de Petróleo

(National Oil Council)

Conselho do Desenvolvimento

(Development Council, federal agency for co-ordinating the Target Program)

CSN Conselho de Segurança Nacional
(National Security Council)

DE Divisão Econômica (do Itamaraty)
(Economic Division, from MRE)

DEC Departamento Econômico e Comercial (do Itamaraty)
(Economic and Commercial Department, from MRE)

DF Divisão de Fronteiras (do Itamaraty)
(Frontiers Division, from MRE)

DPo Divisão Política (do Itamaraty)
(Political Division, from MRE)

DPC Departamento Político e Cultural (do Itamaraty)
(Political and Cultural Department, from MRE)

FMI Fundo Monetário Internacional
(IMF - International Monetary Fund)

MNR Movimento Nacionalista Revolucionário
(Revolutionary Nationalist Movement)

MRE Ministério das Relações Exteriores (Itamaraty)
(Ministry of External Relations, known as Itamaraty)

MVOP Ministério da Viação e Obras Públicas
(Ministry of Transportation and Public Works)

OEA Organização dos Estados Americanos
(OAS – Organization of American States)

ONU Organização das Nações Unidas
(UN - United Nations)

OPA Operação Pan-Americana
(Operation Pan-America)

Petrobrás Petróleo do Brasil
(Brazilian Petroleum, state-owned corporation)

Programa de Metas

	<i>(Target Program)</i>
PSD	Partido Social Democrático <i>(Democratic Social Party)</i>
PTB	Partido Trabalhista Brasileiro <i>(Brazilian Labour Party)</i>
RADEPA	Razón de la Patria <i>(Reason for the Fatherland)</i>
SUMOC	Superintendência da Moeda e do Crédito <i>(Superintendence of Money and Credit)</i>
TIAR	Tratado Interamericano de Assistência Recíproca <i>(Inter-American Treaty of Reciprocal Assistance, 1947, also Known as Rio Treaty or Rio Pact)</i>
UDN	União Democrática Nacional <i>(National Democratic Union)</i>
UNE	União Nacional dos Estudantes <i>(Students National Union)</i>
YPFB	Yacimientos Petrolíferos Fiscales Bolivianos <i>(Bolivian Oil Wells)</i>