

## ARTICLE

## Parliamentary Supervision of Brazilian Foreign Policy: An analysis of Approval of Authorities

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This article seeks to address the question of how the Federal Senate acts in approving the appointment of authorities to lead diplomatic missions and to determine if the decision-making process on foreign policy is similar to the handling of other matters. It therefore aims to contribute to the debate about the action of lawmakers in the foreign policy decision-making process in Brazil and in the understanding of the elements that influence the approval process of authorities by the Federal Senate. To do so, it gathers statistics on the elements that influence the results of voting on authorities, measured in terms of the time taken for approval and the rate of favorable votes, and specifically the appointment of chiefs of permanent diplomatic missions. The article's results point to a similar pattern of legislative supervision for foreign policy and other public policies. These corroborate the article's filiation with legislative trends, according to which party rivalries set the tone for the relationships between Executive and Legislative Powers in Brazilian presidentialism. Although approval of diplomatic authorities displays specific characteristics, such as the presence of lengthy approval cases, they remained aligned with the pattern observed in other cases of senatorial deliberation.

**Keywords:** Brazilian foreign policy; legislative studies; parliamentary supervision; approval of authorities; diplomatic missions.

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**T**he role of the National Congress in the decision-making process of Brazilian foreign policy still raises disagreements as to its definition, since few studies have analyzed this relationship in great depth. The Constitution of the Federative Republic of Brazil of 1988 guided the division of powers in designing foreign policy and gave primacy to the Executive Power in many processes. However, it is the responsibility of Congress, and specifically of the Federal Senate, to have supervision over decisions made by the Presidency and by the Ministry of Foreign Affairs (MFA). This article seeks to contribute to the understanding of this process and of the real position of senators on foreign policy, through an empirical analysis of the approval of authorities by the Federal Senate.

Starting with the question ‘how the Federal Senate acts in supervising the Presidency in its foreign policy decisions’, an analysis of the approval process of diplomatic authorities from May 1998 to December 2014 then followed. Through a compilation of statistics on this process, a description of different variables on the results of senatorial deliberation was created. The hypothesis that guides the empirical analysis is that the decision-making process on foreign affairs issues in the Senate has a pattern that is similar to other matters. The approval of heads of permanent diplomatic missions is therefore affected by political party factors, similar to those that condition deliberation over other authorities, which would include presidential term and composition of the Senate. This similarity is noted in a first analysis by the elevated approval rate of all of the names submitted to the Senate for nomination.

The article was divided into six sections, including this introduction. The second section will address the relationship between Brazilian foreign policy, understood as public policy, and the National Congress, based on other studies on the subject. The third section addresses parliamentary supervision and is based on studies on the authority approval process in Brazil and worldwide. In the fourth section, the general pattern for approval of authorities is analyzed by category of appointment and the relationship between government and opposition. The fifth section presents an analysis of the appointment of heads of permanent diplomatic missions. Finally, the sixth section presents the article’s conclusions

## Brazilian foreign policy and the National Congress

Studying foreign policy implies an effort to understand the processes that result in a State's decision on a determined issue that has external effects. This is considered an arena of different competing interests. In this context, the Legislative Power deserves analytical attention, locating this field of study at the nexus of political science and international relations. However, such a multifaceted understanding of foreign policy is not a consensus, and some practitioners and scholars view foreign policy as the result of a process with few actors and predominant systemic elements.

Reflection on Brazilian foreign policy has been advancing toward recognition of its status as a public policy, as argued by Milani and Pinheiro (2013), due to its domestic distributional effects, especially in terms of national development, as presented by Spohr and Silva (2017). Foreign policy is therefore subject to the influence of other powers, especially by the Legislative. Even if the 1988 Constitution grants great prerogative to the Executive Power in the conduct of Brazilian foreign policy (BRAZIL, 2014), Congress has instruments of supervision and influence over the activities of the Presidency and of the MFA, which help shape the direction of foreign policy. As in the execution of other Federal Government activities, mechanisms of checks and balances must direct policies that serve the will of the Brazilian people, as manifested at the ballot box.

The framing of foreign policy as a public policy is not a phenomenon introduced by Brazilian literature. The topic has been gaining ground in research on political science and international relations through empirical and theoretical studies, such as those by Jozef Bátora (2010), Fred Kaiser (1977), Robert Putnam (1988), Thomas Risse-Kappen (1991), and James Rosenau (2006). Studies on the operation of parliaments in foreign policy are significant in the United States and Europe and have been a topic of recent editions of important political science journals. Despite mainly focusing on countries in the global North, Raunio and Wagner (2016) and Mello and Peters (2018) present the need for further analysis of other cases of legislative control over foreign policy worldwide. They argue that the role of the legislative control instruments must be further studied. The Brazilian case therefore seems to be beneficial for development of the international agenda,

and a thorough study on the legislative instruments is necessary to provide understanding on the behavioral pattern of the legislative on the subject.

In Brazil, studies on the formulation and implementation of foreign policy have long been based on the idea of the insulated political bureaucracy of Itamaraty (FARIA, 2012). However, study on pluralization of actors involved in foreign policy has been advancing (FARIA, 2012; MILANI and PINHEIRO, 2013; SALOMON and PINHEIRO, 2013), be it through the recognition of its distributive effects or through greater reflection on the supervision and control over public policies. These two trends are aligned by the inclusion of more actors in the decision-making process of a policy that affects everyone, even if only to control the Executive. The need for more transparency of processes for directing foreign policy increases with the recent expansion of the discussion in the media and with the proliferation of higher education programs on the subject. Even if domestic policy remains predominant in public discussions, foreign policy deserves attention especially in terms of its formulation process, considering its distributive effects on the domestic environment.

Lima and Santos (2001) define the action of Congress regarding foreign trade policy as abdication. However, this study contradicts this concept in terms of Brazilian foreign affairs and argues for its action as a supervisor of decision. The Constitution (Brazil, 2014) and statutes of the Chamber of Deputies and the Senate provide for parliamentary instruments that enable a less abdicative position over foreign policy. These instruments are not new, nor are applications to concrete cases recent. Some recurring instruments may be listed, such as: appointments; hearings; requirements; bills (CHAMBER OF DEPUTIES, 2012<sup>1</sup>); requests for information; approval of chiefs of permanent diplomatic missions, ambassadors and government representatives in international organizations; and formal messages to Itamaraty (FEDERAL SENATE, 2016<sup>2</sup>).

The listed mechanisms may be divided into 'ex ante' and 'ex post' according to their role in the determination of guiding foreign policy (ANASTASIA, MENDONÇA and ALMEIDA, 2012). While the first category refers to ways of signaling preferences and direction to be taken by foreign policy makers and implementers,

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<sup>1</sup>Câmara dos Deputados, 2012.

<sup>2</sup>Senado Federal, 2016.

the second one consists of the approval or disapproval of decisions made by the Executive Power. An important 'ex ante' instrument of Congress are the general principles established in Article 04 of the Constitution (BRAZIL, 2014) for Brazil's international relations. The central loci of congressional deliberation on foreign policy are the Commissions of Foreign Relations and Defense of the Federal Senate and the Chamber of Deputies.

Given the myriad of mechanisms available for Congress to influence foreign policy direction, it is necessary to reflect on how such instruments are actually applied in order to dialogue with the recurrent interpretation of disinterest or incapability of Congress to address foreign policy issues. Aligned with other works that address parliamentary diplomacy (MAIA and CESAR, 2004; SILVA and SPOHR, 2016), this article does not assume that the low level of confrontation between the Executive and the Legislative to use available instruments to control each other in the international field implies parliamentary disinterest. It seeks to point out how internal disputes of the National Congress also affect the discussion on subjects related to foreign policy. While Rodrigo Silva (2012) is based on the analysis of the operation of thematic commissions, among other instruments, to infer interest from Congress, this study focuses on a different instrument.

This article focuses on one of the listed 'ex post' mechanisms – the approval of ambassadors and government representatives in international organizations – to reflect on the pattern of interaction between the Executive and the Legislative in international subjects. This instrument, while presenting a high approval rate, with few examples of withdrawal of names appointed by the Executive and no rejections during the analyzed period, enables a comparison to the process of approval of other authorities named by the Executive.

It is worth noting the case of a rejected ambassador appointment a year after completion of this study. Guilherme Patriota, appointed to represent Brazil in the Organization of American States, was rejected in a party dispute. Patriota, the brother of a former Minister of Foreign Relations, was blocked with 50.6% of votes, in a context of disrupted government congressional alliances, given that 60.5% of senators were officially part of the governing coalition (FEDERAL SENATE, 2018). This reaction of the Senate to the Executive's decision was part of a process of

deterioration of relations between both powers, which resulted in the impeachment of Dilma Rousseff. Other cases of disapproval of authorities by the Senate occurred in the context of a large congressional coalition, except for the disapproval of the first nominee of the Luis Inacio Lula da Silva administration, Luiz Alfredo Salomão, appointed as chief of the National Petroleum Agency (FEDERAL SENATE, 2017)<sup>3</sup>. Therefore, the idea that foreign policy plays a role in political party disputes, just as in other matters, is here reaffirmed.

### Parliamentary supervision and approval of authorities

Democratic regimes require different forms of supervision, control and accountability between society and its representatives and the different entities and powers of the State. These elements refer to the obligation of a democratic State to be accountable to its people, required by organs of civil society and by entities and structures of the State. Even if authors like O'Donnell (1998) and Smulovitz and Peruzzotti (2003) identify a weakness in the application of these instruments in Latin American democracies, they are very relevant for the consolidation of these regimes. It is crucial to understand them and their different aspects.

The three terms must be clearly delimited in order to adequately differentiate them and to enable their correct empirical application. Generally, they can be considered as treating the relation between an actor and a forum from different perspectives and goals (BOVENS, 2006). Accountability has two dimensions: obligation to report activities and capacity to impose sanctions against violations (SCHEDLER, 1999). Control means having power over (BOVENS, 2006), and supervising, reviewing, monitoring and observing activities (KAISER, 1988). Considering the focus of this study, the perspective of supervision and control is chosen.

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<sup>3</sup>Bernardo José Figueiredo Gonçalves de Oliveira's reinstatement to the post of director of the National Agency of Land Transportation was rejected by a Senate with 69.1% of supporters of the Dilma administration; and the appointment of Bruno Pagnoccheschi at the National Water Agency was rejected by a Senate with 65.4% of members of the Lula coalition. These cases show that at times senators do not conform to alliances established by their parties and are guided by other factors. The Lula administration's base in the Senate case of Luiz Alfredo Salomão was 37%, which may help explain the difficulty in his name being approved.

The different authors who study the subject usually present typologies for these terms, with the most recurrent cutoff being between vertical/societal and horizontal/political phenomena. The typologies presented by O'Donnell (1998) and in Smulovitz and Peruzzoti (2003) are similar in understanding the horizontal phenomenon as one in which actor and forum are political instances. While control and horizontal supervision are supervision mechanisms of power over one another, vertical ones refer to processes of supervision by the people or civil society (LEMOS and POWER, 2013).

In this article, control and horizontal supervision play a central role. The existence of mechanisms of checks and balances is responsible for the vitality of studies on instruments of supervision and control between entities (LEMOS, 2005). According to Kaiser (1988), some variables in the form of supervision may be identified. Supervision may be overt or latent, official or not, direct or indirect, oppositional or collaborative, aimed to evaluate or control, and follow a 'model' akin to a police patrol or of a fire alarm. The goal of this article is a form of official and direct control. Its effect on the process varies according to the political framework in which the process occurs, between an oppositional and a collaborative pattern, according to the action of each one of the senators. These may be interested in guaranteeing that the most appropriate individual is chosen to occupy a determined position or in avoiding that the Executive Power, or the governing party, may govern with their chosen ones in key positions.

McCubins and Schwartz (1984) denied the view that the U.S. Congress abdicates its prerogative of supervision over the Presidency and proposed the model of such oversight as police patrol (an analogy of constancy and visibility) or as a fire alarm (with a reactive pattern, triggered by certain processes). In an analysis of the Brazilian scenario, Lemos (2005) likens the Senate's control to the police patrol pattern and the Chamber of Deputies' to the fire alarm pattern. In the specific case of authority approvals by the Senate, the implications of the process are even more similar to the police patrol pattern.

The study on the authority approvals by the Legislative appears in many examples of US literature, especially regarding judicial authorities, including in Binder and Maltzman (2002), McCarty and Razaghian (1999), and Nixon and

Bentley (2006). In the Brazilian scenario, the works of Lemos and Llanos (2008) and Lemos (2010) are noteworthy; this specifically addresses the approval of ambassadors. However, there is mainly attention to procedural timing of these appointments, with little reflection on other indicators.

The supervision and control process follows different patterns and interests, since Congress is neither a unified nor homogeneous actor. Three trends may be identified in the Brazilian legislative studies on the motivations for members of Congress' actions: distributional, informational and partisan motivations (LIMONGI, 1994). The first one focuses strictly on electoral aspects: the lawmaker would be a purely rational actor whose goal is to be reelected. Their action would be clientelist and foreign policy topics, given their scarce electoral return, would not figure on the agenda. A brief analysis of the Congress' actions belie disinterest: they carried out many missions to address international matters over the analyzed time period<sup>4</sup>.

The informational chain, in its turn, analyzes the pattern of composition of parliamentary committees to determine expertise of their members and their effects on Congress' decision-making. As for foreign policy, 20 out of the 71 senators participate in the Committee on Foreign Relations and National Defense (CRE), which makes it difficult to argue that it is a group of specialists. For the purposes of this study, it is understood that the composition of the CRE reflects, above all, the party division of the Federal Senate, in line with the partisan current.

The partisan current considers the dispute of the Brazilian multi-party system to be of great influence over Congress' actions. The distribution of seats between the governing base and the opposition would have an important impact on determining the result of this process. This explanation of legislative activity is largely based on Figueiredo and Limongi (1999), who have developed a vital role in the evolution of studies on the coalitional presidentialism system and are exponents of the partisan trend in legislative studies.

Based on this paper's filiation with partisan trends in legislative studies, it is understood that the approval of appointments of chiefs of permanent diplomatic

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<sup>4</sup>In 2014 alone, there were over 1,800 authorization requirements for senatorial missions to parts of Brazil and the rest of the world.



missions follows the same deliberation pattern of other authorities. The specificities of foreign policy formulation offer no protection from discussion of party disputes which marks the relations between the powers in Brazilian presidentialism. Despite its particularities, which will be measured by comparing the categories and then specifically analyzed, the deliberation on diplomatic authorities follows the general variations in approval levels. Variables in the relationship between the Presidency of the Republic and the Federal Senate, such as their composition over time and presidential terms, are responsible for the outcome of the senators' deliberations.

To evaluate the appropriateness of the partisan hypothesis formulated within the reality of authority approvals, the weight of political-party variables in the deliberations of the Federal Senate will be investigated. Presidential terms and the composition of the Senate in terms of coalition of government and opposition will be analyzed, as done in previous studies to evaluate the legislative control of U.S. senators (BINDER and MALTZMAN, 2002, 2004; CALDEIRA, HOJNACKI and WRIGHT, 2000; McCARTY and RAZAGHIAN, 1999; NIXON and BENTLEY, 2006; SHIPAN and SHANNON; 2003). It is therefore understood that the relationship between government and opposition, mediated by the composition of Senate seats over time and the pattern of relations established by each government, has had an important role in defining the approval of authorities, diplomatic or otherwise.

### **Senatorial deliberation on authorities**

The present study aims to understand how the Federal Senate's appreciation of authorities appointed by the Executive Power varied according to the position filled, the presidential term, and the composition of the Senate. For the study to be effectively implemented, some adjustments were necessary. Firstly, the interest lies in the approval of heads of diplomatic mission. This is then compared to the approval of other authorities, which motivates the inclusion of all other authorities approved by the Senate into the analyzed universe.

Secondly, the aim is to understand this process within the context of the Federal Republic of Brazil under the 1988 Constitution, which would place a restriction on use of approval cases since 1990, starting when, according to the Constitution, the elected president and members of Congress began to participate. However, the database consulted - Federal Senate Legislative Activity Database (2017) -, does not provide full information prior to May of 1998. In addition, the climate of political instability established from 2015, amid dissent within the government coalition in Congress, motivated the restriction of the analyzed time period. Therefore, the analysis was restricted to the approval of authorities appointed from May 1998 to December 2014, representing just over four presidential terms, with variations in the Senate's composition due to elections and internal dynamics.

The Senate's deliberation on appointed authorities begins with the Presidency sending a formal message to inform the senators of the choice of an individual for a certain post. According to the Senate's statute (2016), this formal message must contain vast information on the candidate, his 'curriculum vitae' and arguments in favor of his suitability for the post. In diplomatic cases, according to subparagraph IV of article 52 of the Constitution, it must also include a report from the MFA with information on the State or international entity and on the legal mechanisms that link Brazil to the State or entity of destination.

The deliberation starts after the reading of the message in the Senate's plenary, under the care of the appropriate committee. The senator who is the rapporteur of the formal message presents a report to the committee, who may request additional information that must be delivered to the committee and disclosed on the Senate's portal. The public may forward questions on the nominee (FEDERAL SENATE, 2016). The committee convenes the nominee for public hearing, which is followed by voting on the report (BRAZIL, 2014). For heads of diplomatic missions, the nomination meeting will be secret (FEDERAL SENATE, 2016). The report is sent to the plenary, which debates the appropriateness of the nominee to the post and carries out the secret vote. The result is communicated to the Presidency.

The U.S. literature on authority approval (BINDER and MALTZMAN, 2002; McCARTY and RAZAGHIAN, 1999; NIXON and BENTLEY, 2006) and the Lemos and

Llanos (2008) study on the Brazilian scenario show the length of proceedings as a variable to evaluate the interest or disposal of the Senate in a candidate's choosing. It is assumed that the selection of the candidate is preceded by reflection on the Senate's composition and on the weight in terms of result of possible nominations. Thus, roadblocks would be anticipated, which would lead to high approval rates. Therefore, the instrument of evaluation which would indicate more intricate and controversial processes of appointment would be lengthy consideration periods.

Based on the analysis of U.S. authors, and on the comparative study by Lemos and Llanos (2008), it may be deduced that Brazilian, U.S. and Argentinian Senates tend to approve the vast majority of authorities. However, it is important to evaluate the occurrence of different results. Since the rejection of authorities is an extremely uncommon phenomenon – 03 out of 1194 cases -, the result of deliberations will be understood as the percentage of favorable votes, which excludes cases of withdrawn<sup>5</sup> and impaired<sup>6</sup> appointments. Therefore, this study analyzes the processing time, from reading of the formal message until the deliberation, and the result of the deliberation process. The result focuses on the percentage of favorable votes, since successful appointments represent more than 99% of the analyzed cases (1155). In addition, more than 50% of these have received over 87% of favorable votes.

### **Filled positions**

In order to better evaluate the specifics of foreign policy in the Federal Senate, it is necessary to establish a distinction among authorities nominated for appointments within the timeframe, in order to obtain a comparative analysis. Therefore, an objective was to determine if there exists a difference in the appointment of Brazilian ambassadors and representatives to international organizations.

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<sup>5</sup>Withdrawals are cases of which the processing was interrupted at the request of the Executive - 29 cases.

<sup>6</sup>Impaired are cases of interruption due to legal changes, such as constitutional amendments that change the requirements to fill the position in question - 07 cases.

First, it is necessary to present the four categories according to which the analyzed cases were classified (Table 01). The first consists of those nominated by the MFA - about 55% of cases. Subsequently, the non-diplomatic authorities were grouped into three categories - agencies, autarchies, and Judiciary Power, Public Ministry and Court of Auditors -, following the operating patterns of entities or party and political disputes. Agencies are understood as appointments for posts in agencies of the Executive. In the category of autarchies, positions of those dealing with national economic management were grouped. Into Judiciary Power, Public Ministry and Court of Auditors, ministers of the superior courts and of the Court of Auditors, advocates general and attorneys general were grouped.

Lemos (2010), when analyzing the deliberation time for ambassadors, states that these do not gain the greatest attention of the Senate. The swift approval of ministers of the Federal Supreme Court and of directors of the Central Bank of Brazil indicates more interest, and the longest approval periods for the MFA indicate less attention to the subject. The collected data for this article, for a longer and more recent time period, show a pattern of longer decision-making processes for diplomatic authorities, with an average of 82.9 days versus 62.6 days of the general average (Table 01).

However, attributing this longer time period to parliamentary disinterest must be reviewed. Firstly, among the cases with higher deliberation time, most were for ambassadors to accumulate Brazil's representation with more than one country – from the 12 cases that took over one year to be approved, 10 fit this situation. Unlike the others, these appointments have less potential to paralyze diplomatic activity, as the ambassador may already perform their activities with the country that is primarily his responsibility. In case cumulative nominations were to be excluded, the average time would decrease to 68.6 days – a significative decrease if we consider less than one third of cases would be excluded (Table 01).

Secondly, the processing of the messages of the Presidency of the Republic in the Federal Senate implies that the committees act decisively. While the appointments of diplomatic authorities are all forwarded to the Committee on Foreign Relations and National Defense, others are distributed among different thematic committees. Added to this is the presence of a significantly higher number of Itamaraty nominations compared to the others - 56% of the total. Diplomatic

authorities therefore tend to have their names evaluated for longer periods of time by the committees.

The average of favorable votes by type of position shows interesting results. The high MFA average is only surpassed by the Judiciary Power, Public Ministry and Court of Auditors' category. The other two categories show lower averages, and the three cases of rejection of the time period happened in the agencies' category. The high rate of favorable votes for authorities of the Ministry of Foreign Affairs, however, does not represent a lack of dispute. The favorable votes for diplomatic authorities during the timeframe varied from 52% to 100%, which shows different levels of support of the government's selection. The recent case of Guilherme Patriota proves that rejecting a diplomatic nomination is possible.

**Table 01.** Averages of authority approvals by position category

| Category   | Time(days) | Favorable Votes | Number of Cases |
|--|------------|-----------------|-----------------|
| Agencies   | 46.5       | 77.5%           | 244             |
| Autarchies   | 28.1       | 81.8%           | 119             |
| Judiciary Power, Public Ministry and Court of Auditors       | 35.9       | 89.5%           | 143             |
| Ministry of Foreign Affairs                                  | 82.9       | 88%             | 652             |
| Ministry of Foreign Affairs (without cumulative nominations) | 68.6       | 88.2%           | 471             |
| Total  | 62.6       | 85.4%           | 1158            |

Source: Developed by author based on the Federal Senate (2017).

### Presidency and government coalition

In the U.S. literature, a divided government is a recurrent theme (BINDER and MALTZMAN, 2002; McCARTY and RAZAGHIAN, 1999) – this is the case in which the White House does not control both houses of Congress, which is very relevant in the U.S., due to rivalry between the two major parties. In the Brazilian coalitional presidentialism system, presented by Abranches (1988) and Figueiredo and Limongi (1999), the party which occupies the Presidency never controls the Congressional houses itself, due to the myriad of elected parties. Therefore, the Planalto (Executive Offices) must gather support from other parties and forms coalitions to advance their agenda in Congress.

Different elements may be analyzed in the relationship between powers, such as ideologic coherence of coalitions (LIMONGI and FIGUEIREDO, 1995) or legislative discipline (AMORIM NETO, 2000). However, the partisan trend takes on a more prominent role in the performance of senators than its supposed objective of representing the states of the federation (NEIVA and SOARES, 2013). For this study, two elements are evaluated: who holds the Presidency and how the Senate is composed in terms of support and opposition to the government at times of reading and deliberation.

Favorable time averages and votes for each presidential term show that presidents faced different levels of difficulty in approving their appointed authorities (Table 02). These differences between terms may be the result of links between the president and senators, their respective popularity or ability to choose more accepted names, nuanced by some conjunctural factor. Both Lula's terms and Dilma's first term presented one case of rejection apiece.

**Table 02.** Averages of authority approvals per presidential term

| Presidential term | Time(days) | Favorable Votes | Number of Cases |
|-------------------|------------|-----------------|-----------------|
| Cardoso I         | 53.4       | 93.6%           | 46              |
| Cardoso II        | 51.3       | 85.4%           | 249             |
| Lula I            | 85.3       | 80.8%           | 304             |
| Lula II           | 50.3       | 86.3%           | 299             |
| Dilma             | 62.6       | 88.1%           | 260             |
| Total             | 62.6       | 85.4%           | 1158            |

Source: Developed by author based on the Federal Senate (2017).

Averages point to greater difficulty in approving authorities nominated in Lula's first term, with the highest time average and lowest rate of favorable votes. Most cases of approved authorities with less than 60% of favorable votes occurred in this period – 12 out of 18. The initial relationship difficulties with the Congress and the resistance faced by the Partido dos Trabalhadores (PT) may explain such results. If we divide them by nomination category, we see that only the appointments for the Judiciary Power, Public Ministry and Court of Auditors showed patterns similar to previous presidential mandates in terms of favorable votes (Table 03). All others showed significantly fewer favorable votes and significantly greater processing times than other presidential terms.

Lula's second term was the one with the lowest average of processing time, a bit lower than found in the Fernando Henrique Cardoso terms (Table 02). The average time for approving diplomatic authorities was important in terms of the result observed in Lula's second government (Table 03). The highest average of favorable votes occurred in Cardoso's first term. Despite the small number of observed cases in this mandate, none had a favorable vote of less than 83%, and five cases of this mandate are among the six with 100% favorable votes - the sixth is from Cardoso's second term.

**Table 03.** Averages of authority approvals per presidential term and category

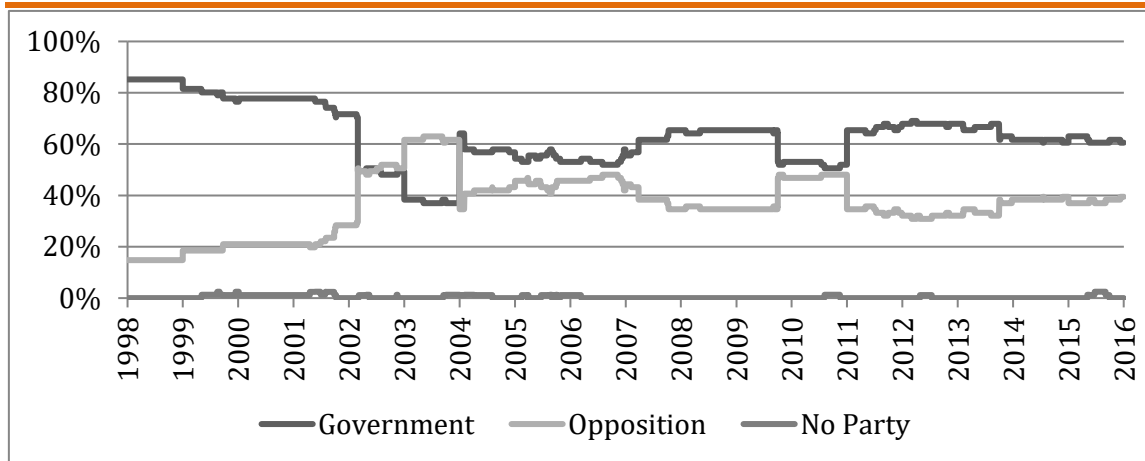
|               | Favorable Votes |            |        |         |       |
|---------------|-----------------|------------|--------|---------|-------|
|               | Cardoso I       | Cardoso II | Lula I | Lula II | Dilma |
| Agencies      | 87.3%           | 79.8%      | 71.1%  | 77.6%   | 83.2% |
| Autarchies    | 98.6%           | 82.8%      | 76.7%  | 80.6%   | 85.4% |
| Judiciary     |                 |            |        |         |       |
| Power, Public |                 |            |        |         |       |
| Ministry and  | 90.2%           | 87.6%      | 87.8%  | 92%     | 89.6% |
| Court of      |                 |            |        |         |       |
| Auditors      |                 |            |        |         |       |
| Ministry of   |                 |            |        |         |       |
| Foreign       | 94.5%           | 87.8%      | 84.5%  | 89%     | 89.9% |
| Affairs       |                 |            |        |         |       |
|               | Time (days)     |            |        |         |       |
|               | Cardoso I       | Cardoso II | Lula I | Lula II | Dilma |
| Agencies      | 23.7            | 23.9       | 65.9   | 54.4    | 35.2  |
| Autarchies    | 12              | 17.3       | 36.6   | 31.5    | 17.7  |
| Judiciary     |                 |            |        |         |       |
| Power, Public |                 |            |        |         |       |
| Ministry and  | 38.3            | 27.7       | 26.3   | 25.7    | 30.5  |
| Court of      |                 |            |        |         |       |
| Auditors      |                 |            |        |         |       |
| Ministry of   |                 |            |        |         |       |
| Foreign       | 68.2            | 77.4       | 111.9  | 58.4    | 84.4  |
| Affairs       |                 |            |        |         |       |

Source: Developed by author based on Federal Senate (2017).

The relationship between government and opposition is most clearly represented in the internal dynamics of the House of Representative and the Senate. For the purposes of this study, the Senate's composition along party lines from 1998 to 2015 was recorded, when it was read and deliberated on the approval of authorities. This trajectory should impact the different degrees of ease or difficulty

of use of the instruments by the Legislature. Graph 01 divides the senators among those who are part of the coalition government, opponents and those who are not part of the groupings<sup>7</sup>.

**Graph 01.** Federal Senate composition in terms of government and opposition between 1998 and 2015



Source: Developed by author based on the Federal Senate (1998, 1999, 2001 a 2015), Cebrap (2017).

When analyzing the size of government, the aim is to assess how party dynamics influence the deliberation process over authorities. The coalition government allows government allies in the Senate to surpass the 50 percent mark almost over the entire analyzed period, except for a brief period between July of 2002 and February of 2004. This situation may explain the approval of almost all names submitted to the Senate. The opposition can still be noted in the existence of votes with higher or lower degree of acceptance of the name and, possibly, in the time of processing.

If the size of the coalition in the Senate at the time of voting and the percentage of favorable votes is correlated, the result is a Pearson index of 0.219. Although low, it points to a positive relationship between the size of the coalition and the voting results, as expected. As for the processing time, the size of the coalition was correlated at the time the presidential message was read and a

<sup>7</sup>This classification was made using the Cebrap Legislative Database (2017), which divides the parties between government and opposition (all non-government coalition parties are opponents). The ones with no party were separated, as they may have left either government or opposition parties, making it difficult to frame them.



Pearson index of -0.171 was obtained. This index was also low and pointed to a negative relationship between the processing time and the size of the coalition, as expected.

The low significance of the results points to the existence of other dynamics in the relationship between senators and the Presidency of the Republic that go beyond the logic of government coalition formation. Other negotiation processes may gather support of senators who are not formally part of the coalition, while heterogeneous coalitions members may oppose agendas and, in this case, authorities proposed by the government. The approval of almost all nominees, however, confirms that the opposition does not have sufficient strength to block appointments.

### **Deliberation on diplomatic authorities**

Based on the general considerations regarding the approval of authorities, the behavior patterns of senators in the deliberation of appointments by the Presidency to head permanent diplomatic missions can be evaluated. In this section, some considerations on the general elements when restricted to diplomatic authorities and on the particularities of these cases are presented. The analysis of presidential terms for the case of diplomatic authorities showed interesting results (Table 04). Lula's first term had the lowest average of favorable votes of the period (84.5%) and the highest average time for deliberation (112 days), which reinforces the general trend of the mandate. Of the nine cases with the lowest rate of favorable votes (70% or less), five were observed in Lula's first term, and three in the second. Of the twelve nominations that took more than a year to be evaluated, eight were in Lula's first term. Parliamentary resistance was reduced over time through negotiation with Congress, which would translate into greater ease in subsequent mandates of Partido dos Trabalhadores (PT). In terms of favorable votes, there was stability during the four years of Lula's first term, but the time taken for deliberation decreased significantly between the first two years (average 141 days) and the last two (87 days). This trend was strengthened in the second term, which presented the lowest average of processing time (58 days) of the analyzed period. In turn, Cardoso's first term had the highest average of favorable votes (94.5%).

**Table 04.** Averages of diplomatic authority approvals per presidential term

| Presidential Term | Time (days) | Favorable Votes | Number of Cases |
|-------------------|-------------|-----------------|-----------------|
| Cardoso I         | 68.2        | 94.5%           | 29              |
| Cardoso II        | 77.4        | 87.8%           | 129             |
| Lula I            | 111.9       | 84.5%           | 172             |
| Lula II           | 58.4        | 88.9%           | 167             |
| Dilma             | 84.4        | 89.9%           | 155             |
| Total             | 82.9        | 88%             | 652             |

Source: Developed by author based on the Federal Senate (2017).

The government coalition showed a weak correlation for diplomatic authorities by Pearson's index: -0.231 for deliberation time and 0.235 for favorable votes. However, the relationship between the variables, although weak, corroborates the pattern of congressional action in the coalitional presidentialism system and the expectation of greater favorable voting in times of greater coalition. Although the rates are low, a considerable increase in the correlation between coalition size and deliberation time is observed - the overall rate is -0.171, and that of the other nominee categories is -0.108. Given that diplomatic authorities had the highest average time for senatorial deliberation among the analyzed categories, it is clear that the size of the coalition government in the Federal Senate influenced to reduce the waiting time for a decision on the nominee. Although the diplomatic authorities have as a specific characteristic more time for deliberation, the decision of the senators is affected by the pattern of congressional behavior on other topics.

As for the elements intrinsic to the diplomatic authorities, the effects of the class of nominees and posts for voting were analyzed. In the diplomatic career, hierarchy is a central element in the definition of which post a diplomat may lead<sup>8</sup>. According to Law N<sup>o</sup> 11,400 (BRAZIL, 2006), three different diplomatic classes can head missions: first-class ministers, second-class ministers and advisors. According to the hierarchical pattern, some candidates are better prepared for the role. In addition, the law exceptionally allows natural-born Brazilians who are not

<sup>8</sup>According to Law N<sup>o</sup> 11,400, first-class ministers are reserved to head diplomatic missions in A and B posts; second-class ministers are allowed to lead C and D posts; and advisors are allowed to lead D posts (Brazil, 2006).

diplomats, over age 35, with recognized merit and relevant services provided to the country to exercise the function of head of permanent diplomatic mission.

The averages of processing time and favorable votes for the appointment of each category of the diplomatic career did not show a trend that indicates greater ease for one particular class (Table 05). The number of cases for each category is uneven – first-class ministers represent 64% of the nominees. Although they have a higher average of favorable votes than others, the advisors (the lowest position able to lead a diplomatic mission) showed a higher processing time average than others. However, the randomness resulting from the low number of advisor cases, hinders a consideration of a pattern of senatorial action in this case.

**Table 05.** Averages of diplomatic authority approvals per intrinsic variable

| Nominee                        | Time (days) | Favorable Votes | Number of Cases |
|--------------------------------|-------------|-----------------|-----------------|
| Diplomat                       | 83.6        | 88.1%           | 643             |
| 1 <sup>st</sup> Class Minister | 83.3        | 88.3%           | 418             |
| 2 <sup>nd</sup> Class Minister | 85.5        | 87.8%           | 219             |
| Advisor                        | 96.7        | 90.6%           | 7               |
| Non-diplomat                   | 35.9        | 81.2%           | 9               |
| Post Class                     | Time (days) | Favorable Votes | Number of Cases |
| A Post                         | 65          | 88.1%           | 136             |
| B Post                         | 66.6        | 89.3%           | 106             |
| C Post                         | 93.2        | 87.8%           | 229             |
| D Post                         | 92.9        | 87.6%           | 181             |
| Total                          | 82.9        | 88%             | 652             |

Source: Developed by author based on the Federal Senate (2017).

The analysis of deliberation on individuals who are not career diplomats who were nominated to lead diplomatic posts showed interesting results, although this population is small. These had an approval rate 6.9 p.p. lower than diplomats' average. Although they showed lower senatorial approval, these nominees were evaluated more swiftly by senators - in 43% of the time taken to deliberate on diplomats. These trends demonstrate greater controversy for approval of diplomatic mission heads who are not career diplomats, which, although displaying lower approval rates, show faster deliberation rates.

Finally, one last element to be considered is the type of post. During the analyzed period, there were no great disparities among the number of appointments for each class, even if posts C and D represent almost 63% of the total analyzed

nominations. However, no significant post hierarchy or senatorial deliberation trends were observed. As shown in Table 05, the main finding of this analysis was the longer time required for approval of C and D posts, on average 50% longer than for A and B posts. This pattern is exemplified by the presence of ten appointments for C and D posts out of the 12 longest cases (over one year), while seven out of the fourteen fastest deliberations (less than ten days) were of A posts. Among the cases with the lowest approval rates (70% or less), five are for D posts and two for C posts. Countries whose relations with Brazil involved more internal debate during the mandates of PT, Bolivia and Venezuela – C and D posts – are among the cases with the lowest approval rates – 58% and 63%, respectively.

Among the nine appointment cases with 70% or fewer favorable votes, the nominations of Angelo Matarazzo and Itamar Franco are noteworthy; both are non-diplomats appointed for the Brazilian embassy in Rome in 2001 and 2003 respectively. These are the only choices with fewer favorable votes for A posts, and the only case during Cardoso's presidential terms. At the same time, the Senate took 43 and 33 days, respectively, to evaluate.

## Conclusions

The aim of this article was to present aspects of the process of the Senate's supervision over decisions related to foreign policy made by the Executive Power. Given the need for greater knowledge and debate on the processes that guide Brazil's foreign strategy, the mechanisms available to the National Congress must be studied and understood. Through this study, the objective was to demonstrate how different elements influence the outcome of senatorial deliberations on appointments.

The process of approval of authorities was considered as the Legislative Power opportunity to supervise decisions made by the Executive Power. Through this instrument, senators may influence the occupation of key posts in the formulation and implementation of governmental policies. Even if the approval of authorities is extremely high, the variation in the processing time and the rate of favorable votes shows some discord between participants of the Senate. The rejection of the diplomatic nominee during Dilma's presidential term within a

context of aggravated tension among powers demonstrates that there does exist divergence.

In terms of the overall approval process, a trend of longer deliberations and more favorable votes was noted. Even if the literature generally points to a parliamentary disinterest on the subject, results of this research offer a different perspective. The great demand imposed on the Foreign Affairs and the National Defense Commission and the weight of cumulative appointments points to other factors as explanation for the long deliberation time. The amplitude of voting on these authorities shows there are divergences among senators, which corroborates with the existence of controversy and senatorial interest in the subject.

As for the dynamics between the Executive and the Legislative Power, differences are observed among presidential terms. Lula's first term had the worst averages. The size of the coalition had a low correlation index, although it presented correlation in the expected ways – positive for favorable votes and negative for deliberation time. When restricted to the central goal of this study, presidential term and government coalition deepen their impact. Diplomatic appointments, therefore, despite their specificities, follow similar patterns to the average of appointments. This reinforces the idea that common variables of parliamentary action influence decisions on foreign policy, in agreement with the party trends in legislative studies.

Regarding specific elements, they hardly affect the results of senators' decisions. The most important effect was regarding individuals who are not career diplomats. The resistance to them was displayed in terms of fewer favorable votes as well as shorter deliberation times, which points to the existence of greater controversy in these appointments. In classification of the posts, only C and D showed longer deliberation times, with no significant difference of favorable votes.

The analysis of the authority approval process by the Senate enabled the understanding that this mechanism of parliamentary supervision over the Executive is less uncontested than it is considered. The variability in time and favorable votes enabled the analysis of the elements that influence the process. Although cases of heads of permanent diplomatic missions have their specificities and differences in comparison to other authorities (which also show specificities among themselves), foreign policy is not a subject relegated to the background one lacking in discussion.

The exploratory empirical analysis supported the hypothesis that subjects related to foreign affairs do not significantly differ from other objects of parliamentary supervision. Different elements affected all nominations in similar ways. Despite their specificities, the appointment of diplomatic authorities also polarized senators in the deliberation process. Advances in this debate must come from the analysis of other supervisory instruments and from studying patterns of action and interest among members of Congress. In fact, this research agenda could bring Brazilian foreign policy closer to the population, considering the importance of expanding educated debate on this subject in society.

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