Committee on Balance-of-Payments Restrictions

DRAFT

REPORT ON THE 1981 CONSULTATION WITH

BRAZIL

1. The Committee consulted with Brazil in accordance with its terms of reference and the Declaration of the CONTRACTING PARTIES on Trade Measures Taken for Balance-of-Payments Purposes (BISD 26S/205). The consultation was held on 1 December 1981 under the Chairmanship of Mr. J.N. Feij (Netherlands). The International Monetary Fund was invited to participate in the consultation pursuant to Article XV of the General Agreement.

2. The Committee had the following documents before it:

   Basic Document           (BOP/223 and Add.1)
   Secretariat Background Paper  (BOP/W/56)
   IMF Recent Economic Developments,
       dated 30 October 1981

Opening Statement by the representative of Brazil

3. In his introductory statement, the full text of which is attached as Annex I, the representative of Brazil described his country's current balance-of-payments situation and the measures adopted to cope with it. He also discussed the relationship between these measures and
Brazil's rights and obligations under the General Agreement, and analyzed the measures in the broader context of the adjustment of the Brazilian economy to balance-of-payments difficulties generated by external constraints.

**Statement by the representative of the International Monetary Fund**

4. At the invitation of the Committee, the representative of the International Monetary Fund made a statement, the full text of which is reproduced in Annex II.

**Balance-of-payments position and prospects – alternative measures to restore equilibrium**

5. Several members noted that, according to both the statement by the Fund representative and to the Basic Document submitted by Brazil, the overall balance-of-payments was expected to be in approximate equilibrium in 1981. They doubted whether in these circumstances the trade restrictive practices followed by Brazil could be justified under the General Agreement. The view was also expressed that the increase in oil import payments should not be used as a justification for import controls since most contracting parties' external financial position was adversely affected by the rise in energy prices. The members of the Committee shared the hope of the IMF that a further strengthening of Brazil's external financial position would enable it to reduce substantially its reliance on restrictive practices. One member said that, with the realistic exchange rate policies now being
pursued, Brazil could consider the gradual reduction and removal in 1982 of the financial transaction tax on purchases of foreign exchange for import purposes.

6. There were expressions of concern in the Committee about the severity and complexity of impediments to imports, in particular about the concurrent application of import licensing suspensions, import surcharges and the financial transaction tax on import payments. It was said that the multiplicity of restrictive practices made it impossible for the Brazilian authorities to evaluate the effects of each individual measure. One member said that it would be in Brazil's own interest as a new competitive supplier of manufactured goods if it were to rely on general policy measures, rather than restrictive trade practices, to resolve its payments difficulties since it would thereby make a positive contribution to maintaining a strong line against protectionist pressures.

7. In response to these various comments the representative of Brazil said that, although the deterioration of the overall balance-of-payments situation had slowed down and the trade account was now in surplus, the deficit on current account was likely to remain in 1981 at about the same level as last year because of the deterioration in the services account resulting largely from the rise in the level of interest rates in international markets. Therefore it was not possible to consider a relaxation or elimination of the measures adopted to cope with the balance-of-payments problems. Brazil's international reserves had dropped from US$ 11.9 billion at
the beginning of 1979 to less than US$ 7 billion at the beginning of 1981. At present reserves stood at close to US$ 7 billion which was clearly insufficient. A decline in reserves in 1981 was only avoided because of total capital inflows of US$ 17.7 billion (including net investments), which corresponded to approximately 6 per cent of GDP.

8. One member asked how the Brazilian authorities intended to resolve the problem of rising external indebtedness. The representative of Brazil replied that the annual, nominal increase in external debt had been 35.8 per cent in 1978 and had declined to 14.7 per cent in 1979 and 7.9 per cent in 1980. The gross external debt at the end of this year was expected to reach US$ 61 billion which would represent a nominal increase of 13.3 per cent from the level at the end of last year. There had thus been a decline in the rate of expansion of the external debt. In response to a question on exchange rate policies, the representative of Brazil confirmed that the exchange rate was now pegged to the rate of domestic inflation, without any correction for external inflation; this policy resulted in a real depreciation of the cruzeiro.

9. Several members expressed serious concern about Brazil's domestic subsidies, in particular those granted in the form of government supported credits. One member said that the subsidies introduced distortions in the Brazilian economy and in the pattern of trade. Another added that the subsidy policy had been partly responsible for the high rates of inflation since 1979 since it had aggravated
Brazil's fiscal deficit which had in turn had an adverse impact on the balance-of-payments situation. The representative of Brazil remarked that at present, 70 per cent of all credit operations were subsidized; but access to subsidized credit, in particular in the field of agriculture, was now being restricted and further limitations were planned.

10. There were also expressions of concern in the Committee about the potentially disruptive effects of subsidized Brazilian exports, in particular in areas in which Brazil was already internationally competitive. One member said that Brazil had agreed, when acceding to the Subsidy Code, to reduce its direct export subsidies of 15 per cent to 9 per cent on 1 January 1982, to 3 per cent on 1 January 1983 and to eliminate it completely on 30 June 1983. Now Brazil proposed to slow down the phasing-out of the subsidy (cf. document SCM/13). This, the member said, was a departure from Brazil's commitment under the Subsidies Code, which could not be justified by Brazil's balance-of-payments situation. Another member expressed his serious concern about the introduction by Brazil of discriminatory export taxes on a series of products and about their distorting effects on trade.

11. The Chairman pointed out that it was not the task of this Committee to pass a judgement on the legality of the subsidy practices, but these could be discussed in the Committee in view of their relation to Brazil's payments situation. The representative of
Brazil indicated that, although he was willing to provide information on the subject, he concurred with the Chairman's opinion that the matter did not fall under the purview of the Committee. He then said that, when accepting the Subsidy Code, Brazil had committed itself to an elimination of its main subsidy scheme by mid-1983 and that the adjustment of the phasing-out schedule was fully consistent with the commitment undertaken by the Brazilian government, as the agreed termination date was being maintained. He also referred to the understanding surrounding these commitments when undertaken by developing countries and to the fact that, in this context, flexibility as to the contents of the commitments was an important element.

System, method and effect of the restrictive import measures

12. The Committee members noted that Brazil maintained three measures restricting trade for balance-of-payments purposes, namely a temporary scheme of licensing suspension, temporary surcharges, and a financial transaction tax on purchases of foreign exchange for imports. The view was expressed that these measures were not in conformity with Brazil's obligations under Article XVIII:10 of the General Agreement and paragraph 1 of the Declaration on Trade Measures Taken for Balance-of-Payments Purposes.

13. It was also noted that Brazil had not established a time-schedule for the termination of the application of the financial transaction tax to imports and the view was expressed that this ran counter to
paragraph 1(c) of the Declaration on Trade Measures Taken for Balance-of-Payments Purposes. It was further said that, although termination dates had been announced for the licensing suspension scheme introduced in 1976 and the surcharges applied since 1974, they had been routinely extended from year to year and had therefore in practice not met the purpose of paragraph 1(c) of the Declaration.

14. The representative of Brazil replied that the suspension of issuance of import licenses was fully in conformity with Brazil's obligations under paragraph 1(a) of the Declaration on Trade Measures Taken for Balance-of-Payments Purposes. To this paragraph a footnote was attached which recognized that developing countries had to take into account their individual development, financial and trade situation when selecting the particular measure to be applied. The licensing suspension could not be said to have a disruptive effect on trade since the licensing suspensions had a maximum theoretical coverage of only 2.6 per cent of total imports in 1981. This theoretical limit was not in fact reached in view of the exceptions provided for in the legislation. As to the surcharges, the representative of Brazil pointed out that the share of imports subject to this measure had continually declined and had in 1980 represented only 8.5 per cent of total imports. He further said that paragraph 3 of Decree-Law No. 1775 of 12 March 1980 stated that the surcharges were not applicable to items bound in GATT. As to the trade shares affected by the licensing suspensions and the surcharges, one Committee member remarked that the more restrictive a measure was, the less trade coverage it was likely to have.
15. The representative of Brazil further explained that the exchange rate policy found its limitations in the need to avoid penalizing private enterprises which had tapped the external financial markets, as well as to encourage such enterprises to continue to seek financial resources abroad. As to the application of the financial transactions tax to the purchase of foreign exchange for import purposes, he recalled that the measure had been approved by the IMF. The representative of Brazil added that the trade measures adopted were in accordance with the note to Article XVIII:11 of the General Agreement. In the present, still uncertain, balance-of-payments situation Brazil was therefore not required to remove the restrictive import measures. He added that his authorities had liberalized the import regime whenever the balance-of-payments situation had improved and would continue to do so in the future. He emphasized that the balance-of-payments measures in force were of a temporary nature. However, given the impossibility to predict Brazil's future payments situation - in particular in view of the uncertainty surrounding oil prices and interest rate levels - Brazil could not commit itself to announcing a phasing-out programme for the measures taken for balance-of-payments purposes. This statement gave rise to expressions of disappointment by Committee members.

16. Members of the Committee expressed their dissatisfaction with the lack of detailed information on Brazil's restrictive import measures. They regretted in particular that the Basic Document submitted by Brazil for the consultation contained no information on the import regime and asked Brazil to submit this information without delay. The
Brazilian representative said that he was ready to supply all details at this meeting and to provide the secretariat with copies of the relevant laws and regulations.

17. Several questions were asked about the prospects for a relaxation of Brazil's restrictive practices in 1982, in particular as to the prospects of removing items from the list of goods subject to licensing suspension. The Brazilian representative said that the uncertainties of the balance-of-payments situation did not permit the undertaking of commitments at this stage. In response to other questions, the representative of Brazil said that the investment performance requirements, the public sector import ceilings and the foreign financing requirement for certain imports were not imposed for balance-of-payments reasons but reflected developmental, budgetary and financial considerations.

18. In reply to a series of questions on the administration of the import licensing system, the representative of Brazil said that importers had been required, since the end of 1980, to submit annual import programmes before they could obtain import licenses because there had been a sharp increase in speculative imports. As the rate of inflation rose beyond the level of monetary correction which had been prefixed, and in the expectation of a significant devaluation of the cruzeiro, which turned out to be necessary indeed, importers had built up speculative stocks of industrial inputs, equipment and components, which had contributed decisively to the deficit of US$ 2.8 billion in the trade account in 1980. The representative further
informed the Committee that the import programmes were not negotiated but were prepared by the importers themselves in accordance with CACEX Communication 81/21 of 14 September 1981, as authorized by CONCEX Resolution 125 of 5 August 1980. In 1981 the import programmes were in principle not to exceed 1980 levels which, as he had already indicated, had been grossly inflated due to speculative movements; for 1982, the base year for determining the size of the import programme would be 1981. In reply to questions the representative further said, that the problem of an inflationary erosion of the authorized import values was non-existent, since the base year changed annually. The grant of import licenses was normally not contingent on commitments by importers to export, or to purchase specified amounts of goods domestically. If, however, an importer wished to import more than estimated in the original programme, the importer's export performance, among other factors, could be taken into consideration in the decision on whether or not to allow the additional imports. Bilateral trade balances with other countries were not a consideration in the decisions to grant import licenses.

19. One member said that there was a disturbing lack of transparency in the administration of the licensing system. There had been reports in 1980 that CACEX was under instructions to engage in administrative slowdowns in order to reduce the rate of imports, and that it followed confidential guidelines specifying particular products which should either be prohibited from importation or subject to quantitative limitations. He had noted the statement by the representative of the IMF that the submission of annual import plans by importers had
"facilitated the issuance of licenses and avoided the recurrence of administrative delays so far in 1981", but he had been advised that importers in Brazil continued to complain about slowness and stifling bureaucracy in obtaining import licences. The representative of Brazil said that the new system had reduced red tape by giving a global authorization for the licensing of all imports estimated in the annual import programmes. In addition, the system eliminated uncertainty and was fully transparent.

20. In response to a remark on import restrictions on data processing equipment the representative of Brazil confirmed that such imports did require prior approval of the Special Secretariat for the Informatics, as now regulated by CACEX Communication No.8123 of 18 September 1981. This requirement had been introduced to rationalize the use of data processing equipment in the country, which was underutilized. From 1969 to 1977 imports of such equipment had risen by 651 per cent and if projected into 1978 would have risen by 877 per cent. If imports of these items had not been checked they would have reached US$ 1 billion in 1980.

21. The representative of Brazil confirmed, in reply to a question, that imports of steel and non-ferrous metals also required prior approval. In October of each year importers of these products had to submit their estimate for imports during the following year and it was on the basis of these estimates that import approvals were granted. This regime was now applied to both private and public enterprises and had no discriminatory features.
22. It was noted that the licensing suspension scheme was not fully applied to imports from members of the Latin American Integration Association (LAIA) and that a lower financial transaction tax (20 rather than 25 per cent) was applied to payments for imports from LAIA countries and questions were raised on this subject. There was a short discussion during which it was noted that the different views on matters related to balance-of-payments measures and regional groupings had been discussed on a number of occasions and were well known. The representative of Brazil recalled that at a recent consultation this question members had once more been raised, and that the Committee had then decided that the Committee was not the proper forum to pursue this debate. One member asked the representative of the International Monetary Fund what conclusion the Fund had reached on the discriminatory application of the financial transaction tax when it approved this measure in accordance with Article VIII of the Fund's Articles of Agreement. The representative of the Fund replied that the measure, together with other measures requiring approval, as described in the IMF document "Recent Economic Developments" dated 30 October 1981, had been approved by the Fund but that the differential application as such had not been considered.
Conclusions

[to be drafted]