 by Silvia Palacios

Brazil declares 'white moratorium'

Can a bankers' accounting trick prevent Brazil from dumping the debt as unconstitutional?

On Sept. 18, Brazil will not be paying the $1.7 billion in interest on its foreign debt due that day to its private bank creditors. Neither will it be paying the $500 million more in interest arrears that have accumulated since July. In the last round of negotiations in the United States, reluctant bankers and Brazilian negotiators struck a political deal to call what is being termed a "white moratorium"—that is, to prevent the largest debtor in the hemisphere from making any dramatic moves that would unleash panic in the already weakened international financial system.

On Sept. 11, Finance Minister Maílson da Nóbrega reported that his country was seeking a pragmatic six-month agreement with the banks, whereby payments would only be made during that period if they did not adversely affect the level of reserves set by the government.

For now, the banking committee has agreed to an accounting trick, postponing the deadline until January so that Brazil can formally request the release of $600 million, which depends on a deal with the International Monetary Fund (IMF). That $600 million would be used to pay the overdue interest on the debt. According to the 1988 debt renegotiation contracts, the deadline was to have been Sept. 30, but it was known beforehand that the money would not be paid, since no agreement with the IMF had been reached.

At the beginning of September, the pro-bank faction inside the Foreign Ministry, headed by Marcilio Márques Moreira, ambassador to the United States, and Rubens Ricupero, ambassador to the General Agreement on Trade and Tariffs (GATT), met in Brasilia for the purpose of making sure that Brazil's anticipated failure to meet its debt payments would somehow be contained. Márques Moreira insisted that a deal with the IMF was forthcoming over the next few weeks, and promised that the Bush administration would provide some support.

Citibank President John Reed had already sent a message from the banks that even a negotiated moratorium, with small payments here and there, might be acceptable, as long as a unilateral debt moratorium were avoided. The banks' fear is that a unilateral moratorium would enable Brazil's next President to refuse to make any further debt payments.

But beneath the "containment" exists a political and economic volcano waiting to erupt. One matter examined in detail by the banking advisory committee in a Sept. 7 meeting presided over by Citibank Vice President William Rhodes, was a bill currently before the Brazilian National Congress. That bill, presented by Irajá Rodrigues of the PMDB party, demands the immediate suspension of the *entirety* of foreign debt payments until the Supreme Court can rule on the constitutionality of the debt contracts. "That has caused a great deal of concern, since we are already talking with the Brazilian government, and they want to change the rules of the game," commented one banker to the daily *O Estado de São Paulo* of Sept. 8.

To back up his bill, already approved by the Congress's Mixed Commission on Foreign Debt, Irajá Rodrigues has prepared a document which in effect calls upon the nation to rise up against usury. This document was presented Aug. 30 at a meeting held by a multi-party political committee favoring the bill. At this historic moment, says the document, we could "free ourselves from the foreign debt and its agents of occupation, and we could finally celebrate the real independence of Brazil."

The argument for the unconstitutionality of the debt contracts is based, among other things, upon the opinion of eminent legal expert Seabra Fagundez, who said of the 1983 debt agreement between Brazil and 600 creditor banks, "The fact that Brazil explicitly renounces the right to defend its sovereignty, makes this document perhaps the saddest in the country's political history."

Deputy Rodrigues's document concludes: "The contracts of foreign indebtedness are invalid, because the Brazilian government, through its representatives to those contracts, renounced the right to invoke their invalidity; renounced sovereign immunity and the application of Brazilian law, and any claim to sovereignty. And it was even imposed and accepted that in case of arbitration, the tie-breaking arbiter would be a U.S. lawyer."

Beyond the constitutional arguments, Rodrigues's document stresses: "Today, the entire nation is convinced that the burden of the debt is too high for this country, and it is remembered that a draining of resources far less than that which has been imposed on us, led Germany into galloping inflation, to Nazism, and the world into World War II and all its horrors. Then the drain was scarcely 2% of GNP. Here we are bled by much nearer to 5% of GNP."