

**Accession #: 1982-0037**



INTERNATIONAL MONETARY FUND  
WASHINGTON, D. C. 20431

DEPUTY MANAGING DIRECTOR

December 22, 1977

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CABLE ADDRESS  
INTERFUND

CONFIDENTIAL

MEMORANDUM FOR FILES

Subject: Meeting with Mr. Martin Wong, December 21, 1977

1. On the question of the voluntary repurchase of ROC, I replied to Mr. Martin Wong that it would be highly unlikely, though the probability is not zero, that an Executive Director would object to the transaction. I added that for the purchase transaction, the authorities would have to state that there would be a balance of payments need; with the good balance of payments position of ROC at present, some Executive Directors might object ex post. Also, if the Second Amendment were to come into effect by June, a difficulty for a second purchase transaction might arise if ROC was put in the currency budget. The desirability of making repurchases and purchases for the whole amount in December/January was suggested for this reason and also to have these transactions out of the way before the matter mentioned below comes up.

2. With regard to gold restitution, Mr. Wong said that since it had now been about eight months since the last contact with the PRC representatives in New York, his authorities had decided that they would like to take an initiative in the matter and asked for advice on timing, in particular whether it should be done at the time of Board discussions on the Article XIV consultations in February. They desired an early discussion. Mr. Wong was told that the discussion on the subject should not be at the same time as the Article XIV discussion and that the Board should be given at least two weeks' notice. Mr. Wong requested that the staff draft a letter for his authorities to send to the Fund and it was agreed that Mr. Nicoletopoulos would prepare a draft. It was also agreed that the letter would be sent only after the purchase transaction was completed.

  
William B. Dale

cc: Mr. Habermeier  
Mr. Tun Thin  
Mr. Nicoletopoulos

Mr. Tun Thin

cc: DW

MEMORANDUM

CONFIDENTIAL

September 29, 1977

To: The Managing Director  
From: Joseph Gold  
Subject: Restitution—China

Governor Yu and Ambassador Wong consulted me today on the unresolved question of China's share in the restitution of the profits from the sale of gold.

Governor Yu asked whether the Managing Director intended to raise the issue in the near future, although he made it clear that he was not pressing for an early solution of the problem. I said that my impression was that the Managing Director was not proposing to take an initiative at this time and was hardly likely to do so unless he were assured by Ambassador Wong that there was sufficient support for restitution to the Republic of China. Ambassador Wong made it clear that he had no enthusiasm for lobbying Executive Directors to change their positions. He argued that this could be detrimental to the interests of the Republic because Executive Directors would want to consult their principals, who were likely to follow the lead of their Foreign Offices.

We discussed the procedure and timing of the next round of restitution. It seemed that when the Board acted on that round, something would have to be said about restitution to China or its postponement. I could not forecast what would be the outcome of any such reference.

We agreed that, subject to anything decided on the occasion of the next round of restitution, it was appropriate for the Republic of China to raise the issue in the forthcoming consultation with the Fund. The topic could then be mentioned in the consultation report, and this mention would give an opportunity to see whether and how the Board reacted.

Ambassador Wong remarked, and Governor Yu agreed, that the offer of the Republic of China with respect to the donation to the Trust Fund as reported in Buff 77/1 (January 4, 1977) still stood but that there was no intention to make a similar offer with respect to the second restitution.

cc: The Deputy Managing Director  
Mr. Habermeier, Mr. Tun Thin, Mr. Van Houtven

*Mr. Tenthin*

*cc: FE Div. N*



Mr. Richard G. Ware

August 30,  
1977

Joseph Gold

Republic of China

I refer to Mr. Van Houtven's note to me of August 29, 1977.

At EBM/77/5 (January 10, 1977), the Executive Board took the following decision:

" The restitution of gold to China under the current arrangements for restitution shall be treated in accordance with the Managing Director's statement at EBM/77/5 (1/10/77)."

The last paragraph of the Managing Director's statement (Buff 77/2, January 6, 1977) reads as follows:

" In these circumstances I would propose that the restitution of gold to China should not be included in the present arrangements for restitution. If by April 1, 1977 the Government of the People's Republic of China expresses its wish to be represented in the Fund, the Executive Directors could retain the gold to be restituted to China until the question of representation had been resolved. As noted in the legal memorandum, the decision to postpone restitution in these circumstances could be taken if the Fund was proceeding to an expeditious disposition of the issue of representation. If, by April 1, 1977, a response of the kind I have mentioned has not been received from the Government of the People's Republic of China, the arrangements for the first amount of restitution will be completed."

At EBM/77/51 (April 11, 1977) the Executive Board approved the following statement by the Managing Director (Buff/77/44, April 8, 1977):

" Arrangements for the restitution of gold to China have been held in abeyance, in accordance with the decision of the Executive Directors, until the staff could hold discussions with the representatives of the People's Republic of China. As it appears that the question of the effect of a change in the representation of China in the Fund may need to be considered further by the authorities in Peking, in the light of the explanations given by the staff mission, it is recommended that arrangements for the restitution of gold to China be postponed for a reasonable time to await further developments."



The period referred to as "a reasonable time to await further developments" was not made precise. The language was adopted in order to allow all relevant circumstances to be taken into account.

Mr. Wong could be advised that on several occasions the Government of the People's Republic of China has addressed a communication to the Fund at the time of the Annual Meeting of the Board of Governors. This fact is well known, and any move to raise the issue of the "restitution" of gold to the Republic could provoke the objection by some Executive Directors that there should be delay beyond the Annual Meeting.

Moreover, the issue should not be raised after the Annual Meeting until such time as Mr. Wong had taken soundings to see whether there was enough support for restitution to the Republic. It is possible that the longer the period without a reply from the Government of the People's Republic the better are Mr. Wong's chances to pick up some marginal support. In any event, nothing will be gained by a premature revival of the issue that produces a further refusal to sell gold to the Republic.

cc: The Deputy Managing Director (on return)  
Mr. Tun Thin  
Mr. Van Houtven

April 8, 1977 - 77/44

Statement by the Managing Director on  
Restitution of Gold to China  
Executive Board Meeting  
April 11, 1977

Arrangements for the restitution of gold to China have been held in abeyance, in accordance with the decision of the Executive Directors, until the staff could hold discussions with the representatives of the People's Republic of China. As it appears that the question of the effect of a change in the representation of China in the Fund may need to be considered further by the authorities in Peking, in the light of the explanations given by the staff mission, it is recommended that arrangements for the restitution of gold to China be postponed for a reasonable time to await further developments.

1. APPROVAL OF MINUTES

The draft minutes of Meetings 76/162 and 76/163 were approved.

2. CHINA

The Executive Directors, meeting in restricted session, agreed to the proposal by the Managing Director for a further postponement of the restitution of gold to China.

The decision was:

The Executive Board agrees to the further postponement of the restitution of gold to China.

Decision No. 5367-(71/51), adopted  
April 11, 1977

3. INTERNATIONAL LIQUIDITY, AND PROVISION OF SUPPLEMENTARY CREDIT AND FUND BORROWING

The Executive Directors considered papers on the adequacy of international liquidity (SM/77/62, 3/21/77) and on the provision of supplementary credit and Fund borrowing (EBS/77/88, 3/30/77).

Mr. Kafka commented that he was more optimistic than the staff about the effect of an allocation of SDRs. An allocation at present would not only lead to less borrowing of reserves in the future; it might also lead to some repayment of borrowing. As to the question of a quota increase, it might be difficult, if not impossible, to reach a consensus until the Executive Directors had resolved the matter of the rate of remuneration in a more realistic fashion than they had been prepared to do so far. Regarding supplementary credit and Fund borrowing, something along the lines proposed by the staff was necessary and, indeed, was urgent. It would have been helpful if the staff had drawn a clearer distinction between the two financing problems that the international community might face in the future.

The first, Mr. Kafka continued, was a temporary one of financing balance of payments deficits pending adjustment, and that was clearly a Fund task. The second was the long-term problem of the surpluses of the major oil exporting countries. If those surpluses remained for several more years, they might also require financing by official institutions, but finding the resources would only in a subsidiary way be a Fund task. One solution to the matter of the oil surpluses would be recycle not only the OPEC receipts, but also the current account deficits that corresponded to the oil surpluses, so that no single country would have to bear a

deficit for too long. In such recycling, there might be a role for Fund financing of adjustment. At present, some industrial countries had large deficits or small surpluses and they could be assisted by other industrial countries that had large surpluses or small deficits. It would also--until larger amounts of long-term finance could be arranged--be helpful if the industrial countries as a group could further reduce their surplus or even run a moderate collective deficit to assist other groups of countries with their adjustment. Insofar as that was not possible--and there appeared to be considerable reluctance on the part of many industrial countries to give up their surpluses or increase their deficits--additional sustainable forms of finance for the deficit countries had to be found.

The task of finding long-term finance, perhaps for as much as ten years, was not relevant to the Fund, Mr. Kafka considered. Moreover, it was important to ensure that the available finance was used properly to increase productive capacity, and that again was not where the Fund's expertise lay. For the poorest countries, the best approach would be to provide additional grant aid and larger subscriptions to IDA. For other countries, there might be a need for a large increase in the capital of the World Bank and the regional development banks, and perhaps for new development banks along the lines of the International Resources Bank recently proposed by the United States.

Dealing with the specific staff proposals on supplementary credit and borrowing, Mr. Kafka said that, like all existing Fund facilities, the new one should be available to all members. How large it would have to be would depend on the extent to which members were expected to make use of it. While he had no firm view regarding the conditions of access to supplementary credit, he had a slight preference for them to be related to quota; staff missions should be instructed to consider not only economic but also political realities. It was possible to imagine that a wages freeze or a crash removal of subsidies could reduce the time needed for adjustment with a minimum sacrifice in terms of the rate of growth or level of employment. But, if those measures then led to strikes or riots and in turn to the abandonment of the program, more would have been lost than if a program accepting a more gradual approach had been adopted in the first place. He could support the staff proposal on charges and repurchases, although the period of repurchase could just as well have been 5-8 years or even 6-9 years as the 4-7 years suggested by the staff.

He was strongly opposed to the proposal with respect to cooperation with commercial banks, Mr. Kafka indicated. Any release of information by the Fund to commercial banks, or any pressure on countries either by central banks via their commercial banks or by the Fund to release Fund documents or to authorize the Fund to release information to the commercial banks would destroy the confidential relationship between the Fund and its

April 8, 1977 - 77/44

Statement by the Managing Director on  
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INTERNATIONAL MONETARY FUND

March 30, 1977

The Managing Director  
The Deputy Managing Director

The attached draft briefings on China have been cleared with Messrs. Evans and David Williams. As we are all leaving the office around 6 p.m. to catch the plane to New York, we would appreciate receiving your comments by then.

cc: Mr. Green

  
Tun Thin



# Office Memorandum

TO : Mr. Tun Thin

DATE: March 30, 1977

FROM : James G. Evans, Jr.

SUBJECT : China

I attach the two draft briefings on China: "Problems Relating to a Change in Representation" and "Incidents of Membership."

cc: Mr. David Williams  
Mr. Zegers

## BRIEFING ON CHINA:

### PROBLEMS RELATING TO A CHANGE IN REPRESENTATION

If the Fund were to decide that the appropriate government to represent China in the Fund was that of the People's Republic of China in place of the Government of the Republic of China, the Government of the People's Republic of China would have to perform a number of acts as the government of the continuing member in the Fund.

#### 1. Membership Relations

The People's Republic would need to appoint a Governor and an Alternate Governor for China to serve on the Fund's Board of Governors. If the People's Republic wished to have an Executive Director present the views of the People's Republic in the Executive Board, the People's Republic would have to designate an Executive Director to look after China's interests in the Fund until the next biennial election of Executive Directors in the fall of 1978. The People's Republic would also need to inform the Secretary of the Fund of the "member address," that is, the address to which all official communications would be sent to the People's Republic, including mail, cable and telex addresses.

The Fund would need to recognize the Government of/China as representing the member, China, in the Fund and would conduct all relations with it on that basis.

#### 2. Financial Relations

In financial transactions the Fund can deal with a member only through the member's treasury, central bank, stabilization fund, or similar fiscal agency. A member must designate one of these entities to act as the fiscal agency for financial transactions with the Fund.



A member must designate its central bank as the depository for all of the Fund's holdings of the member's currency.

Each member of the Fund has a quota. China's quota is equivalent to SDR 550 million. Each member is obligated to pay to the Fund a subscription equal to its quota. Under the present Articles, an original member had to pay in gold an amount equal to either 25% of its quota or 10% of its net official holdings of gold and U.S. dollars when the Fund began operation in 1946, and the remainder at the time in the member's currency. The currency and gold paid to the Fund as subscription becomes the unrestricted property of the Fund. China paid a gold subscription in August 1970 equivalent to SDR 59.86 million based on its holdings of gold and dollars in 1946.

At present the Fund holds exactly one hundred percent of China's quota of SDR 550 million in China's currency, and therefore no charges are payable by China and no remuneration is accruing to it. However, China has outstanding repurchase commitments equivalent to SDR 59.86 million in respect of the two "gold tranche" purchases in January and June 1975 that if these amounts have not been repurchased within three years, that is by January and June of 1978 China must request the Fund to agree upon an arrangement for repurchases to be made over the period of the next two years to January and June 1980.

The Fund holds new Taiwan dollars as the currency of China. If the representation of China were to be changed to the People's Republic, the Fund's relations with the Central Bank of the Republic of China would cease.

The People's Republic as the government representing the member would be obligated to designate a fiscal agency and a depository, and to meet the

obligation to pay the subscription to the account of the Fund in the depository. Under present circumstances the payment would amount to the equivalent of SDR 550 million, in the currency of the People's Republic. To be able to make this payment, the Fund and the People's Republic would have to agree on a value for that currency. Payment can be made in the form of currency or in the form of nonnegotiable, noninterest-bearing notes payable on demand, except a small amount, 1/10 of 1 percent of quota, that must be held in currency. Before such notes may be substituted for currency, the Fund must be satisfied that the notes are in proper form and their issuance has been authorized. The notes must be encashable on demand by the Fund. This amount of currency (or notes if substitution is made) is in the unrestricted ownership of the Fund and can be used by the Fund, under the new Articles, for sale to other members when China's balance of payments and reserve position is sufficiently strong in the opinion of the Fund. While the use by a purchasing member of the currency of another is subject, under the present Articles, to limitations placed on the currency's convertibility by the issuer, under the Second Amendment, when its currency is sold by the Fund, China would have the obligation to convert the balance sold into a freely usable currency on the request of the member making the purchase.

In order to operate accounts and to authenticate communications on financial transactions, a system of ciphers, codes and test numbers must be established with the fiscal agency and depository.

No action is needed in relation to the Special Drawing Rights Department.

3. General

The People's Republic would have to assure itself and the Fund that it had taken the necessary steps under its own law to carry out its obligations as the government of a member of the Fund. For example, the People's Republic would need to inform the Fund of the detailed action taken to accord the Fund, in the territories of China, the status, privileges and immunities set forth in Article IX.

The Fund is in the process of "restituting" a part of its gold holdings to members, based on the size of the member's quota at the end of August 1975. The amount to be "restituted" to China has been temporarily withheld.

BRIEFING ON CHINA  
INCIDENTS OF MEMBERSHIP

1. Is China a member of the International Monetary Fund?

China is a member of the International Monetary Fund. The Fund considers states, not governments, to be members of the Fund. The question may arise which government represents a member state.

2. Which states are members of the Fund?

There are 130 members of the Fund. 129 of these are listed, together with their respective quotas and voting power, in the Directory. (Guinea-Bissau became a member on March 24, 1977.) These states have a range of different social and economic systems and are in varying stages of economic development.

3. How and when was membership acquired by China?

China was listed in Annex A of the Articles of Agreement of the Fund and under Article II, Section 1 was eligible to become an original member. To become a member, China had to sign the original copy of the Articles and deposit with the U.S. Government an instrument setting forth that it had accepted the Fund Agreement in accordance with its law and had taken all steps necessary to enable it to carry out all of its obligations under the Fund Agreement. China became a member on December 27, 1945.

4. What is the basis on which a government can claim to represent a member in the Fund?

The question of which government represents a country or a member in the Fund is decided by the Fund. The Fund as an international organization has the inherent authority to determine the question of which government represents a member. In taking the decision, several factual and legal factors must be considered. Representation in the Fund depends not only on formal political recognition but also on the claimant's willingness and ability to carry out its obligations, including financial obligations, to the Fund and other members as set out in and under the Articles of Agreement.

As a claim to represent a member must be based on the recognition of the obligations of membership, the Fund may, as a condition of recognition, require that the government claiming to represent the member indicate that it understands its obligations under the Articles of Agreement and is prepared to fulfill these obligations as the government of a member in the Fund.

While the Fund is a specialized agency of the United Nations, the agreement that established this relationship recognized that the Fund is an independent international institution. The Fund may consider recommendations made by the United Nations, but is not bound by or required to act in accordance with the recommendations.

5. What is the relationship of the International Monetary Fund to the United Nations?

The Fund is a Specialized Agency of the U.N. The Agreement between the Fund and the U.N. on which this relationship rests recognizes that, by the nature of its international responsibilities and the terms of the Fund Agreement, the Fund is, and is required to function as, an independent organization. Under the terms of the Agreement with the U.N., the Fund is to consider any recommendation made by the General Assembly, after consultation with the Fund. The Fund is not bound by or required to follow any recommendations of the General Assembly.

6. What are China's "assets, rights and interests in the IMF?"

At present China's "financial assets" in the Fund is China's claim, exercisable only on withdrawal from membership in the Fund, to a settlement of accounts in accordance with Article XV, Section 3 and Schedule D of the Articles in effect at present.

Under these provisions the Fund is to return to the member an amount equal to its quota plus any other amount due to the member from the Fund and less any amounts due to the Fund. Only the amount equal to the quota is due. Payment of the amount due is to be made in the currency of the withdrawing member. This claim is to the Fund's holdings of Taiwan dollars held by the Fund with the Central Bank in the Republic of China. As the Fund holds an amount of the currency of China equal to the quota, the return of this amount would meet in full the claim of China under the Articles on withdrawal.

While China became a participant in the Special Drawing Account when it was established, China opted not to receive any allocations of special drawing rights and does not hold any special drawing rights. Upon withdrawal

from membership, participation in the Special Drawing Account would automatically cease. As there were no allocations to China, and China does not hold special drawing rights, no settlement on termination would be necessary.

7. What is China's position in the decision-making structure of the Fund?

The structure of the Fund consists of the following organs: The Board of Governors, the Executive Directors, and the Managing Director who is Chairman of the Executive Directors and head of the staff. A member is entitled to appoint a Governor and an Alternate Governor to participate and cast the votes of the member in the Board of Governors, which is the Fund's senior body and meets once a year. Votes on some matters may be taken by the Governors without a meeting. China has a quota equivalent to SDR 550 million. The quota has not been changed since 1945. A seventh General Review of Quotas will start soon. A member may ask for an increase in its quota at any time. Increases in quotas must be decided by the Board of Governors by an 85 percent majority of the total voting power for increases in a general review and by an 80 percent majority for single increases. As shown in the Directory, members' votes in the Fund are weighted largely according to quotas. Each member has 250 votes plus one vote for each SDR 100,000 of its quota. China has 5,750 votes, not quite two percent of the total voting power at present. When the quotas proposed under the Sixth General Review become effective after the date of the Second Amendment, China's voting power will be around 1.5 percent.

The Executive Directors are responsible for the conduct of the general operations of the Fund and function in continuous session. The members with the five largest quotas (U.S., U.K., Germany, France, and Japan) appoint Executive Directors. Fifteen Directors are elected by the remaining members. Executive Directors cast the

votes, as a unit, of the members that elected or appointed them. China did not participate in the Biennial Election of Executive Directors in 1976, and consequently no Director's votes include those of China, and China is not represented at present in the Interim Committee of the Board of Governors on the International Monetary System or the Joint Ministerial Committee of the Boards of Governors of the Fund and Bank on the Transfer of Real Resources to Developing Countries.

8. What are the purposes and functions of the International Monetary Fund?

The purposes of the Fund relating to the General Account are set forth in Article I and those that relate to the Special Drawing Account are set out in Article XXIV, Section 1 or Article XVIII, Section 1, as the Articles will be renumbered by the Second Amendment. The Second Amendment of the Fund Agreement has been approved by the Board of Governors and will enter into force for all members when the Amendment has been accepted by three-fifths of the members having four-fifths of the total voting power. It is expected that the Second Amendment will have entered into force by the end of this year. The new Articles and the Commentary, which explains the significance of the changes, are in the Report of the Executive Directors to the Board of Governors on the Proposed Amendment to the Articles of Agreement. References to Articles will, where appropriate, include a reference to the Article after the Second Amendment has come into effect.

The Fund provides a permanent international organization for consultation and collaboration on international monetary problems. It is intended to promote the growth of world trade, to promote stable exchange



rate systems, a multilateral system of payments for current international transactions, and the elimination of restrictions that hamper world trade.

The Fund has a pool of monetary resources in its General Account, to be called the General Department after the Second Amendment, largely subscribed by members.

The Fund makes these resources available in exchange transactions with members for temporary use under adequate safeguards to enable the members to correct their balance of payments problems without taking measures destructive of national or international prosperity.

The Fund also issues special drawing rights through the Special Drawing Account, to be called the Special Drawing Rights Department after the Second Amendment, as a supplement to international reserves. Special drawing rights are allocated only to members that participate in that Account or Department. These allocations of special drawing rights are made to participants on the basis of a percentage, determined by the Fund, of the participants' quotas. Special drawing rights may be used by a participant to acquire foreign exchange needed to make international payments. China is a participant in the Special Drawing Account (Special Drawing Rights Department), but opted not to receive any allocations during the only basic period in which allocations have been made so far.

The Fund also must oversee the operation of the international monetary system to ensure its effective functioning, as well as the compliance by members with their obligations under the Articles.

9. What are a member's principal obligations under the Articles of Agreement?

A. General Account or Department

The obligations of a member in the General Account may be listed under two basic categories, the first category consisting of financial obligations, and the second obligations regarding economic policies, particularly external economic policies.

a. Financial Obligations.--A member has to pay to the Fund a subscription equal to its quota in gold and the member's currency. An original member paid a gold subscription equal to the larger of either 25 percent of its quota or 10 percent of its net official holdings of gold and U.S. dollars when the Fund/ began operations.

The remainder of the subscription was paid in the currency of the member.

The gold and the currency of the member paid as subscription was transferred to the unrestricted ownership of the Fund. These assets are used by the Fund to meet requests by members for use of the Fund's resources in accordance with the Fund's policies. If the currency of a member is purchased by another member from the Fund, the member whose currency is purchased must permit the use of the currency to make payments. When the Second Amendment becomes effective, a member will either have to make its currency freely usable, as defined by new Article XXX(f), or make arrangements to convert it into freely usable currency if requested by the other member that has made the purchase.

The member must maintain the exchange value of its currency held by the Fund. For this purpose, among others, the member must agree on how to determine a representative exchange rate for its currency. As the exchange value of a member's currency changes, the member must pay more

to the Fund, or the Fund returns some of its holdings to maintain the value of the Fund's holdings.

b. Exchange Rate and Economic Policies.--The system of exchange rates based on par values declared in terms of gold as a common denominator is not now in operation. Members are expected, however, to collaborate with the Fund under Article IV, Section 4(a) to promote exchange stability, orderly exchange arrangements, and to avoid competitive exchange depreciations. Under Article IV, Section 1 of the Second Amendment, a member undertakes to collaborate with the Fund and other members to assure orderly exchange arrangements and to promote a stable system of exchange rates. In this regard, members are to endeavor to pursue economic and financial policies to attain these objectives. In particular, a member must consult periodically with the Fund on its economic and financial policies under Article IV.

Members undertake not to impose restrictions on payments and transfers for current international transactions, discriminatory currency arrangements or multiple currency practices without the approval of the Fund. A member that maintains any of these measures must, under Article XIV, consult annually on their further retention.

To permit the Fund to oversee the international monetary system and the compliance of members with their obligations under the Agreement, a member must supply a wide range of economic information to the Fund and be prepared to discuss its policies with the staff at least each year. On the basis of the discussions with the staff, the Executive Directors consider in

a formal consultation with the member its economic situation, policies and prospects, in particular the policies it intends to follow with respect to any economic problems confronting it. The range of information required and a list of the minimum required is set forth in Article VIII, Section 5.

The Fund is directed to act as a center for the collection and exchange of information on monetary and financial problems to facilitate the preparation of studies designed to assist members in developing policies that further the purposes of the Fund. Examples of this exchange of information is the information exchanged through International Financial Statistics and Direction of Trade.

B. Special Drawing Rights Department

The obligations of a member that chooses to participate in the Special Drawing Rights Department are based on the allocations of special drawing rights to it and upon its use of special drawing rights. As stated earlier, China opted not to receive any allocation of special drawing rights and thus is not subject at the present time to the general obligation described below.

a. Obligation to receive.--A participant undertakes to receive special drawing rights in amounts that would not increase its holdings of them above three times the allocations to it. When a participant is designated by the Fund to receive special drawing rights from a holder, the receiving participant must provide convertible currency to the participant that is using its special drawing rights.

b. Reconstitution.--A participant that has used special drawing rights must reconstitute its holdings so that over a five-year period its average holdings are thirty percent of the total allocations to the participant.

c. Charges and interest.--A participant must pay a charge on the amount of special drawing rights allocated to it and receives interest based on the amount of its holdings of special drawing rights. The rate of charge is the same as the rate of interest and is now about 3.75 percent per annum.

d. Assessments.--Assessments are made on all participants to defray the administrative expenses of running the Special Drawing Rights Department on the basis of allocations to participants.

C. Other Obligations

There are other general obligations on a member arising from its membership in the Fund. The member must accord the Fund the status, privileges, and immunities specified in Article IX of the Articles of Agreement. Section 10 of this Article requires a member to take such action as is necessary in its territories for the purpose of making the provisions effective in its own law and to inform the Fund of the detailed action taken.

The Fund interprets its Articles of Agreement under Article XVIII, Article XXIX as renumbered by the Second Amendment, and these interpretations, when taken by the Board of Governors, are final.

Amendment to the Articles, when accepted by three-fifths of the members having four-fifths of the total voting power, [85 percent under the Second Amendment], are binding on all members whether they accept the Proposed Amendment or not.

10. What are the principal advantages of membership in the Fund?

A. General Department

The financial advantages of membership relate to the opportunity of a member to engage in transactions with the Fund. In the usual transaction a member purchases from the General Account, in exchange for the member's own currency, a currency that is convertible or for which arrangements have been made for its conversion, or special drawing rights. To the extent the Fund's holdings of the member's currency is less than the member's quota, the member has a "gold tranche," or "reserve tranche" as it is called under the Second Amendment, and the amount of this "gold tranche" may be purchased to meet a balance of payments need without challenge by the Fund. Purchases of amounts that would raise the Fund's holdings of the member's currency above the quota level are subject to the "tranche policies." The conditions for such purchases relate to the economic policy measures the member is taking to improve its balance of payments position. The Fund reviews with a member policies that are appropriate in connection with a member's request for a purchase or for a "stand-by arrangement" (the Fund's form of a line of credit). This review is to assure that the use of the Fund's resources by the member will be consistent with the purposes of the Fund and to see that there are adequate policy safeguards to assure that the use will be temporary.

There are other facilities available by which a member may make purchases to compensate for shortfalls of export earnings (Compensatory Financing), to finance contributions to buffer stocks, and to assist in more difficult problems that may take a longer period for balance of payments adjustment (Extended Fund Facility).

A purchase in the credit tranches from the Fund's General Account is for temporary use and must be repaid within three to five years, or four to seven years if made under the Extended Fund Facility. Charges are levied on the Fund's holdings in excess of quota, at present at 4 percent per annum rising to 6 percent for most facilities. To the extent the Fund's holdings of a member's currency are below 75 percent of its quota, the member receives remuneration from the Fund, at present at the rate of 3.75 percent per annum.

China has made two purchases from the Fund during 1975 amounting to the equivalent of SDR 59.86 million. This amount must be repurchased in accordance with the Fund's policy that such purchases may not be outstanding for more than three to five years.

Recently the Fund began the "restitution" of a portion of the Fund's holdings of gold to members that were members on August 31, 1975 based on the size of the members' quotas on that date. The amount to be "restituted" is 25 million ounces and the restitution is to be made over a period of four years. The first restitution of 6.25 million ounces was undertaken in January. "Restitution" involves the sale of gold by the Fund to replenish its holdings of the currency of that member. To be able to replenish its holdings of the currency of a member, these holdings must be sufficiently below the member's quota. As the Fund's holdings of the currency of China are at 100 percent of quota, "restitution" cannot be accomplished directly by the replenishment of the currency of China by a direct sale of gold to China. When "restitution" cannot be made directly,

arrangements are made for "indirect restitution." By this procedure the Fund sells gold to a member to replenish its holdings of that currency and the member receiving this gold by replenishment resells the amount of gold to the member that is to receive the indirect "restitution" for a currency acceptable to the selling member.

The execution of indirect restitution to China is in abeyance at the present time. This amount of gold to be restituted to China, based on its quota, is 117,667 fine ounces.

B. Special Drawing Account or Special Drawing Rights Department

The financial advantages of participation in the Special Drawing Account, the Special Drawing Rights Department after the Second Amendment, relate to the opportunity to receive future allocations of special drawing rights without paying a counterpart to the Fund. In addition, China as a present participant in the Special Drawing Account may acquire special drawing rights in exchange for convertible currency from other participants, and may use those special drawing rights in operations and transactions with other participants and the Fund's General Account.

C. Other Advantages

The advantages of membership include an opportunity to participate actively in the organs of the Fund, through the appointed Governor or elected Executive Director, when these organs consider world economic policy and the review of the economic policies of members. China participates directly through its appointed Governor in the Board of Governors and in the Executive Board



through an Executive Director elected by it and other members, as well as by participation in the Interim Committee on a basis agreed with the other members that joined in the election of the Executive Director.

A member also receives information about economic conditions and policies in other member countries.

The obligations of a member with respect to the use of exchange restrictions and multiple exchange rates benefits all other members through the reduction or elimination of barriers that hamper the growth of world trade. The expansion of world trade contributes to the promotion and maintenance of high levels of employment and real income and to the development of the productive resources of all members.



# Office Memorandum

TO : Mr. Evans  
Mr. Williams  
FROM : Tun Thin *တင်စိန်*  
SUBJECT : China

DATE: March 30, 1977

The following questions have arisen in my mind, some of which you may explain to me orally. You may wish to consider incorporating Q 1a and 1b below in your paper.

1. Q and A #1 and 2: The Random House dictionary includes the following definitions for "state". "A body of people occupying a definite territory and organized under one government, esp. a sovereign government;" "The territory, or one of the territories, of a government."

a. Recognizing that the Fund is not concerned with boundary problems is the territory of a member and its location recognized by the Fund? (e.g., maps in the Quota paper for membership)

b. What is the territory of the member which is called China by the Fund?

2. Under Q 6, is the use of Fund resources a right or privilege of a member? Hasn't China made use of it by drawing the gold tranche?

3. Does the statement "pending a resolution of the question" in the first sentence of the last paragraph of Q 6 go beyond the Board decision?

4. When we send this to the Management, because of the shortage of time should we indicate that the important issues are in Q 1-6.

China - Selected Data

A. General Account

1. Quota: SDR 550 million (unchanged since 1945)
2. Subscription payments: SDR 59.9 million in gold - August 1970  
SDR 490.1 million in currency - September 1970  
(Gold subscription paid on basis of 10 per cent of net official holdings as of September 12, 1946)
3. Fund holdings of new Taiwan dollars:<sup>1/</sup> SDR 550,000,000  
or 100 per cent of quota
4. The representative exchange rate for the new Taiwan dollar under Rule 0-3, paragraph (c)(i), against the U.S. dollar, is the mid point of the buying and selling rates for the U.S. dollar as determined by the Central Bank of China (Executive Board Decision No. 4438-(74/135) S, adopted October 25, 1974)
5. The Fund presently accounts for its holdings of new Taiwan dollars at the rate of SDR 0.0228694 per new Taiwan dollar, based on representative rate of new Taiwan dollars 38 per U.S. dollar 1, on April 30, 1976.
6. Purchases (all in gold tranche):
 

SDR millions	Date
59.86	Oct. 20, 1971
30.00	Jan. 8, 1975
29.86	June 5, 1975
7. Repurchases (all voluntary):
 

SDR millions	Date
30.00	Dec. 10, 1974
29.86	Apr. 28, 1975
8. Outstanding gold tranche purchases:
 

SDR millions	Expiration of 3 year period
30.00	Jan. 7, 1978
29.86	June 4, 1978

1/ As at March 26, 1977

	new Taiwan dollars	(SDR Equivalents)
Securities Account	23,327,807,725.02	533,492,966
No. 1 Currency Account	721,106,300.99	16,491,268
No. 2 Currency Account	689,392.54	15,766
	24,049,603,418.55	550,000,000
Total holdings		

9. Restitution of Gold

(a) Amount: first phase of restitution: SDR 4,118,723 or troy ounces 117,677 (Total restitution: SDR 16,474,780 or troy ounces 470,708)

(b) The Central Bank of China, Taipei, agreed to participate in the first restitution and wishes to take delivery at Federal Reserve Bank of New York, New York. China offered to donate to the IMF Trust Fund the "surplus value" of gold to be restituted.

B. SDR Account

China is a participant in the SDR Account but has neither received nor used special drawing rights.

March 10, 1977 - 77/30

Statement by the Managing Director under Other Business  
at Executive Board Meeting 77/33  
March 11, 1977

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You have seen the text of a letter received from Mr. Chen, the President of the People's Bank of China. This letter is in response to my letter of January 7, 1977 which I sent in accordance with the conclusions reached at Executive Board Meeting 77/3 of January 5, 1977.

In his letter, Mr. Chen reiterates the position of his authorities regarding China's representation in the Fund and the assets, rights, and interests of China in the Fund. In addition, the letter states that I or my representatives would be welcome to have discussions with China's Permanent Mission to the United Nations in New York.

In my view, further contacts with representatives of the Government of the People's Republic of China may provide us with an opportunity to ascertain the intentions of that Government regarding the question of representation and the other related matters referred to in my letter of January 7, 1977. If the Executive Board agrees, therefore, I will make arrangements for discussions regarding these matters with the officials of China's Permanent Mission to the United Nations.

Furthermore, if the Board agrees to that approach I would propose that the Board should agree to continue the postponement of the restitution of gold to China for the time being. It will be recalled that at Executive Board Meeting 77/5 of January 10, 1977 the Executive Directors decided that the gold to be restituted to China should be retained until the question of representation had been resolved. At the same meeting the Executive Board also decided that, if by April 1, 1977, a response had not been received from the Government of the People's Republic of China expressing its intention to be represented in the Fund, the restitution of gold would be carried out in accordance with the arrangements for restitution. I believe, however, that a postponement would be justified in view of the willingness of that Government to hold discussions.

I will report to the Executive Board on the outcome of the discussions that I hope to arrange.

*Sp. United*  
*Caravias*  
*Kent -* Restitution of gold to be decided later on - until report?  
*Melgarejo -* Reson to the position - date -  
*Gold -* to inform Government - date -

Mr. Tun Thin

Room 4-320

#4

INTERNATIONAL MONETARY FUND

Minutes of Executive Board Meeting 77/5

10:00 a.m., January 10, 1977

W. B. Dale, Acting Chairman

Executive Directors

Alternate Executive Directors

M. Al-Atrash  
J. Amuzegar

C. P. Caranicas  
T. Leddy

J. de Groote

H. G. Schneider  
E. O. de Toledo

B. J. Drabble  
R. Guarnieri  
F. Hollensen  
A. Kafka

D. Lynch  
N. O. Caldera  
J. H. Kjaer  
W. Temple-Seminario

M. G. Kaul  
B. Kharmawan  
M. Matsunaga

W. Rasaputram  
K. C. Ng  
R. Masunaga  
F. G. Mogae  
C. Bouchard, Temporary  
V. Alipui, Temporary

E. Pieske  
H. O. Ruding  
W. S. Ryrie  
D. Simone  
J. H. Wahl  
R. J. Whitelaw

T. de Vries  
  
D. Berthet, Temporary

W. L. Hebbard, Secretary  
J. A. Kay, Assistant

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10.	Executive Board Travel . . . . .	Page 24
11.	Staff Travel . . . . .	Page 24

#### Also Present

P. Thorson, Consultant; M. Wong, Minister of the Republic of China.  
Administration Department: P. N. Kaul, Deputy Director; C. Ahl, T. Cole, R. J. Powell, M. Rosseel, A. Wright. African Department: J. B. Zulu, Director; J. M. Jimenez, J. G. Keyes, K. Kwateng, E. Meldau, G. B. Taplin. Asian Department: Tun Thin, Director; P. R. Narvekar, Deputy Director; W. J. R. Woodley, Deputy Director; P. Chabrier, J. P. C. Gollé, A. A. Mattera, H. O. Roden, K. Yamamoto, H. C. W. Yang. Central Banking Service: San Lin, Deputy Director. Exchange and Trade Relations Department: D. K. Palmer, Deputy Director; U. Baumgartner, T. Sweeney. IMF Institute: U Tun Wai, Deputy Director. Legal Department: J. Gold, General Counsel and Director; G. P. Nicoletopoulos, Deputy General Counsel; P. R. Lachman, J. V. Surr. Research Department: J. J. Polak, Economic Counsellor and Director; K. Y. Chu, L. U. Ecevit, L. M. Goreux, N. Kaibni, G. Khatchadourian, K. Krishnamurty, P. Sukachevin. Secretary's Department: J. W. Lang. Treasurer's Department: D. Williams. Western Hemisphere Department: S. T. Beza. Bureau of Language Services: J. S. Haszard, Director. Information Office: J. H. Reid, Director; D. M. Armour, H. Hartmann. Advisor to Executive Director: H. Mutewalli. Technical Assistants to Executive Directors: V. Amiel, E. Avillez, J.-M. Bisson, I. K. M. Björk-Klevby, I. M. Cobbold, J. M. Cock Londoño, C. De Blois, R. De Beckker, K. L. Deshpande, A. C. Fenwick, B. Goos, A. Karimi, K. W. Kim, H. Kuroda, C. J. Lohmann, D. Luddin, G. Meissner, Y. J. M. Mersch, A. G. Morris, A. K. Mullei, C. C. Ozumba, E. Sacerdoti, S. P. Upasani, A. van Dorssen, L. F. Vilches, M. A. Wasfy, A. G. Zoccali.

1. APPROVAL OF MINUTES

The draft minutes of Meetings 76/125 and 76/129 were approved.

2. CHINA - "RESTITUTION" OF GOLD

The Executive Directors, in restricted session, considered a statement by the Managing Director on the "restitution" of gold to China, put forward as a compromise following the discussion at EBM/77/4 (1/5/77), consistent with the legal principles discussed in EBS/76/544.

Mr. Martin Wong, Minister of the Republic of China in Washington, was present.

After some discussion, the Executive Directors, with Mr. Wahl dissenting, took the following decision:

The restitution of gold to China under the current arrangements for restitution shall be treated in accordance with the Managing Director's statement at EBM/77/5 (1/10/77).

Decision No. 5313-(77/5), adopted  
January 10, 1977

3. VIET NAM - PURCHASE TRANSACTION - COMPENSATORY FINANCING

The Executive Directors considered the staff's analysis and recommendation with respect to a request from the Vietnamese authorities for a purchase under paragraphs 2, 3, and 4 of the Decision on Compensatory Financing of Export Fluctuations (EBS/76/536, 12/27/76; and Cor. 1, 1/4/77). They also had before them a paper on recent economic developments in Viet Nam (SM/77/2, 1/3/77).

Mr. Kharmawan noted that the period covered by the shortfall relating to the request by the Vietnamese authorities was July 1975 to June 1976. The staff had calculated the shortfall to amount to SDR 45.8 million on a judgmental basis and to SDR 79.4 million on a formula basis. It was clear from the staff paper that the shortfall had been caused by factors beyond the control of the authorities. So far as the balance of payments was concerned, in 1974 Viet Nam had had a small surplus equivalent to SDR 22 million. In 1975 there had been a deficit of the equivalent of SDR 113 million and in 1976 a deficit equivalent to SDR 91 million. Reserves had fallen from the equivalent of SDR 310 million in 1974 to SDR 195 million in 1975 and to SDR 101 million in 1976. Viet Nam was therefore entitled to a purchase under the compensatory financing facility amounting to SDR 31 million. He hoped that the Executive Directors would support the request.



Mr. Berthet supported the request presented by the Vietnamese authorities and noted that the staff had rightly described the circumstances responsible for the shortfall in Viet Nam. He agreed with its calculations and appraisal. It might just be possible to argue that the shortfall had not been due solely to exogenous factors. However, the lack of an appropriate statistical base did not allow complete analysis of Viet Nam's balance of payments and reserve positions. He welcomed the first assistance to be offered to Viet Nam by the Fund and he hoped that further steps would be taken to enable the country completely to participate in the life of the international economic community. He particularly welcomed the expressed intention of the Vietnamese authorities to collaborate with the Fund in an effort to find appropriate solutions for their balance of payments problems, and their desire to undertake an Article XIV consultation in the near future. It was to be hoped that more information and statistical data would be made available at that time.

Mr. Leddy recalled that the U.S. chair had asked that discussion of the present item should be deferred in order to give his authorities an opportunity to examine the matter more closely. After so doing, they regretted that it had been brought to the Executive Board at the present time. He fully appreciated Viet Nam's balance of payments need. Indeed, in that connection, he noted that the Fund had provided some SDR 34.5 million in usable financial resources to Viet Nam, through the gold tranche and use of SDRs, an action that was entirely appropriate. He could also well understand the desire of the Vietnamese authorities to undertake economic reconstruction and to rebuild a large part of the domestic economy. Such a combination of needs and objectives might best be met by development loans or by bilateral economic assistance, or again by the use of regular Fund resources in the credit tranches, assuming of course that the authorities were able to submit a satisfactory financing program. He did not believe that the compensatory financing facility had been designed to respond to the type of problems facing Viet Nam.

First, Mr. Leddy noted, it was a fundamental requirement of the compensatory financing facility that the export shortfall should be due to factors largely outside the control of the member. It was misleading to suggest that the U.S. trade embargo had been a significant factor in the shortfall, because Viet Nam's exports to the United States had represented a very small proportion of its total exports. Indeed, it was unlikely that exports to the United States in the shortfall year would have been much larger in the absence of the embargo. In any event, the most important element in the situation was the clear acknowledgement in the staff paper that exports of timber and wood products had declined sharply, and that exports of coal had risen only marginally, because of explicit policy decisions to divert resources and transportation facilities from the export sector to domestic reconstruction. He was by no means unsympathetic to the authorities in their desire to meet the needs of the country or in

*Li Tun Thin*

DOCUMENT OF INTERNATIONAL MONETARY FUND AND NOT FOR PUBLIC USE

Buff 77/2 - January 6, 1977

Statement by the Managing Director  
on the "Restitution" of Gold to China  
Executive Board Meeting 77/5  
January 10, 1977

I have given further thought to the question of the "restitution" of gold to China that we discussed last Wednesday and I have come to the conclusion that a compromise solution could be found. I hope that this solution, which would be consistent with the legal principles discussed in the memorandum of the Legal Department (EBS/76/544), could be acceptable to all members of the Executive Board.

As explained in the memorandum, authority can be found in international law to support the principle, in certain circumstances, of provisional protective measures to preserve the rights of the parties to a dispute pending adjudication of the issues involved in the dispute. This action could be taken, however, only when there is a dispute between two or more parties and the parties have advanced prima facie claims. It was pointed out in the memorandum that this situation did not exist at this time in connection with China's share in the restitution of gold because the Fund contemplated the restitution of gold to members through arrangements with governments recognized by and participating in the Fund and because the Government of the People's Republic of China had not expressed the wish to be recognized by the Fund as the government of China. There was therefore no prima facie claim on the part of the Government of the People's Republic of China of which the Fund could properly take cognizance.

The Executive Directors approved last Wednesday a reply to the communication from the President of the People's Bank of China which stated the desire of the Executive Directors to resolve the matter of representation of China and called on the Government of the People's Republic of China to advise the Fund of their full intentions. I hope that, in response to this communication, the Government of the People's Republic of China will advise the Fund as soon as possible whether its intentions include the wish to be recognized as the Government representing China in the Fund.

In these circumstances I would propose that the restitution of gold to China should not be included in the present arrangements for restitution. If by April 1, 1977 the Government of the People's Republic of China expresses its wish to be represented in the Fund, the Executive Directors could retain the gold to be restituted to China until the question of representation had been resolved. As noted in the legal memorandum, the decision to postpone restitution in these circumstances could be taken if the Fund was proceeding to an expeditious disposition of the issue of representation. If, by April 1, 1977, a response of the kind I have mentioned has not been received from the Government of the People's Republic of China, the arrangements for the first amount of restitution will be completed.

January 4, 1977 - 77/1

Statement by Mr. Martin Wong of the Republic of China  
Executive Board Meeting 77/3  
January 5, 1977

Regarding the issue before the Board on gold restitution to the Government of the Republic of China, I wish, on behalf of my Government, to state the following.

The Government of the Republic of China has consistently fulfilled and will continue to fulfill all its membership obligations to the Fund and therefore expects that its rights be fully accorded. My Government expects that the Fund will act in strict conformity with the legal requirements.

In August 1970 my Government through its Central Bank paid to the Fund an amount of gold equivalent to roughly SDR 60 million. My Government had been urged by the Fund to make this payment and the Fund accepted it without reservation.

Any disposition by the Board other than restitution of the gold to the Republic of China, I submit, would be creating a dangerous precedent on the part of the Fund. It would be intruding itself into intricate problems involving property rights of governments.

It should be clear from what I said that the Government of the Republic of China regards itself legally and morally entitled to participate in the current restitution of gold.

I am authorized to inform you that the Republic of China will donate to the IMF Trust Fund the surplus value connected with the 117,677 ounces of gold to be restituted to my Government. This action would be in response to the appeal made by the Fund to my Government for a contribution to the Trust Fund to help developing countries.

DOCUMENT OF INTERNATIONAL MONETARY FUND  
AND NOT FOR PUBLIC USE

**FOR  
AGENDA**

EBS/76/544

CONFIDENTIAL

December 30, 1976

To: Members of the Executive Board  
From: The Secretary  
Subject: China - Restitution of Gold

The attached paper prepared by the staff on the "restitution" of gold to China will be brought to the agenda for discussion on Wednesday, January 5, 1977.

Att: (1)

CONFIDENTIAL

INTERNATIONAL MONETARY FUND

China: Restitution of Gold

Prepared by the Legal Department

Approved by Joseph Gold

December 30, 1976

The decisions of the Fund with respect to the establishment and financing of the Trust Fund and the transfer of 25 million ounces of gold to members by way of "restitution" are based on acceptance of the conclusions of law in SM/75/174 (The Use of Gold to Finance a Trust Fund under the Present Articles of Agreement, July 3, 1975). The conclusions of that memorandum were that if the Fund decides to engage in a bona fide replenishment of its holdings of currencies in accordance with the present Articles, the Fund may promote an additional objective, provided that the objective is consistent with the purposes of the Fund as set forth in Article I. The accessory objective need not be one that is regulated expressly by the Articles of Agreement. The Trust Fund and the restitution of gold are not governed by express provisions of the Articles. The Fund has considerable discretion, therefore, in deciding how the accessory objectives that they represent will be carried out. In connection with restitution, it would have been possible legally for the Fund to arrange for the exclusion of one or more members from the distribution of gold. Indeed, provided that the criteria of bona fide replenishment and consistency with the purposes of the Fund were observed, and provided that the considerations discussed below were respected, arrangements might have been made to channel to a single member of the Fund indirectly all the gold used in replenishment. Nothing explicit in the Articles can be found that prohibits such an arrangement.

The Fund has decided hitherto to proceed on a general basis in arranging for the restitution of gold to all members that were members as of August 31, 1975, with the addition of one member that accepted membership after that date pursuant to a resolution of the Board of Governors adopted before that date. The generality of this approach is in contrast to the selection of the beneficiaries of the Trust Fund. The selection was based on a different principle, although once again a single member was included for a special reason. Therefore, subject to an isolated exception in each instance, for which however justification was offered, the beneficiaries of both the Trust Fund and restitution were determined according to principle and not according to the arbitrary exercise of discretion.

Principle was followed in connection with the adoption of a date for the purpose of determining which members would qualify for restitution. August 31, 1975 was chosen for this purpose and for the purpose of various provisions dealing with gold in the proposed second amendment. The actual date was arrived at by compromise, and various other dates would have served equally well. The record amply demonstrates that a date was chosen in order to confine the distribution of gold to those members that collectively had brought gold into the Fund, and in order to ensure that members coming into the Fund subsequently would not share in the distribution because it was clear that they would not be increasing the Fund's stock of gold. The exclusion of China from present arrangements for restitution while represented by the Government of the Republic of China could not have been justified according to the rationale of confining the distribution of gold to the "old" members of the Fund or according to the principle of the uniform treatment of them. It will be recalled that the gold subscription of China was paid by the Government still recognized by the Fund as the Government of China.

The action taken so far by the Interim Committee and the decisions adopted by the Executive Directors in connection with restitution make no exception in the case of China while it is represented in the Fund by the Government of the Republic of China (see Press Communiqué of the Interim Committee of August 31, 1975; EBS/76/198, Revision 1, May 6, 1976; EBS/76/520, December 16, 1976). The question has arisen whether the action of the Committee and the decisions of the Executive Directors can be modified so as to make this exception. As stated in the first paragraph of this memorandum, there are no specific legal provisions that govern restitution, and therefore no legal provisions that define the beneficiaries. The issue is whether an exclusion from present arrangements for restitution can be justified on the basis of principle. A second issue is whether the Fund, in making an exclusion from present arrangements for restitution, would be acting consistently with the actions it has taken in the course of its other activities.

It is assumed that the Fund would not make an exclusion from restitution without justification. It might be suggested as a justification that restituted gold should be withheld from the Government of the Republic of China according to some principle of freezing the present situation in order to determine to whom the gold should be restored. There is some authority in international law for actions of this kind in certain circumstances. For example, Article 41 of the Statute of the International Court of Justice authorizes the Court "to indicate, if it considers the circumstances so require, any provisional measures which ought to be taken to preserve the respective rights of either party."

When there are two claimants to property, provisional measures of this kind are justified if the two claimants have a prima facie claim to the property. This situation does not exist in connection with China's share in the restitution. The Fund contemplates the restitution of



gold to members only through arrangements with governments recognized by and participating in the Fund. In the case of China, the Government of the Republic of China is that government. The Government of the People's Republic of China has not expressed the wish to be substituted as the government recognized by and participating in the Fund. The basis for a prima facie claim by a second claimant to restituted gold has not been laid.

Furthermore, protective measures cannot be justified unless proceedings leading to an adjudication are in train. The measures are not justified because it is possible that an adjudication may be made at some uncertain time in the future. Nor are they justified if the intention is simply to withhold property from a government recognized by the Fund at the present time because there is a hope, or even an expectation, that another government will be recognized at some uncertain date in the future. Protective measures might be justified if the Fund had under current and expeditious consideration withdrawal of the recognition of a government.

On the issue of consistency, it is obvious that in the conduct of the business of the Fund that is regulated expressly by the Articles the Fund cannot withhold any of the privileges of membership from a government that it recognizes unless there is legal authority for such an action. For example, the Fund may prevent access to its resources by declaring a member ineligible if it has failed to perform obligations. In the absence of legal authority of this kind, recognition of a government is recognition for all purposes. The issue, therefore, is whether the Fund would be acting consistently with the rest of its practice if it were to withhold restitution from the Government of the Republic of China at the same time that it was engaging with that government in all of the business of the Fund under the Articles. It is not obvious what distinction can be drawn in this respect between restitution and the business of the Fund that is regulated expressly by the Articles.

#### Conclusion

If the Fund recognizes a government as the government that represents a member, the Fund cannot decide to withhold some of the privileges of membership under the Articles unless it finds some legal authority in the Articles. Recognition is recognition for all purposes.

The Fund can decide to withhold from one or more member governments benefits that it is arranging under some accessory objective that is not regulated by the Articles. The Fund should justify an exclusion and act consistently with its conduct of the business that is regulated expressly by the Articles. It is not apparent in present circumstances that the exclusion of China from the arrangements for restitution that are under way, on the ground that China is represented by the Government of the Republic of China, would meet these criteria while that government is recognized by the Fund for all other purposes.

The Executive Directors then turned to the proposed decision, which they approved.

The decision was:

Article VIII and Article XIV consultations with members during the consultation year beginning January 1, 1977 shall continue to be conducted in accordance with the procedures approved by the Executive Directors for 1975.

Decision No. 5298-(76/169), adopted  
December 29, 1976

4. CHINA - "RESTITUTION"

Mr. Wahl recalled that the Executive Directors had been asked to approve by lapse-of-time procedure on December 17, 1976 a paper relating to the first restitution of the Fund's gold to take place in early January 1977 (EBS/76/520, 12/16/76). No mention had been made in that paper of the problem of the restitution of gold to China. The topic of the restitution of gold to Cambodia was to be discussed by the Executive Directors on January 3, 1977, and on January 5, 1977 the Executive Directors were to discuss a draft reply to the Governor of the People's Bank of China in Peking. For those reasons his chair had indicated orally to the Deputy Managing Director on December 17, 1976 that it reserved its right to ask for inclusion of the subject of the restitution of gold to China on the agenda of the Executive Directors, confirming the oral communication by a memorandum dated December 21, 1976. He was therefore formally requesting the Acting Chairman and the Executive Directors to place the matter on the agenda of the Executive Board for Wednesday, January 5, 1977. At that time it was his intention to propose that the Fund should act in the case of China in the same way as it was recommended that it should act in the case of Cambodia. It seemed wise to defer any decision of the restitution of gold to China, since the subject of its representation both in the Fund and in the World Bank was pending. He did not mind whether the topic of the reply to the President of the People's Bank of China in Peking was expanded to cover the matter of the restitution of gold to China, or whether the two topics were treated separately. What was important was that the matter should not be decided on a lapse-of-time basis.

The General Counsel commented that the understanding at all times had been that the subject to be covered by the item already on the agenda for January 5 was the response to the communication received from the Governor of the People's Bank of China. The topic of the restitution of gold to China was a new subject. There were therefore two procedural matters that



ought to be decided: first, whether enough notice had been given for inscribing a new item on the agenda; and, second, whether a representative of the country concerned should be invited to attend. The notice given by Mr. Wahl was sufficient to enable the topic to be included in the agenda for Wednesday, January 5, 1977. The question of representation had still to be decided by the Executive Directors.

Mr. Cross indicated that in his view the orderly procedure would be to have the matter of restitution of gold to China discussed as a separate item. It did, however, seem to him that the Executive Directors would be reopening a decision already taken.

The Acting Chairman said that his understanding was that the decision taken on a lapse-of-time basis regarding the restitution of gold to members on December 17, 1976 would call for restitution of gold to China just as to other members, because no special exclusion had been made with respect to that country. Naturally, in accordance with the normal practice, a decision could be reopened at any time at the request of an Executive Director. While Mr. Wahl was therefore within his rights, he would certainly be reopening a matter that had been the subject of a decision, and that had already led to certain further procedural steps.

Mr. Wahl emphasized that in communicating orally to the Deputy Managing Director on December 17, 1976 and confirming its communication later in writing, his chair had tried to indicate that it had not accepted the decision on a lapse-of-time basis.

Mr. Hollensen supported the proposal made by Mr. Wahl to place the matter of restitution of gold to China on the agenda of the Executive Board for January 5, 1977. The position taken by the countries in his constituency at the time of the discussion of the reply to the Governor of the People's Bank of China had largely been based on the realization that the question of the restitution of the gold paid to the Fund by China would shortly have to be discussed.

Mr. Cross hoped that when the matter was brought to the agenda for discussion, the Executive Directors would have the benefit of a staff paper explaining the legal position.

The General Counsel undertook to prepare such a paper.

Mr. Wahl, reverting to the question of representation for China during the discussion, said that he would refrain from objecting to such representation. However, the question of representation ought to be treated symmetrically. The Executive Directors had twice discussed the reply to the letter from the President of the People's Bank of China,

which was not a mere procedural matter since there was a risk that a member government would be expelled as the representative of a member. Consequently, while he had no objection whatsoever to the attendance at a forthcoming meeting of a representative of the Republic of China, the Executive Directors should bear in mind that the procedure had not been adhered to in the past.

The General Counsel commented that the present question was whether the representative of the government recognized by the Fund for all other purposes in relation to the member called China should be invited to attend certain meetings of the Executive Directors. The staff had come to the conclusion that so far the topics discussed by the Executive Directors could be regarded as procedural rather than substantive, because hitherto the issue had been to draft a response to a government other than the one recognized in order to seek clarification of the views it had expressed in a communication to the Fund. He could agree, on the one hand, that it would have been possible to take a more liberal view and to come to the conclusion that it would be appropriate to invite the government recognized by the Fund to send a representative if it wished.

On the other hand, the item to be inscribed on the agenda according to Mr. Wahl's suggestion could not in any way be regarded as a procedural matter because it clearly involved the proprietary rights of a member, the General Counsel maintained. The issue that arose was also of a political character, and the right to send a representative to meetings of the Executive Directors, which had its roots in the prehistory of the Articles, had been thought to be particularly important when political questions affecting a member were raised. In the present situation it was the duty of the Executive Directors to determine whether the matter was one that would particularly affect a member. The concept was not altogether clear, but a similar point had arisen in the recent past, when the Executive Directors had decided that South Africa should not be invited to send a representative to attend a discussion of a general matter involving gold, on the ground that such an invitation would represent too broad an interpretation of the right to send a representative. At that time it had been decided that a good prima facie test was whether the name of a particular member appeared on the agenda, and that would certainly be the case in the present instance. His own view, therefore, was that the Executive Directors should follow the procedure laid down in Section 19(d) of the By-Laws under which whenever the Executive Directors were to consider a matter which had been determined particularly to affect a member not entitled to appoint an Executive Director, the member should be promptly informed by rapid means of communication of the date set for its consideration. The section went on to say "no final action shall be taken by the Executive Directors with respect to such matter, nor any question particularly affecting such member submitted to the Board of Governors, until the member has either waived its rights under paragraph (a) of this section or has been given an opportunity to present its views through an appropriately authorized

representative at a meeting of the Executive Directors of which the member had reasonable notice." To make the position quite clear, what had been discussed by the Executive Directors hitherto had been the draft of a reply to a communication from the President of the People's Bank of China. There had never been on the agenda an item relating to the expulsion of the Taiwan Government as the government representing China. If such an item were ever to appear on the agenda, it would clearly be a matter particularly affecting China. The topic proposed for inclusion on the agenda of Wednesday, January 5, 1977 affected the proprietary rights of the government representing the member.

Mr. Al-Atrash, speaking on behalf of the majority of the countries in his constituency other than Saudi Arabia, associated himself with the remarks made by Mr. Wahl and asked that any decision regarding the restitution of gold to China should be deferred for the time being. Even if the discussion of the topic mentioned by Mr. Wahl had to be postponed beyond January 5, 1977 in order to enable the government recognized by the Fund to be represented, he would say, on behalf of Pakistan and all other countries in his constituency other than Saudi Arabia, that his constituency would not at present support the restitution of gold to the Taiwan regime, and that he would like to discuss the matter at the appropriate time.

The Acting Chairman asked Executive Directors not to enter into the substance of the matter at the present meeting. Further, Executive Directors would recall that they had been notified that restitution operations were to take place between January 10 and January 14, 1977. In consequence, the Treasurer and his colleagues had naturally been making technical preparations. It would therefore be difficult to delay a discussion much beyond January 5, 1977.

Mr. Al-Atrash explained that he wished the matter of the restitution of gold to China to be deferred in the same way as it had been agreed to defer the matter of the restitution of gold to Cambodia. If gold were restituted to China at the present time, the consequences might be diplomatically serious.

The Treasurer observed that, in accordance with the instructions of the Executive Directors, the staff had been proceeding to make the necessary arrangements for the restitution of gold to members. Certain steps had therefore already been taken. In particular, China had been asked to state whether it wished to receive the gold or whether it wished to postpone receipt for balance of payments reasons, and the Chinese authorities had replied to that question. The staff had also begun to find a creditor that would be willing to cooperate with the Fund in order to channel the gold to China.

The Acting Chairman, summarizing the discussion, proposed that the agenda for Wednesday, January 5, 1977 should contain an item relating to restitution of gold to China. The General Counsel would prepare a paper dealing with the legal aspects of the matter, and he assumed that the Executive Directors would agree that, under Section 19 of the By-Laws, a representative of the Republic of China should be contacted in order to give the Republic of China the chance to be represented. The Government might of course waive its right to be present under Section 19 of the By-Laws.

Mr. Kharmawan inquired whether the invitation to be extended to the representative of the Republic of China should cover the discussions on both the reply to the communication from the President of the People's Bank of China and on restitution.

The Acting Chairman suggested that the representative might be given an opportunity to be present at the discussion of both topics.

Mr. Kaul, however, considered that it would be more appropriate if the representative of the Republic of China were not present during the discussion of the draft reply to the President of the People's Bank of China.

Mr. Caranicas commented that it would be unthinkable that a representative of the Republic of China should be present when the Executive Directors discussed a draft reply to a communication from the President of the People's Bank of China. It would be better to have two separate items, and to give the Government of the Republic of China an opportunity to be present at the discussion on the restitution of gold. In that connection it would be interesting to know whether the representative of the Republic of China should be invited to submit a memorandum setting out the views of his authorities, or whether he should be allowed to present oral arguments.

The General Counsel stated that the member had the right to do both. Questions similar to those raised by Mr. Caranicas had been discussed in connection with the withdrawal of Czechoslovakia. However, in the first instance, the correct procedure would be for the Fund to approach the designated representative of the member concerned to ascertain whether he wished to attend. It might be worth mentioning that the attitude of the Executive Directors in the past had been to take a rather narrow view of the right to send a representative to a discussion by the Executive Directors. The reason was that the Executive Directors did not wish to provide an easy or extensive right of representation. They felt themselves to be the proper channel through which members' views could be presented

to the Executive Board. It was only when there was a clear and obvious case affecting a particular member not entitled to appoint an Executive Director that in the past Executive Directors had been willing to allow representatives to attend.

Mr. Cross stated that there were clearly two specific items to be discussed. The topic of the restitution of gold to China unquestionably involved the rights of China, and a representative should be given the opportunity of attending. The other matter had not gone beyond the stage of drafting a letter in reply to a communication raising a number of questions, and it was therefore not in the same category. In the circumstances he would take the same line as Mr. Kaul and suggest that while the representative of the Republic of China should be given an opportunity to attend the discussion on the restitution of gold to China, he need not be given a similar opportunity for the discussion of the other matter.

Mr. Whitelaw said that he took the same view as Mr. Cross. However, the first question that the representative of the Republic of China was likely to ask when it was suggested that his country should not be treated like other members of the Fund was, why such a suggestion should be made. He hoped that the General Counsel would be able to explain.

The Acting Chairman, concluding the discussion, stated that an item respecting the restitution of gold to China would be placed on the agenda for Wednesday, January 5, 1977, and that a representative of the Republic of China would be given an opportunity to participate in the discussion of that item.

#### 5. EXECUTIVE DIRECTOR

The Acting Chairman bade farewell to Mr. Lieftinck on relinquishing his post as Executive Director in the Fund, which he had held since October 1, 1955. Extending his remarks, which had been circulated, he noted that Mr. Lieftinck intended to reside in Washington during his retirement, so that Executive Directors and staff would have the opportunity of seeing him in the future.

Mr. Kafka stated that it had seemed to Mr. Lieftinck's colleagues on the Executive Board that in view of his exceptional services to the Fund it would be appropriate that the Executive Directors should approve a formal resolution of thanks and appreciation to him.

The Executive Directors approved the proposal by acclamation.

The resolution read as follows:

RESOLUTION

WHEREAS, on December 31, 1976, Mr. Pieter Lieftinck will relinquish the post of Executive Director of the International Monetary Fund which he has held since October 1, 1955; and

WHEREAS, Mr. Lieftinck has indefatigably and devotedly sought to foster the spirit of international cooperation and to work for the realization of the ideals which the Fund was established to promote; and

WHEREAS, many generations of Executive Directors and staff members have valued Mr. Lieftinck as a friend and counselor;

NOW, THEREFORE, IT IS RESOLVED: That the Executive Directors express to their associate, Mr. Lieftinck, their sincere appreciation of his long and valued service to the Fund and to those associated with it, their profound regret at his retirement, and their hope that he will find new and satisfying activities in the future.

Adopted December 29, 1976

DECISIONS TAKEN SINCE PREVIOUS BOARD MEETING

The following decisions were adopted by the Executive Directors without meeting in the period between EBM/76/168 (12/22/76) and EBM/76/169 (12/29/76).

6. PAPUA NEW GUINEA - EXCHANGE SYSTEM

The Fund notes the exchange rate action taken by the authorities of Papua New Guinea as described in EBS/76/524 and notes their intention to collaborate with the Fund in accordance with Article IV, Section 4(a) of the Articles of Agreement. The Fund will remain in close consultation with the authorities of Papua New Guinea and in this respect the Managing Director will take appropriate initiatives (EBS/76/524, 12/17/76).

Decision No. 5299-(76/169), adopted  
December 22, 1976

7. PAPUA NEW GUINEA - EXCHANGE SYSTEM

The Fund notes the change in the exchange rate system made by the authorities of Papua New Guinea as described in EBS/76/535. The Fund will remain in close consultation with the authorities of Papua New Guinea and in this respect the Managing Director will take appropriate initiatives (EBS/76/535, 12/23/76).

Decision No. 5300-(76/169), adopted  
December 28, 1976

8. PEOPLE'S REPUBLIC OF THE CONGO - PROVISIONAL RATE OF EXCHANGE

The Government of the People's Republic of the Congo has proposed that the representative rate of the Congo CFA franc be the provisional rate for the currency of the People's Republic of the Congo. The Fund agrees that the representative rate shall be used for the payment of the initial currency subscription of the People's Republic of the Congo and for all computations by the Fund involving the currency of the People's Republic of the Congo (EBS/76/527, 12/20/76).

Decision No. 5301-(76/169), adopted  
December 22, 1976

9. GOVERNMENT FINANCE STATISTICS COURSE

The Executive Board approves the proposal set forth in EBAP/76/301 (12/20/76).

Approved December 22, 1976

10. EXECUTIVE BOARD TRAVEL

Travel by Executive Directors as set forth in EBAP/76/293, Supplement 1 (12/21/76) and EBAP/76/303 (12/21/76), and by an Advisor to an Executive Director as set forth in EBAP/76/304 (12/27/76), is approved.

APPROVED BY THE EXECUTIVE BOARD:  
Meeting 77/58, April 18, 1977

H. JOHANNES WITTEVEEN  
Chairman

ROGER V. ANDERSON  
Acting Secretary