

EBS/84/196
Supplement 2

CONFIDENTIAL

November 14, 1984

To: Members of the Executive Board

From: The Secretary

Subject: Misreporting and Noncomplying Purchases Under Fund
Arrangements - Guidelines on Remedial Action

In response to inquiries from some Executive Directors regarding the intended meaning of some sentences in the Proposed Guidelines on Remedial Action set forth in EBS/84/196, Supplement 1 (11/1/84), the staff proposes the following clarification in the wording of the draft decision appearing on pages 3-5 of that memorandum:

1. (4th sentence of the preamble)

The member will also be called upon to take corrective action regarding a noncomplying purchase, to the extent that it is still outstanding, either by repurchase or by the use of its currency in transactions and operations of the Fund, unless the Fund decides that the circumstances justify the member's continued use of the purchased resources.

2. (To be added at the end of paragraph 3)

Instead of repurchasing, the member may request the Fund to use an equivalent amount of its holdings of the member's currency in the Fund's transactions and operations, but if such use cannot be made within 20 days from the date of the Executive Board decision the member shall be expected to make a repurchase in accordance with this paragraph.

3. (To be added at the end of paragraph 2)

...giving Executive Directors a period of at least 10 days during which they could ask that the matter be placed on the agenda of the Executive Board for consideration.

For convenient reference the text of the revised draft decision is attached.

Att: (1)



Draft Decision

Misreporting and Noncomplying Purchases
under Fund Arrangements--Guidelines on Corrective Action

In a few cases, it has been found that a member has made a purchase under a stand-by or extended arrangement which it was not entitled to make by the terms of the arrangement (a "noncomplying purchase"). The purchase was permitted because, on the basis of the information available to it at the time, the Fund was satisfied that all performance criteria that are applicable to the purchase under the arrangement, or other conditions applicable to purchases under the terms of the decisions on the arrangement, had been observed, but this information later proved to be incorrect. When such a case arises in the future, steps should be taken to improve the accuracy and completeness of the information to be reported to the Fund by the member under the arrangement and to define performance criteria and other applicable conditions in a manner that would ensure accurate reporting. The member will also be called upon to take corrective action regarding a noncomplying purchase, to the extent that it is still outstanding, either by repurchase or by the use of its currency in transactions and operations of the Fund, unless the Fund decides that the circumstances justify the member's continued use of the purchased resources. To this end, the Fund adopts the following guidelines, which shall apply to purchases made after the date of this decision:

1. Whenever evidence comes to the attention of the Fund indicating that a performance criterion or other condition applicable to an outstanding purchase made within the previous two years under a stand-

by or extended arrangement may not have been observed, the Managing Director shall promptly inform the member concerned.

2. If, after consultation with the member, the Managing Director finds that, in fact, the criterion or condition was not observed, he shall promptly notify the member of his finding. At the same time, he shall submit a report to the Executive Board together with his recommendations, which may include a recommendation that the member be called upon to take corrective action pursuant to paragraph 3 or that the non-observance be waived pursuant to paragraph 4. The Executive Board shall normally adopt its decision on the recommendations of the Managing Director on a lapse-of-time basis giving Executive Directors a period of at least 10 days during which they could ask that the matter be placed on the agenda of the Executive Board for consideration.

3. Unless the decision of the Executive Board is to grant a waiver pursuant to paragraph 4 or to take other action, the member shall be expected to repurchase from the Fund the outstanding amount of its currency resulting from the noncomplying purchase normally within a period of 30 days from the date of the Executive Board decision referred to in paragraph 2. Instead of repurchasing, the member may request the Fund to use an equivalent amount of its holdings of the member's currency in the Fund's transactions and operations, but if such use cannot be made within 20 days from the date of the Executive Board decision the member shall be expected to make a repurchase in accordance with this paragraph.

4. A waiver will normally be granted only if the deviation from the relevant performance criterion or other condition was minor or

temporary, or if subsequent to the purchase the member had adopted additional policy measures appropriate to achieve the objectives of the program supported by the arrangement under which the purchase was made.

5. If a repurchase pursuant to the expectation under paragraph 3 has not been effected, the Managing Director shall submit promptly a report to the Executive Board accompanied by a proposal on how to deal with this matter, in which he may recommend that the Fund initiate action under Article V, Section 5 of the Articles.

6. Provision shall be made in Fund arrangements for the suspension of further purchases under an arrangement whenever a member fails to meet a repurchase expectation pursuant to these guidelines.

7. Nothing in these guidelines shall limit the power of the Fund to take, in cases of noncomplying purchases, other action that could be taken pursuant to the Fund's Articles and Rules.

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