

EBS/84/254

CONFIDENTIAL

December 4, 1984

To: Members of the Executive Board

From: The Secretary

Subject: Nicaragua - Overdue Financial Obligations to the Fund -
Completion of Review of Decision on Complaint Under
Rule K-1 and Issuance of Complaint Under Rule S-1

The attached document has been scheduled for discussion at an Executive Board meeting on Thursday, December 6, 1984. A draft decision appears on pages 5 and 6.

If Executive Directors have technical or factual questions relating to this paper prior to the Board discussion, they should contact Mr. Leddy (ext. (5)8332) or Mr. Berthet (ext. (5)7633).

Att: (1)

INTERNATIONAL MONETARY FUND

NICARAGUA

Overdue Financial Obligations to the Fund--Completion of
Review of Decision on Complaint Under Rule K-1 and
Issuance of Complaint Under Rule S-1

Prepared by the Legal, Treasurer's, and Western Hemisphere Departments

(In consultation with the Exchange and Trade Relations Department)

Approved by George P. Nicoletopoulos,
W. O. Habermeier and Eduardo Wiesner

December 4, 1984

On December 6, 1984, the Executive Board will complete the review of its decision, taken on June 6, 1984, to limit Nicaragua's right to use the Fund's general resources until such time as Nicaragua is current in its obligations under the Articles of Agreement relating to repurchases and the payment of charges in the General Department. ^{1/} This paper describes developments with respect to Nicaragua's overdue obligations to the Fund and proposes a decision for adoption by the Executive Board. The paper also includes a complaint by the Managing Director under Rule S-1, regarding Nicaragua's overdue obligations in the SDR Department, and proposes that the Executive Board note this complaint at its meeting on December 6, 1984.

The Executive Board was last informed on September 5, 1984 (EBS/84/48, Sup. 3) of Nicaragua's overdue obligations to the Fund totaling SDR 9,036,521. Since that time, charges in the General Department and the SDR Department totaling SDR 630,925 have become due and have not been settled. Nicaragua's only payment over the period since September 5, 1984 consisted of a small balance (SDR 3,695) of quarterly charges due August 8, 1984, which was settled on September 7, 1984. As a consequence of this payment and new obligations falling due, Nicaragua's overdue obligations to the Fund amounted to SDR 9,663,751 as of December 3, 1984, as shown in the table below.

Since the Executive Board's earlier meeting on September 6, 1984 to review its decision, ^{2/} there have been several communications and discussions between the Nicaraguan authorities and the Fund, including discussions with the staff during the Annual Meetings in September and with management on November 13, 1984. Telexes dated September 10, 1984

^{1/} See Attachment I for Decision No. 7720-(84/88), 6/6/84.

^{2/} See "Nicaragua - Overdue Financial Obligations to the Fund," EBS/84/48, Sup. 3, 9/5/84; and Decision No. 7797-(84/136), 9/6/84. The decision is reproduced in Attachment I of this paper.

Nicaragua - Overdue Obligations to the Fund

(December 3, 1984)

Type of obligation	Date of purchase	Due date	Days late	SDR amount
<u>General Department</u>				
CF repurchase	05/17/79	11/16/83	383	2,125,000
CT repurchase	06/01/79	11/30/83	369	542,621
CF repurchase	05/17/79	02/16/84	291	2,125,000
CT repurchase	06/01/79	02/29/84	278	1,062,500
CF repurchase	05/17/79	05/16/84	201	2,125,000
CT repurchase	06/01/79	05/31/84	186	1,052,705
Quarterly charges		11/08/84	25	166,232
				<u>9,199,058</u>
<u>SDR Department</u>				
Net SDR charges		11/01/84	32	464,693
				<u>9,663,751</u>

and November 2, 1984 from the Managing Director to the Honorable Luis Enrique Figueroa, Governor of the Fund for Nicaragua, are attached (Attachment II).

Executive Directors will recall that, prior to the decision on June 6, 1984 to limit Nicaragua's use of the Fund's general resources, Nicaragua had made payment of SDR 4.25 million to the Fund, clearing all overdue charges and discharging part of the longest outstanding repurchase obligations. In view of these payments, the Board decided to review its decision within a period of three months (i.e., by not later than September 6), and asked that the Managing Director consult with the authorities regarding the prompt elimination of the arrears and envisaged that he might request an extension of the review period for up to an additional three months in light of the repayment performance and the prospects.

On September 5, 1984, Nicaragua settled newly accrued obligations to pay charges in the General Department ^{1/} and the SDR Department and discharged the balance of a repurchase that had been overdue since August 16, 1983, for total payments of SDR 1,726,483 in early September. The authorities indicated that further arrangements were being made to settle the remaining obligations on an urgent basis, and it was under-

^{1/} A small balance of charges in the General Department (SDR 3,695) was paid on September 7, 1984.

stood that they would inform the Fund of their specific plans for achieving this result during the Annual Meetings later in September or very shortly thereafter.

On the basis of this information and the payments received, the Managing Director recommended and the Executive Board agreed to extend the period for completion of the review to not later than December 6, 1984. It was envisaged that the Managing Director would be in a position to report to the Board soon after the Annual Meetings on Nicaragua's plans for settlement of the arrears, and this was reflected in the text of the decision to extend the review period.

The Nicaraguan authorities did not present to the staff any plans for settlement of the arrears at the time of the Annual Meetings, nor was it possible to proceed with meetings between the authorities and management during the Annual Meetings or soon thereafter. The Managing Director informed the Board of the matter on October 31, 1984 (EBM/84/159), indicating that a meeting with the authorities had been scheduled for November 13, 1984.

At the meeting on November 13, the Managing Director stressed to the authorities the importance of the issue to the Fund and to Nicaragua's standing in the Fund. He also reviewed earlier developments on the matter of Nicaragua's overdue obligations, including the Executive Board's positive responses to Nicaragua's previous payments and assurances, and the Fund's expectation that the matter would be satisfactorily resolved within the deferred period (up to December 6, 1984) for completion of the Board's review. In reply, the Nicaraguan authorities reviewed Nicaragua's economic situation and stressed the efforts that had been made to settle the obligations to the Fund. They indicated that they had hoped to be able to present specific plans for settlement at the November 13 meeting; however, it was not possible at that time for Nicaragua to make any payments nor to commit itself to any plan for future payments, in part in light of the unsettled international situation.

The Managing Director responded that it was most unfortunate that the matter could not be resolved definitively at that time. The Executive Board would review the matter not later than December 6, 1984, and it would be necessary to report to the Board on the situation prior to the review. It was most important that the report indicate that the arrears had been eliminated or convey Nicaragua's concrete and specific plans for their prompt elimination. The Managing Director noted that a Fund mission would be traveling to Nicaragua for Article IV consultations in a few days. He urged the authorities, if progress could not be made at the present meeting, to consider the matter most seriously and urgently on their return to Nicaragua, with a view to making early payment and informing the mission of Nicaragua's specific plan for prompt liquidation of any remaining arrears. It would be necessary to obtain a report from the mission not later than the end of November, in order to inform the Board in advance of its review.

The Fund mission completed its discussions in Nicaragua on December 3, 1984 and is returning to Washington. While a report on the consultation discussions is not available at this time, 1/ the mission has indicated that the authorities were not prepared to make payment or to set forth any plans for payment during the period of the consultation discussions. While it was not ruled out that some payment might be made by Nicaragua before the Board's meeting on December 6, 1984, the matter of payments to the Fund was being considered in light of Nicaragua's overall foreign exchange situation and needs, and no assurances were given by the authorities.

The staff notes that since the Managing Director's complaint on Nicaragua was issued on March 9, 1984, 2/ Nicaragua's overdue obligations to the Fund, after taking into account newly accruing obligations and payments made, have been reduced from SDR 11.4 million to the present total of SDR 9.7 million. It is also to be noted that all of Nicaragua's obligations to repurchase have fallen due, and no further such obligations will accrue. At the same time, Nicaragua's longest-outstanding overdue obligation at present dates from November 16, 1983; Nicaragua has been in arrears to the Fund continuously since February 16, 1983, among the longest such periods of arrears to the Fund; no payments have been made in recent months and the arrears have increased since the Board's last meeting on the matter because of unpaid charges; and Nicaragua has again become overdue on obligations to the SDR Department. The staff presently has no basis on which to expect that the overdue obligations will be settled in the near future.

In the circumstances, it is considered appropriate that a complaint pursuant to Rule S-1 regarding Nicaragua's overdue obligations in the SDR Department be made by the Managing Director at this point, and it is proposed that the Executive Board note the complaint at its meeting on December 6, 1984. 3/ The Managing Director's complaint pursuant to Rule S-1 is at Attachment III. In addition, in light of the absence of any recent progress toward settlement of Nicaragua's arrears to the Fund or assurances regarding their prompt settlement, it is suggested that a period for further Board review substantially shorter than three months would help to emphasize the urgency with which the Fund views the matter; 4/ and that it would be appropriate for Nicaragua to be

1/ The most recent report on Nicaragua's economic situation and policies is contained in "Nicaragua--Staff Report for the 1983 Article IV Consultation" (SM/84/26, 1/24/84).

2/ See "Nicaragua - Overdue Financial Obligations to the Fund - Report and Complaints Under Rule K-1 and Rule S-1 (EBS/84/48).

3/ The relevant provisions of the Articles of Agreement, By-Laws and Rules and Regulations of the Fund are explained in EBS/84/48, pp. 5-9. A complaint made earlier on Nicaragua under Rule S-1 was withdrawn upon settlement of obligations to the SDR Department. See "Nicaragua - Report and Complaint Under Rule K-1 - Settlement of Overdue Charges (EBS/84/48, Sup. 1, 4/6/84) and EBM/84/55, 4/5/84.

4/ See "Overdue Financial Obligations to the Fund--Six-Monthly Report" (EBS/84/211, 10/11/84).

informed that, unless Nicaragua is then current in its financial obligations to the Fund, it would be necessary for the Executive Board at the time of the next review to consider the appropriateness of further steps, including the possibility of declaring Nicaragua ineligible to use the Fund's general resources and similar action with respect to the SDR Department. It is proposed that the further review be held within a period of six weeks, i.e., not later than January 17, 1985.

The following decision is proposed for adoption by the Executive Board:

1. The complaint of the Managing Director dated December 4, 1984 regarding Nicaragua's obligations in the SDR Department, in EBS/84/254, December 4, 1984, is noted.

It shall be placed on the agenda of the Executive Board January 17, 1985. If at that time Nicaragua is not current in its obligations to pay charges in the SDR Department the Fund will consider suspending the right of Nicaragua to use SDRs it acquires after the suspension pursuant to Article XXIII, Section 2(b). Consideration of the complaint in accordance with Rule S-1 particularly affects Nicaragua. The member shall be informed of its right to present its views through an appropriately authorized representative.

2. The Fund has completed its review of Decision No. 7720-(84/88), June 6, 1984, regarding the non-observance by Nicaragua of obligations to the General Department, in light of recent developments as described in EBS/84/254, December 4, 1984.

3. The Fund regrets the continuing non-observance by Nicaragua of its financial obligations to the Fund and again urges Nicaragua to settle the overdue obligations promptly.

4. The Fund shall review further Decision No. 7720-(84/88) on January 17, 1985, taking into account any further developments. Unless at that time Nicaragua is current in its financial obligations to the Fund, the Fund will consider the appropriateness of further steps, including the possibility of declaring Nicaragua ineligible to use the general resources of the Fund pursuant to Article XXVI, Section 2.

Nicaragua - Complaint Under Rule K-1

Executive Board Decision No. 7720-(84/88) - June 6, 1984

1. The Managing Director has reported under Rule K-1 of the Fund's Rules and Regulations to the Executive Board the facts on the basis of which it appeared to him at the dates of these reports that Nicaragua was not fulfilling its obligations under the Articles of Agreement and submitted a complaint on March 9, 1984 in accordance with that rule. The complaint, amended on April 6, 1984, was that Nicaragua was not fulfilling its obligation relating to repurchases in the General Department in the total amount of SDR 10,105,121. These facts, and the complaint of the Managing Director in EBS/84/48, Supplement 1, have been communicated to the authorities of Nicaragua.

2. Since then, Nicaragua's overdue financial obligations in the General Department at first increased to a total amount of SDR 13,498,526, including the obligation to pay charges of SDR 215,700, but were then reduced to the total amount of SDR 10,103,379, all of which relates to repurchases.

3. Having considered the reports of the Managing Director, the complaint and the views of Nicaragua, the Fund finds that Nicaragua has failed to fulfill its obligation relating to repurchases in the General Department in the total amount of SDR 10,103,379.

4. The Fund acknowledged the recent payment of a portion of the overdue payments and took note of the fact the Nicaraguan authorities proposed to make further repayments and of their intention not to seek access to Fund resources while arrears to the Fund remain outstanding. It nevertheless regrets the nonobservance by Nicaragua of its remaining obligation and urges Nicaragua to resume its observance forthwith. The Fund decides, pursuant to Rule K-2 of the Fund's Rules and Regulations, that Nicaragua shall not make use of the general resources of the Fund until such time as Nicaragua is current on its obligations under the Articles of Agreement relating to repurchases and the payment of charges in the General Department.

5. The present decision shall be reviewed within a period of three months from the date of the decision. The Managing Director will consult with the Nicaraguan authorities regarding the prompt elimination of the remaining overdue obligations and may request an extension of that period up to an additional three months in the light of the repayment performance and the prospects.

Nicaragua - Complaint Under Rule K-1

Executive Board Decision No. 7797-(84/136) - September 6, 1984

1. In accordance with Decision No. 7720-(84/88), June 6, 1984 the Managing Director has consulted with the Nicaraguan authorities regarding the prompt elimination of Nicaragua's overdue financial obligations to the Fund.
2. The Fund has noted the facts described in EBS/84/48, Supplement 3, September 5, 1984 pertaining to Nicaragua's payments to the Fund and the preparation of arrangements by Nicaragua to settle the remaining overdue obligations as a matter of urgency.
3. The Fund calls upon Nicaragua to become current promptly on its financial obligations to the Fund. The Executive Board looks forward to a further report by the Managing Director soon after the 1984 Annual Meeting dealing with Nicaragua's specific plans for the prompt elimination of any remaining overdue obligations to the Fund.
4. The Fund shall complete its review of Decision No. 7720-(84/88) not later than December 6, 1984.

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SR. LUIS ENRIQUE FIGUEROA
PRESIDENTE
BANCO CENTRAL DE NICARAGUA
MANAGUA (NICARAGUA)

DEAR MR. GOVERNOR

1. I GREATLY APPRECIATED RECEIVING YOUR MESSAGE OF SEPTEMBER 4, 1984 INDICATING THE PAYMENTS TO BE MADE AND EXPLAINING THAT FURTHER ARRANGEMENTS WERE IN PREPARATION TO PERMIT SETTLEMENT OF THE REMAINING OBLIGATIONS TO THE FUND AS A MATTER OF URGENCY.

2. AS WILL HAVE BEEN REPORTED TO YOU, THE EXECUTIVE BOARD AGREED ON SEPTEMBER 6 TO MY RECOMMENDATION THAT THE PERIOD FOR COMPLETION OF THE BOARD'S REVIEW OF ITS DECISION TO LIMIT NICARAGUA'S USE OF THE FUND'S RESOURCES BE EXTENDED TO NOT LATER THAN DECEMBER 6, 1984. MY RECOMMENDATION AND THE BOARD'S ACCEPTANCE WERE, OF COURSE, BASED ON THE ENCOURAGING DEVELOPMENTS NOTED IN YOUR MESSAGE AND THE UNDERSTANDING THAT FURTHER CONSULTATIONS BETWEEN NICARAGUA AND THE FUND DURING OR VERY SHORTLY AFTER THE FORTHCOMING ANNUAL MEETINGS WILL YIELD A SPECIFIC PLAN FOR THE PROMPT SETTLEMENT OF REMAINING OBLIGATIONS TO THE FUND.

3. I MUST REITERATE THE FUND'S DEEP CONCERN THAT FINANCIAL RELATIONS BETWEEN THE FUND AND NICARAGUA HAVE NOT YET BEEN NORMALIZED. YOUR EFFORTS REPRESENT WELCOME PROGRESS TOWARD SETTLEMENT OF NICARAGUA'S OVERDUE OBLIGATIONS TO THE FUND, AND I LOOK FORWARD TO FURTHER DISCUSSIONS BETWEEN THE FUND AND NICARAGUA DURING THE ANNUAL MEETINGS. I HAVE ASKED THE STAFF TO ARRANGE A MEETING AT THAT TIME, IN THE SINCERE HOPE THAT I WILL THEN BE IN A POSITION TO REPORT TO THE EXECUTIVE BOARD IN EARLY OCTOBER A POSITIVE AND DEFINITIVE CONCLUSION TO THE MATTER.

WITH BEST REGARDS

J. DE LAROSIERE
MANAGING DIRECTOR
INTERFUND

Sent: September 10, 1984

#NK.M

SR. LUIS ENRIQUE FIGUEROA
PRESIDENTE
BANCO CENTRAL DE NICARAGUA
MANAGUA (NICARAGUA)

DEAR MR. GOVERNOR:

I LOOK FORWARD TO OUR MEETING ON NOVEMBER 13, 1984 TO DISCUSS THE SETTLEMENT OF NICARAGUA'S REMAINING OVERDUE OBLIGATIONS TO THE FUND. I REGRET THAT A MEETING COULD NOT BE HELD EARLIER AS ORIGINALLY INTENDED, AS SETTLEMENT OF THESE OBLIGATIONS IS OF THE UTMOST IMPORTANCE AND THE EXECUTIVE BOARD HAD EXPECTED THAT A REPORT COULD BE MADE AVAILABLE SOON AFTER THE ANNUAL MEETING REGARDING NICARAGUA'S SPECIFIC PLANS FOR THEIR PROMPT ELIMINATION. I AM, HOWEVER, PLEASED THAT YOU WILL BE ABLE TO COME TO WASHINGTON ON NOVEMBER 13 TO DISCUSS THIS MATTER, AND THE BOARD HAS BEEN INFORMED THAT A REPORT WILL BE MADE AVAILABLE VERY SOON AFTER THAT DATE. I HOPE VERY MUCH THAT OUR MEETING WILL PROVIDE A BASIS FOR A POSITIVE REPORT REGARDING PROMPT SETTLEMENT OF THE OVERDUE OBLIGATIONS.

REGARDS,

LAROSIERE
MANAGING DIRECTOR
INTERFUND

Sent: November 2, 1984

To: Members of the Executive Board

December 4, 1984

From: The Managing Director

Subject: Nicaragua - Complaint Under Rule S-1

The following complaint is made in accordance with Rule S-1 of the Fund's Rules and Regulations. The complaint is that it appears to me that Nicaragua is not fulfilling the obligation under Article XX, Section 2 of the Articles of Agreement, referred to in Rule S-1, to pay charges in the SDR Department. As of December 4, 1984, this obligation was to pay charges of SDR 464,693, which were due on November 1, 1984.

