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AGENDA**

MASTER FILES

ROOM C-120

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SM/84/281

December 27, 1984

To: Members of the Executive Board

From: The Secretary

Subject: Overdue Payments to the Fund - Purchases from Fund

There is attached for consideration by the Executive Directors a paper on the overdue payments to the Fund which will be brought to the agenda for discussion on a date to be announced. Draft decisions appear on pages 3 and 4.

If Executive Directors have technical or factual questions relating to this paper prior to the Board discussion, they should contact Mr. Silard (ext. 7715).

Att: (1)

Other Distribution:
Department Heads

INTERNATIONAL MONETARY FUND

Overdue Payments to the Fund - Purchases from Fund

Prepared by the Legal Department

(In consultation with the Treasurer's Department)

Approved by George P. Nicoletopoulos

December 26, 1984

At EBM/84/167 of November 19, 1984, the Executive Board reached the following conclusions on a member's right to make purchases from the Fund while it has overdue financial obligations to the Fund: (a) to modify the performance criterion in stand-by or extended arrangements on overdue obligations to the Fund in order to prevent any purchase under a stand-by arrangement, including a purchase in the first credit tranche, while the member is in financial arrears to the Fund, and (b) to prevent a purchase, whether under an arrangement, or outside an arrangement, when a member falls into financial arrears to the Fund after the request for the purchase has been approved by the Fund. In accordance with established practice (see EBS/84/211, page 8), it will continue to be the policy of the Fund not to discuss or approve a request for a purchase, including a purchase under any of the special facilities, if the member has an overdue financial obligation to the Fund.

In addition, at EBM/84/165 of November 16, 1984, the Executive Board decided, as part of the Guidelines on Corrective Action in cases of misreporting and noncomplying purchases under Fund arrangements, that provision should be made for the suspension of further purchases under an arrangement whenever a member fails to meet a repurchase expectation pursuant to these Guidelines.

In order to implement these conclusions and paragraph 6 of the Guidelines, this memorandum includes two decisions to be adopted by the Executive Board.

The first decision, which relates only to purchases under stand-by and extended arrangements, would replace the performance criterion on overdue financial obligations to the Fund currently used in stand-by and extended arrangements (Decision No. 7678-(84/62), April 20, 1984) with a clause suspending a member's right to make any purchase under a stand-by or extended arrangement, including a purchase in the first credit tranche under a stand-by arrangement, while the member has an overdue financial obligation or is failing to meet a repurchase expectation in respect of a non-complying purchase under an

arrangement. The new clause would be included in all arrangements, whether or not under the Enlarged Access Policy, that are approved or modified after the effective date of the proposed decision. The Attachment shows the text of Decision No. 6368-(81/70), as it has been amended to date and as it would be amended further by the adoption of the proposed decision.

The second decision would amend Rule G-4 of the Fund's Rules and Regulations, through the inclusion of a new provision, as Rule G-4(e), in order to make clear that the Fund would take steps, to the extent that this is feasible, to stop a purchase pursuant to instructions already issued by the Fund if the member incurs an overdue financial obligation to the Fund after the instructions have been issued but before the value date. The new provision of Rule G-4 would apply to all purchases under the special facilities and all purchases in the credit tranches, whether or not they are under an arrangement. There may be situations, however, in which the cancellation of instructions for a purchase may not be possible in spite of reasonable efforts by the staff. This could happen, for example, if an arrear had arisen at a time when it was already too late to stop the payments that other members have arranged to make pursuant to the Fund's instructions.

Following the adoption of these decisions the position with respect to the various uses of the general resources of the Fund would be as follows:

(a) If a member is overdue in its financial obligations to the Fund, the Fund would not discuss or approve either a stand-by or extended arrangement for the member or the use of the Fund's general resources outside an arrangement.

(b) A member's right to make any purchase under a stand-by or extended arrangement would be suspended during any period in which the member is overdue in its financial obligations to the Fund.

(c) If the Fund had given instructions for a purchase requested by the member under an arrangement, or for any other purchase (other than a reserve tranche purchase), the Fund would rescind the instructions to the extent that this is feasible.

(d) Paragraph (b) would also apply to a member that fails to meet a repurchase expectation pursuant to the Guidelines on Corrective Action with respect to a non-complying purchase. Paragraphs (a) and (c) would not, however, apply in such a situation.

Proposed Decisions

I.

1. The following paragraph shall be included, as paragraph 5, in the form of the stand-by arrangement in Attachment A to Decision No. 6838-(81/70), April 29, 1981, as amended, with an appropriate reference to this paragraph to be included in paragraph 1 and the subsequent paragraphs of the form to be renumbered accordingly:

"(Member) will not make purchases under this stand-by arrangement during any period of the arrangement in which the member has an overdue financial obligation to the Fund or is failing to meet a repurchase expectation pursuant to the Guidelines on Corrective Action in respect of a noncomplying purchase."

2. The following paragraph shall be included, as paragraph 5, in the form of the extended arrangement in Attachment B to Decision No. 6838-(81/70), April 29, 1981, as amended, with an appropriate reference to this paragraph to be included in paragraph 1 and the subsequent paragraphs of the form to be renumbered accordingly:

"(Member) will not make purchases under this extended arrangement during any period in which the member has an overdue financial obligation to the Fund or is failing to meet a repurchase expectation pursuant to the Guidelines on Corrective Action with respect to a noncomplying purchase."

3. Other stand-by or extended arrangements granted by the Fund after the date of this decision shall include also the provision in 1 or 2 above.

4. The provision in 1 and 2 above shall be included also in an existing stand-by or an extended arrangement when the Fund and the member reach understandings regarding the circumstances in which further purchases may be made under the arrangement.

5. Decision No. 7678-(84/62), April 20, 1984, shall cease to apply in respect of a stand-by or an extended arrangement that includes the provision in 1 or 2 above.

II.

Rule G-4 shall be amended to include the following provision as paragraph (e):

"Instructions for the transfer of currency for any purchase, other than a reserve tranche purchase, shall be rescinded, to the extent that it is feasible, during the period between the issuance of the instructions and the value date for the purchase if, during that period, the member requesting the purchase has any overdue financial obligation to the Fund."

Attachment

**FORMS OF STAND-BY AND EXTENDED ARRANGEMENTS UNDER
ENLARGED ACCESS POLICY**

The Executive Board approves the forms of stand-by and extended arrangements contained in Attachments A and B [below] that will be used by the Fund to provide for Enlarged Access to the Fund's resources under Decision No. 6783-(81/40), adopted March 11, 1981.

Decision No. 6838-(81/70)

April 29, 1981
as amended

Attachment A

Form of Stand-By Arrangement Under Enlarged Access Policy

Attached hereto is a letter [, with annexed memorandum,] dated _____ from (Minister of Finance and/or Governor of Central Bank) requesting a stand-by arrangement and setting forth:

- (a) the objectives and policies that the authorities of (member) intend to pursue for the period of this stand-by arrangement;
- (b) the policies and measures that the authorities of (member) intend to pursue for the [first year] of this stand-by arrangement; and
- (c) understandings of (member) with the Fund regarding [a] review[s] that will be made of progress in realizing the objectives of the program and of the policies and measures that the authorities of (member) will pursue for the remaining period of this stand-by arrangement.

To support these objectives and policies the International Monetary Fund grants this stand-by arrangement in accordance with the following provisions:

1.¹ [For a period of ____ years from _____] [For the period from _____ to _____] (member) will have the right to make purchases from the Fund in an amount equivalent to SDR _____, subject to paragraphs 2, 3, 4, ~~and 5~~, and 6 below, without further review by the Fund.

2.¹ (a) Until (end of first year) purchases under this stand-by arrangement shall not, without the consent of the Fund, exceed the equivalent of SDR _____, provided that purchases shall not exceed the equivalent of SDR _____ until _____, the equivalent of SDR _____ until _____, and the equivalent of SDR _____ until _____.

(b) The right of (member) to make purchases during the remaining period of this stand-by arrangement shall be subject to such phasing as shall be determined.

(c) None of the limits in (a) or (b) above shall apply to a purchase under this stand-by arrangement that would not increase the Fund's holdings of (member's) currency in the credit tranches beyond 25 per cent of quota or increase the Fund's holdings of that currency resulting from purchases of supplementary financing or borrowed resources beyond 12.5 per cent of quota.

3. Purchases under this stand-by arrangement shall be made from _____², provided that any modification by the Fund of the proportions of ordinary and borrowed resources shall apply to amounts that may be purchased after the date of modification.

4. (Member) will not make purchases under this stand-by arrangement that would increase the Fund's holdings of (member's) currency in the credit tranches beyond 25 per cent of quota or increase the Fund's holdings of that currency resulting from purchases of supplementary financing or borrowed resources beyond 12.5 per cent of quota:

¹ The text would be adapted for a stand-by arrangement for only one year.

² The text to be added will depend on the situation of the member at the time.

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- (a) during any period in the first year in which [the data at the end of the preceding period indicate that] ³
- (i) [the limit on domestic credit described in paragraph ____ of the attached letter], or
 - (ii) [the limit on credit to the public sector described in paragraph ____ of the attached letter], or
 - (iii) . . . [These provisions would incorporate other quantitative performance criteria of the program] are not observed, or
- (b) if (member) fails to observe the limits on authorizations of new public and publicly guaranteed foreign indebtedness described in paragraph ____ of the attached letter; or
- (c) ⁴ during the second or third year of this stand-by arrangement until suitable performance criteria have been established in consultation with the Fund as contemplated by paragraph ____ of the attached letter, or after such performance criteria have been established, while they are not being observed; or
- (d) ⁴ during the entire period of this stand-by arrangement, ~~while (member) has any overdue financial obligation to the Fund, or~~ if (member)
- (i) imposes [or intensifies] restrictions on payments and transfers for current international transactions, or
 - (ii) introduces [or modifies] multiple currency practices, or
 - (iii) concludes bilateral payments agreements which are inconsistent with Article VIII, or
 - (iv) imposes [or intensifies] import restrictions for balance of payments reasons.

³ The performance criteria enumerated here are indicative only.

⁴ These subparagraphs would be adapted in accordance with the period of the stand-by arrangement.

When (member) is prevented from purchasing under this stand-by arrangement because of this paragraph 4, purchases will be resumed only after consultation has taken place between the Fund and (member) and understandings have been reached regarding the circumstances in which such purchases can be resumed.

5. (Member) will not make purchases under this stand-by arrangement during any period of the arrangement in which the member has an overdue financial obligation to the Fund or is failing to meet a repurchase expectation pursuant to the Guidelines on Corrective Action in respect of a noncomplying purchase.

6 5. (Member's) right to engage in the transactions covered by this stand-by arrangement can be suspended only with respect to requests received by the Fund after (a) a formal ineligibility, or (b) a decision of the Executive Board to suspend transactions, either generally or in order to consider a proposal, made by an Executive Director or the Managing Director, formally to suppress or to limit the eligibility of (member). When notice of a decision of formal ineligibility or of a decision to consider a proposal is given pursuant to this paragraph § 6, purchases under this arrange-ment will be resumed only after consultation has taken place between the Fund and (member) and understandings have been reached regarding the circumstances in which such purchases can be resumed.

7 6. Purchases under this stand-by arrangement shall be made in the currencies of other members selected in accordance with the policies and procedures of the Fund, and may be made in SDRs if, on the request of (member), the Fund agrees to provide them at the time of the purchase.

8 7. The value date of a purchase under this stand-by arrangement involving borrowed resources will be determined in accordance with Rule G-4(b) of the Fund's Rules and Regulations. (Member) will consult the Fund on the timing of purchases involving borrowed resources in accordance with Rule G-4(d).

9 8. (Member) shall pay a charge for this stand-by arrangement in accordance with the decisions of the Fund.

10 9. (a) (Member) shall repurchase the outstanding amount of its currency that results from a purchase under this stand-by arrangement in accordance with the provisions of the Articles of Agreement and decisions of the Fund, including those relating to

repurchase as (member's) balance of payments and reserve position improves.

(b) Any reductions in (member's) currency held by the Fund shall reduce the amounts subject to repurchase under (a) above in accordance with the principles applied by the Fund for this purpose at the time of the reduction.

(c) The value date of a repurchase in respect of a purchase financed with borrowed resources under this stand-by arrangement will be normally either the 6th day or the 22nd day of the month, or the next business day if the selected day is not a business day, provided that repurchase will be completed not later than seven years from the date of purchase.

11 ~~10~~. During the period of the stand-by arrangement (member) shall remain in close consultation with the Fund. These consultations may include correspondence and visits of officials of the Fund to (member) or of representatives of (member) to the Fund. (Member) shall provide the Fund, through reports at intervals or dates requested by the Fund, with such information as the Fund requests in connection with the progress of (member) in achieving the objectives and policies set forth in the attached letter [and annexed memorandum].

12 ~~11~~. In accordance with paragraph _____ of the attached letter (member) will consult the Fund on the adoption of any measures that may be appropriate at the initiative of the government or whenever the Managing Director requests consultation

Version A

[because any of the criteria in paragraph 4 above have not been observed or because he considers that consultation on the program is desirable. In addition, after the period of the arrangement and while (member) has outstanding purchases in the upper credit tranches, the government will consult with the Fund from time to time, at the initiative of the government or at the request of the

Managing Director, concerning (member's) balance of payments policies.]

Version B

[because he considers that consultation on the program is desirable.]

Attachment B

Form of Extended Arrangement Under Enlarged Access Policy

Attached hereto is a letter [, with annexed memorandum,] dated _____ from (Minister of Finance and/or Governor of Central Bank) requesting an extended arrangement and setting forth:

- (a) the objectives and policies that the authorities of (member) intend to pursue for the period of this extended arrangement;
- (b) the policies and measures that the authorities of (member) intend to pursue for the first year of this extended arrangement; and
- (c) understandings of (member) with the Fund regarding reviews that will be made of progress in realizing the objectives of the program and of the policies and measures that the authorities of (member) will pursue for second and third years of this extended arrangement.

To support these objectives and policies the International Monetary Fund grants this extended arrangement in accordance with the following provisions:

1. For a period of [three years] from _____ (member) will have the right to make purchases from the Fund in an amount equivalent to SDR _____, subject to paragraphs 2, 3, 4, and 5, and 6 below, without further review by the Fund.

2. (a) Until (end of first year) purchases under this extended arrangement shall not, without the consent of the Fund, exceed the equivalent of SDR _____, provided that purchases shall not exceed the equivalent of SDR _____ until _____, the equivalent of SDR _____ until _____, and the equivalent of SDR _____ until _____.

(b) Until (end of second year) purchases under this extended arrangement shall not, without the consent of the Fund, exceed the equivalent of SDR _____.

(c) The right of (member) to make purchases during the second and third years shall be subject to such phasing as shall be determined.

3. Purchases under this extended arrangement shall be made from . . .¹ provided that any modification by the Fund of the proportions of ordinary and borrowed resources shall apply to amounts that may be purchased after the date of modification.

4. (Member) will not make purchases under this extended arrangement:

(a) throughout the first year, during any period in which [the data at the end of the preceding period indicate that]²

(i) [the limit on domestic credit described in paragraph _____ of the attached letter], or

(ii) [the limit on credit to the public sector described in paragraph _____ of the attached letter], or

(iii) . . . [These provisions would incorporate other quantitative performance criteria of the program]

are not observed; or

(b) if (member) fails to observe the limits on authorizations of new public and publicly guaranteed foreign

¹ The text to be added will depend on the situation of the member at the time.

² The performance criteria enumerated here are indicative only.

indebtedness described in paragraph ____ of the attached letter; or

- (c) throughout the second and third years, if before the beginning of the second year and the beginning of the third year of the extended arrangement suitable performance clauses have not been established in consultation with the Fund as contemplated in paragraph ____ of the attached letter or such clauses, having been established, are not being observed; or
- (d) throughout the duration of the extended arrangement, ~~while (member) has any overdue financial obligation to the Fund or~~ if (member)
 - (i) imposes [or intensifies] restrictions on payments and transfers for current international transactions, or
 - (ii) introduces [or modifies] multiple currency practices, or
 - (iii) concludes bilateral payments agreements which are inconsistent with Article VIII, or
 - (iv) imposes [or intensifies] import restrictions for balance of payments reasons.

When (member) is prevented from purchasing under this extended arrangement because of this paragraph 4, purchases will be resumed only after consultation has taken place between the Fund and (member) and understandings have been reached regarding the circumstances in which such purchases can be resumed.

5. (Member) will not make purchases under this extended arrangement during any period in which the member has an overdue financial obligation to the Fund or is failing to meet a repurchase expectation pursuant to the Guidelines on Corrective Action in respect of a noncomplying purchase.

6 ~~5~~. (Member's) right to engage in the transactions covered by this extended arrangement can be suspended only with respect to requests received by the Fund after (a) a formal ineligibility, or (b) a decision of the Executive Board to suspend transactions, either generally or in order to consider a proposal, made by an Executive Director or the Managing Director, formally to suppress or to limit the eligibility of (member). When notice of a decision of formal ineligibility or of a decision to consider a pro-

posal is given pursuant to this paragraph ~~5~~ 6, purchases under this arrangement will be resumed only after consultation has taken place between the Fund and (member) and understandings have been reached regarding the circumstances in which such purchases can be resumed.

7 ~~6~~. Purchases under this extended arrangement shall be made in the currencies of other members selected in accordance with the policies and procedures of the Fund, and may be made in SDRs if, on the request of (member), the Fund agrees to provide them at the time of the purchase.

8 ~~7~~. The value date of a purchase under this extended arrangement involving borrowed resources will be determined in accordance with Rule G-4(b) of the Fund's Rules and Regulations. (Member) will consult the Fund on the timing of purchases involving borrowed resources in accordance with Rule G-4(d).

9 ~~8~~. (Member) shall pay a charge for this extended arrangement in accordance with the decisions of the Fund.

10 ~~9~~. (a) (Member) shall repurchase the amount of its currency that results from a purchase under this extended arrangement in accordance with the provisions of the Articles of Agreement and decisions of the Fund, including those relating to repurchase as (member's) balance of payments and reserve position improves.

(b) Any reductions in (member's) currency held by the Fund shall reduce the amounts subject to repurchase under (a) above in accordance with the principles applied by the Fund for this purpose at the time of the reduction.

(c) The value date of a repurchase in respect of a purchase financed with borrowed resources under this extended arrangement will be normally either the 6th day or the 22nd day of the month, or the next business day if the selected day is not a business day, provided that repurchase will be completed not later than seven years from the date of purchase.

11~~10~~. During the period of the extended arrangement (member) shall remain in close consultation with the Fund. These consulta-

tions may include correspondence and visits of officials of the Fund to (member) or of representatives of (member) to the Fund. (Member) shall provide the Fund, through reports at intervals or dates requested by the Fund, with such information as the Fund requests in connection with the progress of (member) in achieving the objectives and policies set forth in the attached letter [and annexed memorandum].

12 11. In accordance with paragraph ____ of the attached letter (member) will consult the Fund on the adoption of any measures that may be appropriate at the initiative of the government or whenever the Managing Director requests consultation because any of the criteria under paragraph 4 above have not been observed or because he considers that consultation on the program is desirable. In addition, after the period of the extended arrangement and while (member) has outstanding purchases under this extended arrangement, the government will consult with the Fund from time to time, at the initiative of the government or at the request of the Managing Director, concerning (member's) balance of payments policies.