

**FOR
AGENDA**

EBS/01/124

CONFIDENTIAL

July 20, 2001

To: Members of the Executive Board

From: The Acting Secretary

Subject: **Niger—Report on Noncomplying Disbursement and Recommendations
for Corrective Action**

Attached for consideration by the Executive Directors is the Managing Director's report on Niger's noncomplying disbursement and recommendations for corrective action. A draft decision appears on page 5. This subject, together with the paper on the first review for Niger under the three-year arrangement under the Poverty Reduction and Growth Facility (EBS/01/123, 7/20/01), and the letter of intent, memorandum of economic and financial policies, and technical memorandum of understanding of the government of Niger (EBS/01/123, Sup. 1, 7/20/01), will be brought to the agenda for discussion on a date to be announced.

Questions may be referred to Mr. Maret (ext. 39706) and Mr. Pérez (ext. 36931).

Att: (1)

Other Distribution:
Department Heads

To: Members of the Executive Board

July 20, 2001

From: The Managing Director

Subject: **Niger—Report on Noncomplying Disbursement and Recommendations for Corrective Actions**

On December 14, 2000, the Executive Board approved a three-year arrangement under the Poverty Reduction and Growth Facility (PRGF) for Niger, amounting to SDR 59.2 million (90 percent of quota). A first disbursement of SDR 8.46 million was made on the same date.

Noncomplying disbursement – the closing of budget accounts for 1998 and 1999

Consideration of Niger's request for a three-year PRGF arrangement was conditional on completing a number of prior actions, including the closing of budget accounts for 1998 and 1999. The staff received written communication from the authorities on December 8, 2000, that the budget accounts for both years had been closed (Attachment I).

A technical assistance mission from FAD, in April 2001, found that the regularization and reconciliation of budgetary and treasury accounts were still in process, a fact that contradicted the December 8, 2000 communication of the authorities. These findings were confirmed by an AFR review mission in May 2001.

In the definition used by the staff, the closing of the budgetary accounts requires the production of the payment officers' (*ordonnateurs*) accounts and the public accountants' accounts for the relevant budgetary year (*comptes administratifs* and *comptes de gestion*, respectively), the submission of these accounts to the Audit Court of the Supreme Court for examination and reconciliation, and the submission of a related budget review law (*loi de règlement*) to the National Assembly.^{1 2} None of the above conditions were met for the 1998 and 1999 budget years on December 8, 2000.

¹ After examination of the accounts, the Audit Court issues a statement of compliance between the *comptes administratifs* of the payment officers (*ordonnateurs*) and the *comptes de gestion* of the public accountants. This statement is submitted to the National Assembly for the discussions of the budget review law.

² The budget review law is a law on the budget execution (revenue and expenditure) that reports on revenue collection and disbursement authorizations, and allocates the resulting budgetary balance to a reserve fund.

While in agreement with this definition of the closing of accounts, the authorities adopted a less stringent interpretation by making a distinction between current and adjustment operations under which accounts could be considered closed as long as all current operations had been recorded. This interpretation, which excludes the need for regularization and reclassification of all suspense accounts, also relies on the fact that these regularizations had no cash incidence on the treasury.

The budgetary accounts for 1998 were transmitted to the Audit Court for examination on May 28, 2001, and a draft budget review law submitted to the National Assembly on May 22, 2001.

Corrective measures towards closing the 1999 accounts have also been taken. A draft budget review law for 1999 is expected to be prepared by the time of the consideration of this matter by the Executive Board and to be submitted to the National Assembly in its next session. The authorities have taken additional measures to submit the 1999 budgetary accounts to the Audit Court as quickly as possible, but they do not expect this transmittal to be effected by the time of the Board meeting.

Furthermore, the staff has determined that the operations recorded since December 2000 were mainly to regularize transactions in suspense accounts and the authorities have confirmed that these operations have had no cash incidence on the treasury.

On July 9, 2001, I wrote to the Minister of Finance, informing him of staff's finding suggesting that there was misreporting concerning implementation of the prior action to close the budget accounts for 1998 and 1999 and that the first disbursement was accordingly noncomplying (Attachment II).

Response by the Nigerien authorities on closing of budget accounts

The July 11, 2001 response of the Minister of Finance (Attachment III) confirms the facts described in the note attached to my letter of July 9, 2001 on this issue, as well as the conclusion that misreporting took place, rendering the first drawing under the PRGF arrangement noncomplying.

However, the Minister of Finance argues that a different understanding of the prior action led the Nigerien government to consider the budgetary accounts for 1998 and 1999 closed on December 8, 2000, the date of his letter to the staff. Under this interpretation, the prior action was observed in spirit, as the status in early December of the closing operations for the 1998 and 1999 accounts was such that later operations made on the accounts could not have a financial impact on the treasury.

To buttress this interpretation of the prior action and the Nigerien government's view that the 1998 and 1999 accounts have been closed since December 2000, the Minister of Finance

affirms that no payment orders that could lead to new treasury cash drawings have been issued against these budgetary accounts since that time. The Nigerien government contends that the progress in closing the 1998 and 1999 accounts was thus sufficient on December 8, 2000 for the government to consider them closed. The risk of a deterioration in the financial situation of the government through new budget transactions on account of these two financial years was eliminated as of the date of December 8, 2000, when verifications of all accounts had been completed, except for suspense accounts and provisional accounts that could have no bearing on the cash situation of the Treasury. The operations effected on the accounts since then have related to the cleaning up of all suspense and temporary accounts of the treasury with a view to ensuring greater transparency of the accounting and budgetary frameworks.

Moreover, corrective actions have been taken to close the accounts. The 1998 accounts have been closed and transmitted to the Audit court, and a draft budget review law has been prepared and submitted to the National Assembly's approval. As for the 1999 accounts, a draft budget review law is to be prepared by July 25, 2001.

Given the facts and the government interpretation of the prior action, the Minister of Finance stresses that the government acted in good faith and had no intention to misreport nor mislead the Fund on this question.

Recommendations

Staff maintains that the production and reconciliation of the budgetary accounts, their submission to the Audit Court of the Supreme Court, and the submission of a draft budget review law to the National Assembly were the necessary conditions for the closing of the budgetary accounts. Furthermore, staff notes that the intention of the Nigerien authorities does not determine whether the prior action has been observed. Accordingly, notwithstanding the explanations given by the Nigerien authorities, staff considers that a case of misreporting has been established.

The PRGF Trust Instrument indicates that, in the event of a noncomplying disbursement, "a waiver will normally be granted only if the deviation from the relevant performance criterion or other action was minor or temporary, or if subsequent to the disbursement, the member has adopted additional policy measures appropriate to achieve the objectives of the program".

In the case of Niger, such deviations were indeed minor and corrective measures have been taken to make these deviations temporary and achieve the requirements of the program. The closing of the 1998 accounts was completed in May 2001 with the submission of a draft budget review law to the National Assembly and the transmittal of the accounts to the Audit Court. For the 1999 accounts, a draft budget review law is expected to be prepared by the time of the Board meeting, and will be submitted to the National Assembly for consideration

in its next session. Moreover, the authorities have taken measures to submit the 1999 accounts to the Audit Court as quickly as possible.

In view of the above, my recommendation to the Executive Board would be to grant a waiver of the nonobservance of the prior action and that the Executive Board not call upon Niger to make an early repayment to the Fund with respect to the noncomplying disbursement.

PROPOSED DECISION

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

The Fund notes the report of the Managing Director set forth in EBS/01/124 on the noncomplying disbursement made to Niger under the three-year Poverty Reduction and Growth Facility arrangement approved on December 14, 2000 (EBS/00/244, Supplement 1, 01/03/01) and decides to waive the nonobservance of the prior action on the closing of the budget accounts for 1998 and 1999 on condition that the information provided by Niger on implementation of this measure is accurate.

Attachments (3)

**Republic of Niger
Ministry of Finance
Office of the Minister**

No. 1743 MF/CAB

Niamey, December 8, 2000

Mr. Gondwe, Director
African Department
IMF
Washington, D.C.

Subject: Niger Program 2000-03

Dear Sir:

In anticipation of the review of the program under reference by the IMF Executive Board on December 13, 2000, please be advised of the following:

1) Verification of compliance regarding expenditure at end-1999

For complete verification of all expenditures, a committee was set up in each ministry or institution. The findings of these committees were reported to my department and the final accounts were processed in November 2000.

As a result, no FY 1999 expenditure is still pending verification.

2) Closing of the budgetary accounts for 1998 and 1999

The fiscal years 1998 and 1999 have been closed.

Very truly yours,

/s/

Ali Badjo Gamatié

cc: IMF Resident Representative in Niamey

Mr. Ali Badjo Gamatié
Ministry of Finance
Niamey
Niger

Dear Mr. Minister,

On December 14, 2000, the Executive Board approved a request from Niger for a three-year arrangement under the Poverty Reduction and Growth Facility (PRGF) in a total amount of SDR 59.2 million, and a first disbursement hereunder in an amount of SDR 8.46 million.

The decision of the Executive Board on December 14, 2000 to approve the PRGF arrangement for Niger and to allow the first disbursement was conditional on the accuracy of information presented by the Nigerien authorities on implementation of the prior action entailing the closing of the budget accounts for fiscal years 1998 and 1999. Your letter dated December 8, 2000 to Mr. Gondwe represented that the budget accounts for the fiscal years 1998 and 1999 had been closed. The Executive Board relied on the accuracy of this representation in approving Niger's PRGF arrangement.

I am attaching a report from the Fund staff, which indicates that the closing of the budget accounts for 1998 and 1999 was, however, still in process in late April 2001. This suggests that there was misreporting by the Nigerien authorities and that would render the above mentioned disbursement to Niger under the PRGF noncomplying.

Under the PRGF Guidelines for Noncomplying Disbursements, I am required to report any instances of noncomplying disbursements to the Executive Board. The Board may decide, among other things, to remedy the noncomplying disbursement by requiring that Niger make an early repayment of the disbursement or it may grant a waiver for the noncompliance with the prior action. However, a waiver will normally be granted only if the noncompliance with the prior action is minor or temporary or if corrective action has subsequently been taken.

The staff is studying this issue, but I would like to bring it to your attention so as to seek your views about this matter. After hearing from you, I will make a recommendation to the Executive Board on how to proceed.

I would appreciate receiving your response by July 11, 2001 so that the Executive Board can address this matter prior to consideration of the upcoming review of the PRGF arrangement.

Very truly yours,

/s/

Horst Köhler
Managing Director, International Monetary Fund

Attachment

Translation from French

Niger

Note on Noncompliance with Prior Action to Close the 1998-99 Budgetary Accounts

July 2, 2001

In mid-April 2001, Fund staff found that the closing of the budgetary accounts for 1998 and 1999 was still pending, and therefore had not been completed prior to the Executive Board meeting of December 14, 2000. The Minister of Finance of Niger had confirmed the completion of this prior action for the three-year arrangement under the poverty reduction and growth facility (PRGF) in a letter to the African Department (AFR) dated December 8, 2000.

The mission that visited Niamey during May 14-28, 2001 for the first review under the PRGF program discussed this issue with the authorities and verified that the prior action on the closing of the budgetary accounts for 1998 and 1999 was not fully satisfied at the time of the Board meeting.³ After discussing with the authorities, Fund staff has established that: (i) the regularization and reconciliation of all budgetary and Treasury temporary accounts were still in process in early December 2000; (ii) the delay in closing the accounts was partly related to a decision by the authorities to improve the transparency of budget operations through the elimination of all suspense accounts opened at the Treasury and the Budget Directorate; (iii) operations recorded since December (mainly to regularize transactions in suspense accounts) have very minimal financial or cash incidence for the Treasury; (iv) the accounts for 1998 are now closed and submitted to the Audit Court for audit, as well as a final budget law (*Loi de règlement*) prepared for submission to the National Assembly; and (v) the accounts for 1999 are almost closed.

On the basis of the above, Fund staff is of the view that the prior action was not satisfied, despite the letter sent by the Minister of Finance. However, the steps that remained to be taken were relatively minor and corrective action has subsequently been taken: the 1998 accounts have been closed and no significant changes have been made in the reported 1998 budgetary outcome since the date of the Board meeting; and the 1999 accounts are almost closed. Pending the formal closing of the 1999 accounts and an assessment of their impact on the reported 1999 budgetary outcome, we would tend to see the nonobservance of the prior action as a relatively minor infringement because of the very limited financial impact of the corrections since the Board meeting.

The following background remarks give more information to explain why we see the difficulties encountered in meeting the prior action as technical.

³ This prior action to ensure transparency of recent budgetary operations was also linked to the verification and audit of large amounts of expenditure incurred at end-1999 whose regularity was in doubt.

Niger's difficulties in producing final accounts for 1998 and 1999 are a direct consequence of deep-seated weaknesses in Niger's accounting system. These difficulties were aggravated by a desire, on the part of the public accountants in charge of this task, to achieve a complete statement of budgetary operations, financial accounts, and cash management transactions.

In particular, the absence of any coherent accounting background since 1986, which was the last year for which annual opening balances of the Treasury are available, made the preparation of the 1998 accounts especially difficult. In addition, accounting for annual financial flows was discontinued in 1995. As a result, large proportions of budgetary operations dating back to at least 1995 took place outside the normal accounting framework and were recorded as cash management transactions. These operations were never regularized.

In 1998, with the support of the World Bank, a task force was put together in the context of a wider reform of the Ministry of Finance. The objective was to produce coherent and reasonably accurate accounts from 1986 onward and establish accounting procedures for the monitoring of the financial year in process.

In 1998-99, the task force, with support from the concerned departments of the Ministry of Finance, was able to finalize and close the accounts for 1997 and initiate work on the accounts for 1998. The amount of work undertaken on account of both years was truly enormous as, in addition to the normal tracking of operations, it was also necessary, for ensuring a reasonable degree of accuracy, to verify, in any possible way, the nature of the transactions being recorded. This has required a review of all transactions, whether settled in cash or through the banking system (including the Postal Savings Bank). The matter was further complicated by the existence of a large number of budgetary operations executed through suspense accounts or provisional accounts. The task force had to analyze each entry in this category and come to a judgment as to the nature of the operation, that is, cash management operation or budgetary operation.

With regard to 1998, the work load was made heavier by the need to take into account budgetary operations for the provinces, for which available information was incomplete and extremely tardy, with up to three years of delay. Against such a background, initial deadlines could not be met without adopting shortcuts, which the task force was reluctant to do. Instead, an accurate situation of all financial accounts, including suspense and provisional accounts, has been established to ascertain the effective level of budgetary revenue and expenditure for 1998. This, however, was not completed until April 2001.

The work on the accounts for fiscal year 1999 had to deal with the same type of difficulties as 1998, but with an added complication resulting from the existence of specific expenditures totaling CFAF 14 billion (about 10 percent of current expenditure) undertaken by the out-going military regime. At first, the new government

had decided to disallow such expenditures, subject to a final review. The verification of these expenditures, another prior action of the PRGF arrangement, was completed at end-November 2000, and a final decision to accept or reject them could not be made until early in 2001. A further delay in the establishment of the 1999 accounts was also encountered as a result of staffing problems and unforeseen difficulties in the reconciliation of financial accounts. It is however estimated that the closing of the 1999 accounts could be achieved shortly.

In sum, it is clear that the approach adopted by the task force was the only practical one for achieving the degree of accuracy and consistency sought. The amount of work required for such an achievement, however, was truly exceptional, especially in view of the limited human resources allocated to the task. The extent of the deterioration of public accounting standards and procedures in Niger in the period 1995 to 1998 was also somewhat underestimated and has resulted in a significantly higher-than-expected need for background research and verification of many operations.

**Republic of Niger
Ministry of Finance
Office of the Minister**

Niamey, July 11, 2001
No. 001177/MF/CAB

The Managing Director
International Monetary Fund

Subject: Closing of the accounts for fiscal years 1998 and 1999

Reference: Your letter of July 9, 2001

Dear Sir:

In response to your above-referenced letter, I am pleased to advise you that the issue regarding the closing of the accounts for fiscal years 1998 and 1999 on December 8, 2000 reflects a difference in the interpretation of the concept of "*clôture des comptes*" (closing of the accounts) and not a deliberate attempt by the Nigerien authorities to mislead the staff of the IMF or its Executive Board in order to gain access to IMF resources. Neither the period concerned nor the nature of the operations or their probable effect support any suggestion of such intent.

From December 2000 onward, based on our interpretation of the concept of *clôture des comptes*, we considered the accounts for fiscal years 1998 and 1999 closed, because no orders to pay (*mandatements*) leading to new disbursements were issued for these fiscal years.

As we understand it, the *reddition des comptes* (rendering of the accounts), which precedes the preparation and forwarding of the legal documents to the National Assembly and the Audit Court, is simply one step in the process.

Moreover, to ensure greater transparency of accounting and budget operations, we undertook, after analyzing the technical operations involved in closing the accounts, to clear the suspense accounts opened with the Treasury and General Directorate of the Budget. This is essential for our relations with our other partners, who are currently conducting a financial and systems audit of this period.

It is because of these clearing operations that the IMF missions deemed the accounts not to have been closed.

I would like to emphasize nevertheless that the final versions of the draft budget review law (*loi de règlement*) and of the budgetary accounts for fiscal year 1998 have already been submitted to the National Assembly and the Audit Court, respectively. The budget review law for 1999 will be completed by July 25, 2001 at the latest.

In light of these clarifications, we ask that you consider the “non-compliance with a prior action,” which had no impact on the overall fiscal results for the years in question, to be the result of a difference in interpretation.

Finally, it is worth noting that the Nigerien administration is being strengthened with the help of the international community, specifically the IMF, the World Bank, and the European Union.

Very truly yours,

/s/

Ali Badjo Gamatié

cc: Mr. Alexandre Barro Chambrier
Executive Director of the International Monetary Fund for Niger