

**IMMEDIATE
ATTENTION**

EBD/99/80

July 7, 1999

To: Members of the Executive Board
From: The Acting Secretary
Subject: **Kosovo—Fund Technical Assistance**

Attached for consideration by the Executive Directors is a paper on the provision of technical assistance by the Fund in Kosovo.

It is not proposed to bring this matter to the agenda of the Executive Board for discussion unless an Executive Director so requests by noon on Friday, July 16, 1999. In the absence of such a request, the draft decision that appears on page 4 will be deemed approved by the Executive Board and it will be so recorded in the minutes of the next meeting thereafter.

Mr. Thakur (ext. 34860), Mr. S. Brown (ext. 38431), or Ms. Siegel (ext. 37711) is available to answer technical or factual questions relating to this paper.

Att: (1)

Other Distribution:
Department Heads

INTERNATIONAL MONETARY FUND

Fund Technical Assistance to Kosovo

Prepared by the Legal and European I Departments

Approved by François Gianviti and Michael C. Deppler

July 7, 1999

1. The Fund staff has received a broad request from the UN Interim Administration Mission in Kosovo (UNMIK) to provide technical assistance in the development of an international civil presence in the province. Requests for technical assistance in specific institutional and policy areas are expected to be forthcoming soon. In addition, the staff has been requested to participate, in the very near future, in information-gathering missions intended to develop initial information on local conditions. This note is intended to describe the legal basis for the provision of technical assistance by the Fund to Kosovo, and to seek the Board's approval of proceeding on that basis.

Background

2. On June 10, the UN Security Council passed Resolution No. 1244, which authorizes the Secretary-General to establish an international civil presence in Kosovo. The full text of the Resolution is attached to this note. According to the text of paragraph 10, the Security Council:

“[a]uthorizes the Secretary-General, with the assistance of relevant international organizations, to establish an international civil presence in Kosovo in order to provide an interim administration for Kosovo under which the people of Kosovo can enjoy substantial autonomy within the Federal Republic of Yugoslavia and which will provide transitional administration while establishing and overseeing the development of provisional democratic self-governing institutions to ensure conditions for a peaceful and normal life for all inhabitants of Kosovo.”

The Resolution also authorizes the Secretary-General, in consultation with the Security Council, to appoint a Special Representative to control the implementation of the international civil presence (paragraph 6).

3. The Secretary-General has submitted a first report to the UN Security Council based on paragraph 10 of the Resolution. This report deals mainly with the functions of the Special Representative and contains a “preliminary operational concept for the overall organization of the civil presence” in Kosovo. UNMIK is to have four component “pillars,” each under the responsibility of a Deputy Special Representative of the Secretary-General: civil

administration, humanitarian affairs, institution-building, and reconstruction. On July 2, 1999, Mr. Bernard Kouchner was appointed as Special Representative, with Mr. Jock Covey as his Principal Deputy. The Deputies in charge of the four pillars are: Mr. Dominique Vian for Interim Civil Administration, Mr. Dennis McNamara for Humanitarian Affairs, Mr. Daan Everts for Institution Building, and Mr. Joly Dixon for Reconstruction. Discussions are under way to clarify the exact responsibilities of these four Deputies and the mechanisms for their coordination with international organizations, such as the Fund and World Bank.

Fund Involvement

4. The possible range of activities of the Fund in Kosovo is constrained by the fact that Kosovo is a province of the Republic of Serbia, which in turn is a nonsovereign state within the territory of a nonmember country, the Federal Republic of Yugoslavia (Serbia/Montenegro) (hereafter "FRY"). Thus, Kosovo is neither a Fund member nor a sovereign state.

5. Because Kosovo is not a member, the Fund is prohibited from using its own resources for financial assistance to Kosovo.¹ However, the Fund may provide technical and financial services to nonmembers, including their subdivisions, provided that such services are consistent with the Fund's purposes.² Such services can include technical assistance and the management of administered accounts (not financed with Fund financial resources, but by contributions from donors). The Fund could bear the administrative cost of such services. Executive Board approval would be required for the provision of technical assistance by the staff or for the opening of an administered account.³

6. With regard to technical assistance to a province within a sovereign state, in general, pursuant to the principle of international sovereignty, the consent of the state would be required for any specific assistance from the Fund to one of its provinces. In the case of Kosovo, however, the FRY has accepted the proposals of the EU envoy and the special envoy of the Russian Federation for the establishment of an interim administration for Kosovo, to be decided by the Security Council of the United Nations (paragraph 2 and Annex 2, paragraph 5

¹ Article V, Section 2(a) states that "...transactions on the account of the Fund shall be limited to transactions for the purposes of supplying a member..."

² Under Article V, Section 2(b), "If requested, the Fund may decide to perform financial and technical services, including the administration of resources contributed by members, that are consistent with the purposes of the Fund. Operations involved in the performance of such financial services shall not be on the account of the Fund. Services under this section shall not impose any obligation on a member without its consent."

³ Rule N-16 (d) of the Fund's Rules and Regulations.

of the Resolution). Therefore, in this case the Fund may provide technical assistance on the basis of a request from the Secretary General or his representative.

7. With respect to the extent of possible Fund involvement in Kosovo, the Resolution lists the main responsibilities of the international civil presence, including "...supporting the reconstruction of key infrastructure and other economic reconstruction." (paragraph 11 and in particular subparagraph (g)). Against this background, Fund technical assistance would be concentrated initially in the areas of fiscal policy, the banking and payments system, monetary and trade policies (insofar as these fall within the scope of responsibilities of the interim administration), and the development of certain other key aspects of the legal and institutional framework of a market economy. Technical assistance of the Fund in these areas is consistent with the purposes of the Fund as set out in Article I of the Articles of Agreement. These activities would be carried out in close partnership with the World Bank, EU and other international organizations and donors.

Issues

8. There is clearly an issue of balance between the principles of "substantial autonomy" for Kosovo and the recognition of the sovereignty and territorial integrity of the FRY. The Resolution provides for a "political process towards the establishment of an interim political framework providing for a substantial self-government for Kosovo, taking full account of the Rambouillet accords and the principles of sovereignty and territorial integrity of the Federal Republic of Yugoslavia and other countries in the region..." (paragraph 8 of Annex 2). Under the Rambouillet accords, the FRY remains responsible for a number of important areas of economic policy (including, inter alia, monetary policy, customs policy, and Federal taxes). The phrase "taking full account" does not mean that the Rambouillet accords are legally binding for the interim civil presence in Kosovo. In essence, the reference represents a political statement, the exact implications of which are still to be determined. Thus, the Rambouillet accords can guide the future relations between the FRY and Kosovo, but subject to the Resolution and other terms of the peace process. In view of the uncertainty that may arise as to the boundary line on any given issue, the staff would propose to proceed cautiously in dealing with requests for technical services for Kosovo and to apprise the Board of major developments in the interpretation of these provisions.

9. It should be noted that staff members present in Kosovo would not have the privileges and immunities afforded by Fund members to Fund officials in the performance of their duties under the Articles. As a practical matter, however, this may be less of an issue than risks to their physical safety. On the latter issue, the Field Security Office is in close contact with UN agencies currently operating in Kosovo, in order to ensure that appropriate conditions are in place prior to the travel of any Fund staff to Kosovo.

Recommendation

10. The staff recommends that the Executive Board authorize the Managing Director to approve the provision of technical services to Kosovo as may be requested by, or under the authority of, the Secretary-General of the UN pursuant to the relevant decisions of the Security Council. In the immediate future, this would include consultation with the UN and UNMIK on the broad strategies for the development of the international civil presence and the development of coordination mechanisms and, as conditions permit, the provision of technical assistance in the areas identified in paragraph 7, above. The staff would keep the Board informed regularly of its involvement in the provision of technical services to Kosovo.

Proposed decision

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

The Executive Board authorizes the Managing Director to approve the provision of technical services to Kosovo consistent with the terms of Resolution No. 1244 (June 10, 1999) and other relevant decisions of the UN Security Council.

UNITED
NATIONS

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Security Council

Distr.
GENERAL

S/RES/1244 (1999)
10 June 1999

RESOLUTION 1244 (1999)

Adopted by the Security Council at its 4011th meeting,
on 10 June 1999

The Security Council,

Bearing in mind the purposes and principles of the Charter of the United Nations, and the primary responsibility of the Security Council for the maintenance of international peace and security,

Recalling its resolutions 1160 (1998) of 31 March 1998, 1199 (1998) of 23 September 1998, 1203 (1998) of 24 October 1998 and 1239 (1999) of 14 May 1999,

Regretting that there has not been full compliance with the requirements of these resolutions,

Determined to resolve the grave humanitarian situation in Kosovo, Federal Republic of Yugoslavia, and to provide for the safe and free return of all refugees and displaced persons to their homes,

Condemning all acts of violence against the Kosovo population as well as all terrorist acts by any party,

Recalling the statement made by the Secretary-General on 9 April 1999, expressing concern at the humanitarian tragedy taking place in Kosovo,

Reaffirming the right of all refugees and displaced persons to return to their homes in safety,

Recalling the jurisdiction and the mandate of the International Tribunal for the Former Yugoslavia,

Welcoming the general principles on a political solution to the Kosovo crisis adopted on 6 May 1999 (S/1999/516, annex 1 to this resolution) and welcoming also the acceptance by the Federal Republic of Yugoslavia of the principles set forth in points 1 to 9 of the paper presented in Belgrade on

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2 June 1999 (S/1999/649, annex 2 to this resolution), and the Federal Republic of Yugoslavia's agreement to that paper,

Reaffirming the commitment of all Member States to the sovereignty and territorial integrity of the Federal Republic of Yugoslavia and the other States of the region, as set out in the Helsinki Final Act and annex 2,

Reaffirming the call in previous resolutions for substantial autonomy and meaningful self-administration for Kosovo,

Determining that the situation in the region continues to constitute a threat to international peace and security,

Determined to ensure the safety and security of international personnel and the implementation by all concerned of their responsibilities under the present resolution, and acting for these purposes under Chapter VII of the Charter of the United Nations,

1. Decides that a political solution to the Kosovo crisis shall be based on the general principles in annex 1 and as further elaborated in the principles and other required elements in annex 2;

2. Welcomes the acceptance by the Federal Republic of Yugoslavia of the principles and other required elements referred to in paragraph 1 above, and demands the full cooperation of the Federal Republic of Yugoslavia in their rapid implementation;

3. Demands in particular that the Federal Republic of Yugoslavia put an immediate and verifiable end to violence and repression in Kosovo, and begin and complete verifiable phased withdrawal from Kosovo of all military, police and paramilitary forces according to a rapid timetable, with which the deployment of the international security presence in Kosovo will be synchronized;

4. Confirms that after the withdrawal an agreed number of Yugoslav and Serb military and police personnel will be permitted to return to Kosovo to perform the functions in accordance with annex 2;

5. Decides on the deployment in Kosovo, under United Nations auspices, of international civil and security presences, with appropriate equipment and personnel as required, and welcomes the agreement of the Federal Republic of Yugoslavia to such presences;

6. Requests the Secretary-General to appoint, in consultation with the Security Council, a Special Representative to control the implementation of the international civil presence, and further requests the Secretary-General to instruct his Special Representative to coordinate closely with the international security presence to ensure that both presences operate towards the same goals and in a mutually supportive manner;

7. Authorizes Member States and relevant international organizations to establish the international security presence in Kosovo as set out in point 4 of annex 2 with all necessary means to fulfil its responsibilities under paragraph 9 below;

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8. Affirms the need for the rapid early deployment of effective international civil and security presences to Kosovo, and demands that the parties cooperate fully in their deployment;

9. Decides that the responsibilities of the international security presence to be deployed and acting in Kosovo will include:

(a) Deterring renewed hostilities, maintaining and where necessary enforcing a ceasefire, and ensuring the withdrawal and preventing the return into Kosovo of Federal and Republic military, police and paramilitary forces, except as provided in point 6 of annex 2;

(b) Demilitarizing the Kosovo Liberation Army (KLA) and other armed Kosovo Albanian groups as required in paragraph 15 below;

(c) Establishing a secure environment in which refugees and displaced persons can return home in safety, the international civil presence can operate, a transitional administration can be established, and humanitarian aid can be delivered;

(d) Ensuring public safety and order until the international civil presence can take responsibility for this task;

(e) Supervising demining until the international civil presence can, as appropriate, take over responsibility for this task;

(f) Supporting, as appropriate, and coordinating closely with the work of the international civil presence;

(g) Conducting border monitoring duties as required;

(h) Ensuring the protection and freedom of movement of itself, the international civil presence, and other international organizations;

10. Authorizes the Secretary-General, with the assistance of relevant international organizations, to establish an international civil presence in Kosovo in order to provide an interim administration for Kosovo under which the people of Kosovo can enjoy substantial autonomy within the Federal Republic of Yugoslavia, and which will provide transitional administration while establishing and overseeing the development of provisional democratic self-governing institutions to ensure conditions for a peaceful and normal life for all inhabitants of Kosovo;

11. Decides that the main responsibilities of the international civil presence will include:

(a) Promoting the establishment, pending a final settlement, of substantial autonomy and self-government in Kosovo, taking full account of annex 2 and of the Rambouillet accords (S/1999/648);

(b) Performing basic civilian administrative functions where and as long as required;

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(c) Organizing and overseeing the development of provisional institutions for democratic and autonomous self-government pending a political settlement, including the holding of elections;

(d) Transferring, as these institutions are established, its administrative responsibilities while overseeing and supporting the consolidation of Kosovo's local provisional institutions and other peace-building activities;

(e) Facilitating a political process designed to determine Kosovo's future status, taking into account the Rambouillet accords (S/1999/648);

(f) In a final stage, overseeing the transfer of authority from Kosovo's provisional institutions to institutions established under a political settlement;

(g) Supporting the reconstruction of key infrastructure and other economic reconstruction;

(h) Supporting, in coordination with international humanitarian organizations, humanitarian and disaster relief aid;

(i) Maintaining civil law and order, including establishing local police forces and meanwhile through the deployment of international police personnel to serve in Kosovo;

(j) Protecting and promoting human rights;

(k) Assuring the safe and unimpeded return of all refugees and displaced persons to their homes in Kosovo;

12. Emphasizes the need for coordinated humanitarian relief operations, and for the Federal Republic of Yugoslavia to allow unimpeded access to Kosovo by humanitarian aid organizations and to cooperate with such organizations so as to ensure the fast and effective delivery of international aid;

13. Encourages all Member States and international organizations to contribute to economic and social reconstruction as well as to the safe return of refugees and displaced persons, and emphasizes in this context the importance of convening an international donors' conference, particularly for the purposes set out in paragraph 11 (g) above, at the earliest possible date;

14. Demands full cooperation by all concerned, including the international security presence, with the International Tribunal for the Former Yugoslavia;

15. Demands that the KLA and other armed Kosovo Albanian groups end immediately all offensive actions and comply with the requirements for demilitarization as laid down by the head of the international security presence in consultation with the Special Representative of the Secretary-General;

16. Decides that the prohibitions imposed by paragraph 8 of resolution 1160 (1998) shall not apply to arms and related matériel for the use of the international civil and security presences;

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17. Welcomes the work in hand in the European Union and other international organizations to develop a comprehensive approach to the economic development and stabilization of the region affected by the Kosovo crisis, including the implementation of a Stability Pact for South Eastern Europe with broad international participation in order to further the promotion of democracy, economic prosperity, stability and regional cooperation;

18. Demands that all States in the region cooperate fully in the implementation of all aspects of this resolution;

19. Decides that the international civil and security presences are established for an initial period of 12 months, to continue thereafter unless the Security Council decides otherwise;

20. Requests the Secretary-General to report to the Council at regular intervals on the implementation of this resolution, including reports from the leaderships of the international civil and security presences, the first reports to be submitted within 30 days of the adoption of this resolution;

21. Decides to remain actively seized of the matter.

Annex 1

Statement by the Chairman on the conclusion of the meeting
of the G-8 Foreign Ministers held at the Petersberg Centre
on 6 May 1999

The G-8 Foreign Ministers adopted the following general principles on the political solution to the Kosovo crisis:

- Immediate and verifiable end of violence and repression in Kosovo;
- Withdrawal from Kosovo of military, police and paramilitary forces;
- Deployment in Kosovo of effective international civil and security presences, endorsed and adopted by the United Nations, capable of guaranteeing the achievement of the common objectives;
- Establishment of an interim administration for Kosovo to be decided by the Security Council of the United Nations to ensure conditions for a peaceful and normal life for all inhabitants in Kosovo;
- The safe and free return of all refugees and displaced persons and unimpeded access to Kosovo by humanitarian aid organizations;
- A political process towards the establishment of an interim political framework agreement providing for a substantial self-government for Kosovo, taking full account of the Rambouillet accords and the principles of sovereignty and territorial integrity of the Federal Republic of Yugoslavia and the other countries of the region, and the demilitarization of the KLA;

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- Comprehensive approach to the economic development and stabilization of the crisis region.

Annex 2

Agreement should be reached on the following principles to move towards a resolution of the Kosovo crisis:

1. An immediate and verifiable end of violence and repression in Kosovo.
2. Verifiable withdrawal from Kosovo of all military, police and paramilitary forces according to a rapid timetable.
3. Deployment in Kosovo under United Nations auspices of effective international civil and security presences, acting as may be decided under Chapter VII of the Charter, capable of guaranteeing the achievement of common objectives.
4. The international security presence with substantial North Atlantic Treaty Organization participation must be deployed under unified command and control and authorized to establish a safe environment for all people in Kosovo and to facilitate the safe return to their homes of all displaced persons and refugees.
5. Establishment of an interim administration for Kosovo as a part of the international civil presence under which the people of Kosovo can enjoy substantial autonomy within the Federal Republic of Yugoslavia, to be decided by the Security Council of the United Nations. The interim administration to provide transitional administration while establishing and overseeing the development of provisional democratic self-governing institutions to ensure conditions for a peaceful and normal life for all inhabitants in Kosovo.
6. After withdrawal, an agreed number of Yugoslav and Serbian personnel will be permitted to return to perform the following functions:
 - Liaison with the international civil mission and the international security presence;
 - Marking/clearing minefields;
 - Maintaining a presence at Serb patrimonial sites;
 - Maintaining a presence at key border crossings.
7. Safe and free return of all refugees and displaced persons under the supervision of the Office of the United Nations High Commissioner for Refugees and unimpeded access to Kosovo by humanitarian aid organizations.
8. A political process towards the establishment of an interim political framework agreement providing for substantial self-government for Kosovo, taking full account of the Rambouillet accords and the principles of sovereignty and territorial integrity of the Federal Republic of Yugoslavia and the other

countries of the region, and the demilitarization of UCK. Negotiations between the parties for a settlement should not delay or disrupt the establishment of democratic self-governing institutions.

9. A comprehensive approach to the economic development and stabilization of the crisis region. This will include the implementation of a stability pact for South-Eastern Europe with broad international participation in order to further promotion of democracy, economic prosperity, stability and regional cooperation.

10. Suspension of military activity will require acceptance of the principles set forth above in addition to agreement to other, previously identified, required elements, which are specified in the footnote below.¹ A military-technical agreement will then be rapidly concluded that would, among other things, specify additional modalities, including the roles and functions of Yugoslav/Serb personnel in Kosovo:

Withdrawal

- Procedures for withdrawals, including the phased, detailed schedule and delineation of a buffer area in Serbia beyond which forces will be withdrawn;

Returning personnel

- Equipment associated with returning personnel;
- Terms of reference for their functional responsibilities;
- Timetable for their return;
- Delineation of their geographical areas of operation;
- Rules governing their relationship to the international security presence and the international civil mission.

Notes

¹ Other required elements:

- A rapid and precise timetable for withdrawals, meaning, e.g., seven days to complete withdrawal and air defence weapons withdrawn outside a 25 kilometre mutual safety zone within 48 hours;
- Return of personnel for the four functions specified above will be under the supervision of the international security presence and will be limited to a small agreed number (hundreds, not thousands);

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- Suspension of military activity will occur after the beginning of verifiable withdrawals;
 - The discussion and achievement of a military-technical agreement shall not extend the previously determined time for completion of withdrawals.
-