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The Acting Chair's Concluding Remarks
Strengthening the Effectiveness of Article VIII, Section 5
Executive Board Meeting 03/54
June 9, 2003

Executive Directors emphasized the importance of accurate, timely, and comprehensive information for every aspect of the Fund's activities, including surveillance and financial assistance. The Articles of Agreement and decisions of the Executive Board establish a legal framework for the reporting of information by members. Article VIII, Section 5, a central pillar of this legal framework, requires members to report certain types of information for the purposes of the Fund's activities. More specifically, it lists several categories of information as the minimum necessary for the Fund's activities and empowers the Fund to require additional information from members. The Fund's Articles also specify sanctions that can be applied in those relatively rare cases involving breaches of obligation that are not amenable to cooperative approaches. All Directors expressed strong support for the voluntary and cooperative approaches underlying the Fund's relations with members and underscored the importance of preserving it even as the legal framework for data reporting is clarified and strengthened.

Directors discussed the manner in which the effectiveness of Article VIII, Section 5 could be strengthened. They agreed that the coverage of categories of information in the provision is now relatively narrow, given changes in the international economy, and excludes key categories of monetary and fiscal information. Directors also reviewed the application of Article VIII, Section 5 to avoid a possible proliferation of nuisance cases. They acknowledged that the sanctions specified under Article XXVI for a breach of obligation have rarely been applied, perhaps in part because they are relatively severe.

Directors noted that the voluntary cooperation of members in providing the information the Fund needs to conduct its operations is working well. In recent years, several initiatives based on such a voluntary approach—notably the Special Data Dissemination Standard (SDDS) and the General Data Dissemination System (GDDS), as well as Reports on the Observance of Standards and Codes (ROSCs)—have resulted in an increase in the quantity and quality of data provided to the Fund and to the public. In addition, nearly all member country authorities have promoted the development and dissemination of economic and financial data to improve the national policymaking process and national ownership of sound policy reforms. As a result, members now provide extensive information to the Fund that far exceeds the requirements of Article VIII, Section 5, which was crafted to reflect the realities of 1944.

Against this background, Directors considered how best to update the provisions of Article VIII, Section 5, in particular by expanding the scope of the minimum data

requirements. A majority of the Board agreed that it would be useful to adopt a decision of general applicability expanding the coverage of Article VIII, Section 5, to bring it more closely into line with the Fund's data needs. This would help ensure that the Fund has the information needed for effective operations, including surveillance, and strengthen incentives to provide accurate information by aligning members' reporting obligations more closely to the actual practice in most cases. Directors favoring this approach felt that it is fully consistent with, and supportive of, the voluntary and cooperative nature of the Fund. Many Directors, however, favored retaining the present coverage of Article VIII, Section 5 and the Fund's continued reliance on the voluntary provision of additional information, which they felt are more consistent with the voluntary and cooperative nature of the Fund and avoids an overly formalistic approach. It was noted that the Fund's Guidelines on Misreporting do not distinguish between intentional and unintentional misreporting and do not give consideration to the materiality of instances of misreporting. Some Directors suggested that these aspects of the Guidelines on Misreporting should be reconsidered.

Directors discussed the data set members would be required to provide to the Fund under Article VIII, Section 5. Many Directors favored modifying the staff proposal to exclude elements that go beyond the requirements of the SDDS, while a number of Directors supported requiring the core set of data for Fund surveillance. They noted the need to ensure that the information required includes the minimum needed for effective surveillance, while avoiding an undue proliferation of data requirements, or requirements that are over-ambitious, in light of capacity constraints and institutional limitations in many countries.

A majority of the Board agreed that those data requirements that would be applicable to all members could be supplemented by specific data requirements for individual members if warranted by the specific circumstances of the member, while cautioning that the Board should refrain from excessive case-by-case specification to ensure uniformity of treatment of members. Directors also agreed that, to allow members time to ensure their compliance, the additional information reporting requirements would come into effect one year after the relevant Board decision.

Directors also agreed to limit the circumstances under which Article VIII, Section 5, would be applied in the context of performance criteria associated with the use of the Fund's general resources. The Article will apply only in situations in which (i) a purchase was made on the basis of the information provided by the member, or (ii) the information was reported to the Board in the context of a review which was subsequently completed or of a decision of the Board to grant a waiver for non-observance of a performance criterion; moreover, Article VIII, Section 5 will only apply where a member reports that a performance criterion was met when in fact it was not, or where the member reports that a performance criterion was breached by a particular margin and it is subsequently discovered that the margin of non-observance was greater than originally reported. This approach would not affect the application of Article VIII, Section 5 outside the context of performance criteria in the General Resources Account.

The vast majority of the members provide the Fund with the core statistical indicators for Article IV surveillance, while 53 members currently subscribe to the SDDS. Nevertheless, Directors acknowledged that technical capacity varies across the membership. It is therefore appropriate that Article VIII, Section 5 establishes obligations for members to report information to the Fund only to the extent that they have the capacity to do so. Directors noted that assessments of members' capacity to report required information, and the implications of data revisions, must continue to involve an element of judgment on the basis of best statistical practice and experience, with the member being given the benefit of any doubt. They also stressed the importance of the Fund's technical assistance in strengthening members' capacity to provide the needed information, and considered that the provision of technical assistance to help members meet their obligations under Article VIII, Section 5 should be given high priority. Directors underscored the need to preserve the voluntary nature of existing data dissemination standards, and to continue efforts to pursue cooperative approaches to resolving data reporting problems.

Directors also agreed to adopt a new framework of procedures to be followed and remedies to be applied in cases in which a member is in breach of Article VIII, Section 5. Specifically, in cases in which a member reported required information inaccurately, or failed to report it, despite having the capacity to do so, the Fund would act in accordance with a framework of procedures that takes account of remedies and corrective actions voluntarily taken by the member and, where such measures proved insufficient, sanctions imposed by the Fund. As one element of this framework, Directors agreed to establish the practice that, within 90 days of issuance of the Managing Director's report on a possible breach of obligation under Article VIII, Section 5, the Board will take a decision on the potential breach. Some Directors favored developing an indicative timeline for subsequent actions by the Board. Most Directors supported the proposal for a declaration of censure as an intermediate step before the imposition of sanctions under Article XXVI.

Directors considered the issue of publication of relevant documents under the proposed remedial framework. A majority of the Board agreed that actions taken by the Board regarding breaches of Article VIII, Section 5 should be published, as should decisions by management to delay the completion of an Article IV consultation due to a member's failure to provide adequate data for effective surveillance. It was agreed that actions other than those respecting the delay of an Article IV consultation should be made public only after the Board has decided that a breach of obligation has occurred. Therefore, the Managing Director's initial reports on possible breaches of obligation and intermediate Board requests for further clarification would not be published. Directors acknowledged that publication of misreporting and delays in Article IV consultations could unduly stigmatize countries that had difficulty reporting accurate information but were taking steps to overcome them, and could also undermine the authorities' credibility and lead to adverse reactions by financial markets and credit-rating agencies. It was therefore agreed that, consistent with the policy on misreporting adopted in 2000, the information will be released in a way that clarifies the circumstances of the particular case, and that the Board will be given the opportunity to review the text of the public announcement.

Directors asked staff to return to the Board with proposed decisions reflecting the conclusions of this meeting, including a revised proposal for the data set that members would be required to provide to the Fund.