

**FOR  
AGENDA**

SM/03/386  
Correction 1

December 9, 2003

To: Members of the Executive Board

From: The Secretary

Subject: **Strengthening the Effectiveness of Article VIII, Section 5—Proposed Decisions**

The attached corrections to SM/03/386 (11/26/03) have been provided by the staff:

**Page 8, para. 6, last line:** for “of paragraph 8” read “of paragraph 9”

**Page 12, para. 16, penultimate line:** for “ in paragraph 10” read “in paragraph 11”

Questions may be referred to Mr. Leckow (ext. 34799) and Ms. Mouysset (ext. 38210) in LEG; and Mr. Fetherston (ext. 38761), Mr. Desruelle (ext. 34373), and Mr. T. Lane (ext. 37668) in PDR.

This document will shortly be posted on the extranet, a secure website for Executive Directors and member country authorities.

Att: (2)

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Department Heads



information was reported to the Executive Board in the context of a review which was subsequently completed or of a decision of the Executive Board to grant a waiver for non-observance of the relevant performance criterion.

**Procedures prior to report by the Managing Director to the Executive Board**

4. Whenever it appears to the Managing Director that a member is not providing information required under Article VIII, Section 5, the Managing Director shall call upon the member to provide the required information; before making a formal representation to the member, the Managing Director shall inform, and enlist the cooperation of, the Executive Director for the member. If the member persists in not providing such information and has not demonstrated to the satisfaction of the Managing Director that it is unable to provide such information, the Managing Director shall notify the member of his intention to make a report to the Executive Board under Rule K-1 for breach of obligation unless, within a specified period of not less than a month, such information is provided or the member demonstrates to his satisfaction that it is unable to provide such information.

5. Whenever it appears to the Managing Director that a member has provided inaccurate data on information required under Article VIII, Section 5, the Managing Director shall consult with the member to assess whether the inaccuracy is due to a lack of capacity on the part of the member. If, after consulting with the member, the Managing Director finds no reason to believe that the inaccuracy is due to a lack of capacity on the part of the member, he shall notify the member of his intention to make a report to the Executive Board for breach of

obligation under Rule K-1 unless the member demonstrates to his satisfaction within a period of not less than one month that it was unable to provide more accurate information.

6. If the Managing Director concludes that the nonprovision of information or the provision of inaccurate information is due to the member's inability to provide the required information in a timely and accurate fashion, he may so inform the Executive Board. In that case, the Executive Board may decide to apply the provisions of paragraph 9 below.

#### **Report by the Managing Director**

7. After the expiration of the period specified in the Managing Director's notification to the member, the Managing Director shall make a report to the Executive Board under Rule K-1 for breach of obligation, unless the Managing Director is satisfied that the member's response meets the requirements specified in his notification. The report shall identify the nature of the breach and include the member's response (if any) to the Managing Director's notification , and may recommend the type of remedial actions to be taken by the member.

#### **Consideration of the Report**

8. Within 90 days of the issuance of the Managing Director's report, the Executive Board will consider the report with a view to deciding whether the member has breached its obligations. Before reaching a decision, the Executive Board may request from the staff and the authorities additional clarification of the facts respecting the alleged breach of obligation; the Executive Board will specify a deadline for the provision of such clarification.

12. The declaration of censure will identify the breach of obligation under Article VIII, Section 5 and the specified remedial actions the member has failed to take within the specified timeframe. The declaration may specify a new deadline for the implementation by the member of the specified remedial actions; in addition, the declaration may identify further remedial actions for the member to implement before the specified deadline. It will note that the member's failure to implement any of the actions called for in the declaration within the specified timeframe may result in the issuance of a complaint for ineligibility under Article XXVI (a) and the imposition of this measure.

#### **Sanctions under Article XXVI**

13. Following the adoption of a declaration of censure, if the Board finds that the member has failed to implement any of the actions called for in the declaration within the specified timeframe, the Managing Director may issue a complaint to the Executive Board and recommend that the Executive Board declare the member ineligible to use the general resources of the Fund for its breach of obligation under Article VIII, Section 5. The Executive Board decision declaring the member ineligible to use the general resources of the Fund will note that the member's persistence in its failure to fulfill its obligations under Article VIII, Section 5 following the declaration of ineligibility may result in the issuance of a complaint for the suspension of the member's voting and related rights and in the imposition of this measure.

14. If the member persists in its failure to fulfill its obligations under Article VIII, Section 5 for six months after the declaration of ineligibility, the Managing Director may issue a complaint and recommend that the Fund suspend the member's voting and related rights. The Executive Board decision suspending the member's voting and related rights will note that the member's persistence in its failure to fulfill its obligations under Article VIII, Section 5 following the declaration of suspension of voting and related rights may result in the issuance of a complaint for compulsory withdrawal and in the initiation of the proceedings for the compulsory withdrawal of the member from the Fund.

15. If the member persists in its failure to fulfill its obligation under Article VIII, Section 5 for six months after the suspension of its voting rights, the Managing Director may initiate proceedings for the compulsory withdrawal of the member from the Fund.

16. All the Executive Board decisions arising from a breach of obligation taken under the procedures described above, including a decision to issue the statement of concern referred to in paragraph 11, will give rise to a public announcement with prior review of the text by the Executive Board.