

BUFF/08/114

July 23, 2008

**Statement by the General Counsel on the Fund's Framework for Country  
Contributions—the Roles of the Executive Board and Management  
Executive Board Meeting  
on the Policy for Country Contributions for Capacity Building  
August 8, 2008**

1. This note responds to a question raised during the recent Executive Board meeting on the above-referenced subject on the respective roles of the Executive Board and management in the adoption of a decision that would implement the charging framework set forth in *Enhancing the Impact of Fund Technical Assistance* (SM/08/97).<sup>1</sup>

**General Principles**

2. ***The respective roles of the Executive Board and the Managing Director with regard to charging for technical assistance ultimately rest upon the general allocation of responsibilities between the Board and management as set out in the Fund's Articles.***

Article XII, Section 3(a) provides that “[t]he Executive Board shall be responsible for conducting the business of the Fund, and for this purpose shall exercise all powers delegated to it by the Board of Governors.” Article XII, Section 5(b) provides that “[t]he Managing Director shall be the chief of the operating staff of the Fund and shall conduct, under the direction of the Executive Board, the ordinary business of the Fund.” As is clear from these provisions, the Managing Director and the Executive Board exercise separate but closely related powers in the conduct of the business of the Fund.

3. ***While the above provision could be made more operational through a formal interpretation (pursuant to Article XXIX), the Executive Board has refrained from doing so.*** Rather, the delineation of responsibilities between the Executive Board and management has evolved through the adoption of general decisions by the Executive Board or, in the absence of such decisions, through practice. There are numerous examples where the scope of management's authority has been specifically defined by the Executive Board through general decisions. In the area of technical assistance, an important decision of this nature was the modification of Rule N-16(d) in 1991: while the acceptance of all requests for technical assistance by staff before that time had to be approved by the Executive Board, management was henceforth authorized to accept requests for such technical assistance from members without Executive Board approval, giving management significant authority over the conduct

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<sup>1</sup> It is LEG's understanding that the framework described in SM/08/97, although not explicit, is limited in application to charging for TA to Fund members.

of technical assistance.<sup>2</sup> An example where the Executive Board adopted a general decision that circumscribed rather than expanded the Managing Director's authority was the exceptional access policy: this policy created a limited but important exception to the previous practice whereby the Managing Director had exclusive authority to negotiate programs supported by the use of the Fund's resources.<sup>3</sup>

### **Charging for Technical Assistance: Recent Practice and Decisions**

4. ***In 1996, a comprehensive framework was put in place that specified the precise amount of contribution to be required for each country receiving Fund technical assistance; this framework was amended in 2001.***<sup>4</sup> Under this framework, contributions in specified amounts would be required for all long-term expert assignments and would be based upon the per capita income group in which the recipient fell. The specified amounts were regarded as the minimum acceptable levels and countries were encouraged to exceed them whenever possible.<sup>5</sup> Countries would not be required to make contributions towards short-term technical assistance. This framework was amended in 2001 when the number of per capital income groups was reduced from four to three, and the contributions to be required of the countries in the lowest income group reduced.<sup>6</sup> Importantly, the changes to the framework envisaged the introduction of charges for short-term technical assistance provided to high-income countries. However, following consultation with the Board, management ultimately refrained from implementing this change to the framework.<sup>7</sup>

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<sup>2</sup> Rule N-16 (d) was amended to provide that, henceforth, only the acceptance of requests for technical assistance from non-members and international agencies would require the approval of the Executive Board. As noted in the relevant Board paper (EBD/91/244), "the understanding, therefore, would be that the Managing Director would accept requests for technical assistance from members as part of the "ordinary business" of the Fund under Article XII, Section 4 (b)."

<sup>3</sup> The exceptional access policy established procedures that require the Managing Director to engage in informal consultations with the Executive Board both prior to and during program negotiations.

<sup>4</sup> Prior to the introduction of this framework, the Managing Director negotiated, on a case-by-case basis, the amount of reimbursement to be required of members benefiting from long-term expert assignments; the specific amounts took into account a country's ability to pay. It was not normally the practice of the Fund to charge for short-term technical assistance.

<sup>5</sup> See *Country Contributions for Technical Assistance* (EB/CB/95/5, 7/11/95); *Additional Information on Country Contributions for Technical Assistance* (EB/CB/95/5, Supplement 1, 10/25/95); *Management Guidelines on Country Contributions for Technical Assistance* (SM/96/101, 4/26/96); *Administrative and Capital Budgets for FY 1997* (EBAP/96/31, 4/1/96).

<sup>6</sup> See *Ensuring Alignment of Technical Assistance with the IMF's Policy Priorities* (SM/00/284, 12/20/00); *Ensuring Alignment of Technical Assistance with the IMF's Policy Priorities— Country Contributions for Technical Assistance* (SM/00/284, Supplement 1, 12/20/00).

<sup>7</sup> Specifically, the summing up stated that "[i]n line with the comments of several Directors, management will undertake to review again the new charges proposed for short-term TA before this specific revision is actually implemented."

5. ***The framework for country contributions described above was introduced (in 1996) and amended (in 2001) through decisions adopted by the Managing Director, following extensive consultation with the Executive Board.*** In both cases, the consultations with the Executive Board led management to revise the framework it had originally envisaged. The Executive Board's acceptance that the Managing Director had the authority to implement these decisions was transparent during the Board's deliberations. In the summing up for the 2001 Board discussion, "Directors *took note of management's decision* (emphasis added) to revise the application of the country contributions policy by reducing the number of country groupings from four to three, and by removing the requirement of a dollar-denominated contribution from low-income countries and charging full cost recovery to the high income countries."<sup>8</sup>

6. ***The process envisaged to implement the charging framework recently set forth in SM/08/97 is consistent with the one relied upon in 1996 and 2001.*** Moreover, it is consistent with the understandings regarding Management's responsibilities in this area that were reflected in the Board's 2001 discussions.

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<sup>8</sup> The references to Directors "taking note" of management's "decision" to revise the policy recognize the authority of management to implement these changes without formal Board approval. Moreover, in the Executive Board discussion, in response to a question from an Executive Director as to whether a formal Board decision would be taken, the Acting Chairman responded that "management had already approved the proposal ... but was willing to look further into the implications of charging for TA, taking into consideration Directors' comments—particularly, charging the staff time for short-term TA-before drawing up operational guidelines." See: EBM/01/2, January 5, 2001.