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CONFIDENTIAL

December 21, 1992

To: Members of the Executive Board

From: The Acting Secretary

Subject: Czech and Slovak Federal Republic - Cessation of Membership,  
Allocation of Assets and Liabilities in the Fund, and Succession  
to Membership in the Fund

Attached for consideration by the Executive Directors is a paper on the cessation of membership, allocation of assets and liabilities in the Fund, and succession to membership in the Fund by the Czech and Slovak Federal Republic. A draft decision appears on pages 4-6.

This matter, together with the paper on quota calculations for the Czech Republic and the Slovak Republic (EBS/92/213, 12/16/92) will be brought to the agenda for discussion on Wednesday, December 30, 1992.

Mr. Francotte (ext. 37798) is available to answer technical or factual questions relating to this paper prior to the Board discussion.

Att: (1)

Other Distribution:  
Department Heads



INTERNATIONAL MONETARY FUND

Czech and Slovak Federal Republic  
Cessation of Membership, Allocation of Assets  
and Liabilities in the Fund, and Succession  
to Membership in the Fund

Prepared by the Legal Department

(In consultation with the European I, Secretary's  
and Treasurer's Departments)

Approved by François Gianviti

December 21, 1992

On November 25, 1992, the Federal Assembly of the Czech and Slovak Federal Republic (CSFR) decided that "after the passage of December 31, 1992, the Czech and Slovak Federal Republic shall cease to exist" and that "the Czech Republic and the Slovak Republic shall be the successor states of the Czech and Slovak Federal Republic". 1/

This decision was communicated to the Fund in a letter to the Managing Director dated December 4, 1992 from the Ministers of Finance of the CSFR, of the Czech Republic and of the Slovak Republic, respectively (Attachment I). In this letter, the Ministers of Finance of the Czech Republic and of the Slovak Republic also requested, on behalf of their respective governments, that the Czech Republic and the Slovak Republic succeed to the membership of the CSFR in the Fund on January 1, 1993. The authorities have thus requested to succeed simultaneously to membership in the Fund, consistent with the complete succession approach described in EBD/92/146 (7/15/92).

In order to allow the Czech and the Slovak Republics to succeed simultaneously on January 1, 1993 to membership in the Fund, as they have requested, it is proposed that the Executive Board adopt the draft decision set forth below. The proposed decision concerns the status of the CSFR and related issues of allocation of the assets and liabilities in the Fund and succession to the membership of the CSFR in the Fund.

1. Status of the CSFR

Under paragraph 1 of the draft decision, the Fund would take note of the CSFR's decision to dissolve as of midnight on December 31, 1992, and would find that the CSFR will cease to exist, and therefore

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1/ Constitutional Act on the Dissolution of the Czech and Slovak Federal Republic of November 25, 1992, Article 1, paragraphs 1 and 2.

cease to be a member of the Fund, as of that date, subject to subsequent confirmation by the successors that the dissolution has taken place on such date. The authorities of the two republics have agreed to confirm the dissolution by communication to the Managing Director on January 1, 1993.

2. Allocation of assets and liabilities among the successors

Under paragraph 2, the Fund would find that the Czech Republic and the Slovak Republic are the two successors to the assets and liabilities of the CSFR in the Fund, including those in the SDR Department. The allocation of the assets and liabilities would be based on each successor's share in the aggregate of their calculated quotas as applied to the present quota of the CSFR. 1/ The quota of the CSFR has already been increased under the Ninth General Review of Quotas, as the CSFR has both consented to, and paid for, the quota increase proposed for it.

Each successor would be asked to consent to the allocation of assets and liabilities within one month after the date of the decision. Such consent would be irrevocable. Failure by a successor to consent to the allocation would preclude its succession to the membership of the CSFR in the Fund; its account with the Fund would have to be settled, and it could only become a member in accordance with the admission procedure under Article II, Section 2. If a successor did not consent to its allocation, and successfully challenged the allocation before an arbitral tribunal, the share of the other successor would be adjusted accordingly.

The Czech and the Slovak authorities have been informed of the quota calculations contained in EBS/92/213, and it is expected that the Prime Ministers of both republics will, before the meeting of the Executive Board of December 30, indicate their agreement to their shares of the quota, assets and liabilities of the CSFR as shall be specified by the Fund. 2/

3. Succession to membership

Simultaneous succession to membership in the Fund and to participation in the SDR Department will be open to both successors when the following conditions are met (paragraph 3 of the draft decision):

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1/ See "Czech Republic and the Slovak Republic - Quota Calculations", EBS/92/213, (12/16/92).

2/ Copies of these notifications will be circulated to the Executive Board when received in the Fund.

- notifications by both republics, within one month after the decision, of their consents to the allocation of the assets and liabilities as determined by the Fund;

- notifications by both republics that they agree to become members in accordance with the terms and conditions of membership specified in the decision, and that they have taken all the necessary steps to that effect and to carry out their obligations under the Articles;

- absence of arrears to the Fund or in the SDR Department by either successor.

It is not proposed in the circumstances of the CSFR to include an explicit condition of finding by the Fund that the successors are able and willing to carry out their obligations under the Articles. As explained in EBD/92/282 (11/20/92), this finding is normally made implicitly by the Fund in the context of applications for membership and it does not appear necessary to require an explicit finding in the present case. Thus, this finding would be implicitly made at the time the proposed decision is approved.

The staff has been informed that the necessary domestic legal steps have already been taken in the Czech Republic and in the Slovak Republic to enable their respective Prime Ministers to agree to succession to membership in the Fund and in the SDR Department on the terms and conditions to be specified by the Fund. <sup>1/</sup> Formal notifications to that effect from the authorities of both republics are expected to be received before the meeting of the Executive Board of December 30, 1992, together with a notification of their agreement to succeed to membership in the Fund. Formal confirmation, after dissolution of the CSFR, of the agreement of each republic to succeed to membership in the Fund, in accordance with its law and in accordance with the terms and conditions specified by the Executive Board (including the agreement to the allocation of the assets and liabilities) is expected to be communicated to the Fund on January 1, 1993 by the Prime Ministers of the then independent states. Provided that there are no arrears to the Fund by either republic at that time, the two republics would then succeed to membership in the Fund on January 1, 1993.

Succession to membership will be open for a period of six months from the date of the decision. This period may be extended by the Fund. The Fund may also extend the period of consent to the allocation of

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<sup>1/</sup> In the Czech Republic, the Government adopted the decision to agree to succession to membership on December 13 and the National Council gave its consent to the succession on December 15. In the Slovak Republic, the Government's decision was adopted on December 8, and the consent of the National Council was given on December 16.

assets and liabilities. If confirmation of the dissolution of the CSFR is received, but succession to membership does not occur concomitantly (e.g., because the notifications of the agreement of each republic to succeed in accordance with the terms and conditions of the decision have not yet been received), the successors could not exercise the rights or be subject to the obligations of membership until membership becomes effective. Once membership is effective, each successor will inherit a specified share of the current quota of the CSFR in the Fund (i.e., as increased under the Ninth General Review of Quotas), and the successors will be considered to have been members without interruption since the dissolution of the CSFR and to have continued, for their respective shares, the membership of the CSFR in the Fund. However, as noted above, it is expected that in the present case the confirmations of dissolution and the notifications of agreement will be communicated to the Fund, at the same time, on January 1, 1993, so that no hiatus between dissolution and succession or delay in succession to membership is expected to occur.

#### Draft Decision

#### Czech and Slovak Federal Republic Cessation of Membership, Allocation of Assets and Liabilities in the Fund, and Succession to Membership in the Fund

1. In the light of the Constitutional Act of the Federal Assembly of the Czech and Slovak Federal Republic (hereinafter "the CSFR") on the Dissolution of the Czech and Slovak Federal Republic of November 25, 1992, the Fund finds that the CSFR will cease to exist, and therefore will cease to be a member of the Fund, as of January 1, 1993, subject to receipt by the Fund of confirmation of the dissolution of the CSFR from the Czech Republic and the Slovak Republic.

2. (a) The Fund also finds that, upon cessation of membership of the CSFR in the Fund, the Czech Republic and the Slovak Republic shall be the successors to the assets and liabilities of the CSFR in the Fund (hereinafter "the successor(s)"), including those in the SDR Department, and

determines that their respective shares in such assets and liabilities shall be as follows:

Czech Republic	69.61 %
Slovak Republic	30.39 %

(b) If a successor successfully challenges its share of the assets and liabilities as determined in (a) above before an arbitral tribunal established under Article XXIX(c), the share of the other successor, if it has not modified as a result of arbitration, shall be adjusted pro tanto.

3. The successors may succeed to the membership of the CSFR in the Fund in accordance with the following terms and conditions:

(a) The successors shall succeed simultaneously to membership in the Fund when:

(i) each successor has notified the Fund, within the period prescribed in the proviso in (c) below that it agrees that its share in the assets and liabilities of the CSFR in the Fund is as specified in paragraph 2 of this decision;

(ii) each successor has notified the Fund that it agrees, in accordance with its law, to succeed to the membership of the CSFR in the Fund in accordance with all the terms and conditions prescribed in this decision, and that it has taken all steps necessary to enable it to succeed to such membership and carry out all of its obligations under the Articles of Agreement; and

(iii) neither successor has any overdue financial obligation to the Fund or in the SDR Department.

(b) The quota of a successor shall be as follows:

Czech Republic	SDR 589.6 million
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Slovak Republic	SDR 257.4 million
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(c) The successors may succeed to the membership of the CSFR in the Fund pursuant to this decision not later than six months after the date of this decision, provided that the Fund has received the notifications referred to in paragraph (a)(i) above not later than 1 month after the date of this decision. The Fund may decide to extend such periods until such later dates as it may determine.

4. For purposes of this decision, membership in the Fund shall be deemed to include participation in the SDR Department.