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CONFIDENTIAL

December 7, 1992

To: Members of the Executive Board

From: The Secretary

Subject: Socialist Federal Republic of Yugoslavia - 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 status of the Socialist Federal Republic of Yugoslavia (SFRY) and related issues of allocation of the assets and liabilities, and succession to membership of the SFRY in the Fund. This subject, together with the paper on quota calculations for the successor republics of Yugoslavia (EBS/92/206, 12/7/92) is scheduled for discussion on Monday, December 14, 1992. A draft decision appears on pages 4-6.

Mr. Gianviti (ext. 38329) 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

Socialist Federal Republic of Yugoslavia
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 7, 1992

The attached draft decision has been prepared in light of the conclusions of the Executive Board at the meeting of Friday, December 4, 1992 (EBM/92/145 and 146) on the status of the Socialist Federal Republic of Yugoslavia (SFRY) and related issues of allocation of the assets and liabilities and succession to membership of the SFRY in the Fund. 1/

1. Status of the SFRY

Under paragraph 1 of the draft decision, the Fund would find that the SFRY has ceased to exist and has therefore ceased to be a member of the Fund.

2. Allocation of assets and liabilities among successors

Under paragraph 2(a), the Fund would find that there are five successors to the assets and liabilities of the SFRY in the Fund; they are respectively: the Republic of Bosnia and Herzegovina, the Republic of Croatia, the former Yugoslav Republic of Macedonia, 2/ the Republic of Slovenia, and the Federal Republic of Yugoslavia (consisting of Serbia and Montenegro). This finding would be without prejudice to the recognition or nonrecognition of any successor by members of the Fund, which may subject their recognition to certain conditions. Among the successors, the

1/ These issues were discussed in EBD/92/282 (11/20/92).

2/ The designation "former Yugoslav Republic of Macedonia" will be used provisionally by the Fund until a name is agreed upon with the Fund (paragraph 5). This provision is not part of the terms and conditions of membership but rather the expression of a rule of law that a prospective member or a member cannot impose the use of a particular name for itself on the Fund. The inclusion of this provision in the decision is not indispensable, but may be useful for clarification purposes.

allocation of assets and liabilities, which would include those in the SDR Department, would be based on each successor's calculated share in the proposed quota for the SRFY under the Ninth General Review of Quotas (paragraph 2(a)).

Each successor would be asked to consent to the allocation of assets and liabilities within one month after the date of the decision (proviso in paragraph 3(d)); the consent would be irrevocable. Failure by a successor to consent to the allocation would preclude its succession to the membership of the SFRY in the Fund (paragraph 3(a)(i)); its accounts with the Fund would have to be settled, and it could only become a member through the admission procedure under Article II, Section 2.

If a successor did not consent to the allocation, challenged the allocation before an arbitral tribunal and succeeded in its challenge, a prorated adjustment in the shares of assets and liabilities of the other successors would be made (paragraph 2(b)). This adjustment would not affect their respective quotas as determined by the Fund (paragraph 3(b)).

3. Succession to membership

Succession to membership (which will automatically include participation in the SDR Department: paragraph 4) will be open to any successor that meets the conditions specified in paragraph 3(a):

- notification of its consent within one month to the allocation of assets and liabilities as determined by the Fund;
- notification of its agreement to become a member in accordance with the terms and conditions of membership prescribed in the decision and that it has taken all necessary steps to that effect and to carry out its obligations under the Articles;
- finding by the Fund that the successor is able and willing to carry out its obligations under the Articles;
- absence of arrears to the Fund.

Under paragraph 3(b), succession to membership will confer upon each successor a specified share in the present quota of the SFRY as calculated under the Eighth General Review of Quotas. Under paragraph 3(c), each successor may subsequently increase its quota to the equivalent of a specified share in the proposed quota for the SFRY under the Ninth General Review of Quotas; the increase will become effective upon payment of the additional subscription within the period prescribed by the Fund pursuant to Resolution No. 45-2 of the Board of Governors, and 25 percent will be payable in SDRs or currencies acceptable to the Fund.

Succession to membership will be open for a period of six months from the date of the decision. Both this period and the period for consent to

the allocation may be extended by the Fund (paragraph 3(c)). Until the membership is effective, a successor will not exercise the rights or be subject to the obligations of membership.

Once membership is effective, the successor will be considered to have been a member without interruption since the dissolution of the SFRY and to have continued, for its share, the membership of the SFRY in the Fund. It will remain subject to the same provisions as the SFRY with respect to the obligations under Article VIII, Sections 2, 3 and 4. 1/ Also, upon membership, certain actions will have to be taken by each successor; it will have to designate a governor, a fiscal agent and a depository; its exchange arrangements will have to be notified to the Fund; a representative rate will have to be determined for the Fund's holdings of the member's currency (initially equal to its share in the Fund's holdings of the currency of the SFRY); the Fund's holdings of the currency of the SFRY will have to be replaced by holdings of each successor's currency for its respective share. Until a representative rate for its currency is determined, a successor will not be able to use the Fund's resources.

1/ The SFRY has availed itself of the transitional arrangements under Article XIV.

Draft Decision

Socialist Federal Republic of Yugoslavia
Cessation of Membership, Allocation of Assets
and Liabilities in the Fund, and Succession to
Membership in the Fund

1. The Fund finds that the Socialist Federal Republic of Yugoslavia (hereinafter "the SFRY") has ceased to exist and has therefore ceased to be a member of the Fund.

2. (a) The Fund also finds that the Republic of Bosnia and Herzegovina, the Republic of Croatia, the former Yugoslav Republic of Macedonia, the Republic of Slovenia, and the Federal Republic of Yugoslavia (Serbia/Montenegro) are the successors to the assets and liabilities of the SFRY in the Fund (hereinafter "successor(s)"), including those in the SDR Department, and determines that their respective shares in such assets and liabilities are as follows:

| | |
|---------------------------------------|-------|
| Republic of Bosnia and Herzegovina | [] % |
| Republic of Croatia | [] % |
| Former Yugoslav Republic of Macedonia | [] % |
| Republic of Slovenia | [] % |
| Federal Republic of Yugoslavia | |
| (Serbia/Montenegro) | [] % |

(b) If a successor successfully challenges its share in assets and liabilities as determined in (a) above before an arbitral tribunal established under Article XXIX(c), the shares of the other successors that have not been modified as a result of arbitration shall be adjusted on a pro rata basis.

3. Each successor may succeed to the membership of the SFRY in the Fund in accordance with the following terms and conditions:

(a) A successor shall succeed to membership in the Fund when:

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

(ii) it has notified the Fund that it agrees, in accordance with its law, to succeed to the membership of the SFRY 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;

(iii) it has been found by the Fund to be able and willing to meet its obligations under the Articles of Agreement; and

(iv) it has no overdue financial obligation to the Fund.

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

| | |
|---------------------------------------|---------|
| Republic of Bosnia and Herzegovina | SDR [] |
| Republic of Croatia | SDR [] |
| Former Yugoslav Republic of Macedonia | SDR [] |
| Republic of Slovenia | SDR [] |
| Federal Republic of Yugoslavia | |
| (Serbia/Montenegro) | SDR [] |

(c) The quota of each successor in (b) above shall be increased under the Ninth General Review of Quotas upon payment of the following

amounts in accordance with the terms and conditions of Resolution No. 45-2 of the Board of Governors:

| | |
|---|---------|
| Republic of Bosnia and Herzegovina | SDR [] |
| Republic of Croatia | SDR [] |
| Former Yugoslav Republic of Macedonia | SDR [] |
| Republic of Slovenia | SDR [] |
| Federal Republic of Yugoslavia (Serbia/Montenegro) | SDR [] |

(d) A successor may succeed to the membership of the SFRY 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 notification referred to in paragraph (a)(i) above not later than [1] month after the date of this decision. The Fund may decide to extend either or both periods until such later dates as it may determine.

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

5. The designation "former Yugoslav Republic of Macedonia" shall be used provisionally by the Fund until a name is agreed upon between the former Yugoslav Republic of Macedonia and the Fund.