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April 16, 1984

To: Members of the Committee on Administrative Policies

From: The Committee Secretary

Subject: Eligibility Criteria for Expatriate Benefits - Position Paper

At the request of the Staff Association Committee, the attached paper on its position on the eligibility criteria for expatriate benefits is circulated for the information of the members of the Committee.

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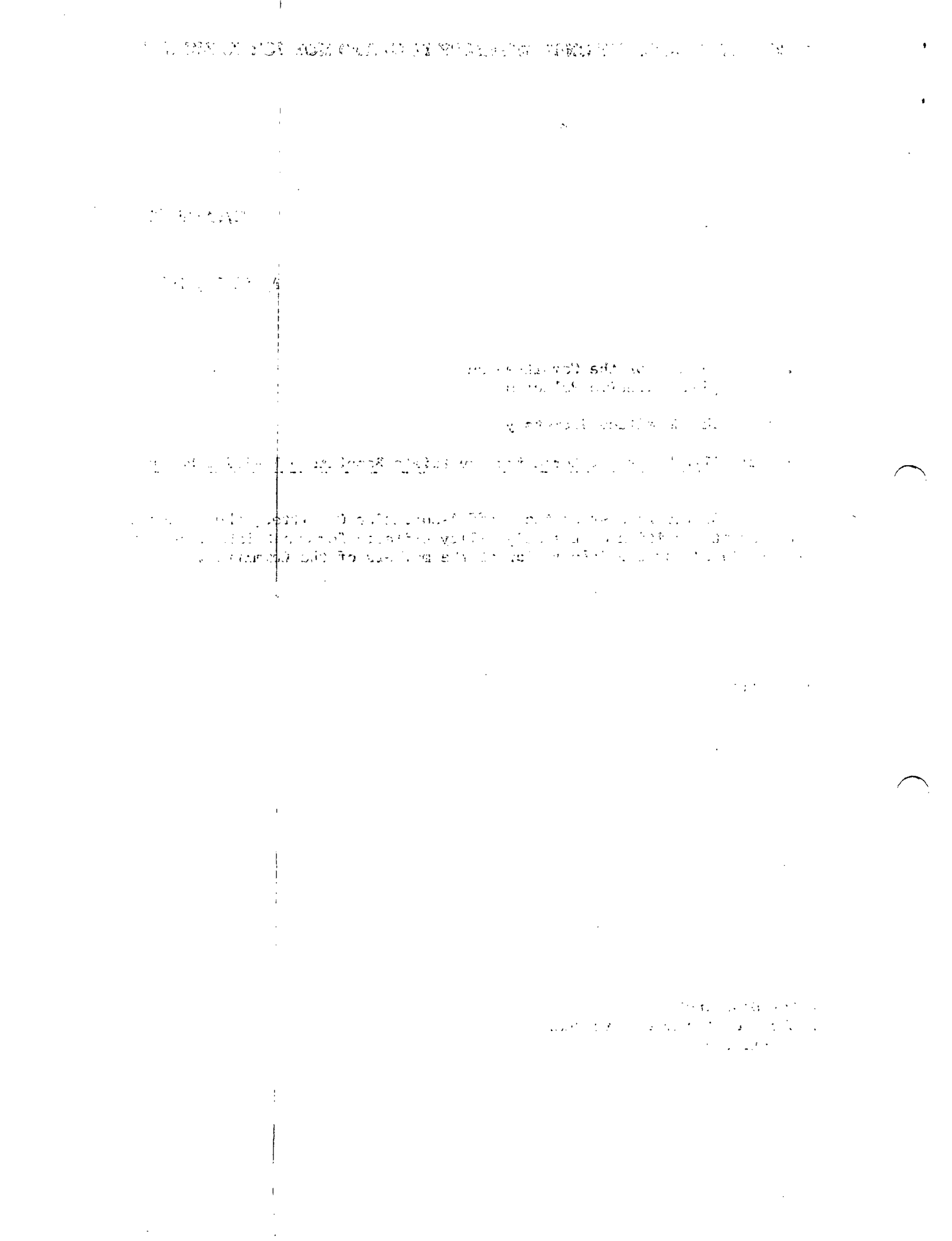

International Monetary Fund
Staff Association

April 16, 1984

Eligibility Criteria for Expatriate Benefits

Position Paper

The eligibility criterion for expatriate benefits is currently being reexamined in connection with the review of expatriate benefits. The Staff Association Committee (SAC) is deeply disturbed that this issue has been raised once again, especially because no significant new development with a bearing on this issue appears to have emerged since the Executive Board's extensive consideration of the topic in 1979.

This paper sets out the principles underlying the SAC's opposition to any change of the present eligibility criterion, namely citizenship. The SAC is opposed to a change even if all present staff are fully protected by a comprehensive grandfathering of present and future expatriate benefits. Our position is that the current eligibility criterion is fairer and more practical than any of the alternatives which have been considered, such as visa status or period of residency in the duty station country prior to Fund employment. The SAC believes that a change to a different eligibility criterion would be counterproductive and against the best interests of the Fund by constraining its ability to recruit a high quality multinational staff, especially in the A-E ranges. It also would be detrimental to staff morale by establishing different categories of expatriate staff and could prove to be a major disruptive factor in future staff/management relations.

History of eligibility criteria

The issue of eligibility for expatriate benefits has been addressed many times during the Fund's history. The original home leave policy adopted in 1947 based eligibility on the criteria of residence and other ties with the country of citizenship. In 1950, the Executive Board decided that, because employees who possessed "first papers" for U.S. citizenship (i.e., declaration of intention to become a U.S. citizen) had indicated their desire to remain permanently in the United States, they would not be eligible for home leave. It was also decided that persons with immigration visas who had not taken out "first papers" would retain their eligibility for expatriate benefits. The United States enacted a new immigration law in 1952 and abolished the procedure for "first papers." Accordingly, in 1953 the Executive Board (EBM/53/96) decided that staff holding the new permanent resident visa (PRV) would be eligible for expatriate benefits. Thus, the Executive Board considered visa status was insufficient reason to deny a staff member expatriate benefits. The

Executive Board reaffirmed its policy in 1968 when it adopted a decision stating that "staff members who have U.S. immigration visas will not be denied home leave privileges on that account." In fact, the term "immigration visa" is a misnomer since possession of a PRV does not indicate that U.S. citizenship will be granted or, indeed, even requested. Executive Board discussion at that time showed widespread support for the view that obtaining a PRV did not imply an intention to become a citizen of the country issuing the visa or of cutting the ties with the home country. The PRV was recognized as more like a general residence and employment permit than an application for citizenship. Several Executive Directors voiced the opinion that the Fund should not concern itself with any desire its employees might have to be free to obtain employment elsewhere and that a staff member's decision regarding visa status should be an entirely personal one.

The question of eligibility was again considered as part of the overall review undertaken by the Joint Committee on Staff Compensation Issues (The Kafka Committee). After examining all relevant aspects, the Committee decided not only that the Fund's existing practice should be maintained but also that the World Bank (which previously had limited eligibility to G-(iv) visa holders) should adopt the Fund criterion. Since 1979, the World Bank, like the Fund, has extended expatriate benefits on the basis of citizenship.

Definition of expatriate

Historical precedent is not the only reason for maintaining citizenship as the criterion for eligibility for expatriate benefits. Citizenship is the most obvious means to discern whether a staff member is an expatriate--someone living in a foreign country. Adopting, or announcing an intention to adopt, citizenship of the duty station country would be sufficient justification to consider a staff member to be no longer an expatriate. The SAC considers it neither fair nor practical to employ proxies such as visa status or period of residency to infer attachment to one's country of citizenship. By their very nature, these proxies are arbitrary and likely to be perceived by the staff as inequitable and discriminatory. These points will be discussed in turn.

As has long been recognized by the Board, the possession of a PRV in the Fund does not indicate any lesser ties with the home country or a decision to settle in the duty station. 1/ It would therefore be unjust to deprive staff members with PRVs of home leave and other expatriate benefits. A PRV holder has greater access to employment in the United States than does a G-(iv) visa (G4V) holder but is far from having the same access (or other privileges) as a U.S. citizen. Agencies of the U.S. Government and even many private firms restrict employment to U.S. citizens.

1/ Staff members, including PRV holders, declare that they "do not intend to remain permanently in the United States, nor become a U.S. citizen" when they apply for home leave eligibility.

Also, a PRV holder is still subject to deportation on 48 hours' notice. In fact, the U.S. Government itself has demonstrated that it considers PRV holders working for the Fund to be more akin to G4V holders than to U.S. nationals by exempting them from the payment of income and Social Security taxes. Most PRV holders already had those visas upon joining the Fund or obtained them through marriage. Rather than indicating any desire for reduced contact with the home country, the fact that a PRV holder seeks Fund employment frequently displays a wish for increased ties with that country, through home leave travel. It would be unjust to deprive such staff members of a benefit which, in some cases, was the overriding incentive for their joining the Fund. Furthermore, any change would diminish the Fund's ability to hire such individuals in the future.

One concern could be that PRV holders might enjoy expatriate benefits while employed in the Fund, followed by U.S. permanent residence benefits upon retirement. Visa status is no better an indicator of retirement intentions than is nationality. For instance a G4V holder married to a U.S. national, with children who have dual nationality and are raised in the United States, in all probability has less close ties with the home country than do most PRV holders. 1/ Also, PRV holders with U.S. spouses could quite readily change to G4V status in the knowledge that, upon leaving the Fund, they would revert to PRV status.

Instead of employing visa status to define eligibility for certain expatriate benefits, some organizations such as the EC and OECD use a prior residency test. 2/ 3/ Such a test typically excludes years of service in other international organizations or governments. Application of the EC or OECD definition would exclude many staff who would be considered expatriates. Non-U.S. nationals, who received their university and graduate training in the United States (i.e., eight years or more), would be excluded. Also, non-U.S. nationals working for corporations in the United

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1/ It is, however, beneficial for the Fund as an international institution if such staff members retain cultural ties with their home countries.

2/ To qualify for the expatriation allowance at the EC, a staff member cannot have habitually resided in or carried out his main occupation within the duty station country during a period of five and one-half years prior to employment by the EC unless the staff member was working for a foreign government or international organization. Staff members of the OECD qualify for expatriate benefits if they have not resided in the duty station country for three years prior to employment with the OECD, unless they were serving with another international organization or foreign government. Both institutions permit nationals of the duty station country to receive expatriate benefits if they have been working outside the country for ten years and were not in the service of another government or international organization.

3/ In addition to prior residency, both the EC and OECD have different eligibility criteria for various expatriate benefits. For example, a combination of citizenship and distance is used by the EC for the education allowance and home leave.

States and receiving expatriate benefits from these corporations would be denied expatriate benefits from the Fund. The residency test could be written to exclude those years of residency as is done for service with international organizations; however, such exemptions only highlight the arbitrary nature of the residency period in defining an expatriate. It is also difficult to justify why an additional day, week or month of residency is sufficient to foreclose eligibility for expatriate benefits. The pressures to make exceptions could be intense with the effective upper limit for the residency requirement given by the last exemption granted.

Changing the eligibility criterion along either of the lines suggested above would mostly affect A-E staff. The vast majority of permanent resident visa holders (80 per cent) are in the A-E ranges, and, based on information provided by the Administration Department, we estimate that more than 40 per cent of new non-U.S. A-E staff will fail to qualify for expatriate benefits. Thus, such a change would affect primarily staff members belonging to a group that already feel discriminated against by the Fund's compensation and recruitment practices. Depriving such staff of expatriate benefits would be inimical to staff unity and detrimental to staff morale and productivity.

Even if the current staff's rights to existing and all future expatriate benefits were protected by a "grandfather" clause, a change in the eligibility criterion would not be in the best interests of the Fund as an international institution. The availability of expatriate benefits has permitted the Fund to recruit a multinational staff, particularly among A-E staff. Expatriate benefits have played a major role in ensuring that the Fund enjoys a high quality A-E staff, with diverse nationalities, while maintaining the convenient myth that such staff are locally recruited. By effectively excluding a large proportion of staff from expatriate benefits, the Fund would reduce its attractiveness as a place to work and would make it increasingly difficult to maintain a high caliber multinational staff, especially in ranges A-E. The Fund should not underestimate the contribution of such staff to the efficiency of the organization. Changing the eligibility criteria also could be divisive by creating three classes of staff: U.S. nationals; non-U.S. nationals with expatriate benefits; and non-U.S. nationals without expatriate benefits. Furthermore, existing staff, who continue to receive their expatriate benefits because of the "grandfather" clause, would also be concerned that future improvements in those benefits could be denied them. They would argue that, if the eligibility criterion for expatriate benefits can be changed, the coverage of any "grandfather" clause can also be changed.

Given the lack of a satisfactory alternative definition of a "bona fide" expatriate, the absence of any compelling need to change the eligibility criterion, and the costs to staff morale and productivity of obvious alternatives, the Staff Association Committee considers retention of citizenship as the eligibility criterion for expatriate benefits to be in the best interests of the staff and the Fund.