

DOCUMENT OF INTERNATIONAL MONETARY FUND
AND NOT FOR PUBLIC USE

**IMMEDIATE
ATTENTION**

EBS/88/189

CONFIDENTIAL

September 2, 1988

To: Members of the Executive Board

From: The Secretary

Subject: Zaïre - Overdue Financial Obligations to the Fund -
Report and Complaint Under Rule K-1 and Notice of
Failure to Settle Trust Fund Obligations

Attached is a report and complaint by the Managing Director under Rule K-1 with respect to Zaïre's overdue financial obligations in the General Department and a notice of failure by Zaïre to settle Trust Fund obligations. The draft decision on page 6 provides that the complaint and notice will be placed on the agenda of the Executive Board for a meeting scheduled for Wednesday, October 12, 1988, which is the first scheduled meeting after the Annual Meetings.

It is not proposed to bring this matter to the agenda of the Executive Board for discussion unless an Executive Director so requests by the close of business on Friday, September 9, 1988. In the absence of such a request and in the absence of full settlement by Zaïre of its overdue financial obligations by that date, the draft decision will be deemed approved by the Executive Board and it will be so recorded in the minutes of the next meeting thereafter.

Mr. Blalock (ext. 8341) or Mr. Ross (ext. 8254) is available to answer technical or factual questions relating to this paper.

Att: (1)

CONFIDENTIAL

INTERNATIONAL MONETARY FUND

Zaire - Overdue Financial Obligations to the Fund -
Report and Complaint Under Rule K-1 and Notice of Failure to
Settle Trust Fund Obligations

Prepared by the Treasurer's, African, and Legal Departments

(In consultation with the Exchange and Trade Relations Department)

Approved by Gerhard Laske, A.D. Ouattara, and F.P. Gianviti

September 2, 1988

1. Zaire is at present overdue in discharging a number of financial obligations to the Fund dating from three repurchases due on June 29, 1988. ^{1/} As of August 29, 1988, Zaire's overdue financial obligations to the Fund totaled SDR 66.1 million, as shown in Attachment I. Since 1981 Zaire has experienced intermittent difficulties in meeting its financial obligations to the Fund on time, but until June 1988 the delays in payment were generally short and rarely exceeded one month.

2. Zaire's relations with the Fund are summarized in Attachment II. As of August 29, 1988, Zaire's outstanding use of Fund resources in the General Department, including overdue repurchases of SDR 48.5 million, totaled SDR 582.7 million, of which SDR 251.6 million is in the credit tranches, SDR 37.6 million under the extended fund facility, SDR 88.2 million under the compensatory financing facility, SDR 147.2 million under the enlarged access policy, and SDR 58.2 million under the structural adjustment facility (SAF). In addition, outstanding loans to the Trust Fund amounted to SDR 25.5 million, including overdue repayments and interest of SDR 4.2 million and SDR 0.1 million, respectively, as well as overdue net SDR charges of SDR 1.3 million.

On the basis of Zaire's present use of Fund resources, Trust Fund loans outstanding, and position in the SDR Department, Zaire's forthcoming obligations through 1993 total SDR 661.2 million, as shown in Attachment III. Zaire's current overdue financial obligations to the Fund of SDR 66.1 million relative to various financial indicators are shown in the following tabulation:

^{1/} Executive Directors were informed of Zaire's arrears to the Fund in EBS/88/156 (8/3/88).

| <u>Overdue obligations in relation to:</u> | <u>Percent</u> |
|---|----------------|
| Quota | 22.7 |
| Outstanding use of Fund resources | 11.3 |
| Exports (1987) | 4.9 |
| Imports (1987) | 5.1 |
| External Arrears | ... <u>1/</u> |
| Gross official reserves (as of end-April 1988) | 38.2 |

3. The most recent description of the economic and financial situation of Zaïre is contained in the staff report for the 1988 Article IV consultation, which will be issued shortly. Executive Board discussion of the consultation is scheduled for October 12, 1988.

Staff missions visited Zaïre in February, May, and June 1988 both to conduct the 1988 Article IV consultation discussions and to negotiate an economic and financial program that could be supported by a second annual arrangement under the SAF and a 12-month stand-by arrangement. However, agreement on a program was not reached.

Economic and financial developments under the 1987/88 stand-by arrangement and the first annual arrangement under the SAF were disappointing. Largely on account of the highly inflationary environment, which reduced confidence, growth in real GDP in 1987 fell short of the program target of 3 percent. The rate of inflation exceeded 100 percent on an end-of-period basis, primarily because of a weak fiscal performance. Delays in the implementation of several tax measures and difficulties in collecting duties on international trade caused the growth in tax receipts to lag behind the pace of inflation. In addition, with the exception of investment, government expenditure exceeded program targets in every broad category. As a result, in 1987 the central government cash deficit is estimated to have reached 16.6 percent of GDP, or 2.5 percent of GDP higher than programmed, and bank financing of the deficit was nearly five times larger than the performance criterion of Z 6 billion. Reflecting the rapid growth in credit, the money supply nearly doubled, compared with the program target of 35 percent.

In the external sector, the balance of payments outturn in 1987 was moderately better than projected in the program, which had provided for a substantial increase in the current account deficit. The deficit, including official transfers, is estimated at SDR 507 million, compared with the program target of SDR 558 million. Official grants

1/ Currently, the staff does not have complete information on Zaïre's external arrears.

and loan disbursements were 30 percent higher than in 1986, but still somewhat below initial forecasts, and the net outflow of official capital before rescheduling was SDR 19 million larger than programmed. The overall balance was in deficit by SDR 466 million, compared to a programmed deficit of SDR 506 million. Including a larger-than-programmed reduction in external arrears, the net transfer of resources to Zaïre amounted to SDR 234 million in 1987, as against SDR 20 million in the previous year. Reflecting domestic inflationary pressures, in 1987 the zaïre depreciated vis-à-vis the SDR by 115 percent in nominal terms and slightly in real effective terms.

Budgetary and monetary trends have continued during the first half of 1988, and with substantial excess demand in the economy, inflation remained around 100 percent on an annual basis. Information on developments in the current account of the balance of payments during this period is not available. However, because not all policy conditions have been met, the World Bank has not yet released the second tranche, equivalent to US\$82 million, of the Structural Adjustment Credit which was originally envisaged to be disbursed in early 1988.

In March 1988 Zaïre suspended payments to the London Club and stopped provisioning the special Paris Club account. In the meantime debt service obligations falling due since May 15, 1988 have not been covered by rescheduling agreements. Subsequently, Zaïre announced that it would give preferential treatment to creditors that are providing a positive net transfer of resources to Zaïre. According to preliminary information, Zaïre is current with respect to debt payments to the World Bank and the African Development Bank.

4. The situation of Zaïre's overdue financial obligations to the Fund may be summarized as follows. The complaint under Rule K-1 and notice of failure to settle Trust Fund obligations contained in this paper are the first such complaint and notice with respect to Zaïre. Since the emergence of the present arrears in June 1988, Zaïre has not made any payment to the Fund. In response to a cable from management the authorities have indicated that they are examining ways of discharging their arrears to the Fund as soon as possible. Information on debt service payments by Zaïre in the first half of 1988, which is the most current information available to the staff, is set out below:

Zaire: Debt Service Payments in the First Half of 1988 ^{1/}

(In millions of U.S. dollars)

| | January-March | April-June | Total |
|---------------|---------------|-------------|-------------|
| London Club | 6.0 | -- | 6.0 |
| Paris Club | 22.9 | 4.3 | 27.2 |
| Multilateral | 6.0 | 13.7 | 19.7 |
| Kinshasa Club | 3.7 | 2.1 | 5.8 |
| Total | <u>38.6</u> | <u>20.1</u> | <u>58.7</u> |

Source: Bank of Zaire.

^{1/} Excludes payments to the Fund, including the Trust Fund, which totaled SDR 88.6 million in this period.

Zaire's overdue financial obligations are in the General Resources Account (repurchases, charges, and special charges), the Special Disbursement Account (interest on SAF loan), to the Trust Fund (repayments, interest, and special charges), and in the SDR Department (net SDR charges). ^{1/} Zaire has not complied with the Fund's requests for settlement of these obligations. Overdue obligations in the General Resources Account and the Special Disbursement Account are not only contrary to the member's obligations under the Articles of Agreement and the purposes of the Fund, but also adversely affect the member's standing in the Fund. Such overdue obligations impair the revolving character and temporary use of the Fund's resources, and hence the Fund's ability to assist other members, and prejudice the Fund's liquidity and credit standing. In the circumstances, the Fund must consider what actions are possible and what steps should be taken.

5. Under the Articles of Agreement, By-Laws, and Rules and Regulations of the Fund, a member that does not observe its obligations under the Articles of Agreement is subject to the application of remedies by the Fund that seek to protect the Fund's resources in the General Department. The Fund has a certain choice of remedies and discretion in selecting the remedy appropriate to the circumstances. These various options, as outlined in papers for other members in similar circumstances, are set out in the Annex to this report.

^{1/} If Zaire's overdue net SDR charges are not settled shortly, a report and complaint under Rule S-1 will be issued.

6. In the past, in similar circumstances, the Fund has adopted decisions in accordance with Sections I.1 and III.1 as set forth in the Annex, after having given full and adequate opportunity to the member to remedy the situation or state its case.

The following procedural actions need to be taken at this stage:

(i) The Managing Director must communicate to the Executive Board a report and complaint in accordance with Rule K-1 and a notice of failure to settle Trust Fund obligations. These requirements are met by the circulation of the present report and complaint and notice (Attachment IV).

(ii) The Executive Board will need to decide whether to consider the complaint and notice of the Managing Director. If it decides to do so, the Executive Board would formally note the complaint and notice, determine that consideration of the complaint and notice particularly affects Zaïre in the sense of Article XII, Section 3(j) and By-Law Section 19(a) and (c), and place the complaint and notice on its agenda for a date that would afford reasonable notice to Zaïre. ^{1/} This would

^{1/} Article XII, Section 3(j) provides that:

"(j) The Board of Governors shall adopt regulations under which a member not entitled to appoint an Executive Director under (b) above may send a representative to attend any meeting of the Executive Board when a request made by, or a matter particularly affecting, that member is under consideration."

By-Law Section 19(a) and (c) provides that:

"(a) Each member not entitled to appoint an Executive Director in accordance with Article XII, Section 3(b)(i) may, in accordance with the regulations provided in this Section, send a representative to attend any meeting of the Executive Board when a request made by, or a matter particularly affecting, that member is under consideration. A member may waive its rights under this provision. The Executive Board shall determine whether a matter under consideration particularly affects a member not entitled to appoint an Executive Director in accordance with Article XII, Section 3(b)(i), which determination shall be final."...

"(c) Whenever the Executive Board is to consider a matter which has been determined particularly to affect a member not entitled to appoint an Executive Director in accordance with Article XII, Section 3(b)(i), the member shall be promptly informed by rapid means of communication of the date set for its consideration. No final action shall be taken by the Executive Board with respect to such matter, nor any question particularly affecting such member submitted to the Board of Governors, until the member has either waived its rights under paragraph (a) of this Section or has been given an opportunity to

Zaire - Overdue Financial Obligations to the Fund
(As of August 29, 1988)

| Type of Obligation | Date of Purchase or Loan | Due Date | Days Overdue | SDR Amount |
|-------------------------------------|--------------------------------|-------------|-----------------|---------------|
| <u>General Resources Account</u> | | | | |
| CF repurchase | 12/30/83 | 6/29/88 | 61 | 14,312,500 |
| EF repurchase | 6/30/81 | 6/29/88 | 61 | 8,762,500 |
| EF repurchase | 6/30/81 | 6/29/88 | 61 | 750,756 |
| CT repurchase | 1/03/84 | 7/01/88 | 59 | 694,602 |
| CT repurchase | 1/03/84 | 7/06/88 | 54 | 3,805,398 |
| Semiannual charges EA | -- | 7/14/88 | 46 | 5,753,182 |
| CT repurchase | 4/29/85 | 7/28/88 | 32 | 5,000,000 |
| CT repurchase | 4/30/84 | 7/29/88 | 31 | 2,625,000 |
| CT repurchase | 2/01/85 | 7/31/88 | 29 | 1,101,375 |
| CT repurchase | 2/04/85 | 8/03/88 | 26 | 1,398,625 |
| CT repurchase | 2/04/85 | 8/06/88 | 23 | 2,497,273 |
| CT repurchase | 2/01/85 | 8/06/88 | 23 | 21,819 |
| CT repurchase | 8/15/84 | 8/14/88 | 15 | 2,500,000 |
| CT repurchase | 11/15/84 | 8/14/88 | 15 | 2,500,000 |
| Quarterly charges | -- | 8/18/88 | 11 | 6,128,135 |
| CT repurchase | 8/15/84 | 8/22/88 | 7 | 2,500,000 |
| Special charges | -- | 8/25/88 | 4 | 30,350 |
| Subtotal | | | | 60,381,515 |
| <u>Special Disbursement Account</u> | | | | |
| SAF interest | -- | 6/30/88 | 60 | 144,705 |
| <u>SDR Department</u> | | | | |
| Net SDR charges | -- | 8/01/88 | 28 | 1,260,865 |
| <u>Trust Fund</u> | | | | |
| Interest | -- | 6/30/88 | 60 | 73,210 |
| Repayment | 7/27/78 | 7/26/88 | 34 | 2,728,660 |
| Repayment | 1/31/80 | 7/29/88 | 31 | 960,500 |
| Repayment | 7/31/80 | 7/29/88 | 31 | 542,400 |
| Special charges | -- | 8/25/88 | 4 | 1,925 |
| Subtotal | | | | 4,306,695 |
| Total | | | | 66,093,780 |

6. In the past, in similar circumstances, the Fund has adopted decisions in accordance with Sections I.1 and III.1 as set forth in the Annex, after having given full and adequate opportunity to the member to remedy the situation or state its case.

The following procedural actions need to be taken at this stage:

(i) The Managing Director must communicate to the Executive Board a report and complaint in accordance with Rule K-1 and a notice of failure to settle Trust Fund obligations. These requirements are met by the circulation of the present report and complaint and notice (Attachment IV).

(ii) The Executive Board will need to decide whether to consider the complaint and notice of the Managing Director. If it decides to do so, the Executive Board would formally note the complaint and notice, determine that consideration of the complaint and notice particularly affects Zaïre in the sense of Article XII, Section 3(j) and By-Law Section 19(a) and (c), and place the complaint and notice on its agenda for a date that would afford reasonable notice to Zaïre. 1/ This would

1/ Article XII, Section 3(j) provides that:

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"(c) Whenever the Executive Board is to consider a matter which has been determined particularly to affect a member not entitled to appoint an Executive Director in accordance with Article XII, Section 3(b)(i), the member shall be promptly informed by rapid means of communication of the date set for its consideration. No final action shall be taken by the Executive Board with respect to such matter, nor any question particularly affecting such member submitted to the Board of Governors, until the member has either waived its rights under paragraph (a) of this Section or has been given an opportunity to

be accomplished by taking the decision proposed at the end of this paper.

(iii) In accordance with this decision, Zaïre would be informed of the complaint and notice, of the decision of the Executive Board, of its right to present its views through a representative, who may be the Executive Director elected by Zaïre if the member so desires, and of the invitation to do so at the meeting or meetings to be held on the matter. This would be done by the dispatch of the draft cable in Attachment V.

(iv) The Executive Board would decide on the actions to be taken on the complaint and notice at the meeting or meetings at which the complaint and notice are considered. 1/ 2/

Proposed Decision

The following draft decision is proposed for adoption by the Executive Board:

1. The complaint of the Managing Director under Rule K-1 dated September 2, 1988 on Zaïre in EBS/88/189, September 2, 1988, is noted. It shall be placed on the agenda of the Executive Board for October 12, 1988.

2. The notice of the Managing Director dated September 2, 1988 regarding the failure of Zaïre to fulfill obligations under Decision No. 5069-(76/72) establishing the Trust Fund, in EBS/88/189, is noted. It shall be placed on the agenda of the Executive Board for October 12, 1988.

3. The Fund urges Zaïre to become current in its financial obligations to the Fund promptly and to avoid thereby the need for the Fund to take remedial action.

1/ (cont'd from p. 5) present its views through an appropriately authorized representative at a meeting of the Executive Board, of which the member has had reasonable notice."

1/ Should Zaïre not wish to respond to the complaint and notice, the Fund could proceed with their consideration in any event.

2/ The first date on which an Executive Board meeting is scheduled following the Annual Meetings is October 12, 1988; discussion of the Article IV consultation with Zaïre is scheduled for this date.

4. Consideration of the complaint in accordance with Rule K-1 and of the Trust Fund notice particularly affects Zaïre. The member shall be informed by rapid means of communication of these matters and of its right to present its views through an appropriately authorized representative.

Attachments

Zaire - Overdue Financial Obligations to the Fund
(As of August 29, 1988)

| Type of Obligation | Date of Purchase or Loan | Due Date | Days Overdue | SDR Amount |
|-------------------------------------|--------------------------------|-------------|-----------------|-------------------|
| <u>General Resources Account</u> | | | | |
| CF repurchase | 12/30/83 | 6/29/88 | 61 | 14,312,500 |
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| <u>SDR Department</u> | | | | |
| Net SDR charges | -- | 8/01/88 | 28 | 1,260,865 |
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| Repayment | 7/31/80 | 7/29/88 | 31 | 542,400 |
| Special charges | -- | 8/25/88 | 4 | <u>1,925</u> |
| Subtotal | | | | 4,306,695 |
| Total | | | | <u>66,093,780</u> |

Zaire - Relations with the Fund

(As of August 18, 1988)

I. Membership status

- (a) Date of membership: September 28, 1963
(b) Status: Article XIV

A. Financial Relations

II. General Department (amounts in millions of SDRs)

- (a) Quota: 291.0
(b) Total Fund holdings of Zaire's currency:
815.5 (280.3 percent of quota)
(c) Fund credit: 582.7 (200.3 percent of quota)
Of which:
General Resources Account
Credit tranches: 251.6 (86.4 percent of quota)
Extended Fund facility: 37.6 (12.9 percent of quota)
Enlarged access: 147.2 (50.6 percent of quota)
Compensatory financing facility: 88.2 (30.3 percent of quota)
Special Disbursement Account
Structural Adjustment Facility: 58.2 (20.0 percent of quota)
(d) Reserve tranche position: Nil

III. Stand-by or extended arrangements and special facilities in the last ten years

(a) Stand-by arrangements:

- (i) Duration: May 15, 1987 to May 14, 1988
(ii) Amount: SDR 100.0 million
(iii) Utilization: SDR 24.5 million

(i) Duration: May 28, 1986 to March 27, 1988
(ii) Amount: SDR 214.2 million
(iii) Utilization: SDR 47.6 million 1/

1/ Arrangement canceled on April 21, 1987.

- (i) Duration: April 24, 1985 to April 23, 1986
- (ii) Amount: SDR 162.0 million
- (iii) Utilization: SDR 162.0 million

- (i) Duration: December 27, 1983 to March 26, 1985
- (ii) Amount: SDR 228.0 million
- (iii) Utilization: SDR 198.0 million

- (i) Duration: August 27, 1979 to February 26, 1981
- (ii) Amount: SDR 118.0 million
- (iii) Utilization: SDR 118.0 million

(b) Extended arrangements:

- (i) Duration: June 22, 1981 to June 21, 1984
- (ii) Amount: SDR 912.0 million
- (iii) Utilization: SDR 175.0 million 1/

(c) Special facilities:

Compensatory financing:

- (i) Date approved: May 15, 1987
- (ii) Amount: SDR 45.3 million

- (i) Date approved: December 16, 1983
- (ii) Amount: SDR 114.5 million

- (i) Date approved: March 19, 1982
- (ii) Amount: SDR 106.9 million

(d) Structural Adjustment Arrangement:

- (i) Duration: May 15, 1987 to May 14, 1990
- (ii) Amount: SDR 184.785 million (63.5 percent of quota)
- (iii) Utilization: SDR 58.2 million (20.0 percent of quota)

IV. SDR Department

- (a) Net cumulative allocations: SDR 86.3 million
- (b) Holdings: Nil

V. Trust Fund loans: Disbursed: SDR 110.4 million
Outstanding: SDR 25.5 million

1/ Arrangement canceled on June 21, 1982.

- VI. Overdue obligations to the Fund: SDR 66.1 million
(as of August 29, 1988)

B. Nonfinancial Relations

- VII. Exchange rate arrangement: The zaire was pegged to the SDR until September 9, 1983, when the rate was Z 1 = SDR 0.15750. Effective September 12, 1983 a dual floating exchange rate system was introduced, and the first weekly official rate was set at the equivalent of Z 1 = SDR 0.03542. As of February 24, 1984, the official rate was unified with the free market rate at Z 1 = SDR 0.02869. At end-July 1988 the exchange rate was Z 1 = SDR 0.003858.
- VIII. Last Article IV consultation: Article IV consultation discussions were held in Kinshasa during the period March 3-20, 1987, in conjunction with negotiations of a three-year structural adjustment arrangement and a financial program for 1987/88. The Executive Board discussed the staff report for the 1987 Article IV consultation and requests for a stand-by arrangement and for arrangements under the structural adjustment facility on May 15, 1987. Zaire is on the standard 12-month cycle.
- IX. Technical assistance: The Fund has maintained a resident representative in Zaire since October 20, 1984.
- A staff member conducted a technical assistance mission on general economic statistics in March 1985.
- Two CBD experts, including an Advisor to the Governor, are currently serving in the Bank of Zaire.

Zaire - Overdue and Forthcoming Financial Obligations
as of August 29, 1988

(In millions of SDRs)

| Type of Obligation | Outstanding as of | | Forthcoming 1/ | | | | | Total Through |
|-----------------------|----------------------|------------|----------------|------------|------------|------------|------------|------------------|
| | Aug. 29, 1988 | 1988 2/ | 1989 | 1990 | 1991 | 1992 | 1993 | |
| Repurchases | 48.5 | 66.9 | 155.4 | 136.4 | 78.5 | 26.7 | 8.6 | 520.9 |
| Quarterly charges 4/ | 6.2 5/ | 5.6 | 16.2 | 8.5 | 2.9 | 0.4 | 0.0 | 39.9 |
| Semiannual charges 4/ | 5.8 | 0.0 | 8.9 | 6.5 | 4.0 | 1.9 | 0.9 | 28.1 |
| Net SDR charges | 1.3 | 1.3 | 5.0 | 5.0 | 5.0 | 5.0 | 5.0 | 27.5 |
| Trust Fund repayments | 4.2 | 4.8 | 12.6 | 3.4 | 0.4 | 0.0 | 0.0 | 25.5 |
| Trust Fund interest | 0.1 5/ | 0.1 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.2 |
| SAF repayments | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 5.8 | 11.6 | 17.5 |
| SAF interest | <u>0.1</u> | <u>0.1</u> | <u>0.3</u> | <u>0.3</u> | <u>0.3</u> | <u>0.3</u> | <u>0.2</u> | <u>1.7</u> |
| Total 3/ | 66.1 5/ | 78.8 | 198.4 | 160.1 | 91.1 | 40.1 | 26.3 | 661.2 |

1/ Estimated on the basis of present use of Fund credit, Trust Fund loans outstanding, and Zaire's present position in the SDR Department. Charges are projected on the basis of current rates of charge. Special charges are not projected.

2/ Due after August 29, 1988.

3/ Totals may not add due to rounding.

4/ Forthcoming charges estimated on the assumption that overdue obligations are paid promptly; to the extent that obligations remain overdue, actual charges may be higher.

5/ Includes special charges of SDR 30,350 (GRA) and SDR 1,925 (TF).

To: Members of the Executive Board September 2, 1988

From: The Managing Director

Subject: Zaïre - Overdue Financial Obligations to the Fund -
Report and Complaint Under Rule K-1 and Notice of
Failure to Settle Trust Fund Obligations

1. A number of communications have been addressed by the International Monetary Fund to Zaïre, and contacts have taken place with the authorities of Zaïre concerning the nonobservance of certain obligations under the Articles of Agreement of the Fund. These communications and contacts have not resulted in a resumption of the observance of these obligations.

2. The following complaint is made in accordance with Rule K-1 of the Fund's Rules and Regulations. It appears to me that Zaïre is not fulfilling obligations under the Articles of Agreement relating to repurchases and the payment of charges and interest in the General Department. As of August 29, 1988, these obligations were as follows:

(a) To repurchase the equivalent of SDR 14,312,500 due on June 29, 1988 in respect of a compensatory financing purchase made on December 30, 1983;

(b) To repurchase the equivalent of SDR 8,762,500 due on June 29, 1988 in respect of a purchase made under the enlarged access policy on June 30, 1981;

(c) To repurchase the equivalent of SDR 750,756 due on June 29, 1988 in respect of a credit tranche purchase made on June 30, 1981;

(d) To pay interest of SDR 144,705 due on June 30, 1988 under Executive Board Decision No. 8240-(86/56) SAF, adopted March 26, 1986, as amended by Decision No. 8542-(87/36) SAF, adopted March 2, 1987;

(e) To repurchase the equivalent of SDR 694,602 due on July 1, 1988 in respect of a credit tranche purchase made on January 3, 1984;

(f) To repurchase the equivalent of SDR 3,805,398 due on July 6, 1988 in respect of a credit tranche purchase made on January 3, 1984;

(g) To pay semiannual charges of SDR 5,753,182 due on July 14, 1988 under Executive Board Decision No. 6783-(81/40), adopted March 11, 1981;

(h) To repurchase the equivalent of SDR 5,000,000 due on July 28, 1988 in respect of a credit tranche purchase made on April 29, 1985;

(i) To repurchase the equivalent of SDR 2,625,000 due on July 29, 1988 in respect of a credit tranche purchase made on April 30, 1984;

(j) To repurchase the equivalent of SDR 1,101,375 due on July 31, 1988 in respect of a credit tranche purchase made on February 1, 1985;

(k) To repurchase the equivalent of SDR 1,398,625 due on August 3, 1988 in respect of a credit tranche purchase made on February 4, 1985;

(l) To repurchase the equivalent of SDR 2,497,273 due on August 6, 1988 in respect of a purchase made under the enlarged access policy on February 4, 1985;

(m) To repurchase the equivalent of SDR 21,819 due on August 6, 1988 in respect of a purchase made under the enlarged access policy on February 1, 1985;

(n) To repurchase the equivalent of SDR 2,500,000 due on August 14, 1988 in respect of a credit tranche purchase made on August 15, 1984;

(o) To repurchase the equivalent of SDR 2,500,000 due on August 14, 1988 in respect of a credit tranche purchase made on November 15, 1984;

(p) To pay quarterly charges of SDR 6,128,135 due on August 18, 1988 under Article V, Section 8(b);

(q) To repurchase the equivalent of SDR 2,500,000 due on August 22, 1988 in respect of a purchase made under the enlarged access policy on August 15, 1984; and

(r) To pay special charges of SDR 30,350 due on August 25, 1988 under Executive Board Decision No. 8165-(85/189) G/TR, adopted December 30, 1985.

3. The following notice is provided in accordance with the Fund's responsibility as Trustee of the Trust Fund established by Executive Board Decision No. 5069-(76/72):

(a) It appears to me that Zaïre is not fulfilling the obligations pursuant to Section II, paragraph 4(a) of the Instrument annexed to that decision to repay disbursements and to pay interest under its Trust Fund loans. As of August 29, 1988, Zaïre was to pay Trust Fund interest of SDR 73,210 due on June 30, 1988; to repay SDR 2,728,660 due on July 26, 1988 in respect of a Trust Fund loan received on July 27, 1978; to repay SDR 960,500 due on July 29, 1988 in respect of a Trust Fund loan received on January 31, 1980; and to repay SDR 542,400 due on July 29, 1988 in respect of a Trust Fund loan received on July 31, 1980.

(b) It appears to me that Zaïre is not fulfilling the obligation pursuant to Executive Board Decision No. 8165-(85/189) G/TR, adopted December 30, 1985. As of August 29, 1988, Zaïre was to pay SDR 1,925 due on August 25, 1988 in respect of special charges under the Trust Fund.

The Honorable Pay Pay Wa Syakassighe
Governor of the Fund and the
Bank of Zaïre
B.P. 2697
Kinshasa, Zaïre

September , 1988

Dear Mr. Governor:

I refer to the various communications of the International Monetary Fund to you concerning the nonobservance of obligations under the Articles of Agreement of the Fund.

I attached for your information the text of my memorandum of September 2, 1988 to the Executive Board setting forth the financial obligations under the Articles of Agreement of the International Monetary Fund and under Executive Board Decision No. 5609-(76/72) establishing the Trust Fund that appear to me are not being observed by Zaïre.

The Executive Board has decided to place on its agenda for a meeting to be held on October 12, 1988 the complaint and notice set forth in my memorandum.

Consideration of the complaint could result in a declaration of ineligibility of Zaïre to use the general resources of the Fund under Article XXVI, Section 2(a) of the Articles of Agreement, or a limitation of Zaïre's use of the general resources of the Fund according to Rule K-2 of the Fund's Rules and Regulations. The Executive Board will also consider the notice in paragraph 3 of my memorandum, which could affect future relationships between the Fund and Zaïre.

The Government of Zaïre is entitled under the Articles and By-Laws of the Fund, and therefore invited, to present its views, both orally and in writing, through an appropriately authorized representative at the meeting of the Executive Board referred to above, and at such subsequent meetings as the Executive Board may hold on this matter, at the Fund's headquarters in Washington, D.C. If you so desire, the Executive Director elected by Zaïre may represent Zaïre at any such meetings.

I am prepared to make arrangements at your request for the full briefing of your representative on all relevant matters.

Michel Camdessus
Managing Director
Interfund

Attachment

Overdue Financial Obligations to the Fund
Legal Sanctions or Remedies

A number of actions can be taken by the Fund in cases of overdue financial obligations. The main legal sanctions or remedies are the following:

I. Overdue Financial Obligations to the Fund in the
General Department

1. When a member fails to fulfill any of its financial obligations to the Fund in the General Department, and thus is in arrears to the Fund in the General Resources Account (including the nondischarge of a repurchase obligation or the nonpayment of charges) or in the Special Disbursement Account (nonrepayment of the principal of a loan or nonpayment of interest), the Fund may declare the member ineligible to use the general resources of the Fund, including reserve tranche purchases (Article XXVI, Section 2(2)), or limit the use by the member of the general resources of the Fund (Rule K-2). 1/ Following a declaration of ineligibility, if, after the expiration of a reasonable period, the member persists in its failure to fulfill any of its obligations under the Articles, it may be required to withdraw from membership in the Fund by a decision of the Board of Governors carried by a majority of the Governors having 85 percent of the total voting power (Article XXVI, Section 2(b)).

2. The Fund has also adopted policies on the use of its general resources (other than reserve tranche purchases). 2/ It has decided not to negotiate or approve either a stand-by or extended arrangement, or the use of its general resources outside an arrangement, for a member in arrears to the Fund. Moreover, pursuant to specific provisions in all stand-by and extended arrangements, disbursements under such arrangements are suspended if and while the member is in arrears to the Fund (see also Rule G-4(e)).

3. Pursuant to the Regulations for the Administration of the Structural Adjustment Facility within the Special Disbursement Account (SAF Regulations, paragraph 6(2)), disbursements to a member under the Facility shall be suspended while the member has an overdue financial obligation to the Fund in the General Resources Account or in the Special Disbursement Account.

1/ A declaration of ineligibility does not suspend a participant's right to use special drawing rights (Article XXIII, Section 2(f)).

2/ These policies do not apply to the nondischarge of a maintenance of value obligation under Article V, Section 11 (Chairman's summing up at EBM/88/19, February 10, 1988).

4. Under the Trust Instrument for the Enhanced Structural Adjustment Facility (Section II, paragraph 1(b)), the same provision as in the SAF Regulations applies to members in arrears.

II. Overdue Financial Obligations to the Fund in the SDR Department

1. Failure to pay charges to the Fund in the SDR Department in accordance with Article XX, Sections 2 and 5 ^{1/} is a breach of obligation with respect to special drawing rights, and the Fund may suspend the right of the participant to use special drawing rights it acquires after the suspension (Article XXIII, Section 2(b)). However, the participant may not be declared ineligible to use the general resources of the Fund, or required to withdraw from the Fund (Article XXIII, Section 2(f)).

2. The policies on arrears to the Fund apply also to overdue charges to the Fund in the SDR Department. ^{2/} Therefore, a participant in arrears has no access to the general resources of the Fund (see above I.2).

3. Pursuant to the SAF Regulations, arrears to the Fund in the SDR Department suspend disbursements under the SAF (see above I.3).

4. The same rule applies to disbursements under the ESAF Trust (see above I.4).

5. Because of the separation of assets and liabilities between the General Department and the SDR Department (Article XVI, Section 2), no setoff is possible between claims of the Fund in one Department and liabilities of the Fund in the other.

III. Overdue Financial Obligations to the Fund as Trustee

1. The Fund, whether acting in the General Department or the SDR Department or as Trustee, is the same legal entity. Therefore, the policies on arrears to the Fund apply also to arrears to the Fund as Trustee; access to the general resources of the Fund is suspended (see above I.2).

^{1/} Under Rule T-1(a) the accounts of participants in the SDR Department are debited with the excess of charges over interest due.

^{2/} Assessments under Article XX, Section 4 are liabilities to the Fund in the General Department (Article XVI, Section 2), but nonpayment of an assessment is a breach of obligation with respect to special drawing rights. Under Rule T-2, the accounts of participants in the SDR Department are debited with the amounts of assessments.

2. Pursuant to the SAF Regulations, arrears to the Fund as Trustee suspend disbursements under the SAF (see above I.3).
3. The same rule applies to disbursements under the ESAF Trust (see above I.4).
4. Because of the separation of assets and liabilities of the Fund in the General Department (or the SDR Department) and of the Fund as Trustee, no setoff is possible between claims and liabilities pertaining to those different activities of the Fund.
5. Obligations to the Fund as Trustee are not obligations under the Fund's Articles. A breach of such obligations, including nonpayment of financial obligations, cannot give rise to a declaration of ineligibility to use the general resources of the Fund, or to a decision requiring withdrawal from the Fund, or to a suspension of the right to use special drawing rights.

