

AFRICAN DEVELOPMENT FUND

ADF/BD/WP/84/09
Document "J"

ADF IV
THE LEGAL FRAMEWORK

January 1984

1. INTRODUCTION

1.1 The first round of consultations for the Fourth General Replenishment of the Fund was concluded by a request from the Deputies, inter alia, that the Fund should present for the Second Consultative Meeting its observations on the functioning of the Resolution for the Third General Replenishment; together with any proposals that might be considered useful, based on the experience of the Third General Replenishment, for improving the legal arrangements adopted for that Replenishment.

1.2 The Fund was also requested to present a draft text of the resolution for the Fourth General Replenishment incorporating the observations and proposals for change referred to above.

1.3 Before any new proposals are made, it is useful to survey the performance of the Fund under the regime set for it in the ADF-III Resolution, and to evaluate its success in achieving the purposes for which it was designed. Chief among these purposes were:

- (i) the smooth and timely implementation of State Participant engagements under ADF III;
- (ii) the uninterrupted flow of the project cycle, especially from the stage of Board approval through commitment of the Fund to the stage of commencement of implementation;
- (iii) the effective application of the "trigger-mechanism" adopted for the replenishment, not only on the side of the Fund but as a means of securing the timely and rhythmical performance by State Participants of their engagements; and
- (iv) the effective use of the corrective mechanisms and procedures incorporated into the Resolution.

- 1.4 In reviewing each of these aims, it is possible to identify the criteria for evaluating their successful attainment, and based on these criteria, it is possible to determine whether, or the extent to which, the Resolution has been an effective governor of the performance of the Fund under ADF III. Such an analysis is pertinent for deciding what form the ADF IV Replenishment Resolution should take.

2. THE ADF III RESOLUTION IN OUTLINE

- 2.1 The full text of the ADF III Resolution appears as Annex I to this memorandum. Its essential features are as follows:

2.1.1 Target. No target figure was agreed upon in the preamble, in contrast to the ADF II Resolution, in which the State Participants agreed upon and stated a minimum figure which they accepted as desirable to enable the Fund to attain its objectives under ADF II. As a result the total of the amounts pledged at the end of the consultations (provisionally settled as FUA 1,008,000) formed the base figure for the trigger percentages. It was an open-ended choice which provoked uncertainties later; as this figure included a contribution of FUA 4.76 million which remained provisional for some time; and when, after the pledging before the Replenishment entered into effect, a legal question was raised whether the base figure should be increased by the addition of these supplementary contributions. This would have delayed the entry into effect of the Replenishment.

2.1.2 The Triggers. For the first time in the history of the Fund, a "double-trigger" was employed. The first (paragraph 4(a)), provided for the entry into force of the Replenishment when Participants deposited with the Fund Instruments of Subscription representing an aggregate amount equivalent to at least 45 per cent of the subscriptions pledged at the last consultative meeting.

2.1.3 The second trigger was adopted as a means of activating the second tranche of resources available for commitment purposes. In the second year, the second tranche was to be available for commitment as from the date that Instruments of Subscription became effective in respect of 80 per cent of the amounts pledged at the end of the consultations, provided that this percentage included all subscriptions intended to be qualified, and provided also that in the case of each qualified subscription, it had become unqualified to the extent of one-third of its total amount (paragraph 6(a)(ii)).

2.1.4 Facultative Provisions. Coupled with these two triggers were two provisions which it was hoped would provide the necessary flexibility for the operation of the resolution:

- (i) that any State Participant might authorise the use of the first instalment of its subscription as an advance before the replenishment entered into force (paragraph 5(f) and the second and third instalments of its subscription for loan commitments on a schedule more favourable to the Fund than specified under the second trigger (paragraph 6(c));
- (ii) that a State Participant making a qualified subscription could, if it could not make available the full fraction of its expected subscription each year, indicate how much would be available, and its intention as regards making up the shortfall in the next instalment or instalments. This facility however had the counterpart that the tranche available for commitment that included the reduced instalment would be reduced pro-rata (paragraph 6(d));
- (iii) that if delays in the deposit of Instruments of Subscription or in attaining the second trigger caused or threatened to cause a suspension in the Fund's lending operations the Fund could convene a meeting of representatives to review the situation and consider ways of fulfilling conditions necessary for the continuation of lending operations; and

(iv) the power given to the Board of Directors:

- (a) to receive additional subscriptions in excess of the figure arrived at, at the last consultative meeting (paragraph 2(b); and
- (b) to extend the deadline for outstanding instalments beyond the final date of the replenishment period, if necessary. (paragraph 5(a)).

2.2 The legal regime of this resolution (which may be called "the Klebber Formula") was adopted following representations made by the Fund based on its experience of the ADF II Resolution. The record of that experience formed the basis of a memorandum from the Office of the General Counsel in which the chief weaknesses of the use of triggers to confer and suspend commitment authorisation were noted. (see Annex II). That memorandum is made available pro memoria because although in preparing the Kleber Formula some of the most obvious difficulties encountered under the ADF II Resolution were recognised and became the subject of specific remedial provisions, the experience of the working of the Kleber Formula, as outlined below, indicates that the working of ADF III was in fact not much smoother in terms of the Fund's operations than was the formula used for ADF II.

2.3 The major constraint on smoothness of operations was as might have been expected, the double trigger, first requiring 45% subscription before operations could be started in the first year, and secondly and even more importantly, the requirement that the 80% subscription level required to trigger off commitment authorisation in the second year should include the unqualified first instalment of any State Participant which made a qualified subscription.

3. THE FUNCTIONING OF THE RESOLUTION

- 3.1 The result of the first trigger on operations was that ADF III could not enter into effect until November 1982 (ie when 92% of the first-year's period of operations had expired). There is a direct correlation between this and the percentage of the total pledges (45%) that was decided upon. Deputies may wish to consider whether this figure should not be reduced to permit a quicker entry into effect of ADF IV.
- 3.2 The sharpest restraint on operations was the effect of the commitment authorisation trigger in paragraph 6(a)(ii) of the Resolution. It was not until December 1983 that all the conditions were satisfied for the unconditional commitment of funds in the second tranche that became otherwise available for commitment when second instalments became due from some State Participants and were paid, in some cases quite early in the second year of the Replenishment.
- 3.3 This is because the United States was, for reasons of legislative procedure, unable to deposit its Instrument of Subscription before 12 December, 1983. When this was done, the United States was able to pay both its first and second instalments in one payment on 12 December 1983. As of that date, the Fund's commitment capacity stood at FUA 114,000, while conditional loan approvals stood at FUA 276,754,000 for 29 projects, while second instalments amounting to FUA 893,076,000 were available to the Fund, but subject to the trigger restriction.
- 3.4 Although several informal enquiries were received from State Participants about the form and procedure for waiver of restrictions on the commitment of their respective tranches, only three State Participants in fact availed themselves of the option to permit commitment before entry into effect of the Resolution (paragraph 5(f)), and none granted permission to release funds for unconditional

commitment pending the operation of the trigger mechanism in the second year (paragraph 6(c)). Neither did the United States; whose subscription (and consequent de-qualification of its first instalment) was the only one delayed far into the second year, avail itself of the facility available under paragraph 5(d) of the resolution.

- 3.5 Finally, the Fund did not in fact avail itself of the provision in paragraph 7, of calling a consultative meeting of Deputies in the event of a suspension in operations, until it was too late in the second year. By the time the call was in fact made, its utility was doubtful because it was clear that the United States subscription would become effective in the near future. It was in fact paid a few weeks later.

4. EVALUATION OF THE ADF III RESOLUTION

- 4.1 Judged in the light of the events that happened, there are good reasons for concluding that despite the improved clarity of the text of the ADF III Resolution, it has not worked more effectively to help attain the objectives set out in paragraph 1.3 than the resolution for ADF II did.

- 4.2 It is evident that the obstacles to the uninterrupted flow of operations were the same in the ADF II period as in the ADF III period, and that these are identifiable as:

- (a) the delay in the deposit of an Instrument of Subscription and the lateness in the de-qualification of the first instalment of that subscription; and
- (b) the unmitigated application, by way of reaction to this situation, of the trigger-mechanism provisions.

It is also evident that, whether the trigger took the form of a single trigger (as in the ADF II text) or the more sophisticated trigger of the Kleber Formula used for the ADF III text, the practical effect was not very different. For this reason, the critique of the use of the trigger mechanism as a means of securing timely subscriptions and payment of instalments which was made in connection with the resolution for ADF II is equally pertinent for the ADF III formula (see especially paragraphs 3.2 and 3.3 of Annex 1)

4.3

It is, generally, possible to conclude from the experience of the two replenishments in which the trigger-mechanism has been resorted to as a sanction for late subscriptions and payments that:

- (a) it has been ineffective to prevent lateness;
- (b) the entire complicated structure has been aimed at only one State Participant on both occasions, as may be seen from the fact that although as at 31 December 1983 Argentina, Belgium, Netherlands, Spain and the United Arab Emirates had not subscribed, the second-year trigger had no effect on their delay; and on each occasion, for reasons of legislative procedure beyond the control of the Executive of that State, the existence of this sanction has not had any effect on the timing of that State Participant's performance of its obligations;
- (c) on each occasion, the sanction has impacted more on the Fund itself than on the State Participant to whose performance it was aimed; and
- (d) there is no reason to believe that, as long as the trigger-mechanism is linked in the way it has been, any form of it would produce a different effect.

CONCLUSIONS

- 5.1 The draft resolution attached to this text has alternative clauses drawn up in the light of the foregoing observations. Certain major policy decisions would appear to need to be taken before the resolution can be settled in final form.

5.2 THE TIME OF THE COMMENCEMENT OF THE REPLENISHMENT

Traditionally, ADF replenishment periods have been timed to coincide with the Fiscal Year of the Bank Group, ie 1st January to 31st December for each of the three years of the replenishment period. Because of the use of a trigger for entry into effect, however, no replenishment has in fact been in effect for its full three-year period. Thus the current replenishment period, which began on 1st January 1982 and runs to 31st December 1984, in fact has a replenishment which entered into effect only in November 1982.

This fact has not had any effect on the Fund's accounting procedures, and this suggests that a replenishment period could, without undue administrative difficulty, be chosen which takes more practical account of the realities of State Participants' fiscal years and budgetary practices. The duration of the replenishment is a separate issue which, from indications given during the first consultative meeting, Participants prefer to keep at 3 years for the time being.

- 5.3 Of the 23 State Participants, 14 have their fiscal year beginning on 1st January, 6 on 1st April, 2 on 1st July and 1 on 15th October. (See Annex VI). It is clear therefore that if the consultations end in April, the Participants with fiscal years in January (who are in a majority) can only begin budgetary procedures in 1985, and with those commencing in July, it is doubtful if April is not too late to enable them to complete appropriations in 1984. (May is taken up with Annual Meetings of the Multilateral Development Banks, and June and July are usually holiday months, when most legislatures are in recess).

- 5.4. In the case of the current replenishment, only six State Participants had deposited their instruments of subscription by the end of June of the first year (i.e. 16 months after the consultations were concluded) and three did not do so until well into the second year. (See Annex 4 series). The conclusion ought to be that there is no practical value in making the commencement of the replenishment period coincide with the start of the Fund's fiscal year; and, positively, that a commencement date more in alignment with Participants' budgetary calendars may be more useful in practice.
- 5.5 If the use of the trigger in its present application is to be maintained, State Participants may wish to consider a commencement period which takes more practical account of the earliest date after the current replenishment period by which a sufficient number of State Participants would, on a reasonable estimation, have completed the internal formalities required to enable them to deposit sufficient Instruments of Subscription to enable the trigger for entry into force to take effect fairly close to the time of the payments of first instalments.
- 5.6 A more radical treatment of this aspect of the replenishment would be one that timed the commencement of the replenishment to coincide (or approximate more closely) with the budgetary year of the one Participant whose budgetary procedures have regularly created the situation for the application of restraints on operations. Thus if the replenishment period for ADF IV began on 1st November 1985, this particular State Participant would have had the whole of 1984 to prepare for authorisation of its contribution and for appropriation of its first instalment in its budget for its Fiscal Year 1984/85, which would be expected ordinarily to have secured legislative approval around October 1984. Other State Participants with more straightforward procedures could be expected to have completed their procedures by then.

5.7 Annex V is a linear presentation of how such a scheme would work. It shows that there would be a "waiting period" of 10 months (January-October 1985) from the end of the current replenishment period. This should in principle not be disquieting because:

- (a) project preparation can proceed uninterrupted during this period, as it has always done while commitment authorisation is awaited;
- (b) if the scheme works as it may be expected, and subscriptions and payments fall more realistically in line with the actual period than they do now, the chances of the "stop-go" rhythm of commitment authorisation will be greatly reduced with the elimination of its major cause;
- (c) the commitment-authorisation trigger, in whatever form, would become unnecessary to apply, but if it was retained and applied, it would be with better justification than has been the case under the last two replenishments;
- (d) the total waiting period of 10 months would in fact not be more than the cumulative "halts" that have been experienced in the course of the last two replenishments; and, finally,
- (e) if the Board of Directors consider that for any reason the "gap" is not acceptable, there is power, under paragraph 5(a) of the current resolution, to extend rationally the payment dates of 3rd instalments beyond 31st December, 1984, and so the Fund could use all or part of this period to complete and tidy up its operational programme of ADF III.

It is interesting to note, in this connection, that for its current Replenishment, the Fund for Special Operations of the Inter-American Development Bank has adopted October as its commencement month.

- 5.8 State Participants are invited to consider this alternative for which variant paragraphs are provided at the relevant parts of the draft resolution.

6. DATES FOR THE PAYMENT OF FIRST INSTALMENT

- 6.1 The replenishment resolutions have traditionally omitted to specify a deadline for the payment of first instalments. What they have done is to stipulate that, whatever date is chosen for paying a first instalment, the anniversary dates should be the dates for the payment of subsequent instalments. In the ADF III Resolution an attempt was made to set a deadline for deposit of Instruments of Subscription, but this attempt did not go far enough, because the obligatory nature of the rule was watered down by option conferred by paragraph 5(a) of the resolution.

- 6.2 The system has three chief disadvantages, the first of which is uncertainty of the date of entry into effect of the replenishment period. Secondly, it makes it necessary, to avoid the fall of due dates of third instalments beyond the replenishment period, to stipulate that all third instalments should be paid by the last date of the period - a stipulation whose enforceability is doubtful. Thirdly, for those State Participants which are inclined to comply strictly with the stipulation, a certain "bunching-up" of payment obligations is produced in the third year if, as it happens in a number of cases in each replenishment, the first instalment is paid in the second fiscal year. The Report of the Treasury on pledges and payment of subscriptions for the current replenishment, in paragraph 5, has outlined some of the operational disadvantages that ensue from the present system. In paragraphs 1.6 to 1.6.3 of Annex 1, other undesirable effects that have been produced are discussed.

6.3 For the next replenishment, State Participants are invited to consider this issue. If the proposal for entry into effect in October 1985 is considered favourably, the adoption of an obligatory starting date for the payment of first instalments would not only lend more logic to the payment arrangements, but would not impose excessive compliance burdens on State Participants.

6.4 Such a proposal is reflected as a variant text to the relevant paragraph of the draft resolution.

7. THE DRAFT RESOLUTION

7.1 The attached draft resolution uses the text of the ADF III as its mainframe. Textually, it was satisfactory in the sense that, although complex, it was unambiguous.

7.2 As to its policy, it is possible that Participants may wish to retain its framework intact; since neither during the course of the current replenishment nor since the present consultations began has the Fund received any reservations as to its provisions or its implementation.

7.3 The Management of the Fund has, however, objections of principle to the use of the commitment-authorisation trigger, during the course of the replenishment; which it would like to see dispensed with altogether. This has prompted the search for variant treatments of the problem that caused the adoption of the trigger. Further, the percentages of instalments and other variable adopted for ADF III may or may not be reviewed in the course of the consultations in the light of the work programme proposed by the Fund. Again in the search for simplicity, reference has been made to parallel arrangements made for other institutions, notably the IADB's Fund for Special Operations. Hence the form of attached draft.

AFRICAN DEVELOPMENT FUND

BOARD OF GOVERNORS

Draft Resolution /84

concerning additions to the resources of the Fund:
Fourth General Replenishment

(adopted

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THE BOARD OF GOVERNORS,

HAVING REGARD to Articles 2, 4, 7, 8 and 23 of the Agreement Establishing the African Development Fund ("the Agreement"),

CONSIDERING the Report of the Board of Directors dated on the implementation of Resolution concerning the addition to the resources of the Fund, and in particular the recommendations of the Board of Directors contained in that report as a result of discussions authorised by paragraph of the said resolution;

FURTHER CONSIDERING that the Governments of the State Participants listed in the Annex hereto attached believe that the amounts stated in the said Annex, together with the terms therein stated and the conditions set forth in this Resolution, form an appropriate basis for recommendations to their respective legislatures; and intend to request, where necessary, their said legislatures to approve these arrangements with a view to obtaining approval to subscribe the amounts listed in the Annex, on the understanding that no final commitment by a State Participant can be made until approval has, where necessary, been obtained from its legislature;

RECOGNISING that the review of the adequacy of the Fund's resources has demonstrated that there is need for a substantial increase in such resources in order to meet the development requirements of the poorer and less developed member countries;

FURTHER RECOGNISING that the consultations on the Fourth General Replenishment of the Fund's resources have resulted in a consensus that the level of operations desirable for the 3- year period of the Fourth General Replenishment justifies a target replenishment figure of Fund Units of Account without prejudice to the possibility of further increases through new or additional subscriptions;⁽¹⁾

DECIDES as follows:

1. The Fund is authorised to proceed with the Fourth General Replenishment of its resources for a 3-year period commencing <1 January, 1985> <31 October, 1985>.⁽²⁾
2. (a) The Fund is authorised to accept, from each of the participants listed in the Annex to this Resolution, a subscription in an amount not less than that indicated in the applicable column of the Annex to this Resolution.
- (b) Nothing in this Resolution shall prevent the Fund, with the approval of the Board of Directors, from accepting subscriptions and other resources in excess of this amount.

(1) This preambular paragraph, which sets a target figure for the ADF II Replenishment, was dropped from the ADF II text. It seems desirable for the document containing the definitive result of the consultations to state an agreed target figure for the Replenishment.

(2) The discussion that this possibility should be considering is at paragraphs 5.5 to 5.7 of the introductory text.

- (3) (a) To make a subscription hereunder, each participant shall deposit with the Fund an Instrument of Subscription formally confirming its intention to subscribe to the Fund an amount not less than the amount specified in the Annex, denominated in terms of the unit of obligation relating to the participant in the said Annex. <Every unit of obligation selected by a State Participant shall be one of a set of freely convertible currencies designated by the Fund>⁽³⁾
- (b) Except as specified in sub-paragraph (c) of this paragraph, such an Instrument shall constitute an unqualified commitment by the participant depositing it to pay the amount subscribed thereby in the manner and on the terms set forth in or contemplated by this Resolution. Such a subscription shall be called an Unqualified Subscription for the purpose of this Resolution.
- (c) As an exceptional case, where an unqualified commitment cannot be given by a State Participant due to its legislative practice, the Fund may accept from that State Participant an Instrument of Subscription which contains the qualification that payment of all instalments of its subscription except the first is subject to subsequent budgetary appropriation. Such an Instrument shall, however, include an undertaking to seek such appropriation <before or>⁽⁴⁾ during the period of the Replenishment, and to notify the

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- (3) Because of the serious fluctuations in currency exchange rates and the very probable decision that there will be no maintenance of value, Participants may wish to consider allowing the Fund to designate a restricted number of currencies as units of obligation under ADF IV. This facility was allowed to the IADB for the current replenishment of its Fund for Special Operation. Ideally the currencies designated would be the same as those in the SDR basket at present. (See the detailed discussion in the paper titled "Exchange Rate and Currency Considerations for ADF IV").
- (4) If the proposed model for the Replenishment period presented in Annex V is accepted, the first U.S appropriation would be sought in 1984. Hence the language in the brackets.

Fund as soon as the appropriation relative to each instalment subsequent to the first is obtained. A subscription in this form shall be called a Qualified Subscription for the purpose of this Resolution, but shall be deemed to be unqualified to the extent that appropriation has been obtained.

OPTION 1

4. (a) The Fourth General Replenishment shall come into effect when Participants shall have deposited with the Fund Instruments of Subscription representing an aggregate amount equivalent to at least <45> per cent of the total intended subscriptions listed in the Annex to this Resolution.

OPTION II

4. (a) The Fourth General Replenishment shall come into effect on 1st November, 1985; by which date all Instruments of Subscription should have been deposited and payments of first instalments representing an aggregate amount equivalent to at least < > per cent of the total tranche of subscriptions available for commitment in the first year of the Replenishment shall have been paid. ⁽⁵⁾
4. (b) Each Instrument of Subscription deposited on or before the effective date of the Replenishment shall take effect on that date, and each
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(5) This alternative draft is based on the assumption that the model shifting the replenishment period backwards would be accepted. If it is, it would be realistic to expect that by then all Instruments of Subscription should have been deposited. A "trigger" for the start of operation would be superfluous if the present 30-day grace period between deposit and payment of first instalment is maintained. However, a trigger could be inserted without difficulty.

(6) If an absolute deadline of 31st October 1985 is set for deposits of Instruments of Subscription a question arises as to how to treat Instruments deposited after that date. The simplest way is to treat them fictitiously for the purposes of the Fund as if the deposit took place on 31st October 1985 and to make the anniversary of this date the due date

Instrument of Subscription deposited after such date shall take effect <on its respective date of deposit.< > as if it had been deposited on 31st October 1985>.⁽⁶⁾

5. (a) Payments in respect of each subscription shall be made in freely convertible currencies, in three instalments, of which the first shall be made on or before <1st October 1984,> <31st October, 1985>⁽⁷⁾ or not later than 30 days after the relative Instrument of Subscription becomes effective, whichever is later; with subsequent instalments falling due not later than the anniversary of the relative Instrument of Subscription becoming effective. <, which, for instruments deposited after 31st October, 1985 shall be 31st October of each subsequent year of the Replenishment for instalments falling due in those years>.⁽⁶⁾ Notwithstanding the foregoing provision, all amounts outstanding shall have been paid by <31 December 1987,> <31st October 1988,>⁽⁸⁾ or such later date as the Board of Directors may determine. Payments in respect of a Qualified Subscription shall be made within 30 days as and to the extent that the relative subscription becomes unqualified; and the above provisions relating to anniversary dates are applicable to them.
- (b) The total amount of each Unqualified Subscription shall be payable in three annual instalments of equal or ascending magnitude, with the first instalment amounting to at least <29>⁽⁹⁾ per cent of the subscription, the second instalment equivalent to at least <33>⁽⁹⁾ per cent, and the third instalment equivalent to the remaining balance.

for the second and third instalments. The first part of this fictitious treatment is effected by the language in the second set of square brackets in paragraph 4(b). For the second part, see the corresponding addition in paragraph 5(a).

- (7) The second alternative date in square brackets (31st October 1985) would be both the last date for the deposit of Instruments of Subscription and for payment of first instalments.
- (8) This date would, if OPTION II is accepted, be the last date of the replenishment.
- (9) Participants may wish to review these percentages in the light of (a) the Fund's experience of their convenience and (b) the fact that if they accept option II they would have up to 18 months to pay the first instalment. A larger initial instalment may be appropriate.

- (c) Payments of instalments of each Qualified Subscription shall be made according to such a schedule as will enable them to become available for loan commitment at the rate provided in paragraph 6(b).
- (d) Payments in respect of each subscription shall be made in cash or, at the option of the State Participant making the payment, by the deposit of non-negotiable non-interest-bearing notes or similar obligations of the State Participant, <denominated in one of the designated units of obligation selected by the Fund, and>⁽¹⁰⁾ encashable by the Fund at par.
- (e) <No State Participant shall be obliged to make any payment except to the extent that its subscription has become available for loan commitments as specified in paragraph 6 of this Resolution. However,>⁽¹¹⁾ <A>ny State Participant may, by a written declaration to the Fund, indicate that it intends to make payment in fewer instalments or in larger percentage portions, or at earlier dates than those specified in sub-paragraphs (a), (b) and (c) above.
- (f) Any State Participant may, if it chooses, notify the Fund that its subscription, or a part thereof, shall be regarded as an advance subscription which may be available to the Fund for the purpose of making commitments prior to the effectiveness of the Replenishment. Upon effectiveness of the Replenishment, any amounts so made available shall cease to be regarded as an advance.⁽¹²⁾

(10) This insertion follows from the proposal made in paragraph 3(a) about selected currencies and explained in footnote 3.

(11) The Management of the Fund proposes that this clause should be deleted. It is linked to the application of the sanction imposed by the trigger mechanism in paragraph 6(a)(ii) and (iii), and although in the second year of ADF III that sanction was applied to suspend commitments, no State Participant in fact availed itself of this option, although one State Participant requested confirmation that it had the option to delay payment beyond the due date in the circumstances.

(12) This provision could play a very useful new role if OPTION II (which, as noted in the introductory text, would entail a waiting period of ten months - see Annex V) were adopted. If individual Participants permitted,

6. (a) For the purpose of loan commitment by the Fund under its lending programme for the period mentioned in paragraph 1, each Unqualified Subscription shall be divided into three tranches corresponding to the instalments payable under paragraph 5(b), and shall become available for loan commitments as follows:

(i) the first tranche: on the date the relevant Instrument of Subscription takes effect;

(ii) the second tranche: <as from the date that Instruments of Subscription have become effective in respect of <80>⁽¹³⁾ per cent of the total amount listed in the Annex, provided that this percentage includes all subscriptions intended to be qualified, and provided that, in the case of each Qualified Subscription, such subscription has become unqualified to the extent of one-third of its total amount;< > as from <1986> <1st November 1986>>⁽¹³⁾

parts of their subscriptions could be utilised for commitment purposes even before the entry into effect of the Replenishment. The risk of inactivity during the waiting period would be considerably reduced.

- (13) The various sections of the text marked with this footnote treat of the second trigger of the "Kleber Formula", which the Management of the Fund would wish to see abandoned for ADF IV. Its retention in the draft is to present it as one option which participants may wish to consider along with others. Even if it is retained, the Management of the Fund would wish to see the 80% subscription level revised down. During ADF III this figure was attained without difficulty and long before the other pre-condition was satisfied; which would seem to indicate that its value as a condition for imposing a sanction is doubtful. Management's proposal in this respect would be to treat the second and third tranches of resources available for commitment in the same way they have been treated for the current replenishment of the IADB's Fund for Special Operations; namely that they become available for commitment on the second and third

- (iii) the third tranche: <in proportion to the extent that each Qualified Subscription becomes unqualified beyond two-thirds of its total> < as from < 1987>>⁽¹³⁾
- (b) Qualified Subscriptions shall become available for loan commitments as and to the extent that each becomes unqualified, which should occur at the rate of one-third of its total amount in each of the three years covered by the Replenishment.
- (c) Any State Participant may authorise the use of the second and third tranches of its subscription for loan commitments on a schedule more favourable to the Fund than that specified in sub-paragraphs (a) and (b) above.
- (d) Notwithstanding the foregoing, if a State Participant making a Qualified Subscription is unable, in any year, to make available for loan commitment purposes an amount equal to one-third of its total subscription, that State Participant shall indicate to the Fund the revised amount which will become unqualified and its intention as regards making up the shortfall in the next instalment or instalments <.>⁽¹³⁾ <and the precondition for release of the second tranche of Unqualified Subscriptions specified in the second proviso of sub-paragraph (a)(ii) of this paragraph shall be modified so as to reduce that tranche pro-rata to the amount of the Qualified Subscriptions which becomes unqualified.>⁽¹³⁾

(13) Cont'd

anniversary dates of entry into effect of the replenishment without further preconditions. The two variant dates in square brackets are offered to reflect the retention of the current periods of replenishment or the adoption of option II.

<(e) If there are Qualified Subscriptions which have not become Unqualified at the rate, to the extent and on the dates specified in paragraph 6(a) herein with respect to the second and third instalments, the Fund shall promptly notify all Participants; and Participants which have made Unqualified Subscriptions, or whose Qualified Subscriptions have become Unqualified at the rate, to the extent and on the dates specified in paragraph 6(a) herein may, after consultations with the Board of Directors, notify the Fund in writing that the Fund should refrain from making loan commitments against their subscriptions to the respective instalment. The maximum amount of such reduced loan commitment shall be in proportion to the extent that the respective instalment of the relevant Qualified Subscription has not become Unqualified>. (14)

7. If, in the course of the Replenishment, delays in the deposit of Instruments of Subscription or in the fulfilment of the pre-conditions established in paragraph 6(a) of this Resolution cause or threaten to cause a suspension in the Fund's lending operations or otherwise to prevent the substantial attainment of the goals of the Replenishment, the Fund shall convene a meeting of representatives of State Participants to review the situation and consider ways of fulfilling the conditions necessary for the continuation of the Fund's lending operations or for the substantial attainment of those goals.

(14) This proposed variant provides for a sanction in the event that the arrangements proposed in substitution for the "Kleber Formula" break down as a result of a Participant making a Qualified Subscription either fails to de-qualify all or any part of its instalments in time. It preserves the option of pro-rata reduction by Participants making unqualified subscriptions, but its chief attraction over the Kleber Formula is that the pro-rata reduction of commitment capacity is not automatic. This is the formula adopted for the current replenishment of the IADB's Fund for Special Operations.

8. (a) For the purpose of determining its proportionate share of the aggregated votes of the State Participants under Article 29(3) of the Agreement and to the extent that payment has been made, each increase in the subscriptions by a State Participant shall be added to the subscriptions made by it under Articles 6 and 7 of the Agreement on the 31st of March, 30th of June, 30th of September and 31st of December of each year beginning with the coming into effect of the Resolution.
- (b) Each State Participant accepts the provisions of sub-paragraph (a) herein to the extent that its acceptance is required under Article 29(3) of the Agreement.
- (c) For the purposes of Article 27(6)(b) elections for the Board of Directors shall take place during the annual meeting of the Fund Board of Governors in 1986.
9. The rights and obligations of State Participants making additional subscriptions pursuant to this Resolution, of other State Participants, of the Bank, and of the Fund, in respect of the additional subscriptions provided for in this Resolution shall (except as otherwise provided for in this Resolution) be the same as those which govern the initial subscriptions of original participants made pursuant to Article 6 of the Agreement, save that for the purpose of the valuation of additional subscriptions authorised by this Resolution, Article 13(1) and (2) of the Agreement are hereby waived and shall not be applicable.
10. Subscriptions made under this Resolution shall be determined in accordance with the relative conversion rates prevailing on 1984 as given by the International Monetary Fund and as shown against each participant in the Annex. ⁽¹⁵⁾

(15) This date is to be determined by Participants at the end of the consultations.

AFRICAN DEVELOPMENT FUND

SUBSCRIPTIONS TO THE FOURTH GENERAL REPLENISHMENT

Participation	Amount Equi. in million FUA	Unit of Obligation	Rates of Exch. As at in FUA	Amount to be Subscribed in Millions
ADB				
AGRENTINA				
AUSTRIA				
BELGIUM				
BRAZIL				
CANADA				
DENMARK				
FINLAND				
FRANCE				
GERMANY				
INDIA				
ITALY				
JAPAN				
KOREA				
KUWAIT				
NETHERLANDS				
NORWAY				
PORTUGAL				
SAUDI ARABIA				
SPAIN				
SWEDEN				
SWITZERLAND				
UNITED KINGDOM				
UNITED ARAB EMIRATES				
U.S.A.				
YUGOSLAVIA				

BOARD OF GOVERNORS

Resolution 09/82

concerning additions to the resources of the Fund: Third General Replenishment

(Adopted by Postal Ballot on 8 May, 1982)

THE BOARD OF GOVERNORS,

HAVING REGARD TO Articles 2, 4, 7, 8 and 23 of the Agreement Establishing the African Development Fund ("the Agreement"),

CONSIDERING the Report of the Board of Directors dated 23rd February, 1982 on the implementation of Resolution 05-80 concerning the addition to the resources of the Fund, and in particular the recommendations of the Board of Directors contained in that report as a result of discussions authorised by paragraph (b) of the said resolution;

FURTHER CONSIDERING that the Governments of the State Participants listed in the Annex hereto attached believe that the amounts stated in the said Annex, together with the terms therein stated, and the conditions set forth in this Resolution, form an appropriate basis for recommendations to their respective legislatures; and intend to request, where necessary, their said legislatures to approve these arrangements with a view to obtaining approval to subscribe the amounts listed in the Annex, on the understanding that no final commitment by a State Participant can be made until approval has, where necessary, been obtained from its legislature;

RECOGNISING that the review of the adequacy of the Fund's resources has demonstrated that there is need for a substantial increase in such resources in order to meet the development requirements of the poorer and less developed member countries;

DECIDES as follows:-

1. The Fund is authorised to proceed with the Third General Replenishment of its resources for a 3-year period commencing 1 January, 1982.
2. (a) The Fund is authorised to accept, from each of the participants listed in the Annex to this Resolution, a subscription in an amount not less than that indicated in the applicable column of the Annex to this Resolution.
(b) Nothing in this Resolution shall prevent the Fund, with the approval of the Board of Directors, from accepting additional subscriptions and other resources in excess of this amount.

3. (a) To make a subscription hereunder, each participant shall deposit with the Fund an Instrument of Subscription formally confirming its intention to subscribe to the Fund an amount not less than the amount specified in the Annex, denominated in terms of the unit of obligation relating to the participant in the said Annex. Except as specified in sub-paragraph (b) of this paragraph, such an Instrument shall constitute an unqualified commitment by the participant depositing it to pay the amount subscribed thereby in the manner and on the terms set forth in or contemplated by this resolution. Such a subscription shall be called an Unqualified Subscription for the purpose of this Resolution.
- (b) As an exceptional case, where an unqualified commitment cannot be given by a State Participant due to its legislative practice, the Fund may accept from that State Participant an Instrument of Subscription which contains the qualification that payment of all instalments of its subscription except the first is subject to subsequent budgetary appropriation. Such an Instrument shall, however, include an undertaking to seek such appropriation during the period of the Replenishment, and to notify the Fund as soon as the appropriation relative to each instalment subsequent to the first is obtained. A subscription in this form shall be called a Qualified Subscription for the purpose of this Resolution, but shall be deemed to be unqualified to the extent that appropriation has been obtained.
4. (a) The Third General Replenishment shall come into effect when Participants shall have deposited with the Fund Instruments of Subscription representing an aggregate amount equivalent to at least 45 per cent of the total of intended subscriptions listed in the Annex to this Resolution.
- (b) Each Instrument of Subscription deposited on or before the effective date of the Replenishment shall take effect on that date, and each Instrument of Subscription deposited after such date shall take effect on its respective date of deposit.
5. (a) Payments in respect of each subscription shall be made in freely convertible currencies, in three instalments, of which the first shall be made on or before 1st October, 1982, or not later than 30 days after the relative Instrument of Subscription becomes effective, whichever is later; with subsequent instalments falling due not later than the anniversary of the relative Instrument of Subscription becoming effective. Notwithstanding the foregoing provision, all amounts outstanding shall have been paid by 31 December, 1984, or such later date as the Board of Directors may determine. Payments in respect of a Qualified Subscription shall be made within 30 days as and to the extent that the relative subscription becomes unqualified; and the above provisions relating to anniversary dates are applicable to them.
- (b) The total amount of each Unqualified Subscription shall be payable in three annual instalments of equal or ascending magnitude, with the first instalment amounting to at least 29 per cent of the subscription, the second instalment equivalent to at least 33 per cent, and the third instalment equivalent to the remaining balance.
- (c) Payments of instalments of each Qualified Subscription shall be made according to such a schedule as will enable them to become available for loan commitment at the rate provided in paragraph 6(b).
- (d) Payments in respect of each subscription shall be made in cash or, at the option of the State Participant making the payment, by the deposit of non-negotiable non-interest-bearing notes or similar obligations of the State Participant, encashable by the Fund at par.

- (e) No State Participant shall be obliged to make any payment except to the extent that its subscription has become available for loan commitments as specified in paragraph 6 of this Resolution. However, any State Participant may, by a written declaration to the Fund, indicate that it intends to make payment in fewer instalments or in larger percentage portions, or at earlier dates than those specified in sub-paragraphs (a), (b) and (c) above.
 - (f) Any State Participant may, if it chooses, notify the Fund that its subscription, or a part thereof, shall be regarded as an advance subscription which may be available to the Fund for the purpose of making commitments prior to the effectiveness of the Replenishment. Upon effectiveness of the Replenishment, any amounts so made available shall cease to be regarded as an advance.
6. (a) For the purpose of loan commitment by the Fund under its lending programme for the period mentioned in paragraph 1, each Unqualified Subscription shall be divided into three tranches corresponding to the instalments payable under paragraph 5(b), and shall become available for loan commitments as follows:-
- (i) the first tranche: on the date the relevant Instrument of Subscription takes effect;
 - (ii) the second tranche: as from the date that Instruments of Subscription have become effective in respect of 80 per cent of the total amount listed in the Annex, provided that this percentage includes all subscriptions intended to be qualified, and provided that, in the case of each Qualified Subscription, such subscription has become unqualified to the extent of one-third of its total amount;
 - (iii) the third tranche: in proportion to the extent that each Qualified Subscription becomes unqualified beyond two-thirds of its total.
- (b) Qualified Subscriptions shall become available for loan commitments as and to the extent that each becomes unqualified, which should occur at the rate of one-third of its total amount in each of the three years covered by the Replenishment.
- (c) Any State Participant may authorise the use of the second and third tranches of its subscription for loan commitments on a schedule more favourable to the Fund than that specified in sub-paragraphs (a) and (b) above.
- (d) Notwithstanding the foregoing, if a State Participant making a Qualified Subscription is unable, in any year, to make available for loan commitment purposes an amount equal to one-third of its total subscription, that State Participant shall indicate to the Fund the revised amount which will become unqualified and its intention as regards making up the shortfall in the next instalment or instalments and the precondition for release of the second tranche of Unqualified Subscriptions specified in the second proviso of sub-paragraph (a)(ii) of this paragraph shall be modified so as to reduce that tranche pro-rata to the amount of the Qualified Subscriptions which becomes unqualified.
7. If, in the course of the Replenishment, delays in the deposit of Instruments of Subscription or in the fulfilment of the pre-conditions established in paragraph 6(a) of this Resolution cause or threaten to cause a suspension in the Fund's lending operations or otherwise to prevent the substantial attainment of the goals of the Replenishment, the Fund shall convene a meeting of representatives of State Participants to review the situation and consider ways of fulfilling the conditions necessary for the continuation of the Fund's lending operations or for the substantial attainment of those goals.

8. (a) For the purpose of determining its proportionate share of the aggregated votes of the State Participants under Article 29(3) of the Agreement and to the extent that payment has been made, each increase in the subscriptions by a State Participant shall be added to the subscriptions made by it under Articles 6 and 7 of the Agreement on the 31st of March, 30th of June, 30th of September and 31st of December of each year beginning with the coming into effect of the Resolution.

(b) Each State Participant accepts the provisions of sub-paragraph (a) herein to the extent that its acceptance is required under Article 29(3) of the Agreement.

(c) For the purposes of Article 27(b)(b) elections for the Board of Directors shall take place during the annual meeting of the Fund Board of Governors in 1983.
9. The rights and obligations of State Participants making additional subscriptions pursuant to this Resolution, of other State Participants, of the Bank, and of the Fund, in respect of the additional subscriptions provided for in this Resolution shall (except as otherwise provided for in this Resolution) be the same as those which govern the initial subscriptions of original participants made pursuant to Article 6 of the Agreement, save that for the purpose of the valuation of additional subscriptions authorised by this Resolution, Article 13(1) and (2) of the Agreement are hereby waived and shall not be applicable.
10. Subscriptions made under this Resolution shall be determined in accordance with the relative conversion rates prevailing on 1 February 1982 as given by the International Monetary Fund and as shown against each participant in the Annex.

SUBSCRIPTIONS TO THE THIRD GENERAL REPLENISHMENT

Participation	Amount Equivalent in Million F.U.A.	Unit of Obligation	Rates of Exch. At 1 Feb.1982 in FUA	Amount to be Subscribed in millions
A.D.B.	25.00	US Dollars	1.0505	26.2625
ARGENTINA	7.62	Peso	10,100.9220	76969.0250
AUSTRIA	12.50	Austr.Schillings	17.2084	215.1050
BELGIUM	17.00	Belgian Francs	41.9072	712.4224
BRAZIL	12.50	Br. Cruzeiros	140.535	1756.6875
CANADA	80.00	Can. Dollars	1.2621	100.9680
DENMARK	34.70	Danish Kr.	8.0500	279.3350
FINLAND	13.22	Finnish Mark	4.68975	61.9985
FRANCE	70.50	FF	6.2598	441.3159
GERMANY	98.00	SDR	0.921052	90.2631
INDIA	7.55	Rupee	9.6682	72.9949
ITALY	62.36	Italian Lira	1316.6254	82104.7590
JAPAN	133.26	Yen	242.5765	32325.7440
KOREA	8.40	Korean Won	744.119	6250.5996
KUWAIT	15.11	Kuwaiti Dinars	0.298488	4.5102
NETHERLANDS	22.16	Dutch Guilder	2.6973	59.7722
NORWAY	35.96	Norwegian Kr.	6.2278	223.9517
SAUDI ARABIA	38.07	U.S. Dollars	1.0505	39.9925
SPAIN	15.86	Peseta	104.3478	1654.9561
SWEDEN	55.04	Swedish Kr.	5.9904	329.7116
SWITZERLAND	42.20	Sw. Frs.	1.9572	82.5938
UNITED KINGDOM	43.00	£ Stg.	0.5621	24.1703
U.A. EMIRATES	(4.76)	Dihrams	3.85665	18.3577
U.S.A.	142.78	US Dollars	1.0505	150.0000
YUGOSLAVIA	10.47	Yug. Dinars	45.8867	480.4340

TRIGGER-MECHANISMS AND THE RE-DESIGN
OF THE REPLENISHMENT RESOLUTIONS

- 1.1. Negotiations leading to the settlement of the provisions of the ADF-III Resolution were heavily influenced by two considerations. The first was the awareness of the fact that, due to the nature of legislative procedures, certain State Participants could not initially enter into unqualified commitments in respect of all the instalments by which the amounts they pledged would be paid. The second was the expectation that, as a possible result of these legislative constraints, instalments subsequent to the first might be delayed in the case of such participants.
- 1.2. Partly as a result of a desire to protect the Fund by encouraging such participants to keep such delays to a minimum, and partly to ensure that, among the entire group of state participants, the distribution of payment obligations was evenly spread through the whole of the replenishment period, a complex trigger-mechanism was worked out, together with consultative machinery to enable alternatives to be worked out, in case the trigger-mechanism turned out to be too harsh in its impact on the funds operations.
- 1.3. This mechanism was additional to the simpler and more usual trigger of the minimum total subscription which, if attained, would enable the replenishment arrangements to enter into force.
- 1.4. The trigger mechanism was related, first, to the total annual instalments to be received each year by the Fund. It was not expected that there would be any qualified commitments in respect of the first instalment, and so the only trigger that operated in respect of it was the total minimum subscription;

in the case of ADF-II, the deposit of unqualified subscriptions for FUA 325 million (see para 4 of the resolution). To ensure that the replenishment would take effect in the first year of its period a provisional deadline for this general trigger was fixed at 31st December 1978.

1.5 To ensure further that 1979 there were actual resources to commit, it was further stipulated that first instalments were to be payable on or before 1st October 1979 or 30 days after a state participant's deposit of its instrument of subscription, whichever was later.

1.6 The chief weakness of this system was that it in fact omitted to stipulate the latest date by which State Participants were obliged to have deposited their instruments of subscription. It followed that, while there was, clearly, a general expectation that a sufficient number of subscriptions would have been received by 31st December 1978 to make the entire replenishment effective, no individual state participant was obligated to respect this deadline; a conclusion expressly acknowledged by the further provision that, if by 31st December 1978 this particular trigger had not been attained, the Board of Directors, rather than the Governors of the Fund, might extend the deadline.

1.6.1 The result, in the events that happened, was that as late as mid 1980, one state participant had not deposited its instrument of subscription; not having done so, it was under no obligation to pay its first instalment at any particular time (the 30-day deadline for payment being reckoned from the date of deposit of an instrument of subscription) and could in fact, consistently with the provisions of paragraph 5(a) of the resolution have held out on all instalments until 31st December 1981 (the last day of the replenishment period). Put another way, a State participant could, without infringing any provision of the resolution, have delayed the deposit of its subscription until 1st December 1981, and still have been in time if it paid all its instalments together 30 days later on 31st December 1981.

1.6.2 On a strict interpretation of the resolution, the developments worked out in the form of a trigger mechanism for the commitment of second and third instalment payments would not have been effective to obviate this awkward and obviously unintended consequence. This weakness, it must be emphasised, arises from the omission to stipulate a firm and universally-applicable deadline for all participants.

1.6.3 For the purposes of ADF-III, state participants may wish to consider adopting a new approach in this direction. It would appear to have the further merit, first of making it possible to set a later deadline than was advisable under the scheme adopted under ADF-II and secondly, of making it possible to adopt a much lower trigger figure than was deemed advisable for the general entry into force of ADF-II.

2. Secondly, the triggers for the release for commitment of Second and Third tranches of unqualified subscriptions have been found from experience to be too tight on the one hand, and not sufficiently effective for their intended purpose (and to that extent, too loose), on the other hand.

2.1 It was envisaged that all the unqualified subscriptions would be pooled and then divided into three equal parts. The first tranche, which would correspond to the total of the first-instalment payments (roughly one-third of all unqualified subscriptions) would be immediately available for commitment when the instruments of subscription relative to them became effective. In the first year of the replenishment period, therefore, it was relatively easy to commit resources without infringing the provisions of the resolution. However, because the resolution made it possible for subscriptions (whether qualified or unqualified) to be made at any time up to the theoretical deadline indicated in paragraph 1.6.1, it was never at any time possible to establish in advance the exact level of authorised commitment capacity even in the first year; the maximum possible level (i.e. the total amounts pledged, divided by three) could be adopted for operational planning purposes, but there was no guarantee that this would represent in that year the level of resources actually authorised for commitment.

- 2.2 The result of this was a persistent discrepancy between the level of commitment planned by management and approved by the Board and the actual amounts that could be unconditionally committed.
- 2.3 This awkward but manageable situation was further compounded as the Fund entered into the second year of the replenishment period. The second tranche of unqualified subscriptions were due for commitment but only on condition that these were no first-instalment arrears of qualified subscriptions due from any State Participant.
- 2.4 An intricate and time-consuming debate ensued around the events that actually occurred: a state participant, which had declared its intention to make a qualified subscription, had in fact not subscribed at all, because it was, for reasons of legislative delay, not in a position to ensure that it would be able to pay its first instalment within 30 days of the deposit of its instrument of subscription. The issue that arose was whether, in the circumstances, the funds representing the second tranches of unqualified subscriptions (which had actually been paid to the Fund) were legally available for commitment.
- 2.5 After considerable hesitation, the Board of Directors came to the view that the funds were legally available for commitment. The reasoning they adopted was based on a finding, whose only merit was that it was legally correct, that the state participant concerned was at that point not a subscriber under the replenishment, and that there was therefore no question of applying the trigger-mechanism as result of a late instalment from it.
- 2.6 On this basis the Fund was free to commit unconditionally the resources corresponding to the second tranche of the unqualified subscriptions. But this led to another awkward result and presented an even more awkward possibility. The awkward result was that the Fund was free to make unconditional commitments as long as the particular state participant held off depositing its instrument of subscription, unless when it did, it paid its first instalment, and unqualified its second.

2.7 As was to be expected, this state participant did not view this ironical situation favourably, and doubled its efforts to deposit its instrument and pay at least a part of its first instalment. This, however, presented the Fund with the possibility first, that in respect of the second unqualified tranche, other participants might demand a pro-rata scaling down of availability for commitment and secondly, since in respect of the second instalment this state participant could only make a qualified subscription, the third year of the replenishment could begin with the third tranche of everyone else's unqualified subscription under a definitive commitment embargo. In sum, the unintended effect was realised; namely that as a result of a provision designed with the intention of securing prompt subscription payments, the Fund was, for several months of its second year of the replenishment, better off administratively if a participant actually delayed subscribing.

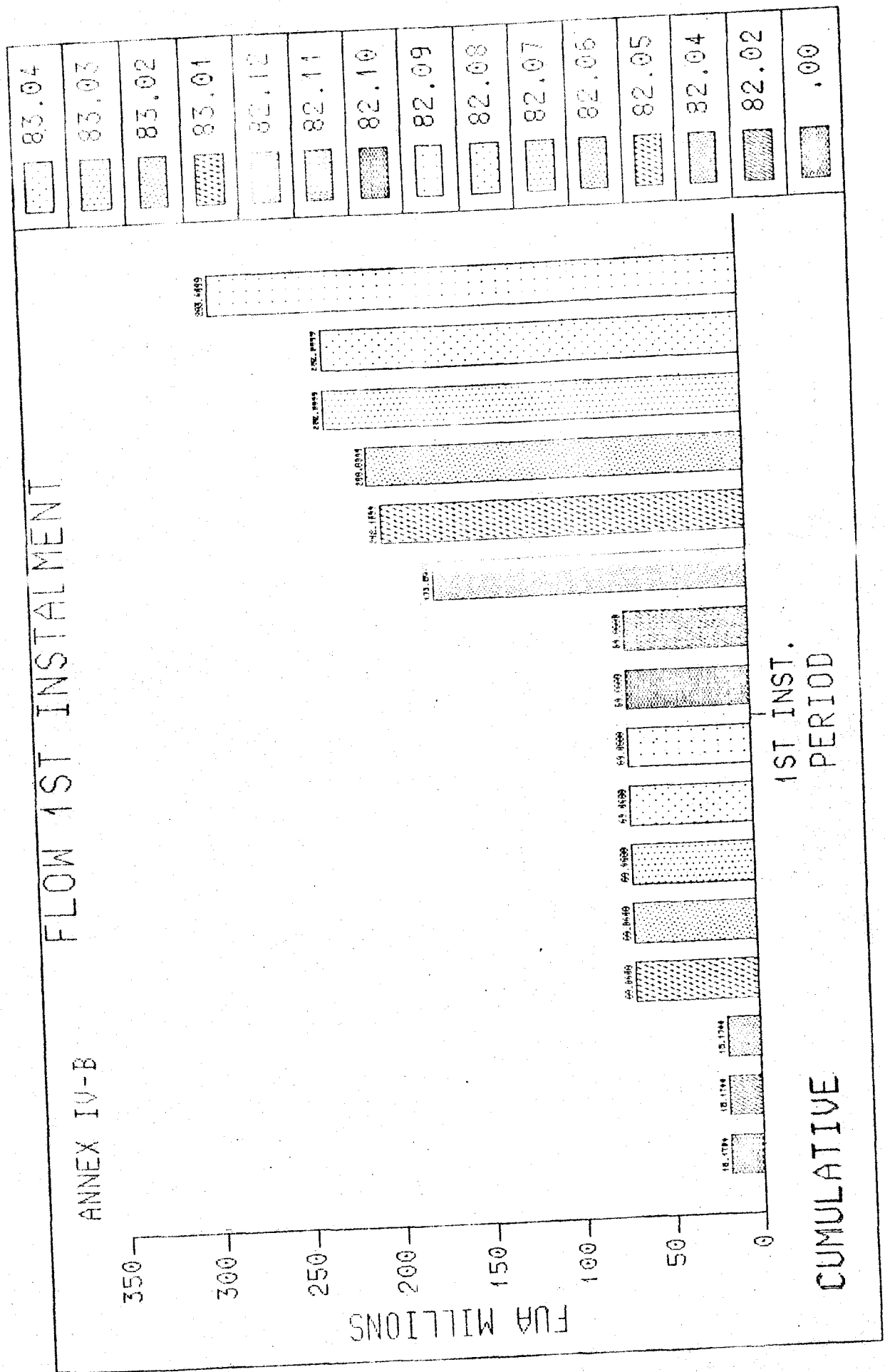
2.7.1 On the other hand, the flow of actual project-processing was unimpaired, since the Board could always approve projects subject to loans not being signed in respect of them until resource-commitment authorisation became available. Since the time between loan approval and signature was not subject to any time-schedule, and the time between loan signature, effectiveness and disbursement is considerable, the practical effect of this complex mechanism either on the operations of the Fund or on its recipients was in fact negligible.

2.8 On the side of the state participants, several facts are noteworthy. The first is that the delays that put these provisions to the severe test described above cannot be attributed to any desire on the part of the State Participant thus affected to resile from its original pledge, and it is a fair view to take that the likelihood of such deliberate resiliation on the part of any state participants is extremely remote. The second fact is that when the right to request pro-rata withholding of tranches otherwise available for commitment did in fact occur to the other state participants, they proved, for diverse well-founded reasons, extremely reluctant to invoke them. Thirdly, when it appeared that the Board of Directors might have to invoke its powers to alleviate the adverse impact on the Fund of the situation that had arisen, members of the Board felt it imprudent to use their powers of on-the-spot intervention without extensive prior consultation with their capitals. Nevertheless, and finally, it was

generally felt that the temporary nature of the situation and the relatively small size of the amount actually delayed did not warrant the convening of a full-scale consultative meeting under the provisions of paragraph 6(d) of the resolution; in any case, at no time did these events pose a real threat of a disparity between the relative proportions of the subscriptions available for commitment.

3. From the experience thus acquired of the working of the rules of the resolution, several possibilities of change suggest themselves. From a purely legal point of view, it is possible to tighten up its language to avoid the loopholes the main ones of which have been identified here; but this is a worthwhile approach only if it is decided that the substantive rules it embodies should be retained for the purposes of ADF-III. There are many reasons why a ready affirmative answer to this is not possible at this stage.
 - 3.1 The experience of the wordings of similar corresponding provisions for IDA V and ADF III show that the formula adopted for them (which is similar for ADF-III) produced equally awkward consequences in the parallel but different situation of a genuine shortfall in resources. The fact that, in the comparatively milder situation of an absence of commitment authority, very much the same threat interruption in operations was posed for the ADF indicates the possible need for a radical departure from the assumptions on which the formula is based.
 - 3.2 The key question is whether a trigger mechanism designed to affect the commitment of tranches and based on the observations of a calendar of payments by State Participants is either effective or desirable. Experience of the present formula leads fairly to the conclusion that, in its present form, it has not been effective. Though this does not mean it cannot be rendered effective, the policy question that needs to be considered at this stage is whether it is desirable.

3.3 As far as the management of the Fund is able to advise on this, and for the reasons appearing from the case history recounted here, its advantages to the Fund are marginal. It may be advisable for state participants to consider whether the simpler regime adopted in the resolution governing ADF I is not a more realistic basis for regulating subscriptions and commitments under ADF-III.



AFRICAN DEVELOPMENT FUND

BOARD OF GOVERNORS

Resolution 05-83

concerning the increase in the resources of the African Development Fund

(adopted at the fourth joint plenary sitting of the Tenth ADF Annual Meeting and Nineteenth ADB Annual Meeting, on 13 May 1983)

THE BOARD OF GOVERNORS,

HAVING REGARD to Articles 2, 4, 7, 8 and 23 of the Agreement establishing the African Development Fund;

HAVING TAKEN NOTE of the implementation of the Third Replenishment as reported in the 1982 Annual Report;

AWARE of the need to increase the Fund's resources in order to enable it to contribute more effectively to the economic and social development of the African countries by maintaining a volume of activity compatible with the urgent requirements of those countries;

INVITES the President of the Fund, in close consultation with the Board of Directors, to take without delay the necessary steps:

- (a) to determine all possibilities of mobilizing the necessary resources within the context of an overall plan directed towards maintaining the operational activities of the Fund for a Fourth Replenishment;
- (b) to that end to proceed to organize consultations with State Participants and interested third countries with a view to obtaining such resources.

PARTICIPANT	AMOUNT RATIFIED	DATE OF		DATE OF 1ST INSTALMENT	DATE OF 2ND INSTALMENT	SUPP. CONTR.
		RECEIPT OF INSTALMENT	INSTALMENT			
ADB	25.00	02/06/82	11/12/82	12/12/83	-	-
ARGENTINA	7.52	-	-	-	-	-
AUSTRIA	12.50	15/02/82	18/02/83	18/02/86	-	-
BELGIUM	17.00	-	-	-	-	-
BRAZIL	12.50	03/05/82	11/12/82	12/12/83	-	-
CANADA	30.00	06/04/83	31/03/83	-	-	-
DENMARK	34.70	16/07/82	11/12/82	12/12/83	-	-
FINLANDE	13.22	15/06/82	11/12/82	12/12/83	-	-
FRANCE	70.50	23/01/82	11/12/82	12/12/83	67.54	-
GERMANY	98.00	03/12/83	03/01/83	03/01/84	-	-
INDE	7.55	10/09/82	11/12/83	12/12/83	-	-
ITALY	62.36	18/06/82	11/12/83	12/12/83	37.64	-
JAPON	133.26	21/04/82	21/05/82	21/05/84	-	-
KORE	8.40	06/10/82	11/12/82	12/12/83	-	-
KUWEIT	15.11	30/11/82	11/12/82	12/12/83	-	-
NETHERLANDS	22.16	-	-	-	-	-
NORWAY	35.96	15/07/82	11/12/82	12/12/83	-	-
PORTUGAL	10.00	15/11/82	15/12/82	15/12/82	-	-
SAUDI ARABIA	30.07	25/10/82	11/12/82	12/12/83	-	-
SPAIN	15.86	-	-	-	-	-
SWEDEN	55.04	02/03/82	11/12/82	12/12/83	-	-
SWITZERLAND	42.20	15/04/83	11/05/82	15/11/83	-	-
U.K.	43.00	26/08/82	11/12/82	12/12/83	-	-
U.S.A.	142.73	12/12/83	12/12/83	12/12/83	-	-
YUGOSLAVIA	10.47	28/12/82	22/02/83	22/02/84	-	-

NOTES

I) THE THIRD INSTALMENT OF ALL PARTICIPANTS SHOULD BE SETTLED BEFORE
END OF YEAR 1984 AS PER RES. 09/82 5(A).

II) AUSTRIA AND YUGOSLAVIA SPECIFIED THEIR DATES OF PAYMENT.

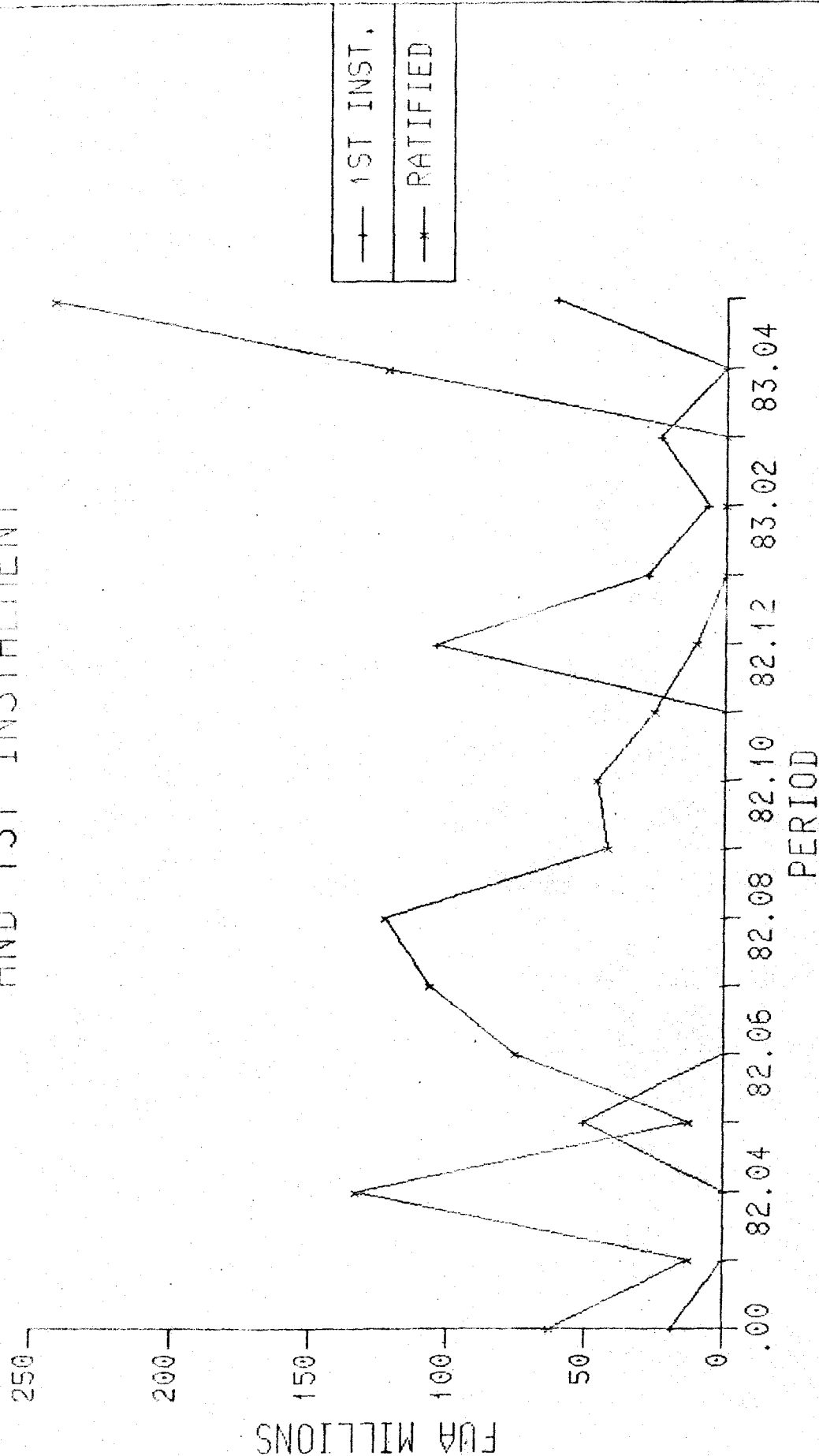
III) CANADA'S PAYMENTS ARE SUBSEQUENT TO BUDGETARY APPROPRIATIONS.

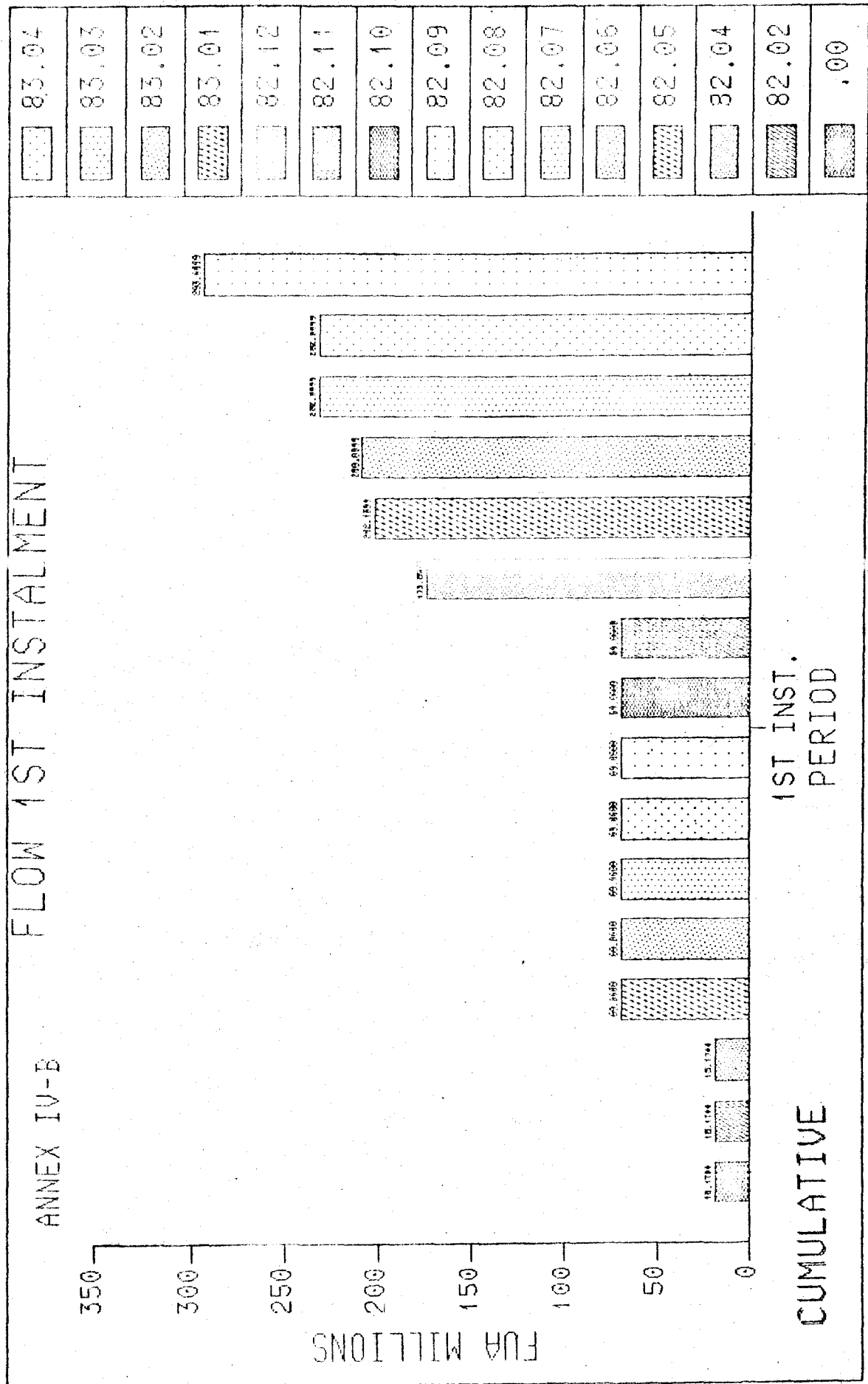
IV) U.S.A. PAID THE FIRST TWO INSTALMENTS ON 12/12/83.

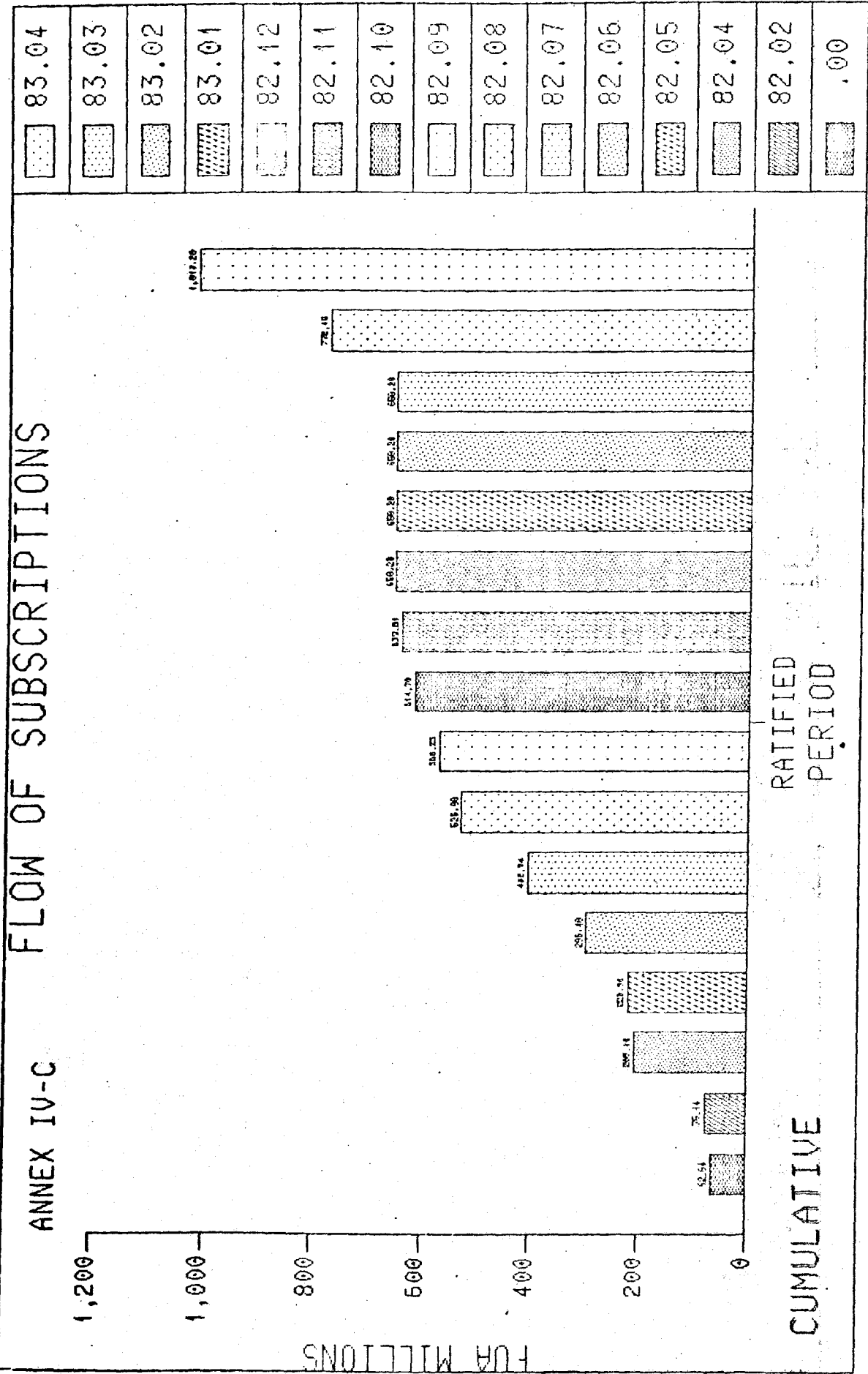
V) FRANCE'S ADDITIONAL CONTRIBUTION DATED 3/1/83 BUT PAID ON SAME DATES.

VI) ITALY'S ADDITIONAL CONTRIBUTION IS DATED 18/6/83.

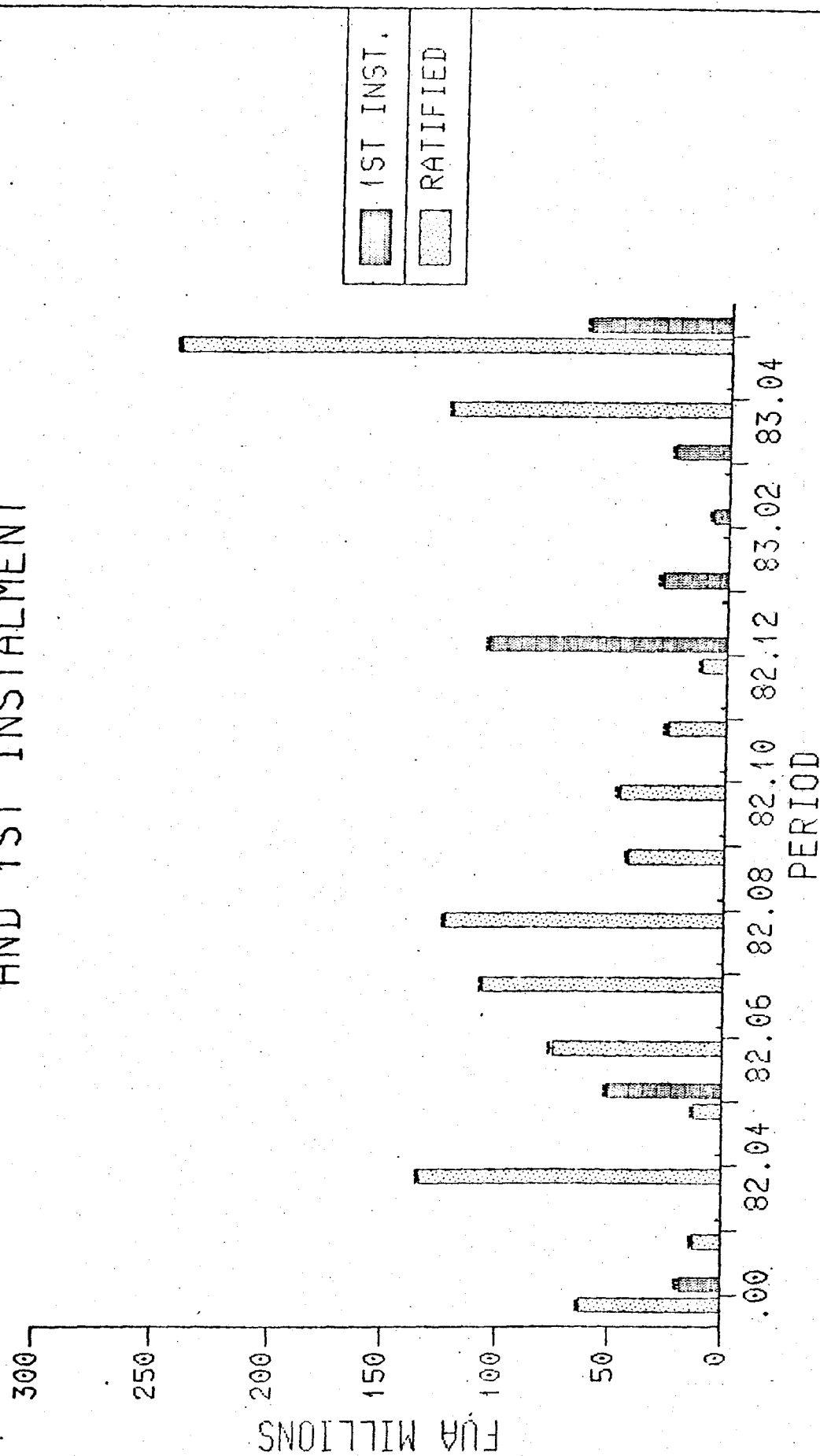
ANNEX IV-A FLOW OF SUBSCRIPTIONS AND 1ST INSTALMENT







ANNEX IV-D FLOW OF SUBSCRIPTIONS AND 1ST INSTALMENT



ANNEXE V

MODEL FOR CHANGE OF REPLENISHMENT PERIOD
FROM 1ST JAN 1985-31ST DEC 1987 TO 1ST NOV 1985-31 OCT 1988

10-MONTH WAITING
PERIOD

10-MONTH WAITING PERIOD		10-MONTH WAITING PERIOD		10-MONTH WAITING PERIOD	
3RD YEAR	1ST YEAR	2ND YEAR	3RD YEAR	4TH YEAR	5TH YEAR
ADF III	ADF IV	ADF IV	ADF IV	ADF IV	ADF IV
JAN 84	JAN 85	JAN 86	JAN 87	JAN 88	JAN 89
US 1ST INSTALMENT READY	US 2ND INSTALMENT READY	US 3RD INSTALMENT READY	US 4TH INSTALMENT READY	US 5TH INSTALMENT READY	US 6TH INSTALMENT READY
V	V	V	V	V	V
OC 84	OC 85	OC 86	OC 87	OC 88	OC 89

ANNEX/ANEXE VI

FISCAL YEARS OF STATE PARTICIPANTSANNEES FISCALES DES PAYS PARTICIPANTS

Country/Pays	Fiscal Year Ending Fin d'Annee Fiscale
ARGENTINA/ARGENTINE	December/Decembre 31
AUSTRIA/AUTRICHE	" "
BELGIUM/BELGIQUE	" "
BRAZIL/BREZIL	" "
CANADA	" "
DENMARK/DANEMARK	March/Mars 31
FINLAND	December/Decembre 31
FRANCE	" "
GERMANY/ALLEMAGNE	" "
INDIA/INDE	March/Mars 31
ITALY/ITALIE	December/Decembre 31
JAPAN/JAPON	March/Mars 31
KOREA/COREE	December/Decembre 31
KUWAIT/KOWEIT	March/Mars 31
NETHERLANDS/PAYS BAS	December/Decembre 31
NORWAY/NORVEGE	" "
PORTUGAL/PORTUGAL	" "
SAUDI ARABIA/ARABIE SAOUDITE	October/Octobre 14
SPAIN/ESPAGNE	December/Decembre 31
SWEDEN/SUEDE	June/Juin 30
UNITED ARAB EMIRATES/EMIRATES ARABES UNIES	December/Decembre 31
UNITED KINGDOM/ROYAUME UNI	March/Mars 31
UNITED STATES/ETATS UNIS D'AMERIQUE	June/Juin 30
YUGOSLAVIA/YUGOSLAVIE	December/Decembre 31