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(Article begins on next page)

International Monetary Fund (IMF)

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Table of Contents

The Authors	3
List of Abbreviations	11
Part I. Development and Structure <i>Erik Denters</i>	13
Chapter 1. Introduction	13
Chapter 2. The Fund's Function in the International Economic System	15
§1. IMF AND WTO: LIBERALIZATION OF CURRENT PAYMENTS AND TRADE	15
§2. IMF AND THE IBRD: MONETARY STABILITY AND ECONOMIC DEVELOPMENT	16
Chapter 3. Articles of Agreement	17
Chapter 4. Genesis	19
Chapter 5. Amendments	21
Chapter 6. Membership	23
§1. COUNTRY BASED	23
§2. UNIFORM AND PREFERENTIAL TREATMENT	24
§3. DEGREE OF PARTICIPATION	25
I. Quota	25
II. Subscription	26
III. Voting Rights	26
IV. Extent of Balance of Payments Support	27
V. Share in SDR Allocations	27

Table of Contents

Chapter 7. Object and Purpose	28
§1. OBJECT: CURRENCY, EXCHANGE RATES AND BALANCE OF PAYMENTS	28
§2. PURPOSES EXPLAINED	28
Chapter 8. Rules for Interpretation	31
§1. PRINCIPLES	31
§2. AUTHORITATIVE INTERPRETATION UNDER ARTICLE XXIX	31
§3. ADVISORY OPINION FROM THE ICJ	32
§4. NON-AUTHORITATIVE INTERPRETATIONS	32
Chapter 9. Institutional Structure	34
§1. BOARD OF GOVERNORS	34
§2. EXECUTIVE BOARD	34
§3. MANAGING DIRECTOR	35
§4. OPTIONAL BODY: THE COUNCIL	36
§5. INDEPENDENT EVALUATION OFFICE (IEO)	36
§6. DECISION-MAKING	36
§7. CORPUS JURIS	37
Chapter 10. Legal Status, Privileges and Immunities	39
Chapter 11. Financial Structure	40
§1. RESOURCES	40
§2. ADDITIONAL BORROWING: MULTILATERAL (GAB AND NAB) AND BILATERAL LOAN AGREEMENTS	41
§3. DRAWINGS ON THE GENERAL RESOURCES ACCOUNT: TRANCHE POLICY	42
§4. SPECIAL FACILITIES	43
§5. CONCESSIONAL FACILITIES	43

Table of Contents

Chapter 12. SDRs and the Management of International Liquidity	44
§1. ALLOCATIONS	44
§2. EQUITY ALLOCATIONS	44
Chapter 13. Operations and Transactions in SDRs	46
§1. BETWEEN MEMBERS: DESIGNATION MECHANISM AND VOLUNTARY TRANSACTIONS	46
§2. WITH THE FUND	46
Part II. Management of the International Monetary System <i>Annamaria Viterbo</i>	47
Chapter 1. Introduction	47
Chapter 2. Bilateral and Multilateral Surveillance	48
§1. ARTICLE IV CONSULTATIONS	48
§2. GLOBAL AND REGIONAL SURVEILLANCE	49
§3. THE 1977 AND 2007 EXECUTIVE BOARD DECISIONS ON BILATERAL SURVEILLANCE	50
§4. STRENGTHENING SURVEILLANCE: THE FINANCIAL SECTOR ASSESSMENT PROGRAMME AND THE 2012 INTEGRATED SURVEILLANCE DECISION	51
Chapter 3. New Practices in Exchange Rate Management	53
Chapter 4. Currency Convertibility	54
§1. INTERNATIONAL PAYMENTS FOR CURRENT TRANSFERS AND MARKET CONVERTIBILITY	54
§2. CONVERTIBILITY OF FOREIGN-HELD BALANCES OR ‘OFFICIAL CONVERTIBILITY’	54
§3. CAPITAL TRANSFERS	55
Chapter 5. Reforming the International Monetary System	56
Chapter 6. The Promotion of Transparency and Good Governance	57

Table of Contents

Part III. Balance of Payments Support <i>Erik Denters</i>	59
Chapter 1. Introduction	59
Chapter 2. The Concept of Balance of Payments	60
Chapter 3. The Need for Support	61
Chapter 4. The Political Economy	62
Chapter 5. Purchasing Currencies from the Fund	64
Chapter 6. IMF Conditionality	66
§1. PRINCIPLES OF CONDITIONALITY	67
§2. ASSESSMENT	69
§3. PROCEDURE AND MODALITIES	70
§4. MONITORING AND MEASURING PERFORMANCE	72
§5. CONDITIONS AGAINST CORRUPTION	73
Part IV. The IMF in Global Context <i>Annamaria Viterbo</i>	77
Chapter 1. Introduction	77
Chapter 2. The Duty to Cooperate	78
Chapter 3. Related Economic and Monetary Group Consultations	79
Chapter 4. Relations with the UN	81
§1. GENERAL COOPERATION	81
§2. PEACE AND SECURITY AND THE IMF	82
§3. HUMAN RIGHTS AND THE IMF	83

Table of Contents

§4. CIVIL AND POLITICAL HUMAN RIGHTS	83
§5. ECONOMIC, SOCIAL AND CULTURAL HUMAN RIGHTS	84
Chapter 5. Country Level Cooperation: Poverty Reduction Facilities	86
Chapter 6. Cooperation with the World Bank	87
§1. DIVISION OF COMPETENCES	87
§2. CROSS CONDITIONALITY	89
Chapter 7. Relationship with the World Trade Organization	90
§1. EXCHANGE POLICIES AND TRADE LIBERALIZATION	90
§2. TRADE RESTRICTIONS FOR BALANCE OF PAYMENTS REASONS AND MONETARY MEASURES	91
Chapter 8. The Promotion of Sustainable Development and Debt Management	93
§1. DEBT MANAGEMENT	93
Chapter 9. Relations with the European Union	95
§1. DIVISION OF COMPETENCES	95
§2. CO-FINANCING	96
Selected Bibliography	99
Appendix 1. Articles of Agreement of the International Monetary Fund (as of February 2013)	103
Appendix 2. Bilateral and Multilateral Surveillance Executive Board Decision – July 18, 2012	166
Appendix 3. IMF Guidelines on Conditionality (September 25, 2002)	177
Index	183

Table of Contents

List of Abbreviations

Annual Report	Annual Report of the Executive Board
Articles	Articles of Agreement of the International Monetary Fund
BIS	Bank for International Settlements
BOP	Balance of Payments
Dec.	Decision of the Executive Board
Doc.	Document
EBRD	European Bank for Reconstruction and Development
EC	European Community
ECB	European Central Bank
ECOSOC	Economic and Social Council of the UN
EMU	Economic and Monetary Union of the European Union
EU	European Union
FSAP	Financial Sector Assessment Programme
FSB	Financial Stability Board
GAB	General Arrangements to Borrow
GATS	General Agreement on Trade in Services
GATT	General Agreement on Tariffs and Trade
GFSR	Global Financial Stability Report
HIPC	Heavily Indebted Poor Countries
IBRD	International Bank for Reconstruction and Development
ICJ	International Court of Justice
IDA	International Development Association
IEO	Independent Evaluation Office
IGO	Intergovernmental Organization
ILM	International Legal Materials
ILO	International Labour Organization
IMF	International Monetary Fund
IMFC	International Monetary and Financial Committee
LDCs	Least Developed Countries
MDRI	Multilateral Debt Relief Initiative
NAB	New Arrangements to Borrow
NGO	Non-governmental Organization

List of Abbreviations

OECD	Organisation for Economic Co-operation and Development
PIN	Public Information Notice
PRGT	Poverty Reduction and Growth Trust
PRSP	Poverty Reduction Strategy Paper
ROSC	Report on the Observance of Standards and Codes
SDDS	Special Data Dissemination Standard
SDR	Special Drawing Right
Selected Decisions	Selected Decisions and Selected Documents of the IMF
Summary Proceedings	Summary Proceedings of the Annual Meeting of the Board of Governors
TARGET	Trans European Automated Real-time Gross settlement Express Transfer system
TEU	Treaty on European Union
TFEU	Treaty on the Functioning of the European Union
UN	United Nations
UNCTAD	UN Conference on Trade and Development
UNDP	UN Development Programme
UNGA	UN General Assembly
WTO	World Trade Organization

Part I. Development and Structure

Chapter 1. Introduction

1. The IMF is the only global organization that administers and supervises monetary relations between states. The objects of the IMF Articles of Agreement are the exchange rates and balances of payments of its membership; the overall objective is to create stability in the monetary system and, thereby, pave the way for national and international prosperity. In more practical terms, the Fund was expected to create the conditions and provide the resources that enable its members to take part in the international trading system.

2. Since its establishment, the Fund has witnessed considerable changes in the global economic conditions. The process of decolonization, increased membership and the emergence of capital markets have created a new environment. Despite pressures to shift the Fund's orientation towards the promotion of economic growth and the safeguard of financial stability, it continues to be a monetary institution. Continuity in the Fund's orientation must also be assumed as its purposes have not been rephrased since its establishment. The amendments that were introduced merely refer to the methods by which the Fund is mandated to pursue its objectives.

3. The activities of the IMF are complex, technical and versatile. The Fund may respond to economic problems of a particular member, a group of members or the global monetary system. Responses are reflected in a myriad of policies, decisions, guidelines and interpretations. Within the framework of the *International Encyclopedia of Laws*, there is only opportunity to emphasize key activities of the Fund. This Part discusses the Fund's institutional development and structure. Important activities are dealt with in Parts 2 and 3: supervision of the international monetary system and balance of payments support. Part 4 discusses the Fund in the global context.

4. For further reading there is ample literature available. The most important author on the Fund's legal and institutional aspects is the late Sir Joseph Gold, who was general counsel and director of the legal department. Gold has published dozens of articles and books that explain the purposes and powers of the IMF. Another important source is the historical overview published by the IMF. The material covers five periods: 1945–1965 (by J. Keith Horsefield), 1966–1971 and 1972–1978 (both by Margaret Garritsen de Vries) as well as 1979–1989 and 1990–1999 (by

James M. Boughton). The volumes are published by the IMF and include a chronological overview of policy development, analysis, the Fund's *corpus juris* and documents that preceded the amendments to the Articles of Agreement.

5. For keeping track with current developments the bi-weekly periodical *IMF Survey* and the *Annual Reports of the Executive Board* are useful sources. Legal documents are published in *Selected Decisions of the International Monetary Fund*. The *IMF Pamphlet Series* are practical guides for an understanding of the Fund's activities. The IMF published two other useful series of volumes on banking and finance: *Current Legal Issues Affecting Central Banks* (Vol. I–V) and *Current Developments in Monetary and Financial Law* (Vol. 1–5). In addition, the Fund maintains a comprehensive Internet site (www.imf.org) that publishes documents and data on the economic position of the Fund and its membership. The website also holds legal documents and papers concerning the Fund's policies. The index and many cross-references conveniently introduce the reader to the Fund's current activities. Sources and documents discussed in this monograph are available on the Fund's website.

Chapter 2. The Fund's Function in the International Economic System

6. Before studying the IMF in depth it is useful to have a clear understanding of the triangular relationship between the IMF, the World Bank and the World Trade Organization (WTO). These institutions have the common objective, directly or indirectly, to promote prosperity by fostering the growth of international trade and investment. For more detailed information see Part IV, Chapters 6 and 7.

§1. IMF AND WTO: LIBERALIZATION OF CURRENT PAYMENTS AND TRADE

7. Trade involves two primary transactions: the transfer of goods and services on the one hand, and payments on the other. Trade and payments are therefore two sides of the same coin. Accordingly, for the regulation of trade and payments, the WTO and IMF function as complementary institutions. The WTO administers multilateral trade agreements, such as the General Agreement on Tariffs and Trade (GATT) that is 'directed to the substantial reduction of tariffs and other barriers of trade and to the elimination of discriminatory treatment in international trade relations'. In order to *pave the way* for trade liberalization, the IMF 'facilitates the expansion and balanced growth of international trade', *inter alia*, by promoting the removal of restrictions on international payments for current transactions (Article I). Payments for current transactions include 'all payments due in connection with foreign trade' (Article XXX). In short, the IMF administers rules that ensure that international payments for trade can be made freely.

8. The above suggests that it is imperative for the smooth functioning of the international trading system that states are both members of the WTO and the IMF. The argument is that trade cannot be liberalized unless states fully accept the obligations of both institutions. In one sense this is true. WTO membership compels states to follow the rules of GATT and other multilateral trade agreements. Trade liberalization under these agreements may not be hampered because of restrictions in current payments. From this viewpoint there is substantive overlap of membership: practically all WTO members are also IMF members. The reverse question may also be asked. Can an IMF member fulfil its obligation without accepting the obligations under the WTO? In this case no conflict seems to exist. It is feasible that current payments are liberalized without accepting the obligations under the WTO. Practice also shows that not all IMF members have opted for WTO membership.

9. While the IMF is primarily concerned with monetary issues, it has also urged its members to promote trade liberalization. First, in 1974 the Fund drew up a draft statement: this document, which was particularly significant for IMF members who were not party to GATT, binds members voluntarily subscribing to it 'not on its own discretionary authority [to] introduce or intensify trade or other current account measures [read: restrictions] for balance of payments purposes that are subject to the jurisdiction of the GATT, or recommend them to its legislature, without a prior finding by the Fund that there is a balance of payments justification for trade or

other current account measures'. This regulation has expired and was not renewed. Second, IMF conditions for balance of payment support usually include a standard clause that abrogates the right to use Fund resources when the member imposes or intensifies exchange restrictions. In this sense the objective of trade liberalization is incorporated *ipso facto* into the practice of the IMF. Third, in 2004 the IMF established the Trade Integration Mechanism (TIM) in support of Member States experiencing temporary balance of payments difficulties as a result of multilateral trade liberalization.

§2. IMF AND THE IBRD: MONETARY STABILITY AND ECONOMIC DEVELOPMENT

10. The IMF and the International Bank for Reconstruction and Development (IBRD) – the first agency of the World Bank – were created with complementary purposes at the Bretton Woods Conference in July 1944. The Articles of Agreement of the IBRD stipulate outright that among the purposes of the organization there is the promotion of the long-range balanced growth of international trade and the maintenance of equilibrium in balances of payments. To this end, the IBRD promotes economic and social progress through project lending and support to private foreign investments. A major characteristic, therefore, is the IBRD focus on development, by addressing microeconomic items. In the IMF Articles of Agreement no reference is made to the promotion of economic development. Whereas the IMF focuses on balances of payments, exchange rate stability, currencies and other macroeconomic aspects, the World Bank stimulates long-term investment in sectors of the member's economies. Thereby the Bank adopts a different approach and a longer time frame than the IMF. The Bank–Fund relationship is also special because membership in the Bank is only open to members of the Fund. This points to the fact that countries must first subject themselves to IMF jurisdiction in order to be able to enjoy the benefits of World Bank membership.

Chapter 3. Articles of Agreement

11. The Fund's Articles are summarized below. The Articles are elaborated in secondary legislation published in 'Selected Decisions and Selected Documents of the International Monetary Fund'. This publication also holds decisions of the Executive Board, resolutions of the Board of Governors and agreements with other international organizations, such as the United Nations, World Bank and WTO. Documents on the internal functioning of the IMF are published in 'By-Laws, Rules and Regulations of the International Monetary Fund'.

Introductory Article	Confirms the rule of law, determines financial structure and principles for financial operations
Article I	Purposes of the Fund
Article II	Explains conditions for membership
Article III	Explains quotas and subscription; quotas determine the degree of participation in the Fund
Article IV	Explains the international monetary system and members' obligations; enables the Fund to oversee the international monetary system and exercise firm surveillance over exchange rate policies
Article V	Deals with balance of payments support by the Fund; conditions and scope; enables the IMF to create special accounts for supporting developing countries
Article VI	Explains that the Fund is not designed to support 'large or sustained outflow of capital'.
Article VII	Authorizes the Fund to take measures to replenish the Fund's holding of scarce currencies; declarations on scarce currencies
Article VIII	Determines members' obligations on current payments liberalization, discriminatory currency practices, convertibility and furnishing of information
Article IX	Establishes the Fund's legal personality, immunity and privileges
Article X	Imposes a duty on the Fund to cooperate with other institutions
Article XI	Deals with relations with non-members
Article XII	Determines the Fund's institutional structure, organs and their powers; allocation and exercise of votes
Article XIII	Determines the location of headquarters and designates central banks as depository for the Fund holdings of currencies; members must guarantee assets

Article XIV	Allows for restrictions on current payments through a ‘transitional arrangement’; the time frame of the arrangement is not limited
Articles XV to XXV	Contains extensive provisions on SDRs explaining the purpose of SDRs, general conditions for allocations, valuation and many more facets
Article XXVI	Explains voluntary and compulsory withdrawal of members from the Fund and settlement of accounts
Article XXVII	Allows for suspension of provisions in emergencies or unforeseen circumstances
Article XXVIII	Contains provisions on amendments
Article XXIX	Explains the procedure for authoritative interpretations
Article XXX	Interprets key provisions and terms
Article XXXI	Final provisions on entry into force
Schedules A–M	Contains further elaborations of provisions

Chapter 4. Genesis

12. The IMF is an intergovernmental organization established at the end of World War II with the task to regulate international monetary relations between its members. The drafters of the IMF treaty were preoccupied to avoid repetition of the economic problems that brought considerable economic and social distress in the inter-bellum. These problems manifested themselves during the Great Depression of the early 1930s and related to trade protectionism, the collapse of the Gold Standard following competitive exchange rate devaluations, and stagnant economic development. Many observers believed that the economic crises and the failure of international cooperation had contributed to the breakdown in peace in 1939.

13. Three organizations were conceived for global cooperation on economic problems. The Bretton Woods Conference in 1944 gave birth to the IMF and the IBRD, respectively designed for the promotion of international monetary stability and of economic growth through international investments. The Conference takes its name from the town of Bretton Woods (New Hampshire, US) where the United Nations Monetary and Financial Conference was held. Of the forty-four states that had taken part to the negotiations, twenty-nine ratified the IMF Articles of Agreement, which entered into force on 27 December 1945, followed a few days later by the Articles of Agreement of the IBRD, the first agency of the World Bank. Both institutions became specialized agencies of the United Nations in 1947. A third organization would have promoted the reduction of obstacles to international trade and mutually advantageous international commercial relations: the Charter of the International Trade Organization (ITO), which was agreed upon in March 1948 at the Havana Conference on Trade and Employment. However, many negotiating parties demanded trade exemptions and the organization could not be realized in the form initially conceived, leading to the provisional application of the GATT, until the foundation of the WTO in 1994.

14. The creation of the Bretton Woods organizations was essentially an American–British undertaking. During the war years a series of meetings took place between delegations, headed respectively by John Maynard Keynes (UK) and Harry Dexter White (US). The basis for the discussion was Keynes' idea of an 'International Currency (or Clearing) Union' and White's proposal of an 'International Stabilization Fund.' In April 1944, the discussions led to the 'Joint Statement by Experts on the Establishment of an International Monetary Fund'. The statement formed the basis of negotiations at the Bretton Woods conference. It was the first conference to establish a permanent institutional and legal framework that required firm commitments of states to manage their currencies for the benefit of global monetary stability. Despite considerable problems such as the conditions for the use of Fund's resources and the location of the headquarters, most of the issues were solved or couched in ambiguous language to be clarified at a later stage through the procedure for interpretation.

15. A key feature of the post-war monetary system was that the IMF, in order to maintain monetary stability, would oversee a system of par values of currencies.

This value had to be expressed in terms of gold as a common denominator or in terms of the United States Dollar. A member was permitted to change the par value of its currency only to correct a ‘fundamental disequilibrium’ in its balance of payments. To make such a modification, authorization of the IMF would be necessary. If a member would make a change in its par value despite the objection of the Fund, the member would not violate the Fund’s Articles, but would be ineligible to use the resources of the Fund. In other words: the Fund would cease providing balance of payment support to the country making the unauthorized change. The system of fixed but adjustable exchange rates collapsed in the early 1970s.

Chapter 5. Amendments

16. The IMF Articles provide for an amendment procedure by which at least three-fifths of the members, having 85% of the voting power, must have accepted a proposed amendment. The Articles of Agreement have been amended several times to adapt to changing global conditions and the desired degree of cooperation.

17. Amendments of the IMF Articles have taken place in 1969, 1978, 1992, 2009 and 2011. The 1969 amendment created the option for the Fund to introduce Special Drawing Rights (SDRs) to be able to supplement the monetary reserves, and in this way to help to meet a long-term global need to augment the total of world reserves. Through the First Amendment, stricter rules on conditionality were adopted, thus introducing a firmer scrutiny over members' requests for balance of payment support and mandating the Fund to apply 'adequate safeguards' for the temporary use of its resources. In addition, the First Amendment improved the authoritative procedure for interpretation by the introduction of a Committee for Interpretation.

18. The Second Amendment of 1978 brought a fundamental change. The new Article IV titled 'Obligations regarding exchange arrangements' reflected the changing practice of IMF members with respect to their exchange rate policies. The amendment formally brought an end to the system of par values by allowing members to freely choose the exchange rate policy they deemed fit. Instead, a system of supervision was introduced, supported by obligations that can be described as soft law. The end of the par value system meant that the Fund ceased to administer 'a system of stable exchange rates' but instead supervised 'a stable system of exchange rates'. This reflected a different role of the IMF: from custodian to supervisor. Other changes concerned the decreasing role of gold and the promotion of the SDR as the principle reserve asset in the monetary system. Moreover, according to the new Article IV, section 1, one of the principal objectives of the Fund became 'the continuing development of the orderly underlying conditions that are necessary for *financial* and economic stability [emphasis added]'. This is the only reference made to financial stability in the IMF Articles.

19. The Third (1992), Fourth (2009), Fifth and Sixth Amendments (2011) respectively introduced:

- new rules for the suspension of voting rights for members failing to repay the Fund (as a reaction to the problem of the growing arrears to the IMF);
- new rules providing for a special one-time allocation of SDRs to allow all participants in the Special Drawing Rights Department to receive an equitable share of cumulative SDR allocations;
- new rules expanding the investment authority of the Fund and authorizing the Fund to manage the proceeds of gold sales;

- a reform of the Executive Board regarding the appointment of Alternates and a tripling of basic votes, which occurred together with a realignment of quota and voting shares of member countries (the so-called Voice and Participation Amendment).

A Seventh Amendment to establish an Executive Board consisting solely of elected Executive Directors is expected to enter into force in late 2013.

Chapter 6. Membership

§1. COUNTRY BASED

20. Article II makes a distinction between original members and other members. Original members are those countries that were represented at the United Nations Monetary and Financial Conference, and became members before 31 December 1945. At this deadline, thirty countries had accepted membership.

21. Membership is open to other countries at such times and in accordance with such terms as may be described by the Board of Governors. In considering the conditions for membership the principle of non-discrimination applies. The terms shall be based on principles consistent with those applied to other countries that were already member. Membership has grown to 188 countries in 2012, with the accession of South Sudan. Andorra, Cuba, Liechtenstein, Monaco, Nauru and North Korea are non-members.

22. Membership may be ceased by voluntary or compulsory withdrawal. The latter measure may be taken if a member fails to fulfil its obligations under the IMF Articles. Before withdrawal will be enforced, a number of measures may be taken including a declaration on ineligibility to use the Fund's resources and suspension of voting rights. If, nonetheless, the member persists in non-observance of its obligations, procedures for forced withdrawal may start. In the process of withdrawal, operations and transactions with the Fund shall cease and settlements of all accounts between the Fund and the member shall be made.

23. The IMF is a country-based organization. The Articles do not define 'country' but practice suggests that only states can successfully apply for membership. Other entities such as monetary unions are *prima facie* not eligible for membership. The reasons for using 'country' instead of 'state' as a criterion for membership are not entirely clear. One possible explanation is that the word 'country' is used to allow a country to become applicant, even though it could not yet be considered a state under international law. Formal statehood may also have been challenged because borders had not been delineated with finality or the applicant government controlled only part of the territory. For instance, Kosovo became a member of the IMF in 2009, before the International Court of Justice (ICJ) issued its advisory opinion regarding accordance with international law of the unilateral declaration of independence by the Provisional Institutions of Self-Government of Kosovo.

24. Nonetheless, currently only states are members to the IMF. It is likely that this is not due to statehood *per se*, but rather the inherent right of states to issue their own currency. Therefore, it is believed that the *exercise* of the sovereign right to issue a currency and adopt a monetary policy is decisive for membership. That sovereign right, though, might be surrendered to an international organization or to a currency union for which membership in the IMF is not permitted.

25. In particular, membership of the European Union (EU), responsible for circulating a single currency for a group of countries, may give reason for discussion. Members of the EMU have handed over the control of monetary policy and the conduct of foreign exchange operations to the ECB, while retaining responsibility over economic policy decisions. The EU also enjoys the ability to conclude international monetary and exchange rate agreements, to decide upon the external representation of the Euro area, and – exceptionally – to restrict the flow of capital and payments. Last but not least, the ECB is entrusted with the task of holding and managing the common pool of reserves and of conducting all types of banking transactions with third countries and international organizations, including lending and borrowing operations. The transferral of these competences to a supranational level is deemed to impair the ability of EMU members to fully discharge the duties, and exert the rights, arising from IMF membership. Hitherto, participants in the EMU have insisted that their membership in the IMF be continued. The key argument is that the IMF is country-based and the EMU is not a country. It is unclear, however, how EMU-participants can contribute to the IMF objectives after having dissociated themselves from monetary sovereignty. It seems rational that the EMU as the largest monetary union would be accepted as IMF member. On these grounds, many authors suggest that, in the longer run, the EU ought to become a member of the IMF, either by substituting its Member States or by becoming an additional member. The question of membership of intergovernmental organizations within the IMF may be solved by amending Article II or by an authoritative interpretation under Article XXIX that the term ‘country’ also includes currency unions. Currently, coordination among Euro area Member States in the IMF decision-making bodies is achieved through informal understandings.

§2. UNIFORM AND PREFERENTIAL TREATMENT

26. The principle of uniformity requires that, with certain exceptions, the IMF Articles establish the same rights and obligations for all members of the Fund. This principle is meant to prevent discrimination in favour of, or against, particular members, without regard to their economic strength or weakness. The fundamental approach is that each member has a balance of payments, that the balance of payments concept is the same for all members and that the degree of economic development does not justify a legal distinction. As a consequence each member country – developing or industrialized – is entitled to draw on the Fund’s resources.

27. Developing countries in particular have insisted on the principle of uniformity in order to ensure that they would be treated without discrimination. Occasionally, they have complained about the discriminatory application of rules on conditionality. It was believed in the 1970s that developed countries were treated more favourably when they requested balance of payments support. Developing members have also criticized the asymmetrical treatment between developed and developing members reflected in the soft law of Article IV (surveillance for all members including industrialized members) and the firm law of Article V (balance of payments support, de facto for developing members only). The virtual absence

of compulsion in the Article IV consultation stands in sharp contrast to the Fund's scrutiny when providing balance of payments support.

28. Developing countries have not been satisfied with uniform treatment in all matters. Accordingly, they have attempted to make a linkage between SDR allocations and the need for development assistance. However, proposals to insert this linkage into the Second Amendment of the Articles in 1978 were rejected because it would compromise the principle of uniformity. No mention of these issues is made in the Fourth Amendment on SDRs.

29. Whereas the principle of uniformity still applies, it has been moderated by amendments and policies under the IMF Articles allowing for a more favourable treatment of developing countries. Under Article V, section 2(b) and Article V, section 12(f) trust funds and facilities have been created for these countries only. The resources of these facilities must be separated from the General Resources Account to which the principle of uniformity continues to apply.

§3. DEGREE OF PARTICIPATION

I. Quota

30. Since the IMF is a monetary institution offering financial support to members in financial distress, members' economic size cannot be ignored. The differences in contribution to and potential use of IMF resources are expressed in the quota assigned to each Member State on the basis of a formula. The current quota formula is a weighted average of GDP (weight of 50%), openness (30%), economic variability (15%), and international reserves (5%). The quota is a quantity, expressed in SDRs, which establishes, among other things, the 'relative economic position' of the member countries. The amount of quota determines the extent of participation in the IMF and plays a fourfold role. It determines:

- the subscription of each member (i.e., the amount of financial resources the member is obliged to provide to the Fund);
- the number of voting rights of each member country;
- the maximum extent of balance of payments support that each member may receive;
- the share of SDR allocations that each member receives.

The quota formula has remained almost unmodified since Bretton Woods, failing to keep up with the developments of the world economy. As a result, many emerging economies are de facto under-represented, since their quotas do not reflect their actual weight in the global economy.

31. General quota reviews are regularly conducted by the IMF Board of Governors, usually every five years. There are two main issues addressed in a general quota review: the size of an overall increase (assessing the adequacy of IMF

resources to finance its activities) and the allocation of the increase among the members (to better reflect changes in their relative weight in the world economy). Any variation in quotas must be approved by an 85% majority of the total voting power, and a member's quota cannot be changed without its consent. The Fourteenth General Review of Quotas to be effective in 2013 will result in a 100% increase in total quotas and a major realignment of quota shares. The total amount of quotas will be about SDR 476.8 billion, whereby a shift of quotas is established from over-represented to under-represented member countries. This shift significantly realigns quota shares of emerging markets and developing members. China will become the third largest member country in the IMF, and Brazil, India and Russia will be among the ten largest shareholders in the Fund. For the quota increases under the Fourteenth General Review of Quotas to become effective, the entry into force of the proposed Seventh Amendment on the Executive Board reform is required.

II. Subscription

32. The subscription is equivalent to the quota; 75% is paid in the country's own currency, and the remainder in SDRs or in a widely accepted currency (usually the US Dollar, the Euro, the Yen or the British Pound). The subscriptions are held in the General Resources Account and serve as a source of the IMF balance of payments support and lending.

III. Voting Rights

33. Each IMF member possesses an equal number of basic votes and supplementary votes proportional to the quota (one additional vote every SDR 100,000 of quota). Initially the number of basic votes amounted to 250 per member, but to avoid erosion in voting shares of least-developed countries, the Fifth Amendment on Voice and Participation in the IMF (2011) tripled basic votes, establishing also that they could not be less than 5.5% of all available votes. Basic votes will be equally distributed among members so as to reflect the principle of equality of states and give also the smallest members of the Fund voice in the Fund's deliberations.

Votes in IMF after 14th quota review

United States	16.48%	France	4.02%
Japan	6.14%	United Kingdom	4.02%
China	6.07%	Italy	3.02%
Germany	5.31%	Rest of membership	54.94%

IV. Extent of Balance of Payments Support

34. For any form of balance of payments support, the upper limit of assistance is somehow related to the quota of the requesting member. For instance, under the Stand-By and Extended Arrangements, a member may borrow annually amounts up to 200% of its quota and not more than 600% cumulatively. These limits may be exceeded under exceptional circumstances. The amount available depends on the specific conditions of the member and the facility under which resources are made available. Part III discusses rules and policies on balance of payments support.

V. Share in SDR Allocations

35. The SDR is an international reserve asset created by the IMF that can be held by central banks of member countries or other designated holders to supplement their official reserves. The IMF may allocate SDRs to Member States in proportion to their IMF quotas. In 2009, when the Fourth Amendment became effective, a general and a special SDR allocation together raised total cumulative SDR allocations to about SDR 204 billion. Chapter 12 of Part I discusses SDRs in more details.

Chapter 7. Object and Purpose

§1. OBJECT: CURRENCY, EXCHANGE RATES AND BALANCE OF PAYMENTS

36. The purposes of the IMF relate to the stability of the system of exchange rates and the balance of payments of members. The Articles clearly presume that IMF members exercise their own monetary policies and the Fund will only communicate through the members' monetary authorities having the capability to use monetary instruments.

37. Throughout the Articles, Member States interact with the IMF by actions related to their currencies and exchange rates. The key provisions in Articles IV and V that concretize the Fund's purpose support this argument. Under Article IV, each member undertakes 'to collaborate with the Fund and other members to assure orderly exchange arrangements and to promote a stable system of exchange rates'. It is the Fund's task to oversee the international monetary system in order to ensure its effective operation. Also, 'the Fund shall exercise firm surveillance over the exchange rate policies of members'. Accordingly, members are required to notify the Fund on the 'exchange arrangement' that refers to a member's exchange rate policy. Furthermore, Article V entitles a member to 'purchase the currencies of the Fund in exchange for an equivalent amount of its own currency (...) after the member declares that it has a need to make the purchase because of its balance of payments or its reserve position'. Clearly, 'own currency' and 'balance of payments' are items over which members are expected to have full control.

38. The reference to 'exchange rate', 'own currency' and 'balance of payments' clarifies the object of the Articles of Agreement, also identified as the 'focus of concern'. Hence, the Fund's focus of concern vis-à-vis its membership and, correspondingly, the focus of obligation on the part of members, 'centres on the point and the terms of intersection of their national economies with each other – that is, the balance of payments, the exchange rate and the exchange system'.

§2. PURPOSES EXPLAINED

39. The purposes of the Fund are stated in Article I. While amendments have resulted in considerable changes in the Fund's activities, they included only minor adaptations in the text of Article I. The purposes are explained as follows:

40. '(i) *To promote international monetary cooperation through a permanent institution which provides the machinery for consultation and collaboration on international monetary problems.*' This purpose underlines the monetary character of the IMF and assigns a platform for both consultation and collaboration on monetary problems. It is important to note that the IMF is mandated to deal principally with international monetary problems, which may be considered as a segment of manifold problems in international economic relations. Key provisions that effectuate this purpose are to be found throughout the IMF Articles.

41. ‘(ii) *To facilitate the expansion and balanced growth of international trade, and to contribute thereby to the promotion and maintenance of high levels of employment and real income and to the development of the productive resources of all members as primary objectives of economic policy.*’ This purpose refers to international trade, employment and real income. The expansion and balanced growth of these items are supposed to be primary objectives of all members of the IMF, but not necessarily of the IMF per se. A note of caution must be added to the interpretation of this purpose. ‘To facilitate’ is not equivalent to ‘to promote.’ The Fund’s task is to create an enabling environment – i.e. a stable monetary system – that removes obstacles for economic growth rather than to promote growth, which is a more straightforward obligation. Primarily, the IMF should be held accountable for a stable monetary system that paves the way for economic development, rather than the promotion of economic development. Moreover, ‘to contribute thereby’ underlines that high levels of employment and development of productive resources are merely desired consequences of the stability of the monetary system.

42. ‘(iii) *To promote exchange stability, to maintain orderly exchange arrangements among members, and to avoid competitive exchange depreciation.*’ Three objectives are mentioned here. The promotion of exchange stability indicates that the Fund has to play an active role in promoting stability in the exchange rates of currencies. Further, ‘to maintain’ orderly exchange arrangements among members, and ‘to avoid’ competitive exchange depreciations, assumes that the Fund may exercise certain supervisory tasks vis-à-vis its membership. This purpose still has the imprint of the system of stable exchange rates, but was maintained nonetheless after official abrogation of par values in the Second Amendment in 1978. Article IV of the Articles provides instruments through which the Fund communicates with and exercise surveillance over its members.

43. ‘(iv) *To assist in the establishment of a multilateral system of payments in respect of current transactions between members and in the elimination of foreign exchange restrictions which hamper the growth of world trade.*’ The Fund ‘assists’ in the establishment of a payments system and the elimination of foreign exchange restrictions. In practice little contribution has been made to the creation of a payments system. Cross-border payments are administered through domestic and regional arrangements such as Federal Reserve Wire Network (FEDWIRE) and Trans-European Automated Real-time Gross settlement Express Transfer system (TARGET2). However, the Fund has made a considerable contribution to the elimination of exchange restrictions by urging members to avoid restrictions on their current payments, which are payments related to trade, loans, investments and remittances. The Fund administers the elimination of exchange restrictions under Article VIII subject to transitional arrangements of Article XIV.

44. ‘(v) *To give confidence to members by making the general resources of the Fund temporarily available to them under adequate safeguards, thus providing them with opportunity to correct maladjustments in their balance of payments without resorting to measures destructive of national or international prosperity.*’ Activities under this purpose have grown to be a preoccupation of the Fund. Whereas

balance of payment support was originally conceived as one of the methods to promote stability, it now has overshadowed other activities of the IMF. ‘To give confidence’ should be understood in the light of the original Articles. As was explained above, until the Second Amendment members were expected to maintain a par value and the IMF would give members confidence that they could maintain their par value, even in times of monetary distress, by balance of payments support. The meaning of ‘measures destructive of national or international prosperity’ has not been clarified in an authoritative interpretation of the Fund, despite firm criticism on the Fund ‘conditionality.’ Article V of the Articles authorizes conditional balance of payments support and other operations and transactions of the IMF.

45. ‘(vi) *In accordance with the above, to shorten the duration and lessen the degree of disequilibrium in the international balances of payments of members.*’ This explains that pursuing the purposes will contribute to the maintenance of equilibrium in the balances of payments of members. Thereby the Fund contributes to overall stability. Disequilibrium can be understood both as surplus and deficit in the balance of payments, but little attention has been paid to the need to address large surpluses.

46. Finally, the closing sentence stipulates that ‘*The Fund shall be guided in all its policies and decisions by the purposes set forth in this Article.*’ All activities should be developed within the framework of Article I. As argued below, this provision appears to support a preference for a teleological interpretation.

Chapter 8. Rules for Interpretation

§1. PRINCIPLES

47. Generally recognized rules of treaty interpretation, as codified in Article 31 of the 1969 Vienna Convention on the Law of Treaties, are not entirely applicable because the IMF does not strictly follow the hierarchy of techniques that the law of treaties prescribes. Instead the Fund's rules for interpretation have been tailored by applying multiple techniques for interpretation.

48. First, there appears to be a preference for the teleological approach because the closing sentence of Article I stipulates that 'the Fund shall be guided in all its policies and decisions by the purposes set forth in this Article'. Further, it is held that the *travaux préparatoires* play a more important role than Article 32 of the Vienna Convention appears to support. Whereas the Vienna Convention allows for recourse to the *travaux* only when the result is ambiguous, obscure or leads to a manifestly absurd or unreasonable result, interpreters of the IMF Articles should consider the *travaux préparatoires* anyway.

49. However, it can be inferred from the Fund's practice that interpretation does not fundamentally depart from the general rules of the Vienna Convention. Because there may be a need for a more equitable balance of various methods, interpretations based on ordinary meaning, teleology, and *travaux préparatoires* should each be given their proper role.

50. In case of the IMF Articles there are more avenues leading to interpretations. First, questions on interpretation may be dealt with by the Fund's Executive Board. By making an interpretation, the Board may not only clarify the meaning of the Articles of Agreement but also, in fact, settle a dispute. A member may, for instance, challenge a policy of the Fund and insist on another interpretation of the provision underlying that policy. Second, interpretation may also be asked from the ICJ through an advisory opinion. Third, the Fund's practice also allows non-authoritative interpretations.

§2. AUTHORITATIVE INTERPRETATION UNDER ARTICLE XXIX

51. Article XXIX(a) provides that 'any question of interpretation of the provisions of this Agreement between any member and the Fund or between members of the Fund shall be submitted to the Executive Board for its decision'. The procedure further provides for an appeal to the Board of Governors, which shall be assisted by a Committee on Interpretation. Paragraph (b) stipulates: 'In any case where the Executive Board has given a decision under (a) above, any member may require, within three months from the date of the decision, that the question be referred to the Board of Governors, whose decision shall be final. Any question referred to the Board of Governors shall be considered by a Committee on Interpretation of the Board of Governors.' The procedure has two characteristics. First, the composition

and equal division of voting rights of the Committee on Interpretation is noteworthy. The principle of one vote for each member is the only exception to the weighted voting system in the IMF. Second, the language of Article XXIX (a) suggests exclusiveness of the right of interpretation: any question *shall* be submitted. The phrase ‘final’ under paragraph (b) indicates that once an interpretation is made, it is binding and definitive.

52. The procedure has been used ten times by explicitly referring in the decision to the interpretation clause. On one occasion, the legal channel under (b) was used, and the Board of Governors was involved in an interpretation question. The last interpretation was given in 1959. It is puzzling why conflicts between the Fund and particularly developing members, which surfaced in the 1960s and 1970s, have not resulted in requests for interpretations under Article XXIX. It is possible that, despite criticism, countries did not disagree with interpretations that the Fund applied, or that they expected that the procedure would not lead to different interpretations.

§3. ADVISORY OPINION FROM THE ICJ

53. The second formal avenue for interpretation appears to ignore exclusiveness. In the ‘Agreement between the United Nations and the International Monetary Fund (IMF)’, the latter is authorized ‘to request advisory opinions of the International Court of Justice on any legal question arising within the scope of the Fund’s activities (...)’. It is obvious that the ICJ will also have to interpret the Fund’s Articles when it is asked to deal with a legal question within the Fund’s scope. In addition, the ICJ’s reach for interpretations has fewer limitations than the Fund’s competence under Article XXIX. The Court may also discuss legal questions not directly relating to its Articles, but that fall nevertheless within the Fund’s scope of activities. Thus, if the IMF wishes to consider rules of international law in its decisions on balance of payments support, it can ask the Court for advice. The Court may also be requested to delineate the Fund’s jurisdiction vis-à-vis other institutions in the UN system, through application of the ‘principle of speciality’. Hitherto, the IMF has refrained from asking for an advisory opinion of the Court.

54. An interpretation by the ICJ may expose diverging views on interpretations of constitutional provisions. Thus, the Court may give another interpretation to a provision that was considered earlier in an authoritative interpretation under Article XXIX. Surprisingly, the Court has taken the position that it should make its own judgment independently of mechanisms for interpretation available within a Statute of another international organization.

§4. NON-AUTHORITATIVE INTERPRETATIONS

55. Article XXIX states that ‘*any* question of interpretation’ (italics added) of the IMF Articles shall be subject to the interpretation procedure. Nevertheless, the great

majority of interpretative decisions are taken outside Article XXIX. In a material sense, these decisions are equivalent; differences are of a formal nature, and concern the irreversibility of a ‘final’ decision by the Board of Governors under Article XXIX. Moreover, decisions that do not fall under Article XXIX can include interpretations of provisions other than provisions of the IMF Articles, such as By-Laws. Non-authoritative interpretations cover a broad range in the Fund’s activities. Decisions and policies of the organs or even statements made by the Managing Director are interpretations because they are all supposed to act within the jurisdiction of the IMF and the competences allocated to its organs.

56. Avoidance of Article XXIX interpretations means in particular that the Board of Governors is largely relieved of its involvement in the interpretation procedure. Both the Fund and the members have been swayed by considerations of flexibility, and both want to limit the number of irreversible decisions. Informal interpretations do not in any way infringe members’ rights: a member may still request an explanation, with explicit reference to the interpretation clause under Article XXIX.

57. The Fund’s neglect of the authoritative procedure for interpretations and its resort to informal procedures is controversial. The question may thus be raised whether the power to give interpretations *must* be based on the explicit clause in the IMF Articles. However, given that not a single member has contested the legality of interpretations outside Article XXIX, it is unrealistic to insist that all interpretations should fall within Article XXIX.

Chapter 9. Institutional Structure

§1. BOARD OF GOVERNORS

58. The Board of Governors constitutes the plenary organ and meets annually. Member States are represented by their finance ministers or central bank governors. The Board is invested with all the powers within the IMF's jurisdiction, except those specifically assigned to another organ.

59. The Board of Governors is advised by the *International Monetary and Financial Committee* (IMFC). The Committee is a transformation of the *Interim Committee of the Board of Governors on the International Monetary System* (Interim Committee) and reports and advises at ministerial level on 'supervising the management and adaptation of the international system including the continuing operation of the adjustment process'. The Interim Committee was a continuation of the ad hoc Committee on Reform of the International Monetary System and Related Issues, and a possible forerunner of the Council, an organ with supranational characteristics, which can be set up by an 85% majority decision of the Board. The IMFC is composed in the same way as the Executive Board, and derives its authority from the fact that finance ministers sit on it.

60. Finally, the Board of Governors has set up a second Committee which it shares with the World Bank: the *Joint Ministerial Committee of the Board of Governors of the Bank and Fund on the Transfer of Real Resources to Developing Countries* (Development Committee). The composition of this committee also reflects the composition of the Executive Board. The Committee advises and reports 'on all aspects of the broad question of the transfer of real resources to developing countries, and shall make suggestions for consideration by those concerned regarding the implementation of its conclusions'.

§2. EXECUTIVE BOARD

61. Under Article XII, section 3(a) the Executive Board is responsible 'for conducting the business of the Fund', and disposes of all the powers set out in the IMF Articles and those delegated by the Board of Governors. Pursuant to Article XII the Board consists of twenty Executive Directors, but the Board of Governors has used its power to raise the number to twenty-four. Under the system originally envisaged by the Articles, member countries that make the largest financial contributions each have the right to *appoint* a Director. These members are: the United States, the United Kingdom, Germany, France and Japan. Members who have formed themselves into a voting group or constituency elect the other Directors every two years. Some member countries take a special position (China, Russia and Saudi Arabia), each of them forming a 'single constituency' and electing its own Director. Pursuant to the Seventh Amendment (not yet in force) all the Executive Directors will be elected. Elections will be conducted every two years in accordance with regulations to be adopted by the Board of Governors. An elected Director exercises a sum total

of voting rights equal to the votes he received. Directors may not split their votes in the sense that part of his/her votes is in favour and another part is against a decision.

62. The status of an Executive Director is somewhat ambivalent. The Executive Board should be seen as a ‘body consisting of officers of the Fund and not as the “representatives” of the bodies that appointed or elected them’. Nevertheless, an Executive Director is in practice held accountable by ‘his/her’ country, even though the salary is paid by the Fund. A Director can be asked for his or her standpoint by the government that has appointed or elected him; an unsatisfactory answer may have consequences when it comes to re-election or re-appointment.

63. During meetings in the Board, an Executive Director may explain that he is communicating the views of members, but he is not required to clarify whether or not he is expressing their views. If he is silent, he will probably reflect the views consistent with those of the members that appointed or elected him. The assumption that he is communicating their views may give muscle to his opinion, but only the position taken by the Executive Director when a decision is to be taken has legal relevance.

64. An Executive Director who is *appointed* will, in most cases, have no option but to defend the standpoint of his member country. An Executive Director who is *elected* by several member countries has more scope in determining his own point of view whenever he has to steer a middle course between possible differing opinions among the members of the voting group. If a member country calls its elected Director to account, he can hide behind the argument that he is voicing the point of view of the majority in the voting group.

§3. MANAGING DIRECTOR

65. The third main organ, the Managing Director and the staff of the Fund ‘shall owe their duty entirely to the Fund and to no other authority’. The Executive Board appoints the Managing Director for five years. Madame Christine Lagarde was appointed as the first female Managing Director in July 2011. She chairs Board meetings and conducts, under the direction of the Executive Board, the ordinary business of the Fund. Her role as chair of Board meetings is important since she is required, if necessary, to summarize the ‘sense of the meeting’. Her summing-up may both be made public and formally be qualified as a decision of the Board.

66. All contacts with member countries are maintained by the staff under instruction from the Managing Director. Article IV consultations, as well as negotiations with member countries requesting balance of payments support, take place as a result of her instructions. Proposals for decisions concerning balance of payments support are put to the Executive Board by her.

§4. OPTIONAL BODY: THE COUNCIL

67. The Board of Governors may decide, by an 85% majority of the total voting power, to set up a Council that will take over the tasks of the IMFC. The Council will consist of Councillors - who shall be a Governor, Minister in the government of a member, or person of comparable rank -, and Associates. The Council shall supervise the management and adaptation of the international monetary system, including the continuing operation of the adjustment process and developments in global liquidity, and in this connection shall review developments in the transfer of real resources to developing countries. The rules of procedure of the Council are elaborated in Schedule D of the Articles of Agreement.

§5. INDEPENDENT EVALUATION OFFICE (IEO)

68. In 2001, the Executive Board established the IEO with a view to promoting transparency and accountability, and strengthening IMF's learning culture. The IEO operates at arm's length from the Fund and is expected to critically review IMF's policies. The terms of reference are loosely formulated and allow the IEO to put in its work programme any subject that is important for the IMF's membership and relevant to the mandate of the Fund. For the selection of subjects, the IEO may consult groups inside and outside the Fund, including NGOs, academic circles, etc. The work programme includes a variety of items ranging from evaluations of IMF activities in particular countries to assessments concerning the Fund's practice on structural conditionality. Evaluations do not have any binding legal force and the Executive Board may ignore recommendations. IEO recommendations and Board responses are published on www.imf.org/ieo.

§6. DECISION-MAKING

69. The basic principle is that the IMF decisions – regardless of which organ made them – are taken by a majority of weighted votes. The IMF Articles require an exceptional majority for indicated decisions. However, formal votes within the Board of Governors and the Executive Board are in practice avoided in order to circumvent political differences and to promote harmonious cooperation. Usually the Managing Director establishes the 'sense of the meeting' rather than proceeding to a formal vote. The Managing Director plays a key role in the decision-making of the Executive Board by seeking a compromise between the different standpoints of the Directors. The political reality is that on important questions, the opinions of members with the highest quota cannot be disregarded.

70. The margin in determining opinions which the members of the Executive Board possess, together with the discretionary freedom of the Managing Director, mean that a compromise can usually be reached. If the positions appear irreconcilable, the Managing Director shall indicate the majority opinion of the Board, but

shall also include the dissenting minority viewpoints in the summing-up. Accordingly, the Managing Director will reflect discussions in the Executive Board and qualify the number of Directors that has expressed views according to the schedule below.

Qualifier	Number of Executive Directors
A few Directors	2–4
Some Directors	5–6
A number of Directors	6–9
Many Directors	10–15
Most Directors	15 or more
Significant minority of the Board or, in exceptional cases, required majority or a majority of the Board	Indication of necessary voting strength, particularly useful in cases of special majorities

However, if a member insists on a formal voting, then decisions will be taken by a majority of 70% or 85%, depending upon the subject. Decisions to be taken by special majorities are technical and based on provisions scattered across the Fund's Articles of Agreement; decisions that affect the financial position of members are more likely to require an 85% majority. The United States is the only single member able to block decisions that must be made by an 85% majority.

§7. *CORPUS JURIS*

71. The Board of Governors and Executive Board derive their powers to issue rules and regulations from the IMF Articles. To exercise their powers, the various organs have at their disposal a number of instruments. The Board of Governors issues By-Laws and Resolutions. The Executive Board approves Rules and Regulations and other decisions. The category 'other decisions' includes: interpretations, recommendations, guidelines, resolutions and decisions relating to balance of payments support. The rules and regulations mentioned are ordered hierarchically. A decision may never conflict with the IMF Articles; a decision of the Executive Board may not conflict with a decision of the Board of Governors. The hierarchical ordering of sources is subject to the following:

- The Articles of Agreement regulate the Fund.
- The By-Laws adopted by the Board of Governors are a supplement to the Articles and concern procedural questions.
- Resolutions of the Board of Governors are operational and include such matters as admission of new members and quota reviews.
- Rules and Regulations of the Executive Board supplement the IMF Articles and By-Laws, and are subject to review by the Board of Governors.

- Finally, the Executive Board has powers across a wide spectrum of issues to take what are usually termed decisions.

72. The IMF Articles explicitly confer powers on the organs and on ‘the Fund’. Of particular importance is that the Board of Governors has delegated all but some explicitly defined powers to the Executive Board. This means that where the IMF Articles stipulate ‘the Fund’, in practice this refers to the Executive Board. This assures the central role of the latter in many of the IMF’s activities. Decisions concerning balance of payments support, Article IV consultations, the setting up of trust funds, the level of charges, selling of gold by the Fund and many other decisions are consequently made by the Executive Board. There are, however, some powers that the Board of Governors may not transfer: they concern the adjustment of quota, the composition of the Executive Board, allocation of SDRs and the suspension of members.

Chapter 10. Legal Status, Privileges and Immunities

73. The Fund enjoys ‘full juridical personality’ towards its membership. It has freedom to contract, to acquire and dispose property and to institute legal proceedings. In addition, it enjoys immunity from judicial process, enforcement actions and taxation or customs duties. Its assets, archives and communication are protected against interference. The Fund has developed special procedures that are intended to ensure the physical safety of Fund staff and other officials and their families. The IMF has been granted the status of specialized agency within the meaning of Article 57 of the Charter of the UN. Thereby, it also enjoys protection under the United Nations Convention on the Privileges and Immunities of the Specialized Agencies. However, under Annex V of the Convention, the privileges and immunities created under the Articles of Agreement shall not be diminished by the privileges and immunities under the Convention.

Chapter 11. Financial Structure

74. All members are under certain conditions entitled to balance of payments support and thereby to help to cushion the impact of adjustment. According to the principle of uniform treatment, access to the Fund's regular facilities is equally open to all members, irrespective of the state of their economic development. Until recently, only developing countries and members in transition draw on the facilities. In 2011, Greece was the first Euro area Member State to receive support from the IMF under a stand-by arrangement. To be able to assist member countries the Fund must have resources available and develop policies on its proper use.

§1. RESOURCES

75. IMF resources earmarked for regular or tranche policies consist primarily of subscriptions that are equivalent to the quota of the member countries. The quota payments are credited to the General Resources Account; 25% of the subscription consists of SDRs or widely accepted foreign currency and the remainder is made up from the local currency, usually in non-interest-bearing, non-negotiable promissory notes, issued either by the member's central bank or by its treasury. As national currencies from all members form a substantial part of the quota payment, not all resources pooled in the General Resources Account are usable resources, i.e. usable for balance of payments support for members in need. Non-usable resources are the currencies of members with a weak balance of payments or reserve position (generally: currencies of developing members and members that are using the Fund's resources). Usable resources are the currencies of members in strong external positions. Roughly half of the quota payments constitute usable resources. For this reason, the Fund needs to increase its resources through multilateral and bilateral borrowing agreements and by selling gold holdings.

76. Apart from currencies and SDRs, the Fund holds substantial amounts of gold. This has historical reasons. Until the breakdown of the system of fixed exchange rates in the early 1970s, members could pay part of their subscription in gold. The Fund also received gold as a repayment of loans or through other channels such as payments of charges. Since the Second Amendment in 1978, the role of gold has diminished. From time to time, members may authorize the Fund to sell part of its gold reserves to replenish holding of currencies or for the creation of trust funds. Through these funds concessional facilities were financed. The Heavily Indebted Poor Countries Initiative (HIPC) and the Poverty Reduction and Growth Trust (PRGT) are partly financed by the sale of gold against market prices. In 2009, the Executive Board approved the sale of one-eighth of the Fund's total holdings of gold to boost resources and, in particular, to provide additional financing for poor countries.

77. The IMF has the power to arrange loans from central banks or on the capital markets to increase the resources of the General Resources Account with permission from the member country whose currency is involved. The IMF has not borrowed on the capital market (it should be noticed that recently the Fifth Amendment broadened the investment authority of the Fund), but has secured a number of loans with central banks, of which the most important are the General Arrangements to Borrow (GAB) and the New Arrangements to Borrow (NAB). Member countries have expressed the view that the subscription based on the quota should remain the main source of income.

§2. ADDITIONAL BORROWING: MULTILATERAL (GAB AND NAB) AND
BILATERAL LOAN AGREEMENTS

78. Because resources in the General Resources Account may prove to be inadequate, the Fund is authorized to borrow to supplement those resources. As financial emergencies will occasionally surface, as it has indeed happened with the global financial crisis, the Fund might have to rely on additional borrowing to boost its lending capacity. The Fund has borrowed only from members (or their central banks) and the Bank for International Settlements, but it may also borrow from other sources such as private banks.

79. Currently, the GAB and the NAB are the multilateral instruments the Fund relies on for borrowing from member countries. These instruments create credit lines between the Fund and major industrialized countries. The GAB was established in 1962 and it was activated the last time in 1998. Credit available under the GAB amounts to SDR 17 billion. The NAB was established in 1998 after the Mexican financial crisis. In 2011, during the global financial crisis, it was amended and expanded: resources available under the NAB were increased from SDR 34 billion to SDR 367.5 billion.

80. The GAB and NAB reflect a number of standing borrowing agreements between central banks and the IMF. The Fund may use the loans ‘to forestall or cope with an impairment of the international monetary system’. Such use could be authorized when the Fund faces an inadequacy of resources to meet actual and expected requests for financing that reflects an ‘exceptional situation associated with balance of payments problems of members of a character of aggregate size that could threaten the stability of the international monetary system’.

81. The IMF may also temporarily supplement its resources through bilateral borrowing agreements. In 2012, the Fund had sixteen active bilateral loan agreements worth about US Dollars (USD) 200 billion and two active bilateral note purchase agreements for about USD 60 billion.

§3. DRAWINGS ON THE GENERAL RESOURCES ACCOUNT: TRANCHE POLICY

82. A member country with balance of payments difficulties may ask the IMF to draw on the General Resources Account. The member issues a letter of intent stating that it will implement a reform programme to correct its external payments imbalance. The letter outlines in detail the reforms the country is going to implement and is usually written in close consultation with the Fund's staff. Through the letter of intent, the member formally requests the Fund to make its resources temporary available. After the letter has been considered by the Executive Board, the Fund's financial assistance is provided under the terms of a stand-by arrangement. Both the letter of intent and the stand-by arrangement are unilateral documents; jointly these instruments do *not* constitute an international agreement. Normal drawings on the General Resources Account are based on the tranche policy. These drawings do not constitute credits in the technical sense, but are purchases of the required currency with national currency. For the internationally widely accepted currency purchased, a charge has to be paid which in practice is much the same as going market interest rates.

83. The maximum extent of the purchase depends on the quota. The basic principle is that the IMF holds 75% of the quota in the national currency; the remainder must consist of SDRs or foreign currency. As soon as member country A makes a purchase, the percentage of national currency within the General Resources Account increases. It is also possible that the IMF sells currency of member A to member B so that the percentage is again reduced, and member A's tranche position improves.

84. In a year, a member can make conditional purchases of the requested currency until the Fund holds 200% of the member's quota in its national currency, but the Fund may waive such upper limits. The conditions for purchases always stipulate the obligation that after a certain time, the country must repurchase its own currency with a currency specified by the Fund. Purchases are phased in what are termed 'tranches', and take place as follows:

<i>Amount of purchase</i>	<i>IMF holding of member's currency after purchase</i>	<i>Purchase in tranche</i>
25% of quota	100% of quota	Reserve tranche
50% of quota	125% of quota	First credit tranche
75% of quota	150% of quota	Second credit tranche
100% of quota	175% of quota	Third credit tranche
125% of quota	200% of quota	Fourth credit tranche

85. Conditions are attached to purchases in the higher tranches. Purchases in the reserve tranche are unconditional: this means that IMF membership requires few financial sacrifices. The monetary reserves which are transferred as subscription (25% of the quota) in the form of foreign currency or SDRs can immediately be

bought back and added to the reserves. On IMF's conditionality see Chapter 6 of Part III.

§4. SPECIAL FACILITIES

86. The different IMF facilities offer the opportunity to develop a policy in respect of a specific category of balance of payments problems. The IMF has in fact created various facilities to address the specific circumstances of its membership in response to currency and financial crises. Facilities can be divided in two broad categories: concessional and non-concessional. Other facilities were created to deal with financial consequences of natural disasters, problems caused by an unexpected change of commodity prices or the financing of capacity-building after a conflict. On the Fund's facilities see *infra* paragraph 159.

§5. CONCESSIONAL FACILITIES

87. According to the principle of uniformity, no distinction is allowed between member countries based on their stage of development for what concerns the tranche policy. However, specific concessional facilities provide balance of payments support tailored to the needs of developing countries. Low-income countries may borrow on more favourable terms, such as reduced charges and a grace period. The target group is determined by the background of its specific balance of payments problems. In 2010, the IMF established new concessional facilities for low-income countries: the Extended Credit Facility (ECF), the Stand-by Credit Facility (SCF) and the Rapid Credit Facility (RCF). All of them rely on resources available from the Poverty Reduction and Growth Trust.

Chapter 12. SDRs and the Management of International Liquidity

§1. ALLOCATIONS

88. The 1969 Amendment of the IMF Articles created the possibility to supplement monetary reserves of members with SDRs. The SDR is both a unit of account and an international reserve asset created by the IMF. The value of the SDR is defined by a basket of currencies. After the introduction of the Euro on 1 January 1999, the SDR basket is composed of the four following currencies: the US Dollar, the Japanese Yen, the pound Sterling and the Euro. For practical purposes the Fund appraised the Euro as a joint currency of France and Germany. Each currency is weighted in the SDR basket, depending on its relative strength.

89. The SDR as an additional reserve asset was created to keep pace with growing international trade transactions. The economic rationale of SDR was that a higher volume of reserves could be desirable to support a higher volume of trade transactions rather than depend on increased money velocity. Additional reserves could be created in two ways: countries could acquire reserves by assuming debt (e.g., to other states) or through money creation without incurring debt. The SDR represents the latter solution. SDRs may be considered as a form of ‘fiat money’, allocated to members, that is backed by members’ obligations under the Articles of Agreement.

90. Only members who participate in the Special Drawing Rights Department may receive from the IMF allocations of SDRs and be involved in SDR transactions. Such an allocation provides each member with a costless, unconditional international reserve asset on which interest is neither earned nor paid. However, if a member’s SDR holdings rise above its allocation, it earns interest on the excess. Conversely, if it holds fewer SDRs than allocated, it pays interest on the shortfall. Currently, all IMF members participate in the department. The IMF can also empower ‘official’ institutions to hold SDRs.

91. The decision to create SDRs is taken by the Board of Governors with a majority of 85% whenever the long-term global need so requires. The same majority is needed to cancel SDRs (which incidentally has never happened). Allocation (and cancellation) is expressed as a percentage of the quota. No further conditions are attached to allocations.

§2. EQUITY ALLOCATIONS

92. The role of the SDR as a supplement to monetary reserves has been moderate. SDRs were distributed through general allocations only twice before the 1990s. At the 1994 annual meeting proposals were made for an increase in SDR allocations. In addition, there were also suggestions to provide special SDR allocations for developing members and economies in transition. However, the IMF Articles did not allow for selective allocations, not even for countries that became

Part I, Ch. 12, SDRs and the Management of International Liquidity 93–93

member at a later stage and did not benefit from previous allocations. The IMF Articles provide that *each participant* receives its share of SDR allocation in proportion to its quota. Moreover, ‘in all its decisions with respect to the allocation and cancellation of special drawing rights the Fund shall seek to meet the long-term global need’. The only reason for an allocation of SDRs, therefore, can be the smooth operation of the international monetary system. Neither the need of an individual member or group of members, nor the principle of equitable allocation between existing and new members may be taken into account.

93. For new members of the Fund that have not enjoyed the benefit of previous SDR allocations a special amendment of the Articles of Agreement was proposed. The Fourth Amendment entered into force in 2009 and provided a ‘Special One-Time Allocation of Drawing Rights’ which benefited particularly the thirty-eight IMF members that had never received any SDR allocation. The amendment is believed not to compromise the principle that allocations are only allowed when a long-term global need so justifies.

Chapter 13. Operations and Transactions in SDRs

§1. BETWEEN MEMBERS: DESIGNATION MECHANISM AND VOLUNTARY TRANSACTIONS

94. All operations and transactions involving SDRs are conducted through the Special Drawing Rights Department in which IMF members participate. Participants in the department are entitled to use SDRs to obtain an equivalent amount of currency from a participant that is designated by the Fund. In this case, the IMF acts as an intermediary: Article XIX, section 5 provides for a designation mechanism under which participants whose balance of payments and reserve positions are considered sufficiently strong are obliged, when designated by the Fund, to provide ‘freely usable currencies’ in exchange for SDRs up to a specified amount. The exchange can only be made for improving the balance of payments or the reserve position of the requesting SDRs holder. The mechanism is executed through quarterly designation plans, approved by the Fund, which lists participants subject to designation and set maximum limits to the amounts of SDRs, which they may receive during the quarter.

95. The designation of individual participants may also be determined in a manner that over time promotes equality in the ‘excess holding ratios’ of participants (i.e., SDR holdings above or below allocations as a proportion of participants’ official gold and foreign exchange reserves).

96. Since September 1987, there have been no transactions with designation because exchanges of SDRs have been made on the basis of voluntary trading agreements among members. Participants have established standing arrangements to buy and sell SDRs against freely usable currencies.

§2. WITH THE FUND

97. The IMF itself may also participate in SDR transactions. Thus the Fund may hold SDRs in the General Resources Account. SDRs may be acquired by subscription payments, repurchase operations of members, payments of charges and other transactions.

Part II. Management of the International Monetary System

Chapter 1. Introduction

98. The post-war management of the international monetary system has evolved in two subsequent stages. In the early years the Fund was preoccupied with exchange rate stability through the administration of a system of par values. In this system each member was obliged to express the value of its currency in terms of gold or the United States Dollar. The US would play a key role in maintaining the integrity of the par value system by guaranteeing the Dollar value in terms of gold at the rate of USD 35 per ounce. Accordingly the Dollar and, indirectly, all other currencies were anchored to gold. The system was, however, not meant to be entirely static. A member could change the par value of its currency only if a correction of a ‘fundamental disequilibrium’ (read: persistent deficit) in its balance of payments was required.

99. Due to changes in the world economy and the US policies, the ‘system of stable exchange rates’ collapsed in the early 1970s. It was followed by a more liberal system of exchange rate management that was codified in the Second Amendment to the Articles of Agreement. A major characteristic of the new system was the freedom of members to choose the exchange rate policy they found appropriate subject to one exception: the use of gold as denominator was explicitly forbidden by the Articles. To secure stability in the system the Fund would enter into consultation with each member and exercise ‘firm surveillance’ over exchange rate policies. Article IV stipulates members’ obligations regarding exchange rates and enables the Fund to oversee the international monetary system. The mandate of the Fund changed from being a guardian over the functioning of the par value system to exercising surveillance and providing lending and technical assistance to Member States.

Chapter 2. Bilateral and Multilateral Surveillance

§1. ARTICLE IV CONSULTATIONS

100. Article IV, as modified by the Second Amendment, is entitled ‘Obligations Regarding Exchange Arrangements’ and explains how the Fund exercises its oversight authority through bilateral and multilateral surveillance. Article IV, section 1 empowers the Fund to exercise bilateral surveillance; member countries are obliged to cooperate with the IMF and other members in order to ensure orderly exchange arrangements and to promote a ‘stable system of exchange rates’. Such cooperation should take place in the light of a framework that facilitates the exchange of goods, services, and capital amongst countries, and that sustains sound economic growth. Moreover, cooperation will be desirable for the continuing development of the orderly underlying conditions that are necessary for financial and economic stability. In order to fulfil these functions, the Fund exercises ‘firm surveillance’ over the exchange rate policy of the members and lays down specific principles to which they must adhere. The Fund also is mandated to oversee the international monetary system in order to ensure its effective operation (so-called multilateral surveillance).

101. Section 1 of Article IV contains four requirements. The first two are related to those domestic policies with an impact on the exchange rate. States are asked to: ‘(i) direct their economic and financial policies toward the objective of fostering orderly economic growth with reasonable price stability’; and ‘(ii) to seek to promote stability by fostering orderly underlying economic and financial conditions and a monetary system that does not tend to produce erratic disruptions’. These requirements are expressed in a soft law language. The other two obligations are related to the operation of the international monetary system and are mandatory in nature: Member States have to ‘(iii) avoid manipulating exchange rates or the international monetary system in order to prevent effective balance of payments adjustment or to gain an unfair competitive advantage over other members’; and (iv) to follow exchange policies compatible with all of the above mentioned requirements. Section 1 is couched in opaque language. Its overall softness is the result of the political compromise after the breakdown of the system of stable exchange rates. No systematic attempt has been made to explain the exact scope of this provision. Instead the Fund has elaborated on the practice of surveillance under section 3(b).

102. Whereas section 1 generally requires the Fund and its members to collaborate, a problem is that diverging views exist, within and outside the IMF, on the appropriate policies required for the promotion of stability. Depending on the economic conditions, the IMF may urge members to revalue, devalue or float their currency, but it may also make its resources available to maintain fixed exchange rates. Economists may even argue that any exchange rate regime can work, provided it is backed by sound economic fundamentals. The obligation to cooperate applies to each and every member of the IMF regardless of whether the member has a surplus or a deficit in its balance of payments. Cooperation also includes the willingness to provide information to and receive advice from the Fund.

103. Section 2(a) refers to ‘exchange rate arrangements’, i.e. to the decision of the national monetary authorities on the exchange rate policy of the national currency. Section 2(b) explains that the domestic currency can, for example, be pegged to another currency or basket of currencies (like the Special Drawing Rights). Section 2(b) also anticipated the formation of the so-called European ‘snake in the tunnel’ and afterwards of the European Monetary System, by which most of the European Economic Community (EEC) members linked their currencies to the European Currency Unit (ECU) to prevent large fluctuations among one another. All the other categories of exchange arrangements are available: free or managed floating, the adoption of the currency of another country as legal tender, participation in a monetary area or in a currency union. Section 2(b), however, clearly presumes that each member retains its sovereign right to issue and manage its own currency.

104. Section 3 refers to multilateral surveillance which concerns developments in the world economy and in international markets as well as economic linkages and policy spillovers among countries. Section 3 stipulates that the Fund shall oversee the international monetary system in order to ensure its effective operation.

105. During an Article IV consultation, an IMF mission is sent to the Member State to meet with monetary authorities and collect economic and financial data. At the end of the mission, a country report is prepared and submitted to the Executive Board for discussion. The Fund completes the consultation procedure within three months with a report containing a commentary on the policy in the form of non-binding ‘conclusions’. The assessments may range from favourable, neutral, critical, to strongly critical. If the member country agrees, a Public Information Notice (PIN), which provides background and a summary of the Board discussion, is published, with or without the full Article IV consultation Report.

§2. GLOBAL AND REGIONAL SURVEILLANCE

106. More wide-ranging is the analysis of developments of the world economy. There is a six-monthly IMF publication, the *World Economic Outlook*, which discusses the economic and monetary developments in a global framework. Members are expected to tailor their policies according to the findings of the Outlook. *Regional Economic Outlooks* (REOs) provide an analysis of the economic trends in the five major regions of the world. In this process, the Executive Board, which is responsible for assessing ‘broad developments in exchange rates’, fulfils an important role in analysing and forecasting.

107. The IMF also consults with non-members, such as intergovernmental organizations (IGOs) that exercise monetary jurisdiction. Since no reference is made in the Articles to surveillance over monetary unions, with the introduction of the Euro in 1998, the Executive Board decided to establish new modalities for conducting surveillance over Euro area members within the framework of Article IV bilateral consultations. A few years later, a framework for policy discussions with the other existing currency unions was set up: the Eastern Caribbean Currency Union, the

Central African Economic and Monetary Community, and the West African Economic and Monetary Union. These IGOs cannot become members of the IMF (membership is country-based), but their policies affect the international monetary system. In 2002, the Executive Board clarified that discussions with EMU institutions were to be held separately from those with individual Euro area countries and take place twice a year.

§3. THE 1977 AND 2007 EXECUTIVE BOARD DECISIONS ON BILATERAL SURVEILLANCE

108. The surveillance procedure is under constant review and various policies have been developed for improvement, such as the *1977 Decision on Surveillance over Exchange Rate Policies*. Traditionally, in its consultations the Fund has primarily focused on macroeconomic imbalances, combating inflation, trade liberalization and other market reforms. But progress in understanding problems underlying economic instability has brought the Fund to expand its jurisdiction under Article IV. The causes for economic instability are now increasingly associated with poor economic policies, political deficiencies and other shortcomings. Thus, the Fund has adopted policies promoting transparency, sound institutional structures and ‘good governance’, including the combating of corruption. Surveillance may also focus on social issues and labour markets, income distribution and environmental aspects. Accordingly, the Fund’s staff has published reports and studies on unproductive public expenditure and excessive military spending. However, the Fund must be cautious not to overstep its jurisdiction. Issues relating to the efficient allocation of resources and priorities in government expenditure are normally not within the Fund’s mandate and continue to remain within the exclusive jurisdiction of countries.

109. In 2007, the Executive Board decided to replace the 1977 Surveillance Decision, introducing the concept of ‘external stability’. The *2007 Decision on Bilateral Surveillance over Members’ Policies* clarified that country surveillance should be focused on assessing whether national policies promote domestic and external stability. External stability was in fact considered critical to achieve systemic stability and it was defined as ‘a balance of payments position that does not, and is not likely to, give rise to disruptive exchange rate movements’, therefore encompassing developments both in the current and in the capital account. Accordingly, surveillance should focus on monetary, fiscal, financial and exchange rate policies, assessing risks and weaknesses.

110. The surveillance procedure has in practice only limited effect (especially on larger countries) for the simple reason that the obligations have no far-reaching consequences: soft obligations do not make for strict surveillance. In the consultations, only the weight of arguments and, to a certain extent, peer pressure play a role in persuading a country to bring its economic policy more in line with the conclusions of the IMF. Effective IMF surveillance thus depends crucially on the willingness of members to take the Fund’s advice. To make surveillance more effective, members

could be asked to respond within a specific time to conclusions reached in the Article IV consultations process. In cases where a member's policies appeared to depart from the Fund's advice, the member should be given increasingly stronger warnings to bring its policies on course. However, under the current interpretation of Article IV it is not possible for the Fund to give legally binding directives or to impose sanctions.

§4. STRENGTHENING SURVEILLANCE: THE FINANCIAL SECTOR ASSESSMENT PROGRAMME AND THE 2012 INTEGRATED SURVEILLANCE DECISION

111. After the global financial crisis, the Fund undertook a review of the effectiveness of its surveillance. The exercise highlighted the fact that surveillance was too fragmented and that there were weaknesses and loopholes. Improvements were to be achieved especially for what concerns financial stability. Therefore, an important development is the stronger focus of the Fund on the role of financial markets. Following the Second Amendment, one of the principal objectives of the Fund has become 'the continuing development of the orderly underlying conditions that are necessary for *financial* and economic stability' (Article IV, section 1). The IMF justifies its jurisdiction over financial stability as it is a key component of members' domestic and external stability. The Fund assesses developments in financial markets in the *Global Financial Stability Report* (GFSR) and the *Fiscal Monitor*. Moreover, *Reports on the Observance of Standards and Codes* (ROSCs) are issued by the IMF and/or the World Bank and cover a set of twelve internationally recognized core standards and codes relevant to stability and private and financial sector development. Under the *Financial Sector Assessment Programme* (FSAP) established after the Asian financial crisis in 1999, upon request of a country's authority, the Fund and the World Bank provided a comprehensive evaluation of its financial sector and gave policy advice on how to reduce vulnerabilities. FSAPs were an instrument of technical assistance, covered by IMF Article V, section 2(b), thus being 'voluntary' in nature. In September 2010, the IMF Executive Board decided to integrate FSAP stability assessments into IMF Article IV bilateral consultations for twenty-five jurisdictions with systemically important financial sectors. The assessments will comprise three elements: the degree of inter-linkages between financial sectors (and thereby the risk of contagion); the effectiveness of domestic supervision against international standards; and an assessment of the authorities' capacity to manage and resolve a financial crisis should the risks materialize. Importantly, however, overseeing the stability of financial markets continues to be a primary responsibility of national authorities. The absence of an international financial authority that assesses financial markets operating across national borders may be considered a lacuna in global governance.

112. In July 2012, following the completion of the Triennial Surveillance Review, the IMF Executive Board adopted a new *Decision on Bilateral and Multilateral Surveillance* (also called the *2012 Integrated Surveillance Decision*), which extends the key modalities for bilateral surveillance – set forth in the 2007 Decision – to multilateral surveillance. The new Decision clarifies the scope of multilateral

surveillance (which includes all issues relevant for global economic and financial stability), for the first time also establishing the modalities for conducting multilateral consultations. As regards bilateral surveillance, the 2012 Decision recognizes that systemic stability is most effectively achieved when a member promotes not only its own balance of payments stability, but also its own domestic stability. According to these premises, the Decision adds guidance on the conduct of members' domestic policies that are relevant to domestic stability, filling an important gap of the 2007 Decision (see the new Principle E: 'A member should seek to avoid domestic economic and financial policies that give rise to domestic instability'). A reference to the domestic stability of the union is added to the paragraph on surveillance over members of currency unions (already laid out in the 2007 Decision). In integrating bilateral and multilateral aspects in Article IV consultations, the new surveillance framework enables the Fund to better assess spillovers and global and country level risks to economic and financial stability. In fact, the new Decision allows the Fund to discuss with individual members the full range of spillovers from their economic and financial policies onto global stability during Article IV consultations. For greater clarity, the term 'external stability' is replaced with 'balance-of-payments stability'.

Chapter 3. New Practices in Exchange Rate Management

113. Recent years have witnessed a diversity of currency regimes that have changed the patterns of international monetary collaboration. The IMF has not been able to respond adequately to such developments due to institutional limitations or political inertia. These regimes are alternatives to the traditional concept of monetary sovereignty, i.e. a state that maintains its own currency and pursues its own monetary policy under supervision of the IMF.

114. A major development has been the creation of the EMU in the EU. A reason for introducing a European currency is the desire to create a single market in which exchange rate fluctuations, that might impede the free flow of trade, are eliminated. Under the EMU, states have surrendered their sovereign right to issue a currency and to pursue monetary policies. Such transfer has replaced national currencies by a single European currency, the Euro. Key monetary policies relating to the Euro are determined by the ECB (whose target is price stability) and the Council of Finance Ministers (exchange rate policies). It is significant that the EMU and its central bank, as key players in international monetary relations, are placed under IMF supervision through annual Article IV consultations with individual members of the Eurozone as well as through discussions with EU-institutions responsible for common policies in the EMU area. The ECB has observer status at selected Executive Board meetings.

115. A second development has been the emergence of currency boards that are designed to maintain a tight relationship between foreign exchange and domestic currency. A currency board is committed to issue domestic currency solely in exchange for a specified currency at a fixed rate. A direct consequence is a limitation to create money by extending credit to the government and the banking system. The right to exchange domestic currency for a foreign currency under a currency board system may be suspended or abolished once the domestic economy is sufficiently strong. A major reason for introducing currency boards is a firm commitment to control inflation and to restore international confidence in the domestic currency.

116. A third development is the *de facto* or *de jure* dollarization/euroization of countries, meaning that the domestic currency is entirely replaced by the US Dollar or another key currency. By *de jure* dollarization/euroization a country recognizes legal tender status to the Dollar/Euro (or other dominant foreign currency) and entirely depends on the policies pursued by foreign monetary authorities. Whereas the advantages are clear – moderate inflation and a fully convertible currency – the disadvantages may be considerable. A dollarized economy loses its ability to control liquidity and interest rates and thus its capacity to respond to economic cycles. Moreover, it is not expected that the US monetary authorities will take economic developments in dollarized economies into consideration when monetary objectives are formulated.

Chapter 4. Currency Convertibility

§1. INTERNATIONAL PAYMENTS FOR CURRENT TRANSFERS AND MARKET CONVERTIBILITY

117. Currency convertibility refers to the freedom to convert domestic currency into foreign currencies at a given exchange rate, and to its subsequent use for foreign transactions. A distinction can be made between *current account convertibility*, which means unrestricted payments and transfers for current transactions, and *capital account convertibility*, which means unrestricted inwards and outwards capital transactions. Payments for current transactions are payments which are not for the purpose of transferring capital, and include, *inter alia*, all payments due in connection with foreign trade, other current business, including services, and normal short-term banking and credit facilities. Article XXX(d) explains the scope of a ‘current transaction’.

118. Under Article I the IMF is authorized to facilitate the expansion and balanced growth of international trade and to assist in the elimination of foreign exchange restrictions that hamper the growth of world trade. For this purpose members are expected to accept the obligations under Article VIII, sections 2, 3 and 4. By doing so, members agree not to impose restrictions on the making of payments and transfers for current international transactions and not to engage in discriminatory currency arrangements or multiple currency practices without the approval of the IMF. Particularly important for private contracts is the clause under section 2(b) which stipulates the unenforceability of ‘exchange contracts involving the currency of any member and which are contrary to the exchange control regulations of that member maintained or imposed consistently with this Agreement’. The meaning of this provision is that members are obliged not to enforce by judicial or administrative authorities exchange contracts that violate exchange restrictions authorized by the Fund. The interpretation of ‘exchange contract’ is not without controversy. A broad interpretation would include all contracts involving international payments or transfers and domestic contracts payable in foreign exchange: sales, loans, deposits, etc. The Fund may give advice about the consistency of exchange controls regulations with the Articles of Agreement.

§2. CONVERTIBILITY OF FOREIGN-HELD BALANCES OR ‘OFFICIAL CONVERTIBILITY’

119. Under Article VIII, section 4 members are obliged to convert certain balances of their currency held by monetary authorities of other members; ‘official convertibility’ refers to transactions between central banks or similar monetary authorities. The obligation to convert only applies to balances that have been recently acquired as a result of current transactions or because their conversion is needed for making payments for current transactions. Under the conditions of section 4(b) the obligation to convert shall not apply.

120. Developments in monetary practice have made a dead letter of Article VIII, section 4. The reason for its desuetude is the close connection of this provision with the system of fixed (but adjustable) exchange rates that collapsed in the early 1970s. Nevertheless, section 4 has been maintained in the Articles of Agreement and if a member were requested to convert balances of its currency, the member would *prima facie* be in violation of its obligations if it refused conversion. In practice, holdings of foreign currencies that are considered in excess of needs are sold on the currency market. The *Report on the Second Amendment* suggests that no obligation will be applied for a member to convert under section 4 so long as exchange markets normally serve this function.

§3. CAPITAL TRANSFERS

121. Article I does not mention capital account liberalization among the purposes of the Fund. At the Bretton Woods conference White and Keynes did not consider capital account convertibility either necessary or desirable. Their position is reflected in Article VI, which recognizes the right of Member States to impose capital controls. In practice the Fund has not insisted that capital controls be introduced. On the contrary, the Fund embraced capital account liberalization, exerting pressure through technical assistance and surveillance over its members. Pursuant to Article VI, the Fund's resources may not be used to meet large or sustained outflows of capital. However, the currency crises in the 1990s showed that the IMF is willing to provide balance of payments support when a member is suffering from a sudden and disruptive loss of market confidence reflected in pressures on the capital account and its reserves.

122. The liberalization of capital movements is not within the Fund's mandate and the introduction of such regulation would require an amendment of the IMF Articles. During the 1960s many industrialized countries had already adopted policies ensuring free capital movements. In 1997 and 1998 proposals were made to amend the Articles to include provisions on liberalization of capital movements, but they were eventually set aside. Many observers consider the unimpeded flow of private capital as an essential element of an efficient international monetary system. However, currency crises in the 1990s and the global financial crisis have made many members reluctant to further pursue liberalization. There appears to be consensus that liberalization of capital movements can only be effective when particular prerequisites are fulfilled. Therefore, liberalization must be approached cautiously in concert with appropriate macroeconomic and exchange rate policies, and a sound financial sector. In 2010, the Fund started to revise its longstanding policy in favour of liberalization and acknowledged that capital controls may effectively mitigate the harmful effects of large volatile capital inflows. In 2011, it also recognized that controls on capital outflows can be useful in crisis or near crisis conditions, but only as a supplement to more fundamental policy adjustment.

Chapter 5. Reforming the International Monetary System

123. The volatility of the international capital markets and occasional currency crises have induced calls for a new architecture of the international monetary system. Various groups, including the G-7/8, the G-20, other international organizations and NGOs have made proposals for a new design. Some proposals suggest to (re)create global institutions to cope with current international financial and monetary problems. These institutions should have the features to act as a: (i) global lender of last resort (a ‘global central bank’); (ii) global bankruptcy court (settling debts and providing a fresh start when countries cannot meet their international financial obligations); and (iii) a global financial regulator to exercise firm jurisdiction over states and non-sovereign actors. The latter proposal attempts to remedy the lacunae in supervision by ‘financial market surveillance’. Publication of documents and, generally, the promotion of transparency are key features of the new architecture. As explained below, considerable progress has been made in promoting more transparency.

124. The new architecture is particularly expected to counter the increasing destabilizing effects of international capital markets, a conglomerate of international financial entities, including, amongst others, commercial banks, investment banks, private equity firms, insurance companies and pension funds. These entities usually buy and sell large quantities of securities, currencies or complex derivative instruments. They may hedge against inflation and depreciation of currencies or engage in securities transactions that reduce the risk on an existing investment position. But they may also take short positions against currencies that are expected to depreciate. The relative strength of international capital markets (vis-à-vis central banks) has substantially increased. Due to their size, financial markets may cause substantial damage to the global economy. The collapse of financial markets in 2008 was caused by defaults of collateralized debt obligations; these instruments were widely traded among market participants while risks were poorly understood. In addition, the market for insuring financial risk (credit default swaps) tore down key financial institutions. Subsequently, these institutions were refinanced by central banks or other financial authorities. As explained above, the Fund has no jurisdiction to regulate or supervise financial markets behaviour. A new architecture should be able to oversee and regulate financial markets in addition to overseeing monetary and economic performance of countries. In 2009, the G-20 established the *Financial Stability Board* (FSB) to coordinate at international level the work of national financial authorities and international standard-setting bodies (SSBs) in order to identify vulnerabilities affecting the global financial system and actions needed to address them. In exercising this and its other functions, the FSB will collaborate with the Fund, especially on surveillance over the financial sector.

Chapter 6. The Promotion of Transparency and Good Governance

125. Increased transparency both on the part of the IMF and the members is a requirement for a more effective functioning of global and domestic financial markets. More systematic and diversified information on macroeconomic data and financial markets performance contributes to more transparency. Transparency was improved in particular by standardized publication of macroeconomic data. In April 1996, the Fund adopted the Special Data Dissemination Standard (SDDS) aimed at parties that have, or seek, access to international capital markets. Adherence to the SDDS is voluntary. The SDDS aims at the publication of up-to-date data on economic performance and policy in the real, fiscal, financial and external sectors.

126. Starting from May 1997 the Fund publishes periodically Public Information Notices (PINs) following Article IV consultations in *IMF Economic Reviews*. PINs reflect the discussions with the member on its macroeconomic and monetary policies and conclusions of the Fund's Executive Board. PINs can only be issued on a voluntary basis at the request of the members wishing to make public the Fund's views on their economic policies. In attracting foreign capital and investment, countries may benefit from a publicized favourable conclusion.

127. Furthermore, members may decide to release to the public *letters of intent* and similar documents. These documents, issued by a government requesting balance of payments support, describe policy intentions. The Fund encourages members to publish documents; with approval of the member these can be found on the Fund's website.

128. A salient development in the Fund's practices has been the publication of 'good practices' codes on how to organize governance in the field of fiscal and monetary policies. The codes were drafted in close consultation with the IMF members and intergovernmental and non-governmental organizations. Whereas these codes do not hold mandatory rules for members, they contain standards that may be upheld in consultation procedures. Moreover, these standards may be applied as pre-conditions before the Fund approves balance of payments support.

129. Reports on the Observance of Standards and Codes (ROSCs) summarize the extent to which countries observe internationally recognized standards and codes. The IMF has identified twelve policies and corresponding standards as useful for the operational work of the Bretton Woods institutions. These include: accounting; auditing; anti-money laundering and countering the financing of terrorism; banking supervision; corporate governance; data dissemination; fiscal transparency; insolvency and creditor rights; insurance supervision; monetary and financial policy transparency; payments systems; and securities regulation. In a number of areas the IMF has adopted standards developed by other institutions such as the Basel Committee, the International Organization of Securities Commission and the International Association of Insurance Supervisors or the Organisation for Economic Co-operation and Development (OECD). Reports summarizing countries' observance in meeting the standards are published on the IMF's website.

130. For the purpose of promoting transparency in April 1998 the IMF adopted a ‘Code of Good Practices on Fiscal Transparency’. The Code attempts to clarify governments’ roles and responsibilities in the sphere of fiscal administration. The Code was followed by a ‘Manual on Fiscal Transparency’ prepared by the Fund’s Fiscal Affairs Department. The manual translates the principles into practical policy guidelines and draws on experiences in member countries to illustrate what the IMF considers good governance.

131. The Code on Transparency is based on four general principles of fiscal transparency. The principle of *clarity of roles and responsibilities* reflects the importance of clear boundaries within government between fiscal, monetary, and public enterprise activities, and between the public and private sectors. The Code does not appear to prescribe any particular allocation of responsibility among government agencies.

132. *Public availability of information* reflects the need for both comprehensive fiscal information and for governments to commit themselves to publish fiscal information at clearly specified times. The concept of comprehensiveness goes beyond what is typically covered in government budget and accounts statements. The Code emphasizes the need to report on any quasi-fiscal activities that have been assigned or otherwise undertaken by non-government agencies.

133. The third general principle, *Open budget preparation, execution, and reporting*, encompasses traditional standards relating to the coverage, accessibility, and integrity of fiscal information. Emphasis is placed on the development and harmonization of international statistical and accounting standards for government reporting.

134. Finally, *independent assurances of integrity* emphasizes the traditional means of providing such assurances through external audit and statistical independence, but then goes beyond this and calls for openness by governments to allow independent scrutiny.

135. Additionally, the Fund issued a ‘Code of Good Practices on Transparency in Monetary and Financial Policies’ that seeks to clarify the relationship between the central banks and governments. For purposes of the Code, transparency refers to an environment in which the objectives of policy are provided to the public on an understandable, accessible and timely basis. Transparency should also clarify the legal, institutional, and economic aspects of decision-making, the rationale of policy decisions and accountability. Thus, practices listed in the Code focus on: (1) clarity of roles, responsibilities and objectives of central banks and financial agencies; (2) the processes for formulating and reporting of monetary policy decisions by the central bank and of financial policies by financial agencies; (3) public availability of information on monetary and financial policies; and (4) accountability and assurances of integrity by the central bank and financial agencies.

Part III. Balance of Payments Support

Chapter 1. Introduction

136. A purpose of the IMF is 'to give confidence to members by making the general resources of the Fund temporarily available to them under adequate safeguards, thus providing them with opportunity to correct maladjustments in their balance of payments without resorting to measures destructive of national or international prosperity'. In the practice of the Fund, balance of payments support has become a dominant activity, virtually overshadowing other tasks. Whereas each member is entitled to balance of payments support, until recently only developing countries and countries in transition have made use of the Fund's resources. The last decade has witnessed a major shift in economic performance: more developing countries have been able to accumulate monetary reserves or gained access to financial markets and thereby became less dependent on IMF resources. In contrast, the financial position of industrialized countries has worsened considerably; indebtedness, amplified by the fall-out of the financial crisis in 2008, has increased to alarming levels. Since Italy and the UK received support from the Fund in the 1970s, in 2010 Greece was the first advanced economy and Euro area country to receive financial assistance from the IMF and the EU, being followed by Ireland and Portugal.

Chapter 2. The Concept of Balance of Payments

137. Each Member State has to draw up a balance of payments. In order to promote uniformity in the book-keeping and to facilitate analysis of the figures, the Fund gives directions to Member States about the way in which transactions are recorded. These directions are published in the *Balance of Payments Manual*. The figures relating to the balance of payments of Member States are published in the *Balance of Payments Statistics Yearbook*.

138. The Fund defines the balance of payments as a statistical statement for a given period showing: (a) transactions in goods, services, and income between an economy and the rest of the world; (b) changes of ownership and other changes in that economy's monetary gold, special drawing rights (SDRs), and claims on and liabilities to the rest of the world; and (c) unrequited transfers and counterpart entries that are needed to balance, in the accounting sense, any entries for foregoing transactions and changes which are not mutually offsetting. Every transaction that is recorded is to be represented by two entries that have exactly equal values. One entry is designated as a credit and conceived as having a positive arithmetic sign, while the other entry is called a debit and given a negative sign. The sum of all entries is therefore, in principle, zero.

139. The balance of payments is subdivided in the current account and the capital account. These accounts are further broken down into various categories of transactions: the current account includes the balance of trade, goods and unrequited transfers; the capital account relates to the capital transfers (international credits, repayments, investments). A deficit on the current account may be settled by borrowing abroad or by depleting official reserves, i.e. the foreign currency which is held by central banks to serve as a buffer for financial transactions. Gold is also held as a reserve, since it can be sold against any currency. A surplus on the current account means an increase in the official reserves, while a deficit means a decrease in the reserves. Any changes in the reserve position thus appear in the balance of payments.

Chapter 3. The Need for Support

140. A state has a deficit on the current account when it imports more goods and services than it exports. The capital balance may also be negative because of flights of capital or investments abroad. As long as these deficits are limited and of short duration, the official reserves can provide a solution. It is possible that after a time a surplus will arise so that the reserves can be brought back to the desired level. However, when the deficit is serious or difficult to shift, most countries will come into difficulty, as the reserves will become exhausted. In such cases two responses are possible.

141. First, it is possible to seek elsewhere for a means of covering the deficit. One option is for a country to offer bonds in a foreign currency, within or outside its own territory. Countries can also try to secure loans from commercial banks, operating on the market for currencies which are traded outside the country of issue. Developing countries may also receive balance of payments support in the shape of official development assistance.

142. Particularly for developing countries, calling on external financial sources does however have its limits. The only source of credit, which does not entail future obligations, are grants. This particular source is, however, scarce. As the balance of payments position shows no signs of improvement, and as the creditworthiness of the debtor country worsens, creditors will become ever more reluctant to furnish additional financial resources.

143. Second, a country can carry out an adjustment programme aimed at restoring the balance of payments. Such a policy means that the government opts for economic reform through reducing government spending, adjusting exchange rates, fighting inflation and other measures. Adjustment is in fact unavoidable when confidence in the country concerned has fallen to such a level that new credits are no longer offered. If the necessary adjustment fails to materialize, then market forces will come into play: shortage of currency will lead to import restrictions. If market forces are not controlled, these imports may include items which are essential for the economic development of the country. For example, if industry cannot get hold of foreign currency in order to buy machinery or spare parts, production comes to a halt; there is income deprivation and the flow of currency ceases. Scarcity of foreign currency can easily lead to a downward spiral in the economy.

144. Often the IMF comes in when countries are up to their neck in difficulties. The IMF has laid down that structural balance of payments deficits and currency shortages must be countered by a programme of economic adjustment enabling the government to influence and to manipulate public spending, growth in the money supply, interest and exchange rates and other variables of economic and monetary policy. The IMF has set itself the task of helping countries in setting up and carrying out adjustment programmes. At the same time, the Fund provides short-term balance of payments support in order to cover immediate deficits. With few exceptions, an adjustment programme accompanies IMF financing of deficits.

Chapter 4. The Political Economy

145. Adjustment becomes necessary because circumstances in the preceding period have had an adverse effect on the balance of payments: excessive imports due to over-consumption, disappointing export revenue due to falling commodity prices, wrong exchange rate policy, misguided tax incentives, flight of capital or unfocused investment policy. Some of these causes can be laid at the door of the country concerned, while others, such as falling raw materials prices, can hardly be blamed on the country. However, adjustment is inevitable, regardless of the cause of the balance of payments deficit, and regardless of whether the country itself is to blame for the deficit. Only when an unlimited appeal can be made on international credit is postponement of adjustment possible.

146. Although the Fund cannot prevent adjustment, it can soften it. Member countries call on the organization's help in order to make the adjustment process proceed as smoothly as possible, without seriously endangering the economy. The Fund can also be requested to ensure that the adjustment happens in such a way that the socio-economic position of vulnerable groups is protected as far as possible. It may be expected that IMF-supported adjustment is more gradual and somewhat less painful than market-enforced adjustment.

147. There are several reasons why the IMF insists on adjustment. The first is rather mundane: as credit will only temporarily be made available, the IMF wants to make sure that the member is able to pay back. In fact, one of the purposes of the Fund is to make its general resources temporarily available to Member States 'under adequate safeguards' (Article I). A member that does not reform and continues to spend foreign currency beyond its means will certainly not be able to repay. Second, the IMF must facilitate the expansion and balanced growth of international trade. Adjustment is expected to ensure that countries continue to participate in the world trading system. There may also be a third reason: countries running out of foreign reserves may become insolvent and create a risky environment for international banks and investors.

148. When an adjustment programme is being negotiated, parties will apply core principles of economic theory. Despite these principles, negotiators of the IMF and the country in need may have fundamental differences of opinion. Parties will agree that reforms must be aimed at restoring the balance but they may disagree on the best recipe to find that balance. In the end, parties may come up with a deal which is reflected in a document stating the reforms for the next year (a memorandum of economic and financial policies attached to the country's letter of intent). What counts, of course, are effective changes in domestic economic policies. Changes usually include drastic budget cuts and tax reform, price liberalization, trade and foreign investment liberalization, privatization and private sector deregulation. Generally adjustment follows a predetermined pattern, meaning that the state steps back while the private sector moves in.

149. Governments have not always been eager to do business with the Fund. They would much prefer to rely on unconditional support, which would not thus restrict political priorities. Although the Fund calls on its members to take timely measures, in practice members only turn to the Fund when other creditors have turned their backs and the ship is threatening to sink, or has already sunk. Unintentionally the Fund becomes a lender of last resort. This situation means that adjustment under Fund guidance often entails a radical change in economic policy. Painful choices have to be made. Interest groups who for years have been able to count on special benefits see their financial position undermined by economy drives as a part of conditionality. Government jobs are axed, and the military see their budgets melt away. A government must stand firm to resist the pressure from so many interest groups, and it is not unusual for the Fund, for political reasons, to take the blame for these painful measures. The IMF has been prepared to let these reproaches go unanswered, as a sort of silent contribution to the adjustment effort.

150. The Fund fulfils a pivotal function in the relation between the debtor country and its creditors. For creditors, the Fund is competent to judge the creditworthiness of a country. Practically all creditors trust the IMF's judgment, and are only prepared to provide support if the debtor, in consultation with the Fund, carries out an adjustment programme. As long as the Fund provides support, creditors will have faith that the adjustment programme is on the right track, and will judge that the risks entailed in providing credit are acceptable. The debtor country also realizes that creditors will place their trust in an adjustment programme which meets with the Fund's approval. There may also be another reason why finance ministers and central bank presidents in particular adhere to IMF adjustment programmes. These authorities, responsible for financial and monetary policy, try to strengthen their position vis-à-vis spending departments in seeking support from the IMF. Backed up by the Fund, they hope to induce greater financial discipline among their fellow ministers.

Chapter 5. Purchasing Currencies from the Fund

151. Article V section 1 explains that only fiscal or monetary agencies may deal with the Fund when operations and transactions are made. Section 2(a) stipulates that transactions made for the purpose of balance of payments support have the character of purchases. Hence SDRs or currencies of other members, which are held in the General Resources Account, may be purchased in exchange for an equivalent amount of the purchasing member's currency. Thereby only the composition of currencies held by the Fund will change. Under section 2(b) the Fund may provide financial and technical services, including the administration of resources contributed by members. Such additional activities must be consistent with the purposes of the Fund. It is accepted that financial services may be available for specific categories of Member States only. An example was the Poverty Reduction and Growth Facility (now the Poverty Reduction and Growth Trust), a facility that is financed by a trust fund and created for the benefit of developing countries only.

152. Regular transactions are made through the General Resources Account. Article V, section 3 lays down rules for conditional balance of payments support. Under (a) the Fund must adopt policies on the use of its resources. The policies must ensure that the balance of payments problems are solved consistently with the IMF Articles and establish adequate safeguards for the temporary use of the Fund's resources. Temporary use is ensured by repurchase obligations: a member must buy back from the Fund its own currency after it has used the foreign currency 'temporarily'.

153. Under section 2(b) conditions for the right to use resources are elaborated. The member 'shall be entitled to purchase currencies of other members from the Fund in exchange for an equivalent amount of its own currency'. It is important to note that members are 'entitled' to receive support, meaning that membership already creates an initial right. The IMF merely determines the conditions under which the purchase may be made.

154. After the member has made a request, the Fund shall examine it and determine the consistency with the IMF Articles and policies. Under section 3(d), (e) and (f) arrangements will be made of the selection of currencies to be sold and the exchangeability of currencies that are used in transactions. Resources made available by the Fund must be SDRs or 'freely usable currencies', i.e. currencies that are widely used to make payments for international transactions and are widely traded in the principal exchange markets. In practice only the currencies of members with a sufficiently strong balance of payments and reserve position are considered usable and constitute the 'operational budget' of the Fund.

155. A purchase may be made under the condition that the use of the resources of the Fund would be in accordance with the provisions of the Articles and the policies adopted under them. Accordingly, the member must declare that it has a need to make the purchase because of its balance of payments or its reserve position or developments in its reserves. Therefore, only balance of payments problems or

declining reserves may induce financial support from the Fund. A further condition is that the proposed purchase would be limited up to 200% of the member's quota, but this limit may be waived under section 4. The maximum amount that a country can borrow from the IMF, known as its access limit, varies depending on the type of loan, but is typically a multiple of the country's IMF quota.

Chapter 6. IMF Conditionality

156. Conditionality reflects the policies a member is required to follow in order to be able to use the Fund's resources. Adjustment and conditionality makes the IMF co-author of economic policies and co-responsible for the consequences of adjustment. Just like a government makes choices in policies that reflect political, moral and legal values, the IMF must also consider values. In light of IMF's practice to insist on firm adjustment efforts, incisive questions on the scope of conditionality may be asked. Could the IMF ask a country to increase the production of the coca plant because the export of cocaine will generate a substantial inflow of foreign currency? There are also less absurd questions to be asked. Can the IMF ask for the closing down of state subsidized hospitals and schools? Can it demand a policy by which parents must pay a user's fee for their children in primary school? What are the ethics of the IMF? Does it cherish moral values? From a legal point of view it could be asked whether the IMF considers itself to be bound by human rights.

157. Searching for values and human rights in the IMF Articles does not produce clear answers. According to its Articles the IMF must avoid measures that are 'destructive of national or international prosperity' but this has little practical meaning without a proper interpretation. Significant is an opinion of the IMF's legal counsel on the relationship between the Fund and the UN Covenant on Economic, Social and Cultural Rights (1966). The opinion suggests that the IMF is factually contributing to the promotion of socio-economic standards, by creating a more prosperous economy in the long term. The opinion also states that the IMF is not legally bound by the Covenant because it is not a party. Some authors, proceeding on the assumption that human rights are part of a larger framework of international law, argue instead that both the IMF and the World Bank are bound to respect human rights obligations in their activities.

158. Sovereignty and political independence are also relevant legal notions. In negotiations with country officials it may be tempting for the IMF to ignore such concepts. In the past, countries have reproached the IMF with intrusions of sovereignty. Developing countries also accused the IMF of unequal treatment. This has prompted the Fund to adopt Guidelines on Conditionality in 1979 that were revised in 2002 and later on supplemented by operational guidance notes for assisting the staff in discussions with members. In March 2009, the IMF further modernized its conditionality framework in the context of a comprehensive reform to strengthen its capacity to prevent and resolve crises. In 2010 it revised the Operational Guidance to IMF Staff on the 2002 Conditionality Guidelines.

159. Conditionality applies when the Fund provides financial assistance to Member States. Over the years, the IMF lending activities have been organized under different 'facilities' to better take into account the specific circumstances of its members (whether they are low-income countries or countries with strong fundamentals). A new framework was developed in the wake of the global financial crisis to include a more systematic use of *ex ante* conditionality. The IMF facilities

now include: (a) the Extended Credit Facility (ECF), the Stand-by Credit Facility (SCF) and the Rapid Credit Facility (RCF) under which the IMF gives concessional support to low-income countries; (b) the Stand-By Arrangements (SBA), under which countries are given financial support to address short-term balance of payments problems; (c) the Flexible Credit Line (FCL), which is designed to help states meeting a pre-established set of qualification criteria – strong fundamentals, policies, and track records of policy implementation – to adopt crisis prevention and crisis resolution measures; (d) the Precautionary and Liquidity Line (PLL), designed to assist countries with sound fundamentals which, however, do not meet the FCL qualification standards (the PLL combines *ex ante* and *ex post* conditionality); (e) the Extended Fund Facility (EFF), established to address members with medium- and longer-term balance of payments problems; (f) and the Rapid Financing Instrument (RFI), for emergency assistance to members facing urgent balance of payments needs.

§1. PRINCIPLES OF CONDITIONALITY

160. The 2002 Guidelines deal with ‘principles’ and ‘modalities’ of conditionality. The first guideline emphasizes that Fund resources are provided for resolving balance of payments problems. Poverty or other conditions cannot give reason for assistance. Conditionality depends not only on the IMF Articles, but also on implementing decisions that interpret ‘adequate safeguards’, a phrase used in Article I(v) and Article V, section 3(a). Such decisions are taken by a majority vote in the Executive Board. The Guidelines also explain that conditional balance of payments support is one of the ways in which the IMF helps members to strengthen their economic and financial policies. Article IV consultations, discussed above, may also signal developments that merit concern. The IMF suggests to members not to postpone difficult decisions.

161. In Guideline 3 the Fund acknowledges that programmes cannot be imposed on countries. In the past too often the IMF prescribed the required policies to governments. Governments were asked to sign documents on policy reform that were prearranged by IMF missions. The Guidelines explain that ‘the member has primary responsibility for the selection, design and implementation of its economic and financial policies’. This is an important warning sign to all IMF missions to listen carefully to government officials. There must also be an appropriate institutional framework for the implementation of the reforms. The 2010 Operational Guidance to IMF Staff further clarifies that the Fund’s staff should ‘seek early on the views of country authorities and make every effort to accommodate their preferences while ensuring that the Fund-supported program goals are achieved’.

162. Guideline 4 explains that ‘in helping members to devise economic and financial programs, the Fund will pay due regard to the domestic social and political objectives, the economic priorities, and the circumstances of members, including the causes of their balance of payments problems and their administrative

capacity to implement reforms'. The language of this principle suggests some leeway for preserving domestic policies when an adjustment programme is put in place. In reality the latitude is limited. First, 'due regard' does not mean 'respect' and does not compel the IMF to give overriding force to domestic policies. If the economic consequences of domestic choices conflict with IMF policies, the latter will prevail. A second caveat is that the Fund's policies interfering with sovereign decision-making have been expanded in the 1990s. Significant is the IMF Standards and Codes Initiative, under which since the end of the 1990s the Fund endorsed twelve internationally recognized standards and adopted a set of guidelines and codes to strengthen the international financial system. Among these there were the 1997 *Guidance Note on the Role of the IMF in Governance Issues*, the 1999 *Code of Good Practice on Transparency in Monetary and Financial Policies* and the *Code of Good Practices on Fiscal Transparency* (developed in 1998 and revised in 2007). With the proliferation and application of codes and standards, the IMF is increasingly interfering with decision-making in areas that traditionally belonged to the exclusive domain of governments. Guideline 4 also mentions the 'past performance' as a relevant circumstance. This refers to behaviour of members in previous periods. By offering false economic data some countries have misled the IMF – the latter believing that programmes were on track. The Fund appears to keep an elephant's memory for such incidents.

163. Guideline 5 expresses the principle of 'consistent application of policies' to maintain 'uniform treatment' of members. Non-discriminatory treatment is an important principle, but it is difficult to prove that uniform treatment has not taken place, because the economic circumstances of countries will never be the same. Second, capacity and commitment of the requesting country are important criteria for providing credit. This principle also explains the key role of the IMF's management. The Managing Director has to rely on the judgment of IMF missions that negotiate the programme. It will be difficult for the Executive Board to denounce the recommendation of the Managing Director. Staff in the IMF has a high responsibility for vigilant judgments.

164. Guideline 6 urges the Fund to provide balance of payments support 'without recourse to measures destructive of national or international prosperity'. The wording is opaque and gives the IMF much room to deviate from this principle. 'Should be directed primary towards (...)' is softly phrased and it is unclear what is meant by 'destructive of national and international prosperity'. These are un-interpreted words and phrases. What is prosperity and whose prosperity should be preserved? Does prosperity refer to GDP or socio-economic standards? Obviously, it will be difficult to keep all parties involved prosperous, when an adjustment programme is in place. Second, a programme must aim to achieve medium-term external viability while fostering sustainable economic growth. Significant is 'fostering', which suggests that the IMF assists in promoting 'sustainable economic growth'. It is correct to assume that the IMF is not directly promoting sustainable economic growth, but principally paves the way towards growth.

165. Guideline 7 explains that programme-related conditions governing the provision of Fund resources will be applied parsimoniously. Parsimoniously means restrictively. This is to avoid the proliferation of conditions that in the past plagued many countries under IMF scrutiny. The conditions must be of critical importance for achieving programme goals or necessary for the implementation of the IMF Articles of Agreement or policies adopted. According to the 2010 Operational Guidance to IMF Staff, ‘a judgment that a condition is of critical importance means that if it was not implemented, it is expected that the goals would not be achieved or that program monitoring would not be possible’. Again, attention should be given to the ‘policies’ clause. As explained above the IMF has not been ‘parsimonious’ in developing new policies. In practice more policies means more conditions. Furthermore, the IMF will impose conditions that ‘normally’ consist of macroeconomic variables and structural measures within the Fund’s mandate (core areas of responsibility). Inclusion of non-macroeconomic variables must be explicitly motivated. Macroeconomic variables have not been defined but likely they refer to aggregate data. Accordingly, the IMF may ask for a reduction in overall government spending, but it should not systematically impose conditions on a detailed scheme for such reductions. Structural measures have also been a source of major controversy, because related conditions were conceived to go beyond the Fund’s responsibility. In 2009, the Fund decided that structural performance criteria would have no longer been part of the conditionality framework.

166. Guideline 8 addresses cross conditionality and the relation with the World Bank. Debtor countries fear the domino effect of conditionalities imposed by various creditors. If a debtor would fail to meet the condition of one creditor other creditors may subsequently decide to cut off the credit lines. The Fund commits itself not to apply this so-called cross conditionality. There is also an acknowledgement that cooperation with other institutions, notably the World Bank, is imperative. Both organizations tend to overlap in their activities. There were even simultaneous programmes of IMF and World Bank that were in conflict. The more the IMF became concerned with structural reforms – e.g. the liberalization of trade or reform of economic sectors – the more cooperation was required in these areas. In agreements the IMF and World Bank have accepted the concept of ‘lead agency’. Depending on the reforms required, one institution would take primary responsibility and the other is expected to follow.

§2. ASSESSMENT

167. The IMF Articles and its implementing decisions govern conditionality. As the IMF Articles are phrased in ambiguous language, conditionality depends largely on implementing policies. Conditionality is expected to focus on macroeconomic targets. It must also be unambiguous, necessary for achieving objectives, and applied in a credible fashion. A member cannot be expected to implement a programme in which it does not believe or for which it has no appropriate capabilities. Other elements of the Guidelines are ‘national ownership’ of reform programmes,

‘parsimony’ in the application of programme-related conditions, tailoring of programmes to the member’s circumstances, coordination with other multilateral institutions, and clarity in the specification of conditions.

168. By stressing that the programme is ‘country-owned’, the IMF attempts to prevent that it will be named a scapegoat, as it has often happened. Many governments conveniently blamed the IMF for painful measures – ‘we do not want this, but the IMF forces us to do so’. Governments may not always like the idea that they must take full responsibility for adjustment policies.

169. There are also missed opportunities. The Guidelines fail to address the problem of socio-economic consequences following adjustment. It should clarify that adjustment must take into account the plight of the poor by interpreting the ‘national prosperity’ clause in Article I(v). Accordingly, the Guidelines could have clarified that international human rights standards be upheld during adjustment. For that purpose, the Guidelines could indicate that the Fund must cooperate with appropriate UN bodies, such as the treaty-based Committee on Economic, Social and Cultural Rights.

170. Another inherent flaw is the absence of even a basic dispute settlement provision. States may disagree with the Fund and they may be wrong or right. The point is that the Fund’s view will always prevail even when this view is illegitimate or unlawful. In the final analysis, the IMF interprets the Guidelines without any corrective procedure. The Fund might take the World Bank as an example. The Bank has established an independent Inspection Panel for the purpose of providing people directly with an independent forum through which they can request the Bank to act in accordance with its own policies and procedures. Accordingly, the IMF should create a procedure for member countries that believe that the Fund is failing to observe its Articles of Agreement or implementing decisions. A member country should have the opportunity to ask the IMF not to insist on conditionality that implies a violation of the member’s international obligations. An example of such controversial policy is the IMF’s insistence on the introduction of a ‘user fee’ for basic services in health and education. A user fee for primary education would not only ignore the Guidelines – conditions should be primarily ‘macroeconomic’ – but also violate international human rights instruments that require compulsory and free elementary education.

§3. PROCEDURE AND MODALITIES

171. A member country, which desires balance of payments support, expresses its request to the IMF. Following the request the Fund sends a mission. In cooperation with the mission the member’s monetary authorities work out a series of adjustment measures that are then set out in a letter of intent, a document issued by the requesting member. The letter of intent is a declaration of aims and policy by a member country; it asks the IMF to approve a stand-by arrangement in favour of the member country. The letter of intent or the stand-by arrangement does not entail

any contract or obligation according to Guideline 9. Nor is there any question of a unilateral legal act, since the ‘intention of being bound’ is absent. The letter of intent only contains policy objectives, which the requesting Member State may change without consulting the Fund.

172. The member may agree to take ‘prior actions’ and to implement some measures before the IMF’s Executive Board approves financing (or completes a review). Measures based on preconditions are also termed ‘front load adjustment’. Preconditions should be quantitatively as limited as possible, and may only be required when necessary for carrying out the programme in accordance with the IMF’s regulations.

173. An important consequence of the absence of a contractual relation between the IMF and the member is that, from the combined reading of the letter of intent and the stand-by arrangement, no binding agreement arises which would make mandatory the execution of the adjustment programme. The programme only stipulates the conditions under which currency purchases are possible; if the conditions are not fulfilled, the purchase will not go ahead. The lack of contractual character also has consequences in other areas: treaty law is not applicable, and it is not necessary to follow national procedures that might be necessary for the approval of international agreements. Nor are stand-by arrangements registered by virtue of Article 102 of the UN Charter.

174. The IMF puts forward a number of different arguments for the lack of a contractual bond. The most important legal reason lies in the formulation of Article V, section 3(b): ‘A member *shall be entitled* to purchase currencies (...) from the Fund (...) subject to the following conditions’ (italics added). It follows from this condition that the stand-by arrangement is declaratory, in the sense that it recognizes the member’s entitlement to use the Fund’s resources; it does not create the entitlement. The stand-by agreement does no more than specify the conditions under which this right may be exercised.

175. Furthermore, the IMF wishes to avoid the impression that adjustment programmes are dictated by setting forth contractual obligations. To set out the results of a negotiation in the form of an agreement would be to paint a false picture of the relationship between the Fund and its members. A contractual bond would be inconsistent with the ‘national ownership’ principle. The IMF supports the programme without wishing to appeal to contractual rights and obligations.

176. The stand-by arrangement as a Fund decision offers a number of advantages both for the member and the IMF:

- (a) *Speed.* The procedure for setting up a letter of intent and a stand-by arrangement can be quickly dealt with; the procedure is simple, and because the member is under no obligation, there is less need to formulate the text of the letter of intent in minute legal detail; speed is of the essence when balance of payments problems are threatening.

- (b) *Confidentiality*. The procedure can be handled in complete confidentiality, since there is no question of an agreement that must be put before a parliament, or which must be published; confidentiality is particularly important when currency devaluation forms a part of the adjustment programme. If the adjustment programme were a matter of public knowledge, the risk would ensue of a flight of capital or speculation against the currency undergoing devaluation. An objection to confidentiality is that radical adjustment measures are adopted without the democratic scrutiny of a parliament or other stakeholders.
- (c) *Primacy of economic sovereignty*. The member may, at any given moment, call a halt to the adjustment programme without being guilty of breach of contract, and without sanctions from the IMF. If the member decides to do so, there is no question of non-compliance with the letter of intent or the stand-by arrangement. The resources already purchased are not possessed unlawfully, and do not have to be yielded up prematurely by repurchase, unless it was a case of a ‘non-complying purchase’. It would only be a question of unlawful behaviour if the use of the resources conflicted with the purposes of the Fund.

177. However, invoking economic sovereignty does have practical consequences, since continuation of the programme remains a condition for continuing the balance of payments support, not only by the Fund, but also by other creditors. If balance of payments support is indispensable, a country has in practice no option but to see the adjustment programme through. Should a member nevertheless decide to bring a premature end to the adjustment programme, the relation of trust will be seriously compromised. If a new request for support is made, the IMF will insist on clarification about the reasons for halting the programme, and will require more security before proceeding to a new stand-by arrangement.

§4. MONITORING AND MEASURING PERFORMANCE

178. The release of resources is formalized in the stand-by arrangement. Purchases are usually made in phases. Before new purchases are made the Fund checks if the programme is on track. A programme is usually monitored by so-called performance criteria. Guideline 11(b) defines a performance criterion as ‘a variable or measure whose observance or implementation is established as a formal condition for the making of purchases or disbursement under a Fund arrangement’. Performance criteria derive from the policy understandings and constitute the core of conditionality. Failure to fulfil the criteria will result in a cutting off or suspension of balance of payments support, unless the Fund decides to grant a waiver under Guideline 12. Performance criteria may only be included in stand-by arrangements and subsequent programme reviews. Criteria in ‘secret side letters’ are not permitted. Quantitative performance criteria are usually established to assess the member’s compliance with the programme. They are specific and measurable conditions related to macroeconomic variables, such as monetary and credit aggregates, international reserves, fiscal balances, and external borrowing. If a quantitative performance criterion is not met, the Executive Board may approve a formal waiver during a programme review, but only if it is satisfied that ‘the program will nevertheless be successfully implemented—i.e., that it will achieve its goals—either

because of the minor or temporary nature of the non-observance or because of corrective actions taken by the authorities’ (2010 Operational Guidance to IMF Staff).

179. Performance criteria do not describe the objectives of the programme, but serve rather as a touchstone for evaluating its progress. The criteria should normally relate to macroeconomic variables, or to those variables by which special clauses of the Articles or the derived policy are effectuated. Thus, according to Guideline 7(b) performance criteria must ‘normally’ be related to the Fund’s core areas of responsibility, i.e. ‘macroeconomic stabilization; monetary, fiscal, and exchange rate policies, including the underlying institutional arrangements and closely related structural measures; and financial system issues related to the functioning of both domestic and international financial markets’.

180. Performance criteria may only refer to other variables (notably ‘microeconomic’) in exceptional circumstances, when, due to their effect at the macroeconomic level, they are essential for the efficacy of the programme. The rationale of this restraint is that the IMF’s objectives can normally be adequately achieved through influence on macroeconomic variables. It may be stated that manipulation of one or more microeconomic variables is only possible in exceptional circumstances, where these variables have a substantial influence on macroeconomic policy.

181. Furthermore, a number of principles must be respected when performance criteria are being established. These criteria must be as few as possible in number, as well as explicit, objective and objectively verifiable. Differences of interpretation about whether the criteria have been adequately met should, ideally, not occur, so that a member country knows at any given moment whether it has met the criteria and thus may purchase currency.

182. This restriction to largely macroeconomic criteria means that the IMF relies primarily on aggregate figures when judging programmes; for example, figures relating to the maximum deficit in the public expenditure budget. The actual way in which public expenditure is reduced cannot be set out in the form of a criterion. Strict application of the Guidelines means that criteria may not refer to matters of redistribution, nor can they state that deficits must be reduced through cuts in expenditure on defence, education or food subsidies.

§5. CONDITIONS AGAINST CORRUPTION

183. In 1997, the IMF adopted the *Guidance Note on Governance Issues* that appears to give a further guidance in the application of conditionality. The Guidance Note stipulates that the IMF staff may address issues of poor governance inasmuch these would have ‘significant current or potential impact on macroeconomic performance in the short and medium term, and on the ability of the government credibility to pursue policies aimed at external viability’. The accumulation of instances that may trigger the Fund’s involvement gives reason to believe that any

major governance issue can be considered in the Fund's conditionality. Many key decisions on tax or expenditure would have a significant macroeconomic impact. That would bring many items of governments' policies within the ambit of the Fund's jurisdiction.

184. Yet the 1997 Guidance Note attempts to delineate the Fund's jurisdiction: 'IMF judgment should not be influenced by the nature of a political regime of a country, nor should it interfere in domestic or foreign politics of any member.' The Guidelines identify a number of governance problems.

185. First, corruption as an excrescence of poor governance should be addressed. The Guidance Note identifies by way of example indicators of poor governance that may alert IMF missions: a poorly remunerated civil service and inconsistencies or improbabilities in the various data and accounts in member countries. In this respect it is suggested to introduce civil service reforms such as a restructuring or selective increase in pay scales or privatization.

186. As no precise definition of corruption is being provided, the IMF staff is expected to draw upon comparisons with broadly agreed best international practices of more or less corruption-free economic management. For that purpose the 1997 Guidance Note appears to anticipate on coordination with other multilateral institutions. Here, the work done by the OECD and the UN is relevant. The OECD 1997 Convention on Combating Bribery of Foreign Public Officials in International Business Transactions criminalizes 'active bribery' of foreign public officials. This convention addresses primarily the offence committed by the person who promises or gives a bribe. Besides, the General Assembly of the UN adopted the Convention against Corruption that focuses also on the passive side of corruption. The Convention stipulates parties to adopt such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally: (a) the promise, offering or giving, to a public official, directly or indirectly, of an undue advantage, for the official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties; and (b) the solicitation or acceptance by a public official, directly or indirectly, of an undue advantage, for the official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties.

187. Apart from widespread forms of corruption, the Fund may even address 'individual instances of corruption in cases where there is a reason to believe they would have significant macroeconomic implications, even if these effects are not precisely measurable'. Here, the Fund seems to address corruption, which may grow rampant in higher government circles. While the IMF should primarily rely on information provided by the authorities, higher government officials themselves are not immune from IMF scrutiny. If other information is available from third parties including 'rumors which have some genuine credence', the Fund may insist on an independent audit. Not without reason the Guidance Note stresses that the staff of

the Fund should be prepared to face tensions in the working relationship with government officials that are suspected of being involved in corruption.

188. Second, the Guidance Note requires alertness of the IMF staff to promote good governance in general, i.e. without particular references to corruption practices. In this respect various examples are mentioned: a reduced scope for generalized rent-seeking, enhanced transparency in decision-making and budgetary processes, reductions in tax exemptions and subsidies, improved accounting and control systems, improvements in statistical dissemination practices, a more balanced composition of public expenditure and civil service reform.

189. The ambition of the IMF to assess many key administrative functions of governance before approving balance of payments support requires expertise in many areas. The Guidance Note stipulates that conditionality may even refer to policies that are outside the expertise of the IMF. Accordingly, the Fund may apply principles and rules which go beyond the *corpus juris* – i.e. its Articles of Agreement and the subordinate instruments – when deciding on financial support. Therefore, the IMF staff is expected ‘to keep abreast of changes in the policies of partner organizations and specific efforts in member countries on governance issues. This should include the activities of partner organizations, particularly the World Bank, in addressing governance issues in areas which are outside IMF’s competence but nonetheless important for the achievement of the economic policies advocated by the IMF’.

190. Rules on governance, applicable in the World Bank, WTO, UN and any other ‘partner organizations’ are therefore ready for use by the IMF. Such rules may include procurement procedures, public enterprise reform and those promoting good governance in general. The Fund could rely on various regulations, e.g. WTO’s Agreement on Government Procurement, World Bank’s Operational Directives and UN Development Programme’s (UNDP) policy statements on democratic governance.

Part IV. The IMF in Global Context

Chapter 1. Introduction

191. The IMF cannot be studied in isolation from its legal and political context. Concepts such as sovereignty, *jus cogens* and the principle of specialty are to be considered when the Fund operates in the international economic arena. The Fund also cannot ignore human rights or UN Security Council resolutions when there is a threat against international peace and security. It must accept rules on hierarchy and acknowledge that superior rules of international law may conflict with the Articles of Agreement. Some political realities must also be accepted. The Fund's membership consists, on the one hand, of a small group of economically powerful creditor countries and, on the other hand, of a large group of economically vulnerable debtor countries. Because voting rights in the IMF are based on economic strength, IMF policies are in fact determined by a small group of wealthy countries, but mainly apply to developing countries.

Chapter 2. The Duty to Cooperate

192. Under Article X, the IMF ‘shall cooperate’, within the terms of the IMF Articles, ‘with any general international organization and with public international organizations having specialized responsibilities in related fields’. An obligation to cooperate also derives from Article 56 of the United Nations Charter, which commits UN members to realizing economic and other kinds of cooperation. The IMF may be regarded as a platform for the kind of cooperation that Article 56 urges.

193. Cooperation is intended to lead to interaction between the IMF and other international organizations. This interaction should influence the IMF, and have direct or indirect repercussions on the decision-making process. Conversely, the IMF’s own objectives should also have an influence on other institutions. If there were no influence, then the obligation to cooperate would have no consequences. This cannot have been the aim of the authors of the IMF Articles.

194. How ‘related fields’ should be understood depends to a large extent on how the IMF interprets its own purposes. If the IMF interprets them either more broadly or differently, new ‘related fields’ are opened up and cooperation should ensue. Certainly in fields where the IMF operates but lacks the necessary knowledge and experience, cooperation should be actively sought. To the extent the IMF considers measures to promote lasting economic growth as an essential facet of adjustment programmes, there is a need to seek modes for cooperation with other organizations.

195. Cooperation is also feasible in other areas. The more the IMF becomes concerned with related aspects of adjustment – trade liberalization, fighting corruption, protection of human rights standards, environmental questions – the more cooperation will have to focus on those areas. It is reasonable that the IMF should rely on the expertise of organizations holding a specific mandate in the related areas.

196. Cooperation may take place informally by representatives of the Fund attending meetings of other organizations and staff members participating in workgroups and seminars. The Managing Director speaks annually to the UN’s Economic and Social Council (ECOSOC), and the IMF is represented at other meetings and cooperation bodies set up by the UN. The Managing Director also participates in informal consultative bodies and in the G-7/8 and the G-20. Representatives of other organizations in their turn attend the IMF annual meetings as well as meetings of the International Monetary and Financial Committee (IMFC).

197. Cooperation took on a permanent character when the IMF opened European offices for contacts with the OECD, EU, Bank for International Settlements (BIS), WTO, UN Conference on Trade and Development (UNCTAD) and many UN specialized agencies. The Fund also cooperates with regional development banks particularly in connection with the Highly Indebted Poor Countries (HIPC) initiative. Cooperation is formalized through an agreement only with a few organizations (e.g., the UN, World Bank and WTO). An example of effective cooperation is the publication of joint BIS-IMF-OECD-World Bank statistics on external debt.

Chapter 3. Related Economic and Monetary Group Consultations

198. Since the 1970s there has been a high degree of informal consultation among countries in the context of groups, clubs and intergovernmental fora. The groups have no institutional structure and change their composition by mutual agreement. The government acting as host to the group usually provides administrative and secretarial support. More groups and clubs somehow contribute to international coordination on various economic problems. On its website the IMF provides a convenient overview of the composition and functions of such groups. Some are briefly discussed below.

199. The G-7 consists of Canada, France, Germany, Italy, Japan, the United Kingdom and the United States, with some additional observers. Well-known meetings resulted in the Plaza Accord (1985) and the Louvre Accord (1987), which addressed the problems of fluctuating exchange rates of major currencies. Since 1998 Russia joined the group as full participant, thus marking the birth of the G-8. The G-7/8 issues communiqués and convenes immediately prior to the semi-annual IMF meetings. Thereby, the G-7/8 often confronts the IMF bodies with *faits accomplis*. In case the G-7/8 group of finance ministers encroaches on territory where the IMF is also active, it poses a direct threat to consultations within the Fund.

200. The G-7/8 has lost much of its prominence since the emergence of the G-20, a group that was established in 1999, in the wake of the Asian financial crisis. It brings together major advanced and emerging economies that claim responsibility for stabilizing the financial markets (Argentina, Australia, Brazil, Canada, China, France, Germany, India, Indonesia, Italy, Japan, Mexico, Russia, Saudi Arabia, South Africa, the Republic of Korea, Turkey, the United Kingdom, the United States); representatives of the EU, the ECB, the IMF, the World Bank, and the FSB are also invited to attend. The G-20 Finance Ministers and Central Bank Governors meet annually and discuss measures to promote global financial stability. Since 2008, the G-20 also meets in a Heads of State or Government format. During the global financial crisis, it started to play a greater role in promoting economic cooperation and reforming the international monetary and financial system.

201. The G-10, which comprises the states of the G-7 plus The Netherlands, Belgium, Sweden and – at a later stage – Switzerland, was created in 1962 by participants in the GAB. Its primary purpose is to provide additional resources to the Fund. The G-10 provides some smaller industrialized countries the opportunity to join the debate on global monetary policies. The GAB consists of a series of agreements between governments and central banks of the G-10 countries (and Saudi Arabia) and the IMF.

202. The G-24 consists of countries from Africa, Asia and Latin America and was created in 1972 as a chapter of the G-77 Lima meeting for the purpose of representing developing countries in international monetary consultations. The G-24 has been instrumental in the policy-making in the IMF by issuing studies and

reports. The IMF provides secretarial services. The group convenes and issues communiqués immediately prior to the semi-annual IMF meetings.

203. In February 1999, the G-7 established the Financial Stability Forum, entrusting it with the task of promoting global financial stability through the exchange of information and international cooperation in financial supervision and surveillance. In 2009, the G-20 established the FSB as the successor of the Financial Stability Forum. In order to address participatory gaps and legitimacy issues, the FSB membership was broadened to include all the G-20 countries. The FSB coordinates at the international level the work of national financial authorities and international standard-setting bodies and develops and promotes the implementation of effective regulatory, supervisory and other financial sector policies. It brings together national authorities responsible for financial stability in key international financial centres, international financial institutions, sector-specific international groupings of regulators and supervisors, and committees of central bank experts. The IMF is also member of the FSB. However, the Executive Board decision approving the Fund's membership in the FSB makes it clear that participating in the FSB would not equate to becoming a member in an international organization and that, therefore, the Fund will not be legally bound by decisions adopted within the FSB, but only politically accountable to the other FSB members.

Chapter 4. Relations with the UN

204. The UN and the IMF share some common concerns such as the promotion of sound economic policies. In terms of general international law, it is relevant that the IMF may be confronted with states that are guilty of breaching international peace and security, or with some other violation of international legal obligations.

205. Both the IMF Articles and the UN Charter entered into force in 1945. More than two months after the Charter came into force (on 24 October 1945), the IMF Articles were signed by the participants of the Bretton Woods conference at a joint ceremony on 27 December 1945. Interpretation and application of the IMF Articles should proceed in the light of the Charter. The subordination of the IMF Articles arises from the position that the Charter takes towards obligations arising from other international agreements. According to UN Article 103, the Charter (including binding Security Council decisions taken under Chapter VII of the Charter) takes precedence over every other international agreement (including agreements made after the Charter) when there is a question of conflict.

206. Further, the UN–IMF Agreement of 15 November 1947, which confers on the IMF the status of a specialized agency, is significant. This cooperation agreement emphasizes the necessity for the IMF to function independently, given the nature of international responsibilities and the content of the IMF Articles. Too close an involvement with the UN would carry with it the risk of politicization, and jeopardize the Fund’s primarily technical character. The agreement covers, among other things, exchange of information, mutual consultation and the binding nature of Security Council resolutions. The UN and the IMF may also make formal recommendations to each other, but only after consultation.

§1. GENERAL COOPERATION

207. Cooperation with the UN has been troublesome and was often characterized by differences of policies and ideologies. IMF staff members tend to view the UN as inefficient and politicized. In practice cooperation is limited to the exchange of views and information on matters of mutual interest, exchange of statistical data and reciprocal attendance in meetings. The cooperation mainly focuses on specific activities in the context of sustainable development, macroeconomic policy dialogue, and to a lesser extent, poverty eradication and protection of the environment.

208. In 2008, the President of the UN General Assembly mandated a Commission of experts chaired by Joseph E. Stiglitz to reflect on the causes of the crisis, assess impacts on all countries and suggest adequate responses to the global economic and financial crisis. The Final Report of the Commission of Experts (the so-called Stiglitz Report) was released on 21 September 2009. The Report contends that only the UN have the necessary political legitimacy to discuss issues related to the reform of the international economic and financial architecture, as they grant adequate representation to both middle-income countries and least-developed

countries. It proposes the creation of a Global Economic Coordination Council which will oversee and direct the activities of the specialized institutions (among which the IMF and the World Bank). Even if the proposal is not politically viable, it pointed to the weaknesses related to voice and participation of developing countries in the international financial institutions.

§2. PEACE AND SECURITY AND THE IMF

209. The 1947 UN–IMF Cooperation Agreement includes an important clause describing the relationship between the UN Security Council and the IMF. This clause suggests a certain distance between the two organizations. Article 6 stipulates that the Fund takes note of its members’ obligations to abide by the Council’s resolutions, ‘and will, in the conduct of its activities, have due regard for the decisions of the Security Council under Articles 41 and 42 of the United Nations Charter’. ‘Due regard’ does not equal ‘respect’. According to the letter of this clause, the Fund may continue to provide balance of payments support to a member country that has been targeted of an embargo by the Security Council by virtue of the Chapter VII. ‘Due regard’ must be explained in such a way that the Fund could only disregard a binding Security Council decision on the grounds of overwhelmingly convincing arguments. The Fund holds that under no circumstances it can operate in conflict with its own IMF Articles. From this provision it would appear that the Fund is not *ipso jure* bound by binding Security Council resolutions.

210. It is fair to ask if the ECOSOC and the General Assembly acted ultra vires by agreeing to the clause ‘have due regard for the decisions of the Security Council’. It is indeed hard to imagine that the authors of the UN Charter, on the one hand, had given the Security Council the right to declare sanctions against a member, while at the same time permitting that member to receive financial assistance from the IMF. The argument that the UN had made a concession in order to bring the IMF into the fold of specialized agencies is possible to explain on political grounds, but fails to stand up when the IMF is offered the opportunity to provide financial assistance against the spirit of the Charter.

211. In practice, however, subjection to Security Council decisions will not pose problems for the approval of stand-by arrangements. The permanent members of the Council also have an important voice in the IMF, and it may be assumed that Executive Directors will pay heed to instructions or directions of the member countries in their voting group. It is therefore highly unlikely that the Executive Board would approve a stand-by arrangement after the member concerned has been on the receiving end of a binding decision of the Security Council.

212. Besides, under the IMF Executive Board Decision No. 144-(52/51), Fund’s members are allowed to introduce exchange restrictions for national or international security reasons, especially when required by a UN Security Council resolution to impose financial sanctions against a state or targeting individuals and juridical persons in the framework of the prevention and suppression of terrorism financing.

A member should notify in advance the Fund of its intention to impose restrictions for security reasons. Urgency and secrecy may, however, exempt the member from prior notification. If the Fund does not reply within thirty days from notification, the member may assume that the Fund has no objection. In its practice, the Executive Board never objected to the imposition of said restrictions.

§3. HUMAN RIGHTS AND THE IMF

213. The internationally recognized system of human rights is based on the Universal Declaration of Human Rights and the two International Covenants on Human Rights of 1966. From these sources spring a number of other treaties pertaining to human rights, such as those outlawing racial discrimination and torture.

214. The IMF does not provide a clear basis for linkage between financial support and human rights. However, this should not hinder the application of human rights. Just on grounds of the cooperation agreement with the UN, it could be argued that the IMF in any event may not ignore documents and opinions of the UN relating to human rights. The UN may after all make a recommendation to the Fund which the latter must ‘consider’.

§4. CIVIL AND POLITICAL HUMAN RIGHTS

215. Responses to violations of civil and political rights should be divided into two types. First, there may be refusal or abrogation of financial support because human rights abuses hinder the performance of the adjustment programme. In this case the violations are of such a nature that the political and economic consequences make a successful performance of the programme unlikely. Second, there may be refusal or abrogation as a sanction. In these cases the violations are not of such a nature as to undermine the member’s capacity to successfully implement the adjustment programme; if the Fund proceeds to refusal or abrogation, it is in effect imposing a sanction.

216. Violations, which endanger successful adjustment, should have consequences. Gross human rights violations should influence the decision-making of the IMF if such violations undermine the possibilities of carrying out the adjustment programme. However, sanctions cannot be applied as a matter of formal recourse: in the Fund’s practice human rights considerations should be dressed up in economic language.

217. The situation is different where violations of human rights have no influence, or a negligible influence, on the successful implementation of an adjustment programme. If in this sort of case the Fund responds to violations – by refusing balance of payments support – then this is in the nature of a *de facto* sanction, by which pressure is brought to bear on a government to improve its human rights record. This kind of sanction should be applied with the greatest caution, since it would

only affect members who were dependent on the Fund, in other words the poorest members. The corollary is that members who are not dependent on the Fund in the same way have nothing to fear in the way of sanctions. This differential treatment of members should be applied with the utmost circumspection. Furthermore, it is highly debatable whether withholding balance of payments support will lead to an improvement in the human rights situation. On the contrary, withholding assistance will plunge the economy deeper into the mire, which is hardly likely to encourage greater respect for human rights.

§5. ECONOMIC, SOCIAL AND CULTURAL HUMAN RIGHTS

218. Economic, social and cultural human rights refer to obligations to promote full employment, just and favourable working conditions, social security, adequate living standards (including food, clothing and housing), health and education. The promotion of such rights means in effect the targeting of financial resources. Improved education, adequate health care or better employment prospects all require an allocation of public spending to these sectors. The IMF can make a direct and positive contribution by incorporating socio-economic human rights in its adjustment programmes. This might take the form of sparing socio-economic provisions when laying down conditions for reducing budget deficits in adjustment programmes.

219. The socio-economic position of vulnerable groups during the period of the adjustment programme has received increasing consideration. The Fund decided to pay greater attention to this aspect, based on the belief that socio-economic decline brings in its wake political unrest, which in turn compromises the chances of successful adjustment. In documents describing structural adjustment programmes there is usually a paragraph addressing social needs. The commitment to protect socio-economic standards during adjustment is one that can pre-eminently be realized through cooperation with the UN and its specialized agencies.

220. Therefore, the IMF maintains a dialogue with the UN and some of its specialized agencies to identify areas where public expenditure must be maintained or even increased if necessary. Simultaneously, the Fund addresses non-productive spending (including military spending) so that investments in human capital, such as basic health care and primary education, are not displaced. The IMF also claims to protect social sector spending of member countries, in particular on health and education. The Fund has reiterated that it is willing to recognize the crucial link between the level and efficiency of health and education spending and economic growth.

221. In a paper on the relationship between the International Covenant on Economic, Social and Cultural Rights and the IMF Articles the legal counsel of the IMF adopts a strict view by arguing that the IMF is primarily a monetary agency and should not be made responsible for upholding human rights. He reiterates that the IMF is not a party to the Covenant and members want the IMF to remain within its

own legal domain. If members believe that the IMF should integrate human rights in their decision-making, they should amend the IMF Articles. However, there are two points that appear to make the Fund more responsive towards human rights. First, the IMF de facto promotes economic, social and cultural rights through its current policies such as the HIPC initiative and the Poverty Reduction Strategy Paper (PRSP) process (see *below*). Second, the Fund is bound to promote economic, social and cultural rights that are part of customary international law. However, the counsel believes that ‘the norms contained in the Covenant have not attained the status under general international law that would make them applicable to the Fund independently of the Covenant’.

Chapter 5. Country Level Cooperation: Poverty Reduction Facilities

222. Problems in developing countries are often interlinked and cannot be dealt with through isolated measures. Such problems refer to poverty, macroeconomic imbalances but also poor governance and corruption. In order to find a more integrated approach the Fund has developed in 1999 the Poverty Reduction and Growth Facility, which expired in 2010.

223. To be able to continue assistance to developing countries, in 2010 the IMF has established the Poverty Reduction and Growth Trust (PRGT). The IMF operates as trustee and provides loans on concessional terms (zero interest rates) to low-income countries. The trust is funded by donations from members or reserves available within the Fund. Loans for low-income countries are now available under various facilities (Extended Credit Facility, Stand-by Credit Facility, Rapid Credit Facility). Each facility establishes specific criteria for eligibility. The Poverty Reduction Strategy Papers (PRSPs) remain an important basis for a comprehensive country-based strategy for poverty reduction, but other documentation is required as well. PRSPs are adopted by the member country through a participatory process involving ‘domestic stakeholders’, external donors and development partners, among which the IMF and the World Bank. They describe the country’s strategy for poverty reduction and promote national ownership through a broad-based participation of civil society (in this differing from letter of intents).

224. PRSPs serve not only as a basis for IMF and World Bank programmes, but may also be significant for other intergovernmental organizations as the ensuing programmes are aimed at the promotion of economic development. Specialized agencies in particular may become involved in the setting up of programmes because of their expertise and their capacity to provide additional credits. The Fund argues for widening the circulation of programmes, provided that the approval of the member is obtained. The Executive Board does perceive the necessity for cooperation with specialized agencies. Concerning the social consequences of adjustment, there is reference to the presence of expertise in the form of United Nations Children’s Fund (UNICEF), UNDP and the International Labour Organization (ILO). These and other organizations are far better placed than the IMF to make a judgment about a country’s socio-economic situation; they can also evaluate, better than the Fund, the effects of adjustment on the various socio-economic sectors.

Chapter 6. Cooperation with the World Bank

225. As far as the relationship between the IMF and the World Bank is concerned, several aspects come into play. First, membership of the Bank is only open to members of the Fund. Accordingly, states must first subject themselves to the IMF's Articles of Agreement in order to be able to enjoy the benefits of World Bank membership. It should be noticed, however, that this clause was devised within a framework of a system of stable exchange rates; the authors had intended that only countries that were willing to accept this system would be considered for membership of the Bank. Since the beginning of the 1970s, this system has been non-existent. Although the Fund's grip on exchange rate stability has loosened considerably, membership of the IMF nevertheless remains a condition for membership of the Bank.

226. Second, Article V, section 8 of the IBRD Articles of Agreement contains a cooperation clause which implicitly points to the IMF as a cooperating partner. According to (a) the Bank shall cooperate with any general international organization and with public international organizations having specialized responsibilities in related fields. Under (b), in making decisions on applications for loans or guarantees relating to matters directly within the competence of any other IO and participated in primarily by members of the Bank, the Bank shall give consideration to the views and recommendations of such organization. The first sentence under (a) uses similar wording to the IMF's cooperation obligation. Conversely, clause (b) has no equivalent in the IMF Articles.

227. It is evident that 'any international organization' mentioned in (b) refers particularly to the IMF. The Bank has to be kept informed about the IMF's opinions and recommendations, and has to take them into consideration whenever the Bank encroaches on the jurisdiction of its sister organization. The founders of the two organizations obviously recognized that the Bank could operate on the IMF's territory. Conversely, there was no anticipation that the IMF might interfere in matters which primarily concern the Bank, at least to judge from the IMF Articles.

228. Third, the Bretton Woods institutions have concluded agreements to clarify the reach of their jurisdictions. Not surprisingly, conflicts can easily arise when the two organizations are involved simultaneously in a single country. Despite the endeavours to coordinate activities, the risk remains that irreconcilable advice may be given, or conflicting conditions laid down. For this reason the Bretton Woods organizations adopted a memorandum for mutual cooperation.

§1. DIVISION OF COMPETENCES

229. In 1966, the IMF Managing Director and the President of the World Bank jointly issued the 'Fund-Bank Collaboration Memorandum' outlining the procedures for collaboration between the two sister organizations. In 1989, after reviewing the memorandum on a number of occasions, the 'IMF-World Bank Concordat'

was adopted to strengthen cooperation and avoid inconsistencies in the advice given to member countries.

230. The key element of these documents is the identification of the main responsibilities of the IMF and the Bank. The Bank has ‘primary responsibility for the composition and appropriateness of development programs and project evaluation, including development priorities’. The Bank should focus in practice on the efficient allocation of resources in both public and private sectors; priorities in government expenditures, reforms of administrative systems, production, trade and financial sectors; and the restructuring of state enterprises and sector policies. The Fund has ‘primary responsibility for exchange rates and restrictive systems, for adjustment of temporary balance of payments disequilibria, and for evaluating and assisting members to work out stabilization programs as a sound basis for economic advance’. This responsibility includes aggregate aspects of macroeconomic policies and their related instruments including public sector spending and revenues, aggregate wage and price policies, money and credit, interest rates and the exchange rates.

231. Roughly speaking, the division of responsibilities is reflected in the distinction between aggregate and non-aggregate variables. Nevertheless, the memorandum and the concordat confirm that the overlap in activities of the two institutions grew rapidly with the introduction of structural adjustment programmes monitored by the World Bank and in the context of the international debt crisis of the 1980s. These and future overlap may mean that one of the organizations has to give way to the opinions of the other, whose responsibility is in question. Primary responsibility does not however equal exclusive responsibility. Certainly, when the IMF acts alone (i.e., when the Bank is not involved) with a certain member, no ‘differing policy advice’ can arise, and the Fund may incorporate advice or conditions on the Bank’s territory, with the proviso, of course, that the Fund remains within its mandate. In contrast, the Bank must always take into account the Fund’s opinions. By virtue of the annual Article IV consultations the Fund gives advice to all members. When drawing up programmes for specific sectors in the economy, the Bank must take into account IMF advice, insofar as this concerns the primary responsibility of the Fund.

232. In 2007, collaboration was streamlined through the Joint Management Action Plan (JMAP), which provides a framework to improve coordination and communication between the staff of the two institutions on country issues. Today there are many initiatives on which the Fund and the World Bank collaborate. Under the HIPC and the Multilateral Debt Relief Initiative (MDRI), the IMF and the Bank assist the poorest countries in reducing their external debt and achieve debt sustainability. Also the Financial Sector Assessment Program (FSAP) – aimed at appraising the stability of the financial sector in a given country – is a joint responsibility of the IMF and the Bank. The importance of FSAP assessments has been highlighted by the global financial crisis.

§2. CROSS CONDITIONALITY

233. What is termed cross conditionality arises when one of the two organizations provides or extends a loan dependent on the fulfilment of conditions which the other has laid down. Cross conditionality also comes into play when one of the organizations exercises a veto on a loan that the other organization has agreed, or if a formal agreement exists that a loan shall not be granted or extended without the express permission of the other organization. The Bank may thus decide not to provide further credits when a member has been declared ineligible by the Fund because of payment arrears. Other formal or informal, unspoken or explicit agreements may de facto give rise to cross conditionality.

234. Cross conditionality is the dread of debtor nations, due to the domino effect: if the Fund first stops credit because of failure to fulfil performance criteria, and the Bank in response suspends credit, the international financial markets may lose faith in the member country concerned. Other creditors – regional development banks, commercial banks and bilateral donors – will respond likewise. The outcome – a total block on international credit – may thus ensue from a failure to meet a simple performance criterion such as getting inflation down below a certain level.

235. The official view of the IMF is that cross conditionality should be avoided, and that closer collaboration between the two institutions should not be allowed to lead to cross conditionality. In practice, however, it seems that cross conditionality cannot be avoided by merely harmonizing Fund and Bank programmes: the Bank provides support based on macroeconomic policy agreed with the Fund; the Fund provides credit after ascertaining that investment priorities and other factors agreed with the Bank concerning the efficient allocation of government resources are satisfactory. It is precisely because the structural conditionalities of the Fund and the Bank are so intertwined that one programme may depend for its success on the successful performance of another programme. Because, officially, cross conditionality is not permitted, the Bank incorporates relevant conditions stipulated by the Fund in its own loan agreements; the Fund will ensure fulfilment of the Bank's conditions within the framework of the reviews. Officially, then, it is not a question of cross conditionality, but rather of joint conditionality, i.e. the transfer of conditions from one organization to the other. In reality, however, this amounts to cross conditionality.

236. The danger inherent in cross conditionality lies in the informal consultation between Bank and Fund, to which member countries are not party. On the one hand, there can be no question of a knee-jerk reaction, but on the other hand there is no doubt that great importance is attached to the opinions of the sister organization. Cross conditionality is also officially denied in the cooperation memorandum and in the concordat, but in reality it remains a sword of Damocles over the member's head.

Chapter 7. Relationship with the World Trade Organization

237. The IMF is closely related with the WTO. The interweaving of trade and payments in connection with current transactions explains this relationship. After the establishment of the WTO in 1995, the IMF and the WTO concluded a Cooperation Agreement in December 1996. The agreement provides for observer status of the WTO Secretariat in selected IMF meetings and IMF staff in WTO bodies. There are also provisions on document exchange.

The IMF participates in the WTO Working Group on Trade, Debt and Finance which is mandated to enhance the capacity of the multilateral trading system to contribute to a durable solution to the problem of external indebtedness of developing and least-developed countries, and to strengthen the coherence of international trade and financial policies, with a view to safeguarding the multilateral trading system from the effects of financial and monetary instability. The Group addresses *inter alia* trade financing, which refers to trade credit lines available to developing countries. The group has discussed the problems that arise because of low credit ratings, debt overhang and limited access to international financial markets.

§1. EXCHANGE POLICIES AND TRADE LIBERALIZATION

238. GATT Article XV was designed to make the IMF and the GATT provisions complementary. Two paragraphs are particularly relevant. Article XV, paragraph 2 of the GATT provides that in all cases in which WTO Members are called upon to consider or deal with problems concerning monetary reserves, balances of payments or foreign exchange arrangements, they ‘shall consult fully with the IMF’. In such consultations, they ‘shall accept all findings of statistical and other facts presented by the Fund relating to foreign exchange, monetary reserves and balances of payments, and shall accept the determination of the Fund as to whether action by a contracting party in exchange matters is in accordance with the IMF Articles’.

GATT Article XV, paragraph 9(a) establishes that ‘nothing in this Agreement shall preclude: (a) the use by a Contracting Party of exchange controls or exchange restrictions in accordance with the IMF Articles of Agreement’.

239. The first provision focuses on the common ground on which both institutions operate: balance of payments, exchange rates and monetary reserves. Essentially Article XV, paragraph 2 stipulates that when it comes to considering monetary issues, the WTO must give heed to the opinion of the IMF. The wording on the object of IMF–WTO cooperation is somewhat confusing. Paragraph 2 of Article XV GATT refers to ‘exchange matters’, whereas the 1996 cooperation agreement refers to ‘exchange measures’. The IMF Articles of Agreement use the phrase ‘exchange policies’. The second provision makes clear that any exchange measure that is permitted under the IMF Articles would be considered legitimate also under the GATT. Reference is implicitly made to exchange restrictions adopted for balance of payments reasons, for security reasons or under the transitional period: these measures would not amount to a breach of the GATT Agreement when introduced or maintained in accordance with the IMF Articles.

Part IV, Ch. 7, Relationship with the World Trade Organization 240–244

240. The General Agreement on Trade in Services (GATS) contains a similar provision. Pursuant to GATS Article XI, paragraph 2 ‘nothing shall affect the rights and obligations of the IMF members under the Articles of Agreement of the Fund, including the use of exchange actions which are in conformity with the Articles of Agreement, provided that a Member shall not impose restrictions on any capital transactions inconsistently with its specific commitments regarding such transactions, except under [GATS] Article XII or at the request of the Fund’.

§2. TRADE RESTRICTIONS FOR BALANCE OF PAYMENTS REASONS AND MONETARY MEASURES

241. The IMF comes into focus also when members of the WTO are allowed to introduce BOP restrictions (balance of payments restrictions). The WTO recognizes that, under certain circumstances, imports can impose a severe strain on the balance of payments. When a balance of payments deficit cannot be financed, a country may decide to switch to restrictive import measures in order to contain the deficit.

242. According to GATT Article XII, paragraph 2, any contracting party, in order to safeguard its external financial position and its balance of payments, may restrict the quantity or value of merchandise permitted to be imported, subject to the fact that import restrictions instituted, maintained or intensified by a contracting party ‘shall not exceed those necessary: (i) to forestall the imminent threat of, or to stop, a serious decline in its monetary reserves; or (ii) in the case of a contracting party with very low monetary reserves, to achieve a reasonable rate of increase in its reserves’.

This provision does not encompass the introduction of exchange restrictions for balance of payments reasons, such possibility being already regulated by the IMF Articles. Judgments about the necessity of trade restrictions fall within the mandate of WTO, which operates less strict conditions for developing countries. A WTO member that is applying a new restriction or raising the general level of its existing restrictions by a substantial intensification of the measures must consult the Committee on Balance of Payments Restrictions. The Committee shall open an investigation and report to the General Council on the legitimacy of the restriction.

243. The IMF plays a central role in this procedure. The WTO asks the Fund for information about the adjustment strategy and the country’s monetary position. In particular, the IMF makes a judgment about the underlying causes of the balance of payments problems so that the WTO can judge if the restrictions are legitimate. The WTO is obliged to respect the Fund’s views.

244. Generally, the IMF is opposed to the introduction or strengthening of quantitative trade restrictions. Fund adjustment programmes usually include a standard performance criterion which abrogates the right to tranche disbursements when the member country imposes or intensifies import restrictions for balance of payments reasons. In this sense the WTO obligations are incorporated *ipso facto* into conditionality.

245–245 Part IV, Ch. 7, Relationship with the World Trade Organization

245. The GATS sets forth a BOP clause that allows members not only to impose temporary trade restrictions on service sectors for which they have undertaken specific commitments, but also to introduce exchange restrictions and capital controls on services-related payments. Pursuant to GATS Article XII, paragraph 1, in the event of serious balance of payments and external financial difficulties or threat thereof, a Member may adopt or maintain restrictions on trade in services on which it has undertaken specific commitments, including on payments or transfers for transactions related to such commitments.

Article XII, paragraph 5(e) of the GATS establishes the procedure for consultations with the Committee on Balance of Payments Restrictions, which has to accept the IMF's assessment of the member's situation in terms of foreign exchange, monetary reserves and balance of payments.

Chapter 8. The Promotion of Sustainable Development and Debt Management

246. Sustainable development has been defined as ‘development that meets the needs of the present without compromising the abilities of future generations to meet their own needs’. This definition is frequently applied to environmental policies in the sense that future generations must not be burdened with the costs incurred by environmental degradation caused by careless policies of present generations. However, sustainable development has more dimensions. The UNDP has discerned three forms of policies for the promotion of sustainable development: (a) the prevention of financing current consumption by incurring economic debts that others must repay in the future; (b) the need to invest in the health and education of today’s population so as not to create a social debt for future generations; and (c) the use of natural resources without creating ecological debts by overexploiting the carrying and productive capacity of the earth.

247. The IMF cannot directly contribute to environmental protection, as it has no mandate in this area. However, the IMF may contribute to sustainable development by the prevention and management of unsustainable debt levels in order to protect the developmental needs of current and future generations and to promote thereby intergenerational equity. Just as environmental mismanagement shifts the burden to future generations, so may the engagement in excessive debt burdens limit development opportunities.

248. The Fund is actively involved in solving official and commercial external debt problems of member countries. Thereby it attempts to help members to have continued access to credit markets and attain external viability.

§1. DEBT MANAGEMENT

249. The Fund’s traditional role in debt restructuring is (jointly with the World Bank) to adopt adjustment programmes under the concessional facilities and thereby to pave the way for debt-rescheduling agreements. In support of these programmes, Paris Club creditors and commercial creditors would be willing to reschedule debt. In the early 1990s creditors agreed on conditions that allowed for more concessionality in rescheduling operations for heavily indebted countries. Under the Paris Club Naples Terms of 1994 creditors would be willing to consider ‘stock-of-debt operations’ for countries that had established a good track record of performance for at least three years under an IMF-supported and on debt-service payment to Paris Club creditors.

250. However, these terms of the Paris Club were applied for a limited number of countries only or were not adequate for heavily indebted countries that continued to have unsustainable debt levels. Therefore, in 1996, the IMF and the World Bank launched the HIPC initiative that aims at reducing the debt burden of all eligible HIPCs to sustainable levels, provided that they implement strong adjustment

programmes. The initiative aimed at establishing a coordinated action by multilateral organizations, bilateral and private creditors.

251. The HIPC was established through an IMF Executive Board instrument creating a trust for financing debt-rescheduling operations. The joint IMF–World Bank HIPC initiative, that was substantially broadened at the G-7 meeting of finance ministers in Cologne in June 1999, aims at helping developing countries to reduce debt to sustainable levels that enable them to meet their foreign obligations without jeopardizing economic development. Resources under the initiative may be made available as grants or as loans.

252. According to the HIPC terms, a debt level is considered sustainable when it would be less than 150% of annual income from exports. In principle each heavily indebted poor country is eligible for debt relief. Relief will be granted under strict conditions only: a country must be eligible for concessional assistance from the World Bank's International Development Agency (IDA), face an unsustainable debt level, must have implemented adjustment programmes of the IMF and World Bank for a number of years, and have adopted a PRSP. Initially, adjustment programmes had to be implemented for six years in order to 'educate' the developing country towards tight budgetary policies. However, this period could be shortened significantly if a country meets ambitious policy targets early on. Once a country qualifies, reaching the so-called decision point, it has a claim for interim debt relief on its debt-service falling due. The debtor country will obtain full debt relief once it achieves the so-called completion point, that is after establishing a track record of reform through the IMF–World Bank supported programmes, adopting key reforms and implementing its PRSP for at least one year.

253. In 2005, the G-8 proposed that the IMF and other financial institutions (the World Bank and the African Development Fund) cancel 100% of their claims for countries that have reached the completion point under the HIPC initiative. For this purpose the MDRI was created. The MDRI objective was to offer substantial debt relief and thereby enable developing countries to reach the Millennium Development Goals. As the Fund cannot offer debt relief out of its general resources, special arrangements were adopted. Debt relief for a specific group of countries would cause legal problems since the Fund is required to apply the principle of uniformity of treatment. Therefore, it was decided that all countries with per capita income of USD 380 a year or less (HIPCs and non-HIPCs) and an outstanding debt due to the IMF at the end of 2004 will receive MDRI debt relief financed by the IMF's own resources. HIPCs with per capita income above that threshold will receive MDRI relief from bilateral contributions administered by the IMF.

Chapter 9. Relations with the European Union

§1. DIVISION OF COMPETENCES

254. In 1998, countries that have joined the Euro area have shifted key powers on monetary policies to the level of EU-institutions. This has caused a dichotomy in the Fund's position towards EU members. A few problems arise in the Fund's dealings with members of the Euro area.

255. As Euro area countries continue their IMF membership, the Fund must formally engage in Article IV consultations with these countries. However, to the extent that the EU exercises exclusive monetary powers and increasingly oversees macroeconomic policies of its members (through the Stability and Growth Pact and the macroeconomic imbalance procedure) these consultations have become futile. Therefore, meaningful consultation on Euro area policies can only take place through EU-institutions, notably the ECB, Commission and Council. However, the Fund's position towards the EU-institutions is frail as the EU is a non-member and therefore it is not directly bound by the IMF Articles of Agreement or derived legislation. To some extent the Fund has responded to the emergence of currency unions such as the EMU by adopting modalities for surveillance over Euro area policies in the context of Article IV consultations with member countries.

256. A general problem is the overlap of oversight powers by both the IMF and the EU. Whereas the Fund exercises bilateral and multilateral surveillance over members' monetary and macroeconomic policies and the international monetary system, the EU has adopted a set of regulations that aim to strengthen the surveillance of budgetary position and the surveillance and coordination of economic policies (e.g., Regulation 1175/2011 of 16 November 2011). Accordingly, both institutions independently and simultaneously aim to oversee and supervise Euro area members' economic policies. As there is no formal agreement on coordination or proper delineation of responsibilities, conflicts may easily arise. The Fund's determination to continue Article IV consultation with Euro area members will likely interfere with the legal construct that was set up by the EMU.

257. A notable position towards currency unions in general is reflected in the 2012 Integrated Surveillance Decision stipulating that 'members of currency unions remain subject to all of their obligations under Article IV, section 1 and, accordingly, each member is accountable for those policies *that are conducted by union-level institutions on its behalf*' (emphasis added). This clause means that Euro area members are held accountable for monetary policies such as decisions on interest rates and liquidity management, even if these policies are determined outside their jurisdiction. However, the decision also holds a caveat: 'Because, in a currency union, exchange rate policies are implemented at the level of the union, the principles for the guidance of members' exchange rate policies and the associated indicators set out in paragraphs 21 and 22 of this Decision only apply at the level of the currency union.' These paragraphs concern exchange rates management policies. The clause 'only apply at the level of the currency union' implies that Euro area

Member States cannot be held individually accountable for the exchange rate policy of the Euro. Obviously, a currency union as a non-member cannot be held directly accountable by the Fund for *any* policy. Accordingly, exercising ‘firm surveillance over exchange rate policies’ of the Euro, as Article IV section 3(b) stipulates, would be difficult if not impossible.

258. In addition, the provisions for balance of payments support for countries of monetary unions are inadequately designed. In case of Euro area members seeking financial assistance, the IMF may only provide financial assistance according to its purposes and Article V, i.e. temporary and conditional balance of payments support after the member has stated that it will need IMF resources ‘because of its balance of payments or its reserve position or developments in its reserves’. The support will be realised through a purchase: the member purchases desired currencies from the Fund in exchange of its ‘own currency’. In case of a Euro area member in financial distress, a purchase can obviously not be made with its ‘own currency’ because Euros or any other convertible currency are needed. Although stand-by arrangements have been adopted for Euro area members, it is unclear with what means purchases from the Fund are made. Recourse to promissory notes in the alternative raises many doubts about consistency with the Articles.

§2. CO-FINANCING

259. As of February 2013 Greece, Ireland and Portugal implemented IMF programmes and received resources jointly by the IMF and the EU. The fact that these countries are subject to stand-by arrangements suggests that the balance of payments of individual Euro area members continues to be important, at least as far as the IMF is concerned. However, the problem of these countries is not a balance of payments deficit, but the indebtedness of the central and local governments and the inability to gain access to the capital market for financing the deficit. The Fund’s staff has argued that budget financing could trigger the Fund to step in with balance of payments support (Review of Fund Facilities – Analytical Basis for Fund Lending and Reform Options, 6 February 2009). In the Fund’s Executive Board, budget deficit financing (and not balance of payments deficits) has met some opposition (EB Meeting 04/36, 14 April 2004). As IMF purchases have in effect been used as a source of budget financing and resources are made available directly to the government rather than to the central bank, there is a risk that repurchases become subject to a budget appropriation process that is subject to democratic control.

260. Cooperation between the IMF and the Euro area is surrounded by legal uncertainty and practical problems, but might provisionally be solved by a formal agreement between the IMF and the EU. At first, assistance to non-Euro countries (Hungary, Latvia and Romania) was extended in close cooperation with the Bretton Woods institution, even though the IMF involvement was not foreseen according to the applicable EU balance of payments facility (Council Regulation (EC) No. 332/2002). On the occasion, the EU adopted internal guidelines delineating the operating procedures for the EU–Fund coordination. Later on, when the crisis hit Euro

area Member States, EU–IMF co-financing was explicitly foreseen in the new EU mechanisms: the European Financial Stabilization Mechanism (EFSM), the European Financial Stability Facility framework agreement (EFSF) and the Treaty establishing the European Stability Mechanism (ESM). The IMF however failed to adapt its legal framework to the increased role of the EU and of Regional Financing Arrangements (RFAs) in crisis lending. At the 2011 Cannes meeting, the G-20 Finance Ministers and Central Bank Governors have adopted the Principles for Cooperation between the IMF and Regional Financing Arrangements.

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Appendix 1. Articles of Agreement of the International Monetary Fund (as of February 2013)

Adopted at the United Nations Monetary and Financial Conference, Bretton Woods, New Hampshire, July 22, 1944. Entered into force December 27, 1945. Amended effective July 28, 1969, by the modifications approved by the Board of Governors in Resolution No. 23–5, adopted May 31, 1968; amended effective April 1, 1978, by the modifications approved by the Board of Governors in Resolution No. 31–4, adopted April 30, 1976; amended effective November 11, 1992, by the modifications approved by the Board of Governors in Resolution No. 45–3, adopted June 28, 1990; amended effective August 10, 2009, by the modifications approved by the Board of Governors in Resolution No. 52–4, adopted September 23, 1997; amended effective February 18, 2011, by the modifications approved by the Board of Governors in Resolution No. 63–3, adopted May 5, 2008; and amended effective March 3, 2011, by the modifications approved by the Board of Governors in Resolution No. 63–2, adopted April 28, 2008.

Introductory Article

- (i) The International Monetary Fund is established and shall operate in accordance with the provisions of this Agreement as originally adopted and subsequently amended.
- (ii) To enable the Fund to conduct its operations and transactions, the Fund shall maintain a General Department and a Special Drawing Rights Department. Membership in the Fund shall give the right to participation in the Special Drawing Rights Department.
- (iii) Operations and transactions authorized by this Agreement shall be conducted through the General Department, consisting in accordance with the provisions of this Agreement of the General Resources Account, the Special Disbursement Account, and the Investment Account; except that operations and transactions involving special drawing rights shall be conducted through the Special Drawing Rights Department.

Appendix 1. IMF Articles of Agreement

Article I: Purposes

The purposes of the International Monetary Fund are:

- (i) To promote international monetary cooperation through a permanent institution which provides the machinery for consultation and collaboration on international monetary problems.
- (ii) To facilitate the expansion and balanced growth of international trade, and to contribute thereby to the promotion and maintenance of high levels of employment and real income and to the development of the productive resources of all members as primary objectives of economic policy.
- (iii) To promote exchange stability, to maintain orderly exchange arrangements among members, and to avoid competitive exchange depreciation.
- (iv) To assist in the establishment of a multilateral system of payments in respect of current transactions between members and in the elimination of foreign exchange restrictions which hamper the growth of world trade.
- (v) To give confidence to members by making the general resources of the Fund temporarily available to them under adequate safeguards, thus providing them with opportunity to correct maladjustments in their balance of payments without resorting to measures destructive of national or international prosperity.
- (vi) In accordance with the above, to shorten the duration and lessen the degree of disequilibrium in the international balances of payments of members.

The Fund shall be guided in all its policies and decisions by the purposes set forth in this Article.

Article II: Membership

SECTION 1. ORIGINAL MEMBERS

The original members of the Fund shall be those of the countries represented at the United Nations Monetary and Financial Conference whose governments accept membership before December 31, 1945.

SECTION 2. OTHER MEMBERS

Membership shall be open to other countries at such times and in accordance with such terms as may be prescribed by the Board of Governors. These terms, including the terms for subscriptions, shall be based on principles consistent with those applied to other countries that are already members.

Appendix 1. IMF Articles of Agreement

Article III: Quotas and Subscriptions

SECTION 1. QUOTAS AND PAYMENT OF SUBSCRIPTIONS

Each member shall be assigned a quota expressed in special drawing rights. The quotas of the members represented at the United Nations Monetary and Financial Conference which accept membership before December 31, 1945 shall be those set forth in Schedule A. The quotas of other members shall be determined by the Board of Governors. The subscription of each member shall be equal to its quota and shall be paid in full to the Fund at the appropriate depository.

SECTION 2. ADJUSTMENT OF QUOTAS

- (a) The Board of Governors shall at intervals of not more than five years conduct a general review, and if it deems it appropriate propose an adjustment, of the quotas of the members. It may also, if it thinks fit, consider at any other time the adjustment of any particular quota at the request of the member concerned.
- (b) The Fund may at any time propose an increase in the quotas of those members of the Fund that were members on August 31, 1975 in proportion to their quotas on that date in a cumulative amount not in excess of amounts transferred under Article V, Section 12(f)(i) and (j) from the Special Disbursement Account to the General Resources Account.
- (c) An eighty-five per cent majority of the total voting power shall be required for any change in quotas.
- (d) The quota of a member shall not be changed until the member has consented and until payment has been made unless payment is deemed to have been made in accordance with Section 3(b) of this Article.

SECTION 3. PAYMENTS WHEN QUOTAS ARE CHANGED

- (a) Each member which consents to an increase in its quota under Section 2(a) of this Article shall, within a period determined by the Fund, pay to the Fund twenty-five per cent of the increase in special drawing rights, but the Board of Governors may prescribe that this payment may be made, on the same basis for all members, in whole or in part in the currencies of other members specified, with their concurrence, by the Fund, or in the member's own currency. A non-participant shall pay in the currencies of other members specified by the Fund, with their concurrence, a proportion of the increase corresponding to the proportion to be paid in special drawing rights by participants. The balance of the increase shall be paid by the member in its own currency. The Fund's holdings of a member's currency shall not be increased above the level at which they would be subject to charges under Article V, Section 8(b)(ii), as a result of payments by other members under this provision.
- (b) Each member which consents to an increase in its quota under Section 2(b) of this Article shall be deemed to have paid to the Fund an amount of subscription equal to such increase.

Appendix 1. IMF Articles of Agreement

- (c) If a member consents to a reduction in its quota, the Fund shall, within sixty days, pay to the member an amount equal to the reduction. The payment shall be made in the member's currency and in such amount of special drawing rights or the currencies of other members specified, with their concurrence, by the Fund as is necessary to prevent the reduction of the Fund's holdings of the currency below the new quota, provided that in exceptional circumstances the Fund may reduce its holdings of the currency below the new quota by payment to the member in its own currency.
- (d) A seventy per cent majority of the total voting power shall be required for any decision under (a) above, except for the determination of a period and the specification of currencies under that provision.

SECTION 4. SUBSTITUTION OF SECURITIES FOR CURRENCY

The Fund shall accept from any member, in place of any part of the member's currency in the General Resources Account which in the judgment of the Fund is not needed for its operations and transactions, notes or similar obligations issued by the member or the depository designated by the member under Article XIII, Section 2, which shall be non-negotiable, non-interest bearing and payable at their face value on demand by crediting the account of the Fund in the designated depository. This Section shall apply not only to currency subscribed by members but also to any currency otherwise due to, or acquired by, the Fund and to be placed in the General Resources Account.

Article IV: Obligations Regarding Exchange Arrangements

SECTION 1. GENERAL OBLIGATIONS OF MEMBERS

Recognizing that the essential purpose of the international monetary system is to provide a framework that facilitates the exchange of goods, services, and capital among countries, and that sustains sound economic growth, and that a principal objective is the continuing development of the orderly underlying conditions that are necessary for financial and economic stability, each member undertakes to collaborate with the Fund and other members to assure orderly exchange arrangements and to promote a stable system of exchange rates. In particular, each member shall:

- (i) endeavor to direct its economic and financial policies toward the objective of fostering orderly economic growth with reasonable price stability, with due regard to its circumstances;
- (ii) seek to promote stability by fostering orderly underlying economic and financial conditions and a monetary system that does not tend to produce erratic disruptions;
- (iii) avoid manipulating exchange rates or the international monetary system in order to prevent effective balance of payments adjustment or to gain an unfair competitive advantage over other members; and
- (iv) follow exchange policies compatible with the undertakings under this Section

Appendix 1. IMF Articles of Agreement

SECTION 2. GENERAL EXCHANGE ARRANGEMENTS

- (a) Each member shall notify the Fund, within thirty days after the date of the second amendment of this Agreement, of the exchange arrangements it intends to apply in fulfillment of its obligations under Section 1 of this Article, and shall notify the Fund promptly of any changes in its exchange arrangements.
- (b) Under an international monetary system of the kind prevailing on January 1, 1976, exchange arrangements may include (i) the maintenance by a member of a value for its currency in terms of the special drawing right or another denominator, other than gold, selected by the member, or (ii) cooperative arrangements by which members maintain the value of their currencies in relation to the value of the currency or currencies of other members, or (iii) other exchange arrangements of a member's choice.
- (c) To accord with the development of the international monetary system, the Fund, by an eighty-five per cent majority of the total voting power, may make provision for general exchange arrangements without limiting the right of members to have exchange arrangements of their choice consistent with the purposes of the Fund and the obligations under Section 1 of this Article.

SECTION 3. SURVEILLANCE OVER EXCHANGE ARRANGEMENTS

- (a) The Fund shall oversee the international monetary system in order to ensure its effective operation, and shall oversee the compliance of each member with its obligations under Section 1 of this Article.
- (b) In order to fulfill its functions under (a) above, the Fund shall exercise firm surveillance over the exchange rate policies of members, and shall adopt specific principles for the guidance of all members with respect to those policies. Each member shall provide the Fund with the information necessary for such surveillance, and, when requested by the Fund, shall consult with it on the member's exchange rate policies. The principles adopted by the Fund shall be consistent with cooperative arrangements by which members maintain the value of their currencies in relation to the value of the currency or currencies of other members, as well as with other exchange arrangements of a member's choice consistent with the purposes of the Fund and Section 1 of this Article. These principles shall respect the domestic social and political policies of members, and in applying these principles the Fund shall pay due regard to the circumstances of members.

SECTION 4. PAR VALUES

The Fund may determine, by an eighty-five per cent majority of the total voting power, that international economic conditions permit the introduction of a widespread system of exchange arrangements based on stable but adjustable par values. The Fund shall make the determination on the basis of the underlying stability of the world economy, and for this purpose shall take into account price movements

Appendix 1. IMF Articles of Agreement

and rates of expansion in the economies of members. The determination shall be made in light of the evolution of the international monetary system, with particular reference to sources of liquidity, and, in order to ensure the effective operation of a system of par values, to arrangements under which both members in surplus and members in deficit in their balances of payments take prompt, effective, and symmetrical action to achieve adjustment, as well as to arrangements for intervention and the treatment of imbalances. Upon making such determination, the Fund shall notify members that the provisions of Schedule C apply.

SECTION 5. SEPARATE CURRENCIES WITHIN A MEMBER'S TERRITORIES

- (a) Action by a member with respect to its currency under this Article shall be deemed to apply to the separate currencies of all territories in respect of which the member has accepted this Agreement under Article XXXI, Section 2 (g) unless the member declares that its action relates either to the metropolitan currency alone, or only to one or more specified separate currencies, or to the metropolitan currency and one or more specified separate currencies.
- (b) Action by the Fund under this Article shall be deemed to relate to all currencies of a member referred to in (a) above unless the Fund declares otherwise.

Article V: Operations and Transactions of the Fund

SECTION 1. AGENCIES DEALING WITH THE FUND

Each member shall deal with the Fund only through its Treasury, central bank, stabilization fund, or other similar fiscal agency, and the Fund shall deal only with or through the same agencies.

SECTION 2. LIMITATION ON THE FUND'S OPERATIONS AND TRANSACTIONS

- (a) Except as otherwise provided in this Agreement, transactions on the account of the Fund shall be limited to transactions for the purpose of supplying a member, on the initiative of such member, with special drawing rights or the currencies of other members from the general resources of the Fund, which shall be held in the General Resources Account, in exchange for the currency of the member desiring to make the purchase.
- (b) If requested, the Fund may decide to perform financial and technical services, including the administration of resources contributed by members, that are consistent with the purposes of the Fund. Operations involved in the performance of such financial services shall not be on the account of the Fund. Services under this subsection shall not impose any obligation on a member without its consent.

Appendix 1. IMF Articles of Agreement

SECTION 3. CONDITIONS GOVERNING USE OF THE FUND'S GENERAL RESOURCES

- (a) The Fund shall adopt policies on the use of its general resources, including policies on stand-by or similar arrangements, and may adopt special policies for special balance of payments problems, that will assist members to solve their balance of payments problems in a manner consistent with the provisions of this Agreement and that will establish adequate safeguards for the temporary use of the general resources of the Fund.
- (b) A member shall be entitled to purchase the currencies of other members from the Fund in exchange for an equivalent amount of its own currency subject to the following conditions:
 - (i) the member's use of the general resources of the Fund would be in accordance with the provisions of this Agreement and the policies adopted under them;
 - (ii) the member represents that it has a need to make the purchase because of its balance of payments or its reserve position or developments in its reserves;
 - (iii) the proposed purchase would be a reserve tranche purchase, or would not cause the Fund's holdings of the purchasing member's currency to exceed two hundred per cent of its quota;
 - (iv) the Fund has not previously declared under Section 5 of this Article, Article VI, Section 1, or Article XXVI, Section 2 (a) that the member desiring to purchase is ineligible to use the general resources of the Fund.
- (c) The Fund shall examine a request for a purchase to determine whether the proposed purchase would be consistent with the provisions of this Agreement and the policies adopted under them, provided that requests for reserve tranche purchases shall not be subject to challenge.
- (d) The Fund shall adopt policies and procedures on the selection of currencies to be sold that take into account, in consultation with members, the balance of payments and reserve position of members and developments in the exchange markets, as well as the desirability of promoting over time balanced positions in the Fund, provided that if a member represents that it is proposing to purchase the currency of another member because the purchasing member wishes to obtain an equivalent amount of its own currency offered by the other member, it shall be entitled to purchase the currency of the other member unless the Fund has given notice under Article VII, Section 3 that its holdings of the currency have become scarce.
- (e)
 - (i) Each member shall ensure that balances of its currency purchased from the Fund are balances of a freely usable currency or can be exchanged at the time of purchase for a freely usable currency of its choice at an exchange rate between the two currencies equivalent to the exchange rate between them on the basis of Article XIX, Section 7(a).
 - (ii) Each member whose currency is purchased from the Fund or is obtained in exchange for currency purchased from the Fund shall collaborate with the Fund and other members to enable such balances of its currency to be

Appendix 1. IMF Articles of Agreement

exchanged, at the time of purchase, for the freely usable currencies of other members.

- (iii) An exchange under (i) above of a currency that is not freely usable shall be made by the member whose currency is purchased unless that member and the purchasing member agree on another procedure.
- (iv) A member purchasing from the Fund the freely usable currency of another member and wishing to exchange it at the time of purchase for another freely usable currency shall make the exchange with the other member if requested by that member. The exchange shall be made for a freely usable currency selected by the other member at the rate of exchange referred to in (i) above.
- (f) Under policies and procedures which it shall adopt, the Fund may agree to provide a participant making a purchase in accordance with this Section with special drawing rights instead of the currencies of other members.

SECTION 4. WAIVER OF CONDITIONS

The Fund may in its discretion, and on terms which safeguard its interests, waive any of the conditions prescribed in Section 3(b)(iii) and (iv) of this Article, especially in the case of members with a record of avoiding large or continuous use of the Fund's general resources. In making a waiver it shall take into consideration periodic or exceptional requirements of the member requesting the waiver. The Fund shall also take into consideration a member's willingness to pledge as collateral security acceptable assets having a value sufficient in the opinion of the Fund to protect its interests and may require as a condition of waiver the pledge of such collateral security.

SECTION 5. INELIGIBILITY TO USE THE FUND'S GENERAL RESOURCES

Whenever the Fund is of the opinion that any member is using the general resources of the Fund in a manner contrary to the purposes of the Fund, it shall present to the member a report setting forth the views of the Fund and prescribing a suitable time for reply. After presenting such a report to a member, the Fund may limit the use of its general resources by the member. If no reply to the report is received from the member within the prescribed time, or if the reply received is unsatisfactory, the Fund may continue to limit the member's use of the general resources of the Fund or may, after giving reasonable notice to the member, declare it ineligible to use the general resources of the Fund.

SECTION 6. OTHER PURCHASES AND SALES OF SPECIAL DRAWING RIGHTS BY THE FUND

- (a) The Fund may accept special drawing rights offered by a participant in exchange for an equivalent amount of the currencies of other members.

Appendix 1. IMF Articles of Agreement

- (b) The Fund may provide a participant, at its request, with special drawing rights for an equivalent amount of the currencies of other members. The Fund's holdings of a member's currency shall not be increased as a result of these transactions above the level at which the holdings would be subject to charges under Section 8(b)(ii) of this Article.
- (c) The currencies provided or accepted by the Fund under this Section shall be selected in accordance with policies that take into account the principles of Section 3(d) or 7(i) of this Article. The Fund may enter into transactions under this Section only if a member whose currency is provided or accepted by the Fund concurs in that use of its currency.

SECTION 7. REPURCHASE BY A MEMBER OF ITS CURRENCY HELD BY THE FUND

- (a) A member shall be entitled to repurchase at any time the Fund's holdings of its currency that are subject to charges under Section 8(b) of this Article.
- (b) A member that has made a purchase under Section 3 of this Article will be expected normally, as its balance of payments and reserve position improves, to repurchase the Fund's holdings of its currency that result from the purchase and are subject to charges under Section 8(b) of this Article. A member shall repurchase these holdings if, in accordance with policies on repurchase that the Fund shall adopt and after consultation with the member, the Fund represents to the member that it should repurchase because of an improvement in its balance of payments and reserve position.
- (c) A member that has made a purchase under Section 3 of this Article shall repurchase the Fund's holdings of its currency that result from the purchase and are subject to charges under Section 8(b) of this Article not later than five years after the date on which the purchase was made. The Fund may prescribe that repurchase shall be made by a member in installments during the period beginning three years and ending five years after the date of a purchase. The Fund, by an eighty-five per cent majority of the total voting power, may change the periods for repurchase under this subsection, and any period so adopted shall apply to all members.
- (d) The Fund, by an eighty-five per cent majority of the total voting power, may adopt periods other than those that apply in accordance with (c) above, which shall be the same for all members, for the repurchase of holdings of currency acquired by the Fund pursuant to a special policy on the use of its general resources.
- (e) A member shall repurchase, in accordance with policies that the Fund shall adopt by a seventy per cent majority of the total voting power, the Fund's holdings of its currency that are not acquired as a result of purchases and are subject to charges under Section 8(b)(ii) of this Article.
- (f) A decision prescribing that under a policy on the use of the general resources of the Fund the period for repurchase under (c) or (d) above shall be shorter than the one in effect under the policy shall apply only to holdings acquired by the Fund subsequent to the effective date of the decision.

Appendix 1. IMF Articles of Agreement

- (g) The Fund, on the request of a member, may postpone the date of discharge of a repurchase obligation, but not beyond the maximum period under (c) or (d) above or under policies adopted by the Fund under (e) above, unless the Fund determines, by a seventy per cent majority of the total voting power, that a longer period for repurchase which is consistent with the temporary use of the general resources of the Fund is justified because discharge on the due date would result in exceptional hardship for the member.
- (h) The Fund's policies under Section 3(d) of this Article may be supplemented by policies under which the Fund may decide after consultation with a member to sell under Section 3(b) of this Article its holdings of the member's currency that have not been repurchased in accordance with this Section 7, without prejudice to any action that the Fund may be authorized to take under any other provision of this Agreement.
- (i) All repurchases under this Section shall be made with special drawing rights or with the currencies of other members specified by the Fund. The Fund shall adopt policies and procedures with regard to the currencies to be used by members in making repurchases that take into account the principles in Section 3(d) of this Article. The Fund's holdings of a member's currency that is used in repurchase shall not be increased by the repurchase above the level at which they would be subject to charges under Section 8(b)(ii) of this Article.
- (j)
 - (i) If a member's currency specified by the Fund under (i) above is not a freely usable currency, the member shall ensure that the repurchasing member can obtain it at the time of the repurchase in exchange for a freely usable currency selected by the member whose currency has been specified. An exchange of currency under this provision shall take place at an exchange rate between the two currencies equivalent to the exchange rate between them on the basis of Article XIX, Section 7(a).
 - (ii) Each member whose currency is specified by the Fund for repurchase shall collaborate with the Fund and other members to enable repurchasing members, at the time of the repurchase, to obtain the specified currency in exchange for the freely usable currencies of other members.
 - (iii) An exchange under (j)(i) above shall be made with the member whose currency is specified unless that member and the repurchasing member agree on another procedure.
 - (iv) If a repurchasing member wishes to obtain, at the time of the repurchase, the freely usable currency of another member specified by the Fund under (i) above, it shall, if requested by the other member, obtain the currency from the other member in exchange for a freely usable currency at the rate of exchange referred to in (j)(i) above. The Fund may adopt regulations on the freely usable currency to be provided in an exchange.

Appendix 1. IMF Articles of Agreement

SECTION 8. CHARGES

- (a)
 - (i) The Fund shall levy a service charge on the purchase by a member of special drawing rights or the currency of another member held in the General Resources Account in exchange for its own currency, provided that the Fund may levy a lower service charge on reserve tranche purchases than on other purchases. The service charge on reserve tranche purchases shall not exceed one-half of one per cent.
 - (ii) The Fund may levy a charge for stand-by or similar arrangements. The Fund may decide that the charge for an arrangement shall be offset against the service charge levied under (i) above on purchases under the arrangement.
- (b) The Fund shall levy charges on its average daily balances of a member's currency held in the General Resources Account to the extent that they
 - (i) have been acquired under a policy that has been the subject of an exclusion under Article XXX(c), or
 - (ii) exceed the amount of the member's quota after excluding any balances referred to in (i) above.

The rates of charge normally shall rise at intervals during the period in which the balances are held.
- (c) If a member fails to make a repurchase required under Section 7 of this Article, the Fund, after consultation with the member on the reduction of the Fund's holdings of its currency, may impose such charges as the Fund deems appropriate on its holdings of the member's currency that should have been repurchased.
- (d) A seventy per cent majority of the total voting power shall be required for the determination of the rates of charge under (a) and (b) above, which shall be uniform for all members, and under (c) above.
- (e) A member shall pay all charges in special drawing rights, provided that in exceptional circumstances the Fund may permit a member to pay charges in the currencies of other members specified by the Fund, after consultation with them, or in its own currency. The Fund's holdings of a member's currency shall not be increased as a result of payments by other members under this provision above the level at which they would be subject to charges under (b)(ii) above.

SECTION 9. REMUNERATION

- (a) The Fund shall pay remuneration on the amount by which the per centage of quota prescribed under (b) or (c) below exceeds the Fund's average daily balances of a member's currency held in the General Resources Account other than balances acquired under a policy that has been the subject of an exclusion under Article XXX(c). The rate of remuneration, which shall be determined by the Fund by a seventy per cent majority of the total voting power, shall be the same for all members and shall be not more than, nor less than four-fifths of, the rate of interest under Article XX, Section 3. In establishing the rate of remuneration,

Appendix 1. IMF Articles of Agreement

- the Fund shall take into account the rates of charge under Article V, Section 8(b).
- (b) The per centage of quota applying for the purposes of (a) above shall be:
 - (i) for each member that became a member before the second amendment of this Agreement, a per centage of quota corresponding to seventy-five per cent of its quota on the date of the second amendment of this Agreement, and for each member that became a member after the date of the second amendment of this Agreement, a per centage of quota calculated by dividing the total of the amounts corresponding to the per centages of quota that apply to the other members on the date on which the member became a member by the total of the quotas of the other members on the same date; plus
 - (ii) the amounts it has paid to the Fund in currency or special drawing rights under Article III, Section 3(a) since the date applicable under (b)(i) above; and minus
 - (iii) the amounts it has received from the Fund in currency or special drawing rights under Article III, Section 3(c) since the date applicable under (b)(i) above.
 - (c) The Fund, by a seventy per cent majority of the total voting power, may raise the latest per centage of quota applying for the purposes of (a) above to each member to:
 - (i) a per centage, not in excess of one hundred per cent, that shall be determined for each member on the basis of the same criteria for all members, or
 - (ii) one hundred per cent for all members.
 - (d) Remuneration shall be paid in special drawing rights, provided that either the Fund or the member may decide that the payment to the member shall be made in its own currency.

SECTION 10. COMPUTATIONS

- (a) The value of the Fund's assets held in the accounts of the General Department shall be expressed in terms of the special drawing right.
- (b) All computations relating to currencies of members for the purpose of applying the provisions of this Agreement, except Article IV and Schedule C, shall be at the rates at which the Fund accounts for these currencies in accordance with Section 11 of this Article.
- (c) Computations for the determination of amounts of currency in relation to quota for the purpose of applying the provisions of this Agreement shall not include currency held in the Special Disbursement Account or in the Investment Account.

Appendix 1. IMF Articles of Agreement

SECTION 11. MAINTENANCE OF VALUE

- (a) The value of the currencies of members held in the General Resources Account shall be maintained in terms of the special drawing right in accordance with exchange rates under Article XIX, Section 7(a).
- (b) An adjustment in the Fund's holdings of a member's currency pursuant to this Section shall be made on the occasion of the use of that currency in an operation or transaction between the Fund and another member and at such other times as the Fund may decide or the member may request. Payments to or by the Fund in respect of an adjustment shall be made within a reasonable time, as determined by the Fund, after the date of adjustment, and at any other time requested by the member.

SECTION 12. OTHER OPERATIONS AND TRANSACTIONS

- (a) The Fund shall be guided in all its policies and decisions under this Section by the objectives set forth in Article VIII, Section 7 and by the objective of avoiding the management of the price, or the establishment of a fixed price, in the gold market.
- (b) Decisions of the Fund to engage in operations or transactions under (c), (d), and (e) below shall be made by an eighty-five per cent majority of the total voting power.
- (c) The Fund may sell gold for the currency of any member after consulting the member for whose currency the gold is sold, provided that the Fund's holdings of a member's currency held in the General Resources Account shall not be increased by the sale above the level at which they would be subject to charges under Section 8(b)(ii) of this Article without the concurrence of the member, and provided that, at the request of the member, the Fund at the time of sale shall exchange for the currency of another member such part of the currency received as would prevent such an increase. The exchange of a currency for the currency of another member shall be made after consultation with that member, and shall not increase the Fund's holdings of that member's currency above the level at which they would be subject to charges under Section 8(b)(ii) of this Article. The Fund shall adopt policies and procedures with regard to exchanges that take into account the principles applied under Section 7(i) of this Article. Sales under this provision to a member shall be at a price agreed for each transaction on the basis of prices in the market.
- (d) The Fund may accept payments from a member in gold instead of special drawing rights or currency in any operations or transactions under this Agreement. Payments to the Fund under this provision shall be at a price agreed for each operation or transaction on the basis of prices in the market.
- (e) The Fund may sell gold held by it on the date of the second amendment of this Agreement to those members that were members on August 31, 1975 and that agree to buy it, in proportion to their quotas on that date. If the Fund intends to sell gold under (c) above for the purpose of (f)(ii) below, it may sell to each developing member that agrees to buy it that portion of the gold which, if sold

Appendix 1. IMF Articles of Agreement

under (c) above, would have produced the excess that could have been distributed to it under (f)(iii) below. The gold that would be sold under this provision to a member that has been declared ineligible to use the general resources of the Fund under Section 5 of this Article shall be sold to it when the ineligibility ceases, unless the Fund decides to make the sale sooner. The sale of gold to a member under this subsection (e) shall be made in exchange for its currency and at a price equivalent at the time of sale to one special drawing right per 0.888 671 gram of fine gold.

- (f) Whenever under (c) above the Fund sells gold held by it on the date of the second amendment of this Agreement, an amount of the proceeds equivalent at the time of sale to one special drawing right per 0.888 671 gram of fine gold shall be placed in the General Resources Account and, except as the Fund may decide otherwise under (g) below, any excess shall be held in the Special Disbursement Account. The assets held in the Special Disbursement Account shall be held separately from the other accounts of the General Department, and may be used at any time:
- (i) to make transfers to the General Resources Account for immediate use in operations and transactions authorized by provisions of this Agreement other than this Section;
 - (ii) for operations and transactions that are not authorized by other provisions of this Agreement but are consistent with the purposes of the Fund. Under this subsection (f)(ii) balance of payments assistance may be made available on special terms to developing members in difficult circumstances, and for this purpose the Fund shall take into account the level of per capita income;
 - (iii) for distribution to those developing members that were members on August 31, 1975, in proportion to their quotas on that date, of such part of the assets that the Fund decides to use for the purposes of (ii) above as corresponds to the proportion of the quotas of these members on the date of distribution to the total of the quotas of all members on the same date, provided that the distribution under this provision to a member that has been declared ineligible to use the general resources of the Fund under Section 5 of this Article shall be made when the ineligibility ceases, unless the Fund decides to make the distribution sooner.
- Decisions to use assets pursuant to (i) above shall be taken by a seventy per cent majority of the total voting power, and decisions pursuant to (ii) and (iii) above shall be taken by an eighty-five per cent majority of the total voting power.
- (g) The Fund may decide, by an eighty-five per cent majority of the total voting power, to transfer a part of the excess referred to in (f) above to the Investment Account for use pursuant to the provisions of Article XII, Section 6(f).
- (h) Pending uses specified under (f) above, the Fund may use a member's currency held in the Special Disbursement Account for investment as it may determine, in accordance with rules and regulations adopted by the Fund by a seventy per cent majority of the total voting power. The income of investment and interest received under (f)(ii) above shall be placed in the Special Disbursement Account.

Appendix 1. IMF Articles of Agreement

- (i) The General Resources Account shall be reimbursed from time to time in respect of the expenses of administration of the Special Disbursement Account paid from the General Resources Account by transfers from the Special Disbursement Account on the basis of a reasonable estimate of such expenses.
- (j) The Special Disbursement Account shall be terminated in the event of the liquidation of the Fund and may be terminated prior to liquidation of the Fund by a seventy per cent majority of the total voting power. Upon termination of the account because of the liquidation of the Fund, any assets in this account shall be distributed in accordance with the provisions of Schedule K. Upon termination prior to liquidation of the Fund, any assets in this account shall be transferred to the General Resources Account for immediate use in operations and transactions. The Fund, by a seventy per cent majority of the total voting power, shall adopt rules and regulations for the administration of the Special Disbursement Account.
- (k) Whenever under (c) above the Fund sells gold acquired by it after the date of the second amendment of this Agreement, an amount of the proceeds equivalent to the acquisition price of the gold shall be placed in the General Resources Account, and any excess shall be placed in the Investment Account for use pursuant to the provisions of Article XII, Section 6(f). If any gold acquired by the Fund after the date of the second amendment of this Agreement is sold after April 7, 2008 but prior to the date of entry into force of this provision, then, upon the entry into force of this provision, and notwithstanding the limit set forth in Article XII, Section 6(f)(ii), the Fund shall transfer to the Investment Account from the General Resources Account an amount equal to the proceeds of such sale less (i) the acquisition price of the gold sold, and (ii) any amount of such proceeds in excess of the acquisition price that may have already been transferred to the Investment Account prior to the date of entry into force of this provision.

Article VI: Capital Transfers

SECTION 1. USE OF THE FUND'S GENERAL RESOURCES FOR CAPITAL TRANSFERS

- (a) A member may not use the Fund's general resources to meet a large or sustained outflow of capital except as provided in Section 2 of this Article, and the Fund may request a member to exercise controls to prevent such use of the general resources of the Fund. If, after receiving such a request, a member fails to exercise appropriate controls, the Fund may declare the member ineligible to use the general resources of the Fund.
- (b) Nothing in this Section shall be deemed:
 - (i) to prevent the use of the general resources of the Fund for capital transactions of reasonable amount required for the expansion of exports or in the ordinary course of trade, banking, or other business; or
 - (ii) to affect capital movements which are met out of a member's own resources, but members undertake that such capital movements will be in accordance with the purposes of the Fund.

Appendix 1. IMF Articles of Agreement

SECTION 2. SPECIAL PROVISIONS FOR CAPITAL TRANSFERS

A member shall be entitled to make reserve tranche purchases to meet capital transfers.

SECTION 3. CONTROLS OF CAPITAL TRANSFERS

Members may exercise such controls as are necessary to regulate international capital movements, but no member may exercise these controls in a manner which will restrict payments for current transactions or which will unduly delay transfers of funds in settlement of commitments, except as provided in Article VII, Section 3(b) and in Article XIV, Section 2.

Article VII: Replenishment and Scarce Currencies

SECTION 1. MEASURES TO REPLENISH THE FUND'S HOLDINGS OF CURRENCIES

The Fund may, if it deems such action appropriate to replenish its holdings of any member's currency in the General Resources Account needed in connection with its transactions, take either or both of the following steps:

- (i) propose to the member that, on terms and conditions agreed between the Fund and the member, the latter lend its currency to the Fund or that, with the concurrence of the member, the Fund borrow such currency from some other source either within or outside the territories of the member, but no member shall be under any obligation to make such loans to the Fund or to concur in the borrowing of its currency by the Fund from any other source;
- (ii) require the member, if it is a participant, to sell its currency to the Fund for special drawing rights held in the General Resources Account, subject to Article XIX, Section 4. In replenishing with special drawing rights, the Fund shall pay due regard to the principles of designation under Article XIX, Section 5.

SECTION 2. GENERAL SCARCITY OF CURRENCY

If the Fund finds that a general scarcity of a particular currency is developing, the Fund may so inform members and may issue a report setting forth the causes of the scarcity and containing recommendations designed to bring it to an end. A representative of the member whose currency is involved shall participate in the preparation of the report.

SECTION 3. SCARCITY OF THE FUND'S HOLDINGS

- (a) If it becomes evident to the Fund that the demand for a member's currency seriously threatens the Fund's ability to supply that currency, the Fund, whether or

Appendix 1. IMF Articles of Agreement

not it has issued a report under Section 2 of this Article, shall formally declare such currency scarce and shall thenceforth apportion its existing and accruing supply of the scarce currency with due regard to the relative needs of members, the general international economic situation, and any other pertinent considerations. The Fund shall also issue a report concerning its action.

- (b) A formal declaration under (a) above shall operate as an authorization to any member, after consultation with the Fund, temporarily to impose limitations on the freedom of exchange operations in the scarce currency. Subject to the provisions of Article IV and Schedule C, the member shall have complete jurisdiction in determining the nature of such limitations, but they shall be no more restrictive than is necessary to limit the demand for the scarce currency to the supply held by, or accruing to, the member in question, and they shall be relaxed and removed as rapidly as conditions permit.
- (c) The authorization under (b) above shall expire whenever the Fund formally declares the currency in question to be no longer scarce.

SECTION 4. ADMINISTRATION OF RESTRICTIONS

Any member imposing restrictions in respect of the currency of any other member pursuant to the provisions of Section 3(b) of this Article shall give sympathetic consideration to any representations by the other member regarding the administration of such restrictions.

SECTION 5. EFFECT OF OTHER INTERNATIONAL AGREEMENTS ON RESTRICTIONS

Members agree not to invoke the obligations of any engagements entered into with other members prior to this Agreement in such manner as will prevent the operation of the provisions of this Article.

Article VIII: General Obligations of Members

SECTION 1. INTRODUCTION

In addition to the obligations assumed under other articles of this Agreement, each member undertakes the obligations set out in this Article.

SECTION 2. AVOIDANCE OF RESTRICTIONS ON CURRENT PAYMENTS

- (a) Subject to the provisions of Article VII, Section 3(b) and Article XIV, Section 2, no member shall, without the approval of the Fund, impose restrictions on the making of payments and transfers for current international transactions.
- (b) Exchange contracts which involve the currency of any member and which are contrary to the exchange control regulations of that member maintained or imposed consistently with this Agreement shall be unenforceable in the territories of any member. In addition, members may, by mutual accord, cooperate in measures for the purpose of making the exchange control regulations of either

Appendix 1. IMF Articles of Agreement

member more effective, provided that such measures and regulations are consistent with this Agreement.

SECTION 3. AVOIDANCE OF DISCRIMINATORY CURRENCY PRACTICES

No member shall engage in, or permit any of its fiscal agencies referred to in Article V, Section 1 to engage in, any discriminatory currency arrangements or multiple currency practices, whether within or outside margins under Article IV or prescribed by or under Schedule C, except as authorized under this Agreement or approved by the Fund. If such arrangements and practices are engaged in at the date when this Agreement enters into force, the member concerned shall consult with the Fund as to their progressive removal unless they are maintained or imposed under Article XIV, Section 2, in which case the provisions of Section 3 of that Article shall apply.

SECTION 4. CONVERTIBILITY OF FOREIGN-HELD BALANCES

- (a) Each member shall buy balances of its currency held by another member if the latter, in requesting the purchase, represents:
 - (i) that the balances to be bought have been recently acquired as a result of current transactions; or
 - (ii) that their conversion is needed for making payments for current transactions.

The buying member shall have the option to pay either in special drawing rights, subject to Article XIX, Section 4, or in the currency of the member making the request.

- (b) The obligation in (a) above shall not apply when:
 - (i) the convertibility of the balances has been restricted consistently with Section 2 of this Article or Article VI, Section 3;
 - (ii) the balances have accumulated as a result of transactions effected before the removal by a member of restrictions maintained or imposed under Article XIV, Section 2;
 - (iii) the balances have been acquired contrary to the exchange regulations of the member which is asked to buy them;
 - (iv) the currency of the member requesting the purchase has been declared scarce under Article VII, Section 3 (a); or
 - (v) the member requested to make the purchase is for any reason not entitled to buy currencies of other members from the Fund for its own currency.

SECTION 5. FURNISHING OF INFORMATION

- (a) The Fund may require members to furnish it with such information as it deems necessary for its activities, including, as the minimum necessary for the effective discharge of the Fund's duties, national data on the following matters:

Appendix 1. IMF Articles of Agreement

- (i) official holdings at home and abroad of (1) gold, (2) foreign exchange;
 - (ii) holdings at home and abroad by banking and financial agencies, other than official agencies, of (1) gold, (2) foreign exchange;
 - (iii) production of gold;
 - (iv) gold exports and imports according to countries of destination and origin;
 - (v) total exports and imports of merchandise, in terms of local currency values, according to countries of destination and origin;
 - (vi) international balance of payments, including (1) trade in goods and services, (2) gold transactions, (3) known capital transactions, and (4) other items;
 - (vii) international investment position, i.e., investments within the territories of the member owned abroad and investments abroad owned by persons in its territories so far as it is possible to furnish this information;
 - (viii) national income;
 - (ix) price indices, i.e., indices of commodity prices in wholesale and retail markets and of export and import prices;
 - (x) buying and selling rates for foreign currencies;
 - (xi) exchange controls, i.e., a comprehensive statement of exchange controls in effect at the time of assuming membership in the Fund and details of subsequent changes as they occur; and
 - (xii) where official clearing arrangements exist, details of amounts awaiting clearance in respect of commercial and financial transactions, and of the length of time during which such arrears have been outstanding.
- (b) In requesting information the Fund shall take into consideration the varying ability of members to furnish the data requested. Members shall be under no obligation to furnish information in such detail that the affairs of individuals or corporations are disclosed. Members undertake, however, to furnish the desired information in as detailed and accurate a manner as is practicable and, so far as possible, to avoid mere estimates.
- (c) The Fund may arrange to obtain further information by agreement with members. It shall act as a centre for the collection and exchange of information on monetary and financial problems, thus facilitating the preparation of studies designed to assist members in developing policies which further the purposes of the Fund.

SECTION 6. CONSULTATION BETWEEN MEMBERS REGARDING EXISTING INTERNATIONAL AGREEMENTS

Where under this Agreement a member is authorized in the special or temporary circumstances specified in the Agreement to maintain or establish restrictions on exchange transactions, and there are other engagements between members entered into prior to this Agreement which conflict with the application of such restrictions, the parties to such engagements shall consult with one another with a view to making such mutually acceptable adjustments as may be necessary. The provisions of this Article shall be without prejudice to the operation of Article VII, Section 5.

Appendix 1. IMF Articles of Agreement

SECTION 7. OBLIGATION TO COLLABORATE REGARDING POLICIES ON RESERVE ASSETS

Each member undertakes to collaborate with the Fund and with other members in order to ensure that the policies of the member with respect to reserve assets shall be consistent with the objectives of promoting better international surveillance of international liquidity and making the special drawing right the principal reserve asset in the international monetary system.

Article IX: Status, Immunities, and Privileges

SECTION 1. PURPOSES OF ARTICLE

To enable the Fund to fulfill the functions with which it is entrusted, the status, immunities, and privileges set forth in this Article shall be accorded to the Fund in the territories of each member.

SECTION 2. STATUS OF THE FUND

The Fund shall possess full juridical personality, and in particular, the capacity:

- (i) to contract;
- (ii) to acquire and dispose of immovable and movable property; and
- (iii) to institute legal proceedings.

SECTION 3. IMMUNITY FROM JUDICIAL PROCESS

The Fund, its property and its assets, wherever located and by whomsoever held, shall enjoy immunity from every form of judicial process except to the extent that it expressly waives its immunity for the purpose of any proceedings or by the terms of any contract.

SECTION 4. IMMUNITY FROM OTHER ACTION

Property and assets of the Fund, wherever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation, or any other form of seizure by executive or legislative action.

SECTION 5. IMMUNITY OF ARCHIVES

The archives of the Fund shall be inviolable.

SECTION 6. FREEDOM OF ASSETS FROM RESTRICTIONS

To the extent necessary to carry out the activities provided for in this Agreement, all property and assets of the Fund shall be free from restrictions, regulations, controls, and moratoria of any nature.

Appendix 1. IMF Articles of Agreement

SECTION 7. PRIVILEGE FOR COMMUNICATIONS

The official communications of the Fund shall be accorded by members the same treatment as the official communications of other members.

SECTION 8. IMMUNITIES AND PRIVILEGES OF OFFICERS AND EMPLOYEES

All Governors, Executive Directors, Alternates, members of committees, representatives appointed under Article XII, Section 3(j), advisors of any of the foregoing persons, officers, and employees of the Fund:

- (i) shall be immune from legal process with respect to acts performed by them in their official capacity except when the Fund waives this immunity;
- (ii) not being local nationals, shall be granted the same immunities from immigration restrictions, alien registration requirements, and national service obligations and the same facilities as regards exchange restrictions as are accorded by members to the representatives, officials, and employees of comparable rank of other members; and
- (iii) shall be granted the same treatment in respect of traveling facilities as is accorded by members to representatives, officials, and employees of comparable rank of other members.

SECTION 9. IMMUNITIES FROM TAXATION

- (a) The Fund, its assets, property, income, and its operations and transactions authorized by this Agreement shall be immune from all taxation and from all customs duties. The Fund shall also be immune from liability for the collection or payment of any tax or duty.
- (b) No tax shall be levied on or in respect of salaries and emoluments paid by the Fund to Executive Directors, Alternates, officers, or employees of the Fund who are not local citizens, local subjects, or other local nationals.
- (c) No taxation of any kind shall be levied on any obligation or security issued by the Fund, including any dividend or interest thereon, by whomsoever held:
 - (i) which discriminates against such obligation or security solely because of its origin; or
 - (ii) if the sole jurisdictional basis for such taxation is the place or currency in which it is issued, made payable or paid, or the location of any office or place of business maintained by the Fund.

SECTION 10. APPLICATION OF ARTICLE

Each member shall take such action as is necessary in its own territories for the purpose of making effective in terms of its own law the principles set forth in this Article and shall inform the Fund of the detailed action which it has taken.

Appendix 1. IMF Articles of Agreement

Article X: Relations with Other International Organizations

The Fund shall cooperate within the terms of this Agreement with any general international organization and with public international organizations having specialized responsibilities in related fields. Any arrangements for such cooperation which would involve a modification of any provision of this Agreement may be effected only after amendment to this Agreement under Article XXVIII.

Article XI: Relations with Non-Member Countries

SECTION 1. UNDERTAKINGS REGARDING RELATIONS WITH NON-MEMBER COUNTRIES

Each member undertakes:

- (i) not to engage in, nor to permit any of its fiscal agencies referred to in Article V, Section 1 to engage in, any transactions with a non-member or with persons in a non-member's territories which would be contrary to the provisions of this Agreement or the purposes of the Fund;
- (ii) not to cooperate with a non-member or with persons in a non-member's territories in practices which would be contrary to the provisions of this Agreement or the purposes of the Fund; and
- (iii) to cooperate with the Fund with a view to the application in its territories of appropriate measures to prevent transactions with non-members or with persons in their territories which would be contrary to the provisions of this Agreement or the purposes of the Fund.

SECTION 2. RESTRICTIONS ON TRANSACTIONS WITH NON-MEMBER COUNTRIES

Nothing in this Agreement shall affect the right of any member to impose restrictions on exchange transactions with non-members or with persons in their territories unless the Fund finds that such restrictions prejudice the interests of members and are contrary to the purposes of the Fund.

Article XII: Organization and Management

SECTION 1. STRUCTURE OF THE FUND

The Fund shall have a Board of Governors, an Executive Board, a Managing Director, and a staff, and a Council if the Board of Governors decides, by an eighty-five per cent majority of the total voting power, that the provisions of Schedule D shall be applied.

SECTION 2. BOARD OF GOVERNORS

- (a) All powers under this Agreement not conferred directly on the Board of Governors, the Executive Board, or the Managing Director shall be vested in

Appendix 1. IMF Articles of Agreement

the Board of Governors. The Board of Governors shall consist of one Governor and one Alternate appointed by each member in such manner as it may determine. Each Governor and each Alternate shall serve until a new appointment is made. No Alternate may vote except in the absence of his principal. The Board of Governors shall select one of the Governors as Chairman.

- (b) The Board of Governors may delegate to the Executive Board authority to exercise any powers of the Board of Governors, except the powers conferred directly by this Agreement on the Board of Governors.
- (c) The Board of Governors shall hold such meetings as may be provided for by the Board of Governors or called by the Executive Board. Meetings of the Board of Governors shall be called whenever requested by fifteen members or by members having one-quarter of the total voting power.
- (d) A quorum for any meeting of the Board of Governors shall be a majority of the Governors having not less than two-thirds of the total voting power.
- (e) Each Governor shall be entitled to cast the number of votes allotted under Section 5 of this Article to the member appointing him.
- (f) The Board of Governors may by regulation establish a procedure whereby the Executive Board, when it deems such action to be in the best interests of the Fund, may obtain a vote of the Governors on a specific question without calling a meeting of the Board of Governors.
- (g) The Board of Governors, and the Executive Board to the extent authorized, may adopt such rules and regulations as may be necessary or appropriate to conduct the business of the Fund.
- (h) Governors and Alternates shall serve as such without compensation from the Fund, but the Fund may pay them reasonable expenses incurred in attending meetings.
- (i) The Board of Governors shall determine the remuneration to be paid to the Executive Directors and their Alternates and the salary and terms of the contract of service of the Managing Director.
- (j) The Board of Governors and the Executive Board may appoint such committees as they deem advisable. Membership of committees need not be limited to Governors or Executive Directors or their Alternates.

SECTION 3. EXECUTIVE BOARD

- (a) The Executive Board shall be responsible for conducting the business of the Fund, and for this purpose shall exercise all the powers delegated to it by the Board of Governors.
- (b) The Executive Board shall consist of Executive Directors with the Managing Director as chairman. Of the Executive Directors:
 - (i) five shall be appointed by the five members having the largest quotas; and
 - (ii) fifteen shall be elected by the other members.

For the purpose of each regular election of Executive Directors, the Board of Governors, by an eighty-five per cent majority of the total voting power, may increase or decrease the number of Executive Directors in (ii) above. The number of Executive Directors in (ii) above shall be reduced by one or two, as the case may be, if

Appendix 1. IMF Articles of Agreement

Executive Directors are appointed under (c) below, unless the Board of Governors decides, by an eighty-five per cent majority of the total voting power, that this reduction would hinder the effective discharge of the functions of the Executive Board or of Executive Directors or would threaten to upset a desirable balance in the Executive Board.

- (c) If, at the second regular election of Executive Directors and thereafter, the members entitled to appoint Executive Directors under (b)(i) above do not include the two members, the holdings of whose currencies by the Fund in the General Resources Account have been, on the average over the preceding two years, reduced below their quotas by the largest absolute amounts in terms of the special drawing right, either one or both of such members, as the case may be, may appoint an Executive Director.
- (d) Elections of elective Executive Directors shall be conducted at intervals of two years in accordance with the provisions of Schedule E, supplemented by such regulations as the Fund deems appropriate. For each regular election of Executive Directors, the Board of Governors may issue regulations making changes in the proportion of votes required to elect Executive Directors under the provisions of Schedule E.
- (e) Each Executive Director shall appoint an Alternate with full power to act for him when he is not present, provided that the Board of Governors may adopt rules enabling an Executive Director elected by more than a specified number of members to appoint two Alternates. Such rules, if adopted, may only be modified in the context of the regular election of Executive Directors and shall require an Executive Director appointing two Alternates to designate: (i) the Alternate who shall act for the Executive Director when he is not present and both Alternates are present and (ii) the Alternate who shall exercise the powers of the Executive Director under (f) below. When the Executive Directors appointing them are present, Alternates may participate in meetings but may not vote.
- (f) Executive Directors shall continue in office until their successors are appointed or elected. If the office of an elected Executive Director becomes vacant more than ninety days before the end of his term, another Executive Director shall be elected for the remainder of the term by the members that elected the former Executive Director. A majority of the votes cast shall be required for election. While the office remains vacant, the Alternate of the former Executive Director shall exercise his powers, except that of appointing an Alternate.
- (g) The Executive Board shall function in continuous session at the principal office of the Fund and shall meet as often as the business of the Fund may require.
- (h) A quorum for any meeting of the Executive Board shall be a majority of the Executive Directors having not less than one-half of the total voting power.
- (i)
 - (i) Each appointed Executive Director shall be entitled to cast the number of votes allotted under Section 5 of this Article to the member appointing him.

Appendix 1. IMF Articles of Agreement

- (ii) If the votes allotted to a member that appoints an Executive Director under (c) above were cast by an Executive Director together with the votes allotted to other members as a result of the last regular election of Executive Directors, the member may agree with each of the other members that the number of votes allotted to it shall be cast by the appointed Executive Director. A member making such an agreement shall not participate in the election of Executive Directors.
- (iii) Each elected Executive Director shall be entitled to cast the number of votes which counted towards his election.
- (iv) When the provisions of Section 5(b) of this Article are applicable, the votes which an Executive Director would otherwise be entitled to cast shall be increased or decreased correspondingly. All the votes which an Executive Director is entitled to cast shall be cast as a unit.
- (v) When the suspension of the voting rights of a member is terminated under Article XXVI, Section 2(b), and the member is not entitled to appoint an Executive Director, the member may agree with all the members that have elected an Executive Director that the number of votes allotted to that member shall be cast by such Executive Director, provided that, if no regular election of Executive Directors has been conducted during the period of the suspension, the Executive Director in whose election the member had participated prior to the suspension, or his successor elected in accordance with paragraph 3(c)(i) of Schedule L or with (f) above, shall be entitled to cast the number of votes allotted to the member. The member shall be deemed to have participated in the election of the Executive Director entitled to cast the number of votes allotted to the member.
- (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.

SECTION 4. MANAGING DIRECTOR AND STAFF

- (a) The Executive Board shall select a Managing Director who shall not be a Governor or an Executive Director. The Managing Director shall be chairman of the Executive Board, but shall have no vote except a deciding vote in case of an equal division. He may participate in meetings of the Board of Governors, but shall not vote at such meetings. The Managing Director shall cease to hold office when the Executive Board so decides.
- (b) The Managing Director shall be chief of the operating staff of the Fund and shall conduct, under the direction of the Executive Board, the ordinary business of the Fund. Subject to the general control of the Executive Board, he shall be responsible for the organization, appointment, and dismissal of the staff of the Fund.
- (c) The Managing Director and the staff of the Fund, in the discharge of their functions, shall owe their duty entirely to the Fund and to no other authority. Each member of the Fund shall respect the international character of this duty and

Appendix 1. IMF Articles of Agreement

shall refrain from all attempts to influence any of the staff in the discharge of these functions.

- (d) In appointing the staff the Managing Director shall, subject to the paramount importance of securing the highest standards of efficiency and of technical competence, pay due regard to the importance of recruiting personnel on as wide a geographical basis as possible.

SECTION 5. VOTING

- (a) The total votes of each member shall be equal to the sum of its basic votes and its quota-based votes.
 - (i) The basic votes of each member shall be the number of votes that results from the equal distribution among all the members of 5.502 per cent of the aggregate sum of the total voting power of all the members, provided that there shall be no fractional basic votes.
 - (ii) The quota-based votes of each member shall be the number of votes that results from the allocation of one vote for each part of its quota equivalent to one hundred thousand special drawing rights.
- (b) Whenever voting is required under Article V, Section 4 or 5, each member shall have the number of votes to which it is entitled under (a) above adjusted
 - (i) by the addition of one vote for the equivalent of each four hundred thousand special drawing rights of net sales of its currency from the general resources of the Fund up to the date when the vote is taken, or
 - (ii) by the subtraction of one vote for the equivalent of each four hundred thousand special drawing rights of its net purchases under Article V, Section 3(b) and (f) up to the date when the vote is taken, provided that neither net purchases nor net sales shall be deemed at any time to exceed an amount equal to the quota of the member involved.
- (c) Except as otherwise specifically provided, all decisions of the Fund shall be made by a majority of the votes cast.

SECTION 6. RESERVES, DISTRIBUTION OF NET INCOME, AND INVESTMENT

- (a) The Fund shall determine annually what part of its net income shall be placed to general reserve or special reserve, and what part, if any, shall be distributed.
- (b) The Fund may use the special reserve for any purpose for which it may use the general reserve, except distribution.
- (c) If any distribution is made of the net income of any year, it shall be made to all members in proportion to their quotas.
- (d) The Fund, by a seventy per cent majority of the total voting power, may decide at any time to distribute any part of the general reserve. Any such distribution shall be made to all members in proportion to their quotas.
- (e) Payments under (c) and (d) above shall be made in special drawing rights, provided that either the Fund or the member may decide that the payment to the member shall be made in its own currency.

Appendix 1. IMF Articles of Agreement

- (f)
- (i) The Fund may establish an Investment Account for the purposes of this subsection (f). The assets of the Investment Account shall be held separately from the other accounts of the General Department.
 - (ii) The Fund may decide to transfer to the Investment Account a part of the proceeds of the sale of gold in accordance with Article V, Section 12(g) and, by a seventy per cent majority of the total voting power, may decide to transfer to the Investment Account, for immediate investment, currencies held in the General Resources Account. The amount of these transfers shall not exceed the total amount of the general reserve and the special reserve at the time of the decision.
 - (iii) The Fund may use a member's currency held in the Investment Account for investment as it may determine, in accordance with rules and regulations adopted by the Fund by a seventy per cent majority of the total voting power. The rules and regulations adopted pursuant to this provision shall be consistent with (vii), (viii), and (ix) below.
 - (iv) The income of investment may be invested in accordance with the provisions of this subsection (f). Income not invested shall be held in the Investment Account or may be used for meeting the expenses of conducting the business of the Fund.
 - (v) The Fund may use a member's currency held in the Investment Account to obtain the currencies needed to meet the expenses of conducting the business of the Fund.
 - (vi) The Investment Account shall be terminated in the event of liquidation of the Fund and may be terminated, or the amount of the investment may be reduced, prior to liquidation of the Fund by a seventy per cent majority of the total voting power.
 - (vii) Upon termination of the Investment Account because of liquidation of the Fund, any assets in this account shall be distributed in accordance with the provisions of Schedule K, provided that a portion of these assets corresponding to the proportion of the assets transferred to this account under Article V, Section 12(g) to the total of the assets transferred to this account shall be deemed to be assets held in the Special Disbursement Account and shall be distributed in accordance with Schedule K, paragraph 2(a)(ii).
 - (viii) Upon termination of the Investment Account prior to liquidation of the Fund, a portion of the assets held in this account corresponding to the proportion of the assets transferred to this account under Article V, Section 12(g) to the total of the assets transferred to the account shall be transferred to the Special Disbursement Account if it has not been terminated, and the balance of the assets held in the Investment Account shall be transferred to the General Resources Account for immediate use in operations and transactions.
 - (ix) On a reduction of the amount of the investment by the Fund, a portion of the reduction corresponding to the proportion of the assets transferred to the Investment Account under Article V, Section 12(g) to the total of the

Appendix 1. IMF Articles of Agreement

assets transferred to this account shall be transferred to the Special Disbursement Account if it has not been terminated, and the balance of the reduction shall be transferred to the General Resources Account for immediate use in operations and transactions.

SECTION 7. PUBLICATION OF REPORTS

- (a) The Fund shall publish an annual report containing an audited statement of its accounts, and shall issue, at intervals of three months or less, a summary statement of its operations and transactions and its holdings of special drawing rights, gold, and currencies of members.
- (b) The Fund may publish such other reports as it deems desirable for carrying out its purposes.

SECTION 8. COMMUNICATION OF VIEWS TO MEMBERS

The Fund shall at all times have the right to communicate its views informally to any member on any matter arising under this Agreement. The Fund may, by a seventy per cent majority of the total voting power, decide to publish a report made to a member regarding its monetary or economic conditions and developments which directly tend to produce a serious disequilibrium in the international balance of payments of members. If the member is not entitled to appoint an Executive Director, it shall be entitled to representation in accordance with Section 3(j) of this Article. The Fund shall not publish a report involving changes in the fundamental structure of the economic organization of members.

Article XIII: Offices and Depositories

SECTION 1. LOCATION OF OFFICES

The principal office of the Fund shall be located in the territory of the member having the largest quota, and agencies or branch offices may be established in the territories of other members.

SECTION 2. DEPOSITORIES

- (a) Each member shall designate its central bank as a depository for all the Fund's holdings of its currency, or if it has no central bank it shall designate such other institution as may be acceptable to the Fund.
- (b) The Fund may hold other assets, including gold, in the depositories designated by the five members having the largest quotas and in such other designated depositories as the Fund may select. Initially, at least one-half of the holdings of the Fund shall be held in the depository designated by the member in whose territories the Fund has its principal office and at least forty per cent shall be held in the depositories designated by the remaining four members referred to

Appendix 1. IMF Articles of Agreement

above. However, all transfers of gold by the Fund shall be made with due regard to the costs of transport and anticipated requirements of the Fund. In an emergency the Executive Board may transfer all or any part of the Fund's gold holdings to any place where they can be adequately protected.

SECTION 3. GUARANTEE OF THE FUND'S ASSETS

Each member guarantees all assets of the Fund against loss resulting from failure or default on the part of the depository designated by it.

Article XIV: Transitional Arrangements

SECTION 1. NOTIFICATION TO THE FUND

Each member shall notify the Fund whether it intends to avail itself of the transitional arrangements in Section 2 of this Article, or whether it is prepared to accept the obligations of Article VIII, Sections 2, 3, and 4. A member availing itself of the transitional arrangements shall notify the Fund as soon thereafter as it is prepared to accept these obligations.

SECTION 2. EXCHANGE RESTRICTIONS

A member that has notified the Fund that it intends to avail itself of transitional arrangements under this provision may, notwithstanding the provisions of any other articles of this Agreement, maintain and adapt to changing circumstances the restrictions on payments and transfers for current international transactions that were in effect on the date on which it became a member. Members shall, however, have continuous regard in their foreign exchange policies to the purposes of the Fund, and, as soon as conditions permit, they shall take all possible measures to develop such commercial and financial arrangements with other members as will facilitate international payments and the promotion of a stable system of exchange rates. In particular, members shall withdraw restrictions maintained under this Section as soon as they are satisfied that they will be able, in the absence of such restrictions, to settle their balance of payments in a manner which will not unduly encumber their access to the general resources of the Fund.

SECTION 3. ACTION OF THE FUND RELATING TO RESTRICTIONS

The Fund shall make annual reports on the restrictions in force under Section 2 of this Article. Any member retaining any restrictions inconsistent with Article VIII, Sections 2, 3, or 4 shall consult the Fund annually as to their further retention. The Fund may, if it deems such action necessary in exceptional circumstances, make representations to any member that conditions are favorable for the withdrawal of any particular restriction, or for the general abandonment of restrictions, inconsistent with the provisions of any other articles of this Agreement. The member shall be given a suitable time to reply to such representations. If the Fund finds that the

Appendix 1. IMF Articles of Agreement

member persists in maintaining restrictions which are inconsistent with the purposes of the Fund, the member shall be subject to Article XXVI, Section 2(a).

Article XV: Special Drawing Rights

SECTION 1. AUTHORITY TO ALLOCATE SPECIAL DRAWING RIGHTS

- (a) To meet the need, as and when it arises, for a supplement to existing reserve assets, the Fund is authorized to allocate special drawing rights in accordance with the provisions of Article XVIII to members that are participants in the Special Drawing Rights Department.
- (b) In addition, the Fund shall allocate special drawing rights to members that are participants in the Special Drawing Rights Department in accordance with the provisions of Schedule M.

SECTION 2. VALUATION OF THE SPECIAL DRAWING RIGHT

The method of valuation of the special drawing right shall be determined by the Fund by a seventy per cent majority of the total voting power, provided, however, that an eighty-five per cent majority of the total voting power shall be required for a change in the principle of valuation or a fundamental change in the application of the principle in effect.

Article XVI: General Department and Special Drawing Rights Department

SECTION 1. SEPARATION OF OPERATIONS AND TRANSACTIONS

All operations and transactions involving special drawing rights shall be conducted through the Special Drawing Rights Department. All other operations and transactions on the account of the Fund authorized by or under this Agreement shall be conducted through the General Department. Operations and transactions pursuant to Article XVII, Section 2 shall be conducted through the General Department as well as the Special Drawing Rights Department.

SECTION 2. SEPARATION OF ASSETS AND PROPERTY

All assets and property of the Fund, except resources administered under Article V, Section 2(b), shall be held in the General Department, provided that assets and property acquired under Article XX, Section 2 and Articles XXIV and XXV and Schedules H and I shall be held in the Special Drawing Rights Department. Any assets or property held in one Department shall not be available to discharge or meet the liabilities, obligations, or losses of the Fund incurred in the conduct of the operations and transactions of the other Department, except that the expenses of conducting the business of the Special Drawing Rights Department shall be paid by the Fund from the General Department which shall be reimbursed in special drawing

Appendix 1. IMF Articles of Agreement

rights from time to time by assessments under Article XX, Section 4 made on the basis of a reasonable estimate of such expenses.

SECTION 3. RECORDING AND INFORMATION

All changes in holdings of special drawing rights shall take effect only when recorded by the Fund in the Special Drawing Rights Department. Participants shall notify the Fund of the provisions of this Agreement under which special drawing rights are used. The Fund may require participants to furnish it with such other information as it deems necessary for its functions.

Article XVII: Participants and Other Holders of Special Drawing Rights

SECTION 1. PARTICIPANTS

Each member of the Fund that deposits with the Fund an instrument setting forth that it undertakes all the obligations of a participant in the Special Drawing Rights Department in accordance with its law and that it has taken all steps necessary to enable it to carry out all of these obligations shall become a participant in the Special Drawing Rights Department as of the date the instrument is deposited, except that no member shall become a participant before the provisions of this Agreement pertaining exclusively to the Special Drawing Rights Department have entered into force and instruments have been deposited under this Section by members that have at least seventy-five per cent of the total of quotas.

SECTION 2. FUND AS A HOLDER

The Fund may hold special drawing rights in the General Resources Account and may accept and use them in operations and transactions conducted through the General Resources Account with participants in accordance with the provisions of this Agreement or with prescribed holders in accordance with the terms and conditions prescribed under Section 3 of this Article.

SECTION 3. OTHER HOLDERS

The Fund may prescribe:

- (i) as holders, non-members, members that are non-participants, institutions that perform functions of a central bank for more than one member, and other official entities;
- (ii) the terms and conditions on which prescribed holders may be permitted to hold special drawing rights and may accept and use them in operations and transactions with participants and other prescribed holders; and
- (iii) the terms and conditions on which participants and the Fund through the General Resources Account may enter into operations and transactions in special drawing rights with prescribed holders.

Appendix 1. IMF Articles of Agreement

An eighty-five per cent majority of the total voting power shall be required for prescriptions under (i) above. The terms and conditions prescribed by the Fund shall be consistent with the provisions of this Agreement and the effective functioning of the Special Drawing Rights Department.

Article XVIII: Allocation and Cancellation of Special Drawing Rights

SECTION 1. PRINCIPLES AND CONSIDERATIONS GOVERNING ALLOCATION AND CANCELLATION

- (a) In all its decisions with respect to the allocation and cancellation of special drawing rights the Fund shall seek to meet the long-term global need, as and when it arises, to supplement existing reserve assets in such manner as will promote the attainment of its purposes and will avoid economic stagnation and deflation as well as excess demand and inflation in the world.
- (b) The first decision to allocate special drawing rights shall take into account, as special considerations, a collective judgment that there is a global need to supplement reserves, and the attainment of a better balance of payments equilibrium, as well as the likelihood of a better working of the adjustment process in the future.

SECTION 2. ALLOCATION AND CANCELLATION

- (a) Decisions of the Fund to allocate or cancel special drawing rights shall be made for basic periods which shall run consecutively and shall be five years in duration. The first basic period shall begin on the date of the first decision to allocate special drawing rights or such later date as may be specified in that decision. Any allocations or cancellations shall take place at yearly intervals.
- (b) The rates at which allocations are to be made shall be expressed as per centages of quotas on the date of each decision to allocate. The rates at which special drawing rights are to be cancelled shall be expressed as per centages of net cumulative allocations of special drawing rights on the date of each decision to cancel. The per centages shall be the same for all participants.
- (c) In its decision for any basic period the Fund may provide, notwithstanding (a) and (b) above, that:
 - (i) the duration of the basic period shall be other than five years; or
 - (ii) the allocations or cancellations shall take place at other than yearly intervals; or
 - (iii) the basis for allocations or cancellations shall be the quotas or net cumulative allocations on dates other than the dates of decisions to allocate or cancel.
- (d) A member that becomes a participant after a basic period starts shall receive allocations beginning with the next basic period in which allocations are made after it becomes a participant unless the Fund decides that the new participant shall start to receive allocations beginning with the next allocation after it becomes a participant. If the Fund decides that a member that becomes a participant during a basic period shall receive allocations during the remainder of

Appendix 1. IMF Articles of Agreement

that basic period and the participant was not a member on the dates established under (b) or (c) above, the Fund shall determine the basis on which these allocations to the participant shall be made.

- (e) A participant shall receive allocations of special drawing rights made pursuant to any decision to allocate unless:
 - (i) the Governor for the participant did not vote in favor of the decision; and
 - (ii) the participant has notified the Fund in writing prior to the first allocation of special drawing rights under that decision that it does not wish special drawing rights to be allocated to it under the decision. On the request of a participant, the Fund may decide to terminate the effect of the notice with respect to allocations of special drawing rights subsequent to the termination.
- (f) If on the effective date of any cancellation the amount of special drawing rights held by a participant is less than its share of the special drawing rights that are to be cancelled, the participant shall eliminate its negative balance as promptly as its gross reserve position permits and shall remain in consultation with the Fund for this purpose. Special drawing rights acquired by the participant after the effective date of the cancellation shall be applied against its negative balance and cancelled.

SECTION 3. UNEXPECTED MAJOR DEVELOPMENTS

The Fund may change the rates or intervals of allocation or cancellation during the rest of a basic period or change the length of a basic period or start a new basic period, if at any time the Fund finds it desirable to do so because of unexpected major developments.

SECTION 4. DECISIONS ON ALLOCATIONS AND CANCELLATIONS

- (a) Decisions under Section 2(a), (b), and (c) or Section 3 of this Article shall be made by the Board of Governors on the basis of proposals of the Managing Director concurred in by the Executive Board.
- (b) Before making any proposal, the Managing Director, after having satisfied himself that it will be consistent with the provisions of Section 1(a) of this Article, shall conduct such consultations as will enable him to ascertain that there is broad support among participants for the proposal. In addition, before making a proposal for the first allocation, the Managing Director shall satisfy himself that the provisions of Section 1(b) of this Article have been met and that there is broad support among participants to begin allocations; he shall make a proposal for the first allocation as soon after the establishment of the Special Drawing Rights Department as he is so satisfied.
- (c) The Managing Director shall make proposals:
 - (i) not later than six months before the end of each basic period;
 - (ii) if no decision has been taken with respect to allocation or cancellation for a basic period, whenever he is satisfied that the provisions of (b) above have been met;

Appendix 1. IMF Articles of Agreement

- (iii) when, in accordance with Section 3 of this Article, he considers that it would be desirable to change the rate or intervals of allocation or cancellation or change the length of a basic period or start a new basic period; or
 - (iv) within six months of a request by the Board of Governors or the Executive Board;
- provided that, if under (i), (iii), or (iv) above the Managing Director ascertains that there is no proposal which he considers to be consistent with the provisions of Section 1 of this Article that has broad support among participants in accordance with (b) above, he shall report to the Board of Governors and to the Executive Board.
- (d) An eighty-five per cent majority of the total voting power shall be required for decisions under Section 2(a), (b), and (c) or Section 3 of this Article except for decisions under Section 3 with respect to a decrease in the rates of allocation.

Article XIX: Operations and Transactions in Special Drawing Rights

SECTION 1. USE OF SPECIAL DRAWING RIGHTS

Special drawing rights may be used in the operations and transactions authorized by or under this Agreement.

SECTION 2. OPERATIONS AND TRANSACTIONS BETWEEN PARTICIPANTS

- (a) A participant shall be entitled to use its special drawing rights to obtain an equivalent amount of currency from a participant designated under Section 5 of this Article.
- (b) A participant, in agreement with another participant, may use its special drawing rights to obtain an equivalent amount of currency from the other participant.
- (c) The Fund, by a seventy per cent majority of the total voting power, may prescribe operations in which a participant is authorized to engage in agreement with another participant on such terms and conditions as the Fund deems appropriate. The terms and conditions shall be consistent with the effective functioning of the Special Drawing Rights Department and the proper use of special drawing rights in accordance with this Agreement.
- (d) The Fund may make representations to a participant that enters into any operation or transaction under (b) or (c) above that in the judgment of the Fund may be prejudicial to the process of designation according to the principles of Section 5 of this Article or is otherwise inconsistent with Article XXII. A participant that persists in entering into such operations or transactions shall be subject to Article XXIII, Section 2(b).

Appendix 1. IMF Articles of Agreement

SECTION 3. REQUIREMENT OF NEED

- (a) In transactions under Section 2(a) of this Article, except as otherwise provided in (c) below, a participant will be expected to use its special drawing rights only if it has a need because of its balance of payments or its reserve position or developments in its reserves, and not for the sole purpose of changing the composition of its reserves.
- (b) The use of special drawing rights shall not be subject to challenge on the basis of the expectation in (a) above, but the Fund may make representations to a participant that fails to fulfill this expectation. A participant that persists in failing to fulfill this expectation shall be subject to Article XXIII, Section 2(b).
- (c) The Fund may waive the expectation in (a) above in any transactions in which a participant uses special drawing rights to obtain an equivalent amount of currency from a participant designated under Section 5 of this Article that would promote reconstitution by the other participant under Section 6(a) of this Article; prevent or reduce a negative balance of the other participant; or offset the effect of a failure by the other participant to fulfill the expectation in (a) above.

SECTION 4. OBLIGATION TO PROVIDE CURRENCY

- (a) A participant designated by the Fund under Section 5 of this Article shall provide on demand a freely usable currency to a participant using special drawing rights under Section 2(a) of this Article. A participant's obligation to provide currency shall not extend beyond the point at which its holdings of special drawing rights in excess of its net cumulative allocation are equal to twice its net cumulative allocation or such higher limit as may be agreed between a participant and the Fund.
- (b) A participant may provide currency in excess of the obligatory limit or any agreed higher limit.

SECTION 5. DESIGNATION OF PARTICIPANTS TO PROVIDE CURRENCY

- (a) The Fund shall ensure that a participant will be able to use its special drawing rights by designating participants to provide currency for specified amounts of special drawing rights for the purposes of Sections 2(a) and 4 of this Article. Designations shall be made in accordance with the following general principles supplemented by such other principles as the Fund may adopt from time to time:
 - (i) A participant shall be subject to designation if its balance of payments and gross reserve position is sufficiently strong, but this will not preclude the possibility that a participant with a strong reserve position will be designated even though it has a moderate balance of payments deficit. Participants shall be designated in such manner as will promote over time a balanced distribution of holdings of special drawing rights among them.

Appendix 1. IMF Articles of Agreement

- (ii) Participants shall be subject to designation in order to promote reconstitution under Section 6(a) of this Article, to reduce negative balances in holdings of special drawing rights, or to offset the effect of failures to fulfill the expectation in Section 3(a) of this Article.
 - (iii) In designating participants, the Fund normally shall give priority to those that need to acquire special drawing rights to meet the objectives of designation under (ii) above.
- (b) In order to promote over time a balanced distribution of holdings of special drawing rights under (a)(i) above, the Fund shall apply the rules for designation in Schedule F or such rules as may be adopted under (c) below.
- (c) The rules for designation may be reviewed at any time and new rules shall be adopted if necessary. Unless new rules are adopted, the rules in force at the time of the review shall continue to apply.

SECTION 6. RECONSTITUTION

- (a) Participants that use their special drawing rights shall reconstitute their holdings of them in accordance with the rules for reconstitution in Schedule G or such rules as may be adopted under (b) below.
- (b) The rules for reconstitution may be reviewed at any time and new rules shall be adopted if necessary. Unless new rules are adopted or a decision is made to abrogate rules for reconstitution, the rules in force at the time of review shall continue to apply. A seventy per cent majority of the total voting power shall be required for decisions to adopt, modify, or abrogate the rules for reconstitution.

SECTION 7. EXCHANGE RATES

- (a) Except as otherwise provided in (b) below, the exchange rates for transactions between participants under Section 2(a) and (b) of this Article shall be such that participants using special drawing rights shall receive the same value whatever currencies might be provided and whichever participants provide those currencies, and the Fund shall adopt regulations to give effect to this principle.
- (b) The Fund, by an eighty-five per cent majority of the total voting power, may adopt policies under which in exceptional circumstances the Fund, by a seventy per cent majority of the total voting power, may authorize participants entering into transactions under Section 2(b) of this Article to agree on exchange rates other than those applicable under (a) above.
- (c) The Fund shall consult a participant on the procedure for determining rates of exchange for its currency.
- (d) For the purpose of this provision the term participant includes a terminating participant.

Appendix 1. IMF Articles of Agreement

Article XX: Special Drawing Rights Department Interest and Charges

SECTION 1. INTEREST

Interest at the same rate for all holders shall be paid by the Fund to each holder on the amount of its holdings of special drawing rights. The Fund shall pay the amount due to each holder whether or not sufficient charges are received to meet the payment of interest.

SECTION 2. CHARGES

Charges at the same rate for all participants shall be paid to the Fund by each participant on the amount of its net cumulative allocation of special drawing rights plus any negative balance of the participant or unpaid charges.

SECTION 3. RATE OF INTEREST AND CHARGES

The Fund shall determine the rate of interest by a seventy per cent majority of the total voting power. The rate of charges shall be equal to the rate of interest.

SECTION 4. ASSESSMENTS

When it is decided under Article XVI, Section 2 that reimbursement shall be made, the Fund shall levy assessments for this purpose at the same rate for all participants on their net cumulative allocations.

SECTION 5. PAYMENT OF INTEREST, CHARGES, AND ASSESSMENTS

Interest, charges, and assessments shall be paid in special drawing rights. A participant that needs special drawing rights to pay any charge or assessment shall be obligated and entitled to obtain them, for currency acceptable to the Fund, in a transaction with the Fund conducted through the General Resources Account. If sufficient special drawing rights cannot be obtained in this way, the participant shall be obligated and entitled to obtain them with a freely usable currency from a participant which the Fund shall specify. Special drawing rights acquired by a participant after the date for payment shall be applied against its unpaid charges and cancelled.

Article XXI: Administration of the General Department and the Special Drawing Rights Department

- (a) The General Department and the Special Drawing Rights Department shall be administered in accordance with the provisions of Article XII, subject to the following provisions:
 - (i) For meetings of or decisions by the Board of Governors on matters pertaining exclusively to the Special Drawing Rights Department only requests by, or the presence and the votes of, Governors appointed by members that are participants shall be counted for the purpose of calling

Appendix 1. IMF Articles of Agreement

meetings and determining whether a quorum exists or whether a decision is made by the required majority.

- (ii) For decisions by the Executive Board on matters pertaining exclusively to the Special Drawing Rights Department only Executive Directors appointed or elected by at least one member that is a participant shall be entitled to vote. Each of these Executive Directors shall be entitled to cast the number of votes allotted to the member which is a participant that appointed him or to the members that are participants whose votes counted towards his election. Only the presence of Executive Directors appointed or elected by members that are participants and the votes allotted to members that are participants shall be counted for the purpose of determining whether a quorum exists or whether a decision is made by the required majority. For the purposes of this provision, an agreement under Article XII, Section 3(i)(ii) by a member that is a participant shall entitle an appointed Executive Director to vote and cast the number of votes allotted to the member.
- (iii) Questions of the general administration of the Fund, including reimbursement under Article XVI, Section 2, and any question whether a matter pertains to both Departments or exclusively to the Special Drawing Rights Department shall be decided as if they pertained exclusively to the General Department. Decisions with respect to the method of valuation of the special drawing right, the acceptance and holding of special drawing rights in the General Resources Account of the General Department and the use of them, and other decisions affecting the operations and transactions conducted through both the General Resources Account of the General Department and the Special Drawing Rights Department shall be made by the majorities required for decisions on matters pertaining exclusively to each Department. A decision on a matter pertaining to the Special Drawing Rights Department shall so indicate.
- (b) In addition to the privileges and immunities that are accorded under Article IX of this Agreement, no tax of any kind shall be levied on special drawing rights or on operations or transactions in special drawing rights.
- (c) A question of interpretation of the provisions of this Agreement on matters pertaining exclusively to the Special Drawing Rights Department shall be submitted to the Executive Board pursuant to Article XXIX(a) only on the request of a participant. In any case where the Executive Board has given a decision on a question of interpretation pertaining exclusively to the Special Drawing Rights Department only a participant may require that the question be referred to the Board of Governors under Article XXIX(b). The Board of Governors shall decide whether a Governor appointed by a member that is not a participant shall be entitled to vote in the Committee on Interpretation on questions pertaining exclusively to the Special Drawing Rights Department.
- (d) Whenever a disagreement arises between the Fund and a participant that has terminated its participation in the Special Drawing Rights Department or between the Fund and any participant during the liquidation of the Special Drawing

Appendix 1. IMF Articles of Agreement

Rights Department with respect to any matter arising exclusively from participation in the Special Drawing Rights Department, the disagreement shall be submitted to arbitration in accordance with the procedures in Article XXIX(c).

Article XXII: General Obligations of Participants

In addition to the obligations assumed with respect to special drawing rights under other articles of this Agreement, each participant undertakes to collaborate with the Fund and with other participants in order to facilitate the effective functioning of the Special Drawing Rights Department and the proper use of special drawing rights in accordance with this Agreement and with the objective of making the special drawing right the principal reserve asset in the international monetary system.

Article XXIII: Suspension of Operations and Transactions in Special Drawing Rights

SECTION 1. EMERGENCY PROVISIONS

In the event of an emergency or the development of unforeseen circumstances threatening the activities of the Fund with respect to the Special Drawing Rights Department, the Executive Board, by an eighty-five per cent majority of the total voting power, may suspend for a period of not more than one year the operation of any of the provisions relating to operations and transactions in special drawing rights, and the provisions of Article XXVII, Section 1(b), (c), and (d) shall then apply.

SECTION 2. FAILURE TO FULFILL OBLIGATIONS

- (a) If the Fund finds that a participant has failed to fulfill its obligations under Article XIX, Section 4, the right of the participant to use its special drawing rights shall be suspended unless the Fund otherwise decides.
- (b) If the Fund finds that a participant has failed to fulfill any other obligation with respect to special drawing rights, the Fund may suspend the right of the participant to use special drawing rights it acquires after the suspension.
- (c) Regulations shall be adopted to ensure that before action is taken against any participant under (a) or (b) above, the participant shall be informed immediately of the complaint against it and given an adequate opportunity for stating its case, both orally and in writing. Whenever the participant is thus informed of a complaint relating to (a) above, it shall not use special drawing rights pending the disposition of the complaint.
- (d) Suspension under (a) or (b) above or limitation under (c) above shall not affect a participant's obligation to provide currency in accordance with Article XIX, Section 4.
- (e) The Fund may at any time terminate a suspension under (a) or (b) above, provided that a suspension imposed on a participant under (b) above for failure to fulfill the obligations under Article XIX, Section 6(a) shall not be terminated

Appendix 1. IMF Articles of Agreement

until one hundred eighty days after the end of the first calendar quarter during which the participant complies with the rules for reconstitution.

- (f) The right of a participant to use its special drawing rights shall not be suspended because it has become ineligible to use the Fund's general resources under Article V, Section 5, Article VI, Section 1, or Article XXVI, Section 2(a). Article XXVI, Section 2 shall not apply because a participant has failed to fulfill any obligations with respect to special drawing rights.

Article XXIV: Termination of Participation

SECTION 1. RIGHT TO TERMINATE PARTICIPATION

- (a) Any participant may terminate its participation in the Special Drawing Rights Department at any time by transmitting a notice in writing to the Fund at its principal office. Termination shall become effective on the date the notice is received.
- (b) A participant that withdraws from membership in the Fund shall be deemed to have simultaneously terminated its participation in the Special Drawing Rights Department.

SECTION 2. SETTLEMENT ON TERMINATION

- (a) When a participant terminates its participation in the Special Drawing Rights Department, all operations and transactions by the terminating participant in special drawing rights shall cease except as otherwise permitted under an agreement made pursuant to (c) below in order to facilitate a settlement or as provided in Sections 3, 5, and 6 of this Article or in Schedule H. Interest and charges that accrued to the date of termination and assessments levied before that date but not paid shall be paid in special drawing rights.
- (b) The Fund shall be obligated to redeem all special drawing rights held by the terminating participant, and the terminating participant shall be obligated to pay to the Fund an amount equal to its net cumulative allocation and any other amounts that may be due and payable because of its participation in the Special Drawing Rights Department. These obligations shall be set off against each other and the amount of special drawing rights held by the terminating participant that is used in the setoff to extinguish its obligation to the Fund shall be cancelled.
- (c) A settlement shall be made with reasonable despatch by agreement between the terminating participant and the Fund with respect to any obligation of the terminating participant or the Fund after the setoff in (b) above. If agreement on a settlement is not reached promptly the provisions of Schedule H shall apply.

Appendix 1. IMF Articles of Agreement

SECTION 3. INTEREST AND CHARGES

After the date of termination the Fund shall pay interest on any outstanding balance of special drawing rights held by a terminating participant and the terminating participant shall pay charges on any outstanding obligation owed to the Fund at the times and rates prescribed under Article XX. Payment shall be made in special drawing rights. A terminating participant shall be entitled to obtain special drawing rights with a freely usable currency to pay charges or assessments in a transaction with a participant specified by the Fund or by agreement from any other holder, or to dispose of special drawing rights received as interest in a transaction with any participant designated under Article XIX, Section 5 or by agreement with any other holder.

SECTION 4. SETTLEMENT OF OBLIGATION TO THE FUND

Currency received by the Fund from a terminating participant shall be used by the Fund to redeem special drawing rights held by participants in proportion to the amount by which each participant's holdings of special drawing rights exceed its net cumulative allocation at the time the currency is received by the Fund. Special drawing rights so redeemed and special drawing rights obtained by a terminating participant under the provisions of this Agreement to meet any installment due under an agreement on settlement or under Schedule H and set off against that installment shall be cancelled.

SECTION 5. SETTLEMENT OF OBLIGATION TO A TERMINATING PARTICIPANT

Whenever the Fund is required to redeem special drawing rights held by a terminating participant, redemption shall be made with currency provided by participants specified by the Fund. These participants shall be specified in accordance with the principles in Article XIX, Section 5. Each specified participant shall provide at its option the currency of the terminating participant or a freely usable currency to the Fund and shall receive an equivalent amount of special drawing rights. However, a terminating participant may use its special drawing rights to obtain its own currency, a freely usable currency, or any other asset from any holder, if the Fund so permits.

SECTION 6. GENERAL RESOURCES ACCOUNT TRANSACTIONS

In order to facilitate settlement with a terminating participant, the Fund may decide that a terminating participant shall:

- (i) use any special drawing rights held by it after the setoff in Section 2(b) of this Article, when they are to be redeemed, in a transaction with the Fund conducted through the General Resources Account to obtain its own currency or a freely usable currency at the option of the Fund; or
- (ii) obtain special drawing rights in a transaction with the Fund conducted through the General Resources Account for a currency acceptable to the Fund to meet

Appendix 1. IMF Articles of Agreement

any charges or installment due under an agreement or the provisions of Schedule H.

Article XXV: Liquidation of the Special Drawing Rights Department

- (a) The Special Drawing Rights Department may not be liquidated except by decision of the Board of Governors. In an emergency, if the Executive Board decides that liquidation of the Special Drawing Rights Department may be necessary, it may temporarily suspend allocations or cancellations and all operations and transactions in special drawing rights pending decision by the Board of Governors. A decision by the Board of Governors to liquidate the Fund shall be a decision to liquidate both the General Department and the Special Drawing Rights Department.
- (b) If the Board of Governors decides to liquidate the Special Drawing Rights Department, all allocations or cancellations and all operations and transactions in special drawing rights and the activities of the Fund with respect to the Special Drawing Rights Department shall cease except those incidental to the orderly discharge of the obligations of participants and of the Fund with respect to special drawing rights, and all obligations of the Fund and of participants under this Agreement with respect to special drawing rights shall cease except those set out in this Article, Article XX, Article XXI(d), Article XXIV, Article XXIX(c), and Schedule H, or any agreement reached under Article XXIV subject to paragraph 4 of Schedule H, and Schedule I.
- (c) Upon liquidation of the Special Drawing Rights Department, interest and charges that accrued to the date of liquidation and assessments levied before that date but not paid shall be paid in special drawing rights. The Fund shall be obligated to redeem all special drawing rights held by holders, and each participant shall be obligated to pay the Fund an amount equal to its net cumulative allocation of special drawing rights and such other amounts as may be due and payable because of its participation in the Special Drawing Rights Department.
- (d) Liquidation of the Special Drawing Rights Department shall be administered in accordance with the provisions of Schedule I.

Article XXVI: Withdrawal from Membership

SECTION 1. RIGHT OF MEMBERS TO WITHDRAW

Any member may withdraw from the Fund at any time by transmitting a notice in writing to the Fund at its principal office. Withdrawal shall become effective on the date such notice is received.

SECTION 2. COMPULSORY WITHDRAWAL

- (a) If a member fails to fulfill any of its obligations under this Agreement, the Fund may declare the member ineligible to use the general resources of the Fund.

Appendix 1. IMF Articles of Agreement

Nothing in this Section shall be deemed to limit the provisions of Article V, Section 5 or Article VI, Section 1.

- (b) If, after the expiration of a reasonable period following a declaration of ineligibility under (a) above, the member persists in its failure to fulfill any of its obligations under this Agreement, the Fund may, by a seventy per cent majority of the total voting power, suspend the voting rights of the member. During the period of the suspension, the provisions of Schedule L shall apply. The Fund may, by a seventy per cent majority of the total voting power, terminate the suspension at any time.
- (c) If, after the expiration of a reasonable period following a decision of suspension under (b) above, the member persists in its failure to fulfill any of its obligations under this Agreement, that member 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 eighty-five per cent of the total voting power.
- (d) Regulations shall be adopted to ensure that before action is taken against any member under (a), (b), or (c) above, the member shall be informed in reasonable time of the complaint against it and given an adequate opportunity for stating its case, both orally and in writing.

SECTION 3. SETTLEMENT OF ACCOUNTS WITH MEMBERS WITHDRAWING

When a member withdraws from the Fund, normal operations and transactions of the Fund in its currency shall cease and settlement of all accounts between it and the Fund shall be made with reasonable despatch by agreement between it and the Fund. If agreement is not reached promptly, the provisions of Schedule J shall apply to the settlement of accounts.

Article XXVII: Emergency Provisions

SECTION 1. TEMPORARY SUSPENSION

- (a) In the event of an emergency or the development of unforeseen circumstances threatening the activities of the Fund, the Executive Board, by an eighty-five per cent majority of the total voting power, may suspend for a period of not more than one year the operation of any of the following provisions:
 - (i) Article V, Sections 2, 3, 7, 8(a)(i) and (e);
 - (ii) Article VI, Section 2;
 - (iii) Article XI, Section 1;
 - (iv) Schedule C, paragraph 5.
- (b) A suspension of the operation of a provision under (a) above may not be extended beyond one year except by the Board of Governors which, by an eighty-five per cent majority of the total voting power, may extend a suspension for an additional period of not more than two years if it finds that the emergency or unforeseen circumstances referred to in (a) above continue to exist.
- (c) The Executive Board may, by a majority of the total voting power, terminate such suspension at any time.

Appendix 1. IMF Articles of Agreement

- (d) The Fund may adopt rules with respect to the subject matter of a provision during the period in which its operation is suspended.

SECTION 2. LIQUIDATION OF THE FUND

- (a) The Fund may not be liquidated except by decision of the Board of Governors. In an emergency, if the Executive Board decides that liquidation of the Fund may be necessary, it may temporarily suspend all operations and transactions, pending decision by the Board of Governors.
- (b) If the Board of Governors decides to liquidate the Fund, the Fund shall forthwith cease to engage in any activities except those incidental to the orderly collection and liquidation of its assets and the settlement of its liabilities, and all obligations of members under this Agreement shall cease except those set out in this Article, in Article XXIX(c), in Schedule J, paragraph 7, and in Schedule K.
- (c) Liquidation shall be administered in accordance with the provisions of Schedule K.

Article XXVIII: Amendments

- (a) Any proposal to introduce modifications in this Agreement, whether emanating from a member, a Governor, or the Executive Board, shall be communicated to the chairman of the Board of Governors who shall bring the proposal before the Board of Governors. If the proposed amendment is approved by the Board of Governors, the Fund shall, by circular letter or telegram, ask all members whether they accept the proposed amendment. When three-fifths of the members, having eighty-five per cent of the total voting power, have accepted the proposed amendment, the Fund shall certify the fact by a formal communication addressed to all members.
- (b) Notwithstanding (a) above, acceptance by all members is required in the case of any amendment modifying:
 - (i) the right to withdraw from the Fund (Article XXVI, Section 1);
 - (ii) the provision that no change in a member's quota shall be made without its consent (Article III, Section 2 (d)); and
 - (iii) the provision that no change may be made in the par value of a member's currency except on the proposal of that member (Schedule C, paragraph 6).
- (c) Amendments shall enter into force for all members three months after the date of the formal communication unless a shorter period is specified in the circular letter or telegram.

Appendix 1. IMF Articles of Agreement

Article XXIX: Interpretation

- (a) Any question of interpretation of the provisions of this Agreement arising between any member and the Fund or between any members of the Fund shall be submitted to the Executive Board for its decision. If the question particularly affects any member not entitled to appoint an Executive Director, it shall be entitled to representation in accordance with Article XII, Section 3(j).
- (b) In any case where the Executive Board has given a decision under (a) above, any member may require, within three months from the date of the decision, that the question be referred to the Board of Governors, whose decision shall be final. Any question referred to the Board of Governors shall be considered by a Committee on Interpretation of the Board of Governors. Each Committee member shall have one vote. The Board of Governors shall establish the membership, procedures, and voting majorities of the Committee. A decision of the Committee shall be the decision of the Board of Governors unless the Board of Governors, by an eighty-five per cent majority of the total voting power, decides otherwise. Pending the result of the reference to the Board of Governors the Fund may, so far as it deems necessary, act on the basis of the decision of the Executive Board.
- (c) Whenever a disagreement arises between the Fund and a member which has withdrawn, or between the Fund and any member during liquidation of the Fund, such disagreement shall be submitted to arbitration by a tribunal of three arbitrators, one appointed by the Fund, another by the member or withdrawing member, and an umpire who, unless the parties otherwise agree, shall be appointed by the President of the International Court of Justice or such other authority as may have been prescribed by regulation adopted by the Fund. The umpire shall have full power to settle all questions of procedure in any case where the parties are in disagreement with respect thereto.

Article XXX: Explanation of Terms

In interpreting the provisions of this Agreement the Fund and its members shall be guided by the following provisions:

- (a) The Fund's holdings of a member's currency in the General Resources Account shall include any securities accepted by the Fund under Article III, Section 4.
- (b) Stand-by arrangement means a decision of the Fund by which a member is assured that it will be able to make purchases from the General Resources Account in accordance with the terms of the decision during a specified period and up to a specified amount.
- (c) Reserve tranche purchase means a purchase by a member of special drawing rights or the currency of another member in exchange for its own currency which does not cause the Fund's holdings of the member's currency in the General Resources Account to exceed its quota, provided that for the purposes of this definition the Fund may exclude purchases and holdings under:

Appendix 1. IMF Articles of Agreement

- (i) policies on the use of its general resources for compensatory financing of export fluctuations;
 - (ii) policies on the use of its general resources in connection with the financing of contributions to international buffer stocks of primary products; and
 - (iii) other policies on the use of its general resources in respect of which the Fund decides, by an eighty-five per cent majority of the total voting power, that an exclusion shall be made.
- (d) Payments for current transactions means payments which are not for the purpose of transferring capital, and includes, without limitation:
- (1) all payments due in connection with foreign trade, other current business, including services, and normal short-term banking and credit facilities;
 - (2) payments due as interest on loans and as net income from other investments;
 - (3) payments of moderate amount for amortization of loans or for depreciation of direct investments; and
 - (4) moderate remittances for family living expenses.

The Fund may, after consultation with the members concerned, determine whether certain specific transactions are to be considered current transactions or capital transactions.

- (e) Net cumulative allocation of special drawing rights means the total amount of special drawing rights allocated to a participant less its share of special drawing rights that have been cancelled under Article XVIII, Section 2(a).
- (f) A freely usable currency means a member's currency that the Fund determines
 - (i) is, in fact, widely used to make payments for international transactions, and
 - (ii) is widely traded in the principal exchange markets.
- (g) Members that were members on August 31, 1975 shall be deemed to include a member that accepted membership after that date pursuant to a resolution of the Board of Governors adopted before that date.
- (h) Transactions of the Fund means exchanges of monetary assets by the Fund for other monetary assets. Operations of the Fund means other uses or receipts of monetary assets by the Fund.
- (i) Transactions in special drawing rights means exchanges of special drawing rights for other monetary assets. Operations in special drawing rights means other uses of special drawing rights.

Article XXXI: Final Provisions

SECTION 1. ENTRY INTO FORCE

This Agreement shall enter into force when it has been signed on behalf of governments having sixty-five per cent of the total of the quotas set forth in Schedule A and when the instruments referred to in Section 2(a) of this Article have been deposited on their behalf, but in no event shall this Agreement enter into force before May 1, 1945.

Appendix 1. IMF Articles of Agreement

SECTION 2. SIGNATURE

- (a) Each government on whose behalf this Agreement is signed shall deposit with the Government of the United States of America an instrument setting forth that it has accepted this Agreement in accordance with its law and has taken all steps necessary to enable it to carry out all of its obligations under this Agreement.
- (b) Each country shall become a member of the Fund as from the date of the deposit on its behalf of the instrument referred to in (a) above, except that no country shall become a member before this Agreement enters into force under Section 1 of this Article.
- (c) The Government of the United States of America shall inform the governments of all countries whose names are set forth in Schedule A, and the governments of all countries whose membership is approved in accordance with Article II, Section 2, of all signatures of this Agreement and of the deposit of all instruments referred to in (a) above.
- (d) At the time this Agreement is signed on its behalf, each government shall transmit to the Government of the United States of America one one-hundredth of one per cent of its total subscription in gold or United States dollars for the purpose of meeting administrative expenses of the Fund. The Government of the United States of America shall hold such funds in a special deposit account and shall transmit them to the Board of Governors of the Fund when the initial meeting has been called. If this Agreement has not come into force by December 31, 1945, the Government of the United States of America shall return such funds to the governments that transmitted them.
- (e) This Agreement shall remain open for signature at Washington on behalf of the governments of the countries whose names are set forth in Schedule A until December 31, 1945.
- (f) After December 31, 1945, this Agreement shall be open for signature on behalf of the government of any country whose membership has been approved in accordance with Article II, Section 2.
- (g) By their signature of this Agreement, all governments accept it both on their own behalf and in respect of all their colonies, overseas territories, all territories under their protection, suzerainty, or authority, and all territories in respect of which they exercise a mandate.
- (h) Subsection (d) above shall come into force with regard to each signatory government as from the date of its signature.

[The signature and depositary clause reproduced below followed the text of Article XX in the original Articles of Agreement]

Done at Washington, in a single copy which shall remain deposited in the archives of the Government of the United States of America, which shall transmit certified copies to all governments whose names are set forth in Schedule A and to all governments whose membership is approved in accordance with Article II, Section 2.

Appendix 1. IMF Articles of Agreement

Schedules

Schedule A omitted

Schedule B: Transitional Provisions with Respect to Repurchase, Payment of Additional Subscriptions, Gold, and Certain Operational Matters

1. Repurchase obligations that have accrued pursuant to Article V, Section 7(b) before the date of the second amendment of this Agreement and that remain undischarged at that date shall be discharged not later than the date or dates at which the obligations had to be discharged in accordance with the provisions of this Agreement before the second amendment.
2. A member shall discharge with special drawing rights any obligation to pay gold to the Fund in repurchase or as a subscription that is outstanding at the date of the second amendment of this Agreement, but the Fund may prescribe that these payments may be made in whole or in part in the currencies of other members specified by the Fund. A non-participant shall discharge an obligation that must be paid in special drawing rights pursuant to this provision with the currencies of other members specified by the Fund.
3. For the purposes of 2 above 0.888 671 gram of fine gold shall be equivalent to one special drawing right, and the amount of currency payable under 2 above shall be determined on that basis and on the basis of the value of the currency in terms of the special drawing right at the date of discharge.
4. A member's currency held by the Fund in excess of seventy-five per cent of the member's quota at the date of the second amendment of this Agreement and not subject to repurchase under 1 above shall be repurchased in accordance with the following rules:
 - (i) Holdings that resulted from a purchase shall be repurchased in accordance with the policy on the use of the Fund's general resources under which the purchase was made.
 - (ii) Other holdings shall be repurchased not later than four years after the date of the second amendment of this Agreement.
5. Repurchases under 1 above that are not subject to 2 above, repurchases under 4 above, and any specification of currencies under 2 above shall be in accordance with Article V, Section 7(i).
6. All rules and regulations, rates, procedures, and decisions in effect at the date of the second amendment of this Agreement shall remain in effect until they are changed in accordance with the provisions of this Agreement.
7. To the extent that arrangements equivalent in effect to (a) and (b) below have not been completed before the date of the second amendment of this Agreement, the Fund shall
 - (a) sell up to 25 million ounces of fine gold held by it on August 31, 1975 to those members that were members on that date and that agree to buy it, in proportion to their quotas on that date. The sale to a member under this subparagraph (a) shall be made in exchange for its currency and at a price equivalent at the time of sale to one special drawing right per 0.888 671 gram of fine gold, and

Appendix 1. IMF Articles of Agreement

- (b) sell up to 25 million ounces of fine gold held by it on August 31, 1975 for the benefit of developing members that were members on that date, provided, however, that the part of any profits or surplus value of the gold that corresponds to the proportion of such a member's quota on August 31, 1975 to the total of the quotas of all members on that date shall be transferred directly to each such member. The requirements under Article V, Section 12(c) that the Fund consult a member, obtain a member's concurrence, or exchange a member's currency for the currencies of other members in certain circumstances shall apply with respect to currency received by the Fund as a result of sales of gold under this provision, other than sales to a member in return for its own currency, and placed in the General Resources Account.

Upon the sale of gold under this paragraph 7, an amount of the proceeds in the currencies received equivalent at the time of sale to one special drawing right per 0.888 671 gram of fine gold shall be placed in the General Resources Account and other assets held by the Fund under arrangements pursuant to (b) above shall be held separately from the general resources of the Fund. Assets that remain subject to disposition by the Fund upon termination of arrangements pursuant to (b) above shall be transferred to the Special Disbursement Account.

Schedule C: Par Values

1. The Fund shall notify members that par values may be established for the purposes of this Agreement, in accordance with Article IV, Sections 1, 3, 4, and 5 and this Schedule, in terms of the special drawing right, or in terms of such other common denominator as is prescribed by the Fund. The common denominator shall not be gold or a currency.
2. A member that intends to establish a par value for its currency shall propose a par value to the Fund within a reasonable time after notice is given under 1 above.
3. Any member that does not intend to establish a par value for its currency under 1 above shall consult with the Fund and ensure that its exchange arrangements are consistent with the purposes of the Fund and are adequate to fulfill its obligations under Article IV, Section 1.
4. The Fund shall concur in or object to a proposed par value within a reasonable period after receipt of the proposal. A proposed par value shall not take effect for the purposes of this Agreement if the Fund objects to it, and the member shall be subject to 3 above. The Fund shall not object because of the domestic social or political policies of the member proposing the par value.
5. Each member that has a par value for its currency undertakes to apply appropriate measures consistent with this Agreement in order to ensure that the maximum and the minimum rates for spot exchange transactions taking place within its territories between its currency and the currencies of other members maintaining par values shall not differ from parity by more than four and one-half per cent or by such other margin or margins as the Fund may adopt by an eighty-five per cent majority of the total voting power.

Appendix 1. IMF Articles of Agreement

6. A member shall not propose a change in the par value of its currency except to correct, or prevent the emergence of, a fundamental disequilibrium. A change may be made only on the proposal of the member and only after consultation with the Fund.
7. When a change is proposed, the Fund shall concur in or object to the proposed par value within a reasonable period after receipt of the proposal. The Fund shall concur if it is satisfied that the change is necessary to correct, or prevent the emergence of, a fundamental disequilibrium. The Fund shall not object because of the domestic social or political policies of the member proposing the change. A proposed change in par value shall not take effect for the purposes of this Agreement if the Fund objects to it. If a member changes the par value of its currency despite the objection of the Fund, the member shall be subject to Article XXVI, Section 2. Maintenance of an unrealistic par value by a member shall be discouraged by the Fund.
8. The par value of a member's currency established under this Agreement shall cease to exist for the purposes of this Agreement if the member informs the Fund that it intends to terminate the par value. The Fund may object to the termination of a par value by a decision taken by an eighty-five per cent majority of the total voting power. If a member terminates a par value for its currency despite the objection of the Fund, the member shall be subject to Article XXVI, Section 2. A par value established under this Agreement shall cease to exist for the purposes of this Agreement if the member terminates the par value despite the objection of the Fund, or if the Fund finds that the member does not maintain rates for a substantial volume of exchange transactions in accordance with 5 above, provided that the Fund may not make such finding unless it has consulted the member and given it sixty days notice of the Fund's intention to consider whether to make a finding.
9. If the par value of the currency of a member has ceased to exist under 8 above, the member shall consult with the Fund and ensure that its exchange arrangements are consistent with the purposes of the Fund and are adequate to fulfill its obligations under Article IV, Section 1.
10. A member for whose currency the par value has ceased to exist under 8 above may, at any time, propose a new par value for its currency.
11. Notwithstanding 6 above, the Fund, by a seventy per cent majority of the total voting power, may make uniform proportionate changes in all par values if the special drawing right is the common denominator and the changes will not affect the value of the special drawing right. The par value of a member's currency shall, however, not be changed under this provision if, within seven days after the Fund's action, the member informs the Fund that it does not wish the par value of its currency to be changed by such action.

Schedule D: Council

1.
 - (a) Each member that appoints an Executive Director and each group of members that has the number of votes allotted to them cast by an elected

Appendix 1. IMF Articles of Agreement

Executive Director shall appoint to the Council one Councillor, who shall be a Governor, Minister in the government of a member, or person of comparable rank, and may appoint not more than seven Associates. The Board of Governors may change, by an eighty-five per cent majority of the total voting power, the number of Associates who may be appointed. A Councillor or Associate shall serve until a new appointment is made or until the next regular election of Executive Directors, whichever shall occur sooner.

- (b) Executive Directors, or in their absence their Alternates, and Associates shall be entitled to attend meetings of the Council, unless the Council decides to hold a restricted session. Each member and each group of members that appoints a Councillor shall appoint an Alternate who shall be entitled to attend a meeting of the Council when the Councillor is not present, and shall have full power to act for the Councillor.
- 2.
 - (a) The Council shall supervise the management and adaptation of the international monetary system, including the continuing operation of the adjustment process and developments in global liquidity, and in this connection shall review developments in the transfer of real resources to developing countries.
 - (b) The Council shall consider proposals pursuant to Article XXVIII(a) to amend the Articles of Agreement.
 - 3.
 - (a) The Board of Governors may delegate to the Council authority to exercise any powers of the Board of Governors except the powers conferred directly by this Agreement on the Board of Governors.
 - (b) Each Councillor shall be entitled to cast the number of votes allotted under Article XII, Section 5 to the member or group of members appointing him. A Councillor appointed by a group of members may cast separately the votes allotted to each member in the group. If the number of votes allotted to a member cannot be cast by an Executive Director, the member may make arrangements with a Councillor for casting the number of votes allotted to the member.
 - (c) The Council shall not take any action pursuant to powers delegated by the Board of Governors that is inconsistent with any action taken by the Board of Governors and the Executive Board shall not take any action pursuant to powers delegated by the Board of Governors that is inconsistent with any action taken by either the Board of Governors or the Council.
 - 4. The Council shall select a Councillor as chairman, shall adopt regulations as may be necessary or appropriate to perform its functions, and shall determine any aspect of its procedure. The Council shall hold such meetings as may be provided for by the Council or called by the Executive Board.
 - 5.
 - (a) The Council shall have powers corresponding to those of the Executive Board under the following provisions: Article XII, Section 2(c), (f), (g), and (j); Article XVIII, Section 4(a) and Section 4(c)(iv); Article XXIII, Section 1; and Article XXVII, Section 1(a).

Appendix 1. IMF Articles of Agreement

- (b) For decisions by the Council on matters pertaining exclusively to the Special Drawing Rights Department only Councillors appointed by a member that is a participant or a group of members at least one member of which is a participant shall be entitled to vote. Each of these Councillors shall be entitled to cast the number of votes allotted to the member which is a participant that appointed him or to the members that are participants in the group of members that appointed him, and may cast the votes allotted to a participant with which arrangements have been made pursuant to the last sentence of 3(b) above.
 - (c) The Council may by regulation establish a procedure whereby the Executive Board may obtain a vote of the Councillors on a specific question without a meeting of the Council when in the judgment of the Executive Board an action must be taken by the Council which should not be postponed until the next meeting of the Council and which does not warrant the calling of a special meeting.
 - (d) Article IX, Section 8 shall apply to Councillors, their Alternates, and Associates, and to any other person entitled to attend a meeting of the Council.
 - (e) For the purposes of (b) and 3(b) above, an agreement under Article XII, Section 3(i)(ii) by a member, or by a member that is a participant, shall entitle a Councillor to vote and cast the number of votes allotted to the member.
 - (f) When an Executive Director is entitled to cast the number of votes allotted to a member pursuant to Article XII, Section 3(i)(v), the Councillor appointed by the group whose members elected such Executive Director shall be entitled to vote and cast the number of votes allotted to such member. The member shall be deemed to have participated in the appointment of the Councillor entitled to vote and cast the number of votes allotted to the member.
6. The first sentence of Article XII, Section 2(a) shall be deemed to include a reference to the Council.

Schedule E: Election of Executive Directors

1. The election of the elective Executive Directors shall be by ballot of the Governors eligible to vote.
2. In balloting for the Executive Directors to be elected, each of the Governors eligible to vote shall cast for one person all of the votes to which he is entitled under Article XII, Section 5(a). The fifteen persons receiving the greatest number of votes shall be Executive Directors, provided that no person who received less than four per cent of the total number of votes that can be cast (eligible votes) shall be considered elected.
3. When fifteen persons are not elected in the first ballot, a second ballot shall be held in which there shall vote only (a) those Governors who voted in the first ballot for a person not elected, and (b) those Governors whose votes for a person elected are deemed under 4 below to have raised the votes cast for that person above nine per cent of the eligible votes. If in the second ballot there are

Appendix 1. IMF Articles of Agreement

more candidates than the number of Executive Directors to be elected, the person who received the lowest number of votes in the first ballot shall be ineligible for election.

4. In determining whether the votes cast by a Governor are to be deemed to have raised the total of any person above nine per cent of the eligible votes the nine per cent shall be deemed to include, first, the votes of the Governor casting the largest number of votes for such person, then the votes of the Governor casting the next largest number, and so on until nine per cent is reached.
5. Any Governor part of whose votes must be counted in order to raise the total of any person above four per cent shall be considered as casting all of his votes for such person even if the total votes for such person thereby exceed nine per cent.
6. If, after the second ballot, fifteen persons have not been elected, further ballots shall be held on the same principles until fifteen persons have been elected, provided that after fourteen persons are elected, the fifteenth may be elected by a simple majority of the remaining votes and shall be deemed to have been elected by all such votes.

Schedule F: Designation

During the first basic period the rules for designation shall be as follows:

- (a) Participants subject to designation under Article XIX, Section 5(a)(i) shall be designated for such amounts as will promote over time equality in the ratios of the participants' holdings of special drawing rights in excess of their net cumulative allocations to their official holdings of gold and foreign exchange.
- (b) The formula to give effect to (a) above shall be such that participants subject to designation shall be designated:
 - (i) in proportion to their official holdings of gold and foreign exchange when the ratios described in (a) above are equal; and
 - (ii) in such manner as gradually to reduce the difference between the ratios described in (a) above that are low and the ratios that are high.

Schedule G: Reconstitution

1. During the first basic period the rules for reconstitution shall be as follows:
 - (a)
 - (i) A participant shall so use and reconstitute its holdings of special drawing rights that, five years after the first allocation and at the end of each calendar quarter thereafter, the average of its total daily holdings of special drawing rights over the most recent five-year period will be not less than thirty per cent of the average of its daily net cumulative allocation of special drawing rights over the same period.
 - (ii) Two years after the first allocation and at the end of each calendar month thereafter the Fund shall make calculations for each participant so as to ascertain whether and to what extent the participant would need

Appendix 1. IMF Articles of Agreement

to acquire special drawing rights between the date of the calculation and the end of any five-year period in order to comply with the requirement in (a)(i) above. The Fund shall adopt regulations with respect to the bases on which these calculations shall be made and with respect to the timing of the designation of participants under Article XIX, Section 5(a)(ii), in order to assist them to comply with the requirement in (a)(i) above.

- (iii) The Fund shall give special notice to a participant when the calculations under (a)(ii) above indicate that it is unlikely that the participant will be able to comply with the requirement in (a)(i) above unless it ceases to use special drawing rights for the rest of the period for which the calculation was made under (a)(ii) above.
 - (iv) A participant that needs to acquire special drawing rights to fulfill this obligation shall be obligated and entitled to obtain them, for currency acceptable to the Fund, in a transaction with the Fund conducted through the General Resources Account. If sufficient special drawing rights to fulfill this obligation cannot be obtained in this way, the participant shall be obligated and entitled to obtain them with a freely usable currency from a participant which the Fund shall specify.
 - (b) Participants shall also pay due regard to the desirability of pursuing over time a balanced relationship between their holdings of special drawing rights and their other reserves.
2. If a participant fails to comply with the rules for reconstitution, the Fund shall determine whether or not the circumstances justify suspension under Article XXIII, Section 2(b).

Schedule H: Termination of Participation

1. If the obligation remaining after the setoff under Article XXIV, Section 2(b) is to the terminating participant and agreement on settlement between the Fund and the terminating participant is not reached within six months of the date of termination, the Fund shall redeem this balance of special drawing rights in equal half-yearly installments within a maximum of five years of the date of termination. The Fund shall redeem this balance as it may determine, either (a) by the payment to the terminating participant of the amounts provided by the remaining participants to the Fund in accordance with Article XXIV, Section 5, or (b) by permitting the terminating participant to use its special drawing rights to obtain its own currency or a freely usable currency from a participant specified by the Fund, the General Resources Account, or any other holder.
2. If the obligation remaining after the setoff under Article XXIV, Section 2(b) is to the Fund and agreement on settlement is not reached within six months of the date of termination, the terminating participant shall discharge this obligation in equal half-yearly installments within three years of the date of termination or within such longer period as may be fixed by the Fund. The terminating participant shall discharge this obligation, as the Fund may determine, either (a)

Appendix 1. IMF Articles of Agreement

by the payment to the Fund of a freely usable currency, or (b) by obtaining special drawing rights, in accordance with Article XXIV, Section 6, from the General Resources Account or in agreement with a participant specified by the Fund or from any other holder, and the setoff of these special drawing rights against the installment due.

3. Installments under either 1 or 2 above shall fall due six months after the date of termination and at intervals of six months thereafter.
4. In the event of the Special Drawing Rights Department going into liquidation under Article XXV within six months of the date a participant terminates its participation, the settlement between the Fund and that government shall be made in accordance with Article XXV and Schedule I.

Schedule I: Administration of Liquidation of the Special Drawing Rights Department

1. In the event of liquidation of the Special Drawing Rights Department, participants shall discharge their obligations to the Fund in ten half-yearly installments, or in such longer period as the Fund may decide is needed, in a freely usable currency and the currencies of participants holding special drawing rights to be redeemed in any installment to the extent of such redemption, as determined by the Fund. The first half-yearly payment shall be made six months after the decision to liquidate the Special Drawing Rights Department.
2. If it is decided to liquidate the Fund within six months of the date of the decision to liquidate the Special Drawing Rights Department, the liquidation of the Special Drawing Rights Department shall not proceed until special drawing rights held in the General Resources Account have been distributed in accordance with the following rule:

After the distributions made under 2(a) and (b) of Schedule K, the Fund shall apportion its special drawing rights held in the General Resources Account among all members that are participants in proportion to the amounts due to each participant after the distribution under 2(b). To determine the amount due to each member for the purpose of apportioning the remainder of its holdings of each currency under 2(d) of Schedule K, the Fund shall deduct the distribution of special drawing rights made under this rule.

3. With the amounts received under 1 above, the Fund shall redeem special drawing rights held by holders in the following manner and order:
 - (a) Special drawing rights held by governments that have terminated their participation more than six months before the date the Board of Governors decides to liquidate the Special Drawing Rights Department shall be redeemed in accordance with the terms of any agreement under Article XXIV or Schedule H.
 - (b) Special drawing rights held by holders that are not participants shall be redeemed before those held by participants, and shall be redeemed in proportion to the amount held by each holder.
 - (c) The Fund shall determine the proportion of special drawing rights held by each participant in relation to its net cumulative allocation. The Fund shall

Appendix 1. IMF Articles of Agreement

first redeem special drawing rights from the participants with the highest proportion until this proportion is reduced to that of the second highest proportion; the Fund shall then redeem the special drawing rights held by these participants in accordance with their net cumulative allocations until the proportions are reduced to that of the third highest proportion; and this process shall be continued until the amount available for redemption is exhausted.

4. Any amount that a participant will be entitled to receive in redemption under 3 above shall be set off against any amount to be paid under 1 above.
5. During liquidation the Fund shall pay interest on the amount of special drawing rights held by holders, and each participant shall pay charges on the net cumulative allocation of special drawing rights to it less the amount of any payments made in accordance with 1 above. The rates of interest and charges and the time of payment shall be determined by the Fund. Payments of interest and charges shall be made in special drawing rights to the extent possible. A participant that does not hold sufficient special drawing rights to meet any charges shall make the payment with a currency specified by the Fund. Special drawing rights received as charges in amounts needed for administrative expenses shall not be used for the payment of interest, but shall be transferred to the Fund and shall be redeemed first and with the currencies used by the Fund to meet its expenses.
6. While a participant is in default with respect to any payment required by 1 or 5 above, no amounts shall be paid to it in accordance with 3 or 5 above.
7. If after the final payments have been made to participants each participant not in default does not hold special drawing rights in the same proportion to its net cumulative allocation, those participants holding a lower proportion shall purchase from those holding a higher proportion such amounts in accordance with arrangements made by the Fund as will make the proportion of their holdings of special drawing rights the same. Each participant in default shall pay to the Fund its own currency in an amount equal to its default. The Fund shall apportion this currency and residual claims among participants in proportion to the amount of special drawing rights held by each and these special drawing rights shall be cancelled. The Fund shall then close the books of the Special Drawing Rights Department and all of the Fund's liabilities arising from the allocations of special drawing rights and the administration of the Special Drawing Rights Department shall cease.
8. Each participant whose currency is distributed to other participants under this Schedule guarantees the unrestricted use of such currency at all times for the purchase of goods or for payments of sums due to it or to persons in its territories. Each participant so obligated agrees to compensate other participants for any loss resulting from the difference between the value at which the Fund distributed its currency under this Schedule and the value realized by such participants on disposal of its currency.

Appendix 1. IMF Articles of Agreement

Schedule J: Settlement of Accounts with Members Withdrawing

1. The settlement of accounts with respect to the General Resources Account shall be made according to 1 to 6 of this Schedule. The Fund shall be obligated to pay to a member withdrawing an amount equal to its quota, plus any other amounts due to it from the Fund, less any amounts due to the Fund, including charges accruing after the date of its withdrawal; but no payment shall be made until six months after the date of withdrawal. Payments shall be made in the currency of the withdrawing member, and for this purpose the Fund may transfer to the General Resources Account holdings of the member's currency in the Special Disbursement Account or in the Investment Account in exchange for an equivalent amount of the currencies of other members in the General Resources Account selected by the Fund with their concurrence.
2. If the Fund's holdings of the currency of the withdrawing member are not sufficient to pay the net amount due from the Fund, the balance shall be paid in a freely usable currency, or in such other manner as may be agreed. If the Fund and the withdrawing member do not reach agreement within six months of the date of withdrawal, the currency in question held by the Fund shall be paid forthwith to the withdrawing member. Any balance due shall be paid in ten half-yearly installments during the ensuing five years. Each such installment shall be paid, at the option of the Fund, either in the currency of the withdrawing member acquired after its withdrawal or in a freely usable currency.
3. If the Fund fails to meet any installment which is due in accordance with the preceding paragraphs, the withdrawing member shall be entitled to require the Fund to pay the installment in any currency held by the Fund with the exception of any currency which has been declared scarce under Article VII, Section 3.
4. If the Fund's holdings of the currency of a withdrawing member exceed the amount due to it, and if agreement on the method of settling accounts is not reached within six months of the date of withdrawal, the former member shall be obligated to redeem such excess currency in a freely usable currency. Redemption shall be made at the rates at which the Fund would sell such currencies at the time of withdrawal from the Fund. The withdrawing member shall complete redemption within five years of the date of withdrawal, or within such longer period as may be fixed by the Fund, but shall not be required to redeem in any half-yearly period more than one-tenth of the Fund's excess holdings of its currency at the date of withdrawal plus further acquisitions of the currency during such half-yearly period. If the withdrawing member does not fulfill this obligation, the Fund may in an orderly manner liquidate in any market the amount of currency which should have been redeemed.
5. Any member desiring to obtain the currency of a member which has withdrawn shall acquire it by purchase from the Fund, to the extent that such member has access to the general resources of the Fund and that such currency is available under 4 above.

Appendix 1. IMF Articles of Agreement

6. The withdrawing member guarantees the unrestricted use at all times of the currency disposed of under 4 and 5 above for the purchase of goods or for payment of sums due to it or to persons within its territories. It shall compensate the Fund for any loss resulting from the difference between the value of its currency in terms of the special drawing right on the date of withdrawal and the value realized in terms of the special drawing right by the Fund on disposal under 4 and 5 above.
7. If the withdrawing member is indebted to the Fund as the result of transactions conducted through the Special Disbursement Account under Article V, Section 12(f)(ii), the indebtedness shall be discharged in accordance with the terms of the indebtedness.
8. If the Fund holds the withdrawing member's currency in the Special Disbursement Account or in the Investment Account, the Fund may in an orderly manner exchange in any market for the currencies of members the amount of the currency of the withdrawing member remaining in each account after use under 1 above, and the proceeds of the exchange of the amount in each account shall be kept in that account. Paragraph 5 above and the first sentence of 6 above shall apply to the withdrawing member's currency.
9. If the Fund holds obligations of the withdrawing member in the Special Disbursement Account pursuant to Article V, Section 12(h), or in the Investment Account, the Fund may hold them until the date of maturity or dispose of them sooner. Paragraph 8 above shall apply to the proceeds of such disinvestment.
10. In the event of the Fund going into liquidation under Article XXVII, Section 2 within six months of the date on which the member withdraws, the accounts between the Fund and that government shall be settled in accordance with Article XXVII, Section 2 and Schedule K.

Schedule K: Administration of Liquidation

1. In the event of liquidation the liabilities of the Fund other than the repayment of subscriptions shall have priority in the distribution of the assets of the Fund. In meeting each such liability the Fund shall use its assets in the following order:
 - (a) the currency in which the liability is payable;
 - (b) gold;
 - (c) all other currencies in proportion, so far as may be practicable, to the quotas of the members.
2. After the discharge of the Fund's liabilities in accordance with 1 above, the balance of the Fund's assets shall be distributed and apportioned as follows:
 - (a)
 - (i) The Fund shall calculate the value of gold held on August 31, 1975 that it continues to hold on the date of the decision to liquidate. The calculation shall be made in accordance with 9 below and also on the basis of one special drawing right per 0.888 671 gram of fine gold on the date of liquidation. Gold equivalent to the excess of the former

Appendix 1. IMF Articles of Agreement

value over the latter shall be distributed to those members that were members on August 31, 1975 in proportion to their quotas on that date.

- (ii) The Fund shall distribute any assets held in the Special Disbursement Account on the date of the decision to liquidate to those members that were members on August 31, 1975 in proportion to their quotas on that date. Each type of asset shall be distributed proportionately to members.
 - (b) The Fund shall distribute its remaining holdings of gold among the members whose currencies are held by the Fund in amounts less than their quotas in the proportions, but not in excess of, the amounts by which their quotas exceed the Fund's holdings of their currencies.
 - (c) The Fund shall distribute to each member one-half the Fund's holdings of its currency but such distribution shall not exceed fifty per cent of its quota.
 - (d) The Fund shall apportion the remainder of its holdings of gold and each currency
 - (i) among all members in proportion to, but not in excess of, the amounts due to each member after the distributions under (b) and (c) above, provided that distribution under 2(a) above shall not be taken into account for determining the amounts due, and
 - (ii) any excess holdings of gold and currency among all the members in proportion to their quotas.
3. Each member shall redeem the holdings of its currency apportioned to other members under 2(d) above, and shall agree with the Fund within three months after a decision to liquidate upon an orderly procedure for such redemption.
 4. If a member has not reached agreement with the Fund within the three-month period referred to in 3 above, the Fund shall use the currencies of other members apportioned to that member under 2(d) above to redeem the currency of that member apportioned to other members. Each currency apportioned to a member which has not reached agreement shall be used, so far as possible, to redeem its currency apportioned to the members which have made agreements with the Fund under 3 above.
 5. If a member has reached agreement with the Fund in accordance with 3 above, the Fund shall use the currencies of other members apportioned to that member under 2(d) above to redeem the currency of that member apportioned to other members which have made agreements with the Fund under 3 above. Each amount so redeemed shall be redeemed in the currency of the member to which it was apportioned.
 6. After carrying out the steps in the preceding paragraphs, the Fund shall pay to each member the remaining currencies held for its account.
 7. Each member whose currency has been distributed to other members under 6 above shall redeem such currency in the currency of the member requesting redemption, or in such other manner as may be agreed between them. If the members involved do not otherwise agree, the member obligated to redeem shall complete redemption within five years of the date of distribution, but shall not be required to redeem in any half-yearly period more than one-tenth of the

Appendix 1. IMF Articles of Agreement

amount distributed to each other member. If the member does not fulfill this obligation, the amount of currency which should have been redeemed may be liquidated in an orderly manner in any market.

8. Each member whose currency has been distributed to other members under 6 above guarantees the unrestricted use of such currency at all times for the purchase of goods or for payment of sums due to it or to persons in its territories. Each member so obligated agrees to compensate other members for any loss resulting from the difference between the value of its currency in terms of the special drawing right on the date of the decision to liquidate the Fund and the value in terms of the special drawing right realized by such members on disposal of its currency.
9. The Fund shall determine the value of gold under this Schedule on the basis of prices in the market.
10. For the purposes of this Schedule, quotas shall be deemed to have been increased to the full extent to which they could have been increased in accordance with Article III, Section 2(b) of this Agreement.

Schedule L: Suspension of Voting Rights

In the case of a suspension of voting rights of a member under Article XXVI, Section 2(b), the following provisions shall apply:

1. The member shall not:
 - (a) participate in the adoption of a proposed amendment of this Agreement, or be counted in the total number of members for that purpose, except in the case of an amendment requiring acceptance by all members under Article XXVIII(b) or pertaining exclusively to the Special Drawing Rights Department;
 - (b) appoint a Governor or Alternate Governor, appoint or participate in the appointment of a Councillor or Alternate Councillor, or appoint, elect, or participate in the election of an Executive Director.
2. The number of votes allotted to the member shall not be cast in any organ of the Fund. They shall not be included in the calculation of the total voting power, except for purposes of: (a) the acceptance of a proposed amendment pertaining exclusively to the Special Drawing Rights Department and (b) the calculation of basic votes pursuant to Article XII, Section 5(a)(i).
3.
 - (a) The Governor and Alternate Governor appointed by the member shall cease to hold office.
 - (b) The Councillor and Alternate Councillor appointed by the member, or in whose appointment the member has participated, shall cease to hold office, provided that, if such Councillor was entitled to cast the number of votes allotted to other members whose voting rights have not been suspended, another Councillor and Alternate Councillor shall be appointed by such other members under Schedule D, and, pending such appointment, the Councillor and Alternate Councillor shall continue to hold office, but for a maximum of thirty days from the date of suspension.

Appendix 1. IMF Articles of Agreement

- (c) The Executive Director appointed or elected by the member, or in whose election the member has participated, shall cease to hold office, unless such Executive Director was entitled to cast the number of votes allotted to other members whose voting rights have not been suspended. In the latter case:
 - (i) if more than ninety days remain before the next regular election of Executive Directors, another Executive Director shall be elected for the remainder of the term by such other members by a majority of the votes cast; pending such election, the Executive Director shall continue to hold office, but for a maximum of thirty days from the date of suspension;
 - (ii) if not more than ninety days remain before the next regular election of Executive Directors, the Executive Director shall continue to hold office for the remainder of the term.
- 4. The member shall be entitled to send a representative to attend any meeting of the Board of Governors, the Council, or the Executive Board, but not any meeting of their committees, when a request made by, or a matter particularly affecting, the member is under consideration.

Schedule M: Special One-Time Allocation of Special Drawing Rights

- 1. Subject to 4 below, each member that, as of September 19, 1997, is a participant in the Special Drawing Rights Department shall, on the 30th day following the effective date of the fourth amendment of this Agreement, receive an allocation of special drawing rights in an amount that will result in its net cumulative allocation of special drawing rights being equal to 29.315788813 per cent of its quota as of September 19, 1997, provided that, for participants whose quotas have not been adjusted as proposed in Resolution No. 45-2 of the Board of Governors, calculations shall be made on the basis of the quotas proposed in that resolution.
- 2.
 - (a) Subject to 4 below, each country that becomes a participant in the Special Drawing Rights Department after September 19, 1997 but within three months of the date of its membership in the Fund shall receive an allocation of special drawing rights in an amount calculated in accordance with (b) and (c) below on the 30th day following the later of: (i) the date on which the new member becomes a participant in the Special Drawing Rights Department, or (ii) the effective date of the fourth amendment of this Agreement.
 - (b) For the purposes of (a) above, each participant shall receive an amount of special drawing rights that will result in such participant's net cumulative allocation being equal to 29.315788813 per cent of its quota as of the date on which the member becomes a participant in the Special Drawing Rights Department, as adjusted:
 - (i) first, by multiplying 29.315788813 per cent by the ratio of the total of quotas, as calculated under 1 above, of the participants described in (c) below to the total of quotas of such participants as of the date on which

Appendix 1. IMF Articles of Agreement

- the member became a participant in the Special Drawing Rights Department, and
- (ii) second, by multiplying the product of (i) above by the ratio of the total of the sum of the net cumulative allocations of special drawing rights received under Article XVIII of the participants described in (c) below as of the date on which the member became a participant in the Special Drawing Rights Department and the allocations received by such participants under 1 above to the total of the sum of the net cumulative allocations of special drawing rights received under Article XVIII of such participants as of September 19, 1997 and the allocations received by such participants under 1 above.
 - (c) For the purposes of the adjustments to be made under (b) above, the participants in the Special Drawing Rights Department shall be members that are participants as of September 19, 1997 and (i) continue to be participants in the Special Drawing Rights Department as of the date on which the member became a participant in the Special Drawing Rights Department, and (ii) have received all allocations made by the Fund after September 19, 1997.
- 3.
- (a) Subject to 4 below, if the Federal Republic of Yugoslavia (Serbia/Montenegro) succeeds to the membership in the Fund and the participation in the Special Drawing Rights Department of the former Socialist Federal Republic of Yugoslavia in accordance with the terms and conditions of Executive Board Decision No. 10237-(92/150), adopted December 14, 1992, it shall receive an allocation of special drawing rights in an amount calculated in accordance with (b) below on the 30th day following the later of: (i) the date on which the Federal Republic of Yugoslavia (Serbia/Montenegro) succeeds to membership in the Fund and participation in the Special Drawing Rights Department in accordance with the terms and conditions of Executive Board Decision No. 10237-(92/150), or (ii) the effective date of the fourth amendment of this Agreement.
 - (b) For the purposes of (a) above, the Federal Republic of Yugoslavia (Serbia/Montenegro) shall receive an amount of special drawing rights that will result in its net cumulative allocation being equal to 29.315788813 per cent of the quota proposed to it under paragraph 3(c) of Executive Board Decision No. 10237-(92/150), as adjusted in accordance with 2(b)(ii) and (c) above as of the date on which the Federal Republic of Yugoslavia (Serbia/Montenegro) qualifies for an allocation under (a) above.
4. The Fund shall not allocate special drawing rights under this Schedule to those participants that have notified the Fund in writing prior to the date of the allocation of their desire not to receive the allocation.
- 5.
- (a) If, at the time an allocation is made to a participant under 1, 2, or 3 above, the participant has overdue obligations to the Fund, the special drawing rights so allocated shall be deposited and held in an escrow account within the Special Drawing Rights Department and shall be released to the participant upon discharge of all its overdue obligations to the Fund.

Appendix 1. IMF Articles of Agreement

- (b) Special drawing rights being held in an escrow account shall not be available for any use and shall not be included in any calculations of allocations or holdings of special drawing rights for the purposes of the Articles, except for calculations under this Schedule. If special drawing rights allocated to a participant are held in an escrow account when the participant terminates its participation in the Special Drawing Rights Department or when it is decided to liquidate the Special Drawing Rights Department, such special drawing rights shall be canceled.
- (c) For purposes of this paragraph, overdue obligations to the Fund consist of overdue repurchases and charges in the General Resources Account, overdue principal and interest on loans in the Special Disbursement Account, overdue charges and assessments in the Special Drawing Rights Department, and overdue liabilities to the Fund as trustee.
- (d) Except for the provisions of this paragraph, the principle of separation between the General Department and the Special Drawing Rights Department and the unconditional character of special drawing rights as reserve assets shall be maintained.

Appendix 2. Bilateral and Multilateral Surveillance Executive Board Decision – July 18, 2012

Preamble

Since the adoption in 2007 of the Decision entitled “Bilateral Surveillance over Members’ Policies” (the “2007 Decision”), there have been significant developments in the global economy that have highlighted the extent of trade and financial interconnections and integration and the potential benefits and risks of spillovers across national borders. In light of these developments and in recognition of the increasingly important international dimensions of surveillance and of cross-country spillovers, the Fund is of the view that better integrating bilateral and multilateral surveillance, including through the adoption of an integrated surveillance decision covering both responsibilities, would play an important role in providing guidance to both the Fund and its members regarding their mutual responsibilities under Article IV. The Fund emphasizes that the guidance being provided to members in this Decision relates to the performance of their existing obligations under Article IV; no new obligations are created for members by this Decision. Moreover, the Fund recognizes that members have legitimate policy objectives, including domestic social and political policy objectives, that are beyond the scope of Article IV and, accordingly, beyond the scope of this Decision, although when adopting policies to achieve these objectives, members need to ensure that such policies are consistent with their obligations under Article IV. They are also encouraged to be mindful of the impact of such policies on the international monetary system.

This Decision does not, and cannot be construed or used to, expand or broaden the scope—or change the nature—of members’ obligations under the Articles of Agreement, directly or indirectly, including the obligations set out in Articles IV, VI and VIII. Part I of this Decision is designed to give guidance to the Fund in its conduct of bilateral and multilateral surveillance. The principles for the guidance of members set forth in Part II of this Decision regarding their exchange rate and domestic economic and financial policies respect the domestic social and political policies of members and will be applied in a manner that pays due regard to the circumstances of members, and the need for evenhandedness in the practice of surveillance. Moreover, the Principle for the guidance of members’ domestic economic and financial policies recognizes that the obligations of members governing such policies under Article IV Section 1 are of a best efforts nature. Finally, looking forward, flexibility will be maintained to allow for the continued evolution of surveillance.

Appendix 2. Integrated Surveillance Decision 2012

1. This Decision provides guidance to the Fund in:

- (a) its general oversight over members' exchange rate and domestic policies pursuant to Article IV, Sections 3 (a) and its firm surveillance over the exchange rate policies of members pursuant to Article IV, Sections 3 (b), (hereinafter referred to as "bilateral surveillance"); and;
- (b) the exercise of its responsibility to oversee the international monetary system in order to ensure its effective operation pursuant to Article IV, Section 3 (a) (hereinafter referred to as "multilateral" surveillance).

This Decision also provides guidance to members in the conduct of their domestic economic and financial policies and their exchange rate policies.

2. Part I of this Decision sets out the scope and modalities of bilateral and multilateral surveillance. Part II establishes principles for the guidance of members in the conduct of their exchange rate policies and their domestic economic and financial policies for the purposes of ensuring compliance with their obligations under Article IV, Section 1; it also identifies certain developments which, in the Fund's assessment of a member's observance of the principles, would require thorough review and might indicate the need for discussion with the member. Beyond members' obligations under Article IV, Section 1, Part II also encourages members to consider the effects of their policies on the effective operation of the international monetary system. Part III sets out procedures for surveillance. Part IV makes provision for a review of this decision.

3. Fund surveillance over members' policies and over the international monetary system shall be adapted to the needs of the international monetary and financial system as they develop. The principles and procedures set out in this Decision, which apply to all members irrespective of their exchange arrangements and balance of payments positions, are not necessarily comprehensive and are subject to reconsideration by the Fund in the light of experience.

PART I - PRINCIPLES FOR THE GUIDANCE OF THE FUND IN ITS SURVEILLANCE

A. The Scope of Surveillance

4. Article IV, Section 3 requires the Fund to conduct both bilateral and multilateral surveillance. While these responsibilities are legally distinct, it is recognized that bilateral and multilateral surveillance are mutually supportive and reinforcing and, accordingly, need to be operationally integrated.

(i) Bilateral Surveillance

5. The scope of bilateral surveillance is determined by members' obligations under Article IV, Section 1. Members undertake under Article IV, Section 1 to collaborate

Appendix 2. Integrated Surveillance Decision 2012

with the Fund and other members to assure orderly exchange arrangements and to promote a stable system of exchange rates (hereinafter “systemic stability”). Systemic stability is most effectively achieved by each member adopting policies that promote its own balance of payments stability and domestic stability—that is, policies that are consistent with members’ obligations under Article IV, Section 1 and, in particular, the specific obligations set forth in Article IV, Section 1, (i) through (iv). “Balance of payments stability” refers to a balance of payments position that does not, and is not likely to, give rise to disruptive exchange rate movements. Except as provided in paragraph 8 below, balance of payments stability is assessed at the level of each member.

6. In its bilateral surveillance, the Fund will focus on those policies of members that can significantly influence present or prospective balance of payments and domestic stability. The Fund will assess whether exchange rate policies are promoting balance of payments stability and whether domestic economic and financial policies are promoting domestic stability and advise the member on policy adjustments necessary for these purposes. Accordingly, exchange rate policies will always be the subject of the Fund’s bilateral surveillance with respect to each member, as will monetary, fiscal, and financial sector policies (both their macroeconomic aspects and macroeconomically relevant structural aspects). Other policies will be examined in the context of surveillance only to the extent that they significantly influence present or prospective balance of payments or domestic stability.

7. In the conduct of their domestic economic and financial policies, members are considered by the Fund to be promoting balance of payments stability when they are promoting domestic stability—that is, when they (i) endeavor to direct their domestic economic and financial policies toward the objective of fostering orderly economic growth with reasonable price stability, with due regard to their circumstances, and (ii) seek to promote stability by fostering orderly underlying economic and financial conditions and a monetary system that does not tend to produce erratic disruptions. It is recognized that there may be circumstances where a member’s domestic instability may give rise to systemic instability even in the absence of balance of payments instability. The Fund in its surveillance will assess whether a member’s domestic policies are directed toward the promotion of domestic stability. While the Fund will always examine whether a member’s domestic policies are directed toward keeping the member’s economy operating broadly at capacity, the Fund will examine whether domestic policies are directed toward fostering a high rate of potential growth only in those cases where such high potential growth significantly influences prospects for domestic, and thereby balance of payments, stability. However, the Fund will not require a member that is complying with Article IV, Sections 1(i) and (ii) to change its domestic policies in the interests of balance of payments stability.

8. This Decision applies to members of currency unions, subject to the following considerations. Members of currency unions remain subject to all of their obligations under Article IV, Section 1 and, accordingly, each member is accountable for

Appendix 2. Integrated Surveillance Decision 2012

those policies that are conducted by union-level institutions on its behalf. In its surveillance over the policies of members of a currency union, the Fund will assess whether relevant policies implemented at the level of the currency union (including exchange rate and monetary policies) and at the level of members are promoting the balance of payments and domestic stability of the union and will advise on policy adjustments necessary for this purpose. In particular, the Fund will assess whether the exchange rate policies of the union are promoting its balance of payments stability, and whether domestic policies implemented at the level of the union are promoting the domestic, and thereby balance of payments, stability of the union. Because, in a currency union, exchange rate policies are implemented at the level of the union, the principles for the guidance of members' exchange rate policies and the associated indicators set out in paragraphs 21 and 22 of this Decision only apply at the level of the currency union. With respect to the conduct of domestic policies implemented at the level of individual members, the Fund will assess whether a member of a currency union is promoting its own domestic stability and will consider the member to be promoting the balance of payments and domestic stability of the union when it is promoting its own domestic stability. In view of the importance of individual members' balances of payments for the domestic stability of the member and the balance of payments and domestic stability of the union, the Fund's assessment of the policies of a member of a currency union will always include an evaluation of developments in the member's own balance of payments.

(ii) Multilateral Surveillance

9. The scope of multilateral surveillance is determined by the obligation of the Fund under Article IV Section 3 (a) to oversee the international monetary system in order to ensure its effective operation. In the context of multilateral surveillance, the Fund may not and will not require a member to change its policies in the interests of the effective operation of the international monetary system. It may, however, discuss the impact of members' policies on the effective operation of the international monetary system and may suggest alternative policies that, while promoting the member's own stability, better promote the effective operation of the international monetary system.

10. The international monetary system includes, in particular: (a) the rules governing exchange arrangements between countries and the rates at which foreign exchange is purchased and sold; (b) the rules governing the making of payments and transfers for current international transactions between countries; (c) the arrangements respecting the regulation of international capital movements; and (d) the arrangements under which international reserves are held, including official arrangements through which countries have access to liquidity through purchases from the Fund or under official currency swap arrangements.

11. The international monetary system is considered to be operating effectively when the areas it governs do not exhibit symptoms of malfunction such as, for example, persistent significant current account imbalances, an unstable system of exchange rates including foreign exchange rate misalignment, volatile capital flows,

Appendix 2. Integrated Surveillance Decision 2012

the excessive build up or depletion of reserves, or imbalances arising from excessive or insufficient global liquidity. It is recognized that, typically, the international monetary system may only operate effectively in an environment of global economic and financial stability, and that its effective operation contributes to such stability. Both global economic and financial stability and the effective operation of the international monetary system may be affected by, among other factors, members' own balance of payments and domestic stability, economic and financial interconnections among members' economies and potential spillovers from members' economic and financial policies through balance of payments and other channels.

12. Therefore, in its multilateral surveillance, the Fund will focus on issues that may affect the effective operation of the international monetary system, including (a) global economic and financial developments and the outlook for the global economy, including risks to global economic and financial stability, and (b) the spillovers arising from policies of individual members that may significantly influence the effective operation of the international monetary system, for example by undermining global economic and financial stability. The policies of members that may be relevant for this purpose include exchange rate, monetary, fiscal, and financial sector policies and policies respecting capital flows.

B. The Modalities of Surveillance

13. The Fund's assessment of an individual member's policies and its advice to a member in the context of surveillance will be conducted in a manner that is consistent with the following modalities. Except where they are expressly limited in their application to bilateral surveillance, these modalities shall apply to policy discussions between the Fund and individual members whether they take place in the context of bilateral or multilateral surveillance.

14. Continuous dialogue and persuasion are key pillars of effective surveillance. The Fund, in its surveillance over the policies of individual members, will clearly and candidly assess relevant economic developments, prospects, risks, and policies of the member in question, and advise on these. Such assessments, advice and discussion of alternative policies are intended to assist that member in making policy choices, and to enable other members to discuss these policy choices with that member. The Fund will foster an environment of frank and open dialogue and mutual trust with each member and will be evenhanded across members, affording similar treatment to members in similar relevant circumstances.

15. The Fund's assessment of a member's policies and its advice on these policies will pay due regard to the circumstances of the member. This assessment and advice will be formulated within the framework of a comprehensive analysis of the general economic situation and economic policy strategy of the member, and will pay due regard to the member's implementation capacity. Moreover, in advising members on the manner in which they may promote their balance of payments and domestic stability and the effective operation of the international monetary system, the Fund

Appendix 2. Integrated Surveillance Decision 2012

shall, to the extent permitted under Article IV, take into account the member's other objectives and shall respect its domestic social and political policies.

16. The Fund's assessment of a member's policies and its advice to the member will be informed by, and be consistent with, a multilateral framework that incorporates relevant aspects of the global and regional economic and financial environment, including exchange rates, international capital market conditions, and key linkages among members. In the context of bilateral surveillance, the Fund's assessment and advice will take into account the impact of a member's policies on other members to the extent that the member's policies undermine the promotion of its own balance of payments or domestic stability.

17. The Fund's assessment of a member's policies and its advice to a member will, to the extent possible, be placed in the context of an examination of the member's medium-term objectives and the planned conduct of policies, including possible responses to the most relevant contingencies.

18. The Fund's assessment of a member's policies will always include an evaluation of the developments in the member's balance of payments, including the size and sustainability of capital flows, against the background of its reserves, the size and composition of its other external assets and its external liabilities, and its opportunities for access to international capital markets.

PART II - PRINCIPLES FOR THE GUIDANCE OF MEMBERS' POLICIES

19. It is recognized that a member's overall mix of economic and financial policies, including both exchange rate and domestic policies, contributes to the members' balance of payments stability and domestic stability and may impact the stability of the international monetary system. Set out below are (i) principles that are adopted for the purposes of bilateral surveillance and that provide guidance to members in the conduct of their exchange rate policies and their domestic economic and financial policies; and (ii) guidance that is adopted for the purpose of multilateral surveillance and that provides encouragement to members in the conduct of economic and financial policies with a view to ensuring the effective operation of the international monetary system.

(i) Bilateral Surveillance

20. Principles A through D below are adopted pursuant to Article IV, Section 3 (b) and are intended to provide guidance to members in the conduct of their exchange rate policies in accordance with their obligations under Article IV, Section 1. Principle E is adopted pursuant to Article IV, Section 1 and is intended to provide guidance to members in the conduct of their domestic economic and financial policies. The Fund recognizes that members have legitimate policy objectives, including domestic social and political policy objectives that are beyond the scope of Article IV and accordingly beyond the scope of this Decision. The Principles set out in

Appendix 2. Integrated Surveillance Decision 2012

paragraph 21 of this Decision respect the domestic social and political policies of members. The Fund will apply these Principles evenhandedly and pay due regard to the circumstances of members. Members are presumed to be implementing policies that are consistent with the Principles. When, in the context of surveillance, a question arises as to whether a particular member is implementing policies consistent with the Principles, the Fund will give the member the benefit of any reasonable doubt, including with respect to an assessment of fundamental exchange rate misalignment. In circumstances where the Fund has determined that a member is implementing policies that are not consistent with these Principles and is informing the member as to what policy adjustments should be made to address this situation, the Fund will take into consideration the disruptive impact that excessively rapid adjustment would have on the member's economy.

21. Principle A sets forth the obligation contained in Article IV, Section 1(iii); further guidance on its meaning is provided in the Annex to this Decision. Principles B through E constitute recommendations rather than obligations of members. A determination by the Fund that a member is not following one of these recommendations would not create a presumption that that member is in breach of its obligations under Article IV, Section 1.

A. A member shall avoid manipulating exchange rates or the international monetary system in order to prevent effective balance of payments adjustment or to gain an unfair competitive advantage over other members.

B. A member should intervene in the exchange market if necessary to counter disorderly conditions, which may be characterized *inter alia* by disruptive short-term movements in the exchange rate of its currency.

C. Members should take into account in their intervention policies the interests of other members, including those of the countries in whose currencies they intervene.

D. A member should avoid exchange rate policies that result in balance of payments instability.

E. A member should seek to avoid domestic economic and financial policies that give rise to domestic instability.

22. In its surveillance of the observance by members of the Principles set forth above, the Fund shall consider the following developments as among those which would require thorough review and might indicate the need for discussion with a member:

- (i) protracted large-scale intervention in one direction in the exchange market;
- (ii) official or quasi-official borrowing that either is unsustainable or brings unduly high liquidity risks, or excessive and prolonged official or quasi-official accumulation of foreign assets, for balance of payments purposes;

Appendix 2. Integrated Surveillance Decision 2012

- (iii) (a) the introduction, substantial intensification, or prolonged maintenance, for balance of payments purposes, of restrictions on, or incentives for, current transactions or payments, or (b) the introduction or substantial modification for balance of payments purposes of restrictions on, or incentives for, the inflow or outflow of capital;
- (iv) the pursuit, for balance of payments purposes, of monetary and other financial policies that provide abnormal encouragement or discouragement to capital flows;
- (v) fundamental exchange rate misalignment;
- (vi) large and prolonged current account deficits or surpluses; and
- (vii) large external sector vulnerabilities, including liquidity risks, arising from private capital flows.

(ii) Multilateral Surveillance

23. Beyond members' obligations under Article IV Section 1, and recognizing that a member's policies may have a significant impact on other members and on global economic and financial stability, members are encouraged to implement exchange rate and domestic economic and financial policies that, in themselves or in combination with the policies of other members, are conducive to the effective operation of the international monetary system.

PART III - PROCEDURES FOR SURVEILLANCE

24. In conducting surveillance, the Fund will make use of various procedures and will adapt these to changing circumstances. As described below, Article IV consultations with members serve as vehicles for both bilateral and multilateral surveillance, except for ad hoc consultations referred to in paragraph 29 which are a vehicle for bilateral surveillance. Other procedures serve as vehicles for multilateral surveillance.

25. Each country that becomes a member of the Fund after the adoption of this decision shall, within thirty days of the date of its membership, notify the Fund in appropriate detail of the exchange arrangements it intends to apply in fulfillment of its obligations under Article IV, Section 1. Each member, regardless of its date of membership, shall notify the Fund promptly of any changes in its exchange arrangements.

A. Article IV Consultations

26. Members shall consult with the Fund regularly under Article IV to enable the Fund to (i) assess members' compliance with their obligations under Article IV, Section 1 and, in particular, to exercise firm surveillance over the conduct of their exchange rate policies, and (ii) discuss with members the impact of their policies on the operation of the international monetary system. In principle, the consultations

Appendix 2. Integrated Surveillance Decision 2012

under Article IV shall comprehend the regular consultations under Articles VIII and XIV, and shall take place annually. They shall include consideration of the observance by members of the principles and guidance set forth in paragraphs 21 and 23 of this Decision as well as of a member's obligations under Article IV, Section 1. In addition, they shall include a discussion of the spillover effects of a member's exchange rate and domestic economic and financial policies that may significantly influence the effective operation of the international monetary system, for example, by undermining global economic and financial stability.

27. It is expected that no later than sixty-five days after the termination of discussions between the member and the staff, the Executive Board will reach conclusions and thereby complete the consultation under Article IV, except in the case of consultations with members eligible for financing under the Poverty Reduction and Growth Trust established by Decision No. 8759- (87/176), ESAF, as amended, where it is expected that the Executive Board will reach conclusions no later than three months from the termination of discussions between the member and the staff.

B. Bilateral Surveillance – Ad hoc Article IV Consultations

28. The Managing Director shall maintain close contact with members in connection with their exchange arrangements and their policies under Article IV, Section 1, and will be prepared to discuss on the initiative of a member important changes that it contemplates in its exchange arrangements or its policies.

29. (a) Whenever the Managing Director considers that important economic or financial developments are likely to affect a member's exchange rate policies or the behavior of the exchange rate of its currency, the Managing Director shall, in the context of the Fund's exercise of firm surveillance over members' exchange rate policies, initiate informally and confidentially a discussion with the member. After such discussion the Managing Director may report to the Executive Board or informally advise the Executive Directors and, if the Executive Board considers it appropriate, an ad hoc Article IV consultation between the member and the Fund shall be conducted in accordance with the procedure set out in subparagraph (b) below.

(b) A staff report will be circulated to the Executive Directors under cover of a note from the Secretary specifying a tentative date for Executive Board discussion which will be at least 15 days later than the date upon which the report is circulated. The Secretary's note will also set out a draft decision taking note of the staff report and completing the ad hoc consultation without discussion or approval of the views contained in the report; the decision will be adopted upon the expiration of the two-week period following the circulation of the staff report to the Executive Directors unless, within such period, there is a request from an Executive Director or decision of the Managing Director to place the report on the agenda of the Executive Board. If the staff report is placed on the agenda, the Executive Board will discuss the report and will reach conclusions which will be reflected in a summing up.

Appendix 2. Integrated Surveillance Decision 2012

(c) Unless otherwise decided by the Executive Board, the conduct of an ad hoc consultation with a member will not affect the consultation cycle applicable to the member or the deadline for completion of the next consultation with the member.

C. Other Multilateral Surveillance Activities

(i) Periodic Reports on the International Monetary System

30. The Fund will assess all issues relevant for the effective operation of the international monetary system, as described in paragraph 11 of this Decision. These assessments may take the form of periodic or ad hoc reports produced by staff for discussion by the Executive Board. In particular, broad developments in exchange rates will be reviewed periodically by the Fund, *inter alia* in discussions of the international adjustment process within the framework of the World Economic Outlook. The Fund will continue to conduct consultations in preparing for these discussions. In order to inform the Fund's oversight of the operation of the international monetary system, the Managing Director may collaborate with other international bodies in conducting assessments of relevant issues.

(ii) Multilateral Consultations

31. Whenever the Managing Director considers that an issue has arisen in a policy area or a member country that may significantly influence the effective operation of the international monetary system, and that requires collaboration among members that is not already effectively taking place in another forum in which the Fund is a party, the Managing Director shall informally and confidentially discuss the issue with the relevant members. When the Managing Director forms the view that a multilateral consultation is necessary, the Managing Director may recommend such a consultation to the Executive Board, which may decide that a multilateral consultation will be held. Members shall consult with the Fund in a manner that is consistent with the decision of the Executive Board.

32. A multilateral consultation will consist of discussions between Fund staff and management and officials of relevant member countries, including, in the case of a currency union, with officials of relevant union-level institutions. The Fund will facilitate discussions among participating members and encourage them to agree on policy adjustments that will promote the effective operation of the international monetary system. In these discussions, the Fund will provide analysis and propose policy options that participating members may adopt, and may advise on the effect of different combinations of policy adjustments. During the course of these discussions, the Executive Board will be briefed by the Managing Director.

33. After the conclusion of these discussions, the Managing Director will report to the Executive Board on the discussions, any agreed policy adjustments and their

Appendix 2. Integrated Surveillance Decision 2012

impact on the participating members and the operation of the international monetary system. The Executive Board will conclude the multilateral consultation with the formal consideration of this report.

PART IV - REVIEW

34. It is expected that the Fund will review this Decision and its general implementation at intervals of three years, and at such other times as consideration of such matters may be placed on the agenda of the Executive Board.

ANNEX

Article IV. Section 1(iii) and Principle A

1. Article IV, Section 1 (iii) of the Fund's Articles provides that members shall "avoid manipulating exchange rates or the international monetary system in order to prevent effective balance of payments adjustment or to gain an unfair competitive advantage over other members." The language of this provision is repeated in Principle A contained in Part II of this Decision. The text set forth below is designed to provide further guidance regarding the meaning of this provision.

2. A member would only be acting inconsistently with Article IV, Section 1(iii) if the Fund determined both that: (a) the member was manipulating its exchange rate or the international monetary system and (b) such manipulation was being carried out for one of the two purposes specifically identified in Article IV, Section 1(iii).

(a) "Manipulation" of the exchange rate is only carried out through policies that are targeted at—and actually affect—the level of an exchange rate. Moreover, manipulation may cause the exchange rate to move or may prevent such movement.

(b) A member that is manipulating its exchange rate would only be acting inconsistently with Article IV, Section 1(iii) if the Fund were to determine that such manipulation was being undertaken "in order to prevent effective balance of payments adjustment or to gain an unfair competitive advantage over other members." In that regard, a member will only be considered to be manipulating exchange rates in order to gain an unfair competitive advantage over other members if the Fund determines both that: (A) the member is engaged in these policies for the purpose of securing fundamental exchange rate misalignment in the form of an undervalued exchange rate and (B) the purpose of securing such misalignment is to increase net exports.

3. It is the responsibility of the Fund to make an objective assessment of whether a member is observing its obligations under Article IV, Section 1 (iii), based on all available evidence, including consultation with the member concerned. Any representation made by the member regarding the purpose of its policies will be given the benefit of any reasonable doubt.

Appendix 3. IMF Guidelines on Conditionality (September 25, 2002)

A. Principles

1. *Basis and purpose of conditionality.* Conditions on the use of Fund resources are governed by the Fund's Articles of Agreement and implementing decisions of the Executive Board. Conditionality – that is, program-related conditions – is intended to ensure that Fund resources are provided to members to assist them in resolving their balance of payments problems in a manner that is consistent with the Fund's Articles and that establishes adequate safeguards for the temporary use of the Fund's resources.

2. *Early warning and prevention.* Conditionality is one element in a broad strategy for helping members strengthen their economic and financial policies. Through formal and informal consultations, multilateral surveillance including the World Economic Outlook and discussions of capital market developments, advice to members on the voluntary adoption of appropriate standards and codes, and the provision of technical assistance, the Fund encourages members to adopt sound economic and financial policies as a precaution against the emergence of balance of payments difficulties, or to take corrective measures at an early stage of the development of difficulties.

3. *Ownership and capacity to implement programs.* National ownership of sound economic and financial policies and an adequate administrative capacity are crucial for successful implementation of Fund-supported programs. In responding to members' requests to use Fund resources and in setting program-related conditions, the Fund will be guided by the principle that the member has primary responsibility for the selection, design, and implementation of its economic and financial policies. The Fund will encourage members to seek to broaden and deepen the base of support for sound policies in order to enhance the likelihood of successful implementation.

Appendix 3. IMF Guidelines on Conditionality

4. *Circumstances of members.* In helping members to devise economic and financial programs, the Fund will pay due regard to the domestic social and political objectives, the economic priorities, and the circumstances of members, including the causes of their balance of payments problems and their administrative capacity to implement reforms. Conditionality and program design will also reflect the member's circumstances and the provisions of the facility under which the Fund's financing is being provided. The causes of balance of payments difficulties and the emphasis to be given to various program goals may differ among members, and the appropriate financing, the specification and sequencing of policy adjustments, and the time required to correct the problem will reflect those and other differences in circumstances. The member's past performance in implementing economic and financial policies will be taken into account as one factor affecting conditionality, with due consideration to changes in circumstances that would indicate a break with past performance.

5. *Approval of access to Fund resources.* The Fund will ensure consistency in the application of policies relating to the use of its resources with a view to maintaining the uniform treatment of members. A member's request to use Fund resources will be approved only if the Fund is satisfied that the member's program is consistent with the Fund's provisions and policies and that it will be carried out, and in particular that the member is sufficiently committed to implement the program. The Managing Director will be guided by these principles in making recommendations to the Executive Board with respect to the approval of the use of Fund resources by members.

6. *Focus on program goals.* Fund-supported programs should be directed primarily toward the following macroeconomic goals

- (a) solving the member's balance of payments problem without recourse to measures destructive of national or international prosperity; and
- (b) achieving medium-term external viability while fostering sustainable economic growth.

7. *Scope of conditions.* Program-related conditions governing the provision of Fund resources will be applied parsimoniously and will be consistent with the following principles:

- (a) Conditions will be established only on the basis of those variables or measures that are reasonably within the member's direct or indirect control and that are, generally, either (i) of critical importance for achieving the goals of the member's program or for monitoring the implementation of the program, or (ii) necessary for the implementation of specific provisions of the Articles or policies adopted under them. In general, all variables or measures that meet these criteria will be established as conditions.
- (b) Conditions will normally consist of macroeconomic variables and structural measures that are within the Fund's core areas of responsibility. Variables and measures that are outside the Fund's core areas of responsibility may also be

Appendix 3. IMF Guidelines on Conditionality

established as conditions but may require more detailed explanation of their critical importance. The Fund's core areas of responsibility in this context comprise: macroeconomic stabilization; monetary, fiscal, and exchange rate policies, including the underlying institutional arrangements and closely related structural measures; and financial system issues related to the functioning of both domestic and international financial markets.

- (c) Program-related conditions may contemplate the member meeting particular targets or objectives (outcomes-based conditionality), or taking (or refraining from taking) particular actions (actions-based conditionality). The formulation of individual conditions will be based, in particular, upon the circumstances of the member.

8. *Responsibility of the Fund for conditionality.* The Fund is fully responsible for the establishment and monitoring of all conditions attached to the use of its resources. There will be no cross-conditionality, under which the use of the Fund's resources would be directly subjected to the rules or decisions of other organizations. When establishing and monitoring conditions based on variables and measures that are not within its core areas of responsibility, the Fund will, to the fullest extent possible, draw on the advice of other multilateral institutions, particularly the World Bank. The application of a 'lead agency' framework, such as between the Fund and the Bank, will be implemented flexibly to take account of the circumstances of members and the overlapping interests of the two institutions with respect to some aspects of members' policies. The Fund's policy advice, program design, and conditionality will, insofar as possible, be consistent and integrated with those of other international institutions within a coherent country-led framework. The roles of each institution, including any relevant conditionality, will be stated clearly in Fund-related program documents.

B. Modalities

9. *Nature of Fund arrangements.* A Fund arrangement is a decision of the Executive Board by which a member is assured that it will be able to make purchases or receive disbursements from the Fund in accordance with the terms of the decision during a specified period and up to a specified amount. Fund arrangements are not international agreements and therefore language having a contractual connotation will be avoided in arrangements and in program documents. Appropriate consultation clauses will be incorporated in all arrangements.

10. *Members' program documents.* The authorities' policy intentions will be described in documents such as a Letter of Intent (LOI), or a Memorandum on Economic and financial Policies (MEFP) that may be accompanied by a Technical Memorandum of Understanding (TMU). These documents will be prepared by the authorities, with the cooperation and assistance of the Fund staff, and will be submitted to the Managing Director for circulation to the Executive Board. The documents should reflect the authorities' policy goals and strategies. In addition to conditions specified in these documents, members requesting the use of Fund

Appendix 3. IMF Guidelines on Conditionality

resources may in exceptional cases communicate confidential policy understandings to the Fund in a side letter addressed to the Managing Director and disclosed to the Executive Board. In all their program documents, the authorities should clearly distinguish between the conditions on which the Fund's financial support depends and other elements of the program. Detailed policy matrices covering the broader agenda should be avoided in program documents such as LOIs and MEFPs unless they are considered necessary by the authorities to express their policy intentions.

11. Monitoring of performance. The implementation of the member's understandings with the Fund may be monitored, in particular, on the basis of prior actions, performance criteria, program and other reviews, and other variables and measures established as structural benchmarks or indicative targets.

- (a) *Prior actions.* A member may be expected to adopt measures prior to the Fund's approval of an arrangement, completion of a review, or the granting of a waiver with respect to a performance criterion when it is critical for the successful implementation of the program that such actions be taken to underpin the upfront implementation of important measures. In reaching understandings on prior actions, the Fund will also take into account the strain that excessive reliance upon such actions can place on members' implementation capacity. The Managing Director will keep Executive Directors informed in an appropriate manner of the progress of discussions with the member.
- (b) *Performance criteria.* A performance criterion is a variable or measure whose observance or implementation is established as a formal condition for the making of purchases or disbursements under a Fund arrangement. Performance criteria will apply to clearly-specified variables or measures that can be objectively monitored by the staff and are so critical for the achievement of the program goals or monitoring implementation that purchases or disbursements under the arrangement should be interrupted in cases of nonobservance. The number and content of performance criteria may vary because of the diversity of circumstances and institutional arrangements of members.
- (c) *Reviews.* Reviews are conducted by the Executive Board.
 - (i) *Program reviews.* Program reviews provide a framework for an assessment of whether the program is broadly on track and whether modifications are necessary. A program review will be completed only if the Executive Board is satisfied, based on the member's past performance and policy understandings for the future, that the program remains on track to achieve its objectives. In making this assessment, the Executive Board will take into consideration, in particular, the member's observance of performance criteria, indicative targets, and structural benchmarks, and the need to safeguard Fund resources. The elements of a member's program that will be taken into account for the completion of a review will be specified as fully and transparently as possible in the arrangement. Arrangements will provide for reviews to take place at a frequency appropriate to the member's circumstances. Reviews are expected to be held every six months, but substantial uncertainties concerning major economic trends or

Appendix 3. IMF Guidelines on Conditionality

policy implementation may warrant more frequent monitoring. In cases of major delays in the completion of a review, the Managing Director will inform Executive Directors in an appropriate manner.

- (ii) *Financing assurances reviews.* Where the Fund is providing financial assistance to a member that has outstanding sovereign external payments arrears to private creditors or that, by virtue of the imposition of exchange controls, has outstanding non-sovereign external payments arrears, the Executive Board will conduct a financing assurances review to determine whether adequate safeguards remain in place for the further use of the Fund's resources in the member's circumstances and whether the member's adjustment efforts are undermined by developments in creditor-debtor relations. More specifically, every purchase or disbursement made available after the approval of the arrangement will, while such arrears remain outstanding, be made subject to the completion of a financing assurances review. Financing assurances reviews may also be established where the member has outstanding arrears to official creditors.
- (d) *Other variables and measures.* In monitoring the implementation of a member's program, the Fund may also examine variables and measures established as indicative targets and structural benchmarks. The same principles governing the scope of conditions set out in paragraph 7 apply to these variables and measures as well as to other program-related conditions.
 - (i) *Indicative targets.* Variables may be established as indicative targets for the part of an arrangement for which they cannot be established as performance criteria because of substantial uncertainty about economic trends. As uncertainty is reduced, these targets will normally be established as performance criteria, with appropriate modifications as necessary. Indicative targets may also be established in addition to performance criteria as quantitative indicators to assess the member's progress in meeting the objectives of a program in the context of a program review.
 - (ii) *Structural benchmarks.* A measure may be established as a structural benchmark where it cannot be specified in terms that may be objectively monitored or where its non-implementation would not, by itself, warrant an interruption of purchases or disbursements under an arrangement. Structural benchmarks are intended to serve as clear markers in the assessment of progress in the implementation of critical structural reforms in the context of a program review.

12. Waivers. The Fund will grant a waiver for nonobservance of a performance criterion only if satisfied that, notwithstanding the nonobservance, the program will be successfully implemented, either because of the minor or temporary nature of the nonobservance or because of corrective actions taken by the authorities. The Fund will grant a waiver of the applicability of a performance criterion only if satisfied that, notwithstanding the unavailability of the information necessary to assess observance, the program will be successfully implemented and there is no clear evidence that the performance criterion will not be met.

Appendix 3. IMF Guidelines on Conditionality

13. Floating tranches. Conditions will normally apply to specified dates or continuously. However, when the Fund judges that the member will need to implement a particular structural measure or meet a particular performance target during the program period but

not necessarily by a specific date, and when flexibility in timing would promote national ownership, the arrangement may provide for the purchase or disbursement of Fund resources to be made available whenever the measure is implemented or the target observed. These

floating tranches are expected to apply primarily to structural performance criteria that are included because of their importance for medium-term external sustainability and growth.

C. Evaluation and Review

14. Program evaluation. The staff will prepare an analysis and assessment of the performance under programs supported by use of the Fund's resources in connection with Article IV consultations and as appropriate in connection with further requests for use of the Fund's resources.

15. Periodic review. The Fund will review the application of this Decision at intervals of two years and at such other times as consideration of it is placed on the agenda of the Executive Board. These reviews will evaluate the consistency of conditionality with these guidelines, the appropriateness and implementation of programs, and the effectiveness of policy instruments.

16. Decision No. 270-(53/95), adopted December 23, 1953, Stand-by Arrangements as amended, Decision No. 6056-(79/38), adopted March 2, 1979, Guidelines on Conditionality, and Decision No. C-3220-(01/24), adopted March 9, 2001, Concluding Remarks by the Chairman – Conditionality in Fund-Supported Programs, are repealed.

Index

The numbers here refers to paragraph numbers.

- 70/85 per cent majority, 16, 31, 59, 67, 70, 91
- Adjustment programs, 143-144, 145-50, 156, 171-177, 244
 - national ownership, 167, 175
 - reasons for, 145
- Amendments, 16-19, 28, 31, 33, 61, 77, 88, 93, 100, 111, 122
 - voting on, 16
- Annual Report, 5
- Article IV consultations, 100-112
 - assessment by the Fund, 106
 - objective, 105
- Articles of Agreement (*see* Appendix 1) 11
 - summarized, 11
 - supreme law, 72
- Authoritative interpretation, 51-52
- Balance of payments concept, 136-139
- Balance of payments manual, 136
- Balance of payments Statistics Yearbook, 136
- Balance of payments support, 140-144, 151-155, 171-182
 - upper limit, 34, 155
 - procedure and modalities, 171-177
 - monitoring and performance, 178-182
- Board of Governors, 31, 51, 58-60, 67, 71-72, 91
 - Resolutions, 72
- Bretton Woods Conference, 13-14, 121
- By-laws, 72
- Capital markets, 77, 124
- Capital account liberalization, 117, 121-122
- capital controls, 122
- Code of Good Practices in Transparency in Monetary and Financial Policies, 135, 162
- Code of Good Practices on Fiscal Transparency, 130-134, 162
- Codes and standards, 130-135, 162, 183-184
- Committee for Interpretation, 17
 - creation, 17
 - disuse, 51
 - power to interpret, 51
 - voting rights, 51
- Concessional facilities, 76, 87, 159, 223
- Conditionality, *see* Guidelines on Conditionality
- Convertibility, 117-120, 121
- Cooperation, duty to, 100, 103, 192-197
 - intergovernmental organizations, 107, 207
- Corpus juris, 71-73
- Corruption, 183-190
- Council, 67
- Cross conditionality, 166, 233-236
- Currency Boards, 115
- Currency Convertibility, 117-120, 121
- Currency Unions, 25, 103, 107, 112, 257
- Debt problem, 246-253
- Decisions of Executive Board, 5, 11, 61, 69-71, 108-109, 112
- Development Committee, 60
- Dollar in par value system, 98
- Dollarization, 116
- Domestic objectives, 161
- Domestic stability, 112
- Drawings on GRA, 82-85
- EMU, 25, 107, 114, 254-260
- Euroization, 116
- Exchange contracts, 117

Index

- Exchange rate management, 102
 - currency boards, 115
 - dollarization, 116
 - firm surveillance, 104
 - new practices, 113–116
- Executive Board, 19, 51, 61–64, 69–70
 - decisions, 72
 - power to interpret, 51
 - rules and regulations, 72–73
- Executive Director, 61–64
- External stability, 109, 112
- Facilities for borrowing, 74, 86–87, 159, 223
- Financial Sector Assessment Programme, 111, 232
- Financial Stability Board, 124, 200, 203
- Financial Stability Forum, 203
- Financial structure, 74–87
- Floating exchange rate system, 99
- G-10, 201
- G-24, 202
- G-20, 200, 260
- G-7/8, 199
- GAB, 78–80, 201
- GATS, 245
- GATT/WTO, 7–9, 13, 238–244
 - relation with IMF 7–9, 238–244
- General Resources Account, 75
 - drawings, 82–85, 152–155
- Genesis, 12–15
- Global surveillance, 106–107
- Gold, 15, 18, 19, 75–76, 98–99
 - decreasing role, 18
 - Fund holding, 76
 - holdings, 76
 - selling, 76
- Great Depression, 12
- Guidance Note on the Role of the IMF in Governance Issues, 183–190
- Guidelines on Conditionality, (*see* Appendix 3), 158, 160–182
 - cross conditionality, 166
 - human rights, 156–158, 169
 - macroeconomic variables, 165
 - missed opportunities, 169–170
 - restrictive application, 165
- HIPC, 76, 197, 232, 250–253
 - financing, 76, 250–253
- Historiography, 4
- Human rights, 155–157, 169, 213–221
 - Civil and Political Rights, 215–217
 - Economic, Social and Cultural Rights, 157, 218–221
- ICJ Advisory Opinion, 53
- IMF Pamphlet Series, 5
- IMF Survey, 5
- IMFC, 59, 67, 196
- Immunities, 73
- Income, 75
- Independent Evaluation Office, 68
- Interim Committee, 59
- International Monetary System, 37, 80, 92, 98–99, 100–101, 122, 123
- Interpretation, 47–57
 - authoritative under Art. XXIX, 51–52
 - ICJ advisory opinion, 53–54
 - non-authoritative, 55–57
 - principles, 47–57
 - teleological, 46, 49
 - travaux préparatoires, 48–49
- Keynes, John Maynard, 14, 121
- Lender of last resort, 149
- Letter of intent, 82, 148, 171–177, 223
- Majorities, 16, 31, 59, 67, 70, 91
- Managing Director, 65–66, 69–70, 196, 229
- MDRI, 232, 253
- Membership, 20–25
 - country based, 20–25
 - country versus state, 23
 - European Union / EMU as member, 25, 255
 - non-members, 21
 - original members, 20
 - withdrawal, 22
- Monetary Unions, 25, 103, 107, 112, 257
- NAB, 78–80
- Non-authoritative interpretation, 55–57
- Object and purpose, 36–46
- Par value system, 15, 18, 42, 44, 98–99
 - breakdown, 18, 99
 - key role of US, 98
- Peace and security, 191, 204, 209–212
- Performance criteria, 165, 178–182, 234, 244

Index

- Political economy, 145-150
- Poverty Reduction Strategy Paper, 223, 252
- Poverty Reduction and Growth Trust, 87, 151, 221-223
- Public Information Notices, 105, 126
- Purposes explained, 39-46, 136
- Quota, 19, 30-35, 75, 83-85, 92, 155
- Reports on the Observance of Standards and Codes, 111, 129
- Resolutions, 72
- Resources 75-77
- Right to draw from the Fund, 82-85, 151-155
- Rules and regulation, 72-73
 - hierarchy, 72
- SDR, 17-19, 28, 30, 32, 33, 35, 72, 75, 83, 88-97
 - allocation, 35, 91
 - composition, 88
 - creation, 17-18
 - department, 90
 - designation, 94-95
 - linkage with development financing, 28
 - operations and transactions, 94-97
- Special One-Time Allocation, 18, 92-93
- Selected Decisions, 5
- Sense of the meeting, 69
- Soft law, 18, 101, 110, 164
- Sovereignty, 158, 176-177
 - monetary, 25, 113
- Special Data Dissemination Standard, 125
- Special facilities, 86
- Stand-by Arrangement, 34, 82, 159, 171-178
- Subscription, 32
- Surveillance, 100-112, 255-257
 - bilateral, 100-103, 112
 - decisions, 108-109, 112, 257
- Euro area, 107, 255-257
 - global and regional, 106-107
 - limited effectiveness, 110
 - multilateral, 104, 112
 - strengthening, 111-112
- Sustainable development, 246-247
- Trade liberalization, 7-9, 238-240
- Trade restrictions for BOP reasons, 241-245
- Tranche policies, 82-85
- Transparency, 125-135
- Uniform and Preferential Treatment, 26-29
 - discrimination of developing countries, 27
 - moderation, 29
- United Nations, 192, 204-221
 - 1947 cooperation agreement, 53, 204
 - general, 205-207
 - human rights, 211-219
 - peace and security, 208-210
- Security Council resolutions, 191, 204-206, 209-212
- Voting rights, 19
 - majorities, 70
 - sense of the meeting, 69
 - suspension, 19
 - weighted, 33
- White, Henry Dexter, 14, 121
- World Bank, 10, 13, 111, 166, 225-236, 249-253
 - cross conditionality, 166, 233-236
 - debt management, 249-253
 - division of competences, 229-232
 - relation with IMF, 10, 13, 225-232
- World Economic Outlook, 106
- WTO, 7-9, 13, 237-245
 - relation with IMF, 7-9, 13, 237-245

Index