

International Monetary and Fiscal Matters - Legal Aspects

Ann Finney

Follow this and additional works at: <http://digitalcommons.law.umaryland.edu/mjil>



Part of the [International Law Commons](#), and the [International Trade Commons](#)

Recommended Citation

Ann Finney, *International Monetary and Fiscal Matters - Legal Aspects*, 2 Md. J. Int'l L. 252 (1977).

Available at: <http://digitalcommons.law.umaryland.edu/mjil/vol2/iss2/14>

This Article is brought to you for free and open access by DigitalCommons@UM Carey Law. It has been accepted for inclusion in Maryland Journal of International Law by an authorized administrator of DigitalCommons@UM Carey Law. For more information, please contact smccarty@law.umaryland.edu.

III. INTERNATIONAL MONETARY AND FISCAL MATTERS — LEGAL ASPECTS

B. International Monetary System

MONEY AND FINANCE — INTERNATIONAL MONETARY FUND ARTICLES OF AGREEMENT ARE AMENDED.

The United States recently accepted the amendments to the International Monetary Fund Articles of Agreement.¹ Included in the amendments are provisions for the legitimation of floating

1. Bretton Woods Agreements Act, 22 U.S.C. § 286 (1970). Before the Amendments to the IMF Articles become effective, they must be enacted by the IMF governments, a process which is expected to be completed by mid-1977.

exchange rates, the decreased role of gold, and changes in members' subscription quotas.

The amendment to Article IV of the IMF Articles of Agreement eliminates members' obligations to maintain a gold par value for their currencies. It also provides an optional par value system which could be adopted if the "floating" system did not adequately contribute to stability in world currency markets. The amendment also requires IMF supervision of exchange rates to prevent manipulation of currency values.²

This particular provision should have little immediate impact on world trade because the amendment is a legitimation of the already widespread phenomenon of floating exchange rates, rather than the implementation of any change in common trade practices.³ However, the abandonment of the par value system may complicate the drafting of those international contracts, statutes or treaties which require reference to a common monetary unit. For example, damage clauses and long-range pricing mechanisms are vulnerable to fluctuations in parity.⁴ Theoretically, as long as parties can rely on and refer to legally required currency values, that is, par values, this vulnerability can be formally limited, or at least accounted for, in their transactions. Without this legal standard, the parties must create their own mechanism for computing and maintaining the value of the transaction, and this mechanism must incorporate the prospect of changes in the currencies' values as they "float." As a practical matter, this potential problem has been recognized and in part resolved by agreements to conduct business in a particularly strong currency, rather than relying on formal par values. Another possible solution is an increased use of Special Drawing Rights (SDRs), discussed below.⁵

A corollary to the amendment to Article IV is the changed role of gold in the International Monetary Fund's transactions.

2. *Hearings on International Monetary Reform Before the Subcomm. on International Trade, Investment and Monetary Policy of the House Comm. on Banking, Currency and Housing, 94th Cong., 2d Sess. 3, 4 (1976)* (statement of Edwin H. Yeo, III, Under Secretary for Monetary Affairs of the Treasury) [hereinafter cited as Yeo testimony].

3. REPORT ON H.R. 13955, 94th Cong., 2d Sess. 3 (1976).

4. "Parity" is the value of one currency in terms of another currency, or as both are defined in terms of a third currency.

5. J. GOLD, *FLOATING CURRENCIES, GOLD, AND SDRs: SOME RECENT LEGAL DEVELOPMENTS* (IMF Pamphlet Series No. 19, 1976).

In addition to abolishing the gold-based par value of member currencies, the IMF will no longer require that a portion of subscription quotas be payable in gold, or use gold in dealings with its members. The Fund will also be empowered to liquidate its gold holdings by auctions at prevailing market rates and by distribution to members at the "official," "book" price. Decisions regarding gold disposals under the amended Articles of Agreement would be subject to approval by an 85 per cent majority of the members of the Fund. Thereafter, the official price of gold would not be maintained except for distribution to member countries.⁶

These changes reflect the view that the monetary significance of gold should be decreased, and that it should not be the standard for determining the relative values of IMF member currencies.⁷ Instead, SDRs would function as the standard reserve asset. SDRs are the basic unit defining IMF transactions, rights and obligations. Their value is predicated on and re-aligned according to the market value of a group of selected IMF member currencies.⁸

The amendments also include an increase in members' subscription quotas and changes in relative voting power. Under the amended Articles, the United States, for instance, will have to increase its membership contribution to the IMF, but its relative voting power will be decreased from 20.75 per cent to 19.96 per cent. The change in voting strength will not affect the United States' veto, however, since the majority vote requirement has been increased from 80 per cent to 85 per cent.⁹

Ann Finney

6. REPORT ON H.R. 13955, *supra* note 3 at 4, 5; Yeo testimony, *supra* note 2, at 2, 3.

It should be noted that the current sales of IMF gold, and the use of the book profit, the difference between the selling price and the official price, for the Trust Fund for the less developed countries, are proceeding under the present Articles of Agreement. These sales of one-sixth of the IMF gold reserves, and the use of the profit for interim balance of payments financing for LDCs would not be affected by the Amendments. Any future gold sales' profit would be transferred to the Fund's general resources, unless a different application were authorized by an 85 per cent majority of the Fund members.

7. REPORT ON H.R. 13955, *supra* note 3, at 4-5; Yeo testimony, *supra* note 2, at 15.

8. For a general discussion of SDR valuation, see IMF, *Annex 9: Valuation of the SDR: Possible Operational Provisions*, INTERNATIONAL MONETARY REFORM: DOCUMENTS OF THE COMMITTEE OF TWENTY 43 (1974).