

Legal and Institutional Aspects of the International Monetary System: Selected Essays, Volume II, by Joseph Gold

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INTERNATIONAL MONETARY LAW

LEGAL AND INSTITUTIONAL ASPECTS OF THE INTERNATIONAL MONETARY SYSTEM: SELECTED ESSAYS, VOLUME II. By Joseph Gold. Washington, D.C.: International Monetary Fund, 1984, 947 pp., \$40.00.

This book is a rich collection of essays on international monetary matters by Sir Joseph Gold, former General Counsel and Director of the Legal Department of the International Monetary Fund (IMF). The collected essays are the most comprehensive materials presently in print on the purpose, functions and evolution of the IMF.

Although these essays, like those in Volume I, emphasize the development of the IMF as an organization, Volume II goes far beyond such a description and integrates three elements: (1) the international monetary system; (2) the IMF as an organization; and (3) international monetary law.

The essays are organized into six sections: General Topics, Aspects of the Fund, Exchange Rates, Reserve Assets, Drafting in the Monetary Field, and International Law. The essays were originally published in various professional journals between 1979, when Volume I of the Essays was published, and 1984. Each essay, except Chapter 14, which is an historical discussion of the writings of John Maynard Keynes, and Chapter 16, published in 1984, contains a Supplemental Note, concerning developments up to 1984.

The book contains an excellent table of contents based upon the headings in Sir Gold's meticulously organized essays. It also includes a bibliography of 164 publications by Sir Gold, three works by other authors, and relevant official documents of the IMF and the U.S. Congress. In addition, there is an excellent index of cited provisions of the IMF Agreement,¹ IMF by-laws and rules and regulations, resolutions of the Board of Governors and decisions of the Executive Board. The index makes the book a useful research tool on IMF matters.

These essays carefully analyze, among other topics, three topics central to an understanding of international currency matters: exchange rates, convertibility and reserve assets. The author explains the importance of exchange rates to the international monetary system and the various methods for establishing and maintaining exchange rates. In addition, the essays

1. Articles of Agreement of the International Monetary Fund, *opened for signature* Dec. 27, 1945, 60 Stat. 1401, T.I.A.S. No. 1501, 2 U.N.T.S. 39.

provide an excellent historical perspective from which to view the evolution of exchange rate relationships, including: (1) freely-floating exchange rates existing prior to the IMF; (2) exchange rates at a par value established by the IMF Agreement, which members of the IMF had an obligation to intervene to maintain; and (3) the current situation in which countries are free to adapt exchange rate relationships within a policy framework which continues to prohibit certain actions by members of the IMF, such as discriminatory currency arrangements and competitive exchange alterations.

The author also discusses the importance of convertibility of currencies, particularly in Chapter 13. Clearly, the international monetary system would have little meaning if there were carefully defined exchange rates between currencies, but no mechanism to convert one currency to another, either at the commercial level or between the monetary authorities of the countries involved. This book examines the definition of "convertibility," as specifically defined in the original IMF Agreement, and the current definition of "freely usable currency" appearing in the IMF Agreement, as amended.

Sir Gold's essays, particularly Chapters 1, 10 and 12, also examine the role of reserve assets in the international monetary system. They explain why gold proved to be unsatisfactory as the primary reserve asset of the international monetary system. They go on to describe how the objective of reducing the role of gold as an exchange asset has been attempted through radical changes in the role of gold in the IMF Articles of Agreement, as amended by the Second Amendment. Finally they describe the increased role of Special Drawing Rights (SDRs) as the intended principal reserve asset in the international monetary system. Accompanying this description is an explanation of the European Currency Unit (ECU), an analogous reserve asset instituted in the European Monetary System (EMS).

Although a major portion of the book is not devoted to practical drafting advice concerning international monetary transactions, Chapter 12 contains useful advice concerning the drafting of loan agreements between banks and the monetary or other official authorities of a country which is a member of the IMF. This chapter analyzes the conditions under which a member country will be in a position to draw resources from the General Resources Account of the IMF under a stand-by arrangement. Sir Gold describes how carefully drafted representations in the commercial loan agreement may give the lender additional assurances of the condition of the borrower vis-à-vis the IMF, prior to its decision to lend or to continue to lend.

The essays, because they were written separately, contain a certain amount of overlapping discussion of the same topics. This reviewer, however, found reading of the essays to be, rather than redundant, an enforcement of concepts developed from two or three different perspectives. For

example, one section of the essays describes in detail the original and amended provisions of the IMF Agreement concerning the acceptability of floating exchange rates as a matter of international monetary law, while another section analyzes the political and economic realities which provided an impetus to restore more flexibility to the international monetary system. Viewed from these two different perspectives, one has a greater appreciation for the depth of the problem, just as one obtains a better view with the use of two eyes, rather than one.

In addition to their analysis of the most important politico-economic topics concerning international monetary affairs, Sir Gold's essays provide an excellent insight into the origins and evolution of the international monetary system, international monetary law, and in particular the organization and functions of the IMF. The interdependence between these three concepts can be seen in the shift that took place with the Second Amendment to the IMF Articles. Prior to that amendment, members of the IMF were required to intervene in currency markets to maintain the "par value" of their currency measured against gold. A member could, however, change the par value of its currency notwithstanding the objection of the Fund without violating treaty obligations. The Second Amendment to the IMF Agreement dispensed with the "par value" standard and allowed members to adopt any exchange system consistent with requirements of the IMF Agreement, subject to "consultation" with the IMF. Such a reallocation of authority to the members does not mean that there is no longer an "international monetary system," but that the role of the IMF, and consequently its procedures, had to adjust to the new system and the simplicity of the rule of law prescribing the par value standard.

The book demonstrates that a complete description of the three elements (the international monetary system, the IMF, and international monetary law) is like analyzing three Boulian logic circles, overlapping more at one time than at another. The elements adjust to changing socio-politico-economic conditions and the evolving experiences of member countries in working together. Although some monetary authorities and economic theoreticians might prefer that the international monetary system, in a limited sense, be entirely regulated by a rule of law established by the IMF, political and economic realities have demonstrated that this perfect confluence cannot be achieved in the short-term and probably never will be. As can be seen by recent political activities in countries subject to conditions in the IMF's standby agreements, the leaders of sovereign nations, and not the IMF, are expected by their constituents to provide for their well-being, including assuring that objectives concerning exchange of their countries' currency for that of other countries are achieved only in the context of the countries' domestic economic and social objectives. This is not to say that the role of the IMF or international monetary law is any less important in

achieving a stable international monetary system, but that changing political and economic conditions can change the relationship between the three concepts.

The book is particularly helpful because, as Sir Gold points out, there are few *travaux préparatoires*, or little legislative history, for many important provisions of the IMF Agreement and its Amendments.

Sir Gold would not approve of my comparison of his essays to the works of John Maynard Keynes, but I believe that what Keynes so brilliantly planned, Sir Gold has insightfully analyzed. His ability to explain not only the legal terms of the IMF Agreement, but the history and politico-economic motivation for them makes this book an important part of a library of international economics and law.

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