

Article IX, Section 8

Immunities and Privileges of Officers and Employees

MANAGING DIRECTOR—POLICY STATEMENT ON IMMUNITY OF FUND OFFICIALS

The Executive Board expressed support for the Managing Director's policy statement on the immunity of Fund officials.

*Decision No. A-11780,
June 17, 2002*

ANNEX

Policy Statement on Immunity of Fund Officials

The safety and security of Fund staff and other officials, particularly while traveling on mission or on assignment to field offices, are of paramount importance to the Fund. In this regard, in addition to the procedures that are intended to ensure the physical safety of Fund staff and other officials and their families, there are legal protections applicable in situations where staff and other officials are arrested or detained.

Article IX, Section 8 of the Articles of Agreement provides that 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 shall be immune from legal process with respect to acts performed by them in their official capacity except when the Fund waives this immunity.

This policy statement clarifies the rights that apply, and sets out the basic steps that would be taken, in the event that a Fund official¹ is arrested or detained while on mission, on assignment to resident representative posts or field offices, or at headquarters,

¹ For purposes of this Policy Statement, the term "officials" includes all persons listed in Article IX, Section 8.

and explains what actions the Fund is prepared to take to obtain the dismissal of all charges to which the immunity applies and the immediate release of the official.

In the event that a Fund official were to be arrested or detained, it would be necessary to immediately determine whether or not the arrest or detention was made for acts performed in an official capacity. In order to make this assessment and to ensure that both the official's immunity and the Fund's interests are protected, the Fund has the right:

- (1) to visit and converse freely with the official;
- (2) to be apprised of the grounds for the arrest or detention, including the main facts of the case and the formal charges against the official;
- (3) to assist the official in arranging for legal assistance; and
- (4) to appear in legal proceedings to defend any interest of the Fund affected by the arrest or detention.

As these rights are considered ancillary to the immunities of the Fund and its officials and essential in order for the Fund to safeguard and maintain its interests, member countries are required, as part of their obligation to respect immunities, to give the Fund a full and timely opportunity to exercise these rights.

Accordingly, a Fund official who is arrested or detained will be entitled to contact the Fund, or have the authorities notify the Fund of his arrest or detention. The mere fact that there is no apparent connection between the reason for the arrest or detention given by the authorities of the member country and the duties, functions or status of the official would be insufficient to negate the right of the Fund to be informed.

If the Managing Director concludes that the official's acts are covered by immunity from legal process, and the immunity has not been waived by the Executive Board, the Managing Director will inform the Executive Board and notify the authorities of his conclusions and insist on the immediate release of the official and the dismissal of any charges to which the immunity applies. This notification must be conveyed by the authorities to the competent law enforcement or judicial organs.

SELECTED DECISIONS AND SELECTED DOCUMENTS

In the event that a member's authorities (including judicial and law enforcement organs) failed to respect immunities or to comply with the ancillary obligations described above, the Managing Director will report the matter to the Executive Board under Rule K-1 of the Rules and Regulations, and the Executive Board will be asked to consider the application of sanctions to the member for breach of its obligations under the Articles.

In addition, if Fund officials were to be incarcerated, the Fund would also seek to monitor their treatment and the conditions in which they are being held, with a view to ensuring that they receive humanitarian treatment, adequate nourishment and medical care.