

made with the Fund or from the objective personality of the Fund in action.

1. Non-Members

The Fund can decide whether or not to admit countries to membership. In considering applications, the Fund's practice is to satisfy itself that the country is a state that conducts all of its international relations and that the obligations of the Articles will be performed. Membership in the Fund had grown to 103 states by the beginning of 1966. Among the non-members are the U.S.S.R. and countries of Eastern Europe, Switzerland, and certain small territories such as Liechtenstein, but this list is not complete. The Eastern European countries include two that are former members of the Fund: Czechoslovakia and Poland. Cuba and Indonesia are also ex-members.

Certain territories have a status that precludes membership in the Fund so long as that status remains unchanged. Under Article XX, 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.

This means that a member state is responsible to the Fund for the observance of the obligations of the Articles in all of the territories listed. Nevertheless, these territories are not themselves members of the Fund and are not capable of becoming members while they remain in any of the categories mentioned in the provision. Conceivably, there could be practical difficulties if a territory had autonomy in the conduct of its domestic affairs and the obligations of the Articles were not being observed in the territory, but this would not change the legal position. The difficulties would normally be eliminated by tripartite consultation among the Fund, the member, and the territory for which it was responsible.

2. Ex-Members

A purpose of this paper is to see whether there are legal effects on non-members even though they have not accepted the Articles. However, there are some obligations that can be owed by the

Fund to a non-member or by a non-member to the Fund because of the former acceptance of membership in the Fund by the non-member. These are obligations related to the settlement of accounts between a former member and the Fund.

It may be useful to explain these obligations of the Fund and the ex-member a little further because they are not all purely pecuniary and because there may even be obligations on other members of the Fund. On a withdrawal, whether compulsory or voluntary on the ex-member's part, a settlement of all accounts between it and the Fund must be made by agreement with reasonable despatch.⁴ If agreement is not reached promptly, the provisions of Schedule D apply, and these constitute a comprehensive code of settlement. It follows that the settlement between the Fund and the ex-member may establish obligations that will endure for some time whether that settlement is made by agreement or is the settlement of Schedule D. For example, under Schedule D, the settlement may show that the Fund or the ex-member is a debtor to the other party, and in that event the balance must be paid in a certain form and in prescribed installments. Provision is also made for the case in which the obligor fails to pay an installment by the due date. Any member that wishes to obtain the currency of an ex-member must purchase it from the Fund to the extent that the member has access to the resources of the Fund and the currency of the ex-member is available.⁵ With respect to the ex-member's currency disposed of by the Fund under Schedule D, the ex-member guarantees unrestricted use at all times for the purchase of goods or for payments due to the ex-member or persons within its territories. In

⁴ Article XV, Section 3: "*Settlement of accounts with members withdrawing.*—When a member withdraws from the Fund, normal 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 D shall apply to the settlement of accounts."

See also General Arrangements to Borrow, Paragraph 17, in *Selected Decisions of the Executive Directors and Selected Documents* (3rd issue, 1965, hereinafter referred to as *Selected Decisions*), p. 64.

⁵ Schedule D, paragraph 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 resources of the Fund and that such currency is available under 4 above."

addition, the ex-member is obliged to compensate the Fund for any loss resulting from the difference between the rate at which the Fund held the currency at the date of withdrawal and the rate realized on disposal of it.⁶

3. General Undertakings of Members Regarding Relations with Non-Members

One of the most striking efforts in the Articles to affect non-members is Article XI. This provision does not attempt to impose obligations on non-members, but its purpose is to impose obligations on members in their relations with non-members. Clearly, the broader the scope of these obligations, the narrower will be the freedom of action that non-members will find that they have in their relations with members. Article XI, Section 1, provides as follows:

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.

A number of difficulties arise in arriving at an understanding of this provision. For example, is Article XI the only provision establishing the obligations of members in relation to non-members? On the one hand, if it is a comprehensive provision, it is not easy to see how certain transactions with non-members or practices involving them could be contrary to other provisions

⁶ Schedule D, paragraph 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 par value of its currency on the date of withdrawal and the value realized by the Fund on disposal under 4 and 5 above."