4. Premium Gold Transactions Involving Non-Members

At a time when the growth in premium gold transactions engaged the close attention of the Fund, an effort was made to affect the actions of non-members in connection with these transactions. Under Article IV, Section 2, members must refrain from buying gold at a premium (a price above the par value plus the prescribed margin) or selling it at a discount (a price below the par value minus the margin). The provision does not explicitly prohibit sales by members at a premium or purchases at a discount, and it does not deal with purchases or sales by private parties or non-members. However, as already noted, under Article I (iii), it is a purpose of the Fund to promote exchange stability, maintain orderly exchange arrangements among members, and avoid competitive exchange depreciation; and under Article IV, Section 4(*a*), members undertake to collaborate with the Fund to promote exchange stability, maintain orderly exchange arrangements with other members, and avoid competitive exchange alterations. On June 18, 1947, the Fund communicated to members a policy statement[16] in which it deprecated international sales of gold at a premium and recommended that all members take effective action to prevent these transactions with "other countries or with the nationals of other countries." The statement went on to say that:

> It is realized that some of these transactions are being conducted by or through non-member countries or their nationals. The Fund recommends that members make any representations which, in their judgment, are warranted by the circumstances to the governments of non-member countries to join with them in eliminating this source of exchange instability.

Some transactions at premium prices violate Article IV, Section 2, i.e., those involving purchases by the monetary authorities of member countries. The basis for the broader scope of the Fund's statement was the Fund's finding that exchange stability

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maintenance of some degree of discrimination, although not as between countries having externally convertible currencies. In this connection the Fund wishes to reaffirm its basic policy on bilaterialism as stated in its decision of June 22, 1955."

[16] *Annual Report* (1947), Appendix XII, pp. 78-79.

might be undermined by continued and increasing external purchases and sales of gold which directly or indirectly produced exchange transactions at depreciated rates. The Fund felt that if this practice was not discouraged, it could fundamentally disturb exchange relationships among members.

It is useful to emphasize certain features of the statement. First, the Fund's recommendation to members was intended to include the recommendation that they prevent premium transactions with non-members or their nationals. Second, the Fund also recommended that members seek to collaborate with non-members in the elimination of these transactions. It was recognized that the effectiveness of a recommendation by the Fund on premium gold transactions could be weakened by the actions of non-members, and therefore it was considered important to include a call on members to conduct themselves in relation to non-members in accordance with the statement. Third, these recommendations were made under the general terms of Article I (iii) and Article IV, Section 4(*a*), on a finding that premium transactions could fundamentally disturb exchange relationships among members by establishing cross rates for member currencies in non-member countries significantly different from the pattern of rates established under the Articles. Notwithstanding this finding, the statement made no overt mention of Article XI, Section 1, in its references to non-members.

The moral of this experience is that Article I (iii) and Article IV, Section 4(*a*), are a reservoir of authority on which the Fund can draw in defense of exchange stability, orderly exchange arrangements among members, and the avoidance of competitive exchange alterations without determining whether the case falls within Article XI, Section 1, even though relations with non-members are involved. Certainly, it would seem that the Fund is able to do this for the purpose of making recommendations to members. This gives the Fund greater flexibility than it would have if the only course available to it was to rely on the strict prohibitions of Article XI, Section 1.