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International Monetary Fund Conditionality and Options for Aggrieved Fund Members

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NOTES

International Monetary Fund Conditionality and Options for Aggrieved Fund Members

TABLE OF CONTENTS

I. INTRODUCTION 665
II. THE INTERNATIONAL MONETARY FUND 666
A. *History* 666
B. *Legal Force of IMF Decisions* 668
III. IMF FUNDING FACILITIES 671
IV. CONDITIONALITY POLICIES 678
V. DEBTOR NATIONS AND THE FUND 681
A. *Debtor Objections to Conditionality Policies* 681
B. *Compromise Between the Fund and Debtor Nations* 685
VI. CREDITOR NATIONS AND THE FUND 688
A. *Creditor Objections to Conditionality Policies* 688
B. *Compromise Between the Fund and Creditor Nations* 690
VII. POSSIBLE RESPONSES TO CONDITIONALITY 691
A. *Debtors' Responses* 691
B. *Creditors' Responses* 694
VIII. CONCLUSION 696

I. INTRODUCTION

The International Monetary Fund (the IMF or the Fund) was created to assist in stabilizing rates of currency exchange. Each country is able to achieve stability only by balancing the amount of local currency flowing out against the amount of foreign currency flowing in. When exchange rates are stable, capital can flow more easily to places where it can be most efficiently utilized, thus raising the worldwide level of prosperity.

Unfortunately, the process of adjustment from imbalance to balance entails some sacrifices. A country with an imbalance must eliminate the

excess of imports over exports. The IMF has the power to use a carrot-and-stick approach to convince member countries to endure the painful transition. Generally, the Fund uses only the carrot by offering the prospect of large-scale, interest-free financing while the adjustment is underway. The Fund, of course, attaches strings, known as conditionality, to the financing packages. Conditionality can be harmful both to the debtor nations and to those nations' creditors.

This Note examines the ways in which the Fund uses conditionality to improve a country's balance of payments. The Note then details objections that nations and individuals may have to conditionality and addresses the range of possible responses to it. The Note concludes by arguing that resistance to conditionality fails to serve the long-term interests both of those involved and of the world community as a whole.

II. THE INTERNATIONAL MONETARY FUND

A. *History*

In 1944 the multilateral Bretton Woods Agreement (the Agreement) created an independent international organization known as the International Monetary Fund.[1] The creators of the Fund sought to address the problems facing the international monetary system in the aftermath of World War II. In reaction to these problems and the lingering problem of unemployment,[2] nearly every country took steps to defend its own economy, and cutthroat competition became the rule.[3] Many countries depreciated their currency, instituted multiple currency practices and enforced delays in current international payments to keep local products competitive on the world market.[4] As countries abandoned the gold standard, no automatic mechanism existed to keep currency values in balance. Furthermore, no worldwide mechanism existed to facilitate international currency returns.[5] Wide fluctuations in exchange rates

1. Articles of Agreement of the International Monetary Fund, June 22, 1944, 60 Stat. 1401, T.I.A.S. No. 1501 (current version at 29 U.S.T. 2203, T.I.A.S. No. 8937) [hereinafter Articles of Agreement].

2. 1 J. HORSEFIELD, THE INTERNATIONAL MONETARY FUND 1945-1965, at 4 (1969). The depression of the 1930s had deflationary effects on exports around the world, thus contributing to widespread unemployment.

3. *Id.* at 4-5.

4. *Id.*

5. The Bank for International Settlements, founded in 1930, 104 L.N.T.S. 441, *reprinted in* 24 AM. J. INT'L L. 323 (Supp. 1930), consists only of the central banks of thirty European countries plus a small group of large United States banks. C. PARRY, J. GRANT, A. PARRY & A. WATTS, ENCYCLOPAEDIC DICTIONARY OF INTERNATIONAL

encouraged speculation rather than productive investment,[6] and as World War II came to a close, economists feared another depression similar to the one following World War I.[7] Thus, hoping to avoid another round of destructive practices harmful both to international harmony and to individual economies, John Maynard Keynes and Harry Dexter White devised the basic plan for an International Monetary Fund.

At Bretton Woods, the parties to the Agreement discussed two approaches to accessing the Fund's resources. One approach, promoted by the British delegation, favored advice and consultation by the Fund. The British approach imposed no real limits on the right of a member to draw on the Fund up to a ceiling of 25% of quota per year;[8] thus, a member country could maintain an outstanding debit balance indefinitely.[9] Such a position was not unnatural for a nation battered by the War and likely to be a debtor for some years to come. The United States delegation, on the other hand, promoted a more authoritarian role for the Fund. This second approach allowed members to make drawings above quota only if the member adopted adjustment policies recommended by the Fund to eliminate the causes of the underlying imbalance.[10] The United States approach also required repayment within a stipulated time limit.[11] Such a position was natural, coming from the nation most likely to be a creditor in the foreseeable future.

The statement of purposes in article I of the Agreement reflects a compromise[12] by "making the general resources of the Fund temporarily available to [members] under adequate safeguards, thus providing them with opportunity to correct maladjustments in their balance of payments without resorting to measures destructive of national or international

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LAW 39-40 (1986).

6. *See* Grilli, *Buying and Selling Attacks on Fixed Exchange Rate Systems*, 1986 J. INT'L ECON. 143.

7. J. HORSEFIELD, *supra* note 2, at 6.

8. Keynes, *Proposals for an International Clearing Union* (British Government White Paper Cmd. 6437, 1943), *reprinted in* 3 THE INTERNATIONAL MONETARY FUND 1945-1965, at 19 (J. Horsefield ed. 1969).

9. *Id.* at ¶ 6.

10. White, *Preliminary Draft Proposal for a United Nations Stabilization Fund and a Bank for Reconstruction and Development of the United and Associated Nations* (1942), *reprinted in* 3 THE INTERNATIONAL MONETARY FUND 1945-1965, *supra* note 8, at 37, 52.

11. *Id.*

12. *See* Young, *Developing Plans for an International Monetary Fund and a World Bank*, 23 DEP'T ST. BULL. 778, 788 (1950).

prosperity."[13] Although the solution to the tension between these two views was a compromise at Bretton Woods, the tension continues to play itself out in Fund policies.

B. *Legal Force of IMF Decisions*

The Articles of Agreement, and article I in particular, form the basic law of the Fund.[14] The method for interpreting this basic, and somewhat vague, law is important to resolving the American-British tension. First, the Fund itself has the authority to make a binding interpretation of the articles under article XXIX.[15] Second, article XXVII gives those managing the Fund the power to suspend certain provisions of the Agreement, including article V, section 3, which governs members' rights to draw on the Fund. Members cannot appeal these decisions to any authority other than the Fund except when withdrawing from the Fund or when the Fund itself is in the process of liquidation.[16] Finally, the Fund's management has legislative power in that it promulgates the rules by which the members must abide.[17]

The IMF is independent of all governments and of all other international organizations.[18] The IMF does not belong to the United Nations family of organizations, and it is not subject to the International Court of Justice.[19] The legal limits on the Fund's discretion are enforceable only by the Fund's governing body.[20]

Some national courts have upheld the Fund's power of interpretation; other courts, however, have limited the power of interpretation. The Federal Communications Commission (the FCC) was the first United States tribunal to consider the effect of an official Fund interpretation on

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13. Articles of Agreement, *supra* note 1, art. I(v). Article V, section 3 provides the basic procedures for access to the Fund's resources.

14. J. GOLD, THE RULE OF LAW IN THE INTERNATIONAL MONETARY FUND 5 (IMF Pamphlet Series No. 32, 1980). Article I states that the Agreement should be interpreted in light of the article I purposes. Articles of Agreement, *supra* note 1, art. I.

15. This was article XVIII prior to the First Amendment.

16. Articles of Agreement, *supra* note 1, art. XXIX(c).

17. C. SCHREUER, DECISIONS OF INTERNATIONAL INSTITUTIONS BEFORE DOMESTIC COURTS 68 (1981).

18. *See generally* J. HORSEFIELD, INTRODUCTION TO THE FUND (IMF Pamphlet Series No. 1, 2d ed. 1965).

19. *See* Agreement Between the United Nations and the International Monetary Fund, April 15, 1948, art. I(2), 16 U.N.T.S. 325.

20. *See* C. SCHREUER, *supra* note 17, at 136. The morality or desirability of the Fund's being judge in its own cause is not at issue in this Note.

United States domestic law. In *All America Cables & Radio*[21] the FCC examined whether the Fund could compel the United States government to require a cable company to bill the Fund for official communications at the company's most favorable rate. Article IX, section 7, provides that Fund communications are to be given "the same treatment as the official communications of other members." The IMF relied on the official article XXIX interpretation which states that "treatment" includes the rate charged for communications, and further, that a government having regulatory power over rates cannot evade its obligation to see that Fund messages receive the diplomatic rate.[22] The FCC also had a State Department advisory opinion to the effect that the IMF ruling was indeed binding on United States courts.[23] The final ruling of the Commission was a complete acceptance of the Fund's authority.[24]

Courts and other agencies, however, have not always supported the Agreement and its official interpretations. One key provision, article VIII, section 2(b), provides that no member's courts shall enforce exchange contracts that violate the exchange controls of another member.[25] The official interpretation of article VIII, section 2(b) states that the public policy of the forum state is not grounds for enforcing such contracts.[26] Nonetheless, the New York Court of Appeals in *Southwestern Shipping Corp. v. National City Bank*[27] chose to enforce a contract that was in violation of Italian exchange restrictions. The court stated: "In our opinion it in no way affects the common-law rule of this State that a depository of the proceeds of an illegal transaction cannot plead the illegality of the transaction as a bar to suit against it for breach of contract and negligence."[28] The court was aware of the official interpretation,[29]

21. International Bank for Reconstruction and Dev. and Int'l Monetary Fund v. All Am. Cables and Radio, Inc., 17 F.C.C. 450 (1953).

22. Decision No. 534-3 (February 20, 1959), *reprinted in* 10 SELECTED DECISIONS OF THE INTERNATIONAL MONETARY FUND AND SELECTED DOCUMENTS 262 (1983) [hereinafter SELECTED DECISIONS].

23. Letter from Jack B. Tate, January 25, 1951, *cited at* 17 F.C.C. 450, 462 (1953).

24. For a fuller treatment of this case, see J. GOLD, THE FUND AGREEMENT IN THE COURTS 20-26 (1962).

25. "Exchange contracts which involve the currency of any member and which are contrary to the exchange control regulations of that member maintained or imposed consistently with this Agreement shall be unenforceable in the territories of any member." Articles of Agreement, *supra* note 1, art. VIII, § 2(b).

26. Decision No. 446-4 (June 10, 1949), *reprinted in* SELECTED DECISIONS, *supra* note 22, at 233.

27. 6 N.Y.2d 454, 190 N.Y.S.2d 352, 160 N.E.2d 836 (1959).

28. *Id.* at 463, 190 N.Y.S.2d at 359, 160 N.E.2d at 841.

29. The official interpretation was cited by Justice Backer of the New York Supreme

but nonetheless chose to enforce the contract.

Courts also have read the articles narrowly so as to promote the local interests of the forum state. For example, in *Wilson, Smithett & Cope, Ltd. v. Terruzzi*[30] the English Court of Appeals limited the definition of "exchange contracts" as used in article VIII, section 2(b) to contracts for the simple exchange of currency for currency. Such an interpretation plainly defeats the purpose of that article, which is to provide for the enforcement of exchange regulations across international boundaries. By limiting the meaning of "exchange contracts," the court "facilitate[s] and promote[s] international trade,"[31] particularly through London.[32] England's public policy is to maintain London as one of the capitals of international trade and dispute settlement.[33] Thus, uniform enforcement of contracts makes London more attractive to forum shoppers.

Any controversy concerning particular provisions notwithstanding, the Fund has the power under the articles to bind the domestic courts of member states by a sufficiently specific official interpretation.[34] Courts continue to have the option, however, to simply ignore the Agreement and its interpretations altogether. In fact, courts use this technique with considerable frequency.[35] For example, in *Theye y Ajuria v. Pan American Life Ins. Co.*[36] a Louisiana trial court enforced an insurance contract, the payment of which violated Cuban exchange controls. The in-

Court. Southwest Shipping Corp. v. National City Bank, 11 Misc. 2d 397, 410, 173 N.Y.S.2d 509, 522-23 (1958).

30. [1976] 1 Q.B. 683.

31. [1976] 1 Q.B. 683, 701 (Kerr, J. at trial level).

32. *See* 3 J. Gold, The Fund Agreement in the Courts 591-93 (1986).

33. *See also* Jugoslavenska Oceanska Plovidba v. Castle Inv. Co. [1973] 3 All E.R. 498, 504 (opinion of Roskill, L.J.) (English arbitrator's award in a foreign currency must be enforced or "grave inconvenience will be caused to those who bring their disputes to this country for decision."). Similarly, the Second Circuit, enforcing a contract that violated Costa Rican exchange controls, reasoned that "the United States has an interest in maintaining New York's status as one of the foremost commercial centers in the world." Allied Bank International v. Banco Credito Agricola de Cartago, 757 F.2d 516, 521 (2d Cir. 1985). *Allied Bank* was not an article VIII, section 2(b) case because the Costa Rican controls violated article VIII, section 2(a), which bans controls limiting payment on current transactions. The review assumed by a court over the consistency of a foreign exchange regulation with the articles can mean the difference between a strong IMF and a weak one as regards creditor nations.

34. *See, e.g.*, International Bank for Reconstruction, 17 F.C.C. 450; United Kingdom Bretton Woods Order in Council, S.R.& O, 1946, No. 36. Article XX, section 2 requires member states to take all necessary steps to enable themselves to meet their obligations under the Articles.

35. C. Schreuer, *supra* note 17, at 69.

36. 245 La. 755, 161 So. 2d 70 (1964).

termediate court of appeals, however, held the contract unenforceable, citing the official interpretation of article VIII, section 2(b)[37] and refusing to apply its own public policy to Cuba's regulations. The Louisiana Supreme Court reversed and applied Louisiana law to enforce the contract, without so much as a mention of the Fund's official interpretation.[38]

III. IMF FUNDING FACILITIES

As the central organ of the plan to stabilize currencies, the Fund holds balances of the currency of each member nation as well as significant amounts of gold. The Fund effectively acts as a middleman for international payments by taking each country's foreign exchange earnings in return for an equivalent amount of that country's own currency. In the exchange process the Fund regulates exchange rates so as to achieve a livable balance-of-payments position for each member. The Fund's supply of gold is available to even out short-term fluctuations in exchange rates.[39]

In order to provide the currency and gold necessary to operate the system, each country pays an assessed quota[40] based on the size of its economy upon admission to the Fund. Initially the Bretton Woods conferees determined each quota. A majority consisting of 85% of the Fund's voting power now makes determinations regarding quotas.[41] Prior to 1979, each member country had to pay a minimum of 25% of the quota in gold and the remainder in the member's own currency.[42] After 1979, member countries replaced the payments in gold with payments in the currencies of other members.[43] The Fund uses these resources to facilitate current international payments as well as to assist countries with balance-of-payments problems to make necessary adjustments in their economic policies and deficit financing.

The Fund, rather than actually making loans, allows members to use

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37. 154 So. 2d 450, 453 (La. 1963).

38. 245 La. 755, 161 So. 2d 70 (1964).

39. The "par value" system of fluctuating currencies maintained within a specified range was part of the original articles. 2 M. DE VRIES & J. HORSEFIELD, THE INTERNATIONAL MONETARY FUND 1945-1965, at 39-43 (1969). This system was abandoned in favor of freely floating currencies in the Second Amendment of the articles in 1979.

40. Articles of Agreement, *supra* note 1, art. III.

41. *Id.* art. XII, § 5.

42. 60 Stat. 1401, 1403 (1945) (art. III, § 3(b)).

43. Articles of Agreement, *supra* note 1, art. III, § 3(a). Payment can also be made with Special Drawing Rights, an IMF-created unit, discussed *infra* at notes 96-100. *See generally* J. GOLD, SPECIAL DRAWING RIGHTS (IMF Pamphlet Series No. 13, 1969).

their own currency to purchase currencies of other members.[44] If all members' accounts were in balance, the Fund would hold exactly 100% of each member's quota in that member's currency. As the balance of payments fluctuates members may require more foreign exchange than they currently hold. The primary source of exchange for those needs is the reserve tranche. The reserve tranche consists of the difference, if any, between the member's quota and the amount of that member's currency presently held by the Fund.[45] Thus, a member's reserve tranche upon becoming a member of the Fund would be 25% of quota, representing the amount paid in the currencies of other members.[46] The Fund attaches no special conditions to the use of the reserve tranche and treats the funds as part of the foreign exchange assets of the member.[47] Members, therefore, are free to use the reserve tranche as if they hold the funds directly.[48]

When a member seeks to make purchases of other members' currencies in excess of the reserve tranche, the purchases begin to resemble loans. In order to preserve the revolving character of the resources, the Fund wants the use of its resources to be temporary. When a member's payments are out of balance, the Fund holds large amounts of that member's currency with no offsetting demand for that currency elsewhere. To ensure that funds continue to revolve, the IMF requires that members repurchase drawings.[49] To help ensure repurchase, article V, section 3(a) authorizes the Fund to

> adopt policies on the use of its general resources, including policies on stand-by or similar arrangements, and [it] may adopt special policies for special balance of payments problems, that will assist members to solve their balance of payments problems in a manner consistent with the provisions of this Agreement and that will establish adequate safeguards for the temporary use of the general resources of the Fund.[50]

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44. *See* Gold, *Use of the International Monetary Fund's Resources: "Conditionality" and "Unconditionality" as Legal Categories*, 6 J. INT'L L. & ECON. 1, 7 (1971).

45. J. GOLD, FINANCIAL ASSISTANCE BY THE INTERNATIONAL MONETARY FUND: LAW AND PRACTICE 2 (IMF Pamphlet Series No. 27, 2d ed. 1980) [hereinafter FINANCIAL ASSISTANCE].

46. *See supra* notes 40-43 and accompanying text.

47. Articles of Agreement, *supra* note 1, art. V, § 3(b), (c).

48. Members may use the credit tranches and other financing facilities without first using their reserve tranche. *See generally* J. GOLD, FINANCIAL ASSISTANCE, *supra* note 45, at 27.

49. Articles of Agreement, *supra* note 1, art. V, § 7(b).

50. *See also id.* art. I(v) ("making the general resources of the Fund temporarily available to them under adequate safeguards").

Credit tranches provide the basic facilities for the IMF to extend assistance. Four tranches, each equal to 25% of quota, are available for drawings by members. Full use of the first credit tranche raises the Fund's holdings of that member's currency to 125% of quota. In order to access the first credit tranche the member must convince the IMF that it is taking measures to resolve any existing payment imbalance.[51] The Fund, however, will not make specific demands concerning particular macroeconomic indicators that affect the balance of payments and will not set specific dates for repurchase.[52]

The three upper credit tranches are more difficult to access. A member must show a "substantial justification" of a need for the resources.[53] In effect, the member must be pursuing a program to deal with its payments imbalance that meets with IMF approval.[54] Since a single drawing ordinarily will not cure a serious payments imbalance, the Fund allows members to enter into "standby" arrangements,[55] whereby the Fund permits upper-tranche purchases at stated intervals if the member adjusts its economic policies in cooperation with the Fund to cure the underlying causes of the imbalance. In upper-tranche drawings, standby arrangements are the rule rather than the exception.[56] A standby arrangement is the result of consultations and negotiations between representatives of the Fund and of the member.[57] A Letter of Intent, resulting from the consultations and negotiations, sets out policies for the member government to follow and usually includes certain macroeconomic targets, known as performance criteria, which the Fund expects the

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51. Annual Report of the Executive Directors 31 (1962), *reprinted in* SELECTED DECISIONS, *supra* note 22, 26.

52. Decision No. 6056-(79/38) (March 2, 1979), *reprinted in* SELECTED DECISIONS, *supra* note 22, at 20.

53. IMF Annual Report, *supra* note 51.

54. Decision No. 270-(53/95) (Dec. 23, 1953), *as amended by* Decision Nos. 876-(59/15) (April 27, 1959) and 1151-(61/6) (Feb. 20, 1961), *reprinted in* SELECTED DECISIONS, *supra* note 22, at 46.

55. *See* Articles of Agreement, *supra* note 1, art. XXX(b); J. GOLD, ORDER IN INTERNATIONAL FINANCE, THE PROMOTION OF THE IMF STAND-BY ARRANGEMENTS AND THE DRAFTING OF PRIVATE LOAN AGREEMENTS 5 (IMF Pamphlet Series No. 39, 1982).

56. J. GOLD, FINANCIAL ASSISTANCE, *supra* note 45, at 10; M. GUITIÁN, FUND CONDITIONALITY: EVOLUTION OF PRINCIPLES AND PRACTICES 14 (IMF Pamphlet Series No. 38, 1981) (hereinafter M. GUITIÁN, PRINCIPLES AND PRACTICES). *See generally* Gold, *The Growing Role of the IMF's Stand-By Arrangements*, 1984 J. BUS. L. 308 (1984).

57. J. GOLD, FINANCIAL ASSISTANCE, *supra* note 45, at 13.

member to meet.[58] Furthermore, the Fund conditions continued drawings under the standby on the member's success in meeting the performance criteria.[59]

In theory, the criteria for determining appropriate conditions are the same for each of the three upper credit tranches.[60] As a practical matter, however, conditions become more stringent as the amount to be drawn increases. This occurs simply because the need for a large drawing indicates a significant imbalance and requires more drastic measures for cure.[61]

Although the Fund offers the credit tranches as the principal form of financing, the Fund also makes other facilities available to members independently of drawings in the reserve and credit tranches. These facilities include the Compensatory Financing facility, the Buffer Stock Financing facility and the Temporary Oil facility of the mid-1970s.

The purpose of the Compensatory Financing facility is to aid countries experiencing sudden drops in national income due to a collapse in the prices of its export products. The Fund primarily intends the facility to benefit countries that depend on a single export, usually agricultural, for the majority of their foreign exchange earnings. The Fund attaches relatively mild conditions to drawings up to 100% of quota.[62] The member, however, must agree to "cooperate with the Fund in an effort to find, where required, appropriate solutions for its balance of payments difficulties."[63]

A complementary facility, the Buffer Stock facility, compensates members for contributions made to international arrangements designed to stabilize the price of primary commodities. Drawings are available under the facility if the international arrangement receives Fund approval.[64] The prior approval fills the function of conditionality in this facility.[65] In

58. *Id.*

59. *Id.*

60. *Id.* at 20-21.

61. *Cf.* Guitián, *Fund Conditionality and the International Adjustment Process: The Early Period, 1950-70*, 17 FIN. & DEV., Dec. 1980, at 23, 25-26.

62. The actual amount that can be drawn may decrease depending on the historical trend of prices for the particular commodity. J. GOLD., FINANCIAL ASSISTANCE, *supra* note 45, at 29-30.

63. Decision No. 6224-(79/135) (Aug. 2, 1979), *reprinted in* SELECTED DECISIONS, *supra* note 22, at 61.

64. Decision No. 2772-(69/47) (June 25, 1969), *as amended by* Decision No. 4913-(75/207) (Dec. 24, 1975), *reprinted in* SELECTED DECISIONS, *supra* note 22, at 70.

65. J. GOLD, FINANCIAL ASSISTANCE, *supra* note 45, at 30.

the past, the Fund has approved arrangements for tin,[66] sugar,[67] and rubber.[68] The Fund limits drawings under the Buffer Stock facility to 50% of quota.[69]

Another related facility, the Temporary Oil facility, opened in response to the sudden rapid rise of oil prices in the mid-1970s and the resulting disastrous effects on many economies. The Oil facility, similar to the Compensatory and Buffer Stock facilities, was premised on the notion that the imbalances involved were temporary and were caused by circumstances beyond the member's control. The Oil facility, therefore, imposed minimal conditions on drawings up to 75% of quota. In addition, a member using the Oil facility had to refrain from imposing new exchange restrictions without prior Fund approval and had to develop a program to deal with imbalances resulting from increased energy costs.[70] Unlike the other facilities, however, the Oil facility was financed with money borrowed by the Fund, and interest was charged on drawings.[71] Members had to complete repurchases within seven years.[72]

Facilities not requiring major policy changes generally resolve payments imbalances that are by nature temporary. Some imbalances, however, are structural, and simple financing will not cure the causes of the imbalance.[73] The basic tranche policies provide for purchases bringing Fund holdings of a member's currency to 200% of quota.[74] The ordinary duration of a standby arrangement is one year[75] and is renewable as necessary.[76] For most imbalances, even structural imbalances, the basic tranche policy provides sufficient financing to allow time for the member to change policy as necessary to bring external accounts into balance. In some cases, however, a member may require more exchange over a

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66. Decision No. 7247-(82/147) (Nov. 12, 1982), *reprinted in* SELECTED DECISIONS, *supra* note 22, at 74.

67. Decision No. 5597-(77/171) (Dec. 16, 1977), *reprinted in* SELECTED DECISIONS, *supra* note 22, at 75.

68. Decision No. 7246-(82/147) (Nov. 12, 1982), *reprinted in* SELECTED DECISIONS, *supra* note 22, at 78.

69. Decision No. 2772-(69/47), *supra* note 64.

70. J. GOLD, FINANCIAL ASSISTANCE, *supra* note 45, at 31.

71. *Id.* The Fund charged interest of 6⅞ percent to 7⅛ percent on outstanding balances.

72. *Id.* The facility operated from June 1974 to March 1976.

73. Decision No. 4377-(74/114) (Sept. 13, 1974), *as amended by* Decision Nos. 6339-(79/179) (Dec. 3, 1979) and 6830-(81/165) (Apr. 22, 1981), *reprinted in* SELECTED DECISIONS, *supra* note 22, at 27.

74. See *supra* text accompanying notes 44-61.

75. Decision No. 6056-(79/38), *supra* note 52, at 21.

76. J. GOLD, FINANCIAL ASSISTANCE, *supra* note 45, at 16.

longer period of time. More assurance of a flow of foreign exchange may be necessary, therefore, to "give confidence to members"[77] and to put the member in a position to balance the accounts.

The Extended Fund facility, created in 1974,[78] allows for the Fund's holdings of a member's currency to rise as high as 265% of quota, with members completing repurchase within ten years for drawings made over the course of three years.[79] The goal of the Extended Fund facility is a long-term adjustment in a structural balance of payments deficit. Thus, conditionality is high. The Fund and the member negotiate performance criteria and policy changes just as they negotiate for upper-tranche purchases. In practice, however, conditionality may be stricter than that applied to normal tranche purchases because the need for more funds indicates more serious structural problems.[80]

The Supplementary Financing facility fulfills a function similar to that of the Extended Fund facility. The Supplementary Financing facility is available only to members whose needs exceed the amounts available under the tranche policies and who require more time than is otherwise available in Fund programs. Limits on drawings in this facility are not necessarily expressed in terms of quota; rather it is an open-ended source of financing.[81] As a prerequisite to drawings on the facility, the member must have a standby arrangement in the upper credit tranches. Conditionality is applied at that stage. The Fund has assurance from experience with the earlier standby that the member will honor the terms of the Letter of Intent.

The Enlarged Access policy[82] provides for the lifting of drawing limits, in terms of quota, under a standby or extended arrangement on an adequate showing that the member truly needs the resources. Conditionality on Enlarged Access funds is of the highest magnitude, requiring a showing that "the member's program *will* be adequate for the solution of its problem."[83] In legal theory this standard is not significantly different

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77. Articles of Agreement, *supra* note 1, art. I(v).

78. Decision No. 4377-(74/114), *supra* note 73, at 27.

79. J. GOLD, FINANCIAL ASSISTANCE, *supra* note 45, at 33.

80. "The inevitable determinant of the severity of a program . . . is the intensity of a member's problem. Conditionality should be regarded as harsh only if it were to go beyond what was necessary to overcome a problem. . . ." J. GOLD, FINANCIAL ASSISTANCE, *supra* note 45, at 21.

81. *Cf.* Decision No. 5509-(77/127) (Aug. 29, 1977), *reprinted in* SELECTED DECISIONS, *supra* note 22, at 33.

82. Decision No. 6783-(81/40) (Mar. 11, 1981), *reprinted in* SELECTED DECISIONS, *supra* note 22, at 40.

83. *Id.* at ¶ 3 (emphasis added).

from the standard of conditionality that the Fund imposes in the upper credit tranches.[84] In reality, however, the higher the drawing, the more stringent the conditions.

One facility, the Trust Fund, was fundamentally different from the others in that the funds provided were true loans; no exchange of currency was made at the time of the drawing.[85] Moneys for the Trust Fund came not from quota subscriptions, but from Fund sales of gold, or from loans to the Fund from other members.[86] In order to gain access to the Trust Fund, the country had to accept a high-conditionality adjustment program. The Fund charged interest at the rate of ½ of 1% on loans, which the country was obligated to repay within ten years. The Trust Fund was terminated as of April 30, 1981.[87]

On March 27, 1986, the Fund announced the creation of a new financing facility, the Structural Adjustment facility.[88] The purpose of the facility is to assist the poorest developing nations with their long-term adjustments. Funds are available to countries on terms similar to those under the Trust Fund. The Structural Adjustment facility is funded by repayments of Trust Fund loans.[89] Borrowers have a five year grace period, and must repay thereafter within an additional five years.[90] On July 24, 1987, the Fund, responding to the financial crises of less developed nations, raised the limit on these loans from 47% of quota to 63.5% of quota.[91]

In order to limit the benefits of competitive devaluation to debtor nations and to protect these debtor nations from currency fluctuations beyond their control, repurchase requirements and drawing limits under standby and extended arrangements are expressed in Special Drawing Rights (SDRs).[92] The SDR was developed as part of the First Amendment of the Articles of Agreement in 1968 to increase the supply of in-

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84. *But cf.* Decision No. 6056-(79/38), *supra* note 52, at 21, ¶¶ 4, 6.

85. J. GOLD, FINANCIAL ASSISTANCE, *supra* note 45, at 36; Decision No. 5069-(76/72) (May 5, 1976), *reprinted in* SELECTED DECISIONS, *supra* note 22, at 302.

86. J. GOLD, FINANCIAL ASSISTANCE, *supra* note 45, at 36.

87. Decision No. 6704-(81/185) (Dec. 17, 1980), *reprinted in* SELECTED DECISIONS, *supra* note 22, at 318, 319.

88. *Fund Board Creates New Facility to Assist Low-Income Countries*, 15 IMF SURVEY 97 (1986).

89. *Id.* at 108-09.

90. *Id.* at 109.

91. 16 IMF SURVEY 225 (1987).

92. *See, e.g., Form of Stand-By Arrangement Under Enlarged Access Program*, in J. GOLD, ORDER IN INTERNATIONAL FINANCE, *supra* note 55, app. at 43.

ternational liquidity.[93] A member holding an SDR may purchase an equivalent amount of its own currency from another member or may obtain other currencies from the Fund for the purpose of balancing international accounts.[94] The Fund originally expressed the value of the SDR in terms of a weight of gold,[95] but now determines the value by a formula using a "basket" of major currencies.[96]

IV. Conditionality Policies

The official Fund policy on conditionality is quite vague. Whatever guidelines exist concerning conditionality are found in the Executive Board decision of March 2, 1979, wherein the Board states:

> In helping members to devise adjustment programs, the Fund will pay due regard to the domestic social and political objectives, the economic priorities, and the circumstances of members, including the causes of their balance of payments problems.[97]

Although such vagueness is not unreasonable in light of the extremely wide range of circumstances to which Fund conditionality programs must apply,[98] a justifiable concern exists that conditionality be imposed evenhandedly.[99] Official Fund policy is to balance the need for flexibility with the need for uniformity of treatment.[100]

After considering the actual content of conditionality programs, one commentator has identified two stereotypes.[101] One sterotype portrays the Fund as unilaterally imposing more or less the same package on all comers—a Procrustean bed in which the main feature is a strict austerity program to reduce aggregate domestic demand.[102] The other stereotype

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93. *See* J. Gold, Special Drawing Rights 14-15 (IMF Pamphlet Series No. 13, 2d ed. 1969).

94. Articles of Agreement, *supra* note 1, art. XIX.

95. This was article XXI prior to the Second Amendment, 20 U.S.T. 2775, T.I.A.S. 6748 (1968).

96. Beginning January 1, 1986 the SDR is valued at the sum of US $ 0.452, DM 0.527, 33.4, F. 1.02 and £0.0893. Press Release 85/44 (Dec. 31, 1985), *reprinted in* 15 IMF Survey 14 (1986). The IMF Survey publishes a daily quotation for the SDR in each of 46 currencies in each bi-weekly issue.

97. Decision No. 6056-(79/38), *supra* note 52, at 20, ¶ 4.

98. de Larosière, *Resolution of Debt Difficulties Requires Adjustment, Financing,* 12 IMF Survey 139 (1983).

99. Gold, *Political Considerations are Prohibited By Articles of Agreement When the Fund Considers Requests for Use of Resources,* 12 IMF Survey 146, 147 (1983).

100. Decision No. 6056-(79/38), *supra* note 52, at 20, ¶ 8.

101. Bruno, *Comments,* in IMF Conditionality 125 (J. Williamson ed. 1983).

102. *See generally* Dell, *Stabilization: The Political Economy of Overkill,* in IMF

portrays a flexible Fund, responding instantly to changing circumstances, with no preconceived notions about which policies are necessary to fix a particular payments imbalance.[103]

The Fund has changed its policies over time. The 1979 guidelines explicitly recognize the importance of members' political situations in designing adjustment programs.[104] In addition, the basic duration for standby arrangements has increased from six months to one year, and new facilities (the Supplementary and Extended Fund facilities) provide additional long-term assistance. Although in 1981 the Fund purportedly shifted its emphasis from demand-management policies to export-stimulus supply side programs,[105] the IMF still refuses to allow "the prevalence of political weakness . . . [to] be accepted as a justification for failure to take the necessary economic actions."[106] Regardless of the cause of a payments imbalance, the member experiencing the outflow is the country that must practice austerity,[107] and demand management is still the main focus of adjustment.[108]

The official IMF policy on adjustment methods requires that the Fund consult with members to set macroeconomic goals but allow the member government to choose the particular policies necessary to achieve these goals.[109] Performance criteria generally reflect the goals set by the Fund.[110] Criteria typically required for continued drawings under a standby or extended arrangement include limits on expansion of domestic credit; limits on government borrowing; limits on, and occasionally requirements of, further international commercial borrowing; and the re-

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CONDITIONALITY, *supra* note 101, at 17, 21-22.

103. *See generally* Dale, *Financing and Adjustment of Payments Imbalances*, in IMF CONDITIONALITY, *supra* note 101, at 3, 9-11; Kincaid, *Conditionality and the Use of Fund Resources: Jamaica*, FIN. & DEV., June 1981, at 18. The truth lies somewhere in between.

104. Decision No. 6056-(79/38), *supra* note 52, at 21, ¶ 4.

105. Guitián, *Fund Conditionality and the International Adjustment Process: A Look into the 1980s*, FIN. & DEV., June 1981, at 14.

106. Finch, *Adjustment Policies and Conditionality*, in IMF CONDITIONALITY, *supra* note 101, at 75, 79.

107. Guitián, *supra* note 105.

108. *Id.*; *see also* de Larosière, *supra* note 98.

109. Decision No. 6056-(79/38), *supra* note 52, at 22-23, ¶¶ 9, 10; *see also* de Larosière, *J. de Larosière Urges Officials to Learn From Recent Experience*, 14 IMF SURVEY 210 (1985).

110. Decision No. 6056-(79/38), *supra* note 52. Performance criteria are to be "general in character and few in number." Crockett, *Issues in the Use of Fund Resources*, FIN. & DEV., June 1982, at 10, 15.

tention of minimum levels of foreign exchange reserves.[111] Ordinarily a non-quantifiable requirement exists that no new restrictions on current international payments be imposed.[112] In addition, the Fund has an historical concern for inflation as well as for stagnation.[113] IMF-supported adjustment programs, therefore, typically include measures designed to reduce government deficits and to moderate the rise of wages and prices.[114]

In the past, and still in large part today, the IMF adjustment strategy relies primarily on demand-management techniques to reduce consumption of imports.[115] The primary tools in demand-management strategy include money-supply policies, fiscal restraints, the devaluation of currency to make imports more expensive, the tightening of domestic bank credit to both the public and private sectors, and pricing policies "to prevent an undesired pattern of resource use resulting from an unrestricted play of market forces."[116] Moreover, restrictions on government spending can help reduce aggregate demand. When combined with an exchange devaluation, these restrictions function as a check on the overall money supply.[117]

In 1981 the Fund began emphasizing new measures designed to affect the supply side of the balance of payments equation,[118] the idea being to reallocate the country's resources in order to maximize productive investment, particularly in the export sector.[119] The World Bank, whose primary role is to finance particular development projects, is a natural partner in the effort to maximize productive investment.[120] Pricing policy also affects the supply side of the equation because where imported goods become more expensive, domestically produced substitute goods be-

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111. Williamson, *The Lending Policies of the International Monetary Fund*, in IMF CONDITIONALITY, *supra* note 101, at 605, 634.

112. *Id.*

113. Heller, *Impact of Inflation on Fiscal Policy in Developing Countries*, 27 IMF STAFF PAPERS 712, 740 (1980).

114. *See, e.g.*, Conklin & Davidson, *The I.M.F. and Economic and Social Human Rights: A Case Study of Argentina*, 1958-1985, 8 HUM. RTS. Q. 227, 249-50, 254 (1986).

115. M. GUITIÁN, PRINCIPLES AND PRACTICES, *supra* note 56, at 5; *see also* Guitián, *supra* note 105, at 15; Lichtensztejn, *IMF - Developing Countries: Conditionality and Strategy*, in IMF CONDITIONALITY, *supra* note 101, at 209.

116. Crockett, *supra* note 110, at 13.

117. M. GUITIÁN, PRINCIPLES AND PRACTICES, *supra* note 56, at 6-7.

118. Guitián, *supra* note 105, at 15.

119. Crockett, *supra* note 110, at 14.

120. Gold, *The Relationship Between the International Monetary Fund and the World Bank*, 15 CREIGHTON L. REV. 499 (1982).

come more attractive.[121] Furthermore, when domestic production for export relies on imported raw materials, the member can ease import restrictions on those materials.[122] Another new measure is to increase the circulation of domestic capital and also to attract investment of foreign capital by raising domestic interest rates.[123]

Adjustments in the exchange rate affect both sides of the equation. As the effective price of imports rises, the demand for imports should drop, and as the real price of exports decreases, the demand for these goods should increase. The resulting difference between the lower prices of domestic goods and the higher costs of imported goods will encourage import substitutes. The control of exchange rates is a key factor in almost every IMF-approved adjustment package.[124] The devaluation of exchange rates, however, does have drawbacks. For example, the prices of imports rise, and foreign creditors who have made loans or long-term contracts expressed in local currency become very upset. As an alternative to exchange devaluation, the government may impose a collection of quotas, tariffs, subsidies and licenses in order to produce similar effects on relative prices.[125]

V. Debtor Nations and the Fund

A. *Debtor Objections to Conditionality Policies*

Debtor nations doubtless would like to be free from payments imbalances. Imbalances drain the country of money and either force the issuance of more money (with attendant inflation) or create a recession as the result of a lack of capital. Inflation and a shortage of national income make commercial lenders unwilling to lend, or willing to lend only at very high rates of interest.[126] Banks typically make loans to countries with payments imbalances in "hard" currency; thus repayment obligations will cause a further drain on foreign exchange resources.

Although imbalances cause many problems, governments have many concerns other than balanced international accounts. Governments have

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121. Crockett, *supra* note 110, at 13.

122. *Id.*

123. M. Guitián, Principles and Practices, *supra* note 56, at 12.

124. Crockett, *supra* note 110, at 14.

125. *Id.* These measures will, however, increase government expenditure and will effectively restrict free trade. Although the IMF retains these measures in its programs, the measures are retained only out of consideration for political realities.

126. de Larosière, *supra* note 98, at 139.

an overriding interest in political stability.[127] Economic prosperity, characterized by full employment, rising real incomes, equitable distribution of national income, and international creditworthiness, greatly enhances political stability.[128] Failure to achieve economic prosperity in these areas may lead to the downfall of governments, either in democratic or nondemocratic political contexts.[129] In order to adjust the balance of payments the debtor *will* suffer pain. As a Managing Director of the Fund once observed:

> It is very clear that, given the magnitude of the external financing imbalances in a difficult world economic environment, the task of adjustment facing many members entails great sacrifices. In these circumstances, it is sometimes asked if the Fund's conditionality is not too onerous and demanding on borrowing countries or even if the Fund's policies are not aggravating the recession. But the truth of the matter is that a country facing balance of payments difficulties has no choice but to adjust.[130]

The human cost of adjustment, however, may be higher than any nation is willing to pay. Although demand management is beneficial, limits exist as to the elasticity of demand, particularly the demand for food.

The Fund applies various demand-management policies. One policy is to devaluate currency without increasing the money supply, thus raising the price of goods, particularly imports, to the whole population.[131] Another policy of the Fund is to discourage subsidies. The Fund believes that prices, especially energy prices, should not be "distorted"[132] because as formerly controlled prices rise to world levels, consumption patterns must change.[133] Furthermore, tight controls on domestic credit reduce

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127. *See, e.g., Fund's Central Role is Stressed, With Need for Due Conditionality,* 12 IMF SURVEY 325, 331 (1983) (remarks of Mr. Mundia, spokesman for African member countries).

128. *See* Articles of Agreement, *supra* note 1, at art. I(ii); U.N. CHARTER art. 55.

129. The state of the economy always bears on an incumbent's chances of reelection. Often it is a key issue in an election campaign. The Jamaican elections of October 1980 were known as "the IMF general elections." The incumbent lost. Sharpely, *Economic Management and IMF Conditionality in Jamaica,* in IMF CONDITIONALITY, *supra* note 101, at 233, 257. A good non-democratic example is the veritable parade of Argentine governments described in Conklin & Davidson, *supra* note 114, at 230-44.

130. de Larosière, *supra* note 98, at 139.

131. Cline, *Economic Stabilization in Developing Countries: Theory and Stylized Facts,* in IMF CONDITIONALITY, *supra* note 101, at 175, 182.

132. M. GUITIÁN, PRINCIPLES AND PRACTICES, *supra* note 56, at 13.

133. It must be admitted that change in patterns of consumption is precisely the point, but it must also be admitted that the change is a painful one, borne most heavily by those who can least afford it. *See generally* Conklin & Davidson, *supra* note 114, at 248-57.

opportunities for creating jobs because domestic employers cannot expand when credit is not available.[134] Another Fund policy reduces government outlays which in turn reduces government employment, which may often comprise a substantial part of a nation's economy. Furthermore, decreases in government spending eliminate programs essential to the long-term economic and social well-being of the country, including such items as education and public health projects.[135]

Measures designed to enhance the supply side also impose significant costs. First, subsidies and special treatment of particular industries only benefit those holding an equity interest in the profits produced by those industries. Thus, the owners of the means of production, rather than the workers, enjoy the benefits of increased exports. Employees suffer further because the country imposes wage controls to lower the cost of labor in comparison to the world market, thus making the export goods more salable.[136] Second, easing the restrictions on imported goods used in export production can undercut a domestic industry producing substitutes for those goods.[137] Countries can ameliorate this undesired effect only by equalizing prices by imposing tariffs on the imported materials, thus defeating the purpose of making them more readily available, or by subsidizing the substitute materials, which increases the government deficit. Last, by increasing domestic real interest rates countries may encourage reinvestment of domestic capital. This approach, however, has several drawbacks. The increase in interest rates can encourage speculation rather than true productive investment[138] and can encourage actual decapitalization if an existing business is less profitable than the offered interest rate.[139] Another drawback is that the decreased spread between interest charged on loans and interest paid on deposits can lead to bank failures.[140] In response, banks may charge higher interest rates on loans, thereby exacerbating the problems of tight domestic credit. When banks charge high interest rates on loans, businesses may have to operate without sufficient capital and thus be more likely to fail.

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134. *Id.* On the other hand, some evidence exists showing that employment levels tend to rise as the real value of wages drops. Johnson & Salop, *Stabilization Programs and Income Distribution*, FIN. & DEV., Dec. 1980, at 28.

135. Conklin & Davidson, *supra* note 114, at 251-52.

136. Guitián, *supra* note 105, at 14.

137. *See* Crockett, *supra* note 110, at 13.

138. Feinberg, *The International Monetary Fund and Basic Needs: The Impact of Stand-By Arrangements*, in HUMAN RIGHTS AND BASIC NEEDS IN THE AMERICAS 215, 222 (M. Crahan ed. 1982).

139. Conklin & Davidson, *supra* note 114, at 252-53.

140. Johnson & Salop, *supra* note 134, at 28-29.

Exchange devaluation serves as an across-the-board cut in real incomes. Companies operating in the export sector can take advantage of the devaluation by paying employees in devalued local currency while selling the goods at world prices for hard currency. Meanwhile, everyone else, particularly those on fixed incomes, suffers.[141]

The effect of these measures, both individually and collectively, is to lower the standard of living for the vast majority of people, thus widening the gap between rich and poor.[142] It matters not at all to the IMF whether the imbalance was caused by some fault of the debtor nation or by external factors. Rather, the Fund is concerned with whether the imbalance is temporary or persistent.[143] The Fund never attempts to stimulate foreign demand for a debtor's exports, nor does the Fund attempt to cure the external causes of an imbalance. Thus when a nation suffers from an imbalance caused by external factors, the imposition of conditionality often harms innocent victims. In addition to causing painful adjustments, the IMF is always in more of a hurry to meet economic targets than a politician could ever be.[144] Ordinarily standby arrangements last only one year.[145] However, checks on performance criteria are made even sooner. For example, the 1985 standby arrangement with Argentina, agreed to in December 1984,[146] called for a reduction in the rate of inflation from 400 percent per year to 150 percent per year by the end of 1985. When Argentina failed to meet the interim target for February 1985, the Fund cut off drawings under the standby.[147]

The reality of the Fund setting goals, while allowing the government to choose the means of achieving those goals, is subject to serious question. The Argentine experience provides an illustration. The first Argentine conditionality package in 1958 required the government to eliminate price controls and subsidies and to impose wage controls.[148] As recently as the 1985 standby, the Fund required increases in the fees charged by the Argentine government for government services.[149] Other debtor countries have had similar experiences. In the 1980 extended arrangement

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141. Johnson & Salop, *Distributional Aspects of Stabilization Programs*, 27 IMF STAFF PAPERS 1, 13 (1980).

142. *Id.*

143. Dell, *supra* note 102, at 21-22.

144. *See Communiqué of Group of 24*, 14 IMF SURVEY 311, 313 (1985).

145. Decision No. 6056-(79/38), *supra* note 52, at 21.

146. Press Release No. 84/43 (Dec. 28, 1984), 14 IMF SURVEY 14 (1985).

147. Conklin & Davidson, *supra* note 114, at 242-43.

148. *Id.* at 230.

149. *Id.* at 243. The Fund has gone so far into microeconomic control as to require higher bus fares. *Id.* at 259 (quoting Feinberg, *supra* note 138, at 219).

with Kenya, the Fund imposed a particular import policy as a performance criterion.[150] The 1978 standby with Portugal required increases in the controlled prices of particular items.[151] Between 1968 and 1978 no fewer than seven programs required specific revenue or expenditure measures as performance criteria.[152]

B. *Compromise Between the Fund and Debtor Nations*

Although countries often endure great hardships, the Fund and its conditionality are nonetheless important to debtor nations. A standby arrangement has a catalytic effect on commercial lending to the debtor. The IMF "seal of approval" can improve the debtor's status.[153] Indeed, bank financing is generally of greater magnitude than IMF direct financing.[154] Likewise, the availability of foreign exchange in the proper currencies is essential to the survival of the debtor nation because commercial lending might not provide the varieties of currency necessary to meet international obligations. Perhaps the most important function of IMF conditionality is that the government may blame the IMF when introducing painful but necessary adjustment measures.[155] Adjustment measures, although quite burdensome regardless of who imposes those measures, are the means necessary to cure payments imbalances. The Fund has the power to completely cut off an uncooperative member country.[156] Therefore, members have strong incentives to reach a settlement with the Fund.

The Fund also has a strong interest in reaching an agreement.[157] The principal reason for the Fund's creation was to stabilize exchange rates. The Fund, however, cannot achieve that goal if currencies must be con-

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150. Killick, *Kenya, the IMF, and the Unsuccessful Quest for Stabilization*, in IMF CONDITIONALITY, *supra* note 101, at 381, 402.

151. da Silva Lopes, *IMF Conditionality: The Stand-By Arrangement with Portugal, 1978*, in IMF CONDITIONALITY, *supra* note 101, at 475, 483.

152. Beveridge & Kelly, *Fiscal Content of Financial Programs Supported by Stand-By Arrangements in the Upper Credit Tranches, 1969-78*, 27 IMF STAFF PAPERS 205, 222 (1980).

153. Dale, *The IMF's Role in a Changing World*, 21 FIN. & DEV., Mar. 1984, at 2, 13.

154. de Larosière, *supra* note 98, at 140-42.

155. Matthews, *Global Economy, Debt Crisis Top Agenda at IMF Meeting*, AM. BANKER, Sept. 26, 1986, at 2; *cf.* Crockett, *supra* note 110, at 15.

156. Article V, section 5 gives the Fund the power to cut off a member from all access to Fund resources.

157. Dale, *supra* note 103, at 16.

stantly devalued to keep pace with payments imbalances.[158] The safeguarding of the international monetary system also requires avoidance of a debtor's revolt. The default of major sovereign debtors could weaken commercial banking so greatly as to destroy the entire system.[159] An additional motivation for reaching an agreement on conditionality is the interest in safeguarding the revolving character of the Fund's assets. Debtor economies drained of foreign exchange earnings may be unable to make repurchases, thus leaving the Fund holding large amounts of useless currency.[160]

These competing interests provide debtors and the Fund with reasons to agree and to disagree. The resulting compromises can be anomalous. Many programs actually mandate increased inflation, at least in the short term.[161] Despite the Fund's history and despite article VIII, section 3, the Fund has allowed actual multiple currency practices to continue in Uruguay and Jamaica.[162] Although such practices may continue with Fund approval, the article also states that multiple currency practices shall be removed unless maintained under article XIV, section 2, a special dispensation for the immediate post-World War II period. In 1982, thirty-six IMF members were engaged in multiple currency practices.[163]

Contrary to the goals stated in article I(ii)[164] and the consideration of social and political objectives as promised in the 1979 conditionality guidelines,[165] fund-supported programs have in fact made the poor of many nations poorer while increasing the wealth of the wealthy.[166] Although it is true that the Fund is not technically subject to the United Nations Charter,[167] the Universal Declaration of Human Rights,[168] or

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158. *Cf.* Friedman, *Private Bank Conditionality: Comparison with the IMF and the World Bank*, in IMF CONDITIONALITY, *supra* note 101, at 109, 115.

159. Hall, *How Safe Are Banks?*, FIN. WORLD; Nov. 13, 1985, at 10.

160. Friedman, *supra* note 158, at 115; Finch, *supra* note 106, at 81.

161. Finch, *supra* note 106, at 82-83.

162. Concerning Uruguay, see 2 J. GOLD, THE FUND AGREEMENT IN THE COURTS 104-07 (1982); Energetic Worsted Corp. v. United States, 224 F. Supp. 606, 608 (Cust. Ct. 1963). Concerning Jamaica, see Sharpley, *supra* note 129, at 258.

163. R. EDWARDS, INTERNATIONAL MONETARY COLLABORATION 388 (1985).

164. One of the purposes of the Fund is "to contribute . . . to the promotion and maintenance of high levels of employment and real income and to the development of the productive resources of all members as *primary* objectives of economic policy." (emphasis added).

165. Decision No. 6056-(79/38), *supra* note 52, at 21.

166. Killick, Bird, Sharpley & Sutton, *IMF Policies In Developing Countries: The Case for Change*, THE BANKER, April 1984, at 31; Johnson & Salop, *supra* note 134.

167. June 26, 1945, 59 Stat. 1031, T.S. No. 933 (1945).

168. Adopted Dec. 10, 1948, G.A. Res. 217A(III), U.N. Doc. A/810 (1978).

the International Covenant on Economic, Social and Cultural Rights,[169] the Fund has supported adjustment programs massively violating each of these.[170]

The Fund professes to be politically neutral.[171] In practice, however, the Fund is unable to achieve neutrality. Although the Fund calls its approach "pragmatic,"[172] the Prime Minister of Greece considered a proposed Fund conditionality package a call to abandon Socialist principles.[173] Measures tending to widen the gap between rich and poor do not contribute to the creation of a classless society. Since almost every policy tool used in IMF programs widens the gap, the Prime Minister's argument has considerable justification.[174]

The converse of the Prime Minister's criticism is also true. IMF policies can appear to be in opposition to the free market. The hallmark of adjustment programs is artificial limitation, specifically, artificial limits on public and private credit, artificial disincentives on imports, artificial reordering of industrial production into exports, and artificial decreases in the purchasing power and bargaining power of workers. None of these limitations are compatible with *laissez-faire* political economy. The Fund, however, cannot achieve macroeconomic change without impacting upon the political economy. At the opening meeting of the IMF, Lord Keynes expressed a fear that the Fund would become a politician, making determinations not for their own sake or on their own merits, but because of something else.[175] That fate seems to be inevitable.

169. G.A. Res. 2200A(XXI), 21 U.N. GAOR Supp. No. 16, at 79, U.N. Doc. A/6316 (1966).

170. Conklin & Davidson, *supra* note 114, at 248.

171. Decision No. 6056-(79/38), *supra* note 52, at 20, 22; Gold, *Political Considerations Are Prohibited*, *supra* note 99, at 146.

172. *Financing and Adjustment Should Work in Tandem, According to Fund Policy*, 13 IMF SURVEY SUPPLEMENT ON THE FUND 2 (1984).

173. *Greece Attacks IMF, EC Stand on Resources*, J. COMM., Mar. 19, 1984, at 23B, col. 1.

174. Greece has not used any tranche program since a reserve tranche drawing in 1975. Drawings have been made, with timely repurchase, from the Oil facility and the Compensatory Financing facility.

175. 1 J. HORSEFIELD, *supra* note 2, at 123. Lord Keynes said, speaking as the evil fairy Carabosse, "You two brats [the Bretton Woods twins] shall grow up politicians; your every thought and act shall have an *arrière-pensée*; everything you determine shall not be for its own sake or on its own merits but because of something else." *Id.*

VI. Creditor Nations and the Fund

A. *Creditor Objections to Conditionality Policies*

Because the world financial system is extremely interdependent, parties other than the member subject to conditionality have an interest in the transaction. First, creditor nations, and more specifically the banks in those creditor nations, have an interest in the economic well-being of the debtor nation.[176] The Fund conducts regular and intensive reviews of economic conditions in all member countries,[177] thus creating an important informational resource for commercial lenders.[178] In making lending decisions, banks, therefore, rely on the IMF's evaluation of a potential borrower. By providing such information, the Fund acts as a catalyst for private lending.[179]

The Fund is more able to demand policy changes than are the banks.[180] Banks compete with one another to make profitable loans;[181] therefore, their bargaining power decreases accordingly. The Fund, on the other hand, plays a key role in determining which loans the bankers will compete to make. Borrowers, therefore, have to please the Fund more than they have to please any particular commercial lender. Furthermore, the Fund, as a non-profit organization, has an additional air of authority. Although the Fund's cash contribution generally is less than the aggregate commercial lending to a debtor nation, it is significant compared to the lending of any particular commercial source.[182] Armed with large financial resources combined with supervisory ability and backed by the commercial lenders, the Fund effectively can create, impose and supervise adjustment programs in a manner not available to the banks.

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176. *See* Mikesell, *Appraising IMF Conditionality: Too Loose, Too Tight, or Just Right?*, in IMF CONDITIONALITY, *supra* note 101, at 47.

177. *See* Articles of Agreement, *supra* note 1, art. XII, § 8; art. VIII, § 5; *see also* Decision No. 6056-(79/38), *supra* note 52, at 20, ¶ 5; Dale, *supra* note 103, at 6. A great deal of information given to the Fund is not available to the public, even if the public were willing to make an effort to find out.

178. J. GOLD, ORDER IN INTERNATIONAL FINANCE, *supra* note 45, at 14-15; Schulman, *Private Banks Urge Debtors and Creditors to Intensify Efforts to Solve Debt Problem*, 16 IMF SURVEY at 105-06 (1987).

179. de Larosière, *supra* note 98, at 140; Robichek, *The International Monetary Fund: An Arbiter in the Debt Restructuring Process*, 23 COLUM. J. TRANSNAT'L L. 143, 146 (1984).

180. Friedman, *supra* note 158, at 115-16, 117-120.

181. *Id.* at 117-18.

182. J. GOLD, ORDER IN INTERNATIONAL FINANCE, *supra* note 55, at 11.

Second, creditors have a strong interest in the adjustment of imbalances because if no money exists to repay debts already owed, major defaults are inevitable. The significant amount of outstanding loans justifies the banks' fear of defaults by sovereign borrowers. By 1981, commercial banks were making new loans of up to $40 billion per year to the non-oil developing countries.[183] The United States government, therefore, is validly concerned that a default by a foreign sovereign could threaten the United States economy.[184] The threats of default on current loans require banks to keep lending in order to enable the debtor to maintain payments.[185] Thus, a captive lender is unable to exert any pressure for policy change in the debtor countries; rather, only an independent source like the IMF can exert such pressure. Although the banks depend on the IMF to strengthen the debtor country, the banks do not want the Fund to impose too stringent conditionality. A debtor's revolt in response to restrictive policies could quickly result in disaster. Creditors are justified in fearing a debtor's revolt. Cuba has been urging the Third World to throw off its "shackles of debt."[186] In addition, debtors nations are rumbling about the possibility of suspending interest payments.[187]

Last, creditor nations are interested in the content of conditionality programs under article VIII, section 2(b).[188] This section prescribes nonenforcement of contracts violating the exchange controls of any Fund member imposed consistently with the Articles of Agreement. Exchange controls imposed as part of an IMF-approved adjustment program are binding on the rest of the world. Thus the courts of any IMF member country could not enforce a contract using a rate of exchange that differs from the rate that the IMF has imposed. Regulations favoring the debtor nation will conversely disfavor parties dealing with the debtor. For example, an artificial exchange rate could impose great costs on a contracting party. Creditor nations are concerned that the Fund, as part of its program, place no debilitating restraints on their nations' trade with debtor nations. The policy of the Fund is to keep trade as free as possi-

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183. *World Debt Situation, Hearing Before the Subcomm. on Int'l Economic Policy of the S. Comm. on Foreign Relations*, 97th Cong., 2d Sess. 8 (1982) (statement of Mr. Clark).

184. *Id.* at 1.

185. Robichek, *supra* note 179, at 145.

186. *Fidel Stirs Another Pot*, NEWSWEEK, July 29, 1985, at 53.

187. *See* Cohen & Truell, *Brazil Hardens Its Position on Paying Debt*, WALL ST. J., Feb. 26, 1987, at 25.

188. See *supra* notes 25-38 and accompanying text.

ble[189] and the Articles expressly prohibit restrictions on current payments except with Fund approval.[190] Many IMF programs, however, retain restrictions on current payments. The Fund will not instantly dismantle a control regime that the debtor has established. To the extent that a debtor nation maintains controls, they have the Fund imprimatur, and creditors cannot avoid the application of article VIII, section 2(b).

B. *Compromise Between the Fund and Creditor Nations*

The Fund lacks the money necessary to finance large adjustment programs without relying on outside resources.[191] Thus, the Fund must consider the interests of the creditors. Austerity programs require time to achieve the goals set by the Fund. Even assuming that the adjustment program is successful, a structural imbalance may take considerable time to resolve. Because the debtor must continue to make payments during the recovery, additional financing is the carrot to accompany the conditionality stick.[192] These interests are more realistic than the lofty goals of the Fund.[193]

In a more direct sense the Fund must respect the interests of creditor nations because of the weighted voting system used to govern the Fund. The Executive Directors manage the Fund[194] and make the decisions regarding conditionality packages.[195] The five nations having the largest quotas directly appoint at least five of the Executive Directors.[196] The voting power of the Executive Directors is proportionate to the voting power of the members who elect them.[197] The Board of Governors, consisting of one person appointed by each member nation,[198] can review decisions made by the Executive Board.[199] Votes of the Board of Gover-

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189. Finch, *supra* note 106, at 81.

190. Articles of Agreement, *supra* note 1, art. VIII, § 2(a).

191. Dale, *supra* note 103, at 8-9.

192. de Larosière, *Managing Director Charts Course for Sustainable Economic Growth*, 13 IMF SURVEY 217 (1984).

193. Friedman, *supra* note 158, at 115, 118.

194. Articles of Agreement, *supra* note 1, art. XII, § 3(a).

195. *E.g.*, Decision No. 6056-(79/38), *supra* note 52, at 22, ¶ 7.

196. Articles of Agreement, *supra* note 1, art. XII, § 3(b)(i). Fifteen are elected by all other members. *Id.* at art. XII, § 3(b)(ii).

197. *Id.* art. XII, § 3(h)(iii); J. GOLD, VOTING MAJORITIES IN THE FUND: EFFECTS OF THE SECOND AMENDMENT OF THE ARTICLES 2-3 (IMF Pamphlet Series No. 20, 1977).

198. Articles of Agreement, *supra* note 1, art. XII, § 2.

199. *Id.*

nors, however, are also weighted according to quota.[200] Although the Governors generally do not review Executive decisions, the check still exists. Absent concerted efforts to organize the low-quota members, the high-quota members will continue to dominate both governing bodies.[201]

The Fund is caught between the interests of the creditors and the interests of the debtors, yet it must formulate programs acceptable to both.[202] Because the Fund needs outside financial support to effect long-term structural adjustments, the Fund has in fact *required* commercial lenders to advance additional credit to a country as a precondition to the conclusion of a standby agreement with that country. Such was the case with Mexico in 1982[203] and Argentina in 1984.[204] Banks generally respond to the Fund's exertion of power because so much money is at risk. As one United States banker said, "[I]t's amazing to see the lack of influence the major banks have in these things."[205]

As a result of political and economic reality the Fund may allow a country to maintain currency restrictions or rates of exchange that creditors dislike. One outstanding example is Jamaica's de facto dual currency system.[206] When a currency is overvalued, as often happens, a foreigner using the official rate of exchange gets a worse deal than would be available in a free market. Article VIII, section 2(b) enforces that disadvantage.

VII. Possible Responses to Conditionality

A. *Debtors' Responses*

The above discussion enumerated some of the frictions that arise between the Fund and its members. The following section will discuss how the parties address those frictions and what options are available to member nations.

Creditors have little direct say in the formulation of particular adjust-

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200. *Id.* Art. XII, § 5. Each Governor has 250 votes plus one vote for each SDR 400,000 of quota. *Id.* art. XII, § 5(a). A sidelight is that the Fund's main office is required to be in the territory of the member with the largest quota. *Id.* art. XIII, § 1.

201. In 1977, developing countries had a combined voting power of 32.9 percent. J. Gold, Voting Majorities, *supra* note 197, at 6.

202. *See* Robichek, *supra* note 179, at 146.

203. *IMF Orders Banks to Keep Mexico Afloat*, Bus. Wk., Dec. 6, 1982, at 34; Robichek, *supra* note 179, at 148.

204. *IMF Presses for Accord on Argentine Loan*, J. of Comm., Nov. 9, 1984, at 5A; Robicheck, *supra* note 179, at 148.

205. *IMF Orders Banks to Keep Mexico Afloat*, *supra* note 203.

206. Sharpley, *supra* note 129, at 258.

ment programs. Creditors' interests are represented in the Group of Ten nations lending money to the IMF under the General Arrangements to Borrow[207] and in the Group of Seven industrial nations.[208] Although these two groups consult regularly with Fund management, they have no voice in the structuring of particular programs.

Debtor nations generally must also accept the programs as created by the IMF. Debtors have a consultative group, the Group of Twenty-four, which urges lower conditionality and higher volumes of financing on Fund management.[209] A typical pattern of conduct for debtors with intractable structural imbalances is to:

(1) avoid the Fund as long as possible (thereby exacerbating the problem);[210]

(2) conclude as mild a conditionality package as the Fund will approve;

(3) make one or two drawings under the standby;

(4) miss the performance criteria, thus cutting off further drawings under the standby; and

(5) repeat steps two through four.

Jamaica's experience with the Fund provides one example of this cycle. In August 1977 Jamaica reached a two-year standby agreement. This agreement, however, was suspended in December of the same year. The parties agreed to an extended arrangement, scheduled to last three years, in May 1978. The second arrangement similarly was suspended in December 1979. After the parties failed to reach an agreement in 1980, a new extended arrangement became effective in April 1981.[211] Standbys of 1986 and 1987 have also been effected.[212] The Argentine experience is largely parallel. Standby arrangements for three consecutive years beginning in 1983 were cut off prematurely. A new standby has replaced the 1985 version as well.[213] A 1987 standby has also been put into effect.[214]

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207. *See, e.g., Group of Ten Communiqué*, 12 IMF SURVEY 294 (1983).

208. *See, e.g., Ministers Cite Need to Redress Imbalances by Intensifying Their Cooperative Efforts*, 15 IMF SURVEY 314 (1986) (statement of Finance Ministers of the Group of Seven).

209. *Deputies of Intergovernmental Group of 24 Call for Major Changes in Monetary System*, 14 IMF SURVEY 2, ¶¶ 16, 24-37 (Supp. on Group of 24 Deputies' Report 1985).

210. *See Fund and Banks to Play Key Adjustment Role, According to Participants in Joint Seminar*, 13 IMF SURVEY 204, 204 (1984).

211. Sharpley, *supra* note 129, at 240.

212. Press Release No. 87/4, 15 IMF SURVEY 79 (1987) (announcing 1987 standby and compensatory financing).

213. Conklin & Davidson, *supra* note 114, at 239-44.

By stringing the Fund along in this way, whether intentional or not, a debtor nation may obtain IMF resources while keeping austerity programs at a level sufficiently moderate to maintain political stability. A second option available to debtors simply is to not deal with the IMF at all, but to approach commercial creditors directly. Chile,[215] Venezuela,[216] and Argentina[217] have taken this approach. The potential success of this strategy, however, is limited by the commercial banks' willingness to lend absent IMF approval. After all, even *with* IMF approval, Jamaica was unable to get the commercial financing it needed.[218] Without approval from the IMF, lenders will be much more hesitant to make loans to debtor nations. Furthermore, rejection of an IMF program indicates the debtor's unwillingness to bite the bullet in order to meet obligations, which bodes ill for repayment of new loans.[219]

A third possible solution for debtors would be to introduce an entirely new currency. The Fund, of course, prohibits multiple currency practices,[220] but the replacing of an old currency with a new one allows the debtor to set an entirely new exchange rate. Bolivia recently used this technique[221] as part of a stabilization program and not to defraud creditors. Any benefit from such a strategy would necessarily be short-lived, but could help lighten the load of old debt. Furthermore, payment of an old obligation in new currency at rates not inconsistent with the Articles would receive support from article VIII, section 2(b). In the long run, however, a structural imbalance will reassert itself. A misvalued new currency is no better than a misvalued old currency.

Last, the most obvious and most destructive option is a debtor's revolt. Cuba, under the direction of Fidel Castro, has been urging other debtor nations to take this option.[222] Such an action would not only be disastrous for creditors, the Fund, and the world financial system as a whole,

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214. Press Release No. 87/23, 16 IMF SURVEY 233 (1987).

215. O'Reilly, *Chile Acts to Discard Agreement With IMF*, J. Comm., Apr. 3, 1984, at 1A.

216. O'Reilly, *Venezuela Reaches Debt Accord: Nation Not Required to Submit to Program Sponsored by IMF*, J. Comm., June 25, 1985, at 1A.

217. *See* Conklin & Davidson, *supra* note 114, at 239 (no standby from 1979 through 1982).

218. Sharpley, *supra* note 129, at 256.

219. *See, e.g.*, Morgan, *French Insist Argentina Reach IMF Accord*, J. Comm., July 31, 1984, at 5A.

220. Articles of Agreement, *supra* note 1, art. VII, § 3.

221. *Bolivia Breaks Hyperinflation, Creating Conditions for Sustained Growth*, 16 IMF Survey 18-20 (1987).

222. Even Brazil claims only to have "suspended" interest payments. *See* Cohren & Truell, *Brazil to Delay Debt Payments to its Creditors*, Wall St. J., Feb. 20, 1987, at 25.

but would be equally disastrous for the defaulting debtor who is not completely self-sufficient. The market for the currency of a willfully defaulting debtor would instantly disappear.[223] In addition, the need for foreign exchange for current transactions would be greatly intensified. The effects of a payment imbalance, which would presumably continue to exist, would be felt directly and immediately in the absence of credit to soften and postpone the blow. The threat of a debtor's revolt is much more useful to the debtor than an actual default would be. As long as a creditor has a hope of repayment there is the possibility that the creditor will be willing to throw good money after bad. Indeed, we have seen that banks feel that they have no choice but to do so.[224]

B. *Creditors' Responses*

Creditors have more realistic options available to them. Working within the Fund structure, creditor nations can use their superior voting power. As of December 31, 1986, 31 countries had standby or extended arrangements in place.[225] Their total proportion of quota is 8.76 percent.[226] On the other hand, the Group of Seven countries has a total of 48.96% of quota.[227] An exertion of political muscle could easily put control of the Fund's policies squarely with the creditor nations.

The creditors may avoid further losses by refusing to supply any more money to the Fund. This possibility exists because article II, section 2 says, "No quota shall be changed without the consent of a member concerned." In addition, the Group of Ten also has the power to unilaterally withdraw from the General Arrangements to Borrow.[228]

Commercial creditors who are willing to make unified demands and to carefully supervise the borrowers can force a debtor to accept any conditions. The Fund is more a convenience to the banks than it is a necessity.

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223. *Fidel Stirs Another Pot, supra* note 186.

224. *See supra* text accompanying notes 183-84. *But see* Fraust & Sudo, *Loan-loss Juggernaut Rolls On; New Reserves Vary Among Biggest Banks*, AM. BANKER, June 3, 1987, at 4 (trend toward increasing bad debt reserves).

225. *Fund Credit Outstanding Stackers in 1986, New Fund Loan Commitments Continue Rising*, 16 IMF SURVEY 45, 46 (1987).

226. *See* 14 IMF SURVEY 7 (Supp. on the Fund 1985) (Fund quotas); *see also* 16 IMF SURVEY 46 (1987) (stand-by, extended and structural adjustment facility (SAR) arrangements as of December 31, 1986).

227. 15 IMF SURVEY 263 (1985). Voting power is somewhat less because of each member's automatic 250 votes. *See supra* note 204.

228. M. AINLEY, THE GENERAL ARRANGEMENTS TO BORROW 22 (IMF Pamphlet Series No. 41, 1984).

Private conditionality is common with domestic loans.[229] No apparent reason exists that creditors cannot impose conditions similar to those for domestic loans for international loans.

Making conditionality more stringent may not be advisable. The Fund's reasons for negotiating with debtors apply with equal force to commercial lenders. The Fund's already pro-creditor approach[230] is an indication that stricter conditionality might be counterproductive. If the idea of forcing tighter conditions is abandoned, the main problem creditors have with Fund conditionality is article VIII, section 2(b). There is little a creditor nation can do to help its bankers and businesspeople. Article VIII, section 2(b) can simply be ignored by the courts. One scholar has noted: "The considerable number of judgments in which courts simply ignored it, especially those cases in which the outcome is in clear contradiction to its terms . . . must be taken as an indication of the limited degree of authority attributed to it by domestic courts."[231] Indeed, most judges are blissfully unaware of the existence of that section unless it is brought to their attention by the parties to a dispute. Even if made aware of it, courts have the freedom to interpret it out of existence, as did the courts in *Terruzzi*[232] and *Theye y Ajuria.*[233] Without article VIII, section 2(b) businesspeople are free to make contracts without fear of intervening exchange depreciation or other restriction.

Short of actually abandoning article VIII, section 2(b), courts could choose to apply it only if the foreign regulations involved accord with the court's notions of fair play and justice or with the court's view of the forum state's national interest. United States precedent for such an approach can be found in the Supreme Court's decision in *Columbia v. Cauca Co.*[234] There the Court assumed de novo review over an arbitral award made by an international panel and determined the appropriate award on the merits.

In the same way the courts could, if they wished, review approved exchange controls as an "award" of the IMF to see if they should be enforced. The national interest of the forum state has been a factor in the recognition or nonrecognition of foreign awards. For instance, in *Sapphire International Petroleums Ltd. v. National Iranian Oil Co.*[235]

229. *See, e.g.*, Parsons Steel, Inc. v. First Ala. Bank, 679 F.2d 242 (11th Cir. 1982).

230. *See supra* text accompanying notes 189-90.

231. C. SCHREUER, *supra* note 17, at 70.

232. *See supra* note 30.

233. *See supra* note 36.

234. 190 U.S. 524 (1903).

235. Judgment of Dec. 1, 1963, Court of First Instance of Teheran, Iran, *reprinted in* 9 I.L.M. 1118 (1970).

the Iranian court overturned the decision of a Swiss arbitrator because Iranian law had not been applied. The contract in issue had no choice of law clause, but the Iranian court held that the application of any other law was error. In that manner, exchange contracts can be reviewed for violations of the forum's public policy rather than the public policy of the state whose currency is involved as expressed in that country's exchange regulations. The public policy of the United States and of the United Kingdom is to maintain New York and London as centers of world trade, places where businesspeople can rely on their contracts being enforced.[236]

VIII. Conclusion

Although options do exist for the aggrieved, the world financial system would be harmed by all of them, and in the long run resistance to IMF conditionality is almost surely counterproductive. The Fund is the organ of international cooperation and compromise. It is as close to an international omnilateral consensus-builder as there is. Resistance to the Fund is therefore resistance to international compromise.

The introduction of multiple currencies, or predatory devaluation of currency is a benefit only so long as other nations restrained by a sense of fair play or by the Agreement do not do likewise. As soon as a state is harmed by such a predatory practice, it has ever stronger incentive to defend itself. Self-defense for a competitive exporter may mean institution of similar measures in competition. For a creditor state, it may mean refusal to enforce currency restrictions in the courts, thereby making them meaningless. These sorts of measures not only create economic confusion but also create genuine political animosity.

Further, resistance to Fund-selected adjustment techniques cannot solve the underlying problem of a debtor nation. The value of imports will continue to exceed the value of exports until something is done about it. Rejecting Fund adjustment simply puts the burden on the government, which may very well not have the political strength to effect the needed changes. The Fund's role as a scapegoat is not to be underestimated.

The Bretton Woods conference was held primarily to stop the then-current "beggar my neighbor" policies. The Fund has in large part accomplished that end. Resistance to Fund policies implies an effort to secure an unfair advantage in improving the balance of payments. Any improvement in a country's balance of payments, which is not based on

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236. See *supra* note 33.

the real relative value of its imports and exports, must necessarily come at someone else's expense. An attempt to evade that fact invites all the problems that led to the institution of the Fund in the first place.

No one wants to see a return to the "beggar my neighbor" policies of the 1930s. The Fund represents international cooperation and compromise. It is no wonder that the Fund is not well-liked, because the Fund must force compromise on members. Nonetheless, compromise is essential to cooperation. Any weakening of the mechanism for that compromise only makes the underlying debtor-creditor friction more direct.

Brian Trubitt