

March 4, 1946.

MEMORANDUM

It is difficult to define precisely the powers of the U. S. Governor of the International Monetary Fund and the International Bank for Reconstruction and Development. There are, however, certain general lines of authority which are adequately defined in the Articles of Agreement and in the Bretton Woods Agreements Act. In addition, the Articles of Agreement and the legislation place certain general and specific limitations upon the powers of the U.S. Governor.

The guiding principle in examining the powers of the U.S. Governor is that embodied in Article XII, Section 2(b) of the Fund Agreement and Article V, Section 2(b) of the Bank Agreement. Pursuant to these provisions all powers of the Fund and Bank are vested in the Boards of Governors. Thus it may be generally stated that the U.S. Governor is vested with a proportionate share of the powers of the Fund and Bank which he may exercise through his voting power on the Boards of Governors. There are, however, many general and specific limitations on this broad power of the U.S. Governor and it is the purpose of this memorandum to examine these limitations. They are found in the Articles of Agreement and in the Bretton Woods Agreements Act.

I.

General Limitations under the Bretton Woods Agreements Act

A. The National Advisory Council is required to recommend to the President, after consultation with the representatives of the U.S. on the Fund and the Bank, general policy directives for the guidance of those representatives. When such recommendations are approved by the President, the U.S. Governor would be guided by them in carrying out his duties as Governor. [Act, Sec. 4(b)(1)]

B. The Council is directed to advise and consult with the President and the U.S. representatives on major problems arising in the administration of the Fund and Bank. Thus with respect to major decisions the U.S. Governor must consult with the National Advisory Council. [Act, Sec. 4(b)(2)]

C. The National Advisory Council has authority to coordinate the policies and operations of the U.S. representatives, the Expert-Import Bank and all other agencies of the Government to the extent that they make or participate in the making of foreign loans or engage in foreign financial, exchange or monetary transactions. It is difficult, in advance of some experience with the problems that will arise, to define the relationship which this provision of the legislation establishes between the National Advisory Council and the U.S. Governor. It is



altogether likely, however, that a relationship will develop similar to that already established between the National Advisory Council and the Export-Import Bank. [Act, Sec. 4(b)(3)]

D. The Articles of Agreement reserve certain powers to the member governments. In most cases this is accomplished by requiring the approval, consent or agreement of members prior to the Fund or Bank taking certain types of action. The decision as to whether such approval, consent or agreement shall be given or refused is vested in the National Advisory Council under the general direction of the President. This general limitation on the powers of the U.S. Governor is described in greater detail under IV, B, 3 below where the various powers reserved to the member governments are described in detail. [Act, Sect. 4(b)(4)]

## II.

### Powers Which Cannot be Delegated to the Executive Directors

The Articles of Agreement of both institutions provide that the Board of Governors may delegate to the Executive Directors authority to exercise any powers of the Board. This provision is found in Article XII, Section 2(b) of the Fund Agreement and Article V, Section 2(b) of the Bank Agreement. There are two types of limitations on this power to delegate which result in certain powers being vested in the Boards of Governors alone. One group of powers is specifically set forth as non-delegable and the other group is non-delegable because the specific provisions dealing with them provide for their exercise by the Board of Governors.

A. Specific provision is made that the following powers may not be delegated to the Executive Directors:

1. The power to admit new members and determine the conditions of their admission. [Fund, Art. XII, Sec. 2(b)(1); Bank, Art. V, Sec. 2(b)(1)].

2. The power to approve a revision of quotas in the Fund and to increase or decrease the capital stock of the Bank. [Fund, Art. XII, Sec. 2(b)(ii); Bank, Art. V, Sec. 2(b)(ii)] Although these powers are reserved to the Governors by the Articles of Agreement there are limitations placed on the powers of the U.S. Governor by the Bretton Woods Agreements Act. He is not permitted to request or consent to any change in the quota of the U.S. [Act, Sec. 5(a)] or to vote for an increase of the capital stock of the Bank. [Act, Sec. 5].



3. The power to require a member to withdraw from the Fund and the power to suspend a member of the Bank. [Fund, Art. XII, Sec. 2(b)(vi); Bank, Art. V, Sec. 2(b)(iii)].

4. The power to decide appeals from interpretations of the Agreements by the Executive Directors. [Fund, Art. XII, Sec. 2(b)(viii); Bank, Art. V, Sec. 2(b)(iv)]

5. The power to make arrangements for cooperation with other international organizations. [Fund, Art. XII, Sec. 2(b)(iv); Bank, Art. V, Sec. 2(b)(v)].

6. The power to decide to liquidate the Fund and to suspend permanently the operations of the Bank and distribute its assets. [Fund, Art. XII, Sec. 2(b)(vii); Bank, Art. V, Sec. 2(b)(vi)].

7. The power to determine the distribution of the net income of the Fund and Bank. [Fund, Art. XII, Sec. 2(b)(v); Bank, Art. V, Sec. 2(b)(vii)].

8. The power to approve a uniform change in the par value of all member currencies. [Fund, Art. XII, Sec. 2(b)(iii)]. There is a limitation on the power of the U.S. Governor in this respect in view of the provision of the Bretton Woods Agreements Act that he shall not approve any general change in par values. [Act, Sec. 5(b)]

B. Although no specific provision is made that the powers listed below shall not be delegated to the Executive Directors, they are phrased in terms which require the Boards of Governors to exercise them:

1. Selection of a chairman of the Board. [Fund, Art. XII, Sec. 2(a); Bank, Art. V, Sec. 2(a)].

2. The power to provide for meetings of the Boards in addition to annual meetings. [Fund, Art. XII, Sec. 2(c); Bank, Art. V, Sec. 2(c)]

3. The power to adopt regulations for polling the Board in lieu of a meeting. [Fund, Art. XII, Sec. 2(f); Bank, Art. V, Sec. 2(e)]

4. The power to fix the salaries of the Executive Directors and the salary and contract of service of the Managing Director of the Fund and the President of the Bank. [Fund, Art. XII, Sec. 2(i); Bank, Art. V, Sec. 2(b)]



5. The power to adopt regulations for representation at certain meetings of the Executive Directors of members not entitled to appoint directors. [Fund, Art. XII, Sec. 3(j); Bank, Art. V, Sec. 4(b)]

6. The power to extend the period during which operations of the Fund may be suspended. [Fund, Art. XVI, Sec. 1(c)]

7. The power to select the Advisory Council of the Bank. [Bank, Art. V, Sec. 6]

8. The power to propose amendments to the Articles of Agreement [Fund, Art. XVII (a); Bank, Art. VIII (a)] This power is vested by the Agreements in the member governments, the Governors, and the Executive Directors. There is no limitation in the Bretton Woods Agreements Act on the power of the U.S. Governor to propose amendments.

9. The power to give initial approval to proposed amendments [Fund, Art. XVII (a); Bank, Art. VIII (a)] There is no limitation in the Bretton Woods Agreements Act on the Governor's right to vote approval of amendments although congressional action is necessary for the acceptance of amendments on behalf of the United States. [Act, Sec. 5(d)]

### III.

#### Specific Limitations on the Powers of the U.S. Governor Imposed by the Bretton Woods Agreements Act

A. The U.S. Governor may not vote in favor of a waiver of conditions under which members may purchase foreign exchange from the Fund unless he obtains the prior approval of the National Advisory Council. [Act, Sec. 4(a)(4)]

B. The U.S. Governor may not vote in favor of any declaration of the U.S. dollar as a scarce currency without prior approval of the National Advisory Council. [Act, Sec. 4(a)(4)]

C. The U.S. Governor may not vote for an increase of capital stock of the Bank. [Act, Sec. 5]

D. The U.S. Governor is directed to obtain promptly an official interpretation by the Bank as to its authority to make or guarantee loans for programs of economic reconstruction and the reconstruction



of monetary systems, including long-term stabilization loans. He is also directed to propose and support an amendment if the Bank does not interpret its powers to include the making or guaranteeing of such loans. [Act, Sec. 12]

E. The U.S. Governor is directed to obtain promptly an official interpretation by the Fund as to whether it has authority to use its resources to provide facilities for relief, reconstruction or armaments, or to meet a large or sustained outflow of capital on the part of any member. He is also directed to propose and support an amendment if the Fund interprets its powers as extending to such transactions. [Act, Sec. 13]

#### IV.

#### Specific Limitations on the Powers of the U.S. Governor Contained in the Articles of Agreement

A. The following powers conferred by the Articles of Agreement are vested specifically in the Executive Directors, and accordingly can not be exercised by the Boards of Governors:

1. The power to call meetings of the Boards of Governors. [Fund, Art. XII, Sec. 2(c); Bank, Art. V, Sec. 2(c)]
2. The power to suspend temporarily the operations of the Fund and the Bank. [Fund, Art. XVI, Sec. 1; Bank, Art. VI, Sec. 5(a)]
3. The power to interpret the Articles of Agreement. [Fund, Art. XVIII (a); Bank, Art. IX (a)]
4. The power to appoint committees. [Fund, Art. XII, Sec. 3(k); Bank, Art. V, Sec. 4(1)]
5. The power to select and terminate the services of the Managing Director of the Fund and the President of the Bank. [Fund, Art. XII, Sec. 4(a); Bank, Art. V, Sec. 5(a)]
6. The power to direct the Managing Director of the Fund and the President of the Bank in conducting the ordinary business of the institutions. [Fund, Art. XII, Sec. 4(b); Bank, Art. V, Sec. 5(b)]



7. The power to exercise general control over the Managing Director and the President with respect to the organization, appointment and dismissal of the staffs. [Fund, Art. XII, Sec. 4(b); Bank, Art. V, Sec. 5(b)]

8. The power to transfer gold from one depository to another. [Fund, Art. XIII, Sec. 2(b); Bank, Art. V, Sec. 11(b)]

9. The power to determine the form in which the special reserve of the Bank shall be kept. [Bank, Art. IV, Sec. 6]

10. The power to purchase and sell securities held in the special reserve of the Bank. [Bank, Art. IV, Sec. 8(iv)]

11. Certain powers relating to the liquidation of the Bank, including arrangements for fair distribution of its assets, determination of successive distribution, the fixing of distributive shares, and the valuation of assets. [Bank, Art. VI, Sec. 5(d), (f), (g) and (h)]

B. There are a number of powers conferred by the Articles of Agreement which are reserved to the member governments, and which accordingly can not be exercised by the Boards of Governors. For purposes of convenient analysis, they are divided into three categories:

1. The following powers are reserved to the member governments and no limitations are imposed upon the exercise of them by the Bretton Woods Agreements Act:

a. The power to deal with the Fund and the Bank which is limited to treasuries, central banks, stabilization funds, or other similar fiscal agencies. [Fund, Art. V, Sec. 1; Bank, Art. III, Sec. 2]

b. The power to withdraw from the Fund and the Bank. [Fund, Art. XV, Sec. 1; Bank, Art. VI, Sec. 1]



c. The power to appeal from interpretations of the Agreements by the Executive Directors. [Fund, Art. XVIII (b); Bank, Art. IX (b)]

d. The power to communicate to the Fund the initial par value of the dollar. [Fund, Art. XX, Sec. 4(a)]

e. The power to object to the establishment of the initial par value of the dollar at its communicated value. [Fund, Art. XX, Sec. 4(b)]

f. The power to notify the Fund whether the United States intends to take advantage of the transitional period. [Fund, Art. XIV, Sec. 3]

2. The following powers are reserved to the member governments and special limitations are placed upon the exercise of them by the Bretton Woods Agreements Act:

a. The power to request or consent to a change in the quota of the United States in the Fund under Article III, Section 2, which may not be done without specific action by Congress. [Act, Sec. 5(a)]

b. The power to subscribe to additional shares of stock in the Bank under Art. II, Sec. 3(b) and (c) which may not be exercised without specific authorization by Congress. [Act, Sec. 5(c)]

c. The power to substitute non-interest bearing, non-negotiable, demand notes for currency under Article III, Section 5 of the Fund Agreement and Article V, Section 12 of the Bank Agreement which the legislation requires to be done in order to keep to a minimum the cost of U.S. participation. [Act, Sec. 7(c)]

d. The power to designate depositories under Article XIII, Section 2 of the Fund Agreement and Article V, Section 11(a) of the Bank Agreement which the legislation provides shall be Federal Reserve Banks. [Act, Sec. 6]

e. The power to accept amendments to the Articles of Agreement under Article XVII (a) of the Fund Agreement and Article VIII (a) of the Bank Agreement which is prohibited by the legislation except as authorized by Congress. [Act, Sec. 5(d)]



f. The power to propose a change in the par value of the dollar under Article IV, Section 5 of the Fund Agreement which is prohibited unless authorized by Congress. [Act, Sec. 5(b)]

g. The power to permit a uniform change in par values to be made under Article IV, Section 7 of the Fund Agreement which is prohibited unless authorized by Congress. [Act, Sec. 5(b)]

3. The remaining powers which are reserved to the member governments come within the scope of the general limitation in Section 4(b)(4) of the Bretton Woods Agreements Act that whenever the approval, consent or agreement of the United States is required before an act may be done by the Fund or the Bank, the decision as to whether such approval, consent or agreement shall be given or refused shall be made by the National Advisory Council under the direction of the President. The powers in this category are as follows:

a. The power to approve or disapprove the Fund's borrowing dollars in the United States or elsewhere. [Fund, Art. VII, Sec. 2]

b. The power to agree to furnish additional information to the Fund. [Fund, Art. VIII, Sec. 5(c)]

c. The power to agree with the Fund on the settlement of accounts after withdrawal. [Fund, Schedule D, paragraph 2]

d. The power to agree with the Fund on the redemption of balances after liquidation. [Fund, Schedule E, paragraph 3]

e. The power to approve the borrowing of dollars by the Bank and the guaranteeing of dollar obligations by the Bank. [Bank, Art. IV, Sec. 1(b)]

f. The power to approve direct dollar loans by the Bank out of currency subscribed as the 20% subscription of the United States. [Bank, Art. IV, Sec. 2(a)]

g. The power to approve the exchange or re-lending of currencies received by the Bank from borrowers or guaranters in payment on account of principal of direct loans made out of dollars subscribed by the U.S. [Bank, Art. IV, Sec. 2(b)]



h. The power to agree that repayments of dollar loans may be made in other currencies. [Bank, Art. IV, Sec. 4(b)(1)]

i. The power to approve the purchase and sale in the United States of securities the Bank has issued, guaranteed or invested in. [Bank, Art. IV, Sec. 8(1)]