

NICOLETOPOULOS, GEORGE

ROOM B-313

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AD HOC COMMITTEE ON RULES FOR THE 1982
REGULAR ELECTION OF EXECUTIVE DIRECTORS

Meeting 82/1
3:00 p.m., June 24, 1982

B. Kharmawan, Chairman

Executive Directors

R. D. Erb
M. Finaish
J. C. Iarezza

Zhang Z.

Alternate Executive Directors

C. Taylor
L. E. J. Coene, Temporary
J. C. Williams, Temporary

A. B. Diao, Temporary

J. W. Lang, Jr., Secretary
M. P. Blackwell, Assistant

Also Present

A. Buira

R. K. Joyce
A. Kafka

S. Kiingi
G. Laske

A. R. G. Prowse
J. Sigurdsson

O. Kabbaj

P. D. Peroz, Temporary
Y. Okubo, Temporary

J. R. Gabriel-Peña
V. Supinit

G. Winkelmann
C. P. Caranicas
A. S. Jayawardena
J. E. Suraisry
T. de Vries
B. Legarda

Legal Department: G. P. Nicoletopoulos, Director; J. G. Evans, Jr.,
Deputy General Counsel. Secretary's Department: B. R. Hughes.
Treasurer's Department: D. Williams. Advisors to Executive
Directors: S. R. Abiad, E. A. Ajayi, C. J. Batliwalla, G. Jauregui,
F. A. Turrelles, Wang E. Assistants to Executive Directors:
L. E. Barbone, P. Kohnert, V. K. S. Nair, D. I. S. Shaw.

1. 1982 REGULAR ELECTION OF EXECUTIVE DIRECTORS

The members of the Committee considered staff papers on the 1982 Regular Election of Executive Directors (EB/CREED/82/1, 6/7/82) and on the appointment of additional Executive Directors in accordance with Article XII, Section 3(c) (EBD/82/155, 6/21/82). They also had before them a working paper providing background material on the voting strength of Executive Directors on the present Executive Board.

(a) Appointment of Executive Director by Saudi Arabia

The Chairman remarked that the Articles of Agreement provided that the two largest creditor countries in the Fund could appoint an Executive Director at each regular election. Based on the most recent staff calculations, the two largest creditor countries at present were the United States and Saudi Arabia. The United States was already entitled to appoint an Executive Director as it was one of the five countries with the largest quotas in the Fund. The question of whether Saudi Arabia would be able to appoint an Executive Director was, however, complicated by the early date of the Regular Election in 1982 and the understanding reached in the past that the assessment of the two largest creditor countries would be made on the basis of data for the two years preceding July 31, in the year of the election.

The Deputy General Counsel explained that according to Article XII, Section 3(c) the calculations were to be made for the two years preceding an election. Since the decision by the Executive Board in 1950 the phrase "the preceding two years" had been applied to mean the two-year period ending July 31 immediately preceding the regular election, provided that if the election was not to be held in September the decision was to be reviewed. The requirement of the By-Laws for the Managing Director to inform members of the results of the calculations under Article XII, Section 3(c) was formulated on the assumption that an annual meeting would normally be held in the last week in September or the first week in October. The period of time for the notice, six weeks, was the same period for the notice that needed to be given for the time and place, and for the agenda of the meeting itself. For the current year the six-week period would begin before the end of July, and to meet that requirement the assessment of the two largest creditors would have to be made before that date. Such a procedure appeared to be possible because, on June 15, 1982 the two largest creditors in the Fund were the United States and Saudi Arabia, and the staff calculations in EBD/82/155 showed that the position was most unlikely to change by the end of July. It would therefore be possible for committee members to assume that the position would not change by July 31, and Saudi Arabia could be asked to reach a decision on the matter on that basis.

When a member exercised its option to appoint an Executive Director under Article XII, Section 3(c), the number of Executive Directors to be elected was reduced automatically from 15 to 14, unless the Board of Governors decided otherwise by an 85 per cent majority, the Deputy General Counsel observed. In addition, to maintain the present structure of the

present structure of the Executive Board it also would be necessary for the Board of Governors--by an 85 per cent majority of the voting power--to agree to increase the number of elected Directors to 16. The need for that majority had a bearing on the time that the Board of Governors would need for a vote without a meeting.

The Chairman remarked that committee members were being asked to consider the staff proposal that the assessment of the two largest creditors to the Fund contained in EBD/82/155 should be assumed to remain the same on July 31, 1982, so that the Managing Director could notify the Board of Governors of the assessment six weeks before the date of the election.

Mr. Taylor considered that no complicated issues were involved. It seemed quite clear that the provisional figures could be accepted for the purpose of Article XII, Section 3(c); he could agree to accept the staff recommendation. Incidentally, he supposed it would be necessary to explain the background to the matter to the Governors in sending them details of the assessment.

The committee members signified their assent to the staff proposal.

Mr. Suraisry stated that Saudi Arabia would continue to appoint an Executive Director as long as it was entitled to.

(b) Size of the Executive Board

The Chairman remarked that Saudi Arabia's appointment of an Executive Director would mean that, according to the Articles of Agreement, the number of elected Executive Directors would have to be reduced from 15 to 14. He proposed to the committee that the number of elected Executive Directors not be reduced to 14, but in fact be increased to 16, in order to maintain the present structure of the Executive Board. Such a proposal would have to be submitted to the Board of Governors for approval.

The committee members agreed to the Chairman's proposal.

(c) Critical Voting Percentages

The Deputy General Counsel recalled that the original Articles of Agreement provided for the election of 5 Executive Directors and specified that each one should receive between 19 per cent and 20 per cent of the total votes cast. The purpose of that specification had been to ensure an equal distribution of voting power among the Directors. The formation of constituencies had led over time to a wider spread in those critical percentages. The percentages in the present Articles of Agreement--those being proposed for 1982--were those that reflected the spread of rates in the 1974 election and the composition of the Executive Board when the Second Amendment had been drafted. The increase in the minimum percentage for election in the 1980 Regular Election had been made to meet an unusual situation, particularly the possibility that established constituencies might break up, an event that might have affected the geographical representation in the Executive Board. If there were only the same number of

nominees as there were Executive Director positions to be filled, the most critical percentage would be the upper percentage, because in those circumstances all Directors would be elected regardless of the number of votes received, provided that no one of them received more than the maximum percentage of 9 per cent of votes cast.

The Chairman commented that the elected Executive Director with the greatest voting power at present had 8.5 per cent and the Director with the lowest voting power had 3.89 per cent. As long as there were no more candidates than seats available, the minimum percentage was not important, as all candidates would be elected. If the critical minimum percentage were lowered, however, encouragement might be given to some countries to try to break away from present constituencies and form new smaller constituencies. For that reason, he preferred to keep the critical percentages at 9 per cent and 4 per cent.

Mr. Kabbaj pointed out that with those percentages there was theoretically a danger that Mr. Buira's constituency could split in two, with each new constituency having more than 4 per cent of the voting power and thus depriving the present Executive Director with 3.89 per cent of the voting power of his seat.

Mr. Diao, speaking on behalf of Mr. Nana-Sinkam, the Executive Director elected by the smallest number of votes cast, recommended that it would be better to set the minimum percentage of votes required for election at 3.89 per cent, in order to give the maximum security to his chair.

The Deputy General Counsel remarked that the draft Resolution on the Regular Election provided that "the Board of Governors, at the request of any Governor, will review the result of the election in order to determine whether, in light of the objectives set forth in Chapter O...an additional Executive Director should be elected to serve for the term of office commencing November 1, 1982." That clause had been included as a safeguard for the efficiency of the Executive Board and adequate representation for all geographical areas. Such a provision was necessary, because under the amended Articles of Agreement, the Governors could increase the size of the Executive Board only at the time of regular biennial elections rather than at any time, as under the previous Articles of Agreement.

Mr. Diao asked what would happen to the candidate receiving the least number of votes cast, if there were more candidates than seats to be filled.

The Chairman responded that in that case the candidate with the least votes would not be elected. However, if the candidate with the least votes was one of two candidates proposed by African countries, the provision that the Board of Governors could take a decision to increase the size of the Executive Board would be brought into play.

The Deputy General Counsel added that if there were more candidates than seats to be filled, no candidate obtaining less than 4 per cent of the votes cast would be elected. If there were two candidates not obtaining the minimum percentage of votes cast, a second ballot would be held in which all those Governors whose votes had not counted toward the election of a candidate elected on the first ballot would be eligible to vote.

Mr. Diao said that he recognized the dangers inherent in reducing the minimum percentage of votes required for election, but felt nevertheless that the position of his constituency would be given more security if the minimum percentage were set at 3.89 per cent.

Mr. Kiingi said that he could not share entirely the concern expressed by Mr. Diao, since it was clearly understood that there should be at least two Executive Directors elected by the countries in Africa south of the Sahara.

The Chairman agreed with Mr. Kiingi and remarked that it was completely unthinkable that Africa south of the Sahara would elect only one Executive Director.

Mr. Taylor said that he found the Chairman's statement about the security of the two African constituencies reassuring. His initial inclination would have been to follow the proposal made by Mr. Diao and to lower slightly the minimum percentage required for election. However, on the understanding that the two African seats would be safeguarded, he could go along with the Chairman's proposal of a minimum percentage figure of 4 per cent.

Mr. Iarezza said that he could understand Mr. Diao's concern, and also the point made by the Chairman. He could go along either with maintaining 4 per cent as the minimum percentage or with lowering that figure to 3.85 per cent. The most important thing to guarantee was the continuing regional balance among Executive Directors.

Mr. Finaish said that since there was understanding that the two African seats would be safeguarded, he could go along with setting the minimum figure at 4 per cent.

Mr. Coene remarked that the main objective of the present exercise was to ensure that the African countries would be represented by two Executive Directors; he could go along with whatever formula would guarantee that result.

Mr. J. C. Williams said that he could support the proposed minimum of 4 per cent.

Mr. Zhang said that he could also support the proposed minimum of 4 per cent. Incidentally, those Fund members that had not participated in the 1980 Regular Election of Executive Directors had a total voting power equivalent to 4.51 per cent. Could those members group together and form a new constituency?

The Deputy General Counsel remarked that the formation of such a constituency would theoretically be possible, but it was most unlikely.

The Chairman concluded that most committee members could go along with setting the critical percentages at 9 per cent maximum and 4 per cent minimum.

(d) Draft "Regulations for the Conduct of the 1982 Regular Election of Executive Directors of the Fund"

The Committee members agreed to consider the draft regulations paragraph by paragraph.

Paragraphs 1-4

No comments.

Paragraph 5

The Deputy General Counsel said that paragraph (b) should be amended to read: "sixteen Executive Directors shall be elected. 'Sixteen persons' shall be substituted for 'fifteen persons' in paragraphs 2, 3, and 6, and 'fifteen persons' shall be substituted for 'fourteen persons' and 'sixteenth' shall be substituted for 'fifteenth' in paragraph 6 of Schedule E."

The Committee members agreed to that amendment.

Paragraph 6

Mr. Kafka inquired whether paragraph 6 was really necessary. If the percentages set out in Schedule E were not to be changed, why was it necessary to state so in the Resolution?

The Deputy General Counsel said that it was not necessary to include paragraph 6 in the Resolution. However, it had become a tradition to make the statement in order to bring to the Governors' attention the fact that the critical percentages had been considered, and that a recommendation had been made either to change them, or not to change them.

Paragraphs 7-9

No comments.

Paragraph 10

Mr. Iarezza said that he had some reservations about the proposal that in the case of two or more nominees tying with the lowest number of votes after a second ballot, the Chairman would eliminate one of the nominees by lot from the following ballot. Would it not be better to say that in such an eventuality the Chairman would eliminate one of the nominees in accordance with the objective of ensuring a regional balance on the Executive Board?

The Deputy General Counsel remarked that it would not be clear beforehand how Mr. Iarezza's proposal could be applied in particular circumstances. The proposal would, in fact, place upon the Chairman the responsibility of choosing an Executive Director. Although the end envisaged by Mr. Iarezza might accomplish a result considered to be beneficial, it would not be appropriate to place that responsibility upon the Chairman.

The Secretary added that the proposal could place a considerable political burden on the Chairman, who was supposed to be the impartial and neutral arbiter of parliamentary matters.

Mr. Kiingi suggested that it might be better if reference to the Chairman was eliminated from the paragraph; after all, the Chairman would have no influence over which one of the nominees was to be eliminated by lot.

The Deputy General Counsel remarked that it was necessary to specify in the resolution who would initiate the procedure. Even if the reference to the Chairman were eliminated in paragraph 10, the duty to start the procedure would fall on the Chairman by the general language of paragraph 8. The present language for paragraph 10 did not imply that the Chairman would influence the result of the drawing. In response to a question, he added that the paragraph referred to an as yet hypothetical situation. In the past there been no incident of two nominees tying with the lowest number of votes.

After some further discussion, and noting that Mr. Iarezza's concern could be met by other provisions in the regulations, the Committee members agreed to leave paragraph 10 unchanged.

Paragraph 11

No comments.

Paragraph 12

The Deputy General Counsel remarked that the words in square brackets had been added to the 1980 regulations, but were not needed for the 1982 regulations and could, therefore, be deleted.

Mr. Joyce asked whether the staff could comment on a situation in which a candidate received votes that he had not chosen to receive or might not wish to receive. Would the Executive Director then be obliged to accept that member into his constituency?

The Deputy General Counsel explained that according to the Articles of Agreement and the Rules for the election, Executive Directors were elected by and cast the votes of those members that voted for them. The Executive Directors' subsequent relations with the members that voted for them were not set out in the Articles of Agreement or in the Rules for

the election. The relationships had been established by practice over the years in the various constituencies. As for voting in Executive Board meetings, an Executive Director had no choice but to cast, as a unit, the number of votes he had received in the election.

In response to a question from Mr. Zhang, the Deputy General Counsel explained that paragraph 12 had been included so that in a situation in which the number of candidates in the election was equal to the number of posts to be filled, a candidate receiving less than the minimum percentage specified for an election could nevertheless be elected. As long as no candidate received more than the maximum, the candidate could be elected despite the fact that the number of votes he received was below the minimum. Without such a provision, it would be necessary to have an alternative provision that would compel some members to remove their votes from candidates receiving more than the minimum percentage in order to transfer those votes to the candidates receiving less than the minimum percentage; such compulsory rearrangement of constituencies had not seemed advisable in the past.

Paragraph 13

No comments.

Paragraph 14

Mr. Kabbaj recommended that in order to clarify the meaning of "the effective date of the election" those words should be followed by "as set forth in paragraph 16." In his experience, some Governors of the Fund had found the equivalent paragraph in previous regulations to be confusing.

The Committee members agreed to Mr. Kabbaj's proposed amendment.

Paragraphs 15-17

No comments.

The Chairman said that he would draft a report for submission to the Executive Board and would circulate it to committee members in the next few days. If committee members had no further amendments to propose, the Committee would not need to meet again, and the report could be submitted directly to the Executive Board in time for consideration at its meeting on Wednesday, July 14, or for approval on a lapse-of-time basis.

The committee members concluded their meeting at 4:30 p.m.

APPROVED: November 3, 1982