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ARTICLES

The Operations of the World Bank and the Evolution of its Institutional Functions since Bretton Woods (1944-84)

H. G. Petersmann*

The following review of the World Bank's operations 40 years after the Conference of Bretton Woods serves two purposes.

First, the World Bank (the International Bank for Reconstruction and Development, IBRD, and the International Development Association, IDA) has acted through its operations as a pioneer of the global development effort for almost four decades. Therefore, the legal and financial structure and the historical evolution of the Bank's operations are of interest not only for the professional or academic expert, but for anyone who considers worldwide development to be one of the great issues of our time.

Second, the operations of the World Bank also constitute the "institutional practice" of what has become the most important international development agency in the world. This institutional practice is the key to understanding the World Bank's present constitutional reality, as well as its institutional role within the international society it serves.

The following article begins with a short analysis of the Bank's institutional structure and the legal rules governing its operations under the constitution of Bretton Woods (Chapter I). The article then follows a historical approach and describes the operations, constitutional choices, and strategies of the World Bank as they have emerged over nearly four decades from the Bretton Woods constitution (Chapter II—VI).

Finally, some conclusions are drawn about the functions which the World Bank at present fulfils in the field of global development (Chapter VII).

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* The author wishes to express his gratitude to Dr. *Karl-Josef Partsch*, (professor *emeritus* of international law, University of Bonn; member of the UN-CERD-Commission and the UNESCO-Human Rights Committee), whose 70th birthday coincides with the 40th anniversary of the Bretton Woods Conference.

I. The Constitutional Framework of Bretton Woods (1944)

Because the constitutional structure of the World Bank has been described in detail elsewhere,[1] the following remarks will be limited to the most important legal features in the context of its operations.

1. The Bank's Constitutional Purpose and Structure

The key to understanding the institutional functions of the World Bank is that it forms — together with the International Monetary Fund (IMF) — a constitutional component of the "Bretton Woods system".

The Articles of Agreement establishing the IBRD — together with the Articles of Agreement establishing the IMF — were drafted and negotiated in the "International Monetary and Financial Conference of the United Nations and the Nations Associated with Them in the War", which took place at Bretton Woods, New Hampshire, USA, from July 1 to 22, 1944.[2] The Bank's Articles came into force on December 27, 1945, after acceptance by a majority of the conference participants; they gave rise to the establishment of an intergovernmental organization which exists as an international legal entity in the field of its functional jurisdiction.[3] The Bank's Articles are therefore the formal constitution, or basic document, of this international legal entity.

Conceived as a constitutional part of the Bretton Woods system, the IBRD's purposes are complementary to those of the IMF and the originally planned — later aborted — International Trade Organisation (ITO), which only partially survived the Havana Conference of 1947 in the form of the General Agreement on Tariffs and Trade (GATT). In the minds of the Bretton Woods founding fathers, the IBRD, IMF, and ITO were to become the three cornerstones of the new international economic, monetary, and financial order after World War II. The purpose of this new order was to prevent the recurrence of those disruptions which after World War I had prepared the ground for

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[1] See, *Aaron Broches*, The World Bank, in: International Financial Law, Lending, Capital Transfers and Institutions, in: Euromoney (1980), 251 *seq.*; *Roberto Lavelle*, La Banque Mondiale et ses filiales: Aspects juridiques et fonctionnement, Paris 1972; *Hans Petersmann*, IBRD — Internationale Bank für Wiederaufbau und Entwicklung (Weltbank), in: *Rüdiger Wolfrum et alii* [eds.], Handbuch Vereinte Nationen, München 1977, 175—180.

[2] See, United Nations Treaty Series (UNTS) vol. 2, 134, and US Department of State, Proceedings and Documents of the United Nations Monetary and Financial Conference, Bretton Woods, New Hampshire, 1944.

[3] Articles of Agreement of the International Bank for Reconstruction and Development (as amended effective December 17, 1965), reprinted March 1980 (IBRD-Articles); see, *Aaron Broches*, International Legal Aspects of the Operations of the World Bank, in: Recueil des Cours vol. 98 (1959 III), 301—408 (302, esp. 316 *seq.*), and International Court of Justice (ICJ), Reparations for Injuries suffered in the Service of the United Nations, ICJ Reports 1949, 178 *seq.*

another global conflict. The basic idea was that ITO (or later GATT) would monitor the free international flow of trade in goods and services, whereas the IMF would ensure the corresponding free flow of payments, and the World Bank would temporarily assist those member states which, because of their destruction by war or their underdevelopment, were not yet in a position to submit to these liberal rules without external assistance.[4] The IBRD would make this assistance available through providing loans or guarantees to its member states (or political subdivisions thereof, or enterprises in their territories) for the benefit of reconstruction or development projects.[5]

The Bank's institutional structure and decision-making process also parallel those of the Fund. The Bank's membership is open only to members of the IMF.[6] The number of shares to which each member can subscribe in the Bank's authorized capital is related to the number of that member state's quotas in the Fund.[7] The Bank's administrative components also correspond to those of the Fund: the Board of Governors, in whom all the powers of the Bank are vested; the Executive Directors, who are responsible for the conduct of the general operations of the Bank and who exercise the powers which the Board of Governors may delegate to them; the President, whose counterpart in the Fund is the Managing Director; and the officers and the staff. In both organizations, each member state appoints a Governor and an Alternate, usually at the ministerial level, to the Board of Governors.[8] But only the five members holding the largest numbers of shares in the Bank's capital (and in the Fund's quotas) also appoint one of the 21 present Executive Directors of the Bank.[9] The remaining Executive Directors are elected by the Governors of all other member states,[10] and may represent one member country or groups of countries, which in the Bank's and Fund's practice are normally referred to as their "constituencies".

The decision-making process in the Bank's (and Fund's) controlling bodies is based on member states' number of shares (quotas in the case of the IMF) in the organization's subscribed capital. As stated in the language of the Bank's Articles, "Each member shall have 250 votes plus one additional vote for each share of stock held"[11]; furthermore, "Except as otherwise specially provided,

[4] See, Art. I IBRD Articles of Agreement (IBRD-Articles).

[5] See, Art. III sec. 1 (*a*), and sec. 3 IBRD-Articles.

[6] See, Art. II sec. 1 (*a*) IBRD-Articles.

[7] See, Art. II sec. 3, and schedule A IBRD-Articles.

[8] See, Art. V sec. 2 IBRD-Articles.

[9] See, Art. V sec. 4 (*b*) (i) IBRD-Articles.

[10] Art. V sec. 4 (*b*) (ii) IBRD-Articles; whereas the IBRD has at present 21 Executive Directors, the IMF has 22.

[11] Art. V sec. 3 (*a*) IBRD-Articles.