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DEMOCRATIZING THE BRETTON WOODS INSTITUTIONS

PROBLEMS AND TENTATIVE SOLUTIONS



WITH THE SUPPORT OF NEW RULES FOR GLOBAL FINANCE COALITION

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Problems and tentative solutions**

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2019 FOREWORD

Since the first publication of this little book, my research interests had broaden and they cover now democracy in the international organizations at large. Still, all started with the study of the Bretton Woods institutions and their interactions with civil society and with the intersection of this topic with my first and main research line: the institutional law of the European Union.

The EU may not be classified as a mature democracy compared with the state model which has been around for several centuries, yet it is the most advanced democracy model we have in the international community beyond and over the states. So, abstracting (and extracting), from there, some key ingredients of democracy as legitimacy, accountability and inclusiveness, I put on a test the Bretton Woods institutions, which I had extensively studied. Later on, I took the courage to build a theory applicable to all the international organizations¹, while going on in my exploration of the peculiarities of European democracy².

Even if the IMF and the World Bank may appear still lacking legitimacy and accountability – not to mention inclusiveness – yet this “evaluation grid” allows us to tell that things have been moving in the last decade. Transparency has clearly increased, especially in the World Bank; internal and external audit is now in place as well as some claiming mechanisms. Even the “voice and representation” gap is now less severe than it was before that big turning point, the global financial crisis (2008).

The good news is that change is possible. We are living interesting times calling us to further improvements in the big arena of international relations: most of the issues affecting our lives are global, so we need more global solutions – possibly, more global *democratic* solutions. This call to action requires vision, courage and the ability to question our heritage of knowledge.

As counterintuitive as it may appear, national democracy is at stake: the inability to bring democratic models to a new level is undermining existing democratic systems that are incapable of

¹ S. CAFARO *Democracy in International Organizations. Arguments in Support of a Supranational Approach*, The International Journal of Interdisciplinary Global Studies, issue 12, 2017. See also the blog <http://supranationaldemocracy.net> and *Supranational Democracy - the documentary film* on YouTube, UniSalento channel.

² S. CAFARO “*How the ECB Reinterpreted its Mandate During the Eurocrisis (and Why It Was Right in Doing So)*” in *Democracy in the EMU in the Aftermath of the Crisis* (Eds. L Daniele, P. Simone, R. Cisotta), Springer, 2017, pp. Id. *Il ruolo dei cittadini nella formula democratica dell’Unione europea*. pp.639-652. In *Studi sull’integrazione Europea* - vol. n. 3.2018 year XIII;

managing problems greater than themselves and delivering solutions. The risk of drowning in nationalism and populism is real and under our eyes.

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To my children
and to all the kids
who will inherit the world

ACKNOWLEDGMENTS

This little book is the synthesis of years of research and direct observation of the work of the Bretton Woods institutions. It is also the result of many exchanges of views with actors and observers, executive directors, civil society representatives, colleagues. I have collected interviews with insiders of the Bretton Woods institutions, joined the civil society policy forums, attended university conferences and read books and papers. It is impossible for me to say where each idea or suggestion here expressed comes from. For this reason, I want to thank all the interesting people I met in the past years; if you recognize ideas you shared with me, please know that I'm perfectly aware of my debt and thankful to all of you.

That being said, let me express some special thanks.

First of all, I want to thank my friends and colleagues from the Group of Lecce. All the documents we co-authored, hosted by the website www.thegroupoflecce.com, are somehow reflected here. Our brainstormings (especially the ones held over dinner) have nourished my reflections, challenged my interpretation of facts and encouraged me to expose my ideas.

Another special thank you goes to Jo Marie: thanks for having supported this project, for the encouraging words, the enthusiasm and the energy, for your friendship.

Finally, thanks to Serena Zonca, a dear friend, for the help with translation and editing and for giving this little book, my first e-book, the shape of a real editorial product.

All the flaws and mistakes are mine only, but if you are so kind to report them to me, they will be corrected in a further edition. All comments (even the negative ones) are very welcome. I strongly believe that dialogue is the best way to improve.

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PREFACE

Jo Marie Griesgraber

You are about to read a clear and thorough description of how the World Bank and the International Monetary Fund are organized and make decisions. The two Bretton Woods Institutions (BWI) were set up at a Conference by the same name in New Hampshire, US, in 1944 during the closing days of World War II. Professor Susanna Cafaro, of the University of Salento in Lecce, Italy, provides a consistent comparison of the governance structures of the two institutions, revealing the seldom recognized way that the IMF's decisions on allocating voice and vote among its members have a parallel impact on its sister institution, the World Bank.

This "little e-book" analyzes the governance and notes the weaknesses this same structure presents for their effective and legitimate operations. To correct these significant weaknesses, Cafaro proposes eight ways to improve the BWIs' democracy and efficiency, the majority of which could be implemented within the parameters of their founding documents or Articles of Agreement.

Her most innovative suggestion is to allow regional intergovernmental organizations to become members in their own right. In support of this proposal, she points to the current participation of the European Commission at the IMF Executive Board, sometimes as an observer, and other times as spokesperson when EU-wide issues are being discussed. Such a proposal warrants support **if** it strengthens the voice and coherence especially of weaker member-states through an alternative to the current loosely unified constituencies. However, if the quality of the regional body is no better than what is currently available through existing Board constituencies, then such membership could result in yet another layer between the BWI and national governments, parliaments, and affected people.

Remaining on the theme of EC participation, Cafaro develops an interesting argument for reducing European chairs, in this case, at the IMF. Analyzing European law, she describes the tension between membership in the IMF and membership in the Euro-currency zone (European Central Bank). IMF member states have obligations to adjust their inflation rates, exchange rates and other macro-economic policies to support IMF goals. As members of the ECB, they have conferred most of this authority on the ECB. The obvious question then is: how can they be full members of the IMF as individual nation-states? Should the ECB not be their representative since it is the receptacle for such powers?

This line of argumentation provides additional arrows to the quiver of those who would change the current allocation of voice and vote which provides the European member states with approximately one-third of the total votes and 8 or 9 of the 24 chairs. The changes approved (but not yet implemented) by the G20 in Korea in 2010 will modify this allocation only slightly. The

foundation for the current distribution is based on the 2010 quota formula, with the understanding that serious flaws remained. The Executive Board was instructed to report to the Governors (and the G20) by early 2013: the Board's report was that no consensus existed on how to reform the Quota Formula further(!). The G24, a caucus of developing countries in the IMF and World Bank, has argued for dropping elements of the formula that double count the same reality (Openness and Variability), which favor small open economies within the Euro-zone, whereby all cross-border trade is treated as international trade, even though within the same currency zone. This acrimonious debate within the Fund continues unresolved.

Several issues that Professor Cafaro raises are associated with making the IMF (and World Bank) Executive Boards more effective and accountable. For example: having the Boards of Governors appoint and remove EDs, establishing Ministerial Committees within the Board of Governors to provide political guidance for the Executive Boards, comparable to the G20, that could evolve into occasional Summits for heads of state. Effort to make the Board of Governors more effective are clearly in order. Their annual meeting is a ritual of set speeches with no audience and no consequence. At present, the Governors have only a single committee that relates to the IMF, the International Monetary and Finance Committee (IMFC). While formally an advisory committee, serves as the *de facto* as the Governors' executive committee providing instructions to the Executive Board. The Development Committee, though formally over both the IMF and World Bank, serves a comparable function for the World Bank.

A weakness of both the Board of Governors and the IMF Executive Board is they always act in plenary—even the IMF Board Committees are open to all EDs, and all attend, replicating the same positions and lack of vision and compromise as the Board as a whole.

What is sorely lacking is an effective Board of Governors that is able to set strategic direction for the institution(s), and to evaluate the performance of the Executive Board(s) as a whole, assessing their competencies in anticipating and dealing with contemporary challenges and opportunities.

Other “lesser” suggestions might also be considered beyond Cafaro's suggestions, such as: encouraging a higher caliber of all Executive Directors (without denigrating the quality of many EDs) and longer tenures for EDs so they can master the intricacies of the institution and truly contribute to strategic planning and positioning;

Even as the Governors fail to hold the Executive Board(s) accountable for their collective behavior, they also fail to hold accountable individual Executive Directors, as well as for the IMF Managing Director and for the World Bank President. The Fund has begun to provide criteria for MD candidate selection, though the actual selection is wholly political; and to articulate responsibilities, and ethical standards to be followed. There is no similar job description or criteria for selection for

Executive Directors. Only the 5 largest countries that appoint their EDs can remove them—at will; other EDs cannot be removed, even for cause, at any time during their 2-year term.

Without accountability at the top, it is scarcely conceivable that the institution as a whole can be accountable for its policy prescriptions, or its actions or inactions. Only after disasters does the IMF say it made mistakes, but no one loses their jobs, no money is returned, no affected people are compensated for loss or suffering.

Some proposals to have the Executive Boards less submerged in minutiae would get rid of the full time body resident in Washington, the headquarter city. While this could save money and ease the burden of staff to respond to the many Board demands, it is opposed by developing member states, who insist that a non-resident board would further erode their ability to speak for themselves and to represent their interests against those of the major economies.

This “little e-book” is one of several products of the broader Lecce Group, formed by Italian academics at the time of the G8 meeting in Italy DATE. All are well researched, and thoughtful contributions to the debate on how to improve global governance of the financial system. Professor Susanna Cafaro and the entire Lecce Group are to be congratulated for their initiatives and the quality of their contributions to this global dialogue.

JMG/NR

INTRODUCTION

THE REASONS FOR A REFORM

On the 15th of November 2008, in the midst of the global financial crisis, the leaders of the G-20 countries met in Washington DC. In the meeting's final declaration, they committed to reforming the international economy governance – in order to steer their countries out of the crisis, boost economic growth and restore trust – by (among other things) overhauling the Bretton Woods institutions, i.e. the World Bank and the International Monetary Fund.³

The structure of the two institutions, created in 1944, had been discussed before, but never so firmly and by such a high-ranking forum.

In fact, the earliest reforms date back to the Seventies and were followed by regional financial crises that had global effects and sparked a debate among academics and politicians alike.⁴ New impetus came from the anti-globalization movements – particularly active during the Nineties – that put the Bretton Woods institutions on trial. The claims for more “voice and representation” by the developing countries, especially the emerging ones, whose economic success was fostered precisely by the contested globalization, came later on. These demands were echoed by major international conferences⁵ and institutions such as the G24.

All this brought about a series of small actions through which the two organizations have begun to rethink their roles and structures.

Two subjects are now on the agenda: how to make the Bretton Woods institutions (i) more effective, so that they can successfully face the challenges of development gaps (World Bank) and crisis prevention and management (IMF) and (ii) more democratic and less opaque, so that all their members and stakeholders can have a voice in and be represented, be they large or small, wealthy or not.

³ “*Reforming International Financial Institutions: We are committed to advancing the reform of the Bretton Woods Institutions so that they can more adequately reflect changing economic weights in the world economy in order to increase their legitimacy and effectiveness. In this respect, emerging and developing economies, including the poorest countries, should have greater voice and representation*”, paragraph 9 of the Final Declaration.

⁴ Just consider the Mexican crisis in 1995, the South-East Asian one in 1997, the Russian and Brazilian crises in 1998-1999, and the Argentinian one in 2002.

⁵ See CAFARO S., *Il governo delle organizzazioni di Bretton Woods*, Giappichelli, 2012, chapter V, paragraph 1.

The two organizations will be examined simultaneously, because of the perfect symmetry in their governance structures,⁶ of their links (shared memberships,⁷ contextual agreements)⁸, and of the complementarity of their missions⁹.

This essay will examine their governance systems and above all what I reckon is the core issue: their decision-making process. My analysis is based on the firm belief that the decision-making process affects the efficiency and also – indirectly – the outcome of the international organizations' decisions. In other words, their governance systems are bound to influence and shape the results of the actions of the international organizations themselves.

In 1944, when the Bretton Woods institutions were created, the notion of “international organization” was very different from today's: sovereign states were grouped in more or less institutionalized associations for the shared management of common goals. Those organizations didn't question national supremacies and the now eroded concept of domestic jurisdiction, which included the relationship between each state and its citizen and the countries' control over their own resources, economic policies, forms of government and constitutions. These forms of supremacy are now limited by international customary and treaty laws: the wide array of human rights subject to international regulations and the international environmental laws bear witness to this.

As far as the Bretton Woods organizations' specific regulatory field is concerned, the conditionality on which loans are granted clearly shows that the two organizations don't simply suggest state interventions but condition the states themselves in their economic policies, investments and welfare programs thus significantly compressing their sovereignty and affecting their citizens' life. This growing intrusion is today's most controversial side of their activity.¹⁰ Hence the increasing focus on ensuring that their interventions originate from democratic processes and provide for an equitable balance of all needs and requests. I concede that the notion of democracy in

⁶ The establishing agreements of the International Monetary Fund and International Bank for Reconstruction and Development – a.k.a. the World Bank – were both drawn up by the United Nations Monetary and Financial Conference – a.k.a. Bretton Woods Conference, from the New Hampshire (USA) town where it was held – in July 1944. They have been in effect, with only minor changes, since the 27th of December 1945.

⁷ The complementarity between the two organizations is further shown by the decision to locate the two organizations in the same country and in the same city, the capital city of the largest shareholder; by the two organizations' mirroring capital subscriptions, and finally by Art. II of the Bank's statute that says only Fund's members can join in.

⁸ The Articles of Agreement of the two organizations were written by the same conference, The United Nations Monetary and Financial Conference, commonly known as the Bretton Woods conference, gathering of 730 delegates from 44 nations in Bretton Woods, (New Hampshire, United States), to regulate the international monetary and financial order after the conclusion of World War II.

⁹ The IMF and the WB cooperate on many levels in the implementation of their respective activities. In 1989, a specific *Concordat (IMF and World Bank Concordat, SM/89/54, March 31, 1989)* was signed. It details the two institutions' cooperative conditions and responsibility partitioning.

¹⁰ As effectively highlighted also by BARNETT M., FINNEMORE M., *Rules for the World. International Organizations in Global Politics*, Cornell University Press, Ithaca-London, 2004, p. 57.

an international organization isn't quite ripe yet, but citizens and states have growing and solid expectations in this sense.

I take for granted that these expectations should be met by international (or, preferably, supranational) institutions that are better equipped to respond to those needs, and not by falling back to an antihistorical – in my opinion – revival of the merely national dimension.¹¹

The two institutes must therefore be re-balanced to reflect the new economic situation and reformed to confront the challenges of the new millennium.

Another good reason for reforms is the evolving role of the IFM and World Bank.

After the Second World War, it was utterly impossible to imagine the growing complexity and fragmentation of the context in which the two organizations would have to operate, that is an international community made up of a larger number of subjects, defined by a then inconceivable degree of interconnection and by highly contagious economic phenomena (and everything that goes under the name “globalization”).¹²

The IMF was created in 1944 as a credit union, towards which every state could be debtor or creditor, according to their needs. It changed into a borrower from developed countries and a lender to developing ones that are experiencing temporary cash-flow problems, and then devoted itself to more and more structural interventions.¹³ In recent years a new change of perspective occurred: the harsh global recession started in 2008 showed that a crises can burst even in one of the most developed countries, the majority shareholder. A very serious weakness was thus exposed: the controller is not unbiased.¹⁴ More generally speaking, the crises has mercilessly unveiled the gaps in

¹¹ Someone proposes instead a growing globalization that would coexist with the enduring of the national dimension as the preferential source of public intervention. See WOLF M., *Why Globalization Works*, Yale University Press, New Haven and London, 2005. I favor the theory that envisions state sovereignty as a requisite that can't yet be abandoned in international relationships, but believes in the evolution of the notion of sovereignty itself. As SCHRIJVER N. writes: “International law not only delineates the borders of State territory and national jurisdiction but also increasingly defines the substance of the responsibilities of States, internationally as well as nationally. Sovereignty is not an absolute and static concept but more a relative and dynamic one” in *The Changing Nature of State Sovereignty*, British Yearbook of International Law, vol. 70, issue 1, p. 98.

¹² As stated in paragraph 8 of the *Stiglitz Report*: “Global economic integration (...) has outpaced the development of the appropriate political institutions and arrangements for governance of the global economic system. Economic globalization means that actions that occur in one country have effects on others”, STIGLITZ J.E. et al., *Report of the Commission of Experts of the President of the United Nations General Assembly on Reforms of the International Monetary and Financial System*, September 21, 2009.

¹³ On the evolution of the IMF's role see ADINOLFI G., *Poteri e interventi del Fondo monetario internazionale*, CEDAM, 2012, pp. 439-448.

¹⁴ According to LOMBARDI D. in the *4th Pillar Report* (LOMBARDI D., *Report on the Civil Society. Consultations with the International Monetary Fund on Reform of IMF Governance*, Washington, DC 2009, <http://www.oxonia.org>): “Participants underscored the fact that the institution's ability to foresee the current crisis would have been impaired by the asymmetric role of the US in IMF governance. Even if the IMF had been in a position to detect in a timely manner the unfolding of the crisis within the US financial sector, it

the global economic governance and the inadequacy of the existing tools,¹⁵ it has caused a further increase in the national, regional and systemic surveillance activity,

A new predicament – the sovereign-debt crisis – arised in 2011 and seemed to boost new reforms. The euro zone was hit hardest, but it wasn't the only area stricken by this crisis. Once again the developed countries showed their need for efficient, equitable and credible financial institutions. This time around the borrowers were “wealthy” nations.

Similar winds of reform are sweeping the World Bank that, having long completed its task of postwar reconstruction in Europe, now mostly lends to countries in the southern hemisphere of the planet. The notion of development is also changing and becoming more complex. The topic of sustainable growth doesn't pertain only to the economic field but also to the social one and requires a wide expertise and elaborate evaluation tools. From an economic point of view, the world scene has changed in the last twenty years, during which extreme poverty has greatly diminished in East Asia and increased in South Asia and Sub-Saharan Africa.

Among the challenges the World Bank has to face, some are specific, like the global trend towards declining resources for development. In many of the OCSE countries, the budget constraints due to deficit and debt control policies cut the volume of resources allocated for development aids, both bilaterally and multilaterally. So the available resources had to be redirected to the neediest nations, such as the less developed among the developing countries (LDC), and more responsibility was required for decisions that made up for the lack of resources through new and improved tools, which could attract private funds or didn't require huge resources, like technical assistance.

The demand for reforms doesn't answer only to abstract requests for justice and democracy (never to be underestimated) but also to the need to keep perceiving the two organizations' activity as the result of shared choices. In fact, experience shows that only players who are fully involved in decisions concerning them can give an essential contribution to success.

This new approach, known as *ownership*, has already substantially innovated the way the two Bretton Woods organizations work,¹⁶ but has yet to be projected onto the decisional process.

would still have been unable to exercise any leverage on its own largest shareholder. Instead, the IMF focused on the Chinese exchange rate – a major item in the US”.

¹⁵ See also paragraph 12 of the *Stiglitz Report*, op. cit.: “[...] the financial crisis has brought to the fore severe structural lacunae in the existing global economic governance structure, in particular the lack of incentives for global collective action (...). There is a pressing need for a substantial improvement in the coordination of global economic policy. There is also clearly an urgent need to reform the international monetary and financial system to ensure that it is more inclusive and equitable and to thus enable more effective and credible global economic governance”.

¹⁶ The term *ownership* describes the recipients' involvement in decisions and sharing of the steps fit for their rehabilitation. An important example of this new approach dates back to December 1999, when the IMF's and WB's boards of directors adopted a new procedure to reduce poverty based on national (*country-owned*) strategies as a development plan. The principles on which this approach is based require those strategies to

As a consequence of the 2008 global financial crisis, each of the Bretton Woods institutions convened groups of wisemen and committees of experts, and so did governments and other international institutions. The results of their work can be found in the *Manuel Report*, e.g. the Committee on IMF Governance Reform's *Final Report*, published on the 24th of March 2009; the *Report of the Commission of Experts of the President of the United Nations General Assembly on Reforms of the International Monetary and Financial System*, 21st of September 2009; the *Zedillo Report*, e.g. *Repowering the World Bank for the 21st Century*, October 2009. It's also worthwhile to mention comparable reports by high level committees,¹⁷ high profile technical documents such as the FMI governance evaluation document by its Independent Evaluation Office¹⁸ – whose reliability is based on substantial background papers – and also a series of reports from the civil society like the *4th Pillar Report*¹⁹ and many academic contributions.²⁰

be lead by the countries themselves, to be result-oriented, extensive and long term, to built on national and international partnerships and to follow the guidelines of a *Poverty Reduction Strategy Paper* or *PRSP*. On this subject, see *Il governo delle organizzazioni di Bretton Woods*, op. cit., chapter III, paragraph 6.

¹⁷ Such as the one written by the Palais-Royal Initiative, a group of outstanding experts summoned by Michel Camdessus, Alexandre Lamfalussy and Tommaso Padoa-Schioppa. The committee produced a document (*Reform of the International Monetary System: A Cooperative Approach for the Twenty first Century*) to which we will refer, from now on, as the *Camdessus Report*.

¹⁸ IEO, *Governance of the IMF – An Evaluation*, 2008, www.ieso-imf.org.

¹⁹ It ensued from an IMF's consultation with the civil society, through a dedicated website, first, and in the occasion of the Annual Meeting in Istanbul in September 2009. The think tank New Rules for Global Finance Coalition was in charge of collecting the outputs, the final Report, addressed to the IMF Executive Board was written by Domenico Lombardi. Other think tanks produced reports as well; see the Bank Information Center's, Bretton Woods Committee's, Brookings', Center of Concern's, G24's, , Oxonia's and Group of Lecce's documents.

²⁰ WOODS N., *Accountability, Governance and Reform in International Financial Institutions*, "G24 Research Paper", 2000, www.g24.org, p. 9; LEECH D., LEECH R., *Voting Power in the Bretton Woods Institutions*, Warwick economic Research Papers, n. 718, Department of Economics, Warwick University, 2003; BARNETT M., FINNEMORE M., *Rules for the World. International Organizations in Global Politics*, Cornell University Press, Ithaca-London 2004; WOODS N., *The Globalizers. The IMF, the World Bank and their Borrowers*, Cornell University Press, Ithaca-London 2006; BRADLOW D.D., *The Governance of the IMF: The Need for Comprehensive Reform*, G24 Technical Paper, Washington, DC September 2006; TRUMAN E.M. (ed.), *Reforming the IMF for the 21st Century*, Institute for International Economics, Washington, DC April 19, 2006; ID. *A Strategy for IMF Reform*, Institute for International Economy, Washington DC 2006; WOODS N., LOMBARDI D., *Uneven Patterns of Governance: How Developing Countries Are Represented in the IMF*, *Review of International Political Economy*, 13:3, 8/2006; STIGLITZ J.E., *Making Globalization Work*, W.W. Norton & Company, New York-London 2006; CHOWLA P., OATHAM J., WREN C., *Bridging the Democratic Deficit: Double Majority Decision Making and the IMF*, 2007; LÓPEZ ESCUDERO M., *Crisis y reforma del Fondo monetario internacional*, *Revista española de derecho internacional*, vol LIX-2007, n. 2; EICHENGREEN B., *Global Imbalances and the Lessons of Bretton Woods*, The MIT Press, Cambridge-London 2007; WOLF M., *Fixing Global Finance*, The Johns Hopkins University Press, Baltimore 2008; SACCOMANNI F., *Managing International Financial Instability, National Tamers versus Global Tigers*, Edward Elgar, Cheltenham, UK-Northampton, MA 2008; EICHENGREEN B., BALDWIN R. (eds.), *What G20 Leaders Must Do to Stabilise our Economy and Fix the Financial System*, Centre for Economic Policy Research, London 2008; ENGLER M., *How to Rule the World. The Coming Battle Over the Global Economy*, Nation Books, New York 2008; BIRDSALL N., *Double Majorities at the World Bank and IMF: For Legitimacy and Effectiveness*, Center for Global Development, Washington, DC 2009; REINHART C.M., ROGOFF K.S., *The Aftermath of Financial Crises*,

We are going to try and systematize the subject matter by building on topics and proposed actions and not on their source. From the following analysis, a fact will crop out: in spite of the variety in the backgrounds of scholars and reviewers, the reforms they suggest are marked by a significant affinity, proof of an underlying sharing of the criticalities to be addressed and corrected.

NBER Working Paper n. 14656, Cambridge, January 2009; DORRUCCI E., MCKAY J., *The International Monetary System After the Financial Crisis*, ECB Occasional Paper Series, n. 123, February 2011, <http://www.ecb.int>; RODRIK D., *The Globalization Paradox. Democracy and the Future of the World Economy*, W.W. Norton & Company, New York-London 2011; PALACIO A., *Reinventing the World Bank*, February 21, 2012, <http://www.project-syndicate.org>.

CHAPTER I

GUIDELINES FOR A REFORM

1) *Effectiveness and efficiency*

By which guidelines should we assess the "goodness" of a governance system? The first ones could be its effectiveness and efficiency.

If the Bretton Woods organizations were judged in the light of their goals, they would hardly be considered successful.

The World Bank embraced the "A world without poverty" mission²¹ but, despite working hard on this goal, its resources are insufficient and significantly smaller than those deployed through bilateral channels or by the private sector.²²

The Fund is supposed to ensure the stability of the international monetary system, but hasn't warded off nor prevented the severe financial crises which have hit several times and have affected large areas of the world.²³ Is this due to mismanagement or to the inadequacy of its skills and tools? We can't avoid mentioning the criticism of those who see the IMF's activities as counter-productive, the origin of the moral hazard which induces states to act non-virtuously, to adopt risky policies knowing that they'll be saved, no matter what happens.

If we were to evaluate the performance of the two institutions in relation not to their abstract goals but, more realistically, in terms of their ability to intervene in response to specific situations such as cutting-edge projects, requests for help, crises, we should agree on more precise standards measuring the results and the time needed to achieve them.

These parameters should be linked to the specific traits of the two organizations, which are more typical of the "corporate" world than of the international organizations:²⁴ the connection between the subscribed capital and the rights to vote and stand for election. The two organizations' decision-making bodies are similar, *mutatis mutandis*, to corporate ones: the Board of Governors is a shareholders' meeting; it elects the Board of Directors, that is the Executive Board which, in turn, elects a president (World Bank) or a Managing Director (IMF).

²¹ This slogan is on the institution's homepage and summarizes its more articulated mission.

²² It has been estimated that about one third of the aid provided by donor countries goes through multilateral channels, while the remaining two thirds are paid directly on a bilateral basis, marking a significant improvement over the past role of international organizations. See BONAGLIA F., DE LUCA V., *La cooperazione internazionale allo sviluppo*, il Mulino, Bologna 2006, p. 54.

²³ See BINI SMAGHI L., *Chi ci salverà dalla prossima crisi finanziaria?* il Mulino, Bologna 2000.

²⁴ They are defined as "corporate" international organizations by LAGRANGE E., *La représentation institutionnelle dans l'ordre international*, Brill, Den Haag 2002, p. 89.

This internal structure drifts towards private law models,²⁵ which we should approach with extreme caution: both the public nature of the goals and important elements of governance aiming to guarantee the sovereignty of each member state lead us to classify, preferentially over any other choice, the two entities as international organizations. In fact, each State is given the same basic amount of votes no matter how large its subscription is and a direct or indirect representation in all the bodies is guaranteed to all and not just to a "controlling majority".

So what do we mean by effectiveness and efficiency?

Effectiveness is defined as the organizations' ability to set specific objectives and strategies, to pursue them, to check the results. It requires a clear division of tasks within the structure, the sharing of information, leaders' accountability and monitoring systems. The question is: do the two organizations operate as efficient machines, whose gears turn to give clear answers in a reasonable time?

The parameter of efficiency is, instead, of a more economic nature, of the cost/benefit kind. But it is difficult to give a precise value to the public goods the organizations pursue,²⁶ that is financial market stability for the Fund and development for the Bank, two notions that can be split in an articulated set of public goods.²⁷ As a result, this assessment can only be based on the notion of "reasonable cost and time".

An analysis made by the Fund's Independent Evaluation Office (IEO) tries to assess these parameters and shows that in fact the organizations' strengths are a qualified compact staff, rapid reaction times to requests for help and a highly centralized structure, but also the G8 countries' ability to team up when needed, thus quickly rounding up a large majority. This reaction time is based on informal cogs, which are very efficient but produce significant tradeoffs in terms of

²⁵ Examining the strengths and weaknesses of the governance structure, the *IEO Report, cit.*, has rightly and constantly quoted two categories of sources: on the one hand, the literature on international organizations, on the other codes and standards of corporate governance, p. 6-7.

²⁶ For the concept of "public interest" it seems appropriate to refer to the report of the International Task Force on Global Public Goods. Created in 2003 by an agreement between France and Sweden, it concluded its work in 2006 and defines the global public goods as: "Issues that are broadly conceived as important to the international community, that for the most part cannot or will not be adequately addressed by individual countries acting alone and that are defined through a broad international consensus or a legitimate process of decision-making", p. 13 of the *Final Report*, <http://www.sweden.gov>. EICHENGREEN B., GOLDSTEIN M., TURNBULL J., PERETZ D., TRUMAN E., *Report for the International Task Force on Global Public Goods*, Washington, DC 2006.

²⁷ The Committee for the joint development of the Fund and the Bank has identified five priority global public goods (GPGs): "(1) preserving the environmental commons, (2) controlling the spread of communicable diseases, (3) enhancing the participation of developing countries in the global trading system, (4) strengthening the international financial architecture, and (5) creating and sharing knowledge relevant to development". See DEVELOPMENT COMMITTEE, *Communiqué*, 30th of April 2001. To further examine the subject, please see the document DEVELOPMENT COMMITTEE, *Global Public Goods: A Framework for the Role of the World Bank*, DC2007-0020, September 28, 2007, www.worldbank.com.

representativeness and legitimacy.²⁸ The IEO's analysis is based on a statistical survey of the structure as it is perceived both from the inside and from the outside.²⁹

Can this assessment positively estimate the effectiveness and efficiency of the two organizations? How can we reduce their reaction time and improve the quality of their responses? How can we make the contribution of all member states more constructive and improve their ability to follow the guidelines and regulations they adopt? It is probably necessary to improve the communication channels that link the Fund and the Bank to their respective shareholders, thus increasing the latter's participation and inclusion in the decision-making process, so as to make the two organizations more accountable and closer to the states when decisions are implemented. In other words, we must increase their level of democracy.

2) *Representativeness and legitimacy*

The relationship between states and international organizations is increasingly marked by expectations of democracy, insofar as the notion of democracy can be applied to an international organization. It has to be pointed out that international democracy has been until now for many legal scholars a "non issue"; as very clearly summarized by prof. von Bogdandy, "the focus of legal minds has rather been on the rule of law".³⁰ In other words, the IOs' respect of their founding treaties was considered a sufficient guarantee of fairness for their member states. Citizens were and still are not supposed to have a say if not indirectly by monitoring the international conduct of their own governments through national democratic channels. Politogy and sociology have explored this emerging demand for democracy at international level, led by civil society, and offered different views and patterns to provide an answer.³¹ The offered solutions are – unfortunately – characterized more by theoretical approaches than by concrete proposals of reform, and this may be easily explained by a number of real difficulties, still to be overcome. These are: the absence of a legal status for individuals in the international organizations' laws (with the only exception of the EU law), the distance from them, the dimension and diversities inside a global demos – however we

²⁸ See the IEO Report, *Governance of the IMF*, op. cit., paragraphs 14 and 15.

²⁹ See the reports in *Aspects of IMF Corporate Governance – Including the Role of the Executive Board* – Background documents, April 2008, attached to the above-mentioned IEO report and found on the same site, in particular paragraphs I, II, III and V.

³⁰ See VON BOGDANDY A., *The European Lesson for International Democracy: The Significance of Articles 9-12 EU Treaty for International Organizations*, *European Journal of International Law*, vol. 23, no. 2, 2012, p. 318.

³¹ For a clear and complete picture of the paradigms and models offered by these recent studies on global or international (the choice of terms is not irrelevant) democracy see SCHOLTE I.A., *Reinventing Global Democracy*, in *European Journal of International Relations*, May 29, 2012.

decide to conceptualize it – and the difficulty to imagine the application to IOs of paradigms for democracy which have been conceived for the state, which is a completely different entity.

An international organization is first and foremost a decision-maker, whose natural limit is its poor capacity to enforce decisions, which have to be shared by a large majority of states in order to be adopted and executed. This requires that all members feel represented and are not overwhelmed by the strongest ones. This is the more evident risk, since the international community is an association of equals only in purely formal terms.

The first element in this complex definition is representation. An organization is perceived as fair when all its members feel represented. Representation may be direct or indirect: it is direct when all members take part in the decision-making process, for example as members of the decision-making body; it is indirect when mediated, for example, by a mandate to a selected body elected by all members or representing all members. This kind of representation is obviously mediated by voting powers and, as in the case of weighted votes in the Bretton Woods organizations, it is quite possible that some states do not feel adequately represented by the number of votes they can cast. This lack of representativeness can cripple the entire organization if it is widespread and concerning whole areas of the world or large groups of states.

Legitimacy is a broader concept, and includes representativeness. An international organization is primarily seen as legitimate on a procedural basis: it is legitimate if it has been created according to the international rules it refers to; if the states have voluntarily chosen to sign up to its founding agreement; and if this *lex specialis* can create a set of sub-rules respecting the organization's statutes and internal regulations. This formal notion of legitimacy can be summarized as respect for the rule of law. A more substantial definition of legitimacy, partially overlapping with the first one, regards as legitimate the organization which pursues the assigned goals and reflects its members' shared values.³² Goals and values are often defined by the same founding treaty, but may as well evolve during time, which has – in our opinion – happened with the Bretton Woods institutions. They can be tracked in the missions the organizations adopted to define themselves in written and unwritten policies which create patterns for actions.

In the following chapters proposals and examples will be offered for legitimacy improvements. These include a better representation of member states and a clearer definition of roles for the governing bodies, in particular the decision-making ones, which should be able to formulate shared goals and – according to them – improve the political guidance inside the two systems.

³² BARNETT M., FINNEMORE M., *op. cit.*, p. 166.

3) Accountability

When an important governance reform is adopted, it is advisable to take into account not only decision-making processes but also accountability tools and channels to make that reform more comprehensive and coherent.

Accountability is a democratic system's requirement which comes into play once the decisions are taken. A technical and political body or an organization as a whole are considered accountable when they assume full responsibility for the choices they make. The principle of accountability requires that all actors state how their work was done, how their resources were used, at what extent their objectives were achieved and which expectations were met. Of course, this also means that those who did wrong will be punished or dismissed. This notion requires transparency, motivated choices, guarantees, reporting on activities, legal and political responsibility. The introduction or the improvement of accountability elements in an international organization seems often easier than the improvement of its legitimacy, and on this regard a number of significant steps have already been taken in the last decades, as we will see later. Nonetheless, important progress can still be made in two directions. The first one – a main focus in this essay – concerns the accountability of single technical and political bodies. In fact, in addition to being fully accountable towards the states, the two organizations should strengthen the internal processes of checks and balances that enable their internal structures to control each other, as it happens (or should happen) at a national level among each state's power structures.

A second line of reform would involve the underlying governance levels, making the two organizations and their member countries – albeit to a lesser extent – accountable towards the citizens themselves, and especially towards the people directly affected by their interventions. Steps in this direction have already been taken, but much more can be done.

Closely tied to the need for accountability is the demand for transparency. We can say that an international organization is democratic when the two constituents of the representativeness-accountability duo are equally developed and mutually coherent and the tool needed to achieve both constituents is transparency. Transparency implies permeability, the knowability of "who does what", the chance to express needs or complaints. It concerns the work structure and the publicity and accessibility of documents. In this respect too, progress is undeniable and the Internet plays a very important role – as with all organizations, especially those physically "far" from the citizens.

CHAPTER II

THE LIMITS OF THE PRESENT GOVERNANCE STRUCTURE

1) The distribution of votes among members

On top of our list of issues there certainly is the "voice and representation" gap. The meaning here is wider than the accepted legal notion of representativeness. The IEO report is very clear on this concept, whose elements are: "(1) *the capacity of members to have their views heard and considered in the institution's decision-making process; and (2) the capacity of other stakeholders, including legislatures and civil society, to have their views heard and considered (...)*".³³

It is no coincidence that, during the last fifty years, the regional solution was favored in many parts of the world, with the creation of organizations that are similar in structure and function to the Bretton Woods organizations but act on a regional scale, closer to the borrowers and with a more limited number of members, who enjoy greater participation and ease of access, as is the case with all sorts of regional development banks³⁴ and funds³⁵.

The most obvious flaw in the Fund and World Bank's memberships lies in the fact that a large majority of small states has a ludicrous number of shares and is almost cut off from the decision-making process³⁶ while few countries, mostly in the northern hemisphere, (and some of today's emerging countries) can band together and decide for all.

Share and voting right figures for each state or group of states are changing, since the amendments approved in 2008 are gradually coming into effect and each country affected by the reform is paying up for its larger quota, thus modifying the percentages of the other countries as well. The reforms adopted in 2010 will further change the figures but are not yet in force. However, we can confirm that the United States will continue to manage a 16% or higher package of votes in both the IMF and the Bank, thus retaining their unique right to veto the decisions for which the Statutes require a super qualified majority of 85%.

³³ Thus at paragraph 26 of the *IEO Report*, op. cit.

³⁴ In S. CAFARO "Le banche internazionali", entry in *Enciclopedia del Diritto, Annali Giuffr *, 2011, I counted 17 regional development banks (and the list could be incomplete). The creation of a new one has been announced by the BRIC countries recently.

³⁵ The last created one is the European Stability Mechanism, whose members are the Euro Area states, which replicates the same governance of IMF and works in a similar way.

³⁶ One example is Togo's Executive Director in the IMF, who manages the votes of 22 African countries, amounting to 1.62% of the total votes (the figure dates back to September 2011).

The EU countries are over-represented too: their voting power, even after the most recent reforms, remains stable at around 30% in the IMF and slightly less in the Bank. Those same countries elect one third of the executive directors in the two Boards, though the figure is expected to decrease by two units in the IMF.

More generally, the most industrialized countries, amounting to only 15% of the members (24 vs 159 developing countries), see their overall share of votes fall from 60% to 55% but firmly retain their majority; and, since changes mainly concern emerging countries, the G20's weight on the decision-making process will still be overwhelming.

Within the debate on "voice and representation" we must distinguish between the need for adequate representation of the real economic weight of emerging countries (now partly satisfied) and the problem of the meager influence exerted by many developing countries, whatever approach we use in order to project their real economy data in the two organizations' decision-making process.

The first need – well represented by the G24 – calls for an economic and political solution, but allows technical answers. The second issue relates instead to the relationship between North and South and is mostly geopolitical: the developing countries' global weight scarcely expresses their interests as borrowers. The use of purely economic parameters through mathematical formulas is inadequate to solve issues that require a rethinking of the overall structure and of the variables used in the formulas themselves.

A comment frequently found in the analysis completes the picture of the critical issues relating to voting weights: the internal balance of the two organizations is now very different from the one created in Bretton Woods in 1944. The enlargement of the membership base, from the 45 states of the inaugural conference to the current 185, has gradually eroded the total amount of basic quotas. In 1955 14% of the votes were divided equally among all members, while today this figure stands at around 2-3%, and inequalities have proportionally increased.³⁷ The first guideline for reform, the only one that was partly enacted, concerns the distribution of votes in order to increase the "voice and representation" of developing countries, but also to decrease the majority threshold that actually gives the United States alone a right to veto major decisions. These reforms were preceded by a

³⁷ See WOODS N., *Accountability, Governance and Reform in International Financial Institutions*, op. cit., p. 9; also FINANCIAL DEPARTMENT IMF (ed.), *Quota distribution...*, op. cit., paragraph 32, p. 18: "The erosion in the relative importance of basic votes as a percentage of total votes of Fund members has been recognized as a problem since the Eighth Review and has been extensively discussed in the context of all subsequent quota reviews (...) The declining role of basic votes in the Bretton Woods institutions is perceived by some as weakening the voice of small developing countries in the decision-making process within the Fund, the World Bank, and also in other fora". The same issue is examined in paragraph 81 of the *Zedillo Report*.

profound reflection on the Fund's formula.³⁸ The reforms brought a selective increase: an increase in basic votes and at the same time a capital increase that also met the organization's need for refinancing. However, commentators consider this small percentage shift a modest result³⁹ and, essentially, just a step in a long journey. The tripling of basic votes, that will reach 6% or so when reforms are adopted, is still too far below the 1944 figure.⁴⁰

Another issue to address is the voting weight of the Bank's member states. According to the IBRD's *Articles of Agreement*, the IMF's quota is also used to determine the number of shares allotted to each of the Bank's new members, but unfortunately it doesn't foresee periodical updates. The specific aims and needs of the Bank may not be met by the IMF purely economic formula which doesn't reflect the different interests of countries in supporting development. This necessary link between membership and allotted shares in the two organizations is neither necessary nor helpful. Even inside the World Bank Group an increase in differentiation could be possible.

It would be expedient to schedule an automatic periodical revision of the IBRD's quotas too, which is not in the Statutes.⁴¹

A major issue, however, could be the lack of liquidity of developing countries that would force many of them to give up the purchase of the new shares in the IBRD or IMF made available by a capital increase. The establishment of a trust fund on support of these operations through loans would provide a valuable aid.

2) *The decision-making process*

The institutional structures of the two organizations are mirrored and are based, as already noted, on a tripartite structure: a plenary collegiate body – the Board of Governors – which is the main decision-making structure; a restricted membership body – the Executive Committee or Executive Board – in charge of day-to-day administration, and a top figure – the President for the Bank and the Managing Director for the IMF.

The Board of Governors is the plenary of the member countries and thus the maker of the most important decisions both in the IMF and in the IBRD. It is composed of a governor and a deputy

³⁸ This has involved the Executive Committee first, then a group of independent experts, the Department of Finance and the Economic and International Financial Committee. See IMF, *Quotas – Updated Calculations Prepared by the Finance Department in consultation with other departments*, August 27 2004, and the *Report of the Executive Board to the International Monetary and Financial Committee (IMFC) on Quotas, Voice, and Representation*, September 24 2004, both can be found on www.imf.org.

³⁹ See paragraph 40 of the *Manuel Report*, op. cit.

⁴⁰ See paragraph 41 of the *Manuel Report*, op. cit.

⁴¹ Again see the *Zedillo Report*, paragraph 83.

appointed by each member state usually among high profile international figures: most often – especially in the Fund – Ministers of Economy and Finance and Central Bank Governors.

The Board of Governors has all powers except those expressly delegated to the restricted body. The most important functions cannot be delegated: the admission and withdrawal of members and the decisions pertaining the conditions of their participation; the increases and decreases in capital and the distribution of income, the general periodic revision of shares; the permanent suspension of operations; special allocations of SDRs, the amendment of the *Articles of Agreement*; the adoption and amendment of regulatory internal provisions, the so-called *By-Laws*; the agreements with other international organizations and the interpretation of the *Articles of Agreement*. The Board of Governors meet at least once a year, usually twice, at the beginning of Autumn (annual meeting) and in the Spring (Spring meeting). The Fund and the Bank's boards meet on the same dates.

It's difficult to imagine real decisions being shaped by such a crowded session, so it is easy to understand that this solemn gathering is nothing more than the chance to ratify decisions that are already taken, resulting from negotiations among national sherpas in the most influential capitals or prepared by the administration after a consensus among the states was carefully built by the top figures.

The Board of Governors appoints the Executive Board, the restricted membership body to which it delegates some of its powers. Since their inaugural sessions, the Boards of Governors of both organizations have delegated all the delegable competences to the two Executive Boards,⁴² which have 24 members in the FMI and 25 in the Bank and meet frequently, i.e. with the frequency required by the day-to-day administration: on average, three times a week.

Therefore, all – and not only – the activities that can be referred to ordinary administration fall under the responsibility of those bodies, whose members are appointed by the countries underwriting the largest capital shares (5 members)⁴³ or elected by the governors of the other member states, through a procedure that leads them to represent, each, a group of member states called “constituency”. Among the latter, three are "elected" by an individual state each: the representatives of Russia, China and Saudi Arabia.⁴⁴ In the Fund they hold office until the country

⁴² See section 15 of the IMF Board of Governors' *By-laws*, according to which all the powers the Statute doesn't assign exclusively to the Board of Governors are conferred to the Executive Committee.

⁴³ The five countries with the largest quota are the United States, Japan, the United Kingdom, France and Germany.

⁴⁴ Since 1980 the People's Republic of China (which took the place of Taiwan) has the right to elect its own executive director, thanks to the extent of its shareholding. The same rule has applied to Saudi Arabia since 1981, after an ad hoc increase in its share. During the Nineties, Switzerland and the states born from the dissolution of the Soviet Union joined in and the number of executive directors was raised to 24. Even Russia is granted the election of its own director, thanks to its shareholding. The attribution to

they represent replaces them, in the Bank they serve a two year mandate, and can be confirmed. The other members are elected every two years and each represents a constituency. The gap between the two categories of members is therefore evident also in their terms of office.

The constituency's composition and participatory basis, which can be more or less broad, is likely to create further discrimination, making it very difficult for small countries in crowded constituencies⁴⁵ to make their voices heard. Another flaw is incidental to the constituency mechanism. Who can guarantee that these subsets are inherently "democratic" and therefore capable of appointing a director who is representative of the group, not of an individual state (i.e. the biggest one)? Experience shows that those groups are very different one from the other.

On the other hand, more crowded Boards would impair the organization's general efficiency. We could solve this dilemma only by eliminating all the constituencies that have just one state per appointed director, and are thus privileged *de jure* or *de facto*. In the IMF, the 2010 reform – unfortunately still far from being adopted and enforced – opted for a Board of elected members only. An undeniable progress.

The dialogue between the states and the two institutions is more difficult for those countries that do not have their own executive director. The relationship with the Executive Directors is also often difficult when the demands do not come from the central government, but from the civil society or from other stakeholders.⁴⁶ This too is a reflection of opaque appointing mechanisms that do not motivate executives to engage in such activities.

The Executive Board of the World Bank elects its President for a renewable five-years term. The Board of the IMF elects a Managing Director instead. According to the statutes, the two figures are chosen by Executive Board members with a majority of votes from among the citizens of any member state. A much discussed practice has so far brought only North Americans to the Bank's top and Western Europeans to the Fund's top. Strangely enough, they are not subject to specific requirements, such as those required for staff recruitment.

Besides all differences in terminology, the two figures essentially play the same role. The president and the managing director play the double role of chairmen of the respective Executive Boards – where they can only vote in case of a tie – and of leaders of their administrations. The role of the two top figures is therefore both political and administrative.

these states of an appointment power similar to that of countries seems the result of geopolitical calculations.

⁴⁵ They are more crowded than similar bodies, as evidenced by the IX background paper annexed to the IEO report, *Governance of the IMF*, op. cit.: MARTINEZ-DIAZ L., *Executive Boards in International Organizations: Lessons for Strengthening IMF Governance*, IEO Background paper, 2008.

⁴⁶ This difficulty is highlighted by the 4th Pillar Report, op. cit.

It is political because they weigh heavily in the deliberations of the Executive Boards – since the authority to manage the agenda and lead the discussion implies an undisputed leadership – and because they play a role of external representation and participate, albeit with no right to vote, in the Board of Governors. It is administrative because they manage the ordinary business under the scrutiny – more formal than substantial – of the bodies who elected them. They take many operational decisions and often submit decisions to the Executive Board and follow them up.

Then there are the ministerial advisory committees: the International Monetary and Financial Committee (IMFC) for the Fund, and the Joint Ministerial Committee for the Boards of Governors of the Bank and Fund on the Transfer of Real Resources to Developing Countries, better known as the Development Committee, common to the Fund and the Bank, but more focused on the issues dealt with by the latter.

Their members are the governors of the 24 countries that have an elected representative or appointed member in the Executive Board. The two bodies are comparable because of their similar composition and of their particularly important role, originating from their being restricted membership bodies gathering the ministers of the member countries, and therefore particularly appropriate to discuss strategic directions and proposals for reform, regardless of their lack of decision-making powers. In fact, they are the hubs of political connections between the Board of Governors and the Executive Board, with important tasks of supervision on the two organizations and of discussion on possible evolutions of the international economic governance and of development policies. Their merely advisory role is apparently at the margins of the decision-making process, and their lack of decision-making authority conceals a relevant political stature but makes the two bodies somehow unaccountable for the choices they make, since they are formally adopted elsewhere. Very often, inputs and guidelines come from the outside, mainly from groups of states (G7, G20) - whose membership is largely overlapping - and stem from emergencies. The ministerial committees themselves are so, through their statements, the channels through which political commitments adopted by the “Gs” enter the decision-making process of the Bretton Woods organizations.

3) Monitoring mechanisms

Many different issues are related to the responsibilities of the two organizations and of their offices. The reason is international organizations aren't usually built on an equilibrium of checks and balances ingrained in a clear allotment of power and accountability, to ensure cross-checks between the offices.

The seemingly neutral or non-political nature of their work weakens the mechanisms of assessment, and possibly censorship generally found in democratic states or in the European Union as a result of a more ambitious plan and of a long evolutionary process. These organizations are based on the idea that their knowledgeable and impartial bureaucracy is in itself sufficient guarantee that their actions do not require auditing.

The boundaries between the powers of the decision-making bodies – Board of Governors, Executive Board, President or Managing Director – is often fleeting and the supervisory powers, already inadequate in the statutory provisions, seem little exercised, if at all.

The Board of Governors has no control over the Executive Body it elects, so rather than of a collective responsibility of the Board we can talk of Executive Directors' responsibilities towards the state or states they represent. At a national level, few Parliaments are interested in monitoring the work of their representatives – be they ministers, governors or executive directors – within the international financial organizations. Finally, the Executive Board hardly if ever exerts its control on the Managing Director/President. The implementation of the principle of accountability, which implies both legal and political responsibility, requires the set up of opportunities for assessment and the creation of rules for dismissals throughout the decision-making chain in the event of non-compliance with the goals. Another important point is the creation of specific bodies within the structure responsible for efficient and independent supervising and monitoring, with a more technical competence and following *ad hoc* procedures. These bodies would have the task of facing a range of possible circumstances that may blemish the credibility of the two institutions: first, there is the risk of unnecessary, misjudged interventions, that waste resources and/or damage the populations they were intended to help. Then, there are more serious wrongdoings, like directly or indirectly financing criminal activity, being guilty of corruption or fraud, or being voluntary or involuntary accomplices in such crimes.

Tools to reduce the risk of this happening and to correct or remedy the damages, where possible, were not provided for by the statutes but were gradually created.

The two organizations have, in fact, only recently been equipped with independent supervising bodies that, through their reports, monitor their activities and audit their results.

The Bank has gradually created a complex network of monitoring bodies, which goes by the name of *safety net*.⁴⁷ The Executive Board has its own Audit Committee which in turn monitors the

⁴⁷ There are seven *safety net units*: the Independent Evaluation Group (IEG), the Inspection Panel (IP), the Compliance Advisor/Ombudsman (CAO), the Independent Audit Department (IAD), the External Auditors, the Quality Assurance Group (QAG) and the Integrity Vice-Presidency (INT). These bodies' performances are evaluated through a large range of indicators. See paragraph 100 of the *Zedillo Report, op. cit.*

internal auditors while the Independent Evaluation Group and the Inspection Panel report directly to the Board.

Similarly, although lagging behind the Bank, the Fund's Executive Board created the Independent Evaluation Office in 2001. It's a permanent structure within the IMF, independent from the management and staff, with the task of objectively assessing the Fund's performance. Its director hands in work programs and annual reports to the Executive Board and the IMFC. The work program covers evaluations of countries and groups of countries, policy issues, technical assistance, training and research as well as the internal procedures of the Fund. Codes of conduct were adopted in 1998 for the staff and in 2000 for the Board, and an Ethics Committee was created. There is also an External Audit Committee (EAC) with three members who are independent from the Fund and from its Board of Directors. This Committee periodically reports to the Board of Governors and is in charge of supervising the auditing and internal monitoring systems.⁴⁸

Transparency greatly helps accountability. In fact, the accessibility of documents, the knowledge of the organization and the allocation of responsibility must necessarily anticipate the assessment by shareholders – the states and their parliaments – and by the general stakeholders – civil society. In this sense, the Bank's policy on Access to Information (AI), approved by the Board in November 2009, is particularly innovative. It is considered by many experts the new frontier in the disclosure of official documents and is based on the principle that all documents are accessible to the public with a few limited exceptions. The role of civil society in pushing for this improvement has been remarkable.

The Fund's improvements in transparency and accountability are (also) the result of the campaigns conducted by the most important civil society organizations. Today, cooperation with civil society takes many forms:⁴⁹ more or less open meetings, forums and seminars at the organization's headquarters and elsewhere, documented by the *IMF and Civil Society Page* on the Fund's website. The organization of the civil society policy forums during the annual and spring meetings is an important sign of attention, even if the interaction among civil society representatives and the organizations' officials is quite limited with the exception of officials whose work is dedicated to maintain ongoing relations.

The most significant evidence of civil society's role so far is the 2009 director of the Fund's invitation to a large-scale public consultation on the organization's reform process, to collect ideas and useful comments. It resulted in the *4th Pillar Report*.

⁴⁸ They are: external audit, internal audit, financial accounting and reporting, risk management and internal control functions.

⁴⁹ See the *Guide for Staff Relations with Civil Society Organizations*, 2003.

The increasing public access to information since the Nineties, thanks also to that consultation, has in fact favoured a small group of watchful observers: research centers and NGOs which are located mostly in the Northern hemisphere, are English-speaking and skilled in reading and comprehending complex texts requiring a sophisticated knowledge of economic theories.⁵⁰ Little has been done to reach those who lack this expertise, don't speak English and are not connected to the Internet, i.e. a large part of those directly affected by the choices two institutions made.

An inadequate accountability towards stakeholders means little communication and little drive to meet the expectations of states and civil society; a more inclusive approach would help develop a consensus around future reforms and achieve goals.

⁵⁰ See SCHOLTE I.A., *Civil Society and IMF Accountability* in SCHOLTE I.A. (ed.), *Building Global Democracy? Civil Society and Accountable Global Governance*, p. 80 et seq.

CHAPTER III

WHICH REFORMS FOR CONTEMPORARY NEEDS?

1) The Board of Governors

The proposed reforms unanimously ask for a more equitable distribution of votes in the Bretton Woods institutions, but differ in identifying the most appropriate governance structures and their roles and responsibilities. That's because the issue of the organizations' form of government and powers is complex and of a political nature.

Among the structures, the Board of Governors is the one seemingly less interested in possible changes. It goes without saying that all members of the organization should meet in a plenary assembly and that these meetings should be solemn and held at the highest political level. Both the structure's size and political stature imply it can meet infrequently, hardly more than twice a year, as already required.

Given the time constraints and the large number of members, it is unlikely that governors can really debate during these meetings. Meetings with a more substantial content could be possible, perhaps, when preceded by the preparatory work of smaller structures, among these one could also monitor and report the collective performance of Executive Board members.⁵¹

It appears that, in a still-to-be-imagined system of checks and balances, the power to elect the members of the Executive Board should go hand in hand with the power to impeach the whole body. For this purpose, it would be appropriate to set goals or requirements for its action in order to assess it according to shared guidelines.

The report submitted by the committee of experts appointed by the President of the Assembly of the United Nations, interestingly remarks that the Boards of Governors are made up primarily of finance ministers and central bankers, whereas ministers responsible for development or economic planning could provide a broader vision⁵², this could be a reason to dismiss the practice of joint meetings for the Bank and the IMF.

Another issue concerning both the Governing Council and the Executive Board is the allocation of votes and consequently the quota formula. Among the proposals for rewriting the IMF's formula

⁵¹ Civil society suggested the establishment of a permanent committee, to assist the Board of Governors with the sole responsibility of carrying out this periodical supervision (paragraph 34 of the *4th Pillar Report*, op. cit.).

⁵² Thus in paragraph 47 of the *Stiglitz Report*, op. cit.

there is a greater use of purchasing power parity to calculate the GDP data,⁵³ but also the use of variables that are not purely economic, such as population size.⁵⁴

Moreover, trade inside a single currency area should not be regarded as foreign trade; a sensible solution that easily reduces the over-representation of the euro area.⁵⁵ Although none of the commentators dare to imagine a clear majority of votes given to developing countries, all agree on the need of reducing the gap between North and South.⁵⁶ Among the proposed solutions there is the challenging of the historic bond between Fund and Bank quotas,⁵⁷ since the variables used in calculating them are certainly more in accordance with the needs of the IMF.⁵⁸

Like other organizations in the World Bank's group – IDA and MIGA –⁵⁹ the IBRD could maybe benefit of its members' allocation into two categories (developed and developing countries) each with its own share of votes and a comparable ability to influence decisions, a concept that is based on the principle of shared interest in the result. Another very frequent proposal is institutionalizing – in both the Board of Governors and the Executive Board – double majorities of states and votes, i.e. of capital,⁶⁰ or, specifically for the Bank, of recipients and donors.⁶¹

At the moment, the statutes require a double majority (85% of votes and 60% of members) only for their own revision procedure.

Several proposals also affect the qualified majorities required to adopt decisions and there seems to be a broad consensus for the reduction of the 85% super-qualified majority: the *Zedillo Report* would like to lower it to 80%, the *Manuel Report*, more radically, to 70-75%. In other words, all

⁵³ Nowadays, 60% of the GDP variable is calculated on change at market interest rates and 40% on value at purchasing power parity, obviously a compromise between two options whose results are not exactly the same.

⁵⁴ Thus the *4th Pillar Report*, paragraph 11 et seq. For an alternative proposal, please refer to VIRMANI A., *Global Economic Governance: IMF Quota Reform*, IMF Working Paper WP/11/208, Washington, DC 2011.

⁵⁵ See once again the *4th Pillar Report*, op. cit., paragraph 13, but also the authors who have addressed the issue of the euro area's representation; please refer to CAFARO S., *The Missing Voice of the Euro. Legal, Technical and Political Obstacles to the External Representation of the Euro Area*, *Il diritto dell'Unione Europea*, vol. 4, 2011, pp. 895-913.

⁵⁶ As stated by BUIRA A.: “Consequently, the total voting power of creditor and potential debtors should be in approximate balance. This would enhance the probability of each case being judged on its merits” in *The Governance of IMF in a Global Economy*, in BUIRA A. (ed.), *Challenges to the World Bank and IMF: Developing Country Perspectives*, Group of Twenty-Four, Anthem Press, London 2003, p. 4.

⁵⁷ Thus in paragraph 122 of the *Zedillo Report*.

⁵⁸ See the considerations expressed in paragraph 82 of the *Zedillo Report*, op. cit.

⁵⁹ In the IDA the two blocks have 52% and 48% of the votes, in the MIGA both have 50% of the votes.

⁶⁰ See BRADLOW D.D., *The Governance of the IMF: The Need for Comprehensive Reform*, op. cit.; CHOWLA P., OATHAM J., WREN C., op. cit. and BIRDSALL N., op. cit. Thus also RAPKIN D.P., STRAND J.R., *Developing Country Representation and Governance of the International Monetary Fund*, World Development, vol. 33, n. 12, p. 2009. See also paragraph 22 of the *4th Pillar Report*. The *Manuel Report* suggests this double majorities option specifically for the appointment of the general director, of the presidents of the ministerial committees and for the main political decisions and the access to loans.

⁶¹ As mentioned *en passant* in paragraph 44 of the *Manuel Report*: “(...) Consideration should be given to alternative forms of double majority (e.g., developed and developing countries)”.

these documents put forward the abolition of the U.S. veto⁶² and reduce the chance that groups of states could block decisions.

2) *The Executive Board*

The functions and responsibilities of the present Board's governance structure are hotly debated; several commentators rightly call into question the quantity of its functions and the lack of clarity of its responsibilities.

On closer inspection these are two facets of the same problem. Indeed there are, among the Board's functions, at one time the drafting of the two organizations' policies, the authority to take all operational decisions and the supervising of the staff enforcing such decisions; there is the monitoring of the Managing Director and of the President but also a subordination to those same figures who chair and lead its activities; there is a direct representation of the member states, clashing – in different ways for the Fund and the Bank – with the task of reviewing and assessing national situations; finally there is – for members – a duty of loyalty towards the institution that can conflict with the loyalty toward the state or states they represent.

The tangle of so many potential conflicts of interests is difficult to unravel and while they might never occur, it would be only thanks to a cautious attitude and to a sort of understatement resulting from the current institutional structure: the Board can't break the delicate balance imposed on its work. It is only natural that such excessive powers are matched by equally hazy and confused accountability mechanisms.

The *4th Pillar Report* comments on the difficulties that arise from the dual role of the Board's members and points out that "the board has never been evaluated". To the issue of the Board's dual task –of decision-making and supervision – and of its members' double-hatting – as international officials and state representatives – some reform proposals respond by duplicating bodies and distributing their functions.

The governance structure can in fact be easily improved and clarified by enhancing the role of the Ministerial Committees, natural forums to which the most important decisions – e.g. those pertaining to strategy – could be conferred and in which the states could be represented and their interests balanced better and at a higher level.

The Board would be made up of international officials in charge of an independent and more impartial evaluation and this solution would also alleviate the Board's functions and allow for a

⁶² Whose negative symbolic implications are specified in the *Zedillo Report*, paragraph 88.

greater efficiency in its operations. The greater independence of the body granting financial aids would be reflected in a reduced chance that donor countries influence its choices and, in more general terms, exercise an influence on the countries receiving the loans.⁶³

The accountability of the Board would benefit from the establishment of a mechanism by which the Board of Governors could monitor its work⁶⁴ and – in case it is unable to pursue its goals – from a process by which it could be dismissed. Additional accountability might come from a periodic self-assessment procedure.⁶⁵

This looks like the preferable solution, but it's not the only one envisaged. The *Zedillo Report* suggests to raise the Executive Board's political stature by composing it at a ministerial level. This would result in a transition to a non-resident Board, which would be the organization's real governing body and which would transfer most of its current operational capabilities to the staff.⁶⁶ It goes without saying that with such proposal the authority of the IMFC and of the Development Committee would be swallowed up by the new Executive Boards and in particular those of the latter by a new World Bank Board.⁶⁷ Whether we accept to enhance the ministerial committees by giving them some decision-making powers or rather we transform the Board into something resembling a ministerial committee, the basic option remains the same: separate the political decision-making, conferred to the representatives of States, from the technocratic decision-making, conferred to the reformed Board or directly to the staff as in the second option.

In all cases, some Board's current functions of a more operational nature could be curtailed and consigned to the staff.⁶⁸

⁶³ This conditioning capacity is demonstrated in DREHER A. and STURM J.E.'s paper, *Do IMF and World Bank Influence Voting in the UN General Assembly?*, KOF Swiss Economic Institute, ETH Zurich, KOF Working papers, n. 6-137, April 2006. The authors empirically found that, inside the UN Assembly, the countries that have received funds from one institution or the other are more frequently aligned with the G7 countries' positions. See also BRADLOW: "Since the industrialized countries have no intention of using the IMF, it is reasonable to question why the G-7 have continued to support the IMF. The reason is that they find its influence over poor and middle income countries undergoing transformations or experiencing serious macro-economic and monetary problems useful", in *The Governance of the IMF: The Need for Comprehensive Reform*, G24 Technical Paper, Washington, DC September 2006, p. 11.

⁶⁴ As in the *4th Pillar Report*, paragraphs 30-34.

⁶⁵ As suggested by the IEO report, paragraph 79.

⁶⁶ Paragraphs 123-127 of the *Zedillo Report*.

⁶⁷ As stated in the Report, the powers of the new Board would be: "i. Selecting, appointing, and (if required) dismissing the President; (ii) Approving the Group's overall strategy and direction; (iii) Making major policy decisions; (iv) Conducting general oversight of the institution, including periodically reviewing the President's performance; (v) □Appointing members of the Inspection Panel and Administrative Tribunal; and (vi)□ Approving the budget and the Independent Evaluation Group's work plan".

⁶⁸ The *Manual Report* is very precise on this point and outlines the functions of the new Board as a result of competences shifting upwards – to the Ministerial Council – and downwards to the staff. The four functions that would be left to the Board are the core of the outlined governance system and are (i) staff supervision and monitoring, (ii) preparatory work for the Council, to which recommendations and opinions would be

Once the relationship between the Board and the staff is defined in general terms, we'll have to clarify the Board's controversial relationship with the top of the administrative apparatus. In order to let this team exercise a supervisory role on the staff, more than one commentator advise against it being chaired by the Bank's President or by the Fund's Managing Director. It is in fact unlikely that this body could effectually assess its chairperson's performance. Even more so when you consider that it is the Board that formally appoints its leaders and, if necessary, dismisses them.

If each Board elected a chairperson from among its members or was lead by one of them, as proposed in the *Zedillo Report*, the President/Managing Director could attend its sessions, with or without voting rights, informing the Board on a regular basis on the day-to-day administration.

Another discussed topic is the size of the board. All agree in assuming that – in the Bank as well –⁶⁹ there should only be elected members, an option that would allow – as additional benefit – a reduction in the number of members. The two Boards of Directors are deemed too crowded with respect to their function and both the *Zedillo Report*⁷⁰ and the *IEO Report* (which refers to the experience of corporate governance) advocates a contraction in order to increase their efficiency.

A variation of the formula for the calculation of the shares in the two organizations would obviously result in a different quota of shares for the member states in the two organizations. This opens the door to a different balance of shares, to different groupings of states in the constituencies and therefore to a different composition of the two Boards and of the two Ministerial Committees, wether by represented constituencies or by members' nationalities.

The transition to an elected-only Board is not enough in itself to ensure that the *de jure* privileges do not replace the *de facto* privileges, such as those that already concern China, Russia and Saudi Arabia. This transition should be accompanied by a significant reduction in the number of members and by all members necessarily representing more than one state. Each member should represent a constituency composed of roughly an equivalent number of states; this goal could be achieved by limiting the number of countries (and not only the number of votes, as it currently happens)⁷¹ that can elect an Executive Director. In such Boards every term would have the same duration, hopefully longer than the current two years, to allow members to gain adequate knowledge of the

addressed, (iii) adoption of decisions on the use of the Fund's resources and connected accountability and, finally (iv) adoption of all internal decisions with serious financial implications.

⁶⁹ It is also the opinion of the committee chaired by Ernesto Zedillo, which goes on to affirm that each member should represent a constituency, composed – when possible – of roughly the same number of States.

⁷⁰ The recommendation in paragraph 118 of the *Report* refers to a *Board consolidation*, which would decrease the number of directors from 25 to 20, halving the number of Europeans.

⁷¹ See the Annex E to the IMF Articles of Agreement which limits to 9% the capital quota which may be represented by an executive director. In the WB the Annex B foresees an higher ceiling for shares, of 15% of capital amount.

body and of how it operates.⁷² The underlying purpose of all proposals and recommendations is the elimination of the current two categories of members, dividing countries into first and second class members. The election procedure is further diminished by the fact that appointments are made outside the organization and are merely validated by the Board of Governors. It would be very appropriate for executives' curricula to fulfill congruent requirements and that all appointments were informed by the criteria of professionalism and were the result of a transparent procedure inside the Board of Governors.⁷³

A description of the specific skills required for each position also makes it less likely that the executive director serve for the Fund and the Bank at the same time or swap from the Fund to the Bank and vice versa, but would result in a greater specialization on the (different) topics and functions of the two organizations.⁷⁴ Once again distinguishing between the interests of the Bank and of the Fund and – within the World Bank Group – differently compose the executive committees of IBRD, IDA, IFC and MIGA may reward the states which support the most, with their capitals, the activities of each organization.

The Board's permanence is also discussed. The *Manuel Report* gives its preference to a resident Board, focused on the most important issues only, since this would increase its effectiveness and efficiency. The options for a non-resident Board or for its possible upgrade to the ministerial level are far from being discarded.⁷⁵ The IEO report also favors the Board's permanence,⁷⁶ while the *Zedillo Report* disagrees.⁷⁷

⁷² The IEO report, par. 73, suggests that it be three years.

⁷³ This requirement is illustrated in the *4th Pillar Report*, which is highly critical about the current practices (paragraphs 18 and 19) and points out that other models could allow for greater transparency (see the appointing mechanism for the members of the Board of the European Central Bank, who must be selected from among persons of recognized standing and professional experience in monetary or banking matters – Article 283.2 *TFEU*. The appointment is made by the European Council, following the Council's recommendations and after consulting the European Parliament, where the candidates are interviewed by a special committee).

⁷⁴ As remarked in the *Zedillo Report*, (par. 111) the Bank could use an “expertise in policy lending, development economics, and the environmental and social impact of certain kinds of projects”, but also a “background in finance, risk analysis, and some of the technical aspects of sectors in which IFC and MIGA operate”, which would possibly pave the way to a differentiation between the Board of the organizations that make up the World Bank Group. Unable to find candidates with a broad spectrum of skills, the Report also imagines that “the Board as a whole should have a well balanced mix of skills and capabilities”.

⁷⁵ Thus in paragraphs 39-40 of the *Manuel Report*.

⁷⁶ Please refer to: IEO, *Governance of the IMF: An Evaluation*; MARTINEZ-DIAZ L., *op. cit.*; and CHELSKY J., *op. cit.*

⁷⁷ In the logic of the report, the continuity of the functions of a non-resident Board could be ensured by the establishment of a "Council of Representatives" with an advisory function: a team of senior executives, each representing one of the constituency and based in Washington for longer or shorter periods of time, which would give continuity to the Board's functions, but leaving the decision-making activity to the Board itself. Thus, in paragraphs 133-137 of the *Zedillo Report*.

Finally, an amendment to the statutes allowing regional organizations⁷⁸ to join in would solve for the time being the issue of the over-representation of the European Union, thus making room for developing and emerging countries,⁷⁹ but it could also – in the long run – decrease the number of members and simplify the framework if the European example was followed by other areas of the world. Even if their consolidation was not feasible, the constituencies could benefit from a greater consistency and internal democracy, which would be obtained by enhancing existing ties within the regional areas: cooperation and/or integration organizations of various kinds in many parts of the world could work as transmission belts between the universal organization and the states, especially the smaller ones. It may be argued that not all regional organizations have comparable dimensions and levels of integration, but nothing prevents small groups from joining or large ones (such as the African Union) to appoint two or three executive directors. The advantage would be double: greater representation for all countries in the group through their director and an ongoing debate, even at regional level, among the states in each group.

In this case too, we must differentiate between the two Bretton Woods institutions because while the EU Treaty allows the EU to join the International Monetary Fund, the conditions are not ripe for its membership in the World Bank.⁸⁰

Temporary intermediate solutions still need to be explored, because the formula for calculating the shares would not fit the economically integrated European area. All the proposed reforms try to find a more clearly defined role for the Board and its accountability paired to a different institutional balance that involves mechanisms of checks and balances for the Board of Governors, the ministerial committees, the President/Director and the staff. The solutions for the two Executive Committees clearly show that they are at the heart of every possible reform plan.

3) *The ministerial committees*

The reforms concerning the two ministerial committees – the IMFC and the Development Committee – should be complementing the reforms proposed for the Board. Only by reducing the political role of the latter in favor of more technical functions we can imagine a role of strategic guideline definition benefiting the two political institutions *par excellence*, in which the best balancing of national interests is possible.

⁷⁸ See CAFARO S., *Il governo delle organizzazioni di Bretton Woods*, op. cit, p.173 and ID., *The missing voice of the Euro. Legal, technical and political obstacles to the external representation of the Euro area*, *Il Diritto dell'Unione europea*, n. 4, 2011.

⁷⁹ See CAFARO S., *Il governo delle organizzazioni di Bretton Woods*, op. cit, ch. IV, par. 2 “a”.

⁸⁰ See CAFARO S., *The missing voice of the Euro*, op. cit.

In this respect, it should be said that all authors would ascribe leadership roles to the ministerial committees, by giving decision-making powers to the current ones or altering the composition and increasing the political stature of the present Boards. It is therefore widely accepted that the two Bretton Woods institutions lack political management.⁸¹

After all, the IMF's *Articles of Agreement*⁸² – unlike the Bank's – envisage the creation by the Board of Governors (with a majority of 85%) of a Board of ministers, governors and other members of "comparable rank", with a broad and flexible mandate of supervision, "management and adaptation of the international monetary system, including the continuing operation of the adjustment process and developments in global liquidity". The implementation of such a committee was requested by several parties at various times in the history of the IMF.⁸³

The most comprehensive proposal in this regard comes from the *Manuel Report*, which sees its prospects in terms of an increased importance and speed of the decisions adopted by the Fund.⁸⁴

The document presented by the IEO addresses this question too, highlighting the opportunities of improving the relationship between the ministerial level and the Executive Board. The first would be responsible for all major decisions and for a stronger supervisory role, while the latter would be more resolutely responsible for management.⁸⁵

While the IMFC is already well positioned to become the institution the world requires (we only need to tweak its competences and those of the bodies it interacts with), the Development

⁸¹ This vacuum is well evidenced by TRUMAN E.M, *A Strategy for IMF Reform*, Institute for International Economy, Washington, DC 2006, p. 77 et seq. The author points out the absence of a forum dedicated to the political leadership in the IMF, a "Steering Committee" as the reason for the role played by the groups of states, the various Gs.

⁸² In accordance with Article XII, Sec. 1, as amended by the Second Amendment (1976), the Council may be established by the Board of Governors with a 85% majority. This body is described by Annex D to the *Articles of Agreement*, which provides for its composition, powers and voting rules.

⁸³ In particular, this need has surfaced in four specific moments: "Discussions within the IMF surrounding the creation of a Council of Governors have occurred in four phases, corresponding roughly with: (1) responses to the international liquidity crisis of the 1960s and the need to reform the international monetary system (1969–74); (2) development of the Second Amendment to the IMF's *Articles of Agreement* and an increased focus on surveillance (1974–80); (3) the post-Asian financial crisis period and attempts to strengthen decision making regarding the international monetary and financial system (1998–99); and (4) efforts to reform the institution's governance system amid renewed concern regarding the Fund's legitimacy (2008)". See ABRAMS A., *The IMF Council of Governors*, in LAMDANY R., MARTINEZ-DIAZ L. (eds.), *Studies of IMF Governance. A Compendium*, IEO, IMF, Washington, DC 2009, p. 44.

⁸⁴ To a series of detailed recommendations on role and responsibilities this report adds interesting organizational recommendations, such as the institutionalization of a troika as leader of the institution, appointed on a rotation system. This collective presidency would write the agenda as a result of the input of the Board and staff.

Thus in paragraphs 17-20.

⁸⁵ In par. 66 the *Report* says the Ministerial Council should be "... making decisions that require support at the highest political levels, such as the selection of the Managing Director; and it could legitimately exercise oversight over the institution, including the Board. (...) As a formal governing body, the IMFC/Council could legitimately exercise oversight responsibilities".

Committee is another matter altogether. First of all, this evolution is not expressly intended by the Bank's Statute. Secondly, in order to become the governing body of the World Bank, it should cease to be a Joint Committee of the Fund and the Bank and find its place exclusively in the latter's institutional framework. This would only acknowledge what is already happening: its agenda reflects the interests of the Bank much more than those of the Fund.⁸⁶

Moreover, once this body was "converted" into the Ministerial Council of the Bank, we may wonder whether its current functions need to be attributed to a new joint body or to a body coordinating the two Bretton Woods institutions. In my opinion this is not needed, because the same functions could be taken over by other connection mechanisms, such as regular joint meetings of the top leaders, the participation of observers from an institution in the decision-making bodies of the other institution and occasional joint initiatives.⁸⁷

A direct involvement of national ministers would certainly reduce what is perceived as the democratic deficit of the two organizations, which see technocratic management as dominant over policy making. The establishment of the two ministerial councils would then fill the void of strategic direction recalled by all commentators.⁸⁸

Obviously, these new councils would have the legislative initiative, namely for the adoption of regulations, policies and procedures and of the criteria and features of the various tools of intervention. The IEO report sees its oversight functions as primary instead.

For them to be effective, the reform of the presidency selection process is also important, since the role of the top administrator is extremely relevant to the construction of a consensus and the preparation of statements. A transparent and inclusive selection process should be accompanied by a clear deadline, coinciding (as of today) with the duration of the national term.⁸⁹ Finally, the voting rules are still to be imagined and could mirror, if necessary, those of the Executive Board.

In the document that expresses its point of view, civil society warns about the danger of such a strengthening of powers before a new balance of shares and votes is in place, and therefore sets the "voice and representation" step (mentioned in every reform proposal) as logical antecedent in the reform agenda. Once legitimized by a more equitable representation, this new body could push the states to take charge of decisions and responsibilities.⁹⁰

⁸⁶ However, the working group chaired by Ernesto Zedillo is very skeptical about this possibility, because of the Development Committee's current deficiencies (paragraphs 68-69).

⁸⁷ See also paragraph 68 of the IEO report, *Governance of the IMF*, op. cit.

⁸⁸ Particularly from the *Zedillo Report*, see paragraph 66 et seq.

⁸⁹ These are part of a larger package of proposals set out in paragraph 67 of the IEO report.

⁹⁰ See paragraphs 23 and 24 of the *4th Pillar Report*.

As for the optimal size of this organ, the reasoning is similar to the one applied to the Board, as the same groups of states (even if not necessarily the same states for each group) would have a representative in both bodies.

Concerning the composition of the ministerial committees, the most important change would automatically ensue from them being composed of ministers from the same groups represented in the Boards. A change in the balance of the latter would thus be naturally reflected in the composition of the IMFC and of the Development Committee.

4) *The management*

While rethinking roles and functions, it is evident that changes in the features of the Executive Committee and Ministerial Committees would result in important consequences for their leaders and staffs. One might say that the Committee of Ministers, the Executive Committee and the staff in both organizations represent three parts of the four elements (encompassing the Boards of Governors) we need to change in order to create a system of checks and balances.

The role of the staff – which includes the director of the Fund and the president of the Bank – seems bound to evolve in two different ways.

First, there is a broad consensus on making management more autonomous. If the Executive Board, which now approves and revises almost all decisions, stepped back more freedom would be granted to the staff for ordinary business. This kind of reform could solve a number of ambiguities that arise from a hazy boundary between Board's and staff's functions. Today, operative decisions can be made by the Board, on inputs coming from the staff, and by the staff on advice and direction coming from the Board. A better definition of this boundary, enhancing the skills and autonomy of the staff, should go hand in hand with a clearer accountability procedure for the latter thanks to an efficient monitoring activity by the Board.⁹¹ This increased monitoring capacity would come naturally from a more effective assessment procedure, supplemented by criteria for assessing performance and results, tools for guidance and call to order, and would go side-by-side with a diminished involvement of the Board in the day-to-day management.⁹² To be monitored would mainly be the top figures, leading and controlling all the staff.

As for greater autonomy in management, with specific regard to the IMF, an effective description of the tasks that may be delegated can be found in the *Manuel Report*, particularly in the parts

⁹¹ This assessment is also expressed in the IEO report, *Governance of the IMF*, op. cit., paragraph 37 et seq. See also the External Review Committee, *Report of the External Review Committee on Bank Fund Collaboration (Malan Report)*, 2007, p. 36.

⁹² For details refer to the IEO report, *Governance of the IMF*, op. cit., paragraph 69 et seq.

concerning the allocation of resources and the monitoring of members (missions ex Article IV).⁹³ In addition to increasing efficiency, this reform would decrease the political pressure on the evaluation of situations and countries.

As noted in the *4th Pillar Report*, however, it would be useful and appropriate, especially in the Fund, to broaden the staff's technical background. Making credible recommendations to member states certainly requires sophisticated economic skills (already present in the structure), but also legal, political and cultural knowledge concerning the social situations in which the organization is going to intervene. Another point, even more strongly emphasized in the reform proposals, concerns the appointment process of the president and managing director, e.g. the figures presiding the IMF and the Bank. Presently, their appointment is sanctioned by the majority of the votes cast by the Executive Board, but it is widely acknowledged that it is decided through compromises and negotiations taking place outside the two institutions, in the major capital cities of the world and that the Board's election is little more than a *pro forma*. The need for a reform of this process had already been expressed by the *Draft Joint Report of the Bank and Fund Working Groups to Review the Process for Selection of the President and Managing Director* in 2001 and has been resumed in all the mentioned documents.⁹⁴ According to many commentators, the power to appoint the Board conflicts with the responsibility of the president or the director to chair this body; so, many reform proposals move the appointment process elsewhere or eliminate the role of chairperson of the Board. The *Manuel Report*, for example, would confer to the Ministerial Council the responsibility of selecting the director, but believes that he/she should continue to chair the Executive Board. A trait that is common to all the proposals is the demand – possibly recorded in the statutes – for a job description, also – and even more so – for the director's role, as well as for the requirements of the ideal candidate on which to assess applications and interview candidates. In short, a standardized process that would reduce the (inevitable) heavy interferences of the member states and all the processes taking place outside the institutional settings.

It is also known that, by a practice dating back to the origins of the two institutions and never questioned, the president of the Bank is American and the director of the IMF is European (the first of the three vice-presidents is from the U.S.A.). This custom seems now in decline, although it was once again observed in the last two appointments despite the opposition of several emerging states. The highest administrative figures and the leader should not – according to all those who have spoken about – be selected on the basis of their geographical origin but of their skills, at the end of a transparent process.

⁹³ See paragraphs 32 and 33 of the *Report*.

⁹⁴ See paragraph 84 of the IEO report, paragraph 140 of the *Zedillo Report* and paragraph 34 of the *Manuel Report*.

The principle of alternation between nationalities – or, better yet, the principle of irrelevance of nationality – to be codified in the *Articles of Agreement* would be a clear cut from the past. Similar considerations obviously apply to the vice-presidents as well.⁹⁵ Finally, a codification is also desirable for the professional qualifications of other important administrative figures such as the vice-presidents,⁹⁶ the secretary-general or the General Counsel assisting the Board. The top figures should also show greater openness to the requests and comments of the executive directors especially of those from lower income countries, who often seem to be uncomfortable and intimidated.⁹⁷

As to the strengthening of accountability, both the Zedillo and the IEO⁹⁸ reports highlight a number of critical issues. The management is not effectively monitored because of flaws inherent in the current governance structure and of the lack of evaluation standards, as remarked by other documents.⁹⁹ Of course, this control would be exercised, in the first instance, mainly on the leaders of the organizations and would need a regular review of performances based on previously defined standards and a consistent process of appointment and dismissal.¹⁰⁰

As far as the two Bretton Woods institutions are concerned, these points are also highlighted in the report by the Stiglitz Committee at the United Nations.¹⁰¹ As for the appointment, the evaluation of the chairperson and managing director by the Board seems to more than one author incompatible – as already pointed out – with their current roles of chairmen of the Board.¹⁰²

⁹⁵ See paragraph 85 of the IEO report, *op. cit.*

⁹⁶ See paragraphs 25 and 26 of the *4th Pillar Report*.

⁹⁷ See paragraph 28 of the IEO report, *op. cit.*

⁹⁸ In paragraph 62.

⁹⁹ DEVELOPMENT COMMITTEE, *Review of Internal Governance: Conclusions and Proposals*, DC2009-0004, April 17, 2009.

¹⁰⁰ Thus in the *Zedillo Report*, paragraph 141 et seq. On the same point please refer to the *Manuel Report*, paragraph 36.

¹⁰¹ Please refer to paragraph 46 of the document.

¹⁰² This point is effectively highlighted both in the *4th Pillar Report*, from the introduction on, and in the *Manuel Report*, paragraph 35 et seq. The statement is followed by different practical suggestions such as, in the *Manuel Report*, the use of “*outside expert advisors*”.

CHAPTER IV THE ACCESSION OF INTERNATIONAL ORGANIZATIONS

1) The Membership of the European Union in the Bretton Woods institutions

a) The EU's accession to the IMF

The European Union is now the IMF and World Bank's majority shareholder. Although, as we know, the largest block of shares belongs to the United States, the EU as a whole exerts twice their influence in the IMF, with 32.06% of votes, and slightly less in the IBRD, with 28.41% of votes. This easily explains the massive presence of Europeans in the Executive Boards of both organizations, where there are 8 or 9 members from the EU, three of which – from France, Germany and the United Kingdom – are directly appointed. Moreover, thanks to their leading role in constituencies that are only partially European, the Europeans often trail behind them a relevant number of votes from other countries and only occasionally, when EU countries are represented by other nations, the opposite holds true.¹⁰³

It is easy to reply that this group is made up of different members, each with its own ideas. The way they are represented, on the other hand, rewards fragmentation when accompanied by an average or significant stature of their economies.

It is also known that this role comes largely from the past. This balance, or rather imbalance, of the Bretton Woods organizations on the North of the planet and on Europe in particular has a historical basis: many European countries are among the founding members of the two organizations, whose birth dates back to a time when only few nations, often colonial powers, ruled global economy.

It is legitimate to wonder whether and to what extent the European economic and monetary union should be reflected in the two organizations, giving way to a unified or coordinated representation of all the interests or to the succeeding of the regional institution to its member countries.

The consolidated representation of the EU countries in the two Bretton Woods organizations requires, however, the solution of complex issues. Difficulties and obstacles both in EU laws and in the rules that govern the Bretton Woods institutions have prevented until now a full membership or other solutions that would lead to a unified EU representation. It is also difficult to challenge the

¹⁰³ See, for instance, the constituency grouping Spain and a number of South American countries (Costa Rica, El Salvador, Guatemala, Honduras, Mexico, Nicaragua and Venezuela) or the constituency represented by Switzerland which hosts Poland together with a number of central Asian republics.

current equilibrium, namely the relationships among European countries and among them and the other countries and to revise historical privileges.

And yet, this is an inescapable knot if we want to reshape the two organizations and "update" them for the needs of the new millennium, an issue we must solve because the EU could break the ground for other regional groupings that are evolving on the same model in other relevant areas of the world. A model of states' integration that is so far unequalled.

It is true that inside an organization based on contributions, nobody is really over-represented since each member pays his quota of capital. Nonetheless, it is impossible to deny that Europe is over-represented from a geopolitical point of view.¹⁰⁴ Surprisingly, Europeans do not seem to be over-represented with the recently revised quota formula.¹⁰⁵

The unified representation of the euro area in IMF contexts tends to appear "natural" from a legal point of view, as the states in the euro zone no longer have all the requirements needed to fulfil the obligations specified in the IMF's *Articles of Agreement*.¹⁰⁶ These states do not manage their own monetary policy and do not have their own currency, while their fiscal policies are clearly influenced by their membership in the monetary union. The import and export data of each state no longer influence its national currency since intra-area trades do not affect the balance of payments of the euro area, which is comparable to an internal market thanks to the free circulation of goods, services and capital.¹⁰⁷ One could even argue that the Union should naturally inherit the national position of the member states which transferred their monetary sovereignty to the EU – as was the

¹⁰⁴ The perceived over-representation of this region is pointed out (*ex multis*) by the so-called *Manuel Report*, MANUEL T. and others, *Report of the Committee of Eminent Persons on IMF Governance Reform*, March 24, 2009, (<http://www.imf.org/external/np/sec/pr/2009/pr0988.htm>), paragraph 27, 41 and by DE LAROSIÈRE F., *Report of the High-Level Group on Financial Supervisions in the EU*, Brussels, February 25, 2009, (http://ec.europa.eu/internal_market/finances/docs/de_larosiere_report_en.pdf), paragraph 256.

¹⁰⁵ See the IMF communiqué <http://www.imf.org/external/np/fin/quotas/2009/091509.htm>. A yet unpublished analysis by Bryant shows that under the new formula agreed on in April 2009 the 27 countries of the European Union as a whole are collectively underrepresented by 0.22% points and that the figure for the sixteen EMU countries together is an under-representation of 0.06% points.

¹⁰⁶ See, for instance, the "Obligations regarding exchange arrangements" foreseen by art. IV, or the "General Obligations of Members" in art. VIII: Avoidance of restrictions on current payments; Avoidance of discriminatory currency practices; Convertibility of foreign-held balances; Furnishing of information; Consultation between members regarding existing international agreements; Obligation to collaborate regarding policies on reserve assets. The IMF enjoys the equivalent right to supervise the fulfilment of these obligations, and may, to this end, ask its members to provide all the necessary information. On this topic see MANN F.A., *The Legal Aspect of Money*, 5th ed., Clarendon Press, Oxford 1992, p. 364 et seq. On the same topic, see. MARTHA R.S.J., *The Fund Agreement and the Surrender of Monetary Sovereignty to the European Community*, in *Common Market Law Rev.*, 1993, p. 749 et seq, and SMITS R., *The European Central Bank*, Kluwer Law International, London 1997, p. 429 et seq.

¹⁰⁷ See in this regard, MARTHA R.S.J., *op. cit.*, p. 763 et seq.

case with the General agreement on tariffs and trade in trade policy – and that the EU may be considered as a partial federation, playing a limited “state role”.¹⁰⁸

A legal obstacle to be tackled, nonetheless, lies in the fact that the European Union has a legal capacity to act as a member of the international community that the euro area has not. It’s the EU who has inherited the monetary sovereignty lost by the seventeen countries of the euro area. This explains the preference given so far to informal coordination and representation formulas.

Since 2005, a coordination mechanism inside the IMF named EURIMF, has allowed for common positions to be attained through regular meetings among euro area members. When euro area states do not have their own Executive Directors, their positions are represented by alternate Executive Directors or by advisors in the constituency office. This group was originally chaired by the state holding the presidency, but since 2007 a president is elected for a two years term.¹⁰⁹ The EURIMF interacts with – and receives advice from – a sub-committee on the IMF (SCIMF) of the Economic and Financial Committee of the EU through a direct line of communication between Brussels and Washington DC.

Moreover, the Union’s positions are presented to the IMF’s Council of Governors by the EU Council’s Presidency, which is in charge of *ad hoc* statements, while the EU Commissioner for economic and monetary matters holds an observer status in both the International Monetary and Financial Committee and the Development Committee.¹¹⁰

Different scenarios can be envisaged for the aggregation of euro area countries. These countries could be grouped into one constituency, but that would meet the limit of 9% of the quota established for each constituency – as made clear by Annex E to the *Articles of Agreement* – with the consequent reduction of EU voting rights to a level far too low compared with the USA quota and the current European amount of votes. Or the EU members could be grouped into two constituencies, one for the euro area and the other for the other EU member states. The two constituencies would enjoy a different degree of integration: the euro area constituency would later turn into a single chair while the other would remain a constituency to all intents and purposes.

¹⁰⁸ This idea of *federation* or *partial federation* or *monetary federation* often appears in legal doctrine, see MANN F.A., *op. cit.*, commenting paragraphs 22 and 23 of the *Delor Report*, footnote 69, p. 16; SMITS R., *op. cit.*, pp. 442-444; MERUSI F., *Governo della moneta e indipendenza della banca centrale nella federazione monetaria dell’Europa*, in *Studi e note di economia*, 1997, p. 89-99; RONZITTI N., *Aspetti istituzionali del governo della moneta in Europa*, in *Divenire sociale e adeguamento del diritto. Studi in onore di F. Capotorti*, ed. Starace, vol. II. p. 382; PREDIERI A., *Euro, poliarchie democratiche e mercati monetari*, Giappichelli, Torino 1998, p. 341.

¹⁰⁹ On EURIMF see REGLING K., *Strengthening the Economic Leg of EMU*, presentation given at the *Euro50 Group Roundtable, 50 Years after the Treaty of Rome: Strengthening the Economic leg of EMU*, July 2-3, 2007, file:///C:/Documents%20and%20Settings/user/Desktop/Euro50%20Group.htm.

¹¹⁰ *The Relationship between Union and the IMF in Stage III: Issues and Options*, document by DGII of EC Commission, Brussels June 27, 1997, II/316/97-EN.

With regard to some points on the agenda, which are subject to coordinated policies at a regional level, the two seats and thus the EU as a whole could express common positions.

Finally, the main way forward seems to be the accession of the EU or of the euro area to the IMF,¹¹¹ with a Euro Area Governor and Executive Director casting all the votes. This position is not new in scholarly debates,¹¹² but has recently been supported also by prominent EU institutional representatives¹¹³ and relevant documents such as the communication from the Commission called *A Blueprint for a Deep and Genuine Economic and Monetary Union*.¹¹⁴ Reflecting the improved governance of the euro area after the financial crisis, this document foresees a path for the accession: “In due course, the Commission would make formal proposals under Article 138 (2) TFEU to establish a unified position in order to achieve the observer status, and subsequently the single seat, for the euro area in the IMF’s Executive Board. In accordance with Article 138 TFEU, the appropriate institution to represent the euro area in the IMF would be the Commission, with the ECB associated in the area of monetary policy”.¹¹⁵

¹¹¹ The option of having the European Union collapse in one or more seats is also presented in the *Manuel Report, op. cit.*, paragraph 22 and in the *De Larosiere Report, op. cit.*, paragraph 256; IEO Report, by IMF Independent evaluation Office, *Governance of the IMF: An Evaluation*, 2008, Washington DC (<http://www.ieo-imf.org/eval/complete/eval-05212008.html>). A range of approaches to consolidation has been recently offered by several authors debating IMF reforms; among them by WYPLOSZ C.R., *Can the G-20 Reform the International Economic System?*, 2009 op-ed in VOX (<http://www.voxeu.org/index.php?q=node/2891>); LEECH D., LEECH R., *Power Versus Weight in Governance: The Possible Beneficial Implications of a United European Bloc Vote*, in BUIRA A. (ed.), *Reforming the Governance of the IMF and the World Bank*, New York 2005; PISANI-FERRY J., SAPIR A., *IMF Reform: Only Basic Reform Can Deliver Legitimacy to the Fund*, joint commentary in *The Financial Times*, June 5, 2006 (<http://www.pisani-ferry.net/article.php3?id-article=212>). See also The Group of Lecce, *Reforming Global Economic Governance. A proposal to the members of the G20*, Lecce 2009.

¹¹² See LOUIS J.V., *L’Union Européenne et sa monnaie, op. cit.*, paragraph 424; CAFARO S., *Unione monetaria e coordinamento delle politiche economiche*, Giuffrè, Milano 2001, p. 301 et seq.

¹¹³ See the declaration of Eurogroup president, Mr. Junckers, in April 2008, <http://euobserver.com/9/25984>, and the speech by Commissioner Almunia, laying the foundations of a European foreign economic policy, DG ECFIN Seminar *Towards a European Foreign Economic Policy*, Brussels April 6, 2009, SPEECH/09/175, clearly stating that “[t]he Commission has long called for a consolidation of European representation on the boards of the IFIs. In the case of the IMF, the argument for a single consolidated Euro-area chair is quite obvious”.

¹¹⁴ The Communication says that “[w]e can only achieve these objectives through the agreement on a roadmap aimed at streamlining and, whenever possible, unifying the external representation of the euro area in international economic and financial organisations and forums. The focus should be on the IMF, which is a key institutional pillar in global economic governance thanks to its lending and surveillance instruments. As the crisis has shown, it is of the utmost importance for the euro area to speak with a single voice in particular on programs, financing arrangements and the crisis solution policy of the IMF. This will require a strengthening of coordination arrangements of the euro area in Brussels and Washington on EMU-related matters, to mirror changes in the EMU’s internal governance and to ensure consistency and effectiveness of the messages provided”, communication from the Commission, *A Blueprint for a Deep and Genuine Economic and Monetary Union. Launching a European Debate*, Brussels November 28, 2012, COM(2012) 777 final.

¹¹⁵ According to art. 138 of the Treaty on the functioning of European Union, “1. In order to secure the euro’s place in the international monetary system, the Council, on a proposal from the Commission, shall adopt a decision establishing common positions on matters of particular interest for economic and monetary

Such a choice would assign euro area states the responsibility of starting the procedure to revise the *Articles of Agreement* under art. XXVIII¹¹⁶ or to push for an extensive and evolutionary interpretation of the existing articles. This step would have important consequences on the IMF institutional balance, on the quota and voting rights of all its member states and on the composition and functioning of the Executive Board. An indirect consequence, which is mentioned here from a purely theoretical perspective, would be to transfer the IMF's headquarters to Europe, as art. XXIII states that "(t)he principal office of the Fund shall be located in the territory of the member having the largest quota".

The result would be a reduced amount of votes for Europe,¹¹⁷ more votes for emerging and developing countries, a smaller Board and an overall better reflection of the geopolitical diversity inside the organization.

Even though the single chair would significantly reduce European votes – as each member state would lose its individual amount of basic votes and the intra-European trade would be considered in the quota formula as national trade – we could agree¹¹⁸ that reduced voting rights and representation would not jeopardize the role and influence of Europe on a global scale – but possibly increase it – if Europeans could express a strong and coherent voice.

b) The EU's participation in the World Bank

The current management of the relationships between the Union and the World Bank is different and seems to reflect the will to find more pragmatic solutions, case by case.

The representatives of the European countries inside the Executive Board meet and coordinate, but without pre-set rules and without establishing a regular dialogue with EU institutions. Informality

union within the competent international financial institutions and conferences. The Council shall act after consulting the European Central Bank. 2. The Council, on a proposal from the Commission, may adopt appropriate measures to ensure unified representation within the international financial institutions and conferences. The Council shall act after consulting the European Central Bank. (...)"

¹¹⁶ Art. XXVIII: "a) Any proposal to introduce modifications in this Agreement, whether emanating from a member, a Governor, or the Executive Board, shall be communicated to the chairman of the Board of Governors who shall bring the proposal before the Board of Governors. If the proposed amendment is approved by the Board of Governors, the Fund shall, by circular letter or telegram, ask all members whether they accept the proposed amendment. When three-fifths of the members, having eighty-five percent of the total voting power, have accepted the proposed amendment, the Fund shall certify the fact by a formal communication addressed to all members".

¹¹⁷ Of course single euro area states would no longer have their amounts of basic votes.

¹¹⁸ On this point see BINI SMAGHI L., *A single EU Seat in the IMF*, *Journal Common Market Studies*, 2004, pp. 229-48 and ID., *IMF Governance and the Political Economy of a Consolidated European Seat*, in TRUMAN R. (ed.), *Reforming the IMF for the 21st Century*, Special Report 19, Peterson Institute for International Economics, Washington, DC April 2006, pp. 233-255.

has its advantages, proof is the fact that this coordination delivers joint statements much more frequently than the coordination within the Fund.

Moreover, between the Bank and the Union there is a significant cooperation on specific initiatives, such as the HIPC initiative for debt relief or other projects related to particular areas of the world, such as Sub-Saharan Africa, the Mediterranean region and the Balkans. The Union is also an important contributor to the World Bank Trust Fund. In 2008, the Commission signed an agreement with the Bank and the United Nations for the management of the post-conflict situations.¹¹⁹

The existence of a competence within the Union to carry out development cooperation policy certainly would allow – in principle – its participation in the IBRD and other organizations of the World Bank Group. Anyway, this competence is not exclusive and – as expressly stated by the Treaty on the functioning of the European Union the competence of the latter to conclude with competent international organisations any agreement helping to achieve the objectives is “without prejudice to Member States’ competence to negotiate in international bodies and to conclude agreements”.¹²⁰ This makes the withdrawal of individual EU member states from the organization extremely unlikely, if not impossible.

The Bank too has a problem of European over-representation, as pointed out by all the most influential commentators.¹²¹ Thus the repeated suggestion to reduce the number of seats allocated to European members in the Board could find a compensation for the excluded in the grouping of European seats in few constituencies to represent the whole Union.¹²²

As for the Fund, in the Bank one constituency would not be enough to accommodate current European votes, although this requirement is more relaxed in the Bank than it is in the Fund. In fact, Annex B to the Articles of Agreement states that, through successive elections, no elected Executive Director may represent more than 15% of the share capital and therefore two groups

¹¹⁹ See the *Joint Declaration on Post-Crisis Assessments and Recovery Planning*, adopted in September 2008.

¹²⁰ See art. 209.2 TFUE.

¹²¹ See paragraph 98 of the *Zedillo Report*: “European countries (European Union members plus Norway and Switzerland) appear to be considerably overrepresented in terms of the number of chairs they occupy in the Group’s Executive Boards. Depending on rotation schemes, European countries occupy eight or nine chairs at any given time – 32 or 36 percent of the chairs in the 25-chair Board. The large number of chairs from a single region is a historical legacy that no longer seems appropriate for a global institution and a transformed global economy. This number of European chairs is not in line, for example, with economic weight or population. While some European countries are generous donors to IDA (EU countries provided about 60 percent of the donor contributions to IDA15), it is not clear why this should translate into chairs in the IBRD, IFC, and MIGA boards”.

¹²² Recommendation sub “1”, *voice and participation*, in the *Zedillo Report*: “The Commission recommends adopting a Board of Directors that is relatively compact and therefore more efficient and effective. The World Bank Group’s Board should be reduced in size to 20 chairs from the current 25. Board consolidation should be achieved in part by reducing the number of European chairs by no less than four”.

would provide adequate representation for all European votes, while letting the states maintain their individual memberships (and their own packages of basic votes).

In order to let the Union replace its member states or consider their parallel and simultaneous presence as members of the states and the Union, under the current rules, an amendment to the Statute of the IMF would suffice – as Bank membership is allowed in general to “members of the Fund” –¹²³ but we hope in a more substantial revision that would make the accession to the IBRD and other organizations of the World Bank Group independent from participation in the IMF and open to international organizations. In this latter case, however, it would be necessary to develop a joint participation formula like the one used in other international organizations such as the FAO and the WTO since Europeans are already perceived as over-represented and the option of a cumulative participation of the Union and its states would be politically unsustainable. The visible presence of the European Union as a subject of international law that replaces its member states – speaking with a stronger voice – in all global economic governance organizations is actually wished for by several think tanks and NGOs.¹²⁴

2) *A tentative formula for the accession of international organizations*

The accession of the EU to the IMF and the World Bank would set an important precedent that would plant the seed for the regional organizations’ presence in the two institutions.¹²⁵ It would therefore be worthwhile to amend the statutes to cover this development, introducing a formula not just for the EU but taking into consideration as potential members (i) international organizations for regional integration (able to replace their member states) and (ii) specialized cooperation organizations whose aims and objectives are consistent and synergic with the ones of the Bretton Woods organizations.

¹²³ See art. II, lett. “b” of the IBRD’s *Articles of Agreement*. It is not even pointed out, here, that the rule refers to “countries”, as in the IMF’s *Articles*.

¹²⁴ See FABRY E., RICARD-NIHOUL G. (eds.), *Think Global - Act European II (TGAE II), The Contribution of 14 European Think Tanks to the Spanish, Belgian and Hungarian Trio Presidency of the European Union*, Notre Europe. In the conclusions is stated that: “[a] unique European representation (or at least for eurozone countries) within the G20, IMF and World Bank is also put forward as a means of increasing European influence”. Not differently in the following report of the same series, FABRY E., *Think Global - Act European III (TGAE III). The contribution of 16 European think tanks to the Polish, Danish and Cypriot EU Trio Presidency*, 2012, Notre Europe.

¹²⁵ See also VITERBO A., *Monetary Regionalism: A Challenge to the IMF*, in *The Italian Yearbook of International Law*, vol. XVI, 2006, pp. 139-155.

Instead of listing the wide range of regional organizations at more or less advanced stages of integration, we will recall – with the European Union – the other monetary unions that already exist or are in the process of being built.¹²⁶

It is no coincidence that the practice of extending surveillance to the euro area, by periodic consultations ex Art. IV, is replicated in the other three existing currency areas, albeit less officially.¹²⁷ An ongoing evolution seems to be turning this practice¹²⁸ into a new rule.¹²⁹

Other regional integration organizations could follow the example of the Union, and choose to replace their member states.

As for the Bank, some future kind of cooperation could be envisaged with regional development banks, as partners or members. On the point see my conclusions on multilevel governance.

As an example of how such accession clause could be shaped, we recall article XII of the *Agreement* establishing the World Trade Organization: “Any State or separate customs territory possessing full autonomy in the conduct of its external commercial relations and of the other matters provided for in this Agreement and the Multilateral Trade Agreements may accede to this Agreement, on terms to be agreed between it and the WTO”. The essential elements seem so to be: (1) territoriality; (2) full autonomy and (3) the competence to carry on the competences and the ability to comply the obligations set by the treaty.

It seems appropriate, given the fluidity of the international community and the growth and evolution of its collective actors, that the statutes of both Bretton Woods organizations are equipped with a new Art. II, allowing the – autonomous and differentiated between the two organizations – participation of both states and international organizations, provided they have the necessary requirements of legal capacity, autonomy and competence to fulfill the obligations specified in the statutes. The precise rules for accession might be based on *ad hoc* agreements between the Fund/Bank and the applying entity.

¹²⁶ See for instance the two African areas covered by the *Banque Centrale des États de l'Afrique de l'Ouest* and the *Banque des États de l'Afrique Centrale*, and more recently the *Eastern Caribbean Currency Union*. There are other monetary unions foreseen, as the African central bank, going to be established in the frame of the African Union, and the scheduled Central Bank of the Gulf Cooperation Council. An amendment to the *Articles of Agreement* to provide for such unions is also suggested by COMBA A., *Lezioni di Diritto internazionale monetario*, cit., p. 83. *Contra*, see DIATTA M.L., *Les Unions monétaires en droit International*, P.U.F., Paris 2007, p. 209 et seq.

¹²⁷ See the factsheet *The IMF and Europe*, January 2012, www.imf.org/external/np/exr/facts/europe.htm.

¹²⁸ VITERBO A., *Il Fondo monetario internazionale: analisi e prospettive di riforma*, cit., p. 153.

¹²⁹ One such proposal was submitted to the Executive Board on December 21, 2005. See The document *Fund Surveillance over Members of Currency (Unions Prepared by the Policy Development and Review and Legal Departments)*. See VITERBO A., *ibidem*.

CONCLUSIONS

1) *The limits of international democracy*

As already pointed out, the inadequate attention the Charters of both institutions give to representativeness, legitimation and accountability hails from the role they played at the beginning of their history and from the then scant development of the studies on democracy and accountability of international organizations, whose role in the international community was still very limited. In today's different international context, we think it is worthwhile to challenge the unsurmountable hurdles stemming from the use of the word "democratic" in connection with an international organization.

Even though there isn't a generally accepted theory of democracy – or more broadly of international democracy – in international organizations,¹³⁰ we can examine the possible portability of the individual elements that make up this notion from the state level – for which they were originally created – to the international level.¹³¹

However, two kinds of difficulties arise from the fact that we are not considering a community of individuals, but of nations. The first obstacle is the difficult applicability of the principle of equality, inherent in the notion of democracy. It is based on the concept of equal dignity for all human beings which leads to ignore and even amend the differences that give some people a "birth right" to succeed. All states are sovereign and therefore equal inside the international community, but this principle is nothing but a *factio*.¹³² Far from wanting to ignore or minimize the differences, the international community focuses upon the preservation of the *status quo*, which is attenuated only by the shared goal of the sustainable development and protection of fundamental rights. Even when

¹³⁰ We are not denying the existence of important studies on the matter, but the adequate diffusion and sedimentation of shared assessments, especially outside the restricted sphere of specialized doctrine. The reflection on the subject has followed two clearly distinct lines: the statism theory, which sees international democracy as the result of the joint action of the states, as essential building blocks; and the doctrine inspired by cosmopolitanism and transnationality, which is based on the assumption of a global demos.

¹³¹ It is symptomatic that the categories used by the Economist Intelligence Unit Index of Democracy – which compiles an annual ranking of countries by democracy level – are: electoral process and pluralism, civil liberties, government role, political participation and cultural participation. These parameters can only be used to a limited extent when evaluating an international organization. See the 2010 report: http://graphics.eiu.com/PDF/Democracy_Index_2010_web.pdf.

¹³² MONACO wrote in 1961: "Tandis que les principes de l'unanimité et de la majorité simple sont fondés, par rapport à la substance des relations internationales, sur des fictions, les principes de la majorité qualifiée et de la pondération de vote correspondent à la réalité de la vie des organisations internationales. Et quant à nous, nous préférons, même dans ce domaine particulier, la réalité à la fiction", *Le systèmes de vote dans les organisations internationales*, in *Mélanges en l'honneur de Gilbert Gidel*, Sirey, Paris 1961, p. 482.

all the countries will get, as we hope, to share similar levels of prosperity, they would be far from equal. Too many facets help mark the differences: the size of territories, populations and economies, as well as the control over natural resources and the weapon supply. As a consequence, these organizations generally agree on the principle that states are differently represented to reflect their different situations.

On the other hand, the principle of equality among individuals would favour a demographic standard for quota assignment to each state. If based on proportional representation, this standard would decrease the quotas of many states and excessively increase those of many others. So, the equal representations of the states and of their citizens are irreconcilable and find a (very discretionary) compromise inside the international organizations.

Even if an international organization achieved the perfect representation of all its members and was thus fully legitimate to act, we couldn't conclude that it was also, indirectly, fully representative of their citizens. In fact, if some of its members weren't democratic, or only partly democratic,¹³³ they wouldn't be representative of all their citizens. Such a lack of legitimacy would be reflected on the state's opinions and stands and on the institutions it is part of. This is a difficult legal dilemma, that can only be solved if the organizations require their members to be democratic – as the European Union does. It is obvious that in organizations with a universal membership, like the ones we are examining, the issue must be shelved and labeled as “non permanently solvable”. In conclusion, we can narrow down our points on democracy to the imperfect, partial notion applicable to an international organization and summed up in the two concepts of legitimacy and accountability. In these concepts, the imperfect representativeness that we assume as inevitable would be compensated by accountability, which can be fully obtained at the supranational level also by designing and experimenting new legal and institutional forms.

About legitimacy, there are two more relevant issues: one concerning procedural legitimacy – that is the respect of procedural guarantees and ultimately of the rule of law; and the other concerning substantial legitimacy – that is the pursuit of shared goals and values.¹³⁴ The first seems threatened – not formally but substantially – by heavy influences exerted by groups of countries, the G7 and G20 in the first place. A return to proper multilateralism would be welcome, as it was codified in the *Articles of Agreement*, which often go unheeded because the two bodies can't give themselves clear strategies and practices – such as appointment rules – reflecting outcomes of negotiations that take place outside of the two organizations.

¹³³ It is believed that democracy is an inherently flawed notion and that we can more properly speak of greater and lesser degrees of democracy. The aforementioned Democracy Index, for example, distinguishes between full democracies and flawed ones, hybrid and authoritarian regimes on the basis of their scores within each category. Democracies appear to be complete in only 26 of the 167 countries surveyed.

¹³⁴ See M. BARNETT M., FINNEMORE, *op. cit.*, p. 166 et seq.

As to substantial legitimacy, an in-depth discussion about the goals and roles of the two organizations seems particularly timely, in order to equip them with the skills and tools required by the new international context. These comments would be enriched by new and fresh ideas if they were opened up to the cultural contributions of other areas of the world which have long been "marginalized" inside the two organizations.

2) A more democratic governance structure for the two organizations: a summary

It is now possible to summarize the proposed reforms according to the two democratic standards of legitimacy and accountability.

First of all, as already seen, an evolutionary trend points towards an appropriate level of representativeness and legitimacy albeit at a slow and uncertain pace. In terms of representativeness, a little shift in voting rights has already happened and more could be done to reflect new and different patterns that are suitable for each organization, designed to reflect the growing role of emerging economies and – especially in the IMF – the monetary integration that took place in Europe. The two Executive Boards' appointment rules should reject all old privileges – some of which have already lost relevance since the end of the Cold War – and avoid the introduction of new ones. This calls for the creation of two executive Committees of elected members only, as already decided for the IMF. A reform largely supported by scholars and experts should be able to lower the required qualified majorities that – once the veto powers of individual members are removed – will only allow for blocking minorities. The best viable solution, however, is the double majority – majority of the states and of the votes cast – that will recognize equal dignity to all states and at the same time acknowledge their differences in economic status and size.

The lack in multilateralism and political vision can be remedied by rethinking the organizations' internal structures. The enhanced governance systems of both institutions should stand on the pillars of two small political bodies – the ministerial committees – holding significant strategic and political powers. The limited number of their members would be compensated by the well-known constituency system by which a minister would speak for the whole group or – hopefully – for the entire geopolitical area he or she represents, better if it is integrated at regional level.¹³⁵

The Ministerial Committees would be given the task of balancing national interests in a shared strategic planning, while the Executive Board could be left with the more technical and less political task of making all decisions concerning the loan granting activity. The new Board, modelled on the

¹³⁵ Please refer to the considerations above as to whether the constituencies reflect, when possible, the composition of regional integration organizations.

European Commission, would be composed of independent officials who owe their allegiance only to the organization and do not accept or solicit dictates from the states. Of course, effective independence guarantees can only be guaranteed by the statutes.

The second standard to be applied, accountability, should be increased by enforcing a system of checks and balances.

Having lost their double affiliation, the new Executive Directors would enjoy greater credibility and authority and report to the Board of Governors, who elected them and who should be able to dismiss them in the event of serious misconduct. Some of the major gaps to be filled concern in fact the Directors' accountability. Likewise, the Managing Director and the President should report to the two Executive Boards, who must have the power to dismiss them if they fail to work as expected. For this control to be effective, the Managing Director and the President should be members of the executive body, but not chairpersons, a role that would be assigned to another member chosen by an internal election. At the top of the system, the two Boards of Governors should reassert their grip on the essential decision-making functions the Statutes grant them, and acquire new supervisory powers, availing themselves of the support of special committees.

For the purposes of accountability, the aim of reforms concerning transparency, openness and inclusion is to enable states and citizens – these latter in association – to monitor the institutions from the outside, request and obtain information and be heard when they are recipient of the organizations' daily decisions. It would be obviously impossible for the intermediate forums and, more broadly speaking, the NGOs, to impeach the two organizations or stop their actions, but the knowledge of circumstances and procedures and the internal accountability processes we have just described would allow them to intervene via the member states and their delegates in the Board of Governors and Ministerial Committees.

Unfortunately, when states fail as cogs in the transmission of democracy, an important link in the accountability chain breaks. That is why, as I said, the problem posed by non-democratic States can not – by definition – be eliminated. As a partial correction, a growing number of intermediate bodies could be heard before a decision is taken – as it happens in the EU for the Commission's documents¹³⁶ – and allowed to voice their disapproval and file complaints about the implementation of interventions within the recipient countries. The event of maladministration, which may occur, would affect the relationship between organization and member state in ways we still have to imagine.

¹³⁶ See the practice of publishing *Green Papers* by the European Commission to stimulate discussion on given topics at European level. The Commission invites the relevant parties (bodies or individuals) to participate in a consultation process and debate on the basis of the proposals they put forward. *Green Papers* may give rise to legislative developments that are then outlined in *White Papers*.

In my opinion, the doctrine should work *de jure condendo* on these guidelines: designing a multilevel governance system which would provide forms of direct legitimation for the citizens, also at the supranational level, like those already existing in the European Union. It is now undoubtedly difficult, despite the efforts in this direction, to imagine this evolution without the involvement of intermediate levels. That is why we hope that the two statutes acknowledge the opportunity of membership for regional integration organizations, promote their involvement with the Board through the constituency mechanism and, ultimately, strengthen the dialogue at all levels with the organizations that work in the same field.

Among the suggested reforms, just a few actually require a review of the *Articles of Agreement* of the two organisations: changing the voting majorities, splitting the Bank's membership from the Fund's one and letting the international organizations in, but also ensuring independence to the two Boards, set up new accountability processes and create a Ministerial Council for the Bank (the IMF already has one in its statute). Other proposals are already works in progress like the transition to an all-elected Board for the Fund. Much more can be accomplished by modifying internal rules – eliminate (or change into a Bank inner body) the Joint Development Committee and create other frameworks to provide a link between the two organizations, modify the structure of the constituencies, provide different share distributions for the two organizations – or even by simple practices. It would be a good idea, however, to proceed step by step, cascading from the more structural reforms to their implementation and to reforms that just revise the existing rules. Some cases, though, just demand for a return to the statutes, turning away from deviant practices that are no longer acceptable, such as the Director's and President's appointment procedures.

Finally, a critical review of the articles that describe goals and competences is more than welcome, and should empower the new Bretton Woods organizations to face the needs arisen from economic globalization processes and, most of all, the global financial crisis. Topics as speculative movements of capital, the possible ban of toxic financial instruments and state defaults can no longer be ignored. But they stray from the matter of this essay and deserve a more exhaustive multidisciplinary analysis.

3) *The need to broaden our vision*

By putting the two organizations into the context of their institutional links and external influences we will be able to examine the evolutionary drives produced by this network. It is indeed clear that the Bretton Woods organizations are central to a galaxy which is not charted anywhere and goes by the name of *economic global governance*.

We cannot define the current global economic governance as a system or even a frame, because of its fragmentation and variety. Together with the Bretton Woods institutions and the Groups of states (G7/8, G20, G24), there are actors who do not have a public nature, but operate by self-regulation, as in the central banking realm (BIS, FSB), and standard-setting bodies of private nature (IASB, IOSCO) with an undeniable systemic impact. There are moreover a number of important regional organizations, such as the OECD, aimed at cooperation, and others aimed at integration as the EU and others which somehow replicate its model. There are regional funds and development banks.

To make the fragmentation and partisanship even worse there's the fact that important decision-making bodies – at a technical level as the FSB, or at a higher political level as the G20 – represent only a segment of the international community. Nevertheless, they tackle global issues.

On the 26th of June 2009 the 192 members of the United Nations Assembly received by consensus a very important document: the *Report of the Commission of Experts of the President of the United Nations General Assembly on Reforms of the International Monetary and Financial System*. The analysis and recommendations it contains encompass many global economic governance matters. The document was harshly criticized; the Commission of Experts chaired by John Stiglitz discussed international monetary stability, encroaching upon the realm of the Bretton Woods institutions, the G20 and other – even more technical – organizations.

The Report sets out a path which is difficult to tread for essentially political reasons, but which must be appreciated as a highly valuable contribution to an open and mature debate on the future of global economy and on its rules. I subscribe to the approach by which coherent and coordinated reforms of individual pieces of the overall picture will lead to international organizations that are not only more democratic and efficient, but also working together more profitably, reducing the unnecessary duplication of existing mechanisms and a fragmentation that generates confusion of roles and competences, waste and inefficiencies.¹³⁷ A comprehensive vision has an undeniable added value. The UN, whose jurisdiction in matters of economic cooperation interventions rests on Art. 1.3 of its Charter, has the advantage of representativeness and legitimacy, and is – for the nations contesting the gap of "voice and representation" in the Bretton Woods institutions – the only forum in which to speak out and be listened to.

This kind of intervention seems to mirror the adoption of the *Millennium Development Goals*. While the first document trespassed into the World Bank's domain, the second broke into the IMF's. If the UN can set goals for the global economy, then it can get involved in the setbacks on the road to their implementation and in the possible remedies.

¹³⁷ See the similar considerations in paragraph 2 of the *Manuel Report*.

Why, then, these reactions? To be contested was the main solution offered: “First, and most important, the decisions concerning necessary reforms in global institutional arrangements must be made not by a self-selected group (whether the G-7, G-8, G-10, G-20, or G-24), but by all the countries of the world, working in concert. *This inclusive global response will require the participation of the entire international community; it must encompass representatives of the entire planet, the G-192*”. The option for multilateralism is therefore clear. Obviously, the document states that it is not conceivable that everybody participate in each decision, but there may be formulas, strictly inside the UN framework, allowing everyone to feel represented.¹³⁸ Ultimately, it suggests “*a new institution, a Global Economic Coordination Council (GECC), supported by an International Panel of Experts*”.

Similar recommendations had already been made in the past by influential figures like Jacques Delors and Michel Camdessus,¹³⁹ but they had never reached this level of detail nor had been legitimized by such a representative forum.

Yet, today the same need emerges from all the documents addressing, seriously and in detail, the issue of reform of the Bretton Woods institutions, and if the *4th Pillar Report* states that “participants raised the issue that the IMF should be a more effective part of the overall system of global governance”,¹⁴⁰ the *Zedillo Report* declares that “collaboration between the World Bank and other actors in the multilateral system, including other UN agencies and the IMF, is essential”¹⁴¹ and the *Manuel Report* highlights the difficulty of pursuing a global role whose contents are, among others, a “global membership and an agreed set of norms and standards”, “a legitimate and effective voice to establish and defend the norms and standards needed to deliver financial stability”, “a clear view of the global situation” but also “cooperation with other international bodies and standard setters”.¹⁴² So there certainly is a common understanding of the need to coordinate and re-unite the offices and to entrust a special entity with the overall supervision. In the documents examined there is also a clear preference for the multilateral solution, which puts out of play groups of states that are presently exerting a de facto leadership, founded on mere self-legitimation.

The main features of this new body are well defined in the *Stiglitz Report*: the GECC should be the appointed controller and would have a comprehensive and integrated view on all economic

¹³⁸ See paragraph 21 of the above-mentioned *Report*.

¹³⁹ Delors proposed the creation of an Economic Security Council, mirroring the UN body which goes by the same name; Camdessus suggested to open the G8 to all the countries that hold a seat in the Executive Board of the Bretton Woods organizations, so that they would be directly or indirectly representative of all the member countries. Both proposals can be found in M. Camdessus’s speech at The Hague Academy of International Law, on the 2nd of July 2002, reported in the *Collected Courses of The Hague Academy of International Law*, vol. 294, 2002, p. 32.

¹⁴⁰ See paragraph 58.

¹⁴¹ As mentioned in paragraph 45 of the *Zedillo Report*.

¹⁴² See paragraph 4 of the *Manuel Report*.

problems the international community is facing, including the adequacy of all existing organizations, agreements, instruments, and of their mandates, institutional structures, tools.¹⁴³

Once this institutionalization process is completed, in the medium-long run, the Global Economic Coordination Council would become a UN body on an equal footing with the Assembly and the Security Council.¹⁴⁴

Its assignment would be to coordinate all branches of the UN that operate in the economic, social and environmental fields, including the Bretton Woods institutions (beyond the present ECOSOC jurisdiction) and the WTO, which should be brought into the UN system by appropriate agreements. Its membership – suitably restricted for efficient and decision-making – might reflect the structure of the constituencies. Consultation with the most important specialized institutions would be welcome.¹⁴⁵

The GECC would be assisted by an international panel of experts, in fact the first body to be created in the short term,¹⁴⁶ with the task of identifying the flaws in the global economic governance, make proposals and take action on "early warnings", a function on which the G20 is already working. The importance of a multidisciplinary approach (which integrates social and environmental dimensions) and of a long-term vision is rightly stressed.

As the report acknowledges,¹⁴⁷ the suggested solution would not solve all issues of legitimacy and all conflicts of interests pertaining financial regulations. It's not clear how the players who don't have a public nature could be brought under this umbrella. The recipe that can bring them inside a control frame or in interaction with legitimated multilateral entities has yet to be invented, and requires a strong creativity effort.

If we dismissed the path suggested by the *Stiglitz Report* as too futuristic or ambitious, we would be left with the available institutions only – the G20, the Bretton Woods institutions, some technical specialized bodies – with which to square the very difficult circle of legitimacy, inclusiveness and efficiency and look beyond the past to the present crisis and to the future ever pressing needs, such as monetary stability¹⁴⁸ and environmental and social sustainability.¹⁴⁹

An experiment in building on the existing structures is attempted by the *Camdessus Report*, which imagines an international monetary system governance based on three levels: heads of states,

¹⁴³ See paragraph 21.

¹⁴⁴ See paragraph 25.

¹⁴⁵ See paragraph 26.

¹⁴⁶ See paragraph 22.

¹⁴⁷ Defined as "internationally recognized source of expertise in support of better coherence and effectiveness in the global governance system, fostering dialogue between policy makers, the academic world, international organizations, and recognized social movements", paragraph 55.

¹⁴⁸ See VITERBO A., *Monetary Regionalism: A Challenge to the IMF*, "The Italian Yearbook of International Law", vol. XVI, 2006, p. 4 et seq.

¹⁴⁹ *Stiglitz Report*, op. cit., paragraph 9.

ministers and Executive Directors, all legitimized by constituencies. Basically, it is an attempt to merge the G20 and the IMF, with the first becoming the highest level and the second providing the other two: the Ministerial Council and the Executive Board. To give greater coherence to economic policy choices, it also recommends that the BIS, the WTO and the FSB join the Council as observers. The *Camdessus Report* also suggests to create a group of super-advisors – described as eminent independent personalities rather than experts – called the Global Advisory Committee (GAC).¹⁵⁰

At the end of this overview on visions and proposals it should be easy to select the most convincing ones in the light of the parameters we established at the beginning; it is more difficult to say whether this imagined picture has a serious chance of realization.

Undoubtedly, an effective reform of the two Bretton Woods organizations would solve a number of issues raised by commentators and highlighted in this essay. But we should also tackle the problem of coordinating the two organizations' needs for reform with those emerging from a broader context of global economic governance.

Discarding all “oligarchic” suggestions, it is clear that a reform of the whole UN system would be very desirable in order to avoid duplications and gaps and improve efficiency.

In my opinion, however, creating effective Ministerial Councils in the two Bretton Woods institutions would in itself be the answer. As a consequence, the G20 would lose most of its purpose, since many of the member states would be represented in the two new ministerial bodies, with the honor and burden of speaking also for those who are not there, i.e. the other 170 countries that are presently – and rightly – contesting the legitimacy of the G20. Nothing prevents, in particularly important circumstances, the two bodies from meeting at a head-of-state level. The statutes could even consider both configurations. The experiences of the Groups of states and of the European Union Council – very similar at the beginning – show that it is possible for a summit to be a mere intergovernmental conference or to evolve into an institution inside a supranational organization governed by the rule of law.¹⁵¹

An analysis that spans from the Bretton Woods organizations' governance systems to the examination of the broader dynamics in the global economic governance clearly shows that the eminently technocratic management of the Bretton Woods institutions has proved inadequate from

¹⁵⁰ See suggestions n. 16 and 17 in chapter IV on governance.

¹⁵¹ At the beginning (1974), the European Council was a merely intergovernmental conference, adopting by consensus political documents and governed by customary rules. It evolved into a fully fledged EU institution, starting with a recognition by the Maastricht Treaty (1992) as a body of the Union to gain the status of EU institution in the Lisbon Treaty (2009). See articles 13 and 15 of the Treaty establishing the European Union.

the start, as demonstrated by their members' need to move all the politically sensitive decision-making to the groups of states or to negotiations among the most influential shareholders.

The request for political leadership and the need to institutionalize the forums facing the global economic emergencies whose solutions are beyond the reach of national states unquestionably emerge from the current situation. We are thus presented with two gaps to fill which can't be prioritized: a deficit in democracy – requiring a return to multilateralism together with a comprehensive set of reforms – and a deficit in politics. Action can be taken on both fronts giving high-profile adequately legitimized political bodies the competence to build strategies and choose priorities, but only their insertion in genuine, multilateral organizations and the enforcement of their decisions according to the principle of ownership could guarantee the success.

ANNEX

EIGHT SUGGESTIONS TO IMPROVE DEMOCRACY AND EFFICIENCY IN THE BRETTON WOODS ORGANIZATIONS

- 1) Separate IMF and World Bank (autonomous memberships and attributions of shares, different quota formulas)
- 2) Introduce a double majority (of states and votes) in the decisional bodies (Boards of Governors, Executive Boards and Ministerial Committees)
- 3) Entrust Ministerial Committees with a role of political guidance similar to the one currently played by the G20, eventually foresee their possibility to meet (also) at head-of-state level
- 4) Rethink constituencies to reflect – when possible – regional integration and cooperation gatherings, as a first step towards multilevel governance
- 5) Give Executive Directors the only status of international officials and guaranteed independence while national interests will be reflected and balanced in Ministerial Committees
- 6) Give the Board of Governors the power to appoint and collectively dismiss the Executive Boards
- 7) Envisage membership of international organizations
- 8) Give civil society an advisory role, by publishing on the Internet the first drafts of policy and strategy documents and collecting comments and reactions. The final version of all documents should reflect in the motivation how and why decisions were made.

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