

February 5, 1945

PRESENT STATUS OF DRAFT OF BRETTON WOODS ENABLING LEGISLATION

There have been a number of conferences recently by representatives of the Board of Governors with representatives of the Treasury and the State Department with regard to the provisions which should be included in the proposed Bretton Woods enabling legislation. The main point of difference is that the Board's representatives feel there should be a so-called International Financial Council to provide the necessary guidance for the governors and executive directors of the Fund and the Bank appointed by the United States. The Treasury agrees that such a Council will be necessary but feels that it should be a nonstatutory body set up voluntarily or by executive order after the passage of the law. They strongly object to its inclusion in the bill on the ground that it would hamper the passage of the legislation. The State Department apparently agrees with the Treasury in this regard.

The Treasury has accepted suggestions made by the Board on several matters. They have agreed that in paying the subscription to the Fund the Secretary of the Treasury will first use \$1,800,000,000 from the existing United States Stabilization Fund and that if any part of this amount is returned to the United States it will go into miscellaneous receipts of the Treasury rather than to the existing United States Fund. A provision has been agreed upon as to the amount of demand notes which may be issued by the United States to the Fund and the Bank. A compromise provision has been agreed upon with respect to the Federal Reserve Banks acting as depositories and fiscal agents of the Fund or the Bank and also with respect to certain matters of lesser importance. The Treasury has not accepted our suggestion that the service of the governors and executive directors should expressly be stated to be subject to the pleasure of the President.

The Treasury people have been conferring with legislative drafting counsel of the Senate and the House regarding the drafting of this bill but are unwilling that the Board sit in on these discussions. It is understood, however, that the Treasury will advise Governor Szymczak when a draft of the bill has been worked out and given to Messrs. Wagner and Spence but before it is introduced. It is contemplated that at that time the Board will take up the matter of the proposed Council with Messrs. Wagner and Spence before the bill is introduced.

There are attached: (1) A statement regarding several somewhat technical points of the bill; (2) an explanatory statement as to the Council; (3) the latest Treasury draft of the bill; and (4) a so-called Federal Reserve draft, which is the Treasury draft with the addition of changes desired by the Board.

CERTAIN TECHNICAL POINTS OF BRETTON WOODS LEGISLATION

Issuance of Non-Interest Bearing Demand Notes by United States. -

The original Treasury draft set no limit to the issuance of non-interest bearing demand notes to the Fund. The Treasury draft of February 2, 1945, however, authorizes the Secretary of the Treasury to have these notes outstanding only to the amount of the United States subscription to the Fund. This is in accordance with our suggestion.

Issuance of notes to the Fund above the amount of the subscription would constitute an undesirable type of Treasury financing. While the possibility of their use by the United States may be relatively harmless, since the Fund is unlikely to accumulate much in the way of excess dollars, the existence of the power would set a bad example to other countries where similar powers could be used to nullify one of the most important controls of the Fund -- the deterrent charges levied on large and continuous use of the Fund.

To clarify the mechanics of the matter: the Treasury of a country which had large imports from England and needed sterling to pay for them would in effect obtain sterling from the Fund by giving its non-interest bearing demand note in payment. It could then sell the sterling to its domestic importers and receive local funds in exchange. It could then spend the local funds for its own needs. In this way it would acquire local funds at no cost other than the Fund's charges which would be lower than the rates at which Treasuries in many countries could borrow. Instead of being under pressure to repay the Fund, Finance Ministers would be under temptation to let their indebtedness grow.

Subscription to Fund and Bank. - We have taken the position that the inactive part of the United States Stabilization Fund, amounting to \$1.8 billion, should be used to pay part of the United States subscription to the Fund, that it should be used before any appropriated revenues, and that it should not go back to the United States Stabilization Fund in the event the United States ceased to be a member of the International Fund.

The Treasury draft of February 2, 1945, directs the Secretary of the Treasury to use \$1.8 billion from the United States Fund and the draft implies that this \$1.8 billion will be used before any appropriated revenues. The Treasury representatives have indicated that this is their intention. The draft also provides that any payments made to the United States by the Fund or Bank shall go into miscellaneous receipts which means that the \$1.8 billion will not go back into the United States Fund.

The Treasury draft of February 2, 1945, also provides for the indefinite extension of the life of the United States Fund. This is in accordance with our suggestion that the United States Fund should continue to exist and should carry on dealings with the International Fund. The Treasury draft does not mention dealings with the International Fund but the United States Fund presumably has authority to deal with the International Fund under existing statutes.

Federal Reserve Banks as Depositories and Fiscal Agents. - As initially drafted by the Treasury, the bill would have authorized the Secretary of the Treasury to designate Federal Reserve Banks, as fiscal agents of the United States, to be depositories of the Fund and the Bank. The Board suggested in lieu thereof that Federal Reserve Banks merely be authorized or required by the law to act as depositories and fiscal agents of the Fund and of the Bank. There has been considerable discussion on this point, with various compromise proposals suggested. The Treasury wishes to be certain that a Federal Reserve Bank will not hesitate to act with respect to any particular transaction because of doubt as to its legal authority or as to the legal authority of the management of the Fund or the Bank. The Board representatives wish to have it clear that the Federal Reserve Banks act in these capacities under the supervision of the Board and also, as far as possible, to provide a measure of legal protection for the Reserve Banks. The compromise provision that has been tentatively agreed upon authorizes Federal Reserve Banks, when requested by the Fund or the Bank, to act as depositories or fiscal agents of the Fund or the Bank, and the Board of Governors is required to supervise and direct the carrying out of these functions by the Reserve Banks. While this language is not wholly satisfactory, it is probably as good a compromise as we can get an agreement upon.

Status and Immunities. - The Articles of Agreement of the Fund and the Bank authorize the Fund and the Bank to contract and institute legal proceedings and give certain immunities from judicial process and seizure. The last section of the bill is intended to make it clear that these provisions regarding status and immunities should be in force in the United States and also to make it clear that, as provided in the Articles of Agreement of the Fund, exchange contracts contrary to the regulations of the United States are unenforceable.