

ANNEX II

Date February 2, 1950

Memorandum to	Files	Subject: Eligibility of member of
From	Mr. Hackley	Board of Governors as director of the
		B.I.S. under provision of the Federal
		Reserve Act.

In the preparation of a memorandum for Governor Szymczak regarding the possible service of a member of the Board of Governors as a director of the Bank for International Settlements, attention was centered on provisions of the statutes of the B.I.S. and no mention was made of the effect of provisions of the Federal Reserve Act on such possible service. There are two provisions in section 10 of the Federal Reserve Act which might be used as the basis of arguments that a Board member would not be eligible to serve as a director of the B.I.S. It is believed that these provisions clearly would not prohibit such service, but it might be well to be prepared to answer any arguments of this kind which might be made.

Prohibition against Connections with Banking Institutions.

The fourth paragraph of section 10 contains the following provision:

"No member of the Board of Governors of the Federal Reserve System shall be an officer or director of any bank, banking institution, trust company, or Federal Reserve Bank or hold stock in any bank, banking institution or trust company; and before entering upon his duties as a member of the Board of Governors of the Federal Reserve System he shall certify under oath that he has complied with this requirement, and such certification shall be filed with the secretary of the Board."

Literally, it could be contended that this provision prohibits a member of the Board from serving as a director of any type of "banking institution", including the Bank for International Settlements. The word "bank" is defined in section 1 of the Federal Reserve Act so as to indicate clearly that it includes only State and national banks in this country, but the phrase "banking institution" is not defined in the Act and argument may be made, therefore, that it was intended to have a broader connotation than the word "bank".

On the other hand, it seems perfectly clear that it was the intent of the framers of the Federal Reserve Act by this provision to prohibit members of the Board from serving as directors or officers only of private banks within the United States. The provision was

enacted, of course, long before the Bank for International Settlements was established. Even if that Bank had existed at the time, however, the legislative history indicates that the purpose of the provision was only to require members of the Board to divest themselves of previously existing connections with commercial banks in this country; and this is borne out by the fact that the provision requires a new member of the Board to certify under oath that he "has complied" with this requirement.

In the debates on the original Federal Reserve Act on December 5, 1913, Senator Weeks (a member of the Senate Banking and Currency Committee and a champion of Senator Hitchcock's draft of the bill) made the following statement:

"It almost goes without saying that these appointees should be absolutely free from private business and banking connections. What we want to prevent is the possibility of conflicting private with public interests, hence the provision that no man owning stock or holding a position as an officer in any banking institution shall be appointed to the reserve board; that provision might well have been extended to active connection with any business, because all of the time of the members of the board should be devoted to their public duties."

Similarly, on December 9, 1913, Senator Nelson (also a member of the Senate Banking and Currency Committee) declared:

"In order to get men to occupy these positions, if they are bankers, or have engaged in banking, they must abandon and lay aside that business. If they hold stock in national banks, in State banks, or in trust companies, they must dispose of it; in other words, they must divest themselves in every way of any interest in any bank other than the particular bank of which they are placed in charge."

Finally, on December 10, 1913, Senator Shafroth (a member of the Senate Banking and Currency Committee and a champion of the Owen bill) stated:

"Nobody expects to exclude men who have had experience; but when they are upon the board they ought to have no connection whatever with the banks of the United States."

Thereupon, Senator Weeks declared:

"We provide that they shall not have."

Devotion of Entire Time to Board's Business.

The first paragraph of section 10 requires that the members of the Board of Governors "shall devote their entire time to the business of the Board".

It could be argued, though with little apparent foundation, that the service by a Board member as a director of the B.I.S. would be in violation of this requirement. It is believed, however, that such service would clearly be considered time spent in connection with the business of the Board.

The Board of Governors has important powers in connection with foreign financial and monetary matters. Under the Banking Act of 1933, the Board has a mandate from Congress to exercise special supervision over all relationships of the Federal Reserve Banks with foreign banks, including the opening of accounts and appointment of correspondents. The Bretton Woods Agreements Act provided that the Chairman of the Board should be a member of the National Advisory Council which has important functions in coordinating the policies and operations of the United States representatives on the International Bank and International Fund and of all agencies of the Government engaged in foreign monetary transactions.

Membership of a Board member on the Board of Directors of the B.I.S. would make it possible for the Board of Governors to discharge more effectively its responsibilities in the foreign field. Consequently, such service would not only be "devoted" to the "business of the Board" but would be directly related to the effective performance of the Board's functions.