

BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM

Office Correspondence

Date February 6, 1945

To Chairman Eccles

Subject: _____

From Chester Morrill, Secretary

At Mr. Szymczak's suggestion, there is attached a memorandum which was prepared by Mr. Vest showing the present status of the drafting of Bretton Woods enabling legislation, together with related material.

Mr. Szymczak desires to have the Board informed fully regarding this matter at the next meeting of the Board.



Attachment

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.

EXPLANATORY STATEMENT AS TO COUNCIL

If the United States accepts membership in the Fund and Bank it will assume important responsibilities. Governors and executive directors appointed by the United States will have a large voice in the management of both institutions. They should therefore have a clear indication of their responsibilities. In addition, there are a number of cases in which action by the Fund or Bank requires the approval or consent of the United States. It is essential that the decisions made by the United States and the positions taken by the United States governors and directors be in harmony with the domestic and foreign financial policy of the Government.

Some agency of the United States will have to provide the necessary direction and guidance to the governors and directors and will have to keep them advised about the administrative policies with which they must act in harmony. This agency should also act for the United States when approval by the United States Government is required before any action can be taken by the Fund or Bank. It is clear that the President himself cannot devote sufficient time to the performance of these functions and that he must delegate the responsibility to some agency or body of the Government. It is important that such an agency be definitely provided and its authorities and responsibilities stated in the enabling legislation. The matter should not be left vague and subject to different interpretations and different courses of action by successive administrations or by the same administration at different times. It should not be done by executive order, which is an emergency technique, but by provision of law.

There are three permanent agencies which are directly and continuously concerned in their operations with the domestic and foreign financial policy of the United States. In addition, there are at present other temporary agencies operating in the field. No one of these agencies should be responsible by itself for interpreting United States policy vis-a-vis the Fund and the Bank. In order to ensure continuity of policy and harmony among the agencies affected, the responsibility should be delegated to an inter-agency body of permanent standing established by law. The body should be small enough to be effective, flexible enough to meet changing conditions, and should include representatives of the three permanent agencies directly concerned. The body should be under the general direction of the President.

The establishment by law of such effective machinery for United States participation in the Fund and Bank will give confidence to legislators, bankers, businessmen and the public generally that the domestic and foreign financial policy of the United States will be fully reflected in our dealings with the Fund and Bank. They will have no reason to fear a sharp break in our established policies or inefficiency due to a lack of coordination among the agencies already operating in the field.

February 2, 1945.