

International representation of Europe in the area of Economic and Monetary Union: legal issues and practice in the first ten years of the Euro

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Patchwork

“The Union’s role in global governance is thus constrained by a bewildering pattern of external representation”.

Sieglinde Gstöhl,

‘Patchwork Power’ Europe? The EU’s

Representation in International Institutions,

Bruges Regional Integration & Global Governance

Papers 2 / 2008

Article 111 (4) EC

Subject to paragraph 1, the Council, acting by a qualified majority on a proposal from the Commission and after consulting the ECB, shall decide on the position of the Community at international level as regards issues of particular relevance to economic and monetary union and on its representation, in compliance with the allocation of powers laid down in Articles 99 and 105.

Note

- Paragraph 1 of Article 111 relates to “formal agreements on an exchange-rate system for the [Euro] in relation to non-Community currencies” and concerns Bretton Woods-type arrangements of formally fixed exchange rates
- Paragraph 2 allows the Council to “formulate general orientations for exchange-rate policy”
- Paragraph 3 concerns the conclusion of international “agreements concerning monetary or foreign-exchange regime matters”.
- Article 122 (5) EC: States with a derogation do not have a vote on decisions taken pursuant to Article 111

Article 138 TFEU

(ex Article 111(4), TEC)

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 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.
3. For the measures referred to in paragraphs 1 and 2, only members of the Council representing Member States whose currency is the euro shall take part in the vote.
A qualified majority of the said members shall be defined in accordance with Article 238(3)(a).

My analysis - 1

- René Smits, *The European Central Bank – Institutional Aspects*, 1997, 2000 reprint, Chapter 6 – External Policies of EMU:
- transfer of competence in areas of monetary and economic union to the Community imply assumption of external competences in these respects, too – **exclusive external competence**
- internal market (Commission, Council)
- economic union (States, Council, Commission)
- monetary union (Council, ECB, Commission)

My analysis - 2

- specifically for IMF: full membership of EC (not of ECB), “country” in sense of AoA IMF
- amendment AoA IMF necessary: quota, constituencies, seat

Executive Board member Willy Kiekenes (Belgium), 2003

“When the EU Member States adopted a common currency, a common monetary and exchange rate policy, and the management of members' external reserves by the European System of Central Banks, and gave the European Community the exclusive right to regulate international flows of funds, they irrevocably transferred essential parts of their monetary sovereignty in the international legal order to the European Union. This action has made the European Union competent and responsible for complying with the most important commitments of its member states under the IMF's Articles of Agreement.”

Lorenzo Bini Smaghi

- creating a single seat for the EU in the IMF requires either an intergovernmental agreement between the Member States or a change in the EU Treaty
- extensive research on state of affairs and forward-looking approach

“A Single EU Seat in the IMF?”, in *Journal of Common Market Studies* 2004, Volume 42, Number 2, pp. 229-248.

See, also, Lorenzo Bini Smaghi (ECB), “Powerless Europe: Why is the Euro Area Still a Political Dwarf?”, *International Finance* 9, pp.1-19, 2006

The legal basis in IMF law - 1

Purposes of the Fund:

- 1) promoting international monetary cooperation
- 2) promotion of exchange stability
- 3) promoting growth of trade, high levels of employment and real income
- 4) a multilateral system of payments in respect of current transactions + elimination of foreign exchange restrictions
- 5) balance of payments assistance
- 6) shortening duration of balance of payments disequilibria

The legal basis in IMF law - 2

- only “countries” can be members of the Fund (Article II, Section 2, AoA IMF)
- relationship with other international organisations: UN family, PLO, E(M)U
- other monetary unions: separate nations represented – no transfer of competence but voluntary unions



- legitimacy and seat

Overviews of IMF/EU interplay

- Table 1 (EU Constituencies in the IMF),
- Table 2 (Groupings' Voting Power in the IMF)
- Table 4 (EU 25 Countries' Quotas and Voting in the IMF) of Lorenzo Bini Smaghi's article of 2004
- power point presentation by Cédric Crelo in 2005 (EU coordination and representation in the IMF, Cédric Crelo, Université Pierre Mendès France, April 2005)

Practice during the 1st 10 years - 1

- Commission proposal (Document COM(1998) 637 final, 09.11.1998): common external representation
- Ecofin Council report
- European Council conclusions:

The Council and the European Central Bank will carry out their tasks in representing the Community at international level in an efficient manner and in compliance with the allocation of powers laid down in the Treaty. (...)

The Commission will be involved in external representation to the extent required to enable it to perform the role assigned to it by the Treaty.

Practice during the 1st 10 years - 2

- IMF Executive Board: “the Fund is a country-based institution, and the transfer of monetary powers by members of the euro area to the institutions of EMU will not affect their legal relationship with the Fund under the Funds’ [AoA]. Euro-area members will continue to be members of the Fund in their own individual capacity as countries. All rights of membership will continue to be available to each individual member, and all the obligations that membership in the Fund entails will continue to bind them individually”
- “hybrids out” says the IMF
- Europe complied

Practice during the 1st 10 years - 2

- *Meetings*: ECB has observer status
- *Surveillance*: euro area monetary and exchange policies are surveilled in context of annual surveillance of individual members but discussions are also held between IMF and ECB, Commission and Euro group
- *SDR*: € replaces FFR and DEM
- SCIMF and EURIMF coordinate

Jean Pisani-Ferry and André Sapir noted in 2006:

“the EU occupies 7 of the 24 seats on the IMF board and essentially selects the Fund’s managing director, who chairs the board. It also holds more than 30 per cent of the IMF quotas and votes. By contrast, the US has only one seat on the board and 17 per cent of the quotas and votes, whereas China and Japan together have two seats and 9 per cent of the quotas and votes”.

Jean Pisani-Ferry and André Sapir argue for quota reform:

[States] “belonging to the euro area should unify their representation within the Fund as soon as possible. At the same time, they should offer to reduce quotas (and thus votes) to numbers commensurate to their economic size. In doing so, the euro area would trade off formal, but largely ineffective, power for a formally diminished, but more effective influence in world economic affairs”.

External representation at the G7, G8, G10 and G20

- continued presence Italy, France, Germany (and United Kingdom)
- Commission and Council Presidency attend (exclusive EC trade competence)
- coordination within G7 stronger than within EU – not sufficient pre-coordination among EU and undermining internal coordination requirements via external groupings

IMF/ Gs

“One symptom of the Fund’s decreasing effectiveness has been the proliferation of “G” groups –the G-5 that became the G-7, the G-22 that became the G-33 and then the G-20; the G-10; the G-24 and the G-77. All of these were attempts to create opportunities for serious discussions among countries in the international monetary system. But as the world economy, and hence the relevant issues, have changed so it has been necessary to set up new “G” groups. Such groups are perceived as exclusive and lack legitimacy, and their meetings have increasingly become communiqué-driven events.”

Mervyn King, Governor of the Bank of England, “Reform of the International Monetary Fund”, speech at the Indian Council for Research on International Economic Relations (ICRIER) in New Delhi, India, Monday, 20 February 2006

Out-of-the-box thinking on IMF law and EU politics - 1

- Willy Kiekens in 2003:

“[a] comprehensive clarification of the legal effects of EMU for the IMF would require examining the issue from both standpoints”

“[i]f such an exercise should reveal that the two legal orders are not congruent, the European members and the IMF would have to cooperate in interpreting and amending the Fund's Articles of Agreement.”

Out-of-the-box thinking on IMF law and EU politics - 2

- Laurens Jan Brinkhorst, Professor of European Law at Leiden, inaugural address, 2008:
“The classical concept of sovereignty with the indivisibility of sovereignty does no longer fit the political and legal reality of the Community order (...) State’s autonomy has become part of a larger European transnational structure” - calls for a concept of co-sovereignty to be accepted.

Out-of-the-box thinking on IMF law and EU politics - 3

- I still favour an even further-reaching analysis, requiring qualification of EU as ‘country’ in a novel approach to IMF law
- We need an alternative approach to the current methods of analysis, steeped as they are in clear-cut distinctions of the past.
- “For the world has changed, and we must change with it.”

The need for reform - 1

- Commission input in Constitution (2002)
- Communication from the Commission to the European Council of June 2006 - *Europe in the World — Some Practical Proposals for Greater Coherence, Effectiveness and Visibility*
- Annual Statement 2007 for the Eurozone
(next slide...)

The need for reform - 2

“Further steps are needed before the euro-area's external representation is commensurate with its growing weight in the global economy.

A stronger external representation would also allow the euro area to show leadership on issues of its competency, such as global imbalances. While the best option for representation of the euro area in the key international financial fora and institutions remains the creation of a single euro-area chair, there are obstacles to achieving this in the short term, due, in part, to divisions among Member States.”

The need for reform - 3

EMU@10: successes and challenges after 10 years of Economic and Monetary Union:

The existence of a single monetary and exchange rate policy in the euro area provides a particularly strong rationale for the full consolidation of euro-area representation at the IMF through the adoption of a "single chair". In the case of the G-7/G-8 and G-20, the replacement of the currently fragmented and incomplete representation of individual euro area countries by a consolidated representation would also be conducive to a reform of their structure that increases the role of key emerging market economies.

The need for reform - 4

EMU@10: successes and challenges after 10 years of Economic and Monetary Union:

- Objective: in the longer term: i) create a single euro-area chair at the IMF; and ii) support the consolidation of euro area/EU representation in the 'G-groups', which would facilitate entry of some key emerging market economies.

The need for reform - 5

- “The real obstacle to stronger [Euro area] representation does not reside in the aversion of its citizens but rather in its national institutions and policy makers’ reluctance to leave their seats at the table.” (...) The ultimate argument is ‘the political conditions are not yet ripe’, which means in plain words ‘I don’t like it’.”

Lorenzo Bini Smaghi, “A Single EU Seat in the IMF?”, in *Journal of Common Market Studies* 2004, Volume 42, Number 2, pp. 229-248

Closing remarks - 1

- an American author wonders “why the EU has not already delegated responsibility for formulating a common position on monetary and financial affairs to the Commission and unified its representation”, relies on the theory of fiscal federalism and suggests incremental approach, beginning where it’s easiest...at the IMF
- Barry Eichengreen, University of California, Berkeley, “How to strengthen the EU's external representation: A modest proposal”
- I favour beginning with G7/G8, informal groupings

Closing remarks - 2

- another author, Turkish this time, quotes the President of the Eurogroup as saying:
- *“It is absurd for those 15 countries not to agree to have a single representation at the IMF. It makes us look absolutely ridiculous. We are regarded as buffoons on the international scene.”*
- Mustafa Kutlay, “Euro@10: A Question of 'Single Representation”, at: <http://www.usak.org.tr/EN/makale.asp?id=806>. He quotes Elitsa Vucheva, “Eurozone countries should speak with one voice”, *EUobserver*, 15 April 2008.

Closing remarks - 3

- Challenges internally: economic crisis, deficits exceeding Article 104 EC and Stability and Growth Pact parameters, financial supervision in disarray and in need of reconstruction at EU-wide level
- Challenges outside require unified stance: climate change, the global financial and economic crisis, the conflicts raging around us (wars in Iraq, Afghanistan, Israel / Palestine, Darfur, Congo), the humanitarian catastrophe of failed States (Zimbabwe, Somalia), major epidemics (HIV/Aids), the gap between the wealthy and those 40% of humankind who survive on less than \$ 2 per day, the challenge of coexistence in this global village whose people are “a nation of Christians and Muslims, Jews and Hindus - and non-believers” and Buddhists and Bahá'ís, as well.

Closing remarks - 4

Europe must stand united, internally and externally.

We cannot prolong our outdated privileges and cosy special places around the table.

We cannot fail the challenge of the present, and of the current American President, and we may not fail the generations of the future.



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