

## BOOK REVIEWS

MEMBERSHIP AND NONMEMBERSHIP IN THE INTERNATIONAL MONETARY FUND. By Joseph Gold. Washington, D.C.: International Monetary Fund, 1974. Pp. xiii, 683. \$10.00.

Even one familiar with the already prodigious literature by the General Counsel and Director of the Legal Department of the International Monetary Fund on the subject of his longtime employer<sup>1</sup> may blanch at the prospect of such a massive monograph on what, from its title, appears to be a relatively narrow subject: membership in the IMF. One envisions a lengthy, detailed, and largely repetitive catalogue of the generally routine and noncontroversial actions taken by or concerning the admission of about 130 States that have become members of the Fund. Indeed, if a similar thesis were produced about membership in almost any other intergovernmental organization, it would be difficult to fill even half the number of pages of this tome without tedious padding using long quotations from political debates relating to a few notorious cases.<sup>2</sup> But even a casual perusal of Mr. Gold's study immediately shows important, indeed fundamental, differences between organizations that are primarily political (like the United Nations) or operational (like the World Bank), and those that are largely regulatory (like the IMF or GATT). In the former, acquisition of membership merely affords the possibility of participation in an ongoing international political and governmental process, or of tapping or becoming a source of assistance. While the latter aspect is also of some importance in relation to the Fund,<sup>3</sup> in a significant sense the process of becoming a member of that organization and the fact of such membership may be more important than anything a State may actually do, or the assistance it may receive, as a member. By joining the Fund, a State submits itself to significant financial and economic disciplines (which are mentioned without being thoroughly explored in this book), and in setting the

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<sup>1</sup> In the excellent bibliography that constitutes appendix XI of this study, the author lists no fewer than 14 of his own previous publications on the Fund.

<sup>2</sup> In contrast, the extensive *Repertory of Practice of United Nations Organs* devotes less than 120 pages (in the basic volumes and in supplement nos. 1-3) to the membership practice of the U.N. during its first 21 years, under chapter II (articles 3-6) of the Charter.

<sup>3</sup> In addition to the assistance that the IMF provides through its various "Accounts" and "Facilities," membership in the Fund is a prerequisite for membership in the World Bank and thus indirectly in the affiliates of the latter (IFC and IDA).

conditions for admitting each new member, the organization evaluates the candidate's particular need for and readiness to accept such discipline. All this is reflected in the structure and contents of the study.

At the beginning of the first and principal part—"Membership"—the author deals briefly, almost perfunctorily, with the circumstances of original membership and then with the mechanics of admitting other members. There follow chapters on various criteria for participation in the Fund: the formal existence of a "country" and the independence of or the nature of outside controls over its currency, and the special admission or membership problems concerning World War II ex-enemy States, mini-States, and micro-States and those with state-controlled (or "socialist") economies. Throughout, Mr. Gold emphasizes and documents the flexible approach of the Fund to these matters, "guided by an unformulated policy of readiness to accept as wide a membership as possible." Several chapters deal with dependencies, whose status must be precisely defined in relation to an organization whose concerns extend to the economies of all areas controlled by a member (but without insisting on a homogeneous regime throughout all such territories). Another chapter discusses territorial and constitutional changes. Sandwiched between are several chapters dealing with problems genuinely peculiar to the Fund: the "terms of membership," which relate to factors such as a member's quota, the means for paying its subscription, and the establishment of par values and exchange rates. Also described are the quasi-membership provisions relating to the Special Drawing Account. A final chapter sketches the interaction, as to membership, between the Fund and other international organizations.

A shorter second part—"Ex-membership"—explores the several means of withdrawal, illustrated by case studies relating to the four States that have, voluntarily or not, utilized these provisions. Then follow chapters and sections on problems peculiar to the Fund: the financial settlements consequent on withdrawal, the legal consequences for the remaining members of the partial sundering of the Fund's mutual regulatory scheme by a departure, the collateral effect of withdrawals from the Fund on other international organizations, and finally the termination of participation in the Special Drawing Account.

The final substantive part—"Nonmembership"—deals with the interaction of the Fund and its members with nonmembers. Due to the regulatory nature of the Fund and the type and scope of its controls over its members, the relations are more complicated than suggested by the classical maxim *pacta tertiis nec nocent nec prosunt*, even as modified by the principle expressed in article 2(6) of the United Na-

tions Charter. There are, for instance, the elaborate arrangements evolved to permit members of GATT that do not join the Fund to meet certain GATT obligations. In addition, the author deals briefly with transactions permitted or prohibited between the Fund and non-members.

In an unusual concluding summary—"A Résumé"—Mr. Gold pulls together the "hornbook" principles that he has discussed in detail in, and distilled from, the entire previous text. There follow a number of useful appendices reproducing, as appropriate, full, partial, or sample texts of relevant legal provisions (the IMF articles with index, by-laws, rules, regulations, board resolutions, and agreements), as well as tabulations of membership data. The work is completed by a bibliography and six indices, providing every possible type of access to the contents of the volume.

The few shortcomings of the study are, for the most part, related to the source of its strength—the intimate knowledge available only to a longtime senior official of the Fund. That background, which permits Mr. Gold to discourse authoritatively on how a multitude of politically or otherwise difficult situations were resolved, enables him to draw on information not recorded in unrestricted texts (which, by and large, are far less available for the Bretton Woods institutions than for the United Nations and for most other organizations under its aegis). But his background also evidently precludes him from fully documenting the background of certain actions and sometimes from even identifying the country with respect to which a particular decision was taken. Thus, not all of the author's interesting generalizations are subject to independent verification and evaluation, at least on the basis of the materials he presents. Similarly, some delicate and still politically sensitive matters are simply passed over—most notably the question of the membership of China, as to which the Bretton Woods organizations, for reasons related to both the nature of their operations and their political structures, have up to now not followed the resolution adopted by the U.N. General Assembly in October 1971. While this is a question susceptible of legal (as well as political) analyses, it would evidently not be discrete for the principal legal official of the Fund to articulate these in an academic study or for the Fund to publish them under its imprimatur. Finally, it would be too much to expect any genuinely critical evaluation from an author who not only is still bound by norms of discretion appropriate to his continuing senior position in the organization, but who is most likely at least co-responsible (though he almost never so indicates) for the policies he describes.

To whom, then, is this lengthy study addressed and for what purpose

can it be used? Though readable, it should be recognized that this tome, by the very nature of its subject, is not so much a textbook as a reference work. For the most part it is likely to repose in libraries, available for consultation by those requiring information about the Fund, or examples of problems concerning membership in international organizations, or details about particular States or questions touched on in the study. For this reason its necessarily uncritical nature is hardly a serious flaw—indeed the contrary might be maintained. The author here makes available, as he has in his many previous studies, well-organized though admittedly selective information about an important legal institution that would otherwise not be readily available to outside researchers—even to those having access to confidential government documents. As a result of this study, scholars are now in a position (or at least in a much better position) to perform any necessary and useful critical analysis. But had Mr. Gold attempted to do so himself, even his selection of materials might have become suspect as designed to justify the positions taken.

Though different intergovernmental organizations, by reason of their diverse functions and political structures, may be more or less “legalistic,” all are legal constructs based on one or more inter-State treaties. These treaties are supplemented by agreements concluded by the organization itself, as well as by sometimes extensive internal “legislation”: resolutions, regulations, rules, administrative directives, decisions of internal tribunals—which are quite difficult for any outside observer to encompass and evaluate. As such, it may be expected that these organizations act in ways susceptible of prediction and analysis by legal tools. Thus, precedents are important, not because they must be followed under some common law principle of *stare decisis*, but because consistency of interpretation suggests that individual decisions are taken not arbitrarily but in accordance with accepted rules that assure that similar factual premises will generally lead to similar conclusions. Thus, the systematic recording of precedents as well as the logical structuring of legal norms are important, not only to the organization immediately concerned, but also to groups of related agencies and indeed to the entire system of international organizations. Unfortunately, the resources for such systematic recording and categorization are not available to all organizations—and for many of these this gap cannot be filled by outside scholars because of the paucity of published documents and the technical background required to evaluate them. In such instances, it is particularly useful for authoritative, scholarly, primarily factual and analytic, rather than critical, studies to be issued by qualified insi-

ders—in effect substituting specially prepared secondary sources for the unavailable primary ones. The Fund may thus be considered almost uniquely fortunate in that its General Counsel has for years issued useful guides to its otherwise arcane and relatively inaccessible practices—a body of literature to which this newest study is a worthy addition.

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