

Letter to the General Assembly from the
President of the World Bank,
requesting the International Court of Justice to
give an advisory opinion on the question
whether the authority of the Board of Executive Directors
should not be restored under Section 4(a) of Article V of
the Articles of Agreement of the
International Bank for Reconstruction and Development

[Letterhead of World Bank President]

[date]

Dear Mr. President,

This is to request the General Assembly to seek an advisory opinion from the International Court of Justice ("ICJ") on the question whether the authority of the Board of Executive Directors should not be restored under Section 4(a) of Article V of the Articles of Agreement of the International Bank for Reconstruction and Development. The competence of the ICJ is based on Article 65, paragraph 1, of its Statute, according to which the ICJ "may give an advisory opinion on any legal question at the request of whatever body may be authorized by or in accordance with the Charter of the United Nations to make such a request", and secondly that the General Assembly may request the advisory opinion pursuant to Article 96, paragraph 1, of the Charter, which provides: "The General Assembly or the Security Council may request the International Court of Justice to give an advisory opinion on any legal question." Article 96, paragraph 2, of the Charter provides further that "other organs of the United Nations and specialized agencies, which may at any time be so authorized by the General Assembly, may also request advisory opinions of the Court on legal questions arising within the scope of their activities". The ICJ has jurisdiction to give the advisory opinion so authorized by the General Assembly.

This request of the International Bank for Reconstruction and Development (IBRD) concerns the economic welfare of the citizenry of the members of the General Assembly and arises within the scope of the World Bank's and the General Assembly's respective purposes. It is fitting and proper that the General Assembly authorizes the request for an advisory opinion into matters impeding the purposes of the United Nations. The ICJ is the "principal judicial organ of the United Nations" (Article 92 of the Charter) and exercise of the ICJ's jurisdiction in this matter is proper and consistent with the ICJ's judicial function.

His Excellency
John William Ashe
President of the General Assembly
New York

Moreover, there is no reason for the ICJ to abdicate its judicial task, particularly when the beneficial consequences of such opinion are compelling, and would prevent impoverishment and penury for humankind as a result of an imminent economic crisis of unprecedented magnitude.

The Gold Standard

The initial purpose of the IBRD was to finance the reconstruction of war-torn Europe. After this was accomplished, the IBRD became the primary financier of development projects. The purpose of the International Monetary Fund (IMF) was to allocate access to international currency reserves within the system of par values (set values for each member's currency in terms of gold), convertibility of members' currencies, and fixed but adjustable exchange rates. After World War II, the U.S. dollar became the main currency for international capital flows outside of Europe.

By the early 1960s, the U.S. dollar's fixed value against gold was considered to be overvalued. Increased domestic spending on Great Society programs and military spending on the Vietnam War gradually worsened the overvaluation of the dollar. In 1971 the United States informed the IMF that it would no longer buy and sell gold to settle international transactions. This resulted in the 1973 decision of the European Community countries and the United States to introduce a joint float of European currencies against the U.S. dollar. Nevertheless, the U.S. dollar maintained its role as "international money." The role of the IMF became less well-defined but in principle turned into one of surveillance and support for currencies in maintaining a stable link with major currencies.

The banking system is under enormous stress as witnessed by the risk of permanent gold backwardation: when all offers to sell gold for dollars are withdrawn regardless how high the bid price may go. On July 7, 2013, gold leasing ended when "GOFO" (the difference between the rate offered for future leases and the rate that applies to leases already in force) became negative. The gold basis (the difference between the nearby futures price and the spot price of gold) also became negative. This indicates a shortage of deliverable gold and gold hoarding.

To recapitulate, just like in 1971, negative GOFO indicates the risk of permanent backwardation. Without restored confidence in international currencies, a chain-reaction leading to a barter economy commences, bringing serial bankruptcies, unprecedented unemployment, and shortages of food, fuel, and

medicine. This would result in famine, pestilence, and a break-down of law and order. When the value of US Treasury paper erodes, no amount of bond buying by the US Federal Reserve will be able to stop the collapse of the fiat dollar. The monetary reserves of the world's currencies will be extinguished, representing the largest destruction of fiduciary values in all history. Much depends on how the banking system will hold up while the new gold strategy is being implemented.

Interference with IBRD's Board of Executive Directors

In 1944 delegates from forty-four countries attended a conference in a ski resort in Bretton Woods, New Hampshire to establish a multilateral institutional framework for the international financial and monetary system. The delegates considered a draft agreement prepared in April 1942 by Harry D. White of the U.S. Treasury and a draft that was prepared in June 1944 by the United Kingdom, principally by Lord John Maynard Keynes, who chaired the U.K. delegation to the Bretton Woods Conference. Lord Keynes recognized the special role of international lawyers in founding the Bretton Woods institutions:

“We, the Delegates of this Conference, Mr. President, have been trying to accomplish something very difficult to accomplish...It has been our task to find a common measure, a common standard, a common rule applicable to each and not irksome to any. We have been operating, moreover, in a field of great intellectual and technical difficulty. We have had to perform at one and the same time the tasks appropriate to the economist, to the financier, to the politician, to the journalist, to the propagandist, to the lawyer, to the statesman—even, I think, to the prophet and to the soothsayer...I am certain that no similar conference within memory has achieved such a bulk of lucid, solid construction. We owe this not least to the indomitable will and energy, always governed by good temper and humor of Harry White. But this has been as far removed as can be imagined from a one-man or two-man or three-man conference. It has been teamwork, teamwork such as I have seldom experienced. And for my own part, I should like to pay a particular tribute to our lawyers. I have been known to complain that, to judge from results in this lawyer-ridden land, the *Mayflower*, when she sailed from Plymouth, must have been entirely filled with lawyers. When I first visited Mr. Morgenthau in Washington some three years ago accompanied only by my secretary, the boys in your Treasury curiously inquired of him—where is your lawyer? When it was explained that I had none—“Who then does your thinking for you?” was the rejoinder. That is not my idea of a lawyer. I want him to tell me how to do what *I* think sensible, and, above all, to devise

means by which it will be lawful for me to go on being sensible in unforeseen conditions some years hence. Too often lawyers busy themselves to make commonsense illegal. Too often lawyers are men who turn poetry into prose and prose into jargon. Not our lawyers here in Bretton Woods. On the contrary they have turned our jargon into prose and our prose into poetry. And only too often they have had to do our thinking for us."¹

Aaron Broches, who was then a young counsellor at the Dutch Embassy, went on to work in the legal department of the IBRD, ultimately as its longest-serving General Counsel from 1959-1978. Aaron Broches considered the most important function of the legal department to be that of ensuring that the Presidency and Board of Executive Directors observed their respective powers laid out in IBRD's Articles of Agreement. Mr. Broches' ability to mediate between the presidency and board was severely challenged when Robert McNamara assumed the presidency of the IBRD. After his retirement, Mr. Broches counseled, "When the President of the World Bank comes from the Pentagon, the role of the General Counsel becomes all the more critical in preserving the authority of the Board."²

On October 3, 2007, Ms. Karen Hudes³ informed Mr. Kenneth Peel in the US Treasury Department that "Senator Lugar's office suggested that I contact you about an escalating perception that the US does not respect rule of law in its oversight of the World Bank. Now the members of the World Bank's Board are subjected to intimidation for trying to restore rule of law at the Bank."

¹Lord Keynes, Chairman, Delegation of the U.K., Address at the Closing Plenary Session, July 22, 1944) in Proceedings of the U.N. Monetary and Financial Conference, Doc. 542, Vol. II, Bretton Woods, N.H., July 1-22, 1944, at 1240-41. Lord Keynes went on to say, "We owe a great debt of gratitude to Dean Acheson, Oscar Cox, Luxford, Brenner, Collado, Arnold, Chang, Broches and our own Beckett of the British Delegation."

² Conversation between Aaron Broches and Karen Hudes, October 5, 1995.

³ Karen Hudes was Senior Counsel in IBRD's Legal Department from 1986-2007. On May 25, 2011 Ms. Hudes testified before a hearing of the European Parliament's Committee on Budgetary Control on whistleblowing. The European Parliament's Legal Department recommended that the European Parliament inform the World Bank about the material to be used at the hearing and that all Members of the European Parliament attending the hearing receive a full version of Ms. Hudes' written contribution, including this chronology of internal control lapses. <https://s3.amazonaws.com/khudes/chronology17%5B1%5D.doc>

Earlier that day, Ms. Hudes had informed Keith Luse and Nilmini Rubin in Senator Lugar's office, Jay Branegan on the staff of the Senate Committee on Foreign Relations, Jim Greene in then Senator Biden's office, Tom Crohan in Senator Kennedy's office, and Jayme Roth in Senator Bayh's office:

"I have just returned from Holland, and learned there that Messrs. Wijffels and Melkert have informed the Dutch public that they were subjected to investigations of their private lives as a form of diplomatic blackmail. According to Mr. Wijffels, other executive directors on the World Bank's Board have been similarly intimidated. This does not augur well for the upcoming Annual Meetings that will start October 20th. I attach translations and links to the stories in Dutch.

Of course, the Volcker Panel report has not dealt with INT's record of whistleblower harassment, and only serves to discredit US probity in its oversight of the World Bank.

I would like to speak with you about my discussions with Pieter Stek on September 25 and 26 and with Riny Bus in the Dutch Ministry of Foreign Affairs on September 24th.

Wijffels angered at "digging" into his past (Novum)

9/22/2007 Herman Wijffels says that his past was delved into "in a shocking manner" this year. According to the man who formed the current Dutch cabinet, this took place during his work at the World Bank, where he chaired the committee that looked into the controversial dealings of Bank President Paul Wolfowitz.

Wolfowitz had to step down following Wijffels' inquiry into Wolfowitz' possible conflicts of interest. Wolfowitz had given his girlfriend, who also worked at the bank, a very large raise.

According to Wijffels, "third parties" tried to surface issues from his past which might have discredited him. The former head of the Rabobank did not want to provide details. But Wijffels said that the White House had played a large role in the struggle over the leadership at the World Bank.

"In my case, there was nothing to find, but my colleagues on the Board of the World Bank were dismayed. There were definite attempts at disqualification," said Wijffels.

Television Interview with Ad Melkert 9/29/07 VPRO *Buitenhof* 'Politics on the World Stage'

Ad Melkert, Deputy Director of the United Nations Development Program, and former Dutch Executive Director at the World Bank, confirmed during a fifteen minute interview with Clair Polak on this Dutch Public Broadcast program that Herman Wijffels' private life and bank accounts were subjected to investigation. Mr. Melkert added that 'very aggravating attempts' were also made to discredit him. These attempts were especially intense during the period of May through July, 2007."

A 2004 stakeholder analysis of IBRD's rule of law and governance warned that the US would no longer appoint the President of the World Bank under the "Gentlemen's Agreement" if the IBRD was not brought into compliance.⁴ The 188 members of the World Bank revoked the Gentlemen's Agreement on April 25, 2010.⁵ Ms. Hudes advised state attorneys general of the United States that the 2004 stakeholder analysis was "predict[ing] a crisis that could lead to a currency war which would affect all United States citizens."⁶

IBRD does not refute a single occurrence in IBRD's litany of escalating impunity in contempt of Congress: IBRD disregarded the Joint Economic Committee's (JEC) 2005 inquiry into IBRD's "corporate governance irregularities" and "accounting problems" and failed to follow the JEC's advice that professional financial and accounting employees be given independent access to IBRD's Board and its Audit Committee;⁷ IBRD failed to protect Ms. Hudes against retaliation for challenges of illegality or other misconduct that could threaten the bank's mission through external arbitration pursuant to the 2005 Lugar-Leahy amendment, 22 U.S.C. §262o-4;⁸ IBRD stonewalled Senator Lugar's and Congressman Van Hollen's four requests for the advice of the executive search firm following Ms.

⁴Letter dated February 26, 2007 to US Treasury Department, page 17 See <http://kahudes.net/wp-content/uploads/2012/10/151.pdf>

⁵ Development Committee Communique of April 25, 2010
<http://www.imf.org/external/np/cm/2010/042510.htm>

⁶ Letter dated August 11, 2011 to Georgia Department of Law, page 17 <http://kahudes.net/wp-content/uploads/2012/10/201.pdf>

⁷ Letter dated April 8, 2005 from the Joint Economic Committee of the US Congress to IBRD
<http://kahudes.net/wp-content/uploads/2012/10/101.pdf>

⁸May 30, 2006 email from IBRD denying Hudes' request for external arbitration
<http://kahudes.net/wp-content/uploads/2012/10/105.pdf>

Hudes' disclosure of internal control lapses during her interview for IBRD's General Counsel position;⁹ IBRD fails to confront its five-year refusal to comply with the Government Accountability Office ("GAO") inquiry into corruption requested by Senators Lugar, Leahy and Bayh .¹⁰ Congress reiterated its request for the GAO inquiry during hearings on the IBRD capital increase .¹¹

Authority of the IBRD's Board of Executive Directors

The Articles of Agreement of the International Bank for Reconstruction and Development (IBRD) confer broad powers to the Executive Directors. All of the powers of the IBRD are vested in the Board of Governors, and except for certain reserved powers regarding membership and appeals from the Board's interpretations of the Articles of Agreement, these powers may be delegated to the Executive Directors. Section 4(a) of Article V provides that "[t]he Executive Directors shall be responsible for the conduct of the general operations of the Bank, and for this purpose, shall exercise all the powers delegated to them by the Board of Governors."

The powers of the President to conduct the ordinary business of IBRD under Article V, Section 5(b) are "under the direction of the Executive Directors." "Subject to the general control of the Executive Directors, [the President] shall be responsible for the organization, appointment and dismissal of the officers and staff."

On June 4, 1947, the Executive Directors accepted in a Memorandum with Regard to Organization and Loan Procedure that "[t]he Executive Directors are responsible for the decision of all matters of policy in connection with the operations of the Bank, including the approval of loans," and "[t]he Management is responsible for developing recommendations in all matters of policy requiring decision by the Executive Directors." "Whenever, in connection with the

⁹ Letters dated April 18, 2007 and June 12, 2007 from Keith Luse, <http://kahudes.net/wp-content/uploads/2012/10/1101.pdf> and letter dated November 17, 2008 from Congressman Chris Van Hollen to the World Bank <http://kahudes.net/wp-content/uploads/2012/10/147.pdf>

¹⁰ Letter dated April 17, 2008 to GAO requested by Senators Lugar, Leahy and Bayh <http://citizenoversight.com/pdf/blwb.pdf>

¹¹September 15, 2010 Hearing of the U.S. Senate Committee on Foreign Relations, Senator John Kerry Presiding, "Banking On Reform: Capital Increase Proposals From The Multilateral Development Banks," <http://www.foreign.senate.gov/hearings/hearing/?id=33c66777-5056-a032-525a-a0a5806634e9>

operations of the Bank, decision of a question of policy becomes necessary, the President will submit such question to the Executive Directors with the recommendation of the management as to the action to be taken..."

On September 1, 2009 Ms. Hudes advised the Board of Executive Directors: "It is for the Executive Directors to determine if they are now obligated to avail of the full range of powers in the original mandate of the Executive Directors contained in the Articles of Agreement." Thereafter, security guard personnel employed by Allied Barton illegally barred Ms. Hudes from the World Bank. Allied Barton is a subsidiary of the "super-entity" documented by three systems analysts at ETH Zurich.¹² Allied Barton, under contract authorized by the Presidency of the World Bank, has no legal authority to disregard the decisions of the Board of Governors or the Board of Executive Directors of the World Bank or to disregard legislation of the United States Congress which provides for the effects of retaliation against whistleblowers to be eliminated prior to disbursement of the US portion of a capital increase for the IBRD pursuant to § 7082 of the Consolidated Appropriations Act, 2012 (Pub. L. 112-74).

There is no obligation under the Articles of Agreement for Executive Directors to wait for the President to recommend specific actions to be taken. Canada's Review of Internal Governance Conclusions and Proposals has noted that the Board remains accountable under IBRD's Articles of Agreement for delegated tasks. Moreover the Board of Executive Directors must lead by example in the

¹² STEFANIA VITALI ET AL., THE NETWORK OF GLOBAL CORPORATE CONTROL, 1-36 (2011) *available at*: http://arxiv.org/PS_cache/arxiv/pdf/1107/1107.5728v2.pdf (Last visited July 18, 2013) An analysis of the financial markets reveals that the world's finances are in the hands of just a few mutual funds, banks, and corporations. The eight largest U.S. financial companies (JP Morgan, Wells Fargo, Bank of America, Citigroup, Goldman Sachs, U.S. Bancorp, Bank of New York Mellon and Morgan Stanley) are 100% controlled by ten shareholders and we have four companies always present in all decisions: BlackRock, State Street, Vanguard and Fidelity. In addition, the Federal Reserve is comprised of 12 banks, represented by a board of seven people, which comprises representatives of the "big four," which in turn are present in all other entities. In short, the US Federal Reserve is controlled by four large private companies: BlackRock, State Street, Vanguard and Fidelity.

fight against corruption to ensure transparency as an active partner with the international community of nations.¹³

WHEREFORE, in view of the internal control lapses disclosed in this letter, the International Court of Justice is requested to issue an Advisory Opinion that would enable the Bretton Woods Institutions to avail of the full range of powers in the original mandate of the Executive Directors contained in Section 4(a) of Article V of the Articles of Agreement of the IBRD without requirement for the President first to recommend specific actions to be taken.

Respectfully submitted,

Dated: August 5, 2013

President of the World Bank

¹³ International Organization of Supreme Audit Institutions, 20th UN/INTOSAI Symposium in Vienna, Austria, February 11-13, 2009. “INTOSAI—Active partner in the international anti-corruption network; Ensuring transparency to promote social security and poverty reduction.” <http://www.intosaijournal.org/insideintosai/insideapr09.html>

