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Bretton Woods Organisations in a Changing World: A Single Seat for the European Union?

Abstract

The European Union represents a new type of regional organisation within the context of international relations. It is also an uncomfortable presence in the internal balances of the so-called “Bretton Woods” organisations – namely, the International Monetary Fund and the World Bank – because it raises several questions and issues. Foremost among these is the legitimacy of expecting that the economic and monetary integration within the EU should be reflected in its political and voting representation within these institutions. Secondly, the creation of a single representation of the EU (or the “Euro Area”) encounters numerous legal challenges, both within the framework of EU law and in international law regulating these international organisations. Thirdly, any potential solution must take into account the historical relationships among the EU Member States, as well as their interactions with third countries. However, addressing these problems appears to be an unavoidable knot not only in the process of remodelling the two organisations, but also in updating them to meet the needs of the new millennium. It is a knot which must be untied both by considering the European Union a possible precursor of other regional aggregations that are evolving along the same model in other key regions of the world,

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The following article reflects the geopolitical situation as at 31 December 2024.

and by accepting the EU's unique characteristics, which to date make it an unparalleled model of state integration. The European Union, as a subject of international law and a potential member of the Bretton Woods institutions, exhibits characteristics that significantly deviate from the classical definition of a state. These distinctive features render the Union, as articulated by its Court of Justice in the landmark 1963 *van Gend & Loos* case, a "legal order of a new kind in the field of international law". This characterisation positions the Union as a laboratory for the development of innovative solutions, particularly in the realm of external representation, and as an unprecedented phenomenon in the domain of international relations.

Keywords: EU Law, Bretton Woods, Euro Area, IMF, Regional Organisations

Introduction

The European Union represents a new type of regional organisation within the context of international relations. It is also an uncomfortable presence in the internal balances of the so-called "Bretton Woods" organisations – namely, the International Monetary Fund and the World Bank – because it raises several questions and issues. Foremost among these is the legitimacy of expecting that the economic and monetary integration within the EU should be reflected in its political and voting representation within these institutions. Secondly, the creation of a single representation of the EU (or the "Euro Area") encounters numerous legal challenges, both within the framework of EU law and in international law regulating these international organisations. Thirdly, any potential solution must take into account the historical relationships among the EU Member States, as well as their interactions with third countries. However, addressing these problems appears to be an unavoidable knot in the process of remodelling the two organisations and their being updated to meet the needs of the new millennium. It is a knot which must be untied both by considering the European Union a possible precursor of other regional aggregations that are evolving along the same model in other key regions of the world, and by accepting the EU's unique characteristics, which to date make it an unparalleled model of state integration. The European Union, as a subject of international law and a potential member of the aforementioned Bretton Woods institutions, exhibits characteristics that significantly deviate from the classical definition of a state. These distinctive features render the Union, as articulated by its Court of Justice in the landmark 1963 *van Gend & Loos* case, a "legal order of a new kind in the field of international law". This characterisation positions the Union

as a laboratory for the development of innovative solutions, particularly in the realm of external representation, and as an unprecedented phenomenon in the domain of international relations.

The Union's Competence to Join the Two Bretton Woods Organisations

The debate surrounding the European Union's (EU) potential membership in the Bretton Woods institutions spans more than two decades. Within the field of EU external relations law, the initial focus is an evaluation of the Union's competence. According to the principle of conferral, as outlined in Article 5 of the Treaty on European Union (TEU), the Union "shall act only within the limits of the competences conferred upon it by the Member States in the Treaties". This is further informed by the principle of parallelism between internal and external competences, as developed by the European Court of Justice (ECJ) and reflected in Article 3.2 of the Treaty on the Functioning of the European Union (TFEU). This article stipulates that "the Union shall also have exclusive competence for the conclusion of an international agreement when its conclusion is provided for in a legislative act of the Union, or is necessary to enable the Union to exercise its internal competence, or insofar as its conclusion may affect common rules or alter their scope". Therefore, when a competence, whether concurrent or not, has been exercised, a corresponding external competence becomes exclusive for the EU in accordance with the principle of pre-emption (Rossi, 2007).¹

While the exclusive nature of the EU's competence in monetary policy is undeniable – particularly as outlined in Article 3(c) of the TFEU, and applicable only to those Member States whose currency is the euro – this presents a challenge due to the existence of a dual standard for Member States, depending on their status as members (or non-members) of the Euro Area.

An even more complex issue concerns the European competence in economic policy, a broad area that, in the European treaties, could encompass the internal market and the movement of capital as well as trade policy and, finally, the coordination of national economic policies. These competences are, in fact, diverse in their nature – trade policy has long been an exclusive competence of the Union; the free movement of

¹ This established line of jurisprudence originated with the judgment of 31st March 1971 in *Commission v. Council* (also known as "AETS"). The phenomenon whereby external competence arises from the prior internal exercise of competence is referred to as "pre-emption".

capital across external borders has been a treaty-established right since 1992, with the Union alone holding the authority to suspend it in cases where it threatens monetary stability. Finally, in terms of macroeconomic policy *lato sensu*, it is important to highlight the increasing coordination of national macroeconomic policies within the European Council² and for the countries of the Euro Area, within the Eurogroup and the established Euro-summit. However, it is difficult to qualify this specific competence as concurrent or complementary, with the TFEU itself preferring to make it a “special case” (Article 5 TFEU).

EU Competences and the IMF

Which segments of economic policy are of interest for the purposes of participation in the International Monetary Fund (IMF)? Based on Article I of its Articles of Agreement, monetary policy appears to be at the forefront. Additionally, albeit more generally, macroeconomic policy, particularly matters related to the balance of payments, is also central, with the overarching goal of ensuring the stability of monetary systems. The consultations under Article IV of the IMF’s Articles of Agreement, which involve an in-depth examination of national economic data, are aimed at promoting global monetary stability, which is the mission entrusted to the IMF. In fact, since 1971, with the cessation of the management of the exchange rate mechanism, it could be argued that surveillance and crisis management have become the core functions of the institution (Perfetti, 2006).

The unified representation of the Euro Area within the IMF context appeared to be a natural legal progression of European monetary integration from the outset, as the Eurozone states no longer possessed all the necessary requirements to fulfil the obligations outlined in the IMF’s Articles of Agreement (Smits, 2007; Martha, 1993; Mann, 1992).³

² The Treaties reference the “broad guidelines for the coordination of the economic policies of the Member States and of the Union”, which are adopted annually pursuant to Article 121 TFEU. These guidelines are complemented by implementing provisions that serve as the preventive component of the Stability and Growth Pact, as well as the annual coordination process known as the European Semester.

³ For example, Article IV of the IMF’s Articles of Agreement outlines “Obligations regarding exchange arrangements”, while Article VIII details the “General Obligations of Members”, which include the avoidance of restrictions on current payments, the prohibition of discriminatory currency practices, the convertibility of foreign-held balances, the furnishing of information, consultation between members regarding existing international agreements, and the obligation to cooperate on policies concerning reserve assets. In turn, the IMF holds the corresponding right

From the outset of European monetary unification, practical arrangements have been established to integrate the new currency union into the IMF framework, particularly regarding the exchange of information and statistical data (ECB Annual Report, 1998). Since January 1999, official discussions have taken place between the IMF and the European Central Bank (ECB) concerning the monetary and exchange policies of the Euro Area. Since November 2000, the ECB has held the status of “other holder” of Special Drawing Rights (SDR),⁴ and may exchange these rights against freely usable currencies. The so-called “Article IV Consultations with Member Countries” are now also conducted as part of Euro-Area policies within the framework of these consultations. Consequently, the IMF engages not only with the national authorities of Member States but also with representatives from the EU Commission, the European Central Bank (ECB), the Economic and Financial Committee, and the Eurogroup (Holder, 1997).⁵

There is no doubt that the Union has solid arguments for exercising an international role that responds to the need for coherence in the internal and external management of economic and monetary policy (Basso, 2001), and that, alongside an external competence expressly attributed in the field of monetary policy, there exists a broader, macroeconomic competence that is integral to the exercise of the former. This interdependence between economic policy and monetary policy, moreover, appears clear to the authors both in the purposes of the IMF and in the methods of its operation.

Moreover, in recent cases, the European Court of Justice (ECJ) has acknowledged the fluidity of the boundary between economic and monetary policy, as seen in the *Pringle* (Koedooder, 2013; Lo Schiavo, 2013), *Gauweiler* (Borger, 2016; Craig, Markakis, 2016; Martucci, 2015), and *Weiss* (Mooij, 2019) cases, as well as the ruling of the German Constitutional Court (Avbelj, 2020; Smaghi, 2020; Fabbrini, Keleman, 2020; Maduro, 2020). Of particular interest is the ECJ’s use of a teleological interpretive approach to expand the competences of the European Central Bank (ECB) to include extraordinary crisis management (economic policy) emphasising its close correlation with financial stability – again, an aspect of economic policy – viewed as a prerequisite for the effective management of monetary policy. Applying the same criterion to the IMF Articles of Agreement we could easily conclude that its competence in

to supervise the fulfillment of these obligations and may, for this purpose, request its members to provide all the necessary information.

⁴ Art. XVII sect. III of Articles of Agreement.

⁵ See *The Relationship between Union and the IMF in Stage III: Issues and Options*, Brussels, 27.06.1997, II/316/97-EN or IMF.org, 2001.

economic policy is subservient to the notion of financial stability, this being highly relevant for both the Union and the ECB.

Does the Union have the competence to assume member status of the IMF? Answering in the affirmative is unavoidable; a specific legal basis in Article 138 TFEU expressly provides for the adoption of “common positions on matters of particular interest to economic and monetary union within the competent international financial institutions and conferences,” as well as the provision to “ensure unified representation” and to safeguard “the position of the euro in the international monetary system”. The IMF seems to be the most logical context in which this provision is expected to be applied. However, the rule does not extend to external competences related to the management of exchange rates, nor the conclusion of formal agreements on exchange rates, nor the monetary or foreign exchange regime, which are explicitly addressed in Article 219. The rationale for a separate provision lies in the distinct decision-making procedure established for these matters, which involves a specific balance among the relevant European institutions.

A thornier question arises next: Given the European Union’s competence to join the IMF, is there any residual competence of the Member States that justifies their continued membership? In the authors’ view, for the Eurozone countries, the answer is no. This conclusion is supported by two main factors: the pre-emption principle in EU law and the redundancy of IMF membership under the IMF treaty. The situation is different for EU Member States outside the Eurozone, which presents a difficulty; unlike the EU, the Eurozone is not recognised as an international legal actor.

In the absence of a formal decision based on Article 138, it unfortunately remains the responsibility of the Member States to manage their own external relations in economic and monetary policy. The only exception to this is exchange rate policy, which, according to the combined provisions of Articles 127(2) and 219, falls entirely under the competence of the European Central Bank (ECB).

The EU Joining the World Bank

As regards the competence of the Union to join the World Bank – or, more precisely, the International Bank for Reconstruction and Development (IBRD) – the relevant legal foundations are located in another section of the Treaty – namely, the section concerning development cooperation. In this case, there is no doubt that the Union is provided with a concurrent competence grounded on Article 208 of the TFEU. According to this provision, the actions of the Union and those of its Member States

complement and reinforce each other. Indeed, the Treaty seems to warn of the opposite, since in Article 4 TFEU, which lists concurrent competences, a specific clause in the last paragraph provides that in the areas of development cooperation and humanitarian aid, “the Union shall have competence to carry out common actions and a common policy, without the exercise of that competence having the effect of preventing Member States from exercising theirs”. This express provision for two parallel competences – one belonging to the Member States and one belonging to the Union – serves to configure a clear exception to the principle of pre-emption, characteristic of concurrent competences, according to which the progressive occupation of internal or external competences originally shared with Member States precludes those states from exercising them in the same areas.

The conduct of economic, financial, and technical cooperation actions including financial assistance – also with third countries other than developing nations – is also expressly provided for by Article 212 TFEU. Under these two legal bases, both the Union and the Member States collaborate with the relevant international organisations and have the authority to conclude agreements. In such instances, coordination and cooperation between them are expected. Consequently, while both competence and tools are expressly provided for, there is no compelling justification for the Union to adopt a single voice, nor for Member States to relinquish their membership. This principle also applies to any international development bank or other organisations when Title III of Part V of the TFEU is invoked, as it anticipates both the coordination of Member States within the relevant international organisations and the cooperation between the Union and its Member States. Therefore, no provision suggests that a stronger Union presence would necessitate a progressive withdrawal of Member States.

Therefore, the European Union *does* possess the competence to join the Bank; however, its presence does not exclude or limit the competence of the individual States to remain members in principle. Naturally, this is not an insurmountable obstacle should the Member States themselves choose to delegate a unified body to represent them. However, this would require a stronger political will, not driven by the same necessity that characterises the IMF’s situation. It is also easy to imagine that other member countries of the Bank would likely oppose a scenario in which both the Union and the Member States are present, as it could diminish their own influence and voting rights.

The Union and the Euro Area

The second order of difficulty primarily concerns, especially in relation to the IMF, the differing tempos that characterise the management of monetary policy both internally and externally. Indeed, the competence over monetary policy of the Member States that do not belong to the Euro Area is indisputable, as the indivisibility of this policy requires it to be exercised in its entirety either at the national level or at the European level. This division is marked by the definitive establishment of a conversion rate, which serves as a clear distinction between the two forms of management. This is true even though the countries with a derogation can choose to participate in instruments specific to the Euro Area, as demonstrated with the European Stability Mechanism⁶ and the treaty known as *the Fiscal Compact*.⁷

Although all Member States have a seat on the Council of the Union, it is under Article 139 that only Euro Area countries have the right to vote in certain cases relating to economic and monetary policy, particularly when managing the position of the euro in the international monetary system. This includes situations outlined in subparagraphs “g” (monetary agreements and other measures related to exchange rate policy, Article 219), “i” (decisions defining common positions on matters of particular interest to economic and monetary union within the competent international financial institutions and conferences, Article 138, paragraph 1), and “j” (measures to ensure unified representation within international financial institutions and conferences, Article 138, paragraph 2).⁸

⁶ The Treaty establishing the European Mechanism of Stability, based on paragraph 3 of Article 136 *TFEU*, specifically added to the *Treaty* by the European Council on 16th December 2010, was signed on 2nd February 2012 by the 17 members of the Euro Area.

⁷ This refers to the Treaty signed by the heads of government of 25 member countries of the Union on 2nd March 2012, whose full name is *Treaty on Stability, Coordination and Governance in the Economic and Monetary Union*, which aims to strengthen budgetary discipline within the signatory countries.

⁸ The other hypotheses of non-participation in the deliberations concern: a) adoption of the parts of the broad guidelines for economic policies which concern the euro area in general (Article 121, paragraph 2); (b) binding means to correct excessive deficits – Article 126(9) and (11); (c) objectives and tasks of the ESCB – Article 127(1), (2), (3) and (5); (d) issuance of the euro – Article 128; (e) acts of the European Central Bank – Article 132; (f) measures relating to the use of the euro – Article 133; (g) designation of the members of the Executive Board of the European Central Bank – Article 283(2); and (h) recommendations addressed to the Member States whose currency is the euro in the framework of multilateral surveillance, including stability programmes and warnings – Article 121(4); b) measures relating

Even in economic policy, additional cooperation within the Eurogroup is a natural consequence of the fact that euro area countries represent, in economic terms, a community of destiny more than the Union as such, a reality that events such as the sovereign debt crisis in 2010 made even more evident. To be precise, we must acknowledge that all Member States participate to some degree in the project of the Economic and Monetary Union (EMU), as they can join the common currency once the conditions specified in Articles 140 and 126 TFEU are met. It is noteworthy that, according to Article 142 TFEU, “Each Member State with a derogation shall treat its exchange rate policy as a matter of common interest”. However, since the Maastricht Treaty, two countries – specifically, the United Kingdom and Denmark – have benefited from a special exemption clause, known as an opting-out provision, which grants them the right to decide whether and when to enter the third stage of EMU. Following Brexit, this special status now applies only to Denmark. Those Member States that have not yet entered the third phase of the Economic and Monetary Union (EMU) retain, albeit for a limited period if they are countries with a derogation, their monetary sovereignty. However, in the case of Denmark, this sovereignty is potentially permanent.

The placement of Article 138 TFEU, which addresses the position of the euro in the international monetary system, within the chapter containing “specific provisions for States whose currency is the euro”, clarifies the scope of the provision itself. However, any decision made under this provision is attributed to the Union, rather than being the result of a collegial exercise of competence by a group of Member States. The decision-making body remains the Council of the Union, although the voting rights of some members may be suspended. The Eurogroup, on the other hand, does not have the competence to adopt legally-binding acts.

In the hypothesis provided for by the rule, therefore, Member States with a derogation maintain the right to have an autonomous position at the international level, an inevitable consequence of the fact that they retain monetary sovereignty. However, the duty to coordinate their positions with those of the Eurozone countries is a consequence of numerous articles of the Treaty.⁹ As regards economic policy, the duty to coordinate national

to excessive deficits concerning Member States whose currency is the euro – Article 126(6), (7), (8), (12) and (13).

⁹ First of all, according to Article 124, Member States – until the beginning of the third stage and also afterwards if they are subject to a derogation – treat their exchange rate policy as “a matter of common interest”. The coordination of monetary policies, more generally, is then the responsibility of the General Council of the ECB, which ensures the continuation of the tasks of the EMI which, due to the persistence of

policies is not configured differently for Member States with and without a derogation or the option of *opting out*.¹⁰ The fact that such coordination duties are first and foremost provided for at the internal level, as can be seen from the context, certainly does not constitute a limit to their application in the adoption of external positions that could be implicitly deduced from the Treaty and derive from the need to involve all Member States in the deliberation process.

The authors of this article align with those who argue that a perfect replication of the distribution of competences at the international level, as it exists at the internal level, is not necessary (Louis, 2009). The legal bases provided by the Treaties themselves support this view.

A practice supporting this view is evident in certain positions taken by the Economic and Financial Committee, a body established under Article 134.2, second indent, of the TFEU. This committee monitors the economic and financial situation of both the Member States and the Union, reporting to the Council and the Commission, “in particular on financial relations with third countries and international institutions.” These “statements”, referred to as “common understandings”, reflect the proactive formulation of a European position to be presented at the International Monetary and Financial Committee (IMFC) on issues of general interest, such as moments of reform within the Fund or its instruments.¹¹ However, a potential conflict of interests cannot be excluded, both between Eurozone countries and countries with a derogation and, even more so, between the former and the countries benefiting from *opting out*.

Such problems do not arise in relation to participation in the institutions of the World Bank Group, since Union development cooperation is of equal concern to all Member States.

derogations (or similar situations such as *opting out*) still have to be performed during the third stage (Articles 44 and 47.1 of the ESCB Statute).

¹⁰ It derives from Articles 98, 99.1, and 202. The regulatory coverage is such that there does not appear to be any margin of application for the obligation of cooperation provided for by Article 10 (formerly Article 5), which operates on a residual basis and could be invoked at most to strengthen the scope of the provisions referred to.

¹¹ EFC *Common Understanding Private Sector Involvement: From General Principles to Implementation*, EFC/ECFIN/118/01 – Final, Brussels, 9.04.2001; ECONOMIC AND FINANCIAL COMMITTEE – THE SCIMF, *Common Understanding Strengthening the Effectiveness of IMF Surveillance*, ECFIN/EFC/300/03-REV3, Brussels, 16.09.2003; ECONOMIC AND FINANCIAL COMMITTEE – THE SCIMF *Common Understanding HIPC: Methodology for Topping-Up, Financing and Related Issues*, ECFIN/EFC/254/03-REV5, Brussels, 16.09.2003. The acronym SCIMF stands for Sub-Committee (of the IMF) as established by the Economic and Financial Committee, and as clarified in the following paragraph.

The Institutions Representative of the EU

Article 138 TFEU does not resolve, but rather leaves open the question of the role of the European institutions, particularly regarding the distribution of representation tasks among them. Article 138.2 simply states that the Council will take any and all appropriate measures.

The key actors in the Union's external relations are primarily the representative bodies of the President of the European Council and the High Representative. However, at the decision-making level, the responsibility for concluding agreements and adopting statements and common positions lies with the political institutions – namely, the Council, the European Council, the Parliament, and the Commission. While the Lisbon Treaty has enhanced horizontal procedures, it has not eliminated the rules and procedures specific to individual policies.

For matters of particular interest to the economic and monetary Union, under Article 138, the main decision-maker is the Council, which acts on proposals from the Commission after consulting the European Central Bank. However, in matters of exchange rate policy, the inertia of the Council in acting under Article 219 translates into the full competence of the ECB within its general responsibility to ensure the stability of the euro.

Within the IMF, the ECB enjoys observer status in both the Executive Board (EB) and the International Monetary and Financial Committee (IMFC),¹² which allows it to send an (invited) representative to meetings and to address the EB with the permission of the chairman on matters falling within the responsibility of the ECB. Written statements may be circulated in advance and added to the recording with the chairman's permission.¹³ All the aforementioned activities seem to show that the ECB contributes to the activity of the IMF as a representative of the Euro Area in the field of monetary policy, projecting on the international level its policies as adopted by the General Council. When it comes to economic policy, the ECB's position might be regarded as an original contribution which nonetheless is fed by its continuous exchanges of views with the Council of the Union and the Commission.¹⁴ Moreover, ECB observers at

¹² See: Annex II.

¹³ See: the Eurosystem's contribution to the "Code of Good Practices on Transparency in Monetary and Financial Policies", adopted by the IMF Interim Committee on 26th September 1999, and mentioned by Tommaso Padoa-Schioppa in his introductory statement at the Sub-Committee on Monetary Affairs European Parliament, Brussels, 17th March 1999. On this topic, see also: Escudero, 2016, pp. 469–499.

¹⁴ The ECOFIN Council, i.e., the Council meeting of finance ministers, can take formal decisions related to the economic and financial policies of the EU. According

meetings of the IMFC hold an informational role, as they are consulted by non-EU IMF members to clarify issues pertaining to the Euro Area. The ECB's permanent representative in Washington, D.C., is appointed by the Executive Board of the ECB.

Furthermore, the Union's position is officially presented to the Board of Governors of the IMF by the rotating presidency of the Council during annual and spring meetings. Meanwhile, the Commissioner for Economic and Monetary Affairs, who is generally responsible for coordinating the member countries' representation in international financial institutions, participates as an observer in the IMF's ministerial committees.

Two documents by the European Commission outline the goal of a more integrated and coherent participation of the Union in the IMF's decision-making bodies: the *Communication from the Commission – A Roadmap for Moving Towards a More Consistent External Representation of the Euro Area in International Fora* (COM(2015) 602 final), and the *Proposal for a Council Decision Laying Down Measures in View of Progressively Establishing Unified Representation of the Euro Area in the International Monetary Fund* (COM(2015) 603 final). Indeed, these more recent documents were issued more than fifteen years after the Commission's earlier *Proposal on the Representation and Position Taking of the Community at the International Level in the Context of Economic and Monetary Union* (COM(1998) 637 final), which was adopted at the outset of European monetary unification in 1998. Despite the length of time between the two sets of proposals, they share a common theme – namely, limited or no follow-up action by the Council.

to the TFEU Treaty, the President of the ECB attends Council meetings whenever the Council discusses matters relating to the objectives and tasks of the ECB. The Treaty also provides for the President of the Council to participate in the meetings of the Governing Council without a right to vote. The decisions of the ECOFIN Council are prepared by the Economic and Financial Committee (EFC), which brings together senior national representatives from finance ministries and central banks, as well as senior officials from the European Commission and the ECB. The EFC plays a key role in reviewing the economic and financial situation of the Member States and also coordinates the EU positions in international fora. The ECB is also a member of the Economic Policy Committee (EPC), which plays a key role in preparing the ECOFIN Council's deliberations in the area of structural reforms and enjoys an observer status in the Financial Services Committee (FSC), involved in the preparation of ECOFIN decisions in the field of financial services and supervision. The ECB is in regular contact with the Commission and exchanges views with Commission representatives; the Commissioner for Economic and Monetary Affairs may participate in the meetings of the Governing Council without the right to vote. Beyond these formal contacts, the ECB has established a number of informal working contacts with the Commission services (see: e.g., the ECB Monthly Bulletin "10th Anniversary of the ECB", 2008, p. 28).

For development cooperation policy, as outlined in Article 209, the decision-making process is shared equally between the Council and the Parliament, both of which must reach a consensus on a proposal put forward by the Commission through the ordinary legislative procedure. Additionally, Article 210 stipulates that, “In order to promote the complementarity and efficiency of their action, the Union and the Member States shall coordinate their policies on development cooperation and shall consult each other on their aid programmes, including in international organisations and during international conferences”.

In any case, the High Representative, along with the service under their authority – specifically, the European External Action Service – are designated as the official negotiators and are responsible for liaison activities. Additionally, the responsibility for top-level representation lies with the President of the European Council.

In addition to the usual (and complex) array of institutional bodies involved on the European side in the conduct of external relations, the European Central Bank is also incorporated, as its Statute grants it explicit authority over the day-to-day management of the external aspects of monetary policy. This is addressed through Article 6,¹⁵ specifically intended to address transnational cooperation among central banks (Cafaro, 2022). However, akin the Member States, which themselves have often been represented in the Board of Governors by the governors of the Central Banks on behalf of their respective Governments, the Union could attribute this role to the ECB and its President, following a decision at political level, i.e., by the Council. Instead, the Council itself could decide that representation in the Board of Governors of the IMF should be the responsibility of the Presidency of the Ecofin Council (i.e., the Finance Minister of the country holding the rotating presidency) or – as the authors believe preferable – the Commissioner responsible for economic and monetary affairs. Similarly, in the World Bank, this role would fall under the responsibility of the Commissioner responsible for development cooperation.

In the field of macroeconomic policy, the Treaty does not deal with external projection, except in relation to development cooperation and economic, financial, and technical cooperation with third countries. These areas are not exceptions to the usual principles and procedures for

¹⁵ Pursuant to Article 6 of the Statute of the ESCB: “6.1. In the field of international cooperation involving the tasks entrusted to the ESCB, the ECB shall decide how the ESCB shall be represented. 6.2. The ECB and, subject to its approval, the national central banks may participate in international monetary institutions. 6.3. Articles 6.1 and 6.2 shall be without prejudice to Article 138 of the Treaty on the Functioning of the European Union”.

the Union's external action. Where coordination activities are envisaged, it is up to the Commission to play the role of promoter and be in control.

Finally, the political issue is that Member States are required to step back from the role they currently play in the two organisations. This must happen to free up both the space that the Union will occupy, and to dispel any doubts and fears regarding a further overrepresentation of European interests.

The Use of Soft Law for Policy Coordination

Thus far, coordination among Member States appears to be the prevailing practice. Informality offers distinct advantages (Garner-Knapp, Mason, Mulherin, Visser, 2024), as evidenced by the fact that this form of coordination leads to joint statements far more frequently than official decisions do. These soft-law instruments, serving as economic and monetary coordinating tools, play a crucial role within the EU's framework and its interaction with the Bretton Woods institutions. "Soft law" refers to non-binding norms, guidelines, recommendations, or principles that, although not legally enforceable, can significantly influence behaviours and decision-making. While these instruments do help to shape state and institutional practices, they lack the coercive force characteristic of "hard law" (Terpan, 2019).

Examples of soft law within the EU include the European Semester, and the Stability and Growth Pact (SGP). The European Semester is an annual process of economic and fiscal policy coordination in which the EU issues recommendations to Member States; however, these recommendations are not legally binding. Similarly, the Stability and Growth Pact, while establishing fiscal limits for EU countries, incorporates soft law elements, such as providing non-binding recommendations to states that exceed fiscal deficit or debt thresholds (Hodson, Maher, 2024). While the EU and its Member States are often involved in formal decision-making and negotiation processes within the IMF and World Bank, they also engage in shaping global economic governance through non-binding tools. This is particularly evident when the EU seeks to influence policy and governance.

The EU's soft law mechanisms, such as the European Semester, play a significant role in shaping the policies of Member States, which in turn affects their approach to international economic and monetary policy coordination within institutions such as the IMF or World Bank (Schelkle, 2007). Additionally, the EU engages in consensus-building by advocating for greater flexibility in the application of IMF policies, particularly

regarding fiscal austerity, social spending, and the conditionalities attached to IMF loans. In this regard, the EU employs its own soft law instruments as a model for how countries should be permitted to implement reforms and manage their economies (Giannini, 2002).

Hence, in economic and monetary coordination, soft law allows for more flexibility and adaptation when compared to hard law (Alberti, 2018; Emily, 2014; Schäfer, 2006). This flexibility is especially relevant in the global context of the Bretton Woods institutions, where countries have diverse economic structures, policy preferences, and development stages. The EU's use of soft law provides a mechanism for shaping policies without the need for binding international agreements, making it a useful tool for coordination within the global economic system. This approach enables the EU to influence global norms, according to the well-known Brussels Effects doctrine. The EU's use of soft-law instruments in the economic sphere, particularly regarding fiscal and monetary policies, serves as a model for how soft law can be used to shape broader global economic norms, including in the IMF and World Bank (Lombardi, Woods, 2008). Moreover, by advocating for policies such as green financing, social spending, and sustainable development, the EU actively promotes these values within the Bretton Woods framework through soft law, encouraging IMF and World Bank programs to reflect these priorities.

Thanks to these soft law instruments and mechanisms, the executive directors of the World Bank and the IMF meet regularly and coordinate their actions through them. Since 2005, the unified position of the EU has consistently been represented by the Euro-Area executive board members at the IMF. This happens via a coordination mechanism called EURIMF, and has done so since 2007 (ECB, 2011). This coordination body holds regular meetings involving the executive directors of the countries of the Euro Area.

Meanwhile, in Brussels, the Economic and Financial Committee, which was established under Article 134 TFEU, is responsible for monitoring the economic and financial situation of the Union and promoting policy coordination among the Member States. This institution serves as the venue for coordinating European positions in international economic fora. It functions as a platform for discussion and interaction between political and monetary institutions, as it holds competence in areas such as monetary and financial policies, economic policies, and the free movement of capital. The institutions represented within this body carry out various tasks, with all Member States being represented, alongside the Commission and the European Central Bank. Within the Committee,

a Sub-Committee on the International Monetary Fund and related issues (SCIMF) directly interacts with EURIMF. The regular communication and exchange of information between the working group in Brussels and EURIMF is facilitated by the systematic involvement of the EURIMF President in the work of the SCIMF. The conclusions of the discussions held within the SCIMF are communicated to the European Executive Directors of the IMF, providing key insights to be considered when making decisions in the IMF's Executive Board. The primary issues addressed by SCIMF members include the evolving role of the IMF, periodic quota revisions, potential governance reforms, and preparations for G20 meetings.

In summary, soft law plays a pivotal role as an economic and monetary coordinating tool for the EU, both within its internal framework and in its interactions with the Bretton Woods institutions. Although non-binding, these tools can effectively influence state behaviour, shape global economic norms, and foster policy coordination among EU Member States and third countries. The EU, then, through its so-called “soft law mechanisms”, particularly in the economic and fiscal domains, often complements the more formal, binding agreements within the IMF and World Bank. These mechanisms contribute to creating a more flexible and responsive system for addressing global economic challenges. As such, in the context of the EU's involvement in the IMF and World Bank, soft law and soft coordination play a significant role both in Washington, D.C. and in Brussels.

Conclusions: Suggestions for a Formula for the Membership of Regional Organisations in International Financial Institutions

The accession of the EU or the Eurozone to the IMF and the World Bank could set an important precedent, potentially paving the way for the inclusion of regional organisations within these institutions (Viterbo, 2006). It would, therefore, be worthwhile to amend the Statutes to accommodate this possibility, introducing a provision in the article on accession that is not limited to specific cases but also considers regional organisations as potential members. These organisations could represent two or more states or function alongside Member States, contributing added value to the organisation.

Two categories of collective members can be envisaged: (i) regional integration organisations, such as the European Union, to which Member States are willing to transfer their membership; and (ii) specialised

regional organisations whose objectives align with the mandate of the universal organisation.

Without listing the vast range of regional bodies that represent different stages of integration, we limit ourselves to recalling – falling into the first category – the European Union which, following a manifestation of will in this sense, should be able to replace its members.

In the long term, it would be beneficial for the IMF to consider the possibility of other monetary unions, both those currently existing and those in the process of being established, joining the organisation (Comba, 2007; Diatta, 2007).

Among these, it might be worth mentioning the two African areas that are under the control of the Central Bank of États de l’Afrique de l’ Ouest and the Banque from States of Central Africa,¹⁶ to which is added the more recent Eastern Caribbean Currency Union.¹⁷

It is no coincidence that the practice established with regard to the Euro Area, which involves periodic consultations pursuant to Article IV, is informally replicated with the other three existing monetary areas, albeit without the same official status. There appears to be an ongoing evolution aimed at transforming this practice into a more formal regulatory development (Viterbo, 2006).¹⁸

Other regional political and economic integration organisations may seek to join one or the other of these institutions in the future, potentially replacing their member states. Specifically, with regard to the World Bank, there are numerous specialised organisations that, due to the similarity of their objectives, could add value by working in a coordinated and synergistic manner with the Bank (as outlined in the “ii” hypothesis above).

¹⁶ A group of eight and another group of six African countries, respectively, serve as issuing institutions for the CFA franc. The first group comprises Benin, Burkina Faso, Côte d’Ivoire, Guinea-Bissau, Mali, Niger, Senegal, and Togo, all members of the West African Economic and Monetary Union (UEMOA), headquartered in Dakar, Senegal. The second group includes Cameroon, the Central African Republic, the Republic of Congo, Gabon, Equatorial Guinea, and Chad, which are members of the Economic and Monetary Community of Central Africa (CEMAC), with its headquarters in Bangui, Central African Republic.

¹⁷ The latter is a development of the Organisation of Eastern Caribbean States, which recently evolved into an economic and monetary union. The currency area includes Antigua and Barbuda, Dominica, Grenada, St. Kitts and Nevis, St. Lucia, and St. Vincent and the Grenadines. The management of the common currency is entrusted to the Eastern Caribbean Central Bank, the issuing institution of the East Caribbean dollar.

¹⁸ A proposal to this effect was submitted to the Executive Committee on 21st December 2005, see: the document *Fund Surveillance over Members of Currency Unions Prepared by the Policy Development and Review and Legal Departments*.

Among these are various regional development banks, some of which already incorporate models of cumulative participation for both states and international organisations in their statutes. A further precedent can be found in the WTO Statute which allows for the participation of customs territories, provided they possess “full autonomy in the management of their external trade relations and the aspects covered by this Agreement and the Multilateral Trade Agreements.” (Viterbo, 2006).¹⁹

In conclusion, given the fluidity of the international community and the increasing number and evolution of collective actors within it, it seems appropriate for both Statutes to amend their Article II to allow for autonomous and differentiated participation, enabling both states and international organisations with international legal personality, autonomy, and the capacity to fulfill the obligations outlined in the Statutes, to participate. The specific modalities of access could be determined at the time of accession, based on agreements between the IMF, the World Bank, and the organisation requesting accession.

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– Prof. Susanna Cafaro authored the sections titled “EU Joining the World Bank,” “The Union and the Euro Area,” “The Institutions Representative of the EU”, and “Conclusions: Suggestions For a Formula for the Membership of Regional Organisations in International Financial Institutions.”

– Francesco Spera authored the sections titled “The Union’s Competence to Join the Two Bretton Woods Organisations,” “EU Competences and the IMF” and “The Use of Soft Law for Policy Coordination.”

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¹⁹ See art. XII “Accession” in the Agreement establishing the World Trade Organisation. In more general terms, Regional Trade Arrangements are contemplated in art. XXIV of the GATT and in the Understanding on the interpretation of art. XXIV of the GATT 1994.

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