

### Section III

## UNITING, DISSOLUTION AND SEPARATION OF STATES

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## UNIFICATION, DISSOLUTION ET SEPARATION D'ETATS

### 1. United Nations Educational, Scientific and Cultural Organization<sup>1</sup>

#### *Comments referring to the uniting and dissolution of the United Arab Republic (Egypt and Syria)*

Concerning . . . succession of States to public debts, it may interest the Special Rapporteur on the subject to know that when in 1958 Egypt and Syria unified under the name of the United Arab Republic to become a single Member State of Unesco, the arrears of contributions due to the Organization from Egypt and Syria before their union came into being was treated as a liability of the United Arab Republic.

On the other hand, consequent upon the resumption in October 1961 by Syria of membership of the Organization as a separate State the contribution attributable to the United Arab Republic for the unexpired portion of the 1961-1962 biennium was divided five-sixths for the United Arab Republic (Egypt) and one-sixth for Syria.

This division was on the basis of a scale of assessment for 1962, 1963, and 1964 recommended to be attributed to the two States by the United Nations Committee on Contributions.

With regard to the succession of States to public property, the Organization does not have any information or documents which could be useful to the Special Rapporteur on the subject.

### 2. World Bank (International Bank for Reconstruction and Development)<sup>2</sup>

#### *(a) General comments referring to uniting, dissolution and separation of States*

#### *Memorandum*

Another situation in which the Bank has been confronted with the problem of state succession in its lending operations is on the separation of a federation, or a single state, which has an agreement with the Bank, into two

<sup>1</sup> Observations transmitted by letter of 9 October 1974 from the Director of the Office of International Standards and Legal Affairs of UNESCO.

<sup>2</sup> Observations transmitted by letter of 25 March 1974 from the General Counsel of the IBRD.

or more states. The Bank has taken the position that the states resulting from such a division remain jointly and severally liable for the obligations to the Bank of the federation or the state of which they were originally a part. However, the Bank has been willing to discuss the division of the original obligation among the resulting states. The Bank has also encountered the converse situation in which a single state or dependent territory with which the Bank has an agreement becomes part of a federation. The following examples, a number of which relate to the separation or merger of dependent territories, illustrate these situations.

**(b) *Comments referring to the People's Republic of Bangladesh***

*Memorandum*

Five development credits made by the International Development Association to the People's Republic of Bangladesh between October, 1972 and January of this year concern projects which are located in whole or in part in Bangladesh. These credits are in total or partial replacement of credits previously made to the Islamic Republic of Pakistan for these projects and in respect of which withdrawals had been suspended following the outbreak of civil war.

With respect to membership, the Bank group has taken the position that on achieving independent statehood, a former dependent territory ceases to be included in the metropolitan country's membership of the Bank group and, if it wishes to become a member, has to acquire membership in its own right. The same is true in the case of separation or secession as, for example, in the recent case of the People's Republic of Bangladesh or the earlier case of the separation of India and Pakistan.

**(c) *Comments referring to the Federation of Malaysia and Singapore***

*Memorandum*

mention may be made of two cases where the assumption of obligations was contemplated by the parties but, for one reason or another, did not come about. On May 16, 1963 the Bank made a loan to the State of Singapore for a power project (476 UNTS 211). As required by the Bank's Articles of Agreement, the loan was guaranteed by the United Kingdom, although at the time the loan was made, it was known that Singapore would cease to be a dependency of the United Kingdom and would become a constituent part of the Federation of Malaysia within a few months' time. The question of the assumption of the guarantee was discussed with the Malaysian Government but before these discussions were brought to a conclusion Singapore separated from the Federation in August, 1965 and the question of Malaysia assuming the guarantee of the United Kingdom became moot.

On February 26, 1965, the Bank made a loan to the Public Utilities Board of the State of Singapore with the guarantee of the Federation of Malaysia for a water supply project (549 UNTS 239). Following Singapore's separation from the Federation in August 1965, the Bank received formal requests from Malaysia and Singapore that Malaysia be released from its guarantee. The Singapore Government stated its willingness to assume the guarantee given by Malaysia. These requests were in keeping with Article VIII of the Agreement Relating to the Separation of Singapore from Malaysia as an Independent and Sovereign State of August 7, 1965 (563 UNTS 89) which provides that:

"With regard to any agreement entered into between the Government of Singapore and any other country or corporate body which has been guaranteed by the Government of Malaysia, the Government of Singapore hereby undertakes to negotiate with such country or corporate body to enter into a fresh agreement releasing the Government of Malaysia of its liabilities and obligations under the said guarantee, and the Government of Singapore hereby undertakes to indemnify the Government of Malaysia fully for any liabilities, obligations or damage which it may suffer as a result of said guarantee."

The water required for the project is derived from the State of Johore in Malaysia pursuant to two agreements between the State of Johore and the City Council of the State of Singapore. Under Section 14 of the Constitution and Malaysia (Singapore Amendment) Act, 1965 of Malaysia, the Governments of Malaysia and Singapore guaranteed that the State of Johore and the Public Utilities Board of Singapore, respectively, would abide by the terms and conditions of the water agreements. The Malaysian Government accordingly felt it necessary to obtain the agreements of the State of Johore to the proposed new arrangements. Such agreement has not yet come about and the assumption of the guarantee by Singapore is at present in abeyance.

*(d) Comments referring to the former Southern Rhodesia, Northern Rhodesia and the Federation of Rhodesia and Nyasaland*

*Memorandum*

On February 27, 1952 the Bank made a loan to the Colony of Southern Rhodesia for a power project with the guarantee of the United Kingdom (159 UNTS 181). By virtue of the Rhodesia and Nyasaland Federation Act, 1952, and the Federation of Rhodesia and Nyasaland (Constitution) Order in Council, 1953, both of the United Kingdom, the two Rhodesias and Nyasaland became associated in the Federation of Rhodesia and Nyasaland. Section 6 of the Borrowing (Control and Guarantee) Act, 1954, of the Federation authorized the Ministry of Finance to guarantee the repayment of the principal and the payment of interest and other charges on any loan raised outside the Federation by either of the Rhodesias or Nyasaland. Pursuant to this Section, the Bank and the Federation entered into a Guarantee Agreement dated October 2, 1954, to which the United Kingdom and Southern Rhodesia also became parties (201 UNTS 171). Under the Agreement, the Federation unconditionally guaranteed the loan and under-

took to carry out or cause to be carried out, within the limitation of its Constitutional powers, all the obligations to be performed by Southern Rhodesia under its Loan Agreement with the Bank of 1952. In the Agreement the United Kingdom and Southern Rhodesia stated their concurrence with its provisions. The Federation was dissolved with effect from January 1, 1964. The Bank took the position that the Loan Agreement with Southern Rhodesia and the Guarantee Agreement with the United Kingdom, both of 1952, continue to be valid.

A loan made on March 11, 1953 to the Territory of Northern Rhodesia for a railway project is another case in point (172 UNTS 115 and 201 UNTS 179).

An illustration of the case in which the Bank agreed to a division of the original obligation incurred by a federation upon its separation or dissolution into several states is the loan made on June 16, 1958 to the Federation of Rhodesia and Nyasaland for a railway project, with the guarantee of the United Kingdom (309 UNTS 35). The Federation was dissolved on December 31, 1963, by an Order in Council of the United Kingdom. On December 30, 1963, the Bank entered into Loan Assumption Agreements with the Territory of Northern Rhodesia and the Colony of Southern Rhodesia, respectively. The Rhodesia Railways and the United Kingdom were also parties to each of these Agreements (568 UNTS 215 and 233). Under the Agreements the Territory and the Colony each assumed one-half of the payment obligations of the Federation to the Bank, the Railways undertook to operate its properties in accordance with sound railway and business practices, to maintain records to reflect its operations and financial condition and to permit the Bank's representatives to inspect its properties and any relevant records, and the United Kingdom indicates its concurrence in these arrangements for purposes of its Guarantee Agreement.

A similar case, resulting in the division of the guarantee obligation among the successor states, involved a loan made on June 21, 1956 to the Federal Power Board of the Federation of Rhodesia and Nyasaland for the Kariba Project. The loan was guaranteed by the United Kingdom and by the Federation under separate Guarantee Agreements (285 UNTS 317). In connection with the dissolution of the Federation at the end of 1963, the Bank entered into a Loan Assumption Agreement dated December 30, 1963. Parties to the Loan Assumption Agreement were the Bank, the Central African Power Corporation, successor to the Federal Power Board, and the United Kingdom (551 UNTS 75). Under the Loan Assumption Agreement, the Corporation assumed the obligations of the Board under the Loan Agreement of June 1956, and the United Kingdom stated its concurrence in the Loan Assumption Agreement for purposes of its Guarantee Agreement of June, 1956. At the same time, the Bank concluded separate Guarantee Agreements with the Territory of Northern Rhodesia and the Colony of Southern Rhodesia. The parties to these Agreements were the Colony of Southern Rhodesia, the Bank and the United Kingdom in the one case and the Territory of Northern Rhodesia, the Bank and the United Kingdom in the other case (551 UNTS 105 and 119). Under these Agreements each of the Rhodesias guaranteed one-half of the loan and agreed to take all action necessary or desirable on its part to assure the performance by the Corporation of its obligations under the Loan Assumption Agreement and the

Bonds to be issued pursuant thereto. In the Guarantee Agreements the United Kingdom expressed its concurrence in the provisions thereof.

In each of the above two cases the project was to be carried out in, or was to the benefit of, each of the two Rhodesias and, accordingly, a division among them of the obligation originally incurred by the Federation as borrower or guarantor seemed appropriate.

An illustration of the opposite case is the loan made on April 1, 1960 to the Federation of Rhodesia and Nyasaland for an agricultural project in Southern Rhodesia. The loan was guaranteed by the United Kingdom (379 UNTS 397). In view of the dissolution of the Federation with effect from January 1, 1964, a Loan Assumption Agreement, dated December 30, 1963, was entered into between the Colony of Southern Rhodesia, the Bank and the United Kingdom (568 UNTS 243). By the terms of the Agreement, Southern Rhodesia assumed and agreed to carry out all the obligations of the Federation under the original Loan Agreement. The Bank recognized the succession of Southern Rhodesia to the rights of the Federation under the Loan Agreement and the United Kingdom, for purposes of its Guarantee Agreement, concurred in the assumption by Southern Rhodesia of the obligations of the Federation.

(e) *Comments referring to the uniting and dissolution of the United Arab Republic (Egypt and Syria)*

*Memorandum*

(with respect to membership) . . . , following a notification from the Government of the United Arab Republic in June 1958, that by virtue of the merger of Egypt and Syria in a single state, the United Arab Republic was a single member of the Bank, the Executive Directors of the Bank on July 18, 1958 decided that the United Arab Republic be substituted for Egypt and Syria in the Bank's records as a single member with a subscription being the aggregate of the capital subscriptions of Egypt and Syria (see International Bank for Reconstruction and Development, *Thirteenth Annual Report-1957/1958*, Appendix D, footnote 3; Appendix J, asterisk; Appendix K, asterisk). Later, when Syria withdrew from the United Arab Republic, the view was taken that Syria's identity had been preserved throughout its union with Egypt and that no new state was created on the dissolution of the union. Syria confirmed its acceptance of the Articles of Agreement and all obligations arising thereunder since April 10, 1947 (the date of its original membership) and the Bank resolved on November 2, 1961 to substitute separate memberships for the United Arab Republic and the Syrian Arab Republic (see International Bank for Reconstruction and Development, *Sixteenth Annual Report-1961/1962*, p. 8).

### 3. International Monetary Fund<sup>1</sup>

#### (a) *Comments referring to the uniting and dissolution of the United Arab Republic (Egypt and Syria)*

##### PRACTICE OF THE I.M.F. WITH RESPECT TO CONTINUITY OF MEMBERSHIP

#### *Amalgamation (Merger)*

##### *Egypt and Syria*

Egypt was an original member of the Fund and Syria joined the Fund as a new member on April 10, 1947.

In 1958 the Fund was informed that by virtue of the merger of Egypt and Syria into a single State, the resulting United Arab Republic was subject to the provisions of the Fund Agreement as a single member of the Fund with a single quota equal to the quotas of Egypt and Syria. It was also stated that for an interim period separate currencies and monetary reserves were to be maintained in the Egyptian and Syrian regions of the United Arab Republic, and accordingly it was requested that operations and transactions with the Fund and related matters affecting the United Arab Republic be conducted on a regional basis during that interim period.

The Fund recognized that as a result of the amalgamation of Syria and Egypt into a single State, the United Arab Republic was a single member of the Fund. The interim procedure for relations with the Fund was also accepted by the Fund and was applied to such matters as the Fund's holdings of Egyptian and Syrian currencies, the designation of fiscal agencies and depositories, drawings, repurchases, and calculations of monetary reserves for the purposes of the Fund's Articles of Agreement. The exchange systems of the two regions were also treated on a separate basis for the purposes of applying the relevant provisions of the Articles of Agreement.

The quota of the United Arab Republic was increased in 1960 from \$66.50 million to \$105 million, and this was taken to represent an increase from \$6.50 million to \$15 million with respect to the Syrian region, and an increase from \$60 million to \$90 million with respect to the Egyptian region.

#### *Dissolution (Separation)*

##### *The United Arab Republic (Syria and Egypt)*

In October 1961 the Syrian Arab Republic, confirming its notice to the United Nations that it resumed its formal status as an independent State, requested that the Fund recognize the continued application of the Articles of Agreement to the Syrian Arab Republic and the continuation of all the rights and obligations that had arisen in the Fund in respect of Syria since Syria accepted its membership in the Fund on April 10, 1947, including the increased quota with respect to Syria of \$15 million. The Government of

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<sup>1</sup> Observations transmitted by letter of 23 October 1974 from the General Counsel of the International Monetary Fund.

Syria also confirmed that the laws, regulations, and decrees authorizing the Republic of Syria to comply with all its obligations of membership in the Fund were still in force with respect to the Syrian Arab Republic.

The United Arab Republic (Egypt) advised the Fund that it agreed that its quota in the Fund would become \$90 million instead of \$105 million and that the original basic legislation of Egypt with respect to membership in the Fund had never been abrogated and that these laws continued to apply. It was understood that the legal position with respect to the application of the Articles of Agreement of the Fund and performance of obligations thereunder continued to prevail in the United Arab Republic (Egypt).

It was noted that the United Nations had recognized the continued membership of Egypt and Syria (as separate States) without the necessity that the procedure for the admission of new members be followed.

The Fund decided that the Syrian Arab Republic and the United Arab Republic were separate members of the Fund with quotas of \$15 million and \$90 million respectively.

**(b) *Comments referring to the separation of Bangladesh from Pakistan***

**PRACTICE OF THE I.M.F. WITH RESPECT TO CONTINUITY OF MEMBERSHIP**

(See *supra*, p. 543).

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