

Web Document 16.B: The Third Amendment

The following amendment to the IMF Articles of Agreement was enacted effective November 11, 1992, enabling the Fund to suspend a member's voting rights under specified conditions. The amendment altered the text of Article XXVI, Section 2 by adding the text shown in bold and deleting the text shown as struck through. It also added a new paragraph to Article XII to enable the restoration of voting rights in the Executive Board; a new paragraph to Schedule D to deal with the potential implications for the Council (on which, see Chapter 17) of a suspension of voting rights; and a new Schedule L setting out detailed procedures. In March 1993, the Fund introduced two new rules to deal with related issues.

Article XXVI

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Section 2. Compulsory withdrawal

- (a) If a member fails to fulfill any of its obligations under this Agreement, the Fund may declare the member ineligible to use the general resources of the Fund. Nothing in this Section shall be deemed to limit the provisions of Article V, Section 5 or Article VI, Section 1.
- (b) If, after the expiration of a reasonable period **following a declaration of ineligibility under (a) above**, the member persists in its failure to fulfill any of its obligations under this Agreement, **the Fund may, by a seventy percent majority of the total voting power, suspend the voting rights of the member. During the period of the suspension, the provisions of Schedule L shall apply. The Fund may, by a seventy percent majority of the total voting power, terminate the suspension at any time.**
- (c) **If, after the expiration of a reasonable period following a decision of suspension under (b) above, the member persists in its failure to fulfill any of its obligations under this Agreement**, that member may be required to withdraw from membership in the Fund by a decision of the Board of Governors carried by a majority of the Governors having eighty-five percent of the total voting power.
- (d) ~~(c)~~ Regulations shall be adopted to ensure that before action is taken against any member under (a), (b), **or (c)** above, the member shall be informed in

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reasonable time of the complaint against it and given an adequate opportunity for stating its case, both orally and in writing.

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Article XII

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Section 3. Executive Board

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(i) (v) When the suspension of the voting rights of a member is terminated under Article XXVI, Section 2(b), and the member is not entitled to appoint an Executive Director, the member may agree with all the members that have elected an Executive Director that the number of votes allotted to that member shall be cast by such Executive Director, provided that, if no regular election of Executive Directors has been conducted during the period of the suspension, the Executive Director in whose election the member had participated prior to the suspension, or his successor elected in accordance with paragraph 3(c) (i) of Schedule L or with (f) above, shall be entitled to cast the number of votes allotted to the member. The member shall be deemed to have participated in the election of the Executive Director entitled to cast the number of votes allotted to the member.

Schedule D – Council

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5. (f) When an Executive Director is entitled to cast the number of votes allotted to a member pursuant to Article XII, Section 3(i)(v), the Councillor appointed by the group whose members elected such Executive Director shall be entitled to vote and cast the number of votes allotted to such member. The member shall be deemed to have participated in the appointment of the Councillor entitled to vote and cast the number of votes allotted to the member.

Schedule L – Suspension of Voting Rights

In the case of a suspension of voting rights of a member under Article XXVI, Section 2(b), the following provisions shall apply:

1. The member shall not:
 - (a) participate in the adoption of a proposed amendment of this Agreement, or be counted in the total number of members for that purpose, except in the case of an amendment requiring acceptance by all members under Article XXVIII(b) or pertaining exclusively to the Special Drawing Rights Department;
 - (b) appoint a Governor or Alternate Governor, appoint or participate in the appointment of a Councillor or Alternate Councillor, or appoint, elect, or participate in the election of an Executive Director.
2. The number of votes allotted to the member shall not be cast in any organ of the Fund. They shall not be included in the calculation of the total voting power, except for purposes of the acceptance of a proposed amendment pertaining exclusively to the Special Drawing Rights Department.
3. (a) The Governor and Alternate Governor appointed by the member shall cease to hold office.
 - (b) The Councillor and Alternate Councillor appointed by the member, or in whose appointment the member has participated, shall cease to hold office, provided that, if such Councillor was entitled to cast the number of votes allotted to other members whose voting rights have not been suspended, another Councillor and Alternate Councillor shall be appointed by such other members under Schedule D, and, pending such appointment, the Councillor and Alternate Councillor shall continue to hold office, but for a maximum of thirty days from the date of suspension.
 - (c) The Executive Director appointed or elected by the member, or in whose election the member has participated, shall cease to hold office, unless such Executive Director was entitled to cast the number of votes allotted to other members whose voting rights have not been suspended. In the latter case:
 - (i) if more than ninety days remain before the next regular election of Executive Directors, another Executive Director shall be elected for the remainder of the term by such other members by a majority of the votes cast; pending such election, the Executive Director shall continue to hold office, but for a maximum of thirty days from the date of suspension;
 - (ii) if not more than ninety days remain before the next regular election of Executive Directors, the Executive Director shall continue to hold office for the remainder of the term.
4. The member shall be entitled to send a representative to attend any meeting of the Board of Governors, the Council, or the Executive Board, but not any meeting of their committees, when a request made by, or a matter particularly affecting, the member is under consideration.

Rule K – Limitation, Ineligibility, and Suspension of Voting Rights

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K-6. Before any member's voting rights are suspended pursuant to Article XXVI, Section 2(b), the matter shall be considered by the Executive Board, which shall inform the member in reasonable time of the complaint against it and allow the member an adequate opportunity for stating its case both orally and in writing.

Adopted March 10, 1993

K-7. When a member, whose voting rights have been suspended, requests the Executive Board to terminate the suspension and the Executive Board decides not to terminate such suspension, a written report shall be presented to the member stating what further action is required before such suspension will be terminated.

Adopted March 10, 1993