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**THE LEGAL SCOPE OF IMF CONDITIONALITY:  
EMPIRICAL ANALYSIS OF THE CASE OF COLOMBIA  
1999 -2006**

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# The Legal Scope of IMF Conditionality: Empirical Analysis of the Case of Colombia 1999 -2006

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## ABSTRACT

The term conditionality refers to the economic policies suggested or imposed by the IMF to countries that will use its resources, in accordance with the Articles of the Agreement. This paper analyzes the legal scope of IMF conditionality and the level of accomplishment of structural reforms in Colombia, i.e. whether the case of Colombia corresponds to the general trends of compliance with IMF conditionality worldwide, as presented in previous studies, or not. The empirical analysis refers to three consecutive arrangements covering the period 1999-2006: (i) an Extended Fund Facility ((EFF); Dec 1999-2004); a Stand-by arrangement (2002-4), and finally another Stand-by arrangement (2005-Nov.2006).

**KEYWORDS:** conditionality, International Monetary Fund, IMF, structural reforms, compliance, soft law, Colombia, structural adjustment.

## RESUMEN

El concepto de condicionalidad se refiere a las políticas económicas sugeridas o impuestas por el Fondo Monetario Internacional (FMI) a países que van a utilizar sus recursos de acuerdo con el Convenio Constitutivo de FMI. Este artículo analiza el alcance jurídico de la condicionalidad del FMI y el nivel de cumplimiento en materia de reformas estructurales en Colombia, es decir, se busca verificar si el caso de Colombia corresponde con las tendencias generales de cumplimiento con la condicionalidad del FMI a nivel mundial, presentadas en estudios previos. El análisis empírico se basa en tres acuerdos consecutivos firmados por Colombia con el FMI durante el periodo 1999-2006: (i) Un Acuerdo Extendido (Dec 1999-2004); un Acuerdo de Derecho de Giro (Stand-by arrangement) (2002-4), y finalmente un segundo Acuerdo de Derecho de Giro (Stand-by arrangement) (2005- Nov.2006).

**PALABRAS CLAVE:** Condicionalidad, Fondo Monetario Internacional, FMI, reformas estructurales, Colombia, “soft law”, ajuste estructural.

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## Introduction

The term conditionality refers to the economic policies suggested or imposed by the IMF to countries that will use its resources, in accordance with the Articles of the Agreement (Gold 1979:1 quoted by Sorel 1996:47). The conditionality of IMF loans to developing countries has repeatedly been criticized, and qualified as a political instrument. However, for the IMF, conditionality seeks to safeguard the character of the fund's resources and to promote the achievement of program objectives, particularly, a viable external position (IMF 2001:5). This paper will zoom in on the normative scope of conditionality in the arrangements with the IMF. An in-depth case study of Colombia will therefore be presented. This country entered in three consecutive arrangements covering the period 1999-2006: an Extended Fund Facility (EFF; Dec 1999-2004); and two Stand-by arrangements (2002-4 and 2005- Nov.2006). The approach of this paper is not purely legalistic but it also contains an empirical part based on IMF sources.

## I. IMF CONDITIONALITY: A LITERATURE REVIEW

### *A. The political economy of IMF programs*

A core issue has been the political character of the relations between the IMF and borrowing countries which has been described at length (Swedberg 1986) and often criticized. Most analysts see the IMF thereby as an active player, but while some emphasize its autonomy as

a bureaucracy, others emphasize that the IMF acts as an agent of its major stakeholders (Bird 2007:701). Joyce (2005) showed that the time span that countries spend in IMF programs, which has lengthened over the recent decades, depends on economic and political variables. However, not all empirical studies support the thesis of political influence and the value added of political variables in economic models (Bird and Rowlands 2001; Bird 2007).

The political proximity between (potential) recipients of IMF support, on the one hand, and the major shareholders (the US in the first place), on the other, matter for the access to and the modalities of the support. Momani (2004) tested the claim of a technocratic and independent IMF based on former confidential reports, trying to find a relation between political intervention and loan conditionality. The hypothesis was that when the conditions are repeatedly unaccomplished, political intervention increases (Momani 2004:880-1). The process of approval of conditions is defended by former members of the IMF, arguing that the process seeks to avoid political intromission (Gold 1977:46-4; Southard 1979; Stiles 1991, quoted by Momani 2004:884). However, evidence was found that: (i) many loans have been directed to countries that largely unaccomplished IMF conditionality; (ii) the executive board does not approve all the credits; (iii) a small number of countries has a large voting majority inside the board (Momani 2004:884-5). The influence, particularly from the US, on both the loan approval and the design of conditionality was observed; even more, some arrangements are lenient and approved against the recommendations of IMF staff based

on article IV consultations (Momani 2004:898-9). Thacker (1999) found also evidence of US influence on the pattern of IMF lending, using data on voting behavior at the UN General Assembly. Dreher and Jensen (2007) measured political proximity on the basis of voting behavior in the UN General Assembly. They show that political proximity with respect to the US translates into fewer conditions in the Letters of Intent. Moreover, this relationship is even more outspoken in pre-electoral periods. The same data of the Letters of Intent is used in Dreher, Sturm and Vreeland (2006), and combined with data on the participation of countries in IMF programs over the period 1951-2004. They found that vote trading also happens in the UN Security Council (UNSC), because temporary UNSC membership seems to be positively related with participation in IMF programs and negatively with the number of conditions in the Letters of Intent. In addition, Dreher, Marchesi and Vreeland (2008) showed that voting behavior in the UNSC in line with the US position would explain a positive bias in IMF forecasts of growth and inflation for recipient countries, especially in pre-electoral periods. Dreher (2004a) showed elsewhere that the number of conditions decreases with higher economic freedom and 'good' macro-economic policies (proxied by the current account balance).<sup>2</sup>

The IMF arrangements have also been seen as instruments used by governments to impose unpopular policies (Przeworski and Vreeland 2000). In fact, some country analyses revealed that the willingness to reform appears to have

an important impact on accomplishment. They confirmed that conditions are the result of a bargaining process between governments and the IMF, and therefore, it is more important to look at governmental agendas than at IMF policies. As a result, IMF conditionality cannot be seen as responsible for economic performance because the reforms would be implemented even without the arrangements (Dreher 2005B:18/9; Dreher 2003:102). Kauffman (2000) points out that the IMF systematically leaves military expenditure out of the conditions imposed on government expenditure in borrowing countries, leaving a significant margin for maneuvering when dealing with different political regimes. However, another point of view considers that the IMF does not respect the sovereignty of the countries to choose and implement their economic policies.

The role of IMF conditionality may also be influenced by elections, because new governments like to support unpopular measures in the IMF arrangements and therefore they are more important after elections and not interrupted before elections to avoid consequences for the government but also for the perception of the IMF programs (Dreher and Vaubel 2004:3-4; Dreher 2003:103). The extent to which the IMF takes into account political cycles and other political variables in the supported countries has also been tested empirically. They found evidence that elections negatively affect compliance (especially in the electoral period) but also that the IMF shows a capacity to handle electoral periods in flexible ways. Dreher (2003) shows that program incompliance tends to increase in pre-electoral periods, particularly in less democratic

<sup>2</sup> Other studies like Barnebeck Anderson et al. (2003), Dezalay and Garth (2002) and Dreher and Sturm (2006) also suggest US influence.

countries. Some case studies on the interference with domestic political processes have shown that the IMF has entered in arrangements just before elections on several occasions or that the IMF has not interrupted programs in spite of non-compliance in other occasions (Dreher 2003:104-9). Even more, Dreher (2004b) showed the existence of electoral cycles in the conclusion of IMF programs. Particularly when growth rates are not too low, governments and the IMF avoid signing agreements in pre-electoral periods, to avoid that the electorate assimilates such moves with incompetence and sanctions the politicians.

### ***B The effect of IMF programs on economic growth***

Some empirical studies have criticized the economic results of IMF programs. Evrensel (2002) argued that IMF programs do not improve fiscal or monetary policies. Peemans (2002:183) added that adjustment policies did not solve the debt crisis in developing countries; on the contrary, debt/exports ratios have even increased. Dreher and Vaubel (2004) showed that the number of conditions has no significant impact on targets and instruments of recipient governments (government consumption, government budget deficit, monetary expansion, international resources, current account balance). However, a participation in Stand-by and EFF programs seems to have a positive impact on fiscal policy (reduction of budget deficit) and monetary policy (reduction of monetary growth) (Dreher 2005a). The amount of the loans or the degree of program completion do not show significant

effects. Referring to the current account of the balance of payment, Bird (2007) found significant positive effects, contrary to the findings of earlier studies, but in contrast, with respect to inflation, no net effects were found.

Adjustment is identified with economic development in which state performance is evaluated from an international perspective (Peemans 2002:155-7). The theoretical basis of adjustment assumes that market dynamics warrant stability after crisis (Peemans 2002:141) and development is associated with GDP growth. However, IMF programs that impose structural adjustments have been criticized based on quantitative studies showing no or even negative effects on economic growth in borrowing countries (Przeworski and Vreeland 2000; Hutchison and Noy 2003). Although earlier studies found little or non-conclusive evidence of the impact of IMF programs on economic growth, or found that these were basically depending on the estimation strategy which was chosen (Conway 2003), more recent studies often found negative effects, especially in the short run, but some studies found positive effects in the long run (Bird 2007). The average negative output effects were particularly influenced by negative Latin American experiences (Hutchison and Noy 2003). Dreher (2005b) also found a net negative effect on growth, but he built further on these studies and distinguished between three channels through which the IMF influences growth in member countries: the loans disbursed, the conditions attached to them, and its policy advice. Looking at the three channels, compliance with conditionality did seem to have a positive

effect on growth, but too small to compensate the negative effects. Easterly (2002) did not manage to find an effect on growth neither. The negative effects on growth are used by the critics of IMF intervention as evidence of the failure of the recipes of the IMF, known as the Washington Consensus (Lavérie 2001:31-4).

### ***C Structural adjustment of legal institutions***

Legal reforms seek to restructure the state to solve economic problems as the debt crisis and the interaction between international markets and state interventions (Peemans 2002:141,159; Mattei 2005b). However, whether the relation between legal institutions and growth is one of conditionality or causality is not clear. Some analyses assume a symmetric interrelation between the reform of legal institutions and the improvement of economic growth (Burgos 2006:9-16, 47).<sup>3</sup>

Other analyses like the normative Economic Analysis of Law (EAL) approach assume that the legal system has a crucial role in development and that coordinated economic and legal issues would better control economic crises and achieve structural adjustments (Del Grana-do and Mirow 2005:30-3). This approach has accused state interventions of provoking recurrent disequilibria in developing countries, more

3 A number of empirical studies have tried to explain this relation but without conclusive results. The World Bank e.g. analyzed a set of indicators on the relation between legal institutions and growth developed to support their adjustment programs (Burgos 2006:65). Econometric analysis failed to prove a demonstrable relation between law and economic development; because other factors also influence economic growth (Burgos 2006:79).

than market imperfections did (Mattei 2005b).<sup>4</sup> This hypothesis is often associated with the justification of the Washington Consensus, supported by the IMF and the World Bank (World Bank Reports of 1997, 1999/2000, 2002; Peemans 2002:145; Stiglitz 2002; Burgos 2006). In fact, the EAL hypotheses are considered as having been strongly supported and expanded by the World Bank, the IMF and the WTO (Mattei 2005b), as evidenced by privatization policies which prefer private law approaches and other mechanisms supposed to foster development as deregulation, opening-up of the economy and macroeconomic stabilization policies (see Cooter and Schäfer 2007:2-3). The limitation of the central role of the State and of the legal positivist perspective seek that legal analysis be performed “outside of local technicalities” and be adaptable and applicable in different environments. Therefore, the efficiency criterion promoted by the EAL is considered to be the basis of many policy prescriptions of the “Washington Consensus” and structural reforms promoted by the International Financial Institutions (IFI’s) (Mattei 2005b). Conditionality is seen as the way to impose the “efficiency reasoning in the law” and concepts as “soft law, default rules, social norms etc.” are mechanisms to minimize the traditional role of the state as regulator of the market (Mattei 2005b). But even if the EAL rejects other approaches to economic development as the public law approach, which emphasizes regulation and planning, it should be said that it also criticized the hypothesis of

4 In the 1980s the developmental model in Latin America was accused of the collapse of the state due to the incapacity to provide public goods (Schor 2006:23).

the Washington consensus; i.e. it does not share the emphasis on “the crucial importance of law for a market economy” (Cooter and Schäfer 2007:2-3).<sup>5</sup>

Despite the evolution of EAL towards Legal Pragmatism, due to the loss of confidence in the objectivity of the “efficiency-based discourse”, the IFI’s stick to the criterion of efficiency (Mattei 2005b). Moreover, the excess of policy recommendations to reduce the role of the state (Peemans 2002:141,145; Schor 2006:23) and the strong power of the IMF, whose conditionality attracts other sources of international financing, has been used as a model for other organizations to protect their resources<sup>6</sup> (Sorel 1996:65; Garay 1999). Alternative ideas on development consider that the IFI’s should not impose ‘a global law’ by way of conditionality (Mohr 2007:58-9; see also, Stiglitz 2002:110; Edwards 1992; Spence Commission, quoted by Rodrik 2008:3; Lavérie 2001:31-2; Sorel 1996:60-1). As a result, the design of a legal framework based on justice and accountability to support the ‘independence’ of governments from the (bad) influence of the IFI’s is defended, because legal transplant of “obsolete legal ideas and conceptions” from Europe and/or the US plays the same role as imports of obsolete technology that favor dependency and depresses local innovation (Mattei 2005a:14-5).

5 Their main concern is that the model was performing well in East and South Asia and in Central Europe, but it was a fiasco in the former USSR and led to stagnation in Latin America (Cooter and Schäfer 2007:21-2).

6 Such as the Asian Development Bank (ADB) and the Inter-American Development Bank (IDB) (Sorel 1996:65)

A completely different perspective on IMF arrangements considers that international law has also been used to solve domestic problems, mainly through the generation of “information on the behavior of politicians in future periods”, by international enforcement, or by delegating decision-making authority to an independent international actor (Ginsburg, Chernykh and Elkins 2008:213-4). IMF arrangements are seen as a way to make “commitment[s] credible in a way that simple domestic promise could not” and –this way- to attract international capital; those commitments are also “a better device to entrench policies simply because it is typically more difficult to implement than ordinary legislation” (Ginsburg, Chernykh and Elkins 2008:219-220). Sometimes this delegation is made to international organizations that are not internally accountable, which may erode internal credibility but may produce uncertainty because the international environment is unstable (Ginsburg, Chernykh and Elkins 2008:222-3). Another study argued that countries belong to international organizations because they obtain benefits, e.g. it has been shown that temporary members of the UNSC benefit from US credits and IMF and World Bank supported programs (Dreher and Voigt 2008:2). The delegation of national competences to international organizations increases credibility and then, other benefits are obtained as a major flux of investment (Dreher and Voigt 2008:3-4). A study that analyzed whether a delegation of competences to an international organization influences governmental behavior in a way that it is less probable that it breaks its promises (Dreher and Voigt 2008:6), concluded that: (i) “higher degrees of membership in international



organizations are robustly correlated with lower country risk ratings”; (ii) “the longer a country has been a member of an International Organization, the better its risk rating, *ceteris paribus*”, and (iii) “membership in International Organizations is particularly important for a country’s credibility when domestic institutions are weak”. This means that credibility is not only “made” but also “bought” (Dreher and Voigt 2008:25).

### **D The legal character of IMF arrangements**

Three topics of international law can be connected to IMF arrangements: the principle of responsibility, the principle of non-interference in internal affairs, and the principle of equality of sovereign States (Sorel 1996:60). The establishment of responsibilities of the country or of the IMF is difficult because the latter created a system of protection to avoid to be held responsible for the consequences of those arrangements nor for their default. The framework designed obstructed the establishment of a legal link between the loans and the approved facilities (Sorel 1996:60; Sgard 2004:17). Neither can the principle of non-interference be alleged against the IMF, because the state approved the facilities. The unwillingness to individualize policies in accordance with the needs of each country is linked with the potential consequences from an international law perspective, because this individualization may imply a judgment of internal policies. Finally, the apparent violation of the equality principle among countries is also related to the individualization of policies for each country, because the IMF argues that any diffe-

rences in treatment relate to differences in the economic variables (Sorel 1996:61).

However, the absence of legal consequences does not imply the absence of effects for the State, mostly in the international credit arena, where the consequences are not automatic and may be negotiable; nevertheless, it is possible to classify the non-accomplishment as a fault from an international law point of view (Sorel 1996:48-9). Therefore, the analysis of conditionality has mainly been performed, not from the perspective of international law but from the legal framework of international economic relationships (Sorel 1996:49). The experts (which are mainly economists) and the Board of Governors decide and the legal department provides the legal form and specifies its interpretation without following a rigid legal formalism as lawyers prefer. In fact, the evolution of conditionality shows that economists are more oriented towards “soft law” (Sorel 1996:49; Gold 1983:481-2). IMF structural arrangements are not a foreign source of law, *strictu sensu*, because they do not have the status of international treaties. Conditionality is thus classified as “soft law” because it is regulated by a framework of international standards, being an intermediate point between the total absence of legal commitments and a formal legal agreement. This ‘informal character’, introduced in 1952, has been highly controversial, particularly in issues related with the right to development because it may interfere with the sovereignty of states.<sup>7</sup> Soft law

7 This flexibility is explained by the strong influence of Anglo-Saxon countries (US and UK) in the early stages of the design of the IMF policies. The Common Law legal systems are therefore considered as the theoretical basis of these arrangements (Sorel 1996:60-2).

is perceived as “a kind of fiction” in which the states know the consequences of financial and monetary marginalization, and accept structural adjustment programs to obtain credits, without a specific legal contract. The sanctions are thus clear from the point of view of the international economic order but they are not stipulated in a specific clause (Sorel 1996:60-2). These relations between IMF and the borrowing country with a high component of political and financial issues pose a problem for domestic legal institutions at the moment of deriving their legal consequences.

The IMF conditionality is not unique in the international arena. After 1945, international law has been producing different varieties of rules depending on their binding character (Riedel 1991). The explosion of international organizations is seen as one of the causes of the growing complexity of the international law-making process (Riedel 1991). ‘Hard’ positive (international) law creates obligations and subjective rights whereas ‘soft’ (international) law refers to a sort of “imperfect obligations” (Riedel 1991 see also Schäfer 2005:2). International standards are the best example of soft law, characterized by their lack of binding character in the decision-making process of the three branches of power inside the country. Standards may also be seen as a development of the UN Charter (13) that supports a “progressive development of international law”. As a result, soft law has been qualified as a positive evolution of international law because it has created “cooperative instruments” without specific sanctions (Riedel 1991).

Soft law has a very heterogeneous character and many international acts are qualified as such (Raustiala 2005:583). In general, they refer to legal acts without a binding character but with legal consequences or with default in the enforcement provisions (Raustiala 2005:587). The choice of soft law at the international legal level is seen as a choice “between employing and avoiding law” (Raustiala 2005:590). The states tend to prefer such commitments because of their flexibility and their “preliminary” character (“less precedential and public”), but mainly because they can be signed by entities that cannot sign treaties and they almost never have to be ratified or approved by the legislative (Raustiala 2005:591; Riedel 1991). From the internal point of view, soft law allows governments to evade “domestic political pressures”, whereas treaties approved by the legislative involve a “widespread domestic support and [are] therefore more credible” and their compliance is more plausible (Raustiala 2005:598). The compliance with soft law requires the will of the state to cooperate, provided that there are no “authoritative interpreters”. Sometimes the use of soft law seeks to exclude other powers such as courts, and to regulate with less binding character but it may well influence behavior (Gersen and Posner 2008:44-5).

Treaties are always seen as the best option and soft law comes in second place<sup>8</sup>; however, a balancing of “substantive obligations” and “the legality and monitoring of agreements” may yield a preference for soft law when the uncertainty

<sup>8</sup> Raustiala (2005:605-7) analyzed the structure of international agreements from the perspective of enforcement.

is higher vis-à-vis “the cost of commitments or the best way to organize cooperation”. When the obligations are too strict and their flexibility is low vis-à-vis new situations or emergent problems, the effectiveness of the treaty or its approval may decrease. Cases of detailed regulation, typical of organizations as the WTO, the IMF, the European System of Human Rights, and the Rome Statute of the International Criminal Court are quoted as examples of “agreements whose depth may exceed the optimal level” (Raustiala 2005:613-4).

Soft economic law inside the IMF is also a typical case quoted besides the case of the OCDE and, more recently, the EU. The “non binding procedural solution” sought to “overcome competing visions of the organizations’ purposes”, particularly in case of “institutional crisis” when formal agreements were not realizable and adopted the form of “multilateral surveillance” (Schäfer 2005:2,6).<sup>9</sup> Surveillance was implemented to control exchange rate policies but also national economies, to protect the international monetary system. The growing scope of this surveillance is not necessarily a higher degree of delegation of sovereignty because the IMF cannot enforce its recommendations, and therefore, it lacks relevance in countries that do not need financial support (Kahler 1988:386, quoted by Schäfer 2005:12). Therefore, compliance is a voluntary act and surveillance is a way of providing mutual opinions on the functioning of the

international monetary system but without a binding character for countries (Schäfer 2005:12).

The legal design of the IMF confirms that in economic matters, soft law is characterized by an “intended vagueness of the obligations that it imposes or the weakness of its commands” (Gold 1983:443). The main characteristics of soft law from an IMF perspective are: (i) the intention to be respected, (ii) the enactment (promulgation) is not discussed; (iii) the legal character is not lost because of its non-observance; nor may this non-observance be seen as a breach of an obligation, nor can the actions that respect soft law be declared as invalid (Gold 1983:443). The use of soft law by the IMF is justified because of the big economic differences among states, particularly in terms of development (Gold 1983:444).

### ***E. The legal scope of IMF conditionality***

The surveillance of the International Monetary System by the IMF posed the issue of how to ensure the observance of obligations related to this system or how to sanction its violation (Gold 1983:481-2). However, the IMF has not been using the term ‘sanctions’ but rather preferred to refer to ‘remedies’, which are not directly related to the violation of obligations. Three categories were identified: those seeking (i) to “safeguard the resources”, (ii) to “promote appropriate policies of adjustment”; and (iii) to punish the violation of some obligations, although it is not necessarily always the case. Remedies employed to sanction the countries were classified as: (i) peer judgment; (ii) publicity; (iii) increased burdens; and (iv) the denial of benefits. However,

<sup>9</sup> The IMF introduced it as a reaction to “a profound disagreement among its members on how to react to the breakdown of the Bretton Woods system of adjustable pegs”, especially with respect to the choice between fixed or floating exchange rates (Schäfer 2005:9 see also Gold 1983).

these measures were not neatly defined (Gold 1972:738-9).

Surveillance has therefore an essential relationship with conditionality, which is supposed to support the effectiveness of surveillance; at the same time, the IMF is supposed to seek a “balance between conflicting aims”, which depends on the point of view of the members. This way, the discretionary competence of the IMF in the “implementation of the rule” is defended but not as “a feature of the rule itself”. Discretionary competences of the IMF and the balancing “between rules and discretion” were justified by the need for “balance between principle and practice, or between importance and urgency” (Gui-tián 1992:44-6).

The term conditionality refers to the economic policies suggested or imposed by the IMF to countries that will use its resources, in accordance with the Articles of the Agreement (Gold 1979:1 quoted by Sorel 1996:47). Conditionality seeks to safeguard the character of IMF resources and to promote the achievement of program objectives, particularly, a viable external position. It provides assurances to members, delineating the conditions under which they can obtain IMF financing (IMF, 2001:5). However, the coercion of conditionality seems to depend on the “asymmetry of power” between the country and the IMF, although mostly on the need of the country to have “access to alternative sources of finance” (Collinwood 2001 quoted by Buira 2003:5).

Conditionality has evolved over time together with the gradual transformation of the IMF, ini-

tially mainly charged with exchange rate stabilization, into an international organization for financial assistance to developing countries (Lavérie 2001:10; Garay 1991). Conditionality was mentioned since the very negotiations on the creation of the IMF and, more specifically, since the discussion on the conditions applying to member states to buy currency of another member in exchange for its own. Whereas the British position, backed by West-European countries, emphasized the rights and autonomy of the members, the American position favored a stronger IMF with a right to challenge requests from members (Denters 1993:52-6). The IMF’s right to challenge, which is the corner stone of conditionality, was formally recognized in 1947 by the Executive Board (Denters 1993:62-3). The Stand-by arrangement became its main instrument to pursue its policy of conditionality, defined by the Articles of the Agreement<sup>10</sup> (Denters 1993:70; Sorel 1996:44; Lavérie: 2001:24). A further innovation was the introduction of the Letter of Intent which was first drafted in 1957 by the Argentinean and Paraguayan governments (Jacobson 1979:289, quoted by Denters 1993:72). They are a *sui generis* instrument that introduced a parallelism between the document drafted by the monetary authorities of a member state and the Stand-By Arrangement which is essentially a decision by the IMF. No single (common) document is signed by both parties, although the Stand-By Arrangement refers to the Letter of Intent.

10 The Stand-by arrangement for Peru (1954) was innovative because it introduced IMF monitoring and consultation during the whole arrangement period as accepted practice (Southard 1979:19 quoted by Denters 1993:71).

Under pressure of developing countries, in 1968 the Executive Board further clarified the scope of conditionality in Stand-By Arrangements (68/132). Moreover, faced with rising debt levels in developing countries, they organized the G-24, to pressure for new guidelines for conditional balance-of-payments support (Denters 1993:81), to obtain a uniform application of the conditionality and, to get more legal certainty. In 1974 the EFF arrangements were established as a mechanism of long term balance of payments assistance to countries that needed important structural reforms. It was created to particularly benefit developing countries, once developed countries did not need IMF assistance anymore (Gianviti 2005:5). According to the Executive Board, those arrangements establish “policies of the scope and character required to correct structural imbalances in production, trade and prices” (IMF 2001:3).

The second amendment of 1978 changed the IMF focalization action: from an exclusive action in the monetary arena it moved towards a broader action in economic policies because the stability of the system was considered as important as the stability of the exchange rate. The IMF opted for stricter conditionality and new Guidelines were approved in 1979 (Decision 6056 (79/33)). They reiterated that the Letters of Intent and Stand-By arrangements did not have an international contractual character (Denters (1993:87-9)). The member state is – in principle – economically sovereign and the Letter of Intent can only be considered an agreement in a material sense, not in a legal sense, because (i) they are drafted in close consultation with an

IMF mission, (ii) the member states do not express an intention to be bound, and (iii) it is not meant to have legal consequences, i.e. to create legal rights or obligations (Denters 1993:72,85-6). According to Gold and the IMF, they are just an “intention” to act, not a legal commitment (Sorel 1996:48).

The Guidelines sought also to avoid any contractual form with respect to the Stand-By arrangements (Denters 1993:79; Gold 1979:23, quoted by Lavérie 2001:25). The arrangement is essentially a decision of the IMF indicating the conditions under which a member state can count on IMF support. The IMF should not specify detailed conditions but, rather, should refer to the Letter of Intent. In addition, Stand-by arrangements are not registered before the United Nations (Gold 1979 quoted by Lavérie 2001:26), they are not submitted to the constitutional procedures of the member states (Sorel 1996:49; Lavérie 2001:26) and they do not imply international responsibility for the IMF or the states (Sorel 1996:49; Lavérie 2001). In other words, these arrangements are not assimilated with an international treaty, because they do not follow parliamentary ratification, publication and registration as prescribed by the Vienna Convention (Denters 1993:108). The IMF arrangement seems thus to be a unilateral decision of the IMF to support a country under specific conditions. It has been seen as a gentlemen’s agreement without obligatory character and its non-accomplishment does not have legal consequences (Sorel 1996:47-8).

The debt crisis of the beginning of the 1980s, mainly in Latin-America, changed drastically the

way the IMF approached developing countries and imposed conditions on IMF support (structural adjustment) (Boughton 2004:12)<sup>11</sup>. Formally, the 1979 Guidelines were not applicable to structural adjustment programs but they were used by the IMF staff as reference framework (Denters 1993:107). These Guidelines do not have a specific legal format from an international public law point of view; it is an orientation similar to the one a private bank would follow to confer loans, but including all the procedures for the negotiation, design and presentation of economic policies that countries have to follow. The concept of structural adjustment, which does not have a legal definition, was established in 1986 to restore the equilibrium of the balance of payments and to seek economic restructuring, through macroeconomic measures and in some cases, micro-economic (sectoral) policies (Lavérie 2001:12-3).

### ***F. The design of structural conditionality***

Since the nineties conditionality has been focused mainly on structural conditionality which is seen as one of the reasons of the multiplication of conditions in structural adjustment programs (Buirra 2003:16).<sup>12</sup> The link between structural

reforms and macroeconomic performance made that policies include financial sector reforms but also governance topics (IMF 2001:9-12). Most of the structural policy measures listed in the letters of intent or in the memoranda of economic and financial policies are monitored in the framework of the program review, although the implication of non-implementation is not comparable to failure to comply with a benchmark or a performance criterion in macroeconomic issues (IMF 2001: 5-7). The evaluation of IMF conditionality has distinguished three categories of measures of macroeconomic relevance: 'critical measures', if without them the objectives cannot be attained, 'important measures', if the fulfillment of the program objectives would be difficult but not unworkable and 'useful measures' to succeed in reaching objectives of the macroeconomic program. However, for the IMF, this analysis showed more the degree of difficulty to classify structural measures according to their macroeconomic importance than how relevant they are for the achievement of the macroeconomic goals (IMF 2001:35). The IMF also presented the main tools employed to monitor policy implementation by countries under supported programs, aiming at measuring the compliance with conditionality. Although they were considered as the most concrete tools, they were not based on a legal definition of the concept of conditionality, neither were they the only way to evaluate structural policies (IMF 2001:8). They are: prior actions, structural benchmarks, performance criteria, and condition for the completion of a program review. Prior actions are taken at the beginning of the program "or prior to the completion of a review to improve the capaci-

11 The Structural Adjustment Facilities (SAF) and the Enforced Structural Adjustment Facilities (ESAF), created in 1986 and 1987 respectively, tried to respond to the problems of macroeconomic structural adjustment. The World Bank was associated to these two new mechanisms which also required a loan arrangement and had a stronger conditionality (Sorel, 1996:65). After the end of the USSR, the IMF created a new mechanism to help ex-communist countries to transform their economies: the Facility for Systemic Transformation (Sorel 1996:57). The ESAF was replaced in 1999 by the Poverty Reduction and Growth Facility.

12 Whereas in 1987 the IMF supported programs contained on average two conditions per program year, in the period 1997-1999 they increased to an average of 14 conditions per program year (IMF 2001:9).

ty of the program to meet its objectives. Their implementation (is) a precondition for program approval or completion of a review". Structural benchmarks are the most common measures "to monitor the implementation of reforms that are important but not as critical as are performance criteria". They are not linked to purchases and its delay does not necessarily affect the completion of a review. Performance criteria are measures "critical to the success of the adjustment program and whose implementation in a specific timeframe is important. Their implementation constitutes a condition for purchases under an arrangement", otherwise the country has to request for a waiver (IMF 2001:6).

The IMF designed also a sector classification to better visualize the scope of conditionality and its distribution across sectors. Structural conditions were mostly concentrated in two main groups of sectors: First, those that seek to strengthen macroeconomic stability (i.e. tax policy, public expenditure control, monetary policy, foreign exchange and trade system, exchange rate policy). Second, those that seek to improve the institutional capacity of the economic sectors to increase efficiency and flexibility (e.g. trade liberalization, price regulation, regulation of financial and corporate sectors and labor market) (IMF 2001:23-8).<sup>13</sup> The World Bank

13 Yet in 2000, the IMF identified the following core areas of incidence: fiscal and financial sectors, the exchange and the trade system and economic statistics. Inside those sectors, tax reform was one of the most important structural reforms to help the expenditure control, which included also civil service cuts. In the financial sector the most important conditions related to the monetary policy framework, the restructuring of the financial institutions, the reinforcement of regulation and supervision. The restructuring of public enterprises, privatization and the reform of the social security system increased their relevance based on efficiency considerations but mainly for budgetary reasons (Interim report "the future role of the Fund" (2000) quoted by IMF 2001:23-5).

also played a crucial role for conditions related with agriculture and systemic reforms (legal and institutional reforms, corporate governance and restructuring), public enterprises, restructuring of social security systems and social safety nets (IMF 2001:46). However, the presentation of a clear panorama "from specific structural reforms to specific program objectives" was not evident for the IMF and the distribution of reforms among the economic sectors did not necessarily show the importance of the objectives, because monitoring structural reforms is not the same as monitoring macroeconomic policies. The challenge was the definition of "possible structural indicators" to measure intermediate targets, but the particularities of each country increase the complexity (IMF 2001:28).

Seeking to submit structural reforms to performance criteria, implementation timetables were justified; the difficulty was to include legal or institutional changes. As a result, a revision of the 1979 guidelines that recommended the use of performance criteria only for macroeconomic variables (and exceptionally in other cases) was not suggested. The program review is considered the best tool for monitoring structural reforms and therefore it has to be specified as much as possible at the beginning of the program (IMF 2001: 53-4). This way, the countries would face less uncertainty. Governments frequently include a broader policy agenda in the Letter of Intent, reflecting commitments with other institutions as the World Bank or regional banks. As a result, some measures listed are not critical to the program's macroeconomic objectives and may not be assessed in the program revision (IMF 2001:55-66).

Usually, the implementation of structural reforms is not as good as the performance on macroeconomic policies goals (IMF 2001:69-70). One reason may be that macroeconomic conditions are usually monitored whereas structural conditions go beyond the responsibility of the IMF and they are strongly controversial (Denters 2003:17). Most of the structural performance criteria, prior actions and benchmarks have focused on key sectors linked with macroeconomic stabilization and external adjustment (exchange and trade system and fiscal and financial sectors). Restructuring and privatization of public enterprises gained also importance but they were not necessarily critical for the accomplishment of the macroeconomic objectives. However, for the IMF, structural reforms in other sectors may also be relevant (IMF 2001).

The Guidelines were modified in 2002. Conditionality remained basically the same, but they clarified that conditions are fixed only when they are “reasonably within the member’s direct or indirect control”. They may be “(i) of critical importance for achieving the goals of the member’s program or for monitoring [its] implementation [...], or (ii) necessary for the implementation of specific provisions of the Articles or policies adopted under them”. Conditionality involves macroeconomic and structural policies included in the “core areas of responsibility of the IMF”: macroeconomic stabilization; monetary, fiscal, and exchange rate policies; structural measures and regulation of the national and international financial system. Other areas may be included with due justification (IMF 2002:1-3). However, the governments continue to put ‘other’ structural conditions in the arrangements to “share”

the responsibility of adjustment policies (Denters 2003: 18).

The guidelines defined also the ‘Arrangement’ as “a decision of the Executive Board by which a member is assured that it will be able to make purchases or receive disbursements from the Fund in accordance with the terms of the decision during a specified period and up to a specified amount” (IMF 2002:3). This reinforced its character as not being an international agreement, and therefore, contractual language should be expressly avoided, although the arrangements may contain appropriate consultation clauses (IMF 2002:4). The tools to monitor the completion of a program were re-formulated and the IMF may confer a waiver for non-observance of a performance criterion when the program will be implemented (Buirá 2003:10; Denters 2003:13). In summary, conditionality continued to be justified by the need to guarantee the repayment of loans and the implementation of free-market frameworks (Denters 2003:10). Cross-conditionality, understood as the possibility that the use of IMF resources may be explicitly subject to the competence of other organizations, is not permitted. But the IMF policy advice, program design, and conditionality should be harmonic with those of other international organizations “within a coherent country-led framework” (IMF 2002:1-3).

The Guidelines of 2002 were criticized because they did not address socio-economic effects of the arrangements and even more because they could have made explicit the duties of the International Covenant on Economic, Social and Cultural Rights (ICESCR). They omitted also the



creation of a “basic dispute settlement provision” proposed during years (Denters 2003: 18-9). These Guidelines were in turn revised by the 2004-5 conditionality review (IMF 2005:35). Nowadays the IMF continues to have discretionary competences in terms of the distribution of subsidized loans and the conditionality in each arrangement (Dreher and Vaubel 2004:3).

### ***G. Compliance with IMF conditionality***

Since 1985, a study reported “extremely low rates of compliance with IMF conditionality of EFF arrangements in the period 1974/84” (Haggard 1985, quoted by Dreher 2005B:3). One evaluation of IMF conditionality concluded that it pushed some countries, particularly in Latin America in the 1970s and 1980s, to borrow from commercial banks, letting the IMF credits as a last resort precisely to avoid conditionality (Bird 1995, quoted by Marchesi and Thomas 1997:8). However, a complete evaluation of conditionality seems almost impossible. The MONA program of the IMF, a database created to monitor IMF programs, does not allow performing a detailed analysis of conditionality because the relevance of the measures included in the conditionality is not made explicit (Dreher 2005B:5).

The possibility to approve new programs, even if the conditions are not met, has also been reported (Killick 1995, quoted by Dreher 2005B:5). Normally, the non-accomplishment of structural benchmarks and other measures listed in the letters of intent does not affect directly the approval of a program or the continuation of purchases, unless they disturb the completion of a review. In theory, structural benchmarks may be

considered as important for a program’s macroeconomic objectives while the ‘other measures’ (often referring to the ones belonging to the government’s policy agenda) are not necessarily important for these objectives. However, a direct relation between conditionality and policy implementation is not clear because the results vary across countries. A “detailed monitoring” includes technical advice on implementation which is part of the formal conditionality (IMF 2001:84-5). But despite the relevance of policy advice for the results of the program, its measurement is very difficult. One potential measure is linking the degree of advice with the number of arrangements, rather than comparing it with credit volumes (Dreher 2005B:8-10). The measurement of policy advice would be highly relevant provided that negative effects of IMF programs have also been linked with “bad advice given by the IMF or the moral hazard that it induces to its borrowers” (Dreher and Vaubel 2004).

“Structural Policy commitments” or “monitoring tools” used for policies implementation were particularly important during the Asian crisis (Buirra 2003:16). In 2001 the IMF found that Asian countries under structural adjustments during the crises years reported the best accomplishment: almost 90% of the total of structural reforms was completed, although some of them with non negligible delay. The group of non-transition economies with Stand-By and EFF arrangements reported a 63% of fully implemented reforms, 16% of non implemented and 21% of partly implemented reform programs (IMF 2001:69-70).<sup>14</sup> Concerning the implemen-

14 Colombia belongs to this category of countries.

tation across economic sectors, the IMF found that structural reforms were better implemented in sectors such as social security net, financial sector, trade and capital account liberalization and systemic reforms (institutional and regulatory reforms and corporate restructuring) (IMF 2001:72-3). The IMF also found two main reasons for non-implementation of structural reforms: (i) the limited implementation capacity in sectors as capital account, privatizations, fiscal, agricultural and financial sectors, economic statistics and systemic reforms; (ii) the political and social opposition in sectors as exchange systems, trade regime, pricing and marketing, public enterprises, reform and restructuring, social safety net and labor market (IMF 2001).

The compliance with conditionality has a direct relation with IMF program evaluation, particularly with reference to economic growth (Dreher 2005B:8-10). Notwithstanding, the finding that compliance with IMF conditionality is very low impedes to make conditionality the main responsible of the negative effects of the programs on growth. This low rate of compliance avoids also to link structural conditionality to the restoration of the external balance and the warranty of repayment of loans, which lowered the credibility of those programs (Buirra 2003:19, see also Dreher 2005B). The excess in the number of targets has been related with the high possibilities of failure of the program (Bird 2001 quoted by Dreher 2008:34; Buirra 2003:19). Clear evidence was found that a commitment by country authorities makes conditionality unnecessary but in absence of commitment, it becomes unhelpful. One conclusion is that the variety of causes of failure or success of the conditionality makes its identi-

fication difficult. A shift from ex post conditions, to ex ante conditions is therefore recommended to increase the effectiveness of programs and their ownership (Dreher 2008:35-7).

A related issue is the prolonged use of IMF lending arrangements. It is traditionally justified referring to the 'multi-stage' nature of structural adjustment, but empirical studies suggest that the reality may be a lack of effectiveness of IMF programs. Political pressures, bureaucratic biases and "defensive lending practice" were identified as obstacles to their binding force (Marchesi and Sabani 2005:2-3). An empirical analysis showed that the IMF "is positively influenced by the length of its relationship with a borrowing country". This coincides with the theoretical hypothesis that in longer relations, the IMF is concerned with its reputation and therefore it lends easily to assure certain results. Its reputation as creditor but also as monitor is at stake and therefore there may be a strong reason to avoid punishment for non-compliance and continue a sequence of arrangements that do not produce satisfactory results. They concluded that the role of the IMF should be limited to periodical and limited evaluations of the commitments excluding specific policy measures (Marchesi and Sabani 2005:28-30).

The IMF recognizes the necessity to make conditionality compatible with the competences of national powers, and to coordinate it with the actions of other Multilateral Organisms. Its normative (binding) character remains unclear at the national level and therefore in many cases the measures proposed by IMF conditionality have not been implemented. The legal conse-

quences of non-completion of these structural reforms, while the macroeconomic goals are totally or partially reached by other means, seem not highly relevant for the IMF. The justification of conditionality by the need to guarantee the repayment of credit is contested by the “high failure rate of Fund Programs” referring to its full implementation. Additionally, the growth of conditionality in the 1990s has been inversely proportional with compliance, but nevertheless the countries continued to pay their loans (Buirá 2003:8). Despite low compliance with conditionality, cancellations are not a direct consequence of non-compliance and new resources have been conceded even in the presence of failures (Dreher 2003: 116).

### III. THE CASE OF COLOMBIA

#### *A. The formal relations between Colombia and the IMF*

Formal legal relations began in 1945 when Colombia signed the Articles of Agreement of the IMF, approved by Congress through Law 96 /1945. Both the government and the Congress, agreed on the motivations and referred to the traditional attitude of Colombia to cooperate in the international arena, to the importance to adhere to the monetary system of Bretton Woods and to the possibility to use IMF resources. However, some critics mentioned the lack of interest of the IMF in the third world, and highlighted the recommendations of the Economic Commission for Latin America and the Caribbean (ECLAC) referring to IMF support (Banco de la República 1990:17-20,89). The first amendment of the

Articles was approved through Law 2/1969 and the second amendment through Law 17/1977. The Congress and the government recommended their approval for the same reasons (Banco de la República 1990:153,156).

The third amendment was approved by Law 92/93 and revised by ruling C359/94 of the Constitutional Court. The Court upheld this amendment because the P.C. (226, 334 and 371) orders the country to pursue the internationalization of its economy and the state intervention to rationalize the economy, to improve the quality-of-life of citizens, and to equally distribute the opportunities and benefits of development. Moreover, the Court found the amendment highly convenient because: (i) the IMF provides resources to the member states to comply with the goals of the Articles of the Agreement (international monetary cooperation, expansion and balanced growth of international trade, exchange rate stability, multilateral system of payments, and attenuation of balance of payments imbalances). (ii) it sought to obtain the compliance by the member states with their economic duties. (iii) Colombia had always obtained cooperation for its projects when this was necessary (C359/94). The fourth amendment approved by Law 652/2001 was revised by sentence C057/02. In this occasion, the Court mentioned the political controversies concerning the IMF programs and particularly, the lack of consideration of the particularities of each country. However, it concluded that none of these issues were relevant with respect to the approval of the amendment, which was upheld based on the principles regulating international relations,

particularly the sovereignty (P.C. 9), and the promotion of the internationalization of Colombian economic relations (P.C. 226).

From an economic perspective, the relation between Colombia and the IMF is directly linked to the situation and evolution of its external debt; particularly since the period 1979-82 when it jumped from 27% of GDP in 1979 to 45% in 1983. This rapid growth did not mean that Colombia left its condition of having relatively low debt levels in the Latin American context and in the developing world (Garay 1991:17-8).<sup>15</sup> In 1984, the IMF alerted to the potential exchange rate crisis in Colombia in case of an erosion of international reserves. In addition, the World Bank suspended the negotiations of a credit line until the government would take measures to correct the imbalances in the economy and it would obtain the backing of the IMF for its economic policies. The main creditor commercial banks asked for the signature of a Stand-by arrangement with the IMF as a condition to negotiate new credits. The case of Colombia was different from the cases of other highly indebted Latin-American countries, because it never suspended its debt service. For this reason, the government asked the international commercial banks, the World Bank, the IMF and the governments of some creditor countries, for a scheme of “surveillance” (monitoring) audited by the IMF instead of an Stand-by arrangement. The aim was to get an intermediate mechanism to distinguish the case of Colombia from the rest of Latin-America (Ga-

ray 1991:29-30).<sup>16</sup> The monitoring program was a quarterly follow-up of a number of economic aggregates (i.e. credit to the public sector, international reserves, and external public debt). Compliance did not entitle the country to receive a credit from the IMF, because the monitoring had stricter conditions than the consultation under article IV of the Articles of the Agreement (Garay 1991:61-2).<sup>17</sup> It was a sort of “precautionary Stand-by arrangement” in which Colombia engaged in signing a Stand-by arrangement in case of non-compliance with the goals of economic policy or, if the economy under-performed (Garay 1991:33).<sup>18</sup>

The potential violation of the sovereignty of Colombia, regarding the autonomy to conduct economic policy was one of the criticisms to this surveillance. Besides, from the perspective of international banking practice, there were no sufficient reasons to impose binding conditionality (related to the obligatory participation of the IMF in any kind of credit arrangement made by Colombia) to guarantee the payment capacity of the country (Garay 1991:44-5). In a number of developing countries this monitoring program was negatively perceived as a precedent

15 The IMF supported countries in difficulties through the negotiation of Stand by arrangements that allowed the renegotiation of debts with commercial banks and creditor countries (Garay, 1991: 25).

16 The particular scheme had similar parameters as those of the Stand-by arrangements but it sought to highlight the character of good debtor of Colombia and the government of the US supported this proposition (Garay 1991: 33).

17 The quarterly follow-up could only arithmetically verify the economic aggregates (quantitative results) without any kind of interpretation (Garay 1991: 61-2).

18 The coffee bonanza played a central role in the adjustment process and allowed to exceed the goals of the monitoring with the IMF (Garay 1991: 23). Two sectors received a sort of “waiver” vis-à-vis the standard IMF policies: a gradual devaluation and a gradual liberalization of imports (Garay 1991: 52-3).

because commercial banks were allowed to impose conditions related to the management of national economic policy. In turn, some developed countries thought that this precedent could convert the IMF in an intermediary agent at the service of commercial banks, also intervening in the economic management of debtor countries with payment capacity (Garay 1991:62-3).

The performance of the Colombian government was explicitly highlighted by the IMF to facilitate new credit lines for the following years (IMF 1978:19, quoted by Garay 1991:126). The results of the Colombian economy served to justify that at least one of the countries included in the Baker Plan<sup>19</sup> achieved the proposed goals (Garay 1991:127-8). The next government (1986-90) followed more or less comparable economic policies as in the period of monitoring, despite the criticisms voiced during the presidential election campaign and the IMF continued to support Colombia in the following years. Since the nineties, the government accelerated and deepened the programs of “modernization of the economy”, to correct structural problems, and to promote growth, mainly as suggested by IMF policy advice. This way Colombia maintained the support of the IMF and the World Bank and the access to the international financial markets (Garay 1991:172,333,381-6,516-7).

19 The Baker Plan was proposed by the US in 1985 to avoid a generalized moratorium of many debtor countries. The plan proposed as “Program for Sustained Growth”, recognized a more structural problem compared to the 1982 diagnostic considering that the debt problem was one of temporary illiquidity. Some conditions for the highly indebted countries were proposed: the economic growth recovery, the fulfillment of some structural reforms and the availability of enough financing from the multilateral banks and the commercial banks and the multi-year rescheduling agreement (MYRA) (Garay 1991:91-3).

The ties between Colombia and the IMF strengthened since the country concluded three arrangements between December 1999 and September 2006. They can be summarized as follows: (i) a three-year EFF (1999-2002) signed as a consequence of an accelerating recessionary trend in 1998, a deteriorated fiscal position, a record unemployment level, a financial crisis and a peso (COP) under pressure; (ii) a Stand-By Arrangement (SBA) (2002-4) signed as a consequence of the negative effects on the economy of the breaking-off of the peace negotiations and the contagion from financial crises in Latin America at the beginning of 2002; (iii) a Stand-by Arrangement of 18 months (2005-6), requested to support Colombia’s economic program.

### ***B. Empirical analysis based on IMF sources***

An empirical analysis was realized, based on the evaluation by the IMF of structural reforms scheduled under the adjustment programs (1999-2006). It is a global analysis of structural measures arranged with the IMF seeking to assess the dimensions of those interventions and the level of compliance with structural reforms. The IMF arrangements are taken as the point of departure. The goals of the EFF (1999-2004) and the two Stand-by arrangements (2002-4 and 2005-6) are first presented. Then, an analysis of the IMF Country Reports (C.R.) during the execution of those arrangements was performed to identify the structural reforms and the corresponding monitoring tools proposed by the IMF to evaluate the accomplishment of the goals considered in the letters of intent and those proposed

by the IMF. Then, the risks identified by the IMF are presented to assess the weight given by the IMF to possible distortions. This analysis seeks to identify the evaluation of structural reforms by the IMF staff and the degree of compliance.

### 1. The Extended Fund Facilities Arrangement (Dec 1999- Dec 2002)

The structural reforms mentioned in the first Letter of Intent (Dec. 1999), included, first, some previously achieved reforms: (i) the tax reform (Law 488/1998), (ii) the suppression of the central government's co-financing funds<sup>20</sup>, (iii) the reduction and flexibilization of the systems of revenue earmarking (including those of the VAT), (iv) the liberalization of gasoline prices, (v) the constitutional amendment (L.A. 01/1999) to compensate in cases of public expropriations.

Second, it included a number of bills that were presented to the Congress before the conclusion of the EFF arrangement: (i) the creation of a territorial pension fund, (ii) the second generation reform of the pensions system, seeking to adapt the special pension schemes to general regulations, (iii) the limitation of functioning expenditures of territorial governments, and, (iv) the constitutional amendment (L.A.01/2001) to modify the intergovernmental transfers from a system with transfers as constant proportions of current government revenue to one with transfers that remain constant in real terms.

Third, it included some reforms that were to be implemented during the arrangement: (i) a tax reform to broaden the income tax base, to close loopholes in the VAT, and to extend the financial transactions tax (FTT) to 2002; (ii) a reform to grant additional fiscal autonomy to territorial entities; (iii) a reform of the national lottery system to obtain additional revenue for the health system; (iv) a set of reforms to control public spending and to focus increased expenditure on social services for vulnerable groups; (v) a program named "the social emergency fund"; and (vi) the reduction of unemployment through a more flexible labor market and other measures as labor-intensive projects and tax incentives for employment creation.

Fourth, the privatization process was confirmed as a central part of the program. The scheme included: (i) the sale of several major enterprises (especially large companies in the electricity distribution sector and a major mining company (Carbocol); (ii) the offer for sale of the remaining public banks, except Banco Agrario; (iii) the continuation of the process of concessions in roads, railroad construction and operation, and airport facilities; (iv) the reform of the oil and mining sectors through a more flexible system of royalties, increasing private sector participation and better incentives to promote foreign direct investment (FDI).

Finally, the financial sector restructuring was a central component of the arrangement.<sup>21</sup> The

<sup>20</sup> They were used to provide matching grants for projects launched by sub-national governments.

<sup>21</sup> The IMF mentioned previously endorsed reforms: (i) emergency decrees (L.D. 2330-2332/1998) enacted to provide liquidity support to solvent institutions and government support to mortgage debtors, financial cooperatives, and public banks; (ii) the recapitalization of viable private financial institutions through the Deposit Insurance Fund (FOGAFIN);

goals in this sector were: (i) to disinvest fully from all remaining public sector banks before 2001; (ii) to improve banking supervision; (iii) to raise the level of provisioning by financial institutions to international standards before 2002; (iv) to strengthen supervisory entities (Law 510/1999); (v) to design a program of debt reduction for the mortgage sector; (vi) to manage the fiscal cost of the financial sector restructuring; and (vii) to regulate corporate sector debt, seeking voluntary debt restructuring agreements.

## 2. The Standby Arrangement (2002-2004)

In 2002, the IMF considered that Colombian fiscal policy faced some risks despite its commitment to comply with the fiscal target for 2003. Hence, contingency measures were taken and included in the arrangement. They were: (i) a rationalization of subsidies on gasoline, diesel, and electricity; (ii) spending cuts; (iii) increases in current revenues scheduled for 2005; and (iv) the possibility of issuing long-term bonds on concessional terms. Structural reforms explained in the Letter of Intent (December 2002) included: (i) a pension reform to reduce the actuarial deficit, through a referendum that would eliminate special pension regimes by 2008; (ii) public sector modernization based on the recommendations of the Fiscal Transparency Report on Standards and Codes (ROSC); some bills were designed with technical advice from the IMF and the World Bank to make expenditure manage-

(iii) the liquidation of the large public sector banks and their replacement by a more efficient bank (Banco Agrario); (iv) the creation of special lines of credit under the control of the second-tier state run institutions (The Instituto de Fomento Industrial (IFI) and the Banco de Comercio Exterior (BANCOLDEX)) with resources provided by multilateral lending institutions and other second-tier banks.

ment more flexible and to improve the efficiency and transparency of the public sector; they were the budget code and the gradual reduction of government workforce, trying to protect vulnerable groups; (iii) financial sector measures: the establishment of loan-loss provisions according to Basel 2 and the increase of autonomy of supervisors: (legal defense of supervisors and full budgetary autonomy of the Superintendence of Banks); and (iv) reforms of the public health system: a plan to reach sustainable finances of the health service of the Social Security Institute (ISS) and a plan to bring the public hospital network to a financially viable position with the financial support of the IDB.

## 3. The Stand-by arrangement (2005-2006)

The last arrangement was requested to support “faster, sustainable and equitable economic growth through the implementation of a strong economic program” 2005-6 (Letter of intent April 2005). First, fiscal measures requested that the Annual Budget Law of 2006 had to be consistent with a Central Public Sector (CPS) deficit of 2.0 %. For this purpose, it was necessary: (i) to control spending on wages, goods and services, and (ii) to avoid the allocation of more export subsidies.<sup>22</sup>

Second, the structural reforms proposed were the following: (i) the approval and implementation of the Budget Code; (ii) a constitutional amendment to eliminate all special pension re-

22 The IMF expressed that in 2004 they were granted for bananas and flowers to reduce their exchange rate risk. The IMF did not reject other assistance to the agricultural sector, but within budget constraints.

gimes and the 14th monthly pension payment for new pensions, and to limit the maximum pension, (iii) the deepening of the privatization process with the selling of Ecogas (the country's natural gas pipelines operator), and by bringing several regional electricity firms to the point of sale, (iv) the improvement and updating of the information on operations of all levels of government, to better coordinate monetary and fiscal policies, (v) the control of the public debt, through medium term reforms: tax policy, subsidies (particularly on gasoline and diesel) and intergovernmental transfers.

The above synthesis visualizes the initial intentions of the arrangements, and allows comparing them with their effective outcomes. It allows also identifying whether the case of Colombia corresponds to those in which the Letters of Intent include not only crucial and important structural reforms (needed to comply with the macroeconomic goals), but also other measures added by the governments and belonging to their own internal policies and priorities. All three arrangements were concluded as precautionary, which has an important incidence on the periodical evaluations.

#### **4 Contents analysis of IMF Country Reports (C.R.)**

The next step in the analysis was based on the periodical reviews presented by the IMF C.R. The method of analysis was the identification of all measures implying a legal reform and those expressly classified as structural reforms by the IMF although they do not involve a legal change.

Measures concerning monetary, credit and exchange rate policies, even if they were included in the arrangements, were not analyzed because they were not considered as structural reforms *sensu stricto* but rather macroeconomic measures. The autonomy of the Central Bank was not considered neither because it was not analyzed by the arrangements, nor was it reformed by the Congress.

A systematic classification was not easy because the IMF did not use a unique scheme. Some reforms were sometimes included in one category and sometimes in another, for example: budget law, fiscal responsibility law and privatizations. In some cases, the same measure is mentioned several times with different formulations. Aiming at a coherent scheme of analysis, several steps were followed to identify the relevant issues that can be extracted from the C.R. To identify the relevant actions of the IMF, a detailed screening of the C.R. was performed to register their opinions on and evaluations of the structural programs. A total of 19 IMF C.R. were published during the period; 12 correspond to article IV consultation and/or periodical program reviews; four correspond to selected issues and/or the statistical appendix (00/12; 01/68; 05/162; 06/401); two correspond to reports on the observation of standards and codes (03/128; 06/356), and one corresponds to an update of the financial system stability assessment (05/287) (See Table 1).

On the basis of these C.R., the first step in the analysis was to construct a comparative table with all the structural benchmarks signaled by



the government in the Memorandum of Economic Policies (MEP) included in the Letter of Intent. However, this analysis did not provide all the information about the evolution of the evaluations of structural reforms performed by the IMF; hence, a second exercise was performed: a complete screening of those C.R. containing program reviews to identify the evolution of structural reforms and their evaluation by the IMF. A table was drawn up to compare these results with the tables presented in the memoranda of economic policies by the government. Particular effort was made to synthesize because those program reviews are very vast and do not have a specific format; in some opportunities it was not clear whether the opinions were those of the government or those of the IMF.

Table 2 synthesizes the performance measures used during the three arrangements. Prior actions were basically used in the first arrangement, which included measures of budget management, the reform of the intergovernmental transfers (re-named as Revenue Sharing System (SGP)) and pensions. All but one was accomplished with delay, and one was not met. In the third arrangement, only one prior action was included on budget management. It was also accomplished with delay (by an administrative memorandum which does not mean that the measure was effectively enforced). Structural benchmarks were the most used performance measure. In the first arrangement they referred to pensions (1), health issues (2), budget management (1), public revenue (2) and financial sector issues (reform (1) and privatization (1)). They were almost all postponed. In the second arrangement,

there were three: on pensions, budget management and public procurement law. They were also postponed. In the third arrangement, they referred to the financial sector (3), budget management (2), pensions (1), and health (1), also with a poor level of accomplishment.

A performance criterion was used only for the pension reform in the first arrangement, and it was postponed. In the second arrangement, it was applied to pensions (2) (one partially accomplished and one accomplished but declared as unconstitutional), and to budget management (2) (also partially accomplished). In the third arrangement, performance criteria focused on budget management measures (3) which were partially accomplished. Finally, only once “the condition for the completion of the program review” was used for budget management measures and it was not met. In conclusion, the performance measures were used mainly for budgetary measures. The level of accomplishment was relatively poor, even in the category of stricter conditions.

The preceding analysis shows the relative importance attached by the IMF to structural reforms, according to performance measures included in the adjustment program and evaluated in the C.R. (Table 3). **Budget management** was centered on the approval of a budget code, which was first considered as a structural benchmark, then as a performance criterion, and finally as a condition for the completion of the program when the IMF conceded a waiver. Finally, it was not met. The fiscal responsibility law was mentioned only once and the fiscal streng-

thening of territorial entities was the only performance measure accomplished. **Pensions** had the most performance criteria accomplished, although always with delay. **Health** mentioned basically the reform of intergovernmental transfers and the reform of the ISS. **Public revenue** was included with only two evaluation criteria for the territorial tax reform and the Public Revenue Commission; both appeared as postponed. For the **modernization of the state and transparency** the reform of the public procurement law was mentioned only once and it was postponed. For the **Financial system**, several measures were mentioned but only the law on security markets was approved whereas the rest appeared as postponed.

Second, from the quantitative analysis of the level of compliance, considering the framework used by the IMF to evaluate the accomplishment by states, prior actions were the most accomplished; from a total of six, four were completed (with delay) and one was partially attained (table 4). Structural benchmarks were the most numerous (18) but with a very low level of accomplishment; only three measures were completed and two partially attained. Performance criteria were the second most used but they were characterized by a high degree of non-compliance. From eight performance criteria only one was met and three partially attained. Finally, only one condition for the completion of a program review was included in the first Stand-By arrangement and it was not met, not even during the second arrangement when it changed to a performance criterion.

Third, considering each of the arrangements individually (table 4), during the EFF only prior ac-

tions registered a satisfying level of compliance whereas structural benchmarks and performance criteria reported a very low accomplishment: only one structural benchmark was totally met. In the case of the first Stand-By arrangement, prior actions were not included and structural benchmarks and performance criteria did not report a better realization; only one performance criterion was met. It was the only program including a condition for the completion of the final review, and it was not met. Finally, the last Stand-By arrangement registered the highest level of compliance because it met the unique prior action, the two structural benchmarks and the two performance criteria. Curiously, the last adjustment program was the least necessary because it only supported the Colombian economy to return to normal relations with the IMF. It is also clear that the last one registered the best macroeconomic results; thus it seems that the structural reform scheme lost its relevance, even more if it is taken into account that all of the three programs were precautionary.

A next step in the analysis based on C.R., was a synthesis of the staff appraisal and evaluation of the structural program. The aim was to filter the concrete opinion of the IMF during the periodical evaluations to identify the priorities concerning the structural reforms, because it has been repeatedly affirmed that countries tend to include reforms not linked with the macroeconomic adjustment program. As a consequence, the accomplishment indicated by governments does not necessarily reflect the priorities quoted by the IMF. The concrete evaluations explicitly established which reforms were prior actions, structural benchmarks, and/or performance criteria; the

analysis was limited only to structural reforms and did not include macroeconomic goals.

The preliminary observation is that in all the periodical evaluations the completion of the periodical country reviews was recommended, despite the fact that some structural benchmarks were not achieved. At the same time, all the waivers requested for the non-achievement of some goals were conceded by the IMF staff. Macroeconomic performance and fiscal stability were relevant in all the periodical evaluations. Internal conflict and elections were factors considered by the IMF in the periodical evaluations of the accomplishment of structural reforms. In some cases it seems that the IMF expresses its “sympathy” (or, rejection) for the government in power. That was the case of the last evaluation of the EFF arrangement, when it highlighted the lack of efforts of the Pastrana government to comply with the arrangement, despite the former positive periodical evaluations published by the IMF. In contrast, opinions concerning the government of president Uribe were in general positive despite the equally low level of accomplishment. Finally, the lack of a detailed follow-up of concrete commitments concerning structural reforms is remarkable; the IMF periodical evaluations are not very explicit and this complicates an evaluation of compliance from a legal point of view.

Concerning the periodical evaluations, the growing importance of the public revenue sector should be highlighted, although concrete measures were not very explicit except for the Public Revenue Commission, but they were not considered as structural reforms neither. For social

sectors as health, pensions and unemployment, there was concern about their financial viability. Budget management has predominance in the IMF analysis, with a focus on the control of the fiscal deficit and the design and implementation of the budget code. Once the enactment of the budget code received a waiver upon its non-compliance, emphasis was put on measures seeking to control revenue earmarking and, finally, simply on administrative measures. The financial sector was mentioned with less emphasis; mainly privatizations and supervision issues were analyzed and evaluated.

The final step in the analysis was to identify the risks signaled by the IMF in the periodical program reviews. From these opinions, the main variables were identified to determine whether there were clear patterns across the different program reviews or whether they were rather sporadic. The civil conflict was present in almost all the program reviews, although the intensity varied; in some reviews the IMF was more optimistic than in others, particularly in the last reviews, but it was permanently mentioned from 1999 till 2005. The political uncertainty was also a constant; the different periods of elections were a clear distortion of the structural reforms agenda. Risks of an international nature (increase of interest rates, currency depreciation, oil price stocks) appeared since 2003 and remained as such. Court activism was mentioned only once as a potential risk to the program in 2004. This has probably also to do with the political sensitivity of the matter. Other potential risks were not systematically mentioned during the seven years of the arrangements.

### III. CONCLUSIONS: MACROECONOMIC GOALS AND STRUCTURAL REFORMS

In Colombia, Structural Adjustment Arrangements were not used as a source of obligations by the legislative, nor by the government, and nor by the judiciary. Structural conditions were not the object of a detailed follow-up of the concrete commitments which complicated the evaluation from a legal perspective. Its normative (binding) character was therefore unclear at because national authorities may ignore measures proposed by the IMF conditionality. This confirms their character as soft law.

The case of Colombia in the period 2000-6, seems to confirm the hypothesis that a country's willingness to reform is crucial for its accomplishment and that the conditions are the result of a bargaining process between the government and the IMF. Governmental agendas are in effect as important as IMF policies and conditionality for the success of the program, because the reforms could be implemented even without the arrangements. The inclusion of the political agenda of the Colombian government in the arrangements was notorious. In the first arrangement it included many measures that were already enacted or that were in the Congress, not imposed by the IMF. The inclusion and evaluation of many structural benchmarks varied in function of the improvements in the legislative agenda, and they were reported by the IMF as compliances. In all the periodical evaluations performed over the six years, the completion of these periodical country reviews was recommended, despite the low level of

compliance with structural reforms and all the waivers requested for the non-achievement of some goals were conceded by the IMF staff. In addition, some reforms were enacted although not under the scheme agreed with the IMF (policy advice), which may also reflect the agenda of the government. As a result, policy advice was important but not necessarily compulsory for Colombia, although surveillance on items that may affect macro-economic and fiscal figures (mainly inflation and budget control) remains relevant for the IMF. In short, structural conditionality is not easily enforced by the IMF, and therefore, in countries that sign precautionary arrangements without financial support it may lose legal relevance. However, they may be useful from the international political economy point of view (to get more access to credit lines).

Another confirmed trend was that macroeconomic performance and fiscal stability were relevant in all the periodical evaluations. Although the purpose of this research was not to evaluate the economic performance of the programs, a word must be said in this respect because of its link with the analysis of the legal compliance with IMF arrangements. The relation between structural adjustment and macroeconomic success related mostly to growth rates, inflation and fiscal deficit. In Colombia, before the first IMF arrangement, growth was negative (-4.20% of GDP in 1999) for the first year in decades. During the three years of the EFF arrangement (2000-2), growth rates were in average close to 2.5% of GDP. During the two Stand-by arrangements (2003-6) the economic growth was increasing from 4.6% of GDP in 2003 until 6.9% of GDP in 2006, and reaching its highest rate in

2007: 7.5% of GDP. However, in 2008 it dropped to 2.4% of GDP and reached 0.4% in 2009 (Table 6). Observing the years of the arrangements, a possible conclusion would be that they pushed economic growth, but regarding the second and third year after the conclusion of the last arrangement, the conclusion would rather be the negative influence of IMF arrangements on growth in the mid-term. However, other economic variables as the world crisis may have influenced more directly growth and therefore, a causal relationship between arrangements and growth is not evident, even more if as it has been seen, conditionality and policy advice are not compulsory, nor completely enforced.

Considering inflation rates in Colombia, they showed a clear progressive decline starting even before the beginning of the arrangements with the IMF, when inflation was 9.2% (in 1999). In 2006 it was 4.5%, but in 2007 it increased until 5.7% and 7.7% in 2008. In 2009 it dropped again to 2%. Finding a direct relation with IMF conditionality is again not evident, because the decreasing trend started years before the beginning of the arrangements and it increased again after the conclusion of the third and last one.

Finally, considering the fiscal deficit, the positive effects of IMF conditionality would appear to be clearer. The deficit diminished progressively until -0.4% of GDP in 2006 and it was maintained until 2008. The reason may be that the control of public expenditure seems to be the main concern of the periodical country reviews. In fact, budget management predominated in the IMF analysis, which focused on the control of the fiscal deficit and the design and implementation

of the budgetary process. Notwithstanding, this last condition was not met.

Therefore, the legal consequences of non-completion of structural reforms, while the macroeconomic goals are totally or partially reached by other means, seem not highly relevant for the IMF. Considering the compliance with each of the three arrangements, the last Stand-By arrangement registered the highest level of compliance. This program was the least necessary because it only supported the Colombian economy to return to normal relations with the IMF and it registered the best macroeconomic results, and apparently the structural reform scheme lost its relevance. The oil boom played a determinant role in the good macroeconomic results, because as the IMF recognized, Ecopetrol is the main contributor to the national budget. The situation was similar to the one of the eighties when the coffee boom played a central role in the completion of the adjustment asked by the IMF (Garay 1991). Despite that oil resources contributed significantly to the realization of the macroeconomic goals, the reforms of the non-renewable resources sector were not mentioned by the IMF, except for the restructuring (partial privatization) of Ecopetrol, and the elimination of fuel subsidies.

Political proximity with respect to the US, particularly in the UNSC has also been reported as a positive factor in the relation with the IMF (Dreher, Sturm and Vreeland 2006; Dreher, Marchesi and Vreeland 2008). This point seems also to be confirmed in the case of Colombia. In the period of the arrangements, the good relations with the US were the red thread (cf. Plan Colom-

bia). Colombia was also member (and president on two occasions) of the UNSC, clearly supporting the international position of the US.

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**Table 1** Periodical Country Reports (C.R.) on Colombia, December 1999- November 2006

<b>C.R.</b>	<b>Subject</b>
99/149	Staff report for the 1999 article IV consultation.
00/12	Statistical appendix
01/12	First review of the extended arrangement - Staff Report
01/64	Art. IV consultation and Second review under the extended arrangement – Staff Report
01/68	Selected issues and statistical appendix (unemployment, banking, inflation, taxes, pensions)
02/15	Third Review Under the Extended Arrangement--Staff Report
03/19	Article IV Consultation and Request for Stand-by Arrangement--Staff Report
03/128	Reports on the Observance of Standards and Codes
03/181	First Review Under the Stand-by Arrangement--Staff Report
04/15	Second Review Under the Stand-by Arrangement and Request for Waiver of Performance Criteria--Staff Report
04/199	Third Review Under the Stand-by Arrangement and Request for Waiver of Non observance of Performance Criterion - Staff Report
05/154	Article IV Consultation and Fourth Review Under the Stand-by Arrangement, Requests for Waiver of Non observance of Performance Criteria and the Completion of the Fourth Review, and Request for Stand-by Arrangement--Staff Reports
05/162	Selected issues: labor markets, intergovernmental transfers, sectoral balance sheet mismatches and macroeconomic vulnerabilities, development of hedging instruments in Colombia
05/287	Financial System Stability Assessment Update, including Reports on the Observance of Standards and Codes on the following topics: Securities Regulation, Insolvency and Creditor Rights Systems, and Payment Systems; and Comments by Authorities
05/392	First Review Under the Stand-by Arrangement, Requests for Modification of Performance Criteria, and Waiver of Non observance of Performance Criteria and of Applicability of end-September Performance Criteria - Staff Report
06/234	Second Review Under the Stand-by Arrangement and Request for Rephrasing of Purchases - Staff Report; Staff Supplement
06/356	Report on the Observance of Standards and Codes - Data Module; Response by the Authorities; and Detailed Assessments Using the Data Quality Assessment Framework
06/401	Selected Issues: The Fiscal Risk of Public Enterprises: Analysis of Isagen and Ecopetrol, Inflation Persistence in Colombia; Currency Risk Hedging by Colombian Corporations; Assessing Real Exchange Rate Developments
06/408	Article IV Consultation and the Third and Final Review Under Stand-by Arrangement - Staff Report

<http://www.imf.org/external/country/COL/index.htm?pn=4>

**Table 2** Performance measures used during the three IMF arrangements.

<b>Reforms</b>	<b>Accomplishment</b>
<i>Prior actions</i>	
<b>EFF arrangement</b>	
Creation of the territorial government pension fund	accomplished with delay
Constitutional reforms of intergovernmental transfers	accomplished with delay
Law for the fiscal strengthening of sub national entities	accomplished with delay
Annual budget law for 2001 consistent with a non financial public sector deficit of at most 2.5 of GDP	accomplished with delay presented but not approved
Reform of special pension regimes	Not met
<b>STAND-BY arrangement 2005-2006</b>	
Plan to improve the statistical reporting system for the financing of the non financial public sector deficit	accomplished with delay <sup>22</sup>
<i>Structural benchmarks</i>	
<b>EFF arrangement</b>	
Second generation pensions	Postponed
Draft fiscal responsibility law	Postponed
Territorial tax reform	Postponed
Reform of the health system under the ISS	Postponed
Reform of Law 60 regarding public education and health	Accomplished
Full disinvestment from all remaining public banks excluding Banco Agrario	Postponed
Final report of the Public Revenue commission to be made public	Postponed
Process of bringing provisioning standards of the financial institutions to international levels	Ongoing
<b>STAND-BY arrangement 2002-2004</b>	
Reform of special pension regimes	partially accomplished
Budget Code	Postponed
Reform of Law 80 (contract law)	Postponed
<b>STAND-BY arrangement 2005-2006</b>	
Budget code	Not met
Constitutional amendment to eliminate special pension regimes, end 14 <sup>th</sup> monthly pension and cap maximum pension	Accomplished
New securities law	Accomplished
Regulations to improve the quality of information reported by sub national entities	revised without legal reform
All regulations needed to implement the securities market law	Partially accomplished
Revenue sharing reform	Postponed
Law to fortify independence of financial Superintendence	Postponed
<i>Performance criterion</i>	
<b>EFF arrangement</b>	

22 Administrative memorandum that regulated the reports of bank operations with the non-financial public sector.

Special pensions regime reform	Postponed
<b>STAND-BY arrangement 2002-2004</b>	
Budget Code	Postponed
Special pensions regime reform	Postponed
Annual budget law for 2005 according with a CPS deficit of 2 to 2½ percent of GDP and presented according to a standard international classification system	presented <sup>23</sup>
Reform of special pension regime for the military	Done (unconstitutional)
<b>STAND-BY arrangement 2005-2006</b>	
Congressional approval of the Budget Code	postponed <sup>24</sup>
Annual budget law /06 consistent with CPS deficit of 2.0 % of GDP	presented
Annual budget law /07 consistent with CPS deficit of 1.7 % of GDP	presented
<b><i>Condition for the completion of the program review</i></b>	
<b>STAND-BY arrangement 2002-2004</b>	
Budget Code	Not met

Source: IMF Country Reports

23 This evaluation does not mean approved and accomplished.

24 Performance criterion under the second Stand-By arrangement, and then structural benchmark.

**Table 3** Synthesis of the IMF periodical evaluation of structural reforms

Sector/Reforms	Arrangement	Performance measure	Accomplishment
<b>Pensions</b>			
Creation of territorial pensions fund	I	Prior Action	Accomplished with delay
Reform of special pension regimes	I	Prior Action	Not met
	II	Structural benchmark	Partially accomplished
Second generation pension reform	I	Structural benchmark	Postponed
	I	Performance criterion	Postponed
	II	Performance criterion	Postponed
	III	Structural benchmark	Accomplished
Special pension regime of the military	II	Performance criterion	Done (unconstitutional)
<b>Budget management</b>			
Law for the fiscal strengthening of sub-national entities	I	Prior Action	Accomplished with delay
Annual budget law for 2001 in accordance with the non financial public sector deficit	I	Prior Action	Accomplished with delay presented but not approved
Draft fiscal responsibility law	I	Structural benchmark	Postponed
Budget Code	II	Structural benchmark	Postponed
	II	Performance Criterion	Postponed
	II	Condition for the completion of the program review	Not met
	III	Performance Criterion	Postponed
Annual budget law for 2006 in accordance with the CPS deficit	III	Performance Criterion	Presented
Annual budget law for 2007 in accordance with the CPS deficit	III	Performance Criterion	Presented
<b>Health</b>			
Constitutional reform of intergovernmental transfers	I	Prior Action	Accomplished with delay
Reform of the health System under the ISS	I	Structural benchmark	Postponed
Legal reform of intergovernmental transfers	I	Structural benchmark	Accomplished
New constitutional reform of intergovernmental transfers	III	Structural benchmark	Postponed
<b>Public revenue</b>			
Territorial tax reform	I	Structural benchmark	Postponed
Final Report on Public Revenue Commission	I	Structural benchmark	Postponed
<b>Modernization of the State and transparency</b>			
The improvement of the statistical reporting system for the financing of the non financial public sector deficit	I	Prior Action	Accomplished with delay
Reform of Public Procurement law	II	Structural benchmark	Postponed

Regulation to improve the quality of information reported by territorial entities	III	Structural benchmark	Revised without legal reform
<b>Financial System</b>			
Privatization	I	Structural benchmark	Postponed
Process of bringing provision standards of the financial institutions to international levels	I	Structural benchmark	Ongoing (no legal reform)
New securities law	III	Structural benchmark	Accomplished
Rules to implement this law	III	Structural benchmark	Partially accomplished
Law to fortify the independence of the financial superintendence	III	Structural benchmark	Postponed

Source: IMF Country Reports

**Table 4** Performance measures used during the three IMF arrangements: Synthesis

Monitoring measure	Number of measures	Accomplished	Partially accomplished <sup>25</sup>	Not Met <sup>26</sup>	Other	Totally accomplished
Prior Action						
EFF 1999-2002	5	3 (delay)	1	1		3
STAND-BY 2002-2004	----					---
STAND-BY 2005-2006	1	1 (delay)	0	0		1
Total	6	4	1	1		4
Structural Benchmark						
EFF 1999-2002	8	1	0	6	1 Ongoing	1
STAND-BY 2002-2004	3	0	1	2		0
STAND-BY 2005-2006	7	2	1	3	1 Revised	2
Total	18	3	2	11	2	3
Performance criteria						
EFF 1999-2002	1	0	0	1		0
STAND-BY 2002-2004	4	1 Done	1	2		1
STAND-BY 2005-2006	3	0	2	1		0
Total	8	1	3	4		1
Condition for the completion of the final review						
EFF 1999-2002	---					--
STAND-BY 2002-2004	1			1		0
STAND-BY 2005-2006	----					--
Total	32	8	6	17	2	

Source: IMF Country Reports: [www.imf.org](http://www.imf.org)

25 This category includes those effectively evaluated as partially complied but also those that were registered as presented to the Congress but not approved.

26 This term includes measures literally catalogued as not met, but also includes those qualified as postponed at the end of the arrangement and those catalogued as "pending".



**Table 5** Risks for reform program implementation according to the IMF

	C.R. 99/ 149	C.R. 01/ 12	C.R. 03/ 19	C.R. 03/ 181	C.R. 04/ 15	C.R. 04/ 199	C.R. 05/ 154	C.R. 05/392
Slower than expected economic recovery	X							
Civil conflict	X	X <sup>27</sup>	X	X <sup>28</sup>	X	X	X	
Higher than projected costs of the financial restructuring plan	X							
Strong dependence on privatizations to finance the fiscal deficit	X	X						
The centeredness of the consolidation of macroeconomic policies on structural reform	X							
Uncertainties about the Congressional support for the reform agenda	X		X	X	X	X <sup>29</sup>	X	X <sup>30</sup>
Unanticipated increase in security spending			X					
Delay of the referendum and uncertainty about its outcome				X				
Disruption in the trade with Venezuela				X	X			
The possibility of the Constitutional Court playing a more activist role in economic policy					X <sup>31</sup>			
Vulnerability of the fiscal position due to international risks <sup>32</sup>			X		X	X	X	X <sup>33</sup>
High dependence on USA in borrowing may difficult the fiscal outlook.						X		
Faster than expected decrease of the surplus of sub-national governments.							X	
Pressures for increased public spending due to elections						X	X	

Sources: CR99/149: 16, 28; CR 01/12: 28; CR 03/19: 17; CR 03/181:5, 8, 17-19; CR 04/15:4, 14-16; CR 04/199: 3, 20-21; CR05/1540: 8, 18-19; CR 05/392: 9, 17, 20.

27 It quoted that "the Plan Colombia holds out encouraging prospects" (CR 01/12:28).

28 The enhancement of democratic security was a cornerstone of the Colombian government.

29 The political agenda is monopolized by the campaign for a constitutional amendment to authorize the reelection of the President and therefore, key reforms are in danger and extra public spending is expected (CR 04/199:3).

30 Structural fiscal reform program should resume as soon as politically feasible; IMF asked to prepare reforms to be followed by the next government (CR 05/392:20).

31 I.e. it could reverse some of the government's economic policies (CR 04/15:4 and 14-16).

32 E.g. financial market access, temporary loss of export markets and volatility in external markets (interest rate increases, currency depreciations, oil price stocks).

33 The gain in net international reserves since 2003 was protecting economic performance (CR 05/392:9). For the IMF a drop in the world price of oil could moderately raise public debt compared with the baseline (CR 05/392:17).

**Table 6** Selected Macro-economic Figures for Colombia. 1993-2009

Year	Growth of GDP (%)	Unemployment (%)	Inflation (%)	Government deficit - with privatizations (% of GDP)	Government deficit - without privatizations (% of GDP)
1993	5,70	7,80	7,90	7,10	0,20
1994	5,10	8,00	22,60	2,00	0,10
1995	5,20	9,50	19,50	-0,10	-0,30
1996	2,10	11,30	21,60	-0,70	-1,40
1997	3,40	12,00	17,70	0,40	-2,40
1998	0,60	15,60	16,70	-2,70	-3,10
1999	-4,20	18,00	9,20	-3,10	-3,50
2000	2,90	19,70	8,80	-3,10	-3,50
2001	2,20	16,70	7,70	-3,50	-3,60
2002	2,50	15,70	7,00	-2,90	-2,90
2003	4,60	14,50	6,50	-2,20	-2,20
2004	4,70	13,40	5,50	-0,50	-0,50
2005	5,70	11,60	4,90	-0,30	-0,40
2006	6,90	11,80	4,50	-0,40	-0,40
2007	7,50	9,50	5,70	1,20	-0,40
2008	2,40	10,50	7,70	0,90	0,50
2009	0,40	11,80	2,00	-2,10	-2,20

Notes: (i) Growth figures are based on GDP in constant prices of 1994 until 2000. and on constant prices of 2000 since then; (ii) unemployment figures refer to observations unemployed active population in December in seven metropolitan areas; (iii) inflation is measured by the consumer price index in December (base year 1998); (iv) government deficit refers to total non-financial public sector; (v) figures in italics are provisional.

Sources: DANE and Banco de la República.