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PERSPECTIVES ON BUSINESS, INVESTMENT & ESTATE PLANNING

the Capital Partner

Protecting Capital, Preserving Dreams, Creating Legacies

Challenges Remain as BC's Economy Begins to Stabilize

"ALTHOUGH B.C.'S ECONOMY is beginning to show signs of improvement, the economic downturn continues to have a negative impact and BC continues to face fiscal challenges," **Finance Minister Colin Hansen** said on November 27.

His comments were made with the release of the Province's Second Quarterly Report.

"Several of British Columbia's major economic indicators are beginning to stabilize following the sharp global economic downturn," said Hansen. "However, the Province's economic recovery remains subject to a number of significant risks."

Within this challenging environment, government will continue to protect vital services while we implement economic stimulus and infrastructure programs and ensure that B.C.'s fiscal plan remains on target."

Between July and September, major economic indicators such as housing starts, retail sales, employment, manufacturing shipments, exports and non-residential building permits began to stabilize compared to late-2008 and early-2009.

Total revenue was projected to be $37.4 billion in 2009-10, a decrease of $232 million compared to the September Budget Update.

The decline in total revenue was offset by $107 million in lower spending and a $125-million reduction in the forecast allowance. Total expense is projected to be $40 billion. B.C.'s projected deficit is unchanged from the September Budget Update and remains at $2.8 billion for 2009-10.

The B.C. government remains committed to its economic stimulus and infrastructure programs. Since the September Budget Update, an additional $1 billion in new accelerated infrastructure projects has been approved, bringing the total commitment to $4.4 billion. To date, British Columbia has negotiated $811 million in funding from the federal government for accelerated infrastructure projects. Additional cost-sharing agreements are expected to be finalized in the coming months.

> ***"...the Province's economic recovery remains subject to a number of significant risks."***

The Province's taxpayer-supported debt-to-GDP ratio, a key measure of fiscal sustainability, is projected to be 16.1 per cent by the end of 2009-10, slightly lower than the 16.2 per cent forecast in the September Budget Update. As recently announced, **the Province continues to maintain its Triple-A credit rating.** ❍

GORDO'S CAPITAL COMMENT

The Railroad Gates & Buffett's Big Bet on Burlington Northern

HERE'S A CHALLENGE. The next time you're at a cocktail party, see how many people you can impress by letting them know you've invested in… a railroad.

Yes, that out-dated mode of transportation that helped settle the west and inspired countless folk songs may be back in vogue.

OK, maybe it doesn't tantalize like a Nortel stock. Still, railroads have a bright future. At least, that's the thinking of Warren Buffett and Bill Gates.

On November 3rd, Berkshire Hathaway announced a $100/share bid on outstanding Burlington Northern shares - a 30% premium to the previous day's close.

The Berkshire board also announced a 50-1 split of Berkshire B shares in order to accommodate the purchase.

Followers of Buffett shouldn't be surprised by this purchase. The investment in Burlington Northern/ Sante Fe (BNSF) has all the hallmarks of a Buffett business:

- High barriers to entry
- A history of earnings growth (currently 12% of revenue)
- Consistent return on equity (greater than 15%)
- Honest & capable management (CEO **Matthew Rose**)
- A company embedded in the fabric of American culture
- Little R & D required
- A company that benefits from technological innovations

Buffett first purchased 10.9% of BNSF in 2006. Since then, he's been quietly, patiently accumulating more. When the bid was announced on November 3rd, Berkshire had already acquired 22.6% of all outstanding BNSF shares.

His interest in the railroad business may have come from his friend **Bill Gates**.

Years ago, as a means of diversifying his concentrated holdings at Microsoft, Gates invested in **CN Rail** - when it was much cheaper. Since then, the business has grown and the share price climbed.

He's also commented how technology enables railroads (computer know how is a bonus), how railroads are more environmentally friendly and more cost effective - especially if and the price of oil becomes costly and prohibitive.

He currently owns 9% of CN (7% through his investment company Cascade Investments & 2% through the Bill and Melinda Gates Foundation).

Because the Gates Foundation is the largest benefactor of Mr. Buffett's Berkshire Hathaway shares, it will ultimately provide Mr. Gates with some extraordinary influence in North American rail operations (will it mean more anti - trust suits?)

So, take the challenge. At your next Christmas function, whisper to someone you've invested in... railroads. If Mr. Buffett and Mr. Gates are correct, there could be a whole generation of new railroad folk songs yet to be written. ❍

the Capital Partner

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The Capital Partner promotes the values, practices & principles championed by:

Warren Buffett & Charles Munger

of Berkshire Hathaway Inc.

These principles suggest partners:

- consider taxes & fees when investing
- avoid speculation or market timing
- focus on sustainable growth
- seek competitive advantages
- hire managers who are honest, capable & think like business owners
- consider long term strategies and succession plans

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E. & O.E.

Bank of Canada Governor **Mark Carney** On International Monetary Policy & Canada's Role in Global Finance

The address below was given by BoC Governor Mark Carney to the Foreign Policy Association in New York City on Tuesday, November 19, 2009. Since the global meltdown began, Canada's banking system has been revered as a model for other countries . More conservative lending practices meant highly leveraged subprime debt was kept to a minimum and our governments were never required to infuse banks with capital. In this presentation, Carney argues for an international monetary system based open and transparent exchange above a system based on any particular asset class.

The Evolution of the International Monetary System

IN RESPONSE TO THE worst financial crisis since the 1930s, policy-makers around the globe are providing unprecedented stimulus to support economic recovery and are pursuing a radical set of reforms to build a more resilient financial system.

However, even this heavy agenda may not ensure strong, sustainable, and balanced growth over the medium term. We must also consider whether to reform the basic framework that underpins global commerce: the international monetary system. My purpose this evening is to help focus the current debate.

While there were many causes of the crisis, its intensity and scope reflected unprecedented disequilibria. Large and unsustainable current account imbalances across major economic areas were integral to the buildup of vulnerabilities in many asset markets. In recent years, the international monetary system failed to promote timely and orderly economic adjustment.

This failure has ample precedents. Over the past century, different international monetary regimes have struggled to adjust to structural changes, including the integration of emerging economies into the global economy. In all cases, systemic countries failed to adapt domestic policies in a manner consistent with the monetary system of the day. As a result, adjustment was delayed, vulnerabilities grew, and the reckoning, when it came, was disruptive for all.

Policy-makers must learn these lessons from history. The G-20 commitment to promote strong, sustainable, and balanced growth in global demand – launched two weeks ago in St. Andrews, Scotland – is an important step in the right direction.

What Is the International Monetary System & How Should It Function?

The international monetary system consists of (i) exchange rate arrangements; (ii) capital flows; and (iii) a collection of institutions, rules, and conventions that govern its operation.

Domestic monetary policy frameworks dovetail, and are essential to, the global system. A well-functioning system promotes economic growth and prosperity through the efficient allocation of resources, increased specialization in production based on comparative advantage, and the diversification of risk. It also encourages macroeconomic and financial stability by adjusting real exchange rates to shifts in trade and capital flows.

To be effective, the international monetary system must deliver both sufficient nominal stability in exchange rates and domestic prices, and timely adjustment to shocks and structural changes.

Attaining this balance can be very difficult. Changes in the geographic distribution of economic and political power, the global integration of goods and asset markets, wars, and inconsistent monetary and fiscal policies all have the potential to undermine a monetary system. Past systems could not incent systemic countries to adjust policies in a timely manner. The question is whether the current shock of integrating one-third of humanity into the global economy – positive as it is – will overwhelm the adjustment mechanisms of the current system.

There are reasons for concern. **China's integration into the global economy alone represents a much bigger shock to the system than the emergence of the U.S. at the turn of the last century.** China's share of global GDP has increased faster and its economy is much more open.[1] As well, unlike the situation when the United States was on the gold standard with all the other major countries, China's

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managed exchange rate regime today is distinct from the market-based floating rates of other major economies.

History shows that systems dominated by fixed or pegged exchange rates seldom cope well with major structural shocks.

This failure is the result of two pervasive problems: an asymmetric adjustment process and the downward rigidity of nominal prices and wages. In the short run, it is generally much less costly, economically as well as politically, for countries with a balance of payments surplus to run persistent surpluses and accumulate reserves than it is for deficit countries to sustain deficits. This is because the only limit on reserve accumulation is its ultimate impact on domestic prices. Depending on the openness of the financial system and the degree of sterilization, this can be delayed for a very long time.[2] In contrast, deficit countries must either deflate or run down reserves.

Flexible exchange rates prevent many of these problems by providing less costly and more symmetric adjustment. Relative wages and prices can adjust quickly to shocks through nominal exchange rate movements in order to restore external balance. When the exchange rate floats and there is a liquid foreign exchange market, reserve holdings are seldom required.[3] Most fundamentally, floating exchange rates overcome the seemingly innate tendency of countries to delay adjustment.

A brief review of how the different international monetary regimes failed to manage this trade-off between nominal stability and timely adjustment provides important insights for current challenges.

The Evolution of the International Monetary System

The Gold Standard

Under the classical gold standard, from 1870 to 1914, the international monetary system was largely decentralized and market-based.

There was minimal institutional support, apart from the joint commitment of the major economies to maintain the gold price of their currencies. Although the adjustment to external imbalances should, in theory, have been relatively smooth, in practice it was not problem-free.[4] Surplus countries did not always abide by the conventions of the system and tried to frustrate the adjustment process by sterilizing gold inflows. Deficit countries found the adjustment even more difficult because of downward wage and price stickiness. Once the shocks were large and persistent enough, the consequences of forfeiting monetary independence and asymmetric adjustment ultimately undermined the system.[5]

The gold standard did not survive World War I intact. Widespread inflation caused by money-financed war expenditures and major shifts in the composition of global economic power undermined the pre-war gold parities. Crucially, there was no mechanism to coordinate an orderly return to inflation-adjusted exchange rates.

When countries, such as the United Kingdom in 1925, tried to return to the gold standard at overvalued parities, they were forced to endure painful deflation of wages and prices in order to restore competitiveness. Though this was always going to be difficult, it proved impossible when surplus countries thwarted reflation.

During the Great Depression, with an open capital account and a commitment to the gold-exchange standard, the United States could not use monetary policy to offset the economic contraction.[6] Fidelity to gold meant that the deflationary pressures from the United States spread quickly, further weakening the global economy. Unable to adjust to these pressures, countries were forced to abandon the system. Though deficit countries experienced the first crisis, all countries suffered from the eventual collapse – a lesson that was repeated in subsequent systems.

Bretton Woods

The Bretton Woods system of pegged, but adjustable, exchange rates was a direct response to the instability of the interwar period. Bretton Woods was very different from the gold standard: it was more administered than market-based; adjustment was coordinated through the International Monetary Fund (IMF); there were rules rather than conventions;[7] and capital controls were widespread.

Despite these institutional changes, surplus countries still resisted adjustment. Foreshadowing present problems, countries often sterilized the impact of surpluses on domestic money supply and prices. Like today, these interventions were justified by arguing that imbalances were temporary and that, in any event, surpluses were evidence more of virtue than "disequilibria." In contrast, the zero bound on reserves remained a binding constraint for deficit countries, which eventually ran out of time.

The Bretton Woods system finally collapsed in the early 1970s after U.S. policy became very expansionary, its trade deficit unsustainable, and the loosening of capital controls began to put pressure on fixed exchange rates. Once again, all countries suffered from the aftershocks.

The Current Hybrid System

While their initial objective was to self-insure against future crises, reserve accumulation soon outstripped these requirements. In some cases, persistent exchange rate intervention has served primarily to maintain undervalued exchange rates and promote export-led growth. Indeed, given the scale of its economic miracle, it is remarkable that China's real effective exchange rate has not appreciated since 1990 (Chart 2).

This flip side of these imbalances was a large current account deficit in the United States, which was reinforced by expansionary U.S. monetary and fiscal policies in the wake of the 2001 recession. In combination with high savings rates in East Asia, these policies generated large global imbalances and massive capital flows, creating the "conundrum" of very low long-term interest rates, which, in turn, fed the search for yield and excessive leverage. While concerns over global imbalances were frequently expressed in the run-up to the crisis, the international monetary system once again failed to promote the actions needed to address the problem. Vulnerabilities simply grew until the breaking point.

Some pressures remain. The financial crisis could have long-lasting effects on the composition and rate of global economic growth.[8] Since divergent growth and inflation prospects require different policy mixes, it is unlikely that monetary policy suitable for United States will be appropriate for most other countries. However, those countries with relatively fixed exchange rates and relatively open capital accounts are acting as if it is. If this divergence in optimal monetary policy stance increases, the strains on the system will grow.

Postponed adjustment will only serve to increase vulnerabilities. In the past, the frustration of adjustment by surplus countries generated deflationary pressures on the rest of the world. Similarly, today, the adjustment burden is being shifted to others. Advanced countries – including Canada, Japan, and the Euro area – have recently seen sizable appreciations of their currencies.

The net result could be a suboptimal global recovery, in which the adjustment burden in those countries with large imbalances falls largely on domestic prices and wages rather than on nominal exchange rates. History suggests that this process could take years, repressing global output and welfare in the interim.

The Way Forward

To avoid these outcomes, there are several options.

The first is to reduce overall demand for reserves. Alternatives include regional reserve pooling mechanisms and enhanced lending and insurance facilities at the IMF.

While there is merit in exploring IMF reforms, their effect on those systemic countries that already appear substantially overinsured would likely be marginal. As I will touch on in a moment, the G-20 process may have a greater impact.

On the supply side, several alternative reserve assets have been suggested. The motivation of these proposals is primarily to redistribute the so-called "exorbitant privilege" that accrues to the United States as the principal supplier of reserve currency. As such, the United States receives an advantage in the form of lower financing costs in its own currency. This advantage would be shared (and possibly reduced in aggregate) if there were competing reserve currencies. In turn, this could marginally reduce the *collective* imbalances of reserve currency countries.[9] [10]

Over the longer term, it is possible to envision a system with other reserve currencies in addition to the U.S. dollar. However, with few alternatives ready to assume a reserve role, the U.S. dollar can be expected to remain the principal reserve currency for the foreseeable future. Despite the exuberant pessimism reflected in the gold price, total gold stocks represent only $1 trillion or about 10 per cent of global reserves and a much smaller proportion of global money supply.[11] The renminbi's prospects are moot absent convertibility and open capital markets, which would themselves likely do much to reduce any pressure for a change.

Increased Use of Special Drawing Rights

At first glance, Special Drawing Rights (SDRs) would be an intriguing alternative reserve asset.[12] Using SDRs appeals to a sense of fairness in that no one country would enjoy the exorbitant privilege of reserve currency status. Like a multiple reserve currency system, it may reduce the aggregate incentives of countries that supply the consistent currencies of the SDR to run deficits. In addition, there appears to be no technical reason why the use of SDRs could not be expanded.

However, the question must be asked: to what end? Merely enhancing the role of the SDR would do little either to increase the flexibility of the system or change the incentives of surplus countries. By providing a ready swap of existing reserve currencies into a broader basket, SDR reserves could also further displace adjustment onto other freely trading currencies, thus exacerbating the imbalances in the current system.

Indeed, by providing instant diversification, SDR reserves could entrench some of the existing strategies of surplus countries.

This would change if the proposal were taken to its logical extreme: the SDR as the single global currency. Setting aside the fact that the world is not an optimum currency area (not least due to the absence of free mobility of labour, goods, and capital), this appears utopian. While the level of international co-operation has certainly increased since the crisis, it would be a stretch to assert that there is any appetite for the creation of the independent global central bank that would be required.[13] As a result, any future SDR issuance is likely to be ad hoc.[14]

A Substitution Account

Greater use of SDRs might be best suited to encouraging a transition to a more stable international monetary system by facilitating any desired reserve diversification. Establishing, on a temporary basis, an enhanced substitution account at the IMF would allow large reserve holders to exchange U.S.-dollar reserves for SDR-denominated securities, thereby diversifying their portfolios. With the IMF bearing the risk of changes in the U.S.-dollar exchange rate, an appropriate burden-sharing arrangement among its members would have to be agreed upon.

A substitution account would create considerable moral hazard, since reserve holders would be tempted to engage in further accumulation. In addition, a substitution account would not address the fundamental asymmetry of the adjustment process. Thus, it would appear essential that a substitution account mark the transition from the current hybrid system to an international system characterized by more flexible exchange rates for all systemic countries.

In general, alternatives to the dollar as the reserve currency would not materially improve the functioning of the system.

While reserve alternatives would increase pressures on the United States to adjust, since "artificial" demand for their assets would be shared with others, incentives for the surplus countries that have thwarted adjustment would not change. The common lesson of the gold standard, the Bretton Woods system and the current hybrid system is that *it is the adjustment mechanism, not the choice of reserve asset, that ultimately matters*.

With the adjustments that would arise automatically from floating exchange rates

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THE CAPITAL PARTNER BUSINESSES

Think Like an Owner - Know the Company You Keep

"Investment is most intelligent when it is most businesslike. It is amazing to see how many capable businessmen try to operate in Wall Street with complete disregard of all the sound principles through which they have gained success in their own undertakings. Yet every corporate security may best be viewed, in the first instance, as an ownership in interest in, or a claim against, a specific business enterprise. And if a person sets out to make profits from security purchases and sales, he is embarking on a business venture of his own, which must be run in accordance with accepted business principles if it is to have a chance of success."

Ben Graham - *The Intelligent Investor*

"When I buy a stock, I think of it in terms of buying a whole company, just as I were buying the store down the street. If I were buying the store, I'd want to know all about it. I mean, look at what Walt Disney was worth on the stock market in the first half of 1966. The price per share was $53 and this didn't look especially cheap, but on that basis you could buy the whole company for $80 million when **Snow White, Swiss Family Robinson,** ***and some other cartoons, which had been written off the books, were worth that much (by themselves); and then (in addition) you had Disneyland and Walt Disney, a genius, as a partner."***

Warren Buffet - *Forbes,* November 1, 1969.

BUFFETT & GRAHAM both stress the importance of thinking like a business owner when making investment decisions. Buffett has further suggested you buy stocks as though you and your family were going to own and operate that business for years.

The reason is simple. It demands a different set of questions be asked and it leads to a different sort of dialogue.

When you think like a business owner, questions like "is the price sure to go up?" don't easily enter the discussion. The usual banter advanced by Wall Street and Bay Street seems trivial and you start to recognize how their proposals, if carried to their logical conclusion could place your family's capital at risk.

The Process

If you think like an owner, you might ask first about your own interests and aptitudes before considering buying a business.

You may wish to exploit a competence you possess or avoid tying yourself up in an enterprise for which you care little.

For instance, if you were a health professional, you might have an inside edge on pharmaceutical products and companies. If you were a landlord, you might have a natural aptitude towards Real Estate investments. In other words, you would stick to your knitting and try to avoid popular but superfluous pursuits.

When investing in a going concern, you would ask questions about how profitable the company is and how sustainable those profits are and for how long?

You might ask where and how the company derives its revenue? How loyal the customer base? You would probably want to know about the competition and the chances of someone else or some other business encroaching on your profitability.

You'd want to know about management, their credentials, their reputation and ability to problem solve.

You might even spend some time reading an annual report and trying to understand management's strategic plans and objectives.

Price is What You Pay Value is What You Get

On the following page, 27 publicly traded stocks are listed. Assume you had $10,000 and you wished to invest in one or a few of the companies listed. The information provided

shows what you'd be getting as a business owner - based on prices and information available on Nov. 30.

The first column shows the company's return on equity (ROE). Think of ROE as a company's return on the capital - or money they've invested. A low ROE (<10%) often reflects a poor or marginal business.

As a business owner, you'd want to review this metric over a few years so you could spot upward trends. That's not possible with information presented here. You couldn't tell **Starbucks** ROE has decreased the past 2 years; or, **Altria Group** & **Philip Morris** used to be one or that **CI Funds** was once an income trust.

Two columns over shows the assets owned by the corporation. Insurance companies generally have more assets - necessary to meet future obligations. Some companies have relatively few assets. This could reflect more goodwill or intellectual capital.

The next three columns show

A $10,000.00 BUSINESS INVESTMENT

Company	5 yr. ROE (avg)	Nov. 30 Share Price	Assets	Revenues	Earnings	% of Revenue	Dividend	Annual Yield
Canadian Co's Growing Dividends								
1 Bank of Nova Scotia	20.3%	$ 48.49	$ 4,652.51	$ 2,476.80	$ 569.19	23.0%	$ 404.21	4.0%
2 Royal Bank of Canada	19.2%	$ 56.81	$ 4,198.20	$ 3,412.78	$ 452.39	13.3%	$ 352.05	3.5%
3 TD Bank	18.6%	$ 66.44	$ 6,012.94	$ 2,725.32	$ 562.91	20.7%	$ 367.25	3.7%
4 Great West Lifeco	17.3%	$ 24.22	$ 5,549.13	$ 12,758.05	$ 107.35	0.8%	$ 507.84	5.1%
5 IGM Financial (Investor's)	20.3%	$ 40.55	$ 4,061.65	$ 2,527.74	$ 520.35	20.6%	$ 505.55	5.1%
6 Manulife Financial	13.2%	$ 18.44	$ 9,924.08	$ 15,075.92	$ (260.30)	-1.7%	$ 282.00	2.8%
7 CI Mutual Funds *	25.6%	$ 19.21	$ 2,852.68	$ 2,248.83	$ 510.15	22.7%	$ 312.34	3.1%
8 CN Rail	19.9%	$ 55.30	$ 4,077.76	$ 3,262.21	$ 712.48	21.8%	$ 182.64	1.8%
9 Fortis	10.8%	$ 26.11	$ 6,882.42	$ 8,525.47	$ 628.11	7.4%	$ 398.31	4.0%
			$ 5,356.82	$ 5,890.35	**$ 422.51**	**14.3%**	**$ 368.02**	**3.7%**
American Co.'s Growing Dividends								
10 American Express	26.5%	$ 41.83	$ 2,804.21	$ 5,541.48	$ 289.27	5.2%	$ 172.13	1.7%
11 Automatic Data Processing	18.7%	$ 43.45	$ 2,584.58	$ 4,016.11	$ 607.59	15.1%	$ 303.80	3.0%
12 Coca-Cola	30.1%	$ 57.18	$ 1,810.07	$ 2,303.25	$ 472.19	20.5%	$ 286.81	2.9%
13 General Electric	17.4%	$ 16.02	$ 6,891.39	$ 9,581.77	$ 699.13	7.3%	$ 249.69	2.5%
14 Johnson & Johnson	28.1%	$ 62.86	$ 2,906.46	$ 3,450.52	$ 728.60	21.1%	$ 311.80	3.1%
15 Microsoft	33.4%	$ 29.41	$ 1,574.29	$ 2,142.13	$ 523.63	24.4%	$ 176.81	1.8%
16 Altria Group	19.4%	$ 18.81	$ 956.94	$ 5,704.41	$ 813.40	14.3%	$ 723.02	7.2%
17 Philip Morris *	47.3%	$ 48.10	$ 690.23	$ 3,677.75	$ 659.04	17.9%	$ 482.33	4.8%
18 Procter & Gamble	19.1%	$ 62.35	$ 3,661.59	$ 3,971.13	$ 567.76	14.3%	$ 282.28	2.8%
19 Pfizer	13.8%	$ 18.18	$ 4,510.45	$ 3,734.87	$ 660.07	17.7%	$ 352.04	3.5%
20 Sherwin Williams	33.8%	$ 57.20	$ 2,625.87	$ 10,718.53	$ 629.37	5.9%	$ 248.25	2.5%
21 Well's Fargo	15.1%	$ 28.05	$ 9,304.81	$ 6,317.29	$ 303.03	4.8%	$ 71.30	0.7%
			$ 3,360.07	$ 5,096.61	**$ 579.42**	**14.0%**	**$ 305.02**	**3.1%**
Growth Companies (nominal dividend)								
22 Berkshire Hathaway ($US)	9.6%	$ 3,353.0	$ 8,077.20	$ 6,853.03	$ 327.63	4.8%	$ -	0.0%
23 Costco ($US)	12.6%	$ 59.91	$ 3,835.75	$ 27,067.27	$ 428.98	1.6%	$ 120.18	1.2%
24 ELF Holdings	9.3%	$ 470.00	$ 10,527.66	$ 10,650.21	$(1,596.38)	-15.0%	$ 10.64	0.1%
25 Ritchie Brothers Auctioneers	17.7%	$ 24.88	$ 1,788.59	$ 1,354.10	$ 341.64	25.2%	$ 172.83	1.7%
26 Starbucks * ($US)	21.1%	$ 21.89	$ 1,873.00	$ 5,984.47	$ 296.94	5.0%	$ -	0.0%
27 Toro ($(US)	30.8%	$ 39.84	$ 2,688.25	$ 10,753.01	$ 434.24	4.0%	$ 150.60	1.5%
			$ 4,798.41	$ 10,443.68	**$ 365.88**	**3.5%**	**$ 75.71**	**0.8%**

FOR REFERENCE ONLY: The above sheet demonstrates what investors/business owners would receive in terms of assets, revenues, earnings and dividends had they invested $10,000 in the selected companies on November 30, 2009. These figures are drawn from the following sources: Financial Post, Reuters, globeinvestor.com and most recent annual reports (i.e. 2008). Figures are unaudited and subject to change. Recognize the above sheet represents a “snapshot only.” For a more thorough analysis, consult with a qualified financial analyst or advisor. U.S company figures are stated in U.S. currency. Canadian companies in Canadian dollars.

revenues the company generates, profits the company makes, and the percentage of profits the company makes from the revenues generated. Note: **Microsoft** and **Ritchie Bros.** make about 25 cents of profit for every $1 generated in Revenue. That’s impressive especially when compared to the other businesses.

Finally, the last couple of rows show the dividends awarded to shareholders for owning the said company. A company like **Altria Group** can reward shareholders with a large dividend (very little R & D required and given the amount of pending litigation, it’s likely they don’t wish to keep too many assets around).

Future editions of the **Capital Partner** will include updated information on the companies listed.

As an owner (or prospective owner), what qualities would you seek in a company? What questions would you ask? Would you pay attention to what the markets were doing, or would you view a down-turn an opportunity to purchase a greater interest in the business for a discount?

Forward your questions or comments to: **gswiebe@gmail.com**

The RULE of LAW by Stanley Rule

Doucette vs. McInnes: Reversal by the BC Court of Appeal

Countless Canadians believe sharing a joint account with a parent is an effective way of managing an estate. If you're one, read on.

STANLEY T. RULE
is a lawyer with the
Kelowna firm
TINKER CHURCHILL RULE.
His areas of practice include:
Dispute Resolution, Estate
Planning, Probate & Estate
Administration.
He encourages discussion
about the law and reform
on his blog at:
www.rulelaw.blogspot.com

JOINT ACCOUNTS BETWEEN parents and children in British Columbia provide lots of work for estate litigation lawyers, and lots of fodder for my blog.

A recent case in point is the British Columbia Court of Appeal decision in Doucette v. McInnes, 2009 BCCA 393.

Recent Case

When she died in Victoria, B.C. on April 29, 2004, **Mildred Lucy Doucette** left surviving her four adult children: **Diane McInnes**, **Louie Doucette**, **Joslin Clarke** and **Wayne Doucette**.

She owned her own home, which was worth about $240,000 at her death, but later increased in value to about $420,000, and a bank account of about $21,000.

She also held joint accounts with her daughter Diane McInnes with about $230,000; a joint account with Louie Doucette, worth about $44,000; and a joint account with Joslin Clarke with $150,000.

When Mildred Doucette had made her will in October, 2000, she was estranged from Wayne Doucette and Joslin Clarke. She appointed Diane McInnes and Louie Doucette as executors.

She left $5,000 to each of Wayne Doucette and Joslin Clarke. She left her house to Louie Doucette, and the residue to Diane McInnes. She later reconciled with Joslin Clarke, but not with Wayne Doucette.

Mildred Doucette also had a Registered Retirement Income Fund with $55,000. She designated Diane McInnes as the beneficiary.

Wayne Doucette brought a claim under the *Wills Variation Act* to vary his mother's will on the grounds that she had not made adequate provision for him.

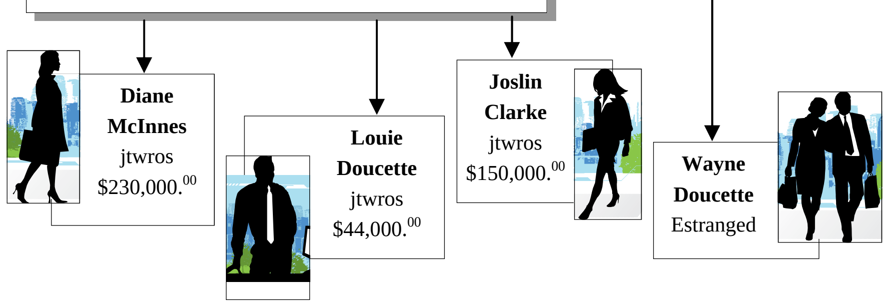
At Issue:

There were two main issues at trial. First, were the surviving joint account holders entitled to the funds, or did they hold them as trustees for their mother's estate?

Second, did Mildred Doucette make adequate provision for Wayne Doucette, or should the will be varied?

ESTATE *of* **MILDRED LUCY DOUCETTE:**

1. House	$ 420,000.00
2. Bank Account ..	$ 21,000.00
3. RRIF	$ 55,000.00



Background

When a parent contributes the funds to a joint account with an adult child in British Columbia, the law presumes that the parent did not intend a gift, but that the child holds his or her interest in trust for the parent or the parent's estate.

But this presumption may be rebutted by evidence that the parent intended a gift, in which case on the parent's death, the child may keep the funds in the account.

An interesting fact in this case is that for most of these accounts Mildred Doucette did not tell her children that she opened the joint accounts with them. She got them to sign account cards without telling them what they were signing. She did not provide the bank with the children's addresses for the accounts, and all statements went only to her.

Mildred Doucette treated one joint account differently. Diane McInnes knew she was on a joint chequing account with her mother to assist her, and she acknowledged that she held the chequing account for her mother's estate.

Diane McInnes also found out about the joint account with her sister Joslin Clarke, when she went with her mother to the bank when her mother was sick with cancer, a few weeks before she died.

Mildred Doucette wanted to take $50,000 out of the joint investment with Joslin Clarke, and put it into an account for Louie Doucette. Mildred Doucette said that she wanted to transfer the funds to assist Louie Doucette for the time he took off from his business to be with her. Because the investment with Joslin Clarke was not redeemable, she was unable to move the funds.

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The Courts Vary the Will

At trial, **Mr. Justice Metzger** applied the presumption of resulting trust, and held that all of the joint accounts belonged to the estate. He found that there was insufficient evidence that Mildred Doucette intended to make gifts of the funds in the joint account. His decision is reported at 2007 BCSC 1021.

The trial judge varied the will to provide 35% of the estate (including the joint accounts) to Louie Doucette, 25% to each of Diane McInnes and Joslin Clarke, and 15% to Wayne Doucette.

In varying the will in favour of Wayne Doucette and Joslin Clarke, he found that Mildred Doucette had not met her moral obligations to them. The estrangement was to a large extent her fault.

Verdict is Appealed

On appeal, **the British Columbia Court of Appeal** changed the decision to allow each child to keep the funds held jointly with that child.

A key factor in the decision was the fact that Mildred Doucette kept the joint accounts secret from the children. That being the case, **Madam Justice Ryan** in the Court of Appeal reasoned, Mildred Doucette did not open the joint accounts (other than the chequing account) for the purpose of allowing her children to assist her with her investments.

If they did not know about them, they could not assist her. This contrasts with other cases, where parents open joint accounts with children for convenience so that the children can do the banking, rather than for the purpose of making gifts to their children.

Madam Justice Ryan also considered the evidence that Mildred Doucette tried to take $50,000 out of one account for Louie Doucette, in order to make a gift to him. This was an indication that when Mildred put funds into a joint account with a child, she intended to benefit the child.

Court of Appeal Varies Will

After deciding that the joint accounts (other than the chequing account) were not estate assets, the Court of Appeal varied the will to provide Louie Doucette with 70% of the estate (consisting primarily of the house and $23,000) and Wayne Doucette with 30%.

In arriving at these amounts, the Court of Appeal took into consideration the amounts each child received from the joint accounts and from the Registered Retirement Income Fund. Although Diane McInnes and Joslin Clarke will not benefit from the assets in the estate, they will keep the funds in the joint accounts each held with her mother.

EDITOR'S NOTE

Joint accounts are often viewed as a quick and easy solution for sons and daughters with ageing parents. As this case demonstrates, it can mean hours of legal work and court room time.

Discussing matters with legal counsel and your financial advisor could save hours of heartache for you and your beneficiaries. ❍

Carney on Trade & Exchange

(Continued from page 5)

or unsterilized intervention muted, the burden is squarely on policy dialogue and co-operation.

A Practical Solution: The G-20 and Shared Responsibility

The G-20 framework moves in the right direction. It stresses countries' shared responsibility to ensure that their policies support "strong, sustainable and balanced growth." Under the framework, members have agreed to a mutual assessment of their monetary, exchange rate, fiscal, and financial policies, with the assistance of the IMF and other international financial institutions. The implications of these policies for the level and pattern of global growth and the risks to financial stability will be reviewed by finance ministers and governors in preparation for agreement on any common actions by G-20 leaders in Canada and South Korea next year.

There are several reasons why this mutual assessment process has the potential to develop shared understanding and encourage action across a range of countries. There is a clear timetable. A comprehensive set of policies will be considered. Policy-makers at the highest levels are directly involved, with international financial institutions in a supportive, rather than leading, role. Finally, discussions will take place at the G-20, where all major economies are present and where China has assumed a very constructive, leadership role.

Framework discussions would be complemented by successful implementation of the G-20 financial reform agenda. These reforms, when combined with the peer review process of the Financial Stability Board (FSB) and external reviews by the IMF, could increase actual and *perceived* systemic stability and thereby reduce reserve accumulation.

Canada's Macroeconomic Strategy & the G-20 Framework

Canada will bring to these discussions one of the soundest financial systems in the world and a macroeconomic strategy that contributes to sustainable and balanced global growth. Our economy is one of the most open and our policy response to the crisis has been one of the most aggressive. Starting

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THE CAPITAL PARTNER INTERVIEW...

A matter of TRUST
The Tom Fellhauer Interview (part 2)

On Monday, August 24, I met with Tom Fellhauer - Tax & Trust Lawyer from the Kelowna Law Firm Pushor Mitchell. Space in the September edition did not allow the full text of our conversation, so part two of the interview is presented here. In part one, Tom addressed questions related to succession planning. In this second part, we explored where & how governments might find revenues from a populace reluctant to pay new or more taxes. Be prepared.

C.P. ***Tom, how long do I need to keep tax records, etc on file? Is there a 7 year statute of limitations on tax audits?***

T.F. No there's not. The limitation dates for records are fairly complicated. They vary depending on the type of record and the type of taxpayer and other circumstances.

People often ask me, how long do I have to keep my records and I say as long as you may need them. People are always thinking about the records being used against them, but in my line of work the records are there to protect yourself. Tax disputes can arise many years after the fact and in many cases you need your records to disprove a tax assessment by the Canada Revenue Agency (CRA).

It is usually a good idea to keep records for as long as you can. I have a lot of older clients who have kept all of their tax returns and it can come in handy. Don't assume your accountant has retained your old tax records. I have seen where their accountants have come and gone and destroyed their records.

We've been very successful in some cases because of people's discipline in keeping records. It's particularly important in laws that are based on long term status of property like farming. Sometimes we have to prove that grandpa was a farmer in order to get the lifetime capital gains deduction or the tax free family farm rollover. So, it's great when you can get some of grandpa's records or dad's records or mom's records. It makes dealing with the CRA much easier.

C.P. ***Moral of the story is there's a lot of detective work involved and it pays to keep your records.***

T.F. Absolutely.

C.P. ***What issues do you see emerging?***

T.F. When it comes to the tax side, I see increased audit and enforcement activities. If you put all the pieces together right now and you say, "Governments are doing infrastructure spending, economic stimulus (which is essentially) spending," and you know that's not being paid out of surplus typically, it's being deficit financed. So you've got that piece. Then you've got taxpayers who are paying down debts and are not at all willing to pay higher taxes. Look at the HST protests that are going on right now.

C.P. ***You had something written on the Pushor Mitchell website.***

T.F. We just had an announcement about the HST and how it was proposed to work, but as you know, there were no details. So there was really no analysis, we were just reporting on it.

But, I mentioned that really as an example of taxpayers' resistance to pay more in taxes. And I think on top of it in our progressive tax rate system where the more you make the higher the rate of tax. If you reverse it, when people are making 20% less income, they will also pay a lot less tax. So, there are a lot of things that that lead to one conclusion and that is most of the governments of the western world, or the developed nations, are going to have a huge need for new income to support programs that they cannot cut.

I was just reading about healthcare for example. It's a huge expense of government. The Americans are telling us how crummy our system is and we're also hearing how our Interior Health Authority has to cut operations and management expenses.

So you know how much resistance there is to governments cutting spending and certainly people would revolt if old age security was reduced or CPP was reduced or welfare was reduced. And tons of programs that are really almost impossible to reduce.

When you put all of those things together on the same table at the same time, you ask yourself, "how are governments going to come up with more revenue?"

I don't think you have to speculate too much to see that there is going to have to be increased audit enforcement of existing tax laws because government is finding that the old way of just increasing tax rates is going to get a lot of resistance. And, even though there have been no announcements of this thing…we've already seen a big trend in that direction. .

C.P. ***I'm thinking about UBS Warburg, the Swiss Bank and all of the 4-5,000 US tax payers being reported to the IRS.***

T.F. You know last week in the Globe and Mail someone said, "when is Revenue Canada going to do this?" and this morning I see that Revenue Canada is doing it.

C.P. ***I suspect every government in the Western World is going to be going to Switzerland or Bermuda or wherever…***

T.F. Yup. That's interesting, but the context is that if you are in the Department of Finance of any country in the world right now, you're saying, "how do we get some more money here?" And, "we're really constrained."

You know the answer usually is, if you're a politician, well let's tax people who don't vote. In some countries, that means taxing non-residents. It may be taxing illegal income. It could be offshore. It could be underground economy. So I think there's going to be increased pressure on Revenue Canada to enforce existing laws because their ability to raise taxes is going to be constrained.

C.P. ***Do you see Estates being taxed? Right now, the tax on an estate is nominial 1-2% depending on the value of the underlying assets, is that fair?***

T.F. I think we have a far different system than the United States. In the United States they have a true estate tax. In England they have an estate tax. In Germany, they have an estate tax. In Canada, we don't have an estate tax. From wealth preservation with the family standpoint, we're a very friendly jurisdiction. I don't know how long the government can stay that way before it becomes very attractive. Right now, only the province collects a probate fee of 1.4%

C.P. ***And it's a fee not a tax, right?***

T.F. No, in Ontario they went to court and called it a tax. People are prepared to call it a tax. But the interesting thing is they have demonstrated through studies that the higher you raise that tax rate, the lower the compliance is and the more effort people will put into finding legal ways to avoid paying tax..

For a government, the best tax, for collection purposes, is one that's either invisible or small enough that people don't want to expend any effort to try and avoid it. When taxes in BC were 53%, approaching 54%, people were spending a lot of money on people like me and tax accountants to try and find ways to minimize that.

When tax rates go down, people focus on what they really want to focus on which is building their business and so forth, so I think as a government you're trying to find a balance.

But as you pointed out, there are certain areas where I think the government knows that there is a constituency that's not going to care. Similarly, when it comes to the underground economy clearly, there's no lobby group for people who are evading tax.. I think traditionally the same applies to non residents. They are not groups that can get much sympathy if they complain.

C.P. ***For obvious reasons… they don't' want to draw attention to themselves.***

T.F. Well, quite frankly, they're not an organized lobby group in Canada. I think the government is trying to find new sources of revenue wherever it can and when they reach a point where the complaints exceed the extra revenue they're going to get they usually figure out they have to ease up there.

But I'm certainly seeing cases where 10 or 20 years ago, a tax auditor would not have cared and now the auditor is pursuing it vigorously.

As you alluded to a few minutes ago, the tax system is only fair if you can prove you're right. So, if the CRA takes the position that your business expenses are not deductible, the onus shifts to you essentially, to prove they are deductible.

And, if your record keeping is lax, and a lot of people who are focused on business are not detailed, "keep-good-records type people," they have an extremely hard time. Notwithstanding that it's a deductible expense and should not be taxed, if you can't prove it, the government wins and you lose.

This is the kind of thing that I think is unfair and it's a growing issue. And, because audits are usually done three to four years after the fact, it can be very hard for you to prove your case to the satisfaction of a CRA auditor.

If someone comes to me and says, "they're auditing my 2002 year," we can say this is what you should be doing in the future, but it's not much consolation for what you're facing in the past. So, in terms of emerging issues, I would suggest that business owners have to be particularly aware of the trends, looking at these pieces that are out there and starting to be proactive. In other words, protecting themselves from threats that they didn't face in the past, such as stricter audit and enforcement activity by the CRA.

In some ways, you have to be looking at the direction we're going. Governments will have to get more revenues in the future from probably a shrinking base and it's going to be very difficult for people and you better be prepared to defend yourself to the letter of the law or you'll end up paying more tax than you should.

You ought to do good planning, get good professional advice and take steps to keep good records.

C.P. ***We've got a $3,000,000,000 short fall in our (provincial) budget. You mentioned the IHA which is going through cuts and the Fraser Valley Health Region - I think 75% cent of the administrative staff was being cut. It begs the question what were all those people doing that they can cut them?***

T.F. I don't envy those guys in government or in hospitals… All I can do is commiserate that they have some tough situations. We have a business our law business, and if we cut staff, it affects our service delivery. And, if our service delivery isn't first class, we don't make as much money. It's a downward spiral.

So, if somebody told us we had to cut 25% of our administration, we would say that's going to result in a 50% drop in revenue or something like that. So it's a tough world that public sector.

C.P. ***I wonder, how is that going to be resolved? I don't know what the answer is.***

T.F. I don't know either. If you look in the past, innovation has been responsible for so many advances. And some of the innovation that has occurred has been almost unbelievably against all odds, where people have said this is impossible. And then, somebody comes up with a solution that was seemingly impossible.

For example, when I grew up, we had the oil embargo in the 1970s. People would say it's impossible to build a car with more horsepower that gets better gas mileage and things like that. There are certain things people always say were a given such as better fuel economy results in lower performance. And, then somebody, smart people thought about it, innovated, had an environment where they were allowed to imagine it and lo and behold we now have an electric car that's essentially a high performance sports car: the TESLA.

And people would have said, "that's impossible." So, there are all kinds of innovations. I have huge faith in innovation and so I think that if we can apply innovation to these almost intractable problems, we're going to find situations. People are smart.

C.P. ***If you look at the next generation, they can text, write blogs, twitters - things that you and I aren't inclined to do by virtue of the time we grew up.***

T.F. I've got confidence in the process. We just have to unleash this innovation, that process, and let it do its thing. I don't think there are any intractable problems. I think there are entrenched problems, but there are usually just things blocking solutions and we just need to remove some of those barriers.

I don't have any doubt in my mind that fifty years from now, some of the big expenses for government like healthcare will be delivered in a fashion that will be win/win. People will say better healthcare and it's cheaper. And, it won't be on the backs of doctors or administrators or nurses or anything like that. I'm looking forward to that.

C.P. ***Thanks for the insights, Tom!*** ❍

BoC Governor **Mark Carney** Addresses New York Audience

(Continued from page 9)

from the strongest fiscal position in the G-7, Canada's fiscal stimulus this year and next will total 4 per cent of GDP. Monetary stimulus has been both unprecedented and timely.

As a result of these policy actions, the IMF projects that Canadian domestic demand will be the strongest in the G-7 next year. With a current account that has shifted from a surplus of 2 per cent of GDP in the first quarter of 2006 to a deficit of 3 per cent today, Canada is doing its part to rebalance global growth.

Consistent with the objectives of the G-20 framework, Canadian policy is guided by transparent and coherent frameworks. The Government of Canada has announced a fiscal plan to return its budget to broad balance by 2015. The cornerstone of the Bank's monetary policy framework is its inflation target, which aims to keep the annual rate of CPI inflation close to 2 per cent. It is in this context that we view the exchange rate.

A floating exchange rate is a central element of our monetary policy framework. It allows Canada to pursue an independent monetary policy appropriate to our own economic circumstances.

Although there is no target for the Canadian dollar, the Bank does care why the exchange rate moves and what the potential impact will be on output and inflation. The challenge for the Bank is to understand the reasons behind currency movements, incorporate those into our assessments of other data, and set a course for monetary policy that works to keep total demand and supply in balance and inflation on target. In the current environment, such determinations are more important than usual.

Recent indicators point to the start of a recovery in Canadian economic activity following three consecutive quarters of sharp contraction. This resumption of growth is supported by monetary and fiscal stimulus, increased household wealth, improving financial conditions, higher commodity prices, and stronger business and consumer confidence.

However, heightened volatility and persistent strength in the Canadian dollar are working to slow growth and subdue inflation pressures. The current strength in our dollar is expected, over time, to more than fully offset the favourable developments since July.

On 20 October, the Bank reaffirmed its conditional commitment to maintain its target for the overnight rate at the effective lower bound of 1/4 per cent until the end of June 2010 in order to achieve the inflation target.

To put it simply, the Bank looks at everything, including the exchange rate, through the prism of achieving our inflation target. For example, we do see a risk that a stronger-than-assumed Canadian dollar, driven by global portfolio movements out of U.S.-dollar assets, could act as a significant further drag on growth and put additional downward pressure on inflation. As I mentioned previously, movements in currencies could reflect current challenges in the operation of the international monetary system, which may result in the displacement of adjustment pressures onto a handful of currencies.

Whatever happens, the Bank retains considerable flexibility in the conduct of monetary policy at low interest rates, consistent with the framework that we outlined in our April *Monetary Policy Report*.

If downside risks materialize, the Bank will use that flexibility to the extent required in order to achieve our price stability mandate. If upside risks materialize, the Bank will also act to achieve our price stability mandate. While the underlying risks to our October economic projection are roughly balanced, the Bank judges that, as a consequence of operating at the effective lower bound, the overall risks to our inflation projection are tilted slightly to the downside.

Conclusion

To conclude, this crisis was caused in part by failures to meet the same challenges that bedevilled previous international monetary systems. The common lesson of the gold standard, the Bretton Woods system, and the current hybrid system is that it is the adjustment mechanism, not the choice of reserve asset, that ultimately matters. In this regard, any greater use of SDRs might be best suited to encouraging a transition from the current hybrid system to an international monetary system characterized by more flexible exchange rates for all systemic countries.

While surplus countries can delay adjustment, in the end, all nations suffer when the system breaks down. In the current environment, growing strains could spur protectionism, both in trade and finance, or alternatively, raise sanctions.[15] The negative consequences for the global economy would be considerable.

All countries should accept their responsibilities for promoting an open, flexible, and resilient international monetary system. Responsibility means recognizing spillover effects between economies and financial systems and working to mitigate those that could amplify adverse dynamics. It means submitting their financial policies to peer review within the FSB and external review by the IMF. Fundamentally, it means adopting coherent macro policies and allowing real exchange rates to adjust to achieve external balance over time. Indeed, in a world of global capital, all systemically important countries and common economic areas should move towards market-based exchange rates. ❍

NOTES

1. In addition, the U.S. economy was fairly closed from 1870 to 1913, as imports/GNP averaged roughly 4-7 per cent, and the U.S. share of total world trade remained relatively stable (Lipsey 1994; Rostow 1978). China, on the other hand, is very open, with imports/GDP around 30 per cent, and it accounts for an ever-increasing share of world trade.
2. There is, however, an important welfare loss in pursuing unbalanced growth. Domestic consumers are made worse off by reduced purchasing power, and thwarting adjustment via sterilization leads to mounting quasi-fiscal costs and distorts the domestic financial system. The important point is that balanced global growth is sustainable global growth.
3. Except in exceptional circumstances, such as a near-term market breakdown, which creates a severe lack of liquidity and warrants intervention.
4. For example, under the price-specie flow mechanism, if a country ran a trade surplus, gold inflows would occur, raising the price level and thus causing imports to increase and exports to decrease until the balance of trade was equilibrated.
5. More generally, the gold standard suffered from the fact that the money supply was dependent on the supply of gold. Inadequate gold supply led to deflation in the 1880s, which was only alleviated by major gold discoveries in South Africa, Western Australia, and Canada in the following decade. Even then, concerns with respect to the supply of gold remained.
6. As the Federal Reserve pursued tight monetary policy in the aftermath of the crash of 1929, it simultaneously sterilized the resulting large gold inflows. In 1931, to counteract the outflow of gold (due to the U.K.'s decision to leave gold), the Fed sharply raised its rediscount rate. This effort to maintain confidence in convertibility resulted in considerable monetary tightening and, consequently, a further wave of bank failures in the ensuing six months.
7. Article IV (iii) states that members should "avoid manipulating exchange rates or the international monetary system in order to prevent effective balance of payments adjustment or to gain an unfair competitive advantage over other members…."
8. Reinhart and Rogoff (2009).
9. However, network externalities and transactions costs would work against multiple reserve currencies, as they did during bi-metallism and the pound/dollar period under the gold standard.
10. The well-known Triffin (1960) dilemma, which argued that, in order for the global economy to have sufficient liquidity, the United States had to run balance-of-payments deficits; but such deficits could undermine confidence in convertibility. Bordo (1993) rightly notes that under flexible exchange rates, the Triffin dilemma disappears, as any adjustment could occur through capital flows (for example, India has accumulated desired foreign reserves, through capital inflows, despite a current account deficit).
11. Recall that under the gold exchange standard, 40 per cent of *money supply* was backed by gold.
12. Zhou (2009); United Nations (2009)
13. That is not to argue that the role of SDRs cannot be enhanced, particularly among central banks (see Williamson 2009).
14. Under current rules, new SDRs can be issued only with the agreement of members, representing 85 per cent of voting share.
15. See Bergsten (2009).