

1991

# Thailand Program Shutdown

## After Military Coup

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### Section 513 of FAA

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(Legal Section)

Agency for International Development  
Washington, D.C. 20523

ACTION MEMORANDUM FOR THE ASSISTANT ADMINISTRATOR, APRE

FROM: APRE/DR, Kenneth Sherper *KHS*

SUBJECT: A.I.D. Program in Thailand

ACTION: Your approval of (1) the attached Plan, required by Section 513 of the FY 1991 Foreign Operations Appropriation Act, for the cessation of the A.I.D. program in Thailand and (2) the attached Action Memorandum for the Administrator requesting his approval for the continuation of private voluntary programs in Thailand under the provisions of Section 123(e) of the Foreign Assistance Act.

PROBLEM: On February 23, 1991, Thailand became subject to Section 513 of the FY 1991 Foreign Operations, Export Financing, and Related Programs Appropriations Act ("FY 91 Appropriations Act") which prohibits the obligation and expenditure of funds appropriated or made available under the FY 91 Appropriations Act for assistance to Thailand. Your approval is required to permit the obligation and expenditure of funds in connection with the termination of A.I.D.'s assistance program to Thailand under the authority of Section 617 of the Foreign Assistance Act of 1961, as amended ("FAA").

BACKGROUND: On February 23, 1991, a military coup deposed the democratically elected government of Thailand. This event invoked the provisions of Section 513 of the FY 91 Appropriations Act which provides that:

[N]one of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance directly any assistance to any country whose duly elected Head of Government is deposed by military coup or decree: Provided, That assistance may be resumed to such country if the President determines and reports to the Committees on Appropriations that subsequent to the termination of assistance a democratically elected government has taken office.

Similar provisions have been included in every foreign assistance appropriations act or continuing resolution from FY 1986 through FY 1990. Section 513 and its predecessors have been interpreted to prohibit new obligations as well as additional expenditures of existing obligations of funds appropriated in FY 1986 through FY 1991 for direct assistance to Thailand, with the exceptions discussed below.

The first category of exceptions to the Section 513 prohibitions includes P.L.480 assistance (since not appropriated under a foreign assistance appropriations act or continuing resolution), any assistance made available "notwithstanding any provision of law", such as disaster assistance and earmarked humanitarian assistance, i.e., war victims, child survival, and AIDS assistance under the earmarks. Second, A.I.D.'s operating expense funding and certain activities financed by Project Development and Support funds (as these are not assistance to Thailand) may also be expended. Third, pursuant to FAA Section 123(e), the Administrator may approve the continuation of programs of private and voluntary organizations ("PVOs") to which A.I.D. was providing support at the time assistance was terminated, if he determines the continuation of such programs is in the U.S. national interest and so advises the U.S. Congress. Fourth, exception may exist for those AID-supported regional activities in Thailand which are determined to be non-segregable from the regional project of which they are a part and could not be terminated without causing serious harm to the regional results as a whole. The question of regional activities is not discussed below; it will be the subject of a separate approval request. Last, Section 513 and its predecessor provisions do not prohibit the expenditure of funds appropriated prior to FY 1986 because pre-FY 1986 appropriations acts and continuing resolutions did not contain this provision.

Section 617 of the Foreign Assistance Act (FAA) provides the authority for A.I.D. to expend previously obligated funds as well as to obligate additional funds, for up to eight months following termination of assistance, for the necessary expenses of termination. The section also permits participants who had commenced study or training programs outside Thailand to complete their programs, even if the completion date is after the eight-month period in Section 617. Section 617 provides, in relevant part, that:

[F]unds made available under this Act shall remain available for a period not to exceed eight months from the date of termination of assistance under this Act for the necessary expenses of winding up programs related thereto. In order to ensure the effectiveness of assistance under

this Act, such expenses for orderly termination of programs may include the obligation and expenditure of funds to complete the training or studies, outside their countries of origin, of students whose course of study or training program began before assistance was terminated.

In the case of Thailand, the eight-month period in which obligations and expenditures may occur pursuant to FAA Section 617, other than for completion of ongoing participant training, ends on October 23, 1991. Your approval is being requested in this memorandum for A.I.D.'s utilization of the authority of FAA Section 617 to wind up assistance activities in Thailand.

USAID/Thailand has submitted for your approval a comprehensive Windup Plan which includes a proposal, in summary form, of the Mission's overall windup strategy and plan, including plans for each ongoing bilateral Mission project or program and a list of central and regionally funded activities which will need to be reviewed jointly by AID/W offices and the Mission (Attachment 1). In addition, the Mission's request for the Administrator's approval for continuation of ongoing PVO programs is included as Attachment 2 hereto.

DISCUSSION: USAID/Thailand's portfolio is comprised of one Economic Support Fund (ESF) and seven Development Assistance (DA) funded projects. There are also numerous regional and centrally-funded activities taking place in Thailand. Under the Mission's Windup Plan, approval is being requested for the continuation of expenditures, under the authority of FAA Section 617, for the following categories of activities:

A. Bilateral Projects which require funding for their orderly windup by October 23, 1991: (This category includes participants who will be permitted to complete their study and training programs under FAA Section 617 authority even if the completion date is beyond October 23, 1991).

LIST OF PROJECTS

493-0337 Agricultural Technology Transfer  
493-0340 Science and Technology for Development  
493-0341 Emerging Problems of Development II  
493-0342 PVO Co-financing II  
493-0343 Rural Industries and Employment  
493-0345 Managing Natural Resources and Environment for Sustainable Development  
493-0347 Trade and Investment  
493-K602 Affected Thai Program II

All activities under the projects listed above, except for the components described in Discussion section B, will terminate by October 23, 1991 but require expenditures until then, which are permissible under FAA Section 617 authority, in order to bring them to an orderly close, to complete already-initiated participant training, and to continue funding for existing PVO programs until separate authority is granted for such funding by the Administrator under FAA Section 123(e). The attached Plan provides the justification for minimal expenditures under the listed projects until October 23, 1991.

A.I.D. projects utilize an accrual system of accounting under AID Handbook 19. Expenditures which accrue on or before October 23, 1991 (which in effect becomes the completion date for those projects) may be liquidated by disbursements within the normal nine-month period following a project's completion, in this case, July 23, 1992.

Table 1, attached to this Action Memorandum summarizes and compares the bilateral project status as a result of your approval of this Plan. \$60 million of assistance would be impacted.

B. Components of Bilateral Projects which will continue after October 23, 1991, utilizing funds obligated prior to FY 1986. The Mission has identified certain components of two ongoing bilateral projects which present compelling circumstances for the use of pre-FY 1986 funds for these components. The justification for their continuation is to obtain a useful result from funds already expended. The completion date for these components will be August 31, 1992, by which time the organization and activities of the Science and Technology Development Board (STDB) may be funded by the Royal Thai Government (RTG) and the commercialization potential of agricultural research activities would have been explored. The remaining components of these bilateral projects are included in category A above and will be wound up not later than October 23, 1991.

B.1: 493-0340 Science and Technology for Development: (Up to \$3.5 million)

- Core Professional and Support Staff and Administrative Costs Necessary for Transition Period
- Limited Support of Programs Critical to the Transition to RTG Funding

B.2: 493-0337 Agricultural Technology Transfer: (\$250,000)

-- Commercialization of U.S.-Thai Collaborative Research

C. Private Voluntary Organizations (PVO). The Mission has a number of PVO programs to which it was providing support under bilateral projects at the time Section 513 was invoked. The Mission's proposal for the continuation of funding for these programs can be divided into two sub-categories:

C.1: Those on-going PVO programs in developmental and humanitarian areas for which the Mission is seeking the Administrator's approval to permit completion within the terms of their current assistance instrument. This category includes PVO programs scheduled for completion before the October 23, 1991 deadline for program windup, which legally do not require the invocation of FAA Section 123(e) authority, and programs scheduled for completion after that date for which continuations requires the use of this authority. The amount of unexpended funds involved totals approximately \$730,000 through October, 1992.

C.2: Those PVO programs which are focused on the three themes of environment, AIDS, and democracy for which the Mission is seeking the approval of the Administrator, under the authority of FAA Section 123(e), to continue such programs, including reasonable follow-on and modifications thereto. The amount of new and unexpended funds approximates \$5.4 million through 1995.

A list of these PVO programs, organized by the sub-categories identified above, is attached to this Action Memorandum as Table 2. A separate memorandum has been prepared for the Administrator which requests his approval for the continuation of the PVO programs listed in sub-categories 1 and 2 above, using the authority of FAA Section 123(e), as required, to permit A.I.D.-funded PVO programs to continue in countries where prohibitions on assistance have subsequently become applicable, if the Administrator determines the continuation of such programs is in the U.S. national interest and so notifies both houses of Congress.

D. Program Development and Support (PD&S) Funded Activities. The Mission recommends continuation of selected internal assessments and outside critiques of its program and its impact. In addition, funds may be required to evaluate progress in compliance with the elements of the plan. Up to \$800,000 of PD&S funds may be required.

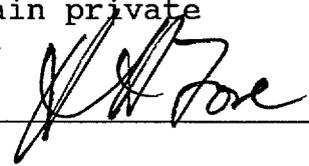
E. Regional and Centrally-funded Projects. The Mission has identified 70 on-going central and regional-funded

activities that are taking place in Thailand. The activities will be reviewed by a committee comprised of APRE, S&T and FVA personnel, in conjunction with the Mission, in order to prepare a proposal for the orderly windup of such activities under the authority of FAA Section 617 or under an applicable exception to the prohibitions of Section 513 of the FY 1991 Appropriations Act. The windup plan for these activities will be the subject of a separate memorandum to you.

Other issues must also be addressed in connection with windup of the assistance program in Thailand. The APRE Bureau, in conjunction with USAID/Thailand, will analyze impending staffing, administrative and other organizational issues and operating expense requirements which will arise based on approval of the Windup Plan, including those aspects of the Plan that contemplate continuation of PVO programs under FAA Section 123(e).

AUTHORITY: Delegations of Authority, Nos. 400, 401 and 402 pertaining to Section 619 of the Foreign Assistance Act grant you the authority to approve the continuation of obligations and expenditures for project and program activities.

RECOMMENDATION: (1) That, by signing below, you approve the continuation of required expenditures and obligations for the Thailand bilateral program in accordance with the Section 513 Windup Plan (Attachment 1) under the authority of Section 617 of the Foreign Assistance Act of 1961, as amended; and (2) that, by signing Attachment 2, you recommend to the Administrator the approval to continue certain private voluntary organization programs in Thailand.

Approved: 

Disapproved: \_\_\_\_\_

Date: 4/10/91

**Attachments:**

- (1) Windup Plan for A.I.D. Assistance Program in Thailand
- (2) Action Memorandum for the Administrator

**Clearances:**

APRE/DR/PD, G. Morris	(draft)	date	4/1/91
APRE/A, L. Morse	(draft)	date	4/1/91
APRE/FPM, P. Davis	(draft)	date	4/1/91
GC/APRE, M. Kitay	<i>msk</i>	date	4/1/91
STATE/EAP/TB, P. Mayhew	(subs)	date	4/2/91
DAA/APRE, G. Laudato	<i>GL</i>	date	4/2/91
PPC/PB, P. DelBosque	<i>DelBosque</i>	date	4/15/91

Draft:USAID/Thailand;APRE/DR:MHuffman;APRE/A:DFagen: #WINDUP

Table 1  
 (page 1 of 1)  
 Project Activity Results  
 A Comparison At Eight Months  
 by activity (and active pipeline)

	<u>February 22, 1991</u> (Pre Coup)	<u>October 22, 1991</u> (Post Eight Months)
<u>I. Bilateral Projects</u>		
1. EPD II	69 active subprojects (\$7.6 million)	All terminated, except participant training (\$0.2 million).
2. ATT	14 active research subprojects (\$7.4 million).	All research ended (\$0). ASACI?
3. ATV	14 village subprojects (\$2.5 million).	All village activities ended. (\$0).
4. RIE	7 components for public sector and business associations (\$10.2 million).	All components ended (\$0 pipeline except contingent liabilities of approximately \$1.2m).
5. PVO II	18 HB 13 grants (\$4.6 million).	12 HB 13 grants (\$4.6 million).
6. T/I Support	1 business plan (\$0.1 million).	No activity (\$0).
7. STD	86 active subprojects (\$20.4 million).	No active subprojects (\$1 million for STDB operations for transition).
8. MANRES	100 subprojects (\$14.8 million).	2-3 PVO grants and participant training. (\$0.9 million).
(Bilateral Subtotal)	309 subprojects (\$68 million).	15 subprojects (\$6.7 million).
Central/Regional *	70 subprojects (\$24 million - program level).	7 subprojects (\$3 million).
TOTALS	379 subprojects (\$92 million)	22 subprojects (\$9.7 million).

\*To be reviewed separately

Table 2  
(page 1 of 2)  
Private Voluntary Organizations  
Grants Proposed for Continuation, Including Follow-on  
Activities and Other Modifications in the Areas of  
Democracy, Environment and AIDS

Grantee	Ends	Obligated	Balance	Purpose
<u>Democracy</u>				
The Asia Foundation	8/18/91	89,913	20,776	Strengthen Provincial Councils
AAFLI	8/09/92	40,000	31,760	Promote Workers Rights
AAFLI	8/09/93	700,000	400,000	Promote Worker Participation in Elections, Advocacy
PACT	8/09/93	1,608,055	965,000	NGO Coalition Building
The Asia Foundation	8/09/94	1,334,200	886,000	Strengthen Elected Government
<u>Environment:</u>				
CARE	3/31/91	379,960	14,040	Environmental Awareness
World Wildlife Fund	9/30/93	449,993	316,252	Protect Biodiversity
Federation of Thai Industries*	3/15/95	1,350,000	1,194,193	Industrial Environmental Management
Thailand Development Research Institute (TDRI)*	11/1/94	1,030,000	684,865	Environmental Policy Development and Advocacy
World Environment Center	9/30/95	520,000**	520,000**	Industrial Environmental Management
<u>AIDS:</u>				
Duang Prateep Foundation	12/31/91	203,200	41,014	Drug Abuse, AIDS Prevention
PATH	8/11/92	222,400	116,411	AIDS Prevention
PDA	8/28/93	249,000	239,697	Youth AIDS Prevention
TDRI*	9/28/91	72,648	72,648	Assess Economic Consequences of AIDS

\* Private Organization Potentially Qualifying as a PVO.

\*\* Excludes central (S&T) funds currently being provided.

Table 2  
 (page 2 of 2)  
Private Voluntary Organizations  
Grants Proposed for Continuation to Planned Completion

Grantee	Ends	Obligated	Balance	Purpose
CARE	6/30/91	357,000	20,693	Kho Wang Resources Formation
Rural Friends Association	2/23/91	244,838	14,594	Isan (N.E.) Resources & Environmental Management
CARE	6/19/91	295,000	121,391	Ubon Microenterprise
Salesian Society	10/01/91	177,000	38,094	Training Poor Youth for Employment
Women Lawyers Association of Thailand	8/16/92	328,816	255,595	Social Agro-Forestry
Pearl S. Buck Foundation	8/30/92	85,200	43,177	Assistance to Older Amerasians
Pearl S. Buck Foundation	8/11/92	76,100	36,013	Family Income Generation
CARE	9/27/92	325,000	204,218	Highland Rural Development
Christian Foundation for the Blind/Thailand	9/26/92	190,230	94,552	Training Center for the Blind

WINDUP PLAN FOR A.I.D.  
PROGRAM IN THAILAND

MARCH 21, 1991  
USAID/THAILAND

WINDUP PLAN FOR THAILAND

TABLE OF CONTENTS

	<u>Page</u>
I. EXECUTIVE SUMMARY	1
II. INTRODUCTION	4
III. BACKGROUND	5
A. Legal Parameters of Program Windup	5
B. The Impact on our Program	6
C. Our Proposed Strategy	6
IV. BILATERAL PROGRAM WINDUP	7
A. Emerging Problems of Development (EPD) II Project	7
B. The Agricultural Technology Transfer (ATT) Project	8
C. Affected Thai Village (ATV) Program	9
D. Rural Industries and Employment (RIE) Project	9
E. Private and Voluntary Organization (PVO) Co-Financing II Project	10
F. U.S.-Thai Trade and Investment Support Project	11
G. The Science and Technology for Development (STD) Project	12
H. Managing Natural Resources and Environment for Sustainable Development (MANRES) Project	13
V. CENTRAL AND REGIONAL PROJECTS	15
VI. PVO ACTIVITIES	16
VII. INTERNAL USAID PLANNING	16
VIII. COMPARISON AT EIGHT MONTHS	17
IX. NEXT STEPS	18

ATTACHMENTS

- A. Official Correspondence to RTG and Contractors/Grantees.
- B. Impact of Military Coup on A.I.D. Program in Thailand - State Cables.
- C. Impact of Military Coup in A.I.D. Program in Thailand - Bangkok Cables.
- D. Thailand Program Planning.
- E. EPD II Windup Plan.
- F. ATT Windup Plan.
- G. RIE Windup Plan.
- H. STD Windup Plan.
- I. MANRES Windup Plan.
- J. Listing of Central/Regional Projects.
- K. Internal Planning.
- L. Comparison At Eight Months.

## I. EXECUTIVE SUMMARY

The February 23 weekend military coup against Thailand's democratically elected government resulted in the immediate application of Section 513 of the 1991 Foreign Operations Appropriations Act. The Act compels the United States to cease military and economic assistance to a country if the elected government is deposed by a coup or decree.

The impact of the suspension is significant for Thailand. USAID had planned \$ 14.0 million in FY 1991 bilateral obligations for new and ongoing activities, plus an estimated \$9.4 million in central and regional programs. Additionally, there is a (cash basis) pipeline of \$73 million of unspent funds from prior year obligations. USAID had also planned to request up to \$56 million over the next five years (FY 1992-1996) to complete ongoing projects, as well as launch the new U.S.-Thai development partnership.

USAID has moved swiftly to comply with the law and within three days of the coup the USAID Director, in person, notified major Royal Thai Government (RTG) officials of the suspension of U.S. assistance to Thailand. These personal visits were followed by written notice of the suspension. USAID also held meetings with principal RTG counterparts the week of March 4th to develop a plan for winding up USAID assisted activities. Other grantees and contractors were notified in writing to minimize expenditures until USAID had final Washington guidance on procedures for developing a Windup Plan.

USAID received final guidance from AID/Washington on March 13th and during the week of March 18th met with USAID and RTG grantees and contractors to brief them on the law and to answer questions about minimizing expenditures until AID/Washington's approval of USAID's Windup Plan.

Our overall philosophy is to comply not only with the letter, but also the spirit, of the law. While rigorously guided by the law, we have not taken full advantage of legal exemptions that would permit us to continue certain aspects of our program irrespective of Section 513. Instead, in formulating our Windup Plan, we have been mindful of Congress' intent in enacting Section 513, which is that the U.S. Government is serious about the importance of elected democracy. For example, we are not proposing to utilize the FAA Section 123(e) PVO exemption to the maximum extent, nor are we fully utilizing pre-FY 1986 funds (which are not subject to Section 513) to continue existing activities. Also, we are not stringing out the windup of project activities over the full eight months permitted by FAA Section 617. In our preparation of the attached Windup Plan, we have aimed for consistency in the application of the law and in the message which we are sending to the RTG, while, at the same time, taking into account compelling circumstances that warrant full utilization of our legal authority to pursue an orderly conclusion to our ongoing activities.

The USAID Windup Plan deals with four major areas: (1) the bilateral projects; (2) the private voluntary agencies; (3) the central and regional funded activities; and (4) USAID planning. Although there are only eight bilateral projects in the bilateral portfolio, when the central and regional projects are included, the review involves about 380 activities that USAID must examine case by case in the windup process.

#### Bilateral Projects

Eight ongoing bilateral projects are affected by the suspension. These projects are: Emerging Problems of Development II, Agricultural Technology Transfer, Affected Thai Village, Rural Industries and Employment, Trade and Investment Support, Science and Technology Development, Management of Natural Resources and Environment, and a portion of the PVO Co-Financing Project. For these projects, all new commodity purchases, participant training, and hiring of contractors have been suspended. USAID proposes winding up and ending the myriad workplans, studies, and research activities under these projects within the eight months allowed under Section 617. This not an automatic extension, but the maximum allowed to complete activities. Any use of pre-FY 1986 funds will be in keeping with the spirit and intent of Sections 513 and 617. There will not be "business as usual". USAID proposes to use pre-FY 1986 funds for the commercial application of sub-projects under the ATT project or, as in the case of the Science and Technology Project, to allow for an orderly transition to RTG funding so as to make the most of USAID's science and technology investment and not leave behind a white elephant --- a defunct Science and Technology Development Board.

#### Private Voluntary Organizations (PVOs)

USAID is proposing that the Administrator approve the continued support of certain PVO programs in Thailand under Section 123 of the Foreign Assistance Act. Currently there are more than 15 PVOs receiving USAID and AID/W assistance in Thailand. USAID seeks the Administrator's approval to continue these programs around the themes of democracy, environment and AIDS, primarily through The Asia Foundation, AAFLI, PACT, and CARE. The Administrator's approval will also be requested in order to permit the other ongoing PVO programs, such as assistance to the blind and Amerasian children, to reach their scheduled completion.

#### Central and Regional Activities

USAID has compiled a list of central and regional activities in Thailand of which there are over 70 with an authorized program level of approximately \$24 million. In concert with AID/Washington, USAID will develop a Windup Plan for each one of these activities. As noted above, USAID will seek to continue AID/Washington-supported PVO programs through to their scheduled completion dates.

### USAID Planning for a Return to Democracy

USAID does not intend to restart the old style government-to-government program which, in any event, was scheduled to end over the next 1-2 years. At the time of the coup, USAID was phasing out its more traditional process-oriented projects. At the same time, USAID was initiating the U.S.-Thai development partnership, which is designed to identify Thai development problems and issues, then seek solutions through U.S. expertise, know-how, technology, private sector services and investment. The partnership program approach is to move to transactions---results or outcomes in the new areas of emphasis. In identifying transactions that we are desirous of supporting, USAID has developed the following criteria: Access - provide access to U.S. expertise and induce competition to participate in Thailand. Leverage - insist on a multiple of USAID funds. A USAID \$1 should generate significant additional monies. Sustainability - identify cost sharing, fees, revenue streams early on. USAID is the catalyst, not the financier.

In order to continue the partnership momentum, USAID proposes a modest level of USAID planning for the U.S.-Thai development partnership, assuming a return to an elected government in Thailand within the next 9-14 months and resumption of the AID program. USAID recommends continuing the development of concrete transactions around the core themes of human capital and technology, infrastructure planning, and financial markets. Continued product development work would allow USAID to jump start the partnership with a return of Thai democracy and a resumption of U.S. economic assistance.

### A Comparison At Eight Months

Implementing this windup plan will grind down our program to a small fraction of what it was before the coup. Of the over 300 active subprojects under our bilateral program, only 15 will continue. Of the \$73 million in active pipeline, we will be down to less than \$6 million. As the Administrator has suggested, we will have seriously "weeded our garden." At the same time, we will be poised for a rapid resumption of a unique partnership program should circumstances so allow.

## II. INTRODUCTION

As a result of the February 23 military coup against Thailand's democratically elected government, USAID has moved in a swift but orderly fashion to comply with Section 513 of the FY 1991 Foreign Operations, Export Financing and Related Programs Appropriations Act. This provision requires that obligation and expenditure of U.S. military and economic assistance cease if a duly elected head of government is deposed by coup or decree.

Just three days after the coup, the USAID Director visited his Royal Thai Government (RTG) counterparts to explain the U.S. law and counsel against starting new activities and for winding up ongoing ones. On February 27, an official letter was delivered to our chief Thai counterpart agencies on these matters. A March 6 letter elaborated with guidance on how we might proceed until such time as a windup plan was developed and approved by AID/Washington. By March 13, we officially communicated with AID direct contractors and grantees to provide them with some initial guidance and met with them the following week. We have also given guidance to our Thai counterparts on how to approach suspension of host country contracts and grants. Interviews have also been granted to the major English language newspapers in Bangkok which have prominently covered the suspension of the US economic assistance program to Thailand. Examples of this official correspondence are found in Attachment A.

The impact of the suspension of U.S. economic assistance is significant. We have minimized expending \$73 million of obligated but undisbursed monies for eight projects which support economic policy analysis, agriculture research, socio-economic relief to border villages, science and technology, rural industries, private and voluntary organizations, trade and investment and environmental management. We had planned obligating over \$23 million in FY 1991 through bilateral, regional and central mechanisms for the Affected Thai Village Program, other ongoing projects, and new human capital, financial markets, environmental infrastructure and private sector activities.

Our windup plan is presented in this paper. We drew extensively on the official guidance we have received from Washington in STATE 80049 (Attachment B), various legal opinions and papers developed for other AID country terminations, and legal counsel from our Regional Legal Advisor. We will be able to conclude our economic assistance to Thailand within the eight month period, with the exception of participant trainees outside of Thailand, some limited use of pre-FY 1986 monies (which are not subject to Section 513 of the Appropriations Act), and certain PVO activities. Section IV of this paper provides summaries of how we intend to conclude each of our bilateral projects, with greater detail found in

individual attachments. Section V treats central and regional programs which in Thailand concentrate on PRE projects, Office of Science Advisor grants, population and health activities and some American Schools and Hospitals Abroad grants.

As permitted by Section 123(e) of the Foreign Assistance Act of 1961, USAID is proposing to continue ongoing private voluntary organization (PVO) activities particularly in the areas of democracy (advocacy groups, voter registration and legislative strengthening), health (AIDS), and environment (policy and public awareness). Attachment C presents a proposed memorandum asking the Administrator to allow us to continue our existing PVO program in Thailand.

Both the Embassy and USAID are working under the assumption that Thailand will return to a duly elected government within the next 9-14 months and therefore our program will be resumed. We have initiated a series of messages which track political developments since the coup and based on the track record thus far, we believe this is a reasonable assumption. Therefore, we are requesting in Section VII that a modest level of Program Development and Support Funds (PD&S) be obligated to assist us with further planning of the activities we would want to implement once an economic assistance program is resumed.

A final point needs to be made before getting into the details: What we are presenting are guidelines on how we will approach each of our projects. We present principles and examples of how we will deal with specifics. Although we have only seven ongoing bilateral projects, each of them have multiple subprojects, involving literally hundreds of discrete research grants, studies, seminars, training activities and the like. Once AID/Washington endorses our windup plan and provides additional guidance, we will apply these guidelines on a case-by-case basis. We have established a windup task force in USAID which will examine difficult calls. Should ambiguity remain, we will confer with our Regional Legal Advisor, and, if necessary, AID/Washington. This seems to us the most efficient and logical way of winding up the program.

### III. BACKGROUND

A. Legal Parameters of Program Windup. Based on preliminary guidance we have received from Washington thus far, our understanding is that we:

- must wind up all on-going project activities in an orderly manner in the minimum amount of time and with the minimum amount of expenditures, with the governing concepts being to obtain the next minimum useful unit of assistance and to avoid wasting AID's prior assistance; in any event, we must complete windup within eight months of the date of the coup;

- may continue existing programs of private and voluntary organizations, providing the AID Administrator determines that to do so is in the national interest and notifies Congress to this effect;
- may use some funds obligated before FY 1986 in a manner consistent with legal and policy concerns; and
- may undertake modest planning activities for USAID use only provided there exists a reasonable expectation of resumption of the assistance program..

B. The Impact on our Program.

- We presently have a pipeline of \$73 million for eight ongoing bilateral projects, some central/regional activities and older bilateral projects which were scheduled for deobligation.
- We had planned to obligate an additional \$14.0 million in FY 1991 to buy down mortgages for existing projects and start the Thai Fund and expand the Trade and Investment Support Project; plus an estimated \$9.4 million for AID/W central programs.
- Beyond this, we had anticipated additional obligations of up to \$56 million through mid decade for the U.S.-Thai Development Partnership.
- All totaled, the law affects about \$150 million in economic assistance to Thailand, both ongoing and planned. Attachment D presents a summary of the project portfolio.

C. Our Proposed Strategy. First and foremost, OUR INTENT IS TO COMPLY WITH THE LETTER AND SPIRIT OF THE LAW. Our objectives will be to:

- Wind up project activities in as expeditious and orderly a manner as possible, and certainly within the eight month time frame. At the same time, within the authority permitted to us by law, we will try to maintain the foundations for resuming a program, assuming the return to a democratically elected government.
- Continue certain existing programs of PVOs, concentrating on democratic institutions, the environment and AIDS.
- Once an appropriate basis exists for the assumption that the AID program will resume, undertake modest internal planning efforts, using PD&S funds, to position the Mission to initiate the new U.S.-Thai development partnership when there is a return to democracy.

#### IV. BILATERAL PROGRAM WINDUP

Below are our plans for winding up the Emerging Problems of Development (EPD) II, Agriculture Technology and Transfer (ATT), Affected Thai Village (ATV) II, Rural Industries and Employment (RIE), Private and Voluntary Organization (PVO) II, U.S.-Thai Trade and Investment Support, Science and Technology for Development (STD) and Management of Natural Resources and Environment for Sustainable Development (MANRES) Projects. Compliance with US law will be easier for the first six projects which have been under implementation for a number of years with more mature Thai institutions. However, compliance will be more painful for the latter two. The STD Project created a Science and Technology for Development Board (STDB) which is still heavily dependent on AID support but we may be able to make judicious use of pre-FY 1986 funds to transfer to RTG funding and thereby achieve a significant developmental objective while also avoiding an institutional "white elephant". The MANRES Project is just two years into implementation and supports a wide variety of incipient environmental institutions and programs. Termination will set back Thailand's environmental agenda.

A. The Emerging Problems of Development (EPD) II Project. This project had been the Mission's policy project, the purpose being to support policy development, program planning and pre-project analysis in key problem areas. It was designed to finance policy studies, support development seminars and help meet technical assistance and training needs directed toward resolution of crucial development problems. The pipeline is \$7.6 million, there are 69 active subprojects, and \$1.1 million in funds available for new activities.

Our winding up plan would naturally stop all new initiatives. Beyond that we would deal with the active subprojects as follows:

1. Technical Assistance - Determine for each contractor the time required to close out the ongoing phase of activity and prepare final reports. In principle, we will propose phaseout of 30-90 days, depending upon the time needed to bring the assistance to an orderly conclusion.
2. Commodities - Determine the status of commodities. If commodities have been shipped or specially manufactured, or if noncancellable commitments have been made, then we will permit the transaction to be completed and commodities delivered and installed. Otherwise, we will cancel the procurements.
3. Education and Training - The 22 participant trainees in the U.S. will be permitted to complete their current programs. Participant trainees scheduled to travel to the U.S. for short or long-term training will have their programs cancelled.

4. Studies and Seminars - Procedures for the termination of the 31 ongoing research studies and associated seminars would be guided by the following principles: (i) All seminars except those planned in the next 2-3 weeks will be cancelled; (ii) A revised workplan for all research studies will be requested from the researcher to determine the logical manner for winding up the study. If the study is not far advanced or is much behind schedule, it will be cut off.

5. Administrative Personal Services Contractors - Such contracts will be terminated when the workload related to winding up the project is such that their services are no longer required.

Details on winding up EPD II are found in Attachment E.

B. The Agricultural Technology Transfer (ATT) Project. ATT was initiated in FY 1985 with the objective of identifying and adapting agricultural technology appropriate for Thailand. It has increasingly emphasized technologies to support agribusiness and exports. There are 14 active research projects and technical assistance is provided through PASAs with the USDA and Bureau of Reclamation (Burec). The largest subproject is a \$3.4 million weather modification program with the Bureau of Reclamation. The pipeline is estimated at \$7.2 million of both loan and grant funds.

New initiatives will cease. Beyond that, we will deal with the active subprojects as follows:

1. Technical Assistance: The one long-term PSC advisor will be continued for four months to conclude his services and write project conclusion reports. Technical assistance for the 14 active subprojects will be closed in an orderly fashion. The Burec services will continue until September because of the need to complete installation and calibration of costly and sophisticated radar and aircraft instrumentation systems.

2. Commodities: Unexecuted contracts for commodities have been cancelled. Commodities which have been shipped or specially manufactured (as for weather modification) will be delivered and installed.

3. Training: All training carried out by USDA has been cancelled. Short term training for farmers will wind down under five of the subprojects in order to transfer successfully developed technologies.

4. In general, there will be no further studies or seminars. The one exception we are considering is a previously scheduled mid-February study trip to the United States; the purpose of which is to finalize arrangements for future Thai Government purchase of US services and scientific exchange programs in the field of agriculture research. This would be a logical windup of the six-year program of US-Thai collaboration in agriculture research.

5. Administrative Personnel: Some staff financed under specific subprojects have already been terminated. Staff under 5 of the 14 active subprojects will continue to provide services consistent with the windup plan for each activity.

There is approximately \$360,000 remaining in pre-FY 1986 loan funds. We had considered using these monies to continue two particularly worthy subprojects (shrimp and fresh fruit exports) which would otherwise not be completed within the eight month windup period. However, we decided against proposing it. However, we would like to approach our counterparts on applying these loan funds to procure the services of ASACI to create US-Thai agribusiness ventures, thereby ensuring the commercial application of products of ATT research.

Details regarding the ATT windup plan are found in Attachment F.

C. Affected Thai Village (ATV) Program. This program was initiated by the Royal Thai Government in October 1978 to assist Thai villagers living along the border area affected by fighting in Cambodia that spilled over into Thailand. Since FY 1980, AID has provided \$49.5 million in Economic Support Funds under two ATV projects to demonstrate tangible US Government support for the Royal Thai Government's efforts to stabilize conditions along Thailand's borders with Cambodia and Laos. The ATV II cash transfer agreement was signed in 1987 and to date \$17.5 million has been obligated. The \$2.539 million obligated in FY 1990 has not been disbursed. Also the agreements to obligate \$2.5 million ESF and \$2.5 million DA for FY 1991 have not been signed.

The windup plan for ATV II is relatively simple: (a) The RTG has been advised that the FY 1990 disbursement of \$2.5 million will not be made; and (b) the planned FY 1991 obligation will not be undertaken, unless of course the economic assistance program is resumed prior to the end of the fiscal year.

Since on-going activities are being financed with local currency generated by appropriated dollars "disbursed", in accordance with the terms of the cash transfer agreement, into the special Bank of Thailand dollar account maintained by the US Federal Reserve Bank, those activities are not affected by the windup of the ATV activities.

D. The Rural Industries and Employment (RIE) Project. This project began in FY 1986 and provides a total of \$14.1 million to assist the expansion of industries outside of the greater Bangkok area. It contains seven distinct components designed to alleviate financial, managerial and technical constraints to the establishment and expansion of rural industries. Based on an interim evaluation and restructuring plan, USAID had decided to continue to support only selected business associations. At the time of the coup, the pipeline was \$10.2 million and we were in the process of accomplishing this termination.

We have now developed plans to accelerate the process of terminating the RIE Project. Specifically:

1. The public sector elements of this project consisted of support to an industrial support unit in the Ministry of Industries and a joint public-private sector consultative process. Termination of these elements will take place in a two-step process: (a) settling expenditures made until the date of the coup; and (b) negotiating out an orderly windup plan which will include an assessment of how best to terminate project-funded staff according to the provisions of the Grant Agreement and Thai labor laws.

2. The private sector elements include support for the three business associations in Thailand and a private institute of business management training. A two-step process will be followed as with the public sector elements. The windup plan will require an examination of the programmatic and financial implications of terminating their respective staffs and programs, as well as helping with the identification of possible alternative sources of continuing program activities. In the case of one of these business groups, the Thai Chamber of Commerce, they have elected to continue the USAID supported activities with their own resources.

3. Support for both public and private sectors is in the form of technical assistance, training in country, studies, seminars and workshops. In principle, we expect phaseout of technical assistance and training over the next 90 days. Studies, workshops and seminars planned to take place in the next four weeks for which there are no irrevocable or noncancellable commitments will be called off. No additional commodities were planned, nor will any new equipment purchases be made.

4. The last major element of this project is a guarantee facility with the Industrial Finance Corporation of Thailand. Under this, AID now has a contingent liability of \$1.2 million on outstanding loans made to rural entrepreneurs. This obligation appears to be an irrevocable and noncancellable commitment, honoring of which will require that AID funds remain available to cover the obligations until FY 1996. One possibility we will explore is "buying out" of this obligation which would thereby allow us to terminate the project within the eight month windup period.

Details on winding up the RIE Project are found in Attachment G.

E. Private and Voluntary Organization (PVO) Co-Financing II Project. The project was initially authorized in FY 1985 at \$5 million but was amended last year to incorporate democratic pluralism initiatives and increase the life of project authorization level to \$10.6 million. There are presently 18 active Handbook 13 grants to US and Thai private voluntary organizations with a pipeline of approximately \$4.6 million.

Four grants work with socially disadvantaged groups, four address environmental issues, three support AIDS and related narcotics addiction problems, another four concentrate on human rights and democracy issues and the remainder work on microenterprise and other community development initiatives. Six of the grants are expected to terminate within the eight month windup period permitted by Section 617 of the Foreign Assistance Act. The remaining grants tend to concentrate in the areas of democracy, the environment and AIDS.

We would like to continue working with select PVOs in Thailand as permitted under Section 123(e) of the FAA. We would seek to focus on work with existing PVO programs in the areas of democracy, the environment and AIDS. The remaining HB 13 grants under this project would be allowed to reach their natural conclusion. Attachment C presents a proposed memorandum for the Administrator making our case for continuing existing PVO programs under this project as well as other projects in the portfolio. Pending such a determination, we have advised all PVOs that expenditures should be held to a minimum level necessary to ensure that the activities are not abandoned.

If the Administrator's determination is negative, each direct HB 13 grant will be reviewed and a plan developed for an orderly windup of each activity. If the Administrator's determination is positive, each grant will be reviewed against the following guidelines and only those that fall within these guidelines will be continued. The PVO must not be implementing a Government program or require substantial RTG approval to proceed. Only registered PVOs will receive direct grant assistance. Some PVO direct grant agreements may be modified but the modifications will still be in keeping with the original purpose and intent of the existing grant agreement. Also, existing multi-year grant agreements may be amended to provide additional funds in FY 1991.

Whether or not the Administrator makes a positive determination on the continuation of PVO grants, the Mission will wind up non-PVO activities under the \$1 million Limited Scope Grant Agreement with the RTG well within the 8-month period allowed.

F. U.S.-Thai Trade and Investment Support Project. USAID authorized and obligated a small \$200,000 project at the very end of FY 1990, the purpose being to develop a business plan for a Joint U.S. Thai Business Organization. We had been planning a \$6 million project to increase bilateral trade and investment which would create jobs and incomes, and help to sustain Thailand's internationally-oriented economic expansion. Due to Congressional concerns, a decision was made to only take the next step of preparing this business plan before decisions were made to go ahead with the entire project. The plan is now over 90% completed and we will finalize and review it at a modest workshop in Bangkok next month. AID support will then be closed out (although we will encourage the local business community to incorporate and undertake some limited activities on their own).

24

G. The Science and Technology for Development (STD) Project.

Originally authorized in FY 1985, the purpose of this project is to enhance the effectiveness and extent of public and private sector applications of science and technology to Thailand's development. Increasingly, the project was working in support of technological capacity of the private sector. Authorized at a level of \$35.4 million in loan and grant funds, the project created a Science and Technology for Development Board to be the focal point for all project activities which included policy studies; research, development and engineering (RD&E) grants to both universities and private companies; and industrial support activities in such areas as standards, quality control, and technology acquisition. Currently, there are 86 active RD&E subprojects, technical services provided through a host country contract with the National Academy of Sciences, scientific exchange programs, 128 graduate fellowships in Thai universities, training of S&T staff in relevant agencies, and 2 resident long term advisors. The pipeline is about \$20.4 million of loan and grant funds. An approved plan for legislation which would have the RTG assume full funding for operations of the Board and university and industrial support activities over the years remaining in the life of the project is now in question following the coup.

Winding up this project over the next eight months poses difficult issues due to the STDB's high dependence on AID funding for their operation. Cessation of project funding in the absence of an alternate source of funds would create an institutional white elephant and would likely preclude any easy restart once alternate funding or a resumption of US economic assistance was available. For these reasons, we propose a windup strategy for the project financing subject to Section 513 of the FY 1991 Appropriations Act; concurrently, a transition strategy will make limited use of unexpended FY 1985 funds to bridge key project activities and functions for an additional three months to allow for RTG assumption of functions and funding and thereby avoid an irrevocable dismantling of the program structure.

Following this strategy, our windup plan is as follows:

1. Technical Assistance - Determine for each contractor the time required to close out the ongoing phase of activity and prepare final reports. In principle, we propose phaseout of 3-6 months, depending on the time needed for an orderly conclusion. NAS resident advisors will phase out in the next few months.

2. Commodities - If commodities have been shipped or specially manufactured, or if noncancellable or irrevocable commitments have been made, then the transaction will be completed and commodities delivered and installed consistent with a detailed windup plan. Other procurement actions will be terminated.

3. Education and Training - Currently there are no participant trainees in the U.S. In-country training participants under graduate fellowships will either finish studies before October 23 or be carried as transition activities until December 31.

4. Studies and Seminars - Procedures for the termination of the ongoing research studies, professional exchanges and in-country training workshops or seminars will be guided by the same principles as our other projects: All seminars except those for which irrevocable or noncancellable commitments exist will be cancelled.

5. RD&E and STAMP Awards - Procedures for the termination of the ongoing S&T research and development activities will be guided by the following principles: (i) Ongoing subprojects nearing completion will either reach an intermediate stage or be completed, consistent with an orderly windup of these activities; FY85 funding will be provided up to December 31 as necessary to bridge to the RTG FY 1992 budget; (ii) ongoing subprojects not nearing completion nor essential to transition will be terminated expeditiously; and (iii) no new research grants will be initiated.

6. Administrative Personal Services Contractors - Contracts include professional/support staff and management advisors at STDB and TIAC. Such contracts will be terminated consistent with program windup, with the exception of core staff to be funded with FY 85 funds through the transition to when RTG funds are available.

7. Office Leases and Services Contracts - Contracts essential to the transition will be continued with FY 85 funds.

Further details on the STD Project windup are found in Attachment H.

H. Managing Natural Resources and Environment for Sustainable Development (MANRES) Project. This project began two years ago at an authorized level of \$44 million. It is currently addressing a number of critical urban, industrial and tourism issues related to air and water pollution, hazardous waste, public awareness and natural resource policy, as well as global environmental issues such as conservation of biological diversity and tropical deforestation. Within the six MANRES subprojects, there are over 100 ongoing activities being implemented by nine Thai government agencies, three Thai NGOs and five US NGOs, universities and government agencies. So far, \$17.3 million has been obligated and the pipeline is \$14.8 million.

The following is our plan to windup the MANRES Project:

1. Participant Training: The 10 participants currently studying for advanced degrees in the US will be allowed to finish their current programs. Participants who have been selected but not yet placed will not be processed further. All further selection processes will be terminated.

2. Studies and Seminars: Procedures for terminating ongoing research studies and seminars will be guided by the following principles: (i) Analyses and studies which are more than 75% complete and which have contract completion dates before April 30 will be fully funded but advised to complete their work soonest. (ii) Studies which are less advanced will be requested to outline the minimum amount of time required to wind up the study and produce a useful product. At the same time, studies which have just begun and are not important to winding up a larger activity will be terminated. (iii) Any seminar that is not already scheduled to be held within the next two months will be cancelled. The determining factor for cancellation will be whether or not significant non-refundable monetary commitments have been made for facilities and travel and if the seminar would contribute to an orderly and reasonable windup.

3. Administrative and Personal Service Contractors: Such contracts will be terminated when an individual's assistance related to winding up the project is no longer needed. The 50 temporary RTG employees funded under MANRES will be served termination notices according to termination clauses in their contracts or, in the absence of such a clause, RTG rules unless their services are needed for windup. A minimum of 30 day's notice will be provided in any case. The four expatriate advisor contracts will be reviewed to determine the most appropriate timing of termination.

4. Commodities. No new commodity purchases will be initiated. Commodity transactions will not be cancelled if they are deemed to be non-cancellable commitments or if they have been paid for and have only to be shipped. Purchases that do require a further expenditure of funds will be cancelled in accordance with the terms of the purchase order or agreement. Some minor outstanding commodity purchases may be allowed if it is determined such equipment is essential to windup.

5. Cooperative Agreements. There are existing cooperative agreements with the Federation of Thai Industries, Thailand Development Research Institute, Harvard Institute for International Development, World Wildlife Fund-US, and the University of Rhode Island. We were also working with the World Environment Center. There is also one PASA in place with the US National Park Service. Since both the World Wildlife Fund and World Environment Center are both registered PVOs, we will be requesting permission pursuant to Section 123 (e) of the Foreign Assistance Act to continue these activities under MANRES as PVOs. We will also explore continuation of the FTI environmental program. All other cooperative agreements and the PASA will be asked to develop and carry out a windup plan.

Attachment I provides details on winding up the MANRES Project.

V. Central and Regional Projects

USAID/Thailand has reviewed its records of on-going central and regional project activities in Thailand and has determined that, exclusive of regional Program Development and Support funds, there are at least 70 on-going activities potentially affected by the Section 513 prohibition. These activities fall into six broad categories:

1. PRE Loans, Grants and Guarantees with private firms (4);
2. Scientific Research Grants, under the Program for Science and Technology Cooperation (PSTC) and the U.S.-Israel Cooperative Development Research program (CDR) (27);
3. S&T Project Activities in agricultural research, health and population, environment and education (33);
4. Centrally Funded Human Rights Activities (2 with AAFLI and TAF, PVOs);
5. Grants Under the Regional Narcotics Education (RNE) Project (1 with Duang Prateep Foundation, a PVO); and
6. Grants to American Schools and Hospitals Abroad (1 with Yonok College, possibly a PVO).

A list of these activities is found in Attachment J for AID/W use in reviewing the application of Section 513 prohibitions to these programs.

The Mission recognizes that decisions on these activities will need to be made by affected AID/W Bureaus and Offices, but recommends that AID/W decisions on these activities be made in a manner consistent with those of the Mission with respect to the bilateral project portfolio, i.e.:

- Full compliance with the letter and spirit of the law;
- For worldwide and regional programs in which Thailand activities comprise a small portion, judicious application of the severability and conduit tests outlined in applicable GC guidance;
- Invocation of the Section 123(e) PVO exemption to allow continuation of qualifying activities, with the understanding that only PVO activities relating to democracy, environment and AIDS would be candidates for expansion;
- Where pre-1986 funds remain available, very limited use of these funds only for the strongest of developmental reasons; and

- Limited interpretation of "internal planning" to cover only those instances where: (1) work in Thailand will help central bureaus and offices to plan, implement and evaluate programs broader than Thailand; and (2) work in Thailand will assist USAID/Thailand itself in planning for the resumption of programs under the new partnership.

The Mission's own application of these standards to the central and regional project portfolio in Thailand has led to some preliminary conclusions. For example, the centrally-funded human rights activity with AAFLI probably could continue under the Section 123(e) exemption with A/AID approval and would be a candidate for expansion in light of its clear orientation toward democratic pluralism. Similarly the RNE grant to Duang Prateep meets the PVO exemption and, given the close correlation between IV drug use and AIDS transmission, might be a candidate for expansion. The Mission also recommends that AID/W investigate whether the ASHA grant to Yonok College might qualify for continuation under the Section 123(e) exemption as well. USAID urges that AID/W Bureaus and Offices responsible for activities in Thailand consult closely with the Mission to ensure the maximum consistency in treatment of bilateral, central and regional programs for Section 513 purposes.

#### VI. PVO Activities

Section 123(e) of the Foreign Assistance Act permits the continuation of AID support for programs of private and voluntary organizations that were being supported prior to the termination of assistance, provided the Administrator determines that such continuation is in the national interest and so informs the U.S. Congress. Over the last several years, USAID has significantly expanded its programmatic reach to include a broad cross-section of US and Thai private non-profit organizations working in areas central to the Mission's strategic objectives. The Mission has used three methods for reaching out to these organizations: bilateral projects, a PVO II Cofinancing Project, and central and regional projects. In general, these PVO activities concentrate on a return to democracy, environmental policy and awareness, and AIDS prevention and we will seek to continue these programs. Other ongoing PVO activities in micro-enterprise, assistance to the disabled, etc. would also continue to their completion date. Attachment C presents a suggested memorandum to the Administrator on this subject.

#### VII. Internal USAID Planning

We have consulted carefully with our Embassy on their judgment as to whether post-coup events suggest that Thailand will indeed return to democracy within the 6-14 month timeframe outlined in the provisional constitution. The Embassy's view (with which we agree) is that Thailand

will return to democracy within 14 months, but probably not within a much shorter period. In this case, we believe it would be possible on both legal and policy grounds that, with continuing prospects for a return to democracy within a finite period, USAID should continue to plan for recommencement of programs relating to the new development partnership after the Section 513 suspension is lifted. We recognize, however, that Thai circumstances could change. Accordingly, we are recommending that this determination be reconfirmed periodically.

We are currently sorting through our on-going and planned PD&S activities to identify which activities provide assistance to Thailand (and must be wound up within the statutory period or deferred until Section 513 is lifted) and which might continue on the grounds that they provide assistance solely for the immediate benefit of USAID. The Mission plans to request a modest level of additional PD&S obligations this year to assist with further planning of the activities we would implement under the Thai Fund in the areas of human capital, financial markets, and environmental and physical infrastructure. By way of example, under the human capital area we had anticipated establishing a linkage between a consortium of U.S. universities and a Thai college of petroleum chemistry and polymers to produce high quality graduates. So that we could implement such a program quickly when the Section 513 prohibition is lifted, we would anticipate making a modest grant to the U.S. consortium to assist USAID in internal planning for this and possibly other university-to-university linkages.

Attachment K presents details of our internal planning intentions. It also lists a number of ongoing PD&S activities that we intend to windup because they constitute "assistance to Thailand".

#### VIII. A Comparison at Eight Months

Implementing this plan will grind down the US economic assistance program in Thailand to a small fraction of what it was before February 23. Before the coup, we were actively implementing eight bilateral projects, with a (cash basis) pipeline of over \$73 million with over 300 separate activities. In addition, AID was administering a central and regional project portfolio of \$24 million with another 70 discrete activities. Since then, we have put the entire program on hold until our windup plans have been drawn up and approved by Washington.

Assuming approval as formulated, eight months after the coup five of the eight bilateral projects (EPD II, ATT, ATV, RIE and T/I Support) will be suspended. The only ongoing activity will be a few participants who will be completing long term training in the United States. The ambitious and complex MANRES project will also be on hold,

except for work with two-to-three environmental PVOs. The Science and Technology for Development Project will be receiving minimal support from pre-FY 86 funds to assist the Thai government assume full responsibilities shortly thereafter. The only active project will be the PVO II Co-financing Project, assuming the Administrator approves continuation of PVO grants. From an active pipeline of over \$73 million, we will be executing activities whose pipeline is less than \$10 million. Instead of carrying out over 300 separate activities, we will be down to about 5% of that number.

The only other activities that will have some residual operations in Thailand are a limited number of central and regional programs. Before the coup, central and regional projects (exclusive of Program Development and Support) supported over 70 activities in Thailand. By October 23, only 7 PVO activities will remain active. In addition, a few central/regional activities may continue because their Thailand program components are not severable from the worldwide or regional program. Also some limited PD&S activities will move forward, but only for internal USAID planning. This will reduce the planned level of PD&S from \$2.5 million to approximately \$1 million.

Attachment L presents a comparison of our program both before the coup and after October 23.

#### **IX. Next Steps**

Once we have formal approval of the windup plan by the AA/APRE and additional guidance from AID/Washington, we will present it to our counterparts. Formal letters will then be issued on a project-by-project basis which will detail our understandings on how to accomplish this suspension and we will move forward with execution. We will periodically report to Washington on the progress being made in carrying out this plan.

We have established a windup task force at USAID/Thailand which will oversee this process. When issues arise that appear ambiguous to us, we will confer with our Regional Legal Advisor, and, if necessary, AID/Washington.

February 27, 1991

Mr. Wanchai Sirirattna  
Director-General  
Department of Technical & Economic Cooperation  
Krung Kasem Road  
Bangkok

Dear Mr. Wanchai:

This letter provides official notice that, as of February 23, 1991, the U.S. Government has suspended its program of economic assistance to Thailand. This suspension is required by U.S. law when the elected head of government is deposed by a military coup; this requirement is mandatory not discretionary. Suspension in this context means no additional funds may be obligated and any funds which have already been obligated as of the time of suspension may not be expended. It also means that we are required to immediately commence the process of winding-up program activities; this process must then be completed within eight months of the date of suspension. The U.S. assistance program in Thailand can be resumed after the U.S. President certifies to Congress that a democratically elected government has taken office.

A few exceptions to the suspension requirement exist. They are, however, extremely limited and will preclude "business as usual". We are presently seeking clarification from Washington on these exemptions and will advise you as the issues are clarified and seek your cooperation during this difficult period.

We regret the disruption in the U.S. economic assistance program to Thailand. However, U.S. law provides no alternative course of action.

Sincerely yours,

Thomas H. Reese, III  
Mission Director

March 6, 1991

Mr. Wanchai Sirirattna  
Director-General  
Department of Technical & Economic Cooperation  
Krung Kasem Road  
Bangkok

Dear Mr. Wanchai:

As I informed you in my letter of February 27, 1991, the military coup on February 23, 1991 has invoked a provision of U.S. law which requires suspension of our economic assistance to Thailand. This letter is intended to provide some interim guidance on the suspension of project activities.

First and foremost, I must reiterate that the provision of the law concerning suspension of our economic assistance is mandatory. Within that context, we wish to apply good business, legal and common sense to the suspension process. I know that the suspension will have a very negative impact on many RTG implementing institutions and there are a number of issues concerning the suspension on which we are not yet able to give specific guidance. We are seeking additional guidance from our offices in Washington and will collaborate closely with your staff over the next few days and weeks to resolve these issues as smoothly as possible.

Initially, we will need to review very closely the status of project implementation in order to determine the course of action to be followed. Although the specific application of the suspension must still be worked out for each project, some interim general guidelines concerning planned project activities may be helpful. I suggest that the following interim implementation policies be effected immediately:

- o Previously approved, recurrent project expenditures (including payroll, rents, utilities, etc.) can continue pending the development of a detailed wind up plan discussed below;
- o No new personnel should be contracted;
- o Offshore participants should continue current programs of study; new training programs, seminars, workshops and professional exchange events should not be initiated;
- o New contracts for goods or services should not be executed;

- o New research grants and graduate fellowships for study in Thailand should not be awarded.

The above guidelines are not intended to fully address the many issues concerning activities already underway. There may be specific project activities which, by the nature of commitments already made or the near completion of the activity, will be approved as exceptions to the above guidance. USAID will review such exceptions on a case by case basis in consultation with the implementing agency and your staff.

Each project has numerous activities which are in varying stages of implementation and USAID proposes to develop with your staff and the implementing agencies a detailed wind up plan for each project which will assess work performed and accomplishments to date in order to determine how each activity can be brought to an orderly conclusion with minimal additional time or expenditure of funds. The wind up plan will supercede any approved annual or other current implementation plan in effect.

Some activities which are substantially incomplete would need to end immediately following the completion of the plan. A case by case review of nearly complete activities will dictate the specific actions for winding up these in an orderly manner. All project procurement actions will need to be reviewed to determine what irrevocable or non-refundable commitments have been made. As part of the wind up plan, a schedule for liquidation of any advance funds and final submission of financial documents will be needed. I will keep you informed as we receive additional guidance so that this can be applied to the detailed plan for each project.

I know that the suspension of funding for personnel contracts is a concern for many project staff. Alternative funding from the RTG or other sources to replace the suspended USAID resources should be explored. Any termination of personnel necessitated by the suspension would be first determined by the need for the services to wind up the activities; the detailed project wind up plan will dictate that schedule. Any termination of services would take into consideration specific contract provisions or other applicable RTG personnel policies.

I reiterate our regret that the current circumstances have dictated this disruption in our assistance program.

Sincerely,

Thomas H. Reese, III  
Mission Director

March 18, 1991

Mr. Wanchai Sirirattna  
Director-General  
Department of Technical and Economic Cooperation  
Krung Kasem Road  
Bangkok

Dear Mr. Wanchai:

As USAID/Thailand and the Royal Thai Government work out the details of suspension and windup of the U.S. Government's economic assistance program, it is important that all those parties who might be affected by these events be fully informed. Consequently, USAID has recently sent a notice to all of its direct contractors and grantees to alert them to the current state of suspension of USAID's program. The notice also advises them to put into immediate effect certain policies to minimize additional expenditures under their agreements pending a determination of the specific effect of the suspension and windup on their agreements.

In order to ensure that all parties under host country contracts and grants are also fully informed, USAID suggests that DTEC provide similar information to its contractors and grantees. Enclosed is a draft of a notice that DTEC might use if it thinks it appropriate, which is based on the notice USAID sent to its contractors and grantees to advise them concerning the suspension and windup of the aid program.

Again, I appreciate the full cooperation and assistance DTEC has demonstrated during this difficult period.

Sincerely,

Thomas H. Reese, III  
Mission Director

Enclosure: Draft Notice

Dear \_\_\_\_\_:

USAID/Thailand has advised DTEC that the recent military coup in Thailand has invoked provisions of U.S. law that require USAID to immediately suspend and bring to an orderly conclusion the U.S. Government's economic assistance program to Thailand. As a result, we are currently working with USAID to prepare a plan for the orderly conclusion of each of our USAID-funded projects. Until USAID completes its plan for an orderly conclusion of the projects and that plan has been approved by its head office in Washington, D.C., we are unable to advise you as to the specific effect on the subject agreement. We will advise you as soon as we have more specific advice.

We can advise you, however, as to what the termination process would entail for those activities under the subject agreement which will be winding up. A representative of DTEC, working together with the USAID Project Officer, will prepare a termination plan for such activities in consultation with you. The preparation of such a plan will entail an assessment of the work performed, accomplishments to date and a determination of how the activity can be brought to an orderly termination with minimal additional time and expenditure of funds.

While we are awaiting further information from USAID concerning the termination process, DTEC has been advised by USAID to take steps to ensure that additional expenditures under the subject agreement are minimized. Within the limits of the authorities of DTEC and USAID, both organizations intend to apply good business, legal and common sense during this period of uncertainty. To help guide your actions during this period, you should put into immediate effect the following policies:

1. Unless DTEC instructs otherwise, you should not terminate any on-going activities. However, expenditures for such activities should be held to the minimum level necessary to ensure that the activities are not abandoned;
2. Do not initiate any new procurement actions. You should consult with DTEC concerning any procurements currently underway;
3. Do not hire any new personnel under the subject agreement, either for temporary duty, permanent change of station or to replace departing personnel;
4. Participants who are now studying or in training outside of Thailand may continue their current programs of study. However, new programs for these participants should not be approved without consultation with DTEC; also, no new participants should depart to commence study or training programs;

5. You should consult with DTEC concerning any conferences, seminars or other professional exchanges that have been planned but have not yet occurred;

6. Fixed price contracts with separate work products (for example, a preliminary report, an interim report and a report) should not start the next work product unless DTEC instructs otherwise;

7. Notify your subcontractors or subgrantees that the U.S. economic assistance program has been suspended and is required to terminate and that you will advise them shortly of the specific effect on their agreements. You should instruct them to minimize their expenditures until further notice and to implement the policies listed above;

8. You should continue to submit vouchers in the normal manner for expenses incurred prior to receipt of this letter. Expenditures required for on-going basic maintenance costs, such as salaries, rent and office operating costs, are also authorized.

The foregoing list is not all inclusive and there obviously will be many issues unique to the subject agreement that are not answered by the guidance above. I urge you to contact DTEC with any questions you may have or special situations for which you would like guidance. If in your opinion there are on-going or planned activities that if not undertaken would have the effect of abandonment of prior efforts under the subject agreement, please contact DTEC immediately.

I regret having to write this letter and I trust you understand the current status of our assistance program with USAID has dictated this course of action.

Please provide immediate written confirmation of receipt of this letter by returning a signed copy of this letter to me. For confirmation by fax, DTEC's fax number is \_\_\_\_\_.

Sincerely,

[NAME]  
[TITLE]

RECEIPT OF THE FOREGOING ACKNOWLEDGED:

NAME: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

DATE: \_\_\_\_\_

MW  
ACT ON AIR2 INFO AMB ECM EXA ECON STORE (6)

UNCLASSIFIED STATE 080049/01

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AIAC, FOR ERVIN ANT REESE

E.O. 12356: N/A

TAGS:  
SUBJECT: IMPACT OF MILITARY COUP ON A.I.D. PROGRAM IN THAILAND

REFS: A) STATE 059826; B) BANGKOK 07779; (C) BANGKOK 08051

FOLLOWING IS TEXT OF MEMO BEING MAILED TO USAID.

MEMORANDUM  
TO: THOMAS H. REESE  
DIRECTOR  
USAID/THAILAND

KAREN TURNER  
REGIONAL LEGAL ADVISOR  
USAID/THAILAND

FROM: GC/APRE, MICHAEL FITZ

SUBJECT: IMPACT OF MILITARY COUP ON A.I.D. PROGRAM IN THAILAND

REFS: (A) STATE 059826; (B) BANGKOK 07779; (C) BANGKOK 08051.

1. INTRODUCTION. THIS MEMORANDUM IS DESIGNED TO SERVE TWO PURPOSES. FIRST, IN PART II, THE MEMORANDUM PROVIDES GENERAL GUIDANCE TO THE MISSION WITH RESPECT TO ITS LEGAL OBLIGATIONS UNDER SECTION 513 OF THE FOREIGN ASSISTANCE APPROPRIATIONS ACT OF 1991 AND ITS PREDECESSOR PROVISIONS. SECOND, IN PARTS III THROUGH V, THE MEMORANDUM ATTEMPTS TO RESPOND TO THE SPECIFIC QUESTIONS POSED IN PARAGRAPHS 5 OF THE BANGKOK 07779 AND PARAGRAPHS 3 OF BANGKOK 08051. A RESPONSE TO BANGKOK 07739 (RELATING TO THE ASEAN PROGRAM) WILL BE PROVIDED SEPARATELY. AS GENERAL BACKGROUND TO THE QUESTIONS DISCUSSED, WE ARE SENDING HERewith COPIES OF THE FOLLOWING UNCLASSIFIED CABLES AND MEMORANDA:

- GC/APR PAULINE JOHNSON TO RETSO/WCA/RLA ANTHONY VANCE, MARCH 14, 1988 ("UTILIZATION OF FAA SECTION 123(E) AUTHORITY FOR LIBERIA").

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ACT/	INFO
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EXO	✓
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PEM	✓
HCT	✓
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RP	✓
O/KA	✓
RHUDO	✓
ASEAN	✓
DIEC	✓
C&R	✓
RLA	✓
DUE DATE	
ACTION TAKEN	
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DATE	

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88 STATE 106962, APRIL 6, 1988 ("ROCAP ACTIVITIES IN PANAMA").

- GC/LAC GARY M. WINTER TO FILES, UNDATED (1982) ("SECTION 123(E) OF THE FAA - NICARAGUA").

- GC/LAC GABRIEL A. DAVIDSON TO AA/LAC, UNDATED (1987) ("LEGAL CONSEQUENCES OF TERMINATING PANAMA PUBLIC SECTOR PROGRAM").

- GC/A HERBERT E. MORRIS TO MICHAEL H.R. ADLER, APRIL 23, 1979 ("SECTION 617 GUIDANCE WITH RESPECT TO WINDING UP PROGRAMS IN PAKISTAN").

WE NOTE AT THE OUTSET THAT THE MISSION'S LEGAL AUTHORITY TO CONTINUE THE VARIOUS ACTIVITIES IN ITS PORTFOLIO MUST BE DETERMINED ON A CASE-BY-CASE BASIS, BASED ON THE PECULIAR FACTS AND CIRCUMSTANCES SURROUNDING EACH ACTIVITY. ACCORDINGLY, OUR RESPONSES TO A NUMBER OF THE SPECIFIC QUESTIONS RAISED IN THE MISSION'S RECENT CABLES SHOULD BE REGARDED AS PRELIMINARY, PENDING A FULLER ELABORATION OF THE FACTS.

WE NOTE ALSO THAT THE MISSION'S LEGAL AUTHORITIES ARE PERMISSIVE RATHER THAN MANDATORY. THEREFORE, FOR EACH ACTIVITY IN THE MISSION'S PORTFOLIO, A JUDGMENT WILL HAVE TO BE MADE AS TO WHETHER CONTINUING AN ACTIVITY IS APPROPRIATE AS A MATTER OF POLICY. AS YOU KNOW, IN THIS REGARD THE POLITICAL DIRECTION OF THE U.S. EMBASSY IS INDISPENSABLE.

II. GENERAL GUIDANCE. SECTION 513 PROHIBITS THE OBLIGATION OR EXPENDITURE OF FUNDS APPROPRIATED OR OTHERWISE MADE AVAILABLE UNDER THE FOREIGN OPERATIONS, EXPORT FINANCING AND RELATED PROGRAMS APPROPRIATIONS ACT, 1991, "TO FINANCE DIRECTLY ANY ASSISTANCE TO ANY COUNTRY WHOSE DULY ELECTED HEAD OF GOVERNMENT IS DEPOSED BY A MILITARY COUP OR DECREE." THERE HAVE BEEN PROVISIONS IDENTICAL TO SECTION 513 IN FOREIGN ASSISTANCE APPROPRIATIONS ACTS SINCE FY66. ACCORDINGLY, THE SECTION 513 PROHIBITION DOES NOT APPLY TO

- FUNDS APPROPRIATED OR MADE AVAILABLE UNDER OTHER APPROPRIATIONS ACTS, SUCH AS P.L. 480 APPROPRIATIONS, AND ASSISTANCE APPROPRIATIONS ACTS PRIOR TO FY66.

THE MISSION HAS THE LEGAL AUTHORITY TO CONTINUE MAKING

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OBIGATIONS AND EXPENDITURES WITH FUNDS " APPROPRIATED OR MADE AVAILABLE" PRIOR TO FY86. (FOR POLICY REASONS; HOWEVER, THE MISSION MAY WELL DECIDE TO THAT PRE-FY86 FUNDS AS IF THEY WERE COVERED BY SECTION 513, AND TO DISCONTINUE EXPENDITURE OF SUCH FUNDS AT THE END OF THE EIGHT-MONTH WIND-UP PERIOD PROVIDED UNDER SECTION 517. SEE PART II(5) BELOW).

SET FORTH BELOW ARE FIVE QUESTIONS THAT THE MISSION SHOULD ASK ABOUT EACH OF THE ACTIVITIES IN ITS PORTFOLIO TO DETERMINE WHETHER THERE IS LEGAL AUTHORITY TO CONTINUE THE ACTIVITY, IN WHOLE OR IN PART.

1. IS IT "ASSISTANCE": PROJECT DEVELOPMENT AND SUPPORT.

SECTION 513 PROHIBITS THE OBLIGATION AND EXPENDITURE OF FUNDS FOR ASSISTANCE TO ANY COUNTRY. THE SECTION 513 PROHIBITION COVER ALL ACTIVITIES THAT QUALIFY AS ASSISTANCE TO THAILAND, INCLUDING THOSE FUNDED WITH PROJECT DEVELOPMENT AND SUPPORT ("PD AND S") FUNDS. HOWEVER, THE MISSION HAS THE AUTHORITY TO CONTINUE TO OBLIGATE AND EXPEND PD AND S FUNDS FOR CERTAIN LIMITED PROJECT DEVELOPMENT ACTIVITIES BECAUSE SUCH ACTIVITIES DO NOT QUALIFY AS ASSISTANCE AND THEREFORE ESCAPE THE SECTION 513 PROHIBITION.

IN ORDER TO BE FUNDED BY PD AND S DURING THE PERIOD OF THE SECTION 513 PROHIBITION, PROJECT DEVELOPMENT ACTIVITIES SHOULD SATISFY THE FOLLOWING REQUIREMENTS:

(A) THE ACTIVITY SHOULD BE FOR THE BENEFIT OF USAID/THAILAND (OR A.I.D.); ENHANCING ITS CAPACITY TO PLAN, IMPLEMENT OR EVALUATE ITS PROGRAMS MORE EFFECTIVELY - EITHER PROGRAMS IN THAILAND (ONCE THE PROHIBITION IS LIFTED) OR PROGRAMS OUTSIDE THAILAND. UNDER NO CIRCUMSTANCES SHOULD THAILAND (DEFINED TO INCLUDE THE RTG, AND THE OPERATIONS OF NGOS AND PRIVATE SECTOR ENTITIES IN THAILAND) RECEIVE THE BENEFIT OF SUCH PROJECT DEVELOPMENT ACTIVITIES DURING THE PERIOD OF THE SECTION 513 PROHIBITION. FOR EXAMPLE, THE MISSION SHOULD NOT PROVIDE THE HOST GOVERNMENT OR PRIVATE ENTITIES WITH COPIES OF FEASIBILITY STUDIES OR SECTOR ASSESSMENTS WHILE THE SECTION 513 PROHIBITION IS IN EFFECT.

(B) BECAUSE PD AND S ACTIVITIES CANNOT BE FOR THE BENEFIT OF THAILAND, THOSE ACTIVITIES SHOULD NOT BE NEGOTIATED WITH THE RTG, NOR MAY THE RTG PARTICIPATE IN SUCH ACTIVITIES EXCEPT TO PROVIDE INFORMATION. THERE MAY, HOWEVER, BE INFORMAL DISCUSSIONS WITH THE RTG IF SUCH DISCUSSIONS ARE CONSISTENT WITH OVERALL DIPLOMATIC RELATIONS.

(C) PROJECT DEVELOPMENT ACTIVITIES SHOULD ONLY BE CARRIED ON IF THERE IS A REASONABLE EXPECTATION THAT THE SECTION 513 PROHIBITION WILL NOT REMAIN IN EFFECT FOR THE INTERMEDIATE FUTURE. IN THIS REGARD, THE MISSION'S ACTIVITIES SHOULD BE FULLY CONSISTENT WITH THE DIPLOMATIC POSTURE OF THE U.S. EMBASSY.

(D) ALL PD AND S ACTIVITIES, EXISTING AND PROPOSED, SHOULD BE REVIEWED TO ENSURE THAT THE SCOPES OF WORK OR DESCRIPTION OF ACTIVITIES CONFORM TO THE GUIDANCE SET FORTH ABOVE. UNDER NO CIRCUMSTANCES SHOULD THE RTG BE ASKED TO PARTICIPATE IN ONGOING ACTIVITIES OR TO SIGN OR APPROVE NEW OBLIGATIONS.

THE FOLLOWING ARE EXAMPLES OF PD AND S PROJECT DEVELOPMENT ACTIVITIES THAT WOULD ORDINARILY BE PERMITTED DURING THE SECTION 513 PROHIBITION:

- A STUDY BY CONSULTANTS TO THE MISSION ON OBSTACLES TO INCREASING AGRICULTURAL PRODUCTION IN THAILAND, WITH A VIEW TOWARD DESIGNING A NEW CREDIT PROJECT;

- AN ASSESSMENT BY CONSULTANTS TO THE MISSION OF FAMILY PLANNING PROGRAMS TO PROVIDE THE INFORMATION NECESSARY FOR THE PREPARATION OF A MISSION STRATEGY DOCUMENT;

- A STUDY BY A LOCAL ECONOMIST TO ANALYZE THE REGULATORY STRUCTURE OF AFFECTING THE EXPORT OF NONTRADITIONAL PRODUCTS WITH A VIEW TOWARD INCLUDING THE ANALYSIS IN A FUTURE PROJECT PLANNING DOCUMENT;

- A PROJECT OR PROGRAM EVALUATION.

THE FOLLOWING ARE EXAMPLES OF PROJECT DEVELOPMENT ACTIVITIES THAT WOULD CLEARLY CONSTITUTE "ASSISTANCE" AND WOULD THEREFORE BE SUBJECT TO THE SECTION 513 PROHIBITION:

- ACTIVITIES UNDER A LIMITED SCOPE GRANT AGREEMENT WITH THE RTG TO FINANCE STUDIES UNDERTAKEN JOINTLY BY THE MISSION AND THE RTG;

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- INVITATIONAL TRAVEL TO AN OVERSEAS CONFERENCE FOR EMPLOYEES OF AN RTC GOVERNMENT MINISTRY; AND

- A STUDY JOINTLY FUNDED BY THE MISSION AND AN IPI TO BE PROVIDED TO THE RTG FOR USE IN INTERNAL DELIBERATIONS.

2. IS IT ASSISTANCE TO THAILAND: WORLD-WIDE AND REGIONAL PROGRAMS.

ALTHOUGH PROGRAM ACTIVITIES CARRIED OUT IN OR AFFECTING THAILAND MAY CLEARLY QUALIFY AS ASSISTANCE, SUCH ACTIVITIES MAY NOT QUALIFY AS ASSISTANCE TO THAILAND. AID/GC OPINIONS HAVE IDENTIFIED CERTAIN LIMITED CIRCUMSTANCES IN WHICH A.I.D.'S MAY CONTINUE TO SUPPORT WORLD-WIDE AND REGIONAL PROGRAMS THAT INCIDENTALLY PROVIDE ASSISTANCE TO A COUNTRY WHERE LEGISLATIVE RESTRICTIONS SUCH AS SECTION 513 WOULD NORMALLY PROHIBIT BILATERAL ASSISTANCE.

GC HAS CONSISTENTLY APPLIED TWO TESTS TO DISTINGUISH BETWEEN WORLD-WIDE/REGIONAL ASSISTANCE AND BILATERAL ASSISTANCE TO THE COUNTRY UNDER PROHIBITION: THE "BENEFITS SEVERABILITY" TEST AND THE "CONDUIT" TEST.

(A) THE "BENEFITS SEVERABILITY" TEST REQUIRES THE MISSION TO DETERMINE WHETHER THAT PORTION OF THE WORLD-WIDE OR REGIONAL PROGRAM THAT BENEFITS THE COUNTRY UNDER PROHIBITION CAN BE DISCONTINUED WITHOUT SUBVERTING THE PRIMARY PURPOSE OF THAT PROGRAM, OR SERIOUSLY DIMINISHING PROGRAM BENEFITS PROVIDED TO OTHER COUNTRIES. CLASSIC EXAMPLES OF NONSEVERABLE REGIONAL PROJECTS ARE: POLLUTION CONTROL PROJECTS IN WHICH THE COUNTRY UNDER PROHIBITION IS PART ONE OF A NUMBER OF POLLUTING COUNTRIES; PEST CONTROL PROJECTS AND PROJECTS DEALING WITH CONTAGIOUS DISEASES.

HOWEVER, IF THE PORTION OF REGIONAL ASSISTANCE THAT BENEFITS THE COUNTRY UNDER PROHIBITION CAN BE DISCONTINUED, THE ASSISTANCE IS CONSIDERED BILATERAL AND SUBJECT TO THE PROHIBITION.

(B) THE "CONDUIT" TEST FOCUSES ON THE PURPOSE OF THE A.I.D. ASSISTANCE. IS A.I.D.'S PURPOSE TO PROVIDE ASSISTANCE TO THE COUNTRY UNDER PROHIBITION, WITH THE INTERNATIONAL OR REGIONAL ORGANIZATION BEING USED AS A CONDUIT? OR IS A.I.D.'S PURPOSE TO PROVIDE ASSISTANCE TO A LARGER GEOGRAPHIC AREA, SUCH AS THE REGION AS A WHOLE (OR A NUMBER OF COUNTRIES WITHIN THE REGION), OR TO THE ORGANIZATION ITSELF? A.I.D.'S PURPOSE CAN ONLY BE DETERMINED ON A CASE-BY-CASE BASIS. FOR EXAMPLE:

- ASSISTANCE TO A REGIONAL ORGANIZATION MAY BE TO ENHANCE THE REGIONAL ORGANIZATION'S CAPABILITY, AUTHORITY OR EFFECTIVENESS, AND WOULD THEREFORE NOT QUALIFY AS ASSISTANCE TO THE COUNTRY UNDER PROHIBITION.

- A SIGNIFICANT DEGREE OF A.I.D. INVOLVEMENT IN THE APPROVAL OF SPECIFIC PROPOSALS OR ACTIVITIES SUGGESTS THAT THE REGIONAL ORGANIZATION IS BEING USED AS A CONDUIT.

IF THE INTERNATIONAL OR REGIONAL ORGANIZATION IS SERVING AS A CONDUIT, THEN A.I.D. ASSISTANCE TO THE ORGANIZATION WHICH BENEFITS THE COUNTRY UNDER PROHIBITION IS CONSIDERED TO BE BILATERAL ASSISTANCE, AND SUBJECT TO THE PROHIBITION.

RR STATE 106962 CONTAINS AN EXTENDED DISCUSSION OF THE "BENEFITS SEVERABILITY" AND "CONDUIT" TESTS AS APPLIED BY GC/LAC TO CERTAIN HOCAP PROJECTS IN CENTRAL AMERICA AT THE TIME A.I.D. ASSISTANCE TO PANAMA WAS TERMINATED. COMPARE THE DISCUSSION OF THE INTEGRATED PEST MANAGEMENT PROJECT IN PARAS. 8-11 OF THE CABLE, WITH THE DISCUSSION OF THE REGIONAL AGRICULTURE HIGHER EDUCATION PROJECT IN PARAS. 12-15.

3. IS IT "DIRECT" ASSISTANCE TO THAILAND: MULTILATERAL FUNDERS AND INTERNATIONAL ORGANIZATIONS.

SECTION 513 PROHIBITS THE OBLIGATION OR EXPENDITURE OF FUNDS APPROPRIATED OR OTHERWISE MADE AVAILABLE UNDER THE APPROPRIATIONS ACT TO FINANCE DIRECTLY ANY ASSISTANCE TO AN OFFENDING COUNTRY. THE WORDS "FINANCE DIRECTLY" IN THE SECTION 513 CONTEXT HAVE BEEN INTERPRETED TO COVER ALL ECONOMIC ASSISTANCE WITH THE PRINCIPAL EXCEPTION OF ASSISTANCE APPROPRIATED FOR MULTILATERAL FINANCIAL INSTITUTIONS AND OTHER INTERNATIONAL ORGANIZATIONS UNDER THE "MULTILATERAL ECONOMIC ASSISTANCE" HEADING OF THE APPROPRIATIONS ACTS. (FOOTNOTE(1)) HOWEVER, WHERE ECONOMIC ASSISTANCE FUNDS APPROPRIATED TO A.I.D. ARE PROVIDED THROUGH A MULTILATERAL FINANCIAL INSTITUTION OR INTERNATIONAL ORGANIZATION, THE MISSION SHOULD USE THE "BENEFITS SEVERABILITY" AND "CONDUIT" TESTS DESCRIBED IN PART II(2) ABOVE TO DETERMINE WHETHER THE ASSISTANCE

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PROVIDED IS IN FACT BILATERAL ASSISTANCE.

4. IS THE ASSISTANCE DELIVERED THROUGH A "PRIVATE AND VOLUNTARY ORGANIZATION OR COOPERATIVE"; THE SECTION 123(E) EXEMPTION.

SECTION 123(E) OF THE FOREIGN ASSISTANCE ACT OF 1961, AS AMENDED, PROVIDES AN EXEMPTION TO THE SECTION 513 PROHIBITION FOR PROGRAMS OF PRIVATE VOLUNTARY ORGANIZATIONS AND COOPERATIVES WHICH WERE ALREADY BEING SUPPORTED PRIOR TO THE DATE THAT THE PROHIBITION BECAME APPLICABLE IF SUCH CONTINUED SUPPORT IS IN THE NATIONAL INTEREST OF THE UNITED STATES. ONLY THE A.I.D. ADMINISTRATOR HAS THE AUTHORITY TO APPROVE CONTINUED SUPPORT TO PVO PROGRAMS IN THAILAND. (FOOTNOTE (2)) SECTION 123(E) IS DISCUSSED IN DETAIL IN THE JOHNSON MEMORANDUM.

5. IS THE ACTIVITY NECESSARY TO "WINDUP" THE A.I.D. PROGRAM; SECTION 617.

THE MISSION MAY ALSO CONSIDER USING, WHERE APPROPRIATE, THE AUTHORITIES AVAILABLE UNDER SECTION 617 OF THE FOREIGN ASSISTANCE ACT. (FOOTNOTE (5)) WHEN ASSISTANCE IS TERMINATED, SECTION 617 MAKES FUNDS AVAILABLE FOR A PERIOD NOT TO EXCEED EIGHT MONTHS FROM THE DATE OF TERMINATION. FOR THE NECESSARY EXPENSES OF WINDING UP PROGRAMS RELATED THERETO. IN THIS CONNECTION, PLEASE NOTE THE FOLLOWING:

(A) SECTION 617 IS AVAILABLE FOR ANY ONGOING ASSISTANCE ACTIVITY AUTHORIZED UNDER THE FOREIGN ASSISTANCE ACT THAT IS TERMINATED AS A RESULT OF THE SECTION 513 PROHIBITION.

(B) SECTION 617 AUTHORIZES THE OBLIGATION AND EXPENDITURE OF FUNDS WHERE REQUIRED TO "WIND UP" THE ASSISTANCE ACTIVITIES THAT MUST BE TERMINATED UNDER SECTION 513. PENDING APPROVAL OF A WIND-UP PLAN, THERE ARE THREE CATEGORIES OF "WINDING-UP" EXPENSES PERMITTED UNDER SECTION 617:

(1) PRIOR COMMITMENTS; EXPENDITURES TO AVOID ABANDONMENT. PAYMENTS ARE PERMITTED FOR IRREVOCABLE OR NONCANCELLABLE COMMITMENTS ENTERED INTO WITH THIRD PARTIES PRIOR TO THE TERMINATION OF ASSISTANCE; FOR VOUCHERS FOR GOODS AND SERVICES PENDING AT THE TIME OF THE SECTION 513 TERMINATION; AND FOR THE MINIMUM EXPENSES REQUIRED AT THIS POINT (AND PERMITTED BY THE TERMS OF THE RELEVANT CONTRACTS AND GRANTS) TO KEEP CONTRACTORS AND GRANTEES FROM ABANDONING THEIR ACTIVITIES WHILE THE WIND-UP PLAN IS BEING PROCESSED. THE AUTHORITY FOR THESE EXPENDITURES IS IMPLICIT IN THE CONCEPT OF ORDERLY TERMINATION. ABRUPT ABANDONMENT OF A PROJECT BY A CONTRACTOR OR GRANTEE COULD BE BOTH EXPENSIVE AND CONTRARY TO U.S. INTERESTS. ACCORDINGLY, A MINIMUM LEVEL OF EXPENDITURE IS PERMITTED, IF NECESSARY IN THE MISSION'S JUDGMENT, TO PREVENT ABANDONMENT BEFORE A WINDUP PLAN IS APPROVED BY AA/APRE UNDER SECTION 617, OR NEW OBLIGATIONS AND EXPENDITURES FOR

PVO PROGRAMS ARE APPROVED BY AA/IT UNDER SECTION 123(E).

(2) EXPENDITURES NECESSARY FOR ORDERLY TERMINATION OF ASSISTANCE ACTIVITIES. SECTION 617 PERMITS OBLIGATIONS AND EXPENDITURES NECESSARY TO COMPLETE THE MINIMUM USEFUL UNIT OF ASSISTANCE FOR PROJECTS AND PROGRAMS (OR SEGMENTS THEREOF) THAT ARE NEARING COMPLETION, IF REQUIRED TO AVOID WASTE AND LOSS OF EFFECTIVENESS OF ASSISTANCE ALREADY FURNISHED, OR TO AVOID DAMAGING EFFECTS ON THE COUNTRY UNDER PROHIBITION. THIS WOULD NOT PERMIT THE MISSION SIMPLY TO CARRY THROUGH AN ACTIVITY TO ITS PREVIOUSLY INTENDED COMPLETION DATE. HOWEVER, IF NECESSARY TO BRING THE ACTIVITY TO AN ORDERLY TERMINATION, NEW OBLIGATIONS MAY BE INCURRED, AND FUNDS RESERVED FOR EXPENDITURES NOW UNDER HOLD COULD BE RELEASED.

(3) PARTICIPANT TRAINERS. UNDER THE THIRD SENTENCE OF SECTION 617, THE MISSION MAY CONTINUE TO FUND THE STUDIES AND TRAINING OF THAI STUDENTS STUDYING OR BEING TRAINED OUTSIDE OF THAILAND WHOSE COURSE OF STUDY OR TRAINING BEGAN BEFORE ASSISTANCE WAS TERMINATED EVEN IF THE TRAINING EXTENDS BEYOND THE EIGHT-MONTH DEADLINE.

(C) SECTION 617 AUTHORITY FOR OBLIGATIONS AND EXPENDITURES IS ONLY AVAILABLE FOR EIGHT MONTHS AFTER THE DATE OF TERMINATION OF ASSISTANCE (IN THIS CASE, THE DATE OF THE MILITARY COUP). NO NEW OBLIGATIONS OR EXPENDITURES FOR WIND UP ACTIVITIES UNDER THE AUTHORITY OF SECTION 617 MAY BE MADE AFTER THE EIGHT-MONTH DEADLINE HAS PASSED. (FOOTNOTE (4))

(D) SECTION 617 AUTHORITY IS PERMISSIVE. A.I.D. IS NOT COMPELLED TO OBLIGATE AND SPEND TO COMPLETE A PROJECT OR ACTIVITY IF, FOR EXAMPLE, THE PROJECT IS NOT PROVING TO BE A WORTHWHILE INVESTMENT, OR THERE ARE POLICY REASONS FOR

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LIMITING THE AMOUNT OF A.I.D. ACTIVITY AFTER TERMINATION, THERE IS NO REQUIREMENT THAT WE CONTINUE FUNDING.

III. BANGKOK 07779. THE RESPONSES THAT FOLLOW ARE KEYS TO THE VARIOUS SUBPARAGRAPHS OF BANGKOK 07779. PARAGRAPH 5. AS NOTED ABOVE, OUR CONCLUSIONS ARE BASED ON A RAPID REVIEW OF THE FACTS AVAILABLE TO US AT THIS TIME, AND SHOULD BE DEEMED SUBJECT TO FURTHER REVIEW.

A. THE USES OF PD AND S DESCRIBED IN PARAGRAPH 5A SHOULD BE REVIEWED WITH THE GENERAL GUIDANCE SET FORTH IN PART 11(1) OF THIS MEMORANDUM IN MIND. IN THAT CONNECTION, PLEASE NOTE THAT THE NATIONALITY OF THE CONTRACTOR OR GRANTEE DOES NOT DETERMINE WHETHER THE ACTIVITIES BEING FUNDED ARE ASSISTANCE TO THAILAND. THUS, IF THE ACTIVITY BEING FUNDED IS ASSISTANCE FOR ACTIVITIES PROHIBIT OBLIGATIONS OR EXPENDITURES FOR ACTIVITIES INVOLVING "U.S. PRIVATE ENTITIES INTERESTED IN WORKING ON THAT DEVELOPMENT PROBLEMS."

P. WITH RESPECT TO THE QUESTIONS RAISED IN PARAGRAPH 5B ABOUT THE SECTION 123(E) EXEMPTION

(1) WHERE A.I.D. HAS ALREADY AUTHORIZED A MULTIYEAR HANDBOOK IS GRANT TO A PVO, SECTION 123(E) PERMITS OBLIGATIONS AND EXPENDITURES TO COMPLETE THE MULTI-YEAR PROGRAM. MOREOVER, THE MISSION MAY ALSO PROVIDE FUNDING WHERE APPROPRIATE FOR FOLLOW ON ACTIVITIES AND MODIFICATIONS TO EXISTING PVO PROGRAMS. SEE PARAG OF THE JOHNSON MEMORANDUM (AT 1112).

(2) THE SECTION 123(E) EXEMPTION IS AVAILABLE TO ALL PVO PROGRAMS WHAT A.I.D. HAS BEEN FUNDING BY (1) DIRECT GRANT, OR (11) SUBGRANT OR SIMILAR AGREEMENT WITH THE DIRECT RECIPIENT OF A.I.D. FUNDS. (FOOTNOTE (5)) THE SITUATION IS SOMEWHAT MORE MURKY IN CASES WHERE THE PVO PROGRAM RECEIVES ITS SUPPORT, DIRECTLY OR INDIRECTLY, UNDER A BILATERAL PROTECT GRANT AGREEMENT WHICH THEN FUNDS A HANDBOOK IS ASSISTANCE INSTRUMENT (SUCH AS THE GRANTS ISSUED TO PVOs UNDER THE MANRIS PROJECT AGREEMENT). FOR EXAMPLE, THE JOHNSON MEMORANDUM STATES (AT 4) THAT "THE AUTHORITIES AVAILABLE THROUGH SECTION 123(E) MAY NOT INCLUDE OBLIGATIONS WITH THE GOVERNMENT."

NEVERTHELESS, WE BELIEVE THAT THE SUBSTANCE OF THE PVO PROGRAM, RATHER THAN THE FORM OF SUPPORT, SHOULD DETERMINE WHETHER A PVO PROGRAM IS ELIGIBLE FOR THE SECTION 123(E) EXEMPTION. IN GENERAL, ANY PVO ACTIVITY CONDUCTED UNDER A BILATERAL PROGRAM AGREEMENT WHICH IMPLEMENTS AN RIG PROGRAM OR REQUIRES RIG APPROVAL TO PROCEED WOULD PROBABLY NOT QUALIFY FOR CONTINUED SUPPORT UNDER A SECTION 123(E) EXEMPTION. IN NO EVENT SHOULD THE MISSION USE THE SECTION 123(E) EXEMPTION TO ADD FUNDS TO A BILATERAL PROGRAM AGREEMENT. HOWEVER, WHERE THE BILATERAL PROGRAM AGREEMENT SPRES MERELY AS A FRAMEWORK FOR A.I.D. SUPPORT OF THE INDEPENDENT ACTIVITIES OF THE PVO IN-COUNTRY, IT MIGHT BE ARGUED THAT THE INVOLVEMENT OF THE RIG IS INCIDENTAL AND WED NOT PRECLUDE THE CONTINUATION OF A.I.D. SUPPORT UNDER

THE AUTHORITIES OF SECTION 123(E). IN THIS REGARD, THE MISSION SHOULD PROCEED ON A PROJECT-BY-PROJECT BASIS.

WHERE A PVO PROGRAM RECEIVES A.I.D. SUPPORT UNDER A BILATERAL PROGRAM AGREEMENT, IT MAY BE POSSIBLE TO CONTINUE THAT SUPPORT UNDER A DIFFERENT INSTRUMENT. THE WORD "PROGRAM" IN SECTION 123(E) CLEARLY REFERS TO THE PROGRAM OF THE PRIVATE VOLUNTARY ORGANIZATION OR COOPERATIVE" BEING SUPPORTED BY A.I.D. AND NOT TO THE A.I.D. PROGRAM (OR PROJECT) UNDER WHICH SUPPORT IS PROVIDED. THEREFORE, IF AT THE TIME OF THE SECTION 513 TERMINATION, A.I.D. WAS SUPPORTING A PVO PROGRAM UNDER A BILATERAL PROGRAM AGREEMENT, WE BELIEVE THAT A.I.D. COULD CHANGE THE FORM OF ITS SUPPORT TO, SAY, A HANDBOOK IS GRANT AGREEMENT, WITHOUT FORFEITING THE SECTION 123(E) EXEMPTION. PROVIDED, OF COURSE THAT THE NATURE OF THE PROGRAM REMAINS UNCHANGED, OR THE ACTIVITY IS A FOLLOW-ON OR MODIFICATION OF THAT PROGRAM.

(3) THE PVO EXEMPTION DOES NOT APPLY TO NONGOVERNMENTAL ORGANIZATIONS AS A CLASS. SEE THE DETAILED DISCUSSION IN PARAG OF THE JOHNSON MEMORANDUM (AT 10-11). NEVERTHELESS, AN NGO THAT FITS THE A.I.D. DEFINITION OF PVO AND WAS RECEIVING A.I.D. SUPPORT AT THE TIME OF THE SECTION 513 TERMINATION, COULD QUALIFY FOR A SECTION 123(E) EXEMPTION EVEN IF THAT NGO HAS NOT BEEN REGISTERED (OR EVEN RECOGNIZED) AS A PVO IN THE PAST. (FOOTNOTE (6)) HOWEVER, IF THE NGO QUALIFIES AS PVO FOR THE PURPOSE OF SECTION 123(E), THE MISSION SHOULD MAKE CERTAIN THAT THE NGO/PVO COMPLIES WITH THE STATUTORY REQUIREMENTS GOVERNING A.I.D. ASSISTANCE TO PVOs. ACCORDINGLY, IF THE NGO/PVO WILL BE RECEIVING SUPPORT FROM A.I.D. DIRECTLY, THAT NGO/PVO SHOULD BE REGISTERED IN ACCORDANCE WITH THE A.I.D. REGULATIONS AS A CONDITION OF RECEIVING THAT SUPPORT. IF THE NGO/PVO WIL BE RECEIVING SUPPORT FROM A.I.D.

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INTELECT, THE NGO/PVO WILL PROBABLY NOT BE REQUIRED TO REGISTER AS A PVO.

(4) ASSISTANCE THROUGH NGOS (INCLUDING PRIVATE SECTOR ENTITIES) IS "DIRECT ASSISTANCE" TO THAILAND FOR PURPOSES OF SECTION 513. THEREFORE, A MANRESERVED COOPERATIVE AGREEMENT WITH AN NGO FOR ACTIVITIES BENEFITTING THE THAI PRIVATE SECTOR APPEARS TO BE DIRECT ASSISTANCE UNDER SECTION 513, AND WOULD THEREFORE BE COVERED BY THE SECTION 513 PROHIBITION.

C. AS TO WHETHER THE USG AS A MATTER OF POLICY MIGHT PREFER NOT TO EXERCISE ITS AUTHORITY TO OBLIGATE AND SPEND FOR OTHERWISE PERMISSIBLE ACTIVITIES, THAT QUESTION WILL BE ADDRESSED DURING THE AID/W REVIEW OF THE MISSION'S FINAL WIND-UP PLAN.

IV. BANGKOK 08051. THE RESPONSES THAT FOLLOW ARE KEPT TO THE VARIOUS SUBPARAGRAPHS OF BANGKOK 08051, PARAGRAPH 3. ONCE AGAIN, OUR CONCLUSIONS ARE BASED ON A RAPID REVIEW OF THE FACTS AVAILABLE TO US AT THIS TIME, AND SHOULD BE DEEMED SUBJECT TO FURTHER REVIEW.

A. THE MISSION'S ASSUMPTIONS ARE CORRECT. AS NOTED IN PART II(2) ABOVE, SECTION 513 REQUIRES THAT ALL ASSISTANCE RECEIVED BY OR BENEFITTING RTG ENTITIES UNDER CENTRAL OR REGIONAL PROJECTS BE TERMINATED IF SUCH ASSISTANCE CAN BE DISCONTINUED WITHOUT SUBVERTING THE PRIMARY PURPOSE OF THE REGIONAL PROGRAM, OR SERIOUSLY DIMINISHING PROGRAM BENEFITS PROVIDED TO OTHER COUNTRIES IN THE REGION. THE FACT THAT U.S. UNIVERSITIES ARE SERVING AS INTERMEDIARIES SHOULD NOT ALTER THE RESULT.

B. UNDER SECTION 513, THERE IS NO SPECIAL EXEMPTION FOR ACTIVITIES IN WHICH THE IMMEDIATE BENEFICIARY OF THE ASSISTANCE IS A PRIVATE SECTOR ORGANIZATION. IF THE ACTIVITY QUALIFIES AS "ASSISTANCE" (AND ALL A.I.D. PRIVATE SECTOR ACTIVITIES MUST BE "ASSISTANCE" TO BE AUTHORIZED UNDER THE FAA), IF THE ASSISTANCE IS FOR THE BENEFIT OF THAILAND, AND IF THE SECTION 123(E) STATUTORY EXEMPTION DOES NOT APPLY, SECTION 513 REQUIRES THAT THE ACTIVITY BE TERMINATED. A.I.D. MAY, HOWEVER, MAKE ADDITIONAL OBLIGATIONS AND EXPENDITURES TO WIND-UP THE ACTIVITY UNDER SECTION 617.

C. AS NOTED IN PART II(B)(2) ABOVE, WHETHER THE PVO PROGRAMS FUNDED UNDER A BILATERAL PROGRAM AGREEMENT ARE ELIGIBLE FOR CONTINUED SUPPORT UNDER THE SECTION 123(E) EXEMPTION IS SUBJECT TO CONSIDERABLE DEBATE. IN THIS CASE, THE FACT THAT FUNDS FLOW TO PATH THROUGH THE HANDS OF THE RTG MAKES CONTINUATION OF THE SUPPORT IN THIS FORM EVEN MORE DIFFICULT TO JUSTIFY. HOWEVER, AS NOTED ABOVE, A PATH PROGRAM THAT IS CURRENTLY BEING SUPPORTED BY A.I.D. COULD BE ELIGIBLE FOR CONTINUED SUPPORT UNDER THE SECTION 123(E) EXEMPTION IF THE FUNDING WERE PROVIDED UNDER A DIFFERENT INSTRUMENT.

D. THE SECTION 123(E) EXEMPTION IS AVAILABLE ONLY IF

CONTINUED A.I.D. SUPPORT IS DETERMINED BY THE ADMINISTRATOR TO BE IN THE NATIONAL INTEREST. AS A RESULT, THE SECTION 123(E) EXEMPTION IS NOT LEGALLY AVAILABLE WITHOUT A POLICY DETERMINATION AT THE HIGHEST LEVEL IN A.I.D. WITH RESPECT TO UNREGISTERED INDIGENOUS PVOs: SECTION 123(E) EXEMPTION COVERS "PRIVATE VOLUNTARY ORGANIZATIONS AND COOPERATIVES"; IT IS NOT LIMITED TO UNITED STATES PVOs, OR TO REGISTERED PVOs, AND WOULD, THEREFORE, COVER UNREGISTERED INDIGENOUS PVOs WHOSE A.I.D. ASSISTANCE WAS GRANTED HEREIN AT THE TIME THAT THE REGISTRATION REGULATIONS WENT INTO EFFECT. HOWEVER, AS NOTED ABOVE, WHILE THE SECTION 123(E) EXEMPTION MAY BE USED TO CONTINUE A.I.D. SUPPORT FOR CERTAIN PVO PROGRAMS, IT DOES NOT EXEMPT THOSE PROGRAMS FROM THE STATUTORY REQUIREMENTS GOVERNING A.I.D. ASSISTANCE TO PVOs, E.G., THE REQUIREMENT THAT PVOs RECEIVING DIRECT ASSISTANCE BE REGISTERED. THE MISSION SHOULD KEEP THIS IN MIND, PARTICULARLY IF IT SEEKS TO CHANGE THE FORM OF SUPPORT THAT IT PROVIDES TO AN EXISTING PVO PROGRAM.

E. STATE 059826, PARAGRAPH 8, STATES THAT "SECTION 513 DOES NOT AFFECT NARCOTICS ASSISTANCE." TO BE SURE, THE NARCOTICS CONTROL ASSISTANCE FUNDED BY THE STATE DEPARTMENT BUREAU FOR INTERNATIONAL NARCOTIC MATTERS UNDER THE AUTHORITY OF SECTION 481 OF THE FOREIGN ASSISTANCE ACT OF 1961 IS PROVIDED "NOTWITHSTANDING ANY OTHER PROVISION OF LAW, AND IS THEREFORE EXEMPT FROM SECTION 513. BUT A.I.D. FUNDED NARCOTICS PROGRAMS ARE NOT COVERED BY THE SECTION 481 "NOTWITHSTANDING" CLAUSE, AND SHOULD BE SUBJECT TO THE SAME ANALYSIS AS ARE THE MISSIONS OTHER ASSISTANCE PROGRAMS.

F. IN THE INTEREST OF PROVIDING AN EXPEDITIOUS RESPONSE

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TO THE OTHER QUESTIONS RAISED BY THE MISSION, WE WILL  
ENTER AN ANALYSIS OF THE SCIENTIFIC RESEARCH GRANTS UNDER  
THE U.S. ISRAEL COOPERATIVE DEVELOPMENT RESEARCH PROGRAM  
TO A SEPARATE COMMUNICATION.

FOOTNOTES:

(1) CF. GC/LPIA GARBER A. DAVIDSON TO GC MARKHAM BALL,  
FEBRUARY 6, 1978 AT 25 (GC OPINIONS SECTION 107, NO. 15).

(2) THE PRESIDENT DELEGATED SECTION 123(E) AUTHORITY TO  
THE DIRECTOR OF IDCA. EXECUTIVE ORDER NO. 12163, SECTION  
1-102(A)(1), AS AMENDED (SEPTEMBER 17, 1979). THE  
DIRECTOR OF IDCA, IN TURN, DELEGATED THE AUTHORITY TO THE  
A.I.D. ADMINISTRATOR. IDCA DELEGATION OF AUTHORITY NO. 1,  
SECTION 1301(A), AS AMENDED (OCTOBER 1, 1979).

(3) SEE GC/A HERBERT E. MORRIS TO MICHAEL H.B. ADLER,  
APRIL 23, 1979, AT 58 (SECTION 617 GUIDANCE WITH RESPECT  
TO WINDING UP PROGRAMS IN PAKISTAN ) (GC OPINIONS SECTION  
617, NO. 19).

(4) ONCE THE EIGHT-MONTH DEADLINE HAS PASSED, DOES A.I.D.  
HAVE THE AUTHORITY UNDER SECTION 617 TO CONTINUE PAYING  
FOR WINDUP ACTIVITIES COMPLETED PRIOR TO THAT DEADLINE?  
SECTION 513 AND ITS PREDECESSORS PROHIBIT BOTH OBLIGATIONS  
AND EXPENDITURES. IF SECTION 617 WERE THE ONLY SPENDING  
AUTHORITY AVAILABLE TO A.I.D. DURING THE WIND-UP PERIOD,  
IT MIGHT BE ARGUED THAT ALL DELIVERIES OF GOODS AND  
SERVICES, AND ALL PAYMENTS THEREFOR, MUST BE COMPLETED  
BEFORE THE DEADLINE. ON THE OTHER HAND, IT MAY BE  
POSSIBLE TO TREAT THE EIGHTMONTH DEADLINE AS IF IT WERE A  
FACD, WITH THE DELIVERY OF GOODS AND SERVICES REQUIRED  
PRIOR TO THAT DEADLINE, BUT WITH PAYMENTS FOR THOSE  
DELIVERIES PERMITTED, IF NECESSARY, AFTER THE DEADLINE HAS  
PASSED. WE WILL PROVIDE YOU WITH ADDITIONAL ADVICE ON  
THIS POINT IN THE NEAR FUTURE.

PLEASE NOTE, HOWEVER, THAT IF PRE-1986 FUNDS ARE RESERVED  
TO PAY FOR ALL OR PART OF THE MISSION'S TERMINATION  
ACTIVITIES, USING THOSE FUNDS, A.I.D. CAN CONTINUE TO MAKE  
PAYMENTS AFTER THE EIGHTMONTH DEADLINE HAD PASSED. BUT  
IF THIS COURSE IS CHOSEN, THE MISSION SHOULD TAKE CARE  
THAT ITS USE OF PRE-1986 FUNDS IS CONSISTENT WITH THE  
LETTER AND THE SPIRIT OF THE WIND-UP PLAN.

(5) GC/LAC KATHLEEN HANSEN TO AID REPRESENTATIVE/BRAZIL  
HOWARD E. HELMAN, JUNE 14, 1989, AT 5,7.

(6) SEE GC/LAC GARY M. WINTER TO FILES, UNDATED (1982)  
(SECTION 123(E) OF THE FAA NICARAGUA ).  
PARTHOLOMIEW

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PAGE 01 OF 02 BANGKO 07779 00 OF 03 251327Z 6874 082034 AID6011  
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BANGKO 07779 00 OF 03 251327Z 6874 082034 AID6011

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ACTION OFFICE APRE-01  
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APFP-02 APA-02 PVC-02 ES-01 STFN-02 STEN-01 SEOP-01  
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AIDAC

FOR HENRIETTA HOLSMAN FORE, AA/APRE,  
AND HOWARD H. FRY, GC, FROM TOM REESE

E.O. 12356: N/A  
SUBJECT: IMPACT OF MILITARY COUP ON AID PROGRAM  
IN THAILAND

REF: STATE 059826

1. INTRODUCTION: THIS WILL BE THE FIRST OF A SERIES OF MESSAGES OUTLINING THE MEASURES I AM TAKING TO COMPLY WITH THE LEGISLATIVE PROVISIONS DESCRIBED IN REFTEL. WE WILL ALSO BE ASKING FOR LEGAL AND POLICY GUIDANCE IN THESE MESSAGES AND WOULD APPRECIATE A RAPID TURNAROUND. THE NATIONAL PEACEKEEPING COUNCIL HAS PROMISED TO DRAFT A NEW CONSTITUTION AND HOLD GENERAL ELECTIONS WITHIN SIX MONTHS AND USAID WILL BE REPORTING ON THE DEMOCRATIC

PROGRESS SINCE THIS WILL IMPACT ON OUR ABILITY TO RESUME AN AID PROGRAM IN THAILAND.

2. STRATEGY FOR WINDING UP: AS WASHINGTON IS AWARE, THE COUP CAME AT A TIME IN WHICH WE WERE SHIFTING FROM A MORE TRADITIONAL ECONOMIC ASSISTANCE PROGRAM TO A PARTNERSHIP BASED ON MUTUAL INTERESTS WITH AN ADVANCED DEVELOPING COUNTRY. COMPLYING WITH THE LAW WILL ACCELERATE THE DEMISE OF THE TRADITIONAL PROGRAM. PRESUMING THAT THAILAND WILL INDEED RETURN TO A DEMOCRATICALLY ELECTED GOVERNMENT OVER THE NEXT EIGHT MONTHS, OUR STRATEGY WOULD BE TO PRESERVE THE FOUNDATIONS OF THE NEW PROGRAM SO THAT A QUICK AND SMOOTH RESUMPTION WOULD BE POSSIBLE.

3. OVERALL SIZE AND NATURE OF AID PROGRAM: A QUICK REVIEW OF OUR PORTFOLIO INDICATES A PIPELINE OF DOLS 73.4 MILLION (INCLUDING PLANNED DEOBLIGATIONS) AND PLANNED FY 1991 OBLIGATIONS (INCLUDING PRE REVOLVING FUND) OF DOTS 22.7 MILLION IN BILATERAL, CENTRAL AND REGIONAL FUNDS WHICH ARE AFFECTED BY THE LEGISLATIVE REQUIREMENTS. EACH OF OUR ONGOING PROJECTS IS QUITE COMPLICATED WITH MANY SUBPROJECTS REACHING A WIDE RANGE OF GOVERNMENT AGENCIES, PRIVATE VOLUNTARY ORGANIZATIONS, UNIVERSITIES, PRIVATE SECTOR GROUPS AND INDIVIDUALS. WINDING UP THESE ACTIVITIES WILL SERIOUSLY DISRUPT THE PROGRAM PLANS OF A NUMBER OF COUNTERPART INSTITUTIONS, PARTICULARLY IN THE ENVIRONMENT AND SCIENCE AND TECHNOLOGY SECTORS.

4. OUR APPROACH:

A. I MET WITH THE DIRECTOR GENERAL OF THE DEPARTMENT OF TECHNICAL AND ECONOMIC COOPERATION (DTEC), OUR CHIEF COUNTERPART AGENCY, ON FEBRUARY 25 AND INFORMED HIM OF THE MEASURES WHICH WE MUST TAKE DUE TO THE RECENT POLITICAL DEVELOPMENTS IN THAILAND. MEETINGS WITH THE SECRETARY GENERAL OF THE NATIONAL ECONOMIC AND SOCIAL DEVELOPMENT BOARD AND PERMANENT SECRETARY OF THE OFFICE OF THE PRIME MINISTER ARE SCHEDULED FOR THE FOLLOWING DAY.

B. AT THE SAME TIME, I HAVE ASKED ALL PROJECT OFFICERS TO DEVELOP INITIAL PLANS FOR WINDING UP ALL CURRENT PROJECT ACTIVITIES OVER THE NEXT EIGHT MONTHS. I EXPECT TO REVIEW THESE PLANS IN THE NEXT FEW DAYS, AFTER WHICH THEY WILL BE SHARED WITH WASHINGTON. HOWEVER, COMPLETING THESE INITIAL PLANS REQUIRES SOME GUIDANCE FROM WASHINGTON, AS NOTED IN PARA 5 BELOW.

C. ONCE THESE PLANS ARE FULLY THOUGHT THROUGH, WE WILL COMMUNICATE DIRECTLY WITH OUR MANY COUNTERPARTS AND NEGOTIATE THE ORDERLY TERMINATION OF EACH OF THE PROJECTS AND THEIR MYRIAD ACTIVITIES.

5. BELOW ARE THE INITIAL ISSUES WHICH WILL REQUIRE WASHINGTON INPUT. WE URGE RAPID FEEDBACK BECAUSE THEY IMPACT ON OUR ABILITY TO COMMUNICATE WITH OUR THAI COLLEAGUES:

A. UNDER THE NEW ADC STRATEGY, WE WERE

PLANNING TO OBLIGATE PD&S FUNDS THIS FY FOR A NUMBER OF CONTRACTS AND GRANTS WITH PRIVATE SECTOR ENTITIES IN THE U.S. AND THAILAND. THESE ACTIVITIES WOULD HAVE AS THEIR DUAL PURPOSES THE BUILDING OF THAI PRIVATE SECTOR CAPACITY IN STRATEGIC AREAS AND THE INTRODUCTION OF NEW U.S. ORGANIZATIONS TO THAI PARTNERS. DOES THE SECTION 513 PROHIBITION ON DIRECT ASSISTANCE TO A COUNTRY ALSO PROHIBIT THE PROVISION OF ASSISTANCE TO U.S. PRIVATE ENTITIES INTERESTED IN WORKING ON THAI DEVELOPMENT PROBLEMS? THIS IS A CRITICAL ISSUE FOR THE MISSION IN THAT SUSPENSION OF THESE ACTIVITIES WOULD SERIOUSLY HAMPER OUR ABILITY TO PICK UP IMPLEMENTATION OF THE NEW ADC STRATEGY RAPIDLY IF AND WHEN A DEMOCRATICALLY ELECTED GOVERNMENT TAKES OFFICE IN THE NEXT SEVERAL MONTHS. IF SOME ON-GOING WORK UNDER OUR FINANCIAL MARKETS, ENVIRONMENTAL INFRASTRUCTURE AND HUMAN CAPITAL FOCI COULD CONTINUE, WE WOULD BE IN A MUCH BETTER POSITION TO RESURRECT OUR ADC STRATEGY AT A LATER DATE.

B. SECTION 123 (E) OF THE FAA PROVIDES THAT ONGOING AID ASSISTANCE IN SUPPORT OF PROGRAMS OF PVOS AND COOPERATIVES MAY CONTINUE.

(1) IF AID HAS ALREADY APPROVED A MULTI-YEAR HANDBOOK 13 GRANT TO A PVO WHICH REQUIRES AN INCREMENTAL OBLIGATION OF FUNDS, IT WOULD APPEAR THAT THE SECTION 123 (E) EXEMPTION WOULD PERMIT ADDITIONAL OBLIGATIONS UNDER THE GRANT TO BE MADE TO CONTINUE THE AGREED-UPON MULTI-YEAR PROGRAM. THIS

ISSUE WILL AFFECT THE FUTURE OF AID-DIRECT GRANTS UNDER OUR PVO CO-FINANCING PROJECT, NOTABLY TO THE ASIA FOUNDATION, PACT AND AAFLI.

(2) IT WOULD APPEAR THAT THE SECTION 123 (E) EXEMPTION PERMITS CONTINUATION OF GRANTS TO PVOS IRRESPECTIVE OF WHETHER AID OBLIGATED THE FUNDS

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PAGE 02 OF 02 BANGKO 07779 00 OF 03 251327Z 6874 082034 AID6011

BANGKO 07779 00 OF 03 251327Z 6874 082034 AID6011

TO FINANCE THE PVO GRANT BY (1) A DIRECT GRANT AGREEMENT WITH THE PVO OR (2) A BILATERAL PROJECT GRANT AGREEMENT WHICH THEN FUNDS A HB 13 ASSISTANCE INSTRUMENT WITH THE PVO. THE RELEVANT ISSUE APPEARS TO BE THAT THE DIRECT RECIPIENT AND BENEFICIARY OF THE ASSISTANCE IS THE PVO NOT THE THAI GOVERNMENT. FOR EXAMPLE, TO THE EXTENT THAT GRANTS HAVE BEEN ISSUED TO PVOS USING FUNDS OBLIGATED UNDER THE MANRES PROJECT GRANT AGREEMENT WITH THE RTG, CAN THESE CONTINUE?

TO HELP US SORT THROUGH THE MULTIPLE LEGAL ISSUES WE FACE IN COMPLYING WITH SECTION 513.

8. PLEASE GIVE US YOUR THOUGHTS ON HOW WE PLAN TO PROCEED. WE LOOK FORWARD TO QUICK GUIDANCE ON THE ISSUES RAISED IN PARAGRAPH 5 ABOVE. O'DONOHUE

- (3) DOES THE PVO EXEMPTION APPLY TO NON-GOVERNMENTAL ORGANIZATIONS AS WELL AS TO REGISTERED PRIVATE VOLUNTARY ORGANIZATIONS? MISSION HAS BEEN PROVIDING ASSISTANCE TO A NUMBER OF THAI NON-GOVERNMENTAL ORGANIZATIONS SUCH AS THE THAILAND DEVELOPMENT RESEARCH INSTITUTE (TDRI), THE FEDERATION OF THAI INDUSTRIES (FTI), THE INSTITUTE FOR MANAGEMENT EDUCATION IN THAILAND (IMET), AND THE THAI CHAMBERS OF COMMERCE. CAN THESE CONTINUE?

- (4) DOES THE PHRASE IN SECTION 513 WHICH PROHIBITS QUOTE DIRECT ASSISTANCE TO A COUNTRY UNQUOTE PERMIT THE CONTINUATION OF ASSISTANCE TO A

THAI NON-GOVERNMENTAL ORGANIZATION WHERE THE NGO IS BOTH THE DIRECT RECIPIENT AND BENEFICIARY OF THE AID ASSISTANCE? WOULD AID BE ABLE TO INITIATE NEW ASSISTANCE TO AN NGO SO LONG AS THE NGO IS THE DIRECT RECIPIENT AND BENEFICIARY OF SUCH ASSISTANCE? WHAT IF THE FUNDS FOR SUCH ASSISTANCE HAD INITIALLY BEEN OBLIGATED BY A BILATERAL PROJECT GRANT AGREEMENT BUT THE FUNDS ARE TRANSFERRED DIRECTLY TO AN NGO UNDER A HB 13 ASSISTANCE INSTRUMENT OR AN AID DIRECT CONTRACT FOR ACTIVITIES WHICH BENEFIT THE THAI PRIVATE SECTOR OR OTHER NON-GOVERNMENTAL ENTITIES? FOR EXAMPLE, THE MISSION HAS A MANRES-FUNDED COOPERATIVE AGREEMENT WITH THE FEDERATION OF THAI INDUSTRIES (FTI) UNDER WHICH FUNDS ARE PASSED DIRECTLY TO FTI FOR INDUSTRIAL ENVIRONMENTAL ACTIVITIES BENEFITTING THE THAI PRIVATE SECTOR.

- C. NOTWITHSTANDING THE LEGAL EXEMPTIONS OF PVO ACTIVITIES, FUNDS OBLIGATED IN FY 85 AND PRIOR YEARS, NARCOTICS, AND PARTICIPANT TRAINEES IN THE U.S. AND THIRD COUNTRIES, ARE THERE REASONS WHY THE U.S.G. AS A MATTER OF POLICY WOULD PREFER NOT TO ALLOW THESE EXEMPTIONS? THIS ISSUE OF UNEXPENDED FY 85 AND PRIOR YEAR FUNDS IS PARTICULARLY RELEVANT IN THE CASE OF STDB WHICH WILL CEASE TO EXIST ABSENT SOME CONTINUED USAID SUPPORT. GIVEN THE SCHEDULE OUTLINED BY THE NEW MILITARY GOVERNMENT FOR RETURN TO DEMOCRATIC RULE, ALLOWING CONTINUED EXPENDITURE OF OLD MONIES WOULD KEEP SELECTED STDB COMPONENTS OPERATIONAL UNTIL THE POLITICAL SITUATION BECOMES

CLEARER.

6. PERSONNEL AND ORGANIZATIONAL ISSUES ARE ALSO ON OUR MIND. WE WILL CONTINUE TO DOWNSIZE TO MEET OUR NEW FY 1991/92 USDH FTE LEVELS. WE HAVE A SELECTIVE FREEZE ON FILLING FSN AND USPSC VACANCIES WHICH ARISE THROUGH ATTRITION. AS WE BETTER UNDERSTAND THE NATURE AND TIMEFRAME FOR THE PROGRAM WIND UP, WE WILL MAKE RECOMMENDATIONS TO YOU REGARDING FUTURE STAFFING PLANS.

7. WE ARE FORTUNATE THAT REGIONAL LEGAL ADVISOR KAREN TURNER IS WITH US DURING THIS DIFFICULT PERIOD

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46

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PAGE 01 OF 02 BANGKO 08051 00 OF 02 261151Z 3577 082553 AID6785  
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BANGKO 08051 00 OF 02 261151Z 3577 082553 AID6785

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ACTION OFFICE APRE-01  
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ED-03 SDB-02 SEOP-01 SEQS-02 FMAD-02 ASHA-01 FM-01  
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E.O. 12356: N/A

SUBJECT: IMPACT OF MILITARY COUP ON AID PROGRAM IN  
THAILAND - CENTRAL PROGRAMS

REF: A. STATE 059826, B. BANGKOK 07778,  
C. BANGKOK 07739

1. INTRODUCTION: THIS IS THE SECOND IN A SERIES  
OF MESSAGES OUTLINING MEASURES BEING TAKEN TO COMPLY  
WITH THE LEGISLATIVE PROVISIONS DESCRIBED IN REF A.  
REF B RAISED A NUMBER OF GENERIC LEGAL AND POLICY  
ISSUES ON WHICH THE MISSION REQUIRES WASHINGTON  
GUIDANCE IN ORDER TO DEVELOP AN EFFECTIVE STRATEGY  
FOR WINDING UP BILATERAL ASSISTANCE ACTIVITIES AS  
REQUIRED BY RELEVANT PROVISIONS OF THE FAA AND  
APPROPRIATIONS ACT. THIS MESSAGE SEEKS  
CLARIFICATION ON LEGAL AND POLICY ISSUES RELATING TO

THE ORDERLY WINDUP OF CENTRAL AND REGIONAL PROGRAM  
ACTIVITIES CURRENTLY UNDER IMPLEMENTATION IN  
THAILAND. WE REQUEST THAT APRE AND GC CONSULT  
CLOSELY WITH AID/W OFFICES RESPONSIBLE FOR THESE  
PROGRAMS TO ENSURE THAT ALL PARTIES ARE FULLY  
APPRISED OF THE APPLICATION OF RELEVANT STATUTES TO  
THESE ACTIVITIES.

2. USAID/THAILAND IS RESPONSIBLE IN VARYING  
DEGREES FOR IN-COUNTRY ADMINISTRATION OF A HOST OF  
CENTRAL AND REGIONAL PROGRAM/PROJECT ACTIVITIES,  
NOTABLY:

- A. PAST ASHA GRANTS TO INSTITUTIONS LOCATED  
IN THAILAND FOUNDED OR SPONSORED BY U.S. CITIZENS,  
NOTABLY TO YONOK COLLEGE (FYS 86-90).
- B. 28 ACTIVE SCIENTIFIC RESEARCH GRANTS  
PROVIDED UNDER THE PROGRAM IN SCIENCE AND TECHNOLOGY  
COOPERATION (PSTC), AND THE U.S.-ISRAEL COOPERATIVE  
DEVELOPMENT RESEARCH PROGRAM (CDR). THE PRIVATE  
ASIAN INSTITUTE OF TECHNOLOGY (AIT) IS THE  
BENEFICIARY OF THREE OF THESE GRANTS.
- C. COLLABORATIVE RESEARCH SUPPORT PROGRAM  
(CRSP) ASSISTANCE THROUGH COOPERATING U.S.  
UNIVERSITIES AS FOLLOWS: PEANUT CRSP WITH THREE RTG  
ENTITIES; POND DYNAMICS CRSP WITH AIT.
- D. FOUR PRE PROJECTS INVOLVING LOANS, LOAN  
GUARANTEES AND SMALL GRANTS TO PRIVATE SECTOR  
ORGANIZATIONS INCLUDING THAI PACIFIC FOODS, BUSINESS

VENTURES PROMOTION, THAI DANU BANK AND THE BANK OF  
ASIA;

- E. OVER 20 ON-GOING CENTRALLY-FUNDED HEALTH  
AND POPULATION GRANTS TO A RANGE OF THAI PUBLIC AND  
PRIVATE ENTITIES (INDIGENOUS PVOS AND NGOS) FOR  
SCIENTIFIC AND OPERATIONS RESEARCH ON MEDICAL  
ISSUES, INCLUDING AIDS.

- F. ONE CENTRALLY-FUNDED HUMAN RIGHTS  
ACTIVITY WITH AAFLI, A PVO.

- G. SUPPORT UNDER THE REGIONAL NARCOTICS  
EDUCATION PROJECT FOR NARCOTICS AWARENESS ACTIVITIES  
WITH SEVERAL RTG INSTITUTIONS AND TWO THAI PVOS.

- H. SEVERAL SMALL ACTIVITIES UNDER RHUDO'S  
HOUSING THE URBAN POOR PROGRAM, PRIMARILY AID-DIRECT  
CONTRACTS FOR REGIONAL STUDIES INCLUDING THAILAND.

3. MISSION SEEKS LEGAL AND POLICY CLARIFICATION ON  
THE FOLLOWING ISSUES RELATED TO THESE ACTIVITIES;

- A. MISSION ASSUMES THAT WHERE RTG ENTITIES  
ARE THE RECIPIENT AND/OR BENEFICIARY OF CENTRAL AND  
REGIONAL PROJECT ASSISTANCE, SECTION 513 REQUIRES  
TERMINATION OF THESE ACTIVITIES EXCEPT TO THE EXTENT  
THAT STATUTORY EXEMPTIONS APPLY. THUS SECTION 513  
WOULD APPEAR TO APPLY TO PSTC AND HEALTH/POPULATION  
GRANTS PROVIDED TO RTG ENTITIES OR RTG EMPLOYEES AS  
WELL AS TO THE PEANUT CRSP UNDER WHICH FUNDS ARE

PROVIDED TO U.S. UNIVERSITIES FOR ALLOCATION TO RTG  
IMPLEMENTING AGENCIES AND RESEARCHERS. PLEASE  
CONFIRM THE MISSION'S ASSUMPTIONS.

- B. WHERE THE BENEFICIARIES OF THE ASSISTANCE  
ARE PRIVATE SECTOR ORGANIZATIONS (NOTABLY ASHA  
GRANTS, PRE ACTIVITIES AND VARIOUS RESEARCH

ACTIVITIES WITH HIT), DOES COMPLIANCE WITH SECTION  
513 REQUIRE US TO TERMINATE? IF NOT, WOULD THESE  
ACTIVITIES BE ELIGIBLE FOR CONTINUATION EITHER  
THROUGH EXPENDITURE OF ALREADY OBLIGATED FUNDS OR  
FOR NEW OBLIGATIONS PROVIDED BY CENTRAL AND REGIONAL  
OFFICES?

- C. IN SELECTED INSTANCES, CENTRAL  
HEALTH/POPULATION FUNDS HAVE BEEN PROVIDED TO RTG  
ENTITIES FOR THE BENEFIT OF THAI PRIVATE  
ORGANIZATIONS, E.G., WITH THE MINISTRY OF PUBLIC  
HEALTH FOR WORK WITH THE PROGRAM FOR APPROPRIATE  
TECHNOLOGY IN HEALTH (PATH), A PVO. DOES SECTION  
513 REQUIRE THE TERMINATION OF THESE ACTIVITIES?

- D. MISSION UNDERSTANDS THAT, UNDER FAA  
SECTION 123 (E), HEALTH/POPULATION AND HUMAN RIGHTS  
GRANTS PROVIDED DIRECTLY TO U.S. OR THAI PVOS ARE  
LEGALLY EXEMPTED FROM THE APPLICATION OF SECTION 513  
BUT THAT THE USG MAY WISH TO REVIEW THESE EXEMPTIONS  
ON POLICY GROUNDS. PLEASE CONFIRM THIS  
UNDERSTANDING. DOES THE EXEMPTION APPLY TO

REGISTERED PVOS, OR WOULD IT ALSO APPLY TO ANY  
UNREGISTERED INDIGENOUS PVOS WHOSE AID ASSISTANCE  
WAS GRANDFATHERED AT THE TIME THAT NEW FAA  
REGISTRATION PROVISIONS AND REGULATIONS WERE ENACTED?

- E. PER REF A, MISSION UNDERSTANDS THAT

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47

Thailand Program Planning

I. FY 1991 Planned Obligations (New Funds)

A. <u>Bilateral Projects</u>	(\$ million)
Science and Technology for Development	1.969
Private Voluntary Organization (PVO) Co-Financing II	2.065
Managing Natural Resources and Environment (MANRES)	1.000
Affected Thai Villages	5.000
Trade and Investment	2.000
U.S.-Thai Development Partnership Fund	2.000
<u>Total Bilateral 1991 Obligations</u>	<u>14.034</u>
B. <u>Central/Regional (Washington-Funded) Programs</u>	(\$ million)
Program Development and Support	.654
Peace Corps - Small Project Assistance	.040
Innovative Scientific Research (Annual Average)	1.000
Regional Housing and Urban Development Office - Housing the Urban Poor (Est.)	1.000
PRE Revolving Fund - Guaranty	6.000
Marketing Technology Access Program	.750
<u>Total Central/Regional 1991 Obligations</u>	<u>9.444</u>
<u>Total FY 91 Planned Obligations</u>	<u>23.478</u>

II. Undisbursed FY 90 and Prior Year Funds (Cash Basis)

A. <u>On-going Bilateral Projects</u>	(\$ million)
Emerging Problems of Development II	7.605
Private Voluntary Organizations (PVO) Co-Financing II	4.567
Affected Thai Villages	2.948
Managing Natural Resources and Environment (MANRES)	14.804
Agricultural Technology Transfer	7.356
Science and Technology for Development	20.444
Rural Industries and Employment	10.195
Trade and Investment	.144
<u>Total Undisbursed Bilateral Funds</u>	<u>68.063</u>
B. <u>On-going Regional and Central Projects (Undisbursed Funds)</u>	<u>2.956</u>

48

C.	<u>Terminating Bilateral Projects</u> (Undisbursed Funds)	(\$ million) <u>2.385</u>
	<u>Total Undisbursed - FY 90 and Prior Year Funds</u>	<u>73.404</u>
III.	<u>Additional Planned Funds - New Partnership</u> (FY 92 and Later)	(\$ millions)
	Science and Technology for Development	2.790
	Managing Natural Resources and Environment (MANRES)	25.739
	Affected Thai Villages	10.000
	Trade and Investment	3.800
	U.S.-Thai Development Partnership Fund	13.000
	<u>Total Additional Planned Funds</u>	<u>55.329</u>
IV.	<u>Grand Total - All Funds</u> <u>Affected by Section 513 Suspension</u>	<u>152.211</u>

WINDUP PLAN

EMERGING PROBLEMS OF DEVELOPMENT II PROJECT (493-0341)

I. BACKGROUND INFORMATION

A. The Project Agreement: was signed with Royal Thai Government (RTG) on February 21, 1985 and the current project assistance completion date is January 31, 1992.

B. Project Description: The EPD II Project is the Mission's policy project. Its purpose is to provide U.S. grant support (Dols 19 million) for RTG policy development, program planning and pre-project analysis in key problem areas. EPD II provides rapid, flexible analytical support for Thai policymakers. It was designed to facilitate policy dialogue, promote policy studies, support development seminars and help meet technical assistance and training needs directed toward resolution of crucial development problems.

C. Project Management: A joint RTG-USAID Project Policy Committee (PPC), composed of the Director-General of the Department of Technical and Economic Cooperation (DTEC), the Secretary-General of the National Economic and Social Development Board (NESDB), and the Director of USAID/Thailand, has provided policy direction to the project. The Project Coordinating Committee (PCC), composed of representatives from each of these organizations, meets more regularly to review subproject proposals and to monitor implementation of the project. Administration of the project is coordinated by DTEC's EPD II Management Unit.

D. Financial Data:

1. Obligated: Dols 18,882,000
2. Earmarked/Reserved: Dols 18,230,629
3. Committed: Dols 17,896,794
4. Disbursed: Dols 11,388,174
5. Pipeline: Dols 7,492,826 \*
6. Committed Activities: 206; completed: 146; active 60;

\* Excludes undisbursed accruals.

E. Project Activities:

Committed on-going Activities by type of agreement:

Host Country Contracts: 19;  
Memoranda of Understanding: 12;  
AID Direct: 4 of which one is a grant,  
two are cooperative agreements, and one  
is a contract;  
PIO/Ps: 23;  
Project implementation Letters: 2.

Note: Memoranda of Understanding are the commitment documents between DTEC and RTG implementing agencies for EPD II sub-projects and activities.

On-going activities by type of activity:

Technical assistance: 6  
Commodities: 3  
Education and Training: 23  
Studies and seminars: 26  
Personal Services Contractors in DTEC and USAID: 2

**II. EPD II PROJECT WINDUP PLAN**

Windup of On-Going activities by type of activity:

A. Technical Assistance - Reach an agreement with each contractor as to the minimum time and expenditure required for an orderly close out of the ongoing phase of activity. In principle, we expect phaseout of TA contracts to occur over a period of 30-90 days from AID/W approval of this plan depending upon the time needed to bring the assistance under a particular contract to an orderly conclusion.

B. Commodities - Determine the status of performance under AID direct and host country commodity procurements. If commodities have been shipped or specially manufactured or if noncancellable commitments have been made, then we will permit the transaction to be completed and commodities to be delivered and installed. Planned procurements that are necessary to complete a useful unit of assistance will also be allowed to proceed. Otherwise, we will cancel AID direct procurements; we will request the RTG to terminate its AID-financed host country procurements and we will likewise terminate our commitment to finance such procurements.

C. Education and Training - Participant trainees in the U.S. will be permitted to complete their current programs. Participant trainees scheduled to travel to the U.S. for short term training will have their programs cancelled.

D. Studies and Seminars - Procedures for the windup of the twenty six research studies many of which include funding for seminars, follow:

(1) First, with respect to seminars, in principle, all seminars except those planned in the next two to three weeks will be terminated. The determining criteria for whether or not the remaining seminars would be permitted to take place are if irrevocable or noncancellable commitments have been entered into with respect thereto (e.g., have significant non-refundable monetary commitments been made for costs such as conference facilities and participant travel) and if the seminar is critical to obtaining the next minimum useful unit of assistance from the assistance provided thus far.

(2) Second, with respect to studies, the procedure for windup will be a two step process. The first step will be to review work and expenditures to date for each study to determine the state of completion and to reach a determination as to whether it is feasible and worthwhile to salvage findings, conclusions and recommendations from the material produced by the time of the review. If the determination is negative, further work under the study will be immediately terminated. If the determination is positive, USAID and DTEC (most of these studies are undertaken pursuant to host country agreements), in consultation with the researcher, will determine the minimum useful unit of assistance that can be obtained from the work performed to date. Based on this determination, USAID and the researcher will agree on a revised workplan that will ensure the study is completed as quickly as possible.

(3) For example, a study with a total planned duration of twelve months that is now in month six would be intensively reviewed to consider the expenditures to date, progress with respect to the workplan, the quality of the work, the utility of the work performed to date and, if additional work is needed in order to obtain a useful product, the amount of time and funds needed to do so. If the project is significantly behind schedule, the most likely judgment would be to immediately terminate the study without any additional expenditure because the efforts were not sufficiently far along to be worth salvaging. If the study was progressing on schedule and the preliminary data collection indicated potentially useful results, but the data collected thus far is not useful because, for example, the data base is incomplete or the form in which such data is currently compiled is of no utility, the determination (based on discussions with the researcher) would be to allow limited additional time and expenditures to take such additional actions as are necessary to produce a useful unit of product.

E. Administrative Personal Services Contractors - Two Administrative PSCs have contracts that are scheduled to terminate at the PACD. One contract is with USAID and the other with the Department of Technical and Economic Cooperation. These contracts will be terminated when the workload related to winding up the project is such that their services are no longer required.

52

### III. POTENTIAL COMPLICATIONS

The large majority of the contracts and Memoranda of Understanding committing USAID funds have been executed between DTEC and RTG implementing agencies and private sector contractors. The termination plan outlined above is thus premised on cooperation from DTEC. Subsequent to AID/W comments and approval, USAID will present its termination plan to DTEC with a request for cooperation in executing it.

Possible legal entanglements may arise in the event that a host country contract or memorandum of understanding either does not have a termination provision or has a provision that does not adequately cover the present circumstances. Our preliminary review indicates that memoranda of understanding between DTEC and RTG implementing agencies and many host country contracts do not have termination provisions. Thus, although under the Project Grant Agreement USAID has the right to terminate assistance to the RTG, the RTG's inability or difficulty in extricating itself from USAID-financed host country contracts and other agreements may complicate USAID's ability to rapidly wind up project activities.

The process for reaching an agreement concerning windup of studies and seminars will be labor intensive and may possibly lead to honest differences of opinion between USAID, DTEC (most of the studies are undertaken pursuant to host country agreements) and the researcher about the appropriate curtailment of ongoing activities and what is a useful unit given the current stage of completion. Within the limits of our legal authority, one of our primary objectives in reaching agreement on the details of windup will be to negotiate windup of ongoing activities in a manner that avoids embroiling USAID in legal entanglements.

## WINDUP PLAN

## AGRICULTURAL TECHNOLOGY TRANSFER (493-0337)

## I. Background Information

A. The Project Agreement was signed on August 15, 1985 and the current Project Assistance Completion Date is December 31, 1992.

B. Project Description: The ATT project was established with the objective of establishing an effective vehicle for improving agriculture in Thailand, especially through the acquisition and adaptation of technology to Thai agricultural development problems. A total of 45 subprojects authorized under the project address a variety of adaptive research and commercialization needs for the promotion of agriculture and agribusiness.

C. Project Management: A project committee is headed by the Permanent Secretary of the MOAC with representation by key departments, NESDB, agricultural universities, MOF and DTEC; the USAID project officer actively participates in the committee; the long-term advisor coordinates reporting, liaison with subprojects and TA and training.

D. Financial Data (\$):	<u>GRANT</u>	<u>LOAN</u>	<u>TOTAL</u>
1. Obligated	6,987,090	8,000,000	14,987,090
2. Earmarked/Reserved	6,504,973	7,607,845	14,112,818
3. Committed	6,247,780	7,597,450	13,845,230
4. Disbursed	2,592,123	5,199,789	7,791,912
5. Pipeline	4,394,968	2,800,210	7,195,178 *

## 6. Committed, On-going Activities:

The project structure emphasizes the introduction of improved agricultural technologies through the implementation of subprojects in the form of funding agreements with universities or departments of MOAC. Each subproject may involve substantial procurement, TA, and temporary labor for carrying out the research or commercialization activities.

- 14 Active Subprojects involving research and technology transfer
- TA through USDA, BuRec PASAs
- 1 Resident Long-term Advisor
- Scientific exchange program
- 4 Workshops
- TA for 5 subprojects
- Training and Observational Travel for 9 subprojects

\* Excludes undisbursed accruals.

54

## II. Agricultural Technology Transfer Windup Plan

The proposed general windup program for the ATT project which follows is consistent with general guidance provided to the RTG in letters dated March 6, 1991. This project does not pose particularly difficult issues for windup because it was relatively close to the PACD and RTG funding is available to pick up some of the terminated activities. Discussions with the implementing agency have already led to agreement on most details of the windup.

- A. Technical Assistance: all planned TA has been cancelled with exceptions as follows. Subproject 032, Applied Atmospheric Resources Research Program (AARRP) requires windup TA to assist the RTG to finish installation of costly (\$1.5 million) radar and aircraft instrumentation system and to perform final calibration and training on the new equipment. Windup is expected to take approximately 7 months; long term advisor will continue for 4 months in order to finish project completion reports and final coordination of TA issues.
- B. Commodities: commodities which have been shipped (e.g. radar for the AARRP subproject, spray dryer for subproject 043) will be received as part of orderly windup. Other contracts for commodities which were in earlier stages have been terminated;
- C. Training: training managed under the USDA PASA has been terminated; short term training for farmers will wind down under 5 subprojects as necessary for orderly termination of activities;
- D. Studies and Seminars: project staff travel to the U.S. will be carried out in May as part of orderly termination to permit wrapup of linkages with USDA, PVOs and scientific establishments;
- E. Personnel. no core ministry administrative staff is funded under the project; some staff for specific subprojects has already been terminated; staff under 5 subprojects will continue to provide services consistent with the windup plan for each activity.

## III. Other Issues

The Mission debated extensively the merits of using pre-FY86 funds in order to provide a rational wrap-up to this six-year effort and to tie it in to USAID's longer term strategy, assuming an eventual resumption of our assistance. Two major options were considered: the first would be to complete two on-going subprojects which have important developmental and environmental impacts; the second option involves funding consulting services to carry out feasibility studies, market profiles and joint venture promotion.

55

The two subproject activities involve research related to agribusiness opportunities with important developmental and environmental impacts. One subproject is designed to adapt fruit fly control technologies from Hawaii to fresh fruit export crops in Thailand. Small farmers will be the major beneficiaries of this effort. The second activity is for the improvement of shrimp pond soil and water. This subproject addresses both the major environmental hazard associated with ponds and the largest constraint to future growth of this important export activity. Both activities make use of preeminent U.S. expertise in these fields. Estimated completion date is September 1992.

The proposed consulting services would be through a grant to the American Society of Agricultural Consultants, International (ASACI) to strengthen commercialization of agricultural technologies, build on the substantial investment in Thailand's adaptive research capabilities, and forge stronger trade and investment linkages between the U.S. and Thailand. ASACI would promote agribusiness investment through market research and investor-ready profiles of specific agribusiness opportunities for U.S. and Thai investors and would market the profiles to promote investment and joint venture opportunities. The ASACI grant, with an estimated cost of \$250,000, had already been negotiated at the time of the coup but had not been signed. The grant was to be grant funded. There are about \$360,000 available from pre-FY86 loan funds; the use of these for TA would have to be negotiated with the RTG.

The Mission believes that the latter proposal has more merit. If AID/W concurs, the Mission would negotiate with the MOAC to reallocate the remaining loan funds into the appropriate project element and execute the grant to ASACI. The grant would continue to the PACD of December 31, 1992.

#### **IV. Potential Complications**

Legal liabilities for outstanding contracts and personnel services are possible but do not appear likely. No other complications are foreseen at this time for the project windup.

RURAL INDUSTRIES AND EMPLOYMENT PROJECTWINDUP PLANI. BACKGROUND INFORMATION

A. The Project Grant Agreement was signed with the Royal Thai Government (RTG) on August 27, 1986 and the current project assistance completion date is September 30, 1996.

B. Project Description: The RIE Project provides a total of \$14.1 million for the purpose of assisting the expansion of industries outside of the greater Bangkok area. The project contains seven distinct components designed to alleviate financial, managerial, and technical constraints to the establishment and expansion of rural industries.

C. Project Management: The RIE Project Grant Agreement is signed with DTEC as the representative of the RTG. This agreement established three working structures under the project. The NESDB/JPPSCC and DIP/ISU public sector components are implemented with DTEC as the financial intermediary. The Mission has direct relationships with the private sector implementing agencies including IMET, TCC, FTI, IFCT and IESC. The policy element has already been completed and was conducted through a USAID contract directly with PACMAR, a local consulting firm.

D. Financial Data:

1. Obligated:	\$14,100,000
2. Earmarked/Reserved:	\$12,713,270
3. Committed:	\$6,025,299
4. Disbursed:	\$3,979,363
5. Pipeline	\$10,120,637 *

E. Project Activities:

Committed on-going Activities by type of agreement:

- Project Implementation Letters: 5
- Letter of Commitment: 1

On-going activities by type of activity:

- loan guarantees: 1
- technical assistance: 3
- Training: 1
- Information Dissemination: 1

\* Excludes undisbursed accruals.

## II. RIE PROJECT WINDUP PLAN

All RIE Project components will be terminated under a two step plan. First step will be to settle accounts for all eligible project expenses incurred up to Saturday, February 23, 1991. Second step will be to wind down all activities in an orderly manner over the next 30 to 90 days. This will include examining with each project component the programmatic and financial implications of terminating their respective staffs and programs.

Windup of on-going activities by type of activity:

A. Loan Guarantees - As part of the Mission's overall restructuring plans proposed last year, IFCT has agreed not to extend additional loans under the guarantee facility. Discussions initiated to deobligate approximately \$6.5 million of un-committed funds under the guarantee facility have been suspended pending guidance from AID/W on how to handle or possibly buy out AID's contingent liabilities of approximately \$1,154,640. These liabilities extend to February 8, 1996, the due date of the last loan booked under the facility.

B. Technical Assistance/Training: Meetings have been initiated with each implementing entity so as to determine the minimum time and expenditure required for an orderly close out of each respective project component. In principle, we expect phaseout of technical assistance and training to occur over a period of 30-90 days.

a. Staff salaries and administrative support funded under the FTI, TCC, IMET, ISU and NESDB components will be terminated when the workload relating to the windup plans for each respective component is such that their services are no longer required.

b. No additional commodity procurements were planned, nor will any new equipment purchases be approved.

c. Training seminars/conferences/meetings/studies planned to take place in the next 4 weeks for which no irrevocable or noncancelable commitments have been made will be cancelled. The determining criteria will be whether significant non-refundable monetary commitments have been made for costs such as conference facilities, participant and resource persons travel.

## III. POTENTIAL COMPLICATIONS

A. No major complications are anticipated. The public and private sector components have been on-going for several years and thus have passed the critical start up phase of a new project. Since the project funds mostly staff salaries, administrative support/travel and discrete activities, close consultation with counterparts on the orderly phaseout

over 30-90 days should resolve any major complications over contractual obligations for planned but unexecuted activities and for complying with local labor law over severance payments.

B. Regarding the IFCT/SIGF, one complication will be how to reconcile AID's irrevocable commitment to IFCT, and at the same time abide by the letter and spirit of the law if there is a default under the guarantee facility beyond the eight months phase out period. One approach not yet discussed with IFCT is to use the default rate to date to calculate an amount to cover liabilities projected/estimated to accrue through February 28, 1996, the due date of the last loan, and grant that amount to IFCT. This grant would be made in consideration for cancelling AID's commitment to cover contingent liabilities under the entire SIGF portfolio. This approach would require delicate negotiations with IFCT. It would also probably necessitate the execution of a new grant type instrument, which may not be allowed under a strict compliance of the law unless viewed as necessary to phase out the activity.

ALTERNATIVE WINDUP STRATEGY

SCIENCE & TECHNOLOGY FOR DEVELOPMENT PROJECT (493-0340)

I. Background Information

The Mission has proposed a very conservative windup plan which does not make extensive use of the legal exemption for use of pre-FY86 funding to continue support to the STD project. As stated in the overall windup plan, we propose to fully comply with the letter and spirit of the law. The Mission's highest priorities for those exempted activities for which we are able to move forward on are related to support for the U.S.-Thai development partnership. That partnership will seek to identify Thai development problems and issues and then search for solutions through U.S. expertise, know-how, technology, private sector services and investment. The themes of access, leverage and sustainability are central to the transactions which would result from this partnership.

While the STD project is not a central player in the U.S.-Thai partnership, it has a bearing on the human capital elements of that strategy and has the potential for having more impact on aspects of bilateral trade and investment. In fact, we feel that a reorientation of priorities and some selective continuation of project activities could further the partnership and position the Mission for a better starting point for the Thai Fund project, under the assumption that a normal assistance program will resume in 6-14 months.

The Mission fully recognizes that the short transition period that we have proposed will probably mean curtailing many worthwhile activities. Because of the long planning cycle in the RTG budget and uncertainties in the flexibility available to the interim government, it is probably a heroic assumption that the RTG will be able to successfully pick up many of the program activities. An abrupt curtailment of the project will limit our options for furthering the partnership agenda. We have proposed a conservative approach to ensure full compliance with both the letter and spirit of the law. However, if more flexibility is permitted under the policy framework of the suspension, the Mission would propose a fuller use of FY 85 funds to selectively support some project activities for a longer period and would reorder priorities to more fully support the partnership agenda.

The Mission would propose that the following project activities receive funding support until no later than August 31, 1992:

- o STAMP: complete activities underway and initiate additional awards to stimulate U.S. and Thai industrial linkages;
- o RD&E: extend deadline for completion of on-going efforts in order to obtain meaningful results of research;
- o Graduate Fellowships: allow participants to complete programs underway to avoid personal hardship and help meet human capital requirements.

The merged accounts procedures dictate that all pre-FY86 funds be either disbursed or deobligated/reobligated by September 30, 1992. The funding support proposed above is consistent with that deadline and is deemed sufficient time to make a successful transition to RTG funding.

Of the above activities, the Support for Technology Assessment and Mastery Program (STAMP) offers the most effective vehicle for influencing the technology choices of rapidly growing sectors of the Thai industrial community and for encouraging long-term linkages to U.S. industry. STAMP projects provide modest assistance to Thai or Thai-U.S. joint ventures to assess a variety of technology and process options for the expansion or start-up of an industry. Recent projects have assisted industrialists to visit U.S. suppliers of machinery to select and purchase production equipment or, in some cases, to cement licensing agreements for producing and marketing U.S. brand names in the Thai and southeast Asian markets. The program was a late addition to the project but has proved to be popular with local industry and offers the best mechanism for forging linkages between U.S. and Thai industries.

The Research, Development and Engineering program has currently underway 64 projects for the development of improved technologies or processes in biotechnology, materials sciences, and electronics. Most projects have a duration of 36 months and the proposed deadline of December 31, 1991 will require that some 39 unfinished projects be picked up by RTG funding. In the likelihood that that funding will not be available in a timely fashion, an extended use of FY85 funds until August 31, 1992 will enable virtually all of the projects to finish, obtain significant results or transit to RTG funding sources.

The science and technology graduate fellowships involve 128 students selected from a highly competitive field to obtain Masters or Doctoral degrees from Thailand's best universities. The extension of FY85 funding will reduce the risk of disruption and personal hardship if RTG funding does not materialize by the end of this year. The completion of the study programs is consistent with USAID's agenda for human capital development in critical skills areas.

## II. Science and Technology for Development Alternative Windup Plan

The following discussion of the windup plan proposes an orderly windup of the majority of STDB activities by December 31, 1991 but would continue selected program elements until no later than August 31, 1992.

- A. Technical Assistance - Maintain the contract with NAS with the understanding that assistance will be available for high priority activities related to U.S.-Thai linkages and for the commercialization of technologies. The NAS resident advisors would still be repatriated within three months but short term advisors and scientific and industrial information research support would be provided from NAS headquarters.
- B. Commodities - any commodity procurement beyond December 31, 1991 would only be on an exceptional basis to support the modified priorities of the project, eg. RD&E windup or STAMP.
- C. Education and Training - 128 In-country participants under undergraduate fellowships are particularly vulnerable to the windup of USAID assistance. Although RTG funding is being sought to continue these programs beyond December 31, 1991, an extension of FY85 funding could avoid "white elephants," if such funding is not forthcoming.
- D. Studies and Seminars - We do not foresee any requirement for funding research studies, professional exchanges or in-country training workshops or seminars unless related to the redirected priorities for the STAMP activity.
- E. RD&E and STAMP Awards - The current windup plan anticipates some 39 RD&E subprojects which will not be completed by December 31, 1991 and would require transfer to RTG funding or termination on that date. Selected use of the FY 85 funding would ensure a backup strategy to continue worthy activities, especially those carried out by private companies.

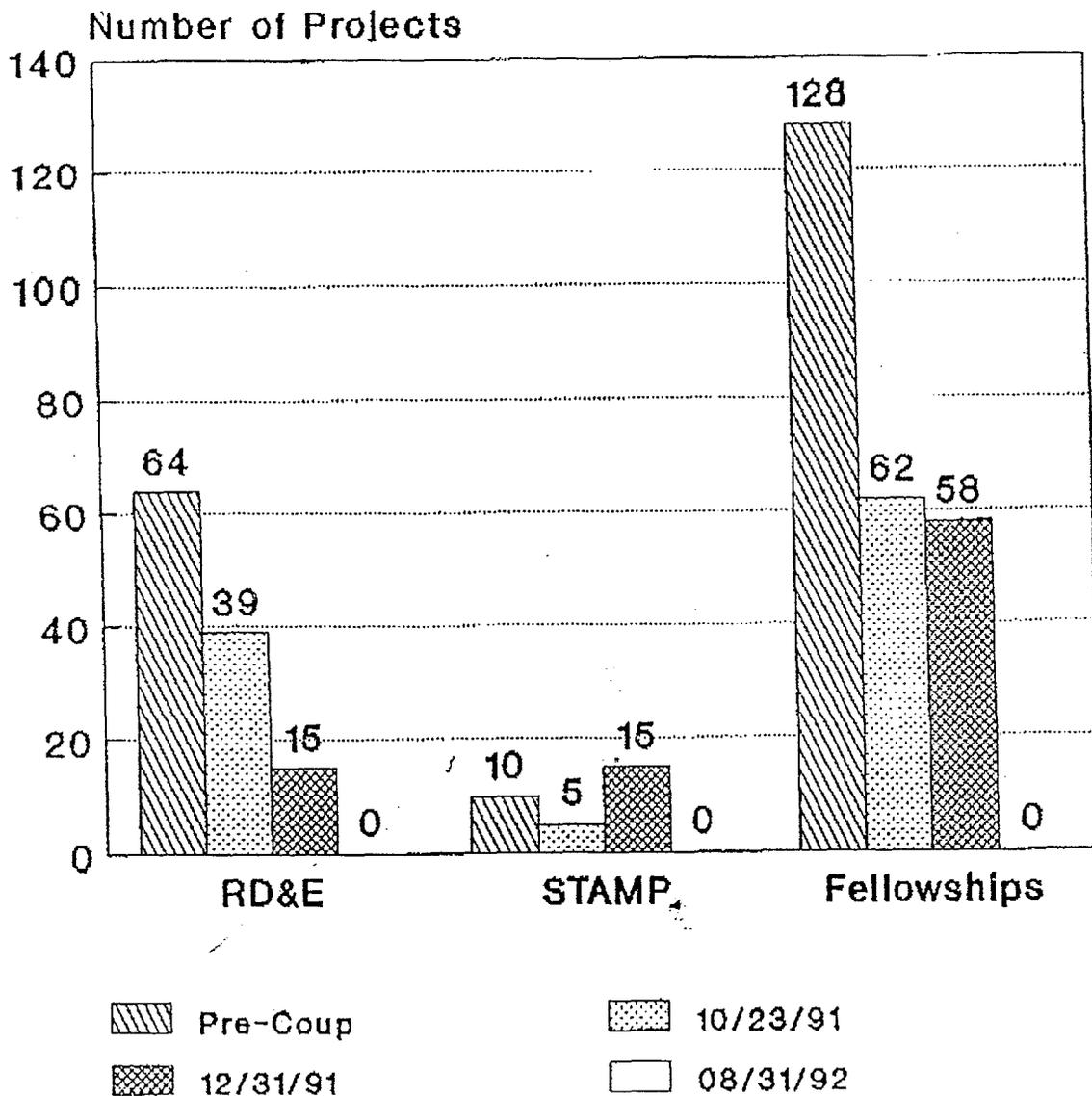
Examples of RD&E projects which could be wound up include CAD/CAM development in support of high-tech industry, tissue culture research for a variety of disease resistant crops and development of heavy ion implantation for alloys.

- F. Administrative Personal Services Contractors - We do not anticipate continued USAID support for personnel beyond December 31, 1991. The assumption of funding by the RTG for this basic cost of the program is needed to justify our continued support.
- G. Office Leases and Services Contracts - The RTG will be expected to pick up all rents and administrative expenses by no later than December 31, 1991.

\* The attachments illustrate the reduction of USAID funding for activities under the existing and alternative windup plans.

67

# STDB Active Projects Alternative Windup Plan



FY86 Transition Funding To NLT 08/31/92  
for Increased STAMP Activities and  
Windup of RD&E and Graduate Fellowships

## Windup Plan

### MANAGEMENT OF NATURAL RESOURCES AND ENVIRONMENT FOR SUSTAINABLE DEVELOPMENT (MANRES) PROJECT (493-0345)

#### I. BACKGROUND INFORMATION

A. Project Agreement: The project grant agreement for MANRES was signed with the Royal Thai Government (RTG) on August 3, 1988. The current Project Assistance Completion Date (PACD) is September 30, 1995.

B. Project Description: The goal of the MANRES project is "to sustain Thailand's economic and social development through improved management of natural resources and the environment". This broad goal is being achieved through specific action programs which address policy development, environmental awareness, and human and natural resource management. The project is currently addressing a number of critical urban, industrial and tourist issues related to air and water pollution, hazardous waste management, public awareness, natural resource policy, as well as global environmental issues for which USAID has specific Congressional mandates e.g. conservation of biological diversity, tropical deforestation, global climate change, and destruction of the ozone layer.

Within the six MANRES subprojects there are over 100 on-going project activities being implemented by nine Thai government agencies, three Thai non-government organizations, five American NGO's, universities and government agencies. These entities, in turn, have subcontracted with more than 15 Thai and US institutions and individuals. The Royal Thai Government Agencies implementing one or more on-going activities under the project are the National Economic and Social Development Board (NESDB); Ministry of Interior, Office of Policy and Planning (OPP); Ministry of Interior, Institute for Government Administration and Local Development (IGALD); Office of the National Environment Board (ONEB); Royal Forestry Department (RFD); Ministry of Education (MOE); Prince of Songkla University Coastal Resource Institute (CORIN); Zoological Parks Organization (ZPO); and the Department of Technical and Economic Cooperation (DTEC).

C. Project Management: The project is directly managed by 5 USAID staff (1 USDH, 3 FSN staff and 1 US PSC) and three staff at the Department of Technical and Economic Cooperation (2 Thai and 1 US PSC). All implementing agencies gather for progress review two times per year. Most individual cooperative agreements have coordinating committees that review progress and policy. Most implementing agencies have internal

management committees. Each September, RTG agencies submit annual workplans to DTEC and USAID for approval. USAID approves workplans and commits funds by PIL to DTEC. 90 day advances flow from DTEC to implementing agencies. Agencies must submit vouchers for expended funds to DTEC to receive the next advance. DTEC then submits vouchers to USAID to receive the reimbursement. Direct AID agreements also involve an annual planning process and 90 day advances and reimbursements, but DTEC is not involved.

D. Financial Data:

1. Obligated: \$17,280,286
2. Earmarked/Reserved: \$13,951,792
3. Committed: \$11,913,397
4. Disbursed: \$2,789,210
5. Pipeline: \$14,491,076 \*

\* Excludes undisbursed accruals.

E. Project Activities:

1. Committed on-going activities by type of agreement:

- Host country contracts: 12
- Memoranda of Understanding: 4
- AID direct : contract: 3  
                  cooperative agreements : 4  
                  PASA: 1
- PIO/P's: 18
- Project Implementation Letters: 18

2. On-going activities by type of activity:\*

- A. Technical Assistance: 14 (contracts, grants and cooperative agreements)
- B. Commodities: 54 (misc. items on order)

65

C. Education and Training:	40 (U.S. participants and in-country trainees)
D. Studies/Seminars:	71 (research grants and workshops)
E. Project Staff:	52 (temporary employees)
F. Personal services contractors at DTEC and USAID:	3

## II. MANRES WINDUP PLAN

The guidelines presented below will be applied to the 6 MANRES Subprojects:

- Human Resources Development
- Policy Analysis and Development
- Biological Resources Management
- Industrial Environmental Management
- Regional Resources Management
- Environmental Awareness and Education

### 1. Activities approved but not initiated:

The Mission plans to suspend approval for all annual workplan activities which had not yet been initiated at the time of the coup. For example, the FY91 annual workplan for the Office of the National Environment Board (ONEB) approved a total of 26 reports, 31m/m of technical assistance, 12 workshops, 9 publications, and hiring 9 staff related to:

- Pollution Control Policies and Demonstration
- Natural Resources Policy and Coordination
- Development of Environmental Administration Programs
- EIA Modernization
- Resource Management Conflicts
- Institutional Strengthening

None of the activities has progressed far enough to justify windup. All are suspended immediately.

### 2. Windup of ongoing activities by type of activity:

The exact timing of windup for ongoing activities will be determined after an activity-by-activity review to determine whether they should be wound-up immediately or whether to allow short-term additional expenditures in order to complete a nearly finished product or outcome.

A. Technical Assistance: We will reach an agreement with each contractor (unless included in the PVO exemption) as to the minimum time and expenditure required for an orderly close out of the ongoing activity. There are existing Cooperative Agreements (CA) with the following non-governmental organizations: Federation of Thai Industries (FTI); Thailand Development Research Institute (TDRI); Harvard Institute for International Development (HIID); World Wildlife Fund-US (WWF); and University of Rhode Island (URI). A CA was scheduled to be signed the week of the coup with the World Environment Center, NY (WEC) to assist the Federation of Thai Industries to address critical urban, industrial, hazardous and toxic waste issues. We had already requested WEC to provide technical assistance to the King's Foundation (Chai Pattana Foundation) for a clean-up effort for the Chao Phraya River. MANRES also includes one PASA with the U.S. National Park Service. In general, we expect that phaseout of TA contracts, cooperative agreements and the PASA can occur over 60-90 days from approval of the windup plan.

Pursuant to section 123(e) of the FAA, we plan to request a PVO exemption for the activities underway with the WWF, the WEC, and Federation of Thai Industries (FTI), since they are now, or are likely to qualify as PVOs. The WWF activities include support to both Thai NGO's and the RTG for biodiversity conservation. The WEC was already supporting environmental activities in Thailand through an AID/W program and the Mission understands final negotiation of the cooperative agreement could be allowed under the PVO exemption.

B. Commodities: We will determine the status of all AID direct and host country commodity procurements. If commodities have been shipped or specially manufactured or if noncancellable commitments have been made, then we will permit the transaction to be completed and commodities to be delivered and installed. Planned procurements that are essential to complete a useful unit of assistance will also be allowed to proceed. Otherwise we will cancel AID direct procurements; we will request the RTG to terminate its AID-financed host country procurements and we will likewise terminate our commitment to finance such procurements. On March 19 we wrote to DTEC to request a report on the status of procurement of the 54 approved commodities under MANRES.

C. Participant Training: The 10 participants currently studying for PhD and MS degrees in the US will be allowed to finish their current programs. Participants who have been selected but have not yet been placed by OIT will not be placed. The on-going process to select an additional 22 PhD candidates will be immediately terminated. All plans for short-term and on-the-job training will be terminated. Cancelled programs include attendance for CORIN staff at the International Marine Parks Seminar in Florida in May.

D. Studies and Seminars: Procedures for the windup of the 71 approved research studies and seminars will be guided by the following principles:

(1) First, with respect to seminars, in principle, all seminars except those planned in the next two to three weeks will be terminated. The determining criteria for whether or not the remaining seminars would be permitted to take place are if irrevocable or noncancellable commitments have been entered into with respect thereto (e.g., significant non-refundable monetary commitments have been made for costs such as conference facilities and participant travel) and if the seminar is critical to obtaining the next minimum useful unit of assistance from the assistance provided thus far.

Only two seminars have been allowed to take place since the coup. We anticipate that only two or three additional seminars will meet the above criteria.

(2) Second, with respect to studies, the procedure for windup will be a two step process. The first step will be to review work and expenditures to date for each study to determine the state of completion and to reach a determination as to whether it is feasible and worthwhile to salvage findings, conclusions and recommendations from the material produced by the time of the review. If the determination is negative, further work under the study will be immediately terminated. If the determination is positive, USAID and DTEC (most of these studies are undertaken pursuant to host country agreements), in consultation with the researcher, will determine the minimum useful unit of assistance that can be obtained from the work performed to date. Based on this determination, USAID and the researcher will agree on a revised workplan that will ensure the study is completed as quickly as possible.

(3) For example, a study with a total planned duration of twelve months that is now in month six would be intensively reviewed to consider the expenditures to date, progress with respect to the workplan, the quality of the work, the utility of the work performed to date and, if additional work is needed in order to obtain a useful product, the amount of time and funds needed to do so. If the project had just began or is significantly behind schedule, the most likely judgment would be to immediately terminate the study without any additional expenditure because the efforts to date were not worth salvaging. If the study was progressing on schedule and the preliminary data collection indicated potentially useful results, but the data collected thus far is not useful because, for example, the data base is incomplete or the form in which such data is currently compiled is of no utility, the determination (based on discussions with the researcher) would be to allow limited additional time and expenditures to take such additional actions as are necessary to produce a useful unit of product.

TDRI is involved in finalizing the research studies presented at the December year-end workshop. Terminating the studies at this time would result in waste of previous expenditure and production of less than a minimum useful unit. We will determine the minimum time needed to complete each study, but anticipate that all can be completed within 5 months of the coup.

ONEB provides another example of research activities proposed to be approved for expenditure as part of windup. In their FY 1990 Workplan there is a special study on "Reorganization of ONEB". The contract was for June to November 1990. ONEB determined that the draft report was not acceptable so the contractor was given until April 30 to revise the report. USAID determined that this report is not useful unless finalized.

E. Administrative and Personal Services Contractors: Such contracts will be terminated when an individual's services related to winding up the project are no longer needed. There are a number of categories of personal services contractors that have to be handled differently as follows:

RTG and NGO Temporary Employees: There are 52 RTG and NGO temporary employees funded under the project. After AID/W approval of the windup plan, these individuals will be served with termination notices in accordance with RTG rules or termination clauses in their contracts unless their employment is required to windup an activity. In the absence of termination clauses in contracts the termination will be made in accordance with Thai labor laws and, at a minimum, 30 day's notice will be provided before termination of employment.

Expatriate Advisors: There are four expatriate advisors financed under the project. One is financed under an AID direct contract; two are under host country contracts and one is financed under an AID direct cooperative agreement. Those individuals who are not deemed to be essential to the wind-up of on-going activities will be terminated in accordance with the terms of their contracts. They will be notified after AID/W approves windup plan.

### III. POTENTIAL COMPLICATIONS

The majority of the MANRES funding commitments are by PIL's that allow DTEC to pass funds to implementing agencies or by host country contracts. The above termination plan assumes cooperation from DTEC. We will be seeking cooperation from DTEC in implementing the windup plan after AID/W approval.

A preliminary review indicates that many host country contracts do not have termination clauses. Although under the Project Grant Agreement USAID has the right to terminate assistance to the RTG, the RTG's or an NGO's inability to extricate itself from a USAID-financed host-country contract or other agreement may complicate USAID's ability to rapidly windup MANRES activities.

The process of reaching agreement concerning windup of studies and seminars will be labor intensive and may lead to honest differences of opinion between USAID, DTEC and the researcher about the minimum time required to windup. Within the limits of our legal authority, one of our primary objectives in reaching agreements on the details of windup will be to windup in a manner that avoids involving USAID in legal entanglements.

DTEC currently has about 40 million baht (1.6 million dollars) advanced to implementing agencies, and is quite concerned about not being reimbursed by USAID. Complications are anticipated in getting DTEC to allow implementing agencies to go forward with appropriate windup activities. Alternatively, given the complex process of agreeing on a windup plan for the multitude of activities supported by MANRES, it is possible that an agency could expend funds for an activity that USAID and DTEC felt should be terminated. We will then need to address possibilities for reimbursement.

Central and Regional Projects  
Active in Thailand

Project Title	Institution	Amount (US\$)	Duration
<u>Private Sector Staff (PSS)</u>			
<u>PRE Activities</u>			
1. Slaughterhouse and Meat Processing Facility	Thai Pacific Foods, Ltd.	2.5 M (L) 70,000 (G)	7/87-6/89
2. Venture Capital	Business Ventures Promotion (BVP), Ltd.	3.0 M (L) 50,000 (G)	3/87-3/91
3. Reimbursable Grant	Aquastar	40,000 (G)	1985-1991
4. Loan Guarantee for Small Businesses	Bank of Asia	3.0 M (Guarantee)	1990-1993
<u>Office of Environment and Participatory Institutions (EPI)</u>			
<u>Human Rights</u>			
1. Worker Rights and Protection	AAFLI*	40,000	8/9/92
2. Provincial Council Leadership Training	The Asia Foundation*	89,913	8/18/91
<u>Regional Narcotics Education</u>			
3. Klong Toey Drug Abuse Prevention	Duang Prateep Foundation*	203,200	12/31/91

\*Private Voluntary Organizations (PVOs)

Project Title	Institution	Amount (US\$)	Duration
<u>Strengthening Grants (Regional, including Thai Components)</u>			
1. Small and Medium Enterprise Program (I)	PACT*	210,000 (Thailand only)	6/88-6/91
2. Small and Medium Enterprise Program (II)	PACT*	360,000 (Thailand only)	6/91-6/94
3. Small Enterprise Development	CRS*	1.067 M (Thailand only)	1989-1994
<u>S&amp;T/FENR</u>			
1. Forestry/Fuelwood Research & Development	Winrock International	625,000 (Thailand only)	1990-1995
2. Coastal Resources Management Project	University of Rhode Island	1.393 M (EPD II funds only; plus S&T/FENR funds)	10/86-6/91
<u>Office of Human Capital and Technology</u>			
<u>S&amp;T/AGR</u>			
1. Peanut CRSP	RTG Agencies/ U.S. Universities	125,000	1990-1995
2. Pond Dynamics CRSP	Asian Institute of Technology/U.S. Universities	1 M	1990-1995
<u>ASHA</u>			
1. ASHA Grant	Yonok College	5 M	FY 86-90
<u>S&amp;T/ED</u>			
1. Bridges	Harvard/Michigan State Universities	251,589 (EPD II funds only; plus S&T/ED funds)	10/89-11/91

\*Private Voluntary Organizations (PVOs)

72

INTERNAL USAID PLANNING

Background:

The timing of the military coup caught USAID/Thailand in the midst of a major transition between program strategies and program implementation modes. In May, 1990, the Asia/Near East Bureau approved the Mission's Assistance Management Plan, which sketched the broad parameters of a new type of AID program for an advanced developing country, i.e., a transaction-oriented focus on solving targeted continuing Thai development problems through the mobilization of private U.S. experience and expertise.

Under the newly-created APRE Bureau and a new Mission Director, USAID/Thailand had just begun market-testing the new strategy with cooperating Thai and U.S. public and private institutions, and preparing documentation for the new program mechanism, the U.S.-Thai Development Partnership Fund, to implement transactions in support of human capital, infrastructure and financial markets development objectives. Absent a program mechanism appropriate for work in these sectors, the Mission was relying primarily on Program Development and Support and other regional project resources to:

- (1) Undertake required sectoral analyses and other project design activities;
- (2) Engage consulting services to clarify Thai development needs, match these needs with U.S. expertise, and pull together detailed plans for a series of short-term transactions leveraging other funds for the solution of key development problems;
- (3) Fund several pilot transactions between U.S. and Thai institutions as a means of gaining momentum under the new strategy and as test cases for identification of implementation problems which would need to be addressed in design of the Thai Fund mechanism; and
- (4) Provide limited support to targeted Royal Thai Government organizations in their plans for and design of major infrastructure and environmental initiatives likely to generate substantial U.S. private sector interest.

Attached is a listing of ongoing and planned activities as of the date of the military coup. Each item on the list has been attributed to one of the four categories outlined above.

Action Plan:

Based on STATE 80049 USAID understands that there are two threshold issues which must be addressed in determining whether some or all of the listed activities can continue while a Section 513 prohibition is in effect.

First, the GC guidance emphasizes that project development activities should only be carried on if there is a reasonable expectation that the Section 513 prohibition will not remain in effect for the indefinite future, and suggests that the Mission's activities be fully consistent with the diplomatic posture of the U.S. Embassy. USAID has consulted with the Embassy on this issue. They remain optimistic that Thailand will return to an elected government during the 6 - 14 month period outlined in the interim constitution; however, both USAID and the Embassy agree that the timing of Thailand's return to democracy will more likely be closer to 14 months than to six. There is thus a legal and policy issue as to whether the expectation that Thailand will return to democracy within a 14-month period is sufficiently definite and reasonable for the continuation of planning activities.

The second issue involves whether individual activities are classified as "assistance" to Thailand (and thus subject to the Section 513 prohibition) or as activities for the benefit of USAID/Thailand, i.e., enhancing its capacity to plan, implement or evaluate its programs more effectively. The Mission has considered this issue in the context of the four categories of activities outlined above, and has determined the following:

- (1) Category 1 activities may be classified as providing assistance to USAID/Thailand, and should continue as planned.
- (2) Category 2 activities include a mixture of both assistance to Thailand and assistance to USAID/Thailand. These efforts will need to be reviewed on a case-by-case basis to ensure that those portions providing assistance to Thailand are wound up in an orderly fashion within the statutory period. Portions of these activities which enhance the Mission's ability to plan new programs could be allowed to continue, but should be carefully considered within the spirit and the letter of the law.
- (3) Category 3 and 4 activities already initiated will need to be wound up. Those in the planning stage will need to be deferred until such time as the Section 513 prohibition is lifted.

Recommendations:

- (1) Based on the current expectation by the Embassy and AID that Thailand will return to democracy within a 14 month period, approve the continuation of USAID planning activities for the next six months. Monitor political events in Thailand periodically and if it looks unlikely that Thailand will return to a democracy within 6-14 months, consider winding up planning activities.
- (2) Authorize the Mission, in consultation with the Regional Legal Advisor and the Office of the General Counsel, to review on-going and planned activities using the criteria discussed above, and to take the necessary actions to wind up, modify or continue the various activities outlined in the attachment.

75

Program Development and Support Windup Plan

Element	Implementing Agency	Pipeline (as of 2/26/91)	PACD	Category	Remarks
<b>A. On-Going Activities:</b>					
1. Financial Markets Analysis - Barnhill	USAID/PFM	23,462	3/15/91	1	Work completed
2. Study Investment in Thailand	AmCham	5,700	3/24/91	1	Substantially completed
3. CDSS USAID/T	USAID/PFM	12	3/31/91	1	Work completed
4. Asst. USAID/T CDSS	USAID/RP	2,830	3/31/91	1	Work completed
5. Asst. USAID/T CDSS	USAID/PFM	7,382	3/31/91	1	Work completed
6. Hubbard PSC	USAID/RHUDO	4,330	3/31/91	1	Will end on schedule
7. Human Resources Contractor (IMRS)	USAID/HCT	71,990	3/31/91	1/2	May continue for planning purposes
8. P.O. Nevin - Contracting Asst.	USAID/RP	18,400	5/25/91	1	Will continue until completion 3/31
9. Analysis of the Economic Consequences of AIDS - TDRI	USAID/PFM USAID/HCT	72,648	9/27/91	1/3	Decision needed on any continuing elements
10. FMDP - Bowles 11 month contract	USAID/PFM	77,000	11/30/91	2	May continue for planning purposes
11. F&I Project Design	USAID/PSS	3,412	7/31/93	1	Work completed
12. PCP Tech. Project Eval.	USAID/HCT	875	9/15/93	1	Work completed
<u>Subtotal On-going</u>		<u>288,041</u>			

Element	Implementing Agency	Previously Planned Obligation (2/26/91)	PACD	Category	Remarks
<b>B. Planned Activities</b>					
1. Solid Waste Management	Phuket Governor Office	(6,400)	N/A	4	Limited Scope PGA with RTG - cancel
2. Planning for Municipal Waste Management	RTI, USAID/EPI	(10,500)	N/A	1	May be initiated for planning purposes only
3. Tech. Asst. to Bangkok Metropolitan Administration	BMA	(100,000)	N/A	4	Advertised - cancel
4. N.E. University Coop Education	USAID/HCT Am Cham	(183,000)	N/A	3	Cancel
5. Chula/Big 8 Petrochemicals/Polymers	USAID/HCT	(200,000)	N/A	1/3	May initiate grant to Big 8 for planning purposes only
6. Engineering Contract	RHUDO	N/A (100,000)	N/A	1/2	May be initiated for planning purposes only
7. Provincial Cities Design	RHUDO/ICMA	(100,000)	N/A	4	Cancel
8. Invitational Travel - Charumatr Chula/DEC	USAID/HCT	(4,000)	N/A	3	Cancel
9. Thai Fund Design Assistance	USAID/PFM	(25,000)	N/A	1	May be initiated for planning purposes only
10. JUST Business Management System	USAID/PSS	(8,000)	N/A	3	Cancel

Element	Implementing Agency	Previously Planned Obligation (2/26/91)	PACD	Category	Remarks
<u>Planned Activities (cont.)</u>					
11. FMDP Bowles 11-month Contract - Funding Balance	USAID/PFM	(422,000)	N/A	1/2	May add funds for planning purposes only
12. FMDP - Privatization Unit	RTG/MOF	(200,000)	N/A	3	Cancel
13. FMDP -Enterprise Fund Mgmt.	IFCI	(100,000)	N/A	3	Cancel
14. FMDP - IFCT Asset Study	IFCT	(50,000)	N/A	3	Cancel
15. FMDP - CFA Program	SET/SAA	(100,000)	N/A	3	Cancel
16. FMDP - SET/NYSE Technical Exchanges	SET	(150,000)	N/A	3	Cancel
17. Continue Human Resources Contractor - IMRS	USAID/HCT	(100,000)	N/A	1/2	May add funds for planning purposes only
<u>Subtotal Planned</u>		<u>(1,858,900)</u>			
(Of which Continuing)		(800,000) Est.			

22

Page 1 of 1

A Comparison At Eight Months  
by activity (and active pipeline)

	<u>February 22, 1991</u> (Pre Coup)	<u>October 22, 1991</u> (Post Eight Months)
<u>I. Bilateral Projects</u>		
1. EPD II	69 active subprojects (\$7.6 million)	All terminated, except participant training (\$0.2 million).
2. ATT	14 active research subprojects (\$7.4 million).	All research ended (\$0). ASACI?
3. ATV	14 village subprojects (\$2.5 million).	All village activities ended. (\$0).
4. RIE	7 components for public sector and business associations (\$10.2 million).	All components ended (\$0 pipeline except contingent liabilities of approximately \$1.2m).
5. PVO II	18 HB 13 grants (\$4.6 million).	12 HB 13 grants (\$4.6 million).
6. T/I Support	1 business plan (\$0.1 million).	No activity (\$0).
7. STD	86 active subprojects (\$20.4 million)	No active subprojects (\$1 million for STDB operations for transition).
8. MANRES	100 subprojects (\$14.8 million).	2-3 PVO grants and participant training. (\$0.9 million).
(Bilateral Subtotal)	309 subprojects (\$68 million).	15 subprojects (\$6.7 million).
Central/Regional	70 subprojects (\$24 million - program level).	7 subprojects (\$3 million).
TOTALS	379 subprojects (\$92 million)	22 subprojects (\$9.7 million).

ATTACHMENT 2

ACTION MEMORANDUM FOR THE ADMINISTRATOR

80



Agency for International Development

Washington, D.C. 20523

AID  
EXECUTIVE SECRETARIAT

Assistant Administrator for  
Asia and Private Enterprise

1991 MAY -6 P 5: 06

MAY - 6 1991

ACTION MEMORANDUM FOR THE ADMINISTRATOR

FROM: AA/APRE, George Laudato (Acting) *George Laudato*

SUBJECT: Continuation of Private and Voluntary Organization  
("PVO") Programs in Thailand

Problem: Your approval is required, under the authority of Section 123(e) of the Foreign Assistance Act of 1961, as amended ("FAA"), to continue bilaterally-funded PVO programs in Thailand determined to be in the U.S. national interest.

Background: On February 23, 1991, a military coup deposed the democratically elected government of Thailand, invoking Section 513 of the FY 91 Appropriations Act. Section 513 prohibits the obligation and expenditure of funds appropriated after 1985 for direct assistance to Thailand, with certain specific legal exceptions.

Section 123(e) of the FAA allows the President (through the A.I.D. Administrator) to authorize continued A.I.D. support, including new obligations where appropriate, for PVO or cooperative programs where the continuation of these programs is determined by the A.I.D. Administrator to be in the U.S. national interest.

The FAA Section 123(e) authority may be used where continuation of the PVO or cooperative program is in the U.S. national interest either because continuation would further important development or humanitarian goals of the United States, or because continuation is important to the United States for strategic, political or commercial reasons. The legislative history of Section 123(e) also reflects Congressional intent to permit funding for modifications to existing PVO or cooperative programs.

Discussion: On April 11, 1991, I approved a windup plan for Thailand. I hereby request you to exercise your delegated authority under FAA Section 123(e) to approve the continuation of A.I.D. support to the PVO programs described below.

At the time of the February coup, 18 bilaterally funded PVO activities were ongoing in Thailand, 10 supporting humanitarian

goals (assistance to the disadvantaged, ethnic minorities, Amerasians) and 8 supporting U.S. strategic interests in environmental protection, AIDS control and strengthening Thai democratic institutions. In the next six months, 5 of the present 18 activities will terminate. Less than a year later, an additional 5 activities will terminate, leaving 8 PVO activities to continue past FY 92. (See Annex II)

The 10 humanitarian PVO programs demonstrate our continuing commitment to helping the poorest elements of Thai society. It would not be in the U.S. national interest to make these groups bear the consequences of the Section 513 prohibition resulting from the Thai military coup.

In addition to authorizing the continuation of the ten humanitarian PVO programs, we request that you exercise your delegated authority under Section 123(e) to assure the continuation and possible modification of A.I.D. support to the eight remaining PVO programs: 2 for AIDS prevention, 3 in environment, 3 to strengthen democratic institutions.

A.I.D. support for these programs and their possible modification for improved program focus is in the U.S. national interest for the following reasons:

- AIDS control is a global issue, and a critical economic and social issue for Thailand in the 1990s. Thailand's HIV infection rate is skyrocketing. PVOs are in the forefront of Thailand's response to the AIDS epidemic.
- Thai environmental problems are transnational, affecting global climate change and international biodiversity objectives, as well as Thailand's domestic natural resources depletion and environmental degradation.
- Thai political stability is critical to U.S. interests in Southeast Asia and a return to democracy and strengthening of democratic institutions are primary objectives of the United States. The success of the coup illustrates clearly the importance of greater attention to deepening Thailand's democratic roots.

Authority: The President has delegated authority to exercise the provisions of FAA Section 123(e) to the Director of the International Development Cooperation Agency ("IDCA") and the Director of IDCA has, in turn, delegated this function to the Administrator of A.I.D. You therefore have the authority to approve continuation of ongoing PVO programs in Thailand upon making the determination that continuation of these programs is in the national interest.

Congressional Report and Notification: FAA Section 123(e) also requires that a report be transmitted to Congress within one year of the date on which the relevant prohibition on assistance became applicable (in this case by February 23, 1992), which must include a rationale for continuation of the PVO programs. Accordingly, we have prepared for your signature the attached letters to appropriate members of Congress.

Recommendation: That you exercise your delegated authority under Section 123(e) of the FAA to (1) determine that the continuation of A.I.D. support to the PVO programs listed in Annex II is in the national interest of the United States; (2) authorize the continuation of such support, as outlined in this memorandum, by signing below; and, that you sign the attached letters to the appropriate members of Congress, informing them of your action.

Approved: Meredith Edelman

Disapproved: \_\_\_\_\_

Date: 5/16/91

ATTACHMENTS: a/s

Please return a copy of this  
note/letter with your responses

Continuation of Private and Voluntary Organization ("PVO")  
Programs in Thailand

-4-

Clearances:

APRE/DR/PD, G. Morris (draft) date 4/1/91  
APRE/A, L. Morse (draft) date 4/1/91  
APRE/FPM, P. Davis (draft) date 4/1/91  
GC/APRE, M. Kitay mlk date 4/2  
STATE/EAP/TB, P. Mayhew (subs) date 4/2/91  
GC, H. Fry ~~MLK~~ date 4/11/91  
PPC, R. Brown ~~MLK~~ date 4/15/91  
LEG, R. Randlett ~~MLK~~ date 4-12-91  
DAA/APRE, G. Laudato ~~MLK~~ date 4-3-91  
AA/LEG:RRRandlett ~~MLK~~ date 4/17/91  
as revised

Draft: USAID/Thailand; APRE/DR: MHuffman; APRE/A: DHagen: #WINDUP

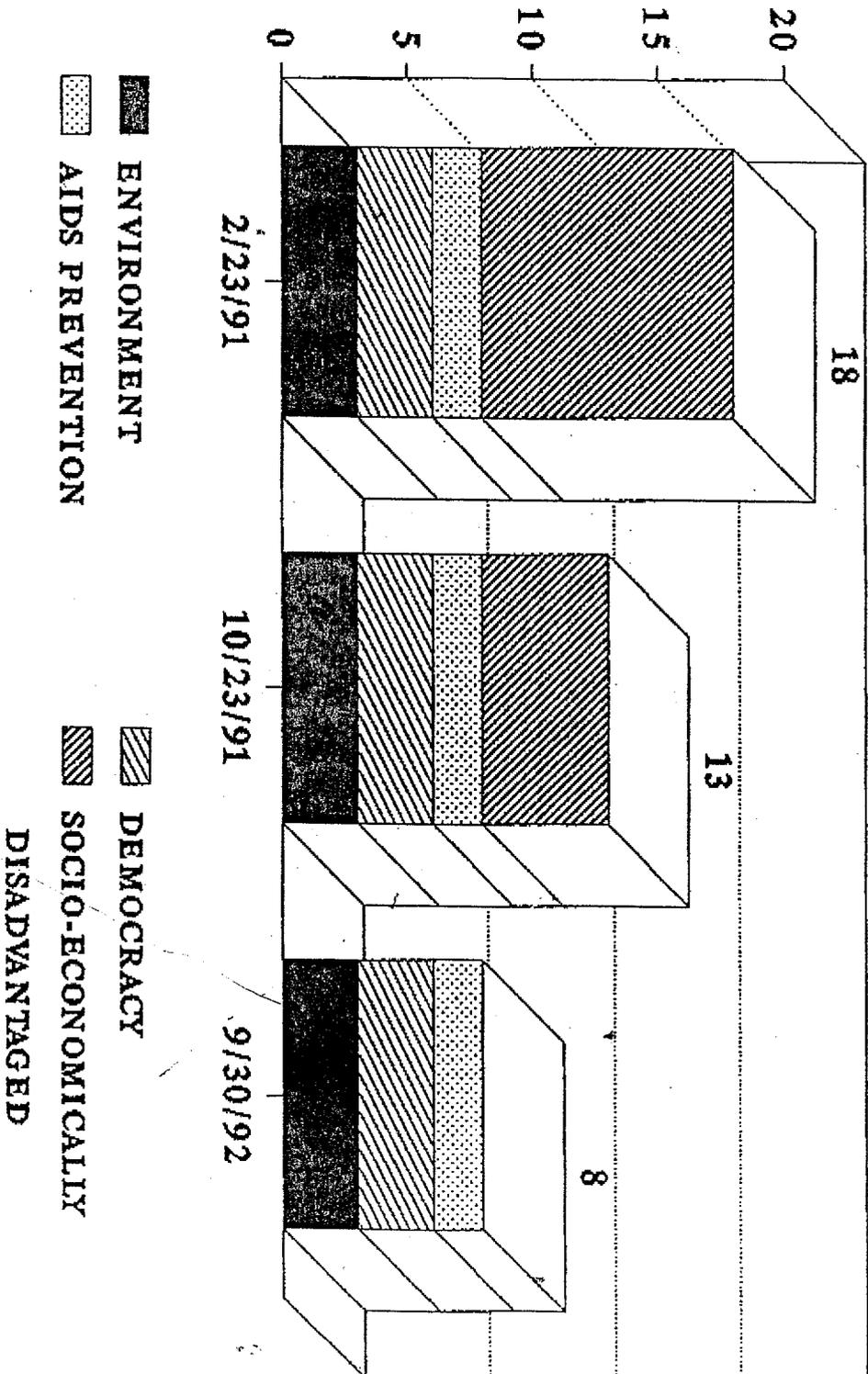
Retyped version cleared  
w/ drafter (MHuffman)  
by F. Rogers.  
4/17

LEG: Authorized \_\_\_\_\_ Cleared TSP for as revised 4/17

84

# PVO GRANTS

## FAA Section 123(e) Plan



ANNEX II

EIGHTEEN ONGOING PVO PROGRAMS RECOMMENDED FOR CONTINUATION

Category I: Five Humanitarian Grants to be terminated by  
10/23/91

- Salesian Society - vocational training for poor youth
- Rural Friends Association - income generation and conservation
- CARE - 3 grants for microenterprise and rural development

Category II: Five Humanitarian Grants to be terminated by  
9/30/92

- Pearl S. Buck Foundation - 2 grant to help Amerasians
- Christian Foundation for the Blind - training for the blind
- CARE - microenterprise and rural development
- Women Lawyers Association of Thailand - social agro-forestry

Category III: Eight Grants for AIDS, Environment and Democracy  
Proposed for Continuation Beyond 9/30/92

- AIDS:
- Program for Appropriate Technology in Health (PATH)
  - Population and Community Development Association (PDA)

- Environment:
- World Environment Center (WEC)\*
  - Federation of Thai Industries (FTI)\*
  - World Wildlife Fund

- Democracy:
- The Asia Foundation (TAF)
  - Asian-American Free Labor Institute (AAFLI)
  - Participating Agencies Cooperating Together (PACT)

\*U.S. or Thai non-governmental organization (NGO), receiving assistance prior to the coup, which may also meet A.I.D. PVO criteria. If these PVOs do not qualify as A.I.D. PVOs, these grants will be terminated according to the provisions of Section 617 of the Foreign Assistance Act.

Please return a copy of this  
note/ memo with your response

Joan -  
LEG has requested  
authorization to prepare/  
send the same letter to  
six additional addressees.  
(see check marks below)

in addition to the 3 marked X  
dress and salutation to be used in preparing  
port:

Total = 9 congressmen on this page

X The Honorable Thomas S. Foley  
Speaker of the House of Representatives  
Washington, D.C. 20515

Dear Mr. Speaker:

X The Honorable Claiborne Pell  
Chairman  
Committee on Foreign Relations  
United States Senate  
Washington, D.C. 20510

Dear Mr. Chairman:

X The Honorable Jesse Helms  
Committee on Foreign Relations  
United States Senate  
Washington, D.C. 20510

Dear Senator Helms:

✓ The Honorable Dante B. Fascell  
Chairman  
Committee on Foreign Affairs  
House of Representatives  
Washington, D.C. 20515

Dear Mr. Chairman:

✓ The Honorable William S. Broomfield  
Committee on Foreign Affairs  
House of Representatives  
Washington, D.C. 20515

Dear Congressman Broomfield:

✓ The Honorable Patrick J. Leahy  
Chairman  
Subcommittee on Foreign Operations  
Committee on Appropriations  
United States Senate  
Washington, D.C. 20510

Dear Mr. Chairman:

✓ The Honorable Robert Kasten, Jr.  
Subcommittee on Foreign Operations  
Committee on Appropriations  
United States Senate  
Washington, D.C. 20510

Dear Senator Kasten:

✓ The Honorable David R. Obey  
Chairman  
Subcommittee on Foreign Operations  
Committee on Appropriations  
House of Representatives  
Washington, D.C. 20515

Dear Mr. Chairman:

✓ The Honorable Mickey Edwards  
Subcommittee on Foreign Operations  
Committee on Appropriations  
House of Representatives  
Washington, D.C. 20515

Dear Congressman Edwards:

AGENCY FOR INTERNATIONAL DEVELOPMENT

320 TWENTY FIRST STREET, N.W.  
WASHINGTON, D.C. 20523

May 17, 1991

*The Administrator*

The Honorable Thomas S. Foley  
Speaker of the House of  
Representatives  
Washington, D.C. 20515

Dear Mr. Speaker:

On February 23, 1991, a military coup overthrew the democratically elected government of the Kingdom of Thailand. As a result of the coup, the economic assistance program conducted by the Agency for International Development (A.I.D.) in Thailand became subject to the provisions of Section 513 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991. Section 513 prohibits the obligation or expenditure of funds appropriated or made available under the FY 1991 Appropriations Act--

"to finance directly any assistance to any country whose duly elected Head of Government is deposed by military coup or decree."

Provisions identical to Section 513 have appeared in the relevant appropriations acts since FY 1986.

In compliance with the requirements of Section 513, A.I.D. has prepared, approved and begun to implement a wind-up plan for its economic assistance activities in Thailand. The plan provides for the prompt termination of all projects subject to the Section 513 prohibition, and authorizes, under Section 617 of the Foreign Assistance Act of 1961, such additional expenditures as are necessary to assure that the termination is orderly and efficient.

Section 123(e) of the Foreign Assistance Act of 1961 contains an exemption to the Section 513 prohibition for programs of private and voluntary organizations ("PVOs") and cooperatives.

88

The exemption is available to any PVO or cooperative program that was already receiving A.I.D. support on the date that the Section 513 prohibition became effective, if the Administrator of A.I.D. determines that continued support of the program is in the national interest of the United States.

Continued support for the PVO programs described in the enclosed memorandum is in the national interest of the United States. These programs have been singled out because they provide assistance in four areas of critical importance to the United States: democracy, the environment, and AIDS and humanitarian assistance to disadvantaged groups.

First, the programs that promote democracy are specifically designed to foster the development of a more open and democratic society in Thailand, and are expected to encourage the return of an elected government to Thailand.

Second, the programs that focus on the environment deal with problems that have important environmental impacts beyond the borders of Thailand, impacts that contribute to global climate change and adversely affect worldwide biodiversity. Consequently, continued support for these programs will help to address problems that directly affect the United States, whose solution is clearly in the U.S. national interest.

Third, the programs that deal with the AIDS epidemic are designed to help limit the spread of the disease in Thailand, and indirectly in the Southeast Asia region and throughout the world. Efforts to control the spread of this epidemic are clearly important to U.S. national interests.

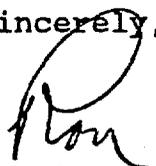
Fourth, the programs that involve humanitarian assistance to disadvantaged groups in Thailand demonstrate our commitment to helping the poorest elements of Thai society. We believe it to be inconsistent with the fundamental humanitarian traditions of the economic assistance program to make these disadvantaged groups bear the consequences of the Section 513 prohibition.

The PVO activities that A.I.D. will continue to support help to foster a close relationship between the United States and the people of Thailand, a relationship we seek to maintain. In addition, they will provide a sound basis for restarting the A.I.D. economic assistance program, if and when the current interim government is replaced by a government that is duly elected by the people of Thailand.

- 3 -

In sum, I have carefully considered whether continuation of A.I.D.'s support for these PVO activities is in the national interest of the United States, and I have determined that such support should continue.

Sincerely,

A handwritten signature in black ink, appearing to read "Ron", written over the word "Sincerely,".

Ronald W. Roskens

Enclosure: a/s

90