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DEVELOPMENT BANKING AND FOREIGN ASSISTANCE: POLICY PROBLEMS IN A.I.D. DEVELOPMENT BANK LENDING

DEVELOPMENT BANKING AND FOREIGN ASSISTANCE: POLICY PROBLEMS IN AID DEVELOPMENT BANK LOANS

SUBMITTED TO PROFESSOR DETLEV VAGTS
IN THE SEMINAR IN
INTERNATIONAL ASPECTS OF THE CORPORATION
IN FULLFILLMENT OF THE REQUIREMENTS
OF THAT SEMINAR.

HARVARD LAW SCHOOL
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APRIL 1963

DEDICATED TO MR. GEORGE A. WYETH,
CHIEF, DEVELOPMENT BANKING, A.I.D.,
IN APPRECIATION OF HIS ENLIGHTENED
GUIDANCE AND KINDLY PERSEVERANCE.

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INTRODUCTION

THROUGHOUT THE POSTWAR ERA, FOSTERING THE ECONOMIC DEVELOPMENT OF UNDERDEVELOPED COUNTRIES HAS BEEN A MAJOR GOAL OF AMERICAN FOREIGN POLICY. TWO-THIRDS OF THE NEARLY NINETY BILLION DOLLARS SPENT FOR FOREIGN ASSISTANCE IN THE POSTWAR ERA HAS BEEN COMMITTED TO ECONOMIC DEVELOPMENT PURPOSES. 1/ THE SUCCESSION OF AGENCIES ADMINISTERING FOREIGN ASSISTANCE HAVE BEEN SUBJECT TO SHARP AND CONTINUAL CRITICISM. 2/ AGENCY NAMES, 3/ FORMATS, 4/ AND CHIEF ADMINISTRATORS 5/ CHANGE WITH SOME FREQUENCY.

THE FOREIGN AID POLICY IS AN AMALGAM OF OFTEN SHARPLY CONFLICTING INDIVIDUAL POLICIES INVOLVING HUMANITARIAN OPERATIONS, THE PROVISION OF SUBSISTENCE NEEDS, BRIBING POTENTIAL ALLIES, BUILDING PRESTIGE PROJECTS, PROVIDING FOR DEFENSE, AND AIDING ECONOMIC DEVELOPMENT AND SOCIAL PROGRESS ENDS. 6/ ADDED TO THE CONFLICTING GOALS ARE CONFLICTING MEANS OF EFFECTUATION. WHILE MICROECONOMIC CRITERIA DICTATE MINIMUM COST BOTH TO THE UNITED STATES AND THE HOST COUNTRY,

DOMESTIC POLITICAL PRESSURES HAVE BUILT INTO THE FOREIGN AID PROGRAM INDIRECT SUBSIDIES TO AGRICULTURE 7/, SHIPPING 8/, AND PERHAPS U.S. INDUSTRY IN GENERAL 9/.

THE RECURRING ADVERSE U.S. BALANCE OF PAYMENTS PO ITION HAS ADDED AN ADDITIONAL ELEMENT OF PRESSURE. UNTIL OCTOBER 1959, PURCHASE OF COMMODITIES FINANCED FROM U.S. FOREIGN ASSISTANCE FUNDS 'PROCUREMENT' COULD BE MADE ANYWHERE IN THE NON COMMUNIST WORLD 10/. WHERE U.S. DOLLARS WERE USED TO PURCHASE, FOR EXAMPLE, BRITISH GOODS, THESE DOLLARS FREQUENTLY RESULTED IN INCREASED DOLLAR OR GOLD CLAIMS OF THE BANK OF ENGLAND ON U.S. MONETARY RESERVES. AS GOLD OUTFLOWS MOUNTED AND TRADE BALANCE OF PAYMENTS DEFICITS CONTINUED, PROCUREMENT BECAME INCREASINGLY LIMITED TO U.S. SOURCES. 11/ WHERE U.S. CAPITAL GOODS ARE MORE EXPENSIVE THAN THOSE OF OTHER INDUSTRIALIZED COUNTRIES, THE UNDERDEVELOPED COUNTRY MUST BORROW A GREATER SUM TO PROCURE U.S. GOODS, THUS INCREASING ITS REPAYMENT BURDEN AND U.S. FOREIGN AID APPROPRIATIONS. IF THE COST DISPARITY IS TOO GREAT, THE RECIPIENT COUNTRY, (HEREIN FTER RURITANIA) MAY REFUSE TO USE THE FUNDS. EVEN WHERE THE FUNDS ARE USED, THE LOAN TIED TO U.S. PROCUREMENT IS LIKELY TO CAUSE SOME RESENTMENT. THE CONFLICTING REQUIREMENTS OF MINIMUM COST AND BALANCE OF PAYMENTS INTEGRITY MAY EASILY WORK AGAINST ALL OF THE GOALS OF THE FOREIGN AID PROGRAM.

THE HAMPERING EFFECT OF THESE CONFLICTING GOALS IS APPARENT IN THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT (A.I.D.) CREDITS TO DEVELOPMENT BANKS 12/, A

NEW BREED OF FINANCIAL INSTITUTIONS WHICH PROVIDE MEDIUM AND LONGER TERM FUNDS TO ENTERPRISES IN UNDERDEVELOPED COUNTRIES. 13/ TODAY, MORE THAN FIVE YEARS AFTER THE ORIGIN OF U.S. DEVELOP BANK LENDING PROGRAMS, EIGHTY-FIVE PERCE[illegible] CREDITS REMAIN UNDISBURSED. 14/ THUS, FUNDS AUTHORIZED BY THE LOAN AGREEMENT ('COMMITMENTS') REMAIN UNUSED, ON DEPOSIT AT THE U.S. TREASURY. AT THE PRESENT RATE OF DISBURSEMENT, MORE THAN TEN YEARS WILL BE REQUIRED FOR FULL DISBURSEMENT OF COMMITTED FUNDS. 15/ WHEN THE THREE MOST ACTIVE DEVELOPMENT BANK USERS OF FUNDS, 16/ ARE EXCLUDED, THE FULL DISBURSEMENT FIGURE JUMPS TO 17 YEARS. BY CONTRAST IT MAY BE NOTED THAT LOAN FUNDS, AS A MATTER OF AID POLICY, ARE EXPECTED TO BE DISBURSED IN NOT MORE THAN TWO YEARS. 17/

THESE DEVELOPMENT BANKS HOLD GREAT PROMISE FOR THE CREATION OF SMALL AND MEDIUM INDUSTRY AND THE DEVELOPMENT OF INCREASING NUMBERS OF INDIGENOUS ENTREPRENEURS. BUT TO THE EXTENT THAT THE FUNDS LIE UNUSED, AS IS LARGELY THE CASE NOW, THAT PROMISE IS AN EMPTY ONE.

THE INCREASED EMPHASIS ON U.S. PROCUREMENT HAS GIVEN RISE TO A NEW THREAT TO THE EFFECTIVENESS OF THESE INSTITUTIONS. IN THE PAST, DEVELOPMENT BANKS HAVE BEEN ABLE TO AVOID BUYING CAPITAL GOODS IN THE U.S. WHEN THIS WAS DESIRABLE BY VIRTUE OF BLANKET WAIVERS GRANTED THEM FOR SMALLER LOANS, TYPICALLY $50,000 TO $100,000. 18/ ONLY LOANS ABOVE THE CUT-OFF POINT REQUIRED U.S. PROCUREMENT. WITHOUT COMMENTING ON CAUSALITY, SOME DEVELOPMENT BANK LOAN PORTFOLIOS SHOWED A SURPRISINGLY HIGH PERCENTAGE OF LOANS IN THE $95,000 TO $99,000 CATEGORY.

THE HEIGHTENED EMPHASIS ON U.S. PROCUREMENT HAS MEANT LOSS OF THIS BLANKET WAIVER ON NEW COMMITMENTS. 19/ FOREIGN AID ADMINISTRATORS' PROMISES TO CONGRESSIONAL COMMITTEES TO BOLSTER U.S. PROCUREMENT 20/ MAY MEAN EVEN GREATER RESTRICTIONS.

ALL EIGHT RECENT COMMITMENTS TO LATIN AMERICAN HOUSING INSTITUTIONS - SIMILAR IN THEIR FIELD TO INDUSTRIAL DEVELOPMENT BANKS - REQUIRED U.S. PROCUREMENT; IN SIX OF THE EIGHT COMMITMENTS, NOT ONE DOLLAR HAS BEEN DISBURSED ALTHOUGH THE COMMITMENTS WERE MADE ONE TO TWO YEARS AGO. 21/

TO THE EXTENT THAT THESE FUNDS REMAIN UNUSED, THE GOAL OF ASSISTING THE UNDERDEVELOPED NATIONS TO CREATE NEW SMALL AND MEDIUM-SIZED INDUSTRIES AND TO PROMOTE THE DEVELOPMENT OF INDIGENOUS ENTREPRENEURS FALLS SHORT OF FULFILLMENT.

IT WILL BE THE PURPOSE OF THIS PAPER TO EXAMINE THE ADVERSE EFFECTS OF AID'S EMPHASIS ON PROCUREMENT OF U.S. GOODS WITH THE FUNDS IT PROVIDES TO INDUSTRIAL DEVELOPMENT BANKS, AND THE POSSIBLE METHODS OF MITIGATING THE IMPACT OF THESE RESTRAINING EFFECTS.

THE HEAD-ON CONFLICT BETWEEN THE REQUIREMENT THAT HIGHER PRICED U.S. GOODS BE PURCHASED AND THE DESIRE TO PROMOTE ECONOMIC DEVELOPMENT AT LOWEST COST MAKE SOLUTION OF THIS PROBLEM A MOST DIFFICULT ONE. SOLUTIONS MUST BE SOUGHT WITH THE PRESUMPTION THAT TIED PROCUREMENT REQUIREMENTS WILL NOT BE RELAXED AND THAT THE FACTORS RESPONSIBLE FOR HIGHER U.S. COSTS WILL NOT BE AFFECTED BY THE FOREIGN AID PROGRAM. THE FIELD OF DEVELOPMENT BANKING IS A RELATIVELY NEW ONE. LACK OF ANALYTICAL STUDIES AND SCARCITY OF ADEQUATE DESCRIPTIVE MATERIAL REQUIRE GENERAL AND TENTATIVE CONCLUSIONS, WHICH, IF USEFUL, THE PRACTIONER MAY FILL IN.

BY WAY OF INTRODUCTION, DEVELOPMENT BANKING WILL BE DEFINED AND U.S. ASSISTANCE IN THIS AREA WILL BE SUMMERIZED. FOLLOWING THIS, I WILL THEN PROPOSE THREE APPROACHES TO THE PROBLEM: (1) A FRONTAL ATTACK ON THE UNDERLYING PROBLEMS OF THE HIGHER PRICE OF U.S. GOODS, LACK OF INFORMATION ON THEIR AVAILIBILITY, AND SCARCITY OF SERVICING FACILITIES; (2) USE OF THE GUARANTY DEVICE TO LESSEN PRIVATE ENTERPRISE RISKS AND INDIRECTLY INDUCE U.S. PROCUREMENT; (3) USE OF U.S.-OWNED FOREIGN CURRENCIES IN VARIOUS SUBSIDY FORMS TO PROMOTE U.S. PROCUREMENT.

PART I

DEVELOPMENT BANKS

DEVELOPMENT BANKS, AS DEFINED BY AID, ARE "FINANCIAL INSTITUTIONS WHICH ASSIST IN THE ECONOMIC DEVELOPMENT OF LESS DEVELOPED COUNTRIES BY FINANCING AND PROMOTING ENTERPRISES, PARTICULARLY SMALL AND MEDIUM VENTURES". [22]

DEVELOPMENT BANKS HAVE GROWN IN NEED AND IMPORTANCE WITH THE INDEPENDENCE OF FORMER COLONIAL AREAS AND THE DESIRE FOR PROMOTION OF NEW INDIGENOUS ENTERPRISES.[23] TYPICALLY, COMMERCIAL BANK FUNDS ARE AVAILABLE IN UNDERDEVELOPED COUNTRIES FOR TOO SHORT A DURATION TO SUPPORT CAPITAL EQUIPMENT FINANCING. LONGER TERM FINANCING AVAILABLE IN THE CAPITAL MARKET OF THE COLONIAL POWER TO LARGE EXPATRIATE ENTERPRISES IS USUALLY NOT AVAILABLE FOR THE SMALL INDIGENOUS ENTERPRISE. FUNDS GENERATED FROM REINVESTMENT OF EARNINGS OR PROVIDED BY LOCAL MONEYLENDERS MAY BE INSUFFICIENT TO MEET AN UNDERDEVELOPED COUNTRY'S DESIRE FOR RAPID GROWTH OF INDIGENOUS INDUSTRIAL ENTERPRISE.

IN ADDITION TO PROVIDING LOAN FUNDS, DEVELOPMENT BANKS ARE FREQUENTLY PERMITTED BY CHARTER TO INVEST IN EQUITIES, UNDERWRITE INDIVIDUAL ISSUES, ISSUE THEIR OWN SECURITIES, AND GUARANTEE LOANS MADE BY OTHERS,[24] THEREBY MOBILIZING THE COUNTRY'S FINANCIAL RESOURCES AND PROMOTING THE DEVELOPMENT OF A CAPITAL MARKET.

THE STAFF OF THE DEVELOPMENT BANK CAN PROVIDE SERVICES [25] TO BORROWERS WHICH ARE AS IMPORTANT AS THE DEVELOPMENT BANK'S

FINANCIAL RESOURCES. MANAGEMENT, ACCOUNTING, ENGINEERING AND LEGAL ASSISTANCE MAY BE PROVIDED IN THE PROPOSAL STAGE AND ON A CONTINUING BASIS AFTER FUNDS HAVE BEEN MADE AVAILABLE. THE DEVELOPMENT BANK'S STAFF MAY REPRESENT THE ONLY BODY OF SKILLED TECHNICIANS PRACTICALLY AVAILABLE FOR SMALL AND MEDIUM SIZED INDIGENOUS ENTERPRISES.

WHERE THE NEED FOR THIS TECHNICAL ASSISTANCE TO BORROWERS IS BEYOND THE RESOURCES OF THE DEVELOPMENT BANK, A DEVELOPMENT CENTER MAY BE INSTITUTED TO PROVIDE NON-FINANCIAL ASSISTANCE TO BORROWERS, TO STIMULATE AND PROMOTE PROMISING INVESTMENT OPPORTUNITIES AND TO SPONSOR ECONOMIC SURVEYS.[26]

DEVELOPMENT BANKS ARE TO BE CONTRASTED WITH MINISTRIES OF ECONOMIC DEVELOPMENT, WHOSE MANDATE INCLUDES NON-FINANCIAL DEVELOPMENT ACTIVITY, AND WITH COMMERCIAL BANKS, WHOSE ACTIVITIES TYPICALLY INVOLVE ONLY SHORT-TERM LENDING TO LOW RISK BORROWERS.

THE DEVELOPMENT BANKS' OWN EQUITY SOURCES COME PRIMARILY FROM LOCAL AND FOREIGN GOVERNMENTS.[27] PRIVATE EQUITY SOURCES ARE TYPICALLY MADE BY FOREIGN FINANCIAL INSTITUTIONS, BUT IN SOME CASES INCLUDE FOREIGN INDUSTRIAL[28] OR LOCAL ENTERPRISES.

LOAN SOURCES[29] OF DEVELOPMENT BANKS INCLUDE THE LOCAL GOVERNMENT, INTERNATIONAL AGENCIES[30] SUCH AS THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT AND THE INTER-AMERICAN DEVELOPMENT BANK; AND FOREIGN GOVERNMENTS, INCLUDING THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT, THE BRITISH COLONIAL DEVELOPMENT CORPORATION,[31] THE FRENCH CAISSE CENTRALE DE COOPERATION ECONOMIQUE,[32] AND THE GERMAN KREDIT-ANSTALT FUR WIEDERAUFBAU.[33]

II UNITED STATES GOVERNMENT DEVELOPMENT BANK ASSISTANCE

IT WOULD BE ADMINISTRATIVELY IMPOSSIBLE FOR AID TO EXTEND HUNDREDS OF SMALL CREDITS TO SMALL ENTREPRENEURS AROUND THE WORLD. THE MINIMUM LOAN WHICH AID PROVIDES IS $200,000 FOR A FOREIGN BORROWER AND $100,000 FOR A U.S. BORROWER. INVESTIGATION AND ADMINISTRATION COSTS FOR SMALLER LOANS BY AID WOULD PROVE BURDENSOME. THEREFORE, DEVELOPMENT BANKS ARE USED AS INTERMEDIARIES BETWEEN AID AND THE ULTIMATE SUB-BORROWER. AID'S COMMITMENT TO A DEVELOPMENT BANK IS TYPICALLY $2-5 MILLION. DEVELOPMENT BANK SUBLOANS ARE TYPICALLY LESS THAN $100,000.

U.S. GOVERNMENT ASSISTANCE TO DEVELOPMENT BANKS IS PRESENTLY ADMINISTERED BY THE AGENCY FOR INTERNATIONAL DEVELOPMENT. PRIOR TO THE CREATION OF AID, BY MERGER OF THE INTERNATIONAL COOPERATION ADMINISTRATION (ICA) AND THE DEVELOPMENT LOAN FUND (DLF), EACH OF THESE CONSTITUENT AGENCIES HAD DEVELOPMENT BANK PROGRAMS.

ICA TYPICALLY USED EXISTING COMMERCIAL OR NATIONAL BANKS, WITH AGREED CRITERIA ESTABLISHED FOR THE REVIEW OF SUBLOAN APPLICATIONS, SIZE OF SUBLOANS, INDUSTRY PRIORITIES, AND INTEREST RATES.[34] AN IMPORTANT FACTOR IN THE SUCCESS OF THE PROGRAMS WAS THE U.S. ENGINEERING AND TECHNICAL ASSISTANCE EXTENDED TO BOTH BANK AND BORROWER [35] IN THE FORM OF U.S. CONSULTANTS OR ICA SPECIALISTS ATTACHED TO THE DEVELOPMENT BANK. GENERALLY, ICA PROVIDED LOCAL CURRENCY RATHER THAN DOLLAR FUNDS.[36] THESE LOCAL CURRENCIES WERE TYPICALLY GENERATED BY OTHER U. S. FOREIGN ASSISTANCE PROGRAMS. [37]

ICA'S OPERATING MISSIONS LOCATED WITHIN EACH COUNTRY ENABLED IT TO EXERCISE APPROPRIATE SUPERVISION.

DLF HAS PROVIDED LOANS TO TWENTY NINE INDUSTRIAL DEVELOPMENT BANKS TOTALLING $225 MILLION.[38] ITS LOANS ARE MADE IN U.S. DOLLARS. TYPICALLY, DLF DID NOT PROVIDE TECHNICAL ASSISTENCE, EXCEPT IN CONNECTION WITH PROPOSALS FOR THE CREATION OF NEW BANKS. DLF MAINTAINED NO MISSIONS, BUT RELIED ON ICA STAFF AND A STREAM OF REPORTS TO WASHINGTON FROM THE DEVELOPMENT BANK. A LOAN COMMITMENT BY DLF TO THE DEVELOPMENT BANK WOULD BE DISBURSED ON PRESENTATION OF PAPERS INDICATING CONFORMITY OF THE SUBBORROWER TO THE CRITERIA ESTABLISHED IN THE DLF LOAN AGREEMENT.

WE WILL FOCUS ON DLF-TYPE DOLLAR LENDING. IT IS HERE THAT THE IMPACT OF U.S. PROCUREMENT IS FELT, FOR LOCAL CURRENCY LOANS OF THE ICA VARIETY ARE GENERALLY INTENDED FOR LOCAL PROCUREMENT.

PART II

UNITED STATES PROCUREMENT

I THE CONFLICTING INTERESTS

THE REQUIREMENT THAT ALL LOAN FUNDS BE UTILIZED FOR PROCUREMENT IN THE UNITED STATES IS SUBJECT TO CONFLICTING INTERESTS. THE RURITANIAN GOVERNMENT MAY PREFER PROCUREMENT OF LOCALLY MADE GOODS IF AVAILABLE, PURCHASES FROM FELLOW MEMBERS OF A TRADING BLOC, OR FROM COUNTRIES WHERE ITS BALANCE OF TRADE IS MORE FAVORABLE, OR WHERE IT CAN SELL OR BARTER ITS GOODS IN RETURN FOR CAPITAL GOOD IMPORTS. AT THE VERY LEAST, IT WOULD PREFER UNTIED GOODS IN ORDER TO ALLOCATE ITS RESOURCES ECONOMICALLY AND FOR REASONS OF SOVEREIGNTY SENSITIVITY.

THE DEVELOPMENT BANK OF RURITANIA (HEREINAFTER DBR) WOULD PREFER UNTIED FUNDS IN ORDER TO HAVE MAXIMUM FLEXIBILITY.

THE ULTIMATE BORROWER OR USER OF FUNDS (HEREINAFTER SUB-BORROWER) DESIRES THE FREEDOM TO PURCHASE GOODS AT THE LOWEST PRICE, TAKING INTO CONSIDERATION COMPATIBILITY OF THE CAPITAL GOODS WITH PRESENT EQUIPMENT AND AVAILABILITY OF SERVICING FACILITIES. WHERE ALTERNATIVE LOAN FUNDS ARE NOT AVAILABLE TO THE SUB-BORROWER OR THE DBR, THESE TIED FUNDS WILL BE UTILIZED PROVIDED THE EXPECTED PROFIT RETURN WILL COMPENSATE FOR THE HIGHER COST.

CONGRESSIONAL CRITICS OF FOREIGN AID EXPRESS THE DESIRE FOR UNITED STATES DOLLAR FUNDS TO BE USED FOR PURCHASES OF UNITED STATES GOODS RATHER THAN THOSE OF FOREIGN ORIGIN.

THERE IS RESENTMENT AT USE OF DOLLAR FUNDS FOR PURCHASES OF FOREIGN GOODS ESPECIALLY WHERE THIS RESULTS IN INCREASED HOLDINGS OF UNITED STATES CURRENCY OR GOLD BY OTHER COUNTRIES.[39]

TREASURY AND FEDERAL RESERVE BOARD OFFICIALS ARE CONCERNED WITH THE UNITED STATES BALANCE OF PAYMENTS POSITION, AND DESIRE TO STOP THE INCREASE IN FOREIGN DOLLAR AND GOLD HOLDINGS, AND TO DECREASE THE BALANCE OF PAYMENTS TRADE DEFICIT.

UNITED STATES MANUFACTURERS WOULD LIKELY PREFER THE SALE OF THEIR CAPITAL GOODS IN PREFERENCE TO THOSE OF FOREIGN MANUFACTURERS, WITH THE EXCEPTION OF SALES BY THEIR FOREIGN AFFILIATES. SOME BUSINESS INTERESTS FEEL THAT EVEN SALES OF UNITED STATES CAPITAL GOODS ARE DANGEROUS, FOR THE COMMODITIES PRODUCED BY THESE MACHINES MAY DISPLACE UNITED STATES EXPORTS OF THESE COMMODITIES.[40]

OBVIOUSLY, WHERE THESE DIFFERENT INTERESTS IN LOCAL PROCUREMENT, SOVEREIGNTY, MINIMUM COST, AND BALANCE OF PAYMENTS ARE NOT CLOSELY RECONCILED, FUNDS MAY NOT BE APPROPRIATED, OR IF APPROPRIATED, NOT UTILIZED.

II PRIOR PROCUREMENT POLICY

UNDER SECTION 510 OF THE MUTUAL SECURITY LEGISLATION,[41] PROCUREMENT OUTSIDE THE UNITED STATES ('OFFSHORE PROCUREMENT') WAS FULLY PERMITTED "<u>UNLESS</u> THE PRESIDENT DETERMINES THAT PROCUREMENT WILL RESULT IN <u>ADVERSE EFFECTS UPON THE ECONOMY OF THE UNITED STATES</u> WITH SPECIAL REFERENCE TO ANY AREAS OF LABOR SURPLUS, OR UPON THE INDUSTRIAL MOBILIZATION BASE, OR TO THE NET

POSITION OF THE UNITED STATES IN ITS BALANCE OF TRADE WITH THE REST OF THE WORLD, WHICH OUTWEIGH THE ECONOMIC ADVANTAGES TO THE UNITED STATES OF LESS COSTLY PROCUREMENT ABROAD" [42] (EMPHASIS ADDED).

AS ADMINISTERED, ONLY ABOUT FORTY PERCENT OF THE TOTAL FUNDS PROVIDED BY ICA, DLF, AND MSA WERE SPENT IN THE UNITED STATES. [43] SECRETARY OF THE TREASURY DILLON TESTIFIED THAT "THE AMOUNT SPENT IN THIS COUNTRY WAS JUST THAT WHICH HAPPENED TO BE SPENT HERE BECAUSE WE OFFERED BETTER TERMS OR HAD BETTER QUALITY GOODS...BUT WE WERE NOT TRYING TO FORCE COUNTRIES OR TO TELL COUNTRIES THEY HAD TO BUY IN THE UNITED STATES."[44]

THE PRINCIPAL METHOD OF ENCOURAGING UNITED STATES PROCUREMENT WAS VIA THE REQUIREMENT THAT INFORMATION BE MADE AVAILABLE TO UNITED STATES SUPPLIERS WITH RESPECT TO PROPOSED PURCHASES.[45] IMPORTERS (TYPICALLY THE BORROWERS WERE REQUIRED TO NOTIFY THE OFFICE OF SMALL BUSINESS (OSB), ICA, 30 DAYS IN ADVANCE OF PLACING AN ORDER FOR COMMODITIES OR SERVICES.[46] THE OSB COLLECTED THESE BID NOTICES AND PUBLISHED THEM IN ITS OFFICE OF SMALL BUSINESS CIRCULAR WHICH WAS RECEIVED BY 15,000 FIRMS.[47] POSSIBLY TO PROVIDE PAPER JUSTIFICATION FOR INSTANCES OF NON-UNITED STATES PROCUREMENT, ICA MIGHT REQUIRE AN ABSTRACT OF ALL BIDDERS, BIDS SUBMITTED AND THE QUANTITIES, PRICES AND NAMES OF SUCCESSFUL BIDDERS.[48]

WHILE THE IMPORTER WAS REQUIRED TO PROVIDE 30 DAYS NOTICE,[49] THE UNITED STATES BUSINESSMAN, BECAUSE OF TIME LAGS IN RECEIPT OF INFORMATION AND PUBLICATION BY ICA, HAD LESS THAN HALF THIS TIME[50] IN ORDER TO RESPOND TO THE NOTIFICATION. PARTICULARLY IN FOREIGN GOVERNMENT PROJECTS, UNITED STATES PROCUREMENT WAS

HAMPERED BY A DESIRE OF FOREIGN GOVERNMENTS NOT TO HAVE UNITED STATES SUPPLIERS ENTER ESTABLISHED CHANNELS OF COMMERCE.[51]

OSB BID NOTIFICATION COULD BE A RATHER BURDENSOME REQUIREMENT. FOR EXAMPLE, A SPECIAL LOAN FUND WAS SET UP BY ICA TO PROVIDE FINANCING FOR GASOLINE MOTORS FOR FISHERMAN'S BOATS IN THE FAR EAST IN AN EFFORT TO INCREASE THE FISHERMEN'S PRODUCTIVITY. AFTER THE LOAN BOARD HAD PUBLICIZED THE AVAILABILITY OF THE FUNDS AND RECEIVED APPLICATIONS AND HAD SCREENED THESE APPLICATIONS, THE BOARD HAD TO SPELL OUT THE SPECIFICATIONS FOR THE OSB BID NOTICE. EACH SMALL MOTOR PRESENTED DIFFERENT PROBLEMS WITH REGARD TO HORSEPOWER SPEED, DIMENSIONS, AND FITTINGS NEEDS. THE CUSTOMARY JAPANESE SPECIFICATIONS REQUIRED TRANSLATION INTO UNITED STATES TERMS. WHEN MONTHS LATER THE SPECIFICATIONS HAD BEEN WORKED OUT, THE SUB-BORROWER FREQUENTLY HAD BY THEN EITHER BOUGHT A JAPANESE MOTOR, TRADED BOATS, OR WAS NO LONGER INTERESTED. EVEN WHERE THE BORROWER PERSISTED, HE WAS TYPICALLY NOT WILLING TO USE UNITED STATES MOTORS BECAUSE OF THE UNFAMILIARITY WITH THEIR ADAPTABILITY TO LOCAL FISHING NEEDS, INABILITY TO GET SPARE PARTS LOCALLY, NON-AVAILABILITY OF PERSONS WHO COULD SERVICE THE MOTORS, LOCAL PRACTICE OF OBTAINING THE BEST PRICE BY PERSONAL NEGOTIATIONS RATHER THAN COMPETITIVE BIDS, ETC. FROM THE SUB-BORROWER AND DEVELOPMENT BANK'S VIEWPOINT, THIS WAS WASTED EFFORT, SINCE ONLY THE JAPANESE MOTOR IN ANY EVENT, WOULD BE ACCEPTED BY THE SUB-BORROWER.

NO ACCOUNT WAS KEPT BY THE OSB OF THE DIRECT EFFECTIVENESS OF ITS PROCEEDURES IN PROMOTING UNITED STATES PROCUREMENT.[52]

ITS EFFORTS WERE ADDRESSED BROADSIDE TO THE BUSINESS COMMUNITY AT LARGE.[53] IT FELT THAT THE MOST IT COULD DO WAS TO REQUIRE THIS ADVERTISEMENT OF PROPOSED PURCHASES.[54] ITS PROCEEDURES GENERATED CONFUSION AND RESENTMENT ON THE DEVELOPMENT BANKS' PART AND SKEPTICISM OF ITS EFFECTIVENESS ON THE PART OF CONGRESS. THE OSB PROCEEDURE WAS APPLIED TO DLF AND HAS BEEN CARRIED FORWARD INTO AID.

III TIGHTENING PROCUREMENT POLICY

PROCUREMENT POLICY MAY HAVE BEEN BURDENSOME UNDER THE ICA BIDDING REGULATIONS, BUT UNITED STATES PROCUREMENT COULD BE AVOIDED IF FOREIGN PRICES WERE LOWER. THE WEIGHING PROCESS REQUIRED BY SECTION 510 WAS RESOLVED BY ALLOWING FULL FREEDOM IN PROCUREMENT,[55] PERHAPS ON THE THEORY THAT DEVELOPMENT BANK SUB-LOANS WOULD BE SMALL AND NO GREAT THREAT TO UNITED STATES INDUSTRY.

AS BALANCE OF PAYMENTS DEFICITS MOUNTED IN 1959, PRESSURE FOR TIGHTENING PROCUREMENT BEGAN. IN OCTOBER 1959, A NEW POLICY OF "PLACING PRIMARY EMPHASIS ON UNITED STATES PROCUREMENT" WAS ANNOUNCED.[56] VANCE BRAND, MANAGING DIRECTOR OF DLF STATED THAT THE INCREASED ECONOMIC STRENGTH OF INDUSTRIALIZED COUNTRIES, THEIR ABILITY TO PROVIDE ASSISTANCE FOR UNDERDEVELOPED COUNTRIES, AND THE UNITED STATES BALANCE OF PAYMENTS POSITION DICTATED THIS CHANGE. THERE WAS ALSO A DESIRE TO PUT PRESSURE ON EUROPEAN COUNTRIES TO AID IN THE DEVELOPMENT EFFORT.

THE BUY AMERICA POLICY WAS NOT ABSOLUTE. THE PRESIDENT RETAINED THE ABILITY TO REQUIRE UNITED STATES PROCUREMENT VIA

EXECUTIVE ACTION.[57] FOR DEVELOPMENT BANKS, THE NEW WEIGHING PROCESS RESULTED IN PROCUREMENT CUT-OFF POINTS.[58] ALL SUB-LOANS BELOW A CERTAIN FIGURE, TYPICALLY $100,000, WERE PERMITTED WORLD-WIDE PROCUREMENT. SUBLOANS ABOVE THE CUT-OFF POINT REQUIRED UNITED STATES PROCUREMENT.

DURING THE 1960 HEARINGS, THERE WAS MILD QUESTIONING OF SECRETARY DILLON ON THE PROCUREMENT PROBLEM,[59] BUT SHARP CRITICISM WAS LEVIED BY PRIVATE GROUPS.[60]

IN 1961, AS GOLD FLOWS CONTINUED, REPRESENTATIVE PASSMAN SHOWED SENSITIVITY EVEN TO IMPORTS INTO UNITED STATES THAT MAY HAVE BEEN GENERATED BY OUR LOANS TO UNDERDEVELOPED COUNTRIES. THE HOUSE VERSION OF THE FOREIGN AID BILL CONTAINED THE PROVISION THAT NO ASSISTANCE BE PROVIDED FOR "CONSTRUCTION OR OPERATION OF ANY PRODUCTIVE ENTERPRISE UNLESS THE COUNTRY AGREED THAT IT WOULD PREVENT THE EXPORTATION TO THE UNITED STATES OF MORE THAN 10 PERCENT OF THE ANNUAL PRODUCTION OF SUCH FACILITY DURING THE LIFE OF THE LOAN."[61] ALTHOUGH SOFTENED BY THE SENATE, THIS PROVISO WAS NOT PASSED.

V PRESENT PROCUREMENT POLICY

THE NEW SECTION 604[62] WAS ENACTED AS A RESULT OF THESE PRESSURES. ALTHOUGH RETAINING THE SAME WEIGHING FACTORS AS SECTION 510 (EFFECT ON ECONOMY, LABOR SURPLUS, HIGHER COST, ETC.), SECTION 604 REQUIRES AN <u>AFFIRMATIVE</u> FINDING BY THE PRESIDENT <u>BEFORE</u> OFFSHORE PROCUREMENT IS PERMITTED.[63] SECTION 510 BY CONTRAST PERMITTED FULL OFFSHORE PROCUREMENT <u>EXCEPT</u> WHERE DETERMINED TO THE CONTRARY BY THE PRESIDENT.[64] THIS

REPRESENTS MORE THAN A MERE SHIFTING OF WORDS OR CHANGE IN THE BURDEN OF JUSTIFICATION. THE EXECUTIVE PROPOSAL TO RETAIN SEC. 510 WAS DEFEATED. THE ADMINISTRATORS OF AID HAVE FIRMLY COMMITTED THEMSELVES TO INCREASE UNITED STATES PROCUREMENT TO SEVENTY-FOUR PERCENT; PROCUREMENT IN UNDER-DEVELOPED COUNTRIES IS TO BE NINETEEN PERCENT; FOUR PERCENT WILL BE SPENT IN INDUSTRIALIZED COUNTRIES.[65] ALTHOUGH THESE COMMITMENTS WERE NOT WRITTEN INTO THE STATUTE, THEY WILL BE REMEMBERED BY CONGRESSIONAL EXAMINERS DURING THE NEXT ROUND OF FOREIGN AID HEARINGS, AND THE ADMINISTRATORS, MINDFUL OF THIS, ARE LIKELY TO TAKE STRENUOUS EFFORTS TO REACH THESE TARGETS.

FOREIGN PROCUREMENT IS ABSOLUTELY REQUIRED IN THE CASE OF GRANT FUNDS.[66] IN LOAN ASSISTANCE, THE WEIGHING PROCESS WILL ALLOW FOREIGN PROCUREMENT ONLY WHERE THE "COMMODITY IS NOT AVAILABLE IN THE UNITED STATES OR IS NOT AVAILABLE IN TIME"[67]. GIVEN THE VARIETY OF GOODS AVAILABLE IN THE UNITED STATES, THIS ADMINISTRATION COMMITMENT IF NARROWLY CONSTRUED SHOULD ENSURE THAT PROCUREMENT IN OTHER INDUSTRIALIZED COUNTRIES WILL NOT EXCEED THE PROJECTED FOUR PERCENT. THE EIGHT RECENT LATIN AMERICA HOUSING LOANS, ALL OF WHICH ABSOLUTELY REQUIRE COMPLETE UNITED STATES PROCUREMENT ARE REFLECTIVE OF PRESENT POLICY.

DRASTIC IMPROVEMENTS IN OUR BALANCE OF PAYMENTS POSITION ARE NOT IN [illegible]. THE PROBLEM OF HIGHER UNITED STATES PRICES CAN BE EXPECTED TO REMAIN AS LONG AS LABOR AND BUSINESS

MONOPOLIES DEMAND RETURNS HIGHER THAN MARGINAL PRODUCTIVITIES. WITH CONTINUED DEFICITS, HIGH UNITED STATES COSTS, AND MANDATORY UNITED STATES PROCUREMENT AS CONSTRAINTS ON OUR FREEDOM TO PROPOSE, WE TURN NOW TO THREE ALTERNATIVE ROUTES: FRONTAL ATTACKS, GUARANTEES, AND LOCAL CURRENCY.

PART III

FRONTAL ATTACKS

HIGHER COST OF UNITED STATES GOODS, LACK OF FAMILIARITY WITH UNITED STATES PRODUCTS AND SUPPLIERS, AND NON-AVAILABILITY OF SERVICING FACILITIES FOR PRODUCTS OF UNITED STATES MANUFACTURE WOULD SEEM TO BE THE MOST IMMEDIATE OBSTACLES TO PROCUREMENT IN THE UNITED STATES. IN THIS SECTION, A DIRECT APPROACH TO THESE PROBLEMS WILL BE PUT FORWARD.

I COSTS

PROVIDING SUBSIDIES TO THE ULTIMATE BORROWER IS THE MOST DIRECT SOLUTION TO THE BORROWER'S PROBLEM OF HAVING TO PAY HIGHER PRICES FOR UNITED STATES GOODS. ALTHOUGH THE SUBSIDY ROUTE MAY BE POLITICALLY IMPRACTICAL, IT WILL BE DISCUSSED IN ORDER TO INDICATE THE NATURE OF THE ULTIMATE BORROWER'S DIFFICULTIES AND PROVIDE A STARTING POINT FOR A DISCUSSION OF MORE FEASIBLE ALTERNATIVES.

THE ECONOMIC EFFECT OF MORE COSTLY PROCUREMENT TO THE BORROWING COUNTRY IS NOT EXPLICITLY MADE A FACTOR IN AID'S LOAN CRITERIA. WHILE MORE COSTLY UNITED STATES PROCUREMENT IS NOT PROHIBITED, MORE COSTLY FOREIGN PROCUREMENT IS.[68] HOWEVER, EXTREMELY HIGH UNITED STATES COSTS MAY REFLECT ON THE "ECONOMIC AND TECHNICAL SOUNDNESS OF THE PROJECT TO BE FINANCED".[69] THIS WAS NOT A DETERRENT TO A LOAN TO PAKISTAN FOR STEEL PRODUCTS. THERE, HIGHER UNITED STATES COSTS WERE ACCOMMODATED SIMPLY BY INCREASING THE LOAN AMOUNT.[70]

SUBSIDY PROCEEDURE

TWO SUBSIDY PROPOSALS ARE ADVANCED: (1) SUBSIDIES TO MATCH HIGHER ACTUAL COSTS, AND (2) FLAT RATE SUBSIDIES. WHILE THE GROSS COST MIGHT BE HIGH (BUT NO GREATER THAN 15 PERCENT OF THE LOAN AMOUNT)[71], THE NET COST, I.E. ALLOWING FOR INCOME AND EMPLOYMENT GENERATION AND RESULTING UNITED STATES TAXES, MIGHT BE NEGATIVE.[72]

IT IS CONCEIVABLE THAT LOCAL CURRENCY GRANTS COULD BE MADE TO THE BORROWER IN PLACE OF DOLLARS. FOR EXAMPLE, THE BORROWER WOULD RECEIVE A LOAN OF $120 WHICH WOULD BE DISBURSED TO THE AMERICAN MANUFACTURER. THE BORROWER WOULD IN ADDITION RECEIVE A GRANT OF $20 WORTH OF LOCAL CURRENCY. IF THIS IS DERIVED FROM PRESENT UNITED STATES OWNED LOCAL CURRENCIES,[73] THE COST TO THE UNITED STATES IS MINIMAL, FOR THE FUTURE CONVERSION VALUE OF THESE CORRENCIES, UNDER EXISTING ARRANGEMENTS IS QUITE LIMITED.

UNDER THE EXACT COST DIFFERENTIAL SUBSIDY, UNITED STATES BIDDERS MIGHT SEND BID COPIES TO THE OSB IN WASHINGTON. COPIES OF FOREIGN BIDS WOULD BE DIRECTED TO THE DEVELOPMENT BANK OR TO THE LOCAL AID MISSION. THE BORROWER WOULD PAY THE LOWEST EQUIVALENT FOREIGN BID, AND THE UNITED STATES WOULD DIRECTLY PAY THE SUCCESSFUL UNITED STATES BIDDER THE DIFFERENCE BETWEEN THIS SUM AND THE UNITED STATES MANUFACTURER'S PRICE. AID MIGHT BE GIVEN THE OPTION TO REFUSE TO PAY THIS DIFFERENTIAL TO CARE FOR CASES OF UNUSUAL DIFFERENTIALS OR SUSPECTED CHICANERY. HOWEVER, THE NUMBER OF SUBLOANS AND THE NUMBER OF ITEMS PER SUBLOANS MAY WELL BE OVERWHELMING; THE DIFFICULTY

OF AVOIDING DECEPTIVE PRACTICES AND THE DULLING OF COMPETITIVE PRICE PRESSURES SUGGEST A WIDER SEARCH.

TO ACCOMODATE THE NUMBER OF TRANSACTIONS, A SECOND PROPOSAL, A FLAT SUBSIDY EQUAL TO THE AVERAGE PRICE DIFFERENTIAL BETWEEN UNITED STATES AND FOREIGN CAPITAL GOODS MIGHT BE USEFUL. HOWEVER, THE VARIATION IN DIFFERENTIALS BETWEEN PRODUCTS AND COUNTRIES SUGGESTS WINDFALL GAIN OPPORTUNITIES AND DISRUPTION OF THE ECONOMIC CALCULUS; AND THE ROAD TO COMPLEX SUBSIDY SCHEDULES WOULD SEEM TO BE DANGEROUSLY CLOSE.

SUTHORITY TO PROVIDE GRANT ASSISTANCE IS SUBJECT TO SIX FACTORS.[75] (1) SOCIAL PROGRESS DEVELOPEMENT, (2) CONSISTENCY WITH CONTRIBUTIONS TO DEVELOPMENT PLANS, (3) ECONOMIC AND TECHNICAL SOUNDNESS, (4) SELF-HELP RESPONSE OF THE COUNTRY, (5) ADVERSE EFFECTS ON THE UNITED STATES ECONOMY, AND (6) UNITED STATES BALANCE OF PAYMENTS. FACTORS (5) AND (6) ARE STRONGLY POSITIVE IN THE CASE OF GRANTS WHICH WILL RESULT IN GREATER UNITED STATES PROCUREMENT. THE OTHER FACTORS ARE RELATIVELY NEUTRAL, SINCE AN ARGUMENT CAN BE MADE THAT THE PURPOSE OF THESE GRANTS COMPLEMENTS THESE CRITERIA. HOWEVER, THE LEGISLATIVE BACKGROUND OF GRANT ASSISTANCE[75] SUGGESTS THAT IT WAS PRIMARILY INTENDED FOR HIGHWAYS, DAMS, AND OTHER INFRASTRUCTURE PROJECTS AND PROGRAMS WHICH, WHILE DESIRABLE AND SOCIALLY BENEFICIAL IN THE LONG RUN, DO NOT PRODUCE REVENUES.

GRANT FUNDS USED AS SUBSIDIES ARE PARTICULARLY SUSPECT. LEGISLATIVE HISTORY IS GENERALLY UNFAVORABLE TOWARD SUBSIDIES.[76] FOREIGN ASSISTANCE PROGRAMS OF OTHER COUNTRIES ARE LIKELY TO

FOLLOW SUIT AND/OR PROTEST LOUDLY AGAINST UNITED STATES SUBSIDIES WHICH ARE USED TO DISRUPT THEIR NORMAL TRADING AREAS. FINALLY, AS A POLITICAL MATTER, THE SUGGESTION OF PROVIDING SUBSIDIES TO FOREIGN BORROWERS (AND INDIRECTLY TO UNITED STATES MANUFACTURERS) WOULD PROVIDE POWERFUL GRIST FOR THE ANTI-FOREIGN-AIDERS MILLS.

SUBTLE SUBSIDIES IN THE FORM OF TECHNICAL ASSISTANCE GRANTS TO THE DEVELOPMENT BANK PROVIDE SURER GROUND. TO THIS WE NOW TURN.

II THE PROBLEM OF IGNORANCE OF UNITED STATES SOURCES

THE TRADITIONAL TRADE CHANNELS FOR RURITANIA MAY BE BRITISH, FRENCH, ETC. THE QUALITY AND SERVICEABILITY OF THE GOODS ARE KNOWN. LOCAL SUPPLIERS ARE AVAILABLE. THE BRITISH OR FRENCH GOODS CAN BE SEEN AND TOUCHED BY THE PROSPECTIVE BUYER, OR AT LEAST, CATALOGS ARE READILY AVAILABLE. ESTABLISHED BRAND NAME REPUTATIONS, PRODUCTS SPECIALLY ADAPTED TO LOCAL NEEDS AND PREJUDICES AND ALL THE OTHER FACTORS WHICH ACCOMPANY ESTABLISHED MARKETING CHANNELS MAKE PENETRATION BY UNITED STATES SUPPLIERS MORE DIFFICULT. CONVERSELY, IGNORANCE AND APATHY ON THE PART OF UNITED STATES SUPPLIERS OF SPECIFIC POTENTIAL MARKETS ABROAD CONTRIBUTE TO UNITED STATES PROCUREMENT DIFFICULTIES.

BID SOLICITATION VIA THE OSB CIRCULAR IS THE MAJOR TOOL FOR ACQUAINTING UNITED STATES BUSINESSMEN WITH LOCAL NEEDS UNDER AID FINANCED PROGRAMS.[77] INSUFFICIENT TIME FOR RESPONDING TO NOTICES AND LACK OF COMPLETE SPECIFICATIONS LIMIT THE USE-

FULNESS OF THE OSB CIRCULAR.[78] THE INDISCRIMINATE APPROACH OF OSB HAS NOT BEEN SUCCESSFUL AS MEASURED BY THE LOW PERCENT (25 o/o) OF UNITED STATES PROCUREMENT BY DEVELOPMENT BANKS.[79]

IN LIGHT OF THIS, ADDITIONS TO THE STAFF OF A DEVELOPMENT BANK OFFER A POSSIBLE SUPPLEMENT TO THE OSB. PURCHASING AGENTS FOR LARGE UNITED STATES CORPORATIONS WOULD SEEM TO BE IDEAL FOR THESE POSITIONS, IN LIGHT OF THEIR EXPOSURE TO OUR INDUSTRIAL SUPPLIES. SINCE THEIR PRIMARY PURPOSE WOULD BE PROMOTING UNITED STATES INDUSTRY, THE SALARIES OF THOSE MEN SHOULD BE BORNE BY AID. THEY MIGHT ALSO BE OF GENERAL ASSISTANCE IN THE PROMOTION OF PROJECTS. WHERE IT WOULD BE AWKWARD TO PLACE SUCH A MAN DIRECTLY ON THE DBR STAFF, HE MIGHT BECOME PART OF THE AID LOCAL MISSION. SUCH INDIVIDUALS CAN SQUARELY MEET THE INFORMATION NEED.

PRIVATE ENTERPRISE MAY PROVIDE A HELPFUL SUPPLEMENT IN THEIR EFFORTS. FOREIGN DIVISIONS OF LARGE UNITED STATES BANKS AND EDGE ACT SUBSIDIARES ARE CENTERS OF INFORMATION ON UNITED STATES INDUSTRY. STIMULATION OF BANK CLIENT'S BUSINESS BY FINDING NEW MARKETS IS A REGULAR PART OF THEIR OPERATIONS.[80]

III SERVICING FACILITIES

THE LACK OF SERVICING FACILITIES FOR UNITED STATES CAPITAL GOODS IS A CIRCULAR PROBLEM. THIS LACK RESULTS IN INFREQUENCY OF UNITED STATES CAPITAL GOODS, WHICH IN TURN PROVIDES DISINCENTIVE TO THE CREATION OF SERVICING FACILITIES.

RUNITANIA MAY WELL FEEL THAT IT IS PREFERABLE THAT HER TECHNICIANS AND SERVICEMEN BE FULLY TRAINED ON FOR INSTANCE BRITISH MACHINERY, WHERE MOST EQUIPMENT IS PRESENTLY BRITISH-

MADE, RATHER THAN SPREADING THINLY HER SERVICE PERSONNEL BY INDUCING TRAINING IN UNITED STATES, JAPANESE, GERMAN, OR OTHER MAKE CAPITAL GOODS.

FRANK RECOGNITION OF THE PROBLEM MAY LEAD TO THE CONCLUSION THAT MASSIVE DOSES OF TECHNICAL ASSISTANCE ARE REQUIRED IN ORDER TO RETRAIN MEN AND REORIENT MARKETING AND SERVICE CHANNELS. PERHAPS IN RECOGNITION OF THE ENORMITY OF THE PROBLEM, THE RECENT POLICY OF AID HAS BEEN TO LIMIT THE NUMBER OF INDUSTRIES IN WHICH EMPHASIS WILL BE PLACED FOR EACH COUNTRY.[81] WHERE THIS IS DONE, SERVICE TRAINING CAN BE CONCENTRATED. THIS CONCENTRATION, HOWEVER IS IN CONFLICT WITH THE DESIRE OF MANY COUNTRIES FOR A WIDE RANGE OF NEW VENTURES, AND FOR VENTURES UNCONNECTED WITH PRESENT EXTRACTIVE AND PRIMARY INDUSTRIES.

UNITED STATES OWNED LOCAL CURRENCIES ARE AVAILABLE FOR TECHNICAL ASSISTANCE, AND THEIR USE FOR ADDITIONS TO DEVELOPMENT BANK STAFF OF MACHINE SERVICE INSTRUCTORS WOULD SEEM APPROPRIATE. DOLLAR FUNDS, WHILE PERHAPS NOT AVAILABE UNDER SEC. 211 GRANT AUTHORITY,[82] WOULD SEEM CLEARLY AVAILABLE UNDER PROVISIONS RELATING TO THE ENCOURAGEMENT OF PRIVATE ENTERPRISE.[83] WHERE THE NEEDS ARE LARGE, SPECIAL TECHNICAL ASSISTANCE DEVELOPMENT CENTERS WOULD BE USEFUL.[84]

THE VARIOUS PROPOSALS FOR MEETING THE PROBLEMS OF COST, IGNORANCE, AND SERVICING HAVE LARGELY INVOLVED USE OF UNITED STATES GOVERNMENT PERSONNEL AND GOVERNMENT PROGRAMS. THE ALTERNATIVE OF MOBILIZING PRIVATE FORCES IS AVAILABLE IN THE FORM OF GUARANTEES AND PROVISION OF LOCAL CURRENCIES. TO THESE WE NOW TURN.

PART IV

INVESTMENT GUARANTIES

THE AGENCY FOR INTERNATIONAL DEVELOPMENT IS GIVEN AUTHORITY TO EXTEND GUARANTIES[85] TO PRIVATE INVESTORS IN ORDER TO "FACILITATE AND INCREASE THE PARTICIPATION OF PRIVATE ENTERPRISE"[86] IN ECONOMIC DEVELOPMENT. DURING THE FOURTEEN YEARS OF GUARANTY PROGRAM OPERATIONS, GUARANTIES TOTALLING $795 MILLION HAVE BEEN AUTHORIZED.[87] ONLY TWO OF THESE, THE MORGAN GUARANTY INTERNATIONAL BANKING CORPORATION (MOROCCO) AND THE BANK OF MONROVIA (LIBERIA) INVOLVE DEVELOPMENT BANKS.

TO THE EXTENT THAT PRIVATE FUNDS ARE USED FOR ECONOMIC DEVELOPMENT, THE DOLLAR DRAIN MAY BE LESSENED.[88] WHERE LOCAL FUNDS CAN BE MOBILIZED THROUGH THE USE OF GURRANTEES AND THESE FUNDS SUPPLANT UNITED STATES GOVERNMENT FUNDS, THE DOLLAR DRAIN CAN BE FURTHER CURTAILED.

AN EXAMINATION WILL FIRST BE MADE OF THE POSSIBLE USE OF THE GUARANTY AUTHORITY WITH RESPECT TO EDGE ACT FINANCING CORPORATIONS. FOLLOWING THIS, THE POSSIBILITY OF EXTENDING THE GUARANTY DEVICE TO FOREIGN-OWNED DEVELOPMENT BANKS WILL BE EXPLORED. EACH OF THESE INSTITUTIONS CAN BE USED TO INCREASE UNITED STATES PRIVATE PARTICIPATION IN FOREIGN FINANCING AND LOCAL CAPITAL MAOBILIZATION AND THEREBY FAVORABLY AFFECT THE BALANCE OF PAYMENTS POSITION.

1 EDGE ACT FINANCING CORPORATIONS[89]

UNITED STATES BANKS MAY CONDUCT BUSINESS ABROAD THROUGH EDGE ACT FINANCING AND BANKING SUBSIDIARIES, CORRESPONDENTS,

AND BRANCHES. THIS DISCUSSION WILL BE LIMITED TO THE EDGE ACT FINANCING CORPORATION (HEREINAFTER FINANCING CORPORATION). THE FINANCING CORPORATION, IN LIGHT OF THE BROAD AUTHORITY GIVEN IT TO ENGAGE IN LONG TERM TRANSACTIONS OFFERS POTENTIAL USE FOR DEVELOPMENT BANKING.

A FINANCING CORPORATION MAY[90] FINANCE ITS OWN ACTIVITIES THROUGH LOANS OR ISSUANCE OF ITS OBLIGATIONS[91], ENGAGE IN THE UNDERWRITING OR SALE OF FOREIGN SECURITIES[92], MAKE LOANS OR EXTEND CREDITS[93] WITH RELATIVELY LONGER MATURITIES[94], AND IN RELATIVELY GREATER AMOUNTS TO ONE BORROWER THAN ARE PERMITTED BANKING CORPORATIONS[95], INVEST IN THE STOCK OF NONBANKING CORPORATIONS [96], INCLUDING VOTING STOCK[97], AND FINANCE THE EXPORT OF GOODS OR THE ACTIVITIES ABROAD OF INDIVIDUALS OR CORPORATIONS CONDUCTING BUSINESS ABROAD.[98] AUTHORIZED EDGE ACT BANKING CORPORATION ACTIVITIES ARE CENTERED MAINLY IN THE SHORT-TERM FIELD,[99] WITH THE EXCEPTION OF PERMISSION TO INVEST IN OTHER BANK CORPORATIONS[100] AND THE PROVISION OF LOAN FUNDS FOR A TERM NOT EXCEEDING FIVE YEARS.[101]

FINANCING AND BANKING CORPORATIONS, AS WELL AS BRANCH AND CORRESPONDENT AFFILIATIONS CAN BE USEFUL WITH REGARD TO PROMOTING UNITED STATES PROCUREMENT.[102] THE PARENT OF THESE BANKS IS LIKELY TO HAVE A LARGE FOREIGN BANKING DIVISION IN ITS HOME OFFICE. ONE OF THE IMPORTANT FUNCTIONS OF THIS HOME OFFICE FOREIGN BANKING DIVISION IS THE PROMOTION OF OVERSEAS BUSINESS FOR AMERICAN CLIENTS.[103] ASSISTANCE MAY INCLUDE FINDING PARTNERS FOR JOINT VENTURES SECURING OUTLETS FOR PRODUCTS, OR ARRANGING OTHER MARKETING AGREEMENTS. THESE SERVICES HAVE BECOME MORE EXTENSIVE WITH THE INCREASE IN

competition for deposits of American firms. Foreign division officers are likely to be country or Regional experts and have extensive library and information resources. Networks of these affiliates maintaining liason with their parent offices offer a useful supplement to government foreign trade promotion.

However, United States banking interests have not made extensive use of the provisions permitting formation of Edge Act Corporations.[104] In part their use is limited by the financing risks[105] inherent in underdeveloped countries. The large banks which might be attracted to these subsidiaries are money market banks, especially sensitive to risk exposure.[106] They feel that they are lending their depositors money, or using part of the relatively thin capitalization base, and thus must be very conservative. Therefore risk exposure beyond certain limits will not be undertaken regardless of income returns.[107] Long Term lending to small indigenous entrepreneurs in underdeveloped countries would seem to be normally beyond these traditional risk limits. The extent to which the guaranty authority may be used for reducting this risk[108] will be explored next.

II AID Guaranty Authority

The purpose of the Investment Guarnnty authority is to "facilitate and increase the participation of private enterprise in furthering the development of the economic resources and productive capacities of less developed areas".[109] Under this authority, the President may "issue guaranties....of investments in connection with projects, including expansion,

modernization or development of existing enterprises....".[110] The President is to administer the program under "broad criteria"[111] thus recognizing the value Congress attaches to the program.

Risks guaranteed include inconvertibility,[112] expropriation,[113] war,[114] and an 'all risk' guarantee of up to 75 percent of the investment under newly granted authority.[115]

Those eligible for guaranties are United States citizens, corporations, partnerships and other associations.[116] While the predominate use of these guaranties involves non-financial institutions investing abroad,[117] United States financial institutions meeting the ownership requirement would be eligible. All Edge Act corporations meet this requirement.[118]

III Edge Act Guaranties

Case I: Guaranty of the Parent Bank's Invested Funds

The full capital and reasonably anticipated earnings of newly planned Edge Act banks would be fully eligible for Guaranty.[119] Currently operating Edge Act Banks would qualify where expansion, modernization or development is planned.[120] The statute is not explicit whether this would cover both past and planned investment, or would cover only the new funds invest[illegible]. The ICA Guaranty handbook indicates the latter.[121] However, it is arguable that both should be available for guaranty where the advancement of new funds subjects the old investment to new risks. Purchase of a share of ownership in an approved project is covered.[122]

In addition to guaranty of equity, advances to and debentures[123]

OF THE EDGE ACT BANKS ARE ELIGIBLE FOR GUARANTY.

CASE II EXTENSION OF GUARANTY ON SALE TO THOSE WHO WOULD BE DIRECTLY ELIGIBLE FOR GUARANTY

THE GUARANTY RUNS WITH THE INSTRUMENT,[124] WHICH RAISES THE POSSIBILITY OF INCREASING THE MARKETABILITY OF THE EQUITY AND DEBENTURES OF THE FINANCING CORPORATION SHOULD THE UNITED STATES PARENT DESIRE TO SELL THEM IN THE UNITED STATES, AND THEREBY LESSEN ITS COMMITTMENT. NO SPECIAL PROBLEMS WOULD SEEM POSED ON ASSIGNMENT OF THE GUARANTEE WHERE THE ASSIGNEE IS A UNITED STATES CITIZEN, CORPORATION, ETC. AND WOULD HAVE BEEN DIRECTLY ELIGIBLE FOR A GUARANTEE FROM AID. HOWEVER, SUCH SALES MAY NOT BE ATTRACTIVE FROM THE STANDPOINT OF THE FINANCING CORPORATION'S PARENT.[125]

CASE III GUARANTY OF SUB-INVESTMENTS

THUS FAR DISCUSSION HAS CENTERED ON ITEMS IN THE LIABILITY SIDE OF THE FINANCING CORPORATION'S BALANCE SHEET. WE TURN NOW TO ITS LOAN AND EQUITY INVESTMENTS (HEREINAFTER, SUB-INVESTMENTS).

GUARANTY OF THE SUB-INVESTMENTS INDIRECTLY GUARANTEES THE CAPITAL ACCOUNTS AND LIABILITIES OF THE FINANCING CORPORATION AND IS A MORE ACCURATE REFLECTION OF ITS RISK EXPOSURE. COMPENSATION WOULD BE MADE ON THE BASIS OF THE OCCURENCE OF GUARANTEED-AGAINST RISKS TO INDIVIDUAL SUB-INVESTMENTS.

IN INDUSTRIAL PROJECTS, GUARANTIES ARE PLACED ON THE EQUITY AND DEBT INVESTMENT OF THE UNITED STATES PARENT. DAMAGE TO A CERTAIN FRACTION OF THE PROPERTY MAY TRIGGER FULL

COMPENSATION.[126] HOWEVER, PRECEDENT DOES EXIST FOR THE GUARANTY OF UNDERLYING ASSETS IN THE GUARANTEED LOAN ACCOUNT PROCEEDURE OF THE BANK OF MONROVIA GUARANTY.[127]

CASE IV SALE OF SUB-INVESTMENTS AND ASSIGNMENT OF GUARANTIES TO UNITED STATES INVESTORS.

IF THE GUARANTY RUNS WITH EACH SEPARABLE SUB-INVESTMENT AND IF PAYMENT CAN BE GUARED TO DEFAULTS ON INDIVIDUAL SUB-INVESTMENTS, THEN A FINANCING CORPORATION MIGHT FIND IT DESIRABLE TO SELL OFF SOME OF ITS EQUITY OR LOAN SUB-INVESTMENTS IN THE UNITED STATES AS A MEANS OF REPLENISHING ITS FUNDS. IN CONTRAST TO CASE II, HERE SALE OF SUB-INVESTMENTS WOULD PERMIT THE PARENT TO RETAIN ITS INVESTMENT IN THE FINANCING CORPORATIONS OWN EQUITY. HOWEVER, S.E.C. REQUIREMENTS PRECLUDE THIS ON PRACTICAL GROUNDS.[128] FOREIGN ISSUES MUST REGISTER,[129] THUS MAKING SALE OF ISSUES OF SMALL FOREIGN FIRMS IMPRACTICAL ON REGUAATORY GROUNDS, IF NOT ALREADY INFEASIBLE BECAUSE OF LIMITED MARKETABILITY.

CASE V SALE OF SUB-INVESTMENTS AND ASSIGNMENTS TO FOREIGN INVESTORS

PRIVATE OFFERINGS IN FOREIGN MARKETS OF FOREIGN FIRMS ARE EXEMPT FROM S.E.C. REGULATIONS.[130] SALES BY THE FINANCING CORPORATION MIGHT BE MADE TO LOCAL INVESTORS[131] OR TO INVESTORS IN DEVELOPED COUNTRIES.[132] THESE SECURITIES WOULD HAVE THE ATTRACTIVENESS OF UNITED STATES GOVERNMENT GUARANTIES WHICH WOULD CONSIDERABLY LESSEN RISK EXPOSURE AND ASSIST IN THE CREATION OF LOCAL CAPITAL MARKETS, MUCH AS VETERENS ADMINISTRATION GUARANTEES HAVE WIDENED MORTGAGE MARKETS IN THE UNITED STATES.

IV Statutory Coverage

The statutory provisions do not explicitly reach Case V. The draftsmen were careful to delineate the classes of persons to whom guarantees might be directly issued.[133] It is clear that United States citizens are to be the primary beneficiaries since not only must the corporation (or partnership or association) be created under United States or state laws, but it must also be substantially beneficially owned by United States citizens.[134] Other sections of the Act place emphasis on local capital mobilization,[135] financial intermediaries,[136] and private enterprise.[137] The President is directed to administer the guarantee program under broad criteria.[138] However, these broad directives would not seem to overrule the specific United States citizenship requirements of Section 221(b).

V Extension of Guaranty Coverage

Different factors are involved where the ultimate security holder is a foreign national as opposed to a United States citizen. While it may be appropriate for the United States government to encourage its citizens to invest abroad and to protect them when they do so, protection of foreign citizens from the actions of their own governments raises questions of a different sort, although the ultimate goal of economic development is the same.

The foreign citizen is placed in the somewhat anomalous position[139] of seeking relief from the United States for

ACTIONS OF HIS OWN GOVERNMENT IN THE CASE OF EXPROPRIATION, INCONVERTIBILITY, AND WAR RISKS. THE RISK EXPOSURE TO THE FOREIGN NATIONAL MAY BE SMALLER HERE TO THE EXTENT THAT ACTION OF THE FOREIGN GOVERNMENT IN THE FIELD OF EXPROPRIATION ARE AIMED SPECIFICALLY AT FOREIGN INVESTORS. IF THIS IS THE CASE, GUARANTY FOR THESE RISKS IS LESS NECESSARY FOR THE LOCAL INVESTOR.

THE EXTENDED RISK GUARANTIES COVERING BUSINESS RISKS DO NOT SHARE THIS CITIZEN-GOVERNMENT ISSUE, AND ANY BE THE MORE APPROPRIATE RISK COVERAGE, ESPECIALLY IN THE LIGHT OF THE SMALL SIZE OF THE FIRMS TO WHICH THE GUARANTY IS LIKELY TO APPLY AND THE LOWER QUALITY OF INDIGENOUS MANAGEMENT.

RISK EXPOSURE TO AID CAN BE LESSENED BY WRITING DIFFERENT GUARANTY CONTRACTS FOR THESE SUB-INVESTMENTS.[140] SOME ASSURANCE TO AID IS PROVIDED BY THE MANAGEMENT OF THE FINANCING CORPORATION, WHICH, EVEN WITH THE GUARANTY, ISLIKELY TO BE CAREFUL IN THE SELECTION OF ENTERPRISES GUARANTEED.

WHILE POLITICAL AND OTHER RISKS OF FINANCING IN DEVELOPED COUNTRIES ARE UNDOUBTEDLY LOWER THAN IN UNDERDEVELOPED, SOME IDEA OF THE CONSERVATISM OF THE GUARANTEED INVESTOR AND THE UNITED STATES GOVERNMENT ADMINISTRATORS CAN BE OBTAINED BY THE INCREDIBLY LOW PAYMENTS MADE ON GUARANTIES NOW OUTSTANDING FOR INVESTMENTS IN MORE DEVELOPED COUNTRIES.[141]

VI POTENTIAL USEFULNESS

WHATEVER THE INDUCEMENT VALUE[142] CONTAINED IN THE CASE V EXTENSION AND THE POSSIBILITIES RAISED BY CASES I-IV WHICH

ARE PRESENTLY PERMITTED BY THE STATUTES, A NUMBER OF UNCERTAINTIES IN SECTION 25 OF THE FEDERAL RESERVE ACT AND REGULATION K WHICH GOVERN EDGE ACT CORPORATIONS REMAIN[143] AND MAY SERVE TO LIMIT THE GROWTH AND EXPANSION OF FINANCING CORPORATIONS. THE PRESENT SMALL NUMBER OF FINANCING CORPORATIONS AND THE LIKELY SLOWNESS OF THEIR GROWTH INDICATE A NEED FOR EXAMINING THE POSSIBILITY OF EXTENDING GUARANTEE AUTHORITY TO FOREIGN DEVELOPMENT BANKS, INCORPORATED UNDER FOREIGN LAW AND HAVING LITTLE OR NO PRIVATE UNITED STATES INVESTMENT.

CASE VI AID-FINANCED DEVELOPMENT BANKS

AID HAS EXTENDED 35 LOANS TOTALLING $225 MILLION TO 29 DEVELOPMENT BANKS ALL OF WHICH ARE INCORPORATED UNDER FOREIGN LAW. REPAYMENT PROVISIONS IN MORE THAN HALF OF THESE LOANS PERMIT USE OF LOCAL CURRENCY RATHER THAN DOLLARS AS THE CURRENCY OF REPAYMENT.[144] WHERE THIS OPTION IS CHOSEN, THE LOCAL CURRENCY REPAYMENTS GENERALLY LIE UNUSED.[145] THE ORIGINAL DOLLARS LENT REPRESENT A DOLLAR OUTFLOW NOT COMPENSATED FOR BY DOLLAR INFLOWS OR, IN SEVENTY-FIVE PERCENT OF THE CASES, BY UNITED STATES EXPORTS.

UNITED STATES PROCUREMENT, IN ALL BUT THE MOST RECENT AID DEVELOPMENT BANK LOANS, MAY BE AVOIDED BY KEEPING SUBLOANS BELOW THE UNITED STATES PROCUREMENT CUT-OFF, TYPICALLY $100,000.

THE GUARANTEE DEVICE MIGHT BE UTILIZED TO INDUCE EITHER UNITED STATES PROCUREMENT OR DOLLAR REPAYMENT. BY LOWERING RISK EXPOSURE TO THE DEVELOPMENT BANK, THE GUARANTEE CAN INCREASE THE POTENTIAL NUMBER OF SUCCESSFUL APPLICANTS. WITH A WIDER SELECTION OF APPLICANTS, THERE IS A GREATER POSSIBLE NUMBER OF BORROWERS WHO WILL FIND PROCUREMENT IN THE UNITED STATES TO BE

IN THEIR INTEREST.

IN ADDITION TO CONVERTING SOME SUBLOANS INTO DOLLAR PROCUREMENT AND DOLLAR REPAYMENT LOANS, TRANSFERRING SOME OF THE RISK TO THE UNITED STATES GOVERNMENT IS LIKELY TO INDUCE DEVELOPMENT BANKS TO BECOME LESS CONSERVATIVE IN THEIR LENDING, AND THUS TO ACT MORE AS DEVELOPMENT, RATHER THAN AS COMMERCIAL BANKERS. FURTHER, MORE RAPID UTILIZATION OF SUBLOANS MAY BE A CONSEQUENCE OF THE REDUCTION OF THE DEVELOPMENT BANK'S RISK EXPOSURE.

THE SCOPE OF THE GUARANTIES CAN BE LIMITED TO THAT WHICH MEETS THE NEEDS OF THE DEVELOPMENT BANK AND THE SUB-BORROWER, AND AID'S RISK-TAKING PREDILICTIONS. WAR AND EXPROPRIATION COVERAGE WOULD SEEM LESS NECESSARY AND BUSINESS RISK MORE NECESSARY FROM THE DEVELOPMENT BANK'S STANDPOINT. TO LIMIT AID'S RISK EXPOSURE ON BUSINESS RISKS, THESE MIGHT BE LIMITED TO THE LAST 25 OR 50 PERCENT, I.E., ON DEFAULT THE DEVELOPMENT BANK WOULD ABSORB LOSSES UP TO 50 TO 75 PERCENT OF THE FACE AMOUNT OF THE SUB-LOAN; AID WOULD COMPENSATE FOR LOSSES ONLY IF PROCEEDS ON DEFAULT WERE LESS THAN 50 TO 75 PERCENT OF THE AMOUNT OF THE LOAN. THE EXTENT OF THE GUARANTEE WOULD DEPEND IN LARGE MEASURE ON THE DEGREE OF CONFIDENCE PLACED IN THE MANAGEMENT OF EACH DEVELOPMENT BANK.

IS CASE VI EXTENSION WARRANTED?

THE GUARANTY WOULD EXTEND ONLY TO SUB-INVESTMENTS INVOLVING UNITED STATES PROCUREMENT AND DOLLAR REPAYMENTS, CONTRASTED WITH NON-UNITED STATES PROCUREMENT AND LOCAL

AND CURRENCY, REPAYMENTS. UNITED STATES PROCUREMENT WOULD GIVE RISE TO HIGHER SALES AND EARNINGS OF UNITED STATES BUSINESS FIRMS, GENERATION OF A MULTIPLIED STREAM OF INCOME THROUGHOUT THE ECONOMY, AND INCREASED TAX RECEIPTS TO THE UNITED STATES TREASURY. LOCAL CURRENCY REPAYMENT OF DOLLAR LOANS, WHICH TYPICALLY REMAIN UNUSED WOULD BE REPLACED BY DOLLAR REPAYMENTS. INDIRECT BENEFITS OF INCREASING THE UTILIZATION OF LOAN COMMITTMENTS AND THUS INCREASING THE PACE OF ECONOMIC DEVELOPMENT ACCRUE.

BALANCED AGAINST THESE BENEFITS ARE A NUMBER OF INCREASED COSTS. AID MUST BEAR THE COST OF PAYMENTS FOR ITS SHARE OF THE LOSS ON DEFAULT. INVOLVEMENT OF AID IN MANY SMALL CLAIMS CAN INCREASE ITS ADMINISTRATIVE EXPENSES CONSIDERABLY. CONGRESSIONAL RESENTMENT AGAINST THE CONCEPT OF SUCH AN EXTENSION MIGHT PROVE COSTLY IN TERMS OF CONGRESSIONAL SUPPORT OF OTHER FOREIGN ASSISTANCE PROGRAMS.

IT IS ENTIRELY POSSIBLE THAT THE SAME OBJECTIVE OF INCREASING UNITED STATES PROCUREMENT, AND SPEEDING UTILIZATION OF FUNDS COULD BE ACHIEVED AT LOWER COSTS VIA LOWERING THE INTEREST RATE ON LOANS WHICH REQUIRED UNITED STATES PROCUREMENT, PERMITTING THE DEVELOPMENT BANK TO CHARGE A HIGHER INTEREST RATE,[147] OR PROVIDING VARIOUS FORMS OF TECHNICAL ASSISTANCE.

TO SOME, THE PROSPECT OF THOUSANDS OF UNITED STATES GOVERNMENT GUARANTIES ON SMALL ENTERPRISE OBLIGATIONS HELD BY LARGE NUMBERS OF PERSONS IN COUNTRIES AROUND THE GLOBE, MAY BE A CHILLING ONE. THE DEVELOPMENT LOAN FUND, ONE OF AID'S

PREDECESSORS, WAS VIEWED SOMEWHAT AS A COMMERCIAL BANKER. THIS VIEW OF ITS FUNCITONS MAY NOT HAVE BEEN IN ACCORD WITH REALITY WHEN FORMULATED, FOR COMMERCIAL INTERESTS WERE NOT AND WOULD NOT ASSUME THE RISKS UNDERTAKEN BY DLF. IT WAS FELT THAT STEPPED UP ECONOMIC DEVELOPMENT REQUIRED THE PROVISION OF ASSISTANCE FOR VENTURES CARRYING GREATER RISKS OR REQUIRING LENDING TERMS AT VARIANCE WITH TRADITIONAL BANKING CRITERIA. THE PRESENT LENDING TERMS OF AID WHICH MAY INVOLVE AS LOW AS .75 PERCENT INTEREST AND A MATURITY OF UP TO 50 YEARS REFLECTS AN EVEN GREATER NEED FOR A NON-COMMERICAL, OR AT LEAST A LONG RUN, APPROACH.

IT HAS BEEN ARGUED THAT ICA'S GUARANTEES HAVE NOT SERVED THEIR PURPOSE OF SHARING RISK WITH PRIVATE INVESTMENT BECAUSE OF ICA'S EXTRAORDINARILY LOW LOSS RATIO.[148] THIS LOW LOSS RATIO MAY LEAD TO THE INFERENCE THAT INVESTORS WITH HIGH RISK EXPOSURE WERE NOT ACCEPTED FOR GUARANTEES. CONGRESSIONAL COMMITTEES HAVE REPEATEDLY URGED IN STRONG LANGUAGE MORE EXTENSIVE UTILIZATION OF GUARANTEE AUTHORITY.[149]

WHEN THE RISK EXPOSURE POSITION OF AID IS COMPARED WITH THAT OF ANALOGOUS PROGRAMS OF FOREIGN GOVERNMENTS, EXTENSION OF GUARANTEES TO NON-UNITED STATES INTERESTS DOES NOT APPEAR UNDULY VENTURESOME.[150]

PART V

LOCAL CURRENCY

I INTRODUCTION

IN FISCAL YEAR 1963, THE UNITED STATES GOVERNMENT HAD $2,105 MILLION IN LOCAL CURRENCIES[151] WHICH IT OWNED OR WHICH ARE OWNED BY A FOREIGN COUNTRY BUT UNDER SOME CONTROL OF THE UNITED STATES. IT WOULD SEEM DESIREABLE TO UTILIZE THESE CURRENCIES IF POSSIBLE TO PROMOTE THE SALES OF UNITED STATES CAPITAL GOODS TO UNDERDEVELOPED COUNTRIES, OR TO OTHERWISE BOLSTER THE UNITED STATES BALANCE OF PAYMENT POSITION.

AMONG THE METHODS BY WHICH THIS MIGHT CONCIEVEABLY BE ACCOMPLISHED ARE : (1) GRANTING LOCAL CURRENCY SUBSIDIES TO RURITANIAN BORROWERS WHOSE PURCHASES OF UNITED STATES GOODS ARE, ASSUMEDLY, MORE COSTLY THAN FROM OTHER SOURCES; (2) SALE OF THE CURRENCY EITHER FOR DOLLARS OR FOR OTHER HARD CURRENCY TO BE USED BY RURITANIAN BORROWERS FOR UNITED STATES PURCHASES; (3) IMPORTATION OF GOODS BY THE UNITED STATES WHICH WOULD NORMALLY BE PAID FOR BY UNITED STATES DOLLARS. THE LATTER HAS LITTLE RELATION TO DEVELOPMENT BANKING.

GENERALLY SPEAKING, THESE ALTERNATIVES ARE DIFFICULT UNDER EXISTING AGREEMENTS. ACCORDING TO THE UNCHALLENGED TESTIMONY OF CONGRESSIONAL FOREIGN AID EXPERT, REPRESENTATIVE OTTO PASSMAN, "THE UNITED STATES CANNOT BUY ANYTHING IN THESE COUNTRIES TO SHIP OUT AGAINST THE LOCAL CURRENCY. NOR CAN THE UNITED STATES SPEND THE LOCAL CURRENCY IN ANOTHER COUNTRY.

THESE SUMS CAN ONLY BE SPENT WITHIN THE RECIPIENT COUNTRY FOR CERTAIN PURPOSES AND WITH THE CONSENT OF THE COUNTRY."[152] IF AN UNDERSTANDING CANNOT BE REACHED BY THE UNITED STATES AND THE LOCAL GOVERNMENT OVER THE USE OF THESE FUNDS, THEN THEY WILL REMAIN DORMANT.[153] THUS IF THE LOCAL GOVERNMENT WITHHOLDS ITS CONSENT TO A USE PROPOSED BY THE UNITED STATES, THESE FUNDS ARE STERILIZED. ON THE OTHER HAND, IF THE UNITED STATES REJECTS A USE PROPOSED BY THE LOCAL COUNTRY, IT CAN, DEPENDENT ON ITS MONETARY POLICIES, CREATE THE LOCAL CURRENCIES WHICH IT DESIRES.[154]

II ORIGIN OF UNITED STATES OWNED OR CONTROLLED CURRENCIES.[155]

COUNTERPART FUNDS ARE SUBJECT TO UNITED STATES CONTROL BUT ARE OWNED BY THE FOREIGN GOVERNMENT. THESE WERE GENERATED BY GRANTS TO FOREIGN COUNTRIES UNDER THE MARSHALL PLAN AND THE MUTUAL SECURITY PROGRAM. MARSHALL PLAN GRANTS[156] MADE TO GOVERNMENTS REQUIRED DEPOSIT OF LOCAL CURRENCY EQUIVALENT TO THE GRANT; THE LOCAL CURRENCY COUNTERPART WAS TO BE AVAILABLE FOR USES AGREED TO BY THE UNITED STATES AND THE HOST COUNTRY. UNDER THE MUTUAL SECURITY PROGRAM, WHERE THE COMMODITIES GRANTED WERE TO BE SOLD WITHIN THE COUNTRY,[157] THE PROCEEDS OF THE SALES WERE LIKEWISE TO BE DEPOSITED AND USED FOR ECONOMIC DEVELOPMENT, BUDGETARY NEEDS AND MILITARY REQUIREMENTS, AGAIN SUBJECT TO THE CONCURRENCE OF THE UNITED STATES.

UNITED STATES OWNED CURRENCY HAS BEEN GENERATED MAINLY BY THE P.L. 480 AGRICULTURAL SURPLUS PROGRAM.[158] SALES[159]

AND GRANTS[160] OF SURPLUS AGRICULTURAL COMMODITIES ARE MADE TO RELIEVE FAMINE OR FOR URGENT OR EXTRAORDINARY NEEDS, AND TO A LIMITED EXTENT, TO PROMOTE ECONOMIC DEVELOPMENT. TO THE EXTENT THAT THE COMMODITIES ARE SOLD WITHIN THE COUNTRY, THE LOCAL CURRENCY OBTAINED THEREFROM IS DEPOSITED TO THE CREDIT OF THE UNITED STATES TREASURY. AS A RESULT OF THE P.L.480 PROGRAM, PART OF THE SURPLUS AGRICULTURAL COMMODITIES ARE TRANSFERRED FROM BURDENSOME STORAGE IN THE UNITED STATES INTO CONSUMPTION CHANNELS IN FOREIGN COUNTRIES NOT IN A POSITION TO PAY FOR THEM WITH FOREIGN EXCHANGE.

FOCUSING ON THE MAJOR SOURCE OF UNITED STATES HELD LOCAL CURRENCIES,[161] P.L. 480 TRANSACTIONS, WE WILL EXAMINE A P.L. 480 AGREEMENT, THE RELEVANT STATUTES, AND THEN EXAMINE VARIOUS WAYS IN WHICH THE LOCAL CURRENCY MIGHT BE USED BY DEVELOPMENT BANKS FOR PROMOTING UNITED STATES PROCUREMENT OR MITIGATING THE DOLLAR DRAIN.

III P.L. 480 LOAN AGREEMENT

IN A RECENT LARGE P.L. 480 TRANSACTION WITH INDIA,[162] THE UNITED STATES TREASURY REIMBURSED THE COMMODITY CREDIT CORPORATION FOR THE $2 PER BUSHEL PRICE WHICH THE C.C.C. HAD PAID TO UNITED STATES FARMERS FOR THE WHEAT.[163] THE PREVAILING WORLD MARKET PRICE AT THE TIME OF THE SALE TO INDIA WAS $1.60 PER BUSHEL.[164] OF THE $1,276 MILLION PROCEEDS FROM THE SALE OF THE WHEAT TO INDIAN IMPORTERS, ONLY $200 MILLION WAS SET ASIDE FOR USE BY THE UNITED STATES TO COVER ITS ADMINISTRATIVE EXPENSES IN INDIA.[165] THE REMAINDER OF THE

PROCEEDS WAS DIVIDED EQUALLY INTO LOANS[166] AND GRANTS[167] TO INDIA, WHICH WERE TO BE ADMINISTERED WITH THE CONCURRENCE OF THE UNITED STATES AID MISSION IN NEW DELHI.

THE TERMS OF THE LOAN AND GRANT ARE QUITE BROAD. THE FUNDS MAY BE USED FOR "FINANCING SUCH PROJECTS TO PROMOTE BALANCED ECONOMIC DEVELOPMENT AS MAY FROM TIME TO TIME BE MUTUALLY AGREED".[168]

THERE IS NO SANCTION FOR NONUTILIZATION OF THE FUNDS, BUT SOME PRESSURE MIGHT BE APPLIED, FOR THE AGREEMENT CALLS FOR REVIEW OF FUTURE AGRICULTURAL COMMODITY SHIPMENTS BASED IN PART ON THE UTILIZATION OF LOCAL CURRENCY PROCEEDS.[169] HOWEVER, THE NEED TO DISPOSE OF THESE COMMODITIES AS AN INTERNAL UNITED STATES POLITICAL MATTER AND INDIA'S NEED FOR THEM ARE LIKELY TO OUTWEIGH SLOWNESS IN INDIA'S LOCAL CURRENCY UTILIZATION.

THE EXTENT TO WHICH THESE FUNDS ARE NOT COMMITTED MAY BE INDICATED BY THE MOUNTING HOLDINGS OF LOCAL CURRENCY. IN THE FIRST SEVEN YEARS (1954-62) OF THE PROGRAM, ALMOST 50 PERCENT OF THE FUNDS REMAINED UNUSED AND ON DEPOSIT.[170] NEARLY EIGHTY PERCENT OF THE LOCAL CURRENCIES DERIVED FROM LOCAL CURRENCY REPAYMENTS OF DEVELOPMENT LOAN FUND LOANS REMAIN UNUSED.[171] DESPITE THIS CONTINUAL PILE UP OF FUNDS, LESS THAN 5 PERCENT OF ALL FUNDS HAVE BEEN MADE AVAILABLE FOR PRIVATE ENTERPRISE.[172] THE REMAINDER HAS GONE LARGELY FOR SCHOOLS, HIGHWAYS, AND OTHER INFRASTRUCTURE PROJECTS. SOME OF THE CHIEF ADMINISTRATORS DO NOT APPEAR TO BE FULLY AWARE OF THE WORKINGS OF THE PROGRAM.[173] SOME FUNDS

APPARENTLY LIE UNUSED EARNING LITTLE OR NO INTEREST IN FOREIGN BANKS.[174] PAST USE OF THESE FUNDS FOR DEVELOPMENT BANKS APPEARS TO BE OF MINOR IMPORTANCE.[175] ONE CAN SPECULATE THAT THIS LACK OF UTILIZATION MAY BE DUE IN PART TO THE DESIRE OF THE P.L. 480 PROGRAM ADMINISTRATORS TO SEE THAT THE GREATEST QUANTITY OF SURPLUS COMMODITIES ARE TRANSFERRED; USE OF THE PROCEEDS IS THUS IMMATERIAL. THE HOST COUNTRY MAY BE SENSITIVE ABOUT THE REQUIREMENT OF UNITED STATES CONCURRENCE ON THE USE OF THE PROCEEDS, AND MAY FEEL THAT PRINTING MONEY EQUAL TO THAT STERILIZED PROVIDES MORE FLEXIBILITY TO IT.

WE WILL ASSUME THE TYPICAL CASE I.E. THAT SOME FUNDS ARE USED, AND WILL EXPLORE THE POSSIBLE WAYS IN WHICH THE PORTION OF THESE FUNDS GOING TO DEVELOPMENT BANKS CAN BE INCREASED SO THAT UNITED STATES PROCUREMENT AND DOLLAR DRAIN PROBLEMS CAN BE ALLEVIATED. WE TURN FIRST TO SALE OF THE LOCAL CURRENCY BY THE UNITED STATES FOR DOLLARS, THEN, CONVERSION OF LOCAL CURRENCY INTO DOLLARS BY PRIVATE TRADERS; TRIANGULAR SALES; AND FINALLY, USE OF LOCAL CURRENCY WITHIN THE COUNTRY.

IV. SALE OF LOCAL CURRENCY FOR DOLLARS BY THE UNITED STATES GOVERNMENT

THE LEGISLATION GOVERNING THE P.L. 480 PROGRAM DOES NOT EXPLICITLY PRECLUDE SALE OF THE CURRENCY FOR DOLLARS. ON THE CONTRARY, IT IS THE DECLARED POLICY OF CONGRESS " TO FACILITATE THE CONVERTIBILITY OF CURRENCY".[176] IT IS NOT CLEAR HOW CONVERTIBILITY IS TO BE ACHIEVED, BUT THIS CAN BE INTERPRETED

AS PROVIDING AGRICULTURAL COMMODITIES IN EXCHANGE FOR LOCAL CURRENCIES IN ORDER TO CONSERVE THE COUNTRY'S DOLLAR OR OTHER HARD FOREIGN EXCHANGE, SO THAT, IN THE LONG RUN THE COUNTRY CAN ACHIEVE FREE CONVERTIBILITY. THIS INTERPRETATION WOULD NOT PERMIT CONVERSION OF THIS LOCAL CURRENCY FOR SOME TIME. IT SHOULD BE NOTED THAT NEW LOAN AGREEMENTS WHICH ALLOW LOCAL CURRENCY REPAYMENTS CONTAIN A CLAUSE PROVIDING FOR RENEGOTIATION OF THE CURRENCY OF REPAYMENT SHOULD THE COUNTRY'S LOCAL CURRENCY BECOME SUFFICIENTLY STRONG.

THE STATUTE PROVIDES FOR CONVERTIBILITY OF NOT LESS THAN 2 PERCENT OF THE PROCEEDS FOR PROGRAMS AIDING THE DEVELOPMENT OF "NEW MARKETS FOR UNITED STATES AGRICULTURAL COMMODITIES ON A MUTUALLY BENEFITING BASIS."[177] CONVERSION IS NOT LIMITED TO DOLLARS, BUT MAY BE MADE INTO "THE TYPES AND KINDS OF FOREIGN CURRENCIES AS THE SECRETARY (OF AGRICULTURE) DEEMS NECESSARY".[178] TRIANGULAR TRANSACTIONS INVOLVING THE FINANCING OF PURCHASES OF GOODS OR SERVICES FOR OTHER FRIENDLY COUNTRIES[179] ARE EXPLICITLY WITHIN THE PURPOSE OF THE ACT. PROCEEDS MAY BE USED "TO PURCHASE STRATEGIC OR OTHER MATERIALS FOR A SUPPLEMENTAL UNITED STATES STOCKPILE"[180] THUS ENABLYING INDIRECTLY, THE CONVERSION OF THE LOCAL CURRENCY INTO DOLLARS TO BE USED FOR PURCHASE OF MATERIALS FOR UNITED STATES DEFENSE.

WHATEVER THE FREEDOM PROVIDED BY THE UNITED STATES LEGISLATIVE PROVISIONS MAY BE, CURRENCY USE IS SUBJECT TO THE AGREEMENT[181] MADE WITH THE HOST COUNTRY. HERE, INDIA HAS LIMITED THE FUNDS AVAILABLE FOR THE ABOVE PURPOSES TO

$200,000[182] AND IT CAN BE ASSUMED THAT THE BULK OF THIS MONEY WILL BE USED FOR EMBASSY AND OTHER UNITED STATES ADMINISTRATIVE EXPENSES IN INDIA.

IT WILL GENERALLY BE IN INDIA'S BEST INTERESTS NOT TO RELEASE COMMODITIES FOR EXPORT IN RETURN FOR LOCAL CURRENCIES, SINCE AS A GENERAL RULE, INDIA WOULD THUS BE GIVING UP ITS RESOURCES FOR LOCAL CURRENCIES WHICH IT CAN CREATE, AND IS FOREGOING NEEDED HARD CURRENCIES OBTAINABLE FROM EXPORTS.

EUROPEAN CURRENCIES GENERATED BY THE MARSHALL PLAN[183] MIGHT BE USED TO FINANCE EXPORTS FROM THESE EUROPEAN COUNTRIES, USING P.L. 480 SOFT CURRENCY REPAYMENTS, IN RETURN FOR THE EUROPEAN CURRENCY. THE EUROPEAN CURRENCIES WOULD ACT AS A SUBSTITUTE FOR DOLLAR LOANS REPAYABLE IN LOCAL CURRENCY AND WOULD PERMIT FINANCING OF EUROPEAN EXPORTS VIA EUROPEAN CURRENCIES RATHER THAN THE DOLLAR, AS HAD BEEN POSSIBLE BEFORE THE PRESENT STRICTLY TIED PROCUREMENT POLICY. RESISTANCE TO SUCH A PROPOSAL SHOULD BE LESSENED WITH THE GROWING PRESSURE ON EUROPEAN COUNTRIES TO INCREASE THEIR DEVELOPMENT ASSISTANCE.

V. CONVERSION OF LOCAL CURRENCY INTO DOLLARS VIA PRIVATE TRADE

WHERE IMPORTS FROM RURITANIA CAN BE PAID FOR IN LOCAL CURRENCY IT MAY BE DESIRABLE FROM THE UNITED STATES POINT OF VIEW TO OBTAIN RELEASE OF UNITED STATES OWNED LOCAL CURRENCIES FOR THIS PURPOSE. ASSUME THAT LOCAL CURRENCY HAS BEEN LEFT ON DEPOSIT WITH THE DBR. A UNITED STATES IMPORTER WOULD PAY

DOLLARS INTO THE UNITED STATES TREASURY. THE TREASURY WOULD AUTHORIZE TRANSFER OF $100 WORTH OF LOCAL CURRENCY FROM ITS DEPOSIT AT THE DEVELOPMENT BANK TO A RURITANIAN EXPORTER. IMPORTS FROM RURITANIA HAVE THUS BEEN PAID FOR IN LOCAL CURRENCY.

THIS ARRANGEMENT IS NOT DESIRABLE FROM THE VIEWPOINT OF RURITANIAN EXCHANGE AUTHORITIES. HAD THEY NOT AGREED TO THIS LOCAL CURRENCY USE, RURITANIA WOULD HAVE RECEIVED ONE HUNDRED UNITED STATES DOLLARS. RURITANIA HAS, IN EFFECT, GIVEN UP DOLLAR EARNING EXPORTS IN RETURN FOR P.L. 480 COMMODITIES.

CAN THE LOCAL CURRENCY BE USED TO MITIGATE ASSUMEDLY HIGHER PRICES FOR UNITED STATES CAPITAL GOODS? SUPPOSE THAT A CERTAIN MACHINE COSTS $130 IN THE UNITED STATES AND THE EQUIVALENT OF $100 IN ENGLAND. ASSUME THAT UNITED STATES-OWNED RURITANIAN CURRENCY HAS BEEN PLACED ON DEPOSIT WITH THE DEVELOPMENT BANK WITH INSTRUCTIONS TO MAKE LOANS AND GRANTS FROM THIS DEPOSIT FOR UNITED STATES PROCUREMENT PURPOSES: WHENEVER A UNITED STATES GOOD IS HIGHER IN PRICE, THE DBR IS INSTRUCTED TO MAKE UP THIS DIFFERENCE BY A GRANT OF LOCAL CURRENCY TO THE BORROWER. THUS THE BORROWER WOULD, IN THIS CASE RECEIVE A LOAN OF $130 IN LOCAL CURRENCY AND $30 IN THE FORM OF A LOCAL CURRENCY GRANT. HE WOULD CONVERT $130 WORTH OF LOCAL CURRENCY INTO DOLLARS. FROM HIS POINT OF VIEW THERE IS LITTLE DIFFERENCE BETWEEN UNITED STATES AND UNITED KINGDOM PROCUREMENT. EITHER WAY HE MUST INCUR A NEW REPAYMENT BURDEN OF $100. HOWEVER, FROM THE RURITANIA FOREIGN EXCHANGE AUTHORITY'S VIEWPOINT, UNITED KINGDOM PURCHASES ARE

MORE DESIREABLE, FOR THE EXCHANGE AUTHORITY MUST GIVE UP 130 UNITS OF UNITED STATES FOREIGN EXCHANGE VERSUS 100 UNITS OF UNITED KINGDOM FOREIGN EXCHANGE. NO MATTER IF A FULL $130 WORTH OF LOCAL CURRENCIES ARE GRANTED TO THE BORROWER, THE FOREIGN EXCHANGE COST TO THE EXCHANGE AUTHORITIES FOR UNITED STATES CAPITAL GOODS IS HIGHER.

VI. TRIANGULAR SALES[184]

SOME EMPHASIS IS GIVEN IN THE P.L. 480[185] AND FOREIGN ASSISTANCE ACT[186] TO MULTILATERAL TRADE. ADMITTEDLY THIS LANGUAGE IS MORE APPROPRIATE TO THE PRIOR PROCUREMENT POLICY WHICH FREELY PERMITTED PURCHASES OUTSIDE THE UNITED STATES. LET US, HOWEVER, EXAMINE THE POSSIBILITY OF TRIANGULAR SALES UNDER PRESENT ARRANGEMENTS.

ASSUME A DEPOSIT OF LOCAL CURRENCY HAS BEEN MADE BY THE UNITED STATES TREASURY AT THE DBR, AND THAT THE TREASURY AUTHORIZES THE DBR TO SELL THESE LOCAL CURRENCY FUNDS TO ANY FIRMS WISHING TO IMPORT FROM RURITANIA. ASSUME A UNITED KINGDOM IMPORTER BUYS COCOA FROM RURITANIA AND THAT THE DBR HAS RECEIVED PERMISSION FROM THE EXCHANGE AUTHORITIES TO DEAL IN THE LOCAL CURRENCY. A SALE OF THE LOCAL CURRENCY BY THE DBR TO THE UNITED KINGDOM IMPORTER WILL GIVE RISE TO A DEPOSIT OF POUND STERLING FUNDS OWNED BY THE UNITED STATES TREASURY. THE FUNDS MIGHT CONCEIVABLY BE USED FOR FINANCING PURCHASES OF CAPITAL GOODS FROM ENGLAND WHICH WOULD SUBSTITUTE FOR UNITED STATES FOREIGN AID FINANCING, THEREBY LESSENING AID EXPENDITURES; OR IT MIGHT CONCEIVABLY BE CONVERTED INTO

DOLLARS FOR UNITED STATES SALES OF CAPITAL GOODS TO RURITANIA.

IF UNITED STATES GOODS ARE PRICED HIGHER THAN ENGLISH GOODS, THEN RURITANIA IS WORSE OFF FOR IT MUST EXPORT A GREATER TOTAL IN ORDER TO PAY FOR UNITED STATES GOODS.

THESE TRIANGULAR TRADE TRANSACTIONS ARE ECONOMICALLY REASONABLE FROM RURITANIA'S VIEWPOINT ONLY WHERE UNITED STATES GOODS ARE CHEAPER; AND IN THAT CASE, THIS INDIRECT METHOD OF INDUCING UNITED STATES EXPORTS WOULD NOT BE AS NECESSARY.

IT WOULD THUS GENERALLY NOT BE IN RURITANIA'S INTEREST TO PERMIT THE CONVERSION OF LOCAL CURRENCIES OWNED BY THE UNITED STATES INTO DOLLARS OR OTHER HARD CURRENCIES. COUNTRIES PARTICIPATING IN THE P.L. 480 PROGRAM TYPICALLY ARE SHORT OF FOREIGN EXCHANGE AND THESE FOREIGN EXCHANGE EARNINGS ARE LIKELY TO BE CAREFULLY CONTROLLED. THESE COUNTRIES CAN ONLY EARN FOREIGN CURRENCIES VIA EXPORT SALES. CONVERSION OF THE P.L. 480 CURRENCY WOULD HAVE THE SAME EFFECT AS IF THE COUNTRY EXPORTED FOR DOLLARS AND USED THESE DOLLARS FOR IMPORTS OF GRAIN; AND P.L. 480 AGREEMENTS WERE PROBABLY ENTERED INTO BECAUSE DOLLAR PURCHASES OF GRAIN WERE NOT POSSIBLE.

THE CURRENCY TRANSACTIONS VEIL THE UNDERLYING FACTORS INVOLVED. RURITANIA HAS RECEIVED AGRICULTURAL COMMODITIES; THE UNITED STATES HAS GIVEN UP AGRICULTURAL COMMODITIES. RURITANIAN CITIZENS HAVE TRANSFERRED LOCAL CURRENCY WHICH THE UNITED STATES HAS 'RECEIVED'; AND THE UNITED STATES HAS TRANSFERRED DOLLARS TO ITS FARMERS. REGARDLESS OF THE EXCHANGE RATIO ESTABLISHED BETWEEN DOLLARS AND THE LOCAL CURRENCY OR THE AMOUNT OF GRANTS BY THE UNITED STATES OF LOCAL CURRENCY TO LOCAL

borrowers, Ruritania will benefit by not permitting the local currency to be used as payment for Ruritanian exports.[187]

VII Use of Local Currencies Within the Country.

The problem of higher priced United States goods is most acute where the borrower has the choice between United States and other sources of capital goods, i.e. where the development bank or exchange authorities have dollars and other hard currencies. By the middle of June, 1961, about one third[188] of the development banks to which AID has extended assistance had such alternative resources either from the International Bank for Reconstruction and Development the Inter-American Development Bank or foreign sources. Where this competitiveness exists, it would seem possible to mitigate United States price disadvantages by providing more attractive terms on dollar subloans. This might be accomplished by providing heavy doses of technical assistance to dollar borrowers, or for interest-free loans of local currency. Local currency could be used for additions to the development bank staff; these additional staff might have special responsibility for preparing engineering, financial, and legal statements, and might assist borrowers in the selection of United States suppliers.

The technical assistance, by increasing the efficiency of the borrower may more than compensate for the higher price of the goods from the borrower's and Ruritania's points of view. Precedent has recently been established

FOR THIS THROUGH THE RECENT USE OF PEACE CORPS PERSONNEL FOR THESE PURPOSES IN NIGERIA. WHILE THE TECHNICAL ASSISTANCE MAY REQUIRE SOME USE OF EXPATRIATE TECHNICIANS, THE DOLLAR COST OF THESE MAY BE DEFERRED UNDER DEVELOPMENT GRANT ASSISTANCE.[189]

ADDITIONAL USE OF "PRIVATE ENTERPRISE" TECHNICIANS ATTACHED TO THE UNITED STATES AID MISSION WOULD PROVIDE AN ALTERNATIVE TO ADDITIONS TO THE DEVELOPMENT BANK STAFF. HOWEVER, MISSION PREJUDICE AGAINST "PRIVATE ENTERPRISE" AND IN FAVOR OF PUBLIC HEALTH, AGRICULTURE, EDUCATION, ETC., LIMITS THE POTENTIAL USE OF THIS ALTERNATIVE.[190]

A GOOD DEAL OF PRECEDENT EXISTS FOR THE USE OF LOCAL CURRENCIES IN PROVIDING THE STAFFING AND ADMINISTRATIVE NEEDS OF DEVELOPMENT CENTERS BY THE INTERNATIONAL COOPERATION ADMINISTRATION.[191]. USE OF LOCAL CURRENCIES HELD BY AID WOULD POSE NO PARTICULAR PROBLEM; HOWEVER, THE HIGH DOLLAR COSTS OF RECENT DEVELOPMENT BANK CONSULTANT CONTRACTS[192] MAY WELL STIFLE HOST COUNTRY ACCEPTANCE IF THE ASSISTANCE IS PLACED ON A DOLLAR REPAYABLE LOAN BASIS.

WHERE TECHNICAL ASSISTANCE CAN BE PAID FOR BY USE OF UNITED STATES-HELD LOCAL CURRENCY, THE HOST COUNTRY IS ABLE TO DISCHARGE ITS OBLIGATION TO UTILIZE THE COUNTERPART FUNDS. THIS OFFSETS IN SMALL MEASURE THE COUNTRY'S ABILITY TO ACCOMPLISH THE SAME ENDS BY PRINTING LOCAL CURRENCY. THIS PRESSURE TO USE THE FUNDS MAY ASSIST THE COUNTRY TO PROGRAM ITS RESOURCES MORE EFFICIENTLY;[193] AT LEAST THERE IS MORE

CONSTRAINT WHERE UNITED STATES CONCURRENCE IS REQUIRED THAN WHERE FLEXIBILITY IS ACHIEVED VIA THE PRINTING PRESSES.

FOOTNOTES

1. H.R.REP. No. 1788, 87TH CONG., 2D SESS. 40-41 (1961).

2. LAST YEAR, FOR EXAMPLE, REPRESENTATIVE OTTO PASSMAN, CHAIRMAN, HOUSE APPROPRIATIONS SUBCOMMITTEE ON FOREIGN OPERATIONS CONDUCTED SCORES OF WITNESSES THROUGH 770 HOURS OF HEARINGS THAT FILLED 3000 PAGES OF PRINTED TESTIMONY (MURPHY, FOREIGN AID: BILLIONS IN SEARCH OF A GOOD REASON, 57 FORTUNE 126 AT 128 (1963).

3. THESE INCLUDED THE ECONOMIC COOPERATION ADMINISTRATION, THE POINT IV PROGRAM, FOREIGN OPERATIONS ADMINISTRATION, MUTUAL SECURITY ADMINISTRATION, INTERNATIONAL COOPERATION ADMINISTRATION, DEVELOPMENT LOAN FUND, AND NOW, THE AGENCY FOR INTERNATIONAL DEVELOPMENT.

4. THESE INCLUDED THE REHABILITATION OF EUROPE (ECA), MILITARY SUPPORT (MSA), TECHNICAL ASSISTANCE (ICA), LOANS (DLF), COMPREHENSIVE MILITARY AND ECONOMIC ASSISTANCE (AID).

5. WITHIN THE KENNEDY ADMINISTRATION ALONE: HENRY LABOUISSE (6 MONTHS SERVICE), FOWLER HAMILTON (13 MONTHS), DAVID BELL (BEGAN NOVEMBER 1962) HAVE SERVED.

6. MORGANTHAU, A POLITICAL THEORY OF FOREIGN AID, 56 AM. POL. SCI. REV. 301 (1962).

7. AGRICULTURAL TRADE AND ASSISTANCE ACT OF 1954, SECS. 101, 102, 201, 202, 68 STAT. 455-458 (1954), AS AMENDED, 7 U.S.C. SECS. 1701, 1702, 1709, 1722 (1959).

8. MERCHANT MARINE ACT OF 1936, SEC. 901(B), 75 STAT. 565 (1961), 46 U.S.C. 1241(B) (1954). HEARINGS ON S.1983 BEFORE THE SENATE COMMITTEE ON FOREIGN RELATIONS, 87TH CONG., 1ST SESS., PT. 1, 144 (1961) (DILLON AND FULBRIGHT COMMENTS).

9. FOREIGN ASSISTANCE ACT OF 1961, SEC. 604(A), 75 STAT. 439 (1961), 22 U.S.C. SEC. 2354(A) (SUPP. III, 1962), (HEREINAFTER CITED AS FAA OF 1961).

10. SEE PART II, PAGES 11, 12, AND 14 FOR SUMMARY OF PROCUREMENT HISTORY.

11. N.Y.TIMES, OCT. 20, 1959, P.1, COL. 5.

12. FOR STATISTICAL SUMMARY OF DOLLAR DEVELOPMENT BANK LOANS SEE APPENDIX I, OFFICE OF DEVELOPMENT FINANCE AND PRIVATE ENTERPRISE, AID, STATUS OF DOLLAR LOANS AUTHORIZED TO INTERMEDIATE CREDIT INSTITUTIONS AS OF JUNE 30, 1962 (NOVEMBER 11, 1962) (HEREINAFTER CITED AS DEV. BK. STATISTICS).

FOOTNOTES

13. SEE APPENDIX II, BURNS AND STEIN, DEVELOPMENT BANKING BIBLIOGRAPHY (1963) FOR WORKS ON DEVELOPMENT BANKS.

14. DEV. BK. STATISTICS, P. 1, (O/O OF LOAN AMOUNT DISBURSED COL.).

15. ID. $\frac{\text{(LOAN AMOUNT OUTSTANDING X TIME OUTSTANDING)}}{\text{AMOUNT DISBURSED}}$

16. I.E., IND. DEVL. BANK (TURKEY), IND. DEV. BANK (ISRAEL), AND P.I.C.I.C. (PAKISTAN).

17. OFFICE OF DEVELOPMENT FINANCE AND PRIVATE ENTERPRISE, AID POLICY GUIDELINE ON DEVELOPMENT BANKS, P.3, III(C) (1963) (HEREINAFTER CITED AS POLICY GUIDELINE).

18. DEV. BK. STATISTICS 1 (COLUMN HEADED 'MAXIMUM $ AMT. OF SUB-LOANS PERMITTING NON-U.S. PROCUREMENT').

19. ID. AT 3 (4TH P.I.C.I.C. LOAN).

20. HEARINGS BEFORE THE HOUSE COMMITTEE ON FOREIGN AFFAIRS, 87TH CONG., 2D SESS., PT. 1, AT 39 (1962) (TESTIMONY OF FOWLER HAMILTON, ADMINISTRATOR, AID).

21. DEV. BK. STATISTICS 3.

22. POLICY GUIDELINE 1.

23. BOSKEY, PROBLEMS AND PRACTICES OF DEVELOPMENT BANKS 3 (1959).

24. ID., AT 3-10, 103-111.

25. ID., AT 99-101.

26. AT LEAST ONE AID OFFICIAL BELIEVES THAT DEVELOPMENT CENTERS ARE ESSENTIAL FOR THE SUCCESSFUL OPERATION OF DEVELOPMENT BANKS. SEE FRED L. PREV, MEMORANDUM ON DEVELOPMENT BANKS IN AFRICA, JANUARY 8, 1962.

27. BOSKEY, OP. CIT. SUPRA NOTE 23, AT 25-31. SEE HEARINGS BEFORE THE SUB-COMMITTEE OF THE HOUSE COMMITTEE ON APPROPRIATIONS, 87TH CONG., 1ST SESS., PT. 2, 660-1 (1961).

28. UNITED STATES DEVELOPMENT BANK INVESTORS INCLUDE: BANK OF AMERICA, CHASE INTERNATIONAL INV. CORP., FIRST BOSTON CORPL, HENRY J. KAISER CO., INTERNATIONAL BASIC ECONOMY CORP., LAZARD FRERES & CO., MORGAN GUARANTY INTERNATIONAL

FOOTNOTES

BANKING CORP., OLIN MATHIESON CHEMICAL CORP., TRANSOCEANIC DEV. CORP., WESTINGHOUSE ELEC. INT. CORP. (LISTED IN McQUADE, THE DEVELOPMENT CORPORATION IN AFRICA, 10 AM. J. OF COMP. LAW 188 AT P. 203).

29. BOSKEY, OP. CIT. SUPRA, NOTE 23 AT 31-33; HEARINGS, OP. CIT. SUPRA NOTE 27 AT 660-61.

30. DEV. BK. STATISTICS. (APPENDIX II, PART 2).

31. FRIEDMANN, METHODS AND POLICIES OF PRINCIPAL DONOR COUNTRIES IN PUBLIC INTERNATIONAL DEVELOPMENT FINANCING, A PRELIMINARY APPRAISAL (1962), PP. 14-16.

32. ID., AT 16-20.

33. ID., AT 20-23.

34. TECHNICAL AIDS BRANCH, OFFICE OF INDUSTRIAL RESOURCES, ICA, INFORMATION RELATING TO SELECTED INVESTMENT LOAN FUND AND INDUSTRIAL DEVELOPMENT PROJECTS 2-3 (1958).

35. ID., AT 2.

36. HEARINGS, SUPRA NOTE 27 AT 660-661.

37. ID., AT 662-689.

38. DEV. BK. STATISTICS 1.

39. HEARINGS BEFORE A SUBCOMMITTEE OF THE HOUSE COMMITTEE ON APPROPRIATIONS, 87TH CONG., 2D SESS., PT. 3, 259-260 (1962).

40. HEARINGS ON H.R. 9033 BEFORE THE SENATE COMMITTEE ON APPROPRIATIONS, 87TH CONG., 1ST SESS., 601-608 (1961) (STATEMENT OF FRANK K. GREENWALL, CHAIRMAN OF THE BOARD, NATIONAL STARCH & CHEMICAL CORP; COMMENT OF SEN. McGEE AT P. 608).

41. MUTUAL SECURITY ACT OF 1954, SEC. 510, AS AMENDED, 68 STAT. 853 (1954), 22 U.S.C. SEC. 1762 (1959).

42. IBID.

43. HEARINGS BEFORE THE SUBCOMMITTEE OF THE HOUSE COMMITTEE ON APPROPRIATIONS, 87TH CONG., 1ST SESS., PT. 1, 174 (1961) (SECR. DILLON).

FOOTNOTES

44. Id., at 176. This is probably an overstatement. The fact that United States engineers and contractors are responsible for implementing project loans likely results in higher United States procurement than would have been otherwise.

45. I.C.A. Regulation (Procedures for Furnishing Assistance to Cooperating Countries) 22 C.F.R. sec. 201.13 (1958) (Hereinafter cited as ICA Reg. 1).

46. Ibid.

47. Hearings on H.R. 51 Before the House Select Committee on Small Business on Participation of Small Business in Foreign Trade, 86th Cong. 1st Sess., 74 (1959) (Saccio) (Hereinafter Small Business Participation).

48. I.C.A. Reg. 1, supra note 9, sec. 201.13(F).

49. Id., sec. 201.13 (A).

50. Small Business Participation, supra note 11, at 141.

51. Id., at 33. (Macy).

52. Id., at 175.

53. Id., at 75.

54. Id., at 114.

55. Dev. Bk. Statistics. Note that Development Bank loans prior to October 1959 permitted full non-U.S. procurement.

56. N.Y. Times, Oct. 20, 1959, p.1, col. 5. Development Loan Fund Announces New Procurement Policy, 61 Dep't State Bull. 708 (1959).

57. Hearings Before the House Committee on Foreign Affairs, 87th Cong., 1st Sess., pt. 2, 655 (1961) (Dillon).

58. Dev. Bk. Statistics. The column headed Maximum $ Amt. of Sub-Loans Permitting Non-U.S. Procurement indicates sub-loan cut-off points.

59. Hearings on H.R. 11510 Before the Subcommittee of the House Committee on Appropriations, 86th Cong. 2d Sess., pts. 1-6, 347-9, 353 (1960).

FOOTNOTES

60. Id., at 172.

61. H.R. Rep. No. 1088, 87th Cong., 1st Sess., 61-2 (1961). See Hearings, supra. Note 21 at 16 for Passman's comments in this matter. For the frank recognition of this basic conflict see remarks of Sen. McGee in Hearings on H.R. 9033 Before the Senate Committee on Appropriations, 87th Cong., 1st Sess., 608 (1961).

62. FAA of 1961, sec. 604, 75 Stat. 439 (1961), 22 U.S.C. sec. 2354 (Supp III, 1962).

63. Section 604(a) reads "Funds made available under this Act may be used for procurement outside the United States only if the President determines that such procurement will not result in adverse effects upon the economy of the United States...." (emphasis added). FAA of 1961, sec. 604(a), 75 Stat. 439 (1961), 22 U.S.C. sec.2354(a) (Supp.III, 1962).

64. Section 510 reads "Funds made available...may be used for procurement of commodities outside the United States unless the President determines that such procurement will result in adverse effects upon the economy of the United States..." Mutual Security Act of 1954, sec. 604, 68 Stat. 853 (1954), 22 U.S.C. sec. 1762 (1959).

65. Hearings Before the House Committee on Foreign Affairs, 87th Cong., 2d Sess., pt.1, 39 (1962) (Fowler Hamilton). See also S. Rep. No. 1535, 87th Cong. 3 (1962).

66. FAA of 1961, sec. 211(a) (6) proviso, 75 Stat. 427 (1961), 22 U.S.C. 2171 (Supp III, 1962).

67. Hearings Before the Subcommittee of the House Committee on Appropriations, 87th Cong., 1st Sess., pt. 1, 112 (1961) (Dillon).

68. FAA of 1961, sec.604(b), 75 Stat. 439. (1961), 22 U.S.C. 2354 (Supp.III, 1962).

69. FAA of 1961, sec. 201 (b) (2), 75 Stat. 426 (1961), 22 U.S.C. 2161(b) (2) (Supp.III, 1962).

70. "If hardship is demonstrated, there is a hardship clause in our announcement. We used it in Pakistan in a railroad loan. They demonstrated the U.S. price was about 15 to 20 percent higher, if I remember right, and we loaned them that much more money." Hearings Before the House Committee On Foreign Affairs, 86th Cong., 2d Sess., pt.1 258 (1960) (Vance Brand).

FOOTNOTES

71. SECRETARY DILLON ESTIMATES THAT THE PRICE DIFFERENTIAL BETWEEN UNITED STATES AND FOREIGN GOODS MIGHT BE AS HIGH AS 20 o/o. HEARINGS BEFORE THE SUBCOMMITTEE OF THE HOUSE COMMITTEE ON APPROPRIATIONS, 87TH CONG., 2D SESS., PT.1, 236 (1960). WITHOUT SUBSIDY, U.S. PROCUREMENT EQUALLED 25 o/o (DEV. BK. STATISTICS, U.S. PROCUREMENT COLUMN). ASSUMING THAT HIGHER U.S. PRICES BLOCKED U.S. PROCUREMENT ON THE REMAINING 75 o/o, THE MAXIMUM SUBSIDY WOULD EQUAL .75 x .20, OR 15 o/o. THE ACTUAL SUBSIDY SHOULD BE A GOOD DEAL LESS, FOR IT CANNOT BE ASSUMED THAT HIGHER PRICES ALONE BLOCKED UNITED STATES PROCUREMENT IN 75 o/o OF PURCHASES.

72. ALSO SEE HEARINGS BEFORE THE HOUSE COMMITTEE ON FOREIGN AFFAIRS, 86TH CONG., 2D SESS., PT.1, 277 (1960) (JUDD COMMENT ON LOW COST OF SUBSIDY).

73. SEE PART 5, P. 37-38.

74. FAA OF 1961, SEC. 211(A), 75 STAT. 427 (1961), 22 U.S.C. SEC. 2171. (SUPP. III, 1962).

75. S. REP. NO 612, 87TH CONG., 1ST SESS., 12-14 (1961).

76. HEARINGS ON H.R. 13175 BEFORE THE SENATE COMMITTEE ON APPROPRIATIONS, 87TH CONG., 2D SESS., 67 (1962) (HAMILTON). HEARINGS ON S. 1983 BEFORE THE SENATE COMMITTEE ON FOREIGN RELATIONS, 87TH CONG., 1ST SESS., PT. 1, 240 (1961). BUT SEE NOTES 7 AND 8.

77. SMALL BUSINESS PARTICIPATION, SUPRA NOTE 47 AT 114 (YATES).

78. ID., AT 33, 141, 147.

79. DEV. BK. STATISTICS (PROCUREMENT COLUMN).

80. SEE DISCUSSION IN PART 4, PP. 25-26

81. SPEECH BY MR. SEYMOUR PEYSER ADMINISTRATOR, DEVELOPMENT FINANCE AND PRIVATE ENTERPRISE, BEFORE THE NATIONAL ASSOCIATION OF MANUFACTURERS, CHICAGO, AUGUST 12, 1962.

82. SEE. P.20 OF THIS CHAPTER.

83. FAA OF 1961, SEC. 601 (A), 75 STAT. 438 (1961), 22 U.S.C. SEC. 2351(A) (SUPP.III, 1962), STATES THE RECOGNITION OF CONGRESS OF THE ROLE OF FREE ENTERPRISE, AND DECLARES THE POLICY OF THE U.S. "TO FOSTER PRIVATE INITIATIVE AND COMPETITION, TO ENCOURAGE THE DEVELOPMENT AND USE OF

FINANCIAL INSTITUTIONS SUCH AS COOPERATIVES, CREDIT UNIONS, AND SAVINGS AND LOAN ASSOCIATIONS" ETC. SECTION 601 (B)(1) DIRECTS THE PRESIDENT TO FIND, AND DRAW THE ATTENTION OF PRIVATE ENTERPRISE TO, OPPORTUNITIES FOR INVESTMENT AND DEVELOPMENT IN LESS-DEVELOPED FRIENDLY COUNTRIES AND AREAS..." IN ADDITION, SEC. 602(B), WHICH ESTABLISHES THE OFFICE OF SMALL BUSINESS, PROVIDES BROAD AUTHORITY FOR MAKING INFORMATION AVAILABLE TO U.S. SUPPLIERS CONCERNING PROPOSED PURCHASES FROM AID FUNDS (SEC.602(A)(1), AND FOR MAKING INFORMATION AVAILABLE TO FOREIGN PROSPECTIVE PURCHASERS CONCERNING U.S. SUPPLIES (SEC. 602(A)(2)), AND BROAD PROVISION FOR 'ADDITIONAL SERVICES' TO SMALL BUSINESS RELATIVE TO THE FOREGOING (SEC. 602(A)(3)).

84. SEE HEARINGS BEFORE THE HOUSE COMMITTEE ON FOREIGN AFFAIRS, 87TH CONG., 2D SESS., PT. IV, 754 (1962) FOR DESCRIPTION OF [illegible] PRODUCTIVITY ORGANIZATION. FOR A DESCRIPTION OF THE COMPREHENSIVE PIONEERING TECHNICAL ASSISTANCE PROVIDED BY AID FOR NIGERIA'S PRIVATE SECTOR, SEE HEARINGS ON H.R. 7572 BEFORE THE HOUSE COMMITTEE ON FOREIGN AFFAIRS, 87TH CONG., 1ST SESS., PT.III, 1280-1281 (1961).

85. FAA OF 1961, SEC. 221-224, 75 STAT. 429-432, (1961), 22 U.S.C. SECS. 2181, 2182, 1872, 1933, 2183, 2184 (SUPP.III, 1962).

86. FAA OF 1961, SEC. 221(A), 75 STAT. 429 (1961), 22 U.S.C. SEC. 2181(A) (SUPP.III, 1962).

87. HEARINGS BEFORE A SUBCOMMITTEE OF THE HOUSE COMMITTEE ON APPROPRIATIONS, 87TH CONG., 2D SESS., PT.3, 876-887 (1962).

88. THIS IS BASED ON THE ASSUMPTION THAT PRIVATE FUNDS WILL YIELD HIGHER ECONOMIC RETURNS AND WILL BE REPATRIATED MORE RAPIDLY THAN U.S. GOVERNMENT FUNDS. AID'S LOW INTEREST RATE (TO THE EXTENT THAT IT MAY BE USED TO MEASURE ECONOMIC RETURNS) AND LONG MATURITIES MAKE THESE ASSUMPTIONS REASONABLE.

89. SEE SKY, THE EDGE ACT FINANCING CORPORATION AS A DEVELOPMENT LENDER (1959) (HONORS PAPER ON FILE IN HARVARD LAW SCHOOL LIBRARY). (HEREINAFTER CITED AS SKY.) AND UNITED STATES BANKING ORGANIZATION ABROAD, 42 FED. RESERVE BUL. 1284 (1956) (HEREINAFTER CITED AS 42 FED. RESERVE BUL.)

90. EDGE ACT CORPORATIONS ARE GOVERNED BY FEDERAL RESERVE ACT SEC 25(A), 41 STAT. 378-384 (1919), AS AMENDED, 12 U.S.C.

SECS. 611-632 (1959) AND FEDERAL RESERVE BOARD REGULATION K, AS AMENDED, 12 C.F.R. SECS. 211.1 - 211.11 (1959) (HEREINAFTER REG. K). SEE DISCUSSION IN SKY, SUPRA NOTE 89 AT 17-22.

91. REG. K, SECS. 4, 6(E) (1) (I), 8.

92. REG. K, SECS. 4, 6(C) (2).

93. REG. K, SEC. 10(A).

94. REG. K, SEC. 8 (C).

95. REG. K, SEC. 10(A).

96. REG. K, SEC. 9(C).

97. REG. K, SEC. 6(E) (VI).

98. REG. K, SEC. 6(E) (III).

99. REG. K, SECS. 2(B), 2(C), 4, 6(B), 6(C), 6(D), 7.

100. REG. K, SEC. 9(B).

101. REG. K, SEC. 10(A) (B).

102. SEE STERN, THE UNITED STATES IN INTERNATIONAL BANKING 401-406 (1951).

103. IB., AT 405.

104. IN 1956, THERE WERE THREE EDGE ACT CORPORATIONS AND FOUR STATE CORPORATIONS. LISTED IN 42 FED.RESERVE BUL. SUPRA NOTE 89 AT 1287.

105. INTERVIEW WITH MR. JACK LIGHT, FIRST NATIONAL BANK OF BOSTON, MARCH 12, 1963.

106. IBID.

107. IBID.

108. SEE STERN, OP.CIT. SUPRA NOTE 18 AT 401 FOR MENTION OF BENEFICIAL EFFECT OF EXPORT-IMPORT BANK RISK TAKING IN THE DISTURBED POST WORLD WAR II SHORT-TERM INTERNATIONAL FINANCING MARKETS.

109. FAA OF 1961, SEC. 221(A), 75 STAT. 429 (1961), 22 U.S.C. SEC. 2181(A) (SUPP.III, 1962).

FOOTNOTES

110. Ibid.

111. Ibid.

112. FAA of 1961, sec. 221(b) (1) (A), 75 Stat. 429 (1961), 22 U.S.C. sec. 2181 (b) (1) (A) (Supp. III, 1962).

113. FAA of 1961, sec. 221 (b) (1) (B) 75 Stat. 429 (1961), 22 U.S.C. sec. 2181 (b)(1)(B) (Supp. III, 1962).

114. FAA of 1961, sec. 221 (b)(1)(C) 75 Stat. 429, 22 U.S.C. sec. 2181(b)(1)(C) (Supp. III, 1962)

115. FAA of 1961, sec. 221 (1) (2), 75 Stat. 430, 22 U.S.C. sec. 2181(b)(2) (Supp. III, 1962).

116. FAA of 1961, sec. 221(b), 75 Stat. 429 (1961), 22 U.S.C. sec. 2181(b) (Supp. III, 1962).

117. Hearings Before a Subcommittee of the House Committee on Appropriations, 87th Cong., 2d Sess., pt. 3, 876-887 (1962).

118. Reg. K, sec. 3(f) requires U.S. citizenship for Edge Act Corporation shareholders. Edge Act corporations are federally incorporated.

119. FAA of 1961, sec. 221 (c) 75 Stat. 430, 22 U.S.C. sec. 2181(c) (Supp. III, 1962) is ambiguous as to coverage of future earnings, for it speaks in terms of actual earnings and projects. However, the International Cooperation Administration Investment Guaranty Handbook (Rev. ed. 1960) clarifies the statute by providing convertibility guaranties up to 200 o/o of the equity investment (p.15), expropriation guaranties of the original equity investment plus future earnings which are expected to be retained and can be established as reasonable (p. 18), and war risk guaranties of up to 90 o/o of the value of the investor's ownership in the physical property (p.22).

120. FAA of 1961, sec. 221 (a), 75 Stat. 429 (1961), 22 U.S.C. sec. 2181(a) (Supp. III, 1962).

121. International Cooperation Administration Investment Guaranty Handbook 5-6 (Rev. ed. 1960).

122. Morgan Guaranty International Banking Corporation, received a $200,000 expropriation and $200,000 in convertibility guaranty on the $100,000 equity investment in The Banque Nationale Pour Le Developpement, a development bank

SPONSORED AND 50 O/O OWNED BY THE GOVERNMENT OF MOROCCO. MORGAN'S INTEREST IN THE BANK EQUALS 2.5 O/O OF THE INVESTMENT. FRENCH, ITALIAN AND BELGIUM BANKS OWN 20 O/O. THE MOROCCONS ARE TRYING TO GET GERMAN, DUTCH, AND SWEDISH PARTICIPATION. FEES FOR THE FIRST YEAR TOTAL $1,375. HEARINGS ON H.R. 13175 BEFORE THE SENATE COMMITTEE ON APPROPRIATIONS, 87TH CONG., 2D SESS., 73 (1962).

123. FAA OF 1961, SEC.223 (A) (1), 75 STAT 431 (1961), 22 U.S.C. SEC. 2183 (SUPP.III, 1962).

124. HEARINGS ON H.R. 7372 BEFORE THE HOUSE COMMITTEE ON FOREIGN AFFAIRS, 87TH CONG., 1ST SESS., PT.III, 948 (1961).

125. HIGH COSTS OF INVESTIGATION AND NEGOTIATION, AND EFFORTS EXPENDED IN OBTAINING CLEARANCE OF STATUTORY HURDLES WOULD INDICATE LONG TERM COMMITMENT.

126. IN THE $54 MILLION ALL-RISK GUARANTEE COVERING REYNOLDS METAL COMPANY AND KAISER ALUMINUM AND CHEMICAL CORPORATION IN THE VOLTA ALUMINUM COMPANY, LTD. PROJECT, THE UNITED STATES AGREED TO BUY THE INTEREST OF THE INVESTORS IF A LOSS OF ABOUT $5 MILLION OCCURED FROM GUARANTEED-AGAINST CAUSES.

127. DLF PROVIDED A $500,000 ALL-RISK GUARANTEE TO THE BANK OF MONROVIA (LIBERIS), ON EDGE ACT SUBSIDIARY OF THE FIRST NATIONAL CITY BANK. AS THE BANK OF MONROVIA EXTENDED LOANS MEETING THE CRITERIA ESTABLISHED IN THE GUARANTEE AGREEMENT, THESE LOANS WERE PLACED IN A SEGREGATED 'GUARANTEED LOAN ACCOUNT'. DLF GUARANTEED LOAN ACCOUNT; IN EFFECT, THEREFORE, THE BANK OF MONROVIA WAS FULLY PROTECTED AGAINST LOSS OF 50 O/O OF ALL ITS GLA LOANS.

128. THE SMALL ISSUE EXEMPTION, REGULATION A OF THE SECURITIES ACT OF 1933 IS NOT AVAILABLE TO SECURITIES OF FOREIGN ISSUERS OR PERSONS WITH A PRINCIPAL PLACE OF BUSINESS IN A FOREIGN COUNTRY. SEC REG A, 17 C.F.R. 230. 252(A)(1) (SUPP., 1962) (BY IMPLICATION).

129. SECURITIES EXCHANGE ACT OF 1934, SEC. 12(B), 48 STAT.892 (1934) 15 U.S.C. SEC. 78L (1959) (FORM 20).

130. SEE LOSS, SECURITIES REGULATION 368-369 (2D ED. 1961).

FOOTNOTES

131. DISTRIBUTIONS OF SECURITIES OF NEW FIRMS HAVE MET WITH SOME MEASURE OF SUCCESS EVEN IN UNDERDEVELOPED COUNTRIES LACKING SECURITIES MARKETS. TWO EXAMPLES ARE THE OVER-SUBSCRIPTION OF LAMCO MINING STOCK IN LIBERIA, AND CEMENT SHARES IN NIGERIA, AND IBEC AND DELTEC'S EFFORTS IN LATIN AMERICA.

132. NOTE THAT A NEW PROVISION IN THE FAA OF 1962 REQUIRES THE PRESIDENT TO TAKE INTO CONSIDERATION, IN MAKING LOANS UNDER THE ALLIANCE FOR PROGRESS, "THE EFFORTS MADE BY RECIPIENT NATIONS TO REPATRIATE CAPITAL INVESTED IN OTHER COUNTRIES BY THEIR OWN CITIZENS. FAA OF 1962 SEC. 251(B), 9 CURRENT PUBLIC LAWS AND ADMINISTRATIVE MATERIAL 294, OCTOBER 1962.

133. FAA OF 1961, SEC. 221(B), 76 STAT. 265 (1962), 22 U.S.C. SEC. 2181(B) (SUPP.III, 1962).

134. IBID.

135. SEE NOTE 132 SUPRA.

136. FAA OF 1961, SEC. 601(A), 75 STAT. 438 (1961), 22 U.S.C. SEC. 2351(A) (SUPP.III, 1962).

137. FAA OF 1961, SEC. 601, 75 STAT. 438 (1961), 22 U.S.C. SEC. 2351 (SUPP.III, 1962).

138. FAA OF 1961, SEC. 221(A), 75 STAT. 429 (1961), 22 U.S.C. SEC. 2181(A) (SUPP.III, 1962).

139. THE VIEWPOINT OF THE UNITED STATES WITH REGARD TO EXPROPRIATION OF THE PROPERTY OF NATIONALS, AS EXPRESSED BY THE SECRETARY OF STATE, CORDELL HULL, IS AN INTERESTING ONE. UNITED STATES NATIONALS ARE TO BE ACCORDED TREATMENT WHICH IS JUST, REASONABLE, AND STRICTLY IN HARMONY WITH THE GENERALLY RECOGNIZED PRINCIPLES OF INTERNATIONAL LAW. (P. 659) BUT "WE CANNOT QUESTION THE RIGHT OF A FOREIGN GOVERNMENT TO TREAT ITS OWN NATIONALS IN THE FASHION IT SO DESIRES." (P. 656) EXCHANGE OF CORRESPONDENCE BETWEEN THE SECRETARY OF STATE OF THE UNITED STATES AND THE FOREIGN MINISTER OF MEXICO, JULY 21, 1938 TO NOVEMBER 12, 1938, 3 HACKWORTH, DIGEST OF INTERNATIONAL LAW 656, 659 (1942).

140. DISCUSSED INFRA AT P.33.

141. IN THE ENTIRE HISTORY OF THE GUARANTY PROGRAM, THERE HAS BEEN AN ESTABLISHED LOSS OF $1,823, AND $650,000 HAS BEEN PAID BUT MAY BE RECOVERED. NEARLY $9.5 MILLION IN PREMIUM FEES HAVE BEEN COLLECTED. SEE HEARINGS BEFORE A SUBCOMMITTEE OF THE HOUSE COMMITTEE ON APPROPRIATIONS, 87TH CONG., 2D SESS., 875,887. (1962).

FOOTNOTES

142. SEE: STERN, THE UNITED STATES IN INTERNATIONAL BANKING, 415-419 (1961), FOR COMMENTS ON BENEFICIAL EFFECTS OF THE EXPORT-IMPORT BANK'S GUARANTY OPERATIONS; SEE GENERALLY, SHITMAN, THE UNITED STATES INVESTMENT GUARANTY PROGRAM AND PRIVATE FOREIGN INVESTMENT, 46-64 (1959).

143. SEE GENERALLY, SKY, OP.CIT. SUPRA NOTE 85, AT 37,41.

144. DEV. BK. STATISTICS 1 (CURRENCY OF REPAYMENT COLUMN).

145. ROUGHLY FIVE-SIXTHS OF THE LOCAL CURRENCIES RECEIVED BY DLF AS REPAYMENTS FOR ITS LOANS REMAIN UNUSED. HEARINGS BEFORE A SUBCOMMITTEE OF THE HOUSE COMMITTEE ON APPROPRIATIONS, 87TH CONG., 2D SESS., PT. 3, 397 (1962).

146. NOTE THAT ICA'S INTEREST RATE WAS 3 O/O WHERE DOLLARS WERE REPAID AND 4 O/O WHEN LOCAL CURRENCY WAS THE MEDIUM OF REPAYMENT. SEE HEARINGS BEFORE THE HOUSE COMMITTEE ON FOREIGN AFFAIRS, 86TH CONG., 2D SESS., PT.2, 361 (1960).

147. THE INTEREST RATE WHICH DEVELOPMENT BANKS ARE PERMITTED TO CHARGE ON SUB-LOANS UTILIZING AID FUNDS IS LIMITED BY THE AID-DEVELOPMENT BANK LOAN AGREEMENT. TYPICALLY, THIS INTEREST RATE IS QUITE MODEST IN RELATION TO PREVAILING LOCAL RATES. DEVELOPMENT BANKS MAY DESIRE TO NEGOTIATE LIFTING THE INTEREST RATE RESTRICTION, BUT THE AID ADMINISTRATORS SEEM BOUND BY SEC. 201(D) 75 STAT. 426 (1961), 22 U.S.C. SEC. 2161(D) (SUPP.III, 1962), WHICH PROHIBITS RELENDING AT RATES "HIGHER THAN THE APPLICABLE LEGAL RATE OF INTEREST OF THE COUNTRY IN WHICH THIS LOAN IS MADE." FOR MANY COUNTRIES, THERE IS NO APPLICABLE LEGAL INTEREST RATE FOR MEDIUM AND LONG TERM DEVELOPMENT LENDING. THERE ARE MONEY LENDER'S VERY H H RATES (OFTEN UP TO 40 O/O) AND COMMERCIAL BANK LOW RATES FOR SHORT TERM PRIME BORROWERS. AID HAS APPARENELY INTERPRETED THE SEC. 201(D) "LEGAL NOTE" TO MEAN SOMETHING APPROXIMATING THE PREVAILING COMMERCIAL BANK RATE. FOR CONGRESSIONAL THINKING ON RELENDING RATES, SEE HEARINGS ON H.R. 13175 BEFORE THE SENATE COMMITTEE ON APPROPRIATIONS, 87TH CONG., 2D SESS., 108-109 (1962), AND HEARINGS ON H.R. 9033 BEFORE THE SENATE COMMITTEE ON APPROPRIATIONS, 87TH CONG., 1ST SESS., 226-227 (1961).

148. AVERAGE PAYMENT PER $10,000 OF GUARANTEES HAVE EQUALLED ONLY $10; PREMIUM INCOME HAS BEEN MORE THAN FOURTEEN TIMES CLAIM PAYMENTS, HEARINGS, SUPRA NOTE 141. SEE HEARINGS ON H.R. 7372 BEFORE THE HOUSE COMMITTEE ON FOREIGN AFFAIRS, 87TH CONG., 1ST SESS., PT. III, 916 (1961).

FOOTNOTES

149. H.R. REP No. 1922, 82D CONG., 2D SESS. 62 (1952). H.R. REP. No. 1925, 83D CONG., 2D SESS., PT. 1, 88 (1954).

150. BRITISH, FRENCH, AND GERMAN GOVERNMENT DEVELOPMENT LENDING INVOLVE DIRECT EQUITY PARTICIPATION BY THE GOVERNMENT IN CONTRAST TO AID'S REFUSAL TO UNDERTAKE EQUITY'S RISKS. SEE GENERALLY. FRIEDMANN, METHODS AND POLICIES OF PRINCIPAL DONOR COUNTRIES IN PUBLIC INTERNATIONAL DEVELOPMENT FINANCING, A PRELIMINARY APPRAISAL (1962), PP. 14-16.

151. HEARINGS BEFORE A SUBCOMMITTEE OF THE HOUSE COMMITTEE ON APPROPRIATIONS, 87TH CONG., 2D SESS., PT. 3, 317 (1962). SEE ALSO HEARINGS ON S. 1983 BEFORE THE SENATE COMMITTEE ON FOREIGN RELATIONS, 87TH CONG., 1ST SESS., PT.1, 130-135(1961).

152. HEARINGS BEFORE THE SUBCOMMITTEE OF THE HOUSE COMMITTEE ON APPROPRIATIONS, 87TH CONG., 1ST SESS., PT.2, 557, 841 (1961).

153. HEARINGS, SUPRA NOTE 151 AT 399.

154. ID., AT 400. ALSO, SEE HEARINGS ON S. 1983 BEFORE THE SENATE COMMITTEE ON FOREIGN RELATIONS, 87TH CONG., 1ST SESS., PT.1, 112 (1961) (DILLON).

155. SEE GENERALLY, ASHER, GRANTS, LOANS, AND LOCAL CURRENCIES THEIR ROLE IN FOREIGN AID (1961)

156. FOREIGN ECONOMIC ASSISTANCE ACT OF 1948, SECS. 111(c) AND 115(B)(6) 62 STAT. 145, 151 (1948), AS AMENDED.

157. MUTUAL SECURITY ACT OF 1954, SEC. 142(11), 68 STAT. 840 (1954), AS AMENDED, 22 U.S.C. SEC. 1852(B) (1959).

158. AGRICULTURAL TRADE DEVELOPMENT AND ASSISTANCE ACT OF 1954, 68 STAT. 454 (1954), AS AMENDED, 7. U.S.C. SEC. 1691 (1959). HEREINAFTER CITED AS P.L. 480). A SMALLER AMOUNT OF LOCAL CURRENCIES WERE GENERATED BY SALES AND GRANTS UNDER THE MUTUAL SECURITY ACT OF 1954, SEC. 402, 68 STAT. 843 (1954), AS AMENDED, 22 U.S.C. SEC. 1922 (1959).

159. P.L. 480, SEC. 101, 68 STAT. 455 (1954), 7 U.S.C. SEC. 1691 (1959).

160. P.L. 480, SEC. 201, 68 STAT. 457 (1954), 7 U.S.C. SEC. 1721 (1959).

FOOTNOTES

161. For an accounting of local currencies, see STATISTICS AND REPORTS DIVISION, AID, COUNTERPART FUNDS AND FOREIGN CURRENCY ACCOUNTS, (Sept. 30, 1962).

162. For text of agreement see Hearings Before the Subcommittee of the House Committee on Appropriations, 86th Cong., 2d Sess., pt.2, 1641-1645 (1960).

163. Id., at 1630, 1631.

164. Id., at 1631.

165. Id., at 1642, art. II, sec. 1(a).

166. Id., at 1642, art. II, sec. 1(c).

167. Id., at 1642, art. II, sec. 1(b).

168. Id., at 1642, art. II, secs. 1(b) and 1(c).

169. Id., at 1641, art. I, sec. 2.

170. ACCOUNTING DIVISION / ILB, OFFICE OF THE CONTROLLER, AID, REPORT ON COUNTRY LOANS AS OF MARCH 31, 1962, 6 (1962).

171. Hearings Before a Subcommittee of the House Committee on Appropriations, 87th Cong., 2d Sess., pt. 3, 397, (1962).

172. ACCOUNTING DIVISION / ILB, op. cit. supra note 170 at 6. (Cooley loans divided by total P.L. 480 loans.)

173. Hearings, supra note 171, 395-397, 399. (Testimony of Mr. William S. Goud, Assistant Administrator, Bureau for Near East and South Asia, AID; Mr. Edward F. Tennant, Acting Controller, AID; Mr. Leigh M. Miller, Legislative Programs Coordinator, AID).

174. Hearings on H.R. 13175 Before the Senate Committee on Appropriations, 87th Cong., 2d Sess., 613 (1962).

175. Dev. Bk. Statistics, Appendix II, part 2. (Compare local currency loans with dollar loans)

176. P.L. 480, sec. 2, 68 Stat. 454 (1954), 7 U.S.C. sec. 1691 (1959).

177. P.L. 480, sec. 104(a), 68 Stat. 456 (1954), 7 U.S.C. sec. 1704 (1959).

FOOTNOTES

178. Ibid.

179. P.L. 480, sec. 104(d), 68 Stat. 456 (1954), 7 U.S.C. sec. 1704(d)(1959).

180. P.L. 480, sec. 104(d) 68 Stat. 456 (1954), 7 U.S.C. sec. 1704(d) (1959).

181. P.L. 480, sec. 104, 68 Stat. 450-457 (1954), 7 U.S.C. sec. 1704 (1959).

182. Hearings, supra. Note 162, at 1642, art. ii, sec. 1(a).

183. Apparently $7.3 billion in European currencies will be accruing to the United States Treasury over the next 4 years. It is not clear what restrictions exist on use of these funds. See Hearings Before the Subcommittee of the House Committee on Appropriations, 87th Cong., 1st Sess., pt. 2., 612 (1961).

184. See generally, de Vries and Keesing, The Use of Bilateral Agreement Currencies for Trade with Third Countries, 5 IMF Staff Papers 170 (1956-7)

185. P. L. 480 sec. 104(d), 104(g), 68 Stat. 456-457 (1954), 7 U. S.C. 1704(d), 1704(g), (1959).

186. FAA of 1961, secs 102 (paras 4 and 5) and 75 Stat. 424-425 (1961), 22 U.S.C. sec. 215 (Supp. III 1962); sec. 601(a), 75 Stat. 438 (1961), 22 U.S.C. sec. 2351(a) (Supp. III 1962).

187. Seven aid recipients have recently refused to let the United States sell a small part of its holdings of local currency to American tourists for dollars. N.Y.Times, p.1, col.7, July 13, 1962.

188. Hearings, supra note 183 at 660-661.

189. FAA of 1961, sec. 211, 75 Stat 427 (1961), 22 U.S.C. sec. 2171 (Supp III, 1962).

190. See generally Ralph I. Straus, Expanding Private Investment for Free World Economic Growth 15 (1959), and Office of Management Planning, I.C.A., Staff Study: An Analysis of ICA Responsibilities and Activities for the Stimulation of Private Enterprise iii, 65 (1958).

FOOTNOTES

191. HEARINGS, SUPRA NOTE 183 AT 662-689.

192. IN THE CONTRACT BETWEEN AN AMERICAN ECONOMIC CONSULTING FIRM AND THE UNITED STATES FOR SERVICES IN CONNECTION WITH INVESTMENT PROMOTION AND THE LIBERIAN DEVELOPMENT CORPORATION, THE AVERAGE COST FOR SALARY, TRANSPORTATION, ETC. PER CONSULTANT TEAM MEMBER WAS OVER 40,000 PER YEAR. (PIO/T 649 - L - 92 - AA - 3 - 20076, JULY 1962). THIS FIGURE IS NOT ATYPICAL; SEE F.L. PREU, STATUS OF INDUSTRIAL GROWTH PROJECTS IN THE PRIVATE ENTERPRISE SECTOR, AFRICA REGION, MAY 25, 1962. (MIMEOGRAPHED).

193. ASHER, GRANTS, LOANS, AND LOCAL CURRENCIES 103-104 (1961).

NOTE:

APPENDIX I, DEVELOPMENT BANK STATISTICS, IS NOT INCLUDED HERE. THE STATISTICS REFERRED TO ARE CONTAINED IN A MIMEOGRAPHED TABLE OF STATISTICS PREPARED BY THE OFFICE OF OFFICE OF DEVELOPMENT FINANCE AND PRIVATE ENTERPRISE AND WAS DATED JUNE 30, 1962.

APPENDIX III, DEVELOPMENT BANK QUESTIONNAIRE WAS NOT AVAILABLE AT THE MOMENT AND HAS NOT BEEN INCLUDED HERE.