

June 26, 1991

TO: Allan Rosenbaum and Gerald Reed, FIU Consortium Principals

FROM: Harvey Averch and Charles Frankenhoff

SUBJECT: **Draft** Multidonor Design for Achieving Modernization Objectives in Costa Rica

Boundary conditions: The design below presents one feasible multidonor structure for receiving and allocating funds for the modernization of legislative institutions (or conceivably any kind of institution) in Costa Rica.

There are two fundamental points about multidonor funding schemes. The first is that substantive program initiatives have to be well designed *ex ante* and well executed *ex post* to keep funds flowing and untied. The second is that there must be a single identified focus of responsibility on the management side. Thus, the tripartite, somewhat loose specification of the management structure of the Consortium for Legislative Development (the manager of record) will have to be re-examined.

Here it is assumed that the proposed initiatives are cost-effective and simply require funding and that there is a central manager who has the confidence of a set of donors contemplating joining in a multidonor funding arrangement.

0. PREAMBLE

The following public and private donors for economic and political development:

The United States Agency for International Development

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Realizing that the stable development of Central America depends upon the modernization of the legislative structure of each country in the region and that Costa Rica can serve as a model for such development:

Realizing that the spread and intensification of modernization and economic development in Costa Rica requires improved legislative structures and operations;

Recognizing that the information systems, policy analysis, and oversight in the development and implementation of budgets and bills in the Legislative Assembly can be substantially improved;

Believing that the above goal can best be achieved through the pooling of resources and by joint planning and execution of projects and programs;

Believing, furthermore, that international co-operation between government and nongovernment institutions promotes trade and commerce between nations and so the economic and social progress of all peoples;

HEREBY RESOLVE TO ESTABLISH AN INTERNATIONAL INSTITUTE FOR APPLIED LEGISLATIVE DEVELOPMENT PURSUANT TO THE FOLLOWING AGREEMENT.

1. ARTICLE 1: ESTABLISHMENT

Section 1: The parties hereto agree to create an *International Institute for Legislative Development in Costa Rica*, hereafter, called the Institute, to pursue the objectives set out in Article II and to ensure that it shall have the legal status and powers set out in Article III.

Section 2: The Institute is a multinational, autonomous technical and/or capital assistance and applied public policy research institution established under Costa Rican law as a not-for-profit corporation with a Board of Directors consisting of government, nongovernment, and international technical assistance agencies.

Section 3: The headquarters of the Institute shall be situated in San Jose Costa Rica and shall be subject to the laws and jurisdiction of that country.

2. ARTICLE 2: OBJECTIVES

Section 1: The Institute shall design, initiate, and implement collaborative and individual research, technical assistance, and capital projects needed for modernizing the Costa Rican legislature. All Institute activities will be coordinated with the Costa Rican Commission on Modernization consistent with the Master Plan for Development and Modernization approved by the Legislative Assembly.

3. ARTICLE 3: GENERAL POWERS

Section 1: The Institute shall have legal personality. Subject to the laws and jurisdiction of Costa Rica, it is empowered to buy and sell property, real and personal; to acquire, rent, hold, lease maintain, operate and dispose of materials equipment and physical facilities, to make agreements, grants and contracts, to retain consultants, to borrow money; to raise funds, to enter into contracts for the performance of services, to sue and be sued and to conduct any other financial or other business needed to pursue the aims and objectives of the Institute.

4. ARTICLE 4: MEMBERSHIP OF THE INSTITUTE

Section 1: Membership shall be open to government, non-government, and international organizations with an interest in modernizing Costa Rican legislative institutions provided:

- a. the organization subscribes to the charter of the Institute.
- b. the organization meets the financial obligations of membership.
- c. the organization agrees to maintain membership for a minimum of three years.
- d. after its third year of membership, a member organization may resign for the Institute by giving one year's notice at the end of the current fiscal year. An resigning organization shall be liable to the Institute for financial obligations incurred pursuant to membership until they are discharged.

5. ARTICLE 5: STRUCTURE

Section 1: The organization of the Institute shall consist of:

- a. The Board of Donors
- b. The Conference
- c. The Consortium for Legislative Development as represented by an appointed Director.
- d. Staff, researchers and project managers reporting to the Director.

6. ARTICLE 6: THE BOARD OF DONORS

Section 1: The Board of Donors, hereafter called the Board, is the governing body of the Institute and will be responsible for establishing relations with government, non-government, and international bodies; for determining financial and managerial policies and the content of technical assistance and research. for settling disputes among donors and for ensuring that the activities of the Institute are in line with its objectives.

Section 2: The Board shall be composed of one permanent representative (or appropriately designated alternate) from each member organization. The President of the Costa Rican Legislative Assembly will be an ex officio member of the Board. Each permanent representative may be accompanied by a limited number of advisors at Board meetings to be determined by the Board as in Section 3 below.

Section 3: The Board shall adopt its own rules of procedure and shall elect a Chairman, Vice Chairman, and Secretary who shall of Officers of the Board. The three officers shall be elected for a term of one year and may be reelected.

Section 4: The Board will approve a Director of the Institute nominated by the Consortium for Legislative Development for a period of three years. The Director, while not a member of the Board, will be entitled to participate in all its deliberations except those that concern his own tenure or the performance of the Consortium for Legislative Development as manager of the Institute. The Board shall have the authority to dismiss

the Director or appoint a permanent or interim successor in the event the Director is incapacitated, resigns, or is dismissed.

Section 5: The Board shall annually approve a budget and program plan for the Institute on the basis of proposals prepared and submitted by the Director in coordination with the Executive Director of the Costa Rican Commission on Modernization.

Section 6: The Board shall meet as the Conference at least once annually in San Jose, Costa Rica and may hold other meetings or initiate mail discussions and voting as necessary. At the request of the Chairman, three Board members, or the Director, a Board meeting may be called within 30 days.

Section 7: Three fourths of the Board Members will constitute a quorum. Voting shall be open except that voting may be by secret ballot if requested by three Board members.

Section 8: The Board will decide all matters by a simple majority vote of all members present and voting.

7. ARTICLE 7: RESEARCH, TECHNICAL, OR CAPITAL ASSISTANCE PROGRAMS

Section 1: The research, technical assistance, or capital assistance projects or programs of the Institute shall be developed by the Director in consultation with the Costa Rican Commission on Modernization and with the principals of the Consortium for Legislative Development.

Projects and programs will be based on the priorities established by the Board in accordance with Article 6. The Board will require a clear demonstration of need for any given programs and evidence that the Director's proposed programs are cost-effective relative to the legislative problems to be addressed. Periodically, the Director will also present progress and summative evaluations of on-going projects and programs to provide assurance that donor funds are being effectively spent.

Section 2: No project or program shall be undertaken if there are restrictions on the full and complete publication by the Institute of assistance or research results. The Institute's technical reports and research will be available and open to all experts and scholars in conformity with the normal practice of applied international scientific and technical cooperation.

The Costa Rican Commission on Modernization will have a first right of review of Institute publications but will not have any power to prevent their publication after three months from time of submission.

Section 3: Should Institute research, technical or capital assistance result in potential patents, licenses, or copyright, the Director will develop and prepare policies for Board

action.

8. ARTICLE 8: FINANCIAL MATTERS

Section 1: The Director, subject to regulations approved by the Board, shall keep account of all income and disbursements, real and personal property, and other assets as required by the laws of Costa Rica and by sound financial practice.

Section 2: The accounts of the Institute shall be audited annually by an internationally recognized firm of public accountants appointed by the Board.

Section 3: The Institute's Fiscal Year shall be from October 1 to September 30.

9. ARTICLE 9: FINANCIAL SUPPORT OF THE INSTITUTE

Section 1: At the annual meeting of the Board preceding the beginning of each fiscal year, the Board will adopt a budget for the fiscal year and establish a total level of support to be contributed by all members.

Section 2: Annual financial contributions will be payable within 30 days of the beginning of the Institute's Fiscal year and will be paid freely convertible currency.

Section 3: The maximum aggregated contribution of the members shall not exceed a total of \$6 million dollars for each of the first three full years.

Section 4: The total contributions of the members shall be established by the Board in accordance with Article 6 but will not increase at a rate of more than 15 percent per year.

Section 5: Financial contributions to the Institute will be in the following proportion as applied to the total level of support voted by the Board for each year.

US/USAID	30%
Government and Nongovernment Donors	50%
<u>Costa Rica</u>	<u>20%</u>
TOTAL =	100%