

SECTION-BY-SECTION ANALYSIS
OF THE PROPOSED
FOREIGN ASSISTANCE ACT OF 1969

H.R. 11792

TO PROMOTE THE FOREIGN POLICY, SECURITY, AND
GENERAL WELFARE OF THE UNITED STATES BY
ASSISTING PEOPLES OF THE WORLD TO ACHIEVE
ECONOMIC DEVELOPMENT WITHIN A FRAMEWORK OF
DEMOCRATIC, ECONOMIC, SOCIAL, AND POLITICAL
INSTITUTIONS, AND FOR OTHER PURPOSES



JUNE 12, 1969

Printed for the use of the Committee on Foreign Affairs

U.S. GOVERNMENT PRINTING OFFICE

WASHINGTON : 1969

COMMITTEE ON FOREIGN AFFAIRS

THOMAS E. MORGAN, Pennsylvania, *Chairman*

CLEMENT J. ZABLOCKI, Wisconsin
WAYNE L. HAYS, Ohio
L. H. FOUNTAIN, North Carolina
DANTE B. FASCELL, Florida
LEONARD FARBSTAIN, New York
CHARLES C. DIGGS, Jr., Michigan
WILLIAM T. MURPHY, Illinois
CORNELIUS E. GALLAGHER, New Jersey
ROBERT N. C. NIX, Pennsylvania
JOHN S. MONAGAN, Connecticut
DONALD M. FRASER, Minnesota
BENJAMIN S. ROSENTHAL, New York
EDWARD R. ROYBAL, California
JOHN C. CULVER, Iowa
LEE H. HAMILTON, Indiana
JOHN V. TUNNEY, California
ABRAHAM KAZEN, Jr., Texas
LESTER L. WOLFF, New York
JONATHAN B. BINGHAM, New York
GUS YATRON, Pennsylvania

E. ROSS ADAIR, Indiana
WILLIAM S. MAILLIARD, California
PETER H. B. FRELINGHUYSEN, New Jersey
WILLIAM S. BROOMFIELD, Michigan
J. IRVING WHALLEY, Pennsylvania
H. R. GROSS, Iowa
E. Y. BERRY, South Dakota
EDWARD J. DERWINSKI, Illinois
F. BRADFORD MORSE, Massachusetts
VERNON W. THOMSON, Wisconsin
JAMES G. FULTON, Pennsylvania
PAUL FINDLEY, Illinois
JOHN BUGHANAN, Alabama
ROBERT TAFT, Jr., Ohio
SHERMAN P. LLOYD, Utah
J. HERBERT BURKE, Florida
WILLIAM V. ROTH, Jr., Delaware

BOYD CRAWFORD, *Staff Administrator*
ROY J. BULLOCK, *Senior Staff Consultant*
ALBERT C. F. WESTPHAL, *Staff Consultant*
FRANKLIN J. SCHUPP, *Staff Consultant*
HARRY C. CROMER, *Staff Consultant*
PHILIP B. BILLINGS, *Staff Consultant*
MARIAN A. CZARNECKI, *Staff Consultant*
MELVIN O. BENSON, *Staff Consultant*
EVERETT E. BIERMAN, *Staff Consultant*
JOHN J. BRADY, Jr., *Staff Consultant*
JOHN H. SULLIVAN, *Staff Consultant*
ROBERT J. BOWEN, *Clerical Assistant*
JUNE NIGH, *Senior Staff Assistant*
HELEN C. MATTAS, *Staff Assistant*
HELEN L. HASHAGEN, *Staff Assistant*
LOUISE O'BRIEN, *Staff Assistant*
DORA B. McCracken, *Staff Assistant*
JEAN E. SMITH, *Staff Assistant*
NANCY C. PEDEN, *Staff Assistant*
PAULA L. PEAK, *Staff Assistant*

FOREWORD

JUNE 12, 1969.

This section-by-section analysis of the proposed Foreign Assistance Act of 1969 has been prepared by the Agency for International Development for the use of the members of the Committee on Foreign Affairs and of the House of Representatives in its consideration of the proposed amendments to the Foreign Assistance Act of 1961, as amended.

(iii)

SECTION-BY-SECTION ANALYSIS OF THE PROPOSED FOREIGN ASSISTANCE ACT OF 1969

I. INTRODUCTION

The proposed Foreign Assistance Act of 1969 (hereinafter referred to as the "bill") is an amendment to the Foreign Assistance Act of 1961, as amended (hereinafter referred to as the "act"). The bill provides an entirely new part I of the act. This new part I contains the substantive economic assistance provisions. The bill also contains certain amendments to part II and III of the act but does not completely replace those two parts. The bill also provides certain amendments to other acts, which amendments are necessary for effective implementation of the new bill.

The following table shows the authorization and appropriation requests of the executive branch:

Authorization and appropriation requests for fiscal year 1970¹

PART 1	
Ch. 2, development assistance:	
Technical assistance, sec. 202-----	\$463, 120, 000
(1) Worldwide-----	(224, 500, 000)
(2) Alliance for Progress-----	(116, 000, 000)
(3) Multilateral organizations-----	(122, 620, 000)
Development loans, sec. 203-----	675, 500, 000
Alliance for Progress development loans, sec. 204-----	437, 500, 000
<hr/>	
Total ch. 2-----	1, 576, 120, 000
Ch. 3, private development assistance American schools and hospitals abroad, sec. 304(b)-----	12, 900, 000
<hr/>	
Ch. 4, multilateral and regional organizations and programs:	
Indus Basin Development Fund, grants, sec 401(d)-----	7, 530, 000
Indus Basin Development Fund, loans, sec. 401(d)-----	2 820, 000
<hr/>	
Total ch. 4-----	8, 350, 000
<hr/>	
Ch. 5, emergency and supporting assistance:	
Supporting assistance, sec. 452-----	514, 600, 000
Contingency fund, sec. 453-----	40, 000, 000
<hr/>	
Total ch. 5-----	554, 600, 000
<hr/>	
Total economic assistance, pt. 1-----	2, 151, 970, 000
Overseas Private Investment Corp., insurance and guarantee reserves-----	3 75, 000, 000
<hr/>	
Total pt. 1-----	2, 226, 970, 000
<hr/>	
PART 2	
Ch. 2, military assistance, sec. 504-----	375, 000, 000

See footnotes at end of table, p. 2.

PR 9/25/69

*Authorization and appropriation requests for fiscal year 1970*¹—Continued

PART 3

Ch. 2, administrative provisions:	
Administrative expenses (AID), sec. 637(a)-----	\$54, 250, 000
Administrative expenses (State), sec. 637(b)-----	4 3, 800, 000
Total pt. 3-----	<u>58, 050, 000</u>
Total pts. 1, 2, and 3-----	<u>2, 660, 020, 000</u>

¹ The bill also requests an authorization for fiscal year 1971 appropriation for technical assistance in the following amounts:

Worldwide-----	\$260, 000, 000
Alliance for Progress-----	130, 000, 000
Multilateral organizations, section-----	140, 000, 000

² Previously authorized by section 302(b) of the present Foreign Assistance Act of 1961, as amended.

³ Authorization for such amounts as may be necessary is provided in sec. 325(f) of pt. I of the bill

⁴ Permanently authorized in sec. 637(b) of the present act.

II. PROVISIONS OF THE BILL

Part 1—Economic assistance

Section 1 of the bill deletes part I of the act in its entirety and substitutes a new part I as set forth in the bill. The following analysis refers to the new sections provided for part I of the act.

Part I

CHAPTER 1—POLICY

Section 101. Purpose

This section sets forth the basic purpose of the U.S. foreign assistance program in helping the less developed nations of the world to improve their own well-being and to establish conditions necessary for enduring world peace. This section rewrites, but draws on existing section 102 of the act.

Section 102. Principles

This provision, which is in part a condensation of parts of existing section 102, sets forth 10 mandates governing foreign assistance programs under the act. These mandates form the basis of the three new themes of this bill, that is, increased emphasis on technical assistance, fuller utilization of private enterprise in development, and use, where practicable, of multilateral channels for assistance. These 10 mandates apply to all forms of assistance under the act and are to be used as guides in conceiving, planning, and implementing assistance programs.

CHAPTER 2—DEVELOPMENT ASSISTANCE

Section 201. Assistance criteria

This section enumerates the various criteria, 11 in number, which the President shall take into consideration in furnishing development assistance under chapter 2. None of the criteria in this section is completely new; they represent a consolidation, and in some instances an amplification of and readjustment of emphases among criteria found in several existing sections of the act, primarily, under sections 201, 207, 208, 211, and 251.

Section 202. Technical assistance

Section 202 is the basic technical assistance authority, which can be used on either a grant or loan basis, although its most frequent use is expected to be through grants. Technical assistance as authorized in this section, is the same type of assistance as presently authorized by present section 211 under the heading of Technical Cooperation and Development Grants and for grant activities of the Alliance for Progress under present title VI. This assistance is authorized to promote the development of less developed friendly countries or areas, and also for multilateral organizations and for their programs under section 401(a). Contributions can be used to support the activities of such organizations in any country or area, since the work of such organizations in and of itself is important to U.S. objectives. This section covers most of the authorization previously covered in present section 302(a), the balance of which will now fall under section 452(b). The phrase "bilaterally or through regional, multilateral, or private entities" means that assistance from any of the categories of technical assistance authorized by this section can be furnished either on a direct government-to-government basis or through multilateral agencies. The latter term usually, but not always, refers to international organizations which are worldwide in scope, for example the United Nations. An example of this is the financing with section 202 worldwide funds of United Nations fellows from less developed countries as a means of assisting those less developed nations through a multilateral entity. The section also permits assistance to be furnished through private organizations such as the voluntary agencies, including international voluntary agencies.

The authorization in this section is for a 2-year period with an appropriation being sought for the first year only. In order to demonstrate the programing distribution of funds authorized by this section, the general authorization is broken down into three categories, worldwide, Alliance for Progress, and multilateral organizations, and necessary flexibility to insure efficient use of funds is provided by including a 10 percent redistribution authority, permitting readjustment of the three categories within the general authorization as changing needs of the program may dictate. The final sentence of this section continues the same number of countries limitations on bilateral assistance distributed "Worldwide" that is found in the final sentence of present section 211(a). As heretofore, countries receiving U.S. aid as participants in programs or projects organized or administered by international organizations or carried on on behalf of or jointly by a group of nations are not to be included in determining the number of countries subject to the various limitations on the number of countries to which assistance may be provided. Bilateral assistance covers projects and programs requested by a single government which provide benefits for a single country and not to projects or programs of a regional nature.

Section 203. Development loans

- (a) This subsection is the general development loan authority similar to that found in present section 201 of the act.
- (b) This provision sets forth the same loan terms as are presently found in section 201(d) of the act. It also provides the same limitations

on waiver and transfer authorities currently found in section 201(c) of the act.

(c) This is a new provision which authorizes the use of development loan funds or other funds made available under part I to make grants to aid-recipients to defray the freight differential between U.S. and foreign-flag vessels on the transportation of loan-funded cargoes. The purpose of this section is to overcome the reluctance of foreign importers to use U.S.-flag vessels, whether in compliance with the 50 percent requirement of section 901(b) of the Merchant Marine Act of 1936 or for additional U.S.-flag shipping to carry AID loan-financed bulk commodities (primarily fertilizer) because of the added cost. The grants authorized here would cover this difference between U.S. and foreign-flag freight costs and would relieve the importing country and the end user—the former in the case of fertilizer—of bearing this added cost. By its applicability to funds made available under this part and by the reference to section 203 found in subsection 204(b), this provision also covers Alliance for Progress loan funds under section 204. This subsection also serves to identify the fact that payments under the 50-50 shipping requirement of the differential between U.S.-flag and foreign-flag vessels do not constitute assistance to a country but are in the nature of support for the U.S. maritime industry.

(d) This provision authorizes the President to establish an inter-agency Development Loan Committee. It is similar to that presently authorized in section 204 of the act except that the members of the proposed committee will not be required by statute to be appointed by the President, by and with the advice and consent of the Senate. It is anticipated that this committee will operate similarly to the Development Loan Staff Committee presently organized, which in practice acts for the present Development Loan Committee in most instances.

(e) This section contains the fiscal year 1970 appropriation authorization. The final sentence continues the limit on the number of countries to which bilateral loans may be made under this section. Bilateral loans cover loans made to or requested by a single government which provide benefits for a single country and not to loans of a regional nature.

(f) This subsection is based on present section 203 and provides for a revolving loan fund of the dollar proceeds from loans made under part I and, commencing in the fiscal year 1971, from loans made under the Mutual Security Act of 1954, as amended. Such dollar receipts continue to be subject to the requirement of section 117 of the Foreign Aid and Related Agencies Appropriation Act, 1964 of being reappropriated. Receipts into the revolving fund may be used for additional development loans, Alliance loans and for payment of capital to the Overseas Private Investment Corporation under new section 322.

Section 204. Alliance for Progress

(a) This subsection is derived from present section 251 of the act, although the policy statement is condensed and many of the criteria for assistance under the Alliance have been incorporated into section 201 which applies to all assistance furnished under chapter 2. This subsection also covers the use of the funds distributed to the Alliance for Progress under the technical assistance authorization of new section 202.

(b) This provision is the development loan authorization for Latin America similar to that found in present section 252 of the act, and as in the act, is made expressly supplemental to funds otherwise available for such purposes; that is, available under the development loan authorization of section 203.

(c) This subsection is identical to present subsection 251(h) which requires Alliance loans be consistent with the findings and recommendations of the Inter-American Committee on the Alliance for Progress.

(d) This subsection carries forward without substantive changes the authority of present section 224 of the act, relating to Latin America housing guaranties. It also includes provisions derived from other sections of present title III, chapter 2 of part I of the act which are applicable to this program. Finally, this subsection provides for residual responsibilities and obligations under housing guaranties previously issued under authority no longer continued in the bill.

(d)(1) This subsection is substantially the same as present section 224(a) of the act and provides for assistance in the development of pilot housing projects, the development of institutions engaged in Alliance for Progress programs, the construction of lower income homes, and the mobilization of savings in Latin America for the purpose of improving housing conditions.

(d)(2) This subsection is substantially the same as present section 224(b) of the act and authorizes the President to guarantee loan investment in Latin American pilot housing projects, credit institutions, lower income housing projects, housing projects which promote institutions important to the Alliance for Progress, and housing projects involving Latin American capital.

(d)(3) This paragraph is derived from present section 224(c) of the act and continues available the existing authorized ceiling for Latin America housing guaranties. The second proviso relating to fraud and misrepresentation, has been rewritten to conform with a similar provision in the new section 327(g) applicable to guaranties issued by the Overseas Private Investment Corporation. The final proviso extends the Latin America housing guaranty program until June 30, 1972, to maintain the customary 2-year advance authority necessary to fulfill commitments for projects now being planned. No increase in the authorized ceiling is requested.

(d)(4) Paragraph (d)(4)(A) is substantially the same as present section 222(a) of the act relating to fees for guaranty coverage. Paragraph (d)(4)(B) is derived from present section 222(b) and provides that fee income from Latin America housing guaranties, together with \$35 million in accumulated fees from present title III guaranty programs, are available as a reserve to discharge liabilities under both Latin America housing guaranties and housing guaranties previously issued for projects elsewhere.

In addition, these funds will remain available, as before, for administrative and operating expenses of these housing guaranty programs, subject to such limitations as may be imposed in appropriation acts. (It is anticipated that commencing in fiscal year 1970, current fee income will be sufficient for this purpose.) Such funds are also available, as before, to meet the cost of investigating and adjusting claims.

Expenditures for these purposes, which are necessary to minimize liabilities and maintain the value of assets which may be used to discharge liabilities, are not expected to create any substantial drain upon reserves otherwise available for paying claims.

Paragraph (d)(4)(C) is derived from present section 222(d) of the act and provides for the discharge of liabilities under Latin America housing guaranties or other housing guaranties previously issued under present section 221(b)(2)(A) of the act. Such liabilities are paid first out of available fee income, secondly out of the sale of assets acquired in connection with the guaranty program and finally out of appropriated funds. The reference in present section 222(d) of the act to the proceeds from the sale of notes issued under the Mutual Security Act and the Economic Cooperation Act has been deleted since the proceeds from notes issued under borrowing authority authorized under those acts was eliminated by section 120 of the Foreign Assistance and Related Agencies Appropriation Act, 1968 and additional borrowing authority is no longer available.

Paragraph (d)(4)(D), is derived from present section 222(e) and provides that Latin America housing guaranties and worldwide housing guaranties previously issued under section 221(b)(2)(A) of the act are backed by the full faith and credit of the U.S. Government. For consistency, this section has been rewritten to conform with the similar provision applicable to insurance and guaranty programs of the Overseas Private Investment Corporation under new section 327(c).

Paragraph (d)(4)(E), which is derived from present section 222(f), provides a continuing authorization for the appropriation of such funds as may be necessary to carry out the purpose of subsection 204(d). This provision is required for appropriations to meet liabilities for housing guaranty programs in the event there are insufficient reserves for this purpose.

Paragraph (d)(4)(f) is similar to present section 222(h) and establishes the limits of the rate of interest which the AID Administrator must allow eligible investors on loan investments for Latin America housing guaranties. The present provision has been slightly modified to make clear that the rate of interest to be prescribed is a maximum rate. Thus, while AID will normally allow eligible investors this rate if they insist on it, AID is permitted to write coverage for loans carrying a lesser rate.

Paragraph (d)(4)(G) provides that housing guaranties previously committed, authorized or outstanding under present sections 221(b)(2)(A) and 224 continue subject to the provisions of law originally applicable to those guaranties. Fees collected for such guaranties after enactment of the bill will be available for the same purposes, specified in paragraph (d)(4)(B), as fees collected under new guaranties. This provision makes clear the continued validity of already outstanding housing guaranties for projects outside of Latin America.

Section 205. Research and evaluation

(a) This provision authorizes the President to use the technical assistance funds of section 202 to conduct research into the technical, economic, social, and political problems of development and to evaluate the costs, techniques, and other factors determining the success or failure of development efforts. This authority is substantively similar to that presently found in sections 241 and 281(c) and is in addition

to the authority to conduct research on population problems under section 208 and the authority to engage in research as an integral part of country or regional programs.

(b) This provision specifically authorizes a continuous evaluation of existing assistance programs, including the use in such evaluation of modern management techniques and equipment such as advanced computer systems.

Section 206. Self-help fund

This provision continues and expands upon the exception presently contained in the final sentence of present subsection 211(a) and authorizes the use of technical assistance funds to support self-help projects in friendly, less developed countries or areas, notwithstanding the limitations of section 202 on the number of countries to which bilateral technical assistance under that section may be furnished. The projects planned emphasize participation of local human and material resources and offer a means by which the people can help themselves along the road of development. Under existing law this exception has been commonly used to carry out self-help projects in African countries which do not otherwise have bilateral programs. However, within the funding limitation of 1 percent of funds appropriated for the technical assistance category of worldwide distribution, the exception to the country limitations may be applied in any region. We anticipate that the annual amount of self-help funds under this section will not average more than \$100,000 per country.

Section 207. Popular participation

This section is essentially the same as that currently found in section 281 of the act, now commonly referred to as title IX—Utilization of Democratic Institutions in Development. The research provision contained in present section 281 has been consolidated in section 205 of the bill.

Section 208. Population programs

(a) This provision is essentially the same as that currently found in the act in subsection 291(a) under title X—Programs Relating to Population Growth, and continues the emphasis on such programs found there.

(b) This subsection is the same as subsection 291(b) of the act.

(c) This subsection is the same as subsection 291(c) of the act.

(d) This subsection is essentially the same as subsection 291(d) of the act with a clarification expressly to authorize the building and staffing of maternal and child health centers where important to promote population programs.

(e) This provision continues the present authority to use funds made available under part I for purposes of population programs and adds a reference to foreign currencies. The President is enjoined to give priority to increasing such programs substantially and to encourage the use of U.S.-owned or controlled foreign currencies for such programs. Present authority to use such funds on a loan or grant basis is continued.

CHAPTER 3—PRIVATE DEVELOPMENT ASSISTANCE

This chapter contains two titles, both concerned with the role of private enterprise and other private activity in the development

process. Title I emphasizes the relationship of AID's assistance programs to the support of private enterprise development in less developed countries. It also stresses the participation of the U.S. private sector in AID's development programs. Title II establishes the Overseas Private Investment Corp. as a new instrumentality complementing other assistance programs by encouraging and promoting U.S. private enterprise in contributing to the development of less developed countries.

Title I—Private enterprise assistance

Section 301. Role of private enterprise

This section is a policy statement expressing congressional recognition that the private sector in less developed countries constitutes an important resource for advancing developmental goals and ensuring wide participation in the benefits of economic and social growth. The effectiveness of development assistance and the success of the development process depend in large measure upon the activity of the private sector in less developed countries. Therefore, the President is directed to give priority, in administering assistance programs, to private enterprise development in countries receiving assistance. The section identified relevant factors to be taken into account in determining whether and to what extent AID should furnish development assistance to any country or area.

Section 302. Capital and technical assistance for private enterprise development

This section requires that assistance programs emphasize projects and programs which support and encourage expansion of private enterprise activity responsive to developmental needs. Technical and capital assistance, including both capital projects and import loans, should be coordinated with local self-help efforts and support the private sector, for example by upgrading managerial abilities and industrial skills. Such programs should be used to encourage self-help efforts and economic policies which maximize the contribution of private enterprise to development objectives.

This section also provides that AID's assistance programs under part I should be coordinated with programs of the Overseas Private Investment Corporation and authorizes the use of the Corporation's facilities in such programs to the extent desirable. AID overseas missions are authorized to act on behalf of the Corporation, as may be agreed upon. Furthermore, the President is authorized to transfer development assistance funds made available under chapter 2 of part I to the Corporation for the administration of programs for which the Corporation has special competence. However, the transferred funds would be used for the purposes for which originally authorized and remain subject to the terms and conditions applicable to such assistance.

Finally, this section retains the existing requirement that at least 50 percent of development loan and Alliance loan funds be available for loans made to encourage economic development through private enterprise.

Section 303. U.S. private enterprise participation

(a) This subsection is derived from and combines in shortened form those provisions of present section 601 of the act which empha-

size utilization of U.S. private enterprise in assistance programs, including nonprofit private organizations and private trade channels. Continuing private relationships between the United States and less developed countries are particularly encouraged as a means to enhance the effectiveness of projects with which private American institutions are involved.

(b) This subsection is basically derived from present section 602 of the act, concerning small business participation in furnishing goods and services financed under the act. Existing statutory authority for the Office of Small Business has been deleted from the statute, on the basis that subordinate executive branch offices should not be established by statute as this places an unnecessary limitation on executive branch flexibility. However, the Office will be continued as a matter of policy. Existing related small business incentive programs remain unchanged.

Section 304. Support of voluntary assistance

(a) This section expresses congressional recognition of the activities of private American citizens and organizations which contribute to economic and social development in less developed countries.

(b) This subsection is substantially identical, although shortened in form, to present section 214, concerning American schools and hospitals abroad, and authorizes appropriation of \$12,900,000 for these programs in fiscal year 1970. It eliminates the present unutilized reference to libraries as well as the foreign currency authorization found in present section 214(d), since there is no fiscal year 1970 request for foreign currency appropriations for these purposes.

(c) This subsection is similar to present section 216, voluntary agencies. However, authority to finance voluntary agency shipments to points other than ports of entry, as may be necessary in cases such as the Nigerian disorders, has been clarified by eliminating reference to the points to which such shipments may be financed. Nevertheless, AID would continue, in the usual case, to finance such shipments only to ports of entry abroad or points of entry in the case of landlocked countries and, in such cases, would not finance port charges or costs of inland transportation.

(d) This subsection is derived, in shortened form, from present section 601(b)(2). It refers to collecting and using information about private developmental activities and opportunities in connection with U.S. assistance programs.

Section 305. Assistance to U.S. educational and research institutions

This section is substantially identical to present section 211(d). It permits up to \$10,000,000 of technical assistance funds to be used to make grants to American educational and research institutions to strengthen their capacity to develop and carry out programs concerned with the development of less developed countries. These grants differ from customary program-implementing contracts in that they are intended to develop oncampus competence in problems related to growth in the less developed countries and thus enable such institutions to be better prepared to assist in meeting AID program requirements.

Title II—Overseas private investment corporation

Section 321. Creation, purpose, and policy

This section establishes the Overseas Private Investment Corporation (the "Corporation") as an agency of the United States under the general policy guidance of the Secretary of State or his designee. The purpose of the Corporation is to promote and support the active participation of American private enterprise in providing resources and talents to help further the economic and social development of less developed countries. Thus the Corporation's activities will complement the development assistance objective pursued through the AID program and other developmental programs in which the United States participates.

This section also specifies policy guidelines for the Corporation, recognizing that it should apply these guidelines under broad criteria appropriate to a government corporation interacting with private business activity and involved in foreign economic development.

As an institution committed to the importance of well-conceived private business initiative in the developmental process, the Corporation should conduct its own operations in a businesslike manner consistent with its overall purposes. Accordingly, in its financing of projects through loans or guarantees, the Corporation is expected to operate on a self-sustaining basis, although some activities necessarily will involve higher and longer term risks than conventional financial institutions are willing to undertake. In deciding whether to assist in the financing of a project, the Corporation will also consider the economic and financial soundness of the proposal and whether financing on reasonable terms is otherwise available for the project. The Corporation will emphasize private credit and investment and use its guarantee program to mobilize private capital resources, in preference to direct investment using its own capital funds. When feasible, it will sell its loan investments or participations in its portfolio to private investors on appropriate terms. In line with sound practices, the Corporation will manage its insurance programs on a basis which takes into account risk exposure as well as the objective of encouraging investment. To obtain the broadest possible participation of American business, the Corporation will use the resources of small business, to the extent practicable and consistent with the Corporation's objectives, and encourage the participation of small business in the Corporation's programs.

In order to assure the maximum development benefits from private enterprise, the Corporation will encourage U.S. private investors in less developed countries to be sensitive and responsive to the special economic and social needs of such countries. The Corporation itself will make certain that host governments have no objection to activities carried out under Corporation support or sponsorship and will consider the extent to which such governments are receptive and provide a favorable environment for private enterprise in the context of the developmental process. In connection with its programs, the Corporation should also seek to foster private initiative and competition and discourage monopolistic practices to further maximize the benefits the benefits of private enterprise.

As an agency of the United States, the Corporation will further U.S. balance-of-payment objectives, to the extent possible within the

context of the Corporation's developmental objectives, and act generally in accord with the international trade, investment, and financial policies of the U.S. Government. The Corporation will coordinate its activities with AID and, within its field of competence, the Corporation will advise and assist as appropriate, other public and private agencies and organizations, including AID, in the area of less developed country attitudes and policies on private investment.

Section 322. Capital of the Corporation

This section establishes the capital of the Corporation at \$100 million to be paid in by the President of the United States. The President is authorized to use for this purpose funds derived from payment of principal and interest and other receipts under AID development loans and, commencing in fiscal year 1971, under loans made under the Mutual Security Act of 1954, as amended. Under the new section 203(f) of the act, such receipts are authorized to be used both for AID development loans and for capitalization of the Corporation. Thus the capital fund of the Corporation will be derived from reflows from prior development loans which otherwise would be available for AID lending operations.

The capital will be paid in five installments of \$20 million each, the first installment upon creation of the Corporation with later installments to be paid in each of the succeeding 4 fiscal years upon the call of the Corporation Board of Directors. An equivalent amount of capital stock in the Corporation will be issued to the Secretary of the Treasury upon each such payment.

Section 323. Organization and management

This section provides for the board of directors, officers, and employees of the Corporation. Since business judgment and the confidence of the business community are particularly important to the success of the Corporation, five members of the board, including the chairman, will be appointed from private life. In appointing the Corporation president, private business experience will be taken into account.

Subsection (b) vests the powers of the Corporation in the board of directors. However, the board may delegate authority to Corporation officers, such as the President, who may then exercise corporate powers under authority of the board in accordance with the terms of such delegations.

The board will consist of 11 members including the President of the Corporation, and six may constitute a quorum. The Chairman of the Board will be appointed by the President of the United States from private life and will be confirmed by the Senate. The Chairman will serve at the pleasure of the President, The President will also appoint, subject to Senate confirmation, four directors from private life for staggered terms of 3 years. The chairman and the four private directors will be compensated when actually employed at a rate equivalent to level IV of the Executive Schedule and will be entitled to per diem at the applicable rate when away from their homes or usual place of business. The remaining six directors, who will serve in that capacity without additional compensation, will be the President of the Corporation and five Government officials designated by and serving at the pleasure of the President of the United States. The latter

officials will come from interested agencies of the Government as determined by the President.

Subsection (c) provides for Presidential appointment, subject to Senate confirmation, of the Corporation President. The President, in making this appointment, will take into consideration the appointee's private business experience. The Corporation President will be the chief executive officer charged with the Corporation's management and operations under bylaws and policies established by the board and will be compensated at level III (\$40,000 annually) of the Executive Schedule (see sec. 8(a) of part IV of the bill).

Subsection (d) provides for other officers and employees of the Corporation, including an Executive Vice President appointed, subject to Senate confirmation, by the President of the United States. The Executive Vice President will be compensated at level IV (\$38,000 annually) of the Executive Schedule (see sec. 8(b) of part IV of the bill). The Corporation may appoint other officers, employees, attorneys, and agents, including three vice presidents at level V (\$36,000 annually) of the Executive Schedule (see sec. 8(c) of part IV of the bill). Thirty-five employees may be appointed, compensated or removed by the Corporation without regard to civil service requirements. Of this number, 15 may be compensated at rates higher than grade 15 of the general schedule but not in excess of the highest rate of grade 18. These positions are in addition to those otherwise authorized under this section or under provisions of title 5 of the United States Code relating to executive level and supergrade positions. This authority is requested to enable the Corporation to attract personnel, from private life as well as Government, with experience and stature in the fields of international business and finance. Government employees appointed under this authority will have reemployment rights, under regulations prescribed by the President, unless removed for cause.

Section 324. Investment incentive programs

This section sets forth the basic program authorities of the Corporation.

Subsection (a)(1) authorizes the issuance of investment insurance to eligible investors (as defined in section 328(c)) covering risks relating to currency convertibility, expropriation or confiscation and war, revolution or insurrection. This authority is identical to the specific-risk guaranty authority contained in the present section 221(b)(1) of the act. This program encourages investment by minimizing risks which particularly discourage otherwise interested investors from seeking opportunities in less developed countries. It will now be referred to as an insurance program since it compensates for loss from particular defined risks, which are related to potential political developments in less developed countries. Although the availability of this program favorably effects private investment decisions, it differs from the investment guaranty program, discussed below, which serves as a financial mechanism for raising capital.

Subsection (a)(2) is a new provision which addresses the problem of providing adequate investment insurance to protect U.S. investors in connection with projects in which there is multinational participation. The Corporation is authorized to make arrangements for risk-sharing with other countries and multilateral organizations to protect such enterprises with insurance against loss due to risks similar

to those specified in the previous subsection. Under such risk-sharing arrangements, the Corporation would assume liabilities only to the extent that eligible U.S. investors, as defined in section 328(e), are participating in the insured enterprise. Under this authority, the Corporation can encourage other developed countries to share in the task of promoting private enterprise and can cooperate with institutions in other countries, such as West Germany, which have insurance programs similar to those of the Corporation. This authority also permits the Corporation to cooperate in risk-sharing programs which may develop under the aegis of multinational organizations. If such programs are developed, the Corporation would be able to participate after appropriate consultation with the Treasury Department and other interested executive branch agencies.

Subsection (b) authorizes the issuance of investment guaranties to eligible investors to assure against such risks as the Corporation may determine. This provision is derived from the extended risk guaranty authority in the present section 221(b)(2) of the act. It authorizes the Corporation to negotiate guaranties covering a portion of the capital requirements of important, commercially sound projects when sufficient private capital on satisfactory terms and conditions would not otherwise be attracted. This authority can thus be used to mobilize private capital in lieu of public funds for such projects. In particular, it allows private institutional lenders, which are a major source of capital for overseas development, to obtain the full guaranties they require if their capital resources are to be made available for purposes supported by the Corporation.

As under the existing extended risk guaranty program, the Corporation may guaranty all of a loan investment or up to 75 percent of an equity investment made by an eligible U.S. investor, provided that the aggregate amount of such guaranties does not at the time of issuance exceed 75 percent of the total investment committed to the project. Whenever practicable the Corporation will seek to assure that eligible U.S. investors participate in the project without Corporation guaranties to the extent of one-third of the amount guaranteed by the Corporation. To give the necessary assurance to the guaranteed investor that the guaranty is valid, the Corporation's determination of the total investment committed to the project is conclusive.

Subsection (c) authorizes direct loan investments by the Corporation. Such investments may include dollar loans from the Corporation's direct investment fund, repayable in dollars, or foreign currency loans. It is expected that the Corporation will administer the Cooley loan program authorized under section 104(e) of the Agricultural Trade Development and Assistance Act of 1954, as amended (Public Law 480), which program has previously been administered by AID. In addition, the Corporation is authorized to use for loans, without appropriation but subject to Bureau of the Budget allocation, foreign currencies which the Treasury determines to be excess to normal U.S. requirements. This provision, although a separate and independent authority, complements the last proviso of Public Law 480, section 104, which makes available, without appropriation, excess currencies derived from Public Law 480 local currency sales for development purposes. Finally, it should be noted that since the Corporation's loans will be extended to revenue-earning enterprises, the

terms of such loans will be harder than those in AID's development loans.

The Corporation is specifically precluded from purchasing or investing in stock in other corporations. It may, however, accept convertible debentures as evidence of indebtedness in connection with loans made under this authority. Such convertible debentures can be sold by the Corporation but may not be converted to stock while held by the Corporation.

Nevertheless, the Corporation may acquire stock through enforcement of liens or pledges or to satisfy a previously contracted indebtedness which would otherwise be in default. Thus, the Corporation, in the administration of its loan program can protect its interest by taking stock if repayment prospects under a loan become jeopardized. In this connection, the Corporation can participate effectively as a creditor in corporate reorganizations and other proceedings should the Corporation's interest so dictate. Similarly, the Corporation may, in connection with payments made under insurance or guaranty contracts, acquire stock as well as other rights as subrogee of the reimbursed investor. These authorities are similar to those of the Export-Import Bank and AID and allow the Corporation to protect its financial interests in case of loan defaults or insurance or guaranty payments. In such cases, the Corporation will dispose of its stock interest as soon as reasonably possible.

Subsection (d) provides the Corporation with the authority to carry out a broad range of investment promotion activities, utilizing where appropriate, private organizations and investors. These, activities, which may include incentive grants and other financing arrangements, are concerned with the identification, evaluation, and development of private investment opportunities. They will include preinvestment studies and other investigations at various stages of project development. This subsection thus incorporates and expands upon programs previously carried out under the present sections 231-233 of the act relating to investment surveys and existing technical assistance/development grant authority.

The investment survey program which the Corporation may implement under this provision is broader than previously authorized in the act in order to permit a more productive direction of the program toward new techniques which enable investors, at some risk, to find and develop projects best suited to their own capabilities. As in the past, these techniques may include financial participation which would be repayable to the Corporation if the investor went forward with the project. This program will be concentrated on important development projects such as agro-business ventures. The Corporation will require appropriate financial participation by investors who would benefit from such assistance and suitable reports if they decide not to carry out the project studied.

The Corporation will also provide facilities for identifying and publicizing investment opportunities which are particularly important in developmental terms for less developed countries. In so doing, the Corporation will coordinate with related investment promotion activities of the Commerce Department.

Subsection (e) authorizes the Corporation to administer, with its agreement, special private enterprise projects and programs relating to its objectives, for which purpose it can accept and use funds which

may be transferred to it. The Corporation might, for example, be asked to administer on behalf of AID, technical or capital assistance programs relating to private enterprise or concerning institutions, such as intermediate credit institutions, closely related to private enterprise activities. AID funds, which may be transferred to the Corporation for this purpose under section 302, would be used in accordance with the terms and conditions governing AID's use of such funds.

Section 325. Issuing authority, direct investment fund and reserves

Subsection (a) establishes the maximum contingent liabilities which may be outstanding at any one time under investment insurance and investment guaranties issued after the effective date of the bill. The limitations are set at \$7,500 million for insurance and \$7,50 million for guaranties and are based upon estimated requirements for these programs through the end of fiscal year 1974.

In the past, the authorized ceilings for these programs have been expressed in terms of total face amount of contracts issued. The ceilings are here expressed in terms of maximum contingent liability, which presents a more accurate portrayal of program levels and risk exposure. (Under the existing system; for example, the risk represented by a specific risk guaranty is overstated in terms of face amount, because face amount calculations do not take into account overlapping risks.) Maximum contingent liability will be calculated on the basis of timely payment of the insured amount by the Corporation in the event of a claim.

This subsection also includes a provision prohibiting the Corporation from making investment guaranty commitments unless at the time of the commitment there exists not less than a 25-percent fractional reserve against such guaranties previously committed or then outstanding under the act. The subsection also expressly identifies the possibility of congressional action to place limitations on the Corporation's investment insurance and investment guaranty programs in connection with its annual review of the Corporation's budget program under the Government Corporation Control Act, as amended. Finally, both the investment insurance and the investment guaranty programs are authorized to continue until June 30, 1974, by which time sufficient experience should be gained for reassessment of the Corporation's programs and for the submission of the Corporation's report on its possible future direction. (See section 331(b) of the new act.)

Subsection (b) establishes a direct investment fund, to be held by the Corporation as a revolving fund, which will be available for loans authorized under section 324(c). It will be initially funded by capital paid in to the Corporation under section 322. Repayments of such loan investments, or proceeds from their sale or the sale of participations in the loan portfolio of the Corporation, will be returned to the fund. Additions to the fund may be made under section 326 by transfers from the income account of the Corporation.

Subsection (c) provides for separate reserves for investment insurance (and previously issued specific risk guaranties) and investment guaranties (and previously issued extended risk guaranties other than housing guaranties). Each reserve will remain available, respectively, to discharge liabilities under the insurance program and the guaranty program until liabilities payable out of each such reserve have been discharged or have expired or until the particular reserve account involved has been expended.

The reserves will be initially funded from two sources: (1) from existing reserves available under the act as of the effective date of the new bill to discharge liabilities under all guaranty programs previously administered by AID (except for \$35 million retained as a reserve for housing guaranty programs which AID continues to administer and for amounts which are made available to the Corporation for initial operating funds pursuant to section 325(e)) and (2) from an appropriation of \$75 million which is sought for fiscal year 1970 under the authorization provided in section 325(f). The allocation of these funds between the two separate reserves will be determined by the Board of Directors after consultation with the Secretary of the Treasury. Subsequent additions to the reserves may be made pursuant to section 326 through transfers from the income account of the Corporation and through appropriations.

Subsection (d) provides that investment insurance liabilities and liabilities under similar predecessor specific risk guaranties are payable only out of the separate insurance reserve, after which such liabilities shall be paid from additional appropriated funds. This provision assures investors that the reserves toward which they look for prompt payment of claims will not be dissipated by claims arising under different programs. (Heretofore, specific risk guaranties, extended risk guaranties and housing guaranties have been backed by a single pooled reserve.)

Subsection (e) makes provision for the Corporation to obtain funds necessary to start operations and carry out activities until sufficient funds are available for this purpose from the income account established under section 326. Accordingly, the Corporation may issue a call against fees accumulated since December 31, 1968, under predecessor guaranty authority, for initial operating purposes. To the extent not needed for such purposes, fees accumulated during such period will be available for allocation by the Board of Directors to the Insurance and Guaranty Reserves.

Subsection (f) provides an authorization for such appropriations as may be necessary to replenish or increase the Corporation's reserves or guaranty obligations. The sum of \$75 million is being requested under this provision in fiscal year 1970 to add to other reserve availabilities for initial funding of reserves under section 325(c).

Section 326. Income and revenues

This section establishes an income account funded from revenues and income earned by the Corporation, including fees from insurance and guaranty programs, interest from loans, dividends and other receipts characterized as income. Such funds shall be available to carry out the Corporation's purposes, including the payment of all operating and administrative expenses incurred in conjunction with the Corporation's activities. In addition, the Board of Directors may make allocations from this account to the Insurance or Guaranty Reserves, the Direct Investment Fund, or other funds or reserves which the Corporation may establish. The Corporation will then pay to the U.S. Treasury dividends consisting of its net earnings after payment of expenses and allocations to reserves and other funds.

Section 327. General provisions relating to insurance and guaranty programs

This section is derived from provisions which have been applicable to the investment guaranty programs administered by AID under the present title III, chapter 2 of part I of the act.

Under subsection (a) as under the present section 221, bilateral agreements between the United States and the governments of countries where projects are located are required in order to carry out insurance or guaranty programs in such countries.

Subsection (b) is derived from the present section 221(d) and requires that the Corporation determine that suitable arrangements exist for protecting its interest in connection with insurance and guaranty operations.

Subsection (c) is similar to the present section 222(e) and provides that both existing and new guarantees and insurance are backed by the full faith and credit of the U.S. Government. The language has been changed, however, to reflect more closely the language used in the legal investment laws of States in which major institutional investors are located.

Subsection (d), concerning fees for insurance and guaranty coverage is identical to present section 222(a), except that the amounts of such fees will now be determined by the Corporation, rather than the President.

Subsection (e) retains the 20-year limitation on coverage for equity investments which appears in the present section 221(c).

Subsection (f) retains the provision in the present section 221(c) limiting the coverage of an investment to the approved investment plus actually accrued earnings or profits. The word "interest" has been added to the clause relating to earnings or profits to clarify the intent that the effective rate of interest provided for in a guaranteed loan is covered by the terms "profits or earnings".

Subsection (g) is derived from the second proviso of the present section 221(b)(2) which prohibits payments under guaranties if losses occur as a result of fraud or misrepresentation for which the investor is responsible. The language has been changed, however, to make clear that a loan investor, or holder in due course without knowledge, is not deemed responsible for fraud or misrepresentation of another investor involved in the project. This classification is necessary to improve the marketability of loan investments covered by investment guaranties. Improved marketability of such obligations can result in lower interest rates on private funds used to further the purposes of the Corporation.

Subsection (h) is derived from and achieves the same purpose as the present section 221(e). It limits insurance or guaranty coverage of investment in foreign banks, finance companies or other credit institutions to the eligible investor's investment in such institutions. Such coverage will not extend to individual investments made by such institutions themselves. The test previously required for establishing a loss by the eligible investor (i.e. the institution in which the investment was made becomes or is likely to become insolvent) has been eliminated. This test goes beyond steps necessary to achieve the purpose of the provision and has created difficult problems of interpretation which have caused reluctance on the part of investors to invest in these important institutions.

Subsection (i) is derived from the present section 635(i) and provides that compromise settlements or arbitrations awards pursuant to claims under insurance or guaranty operations shall be final and conclusive.

Subsection (j) provides that guaranty contracts executed in proper form by duly designated Corporation officials shall be conclusively deemed to be issued in compliance with the requirements of the act. A claimant would not, however, be protected if execution of the contract was induced by fraud or misrepresentation for which he was responsible. This provision is similar to a provision applicable to the supplemental mortgage insurance program administered by the Department of Housing and Urban Affairs (See 12 U.S.C. 1706c). It will improve the marketability of loans guaranteed by the Corporation, thereby favorably affecting interest rates.

Subsection (k) is similar to present section 222(g) and requires the Corporation to consider, in issuing insurance or guaranty contracts, the possible adverse effect of the dollar investment involved upon the balance of payments of the United States.

Section 328. Definitions

Subsection (a) defines the term "investment" as used in this title and is derived from the present section 223(a). The existing limitation of the definition to cover only leases or contracts which provide for payment after the end of the fiscal year in which insurance or a guaranty is issued has been eliminated as being unnecessary.

Subsection (b) defines the term "expropriation" and is derived from the present section 223(b). The wording has been altered to make clear that when, in appropriate circumstances, expropriation is more narrowly defined in insurance or guaranty contracts than permitted under the statute, the contractual provisions control in the event of a claim.

Subsection (c) is derived from the present section 223(c) and defines "eligible investor" for purposes of the insurance and guaranty provisions of the act. Since it is impractical to obtain direct evidence of the citizenship of beneficial owners of publicly held corporations, determinations of eligibility will continue to be made by relying on record addresses or by applying other reasonable standards of indirect evidence.

Subsection (d) defines the term "predecessor guaranty authority," as used in this title, to mean guaranty authorities contained in the present title III, chapter 2 of part I of the act, and similar authorities in the Mutual Security Act of 1954, as amended, and the Economic Cooperation Act of 1948, as amended. The definition, however, excluded informational media guaranty authority which has been transferred to the U.S. Information Agency and also excludes housing guaranty authority which appear in the present section 221(b)(2)(A) and the Latin American Housing Guaranty authority which will be retained by AID pursuant to section 204(d), rather than transferred to the corporation.

Section 329. General provisions and powers

Subsection (a) provides that the Corporation's principal office shall be in the District of Columbia although offices and staffs may be established elsewhere as necessary or appropriate. The Corporation will be deemed a resident of the District of Columbia for purposes of venue in civil actions.

Subsection (b) provides authority for the President to transfer to the Corporation, when he so determines, all obligations, assets and related rights and responsibilities relating to previous guaranty and investment survey programs which are to be assumed by the Corporation under the new act. This will be done by Executive order. Until this transfer, AID will continue to administer these assets and obligations and such programs and activities, authorized to be carried out by the Corporation, as the President may determine. This will enable essential programs and activities which the Corporation will undertake to be administered by AID until the Corporation can commence operations.

Subsection (c) provides that the Corporation will be subject to applicable provisions of the Government Corporation Control Act and, accordingly, it will maintain accounts and submit budgets as required by that act. However, it will be able to hold its own income and its direct investment fund, and invest its income in Treasury obligations as provided in subsection 329(d) of this title.

Subsection (d) provides those general corporate powers which are appropriate to the operations of a Government corporation carrying out the purposes and activities specified in this title. Accordingly, the corporation is authorized to use a corporate seal; to sue and be sued; to establish bylaws; to deal with property; to invest its revenues in U.S. obligations; to pay dividends; to indemnify directors, officers and others who act on its behalf, for liabilities and expenses incurred in connection with their duties; to require bonds and pay the premiums with respect to those acting on its behalf (including those acting for the Corporation under section 302(b) of this chapter); to represent itself in legal and arbitration proceedings; to sell, negotiate and guarantee notes and other evidence of indebtedness held by the Corporation (including participation certificates representing portions of such notes or evidences of indebtedness); to enter into contracts and agreements; to exercise the priority of U.S. Government in debt collection; to determine the character and necessity for its obligations and expenditures subject to laws specifically applicable to Government corporations; and to take such actions as may be appropriate to carry out its business.

Section 330. Advisory Council

This section provides for the establishment of an Advisory Council, composed of representatives of the American business community, which will be available to consult with the Corporation's board and president. Members will not be compensated but may be reimbursed for expenses incurred.

This Council, like the International Private Investment Advisory Council on Foreign Aid, established under present section 601(c), which recommended establishment of the Corporation, will serve as a link with the private business community. Through the Council, the Corporation can address this community regarding Corporation objectives and seek advice on how to best achieve them. The Council is expected to serve an important role in obtaining business involvement in achieving these objectives.

Section 331. Reports to the Congress

Subsection (a) requires the Corporation to submit annually to the Congress a complete and detailed report of its operations. This

report will include material customarily submitted by Government corporations under section 104 of the Government Corporation Control Act, but will include such further detail as may be deemed appropriate by the executive branch or requested by the Congress.

Subsection (b) requires the Corporation to submit to the Congress its analysis of the possibility of transferring all or part of its activities to private U.S. citizens or entities. This report, which will be submitted no later than March 1, 1974, will contribute, on the basis of the Corporation's experience, toward an evaluation of the advisability and practicability of U.S. private enterprise undertaking a more direct responsibility for financing and managing programs with which the Corporation is concerned.

CHAPTER 4—MULTILATERAL AND REGIONAL ORGANIZATIONS AND PROGRAMS

Section 401. General Authority

(a) Subsection (a)(1) provides general authority for contributions to multilateral organizations and programs administered by them, using funds authorized to be appropriated under part I. This provision is based largely upon present section 301(a), except that there is no separately authorized appropriation for its implementation. In previous years the international organizations grant program was consolidated in one authorization, section 302(a), while in the new bill it is divided functionally, into three parts, technical assistance in section 202, supporting assistance in section 452(b), and Indus Basin grants in section 401(d). Multilateral use of supporting assistance funds are intended primarily for voluntary contributions for United Nations peacekeeping forces, UNRWA and similar efforts. It is also intended that the contributions made under this provision will be used on a grant basis, although in appropriate circumstances loans may also be made. The authority of this subsection is limited to voluntary contributions, as opposed to assessed contributions charged to Department of State appropriations.

Subsection (a)(2) is derived from present section 205. It authorizes the President to transfer to the named institutions up to 10 percent of funds made available under chapter 2 for development assistance (development loans, technical assistance, and alliance loans). The eligible institutions, in addition to the International Bank for Reconstruction and Development, the International Finance Corporation, the International Development Association, and the Asian Development Bank, all of which are eligible under present section 205, include also the Inter-American Development Bank and the African Development Bank. Such transfers may be on either a loan or grant basis and may be used by the receiving institution on either a loan or grant basis. The subsection provides, as did its predecessor, that funds so transferred to these organizations can be used by them under their own criteria and regulations, rather than under those governing bilateral U.S. assistance.

(b) This subsection continues, with certain changes, the authority originally established for assistance to the Indus Basin project by present section 303 of the act, under which procedures of the IBRD, the project administrator, rather than U.S. procedures, regarding completion of plans and cost estimates and determinations of feasi-

bility may be utilized with respect to funds used for the Indus Basin program by or under the supervision of the IBRD.

It also broadens the Indus authority to cover generally projects which include AID funds, but which are managed by the IBRD or by other multilateral financial institutions. The difference between this authority and that contained in subsection 401(a)(2) is that in the latter section the U.S. funds are transferred directly to the multilateral institution and treated thenceforth as part of that institution's own funds, although to be used for agreed-upon purposes. In this section the funds are programed by the United States but are managed for this Government by the financial institution acting as the U.S. agent. An illustration of this procedure is the Nam Ngum project in the Mekong Valley. In these cases, as in the Indus Basin program the President may utilize the procedures of these institutions, rather than U.S. Government procedures, with respect to plans, cost estimates, feasibility studies, and contracts and contractor approvals, where he determines that such procedures adequately protect the interest of the United States. Particularly in multilaterally funded projects, it may be desirable to apply the procedures and standards of the international financial institution, on these particular matters, where they are found adequate, rather than to have to apply, in addition, a duplicative set of official U.S. procedures. The list of relevant standards and procedures includes mention of procedures on contracts and contractors to make clear that such approvals are within the ambit of the section.

This subsection also continues the President's authority, in the case of programs covered by this subsection, to waive compliance with the 50-50 shipping requirement of the Merchant Marine Act of 1936, and make compensating allowances in other programs to the same or other areas, whenever the President determines that such shipping requirement would impede accomplishment of the program's purpose. So far, it has not been necessary to utilize this authority.

(c) This provision continues present section 301(b). It limits voluntary contributions to the United Nations Development Program to a maximum of 40 percent per year and directs the President to seek to assure that UNDP contributions under this act are not used for assistance to the Castro government in Cuba.

(d) This subsection authorizes, in addition to other funds which may be available, a specific appropriation for grants for Indus Basin Development. Unappropriated balances of previous authorizations for loans for Indus Basin Development also continue to be authorized to be appropriated.

(e) Subsection (e) continues present section 301(d), which provides that the Comptroller General must have the right to audit funds contributed solely by the United States but administered by an international organization. For this purpose, when there are other contributors to a particular fund, AID funds are not considered subject to the GAO audit requirement of this subsection, even though they may be kept separately to enable compliance with such purposes as tied procurement.

Section 402. Regional programs

This section, consolidating several provisions in the present act, encourages an emphasis on regional development and regional insti-

tutions in administering development assistance programs under the act. Such an emphasis can, in many cases, assist economic, social, and political development.

Section 403. Multilateral coordination of development programs

This section consolidates existing directives to encourage maximum participation in development assistance by developed countries, and to assure multilateral coordination of development assistance programs. The President is asked to consider the advantages of integrating U.S. assistance or assistance-related programs with programs of other donors or of multilateral organizations, in cases where judicious support from the United States, blended with programs of others, works to mutual advantage. U.S. participation in development consortia, as for example in India, is also encouraged.

CHAPTER 5—EMERGENCY AND SUPPORTING ASSISTANCE

Section 451. Disaster assistance

This is a new section designed to give express authorization to famine and disaster relief and reconstruction and rehabilitation assistance presently being furnished under contingency fund authorization, for victims of famine or disasters. This new provision also expressly authorizes assistance in the preparation for, or prevention of, the effects of threatened famine or disasters, as for example, work to prevent the spread of desert locusts or disease epidemics. Disaster assistance is to be funded from any funds authorized to be appropriated under part I. No time limit is imposed on assistance in preparation for, or prevention of, threatened disasters, but the section does provide a 1-year limit, beginning at the termination of the disaster or famine, during which relief or reconstruction or rehabilitation assistance may be furnished for the victims of such famine or disaster.

Section 452. Supporting assistance

(a) This provision is essentially the same as that currently found in section 401 and authorizes the President to furnish assistance to or for friendly countries or areas and to organizations and to bodies eligible to receive assistance under part I. These categories include United Nations peacekeeping arrangements and other similar international or regional bodies.

(b) This subsection provides the authorization for supporting assistance funds on an annual basis and limited to not more than 12 countries in any fiscal year. This authority is basically the same as that contained in present section 401 except that the word "security" has been added at the end of the first sentence. This is to facilitate use of supporting assistance funds for voluntary contributions to such international peacekeeping forces as those established by the United Nations.

Section 453. Contingency fund

(a) This provides an authorization for a contingency fund similar to that presently found in section 451(a).

(b) This provides a reporting requirement similar to that presently found in section 451(b).

Part 2—Military assistance

Part 2 of the bill amends chapter 2 of part II of the act, which relates to military assistance.

Section 2(a). General authority

This section amends section 503 of the act, which relates to general authority.

Paragraph (1) amends subsection (a) so as to provide that military assistance may be furnished on a barter basis as well as by loan or grant. It restores an authority which had been in existence from 1961 through 1967 and which may be useful in facilitating the transition of countries from grant aid to sales.

Paragraph (2) deletes the obsolete authorization in subsection (b) for payment of the U.S. share of multilateral infrastructure programs. The funding of these payments was transferred in the fiscal year 1968 to the Department of Defense budget and is separately authorized and appropriated as part of military construction.

Paragraph (3) deletes subsection (c), which authorizes the use of military assistance funds for cost-sharing expenses of U.S. participation in international military headquarters and related agencies. These costs are proposed to be funded in the Department of Defense budget, beginning with the fiscal year 1970.

Paragraph (4) is a technical conforming amendment which renumbers the remaining subsection of section 503.

Section 2(b). Authorization

This section amends section 504 of the act, which relates to authorization.

Paragraph (1) deletes the obsolete authorization in subsection (a) for appropriations for fiscal year 1969 and substitutes in lieu thereof the authorization for appropriations for fiscal year 1970.

Paragraph (2) amends the second proviso of section 504(a), which prohibits the furnishing of sophisticated weapons systems, such as missile systems and jet aircraft for military purposes, to any underdeveloped country, unless the President determines that the furnishing of such weapon systems is important to the security of the United States. The amendment excludes Greece, Turkey, the Republic of China, the Philippines and Korea from the purview of this proviso, thus conforming the scope of the proviso to the similar limitation in section 4 of the Foreign Military Sales Act, which also expressly does not apply to those countries.

Paragraph (3) adds a new subsection (c), which enacts as permanent law the substance of the third proviso of the appropriations paragraph for military assistance in the Foreign Assistance and Related Agencies Appropriation Act, 1969. The language has been modified to provide that the military assistance program for any country in any fiscal year shall not be increased beyond 20 percent of the amount justified to the Congress or \$1 million, whichever is greater, unless the President determines that such increase is essential to the national interest of the United States and reports each such determination to the Congress within 30 days.

Section 2(c). Special authority

This section amends section 506(a) of the act by renewing for another year the authority of the President, when he determines it to be

vital to the security of the United States, to order defense articles from Department of Defense stocks and defense services to carry out the purposes of part II of the act, subject to subsequent reimbursement therefor from military assistance funds. As in prior years, this authority is limited to \$300 million in the fiscal year 1970, and prompt notice of action taken under this section is required to be given to the Congress.

Section 2(d). Restrictions on military aid to Latin America

This section amends section 507 of the act by deleting as redundant subsection (d), which provides that not to exceed \$10 million of the funds made available for military assistance may be used to enable American Republics, directly or through regional defense arrangements, to strengthen patrol activities in their coastal waters for the purpose of preventing landings on their shores, by Communist or other subversive elements originating in Cuba, which threaten the security of such Republics and of their clearly constituted governments. Other provisions of the act provide ample authority to accomplish the purpose of this subsection.

Part 3—General, administrative and miscellaneous provisions

CHAPTER 1—GENERAL PROVISIONS

Section 3. This section of the bill contains amendments to existing part III of the act. The amendments are as follows:

Section 3(a) is a new provision which encourages the use of State and local organizations within the United States in overseas development efforts. It also provides for the coordination of the development activities of such organizations, both those which are U.S. Government-financed and others operating on a voluntary basis or receiving contributions from private sources. This provision will become section 601 of the Foreign Assistance Act of 1961, as amended. Present section 601 has been rewritten in sections 301, 302, and 303(a).

Subsection (b) deletes present section 602, as a similar provision is included in the bill in sections 303 (b) and (c).

Subsections (c) and (d) conform references to existing provisions to the new section numbers provided under the bill.

Subsection (e) exempts the Corporation's funds from the inter-account transfer authority of section 610 since the Corporation is a separate agency having control of its own funds. This subsection also conforms section number references to new section numbers provided under the bill.

Subsections (f) and (g) also conform section references to new section numbers under the bill.

Subsection (h) includes two amendments to section 620, the general provisions on prohibitions against furnishing assistance. The first amendment adds to subsection 620(m), the prohibition against assistance to economically developed countries, an express authority which permits the President to waive this prohibition when he determines the furnishing of such assistance to be important to the national security and reports the determination to the Congress.

The second amendment consolidates and amends existing subsections 620 (s) and (v). Section 620(s) requires the President to take into account, in furnishing development assistance, the percentage of a recipient country's budget devoted to military purposes and the degree

of its use of foreign exchange for military equipment purchases. The existing provision also prohibits assistance when a recipient country diverts assistance under the act or sales under Public Law 480 or its own resources to unnecessary military expenditures to a degree materially interfering with its development. The new section excludes from the provision's coverage technical assistance, since experience has shown that prohibitions against technical assistance provide little leverage for accomplishing the purposes of this section. It also deletes the requirement that assistance be prohibited in case of diversion of resources to military expenditures, since this is taken into consideration in the decision whether to furnish assistance.

The present subsection 620(v) requires a withholding of economic assistance equivalent to amounts spent by a recipient country for the purchase of sophisticated weapons systems. This provision is incorporated, in part, in the new section 620(s) which requires the President, in furnishing development loans, Alliance loans or supporting assistance, to take into account the amount spent by recipients for sophisticated weapons systems. Existing subsection 620(v) has been deleted.

CHAPTER 2—ADMINISTRATIVE PROVISIONS

Section 4. This section amends certain administrative provisions in chapter 2 of part III of the act. In addition to a small number of substantive changes, these amendments provide conforming references to the new sections of title I and exclude the Overseas Private Investment Corporation from certain provisions inappropriate to this new agency.

Subsection 4(a) amends section 621(b) of the act to exclude the Corporation from AID's regulations and procedures concerning eligibility of suppliers to receive funds made available under the act. The Corporation, as a separate agency established by law, will establish its own regulations and procedures on this subject.

Subsection 4(b)(1) amends section 625(b) of the act to increase the number of administratively determined AID positions from 110 to 120. Of this number no more than 60 may be compensated at rates higher than GS-15 levels but not in excess of the highest rate of grade 18, as compared with 51 who may be so compensated under existing law. These additional positions will enable AID to staff a new technical assistance bureau in order to revitalize and expand its activities in this area. It is expected that such positions in this new bureau will largely be used for high-level experts in various technical assistance fields recruited from universities and research institutions for limited periods of service with AID.

This amendment also makes clear that the administratively determined positions provided for in this section are separate from those authorized for the Overseas Private Investment Corporation in title II, chapter 3 of the new part I.

Subsection 4(b)(2) adds a new subsection (k) to section 625 of the act to provide for participation of AID Foreign Service Reserve Officers, staff and employees in the Foreign Service Retirement and Disability System, as follows:

The new subsection (k)(1) provides that a Foreign Service Reserve officer, or Foreign Service staff officer or employee, who is serving under an unlimited appointment pursuant to section 625(d)(2) of the act, shall become a participant in the Foreign Service Retirement

and Disability System and shall transfer his contribution from the civil service or other retirement system under which he has been covered to the Foreign Service Retirement and Disability Fund. A Foreign Service staff officer or employee must have at least 10 years of continuous service, exclusive of military service, in employment pursuant to section 625(d)(2) of the act in order to become eligible for participation.

This subsection provides that sections 571 and 636, as well as title VIII of the Foreign Service Act of 1946, as amended, shall apply to participants in the Foreign Service Retirement and Disability System. Section 571 continues a participant's coverage under the system whenever he might be assigned to positions not covered by the system, as for example, a Foreign Service Reserve officer appointed to a position as director or deputy director of a mission pursuant to section 631(b) of the act. Section 636 of the Foreign Service Act of 1946, as amended, would provide for voluntary retirement for a participant who has attained the age of 50 years and who has rendered 20 years of service. The reference to subsections 637(b) and (d) of the Foreign Service Act of 1946, which relate, respectively, to separation for cause and to the refund of contributions or continuation in the retirement system for persons so separated, is to insure that a participant may have benefits in accordance with those subsections. Finally, this subsection provides that the selection-out authority contained in subsection 625(e) shall apply to AID participants rather than the selection-out authority contained in the Foreign Service Act of 1946, as amended.

The new subsection (k)(2) is a transitional provision. It provides for the gradual retirement over a 6-year period of participants in the system who are above the mandatory retirement age at the time they become participants in the system. If these individuals remained under the civil service retirement system, they would not be mandatorily retired until age 70. In the Foreign Service, mandatory retirement is at age 60, as a general rule. This change in the retirement plans of these individuals should not be made without reasonable time for them to adjust to the new law.

The interim schedule for the gradual transition to the Foreign Service retirement system provided in subsection (k)(2) is identical with the transition formula authorized when the staff personnel of the State Department were transferred to the Foreign Service retirement system pursuant to the Foreign Service Act amendments of 1960. The transition schedule gives the new participants a minimum of 3 years after enactment of the legislation before mandatory retirement. After expiration of the 3-year period, those participants who are age 65 or over will be mandatorily retired. Each year thereafter, the mandatory retirement age will be reduced by 1 year until mandatory retirement at age 60 becomes effective. Thus, under the schedule contained in this subsection, it will be 7 years before participants will be mandatorily retired at age 60. This is regarded as a reasonable period to accomplish the shift from mandatory retirement at age 70 under the civil service system to age 60 under the Foreign Service system. This schedule is also identical with the transition schedule provided for U.S. Information Agency Foreign Service information officers, Foreign Service Reserve and staff officers and employees in Public Law 90-494, enacted in 1968.

The new subsection (k)(3) is also a transitional provision similar to that provided when Foreign Service staff personnel of the State Department were brought under the Foreign Service retirement system in 1961, and is identical to the provision for USIA Foreign Service information officers, Foreign Service Reserve officers and staff officers and employees contained in Public Law 90-494. It provides that AID Foreign Service Reserve and staff officers and employees, who are age 57 or over on the effective date of subsection (k)(1), will have an option to retire voluntarily at any time before the date of their mandatory retirement. Under the Foreign Service system, employees may retire at age 50 or over with 20 years of service with the consent of the Secretary of State. When this legislative becomes effective, new participants, if they have less than 20 years service credit, would have no choice on their date of retirement, if subsection (k)(3) were not included, and would have to wait until they reach mandatory retirement age. This subsection gives those individuals who are age 57 or over with less than 20 years service an opportunity to retire voluntarily before mandatory retirement age. This is a one-time provision which will assist the Agency and its older new participants to accomplish the changeover to the Foreign Service retirement system in an orderly and equitable way. The subsection will help minimize the impact and possible difficulties the changeover might otherwise cause by giving these older employees more flexibility in timing their retirement from the Foreign Service.

The new subsection (k)(4) provides that the President may, whenever he deems it to be in the public interest, extend any participant's service for a period not to exceed 5 years after the mandatory retirement date for such participant. This authority is conferred on the President in line with other authorities contained in the act similarly conferred on the President. It is anticipated that such authority will be delegated to the AID Administrator.

The new subsection (k)(5) provides that subsection (k) will be effective on the first day of the first month which begins more than one year after the date of enactment of the Foreign Assistance Act of 1969. Also, under this subsection (k)(5), an eligible Foreign Service Reserve officer or staff officer or employee may elect to become a participant before the mandatory requirement of subsection (k) becomes effective.

Subsection 4(c) amends section 626(a) of the act to provide that the compensation of experts and consultants employed under this provision shall not exceed the highest per diem equivalent of a grade GS-18 Government employee under the general schedule. This amendment replaces the fixed maximum per diem rate (present \$100) with a sliding rate in order to avoid the necessity of amendments each time Government salary levels are changed. At present salary levels, the maximum per diem compensation for such experts and consultants would be \$116.

Subsection 4(d) amends section 632(a) of the act to exempt the Corporation's funds from the President's authority to allocate or transfer funds made available under the act to any U.S. Government agency. The President will have authority to transfer funds to the Corporation pursuant to new section 302 and is authorized to use funds made available pursuant to new section 203(f) for capitalizing the Corporation, as provided in section 322 of the new act. Since the

Corporation's capital and other funds are made available directly to the Corporation under the terms of the bill, it is unnecessary to provide general authority to the President to allocate or transfer these funds.

Subsection 4(e) amends section 632(g) of the act to exclude the Corporation from the provision permitting any appropriations or accounts available under part I to be initially charged with expenditures pending appropriate adjustments by the end of the fiscal year. The Corporation's appropriations and accounts will be separate from those of AID and this provision would be inappropriate as applied to them.

Subsection 4(f)(1) amends section 634(a) of the act to exclude the Corporation from the annual report of operations under the act made by the President. The annual report of the Corporation will be made instead under section 331. This amendment also deletes specific reference to inclusion of information on the investment guaranty program which will be covered by the Corporation's reports. It also deletes reference to reports on progress under the freedom of navigation and nondiscrimination declarations contained in present section 102 repealed by the bill.

Subsection 4(f)(2) makes a conforming amendment to section 634(b) of the act by referring to section 203, the new development loan provision, in lieu of the obsolete reference to the Development Loan Fund, established under repealed section 201(a).

Subsection 4(f)(3) updates and makes conforming amendments in section 634(d) of the act. It provides for presentation of fiscal year 1971 technical assistance programs to the Senate Committee on Foreign Relations and the House Committee on Foreign Affairs, if they desire, even though this bill provides an authorization for fiscal year 1971 technical assistance programs as well as fiscal year 1970 programs. A conforming amendment is also made by changing a reference to section 303, the previous provision referring to Indus Basin development, to section 401(b), the new provision on this subject.

Section 4(g) of the bill amends section 635(a) of the act, which relates to general authorities. This amendment complements the amendment made by section 2(a) of the bill to section 503(a) of the act authorizing military assistance to be furnished on a barter basis. It provides that defense articles and commodities received by the U.S. Government in a barter transaction may be used to carry out the act or may be transferred without reimbursement to any U.S. Government agency for stockpiling or other purposes.

Section 4(h) makes a conforming amendment in section 635(h) of the act by changing a reference from "titles II, V and VI (except development loans) of chapter 2 of part I", which previously concerned technical assistance and development research, to "sections 202 and 205", the new provisions on these subjects.

Section 4(i) makes conforming amendments in sections 636(c), (d), (e) and (f), of the act by changing references from "title I of chapter 2 of part I", which previously concerned development loans, to "section 202", the new provision on this subject, and by changing a reference from section 212, which previously concerned the technical assistance authorization, to section 202, the new provision on this subject.

Section 4(j) amends section 637(a) of the act to delete the obsolete authorization for AID's fiscal year 1969 administrative expenses and provides a new authorization of \$54,250,000 for AID's fiscal year 1970 administrative expenses.

CHAPTER 3—MISCELLANEOUS PROVISIONS

Section 5. This section amends section 643 of the act to make the savings provisions, which apply to previous foreign assistance legislation, similarly applicable to provisions of the act repealed by this bill. As amended, section 643 will continue in effect determinations, authorizations and other actions taken under authority of provisions repealed by this bill. It also provides that compliance with or satisfaction of conditions as previously required under the Act shall constitute compliance with or satisfaction of similar conditions of the act as amended by this bill. Funds made available pursuant to provisions of law repealed by this bill, unless otherwise provided by law, remain available for their original purpose in accordance with provisions of law originally or currently applicable to such funds.

Part 4—Amendments to other acts

Section 6. This section amends certain provisions of title 5 of the United States Code, which relate to transfer or detail of Federal employees to international organizations. Subsections (a), (b), (c), and (d) amend four specified provisions of title 5, to extend the authorized maximum period of such services from 3 to 5 years. Experience with this program indicates that the present 3-year limit frequently terminates an employee's service at a time when his usefulness in the organization is still growing. Many projects under the United Nations. Development program, for which the United States provides approximately 40 percent of the financing, are of 5 years duration and require project managers and experts for that period of time. Increasing the period allowable for such service would, therefore, increase the opportunity for Federal employees to make fuller and more lasting contributions to the work of the international organizations.

Further, the proposed amendment provides that the President may, in special circumstances, extend the period of an employee's transfer to an international organization beyond 5 years up to a maximum of 3 additional years. The Congress is considering private relief legislation to permit an employee of the Department of Commerce to serve for 6 years as director of the international radio consultative committee of the International Telecommunication Union, a position of considerable importance to the United States. The International Atomic Energy Agency, in implementing the Nonproliferation Treaty, believes it highly desirable that safeguards inspectors serve for periods of up to 8 years because of the highly technical character of the work, the length of time required to train inspectors and the special value to the agency once they master their tasks. It is anticipated that other special situations of this type will arise where it would be in the national interest to approve an extended service. On the other hand, a limit in time must be established if a Federal employee is to retain his status as a civil servant and 8 years would appear to be reasonable for this purpose.

Subsection (e) which amends section 3582(a)(1) of title 5, is proposed to avoid dual retirement coverage of employees transferring to international organizations. The staff regulations of the United Nations provide that an employee must make retirement contributions to that organization. After 5 years service with the United Nations, a transferred Federal employee is entitled to an annuity at age 60. If, at the same time, he made contributions to a Federal retirement fund, he would be in the position of obtaining dual retirement credit for the same service.

Subsection (f) amends section 3582(a)(2) of title 5, which presently relates to the eligibility of an employee to continue participation in the Federal employee group life insurance program during the period of his transfer to an international organization. The amendment extends the scope of this provision to permit an employee, during the period of transfer, to continue his participation in the employee health benefits program.

Subsection (g) amends section 3582(d) of title 5, which provides for agency contributions to retirement and insurance programs for Federal personnel who transfer to international organizations. The amendment requires the releasing Federal Government agency to pay the "employer" share of contributions to the insurance and retirement programs so long as contributions are made by the employee. Under current authority such payments may be made by the releasing agency, but, if not so made, the employee himself is obligated to pay the "employer" share if he wishes to retain Federal retirement and insurance coverage.

Section 7. This section amends section 101 of the Government Corporation Control Act, as amended, (31 U.S.C. 846) to include the Overseas Private Investment Corp., established under this bill, in the list of Government corporations wholly owned by the U.S. Government and subject to the Government Corporation Control Act. The Development Loan Fund is deleted from this list, since it is no longer a corporate entity. However, administration of the loan funds authorized under the act continue to be subject to obligational and accounting provisions applicable to Government corporations under section 635(g)(4) and (5) of the act.

Section 8. This section amends provisions of title 5 of the United States Code that list Government executive positions which call for compensation at executive schedule pay rates. The new positions include executive level officers of the Overseas Private Investment Corporation and a new position of Auditor-General for AID.

The Corporation officials who will be compensated at executive salary levels will be the president, executive vice-president and three vice presidents. The president will be compensated at level III (\$40,000 annually) of the executive schedule. This level is the same as that applicable to, among others, the President of the Export-Import Bank and the Deputy Administrator of AID and is commensurate with the responsibilities of this official and his expected background and experience. The executive vice president, as the second ranking officer of the Corporation, will be compensated at level IV (\$38,000 annually) of the executive schedule, the same level applicable to, among others, the First Vice President of the Export-Import Bank and Assistant Administrators of AID. Three vice presidents of the Corporations will be compensated at level V (\$36,000 annually) of

the executive schedule, the same level applicable to, among others, the first Vice President of the Export-Import Bank and Assistant Administrators of AID. Three vice-presidents of the Corporations will be Compensated at level V (\$36,000 annually) of the executive schedule, the same level now applicable to, among others, the General Counsel of AID. The three vice presidents will fill important operational or staff positions as determined by the board of directors. They are expected to be experienced and qualified individuals who can deal effectively with their counterparts in private financial and commercial institutions. For these reasons, executive level status is appropriate for these positions.

The new position of Auditor-General for AID, to be established at level V (\$36,000 annually) of the executive schedule, will enable AID to upgrade its efforts to strengthen its management practices and improve the conduct of its operations. By placing audit operations under a highlevel executive within the agency, who devotes full time to these responsibilities and who reports directly to the Administrator, AID will be better equipped to assure proper administration of and control over its problem.

○

