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CAPE VERDE:

EXPORT DEVELOPMENT SERVICES PROJECT REVIEW UNDER POLICY DETERMINATION (PD) 20

FINAL REPORT

U.S. Agency for International Development

Prepared for: USAID/Cape Verde

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Introduction

This report has been prepared by The Services Group under subcontract to Coopers & Lybrand in fulfillment of Request Number R-12 under the Private Enterprise Development Support Project III (PEDS III) with the U.S. Agency for International Development (USAID). This report is a review of the Cape Verde Export Development Services (EDS) project under AID's Policy Determination 20 (PD-20) of January 3, 1994. The current study builds upon an earlier analysis conducted to determine the implications for the EDS project of the provisions of Section 599 of the FY 1993 Foreign Operations, Export Financing, and Related Programs Appropriations Act (FAA).

Background and Study Context

In the fall of 1992 the FY 1993 Foreign Operations, Export Financing, and Related Programs Appropriations Act was adopted by Congress and included a provision, which prohibits the use of funds appropriated by the Act to provide financial incentives to a U.S. business to relocate its operations outside the United States; to provide assistance for the purpose of establishing an export processing zone in a foreign country, in which the tax, tariff, labor, environment and safety laws of that country do not apply; and to provide assistance for any project or activity that contributes to the violation of internationally recognized workers rights. Section 547 of PL 103-87 continued this prohibition for FY 1994, and AID/W issued its final guidelines regarding the legislation on January 3, 1994 as Policy Determination 20.

Given that the USAID/Cape Verde EDS project was designed to promote exports from Cape Verde and investments into the country, it was deemed necessary to conduct a review of the project to determine its applicability to the legislation and PD-20. The project's primary purpose is "to enable Cape Verde to increase and diversify its foreign exchange earning capacity through an export-led growth strategy and increased private sector participation in the economy", in support of the Government of Cape Verde's (GOCV) strategy to increase private sector investment and exports.

The project was designed to provide technical assistance on investment policy, undertake feasibility and marketing studies, develop financial packages to increase the export of products and services through the private sector, and support the development of the newly created Center for Investment and Export Promotion (PROMEX).

Overview of EDS Project Activities

The primary focus of project activities has been in the area of institution building. At this time PROMEX is fully staffed with 17 employees and functions well as an investment and export promotion agency. The majority of the tasks carried out under the program have been in support of creating an operational institution, supplemented by a number of studies and outside technical assistance in areas which required expertise not available in-house.

PROMEX's mandate is primarily to promote Cape Verdean exports and investments into Cape Verde. Moreover, one of its key roles is to assist the GOCV in the enhancement of the "product" it promotes, which is the country's overall investment climate and economic environment, as well as increase its export potential.

In the coming years, the activities of PROMEX will continue to focus on institutional strengthening and increase PROMEX's direct promotional activities. In its promotional strategy PROMEX has identified three sectors -- light manufacturing, tourism, and fisheries -- as its target sectors. This active promotion will be focused in only two regions, Europe, primarily Portugal, and Asia, primarily Hong Kong. Moreover, PROMEX intends to continue its efforts in raising awareness amongst local businesses, and provide basic training to local entrepreneurs in such areas as joint ventures, investment appraisal, and other basic techniques to encourage export development.

Review of Section 547 and its Implications for EDS

Section 547 has three distinct provisions which prohibit the use of funds for financial incentives to U.S. enterprises to relocate abroad; for establishing or developing export processing zones, if such activities are likely to result in the loss of jobs in the United States; and providing assistance which would contribute to the violation of internationally recognized workers rights.

PD-20 expands on Section 547 (a) in making it AID policy to stop any activity that would lead to the loss of jobs in the U..S., through any action, not only through financial incentives. In order to determine if a project is in violation of this guideline, a project must undergo a test of two questions: (i) is the project designed to attract foreign or local investment into the host country? and (ii) could the project reasonably be foreseen to involve the relocation of any U.S. business that would result in the loss of jobs in the U.S? While the answer to question one is clearly yes, this report concludes, after some careful analysis, that the answer to question two is no.

Question two was answered in the negative due to the following facts: Cape Verde is not an attractive investment location for footloose U.S. enterprises, due to its poor infrastructure, such as infrequent shipping and air freight connections, lack of readily available industrial space, high cost of basic utilities, such as electricity and water, and the geographic distance from the U.S. Moreover, historical investment patterns by U.S. enterprises in Cape Verde further support that there is no interest from U.S. investors at this time. Lastly, PROMEX's planned promotional efforts do not include any promotion to U.S. investors.

As stated in PD-20, if the answer to either of these questions is no, then the project is not in violation of the guideline and it does not need to be subject to greater scrutiny or controls. This is the conclusion reached in this analysis.

Section 547 (b) states clearly that any support in the development of EPZ projects is prohibited unless a presidential waiver is obtained. The EDS project had originally provided for a feasibility study to determine the viability of EPZs in Cape Verde. After its initial EDS project review, USAID/Cape Verde concluded that without a waiver, this activity can no longer be supported by USAID/Cape Verde. It was recommended at that time that waiver would not be requested given the fact that this was only a minor component of the EDS project. USAID/Cape Verde included a prohibition of any of the funds provided under EDS from being used for EPZ development in its Grant Agreement Amendment Number 4. As such EDS is no longer in violation of this provision.

The internationally recognized workers rights are guaranteed by the Cape Verdean Labor Code and no project activities are planned to undermine those provisions. The institution created under the project, PROMEX, operates under Cape Verdean law and its employees are guaranteed their rights under the country's labor code.

Conclusions

The major conclusions are as follows:

- There is no reasonable likelihood that a relocation of U.S. jobs could take place within the context of the EDS project.

- The EPZ feasibility study, which was originally planned under EDS, violates the provisions of Section 547 and PD-20. However, as the EPZ study component under EDS was cancelled after the initial AID guidelines on Section 599 were issued, this is no longer an issues under PD-20.

- The internationally recognized workers rights are guaranteed by the Cape Verdean Labor Code and the project does not support any activity that would violate those rights.

- USAID/Cape Verde does not need to file for a categorical exemption for the EDS project under PD-20.

Recommendations

The following recommendations are to be considered by USAID/Cape Verde in its support to the EDS project:

- Reiterate that support to EPZ development is not allowed under the project.
- Inform PROMEX and the institutional contractor of the provisions of Section 547 and the contents of PD-20.
- Develop a monitoring system that periodically reviews the project in light of Section 547.
- Prepare a compliance report, stating that EDS is not in violation of 547 and PD-20.

Section 1

Introduction

Introduction

This study has been prepared by The Services Group (TSG) under subcontract to Coopers & Lybrand, in fulfillment of Request Number R-12 under the Private Enterprise Development Support Project III (PEDS III) with the U.S. Agency for International Development (USAID). This report is a review of the Cape Verde Export Development Services (EDS) project under AID's Policy Determination 20 (PD-20) of January 3, 1994 (The Terms of Reference for this study are attached as Annex A of this report.) The current study builds upon an earlier analysis conducted to determine the implications for the EDS project of the provisions of Section 599 of the FY 1993 Foreign Operations, Export Financing, and Related Programs Appropriations Act (FAA).[1]

This analysis is based on a review of the Cape Verde EDS project and Policy Determination 20, for implementing the provisions of Section 599 and 547 of the Foreign Operations, Export Financing, and Related Programs Appropriations Acts of 1993 and 1994, respectively, as well as discussions with AID/W staff involved in drafting PD-20.

Following this introductory section, this report is organized according to the following framework:

- Chapter II presents an overview of the context for the study, reviewing the U.S. Government's and AID/Washington's policy regarding Section 547 of the Foreign Appropriations Act, as well as PD-20, and summarizing USAID/Cape Verde's strategy to support the country's current export development objectives. Moreover, this chapter provides a brief overview of the Export Development Services (EDS) project and its importance to USAID/Cape Verde.

- Chapter III provides a brief summary of the overall goals and objectives as defined in the EDS program design, and reviews activities and programs that have been undertaken and are planned under the EDS project. This chapter provides the

[1] *Cape Verde, EDS Project Review under Section 599 Legislation Requirements*, Draft Final Report, May 1993, The Services Group, Inc. under contract to Nathan Associates, Inc.

foundation for the analysis conducted in Chapter IV to establish whether the program is in violation of PD-20 or not.

- Chapter IV reviews the provisions of Section 547 in detail and elaborates on the provision's implications for and applicability to the EDS project. This chapter also reviews AID/Washington's January 3, 1994 PD regarding each of Section 547's provisions and applies them to the project.

- Chapter V presents the conclusions and recommendations, highlighting the major findings, and providing a summary on how to proceed regarding the implementation of the program.

This report has been prepared by Torge Gerlach, a Vice President with The Services Group. Mr. Gerlach spent the August 1 - 6, 1994 period in Cape Verde for first hand project discussions with USAID/Cape Verde staff, PROMEX representatives, and other relevant project personnel, such as Nathan Associates' long-term advisor Ana Maria Cochat and project officer Paola Lang, who was in country at the same time, as well as USAID/REDSO/WCA Private Sector Officer Oren Whyche. Moreover, prior to travel to Cape Verde, interviews were conducted with AID/Washington staff to discuss the EDS project in general and the implications of PD-20 in particular.

The findings and conclusions of the report are those of the TSG consultant and do not necessarily represent the point of view of USAID/Cape Verde, PROMEX, AID/Washington, or other parties consulted during the course of the study.

Study Context

Summary of PD-20

This chapter provides an overview of the context and purpose of this study, starting with a review of the history and background to PD-20 and a brief review of the U.S. Government's and the Agency for International Development's policy regarding AID support to programs which may lead to the relocation of U.S. jobs overseas. The following section reviews USAID/Cape Verde's current strategy to assist Cape Verde in diversifying its economy by encouraging private investment and exports and introduces the EDS project. The final section of this chapter provides a brief overview of the EDS project and summarizes why it may be of concern given the new legislation.

Background and History of PD-20

In the fall of 1992 the FY 1993 Foreign Operations, Export Financing, and Related Programs Appropriations Act was adopted by Congress; under the Act is was prohibited to:

- use funds appropriated by the Act to provide financial incentives to a U.S. business to relocate its operations outside the United States;

- to provide assistance for the purpose of establishing an export processing zone in a foreign country, in which the tax, tariff, labor, environment and safety laws of that country do not apply;

- and to provide assistance for any project or activity that contributes to the violation of internationally recognized workers rights.

Section 547 of P.L. 103-87 continued this prohibition for FY 1994, except that subsection (c) was modified to exempt the informal sector, micro and small scale enterprises, and smallholder agriculture. (The full text of Section 547 is presented in Annex B of this report.) In November 1992 AID/W issued policy guidelines stating that all USAID missions were to review their project portfolios and were to phase out projects that are in violation of the provisions of Section 599, regardless of the year the project was originally funded. The final guidelines regarding the legislation was issued on January 3, 1994 as Policy Determination 20. (The full text of PD-20 is presented in Annex C of this report.)

While the intent of the law is to prohibit the use of U.S. tax dollars to encourage, or entice, U.S. firms to shut down operations in the United States and relocate overseas, it should be noted that it is difficult to draw a clear distinction between this intent and the Agency for International Development's mandate to support private sector development and U.S. investment overseas. The postwar policy, during both Republican and Democratic Administrations has been consistent in strongly supporting foreign direct investment by U.S. firms based on the link that such investment has with growing economies abroad, more U.S. exports, and more American jobs.[2] Given the new legislation, however, a clear distinction has to be made between promoting new U.S. foreign investment on the one hand and persuading U.S. firms to relocate overseas on the other.

Review of Changes over Initial Guidelines

As stated above, PD-20 is founded on Section 599 of PL 102-391 and the more recent Section 547 of PL 103-87. It represents USAID's interpretation of these public laws and the means for complying with them. PD-20 contains one or two changes from USAID's initial policy guidelines and much more information on the compliance process.

- PD-20 notes that the current legislation -- Section 547, which serves as the foundation for PD-20 -- explicitly exempts the informal sector, micro and small-scale enterprises, and smallholder agriculture from compliance with internationally recognized workers' rights. Section 599 did not explicitly state this exemption.

- PD-20 extends the application of Sections 599 and 547 to all projects financed with appropriated dollars (and projectized local currency funds) from prior year funds as well as funds from FY 1993 and FY 1994 forward.

- An important clarification contained in PD-20 is that "*any type of assistance, regardless of whether it might be considered financial assistance, will be considered subject to Section 547 restrictions.*" This differs significantly from the initial guidance which focused on financial assistance activities only.

2 The Foreign Assistance Act of 1961, as amended, instructs A.I.D. to encourage free enterprise in developing countries, among many other objectives. Interpretation of this instruction has evolved through the agency's history. In 1981 A.I.D. announced a Private Enterprise Initiative, intended to orient programming toward facilitating private-sector-led growth. In 1990 this was supplemented by the announcement of a Partnership for Business and Development Initiative, intended to encourage greater U.S. private-sector involvement in developing countries.

- PD-20 includes a five step compliance process:

  - Step 1 contains two "baseline" tests framed as questions to be posed at the project design/authorization stage. If the answer to either question is no (see Chapter IV, Section A below for questions), then the activity is permitted and there is no need to apply Steps 2 through 5.

  - Step 2 identifies specifically permitted activities. Even if the answer to each of the questions in Step 1 is "yes", USAID may still be able to fund an undertaking if it is listed as one of the permitted activities.

    Step 3 identifies specifically prohibited activities. If the answer to each of the questions in Step 1 is "yes" and the activity appears on this list it is categorically prohibited.

  - Step 4 provides guidance on the design and implementation of projects that may present potential problems but may be funded if proper controls are built in.

  - Step 5 offers guidance for analyzing projects that are a mix of permitted, prohibited, and potentially prohibited activities.

- The appendices to PD-20 suggest several standard clauses/certifications pertaining to Section 599 and 547 restrictions for inclusion in various project documents, such as:

  - Grants, inter-agency agreements, and contracts.
  - Current contracts for trade implementation and policy program.
  - Implementation agreements between the USG and enterprise funds.
  - Statements provided by U.S. firms benefiting from project activities.

- As with the previous guidelines, any work in connection with an EPZ is considered a lightening rod and prohibited. This exclusion applies to any area in which relief from normal tax, tariff, and labor laws is provided, e.g., bonded warehouses. As before, a Presidential wavier may be sought; however, Missions are highly discouraged from attempting to do so.

A more detailed discussion of PD-20, AID/W's guidelines to assure that USAID programs do not result in the loss of jobs in the United States, its provisions and their implications for the EDS project is presented in Chapter IV.

USAID/Cape Verde and GOCV Strategy and Goals

Background and Economic Context

Cape Verde attained its independence from Portugal in 1975, and entered this period with a per capita income around US$200. Through a combination of sound fiscal management, expatriate remittances, and foreign assistance the economy (GDP) of Cape Verde grew at a rate of seven percent annually through 1990, and reached a per capita income of approximately US$800 by the end of 1992.

The economy of Cape Verde is unusual in its dependence on external financial flows. External transfers represented over one half of the GDP in 1991, according to the latest World Bank Economic Report of the Country. In straight forward terms this means that one third of the national income comes from people outside the country. For instance, over 90 percent of Cape Verdean imports are paid for by foreign exchange coming from sources other than exports of goods, mainly external transfers. While it is fortunate to receive these transfers, the country needs to embark on a path which will permit less dependence on external assistance.

Another important point to note about the structure of the Cape Verdean economy is the strong dependence on the tertiary (i.e., services sector) and the relatively small role played by "Transformative Industry". The primary sector, which includes agriculture and fisheries, accounts for between 11 and 18 percent of GDP. Nearly one half of the tertiary sector activity comes from retail commerce. Finally in the secondary sector, which includes industry and transformative enterprises, roughly two thirds of the activity comes from construction. "Transformative Industry", which includes typical manufacturing activities, such as garment assembly, shoes, etc., represents around only one percent of the GDP.

Given the economic situation summarized above, it is imperative for Cape Verde to encourage investment and develop its export sector to reduce its dependence on remittances from emigrants and foreign assistance.

USAID/Cape Verde Strategy

The USAID/Cape Verde strategy, as presented in the Small Program Strategy Statement of 1988, views the basic problem of the Cape Verdean economy as one of a lack of foreign exchange earnings resulting from the poor resource base and low labor productivity. The strategy, therefore, identified the following three objectives to be accomplished:

- increase the productivity of the Cape Verdean labor force;
- promote private domestic savings for investment and encourage foreign investment in export (foreign exchange capacity) diversification and expansion;
- improve the agriculture and natural resource base to maximize agricultural exports and enhance the "platform" on which other export-oriented development can occur.

This strategy represented an evolution of the prior strategy by adding a critical element of foreign exchange earning capacity and private sector development to earlier investments in natural resources and agricultural development. It also supports the liberalization process in the economy and offers a broad range of opportunities for policy dialogue. The principal activities in USAID/Cape Verde's program, including the EDS project, focus on these three key objectives.

USAID/Cape Verde was in the process of updating its strategy during the last Quarter of 1993, when the notice to phase out the Mission by the end of FY 1996 came. The draft strategy document currently states the Mission's goal as follows: **"... to improve the economic well-being and health of Cape Verdeans."** The draft program strategy includes two strategic objectives that respond to priority needs and development constraints for which USAID is in a unique position to provide. **Strategic Objective One, is Expand Private Enterprise Development** and underscores USAID's belief that improved economic conditions in Cape verde are key to sustainable development, especially those of the private sector with the potential to earn foreign exchange and provide productive employment. To accomplish this, the Mission intends to address both the needs of the potential export investor and the indigenous entrepreneur, through such measures as streamlining the investment process and creating opportunities for private enterprise expansion.

As mentioned above, pursuant to the guidance contained in State 349291, the USAID Program in Cape Verde will be phased-out by the end of FY 1996. In response to the phase-out schedule, USAID/Cape Verde submitted a Phase-Out Plan, dated March 14, 1994, to the Assistant Administrator for Africa. This phase-out plan builds upon the draft strategy, described above, and recommends to extend the PACD for the EDS project until September 30, 1996 with an increase in the authorized life-of-funding by US$1,400,000. As stated in the plan, USAID/Cape Verde expects this *to permit the implementing institution* [PROMEX] *to achieve financial sustainability and programmatic* *autonomy which cannot be reasonably attained within the current life of project.*

The proposed extension of the PACD fits well into the program focus to emphasize export-led growth and private sector development, which USAID adopted a few years ago, and is also in line with the government's new economic liberalization program. As has been repeatedly stated by the Government of Cape Verde, the country's only hope for sustained economic growth lies in the creation of an export-oriented private sector.

GOCV Strategy and Goals

In the initial years after independence the country struggled to deal with basic needs, and to address the effects of a drought which lasted from 1968 through 1986. As the country met with some success in these efforts, a desire to strengthen the industrial sector led to a strategy of import substitution with public enterprises playing a key role. In the late 1980s, the government began shifting its policies to liberalize the economy and promote stronger involvement of the private sector.

The new MPD government, which came to power in elections held in January 1991, has affirmed its support for the continued liberalization of government policy toward greater private sector participation and foreign investment in trade. The policy program of the new government builds upon the Second Development Plan (1986-1990), which focused on balancing regional development, encouraging private savings and investments, and promoting production in areas where Cape Verde has a comparative advantage. Moreover, the second, as well as the current Plan emphasizes the selection of projects that have an immediate or near-term impact on economic growth and exports.

The Export Development Services project fits well into the current economic environment in Cape Verde, and is consistent with the GOCV strategy described above. Moreover, it was specifically designed to further AID goals in the areas of technology transfer, institution building, policy dialogue, private sector development, and investment. The following Section presents a summary description of the EDS project and outlines how it was to accomplish USAID/Cape Verde's overall goals and support the GOCV's development strategy.

EDS/PROMEX Overview

The EDS project was designed to address some of the needs identified in the USAID and GOCV strategies to foster the economic development of Cape Verde. Since one of the major objectives of the U.S. assistance program in Cape Verde is to assist the country in diversifying its economy by encouraging private investment and export development, the EDS project was designed to:

"enable Cape Verde to increase and diversify its foreign exchange earning capacity through an export-led growth strategy and increased private sector participation in the economy."

As such, the Export Development Services Project (655-0014) was initiated in FY 1989 to support the GOCV's efforts to promote private sector development, by providing technical assistance on investment policy, undertaking feasibility and marketing studies, developing financial packages to increase the export of products and services through the private sector, and supporting the newly created Center for Investment and Export Promotion (PROMEX).

The EDS project is a five-year intervention, with a total planned funding of US$4,000,000 from the Development Fund for Africa. The original PACD was September 30, 1993, but was subsequently extended to September 30, 1994. USAID/Cape Verde is currently preparing an amendment to the project, which would extend the PACD for another two years and add approximately US$1.4 million in funding. The extension and continuation of the EDS project until end FY 1996 is part of USAID/Cape Verde's phase-out plan, and will ensure that PROMEX is well prepared for the end of USAID's program support. The Ministry of Foreign Affairs is the GOCV's official representative for this project, through the Secretariat for Cooperation and Foreign Affairs. PROMEX is the implementing agency.

The project was closely planned with the GOCV. Moreover, the project was closely coordinated with other donors, particularly the UNDP and the World Bank, which have supported related activities in the recent past and maintain active interest in the progress of the program for export and investment promotion.

Assessment/Summary of EDS Project Activities

This Chapter provides an overview of the EDS project's goals, objectives, and outputs, as well as a brief review of the activities supported by the project. A detailed review of the project status and activities carried out to-date is beyond the scope of work for this assignment; copies of the mid-term project evaluation completed in May 1993, as well as the institutional contractor's quarterly reports are available at USAID/Cape Verde. These documents should be referred to for a more in-depth analysis of the project activities that have been carried out. Moreover, the recently completed *PROMEX Business Plan for 1995 - 1997* provides a detailed overview of the institutions planned activities and strategy for the next three years.

The purpose of this Chapter is to lay the foundation for the review of the project in light of the provisions of Section 547 and PD-20, to determine whether or not any of the project activities are in violation of the new legislation.

Program Objectives and Goals

As mentioned above, the project's primary purpose is "to enable Cape Verde to increase and diversify its foreign exchange earning capacity through an export-led growth strategy and increased private sector participation in the economy." As such the project consists of support to Cape Verde's private sector through: (a) the provision of resources to mitigate constraints to expansion of export-assisted production, trade and private sector participation, (b) creation of the Center for Investment and Export Promotion (PROMEX), (c) support of GOCV policy and administrative reforms that facilitate domestic and foreign investment and export activity, and (d) support to a strengthened public and private sector capacity to promote investment in Cape Verde. The project provides financing for costs of commodities, technical assistance and consulting services, conferences, site visits and other educational activities, and other services necessary to achieve the Project purpose.

The long-term goal of the project is to enable Cape Verde to earn foreign exchange through an export-led growth strategy and increased private sector participation in the economy. Progress toward accomplishment of the goal will be indicated by greater economic activity of the private sector, particularly as indicated by an increasing level of exports. Progress toward goal achievement is contingent upon the following set of circumstances: (i) that the GOCV will continue to remain open to private sector development and initiatives; (ii) the continuation of political stability and responsible government; and (iii) adequate levels of foreign assistance being maintained.

Project outputs are expected to be as follows:

- The creation of the Center for Investment and Export Promotion (PROMEX);
- Recommendations for policy and administrative reforms which facilitate and enhance investment and export activity;
- Strengthening public and private sector capacity to promote Cape Verde as an investment location; and
- Development of human resources capacity.

The most critical component of the project activity contributing to these outputs is a program of institutional development, through the establishment of PROMEX. PROMEX, the Center for Investment and Export Promotion, is largely responsible for implementing the project, and it is hoped will greatly enhance the GOCV's institutional capability to promote investment and export activity in Cape Verde, stimulating job creation and foreign exchange generation, two of Cape Verde's most important development objectives.

For additional detail on the project, a full copy of the EDS Project description, excerpted from the 1989 Cape Verde Export Development Services Project Paper, is presented in Annex D.

Activities Completed/Underway

Since the inception of the project, the primary focus of project activities has been in the area of institution building. At this time PROMEX is staffed with 16 employees and functions well as an investment and export promotion agency. With the recent opening of an office in Mindelo, the industrial and commercial center of the Cape Verde Islands, the staffing plan envisages a total employment of 20 people. The majority of the tasks carried out under the contract have been in support of creating an operational institution, supplemented by a number of studies and outside technical assistance in areas of policy dialogue which required expertise not available in-house. The following is a brief overview of the activities carried out to date. A more comprehensive review of these activities is available through Nathan Associates' Quarterly and Annual reports, as well as the mid-term project evaluation.

Institutional Development

In terms of the institutional development of PROMEX, activities focused on the following:

(i) refinement of the institution's legal and organizational structure, through activities such as the revisions of the legal statutes, formulation and refinement of an institutional strategy, and clarification of the organizational structures;

(ii) development and improvement of operational aspects, such as staff training, improvement and completion of office facilities, development of a Management Information System (MIS), and the establishment of a personnel evaluation and incentive system; and

(iii) cultivation of external relations with other bilateral and multi-lateral donor institutions, as well as other GOCV agencies, involved in regulating and promoting investments in Cape Verde.

Most of these activities have been carried out in-house, by PROMEX staff and the two long-term technical advisors that were in place until November 1993. Some outside technical assistance, however, was contracted under the Nathan Associates prime contract, in the area of MIS design and computer training. Moreover, PROMEX has engaged a local consultant to assist in the development of the personnel evaluation system.

Over the past twelve months, project activities focused primarily on PROMEX's organizational restructuring, as well as reprogramming some of the technical assistance activities in response to the mid-term project evaluation. The reorganization was based largely on a report prepared under the technical assistance program in November 1993.[3] Moreover, a report outlining the new organizational structure and staffing of PROMEX was prepared in June 1994, which further cemented this restructuring and established a guideline for the internal structures of the organization.[4] Discussions with PROMEX staff indicate that this restructuring has been met with enthusiasm and has increased the organizations overall efficiency, as well as heightened worker morale.

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3 *Technical Assistance to PROMEX on Investment Promotion and Investment Services in Cape Verde*, November 1993, prepared by Ignatius Rossi, International Development Ireland, under contract to Nathan Associates Inc.

4 *Organizational Structure and Staffing of PROMEX*, June 1994, Nathan Associates Inc.

Development of an Economic Knowledge Base within PROMEX

In its efforts to develop an in-house database on Cape Verde's economic and factors of production data, PROMEX has relied primarily on World Bank and GOCV sources. In late 1992, the World Bank completed an Economic Report on Cape Verde, which has been the principal and best source of macroeconomic and financial data. PROMEX has developed excellent relations with the World Bank and will continue to use the Bank as its primary source for this kind of information.

Data on Cape Verde's factors of production, as well as information regarding the Cape Verdean business community is limited to GOCV sources, which focus on information regarding state-owned enterprises, but can be completed through information available from the Export Processing Zone prefeasibility study prepared under AID's Private Enterprise Development Support (PEDS) project in 1991.

PROMEX's database, which is part of the MIS system developed under this project, is crucial in providing economic and production cost factor data to potential investors on a timely basis and will be upkept continuously. While a large amount of recent data is available through the World Bank's recent Economic Report, information on some specific subjects, not available through other sources, has been complemented through PROMEX's research and development activities.

Research and Development

The original EDS project design called for a number of studies to be carried out in support of the project. Of the five studies originally envisaged, only three, the Review of Legislative and Regulatory Environment for Export Development and Foreign Investment, the EPZ Prefeasibility Study, and the Export Processing Zone Feasibility Study have been carried out under the project; and the latter of the two has only been partially completed. Other studies that were planned under EDS, such as a review of the potential for transshipment services, a tourism market study, and an offshore information services/teleport study have been carried out by other donors, such as the World Bank, the Germans, and the Dutch.

The Review of Legislative and Regulatory Environment for Export Development and Foreign Investment was carried out during the summer of 1992 by The Services Group, under subcontract to Nathan Associates. The study's terms of reference called for "a study of the legislative and regulatory environment in Cape Verde, focusing on the framework necessary for the promotion of investments and exports." The study was based on a review of more than 300 relevant laws and detailed analysis of the 30 most relevant to the problem of enhancing the policy and regulatory environment for export-oriented investment in Cape Verde. The study has served well to identify the major bureaucratic and legislative constraints to export development and forms a basis for future discussions with the GOCV to enhance the regulatory and legislative environment in Cape Verde.

In the Spring of 1991 an EPZ Prefeasibility Study was carried out through the Private Enterprise Development Support (PEDS) IQC contract with Ernst & Young. The study was carried out by The Services Group prior to the enactment of Section 599 and provided basic background on EPZs and Cape Verde's economic environment and established the country's potential for EPZ development.

The first phase of the Export Processing Zone Feasibility Study consists of a market demand analysis to determine the near- to mid-term investor interest in locating in an Industrial Park/Free Zone in Cape Verde. The study was conducted by The Services Group over the course of the Fall of 1992, and a draft report submitted to USAID/Cape Verde in February 1993. A final report, incorporating USAID's comments was submitted in April 1993. The study identified sufficient demand to justify proceeding with the subsequent phases of the feasibility study, and provided more insight into the sectoral and geographic investment opportunities for Cape Verde. Given the provisions of Section 599, USAID/Cape Verde did not proceed with the subsequent phase of the study, until further clarification regarding its legality under 599 is established at the completion of this review. A more detailed discussion of this issue is presented in Chapter IV. B. below.

Other Activities

In support of its activities, PROMEX has prepared some promotional materials, consisting of a general purpose fold-out in full color and an investor information kit with replaceable inserts, as well as an in-house video produced by PROMEX personnel. Moreover, PROMEX publishes a monthly newsletter, targeted at the local business community, providing overviews of PROMEX's activities and summaries of potential investments into the country. Lastly, PROMEX has sponsored a number of conferences, again targeted at the local population, providing information about PROMEX's services and activities. The primary purpose of these conferences, as well as the newsletter, is to raise in-country awareness about the existence and capabilities of PROMEX.

Given the nature of the activities described above, it is clear that PROMEX has not yet embarked on an active promotion campaign. To date the majority of promotional contacts have been reactive, rather than proactive. Even though PROMEX has led some missions to Northern Europe, Portugal, and Russia, most of them were to follow up on existing contacts, rather than actively promote the country. Moreover, PROMEX has focused its attention on improving the overall investment climate and developing the capabilities of local exporters. This is primarily due to the fact that PROMEX is still developing its promotional capabilities, as well as the fact that much of the legislative and regulatory environment in Cape Verde is still somewhat unclear. In the coming year, PROMEX will continue its focus on supporting and "educating" local exporters, as well as acting as a lobbyist on behalf of the investor to improve the overall investment climate, prior to embarking on active promotion.

Just recently, an Investment Promotion Strategy has been completed under the technical assistance component of the EDS project.[5] This document outlines a basic promotional strategy for both the short-term (year 1) and the medium-term (years 2-5) and is based on a review of international investment promotion trends, as well as a review of the factors affecting investment promotion in Cape Verde. The document identifies three target sectors, light manufacturing, tourism, and fisheries, to be promoted in a narrowly defined geographic area, namely Portugal and the Far East, primarily Hong Kong. The investment strategy for PROMEX clearly recognizes the country's limitations in recommending such a narrowly defined targeted approach. Moreover, the short-term strategy recommends to only focus PROMEX's active promotion on light manufacturing in Portugal and Asia, and to continue its work through policy dialogue and image building campaigns to improve the overall investment climate in Cape Verde and the international perception of Cape Verde as an investment location. The mid-term strategy recommends to continue a cautious and low budget active promotional campaign and to keep building on the contacts made during the initial promotional phase. Moreover, depending on improvements made on the investment climate, more active promotion of tourism and fisheries is recommended.

Project Achievements Date

As of the second quarter of 1994, the project had accomplished the following:

(1) PROMEX became fully operational, established its headquarters in Praia, opened a branch office in Mindelo, and recruited highly qualified professional staff, as well as conducted an internal reorganization and developed a business plan to guide the institution over the next three years.

(2) PROMEX drafted new legislation for an External Investment Law, a Free Enterprise Law, an Export Promotion Law, an Investment Promotion Law, and helped in the drafting of the revised Labor Code, all of which have been adopted.

[5] *Investment Promotion Strategy for PROMEX*, March 1994, Nathan Associates Inc.

(3) New foreign investments totalling US$9.4 million of new investments (sites in operation), and an additional US$3 million in the immediate pipeline (sites under construction or in pre-operational phases) have been negotiated by PROMEX on behalf of the Government. These new investments will create an estimated 1,200 new jobs.

(4) On the export side PROMEX has played a role of trouble-shooting and facilitating, resulting in the export of approximately US$700,000 of pharmaceuticals to Angola, and US$300,000 in exports of shark oil to Hong Kong. The latter of these accomplishments may lead to an estimated US$7 million of shark oil exports in the near future.

(5) PROMEX has been instrumental in negotiating joint venture agreements and raising financing for local entrepreneurs, which has resulted in an increase in the activities of local firms. The sectors assisted in this area included ceramics, fishing, construction materials, as well as tourism development.

(6) Lastly, PROMEX has played an important role in promoting Cape Verde's overall image, both locally and internationally through workshops, seminars, and participation at trade shows, as well as through the dissemination of newly prepared promotional materials in the media.

Planned Initiatives

As previously mentioned, PROMEX recently completed a three year business plan, which will guide its activities over the 1995 to 1997 period. The following is a brief summary of those activities and the strategy that PROMEX has chosen to follow. The opening statement of the business plan mentions the promotion of exports from Cape Verde and the promotion of investment in Cape Verde as the organization's primary objectives. Promex's Mission Statement reflects these objectives as follows:

> *"To maximize desirable external investment and exports in Cape Verde by adopting the best practices in investment and export promotion, given available resources in Cape verde, continually working to improve business climate, and performing our advisory, regulatory, monitoring and coordinating functions to the highest standards."*

PROMEX has focused its activities in the following three areas: (1) general promotion and image building; (2) investment promotion; and (3) export development.

(1) **General Promotion and Image Building.** PROMEX's overall objective in its' image building campaign is to create an image or identity for Cape Verde in target countries by highlighting interesting cultural, historical, political and business success stories. The target countries for this activity include Portugal, France, Germany, Spain and Hong Kong/China, and Macau. Moreover, PROMEX intends to improve its image among the local business community and general public. Lastly, PROMEX will support the investment and export promotion efforts through the development and dissemination of promotional materials.

Specifically, PROMEX intends to conduct an image building campaign that will include the following activities over the next three years: local media activities to educate the local business community about PROMEX's role and services; local seminars on investment opportunities and international business topics; magazine and newspaper articles to be published in each of the target countries; broadcast pieces in each of the target countries; attendance of special events in the target countries; production and distribution of four annual issues of the PROMEX Investor Newsletter "Contact" in English, Portuguese, and French; and production and distribution of an annual 4-color PROMEX general promotion magazine.

In order to realize this ambitious program, PROMEX will require short-term technical assistance in the form of a Public Relations Specialist, who will assist in the development and implementation of the public relations campaign outlined above. This specialist will also provide valuable on-the-job training to PROMEX staff.

(2) **Investment Promotion.** As outlined in its investment promotion strategy, PROMEX will focus its activities on three sectors: light-manufacturing, tourism, and fisheries; and be directed at the target countries of Portugal and Hong Kong/China. Initially any active promotion will be in the light manufacturing sector in Portugal and Hong Kong. This activity will be supported by two individuals, one each in Lisbon and Hong Kong, who will act as PROMEX's representatives. These positions are to be funded by The World Bank and are in no way full PROMEX offices, but rather support staff, who will most likely be housed in Cape Verde's embassies in both these cities.

PROMEX's goal over the next three years is to create 1,200 new jobs, attract US$19.3 million in new investments, and facilitate the start-up of 17 new investments through its efforts. In order to achieve this goal, PROMEX expects to undertake the following activities:

- In support of its promotional efforts in the light manufacturing sector, PROMEX will develop investor profiles, develop cost data, undertake marketing activities, conduct sector evaluations, and undertake site visits with investors and provide investor assistance and facilitation. PROMEX intends to maximize investor contacts through face-to-face interaction in the form of presentations to small, regional groups of Portuguese manufacturers and a marketing trip to Hong Kong for one-on-one meetings with potential investors.

- Promotional efforts in the tourism sector will be more limited and take the form of reactive rather than proactive promotion. PROMEX intends to develop profiles, draft sector specific information, attend trade shows, and undertake two studies in support of developing the tourism sector -- one air passenger transport study, and one small hotel development study.

- In the fisheries sector PROMEX again expects to concentrate on preparing for more active promotion after the next three year period. At the current time, activities will focus on responding to inquiries, developing a fisheries development strategy, developing investor profiles, and undertaking study tours and attending trade shows, with the primary goal of obtaining a better understanding of the sector and the opportunities that may present themselves.

(3) **Export Development.** PROMEX's goal for export development is US$4 million in exports during the 19951997 period. With limited exceptions, constraints to export development in Cape Verde are on the supply side. Development of supply is a very intensive and costly endeavor and one which PROMEX does not have resources for. Therefore PROMEX will play a limited, more passive role in export promotion, primarily responding to requests for marketing assistance from experienced exporters with established products. PROMEX's approach will be to focus on opening new markets for established Cape Verdean export products. They will also sponsor one export-related workshop

per year and will participate in and provide limited support for the Cape Verde International Fair.

PROMEX will also continue its institutional development efforts through training, improvements to internal structures (detailed operating procedures are currently being drafted), enhancement of the investor tracking and MIS systems, and other similar activities. PROMEX will also build upon its work in the area of legislative and regulatory improvements, through continued policy dialogue with GOCV officials, as necessary.

PROMEX will benefit greatly from outside expertise in undertaking the activities outlined above and in accomplishing the goals set by the organization. Given this need, it is recommended that the EDS institutional contractor develop a technical assistance and support plan, which should strive to facilitate PROMEX's growth and contribute to the achievement of the organization's objectives as much as possible. This plan should be developed as part of the project amendment and extension currently under consideration.

Review of Section 547 and PD-20 and Their Implications for EDS

The following Chapter reviews the provisions of Section 547 of the FY 1994 FAA and relates them to the Cape Verde EDS project to determine whether the project is in violation of the new legislative requirements under Section 547. Furthermore, this chapter analyzes the provisions of PD-20 and relates them to the EDS project. The Chapter is divided into three segments, which parallel the three sections of Section 547, i.e. (a) financial incentives, (b) export processing zones, and (c) internationally recognized workers' rights.

SECTION 547 (A) -- FINANCIAL INCENTIVES(RELOCATION OF U.S. BUSINESSES)

Summary and Intent of the Law

Section 547 (a) prohibits the use of funds to provide financial incentives to a U.S. enterprise to relocate its operations outside the United States, if such an inducement is likely to cause the loss of jobs in the U.S. The full text of Section 547 (a) reads as follows:

> *None of the Funds appropriated by this Act may be obligated or expended to provide:*
>
> *(a) Any financial incentive to a business enterprise currently located in the United States for the purpose of inducing such an enterprise to relocate outside the United States if such incentive or inducement is likely to reduce the number of employees of such business enterprise in the United States because United States production is being replaced by such an enterprise outside the United States.*

The original guidelines issued in November 1992 stated that direct obligations to enterprises which are likely to result in relocations and job loss are now prohibited. Moreover, indirect support to U.S. enterprises, through intermediary institutions which can lead to job loss in the U.S. is also prohibited. Additionally, general budget support to investment promotion agencies tnat can provide financial benefits, such as training, direct financing, credit guarantees, insurance, research services, and technical management assistance, which could be seen as financial incentives to relocation and U.S. job loss, is prohibited.

PD-20 introduces an important change from the prior guidance in that it introduces the concept of job loss or relocation as the important factor, rather than "financial incentives", which may encourage enterprises to relocate all or part of their production. Specifically, PD-20 states that:

> *"... although the statute uses the term "financial incentive," under these final guidelines, the determination of whether an activity is permitted or prohibited under Section 547 no longer depends on that concept, which proved to be difficult to define and apply. Henceforth, any type of assistance, regardless of whether it might be considered "financial assistance," will be considered subject to Section 547 restrictions."*

In order to facilitate application of the statutory provisions of Section 547 (a) and focus attention on those projects which are most in need of scrutiny, PD-20 defines a five-step review process to evaluate projects in question. This process is summarized below.

The Five-Step Compliance under PD-20

The following section provides a brief summary of the five step Process compliance procedures prescribed under PD-20 to facilitate the application of the statutory provisions and focus attention on those projects which are most in need of scrutiny.

Step 1

The following questions are to be applied on an either/or basis. That is, <u>if the answer to either one is no</u>, the proposed project is <u>not</u> affected by the guidelines contained in PD-20. If the answer to both questions is "yes", then project activities must be examined more closely as outlined in Step 2 through Step 5.

<u>a. Question 1</u>

"*Is the project, or are components or activities under the project, directed at promoting either foreign or local investment into the recipient country?*"

In responding to this question, PD-20 emphasizes that the intent of the legislation is not to prohibit all activities but only those "*consciously directed at promoting investments in the recipient country.*" In answering this question, USAID's policy determination emphasizes that if there is any doubt how to answer then it is best to respond in the affirmative -- i.e., error on the side of caution.

b. Question 2

"*Could the project reasonably be foreseen to involve the relocation of any U.S. business that would result in a reduction in the number of employees of the business in the U.S.?*"

The focus is on the potential impact of the project, not the activities themselves. The same activities may have a different impact depending on the country and the situation. "*If there is no reasonable likelihood that a relocation could take place within the context of the project, then the project is acceptable under the terms of these guidelines and need not be subject to greater scrutiny or controls.*" This is a Mission determination but can require coordination, review, and/or approval -- even tacitly -- with and by USAID/W.

With respect to this first step, PD-20 provides a couple of important clarifications. First, a U.S. business is defined by physical location, not ownership. Second, relocation is defined in terms of the impact on jobs in the U.S., not the form the overseas relocation may take (e.g., joint ventures, expansions, start-ups, foreign subsidiary of U.S. parent). Third, if there is a loss of any U.S. jobs, even to preserve others (possibly through out-souring or production sharing), the activity is in violation.

This last point is a potentially critical difference from USAID's initial policy reaction to 599, which allowed for the possible short-term loss of jobs where a company did not relocate production but expanded production to an overseas location. The difference appears to be that PD-20 focuses clearly on the loss of jobs, rather than just the relocation of production, so the purpose of a production shift is irrelevant, even if it is an expansion of an existing operation. In contrast, the earlier guidelines appeared to accept short-term job losses resulting from production expansions abroad:

> "*In an investment of this kind* [i.e., a U.S. business increasing or starting offshore production that does not decrease U.S. production], *where no production is moved offshore, in all likelihood the result would be greater U.S. employment in the medium term. In such circumstances, that is, where no U.S. production is relocated abroad, Missions may go forward with projects that encourage investments despite the possibility of a short term (and minimal) reduction in U.S. employment.*"

An activity resulting in this scenario apparently would be prohibited under PD-20's interpretation of the more recent Section 547.

Step 2

PD-20 provides a more succinct, clearer explanation of activities that are permitted even though they may have a commercial or investment orientation. Each of these was also permitted under the previous guidelines for 599.

- Policy dialogue designed to improve the overall domestic business and economic climate.
- Policy dialogue designed to improve financial and capital markets.
- Legal, regulatory, and judicial projects, including those explicitly aimed at commercial activities.
- Dissemination of information regarding the general economic and business climate in a country.

Step 3

PD-20 provides a more succinct, clearer explanation of activities that are not permitted because they represent an unacceptable risk of being directly linked to potential relocation and the loss of jobs. Each of these was also prohibited under the previous guidelines for 599.

- Investment promotion missions to the U.S.
- Media advertising in the U.S. aimed at encouraging relocation of U.S. firms to the host country.
- Training of workers for firms that intend to relocate.
- Support for a U.S. office of an organization whose mission includes promoting investment in the host country.
- General budget support for such an organization if it engages in some activities not permitted under the statute.

Step 4

PD-20 offers guidance on implementing activities that fall into a gray area: activities that could be either permitted or prohibited depending on the result include:

- Technical assistance in establishing linkages with U.S. businesses.
- Offices, trade fairs, exhibitions and seminars in the host country.

- Media advertising in the U.S. directed at investment promotion.

- Credit, guaranties, insurance, research services, studies, travel to the host country, and technical and management assistance offered to firms contemplating or planning investments in the host country.

To guard against these activities leading to prohibited results, i.e., relocations, the project grant agreement must include the grant clauses appended to PD-20, and referenced above. Likewise, the terms of reference for all contractors should also include a clause about relocations. And such clauses containing Section 547-type restrictions must be included in subcontracts. It is also suggested that implementing agencies or contractors obtain a statement from any U.S. firm benefiting from project activities certifying that the firm does not intend to relocate productive operations.

Step 5

Funding for projects which mix permitted and prohibited activities depends on the interdependency of the activities. If permissible activities can be segregated and are distinct from prohibited activities then USAID may fund them. If the activities are interdependent, USAID may not fund them. For example, a feasibility study which could lead to the provision of incentives to relocate could not be financed, even though by itself a feasibility study may not be a prohibited activity.

Applicability to EDS

In applying the provisions of PD-20, the following section will answer the two questions presented as step one. As instructed by the PD, if the answer to both questions is yes, the analysis will continue to go through steps two through five. If, however, either one of the two questions can be answered in the negative, the project is not in violation of PD-20 and steps two through five are no longer relevant.

a. Question 1

"*Is the project, or are components or activities under the project, directed at promoting either foreign or local investment into the recipient country?*"

Again, in responding to this question, PD-20 emphasizes that the intent of the legislation is not to prohibit all activities but only those "*consciously directed at promoting investments in the recipient country.*" In answering this question, USAID's policy determination emphasizes that if there is any doubt how to answer then it is best to respond in the affirmative -- i.e., error on the side of caution.

Without much analysis, the answer to this question is clearly yes. The EDS project is not only an export promotion project, but has always had as one of its purposes the promotion of foreign and local investment. Moreover, as stated above, the opening statement of PROMEX's business plan mentions the promotion of exports from Cape Verde and the promotion of investment in Cape Verde as the organization's primary objectives. Moreover, this objective is retained in Promex's Mission Statement, which includes the following language: *"To maximize desirable external investment and exports in Cape Verde by adopting the best practices in investment and export promotion, ..."*

PD-20 states that if the project is directed in whole or in part at promoting investment, test number two must be applied. Since the answer to question one is a clear yes, the next section reviews the project under question number two.

b. Question 2

"Could the project reasonably be foreseen to involve the relocation of any U.S. business that would result in a reduction in the number of employees of the business in the U.S.?"

This question cannot be answered as easily as question one and requires some careful analysis. PD-20 provides some guidance as to the kinds of factors that should be analyzed in answering this question. These factors include: whether the recipient country or region is geographically attractive to U.S. firms; whether existing infrastructure is adequate to support external investment; whether normal investment patterns reflect activity in the country by U.S. firms; and whether the types of firms targeted under the project are likely candidates for relocation. In including the second question and defining the factors to be analyzed, the General Council had much of Africa in mind where the region is relatively unattractive to U.S. firms, infrastructure is limited, normal investment patterns do not include U.S. firms, and the types of firms that may invest are not likely candidates for relocation.

The following section is a review of these factors as they pertain to the EDS project:

- **Geographic attractiveness of Cape Verde to U.S. firms.** Cape Verde is clearly not geographically attractive to U.S. investors. In its review of U.S. support for Caribbean Basin assembly industries, the GAO found that one of the primary reasons for U.S. assembly operations to move to an offshore location is access to cheap labor in close proximity to the United States. This conclusion is based on discussions with and site visits to 53 U.S. assembly operators in Honduras, El

Salvador, the Dominican Republic, and Costa Rica.[6] Cape Verde's remote location is exacerbated by the lack of frequent transportation links to the United States, with only one regularly scheduled sea transport every 45 days, and very limited air connections compared to other competitive locations for U.S. investment. This factor alone, would preclude most investment from U.S. labor-intensive firms. Increasing competitive pressures and "just-in-time" production and delivery schedules further reduce the attractiveness of Cape Verde to the U.S. investor. Moreover, the language barrier is further deterrent for U.S. investors. While some of the Spanish speaking countries in the Caribbean Basin have done extremely well in attracting U.S. investors, language and proper communication with the work force is always a concern and Cape Verdes Portuguese language would further complicate the investment process. Given these factors, Cape Verde is not geographically attractive to U.S. investors.

Adequacy of infrastructure to support investment. As stated above, and clearly identified in PROMEX's promotional strategy, one of Cape Verde's major impediments to foreign investment is its poor infrastructure. Infrequent international shipping connections, poor air freight connections, lack of readily available industrial space, and high cost of other basic utilities are only a few of the most apparent infrastructure constraints. Other than the availability and quality of basic Infrastructure is the cost of such services. For instance, shipping a 40 foot container from Cape Verde to the U.S. costs approximately US$7,800, whereas the same container from the Dominican Republic costs only US$1,580, or from Costa Rica or El Salvador no more than US$2,500 -- less than a third than from Cape Verde. Similarly, electricity is US$0.16 per kwh in Cape Verde, compared with US$0.06, US$0.07, and US$0.09, in Costa Rica, El salvador, and Honduras respectively. Lastly the cost of water is astronomical at US$2.04 per cubic meter, as opposed to a range of US$0.25 to a high of US$0.75 in the Caribbean Basin.

Other factors that deter investors is the geographic nature of the islands itself, where an investor would have to fly into one island (Sal), travel frequently to another to obtain his required government approvals and licenses (Praia, Sao Tiago), and most likely base his operation in yet another (Mindelo, Sao

6 *Foreign Assistance, U.S. Support for Caribbean Basin Assembly Industries,* United States General Accounting Office, Report to Congressional Requestors, December 1993.

Vicente). These weaknesses have been clearly recognized by PROMEX in targeting its active promotional activities to light manufacturers in Portugal and Hong Kong/China only. Portuguese investors are more likely to accept the challenges of investing in Cape Verde, since other factors, such as historical and cultural ties, language, lower wage rates than in Portugal, and relative proximity to Portugal. Moreover, Cape Verde enjoys much higher political stability than any of its other former colonies. The Chinese investors are also targeted since they are looking at quota-free investment locations, proximity of Cape Verde to Europe, political stability and low wage rates.

Investment patterns of U.S. firms in Cape Verde. As discussed elsewhere in this section of the report, PROMEX does not view the United States as a major source of investment capital. The purpose of this section is to demonstrate the low level of interest from U.S. investors in Cape Verde, as well as in the rest of Africa. As evidenced by recent investment trends in Africa in general, and in Cape Verde in particular, as well as the findings of a recent market study undertaken by the EDS project, interest form U.S. investors in the continent has been very limited. The majority of U.S. investment on the continent is in areas where the U.S. firm is either expanding its markets or seeking to explore natural resources, such as agricultural products and mining and oil exploration. These are not the types of activities that cause a loss of jobs in the U.S. but rather add employment opportunities in the U.S. due to administrative, managerial, and technical support needs of the overseas operation.

Historically, there has been very little interest from U.S. investors in Cape Verde. This is evidenced by the lack of inquiries received by PROMEX, as well as the absence of any U.S. production facility in the islands. Of the 31 investment applications received by PROMEX during the 1993 to July 1994 period, only one is form a U.S. firm. The vast majority of interested investors are from Portugal, with 13 investment applications, followed by Russia with 4 applications, and Hong Kong with three. The remaining investment applications are from Italian, French, Swiss, and English investors. The majority of these investments are in light manufacturing, tourism development, and fisheries sectors, the rest in other miscellaneous activities, such as construction, services, and shipping. The only U.S. investor, Murphy Associates, is interested in hotel and casino development. Moreover, this firm is not a direct investor but the licensee for casino operations in Cape Verde, seeking international investors to develop this type of activity in the country. This clearly will not result in the relocation of any jobs in the U.S, if anything, it may add to the U.S.-based staff of Murphy and Associates if their venture is successful.

The same trend can be observed in investment inquiries. Of the 41 investment inquiries, that PROMEX received between September 1993 and July 1994 which did not result in an investment application, only one was from the U.S. This firm was in real estate development and saw an opportunity to expand its operations into Cape Verde in the construction business. Again, a business that is trying to expand into overseas markets and not relocate its production. Lastly, the market survey for an industrial park/free zone, carried out under the EDS project prior to the passing of section 599 in the FAA of 1993, confirmed that interest from U.S. sources is extremely limited. Hence, any American investment which Cape Verde is able to attract, will probably be oriented towards capital-intensive natural resource processing (fishing sector) and tourism activities, rather than any footloose operations.

One last issue that should be reviewed here is the likelihood of any business relocation from the Cape Verdean expatriate community currently living in the U.S. Again, historically there has been no such activity. To the contrary, Cape Verdean emigration is still quite high due to the lack of opportunities in the islands. Moreover, the types of activities in which Cape Verdeans in the U.S. are involved are not prone to be relocated to Cape Verde. The few U.S.-based Cape Verdeans that are engaged in their own businesses are in the restaurant sector, or very small service business that support the Cape Verdean immigrant community, such as legal and immigration assistance. Another problem is that there are no incentives or guarantees available for returning Cape Verdean, which further discourages them to invest in their country. Lastly, PROMEX is not targeting this sector at all and does not see the potential of investments coming from this source.

Are target firms under the project likely candidates for relocation from the U.S.? The answer to this question is a clear no. Due to the factors raised above, the promotional efforts of PROMEX are not at all geared towards the U.S. investor. PROMEX's promotional strategy and business plan for the next three years does not envisage any promotional activities in the U.S. PROMEX will of course react and respond to inquiries from interested U.S. parties, however, these are not likely to come from the types of industries that would relocate their production and result in the loss of jobs in the U.S, but rather from businesses that seek to expand their markets and their overseas operations, such as in the tourism, fisheries, or construction sectors.

Given the findings and the discussion above, the answer to the second test, or question number two, is clearly no. U.S. investment in Cape Verde, if any, would involve business expansion, not relocation. More than likely, any U.S. investment would likely increase employment in the U.S., albeit modestly. This would result from added technical, administrative, and financial backstop responsibilities based in the U.S. As such the conclusion to this analysis is that there is no reasonable likelihood that relocation of a U.S. firm would take place as a result of the planned EDS project activities.

Given this conclusion, there is no need to further review the project under steps two through five. As stated in the PD-20, *"if there is no reasonable likelihood that a relocation could take place within the context of the project, then the project is acceptable under the terms of the guidelines and need not be subject to grater scrutiny or controls."*

Implications for Future EDS Activities

The EDS project is not in violation of Section 547 (a) as discussed in the previous section, and there is no need to introduce any further safeguards or conditions into the project, other than the standard clauses, which are to be included in all grants, inter-agency agreements, and contracts as specified in the PD. The mission should, however, continue monitoring the activities under the project to assure that PROMEX does not change its focus in targeting investments in the United States. As clearly demonstrated above, investment targeting of "footloose" industries would be a waste of resources and PROMEX is fully aware of this fact.

Section 547 (B) -- Establishment of an EPZ

Summary and Intent of the Law

Paragraph B of the new legislation essentially prohibits funding for an export processing zone (EPZ) in which the general laws of the country do not apply. The full text of section 547 (b) is as follows:

***None** of the Funds appropriated by this Act may be obligated or **expended** to provide:*

***(b)** Assistance for the purpose of establishing or developing in a foreign country any export processing zone or designated area* *in which the tax, tariff, labor, environment, and safety laws of that country do not apply, in part or in whole, to activities carried out within that zone or area, unless the President determines and certifies that such assistance is not likely to cause a loss of jobs within the United States.*

Again, PD-20 is very clear in stating that it is AID's policy to avoid any direct and indirect support for export processing zones, unless Presidential certification that U.S. job loss is unlikely is deemed fully feasible. The Policy Determination goes further in suggesting that presidential certification is going to be rare and should only be requested if it can be demonstrated that U.S. jobs are not endangered by the project. It should be further noted that Presidential certification is delegated to the AID Administrator.

Applicability to EDS

As discussed in previous sections of this report, the EDS project design included support to the development of an export processing zone regime in Cape Verde, through both technical assistance in the area of legislative and regulatory issues, as well as the preparation of a feasibility study for an industrial park/free zone.

As part of the legislative review study, carried out during the summer of 1992 under the EDS project, USAID/Cape Verde participated in the policy discussions regarding the development of free zone legislation, and collaborated with PROMEX to work with the GOCV in finalizing the various investment incentive legislation, including the free zone law. USAID and its consultants, throughout their work, have ensured that the draft free zone legislation does not violate internationally recognized workers rights or otherwise encourage activities which would lead to the promotion of activities which are environmentally unsafe.

Regarding the feasibility study originally planned to be carried out under the EDS project, this is clearly a violation of Section 547 and PD-20. This conclusion had been reached during the May 1993 project review based on USAID/W's initial guidelines on Section 599 of FAA 1993. Based on that review, the Mission decided to drop all its assistance to support the development of an Export Processing Zone regime in Cape Verde. This approach was incorporated into the Grant Agreement Amendment Number 4, which includes a prohibition against using USAID funds for any direct activities related to export processing zones. Since then, no project funds have been used for technical assistance that contributes to the development of EPZs in Cape Verde. Moreover, PROMEX has been informed that none of their activities, other than continued policy dialogue in the areas of export promotion and legislation, and the dissemination of the overall investment climate in Cape Verde, which may include mention of the EPZ incentives, are to be directed towards the creation and development of EPZs.

Implications for Future EDS Activities

As previously stated, based on AID/W's initial guidelines, USAID/Cape Verde determined that the originally planned EPZ feasibility study was a violation of Section 599, and subsequently removed all EPZ support from the project. This conclusion is still valid under PD-20. USAID/Cape Verde has no intention to contribute any further to Cape Verde's EPZ development, and as such the EDS project is not in violation of PD-20 and/or Section 547 of FAA 1994. As stated in the Grant Agreement Amendment Number 4, no EDS project funds will be used for any EPZ related support.

Section 547 (C) -- Violation of Internationally Recognized Workers Rights

Summary and Intent of the Law

Paragraph (c) of the new legislation prohibits funding to provide assistance for any project that contributes to the violation of internationally recognized workers rights. The exact text of Section 599 (c) is as follows:

None of the Funds appropriated by this Act may be obligated or expended to provide:

(c) Assistance for any project or activity that contributes to the violation of internationally recognized workers rights, as defined in section 502(A) (4) of the Trade Act of 1974, of workers in the recipient country, including any designated zone or area in that country: Provided that in recognition that the application of this subsection should be commensurate with the level of development of the recipient country and sector, the provisions of this subsection shall not preclude assistance for the informal sector in such country, micro- and small-scale enterprise, and smallholder agriculture.

For further clarification the text of Section 502(A) (4) of the Trade Act of 1974 is provided below:

For the purposes of this Title, the Term "internationally recognized workers rights" includes:

(a) The rights of association;

(b) *The right to organize and bargain collectively;*

(c) *A prohibition on the use of any form of forced or compulsory labor;*

(d) *A minimum age for the employment of children; and*

(e) *Acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health.*

While the U.S. Congress wishes to support these internationally recognized workers rights, there is a clear congressional intent that the definition of these rights be interpreted to be commensurate with the development level of the particular country. This is consistent with the text of Section 502(A) (4) which, for example, requires a minimum age for employment for children but does not set a particular age and requires "acceptable" conditions of work regarding wages, hours, health and safety but does not further define them. This principle has been formally accepted when the language of section 599 was amended in Section 547 of FAA 1994 to explicitly exempt the informal sector, micro- and small-scale enterprises, and smallholder agriculture from compliance with internationally recognized workers' rights.

The previous Cape Verdean Labor Code was based on the socialist model and goes quite far in protecting worker rights. As such the code provides for a minimum working age of 14 years, and strongly regulates the employment of children between the age of 14 and 18, limiting or prohibiting night work, overtime, etc. Similarly, labor unions are permitted and exist in Cape Verde, and the rights of association and the right to organize and bargain collectively is guaranteed. Lastly, the Labor Code also regulates work hours, and provides for consideration of occupational safety and health standards. A revision of the labor code was completed in the last quarter of 1993 and a new revised code adopted by the end of December 1993. The underlying principles of the revision of the old code was to make it more business oriented and less restrictive, however, the international workers rights have been respected in that revision and the new code meets those requirements.

Applicability to EDS

PD-20 states that the test to be applied under Section 547 (c) is whether the project would contribute to the violation of workers' rights. The EDS project does not support any activities that would lead to the violation of internationally recognized workers rights. Under the project, funding is provided to PROMEX, which operates under the country's labor code and as such protects the rights of its employees. No direct assistance is provided under the project to individual enterprises or activities that could lead to the violation of the internationally recognized workers rights. Moreover, in its efforts to create a more open legislative and regulatory environment, conducive to investment and export development, USAID does not support any deviation from the minimum workers rights guaranteed by the current Cape Verdean Labor Code.

PD-20 suggests the State Department's annual human rights report as a good source of information on the degree of respect for workers' rights in a particular country. The State Department's annual human rights report for Cape Verde was reviewed for this analysis. The report does not mention any violations of the internationally recognized workers' rights, but rather, it goes through each one of the rights listed in Section 502(A) (4) of the Trade Act of 1974 and confirms that they are respected in Cape Verde.

Implications for Future EDS Activities

Future EDS activities should not be affected by the provisions of Section 547(c), since none of the activities are designed to encourage operations that would violate internationally recognized workers rights. Moreover, the country's current labor code guarantees internationally recognized workers rights, and none of the proposed new investment legislation suggests any changes to those basic rights.

Conclusions and Recommendations

The EDS project's primary purpose is to "provide support to Cape Verde's private sector by mitigating constraints to expanding export-oriented production, trade and private sector participation." As such the project supports the creation of an investment and export promotion agency, whose primary functions are to (i) assist in the GOCV's efforts to improve the legislative and regulatory environment to enhance the country's overall investment climate, and (ii) promote the country's exports, as well as investment into Cape Verde. Given this focus, the project is in line with AID's mandate to support private sector development and U.S. investment overseas.

The new legislation, however, prohibits AID funds to be used to (i) provide support any type of activity that would lead to the relocation of a U.S.-based enterprise, if such relocations lead to the reduction of jobs in the United States; (ii) support the development of export processing zones in which the general laws of the country do not apply; and (iii) support activities which would violate the internationally recognized workers rights. This review was conducted to determine whether the EDS project is in violation of any of those provisions. The major conclusions are as follows:

There is no reasonable likelihood that a relocation of U.S. jobs could take place within the context of the EDS project. Cape Verde is not an attractive investment location for footloose U.S. enterprises, due to its poor infrastructure, infrequent shipping and air freight connections, lack of readily available industrial space, high cost of basic utilities such as electricity and water, and the geographic distance from the U.S. Moreover, historical and current investment patterns by U.S. enterprises in Cape Verde further support that there is little interest from U.S. investors at this time. Lastly, PROMEX's planned promotional efforts do not include any promotion to U.S. investors.

The EPZ feasibility study, which was originally planned under EDS, violates the provisions of Section 547 and PD-20. Section 547 (b) states clearly that any support in the development of EPZ projects is prohibited unless a presidential waiver is obtained. The EDS project had originally provided for a feasibility study to determine the viability of EPZs in Cape Verde. After its initial EDS project review, USAID/Cape Verde concluded that without a waiver, this activity can no longer be supported by USAID/Cape Verde. It was recommended at that time that waiver would not be requested given the fact that this was only a minor component of the EDS project. USAID/Cape Verde included a prohibition of any of the funds provided under EDS from being used for EPZ development in its Grant Agreement Amendment Number 4. As such EDS is no longer in violation of this provision.

The internationally recognized workers rights are guaranteed by the Cape Verdean Labor Code and the project does not support any activity that would violate those rights. The EDS project is clearly not in violation of Section 547 (c). None of the activities directly support any project that could lead to the violation of internationally recognized workers rights. The labor laws in the country guarantee these rights, and USAID will continue to stress that these rights be maintained. The review of the State Department's annual labor rights report confirmed that Cape Verde was not in violation of the internationally recognized workers' rights.

USAID/Cape Verde does not need to file for a categorical exemption for the EDS project under PD-20. It was confirmed by AID/W's GC office that PD-20 interpretation does not include a Washington approval procedure, but adherence is a mission responsibility. As such the determination that the project is not in violation of the legislation and PD-20 is the responsibility of the Mission Director/Representative. This is supported by the USAID/Cape Verde's approved Closeout Policy Plan, which states that continuation and extension of the EDS project is recommended, pending a Determination for the files by the USAID Representative that the project is in conformity with the USAID PD-20 guidelines regarding possible loss of U.S. jobs.

The following recommendations are to be considered by USAID/Cape Verde in its continued support to the EDS project:

Reiterate that support to EPZ development is not allowed under the project. Even though this fact has been made clear to PROMEX, as well as the GOCV, and has been incorporated into Grant Amendment Number 4, the Mission should again emphasize this point in future project amendments.

Inform PROMEX and the institutional contractor of the provisions of Section 547 and the contents of PD-20. Even though PROMEX officials and the technical assistance contractor seem well aware of the provisions of the law, USAID should continue its discussions with PROMEX and the GOCV to heighten their awareness of the provisions of Section 547. The findings and conclusions of this analysis should be shared with PROMEX staff to heighten their awareness of the sensitivities raised by the guidelines.

Develop a monitoring system that periodically reviews the project in light of Section 547. USAID/Cape Verde should establish a simple monitoring system which periodically reviews the activities funded under its projects to determine whether any changes have taken place that would place them in violation of Section 547. This could be simply in the form of requiring the institutional contractor's quarterly reports to include a brief discussion of the issues raised by PD-20.

Prepare a compliance report, stating that EDS is not in violation of 547 and PD-20. The findings of this review should be transmitted to the RLA in Abidjan for his review and comment and then forwarded to AID/W for their information.

Given that USAID/Cape Verde is currently preparing a project amendment to extend the life of project by another two years and increase the funding by US$1.4 million the following recommendations should be considered:

Prepare a detailed Technical Assistance (TA) plan to guide the activities of the institutional contractor. The institutional contractor should be required to prepare a detailed plan of action for its proposed short- and long-term TA activities. This plan should include position description and workplan for the long-term advisor, as well as a workplan for the short-term TA activities to be undertaken before the end of the new PACD.

Prepare a detailed plan to guide the phasing out of USAID TA support at the end of the project. PROMEX should be required to prepare a detailed plan outlining how the organization intends to prepare for the "pull-out" of USAID's long-term support to the organization. Not only is financial sustainability important, but organizational capabilities should be such at the time of the withdrawal of USAID that PROMEX can survive and function properly.

Assist in identifying new sources of financial support to PROMEX. USAID/Cape Verde should actively participate in discussions with other donors to pick up financial support to PROMEX at the end of September 1996. While a number of donors, such as The World Bank and the Swedish Government have already contributed to PROMEX's funding, it is imperative to ensure that this kind of support will continue and will be sufficient to assure PROMEX's financial viability.

ANNEX A: TERMS OF REFERENCE

ATTACHMENT I
STATEMENT OF WORK

I. Title: Updating of the Export Development Services Project in the Context of Policy Determination Number 20

II. Background:

The Export Development Services (EDS) Project (655-0014) was developed in response to an encouraging Cape Verdean environment in which the Government of Cape Verde (GOCV) is undertaking major policy reform, including a significant initiative directed toward the development of the private sector. The purpose of the EDS Project is to enable Cape Verde to increase and diversify its foreign exchange earning capacity through an export-led growth strategy and increased private sector participation in the economy. Toward this end, the project has four principal objectives: 1) Establish the Center for Investment and Export Promotion (PROMEX) to strengthen the GOCV institutional capacity to effectively promote domestic and foreign investment for the export market; (2) assist the GOCV in the process of policy and administrative reforms necessary for the development of the export and support sectors; (3) strengthen public and private sector capacity to promote Cape Verde as an investment location; and (4) develop human resources capacity in support of principal project objectives and the attainment of project goals.

In order to accomplish these objectives, PROMEX was established as an autonomous institution with both public and private sector participation. Through PROMEX, the project will provide technical assistance, training, commodities and studies to assist the GOCV to actively promote export-oriented investment policies and activities, to build institutional capacity within PROMEX and enable it to effectively encourage and assist private domestic and foreign investment in Cape Verde aimed at the export market. These inputs will provide the expertise and knowledge base necessary for making decisions in a number of areas of vital interest to Cape Verde's investment and export promotion program.

III. Objective of the Consultancy:

The purpose of this consultancy is to update the EDS project in light of the most recent guidelines regarding Policy Determination Number 20 (previously Section 599 Legislation) and A.I.D. requirements, taking into consideration project extension for an additional two years.

IV. Scope of Work:

Specific tasks contained in this Scope of Work are intended to serve as minimum guidelines for the consultant to follow in the course of undertaking the project review. Additional questions that add to a greater understanding of the problem should be addressed, as appropriate.

The consultant is required to undertake the following tasks:

1. **Meet** briefly with A.I.D. Washington Officials, namely Louise Werlin, at AFR/SWA, Richard Greene, Mary Alice Kleinjan, at GC/AFR, and Gail Lecce, at GC/CP, and other pertinent A.I.D. personnel involved with PD-20 issues prior to traveling to Cape Verde. Contacts will be made through Louise Werlin.
2. **Review** throughly PD-20, relevant A.I.D. policy and pertinent USAID/Cape Verde, project and PROMEX documentation as a framework for assessing project implementation impact.
3. **Assess** current and anticipated EDS activities for the next two years, which bear on issues raised by PD-20, and resulting A.I.D. policy and documentation, with special attention to the following issues: (1) project activities in the domains of export processing; (2) the likelihood of potential relocation of U.S. companies which may lead to loss of American jobs; (3) labor issues (recently amended Cape Verdean labor code); (4) incentives provided to businesses; and (5) other PD-20 issues which may impact on EDS project activities in the period of extension.
4. Meet with USAID/Cape Verde, PROMEX and GOCV officials and discuss PD-20 related issues.

V. Work Days Ordered:

<u>Position</u>	<u>Work Days</u>
Economist, Social Scientist or MBA with experience in project and program review	9 (2 days in Washington, D.C. and 7 days in Cape Verde including international travel)

VI. Reports:

Upon finishing the data collection phase of the study, the consultant will prepare a draft report by COB June 22, including a draft categorical exclusion, if deemed appropriate, and a statement for the Mission Director, to be presented to USAID/Cape Verde for review and comments. The report will then be reviewed and commented by appropriate Mission personnel within one work day. After review and comments, the report will be returned to the consultant who will finalize and present the final draft for USAID/Cape Verde approval prior to departure. As such, it is expected that, except the recommended contacts in Washington, D.C. (2 days), all tasks related to this assignment will be completed in Praia, Cape Verde priori to the consultant's departure.

VII. Period of Performance:

The services in Cape Verde are to start by June 20 and completed by June 24, 1994. Contacts in Washington, D.C. may take place any time before consultant's departure to Cape Verde.

VIII. Special Provisions:

a. *Supervisory Responsibility*: The consultant will undertake this assignment under the general Mission supervision provided by the A.I.D. Representative. The Mission contact person for day-to-day work will be the EDS Project Management Specialist.

b. *Duty Post*: The work is to be performed in Washington, D.C. and in Cape Verde.

c. *Language Requirements*: The majority of the work and the report will conducted in English. Preferably, the consultant will have fluency or good working knowledge of Portuguese. Lacking Portuguese, a good working knowledge of French will be required.

d. *General Documentation*: The consultant should obtain relevant documentation from the Cape Verde Desk Officer at A.I.D. Washington, D.C. (AFR/SWA) and review same prior to arriving in Cape Verde.

e. *Background Information* on Cape Verde and the project will be obtained in Praia.

f. *Office Space* will be provided by PROMEX and the USAID Mission.

g. *Logistic Support*: All logistic support will be provided by the USAID Mission.

h. *Work Week*: A six day work week is authorized.

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ANNEX B: FAA 1994 SECTION 547 TEXT

FAA 1994 SECTION 547 TEXT

Impact on Jobs in the United States

Section 547. None of the Funds appropriated by this Act may be obligated or expended to provide:

(a) Any financial incentive to a business enterprise currently located in the United States for the purpose of inducing such an enterprise to relocate outside the United States if such incentive or inducement is likely to reduce the number of employees of such business enterprise in the United States because United States production is being replaced by such an enterprise outside the United States;

(b) Assistance for the purpose of establishing or developing in a foreign country any export processing zone or designated area in which the tax, tariff, labor, environment, and safety laws of that country do not apply, in part or in whole, to activities carried out within that zone or area, unless the President determines and certifies that such assistance is not likely to cause a loss of jobs within the United States; or

(c) Assistance for any project or activity that contributes to the violation of internationally recognized workers rights, as defined in section 502(A) (4) of the trade act of 1974, of workers in the recipient country, including any designated zone or area in that country: Provided that in recognition that the application of this subsection should be commensurate with the level of development of the recipient country and sector, the provisions of this subsection shall not preclude assistance for the informal sector in such country, micro- and small-scale enterprise, and smallholder agriculture.

ANNEX C: USAID -- POLICY DETERMINATION 20, JANUARY 3, 1994

PD-20
January 3, 1994

USAID

POLICY DETERMINATION

GUIDELINES TO ASSURE USAID PROGRAMS DO NOT RESULT IN THE LOSS OF JOBS IN THE U.S.

I. BACKGROUND

Section 599 of P.L. 102-391 prohibited the use of FY 1993 appropriated funds for financial incentives to U.S. enterprises to relocate abroad, or for establishing or developing export processing zones, if such activities were likely to result in the loss of jobs in the United States. It also prohibited use of funds for assistance which would contribute to violations of internationally recognized workers' rights. Section 547 of P.L. 103-87 continued this prohibition for FY 1994, except that subsection (c) was modified to exempt the informal sector, micro and small-scale enterprises, and smallholder agriculture.

These final Agency guidelines expand the application of sections 599 and 547 to all Agency funds (including local currency generated through foreign assistance activities), regardless of the year appropriated. It is Agency and Administration policy that no assistance be provided if it is likely to result in the loss of jobs in the United States.

The guidelines are divided into six parts: Background, Policy Context, General Principles, and specific guidance for the application of each of the three subsections of the statutory provisions. The guidance incorporates and expands on the statutory requirements. The text of the 1994 legislation is attached as Appendix A. Standard clauses for inclusion in grants, inter-agency agreements, and contracts are attached as Appendix B. Examples of certifications, resolutions, clauses, etc. are attached as Appendix C.

II. POLICY CONTEXT

Section 547 of P.L. 103-87 prohibits the use of appropriated funds for a number of activities related to investment promotion. The associated legislative history recognizes that such prohibitions are made in the context of a consistent postwar policy to support foreign direct investment by U.S. firms based on the link that such investment has with growing economies abroad, more U.S. exports, and more American jobs.

Section 601(a) of the Foreign Assistance Act states the policy of the United States "to encourage the contribution of United States enterprise toward the economic strength of less developed friendly countries through private trade and investment abroad." Section 601(b) instructs the executive branch to "make arrangements to find, and draw the attention of private enterprise to, opportunities for investment and development in less developed countries and areas."

The mandate contained in Section 601 of the Foreign Assistance Act to encourage private U.S. investment abroad is not unconditional. The legislative history of Section 547 draws a distinction between promoting U.S. foreign investment and persuading U.S. firms to relocate abroad, particularly when such relocation results in a reduction of existing U.S. jobs owing to the replacement of existing U.S. production with production abroad.

This concern is shared by USAID. Administrator Atwood stated in his testimony before the House Committee on Foreign Affairs on May 12, 1993: "We feel very strongly that we should not be exporting American jobs. We ought to be exporting American goods." He laid out a proactive role for USAID in creating demand for American exports and supporting American jobs: "Exports to the developing world have been the largest and fastest growing sector of our GNP. If we can manage to encourage the development of free markets in these areas, then we are going to create opportunities for American businesses to sell their products in these areas of the world."

The Agency is also committed to implementing Agency programs and activities in a manner consistent with internationally recognized worker rights and related U.S. law, regardless of the year in which funds are appropriated. The legislative history of Section 502(a)(4) of the Trade Act of 1974 states that the underlying intent in promoting the internationally recognized rights of workers is to ensure that the broadest sectors of the population benefit from trade and development. The capacity to form free labor unions and to bargain collectively to achieve higher wages and better working conditions is essential for workers in developing countries to attain decent living standards and to overcome hunger. Congress has also expressed concern that "the lack of basic rights for workers in many less developed countries is a powerful inducement for capital flight and overseas production by U.S. industries."

The legislative history accompanying Section 502(a)(4) of the Trade Act of 1974 states that Congress recognizes that workers' rights should be interpreted commensurate with the development level of the particular country. In particular, it recognizes that the prevailing labor standards in the United States and other highly industrialized developed countries may not be appropriate in some developing countries, and paragraphs (d) and

(e) of Section 502(a)(4) permits some flexibility in that regard.

III. GENERAL PRINCIPLES

A. Application. Section 599 applies to activities financed with dollars appropriated in Fiscal Year 1993. Section 547 applies to FY 1994 appropriated funds. As a matter of policy, USAID is extending the application of Section 599 and 547 to all projects financed with appropriated dollars -- prior year funds as well as funds from FY 1993 and FY 1994 forward -- and to all projectized local currency funds, including those generated through P.L. 480 programs.

B. On-going Activities. On-going activities should be reviewed for compliance with these final guidelines. Proscribed activities funded with either FY 1993 or FY 1994 funds must be terminated immediately. Dollar-funded projects from earlier fiscal years, which do not comply either in whole or in part with the restrictions included in Section 547, as defined by this guidance, must be redesigned or terminated within 30 days of the effective date of these guidelines. Exceptions to this termination date may be approved only by the Administrator, and in no case will an extension of activities be permitted beyond 120 days of the effective date of these guidelines. The cost that may result from ensuring compliance with this provision should be taken into account in a Mission's or Bureau's decision of whether to redesign or terminate an on-going activity. On-going local currency activities should also be brought into compliance with these guidelines.

C. Statutory Checklist. Compliance with these guidelines must be verified at the time of project authorization; the statutory checklist has been modified accordingly. Handbook 3, Appendix 5C(2), Assistance Checklist, contains the relevant materials.

D. Grants and Inter-Agency Agreements. Standard clauses incorporating these guidelines are to be included in all HB3, HB13, and Inter-Agency agreements. These standard clauses, which will be incorporated into the appropriate handbooks, are contained in the Appendix B to this guidance. The clauses should also be included in subgrants.

E. Agreements with International Organizations. These guidelines apply to funds transferred to international organizations for implementation of project activities. In most cases, therefore, the standard clauses contained in Appendix B should be included in these agreements. Sometimes this may not be feasible. In such cases, the Mission or Bureau may take other appropriate steps to ensure compliance with the statutory restrictions.

IV. RELOCATION OF U.S. BUSINESSES -- SECTION 547(a)

A. Summary. In order to facilitate application of the statutory provisions and focus attention on those projects which are most in need of scrutiny, this section is broken into five distinct steps.

There is one important change in this five step process from prior guidance: although the statute uses the term "financial incentive," under these final guidelines, the determination of whether an activity is permitted or prohibited under Section 547 no longer depends on that concept, which proved to be difficult to define and apply. Henceforth, any type of assistance, regardless of whether it might be considered "financial assistance," will be considered subject to Section 547 restrictions.

Step one defines two baseline tests which are to be applied at the project design/authorization stage, and which are intended to eliminate broad categories of projects which do not present problems under the guidelines. These tests, framed in terms of questions, are:

1. Is the project, or are components or activities under the project, directed at promoting either foreign or local investment in the recipient country?

2. Could the project reasonably be foreseen to involve the relocation of <u>any</u> U.S. business that would result in a reduction in the number of employees of the business in the U.S.?

If the answer to either of these questions is no, the proposed project is not affected by these guidelines.

If a project is not excluded by either of these baseline tests, the next four steps, which involve greater scrutiny of project activities, must be applied. These steps identify four separate categories of projects/activities within the overall category of problem projects:

> Step two identifies activities which USAID/W has already specifically determined to be permitted under the guidelines. These activities may be funded without additional controls being built into the project implementation stage.
>
> Step three identifies other activities that have also already been scrutinized and are considered <u>per se</u> prohibited under the legislation. These activities may not be funded under any circumstances.

Step four provides additional guidance for designing and implementing the projects that remain after steps one through three have been followed. These projects present potential problems under 547(a), but may be funded if adequate controls are built into the implementation stage.

Step five provides guidance for analyzing projects which include a mixture of both activities that are either permissible under the legislation or can be subject to adequate implementation controls, and activities that are prohibited under the statute.

B. Step One: Application of Baseline Tests.

<u>Test Number 1. Is the project, or are components or activities under the project, directed at promoting either foreign or local investment into the recipient country?</u>

The legislative history of 547(a) makes clear that it is not intended to prohibit <u>all</u> activities that could tangentially or indirectly result in U.S. investments that may also involve a relocation overseas, but only those activities consciously directed at promoting investments in the recipient country. In general, USAID's investment promotion activities are well-defined, and these are the projects which merit the highest levels of scrutiny. Other projects may have some effect on foreign investment in the long run, but they are not directed at investment promotion.

For example, most infrastructure projects would <u>not</u> be prohibited under these guidelines, even though the adequacy of infrastructure may be one factor a firm takes into account when deciding to invest or relocate. As another example, a project designed to improve primary health care may create conditions which later may provide some inducement for a U.S. firm to relocate its operations, but since the project itself was not directed at promoting U.S. investments, it would not be prohibited by Section 547(a).

If there is any doubt about whether a project is directed at investment promotion, that doubt should be resolved in favor of a determination that it is.

If the project or activity is <u>not</u> directed in whole or in part at promoting investment, no further analysis is required. If it is, then Test Number 2 should be applied.

<u>Test Number 2: Could the project reasonably be foreseen to involve the relocation of any U.S. business that would result in a reduction in the number of employees of the business in the U.S.?</u>

This test is directed at analyzing the potential impact of the project, rather than the activities themselves. The same types of activities may have different impacts in given situations depending on other circumstances. The kinds of factors that should be analyzed in answering this question are: whether the recipient country or region is geographically attractive to U.S. firms; whether existing infrastructure is adequate to support external investment; whether normal investment patterns reflect activity in the country by U.S. firms; and whether the types of firms targeted under the project are likely candidates for relocation. If, in analyzing these and similar factors, the conclusion is reached that the project may result in the relocation of a U.S. business and loss of U.S. jobs, then the project is subject to the more detailed guidance set forth below. If there is no reasonable likelihood that a relocation could take place within the context of the project, then the project is acceptable under the terms of these guidelines and need not be subject to greater scrutiny or controls.

For the purposes of applying this test, drawn directly from the statute, a U.S. business is defined as one which is physically located in the U.S., rather than one which is owned by U.S. citizens. Additionally, the focal point in examining potential relocations is what may happen in the United States, not what form the overseas relocation may take. Regardless of whether the overseas operation involves a foreign subsidiary rather than the U.S. parent, a joint venture with a local firm, establishment of a new overseas enterprise, or an expansion of the U.S. firm's operations, if a loss of jobs in the U.S. is involved, these guidelines are violated. Even in the case of outsourcing and production sharing, where the objective is to preserve U.S. jobs, if the immediate effect would be a loss of some U.S. jobs to an overseas operation, a violation would occur.

If a project is not categorically excluded by one of the above tests, then the project presents a potential problem under the guidelines and the project activities must be examined more carefully, as described below.

C. Steps Two - Five: Analysis of Potential Problem Projects.

Step Two: Permitted Activities. There are some types of activities which, even though they have a commercial or investment orientation, by their nature would be too indirectly linked to any potential relocation to be considered to be prohibited by the statute. These activities may therefore be financed by USAID. Activities which fall into this category are:

-- policy dialogue designed to improve the overall domestic business and economic climate;
-- policy dialogue designed to improve financial and

capital markets;
- legal, regulatory, and judicial projects, including those explicitly aimed at commercial activities; and
- dissemination of information regarding the general economic and business climate in a country.

Step Three: Prohibited Activities. Some activities are at the other end of the spectrum and are prohibited regardless of the specific circumstances, because they represent too high a risk of being directly linked to a potential relocation. These activities may not be financed. Activities which fall into this category are:

- investment promotion missions to the U.S.;
- media advertising in the U.S. aimed at encouraging relocation of U.S. firms to the host country;
- training of workers for firms that intend to relocate;
- support for a U.S. office of an organization whose mission includes promoting investment in the host country; and
- general budget support for such an organization if it engages in some activities not permitted under the statute.

It should be noted that some activities which are not on this list can easily evolve into them. For example, a trade mission targeted at increasing a country's exports can easily begin engaging in investment promotion activities as well. An organization which focuses on export promotion and trade may incrementally begin to undertake additional activities directed at investment promotion. Missions should pay particular attention to activities they are financing when there is potential for evolution of this sort.

Step Four: Implementation Controls. Many other activities fall into a gray area where they are permitted if they don't lead to a relocation, but would be prohibited if they did lead to a relocation. Examples of such activities are:

- technical assistance in establishing linkages with U.S. businesses;
- offices, trade fairs, exhibitions and seminars in the host country;
- media advertising in the U.S. directed at investment promotion; and
- credit, guaranties, insurance, research services, studies, travel to the host country, and technical and management assistance offered to firms contemplating or planning investments in the host country.

Such activities may be included in a project if adequate controls can be built in to guard against relocations taking place. As a first step, the project grant agreement will include the grant clause discussed above, which will alert the implementing agencies to the need to ensure that no violations of these guidelines take place in circumstances under their control. The standard provisions of the grant agreement also include refund rights which should be exercised if the guidelines are violated.

The scope of work for any contractors involved in project implementation should also include a clause directed at these guidelines. The contractor will then be aware that it is responsible for ensuring compliance during the implementation phase. The sample grant clauses included in Appendix B may also be used as contract clauses; however, the Mission may find that a more elaborate clause tailored to the specific project activities is more appropriate for inclusion in a contractor's scope of work. The contractor also should be made aware that the contract clauses containing Section 547-type restrictions need to be passed on to subcontractors.

Finally, the responsible office may want to require that the implementing agency or contractor obtain from any U.S. firm that is a beneficiary of project activities a certification that such firm does not intend to relocate any of its productive operations to the host country. In some cases this may be the only feasible mechanism for ensuring compliance with these guidelines without completely terminating otherwise desirable activities. The need or utility of such a certification will depend on the specific circumstances of the project. An example of such a certification, which should be modified as necessary, is attached as Appendix C.

Step Five: Mixed Permitted-Prohibited. The final category is one in which permitted and prohibited activities are intermixed.

If the permissible activities are clearly distinct and can be segregated from those which do not comply with these guidelines, USAID may fund them. For example, if a host country investment promotion agency carries out discrete programs, some of which are acceptable, USAID may finance the permissible programs if it ensures that the USAID funds are segregated and used only for these activities. Adequate implementation controls should be included, as necessary. A Mission may not provide general budget support to such an agency.

If, on the other hand, the activities are interdependent, USAID may not fund them, even if, when taken in isolation, they would be permitted. For example, a feasibility study which in itself would not violate these guidelines may not be financed if, based on that feasibility study, there is a reasonable likelihood that the host country or other donors would offer incentives to a U.S.

firm to relocate.

V. ASSISTANCE TO EXPORT PROCESSING ZONES -- 547(b)

Paragraph (b) of Section 547 prohibits funding for "establishing or developing" an export processing zone "in which the tax, tariff, labor, environment, and safety laws of that country do not apply." The very nature of an export processing zone generally involves some simplification or reform in local laws, and few activities which USAID would undertake related to export processing zones could be characterized as other than "establishing or developing." Studies and technical assistance for zone design would fall under the prohibition; pre-feasibility studies are one of the few activities which might not, but even these are discouraged, unless required to provide materials for a presidential determination and certification as discussed below.

By its terms, the statute applies not only to designated export processing zones, but also to any "area" subject to the same relief from normal tax, tariff, and labor laws. "Area" means a physically defined, geographic space, including bonded warehouses. Although export processing zones or areas share many features, the essence of such zones or areas is a secure space that is outside the customs territory of the host country. Foreign-made inputs imported into such zones or areas do not ever officially enter the country and are therefore exempt from import duties.

Generally, assistance to export processing zones would involve discrete project activities that can be easily avoided. There may be some cases, however, in which a project's beneficiaries are not fully identified and may potentially include zones or businesses operating in zones. In these cases, as with Section 547(a), the standard clauses that are to be included in all grant agreements will act as the first level of protection against a grantee carrying out prohibited activities. In some cases, it may also be prudent to include either a similar or more detailed clause in the scope of work of contractors implementing project activities, particularly if such contractors would have some discretion in identifying project beneficiaries.

The statute permits an exception to the broad prohibitions of 547(b) if "the President determines and certifies that such assistance is not likely to cause a loss of jobs within the United States." We have interpreted the statutory language of 547(b) expansively signifying concern with <u>any</u> loss of jobs in the United States, whether or not such loss may be offset elsewhere in the U.S. economy by the positive effects of USAID assistance to an export processing zone, or by the positive effects of other USAID interventions. This is a very low threshold, and we believe that certifications under the statute that job loss is not likely to occur will be extremely rare.

In those limited cases where a certification may be appropriate, the Mission or Bureau making the request will need to provide an in-depth analysis of the factors which would demonstrate that job losses in the United States are unlikely to occur, either as a result of the relocation of U.S. firms to the zone, or as a result of increased competition from foreign firms operating in the zone which could cause U.S. firms to lose business and consequently reduce their operations. These may include such general economic factors as a lack of comparative advantage of the host country (labor costs, infrastructure, availability of transportation, and energy costs, including factors specific to the zone); lack of geographic attractiveness to U.S. investors; and traditional investment and market patterns that mitigate the likelihood of job loss in the U.S. The results of any specific market surveys and feasibility studies that analyze the attractiveness of the zone to U.S. or other investors should also be included. Finally, any analysis available on the effect on specific industries, particularly those which may be declining or import sensitive industries in the U.S., should be part of the request for certification.

Missions or Bureaus requesting a certification should also include a discussion of any particularly controversial issues with respect to the zone that the Administrator should be aware of, even though they may not be relevant to the point of job loss. Such issues may include exemption from normal environmental controls, lower than normal minimum wage standards, and reduced protection of workers' rights.

The authority to make determinations and certifications under the statute has been delegated to the USAID Administrator. Requests should be directed to PPC for initial vetting, in conjunction with the responsible Bureau. PPC will then forward them to the Administrator for final determination. Requests will be considered only on a case-by-case basis; no blanket waivers for a country or region will be granted.

VI. INTERNATIONALLY RECOGNIZED WORKERS RIGHTS -- 547(c)

Section 547(c) differs from previous legislation designed to protect workers' rights, which focused on the degree of protection afforded and progress made at the country level, by focusing instead on project level activities.

The test to be applied under Section 547(c) is whether the project would contribute to the violation of workers' rights. The Agency has been proactive in implementing a consistent policy of promoting workers' rights, which has included enhancing the capabilities of ministries of labor and local labor organizations.

Because the statute is directed at the project level rather than the country level, that does not mean Missions should not be concerned with failure of a host country's labor laws to comply with Section 502(a)(4) of the 1974 Trade Act. Missions and Bureaus should give particularly close scrutiny to projects involving the labor sector in such a country.

A good source of information on the degree of respect for workers' rights in a particular country is the State Department's annual human rights report. This report is the mechanism by which the Executive Branch complies with the requirement of the GSP Renewal Act of 1984 to report on the status of internationally recognized workers' rights within each beneficiary country. The human rights report may identify particular sectors or industries in a country that are recognized as engaging in serious violations of workers' rights. USAID should pay particular attention to those industries and either avoid projects which could contribute to violations or build adequate controls into the projects.

Additionally, as with the other two provisions of the statute, all grant agreements should include a standard clause requiring compliance by the grantee with Section 547(c). A similar clause should be included in the scope of work of implementing contractors who are carrying out activities in sectors where problems may occur. The standard clause attached in Appendix B, which is the one which will be included in the Handbook 3 standard provisions, is general in nature. It does not specify the rights which are incorporated into Section 547(c) by reference to Section 502(A)(4) of the Trade Act of 1974. There may be some circumstances where the Mission finds it important to include this level of specificity. Appendix A contains the text of Section 502(A)(4), and missions may include this text in grant agreements or contracts when they consider it appropriate to do so.

In some cases, Missions may require that the grantee or contractors obtain certifications of compliance from the ultimate beneficiaries. Under some circumstances, however, this may not be a meaningful mechanism for ensuring compliance with the statute.

Activities involving the informal sector, micro and small-scale enterprise, and smallholder agriculture present a somewhat unique situation in terms of assessing respect for workers' rights. It is clear that the rights enumerated in Sections 502(A)(4)(a)-(e) of the 1974 Trade Act may not be fully enforced with regard to these sectors in many of the countries in which USAID work. Although individual countries may on the whole be found to be taking steps toward implementing workers' rights, these sectors may be the last to receive the benefits of on-going reforms.

Congress recognized the distinct nature of these sectors when it exempted them from application of the prohibitions contained in Section 547.

APPENDIX A

TEXT OF LEGISLATION

IMPACT ON JOBS IN THE UNITED STATES

Sec. 547. None of the funds appropriated by this Act may be obligated or expended to provide-

(a) any financial incentive to a business enterprise currently located in the United States for the purpose of inducing such an enterprise to relocate outside the United States if such incentive or inducement is likely to reduce the number of employees of such business enterprise in the United States because United States production is being replaced by such enterprise outside the United States;

(b) assistance for the purpose of establishing or developing in a foreign country any export processing zone or designated area in which the tax, tariff, labor, environment, and safety laws of that country do not apply, in part or in whole, to activities carried out within that zone or area, unless the President determines and certifies that such assistance is not likely to cause a loss of jobs within the United States; or

(c) assistance for any project or activity that contributes to the violation of internationally recognized workers' rights, as defined in Section 502(A)(4) of the Trade Act of 1974, of workers in the recipient country, including any designated zone or area in that country: Provided, That in recognition that the application of this subsection should be commensurate with the level of development of the recipient country and sector, the provisions of this subsection shall not preclude assistance for the informal sector in such country, micro and small-scale enterprise, and smallholder agriculture.

SECTION 502(A)(4) OF THE TRADE ACT OF 1974

For the purposes of this title, the term "internationally recognized workers rights" includes-

(a) the right of association;
(b) the right to organize and bargain collectively;
(c) a prohibition on the use of any form of forced or compulsory labor;
(d) a minimum age for the employment of children; and
(e) acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health.

APPENDIX B

STANDARD CLAUSES TO BE INCLUDED IN ALL GRANTS AND INTER-AGENCY AGREEMENTS, AND IN CONTRACTS AS APPROPRIATE:

"No funds or other support provided hereunder may be used in a project or activity reasonably likely to involve the relocation or expansion outside of the United States of an enterprise located in the United States if non-U.S. production in such relocation or expansion replaces some or all of the production of, and reduces the number of employees at, said enterprise in the United States."

"No funds or other support provided hereunder may be used in a project or activity the purpose of which is the establishment or development in a foreign country of any export processing zone or designated area where the labor, environmental, tax, tariff, and safety laws of the country would not apply, without the prior written approval of USAID"

"No funds or other support provided hereunder may be used in an activity which contributes to the violation of internationally recognized rights of workers in the recipient country, including in any designated zone or area in that country."

APPENDIX C

EXAMPLES OF CERTIFICATIONS, RESOLUTIONS, CLAUSES, ETC.:

CERTIFICATION

"I have reviewed Section 547 of P.L.103-87 (the FY 1994 Foreign Operations Appropriations Act) and certify that my participation in this [trade mission] [project] [activity] will not result in a reduction in the number of my firm's employees in the United States because my firm is replacing U.S. production with production outside the U.S."

APPENDIX C

SECTION 547 CLAUSE
CURRENT USAID CONTRACT FOR
TRADE IMPLEMENTATION AND POLICY PROGRAM (TIPP)

"Restricted Assistance Activities. The Contractor agrees that, unless otherwise authorized by USAID in writing, no advice, services or assistance of any kind will be provided under this Contract by the Contractor, its employees or subcontractors, which would:

1) Induce a business enterprise in the United States to relocate productive facilities outside the United States; or

2) Assist in the establishment or development of export zones in Indonesia; or

3) Contribute to the violation of internationally recognized workers' rights as defined in Section 502(A)(4) of the Trade Act of 1974.

In the event the Contractor is requested or wishes to provide assistance in any of the areas listed above, or requires clarification from USAID as to whether the provision of advice, services or assistance in any specific instance would be consistent with the limitations set forth above, the Contractor will immediately notify the Contracting Officer, providing a detailed description of the proposed contract activity and the restriction affected. The Contractor will not proceed with the activity unless and until advised by the Contracting Officer that it may do so.

The provisions of this clause are intended to implement Section 547 of P.L. 103-87, the Foreign Operations, Export Financing, and Related Appropriations Act, 1994, and related USAID policy guidance. The Contractor agrees to comply with all policy guidance issued by USAID with regard to Section 547, as from time to time revised and/or supplemented.

The Contractor will ensure that all employees and subcontractors providing services under this contract are made aware of the restrictions set forth in this clause and will include this clause in all subcontracts and other subagreements entered into hereunder."

APPENDIX C
SECTION 547 IMPLEMENTATION AGREEMENT BETWEEN THE ENTERPRISE FUNDS AND THE U.S. GOVERNMENT

To comply with Section 547 of the "Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1994," the Enterprise Funds and the U.S. Agency for International Development agree as follows:

Each Enterprise Fund shall:

1. Add to its Due Diligence process the responsibility for the collection of information as to whether a potential investment would be in violation of Section 547.

2. Amend Article III, Section 2 of each Fund's "Statement of Corporate Policies and Procedures" by adding part (c) so that Section 2 reads in its entirety as follows:

   "2. As a matter of policy, the Corporation shall require that recipients of grants and other forms of assistance from the Corporation certify, as a condition to such assistance, that such funds as are provided by the Corporation not be utilized for:

   a. the manufacture or sale of abortion equipment or the provision of abortion services;

   b. the manufacture or sale of munitions articles or services; and

   c. any action that would be in violation of Section 547 of the "Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1994." The Corporation shall discuss with each recipient the intent of the legislation, the language of the Act itself, and each recipient shall represent to the Corporation at the time the assistance is authorized or before that it will not use the assistance in a manner that would violate Section 547."

3. Use the semi-annual USAID program reviews to provide to USAID written confirmation that the Funds' actions regarding Section 547 are in order for investments authorized by the Funds during such program review period.

These principles will be incorporated in the December 30, 1991, Protocol Agreement between the Enterprise Funds and USAID. The Protocol Agreement, as modified, will then be incorporated by USAID into its Grant Agreements with the Funds.

APPENDIX C

RESOLUTION TO AMEND THE
BULGARIAN-AMERICAN ENTERPRISE FUND
STATEMENT OF CORPORATE POLICIES AND PROCEDURES

RESOLVED, that Article III, Section 2 of the "Bulgarian-American Enterprise Fund Statement of Corporate Policies and Procedures" be amended to read in its entirety as follows:

"2. As a matter of policy, the Corporation shall require that recipients of grants and other forms of assistance from the Corporation certify, as a condition to such assistance, that such funds as are provided by the Corporation not be utilized for:

a. the manufacture or sale of abortion equipment or the provision of abortion services;

b. the manufacture or sale of munitions articles or services; and

c. any action that would be in violation of Section 547 of the "Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1994." The Corporation shall discuss with each recipient the intent of the legislation, the language of the Act itself, and each recipient shall represent to the Corporation at or before the time the assistance is provided that it will not use the assistance in a manner that would violate Section 547."

ANNEX D: EDS PROJECT DESCRIPTION

II. PROJECT DESCRIPTION

A. Background

Cape Verde is an archipelago of ten fairly widely separated islands about 400 miles off the coast of Senegal. The total land area of the islands, only nine of which are inhabited, is 1522 square miles, about the size of Rhode Island. Total estimated population is approximately 360,000. The capital (Praia), the main industrial center and seaport (Mindelo), and the international airport (Sal Island) are all on different islands in a triangular configuration separated by 135 miles or more of ocean. In general, the islands lie in the Sahelian climatic zone. Winds carrying dust from the Sahara sweep the islands for several months each year. Cape Verde has recently suffered from a severe drought which lasted from 1967 to 1985.

Cape Verde became independent from Portugal on July 5, 1975 and has been governed by a moderate civilian regime under the leadership of President Aristides Pereira since that time. For the first five years of its existence, Cape Verde was in a union with Guinea-Bissau which ended following a coup in Guinea-Bissau in 1980. The country possessed a significant number of experienced administrators at independence compared to the other Portuguese colonies and it has since enjoyed political stability and a virtual absence of corruption.

The development strategy of the Government of Cape Verde prior to and during the 1982-85 period of the First Development Plan aimed at "attaining maximum rates of economic growth consonant with internal and external financial stability." Activities, therefore, concentrated on necessary infrastructure development and on creating a capable administration. The current Second Development Plan (1986-90) is similar to the First Plan but focuses more specifically upon balancing regional development, encouraging private savings and investment, and promoting production in areas where Cape Verde has a comparative advantage. The Second Plan also pays more attention to selecting projects that will have an immediate or near-term impact on economic growth and exports.

The economy can also be characterized by the scope and depth of its problems. The country has no mineral or fuel deposits. Export receipts only cover some 3 to 7 percent of import costs and the country imports from 70 to 90 percent of its food needs. Most of the food needs are covered by international donor assistance. Aid inflows from foreign assistance programs plus emigrant remittances sustain this massive trade deficit. Foreign aid finances almost all government investment and the internal deficit has amounted to about one-half of Gross Domestic Product (GDP) in some years. GDP was approximately $145 million in 1986 and GDP per capita was, therefore, about $415. In spite of the problems of extended drought, limited endowment of productive land and natural resources, and relatively high dependency on external support, economic progress has been more than satisfactory. The real GDP per capita growth rate was 5.3 percent from 1973 to 1983 and 5.9 percent during the 1980 to

1986 period. The composition of GDP has gradually shifted toward commerce and transport and away from agriculture during this period. Moreover, there has been significant social progress since independence. Early success in expanding primary education has provided a strong basis for the current program of adult literacy which currently stands at 40 percent. Health conditions i Cape Verde are good in comparison to other countries at similar per capita income levels. Life expectancy is among the highest, at 63 years, for any country in this category. At 70 per 1000, infant mortality is fairly low and the ratio of doctors per 1000 population is well above average. There is little malaria or other tropical diseases.

This relative success has been attributed to several factors:

1. Prudent economic policies and careful management of public finances by a well-led and stable government in a politically moderate, mixed economy.

2. Favorable geographic location in the trans-Atlantic shipping and air transport lanes. Cape Verde provides services to international ships and airlines, including major ship repairs. Public investments in infrastructure development for the service sector have been primarily used for developing the infrastructure for these services.

3. Substantial remittances from Cape Verdeans who have either emigrated or temporarily live or work overseas. Remittances (about $25 million per year) have amounted to about 20-30 percent of the GDP each year since independence and they are a major contributor to GNP and other growth and social development aspects of the economy.

4. Stable currency and domestic price stability. The Cape Verdean Escudo is freely traded within the country and its exchange rate is pegged against the currencies of its major trading partners. The Escudo devalued by about 26 percent from 1980 to 1986 but its real effective exchange rate remained constant during the same period. There is no black market currency exchange in Cape Verde. Prices of goods and services are almost entirely market determined. With few exceptions, the government does not set prices nor provide direct subsidies.

5. Prudent government use of foreign assistance for development investment purposes and efficient selection and management of public investment programs and projects. Cape Verde has kept its debt service obligations low and its overall balance of payments position is strong. The government relies on the IMF, the World Bank and donors to review its development plans and economic policies. Cape Verde welcomes IMF advice but has not yet had to avail itself of that organization's lending facilities.

6. Self-reliant rural development. Foreign assistance grants and food aid for local currency generations are used to finance labor-intensive soil and water conservation and management activities and other rural works and infrastructure projects. As much as 86 percent of the funds for rural investment projects now come from foreign assistance and food aid programs. Only about ten percent of the food is given away free, and

that is only for the very poorest and most needy segments of the population.

As a direct result of these policies and practices, Cape Verde's economic performance has been impressive. Inflation has declined from 18-21 percent in the late 1970's and early 80's to 14 percent in 1984 and 8 percent in 1986. Lower inflation over the past three years, together with an increase of 3.5 percent in savings interest rates, has increased domestic savings and remittances held in savings accounts. The interest rate on savings deposits had been a constant 6.5 percent since independence and, given inflation, this meant negative real interest rates on savings. Credit interest rates were also increased to more positive real levels in December 1985, leading to more efficient resource allocation and fewer imports of non-essential goods.

Government revenues have also been increasing about 20-25 percent per year since 1985 because of recent improvements in tax collections and a switch from fixed to ad-valorem tariffs on imports of nonessentials. Tax revenues are derived primarily from Customs, which provides about half of the government's revenue.

Government market interventions are limited to the control of a very few basic consumer goods, monitoring wholesale and retail markups, and subsidizing electricity, water and public transport fees. Except for power and desalinization, parastatals are intended to be profit making and to operate without direct subsidies.

In an effort to foster economic growth, promote greater efficiency and increase labor productivity, the GOCV is carrying out three major reform programs aimed at improving the performance of the existing system. An agrarian reform, having already redistributed former Portuguese plantations and capped rents payable by tenants, is now initiating a consolidation of scattered plots through a process of survey and registration. An education reform is focusing upon teacher training and increased literacy rates. Some 90 percent of children ages 7-10 are enrolled in school but overall literacy is still only 40 percent. A program of adult literacy is being carried out and increased attention is being paid to the high drop-out rate following the compulsory first four grades. The third major reform concerns public administration. In spite of the steady decline over the past decade in both their numbers and real wages, the civil service remains honest and relatively capable. The reform envisages that the parastatal structure will be reorganized and redirected toward greater efficiency.

More importantly, the country is now undergoing a period of major policy reform, including a significant opening towards the private sector. The recently concluded Third Party Congress of the PAICV debated and endorsed this new approach which is expected to have a long-term impact on the progress of the project. While it is difficult to gauge the importance of policy pronouncements in the political arena, it is nevertheless significant for a single party state with a strong social program. Moreover, it is equally significant that representatives of the major commercial associations were invited to address the Congress, and that their input was listened to. In the past, the organized private sector, as represented by these associations, was isolated from government policy debates, and often at odds with the government concerning their principal sphere of activity, the importation of consumer goods. Other developing countries, when forced by necessity to open and liberalize their economies, have often done so without the kind of commendable public reorientation of economic policy as is now occurring in Cape Verde .

A similar public commitment to the creation of viable export industries and services also represents an important change in policy emphasis. Beyond a mere public relations level, the government has taken concrete steps to realize this initiative. Many of these steps are still in the early stages of formulation, including conceptual definition, the drafting of legislation, and obtaining of consensus and agreement among the entities involved and which are subject to differing perspectives from various elements within the government. The principal initiatives relevanc to this project include the following:

1) Reduction of parastatal role. The government is pragmatically considering the reduction of its participation in some parastatals, for example, the shipping companies. In others such as the clothing producer, Morabeza, it has reduced a former majority position to that of a minority one. While this does not represent an across-the board policy of privatization, and several state-owned enterprises have even increased their sphere of activity, it is evidence of the government's flexibility to reduce the parastatal role when it appears to be an effective approach to management problems.

2) Steps leading to the development and approval of a foreign investment code. As of May 1989, the GOCV was in the process of approving such a code as well as an external industrial investment law and statute which have been under study and development for some time and which will constitute the basis for future foreign investment. Their approval by the National Assembly is expected to take place in June 1989. The lack of a defined set of "rules of the game" has long been an obstacle to the attraction of foreign private investment. While the government has been able to negotiate the terms of investment with major foreign investors on a case-by-case basis, the lack of a defined code has been a deterrent to the ability of local firms to attract joint venture partners, and to small and medium investors who

might have been interested in Cape Verde. This legislative package provides the basis for a unified set of incentives to promote export industries, small enterprises, artisanal and cooperative sectors, "new" industries, and enterprises located outside the principal population centers. This legislation should improve the investment climate considerably from a regulatory standpoint, and go a long way towards the rationalization of an otherwise complex and constrictive legislative framework for business inherited from the colonial administration.

3) Revised Customs legislation for "Industrial entrepots." This new law is being developed with a view to implementing a set of regulations which promote export industries. Its principal elements include the suspension of duties on goods to be assembled or otherwise processed for re-export and other measures.

4) Offshore Banking Law. This new law will permit the establishment of offshore banking in Cape Verde. Although Cape Verdean citizens are not permitted to take advantage of this legislation, it is nevertheless indicative of Cape Verde's interest in opening its economy to the outside world. Foreign banks have begun to take some interest in this new provision of the law and have made serious inquiries.

These specific policy initiatives appear to be pragmatically developed and formulated. The export incentives and foreign investment regulations, for example, were developed with outside technical assistance. Useful advice was provided by key business community members from Mauritius and site visits by GOCV representatives to Senegal, Tunisia and Mauritius. They contain the foundation for the attraction of foreign investment and the creation of viable export industries such as provision for 100 percent foreign ownership, capital repatriation, duty exemption on imports for the export sector, a pragmatic set of labor regulations, and efficient use of tax exemptions. These policy reforms provide the framework within which the Export Development Services Project can function effectively.

B. Other Related Donor Projects

The GOCV has informed the donor community that the World Bank and USAID are being asked to play the leading role in the development of the private sector in Cape Verde. In addition, UNDP agencies have and will continue to be involved in private sector and export support programs on a smaller scale. All of the donors so far involved in these areas have expressed a strong willingness to coordinate their activities with USAID. This coordination should enhance the effectiveness of each donor's program.

The World Bank (IDA) and the UNDP provided an SDR 4.1 million credit to Cape Verde in 1985 with the aim of improving the country's capacity to identify, prepare and promote industrial projects. Under the project, technical assistance was provided to the Bank of Cape Verde to appraise and finance projects. A line of credit of SDR 3.2 million was set up in the Bank for small-scale industrial projects. As of May 1989, the entire line of credit had been committed. Under the same project, technical assistance was also provided to the Industrial Promotion Unit (IPU) in the Ministry of Industry and Energy to identify and promote projects. The IPU has been instrumental in drafting the new foreign investment legislation.

The UNDP/UNCTAD is supporting a two-year project within the Ministry of Commerce to encourage exports. The project's objectives are to: i) develop the exports of products currently manufactured in Cape Verde for which excess capacity is believed to exist; ii) develop concrete legislative, administrative, and financial measures to encourage export activities; iii) help develop a national body of officials trained in international trade procedures especially preferential access opportunities offered by the EEC, Lomé Convention, ECOWAS, U.S., etc.; and iv) institutional support within the Ministry as well as interministerial coordination.

In light of rapidly changing export promotion legislation and policy, and other proposed and existing projects, the UNDP/UNCTAD is refocussing the project's objectives toward training of nationals in new non-traditional export activities. As such, visits have been proposed for Cape Verdean trade officials to Barbados, Jamaica and the Dominican Republic. These countries could serve as models for Cape Verde's development of non-traditional export activities, through the use of export processing zones, teleport/information services, tourism and transshipment activities. The UNDP/UNCTAD program is complementary to the export enhancement efforts proposed in this project.

A pilot program to promote small-scale industry in Praia and Mindelo is starting up in 1989 under the supervision of the Ministry of Industry and Energy. The project is being funded by the Government of Switzerland with ILO implementation. Project goals are skills development, generation of productive employment, and diversification of production. Microenterprises to receive support are bakeries, furniture-makers and car repair shops.

C. Goal and Purpose of the Project

The long-term goal of the Export Development Services Project is to enable Cape Verde to earn foreign exchange through an export-led growth strategy and increased private sector participation in economic growth. This cannot be accomplished within the limited timeframe of the project; in spite of remarkably rapid progress on the part of the GOCV, a minimum of ten years will be required in order to achieve that objective. Consequently, this project is merely the first phase of what is expected to evolve into a broader program of support. That eventuality will be largely conditioned both on success in this project and on the progress of Cape Verde in evolving toward an economy more open to the private sector and foreign investment.

Progress toward accomplishment of the goal will be indicated by greater economic activity of the private sector, particularly as indicated by an increasing level of exports. Measurable indicators of progress will include:

1) the value of exports of goods and services each as a percentage over previous levels and in absolute terms; 2) the amount of exports as a percentage of the GNP; and 3) the other traditional measures of economic progress such as higher per capita and national income.

Progress toward goal achievement is contingent upon the following set of circumstances: 1) that the GOCV will continue to remain open to private sector development and initiatives; 2) the continuation of political stability and responsible government and 3) adequate levels of foreign assistance being maintained.

The purpose of the project is to provide support to Cape Verde's private sector by mitigating constraints to expanding export-oriented production, trade and private sector participation. At the end of the four-year span of this project, there should be existent in Cape Verde established institutional structures able to provide significant quantities of foreign exchange and local employment. Achievement of success will be contingent upon the Government of Cape Verde continuing to foster appropriate foreign investment policies, as has been the case recently. It will also require that other donors (World Bank, the United Nations, ADB, etc.) continue to actively support related private sector development activities.

D. Project Outputs

In its efforts to promote economic growth and reduce economic dependency in Cape Verde, the project will address a broad spectrum of issues and conditions related to investment and commercial activity. Project outputs, which are to be both qualitative and quantitative in nature, will include:

1) The creation of the Center for Investment and Export Promotion;

2) Recommendations for policy and administrative reforms which facilitate and enhance investment and export activity:

3) Strengthened public and private sector capacity to promote Cape Verde as an investment location; and

4) Development of human resource capacity.

The most critical component of the project activity contributing to these outputs will be a program of institutional development aimed at facilitating pre-investment decision-making and the investment approval process. Past experience elsewhere in the developing world suggest the quantifiable results may be modest during the earliest years of the project. However, in addressing the sequence of conditions and procedures necessary for investment promotion, the project will initially improve efficiency of the investment process. This, in turn, may evolve into yet a further marketable aspect of the Cape Verdean investment environment.

1. Institutional Development

The project will assist GOCV efforts to increase export activity by helping to establish and manage a national Center for Investment and Export Promotion.

The CIEP will be an autonomous institution with a mandate to facilitate the establishment of new commercial ventures in Cape Verde and to coordinate the new investment approval process. The GOCV will be assisted in establishing the Center as a central clearing-house for new investments, particularly for export-oriented industry.

Oversight of the Center will be provided by an Advisory Board, which may include representatives of GOCV ministries (e.g. Industry, Commerce, Agriculture, Finance), relevant agencies (Customs Service, Bank of Cape Verde), and of the local business community (e.g. Chamber of Commerce, Sotavento and Barlavento island business associations).

The Center, which will include a headquarters in Praia and a field office in Mindelo, will be composed of three functionally-oriented divisions, corresponding roughly to the sequence of concerns and processes that are critical to the achievement of the project purpose:

a. the Project and Policy Development Division will be responsible for studies, market research, management information systems, monitoring and evaluation, policy analysis and development;

b. the Promotion and Marketing Division will provide assistance to governmental and private organizations, facilitating efforts to attract and inform prospective international and domestic investors;

c. the Advisory Service Division will provide assistance to investors and GOCV agencies by facilitating the investment approval process and by providing training to public officials and private entrepreneurs.

It is expected that by the end-of-project CIEP will have developed and implemented self-financing mechanisms to increase the financial independence of the Center. These mechanisms could include local and foreign private sector member fees and payment for services. While these sources of revenues should not be expected to end the Center's dependence upon outside sources of income, they could contribute significantly to meeting the CIEP's operating expenses.

2. <u>Recommendations for Policy and Adminstrative Reforms</u>

In establishing an information management system, the project will be well-placed to respond to requests from GOCV and commercial organizations to monitor and evaluate the Cape Verdean business climate. The Policy and Project Development Division of the CIEP will coordinate specific sectoral marketing studies (described eslewhere in the PP), evaluations of commercial policies, regulations and procedures, and recommendations for reforms. This assistance may arise form requests by particular ministries or agencies of the GOCV, or the domestic or international business community. Problems identified by the monitoring and evaluation efforts of the project might also become the object of such analysis.

The effectiveness of the CIEP is conditional on the definition of the CIEP as an autonomous body having a significant role to play in the country's economic life. This relatively activist status will allow the CIEP to be instrumental in providing governmental and parastatal authorities, as well as the business community, with credible and pragmatic guidance to improve the efficacy of investment and export policies and procedures.

3. <u>Strengthening Capacity to Promote Investment in Cape Verde</u>

At the present time, Cape Verde's competitive merits as an investment location remain largely undefined and unpromoted. No single promotional philosophy or strategy currently exists to facilitate the efforts of the variety of government agencies and business organizations to attract investment or enhance markets for existing products and services.

In order to compensate for this deficiency, the project will assist the GOCV to formulate both information resources and marketing strategies for promotional efforts. The guiding tenet for this aspect of project activity will be that the highest rate of return on promotional efforts will likely result form marketing to specific sectors of international business for whom Cape Verde offers particular advantages. This approach will enable the GOCV to avoid high-cost general promotion efforts of the type that have produced poor results in other developing nations.

Technical assistance toward this end will concentrate, first, on the establishment of a reliable data base within the Policy and Project Development Division of the CIEP, allowing it to respond to the information needs of prospective investors and GOCV policy-makers. Secondly, assistance will be provided to the Marketing and Promotion Division for the development of a pragmatic, cost-effective promotional strategy. This effort will initially concentrate on addressing the needs of investors who have already made the decision to evaluate prospects for specific projects in Cape Verde. As the project evolves, generic and sector-specific information and promotional materials will be produced for use by existing outreach organizations (e.g. Ministry of Commerce, Chamber of Commerce, Embassies and Consultants) and Cape Verdean media. The project may also formulate and test promotional efforts aimed at attracting investment from the principal Cape Verdean immigrant communities in North America and Europe.

In addition to its specific promotional and marketing activities, the project will contribute in a more general way to establishing a national awareness of Cape Verde's business environment. The variety of training activities, studies, and facilitative efforts carried out by the CIEP will also serve an information "extension" function, enhancing the ability of public officials, civil servants, and private citizens to better promote Cape Verde.

The final, and critical, thrust of programming will assist the Advisory Services Division of the CIEP to act as a liaison between prospective investors and GOCV authorities. Although the existing administrative environment precludes the establishment of a "one-stop investment approval shop", the Center will serve as Cape Verde's principal contact agency for investors' in-country efforts. In addition to acting as a centralized information agency, liaison with regulatory agencies, legal and banking professionals, and members of the business community could all be coordinated by the CIEP. Depending upon its eventual legal status, CIEP might also play an ombudsman role on behalf of prospective investers vis-a-vis the GOCV.

4. Development of Human Resource Capacity

It has been observed that the educational structure in Cape Verde is not currently adequate to meet Cape Verde's goals of making the country competitive internationally in the export of goods and services. In spite of remarkable and commendable progress in reducing illiteracy, the limited human resource capacity remains a problem which will have a continuing impact upon the project. There are only two high schools in Cape Verde, one in Praia and the other in Mindelo. There are over 3200 enrolled in both and overcrowding is a serious problem. There is one technical school in Mindelo with 700 students which addresses some of the basic business and vocational needs, yet it is not sufficient for the whole country, in spite of the currently rather low level of business development and industrial output. International donor agencies have selectively supported individuals in obtaining a university degree in the U.S. or Europe, since there are no universities in Cape Verde. However, a recently approved ADB sector loan provides financing for an additional technical school and a new business school. In 1983, there were approximately 1000 Capa Verdeans pursuing university degrees but very few of these were in business or vocational training while many more were in the field of public administration.

In order to begin the process of addressing this very deep-seated problem, the project will take several initial steps:

1) Review the possibilities of various innovative and long-term solutions to the problem including a tele-university, private sector-sponsored vocational training, direct support to the emerging educational institutions in Cape Verde for specific training needs, etc. The project can only support the initial exploration of such solutions through short-term consultants and studies. Their financing must come from sourcesa externel to this project (although it might include eventual U.S. project support at some time in the future, particularly if that solution was firmly based in the private sector).

2) Short-term training activities in the U.S. or elsewhere which will expose private sector individuals to various opportunities for greater knowledge and/or skill development.

3) Cooperation with other U.S. training activities in Cape Verde, in particular, the Human Resources Development project which is required to place an emphasis on providing training opportunities to the private sector.

4) The educational/training opportunities inherent in the seminars, conferences and missions to which Cape Verdeans will be exposed under the project. The emphasis here will be on private, local entrepreneurs who will be given access to trade, marketing and production techniques which can be introduced into the evolving economic setting in Cape Verde.

E. Project Inputs

(Costs and duration of inputs are detailed in the Financial Plan.)

1. Inputs Provided Before the Establishment of the CIEP:

Several technical assistance projects and studies to support GOCV export policy and project development are expected to be initiated before the CIEP is operational and fully staffed. Some of these projects can begin as soon as the Project Agreement is signed. It is expected that the CIEP will support follow-up work on these projects leading to the implementation of the most promising activities. The terms of reference for these initial technical assistance projects and studies are detailed in Annex 13.

Short-term Technical Assistance:

a. Assistance to Cape Verde's Port Authorities to Support Transshipment Services and General Port Operations.
b. Analysis and seminar on Preferential Access to Export Markets.
c. Reform of Customs Procedures and Operations to Support Export Industries and Services.
d. Export Marketing Advice for Fishing Cooperatives.

Studies:

a. Market Analysis of Transshipment Services.
b. Project Identification for an Export Processing Zone Regime.
c. Review of Legislative and Regulatory Environment for Export Development and Foreign Investment.
d. Market Analysis of European and North American Tourism Markets.
e. Sector Survey of Offshore Information Services/Teleport.

Program Management: To oversee project financing and facilitate the provision of USAID resources, a Project Administrator will be hired to work for USAID in Praia. This person should be in place as soon as possible after the signing of the Project Agreement.

2. Inputs Provided to and through the CIEP:

Once the CIEP is established, almost all project inputs will be provided directly to, or channelled through, the CIEP to GOCV agencies and private entrepreneurs. The specific terms of reference for the short-term technical assistance, training and studies provided by the project will be determined by CIEP staff to meet the specific needs and demands of the GOCV, the private sector and the Center itself.

<u>Long-Term Technical Assistance</u>: (See Annex 12 for the detailed job descriptions for these positions.)

a. Specialist in business policy analysis and information systems. Responsible for establishment and, initially, operation of the Policy and Project Development Division of the CIEP. Also responsible for the initiation and operation of the CIEP's management information system. Assist in professional training of the Cape Verdean Director of Project and Policy Development Division.

b. Specialist in investment promotion and advisory services. Responsible for the establishment and, initially, operation of the Promotion and Advisory Services Divisions of the CIEP and assist in professional training of the Cape Verdean directors of these divisions.

The senior of the two long-term advisors will also serve as Chief of Party and counterpart to the Executive Director of the CIEP. In addition to management responsibilities of the project, the Chief of Party will also be the primary advisor to the Executive Director on the overall development of and strategic planning for the Center. The resident long-term technical assistance team will be responsible for developing terms-of-reference and appropriate expertise for short-term technical assistance.

<u>Short-term Technical Assistance</u>:

a. Development of promotional strategies.
b. Design, establishment and update of management information systems (MIS).
c. Design and production of promotional materials, including investor handbooks and informational brochures.
d. Coordinated policy and project assistance with GOCV agencies. Long-term advisor on policy/project analysis would supervise and manage work. Projects would include:
   -- follow-up to initial work on export projects, EPZs, teleports, customs reform etc.
   -- additional assistance to be determined through discussions with and request by GOCV agencies. Topics might include:

Banco de Cabo Verde (BCV): development of export financing and insurance operations and improvement of existing international finance operations.

Ministries of Finance and Commerce, and BCV:
Design and establishment of an investment promotion campaign with the US-Cape Verdean community, including development of an appropriate financial mechanism to pool financial investments.

<u>Studies</u>:

Sectoral export market studies, policy analyses and follow-up to initial studies.

Topics to be determined by Center staff based on needs revealed by discussions with entrepreneurs and GOCV officials. Long-term advisor on policy/project analysis will supervise and manage this effort.

A significant portion of the funds provided for this input is expected to be used for required technical assistance and training to support implementation of projects identified by these analyses.

<u>Training</u>:

Out-of-Country:
Trade, marketing & production techniques for CIEP staff, GOCV officials and local entrepreneurs at the World Trade Center in New York City; Overseas site visits to export and investment promotion institutions (Mauritius, the Dominican Republic, Singapore, etc.)

In-Country:
Seminars for local entrepreneurs on export marketing, joint ventures, export finance and other topics to be developed by the CIEP staff based on discussions and requests from entrepreneurs.

<u>Commodities</u>:

Vehicles (3) and spare parts: 1 sedan each in Praia and Mindelo, and an additional station wagon in Praia. Replacement vehicles to be purchased three years later.

Office furniture for 8 rooms: 6 1/2 in Praia and 1 1/2 in Mindelo.

Computers: 4 PC's and software with networking and electrical surge protection devices. 2 modems. 1 desk-top publishing system with software for promotional materials.

Office equipment and spare parts: 2 Fax machines, photocopiers, telephones and air conditioning units (5).

Books, publications and documents: As information is the principal working requirement and the principal product of the Center, it will require extensive materials to keep abreast of market and technological developments. Given Cape Verde's mid-ocean location, transportation by air for many of these materials will be required.