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EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

APPROVED
AUG 27 1974

AUG 21 1974

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill S. 2957 - Overseas Private Investment Corporation Amendments Act of 1974
Sponsor - Sen. Church (D) Idaho

Last Day for Action

August 27, 1974 - Tuesday

Purpose

Extends certain basic authorities for the Corporation until December 31, 1977; authorizes the Corporation to issue reinsurance in lieu of direct insurance; terminates certain activities of the Corporation; and for other purposes.

Agency Recommendations

Office of Management and Budget	Approval
Overseas Private Investment Corporation	Approval
Department of Commerce	Approval
Export-Import Bank of the United States	Approval
Department of State	Approval
Department of the Treasury	No objection
Agency for International Development	No objection
Council on International Economic Policy	No objection (Informally)

*Posted 8/27
To Archives 8/28*



Discussion

The Overseas Private Investment Corporation (OPIC) was created in 1969 to assume operation of the private investment incentive programs then operated by the Agency for International Development (AID). Its purpose, as stated in its authorizing legislation, was "To mobilize and facilitate the participation of United States private capital and skills in the economic and social progress of less developed friendly countries and areas, thereby complementing the development assistance objectives of the United States...."

To carry out its purpose OPIC was authorized to conduct, among other things, programs of investment insurance and investment guarantees. Investment insurance constitutes the bulk of the Corporation's operations, and in this regard, OPIC offers protection to United States corporations and other entities investing abroad against the political risks of inconvertibility, expropriation, and war, revolution and insurrection. Investment guarantees are available to cover not only the political risks but the commercial risks of overseas investment as well.

S. 2957, which would have no significant budgetary impact, would extend OPIC's program authority for both investment insurance and guarantees from December 31, 1974, to December 31, 1977. OPIC's authority to operate any of its programs, except investment insurance and the new reinsurance activities authorized by this bill, would be terminated after December 31, 1979. Under the bill, the President would be authorized to transfer these terminated programs to other United States agencies. When transferred, these programs would be limited to countries with per capita incomes of \$450 or less in 1973 dollars.

With respect to its investment insurance activities, OPIC's role as a direct insurer against political risks would be gradually phased out in favor of a role as reinsurer of private insurance companies and other financial institutions.



Specifically, the bill would prohibit OPIC from directly writing inconvertibility and expropriation insurance after December 31, 1979, and would terminate such activity with regard to war risk insurance as of December 31, 1980, unless Congress modifies these cut-off provisions by law. Thus, the Corporation would be restricted to acting solely as a reinsurer as of December 31, 1980.

In authorizing OPIC to enter into various reinsurance arrangements with private insurance companies and other entities, S. 2957 would permit OPIC to incur maximum reinsurance liabilities of up to \$600 million annually and up to an aggregate amount of \$7.5 billion at any one time -- the maximum liability currently authorized for OPIC's political risk insurance programs. Any reinsurance issued by the Corporation would require the direct insurer to cover certain portions of the liability itself and OPIC would be directed to try to increase the amount of this liability coverage to the maximum extent possible.

Other significant features of the enrolled bill would:

- Authorize OPIC to seek appropriations to replenish or increase its insurance reserves only when those reserves fall below \$25 million and to issue, for purchase by the Secretary of the Treasury, notes, debentures, bonds or other obligations (not to exceed \$100 million at any one time) to discharge its investment insurance or reinsurance liabilities;
- Require the Corporation to report to Congress by January 1, 1976, regarding the possibilities of transferring all of its activities to private insurance companies, multilateral organizations and institutions, or other entities;
- Bar OPIC from insuring or reinsuring any investment if the Corporation determines that such investment would significantly reduce the number of the investor's United States employees;



- Require the Corporation to develop and implement, within 6 months after the date of enactment of this bill, specific criteria intended to minimize the potential environmental implications of projects undertaken by investors abroad under any programs OPIC operates.

The Conference report on S. 2957 also instructs OPIC to consult with the Congress on plans for any insurance programs in Indochina. The report further states that OPIC should not insure any large United States private investments in Indochina unless OPIC obtains significant private participation or until OPIC receives specific instructions from Congress.

The Administration sought a 2-year extension of OPIC authorities along with new reinsurance authority as part of the 1973 foreign aid bill. However, in that bill, Congress granted only a 6-month extension of existing authorities until December 31, 1974, pending a thorough review of OPIC's authorities and programs. The enrolled bill reflects the results of that review.

With respect to the long run reinsurance functions OPIC will have under the bill, State comments in its enrolled bill letter as follows:

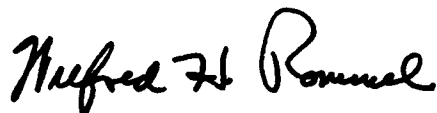
"The 'Overseas Private Investment Corporation Amendments Act of 1974' (S. 2957) satisfies the Administration's major requests of Congress -- public and private participation in an insurance consortium, retention of OPIC's public purposes, and an orderly transfer of insurance authorities from OPIC to the consortium."

With respect to the future transfer of OPIC programs other than reinsurance, the Congress considered these could be better performed by other agencies. Thus, for example, the report of the Senate Foreign Relations Committee states:



"The Direct Investment Program should be shifted to AID along with the Special Activities Programs... . AID is experienced in direct aid programs and, because of its substantial resources, better able to handle them than is OPIC."

While the changes which the bill would make in the future role of OPIC go beyond those recommended by the Executive Branch, neither we nor the agencies see any basis for objecting to them at this time. The changes are not required to take effect for a number of years, thereby affording ample opportunity to assess their validity in the light of OPIC's experience as it becomes increasingly involved in reinsurance.



Assistant Director for
Legislative Reference

Enclosures



Overseas Private Investment Corporation

1129 20TH STREET, N.W.
WASHINGTON, D.C. 20527 U.S.A.

OFFICE OF THE PRESIDENT

(202) 632-8584

Mr. W. H. Rommel
Assistant Director for Legislative Reference
Office of Management and Budget
Room No. 7201 - New Executive Office Building
Washington, D.C. 20503

Dear Mr. Rommel:

This is in reference to your Enrolled Bill Request of August 15 regarding S2957.

The purpose of this legislation is to extend OPIC's program authority, both for investment insurance and guaranties, through December 31, 1977. The bill directs OPIC to achieve private participation in its program and requires that by December 31, 1979 for expropriation and inconvertibility risks, and December 31, 1980 for war risks, OPIC cease acting as a direct underwriter and act as a reinsurer only. Interim goals are established beginning January 1975 with respect to the amount of private participation OPIC should achieve by certain benchmark dates through 1980.

The bill permits OPIC to incur reinsurance liabilities of up to \$600 million in any one year and requires the reinsured party to retain for his own account "specified portions of liability, whether first loss or otherwise." OPIC must endeavor to increase such specified portions to the maximum extent possible.

The legislation requires that OPIC cease to operate its finance program on December 31, 1979. Authority is given to the President to transfer these programs to other U.S. agencies by that date. When such programs are transferred, their operation will be limited to countries with per capita incomes of \$450 or less in 1973 dollars.

The bill bars OPIC from seeking appropriations to augment its insurance reserve until the reserve falls below \$25 million. OPIC is permitted to borrow up to \$100 million from the Treasury, repayable within one year, should OPIC need to pay claims in excess of its reserves before sufficient funds are appropriated.




New mandates are added to OPIC's statute. The Corporation is prohibited from providing assistance to projects likely to significantly reduce the number of an investor's employees in the U.S. because he is replacing his U.S. production with production from a foreign investment involving substantially the same product for substantially the same market as his U.S. production. In addition, OPIC is required to give preferential consideration to projects involving small business, and to projects in less developed countries with per capita incomes of \$450 or less in 1973 dollars.

OPIC is, in general, pleased with this legislation. We were successful in amending the bill on the Senate floor to remove penalty provisions which would have put the Corporation out of business if we failed to achieve the interim goals. In addition, the Statement of the Managers on the Conference Report provides with respect to the long-term goals that they have been included in the legislation subject to the understanding that they will be reviewed in the light of OPIC's actual operating experience during 1975 to 1977. The wording of "reinsurance section" which establishes the amount of liabilities reinsured parties must retain for their own account is acceptable to OPIC. In fact, this was the critical issue in the Conference on the legislation, and the House version which OPIC supported was adopted.

In summary, we believe S2957 is satisfactory. We believe it establishes reasonable goals which are capable of achievement over the next three years.

We support this legislation, and recommend that it be signed into law by the President.

Sincerely yours,


Marshall T. Mays





THE ASSISTANT SECRETARY OF COMMERCE
Washington, D.C. 20230

AUG 16 1974

Honorable Roy L. Ash
Director, Office of Management
and Budget
Washington, D. C. 20503

Attention: Assistant Director for Legislative Reference

Dear Mr. Ash:

This is in reply to your request for the views of this Department concerning S. 2957, an enrolled enactment

"To amend the title of the Foreign Assistance Act of 1961 concerning the Overseas Private Investment Corporation to extend the authority for the Corporation, to authorize the Corporation to issue reinsurance, to terminate certain activities of the Corporation, and for other purposes."

to be cited as the "Overseas Private Investment Corporation Amendments Act of 1974."

The principal purpose of S. 2957 is to extend the statutory operating authority of the Overseas Private Investment Corporation (OPIC) through December 31, 1977, and state the intent of Congress that OPIC cease all participation as a direct insurer of overseas investments after that date. S. 2957 also directs OPIC to achieve increasing participation by private insurance companies and multilateral organizations on a sliding scale arrangement, starting as early as January 1, 1975 for some forms of insurance.

This Department recommends approval by the President of S. 2957.

Enactment of this legislation will not involve any increase in the budgetary requirements of this Department.

Sincerely,


Henry B. Turner





EXPORT-IMPORT BANK OF THE UNITED STATES

WASHINGTON, D.C. 20571

PRESIDENT
AND
CHAIRMAN

CABLE ADDRESS "EXIMBANK"
TELEX 89-461

August 16, 1974

Director
Office of Management and Budget
Executive Office of the President
Washington, D. C. 20503

Attention: Assistant Director for Legislative Reference

Re: Enrolled Bill S. 2957

Dear Sir:

This is in response to your request dated August 15, 1974, for the views and recommendation of the Export-Import Bank on Enrolled Bill S. 2957.

The Export-Import Bank has no objections to S. 2957 as enacted by the Congress but would defer to the opinion of the Overseas Private Investment Corporation on this legislation.

Eximbank, therefore, would recommend that the President sign into law Enrolled Bill S. 2957.

Sincerely,


William J. Casey





DEPARTMENT OF STATE

Washington, D.C. 20520

August 20, 1974

Honorable Roy L. Ash
Director, Office of
Management and Budget
Washington, D. C. 20503

Dear Mr. Ash:

The following is in response to Mr. W. H. Rommel's request for views and recommendations on S. 2957.

The "Overseas Private Investment Corporation Amendments Act of 1974" (S. 2957) satisfies the Administration's major requests of Congress -- public and private participation in an insurance consortium, retention of OPIC's public purposes, and an orderly transfer of insurance authorities from OPIC to the consortium.

The Department of State recommends that the President sign the bill.

Sincerely yours,

Linwood Holton

Linwood Holton
Assistant Secretary for
Congressional Relations





THE GENERAL COUNSEL OF THE TREASURY
WASHINGTON, D.C. 20220

AUG 19 1974

Director, Office of Management and Budget
Executive Office of the President
Washington, D.C. 20503

Attention: Assistant Director for Legislative
Reference


Sir:

Your office has asked for the views of this Department on the enrolled enactment of S. 2957, "To amend the title of the Foreign Assistance Act of 1961 concerning the Overseas Private Investment Corporation to extend the authority for the Corporation, to authorize the Corporation to issue reinsurance, to terminate certain activities of the Corporation, and for other purposes."

The enrolled enactment would (1) extend the Overseas Private Investment Corporation for three years, through December 31, 1977; (2) terminate the Corporation's role as a primary insurer for expropriation and convertibility risks on December 31, 1979 and for war risks on December 31, 1980; (3) authorize the Corporation to seek appropriations only when its insurance reserve falls below \$25 million and to issue for purchase by the Secretary of the Treasury notes, debentures, bonds or other obligations to discharge its liabilities under investment insurance or reinsurance; (4) bar the Corporation from granting coverage to plants whose establishment would significantly diminish the number of U.S. jobs provided by the investor; and (5) require the Corporation to consult with the House Committee on Foreign Affairs and the Senate Committee on Foreign Relations with relation to investment plans in Indochina.

The Department would have no objection to a recommendation that the enrolled enactment be approved by the President.

Sincerely yours,


General Counsel



DEPARTMENT OF STATE
AGENCY FOR INTERNATIONAL DEVELOPMENT
WASHINGTON, D.C. 20523

AUG 16 1974

Mr. Wilfred H. Rommel
Assistant Director for
Legislative Reference
Office of Management and Budget
Washington, D.C. 20503

Dear Mr. Rommel:

The Agency for International Development has reviewed the enrolled bill, S.2957, and has no objection to it.

Sincerely yours,



Arthur Z. Gardiner, Jr.
General Counsel

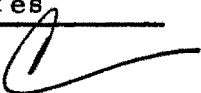


THE WHITE HOUSE
WASHINGTON

ENROLLED BILL

SUBJECT: Enrolled Bill S. 2957 - Overseas

Private Investment Corporation Amendments
Act of 1974

<u>Name</u>	<u>Approval</u>	<u>Date</u>
<u>Geoff Shepard</u>	<u>Yes</u>	<u> </u>
<u>NSC/S</u>	<u>Yes</u>	<u> </u>
<u>Phil Buchen</u>	<u>Yes</u>	<u> </u>
<u>Bill Timmons</u>	<u>Yes</u>	<u> </u>
<u>Ken Cole</u>		<u> </u>
<u> </u>	<u> </u>	<u> </u>
<u> </u>	<u> </u>	<u> </u>
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<u> </u>	<u> </u>	<u> </u>

Comments:



THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.: 525

Date: August 22, 1974

Time: 1:30 p. m.

FOR ACTION: Geoff Shepard
 NSC/S
 Phil Buchen
 Bill Timmons

cc (for information): Warren K. Hendriks
Jerry Jones

FROM THE STAFF SECRETARY

DUE: Date: Friday, August 23, 1974

Time: 2:00 p. m.

SUBJECT: Enrolled Bill S. 2957 - Overseas Private Investment Corporation Amendments Act of 1974

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

Please return to Kathy Tindle - West Wing



PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

K. R. COLE, JR.
For the President

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

AUG 21 1974

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill S. 2957 - Overseas Private Investment Corporation Amendments Act of 1974
Sponsor - Sen. Church (D) Idaho

Last Day for Action

August 27, 1974 - Tuesday

Purpose

Extends certain basic authorities for the Corporation until December 31, 1977; authorizes the Corporation to issue reinsurance in lieu of direct insurance; terminates certain activities of the Corporation; and for other purposes.

Agency Recommendations

Office of Management and Budget	Approval
Overseas Private Investment Corporation	Approval
Department of Commerce	Approval
Export-Import Bank of the United States	Approval
Department of State	Approval
Department of the Treasury	No objection
Agency for International Development	No objection
Council on International Economic Policy	No objection (Informally)

To:
Sharon Handberg
8-21-74

Discussion

The Overseas Private Investment Corporation (OPIC) was created in 1969 to assume operation of the private investment incentive programs then operated by the Agency for International Development (AID). Its purpose, as stated in its authorizing legislation, was "To mobilize and facilitate the participation of United States private capital and skills in the economic and social progress of less developed friendly countries and areas, thereby complementing the development assistance objectives of the United States...."

To carry out its purpose OPIC was authorized to conduct, among other things, programs of investment insurance and investment guarantees. Investment insurance constitutes the bulk of the Corporation's operations, and in this regard, OPIC offers protection to United States corporations and other entities investing abroad against the political risks of inconvertibility, expropriation, and war, revolution and insurrection. Investment guarantees are available to cover not only the political risks but the commercial risks of overseas investment as well.

S. 2957, which would have no significant budgetary impact, would extend OPIC's program authority for both investment insurance and guarantees from December 31, 1974, to December 31, 1977. OPIC's authority to operate any of its programs, except investment insurance and the new reinsurance activities authorized by this bill, would be terminated after December 31, 1979. Under the bill, the President would be authorized to transfer these terminated programs to other United States agencies. When transferred, these programs would be limited to countries with per capita incomes of \$450 or less in 1973 dollars.

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Specifically, the bill would prohibit OPIC from directly writing inconvertibility and expropriation insurance after December 31, 1979, and would terminate such activity with regard to war risk insurance as of December 31, 1980, unless Congress modifies these cut-off provisions by law. Thus, the Corporation would be restricted to acting solely as a reinsurer as of December 31, 1980.

In authorizing OPIC to enter into various reinsurance arrangements with private insurance companies and other entities, S. 2957 would permit OPIC to incur maximum reinsurance liabilities of up to \$600 million annually and up to an aggregate amount of \$7.5 billion at any one time -- the maximum liability currently authorized for OPIC's political risk insurance programs. Any reinsurance issued by the Corporation would require the direct insurer to cover certain portions of the liability itself and OPIC would be directed to try to increase the amount of this liability coverage to the maximum extent possible.

Other significant features of the enrolled bill would:

- Authorize OPIC to seek appropriations to replenish or increase its insurance reserves only when those reserves fall below \$25 million and to issue, for purchase by the Secretary of the Treasury, notes, debentures, bonds or other obligations (not to exceed \$100 million at any one time) to discharge its investment insurance or reinsurance liabilities;
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- Require the Corporation to develop and implement, within 6 months after the date of enactment of this bill, specific criteria intended to minimize the potential environmental implications of projects undertaken by investors abroad under any programs OPIC operates.

The Conference report on S. 2957 also instructs OPIC to consult with the Congress on plans for any insurance programs in Indochina. The report further states that OPIC should not insure any large United States private investments in Indochina unless OPIC obtains significant private participation or until OPIC receives specific instructions from Congress.

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While the changes which the bill would make in the future role of OPIC go beyond those recommended by the Executive Branch, neither we nor the agencies see any basis for objecting to them at this time. The changes are not required to take effect for a number of years, thereby affording ample opportunity to assess their validity in the light of OPIC's experience as it becomes increasingly involved in reinsurance.

Wesley H. Russell

Assistant Director for
Legislative Reference

Enclosures

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

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NSC/S
Phil Buchen
Bill Timmons

cc (for information): Warren K. Hendriks
Jerry Jones

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___ For Necessary Action

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___ Draft Remarks

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no objection



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Warren K. Hendriks
For the President

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

AUG 21 1974

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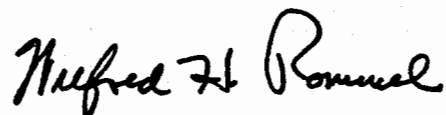
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Assistant Director for
Legislative Reference

Enclosures



Overseas Private Investment Corporation

1129 20TH STREET, N.W.
WASHINGTON, D.C. 20527 U.S.A.

OFFICE OF THE PRESIDENT

(202) 832-8584

Mr. W. H. Rommel
Assistant Director for Legislative Reference
Office of Management and Budget
Room No. 7201 - New Executive Office Building
Washington, D. C. 20503

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THE ASSISTANT SECRETARY OF COMMERCE
Washington, D.C. 20230

AUG 16 1974

Honorable Roy L. Ash
Director, Office of Management
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Washington, D. C. 20503

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"To amend the title of the Foreign Assistance Act of 1961 concerning the Overseas Private Investment Corporation to extend the authority for the Corporation, to authorize the Corporation to issue reinsurance, to terminate certain activities of the Corporation, and for other purposes."

to be cited as the "Overseas Private Investment Corporation Amendments Act of 1974."

The principal purpose of S. 2957 is to extend the statutory operating authority of the Overseas Private Investment Corporation (OPIC) through December 31, 1977, and state the intent of Congress that OPIC cease all participation as a direct insurer of overseas investments after that date. S. 2957 also directs OPIC to achieve increasing participation by private insurance companies and multilateral organizations on a sliding scale arrangement, starting as early as January 1, 1975 for some forms of insurance.

This Department recommends approval by the President of S. 2957.

Enactment of this legislation will not involve any increase in the budgetary requirements of this Department.

Sincerely,


Henry B. Turner

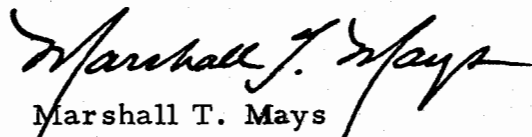
New mandates are added to OPIC's statute. The Corporation is prohibited from providing assistance to projects likely to significantly reduce the number of an investor's employees in the U.S. because he is replacing his U.S. production with production from a foreign investment involving substantially the same product for substantially the same market as his U.S. production. In addition, OPIC is required to give preferential consideration to projects involving small business, and to projects in less developed countries with per capita incomes of \$450 or less in 1973 dollars.

OPIC is, in general, pleased with this legislation. We were successful in amending the bill on the Senate floor to remove penalty provisions which would have put the Corporation out of business if we failed to achieve the interim goals. In addition, the Statement of the Managers on the Conference Report provides with respect to the long-term goals that they have been included in the legislation subject to the understanding that they will be reviewed in the light of OPIC's actual operating experience during 1975 to 1977. The wording of "reinsurance section" which establishes the amount of liabilities reinsured parties must retain for their own account is acceptable to OPIC. In fact, this was the critical issue in the Conference on the legislation, and the House version which OPIC supported was adopted.

In summary, we believe S2957 is satisfactory. We believe it establishes reasonable goals which are capable of achievement over the next three years.

We support this legislation, and recommend that it be signed into law by the President.

Sincerely yours,


Marshall T. Mays



EXPORT-IMPORT BANK OF THE UNITED STATES

WASHINGTON, D.C. 20571

PRESIDENT
AND
CHAIRMAN

CABLE ADDRESS "EXIMBANK"
TELEX 89-461

August 16, 1974

Director
Office of Management and Budget
Executive Office of the President
Washington, D. C. 20503

Attention: Assistant Director for Legislative Reference

Re: Enrolled Bill S. 2957

Dear Sir:

This is in response to your request dated August 15, 1974, for the views and recommendation of the Export-Import Bank on Enrolled Bill S. 2957.

The Export-Import Bank has no objections to S. 2957 as enacted by the Congress but would defer to the opinion of the Overseas Private Investment Corporation on this legislation.

Eximbank, therefore, would recommend that the President sign into law Enrolled Bill S. 2957.

Sincerely,

William J. Casey



DEPARTMENT OF STATE

Washington, D.C. 20520

August 20, 1974

Honorable Roy L. Ash
Director, Office of
Management and Budget
Washington, D. C. 20503

Dear Mr. Ash:

The following is in response to Mr. W. H. Rommel's request for views and recommendations on S. 2957.

The "Overseas Private Investment Corporation Amendments Act of 1974" (S. 2957) satisfies the Administration's major requests of Congress -- public and private participation in an insurance consortium, retention of OPIC's public purposes, and an orderly transfer of insurance authorities from OPIC to the consortium.

The Department of State recommends that the President sign the bill.

Sincerely yours,

A handwritten signature in cursive script that reads "Linwood Holton".
Linwood Holton

Assistant Secretary for
Congressional Relations



THE GENERAL COUNSEL OF THE TREASURY

WASHINGTON, D.C. 20220

AUG 19 1974

Director, Office of Management and Budget
Executive Office of the President
Washington, D.C. 20503

Attention: Assistant Director for Legislative
Reference


Sir:

Your office has asked for the views of this Department on the enrolled enactment of S. 2957, "To amend the title of the Foreign Assistance Act of 1961 concerning the Overseas Private Investment Corporation to extend the authority for the Corporation, to authorize the Corporation to issue reinsurance, to terminate certain activities of the Corporation, and for other purposes."

The enrolled enactment would (1) extend the Overseas Private Investment Corporation for three years, through December 31, 1977; (2) terminate the Corporation's role as a primary insurer for expropriation and convertibility risks on December 31, 1979 and for war risks on December 31, 1980; (3) authorize the Corporation to seek appropriations only when its insurance reserve falls below \$25 million and to issue for purchase by the Secretary of the Treasury notes, debentures, bonds or other obligations to discharge its liabilities under investment insurance or reinsurance; (4) bar the Corporation from granting coverage to plants whose establishment would significantly diminish the number of U.S. jobs provided by the investor; and (5) require the Corporation to consult with the House Committee on Foreign Affairs and the Senate Committee on Foreign Relations with relation to investment plans in Indochina.

The Department would have no objection to a recommendation that the enrolled enactment be approved by the President.

Sincerely yours,


General Counsel

DEPARTMENT OF STATE
AGENCY FOR INTERNATIONAL DEVELOPMENT
WASHINGTON, D.C. 20523

AUG 16 1974

Mr. Wilfred H. Rommel
Assistant Director for
Legislative Reference
Office of Management and Budget
Washington, D.C. 20503

Dear Mr. Rommel:

The Agency for International Development has reviewed the enrolled bill, S.2957, and has no objection to it.

Sincerely yours,



Arthur Z. Gardiner, Jr.
General Counsel

THE WHITE HOUSE

RUSH

ACTION MEMORANDUM

WASHINGTON

LOG NO.: 523

Date: August 22, 1974

Time: 1:00 p. m.

FOR ACTION: ✓ Geoff Shepard
Phil Buchen
Bill Timmons
Dave Gergen

cc (for information): Warren K. Hendriks
Jerry Jones

FROM THE STAFF SECRETARY

DUE: Date: Friday, August 23, 1974

Time: 2:00 p. m.

SUBJECT: 1975 Supplemental Appropriations for Presidential Transition
and Allowances for Former Presidents

ACTION REQUESTED:

___ For Necessary Action

XX For Your Recommendations

___ Prepare Agenda and Brief

___ Draft Reply

___ For Your Comments

___ Draft Remarks

REMARKS:

Please return to Kathy Tindle - West Wing

OK'd by phone



PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

Warren K. Hendriks
For the President

THE WHITE HOUSE

WASHINGTON

SIGNATURE

AUG 21 1974

MEMORANDUM FOR THE PRESIDENT

FROM:

ROY L. ASH

SUBJECT:

1975 Supplemental Appropriations for
Presidential Transition and Allowances
for Former Presidents

Attached for your signature are proposed supplementals to the 1975 Budget involving an increase of \$850,000 which includes:

- \$450,000 for interim transition expenses appropriated to the General Services Administration for former President Nixon under the Presidential Transition Act of 1963; and
- \$400,000 for pension, office staff, and related expenses for former President Nixon as provided by the Former Presidents Act of 1958.

RECOMMENDATION:

It is recommended that you sign the letter transmitting this request to the Congress.

Attachment

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

The President

The White House

Sir:

I have the honor to submit for your consideration proposed supplemental appropriations for the fiscal year 1975, in the amount of \$850,000 as follows:

GENERAL SERVICES ADMINISTRATION

Expenses Presidential Transition

For expenses necessary to carry out the provision of the Presidential Transition Act of 1963 (3 U.S.C. 102 note), \$450,000, to be available from August 9, 1974, and to remain available until June 30, 1975.

This proposed supplemental appropriation will provide funds for former President Nixon to promote an orderly transfer of executive power as authorized by the Presidential Transition Act of 1963 (3 U.S.C. 102 note).

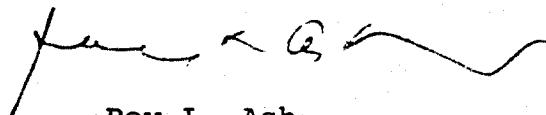
Allowances and Office Staff for Former Presidents

For an additional amount for "Allowances and Office Staff for Former Presidents", \$400,000.

This proposed supplemental appropriation will cover fiscal year 1975 costs for pension, office staff, and related expenses for former President Nixon as authorized by the Former Presidents Act of 1958 (3 U.S.C. 102 note).

I have carefully reviewed the proposals for appropriations contained in this document and am satisfied that these requests are necessary at this time. I recommend, therefore, that these proposals be transmitted to the Congress.

Respectfully,



Roy L. Ash
Director

THE WHITE HOUSE

WASHINGTON

The Speaker of the
House of Representatives

Sir:

I ask the Congress to consider proposed supplemental appropriations for the fiscal year 1975 in the amount of \$850,000 for Presidential transition expenses and allowances for former Presidents.

The details of this proposal are set forth in the enclosed letter from the Director of the Office of Management and Budget, with whose comments and observations I concur.

Respectfully,

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.: 525

Date: August 22, 1974

Time:

1:30 p. m.

FOR ACTION: Geoff Shepard

cc (for information): Warren K. Hendriks

NSC/S

Jerry Jones

✓ Phil Buchen

Bill Timmons

FROM THE STAFF SECRETARY

DUE: Date: Friday, August 23, 1974

Time:

2:00 p. m.

SUBJECT: Enrolled Bill S. 2957 - Overseas Private Investment Corporation Amendments Act of 1974

ACTION REQUESTED:

___ For Necessary Action

XX For Your Recommendations

___ Prepare Agenda and Brief

___ Draft Reply

___ For Your Comments

___ Draft Remarks

REMARKS:

Please return to Kathy Tindle - West Wing

*No objection
U. C.*



PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

Warren K. Hendriks
For the President

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

AUG 21 1974

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill S. 2957 - Overseas Private Investment Corporation Amendments Act of 1974
Sponsor - Sen. Church (D) Idaho

Last Day for Action

August 27, 1974 - Tuesday

Purpose

Extends certain basic authorities for the Corporation until December 31, 1977; authorizes the Corporation to issue reinsurance in lieu of direct insurance; terminates certain activities of the Corporation; and for other purposes.

Agency Recommendations

Office of Management and Budget	Approval
Overseas Private Investment Corporation	Approval
Department of Commerce	Approval
Export-Import Bank of the United States	Approval
Department of State	Approval
Department of the Treasury	No objection
Agency for International Development	No objection
Council on International Economic Policy	No objection (Informally)

Discussion

The Overseas Private Investment Corporation (OPIC) was created in 1969 to assume operation of the private investment incentive programs then operated by the Agency for International Development (AID). Its purpose, as stated in its authorizing legislation, was "To mobilize and facilitate the participation of United States private capital and skills in the economic and social progress of less developed friendly countries and areas, thereby complementing the development assistance objectives of the United States...."

To carry out its purpose OPIC was authorized to conduct, among other things, programs of investment insurance and investment guarantees. Investment insurance constitutes the bulk of the Corporation's operations, and in this regard, OPIC offers protection to United States corporations and other entities investing abroad against the political risks of inconvertibility, expropriation, and war, revolution and insurrection. Investment guarantees are available to cover not only the political risks but the commercial risks of overseas investment as well.

S. 2957, which would have no significant budgetary impact, would extend OPIC's program authority for both investment insurance and guarantees from December 31, 1974, to December 31, 1977. OPIC's authority to operate any of its programs, except investment insurance and the new reinsurance activities authorized by this bill, would be terminated after December 31, 1979. Under the bill, the President would be authorized to transfer these terminated programs to other United States agencies. When transferred, these programs would be limited to countries with per capita incomes of \$450 or less in 1973 dollars.

With respect to its investment insurance activities, OPIC's role as a direct insurer against political risks would be gradually phased out in favor of a role as reinsurer of private insurance companies and other financial institutions.

Specifically, the bill would prohibit OPIC from directly writing inconvertibility and expropriation insurance after December 31, 1979, and would terminate such activity with regard to war risk insurance as of December 31, 1980, unless Congress modifies these cut-off provisions by law. Thus, the Corporation would be restricted to acting solely as a reinsurer as of December 31, 1980.

In authorizing OPIC to enter into various reinsurance arrangements with private insurance companies and other entities, S. 2957 would permit OPIC to incur maximum reinsurance liabilities of up to \$600 million annually and up to an aggregate amount of \$7.5 billion at any one time -- the maximum liability currently authorized for OPIC's political risk insurance programs. Any reinsurance issued by the Corporation would require the direct insurer to cover certain portions of the liability itself and OPIC would be directed to try to increase the amount of this liability coverage to the maximum extent possible.

Other significant features of the enrolled bill would:

- Authorize OPIC to seek appropriations to replenish or increase its insurance reserves only when those reserves fall below \$25 million and to issue, for purchase by the Secretary of the Treasury, notes, debentures, bonds or other obligations (not to exceed \$100 million at any one time) to discharge its investment insurance or reinsurance liabilities;
- Require the Corporation to report to Congress by January 1, 1976, regarding the possibilities of transferring all of its activities to private insurance companies, multilateral organizations and institutions, or other entities;
- Bar OPIC from insuring or reinsuring any investment if the Corporation determines that such investment would significantly reduce the number of the investor's United States employees;

- Require the Corporation to develop and implement, within 6 months after the date of enactment of this bill, specific criteria intended to minimize the potential environmental implications of projects undertaken by investors abroad under any programs OPIC operates.

The Conference report on S. 2957 also instructs OPIC to consult with the Congress on plans for any insurance programs in Indochina. The report further states that OPIC should not insure any large United States private investments in Indochina unless OPIC obtains significant private participation or until OPIC receives specific instructions from Congress.

The Administration sought a 2-year extension of OPIC authorities along with new reinsurance authority as part of the 1973 foreign aid bill. However, in that bill, Congress granted only a 6-month extension of existing authorities until December 31, 1974, pending a thorough review of OPIC's authorities and programs. The enrolled bill reflects the results of that review.

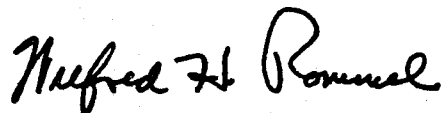
With respect to the long run reinsurance functions OPIC will have under the bill, State comments in its enrolled bill letter as follows:

"The 'Overseas Private Investment Corporation Amendments Act of 1974' (S. 2957) satisfies the Administration's major requests of Congress -- public and private participation in an insurance consortium, retention of OPIC's public purposes, and an orderly transfer of insurance authorities from OPIC to the consortium."

With respect to the future transfer of OPIC programs other than reinsurance, the Congress considered these could be better performed by other agencies. Thus, for example, the report of the Senate Foreign Relations Committee states:

"The Direct Investment Program should be shifted to AID along with the Special Activities Programs... . AID is experienced in direct aid programs and, because of its substantial resources, better able to handle them than is OPIC."

While the changes which the bill would make in the future role of OPIC go beyond those recommended by the Executive Branch, neither we nor the agencies see any basis for objecting to them at this time. The changes are not required to take effect for a number of years, thereby affording ample opportunity to assess their validity in the light of OPIC's experience as it becomes increasingly involved in reinsurance.

A handwritten signature in cursive script, reading "Alfred H. Rommel".

Assistant Director for
Legislative Reference

Enclosures



Overseas Private Investment Corporation

1129 20TH STREET, N.W.
WASHINGTON, D.C. 20527 U.S.A.

OFFICE OF THE PRESIDENT

(202) 632-8584

Mr. W. H. Rommel
Assistant Director for Legislative Reference
Office of Management and Budget
Room No. 7201 - New Executive Office Building
Washington, D. C. 20503

Dear Mr. Rommel:

This is in reference to your Enrolled Bill Request of August 15 regarding S2957.

The purpose of this legislation is to extend OPIC's program authority, both for investment insurance and guaranties, through December 31, 1977. The bill directs OPIC to achieve private participation in its program and requires that by December 31, 1979 for expropriation and inconvertibility risks, and December 31, 1980 for war risks, OPIC cease acting as a direct underwriter and act as a reinsurer only. Interim goals are established beginning January 1975 with respect to the amount of private participation OPIC should achieve by certain benchmark dates through 1980.

The bill permits OPIC to incur reinsurance liabilities of up to \$600 million in any one year and requires the reinsured party to retain for his own account "specified portions of liability, whether first loss or otherwise." OPIC must endeavor to increase such specified portions to the maximum extent possible.

The legislation requires that OPIC cease to operate its finance program on December 31, 1979. Authority is given to the President to transfer these programs to other U.S. agencies by that date. When such programs are transferred, their operation will be limited to countries with per capita incomes of \$450 or less in 1973 dollars.

The bill bars OPIC from seeking appropriations to augment its insurance reserve until the reserve falls below \$25 million. OPIC is permitted to borrow up to \$100 million from the Treasury, repayable within one year, should OPIC need to pay claims in excess of its reserves before sufficient funds are appropriated.

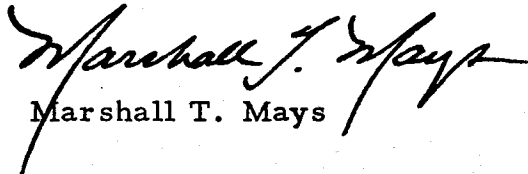
New mandates are added to OPIC's statute. The Corporation is prohibited from providing assistance to projects likely to significantly reduce the number of an investor's employees in the U.S. because he is replacing his U.S. production with production from a foreign investment involving substantially the same product for substantially the same market as his U.S. production. In addition, OPIC is required to give preferential consideration to projects involving small business, and to projects in less developed countries with per capita incomes of \$450 or less in 1973 dollars.

OPIC is, in general, pleased with this legislation. We were successful in amending the bill on the Senate floor to remove penalty provisions which would have put the Corporation out of business if we failed to achieve the interim goals. In addition, the Statement of the Managers on the Conference Report provides with respect to the long-term goals that they have been included in the legislation subject to the understanding that they will be reviewed in the light of OPIC's actual operating experience during 1975 to 1977. The wording of "reinsurance section" which establishes the amount of liabilities reinsured parties must retain for their own account is acceptable to OPIC. In fact, this was the critical issue in the Conference on the legislation, and the House version which OPIC supported was adopted.

In summary, we believe S2957 is satisfactory. We believe it establishes reasonable goals which are capable of achievement over the next three years.

We support this legislation, and recommend that it be signed into law by the President.

Sincerely yours,


Marshall T. Mays



THE ASSISTANT SECRETARY OF COMMERCE
Washington, D.C. 20230

AUG 16 1974

Honorable Roy L. Ash
Director, Office of Management
and Budget
Washington, D. C. 20503

Attention: Assistant Director for Legislative Reference

Dear Mr. Ash:

This is in reply to your request for the views of this Department concerning S. 2957, an enrolled enactment

"To amend the title of the Foreign Assistance Act of 1961 concerning the Overseas Private Investment Corporation to extend the authority for the Corporation, to authorize the Corporation to issue reinsurance, to terminate certain activities of the Corporation, and for other purposes."

to be cited as the "Overseas Private Investment Corporation Amendments Act of 1974."

The principal purpose of S. 2957 is to extend the statutory operating authority of the Overseas Private Investment Corporation (OPIC) through December 31, 1977, and state the intent of Congress that OPIC cease all participation as a direct insurer of overseas investments after that date. S. 2957 also directs OPIC to achieve increasing participation by private insurance companies and multilateral organizations on a sliding scale arrangement, starting as early as January 1, 1975 for some forms of insurance.

This Department recommends approval by the President of S. 2957.

Enactment of this legislation will not involve any increase in the budgetary requirements of this Department.

Sincerely,


Henry B. Turner



EXPORT-IMPORT BANK OF THE UNITED STATES

WASHINGTON, D.C. 20571

PRESIDENT
AND
CHAIRMAN

CABLE ADDRESS "EXIMBANK"
TELEX 89-461

August 16, 1974

Director
Office of Management and Budget
Executive Office of the President
Washington, D. C. 20503

Attention: Assistant Director for Legislative Reference

Re: Enrolled Bill S. 2957

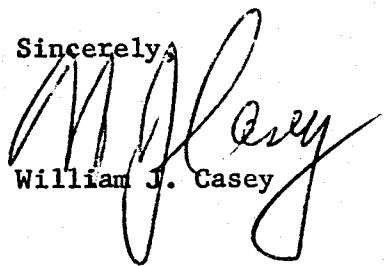
Dear Sir:

This is in response to your request dated August 15, 1974, for the views and recommendation of the Export-Import Bank on Enrolled Bill S. 2957.

The Export-Import Bank has no objections to S. 2957 as enacted by the Congress but would defer to the opinion of the Overseas Private Investment Corporation on this legislation.

Eximbank, therefore, would recommend that the President sign into law Enrolled Bill S. 2957.

Sincerely,


William J. Casey



DEPARTMENT OF STATE

Washington, D.C. 20520

August 20, 1974

Honorable Roy L. Ash
Director, Office of
Management and Budget
Washington, D. C. 20503

Dear Mr. Ash:

The following is in response to Mr. W. H. Rommel's request for views and recommendations on S. 2957.

The "Overseas Private Investment Corporation Amendments Act of 1974" (S. 2957) satisfies the Administration's major requests of Congress -- public and private participation in an insurance consortium, retention of OPIC's public purposes, and an orderly transfer of insurance authorities from OPIC to the consortium.

The Department of State recommends that the President sign the bill.

Sincerely yours,

A handwritten signature in cursive script that reads "Linwood Holton".

Linwood Holton

Linwood Holton
Assistant Secretary for
Congressional Relations



THE GENERAL COUNSEL OF THE TREASURY
WASHINGTON, D.C. 20220

AUG 19 1974

Director, Office of Management and Budget
Executive Office of the President
Washington, D.C. 20503

Attention: Assistant Director for Legislative
Reference


Sir:

Your office has asked for the views of this Department on the enrolled enactment of S. 2957, "To amend the title of the Foreign Assistance Act of 1961 concerning the Overseas Private Investment Corporation to extend the authority for the Corporation, to authorize the Corporation to issue reinsurance, to terminate certain activities of the Corporation, and for other purposes."

The enrolled enactment would (1) extend the Overseas Private Investment Corporation for three years, through December 31, 1977; (2) terminate the Corporation's role as a primary insurer for expropriation and convertibility risks on December 31, 1979 and for war risks on December 31, 1980; (3) authorize the Corporation to seek appropriations only when its insurance reserve falls below \$25 million and to issue for purchase by the Secretary of the Treasury notes, debentures, bonds or other obligations to discharge its liabilities under investment insurance or reinsurance; (4) bar the Corporation from granting coverage to plants whose establishment would significantly diminish the number of U.S. jobs provided by the investor; and (5) require the Corporation to consult with the House Committee on Foreign Affairs and the Senate Committee on Foreign Relations with relation to investment plans in Indochina.

The Department would have no objection to a recommendation that the enrolled enactment be approved by the President.

Sincerely yours,


General Counsel

DEPARTMENT OF STATE
AGENCY FOR INTERNATIONAL DEVELOPMENT
WASHINGTON, D.C. 20523

AUG 16 1974

Mr. Wilfred H. Rommel
Assistant Director for
Legislative Reference
Office of Management and Budget
Washington, D.C. 20503

Dear Mr. Rommel:

The Agency for International Development has reviewed the enrolled bill, S.2957, and has no objection to it.

Sincerely yours,



Arthur Z. Gardiner, Jr.
General Counsel

THE WHITE HOUSE

WASHINGTON

August 23, 1974

MEMORANDUM FOR: MR. WARREN HENDRIKS

FROM: WILLIAM E. TIMMONS

W. E. Timmons

SUBJECT: Action Memorandum - Log No. 525
Enrolled Bill S. 2957 - Overseas Private
Investment Corporation Amendments Act
of 1974

The Office of Legislative Affairs concurs in the attached proposal and has no additional recommendations.

Attachment



THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.: 525

Date: August 22, 1974

Time:

1:30 p. m.

FOR ACTION: Geoff Shepard
NSC/S
Phil Buchen
✓ Bill Timmons

cc (for information): Warren K. Hendriks
Jerry Jones

FROM THE STAFF SECRETARY

DUE: Date: Friday, August 23, 1974

Time:

2:00 p. m.

SUBJECT: Enrolled Bill S. 2957 - Overseas Private Investment Corporation Amendments Act of 1974

ACTION REQUESTED:

___ For Necessary Action

XX For Your Recommendations

___ Prepare Agenda and Brief

___ Draft Reply

___ For Your Comments

___ Draft Remarks

REMARKS:

Please return to Kathy Tindle - West Wing

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

Warren K. Hendriks
For the President

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

AUG 21 1974

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill S. 2957 - Overseas Private Investment Corporation Amendments Act of 1974
Sponsor - Sen. Church (D) Idaho

Last Day for Action

August 27, 1974 - Tuesday

Purpose

Extends certain basic authorities for the Corporation until December 31, 1977; authorizes the Corporation to issue reinsurance in lieu of direct insurance; terminates certain activities of the Corporation; and for other purposes.

Agency Recommendations

Office of Management and Budget	Approval
Overseas Private Investment Corporation	Approval
Department of Commerce	Approval
Export-Import Bank of the United States	Approval
Department of State	Approval
Department of the Treasury	No objection
Agency for International Development	No objection
Council on International Economic Policy	No objection (Informally)

Discussion

The Overseas Private Investment Corporation (OPIC) was created in 1969 to assume operation of the private investment incentive programs then operated by the Agency for International Development (AID). Its purpose, as stated in its authorizing legislation, was "To mobilize and facilitate the participation of United States private capital and skills in the economic and social progress of less developed friendly countries and areas, thereby complementing the development assistance objectives of the United States...."

To carry out its purpose OPIC was authorized to conduct, among other things, programs of investment insurance and investment guarantees. Investment insurance constitutes the bulk of the Corporation's operations, and in this regard, OPIC offers protection to United States corporations and other entities investing abroad against the political risks of inconvertibility, expropriation, and war, revolution and insurrection. Investment guarantees are available to cover not only the political risks but the commercial risks of overseas investment as well.

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Other significant features of the enrolled bill would:

- Authorize OPIC to seek appropriations to replenish or increase its insurance reserves only when those reserves fall below \$25 million and to issue, for purchase by the Secretary of the Treasury, notes, debentures, bonds or other obligations (not to exceed \$100 million at any one time) to discharge its investment insurance or reinsurance liabilities;
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The Conference report on S. 2957 also instructs OPIC to consult with the Congress on plans for any insurance programs in Indochina. The report further states that OPIC should not insure any large United States private investments in Indochina unless OPIC obtains significant private participation or until OPIC receives specific instructions from Congress.

The Administration sought a 2-year extension of OPIC authorities along with new reinsurance authority as part of the 1973 foreign aid bill. However, in that bill, Congress granted only a 6-month extension of existing authorities until December 31, 1974, pending a thorough review of OPIC's authorities and programs. The enrolled bill reflects the results of that review.

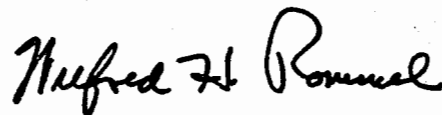
With respect to the long run reinsurance functions OPIC will have under the bill, State comments in its enrolled bill letter as follows:

"The 'Overseas Private Investment Corporation Amendments Act of 1974' (S. 2957) satisfies the Administration's major requests of Congress -- public and private participation in an insurance consortium, retention of OPIC's public purposes, and an orderly transfer of insurance authorities from OPIC to the consortium."

With respect to the future transfer of OPIC programs other than reinsurance, the Congress considered these could be better performed by other agencies. Thus, for example, the report of the Senate Foreign Relations Committee states:

"The Direct Investment Program should be shifted to AID along with the Special Activities Programs... . AID is experienced in direct aid programs and, because of its substantial resources, better able to handle them than is OPIC."

While the changes which the bill would make in the future role of OPIC go beyond those recommended by the Executive Branch, neither we nor the agencies see any basis for objecting to them at this time. The changes are not required to take effect for a number of years, thereby affording ample opportunity to assess their validity in the light of OPIC's experience as it becomes increasingly involved in reinsurance.



Assistant Director for
Legislative Reference

Enclosures



Overseas Private Investment Corporation

1129 20TH STREET, N.W.
WASHINGTON, D.C. 20527 U.S.A.

OFFICE OF THE PRESIDENT

(202) 632-8584

Mr. W. H. Rommel
Assistant Director for Legislative Reference
Office of Management and Budget
Room No. 7201 - New Executive Office Building
Washington, D.C. 20503

Dear Mr. Rommel:

This is in reference to your Enrolled Bill Request of August 15 regarding S2957.

The purpose of this legislation is to extend OPIC's program authority, both for investment insurance and guaranties, through December 31, 1977. The bill directs OPIC to achieve private participation in its program and requires that by December 31, 1979 for expropriation and inconvertibility risks, and December 31, 1980 for war risks, OPIC cease acting as a direct underwriter and act as a reinsurer only. Interim goals are established beginning January 1975 with respect to the amount of private participation OPIC should achieve by certain benchmark dates through 1980.

The bill permits OPIC to incur reinsurance liabilities of up to \$600 million in any one year and requires the reinsured party to retain for his own account "specified portions of liability, whether first loss or otherwise." OPIC must endeavor to increase such specified portions to the maximum extent possible.

The legislation requires that OPIC cease to operate its finance program on December 31, 1979. Authority is given to the President to transfer these programs to other U.S. agencies by that date. When such programs are transferred, their operation will be limited to countries with per capita incomes of \$450 or less in 1973 dollars.

The bill bars OPIC from seeking appropriations to augment its insurance reserve until the reserve falls below \$25 million. OPIC is permitted to borrow up to \$100 million from the Treasury, repayable within one year, should OPIC need to pay claims in excess of its reserves before sufficient funds are appropriated.


New mandates are added to OPIC's statute. The Corporation is prohibited from providing assistance to projects likely to significantly reduce the number of an investor's employees in the U.S. because he is replacing his U.S. production with production from a foreign investment involving substantially the same product for substantially the same market as his U.S. production. In addition, OPIC is required to give preferential consideration to projects involving small business, and to projects in less developed countries with per capita incomes of \$450 or less in 1973 dollars.

OPIC is, in general, pleased with this legislation. We were successful in amending the bill on the Senate floor to remove penalty provisions which would have put the Corporation out of business if we failed to achieve the interim goals. In addition, the Statement of the Managers on the Conference Report provides with respect to the long-term goals that they have been included in the legislation subject to the understanding that they will be reviewed in the light of OPIC's actual operating experience during 1975 to 1977. The wording of "reinsurance section" which establishes the amount of liabilities reinsured parties must retain for their own account is acceptable to OPIC. In fact, this was the critical issue in the Conference on the legislation, and the House version which OPIC supported was adopted.

In summary, we believe S2957 is satisfactory. We believe it establishes reasonable goals which are capable of achievement over the next three years.

We support this legislation, and recommend that it be signed into law by the President.

Sincerely yours,


Marshall T. Mays



THE ASSISTANT SECRETARY OF COMMERCE
Washington, D.C. 20230

AUG 16 1974

Honorable Roy L. Ash
Director, Office of Management
and Budget
Washington, D. C. 20503

Attention: Assistant Director for Legislative Reference

Dear Mr. Ash:

This is in reply to your request for the views of this Department concerning S. 2957, an enrolled enactment

"To amend the title of the Foreign Assistance Act of 1961 concerning the Overseas Private Investment Corporation to extend the authority for the Corporation, to authorize the Corporation to issue reinsurance, to terminate certain activities of the Corporation, and for other purposes."

to be cited as the "Overseas Private Investment Corporation Amendments Act of 1974."

The principal purpose of S. 2957 is to extend the statutory operating authority of the Overseas Private Investment Corporation (OPIC) through December 31, 1977, and state the intent of Congress that OPIC cease all participation as a direct insurer of overseas investments after that date. S. 2957 also directs OPIC to achieve increasing participation by private insurance companies and multilateral organizations on a sliding scale arrangement, starting as early as January 1, 1975 for some forms of insurance.

This Department recommends approval by the President of S. 2957.

Enactment of this legislation will not involve any increase in the budgetary requirements of this Department.

Sincerely,


Henry B. Turner



EXPORT-IMPORT BANK OF THE UNITED STATES

WASHINGTON, D.C. 20571

PRESIDENT
AND
CHAIRMAN

CABLE ADDRESS "EXIMBANK"
TELEX 89-461

August 16, 1974

Director
Office of Management and Budget
Executive Office of the President
Washington, D. C. 20503

Attention: Assistant Director for Legislative Reference

Re: Enrolled Bill S. 2957

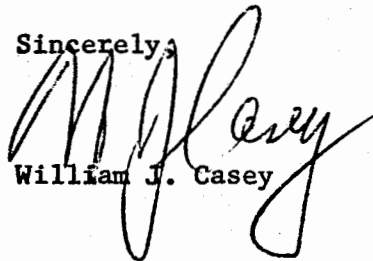
Dear Sir:

This is in response to your request dated August 15, 1974, for the views and recommendation of the Export-Import Bank on Enrolled Bill S. 2957.

The Export-Import Bank has no objections to S. 2957 as enacted by the Congress but would defer to the opinion of the Overseas Private Investment Corporation on this legislation.

Eximbank, therefore, would recommend that the President sign into law Enrolled Bill S. 2957.

Sincerely,



William J. Casey



DEPARTMENT OF STATE

Washington, D.C. 20520

August 20, 1974

Honorable Roy L. Ash
Director, Office of
Management and Budget
Washington, D. C. 20503

Dear Mr. Ash:

The following is in response to Mr. W. H. Rommel's request for views and recommendations on S. 2957.

The "Overseas Private Investment Corporation Amendments Act of 1974" (S. 2957) satisfies the Administration's major requests of Congress -- public and private participation in an insurance consortium, retention of OPIC's public purposes, and an orderly transfer of insurance authorities from OPIC to the consortium.

The Department of State recommends that the President sign the bill.

Sincerely yours,

A handwritten signature in cursive script that reads "Linwood Holton".

Linwood Holton

Assistant Secretary for
Congressional Relations



THE GENERAL COUNSEL OF THE TREASURY
WASHINGTON, D.C. 20220

AUG 19 1974

Director, Office of Management and Budget
Executive Office of the President
Washington, D.C. 20503

Attention: Assistant Director for Legislative
Reference

Sir:

Your office has asked for the views of this Department on the enrolled enactment of S. 2957, "To amend the title of the Foreign Assistance Act of 1961 concerning the Overseas Private Investment Corporation to extend the authority for the Corporation, to authorize the Corporation to issue reinsurance, to terminate certain activities of the Corporation, and for other purposes."

The enrolled enactment would (1) extend the Overseas Private Investment Corporation for three years, through December 31, 1977; (2) terminate the Corporation's role as a primary insurer for expropriation and convertibility risks on December 31, 1979 and for war risks on December 31, 1980; (3) authorize the Corporation to seek appropriations only when its insurance reserve falls below \$25 million and to issue for purchase by the Secretary of the Treasury notes, debentures, bonds or other obligations to discharge its liabilities under investment insurance or reinsurance; (4) bar the Corporation from granting coverage to plants whose establishment would significantly diminish the number of U.S. jobs provided by the investor; and (5) require the Corporation to consult with the House Committee on Foreign Affairs and the Senate Committee on Foreign Relations with relation to investment plans in Indochina.

The Department would have no objection to a recommendation that the enrolled enactment be approved by the President.

Sincerely yours,


General Counsel

DEPARTMENT OF STATE
AGENCY FOR INTERNATIONAL DEVELOPMENT
WASHINGTON, D.C. 20523

AUG 16 1974

Mr. Wilfred H. Rommel
Assistant Director for
Legislative Reference
Office of Management and Budget
Washington, D.C. 20503

Dear Mr. Rommel:

The Agency for International Development has reviewed the enrolled bill, S.2957, and has no objection to it.

Sincerely yours,



Arthur Z. Gardiner, Jr.
General Counsel

OVERSEAS PRIVATE INVESTMENT CORPORATION

JULY 30, 1974.—Ordered to be printed

Mr. CULVER, from the committee of conference, submitted the following

CONFERENCE REPORT

[To accompany S. 2957]

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2957) relating to the activities of the Overseas Private Investment Corporation, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

That this Act may be cited as the "Overseas Private Investment Corporation Amendments Act of 1974".

Sec. 2. Title IV of chapter 2 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2191-2200a) is amended as follows:

(1) *In section 231—*

(A) *in the first sentence, strike out "progress" and insert in lieu thereof "development";*

(B) *strike out clause (a) and insert in lieu thereof the following: "(a) to conduct financing, insurance, and reinsurance operations on a self-sustaining basis, taking into account in its financing operations the economic and financial soundness of projects;"*

(C) *in clause (d), strike out " , when appropriate," and insert after "efforts to share its insurance" the following: "and reinsurance";*

(D) *strike out clause (e) and insert in lieu thereof the following: "(e) to give preferential consideration in its investment insurance, financing, and reinsurance activities (to the maximum extent practicable consistent with the Corporation's purposes) to investment projects involving businesses of not more than \$2,500,000 net worth or with not more than \$7,500,000 in total assets;"*



(E) in clause (i), after "balance-of-payments" insert "and employment";

(F) in clause (j), strike out "and" after the semicolon;

(G) at the end of clause (k), strike out the period and insert in lieu thereof a semicolon; and

(H) add at the end thereof the following new clauses:

"(l) to the maximum extent practicable, to give preferential consideration in the Corporation's investment insurance, financing, and reinsurance activities to investment projects in the less developed friendly countries which have per capita incomes of \$450 or less in 1973 United States dollars; and

"(m)(1) to decline to issue any contract of insurance or reinsurance, or any guaranty, or to enter into any agreement to provide financing for an eligible investor's proposed investment if the Corporation determines that such investment is likely to cause such investor (or the sponsor of an investment project in which such investor is involved) significantly to reduce the number of his employees in the United States because he is replacing his United States production with production from such investment which involves substantially the same product for substantially the same market as his United States production; and (2) to monitor conformance with the representations of the investor on which the Corporation relied in making the determination required by clause (1)."

(2) Section 234 is amended—

(A) by striking out the section caption and inserting in lieu thereof the following: "INVESTMENT INSURANCE AND OTHER PROGRAMS";

(B) by striking out subsection (a)(2) and inserting in lieu thereof the following:

"(2) Recognizing that major private investments in less developed friendly countries or areas are often made by enterprises in which there is multinational participation, including significant United States private participation, the Corporation may make arrangements with foreign governments (including agencies, instrumentalities, or political subdivisions thereof) or with multilateral organizations and institutions for sharing liabilities assumed under investment insurance for such investments and may in connection therewith issue insurance to investors not otherwise eligible hereunder, except that liabilities assumed by the Corporation under the authority of this subsection shall be consistent with the purposes of this title and that the maximum share of liabilities so assumed shall not exceed the proportionate participation by eligible investors in the total project financing, and that the maximum share of liabilities so assumed under paragraph (1) (A) and (B) or paragraph (1)(C) shall not exceed the Corporation's proportional share for such liabilities as specified in paragraph (4) or (5) of this subsection."

(C) by adding at the end of subsection (a) thereof the following new paragraphs:

"(4)(A) It is the intention of Congress that the Corporation achieve participation by private insurance companies, multilateral organizations, or others in liabilities incurred in respect of the risks referred to in paragraphs (1) (A) and (B) of this subsection under contracts issued on and after January 1, 1975, of a least 25 per centum, and, under contracts issued on and after January 1, 1978, of at least 50 per centum. If for good reason it is not possible for the Corporation to achieve either such

percentage of participation, the Corporation shall report in detail to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives the reasons for its inability to achieve either such percentage of participation, and the date by which such percentage is to be achieved.

“(B) The Corporation shall not participate as insurer under contracts of insurance issued after December 31, 1979, in respect of the risks referred to in paragraph (1) (A) and (B) of this subsection unless Congress by law modifies this paragraph.

“(5)(A) It is the intention of Congress that the Corporation achieve participation by private insurance companies, multilateral organizations, or others in liabilities incurred in respect of the risks referred to in paragraph (1)(C) of this subsection under contracts issued on and after January 1, 1976, of at least 12½ per centum, and, under contracts issued on and after January 1, 1979, of at least 40 per centum. If for good reason it is not possible for the Corporation to achieve either such percentage of participation, the Corporation shall report in detail to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives the reasons for its inability to achieve either such percentage of participation and the date by which such percentage is to be achieved.

“(B) The Corporation shall not participate as insurer under contracts of insurance issued after December 31, 1980, in respect of the risks referred to in paragraph (1)(C) of this subsection unless Congress by law modifies this paragraph.

“(6) Notwithstanding any of the percentages of participation under paragraphs (4)(A) and (5)(A) of this subsection, the Corporation may agree to assume liability as insurer for any contract of insurance, or share thereof, that a private insurance company, multilateral organization, or any other person has issued in respect of the risks referred to in paragraph (1) of this subsection, and neither the execution of any such agreement to assume liability nor its performance by the Corporation shall be considered as participation by the Corporation in any such contract for purposes of such percentages of participation. On and after January 1, 1981, the Corporation shall not enter into any such agreement to assume liability.

“(7) On and after December 31, 1979, the Corporation shall not manage direct insurance issued after such date in respect of risks referred to in paragraph (1)(A) or (B) of this subsection unless Congress by law modifies this sentence. On and after December 31, 1980, the Corporation shall not manage direct insurance issued after such date in respect of risks referred to in paragraph (1)(C) of this subsection unless Congress by law modifies this sentence. It shall thereafter act solely as a reinsurer except to the extent necessary to manage its outstanding insurance and reinsurance contracts and any contracts of insurance the Corporation assumes pursuant to paragraph (6).”; and

(D) “by adding at the end thereof the following new subsection:

“(f) *Other Insurance Functions.*—(1) To make and carry out contracts of insurance or reinsurance, or agreements to associate or share risks, with insurance companies, financial institutions, any other persons, or groups thereof, and employing the same, where appropriate, as its agent, or acting as their agent, in the issuance and servicing of insurance, the adjustment of claims, the exercise of

subrogation rights, the ceding and accepting of reinsurance, and in any other matter incident to an insurance business.

"(2) To enter into pooling or other risk-sharing agreements with other national or multinational insurance or financing agencies or groups of such agencies.

"(3) To hold an ownership interest in any association or other entity established for the purposes of sharing risks under investment insurance.

"(4) To issue, upon such terms and conditions as it may determine reinsurance of liabilities assumed by other insurers or groups thereof in respect of risks referred to in subsection (a)(1).

The authority granted by paragraph (3) may be exercised notwithstanding the prohibition under subsection (c) against the Corporation purchasing or investing in any stock in any other corporation. The amount of reinsurance of liabilities under this title which the Corporation may issue shall not exceed \$600,000,000 in any one year, and the amount of such reinsurance shall not in the aggregate exceed at any one time an amount equal to the amount authorized for the maximum contingent liability outstanding at any one time under section 235(a)(1). All reinsurance issued by the Corporation under this subsection shall require that the reinsured party retain for his own account specified portions of liability, whether first loss or otherwise, and the Corporation shall endeavor to increase such specified portions to the maximum extent possible."

(3) In section 235—

(A) strike out "1974" in subsection (a)(4) and insert in lieu thereof "1977";

(B) in subsection (d), strike out "insurance issued under section 234(a)" and insert in lieu thereof the following: "insurance or reinsurance issued under section 234"; and

(C) strike out subsection (f) and insert in lieu thereof the following:

"(f) There are authorized to be appropriated to the Corporation, to remain available until expended, such amounts as may be necessary from time to time to replenish or increase the insurance and guaranty fund, to discharge the liabilities under insurance, reinsurance, or guaranties issued by the Corporation or issued under predecessor guaranty authority, or to discharge obligations of the Corporation purchased by the Secretary of the Treasury pursuant to this subsection. However, no appropriations shall be made to augment the Insurance Reserve until the amount of funds in the Insurance Reserve is less than \$25,000,000. Any appropriations to augment the Insurance Reserve shall then only be made either pursuant to specific authorization enacted after the date of enactment of the Overseas Private Investment Corporation Amendments Act of 1974, or to satisfy the full faith and credit provision of section 237(c). In order to discharge liabilities under investment insurance or reinsurance, the Corporation is authorized to issue from time to time for purchase by the Secretary of the Treasury its notes, debentures, bonds, or other obligations; but the aggregate amount of such obligations outstanding at any one time shall not exceed \$100,000,000. Any such obligation shall be repaid to the Treasury within one year after the date of issue of such obligation. Any such obligation shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of any obligation authorized by this sub-

section. The Secretary of the Treasury shall purchase any obligation of the Corporation issued under this subsection, and for such purchase he may use as a public debt transaction the proceeds of the sale of any securities issued under the Second Liberty Bond Act after the date of enactment of the Overseas Private Investment Corporation Amendments Act of 1974. The purpose for which securities may be issued under such Bond Act shall include any such purchase."

(4) In section 237—

(A) in subsection (a), strike out "and guaranties" and insert in lieu thereof a comma and "guaranties, and reinsurance"; and strike out "or guaranties" and insert in lieu thereof a comma and "guaranties, or reinsurance";

(B) in subsection (b), strike out "or guaranty" in both places and insert in lieu thereof in both places the following: ", guaranty, or reinsurance";

(C) in subsection (c), insert ", reinsurance," after "insurance" in both places it occurs;

(D) strike out subsection (d) and insert in lieu thereof the following:

"(d) Fees shall be charged for insurance, guaranty, and reinsurance coverage in amounts to be determined by the Corporation. In the event fees charged for investment insurance, guaranties, or reinsurance are reduced, fees to be paid under existing contracts for the same type of insurance, guaranties, or reinsurance and for similar guaranties issued under predecessor guaranty authority may be reduced.";

(E) in subsection (e), strike out "or guaranty" and insert in lieu thereof a comma and "guaranty, or reinsurance";

(F) in subsection (f), insert ", reinsurance," after "insurance" in both places it occurs;

(G) add at the end of subsection (f) the following: "Notwithstanding the preceding sentence, the Corporation shall limit the amount of direct insurance and reinsurance issued by it under section 234 so that risk of loss as to at least 10 per centum of the total investment of the insured and its affiliates in the project is borne by the insured and such affiliates. The preceding sentence shall not apply to the extent not permitted by State law.";

(H) in subsection (g), after "guaranty", insert a comma and "insurance, or reinsurance";

(I) in subsection (h), strike out "or guaranties" and insert in lieu thereof a comma and "guaranties, or reinsurance";

(J) in subsection (i), after "insurance", insert ", reinsurance,"; and

(K) strike out subsection (k) and insert in lieu thereof the following:

"(k) In making a determination to issue insurance, guaranties, or reinsurance under this title, the Corporation shall consider the possible adverse effect of the dollar investment under such insurance, guaranty, or reinsurance upon the balance of payments of the United States."

(5) In section 239—

(A) in subsection (b), add the following new sentences at the end thereof: "On December 31, 1979, the Corporation shall cease operating the programs authorized by section 234 (b) through (e) and section 240. Thereafter, the President is authorized to transfer such programs, and all obligations, assets, and related rights and responsibilities arising out of, or related to, such programs to other agencies of the

United States. Upon any such transfer, these programs shall be limited to countries with per capita income of \$450 or less in 1973 dollars.”; and

(B) add at the end thereof the following:

“(h) Within six months after the date of enactment of this subsection, the Corporation shall develop and implement specific criteria intended to minimize the potential environmental implications of projects undertaken by investors abroad in accordance with any of the programs authorized by this title.”

(6) In section 240(h), strike out “1974” and insert in lieu thereof “1977”.

(7) In section 240A, strike out subsection (b) and insert in lieu thereof the following:

“(b) Not later than January 1, 1976, the Corporation shall submit to the Congress an analysis of the possibilities of transferring all of its activities to private insurance companies, multilateral organizations and institutions, or other entities.”.

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the bill, and agree to the same with an amendment as follows:

In lieu of the amended title proposed by the House amendment, amend the title so as to read:

“An Act to amend the title of the Foreign Assistance Act of 1961 concerning the Overseas Private Investment Corporation to extend the authority for the Corporation, to authorize the Corporation to issue reinsurance, to terminate certain activities of the Corporation, and for other purposes.”

And the House agree to the same.

*JOHN CULVER,
THOMAS E. MORGAN,
CLEMENT J. ZABLOCKI,
LESTER L. WOLFF,
PETER H. B. FRELINGHUYSEN,
J. HERBERT BURKE,
G. VANDER JAGT,
Managers on the Part of the House.*

*JOHN SPARKMAN,
FRANK CHURCH,
STUART SYMINGTON,
J. JAVITS,
Managers on the Part of the Senate.*

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2957) relating to the activities of the Overseas Private Investment Corporation, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment to the text of the bill struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

SHORT TITLE

The Senate bill used a short title without the 1974 date. The House amendment used "1974" in the short title. The conference substitute is the same as the House language.

FINANCING CRITERIA FOR CORPORATION ACTIVITIES

The Senate bill deleted provision of existing law requiring the Corporation in its financing operations to consider the availability of financing from other sources. The House amendment contained no corresponding deletion. The conference substitute is the same as the Senate provision.

USE OF PRIVATE INSTITUTIONS

The Senate bill removed the provision of existing law requiring the Corporation to use private institutions to mobilize capital investment funds. The House amendment contained no similar deletion. The conference substitute omits the Senate provision.

PREFERENTIAL TREATMENT IN FINANCING ACTIVITIES FOR SMALL BUSINESS

The House amendment included financing as activity for which small business receives preferential consideration from the Corporation. The Senate bill contained no corresponding language. The Conference substitute is the same as the House provision.

DEFINITION OF SMALL BUSINESS

The Senate bill retained language of existing law—preferential consideration given for “skills and resources of small business”. The House amendment provided for preferential consideration of businesses with \$2.5 million net worth or \$7.5 million of total assets. The conference substitute is the same as the House definition.

PREFERENTIAL TREATMENT IN FINANCING ACTIVITIES IN CERTAIN LESS-DEVELOPED COUNTRIES

The House amendment included financing as Corporation activity to be given preferential consideration in less developed countries. The Senate bill contained no corresponding provision. The conference substitute is the same as the House provision.

DEFINITION OF LESS-DEVELOPED COUNTRIES

The Senate bill provided for Corporation preferential consideration in the least developed among the developing countries. The House amendment provided for Corporation preferential consideration in less developed friendly countries with per capita income of \$450 or less. The conference substitute is the same as the House definition.

CORPORATION AS INFORMATION CENTER FOR FOREIGN INVESTMENT OPPORTUNITIES

The House amendment added a new provision to direct Corporation to identify foreign investment opportunities and bring them to attention of potential investors. The Senate bill had no corresponding provision. The conference substitute omits the House provision, with the understanding that the same authority is already provided in section 234(d) of the Foreign Assistance Act.

FOREIGN INVESTMENT CAUSING REDUCTION IN U.S. EMPLOYMENT

The House amendment added a new provision to prohibit Corporation assistance in projects which would significantly reduce investor’s U.S. employees, and to monitor investors assisted by Corporation for their compliance with this new provision. The Senate bill had no corresponding provision. The conference substitute is the same as the House provision.

MAXIMUM CORPORATION SHARE OF LIABILITIES IN MULTILATERAL INSURANCE ARRANGEMENTS

The Senate bill prohibited Corporation’s maximum share of liabilities under section 234(a) of the Foreign Assistance Act for certain arrangements with multilateral organizations from exceeding definite percentages after certain dates. The House bill retained the language of the existing law that OPIC’s maximum share of liabilities shall not exceed the proportionate share by the U.S. investors. The Conference substitute contains both the House and the Senate provisions.

PARTICIPATION BY OTHERS IN CORPORATION DIRECT INSURANCE FOR INCONVERTIBILITY AND EXPROPRIATION RISKS

The Senate bill prohibited the Corporation from participating in policies for inconvertibility and expropriation risks after December 31, 1979. The House amendment stated intention of Congress that Corporation should not participate in policies for inconvertibility and expropriation risks after December 31, 1979. The Conference substitute is the same as the Senate language. House receded with the understanding that this matter will be reviewed in the light of OPIC's actual experience during 1975 through 1977.

PERCENTAGE OF PRIVATE PARTICIPATION FOR WAR RISKS

The Senate bill provided for 12½ percent private participation in insurance contracts for war risks by January 1, 1976. The House amendment provided for 12 percent private participation in insurance contracts for war risks by January 1, 1976. The Conference substitute is the same as the Senate figure.

PRIVATE PARTICIPATION IN WAR RISKS

The Senate bill prohibited Corporation from participating in policies for war risks issued after December 31, 1980. The House amendment stated intention of Congress that Corporation should not participate in policies for war risks issued after December 31, 1980. The conference substitute is the same as the Senate language. House receded with the understanding that this matter will be reviewed in the light of OPIC's actual experience during 1975 through 1977.

CUT-OFF DATE FOR CORPORATION ASSUMING LIABILITY AS INSURER FOR PRIVATE COMPANY'S POLICY

The Senate bill prohibited Corporation from—entering into contract assuming liability for private company's policy after January 1, 1981. The House amendment stated intention of Congress that Corporation should not enter into contract assuming liability for private company's policy after January 1, 1981. The Conference substitute is the same as the Senate language.

POLICIES REFERRED TO ON CUT-OFF DATE FOR ASSUMING LIABILITIES

The Senate bill cut-off was only for policies issued by private company after January 1, 1981. The House amendment cut-off was for policies issued by private company without regard to when they were issued. The Conference substitute is the same as the Senate language.

ANNUAL AMOUNT OF REINSURANCE AUTHORITY

The Senate bill authorized reinsurance in amount of \$600,000,000 times number of years from date of enactment. The House amendment authorized issuance of reinsurance for \$600,000,000 in any one year. Conference substitute is the same as the House provision.

AGGREGATE AMOUNT OF REINSURANCE

The Senate bill authorized reinsurance for \$12,000,000,000 in the aggregate. The House amendment authorized reinsurance in aggregate for amount authorized under section 235(a)(1) of the Foreign Assistance Act (currently \$7,500,000,000). Conference substitute is the same as the House language.

REINSURED PARTY LIABILITY

The Senate bill required reinsured party to absorb annual loss of at least 50 percent of value of its outstanding insurance in country in which it has issued the most insurance subject to Corporation reinsurance. The House amendment required that the Corporation attempt to increase to maximum extent possible reinsured party's specified portions of liability. Conference substitute is the same as the House language. Senate receded with the understanding that this will be reviewed in the light of OPIC's actual experience during 1975 through 1977.

RISKS OF INCONVERTIBILITY AND EXPROPRIATION

The Senate bill prohibited Corporation from managing direct expropriation and inconvertibility risk insurance issued after December 31, 1979. The House amendment stated intention of Congress that Corporation should not manage direct expropriation and inconvertibility risk insurance issued after December 31, 1979. Conference substitute is the same as the Senate language.

RISK OF WAR

The Senate bill prohibited Corporation from managing direct war risk insurance issued after December 31, 1980. The House amendment stated intention of Congress that Corporation should not manage direct war risk insurance issued after December 31, 1980. Conference substitute is the same as the Senate language.

CUT-OFF DATE FOR CORPORATION AS REINSURER AFTER 1980

The Senate bill required Corporation after December 31, 1980, to act only as reinsurer, except for managing outstanding contracts and contracts Corporation has assumed. The House amendment stated intention of Congress that Corporation after December 31, 1980, should act only as reinsurer, except for managing outstanding contracts and contracts Corporation has assumed. Conference substitute is the same as the Senate language.

NEW CORPORATION POLICIES

The Senate bill provided that new policies include renewals and extensions of policies. The House amendment had no corresponding provision. Conference substitute omits the Senate language with the understanding that renewals and extension of policies shall not be used to circumvent the intention of this subsection.

CORPORATION OWNERSHIP INTEREST IN ANOTHER CORPORATION

The House amendment exempted the Corporation from the prohibition in existing law against the Corporation purchasing stock in another corporation for the purposes of permitting the Corporation to hold an ownership interest in an entity in order to share risks under investment insurance. The Senate bill contained no corresponding provision. The Conference substitute is the same as the House provision.

EXTENSION OF PROGRAM AUTHORITY FOR INVESTMENT GUARANTIES

The Senate bill deleted the time limitation on authority for investment guaranties under section 234(b) of the Foreign Assistance Act. The House amendment provided that investment guaranty authority shall expire December 31, 1977. Conference substitute is the same as the House provision.

DATE OF EXTENSION OF INVESTMENT INSURANCE

The Senate bill extended authority for investment insurance until December 31, 1976. The House amendment extended authority for investment insurance until December 31, 1977. Conference substitute is the same as the House date.

APPROPRIATION TO AUGMENT INSURANCE RESERVE

The House amendment, permitting appropriations to augment the Insurance Reserve only when the Reserve falls below \$25,000,000, would have gone into effect only after fiscal year 1975 appropriations are made. The Senate bill had no corresponding provision concerning the limitation to FY 1975. Conference substitute omits the House provision.

PUBLIC DEBT TRANSACTION

The House amendment provided that for the Secretary's purchases of Corporation obligations, he may use securities issued under Second Liberty Bond Act. The Senate bill had no corresponding provision. Conference substitute is the same as the House provision.

REINSURANCE NOT TO EXCEED VALUE OF INVESTMENT

The House amendment provided that no reinsurance may exceed the dollar value of the investment made in a project. The Senate bill had no corresponding provision. The Conference substitute is the same as the House provision.

INVESTMENT INSURED OR REINSURED FOR RISK OF LOSS

The Senate bill provided that risk of loss concerns total investment of insured or its affiliates. The House amendment provided that risk of loss concerns total investment of insured and its affiliates. The Conference substitute is the same as the House language.

PERSON WHO BEARS 10 PERCENT OF RISK OF LOSS

The Senate bill provided that insured or its affiliates bear at least 10% of the risk of loss. The House amendment provided that any person other than the Corporation bear at least 10 percent of the risk of loss. The Conference substitute is the same as the Senate language.

RESTRICTIONS ON LIMIT ON INSURANCE OR REINSURANCE

The House amendment provided that the 10 percent limit on insurance or reinsurance shall not apply to loans by insurance companies, pension funds, lending institutions, or investments by small businesses. The Senate bill had no corresponding provision. The Conference substitute is the same as the Senate language, with the addition that where this 10 percent deductible is in conflict with state law it shall not apply.

CESSATION AND TRANSFER OF ANCILLARY CORPORATION PROGRAMS

The Senate bill required that the Corporation cease investment guaranties, direct investment, investment encouragement, and special activities, and agricultural credit and self-help community development projects on December 31, 1979; and then the President is authorized to transfer these programs to other U.S. agencies. The House amendment stated intention of Congress that President transfer these programs to other U.S. agencies on or after December 31, 1979. The Conference substitute is the same as the Senate provision.

COUNTRY LIMITATION BASED ON PER CAPITA INCOME

The Senate bill limited programs to countries with a per capita income under \$450 when programs are transferred to another U.S. agency by the President. The House amendment limited programs to countries with a per capita income under \$450 on and after December 31, 1979. The Conference substitute is the same as the Senate provision.

TERMINATION OF ADVISORY COUNCIL

The House amendment provided that the Advisory Council shall terminate on December 31, 1977. The Senate bill had no corresponding provision. The Conference substitute omits the House provision.

LATIN AMERICAN LIMITATION ON SELF-HELP PROJECTS

The House amendment deleted restriction of projects to Latin American countries and expressed the intent of Congress that the program be expanded to other less developed countries. The Senate bill had no corresponding provision. The Conference substitute omits the House provision.

SELF-HELP PROGRAMS ARE NO LONGER "PILOT" PROGRAMS

The House amendment removed the limitation of the program to the "pilot" stage and allowed for the extension of the program to any less developed country rather than restricting it to only 5 Latin American countries. The Senate bill had no corresponding provision

and existing law specifies authority only for "pilot" programs. The Conference substitute omits the House provision.

CORPORATION GUARANTY OF PERCENTAGE OF LOAN MADE FOR
SELF-HELP PROJECT

The House amendment increased the amount that the Corporation can guaranty to 50 percent of the loans made for those projects. The Senate bill had no corresponding provision. The Conference substitute omits the House provision.

REPORT TO CONGRESS ON SELF-HELP PROGRAMS

The House amendment directed OPIC, no later than January 15, 1976, to submit to the Congress a report of the results of the expanded agricultural self-help and community development programs. The Senate bill had no corresponding provision. Since the conferees agreed not to expand the program, the Conference substitute omits the House provision.

AUTHORITY FOR SELF-HELP PROGRAMS

The Senate bill removed the time limitation on the authority for the agricultural credit and self-help community development projects. The House amendment extended the authority for the projects until December 31, 1977. The Conference substitute is the same as the House provision.

OPIC OPERATION IN INDOCHINA

The reports of the House Foreign Affairs Committee and the Senate Foreign Relations Committee on the OPIC legislation contained conflicting guidance as to the future operation of the OPIC program in Indochina. It is the intent of the Conferees that OPIC provide the House Foreign Affairs Committee and the Senate Foreign Relations Committee with a statement of its Board of Directors' plans for a prudent resumption of OPIC programs in Indochina, when such plans are formulated, and consult with the Committees as such programs evolve. OPIC should not insure any large U.S. private investments (as defined by OPIC's Board and reported to the respective Committees) in Indochina unless OPIC obtains significant private participation in the insurance program, or until OPIC receives specific instructions from both Houses of Congress.

JOHN CULVER,
THOMAS E. MORGAN,
CLEMENT J. ZABLOCKI,
LESTER L. WOLFF,
PETER H. B. FRELINGHUYSEN,
J. HERBERT BURKE,
G. VANDER JAGT,
Managers on the Part of the House.

JOHN SPARKMAN,
FRANK CHURCH,
STUART SYMINGTON,
J. JAVITS,
Managers on the Part of the Senate.

OVERSEAS PRIVATE INVESTMENT CORPORATION
AMENDMENTS OF 1974

MAY 2, 1974.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

Mr. CULVER, from the Committee on Foreign Affairs,
submitted the following

REPORT
together with
DISSENTING AND SUPPLEMENTAL VIEWS

[To accompany H.R. 13973]

The Committee on Foreign Affairs, to whom was referred the bill (H.R. 13973) to amend the title of the Foreign Assistance Act of 1961 concerning the Overseas Private Investment Corporation to extend the authority for the Corporation, to authorize the Corporation to issue reinsurance, to suggest dates for terminating certain activities of the Corporation, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

On page 8, line 3, immediately before "The amount" insert the following:

The authority granted by paragraph (3) may be exercised notwithstanding the prohibition under section 234 (c) against the Corporation purchasing or investing in any stock in any other corporation.

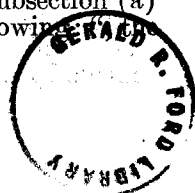
On page 12, after line 5, insert the following new paragraph.

(30) by adding at the end of subsection (f) of section 239 the following: "The Council shall terminate on December 31, 1977.";

On page 12, line 6, strike out "(30)" and insert in lieu thereof "(31)".

On page 12, after line 24, insert the following new paragraphs:

(32) by striking out "in Latin America, the authority conferred by this section should be used to establish pilot programs in not more than five Latin American countries" in subsection (a) of section 240 and inserting in lieu thereof the following:



authority conferred by this section should be used to establish programs in such countries";

(33) by striking out "not more than five Latin American countries" in subsection (b) of section 240 and inserting "less developed countries" in lieu thereof;

On page 13, line 1, strike out "(31)" and insert in lieu thereof "(34)".

On page 13, after line 3, insert the following new paragraphs:

(35) by striking out "1972" in subsection (g) of section 240 and inserting "1976" in lieu thereof;

(36) by striking out "pilot" in subsection (g) of section 240;

On page 13, line 4, strike out "(32)" and insert in lieu thereof "(37)".

On page 13, line 6, strike out "(33)" and insert in lieu thereof "(38)".

COMMITTEE AMENDMENTS

The first committee amendment clarifies an apparent contradiction between a provision of the existing statute prohibiting OPIC from taking an equity position in an investment project and a provision in this bill permitting OPIC to purchase shares in an arrangement for sharing OPIC's insurance risks.

The second committee amendment removes the restrictions of the Agricultural Credit and Self-Help Community Development Program to five countries in Latin America and moves the program beyond the pilot state.

The third committee amendment extends the life of the OPIC Advisory Council through December 31, 1977.

COMMITTEE ACTION

During 1973 the Subcommittee on Foreign Economic Policy undertook an exhaustive investigation of the Overseas Private Investment Corporation. It conducted a 2-week study mission to Latin America and held 9 days of hearings. Testimony was received from representatives of business and farm organizations, U.S. Government officials, academics, and Members of Congress.

On October 21, 1973, the subcommittee issued a report which presented the findings of those hearings and set forth 26 recommendations. On December 20 the chairman of the subcommittee, Mr. Culver introduced H.R. 12057 to implement the report.

The bill was referred to the Committee on Foreign Affairs. On March 20, 1974, the subcommittee heard testimony on H.R. 12057 from Marshall Mays, President of OPIC, and Hon. Andrew Biemiller, Director of the Department of Legislation of the AFL-CIO. On March 27, 1974, the subcommittee met in open session to consider the bill. The subcommittee adopted amendments to H.R. 12057 and authorized the subcommittee chairman to introduce a clean bill and report it to the Committee on Foreign Affairs. The clean bill, H.R. 13973, was sponsored by Mr. Culver, Mr. Wolff, Mr. Burke of Florida, Mr. Davis of Georgia, Mr. Gilman, Mr. Vander Jagt, Mr. Whalen and Mr. Yatron. The bill was considered by the committee on April 30, 1974, and was ordered favorably reported to the House with amendments by a voice vote.

COST ESTIMATES

Passage of H.R. 13973 requires no appropriation of funds.

BACKGROUND

Congress authorized the creation of OPIC in the Foreign Assistance Act of 1969 to assume operation of the private investment incentive programs then operated by the Agency for International Development (AID).

Section 231 of the Foreign Assistance Act of 1969 defined the fundamental purpose of OPIC as follows:

To mobilize and facilitate the participation of U.S. private capital and skills in the economic and social progress of less-developed friendly countries and areas, thereby complementing the development assistance objectives of the United States * * *

In order to assure the maximum development benefits from private investment, the Corporation was specifically directed by the Congress to encourage and support only those private investments in less-developed countries that are sensitive and responsive to the special needs and requirements of those nations, and which contribute to the social and economic development of their people.

To accomplish this purpose, OPIC administers three major types of programs: investment insurance, financing, and investment information and promotion activities.

OPIC's insurance program offers protection against three forms of risk associated with foreign investment: (1) inconvertibility; (2) war, revolution and insurrection; and (3) expropriation.

OPIC's finance program consists of (1) investment guaranties on medium- and long-term loans from institutional lenders to private enterprises in less developed countries (LDC's); (2) direct loans to private projects in LDC's; (3) the productive credit guaranty program to assist foreign local credit institutions in establishing credit lines for small businessmen and farmers considered to be marginal credit risks; and (4) administration of the Cooley loan program from Public Law 480 accounts. The Cooley loan fund provides loans in domestic currency to foreign enterprises in which U.S. companies invest. Because Public Law 480 agreements now usually require that the food shipments be paid for in dollars rather than in local currencies, this program is drying up.

Finally, in order to identify and assess investment opportunities, and stimulate U.S. private investment in developing countries, OPIC underwrites a share of the cost of preinvestment surveys conducted by U.S. companies.

INDOCHINA

In 1971 the Committee on Foreign Affairs considered the issue of AID providing private investment incentives in Vietnam, Laos, and Cambodia. The Committee decided that the matter should receive further detailed study by the appropriate subcommittee. In its report on the Foreign Assistance Act of 1971, the Committee declared:

It was also the view of the committee that pending the resolution of this question, neither AID nor OPIC should engage in providing further insurance, guaranties, or survey grants in the three countries of Vietnam, Laos, and Cambodia.

During 1973 the Subcommittee on Foreign Economic Policy undertook a comprehensive investigation of the Overseas Private Investment Corporation. On November 29, 1973, the Subcommittee issued a report presenting its findings and recommendations. In regard to its operating in Indochina, the report recommended:

In keeping with the general policy of trying to facilitate the rebuilding of war-torn Indochina, the subcommittee believes that prudent exercise of OPIC's authority should be permitted in this area. However, in view of the continuing political, economic, and military uncertainties in Indochina, the subcommittee directs OPIC to consult with the relevant committee of the Congress to every extent possible concerning its plans and operations in South Vietnam, Laos, and Cambodia.

It is the position of the Committee on Foreign Affairs that this should be the guideline for OPIC's activity in Indochina. OPIC should provide the Committee with formal documentation of its operations in Indochina, including plans for its overall program and specifics on individual investment projects.

PROVISIONS OF THE BILL

The principal provisions of the bill are: (a) authority for OPIC to enter into joint arrangements with private insurance companies, multilateral organizations, or other entities and to issue reinsurance for such arrangements; (b) an expression of the intent of Congress that OPIC act to transfer its functions of writing and managing insurance contracts to private insurance companies or other entities; (c) an extension of OPIC's authority through December 31, 1977; (d) policy guidelines dealing with runaway industries, preferential treatment for small businesses and projects in the least developed countries, and OPIC serving as a broker between developing countries and U.S. investors; and (e) provision to improve the effectiveness of the Agricultural Credit and Self-Help Community Development program.

SECTION 231 OF THE FOREIGN ASSISTANCE ACT OF 1961, AS AMENDED—
CREATION, PURPOSE, AND POLICY

EXPLANATION

Section 231 provided for the creation of the Overseas Private Investment Corporation. It established its purpose, which is to promote and support the active participation of American private enterprise in providing resources and talents to help further the economic and social development of less developed countries. Section 231 specifies policy guidelines for OPIC.

AMENDMENTS PROPOSED BY H.R. 13973

Section 2(1)—Purpose

This amendment substitutes the word "development" for "progress" in the first sentence of section 231 to make more explicit OPIC's purpose of complementing public development programs designed to benefit the poor majority of the population in less developed friendly countries and areas.

Section 2(2)—Self-Sustaining

This amendment to subsection (a) directs OPIC to undertake to operate its insurance and reinsurance operations, as well as its financing activities, on a self-sustaining basis.

Section 2(3)—Finance Program

This amendment is a conforming change, making clear that the existing requirement of subsection (a) that OPIC take into account the economic and financial soundness of projects and the availability of financing from other sources on appropriate terms remains applicable only to OPIC's finance program.

Section 2(4) and (5)—Risk Sharing

(4) This amendment to subsection (d) strikes the words "when appropriate" from OPIC's risk-sharing mandate since risk-sharing goals are stated in detail in subsequent sections.

(5) This amendment to subsection (d) directs OPIC to undertake to share its reinsurance as well as its insurance risks.

Section 2(6)—Small Business

This amendment to subsection (e) directs OPIC to undertake to give preferential consideration in its programs (to the maximum extent practicable consistent with its purposes) to investment projects sponsored by U.S. businesses having not more than \$2.5 million net worth or not more than \$7.5 million in total assets.

Section 2(7)—U.S. Employment

This amendment to subsection (i) directs OPIC to take into account, in determining whether to support a proposed project, its effect upon U.S. domestic employment.

Section 2 (8) and (9)—Conforming Changes

These two amendments are technical changes made necessary by the addition of new clauses to section 231.

Section 2(10) (l), (m), and (n)—New Guidelines

This section adds three new clauses to section 231:

(10) (l)—Least Developed Countries

New section 231(l) requires OPIC to undertake, to the maximum extent practicable, to give preferential consideration to investment projects in the less developed friendly countries which have per capita incomes of \$450 or less in 1973 United States dollars.

(10) (m)—Broker

New section 231(m) instructs OPIC to take a more active role in supporting development by identifying investment opportunities in less developed countries and bringing these opportunities to the attention of potential U.S. investors.

(10) (n)—Runaway Plants

New section 231(n) enacts in OPIC's statute its policy of denying support of "runaway" plant investments. It directs OPIC (i) to decline to issue any contract of insurance or reinsurance, or any guaranty, or to enter into any agreement to provide financing for a proposed investment if OPIC determines that such investment is likely to cause a significant reduction in the number of employees in the United States of the investor or project sponsor because he is replacing his United States production with production from such investment which involves substantially the same product for substantially the same market as his United States production, and (ii) to monitor conformance with the representations of the investor on which OPIC relied in making the determination required by clause (i).

SECTION 234 OF THE FOREIGN ASSISTANCE ACT OF 1961, AS AMENDED

EXPLANATION

Section 234 sets forth the basic program authorities—investment insurance, investment guaranties, direct loan investments, and investment encouragement.

Section 234(a) establishes the guidelines for the operation of the investment insurance program, which insures investors against losses arising from (a) inconvertibility, (b) expropriation, and (c) war, revolution, or insurrection. The following amendments add new clauses to section 234(a) which grant OPIC the authority to enter into joint arrangements for the sharing of these risks and to issue reinsurance and direct OPIC to take steps to transfer the writing and managing of insurance contracts to private insurance companies or other entities.

Section 2(11)—Title

This amendment changes the caption of section 234 to read "Investment Insurance and Other Programs".

*Section 2 (12) and (13)—Private Participation**2(12)—Transferral of the Issuing and Management of Contracts to Private Companies*

A new subparagraph 4(A) is added to set targets for OPIC to attempt to meet in sharing liabilities incurred under new inconvertibility and expropriation insurance. The targets are 25 percent of liabilities incurred under contracts issued on and after January 1, 1975, and 50 percent of liabilities incurred under contracts issued on and after January 1, 1978. If it is not possible for OPIC to meet either of these targets, it is to report to the Senate Foreign Relations Committee and the House Foreign Affairs Committee the reasons for its inability to achieve either target and the date by which the target can be achieved.

A new subparagraph 4(B) is added to state the long-range goal of Congress that OPIC should no longer participate as a direct insurer of inconvertibility or expropriation risks under contracts issued after December 31, 1979. This goal and the other long-range objectives stated in the bill are based on the assumption that other insurers, such as private insurance companies, multilateral organizations, or a mutual of insurance users, will by the end of the decade be prepared to issue political risk insurance to eligible U.S. investors in a manner consistent with the public purposes of the program as expressed in the act. (By the amendments proposed to be added by section 2(33) of the bill to section 240 of the act, OPIC will be required to report on this issue no later than January 1, 1976.)

The new subparagraph 5(A) sets targets for OPIC's liability sharing in war risk insurance. The targets are 12½ percent of liabilities incurred under contracts issued on or after January 1, 1976, and 40 percent of liabilities incurred under contracts issued on and after January 1, 1979. As with the liability-sharing targets for inconvertibility and expropriation insurance, OPIC is required to report to the Congress if these targets cannot be met.

The new subparagraph 5(B) states the long-range goal of Congress that OPIC should no longer participate as a direct insurer of war risks under contracts issued after December 31, 1980. Again, as with the long-term goals of wholly private underwriting of expropriation and inconvertibility insurance, the assumption on which this goal is based is that other insurers will assume OPIC's role in this area.

A new paragraph (6) is added to make it clear that in OPIC's efforts to share its insurance liabilities, it may agree to assume liability as insurer for any insurance contract, or share thereof, that a private insurance company, multilateral organization, or any other person has issued in respect of inconvertibility, expropriation and war risks. Neither the execution of such an agreement nor its performance by the Corporation shall be considered as participation by the Corporation in any such insurance contract for purposes of the targets specified in subparagraphs 4(A) and 5(A) of section 234. The amendment

is in recognition of the fact that other insurers, including private insurance companies, at this time, are unwilling to assume long-term liabilities under political risk insurance contracts, and therefore OPIC may be required to assure the long-term investor that it will maintain coverage if private insurers decline to extend or renew their short-term commitments. Although OPIC's agreement to assume such liabilities is not counted for purposes of the targets of subparagraphs 4(A) and 5(A) as participation by OPIC, such agreement will be considered as the issuance of insurance by OPIC for all other purposes of the act. It is the intention of Congress, however, that OPIC should not enter into any such agreement after January 1, 1980.

The new paragraph (7) proposed for section 234(a) states additional long-term goals of the Congress: (i) that OPIC should not manage insurance contracts issued on and after December 31, 1979, by other insurers in respect of inconvertibility and expropriation risks; (ii) that OPIC should not manage insurance contracts issued on and after December 31, 1980, by other insurers in respect of war risks; and (iii) that on and after December 31, 1980, OPIC should act only as a reinsurer except to the extent necessary to manage its outstanding insurance or reinsurance contracts and any liabilities it assumes pursuant to paragraph (6) of section 234(a).

2(13)—Reinsurance

This amendment adds a new subsection (f) to section 234, which authorizes OPIC (a) to enter into various coinsurance and reinsurance arrangements with private insurance companies and other entities, and (b) to issue reinsurance of liabilities assumed by other insurers or groups thereof.

The maximum contingent liability which OPIC may assume each year as a reinsurer cannot exceed \$600 million, and may never in the aggregate exceed at any one time an amount equal to the amount authorized for the maximum contingent liability for insurance under section 235(a)(1) [\$7.5 billion].

All reinsurance issued by OPIC will require that the reinsured party (private insurance companies and other entities that share and/or assume OPIC's function of issuing insurance) retain for his own account specified portions of liability, whether, first loss or otherwise, and the Corporation shall endeavor to increase such specified portions to the maximum extent feasible. Under the proposed section 2(33) of the bill, OPIC will be required to report to Congress the actual exposure reinsured parties have been willing to assume.

SECTION 235 OF THE FOREIGN ASSISTANCE ACT OF 1961,
AS AMENDED

EXPLANATION

Section 235 established OPIC's issuing authority and the Insurance and Guaranty Fund. It established the maximum contingent liabilities at \$7.5 billion for insurance and \$750 million for guaranties. The direct investment fund is a revolving fund to be available for loans. The Insurance and Guaranty Fund is used to discharge liabilities under the insurance and guaranty program.

AMENDMENTS PROPOSED BY H.R. 13973

Section 2(14)—Three-Year Authorization

This amendment to subsection (a) (4) extends OPIC's insurance and guaranty authority from December 31, 1974, to December 31, 1977. The committee feels that a 3-year extension of OPIC's authority is necessary to permit adequate testing of liability-sharing with private insurers. This extension coincides with the 3-year pooling arrangement OPIC is currently discussing with the private insurance industry.

Section 2(15)—Reinsurance

This amendment to subsection (d) is a technical change to permit OPIC to pay reinsurance liabilities as well as insurance liabilities out of the Insurance Reserve.

Section 2(16)—Congressional Appropriations and Borrowing Authority

This amendment deletes the existing subsection (f) which authorizes an ongoing appropriation to OPIC for its Insurance and Guaranty Fund and for the discharge of OPIC's liabilities. The new subsection (f) directs that, after fiscal year 1975, (a) a congressional appropriation to the Insurance Reserve would be permitted only after that reserve had dropped below \$25 million, (b) any appropriation would require a congressional authorization, and (c) in order to permit OPIC to quickly cover valid claims, OPIC can borrow up to \$100 million from the U.S. Treasury, but any such borrowing must be repaid within a year.

SECTION 237 OF THE FOREIGN ASSISTANCE ACT OF 1961, AS AMENDED

EXPLANATION

Section 237 details various provisions relating to the insurance and guaranty programs.

AMENDMENTS PROPOSED BY H.R. 13973

Section 2(17)-(24)—Technical Changes

These amendments are technical changes to make certain provisions of the statute which are now applicable to OPIC's insurance program also applicable to OPIC's proposed role in issuing reinsurance.

Section 2(25)—Insured To Hold 10 Percent of Risk

This amendment to subsection (f) requires OPIC to limit the amount of insurance and reinsurance it issues with respect to an investment so that risk of loss of at least 10 percent of the total investment of the insured and its affiliates in the project is borne by any person other than OPIC on the date the insurance is issued. This limitation would not apply to loans by institutional lenders or to investments by small businesses.

Section 2(26)-(29)—Technical Changes

These amendments are technical changes to make certain provisions of the statute which are now applicable to OPIC's insurance program also applicable to OPIC's proposed function of issuing reinsurance.

SECTION 239 OF THE FOREIGN ASSISTANCE ACT OF 1961, AS AMENDED

EXPLANATION

Section 239 sets forth general provisions and powers of OPIC.

AMENDMENTS PROPOSED BY H.R. 13973

Section 2(30)—Advisory Council

This amendment to subsection (f) extends the life of the OPIC Advisory Council through December 31, 1977.

Section 2(31) (A), (B), and (C)—Three New Subsections

This amendment adds three new subsections to section 239.

(31) (A)—Environmental Impact

New subsection 239(h) would require OPIC to develop and implement specific criteria intended to encourage U.S. investors to take measures to lessen the potential adverse environmental effects of their proposed in the less developed countries.

The amendment is not intended to impose U.S. standards on a foreign country or to challenge the sovereign right of a developing nation to determine how it wishes to reconcile its interest in jobs and income with its interest—and that of the world at large—in a clean environment. On the other hand, the committee intends that where local environmental protection standards are lacking, OPIC should, consistent with the accomplishment of its overall purpose, encourage U.S. investors to take voluntary steps to lessen the potential adverse environmental effects of projects in which they have a controlling interest.

The purpose is to encourage American investors to impose upon themselves some reasonable environmental standards for the sake of international good will and in the interest of a healthy, clean global environment.

(31) (B) and (C)—Finance Programs

New subsection 239(i) states the congressional intention that after December 31, 1979, the President should transfer the OPIC finance programs, including the Agricultural Credit and Self-Help Community Development program authorized by section 240, to another agency of the United States. This section assumes that by December 31, 1979, OPIC will have assumed a reinsurer's role in its insurance program, thereby making appropriate a transfer of its finance programs to another agency or agencies. Final decision on this question will depend upon whether, in fact, OPIC will be confined to reinsurance in its insurance program after 1979.

New subsection 239(j) would require that after December 31, 1979, the OPIC finance programs be limited to countries with a per capita income of \$450 or less in 1973 United States dollars.

SECTION 240 OF THE FOREIGN ASSISTANCE ACT OF 1961, AS AMENDED

EXPLANATION

Section 240 established the Agricultural and Credit Self-Help Community Development programs. The purpose of the program is to encourage private credit and lending institutions to make loans on reasonable terms to organized groups and individuals for small agricultural self-help and local community development purposes. The total guaranties outstanding at any one time are limited to \$25 million.

AMENDMENTS PROPOSED BY H.R. 13973

Section 2(32-33)—Expansion of Agricultural Credit and Self-Help Community Program

This amendment removes the current restriction of the program to five Latin American countries and to a pilot phase. This program brings assistance to the "grass roots" level, and OPIC should take steps to extend it to as many countries as is appropriate within the guidelines of the program and considering the interests of developing nations.

Section 2(34)—Guaranty Level

This amendment to subsection (b) is designed to improve the effectiveness of the Agricultural Credit and Self-Help Community Development program authorized by section 240 by permitting OPIC to guarantee a lender against losses of up to one-half of his portfolio of qualified loans. The present limitation is 25 percent of each lender's portfolio. Individual loans may be guaranteed up to 75 percent. Experience has shown that a Latin American lending institution is credited with only 25 percent guaranty security, rather than 75 percent, when it seeks to discount an OPIC-guaranteed small loan portfolio, thereby severely limiting the ability of a qualified lender to obtain additional capital by discounting his OPIC-guaranteed portfolio with larger financial institutions. The proposed change would remove this critical limitation on the program's effectiveness. The 75 percent limit on OPIC guarantees of individual loans would be continued, subject to 50 percent overall portfolio guaranty limit.

Section 2(35-36)—Report to Congress

The amendment directs OPIC to report to the Congress by January 15, 1976, on the results of the program and removes the word "pilot" in keeping with sections 2(33-34).

Section 2(37)—Three-Year Extension

This amendment to subsection (h) would extend the authority of the Agricultural Credit and Self-Help Community Development program from December 31, 1974 to December 31, 1977.

SECTION 240A OF THE FOREIGN ASSISTANCE ACT OF 1961, AS AMENDED

EXPLANATION

Section 240A requires OPIC to report on its operations to Congress at the end of each fiscal year.

AMENDMENT PROPOSED BY H.R. 13973

Section 2(38)—Report to Congress on Private Participation

This amendment to subsection (b) would require OPIC to report, no later than January 1, 1976, on the possibilities of transferring all of its activities to private insurance companies, multilateral organizations or other entities.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman) :

TITLE IV OF CHAPTER 2 OF PART I OF THE FOREIGN ASSISTANCE ACT OF 1961

TITLE IV—OVERSEAS PRIVATE INVESTMENT CORPORATION

SEC. 231. CREATION, PURPOSE, AND POLICY.—To mobilize and facilitate the participation of United States private capital and skills in the economic and social **[progress]** *development* of less developed friendly countries and areas, thereby complementing the development assistance objectives of the United States, there is hereby created the Overseas Private Investment Corporation (hereinafter called the "Corporation"), which shall be an agency of the United States under the policy guidance of the Secretary of State.

In carrying out its purpose, the Corporation, utilizing broad criteria, shall undertake—

(a) to conduct financing, *insurance, and reinsurance* operations on a self-sustaining basis, taking into account *in its financing operations* the economic and financial soundness of projects and the availability of financing from other sources on appropriate terms;

(b) to utilize private credit and investment institutions and the Corporation's guaranty authority as the principal means of mobilizing capital investment funds;

(c) to broaden private participation and revolve its funds through selling its direct investments to private investors whenever it can appropriately do so on satisfactory terms;

(d) to conduct its insurance operations with due regard to principles of risk management including **[, when appropriate,]** efforts to share its *insurance and reinsurance* risks;

[(e) to utilize, to the maximum practicable extent consistent with the accomplishment of its purpose, the resources and skills of small business and to provide facilities to encourage its full participation in the programs of the Corporation;]

(e) to give preferential consideration in its investment insurance, financing, and reinsurance activities (to the maximum extent practicable consistent with the Corporation's purposes) to investment projects involving businesses of not more than \$2,-

500,000 net worth or with not more than \$7,500,000 in total assets;

(f) to encourage and support only those private investments in less developed friendly countries and areas which are sensitive and responsive to the special needs and requirements of their economies, and which contribute to the social and economic development of their people;

(g) to consider in the conduct of its operations the extent to which less developed country governments are receptive to private enterprise, domestic and foreign, and their willingness and ability to maintain conditions which enable private enterprise to make its full contribution to the development process;

(h) to foster private initiative and competition and discourage monopolistic practices;

(i) to further to the greatest degree possible, in a manner consistent with its goals, the balance-of-payments *and employment* objectives of the United States;

(j) to conduct its activities in consonance with the activities of the agency primarily responsible for administering part I and the international trade, investment, and financial policies of the United States Government; **[and]**

(k) to advise and assist, within its field of competence, interested agencies of the United States and other organizations, both public and private, national and international, with respect to projects and programs relating to the development of private enterprise in less developed countries and areas **[.]**;

(l) to the maximum extent practicable, to give preferential consideration in the Corporation's investment insurance, financing, and reinsurance activities to investment projects in the less developed friendly countries which have per capita incomes of \$450 or less in 1973 United States dollars;

(m) to identify foreign investment opportunities in less developed friendly countries and areas, and to bring information concerning such opportunities to the attention of potential eligible investors in such countries or areas; and

(n) (1) to decline to issue any contract of insurance or reinsurance, or any guaranty, or to enter into any agreement to provide financing for an eligible investor's proposed investment if the Corporation determines that such investment is likely to cause such investor (or the sponsor of an investment project in which such investor is involved) significantly to reduce the number of his employees in the United States because he is replacing his United States production with production from such investment which involves substantially the same product for substantially the same market as his United States production; and (2) to monitor conformance with the representations of the investor on which the Corporation relied in making the determination required by clause (1).

SEC. 232. CAPITAL OF THE CORPORATION.—The President is authorized to pay in as capital of the Corporation, out of dollar receipts made available through the appropriation process from loans made pursuant to this part and from loans under the Mutual Security Act of 1954, as amended, for the fiscal year 1970 not to exceed \$20,000,000 and for the fiscal year 1971 not to exceed \$20,000,000. Upon the pay-

ment of such capital by the President, the Corporation shall issue an equivalent amount of capital stock to the Secretary of the Treasury.

SEC. 233. ORGANIZATION AND MANAGEMENT.—(a) STRUCTURE OF THE CORPORATION.—The Corporation shall have a Board of Directors, a President, an Executive Vice President, and such other officers and staff as the Board of Directors may determine.

(b) **BOARD OF DIRECTORS.**—All powers of the Corporation shall vest in and be exercised by or under the authority of its Board of Directors (“the Board”) which shall consist of eleven Directors, including the Chairman, with six Directors constituting a quorum for the transaction of business. The Administrator of the Agency for International Development shall be the Chairman of the Board, *ex officio*. Six Directors (other than the President of the Corporation, appointed pursuant to subsection (c) who shall also serve as a Director) shall be appointed by the President of the United States, by and with the advice and consent of the Senate, and shall not be officials or employees of the Government of the United States. At least one of the six Directors appointed under the preceding sentence shall be experienced in small business, one in organized labor, and one in cooperatives. Each such Director shall be appointed for a term of no more than three years. The terms of no more than two such Directors shall expire in any one year. Such Directors shall serve until their successors are appointed and qualified and may be reappointed.

The other Directors shall be officials of the Government of the United States, designated by and serving at the pleasure of the President of the United States.

All Directors who are not officers of the Corporation or officials of the Government of the United States shall be compensated at a rate equivalent to that of level IV of the Executive Schedule (5 U.S.C. 5315) when actually engaged in the business of the Corporation and may be paid per diem in lieu of subsistence at the applicable rate prescribed in the standardized Government travel regulations, as amended, from time to time, while away from their homes or usual places of business.

(c) **PRESIDENT OF THE CORPORATION.**—The President of the Corporation shall be appointed by the President of the United States, by and with the advice and consent of the Senate, and shall serve at the pleasure of the President. In making such appointment, the President shall take into account private business experience of the appointee. The President of the Corporation shall be its Chief Executive Officer and responsible for the operations and management of the Corporation, subject to bylaws and policies established by the Board.

(d) **OFFICERS AND STAFF.**—The Executive Vice President of the Corporation shall be appointed by the President of the United States, by and with the advice and consent of the Senate, and shall serve at the pleasure of the President. Other officers, attorneys, employees, and agents shall be selected and appointed by the Corporation, and shall be vested with such powers and duties as the Corporation may determine. Of such persons employed by the Corporation, not to exceed twenty may be appointed, compensated, or removed without regard to the civil service laws and regulations: *Provided*, That under such regulations as the President of the United States may prescribe, officers and employees of the United States Government who are appointed to

any of the above positions may be entitled, upon removal from such position, except for cause, to reinstatement to the position occupied at the time of appointment or to a position of comparable grade and salary. Such positions shall be in addition to those otherwise authorized by law, including those authorized by section 5108 of title 5 of the United States Code.

SEC. 234. INVESTMENT [INCENTIVE] INSURANCE AND OTHER PROGRAMS. The Corporation is hereby authorized to do the following:

(a) INVESTMENT INSURANCE.—(1) To issue insurance, upon such terms and conditions as the Corporation may determine, to eligible investors assuring protection in whole or in part against any or all of the following risks with respect to projects which the Corporation has approved—

(A) inability to convert into United States dollars other currencies, or credits in such currencies, received as earnings or profits from the approval project, as repayment or return of the investment therein, in whole or in part, or as compensation for the sale or disposition of all or any part thereof;

(B) loss of investment, in whole or in part, in the approved project due to expropriation or confiscation by action of a foreign government; and

(C) loss due to war, revolution, or insurrection.

(2) Recognizing that major private investments in less developed friendly countries or areas are often made by enterprises in which there is multinational participation, including significant United States private participation, the Corporation may make such arrangements with foreign governments (including agencies, instrumentalities, or political subdivisions thereof) or with multilateral organizations for sharing liabilities assumed under investment insurance for such investments and may in connection therewith issue insurance to investors not otherwise eligible hereunder: *Provided, however,* That liabilities assumed by the Corporation under the authority of this subsection shall be consistent with the purposes of this title and that the maximum share of liabilities so assumed shall not exceed the proportionate participation by eligible investors in the total project financing.

(3) Not more than 10 per centum of the total face amount of investment insurance which the Corporation is authorized to issue under this subsection shall be issued to a single investor.

(4) (A) *It is the intention of Congress that the Corporation should achieve participation by private insurance companies, multilateral organizations, or others in at least 25 per centum of liabilities incurred in respect of the risks referred to in subparagraphs (1) (A) and (B) of this subsection under contracts issued on and after January 1, 1975, and in at least 50 per centum of liabilities incurred in respect of such risks under contracts issued on and after January 1, 1978. If it is not possible for the Corporation to achieve either such percentage of participation, the Corporation shall report in detail to the Senate Foreign Relations Committee and the Foreign Affairs Committee of the House of Representatives the reasons for its inability to achieve either such percentage of participation, and the date by which such percentage can be achieved.*

(B) *It is the intention of Congress that the Corporation should not participate as insurer under contracts of insurance issued after De-*

ember 31, 1979, in respect of the risks referred to in subparagraphs (1) (A) and (B) of this subsection.

(5) (A) It is the intention of Congress that the Corporation should achieve participation by private insurance companies, multilateral organizations, or others in at least 12 per centum of liabilities incurred in respect of the risks referred to in subparagraph (1) (C) of this subsection under contracts issued on and after January 1, 1976, and in at least 40 per centum of liabilities incurred in respect of such risks under contracts issued on and after January 1, 1979. If it is not possible for the Corporation to achieve either such percentage of participation, the Corporation shall report in detail to the Senate Foreign Relations Committee and the Foreign Affairs Committee of the House of Representatives the reasons for its inability to achieve either such percentage of participation, and the date by which such percentage can be achieved.

(B) It is the intention of Congress that the Corporation should not participate as insurer under insurance policies issued after December 31, 1980, in respect of the risks referred to in subparagraph (1) (C) of this subsection.

(6) Notwithstanding any of the percentages of participation under subparagraphs (4) (A) and (5) (A) of this subsection, the Corporation may agree to assume liability as insurer for any insurance contract, or share thereof, that a private insurance company, multilateral organization, or any other person has issued in respect of the risks referred to in paragraph (1) of this subsection, and neither the execution of such an agreement to assume liability nor its performance by the Corporation shall be considered as participation by the Corporation in any such insurance contract for purposes of such percentages of participation. However, it is the intention of Congress that on and after January 1, 1981, the Corporation should not enter into any such agreement to assume liability.

(7) It is the intention of Congress—

(A) that the Corporation should not manage direct insurance issued on and after December 31, 1979, by any other person in respect of risks referred to in subparagraph (1) (A) or (B) of this subsection;

(B) that the Corporation should not manage direct insurance issued on and after December 31, 1980, by any other person in respect of risks referred to in subparagraph (1) (C) of this subsection; and

(C) that on and after December 31, 1980, the Corporation should act only as a reinsurer except to the extent necessary to manage its outstanding insurance or reinsurance contracts and any policies the Corporation assumes pursuant to paragraph (6).

(B) INVESTMENT GUARANTIES.—To issue to eligible investors guaranties of loans and other investments made by such investors assuring against loss due to such risks and upon such terms and conditions as the Corporation may determine: *Provided, however,* That such guaranties on other than loan investments shall not exceed 75 per centum of such investment: *Provided further,* That except for loan investments for credit unions made by eligible credit unions or credit union associations, the aggregate amount of investment (exclusive of interest and earnings) so guaranteed with respect to any project shall not ex-

ceed, at the time of issuance of any such guaranty, 75 per centum of the total investment committed to any such project as determined by the Corporation, which determination shall be conclusive for purposes of the Corporation's authority to issue any such guaranty: *Provided further*, That not more than 10 per centum of the total face amount of investment guaranties which the Corporation is authorized to issue under this subsection shall be issued to a single investor.

(c) **DIRECT INVESTMENT.**—To make loans in United States dollars repayable in dollars or loans in foreign currencies (including, without regard to section 1415 of the Supplemental Appropriation Act, 1953, such foreign currencies which the Secretary of the Treasury may determine to be excess to the normal requirements of the United States and the Director of the Bureau of the Budget may allocate) to firms privately owned or of mixed private and public ownership upon such terms and conditions as the Corporation may determine. The Corporation may not purchase or invest in any stock in any other corporation, except that it may (1) accept as evidence of indebtedness debt securities convertible to stock, but such debt securities shall not be converted to stock while held by the Corporation, and (2) acquire stock through the enforcement of any lien or pledge or otherwise to satisfy a previously contracted indebtedness which would otherwise be in default, or as the result of any payment under any contract of insurance or guaranty. The Corporation shall dispose of any stock it may so acquire as soon as reasonably feasible under the circumstances then pertaining.

No loans shall be made under this section to finance operations for mining or other extraction of any deposit of ore, oil, gas, or other mineral.

(d) **INVESTMENT ENCOURAGEMENT.**—To initiate and support through financial participation, incentive grant, or otherwise, and on such terms and conditions as the Corporation may determine, the identification, assessment, surveying and promotion of private investment opportunities, utilizing wherever feasible and effective the facilities of private organizations or private investors: *Provided, however*, That the Corporation shall not finance surveys to ascertain the existence, location, extent or quality, or to determine the feasibility of undertaking operations for mining or other extraction, of any deposit of ore, oil, gas, or other mineral. In carrying out this authority, the Corporation shall coordinate with such investment promotion activities as are carried out by the Department of Commerce.

(e) **SPECIAL ACTIVITIES.**—To administer and manage special projects and programs, including programs of financial and advisory support which provide private technical, professional, or managerial assistance in the development of human resources, skills, technology, capital savings and intermediate financial and investment institutions and cooperatives. The funds for these projects and programs may, with the Corporation's concurrence, be transferred to it for such purposes under the authority of section 632(a) or from other sources, public or private.

(f) **OTHER INSURANCE FUNCTIONS.**—

(1) *to make and carry out contracts of insurance or reinsurance, or agreements to associate or share risks, with insurance companies, financial institutions, any other persons, or groups thereof, and employing the same, where appropriate, as its agent, or act-*

ing as their agent, in the issuance and servicing of insurance, the adjustment of claims, the exercise of subrogation rights, the ceding and accepting of reinsurance, and in any other matter incident to an insurance business;

(2) to enter into pooling or other risk-sharing arrangements with other national or multinational insurance or financing agencies or groups of such agencies;

(3) to hold an ownership interest in any association or other entity established for the purposes of sharing risks under investment insurance; and

(4) to issue, upon such terms and conditions as it may determine, reinsurance of liabilities assumed by other insurers or groups thereof in respect of risks referred to in subsection (a) (1).

The authority granted by paragraph (3) may be exercised notwithstanding the prohibition under section 234(c) against the Corporation purchasing or investing in any stock in any other corporation. The amount of reinsurance of liabilities under this title which the Corporation may issue shall not exceed \$600,000,000 in any one year, and the amount of such reinsurance shall not in the aggregate exceed at any one time an amount equal to the amount authorized for the maximum contingent liability outstanding at any one time under section 235(a) (1). All reinsurance issued by the Corporation under this subsection shall require that the reinsured party retain for his own account specified portions of liability, whether first loss or otherwise, and the Corporation shall endeavor to increase such specified portions to the maximum extent possible.

SEC. 235. ISSUING AUTHORITY, DIRECT INVESTMENT FUND AND RESERVES.—(a) (1) The maximum contingent liability outstanding at any one time pursuant to insurance issued under section 234(a) shall not exceed \$7,500,000,000.

(2) The maximum contingent liability outstanding at any one time pursuant to guaranties issued under section 234(b) shall not exceed in the aggregate \$750,000,000, of which guaranties of credit union investment shall not exceed \$1,250,000: *Provided*, That the Corporation shall not make any commitment to issue any guaranty which would result in a fractional reserve less than 25 per centum of the maximum contingent liability then outstanding against guaranties issued or commitments made pursuant to section 234(b) or similar predecessor guaranty authority.

(3) The Congress, in considering the budget programs transmitted by the President for the Corporation, pursuant to section 104 of the Government Corporation Control Act, as amended, may limit the obligations and contingent liabilities to be undertaken under section 234 (a) and (b) as well as the use of funds for operating and administrative expenses.

(4) The authority of section 234 (a) and (b) shall continue until December 31, [1974] 1977.

(b) There shall be established a revolving fund, known as the Direct Investment Fund, to be held by the Corporation. Such fund shall consist initially of amounts made available under section 232, shall be available for the purposes authorized under section 234(c), shall be charged with realized losses and credited with realized gains

and shall be credited with such additional sums as may be transferred to it under the provisions of section 236.

(c) There shall be established in the Treasury of the United States an insurance and guaranty fund, which shall have separate accounts to be known as the Insurance Reserve and the Guaranty Reserve, which reserves shall be available for discharge of liabilities, as provided in section 235(d), until such time as all such liabilities have been discharged or have expired or until all such reserves have been expended in accordance with the provisions of this section. Such fund shall be funded by: (1) the funds heretofore available to discharge liabilities under predecessor guaranty authority (including housing guaranty authorities), less both the amount made available for housing guaranty programs pursuant to section 223(b) and the amount made available to the Corporation pursuant to section 234(e); and (2) such sums as shall be appropriated pursuant to section 235(f) for such purposes. The allocation of such funds to each such reserve shall be determined by the Board after consultation with the Secretary of the Treasury. Additional amounts may thereafter be transferred to such reserves pursuant to section 236.

(d) Any payments made to discharge liabilities under investment insurance or reinsurance issued under section 234[(a)] or under similar predecessor guaranty authority shall be paid first out of the Insurance Reserve, as long as such reserve remains available, and thereafter out of funds made available pursuant to section 235(f). Any payments made to discharge liabilities under guaranties issued under section 234(b) or under similar predecessor guaranty authority shall be paid first out of the Guaranty Reserve as long as such reserve remains available, and thereafter out of funds made available pursuant to section 235(f).

(e) There is hereby authorized to be transferred to the Corporation at its call, for the purposes specified in section 236, all fees and other revenues collected under predecessor guaranty authority from December 31, 1968, available as of the date of such transfer.

(f) There [is hereby] are authorized to be appropriated to the Corporation, to remain available until expended, such amounts as may be necessary from time to time to replenish or increase the insurance and guaranty [fund or to] fund, to discharge the liabilities under [insurance and] insurance, reinsurance, or guaranties issued by the Corporation or issued under predecessor guaranty authority, or to discharge obligations of the Corporation purchased by the Secretary of the Treasury pursuant to this subsection. However, no appropriations, after appropriations for fiscal year 1975, shall be made to augment the Insurance Reserve until the amount of funds in the Insurance Reserve is less than \$25,000,000. Any appropriations to augment the Insurance Reserve shall then only be made either pursuant to specific authorization enacted after the date of enactment of the Overseas Private Investment Corporation Amendments Act of 1974, or to satisfy the full faith and credit provision of section 237(c). In order to discharge liabilities under investment insurance or reinsurance, the Corporation is authorized to issue from time to time for purchase by the Secretary of the Treasury its notes, debentures, bonds, or other obligations; but the aggregate amount of such obligations outstanding at any one time shall not exceed \$100,000,000. Any such obligation

shall be repaid to the Treasury within one year after the date of issue of such obligation. Any such obligation shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of any obligation authorized by this subsection. The Secretary of the Treasury shall purchase any obligation of the Corporation issued under this subsection, and for such purchase he may use as a public debt transaction the proceeds of the sale of any securities issued under the Second Liberty Bond Act after the date of enactment of the Overseas Private Investment Corporation Amendments Act of 1974. The purposes for which securities may be issued under such Bond Act shall include any such purchase.

SEC. 236. INCOME AND REVENUES.—In order to carry out the purposes of the Corporation, all revenues and income transferred to or earned by the Corporation, from whatever source derived, shall be held by the Corporation and shall be available to carry out its purposes, including without limitation—

(a) payment of all expenses of the Corporation, including investment promotion expenses;

(b) transfers and additions to the insurance or guaranty reserves, the Direct Investment Fund established pursuant to section 235, and such other funds or reserves as the Corporation may establish, at such time and in such amounts as the Board may determine; and

(c) payment of dividends, on capital stock, which shall consist of and be paid from net earnings of the Corporation after payments, transfers, and additions under subsections (a) and (b) hereof.

SEC. 237. GENERAL PROVISIONS RELATING TO INSURANCE AND GUARANTY PROGRAMS.—(a) Insurance [and guaranties], *guaranties and reinsurance* issued under this title shall cover investment made in connection with projects in any less developed friendly country or area with the government of which the President of the United States has agreed to institute a program for insurance [or guaranties], *guaranties, or reinsurance*.

(b) The Corporation shall determine that suitable arrangements exist for protecting the interest of the Corporation in connection with any insurance [or guaranty], *guaranty, or reinsurance* issued under this title, including arrangements concerning ownership, use, and disposition of the currency, credits, assets, or investments on account of which payment under such insurance [or guaranty], *guaranty, or reinsurance* is to be made, and any right, title, claim, or cause of action existing in connection therewith.

(c) All guaranties issued prior to July 1, 1956, all guaranties issued under sections 202(b) and 413(b) of the Mutual Security Act of 1954, as amended, all guaranties heretofore issued pursuant to prior guaranty authorities repealed by the Foreign Assistance Act of 1969, and all insurance, *reinsurance*, and guaranties issued pursuant to this title shall constitute obligations, in accordance with the terms of such insurance, *reinsurance*, or guaranties, of the United States of America and the full faith and credit of the United States of America is hereby pledged for the full payment and performance of such obligations.

(d) Fees shall be charged for insurance, *reinsurance*, and guaranty coverage in amounts to be determined by the Corporation. In the event fees to be charged for investment insurance, *reinsurance*, or guaranties are reduced, fees to be paid under existing contracts for the same type of guaranties [or insurance], *insurance*, or *reinsurance* and for similar guaranties issued under predecessor guaranty authority may be reduced.

(e) No insurance [or guaranty], *guaranty*, or *reinsurance* of any equity investment shall extend beyond twenty years from the date of issuance.

(f) No insurance, *reinsurance*, or guaranty issued under this title shall exceed the dollar value, as of the date of the investment, of the investment made in the project with the approval of the Corporation plus interest, earnings or profits actually accrued on said investment to the extent provided by such insurance, *reinsurance*, or guaranty. *Notwithstanding the preceding sentence, the Corporation shall limit the amount of direct insurance and reinsurance issued by it under section 234 so that risk of loss as to at least 10 percent of the total investment of the insured and its affiliates in the project is borne by any person other than the Corporation on the date the insurance is issued. The preceding sentence shall not apply to any loan by an insurance company, pension fund, or other institutional lender, or to any investment by a small business.*

(g) No payment may be made under any guaranty, *insurance*, or *reinsurance* issued pursuant to this title for any loss arising out of fraud or misrepresentation for which the party seeking payment is responsible.

(h) Insurance [or guaranties], *guaranties*, or *reinsurance* of a loan or equity investment of an eligible investor in a foreign bank, finance company, or other credit institution shall extend only to such loan or equity investment and not to any individual loan or equity investment made by such foreign bank, finance company, or other credit institution.

(i) Claims arising as a result of insurance, *reinsurance*, or guaranty operations under this title or under predecessor guaranty authority may be settled, and disputes arising as a result thereof may be arbitrated with the consent of the parties, on such terms and conditions as the Corporation may determine. Payment made pursuant to any such settlement, or as a result of an arbitration award, shall be final and conclusive notwithstanding any other provision of law.

(j) Each guaranty contract executed by such officer or officers as may be designated by the Board shall be conclusively presumed to be issued in compliance with the requirements of this Act.

(k) In making a determination to issue insurance, *reinsurance*, or a guaranty under this title, the Corporation shall consider the possible adverse effect of the dollar investment under such insurance, *reinsurance*, or guaranty upon the balance of payments of the United States.

SEC. 238. DEFINITIONS.—As used in this title—

(a) the term "investment" includes any contribution of funds, commodities, services, patents, processes, or techniques, in the form of (1) a loan or loans to an approved project, (2) the purchase of a share of ownership in any such project, (3) participa-

tion in royalties, earnings, or profits of any such project, and (4) the furnishing of commodities or services pursuant to a lease or other contract;

(b) the term "expropriation" includes, but is not limited to, any abrogation, repudiation, or impairment by a foreign government of its own contract with an investor with respect to a project, where such abrogation, repudiation, or impairment is not caused by the investor's own fault or misconduct, and materially adversely affects the continued operation of the project;

(c) the term "eligible investor" means: (1) United States citizens; (2) corporations, partnerships, or other associations including non-profit associations, created under the laws of the United States or any State or territory thereof and substantially beneficially owned by United States citizens; and (3) foreign corporations, partnerships, or other associations wholly owned by one or more such United States citizens, corporations, partnerships, or other associations: *Provided, however,* That the eligibility of such foreign corporation shall be determined without regard to any shares, in aggregate less than 5 per centum of the total issued and subscribed share capital, held by other than the United States owners: *Provided further,* That in the case of any loan investment a final determination of eligibility may be made at the time the insurance or guaranty is issued; in all other cases, the investor must be eligible at the time a claim arises as well as at the time the insurance or guaranty is issued; and

(d) the term "predecessor guaranty authority" means prior guaranty authorities (other than housing guaranty authorities) repealed by the Foreign Assistance Act of 1969, section 202(b) and 413(b) of the Mutual Security Act of 1954, as amended, and section 111(b) (3) of the Economic Cooperation Act of 1948, as amended (exclusive of authority relating to informational media guaranties).

SEC. 239. GENERAL PROVISIONS AND POWERS.—(a) The Corporation shall have its principal office in the District of Columbia and shall be deemed, for purposes of venue in civil actions, to be resident thereof.

(b) The President shall transfer to the Corporation, at such time as he may determine, all obligations, assets and related rights and responsibilities arising out of, or related to, predecessor programs and authorities similar to those provided for in section 234(a), (b), and (d). Until such transfer, the agency heretofore responsible for such predecessor programs shall continue to administer such assets and obligations, and such programs and activities authorized under this title as may be determined by the President.

(c) The Corporation shall be subject to the applicable provisions of the Government Corporation Control Act, except as otherwise provided in this title.

(d) To carry out the purposes of this title, the Corporation is authorized to adopt and use a corporate seal, which shall be judicially noticed; to sue and be sued in its corporate name; to adopt, amend, and repeal bylaws governing the conduct of its business and the performance of the powers and duties granted to or imposed upon it by law; to acquire, hold or dispose of, upon such terms and conditions as the Corporation may determine, any property, real, personal, or mixed, tangible or intangible, or any interest therein; to invest funds derived from fees and other revenues in obligations of the United States and

to use the proceeds therefrom, including earnings and profits, as it shall deem appropriate; to indemnify directors, officers, employees and agents of the Corporation for liabilities and expenses incurred in connection with their Corporation activities; to require bonds of officers, employees, and agents and pay the premiums therefor; notwithstanding any other provision of law, to represent itself or to contract for representation in all legal and arbitral proceedings; to purchase, discount, rediscount, sell, and negotiate, with or without its endorsement or guaranty, and guarantee notes, participation certificates, and other evidence of indebtedness (provided that the Corporation shall not issue its own securities, except participation certificates for the purpose of carrying out section 231(c)); to make and carry out such contracts and agreements as are necessary and advisable in the conduct of its business; to exercise the priority of the Government of the United States in collecting debts from bankrupt, insolvent, or decedents' estates; to determine the character of and the necessity for its obligations and expenditures, and the manner in which they shall be incurred, allowed, and paid, subject to provisions of law specifically applicable to Government corporations; and to take such actions as may be necessary or appropriate to carry out the powers herein or hereafter specifically conferred upon it.

(e) The Auditor-General of the Agency for International Development (1) shall have the responsibility for planning and directing the execution of audits, reviews, investigations, and inspections of all phases of the Corporation's operations and activities and (2) shall conduct all security activities of the Corporation relating to personnel and the control of classified material. With respect to his responsibilities under this subsection, the Auditor-General shall report to the Board. The agency primarily responsible for administering part I shall be reimbursed by the Corporation for all expenses incurred by the Auditor-General in connection with his responsibilities under this subsection.

(f) In order to further the purposes of the Corporation there shall be established an Advisory Council to be composed of such representatives of the American business community as may be selected by the Chairman of the Board. The President and the Board shall, from time to time, consult with such Council concerning the objectives of the Corporation. Members of the Council shall receive no compensation for their services but shall be entitled to reimbursement in accordance with section 5703 of title 5 of the United States Code for travel and other expenses incurred by them in the performance of their functions under this section. *The Council shall terminate on December 31, 1977.*

(g) Except for the provisions of this title, no other provision of this or any other law shall be construed to prohibit the operation in Yugoslavia or Romania of the programs authorized by this title, if the President determines that the operation of such program in such country is important to the national interest.

(h) *Within six months after the date of enactment of the Overseas Private Investment Corporation Amendments Act of 1974, the Corporation shall develop and implement specific criteria intended to minimize the potential environmental implications of projects undertaken by investors abroad in accordance with any of the programs authorized by this title.*

(i) *It is the intention of Congress that on or after December 31, 1979, the President should transfer all programs under section 234 (b) through (c) or section 240, and all obligations, assets, and related rights and responsibilities arising out of, or related to, such programs to any other agency of the United States.*

(j) *On and after December 31, 1979, all programs authorized under section 234 (b) through (e) or section 240 shall be limited to countries with a per capita income of \$450 or less in 1973 United States dollars.*

SEC. 240. AGRICULTURAL CREDIT AND SELF-HELP COMMUNITY DEVELOPMENT PROJECTS.—(a) It is the sense of the Congress that in order to stimulate the participation of the private sector in the economic development of less developed countries [in Latin America, the authority conferred by this section should be used to establish pilot programs in not more than five Latin American countries], *the authority conferred by this section should be used to establish programs in such countries to encourage private banks, credit institutions, similar private lending organizations, cooperatives, and private nonprofit development organizations to make loans on reasonable terms to organized groups and individuals residing in a community for the purpose of enabling such groups and individuals to carry out agricultural credit and self-help community development projects for which they are unable to obtain financial assistance on reasonable terms. Agricultural credit and assistance for self-help community development projects should include, but not be limited to, material and such projects as wells, pumps, farm machinery, improved seed, fertilizer, pesticides, vocational training, food industry development, nutrition projects, improved breeding stock for farm animals, sanitation facilities, and looms and other handicraft aids.*

(b) To carry out the purposes of subsection (a), the Corporation is authorized to issue guaranties, on such terms and conditions as it shall determine, to private lending institutions, cooperatives, and private nonprofit development organizations in [not more than five Latin American] *less developed countries assuring against loss of not to exceed [25] 50 per centum of the portfolio of such loans made by any lender to organized groups or individuals residing in a community to enable such groups or individuals to carry out agricultural credit and self-help community development projects for which they are able to obtain financial assistance on reasonable terms. In no event shall the liability of the United States exceed 75 per centum of any one loan.*

(c) The total face amount of guaranties issued under this section outstanding at any one time shall not exceed \$15,000,000. Not more than 10 per centum of such sum shall be provided for any one institution, cooperative, or organization.

(d) The Inter-American Social Development Institute shall be consulted in developing criteria for making loans eligible for guaranty coverage under this section.

(e) The guaranty reserve established under section 235 (c) shall be available to make such payments as may be necessary to discharge liabilities under guaranties issued under this section.

(f) Notwithstanding the limitation contained in subsection (c) of this section, foreign currencies owned by the United States and determined by the Secretary of the Treasury to be excess to the needs

of the United States may be utilized to carry out the purposes of this section, including the discharge of liabilities incurred under this subsection. The authority conferred by this subsection shall be in addition to authority conferred by any other provision of law to implement guaranty programs utilizing excess local currency.

(g) The Corporation shall, on or before January 15, [1972] 1976, make a detailed report to the Congress on the results of the [pilot] programs established under section, together with such recommendations as it may deem appropriate.

(h) The authority of this section shall continue until December 31, [1974] 1977.

SEC. 240A. REPORTS TO THE CONGRESS.—(a) After the end of each fiscal year, the Corporation shall submit to the Congress a complete and detailed report of its operations during such fiscal year.

(b) Not later than [March 1, 1974] January 1, 1976, the Corporation shall submit to the Congress an analysis of the possibilities of transferring all [or part] of its activities to private [United States citizens, corporations, or other associations] *insurance companies, multilateral organizations or institutions, or other entities.*

DISSENTING VIEWS OF HON. CLEMENT J. ZABLOCKI

Webster's defines an "anachronism" as "anything out of its proper historical time." This, in my view, characterizes OPIC today.

I am opposed to H.R. 13973 and intend to vote against its passage.

In 1969, when OPIC was removed from AID and created as a separate corporation, I opposed that move on the grounds that "OPIC would do little more than was already being done by the Office of Private Resources which operated the program within AID; OPIC would operate at considerably increased cost to the taxpayers without any corresponding improvement in program accomplishment or administration; and, through the corporate structure, would lessen congressional review and put the programs into the hands of a new breed of bureaucrats."

Nothing has happened during the last five years which would persuade me to change those views. OPIC now has five vice presidents instead of three, and the ratio of chiefs to Indians, 1:3, remains about the same.

OPIC's authority under the 1969 Act would have expired June 30, 1974. This was extended under the Foreign Assistance Act of 1973 to December 31, 1974, and would be further extended by H.R. 13973—initially to December 31, 1977, and then, undoubtedly *ad infinitum*.

I would have supported an extension of OPIC's authority for one or two years if, at expiration, there would be complete termination of the U.S. Government subsidy of OPIC's programs. However, under the proposed bill, OPIC will continue to operate in the future along the same lines as in the past. The only demand placed on OPIC by H.R. 13973 is a "non-mandatory" requirement, with target dates of 1979-1980, that it should move as rapidly as possible toward transferring the writing and managing of political risk insurance contracts to private insurance companies. OPIC would continue beyond 1980 in the role of reinsurer of the private insurance companies writing political risk insurance. This, in effect, will keep the United States heavily involved and contingently liable for losses under OPIC-type programs; only the mechanics of handling the policies would be changed.

C. J. ZABLOCKI.

DISSENTING VIEWS OF HON. LEO J. RYAN

There are, in my judgment, only two viable legislative alternatives for OPIC—the Congress can decline to extend the statutory authority of the agency past its present deadline, or curtail the present functions of OPIC and channel the agency into a course that will culminate with the ultimate takeover of the political risk insurance field by private underwriters.

The first alternative has an immediate value for several reasons:

It would reduce the level of temptation for U.S. intrigue in the affairs of foreign countries in the name of protecting American business interests, the most recent examples of which are Jamaica and Chile.

It would reduce, by one agency, the level of confusion that presently seems to exist among the various Federal agencies that have a direct or indirect effect on U.S. foreign policy.

If there is a need for the insurance role presently held by a quasi-public agency, then private underwriters will and should be encouraged to pick up the void left by the abolishment of OPIC.

It would allow the Congress to consider anew the nature and size of whatever is needed in the way of foreign aid to LDC's unencumbered by current Federal law.

The second alternative, while not as desirable, will accomplish the same goal in the long run. It should, however, incorporate provisions which will insure the achievement of several worthwhile objectives.

A rededication by OPIC to the goal of encouraging development in LDC's and a reduction of the OPIC insurance role in countries that do not, by past or current standards, meet the qualification of an LDC.

It should direct OPIC to undertake a well defined program of positive steps that will encourage small U.S. corporations that might be lacking the resources and expertise necessary to compete with larger industries in the complex area of overseas development. This should be construed in such a manner that a limit is set on the size of the entity to be insured.

Recognizing the sensitivity of a country to the removal of its natural resources, and the possible resentment caused by any foreign company with an equity interest in the extraction process of that natural resource, OPIC should not insure any industry that holds a nonliquidable equity interest in any extractive activities in LDC's.

Any new legislation should create an industrial incentive program that will encourage U.S. corporate activity and investment in LDC's. Such a program should underline the advantages of sound and responsible corporate management in a free enterprise system in the country where the corporations develop an interest.

LEO J. RYAN.

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**SUPPLEMENTAL VIEWS OF HON. PETER H. B. FRE-
LINGHUYSEN, HON. WILLIAM S. BROOMFIELD AND
HON. EDWARD J. DERWINSKI**

We support the bill reported by the Committee to extend under revised mandates the operations of the Overseas Private Investment Corporation. With this legislation the Congress is taking an unusual step—directing a public agency to try to turn its main function over to the private sector, beginning with an experimental mixed public-private enterprise. The agency concerned, OPIC, is itself unusual in that its investment insurance service has been earning substantial net income while making important contributions to our foreign development assistance efforts. This businesslike performance has made it possible to contemplate the experiment authorized by this legislation to transform the OPIC investment insurance program into a collaborative arrangement with private insurers.

We are concerned, however, that the understandable focus of attention on the unusual feature of this legislation may lead to a misinterpretation of the intent of Congress. We believe it should be emphasized that the Congress intends OPIC to continue to fulfill its purpose of effectively and selectively encouraging U.S. private enterprise to invest in mutually beneficial projects in the developing countries. Whatever the degree or form of private insurance company participation in the OPIC investment insurance program, this purpose should not be sacrificed.

In extending OPIC's authority, the bill recognizes that private investment reduces the need of the developing countries for government-to-government foreign aid. Private skills, management and capital invested in productive projects stimulate growth of private and public income, create jobs, and increase a nation's capacity to meet its economic needs through trade. The bill adds new mandates to sharpen and intensify OPIC's role in channeling U.S. private investment into countries and fields where it is most needed.

The function of the investment insurance program is to encourage U.S. investment in countries and in fields where the risks peculiar to potentially unstable, developing societies—war, revolution, insurrection, expropriation and currency inconvertibility—might otherwise deter a U.S. company from venturing. It is only by taking these risks that the OPIC insurance program can fulfill its developmental purpose. Insurance risk-management should not be pressed to the extreme of totally avoiding the very countries that most need the benefits of private investment.

From this perspective, we strongly support the Committee's decision to revoke the position it took in 1971 in opposition to OPIC's encouraging new U.S. private investment in the Indo-China countries. As peace is restored in South Vietnam, private investment—already resumed by the Japanese with the support of their government's in-

surance program—can accelerate the country's achievement of self-support. South Vietnam has great potential for economic progress, and the United States should assist in that development by encouraging private investment, which will reduce the need for direct U.S. government support.

By prudently and selectively encouraging U.S. investment in these countries in accordance with the Committee's guidelines as the evolving situation there warrants, OPIC would be performing the kind of service for which it was created. Through continuing oversight of OPIC's activities there by the legislative committees of the House and Senate, there would be ample protection against the concerns expressed in 1971 by this Committee and early this year by the Senate Foreign Relations Committee.

PETER H. B. FRELINGHUYSEN.
WILLIAM S. BROOMFIELD.
EDWARD J. DERWINSKI.



93D CONGRESS }
2d Session }

SENATE

{ REPORT
No. 93-676

THE OVERSEAS PRIVATE INVESTMENT
CORPORATION AMENDMENTS ACT

REPORT

OF THE

COMMITTEE ON FOREIGN RELATIONS

UNITED STATES SENATE

ON

S. 2957

TOGETHER WITH MINORITY VIEWS AND
ADDITIONAL VIEWS



FEBRUARY 5, 1974.—Ordered to be printed

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THE OVERSEAS PRIVATE INVESTMENT CORPORATION
AMENDMENTS ACT

FEBRUARY 5, 1974.—Ordered to be printed

Mr. CHURCH, from the Committee on Foreign Relations,
submitted the following

REPORT

[To accompany S. 2957]

The Committee on Foreign Relations, having had under consideration the matter of the Overseas Private Investment Corporation, reports an original bill (S. 2957), and recommends that the bill do pass without amendment.

I. PURPOSE OF THE BILL

This bill is designed to transfer to private insurance companies from the Overseas Private Investment Corporation (OPIC) the opportunity to directly insure private investment in the less developed nations against three types of political risk—war, expropriation and inconvertibility of currency. The bill allows OPIC to work with private insurance companies and multilateral organizations such as the World Bank in various ways which encourage them to assume the writing of political risk insurance. Within a seven year period, OPIC is required to withdraw from the business of directly writing political risk insurance and to assume a reinsurance role.

The various direct finance programs currently administered by OPIC are shifted out of OPIC at the same time it stops directly writing political risk insurance. This is done with the belief that the direct finance programs are merely redundant of larger programs administered by AID or the international financial institutions. Also, as OPIC decreases its political risk insurance function it will become too small an entity to justify its continued administration of the direct finance programs.

II. COMMITTEE ACTION

The bill was considered by the Subcommittee on Multinational Corporations on October 11, 1973, and ordered reported to the Committee on Foreign Relations. The Committee on Foreign Relations considered it, with amendments, on December 11, 1973.

Senator Javits proposed two amendments to the bill as reported by the Subcommittee. He proposed that Section 2 of the bill be amended so that failure by OPIC to obtain 25 per centum outside participation in the direct writing of expropriation and inconvertibility insurance would not result in an interruption of OPIC's authority to write insurance. He also proposed that Section 2 of the bill be amended so that failure by OPIC to obtain 12½ per centum of outside participation in the direct writing of war risk insurance would not result in an interruption of OPIC's authority to write such insurance.

Both amendments were rejected by a vote of 6 yeas to 10 nays. Voting yea were Senators McGee, Humphrey, Aiken, Javits, Scott, and Griffin. Voting nay were Senators Fulbright, Mansfield, Church, Symington, Pell, Muskie, McGovern, Case, Pearson, and Percy.

The Committee voted nine yeas to seven nays to report the bill as reported by the Subcommittee on Multinational Corporations without amendment.

Senators Fulbright, Mansfield, Church, Symington, Pell, Muskie, McGovern, Pearson, and Percy voted yea. Senators McGee, Humphrey, Aiken, Case, Javits, Scott, and Griffin voted nay.

III. SECTION-BY-SECTION ANALYSIS OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION AMENDMENTS ACT

GENERAL PURPOSE STATEMENT

The Overseas Private Investment Corporation Amendments Act consists entirely of amendments to Title IV of part I of the Foreign Assistance Act as amended.

The purpose of this legislation is to provide a transition period of approximately six years during which the Overseas Private Investment Corporation will phase out of direct issuance of political risk insurance and assume solely the role of reinsurer. The transition period is designed to allow the private insurance industry and/or multilateral organizations to gain the necessary experience to offer insurance programs for this type of risk. The legislation requires that whether or not private insurance companies and multilateral organizations and institutions offer to write a large amount of political risk insurance, OPIC must stop directly writing war risk insurance by December 31, 1980, and expropriation and inconvertibility insurance by December 31, 1979. Due to the size of the face value of the insurance expected to be issued and the limited availability of insurance resources at this point in time, it is the intent of this legislation to have the United States government continue after 1980 as a reinsurer for catastrophic loss. Congress in the future may wish to examine whether to continue this role as reinsurer under future circumstances.

The bill amends Title IV of part I of the Foreign Assistance Act of 1961 as follows:

Section 2(1)(A)

Section (1)(A) of the bill amends the first sentence of Section 231 of Title IV. The word "development" is substituted for the word "progress" to emphasize the Congressional desire that OPIC insured projects create jobs and services or products which benefit the poorest 60% of the population of the countries in which the projects are placed.

Section 2(1)(B)

Section (1)(B) amends Section 231(a) of Title IV instructing OPIC to conduct its insurance and reinsurance operations, as well as its financing operations, on a self-sustaining basis.

Section 2(1)(C)

Section (1)(C) strikes out Section 231(b) of Title IV relating to OPIC's use of private credit institutions. This section becomes unnecessary in light of the bill's requirement that the insurance be issued in consortium with private insurance companies and multilateral organizations.

Section 2(1)(D)

Section (1)(D) makes technical amendments to Section 231(d) of Title IV to make it consistent with other changes.

Section 2(1)(E)

Section (1)(E) amends Section 231(i) of Title IV. It requires that OPIC give very strong weight in its decisions whether or not to issue insurance to the consideration of whether the insured project will have a detrimental impact on United States employment.

Section 2(2)(A)

This section amends the caption of Section 234 of Title IV to emphasize the central importance of OPIC's insurance programs.

Section 2(2)(B)

This section amends the entire Section 234 of Title IV as follows:

(a) Section 234(a)(1) of Title IV

This paragraph makes only stylistic changes.

(b) Section 234(a)(2)

This paragraph allows OPIC to join in an insurance writing consortium with multinational institutions or organizations or with foreign governments to jointly issue insurance against inconvertibility, expropriation and war risks. However, the maximum share of liabilities assumed by the Corporation shall not exceed the Corporation's proportional share as specified in subsection 234(a)(4) and (5).

(c) Section 234(a)(4) and (5)

These paragraphs phase OPIC out of the business of writing direct insurance. The legislation is written to allow OPIC to assume a declining percentage of the new insurance which is written rather than requiring OPIC to immediately completely withdraw from its role of original insurer. This is meant to give OPIC flexibility in negotiating an agreement with the private insurance companies and multilateral organizations or institutions.

These paragraphs provide a sliding scale in which OPIC, beginning in 1975, must share its direct writing of insurance with private insurance companies or multilateral institutions. Failure to achieve the 25% requirement contained in Section 234(a)(4)(A) for expropriation and inconvertibility insurance or the 12½% requirement for private or multilateral participation in war risk insurance contained in 234(a)(5)(A) will result under Section 2(3)(A) of this bill in interruption of OPIC's authority to issue that type of insurance for which the quota has not been met.

The formula used in these paragraphs assures that no political risk insurance will be written by OPIC in countries where private insurance companies are unwilling to issue some insurance. Thus, the United States Treasury will be safeguarded and OPIC will be forced to conform to the risk spreading decisions of private insurance companies and multilateral organizations.

The Committee has concluded that it is its firm intent that the U.S. Government discontinue directly writing insurance policies, through OPIC or any other U.S. Government entity or quasi-Government entity, to cover the risks of expropriation and inconvertibility by December 31, 1979, and for war risks by December 31, 1980, as set forth in section 234(a) of the legislation. The Committee adheres to this conclusion even if it is not feasible for the private insurance companies to assume 100 percent of the direct writing of political risk insurance. The Committee further considers it desirable that private insurance companies undertake to issue such insurance in the future. The Committee, however, is not unmindful of the difficulties involved in achieving a phase out of the Government's role in directly writing political risk insurance. Thus, while evidencing its determination that the U.S. Government role in directly writing investment guarantee insurance—expropriation, inconvertibility, war risk—be finally terminated, the Committee has in mind the possible need in the future for some reasonable minimal extension of time to conclude the U.S. Government's role in directly writing political risk insurance.

The term coinsurer shall mean participation of OPIC with private insurance companies and multilateral institutions or organizations in which OPIC agrees to insure a percentage of the risk on a specific contract and the other insurers agree to accept the remainder. As a coinsurer OPIC is directly liable to the insured investor for OPIC's share of the insurance contract.

(d) Section 234(a)(6)

This paragraph allows OPIC to adjust for the reality that the private insurance companies, at this time, are unwilling to write long-term political risk insurance contracts, but will write short-term contracts with an optional renewal clause. Where private insurance companies write a short-term policy with a renewal clause, OPIC may, until January 1, 1981, guarantee the insured that it will take over the contract if the private insurance companies fail to renew their contract. OPIC may only enter into such an agreement if it receives a percentage of the insurance premium commensurate with the risk it accepts. OPIC may not guarantee policies written after January 1, 1981.

(e) Section 234(a)(7)

This paragraph allows OPIC to reinsure the private insurance companies against a global loss. This paragraph requires that re-insured parties absorb, in each year in which they make reinsurance claims against OPIC, a deductible of at least 50% of the value of the reinsurance the party or parties making the claim have outstanding in the country in which it (they) has the most reinsurance. A meaningful deductible such as the one provided in this section is necessary in order to prevent OPIC from merely using the private insurance companies as salesmen with OPIC picking up all significant losses through its reinsurance. It is also necessary to have a reinsurance formula which gives the private com-

panies an incentive to spread their insurance quite evenly throughout the less developed world. This formula accomplishes both goals by tying the deductible to the amount of insurance a private insurance company writes in that country in which it writes the most political risk insurance. The term reinsurance shall mean a contract between OPIC and a primary insurer or group of insurers whereby OPIC agrees to insure the private companies for a loss in any one year greater than their deductible. The Corporation shall be able to issue \$600,000,000 of reinsurance in the first year of this legislation and \$600,000,000 each year thereafter on a cumulative basis to an overall limit of \$12,000,000,000.

(f) Section 234(a)(8)

Management of the political risk insurance programs shall pass to those entities which write the insurance. After December 31, 1980, OPIC shall continue to act as a reinsurer, and to manage the outstanding direct insurance portfolio it has on December 31, 1980.

(g) Section 234(a)(9)

This paragraph defines "new policies" for the purposes of Section 234(a). It is not meant to apply to minor technical corrections such as typing or numbering corrections.

(h) Section 234(a)(10)

This paragraph authorizes OPIC to enter into various coinsurance and reinsurance arrangements with private insurance companies and other entities. This subsection should be read in conjunction with subsections 234(a)(2), (a)(4), (a)(5), and (a)(8).

Section 2(3)(A)

This section amends Section 235(a)(4) of Title IV. If the Corporation fails to achieve the requirements specified in paragraphs 234(a)(4)(A) or 234(a)(5)(A), this subsection requires that it cease issuing new insurance policies on these types of political risk insurance for which the percentage specified has not been reached. Once the percentages are reached, the Corporation may resume issuing new insurance policies of the types defined in paragraphs 234(a)(1)(A) and (B) through December 31, 1979, and of the type specified in Section 234(a)(1)(C) through December 31, 1980.

Section 2(3)(B)

This section establishes that the order of payments in discharging liabilities under investment reinsurance will be the same as that under investment insurance as specified in Section 235(d) of Title IV.

Section 2(3)(C)

This section amends Section 235(f) of Title IV to specifically limit the instances in which the Corporation may seek additional appropriations for its Insurance Reserve to those instances in which the Insurance Reserve is at a level below \$25 million. Any appropriation can then only be made with either specific authorization by the Congress or to satisfy the full faith and credit provision of subsection 237(c). A borrowing provision has been added to allow the Corporation to quickly cover valid claims during pending appropriation requests.

Sections 2 (4) (A) through (4) (E)

Make technical amendments in Sections 237(a) through 237(e) so as to apply to reinsurance as well as insurance and guaranties. This is in accordance with the thrust of this bill which moves OPIC into a reinsurance role.

Section 2(4) (F)

This section amends Section 237(f) of Title IV so that retained interest, earnings or profit can be insured only if these are reinvested in the insured project.

The deductible is specified in order to make the investing company share the political risk of the investment, thereby influencing the company to invest in ways which will be acceptable in the long run to the Less Developed Country.

Section 2 (4) (G) through (4) (J)

Make technical amendments in Section 237(g) through 237(i) and 237(k) so as to apply to reinsurance as well as insurance and guaranties. This is in accordance with the thrust of this bill which moves OPIC into a reinsurance role.

Section 2(5) (A)

This section amends Section 239(b) of Title IV. It requires that the Corporation cease operating its direct finance and loan guarantee programs including the Agricultural Credit and Self-Help Community Development Projects (all programs specified by Section 234 (b) through (e) and Section 240 of Title IV), on December 31, 1979. On that date or thereafter the President may transfer these programs and all obligations, assets, and related rights and responsibilities into AID or some other agency. However, after December 31, 1979, these programs shall be limited to countries with \$450 or less of per capita income in 1973 dollars.

Section 2(5) (B)

This section strikes out subsection (g) of Section 239 of Title IV which authorized OPIC to conduct its programs for projects in Yugoslavia and Rumania. This is done in the belief that the United States Government should not insure against political risk in Communist countries.

Section 2(6)

This section strikes subsection 240(h) as unnecessary in light of (5) (A) of this bill which extends the authorization for Agricultural Credit and Self-Help Community Development Projects until December 31, 1979.

Section 2(7)

This section amends Section 240A(b) relating to reports to Congress. It requires that no later than January 1, 1976, the Corporation must submit to Congress a report which will focus on the feasibility of transferring the reinsurance function of the Corporation to private insurance companies, multilateral organizations and institutions, or other entities. It is the desire of the Committee that the reinsurance function be transferred as soon as possible.

IV. BACKGROUND AND ANALYSIS

A. INTRODUCTION

The Overseas Private Investment Corporation (OPIC) primarily administers a program of investment guarantees which insure United States corporations investing abroad in the developing countries against the risks of (a) inconvertibility, (b) expropriation, and (c) war. Since the Marshall Plan, authorization for the investment guarantee program has been incorporated as a part of the legislation authorizing foreign assistance. Until 1969, the program was administered by those agencies responsible for the Foreign Aid Program, most recently the Agency for International Development (AID).

The legislation authorizing the establishment of OPIC as an agency separate from AID was first proposed in 1969, but was not reported by the Senate Foreign Relations Committee. Nonetheless, an amendment to the Foreign Assistance Act was proposed on the floor by Senator Javits and following a brief debate was adopted by the Senate in December 1969. Until the recent hearings of the Senate Foreign Relations Subcommittee on Multinational Corporations, neither the AID investment guarantee programs nor OPIC had ever been subject to open Senate hearings.

The original mandate of OPIC was limited to five years, and it was the intention of Congress that the program's structure and performance should come under periodic review. During the floor debate on the OPIC legislation, Senator Aiken stated that: "I am willing to give the Overseas Private Investment Corporation a tryout, and see what comes of it. We will undoubtedly review it next year, anyway. . . ." Because OPIC has submitted a request that its present authorization be extended, and, in addition, has asked for a \$72 million supplemental appropriation, the Foreign Relations Committee decided to initiate hearings to determine whether or not OPIC is carrying out its mandate as envisioned by Congress, and to examine the program in terms of United States political and economic relations with the less developed countries.

The Subcommittee on Multinational Corporations was designated to conduct these hearings because OPIC is a government agency used primarily by the multinational corporations. Seventy-nine percent of all OPIC issued insurance was provided to corporations on the Fortune magazine lists of the largest 500 corporations and the 50 largest banks.

The Subcommittee held six days of hearings and heard 42 witnesses. It received statements from individuals who did not appear personally to testify before the Subcommittee, as well as additional material submitted by several witnesses who did testify. This report is based upon the testimony and supplementary material received in the course of the hearings.

On December 11, 1973 the Senate Foreign Relations Committee approved the bill recommended by the Subcommittee on Multinational Corporations.

B. BACKGROUND OF THE INVESTMENT GUARANTEE PROGRAM

The investment guarantee program, from its inception, has been associated with the foreign policy objectives of the United States. The program originated as a part of the Economic Cooperation Act of 1948 whose purpose was "to promote world peace and the general welfare, national interests, and foreign policy of the United States through economic, financial, and other measures necessary to the maintenance of conditions abroad in which free institutions may survive and consistent with the maintenance of the strength and stability of the United States."

The United States emerged from the Second World War as the preeminent economic power of the world. The heavy infusion of government spending and capital investment during the war period successfully extricated the national economy from the depression of the 1930's. In the decade 1938-1948, the U.S. GNP had nearly tripled while its exports had quadrupled. Of all of the major industrial powers of the pre-World War II period, only the United States survived the war with its industrial plant intact and its productive capacity greatly expanded.

The immediate post-World War II period generated a number of significant policy issues. Two of these had a very direct impact on the formation of the guarantee program. First, there was concern over the health of the American economy. It was feared that with the end of the war there would be a sharp drop in demand which would result in a severe recession or depression. Second, there was a deep concern over the development of stable governments in the war-ravaged countries of Europe. This second concern was significantly heightened as Soviet intentions of domination in Europe became apparent. Communism was seen as a monolithic movement antithetical to U.S. institutions and values.

The operational policy that attempted to alleviate some of the economic problems facing the U.S. economy and at the same time contribute to the development of stable governments in Western Europe was the Marshall Plan. The underlying rationale of the Marshall Plan was that growing and expanding economies raised the probability that stable governments would evolve. A growing economy provides expanded resources for government operations as well as lowering political dissatisfaction among the population. This accelerated economic growth was to be accomplished by a massive capital infusion into Europe to replace capital destroyed during the war.

This infusion of capital goods was to be supplied by the United States thereby helping to hold up the post war demand level in the U.S. domestic economy. In the longer run the rebirth of the economies of Europe and Japan also held the prospect for a greater expansion of world trade. The development of world trade and a financial system to support it were part of the longer run recovery process in Europe and Japan. The percentage of GNP entering into trade in Europe and

Japan is two to four times higher than the U.S. percentage. In terms of volume, though, trade was still of economic importance to the United States.

The motivations of the United States in establishing the Marshall Plan and the U.S. post-World War II policy in Europe and Asia are still being argued. It is enough for our purposes here to record that the United States undertook a major program—economic, political, and military—designed to aid the U.S. economy in its transition to peacetime production and forestall any plans by the Soviet Union to directly or indirectly absorb the countries of Western Europe. One of the centerpieces of this strategy was the Marshall Plan of which the guarantee was a part. The guarantee program consequently arose as an adjunct to the European economic recovery program and, as such, was an intimate, if minor, part of the overall U.S. strategy for the post-World War II period.

1. THE PRE-OPIC PROGRAM

The initial program was modest in scope and only guaranteed equity convertibility; only 12 firms applied in its first year. The coverage of the guarantee program was gradually expanded. In 1949, the definition of eligible investment was broadened to include expansion, modernization, or development of existing enterprises. In 1950, the guarantee was extended to loss through expropriation or confiscation.

In 1951, the guarantee program was revised and attached to the Mutual Securities Act of that year. 1953 saw the program transferred again to the new Foreign Operations Administration. With only 53 contracts for convertibility guarantees written totaling \$39.6 million, with expropriation guarantees totaling only \$1.6 million, and applications pending totaling a mere \$69.2 million, the program was still little used and narrowly concentrated. Insurance had been written for projects in 17 countries, 13 of them in Europe.

In 1956, a major shift in administrative responsibility occurred when the Mutual Security Program was divided between the Department of State and the Department of Defense. The guarantee program was moved to the International Cooperation Administration in the Department of State. Coverage was broadened to include losses "by reason of war."

Throughout the 1950's there was a growing concern in the United States with communist subversion in the less developed countries. This concern began with Korea and was spurred by the British experience in Malaya and the French Indochina War. Also during this period the success of the Marshall Plan in rebuilding Europe became apparent. A logical association was made. What had been successful in Europe could be transferred to the less developed countries. This reasoning is reflected in the concern of the Foreign Relations Committee in 1959 that of the \$400 million in guarantees issued prior to 1959, \$321 million had been investments in Western Europe. The Committee decided to redirect the program by limiting the guarantees solely to less developed countries.

This amendment coincided with a broad trend in other U.S. programs involving the less developed countries. The foreign economic

assistance program to lesser developed nations was transformed from a relatively modest technical assistance effort during the 1950's into a massive capital transfer program in the 1960's. During the 1960's the guarantee program itself was used much more aggressively as a private capital transfer program and was seen as complementing the flow of public capital into the less developed countries. Between 1961 and 1969, for example, expropriation guarantees issued by the Agency for International Development amounted to \$4.8 billion. In summary, the guarantee program in the 1960's was conceived as a logical corollary to the capital assistance programs administered by AID and the multilateral lending institutions—the IBRD and the regional development banks. It was used to guarantee the movement of large amounts of private capital into less developed countries under the belief that this capital served a public end and would not have moved without the existence of the guarantees.

2. DISILLUSIONMENT WITH FOREIGN AID

During the decade of the 1960's, for a number of reasons, there was a growing disillusionment with foreign aid. The decade began with Congress transferring a conceptual Marshall Plan to the less developed countries and ended with the Administration fighting to sustain the program in a reduced form. This report, the associated legislation and the hearings conducted in relation to those documents are part of the continuing review of the multitude of programs growing out of the aid efforts in the 1950's and 1960's.

As in the European "experiment," the main thrust of the program for less developed countries was the expansion of GNP, the promotion of economic growth. The fallacy of the program, which became apparent over the 1960's, was that the less developed countries needed more than capital to expand economic output. Europe was an industrial society in place with the crucial element of capital missing. The less developed countries at best had small islands of industrialization amidst agricultural sectors dominated by a few exports and subsistence farming.

There was no trained labor pool, no adequate power supplies, no transportation infrastructure, no large markets, no extensive credit or banking system, no effective marketing systems, etc. A lot more was needed than capital. In fact it was soon realized that these countries had a limit on how much capital they could absorb in any given time period. Careful planning and selective investments were needed plus a social reorientation of the society to urban/industrial life.

What was needed in these societies was not just economic growth but economic development. The entire matrix of the social and institutional structures had to be reworked. This was not a project of years; it was a project of decades. It became obvious that immediate economic expansion on the European example was not going to be possible.

It was also realized that the objective of stability would be illusive. While economic growth in an industrial society is a stabilizing influence, economic development in a pre-industrial society is a destabilizing influence. Old social norms are broken down by urban life. More wealth raises problems of distribution. The status quo and the ruling

elite are challenged. Education causes a rise in the expectations of the populace. Social unrest spreads when these expectations are not fulfilled. Strong tendencies develop for the imposition of authoritarian political structures. Unfortunately, in many instances where stability was achieved it was done at the cost of more democratic political institutions.

During the 1960's many of the assumptions upon which foreign aid was postulated initially were cast in doubt. The Sino-Soviet split altered the U.S. perception that the Communist bloc was monolithic in nature. The general success of the U.S. containment policy plus the growing nationalism in the less developed countries dispelled the belief that Communism was inexorably expanding. The Vietnam War led to the realization that U.S. resources were limited and that aid commitments could be the first step in costly involvements in areas of limited U.S. national interest.

Finally, from the mid 1960's until present, the Congress has been faced with increasing demands for domestic programing. Many of these problems—poverty, education, housing, urban renewal, health care—are economic development issues in this country. With the issue of Communist subversion declining and severe doubts about the validity and in some cases the efficacy of foreign aid, Congress has been hesitant to fund the foreign aid program in the quantities requested by the Administration.

Supporters of the guarantee program suggest that the genius of the program is that by using private capital it furthers economic development while not causing budgetary outlays. The Subcommittee therefore was especially interested in analyzing the program in light of this assertion. Does the program promote investment abroad? Does the investment abroad promote economic development in the broad definition of social change and economic growth? Are there direct or indirect economic and political costs to the United States inherent in the program? These are the issues primarily addressed in this Report.

3. BRIEF DESCRIPTION OF OPIC'S PRESENT PROGRAM ¹

OPIC's present programing can be divided into two major categories: political risk insurance (by far the largest part of OPIC's operation) and development financing. The political risk insurance is divided into three categories: inconvertibility, expropriation, and war damage insurance. The inconvertibility portfolio consists of \$3 billion in current liabilities. This coverage does not protect against devaluation losses by the investor. OPIC guarantees that the investor will receive dollars if the central bank of the host country refuses to transfer locally held funds. During the 25-year history of the program, investors have paid \$39 million for this coverage and \$1,722,000 in claims have been paid. The U.S. Treasury ultimately has secured dollars for all of these claims.

The war, revolution and insurrection portfolio totals roughly \$2.8 billion in current coverage. Claims have been paid in consequence

¹ The dollar figures quoted in this section were provided largely by David A. Hartquist, Assistant to the President of OPIC.

of the Middle East Six Day War and the India-Pakistan War. For the past 20 years the program has operated at a profit. Total premiums have been \$56 million, while pay outs have amounted to only \$623,000.

The expropriation portfolio has a current exposure of \$3.3 billion. OPIC has reinsured with Lloyd's of London some \$400 million. The current arrangement is that Lloyd's takes 40 percent of OPIC's exposure in 80 percent of the countries in which OPIC writes insurance and a lesser amount in all other OPIC-covered countries except Chile, with a stop-loss provision in any given country of \$16 million and a global stop loss of \$48 million. Over the 25 year history of the expropriation program, investors have paid in \$85 million, while net expropriation claim payments thus far paid out amount to about \$28.1 million. While OPIC has only around \$142 million in reserves to cover all of its insurance programs, approximately \$369 million in expropriation claims remain outstanding, leaving a possible deficit in excess of \$200 million.

The overwhelming bulk of OPIC's business is in insuring investments. The development financing aspects of OPIC are a smaller part of the organization's programing. There are three sub-programs in this area.

Under the program of guaranteed development loans for U.S. lending, OPIC has authority to guarantee \$750 million in loans but is restricted by having to hold 25 percent reserves. At present its reserves are at \$75 million making the ceiling of the program \$300 million. Guarantee fee income has totaled \$7.8 million from the inception of the program. Losses associated with three commercial failures totaled \$12.7 million. The portfolio now consists of 23 projects totaling \$200 million.

Direct lending to private U.S. corporations is the second development financing area. At the inception of OPIC in 1969, this program was to have had an authorization of \$20 million a year for a total of \$100 million over five years. So little of the money has been lent that the ceiling has not been expanded beyond \$40 million. Currently, ten projects are being financed with a loan balance of \$17.7 million. Interest income has amounted to \$607,399.

Finally, OPIC administers a Cooley loan program from P.L. 480 receipts. The Cooley loan fund provides loans in domestic currency to U.S. corporations dealing in excess currency nations. Because P.L. 480 agreements now usually require that the food shipments be paid for in dollars rather than local currencies, this program is drying up.

The major justification for OPIC's existence, however, is the administration of the investment insurance program, particularly the guarantee against expropriation. The hearings, therefore, concentrated on this aspect of OPIC's operations, although material submitted in the course of the hearings dealt with the other aspects, as well.

C. DOES THE INVESTMENT GUARANTEE PROGRAM ASSIST ECONOMIC DEVELOPMENT IN THE LDC'S?

The basic rationale for including the Overseas Private Investment Corporation in the Foreign Assistance Act was that it would help promote the development of Third World countries friendly to the United

States. This argument rests on two premises: (i) the investment guarantee program is an incentive to direct corporate investment in the poorer countries; (ii) such investment is beneficial to the economic development of these countries. There is lively disagreement with respect to both premises.

1. DOES THE GUARANTY PROGRAM CONSTITUTE A SIGNIFICANT INCENTIVE TO CORPORATE INVESTMENT ABROAD?

In testimony before the Subcommittee on Multinational Corporations it was acknowledged by OPIC's advocates that the insurance program was probably not a decisive consideration in corporate decisions to invest overseas. This conclusion was stated by Richard Conlon, Vice President and Washington representative of Business International, a group which has among its membership many multinational corporations. Herbert Salzman, Executive Vice President of OPIC, acknowledged that corporate decisions with respect to overseas investment were made in the first instance, irrespective of the availability of investment insurance guarantees. Indeed, OPIC does not even ask whether the investment would proceed without the issuance of the guarantees.

Most OPIC insured investment would probably have occurred even without the OPIC insurance. William P. Meehan, Assistant Treasurer of Motorola, Incorporated, testified that his company's investments in LDC's would continue without OPIC-type insurance coverage. Paul F. Orefice, Financial Vice President of Dow Chemical, called OPIC an "important factor" in Dow's decisions whether and when to invest in LDC's, but also indicated that Dow would often invest if such insurance were not available. This testimony is backed by a 1971 study done by Business International at OPIC's request (Corporate Policy on Investment Insurance, New York, 1971) which found that over half of OPIC's customers said that political risk insurance would not be a necessary condition for future investments.

Even more revealing is the fact that 77 percent of the United States direct investment in LDC's in 1971 was not covered by OPIC, while only seven percent was not covered in 1968.²

Accordingly, it is clear that OPIC currently has only a marginal effect on fostering new investment when compared to aggregate U.S. investment in the LDC's. Moreover, it has failed to spread private investment throughout the "Third World." OPIC insured investment has been concentrated in only a few LDC's. Seventy-five percent of OPIC insured investment has gone to seven countries, and nearly 50 percent to only three nations—Korea, Indonesia, and Brazil. The world's poorest countries have received little OPIC insured investment. OPIC has not been successful in persuading U.S. firms to invest in the vast majority of poor nations. The hearings have revealed that OPIC has been used by the multinational corporations to insure against risks that stem from concentrating their investments in a few countries.

² These figures were cited in the Congressional Research Service Report which was prepared for the House OPIC hearings. The figures exclude investment in oil. OPIC does not insure investments in the petroleum industry prior to the refining stage.

In the course of their testimony, Richard Reynolds, President and Chairman of the Board of Reynolds Metals Co., and William P. Hobbs, Vice President and Treasurer of the Kaiser Aluminum Company, stated that the availability of investment guarantees played an important part in the decision of their companies to concentrate their bauxite and alumina processing investments in Jamaica. Mr. Reynolds, in particular, indicated that he was doubtful that it would have been possible to obtain financing from the long-term U.S. lenders (private insurance companies) without investment guarantees against expropriation. Both Mr. Reynolds and Mr. Hobbs noted, however, that companies such as their own, which depend on imported bauxite and alumina, with or without investment guarantees, would have to invest in those countries where these resources exist. They testified that without the guarantees, they would seek to diversify the sources of their raw materials, investing in other bauxite rich countries such as Australia, and, perhaps, consider alternatives to equity investment, such as long-term supply and management contracts. Also, it should be noted that Reynolds proceeded with an \$8 million bauxite mining investment in Jamaica, despite the denial of an investment guarantee application submitted by that company to OPIC.

Based upon the evidence submitted, the availability of the investment guarantee program is, at best, a marginal consideration in corporate decisions to invest in LDC's. But its availability and current premium rates make it sufficiently attractive for a significant number of corporations to take out such insurance once the basic decision to invest has been made.

2. DOES FOREIGN CORPORATE INVESTMENT PROMOTE THE "DEVELOPMENT" OF THE POORER COUNTRIES?

A major rethinking of development concepts is taking place, compelled by a single fact: the unparalleled economic growth rates achieved by most developing countries during the 1960's had little or no effect on most of the world's people, who continue to live in desperate poverty.—JAMES P. GRANT, Foreign Policy, Fall 1973.

Robert Hurwitch, then Deputy Assistant Secretary, Bureau of Inter-American Affairs, Department of State, pointed out that business investment abroad is made solely for profit, not for humanitarian reasons. He testified that often labor intensive industries would be best for the development of the LDC's. The facts show that a very large amount of OPIC insured investment has, instead, been capital intensive. For example, William P. Hobbs, Vice President and Treasurer of Kaiser Aluminum, testified that OPIC insures the Alpart alumina operation in Jamaica and has within the last year insured an expansion of the Alpart plant. The entire OPIC expropriation insurance on Alpart outstanding is over \$300 million. Yet the plant employs only 1,405 Jamaicans. This represents approximately \$220,000 of capital investment per employee. This project will importantly contribute to Jamaica's foreign exchange earnings. But there is serious question as to whether it was wise for the U.S. Government to encourage the concentration of such a large amount of investment in a

single sector in Jamaica. Moreover, this project, though now approximately five years old, has not yet produced any tax revenue for the Jamaican economy.

The General Accounting Office (GAO) statistical study, done at the request of the Subcommittee, indicates that the Jamaican example is not unusual. Of the cases studied under the criteria OPIC itself introduced in July 1972, 50 percent of the OPIC insured investment projects were rated adverse by GAO with respect to their impact on local LDC capital mobilization (equity participation by local capital); 27 percent of the projects were rated adverse with respect to their effects on local LDC suppliers or downstream industries; and 27 percent of the projects were rated adverse with respect to their effect on local LDC employment and skill creation. Most of the rest of the projects had only slight positive impact on these areas.

Testimony by Sean Gervasi, Economic Consultant to the United Nations raised further questions about the impact of aggregate United States corporate investment in the less developed countries. Mr. Gervasi testified:

The point I am trying to make actually is that the so-called development process which has been under way, which has been promoted by the international community in the last 25 years, has precisely not touched the lives of the mass of the population. . . . We have at least implicitly heard today reference to the process of industrialization and development in poor countries, but if 60 percent of the population, at least 60, and it is usually 80 percent, lives at such levels and indeed continues to live at such levels, as the Secretary General of the United Nations said, economic growth does not touch that vast majority of the population, then we are not dealing with development.

These considerations were also reflected in the comments made by Robert McNamara, President of the World Bank, in his April 14, 1972, speech in Santiago, Chile, before the United Nations Conference on Trade and Development, in connection with Brazil, a country which has attracted a large amount of foreign investment and achieved a high growth rate:

In the last decade Brazil's GNP per capita, in real terms, grew by 2.5% per year, and yet the share of the national income received by the poorest 40% of the population declined from 10% in 1960 to 8% in 1970, whereas the share of the richest 5% grew from 29% to 38% during the same period. In GNP terms, the country did well. * * * But throughout the decade the poorest 40% of the population benefitted only marginally.

The multinational corporate investment which has occurred does offer the hope of future tax flows to the LDC's, but as Stanford Ross, former Assistant Tax Legislative Counsel, Treasury Department, testified, in order to attract foreign investment LDC's generally give the multinational investor such long-term relief from local taxes that little or no tax revenue is generated for five to ten years. This was confirmed by the General Accounting Office Study of OPIC.

The testimony received is indicative of the fact that concepts of "development" are changing. Many economists no longer consider Gross National Product to be the critical yardstick. Increasing attention is being focused on the distribution of the benefits of economic growth: within a given society which groups get what share of the pie? Are the rich getting richer and the poor getting poorer? There is thus increasing doubt with respect to the conventional theory that "more is better" and that foreign investment is necessarily a positive factor in the development process of the poor countries.

The Committee is not yet prepared to accept this conclusion. But it is no longer prepared to embrace the alternative theory that foreign investment is, in and of itself, a "good" thing since it contributes to aggregate Gross National Product growth of the economy. What this agnostic conclusion leads to is caution: caution in propounding any particular theory of development and, therefore, skepticism about U.S. Government efforts to foster "development" in other countries.

In light of the conflicting views about the real contributions, or lack thereof, of foreign private investment to the development of the poorer countries, and the evidence that the bulk of the 17 OPIC guaranteed projects studied by the GAO³ have had little development or growth impact, we cannot conclude that the OPIC investment insurance program is justified on the grounds that it is an aid to development of the poorer countries. Rather, the program is used by American corporations as an insurance program which lowers their risk against adverse political events in less developed countries. If the program is to be continued it should conform to the rationale for which it is used, an insurance program and not a development aid program.

D. DOES THE EXISTENCE OF THE INVESTMENT GUARANTEE PROGRAM ADMINISTERED BY GOVERNMENT OR QUASI-GOVERNMENT AGENCIES LEAD TO A GREATER DEGREE OF INVOLVEMENT ON THE PART OF THE UNITED STATES IN THE INTERNAL POLITICAL AFFAIRS OF HOST COUNTRIES?

There can be little doubt that the existence of the investment guarantee program, as presently and previously administered by government or quasi-government entities can lead to a deepening involvement on the part of the United States in the internal affairs of the developing countries. This fact was evidenced in the case of Jamaica, but it was evident as well in connection with Taiwan and Chile.

1. THE JAMAICA CASE

The Committee was led to conduct a special investigation of the insurance program in Jamaica because the amount of guarantees issued in that country—in excess of \$500 million—appeared to be large in relationship to the size of the country. Moreover, virtually all the guarantees pertained to one industry, alumina and bauxite. Bauxite is considered a strategic material and the United States imports

³ The GAO used the criteria which OPIC itself had introduced at a date following the insuring of those projects.

approximately 87 percent of its bauxite/alumina needs and almost half of that comes from Jamaica. Before the House Foreign Affairs Subcommittee on International Economic Policy in connection with OPIC, advocates of OPIC specifically cited bauxite/alumina guarantees in Jamaica as an example of how the investment guarantee program helps to assure the United States of a secure source of this strategic raw material; thus, the Committee chose Jamaica as a test case of the thesis that the guarantee program accomplishes the purpose of assuring the United States a secure source of a vital raw material without leading to a deepening political involvement in the affairs of host countries.

In 1968 OPIC's predecessor agency, AID, issued guarantees against expropriation to Kaiser Aluminum Company, the Reynolds Metals Company, and the Anaconda Company to cover their investments in an alumina smelter and related bauxite mining facilities in Jamaica. The original capacity of the smelter was 950 thousand tons of alumina per annum. The amount of the 1968 guarantees, by company, was as follows:

	<i>Million</i>
Kaiser Aluminum Co.....	\$61.6
Reynolds Metals Co.....	86.2
Anaconda Co.....	87.1
Total	234.9

The three companies had formed a Delaware partnership, Alpart, consisting of individual subsidiary Delaware corporations, all 100 percent owned by the affiliated parent companies to operate and manage the smelter.⁴

Subsequently, Kaiser and Reynolds sought additional guarantees for an expansion of the smelter by an additional 350 thousand tons which would bring the rated production capacity up to an annual level of one million three hundred thousand tons of alumina. The amount of the additional guarantees sought by Kaiser and Reynolds, respectively, were \$61.6 million and \$24.2 million, which would have brought the total guarantees issued for this particular project⁵ to Kaiser up to \$133.2 million and to Reynolds up to \$110.4 million.

In addition to the Kaiser and Reynolds requests for additional guarantees, the Aluminum Company of America (ALCOA) and the Revere Brass Company had applied for guarantees, respectively, of \$98.6 million and \$77.2 million, also for the purpose of covering investments in alumina smelters in Jamaica.

By the fall of 1969, then, in addition to the guarantees already issued in 1968, AID had under consideration additional guarantee applications amounting to a total of \$261.6 million, all for investments in alumina/bauxite facilities in Jamaica.

The AID administrator at that time was John Hannah, later to become a member of the Board of OPIC. Within AID, the administrator of the guarantee program was Mr. Herbert Salzman, later to become Executive Vice President of OPIC. The attorney in charge

⁴ Alpart can be viewed as a means for the aluminum companies to restrain trade at the source of supply. OPIC should have taken care to explore this possibility under § 231 (h) of the Foreign Assistance Act.

⁵ In 1968 Reynolds had received a \$12 million guarantee for another investment in Jamaica.

of the negotiations of the Jamaican guarantees was Mr. Marshall Mays, who subsequently became the General Counsel of OPIC and presently is President of OPIC. Hence, despite the change in form of the administering agency of the guarantee program, there has been a large element of continuity in the personnel which dealt with the Jamaican case in both AID and OPIC.

A new element in the case, however, was the appointment, in the Fall of 1969, of Mr. Vincent deRoulet as the United States Ambassador to Jamaica. Mr. deRoulet was a non-career Ambassador whose previous experience had been in advertising in New York City. In testimony before the Subcommittee he related that, upon reviewing the existing level of guarantees authorized for bauxite/alumina projects in Jamaica, and the additional guarantees it was proposed that OPIC issue, he was appalled. In his opinion, the proposed \$500 million level of guarantees in this one industry, in a single, small country, was unsound. In early 1970, while in Kingston, Jamaica, he received a copy of an internal State Department memorandum, written in Washington, indicating State Department approval of the issuance of the additional guarantees and showing that he, deRoulet, concurred in this approval. The Ambassador immediately communicated his objection to being recorded as concurring in this decision. Ambassador deRoulet testified that:

a. He had been informed in Jamaica in May of 1970 by Kaiser's resident chief engineer on the Alpart project that the Alpart partners were so far committed to the expansion (raising production capacity from 950 thousand to one million three hundred thousand tons) that they would have to go ahead with the expansion regardless of whether or not AID issued the additional investment guarantees and that he communicated this observation to the State Department in Washington;

b. He felt himself under considerable pressure from the companies concerned, OPIC officials and the Government of Jamaica, to give his concurrence to the issuance of the guarantees;

c. In July of 1970, against his better judgment, but because he considered the ultimate issuance of the guarantees a foregone conclusion, he withdrew his objections to the issuance of the guarantees, but only after he felt that he had obtained certain assurances from the Government of Jamaica and the companies as to the future behavior of both parties.

When queried by Senator Case, he acknowledged that a refusal to concur in the issuance of such guarantees would have been interpreted by the Jamaican Government as an indication of no confidence on the part of the United States Government in the Jamaican economy and political leadership. Ambassador deRoulet further testified that he felt a heightened responsibility to assure that Jamaican Government policies were favorable towards the United States investors in the bauxite/alumina industry because of the potential financial liability of the United States Treasury, as a consequence of the fact that OPIC's liability (as with that of AID before it) is backed by the full faith and credit of the United States Government.

In September 1970, with Ambassador deRoulet's objections withdrawn (Deputy Assistant Secretary of State Hurwitch testified that

had such objections not been withdrawn, he would have overridden them in Washington and approved the issuance of the full amount of the guarantees), the additional \$61.6 million in guarantees which had been applied for by Kaiser, Reynolds, Alcoa and Revere was approved.

In 1970 guarantee contracts were issued for shorter periods than the original guarantees signed in 1968. Furthermore, they provided for financial exposure by OPIC to decline with the passage of time. Nevertheless, in 1973, OPIC was administering guarantees against expropriation to the five companies—Anaconda, Kaiser, Reynolds, Revere Brass, and Alcoa—which total in excess of \$525 million.

Confronted with this situation, Ambassador deRoulet undertook to play an active role in manifesting United States Government concern to the leadership of the two major Jamaican political parties over Jamaican policies toward the bauxite/alumina industry. In 1972, he attempted to convince the Jamaican leadership not to make the 100 percent U.S. company ownership of the Jamaican bauxite/alumina industry—described by one of the leaders of the two contending parties as the key political question in the forthcoming Jamaican parliamentary elections—a political football in that election. Certain that the party in power would not bring up the issue if the opposition did not, deRoulet approached the PNP candidate Michael Manley and sought to persuade him to keep the bauxite question out of the campaign.

In return, deRoulet testified, "I told him I was prepared to give him my commitment as a gentleman . . . in exchange for these commitments from him . . . we would not, repeat not, interfere in his elections in any way. . . ." Ambassador deRoulet also argued that expropriation would not be in Jamaica's economic interest. Such intervention, in fact, was never contemplated, according to the testimony of both Hurwitch and deRoulet, although genuinely feared by important Jamaican political leaders. deRoulet played upon this fear to protect United States bauxite/alumina interests from nationalization. His objective was accomplished. Though Manley was elected, the expropriation issue was never raised during the campaign.

It would be baseless to contend that without the investment guarantee commitments and the potential United States Treasury liability behind them, the U.S. Ambassador in Jamaica, whoever he might be, would not be concerned about half a billion dollars of investments by U.S. companies in raw material facilities critical to the United States economy. But the testimony also evidenced the fact that, without such guarantees, the companies might not have invested in such a concentrated fashion in Jamaica, or if they had, they might have done so in a manner designed to bring Jamaican and other sources of capital into the investment schemes, thus diffusing their political risks. Through the guarantee program those risks have been assumed, instead, by the U.S. Government. And, as Ambassador deRoulet candidly testified, the assumption of that risk, with its consequent potential financial liability of the United States Treasury, imposed an additional burden of responsibility on the U.S. Embassy in Jamaica and led it into the internal politics of Jamaica.

But the perverse political effects of the OPIC program in Jamaica were not limited to this instance. Approval or disapproval of indi-

vidual guarantees tends to become a symbol of whether the United States Government has confidence in, or approves of, a particular government. In July 1972, Ambassador deRoulet was informed that OPIC was considering issuing a further guarantee in the amount of approximately \$8 million for a bauxite mining project by the Reynolds Metals Company. Whether the issuance of this guarantee would have constituted a net increment in the amount of OPIC insured Jamaican investment guarantees is in dispute. What is not in dispute, however, is that the Ambassador vigorously protested even the consideration by OPIC of this potential new commitment.

Upon learning of the Ambassador's opposition to the issuance of these guarantees, Reynolds dispatched a representative to Jamaica. This representative, in the absence of deRoulet, met with the Chargé d' Affaires and the Economic Counselor of the U.S. Embassy in Kingston. As Ambassador deRoulet related it, the Reynolds representative advised the Embassy officials that unless the Embassy withdrew its objections to the issuance of the guarantee, Reynolds would be forced to advise the Jamaican Government that the Embassy refusal constituted an Embassy judgment of lack of confidence in the Jamaican economy and political leadership. Furthermore, Reynolds indicated it would have to inform the Jamaican Government that, without the OPIC insurance, additional concessions would be necessary if Reynolds was to go forward with its bauxite mining investment.⁶

Ambassador deRoulet testified that, upon hearing of this threat, he felt compelled to write a personal letter to Prime Minister Manley explaining that his opposition to the issuance of further investment guarantees for bauxite/alumina projects in Jamaica was not occasioned by a lack of confidence in Jamaica. Rather, it reflected a concern with the amount of guarantees issued in Jamaica for one industry, bauxite/alumina; a concentration which he considered not in the best interests of either Jamaica or the United States. Ambassador deRoulet's letter observed that, upon his arrival in Jamaica, he found that the behavior of the companies had been deplorable, at least in part, because of their sense of complacency brought about by the existence of the guarantees, and that he thought it was advisable for the companies to have some of their funds at risk so as to provide them with an incentive to be more flexible in accommodating to Jamaican conditions. Hence, what should have been a business decision as to whether to increase the amount of investment guarantees in Jamaica in bauxite/alumina became a major political issue between the United States and Jamaican Government.

The story of the investment guarantee program in Jamaica, whether administered by AID or OPIC, is thus, one of involvement on the part of the United States in the internal politics of Jamaica. The companies attempted to use the program to promote an identity of interest between the U.S. Government and the corporations. The United States Embassy was propelled into a volatile issue in Jamaican politics—the American ownership and control of the bauxite/alumina industry.

⁶ Mr. Reynolds disagreed with the Ambassador's interpretation of the role of his company.

2. TAIWAN

Jamaica is not an isolated case. In Taiwan, existence of the investment guarantee program is interpreted as a symbol of American support for the current Taiwanese regime.

Acting Assistant Secretary of State Herman Barger was asked what would be the political effect in Taiwan if OPIC decided that Taiwan no longer qualified as a developing country and that, therefore, the investment program in that country should be terminated. Mr. Barger's response is illuminating:

Mr. BLUM. Mr. Barger, if OPIC insurance were to be cut off from Taiwan by OPIC in the next number of months, because OPIC, for business reasons, made a judgment that it was imprudent to continue insuring investments in Taiwan, would the Government of Taiwan consider that a major blow in the sense that it signaled the lack of American support for Taiwan?

Mr. BARGER. Yes, I believe that that would be the case, if Taiwan were cut out of the program itself this would be read in that way as a lack of confidence.

A Senate staff investigator who visited Taiwan in connection with the OPIC inquiry was advised by Taiwanese officials that they were certain of long-term U.S. support for Taiwanese independence by virtue of the existence and continued issuance of U.S. investment guarantees in that country. If the United States did not intend to support Taiwanese independence, they noted, why would it continue to increase its potential financial liabilities there through the investment guarantee program? In effect, then, in the minds of the Taiwanese, U.S. guaranteed investments serve as a symbolic hostage which insures continued U.S. political support for Taiwanese political objectives.

Short of terminating the program on a worldwide basis, according to Mr. Barger, for fear of creating disruption of Taiwan, the U.S. Government for political reasons must maintain an investment insurance program in Taiwan.

3. CHILE

The temptation to use the existence of the U.S. Government sponsored investment guarantee program as a reason for intervention in the political affairs of developing countries is confirmed by the testimony received by the Subcommittee in the hearings held in connection with the activities of the International Telephone and Telegraph Company in Chile. In that case, John A. McCone, former Director of the CIA and, in 1970, a Director of the ITT, testified that in conversations with high U.S. Government officials, he presented the fact that the U.S. Treasury would ultimately be liable for payments of hundreds of millions of dollars under existing guarantee agreements as one reason for United States Government intervention to prevent Salvador Allende Gossens from becoming President of Chile. Edward Korry, then U.S. Ambassador to Chile, similarly testified that in warning Washington of the perils of an Allende government in Chile,

he noted the potential cost to the United States Treasury as a consequence of anticipated expropriations of properties of U.S. companies covered by the investment guarantees issued by OPIC's predecessor, AID.

In fact, the Allende government did expropriate such properties, resulting in potential OPIC losses that could run up to \$339,000,000.

It is important to emphasize that the political complications which arise out of the existence of a U.S. Government sponsored and administered investment guarantee program are not primarily a function of administrative inadequacies on the part of OPIC or its predecessor, AID. Rather, they are inherent in the nature of the program. As long as the full faith and credit of the Treasury stands behind the compensation of expropriated guaranteed investment, and OPIC's reserves are as lean as they are today, the U.S. Government has a direct financial stake in the host country's policies towards investment. That the companies recognize the political uses to which the program can be put is evidenced not only by the Reynolds and ITT examples in Jamaica and Chile, respectively, but also by the testimony of Mr. William P. Hobbs, Vice President and Treasurer of the Kaiser Aluminum Company. Mr. Hobbs was asked whether a guarantee program administered by the private insurance industry would meet the needs of the companies as well as one sponsored by the government. Mr. Hobbs demurred. He questioned whether a program administered by the private sector would prove as effective as a U.S. Government sponsored program, since it would not link the companies and the Government so directly together. This identity of interest, Mr. Hobbs testified, makes foreign governments more hesitant to adopt policies adverse to the investing companies.

We doubt, however, that this identity of interest, achieved through the instrumentality of the guarantee program, as presently administered, is good, in the long run, either for the corporations themselves or the U.S. Government. The program seems more likely to embroil the United States in the internal politics of host countries than would otherwise be the case. The assumption of the political risks by the U.S. Government, as Ambassador deRoulet noted, may lull the companies into a false sense of security and induce them not to make the necessary adjustments to changing local conditions when a healthy relationship between host country and companies would require it.

Moreover, it is the belief of the Committee that government insurance may at times increase the likelihood of expropriation. Expropriation is viewed by some radical governments as a means of striking a blow at the United States Government. This was recently demonstrated by the expropriations in Libya and Iraq. Where investment is insured by the U.S. Government, expropriation becomes a direct rather than an indirect blow at the government.

E. OPIC'S FINANCIAL CONDITION

A compilation of OPIC's own figures and the GAO study on OPIC provide a financial overview of OPIC's insurance program.

OPIC charges approximately a 1½% premium for combined expropriation (usual premium 0.6%), war risk (premium 0.6%), and inconvertibility (premium 0.3%) insurance. Under a recent change in its rules OPIC may charge a lower expropriation premium for debt investments (0.4%) and a higher premium for equity investment in large and/or especially sensitive fields (0.8%), although the overwhelming bulk of OPIC insurance contracts outstanding are at the 1½% rate. Slightly higher or lower rates may be charged—up to 0.2% when there are risk-increasing factors, such as industry concentration within a country or risk-decreasing factors, such as local investor participation are present. OPIC premium rates are higher than those charged by AID and it no longer offers war risk or expropriation stand-by insurance (the option to pay a much lower premium for the right to purchase insurance at the end of any year). Contracts originally issued by AID, however, have not been renegotiated, so that under the contracts OPIC inherited, there is still a large amount of stand-by coverage outstanding.

Currently, OPIC has \$3 billion of inconvertibility insurance outstanding (\$2.1 billion in stand-by and \$0.9 billion in current). It has received a total of \$38.6 million in premiums and has recovered all the claims it has paid. There is \$2.8 billion of war risk insurance outstanding (\$2 billion current and \$0.8 billion of stand-by). Over the life of the program, \$56.1 million of premiums have been paid. The net claims payment has been \$623,000.

Thus, both the inconvertibility and war risk insurance programs have been major moneymakers.

Expropriation insurance is a different story. Currently, there is \$3.3 billion of expropriation insurance outstanding (\$2.4 billion of current and \$0.9 billion in stand-by). Over the life of the program, \$84.6 million have been collected in premiums and a net of \$28.1 million have been paid out in claims. However, there are currently outstanding against OPIC approximately \$369 million in unsettled claims⁷ and guarantees.⁸

These claims are against current total insurance reserves of \$146.5 million. The two largest claims (\$92.5 million by ITT and \$154 million by Anaconda) arose out of Chilean expropriations. Likewise, all but about \$8 million of some \$100 million in outstanding guarantees arose from Chilean expropriations. Unfortunately, if Chile's default on the first payment to the Braden Copper Company guarantee is indicative, OPIC may end up having to pay out a major portion of its outstanding reserves just to cover its guarantees. If the pending ITT and Anaconda arbitrations (involving claims which total about \$246.5 million) heavily favor the companies, OPIC could easily find itself deeply in the red.

OPIC contends that its financial condition is not as bad as it appears because it has been advised by outside counsel that its denial of the ITT and Anaconda claims is soundly based. But, at least in the

⁷ Claims on OPIC are amounts which OPIC maintains it does not have to pay. These are currently in arbitration or soon will go to arbitration.

⁸ Guarantees are amounts which expropriating governments have agreed to pay and which OPIC will pay if the expropriating government defaults.

case of ITT, the soundness of OPIC's case is attributable to a substantial degree, to the facts revealed in the ITT/Chile hearings of this Subcommittee. Marshall Mays admitted that prior to these hearings OPIC was not informed of the attempts by high officials of ITT to induce the C.I.A. to intervene in the internal political processes of Chile so as to prevent the election of Salvador Allende Gossens as President, facts which clearly were revelant to a determination of OPIC's liability to ITT.

OPIC's financial viability is in doubt and it may well have to rely on Congressional appropriations or Treasury payments based on the full faith and credit clause of OPIC's authorizing legislation to bail it out. Indeed, as the following table indicates, by ordinary financial standards OPIC is on the brink of insolvency. If OPIC were a private insurance company, under generally accepted accounting principles it would have to set aside a reserve against the outstanding claims. This reserve would likely reduce OPIC's available reserves to a negative figure.

OPIC's financial position

Maximum potential contingent liability (netting out the Lloyds reinsurance coverage) -----	¹ \$2, 776, 000, 000
Total insurance reserves -----	² \$142, 563, 000
Insurance reserves as a percentage of maximum potential contingent liability -----	5 percent
Total claims and guarantees outstanding -----	³ \$369, 000, 000
Total claims and guarantees as a percentage of maximum potential contingent liability -----	14 percent
Total insurance reserves minus total claims and guarantees outstanding -----	(\$227, 437, 000)

¹ This figure was computed by selecting the highest of the three coverages available for any particular contract (expropriation, war, or inconvertibility) and eliminating the lesser coverages. OPIC's expropriation liability is reinsured by Lloyd's of London to the extent of \$421 million. This reinsurance was deducted country-by-country before determining which of the three coverages was highest. Figure is for June 30, 1973 and includes only current insurance, not the substantial amount of stand-by insurance.

² As of June 30, 1973.

³ As of March 31, 1973.

Statistics supplied to the Subcommittee by OPIC, disclose that if OPIC had not received \$81,250,000 in appropriations since fiscal year 1970 it would currently have only \$58,250,000 in its insurance reserves instead of \$139,500,000.

There is no evidence that without appropriations OPIC would have been operating at a loss. However, its precarious financial position becomes even more clear when its earned reserves (i.e. reserves minus appropriations) are contrasted with outstanding claims and guarantees. It should be noted that \$50 million in insurance reserves were removed by Congress from the AID political risk insurance reserve in 1969 and transferred to the Housing Guaranty Program.

Realizing the probable inadequacy of its reserves, OPIC negotiated a payout arrangement to extend over several years to cover the expropriation of the Braden Copper Company, a wholly owned subsidiary of Kennecott Copper Corporation. Braden's insured investment consisted of 5¾ percent promissory notes issued by Sociedad Minera El Teniente and guaranteed by the Government of Chile. The notes had a face value of \$74.7 million in December 1972 and were to be paid in equal semiannual installments of principal through 1986.

SUMMARY OF INSURANCE FEES, APPROPRIATIONS, CLAIM PAYMENTS, CLAIM RECOVERIES AND ADMINISTRATIVE EXPENSES

[Fiscal year 1949 through Mar. 31, of fiscal 1973]

Fiscal year	Insurance fees	Resource adjustments	Appropriations	Claims payment	Claims recovery	Administrative expenses (estimated)
1949	\$16,763					
1950	172,609					
1951	205,663					
1952	277,584					
1953	216,680					
1954	205,662					
1955	235,687					
1956	330,873					
1957	416,515					
1958	654,482					
1959	1,367,334					
1960	1,356,227					
1961	1,672,830					
1962	2,298,860		\$27,861,484	\$650,000		
1963	2,926,017		30,000,000			
1964	4,674,441					
1965	7,767,432					
1966	9,867,673			205,947	\$193,629	
1967	9,117,164			128,247	97,471	
1968	14,546,713			1,438,464	264,838	
1969	19,721,714	*(50,000,000)		9,737,000		
1970	21,537,152		37,500,000	5,426,718	60,000	\$962,612
1971	24,053,861		18,750,000	345,230	349,899	1,747,876
1972	26,828,962		12,500,000	1,970,317	1,327,698	2,784,464
1973*	19,139,785	* 11,809,131	12,500,000	17,469,582	135,008	1,851,188
Subtotal	7 169,618,683	11,809,131	* 139,111,484	36,371,505	2,428,543	* 7,346,140
Adjustment	50,000,000					
Total	119,618,683					

* Includes \$111,160 of guaranty claims.

* Insurance fees transferred to Congress by AID housing guaranty program.

* Includes \$6,713,000 of guaranty claims.

* Includes \$5,426,718 of guaranty claims.

* Through Mar. 31.

* Interest earned by OPIC on insurance fees, Jan. 1970 through Mar. 1973 (estimated).

* \$30,888,516 of fee earnings allotted by board of directors to guaranty reserves.

* \$44,111,484 of appropriations allotted by board of directors to guaranty reserves.

* Administrative costs are not available prior to fiscal year 1970 as AID and other predecessor agencies did not segregate its administrative costs against specific programs.

Essentially, OPIC purchased these notes from Braden, established a trust for the notes, and borrowed most of the money to pay Braden at 6¾ percent, issuing short term notes with payments due over the next five years and a final lump-sum payment due in 1978. GAO found that this arrangement, when entered, would cost OPIC about \$2.5 million more than the alternative of making a lump-sum payment. However, the Treasury note interest situation which has developed since the GAO report makes it probable that OPIC will be able to do as well, or even better, under this arrangement.

If Chile continues to default on its payments of the notes held by OPIC, 60 percent of OPIC's annual premium fees, on the basis of current collections, will be required to pay the Braden guarantee alone.

OPIC has requested an additional appropriation of \$72,500,000 for this fiscal year. It is up to the Appropriations Committee to report on this request. The Subcommittee hearings have given the Foreign Relations Committee a view of the merits of the request and this report furnishes us with an appropriate vehicle for sharing that view with the Appropriations Committee.

OPIC's reasoning for their request of \$72,500,000 is that this amount represents \$50,000,000 of AID reserves plus interest which were removed from the AID political insurance reserve fund and used to fund a special reserve for the Latin American Housing Guarantee Program. However, this argument fails to recognize that OPIC and its AID predecessor received \$81,250,000 in Congressional appropriations for the fiscal years 1970 to 1973 inclusive. Thus, recent Congressional appropriations have much more than covered the transfer of AID reserves.

OPIC has made the claim that it is a self-sufficient agency. The Committee believes that this was not completely true in the past and is not completely true today. OPIC should not be allowed to obscure its true financial position behind an argument based on the growth of reserves which, to a significant extent, have actually increased because of yearly appropriations. Rather, OPIC should be given new appropriations only when its own reserves are depleted. This policy would force OPIC to demonstrate its ability to operate as a self-sufficient agency.

F. OPIC'S MANAGEMENT RECORD

OPIC representatives base their defense of the insurance which they have written on the contention that they need more time to restructure the portfolio which OPIC inherited from AID. The AID issued guarantees were heavily concentrated in a very few countries, a few sectors and a few large corporations. It is true that OPIC recently has introduced significant management reforms in several areas and it should be commended for so doing. But many of the flaws which characterized the AID program also characterize OPIC.

1. THE PROFILE OF THE PROGRAM

One of the main reasons given for separating OPIC from the rest of the AID program was that, if the investment guarantee program were managed by an entity organized as a business corporation, the program would be "much more extensively used and it will be used with a much more gifted approach to the situation." But the program has not been more extensively used; indeed, it has been less extensively used than it was when managed by AID. Since OPIC came into being, the absolute amount of guarantees issued by OPIC has been substantially less than that issued by AID, by a 49 percent decline in the annual average amount under OPIC. The percentage of total U.S. corporate investment in developing countries covered by guarantees has also been declining. In 1969, the amount of original investment covered by OPIC was 93 percent of the annual change in net book value of U.S. direct investment in LDC's. In 1971 only 23 percent of the investments were insured.⁹

Moreover, with one major exception, the profile of the covered investments has been remarkably similar to that of the investment guarantee program when managed by AID. In terms of geographic coverage, under AID management, 57 percent of the coverages issued by AID were concentrated in eight countries.

⁹ These figures do not include investments in petroleum.

	<i>Percent</i>
Chile	13.7
Korea	9.7
Jamaica	8.2
Brazil	5.7
Argentina	5.6
Dominican Republic	5.2
India	4.9
Philippines	4.2

Under OPIC management, the degree of concentration has been substantially greater since 83.3 percent of the issued coverage has been concentrated in eight countries.

	<i>Percent</i>
Korea	23.2
Indonesia	14.8
Brazil	13.4
Taiwan	7.8
Botswana	7.2
Singapore	6.2
Philippines	5.7
Israel	5.0

In effect, then, under OPIC management there has been a shift in coverage from Latin America to Taiwan, Korea, and Singapore. But under both AID and OPIC management, investment guarantees have been highly concentrated in relatively few countries. OPIC argues that its concentration is irrelevant because the combined AID-OPIC portfolio was diversified. But as the Congressional Research Service report pointed out, this argument is without merit since five of the eight most heavily insured countries under OPIC showed larger-than-average concentration in the AID portfolio. In line with our earlier conclusion this demonstrates that OPIC is unable to channel the placement of investment in LDC's.

The principle of concentration has been equally true with respect to major beneficiaries of the guarantee program as is shown in the following table:

"FORTUNE 500" SHARE OF AID AND OPIC INSURANCE

	Volume (millions)	Percent of total
Aid-issued insurance:		
Fortune top 150 corporations and top 25 commercial banks.....	\$8,414.8	63
Top 151 to 500 corporations and 26 to 50 banks.....	2,041.5	15
Total Fortune list.....	10,456.3	78
Corporations not on Fortune list.....	2,907.6	22
Grand total.....	13,365.9	100
OPIC-issued insurance:		
Fortune top 150 corporations and top 25 commercial banks.....	856.1	61
Top 151 to 500 corporations and 26 to 50 banks.....	258.8	18
Total Fortune list.....	1,114.9	79
Corporations not on Fortune list.....	294.3	21
Grand total.....	1,409.2	100

Note: The chart reveals that the largest companies are the most consistent users of OPIC insurance.

The tendency of investment to come from a limited number of companies and to flow to a limited number of countries seems to have a momentum of its own which is not changed by the character of the administrative agency.

2. METAL MINING—THE EXCEPTION

The one area where OPIC has made a significant change in the profile of issued guarantee coverages from AID is metal mining. OPIC, unlike AID, has issued very little insurance to corporations mining metal. Only about three percent of OPIC's insurance portfolio is in this area, while about 25 percent of the AID issued insurance was issued for this category. This trend is consistent with a desire to minimize high risk areas of investment in accordance with sound risk management principles: foreign equity ownership for extractive industries has proven to be a prime target for expropriation. But it cannot be reconciled with the allegation that OPIC insurance for extractive industries helps guarantee the United States a source of supply of vital raw materials. OPIC cannot argue, on the one hand, that they are minimizing risks and, therefore, not insuring projects in high risk sectors such as metal mining and, on the other hand, argue that the investment guarantee program is essential to assure the United States of a secure source of raw materials.

3. OPIC AND THE BALANCE OF PAYMENTS

OPIC's impact on the short-run balance of payments is another example of how its administrators must balance contradictory mandates. OPIC has a legislative mandate to consider the balance-of-payments effect of those investments it insures. However, Herbert Salzman, Executive Vice President of OPIC, testified that OPIC does insure off-shore subsidiaries of United States multinational corporations, even though, as testified by Mr. Stanford Ross, Former Assistant Tax Legislative Counsel, Treasury Department, those subsidiaries may indefinitely withhold the return of profits to the United States from investment abroad, thereby worsening the United States balance-of-payments position.

It was brought out in the testimony of John Sagan, Vice President and Treasurer of Ford Motor Company and William Meehan, Assistant Treasurer of Motorola, that (1) there is no tie-in requirement that OPIC-insured companies purchase U.S. products; (2) that OPIC marginally encourages an outward flow of capital from the United States by encouraging industries to invest abroad; and (3) on balance OPIC, at least in the short run, tends to worsen the balance-of-payments problem.

Similarly, the GAO study found that many OPIC-insured electronic projects abroad sell a large percentage of their products to the United States, causing a net dollar outflow from the United States which probably amounts to several hundreds of millions of dollars. It should be noted, in this regard, that many of the projects reviewed by the GAO are not projects which OPIC inherited from AID but rather projects where OPIC was the original insurer.

An OPIC insurance application form introduced in March, 1972, formulates criteria for determining what the host-country development and the United States balance-of-payments impacts of applicants' investments will be. The General Accounting Office report on OPIC indicates that, even with this new questionnaire, OPIC

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often insures projects which are detrimental to the United States balance-of-payments. OPIC, in order to further its primary objective of writing insurance for investments in LDC's, is bound to encourage an outflow of capital from the United States and thereby worsen, at least the short run, balance-of-payments problems of the United States. Its impact on the long term balance-of-payments, i.e. whether investments in the Less Developed Countries will eventually return as much, or more, capital to the United States than sent out, is still unclear. What is clear is that OPIC management cannot avoid encouraging capital outflows and still write insurance.

4. OPIC'S IMPACT ON LABOR

Benjamin A. Sharman testified in behalf of the International Association of Machinists about labor's concern over the loss of jobs from "runaway industries," i.e. those industries which leave the United States in complete or partial replacement of going concerns in the United States, and then export their products back to the United States in direct competition with U.S. production. Similar concern was expressed in a statement submitted for the record by the AFL-CIO. OPIC policy guidelines provide that, although insurance may be issued covering industries abroad that will export their products to the United States, an investment in a runaway industry will not be eligible unless there are counterbalancing advantages to the United States. In the case of partial replacement of a U.S. production facility, OPIC assistance may be given only if it is determined that such a move is reasonably calculated to preserve the remaining United States employment by aiding the enterprise in maintaining a competitive position in the U.S. market. OPIC assistance will not be given if an unfair labor practice charge based on the shutdown is either pending or has been resolved against the company.

These guidelines should, in theory, protect United States labor. However, the GAO study found that the OPIC files on runaway industries did not have information crucial to the rational determination of whether the move overseas was actually necessary to protect the United States industry from foreign competition. For example, the files did not contain (1) a precise description of the product manufactured overseas and the extent of competition with United States production; (2) information on whether the plant could have operated profitably in the United States; or (3) an analysis of the industry's present domestic and international structure.

OPIC assessment in this crucial area appears to rely entirely on information provided by applicant companies. There was no evidence of site inspections after the approval of insurance contracts to determine whether conditions of the contracts were being met. The GAO report notes that OPIC intended to introduce revised procedures to more closely monitor this aspect of its performance. But it is difficult to see how this could be accomplished without a major change in OPIC's organization and additional personnel to permit more frequent supervision of projects which have received investment guarantees.

5. GUARANTEES OF INVESTMENTS IN EASTERN EUROPEAN COUNTRIES AND SOUTHEAST ASIA

Senator Church's questioning of GAO witnesses brought out the fact that OPIC is now authorized, under a provision of the FAA, to insure United States investment in Romania and Yugoslavia. Senator Church summed up this line of questions by stating:

. . . given what we know about the administration of the OPIC program, the large American companies, General Motors, Ford, ITT, could enter into a contractual arrangement with the Communist Government of Romania and if that government defaulted in its promise [to pay] . . . the United States Government could be left holding the bag.

Mr. Hylander of the General Accounting Office responded, "Yes, they would be liable, certainly."

There is no legislative history to which we can refer with respect to the reasons for this authority. It is difficult to see how Yugoslavia and Romania qualify as developing countries. We find no convincing reason why the U.S. Government should, in effect, guarantee contract compliance by communist governments. We welcome economic links that strengthen the prospects of peaceful coexistence between the United States and the Eastern Bloc countries. But if corporations wish to invest in communist countries in Eastern Europe, they should do so at their own risk and not at the risk of the U.S. Government. Consequently, that provision of the legislation which specifically authorizes investment guarantees to be issued in Yugoslavia and Romania should be stricken.

The Report of the House Foreign Affairs Committee on the Foreign Assistance Act of 1971 opposed the issuance of political risk insurance in Laos, Cambodia or South Vietnam until specific authority for insurance is given by Congress.

OPIC has observed this limitation, but has asked Congress to give it specific authorization to write policies in those countries in the future.

OPIC's already extremely precarious financial position makes it unwise for it to issue political risk insurance in politically and economically unstable Southeast Asia. Issuance of such insurance would further entangle the United States in Southeast Asian politics at a time when Congress has clearly endorsed the policy of disengagement.

Therefore, the Senate Foreign Relations Committee recommends that OPIC not issue insurance in North and South Vietnam, Laos, or Cambodia. This recommendation shall stand by individual type of political risk insurance until such a time as OPIC begins to issue each type of political risk insurance in conjunction with private insurance companies and/or multilateral institutions of which the United States is a member. The Committee believes that it is essential that any political risk insurance issued in these countries should have substantial private insurance company and/or multilateral institution risk participation.

6. OVERSEAS PRIVATE INVESTMENT CORPORATION INTRODUCED REFORMS

The Overseas Private Investment Corporation has introduced reforms which have improved the program. In order to reduce the risk of having to rely upon the Treasury in case of catastrophic loss, OPIC has negotiated a reinsurance contract with Lloyd's of London and is presently attempting to interest United States insurance companies in participating in OPIC projects as joint insurers. OPIC has also instituted a varying fee schedule which requires a higher premium for large or sensitive projects and offers a lower premium for investments which are especially helpful to LDC development.

Prior to 1970, the old contracts permitted the investor to shift coverage annually between standby and current status. The standby option was offered at a much lower premium ($\frac{1}{10}$ of one percent vs. $\frac{1}{2}$ of one percent each for war risk and expropriation coverage), and enabled the investor to pick the means he wished to "switch on" or "switch off" the protection offered. During 1970, the insurance contract was revised to the benefit of OPIC, through the elimination of the standby provisions on expropriation and war risks. The Overseas Private Investment Corporation has also raised its fee schedule for new contracts.

OPIC has also made substantial improvements in its standard contract for loan investments. The revision of greatest significance made the insurance applicable to each installment payment rather than to the outstanding principal of the loan. This change will permit OPIC to pay claims over an extended period of time rather than in one large settlement. In addition, the revisions will increase OPIC's fee income because the insured is required to maintain the policy over the entire loan period rather than terminating it when a claim is filed.

A second significant revision is the inclusion of a first-loss deductible clause for intracompany loans, which makes the investor self-insured for the first 15 percent of any claims. This coinsurance feature gives the investor a financial stake in the investment. Improvements in the contract with regard to definitions of war-loss and allocation of foreign government payments were also made.

The contractual and risk-spreading improvements made by OPIC are standard practices for private insurance companies. A larger role for private insurers as coinsurers or reinsurers would give OPIC the benefit of private insurance company techniques and encourage it to further reform its practices.

G. THE PRIVATE INSURANCE ALTERNATIVE

The legislation establishing OPIC directed it to investigate the feasibility of turning over part or all of its insurance responsibilities to private companies. (Foreign Assistance Act § 240A.) As discussed above, OPIC has already been successful in negotiating a \$421 million reinsurance contract with Lloyd's of London.

Since August 1972, a group of insurance company officials, sponsored and assisted by OPIC, has been studying a common effort by OPIC and U.S. insurance companies.

Mr. James J. Meenaghan, Vice President and Assistant to the Chairman of the Board, Fireman's Fund American Insurance Companies testified that the private insurance companies now meeting with OPIC could produce a firm proposal for private insurance participation with OPIC in from six to nine months. Mr. David J. Sherwood, President of Prudential Reinsurance Company said, "I know there are several major companies who are interested in and have expressed interest (in writing political risk insurance). . . ." Both witnesses agreed that the fastest way for OPIC to get a participation agreement with the United States private insurance companies was for OPIC to arrange a meeting between the top OPIC executives and the top executives of the country's largest insurance companies. The experts were in agreement that various questions, such as the specific premiums to be charged by the private companies, would have to be answered, but that these answers could be found if a concerted OPIC effort to turn over a major share of its program to the private companies were initiated.

Mr. Meenaghan testified that, "(a)t the outset, private insurance companies should have an interest of at least 25 percent in the association. This would provide a large enough share to make the effort economically feasible. . . . The long-term objective would be to reduce OPIC's participation in the association to a smaller percentage, although we do believe it is desirable for OPIC to remain a member of the direct writing association." Mr. Sherwood also spoke in terms of a phase out of government participation in the political risk insurance program. ". . . (I)t is conceivable (the government) could be (completely) phased out as the capacity builds because capacity usually responds to experience. . . ."

Mr. Sherwood stressed the fact that private insurance companies presently view the political risk insurance field as preempted by OPIC and that to get private participation it is necessary to get "a clear message from the Senate, the Congress, that you are really interested in getting private insurance into this particular area."

A legislative mandate that OPIC turn over a portion of its insurance burden to private insurance companies by a date certain would be such a message.

Meenaghan and Sherwood suggested that the most acceptable plan to United States private insurance companies—at least until they are able to become familiar with issuing political risk insurance—is for the private companies to be the primary insurers and OPIC to act as a reinsurer against catastrophic loss, perhaps sharing this role with Lloyd's of London. Alternatively, it was suggested that OPIC might enter a joint venture with the private companies, each insuring a certain percentage of each new contract.

The insurance company representatives testified that it would be advantageous for them to be able to insure investments in developed as well as under-developed countries.

If this will allow private insurance companies to write more of the political risk insurance in LDC's, it seems, unobjectionable, though OPIC should not itself participate in insurance for investment in developed countries.

H. FOUR OPTIONS FOR OPIC

There are four alternative ways to deal with the insurance program administered by OPIC: (1) leave it essentially as it is; (2) require OPIC to insure only those projects which significantly benefit the development of the host country; (3) terminate the program; (4) turn the insurance function of OPIC over to private insurance companies. The last alternative is clearly the best.

1. ALTERNATIVE ONE: LEAVE THE PROGRAM AS IS

This alternative is unacceptable because OPIC, as it now exists, links the United States too directly with private investment abroad and unnecessarily involves the U.S. Government in the internal political affairs of the host countries without yielding sufficient development gains for the LDC's. There are currently \$369 million of claims and guarantees outstanding against OPIC's approximately \$150 million of reserves. It is quite possible that there will be additional catastrophic losses due to expropriation. Because there is a clause in the existing OPIC legislation which places the full faith and credit of the United States Government behind OPIC, any valid claims which cannot be paid by OPIC will have to be absorbed by the Treasury. Given the precarious conditions of OPIC's reserves, this is a very real likelihood.

The international political problems caused by OPIC are as great as the financial ones. Ambassador deRoulet testified that the immense OPIC insurance coverage of the aluminum industry's investment in Jamaica was the reason for his implying to a candidate for Prime Minister that United States intervention in the Jamaican elections might occur if expropriation of the industry were made a subject of contention in the campaign. In the ITT hearings, it was revealed that ITT used the threat of the impact of expropriation on OPIC's reserves in one of its attempts to involve the CIA in the Chilean Presidential elections.

These financial and political risks might be partially offset if OPIC were able to yield significant development gains for less developed countries. The academic experts who testified—Dean Peter Gabriel, Boston University Graduate School of Business; Theodore Moran of the Brookings Institution; and Sean Gervasi, an economic consultant to the United Nations—were in agreement that as presently constituted most OPIC insured investments are at best marginal in fostering economic development in the host country. The GAO study discussed earlier reached the same conclusion.

Over three-fourths of United States corporate investment in LDC's occurs without OPIC insurance and a very large portion of the investment which is insured by OPIC would occur even if OPIC insurance were not available. Thus, even if it were clear that private investment in the LDC's fosters development—and this is not at all clear—OPIC's marginal role in inducing such investment is not worth the financial and political risks OPIC presents to the United States Government.

2. ALTERNATIVE TWO: SHOULD OPIC BE CHANGED TO A REAL DEVELOPMENT AGENCY?

One approach to reforming OPIC would be to require it to limit its insurance to those sorts of investments which clearly have a substantial positive impact on the development of the host country. Sweden, the only country which has written strict development criteria into its insurance contracts has been unsuccessful in convincing *any* companies to accept its criteria, even though its premium rates are half those of OPIC insurance.¹⁰

An additional problem with this approach is that it is unclear exactly what type of private investment is most helpful to the development of the LDC's. Professional economists disagree on the impact of various types of private investment and their ideas change from time to time. Theodore Moran and Dean Peter Gabriel both expressed the opinion that to the extent OPIC could influence companies to use management-development contracts and purchase contracts to obtain raw materials while allowing the host country to own all or most of the equity in new enterprises OPIC is a good thing. Unfortunately, it appears that OPIC is unable to persuade many companies to take this approach to foreign investment. Hence, this does not appear to be a feasible alternative.

3. ALTERNATIVE THREE: TERMINATE OPIC

Given the evidence presented the termination of OPIC merits consideration. If OPIC's authorization to issue new insurance were allowed to run out, as it will on December 31, 1974, without a legislative extension, OPIC would be unable to create additional financial and political problems for the government by issuing new policies. This alternative would not foresake U.S. business. Existing insurance contracts with OPIC would remain in effect. Furthermore, as Stanford Ross, Former Assistant Tax Legislative Counsel, Department of the Treasury, testified, United States corporations would still be compensated for losses through tax write-offs. Under existing provisions of the Internal Revenue Code and relevant rulings, expropriation losses incurred by a corporation can be treated, upon occurrence, as deductions against ordinary income and carried forward for a maximum of 10 years. As long as the corporation suffering the loss has income from other sources, the United States Treasury, even without an investment guarantee program, will share the expropriation or other loss, on average, with the corporation up to 48 cents on every dollar lost; this despite the fact that the Treasury, under other provisions of the Internal Revenue Code, realizes no revenue from the profits of foreign investment, unless or until the profit is returned to the United States.

¹⁰ The Swedish insurance contract requires that the investor must discourage discrimination in employment and promotion, and within limits, "try to break existing discrimination patterns which counteract economic and social development." It must recognize employee trade unions and negotiate labor contracts in good faith. In addition, a company should provide training to increase the employees' productivity and make possible a quick transfer of tasks from foreign specialists to local personnel. Some form of compensation must be provided to workers in case of illness, lay-offs, and retirement. The investor should also take steps to help employees find suitable housing, keep good nutritional and health standards and provide libraries and entertainment facilities.

A complete termination of the investment guarantee program, after 25 years of existence, however, would constitute an abrupt change in direction. Other industrialized countries, largely influenced by the existence of the United States program, have initiated similar guarantee programs of their own. None of these countries has guarantees outstanding of anywhere near the magnitude of the U.S. program. Their terms vary as to the premium rates (generally lower than the United States) and term of coverage (generally shorter than the United States). Thus, an abrupt termination of the guarantee program would remove for American corporations a facility that has now become available to corporations of other countries. It, therefore, would seem advisable to attempt to maintain an insurance program which is just that—an insurance program and, as such, one which can best be administered by the private insurance companies.

4. ALTERNATIVE FOUR: A SWIFT TRANSFER OF OPIC'S INSURANCE FUNCTION TO THE PRIVATE SECTOR OR TO A MULTINATIONAL BODY, SUCH AS THE WORLD BANK

This alternative is the most desirable because it creates a minimal amount of disruption to U.S. corporate investment plans while extricating the U.S. Government from the political and financial risks created by a Government sponsored investment guaranty program. In addition, private nonsubsidized political risk insurance would be a neutral factor in business determination of whether to invest in an LDC or here in the United States. With OPIC insurance, business need not fully bear the risk (through nonsubsidized insurance premium payments) of the foreign investment.

Testimony by several top insurance company executives, plus the fact that Lloyd's of London already has a substantial reinsurance contract with OPIC, demonstrates that the private carriers are willing and able to enter the political risk insurance field. They will bring with them expertise in determining risks, maximizing the investment returns on premium payments and making intelligent business judgments. Private writing of political risk insurance will dictate that insurance be granted for business reasons—not political—and that premiums sufficient to cover the costs of the program be charged. For example, it is standard insurance practice to rate risks according to how hazardous they are considered to be. A decision by private insurers that particular countries, industries or companies are higher risks than others would not involve the political connotations that are inherent in government decisions to that effect.

The legislation which created OPIC and the debate which preceded it make it clear that OPIC was designed to be an interim step—to provide political risk insurance until private industry was ready to assume the burden. The private insurance industry appears now to be ready and the Committee recommends that OPIC be required to turn over the major portion of future policies to the private sector—or if it proves feasible, a multinational body¹¹—by a date certain.

¹¹ To date, the World Bank has not received a positive response outside the United States to its proposal for a multinational political risk insurance program.

OPIC argues that a date certain will hinder its ability to negotiate with the private companies, but this argument is specious. There are several hundred United States insurance companies which insure property loss and which have a capability of forming consortia thereby providing a competitive market. Competition between the consortia for political risk insurance contracts should keep down the price of such insurance. Moreover, the Committee is recommending that OPIC phase out of writing direct insurance by December 31, 1980. This is a reasonable time in which to achieve this objective and will adequately test the willingness of both OPIC and the private insurance companies to accomplish what they both profess: a desire to have the direct insurance program 100% administered under private auspices. The Committee recognizes, however, that OPIC may need to continue as a reinsurer.

In late August, OPIC met with a private insurance company consortium in San Francisco to discuss private participation in both OPIC's present and future portfolios. The private companies expressed a willingness to assume a majority of OPIC's outstanding inconvertibility and expropriation portfolio and a majority of its future inconvertibility and expropriation contracts. They expressed hesitance about writing war risk insurance, apparently because of an adverse experience with war risk insurance at the time of the Spanish American War. However, the Committee is confident that OPIC will be able to convince companies to write war risk insurance. War risk insurance, as reported in detail above, has been OPIC's biggest moneymaker, netting \$55 million in "profits" for the Corporation. This record, if examined carefully by the private companies, should make war risk insurance appealing to them.

If, this record of profit notwithstanding, the resistance to writing war risk insurance persists, OPIC might arrange to phase out its degree of participation in new war risk contracts more slowly than in the other two areas. This would give OPIC more time to market the harder-to-sell war risks coverage to the private companies.

The Committee concludes that even if it is not feasible for the private insurance companies to assume 100 percent of the direct writing of political risk insurance by December 31, 1980, the United States should discontinue the direct writing of political risk insurance by that date.

As OPIC withdraws from writing new political risk insurance, the size of the agency will shrink. Its direct finance programs are not large enough to warrant the continuation of a separate agency and the Committee recommends that they be shifted elsewhere or discontinued. Specifically, the current OPIC obligations under the Investment Guarantee Program should be transferred to the Agency for International Development. No new guarantees should be issued because sufficient protection against political risk is provided by the insurance program and the Committee believes that insurance against commercial risks should be undertaken by private companies, not by United States foreign assistance programs. The Treasury could be the fiscal agent for collecting OPIC's outstanding loans, after which the remaining reserves would be recovered into the Treasury.

The Direct Investment Program should be shifted to AID along with the Special Activities Programs (Foreign Assistance Act § 234 (e)). AID is experienced in direct aid programs and, because of its substantial resources, better able to handle them than is OPIC.

The Agricultural Credit and Self-Help Program should be shifted into AID which has extensive experience in this area.

It is recommended that the Corporation's direct finance and loan guarantee programs be shifted to AID or some other agency specified by the President on or before December 31, 1979 and that after that date these programs be limited to investments in countries with a per capita income in 1973 dollars of \$450 or less.

A review of the various alternatives to dealing with OPIC reveals that the best option is to require OPIC to turn its insurance of political risks over to the private sector as quickly as possible and to discontinue its direct finance programs or shift them to other agencies.

I. SUMMARY OF CONCLUSIONS

The Committee has concluded that:

i. The investment guarantee program administered by OPIC is, at best, only a marginal contributor to the development of the poorer countries of the world and OPIC is only a marginal stimulus to private investment in less developed countries.

ii. The program, as presently conceived, tends to increase the likelihood of United States Government involvement in the internal politics of other countries in connection with the property interests of United States corporations.

iii. The program, as presently administered by OPIC, and previously by its predecessor, AID, has inherent within it a conflict between the achievement of public policy and management by sound insurance principles. The result has been a large and unsatisfactory exposure of the good faith and credit of the U.S. Government.

iv. To eliminate this conflict, the program should be viewed as an insurance program, which can and should be administered solely on risk management principles, preferably with the maximum participation possible of the private insurance industry.

v. With this in mind, the Committee proposes a phased transition in which an increasingly large proportion of the new direct insurance contracts would be written by private insurance companies in accordance with accepted insurance principles. The private insurance companies are also encouraged to take as large a proportion of the present portfolio as they might wish.

vi. Should it not be possible to arrive at a satisfactory agreement between OPIC and the private insurance industry to accomplish the transition to a privately administered insurance program by the date specified in the legislation, OPIC should discontinue issuing political risk insurance until such a time that an agreement is reached.

vii. If termination of OPIC becomes necessary, all present contracts should be honored.

viii. The report suggests that OPIC should be phased into a reinsurance role as quickly as possible. That reinsurance role, in turn, should

be periodically examined by Congress. OPIC should be required to issue periodic reports to Congress on its progress toward transferring its various insurance functions to the private sector and to multinational organizations and institutions.

ix. OPIC's request for \$72,000,000 in additional appropriations should not be granted.

x. OPIC finance programs should be transferred to AID by December 31, 1979.

xi. The Committee applauds the efforts by OPIC to reduce its exposure in the highly sensitive extractive industries. The Committee feels OPIC should continue this policy and its previous policy not to insure the oil industry in operations prior to the refining of crude oil.

V. CHANGES IN EXISTING LAW

In compliance with paragraph 4 of the rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

The Foreign Assistance Act of 1961, as amended

* * * * *

Title IV—Overseas Private Investment Corporation

Sec. 231. Creation, Purpose, and Policy.—To mobilize and facilitate the participation of United States private capital and skills in the economic and social **[progress]** *development* of less developed friendly countries and areas, thereby complementing the development assistance objectives of the United States, there is hereby created the Overseas Private Investment Corporation (hereinafter called the "Corporation"), which shall be an agency of the United States under the policy guidance of the Secretary of State.

In carrying out its purpose, the Corporation, utilizing broad criteria, shall undertake—

(a) to conduct financing, **[operations]** *insurance, and reinsurance operations* on a self-sustaining basis, taking into account in its financing operations the economic and financial soundness of the projects; **[and the availability of financing from other sources on appropriate terms;]**

[(b) to utilize private credit and investment institutions and the Corporation's guaranty authority as the principal means of mobilizing capital investment funds;**]**

(c) to broaden private participation and revolve its funds through selling its direct investments to private investors whenever it can appropriately do so on satisfactory terms;

(d) to conduct its insurance and reinsurance operations with due regard to principles of risk management including **[,when appropriate,]** efforts to share its insurance *and reinsurance* risks;

(e) to utilize, to the maximum practicable extent consistent with the accomplishment of its purpose, the resources and skills of small business and to provide facilities to encourage its full participation in the programs of the Corporation;

(f) to encourage and support only those private investments in less developed friendly countries and areas which are sensitive and responsive to the special needs and requirements of their economies, and which contribute to the social and economic development of their people;

(g) to consider in the conduct of its operations the extent to which less developed country governments are receptive to pri-

vate enterprise, domestic and foreign, and their willingness and ability to maintain conditions which enable private enterprise to make its full contribution to the development process;

(h) to foster private initiative and competition and discourage monopolistic practices;

(i) to further to the greatest degree possible, in a manner consistent with its goals, the balance-of-payments *and employment* objectives of the United States;

(j) to conduct its activities in consonance with the activities of the agency primarily responsible for administering part I and the international trade, investment, and financial policies of the United States Government; and

(k) to advise and assist, within its field of competence, interested agencies of the United States and other organizations, both public and private, national and international, with respect to projects and programs relating to the development of private enterprise in less developed countries and areas.

* * * * *

INSURANCE

Sec. 234. Investment Insurance and Other Incentive Programs.—The Corporation is hereby authorized to do the following.

[(a) **Investment Insurance.**—(1) To issue insurance, upon such terms and conditions as the Corporation may determine, to eligible investors assuring protection in whole or in part against any or all of the following risks with respect to projects which the Corporation has approved—]

(a) *Investment Insurance (1) The Corporation is authorized to issue insurance, upon such terms and conditions as the Corporation may determine, to eligible investors assuring protection in whole or in part against any or all of the following risks with respect to projects which the Corporation has approved:*

(A) inability to convert into United States dollars other currencies, or credits in such currencies, received as earnings or profits from the approved project, as repayment or return of the investment therein, in whole or in part, or as compensation for the sale or disposition of all or any part thereof;

(B) loss of investment, in whole or in part, in the approved project due to expropriation or confiscation by action of a foreign government; and

(C) loss due to war, revolution, or insurrection.

[(2) Recognizing that major private investments in less developed friendly countries or areas are often made by enterprises in which there is multinational participation, including significant United States private participation, the Corporation may make such arrangements with foreign governments (including agencies, instrumentalities, or political subdivisions thereof) or with multilateral organizations for sharing liabilities assumed under investment insurance for such investments and may in connection therewith issue insurance to investors not otherwise eligible hereunder: *Provided, however,* That liabilities assumed by the Corporation under the authority of this subsection shall be consistent with the purposes of this title and that the

maximum share of liabilities so assumed shall not exceed the proportionate participation by eligible investors in the total project financing.]

(2) Recognizing that major private investments in less developed friendly countries or areas are often made by enterprises in which there is multinational participation, including significant United States private participation, the Corporation may make such arrangements with foreign governments (including agencies, instrumentalities, or political subdivisions thereof) or with multilateral organizations and institutions for sharing liabilities assumed under investment insurance for such investments and may in connection therewith issue insurance to investors not otherwise eligible hereunder, except that liabilities assumed by the Corporation under the authority of this subsection shall be consistent with the purposes of this title and that the maximum share of liabilities so assumed shall not exceed the Corporation's proportional share as specified in subsections (a)(4) and (5) of this section.

(3) Not more than 10 per centum of the total face amount of investment insurance which the Corporation is authorized to issue under this subsection shall be issued to a single investor.

(4)(A) The aggregate participation of the Corporation as insurer in respect of the risks referred to in paragraph (1) (A) and (B) of this subsection under policies issued by the Corporation each year during the period from January 1, 1975 through December 31, 1979 shall not exceed, in any one country, 75 per centum of the value of all insurance in respect of such risks issued during such year by the Corporation and others to eligible investors with respect to investments in such country.

(B) It is the intention of Congress that the aggregate participation of the Corporation as insurer in respect of the risks referred to in paragraph (1) (A) and (B) of this subsection under policies issued by the Corporation each year during the period from January 1, 1978 through December 31, 1979 shall not exceed, in any one country, 50 per centum of the value of all insurance in respect of such risks issued during such year by the Corporation and others to eligible investors with respect to investments in such country. If for any reason it is not possible for the Corporation to achieve this objective, the Corporation shall include in detail, in its appropriate annual reports, the reasons for its inability to achieve this objective.

(C) The Corporation shall no longer participate as insurer under insurance policies issued after December 31, 1979, in respect to the risks referred to in paragraph (a)(1) (A) and (B) of this subsection unless Congress by law modifies this paragraph.

(5)(A) The aggregate participation of the Corporation as insurer in respect to the risks referred to in paragraph (a)(1)(C) of this subsection under policies issued by the Corporation each year during the period from January 1, 1976 through December 31, 1980 shall not exceed, in any one country, 88½ per centum of the value of all insurance in respect of such risk issued during such year by the Corporation and others to eligible investors with respect to investments in such country.

(B) It is the intention of Congress that the aggregate participation of the Corporation as insurer in respect to the risks referred to in paragraph (a)(1)(C) of this subsection under policies issued by the Corporation each year during the period from January 1, 1979 through December 31, 1980 shall not exceed, in any one country, 60 per centum of the value of all

insurance in respect of such risk issued during such year by the Corporation and others to eligible investors with respect to investments in such country. If for any reason it is not possible for the Corporation to achieve this objective, the Corporation shall include in detail, in its appropriate annual reports, the reasons for its inability to achieve this objective.

(C) The Corporation shall no longer participate as insurer under insurance policies issued after December 31, 1980, in respect of the risks referred to in paragraph (1)(C) of this subsection unless Congress by law modifies this paragraph.

(6) Notwithstanding the percentage limitations of paragraphs (4)(A) and (5)(A) of this subsection, the Corporation may agree to assume liability as insurer for any policy, or share thereof, that a private company or multilateral organization or institution has issued in respect of the risks referred to in paragraph (1) of this subsection, and neither the execution of such agreement nor its performance by the Corporation shall be considered as participation by the Corporation in any such policy for purposes of such limitations.

(7) The Corporation is authorized to issue, upon such terms and conditions as it may determine, reinsurance of liabilities assumed by other insurers or groups thereof in respect of risks referred to in section 234(a)(1). The amount of reinsurance liabilities which the Corporation may incur under this paragraph shall not exceed \$600,000,000 times the number of years from the date of enactment of this paragraph, and shall never exceed \$12,000,000,000 in the aggregate. All such reinsurance shall require that the reinsured party retain for his own account specified portions of liability so that, before the Corporation is required to make any reinsurance payment, the reinsured party will absorb in any one year a loss equal to at least 50 per centum of the face value of all the insurance it has outstanding in the country in which it has issued the most insurance subject to reinsurance by the Corporation. All reinsurance issued by the Corporation shall be issued in a business like manner.

(8) On December 31, 1979, the Corporation shall cease to write or manage insurance issued after such date in respect to risks referred to in paragraph (1)(A) or (B) of this section unless Congress by law modifies this sentence. On December 31, 1980, the Corporation shall cease to write or manage the direct insurance issued after such date in respect to risks referred to in paragraph (1)(C) of this section unless Congress by law modifies this sentence. It shall thereafter act solely as a reinsurer except to the extent necessary to manage its outstanding insurance and reinsurance contracts and subject to the restrictions of paragraph (6) of this subsection any policies the Corporation assumes when private insurance companies and multinational organizations and institutions fail to renew their short term policies.

(9) For purposes of this section, new policies include renewals and extensions of policies.

(10) The Corporation is authorized, subject to the restrictions of paragraph (8) of this subsection, to make and carry out contracts of coin-surance and reinsurance, and agreements to associate and share risks, with insurance companies, financial institutions, or others, or groups thereof, employing the same, where appropriate, as its agent, or acting as their agent, in the issuance and servicing of insurance, the adjustment

of claims, the exercise of subrogation rights, the ceding and accepting of reinsurance, and in other matters incident to doing an insurance business, and pooling and other risk-sharing arrangements with other national or multinational insurance or financing agencies or groups thereof, and to hold an ownership interest in any association or other entity established for the purposes of sharing risks under investment insurance.

(b) **Investment Guaranties.**—To issue to eligible investors guaranties of loans and other investments made by such investors assuring against loss due to such risks and upon such terms and conditions as the Corporation may determine: *Provided, however,* That such guaranties on other than loan investments shall not exceed 75 per centum of such investment: *Provided, further,* That except for loan investments for credit unions made by eligible credit unions or credit union associations, the aggregate amount of investment (exclusive of interest and earnings) so guaranteed with respect to any project shall not exceed, at the time of issuance of any such guaranty, 75 per centum of the total investment committed to any such project as determined by the Corporation, which determination shall be conclusive for purposes of the Corporation's authority to issue any such guaranty: *Provided further,* That not more than 10 per centum of the total face amount of investment guaranties which the Corporation is authorized to issue under this subsection shall be issued to a single investor.

(c) **Direct Investment.**—To make loans in United States dollars repayable in dollars or loans in foreign currencies (including, without regard to section 1415 of the Supplemental Appropriation Act, 1953, such foreign currencies which the Secretary of the Treasury may determine to be excess to the normal requirements of the United States and the Director of the Bureau of the Budget may allocate) to firms privately owned or of mixed private and public ownership upon such terms and conditions as the Corporation may determine. The Corporation may not purchase or invest in any stock in any other corporation, except that it may (1) accept as evidence of indebtedness debt securities convertible to stock, but such debt securities shall not be converted to stock while held by the Corporation, and (2) acquire stock through the enforcement of any lien or pledge or otherwise to satisfy a previously contracted indebtedness which would otherwise be in default, or as the result of any payment under any contract of insurance or guaranty. The Corporation shall dispose of any stock it may so acquire as soon as reasonably feasible under the circumstances then pertaining.

No loans shall be made under this section to finance operations for mining or other extraction of any deposit of ore, oil, gas, or other mineral.

(d) **Investment Encouragement.**—To initiate and support through financial participation, incentive grant, or otherwise, and on such terms and conditions as the Corporation may determine, the identification, assessment, surveying and promotion of private investment opportunities, utilizing wherever feasible and effective the facilities of private organizations or private investors: *Provided, however,* That the Corporation shall not finance surveys to ascertain the existence, location, extent or quality, or to determine the feasibility of undertaking operations for mining or other extraction, of any deposit of ore, oil, gas,

or other mineral. In carrying out this authority, the Corporation shall coordinate with such investment promotion activities as are carried out by the Department of Commerce.

(e) **Special Activities.**—To administer and manage special projects and programs, including programs of financial and advisory support which provide private technical, professional, or managerial assistance in the development of human resources, skills, technology, capital savings and intermediate financial and investment institutions and cooperatives. The funds for these projects and programs may, with the Corporation's concurrence, be transferred to it for such purposes under the authority of section 632(a) or from other sources, public or private.

Sec. 235. Issuing Authority, Direct Investment Fund and Reserves.—(a)(1) The maximum contingent liability outstanding at any one time pursuant to insurance issued under section 234(a) shall not exceed \$7,500,000,000.

(2) The maximum contingent liability outstanding at any one time pursuant to guaranties issued under section 234(b) shall not exceed in the aggregate \$750,000,000, of which guaranties of credit union investment shall not exceed \$1,250,000: *Provided*, That the Corporation shall not make any commitment to issue any guaranty which would result in a fractional reserve less than 25 per centum of the maximum contingent liability then outstanding against guaranties issued or commitments made pursuant to section 234(b) or similar predecessor guaranty authority.

(3) The Congress, in considering the budget programs transmitted by the President for the Corporation, pursuant to section 104 of the Government Corporation Control Act, as amended, may limit the obligations and contingent liabilities to be undertaken under section 234 (a) and (b) as well as the use of funds for operating and administrative expenses.

(4) *The authority of section 234(a) shall continue until December 31, 1980. However, if the Corporation does not at any time meet the percentage limitations of subsection (a)(4)(A) or (a)(5)(A) of section 234, it shall cease issuing any new insurance policies on those types of political risk for which the percentage specified has not been reached, except coinsurance and reinsurance policies necessary to meet such limitations. Upon meeting those limitations, the Corporation may resume issuing new insurance in accordance with this title.*

(b) There shall be established a revolving fund, known as the Direct Investment Fund, to be held by the Corporation. Such fund shall consist initially of amounts made available under section 232, shall be available for the purposes authorized under section 234(c), shall be charged with realized losses and credited with realized gains and shall be credited with such additional sums as may be transferred to it under the provisions of section 236.

(c) There shall be established in the Treasury of the United States an insurance and guaranty fund, which shall have separate accounts to be known as the Insurance Reserve and the Guaranty Reserve, which reserves shall be available for discharge of liabilities, as provided in section 235(d), until such time as all such liabilities have been discharged or have expired or until all such reserves have been expended in accordance with the provisions of this section. Such fund shall be

funded by: (1) the funds heretofore available to discharge liabilities under predecessor guaranty authority (including housing guaranty authorities), less both the amount made available for housing guaranty programs pursuant to section 223(b) and the amount made available to the Corporation pursuant to section 234(e); and (2) such sums as shall be appropriated pursuant to section 235(f) for such purpose. The allocation of such funds to each such reserve shall be determined by the Board after consultation with the Secretary of the Treasury. Additional amounts may thereafter be transferred to such reserves pursuant to section 236.

(d) Any payments made to discharge liabilities under investment insurance and reinsurance issued under section 234(a) or under similar predecessor guaranty authority shall be paid first out of the Insurance Reserve, as long as such reserve remains available, and thereafter out of funds made available pursuant to section 235(f). Any payments made to discharge liabilities under guaranties issued under section 234(b) or under similar predecessor guaranty authority shall be paid first out of the Guaranty Reserve as long as such reserve remains available, and thereafter out of funds made available pursuant to section 235(f).

(e) There is hereby authorized to be transferred to the Corporation at its call, for the purposes specified in section 236, all fees and other revenues collected under predecessor guaranty authority from December 31, 1968, available as of the date of such transfer.

(f) There is hereby authorized to be appropriated to the Corporation, to remain available until expended, such amounts as may be necessary from time to time to replenish or increase the insurance and guaranty fund, to discharge the liabilities under insurance, reinsurance and guaranties issued by the Corporation or issued under predecessor guaranty authority, or to discharge obligations of the corporation purchased by the Secretary of the Treasury pursuant to this subsection. *However, no appropriations to augment the Insurance Reserve shall be made until the Insurance Reserve is at a level below \$25,000,000. Any appropriations to augment the insurance reserves shall then only be made either pursuant to specific authorization enacted after the date of enactment of the Overseas Private Investment Corporation Amendments Act, or to satisfy the full faith and credit provision of section 237(c). In order to discharge liabilities under investment insurance, or reinsurance the Corporation is authorized to issue from time to time for purchase by the Secretary of the Treasury its notes, debentures, bonds, or other obligations; but the aggregate amount of such obligations outstanding at any one time shall not exceed \$100,000,000 which shall be repaid within one year of the date of issue. Such obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of such obligations. The Secretary of the Treasury is hereby authorized and directed to purchase any obligation of the Corporation issued hereunder.*

Sec. 236. Income and Revenues.—In order to carry out the purposes of the Corporation, all revenues and income transferred to or earned by the Corporation, from whatever source derived, shall be held by the Corporation and shall be available to carry out its purposes, including without limitation—

(a) payment of all expenses of the Corporation, including investment promotion expenses;

(b) transfers and additions to the insurance or guaranty reserves, the Direct Investment Fund established pursuant to section 235, and such other funds or reserves as the Corporation may establish, at such time and in such amounts as the Board may determine; and

(c) payment of dividends, on capital stock, which shall consist of and be paid from net earnings of the Corporation after payments, transfers, and additions under subsections (a) and (b) hereof.

Sec. 237. General Provisions Relating to Insurance and Guaranty Programs.—(a) Insurance, guaranties *and reinsurance* issued under this title shall cover investment made in connection with projects in any less developed friendly country or area with the government of which the President of the United States has agreed to institute a program for insurance, guaranties or *reinsurance*.

(b) The Corporation shall determine that suitable arrangements exist for protecting the interest of the Corporation in connection with any insurance, guaranty or *reinsurance* issued under this title, including arrangements concerning ownership, use, and disposition of the currency, credits, assets, or investments on account of which payment under such insurance, guaranty or *reinsurance* is to be made, and any right, title, claim, or cause of action existing in connection therewith.

(c) All guaranties issued prior to July 1, 1956, all guaranties issued under sections 202(b) and 413(b) of the Mutual Security Act of 1954, as amended, all guaranties heretofore issued pursuant to prior guaranty authorities repealed by the Foreign Assistance Act of 1969, and all insurance *reinsurance* and guaranties issued pursuant to this title shall constitute obligations in accordance with the terms of such insurance, *reinsurance* or guaranties, of the United States of America and the full faith and credit of the United States of America is hereby pledged for the full payment and performance of such obligations.

[(d) Fees shall be charged for insurance and guaranty coverage in amounts to be determined by the Corporation. In the event fees to be charged for investment insurance or guaranties are reduced, fees to be paid under existing contracts for the same type of guaranties or insurance and for similar guaranties issued under predecessor guaranty authority may be reduced.]

(d) *Fees shall be charged for insurance guaranty and reinsurance coverage in amounts to be determined by the Corporation. In the event fees charged for investment insurance guaranties, or reinsurance are reduced, fees to be paid under existing policies for the same type of insurance guaranties or reinsurance issued under predecessor guaranty authority may be reduced.*

(e) No insurance, *reinsurance* or guaranty of any equity investment shall extend beyond twenty years from the date of insurance.

(f) No insurance or guaranty issued under this title shall exceed the dollar value, as of the date of the investment, of the investment made in the project with the approval of the Corporation plus interest, earnings or profits actually accrued on said investment to the extent provided by such insurance or guaranty.

Notwithstanding the foregoing, the Corporation shall limit the amount of direct insurance and reinsurance issued by it under section 234(a) so

that risk of loss as to at least ten per centum of the total investment of the insured or its affiliates in the project is borne by the insured or such affiliates on the date the insurance is issued.

[(g) No payment may be made under any guaranty issued pursuant to this title for any loss arising out of fraud or misrepresentation for which the party seeking payment is responsible.]

(g) No payment may be made under any guaranty insurance or reinsurance issued pursuant to this title for any loss arising out of fraud or misrepresentation for which the party seeking payment is responsible.

(h) Insurance, reinsurance or guaranties of a loan or equity investment of an eligible investor in a foreign bank, finance company, or other credit institution shall extend only to such loan or equity investment and not to any individual loan or equity investment made by such foreign bank, finance company, or other credit institution.

(i) Claims arising as a result of insurance, reinsurance or guaranty operations under this title or under predecessor guaranty authority may be settled, and disputes arising as a result thereof may be arbitrated with the consent of the parties, on such terms and conditions as the Corporation may determine. Payment made pursuant to any such settlement, or as a result of an arbitration award, shall be final and conclusive notwithstanding any other provision of law.

(j) Each guaranty contract executed by such officer or officers as may be designated by the Board shall be conclusively presumed to be issued in compliance with the requirements of this Act.

(k) In making a determination to issue insurance, guaranties or reinsurance under this title, the Corporation shall consider the possible adverse effect of the dollar investment under such insurance, guaranty or reinsurance upon the balance of payments of the United States.

Sec. 238. Definitions.—As used in this title—

(a) the term “investment” includes any contribution of funds, commodities, services, patents, processes, or techniques, in the form of (1) a loan or loans to an approved project, (2) the purchase of a share of ownership in any such project, (3) participation in royalties, earnings, or profits of any such project, and (4) the furnishing of commodities or services pursuant to a lease or other contract.

(b) the term “expropriation” includes, but is not limited to, any abrogation, repudiation, or impairment by a foreign government of its own contract with an investor with respect to a project, where such abrogation, repudiation, or impairment is not caused by the investor’s own fault or misconduct, and materially adversely affects the continued operation of the project;

(c) the term “eligible investor” means: (1) United States citizens; (2) corporations, partnerships, or other associations including nonprofit associations, created under the laws of the United States or any State or territory thereof and substantially beneficially owned by United States citizens; and (3) foreign corporations, partnerships, or other associations wholly owned by one or more such United States citizens, corporations, partnerships, or other associations: *Provided, however,* That the eligibility of such foreign corporation shall be determined without regard to any shares, in aggregate less than 5 per centum of the total issued and subscribed share capital, held by other than the United States

owners: *Provided further*, That in the case of any loan investment a final determination of eligibility may be made at the time the insurance or guaranty is issued; in all other cases, the investor must be eligible at the time a claim arises as well as at the time the insurance or guaranty is issued; and

(d) the term "predecessor guaranty authority" means prior guaranty authorities (other than housing guaranty authorities) repealed by the Foreign Assistance Act of 1969, section 202(b) and 413(b) of the Mutual Security Act of 1954, as amended, and section 111(b)(3) of the Economic Cooperation Act of 1948, as amended (exclusive of authority relating to informational media guaranties.)

Sec. 239. General Provisions and Powers.—(a) The Corporation shall have its principal office in the District of Columbia and shall be deemed, for purposes of venue in civil actions, to be resident thereof.

(b) The President shall transfer to the Corporation, at such time as he may determine, all obligations, assets and related rights and responsibilities arising out of, or related to, predecessor programs and authorities similar to those provided for in section 234 (a), (b), and (d). Until such transfer, the agency heretofore responsible for such predecessor programs shall continue to administer such assets and obligations, and such programs and activities authorized under this title as may be determined by the President. *On December 31, 1979, the Corporation shall cease operating the program authorized by sections 234 (b) through (e) and section 240. Thereafter, the President is authorized to transfer such programs, and all obligations, assets and related rights, and responsibilities arising out of, or related to, such programs to other agencies of the United States. Thereafter these programs shall be limited to countries with per capita income of \$450 or less in 1973 dollars.*

(c) The Corporation shall be subject to the applicable provisions of the Government Corporation Control Act, except as otherwise provided in this title.

(d) To carry out the purposes of this title, the Corporation is authorized to adopt and use a corporate seal, which shall be judicially noticed; to sue and be sued in its corporate name; to adopt, amend, and repeal bylaws governing the conduct of its business and the performance of the powers and duties granted to or imposed upon it by law; to acquire, hold or dispose of, upon such terms and conditions as the Corporation may determine, any property, real, personal, or mixed, tangible or intangible, or any interest therein; to invest funds derived from fees and other revenues in obligations of the United States and to use the proceeds therefrom, including earnings and profits, as it shall deem appropriate; to indemnify directors, officers, employees and agents of the Corporation for liabilities and expenses incurred in connection with their Corporation activities; to require bonds of officers, employees, and agents and pay the premiums therefor; notwithstanding any other provision of law, to represent itself or to contract for representation in all legal and arbitral proceedings; to purchase, discount, rediscount, sell, and negotiate, with or without its endorsement or guaranty, and guarantee notes, participation certificates, and other evidence of indebtedness (provided that the Corporation shall not issue its own securities, except participation certificates for the purpose of carrying out section 231(c)); to make and carry out such

contracts and agreements as are necessary and advisable in the conduct of its business; to exercise the priority of the Government of the United States in collecting debts from bankrupt, insolvent, or decedents' estates; to determine the character of and the necessity for its obligations and expenditures, and the manner in which they shall be incurred, allowed, and paid, subject to provisions of law specifically applicable to Government corporations; and to take such actions as may be necessary or appropriate to carry out the powers herein or hereafter specifically conferred upon it.

(e) The Auditor-General of the Agency for International Development (1) shall have the responsibility for planning and directing the execution of audits, reviews, investigations, and inspections of all phases of the Corporation's operations and activities and (2) shall conduct all security activities of the Corporation relating to personnel and the control of classified material. With respect to his responsibilities under this subsection, the Auditor-General shall report to the Board. The agency primarily responsible for administering part I shall be reimbursed by the Corporation for all expenses incurred by the Auditor-General in connection with his responsibilities under this subsection.

(f) In order to further the purposes of the Corporation there shall be established an Advisory Council to be composed of such representatives of the American business community as may be selected by the Chairman of the Board. The President and the Board shall, from time to time, consult with such Council concerning the objectives of the Corporation. Members of the Council shall receive no compensation for their services but shall be entitled to reimbursement in accordance with section 5703 of title 5 of the United States Code for travel and other expenses incurred by them in the performance of their functions under this section.

[(g) Except for the provisions of this title, no other provision of this or any other law shall be construed to prohibit the operation in Yugoslavia or Rumania of the programs authorized by this title, if the President determines that the operation of such program in such country is important to the national interest.]

Sec. 240. Agricultural Credit and Self-Help Community Development Projects.—(a) It is the sense of the Congress that in order to stimulate the participation of the private sector in the economic development of less developed countries in Latin America, the authority conferred by this section should be used to establish pilot programs in not more than five Latin American countries to encourage private banks, credit institutions, similar private lending organizations, cooperatives, and private nonprofit development organizations to make loans on reasonable terms to organized groups and individuals residing in a community for the purpose of enabling such groups and individuals to carry out agricultural credit and self-help community development projects for which they are unable to obtain financial assistance on reasonable terms. Agricultural credit and assistance for self-help community development projects should include, but not be limited to, material and such projects as wells, pumps, farm machinery, improved seed, fertilizer, pesticides, vocational training, food industry development nutrition projects, improved breeding stock for farm animals, sanitation facilities, and looms and other handicraft aids.

(b) To carry out the purposes of subsection (a), the Corporation is authorized to issue guaranties, on such terms and conditions as it shall determine, to private lending institutions, cooperatives, and private nonprofit development organizations in not more than five Latin American countries assuring against loss of not to exceed 25 per centum of the portfolio of such loans made by any lender to organized groups or individuals residing in a community to enable such groups or individuals to carry out agricultural credit and self-help community development projects for which they are unable to obtain financial assistance on reasonable terms. In no event shall the liability of the United States exceed 75 per centum of any one loan.

(c) The total face amount of guaranties issued under this section outstanding at any one time shall not exceed \$15,000,000. Not more than 10 per centum of such sum shall be provided for any one institution, cooperative, or organization.

(d) The Inter-American Social Development Institute shall be consulted in developing criteria for making loans eligible for guaranty coverage under this section.

(e) The guaranty reserve established under section 235(c) shall be available to make such payments as may be necessary to discharge liabilities under guaranties issued under this section.

(f) Notwithstanding the limitation contained in subsection (c) of this section, foreign currencies owned by the United States and determined by the Secretary of the Treasury to be excess to the needs of the United States may be utilized to carry out the purposes of this section, including the discharge of liabilities incurred under this subsection. The authority conferred by this subsection shall be in addition to authority conferred by any other provision of law to implement guaranty programs utilizing excess local currency.

(g) The Corporation shall, on or before January 15, 1972, make a detailed report to the Congress on the results of the pilot programs established under this section, together with such recommendations as it may deem appropriate.

[(h) The authority of this section shall continue until December 31, 1974.]

Sec. 240A. Reports to the Congress.—(a) After the end of each fiscal year, the Corporation shall submit to the Congress a complete and detailed report of its operations during such fiscal year.

[(b) Not later than March 1, 1974, the Corporation shall submit to the Congress an analysis of the possibilities of transferring all or part of its activities to private United States citizens, corporations, or other associations.]

(b) Not later than January 1, 1976, the Corporation shall submit to the Congress an analysis of the possibilities of transferring all of its activities to private insurance companies, multilateral organizations and institutions, or other entities.

VI. MINORITY VIEWS

We agree that the objective sought by the Committee's majority to increase the participation of private insurers in the OPIC investment insurance program is worth while and should be pursued. However, the bill recommended by the Committee's majority would not achieve this objective. On the contrary, it would discourage private insurance companies from participating on the scale and terms required, thereby ensuring the early termination of the investment insurance program rather than transforming it into an effective private enterprise.

The OPIC insurance program has bolstered the competitive position of the U.S. while complementing our official development assistance programs. In more than two decades of operation under OPIC and predecessor agencies, the insurance program has earned more in user premium payments than it has spent in claims payments and operating costs. Despite theories to the contrary, it has mitigated rather than caused inter-governmental political conflict over the expropriation of U.S. investments.

We are dealing with a complex and technical subject, involving many millions of dollars of investment in numerous developing countries. The creation of a government-business partnership is not susceptible to a rigidly constructed legislated mandate, based upon rather limited and inadequate hearings on some of the sensational aspects of U.S. foreign investment in developing countries. Sensationalism must not be permitted to obscure or to distract from substantive fact and constructive policy in so vital a matter.

The majority does not advance its proposal as a promising idea to be tested, but as a fiat, enforced by the threat of automatic termination of the program. The majority rejects the course of cautious experimentation toward private participation, which was urged both by Executive Branch witnesses and several insurance industry representatives.

While we share the majority's hope that a partnership of the government and the private insurance industry can be made to work in the overseas investment field, as in several domestic fields, we cannot see how the hope could be realized under the conditions the Committee's majority have prescribed. There is no assurance, for example, that the private insurance companies will make the long-term commitments that long-term investment requires. Nor is there assurance that the private insurers will accept more than a small fraction of the risks now taken by OPIC. Hence to condition the continuance of OPIC on these uncertainties is tantamount to an early death.

The potential cost of early termination, we believe, has not been fully considered in the majority's approach. To cripple or destroy the OPIC investment insurance program would be costly to both the United States and developing countries. It would reduce U.S. private investment and its developmental benefits in these countries. This

would be a needless additional blow to poor countries already reeling from increased import bills for oil, petrochemicals, and food, burdens which threaten to exceed their total foreign aid receipts. It would be equally unwise to weaken this instrument of our foreign economic policy now when our own growing needs for raw materials may require new and innovative investments in developing countries.

The Committee majority's proposals are based upon negative views of overseas private investment, in general, and OPIC, in particular, contained in the report of its Subcommittee on Multinational Corporations. We must disassociate ourselves from certain of its findings and recommendations. We do not believe the evidence presented at the hearings and from other sources support several of the conclusions reached.

The main issues as outlined in the majority report, are these:

I. DOES THE INVESTMENT INSURANCE PROGRAM ASSIST ECONOMIC DEVELOPMENT IN THE LESS-DEVELOPED COUNTRIES?

The question breaks down into two issues: (a) does the insurance program constitute a significant incentive to corporate investment abroad? (b) does foreign private investment assist the economic development of the low-income countries?

A. As to the first issue, the Subcommittee's report contends that OPIC insurance is a very marginal factor in the investment decision-making process. OPIC officials and other witnesses speaking on behalf of the investing corporations testified that many significant investments would not have occurred if OPIC insurance or financing had not been available. In generalizing, witnesses repeatedly stated that OPIC insurance was an important factor in many investment decision-making cases, sometimes a crucial factor and sometimes a minor consideration.

Paul Orefice, Financial Vice-President of the Dow Chemical Corporation, testified: "We did not make investments because A.I.D. (now OPIC) insurance was available, *but if A.I.D. insurance had not been available, we probably would not have made the investments.*" (Emphasis added. See Subcommittee hearings on OPIC, Part 3, page 326.)

A 1971 Business International survey found that 93% of the responding companies said investment insurance was either necessary or desirable, including 46% who believed that insurance was essential for their decisions to invest in less-developed countries.

Evidence that insurance is important is the fact that OPIC's premiums are equal to 10 to 15% of expected annual return of investment; it follows that if corporate officials decide to pay these high premiums it is because they consider the insurance important. OPIC's insurance premiums are relatively expensive; in fact, three times that of OPIC's Japanese and German counterparts.

Historically, there is no doubt that investment insurance had a ground-breaking role in encouraging U.S. companies to go into Korea and Indonesia. This is being repeated in newer countries today. Thus, we believe OPIC's program clearly does constitute a significant incentive to investment.

B. The second sub-issue is: *Does foreign private investment promote the development of the low-income countries?*

Secretary of State Henry Kissinger pointed out in a letter to the Subcommittee on Multinational Corporations:

Our review thus far has reaffirmed our belief that private foreign investment contributes vitally to the international development process. The Subcommittee has surely had access to the Pearson and Peterson Reports and to the many other reports sustaining this belief from the UN, the World Bank, and the OECD as well as U.S. Government studies.

The Committee received considerable testimony that private investment is an important contributor to development. Yet the report fails to record this fact. Moreover, the report misconstrues the findings of the General Accounting Office on this subject.

The Subcommittee report leaves the impression that there was great doubt about whether foreign investment contributes to development largely, it seems, on the theory that foreign private investment does not sufficiently aid the poorest citizens of the developing countries. We would not argue that private foreign investment can be a substitute for foreign aid, or can accomplish miracles in the face of maladministration and subsistence agriculture. But it is a highly useful complement to other forms of aid. Public aid for agricultural development, for example, cannot be fully effective without complementary inputs of fertilizer, tools, and hybrid seeds, all the products of private enterprise. For example, Dean Peter Gabriel of Boston University testified: "To the extent therefore, that industrialization in the less-developed countries depends on private resources and capabilities from abroad, private investment has a vital function to perform and should be encouraged."¹

OPIC subjects each project to a detailed analysis of its developmental impact on the host country. The GAO study² applied OPIC's development analysis criteria, adopted in mid-1972, to 17 projects which were insured *before* the adoption of the criteria. The GAO study gave these old projects a total of 64 "good" or "acceptable" ratings as compared with 24 "adverse" ratings on various development impact factors.

We note, too, that the Congressional Research Service (CRS) report³ (page 25), states that "the U.S. program shows all the characteristics of the 'development-oriented' approach." The CRS report said (page 53):

It should be noted that while the trend is in the direction of low-risk projects, *both the insurance and finance programs still do have substantial developmental impact.* OPIC officials are required to submit detailed developmental effects statements with every insurance or finance project involving \$1 million or more of OPIC's money. These statements, which are obtained from the applicant and other sources, include the following categories: Foreign exchange, domestic revenue, tariff protection on products, local capital mobilization, local

¹ In a subsequent letter to OPIC, the substance of which was made part of the Committee record, Dean Gabriel said, "I, for one, continue to believe that the foreign private corporation has an absolutely vital function to perform in the process of economic development."

² General Accounting Office Study of July 16, 1973, entitled "Management of Investment Insurance, Loan Guarantees, and Claim Payments by the Overseas Private Investment Corporation."

³ Congressional Research Service report of September 4, 1973 entitled "The Overseas Private Investment Corporation: A Critical Analysis."

market prices of the products, effect on existing local producers of the products, effect on local suppliers and/or downstream industries, and employment and skill creation. *All projects require host government approval, which includes an assessment by the host government of the project's economic impact.* From January 1971 to May 1973, eight projects worth \$3.1 million were rejected by OPIC because they lacked proper development effects for the host country. Thirteen worth \$5.6 million were rejected because they lacked host country approval. (Emphasis added)

It is instructive to note the findings of the House Subcommittee on Foreign Economic Policy in this question: "A general consensus among the witnesses who testified before the Subcommittee, and among the individuals interviewed by the Subcommittee's study mission was that the bulk of private foreign investment can and does comprise a useful development tool, but that the type of investment, and the terms and conditions of such investment in the future will have to take account of strongly held views in the developing countries."

It is an important fact that OPIC is *selective*—the program weeds out undesirable projects that might be harmful to the interests of developing countries, to U.S. employment and our balance-of-payments. Thus, the program not only constitutes a significant incentive for projects selectively approved; it also constitutes a significant *disincentive* for projects denied coverage.

We conclude that the weight of the evidence clearly indicates that private investment generally contributes to the development of poorer countries, and is a valuable complement to government-to-government aid.

II. DOES THE EXISTENCE OF THE INVESTMENT INSURANCE PROGRAM ADMINISTERED BY GOVERNMENT OR QUASI-GOVERNMENT AGENCIES LEAD TO A GREATER DEGREE OF INVOLVEMENT ON THE PART OF THE UNITED STATES IN THE INTERNAL POLITICAL AFFAIRS OF THOSE COUNTRIES?

The Subcommittee's affirmative answer to this question seemed to be based on logic, i.e., the greater the financial stake of the U.S. Government through its insurance program, the greater its potential involvement. In fact, the weight of the evidence supports just the opposite conclusion.

Witnesses before both the Senate Subcommittee and the House Subcommittee on Foreign Economic Policy testified that one of OPIC's principal benefits is that it provides a practical mechanism for resolving investment disputes without involving the U.S. Government. OPIC has settled or paid nearly twenty claims in Chile without any government-to-government confrontation. The confrontation that has arisen in Chile involved major Anaconda and Kennecott equity holdings *not* insured by OPIC.

The most prolonged international confrontation over an expropriation has been the International Petroleum Corporation case in Peru, not insured by OPIC.

OPIC insurance depoliticizes disputes and focuses attention on financial matters. OPIC has shown its ability to reduce emotional, highly-charged situations into businesslike negotiations yielding positive results. Most investors provide OPIC with an early warning of potential problems, and consult frequently with OPIC during the company's negotiation with the local government. This contractual relationship between OPIC and the insured investor is unique, and has had an important impact on investment disputes.

Even without insurance, the U.S. Government has both a financial stake (through the 48% tax deduction for uninsured losses due to war or expropriation) and a political interest in foreign investments by U.S. companies. In his testimony before the Subcommittee, Deputy Assistant Secretary of State Robert Hurwitsch noted in reference to investments insured by OPIC's predecessor, A.I.D. in Jamaica:

I think it is entirely unrealistic to believe that were there not insurance in Jamaica and \$500 million worth of United States company bauxite were nationalized, that the United States would not get involved.

Regarding Jamaica, we believe the majority draws several incorrect conclusions regarding the operation of investment insurance in that country. From these conclusions it has come to some generalizations about OPIC which we believe are unjustified.

(1) The report labels as "a major political issue between the United States and the Jamaican Government" a question which in fact was *never* an issue between the two governments. The hearing record points out that it was an issue between the Ambassador and OPIC. The "issue" was the result of a misunderstanding since the Ambassador failed to realize that if OPIC did write any new insurance for Reynolds on a small (\$8 million) bauxite project OPIC would reduce Reynolds' existing coverage. It is incorrect to imply that OPIC's insurance or activities were the source of strain or disputes in U.S.-Jamaican relations.

(2) The report charges that OPIC insurance "led" the former Ambassador into "the internal politics of Jamaica." Since the report acknowledges that if no insurance existed, the U.S. Ambassador would of course be "concerned about a half a billion dollars of investments by U.S. companies," it is not clear why OPIC is held responsible for what the Ambassador did on his own initiative, with neither State Department nor OPIC approval. The terms he used in pursuing his objectives were repudiated by the Department of State witness at the hearings, who made clear that it is not U.S. policy to intervene or threaten to intervene in the internal political affairs of a foreign country in defense of U.S. investment. A professional diplomat would have avoided this Ambassador's alleged actions. It is grossly unfair to draw sweeping conclusions about OPIC or U.S. policy from his remarks.

Further, it is important to compare the likely difference between the actions of an insured investor and uninsured investor in responding to an expropriation. In the case of the uninsured investor, there is no prescribed and orderly procedure to follow in attempting to

resolve the dispute. Such an uninsured investor is likely to complain to the local U.S. Embassy, the State Department, and Members of Congress demanding that somebody take action to protect him.

OPIC, however, has a specialized staff and the financial resources to help negotiate settlements in a business-like and quiet way. As the CRS report pointed out (page 97): "A public corporation can maintain a low profile, while State Department management of the problem elevates it to the diplomatic level."

We agree with the conclusion of the CRS report (page 99):

Perhaps OPIC's greatest asset is its ability to assist the developing country and the multinational corporation in the final settlement of investment disputes by translating the investment dispute into a new mutually acceptable business arrangement.

This point was made again on page 2 of the CRS report: "OPIC plays a beneficial role, primarily, in the negotiation of investment disputes."

It should also be noted that the Subcommittee on Foreign Economic Policy of the House Committee on Foreign Affairs agreed with this conclusion:

The Subcommittee concurs with the consensus reached during its investigation of OPIC, that OPIC does exercise a positive effect in the settlement of investment disputes. Primarily, the contractually established procedures which U.S. corporations must follow tend to depoliticize the investment dispute through insulating the U.S. Government by keeping the investor out in front.

Thus, it seems to us that the Report has misconstrued or overlooked evidence clearly contrary to its conclusions. The record shows that OPIC's role in averting and settling investment disputes has been a most striking achievement.

OPIC's Financial Condition

The report suggests that OPIC is on the "brink of insolvency." This statement is not borne out by a realistic look at the facts.

Barring an unforeseen catastrophic situation, OPIC reserves and anticipated revenues should provide financial stability over the long haul. As of December 31, 1973, OPIC had approximately \$190 million available for the payment of insurance claims. In addition, OPIC's net income is now almost \$30 million a year.

The bulk of the claims and guaranties outstanding is represented by two claims OPIC has denied and which will be arbitrated: Anaconda's claim for \$154 million, and ITT's claim for \$92.5 million, both Chile cases.

Although OPIC has guaranteed claims settlements to the extent of about \$120 million, the settlements primarily involve guaranties by OPIC of obligations of foreign governments to make payments to U.S. investors whose property has been expropriated, and while some defaults may be possible, there is no reason to assume at this point that these foreign government obligations will not be met.

Present claims outstanding amount to only about \$20 million. OPIC's financial condition as of December 31, 1973, showed a positive balance of over \$161 million as summarized in the following table:

TABLE A.—Insurance program—Income and disbursements from inception through December 31, 1973

[In millions of dollars]

Premiums and fees (net of reinsurance costs):	
Inception to June 30, 1969.....	78.2
Fiscal year 1970.....	21.5
Fiscal year 1971.....	24.1
Fiscal year 1972.....	26.3
Fiscal year 1973.....	26.4
Fiscal year 1974 (through Dec. 31, 1973).....	12.7
Total	189.2
Interest: Earned on premiums Jan. 1, 1970–Dec. 31, 1973.....	18.6
Total receipts	207.8
Disbursements:	
Net claims paid.....	¹ 29.3
Estimated administrative expenses.....	² 17.0
Total	46.3
Excess receipts over disbursements	³ 161.5

¹ OPIC holds \$27.7 million in assets as the result of these claims payments.

² Estimated at 9 percent of gross insurance income.

³ Does not include OPIC appropriations.

Thus, we must reject the Committee majority's suggestion that OPIC is insolvent. For this to be true, several extraordinary and unlikely events would have to take place. It would appear that recent U.S.-Chilean negotiations have improved the prospect of compensation for U.S. firms there. The accompanying Table B prepared by OPIC at our request illustrates the status of OPIC's reserves and surplus under a variety of assumptions. Even under the least likely set of assumptions (alternative four), OPIC still remains a viable institution financially.

TABLE B.—COMPUTATION OF AVAILABLE RESERVES AND SURPLUS

[In millions of dollars]

	Alternative—			
	1	2	3	4
Fiscal year:				
1974.....	186	172	157	34
1975.....	216	184	154	31
1976.....	245	201	156	33
1977.....	276	219	159	36
1978.....	306	201	126	3
1979.....	336	228	138	15
1980.....	366	255	150	27
1981.....	396	282	162	39
1982.....	426	309	174	51
1983.....	456	337	187	64
Assumptions:				
Full recourse to OPIC under settlement guaranties made as of June 30, 1973.....	No	Yes	Yes	Yes
Net revenue at \$30,000,000 annually.....	Yes	Yes	Yes	Yes
Claims payable at \$15,000,000 annually.....	No	No	Yes	Yes
50 percent arbitration claims payable in fiscal year 1974.....	No	No	No	Yes

OPIC and the Balance of Payments

The Subcommittee report implies that U.S. private investment encouraged by OPIC adversely affects the U.S. balance of payments. Of course, there is an immediate outflow of dollars when some U.S. investments occur. Other investments may involve only offshore funds or exports of U.S. goods. However, in the long term such investments produce a strongly positive net benefit to the U.S. economy. Various reports support this statement:

(1) *U.S. Tariff Commission report to the Senate Finance Committee*. It found, for all U.S. foreign investments, a positive impact of \$3.85 billion on the U.S. balance-of-payments, and a net gain of about 500,000 domestic jobs.

(2) *Harvard Business School*. It found that manufacturing investments in the less-developed countries cause a net positive impact of \$800 million on the U.S. balance-of-payments and a net gain of 120,000 U.S. jobs.

(3) *The CRS report* (page 3). It found that "OPIC already has substantial beneficial effects on both the balance-of-payments and the employment situation."

In March, 1972, just over a year after its founding, OPIC adopted a rigorous set of guidelines for analyzing the economic benefits of a proposed project on U.S. employment and on the U.S. balance-of-payments. OPIC's record should be reviewed by looking at cases decided subsequent to this significant policy change of March, 1972.

The CRS Report notes (page 77) that, "In its application screening process, OPIC is particularly anxious not to grant insurance to certain types of investments which could be harmful to the U.S. domestic industrial structure. Projects which require high amounts of third-country procurement, or which may help encourage so-called runaway plants whose output is likely to be exported in substantial competition with present United States production causing possible domestic employment displacement as well), are closely scrutinized."

The CRS Report (pages 79-80) examined ten OPIC projects at random and found that they caused a \$127 million positive U.S. capital and trade flow:

In order to present a general, although inexact, picture of the direct results of OPIC supported foreign investment, a survey contained in table II analyzes the balance-of-payments and employment effects of 10 of the largest issues of risk insurance approved by OPIC in fiscal year 1972. Together these 10 companies making investments in nine different countries accounted for two-thirds of all OPIC risk insurance issued in that year. This sample may be considered fairly representative since it represented investments in various types of manufacture, mineral extraction, and service industries. Using the formula devised by OPIC and discussed above, these 10 investments should, over a 5-year period, result in a combined positive trade and capital flows effect for the U.S. balance of payments of nearly \$127 million and create over 3,100 domestic jobs, as well as significantly helping to develop resources and to improve economic conditions within the host country. It must be noted, too, that these figures probably underestimate the total effect, since they do not take account of

possible U.S. indirect exports resulting, or of capital earnings returning to other U.S. investors besides the one insured by OPIC.

TABLE II.—U.S. effects of 10 of the largest foreign investments insured by OPIC¹

1. U.S. trade effects:	
Original U.S. procurement.....	+73, 115, 000
Exports of production inputs.....	+42, 850, 000
	+116, 965, 000
Over 5 years.....	+116, 965, 000
Exports to United States.....	-5, 600, 000
U.S. exports displaced.....	-400, 000
	-6, 000, 000
Total	-6, 000, 000
Total positive trade effects over 5 years (equals 2,455 man-years)	+110, 965, 000
2. U.S. financial flows:	
Return capital flows over 5 years.....	+50, 835, 000
Original U.S. investment.....	-34, 095, 000
	+16, 740, 000
Total positive capital flows over 5 years (equals 662 man-years)	+16, 740, 000
3. Total positive balance of payment effects (3,117 man-years) ..	+126, 705, 000

¹ Figures compiled from OPIC files made available to the Congressional Research Service.

More evidence that OPIC helps the U.S. economy was provided in the GAO Report to the Subcommittee. The GAO concluded that: "We believe that the more recent OPIC procedures if properly implemented, should provide reasonable assurance that U.S. interests are protected."

The record of the hearings and independent studies show that OPIC programs significantly contribute to our country's economic progress and improved competitiveness overseas.

OPIC's Impact on U.S. Employment

The Subcommittee report expresses concern that OPIC is not making careful enough assessment of the impact of its investments on U.S. employment. Our findings on the contrary suggest that the great bulk of investments insured by OPIC are unquestionably beneficial to the U.S. economy and employment. This is clearly true of investments in local service operations and manufacturing to serve local or regional markets that cannot be reached competitively from a U.S. production base.

OPIC has taken steps to ensure that its programs will increase, rather than decrease, U.S. employment. It examines the prospective impact of an investment on U.S. employment and the U.S. balance-of-payments in considering whether to insure it or not.

Two policies guide OPIC's screening of "runaway plant" projects:

(1) The runaway industries' policy, which includes the requirement of a letter from an applicant in cases where an issue of a possible runaway plant is raised, which letter indicates that the firm will not re-export to the United States in significant amounts.

(2) OPIC's U.S. economic impact analysis guideline requires that in any case where there may be significant exports to the United States

(in the case of particularly sensitive fields such as textiles, shoes, or consumer electronics this means *any* exports), there be a strong showing of offsetting benefits to U.S. employment and U.S. balance of payments.

As we have noted, in March 1972, OPIC initiated new, more stringent procedures to determine the impact of OPIC-assisted investments on the U.S. economy. In fact, a statement to the Subcommittee by the AFL-CIO made a number of recommendations which had in fact already been adopted by OPIC as part of its March 1972 guidelines.

The CRS and the GAO concluded that OPIC has taken steps sufficient to protect the special interests of U.S. labor. In fact, as we have said, one of the primary virtues of the OPIC program is its ability to be selective and to deny assistance to projects which would be harmful to the United States or to the developing countries. We also note that the proposed Committee bill amends OPIC's statute to require the Corporation to take into account the U.S. employment effects of investments which it assists. This provision should meet the special interests of U.S. labor, which also has a seat on OPIC's Board of Directors.

Insurance of Investment in Eastern European Countries

The majority report recommends that OPIC's authority to operate in Yugoslavia and Romania be repealed. This authority was just enacted in 1972, and its repeal only two years after it was added would disrupt the successful trade and diplomatic initiatives achieved by the U.S. Government with these two countries.

The recommendation is based on two inaccurate assumptions: (a) that Yugoslavia and Romania should not be considered less developed countries, and (b) that through OPIC's insurance the U.S. Government is guaranteeing compliance by Communist governments with their contracts with U.S. investors. In fact under guidelines used by OPIC and others, such as the World Bank and the European Economic Community, for determining whether a country is less-developed, both Yugoslavia and Romania qualify. One of OPIC's LDC criteria is a per capita GNP of \$1,000 or less. IMF computations indicate that the 1972 per capita GNP in Yugoslavia was \$585 and in Romania approximately \$800.

Further, investments OPIC insures in these countries *will not* typically be contracts with the governments. The Subcommittee report reflects a misunderstanding of the investment laws of these countries. Enterprises in which foreign investment is insured in Yugoslavia and Romania are assured of legal autonomy from the State and OPIC's insurance will operate in these countries essentially as it does in other less-developed countries.

Of 20 companies investing or planning investments in Yugoslavia, 16 have already applied for OPIC insurance.

OPIC and the United States Taxpayers

Contrary to implications of the Subcommittee Report, OPIC's program makes a great deal of sense from the U.S. taxpayer's point of view. Simple arithmetic and logic show that OPIC insurance *can save the U.S. taxpayer money* in the event of an uncompensated expropriation suffered by an American company.

During the hearings of the Subcommittee, Senator Percy asked the following question of Mr. Stanford Ross, former Assistant Tax Legislative Counsel, Department of the Treasury: "Under what conditions can a firm claim an ordinary loss deduction for an expropriated property? Can this loss be claimed if the property is covered by an OPIC contract for the amount of the loss?" Mr. Ross replied as follows:

No; the tax code allows losses only to the extent there is no insurance recovery. Therefore, if, say, there is a million dollar loss and OPIC provides \$800,000, the tax loss is reduced to \$200,000. If you follow through on that example, let's say the tax loss produces a 50 percent tax benefit, then you would get another \$100,000 back and your own—the company's net loss out of pocket would be on the order of \$100,000 instead of a million. In that example if there had been no OPIC insurance the million dollar loss would have produced \$500,000 of tax benefits and there would have been a \$400,000 net economic loss sustained.

Now, the difference between the five hundred, that would have happened in terms of tax recovery, that \$400,000 could be considered a situation in which the OPIC loss has saved tax revenue and not entirely a cost of the OPIC program as long as the tax laws are as they are.

We conclude that it is far better from the taxpayer's point of view for OPIC to reimburse U.S. investors for expropriation losses out of a pool to which they themselves have contributed and built up, than for the taxpayers to bear the brunt of the loss through a tax write-off.

The Private Insurance Alternative

The Committee's bill is unnecessarily rigid and thus unworkable, in attempting to force private insurance companies, over which Congress has no control, to accept a predetermined formula and timetable.

The bill would not convert the OPIC insurance program to a private program but could result in its quick termination if the private insurance companies rejected its many conditions. We believe no private insurer today is likely to consider insuring political risks except on a trial basis, its liability binding for only two or three years and with stop-loss limits to protect against catastrophic losses. Private insurance companies, including Lloyds of London, have given OPIC no encouragement that they will insure land-based war risks. The proposed legislation leaves no room to meet private insurance company needs on this and other vital issues through negotiation.

We remain puzzled by the unquestioning acceptance in the report of the idea that private insurance companies are eager to underwrite political risks—that somehow OPIC is preempting the U.S. private insurance market. Testimony received by the Subcommittee and statements issued by several U.S. insurance companies contradict this thesis.

Specifically, the report quotes testimony of representatives of the private insurance industry to give the impression that enough is already known about the willingness and ability of the industry to undertake OPIC's insurance functions to justify legislation which would compel a "swift transfer" of such functions to private companies.

The complete testimony of the private insurance representatives indicates their support of additional study and experimentation before the scope and structure of private participation in OPIC's insurance program can be known. For example, Mr. Sherwood of Prudential stated (see Subcommittee hearings on OPIC Part 3 page 251): "If Congress is to have a firmer basis for deciding to what extent such activity should be left to private enterprise and what the participation of the Federal Government might be, more information is needed." Mr. Meenaghan of Fireman's Fund testified (see subcommittee hearings on OPIC, Part 3 page 374): "Those of us who have worked on this project feel that the OPIC insurance program cannot and should not be completely transferred to the private sector."

On November 9, 1973, Fireman's Fund American Insurance Companies issued a public statement again indicating that private insurance companies "might be willing to participate in a trial program on a sound fiscal basis with federal government reinsurance backup, but not with the knowledge that direct government participation would end on a specified date several years hence."

The statement continued:

The recommendations . . . which are extremely specific as to the schedules of industry percentages, precise reinsurance amounts, retentions, etc., will, in our opinion, not create the proper atmosphere or incentive for the solicitation of private participation.

Even if it is workable, the legislation would compromise OPIC's negotiating position with the private companies who would be encouraged to raise their demands for shares of OPIC's fee income, knowing that OPIC was required by law to make a deal with them, or terminate the program.

It is also likely that private insurance companies will wish to insure investments in developed countries, or limit insurance to a select list of developing countries, thereby undermining OPIC's public policy goal of promoting economic development in developing countries.

The detailed mandatory legislation proposed by the Committee is not necessary to accomplish its stated purpose because OPIC is already negotiating with private insurance companies to establish a consortium which would test the concept. This consortium, OPIC has stated, would shift a significant portion of OPIC's present and future risks to the private sector, and over a two or three year experimentation period, test the costs and benefits of joint public-private underwriting and reinsurance arrangements.

It is particularly important to know what, if any, costs would be paid in the form of surrender of public policy controls on the approval of projects for reasons of developmental, U.S. domestic economic, and other effects.

The Committee's requirements for specific legislation percentages, target dates, and penalties seems to suggest that OPIC has been laggard or unwilling to move toward greater private sector involvement in its programs. This simply is not supported by the facts. In 1971, OPIC negotiated a quota share reinsurance arrangement with Lloyds of London. After a successful trial period, Lloyds' reinsurance was doubled in 1972 to \$14 million per country. Recently, OPIC negotiated a new reinsurance contract with Lloyds effective beginning January 1, 1974, which significantly increases private sector participation in expropriation risks (including both new and existing insurance contracts in all countries). Lloyds has committed its syndicates to a three year reinsurance of OPIC through a first-loss \$40 million dollar pool, where Lloyds is liable for 40% of any loss in the pool. This replaces the quota share arrangement, and means that Lloyds assumes increased amounts of expropriation risks in those countries where OPIC's exposure is highest (e.g., Jamaica, Korea, Brazil, and Dominican Republic).

We have been impressed by the attitude of OPIC's management in its efforts to gain increased private participation in the program. We are aware that it was OPIC which first requested legislative authority to enter into broader risk-sharing arrangements with the private sector. In May, 1973, President Nixon, in his proposed Foreign Assistance Act of 1973, requested this broader authority for OPIC. However, we cannot mandate by legislation, or even accurately predict at this time the extent to which private participation can be accomplished.

A trial period is needed to determine the feasibility of transferring the program to the private sector. Private insurance companies testified at the Subcommittee hearings that they must be persuaded on the basis of a successful trial period that it is profitable for them to be involved in the program. Mandatory interim goals and unrealistic reinsurance limits, we believe, will discourage, rather than encourage, private participation in the OPIC program.

RECOMMENDATIONS

Our principal recommendations are as follows:

(1) We recommend that the legislation be revised to remove the "sudden death" penalty for not achieving the mandatory interim goal of 25% private participation as required by the Committee bill. This is an unprecedented effort to involve private insurance companies in a government program, and the goal is needlessly restrictive. It is possible to determine realistic and attainable goals which OPIC should meet, and to provide for continuing Congressional oversight to ensure their realization.

(2) We recommend that the reinsurance section be revised to allow OPIC a realistic chance of obtaining private insurance company participation. Insurance companies have emphatically stated that the present provisions are unacceptable. Their participation is voluntary—the Congress cannot force them to participate. Under the Committee bill, if the private insurance companies do not participate to the full extent of the percentages required, the program is automatically terminated for the coverages concerned.

(3) We recommend that OPIC be required to provide the Congress with annual reports on its progress and operating experience in achieving broader private participation in the insurance program. Such reports should particularly consider the policy and financial benefits or costs associated with future steps toward increased privatization.

(4) We recommend that the Senate continue to support East-West business contacts by rejecting the Committee effort to rescind OPIC operating authority in the less-developed countries of Yugoslavia and Romania.

With these changes we believe the legislation will permit reasonable latitude for negotiation with the insurance industry, and a fair trial of the resulting consortium before final decisions on OPIC are made through legislation.

JOHN SPARKMAN.
GALE MCGEE.
HUBERT H. HUMPHREY.
JACOB K. JAVITS.
HUGH SCOTT.
ROBERT GRIFFIN.

VII. ADDITIONAL VIEWS OF SENATOR CASE

I agree with the general thrust of the majority report of the Committee on the OPIC (Overseas Private Investment Corporation) program. But I believe we should go further and draw the logical conclusion from the facts as we found them: namely that the financial and political risks inherent in the OPIC program, even with the revisions proposed in the report, outweigh the possible benefits. Accordingly, I believe that OPIC should not be extended beyond the end of its present term.

The Committee found that—

“i. The investment guarantee program administered by OPIC is, at best, only a marginal contributor to the development of the poorer countries of the world and OPIC is only a marginal stimulus to private investment in less developed countries.

“ii. The program, as presently conceived, tends to increase the likelihood of United States Government involvement in the internal politics of other countries in connection with the property interests of United States Corporations.

“iii. The program, as presently administered by OPIC, and previously by its predecessor, AID, has inherent within it a conflict between the achievement of public policy and management by sound insurance principles. The result has been a large and unsatisfactory exposure of the good faith and credit of the U.S. Government.”

The suggestions made by the majority for a gradual shift of OPIC's insurance to private industry, with what I believe would be an open-ended reinsurance commitment by the United States, are in my opinion unrealistic and would not in my judgment accomplish the majority's stated purpose.

I believe strongly that the only way to terminate the program is to terminate it.

CLIFFORD P. CASE.

(69)

○.

Ninety-third Congress of the United States of America

AT THE SECOND SESSION

*Begun and held at the City of Washington on Monday, the twenty-first day of January,
one thousand nine hundred and seventy-four*

An Act

To amend the title of the Foreign Assistance Act of 1961 concerning the Overseas Private Investment Corporation to extend the authority for the Corporation, to authorize the Corporation to issue reinsurance, to terminate certain activities of the Corporation, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Overseas Private Investment Corporation Amendments Act of 1974".

SEC. 2. Title IV of chapter 2 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2191-2200a) is amended as follows:

(1) In section 231—

(A) in the first sentence, strike out "progress" and insert in lieu thereof "development";

(B) strike out clause (a) and insert in lieu thereof the following:

"(a) to conduct financing, insurance, and reinsurance operations on a self-sustaining basis, taking into account in its financing operations the economic and financial soundness of projects;";

(C) in clause (d) strike out ", when appropriate," and insert after "efforts to share its insurance" the following: "and reinsurance";

(D) strike out clause (e) and insert in lieu thereof the following:

"(e) to give preferential consideration in its investment insurance, financing, and reinsurance activities (to the maximum extent practicable consistent with the Corporation's purposes) to investment projects involving businesses of not more than \$2,500,000 net worth or with not more than \$7,500,000 in total assets;";

(E) in clause (i), after "balance-of-payments" insert "and employment";

(F) in clause (j), strike out "and" after the semicolon;

(G) at the end of clause (k), strike out the period and insert in lieu thereof a semicolon; and

(H) add at the end thereof the following new clauses:

"(1) to the maximum extent practicable, to give preferential consideration in the Corporation's investment insurance, financing, and reinsurance activities to investment projects in the less developed friendly countries which have per capita incomes of \$450 or less in 1973 United States dollars; and

"(m) (1) to decline to issue any contract of insurance or reinsurance, or any guaranty, or to enter into any agreement to provide financing for an eligible investor's proposed investment if the Corporation determines that such investment is likely to cause such investor (or the sponsor of an investment project in which such investor is involved) significantly to reduce the number of his employees in the United States because he is replacing his United States production with production from such investment which involves substantially the same product for substantially the same market as his United States production; and (2) to monitor conformance with the representations of the investor on which the Corporation relied in making the determination required by clause (1)."

(2) Section 234 is amended—

(A) by striking out the section caption and inserting in lieu thereof the following: "INVESTMENT INSURANCE AND OTHER PROGRAMS";

(B) by striking out subsection (a) (2) and inserting in lieu thereof the following:

“(2) Recognizing that major private investments in less developed friendly countries or areas are often made by enterprises in which there is multinational participation, including significant United States private participation, the Corporation may make arrangements with foreign governments (including agencies, instrumentalities, or political subdivisions thereof) or with multilateral organizations and institutions for sharing liabilities assumed under investment insurance for such investments and may in connection therewith issue insurance to investors not otherwise eligible hereunder, except that liabilities assumed by the Corporation under the authority of this subsection shall be consistent with the purposes of this title and that the maximum share of liabilities so assumed shall not exceed the proportionate participation by eligible investors in the total project financing, and that the maximum share of liabilities so assumed under paragraph (1) (A) and (B) or paragraph (1) (C) shall not exceed the Corporation’s proportional share for such liabilities as specified in paragraph (4) or (5) of this subsection.”

(C) by adding at the end of subsection (a) thereof the following new paragraphs:

“(4)(A) It is the intention of Congress that the Corporation achieve participation by private insurance companies, multilateral organizations, or others in liabilities incurred in respect of the risks referred to in paragraph (1) (A) and (B) of this subsection under contracts issued on and after January 1, 1975, of at least 25 per centum, and, under contracts issued on and after January 1, 1978, of at least 50 per centum. If for good reason it is not possible for the Corporation to achieve either such percentage of participation, the Corporation shall report in detail to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives the reasons for its inability to achieve either such percentage of participation, and the date by which such percentage is to be achieved.

“(B) The Corporation shall not participate as insurer under contracts of insurance issued after December 31, 1979, in respect of the risks referred to in paragraph (1) (A) and (B) of this subsection unless Congress by law modifies this paragraph.

“(5)(A) It is the intention of Congress that the Corporation achieve participation by private insurance companies, multilateral organizations, or others in liabilities incurred in respect of the risks referred to in paragraph (1) (C) of this subsection under contracts issued on and after January 1, 1976, of at least 12½ per centum, and, under contracts issued on and after January 1, 1979, of at least 40 per centum. If for good reason it is not possible for the Corporation to achieve either such percentage of participation, the Corporation shall report in detail to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives the reasons for its inability to achieve either such percentage of participation and the date by which such percentage is to be achieved.

“(B) The Corporation shall not participate as insurer under contracts of insurance issued after December 31, 1980, in respect of the risks referred to in paragraph (1) (C) of this subsection unless Congress by law modifies this paragraph.

“(6) Notwithstanding any of the percentages of participation under paragraphs (4) (A) and (5) (A) of this subsection, the Corporation may agree to assume liability as insurer for any contract of insurance, or share thereof, that a private insurance company, multilateral

organization, or any other person has issued in respect of the risks referred to in paragraph (1) of this subsection, and neither the execution of any such agreement to assume liability nor its performance by the Corporation shall be considered as participation by the Corporation in any such contract for purposes of such percentages of participation. On and after January 1, 1981, the Corporation shall not enter into any such agreement to assume liability.

“(7) On and after December 31, 1979, the Corporation shall not manage direct insurance issued after such date in respect of risks referred to in paragraph (1)(A) or (B) of this subsection unless Congress by law modifies this sentence. On and after December 31, 1980, the Corporation shall not manage direct insurance issued after such date in respect of risks referred to in paragraph (1)(C) of this subsection unless Congress by law modifies this sentence. It shall thereafter act solely as a reinsurer except to the extent necessary to manage its outstanding insurance and reinsurance contracts and any contracts of insurance the Corporation assumes pursuant to paragraph (6).”; and

(D) by adding at the end thereof the following new subsection:

“(f) OTHER INSURANCE FUNCTIONS.—(1) To make and carry out contracts of insurance or reinsurance, or agreements to associate or share risks, with insurance companies, financial institutions, any other persons, or groups thereof, and employing the same, where appropriate, as its agent, or acting as their agent, in the issuance and servicing of insurance, the adjustment of claims, the exercise of subrogation rights, the ceding and accepting of reinsurance, and in any other matter incident to an insurance business.

“(2) To enter into pooling or other risk-sharing arrangements with other national or multinational insurance or financing agencies or groups of such agencies.

“(3) To hold an ownership interest in any association or other ~~entity established for the purpose of sharing risks under investment~~ insurance.

“(4) To issue, upon such terms and conditions as it may determine, reinsurance of liabilities assumed by other insurers or groups thereof in respect of risks referred to in subsection (a) (1).

The authority granted by paragraph (3) may be exercised notwithstanding the prohibition under subsection (c) against the Corporation purchasing or investing in any stock in any other corporation. The amount of reinsurance of liabilities under this title which the Corporation may issue shall not exceed \$600,000,000 in any one year, and the amount of such reinsurance shall not in the aggregate exceed at any one time an amount equal to the amount authorized for the maximum contingent liability outstanding at any one time under section 235(a) (1). All reinsurance issued by the Corporation under this subsection shall require that the reinsured party retain for his own account specified portions of liability, whether first loss or otherwise, and the Corporation shall endeavor to increase such specified portions to the maximum extent possible.”

(3) In section 235—

(A) strike out “1974” in subsection (a) (4) and insert in lieu thereof “1977”;

(B) in subsection (d), strike out “insurance issued under section 234(a)” and insert in lieu thereof the following: “insurance or reinsurance issued under section 234”; and

(C) strike out subsection (f) and insert in lieu thereof the following:

“(f) There are authorized to be appropriated to the Corporation, to remain available until expended, such amounts as may be necessary from time to time to replenish or increase the insurance and guaranty fund, to discharge the liabilities under insurance, reinsurance, or guaranties issued by the Corporation or issued under predecessor guaranty authority, or to discharge obligations of the Corporation purchased by the Secretary of the Treasury pursuant to this subsection. However, no appropriations shall be made to augment the Insurance Reserve until the amount of funds in the Insurance Reserve is less than \$25,000,000. Any appropriations to augment the Insurance Reserve shall then only be made either pursuant to specific authorization enacted after the date of enactment of the Overseas Private Investment Corporation Amendments Act of 1974, or to satisfy the full faith and credit provision of section 237 (c). In order to discharge liabilities under investment insurance or reinsurance, the Corporation is authorized to issue from time to time for purchase by the Secretary of the Treasury its notes, debentures, bonds, or other obligations; but the aggregate amount of such obligations outstanding at any one time shall not exceed \$100,000,000. Any such obligation shall be repaid to the Treasury within one year after the date of issue of such obligation. Any such obligation shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of any obligation authorized by this subsection. The Secretary of the Treasury shall purchase any obligation of the Corporation issued under this subsection, and for such purchase he may use as a public debt transaction the proceeds of the sale of any securities issued under the Second Liberty Bond Act after the date of enactment of the Overseas Private Investment Corporation Amendments Act of 1974. The purpose for which securities may be issued under such Bond Act shall include any such purchase.”

(4) In section 237—

(A) in subsection (a), strike out “and guaranties” and insert in lieu thereof a comma and “guaranties, and reinsurance”; and strike out “or guaranties” and insert in lieu thereof a comma and “guaranties, or reinsurance”;

(B) in subsection (b), strike out “or guaranty” in both places and insert in lieu thereof in both places the following: “, guaranty or reinsurance”;

(C) in subsection (c), insert “, reinsurance,” after “insurance” in both places it occurs;

(D) strike out subsection (d) and insert in lieu thereof the following:

“(d) Fees shall be charged for insurance, guaranty, and reinsurance coverage in amounts to be determined by the Corporation. In the event fees charged for investment insurance, guaranties, or reinsurance are reduced, fees to be paid under existing contracts for the same type of insurance, guaranties, or reinsurance and for similar guaranties issued under predecessor guaranty authority may be reduced.”;

(E) in subsection (e), strike out “or guaranty” and insert in lieu thereof a comma and “guaranty, or reinsurance”;

(F) in subsection (f), insert “, reinsurance,” after “insurance” in both places it occurs;

(G) add at the end of subsection (f) the following: “Notwithstanding the preceding sentence, the Corporation shall limit the amount of direct insurance and reinsurance issued by it under section 234 so that risk of loss as to at least 10 per centum of the total investment of the insured and its affiliates in the project is borne

by the insured and such affiliates. The preceding sentence shall not apply to the extent not permitted by State law.”;

(H) in subsection (g), after “guaranty”, insert a comma and “insurance, or reinsurance”;

(I) in subsection (h), strike out “or guaranties” and insert in lieu thereof a comma and “guaranties, or reinsurance”;

(J) in subsection (i), after “insurance”, insert “, reinsurance,”; and

(K) strike out subsection (k) and insert in lieu thereof the following:

“(k) In making a determination to issue insurance, guaranties, or reinsurance under this title, the Corporation shall consider the possible adverse effect of the dollar investment under such insurance, guaranty, or reinsurance upon the balance of payments of the United States.”

(5) In section 239—

(A) in subsection (b), add the following new sentences at the end thereof: “On December 31, 1979, the Corporation shall cease operating the programs authorized by section 234 (b) through (e) and section 240. Thereafter, the President is authorized to transfer such programs, and all obligations, assets, and related rights and responsibilities arising out of, or related to, such programs to other agencies of the United States. Upon any such transfer, these programs shall be limited to countries with per capita income of \$450 or less in 1973 dollars.”; and

(B) add at the end thereof the following:

“(h) Within six months after the date of enactment of this subsection the Corporation shall develop and implement specific criteria intended to minimize the potential environmental implications of projects undertaken by investors abroad in accordance with any of the programs authorized by this title.”

(6) In section 240(h), strike out “1974” and insert in lieu thereof “1977”.

(7) In section 240A, strike out subsection (b) and insert in lieu thereof the following:

“(b) Not later than January 1, 1976, the Corporation shall submit to the Congress an analysis of the possibilities of transferring all of its activities to private insurance companies, multilateral organizations and institutions, or other entities.”

Speaker of the House of Representatives.

*Vice President of the United States and
President of the Senate.*

August 15, 1974

Dear Mr. Director:

The following bill was received at the White House on August 15th:

S. 2977

Please let the President have reports and recommendations as to the approval of this bill as soon as possible.

Sincerely,

Robert D. Linder
Chief Executive Clerk

The Honorable Roy L. Ash
Director
Office of Management and Budget
Washington, D. C.