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The Role of Private Enterprise in Investment and Promotion of Exports in Developing Countries by Dirk U Stikker - Undated

THE ROLE OF PRIVATE ENTERPRISE IN INVESTMENT AND PROMOTION OF EXPORTS IN DEVELOPING COUNTRIES

BY

DIRK U. STIKKER

Reid 9/18/67

Note

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THE ROLE OF PRIVATE ENTERPRISE

IN INVESTMENT AND PROMOTION OF EXPORTS

IN DEVELOPING COUNTRIES

BY

DIRK U. STIKKER

Acknowledgements

Writing on development problems means being constantly aware that in this world there are still millions of people living under sub-human conditions and that it will take a long time before their sufferings come to an end.

I am most grateful to Dr Prebisch that he invited me to make this study. Naturally, the views expressed in this report are my own and can in no way be considered as emanating from UNCTAD or any other UN organ.

It has only been possible to finish this report within a year because of the co-operation I found from so many sides. A grant from the Ford Foundation enabled me to enlarge the staff which UNCTAD put at my disposition. Without the valuable and untiring assistance of Mr Leif M. Petersen in Lugano and Mr John Butler in Geneva, who accompanied me on many of my travels, and the expert help of the British economist, Mr Richard Bailey, it would have been impossible to collect and bring some order in the material that had to be studied. Private enterprise and its organisations in many of the capital exporting countries opened their doors to me; I am greatly indebted to the many experts who made their contributions. In this context I should mention my special gratitude to Mr E.B. Nortcliffe who often was the rapporteur for the ICC on taxation aspects and assisted me in the drafting of the chapter dealing with taxation.

In all DCs I have visited, government authorities, private enterprise and its organisations, domestic and foreign, explained to me with great frankness their problems around the

improvement of the lot of the people in those countries. I want to express my gratitude for their full co-operation and my admiration for their devoted ceaseless efforts for economic growth.

The representatives of UNDP have very efficiently assisted me in the arrangement of my programmes in DCs. Many of the Organisations of the UN and also the IBRD and the OECD helped me with their thorough understanding and experience.

My secretaries Mme S. Puffet and Miss H. Reed laboured long over the manuscript and the filing of my archives.

Abbreviations

ADELA	ADELA Investment Company S.A.
AID	Agency for International Development (United States)
APPI	Association Internationale pour la Promotion et la Protection des Investissements Privés en Territoires Etrangers.
BIAC	Business and Industry Advisory Committee to OECD
BIRPI	United International Bureaux for The Protection of Intellectual Property
CACM	Central American Common Market
CPEs	Centrally Planned Economies
DAC	Development Assistance Committee (of OECD)
DCs	Developing Countries
ECAFE	Economic Commission for Asia and the Far East (UN)
ECA	Economic Commission for Africa (UN)
ECE	Economic Commission for Europe (UN)
ECLA	Economic Commission for Latin America (UN)
ECOSOC	Economic and Social Council (UN)
EDF	European Development Fund of EEC
EEC	European Economic Community
EFTA	European Free Trade Association
FAO	Food and Agricultural Organisation of the United Nations
GATT	General Agreement on Tariffs and Trade
GDP	Gross Domestic Product
GNP	Gross National Product
IBRD	International Bank for Reconstruction and Development
ICC	International Chamber of Commerce
ICs	Industrialised Countries
IDA	International Development Association
IFC	International Finance Corporation
IMF	International Monetary Fund

LAFTA	Latin American Free Trade Association
MECs	Developed Market Economy Countries
NDP	Net Domestic Product
OAS	Organisation of American States
OECD	Organisation for Economic Co-operation and Development
SITC	Standard International Trade Classification
UNCTAD	United Nations Conference on Trade and Development
UNIDO	United Nations Industrial Development Organisation

TERMS OF REFERENCE

Extracts from a letter from Dr Raul Prebisch to Mr Stikker dated 7 July 1966

".....

The essential objective of your task would be to examine the increased contribution which private enterprise can undoubtedly make to the expansion of trade and accelerated economic development of developing countries. As it is my opinion that private enterprise will have to play a fundamental role in the development process, it would be necessary to define not only its attitude to this problem, but also to try and discover how its contribution in this field could be improved.

.....

It would be your task to present to the members of the Conference a realistic appraisal of the efforts already being pursued by private enterprise, of the obstacles encountered both in the industrialized and the developing countries, and of the avenues and action to be recommended to the two groups of countries and to private enterprise in order to mobilize fully this instrument for the improvement of the trade position of the developing countries.

I would consider it essential that you follow a broad approach, according to your considered opinion in the performance of this task, including all aspects which you would regard as relevant to the analysis of the current situation and to the formulation of proper recommendations for action. Thus, it would seem that not only should matters of production, export promotion, investment opportunities and joint ventures be covered, but also any other related problems like shipping, finance and insurance.

....."

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PREFACE

It is generally accepted that the 1964 Meeting of UNCTAD was a turning point in the handling of ideas and recommendations for development which had been made over many years in so many organs of the UN. In 1966, UNCTAD was joined by UNIDO and the two organs now concentrate all their efforts on the expansion of international trade and the creation of new industries for development of DCs. In a new forum, world opinion is now focussed on all the problems of the DCs in their legitimate desire for improvement of the standard of living of their peoples.

This report deals only with one aspect of these problems, that is the role of private enterprise in development and, more particularly, how the flow of private foreign investment could be stimulated and the export of manufactures and semi-manufactures from DCs could be promoted. This is a vast subject which was given appropriately wide terms of reference.

The report does not criticise one system or praise another - if some countries decide that the emphasis must be on central planning and an enlarged public sector that is their affair - nor does it enter into a theoretical debate on development but is concerned solely with the role which private enterprise can play in the DCs. It simply states development problems and suggests ways and means of using scarce resources to the best advantage in the context of a situation in which private enterprise is able to establish itself and operate freely. It tries to explain what private enterprise can and cannot do. Foreign private enterprise clearly cannot give aid in the same way as governments and international organisations. However, it provides through its training programmes and the introduction of industrial information, management skills and

know-how, a form of technical assistance of an extremely practical kind. Private enterprise should, and in fact does, in all countries where it works, seek to play a part in the national economy and accept all its legal and social obligations. The report furthermore defines some major obstacles to greater investment and offers some suggestions for improvement. These suggestions are based on the conviction that by more co-ordination, greater efficiency and lower costs, greater investments, more exports and, in consequence, faster growth can be obtained. Progress will, however, largely depend on the stability of the economic and political situation in the world. Only in a stable world can the much needed funds for development be generated.

The findings of this report are based in the first place on a study of the vast documentation which exists. Experts will therefore find some repetition of points already made many times before. The findings have been discussed in a great number of interviews in DCs and ICs.

A recent and very important study of the subject of this report was prepared, in response to requests by UNCTAD and the UN General Assembly, in the Fiscal and Financial Branch of the Department of Economic and Social Affairs. The study : 'Financing of Economic Development, Promotion of Private Foreign Investment in Developing Countries' is in process of preparation for publication later this year. An advance text of its summary and conclusions was circulated as document E/4293 of 6 March 1967, and became available to the author when work on this report was far advanced. The findings recorded in E/4293 are of great importance and on many subjects coincide with the author's own findings. In the following pages occasion is repeatedly taken to comment on or refer to

document E/4293.

The author wishes to emphasise that he has endeavoured to produce an objective report on the basis of documentation studied and interviews carried out for this project and drawing on a lifetime of experience in politics, government service, international organisations, administration and business. He is a believer in the value of the private enterprise system but he is in no sense a spokesman either in this report or elsewhere for private enterprise.

CHAPTER I

THE PROBLEMS OF DEVELOPMENT

Introduction

1. The terms of reference set out on page v emphasise the wide ranging and comprehensive nature of the problems of development. Private enterprise has a fundamental role to play in the development process. It is involved in the expansion and diversification of exports of manufactured and semi-manufactured goods, in finding investment opportunities, and in the related problems of shipping, finance and insurance. In this chapter the broad elements of the problems of development are examined and described as a prelude to the appraisal of the efforts of private enterprise, the obstacles which it has encountered and the recommendations for securing its better functioning which form the main part of this report.

2. The approach of the author of the report was summarised by Mr Eugene R. Black in an article published in the US in which he said :

> "Personally, I do not think there is any more important business in which nations can invest, and with which men can occupy themselves, than getting people together round the problems of their economic growth. If there is any ground for common agreement in our world today, that ground is a common desire to improve the lot of people who no longer believe that their poverty and suffering is a punishment, or predetermined by forces beyond human control."

3. Capital investment or technological assistance by private enterprise should not be seen as an independent function. It will only have a really effective influence if it can be co-ordinated with assistance coming from all other sources.

As underdevelopment is not the result of lack of money but the cause of it, the injection of capital alone can seldom cure it. Help without self-help will remain an empty gesture. The greatest contribution DCs can make is to develop institutions and attitudes which will overcome the barriers to progress implied in, among others, social systems, traditional methods of cultivation, educational problems and population pressures.

The basic shortages

4. It is necessary to emphasise at the outset that there are two compelling reasons why increased trade and growth of DCs must constantly be a focal point in world policy. The first is the food deficiency against the grim perspective of the ever-continuing population explosion; the second is the scarcity of capital which unavoidably leads to high rates of interest. Both problems aggravate the dangers which we can expect to confront us in the last third of this century. The food situation increases the need for help while the scarcity of capital retards both aid and new investments.

5. The sooner governments fully appreciate and explain the growing dangers from these related problems, the sooner their people will realise that this is the basic issue facing their domestic and foreign policy in the remaining years of this century and be prepared to make sacrifices to help. Everyone, including the business community in the MECs, will have to recognise the stark reality of the conditions under which the coming generation will have to live in the year 2000, if adequate measures to increase production, particularly of food, and to control the birth rate are not taken in time.

Food and population

6. In the period 1950-65, the world's population grew by over a third, representing an average annual rate of increase of

almost 2%, which is much faster than ever before in history. In some DCs the annual increase now exceeds 3%. This faster population growth is the result mainly of substantial decreases in mortality. Life expectancy in the DCs has increased during the last twenty years from 25 years to 45 years, but is still dragging 20 years behind expectancy in ICs. Mortality rates are likely to fall still further while birth rates rise - although in the longer term, much-needed family planning measures might check this trend.

7. Population forecasts are notoriously risky, but it would seem that world population, which was estimated to be just under 3 billion in 1960, could well increase to 5.3 - 6.8 billion by the year 2000, a figure of the order of 6 billion being the most likely expectation. Considerable changes in regional distribution would take place by 1985 along the lines indicated in Table 1 below :

Table 1. World population growth

	Population 1965		Past and assumed rates of growth				Population 1985(b)	
			50-62	65-75	75-85(a)	75-85(b)		
	Million	% of world total	% per year compound				Million	% of world total
MECs	727	21	1.3	1.1	0.8	1.1	906	18
rth America	214	6	1.7	1.4	1.1	1.5	288	6
western and Southern Europe	378	11	1.0	0.9	0.5	0.8	444	9
Other	135	4	1.5	1.3	1.0	1.3	174	3
CPEs	1128	34	2.0	1.8	1.1	1.8	1605	32
USSR and Eastern Europe	333	10	1.5	1.1	0.9	1.1	415	8
Asia	795	24	2.3	2.0	1.2	2.1	1190	24
DCs	1500	45	2.3	2.6	2.1	2.5	2473	50
Latin America	244	7	2.6	2.8	2.2	2.7	422	9
Africa	249	8	2.4	2.6	2.3	2.7	415	8
Near East	111	3	2.3	2.7	2.2	2.7	190	4
Asia and Far East	896	27	2.1	2.5	1.7	2.3	1446	29
of which India	483	14	2.0	2.4	1.9	2.2	755	15
WORLD TOTAL	3355	100	2.0	2.0	1.6	2.0	4984	100

(a) Assuming low population growth
(b) Assuming higher population growth

Source : FAO

8. It is significant that within the overall growth outlined above, urbanization in DCs is expected to continue with important consequences for consumption and trade. Thus in 1962, the urban population of DCs (278 million) was slightly smaller than that of MECs (294 million). By 1985, it could be some 75% greater, which would mean that some 750 million people in DCs would be dependent for their food and general livelihood on commercial agriculture and the efficient operation of domestic and external markets.

9. One aspect of the faster rate of growth of the population in DCs is its effect on their capital requirements. Social investments become much more of a burden with a rapidly rising population as more houses, schools, roads etc. have to be provided. There are also the very considerable difficulties involved in finding ways and means of absorbing school leavers into suitable occupations and the politically disturbing and highly costly problem of adapting the educational system to provide secondary school places for the brighter children passing through the primary schools.

Food requirements

10. From the forecasts above, it will be seen that in order to keep pace with the expected population increase, without any improvements in diets, total food supplies would have to be approximately doubled by the year 2000. Furthermore, according to FAO's Third World Food Survey (1963) 10-15% of the present world population are undernourished and up to half suffer some degree of hunger or malnutrition or both. Thus it is apparent that far more than a doubling of food supplies is required if actual needs are to be met.

11. Whether sufficient supplies can become available will depend not only on food production, but also on achieving a rate of general economic growth in the DCs, sufficiently high to

translate the need for food into effective commercial demand.

12. It has been suggested that a growth rate in the DCs over the next twenty years of 5.5-6% p.a., coupled with an increase in food supplies to match the resulting demand, might bring the hunger problem largely under control by 1985. It is doubtful whether food needs could in fact be met even at such a high growth rate, which compares with an actual rate of 4.5% p.a. in the period 1950-65. However, the clear implication is that, if the high growth is not realised, the need for food of the increasing population will remain the same but there will be no purchasing power to pay for it.

13. Food production in the DCs must be increased. This is technically possible by raising productivity,but low agricultural output in many DCs is due not only to lack of fertilizers and pesticides, inadequate transport and irrigation systems but to other factors such as traditionalism and poor education. It is in some cases, particularly in Asia, also due to the lack of effective demand for food, as large masses of the non-farming population have nothing to offer the farming community in exchange for food. Although there are some indications, e.g. in India, that this situation is improving, the world is still confronted with a vicious circle. As the population grows, the need for food grows, while in the absence of effective demand, food production will not grow - and aid, even on a greater scale, can only provide temporary relief.

14. The famines of 1966-67 in Bihar and Uttar Pradesh in India are clear examples of the disasters that will continue to occur, and probably on an increasing scale, in the future. Dependence by the food-deficient countries on the arrangements made during the Kennedy Round[a], or on US grain, and subsidized imports cannot continue for ever. The effects of a bad crop

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(a) See Chapter IX, paragraphs 447-448

on the millions in Bihar and Uttar Pradesh reflect the long-term problem posed by the population explosion. It is desirable that there should be birth control in the DCs. At the same time, it is necessary that greater efforts should be made in the DCs as a whole to achieve self-sufficiency in food production, possibly on a regional scale[(a)], and that the non-farming population must be in a position to pay for their food. These changes will require national and international efforts on a vast scale and local and foreign private enterprise can play an important role if given the chance.

15. One key factor in the solution will be to increase food production in the DCs themselves, and the bulk of this increase must come from higher yields and better farming methods, since there is in many countries little new land available to be brought into cultivation.

16. Indications are that by the end of this century, there will be only some 0.4 ha. of agricultural land per caput in DCs (India will have 0.2 ha. in 1985), compared with a figure of the order of 1.5 ha. per caput in ICs. While in ICs land-use is capital intensive, and high yielding, in DCs agriculture is often inefficient. The need to improve yields in DCs is strikingly shown by the following figures :

(a) See Appendix I - Statement by Mr T.J. Mboya, Minister of Economic Planning and Development, Kenya, on the possibilities of increasing food production in Africa.

Table 2. Yield of major crops in ICs and DCs - 1964/65

	In DCs	In ICs	In DCs expressed as percentage of that in ICs
	100 Kg. per hectare		
Wheat	9.7	14.4	67
Rye	10.0	11.6	86
Barley	11.4	18.4	62
Oats	11.1	15.2	73
Maize	14.0	27.9	50
Millet and Sorghum	6.4	18.9	34
Rice (paddy)	19.6	49.8	39
Potatoes	65.0	143.0	45
Cotton (lint)	2.5	6.1	4.1

Source : FAO

17. Quite clearly, meeting the projected demand for food poses formidable technological, institutional and other related problems. Furthermore, even if it is assumed that sufficient food is available by 1985, special distribution and financing problems will occur, including those arising from inequality of income and purchasing power, which are reflected in lower food consumption. This situation will be particularly acute in the case of DCs whose per caput income is now very low, say less than $100 p.a., where no way can yet be seen for enabling them to meet their food needs on a commercial basis, and in the case of food-deficient countries which must rely on imports for which many of them will remain unable to pay in foreign exchange.

Growth rates in DCs

18. The basic purpose of providing economic assistance to DCs is to make possible an increase in their rates of economic growth. In spite of efforts made through aid and technical assistance programmes to help the DCs attain a faster rate of growth, progress so far has been disappointing. Although, on average, GDP in the DCs has grown by 4.6% p.a. in the period 1960-65, which is only slightly slower than the MECs rate of 5.0%, GDP per caput has risen by only 2.0% as against the IC rate of 3.7%[(a)]. In

(a) 'Consideration of the Adequacy of the Rates of Growth Achieved by the Developing Countries : Growth and External Development Finance', 17 February 1967, UNCTAD TD/C.3/34.

fact, the gap between the developed and the developing world is still increasing, in spite of the fact that their rates of growth are approximately the same, because of their different rates of population growth and because of the different levels of prosperity already achieved. For example, if the per caput growth rates for India were 6% and for Europe 1% in 1966, the actual increases would be $5 and $15.

19. The term 'developing countries' embraces a wide range of differing stages of economic development - for example, from Argentina with a per caput GNP in 1964 of about $650, to India and Pakistan with $90 and Malawi with $40. Such wide divergences make it impossible to treat all DCs in the same way. Needs, resources and expectations are all of a quite different order in Uruguay or Singapore with per caput GNP of $450-500, from those of Burma or Laos with only $60. Thus, although many other factors, including humanitarian and political, are weighed in giving aid, economic need indicated by such simple criteria as incomes per caput must not be lost sight of. And the better off of the DCs must be prepared to accept that a relatively greater proportion of official aid should be directed to the poorer ones. Broadly speaking, the tapering-off of official capital inflows may be offset by increasing domestic and foreign private investment in the richer of the DCs, which offer more rapidly expanding consumer markets.

20. The most important means by which the DCs can raise their standards of living is through exports. Table 3 below shows the changes in volume of the trade of the DCs and broad direction, between 1962 and 1965 :

Table 3. Exports from the DCs
($ billion f.o.b.)

	With the MECs(a)		Within the DCs		With the CPEs		Total world	
	Value	%	Value	%	Value	%	Value	%
1962	20.98	72.5	6.38	22.1	1.57	5.4	28.93	100.0
1963	23.13	73.3	6.72	21.3	1.69	5.4	31.54	100.0
1964	25.26	73.5	7.19	20.9	1.94	5.6	34.39	100.0
1965	26.67	73.0	7.51	20.5	2.38	6.5	36.56	100.0

(a) Includes Australia, New Zealand and South Africa

Source : 'International Trade 1965' GATT

It can be seen from Table 3 that about 73% of the exports of DCs go to the MECs; in percentage terms, this has remained reasonably constant since 1962, but in value terms rose by 27%, while trade among DCs rose by 18% and showed a drop in relative importance. Exports to CPEs showed the most rapid growth of 52%, although the overall value is still very small.

21. The changes in world export markets over the decade 1955-1965 can be seen in Table 4 :

Table 4. World exports by provenance and destination
(Percentages)

	1955	1960	1965
Within MECs	44.9	47.3	51.6
Within DCs	6.3	4.9	4.1
Within CPEs	7.6	8.4	7.5
From MECs to CPEs	1.5	2.4	2.7
From CPEs to MECs	1.9	2.2	2.5
From DCs to CPEs	0.6	1.0	1.3
From CPEs to DCs	0.7	1.0	1.6
From MECs to DCs	17.7	17.0	14.4
From DCs to MECs	18.8	15.8	14.3
	100.0	100.0	100.0

Source : 'International Trade 1965', GATT

Table 4 shows clearly that the bulk of world exports are between the MECs and that this trade has become significantly more important over the last decade.

22. The main reason why the increase in export earnings by the DCs has lagged behind that of world exports is the slow decline over the last two decades in the unit prices of many primary commodities. At the same time, the total value of imports by the DCs has grown, partly as a consequence of the move to industrialization. In addition, the DCs have not been able to increase their return on primary commodities by domestic processing because of

insufficient growth in industrialization[(a)], largely due to scarcity of capital and skills which has also impeded progress in manufacturing for import substitution.

23. To supplement DCs' own efforts and achievements ICs have made technical and financial contributions to these countries, which are reviewed in the following paragraphs.

Technical assistance

24. Technical help makes a very significant contribution to development. Various estimates have been made of the number of personnel involved in direct technical assistance. According to the Chairman of DAC, Mr Willard L. Thorp, in a lecture delivered in March 1966 the total of foreign personnel working in DCs could be as high as 260,000. As well as direct technical assistance, governments and private bodies are also involved in the training and education of students from the DCs. Approximately 140,000 students are enrolled in higher educational establishments in ICs, of which about one-sixth benefit from scholarship aid paid by the host country; in addition to those attending regular educational courses, there are a considerable number of trainees, especially in the industrial sector, who visit ICs for courses of varying duration. In 1964, there were some 45,000 students and trainees in DAC countries financed by technical assistance grants. The figures for direct technical assistance personnel are indicated in Table 5 below:

(a) to which trade barriers in ICs also act as a disincentive.

Table 5. Technical assistance
('000 persons)

DAC countries		80 - 82
of which Teachers	35 - 38	
Civil servants	25	
Voluntary services[a]	10	
Advisers[b]	10	
Multilateral agencies[c]		8
Specialist services[d]		9
CPEs		10 - 12
Total official		107 - 111
Non-official[e]		150 - 155
		260

(a) Peace Corps type operations sponsored by governments.

(b) A miscellaneous group of persons acting in various advisory capacities as part of bilateral aid programmes.

(c) Experts provided by UN and other multilateral agencies.

(d) Engineering and similar services as part of capital projects.

(e) Expatriate commercial and industrial staff; other experts provided by private enterprise or voluntary organizations; services provided by foundations; and voluntary social workers etc.

Source : Willard L. Thorp, Chairman DAC ; lecture delivered at the George Washington University, 15 March 1966.

Capital flows

25. The statistics on capital flows from ICs to the DCs are incomplete, partly because of the lack of comprehensive information on net disbursements by the CPEs of Eastern Europe and Asia, and partly because of differing practices in assessing outflows. Experts appointed by the Secretary General of the UN to make "proposals for making the annual presentation of capital flow data (to the DCs) as meaningful and comprehensive as possible" recommended in their report E/4171 of 9 May 1966 that "for the capital exporting countries concerned, the UN make the maximum use of OECD data". Therefore,

in this report, OECD data are used and the differences from UNCTAD[a] data are explained below[b].

Table 6. Net capital outflows to DCs

($ million)

	1960	1961	1962	1963	1964	1965	1966[a]
DAC members							
Bilateral official	4,320	5,277	5,436	5,719	5,486	5,761	5,919
Bilateral private	2,832	3,001	2,212	2,394	3,052	3,842	3,422
Official to multilateral agencies	611	748	550	362	376	452	513
Private to multilateral agencies	174	75	219	-12	156	233	11
Total DAC outflow	7,937	9,101	8,417	8,463	9,070	10,288	9,864
Estimated flow from non-DAC members	379	540	582	596	513	509	530[b]
Net additional multilateral outflow[c]	-550	-648	-403	+309	+257	+201	+477
Total receipts of DCs	7,766	8,993	8,596	9,368	9,840	10,998	10,871

(a) Preliminary figures

(b) Calculated only

(c) Difference between total receipt of multilateral organizations in each year including those from non-DAC members, and disbursements in the same year, net of capital subscriptions, bond purchases and repayments by DCs.

Note : These figures exclude deductions for the cost of debt servicing. See also paragraph 36 and following on servicing.

Source : OECD press release 19 July 1967 (revised)

(a) 'Consideration of the Adequacy of the Rates of Growth Achieved by the Developing Countries : Growth and External Development Finance', UNCTAD TD/B/C.3/34, 17 February 1967.

(b) OECD statistics differ from those published by UNCTAD in that Cyprus, Gibraltar, Greece, Malta, Spain, Turkey and Yugoslavia are included by OECD as recipient countries but are excluded by UNCTAD. OECD includes estimates of net private export credits based on changes in credits reported by the private sector, but UNCTAD only includes private export credits reported as private lending by donor countries. OECD omits official and private outflows from Finland, Iceland, Ireland, Luxemburg, New Zealand, South Africa and Switzerland which are not DAC members. Thus OECD figures are considerably higher than those of UNCTAD. In 1961 the difference in estimates of total outflow was almost $1,700 million and in 1965 $1,800 million.

26. Between 1960 and 1966 total capital flows to DCs increased by 40%. Bilateral private investment during these years by DAC members rose by 20.8% which was below the rate recorded for total DAC outflows of 24.3%. The contribution of non-DAC countries expanded by 39.8%[(a)]. Provisional results of capital outflows in 1966 indicate a fall from the 1965 level. The total DAC and net additional multilateral outflow amounted to almost $9.9 billion compared with nearly $10.3 billion in 1965. Official aid rose by some $220 million, but bilateral private investment fell by $420 million. In the official sector the US, the UK, France and West Germany, who supplied 84% of the net official flow in 1966, are as a group below their total level of three years ago while the aid flow from such countries as Austria, Canada, Denmark, Japan, Netherlands and Sweden has more than doubled compared with their relatively low level of three years ago. The bilateral private flow went down in 1966, mainly due to much lower investments by the US which could not be compensated for by the steep increase of investments made by e.g. Italy.

27. Table 7 shows the share of total outflows (excluding private export credits from DAC members) between private, direct and portfolio investment and official assistance:

Table 7. Shares of capital outflows to DCs
(percentages)

	1960	1963	1966
DAC members:			
Official	59.2	67.1	61.8
Private	36.2	26.3	33.2
Non-DAC	4.6	6.6	6.0

Source : Based on Table 6.

(a) See footnote (b), paragraph 25.

The annual fluctuations in share of total outflows are too great to permit any analysis of trend. The general pattern appears to be that private funds account for about one-third of the total disbursements, but if it is assumed that of estimated non-DAC flows a third is also private investment, the percentage rises by about 12 points.

28. The target for national capital outflows to DCs was recommended as approximately 1% of the national income of the ICs by the UN General Assembly in 1960. This was endorsed in the 1961 General Assembly as one of the essential steps of the Development Decade. UNCTAD adopted it as a minimum target in its first Session in 1964. There have been various interpretations of national income but the definition currently used by UNCTAD is national product net of a depreciation factor required to keep the capital stock intact. It should be noted that the UN group of experts, appointed in 1965 to measure the flow of resources to the DCs, recommended the use of GNP at market prices as the most suitable basis for a comparative valuation. If this criterion is applied to the flow of capital in 1965, an overall increase of 25% would be required if the 1% target were to be achieved.

Table 8. Flow of financial resources as a percentage of national income

Country	Total Offical and Private Flow			
	1962	1963	1964	1965
Australia	(0.59)(a)	(0.60)(a)	(0.72)	0.76
Austria	0.56	0.10	0.33	0.68
Belgium	1.24	1.67	1.43	1.81
Canada	0.38	0.43	0.48	0.43
Denmark	0.25	(0.17)	0.45	0.22
France	2.53	2.07	2.08	1.88
Germany	0.93	0.82	0.87	0.83
Italy	1.32	0.96	0.62	0.65
Japan	0.63	0.52	0.50	0.74
Netherlands	1.30	1.24	0.93	1.53
Norway	0.27	0.66	0.55	0.71
Portugal	1.69(a)	1.98(a)	2.29(a)	1.08
Sweden	0.32	0.42	0.48	0.45
UK	0.97	0.96	0.92	0.98
US	0.97	0.96	0.92	0.98
Total DAC countries	1.04	0.97	0.96	0.99

(a) Official flows only.

29. Table 8 shows the total official and private net flows from DAC members as percentage of national income in the years 1962-65. Taking DAC members as a whole the percentage for the total flow has remained very close to 1% in each year. Four members - France, Portugal, Belgium and the UK - have been at or above the target in each year, while the Netherlands have been above except in 1964. Of the other members only Italy has reached the 1% target even in a single year.

30. However, the scarcity of capital available and high interest rates,caused by insufficient savings due to high public and private consumption, suggests that the position in terms of the

percentage of national income re-distributed through aid or investment finance will worsen rather than improve. Also the political disturbances in the world run counter to the needs of development, and may induce private enterprise to place its investments with less risk in MECs.

Contribution of private enterprise

31. The figures on trade, investment and technical aid to DCs show that the contribution of private enterprise is far from negligible.

a) Trade - private enterprise in MECs imported practically all of the exports from DCs - 73% of total DC exports in 1965 (see Table 3);

b) Capital flows - of the capital flows to DCs about a third came from private sources (see Table 7);

c) Technical assistance - more than half of foreign experts in DCs come from private enterprise(see Table 5).

Domestic private capital formation

32. DCs should normally rely on domestic capital to increase their rate of growth. But in countries lacking an industrial base, where the majority of people live from subsistence farming, capital formation is a difficult process, and not sufficient for rapid development without considerable assistance from abroad. In spite of these difficulties, however, some 75% of gross investment in DCs as a whole is financed by domestic savings, with considerable variations between countries. In many DCs, even those with low incomes, the rate of savings has been increasing but savings ratios vary from less than 10% to as high as 20% of GNP. A prime need is for greater and more effective effort in the mobilisation of internal resources, through taxation and incentives to savings and investment such as the creation of better institutions for saving. In addition, better

development and project planning, the maintenance of fiscal equilibrium and avoidance of excessive short-term borrowing from abroad are called for. But the question is whether the amount of own savings together with foreign assistance is sufficient to increase the growth of the poorer DCs to such an extent that, within a reasonable period of time, they can become self-sustaining.

Aid and foreign exchange

33. The need for foreign exchange is another major aspect of increasing the rate of growth since many of the items needed for development and modern farming, particularly capital equipment for industrial projects, are not produced locally and must be imported. Although industry is the most dynamic sector in DCs, having attained output increases of 7% in both 1963 and 1964 even though supply of imported raw materials and spares has often been held up by exchange difficulties, overall development has been retarded by the slow growth of agricultural output, some 2.5% p.a. over the past decade. Unfortunately, the majority of the DCs rely largely on exports of primary products for their foreign exchange earnings. The value of these exports tends to fluctuate violently and has been rising rather sluggishly, by some 3-5% p.a. on average, despite the higher overall increase in world trade (8% p.a. on average). Indeed, it has been suggested that aid is more necessary on a foreign exchange basis than on an investment basis.

Aid and the savings gap

34. Total net outflows, including private investment, from all sources to the DCs in 1965 amounted to about $11 billion[(a)]. It is said that the ability of the DCs to absorb aid has increased considerably, and there is scope for a sizeable increase in total flows. Aid requirements have been measured by two main methods, both based on similar assumptions about growth rates and about the contributions that the recipient countries will be able to

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(a) See Table 6.

make to their own development. One method is to estimate the savings gap; the difference between capital requirements and expected domestic savings. Several estimates of this sort made in the late 1950's indicated a gap of $6-7 billion a year, which is about the level attained by aid flows in the early 1960's. Other estimates of the need for aid are based on the foreign exchange gap resulting from the difference between import requirements and export earnings. Estimates of the foreign exchange gap are considerably larger than those of the savings gap and range from $10-20 billion p.a. Very large margins of uncertainty attach to both kinds of estimates, but the differences are not merely statistical. The two gaps correspond to the projected internal and external disequilibria that would be generated by growth. One is essentially determined by capital requirements and the marginal savings ratio; the other by import requirements and export possibilities. Experience indicates that the capacity for domestic capital formation appears in many countries to be more adequate for growth than their ability to increase export earnings, so that estimates based on the larger of the two gaps, the foreign exchange gap, are likely to be more realistic.

35. Studies made in 1965 by the IBRD suggest that some $3-4 billion more aid per annum over a five year period could be used more effectively. Dr Prebisch estimated that a trade gap of some $20 billion might have to be covered in 1970, based on the export/import requirements necessary to maintain GDP growth of 5% p.a. A forecast prepared by AID suggests that to maintain a growth rate of 5.1% p.a. in GDP and assuming a low rate of increase in export and performance at present levels, some $13 billion p.a. in aid is needed by 1970 (i.e. there is a basic disagreement between AID and Dr Prebisch here). This AID estimate of $13 billion is in substantial agreement with IBRD's estimate of about $14 billion.

Debt servicing

36. UNCTAD report TD/B/C.3/36 on the outlook for the debt servicing burden on DCs makes some discouraging projections. It estimates that the overall amount of DCs' debt outstanding at the end of 1965 was probably in excess of $40 billion. The projections are, however, based on a debt at the end of 1965 of $28.3 billion (i.e. only on the estimate of the disbursed portion of the initial debt) and do not take account of export creditss and commercial arrears, nor is allowance made for return flows of profits and dividends, debt service for military assistance and unreported debts and arrears. UNCTAD report TD/B/C.3/36 makes two projections, one based on maintaining current level of gross inflows, the other on maintaining current level of net inflows.

37. If gross inflow of grants and loans were maintained, net inflow would decline from $7.4 billion in 1966 to $0.1 billion in 1975 and turn negative thereafter. If the net inflow had to be maintained, the gross inflow would have to rise from $11.4 billion in 1966 to $16.1 billion in 1975. In that period, the debt service payments would more than double from $4.0 billion to $8.7 billion in 1975.

38. The capital inflow should in the long run help to generate the foreign earnings or savings necessary to service the debt which would have risen, if gross inflows were maintained, from $28.3 billion at the end of 1965 to $56.8 billion in 1975; this last figure would, if net inflows were maintained, amount to $85.6 billion. Both projections look alarming, and I would agree with Goran Ohlin[(a)] "that one must look forward to an era of consolidation exercises, threats of defaults and eventually increasingly insistent demands for moratoria" unless the terms of development loans be softened drastically. This stresses

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(a) 'The Relationship between Aid Requirements, Terms of Assistance, and Indebtedness of Developing Countries', p.34 OECD.

the need to consider the extension of low-interest long-term loans. For this an increase in the rate of savings in ICs is an absolute prerequisite.

39. Export credits, which are calculated in the UNCTAD report at $3 billion p.a., create special difficulties because of their short maturity and often high rates of interest.

40. It would be wise that those countries which are now at an early stage of development examine very carefully the industrial investments made by capital-inflow so that they really do generate the foreign exchange earnings or savings necessary to service the debts.

Prospects for aid

41. The expectation that annual aid could grow to $20 billion, although economically possible, is not realistic politically, particularly as long as the world goes on spending more than six times this amount a year for defence purposes. The continuation of existing tensions in many areas of the world can well have a disastrous impact on the flow of capital to DCs, a situation which may continue until lasting settlements are reached. The use of trade as a political weapon is another factor which must inevitably work to the disadvantage of DCs by reducing the level of resources available for development.

42. Inflationary pressures, balance of payments difficulties in many of the member countries of DAC, shortage of capital and high rates of interest, do not improve the prospects of raising total DAC outflows from $10.3 billion in 1965 to $14 billion which would be nearer to the amount that, according to Mr Woods,(a) could be absorbed in the coming years by the DCs. Therefore, since requests for aid from DCs appear to be in excess of funds available, it is necessary to co-ordinate efforts and to work to a system of economic priorities.

(a) President of IBRD

43. Under existing political and economic circumstances it is unlikely that official assistance will increase, and for some countries it may well decrease. Private enterprise could do still more but only provided that investment conditions improve.

CHAPTER II

THE PLACE OF PRIVATE ENTERPRISE

Introduction

44. In those DCs where the right of private ownership of the means of production is not recognised, there is no important role for foreign private enterprise to play. It may be a trading partner and give advice, whenever this is advantageous to both parties, but direct investment by foreign private enterprise is not to be expected or indeed welcomed in any DC adopting a centrally planned economy.

45. In most DCs it is intended that domestic private enterprise will make its contribution to economic growth, and where this applies there is in principle also a role for foreign private enterprise to play. These are the countries considered in this report, and the question it discusses is how, not whether, private enterprise can contribute to economic development.

46. This chapter reviews the objectives and benefits of private enterprise as a whole, and the particular benefits and problems associated with foreign private enterprise.

Profitability

47. It is worth emphasizing that private enterprise, domestic and foreign, will only consider investing when there is a good prospect that reasonable monetary profits will result from competitive operations carried out with full acceptance of legal, social and human obligations. Unless a pre-investment analysis shows that such profits are likely to accrue from the project under consideration, that particular investment will not be made.

48. In view of the suspicion with which profits are often viewed, it is of interest to note that in the CPEs where private ownership of the means of production does not exist, the profit motive is coming into use to measure the efficiency of industrial operations and the effectiveness of new investments. In economic affairs the terms "profit", "international competitiveness", "cost" and "price" have over the years come nearer to the meaning they have in the MECs.

Social responsibility

49. Private enterprise, as indeed public sector undertakings, must make a profit in order to survive in competitive conditions. This does not mean, however, that in its pursuit of this goal it can or does exclude all other considerations. Quite apart from the fact that individuals in private enterprise recognize no less than anybody else their social responsibility, disregard of the legal, social and human standards of the community, which naturally vary from country to country and over time, is likely to be detrimental to the long-term interests of the investor. Thus enlightened self-interest if nothing else, will ensure that these standards are not deliberately disregarded by private enterprise. This may appear obvious, and indeed should be obvious, but as Lord Cole has remarked(a):

> "all too often, I am afraid, many people who are not themselves engaged in business take the profit motive to be synonymous with avarice, and assume that we conduct our affairs with the sole objective of making as much

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(a) Lord Cole in his address to the Annual General Meeting of Unilever Limited in London on 2 May 1967: 'The Financial Times', 3 May 1967.

money as possible, with only such concern for scruple, as is necessary to keep us out of jail. This is simply untrue".

50. The investment decisions of private enterprise are made within thousands of individual undertakings, from very small to very large. The thousands of individuals who are responsible for the decisions are and must be constantly aware that they are under an obligation to try and make a profit for the owners; they are equally aware that this obligation is best discharged by striking a balance between the individual interests they must protect and the general progress they must promote. It is perhaps true to say that the larger the undertaking the more its top management is conscious of the effect their actions can have on the economy of the country or countries, in which the undertaking operates.

51. This wider view of the role of private enterprise is reflected, for instance, in the investment promotion efforts by private enterprise mentioned in paragraph 97 of this chapter, and in scholarships, research grants, community development projects etc. financed by individual companies or by associations receiving support from private enterprise. In commenting on a DAC pilot survey of the activities and experience of foreign private enterprise in technical and administrative training in DCs, Mr. Willard L. Thorp has observed inter alia(a):

"Some companies have gone well beyond the field of their immediate interests. For example, they have set up, equipped, and run schools in less-developed countries at

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(a) 'Development Assistance Efforts and Policies - 1966 Review', OECD - Report by Willard L. Thorp, p.97.

primary and intermediate levels and have launched substantial community projects. They have built hospitals and trained the necessary staffs. In some instances, the facilities created have been handed over without charge to the national authorities.

The major motivation for this activity /training/ by such enterprises is naturally an economic one. There is not only the desire to keep down production costs but also the need to ensure efficient channels of distribution for their products in less-developed countries. Most companies are also aware of the political implications of their operations in these countries and of the need to build an acceptable 'company image'. Some have stressed their recognition of the need to become involved in a range of social and other development projects and thus avoid the feeling, particularly prevailing in some smaller countries, that large foreign companies constitute a separate enclave within their national economies".

52. Domestic private enterprise in the DCs is often acting along similar lines. Thus, to mention only a few examples encountered by the author, at the initiative of a leading Brazilian industrialist a meeting of agricultural specialists was held in Rio de Janeiro in January 1964 as a first step towards the setting up of a foundation, the purpose of which is "to contribute to the common good of the Brazilian community". The Federation of Indian Chambers of Commerce and Industry over the years has given considerable attention to India's agricultural problems, and for instance in 1966 brought out a publication, which "highlights some of the basic problems of

agriculture and makes certain suggestions which, if properly implemented, could go a long way in reducing our present dependence on imports"[(a)]. The Dawood Foundation, set up in 1960 by the Dawood family which has widespread industrial and commercial interests in Pakistan[(b)], has assets expected to yield an annual income of $250/290,000; it promotes education and assists in research programmes.

Risk to investment

53. In considering an investment project, the businessman's basic concern is to determine, in the face of considerable uncertainty, whether the project is likely to be sound, i.e. whether resources are used efficiently and compensation is obtained for the risk involved. There may be investments in which uncertainty and risk, particularly in the short run, are absent or small, but as a rule they loom larger than is perhaps generally believed. Demand at various price levels, production costs, competitors'action, impact of government policies, etc. can in fact only be assessed with rough approximation even in the short term, and clearly in attempting to look further into the future the businessman is faced with increasing uncertainty. In essence, therefore, in deciding whether or not to invest in a certain project, private enterprise is deciding whether or not to take the risk of losing all or part of the money invested. If it is decided to take the risk, it is in the expectation of a monetary return, and since the nature and size of risk vary, so must the size of that return.

(a) 'Our Agriculture - The Road to Self-Sufficiency', Federation of Indian Chambers of Commerce and Industry, New Delhi, February 1966.

(b) In Pakistan certain educational and other donations are exempt from income tax.

54. The investment decision may turn out to have been based on wrong expectations; an investment may result in a loss or a smaller return than expected, and unless corrective measures can be taken the investor must then withdraw. Alternatively, an investment project may be judged unattractive by one investor, and be taken up by another, who is eventually proved right. Similarly, a much higher return than expected may arise, in which case the investor must expect competitive and other pressures to force profits down.

Definition of reasonable profits

55. In considering making an investment, the investor will have in mind certain criteria to help him decide whether or not the return expected from that investment is sufficiently attractive. The points at issue may be profits on his other investments, competitors' profits, etc., and in each case adjustment up or down must be made to allow for risk in order to arrive at a figure for reasonable profits. It follows that it is not possible to quantify what is 'reasonable' - for instance in the form of net profits expressed as a percentage of capital employed. What is reasonable will vary over time, from country to country and from one type of activity to another. Perhaps the closest one can come to a generally valid concept of reasonable profits is to define them as the minimum profits required to attract investors to a project in the particular circumstances, present and future, applying or judged to apply to that project.

56. The fact that, necessarily, a quantitative norm for reasonable profits is to a large extent a matter of personal judgment, which can only be confirmed or otherwise by future

events, often leads to misunderstanding, for instance, in the relations of private enterprise with government authorities in DCs. This observation is not intended to imply that the private investor's judgment is necessarily superior, but simply to stress that, even assuming a well-informed and unbiased approach on both sides - an assumption which is perhaps rarely valid - government may view as exorbitant profits genuinely considered reasonable by the private investor. In practice the issue will be further complicated by lack of information and preconceived ideas on both sides. Naturally governments cannot blindly accept the private investor's point of view, but it is important to remember that an investor will not reject a known investment opportunity, which is more attractive than others. If such an opportunity is not taken up it is because it is judged to be uncompetitive in terms of profits with other opportunities competing for scarce investment capital.

57. In the context of profits and risk, it is interesting to note an observation by Lord Campbell in a publication by the Overseas Development Institute(a):

> "A critical factor in mutual acceptability is a consensus of opinion about what constitutes a reasonable profit. I would take - one year with another, and over a normal commercial business as a whole - 10 per cent after tax on capital employed. I would justify that, with conscious over-simplification, on the grounds that a business project

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(a) Mr Jock Campbell (now Lord Campbell of Eskan), Chairman, Booker Bros., McConnell & Co. Ltd., 'Investment and Development' - Overseas Development Institute, London 1965.

with all its capital subscribed by ordinary shareholders, would need to pay them at least 5 per cent p.a. dividend, and put an equal sum of money each year to reserves. But the risk involved is an important consideration. We all know what danger-money is : the greater the real risk in any investment, the more attractive, in a literal sense, the financial return must be. A hard fact of economic life, whether we like it or not, is that unless an acceptable return on capital invested is forthcoming, big business will not be able to raise the capital they need for development. And there are many cases where the hazard of development expenditure is so great that 10 per cent will simply not be enough to attract investment and to accumulate reserves adequate to carry a project through lean and difficult years".

Stimulus to efficiency

58. Disregarding special circumstances, such as for instance a monopoly position which easily leads to abuse and inefficiency whether monopoly is in private or public hands, competition is a vital feature of the market economy. The strength of competition varies, but the businessman must at all times take competition, existing and potential, into account. One result is that in order to secure a reasonable financial return he will be striving to be increasingly efficient, i.e. to increase the yield from a given amount of inputs or to achieve a given yield with reduced inputs. Another result is that the businessman must be concerned with change, be able to respond to change and indeed attempt to bring it about himself.

59. Some manifestations of competition are controversial and some of their consequences are to be deplored, but this does not invalidate the simple proposition that the constant preoccupation with efficient use of resources imposed on private enterprise by competitive pressures is of benefit to the community as a whole.

60. To this must be added that competition will tend to oblige private enterprise to act with speed and flexibility, and that such action is possible since private enterprise is self-motivating and largely self-directing. As Theodore Geiger and Winifred Armstrong have observed(a):

> "The benefits of private enterprise do not arise by virtue of any particular form - individual, corporate, or co-operative - which it may take. Rather, these benefits are derived from certain characteristics which are shared by the many different kinds of private economic activity that exists in various parts of the world. These essential characteristics are that private enterprise is a self-motivating and largely self-directing activity which yields direct and obvious benefits to the entrepreneur. Private enterprise does not have to wait until it is initiated by the government or other superior authority, nor does its day-to-day operation depend upon detailed instructions from government officials".

Private enterprise, government and planning

61. In order for private enterprise to be able to function efficiently it must be allowed to manage its affairs without undue

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(a) 'The Development of African Private Enterprise' by Theodore Geiger and Winifred Armstrong, National Planning Association Planning Pamphlet No.125, March 1964.

outside interference, subject - as has already been stressed elsewhere in this chapter - to legal, social and human obligations. Legislation is required to prevent abuses, to ensure compliance with certain standards, etc., but the framework within which private enterprise operates must be such that unnecessary restraints are avoided.

62. The insistence by private enterprise on freedom to manage its affairs without undue outside interference is thus in no manner an insistence on unrestrained freedom. Certainly opinions differ within a country, and within private enterprise, as to what are necessary restraints, but few people would dispute in principle that some are needed, and that government must establish and control the economic framework of the country, including provision of certain basic services and planning of economic development.

63. There is thus no question but that private enterprise accepts that the national interest and the public interest must be put above its own immediate interests. Along with other major sectors of the community, private enterprise must be free to participate in the debate about government policies. It does not wish, however, and cannot be expected to share responsibility for government decisions, either at home or in a foreign country. It may express an opinion to the authorities concerned, about the likely repercussions of certain government decisions, it can be consulted and it can advise, either on an individual basis or through its own national or international organizations; but it has no responsibility for government policies, and does not desire it.

In some cases, however, governments actively enlist the support of private enterprise to carry out official policy. For example, in Kenya an Export Promotion Council has been set up, with 80% membership from private industry, to assume responsibility for the expansion of the country's exports, including undertaking functions previously the responsibility of the Ministry of Commerce and Industry.

64. Public utilities and other enterprises are in many cases owned by the state or local authority in many MECs. In most of the countries a mixed economy is the prevalent system, but the need of private enterprise to make a profit and thus to maintain competitiveness and efficiency is generally recognized to be the main means of economic growth. It is important that this fact should be recognized as soon as possible by DCs.

65. The need for a public sector in the economy is not disputed by private enterprise, although its representatives - as well as other members of the community - may well be critical of the criteria of governments for determining the extent of the public sector, and of the operations of public sector undertakings. Similarly, planning has obtained a recognized position in many market economy countries, and it is widely understood that planning, viewed as an effort to co-ordinate the major decisions which are being made continuously in any economic system to achieve pre-determined objectives, can be a positive factor in economic development.

66. Successful preparation and implementation of a plan presupposes continuous consultation between government and private enterprise, as well as other sectors of the community, to ensure a high degree of mutual understanding of objectives

and methods. Some of the problems posed by planning in a market economy are taken up in a recent publication by ECOSOC[a], in which inter alia it is pointed out that in most of the DCs more than three quarters of GDP is generated in the private sector[b] and that :

> "In order to maximize and spread the benefits of a soundly based development plan, it is most desirable to involve the private sector - and especially the key productive elements - in the planning process. The need to do so increases with the proportion of total output produced in the private sector and with the comprehensiveness of the plan. The more closely the private sector identifies itself with the general objectives and specific targets of the plan, the better are the prospects for successful implementation"[c].

67. Within the established economic and social framework, private enterprise will naturally consider each investment situation on its own merits and calculate the risks and likely benefits of new investments. It will carry out its own feasibility studies, examine the economic and political situation and attempt to establish whether its investment projects are in accordance with national development plans. It is the responsibility of governments to ensure that their national plans and development policies are realistic, and clear to potential investors, and that new investment not only meets the needs of the country but also is executed in the most suitable and economic way.

(a) 'Experience and Problems In The Implementation of Development Plans - Some problems of implementation in the private sector of the economy', Paper submitted by the Centre for Development Planning, Projections and Policies, 23 March 19[illegible], E/AC.54/L.10.

(b) Ibid., page 6.

(c) Ibid., Summary and Conclusions, p.45.

Intermediate technology

68. In this context it is of interest to note the debate around intermediate technology. The setting up of modern industry in a few centres in the DCs has given rise in some cases to mass migration to the towns with resulting unemployment and possible loss of agricultural production. One means of avoiding the social and economic stresses accompanying this process is to introduce industrialization in a less capital intensive form. The name intermediate technology has been given to this type of approach. Its main characteristics are that workplaces should be created cheaply in places where people are actually living, that production methods should be simple and that full use should be made of local raw materials. A great deal of work has been done by a group(a) of individuals and companies in the UK to devise and make the techniques and equipment available for application to specific processes in agriculture, metal working, the use of power tools and water supply.

69. The idea of a middle way between advanced technology and traditional handicrafts is attractive on social grounds. But whether it can provide answers quickly enough to keep pace with the growing needs of the DCs is very much open to question. The governments of the DCs must avoid creating a situation in which the result of industrialization has been the creation of work for the skilled few and unemployment for the many. But faced with the twin problems of pressure of population and shortage of capital it is surely better to invest scarce capital in advanced techniques that produce more at less cost, rather than in

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(a) Intermediate Technology Development Group Ltd., 9 King Street, London W.C.2

intermediate methods which are likely to produce less at greater cost. The possibility of using intermediate technology should be explored for all cases where modern techniques would not be appropriate. It would be a grave mistake however to regard it as a panacea to be adopted by all DCs.

Fields of activity for private enterprise

70. In considering in what fields private enterprise, domestic and foreign, could increase its contribution to economic development, we must distinguish between the different fields now open in DCs. These fall in five broad groups, as follows :

a) food production and fishing industry
b) production of commodities for export, such as coffee, cocoa, tea, oilseeds, sugar, rubber, timber, fishmeal etc.
c) extraction of oil and other minerals such as iron ore, copper and bauxite
d) manufacturing including processing of local raw materials, for import substitution and export
e) services, such as trading, construction, transport and shipping, tourism, banking, insurance.

71. a) Food production and processing. Success in this all-important field depends to a large extent on government action, but the contribution of private enterprise, agricultural and non-agricultural, is vital. The bulk of the private effort must come from the farming community in response to government incentives and support while the non-agricultural business sector would concentrate on the manufacture and distribution of inputs, and the commercialization and processing of the

output[a]. The foreign private enterprise contribution would be particularly important in the provision of inputs, such as agrochemicals. Several DCs have created and developed fishing and fish processing industries, in which domestic and foreign private enterprise participate.

b) Agricultural export commodities. Export prospects for agricultural commodities as a group are poor; therefore, this field is unlikely to attract substantial new investment. Commodity agreements may bring about improvements, but are unlikely to change the basic situation. On one hand it is doubtful whether producer countries are prepared to restrict production, and on the other it is equally doubtful whether finance for new stocks of commodities is available. The outcome of the Kennedy Round does not significantly improve the position of the DCs, and protectionist attitudes manifest for instance in EEC and the preferential systems developed in favour of the associate members are likely, if they continue, to be an important obstacle in the way of a general improvement in the commodity trading picture. Private enterprise, domestic and foreign, is of course intimately concerned with those problems and has an important role to play in the search for solutions, but quite clearly decisions of the nature required rest with governments.

(a) For some views by private enterprise in India on these problems reference is made to :
'Our Agriculture - The Road to Self-Sufficiency', publication by the Federation of Indian Chambers of Commerce and Industry (FICCI), New Delhi, February 1966.

'Industrialise Agriculture', reprint of speech by Mr H.P. Nanda at a meeting of the FICCI on 12 March 1966.

'Role and Place of Agricultural Engineering and Technology in The Development of Agriculture', reprint of speech by Mr H.P. Nanda to the 5th Annual Meeting of the Indian Society of Agricultural Engineers at Bhopal, 25 November 1966.

'Reach the Technical and Agricultural Inputs to the Small Farmer Through Organised Agricultural Input Service Companies', paper by Mr H.P. Nanda circulated at the Bhopal Meeting.

c) Extraction of oil and other minerals. Activities are likely to go on expanding, and one would expect private enterprise to continue playing its important role in this field, although for foreign enterprise investment conditions are often far from encouraging.

d) Manufacturing and processing. Great attention is being given in DCs to expansion of production of manufactured goods and processing of indigenous raw materials for the domestic market and for export. In this field private enterprise, domestic and foreign, has an important role to play whether in a national context or - as seems desirable and indeed necessary in many instances - in multi-national regions.

e) Services. Similarly, the field of services is one where private enterprise could continue to make important contributions. This applies to foreign no less than to domestic enterprise, but, as will be discussed in subsequent chapters, while foreign investment is readily welcomed by DCs in some services such as tourism, in others such as shipping, banking, insurance and some trading activities conditions for foreign investments are often not encouraging.

The particular contribution of foreign private enterprise

72. The preceding paragraph indicates a wide range of activities in which foreign private enterprise can contribute to the economic development of DCs. In most, if not all, of the fields mentioned foreign enterprise has been active for some time. Its contributions are associated with the provision of :

a) capital, normally in the form of foreign exchange

b) technical know-how

c) managerial know-how

d) export outlets and marketing skills

e) training.

73. Some of the elements, for instance capital in the form of portfolio investments and technical know-how provided under licence agreements, may flow up to the DCs without being accompanied by foreign participation in management at the receiving end. As a rule, however, foreign private investment is in the form of equity interest from which then flows in accordance with the circumstances of each case the managerial, technical and other benefits.

Purposes of investment

74. Disregarding participation of the portfolio and pure licence agreement type, foreign private enterprise invests in DCs for the following well-known reasons :

a) to produce and/or purchase commodities for international distribution or use in the investor's home country. Thus demand outside the country in which investment is made, is the basis for the investment. In this group we find notably agricultural export commodities, petroleum and other minerals

b) to distribute and service in the DC the investor's products, manufactured or obtained elsewhere. Examples are industrial machinery and many consumer goods.

c) to manufacture, including process local raw materials, for the market in the DC - i.e. import substitution - and for the export market when feasible. In many instances investments of the type referred to here will in the course of time develop those referred to

under b).

d) to provide services such as trading, shipping, transportation, banking, insurance, tourism and construction.

Scale of foreign private investment

75. Net capital flow to DCs from private sources in DAC member countries amounted to approximately $3.7 billion in 1965, or about a third of the total flow from all sources. The following figures further illustrate the scale of foreign private investment in DCs, its geographical and sector distribution, and its magnitude relative to other investment flows :

a) Direct investment by US business in foreign countries at the beginning of 1965[a] amounted to just over $44.3 billion[b], of which

($.billion)

25.9 in Canada and Europe

8.9 in Latin America

3.1 in Asia

1.6 in Africa

1.6 in Oceania

1.4 in other Western Hemisphere

1.9 internationally.

(a) Statistics prepared by Samuel Pizer and Frederick Cutler for the US Department of Commerce, Office of Business Economics.

(b) The latest statistics in Survey of Current Business (US Dept. of Commerce), September 1966, show book value of direct investment at end 1964 as $44.3 billion
" " 1965 as $49.2 "
estimate for " 1966 as $54.0

By type of activity the total was split as follows :

	($ billion)
manufacturing	16.9
petroleum	14.4
trade	3.7
mining	3.6
public utilities	2.0
other	3.8

Thus only about 40% of the total was in DCs and among these, Latin American countries accounted for the largest share by far. Manufacturing and petroleum each accounted for a larger share of the total than the other activities together.

b) Direct investment abroad by UK companies of all kinds averages $840 million p.a. during 1960-64[a], and it has been estimated[b] that at the end of 1961 the net worth of overseas subsidiaries, branches, etc. of British-owned companies was about $22.7 billion.

76. Large as these amounts are in absolute terms and critical as the foreign distribution frequently is, the amount of foreign private investment in DCs is only in exceptional circumstances large relative to total production, total investment, etc. as illustrated by the following examples :

a) A Brazilian economic journal[c] records in considering the role of foreign private investment in Brazil that

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(a) 'Effects of U.K. Direct Investment Overseas, An Interim Report' by W.B. Reddaway and others, Cambridge University Press 1967, p.16.

(b) Mr Jack Revell in an article 'The Wealth of The Nation' in Moorgate and Wall Street - A Review issued by Hill, Samuel & Co. Limited, London, 1966.

(c) 'A Economia Brasileira a Suas Perspectivas', Rio de Janeiro, July 1966, pp. 319 and 320. (Original text of quotation English)

"Investments financed with foreign capital during the period 1954-60 amounted to only 1.3% of the Gross National Product, whereas investment financed with internal savings accounted for 15.8%. During that period growth of per capita income was 3.1% annually. Calculations show, nevertheless, that without the contribution of foreign investment the growth of per capita income would have been only 2.4%."

b) Figures for India's industrial investments in the private sector show foreign participation as follows(a):

	First Plan 1951-56	Second Plan 1956-61	Third Plan 1961-66 (estimates
		($ million)	
Total finance for private industrial programmes	714	1,785	2,626
of which direct foreign credit/ participation in capital	88/95	420	630

As at the end of 1962 foreign business investments in India, including funds from IBRD, stood at Rs. 7.36 billion ($ 1.55 billion)(b)(c)(d).

(a) 'Introducing India to Overseas Investors', Indian Investment Centre publication, July 1966, p.40.

(b) Reserve Bank of India Bulletin, April 1966.

(c) The rate of exchange at the time was Rs. 4.762 = $1 following devaluation in June 1966, the rate of exchange is now Rs.7.50 = $1.

(d) The total figure of Rs. 7.36 billion breaks down as follows by country and activity : (Rs. billion).

Country		Activity	
UK	4.83	Manufacturing	3.27
US	1.09	Petroleum	1.54
Fed.Rep.of Germany	0.12	Services	1.31
Switzerland	0.11	Plantations	1.10
Japan	0.03	Mining	0.13
Others	0.46		
IBRD	0.72		

At about this time, according to a provisional figure[a], the paid-up capital of Indian joint stock companies stood at Rs. 18.8 billion ($3.9 bn), while NDP 1962-63 at current prices was Rs. 154.8 billion($32.5 bn)[b].

c) Revised figures[c] for Pakistan's second Five-Year Plan (1960-65) put domestic resources for financing of development expenditure over the period covered by the plan at Rs. 18.89 billion ($3.9 bn)[d] and external resources at Rs. 9.38 billion ($1.9 bn). The latter figure includes foreign private investment of Rs. 0.45 billion ($0.01 bn), i.e. an average of about Rs.90 million p.a. ($19 mn).

Problems posed by foreign investment

77. While few people will dispute in principle that foreign private enterprise can and does contribute to the development of DCs and thus supplements both domestic investment and aid funds and activities, foreign participation in a country's economic life is viewed by many with misgivings. This situation is well illustrated by Ambassador Jahangir Amuzegar[e] in an article on nationalism versus economic growth, in which it is observed that "the newly-independent countries of Africa and Asia are often tossed on the horns of a tormenting dilemna which they can neither forget nor resolve": they want "rapid economic growth, aided by foreign resources without sacrificing hard-won political independence".

(a) 'Introducing India to Overseas Investors', p.29; the figure quoted is provisional for the end of fiscal 1961-62.

(b) 'India Welcomes Foreign Investment', Indian Investment Centre publication, April 1965, p.23.

(c) 'Evaluation of The Second Five Year Plan (1960-65)', Planning Commission, May 1966.

(d) Rate of exchange Rs. 4.762 = $1

(e) 'Foreign Affairs', July 1966.

With reference to the unstable political situation under which 52 coups have taken place in DCs in ten years, the Ambassador states that often

> "when a Western-oriented régime in a country receiving American aid is toppled - the presence or continuation of American aid is held responsible. On other occasions when a similar pro-Western régime which has not been aided by the United States is overthrown, the absence or lack of sufficient US support is considered the villain".

78. Foreign private enterprise accepts that a nation has the right to be master in its own house. Each nation will decide on its own ideology, its own system of taxation and legislation. In fact, in most DCs the economy is so structured, partly by the requirements of its national plan, partly by legislation, that governments exercise a high degree of control over investment also in the private sector.

79. Complaints are sometimes made about the type of investments made by private enterprise abroad, i.e. those investments made in response to what has been called the revolution of rising expectations. These include such products as soft drinks, ice cream and even automobiles, radios, refrigerators etc., on which profits can be high, especially when the industries are protected by tariffs and import quotas and supported by tax incentives and other devices. It is said that such industries do not make a real contribution to economic growth and that they absorb local savings and foreign currency, both of which are in short supply. At the same time they, however, employ labour, perform an import-substitution function and, as tax incentives expire, pay taxes to the local governments. It may well be the case that in

some countries such investments will be given low priority. When this happens governments will establish investment priorities and policies accordingly and guide investment capital into areas given a higher priority. These may include new industries with high export potential; the production of semi-manufactures such as processed cocoa and cotton; or industries able to compete successfully with such essential imports as textiles, glass bottles, paper, packing material etc.

80. It is sometimes said that foreign investment constitutes an enclave within, but apart from, the host country. There may have been a period when this was true - the examples quoted are mostly from plantations in the Far East, mining in the former Belgian Congo or oil production in, for instance, Mexico - but in the author's view this period has passed. No enterprise, domestic or foreign, operates in isolation but influences a wide range of interests through its impact on its personnel, customers, suppliers and the authorities with which it is in contact. The modern trend is for foreign enterprise deliberately to pursue policies, which associate it with the general progress of the host country.

81. This trend is not only apparent in the manner in which private enterprise views its wider social responsibility as mentioned in paragraph 69, but also in its business approach. An example is the network of local suppliers for their stores in Latin America, which has been developed by Sears Roebuck and Co. This firm gives its local suppliers full technical advice and financial support as required, while the suppliers have a guaranteed outlet for their products. The author understands that there are now cases where these suppliers in DCs are

competitive in the export of their products to the US. Another example is a case in Liberia where a foreign-owned company advises some 1,500 small local farmers how to improve their rubber plantations; it has a central depot for all equipment, fertilizers etc. needed by the farmers; it buys their rubber, mills it and exports it.

82. Foreign enterprise understands that a DC would prefer domestic enterprise to do the work of development. However, the capital, foreign currency, entrepreneurship, technical skill and know-how required for this purpose are not at present available locally on an adequate scale. This situation is found in relations between individual ICs as well as in those between DCs and ICs. The outstanding examples are the investment by US firms in Western Europe and vice versa. This kind of cross fertilisation creates problems but it often produces excellent results. While foreign enterprise understands the dilemna of DCs and the pressures on governments which may arise therefrom, the foreign investor must insist that once he has been welcomed into a country - be it on his own or in a joint venture - the conditions applying when he enters will not be changed unilaterally. There should, for the relationship to be beneficial for both parties, be no abrupt changes in government policies. This does not mean, however, that the original agreements cannot be re-negotiated, if the conditions on which the original agreements were based have changed completely with the passage of time.

Joint ventures

83. Some of the misgivings about foreign investment may be overcome, if investment takes place in joint ventures. This

subject has been considered in some detail by UNCTAD[(a)] in the context of regional integration and by the Department of Economic and Social Affairs of the UN[(b)]. The UNCTAD secretariat describes in vivid terms the conflict between rapid growth, aid and full independence. Foreign capital is indispensable but arouses "fears and resentment"; in a regional market foreign domination of economic life is feared, but in such markets the member countries must together lay down the conditions under which foreign capital can be invested. Uncertainty is, the secretariat rightly remarks, harmful. All this is readily understood by business circles, but DCs must equally understand that if rigid rules are laid down which make it clear that foreign capital is only accepted on sufferance, investment is not going to be readily forthcoming.

84. The systematic promotion of partnership between foreign and domestic investors, i.e. joint ventures as suggested by the UNCTAD secretariat, should be encouraged. It is doubtful, however, whether it would be wise to make binding rules for joint ventures either in domestic law, regional agreements, development charters or investment codes. Conditions will vary by country or region, by type or size of industry and by the amount of capital, know-how, skill and patent rights needed. A too-rigid approach could have the effect of deterring investment.

85. Enquiries into joint ventures have not revealed a clear picture, but in 1965 the International Chamber of Commerce in

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(a) 'Trade Expansion and Economic Integration Among Developing Countries', 2 August 1966, TD/B/85.

(b) 'Financing of Economic Development - Promotion of Private Foreign Investment in Developing Countries, Summary and Conclusions', 6 March 1967, E/4293.

its meeting in New Delhi stated [a] :

> "All those present agreed that this form of cooperation was extremely promising, as it brought together the technical skill and financial means of companies from the developed countries and the contribution which could be made by local firms, thanks to their experience of local customs concerning distribution methods, relations with the authorities and the labour force, etc."

The National Industrial Conference Board (New York), having consulted 146 top-level businessmen from 54 countries observed[b] that :

> "Although many companies have looked at the advantages and disadvantages of joint ventures and have decided to invest only where complete control is possible, others have had long and agreeable experiences with both majority control and minority interest ventures. With the continuing increase in nationalism and the growing demand for private capital around the world, many believe that the international joint business venture will become the most important vehicle of private foreign investment".

86. Most Commonwealth DCs use the joint venture system to stimulate investment generally operating through a development corporation, in which governments participate, and which selects investment opportunities and seeks private partners. The size of the government holding vary widely by type of enterprise

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(a) 'World Progress through Partnership', XXth Congress of the International Chamber of Commerce, Statement of Conclusions and Reports by the Chairmen of the Seven Committees, p.19.

(b) 'Joint ventures with Foreign Partners', National Industrial Conference Board Inc. 1966, p. iv.

and according to government policy. In Uganda, for example, the Development Corporation generally takes the smallest holding it can in a new enterprise so that as little as possible of its capital is tied up. In Tanzania, however, the state generally prefers a substantial holding in most ventures and a majority holding in specified economic sectors.

87. How different opinions can be about joint ventures is apparent when we compare a statement made in September 1965 by John Loudon, then senior managing director of the Royal Dutch Shell Group, at the International Industrial Conference, with some remarks made in 1966 in three lectures at the Columbia University by Frederick G. Donner, chairman of General Motors. John Loudon said :

> "I think that the promotion of foreign investments in the developing countries may depend more and more upon the acceptance of partnership with local interests. In the beginning, because of the general lack of any local private capital, this may mean the acceptance of participation by government in the equity. Although arrangements must, of course, vary widely from case to case, they should where possible include a provision that as local private capital comes to be generated, it should replace government capital".

88. Frederick G. Donner stated :

> "it was concluded that our long-standing policy of maintaining complete ownership of our operating subsidiaries was essential to the efficient world operation of General Motors today, and remained as compelling as it had ever been"

and that

> "we have invested - or maintained our investment - only in those countries where national laws have been compatible

with unified ownership".

He also said, however, that it was a major aim to find ways by which each subsidiary operation can be more fully integrated into the economic life of its country :

> "Of General Motors total overseas employment of nearly 155,000 at the end of 1965, only 287 were assigned from the United States; of the 40,000 overseas salaried personnel, 99% had been recruited abroad; around 60% of the final sales prices is paid locally to supplying companies etc., thereby expanding local manufacturing demand".

89. In the years between 1935-48, the author was one of the managing directors of a Dutch concern expanding in several countries of Europe, Asia and Africa, and encountered all forms of partnership from portfolio investment to minority-or majority-or 100% ownership. In no case were there serious difficulties with local partners and the only setback the concern suffered was when after the War three overseas factories were nationalised without compensation.

ADELA

90. A most interesting example of a systematic approach to development by joint venture is the ADELA Investment Company S.A. with a subscribed capital of about $36 million contributed by some 140 shareholders (banks and a variety of industries) in 16 MECs, to develop and make capital investment in private Latin American enterprises of high national or regional priority. Investments have been made in 17 Latin American countries where conditions are favourable for private enterprise. Participation by local investors, industrialists and public and private financial

institutions of the countries concerned is encouraged. A subsidiary, ADELATEC (ADELA Technical and Management Services Company S.A.), has been created as a nucleus for a large pool of professional and managerial capacity. ADELA has no political or philantropic objectives, its resources are small and it must be selective in its investments. As of June 1967, at the end of its second year of operations, ADELA had authorized 61 investments to an amount of $38.3 million distributed between 56 companies. Some two thirds of the investment is in new companies and about a third in expansion of existing ones.

UNCTAD 1964 and foreign private enterprise

91. The question of foreign private investment was taken up at the 1964 conference of UNCTAD and recommendations were set out in Annex A.IV.12 to the Final Act and Report[(a)], reprinted here as Appendix II; further suggestions were made in a later report[(b)] by the Secretariat of UNCTAD.

92. The observation in the preamble to A.IV.12 that the flow of private capital to DCs had decreased since 1960 fortunately does not reflect later developments. From Table 6, paragraph 25, it becomes clear that between 1960 and 1965 the flow of bilateral private investment rose by about 35%. However, various factors have caused a reduction of over $400 million in 1966, and in view of the worldwide capital shortage everything must be done to make investment in DCs more attractive since, naturally, foreign private investment will go where the best opportunities exist. Unfortunately, these are not generally in the most needy countries.

(a) 'Proceedings of the United Nations Conference on Trade and Development', 1964, Vol.1 : Final Act and Report, E/CONF.46/141.

(b) 'Trade Expansion and Economic Integration among Developing Countries', 2 August 1966, TD/B/85.

93. There are many points in A.IV.12 with which international private enterprise readily agrees. It knows that it can make a contribution; it is fully aware that international public aid often generates a climate favourable to the flow of private capital and agrees that both the governments of DCs and ICs can provide incentives and clear away obstacles to the flow of private capital.

94. The author fully endorses the principles of Recommendations 1-10 of A.IV.12; particularly he welcomes the opening sentence of Recommendation 3 which urges "the private-capital-importing developing countries to take all appropriate steps to provide favourable conditions for direct private investment." (see Appendix II). Some aspects of Recommendation on fiscal matters are discussed in Chapter IV. Concerning Recommendations 3 and 4 some observations are made in Chapter V on the methods of collecting and publicising investment opportunities. This in the author's view could often be more effectively, and less expensively, done on a multilateral basis. If in Recommendation 6 the reference to the provision of know-how to nationals of DCs assumes that this should be free of charge, the author would have reservations (see Chapter III). The subject matter of Recommendations 7 and 8 (action by the IBRD on investment insurance and settlement of investment disputes) is also dealt with in Chapter III.

95. Since its foundation the objectives of UNCTAD have included the setting up of machinery by which such facilities as investment bureaux, information centres and local agencies could be centrally recorded. Progress, however, in this direction has been slow. It is of interest that some initiatives in the spirit of A.IV.12 have been taken, for

instance, by development boards of DCs, by AID[a], and by ADELA.

96. The duplication of effort by international agencies engaged in promoting development is a trend which gives rise to some concern. It is encouraging, however, that with specific regard to the establishment and expansion of export-oriented industries in DCs it has been decided[b]

> "that the Department of Economic and Social Affairs, the regional economic commissions, the United Nations Economic and Social Office in Beirut, the United Nations Conference on Trade and Development (UNCTAD), the United Nations Industrial Development Programme (UNDP), and the United Nations Industrial Development Organisation (UNIDO), would co-ordinate their activities and resources in a United Nations programme for the promotion of exports from the developing countries".

Investment promotion efforts by private enterprise

97. In addition to the activities of ADELA, which have already been mentioned, a good deal of work aimed at increasing the flow of private capital and know-how to DCs has been undertaken by private enterprise itself. Examples are the work of the International Chamber of Commerce, the FAO/Industry Cooperative Program and the studies made by the Business and Industry Advisory Committee (BIAC) to OECD in Paris on the Promotion of

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(a) The Catalogue of Investment Information and Opportunities prepared by AID (January 1966 with supplements) deserves wide circulation and is one of the most important steps taken to try to narrow the information gap which exists between the DCs which need to attract investment and the private companies looking for opportunities.

(b) 'Measures for the Promotion, Expansion and Diversification of Exports of Manufactures and Semi-Manufactures from Developing Countries; etc.', 5 July 1967, TD/B/C.2/43.

Foreign Investment in Colombia, the Cameroons and Turkey. This careful work by expert groups can be most helpful in attracting investors to countries prepared to welcome them. The National Industrial Conference Board (New York) published a research report : 'Obstacles and Incentives to Private Foreign Investment 1962-64', in which the experiences of investors of twelve nations in 88 countries are described. Governments of DCs, whose conditions or policies had been criticized, were invited to clarify issues and correct misunderstandings in investors' observations. The Business Council for Industrial Understanding (New York) had an exchange of views with government authorities in India in 1966 leading to specific recommendations on incentives needed to attract private investors.

98. In this general context, it is interesting to note that in business circles in the ICs the possibility is being considered of making professional and managerial skills available to DCs on a short-term basis to tackle specific problems. The bigger companies employ permanently a variety of specialists to meet their own overall requirements, both at home and abroad. The thought is that it might be possible to second, for strictly limited periods, such specialists to DCs which otherwise might find it difficult to bring sufficient expertise to bear on the solution of a problem. In principle, the cost of a secondment would be met by the interested DC.

Need to use private enterprise

99. Through work of this kind private enterprise, both in ICs and DCs, can make a significant contribution to the planning and execution of development programmes. In the author's view greater use should be made of private enterprise in this field, and institutionalized co-operation on the lines of BIAC

and the FAO/Industry Cooperative Program would seem to be a good approach. This matter has not been given sufficient attention by national and international organizations concerned with development problems. For instance, it is disappointing that in a study entitled 'Government Organization and Economic Development', made under the auspices of the Development Centre of the OECD by officials of the governments of Pakistan, Israel, Greece, Yugoslavia, Turkey and the Netherlands together with several well-known personalities, little attention was paid to the important question of how better co-ordination with private enterprise could be achieved.

100. Probably no blueprint of procedure for this kind of collaboration with private enterprise can be established, as each country and area of activity poses different problems; but it would appear to be possible to work out some general guideline for efficient action on the strength of the experience, for instance, of IBRD with its governmental consultative groups, of the EEC with its Consultative Economic and Social Committee, of the OECD with the establishment of BIAC, and of the FAO with its Industry Cooperative Program. Private enterprise is involved in all except the first of these groups.

101. UNCTAD often brings all interested parties together, for example in commodity conferences, shipping, insurance, etc. The difficulty is often in finding a common denominator. The confrontation between the ICs and DCs have not always led to constructive solutions and, indeed, can result in polarization into conflicting groups. Nevertheless, such confrontation is vital if any progress is to be made, and proposals have no chance of success without agreement on both sides.

Conclusions

102. Private enterprise, domestic and foreign, has a very considerable contribution to make to the solution of the development problem. The efficiency and skills needed to make a reasonable profit in competitive conditions are powerful factors in ensuring that scarce resources are not wasted.

103. It is well understood by private enterprise that business activities must now follow different patterns from those traditionally associated with the laissez-faire doctrines of the nineteenth century and that governments have a legitimate interest in exercising control over private enterprise to prevent abuses and to ensure that it operates within the framework of national economic and social policies. On their side governments must recognise that it requires not only controls but also incentives to ensure that private enterprise operates efficiently within this framework. Without reasonable profits the source of private investment would quickly run dry. At the same time the question arises of what is a fair division of profits between an investor and the people among whom, and from whom, the profits were earned? In the conditions posed by the DCs, the governments and investors alike need to adopt a flexible approach to the private enterprise system.

104. A situation where there is a good working partnership between state and private enterprise is not easily arrived at. and it is important that there should be a continuing dialogue between private enterprise and national and international authorities.

105. These problems are certainly not ignored by foreign private enterprise, and some companies have made substantial contributions to the development of the DC in which they are operating and have adjusted their activities to fit in with the objectives of that country. More of this must be done, and in the author's firm conviction will be done but, at the same time, clearly it is not realistic for governments to welcome foreign private enterprise only on condition that it ceases to be either private or foreign.

CHAPTER III

LEGAL ASPECTS

Introduction

106. In contemplating an investment, the potential investor is taking into account a series of factors. Each of these factors in turn may become an obstacle to new investment by making it impossible - factually or in the prospective investor's opinion - to obtain a monetary return commensurate with the risk involved. The same obstacles are not, of course, found in every situation, nor are they of equal importance or always clearly separate one from another. This chapter discusses some legal aspects relevant to the flow of foreign private investment, while Chapter IV deals with fiscal problems.

Political risks

107. Apart from the need for the necessary economic conditions existing in a particular DC to be sufficiently attractive to influence an investor to place his capital in that country, a further and often determining factor is investors' fears of governmental interference, commonly called "political risks"(a). In that connection, the emphasis placed on pronouncements made by DCs as to their right of sovereignty is often a deterring factor. Within the UNCTAD context, conflicting considerations in respect of sovereignty appear to arise from the juxtaposition between General Principles One and Three(b), on the one hand,

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(a) Non-business or political risks (especially expropriation, exchange restriction, etc.) are generally assumed to constitute a primary deterrent to expanding private foreign investment. (Para. 81 of E/4293).

(b) General Principle One
Economic relations between countries, including trade relations, shall be based on respect for the principle of sovereign equality of states, self-determination of peoples, and non-interference in the internal affairs of other countries.

General Principle Three
Every country has the sovereign right freely to trade with other countries, and freely dispose of its natural resources in the interest of the economic development and well-being of its own people.

and Special Principle A.IV.12 on the 'Promotion of Private Foreign Investment in Developing Countries', as further affirmed by UN Resolution 2087(XX),[a] on the other. The former carry a notion of the absolute sovereignty of the state, the latter reflects the desire of the DCs to increase the flow of private investment to their territories. Divergent views have come to light by the dissenting or abstaining votes of some of the capital exporting countries when the recommendations contained in General Principles One and Three have been put to the vote. I question, however, whether in fact such conflict is not more apparent than real. As far as General Principle One is concerned, the recommendations which it contains are self-evident. For that reason I have the same difficulty in understanding the reason for the rejection on the part of most countries of the US' request to make this recommendation expressly subject to the provisions of the UN Charter and to international law, as I have for the need which the US felt in proposing this self-evident qualification. And if it is accepted that international law embodies the rules governing relations between states, can it be denied that Declaration 1803 (XVII)[b], passed by the UN General Assembly with an overwhelming majority, in itself doing no more than reflecting the consensus of states on certain rules of customary international law, is of relevance to the recommendations contained in General Principle Three?

Is sovereignty absolute?

108. The basic question, it would seem, is whether the principle of sovereignty is absolute in the sense that it implies unlimited freedom of action or whether it is subject to a legal order. The relationship of law and sovereignty was, of course, for centuries in Europe one of the most sharply contested issues of political

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(a) The text of this Resolution is attached as Appendix III.

(b) The text of this Declaration is attached as Appendix IV.

and legal philosophy, but over the ages, and in particular since the beginning of the nineteenth century, the weight of opinion tended to uphold the supremacy of the law. While there have been regrettable resurgences in Europe in the not-too-distant past of the assertion of the principle of unfettered state sovereignty, the UN Charter clearly marks the universal recognition of the supremacy of law. Newly emergent states whose domestic legal heritage and religious principles recognise that the sovereign is subject to a higher order have given by their adhesion to the Charter recognition to the principle of the restriction of sovereignty by the rule of law.

109. In the past few years, the Special Committee on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter, as established and reconstituted under various General Assembly resolutions, has had under consideration a series of principles of international law which find expression in the Charter, including the principle of sovereign equality of states embodied in Article 2(1). General Assembly Resolution 2181 (XXI) took note of the formulation achieved by the 1966 Special Committee concerning the principle of sovereign equality. This Resolution inter alia declared that "States have equal rights and duties and are equal members of the international community"; that "each State has a right freely to choose and develop its political, social, economic and cultural systems"; and that "each State has the duty to comply fully and in good faith with its international obligations." It is thus recognized, as an element of the principle of sovereign equality, that the exercise of rights deriving from sovereignty is subject to the duties which international law imposes on states.

110. Moreover, the principle that sovereignty is subject to the rule of law is not peculiar to international law alone. In a compilation of various legal systems of the world, embracing those of capital exporting and capital importing countries(a), the conclusion is reached "that the general concept of sovereignty within the law is a commonplace of the legal systems of the world."(b) The proposition of the existence of absolute sovereignty in the sense of complete freedom of action without the restrictions imposed by law is outdated(c). Nor do I think that DCs when emphasising their full right to sovereignty have in fact in mind the proposition that their sovereignty is outside the rule of law. In fact what I believe they mean is sovereignty in the sense of the right to fullest independence. As Sir Gerald Fitzmaurice says, sovereignty "means in the case of fully sovereign States ... equality with and independence of one another but not of the law."(d) Or to quote Brierly, sovereignty "does not mean freedom from law but merely freedom from control by other States."(e) A succinct warning against the injudicious use of the word "sovereignty" was given by the late Sir John Fischer Williams in 1923 in his lectures before The Hague Academy(f).

(a) 'Sovereignty Within the Law',Larson and Jenks.Dobbs Ferry, New York 1965.

(b) Ibid. p.461; P. Sreenivasa Rao in his critique of the book in the Indian Journal of International Law, Volume 6,No.3, gives full support to its thesis inter alia in the following terms: "It is greatly assuring for the future of the rule of law in the international community that all the participants attest for the primacy of law over sovereignty ..."

(c) "Not one State in the world, even the most powerful, is legibus solutus." Quadri in 'Sovereignty Within the Law', Larson and Jenks, p. 426.

(d) Fitzmaurice 'Sovereignty Within the Law', Larson and Jenks,p.355.

(e) Brierly 'Sovereignty Within the Law', Larson and Jenks, p. 426.

(f) "Quel est en effet, sous ce rapport, la signification de la 'souveraineté' d'un Etat? ... On souhaiterait vraiment que le mot soit tout de suite et pour toujours exilé des discussions internationales où il ne remplit aucune fonction qui ne soit susceptible d'être remplie et qui ne le soit mieux en fait par le mot d'indépendance' "...'Recueil des Cours de l'Académie de Droit International', Vol. 1 (1923) 289, at p. 315.

111. If the demand for the right of sovereignty in fact means what these learned authors say it does, it is of course not open to any challenge. In this context also the demand of DCs for "sovereignty" over their natural resources becomes fully understandable, and indeed justifiable. It would mean not only that DCs should be independent in the political sense, which they of course already are, but also that they should be economically independent, or more particularly be placed in the position, such as by the transfer of the necessary technology, to "effectively exercise their choice in deciding the manner in which the exploitation and exploration of their natural resources should be carried out."(a)

The Rule of Law

112. While sovereignty is thus subject to the rule of law, there is of course some controversy and indeed uncertainty as to the contents of the relevant rule of law. This fact can be illustrated by three clauses of a legal content contained in UN Declaration 1803 (XVII) on Permanent Sovereignty Over Natural Resources(b). While operative paragraph 3 of that Declaration unambiguously states that "where authorization is granted, the capital imported ... shall be governed by the terms thereof, by the national legislation in force and by international law", it leaves open the question of the precise rule of the applicable international law. Similarly, while operative paragraph 4 recognises that in the event of expropriation, "the owner shall

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(a) Operative paragraph 3 of UN Resolution 2158 (XXI) of 28 November 1966, attached as Appendix V.

(b) Paragraph 38 of E/4293 states that extraction of natural resources will always remain a casus sui generis and refers in this respect inter alia to this UN Resolution. While there is truth in this assertion, inasmuch as the development of natural resources by foreign investors finds its legal expression in a combination of special legislation and individual agreements, the clauses of a legal content contained in the Resolution are of general application. Document E/4293 in fact does not suggest that they are not.

be paid appropriate compensation in accordance with the rules in force in the State taking such measures in the exercise of its sovereignty and in accordance with international law", the term "appropriate compensation" has no particular precision. On the other hand, the principle of the duty to pay compensation is unequivocally recognised in this clause[a]. In a different class, however, fall the provisions of operative paragraph 8 of that Declaration, under which "Foreign investment agreements freely entered into by, or between, sovereign States shall be observed in good faith; ..." Here it seems that a rule of customary international law has found fullest recognition in unambiguous terms.

113. Recognition of the rules of law contained in Declaration 1803 (XVII) has remained unaffected by Resolution 2158 (XXI), likewise on Permanent Sovereignty Over Natural Resources, adopted by the General Assembly on 28 November 1966. In fact the new Resolution in its first operative paragraph confirms the principles of Declaration 1803 (XVII). However, while recognising in its seventh preambular paragraph the important role which foreign capital, whether public or private, can play by supplementing the efforts of DCs themselves, it contains other provisions which on account of some ambiguity in drafting may give rise to apprehension in the minds of foreign investors and might thus have

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(a) A Report by the Committee of International Law of the Association of the Bar of the City of New York entitled 'The Compensation Requirement in the Taking of Alien Property' (22 The Record 195, March 1967) indicates that the principle of the duty to pay compensation for the taking of private property owned by foreign interests is accepted virtually by all DCs in their constitutions, investment laws and nationalization decrees and in a large number of recent bilateral treaties to which they are parties. Based on the materials discussed in the Report, the Committee concludes that
"there is a continuing rule of customary international law requiring a state to provide compensation for the taking of alien-owned property."

a deterrent effect on the flow of private foreign capital to DCs. Operative paragraph 5, for instance, specifically "Recognises the right of all countries, and in particular of the developing countries, to secure and increase their share in the administration of enterprises which are fully or partly operated by foreign capital, and to have a greater share in the advantages and profits derived therefrom on an equitable basis..." If this provision means what the Netherlands representative in the General Assembly, when explaining its vote in favour of the Resolution, understood it to mean, namely that it gives a strong moral backing to DCs for their fundamental right to bargain for the best deal they can obtain in the field of the exploitation of their natural resources, it is, of course, fully justified. If it is, however, interpreted as sanctioning the right of states parties to contracts with foreign private investors to escape obligations arising out of contractual arrangements which have already been mutually accepted, such interpretation would be unacceptable, if only because of its conflict with operative paragraph 8 of Declaration 1803 (XVII). I therefore fully support the view expressed by the Netherlands representative in the General Assembly that the new Resolution in no way prejudices existing contracts and agreements and that nothing in its text suggests any retroactivity as to its applicability.

Final Act A.IV.12

114. Two particularly relevant aspects of UNCTAD Final Act A.IV.12, are the recommendation in respect of action by investors, "that foreign private investment, based upon respect for the sovereignty of the host country, ... should work within the framework and objectives of development plans"; and the other recommendation that private capital-importing DCs "... take all appropriate steps to provide favourable conditions for direct private investment."

115. It goes without saying that foreign investors have the duty to respect the sovereignty of the host country. In fact, more is required: firstly, foreign investors should identify themselves as much as possible with the host country and its economic, social and human aims and policies, and must in no way regard themselves as an enclave in a foreign land; secondly, respect for sovereignty of the host country also means respect for its laws and regulations. In this connection it is, of course, assumed that the state concerned will give fair and equitable treatment to the person of the alien and his property as required by international law, and in any case will not apply discriminatory treatment to him.

116. The DCs which seek investment by private foreign capital in accordance with the second recommendation mentioned in paragraph 114 are of course perfectly free to decide, in the exercise of their sovereignty, whether or not they wish to have the assistance of a particular investor or to have a particular investment made. Having decided to have the participation of foreign private capital, the recommendation postulates that they take appropriate steps to provide favourable conditions for it. The paragraphs which follow will deal in particular with legal measures which in my view can contribute towards such favourable conditions.

117. There are in the first instance provisions contained in the constitutions of most DCs embodying certain legal guarantees for foreign nationals, such as in general providing for fair and non-discriminatory treatment and in particular for compensation in the event of expropriation. Such provisions are essential to lay the basis for investors' confidence. Nevertheless, because they can be amended and, in particular, because of the broad terms in which they are necessarily couched, they are by themselves not sufficient to create an adequate

incentive for the attraction of foreign investment. That this fact is recognised by DCs seeking to attract foreign private capital is reflected in investment promotion laws which virtually all these countries have enacted. These laws, apart from providing for legal guarantees for the security of foreign investments in terms much more specific than those contained in constitutions, usually contain special incentive measures of a fiscal nature, such as exemptions from taxation, reductions of customs duties in respect of the import of plant, machinery and sometimes also raw materials; provisions regarding the remittability of earnings; provisions governing the entry, sojourn and employment of expatriates; and in many cases important provisions in respect of the settlement of disputes, notably by arbitration. These measures taken by the DCs in the field of their domestic legislation are very important, and the work so far done, and still in progress, is most impressive.

118. Foreign investors, however, regard stability - political, economic and also, to the extent that it is possible, legislative - as the principal factor determining confidence. This is recognized in paragraph 117 of UNCTAD TD/B/85, as follows :

> "From the point of view of the foreign investor's interests too, what is decisive is not so much the granting of complete freedom, but rather a clear, and if possible definitive, statement by the developing countries laying down the conditions under which foreign capital is accepted and welcome. The uncertainty which prevails in this respect in many developing countries is more harmful than many of the limitations that could be imposed."

In this connection it has been suggested in paragraph 82 of E/4293 that what a DC can do by itself to give a foreign investor

advance assurance against non-business risks is limited; and that the apprehension on the part of foreign investors of these risks flows in the first instance from the "general instability affecting institutions, policies and practices which is inherent in the very condition of underdevelopment." This is of course very true, but I do not agree with the generality in which this assertion has been made. There are quite a few DCs which in the process of their development have achieved, if not full economic stability, a great measure of political stability sufficient to create investors' confidence. Moreover, paragraph 82 of E/4293 itself qualifies the statement I have quoted by accepting that, within the limit set by the situation arising from under-development, governments can do a good deal to ease the apprehension of foreign, and indeed domestic, investors, especially in the way of a fair and efficient exercise of their administrative authority and discretion. I cannot butfully endorse this statement.

Investment promotion legislation

119. Foreign investors attach considerable value to investment promotion legislation, but some improvements appear to be possible. Firstly, investors frequently complain that the administration of investment legislation is in some of the DCs extremely slow and cumbersome. Frequently it involves the approval of too many authorities; these impediments will, I am confident, be remedied in the course of greater experience and with the assistance of expert advice afforded by UN agencies, including the IBRD and by non-governmental organizations. Secondly, there is a considerable diversity in the legislation of small countries with a limited investment potential, particularly in Africa. Investors, notably those of smaller size, for whom the necessary legal and fiscal expertise appears

too costly, seem to feel frequently discouraged by this factor, and thus refrain from placing industrial investments in these smaller countries. Action contemplated by the ECA towards the establishment of a uniform African investment code is thus an important step towards removing this apparent impediment. I hope, however, that the work of ECA will contain adequate investment incentives, will adopt the valuable elements contained in the investment promotion legislation at present existing in Africa, and thus not flow from the principle of the lowest common denominator or lay down too rigid rules. Flexibility is essential.

120. Yet the principal shortcoming of investment promotion legislation as seen through the eyes of foreign investors is its inherent lack of legal permanency. This is attributable to the fact that these measures of legislation are more liable to change than constitutional provisions, specific contractual engagements and indeed commitments on the international plane by means of treaties. I would not wish to suggest that changes made to investment promotion legislation have often affected the basic provisions contained therein regarding the legal security of foreign investments and in respect of the adjudication of disputes. However, the very fact that these unilaterally enacted measures can be changed unilaterally is a cause of apprehension to foreign investors.

Multilateral treaties affording security

121. The foregoing paragraph suggests that more is required in order to give the foreign investor full confidence in the legal stability regarding the treatment of his investment; in fact measures have already been taken, or are proposed, to afford security to foreign private investments through commitments on the international plane by means of treaties. Clearly the

most desirable type of treaty would be a multilateral instrument which, if not universally accepted, would have the widest possible adhesion on the part of both capital-exporting and capital-importing countries from all regions of the world. Attempts in this direction have been made in the past, and the recent and most notable example is the Draft Convention on the Protection of Foreign Property developed by the OEEC and thereafter by OECD. Some regard the present outcome of this work as disappointing inasmuch as the original intention to conclude a treaty with the widest association of states non-members of the OECD has not been fulfilled on account of lack of sufficient response by those non-member states whose views were obtained at a late stage of the negotiations. However, hopes exist that the attitude of non-member states towards this multilateral project may change, and that as a result a convention on the lines of the OECD Draft can be concluded in the perhaps not-too-distant future. What caused the lack of response by DCs must be a question of opinion. Perhaps the fact that the Convention was prepared as between OECD members states and thus without the participation of the DCs was a factor; or the view of some DCs that there would not be any tangible advantages for them in expressing their willingness to accede to the Convention. But it does not seem that the validity of the principles of international law which the Draft Convention restates - basically no more than non-discrimination, the observance of specific undertakings, and the obligation to pay proper compensation in the event of expropriation - has been questioned by those non-member states whose views had been sought.

Bilateral treaties

122. On the contrary, the conclusion by DCs of bilateral treaties containing internationally binding commitments in respect of

these principles of international law, usually in more elaborate terms, is clear evidence that they themselves wish to give their formal recognition to the applicability of these principles, so much needed in order to enhance foreign investors' confidence in legal stability being maintained in their countries.

123. There is historically, in the first instance, the chain of treaties covering a wide field of relations, mostly called Treaties of Commerce, Friendship and Navigation, which DCs have concluded on a reciprocal basis with the US(a), Japan(b), the UK(c) and the Federal Republic of Germany(d) since 1945. All these treaties recognise the principle of non-discrimination and provide for proper compensation in the event of expropriation in specific terms, such as prompt payment of just and effective compensation. Appendix VI contains typical clauses of these treaties.

124. While, however, the conclusion of treaties of this type has been slow - due undoubtedly to the fact that these treaties

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(a) US with Republic of China - in force since 30 November 1948
" Ethiopia - in force since 8 October 1953
" Greece - in force since 13 October 1954
" Iran - in force since 16 June 1957
" Israel - in force since 3 April 1954
" Republic of Korea - in force since 7 November 1957
" Muscat and Oman - in force since 11 June 1960
" Nicaragua - in force since 24 May 1958
" Pakistan - in force since 12 February 1961
" Thailand - signed 29 May 1966
" Togo - in force since 5th February 1967
" Vietnam - in force since 30 November 1961

(b) Japan with Cuba - in force since 22 April 1960
" Malaysia - in force since 16 August 1960
" Pakistan - in force since 20 August 1961
" Philippines - signed 9 December 1960

(c) UK with Iran - signed 11 March 1959

(d) Federal Republic of Germany with Dominican Republic - in force since 16 December 1959

cover a multitude of other relationships on the international plane[a] - rapid progress has been made in the conclusion of bilateral treaties dealing specifically with the promotion and protection of investments. The conclusion of treaties of this type promoted by the work already under study in OEEC on the multilateral approach, started in 1959 with the treaty between the Federal Republic of Germany and Pakistan. Since then the Federal Republic has concluded a further 35 of these treaties[b]. Typical clauses contained in these treaties are given in Appendix VI.

(a) such as on entry and sojourn of nationals, access to judicial tribunals, the right of establishment and of the exercise of professions, treatment of fiscal matters, the administration of foreign exchange and customs regulations, and the exercise of consular rights.

(b) The list of treaties as at 31 July 1967 is as follows :

Federal Republic of Germany

with	Cameroun	- in force since 21 November 1963
"	Central African Republic	- signed on 23 August 1965
"	Ceylon	- in force since 7 December 1966
"	Chad	- signed on 11 April 1967
"	Chile	- signed on 30 March 1964
"	Colombia	- signed on 11 June 1965
"	Congo (Brazzaville)	- signed on 13 September 1965
"	Congo (Kinshasa)	- initialled on 19 December 1963
"	Ecuador	- in force since 30 November 1966
"	Ethiopia	- signed on 21 April 1964
"	Ghana	- signed on 19 May 1967
"	Greece	- in force since 15 July 1963
"	Guinea	- in force since 13 March 1965
"	India	- in force since 15 October 1964
"	Iran	- signed on 13 February 1964
"	Ivory Coast	- signed on 27 October 1966
"	Kenya	- signed on 4 December 1964
"	Republic of Korea	- in force since 15 January 1967
"	Liberia	- signed on 12 December 1961
"	Malgasy	- in force since 21 March 1966
"	Malaysia	- in force since 6 July 1963
"	Morocco	- signed on 31 August 1961
"	Niger	- in force since 10 January 1966
"	Pakistan	- in force since 28 April 1962
"	Philippines	- signed on 3 March 1964
"	Ruanda	- signed on 18 May 1967
"	Senegal	- in force since 16 January 1966
"	Sierra Leone	- in force since 10 December 1966
"	Sudan	- in force since 24 January 1967
"	Tanzania	- signed on 30 January 1965
"	Thailand	- in force since 10 April 1965
"	Togo	- in force since 21 December 1964
"	Tunisia	- in force since 6 February 1966
"	Turkey	- in force since 16 December 1965
"	Uganda	- signed on 29 November 1966
"	Zambia	- signed on 10 December 1966

125. Treaties with DCs, containing clauses in which provisions of international law relevant to the treatment of foreign property are recognised in terms similar to those of the treaties concluded by the Federal Republic of Germany, have been entered into by other capital-exporting countries. Switzerland[(a)] has concluded sixteen treaties, the Netherlands [(b)] four, Sweden[(c)] three, Belgium and Luxembourg[(d)] two, and the UK[(e)] one. There is also the agreement between Denmark and Malawi of 1 August 1966 though its provisions are limited to Danish investment in Malawi guaranteed by the Danish government. Appendix VI contains typical clauses of these treaties.

(a) Switzerland with Cameroun - in force since 6 April 1964
" Congo(Brazzaville) - in force since 11 July 1964
" Costa Rica - in force since 18 August 1966
" Dahomey - signed on 20 April 1966
" Guinea - in force since 29 July 1963
" Honduras - signed on 20 July 1966
" Ivory Coast - in force since 18 December 1962
" Liberia - in force since 22 September 1964
" Malgasy - in force since 31 March 1966
" Malta - in force since 23 February 1965
" Niger - in force since 17 November 1962
" Ruanda - provisionally-in force since 15 October 1963
" Senegal - in force since 13 August 1964
" Tanzania - in force since 16 September 1965
" Togo - in force since 9 August 1966
" Tunisia - in force since 19 January 1964

(b) Netherlands with Cameroun - in force since 7 May 1966
" Ivory Coast - signed on 26 April 1965
" Senegal - signed on 12 June 1965
" Tunisia - in force since 19 December 1964

(c) Sweden with Ivory Coast - in force since 3 November 1966
" Malgasy - signed on 2 April 1966
" Senegal - signed on 24 February 1967

(d) Belgium and Luxembourg with Morocco - in force since 28 April 1965
" Tunisia - in force since 9 March 1966

(e) UK with Cameroun - in force since 29 July 1963

126. A substantial network of treaties has been concluded by France, though of a kind different from those discussed in the preceding paragraphs. Those of relevance in this context are : the Treaty of Friendship and Establishment with Costa Rica, in force since 11 March 1959[(a)]; the Convention on Economic Relations and on the Protection of Investments with Tunisia, in force since 1 August 1965; and the Multilateral Treaty on the Fundamental Rights of Nationals to which (apart from France) Senegal, Malgasy, the Central African Republic, Congo (Brazzaville) and Chad are parties, ratified by the parties on varying dates in 1960 and 1961. The relevant provisions of these treaties are contained in Appendix VI.

127. The treaties discussed in paragraphs 123 to 126 were all concluded between MECs, on the one hand, and DCs on the other. Lest it be suggested that these constitute an imposition by capitalist countries of rules developed in the past without the participation of newly emergent countries, and which they have felt forced to accept because of their urgent need for foreign private capital, it is significant that emergent countries have themselves started to conclude treaties among themselves giving recognition in similar terms to the pertinent principles of international law. Of relevance in this connection are the Treaty of Commerce and Navigation between India and Iran, in force since 10 May 1957, a similar Treaty between India and Afghanistan, in force since 24 March 1952, and the Agreement on Economic Co-operation and Protocol on Investment concluded between Kuwait and Iraq, which came into force on 7 June 1966. Appendix VI includes details of the relevant provisions of these treaties.

(a) Article 6 contains an undertaking to grant most-favoured-nation treatment in respect of property, rights and interests. In consequence of the coming-into-force of the Treaty between Switzerland and Costa Rica concerning the Protection and Encouragement of Investment, French investors in Costa Rica are entitled to the same protection as that granted to Swiss investors.

128. The growing body of bilateral treaty law seems to suggest that DCs are willing to give their formal recognition to the relevant principles of customary international law; and to give thereby specific expression to the general terms of operative paragraphs 4 and 8 of UN Resolution 1803 (XVII)(see paragraph 112 above). It is stated in paragraph 85 of E/4293 that these treaties are "adapted to the particular conditions and relations of the contracting countries." This is in a sense true in regard to any bilateral treaty. However, the similarity of the relevant clauses in these treaties combined with the apparent willingness of DCs to conclude them with a wide range of MECs appears to indicate that the rules of traditional customary international law in this field are - at the very least - not repugnant to the larger part of the developing world(a). In view of the growing affirmation of traditional international law, through the conclusion of these treaties, I cannot accept the assertion made in paragraph 84 of E/4293 that international law ".. is in flux on some of the basic issues which are here involved." Similarly I have some difficulty in accepting the further statement in that paragraph to the effect that attempts to conclude multilateral investment charters are designed "to restore a vanishing consensus, or to formulate new universal international law ...". In my view, all that the evidence of the failure so far to arrive at a multilateral investment charter contrasted with the growing success of bilateral treaties suggests is that DCs are under a political constraint in accepting the former solution but do not seem to have any similar difficulty regarding the latter; but not that there is a real disagreement regarding the applicable rules of international law.

(a) It is further asserted in paragraph 85 of E/4293 that these treaties are "frequently co-ordinated with actual investment projects ...". But this seems to be correct only in respect of the agreement between Denmark and Malawi referred to in paragraph 125 above.

129. The conclusion of these bilateral treaties is of the greatest importance. I fully endorse the statement made in the Conclusion and Recommendations of E/4293 (paragraph 140) to the effect that the spreading acceptance of bilateral investment treaties points to a realistic method of providing the protection of international law to investors. It seems to me that a further and rapid growth in the conclusion of such treaties is to some extent impeded by a lack of realism on the part of some MECs rather than by the hesitation of DCs. I therefore hope that the MECs concerned will overcome their reluctance and seek to conclude bilateral treaties with DCs and thus contribute by this means towards increased confidence in the security of foreign investments.

Arbitration

130. Having discussed in the preceding paragraphs matters relating to substantive rules of law governing foreign investment and, in particular, of international law, I turn now to certain procedural aspects which in my view are of no lesser importance - namely arbitration. In this context I am limiting discussion of this subject to the settlement of disputes in a situation where one party is a government or governmental agency, and the other a foreign investor.

131. It is said that the advantages of arbitration over judicial process are firstly greater efficiency and speed; secondly, confidentiality of proceedings (which is of particular importance in circumstances where the parties to the dispute wish to remain together); thirdly, the greater likelihood of an amicable settlement promoted by the informality of the proceedings; and, fourthly, and most importantly, "neutrality". By neutrality I mean the practice of conducting arbitration in a completely dispassionate atmosphere. This is achieved by the selection of

a place of arbitration which has no territorial connection with either of the parties and by the designation of a personality who in the view of both parties has in no way any association with either of them to appoint arbitrators, and in particular the presiding arbitrator, should the parties fail to agree on such an appointment. Such a personality could be the chief executive or judicial functionary of an international body, or of a third state.

132. The special merit of arbitration for the settlement of disputes arising from investment contracts between a government or governmental agency, on the one hand, and a private foreign investor, on the other, has of course been recognised for many years as well as the requirement to provide in the arbitration arrangements for appropriate neutrality. This is apparent from the many contracts falling under this class which have been concluded in the past and are continuing to be concluded. However, the negotiation of such arbitration arrangements is frequently made difficult by differing views of the parties with regard to appropriate media of neutrality. This, coupled with the fact that agreements between governments and private foreign investors are no longer an exceptional occurrence and now extend to many fields of economic activity, has made international institutionalisation most opportune.

133. I therefore most heartily welcome the setting up by the IBRD of its International Centre for the Settlement of Investment Disputes, and fully support the recommendation contained in paragraph 142 of E/4293: "A major strengthening of the international investment process can therefore be expected from the widest possible adherence of capital-supplying and capital-receiving countries to the World Bank's Convention". As at 31 July 1967 53 states had signed the Convention. It

has entered into force in respect to 32 states[a]. While it is unfortunate that no Latin American state has yet signed or ratified, this may be due not so much to any particular difficulties with the terms of the Convention as to a preference on the part of such states for some regional arrangement for the settlement of disputes between them and private foreign investors in Latin America. It is to be hoped, however, that such preference will not prevent Latin American and all other states from participating in the IBRD arrangements, particularly as they are clearly sufficiently flexible to permit their application in a regional context. Thus, at the time of ratifying, or of any time thereafter, a state may notify the Centre that it would accept jurisdiction only with respect to private investors in the region or to particular types of investment[b]. Arrangements could also be made with the Centre for the conduct of proceedings at the seat of a regional or other institution[c]. As the Executive Directors of the Bank have pointed out in their Report, such arrangements might range from merely making the premises available for the proceedings to the provision of complete secretariat services[d]. In any event, there is nothing in the Convention to prevent parties to a dispute agreeing their own rules of procedure for

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(a) Afghanistan, Austria, Belgium, Burundi, Cameroun, Central African Republic, Chad, China, Congo (Brazzaville), Cyprus, Dahomey, Denmark, Ethiopia, Finland, France, Gabon, Federal Republic of Germany, Ghana, Greece, Iceland, Ireland, Italy, Ivory Coast, Jamaica, Japan, Kenya, Korea, Liberia, Luxembourg, Malagasy Republic, Malawi, Malaysia, Mauretania, Morocco, Nepal, Netherlands, Niger, Nigeria, Norway, Pakistan, Senegal, Sierra Leone, Somalia, Sudan, Sweden, Togo, Trinidad and Tobago, Tunisia, Uganda, UK, US, Upper Volta, Yugoslavia.
The countries underlined have ratified.

(b) Article 25(4).

(c) Article 63.

(d) See Report of the Executive Directors, para. 44.

the conduct of an arbitration in preference to the Arbitration Rules then in effect[a]. And the parties may always select arbitrators outside the Panel of Arbitrators established under the Convention, provided they possess the necessary qualities.[b]

134. I should like to commend the helpful observations made in paragraphs 91 and 92 of E/4293, while pointing out that certain aspects not referred to in those paragraphs are relevant here. Quite rightly E/4293 stresses the encouragement of the IBRD Convention to investors in DCs. It is well to bear in mind, however, that the Convention applies to all investments in Contracting States made by nationals of other Contracting States developed as well as developing. At least two of the MECs which have so far ratified contemplate applying the Convention to investments made in their own territories. Thus the Statute enacted in the UK to enable that country to ratify the Convention[c] provides that certain sections "shall bind the Crown", which in the context makes it clear that the UK contemplates accepting arbitration under the Convention for its own contracts with foreign private investors. It also appears from the hearings before the Foreign Relations Committee of the US Senate that there is no class of cases which the US government would not consider submitting to the jurisdiction of the Centre[d].

135. As the Report of the Bank Directors points out, the cornerstone of the Centre's jurisdiction is the consent of the parties[e]. Once given this cannot be unilaterally withdrawn[f]. A dispute must also be a "legal dispute arising directly out of

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(a) Article 44.

(b) Article 40.

(c) The Arbitration (International Investments Disputes) Act 1966.

(d) Executive Report No. 2, US Senate, 89th Congress, 2d Session at 15.

(e) Paragraph 23.

(f) Article 25(1).

an investment". Although the term "investment" is not defined, it is pointed out in the US Senate Committee hearings, which I have mentioned above, that an investment could include, though it would not be limited to, a long-term or short-term loan by a private foreign investor of one country to the government of another or a transfer to a new or existing enterprise in a host country of loan or equity capital, industrial property rights or services[a]. It is perhaps just as well that the term is not defined, as definitions tend to be restrictive.

136. An aspect of considerable significance is the provision that no state which becomes a party to the Convention shall give diplomatic protection or bring an international claim in respect of a dispute which one of its nationals and another contracting state shall have consented to submit to arbitration under the Convention[b]. By giving such consent a state thus not only takes an essential step in promoting and maintaining the investment of foreign capital in its territory but at the same time it both relieves itself of possible intergovernmental pressure in respect of private claims and relieves the government of the foreign investor of pressures to espouse the claim in circumstances where espousal might well conflict with other policies and interests. While this important provision is properly qualified by the exclusion of situations where the state against which the claim is made has failed to abide by and comply with an award rendered in the dispute and by the exemption of informal diplomatic exchanges for the sole purpose of facilitating settlement[c], these qualifications do not derogate from the major achievement of providing for the settlement on an international plane of differences between a state and a foreign investor without intervention by the investor's own government.

(a) Footnote (d), paragraph 134

(b) Article 27(1).

(c) Article 27(2)

137. As paragraph 92 of E/4293 indicates, the Convention does not merely cover claims by investors against governments; it deals as well with claims by governments against investors. In every instance, once the necessary consents have been provided, default procedures are available where one party fails to respond.[a] Arbitral Tribunals would appear to have sufficient flexibility to determine for themselves what their awards should be even though they have the benefit in such situations of submissions by only one of the parties. There are other respects in which such Tribunals are also given important powers. They are always judges of their own competence[b]. They also determine what law to apply where the parties have not themselves reached agreement on this aspect. In the absence of such agreement, a Tribunal is required to apply the law of the country which is a party to the dispute and such rules of international law as may be applicable[c]. Once an award has been rendered every state which has become a party to the Convention is bound to recognise and enforce its pecuniary obligations as if it were a final judgment of one of its own Courts[d]. This is an important means of making the Convention effective. At the same time, the sovereign immunity of states is protected by a provision that nothing should be construed as derogating from the law in force in any Contracting State relating to immunity of that state or of any foreign state from execution[e].

Conciliation

138. Not enough attention seems to be paid in Document E/4293 to conciliation as another method for the settlement of disputes. In certain circumstances, particularly where the parties wish to stay

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(a) Article 45.
(b) Article 41.
(c) Article 42(1).
(d) Article 54(1).
(e) Article 55 .

together, conciliation may well have even greater merits than arbitration. The parties will often need no more than a catalyst in whom both have the fullest confidence to assist them in settling their differences. Even the fact-finding function of conciliation alone may in many cases by itself be instrumental for the reaching of an amicable settlement. Conciliation is of course like arbitration pre-conditioned by voluntariness. But contrary to the arbitral award the conciliator's recommendation is not binding, though experience shows that in many cases the parties in fact act upon such recommendation.

139. There is another distinction of some relevance. While in the case of arbitration the parties will expect the dispute to be settled by an expert - be it in law or in the particular subject matter under dispute - and rely on a third party appointing authority to make the appropriate choice if they cannot themselves agree on the selection of such expert, conciliation in order to be attractive to the parties is in a sense dependent upon certain consideration of a subjective nature. Although as a matter of law the conciliator's recommendation is not binding, in the minds of the parties it prejudices to some degree their relationship. In consequence in most cases parties would wish to take recourse to conciliation only where they are confident that they will be able jointly to agree on the person who could really assist them towards a settlement. For this they want not so much the expert as the wise and constructive man. These considerations explain the fact that investment agreements rarely contain provisions on conciliation. It is presumably the uncertainty both as regards the type of dispute which may in the future arise from the agreement, as well as regards the conciliator who would be selected by a third party in the event of failure of the parties to agree on such appointment,

which dissuades the parties from including conciliation arrangements in their agreements and which induces them to prefer arbitration as the sole remedy. Neither of these factors, however, applies to the use of conciliation ad hoc for a particular dispute. It would then have eminent merits. I strongly recommend that more use of ad hoc conciliation be made particularly where it can serve as a catalyst needed for keeping the parties together. I hope that the conciliation facility offered by the IBRD Centre will act as a stimulus and will lead to its wide use whenever appropriate.

140. Considering the apparent advantages of a wider use of conciliation as a stabilising factor, I am a little surprised that there is no recommendation regarding it in Document E/4293. There are, however, certain observations in that document which suggest that a form of conciliation might serve as a device for resolving differences. This is the impression I have gained from reading paragraphs 93, 94 and 143. Paragraph 93 deals with the renegotiation of long-term investment contracts, paragraphs 94 and 143 contain the recommendation that renegotiation be facilitated by some form of institutionalisation. A few remarks on this subject seem opportune. I must, however, observe that, in the absence of some more definite indication of the form and scope of institutionalisation contemplated, I am unable to provide any appraisal of the implications of this recommendation.

141. The first sentence of paragraph 94 indicates that institutionalisation of renegotiation is conceived of as something running parallel with the IBRD scheme. Voluntariness must therefore be assumed to be the starting-point, and in fact no otherwould, in my opinion, be at all feasible. Institutionalised or not, renegotiation not based on the mutual willingness of the parties would be an unworkable proposition.

142. In order to judge whether any renegotiation machinery would be feasible and helpful, we should consider what practice has so far revealed. As paragraph 93 of E/4293 points out, the renegotiation of investment agreements is a widening practice. Two situations may here be distinguished. First, the one in which a contract is changed by the parties as a result of renegotiation provided for in the contract itself. Thus renegotiation may be made dependent upon some lapse of time or upon occurrence of a specified event or combination of events. Such provisions for renegotiation in long-term contracts often contribute to a stabilisation of contractual arrangements. Wherever appropriate, they should therefore be recommended. The other situation is one in which renegotiation results from an ad hoc agreement of the parties. Both situations have in common that the parties have settled the cadre within which the renegotiation shall take place: the terms of reference are clearly set out(a). None of the parties - neither the government nor the investor - would ever want to enter into a contract containing a provision for renegotiation without such terms of reference. Otherwise an element of uncertainty is introduced which may result in the contractual relationship between the parties being seriously impaired.

143. Just as the parties may wish to have assistance in a conciliation of their differences, they may equally consider it helpful to have a catalyst when they renegotiate. For the reasons mentioned above, the neutral wise man must possess very special qualifications. Integrity and professional expertise would not alone be sufficient. Above all, his influence must be moderating and constructive. The success of his efforts will

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(a) If there are contractually agreed terms of reference, a dispute arising from them would be capable of being settled by conciliation or arbitration within the framework of the IBRD Convention.

depend upon his ability to win the confidence of both parties. Even in a "planned" renegotiation, therefore, the actual choice of the third man can hardly be other than ad hoc. Otherwise the existing divergence of views may be widened instead of bridged. The possibility, therefore, of pre-arranging the appointment of a person acceptable to both parties for the particular purposes required would appear to be very limited.

144. Once the right man has been found, nothing should prevent the parties from giving his intervention the scope they want. When dealing with conciliation, I have mentioned that the parties frequently act voluntarily upon his recommendation. There may be circumstances in which they might be willing to go even further by agreeing in advance that they will accept his recommendation as binding. In the case of renegotiation, I would recommend that the parties give due consideration also to this possibility when they regard the circumstances as appropriate.

145. Since, as I have already said, I am not able to assess the exact implications of the suggestion to institutionalise renegotiation, made in paragraphs 94 and 143 of E/4293, I must limit myself to these observations. They may offer some matter for thought whenever ways and means are sought to make investment contracts serve their real purpose of providing a stable basis for efficient and amicable co-operation.

Investment insurance - the background

146. At the first UNCTAD Conference in Geneva in June 1964 a recommendation(a) was adopted that the governments of capital-exporting industrialised countries should "take all appropriate steps to encourage the flow of private investments to developing countries, such as ... giving investment guarantees to private investors investing in developing countries" and that the IBRD should "expedite the studies on investment insurance in

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(a) See Appendix II to this report.

consultation with Governments in both developing countries and industrialised countries ...". The benefits of investment insurance have been further stressed in document E/4293 culminating in paragraph 141[(a)].

147. As a technique for stimulating foreign investment in DCs investment insurance provided by governments in capital-exporting countries can never be a substitute for the existence in DCs of those conditions - political, legal and others - which together constitute an investment climate conducive to the proper conduct of private business. In other words, investment insurance should be looked upon as providing some additional protection for the investor over and above that provided by the government of the country where the investment is made.

National insurance

148. In a number of countries, including Australia, Denmark, the Federal Republic of Germany, Japan, Norway, the US, governments offer their nationals guarantees against the non-commercial risks of investments in DCs. Other countries, including the Netherlands and Switzerland, are reported to be contemplating similar programmes. The scope of guarantee coverage offered by the various national schemes now in operation differ from country to country. Their essential features, however, are briefly summarised below.

149. The main risks eligible for investment insurance are expropriation without adequate compensation; restrictions on

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(a) Para 141 : The most direct type of guarantee for an investor is presumably one which does not involve the country of investment. Investment insurance against political risks provided by a growing number of capital-supplying countries serves this function by limiting an investor's responsibility largely to the consequences of normal business risks. The multilateral investment insurance scheme, initiated by the Organisation for Economic Co-operation and Development and currently under study in the World Bank, could go far towards eliminating this major obstacle to investment.

transfer of profits or on repatriation of capital; war, insurrection, riots; and under some schemes, the convertibility risk. Cover is usually restricted both in time and amount. The maximum period of guarantee varies from ten to twenty years. Under some schemes the insurer's liability will not be more than 90% of any loss, leaving 10% to be borne by the investor. Only new investments and those for expansion and modernisation can be insured. Other usual conditions are that the investment must be made in a DC, be designed to further the economic development of the host country, and that the investor's country (i.e. in the case of the US) has concluded an agreement with the host country concerning the implementation of the guarantee programme. Premiums vary and rates offered include 0.8% in the Federal Republic of Germany, 0.474% in Japan, 0.25% to 1.75% in the US, depending on the kind and scope of insurance given.

150. Absolute figures giving the total amount of guarantees issued since the introduction of a particular scheme or during some other period, give no clear indication of the extent to which national schemes are being used. There is no doubt, however, that the national guarantee facilities now available are growing in popularity. In the US, specific risk guarantees, the kind most widely used, amounting to $954 million were issued in 1965. This was 35% more than in the previous year and 125% above the 1963 level. Outstanding specific risk guarantees issued through 30 September, 1966 totalled $3.1 billion, and $3.6 billion by March 1967. In the Federal Republic of Germany the amounts guaranteed rose by just under $10 million in 1963, $40 million in 1964 and just under $79 million in 1965.

Multilateral insurance

151. Investment insurance could also be carried out on a multilateral basis. A considerable amount of work has been done in recent years on the subject by private individuals and national

and international organisations. At the beginning of December 1966 the IBRD sent to member governments for their consideration a set of draft Articles of Agreement for an International Investment Insurance Agency as well as a memorandum on the Loss-sharing provisions of the draft(a).

152. The IBRD draft Articles of Association offer multilateral investment insurance and other services which can be summarised as follows :

> An International Investment Insurance Agency would be set up within the IBRD organisation. The Agency would issue insurance upon the payment of premiums against any kind of non-commercial risk for new investment, i) proposed for insurance by a member; ii) to be made in a host country and approved by it, and iii) being developmental in character. The Agency would have discretionary power to consider other factors such as the effect on private foreign investment of the laws and policies of the host country concerning the treatment of, and the settlement of disputes with, private foreign investors. Insurance could also be issued for multi-national investments and for re-insurance. On payment the Agency would be subrogated and would succeed to all the rights and assets of the insured investor. Losses would normally be shared among the capital-exporting members only, under a formula which would reflect both the extent to which each such country's nationals had made use of the programme on a global basis, and the extent to which they had purchased insurance for investments to be made in the particular country in which a loss had occurred. In addition, a system whereby account should be taken of early losses might be built into this loss-sharing formula. The Articles of Agreement also contain provision for arbitration of disputes with respect to the Agreement or to contracts of insurance.

The scheme has been welcomed by industry and business(b).

(a) IBRD staff document, 30 November 1966, not considered by the executive directors prior to circulation as basis for discussion.

(b) Comments by the ICC on the draft Articles of Agreement circulated under cover of E/C.2/653 of 2 May 1967, attached as Appendix VII. BIAC and APPI likewise expressed strong support of the scheme.

The incentive effect of investment insurance

153. Investment decisions entail numerous and varied considerations, including the availability of investment insurance. It is hard to say how important this one factor is. There are, no doubt, investments for which insurance has been purchased that would have materialised even if this had not been available. It is equally true that many investments will be made in politically risky circumstances, even when insurance is not available. At the same time, it is fair to assume that the access to insurance would lead to an increased volume of investment in DCs. This appears to be the view of the business community and of many governments, particularly in the DCs. The increased use of national insurance schemes in ICs, especially the US, seems to point in the same direction. So long as a guarantee scheme makes possible at least some investment which would otherwise not have been made, it can be regarded as a worthwhile factor in the development process.

154. In considering the incentive effect of insurance, it should not be overlooked that the investing entrepreneur's own judgment of the non-commercial risks involved is not necessarily the decisive one. Even if he is himself prepared to make the investment without a guarantee, he may be in a position of having to purchase an insurance in order to obtain the necessary finance from sources outside his own company. Likewise the company created by his investment may need a guarantee in order at a later stage to issue bonds or place a share issue on the capital markets. Availability of insurance may therefore be important not only for bringing about an investment but attracting additional capital to the project at a later stage.

155. Another reason for supposing that investment insurance would increase the inflow of capital is that the existence of a

multilateral insurance scheme, or of several national ones, would lead to an improvement in the investment climate in participating countries. In the IBRD Staff Document draft Articles of Agreement it is in fact foreseen that the Agency, when determining whether a guarantee could be issued or not, will take into account "the effect on private foreign investments of the laws and policies of the host country regarding the treatment of, and the settlement of disputes with, private foreign investors." Similar considerations apply to the practice of national guarantee schemes. Investment insurance is therefore likely to induce host countries to afford fair and non-discriminatory treatment to foreign investments. They would thereby make sure that investments planned for their countries would qualify for insurance, and perhaps even more important, come to be regarded as safe areas for investment even without insurance.

156. The fact that a host country's unlawful action against foreign private investment would constitute a claim on the part of an IBRD agency (under a multilateral scheme), or of a foreign government (under a national scheme) would no doubt serve as a deterrent to such action and consequently result in an improvement of the investment climate. The obligation under a multilateral scheme as well as under a national one to submit disputes to arbitration is another factor helping to produce the same result. The point was argued in the IBRD staff report of 1962 that the built-in deterrents of an insurance scheme "might result in an improvement in the investment climate which would benefit not only insured investors but also investors who do not elect to purchase insurance or whose investments, not being 'new', would be ineligible for protection."(a)

(a) 'Multilateral Investment Insurance', a Staff Report, IBRD, Washington D.C., March 1962, page 21.

157. The use of the term "incentive" in connection with insurance of investments in DCs implies that it is of particular interest to the investor so that it would be in his interest to persuade governments of the capital-exporting countries to establish investment insurance facilities. However, such schemes would be possibly even more to the advantage of capital-importing countries as they would increase their chances of attracting foreign investment. Again for the governments of the capital-exporting countries, investment insurance schemes represent an additional means of assisting DCs. In view of this concurrence of interest, between the private investors, the capital-importing countries and the capital-exporting countries, it should not be necessary for the private investors to have to advocate investment insurance. In particular, the governments of the DCs should be active in persuading the MECs to negotiate the establishment of insurance facilities likely to attract private capital. Such a move would undoubtedly have the support of the international business community.

National versus multilateral schemes - loss-sharing

158. As the number of national schemes has increased and shows signs of continuing to do so, the question arises whether a multilateral programme is therefore necessary. From the technical point of view it is possible to have a multilateral scheme working alongside a network of national schemes. Apart from its value to countries having no national scheme of their own, a multilateral programme could be useful in the following ways :

a) In the case of investments by international consortia, unless each of the participating countries had its own national programme, the full amount of the investment

could not be insured except under a multilateral scheme. Even if each of the participating countries conducts its own national scheme, these may be so different or contradictory that they cannot be used together.

b) Some DCs would prefer for one reason or another to have investment projects covered by insurance issued by a multilateral agency rather than by the government of the investor's country.

c) A multilateral scheme could be used to issue re-insurance upon terms and conditions prescribed by it against all or part of the risks covered by investment insurance or guarantees issued by a member.

159. From the businessman's point of view the case referred to under point a) of the preceding paragraph (investments by international consortia) is particularly relevant as investment financing drawn from sources in several countries becomes increasingly important. Indeed, this technique deserves encouragement as it would certainly facilitate the financing of large projects and, therefore, add to the present flow of capital investments towards DCs. Another question is whether the capital-importing countries would be likely to participate in a multilateral programme, if a great number of national schemes were already in operation. The answer seems to depend in no little degree on how the problem of loss-sharing will be solved in a multilateral scheme.

160. The IBRD proposals do not require participating capital-importing countries to assume any liabilities for losses other than those caused by themselves. In this respect they would be in the same position under a multilateral programme as they are under bilateral arrangements where they do not assume any liability for losses occasioned by the action of other

countries. If, however, capital-importing countries were required to share losses under a multilateral scheme, they might prefer to operate under a network of national programmes which do not carry this obligation.

161. There are, however, strong reasons why DCs might nevertheless find it to their advantage to take part in a multilateral programme and accept a loss-sharing obligation. First, capital-importing countries are in any case not expected to share losses to the same extent as capital-exporting countries. Their contribution may be at no more than a nominal value. The important factor is that all members of a multilateral scheme, including DCs, should share the liabilities as well as the privileges of the programme. On this scale the loss-sharing obligation should not deter capital-importing countries from taking part in a multilateral scheme. Second, some capital-importing countries would find it easier from a political point of view, to accept obligations alongside other DCs in a multilateral programme, especially if this was under IBRD auspices than to enter into bilateral relations with ICs. Third, by assuming loss-sharing obligations the DCs could claim the right to exercise more influence upon the policy and conduct of the guarantee programme.

162. In general, the fact that a loss occasioned by one DC would have to be covered by contributions not only from ICs but also, to some extent at least, from other participating DCs, would tend to restrain action giving rise to claims. To quote again from the IBRD staff report "whereas under a bilateral programme the acts of one party could offend only the other party, in the context of a multilateral programme the act of a capital importing participant could bring that country into disfavour with a community of industrialised countries as well as with

other capital importing countries."[a]

163. Many private investors, given the choice, would prefer a national insurance scheme to a multilateral one, as being administratively more practical and more easily accessible. However, a multilateral scheme could present some of the same advantages by making use of some national authority in each participating country as its agent. This could mean that private investors were dealing with bodies responsible for export credit guarantees already familiar to them rather than with a geographically remote international institution.

164. Another apprehension sometimes voiced by investors is that details of their investment plans might, when presented to an international institution, fall into the hands of their foreign competitors. To dispel fears of this nature provision should be made in the constitution of the international institution for strict confidentiality of guarantee applications. If the multilateral institution is a part of the IBRD organisation, apprehension of this sort would be no doubt considerably reduced.

165. This discussion of the subject of investment guarantees against non-commercial risks has concentrated on certain aspects which can be regarded as of vital importance. There are others, of a general and of a more technical nature, which have been fully reported in statements made by the ICC and other bodies[b]. There is therefore no reason to elaborate further on the subject here. Finally, it must be stated that

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(a) 'Multilateral Investment Insurance', a Staff Report, IBRD, Washington D.C., March 1962, page 21.

(b) Comments by the ICC on the draft Articles of Agreement circulated under cover of E/C.2/653 of 2 May 1967, see Appendix VII of this report.
APPI and BIAC have submitted comments on lines somewhat similar to those of the ICC.

if investment insurance is to lead to an increased flow of investments to the DCs, the first and foremost objective must be to shape it in such a way that private investors will wish to make use of it. For this reason, the importance of the views of private investors in this matter must not be underestimated.

Transfer of technology

166. The role of foreign enterprise in the transfer of operative technology to DCs is discussed in document E/4293, paragraphs 103-119 and 146-151. It is pointed out there (paragraph 103) that this transfer of technology cannot be regarded merely as a byproduct of foreign private investment but is equivalent to capital resources. Such advanced technology is an asset of a foreign enterprise which has been acquired at great expense, and is correspondingly valued. Nevertheless, its value as a negotiable asset is not unqualified, like that of capital resources ; to be worth paying for, it either has to be kept out of the domain of public knowledge, or to be the subject of legal (e.g. patent) protection in the country to which it is to be transferred. In either case it is subject to the further limitation that it is not permanent but fugitive. Patents are granted for limited periods only, while unpatented "know-how", if exercised anywhere, cannot be maintained undisclosed, but will leak into the public domain sooner or later. It is for these reasons that a great deal of basic technology is indeed available without the intervention of foreign enterprises (paragraph 104). Nevertheless, the basic technology available in this way is not adequate in the operation of modern industry; much more is necessary.

167. It is because of its fugitive nature and its dependence on special branches of the law that industrial property in

advanced technology, as an expensively acquired asset, is even more subject to risk, when its transfer has been effected, than is invested capital. It is this risk element which constitutes the chief obstacle to the transfer of essential technology by the participation in a new venture of the foreign enterprises and their staff. It is the misgivings occasioned by the enhanced risk that hamper the effectiveness of transfer of technology in this way that add to its costs and diminish its benefits. These misgivings must be relieved as a major contribution to the easing of the transfer of operative technology by foreign enterprises to DCs.

168. The considerations of the previous paragraph are not peculiar to transactions between enterprises of the DCs and enterprises of the ICs; they are material also to the registration of transactions between enterprises within the ICs themselves. In the latter case techniques are well developed for dealing with the problems involved, and these techniques are applicable, and are applied to transactions of the first kind. A wide field of techniques is available: licensing agreements, management contracts, arrangements for the sale of machinery and equipment, engineering and construction contracts, technical service agreement turnkey contracts, and the numerous combinations and variants of these. A careful selection, and if necessary modification, must be made from these to suit the conditions peculiar to the DCs. This is the primary object of the UN Secretary General's current examination[a] of 'Arrangements for the Transfer of Operative Technology to Developing Countries' and the subject of his progress report of 27 March 1967[b]. The selection needs to be biased, not only

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(a) Third Report of the Advisory Committee on the Application of Science and Technology to Development, Official Records of the Economic and Social Council, Forty-first Session, Supplement No.12 (E/4178), Chap. III, section D.

(b) Progress Report by the Secretary General, E/4319

in the direction of minimising the cost burden on the DCs - especially the balance of payments impact - but also to facilitate and encourage the development of a local capability ot technological innovation, which in due course, can rectify the technological imbalance between the parties to the transaction.

169. The author is very much in agreement with the recommendation contained in paragraph 147 of document E/4293 that "Governments, possibly with the aid of the United Nations, should build strong technical services and institutions to support these /recipient/ enterprises in making the best selection, and especially in ensuring that the transfer of technology leads to its actual implantation in the recipient enterprise and economy through its absorption by local personnel and the ultimate development of a local capability of technological innovation." Clearly, however, it will take some time to develop such services and institutions in the DCs, since they cannot be created and exist in vacuo and depend for their viability on an already existing background of technology.

170. It is for this reason that the maximum use should be made of the technical services and institutions already existing in the ICs, against an adequate supporting background of established industry. This is consistent with the objectives of E/4319 to reduce the cost to DCs of securing access to foreign patented and non-patented industrial know-how. There is no lack of goodwill on the part of the ICs as to the use made of their nationally and internationally established technical service organisations and institutions. Such organisations and institutions are themselves based on the notion of the sharing of knowledge and of techniques for the dissemination of knowledge, whether between nationally grouped enterprises, or,

by a natural and unhindered development, on a broader international basis. The only check to the continued broadening of this basis is indeed the lack beyond the frontiers of the ICs of a strong industrial background of technology. In seeking to overcome these frontiers, the UN and its relevant organisations have willing allies in the existing co-operative institutions of the ICs, not only on the altruistic basis arising from the very nature and raison d'etre of these institutions, but on the basis of that self-interest, which prompted industry in ICs to set them up in the first instance.

171. Thus it is that projects initiated by the UN can be of the greatest value when fully co-ordinated with the projects of existing organisations working towards the same ends, and when use is made of the experience and expertise of these established organisations. The BIRPI project to draft a 'Model Law for Developing Countries on Investions'[a] originally stimulated by the UN General Assembly Resolution 1713 (XVI) was developed over the same period as the UN Secretary General's Report[b] and with extensive co-operation between those responsible for the drafting of both documents. Further, as observed in paragraph 118 of E/4293 a major effort at close co-operation between countries to assist governments in pooling their technical resources in the patent field is indeed under way[c]. This effort is not confined to the ICs, and is likely to be of even greater use to the DCs, since the expedients proposed (an International Search Report and an International Certificate of Patentability) are capable of relieving the participating countries of nearly the whole burden of search and examination, of the capital expense

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(a) BIRPI Publication No. 801, 1 December 1965.

(b) UN Publication E/3861/Rev.1

(c) BIRPI 'Plan for a Patent Co-operation Treaty' (Document PCT/INF/1 Feb 1967 and documents PCT/1/1-5 for discussion in Geneva 2-10 Oct. 1967)

of setting up a local corpus of technical material to be searched and of the heavy drain of expert manpower necessary to administer the searching and examination procedures. While the ICs are already for the most part in possession of these facilities which, according to the Plan proposed, will be shared so as to reduce the expense involved, the great majority of the countries to whom the scheme is open have not got such facilities and will not need to duplicate them.

Technical training

172. Further, the second project referred to in paragraph 118 of E/4293 has also been in progress for some time under the organisation of BIRPI, which in 1963 began a programme of granting traineeships to people currently working in the industrial property offices of DCs, or expected to work in such offices. The training takes place in corresponding offices of ICs having the language and other facilities required to impart meaningful training programmes. Most of the expenses of the trainees - travel, subsistence - have been paid by BIRPI, although some have been covered in certain cases by the country giving the training. BIRPI has also organised Industrial Property Seminars in Brazzaville, Bogota and Colombo, and a lecture course in Geneva in 1965, the texts of which have been published[a]. UN co-operation in the instigation and support of such projects is to be strongly encouraged.

Patent law

173. It is important that the organisations of the UN should support, but not seek to duplicate the efforts already under way for improving and internationally harmonising patent laws and other industrial property laws under the aegis not only of BIRPI but of other national and international bodies. Existing efforts are already so numerous and diffuse that it would be

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(a) BIRPI Publication 633(FE)

unfortunate if UN participation in the revision of patent laws in the DCs should add to the confusion. The fund of experience possessed by such organisations in the field of adapting patent laws to modern conditions is very wide, and arises from the efforts to overcome the increasing difficulties experienced by the ICs themselves in handling the ever-growing number of patent applications to be treated[a]. A variety of projects exist in the formative stage, or have already been implemented, for the amendment of patent laws. BIRPI itself has played no direct part in these projects, but has the mandate to keep itself continuously informed on them and to serve as a source of information and comment to the participating countries. Some of these projects are municipal, for example the revised patent laws already implemented in the Netherlands, those ready for implementation during the course of 1968 in the Federal Republic of Germany, and those proposed for the US and for Australia. Other measures involve regionalisation, e.g. Office Africain et Malgache de la Propriété Industrielle, already implemented since 1 January 1964, the Common Nordic Application Procedure, the Strasbourg Convention of the Council of Europe[b] and the Draft Patent Convention of EEC.

(a) In an article in 'The Times' of 23 August 1967 entitled 'Finding a new formula for patents', Iain Johnstone explains inter alia the order of magnitude of the work which has to be done "Patent specifications roll into the Patent Office at the rate of nearly 50,000 a year and the number is increasing by over 2,000 each year".

(b) The European Convention on the unification of certain points of substantive law on patents for invention, 27 November 1963.

174. So far as efforts at regionalisation are concerned, an obstacle that must be overcome is the difficulty of surrendering jurisdiction to a supranational authority, involving some limitation of the sovereignty of the states concerned, on which some DCs are particularly sensitive. This is a major reason, along with the weakness in administrative manpower, for the diminished effectiveness of the patent laws in the DCs. Nearly all such countries have an established patent law, but one that is inherited from the time before they became independent countries and is on that account suspect as being biased in favour of the interests of the former colonial power. India, for example, has a well established patent law which was brought into line with English law as far back as 1911, and since then has been developing independently although on similar lines. Dissatisfaction with this law, particularly caused by the appearance of anomalies and abuses in the pharmaceutical field, has led to repeated efforts to improve it. Temporary remedies have been adopted under emergency regulations[a] suspending the granting of patents relating to pharmaceuticals and foodstuffs. This has been in force since May 1963, and has created a large backlog which will have to be dealt with if the suspension is lifted.

175. It is for the solution of such difficulties that the BIRPI Model Law was originally drafted, and for which BIRPI is always ready to give consideration and advice for the tailoring of the Model Law to suit individual circumstances. The more recent BIRPI plan for a patent co-operation treaty[b] may have even greater potentialities. The Model Law calls for a choice between an examining procedure, necessitating the machinery of search and examination and the consequent cost thereof, and a non-examining procedure calling for less expensive machinery

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(a) Defence of India Rules 1962 (Rule 47)

(b) 'BIRPI Plan for a Patent Co-operation Treaty', documents PCT/L/L-5 for discussion in Geneva October 1967.

but resulting in patents of uncertain scope and validity. The new BIRPI plan offers a way out of this dilemma, since the searching and examining facilities of the ICs, adapted for the purposes of the plan, will be available on equal terms to all DCs. The administration of the BIRPI plan will be expensive and will have to be paid for, but the expense will fall not upon the DCs, but upon the would-be patentees who, in the present context, would be the foreign enterprises concerned in the transfer of technology. So far as the expense may in some instances fall on nationals of the DCs, this would be no more than a slightly disadvantageous consequence of an extremely desirable development of local capability of technological innovation.

Unpatented know-how

176. In the previous paragraphs the question of unpatented know-how has only been touched upon, since the patent law as it has developed amongst the ICs has not proved well adapted for the protection of what is commonly understood by this term. As observed in paragraph 119 of E/4293 it is difficult to bring together in one cohesive legal concept all the variegated components covered. It is in this respect that the contractual arrangements giving legal form to the definition and enforcement of the rights and obligations of the parties assume a role of paramount importance. The rights and obligations rest solely on the terms of the contractual arrangements and the fidelity with which they can be enforced, without the supporting sanctions attaching to patent protection, must depend on the local effectiveness of the law of the contract.

177. A close study of the techniques for the regulation and negotiation of technology-transfer constracts is a very necessary undertaking. Nevertheless, there is scope for a substantial field of technical know-how to be brought within the possibility of statutory protection so as to increase the

support given to contractual obligations by such sanctions as attach to patents. This is the reason for the inclusion in BIRPI's Model Law [a] of optional provisions for dealing with industrial techniques, which are not readily susceptible to patent protection in the now traditional sense. The effectiveness of such provisions, if adopted, is bound to depend upon the liberality with which they are interpreted in practice; but in any case, they would offer an opportunity to reinforce the effectiveness of contracts dealing with the transfer of technology.

Conclusions

178. I agree with the overall purport of document E/4293 in respect of the transfer of technology, which bears out in general the balanced views expressed in document E/3861/Rev.1. In particular, I agree with the equal importance attached to operative technology and capital investment as subject matters for transfer; and the equal importance, in the transfer of operative technology, of reducing its cost and increasing its effectiveness as a stimumus to the local capability of technological innovation. The careful selection of the most appropriate contractual arrangements for effecting transfer of technology is very desirable, and cannot afford to await the establishment in the DCs of strong technical services and institutions. Use should be made in the first instance of existing global services and institutions, to which the DCs are already party, and which are already active in the development of Industrial Property Law with the needs of the DCs particularly in mind. Care should be taken also that the activities of UN organisations should not further complicate the efforts of these established institutions. In so far as the Industrial Property Law can be developed to embrace technical know-how this should be encouraged, but there will always be cases not susceptible of inclusion, whose transfer will continue to be wholly a matter for contractual arrangements.

(a) BIRPI Publication No. 801E Part II, Technical "Know-how"

CHAPTER IV

TAXATION ASPECTS

Introduction

179. One of the assumptions on which the 1965 OECD report(a) on fiscal incentives for private investment in DCs is based reads "... the revenues of developing countries generally fall short of their needs. There is a great need among developing countries for public investment or social capital formation. Therefore it is incumbent on industrialised countries to search out those incentives which will impose a minumum pressure on the financial resources of developing countries". The introduction to this report concludes with the words :

> "... the investor will seek a rate of return on investment in a developing country, net of all taxes, which will at least be equal to the return from alternative investment opportunities, adjusted for differences in risk. If the return from alternative opportunities are all taxed by an investor's home country, while a tax reduction is given to investment in a developing country, the latter obviously would become more attractive than before and induce capital flows that might otherwise not occur".

180. In the preparation of this chapter, it has not been overlooked that proposals which aim to improve the after-tax earnings yields from operations in DCs must involve some immediate sacrifice of revenue from existing enterprises. In most DCs, however, the yield of tax from the private

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(a) 'Fiscal Incentives for Private Investment in Developing Countries', OECD 1965.

corporate sector as a whole is relatively low by reason of the modest degree of industrial development so far achieved, and the marginal tax restraints suggested ought not therefore to be regarded as involving major budgetary problems or as threatening wage and price structures in the DCs. Subject to general conditions in both the DCs and MECs being suitable for expansion of investment in the former, marginal revenue losses should quickly be recaptured from the increase in both profit-earning sources and employment.

181. In a paper by the Commission on Taxation of the ICC[(a)] emphasis is laid on several points, including the following:

"(a) The promotion of economic growth in the developing countries by fiscal means requires complementary action in both the capital-exporting and capital-importing countries. Unilateral action by one and not the other is likely to be ineffective if taken by capital-exporting countries alone and both wasteful and ineffective if taken by developing countries alone.

(b) To the extent that the primary right to tax is claimed by the developing countries, the onus of providing tax reliefs designed to encourage economic growth rests primarily on the developing countries themselves.

(c) The duty of the capital-exporting countries is to match the reliefs granted at the source, whether such reliefs arise from general restraint such as low rates of tax, or special measures such as pioneer exemptions, investment allowances or accelerated depreciation."

(a) ICC document No.180/100, 29 March 1966.

182. It is against the background of these principles, described by OECD and ICC (to which the author fully subscribes) that the attitudes of governments of DCs and MECs and their consequences for private enterprise should be studied. It is not possible within the limited space available for this chapter to go deeper into all the fiscal and economic consequences of these principles. Therefore I would only describe two questions raised by the influence of taxation on the ways in which private enterprise can participate in the economic development of the DCs. These two questions are :

a) Is taxation in itself an obstacle to participation by private enterprise in the DCs?

b) Can taxation reliefs be used to overcome other impediments of a non-fiscal character?

These important questions are examined in the following paragraphs from the point of view of large-scale foreign private enterprise.

Taxation obstacles to private enterprise

183. Local capital formation in the DCs is hampered by steeply progressive personal income tax and high levels of taxation on corporate profits. The pattern of taxation does little to encourage people to break with the traditional habit of investing savings in real property, gold, foreign currencies or at best readily realisable interest-bearing securities. The result is a shortage of local capital for medium to large industrial undertakings.

184. The flow of foreign private capital and skills is also discouraged by such inhibiting tax regimes. In most cases it is

considered contrary to public policy to operate a tax system which differentiates in favour of foreign private investment. Indeed, in those DCs where industrial development begins with the aid of foreign private capital there is a danger that this will appear to dominate the economy, giving rise to political reactions which may take the form of a taxation system which discriminates against the foreigner. It is unfortunate that the need for additional revenue has frequently given rise to taxation systems which bear most heavily on large-scale foreign undertakings which are potentially the most promising sources of new capital and know-how. Another difficulty is that frequent variations in the tax system create a situation in which long-term company planning is difficult, if not impossible, and the choice of capital structure and form of organisation for a new project becomes a highly speculative matter.

Basic fiscal requirements

185. Although established industrial companies in Europe and North America are the source from which most foreign private capital comes, few DCs pay much attention to the fiscal conditions appropriate to foreign business operations by such companies outside their own countries.

186. Fiscal systems must deal with three main types of earnings:

a) Corporate profits and dividends

b) Interest

c) Royalties and service fees

Corporate profits and dividends

187. There is double taxation of corporate profits and dividends and therefore discrimination against corporate

enterprise unless the shareholders are able eventually to take taxes on profits as a credit against their personal liability to tax when the profits are distributed. Such double taxation has been avoided in the Commonwealth tax systems which are based on the pre-1939 UK Income Tax Act. Malaysia, Zambia, Nigeria and Jamaica are examples. Discrimination against corporate enterprise has also been avoided in countries which have two-tier personal tax systems involving a schedular proportional tax on each class of income and a graduated tax on total income. Tax on company profits is compensated by exempting dividends from the proportional tax. This is the case in Italy and many Latin American countries. Since the Second World War, the US, the Netherlands and more recently the UK have adopted corporate taxes which are wholly discriminatory against corporate enterprise. The precedent set by these countries has been followed closely by a number of DCs including India, Pakistan, Ceylon, the Philippines, Thailand, Indonesia, Mexico, Chile and the French-speaking African states. It is a strange phenomenon that countries most in need of the development which private enterprise joint stock companies can bring should adopt tax systems which discriminate particularly against this one form of organisation.

188. In a number of MECs a tendency in recent years has been to abate the wholly discriminatory character of corporation profits taxes. This has happened in the Federal Republic of Germany, Belgium, France, Austria, Canada and Japan where the cumulative effects of corporate tax on profits and personal tax on dividends has been mitigated by the introduction either of differential rates in favour of distributed profits, or by

special credits being recorded against personal income tax payable on dividend income. The DCs have not emulated the MECs in this respect.

189. In the DCs the consequences of imposing wholly discriminatory corporation taxes have been aggravated by the adoption of another tax practice from the MECs, namely the imposition of heavy withholding taxes on dividends payable to non-residents. In the case of individual persons it may be that some form of relief from the effect of the withholding taxes is obtained in the shareholder's country of residence. If this happens no serious increase in the total burden of tax will be borne by his income. However, governments in the DCs must be aware that little capital investment is to be expected directly from individual persons, and companies will be the only effective source of funds. In their case dividend withholding taxes are simply an addition to the corporate tax rate payable on income arising from their overseas investments. The effect of a high aggregate level of tax on corporate profits and dividends in the DCs is to raise the level of earnings required to pay the shareholders in a foreign parent company dividends giving a yield comparable with those from investments at home or in other MECs. Taking taxation in conjunction with the other factors influencing the profitability in DCs, this high level of earnings is rarely capable of achievement. The position is illustrated in Table 9.

Table 9. Earnings rate to yield 10% on capital of parent company

	India	Ceylon	Ghana	Congo (Kinshasa)	Trinidad
	%	%	%	%	%
company profits tax (mean)	55	50	50	40	44
effective rate of tax on dividends	25	39 1/3	40	25	30
overall rate of "company tax"	66 1/4	70	70	55	61
earning rate on capital required to yield 10% on capital to the foreign parent company	30	33 1/3	33 1/3	22	25 2/3

this compares with earnings rate required to yield 10% distributed profit in the following countries:

USA	19 1/4
UK	16 2/3
France	13 1/3
Germany	11 3/4

190. Under present conditions of political and exchange risks in the DCs it is not realistic for investments to be made there on the basis of the same net yield to shareholders as domestic investments provide. In consequence the prospective earnings yields (before tax) in the DCs must frequently reach 40% to 50% of capital for an investment project to be viable. This formidable obstacle is the result of the fiscal policies of some DCs.

191. In relation to inter-company investment between MECs the difficulty has been resolved to a large extent by the conclusion of bilateral double taxation agreements providing reciprocal exemption from dividend withholding taxes, or limiting the rate to a maximum of 5% as recommended by the OECD Fiscal Committee. The need to maintain revenue and insistence on the absence of effective reciprocity of revenue sacrifice appear to have deterred DCs from entering into similar arrangements. Every double taxation agreement involves some immediate sacrifice of revenue if it is to be of any value, but each party must look to the broader economic advantages of an effective agreement rather than the marginal effects on revenue collections.

Interest

192. Private enterprise depends for profitable operations on a proper gearing of capital structures so that full use is made of bank facilities and the relatively lower yields required by investors in loan stocks, and so that venture capital supplied by ordinary shareholders is not wastefully employed in financing fluctuating working capital requirements. In many DCs, adequate bank overdraft facilities are not easily secured or maintained and the funds available from institutional and private investors are too restricted to support substantial issues of loan stocks. As a result, the foreign parent company, making an equity investment, finds that it must supply virtually all the financial requirements of a new venture. The employment of ordinary shareholders' funds is not appropriate

for this purpose. But if the investing company uses its credit to raise loan finance in its domestic money market or in other foreign markets, a further tax obstacle arises. The DCs retain the right to tax interest accruing in or derived from sources in their territories. Interest paid by the lender in order to obtain the required funds for investment is not deductible for tax purposes. In consequence a form of double taxation arises from the fact that the lender has taxed income from the DC and an interest expense elsewhere which cannot be offset against taxable income anywhere. An increase in the rate of interest charged against the project in the DC to compensate for this fact merely serves to diminish the viability of the project as a whole.

193. The problem of taxation on interest has been increased by the widespread tendency to consider that the rate payable should be consistent with that on profits and dividends paid cumulatively by an investor in ordinary shares. Thus tax rates of 65% or more have been charged on the interest accruing in India, Pakistan, Ceylon and Ghana. In other DCs the rate directly payable on interest may itself be reasonable but the system may disallow interest as an expense to the paying company so that indirectly the interest has to bear the corporate profits tax rate as well. This is the case in Ethiopia and Trinidad.

194. The high rates of taxation on interest and the withholding taxes on dividends payable to non-residents have the effect of denying to DCs the possibility of access to the investment funds of institutions such as insurance companies, retirement benefit funds and charitable trusts, and unit trusts and mutual funds in the MECs. These institutions and trusts account for a very high proportion of new capital formation in MECs and their ability to operate at all depends in practice on fiscal neutrality, i.e. their intervention between the individual investor and the user of the capital must not attract additional taxation.

195. Between MECs the interest problem has been largely solved by double taxation arrangements providing for reciprocal exemption of interest from tax at source. It is unfortunate that the pressure of revenue needs and insistence on reciprocity of revenue sacrifice have prevented DCs entering into similar arrangements.

Illustration

196. At this stage it might be interesting to make a simple comparison between the impact of the taxation systems in MECs and DCs on the earnings needed to yield a return of 10% on the capital invested, when equal amounts of loan and equity capital are employed. The hypothetical case is taken that a company has invested in both a MEC and a subsidiary in a DC $10 million, and in each case $5 million is equity capital and $5 million is a loan raised in the MEC at 8%. It is further supposed that all other costs entering into turnover in the two companies will be the same and amount to $50 million (including the interest at 8%). It can be calculated that the profit margin on cost needed to cover the taxation levied in the DC would have to be 48.0% against 20% in the MEC.

a) Company in MEC. Capital invested $10 million of which $5 million in equity and $5 million raised as a loan in MEC at 8%.

cost of turnover		$ 49,600,000
-do-	- interest at 8%	400,000
		50,000,000
pre-tax profits		1,000,000
	turnover	$ 51,000,000
tax say 50%	$ 500,000	
dividend 10%	500,000	
costs	50,000,000	$ 51,000,000

profit margin on costs = $1 million = 20% on equity capital

b) Subsidiary in DC. Capital invested $10,million of which $5 million in equity and $5 million raised as a loan in MEC at 8%.

cost of turnover			$ 49,600,000
net interest at 8%			400,000
			50,000,000
add: additional interest to cover (say) 65% tax			740,000
plus tax on profits say 50%			
plus rate on dividend say 40% on profit of 50%	20%		
	70%		
this would leave 30% of profits for dividend of $500,000	30%		
	100%		
this brings earnings needed to $1,660,000			1,160,000
of which tax			500,000
and dividend			$ 52,400,000
extra cost on interest		$ 740,000	
tax on profits and dividends		1,160;000	
dividend		500,000	
costs		50,000,000	$ 52,400,000

profit margin on costs = 48% on equity capital.

In this hypothetical case it is supposed that either by a system of tax exemption or by a system of tax credits there will be no further taxation in the MEC on the $500.000 net dividend declared by the subsidiary in the DC.

Royalties and service fees

197. Difficulties also arise in the tax treatment of royalties for the use of patents and know-how, and fees payable for technical and advisory services. Claims for such payments are in the main cost recovery charges but DCs tend to tax all royalties paid to

non-residents as pure income and an increasing number of them are adopting the same attitude to service fees whether or not the services are rendered at the site of the development project. Failure to secure deduction of expenses from the income to which they relate is a serious factor in cutting down the final net profit yield from operations in DCs.

198. The problem is a general one for all large-scale organisations which economically (and often under pressure from tax authorities in their home countries) must recover an appropriate part of normal central research, advisory and administrative costs from each individual business operation.

199. The weakness of economic and social infrastructure in many DCs aggravates the problem by involving companies in additional central costs. For example, undertakings must often provide for themselves the power, water, roads, transport, communications, housing, training and medical services, needed for the efficient conduct of the operations. This involves the employment of specialist personnel of a different kind, and on a larger scale than is usually called for in domestic operations.

200. In a small number of DCs, royalties and service fees accruing to a foreign parent company are not only taxed directly but there is a tendency to disallow the payments as a deduction from the local company's profits for tax purposes. This has been the case in Brazil, Trinidad, Ethiopia, Nigeria and other countries.

201. In considering the taxation of royalties and service fees the primary responsibility for ensuring that only net income (if any) is taxed clearly rests on the governments of the DCs.

Tax administration in DCs

202. One reason for the apparent hostility shown by DCs towards foreign capital and enterprise lies in the weakness of their own tax administrations. In many cases the tax officers

are so intent on preventing tax evasion that they find it difficult to distinguish between valid and invalid transactions and dispositions. Tax laws tend to be drawn in a form which affords the maximum protection to the national revenue without requiring any distinction to be made between different types of transaction. This, to some extent, explains the tax treatment of interest, royalties and service fees described above. It is also the reason for the practice of refusing or restricting relief against profits for previous operating losses, and imposing tax on a minimum income (e.g. a percentage of turnover) when the ordinary statutory measure of the results is below the minimum. The foreign private enterprise company faced with these conditions has no way of overcoming the tax obstacles other than by restricting its investments to situations in which the potential profit margin is wide enough to compensate for the exceptional tax burdens that will arise. This means that the return expected must contain an additional amount to meet the added tax burden over and above the higher level of commercial and non-commercial risk attached to operations in DCs.

203. In these conditions the question arises whether the governments of the capital exporting countries can, or should, adjust their tax systems to compensate private investors for excessive and anomalous tax claims sometimes put forward by governments of DCs. Proposals for adjustments of this kind represent requests for indirect aid. MECs could, for example, allow expenses related to operations in DCs to be deducted from domestic taxable profits. Or they could allow provisions for operating losses in overseas subsidiaries to be deducted from the domestic profits of the parent organisation. It would be unreasonable, however, to expect indirect aid of this kind to be given except in very strictly controlled conditions.

Tax incentives for industrial investment

204. Most DCs have attempted to encourage both local and foreign investment in industrial projects by tax incentives of one kind or another. The broad method has been to forego potential revenues to assist the initial process of setting up new plants or expanding existing ones. The effectiveness of such schemes depends on whether they enable profit margins to be increased or maintained for a long enough period to overcome the impediments to investment inherent in the normal fiscal system as well as the higher level of commercial and non-commercial risk involved.

205. In general, the tax incentives currently employed by DCs are unlikely to have a decisive influence on investment by foreign private enterprise for three reasons:

a) they are profit oriented, which means that they are of least benefit to companies in their earliest years. The timing and duration of the incentive is such that the greatest benefit accrues to the enterprise which is able to earn a high rate of profit from the beginning and which therefore least needs assistance;

b) they are not sufficiently closely geared to the obstacles to be overcome, for example, they cannot be effective at all when the problem is one of high operating costs in a restricted market;

c) some governments tend to be too narrowly selective in offering tax reliefs for the establishment of specific large-scale industries.

206. Total or partial exemption from taxation on profits for a number of years provides no assurance of compensation. It operates at a time when an infant industry is least likely to be profitable and is in any case of limited benefit when the basic tax system which applies after the end of the tax holiday is hostile to the earning of reasonable profit margins by foreign investors. In countries such as Nigeria, Ghana, Sierra Leone and Malaysia, where the basic form of pioneer relief is exemption from taxation on profits and dividends for five years, a technical

peculiarity in the tax system has required the sixth year's profits to be assessed twice. This means that normal growth in the enterprise tends to produce a situation in which much (and sometimes all) of the benefit of five years' tax exemption may be lost in the sixth year. India, Pakistan and Ceylon have limited the application of their five year tax exemption periods to profits not exceeding 5-6% of capital employed p.a. As accelerated depreciation is also afforded by the taxation systems in these countries, the level of profits and capital employed for tax purposes is further reduced so that the likelihood of material benefits from the tax exemption provisions is small.

207. The most useful incentives have undoubtedly been those which are cost-oriented, such as investment allowances, development rebates and similar schemes. These provide for a deduction from profits which is related to the amount of approved capital expenditure without prejudice to subsequent depreciation of the assets for tax purposes. If these deductions can be carried forward indefinitely there is a reasonable possibility that some benefit will finally accrue. Even so, cost-oriented schemes in common with accelerated depreciation deductions have no immediate value unless adequate profits arise at the very inception of the business.

208. As far as the foreign investor is concerned, incentive schemes are of little value unless they help in the rapid payback of the initial investment. Unfortunately two circumstances militate against this happening even when adequate tax-free profits are earned:

a) severe restrictions are often imposed on repatriation of profits and capital either through the tax system or by exchange or other controls;

b) in some capital exporting countries (e.g. the US and the UK), dividends received are subject to tax with a compensating credit for the tax actually paid at source. This means that tax reliefs on profits and dividends at

the source are frustrated in the investor's own country, i.e. the MEC picks up the revenue which the DC has foregone. Similar difficulties arise when exemption in the capital-exporting country is dependent on its income being subject to taxation at source (e.g. Holland).

209. The UK has entered into tax-sparing arrangements with a few countries (Pakistan, Israel, Malta, and Singapore), but no similar arrangements between the DCs and the US have yet secured the approval of the US Senate. This failure to take adequate steps to avoid frustrating the fiscal policies of the DCs has in some cases adversely affected relationships between governments and individual foreign enterprises. On the other hand, the attitude of the capital-exporting countries is consistent with the conclusion reached in this report that profit exemptions are a wasteful form of relief when profits are buoyant and a meaningless one when they are not.

210. The increasing tendency of DCs to place severe restrictions on repatriation of profits or to impose penal taxes which virtually compel their retention in the company is one of the greatest deterrents to new investment. The demands for a reasonable dividend yield on capital is not a question of exploitation or greed on the part of the foreign investor but arises from the fact that dividends have to be paid to shareholders of the parent company. A continuous ploughing back of the total earnings in DCs places the whole burden of servicing capital on the centre of an international company, with the result that its growth may be stunted and the whole organisation consequentially weakened.

211. A great deal can be learnt from studying the reasons why particular projects fail or are contemplated but never actually undertaken. Apart from political and exchange risks, the answers are frequently to be found in the unusual cost structure of infant industries in what are largely agricultural economies. The main features of this situation, which are not, of course, all present in all DCs, are :

a) the market is too small and is sometimes further restricted by heavy and unduly selective excise duties or turnover taxes;

b) high import duties are imposed on capital equipment, components and raw materials;

c) there is a shortage of skilled labour and costs of training nationals and of employing expatriates are high;

d) private companies may be called upon to provide parts of the infrastructure - power, communications, housing and medical services;

e) there is an absence of ancillary industries and services;

f) companies need to undertake special research into the use of local materials and the adaptation of techniques to the local climatic and other conditions.

In view of these factors it is clear that if government revenues are to be employed to improve the prospects for private enterprise, it would be more realistic for tax reliefs or subsidies to be cost-oriented rather than profit-oriented.

212. The notion of subsidies for capital expenditure on new projects, usually in the form of investment allowances deductible from taxable profits, has already been adopted by many DCs. These include India, Pakistan, Ceylon, Brazil (in relation to the development of the North) Zambia, Malawi, the West Indies and many of the French-speaking African countries. This idea might be further developed to afford subsidies for current as distinct from capital expenditure connected with improvement and maintenance of the economic infrastructure in DCs. A percentage additional allowance might be given for current expenditure on research, training, export promotion, the maintenance of power supplies, communications, housing, medical services and schools. Examples of this type of incentive have been afforded recently by Australia which permits a double deduction for expenditure on export promotion and Canada which has permitted a 150% deduction for increased current expenditure on research.

213. The method of granting subsidies of this kind requires study in the context of the DCs. It may be most appropriate to grant the subsidy in the form of tax-credit certificates rather than as deductions from profits. The tax-credit certificates would be available immediately for settling any tax liabilities of the enterprise or alternatively could be redeemable for cash after a period of say two years. Such arrangements would have the added incentive that it would be less easy for the governments of capital exporting countries to frustrate the reliefs when profits or dividends were repatriated.

214. One specific means by which costs might be reduced is in the tax treatment of expatriate employees of enterprises based on foreign capital and know-how. It is essential that the normal tax regime should be modified to admit tax free allowances to compensate expatriates for such special factors as maintenance of homes and education of children in their home countries, pension build-up, leave passages and so on. The employer is obliged to provide these benefits if he is to secure suitable management and staff and if their cost is to come from gross payments subject to tax, this may well be prohibitive. It is not sufficient, however, to afford a tax relief to a limited class of expatriates for a limited period as has been done in certain countries, e.g. for technicians in India. General management and marketing skills are also scarce in DCs and are no less necessary and costly to provide.

215. Proceeds of the taxing practices described in this Chapter are of marginal significance in relation to the total revenue collections of most DCs. Change is therefore a question of marginal emphasis, where some loss of revenue at one point may be expected to produce higher yields at another and considerably higher future tax yields via acceleration of the pace of economic development.

Recommendations

216. The following recommendations indicate the lines along which improvements in the taxation systems of the DCs might be made in order to make investment more attractive to foreign private enterprise, and increase its effectiveness.

a) Tax rates on corporate profits and dividends should be reduced to levels at which the earnings rate (before tax) required by the foreign investor is consistent with (i) the level of profits it is possible for the enterprise to earn locally and (ii) the net yield on capital available to the investor from alternative activities of his own or other MECs.

b) It must be recognised that interest, royalties and management or advisory fees are cost-recovery charges and that imposition of tax either increases their cost to the DC or denies the DC access to essential capital and know-how.

c) Training in the operation of tax systems is necessary for personnel in DCs. A high level of competence is necessary not only in ministerial and senior official supervision of tax administration, but also at the level of the first appellate authority.

d) A new approach is needed to fiscal incentives for new ventures in agricultural, extractive and industrial enterprises based on contributions to costs rather than sparing tax on profits. Relief of this kind has been given and should continue to be given primarily for capital expenditure on operating plant and machinery, but its application should be made more extensive. Cost-oriented incentives can be used to match expenditure incurred by enterprises in creating and maintaining an economic infrastructure which the DCs are unable to provide on an

extensive scale from their own public resources. These incentives might take the form of grants or deduction from taxable profits. They should be related not only to capital expenditure but also to revenue expenditure on the provision and maintenance of worthwhile public services. Perhaps the most effective method is the award of tax-credit certificates which can be used immediately to settle tax liabilities, or if not used in this way, may be surrendered for cash after a period of, for example, two years.

e) MECs must at the same time recognise the importance of not frustrating policies of DCs by their own tax treatment of overseas investment. France has provided an example of co-ordination of this kind in its arrangements for the tax treatment of income arising from investment in French-speaking African countries.

f) It is recommended that the negotiation or re-negotiation of bilateral tax arrangements (and where possible multilateral agreements on a regional basis) should be proceeded with as a matter of urgency. Such arrangements are also required between DCs where this would encourage the development of regional trade and industrial specialisation.

217. The degree of fiscal discipline required by the capital exporting countries and DCs is well illustrated in the articles of the 'Model Double Taxation Agreement' published in 1964 by the Federation of Commonwealth Chambers of Commerce, extracts of which are given in Appendix VIII.

218. The major problem for the DCs is to accept that proposals such as these offer a reasonable prospect of success. It will require considerable confidence and courage to sacrifice revenue, however small, derived from existing levels of taxation of foreign investment and enterprise for the uncertain prospect of securing increased revenue by adopting new methods. Finally, it must be emphasised that taxation is not a factor which operates in isolation from all other elements in the political, economic and commercial situation of a country. However favourable a tax regime may be for the foreign investor it can only operate effectively in a climate where the essentials for economic development are understood and taken into account.

CHAPTER V

GOVERNMENT POLICIES AND PRIVATE INVESTMENT

Introduction

219. Having discussed in Chapters III and IV the basic legal and fiscal issues confronting governments, international organisations and the private investor, we turn in this chapter to a number of other issues which frequently arise in the context of private, particularly foreign, investment in the DCs. In accordance with the terms of reference this chapter deals especially with manufacturing industry.

Public and private sectors

220. In most DCs, as mentioned in paragraph 66, more than three quarters of GDP is generated in the private sector. While this figure can probably be taken as a broad indication also of its contribution in the foreseeable future, the public sector in many of these countries is likely to play an increasing role as development plans incorporating heavy government expenditure are executed[(a)]. Development plans in the countries visited

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(a) For example, the net output of government enterprises plus government administration in India rose from 7.5% of NDP[(a)] in 1950-51 to 11.9% in 1962-63 both at current prices, government enterprises alone accounting for 3.0% and 4.3% respectively. The participation of the federal government of Brazil in the production of goods and services is indicated to have risen from 7.5% of total income generated in these sectors in 1956 to 9.9% in 1959.

Sources: 'India Welcomes Foreign Investment', Indian Investment Centre, April 1965, p.23.

'As Empresas do Governo Federal e sua Importancia na Economia Nacional, 1956/1960', article by Annibal Villela in Revista Brasileira de Economia, Rio de Janeiro, March 1962.

(a) Net Domestic Products

by the author estimate public sector participation in total investment as follows:

	Public sector share as % of total investment
Brazil 1967-71	60-70
India 1966/67 - 1970/71	64
Uganda 1966/67 - 1970/71	62
Pakistan 1965-70	58
Ivory Coast 1960-75	55
Kenya 1966-70	45
Tanzania 1964/65 - 1968/69	36
Peru 1965-75	24

221. Public expenditure is, of course, incurred to a very large extent to provide services and infrastructure, which have a very high development priority and which can only or best be undertaken by the state. However, in many countries the public sector comprises activities of an entirely different type. For instance, India's Industrial Policy Resolution of 1956 lists in its Schedule A industries reserved for development in the public sector(a). In Schedule B are listed those industries which would be promoted by both public and private sectors, although government will normally take the initiative for promotion(b).

(a) For instance iron and steel, heavy castings and forgings, heavy plant and machinery, mineral oils, heavy electrical plants, aircraft, air transport, ship building, power generation and distribution of electricity, telephones and telephone cables, telegraphic and wireless apparatus, and various mining industries.

(b) The list includes aluminium, machine tools, ferro alloys and tools, basic and intermediate products required by chemical industries, antibiotics, fertilizers, synthetic rubber and chemical pulp.

In the draft outline of India's Fourth Five-Year Plan (1966/67-1970/71) the public sector investment in "organised industry and mining" at $ 5.3 billion,[a] i.e. about 29% of total public sector investment, is the largest single item of expenditure in the plan. It compares with a private sector investment under the same heading of $ 3.1 billion. In Pakistan public sector expenditure on industry, fuels and minerals at $ 900 million[a] is 13.2% of total public sector allocations under the December 1966 revision of the Third Five-Year Plan (1965-70). A paper published by ECOSOC[b] indicates the extent of government participation in key industries in Latin American countries in 1965 as quoted (in extract) in Table 10. 222. While the author agrees that public sector activities of this kind are frequently and rightly undertaken, for valid strategic and social reasons, which make them inappropriate for private enterprise, he shares the view held by many observers that the public sector is over large in many DCs. In view of the many urgent claims on scarce resources and considering the fairly general experience of poor economic performance of public sector enterprises (c) there is a strong case for leaving to private enterprise, as a general rule, all such investments as it is able and prepared to undertake.

(a) Exchange rate as of June 1967.

(b) 'Experience and Problems in the Implementation of Development Plans. Some problems of implementation in the private sector of the economy'. Paper submitted by the Centre for Development Planning, Projections and Policies, 23 March 1967, E/AC.54/L.10, p.8.

(c) In this context reference is made to Appendix IX, indicating profitability of some public and private sector enterprises in India.

Table 10. Government participation in key industries in Latin American countries, 1965

Country	Domestic food Production	Power	Transport and communications: Rail	Transport and communications: Water	Transport and communications: Telephone	Steel	Cement	Fuel	Machinery	Motor Vehicles	Chemicals
Argentina		D	D	D	-	D	A	D	A	A	A 1/
Brazil	-	D	D	D	D	B	-	D	A	A	B 1/
Chile	A 3/	C	D	B	B	B	A	D	A	A	A 1/
Colombia	A 4/	D	D	-	D	D	A	C	A	A 5/	C 6/
Ecuador	A 4/7/	D	D	-	B	-	A	-	-	-	B 6/
Mexico	A 3/	D	D	-	B	B	A	D	A	A	A 1/6/
Peru	A 9/	A	A	D	-	D	A	A	-	-	A 1/6/
Uruguay	B 4/7/10/	D	D	D	D	-	D	D	-	-	B 1/6/
Venezuela	-	C	D	D	D	D	-	A	-	-	B 1/6/

Note: The symbols indicate the approximate proportion of the output of the industry over which the government exercises direct control by virtue of its ownership of capacity or its participation in equity: A = 1% to 25%; B = 25% to 49%; C = 50% to 74%; D = 75% and over.

1/ Petrochemicals.
2/ Nitrates.
3/ Sugar.
4/ Alcohol.
5/ Tyres.
6/ Fertilizer.
7/ Milk pasteurization.
8/ Guano.
9/ Tobacco monopoly.
10/ Meat packing.

What DCs want of foreign private enterprise

223. Just as different DCs have different attitudes towards private investment in general, so their views on foreign enterprise show great diversity, and generalisations can only be made with some reservation. Some governments want foreign private investment on a wide front to develop their economies because they lack the resources to do this unaided. This is the case in the Ivory Coast for instance where so long as the balance of payments remains favourable, the government equally welcomes foreign and domestic private investment. In countries where there are pressures on the balance of payments, foreign investment is wanted, but to ensure that the investment results in a net inflow of funds in the short term, the governments are anxious to channel them into import-substitution industries, and export activities whenever possible. In the first instance import substitution will take place in the consumer goods sector and in the course of time in the industrial goods sector; governments prefer investments which entail increased use of local materials and products resulting in a foreign exchange saving.

Sensitive areas

224. Ideally, DCs would prefer their development to take place without foreign participation. Even when it is recognised that such participation is necessary and beneficial, there remain certain areas of economic activity from which it is excluded or its activities restricted, there is often considerable popular political pressure in this direction. This leads to the creation of what might be termed sensitive areas. In the following paragraphs the sensitive areas in three countries - India, Pakistan and Brazil - are discussed by way of examples, as in the specific field of shipping.

225. India's Industrial Policy Resolution of 1956 reserves a series of industries for development in the public sector(a). Foreign investment is welcomed in high priority industries in the private sector when imports of plant and machinery are required and when adequate capacity does not already exist in the country. Foreign capital is, however, "ordinarily not needed" in such fields as banking, insurance, trade, commerce and plantations(b).

226. In Pakistan, the area of industrial activity specifically reserved for the public sector is narrow being limited to manufacture of arms and ammunitions of war, the production of atomic energy, railways, air transport and telecommunications(c). Furthermore, where private investment does not take place government will develop and operate industries which are considered essential to the life of the community; such industries will be transferred to the private sector as and when circumstances permit. Private investment is guided by the Industrial Investment Schedules (published in the context of the Five-Year Plans), and industries to which government seeks to

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(a) Although these industries are reserved for the public sector, there is scope for foreign private investment on a minority basis; for instance, Philips Petroleum of US has a minority equity interest in the public sector. Cochin Refinery Ltd. and The International Telephone and Telegraphs Corporation, US, is similarly associated in the manufacture of telephone equipment.

Source: 'India Welcomes Foreign Investment', publication by Indian Investment Centre, April 1965.

(b) 'Foreign Enterprise in India', by Matthew F. Kust, 1964, p.112 in which reference is made to Press Note, Ministry of Commerce and Industry, 8 May 1961.

(c) 'Industries for Foreign Investment in Pakistan', 1967, publication by the Department of Investment Promotion and Supplies, Government of Pakistan.

attract foreign investment include iron and steel, aluminium smelting and extrusion machine tools, aircraft and their components, fertilizers, prospecting, mining and processing of all minerals, and many others. The Investment Promotion Bureau (Government of Pakistan) while making the point that there is no fixed percentage of Pakistan capital to be associated in an enterprise, stresses that it is expected that local costs will be met from local equity capital and that "in the case of oil refining, however, a substantial participation of Pakistan equity capital is expected"(a). "Proposals in the consumer goods sector from foreign investors will primarily be judged on export potential and export commitments"(b). Pakistan does not encourage foreign investment in commercial activities, although a foreign manufacturer established in the country is free to make his own distribution arrangements(c).

227. While government policies in Pakistan leave substantial scope for foreign private participation in industry, there appear to be certain areas of activity from which some Pakistani businessmen and industrialists would like to see foreign enterprise excluded. In a publication by the Federation of Pakistan Chambers of Commerce and Industry(d), comments and suggestions are offered on the outline of the Third Five-Year Plan, and with regard to foreign private enterprise the

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(a) 'Special Supplement on Foreign Private Investment', Trade and Industry Publications, March 1966.

(b) 'First Phase of Comprehensive Industrial Investment Schedule for Third Five-Year Plan Period (1965-70)', Government of Pakistan, November 1965, p. (ix).

(c) 'Investment Promotion Bureau - What does it do?', Syed Saeed Jafri in Special Supplement on Foreign Investment, Trade and Industry Publications, March 1966.

(d) 'Brief Report of Activities 1964/65', Karachi 1966, p.92.

Federation feels that "foreign hold on our basic industries" should be avoided and that this field should be reserved, as far as possible, for Pakistani private enterprise. The industries particularly mentioned by the Federation for allocation, as a general rule, mainly to domestic enterprise, are fertilizers, oil, gas and electricity. It is also mentioned that for financial and economic independence, it is essential that banking and insurance be confined to Pakistani nationals. Consequently, expansion of foreign banks in the country should be limited and only Pakistani insurance companies should be allowed to do business in the country.

228. In Brazil, industry and commerce are primarily private sector activities, while government is active mainly in infrastructure (e.g. transportation, communications and electric power), although important in banking, production and refining of petroleum, and in basic industry, principally iron and steel. In general, it was pointed out in the course of interviews in Brazil, there was for some years prior to the early 1960s a fairly strong feeling against foreign participation in the economic life of the country. In this as in other respects, the investment climate in Brazil has now improved, although such fields as mining, petroleum and shipping were still described as sensitive. On the other hand, petrochemicals no longer fall in this category, and the sizeable public stake in the steel industry was said to have been brought about by private enterprise default and to be a question of financial capacity rather than sensitivity. From the field of services, it was pointed out, for instance, that foreign banks have free access to Brazil subject only to reciprocity for Brazilian banks abroad.

229. In Brazil exclusion of or restrictions on foreign participation apply specifically to:

a) aviation companies operating within Brazil

b) coastal shipping

c) fishing industry

d) newspapers, periodicals, broadcasting.

Furthermore, government has a petroleum monopoly[a] (petroleum, other fluid hydrocarbons and natural gases) in respect of prospecting and development, refining domestic and imported petroleum, ocean transportation of domestic petroleum and petroleum products, and pipeline transportation of petroleum, and its derivatives and natural gases. The legal position in respect of exploration and development of other minerals is not completely clear as far as foreign participation is concerned. Pending a clarification of the issue, mining companies have been authorised to operate if organised in Brazil under Brazilian law and have the headquarters of their principal establishment in the country. In other cases, majority control by Brazilian interests has been required[b]. Foreign-controlled firms may engage in certain iron ore exports, but must re-invest all net profits in excess of 12% in projects in the producing state; in the case of a Brazilian-controlled firm the re-investment obligation is only 50% of the excess over 12%[b].

(a) Certain refinery, pipeline and tanker facilities are excluded from the monopoly, as is the development of oil shale.

(b) 'Establishing a Business in Brazil' US Department of Commerce, Overseas Business Reports, OBR 66-10, March 1966.

Sensitive areas - shipping

230. Shipping belongs to the sensitive areas. Development needs, balance of payments problems, prestige, national security, independence and sovereignity have led several DCs to make large investments - in the public or private sector - in the shipping industry. Generally, shipping is not very profitable, and DCs have frequently had recourse to flag discrimination as a means of fostering the development of their industry. Flag discrimination can take many forms (a) and often goes together with straight subsidies, an important distinction between the two being that subsidies are borne by all taxpayers, while flag discrimination is a burden which trade has to shoulder alone.

231. Some DCs consider their national merchant marine as a public utility - the instrument which must give service to its foreign trade to and from its ports, and whose deficit the nation must make good. Since 1966 for example, a 10% tax has been payable in Brazil on all freight to help finance a programme for new ship building.

232. The background to the wish of DCs to develop merchant marines of their own is that in 1966 about 70% of world tonnage belonged to OECD countries, which also owned another 16% sailing under flags of convenience. However, nearly 60% of seaborne exports come from DCs, the share of which in the world's merchant fleet is not more than 7%(b). The interests of both sellers and buyers must of course be considered, particularly in view of the fact that some 73% of all exports from DCs go to MECs. The desire in DCs to

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(a) See for instance 'Flag Discrimination - Views of Transport Users', report of the Commission on Sea Transport approved by the International Chamber of Commerce Council, May 1964, ICC 232.

(b) 'Review of Developments in World Shipping, 11 January 1967. TD/B/C.4/25.

create national merchant marines is understandable and no conflict would arise, if this could be done without flag discrimination and preferential treatment.

233. The real problem is the fairness of the level and structure of sea transport costs and freight rates, charged by shipowners in MECs, and the adequacy of the shipping services they provide. This issue is of fundamental importance and has since 1964 received great attention in UNCTAD(a). Related to it are:

a) operation and practices of liner shipping conferences

b) consultation machinery between shipping conferences and shippers' bodies

c) port facilities and inland transport facilities to and from ports.

234. One of the achievements of UNCTAD in this field is the general acceptance of the establishment of effective consultation machinery between shippers' councils and shipping conferences, and it would make for better understanding if this fact became known throughout the DCs. It is interesting to note that, while the conference system with its loyalty clause and deferred rebates is often under attack, nearly all the DCs with a merchant marine of their own have joined the conferences.

235. There are many approaches to studies of what are fair freight rates. The author has some doubts as to whether route studies will lead to positive results; it seems to him that no route taken in isolation can be a basis for general formulas. As long as, for instance, European shipowners are unable to make a reasonable profit on their cargo liner voyages, one would not expect studies to be able to prove that rates are too high.

(a) The basic UNCTAD document is Annex A.IV.22 to the 1964 UNCTAD Final Act and Report E/Conf.46/141 Vol.1, page 54, dealing with 'Common Measure of Understanding on Shipping Questions', attached to this report as Appendix X.

A report by Thomson McLintock & Co., chartered accountants of London, dated 17 April 1964, about the results over 12 months of 1,069 cargo liner vessels with an aggregate of 8,138,000 gross registered tons - i.e. a major part of European liner tonnage over 5,000 GRT and belonging to nine European countries - came to the conclusion that there was a combined deficit for the period of $ 2.8 million:

	($ million)
Capital employed[(a)]	2,114.0
Income	1,064.0
Expenditure	1,066.8

The deficit of $ 2.8 million was arrived at before charging taxation and before charging interest on capital, on loans or on other borrowing. In order to earn a reasonable return of 10% p.a. on the capital employed, freight income would have to be increased by about 20%.

236. The author's own experience since 1962 in the shipping industry is that the return on capital is low, while the capital required is extremely high. For example:

a) the price of a modern general purpose transport of 13,000 dead weight tons (DWT) and a speed of 15 knots demanding a crew (including relief crew) of 40 men would in 1966 have been about $ 2.6 million or $ 65,000 per man

b) the price in 1966 of a modern liner cargo vessel of 12,000 DWT and a speed of 20 knots carrying a crew of 47 men would have been about $ 5 million or $ 106,000 per man

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(a) Based on replacement value of each ship written down on the basis of a 20-year life and a 10% residual value.

c) the price in 1966 of a modern tanker of 120,000 DWT using a crew of 44 men would have been about $ 9 million or $ 205,000 per man

d) An article in 'The Economist' of 7 January 1967 stated that: "Six container ships will cost just under £30 million ($ 84 million). The containers and road trailers to keep these ships moving will cost nearly £10 million ($ 28 million) more".

237. Many believe that in shipping the future will be for container ships, one of which can do the work of ten conventional vessels. This new development, combined with the latest experiment of the LASH shipping system (Lighter Aboard Ship) and the increasing competition from air freight may be the beginning of a revolutionary process in world transport and handling in ports by agents or stevedores. 'The Economist' goes so far as to say that "This new freight structure rings the death knell for the shipping conference system". It may take a long time, however, before such revolutionary innovations have changed the whole pattern of world-wide sea transport.

238. European shipowners have learned from experience that the net contribution of the shipping industry to the national balance of payments is frequently over-estimated. After having compared some studies of this subject, the author believes that it is reasonable to expect that the expenditures which have to be covered by freights break down as in Table 11.

Table 11. Composition of freight costs

Components		%
Loading, unloading, port expenses like pilotage, towage, agencies, canal dues		45
Crew	15	
Provisions	1.5	
Bunkers and oil	8	
Hull insurance	4	
Repairs and overhauls, stores	7.5	
Administration costs	4	40
Depreciation on original cost		11
Margin (to cover interest charges, tax provision for increased replace cost, profits)		4
		100

Of these items, perhaps a proportion varying between 65-75% is incurred in foreign currency(a). Clearly, by operating its own national fleet a DC will be able to incur at home some of the expenses which otherwise it must meet in foreign currency. On the other hand, its balance of payments will be negatively affected by own ships' expenditure abroad and by the loss of foreign ships' disbursements in its ports; foreign exchange costs are of course also incurred to the extent that the construction of DC shipping required foreign loans and/or import of construction materials.

239. Not everything can be done by DCs at the same time. It would seem that those DCs considering investment in a national merchant marine would be wise to study carefully the different forms that this can now take, as well as the yield of such an investment and its impact on their balance of payments. It is perhaps of even greater importance that new investments should not raise the cost of exports. Such an approach would be in accordance with the 'Common Measure of Agreement' adopted in

(a) 'Consideration and Adoption of The Programme of Work', 28 September 1965, TD/B/C.4/2.

A.IV.22, which states that: "The question of development of merchant marines by DCs should be decided by such countries on the basis of sound economic criteria".

240. The author, considering the many other claims on resources available to DCs and the likely revolutionary developments in shipping, would give higher priority at the present time to improvement of ports and associated inland transport in DCs than to the setting up of their national shipping lines. The important and far-reaching changes now taking place connected with container transport, make it of vital importance for DCs to adapt their ports, forwarding and storage arrangements to enable them to take part in these new developments. It is more important that DCs should be equipped to handle container traffic than that they should invest capital in shipping lines of their own, not suited to participate in this technological innovation.

Need to narrow sensitive areas

241. Governments should make the best use of the scarce capital resources available to them. The grave objection to sensitive areas is that they reduce thepossibilities of doing this by limiting the uses to which foreign private capital can be put. The existence of sensitive areas may be a reflection of attitudes towards private enterprise in general, determined in turn by political and strategic considerations, or of attitudes towards foreign enterprise in particular. Among those latter are found nationalism, fear of foreign domination and competition, fear of foreign exploitation by way of unnecessarily large profits, and the belief that foreign participation in some areas of activity leads to an unnecessary outflow from the foreign exchange resources of a country.

242. While it is clearly possible to agree that where foreign participation does in fact cause an unnecessary outflow of foreign exchange, or is not associated with a contribution over and above that which a DC could make itself at the same cost, DCs are right in excluding or restricting foreign participation. Equally, however, sensitivity to foreign participation has in many instances led to policies which were economically unsound. Economics cannot, of course, provide the only guideline for government policies, but in the interest of better resource utilisation and speedier economic development it must be urged once again that foreign investment should be considered in factual terms and that it should not be rejected or prohibitively restricted when its participation can economically be advantageous to a DC.

243. A DC wishing to attract foreign investment should establish clearly and publicise the areas of activity, in which such investment is and is not welcome. Uncertainty in this respect not only leads to considerable waste of time, but can also give an unfortunate impression of the total investment climate.

Objectives of government policies in DCs

244. In seeking to attract foreign investments governments are anxious to ensure that foreign participation should not lead to abuse, nor to too large a share of the economy falling into foreign hands, nor cause a disproportionate outflow of foreign exchange. At the same time they expect that the beneficial effects - through for instance training of local staff, re-investment of earnings and partnership with local entrepreneurs - should have the broadest possible impact on the economy. Governments also wish foreign investments to be forthcoming in accordance with development plans.

245. Consequently, governments normally scrutinise foreign investment proposals carefully, and endeavour to have some say in the direction of foreign enterprises. This they seek to achieve

through statutory local holdings agreed when the company is set up, or through provisions for local participation at some future date. Furthermore, they also exercise considerable control over foreign investors through company law, fiscal measures, employment rules and exchange controls, and have always the power of legislating to meet any unforeseen developments. Therefore, although it is true that an enterprise can get large enough to have considerable influence on the economy, the host government is in a position to ensure, by legislation if necessary, that the situation is kept within bounds.

246. In most development plans governments have established priorities for industrial development. In practice, however, these are often difficult to implement. Projects which are given very high priority in development plans, frequently are either not viable or likely to show only a marginal return, although their social benefits may be considerable. In such cases it is extremely unlikely that a private investor would be prepared to invest. The government is then obliged to underwrite investments of this kind through its development bank or investment corporation which will make a loss or only a marginal profit on the investments.

Investment promotion

247. The promotion of investments involves three stages. The first consists of defining - normally in the context of a national plan - exactly where investment is needed and what opportunities are available to foreign investors; the second involves contacting potential foreign investors; the third stage consists of processing investment proposals quickly and efficiently.

248. In many DCs special administrative bodies have been set up with responsibility for promoting investment opportunities. In others this activity is the function of a particular ministry. Sometimes the role of the administrative bodies is simply to

contact foreign investors, while the ministry concerned processes investment proposals. Some investment agencies, however, conduct the whole operation themselves, thus acting as a constant link between government and investors. The range of information and depth of pre-investment data vary greatly; sometimes a ministry covers this aspect better than a special body, but ideally an investment agency, with adequate funds and staff, should be able to perform the task more satisfactorily. A frequent adjunct to investment promotion is an official guide to investors. Again this varies from an outline of the laws, inducements, taxes and conditions applying to foreign investment to a glossy sales promotion type publication painting, sometimes in exaggerated terms, the opportunities available to foreign investors, but giving little information on the practical conditions which apply to foreign capital.

249. The terms and conditions upon which foreign private investment is encouraged are embodied in investment codes, or more particularly pioneer industries legislation, or laws offering approved status to certain types of investments. In addition, there are special tax allowances contained in either of these types of legislation or in the tax laws, which may also apply broadly speaking to domestically-owned enterprises. An important feature of this type of legislation are the inducements, which governments of DCs are usually willing to grant investors, intended to provide acceptable basic investment conditions and compensate for greater risk.

250. The inducements which are offered tend to follow a reasonably similar pattern. In addition to some form of guarantee against non-business risks and fiscal inducements, as discussed in Chapters III and IV, the general inducements offered to foreign investors usually include:

a) tariff protection or import control;

b) duty-free entry for machinery and raw material inputs;

c) arrangements for the employment of expatriate personnel;

d) freedom to repatriate profits and capital in convertible currency.

Requirements of foreign private enterprise

251. In normal conditions the basic requirements of the foreign private investor are :

a) a market of suitable size, often protected

b) operating conditions which allow him to supply this market on a continuing basis at a reasonable after-tax profit

c) freedom to remit profits, and to repatriate capital on a reasonable basis

d) a high degree of security against non-commercial risks.

Market

252. The point when a manufacturer decides to abandon exporting and undertake production in a DC comes when the effective demand is large enough, conditions are suitable and the facilities available to enable the investor over the long term to manufacture the product at less than the full landed cost of imports. At the same time, he must expect to make a profit equivalent at least to that earned from an equal investment in the capital-exporting country allowing for differences in risk. But the market situation will not be a static one. Very rarely is an investment made on the basis of present demand in the host country. The market may include neighbouring markets and must in any case offer prospects in the medium-term future of sufficient expansion to permit the steady growth of manufacturing operations.

Protection

253. The process of import-substitution can be and often is speeded up by governments of DCs. If a government imposes sufficiently high import tariffs or otherwise protects domestic producers, the traditional exporters to these countries will be faced with the choice of abandoning export sales or of manufacturing behind the tariff barriers. The fear of being excluded from a profitable market has been the motive for many investments in the larger DCs.

254. On the other hand, investors frequently regard protection against competing imports as an indispensable condition for investing. Short production runs and a variety of other factors inevitably make for high unit costs in DCs. Industrial inputs, whether imported or domestic, are frequently very expensive, so that local manufacture is rarely competitive with world market prices and needs protection. Sometimes protection must be combined with a monopoly, as the market is not large enough to support two competing companies in the same field. In this case, governments must take steps to ensure that the monopoly position is not abused.

Since DCs are frequent dumping grounds for manufacturers wishing to dispose of surplus production runs or sub-quality materials, effective anti-dumping measures should be provided by host governments, so that investors do not find their market disrupted by a sudden influx of cheap imports.

255. Successful as protection often is in expanding activity within a DC and necessary as it may be to attract foreign investment, it can be undesirable from the point of view of the host country, especially if it is to be long-term. A protected market will encourage high cost production, and high profit margins. The consumer may pay prices higher than those of the

equivalent imported product, and the producer will have no incentive to improve techniques in order to become competitive with the outside world. For DCs looking to export markets, competitiveness is an ever more important consideration.

Operating conditions, duty-free imports and employment of expatriates

256. Since the aim of the investor is to obtain a reasonable return, he requires the general operating conditions in a country to be such that this is possible. Broadly speaking he requires freedom to manage his affairs and a level of taxation and other duties which is not excessive in relation to the scale of his operations. The freedoms that foreign private investors expect in a DC - as in their own countries - are not, of course, absolute. Their actions must fit in with government's overall social and economic aims, while depending on government support and intervention in various forms - such as pioneer status, protection, concessionary imports, etc. Without such government intervention there are few DCs in which private investment could prosper.

257. Although perhaps rarely of decisive importance to an investor, duty-free entry for machinery and raw material imports is frequently regarded by private enterprise as desirable, since it reduces financial requirements and cost. Relief from duty on imported material content becomes particularly important when a plant begins to export.

258. Freedom to employ expatriates can be of considerable importance. In some cases they may only be required for a short time during starting operations; in others the permanent employment of relatively large numbers may be indispensable to the success of an investment for reasons of efficiency, operating safety and commercial security. Both in response to government policies and to reduce costs by employing fewer expatriates, most foreign investors rely increasingly on nationals of the host

country to operate, supervise and manage, and they carry out training programmes accordingly. However, to the extent that nationals with suitable skills are not available, employment of expatriates must continue.

Remittance rights

259. Since the investment must yield a monetary return to the investor in his home country, payable in an acceptable currency, adequate remittance rights are a basic and indispensable requirement of the foreign investor; he may, of course, decide to re-invest part or all of his profits in the DC. Although most investments are made on a permanent basis, cases may arise where the investor would wish to repatriate capital. Investment promotion laws often provide for the remittance of capital in specific circumstances and at a specific date. For example, the law may state that there should be no repatriation of capital during the first five years of an investment, and thereafter at the rate of 20% p.a. in the case of liquidation or disposal to nationals of the country. Such restrictions may be acceptable to investors provided they are known at the time the investment is made.

Implementation of goverment policies as seen by private enterprise

260. Although the governments of DCs may have policies designed to attract private investment, there is often a difference between the intention and the act. For instance, in pre-investment discussions foreign private investors may well be led to understand that they may benefit from tariff protection, whereas in practice it sometimes happens that such protection is not granted.

261. Also the working of rules such as those regulating the number of expatriates in a given enterprise, may not always be as liberal as the investor has at first been led to understand.

Conversely, there are countries which have fairly severe restrictions on expatriate employees in theory but in practice are ready to make exceptions.

262. A major weakness in DCs' investment promotion efforts is the working of bureaucracy. Although the investment laws of a DC may be extremely favourable to foreign private enterprise, the delays and difficulties which arise in the process of negotiating an agreement can be so great that the proposed investment never gets off the ground. These bureaucratic delays although frustrating are understandable in countries where the civil service has not had the experience to cope with such problems, but the impression sometimes given is not only of inefficiency but also lack of co-operation.

Obstacles to foreign private investment

263. Obstacles to the flow of private investment to DCs exist on both sides. The private investor may be unaware of investment opportunities in his field or, if aware of an investment opportunity, he may be prevented from taking action because of restrictions on capital movements imposed by his own government for balance of payments reasons.

264. The factors which deter foreign private investors from individual DCs or in particular cases, are implicit in the preceding discussion of the requirements of private enterprise. An unequivocal attitude in a DC that foreign enterprise is welcome - even though in clearly defined, selected areas only - combined with a generally encouraging approach to private enterprise, is clearly more conducive to investment than the frequently encountered 'yes and no' or 'yes - but' types of statement with all the practical uncertainties which these involve.

265. In markets which offer reasonable scope, most of the immediate opportunities for import substitution have already been taken up by private, mostly domestic, investors. There are

still import-substitution possibilities available, but these tend to be of more doubtful viability particularly when, as is frequently the case, they are in industrial goods industries such as petrochemicals, steel and heavy machinery where capital requirements are high. Although some DCs can provide a national market big enough for capital intensive industries of this type - protection, however, frequently being necessary - it is generally the case that individual DCs are unable to do so. Hence governments in DCs have to consider regional arrangements. (See Chapter VIII) The success of these efforts would remove one frequently decisive obstacle to foreign investment.

Other problems

266. Other less fundamental but important problems exist. These include such factors as the procedural difficulties of pre-investment negotiations, and inadequate infrastructure and services. Such inadequacies can be overcome by large-scale investors, who are able to provide their own infrastructure and services, but not by smaller ones.

267. Under this heading fall also proposals to enforce a degree of re-investment of the profits of foreign investors in the host country. Foreign private enterprise frequently re-invests but this must be the result of voluntary investment decision, not of obligation. An investor might be prepared to accept an obligation for partial re-investment but in this case would have to be sure of a level of profits sufficient to justify the investment

Feasibility studies

268. As investment opportunities become less obvious and the chances of success consequently smaller, the need to undertake more detailed pre-investment studies is greater. The high cost of such studies often deter potential investors. This has been the experience of AID, and as a result this organisation decided

to reimburse 50% of the costs of pre-investment studies if the investment is not made. As an indication of the costs involved, AID's share in the cost of completed surveys, all of which reached a negative investment decision, is $725,000. Although an average outlay of $18,000 per investment survey is perhaps not prohibitive, it must be remembered that some surveys cost more and that an investor may have to make several surveys with negative results before finding a suitable and viable project. Again, the costs involved in carrying out feasibility studies in overseas markets are considerably higher than conducting the same exercise in the domestic market where a firm in any given sector is likely to have fairly easy access to relevant market and cost information.

Concluding remarks

269. The matching of actual private investment to the projects as laid down in national plans is one of the central problems of development[a]. Most DCs accept foreign investment in some form and many wish actively to promote such investment, mostly as a relatively small supplement to the domestic development effort. However, many DCs are not particularly successful at attracting the foreign private investment they require, while there are also cases when, sometimes on bad advice, governments have undertaken wasteful expenditure as happened in Ghana under President Nkrumah.

270. The existence of sensitive areas frequently prevents foreign participation in activities where it would be economically beneficial. Furthermore the intention to encourage foreign investment in non-sensitive areas may not always be fulfilled, partly because other factors, such as balance of payments difficulties, can force governments to adopt measures which will

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(a) In this context, reference is again made to 'Experience and Problems In the Implementation of Development Plans - Some problems of implementation in the private sector of the economy', 23 March 1967, E/AC.54/L.10.

discourage private investment. Hence, the declared intentions of governments are not always reflected in their laws and practices. While they admit that their own policies may be partly to blame for the difficulties encountered in attracting sufficient foreign investment, some governments feel that the attitudes of private enterprise are also at least partly to blame. For instance, it is said, some established exporters do not want to invest in plant to manufacture in DCs while they can still command a market for exports from their home base. Even when a foreign enterprise does establish a manufacturing plant, it will often concentrate on producing only part of its products range, partly on grounds of cost and market size, but sometimes also to preserve export markets for its other lines. Similarly, it is said, that some foreign investors are unwilling to experiment with local raw materials and prefer to import their supplies which tends to reduce the import saving effect of the investment. Thus, although the private investor's actions may often be justified on cost grounds - it would frequently be uneconomic to expand the product range, and imported raw materials are often not only cheaper but also more suitable - the host government interprets these actions as unwillingness to participate in the country's economic development.

271. An essential factor which hinders the flow of investment is lack of communication. Governments of DCs have two clear duties if they wish to encourage foreign private investment. Firstly, they must take all action possible to inform investors in MECs of their interest in private investment and to specify where it is required. Secondly, they must not only frame laws and follow policies which will encourage new investment, and increase the efficiency of existing enterprises, but also ensure that these laws are implemented at all levels of the bureaucratic machine.

272. For their part, governments of MECs should take great care to pursue policies which do not deter investment by their nationals in DCs. Taxation laws and exchange controls particularly mitigate against greater flows. The contribution of private investment to national outflows to DCs is of great significance (about one-third of total capital outflows) and is at no direct cost to the capital-exporting country.

273. What private enterprise and governments in both DCs and MECs must realise is that development is a continuous process. The differences in wealth and economic activity which today divide the world into rich and poor nations need not endure for ever. Already some of the DCs have succeeded in raising the living standards of their peoples and broadening the basis of their economies. Private investment is one of the key factors in this process, and has the advantage of flexibility in use and, given the right conditions, efficiency in operation. In the long term, the DCs will have achieved a faster rate of growth and become in their turn developed countries. In this process, foreign private investment, without being a panacea that can be applied regardless of its impact on the balance of payments position, will have played a significant part. Industrialisation also will have changed its character. From being foreign in origin it will become increasingly domestic. The present stage of foreign private investment is essential but transitional. If both DCs and private investors can realise that the DC of today is the developed country of tomorrow, the problems which both now find so difficult would fall into perspective.

CHAPTER VI

EXPERIENCES AND IMPRESSIONS FROM VISITS TO DCs

STATEMENT BY THE AUTHOR

274. This chapter is a record of views heard and impressions formed during visits I made to a number of DCs in the course of preparing my report. It is based on interviews and material collected on journeys, which took me to Brazil, India, Ivory Coast, Kenya, Pakistan, Peru, Tanzania and Uganda. I do not claim that these countries comprise anything like a representative sample of all DCs. However, as a result of spending some time in them I came into first-hand contact with some of the problems dealt with in this report, and with people who are actually dealing with them. I could have prepared my report without leaving Europe but had I done so, my awareness of the human and social content of the development problem, in all its poignancy, would have been less acute.

275. In the various countries visited, I talked with ministers, administrators, industrialists, businessmen, economists, journalists and others. Much of what I was told was coloured by the experience and opinions of the speakers. Some of the views put forward from a particular standpoint run counter to the arguments put forward in the rest of this report. I have not, however, felt that it was necessary to edit the various shades of opinion expressed in this chapter, in the interest of general uniformity. While I do not agree, therefore, with all the views that are reported in this chapter, I nevertheless believe that it is important that they should appear here.

276. The recommendations of my report arise from the analysis of the other chapters setting out my views on what should be done to enable private enterprise to play an effective and

and significant role in the development process. In my view the diverse and widespread problems of development cannot be reduced to a single formula, and by attempting, faithfully and uncritically, to set down this account of impressions and views from DCs, I hope that the impact of my report will be increased.

PART I - GOVERNMENT POLICIES AND PRACTICES

Development plans and private enterprise

277. Brazil - Tentative figures discussed with me indicate a total, public and private, investment programme for 1967-71 of the order of $18 billion; of this 30-40% is to come from the private sector. Assuming a continuation of policies to encourage foreign investment, it seems that foreign, direct, private investment might amount to $150-200 million p.a. compared with about $30-50 million p.a. during the years 1963-66.

278. For some time prior to April 1964 Brazil pursued policies and practices designed to deter foreign investment, but this situation then changed, a new government taking office and giving

> "the highest priority to the resumption of private foreign investment. Positive steps have been taken in this area. Fair and adequate agreements solved old feuds in the areas where enterprises had previously been expropriated. New legislation reviewed former remittance limitations on a rational and adequate basis"(a)

Brazil sees foreign participation as important because it leads to some increase in the rate of investment, an increase in the capacity to import, brings in technological knowledge and

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(a) 'Economic and Financial Policies of The Brazilian Government', article based on a speech by Mr Roberto Campos (then Minister of Planning) in 'A Economia Brasileira e suas Perspectivas', APEC S.A., Rio de Janeiro, July 1966.

experience and, a point repeatedly made, diffuses new methods of organisation and management.

279. India - The official attitude, based on India's concept of socialism, towards foreign private investment has not changed materially since it was stated by Prime Minister Nehru in 1949 as :

> "Indian capital needs to be supplemented by foreign capital not only because our national savings will not be enough for the rapid development of the country on the scale we wish, but also because in many cases scientific, technical and industrial knowledge and capital equipment can best be secured along with foreign capital".

He also said that :

> "the government would so frame their policy as to enable further foreign capital to be invested in India on terms that are mutually advantageous".

Some figures for foreign investment in India are given in Chapter II, paragraph 76 b).

280. Ivory Coast - In the latest version of the 1960/75 Development Plan, about 45% of new investment during the plan period is expected to come from private sources, of which up to 99% will be from abroad because of the shortage of local capital. Public spending is devoted to infrastructure, some agricultural projects and power. The role of private investment is that of the prime mover in industrialisation and the major factor in modernising production and increasing the processing, and thus the export value, of primary products. In the future, the government hopes that domestic entrepreneurship will play a larger part in economic life. It will seek to achieve this by selling, as soon as suitable demand exists, its own holding

in industrial and agricultural concerns to local citizens. As President Houphouet-Boigny said concerning the need for private investment:

"We have no factories to nationalize, only to create; no commerce to take over, only to organize better; no land to distribute, only to bring into production".

281. Kenya - In the Development Plan 1966/70, of a total investment amounting to $910 million, $504 million are expected to come from private investors, of which it is hoped to attract 40% ($202 million) from abroad. The Plan states that "the government welcomes industrial ventures where investors, be they citizens or foreigners, are willing to risk their own money to increase production and employment". The Kenya government, however, is dedicated to a form of African socialism which provides for a mixed economy but with an increasing share to be taken by the indigenous population. Government policy is to balance foreign private investment with the objectives of African socialism, so that the role of foreign investment is limited to a defined range of activities with the prospect of increasing local participation.

282. Pakistan - The objective of government policy in respect of private enterprise, as set out in a declaration of 1959, is to give it maximum scope in the development of the country's resources. The government is doing its best to attract foreign private investment and attempts to channel it into sectors where investment is most needed. The government has stated that its belief in private enterprise has been confirmed by experience. Some figures for foreign investment in Pakistan are given in Chapter II, paragraph 76 c).

283. Peru - Peru's Plan for Economic and Social Development 1967-70 indicates a total gross investment of some $4.8 billion for that period, of which $3.7 billion or 77% in the private sector. External finance for private sector investment amounts to $370 million for the period, or 10% of private sector investments; how much of this is direct investment is not clear, but for comparison it can be mentioned that direct private investment in 1965 was $20.5 million and $38.0 million in 1966[a]. Regarding foreign investment the Plan document declares[b] that :

> "The direct foreign investment has been planned bearing in mind the development of a policy to strengthen national capital, the historical tendency of foreign investment in the country and the necessity to bring those mines speedily into production that are at the moment the subject of study and negotiation".

Investment in large-scale mining is expected to be largely foreign, and consequently a significant increase in foreign investment is foreseen for the period 1968-74. In contrast, it is considered that future entry of foreign capital for investment in production for the domestic market will be moderate, since "it is considered that policy in this field must be cautious and selective"[c]. Those foreign investments should be selected that constitute an indispensable contribution of technical know-how and that lead to the execution of those types of production which the domestic entrepreneur cannot undertake. The chemical industry is an example, but the Plan

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(a) 'Economic and Financial Review', Central Reserve Bank of Peru, November-December 1966.

(b) 'Plan de desarrollo economico y social 1967-70', p.54 (translation from Spanish text)

(c) Ibid., p. 55.

stresses that here is a case where regional arrangements will be necessary to secure a sufficiently large market as the basis for obtaining the minimum return on investment required.

284. At the moment of writing, there are press reports to the effect that the otherwise favourable investment climate in Peru may be disturbed by action affecting the La Brea and Parinas oilfields.

285. Tanzania - The Tanzanian Development Plan 1964/65-1968/69 also places a high reliance on the private sector, which is expected to contribute $440 million out of a total of $690 million. Overall, it is estimated that only $85 million could be hoped for from overseas. In February 1967, foreign banks, including British, Dutch and Indian, and certain industries were nationalised[(a)]. While the Tanzanian government may still hope to attract foreign private funds, the possibility of doing so must be very slight indeed as a result of the nationalisation measures, and of the continued atmosphere of uncertainty as to what other steps may be taken to implement Tanzania's form of African socialism based on self-reliance and sacrifice[(b)].

286. Uganda - In the Second Five-Year Plan 1966/67 - 1970/71, the total investment target is $644 million, of which the private sector is expected to contribute $250 million. Substantial local capital is available, and the contribution from overseas is not expected to exceed $42 million; in addition, however, a foreign contribution is expected to certain parastatal organisations such as the Uganda Development Corporation, to the tune of $14 - 28 million over the period of the Plan.

(a) For a review of the present state of the negotiations about compensation refer paragraph 331

(b) In this context reference is made to the Arusha Declaration of the TANU National Executive following its meeting in Arusha 26-29 January 1967.

The government expressed its hopes for attracting foreign private investment in the Industrial Charter which states that "the Government of Uganda, in determination to accelerate the pace of Uganda's economic progress, seeks local and overseas investment in the industrial development of Uganda".

Forms of foreign private investment preferred

287. Brazil - Apart from the fields of activity mentioned in Chapter V under 'Sensitive areas', there are no formal statements on the form foreign participation should preferably take in Brazil. The foreign investor is generally free to decide whether he will operate on his own or in partnership with local capital. However, both authorities and domestic entrepreneurs strongly advocated, and considered it in the investor's own interest, that Brazilians should be given a real opportunity to participate both in management and technical operations. Similarly, while it was accepted that there are good reasons for foreign investors wishing to have and retain 100% control, it was repeatedly stressed that investments in joint ventures - the degree of local participation being "unimportant" - is considered the most positive foreign contribution, and also advantageous to the foreign investor due to the consequent closer association with the Brazilian scene.

288. India - The government's preference is clearly for joint ventures, and generally the majority shareholding should be in Indian hands[a], although exceptions can and have been made when the project involves either particularly necessary technology, large foreign exchange disbursements which would otherwise substantially have to be found by the government, or substantial exports. India's approach was described by government officials

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(a) 'India Welcomes Foreign Investment', Indian Investment Centre, April 1965, p. 9.

as"pragmatic rather than ideological", and just as the question of majority shareholding is open to negotiation, so there are no fixed views on the proportion of equity holdings, which are decided when the licence is granted[a], although in general terms the government seems to prefer that only about 30% would be taken by the foreign partner and that 30-40% of the total equity be offered to the public.

289. Ivory Coast - At present the government prefers foreign investors to hold the majority share of equity capital in industrial enterprises. It does not wish to take part in joint ventures with foreign private companies, unless this is the only way in which a particular project with a high priority can be carried out; thus in crop processing the government is often obliged to take a majority holding because it cannot attract suitable private investors. This reflects the government's policy of leaving expansion of industrial production to private enterprise and not devoting any of its own resources to this sector unless obliged to.

290. Kenya - The government uses a number of economic criteria in granting approval to foreign private investors. Like Uganda, it is concerned with greater local participation in the future, but at the same time it is aware of the need to attract investment now in industries which are both needed and are likely to show a profit to the investor. It is prepared to participate to attract investment, but will not invest in or attract projects which are likely to need abnormal assistance in the form of tariff protection or subsidies. Also, projects are assessed on their ability to produce a net saving in foreign exchange, their employment potential and the time required to reach full

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(a) All industries with an investment of Rs. 2.5 million or over (approx. $333,000 at present rate of exchange) must be licensed by the government.

competitiveness. Fundamentally, the government has no particular preference for any type of investment as long as it meets the general requirements and criteria outlined above.

291. Pakistan - The government prefers private investment to take the form of joint ventures, and domestic entrepreneurs expressed a strong preference for domestic majority holding. There is no rule, however, that there must be local interest in a foreign investment although "it is expected that local costs will be met from local equity capital. In the case of oil refining, however, a substantial participation of Pakistan equity capital is expected"(a). The government considers that the training function of foreign investment is as important as the capital and technical know-how it imports.

292. Peru - I am not aware of any government preference as to form of investment. However, some domestic entrepreneurs expressed a strong preference for joint ventures in order to promote the formation of local capital and management skills.

293. Tanzania - The government's views on private investment have not always been clear. Fundamentally, it wants local public and private shareholding in all industry and public ownership of certain sectors, e.g. banking, insurance and some specific industries. Some undertakings were nationalised in February 1967. Before that date, the government was anxious to attract private foreign investment, generally in the form of a joint venture with local participation through the National Development Corporation or the Tanganyika Development Finance Company Limited. The preferred form for foreign participation is probably loan financing, as for instance in the case of a pipeline on which the government was granted 15 years in which to repay ENI(b). Generally, the government wants an option on buying out foreign

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(a) 'Special Supplement on Foreign Private Investment', Trade and Industry Publications, Karachi, March 1966, p.300.

(b) The Italian State Oil Company(Ente Nazionale Idrocarburi)

investors at some future date at a price fixed in advance.

294. Uganda - The terms on which foreign investment should operate are not quite clear-cut. Foreign private enterprise is required to make provision for developing local Ugandan shareholdings or partnerships. Normally, this means that an investor is expected to make available for purchase by Ugandans at least 25% of the total shareholding capital within a period of 5 years from the conclusion of his agreement with the government. In the case of partnerships or private ownership, the government expects provisions to be made for offering partnership to one or more Ugandans within the same period. Investments initiated by the Uganda Development Corporation (UDC) are usually in the form of joint ventures, in some of which the government requests the UDC to take a majority share. Thus the form foreign investment in Uganda should preferably take is that of a joint venture, either with official funds or with participation by local shareholders, but there are sometimes difficulties in raising local participation from the private sector, and investment is welcome if it is prepared to accept future local equity participation.

Investment priorities

295. Brazil - At the time of my visit a ten-year investment plan (two stages) had been finished, but not yet approved. I was given to understand, however, that high priority would probably be given to : (not necessarily listed in the right order)

transport
electrical energy
industry and mining
oil and petrochemicals
housing
sanitation
education

Domestic entrepreneurs expressed the view that foreign participation would be particularly valuable in :

chemicals manufacture
farming equipment manufacture
fertilizer manufacture
financing for housing
processing and commercialisation of agricultural products
provision of improved seeds

296. India's first development priority is agriculture. In the industrial sector participation is allocated between the state and private industry according to the Policy Resolution of 1956. Because of its limited resources, the government seeks first to develop those industries which are needed to fulfil planned targets. Thus, investment in a series of industries (classified as key industries) which have a priority in this respect is particularly welcome. Industries which are not on the priority list but are export-oriented may also be favourably considered by the government. The key industries are[(a)]:

pig iron
alloy steel
ferro-chrome and other ferro alloys except ferro-manganese and ferro-silicon
malleable iron castings
steel castings
steel forgings
structurals (heavy)
industrial machinery
cranes
machine tools including small tools, dies, jigs and fixtures
automobile ancillaries
coated abrasives
electric winding wires
fertilizers
sulphuric acid
caustic soda and soda ash
rubber chemicals
petro-chemicals including synthetic rubber
pesticides
paper and paper boards
cement
pulp (cellulosic)

297. Ivory Coast - The government has no special investment priorities other than a wish to develop agricultural diversification and to increase the incidence of local processing of primary crops[(a)]. Most categories of operation can qualify for treatment as "priority

(a) I was struck, incidentally, by the fact that there appeared to be no provision for re-afforestation.

enterprises", defined as real estate enterprises, processing of industrial or food crops, plants manufacturing and assembling articles for mass consumption, mining and extraction, and enterprises generating electric power. The actual progress of industrialisation in the Ivory Coast has reflected this policy in that, although there is a whole range of light industries catering for the domestic market, there are few concerns engaged in activities with a serious export potential. In executing the first stage of industrialisation, that of setting up plant to manufacture for import substitution, this policy has worked well, but it must be revised to attract export-oriented investment.

298. Kenya - The Development Plan has a list of projects in which the government is interested and which would qualify for either financial participation or granting of "approved status" to a foreign investor. These cover such projects as food manufacture, textiles, clothing and footwear, leather products, some chemicals, non-metallic mineral products, metal goods and engineering products and small electric motors and refrigerators; these projects are qualified in the Plan as being worth investigating by prospective investors and entrepreneurs. Because of shortage of personnel and finance, government sponsored market surveys and feasibility studies in manufacturing have been mainly carried out on an ad hoc basis. When investors have indicated strong interest in a particular project, the government has arranged for an investigation to determine the feasibility of the undertaking. The government admits that the Plan is weak in this respect, and efforts are being made to define industrial needs more closely and to carry out pre-investment feasibility studies.

299. Pakistan - The principle is recognised that private enterprise should make its own investment decisions, but with the present pressures on the balance of payments, the government must

impose its own over-riding criteria. As part of this process the government publishes a 'Comprehensive Industrial Investment Schedule' in the context of the Five-Year Plans, to provide a guideline to investment opportunities for domestic and foreign investors. In a publication issued early in 1967(a), the Department of Investment Promotion and Supplies (government of Pakistan) gave a list, illustrative rather than exhaustive, of industries in which foreign investment would be particularly welcome. The list covers over 50 items and includes :

iron and steel including finished steel, ingots and special steel
ferro-chrome and ferro alloys
agricultural machinery and implements
tractors and components
machine tools
electrical machinery
insecticides, pesticides etc.
fertilizers
petrochemicals
prospecting, mining and processing of all minerals
poultry farming
dairy farming
livestock feed
instant tea and coffee

300. Peru - Top priority is given to the development of agriculture, mainly by increasing productivity. In industry emphasis is intended to be on basic industries (fuels, steel, heavy chemicals) and on supplies for agriculture, mining and fishing. Peru hopes that co-operation within LAFTA - discussed in Chapter VIII - would help speed up these developments. Foreign contribution will be particularly important in large-scale mining and in large-scale industry. In June 1966 a study(b) was prepared of the possibilities for import substitution in the short term "for the purpose of giving a possible investor, particularly

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(a) 'Industries for Foreign Investment in Pakistan', Karachi, January 1967.

(b) 'Principales Importaciones de Manufacturas en 1965 - Posibilidades de Sustitucion a Corto Plazo', Instituto Nacional de Promocion Industrial y Banco Industrial del Peru, Lima, June 1966.

abroad, information about the possibilities in the country of establishing industries which through import substitution would have a guaranteed market". The list covers a wide range of manufactures and semi-manufactures; but it is not clear how much publicity it was given or what success it achieved in attracting new investment.

301. Tanzania - The first investment priority is the processing of agricultural products, e.g. a leather factory is required on which it is hoped to base a leather working industry. There are plans for substantial expansion and re-organisation of the meat industry and a project is under review for converting sisal pulp into paper. Beyond these immediate specific targets, emphasis is laid on industries which will produce products which hitherto were imported. Other items given a high priority include a steel rolling mill, an aluminium rolling mill and a fertilizer plant.

302. Uganda - The Development Plan is not well defined in its attitude to the type of industrial investment required. Basically, the government gives weight to operations which will add value to the primary products of Uganda but the list of investment priorities also includes such items as a steel mill. The activities to which priority is given are as follows :

improved cotton ginning
improved coffee curing
sugar refining
tea production and processing
leather products including shoes
nitrogenous fertilizers
pharmaceutical plant
glass factory
ceramics plant
steel mill including tube rolling, wire drawing, strip rolling
bicycle manufacture
meat processing

milk processing
fish canning
extension of textile manufacture
clothes manufacture
sack and hessian manufacture
extension of a paper sack factory to manufacture paper from pulp
saw milling and furniture

Although such projects as, for instance, the fertilizer plant, bicycle plant and sack-making are given priority, the feasibility studies of the likely scale of operations and the return that might be expected have not been prepared; it is admitted by the government that these projects require co-operation from neighbouring countries to provide a wider African base, if they are to be viable. The subject of East African co-operation is discussed in Chapter VIII.

Investment promotion

303. Brazil - In general investment opportunities are not publicised, except when foreign trade missions come to Brazil. However, some promotion work is undertaken by the Ministry of Foreign Affairs and the Central Bank of Brazil. There are in existence a number of 'Executive Groups' charged by the government with the promotion of domestic and foreign investment in specific industries, for instance GEIMEC for the mechanical industries and GEIQUIM for the chemical industry. A special organisation, SUDENE, has been set up to co-ordinate the development programme for Brazil's North-east, FUNDINOR, a non-profit organisation sponsored by the Brazilian Federation of Industries and AID, undertakes promotion of industrial development in the same area.

304. India operates through the Indian Investment Centre with headquarters in New Delhi; it is financed and supported by the government and aims at attracting foreign capital. It has branch offices in New York and Düsseldorf and representatives elsewhere. In the US eight advisory committees have been set up composed of US businessmen. The Centre assists in the preparation

of project proposals, and in bringing suitable domestic and foreign partners together; it provides liaison with the government on the feasibility of investment proposals in terms of compatibility with the aims of the Five-Year Plans and policy towards foreign private investment; it carries out a systematic information programme in India and abroad about investment opportunities and conditions. In the period September 1961 - April 1965, the Centre received some 3,900 enquiries, of which over two-thirds from Indian entrepreneurs, the remainder from foreigners. In the same period, 80 projects had been approved with the assistance of the Centre involving total capital outlay of about $81 million (at present rate of exchange) of which foreign equity represented just under $11 million.

305. Ivory Coast - The machinery for publicising investment opportunities is not highly developed, and the country has relied largely on its links with the French government to establish contacts with likely investors. In its Embassy in the US, however, the Commercial Attache is a businessman employed under contract, an arrangement which seems to be working well.

306. Kenya - The government regards its machinery for publicising investment opportunities as not quite adequate and, in fact, most prospective investors are approached directly by the Ministry concerned with a particular project. The government is particularly anxious to improve the channels of communication in this respect and has proposed that the problem be tackled on a regional basis[a]. The machinery for processing investment proposals is straightforward and works reasonably quickly.

307. Pakistan - The government set up The Investment Promotion Bureau (within the Ministry of Industries) in 1959. With head office in Karachi and a regional office at Dacca, the Bureau

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(a) Proposals made at Addis Ababa Conference of Industrialists and Financiers organised by ECA and held January 1967.

inter alia formulates all programmes and policies for development of the private industrial sector, and promotes foreign as well as local private investment; it provides an information service on investment opportunities and conditions, and co-ordinates the processing of investment proposals. The intention is to establish promotion offices in the leading capital-exporting countries. From its creation until December 1964, the Bureau had accorded investment sanctions for hundreds of industries throughout the country, with a total investment of about $189 million (at the present rate of exchange), the foreign equity content being some $85 million.

308. Peru - Except through diplomatic representatives abroad, no specific investment promotion is carried out.

309. Tanzania relies on the National Development Corporation to arrange contacts with potential investors. For joint ventures with government participation, the machinery to process investment proposals works reasonably well, but for completely private initiatives, the procedure is slow.

310. Uganda - Because of the relatively large amount of domestic capital available, Uganda has not been obliged to make great efforts to attract private funds from abroad, and consequently the administration is not particularly well geared to do so. The government relies as much on the activities of foreign embassies in Uganda for making the investment prospects there known in their parent countries as on publicising its needs through its own embassies abroad. The responsibility for publicising investment opportunities now rests with the Ministry of Information. The machinery for processing proposals is straightforward and works adequately.

Policies and practices affecting foreign investors

311. Brazil - Brazil signed its first bilateral income tax agreement with Sweden[(a)] in September 1965, and negotiations have been going on with the US and European countries for the purpose of reaching some similar arrangements. Tax incentives in the form of accelerated depreciation allowances are available for certain industries to which government wishes to attract investment, e.g. some petrochemicals, shoes, meat packing and vegetable oil extraction. Tax exemptions and concessions are available for certain industries in the North and North-east, where a special development effort is being made, and companies established in Brazil, whether domestic or foreign can obtain a 50% tax credit if the amount of the credit plus a similar amount is invested in these regions in an approved project.

312. Industry enjoys a high degree of protection by tariff and other measures; authority in this respect is vested in the Council for Customs Policy, and the general policy followed is that tariffs on imports are only reduced for goods not produced in Brazil in sufficient quantity. Duty-free importation is available for authorised investments in respect of machinery and equipment for a series of industries such as for instance the tractor, metallurgical, ship building and heavy machinery industries. Partial exemption is available to other industries including chemicals and petrochemicals. Special exemptions are available in the case of investments in the North and North-east regions.

313. In respect of employment, it is provided that two-thirds of all employees of industrial and commercial firms must be Brazilian, and that two-thirds of the payroll must be paid to Brazilians. A foreigner can be paid no more than a Brazilian for similar work unless circumstances dictate otherwise.

(a) This agreement affords no relief in the critical areas of dividends, interest, royalties and service fees other than a reduction of the tax rate on royalties to 15%.

314. Remittances of profits and dividends are subject to restrictions in the sense that higher income tax is payable if remittances during a three-year period average more than 12% p.a. of registered capital plus re-investments(a). Repatriation of capital is not restricted; repatriations are deducted from the registered capital. The Central Bank is, however, authorised to prohibit capital repatriation as well as limit profits and dividend remittances to 10%(b) for short periods in case of serious balance of payments difficulties. In order to enjoy the investment incentives in force in Brazil, the foreign investor must obtain a certificate of authorisation from the Central Bank of Brazil; this applies also to re-invested profits(c).

315. India - The government's declared approach to foreign private investment is that there should be no discrimination between local and foreign entrepreneurs, while the latter should have full freedom to remit profits and repatriate capital. Tax incentives include a rebate off basic rate of income tax and eventual surtax for specified priority industries; a development rebate on the cost of new plant and machinery (to be charged against profits in the year of installation, but with an eight-year carry-forward facility); a five-year tax holiday, from commencement of production, for new industries under which they are exempt from tax up to 6% of capital employed. The remuneration of a foreign technician is totally exempt from income tax for a period of years. India has entered into a a number of double taxation agreements(d).

(a) In the particular case of industries providing luxury goods and services remittances in excess of 8% p.a. are treated as repatriation of capital.

(b) 5% for luxury goods and services.

(c) For details of legislation refer for instance 'Legislacao de Capitais Estrangeiros', Central Bank of Brazil.

(d) These agreements do not give exemption or even reduction of Indian tax in the critical areas mentioned in Chapter IV.

Domestic industry is protected by tariffs, and protection is reinforced by an import licence system.

316. Ivory Coast - There is a tax agreement with France. Inducements to foreign investors include tax and import duty reliefs on imported machinery, raw materials, components and spare parts and also tax holidays for certain business profits, normally for 5 years. In some cases, a long term tax agreement can be drawn up guaranteeing for periods of up to 25 years the level of taxation to which enterprises will be subject. Special exemptions are allowed inter alia on company stamp duty and registration fees. In addition, the free repatriation of both capital and profits is allowed. In 1962, repatriation of such funds amounted to $62 million and, by 1970, it is estimated that it may reach $135 million. The freedom to repatriate funds also applies to workers who enter the Ivory Coast from neighbouring countries, such as Upper Volta and send their savings home.

317. Kenya, Tanzania and Uganda offer basically similar inducements to foreign investors. These consist of an initial investment deduction allowance to "approved enterprises" of 20% in respect of new industrial buildings and machinery plus annual deductions, which together effectively allow 120% of such investment expenditure to be written off. Repatriation of capital and remittance of profits is permitted. Some tariff protection is provided, but this is not usual; tariffs have been used to provide protection for an industry in one country against imports from another East African producer. A significant addition to the general inducements is that Kenya provides industrial sites fully equipped with services, although there are cases where companies have said that they could not afford the rates charged at the sites, and have requested permission to go elsehwere and provide their own services.

318. Pakistan - offers a range of inducements which the government considers as favourable as those offered by any other DC. Double taxation agreements [(a)] are in force with the US, the UK, the Federal Republic of Germany, Japan, Sweden and Denmark. Among the tax incentives offered are a tax holiday for industries established between July 1965 and end-June 1970, available if, among other conditions, the industry is managed and controlled by a company incorporated in Pakistan with a minimum paid-up and subscribed capital of at least $10,000, and at least 60% of the profits earned during each year of the tax holiday are set aside either for expansion and development, investment in an industry listed in the Industrial Investment Schedule, or for the issue of bonus shares. The tax holiday is available for two, four or six years according to the geographical area and the industry in which investment is made. Special concessions apply to mining and shipping; the protection afforded domestic industry is high.

319. Regarding employment of expatriates, excluding temporary jobs, the rules are that expatriates must be replaced by nationals in accordance with the following schedule :

up to a monthly salary of $210	
commerce) industry)	only nationals should be employed by end 1967
over $210 to $525 per month	
commerce) industry)	75% nationals by 1968
over $525 per month	
commerce) industry)	50% nationals by 1968

(a) There is a modest reduction in dividend tax rates in certain cases, and Pakistan concedes exemption of royalties at the source. In general there is no reduction in tax on interest, but the agreements with the Federal Republic of Germany and Japan establish upper limits.

However, the deadlines (1967 and 1968) do not apply to new industries, and a foreigner may be retained permanently at the head of a foreign-owned firm; certain foreign technicians employed in Pakistan are exempt from income tax on their salary for a period of years, and all foreigners employed in Pakistan are allowed to make remittances to their home country up to 50% of their net salary (maximum $420 per month).

320. There are no restrictions on remittances to the home country of current profits. Capital invested in approved industries established after 1 September 1954 may be repatriated at any time to the extent of the original investment; earnings ploughed back with government approval may be treated as investment capital for the purposes of repatriation, as may capital appreciation.

321. Peru - Foreign capital can enter without discrimination as goods, machinery, equipment and money. There are no restrictions on geographical location in the country, but foreign participation is restricted in petroleum, insurance, aviation and radio/television. Special legislation applies to mining and electric power. A range of tax incentives are granted to promote investment in certain geographical areas and certain activities, frequently in association with total or partial duty-free imports[(a)]. There are no restrictions on remittances.

322. Peru has set up a fund, FINEPI, for the financing of pre-investment studies. FINEPI will finance, co-ordinate and assist in the preparation of development projects both in the public and private sectors. The Inter-American Development Bank has authorised a loan for this purpose, and it is understood that FINEPI has approached AID for a further loan.

(a) The most important legislation in support of general industrial development is the Law of Industrial Promotion of 1959.

Security of investment

323. Brazil - In the Constitution the right of property is guaranteed Brazilians and foreigners residing in the country "... except for the case of expropriation for public necessity or utility, or social interest, with prior and just indemnification in money" (Article 141, paragraph 16). With specific regard to foreign investment, Decree No. 55762 of 17 February 1965 provides that foreign capital invested in the country shall be given juridical treatment identical to that given national capital in equal conditions; discriminations not foreseen in the law are prohibited. Under the terms of the Investment Guarantee Agreement with the US in force since 17 September 1965, the full range of guarantees authorised by the US Foreign Assistance Act are available to US investors.

324. India - The government maintains that investment guarantees are generally not needed as the law provides full protection for private property. Article 31 of the Constitution provides that "No property shall be compulsorily acquired or requisitioned save for a public purpose and save by authority of a law which provides for compensation ....". A publication by the Indian Investment Centre(a) states that :

> "Once a finding of that kind has been made /i.e. that the foreign investment fits in with the balanced development of the country/ private foreign capital in India has the same safeguards as private domestic investment. It is protected by the Indian Constitution which expressly prohibits 'nationalisation' unless just compensation is paid (In fact, no manufacturing industry has been nationalised in the past). On more occasions than one, Government have declared that they do not subscribe to 'nationalisation' as an instrument of economic policy. Foreign capital is further protected by India's independent judicial system whose highly trained

(a) 'Introducing India to Overseas Investors', New Delhi, July 1966, p.10

judges and lawyers share a common devotion to the principle that the alien and the national stand on an equal footing before the law".

India has an investment guarantee agreement with the US[(a)] and a treaty with the Federal Republic of Germany[(b)].

325. Ivory Coast - The government has frequently reiterated its lack of interest in taking over foreign or domestic concerns. Article 10 of the Investment Code (Law No. 59,134 of 3 September 1959) provides for arbitration in disputes arising between investors and the government, procedures for arbitration to be fixed in each investment agreement. The Ivory Coast has entered into bilateral treaties for the promotion and protection of investment with inter alia Sweden[(c)], Switzerland[(d)]; there is an investment guarantee agreement with the US[(e)]. The Ivory Coast has ratified the convention in respect of IBRD's International Centre for the Settlement of Investment Disputes.

326. Kenya - The Constitution provides in its Article 19 inter alia that :

"No property of any description shall be compulsorily taken possession of, and no interest in or right over property of any description shall be compulsorily acquired, except where the following conditions are satisfied, that is to say -

(a) the taking of possession or acquisition is necessary in the interests of defence, public safety, public order, public morality, public health, town and country planning or the development or utilization of any property in such manner as to promote the public benefit; and

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(a) In force 19 September 1957, as amended 7 December 1959
(b) 15 October 1964
(c) In force 3 November 1966
(d) In force 18 November 1962
(e) In force 21 April 1962

(b) the necessity therefor is such as to afford reasonable justification for the causing of any hardship that may result to any person having an interest in or right over the property; and

(c) provision is made by a law applicable to that taking of possession or acquisition for the prompt payment of full compensation."

With specific regard to foreign investment, the Foreign Investments Protection Act, 1964 provides that "no approved enterprise or any property belonging thereto shall be compulsorily taken possession of, and no interest in or right over such enterprise or property shall be compulsorily acquired" except in full accordance with Article 19 of the Constitution.

327. A government sessional paper[a] gave consideration inter alia to the subject of nationalisation and observed that :

"Though the cost is great there may be circumstances when nationalisation will be needed -

(i) when the assets in private hands threaten the security or undermine the integrity of the nation; and

(ii) when productive resources are being wasted; or

(iii) when the operation of an industry by private concerns has a serious detrimental effect on the public interest; and

(iv) when other less costly means of control are not available or are not effective."

The sessional paper stresses the government's commitment to prompt payment of full compensation whenever nationalisation is used. The circumstances listed in the quotation would appear to give government scope for taking over virtually anything, but the government has reiterated that it is not interested in nationalising industrial concerns. It accepts international arrangements which facilitate private investment and already has an agreement with

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(a) 'African Socialiam and its Application to Planning in Kenya', April 1965.

the US[a] and a treaty with the Federal Republic of Germany[b]. Kenya has ratified the convention for the settlement of investment disputes through the IBRD International Centre.

328. Pakistan - "The government has declared in unequivocal terms that it has no intention to nationalise industries"[c], and "just and fair compensation is promised should circumstances or an emergency necessitate nationalisation"[d]. Pakistan has entered into an investment guarantee agreement with the US in respect of inconvertibility and expropriation - in force since 26 May 1955. A Treaty of Friendship and Commerce with the US has been in force since 12 February 1961, and one with Japan since 20 August 1961. A treaty with the Federal Republic of Germany for the promotion and protection of investment is in force since 28 August 1962. Pakistan has ratified the Convention in respect of the IBRD International Centre for the Settlement of Investment Disputes.

329. Peru - The Constitution provides in its Article 29 that "Property is inviolable ... no one may be deprived of his own except for reason of public utility legally proven and after appraised compensation". With specific regard to foreigners Article 32 provides that "Foreigners, as regards property, are in the same condition as Peruvians, without being able in any case to invoke an exceptional position in this respect or have recourse to diplomatic claims". An investment guarantee agreement with the US in respect of the risk of inconvertibility is in force since 16 March 1955. The particular issue of the La Brea and Parinas oilfields has been mentioned elsewhere in this report.

(a) In force since 20 April 1964

(b) Signed 4 December 1964

(c) 'First Phase of Comprehensive Industrial Investment, Schedule For Third Five-Year Plan Period (1965-70)', Government of Pakistan, November 1965, p. (ix).

(d) 'Special Supplement on Foreign Private Investment', Trade and Industry Publication, March 1966, p. 300.

330. Tanzania - By the Foreign Investments (Protection) Act 1963 protection was specifically given to foreign investments; existing and proposed, in respect of which the Minister responsible for finance at his discretion issues a certificate to the effect that the investment is "approved", i.e. furthers the economic development of or benefits the country. The Act provides that in case of compulsory acquisition by or at the direction of the government, the full and fair value shall be ascertained and the certificate holder be paid "a proportion specified in his certificate as the approved proportion". The Act provides for arbitration in case of dispute as to value; each party to appoint one arbitrator who jointly appoint a third.

331. The security of investment was dealt a severe blow by the nationalisation measures in February 1967. At the moment of writing, negotiations are still going on about compensation. Some nationalised firms, e.g. Dutch-owned banks, have reached satisfactory settlements with the government. Others, including British-owned banks, have not yet reached a settlement, and Tanzanian assets in London have been frozen by some banks as partial satisfaction for their claim. Others again, i.e. those foreign-owned commercial and industrial enterprises whose assets had only been expropriated to the extent of 60%, are engaged in negotiations which appear to be progressing satisfactorily; the understanding is that the government will honour certificates issued under the Foreign Investments (Protection) Act 1963.

332. Uganda - By provision of the Constitution and, with specific reference to foreign investments, the Foreign Investments (Protection) Act 1964, no property shall be compulsorily taken possession of or acquired; exceptions may be made in the interest of defence, public safety, public order, public health, town/country planning or development. The Act

of 1964 provides that in the case of compulsory taking possession of or acquisition of approved foreign investment, compensation for the approved portion as per certificate issued by the Minister of Finance shall be paid within six months from the taking of possession or acquisition. The Act makes no provision for arbitration, but the certificate holder may appeal to the High Court for the Determination of his interest or right, the legality of the taking possession of or acquisition, and the amount and prompt payment of compensation.

333. Since 29 May 1965 an investment guarantee agreement with the US has been in force. A bilateral treaty for the promotion and protection of investments was signed with the Federal Republic of Germany on 29 November 1966, and Uganda has ratified the Convention in respect of the IBRD International Centre for the Settlement of Investment Disputes.

Charges against foreign private enterprise

334. While all countries visited wished to attract foreign investment, there was in all of them some feeling that such investment is sometimes a mixed blessing and that foreign participation is not as positive a contribution as it could be; there are, of course, also groups who are strongly opposed to foreign investment in general. The charges against foreign private investors most frequently encountered are listed below :

a) they are not interested in the host country's development, but only in quick profits; hence do not enter basic industry, nor local processing of raw materials, and re-invest very little ('subsidiaries siphon off all their profits to parents'); waste resources by investing in non-essentials

b) they are reluctant to give local entrepreneurs a chance to develop, and resist local capital and management participation; this is not only detrimental to the formation of local capital and skills, but also to the

success of the investment, since the foreign investor remains apart from the host community

c) they demand too much; profits demanded are far in excess of those required in investors' home countries, as are some operational guarantees required; negotiations are prolonged and frustrating, as investors constantly change their minds about minimum requirements

d) they hold back on know-how and only provide collaboration within narrowly defined limits

e) they do little or no research on the use of locally available materials, or the adaptation of designs to local conditions

f) they impose franchise restrictions

g) they supply inadequate or substandard equipment

h) they overcharge intermediate products in an attempt to keep DCs out of the manufacture of the final product

i) they judge the investment climate without looking properly into the record and conditions of each country.

335. In an article in 'Commerce'(a) Dr Brahmanand Prasad of Patna University considers inter alia the benefits of the foreign private contribution in India. He observes that investment in the form of capital equipment costs India more than if investment had come as an inflow of funds, and equipment had been acquired through global tenders; further, that to some extent foreign know-how and technicians have been used, and paid for, unnecessarily, and that :

"Many foreign collaborators take care to see that import of technology is divorced, as far as practicable, from the imparting of that technology. Patents are used to this end, as are licensing arrangements, and many restrictive clauses written into collaboration agreements. Partial technologies are supplied, and fundamental research and development confined to the foreign partners' home firms."(b)

(a) 'Impact of Foreign Aid on India's Economic Development - Domestic Entrepreneurial Activity not generated in Desired Magnitude', Commerce, Vol. CXIV. No. 2910, Bombay, 18 February,1967, p.288

(b) Ibid., p. 289

PART II- PRIVATE ENTERPRISE RESPONSE AND VIEWS

Response of foreign investors

336. Brazil - In 1957 foreign private investment was $143 million and in 1959 $124 million, but it had fallen to $30 and $28 million in 1963 and 1964 respectively as a result of the restrictions imposed on foreign interests and the general political and economic difficulties in the country. Following some improvement in the investment climate, an increase was recorded in 1965 when investment was $42 million, and a further improvement was forecast for 1966.

337. India - Net foreign private investment in the private sector during 1960-62 was as follows[a]: ($millions converted from Rs. figures at rate $1 = Rs. 4.76)

	1960	1961	1962
Net inflow	10.9	5.9	6.2
Gross inflow (of which)	13.3	7.4	8.1
retained earnings	2.9	3.3	1.6
cash inflow	1.4	0.8	1.1
non-cash inflow	9.0	3.3	5.4
Outflow	2.4	1.5	1.9

Note: figures exclude foreign investment in banking and insurance companies and valuation charges have been eliminated, wherever possible.

Total foreign private investment in India stood at $1.4 billion at the end of 1961, and increased by approximately $203 million during the first three years of the Third Five-Year Plan (i.e. 1961/62 - 63/64[b]). The inflow is not sufficient to meet fully India's growing requirements[b].

338. Ivory Coast - Between 1960 and 1965, $385 million of foreign private investment was attracted. The government regards this as evidence of a successful policy in attracting foreign private capital to undertake the first stage of industrialisation in the country. The local business community regards the

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(a) Reserve Bank of India Bulletin, April 1966.

(b) 'India Welcomes Foreign Investment', Indian Investment Centre, April 1965.

continued political stability in the Ivory Coast as the real inventive to investment; in addition, the rapid rate of growth has been reflected in a steady increase in purchasing power in the country over the last few years. Unrestricted remittance rights have been a significant feature in attracting foreign capital.

339. Kenya - Private enterprise is responding reasonably well, although there are a number of sectors in which private investment is needed but has not been forthcoming. The foreign private investors in Kenya take a favourable view of local prospects and the market is an expanding one. The government's attitude is regarded as sympathetic and helpful and the services provided in the industrial estates are often considered an important bonus. This, together with political stability and - for approved investments - freedom to repatriate capital and profits, was regarded as an important inducement to investment. The decisive incentive features, however, are probably the reasonably rapid rate of growth that has been achieved over the last few years and the prospect that investment in Kenya will eventually benefit from the establishment of an East African Common Market.

340. Pakistan - Foreign private investment during the Second Five-Year Plan (1960-65) is recorded as follows[(a)]:

($ million at $1 = Rs. 4.76)

1960/61	19
1961/62	19
1962/63	17
1963/64	19
1964/65 (revised estimate)	21

The total is thus $95 million, against a Plan target for foreign private investment of $126 million. For comparison the revised figure for total external resources for Plan development expenditure is given as just over $1.9 billion; and that for

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(a) 'Evaluation of The Second Five-Year Plan (1960-65)', Pakistan Planning Commission, May 1966.

savings mobilised in the private sector for the same purpose as approximately $2.4 billion.

341. Peru[a] - Net foreign capital inflow amounted to $100.0 million and $128.3 million in 1965 and 1966 respectively. In these figures, foreign direct private investment accounted for $20.5 million and $38.0 million respectively. Total private foreign investment in Peru had a depreciated value in 1964 of about $700 million[b].

342. Tanzania - The annual net capital inflow was estimated at about $17 million p.a. in 1965 and 1966. To the beginning of 1967, the response of private investment was regarded as reasonably satisfactory. The February 1967 nationalisations have had an adverse effect on the investment climate.

343. Uganda - has not been very successful in attracting foreign private investment but this is thought to be due partly to the holding off of possible investors till an agreement can be reached on an East African Common Market. Of the $90 million of new private investment in 1965, most was locally generated. The business community in Uganda feel that there is currently a lack of any really decisive incentives to invest there. It is considered that only if a wider market can be provided on an East African basis, will the flow of investment increase. If this does not happen, then it is thought that new inducements will have to be offered by the Ugandan government.

Factors discouraging investment

344. Brazil - Domestic and foreign investors, while frequently disagreeing about the desirability of individual economic measures taken by the government since 1964, agreed that the total investment climate had improved somewhat during the last 2-3 years and that

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(a) 'Economic and Financial Review', Nov.-Dec. 1966, Central Reserve Bank of Peru.

(b) 'Marketing Profile - Peru', June 1966, US Department of Commerce, Overseas Business Reports.

in general the government was encouraging private enterprise[a]. The principal obstacle to new private investment is uncertainty about the monetary and general economic outlook[b]. Some foreign investors had made very small profits over the last few years and considered that the controls now exercised by the government make it extremely difficult to achieve reasonable profitability. With their prices controlled, and increases authorised by the government often too low to keep pace with inflation while annual sales volumes are generally static, some manufacturers have not felt encouraged to increase their investment. A considerable barrier to investment, especially by local entrepreneurs, is the pre-emption of the capital market by government with bond issues with monetary correction against inflation[c]. Taxes, while being qualified as reasonable by most of the domestic investors interviewed, were considered by some to be too high "particularly as you get very little in return from the government". Some foreign investors viewed the tax position on the issues discussed in Chapter IV with misgivings; they also considered that the ceiling on profit remittances was inequitable.

345. To those investors interested or potentially interested in exports, high unit costs were a matter of concern. Relatively large as the Brazilian market is, it is frequently too small for production to take place on a sufficiently large scale, and, furthermore, as one leading domestic industrialist said "virtually all infrastructure factors conspire against efficiency". It was accepted that such causes of high unit costs could only be tackled gradually, but other factors such as, for instance, inefficiency

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(a) One member of the present government pointed out to the author that "We believe in private enterprise - the burden of proof is now with private enterprise itself".

(b) Strong fears were expressed, particularly by domestic entrepreneurs, that public expenditure would not be kept within the bounds of available resources.

(c) One leading domestic industrialist expressed the view that "there has been a ruthless transfer of savings from the private sector to the public sector".

caused by excessive protection, and inadequate and very high cost coastal shipping could and should be tackled in the shorter term.

346. India - Foreign investors are attracted to India because as one of them said, "it is a large market now, and will be huge in the future"; this natural attraction has been strengthened by administrative measures to protect domestic industry, and foreign entrepreneurs invest in order to jump tariff and other barriers against imports. Government officials expressed concern over the high cost of money in MECs and over the restraints on capital exports imposed by some MECs, and felt that these factors had contributed towards keeping foreign private investment in India at a low level.

347. The most important deterrent factor in India was said to be political and economic uncertainty; what would be the political developments after the February 1967 elections and would the government put first things first and be able to push development investment without causing crippling inflation? Two quotations from Indian publications illustrate the doubts which domestic and foreign entrepreneurs expressed about the economic outlook. The Indian Institute of Public Opinion commented in December 1966(a):

> "If the Fourth Five-Year Plan should repeat the performance of the Third Five-Year Plan the political and social consequences will no doubt be deep and far-reaching. The emphasis on the infra-structure alone will not satisfy the masses. The new Government which will be sworn in after February 1967 elections will have to put first things first. It will have to lay stress on increased supply of consumer goods to the people as its foremost aim and it will neglect agriculture only at its own peril."

(a) 'Monthly Commentary on Indian Economic Conditions, The Wasted Years 1957 to 1966, The Crisis Years 1966 to 1971', Annual Number 1966, Vol. VIII No. 5, December 1966, page 39.

The Economic and Scientific Research Foundation, New Delhi, in a study of the impact of the proposed Fourth Plan expenditure on prices, commented[a]:

> "In fact, what is called for is not a stepping up in government plan outlays, but a radical transformation of the investment allocation programme and more efficient use of resources. It can be shown that a 10 per cent shift from large industry to agriculture accompanied by a marginal increase in overall economic efficiency (5 per cent) will not only increase the output by 10 per cent but curb a possible price rise by 0.7 per cent. In this context the postponment of projects like Bokaro (investment: Rs. 646 crores /$ 861 million at present rate of exchange/; output during the Plan: nil) which accounts for more than 20 per cent of outlay under "large enterprises" should help by curbing a potential price rise of 6 per cent, which is about a fifth of the total price increase expected during the Fourth Plan."

348. There was a widespread feeling that the government regards private enterprise, domestic and foreign, with suspicion[b] and that administrative controls are cumbersome and excessive[c]. On the other hand, several foreign investors already in India, while agreeing that the administrative controls create many unnecessary problems and delays, and that the government's reluctance to accept foreign majority in equity capital is sometimes a serious obstacle, expressed the view that there is good scope for private enterprise and pointed out that many foreign enterprises had been expanding and/or branching into new activities; they stressed that in spite of all difficulties the Indian government had honoured its commitments vis-a-vis the foreign investors.

(a) 'Fourth Plan: Inflation Without Growth?', Occasional Paper Two, Economic and Scientific Research Foundation, New Delhi, 1967, p. ii and iii (The views expressed in the paper do not necessarily represent the views of the Foundation's Governing Body)

(b) An Indian industrialist observed that "without good Indian contacts a foreign investor would take the first plane home after meeting government officials".

(c) One domestic investor mentioned that after 2½ years negotiation with the authorities and having obtained his 568th licence, he was at last able to initiate a new project.

349. Some found that the combination of taxes, controlled selling prices and free raw material prices prevented them from obtaining a reasonable profit, and in one case these factors had caused the investor to suspend a substantial expansion programme. The tax burden was generally considered heavy[a], the tax system extremely complicated and some foreign investors regarded the position in respect of dividends, interest, royalties and service fees as highly unsatisfactory. One investor in particular felt that the patents position was unsatisfactory. At the operational level, problems are encountered mainly as a result of inadequate infrastructure and of the difficulty of guaranteeing imported supplies by limited foreign exchange availability[b].

350. There was widespread concern about the effects of high costs on India's ability to export and earn the foreign exchange needed to sustain development; the high costs of the allegedly highly inefficient public sector undertakings are passed on to the whole economy. Imbalances in the industrial structure and scarcity of imported raw materials cause widespread under-utilisation of installed capacities, while protection leads to inefficiency also in the private sector. Labour is expensive, partly through over-staffing and partly because shortage of skilled men makes for high wages.

351. One foreign investor, producing for the domestic market but exporting a small part of his production, gave these figures

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(a) Some entrepreneurs stressed that the surtax element in the corporate tax penalises efficient use of capital. Domestic entrepreneurs also stressed that the high tax burden severely limits the amount of capital available for re-investment in the private sector.

(b) However, following devaluation in June 1966 aid funds were made available to ensure for a few months the adequate availability of imported supplies to industries representing about 80% of the country's industrial capacity.

for a raw material which makes up a good deal of his costs :

World price per unit of raw material	approx. Rs.2,600 - 2,700
Indian import duty 27½%	Rs. 715 - 742.50
Cost landed in India	Rs.3,315 - 3,442
Actual price of acquisition in India per unit of imported raw material	Rs. 4,600 - 4,700
Price per unit of locally produced raw material (available in limited quantities)	up to Rs. 7,000

The high costs are naturally reflected in the price charged for the final product in the domestic market; for exports the manufacturer obtains a licence to import the raw materials at world market prices and other cost reducing benefits.

352. Ivory Coast - There are few obstacles to private investment for import-substitution enterprises, but because the market is small, consisting of only about 4 million people, the bulk of new investment which must be attracted will have to be partially oriented to exporting.

353. Kenya - No factors in government policy appear to act as significant deterrents to foreign private investment. However, the domestic market is small and a larger market is needed. The re-establishment of the East African Common Market as envisaged under the June 1967 treaty of co-operation between Kenya, Uganda and Tanzania would be a step in the right direction. The prospects for developing industries for exports on a wider scale seem to be small because little or no profit can be derived from exports outside the East African area, partly due to relatively high local wage rates and internal transport costs arising from the distance between Nairobi and the coast (350 miles), which affects the import content of exports as well as the exported products.

354. Pakistan - The general feeling was that government was encouraging private enterprise, although there was some concern that with high taxation and increasing public expenditure relative to that of the private sector the role of private enterprise was

being reduced. High taxes have scared investment capital away from the market, and it is difficult to place new issues. Inflationary pressures have been increasing, but measures had been taken to check this development. The public administration was said to be cumbersome, and investment proposals to be processed with great delays; in this respect government officials observed that it might well be the case that, in some instances, the administrative machinery did not apply agreed policies speedily and quite in the spirit which government intended. The rules on employment of expatriates were found by some to cause considerable difficulty, but most investors agreed that they were rarely a decisive obstacle. The market in Pakistan is small at present and, as such, offers only a limited range of viable investment opportunities; however, there was a strong feeling that in spite of all difficulties a healthy rate of economic growth could be maintained and the growth prospects were a strong attraction for the foreign investor.

355. High unit costs, caused mainly by short runs, inefficiency behind protective barriers, and the scarcity and high cost of imported raw materials, were a matter of great concern to authorities and entrepreneurs. Pakistan must increase its exports, and the high cost structure puts the country in an extremely difficult competitive position. For instance, locally produced caustic soda was expected to cost Rs. 600 per ton but in fact the cost (including tax of Rs. 200 per ton) is Rs. 1500 per ton; the imported product lands at about Rs. 648 per ton. A certain size of locally manufactured tyre, to take another example, sells for Rs. 874 (including tax of Rs. 351) and has a foreign exchange component of Rs. 196 per tyre; the c.i.f. price of a similar imported tyre varies from Rs.253 to Rs. 397.

With the dangers of a high cost structure in mind, many domestic entrepreneurs were sceptical about the wisdom of Pakistan going in for a steel plant; it was accepted that local production would probably show a substantial exchange saving, but on the other hand the cost per ton of local output was expected to be some 40% above the world price.

356. In the context of protection of domestic industry some observations by Mr A.G. Riza, Chairman of the Tariff Commission of Pakistan, are of considerable interest[a]. Speaking on the basis of about 120 cases of application for protection of consumer goods and industrial inputs, presented by domestic and foreign investors during approximately five years, he pointed out "how divergent is the /cost/ picture at the time when the project is actually on the ground and starts its operation." For instance:

(figures in Rs. per unit)

a) a domestically produced fluorescent light tube was estimated to be priced at 4.75; in fact the price is 10.00, while the imported product costs 1.55 c. and f.

b) a basic pharmaceutical raw material locally produced was expected to be priced at 4.40; in fact the ex-plant cost is 12.00 and the imported product costs landed 3.00.

c) a chemical domestically produced was expected to cost 400.00; whereas in fact the cost is 600.00.

Other examples of expensive domestically produced chemicals are given and it is pointed out that "All these chemical plants are producing industrial raw materials. You can well imagine the impact of such a high cost raw material on the price of the end product which these raw materials would produce and the adverse effect that it will have on the prices in general". The snowballing effect on costs in general of consistently high cost of locally

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(a) A.G. Riza, C.S.P., 'The Need and Problems of Sound Investment Decision in Industries', speech made in Karachi 16 May 1967.

produced industrial inputs is all the more serious since Pakistan must increasingly rely on exports of manufactures to supplement earnings from traditional exports. In consequence "Every new industry should (except for the very initial period) contribute to the national foreign earnings and be able to pay for a part, if not the whole, of the foreign exchange required for its maintenance, through exports of its products. This would be possible only if the investment decision in setting up the industry has been taken on sound premises". Part of the cost increases referred to by Mr Riza is accounted for by increases in e.g. duties and sales taxes, but even disregarding such government imposed increases, there is frequently wide discrepancy between the investor's expectation and his performance. This would appear to be the result of incomplete or faulty pre-investment analysis and is part of the risk which private enterprise must accept. However, since governments may be asked to make up for wrong investment calculations by increasing protection[a] and frequently will find it difficult to refuse to do so, it is clearly of great importance to both parties that private enterprise should get its pre-investment figures right, and that governments should be able to check those figures effectively and be prepared to refuse protection, when the required level is too high.

357. Peru - Fiscal and balance of payments problems have been causing concern, and a widespread fear of devaluation has not helped to attract foreign capital; the sharply increased import tariffs decreed by the government on 7 June 1967, according to press reports, may help solve these problems, and will provide further incentive to speed up investment in import-substitution industries. The incentive legislation was considered good.

(a) Mr Riza poses the question of the level of protection, "Should the protection be 25%, 50%, 100%, 150% or 400%?", and adds "in some of the very high cost industries the quantum of protection needed would be very high".

In the particular case of mining, it was hoped that the Peruvian tax could be geared to that of the US; this would be a substantial incentive to new inducement by US investors.

358. Subject to appropriate government action to solve the fiscal and balance of payment problems, most investors considered investment in Peru an attractive proposition on the grounds that it offered a growing economy, general freedom from government restrictions, and generally reasonable operating conditions. Also in Peru the high cost structure is causing concern. Protection is high, efficiency frequently low; in part this could be overcome by reducing the level of protection, but since the domestic market is not large, investment in industries requiring to operate on a larger scale presupposes a regional or sub-regional market.

359. Tanzania - A major obstacle to new investment has been created by the nationalisation of banks, insurance companies and certain other concerns. Despite the fact that reports indicate that the government has already made fair settlements with some of the nationalised concerns, the uncertainty which has been created as to future nationalisation is a considerable deterrent factor. In any event the high level of production costs in Tanzania gave existing investors cause for concern. It was said that the costs of expatriates for example are three times as great as in Europe, while wages of domestic labour are rising despite the fact that the output per man is estimated to be lower in Tanzania than in either Uganda or Kenya. This is partly the consequence of the enforcement by unions of minimum wage requirements. The response of management has been to cut back on labour and to increase mechanisation. Even so, it was stated that in India the same equipment as that used in Tanzania will give double output over a single shift at half the wage cost. Also, electricity and water are highly priced.

there is a severe shortage of industrial sites with services, which raises the initial cost compared with an equivalent investment in Kenya, for example.

360. Uganda - An obstacle to further investment by private enterprise has been the uncertainty about the future prospects for an East African Common Market. The fact that the re-establishment of this market has been under discussion for some time and was considered to be just around the corner[a] has led prospective investors to delay implementing plans. Other factors of some significance are the need for more substantial taxation inducements to industries serving the Uganda market, and firm guarantees on freedom to employ key expatriate staff for a specified period of time. Again, in view of the pressures of domestic price inflation incentive payments are necessary to attract specialist expatriates, and a tax concession to offset such payments would be helpful. In fact, these secondary factors are probably more significant in deterring expansion of existing investment than in influencing decisions on new projects.

PART III - FERTILIZERS IN INDIA

Introduction

361. Production of adequate food for its people is India's most pressing problem. Since independence agricultural production has increased at an average of 4% p.a., but demand has been increasing faster as a result of increasing population and rising incomes. For self-sufficiency in food grain India's production must be increased from 88 million tons in 1964-65 to 125 million tons in 1970-71 and to 152 million tons in 1975-76[b]. The information I received from several sides in India on the prospects for sustained agricultural growth was frequently

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(a) A treaty was in fact signed in June 1967

(b) 'Fertilisers for Food', 1966, Government of India publication.

contradictory, but all those consulted agreed that a series of problems must be tackled simultaneously, notably to provide better transport facilities, training of the farmers, improved marketing, businesslike co-operatives, high yielding seed varieties, improved irrigation, increased number of tubewells, tractors, pesticide sprayers etc. The adequate provision of chemical fertilizers is perhaps the principal problem but, it must be stressed again, only one factor among the many on which simultaneous action must be taken.

362. Unfortunately, however, it has proved difficult to tackle India's fertilizer problem with the urgency required, and, for the purposes of this report, I consider it of great interest to review developments and the difficulties encountered.

Fertilizer requirements

363. There was general agreement that the Indian farmer was ready to use fertilizers. Land-tenure and the size of individual holdings would be influential factors in determining the extent to which fertilizers would be used[a], the smaller cultivator being probably less prepared than the larger ones to modernise. The families cultivating 30 acres or more (i.e. about 10% of the cultivators) were said by an agricultural economist to be the innovators and the chemical input-minded, and as prices have been moving in favour of the agriculturist since 1963, they have a strong incentive to increase their output. Consequently, this specialist was hopeful about the prospects for increasing use of fertilizers and sustained agricultural growth.

(a) The size of individual holdings varies under the law and depends on soil, expected rainfall and irrigation. There is no limit for non-irrigated land, in other instances the ceiling may be 20 acres. A representative of the Farmers' Forum mentioned that this ceiling had driven the good farmer off the land, since plots are too small for effective use and sufficient income. An agricultural economist explained that the ceiling of 20 acres may be owned by each member of a family and that, as a consequence of such holdings by families (which are the backbone of the Indian society), probably now 30% of the cultivators own 70% of the land.

364. Total fertilizer requirements in India are estimated[a][b] to be as follows over the period till 1971 :

(thousands of tons)

	Nitrogen	Phosphorous	Potash
1964-65 (actual)	555	149	69
1966-67	1000	370	200
1967-68	1350	500	300
1968-69	1700	650	450
1969-70	2000	800	550
1970-71	2400	1000	700

Production capacity - capital requirements

365. In terms of capacity to produce fertilizers, the position in India is approximately as follows[a] :

(thousands of tons)

	Nitrogen	Phosphorous	Potash
Plants in operation	586.5	210.0[c]	Negligible
Plants expected completed in 1967	309.0	204.0	
Plants expected completed in 1969	680.0	85.0 (Madras)	
Four private projects with foreign collaboration (Two at Kota, one at Goa, one at Kothagudem)	451.5		
	2,027.0	499.0	Negligible

Note: Actual output of Nitrogen will be about 80% of capacity.

366. There is thus a substantial gap between present firm or projected capacity and the conservatively estimated requirements. This gap becomes even more alarming when it is considered that it takes 3-4 years for a fertilizer plant to go into operation, and that by 1975-76 the demand is estimated[a] to rise to 5 million tons of nitrogen, 3 million tons of phosphorous and 1.5 million tons of potash.

(a) 'Fertilisers for Food', 1966, Government of India publication
(b) 'Report of The Committee on Fertilisers', 1965, Government of India.
(c) Existing superphosphate plants - actual output in 1965 was only 120,000 tons for want of raw materials.

367. The investment required to set up production capacities of this magnitude is by any standard very large. In India, a complex fertilizer plant with a capacity of 200,000 tons p.a. of nitrogen and 100,000 tons of phosphorous requires an investment of the order of $75 million, of which $30-35 million for imported capital goods[a]. It is clear therefore that the problem is of such a magnitude that its solution requires the co-operation of international organisations, governments and domestic and foreign industry[b].

Government policies and difficulties encountered

368. Already during India's First Five-Year Plan some efforts were made to popularise the use of fertilizers and to increase domestic production of, particularly, nitrogeneous fertilizers. By 1955/56 output had reached some 77,000 tons of nitrogen p.a.; this output was supplemented by imports of just over 53,000 tons; actual consumption was just over 107,000 tons. Consumption of phosphatic and potash fertilizers was also on the increase, and by 1960/61 figures for consumption were approximately 221,000 tons of nitrogen, 53,000 tons of phosphatic and 29,000 tons of potash fertilizers. Demand for nitrogeneous fertilizers was probably twice as much as actual consumption, but scarcity of foreign exchange prevented further imports to supplement domestic production of nitrogen, which by this time had reached 112,000 tons p.a.

369. Government responded to the rising demand by planning substantial expansion of manufacturing capacity, almost exclusively in the public sector, but various difficulties were encountered and progress during the Second Plan was slow. The

(a) 'Fertilisers for Food', 1966, Government of India publication.
(b) The need for such co-operation is brought out even more strikingly by the fact that estimates indicate that in order to produce the fertilizer requirements of all the DCs by 1975 new investments of the order of $7 billion will have to be made.

Third Plan saw strong emphasis placed on manufacture of fertilizers and, breaking with past policies, government now intended the private sector to participate in the expansion programme. Again, however, performance fell short of target. While it was expected to have, by 1965/66, a nitrogen capacity of 800,000 tons p.a. in the public sector and 200,000 tons in the private sector, actual capacities completed were 547,000 tons and 39,500 tons respectively[a].

370. Apart from teething troubles in one public sector project (which was in fact completed), the following reasons for the delay in executing the programme have been given :

a) the likely return on investment was low, since fertilizer selling prices were controlled at unremunerative levels
b) governmental controlled fertilizer distribution
c) government insisted on having majority equity in public sector projects.

These factors, of course, inhibited investment in the private sector, and also made it difficult to secure foreign credits or participation in public sector projects. In addition, there was the problem of free foreign exchange, while in one case a state government was unable to raise finance for a partnership with private enterprise.

New government policy and private enterprise response

371. In view of this situation (which was further aggravated by the fact that for various reasons - inter alia construction delays and labour trouble - actual nitrogen output in 1965/66 was less than half installed capacity) government embarked on a new policy designed to encourage private enterprise, domestic and foreign, in the fertilizer field. The principal features of this new policy are as follows[b]:

(a) Indian Investment Centre, New Delhi. Other sources give slightly different figures for the split between public and private sectors, e.g. 563,300 public sector - 18,000 - private sector.

(b) 'Fertilisers for Food', 1966, Government of India publication 'Monthly Commentary on Indian Economic Conditions', Annual Number 1966, Vol. VIII No. 5, New Delhi, December 1966.

a) foreign investors are welcomed in partnership with private Indian enterprise to put up fertilizer plants. They can have majority equity if they wish (this does not apply to public sector projects)

b) no sound proposal for which foreign exchange is available from private sources will be allowed to flounder for lack of rupee finance, which government will help find through India's financing institutions

c) controls on prices and distribution have been removed for a period of seven years after commencement of commercial operations. This applies equally to purely domestic enterprise and to partnerships with foreign participation, but only for those projects licensed by 31 March 1967. Government retains, however, the option to purchase 30% of the output from each plant at a negotiated price in order to ensure supplies to remote areas and development areas. The negotiated price ".... will be comparable with that charged by the plant management from its marketers or bulk buyers"(a)

d) a special high-level Committee of Secretaries has been set up by the government to expedite licensing and implementation of new projects

e) fertilizers are included in the priority sector, and import licensing procedures have been streamlined

f) adequate supplies of naphta will be made available to every plant requiring it as feedstock

g) rural credit facilities will be made available to facilitate marketing

h) fertilizers for seeding programmes will be made available to investors for three years prior to the commencement of production.

(a) 'Fertilisers for Food', 1966, Government of India publication.

372. Government hoped by these policy changes to ensure an installed capacity of 2.4 million tons of nitrogen by 1970/71, with an output of 1.6 to 1.7 million tons rising by 2 million tons when the plants were in full operation. However, although some progress has been made towards realising this target, as well as targets for phosphorous and potash fertilizers, it has not been as swift as government had hoped. The following factors appear to have deterred private enterprise in general and foreign investors in particular from investing :

a) misgivings about the political situation (elections were held in India in early 1967) which were reflected inter alia in efforts to have the licence application period extended beyond the 31 March 1967 (ref. paragraph 371 c))

b) doubts about raw materials for nitrogen; it has been suggested that India might advantageously use also imported liquid ammonia as feedstock in the fertilizer programme, while the government has maintained that domestic naphta supplies will be sufficient for the Fourth Plan programme (ref. paragraph 371 f))

c) fears that sufficient rupee finance will not be available, especially for private sector projects, or only through government institutions, which method of financing some foreign entrepreneurs were said to dislike

d) dislike of government insistence on control in public sector projects with foreign collaboration (however, government was said to be prepared to give appropriate guarantees until the foreign exchange loans are liquidated)

e) doubts about pricing and distribution conditions, when the seven-year period of freedom is up

f) doubts about the price the government is prepared to pay for its optional 30% of production

g) doubts that all in all it will be possible to earn a satisfactory return on the investment.

373. On the other hand, when during February 1967 I visited India, I gained the impression that both government and private circles were disappointed with the response of foreign private enterprise to the new policies, charging that would-be investors are asking monopoly conditions, and contrasting the general wrangle over fertilizers with the successful co-operation with foreign enterprise in a few fertilizer projects and in many other fields.

Concluding remarks

374. From everything I have been able to learn, the supply of adequate quantities of fertilizers in India is a case of deplorable delay in a matter of the utmost urgency, and of failure of government and private enterprise to come to terms. In order to tackle problems of this nature with the speed and efficiency required, I would urge that it be accepted:

a) that the investment required is so large that it will only be forthcoming if there is effective co-operation between governments, international organisations and private enterprise

b) that this is a field where foreign private capital and know-how can without a doubt make a substantial direct contribution to DCs, as well as an indirect one in the sense that its stake in a venture - considerable capital and an international reputation - will help increase the credit worthiness of a project

c) that conditions offered to the foreign investor must be competitive relative to other investment opportunities elsewhere. Investment will not be forthcoming if this is not the case, while on the other hand an investor will not pass up an opportunity which he considers

attractive. In the particular case of India, the government has slowly moved towards meeting the requirements of potential investors, but foreign investors' doubts have persisted on several issues. Whether these doubts are reasonable or not (and many government officials and domestic entrepreneurs as well as some foreign investors felt that they were not and that investors were attempting to take advantage of India's difficult position), it is clear that investors could not be expected to commit themselves in the period before a crucial election.

375. The suggestion mentioned in paragraph 372 b) that India might use imported liquid ammonia as feedstock for fertilizer manufacture is of considerable general interest. Fertilizers must be made available to DCs as cheaply as possible, and the use for this purpose of natural gas at present wasted in the oil producing countries is a highly interesting possibility. Security of supply and balance of payments considerations may in some cases be arguments in favour of relying on domestic supplies if possible, but considering the magnitude of the world's food problem is there not a strong case for pursuing a solution to the fertilizer problem on an international rather than a national basis?

CHAPTER VII

EXPORT OF MANUFACTURES AND SEMI-MANUFACTURES BY DCs

The need to export manufactures

376. Although the Development Decade has not resulted in great advances in the material well-being of the DCs it has emphasised the assumption throughout the world that growth is a mjaor economic objective. The most obvious possibilities for growth in DCs have been virtually fully exploited. The process of setting up industries to manufacture for import substitution has in many cases reached its limit. The still existing possibilities of increasing exports of traditional products are not particularly rewarding as their annual growth is limited by the slow rate of increase in world consumption, by competition among producers, and by the development of synthetic substitutes. The result is that, although the volume of production and exports may rise, prices are tending to fall. For all these reasons a point has been reached at which further growth is limited unless a new stimulus can be provided by branching out into exports of manufactures and semi-manufactures.

377. At the same time, industrial operations in DCs are now meeting their own limits of demand because of the often restricted size of domestic markets. This can mean that some plants are operating at too high cost, because the market is too small for economies of scale to be realised. To increase production DCs must find export markets.

378. Values of exports from DCs in 1962-65 are shown in Table 3, and Table 4 gives a breakdown by provenance and destination of world exports in 1955, 1960 and 1965. In the following paragraphs more detailed information is given of international trade flows.

Export performance

379. Table 12 shows that nearly 88% of the value of all exports from DCs is accounted for by primary commodities, fuels and minerals. It should be noted that ICs are considerably more important exporters not only of manufactures but also of all commodities other than fuels.

Table 12. Value of exports from DCs and ICs by main commodity groups
Average of 1964 and 1965
($ billion)

	DCs		ICs	
Primary commodities				
Food, beverages, tobacco		11.6		19.0
Industrial materials of which:		8.6		15.8
Agricultural raw materials	4.7		8.6	
Minerals and ores	2.1		3.3	
Non-ferrous metals	1.8		3.9	
Total of above		20.2		34.8
Fuels		11.0		4.3
		31.2		39.1
Manufactures		4.2		81.5
Total all exports (including other miscellaneous items)		35.5		122.6

Source: UNCTAD working documents

Among DCs exports of coffee represented just over $2 billion in 1963-65, sugar $1.8 billion, tea $600 million, rice and cocoa around $500 million each, whereas raw cotton was worth $1.25 billion, natural rubber $1.0 billion (about the same as oils and oilseeds); copper just over $1 billion, iron ore $700 million and tin (concentrates and metal) $430 million.

380. Total exports of manufactures and semi-manufactures represent less than 12% of total exports by DCs, and less than 5% of world trade in this sector. As can be seen in Table 13, showing the imports of manufactures and semi-manufactures by ICs, the most important product group is clothing (excluding shoes), cotton and non-cotton fabrics and other textiles. Together these account for 40% of total exports of manufactures and semi-manufactures by DCs. If carpets and rugs are added to the general textile group, the percentage rises to 45. Precious stones are the next in importance accounting for 7.6% of total exports followed by worked timber and furniture 5.9%. Manufactures of metal, which includes manufactured articles not specified elsewhere, represent 5.4% of the total. Thus the largest group - textiles - is the one that faces the greatest discrimination in ICs (see Chapter IX).

Table 13. Imports of manufactures and semi-manufactures by ICs from DCs 1962 and 1964

	1962	1964	Percentage of Exports of DCs 1964
	$ million c.i.f.		
Organic chemical products	29	51	2.1
Inorganic chemical products (SITC 513)	60	73	3.0
Medical and pharmaceutical products	17	19	0.8
Essential oils, perfume and dye bases	46	42	1.8
Manufactured fertilizers	13	23	1.0
Chemical materials and products(a)	29	27	1.1
Skins	65	84	3.5
Veneers, plywood boards etc.(a)	67	112	4.7
Threads and yarns	46	58	2.4
Cotton fabrics	128	192	8.0
Fabrics other than cotton	185	220	9.2
Special textile and related products	28	36	1.5
Articles made entirely or principally from textiles(a)	66	79	3.3
Carpets, rugs etc.	94	121	5.0
Pearls, precious stones etc.	107	182	7.6
Silver, Platinum	38	56	2.4
Generating machines other than electric	35	26	1.1
Telecommunication equipment	18	29	1.2
Boats and other craft(b)	37	60	2.5
Furniture	22	28	1.2
Clothing (excluding furs)	242	374	15.6
Shoes	28	40	1.7
Prams, toys, games etc.	26	52	2.2
Manufactured articles(a)	55	74	3.1
Total	1,481	2,058	86.0
Various	270	335	14.0
Final Total	1,751	2,393	100.0

(a) Not elsewhere specified

(b) Mainly re-exports

Source: 'Review of the implementation of the recommendations of the conference: review of international trade and development, 1966'
UNCTAD TD/B/82/Add.2

Destination of exports

381. Exports from DCs go largely to the ICs as illustrated by the following figures for 1955-65:

Table 14. Destination of exports (including manufactures) from DCs 1955-65

	Percentage of total value (f.o.b.) of all exports from DCs		
	1955	1962	1965
North America	25	22	-
EEC	22	24	-
EFTA	17	15	-
Other MECs	8	10	-
Total MECs	72	72	73
CPEs	3	6	6
DCs	24	22	21
Total exports from DCs	100	100	100

Note: Columns do not always total 100 due to rounding.

Source: UNCTAD 1964, E/Conf.46/141, Vol VI, p.75 and UN Monthly Bulletin of Statistics.

Trade between DCs represented 21% of the value of the total trade of the developing area in 1965; internal exchanges were worth $7.6 billion compared with $5.8 billion in 1955. But although the value has risen the percentage share of total trade has fallen in the last decade. More than 70% of inter-DC trade is in fact transfers between countries in the same geographic region. In Latin America, of total exports of metal manufactures worth $50 million a year, mainly from Argentina and Brazil, only 20% are sold outside LAFTA. In 1964, trade between DCs in different regions, measured as transfers between continental groups, amounted to only about 6% of the total export trade with a value less than the total export earnings of Australia(a). Thus the export

(a) 'Trade Expansion and Economic Integration Among Developing Countries'.

performance of DCs is less satisfactory when examined in detail than even the global figures would suggest. Although transfers between countries in the same region may well be statistically under-reported the contribution of this trade to the balance of payments position is not very considerable since the exchanges are often financed in soft rather than hard currencies which cannot be used to pay for imports from MECs.

382. The dependence of DCs on markets in MECs is likely to continue in the foreseeable future; it is to be hoped that in the longer term the CPEs and the DCs themselves will provide increasingly important outlets for the commodities and manufactures of DCs, but this is of necessity a slow process, the pace of which is to a large extent determined by the speed of general economic development in the DCs and on changes in the direction of trade by CPEs.

Growth of commodity exports

383. A principal objective of the Development Decade is to obtain a minimum rate of growth of 5% p.a. in real incomes of DCs by 1970. It has been estimated(a) that, in order for this to be achieved, the DCs' imports would have to be increased by about 6% p.a., and hence their exports would have to increase correspondingly in order to provide the required foreign exchange. It has been shown in previous paragraphs that the attainment of this export target depends, and for quite some time will continue to depend, mainly on primary commodity exports - mostly to MECs and CPEs. Actual performance during the late 1950s and early 1960s is illustrated below:

(a) UNCTAD 1964, E/Conf.46/141 Vol.II p.5.

Table 15. Annual rates of change in the volume and value of exports from DCs - main commodity groups - 1953/55 to 1963/64

(% change p.a.)

	Volume		Value	
	1953/55 to 1959/61	1959/61 to 1963/64	1953/55 to 1959/61	1959/61 to 1963/64
Primary commodities				
Food, beverages and tobacco	3.5	4.3	0.4	6.4
Industrial materials of which:	2.9	3.2	2.5	2.0
Agricultural raw materials (including fats and oils)	2.1	2.3	1.9	-0.2
Minerals and ores	5.2	5.6	4.6	5.5
Non-ferrous metals	4.2	4.4	3.3	5.6
Totals of above	3.3	3.6	1.5	4.0
Fuels	6.9	10.0	6.6	8.5
Total primary commodities	4.4	5.4	3.0	5.3
Manufactures	3.1	18.6	6.1	11.3
Total all exports (including other miscellaneous items)	4.4	6.5	3.2	5.8

Source: 'UNCTAD Commodity Survey 1966 (Part I)'

384. Overall export results for DCs during the first few years of the 1960s were, with increases of 6.5% p.a. by volume and 5.8% p.a. by value, reasonably in line with the 6% p.a. export target; furthermore, in the same period the terms of trade of DCs as a group did not deteriorate significantly. However, this picture of overall export results covers wide differences between commodities and countries. Exports of agricultural raw materials continued to face grave difficulties; in the food and beverages group the increase in value was largely due to exceptionally high sugar prices in 1963. On the other hand, exports of non-agricultural commodities fared reasonably well;

since 1959, the value of non-ferrous metal exports increased more rapidly than volume while in the case of minerals and ores there was only a marginal drop in unit value. Unit prices of fuels showed a slight decline despite the rapid increase in both volume and value - in fact fuel, almost exclusively oil, was only exported by some 15 DCs. Although non-agricultural commodities are not without problems, agricultural commodities give greater cause for alarm. In a recent publication, FAO[(a)] studied the trade prospects of DCs for selected agricultural commodities. Such projections are, of course, subject to wide margins of error, but are nevertheless of considerable interest. FAO analyses the subject in terms of the high income zone (MECs and European CPEs) and the low income zone (DCs and Asian CPEs), and concludes that even assuming conditions favourable to the trade of the low income zone, its net exports of agricultural primary and semi-manufactured commodities are likely to increase by no more than 2.5% p.a. compound by volume and 2.1% p.a. compound by value in the period 1961/63 to 1975. (This represents a substantial slowdown in volume compared with the period 1952/54 - 1961/63, when the figures for volume and value in respect of the commodities included by FAO were 4.7% and 2.8% respectively, but assumes somewhat steadier prices). In terms of total export value for individual items, coffee, cereals, cotton goods, fats and oils, roundwood, cocoa, meat, sugar, tobacco and bananas are all expected to show absolute increases to 1975. On the other hand, raw cotton, wool, jute, hard fibres and rubber are forecast to show absolute declines in export earnings; the total drop is likely to be of the order of $300 million during the projection period 1961/63 - 1975.

(a) 'FAO Agricultural Commodities - Projections for 1975 and 1985', October 1966, CCP 67/3.

385. The poor prospects for most agricultural exports from the DCs can be said to be determined largely by the following factors in the ICs, which provide the largest outlet by far for these products:

a) the relatively slow population growth

b) the very low elasticities of demand for many commodities, notably tropical beverages; there may, however, become changes in preferences, e.g. increased per caput coffee consumption at the expense of tea, which could only help some producers to the detriment of others

c) trade policies which restrict imports from DCs

d) technological changes in ICs, notably the development of synthetics, which compete with the natural products both on price and, more often technical performance. This process has been going on for many years and is increasingly displacing rubber, fibres, leather and, indeed, metals and timber. The impact of synthetics is illustrated in Table 16 below.

Table 16. Growth of consumption of the principal synthetic materials in MECs - 1953/55-1963/65

	1953/55	1959/61	1963/65
Man-made fibres[(a)] (mn tons)	1.6	2.3	3.5
as percentage of all apparel fibres[(b)]:			
by weight%	26	30	39
by value[(c)]%	32	44	59
Synthetic rubber (mn tons)	0.9	1.7	2.5
as percentage of all rubber	38	54	62
Plastic materials (mn tons)	3.0	6.7	10.2

(a) Cellulosic and non-cellulosic

(b) Cotton, wool and man-made fibres

(c) In terms of 1961/63 average prices.

Source: UNCTAD document TD/B/C.1/28, 22/12/1966, Annex I, p.1.

It is unlikely that there will be changes in the factors a), b) and d) above which would significantly improve the export prospects for DCs. Individual exporting countries might be able to take advantage of specially favourable circumstances,

while quality improvements, cost reductions and improved distribution methods might improve the competitive position of some natural products vis-a-vis synthetics, but on the whole it would appear that only marginal improvements are likely.

Commodity agreements

386. International commodity agreements are the basic instrument by which it is hoped to stabilise prices or to raise them. Unfortunately, such agreements have had only limited success to date, although the present International Coffee Agreement is proving reasonably satisfactory. In its ten years of operation the Tin Agreement has been successful in keeping prices within the limits set for about half the time.

The problem is one of consistent oversupply which means that pre-determined artificial prices cannot be maintained, since one or another producer will circumvent the market mechanism to dispose of surpluses. There must be a will on the part of participants to make a commodity agreement work and virtually all supplies to world markets must be effectively controlled, including those from new producers, thus necessitating the regulation of output. In a stabilisation agreement the price range must be realistic, although there must also be a degree of flexibility to permit adjustments to meet long-run changes in demand or supply conditions or in the face of external political or economic developments. This is a formidable but not exhaustive list of conditions, and begs the question of whether a commodity agreement should be used as a medium for channelling aid, through high prices, or be simply a mechanism for adjusting short-term price fluctuations. Fundamentally, however, the greatest difficulty is to reach agreement between suppliers and consumers, who often do not agree among themselves, that mutual benefits can be derived from a regulated market.

Trade barriers in ICs affecting traditional exports

387. Restrictive measures in ICs can usefully be divided into two broad groups: those that have a revenue function and those that protect domestic production. It has been estimated[(a)] that in 1962 the major MECs together derived $0.8-$0.9 billion from customs duties on primary commodities, notably on sugar, beverages and petroleum (the figure excludes duties on petroleum in the Federal Republic of Germany and on petroleum and tobacco in the UK). It was similarly estimated that revenue from excise duties other than customs duties amounted to something like $6.0 billion mainly from petroleum and tobacco. In response to recommendations of the UNCTAD 1964, steps have been taken by some MECs towards removing customs charges (e.g. on bulk tea, cocoa and raw coffee) and it is to be hoped that such action will continue. However, large as the above figures are, the impact on export volumes of revenue raising measures does not appear to be great, since most of the charges are levied on commodities with relatively inelastic demand. More important are those measures designed by ICs to protect their domestic production e.g. by quantitative restrictions, price support for domestic production and tariffs. Clearly, this is only relevant when the same or competitive commodities are produced in substantial volumes in both ICs and DCs e.g. sugar, cereals, meat, tobacco, fats and oils, cotton and wool.

388. In supporting their own agriculture, some of the ICs are trying to raise agricultural incomes to the level of those earned by other sectors, as well as ensuring certain levels of agricultural outputs for strategic reasons. It has been estimated[(b)] that "the outlay of consumers and taxpayers in the EEC, the UK and

(a) UNCTAD 1964, E/Conf.46/141, Vol. III, p. 31 para. 115.

(b) UNCTAD 1964, E/Conf.46/141, Vol. III, p. 26, footnote 23.

the US in support of domestic agriculture (employing less than 30 million workers) is thus of the order of $10 billion a year - more than half of their outlay on imports of all primary products from the developing countries".

389. Various estimates have been made of the effect of barriers in MECs to trade in primary commodities on the annual export earnings of the DCs - see Table 17. Since the categories in the table overlap they cannot be added together, but serve to indicate the order of magnitude of the potential gains to be derived if these barriers were removed.

Table 17. Effect of barriers to trade in MECs on annual export earnings of DCs

	$ million
Agricultural protection in ICs	2,000
Sugar protection by existing methods compared with a deficiency payments system	357-525
European duties and excises on coffee, cocoa, bananas	110-125
US surplus disposal	685

Source: 'Economic Policies Towards Less Developed Countries', Harry G. Johnson, The Brookings Institution, Washington 1967

Outlook for traditional exports

390. Clearly, as far as agricultural commodities are concerned some improvements are possible in the export performance of DCs within the present pattern of trade, if appropriate action is taken internationally and nationally by both ICs and DCs.

391. In this context, while it would seem logical for DCs to participate increasingly in the processing of indigenous commodities it should be remembered that in economic terms this logic often turns out to be more apparent than real. In the case of cocoa for instance, with several processing plants in operation in producing countries, the general experience suggests that they cannot compete with plants in consumer countries

due to high initial investment (a result, for instance, of the need for refrigeration), and higher maintenance cost (climate, imported spares etc.) among other factors. Difficulties are also created by the distance from the consumers, who each may require a product tailor-made to his special requirements. Thus, processing plants in producer countries may be uncompetitive on cost and quality grounds regardless of barriers in importing countries. This is, of course, not an argument in favour of the often substantial import tariffs on cocoa butter, cake and powder, for example, in ICs but simply a reminder that the removal of such barriers does not automatically make DCs fully competitive.

392. Thus the situation facing commodities produced by the DCs is far from encouraging. If the FAO projections prove to be correct, exports of tropical commodities, increasing at the rate of 2.1% p.a. in value to 1975, will lag behind the annual increase in population in the producing countries of 2.6% during this period. Commodity agreements can act as a form of aid by raising prices paid to the producers above the free market level, but this might well be at the expense of direct aid and would tend to encourage higher production. Commodity agreements would probably provide more effective help by stabilising prices to the benefit both of producers and consumers. Fundamentally, however, no commodity agreement can secure a return to the period of high prices and booming demand. The only real answer lies in diversifying exports, which means new investments, new policies, and also a new approach from ICs.

CHAPTER VIII

THE PROMOTION OF EXPORTS OF MANUFACTURES AND SEMI-MANUFACTURES

The trade policies of the DCs

393. The commercial policies pursued by the governments of DCs vary greatly with the degree of development reached. Broadly, however, the objectives are similar in that the governments hope to achieve:

a) the development of processing of domestic raw materials and of import-substitution industries

b) an inflow of investment from foreign private sources to help fill in gaps left in the development programme remaining after obtaining aid from official sources

c) a growing volume of exports of processed or manufactured goods.

These aims can be pursued by several measures all of which in the short term involve some sacrifice of revenue.

394. New import-substitution industries are often high cost, which will be reflected in higher consumer prices. When a commercial policy intended to expand import-substitution and increase exports is applied, the dependence of DCs on official aid will almost inevitably increase. The import bill for capital goods and some manufacturing inputs will rise thus putting an additional strain on the balance of payments position.

395. If DCs are to diversify their economies and escape from their reliance on a few basic primary materials, without excessive cost in foreign exchange, they must adopt a set of priorities for their development programmes commensurate to their needs, and their ability to pay. This may well mean that progress is slower than

expected, but it will be more certain. During the next 25 to 50 years, the DCs could quite possibly be so burdened with the foreign exchange costs of development that their commercial policies towards imports, especially of consumer goods, will become increasingly repressive. In this connection, some countries have reached the stage where it would be wise to review and consolidate their industrial achievement. This could be done by allowing only the most badly needed imports for agriculture and existing industries, and by being highly selective in granting licences for new industries.

Tariffs and quotas

396. Inconsistencies in commercial policy are often evident in the tariff schedules of many DCs. At government level there is a conflict of interest between the Treasury, to which tariffs are a source of revenue, and the ministries concerned with trade and industry, which see them as means to promote investment. A number of governments in DCs have not resolved the problem that a tariff which is effectively protective cannot be a source of revenue at the same time. Also, tariffs imposed for revenue purposes are not always changed when a reduction is required to stimulate a particular operation - for example, in Pakistan a manufacturer of matches paid a higher duty on imported raw materials, chemicals and cardboard, than an importer paid on foreign matches. The situation arose because packaging materials and products used in the manufacture of fireworks were regarded as a reasonable source of revenue by the Ministry of Finance. In Malaysia a higher duty on unworked sheet metal than on finished corrugated sheeting was justified by the Ministry of Finance with reference to statistics which showed that import of corrugated sheeting was very small by volume and thus of little revenue interest, while that of unworked sheet

was very substantial and hence yielded a higher revenue; the net effect was to raise the costs of the domestic corrugated sheet industry and to give a tariff advantage to imported supplies.

397. The best solution to the problems of making ad hoc changes in tariff schedules to cope with the development of the economy, is probably to create an impartial tariff commission, such as currently exists in, for instance, Australia, Brazil, India, Malaysia and Pakistan. This body can help resolve the conflicts which arise between revenue requirements and commercial needs.

398. Quota restrictions because they are more effective than tariffs, can result in higher costs. In Brazil, when quota restrictions were placed on the import of tractors at the request of the local industry, the price of locally-built tractors rose to a level which could not be absorbed by the coffee exporters; the government then abolished the quota. If quotas are used, they should be geared to price, as occurs in Mexico where import licences are granted for products restricted by quota when the price of the domestic product rises higher than a fixed percentage above that of imports.

Export incentives

399. The need for export incentives is well demonstrated by the record of South Africa's export performance; "Even South Africa, with over a generation of industrial experience, has not yet been able to export manufactured products in any appreciable volume outside of Africa"(a). Thus there is a real need for all possible stimuli to increase exports.

400. The range of export incentives available to governments include systems whereby a company's imports are related to its export performance; devices to penalise firms failing to meet

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(a) 'The Economics of African Development', Andrew W. Karmarck, Pall Mall Press 1967.

a given export target; rebates on export prices or other forms of subsidy, and even artificial exchange rates to give exports an advantage.

Examples of export incentives

401. (a) Africa. In the Ivory Coast no significant incentives to exports are provided nor is any promotion undertaken by the government which is currently considering the question of export incentives. In Tanzania no special provisions are made for the encouragement of export-oriented industries. There are no special tax incentives or investment funds for such industries and no export credit is provided. On the other hand, the government assists in the marketing of primary crops abroad. The same situation applies in Uganda which, as it is 800 miles from the nearest port, is in any case badly situated to export manufactures overseas. In Kenya, the same basic conditions apply as in its East African neighbours, but as it has more manufactures and semi-manufactures to offer than Uganda and Tanzania the problem of exports has been given greater consideration. Steps taken include the setting up in June 1966 of an Export Promotion Council, 80% of whose members are private businessmen, to encourage greater interest in exporting by the private sector. The Council has recommended various measures to ease government regulations which hinder exporting from Kenya, including the suggestion of a double tax allowance on expenses incurred in export promotion. This and other proposals are currently under consideration by the government. Government policy is to find markets for sales of manufactures in neighbouring countries and a trade delegation has visited the Sudan, Ethiopia, the

UAR and the Congo Republic to find outlets for exports from Kenya. The Ministry of Commerce and Industry has always tried to assist exporters through trade visits and publicity. The Export Promotion Council, however, has now assumed responsibility for trade fairs, missions and exhibitions in foreign markets.

b) India. The Indian government has assumed the major part of the cost of promoting exports, through official agencies which function as follows:

i) the Ministry of Commerce conducts detailed studies of export prospects in foreign markets; disseminates information on tariffs and trade regulations in importing countries and is responsible for taking suitable measures to raise quality standards of exports

ii) the Export-Import Advisory Council, through which exporting industries can communicate their problems to the government

iii) Regional Export Advisory Committees, consisting of local businessmen and representatives of government, have been set up in major ports and centres to allow traders to raise specific export problems.

iv) Export Promotion Committees have been set up by some of the state governments

v) the Department of Commercial Intelligence and Statistics, apart from the compilation of statistical information, maintains a register of important foreign firms interested in trading with India; mediates in commercial disputes with foreign firms and gives trade introductions to exporters.

vi) the commercial representatives in embassies and consulates are responsible for undertaking market surveys and assessing potential demand for Indian products in their areas

vii) the Indian Institute of Foreign Trade, an autonomous body in which government, trade, industry, universities and research institutions are represented, undertakes and sponsors market research in foreign countries and provides training courses in export promotion and techniques at the managerial level

viii) state trading organisations are intended to supplement private enterprise efforts in promoting exports and the State Trading Corporation is responsible for handling trade with East European countries

ix) Export Promotion Councils - seventeen have been set up on a product basis ranging from basic chemicals to woollen textiles to advise manufacturers and exporters on market prospects and carry out export surveys

x) the Export Credit Guarantee Corporation provides facilities to insure against export risks and offers supplementary credit.

The direct export incentives provided to industry were temporarily cancelled on devaluation of the rupee, which the government saw as the most useful overall step for increasing the competitiveness of Indian exports. But export bonus schemes are again operating with cash bonuses ranging from 10 to 20% of the f.o.b. value of exports. Import licences are granted in proportion to exports; the ratio can be 5 to 90% of f.o.b. value of exports. Duty drawback is permitted on all exports. Priority deliveries at world prices of essential raw materials to exporters are granted.

c) Pakistan. Institutional arrangements for promoting exports consist of:

i) The Export Promotion Bureau which offers general guidance to exporters and publishes statistical data on exports and weekly bulletins on export/import opportunities. It works in conjunction with the Pakistan Trade Offices abroad and, as in the case of India, offers mediation services in the settlement of disputes, certain market information and handles trade exhibitions abroad

ii) The Import and Export Control Organisation grants export registration certificates and, where necessary, export permits

iii) The Pakistan Insurance Corporation operates an export credit guarantee scheme

Among export incentives are export bonuses which are generally 30% on f.o.b. value for manufactures. The corresponding bonus vouchers are freely negotiable - at present they have a market value some 50% in excess of face value - and can be changed for import licences permitting imports of a large number of specified goods[a]. Rebates are given on import duty and excise duty paid on imported content of exports. Refund of sales tax is made on finished goods or raw material content of exports. Income tax rebates are granted on export earnings. For new industries with an appreciable export potential a tax holiday is granted for periods of two to six years depending on where the industry is located in Pakistan (see also Chapter VI, paragraph 318).

(a) 'Selling Overseas', Export Promotion Bureau, Karachi.

Bilateral trade agreements

402. Bilateral trade agreements are one of the measures open to DCs to increase trade, without jeopardising their payments position. Often these are drawn up to overcome the difficulties arising from the fact that the currency of one or both is incompatible. Trade is controlled by import licence. When the level of reciprocity and the list of goods to be exchanged can be determined in precise terms, and the balance of trade preserved such an agreement can be very useful, e.g. that between India and the UAR. The dangers of bilateral trade agreements are:

a) when only a value target is specified, but not the items involved, exchanges usually fall far short of the target and often the trade becomes unbalanced

b) there have been cases of agreements between a DC and a country exporting manufactures when primary commodities shipped from the DC, often at a special price, were re-exported by the importing country thus competing in world markets with the normal exports of those commodities by the DC

c) sometimes the manufactures imported by a DC under the terms of the agreement fall short in performance and value of equivalent manufactures available on the world market, so that the real benefits of the trade are less than would be suggested by the total value of exchanges.

Even the most effective bilateral trade agreements only offer a limited solution to the problem of increasing exports and their proliferation results in tied trade which can be of less benefit than progress in freeing multilateral exchanges.

Regional integration

403. The problem of small populations in many DCs has led to increasing pressure towards regional integration. Although countries with populations of less than 10 million can achieve a high rate of economic growth, as witness the rapid expansion of industrialisation in the Ivory Coast, Tunisia, Jamaica and even Israel with a population of only 2.5 million, the small scale of the market will set limits to expansion unless special factors are involved. The large, capital-intensive, industries, including iron and steel, fertilisers, pulp and paper, most capital equipment and a range of durable consumer goods, cannot find markets in many DCs large enough to support them. Even a populous country, such as Mexico, has only a relatively small domestic market in terms of purchasing power. To encourage export of manufactures, except in cases where the DC has a unique advantage in raw materials, capital formation or skills, a large domestic base is needed to raise the volume of production and so to reduce costs. The population figures of the DCs outside Asia show how few large units exist:

Africa - of a total of 57 independent states or dependent territories only nine have populations of over 10 million. Of these only three are above 20 million - Nigeria (45 million), the UAR (28 million) and Ethiopia (22 million). All, but two of the rest are below 10 million,(Algeria and Tanzania).

South America - of a total of 14 independent states or dependent territories, only four exceed the 10 million population mark - Brazil (78 million), Argentina (22 million), Colombia (17 million) and Peru (11 million).

Central America and the West Indies - total population of 75 million is divided into 32 dependent territories or independent states, but only Mexico (40 million) has a greater population than Cuba (7 million).

404. In the real world, regionalisation may be a somewhat elusive solution to today's problems. The difficulties faced by the EEC in drawing up the Rome Treaty were very great indeed despite a habit of co-operation dating from Marshall Aid, and the real desire of the partners to achieve agreement. In DCs the problems while not so sophisticated are just as great. The most fundamental of these is that most DCs have been independent for so short a time that their governments have scarcely had the opportunity to exercise their independence. All forms of integration, even simple trade agreements or schemes to rationalise certain industries only, call for a degree of abnegation of sovereighty. In Central America, the countries which set up the Common Market had been pursuing independent policies for upwards of 100 years; the governments had already tried various prescriptions to stimulate growth on a national level and had come to realise by experience that integration was the only solution.

405. Further practical problems arise from differences in experience of colonialism. Liberia, the Ivory Coast and Ghana all have had different histories over the last 100 years, from which have evolved differing political systems and habits of thought. Co-operation between Ghana and Sierra Leone, or The Gambia, would be much more practical in terms of administration than between Liberia, the Ivory Coast and Ghana, although the latter arrangement would make more sense in geographic terms. The evolution of different political theories again creates considerable difficulties in co-operation - Guinea and Senegal or Burma and Thailand would find it extremely difficult to merge their economic policies. National rivalries are equally important. It requires a considerable degree of sophistication to accept that, if one country has a brewery, its neighbour should not have one also. This kind of economic rivalry, which

does not stop at breweries but has escalated to steel mills, causes jealousies and fears which lead to a considerable waste of investment resources. Another major obstacle to co-operation are the suspicions and uncertainties surrounding moves towards regional agreements for the co-ordination of industrial development. These require a considerable degree of co-operation, which cannot take place if the parties concerned are not convinced that what has been decided on paper will ever be implemented. Many DCs have still to realise, however, that while it is possible for a small state to be independent, it is in the logic of the market system that only in exceptional circumstances will it be prosperous.

Integration in Latin America

406. The author agrees with Lincoln Gordon(a), former US Ambassador to Brazil, that LAFTA "first propounded almost two decades ago by UN Economic Commission for Latin America under the leadership of Raul Prebisch "can, notwithstanding widespread fears and resistances" come "to constitute the great divide in Latin America's political and economic history". LAFTA consists of Argentina, Brazil, Chile, Colombia, Ecuador, Mexico, Paraguay, Peru and Uruguay and Venezuela; Bolivia is also considering accession. The Treaty became operative in 1962, but progress on regional integration has not been very rapid. Internal tariff concessions are offered on over 50% of all the member countries' national tariff items, together with concessions extended only to the less advanced members on a further 40% of tariff items. Inter-regional exports have increased from about $300 million value in 1961 (6% of total trade) to nearly $640 million in 1965 representing 11% of the total trade. Although the Treaty provides for agreements on co-ordinated allocation of industries, only two agreements have so far been

(a) 'Punta del Este Revisited', 'Foreign Affairs', July 1967.

finalised. LAFTA has serious geographic limitations such as the isolation of Mexico from the other member countries, and communications between, say, Peru or Chile and Argentina present problems as great or greater than those from Mexico to, for instance, Brazil. The progress so far made in tariff changes and moves towards integration at the practical level, probably represents all that can be achieved without considerable sacrifices on the part of member countries. New integration measures, as outlines in the action programme of the Declaration of Presidents of OAS Member States(a), would undoubtedly hurt some countries to the benefit of others. In Peru, for example, wage costs and protection are so high that the example was cited of a shirt costing $15 while one in Colombia, of superior quality, cost only $5. Peruvian industry is understandably nervous of the consequences of greater competition. A further real need if trade is to flow freely is for an alignment of monetary policies. The setting up of smaller groupings, on Benelux lines, within the Association, e.g. to include the Pacific Coast countries and Mexico, has been suggested as a first step towards integration, which is too difficult to achieve on a continental scale between countries at different stages of development with inadequate communications.

407. The other grouping in the area already in being is the CACM - Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua. This is only a small area with a population of 12 million, in which the freeing of internal trade has been reasonably fast. Tariffs on imports from member countries have been abolished on almost all items other than a few agricultural products, while a common external tariff has been agreed for 98% of all tariff items. Since the Treaty was signed in 1960, internal trade has been expanding extremely rapidly. In 1950, it was worth

(a) 'Declaration of Presidents', Punta del Este, 14 April 1967.

$8 million (3% of total trade) while in 1965 it had grown to $136 million (16% of total trade). Foreign private investment has also been stimulated by the creation of the Common Market and, in 1964, was 18% greater than in 1963. CACM took 10 years to reach the treaty stage and only the help of the US made it possible to set up the requisite joint institutions, especially the Central American Bank for Economic Integration (CABEI). Industrial co-ordination has not proceeded very rapidly - there is only one regional industry categorised as an "integrated industry" with a monopoly position, this has had an unhappy history and may lead to a revision of the concept of "integrated industries". One of the benefits of the Common Market of interest to private investment is the work of CABEI to promote exports on a regional basis. Market studies are being carried out on a world-wide basis to discover possibilities for exports of manufactures. The production of such exports to meet estimated export demands may well offer a field of new investment opportunities to private industry. Such a programme could never have been executed by the individual member countries.

408. Also, in the same area, Guyana, Barbados and Antigua have signed the Caribbean Free Trade Area Agreement (CARIFTA). The geographic situation of the three participants and the discrepancies in their populations (600,000 in Guyana compared with 60,000 in Antigua) do not suggest that its immediate practical advantages will be very great. On the other hand, the Agreement provides for the accession of other Caribbean countries and might be the starting point for a much wider grouping.

Integration in Asia

409. An Association of South-East Asian Nations consisting of Indonesia, Singapore, the Philippines, Thailand and Malaysia was proposed in August 1967, but at the time of writing the possible

economic provisions of the Association have not been announced. The current Regional Co-operation for Development between Iran, Pakistan and Turkey could have a promising future. It aims at establishing a regional infra-structure and specialisation in the establishment of a wide range of industries. So far, however, it has not taken any steps to free internal trade so that market opportunities remain unchanged. In the Middle East, an agreement was signed in 1964 to establish an Arab Common Market by 1974.

Integration in Africa

410. In Africa, effective co-operation - established over 30 years ago - exists between Kenya, Tanzania and Uganda. In the last three years, however, this was eroded to the extent that a common East African currency no longer existed and trade between the member countries was subjected to restraints. This occurred because the exchanges between the member countries became extremely unbalanced; in 1964, Kenya's exports to Tanzania were three and a half times greater than the return trade; thus, temporary quotas were imposed on imports from Kenya in both Tanzania and Uganda in order to enable these countries to build up their own industries. The imbalance was to be ameliorated by a regional scheme for the allocation of industry under the Kampala Agreement which was never implemented.

411. In June 1967, however, a new treaty was signed to re-establish the Common Market on a practical footing, with the use of compensations to iron out the uneven trade flows. The treaty emphasises industrial investment financed by an East African Development Bank with a local capital amounting to $16.8 million and prospects of a further $11.2 million from foreign sources. To overcome the imbalance in industrial development between Kenya and its two partners, Uganda and Tanzania can draw up to 38.75% each from total Development Bank funds. In addition, tariff

protection for up to eight years is permitted for developing industries within the Common Market. This is to be arranged by means of a transfer tax[(a)]. Under this arrangement Tanzania will charge a transfer tax on certain manufactured imports from Kenya and Uganda, while exports of these items from Tanzania to these two countries will not be subject to the tax. The treaty is a practical answer to most of the problems facing the three partners and appears to be a very hopeful initiative. The member countries have indicated that other African countries notably Zambia and Malawi could join the agreement.

412. The Central African Customs and Economic Union (UDEAC) consisting of the Congo (Brazzaville), Chad, Gabon, the Central African Republic and Cameroon, which is an enlargement by the addition of Cameroon of the former Equatorial Customs Union, has a population of about 10 million. Trade, labour and capital move freely between the member countries and a common external tariff has been agreed on, but in present conditions it provides little stimulus to development.

413. Morocco, Algeria, Tunisia and Libya are aiming at a Maghreb Economic Union but this is still at the discussion stage.

414. The West African Customs Union of Dahomey, the Ivory Coast, Mali, Mauretania, Niger, Senegal and Upper Volta was established in 1959 but never became operative. A new treaty was prepared in March 1966 but very little practical results have emerged.

(a) The transfer tax system empowers a country which is in deficit in total trade in manufactured goods with its other two partners to impose transfer taxes upon such goods originating from the other two countries up to a value of goods equivalent in each case to its deficit with that country. But the tax can only be imposed if similar goods are manufactured or are expected to be manufactured within three months in the tax-imposing country. The industry to be protected must also have a capacity equal to at least 15% of total domestic consumption of such goods or to the value of $280,000, whichever is the less. The maximum rate of the transfer tax is 50% of the tariff on goods imported from outside East Africa.

Among the abortive efforts at free trade areas across the sterling franc zone frontiers are the ill-fated Casablanca Group Customs Union; the initiatives taken by President Nkrumah to link first Ghana and Upper Volta, and then Ghana and Niger; and the exploration of common market possibilities between Guinea, the Ivory Coast, Liberia and Sierra Leone. At a practical level the prospects for economic co-operation in West Africa are probably brightest in the attempts of the Ivory Coast and Senegal to agree on a common programme of industrialisation developing step-by-step as opportunities occur.

The benefits of regional integration

415. Now is the moment when maximum benefit could be derived from co-operation on a multi-country basis. Investment in infra-structure is urgently needed by most DCs but unless the roads and communication systems needed to link neighbouring countries are built now, scarce resources will be spent on large-scale projects by single countries which would not be relevant to future regional co-operation. Regional integration presents an opportunity for industrial development and agricultural improvement to be set in motion in the most efficient and economic way. However, they can only be realised by a spirit of co-operation which will cut across local and national differences and run counter to the trend towards separatism. What DCs have to realise is that mistakes in investment policy, once made, have to be lived with, and that economic nationalism is all too often pursued at the expense of national prosperity.

a) Benefits to the economy

416. The real spread of prosperity in most, if not all DCs, depends to a large extent on agriculture. Costs of agricultural

improvement, however, are often very great and generally foreign private investment plays only a small part now compared with the early days of plantation crops. In a larger regional grouping, it is probable that investment in fertilizers, for example, will become possible; a nitrogenous fertilizer plant requires a very broad market base, and it has been calculated that, even in a DC country as large as the Federation of Nigeria with a population of 40 to 50 million such investment at its present stage of development would not be economic. The production of other modern aids to agriculture usually requires a broader base than a single market, e.g., tractors, storage facilities, irrigation pumps. All these could be provided by private investment.

417. The research necessary to improve crops has traditionally been carried out on a multi-country basis but with decolonisation research institutes are tending to duplicate each other's efforts e.g. cocoa research is now carried out in both Ghana and Nigeria - a duplication of effort than could be avoided by integration.

418. ECLA has calculated(a) some savings that could be achieved if industry was organised on a regional basis in Latin America. It has been estimated that, if the forecast demand for steel over the next decade was met on a regional basis, investment capital of up to $3,700 million could be saved compared with the expenditure involved in meeting this demand by national production programmes; in addition, the direct cost of annual production could be cut by at least $400 million. In the case of aluminium, savings in capital investment on a regional scale would be about $57 million or virtually a third of the total investment necessary to meet demand on the national level. But it is not only in heavy industry that considerable savings can be achieved. Larger

(a) 'The Process of Industrial Development in Latin America' E/CN.12/716

markets for consumer products would reduce the unit costs of manufacture for import substitution. All savings arising from regional development can be regarded as potential new investment capital.

419. In many parts of the world regional integration would be the greatest single factor in attracting foreign private capital in substantial volume. Thus for the governments concerned, there would not only be increased inflows of funds but the probability of greater choice between competing investors for given projects.

420. It was one of the great virtues of the never implemented Kampala Agreement that it made provision for zoning industrial activities between the three East African countries. Thus, in theory, the problem of unequal distribution of investment, and consequently of uneven economic growth, would have been overcome. This system of specifying in which country different types of plants will be permitted can be of great benefit in accelerating industrialisation in small countries which would not attract investment without access to a larger market. It emphasises, however, the need for planning on a regional scale and for a ruthless avoidance of duplication at the national as well as the regional level, thus achieving a better use of both foreign and local development funds, both of which are scarce resources.

b) Advantages to private enterprise

421. For an investor with a plant in one country, which agrees on integration with its neighbours, there is the opportunity to operate at fuller capacity, and scope for expansion. For international companies operating in many countries, regional integration could result in considerable operating economies. Most DCs are extremely reluctant to permit foreign companies to have access to their markets from another DC, so that international concerns are expected to set up subsidiaries in every country

in which they decide to operate. In a regional market, this type of duplication could be avoided and economies effected in transport and distribution net-works as well as in management, thus releasing funds for further investment. New investors are always attracted by larger markets. Although their motives are based on greater efficiency for less capital employed, the gains from efficiency can be reflected in increased diversification of production and in lower consumer prices.

c) Stimulus to export promotion

422. The main benefits of regionalisation towards promoting exports of manufactures and semi-manufactures are:

i) a broad market base is provided in which economies of scale can become effective, thus enabling export prices to be more competitive

ii) by enabling a range of industries to be developed, increased use of local materials and products becomes possible

iii) selling goods in neighbouring countries provides some of the practical experience necessary to market exports in third countries

iv) the promotion of exports, especially of agricultural products, can be carried out on a multi-country basis, which saves the costs of duplicating separate promotional efforts. At the same time better unit prices may be realised if production is co-ordinated

v) the processing of primary products for export may be more viable if carried out on the basis of higher volume of inputs collected from more than one producing country

vi) where large enough markets exist, foreign private enterprise, with its exporting experience and skills, is more likely to take up investment opportunities.

These benefits, however, can only be maximised if world trading conditions are such that manufactures from DCs can obtain reasonably free access to markets in ICs. Also regionalisation which results in inward-looking integration and highly protective external tariffs would do little to increase export prospects except for intra-regional exchanges.

Concluding remarks

423. The lesson which the MECs have learned in the last two decades that advanced technology requires larger and more closely integrated economic units, applies with considerably greater force to the DCs. The days when any country can cover all its requirements in research, development and manufacturing capacity are over, except in the case of the two super powers, the US and the USSR. What is happening today in the MECs in the fields of aeronautics, electronics and nuclear engineering is widening the gap between them and the DCs. To have the prospect of holding their own in the world of tomorrow, DCs must make the best use of the resources available to them for investment, and of the know-how offered by foreign private enterprise. It may be difficult to accept, but it is nevertheless the case, that the number of investments which can be effectively made at national level whether in MECs or DCs, is decreasing and will continue to do so.

CHAPTER IX

OBSTACLES TO THE EXPORT OF MANUFACTURES AND SEMI-MANUFACTURES

Introduction

424. How difficult it is to promote exports is illustrated by the remark made by an expert from a DC "that if the potential of export-oriented industries were appraised exclusively on the basis of present prices and costs, the developing countries would have nothing to offer"(a). The problem of increasing exports of manufactures and semi-manufactures is not one which DCs can solve by their unaided efforts. The first part of this chapter deals with the domestic difficulties facing DCs in boosting exports, the second with the trade policies of ICs and their relationship to the problem.

PART I - DIFFICULTIES IN DCs

Manufacturing costs

425. High manufacturing costs are the main factor in the uncompetitiveness of DCs. Insufficient systematic research into comparative costs has been carried out. A 1961 study, however, gives figures of unit production costs in Latin America compared with those of the US over a sample range of 54 to 66 products (see Table 18). This shows that in 1961 except for 26% of the sample plant costs were higher than in the US. Labour costs were lower on 68% of the samples, but material costs were equal to or higher than US costs on 86%, while plant overheads

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(a) 'Measures for the Promotion, Expansion and Diversification of Exports of Manufactures and Semi-Manufactures from Developing Countries', UNCTAD, TD/B/C.2/43.

were equal to or higher than the US on 65%. Sales costs in Latin America tended to be lower than in the US, while "other" costs were higher, so that total unit costs of 69% of the samples were above those of the US.

Table 18. Comparison of Latin American with US unit costs

Percentage of samples + = higher or equal to US costs

\- = lower than US costs

		Plant Costs				Sales	Other	Total Unit Cost
		Material	Labour	Overhead	Total			
Argentina	-	8	83	25	8	67	22	25
	+	91	17	75	91	33	78	75
Brazil	-	23	64	45	45	67	17	45
	+	77	37	55	55	34	83	55
Mexico	-	13	73	53	28	56	56	31
	+	86	27	47	72	44	44	69
All other Latin American countries	-	7	57	7	7	27	18	14
	+	93	43	93	93	72	82	85
Total Latin America	-	14	68	35	26	56	30	31
	+	86	32	65	75	44	71	69

Note: All pairs of figures do not total 100 due to rounding

Source: 'Costs and Competition' by Theodore R. Gates and Fabian Linden, The Conference Board, New York 1961.

426. On the basis of impressions received during his visits the author believes that in many countries a comparison now would be even less favourable to Latin America than appears from that of the table. It should, however, be recognised that not all manufactures from all DCs are high cost, e.g., most cotton textiles and the manufactures from some more advanced DCs such as Taiwan and Hong Kong are certainly competitive.

427. The component elements of high manufacturing costs are set out below. In addition, there are two major factors which contribute to high total costs, namely high rates of interest (in Brazil often 40% p.a.) and high levels of corporate taxation (see Chapter IV).

a) Raw material inputs: As shown in Table 18 above, material input costs in Latin America are generally (86% of the samples) higher than in the US. In India, scarcity of many raw materials causes under utilisation and raises production costs, while e.g. the cotton textile industry is uncompetitive with that of neighbouring countries partly because the price of raw cotton in India is higher. To give another example, while canned tuna from Japan can be landed c. and f. Hamburg for less than CFA[(a)] 40 per can, it can only be exported at a price of CFA 50 per can from the Ivory Coast, because there the fish is bought from foreign industrial fishing vessels, and the ground nut oil used is more expensive than the colza oil used in Japan.

b) Other inputs: For the canning industry in many DCs, e.g. Kenya, can costs are high because of the need to import tin and because of the small runs of any given can size possible, due to low demand, in local can-making plants.

c) Labour: Labour costs including social charges are not always low in DCs. As shown in Table 18, in Latin America nearly a third of total labour costs are equal to or higher than in the US. Labour costs in Peru were

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(a) Communauté Français Africaine franc

described as the highest in Latin America partly on account of the prevailing exchange rate. This is reflected in the fact that the more labour intensive industries, such as fish meal manufacture, are finding more difficulty in exporting than highly capitalised ones such as copper mining which is competitive in world markets. In Africa and Asia, labour costs are often higher per unit of output than in Latin America, partly because of over-staffing. In India, this is considerable and is a consequence of social policies which are desirable in themselves, and has less effect on the internal economy than on exports in that it is a means of redistributing income; consumers pay higher prices but wages are shared over a greater number of workers.

d) Fuel and power: In many countries the cost of fuel and power is a considerable factor in contributing to higher manufacturing costs, while often power is in short supply and failures raise operating costs. I was told that in the US 1 kilowatt of electricity used in an aluminium plant costs 0.003 cents while in Brazil it is 0.024-0.035 cents, and that fuel oil which generally costs 80% of the crude value, in Brazil costs 120% plus a further 20% tax.

e) Capital equipment: Failure to permit duty free entry of capital equipment used for exporting means that import taxes must be absorbed in manufacturing costs; in several countries industrialists complained of the inferior capital equipment of domestic manufacture used because of import controls, which reflects on operating costs.

f) Under-utilisation of capacity: In India this was cited as an important contributory factor to high production costs. In Peru, the overlapping investment evident in the eleven vehicle assembly plants in operation means inevitably too high unit costs.

g) Short production runs: These, which are due in many cases to the small size of the market, are also a major burden on costs.

h) Indirect taxation: In several DCs, although rebates are permitted on import duty and excise tax paid on imported content of exports and on any sales tax paid, the delay in obtaining payment of these rebates must be regarded as a further contributory cost. The effect of delayed payment of rebates is of a compulsory interest-free loan to the government equivalent to duty etc. paid. In India some sales taxes and other incidental taxes, e.g. that on electricity, are not refunded to exporters.

i) Transport costs: High internal transport costs which are common in DCs raise the cost of imported equipment and materials, of local inputs supplied over any distance, and of movement of exports to ports.

Export marketing

428. There are other domestic obstacles in DCs to increased exports. They are of less basic importance than manufacturing costs, but affect export performance in varying degrees. The experience and know-how of foreign private enterprise could be of assistance in finding solutions from which both parties would benefit. It is important that the international organisations concerned should study ways and means of associating private enterprise - organisations and individuals - with the preparation

of reports to overcome these problems. The problems included in this category concern: export skills, market research, design and quality control.

a) Lack of export skills. For any DC trying to export new products a knowledge of export procedure is a first requisite. In fact, in many DCs even internal distribution of manufactures is not well organised or executed. Export sales are considerably more difficult and require a range of knowledge of procedures far different from that necessary to operate a domestic sales network. Getting in touch with foreign buyers, arranging for shipment and payment terms are relatively expert functions of which many manufacturers in DCs have no experience. Governments often do their best to provide advice and facilities. But the seller must become familiar with export techniques, and such problems as packaging for export and adequate storage at docks to build up consignments for ships, as well as the overall programming of production to ensure that supplies are available for exports. Inadequate performance in these respects is revealed by late deliveries of goods to buyers, failure to meet specifications and the incidence of breakages and damage in transit. Unless the volume of exports from a given plant is relatively large it will not cover the expense of hiring management with the necessary export skills, so that government help becomes necessary. But governments do not always possess the experienced staff needed for active export promotion and support. An effect of this lack of export skills was described by the Minister for Industries and Natural Resources in Pakistan, Mr. Altaf Husain:

"The question of business morals in some cases militates against the expansion of the volume of our industrial exports. Instances have been brought to light when samples sent to prospective foreign buyers were of good quality but when the order was obtained the actual supplies did not conform to the promised standard. There have been cases too where an exporter has aimed at a single transaction with high profit earnings and then, after supply of sub-standard goods, cleared out of a particular export market leaving behind an impression which can be better imagined than described."(a)

b) The need to acquire market information. DCs do not face the marketing problem on the same scale as large manufacturing concerns in MECs since they generally aim at exporting production surplus to domestic demand. But even to dispose of relatively small surpluses it is necessary to find willing buyers. Knowledge of markets is usually obtained by market research, which DCs often cannot afford to conduct on a worthwhile scale. Instead they rely on information provided by embassies abroad which can be useful in pin-pointing particular opportunities but is generally insufficient to provide an analysis of likely future demand trends. Professional market research provides information not only on the gross demand for a given product but also on price elasticities, design standards, packaging, consumer preferences and analysis of competitive products. Research of this type is expensive, often too expensive for relatively small-scale producers. Hence exporters are ill-equipped with the basic information necessary to achieve a significant breakthrough in export sales to

(a) Speech to the All Pakistan Exporters' Convention, Dacca, 10 December 1966

overseas markets. There is often great uncertainty as to where they should try to export their products and sales are made on a trial and error basis with little or no data upon which to base a programme for expanding exports. Thus in the field of manufactures, particularly, where DCs can be competing directly with manufactures from ICs the scales are weighted against them from the start.

c) Design. In many cases the manufactured products exported by DCs do not match the design and quality standards expected in industrial markets. This is the consequence of different levels of taste and acceptability in DCs and ICs. In many cases a simple, not particularly well-finished, but robust product is required in the domestic market of a DC. In MECs, however, design standards are considerably above the merely functional level. This is the result of competition between large-scale manufactures who gain customers by offering products which not only perform their function well over a reasonable period, but are also of pleasing appearance. Manufacturers in DCs are chronically short of trained designers capable of making significant improvements to the appearance of products. Nor do they operate on a large enough scale to afford design, research and the consequent frequent change of capital equipment necessary for periodic improvements or modifications to their products. Again this is a function of the smaller scale of operation in that capital equipment such as dies and presses is not so quickly written off in DCs as in MECs so that the costs of changing the equipment are considerably greater.

In MECs built-in obsolescence can be economic in that dies for example, may well be worn out in, say, two years and hence designs can be changed when replacement is due. Equivalent equipment in a DC may well last for ten years before being fully written off, thus frequent changes in design would call for a very much greater capital expenditure with a loss incurred on the equipment replaced.

d) Quality. The quality of many manufactures from DCs is below that of the equivalent product from a MEC. This is often the result of manufacturing to serve a protected domestic market where the customer cannot choose on quality grounds because imports are either not available or are considerably more expensive than the domestic product. On general economic grounds it can be argued that quality should always be as high as possible as this affects performance. On the other hand, in countries with low incomes per head the social benefits of cheaper, if lower quality, products cannot be denied; it is better to be able to buy cheap simple shoes than not to be able to afford to buy shoes at all. Thus there is a conflict between the needs of the domestic market and those of possible export markets which is particularly acute in the case of consumer goods. The need for quality is extremely great if DCs are to break into fields in competition with industrial producers. Even in markets in DCs themselves the choice of products of reasonable quality, often at modest prices, is considerable. Suppliers from Japan, Hong Kong and Europe set quality standards in a cheap price range which other would-be suppliers must match. The importance of quality and

quality control in relation to exports of manufactures cannot be too strongly emphasised.

Other problems

429. There is a further series of export problems to which governments of DCs must pay attention: exchange rates, export taxes, protection, export motivation, co-operation with business, shipping, and economic planning.

a) Exchange rates. In many DCs economic growth is accompanied by inflation which, if not controlled, leads sooner or later to devaluation which if carried out too frequently undermines confidence in the value of the currency. As inflation goes on prices and wages go up, and then artificial devices such as multiple rates of exchange, export bonuses, etc. are necessary to make exports possible. But mostly the subsidies, whatever their form, fail to cover the increased cost in exports.

b) Export taxes. Although taxes on exports are not universal they are a recurrent feature of commercial policies in DCs. In theory export taxes are a charge to the consumer in the importing country and should result in a transfer from the importing country to the revenue of the exporting country. In practice, however, because of pressures on prices, the export tax cannot be passed on fully to the consumer and thus becomes also a levy on the profits of the manufacturer who absorbs it in his final selling price. Thus there is a transfer of funds from both the importing country and the manufacturer to the revenue of the exporting country. In the Ivory Coast for example, export tax is levied on plywood and veneer and on exports of palm products e.g. palm kernel oil and cake. In East Africa no export taxes apply except in

the case of coffee, where the device is used as a deterrent to increased planting.

c) Protection. The effect of protection on imports is generally to raise the price. In cases where many industries benefit from protection and tend to be high cost, locally manufactured components included in the finished product for export will bear a proportion of these high costs. Thus there are direct and cumulative effects on export prices arising from manufacture in a protected market. Competitive pressures are often reduced or removed, so that exporters are priced out of world markets.

d) Export motivation. In many DCs manufacturers are not anxious to export. This is generally because they command better prices in the domestic market as a consequence of protective tariffs and because the margins to be obtained on export sales are often nil or very low. Where a strong domestic market exists, in relation to the capacity of the manufacturing units concerned, there is no inducement to manufacturers to try to export. Governments may in these cases exert pressures on manufacturers to divert resources to export sales which otherwise would have been devoted to fulfilling domestic demand. Another factor is the past experience of manufacturers who have attempted to export at great expense but without success. In present conditions investment in manufacturing, both domestic and foreign, in DCs has tended to aim at the domestic market. Plants are usually sited in the centres of densest population which are not necessarily close to suitable ports. Product lines, packaging and

presentation are also slanted directly to the domestic market and are often unsuitable for sale overseas.

e) Co-operation with business. The contribution that private enterprise can make to exporting is considerable (see paragraphs 453-457). Governments can use the services of experienced private businessmen in a range of activities. In India, and other DCs, businessmen play a role in advising on export promotion through official committees. They supply invaluable information based on experience, which would not otherwise be available to government or to other businessmen. Governments obtain this advice very cheaply and should not ignore the possibilities consultation with private enterprise offer; this is a form of co-operation with private enterprise that could be expanded.

f) Shipping. High costs of shipping were a general complaint of exporters. In part this is due to the conditions existing in some of the ports in DCs where the handling of goods is often relatively expensive. Storage facilities are not always adequate for growing volumes of exports or are designed for primary commodities rather than manufactures or semi-manufactures which sometimes need cold storage or shelter rather than open sheds which are suitable for many sack-packed bulk crops. The conference lines themselves have not always adjusted to a bigger volume of manufactures as return cargoes to ICs rather than bulk crops. Sometimes the export quantities shipped are small and hence the cargo make-up consists of a range of different items each loaded and stored separately, thus raising handling charges. In the Ivory Coast exporters complained that

shipping costs were very high and that return freights to Europe ex-Abidjan, on plywood for example, were double those charged on manufactures shipped from Europe. In India it was claimed that the conference lines are charging very high freight rates which can equal the f.o.b. value of some of the products exported(a). In addition there are no regular shipping services to some of India's potential export markets. India is attempting to solve the problem by building up its own merchant fleet but this may not reduce freight rates - since the costs of ships being built in India are estimated to be 60% higher than world market prices. In Pakistan the main problem encountered was the shortage in services on some specialised routes e.g. Chittagong to Singapore. The Brazilian exporter is not allowed to choose for himself the ship on which his coffee is to be transported. He must use liner freight and pay conference rates which are higher not only than tramp rates, but also higher than those from competing countries in Africa. In December 1965, conference rates for coffee were:

	US cents/lb
Brazil/New York	2.08
East Africa/New York	1.94
West Africa/New York	1.89

g) Economic planning. The export policies of the DCs tend to be geared closely to the expectations in the national plans. But these plans are not always reliable guides.

(a) 'Seminar on Export Promotion of Non-Traditional Commodities' - The all India Manufacturers Organisation and the Engineering Export Promotion Council (Western Region), Bombay 1966.

A comparison of a highly convincing projection[(a)] of the rate of growth of exports from a number of DCs with the rates of growth assumed for exports in the national plans of these countries, reveals very wide divergencies. These projected annual rates of export growth are compared with planned rates in Table 19 and show margins of error ranging from -48 to +50%. Although trade projections can only be broad indications, in many cases the margins of error are so great that the targets set in the national plans cannot be regarded as a realistic basis for formulating commercial policies. Indeed, when performance demonstrates the inaccuracy of the planned targets, changes in economic and commercial policies will be necessary.

(a) Low and High projections made by A. Maizels in National Institute Economic Review, No. 38, November 1966, London.

Table 19. Export growth rates: a comparison of planned and likely rates of growth 1960/61-1975 in certain sterling countries

	Plan rate of growth	Projected rate of growth			Margin of error in Plan
		Low	High	Median	
	% p.a. compound				%
Ceylon	2.7/3.0	1.6	1.8	1.7	-37/43
Federation of Malaya	4.1	3.3	3.9	3.6	-12
India	6.5	3.1	3.6	3.4	-48
Pakistan	6.2	3.5	4.4	4.0	-35
Ghana	5.9	4.9	5.9	5.4	-8
Kenya	3.8	3.9	4.9	4.4	+16
Nigeria	5.5	8.0	8.3	8.2	+49
Tanzania	6.7	3.9	4.5	4.2	-37
Uganda	4.4	3.7	4.1	3.9	-11
Zambia	4.3	4.9	5.6	5.3	+23
Jamaica	4.0	5.4	6.5	6.0	+50
Trinidad and Tobago	2.2	2.4	3.1	2.8	+27

Note: an error of -50% in the planned annual rate of growth of exports will result in a 60% shortfall in the actual value of exports in the fifth year of the plan.

Source: Low and High projections made by A. Maizels in National Institute Economic Review, No.38, November 1966, London.

PART II - DIFFICULTIES IN ICs

The trade policies of the ICs

430. Trade policies both in DCs and ICs, especially in times of economic pressure, tend to be nationalistic, and domestic interests are generally those which take priority. In theory, protection should allow vulnerable or infant industries, which are protected, to organise or re-organise themselves and to become more efficient and competitive. In fact, this result is rarely achieved; the original motive for the protection is lost sight of and the cost structure of these industries is often higher than if the market were open.

431. The commercial policies of the ICs have a great impact on trade and investment. In CPEs quantitative restrictions and price support for domestic production are the main protective measures. As the economic situation in several CPEs has been improving, exports from DCs to CPEs have been increasing from about 3% of total exports from DCs to over 6% between 1955 and 1965. The proportion of exports from DCs to MECs has in that period remained relatively stable rising by only one point to 73% of their total exports.

432. Those who, like the author, consider development as the basic issue facing the domestic and foreign policy of all DCs in the remaining years of this century, must be well aware that no great progress can be made if the political and economic situation in ICs themselves does not improve. This improvement again is dependent on internal economic stability in all ICs and on the achievement of peace throughout the world. Culmination of tensions, as they exist in the world today with all their varied adverse effects on the world economy including the use of trade barriers as a primary weapon in a continuing cold war, prevents

the release of sufficient resources for a really effective aid programme, since many ICs are at the present time too preoccupied with their own economic difficulties to be able to play a full part in solving the development problem.

433. Heavy defence expenditure is a major reason why liberalisation of the trade of MECs, and in the longer term of CPEs, is retarded. MECs are being forced to employ restrictive fiscal and monetary policies, and in some cases must limit access to their markets, to overcome internal economic weaknesses and balance of payments problems. It is not surprising in these circumstances that not only the inward looking trends in the progress towards European integration but also the outcome of the Kennedy Round - which did little to liberalise world trade in favour of DCs - and the not yet achieved synchronisation of trade and aid, have all in their different ways been disappointing from the point of view of development in DCs.

434. Under better economic and political circumstances these attitudes would have been different; and even as conditions are now the attitudes and policies in relation to trade between DCs and ICs could have followed other lines. Let us have a look at some of these questions.

Tariff barriers in MECs

435. The tariffs applied to imports of selected manufactures and semi-manufactures from DCs by the EEC, the US, the UK and Japan are shown in Table 20. From this, it can be seen that the more highly processed the product the higher the duty it bears; the tariff on cocoa powder is in all cases higher than that on paste or butter. Again, veneer and plywood attract higher duties than sawn planks, as is the case with clothing and cotton woven fabrics compared with cotton thread and yarn, and aluminium pipes and tubes compared with unwrought aluminium. Thus there is a

Table 20. Sample tariffs applied by MECs to manufactures and semi-manufactures

(% ad valorem)

SITC No.	Item	US	EEC(a)	UK(MFN)(b)	Japan
072.2	Cocoa powder	7.3	27	2	30
072.31	Cocoa paste	2.6	25	1	20
072.32	Cocoa butter	6.25	20	0.5	10
052.01	Dried tropical fruit	7.5-30	12-20	5-10	20
ex053.5	Fruit juice	2-15;60.5	19-50	0-18	17-35
053.63	Fruit frozen, with sugar	6-35	26	9;15	35
ex053.9	Canned fruit	0-59.9	0-25	0-25	20-55
013.8	Canned or preserved meat	2.5-20	20-26	5-20	2o;25
(.3)	Soluble coffee	2	24	5.4(c)	25
)	Instant tea	0	24	10	27.5
243.31	Sawn wood, non-coniferous	0;2.5	0;13	0	0
251	Wood pulp	0	0(d);6	0	5
631.1	Veneer	8;10;16.7	8	10	0;15;20
ex631.21	Plywood	15;17;20;40	14-15	10;20	20
611.91	Sheep and lamb skins and leather	8;10	0;6;10	10;15	15;20
612.9	Articles of leather	6-14	14	20	25
ex831.0	Luggage, handbags, purses	8.5-50	15;17	15;20	20-40
651.92	Jute yarn	13.5-26	10	10;15	20
ex656.1	Sacks and bags	7-51	10-23	17.5-33.3(e)	0;23
651.3	Cotton yarn and thread	6.9-20	8	7.5	5-7.5
652.1/2	Woven cotton fabrics	7.75-33	14-16;19	17.5	10-25
ex841.11/12	Outer clothing	10-42.5	18;20	17.5-25	21;25;30;40
e-513.62	Caustic soda	2	14	10	20
e 513.65	Alumina	0	11	10;16;33.3	15
684.1	Aluminium unwrought	5-8	9	0	15
684.25	Aluminium tubes and pipes	19	19	12.5	25
893.0	Plastic articles	17-42	22	20	30

(a) A preference is granted to Associated Overseas Territories of the EEC

(b) Commonwealth preference consists of nil duty unless otherwise stated

(c) Commonwealth duty - 4%

(d) Subject to tariff quota

(e) Commonwealth duty - 0;20;27%

Source: 'Programme for the Liberalisation and Expansion of Trade in Manufactures and Semi-Manufactures of Interest to Developing Countries'
UNCTAD TD/B/C.2/20

generally consistent pattern of discrimination against processing of primary products in DCs. This manifests itself particularly harshly against new processes such as accelerated freeze drying of fruit, vegetables and fish; tariffs range from 6 to 35% in the US; are 26% in the EEC; 9 and 15% depending on type in the UK and 35% in Japan. Potentially accelerated freeze drying is very suitable for tropical agricultural producers in that it enables the maximum value to be derived from fruit and vegetables which are often subject to severe loss when transported fresh, due to shortage of refrigerated transportation for bulk cargoes, handling difficulties and delays. Similarly plastic goods, which DCs at a certain level of industrialisation can produce well and cheaply, bear heavy tariffs in all the countries under review. There are exceptions to this pattern of discrimination in that the US tariffs on instant tea and coffee are nil and 2% respectively, for example, while the Commonwealth Preference System gives duty free entry to most products into the UK.

436. It is not only the nominal tariffs, however, that must be considered. Bela Balassa, Harry G. Johnson and others have examined the real level of protection afforded by existing tariff rates in MECs. In almost all cases the nominal tariff is considerably lower than the effective level of protection granted to a producer in a MEC processing primary products. On the basis of material input coefficients, the proportion of value added to output and the nominal tariff rate, Balassa has shown that effective tariff rates on some of the items listed in Table 20 are as in Table 21 below.

Table 21. Nominal and effective tariff rates (1962)
(% ad valorem)

	Country	Rate: Nominal	Effective	Percentage Increase
Cotton thread and yarn	US	11.7	31.8	172
Leather articles	US	15.5	24.5	58
	EEC	14.7	24.3	65
	UK	18.7	26.4	41
	Japan	23.6	33.6	42
Plastic articles	US	21	27	29
	EEC	20.6	30	46
	UK	17.9	30.1	68

Source: 'Tariff Protection in Industrial Countries; an Evaluation', Bela Balassa, Journal of Political Economy, Vol.73, No.6, December 1965.

It is clear from this small sample of tariff rates that the effective level of protection afforded to manufacturers in MECs against competition from imports can be very significant. In cash terms the effects on processing costs are shown in the following extract from a study prepared by Professor Balassa(a);

> "Assume first that a 20% tariff is levied on a product that sells for $1.00 on the world market while its material inputs, accounting for 60% of the value of production under free trade conditions, are not subject to duty. Since the tariff raises the domestic price of the product to $1.20, and material costs are assumed to be 60 cents both at home and abroad, protection would permit the domestic producer to operate with a value added of 60 cents as against a value

(a) 'Programme for the Liberalisation and Expansion of Trade in Manufactures and Semi-Manufacture of Interest to Developing Countries: The Structure of Protection' UNCTAD TD/B/C.2/36.

added of 40 cents under free trade. (Transportation costs are disregarded here)".

If the problem is examined in terms of matching the selling price of the product processed in the MEC of $1, the producer in the DC can only afford to spend 23.33 cents on valued added, compared with 40 cents costs incurred by the producer in the MEC.

437. Given reasonably comparable production costs, backward integration - in the form of investment in processing in the producing countries of specific raw materials with a considerable waste content - might be more economic than the present system of transporting such raw materials half way across the world. Thus changes in commercial policies in MECs could facilitate certain investment in specialisation which would help the DCs to increase the added value of their raw material exports as well as being beneficial to some using industries in the ICs.

438. Also under present circumstances, the author believes that MECs should meet the demands of DCs for a lowering of the discriminatory tariffs on processing in DCs.

Preferences

439. While the US preferences to the Philippines and Puerto Rico are of relatively limited geographic importance, historically the preferences granted in the British market to Commonwealth countries and in the French market to French-speaking countries undoubtedly had a very stimulating effect both on trade and on direct private investment. The importance of such preferences for new investments in DCs is declining since the more obvious opportunities offered by the system have now generally come to an end, but this does not mean that new prospects may not arise. In the industrial goods sector, the preference system is at present more commonly exploited within MECs - for example, through manufacturing in Canada by

US producers who can export surpluses to the UK market, and through the establishment of plant within the EEC by US or UK firms to take advantage of the internal tariff-free movement of goods and avoid the external tariff. Similar reasons stimulated a Japanese investment in textile manufacture in Malaysia for export under quota to the UK market.

440. The Commonwealth system consists mainly of extending tariff-free entry into the UK for almost all products from member countries backed by quotas in certain cases such as the restrictions on imports of citrus fruits, rum, bananas and cigars which benefit the Commonwealth countries in the West Indies. Commonwealth preferences are not necessarily extended by the DCs to the UK; in fact few African Commonwealth members give preferences on imports from the UK(a), and Singapore and Malaysia have revised certain preferences to protect new industries; on the other hand, the West Indies give reciprocity to the UK to the extent of about 90% of the value of the imports. Australia, New Zealand and Canada also extend preferences to Commonwealth DCs and do not require reciprocity. The margins on preferences extended by the UK to Commonwealth exports of unworked basic materials average no more than 2 or 3% and the general duties on some of these are in any case nil. On foodstuffs, beverages and tobacco, the margins range from under 5% to 10%. On fuel, there is no preference(b) but on manufactured goods, the margins of preference average about 20%. But in this sector, where the margins are highest, the UK is progressively reducing duties to nil on imports from other EFTA countries which have a transport advantage over any Commonwealth supplier.

(a) Nigeria gives a reverse preference on 26 items to the EEC as a result of its Association agreement.

(b) Some protection is granted to the domestic coal industry but there is no discrimination between suppliers.

441. The system operated by France works more through quotas than preferences, backed by price subsidies for the primary producers. In modified form it is to be extended to other EEC members, although the degree of preference will be significantly reduced and a stronger element of direct aid will be included. Association with the EEC has proved to be attractive to non-French speaking countries and apart from the one treaty drawn up with Nigeria, other Commonwealth countries have also expressed interest in becoming associated. The main advantage of both the present French system and its replacement is the access provided to industrial markets, even if limited by tariff quotas. The author deplores this development as it tends to perpetuate a system of vertical integration with far-reaching political implications. He hopes that the EEC will reconsider this problem and will follow a less restrictive policy in order that all DCs will benefit from the right of access to this market of 180 million people.

Effective tariff rates

442. Professor Balassa[(a)] points out that the effective tariffs facing DCs in MECs do not average 15% - the average of nominal tariffs on manufactures - but rather 25 to 50% (see paragraph 436). Thus the producers in MECs who enjoy duty-free entry into a number of countries through EEC or EFTA arrangements enjoy a higher effective preference than would be suggested by the nominal tariffs. It can be argued that any preference in the MECs for manufactures exported by the DCs is better than none. But the mere fact that a DC enjoys preferential access to some MECs is generally not sufficient incentive to an investor to set up plant to manufacture for export, although a DC with no preferential access at all would be extremely unlikely to attract any new investment in this sector.

443. Preferences are only one means among many which can make some contribution to creating more favourable prospects for exports of manufactures. However, preferences allied to a guaranteed

(a) UNCTAD - TD/B/C/.2/36

market can lead to high cost production and a high degree of economic dependence on the country granting the preference. The French surprix system, giving a higher price for exports to France, has not encouraged the most economic production of primary products nor the most rational development of economic resources. But dependence on the Metropolitan market in the French system has ensured a stable income to the countries benefitting from it.

444. An overall and very important aspect of the existing preference problem is the fragmentation effect of vertical preferences on DCs. In practice this means that opportunities for regional agreements cannot be taken up because neighbouring countries belong to different preferential trading systems. If there is to be any move towards the optimum use of economic resources on a global basis then the first step must be towards freer trade on a world wide basis. Given the current supply and demand pattern for commodities, however, an extension of existing preferences would probably create greater disruption in the medium term than benefits in the long term. Also in the manufactures and semi-manufactures sector changes in existing preferences would have to be carried out with care, and in conjunction with other measures to ensure that the benefits to the DCs were spread widely rather than accruing only to a few of the most advanced.

445. The most hopeful sign is that the US President[(a)] has expressed the willingness of the Executive to submit to Congress proposals for instituting a generalised system of preferences to DCs on a temporary basis. The time limit suggested is in accordance with the principle mentioned in paragraph 430 that temporary preferences would allow infant industries to become

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(a) 'Declaration of Presidents', Punta del Este 1967.

competitive. There should, however, not be a rigid rule to be applied to all DCs, as they are in completely different stages of development.

The GATT

446. The GATT is based on the general principle of freeing trade between contracting parties. The methods used have been to grant "most favoured nation" treatment within GATT, to lower tariffs and remove, as far as possible, all quantitative restrictions on trade. The Agreement was basically designed to ease the flow of trade between the ICs. The provisions for granting reciprocal tariff concessions between contracting parties and banning quota restrictions were not appropriate to DCs which need these weapons to encourage their own industrialisation(a). GATT has been active and reasonably successful in liberalising trade between the ICs but very few of the concessions which have been negotiated have been of interest to DCs. To meet the needs of the ICs, tariffs have been eased on manufactured goods. Although DCs draw some benefit from lower tariffs on manufactures, the discrimination against processed, compared with unprocessed, primary products remains and the competitiveness of the industries in the DCs has not been enhanced by measures taken so far.

447. The results of the Kennedy Round negotiations do not appear to hold out great benefits to the trade of the DCs. Representatives of these countries expressed their disappointment that the negotiations had produced few concrete results, and emphasised that the tariff cuts favoured the more sophisticated products which are of little interest to DCs(b). In fact there

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(a) These provisions were later changed to permit the use of tariffs and quotas by DCs for protective purposes.

(b) Report of the Committee on Manufactures in its Second Session, UNCTAD TD/B/C.2/46.

are some gains especially the Food Aid Programme which, in return for higher prices to producers, guarantees free disposal of 4.5 million tons of wheat p.a. to the DCs. Another important development, possibly with great long-term significance is the US suggestion that it would undertake a long-range study of its foreign trade policy in which there would be a thorough examination of ways of improving the trade position of the DCs. A less satisfactory development was the agreement to renew the Long-Term Arrangement for cotton textiles for a further three years. In practice, this arrangement has tended to bolster up the protective system and to give it the respectibility conferred by the GATT rules.

448. A preliminary evaluation(a) of the value to the DCs of the actual tariff changes negotiated suggests that only about 6% of imports by MECs from DCs will be affected. This analysis covers a sample of 80% of imports by the four major MECs(b) from DCs in terms of 1964 trade worth $19.5 billion out of total imports by MECs from DCs of $25.3 billion. In addition concessions offered before the Kennedy Round on a further 4.6% of these imports were confirmed and zero most-favoured-nation tariffs consolidated in many cases. At this stage, however, it is difficult to evaluate direct effects in that the cuts made vary by product and by importing country. (See also 'Preliminary Summary of the Results of the Kennedy Round Negotiations for Products of Interest to Developing countries, GATT COM.TD/46).

449. The activities of the GATT International Trade Centre since its establishment in 1964 have been extremely useful in providing DCs with information directly useful to the promotion

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(a) UNCTAD working documents.

(b) The US, the UK, the Federal Republic of Germany, France.

of exports. The Centre conducts studies on export markets for specific products; these set a high standard for comprehensive cover of all relevant factors, including prices and potential importers. It acts either at the request of DCs, or on its own initiative in examining prospects for products of interest to a number of supplying countries. In addition the Centre offers a Trade Promotion Advisory Service to send experts to assist governments, while training facilities for personnel from DCs are available and courses are given to public and private sector officials.

Anti-Dumping rules

450. Dumping is defined under Article I.1 of GATT as the process "by which products of one country are introduced into the commerce of another country at less than the normal value of the product. It is to be condemned if it causes material injury to an established industry in the territory of a contracting party". Thus the importing country can only levy an anti-dumping duty when material damage is caused to a domestic industry, by abnormally priced imports. Prices become abnormal when the export price is less than the price charged for domestic consumption in the exporting country, or, if the product is not for sale in the producing country, when the price is less than either the lowest price charged for the same product exported to any other country or the cost of production in the country of origin plus a reasonable margin for selling costs and profit. In addition, anti-dumping duty can be levied on imports into one country if the price is so low that it damages another country which also exports the same product. An example was New Zealand's request to the UK to levy dumping duties on imports of butter into the UK market from another supplier(a).

(a) 'Multilateral Commercial Diplomacy', Gerard Curzon, Michael Joseph Ltd., London 1965.

451. GATT has provisions against the granting of export subsidies, either directly or indirectly, under Article XVI.3, so that all export bonuses which have the effect of lowering the export price below that at which goods are sold in the producing country can fall into the dumping category. In practice, however, anti-dumping duties are only invoked when the price of imports is so low that a market disruption occurs in the importing country. The general effect of anti-dumping measures is to provide ICs with an additional form of protection against low-cost producers, and is thus a greater potential threat to exports from DCs who enjoy a competitive advantage.

Tied loans

452. An increasing trend in government policy is to grant aid to DCs in the form of tied loans. The greatest disadvantage of this practice is that the donor country cannot always provide the cheapest and most suitable plant and equipment for the project concerned. Estimates have been made that DCs can save up to 15% of project costs(a) when they are able to purchase freely on the world market compared with buying entirely from one country. In Uganda tied-loan offers have not been accepted for this reason. The effect of this system on exports is to increase capital costs and sometimes raise operating costs by forcing the use of less suitable machinery. Both these factors reflect on the competitiveness of the final product. It is unfortunate, but perhaps inevitable, that in present conditions most ICs are resorting to the practice of tying their aid to DCs.

What private enterprise can contribute

453. The first aim of DCs seeking to export manufactures and semi-manufactures must be to lower costs and improve quality.

(a) 'Sunday Times', 6 August 1967

Secondly they must find export markets. The most important contribution private industry can make towards lowering costs is implicit in the free enterprise concept that the profit motive in a competitive market acts as a constant check on costs. The market also compels private producers to manufacture to the standard it requires. Finally its need to turn its investment into profits compels it to sell as much of its production as possible at a reasonable price. Thus the aims and objectives of private enterprise are the same of those of governments anxious to export. In practice, however, as has been shown in preceding chapters, the economic conditions and policies in DCs do not always reinforce cost-consciousness or encourage quality production. Therefore, although private enterprise works in the same direction as government, it needs support from government, in the widest sense, to maximise its skills and advantages in selling on the world markets. Small producers, particularly those that are domestically owned, cannot undertake exports successfully without active support from the government.

454. In manufacturing for export it is generally true that foreign private enterprise is more effective than domestic concerns. This is because it has available technological advances which have been developed in MDCs and which will enable quality to be improved and costs to be reduced. It has also the experience of marketing in a range of other countries which no local industry can acquire without considerable cost. This knowledge of world markets makes it possible to design and package products in a form acceptable to consumers anywhere. It possesses a whole range of marketing skills, backed by a comprehensive marketing organisation. In situations of mutual profit these skills can be passed on in a number of ways apart from a direct investment in manufacturing. Technological skills

can be made available under licence arrangements to local producers; marketing for export can be arranged under other agreements, and with suitable quality control brand names, which are extremely important in commanding market acceptability for certain products, can also be made available.

455. Private enterprise is capable of turning what was a simple extracting operation into a large-scale manufacturing industry. An example is the bauxite extraction in Jamaica, which is planned for development first for the manufacture of alumina, then of aluminium, and finally of aluminium products.

456. By its very nature foreign private enterprise has a knowledge of markets around the world. It is important that this knowledge possessed by companies should be utilised to the maximum advantage and that where possible duplication of efforts between private enterprise and government be avoided. This commercial skill can be used in advisory bodies which have been set up in many DCs, but its advice will only continue to be forthcoming if governments sometimes act on it. I would urge private industry operating in DCs to be active in export promotion bodies as a contribution to the overall advance of the host-country, and as a means of showing that it is alive to the problems of the country.

457. It is probable that investment in industries which export or have an export potential is the most beneficial type of private capital inflow to the host country, and efforts should be made to channel investment in these directions. The ill effects of aid-tying can to some extent be mitigated, if the system is associated with export-generating projects. Export earnings can not only offset foreign exchange costs implicit in foreign investment but show a net gain. In addition the presence of a successful exporting industry can be a considerable indirect

boost to other potential exporters. Perhaps the greatest contribution which foreign private enterprise can make in the struggle to increase exports of manufactures and semi-manufactures from the DCs, is a change of attitudes regarding their sales in the domestic markets of MECs. So long as industrialists in the MECs regard the continued existence of their enterprise, whatever its competitiveness, as a direct concern of their government, the day when a comprehensive and co-ordinated system of world trade will be possible is a long way off.

CHAPTER X

CONCLUSIONS AND RECOMMENDATIONS
PART I - CONCLUSIONS

458. In this report my task has been to set out the role which private enterprise can play in the development process. In doing this it is impossible to ignore the fact that the gap between the third of the world which is relatively richer and the remainder is widening and that the expanding populations of the DCs are exerting ever-growing pressure on inadequate food supplies. One thing that is absolutely clear to me is the fact that development depends on a common effort between rich and poor countries. The DCs cannot catch up without capital, know-how and access to the markets of the ICs. It is all the more unfortunate therefore, that present tensions are making the prospect of a real understanding more remote. It is not part of my task to comment on the Middle East situation but I believe that any interference with the normal flows of trade is a two-edged weapon that may hurt those least able to help themselves. Many DCs are suffering much more from the closure of the Suez Canal than the rich countries of the West. Furthermore, the diversion of resources that is entailed represents a loss to the DCs which will never be made up.

459. The ICs are not without problems of their own at the present time. The shortage of capital and the pressures on the reserve currencies are added obstacles to any increase in the flow of aid. If the capital-exporting countries are to make a bigger share of their national incomes available in the form of direct aid, they must have the opportunity of solving their own problems in the context of a clearer understanding by both sides of the wider implications of this situation.

460. Decisions by private enterprise companies on investment in DCs are largely governed by questions of the return on foreign capital. This is a fact of life which must be accepted if private enterprise is to be attracted to DCs and make its full contribution

to the development process. With aid to DCs trailing behind needs, it is vitally important that everything possible should be done to increase the flow of private capital to DCs. For this to happen action is required from governments, organisations and individuals. Development, as I have said, demands a common effort. Governments in DCs and ICs alike must adapt their policies and attitudes to make possible the maximum flow of private capital to DCs. Private investors have to cultivate a more enterprising outlook on what constitutes opportunities for investment and the terms under which it can be made. Finally, international organisations, particularly UNCTAD, which has the active participation of DCs and ICs, have a part to play in providing a forum for discussion of the problems involved and in working out the kind of procedures which will make mutual confidence an accepted part of day to day relationships.

461. One of the dilemmas of the development process is that those involved in finding solutions for it tend to see only those parts of the problem of most concern to themselves. Many ICs, while ready to give aid and technical assistance to DCs, are not so ready to buy the products of the industries which their own actions have helped to bring into being. The tariff and quota policies of ICs are often major obstacles to greater trade flows. Again, although it may be desirable for ICs to adopt agricultural support policies for various reasons, the effect for a number of competing products is to discriminate against DCs. This is a matter to which governments in ICs should give their attention.

462. In the long run aid must be replaced by trade. For this to happen, both ICs and DCs will have to make adjustments. ICs will have to change their commercial policies, their ideas on the protection of declining industries and on agricultural support. Both they and DCs will have to realise that it requires more than

equal access to markets to enable DCs to raise their export earnings significantly. The cost of the manufactures and semi-manufactures of DCs is, in many cases, too high while quality is generally low. Grouping of small countries into regional organisations to secure the opportunities offered by wider markets is an obvious but as yet not widely adopted form of co-operation that would secure economies of scale. Clearly, where economic policies in the DCs lead to high cost production they should be modified. If DCs are heading for a state of inefficient self-sufficiency in their present development programmes as a result of policies of protection and import substitution at all costs, then a change is necessary. One alternative could be for DCs to concentrate on a few manufacturing industries operating on an efficient scale and marketing their products in the ICs. This solution may not be acceptable, or indeed applicable, in all cases, but the fact remains that economic development demands a realistic selection of objectives. Industrial expansion cannot be accompanied simultaneously by the full range of social benefits, however desirable these may be. It must not be forgotten that the ICs can only afford their present levels of social services, education and so on after generations of industrialisation.

463. In this situation, the role of private enterprise in supplementing official aid disbursements is an important one. It creates employment opportunities of a kind which did not exist before, and its technical and managerial skills widen the economic base of the host country. But private enterprise can only grow, and diversify its activities if the right conditions are created in both the capital-exporting and capital-importing countries. The MECs can encourage greater outflows by modifying restrictions on overseas investment and by adjusting, where necessary, their fiscal systems to avoid double taxation and other measures which

have the effect of frustrating investment inducements granted by host countries. DCs can do much to attract foreign capital by adopting positive attitudes towards private investment and, in particular, by providing for its greater security, by a realistic ordering of priorities, by reducing bureaucratic frustrations and delays, and by pursuing policies which make it possible for companies to operate in a reasonable framework of costs and prices. In other words, I believe that DCs will have to do everything in their power both to attract foreign capital and to increase their competitiveness if they are to stand a chance of increasing their export earnings in the markets of the ICs.

464. The attitudes which countries take to development are coloured by their past history and present circumstances. They are a reflection of political aspirations and economic realities. What we must remember is that attitudes are not fixed for all time but are constantly changing under the influence of new experiences; in the development problem attitudes are perhaps the greatest barrier to quick solutions and changes in them the greatest hope for the future.

465. In the recommendations which follow, I have attempted to indicate some of the ways in which the role of private enterprise in the development process can be made more effective. The recommendations are addressed to governments in DCs and ICs, to international organisations and to private enterprise concerns. Each of these groups has a dual position in the development situation. All have responsibilities and equally all have interests to serve. It is to the reconciliation of rights and duties, of personal and national ambitions into a common purpose that we must look for a solution to the development problem.

PART II - RECOMMENDATIONS

466. The following recommendations are addressed to private enterprise, to governments of ICs and DCs and to international organisations followed by general recommendations directed to more than one addressee. They are grouped according to the addressee concerned and a reference is made, where appropriate, to the paragraphs in the report from which the recommendation is derived.

I. Recommendations to private enterprise

1. Private investors should appreciate the aims and difficulties of host governments

   It should be demonstrated in all ways possible, consistent with legitimate commercial aims and practices, that foreign enterprises are anxious to make a positive contribution to the progress of the host country within the framework of their economic and social policies. This can be done by running technical training schemes for staff, by giving as much information as possible on activities, by co-operating in joint institutions such as trade promotion or planning committees, and by providing social facilities for staff. These are part of the essential process of establishing good relations with the host country. (Paragraphs 49-52, 102-105.)

2. Private enterprise should not demand too high a rate of return on investments from DCs

   The fear of exploitation in host countries is a very real one, and companies which make what appear to be excessive profits are obvious targets for repressive counter-measures. (Paragraphs 49, 57, 334c, 370, 371c)

3. Private investors should in appropriate circumstances enter into agreements to reinvest some part of their profits

   (Paragraphs 244, 267)

4. Private enterprise should be open to joint ventures with local participation

   Whether this is in co-operation with private individuals, or where this is not yet possible with government

institutions, an investment on these terms may well prove to be beneficial to foreign investors. Joint ventures are an effective means of associating foreign private enterprise with development and at the same time helping to build up a local capital market. (Paragraphs 83 - 89)

5. Private enterprise should consider seconding personnel to DC governments

DC governments are chronically short of experienced staff informed on industrial and commercial affairs. Investing companies could make a great contribution to government by seconding staff from the capital-exporting countries to DCs in which they have investment interests. The cost of technical assistance of this kind would be shared between the host government and the employer by agreement. (Paragraphs 24, 98, 99, 429e, 456)

6. Private business should consider co-operation in training government staff

A scheme whereby staff from ministries responsible for commerce, industry and economic planning would be seconded for a period to industrial and commercial concerns would be of great value. It would give the responsible officials an understanding of what business is about, how it works and its problems. The cost to both parties would not be great where the training was carried out in the country concerned. (Paragraphs 24, 98, 99, 429e, 456)

7. Foreign companies should support technical training schemes likely to help in the transfer of technology to DCs

These schemes would include training courses in DCs in which employees from other private companies could take part. For this to take place government assistance would be necessary. (Paragraphs 98, 99)

8. Companies in DCs should co-operate to rationalise the manufacture of material inputs

   Standardisation of packing materials and other secondary inputs so that they can be produced in large quantities for use by several companies can result in lower costs. (Paragraph 427b)

9. Exporting companies should maintain high quality standards

   Export sales are easily lost unless standards of quality, packaging and labelling are maintained. (Paragraph 429d)

10. Foreign companies should explore opportunities for making use of wage/cost advantages existing in DCs

    By combining different types of skills both ICs and DCs can benefit; for example, clothes cut in the US are sent to Latin American countries for stitching and finishing for the US market. Some growers of tobacco in the US have it processed in Jamaica for export to the UK. (Paragraphs 454, 455)

11. Foreign companies should support export promotional activities set up in DCs with joint government and private enterprise representation

    (Paragraph 429e)

12. Exporting companies must develop adequate marketing and sales arrangements

    Export marketing is a complicated task involving strict attention to delivery dates, quality control, price quotations, correspondence before and after sales, advertising and the employment of agents. Effective marketing is as important for some products as efficient manufacturing. (Paragraph 428)

II. Recommendations to governments of ICs

13. Governments should review tariff policies with special reference to the granting of preferences to imports from DCs

    (Paragraphs 439 - 445)

14. Governments should keep under continuous review agricultural support policies

(Paragraph 461)

15. Governments should keep under continuous review their policies of protection for declining industries

Those ICs wishing to achieve a rational global use of skills and resources must pay the price of opening their markets to the products of the most competitive producers. (Paragraphs 435 - 445)

16. Governments should keep under review policies to tie aid

The effect of tied aid on the recipients is to limit their choice of purchase. In turn this may either raise the cost of capital equipment imports, or result in the use of equipment which is not the most suitable. Both consequences will tend to raise manufacturing costs in DCs and be reflected in their export prices. (Paragraph 452)

17. Governments should recognise the importance of not frustrating fiscal policies of DCs by their own tax treatment of overseas investment (Paragraphs 208-209, 216e)

18. Governments which do not yet have one should institute a national investment guarantee scheme

This would provide insurance for new private investment in DCs (including the modernisation and expansion of existing investment) against political risks (Paragraphs 148-150, 158-165)

19. Governments should create and support institutional arrangements which stimulate investment in DCs

In many MECs there are bodies which enable governments of DCs to draw funds at low interest rates for joint ventures. Some of these have been valuable in assisting governments of DCs to attract further investment in important ventures which could not have been financed either from their own resources or by a single foreign private investor.

Participation of one of these institutions in a given project generally succeeds in attracting partners from the private sector.

20. Governments should consider financial contributions to feasibility studies in DCs

The initiative taken by AID in helping finance feasibility studies conducted by private investors in DCs could well be imitated by other governments. (Paragraph 268)

III. Recommendations to governments of DCs

21. Governments should be absolutely clear in their attitude to foreign private investment

Uncertainty in respect of political, economic and legislative stability is probably the greatest deterrent to new investors. This can be considerably reduced by a definition of the terms on which foreign capital is welcomed, and by a scrupulous regard for undertakings given to foreign private enterprise. (Paragraphs 118, 249, 260)

22. Governments should appreciate the legitimate aims of private enterprise

A reasonable profit and adequate conditions regarding the securing of, and return on, investment are basic prerequisites which must be taken into account if investment is to be forthcoming. (Paragraphs 251-259)

23. Governments should state clearly their investment priorities so that foreign investors have a clear idea of the kind of opportunities open to them

(Paragraphs 246, 295)

24. Suggested terms for investment

The following points attempt to reconcile the requirements of host governments with those of foreign private investors;

a) Governments should provide clear guidance on the security of investments

b) Governments should guarantee the repatriation of profits

In cases where balance of payments difficulties already exist at the time when an investment is placed any restriction on this freedom should be defined as clearly as possible so that the investor can plan accordingly.

c) Governments should define the terms on which capital can be repatriated

The conditions on which the original capital may be repatriated should be clearly laid down at the time the investment is made.

d) Governments should offer protection to infant industries for limited periods only

Protection should be granted only to the extent that it is absolutely necessary, and should be reviewed periodically with the aim of keeping prices as close as possible to world prices.

e) Governments should offer maximum relief from import duty on capital equipment and material inputs

Duty free entry for these can be a significant factor in reducing costs.

f) Governments should be prepared in special cases to offer monopoly concessions

In cases where a domestic market is not large enough to support two or more competing producers, a monopoly becomes inevitable, in which case precautions should be taken so that the position is not abused.

g) Governments should permit the use of expatriate staff in key positions

Foreign enterprises, especially those importing a high degree of technological and managerial skills will require freedom to use expatriates in certain key positions. Any limitations should be clearly laid down at the time when the investment is placed.

(Paragraphs 55, 223, 251-259)

25. Governments should be flexible in creating the conditions to promote joint ventures

I support the views expressed in the ECOSOC report E/4293 that

> "inflexible requirements for local majority ownership may create a serious obstacle to desirable foreign investment and to the full transfer of technological and managerial know-how, in the case where foreign investors are unwilling to place their capital and know-how at the disposal of an enterprise they do not control, or to establish a venture whose long-term growth they will not be allowed to share. It would be desirable for governments to establish flexible rules governing local participation. Joint ventures will fulfil their purpose only to the extent to which the local partners are in fact development-oriented and have the capital and competence to share more than nominally in the management and control of the enterprise. A government policy favouring joint ventures therefore needs to be supported by a vigorous programme of aid to potential domestic entrepreneurs, development bank financing, industrial extension services, technological institutes etc."

(Paragraphs 83-89)

26. Governments should make adequate pre-investment studies

Feasibility studies on investment projects should be prepared by the government department or agency concerned or be carried out by independent consultants.

(Paragraph 268)

27. Governments should establish sites with services for new investments

(Paragraph 317)

28. Governments should process investment proposals efficiently

Delays at this stage have resulted in potential investors losing interest in what would have been viable projects. (Paragraph 262)

29. Governments should limit the extent of bureaucratic controls

The operations of business can be severely restricted by over-elaborate bureaucratic machinery, while administrative efficiency can do much to cut business costs. (Paragraphs 266, 348, 354)

30. Governments should keep their policies towards sensitive areas constantly under review

The possibilities of using foreign private investment are limited by governments excluding it from particular activities designated as sensitive areas. (Paragraphs 241-243)

31. Governments should encourage a larger private enterprise contribution to agricultural development

The role of private enterprise in this sector is often limited for policy reasons, but much can be done by private enterprise through the introduction of modern methods of cultivation and the provision of processing and marketing facilities. (Paragraphs 71a, 374)

32. Governments should reduce tax rates on corporate profits and dividends to levels at which the earnings rate (before tax) required by the foreign investor is consistent with (i) the level of profits it is possible for the enterprise to earn locally, and (ii) the net yield on capital available to the investor from alternative activities of his own in other MECs

(Paragraphs 187-191, 216a)

33. Governments should recognise that interest, royalties and management or advisory fees are cost-recovery charges

Imposition of tax either increases their cost to the DC or denies it access to essential capital and know-how. (Paragraphs 192-201, 216b)

34. Governments should give fiscal incentives for new ventures in agricultural, extractive and industrial enterprises based on contributions to costs rather than sparing tax on profits

(Paragraphs 204-215, 216d)

35. Governments should ensure that training in the operation of tax systems is provided for its personnel

A high level of competence is necessary not only in ministerial and senior official supervision of tax administration, but also at the level of the first appellate authority. (Paragraphs 202-203, 216c)

36. Governments should remove export taxes which raise export prices above world levels

(Paragraph 429b)

37. Governments must take all possible steps to lower manufacturing costs

(Paragraphs 425-427)

38. Governments should examine the flexible use of quotas as an alternative to tariffs and/a means of keeping down prices

High tariffs have a direct and cumulative effect on export prices. Quotas which are lifted when the domestic price rises by a predetermined percentage over the import price, have advantages over tariffs. (Paragraph 398)

39. Governments must examine tariff and import quota schedules critically

An impartial tariff commission can be extremely useful to ensure that there is no excessive direct or indirect burden on costs of production for export.

(Paragraphs 396-397)

40. Governments should provide adequate protection against dumping

Because of the generally small size of the markets, serious disruptions can be caused to local producers by dumping of relatively small quantities of competitive imports.

(Paragraphs 254, 450)

41. Governments should encourage active export promotion bodies

These should not be too elaborate, or too closely tied to the bureaucratic machine. The maximum participation by private enterprise exporters, domestic and foreign, is recommended and access to government at the ministerial level should be facilitated. (Paragraph 401)

42. Governments should be prepared to finance market research

Since most exporters in DCs cannot afford market research for their products in ICs, this could be a field for government intervention. (Paragraph 428)

43. Governments should provide export credits and/or insurance facilities

Organisations of the kind set up in ICs can serve as models for this purpose. (Paragraph 401)

44. Governments should explore the technical possibility of exporting processed primary produce in new forms

(Paragraphs 390-392)

45. Governments should improve port facilities

Inadequate, or expensive,port facilities are an additional burden to exporters and increase import costs. (Paragraphs 240, 429)

46. Governments should use private enterprise in an advisory function

The services of business can be extremely useful. This practice is followed widely in MECs, often in an institutional framework. (Paragraph 429e)

47. Governments should emphasise industrial training

The shortage of trained staff and operatives in DCs is a serious handicap to quality production. To some extent this can be met by training within industry under private enterprise arrangements but supporting measures by government will be needed. (Paragraphs 72c, 244, 456)

48. Governments should not view the promotion of exports in isolation from the general problems of development

Exports are the result of policies covering a wide range of activities including agricultural and industrial production, import policies and procedures, administration, labour costs and transport policies. Co-ordination within the administration and between governments, producers and exporters is essential. (Paragraph 395)

49. Governments should explore all opportunities for regional co-operation

Regional co-operation in order to secure the advantages of production for a larger market is of paramount importance to DCs, especially those with small populations. A regional grouping is in a much stronger position for attracting investment, organising common services and taxation systems and generally developing a sound infrastructure. In addition, such organisations give opportunities for the rationalisation of investment, including common investment promotion legislation. They can also adapt regional tariff and monetary policies. (Paragraphs 403-422)

IV. Recommendations to international organisations

50. Urgent consideration should be given to ways and means of organising the international promotion of investment

The lack of effective communication between governments in DCs and potential foreign private investors prevents many important projects taking place. The problem is to match the requirements of DCs for investment finance with those of private enterprise for suitable investment opportunities. Some medium is required to ensure that the finance and expertise existing in the capital-exporting countries are made available on the most practical basis to the DCs. Whether this is done on an international

or a regional scale, the idea of some formal organisation of this process merits further consideration. (Paragraphs 269-273)

51. UN agencies should co-operate more closely with each other in tackling development problems

Private enterprise would be more prepared and better able to co-operate with international organisations if their efforts were more closely co-ordinated. (Paragraphs 96, 449)

52. International bodies should instigate the regional organisation and reimbursement of feasibility studies for investment projects

In this way duplication of projects can be avoided, and some degree of objective comparative analysis be provided. (Paragraphs 268, 403-422)

53. International bodies should study the possibility of publicising investment opportunities in DCs

The AID Catalog of Investment Information and Opportunities provides a useful pattern. (Paragraph 95)

54. International organisations should make the fullest possible use of the skill and experience of private enterprise

These skills represent a large, and virtually untapped, reservoir of knowledge which could be applied to a range of development problems. Two means in particular are available - firstly, intensification of the process of consultation with organisations representing private enterprise and, secondly, private enterprise has a number of highly qualified specialists who can often be spared for secondment for work in DCs. (Paragraphs 24, 98, 99, 429e, 456)

55. International organisations should associate private enterprise with action on improving export competitiveness

Many of the efforts that can be made to increase the competitiveness of exports from DCs would benefit from the advice of private enterprise experts. (Paragraphs 24, 98, 99, 429e, 456)

V. General recommendations

56. Governments should continue to pursue the conclusion of bilateral investment protection treaties

Further spreading of these treaties is of the greatest importance for increasing confidence in the security of foreign private investments in DCs which conclude them. MECs which have so far not entered into such treaties, should now seek to conclude them with DCs. The conclusion of such treaties as between DCs is of importance in order to promote inter-regional investment. (Paragraphs 122-129)

57. Governments which have not yet done so should adhere to the IBRD Convention for the Settlement of Investment Disputes

Furthermore growing use should be made by governments who are parties to the Convention and nationals of other parties, of the facilities for conciliation and arbitration provided by the Convention such as by appropriate settlement of disputes clauses included in investment agreements. (Paragraphs 133-137)

58. Governments and investors should consider taking recourse to ad hoc conciliation as a method for the settlement of disputes

In circumstances where the parties wish to stay together and no more appears to be needed than a catalyst to assist them to settle their differences, this will often prove valuable. (Paragraphs 138-145)

59. Governments should give their full support to the work of the IBRD aimed at the setting up under its auspices of a multilateral investment insurance scheme and participate in it once it is established

Regard should be paid to the views of private investors as reflected in statements made by the ICC and other organisations. (Paragraphs 146-165)

60. The careful selection of the most appropriate contractual arrangements for effecting transfer of technology is very desirable

Since, however, this cannot await the establishment in the DCs of strong technical services and institutions, use should be made in the first instance of existing services and institutions - such as BIRPI, to which the DCs are already party - and which are already active in the development of industrial property law with the needs of the DCs particularly in mind. (Paragraphs 166-171)

61. Current global efforts to harmonise and strengthen industrial property laws should be supported

These make it possible for transferable technology including, where feasible, technical know-how to be treated as a form of property, and so facilitate the transfer at reduced risk and therefore more reasonable cost, while stimulating local inventive potential. (Paragraphs 173-177)

62. Governments should proceed as a matter of urgency with the negotiation or re-negotiation of bilateral tax arrangements

Such arrangements are also required between DCs. Where possible arrangements of this kind should be made multilaterally on a regional basis. (Paragraphs 191,216f,217)

63. International organisations can assist DCs to find export markets

The work of the GATT International Trade Centre in conducting market research on behalf of DCs is to be commended. Practical help of this kind, which provides expensive services freely, is of great benefit to potential exporters, and could be very usefully enlarged.(Paragraphs 24, 99, 429e, 456)

APPENDIX I

Extract from 'A Development Strategy for Africa - Problems and Proposals', a statement made by Mr T.J. Mboya, Minister of Economic Planning and Development, Kenya, chairman of the Seventh Session of ECA, at the opening of the Eighth General Session of ECA, at Lagos, on 13 February 1967

A food programme for Africa must be intimately related to the needs of the rest of the world. Our aim is not self-sufficiency; it is to become a major net supplier to the rest of the world. No matter how successful our efforts are to industrialise, it remains a fact that Africa will be for many generations, primarily a producer of agricultural and other primary products. We must learn to do it well and on a rapidly growing scale. This will require a massive frontal attack, not only on research but also on the practical problems of production, storage and marketing.

The most critical and immediate problem is the storage and preservation of food. In particular, we need in Africa capital for the construction of storage facilities and finance for the crops to be stored. Continuing famine conditions in many parts of the world and the rapid depletion of surplus food stocks in the United States could signal a major catastrophe for mankind. These factors may also foreshadow rising prices for basic food crops. It certainly means that major efforts must be made throughout the world to expand production. The matter is urgent and cannot await the slow response of production to prices which may, in fact, not rise until the catastrophe is upon us. It is important for production to be increased in developing nations, not only for domestic use but also to supply food to countries with shortages. Africa is well placed and endowed to assist in this gigantic task. It has the natural resources, and the

areas of major world shortage lie just across the Indian Ocean from Eastern Africa. Unfortunately today Africa is a small net importer of grain. This is a situation that must be quickly corrected.

I suggest, therefore, that the United Nations make advance commitments to purchase essential stocks of basic foods at negotiated prices from those African nations who may be able to grow surpluses. The United Nations should also construct essential storage facilities in these countries. Both the storage facilities and the grains stored would remain the property of the United Nations, and the food could be drawn upon and shipped by the United Nations whenever and wherever the need arises.

A storage and marketing programme along these lines should by itself lead to a substantial expansion of the production of staple foods. Other complementary measures are also necessary primarily to increase agricultural productivity, open up new lands, reclaim exhausted acres, and by these means expand output. The research efforts to which I have referred must be followed up by effective systems of well-manned extension services, the determination and implementation of sound land tenure policies, the development of transport and marketing facilities in the rural areas, and the provision of loan capital on a large scale to small farmers. We must in Africa find means of expanding in a big way the flow of capital for rural and agricultural development. The seriousness of the situation can be indicated by noting that, while perhaps 75 per cent of our economy is based on agriculture, only 6 per cent of official aid to all countries and 15 per cent of technical assistance has been committed to agriculture in recent years.

The handling and marketing of food products today involves considerable waste and unnecessary expense. My suggestion is that

much of the processing of food that now takes place in advanced countries should be transferred to the developing countries where the basic crops are grown. It makes basic sense to transport food as cheaply as possible and to process it as quickly as possible if waste and spoilage can be reduced by so doing. The canning of various foods before shipment is an obvious example. It would also be more economic to make instant coffee and tea where the products are grown. The production of powdered milk and other dehydrated foods must also be encouraged in developing countries. What is needed here is not capital and technical assistance - private investors will supply these quickly enough. We need the elimination of those trade barriers in advanced nations that prevent these kinds of economies from being realised and at the same time make the development task so much harder.

APPENDIX II

UNCTAD 1964 Proceedings, Annex A.IV.12

PROMOTION OF PRIVATE FOREIGN INVESTMENT IN DEVELOPING COUNTRIES (a)

The Conference,

Recalling that the United Nations General Assembly, by its resolution 1710 (XVI) designating the nineteensixties as the "United Nations Development Decade", called upon its Member States:

> "To adopt measures which will stimulate the flow of private investment capital for the economic development of the developing countries, on terms that are satisfactory both to the capital-exporting countries and the capital-importing countries",

Aware that, since the beginning of the Decade, the flow of private capital to developing countries, instead of increasing, has substantially declined,

Recognising the contribution of direct private foreign investment to the economic diversification and development of private-capital-importing developing countries,

Agreeing that the supply of sustained and substantial international public aid contributes to the opening up of opportunities of investment and the generation of a favourable climate for the flow of international private capital to these countries,

Aware that foreign private investment brings technical know-how and managerial skill,

Recommends the following sets of measures and actions in accordance with General Assembly resolution 1710 (XVI):

(a) The Conference adopted this Recommendation by 94 votes to 1, with 22 abstentions.

A. Action by Governments of developed countries and international institutions to promote the flow of private capital to developing countries

1. The Governments of capital-exporting developed countries should avoid measures preventing or limiting the flow of capital from such countries to developing countries, and should take all appropriate steps to encourage the flow of private investments to developing countries, such as tax exemption or reductions, giving investment guarantees to private investors investing in developing countries, and by facilitating the training of managerial and technical staff;

2. The International Finance Corporation should examine the possibility of expanding its investment activities, including the use of its borrowing power, under Article III, section 6 (i) of its Articles of Agreement(a).

B. Action by developing countries

3. The Conference recommends the private-capital-importing developing countries to take all appropriate steps to provide favourable conditions for direct private investment. The Conference further recommends developing countries to set up investment bureaux and investment advisory services and to establish and strengthen credit institutions and development

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(a) "In addition to the operations specified elsewhere in this Agreement, the Corporation shall have power to:

"(i) borrow funds, and in that connection to furnish such collateral or other security therefor as it shall determine; provided, however, that before making a public sale of its obligations in the markets of a member, the Corporation shall have obtained the approval of that member and of the member in whose currency the obligations are to be denominated." (International Finance Corporation, Articles of Agreement, Washington, D.C., 20 July, 1956, p.8.)

banks and to determine and publicize the areas of investment, manner of investment and investment policy.

C. Provision of information on investment opportunities

The Conference

4. Recommends to the developing countries, in co-operation with appropriate bodies of the United Nations and the Governments and suitable organisations such as federations and chambers of commerce and industries in the industrialised countries, to endeavour to establish information centres in capital markets and adopt other suitable means to supply all the necessary information about investment conditions, regulations and opportunities in the developing countries;

5. Requests appropriate bodies of the United Nations and Governments of developed countries to consider assisting the developing countries, on their request, through financial and technical assistance in establishing local agencies with a view to enabling these agencies:

(a) To provide to private investors, both domestic and foreign, information on foreign sources of finance;

(b) To furnish to private investors, both domestic and foreign, full information as regards the areas of industrial activity open to foreign enterprise and the fiscal and other facilities and incentives, and to give all the assistance necessary for the pre-investment and preliminary planning activities, and preparation and presentation of projects, reports and feasibility studies;

(c) To keep ready and make available feasibility reports and a portfolio of projects and fields of investment for consideration and use of private investors.

D. Action by investors

6. The Conference recommends that foreign private investment, based upon respect for the sovereignty of the host country, should co-operate with local initiative and capital, rely as far as possible on existing resources in developing countries, and should work within the framework and objectives of the development plans with a view to supplying domestic markets and, in particular, expanding exports. The Conference expects that foreign private investment will recognise the desirability of re-investment of profits in the developing countries concerned, as far as possible, availability of "know-how" to nationals of developing countries and training and employment opportunities to nationals of host countries and other corresponding measures.

E. Studies

7. The Conference requests the International Bank for Reconstruction and Development to expedite its studies on investment insurance, in consultation with Governments in both developing and developed countries, and submit, by September 1965 at the latest, the result of its studies and consultations to the United Nations.

8. The Conference understands that the International Bank for Reconstruction and Development is examining the question of the establishment of machinery for settlement of investment disputes. The Conference requests the International Bank for Reconstruction and Development to submit the result of its studies and consultations to the United Nations.

9. The Conference invites the International Bank for Reconstruction and Development to include in its studies the problem of guarantees to the securities that the private enterprise or public institutions of a developing country may wish to float in the capital markets of the developed countries.

10. The Conference requests the Secretary-General of the United Nations to arrange full further studies in consultation with all concerned as may be required to cover all aspects of foreign private investment in order to enable the fulfilment of the objective embodied in the resolution of the General Assembly referred to in the Preamble to this Recommendation, keeping in view the measures and actions recommended above.

APPENDIX III

UN RESOLUTION 2087 (XX)

'Financing of economic development'

The General Assembly,

Recalling its resolutions 1318 (XIII) of 12 December 1958 entitled "Promotion of the international flow of private capital" and 1710 (XVI) of 19 December 1961 entitled "United Nations Development Decade: a programme for international economic co-operation",

Taking into account the recommendations contained in annex A.IV.2 of the Final Act of the United Nations Conference on Trade and Development,(a)

Having considered the recommendations on the promotion of private foreign investment in developing countries, contained in annex A.IV.12 of the Final Act of the United Nations Conference on Trade and Development,(b)

Noting with interest the fourth and fifth reports of the Secretary-General on the promotion of the international flow of private capital,(c)

Reaffirming that private foreign investment may contribute to the economic diversification and development of private-capital-importing developing countries and to the accelerated transfer of technical and managerial know-how to these countries,

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(a) See Proceedings of the United Nations Conference on Trade and Development, vol. I, Final Act and Report (United Nations publication, Sales No.: 64.II.B.11), p. 43.

(b) Ibid., p. 49.

(c) Official Records of the Economic and Social Council, Thirty-seventh Session, Annexes, agenda item 10, documents E/3905 and Add.1; ibid., Thirty-ninth Session, Annexes, agenda item 8, documents E/4038 and Add.1.

where such investments are made in terms that are satisfactory both to the capital-exporting countries and the capital-importing countries,

1. Asks Governments to give serious consideration to the recommendations contained in annex A.IV.12 of the Final Act of the United Nations Conference on Trade and Development;

2. Calls upon Governments to give due consideration to the measures and actions for the promotion of private foreign investment in developing countries recommended by the United Nations Conference on Trade and Development, always taking into account the relevant laws and regulations of each country, and the need of respect for the sovereignty of the host countries;

3. Requests the Secretary-General to keep in view the above-mentioned measures and actions in the preparation of his further studies on the promotion of the international flow of private capital, as called for under the annex mentioned in paragraph 1 above, as well as under General Assembly resolution 1318 (XIII) and Economic and Social Council resolution 922 (XXXIV) of 3 August 1962;

4. Looks forward to the early publication of the Secretary-General's findings in this field.

1404th plenary meeting,
20 December 1965.

APPENDIX IV

UN RESOLUTION 1803 (XVII)

'Permanent sovereignty over natural resources'

The General Assembly,

Recalling its resolutions 523 (VI) of 12 January 1952 and 626 (VII) of 21 December 1952,

Bearing in mind its resolution 1314 (XIII) of 12 December 1958, by which it established the Commission on Permanent Sovereignty over Natural Resources and instructed it to conduct a full survey of the status of permanent sovereignty over natural wealth and resources as a basic constituent of the right to self-determination, with recommendations, where necessary, for its strengthening, and decided further that, in the conduct of the full survey of the status of the permanent sovereignty of peoples and nations over their natural wealth and resources, due regard should be paid to the rights and duties of States under international law and to the importance of encouraging international co-operation in the economic development of developing countries,

Bearing in mind its resolution 1515 (XV) of 15 December 1960, in which it recommended that the sovereign right of every State to dispose of its wealth and its natural resources should be respected,

Considering that any measure in this respect must be based on the recognition of the inalienable right of all States freely to dispose of their natural wealth and resources in accordance with their national interests, and on respect for the economic independence of States,

Considering that nothing in paragraph 4 below in any way prejudices the position of any Member State on any aspect of the question of the rights and obligations of successor States and Governments in respect of property acquired before the accession to complete sovereignty of countries formerly under colonial rule,

Noting that the subject of succession of States and Governments is being examined as a matter of priority by the International Law Commission,

Considering that it is desirable to promote international co-operation for the economic development of developing countries, and that economic and financial agreements between the developed and the developing countries must be based on the principles of equality and of the right of peoples and nations to self-determination,

Considering that the provision of economic and technical assistance, loans and increased foreign investment must not be subject to conditions which conflict with the interests of the recipient State,

Considering the benefits to be derived from exchanges of technical and scientific information likely to promote the development and use of such resources and wealth, and the important part which the United Nations and other international organisations are called upon to play in that connection,

Attaching particular importance to the question of promoting the economic development of developing countries and securing their economic independence,

Noting that the creation and strengthening of the inalienable sovereignty of States over their natural wealth and resources reinforces their economic independence,

Desiring that there should be further consideration by the United Nations of the subject of permanent sovereignty over natural resources in the spirit of international co-operation in the field of economic development, particularly that of the developing countries,

I

Declares that:

1. The right of peoples and nations to permanent sovereignty over their natural wealth and resources must be exercised in the interest of their national development and of the well-being of the people of the State concerned.

2. The exploration, development and disposition of such resources, as well as the import of the foreign capital required for these purposes, should be in conformity with the rules and conditions which the peoples and nations freely consider to be necessary or desirable with regard to the authorisation, restriction or prohibition of such activities.

3. In cases where authorisation is granted, the capital imported and the earnings on that capital shall be governed by the terms thereof, by the national legislation in force, and by international law. The profits derived must be shared in the proportions freely agreed upon, in each case, between the investors and the recipient State, due care being taken to ensure that there is no impairment, for any reason, of that State's sovereignty over its natural wealth and resources.

4. Nationalisation, expropriation or requisitioning shall be based on grounds or reasons of public utility, security or the national interest which are recognised as overriding purely individual or private interests, both domestic and foreign. In such cases the owner shall be paid appropriate compensation,

in accordance with the rules in force in the State taking such measures in the exercise of its sovereignty and in accordance with international law. In any case, where the question of compensation gives rise to a controversy, the national jurisdiction of the State taking such measures shall be exhausted. However, upon agreement by sovereign States and other parties concerned, settlement of the dispute should be made through arbitration or international adjudication.

5. The free and beneficial exercise of the sovereignty of peoples and nations over their natural resources must be furthered by the mutual respect of States based on their sovereign equality.

6. International co-operation for the economic development of developing countries, whether in the form of public or private capital investments, exchange of goods and services, technical assistance, or exchange of scientific information, shall be such as to further their independent national development and shall be based upon respect for their sovereignty over their natural wealth and resources.

7. Violation of the rights of peoples and nations to sovereignty over their natural wealth and resources is contrary to the spirit and principles of the Charter of the United Nations and hinders the development of international co-operation and the maintenance of peace.

8. Foreign investment agreements freely entered into by, or between sovereign States shall be observed in good faith; States and international organisations shall strictly and conscientiously respect the sovereignty of peoples and nations over their natural wealth and resources in accordance with the Charter and the principles set forth in the present resolution.

II

Welcomes the decision of the International Law Commission to speed up its work on the codification of the topic of responsibility of States for the consideration of the General Assembly; (a)

III

Requests the Secretary-General to continue the study of the various aspects of permanent sovereignty over natural resources, taking into account the desire of Member States to ensure the protection of their sovereign rights while encouraging international co-operation in the field of economic development, and to report to the Economic and Social Council and to the General Assembly, if possible at its eighteenth session.

1194th plenary meeting,
14 December 1962.

(a) Official Records of the General Assembly, Seventeenth Session, Supplement No. 9, (A/5209), paras. 67-69.

APPENDIX V

UN RESOLUTION 2158 (XXI)

'Permanent sovereignty over natural resources'

The General Assembly,

Recalling its resolutions 523 (VI) of 12 January 1952, 626 (VII) of 21 December 1952 and 1515 (XV) of 15 December 1960;

Recalling further its resolution 1803 (XVII) of 14 December 1962 on permanent sovereignty over natural resources,

Recognizing that the natural resources of the developing countries constitute a basis of their economic development in general and of their industrial progress in particular,

Bearing in mind that natural resources are limited and in many cases exhaustible and that their proper exploitation determines the conditions of the economic development of the developing countries both at present and in the future,

Considering that, in order to safeguard the exercise of permanent sovereignty over natural resources, it is essential that their exploitation and marketing should be aimed at securing the highest possible rate of growth of the developing countries,

Considering further that this aim can better be achieved if the developing countries are in a position to undertake themselves the exploitation and marketing of their natural resources so that they may exercise their freedom of choice in the various fields related to the utilisation of natural resources under the most favourable conditions,

Taking into account the fact that foreign capital, whether public or private, forthcoming at the request of the developing countries, can play an important role inasmuch as it supplements the efforts undertaken by them in the exploitation and development of their natural resources, provided that there is government

supervision over the activity of foreign capital to ensure that it is used in the interests of national development,

I

1. Reaffirms the inalienable right of all countries to exercise permanent sovereignty over their natural resources in the interest of their national development, in conformity with the spirit and principles of the Charter of the United Nations and as recognised in General Assembly resolution 1803 (XVII);

2. Declares, therefore, that the United Nations should undertake a maximum concerted effort to channel its activities so as to enable all countries to exercise that right fully;

3. States that such an effort should help in achieving the maximum possible development of the natural resources of the developing countries and in strengthening their ability to undertake this development themselves, so that they might effectively exercise their choice in deciding the manner in which the exploitation and marketing of their natural resources should be carried out;

4. Confirms that the exploitation of natural resources in each country shall always be conducted in accordance with its national laws and regulations;

5. Recognizes the right of all countries, and in particular of the developing countries, to secure and increase their share in the administration of enterprises which are fully or partly operated by foreign capital and to have a greater share in the advantages and profits derived therefrom on an equitable basis, with due regard to the development needs and objectives of the peoples concerned and to mutually acceptable contractual practices, and calls upon the countries from which such capital originates to refrain from any action which would hinder the exercise of that right;

6. Considers that, when natural resources of the developing countries are exploited by foreign investors, the latter should undertake proper and accelerated training of national personnel at all levels and in all fields connected with such exploitation;

7. Calls upon the developed countries to make available to the developing countries, at their request, assistance, including capital goods and know-how, for the exploitation and marketing of their natural resources in order to accelerate their economic development, and to refrain from placing on the world market non-commercial reserves of primary commodities which may have an adverse effect on the foreign exchange earnings of the developing countries;

8. Recognizes that national and international organisations set up by the developing countries for the development and marketing of their natural resources play a significant role in ensuring the exercise of the permanent sovereignty of those countries in this field, and on that account should be encouraged;

9. Recommends to the Economic Commissions for Asia and the Far East, the Economic Commission for Latin America, the Economic Commission for Africa and the United Nations Economic and Social Office in Beirut that, in the execution of their functions, they keep under review the question of permanent sovereignty over natural resources in the countries of the regions concerned, as well as the problem of the economic utilisation of these resources in the national interests of their peoples;

II

Requests the Secretary-General:

(a) To co-ordinate the activities of the Secretariat in the field of natural resources with those of other United Nations organs and programmes, including the United Nations Conference on Trade and Development, the United Nations Development Programme,

the regional economic commissions, the United Nations Economic and Social Office in Beirut, the specialised agencies and the International Atomic Energy Agency, and in particular with those of the United Nations Industrial Development Organisation;

(b) To take the necessary steps to facilitate, through the work of the Centre for Development Planning, Projections and Policies, the United Nations Conference on Trade and Development, the United Nations Industrial Development Organisation and the Advisory Committee on the Application of Science and Technology to Development, the inclusion of the exploitation of the natural resources of the developing countries in programmes for their accelerated economic growth;

(c) To submit to the General Assembly at its twenty-third session a progress report on the implementation of the present resolution.

1478th plenary meeting,
25 November 1966

APPENDIX VI

PROVISIONS OF BILATERAL TREATIES

A. Treaties concluded between MECs and DCs

(Where a MEC has concluded a number of treaties following the same pattern and of a similar content, only one of such treaties is included. Where, however, the MEC concerned has concluded treaties of different types, all these treaties are included. Only those provisions are abstracted which are the most pertinent in the context.)

US - Pakistan: Treaty of Friendship and Commerce

Art. I. Each Party shall at all times accord equitable treatment to the persons, property, enterprises and other interests of nationals and companies of the other Party.

Art. VI. 1. Property of nationals and companies of either Party shall receive the most constant protection and security within the territories of the other Party.

3. Neither Party shall take unreasonable or discriminatory measures that would impair the legally acquired rights or interests within its territories of nationals and companies of the other Party in the enterprises which they have established, in their capital, or in the skills, arts or technology which they have supplied.

4. Property of nationals and companies of either Party shall not be taken within the territories of the other Party except for a public purpose, nor shall it be taken without the prompt payment of just compensation. Such compensation shall be in an effectively realisable form and shall represent the full equivalent of the property taken; and adequate provision shall have been made at or prior to the time of taking for the determination and payment thereof.

Protocol, para 3. The provisions of Article VI, paragraph 4, providing for the payment of compensation shall extend to interests held directly or indirectly by nationals and companies of either Party in property which is taken within the territories of the other Party.

Japan - Malaya: Agreement on Commerce

Art. IV. Property of nationals and companies of either Party shall not be taken within the territory of the other Party except in accordance with law and in an equitable manner, nor shall it be taken without prompt, adequate and effective compensation. In all the matters dealt with in this Article, nationals and companies of either Party shall receive, within the territory of the other Party, treatment no less favourable than that accorded to nationals and companies of any third country.

Protocol, para 6. The provisions of Article IV shall apply to the property taken in the territory of either Party in which nationals and companies of the other Party have direct or indirect interests.

UK - Iran: Treaty of Commerce, Establishment and Navigation

Art. 8. 1. The nationals and companies of one High Contracting Party shall enjoy in any territory of the other constant and complete protection and security for their persons and property.

2. Each High Contracting Party shall at all times accord fair and equitable treatment to nationals and companies of the other High Contracting Party, and to their property and enterprises; shall refrain from applying unreasonable or discriminatory measures that would impair their rights and interests; and shall ensure that their contractual rights are afforded effective means of enforcement in conformity with the applicable laws.

Art. 15. The nationals and companies of one High Contracting Party shall receive equitable treatment in any territory of the other in respect of any measure of requisition, civil or military, or of disposal, limitation, restriction or expropriation affecting their property, rights and interests, or affecting the property, rights and interests of any company of the other High Contracting Party in which they own interests, and shall receive prompt, adequate and effective compensation for any such measure. /Second sentence omitted./

Fed. Rep. of Germany - Dominican Rep.: Treaty of Friendship, Commerce and Navigation

Art. 6 (3) Ninguna de las Partes Contratantes tomará medidas irrazonables o discriminatorias que perjudiquen los derechos o intereses legalmente adquiridos dentro de su territorio por nacionales y compañías de la otra Parte en las empresas que hayan establecido, en su capital, o en el adiestramiento, artes o tecnologia que hayan suministrado.

(4) Los nacionales y las sociedades de una de las Partes Contratantes gozan en el territorio de la otra Parte Contratante del derecho a la propiedad, según las disposiciones de la Constitución. La propiedad no puede ser expropiada más que por causas justificadas de utilidad público o de interés social, debiéndose conceder una justa indemnización. La legitimidad de la medida y la cuantía de la indemnización deben poderse comprobar en un procedimiento juridico ordinario.

Fed. Rep. of Germany - Sudan: Treaty concerning the encouragement of investments

Art. 3. (1) Investments by nationals or companies of either Contracting Party shall enjoy full protection and security in the territory of the other Contracting Party.

(2) The investments of nationals or companies of either Contracting Party in the territory of the other Contracting

Party shall not be expropriated except for the public benefit and against compensation. Such compensation shall represent the equivalent of the investment affected; it shall be actually realisable, freely transferable, and shall be made without undue delay. Adequate provision shall have been made at or prior to the time of the deprivation for the determination and the giving of such compensation. The amount of compensation shall be subject to review by due process of law.

Art. 7 /First sentence omitted./ Either Contracting Party shall observe any other obligation it may have entered into with regard to investments within its territory by nationals or companies of the other Contracting Party.

Fed. Rep. of Germany - India: Exchange of Letters regarding the encouragement and protection of German private investments

Clause 1 (d). The Government of India do not intend, as a rule, to nationalise or expropriate approved foreign investments. Any decision to nationalise or expropriate a German investment or part of it taken by the Government of India shall be based on practical considerations and be taken in the national interest. In the event of a German Investor being directly or indirectly deprived of his investment by nationalisation or expropriation, the Government of India shall pay fair and equitable compensation and shall permit its effective transfer without undue delay.

Switzerland - Costa Rica: Accord relatif à la protection et à l'encouragement des investissements

Art. 1. Chacune des Hautes Parties Contractantes s'engage à protéger les biens investis sur son territoire par des sociétés ou des personnes physiques de l'autre Partie et à ne pas entraver par des mesures injustifiées ou discriminatoires la gestion, l'entretien, l'utilisation, la jouissance, l'accroissement et, le cas échéant, la liquidation de ces biens. /Second sentence omitted./

Art. 4. Aucune des Hautes Parties Contractantes ne pourra prendre des mesures d'expropriation, de nationalisation ou de dépossession, directes ou indirectes, à l'encontre de biens appartenant à des sociétés ou à des personnes physiques de l'autre Partie, si ce n'est pour des raisons d'utilité publique et à condition que ces mesures donnent lieu au paiement d'une indemnité effective et adéquate, conformément au droit des gens. Le montant de cette indemnité, qui devra être fixé à l'époque de l'expropriation, de la nationalisation ou de la dépossession, sera réglé dans une monnaie transférable et sera versé sans retard à l'ayant-droit, quel que soit son lieu de résidence ou son siège.

Art. 5. Les dispositions plus favorables que celles du présent accord qui ont été convenues par l'une des Hautes Parties Contractantes avec des sociétés ou des personnes physiques de l'autre Partie demeurent réservées.

Netherlands - Tunisia: Convention relative à l'encouragement des investissements de capitaux et à la protection des biens

Art. 1. Les investissements ainsi que les biens, droits et intérêts appartenant à des personnes physiques et morales, ressortissantes d'une des Parties Contractantes dans le territoire de l'autre bénéficieront d'un traitement juste et non discriminatoire au moins égal à celui qui est reconnu par chaque Partie à ses nationaux.

Art. 3. Au cas où une Partie exproprierait ou nationaliserait des biens, droits ou intérêts appartenant à des personnes, physiques ou morales, ressortissantes de l'autre Partie ou procéderait à leur encontre à une mesure de dépossession directe ou indirecte, elle devra prévoir le versement d'une indemnité effective et adéquate, conformément au droit international. Le montant de cette indemnité, qui devra être fixé à l'époque de l'expropriation, de la nationalisation ou de la dépossession, sera réglé sans retard injustifié à l'ayant-droit. Le montant de cette indemnité sera transféré sans retard. Toutefois, les mesures d'expropriation, de

nationalisation ou de dépossession ne devront être ni discriminatoires ni contraires à un engagement spécifique.

Sweden - Senegal: Accord Commercial

Art. 12. Les investissements ainsi que les biens, droits et intérêts appartenant à des ressortissants, fondations, associations ou sociétés d'une des Parties Contractantes dans le territoire de l'autre bénéficieront d'un traitement juste et équitable conformément au droit des gens ... [Rest of this sentence, and following sentence omitted.]

Les ressortissants, fondations, associations ou sociétés d'une des Parties Contractantes ne pourront être privés de leurs biens dans le territoire de l'autre Partie que pour cause d'intérêt public.

Au cas où une Partie Contractante exproprierait ou nationaliserait des biens, droits ou intérêts appartenant à des ressortissants, fondations, associations ou sociétés de l'autre Partie ou prendrait à l'encontre de ces ressortissants, fondations, associations ou sociétés, toutes autres mesures de dépossession directes ou indirectes, elle devra prévoir le versement d'une indemnité effective et adéquate, conformément au droit des gens. Le montant de cette indemnité qui devra être fixé à l'époque de l'expropriation, de la nationalisation ou de la dépossession, sera transférable et versé sans retard injustifié à l'ayant-droit, quel que soit son lieu de résidence. Toutefois, les mesures d'expropriation, de nationalisation ou de dépossession ne devront être ni discriminatoires, ni contraires à un engagement spécifique.

Belgium and Luxembourg - Morocco: Convention relative à l'encouragement des investissements de capitaux et à la protection des biens

Art. 1. Chacune des Hautes Parties Contractantes s'engage à assurer sur son territoire un traitement juste et équitable aux investissements ainsi qu'aux biens, droits et intérêts appartenant

à des ressortissants, personnes physiques ou morales, de l'autre Partie Contractante et à faire en sorte que l'exercice du droit ainsi reconnu ne soit pas entravé par des mesures injustifiées ou discriminatoires. [Second sentence omitted.]

Art. 4. Au cas où une Partie exproprierait ou nationaliserait des investissements biens, droits ou intérêts appartenant à des ressortissants, personnes physiques ou morales, de l'autre Partie Contractante, elle devra prévoir, conformément au Droit International, le versement d'une indemnité effective et adéquate. Le montant de cette indemnité, qui devra être fixé à l'époque de l'expropriation ou de la nationalisation, sera réglé à l'ayant-droit sans retard, puis transféré dès que l'ayant-droit aura justifié de sa résidence à l'étranger. Les mesures d'expropriation ou de nationalisation ne devront être ni discriminatoires ni contraires à un engagement spécifique.

UK - Cameroon: Agreement on Commercial and Economic Co-operation

Art. V (2) Nationals, concerns, companies and associations of one country shall only be subjected to expropriation in the other on the grounds of public interest. If one of the Contracting Governments expropriates or nationalises or takes any other confiscatory measures against the property, rights or interests of the nationals, concerns, associations or companies of the other country it shall, in accordance with international law, make provision for the payment of adequate and effective compensation. Such compensation shall be paid without undue delay to those entitled to it. Measures of expropriation, nationalisation or confiscation shall not be discriminatory or contrary to a specific undertaking.

Denmark - Malawi: Exchange of letters relevant to Danish investments in Malawi guaranteed by the Danish Government

Para (7). The Government of Malawi shall take no measures of expropriation, nationalisation or any other dispossession either direct or indirect against such investments in the territory of Malawi and belonging to Danish Investors except for public benefit and against compensation.

Para (8). If the Government of Malawi expropriates or nationalises such investments of Danish Investors or if it takes any other measures with a view to direct or indirect dispossession of Danish Investors, it shall provide for the payment of effective and adequate compensation.

Para (9). Such compensation shall represent the equivalent of such investments effected at the time of expropriation, nationalisation or any other form of dispossession; it shall be realisable and freely transferable and shall be made without delay. Provision shall be made in an appropriate manner at or prior to the time of dispossession for the determination and payment of such compensation.

France - Tunisia: Convention sur les Relations Économiques et la Protection des Investissements

Art. 1. Chacune des hautes parties contractantes s'engage à assurer sur son territoire un traitement juste et équitable aux investissements ainsi qu'aux biens, droits et intérêts appartenant à des ressortissants, personnes physiques ou morales, de l'autre partie et à faire en sorte que l'exercice du droit ainsi reconnu ne soit entravé ni en droit ni en fait. /Second sentence omitted./

Art. 4. Au cas où une partie exproprierait ou nationaliserait des investissements, biens, droits ou intérêts appartenant à des ressortissants, personnes physiques ou morales, de l'autre partie ou procéderait à leur encontre à toute autre mesure de

dépossession, elle devra prévoir le versement d'une indemnité effective et adéquate, conformément au droit des gens. Le montant de cette indemnité, qui devra être fixé à l'époque de l'expropriation, de la nationalisation ou de la dépossession, sera réglé à l'ayant-droit, puis transféré sans retard injustifié. Toutefois, les mesures d'expropriation, de nationalisation ou de dépossession ne devront être ni discriminatoires, ni contraires à un engagement spécifique.

Art. 5. Les investissements qui auront fait l'object d'un engagement particulier de l'une des parties soit à l'égard de l'autre partie, soit à l'égard des ressortissants, personnes physiques ou morales, de cette dernière partie, seront régis exclusivement par les termes de cet engagement.

France - Senegal, Malgasy, Central African Republic, Congo (Brazzaville) and Chad: Accord Multilateral sur les droits fondamentaux

Art. 6. Aucun national d'un Etat de la Communauté ne peut être frappé d'une mesure arbitraire ou discriminatoire de nature à compromettre ses biens ou ses intérêts, notamment lorsque ceux-ci consistent en une participation directe ou indirecte à l'actif d'une société ou autre personne morale. Ses biens ne peuvent être l'objet d'expropriation pour cause d'utilité publique ou de nationalisation que sous la condition du paiement d'une juste indemnité préalablement versée ou garantie.

B. Treaties between DCs

India - Iran: Treaty of Commerce and Navigation

Art. 3. The properties of the nationals of either contracting party in the territory of the other shall receive lawful protection. The properties, of whatsoever description, of the nationals of either contracting party shall not be seized or confiscated except for public purposes and only if real and just compensation is given to them for such expropriation.

Reasonable facilities will be given for remittance of compensation payable on expropriation.

India - Afghanistan: Treaty of Commerce

Art. 3. The properties, of whatsoever description, of the nationals of either contracting party shall not be seized or confiscated except for reasons of public interest and only if real and just compensation is given to them for such expropriation.

Kuwait - Iraq: Protocol on Investment, complementary to the Agreement on Economic Co-operation. (Translation from the Arabic provided by the US Department of State; International Legal Materials, Volume V, No. 6)

Art. 4. Neither of the two contracting parties may expropriate the investments owned by natural and legal persons belonging to the other party and invested within its borders except in the public interest and in return for a just and immediate compensation; the value of the compensation shall be equal to that of the expropriated investments at the time of expropriation. The compensation shall be paid as soon as such investments are assessed; the time taken up by such assessment shall not exceed one year. The value of the compensation shall be transferred in the same currencies as those in which they were provided for investment.

APPENDIX VII

ICC comments on the draft Articles of Agreement of the International Investment Insurance Agency, dated 30 November 1966

(comments circulated by ECOSOC under cover of E/C.2/653 of 2 May 1967)

I. Universality

It is noted that a new draft maintains the statutory distinction between "host countries" and other countries. This does not fully meet the hope expressed in the ICC statement of 15 March 1966 that Member countries should not be irrevocably assigned to separate groups (i.e. developed and developing countries) within the framework of the new institution. It is noted, on the other hand, that Members not listed in part II of schedule A of the IDA Articles of Agreement may be admitted as host countries by ad hoc vote of the Council and that provision is made for Member countries to act in a dual role inasmuch as every Member can sponsor insurance even if it is a host country. This last point is particularly important to the international business community, in that it reflects the ultimate goal of economic equality among all countries.

II. Eligibility of Investments

The clauses of the draft Articles of Agreement defining the eligibility of investments are satisfactory, especially also as concerns the treatment of multinational investments and the wide measure of discretion left to the sponsoring country to determine the nationality of investors. The International Chamber of Commerce would, however, draw attention to the following points on which some clarification would be desirable:

(a) Definition of new investments; it should be clear that retained profits and substitute assets (e.g. replacing obsolete equipment) could enjoy the protection of the multilateral guarantee policies;

(b) In its statement of 15 March, the ICC has suggested that, despite the general rule whereby eligible investments had to be "new", existing investments should also be covered up to an amount corresponding to the input of new resources (e.g. improvements or retained profits) which themselves would be eligible for guarantee coverage. Normally the new resources, once added to the original investment, will no longer be distinguishable from it. The ICC assumes that it is the intention of the IBRD to allow such coverage, and hopes that this will be clearly expressed in the Articles of Agreement or in rules and regulations to be issued in accordance with them;

(c) The ICC wishes to reiterate its support for a transitional clause which would allow coverage of investments made between the time of signature and the time of ratification of the Articles of Agreement;

(d) It is noted that article III (2) of the draft articles includes in the definition of investment the investment of assets "made in non-monetary form". It should be clear in the wording of this clause or in appropriate rules and regulations that this would cover also contractual rights (service agreements, management or construction contracts etc.), as well as patent or similar rights brought to or acquired in the host country.

III. Risks Covered

Article III (1) of the Articles of Agreement calls for the following comments:

(a) It should cover not only acts of government authorities in the host country, but also their failure to act. The term "governmental action" should include not only action or inaction by central authorities, but also action or inaction by local authorities (municipal, State, provincial etc.);

(b) The term "appropriate currency" in article III (1) appears to lack precision. The ICC would recommend that it be replaced by "the currency stipulated by the parties or, in the absence of such a stipulation, into the currency of the sponsoring country";

(c) Article III (1) (iv), excluding the risk of devaluation and depreciation of currency, should not apply where a fixed rate of exchange had been expressly stipulated in the agreement concerned.

IV. Obligations of Host Countries

1. Loss sharing. The ICC wishes to reiterate its view that an obligation should be undertaken by host countries to share losses arising under multilateral guarantee policies. It is important that host countries have some stake in the achievement of a favourable investment climate in all Member countries, even if their participation in losses were limited to a modest percentage.

2. Sharing of administrative expenses. Article V(2) of the draft Articles of Agreement appears to exclude host countries from any contribution to administrative expenses. The ICC fails to understand the reason for this clause: a contribution to administrative expenses would undoubtedly serve a useful purpose without unduly burdening host countries.

3. Treatment of foreign private investments. The ICC wishes to restate its view that if the investment guarantee scheme is to be financially viable and if it is expected to play a dynamic role in improving the investment climate throughout the world, it is essential that the treatment of foreign private investment be one of the important criteria in determining whether and to what extent guarantee coverage will be granted in particular host countries. To this effect, it would be desirable to

strengthen the provisions of the draft Articles of Agreement or to elaborate rules and regulations stressing the importance of legal guarantees extended by the host country both in its national legislation and by international agreement. In that latter connection, the ICC considers that preferential treatment should be given by the Agency to those countries which have accepted by international agreement the relevant rules of international law. Such preferential treatment could take the form of a standard rebate of premium for coverage of investments made in the particular host countries.

V. Processing of Applications

It is essential that the mechanism for the processing of applications - including the sponsorship by the country of origin and approval by the host country - be as practical and speedy as possible. In this context, the ICC notes with approval foot-note 4/ under article III (3). It would further suggest that the Articles of Agreement contain an express requirement for the confidential treatment of applications by the staff of the Agency. Such a clause might be inserted in article II (4).

VI. Settlement of Disputes and Claims

Article VII (1) of the draft Articles of Agreement deals with controversies between Member countries or between the Agency and Member countries, and article VII (2) concerns controversies between investors and the Agency. Both are subjects of great importance, which should be considered once specific methods for the settlement of these disputes will have been proposed.

As regards the problem of disputes between investors and the Agency, the ICC wishes to stress at this stage the importance of an adequate and practical claims-processing mechanism, which should either be independent (i.e. established outside the Agency and its institutional framework) or at least be subject to independent review.

VII. Duty of the Agency to Proceed Against Members in the Event of Default or Losses

The ICC believes that the Articles of Agreement should impose a positive obligation upon the Agency to take appropriate action against defaulting Member countries as well as against any host country which has caused a loss under the Agency's policies, in order to obtain the remedy of defaults and to recoup losses. The need for such an obligation on the part of the Agency is not met by article VII, which simply appears to provide for the settlement of disputes in either situation (i.e. defaults or losses), nor is it obviated by the possibility of suspension of membership (article VII, section 2) - a possibility which, by its very nature, must be reserved for extreme cases.

The ICC has noted with regret the provisions of article V (5) according to which no payment would be made by the Agency to an insured investor if and as long as the Member country which had sponsored the particular policy is in default in its obligations to the Agency. It would be wrong to deprive an insured investor of rights which he has acquired against the Agency, based on premiums which he may have paid for many years, on the grounds of the default of a particular Member country. At the least, the financial consequences falling upon an insured investor in such circumstances should be reduced: (i) by payment to the investor of the pro rata share of the coverage corresponding to the payments made by other Members; (ii) by payment to the investor of the deficiency out of the reserves accumulated by the Agency and by drawing on the initial contribution of the defaulting Member country which sponsored the insurance; and (iii) by requiring speedy action on the part of the Agency against the defaulting Member with a view to enabling the Agency to pay the investor any residual balance of his claim.

In addition to these general comments, the International Chamber of Commerce stands ready and would appreciate the opportunity to consider any further suggestions which may be elaborated for the Articles of Agreement or as rules and regulations based thereon. The areas of particular interest to the international business community concern not only the over-all impact of the multilateral scheme on the investment climate and therefore on the flow of investment capital to developing countries but also the extent and modalities of coverage as well as the adequacy of processing mechanisms regarding applications and claims.

APPENDIX VIII

Extracts from The Federation of Commonwealth Chambers of Commerce

Model Double Taxation Agreement

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Article 3

GENERAL DEFINITIONS

1. In this Agreement, unless the context otherwise requires:

(a) the terms "a Contracting State" and "the other Contracting State" mean State A or State B as the context requires;

(b) the term "person" comprises an individual, a company and any other body of persons;

(c) the term "company" means any body corporate, or any entity, which is treated as a body corporate for tax purposes;

(d) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State.

2. As regards the application of the Agreement by a Contracting State any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws of that Contracting State relating to the taxes which are the subject of the Agreement.

Article 4

RESIDENCE

1. For the purposes of this Agreement, the term "resident of a Contracting State "means any person who, under the law of that

State, is liable to taxation therein by reason of his domicile, residence, place of management or any other criterion of a similar nature.

2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then this case shall be determined in accordance with the following rules:

(a) He shall be deemed to be a resident of the Contracting State in which he has a permanent home available to him. If he has a permanent home available to him in both Contracting States, he shall be deemed to be a resident of the Contracting State with which his personal and economic relations are closest (centre of vital interests);

(b) If the Contracting State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either Contracting State, he shall be deemed to be a resident of the Contracting State in which he has an habitual abode;

(c) If he has an habitual abode in both Contracting States or in neither of them, he shall be deemed to be a resident of the Contracting State of which he is a national;

(d) If he is a national of both Contracting States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident of the Contracting State in which its business is managed and controlled.

Article 5

PERMANENT ESTABLISHMENT

1. For the purpose of this Agreement, the term "permanent establishment" means a fixed place of business in which the business of the enterprise is wholly or partly carried on.

2. The term "permanent establishment" shall include especially:

(a) a place of management;
(b) a branch;
(c) an office;
(d) a factory;
(e) a workshop;
(f) a mine, quarry or other place of extraction of natural resources;
(g) a building site or construction or assembly project which exists for more than twelve months.

3. The term "permanent establishment" shall not be deemed to include:

(a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;
(b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;
(c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
(d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise, or for collecting information, for the enterprise;
(e) the maintenance of a fixed place of business solely for the purpose of advertising, for the supply of information, for scientific research or for similar activities which have a preparatory or auxiliary character, for the enterprise.

4. A person acting in a Contracting State on behalf of an enterprise of the other Contracting State - other than an agent of an independent status to whom paragraph 5 applies - shall be deemed to be a permanent establishment in the first-mentioned

State if he has, and habitually exercises in that State, an authority to conclude contracts in the name of the enterprise, unless his activities are limited to the purchase of goods or merchandise for the enterprise.

5. An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that other State through a broker, general commission agent or any other agent of an independent status, where such persons are acting in the ordinary course of their business.

6. The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

Article 6

BUSINESS PROFITS

1. The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them as is attributable to that permanent establishment.

2. Where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same

or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.

3. In the determination of the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere.

4. No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.

Article 7

ASSOCIATED ENTERPRISES

1. Where:

   (a) an enterprise of one of the territories participates directly or indirectly in the management, control or capital of an enterprise of the other territory, or

   (b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of one of the territories and an enterprise of the other territory, and

   (c) in either case conditions are made or imposed between the two enterprises, in their commercial or financial relations, which differ from those which would be made between independent enterprises,

then any profits which would but for those conditions have accrued to one of the enterprises but by reason of those conditions have not so accrued may be included in the profits of that enterprise and taxed accordingly.

2. The provisions of paragraph 1 shall not be applied by a Contracting State without the agreement of the other Contracting State whose duty it shall be to ensure that the operation of this Article does not give rise to double taxation.

Article 8

SHIPPING AND AIR TRANSPORT

Notwithstanding the provisions of Articles 6 and 7, profits derived by a resident of one Contracting State from operating ships or aircraft shall be exempt from tax in the other Contracting State, unless the ship or aircraft is operated wholly or mainly between places within that other Contracting State.

Article 9

DIVIDENDS

1. Dividends paid by a company which is a resident of a Contracting State to a company which is a resident of the other Contracting State shall be exempt from any tax in the first-mentioned State which is chargeable on dividends in addition to the tax chargeable in respect of the profits or income of the company paying the dividend.

2. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State (other than a company) may be taxed in the first mentioned State, but the tax so charged (in addition to the tax chargeable in respect of the profits or income of the company) shall not exceed 15 per cent of the amount of the dividends. For this purpose "the amount of the dividends" shall be taken to be the net amount payable without any deduction in respect of the tax so charged.

3. Notwithstanding the provisions of paragraph 2, "dividends" which comprise an allotment of bonus shares of the same class, or a distribution of surplus in liquidation, shall be exempt from tax in the Contracting State of which the company paying the dividends is a resident.

4. The provisions of paragraph 2 shall not apply if the recipient of the dividends, being a resident of a Contracting State, has in the other Contracting State, of which the company paying the

dividends is a resident, a permanent establishment with which the holding by virtue of which the dividends are paid is effectively connected. In such a case, Article 6 shall apply.

5. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, such other State may not impose any tax on the dividends paid by the company to persons who are not residents of that other State, or subject the company's undistributed profits to a tax on undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State. Such State shall also refrain from imposing any tax on the profits of a company resident in the other State in lieu of tax on that company's dividends or by reference to the amount of profits remitted out of the State in which they arose.

Article 10

INTEREST

1. Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in the Contracting State in which it arises, according to the law of that State, but the tax so charged shall not exceed 10 per cent of the amount of the interest.

2. The term "interest" as used in this Article means income from Government securities, bonds or debentures, whether or not secured by mortgage and whether or not carrying a right to participate in profits, and debt-claims of every kind as well as all other income assimilated to income from money lent by the taxation law of the State in which the income arises.

3. The provisions of paragraph 1 shall not apply if the recipient of the interest, being a resident of a Contracting State, has in the other Contracting State in which the interest arises

a permanent establishment with which the debt-claim from which the interest arises is effectively connected. In such a case, Article 6 shall apply.

4. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment, then such interest shall be deemed to arise in the Contracting State in which the permanent establishment is situated.

5. Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of the interest paid, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the recipient in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In that case, the excess part of the payments shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of the Agreement.

Article 11

ROYALTIES

1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State shall be taxable only in that other State.

2. The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific

work including cinematograph films, any patent, trade mark, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial or scientific equipment, or for information concerning industrial, commercial or scientific experience.

3. The provisions of paragraph 1 shall not apply if the recipient of the royalties, being a resident of a Contracting State, has in the other Contracting State in which the royalties arise a permanent establishment with which the right or property giving rise to the royalties is effectively connected. In such a case, Article 6 shall apply.

4. Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of the royalties paid having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the recipient in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In that case, the excess part of the payments shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Agreement.

Article 12

CAPITAL GAINS

1. Gains from the alienation of real property may be taxed in the Contracting State in which such property is situated.

2. Gains from the alienation of personal property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of personal property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing professional services,

including such gains from the alienation of such a permanent establishment (alone or together with the whole enterprise) or of such a fixed base, may be taxed in the other State.

3. Gains from the alienation of any property other than those mentioned in paragraphs 1 and 2, may be taxed only in the State of which the alienator is a resident.

.....

Article 20

ELIMINATION OF DOUBLE TAXATION

1. Subject to the provisions of the law of Contracting State A, regarding the allowance of a credit against State A tax of tax payable in a country outside State A, State B tax payable whether directly or by deduction in respect of income from sources within State B shall be allowed as a credit against any State A tax payable in respect of that income. Where such income is an ordinary dividend payable by a company resident in State B, the credit may take into account (in addition to any State B tax payable directly or by deduction from the dividend) the State B tax payable by the company in respect of its profits, and where it is a dividend paid on participating preference shares and representing both a dividend at the fixed rate to which the shares are entitled and an additional participation in profits, the State B tax so payable by the company shall likewise be taken into account in so far as the dividend exceeds the fixed rate.

2. In relation to income derived by a resident of State A from sources in State B, State A shall not impose any tax which is higher or more burdensome than, or additional to, the tax which would be imposed on similar income arising under similar conditions from sources in State A.

3. Notwithstanding paragraphs 1 and 2, where a company which is resident in State A derives a dividend from a company which is a

resident of State B, or income from real property situated in State B, or industrial or commercial profits of a permanent establishment situated in State B, no tax shall be payable thereon by the company in State A.

Provided that State A may impose any amount of additional tax which is assessable under its law in respect of the undistributed amount of the distributable income of a company which is a private company for the purposes of State A tax.

Provided also that the provisions of this paragraph shall not apply to any company in which more than 50 per cent of the shares entitled to voting rights are, directly or indirectly, owned or controlled by persons not resident in Commonwealth countries.

4. Where the law of State A provides that a resident shareholder in a resident company shall be entitled to a credit or abatement of tax payable on dividends from such company (whether or not such credit or abatement is directly related to the taxes payable by the company), the credit or abatement shall be calculated as though income derived by the company from sources in State B had been derived from sources in State A and had been taxed in State A accordingly.

5. Where a resident of State A, other than a company, derives income from sources in State B which in accordance with the provisions of this agreement is taxable in State B, the State B tax payable for the purposes of paragraph 1 shall be deemed to include any amount which would have been payable but for an exemption granted or relief afforded with a view to promoting industrial, commercial, scientific, educational or other development in State B.

6. For the purposes of this Article, profits or remuneration for personal (including professional) services performed in one of the States shall be treated as income from sources within that State,

and the services of an individual whose services are wholly or mainly performed in ships or aircraft (operated wholly or mainly between places in the other State) shall be treated as performed in that State.

.....

Article 23

NON-DISCRIMINATION

1. The nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances are or may be subjected.

2. The term "nationals" means:

(a) all individuals possessing the nationality of a Contracting State;

(b) all legal persons, partnerships and associations deriving their status as such from the law in force in a Contracting State.

3. Stateless persons shall not be subjected in a Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which nationals of that State in the same circumstances are or may be subjected.

4. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities.

This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities

which it grants to its own residents.

5. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of that first-mentioned State are or may be subjected.

6. In this Article the term "taxation" means taxes of every kind and description.

APPENDIX IX

Profitability of some public and private sector enterprises in India 1963-64 and 1964-65

	1963-64							1964-65						
	Public[a]				Private[b]			Public[a]				Private[b]		
	6 giants	41 others	of which eng.	of which chem.	total	eng.	chem.	6 giants	41 others	of which eng.	of which chem.	total	eng.	chem.
Tax provision as % of profits before tax	49.9	49.9	35.3	46.2	51.2			nega-tive	49.9	38.1	58.7	50.6		
Gross profits as % of sales	6.5	8.5	16.0	16.8	10.3			4.7	9.2	16.4	9.6	10.0		
Gross profits as % of total capital employed	1.8	5.7	7.6	6.8	10.6			1.3	6.2	7.2	3.6	10.3		
Profits after tax as % of net worth	0.1	5.5	10.0	6.1	9.4	11.8	10.8	(0.8)	6.4	9.1	2.4	9.2	13.3	12.2

Source: Reserve Bank of India Bulletin, October 1966 and November 1966

Note: ( ) = negative

(a) Comprises 47 operating, non-financial government companies, of which 6 are classified as "giants" and shown separately: The Hindustan Steel Ltd., The Indian Oil Corporation Ltd., The Hindustan Aeronautics Ltd., The Fertilizer Corporation of India Ltd., The National Coal Development Corp. Ltd., The Shipping Corp. of India Ltd.

(b) Figures refer to 1333 non-financial, medium and large public limited companies.

APPENDIX X

UNCTAD 1964 Proceedings, Annex A.IV.22

COMMON MEASURE OF UNDERSTANDING ON SHIPPING QUESTIONS(a)

The Conference agreed that:

1. The Liner Conference system is necessary in order to secure stable rates and regular services. However, in order that the system might function properly, it is necessary that there should be close co-operation between shippers and the conferences. As an initial step, a well-organised consultation machinery should be established, with adequate procedures for hearing and remedying complaints, by the formation of shippers' councils or other suitable bodies on a national and regional basis. It was noted that action has already been taken in some countries on these lines and that the experience thus gained would offer a useful model for other countries to consider. The following matters, which may need consideration, could be raised within such machinery:

(a) Publication by conferences of their tariffs and regulations;

(b) Increases in conference freight rates, levy of surcharges, etc., giving of reasonable advance notice in this regard;

(c) The terms of dual rate and deferred rebate agreements;

(d) Effective representation of conferences in major ports of developing countries where appropriate;

(e) The adequacy of shipping services in the trades concerned;

(f) Action to be undertaken in order to improve and promote exports of developing countries and, in particular, intra-regional trade;

(a) The Conference adopted this Recommendation without dissent.

(g) Rationalisation of routes and freights, established or to be established in accordance with the national characteristics of production, marketing and development requirements.

2. The costs of inland transport and cargo handling costs in ports (including the cost of ships' time spent in port) in many cases represent a substantial percentage of total transportation costs of international shipments. There are possibilities of reducing the total cost of transportation by improving port facilities and in the establishment of new facilities. All countries should therefore give priority to improvement of port operation and of connected inland transport facilities. Greater efforts should be made in providing for the aforesaid purposes and to this end international financing and aid and technical assistance be made available on favourable terms and conditions.

3. It was considered that the development of merchant marines in developing countries, as well as their participation in Liner Conferences as full members on equitable terms, is to be welcomed. The question of development of merchant marines by developing countries should be decided by such countries on the basis of sound economic criteria.

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BANCO INTERNACIONAL DE RECONSTRUCCION Y FOMENTO

BOX NO. 3444

3 de abril de 1967

CREDITOS DE PROVEEDORES DE LOS PAISES INDUSTRIALIZADOS A LOS PAISES EN DESARROLLO

Estudio preparado por los Servicios del Banco Mundial

a solicitud de la

Conferencia de las Naciones Unidas sobre Comercio y Desarrollo

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Comercio y Desarrollo

INTERNATIONAL BANK FOR
RECONSTRUCTION AND DEVELOPMENT
WASHINGTON, D.C. 20433, U.S.A.

OFFICE OF THE PRESIDENT

20 de enero de 1967

U Thant
Secretario General de las Naciones Unidas
Naciones Unidas
Nueva York

Estimado Señor Secretario General:

Tengo el honor de adjuntarle con la presente un Estudio sobre Créditos de Proveedores de los Países Industrializados a los Países en Desarrollo, preparado por los servicios del Banco Internacional de Reconstrucción y Fomento, en cumplimiento de la Recomendación A-IV-14, adoptada por la Conferencia de las Naciones Unidas sobre Comercio y Desarrollo en junio de 1964.

En el citado Estudio se examina la evolución de los créditos de proveedores como instrumento importante de financiación internacional y se analizan la naturaleza y las causas de los diversos problemas que han surgido en relación con su utilización, prestándose especial atención a su efecto sobre la situación de endeudamiento externo de los países en desarrollo. El Estudio finaliza con una serie de recomendaciones sobre las medidas que a ese respecto podrían adoptar tanto los países deudores como los acreedores.

Considero que las citadas recomendaciones merecen ser objeto de detenido examen, dada la importancia que revisten para el crecimiento ordenado de los países en desarrollo, así como para la estabilidad del comercio y las finanzas internacionales. De acuerdo con el procedimiento seguido en otros casos semejantes, el Estudio no refleja necesariamente los puntos de vista de los Directores Ejecutivos del Banco ni de los gobiernos que los designaron o eligieron.

Aprovecho la oportunidad para saludarle muy atentamente.

George D. Woods

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RESUMEN

Este informe ha sido preparado por los servicios del Banco Internacional de Reconstrucción y Fomento en cumplimiento de una resolución adoptada en Ginebra, en 1964, por la Conferencia de las Naciones Unidas sobre Comercio y Desarrollo.[1/] De conformidad con dicha resolución, en el informe se examina la utilización de créditos de proveedores y del seguro de créditos como medio para financiar las importaciones de los países en desarrollo, procedentes de países desarrollados. También se señalan las dificultades que han surgido en la utilización de dichos créditos, y se formulan recomendaciones sobre posible soluciones para esos problemas.

Los créditos de proveedores a plazo medio y largo constituyen una modalidad relativamente nueva de financiación internacional. Aunque se trata de transacciones que son esencialmente de índole privada, los gobiernos tanto de los países acreedores como de los deudores han intervenido cada vez más activamente en esta esfera, contribuyendo a acrecentar la importancia de dichos créditos, bien sea mediante la concesión de garantías o por otros procedimientos.

Los gobiernos de los países "acreedores" han apoyado o fomentado la concesión de garantías y el establecimiento de sistemas de crédito, en gran medida como respuesta a la presión ejercida por sus respectivos sectores de exportación, para que se les prestara ayuda en ese aspecto, y también en aplicación de sus políticas de promoción y diversificación de las exportaciones. Al proceder de esa forma, han contribuido a incrementar la transferencia de recursos a los países en desarrollo. Los sistemas de garantías establecidos por los países "deudores" han fomentado la afluencia de créditos de proveedores a esos países, especialmente en los casos en que las posibilidades de obtener fondos de otras fuentes externas eran limitadas. Si bien estas medidas han dado lugar a una mayor competencia entre los vendedores y a una extensión paulatina de los vencimientos, en ocasiones han contribuido también a que no se prestara la debida atención a la calidad y la justificación económica de los proyectos financiados.

La "Union d'Assureurs des Crèdits Internationaux" (Union de Berna), la Comunidad Económica Europea (CEE) y la Organización de Cooperación y Desarrollo Económicos (OCDE) han realizado esfuer-

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1/ Conviene señalar que, si bien el presente estudio ha sido preparado por funcionarios del Banco, no refleja necesariamente los puntos de vista de los Directores Ejecutivos del Banco Internacional de Reconstrución y Fomento ni de los gobiernos que los designaron o eligieron.

zos encaminados a implantar limitaciones y armonizar las prácticas seguidas en ese aspecto, tanto a nivel nacional como internacional. Pese a que se ha logrado una mejor comprensión de los problemas planteados, especialmente los que son consecuencia del endeudamiento excesivo de algunos países deudores, esos esfuerzos no han culminado todavía en medidas prácticas que permitan resolver de forma satisfactoria los aspectos desfavorables de la financiación por medio de créditos de proveedores.

La importancia creciente que revisten esos créditos, en tanto que constituyen una parte considerable de la afluencia de capital a los países en desarrollo, se refleja en el hecho de que, al final de 1965, la deuda pendiente total por concepto de créditos de proveedores concedidos al sector público o garantizados por él, ascendía aproximadamente a US$5.500 millones, suma que representaba alrededor de una séptima parte del endeudamiento externo total de esos países. Además, debido a que los plazos de dichos créditos son más cortos, los pagos por su servicio representan una proporción de la deuda pendiente mucho más elevada que la relación de los pagos globales por concepto de servicio con respecto a la deuda total.

Esta creciente importancia de los créditos de proveedores obedece a muchos factores de índole económica, técnica y política. En los países en desarrollo, la política de industrialización ha ido acompañada a menudo de una política interna, tanto en materia financiera y comercial como cambiaria, de orientación marcadamente nacionalista y, en ocasiones, poco convencional. Estos y otros factores, unidos a la naturaleza específica de los proyectos, y,en muchos casos, a su limitada envergadura, han dado lugar a que los prestatarios recurrieran a las fuentes de financiación más accesibles. En los países exportadores de capitales, el hecho de quela capacidad de producción de bienes de capital excediera de la demanda y la mayor disponibilidad de recursos financieros han contribuido a que se intensificara la concesión de créditos de proveedores, tendencia alentada también por la política de los gobiernos en materia de exportaciones y de la balanza de pagos. Tanto en los países en desarrollo como en los industrializados, los créditos de proveedores han constituido un instrumento conveniente para reemplazar a la financiación privada proveniente de instituciones y del mercado, que había sufrido los efectos de la guerra y de diversos controles. Además, en la práctica, no se han podido contar con otras alternativas en escala adecuada. Esto es lo que ha sucedido con los préstamos de organismos internacionales, no sólo debido a que su alcance hasido limitado, sino también a que la calidad deficiente de muchos proyectos, la precaria capacidad crediticia y la política económica poco satisfactoria de los presuntos países prestatarios han dificultado su

concesión.

Entre los países sobre los cuales se dispone de información, hubo algunos que hicieron un uso excesivo de los créditos de proveedores. En lo que respecta a los deudores, los principales factores determinantes fueron la existencia, deliberada o no, de prácticas altamente proteccionista conjuntamente con una política inflacionaria prolongada; el hecho de que las autoridades no controlaran, o bien lo que hicieran en forma limitada o inefectiva, la contratación de créditos de proveedores; la insuficiente atención que aquéllas prestaron a la solidez económica y calidad de los proyectos financiados; la aplicación de una política inadecuada con respecto a la administración de la deuda; y, en algunos casos, el estímulo positivo para obtener créditos de proveedores debido a la imposibilidad de conseguir recursos externos de otras fuentes. En cuanto a los acreedores, la concesión de un número excesivo de dichos créditos obedeció a razones fundamentales de política comercial y de la balanza de pagos; a la presión eficaz que los intereses de los diversos sectores nacionales ejercieron sobre sus respectivos gobiernos; y a la excesiva importancia atruibuida al valor legal de las garantías concedidas por los países deudores. Otros factores que también afectaron la concesión de créditos de proveedores fueron la deficiente información de que se disponía acerca del nivel de endeudamiento de los países receptores y la poca efectividad de la cooperación entre los países acreedores.

En algunos casos, la utilización de dichos créditos ha tenido consecuencias costosas para los países en desarrollo. No siempre se han obtenido los beneficios que cabe esperar de la competencia entre los proveedores y de los sistemas de garantías. En ciertos casos, o bien se desconocían otras fuentes de abastecimiento, o eran prácticamente inaccesibles. En otros, el deseo del proveedor de protegerse contra riesgos no cubiertos por las garantías, o la ausencia misma de garantía por una y otra parte, se tradujo en costos efectivos más elevados por concepto de intereses. En un sentido más amplio, también ocasionaron costos económicos las distorsiones en la utilización de los recursos internos, distorsiones que con frecuencia tuvieron un efecto desfavorable sobre la capacidad del país receptor para hacer frente al servicio de la deuda. Del mismo modo, se produjeron costos económicos en los casos en que la presión sobre la balanza de pagos, debida al endeudamiento excesivo por concepto de estos créditos y de préstamos de otra índole, ha hecho inevitable el reajuste de los vencimientos de la deuda (rescheduling operations). Estas crisis de la deuda externa han tenido efectos desfavorables sobre la capacidad crediticia de países afectados, lo que ha dificultado su acceso a las fuentes de financiación externa, incluidos los créditos de proveedores.

De la información disponible se deduce la conclusión de que los créditos de proveedores han hecho una valiosa aportación a la afluencia de capital a los países en desarrollo, y que con-

tinuarán constituyendo un instrumento importante de financiación, especialmente en lo que respecta a la industria manufacturera. Ahora bien, también cabe señalar que la efectividad de esos créditos se incrementaría si se adoptaran medidas encaminadas a evitar o reducir a un mínimo su utilización inadecuada. A los países acreedores y deudores y a los organismos internacionales les corresponde desempeñar un papel importante para lograr este objetivo.

A este respecto, es indispensable disponer de adecuada información fidedigna sobre dichos créditos y sobre el nivel de endeudamiento de los países en desarrollo en general. El acuerdo establecido recientemente entre la OCDE y el Banco Mundial con el objeto de mejorar el sistema de notificación de los países acreedores también contribuirá a dicho fin. No obstante, los progresos que se logren en ese sentido dependerán de los esfuerzos que realicen los propios países en desarrollo para proporcionar información sobre su endeudamiento total, así como sobre los plazos de vencimiento de toda su deuda externa y la medida en que utilizan créditos de proveedores.

El hecho de que los países en desarrollo siguieran una política equilibrada en materia de endeudamiento externo, basada en sólidos principios económicos y financieros, permitiría reducir al mínimo las distorsiones producidas por las decisiones privadas de sus residentes y favorecería una mayor disposición por parte de los gobiernos o instituciones extranjeras a concederles préstamos.

Para una buena administración de la deuda es indispensable aplicar, con criterio prudente, procedimientos de autorización previa y control presupuestario con respecto a la contratación de créditos de proveedores por intereses privados y por organismos públicos y semipúblicos. Es preciso dar máxima prioridad a proyectos que sean satisfactorios desde un punto de vista económico, especialmente a los que contribuyan a aumentar la capacidad del país para atender al servicio de la deuda, y procurar que la calidad de los proyectos del sector público sea suficientemente alta para poder obtener financiación de instituciones internacionales. Los países en desarrollo podrían aprovechar la oportunidad que les proporcionan sus contactos regulares con los organismos internacionales para conseguir, siempre que fuera posible, asistencia técnica sobre estas cuestiones.

Es conveniente que los países acreedores establezcan, de común acuerdo, foros adecuados que permitan intensificar sus esfuerzos conjuntos encaminados a (i) la armonización de sus prácticas comerciales y financieras, y (ii) la formulación de una política más positiva en materia de créditos de proveedores dentro del marco de sus respectivos programas de ayuda al exterior. En la administración de los sistemas de garantías, los países acreedores deberían prestar especial atención a la calidad de los proyectos financiados y al efecto que los créditos propuestos tendrían sobre el endeudamiento total y la capacidad de los países receptores

para atender al servicio de la deuda.

Una coordinación internacional efectiva con respecto a determinados países deudores permitiría reducir ciertos costos y excesos a que ha dado lugar en el pasado el empleo de créditos de proveedores. Con el fin de fomentar una mayor competencia entre los abastecedores, podría considerarse la posibilidad de que los organismo internacionales, que tienen experiencia en estos asuntos, sirvieran de conducto para comunicar a sus países miembros el interés de un determinado pais en desarrollo en obtener créditos de proveedores con destino a un proyecto específico. Del mismo modo, por intermedio de grupos de acreedores - bien sean los consorcios o grupos consultivos ya establecidos o grupos ad hoc del tipo de los "clubs" existentes - podrían tomarse medidas preventivas encaminadas a evitar la repetición de crísis en materia de endeudamiento.

Finalmente, los países acreedores y los deudores podrían considerar la adopción de medidas en otros dos aspectos. Por un lado, la realización de nuevos estudios a fondo sobre la experiencia de determinados países en materia de créditos de proveedores permitiría tener una idea más cabal del problema en su conjunto. Por otra parte, los países acreedores podrían estudiar la aplicación de disposiciones encaminadas a establecer la debida separación entre los aspectos financieros y comerciales de las ventas de bienes de capital, de tal forma que en estos casos, se concediera mayor atención al empleo de créditos de financiación. Esto proporcionaría al comprador la oportunidad de seleccionar entre un número mayor de abastecedores, tanto dentro de un mismo país de origen como entre diversos países.

I. ORIGEN Y ALCANCE DEL ESTUDIO

Este estudio ha sido preparado por los servicios del Banco Internacional de Reconstrucción y Fomento (Banco Mundial), en cumplimiento de una resolución adoptada por la Conferencia de las Naciones Unidas sobre Comercio y Desarrollo (UNCTAD) en su primer período de sesiones, celebrado en Ginebra durante los meses de marzo a junio de 1964.1/ En dicha resolución se recomendó que se invitara al Banco a que, entre otras cosas, hiciera un estudio sobre la utilización (real y potencial) y las condiciones de los créditos de proveedores y del seguro de créditos para financiar las exportaciones de los países desarrollados a los países en desarrollo, teniendo en cuenta la capacidad de los últimos para reembolsar los créditos y otras repercusiones en su economía y en su balanza de pagos; a que señalara las dificultades que se plantean o pueden plantearse, sobre todo en relación al servicio de la deuda, y considerase las posibles soluciones, y a que, por último, remitiera el citado estudio a las Naciones Unidas, junto con las recomendaciones que estimase apropiadas.

Además de examinar el papel de los créditos de proveedores y del seguro de créditos como medio para financiar las exportaciones de los países desarrollados a los que se encuentran en desarrollo, en la resolución se invitó al Banco a que estudiara sus efectos "en la competencia entre las exportaciones de los países en desarrollo y las de los desarrollados" y a que analizara tales créditos y seguros de créditos "como medio de financiación del comercio entre los países en desarrollo". La naturaleza de este segundo aspecto es muy distinta de la del primero. Es indudable que los créditos de proveedores de los países desarrollados a los que se encuentran en desarrollo no sólo afectan la competencia entre las exportaciones de los dos tipos de países a mercados de terceros, sino también la competencia dentro de los mercados de los propios países en desarrollo. Por razones de prioridad, en el presente informe sólo se examinan los problemas relativos a la utilización de los créditos de proveedores como instrumento financiero para incrementar el suministro de bienes de los países desarrollados a los países en desarrollo. La financiación de las ventas, tanto internas como de exportación, de las industrias manufactureras de estos últimos países, constituye una materia muy amplia a la que el Banco viene prestando constante atención en relación con su labor encaminada a promover el desarrollo de sus países miembros, pero no ha sido posible incluirla en el estudio a que se refiere el presente informe.

1/ En el Anexo I figura el texto completo de la resolución y de un proyecto de recomendación sobre la misma materia, propuesto por España y Túnez. Esta recomendación no fue sometida a votación, pero en la resolución, que se aprobó sin disentimiento se dispuso que se tuvieran en cuenta las observaciones contenidas en ella.

La cuestión de los créditos de proveedores y su efecto sobre la economía de los países en desarrollo ha venido preocupando al Banco Mundial desde hace muchos años. Ya en septiembre de 1954, en la Novena Reunión Anual de su Junta de Gobernadores, celebrada en Washington, D.C., el Presidente del Banco reconoció la utilidad de los créditos de proveedores. No obstante, señaló que se estaba produciendo una transición de un mercado de vendedores a uno de compradores con respecto a la disponibilidad internacional de bienes de capital, y manifestó que se estaba desarrollando "una intensa competencia entre los proveedores de todo el mundo", que abarcaba "no sólo la competencia en cuanto a precios, calidad y fechas de entrega, sino también la oferta de créditos de proveedores a plazo medio." Se refirió especialmente a ciertas tendencias peligrosas que estaban comenzando a registrarse. "Es innecesario decir - declaró a este respecto - que los créditos de proveedores constituyen un tipo apropiado de financiación internacional cuando se aplican a transacciones adecuadas. Pero pueden utilizarse de forma indebida o excesiva, y hay pruebas inquietantes de que esto es lo que está ocurriendo, es decir, que se están concediendo demasiados créditos bajo la presión de la competencia, a veces en condiciones inadecuadas y para fines indebidos". Resumiendo los efectos perjudiciales de esta utilización el Presidente del Banco señaló que "el uso excesivo de créditos a plazo corto y medio ha de reducir necesariamente las posibilidades de acceso de un país a los fondos de capital a largo plazo. En suma, el uso indiscriminado de créditos de esta clase puede incrementar los costos del desarrollo, interrumpir la continuidad de los esfuerzos, afectar el equilibrio de las inversiones y hacer que resulte más difícil, y no más fácil, alcanzar las metas establecidas para esas inversiones."

Posteriormente, la importancia de los créditos de proveedores como medio para la financiación internacional ha aumentado en grado considerable. En el plano internacional, este hecho ha dado lugar a cuantiosas transferencias de recursos reales de los países desarrollados a los que se encuentran en desarrollo, y ha contribuido en gran medida al crecimiento económica de estos últimos, especialmente de sus sectores industriales. Ahora bien, el incremento registrado en la afluencia total de créditos a plazo corto y medio ha ido acompañado de diversas características y consecuencias indeseables que han tenido un efecto desfavorable no sólo sobre varios países en desarrollo, sino también sobre ciertos países acreedores. Por diversas razones de índole económica, política e institucional, la distribución de la deuda contraída por concepto de estos créditos no ha sido uniforme; en 1965, una importante proporción de la suma total correspondía a un pequeño grupo de países deudores. En el caso de algunos de estos países, ha sido necesario hacer arreglos de refinanciación debido al monto excesivo de sus obligaciones anuales por concepto del

servicio de la deuda. Esto ha afectado su capacidad para obtener préstamos, y hasta ha dado lugar a que se limitara la afluencia de los propios créditos de proveedores. Además tanto en estos como en otros países deudores, debido a las circunstancias en que se obtuvieron, los créditos de proveedores resultaron excesivamente costosos en función de las distorsiones en la utilización de los recursos internos reales así como desde un punto de vista financiero. Por estas razones, tanto los países deudores individualmente como los países acreedores sobre una base colectiva, han establecido ciertas limitaciones, a nivel nacional o internacional, con el fin de atenuar esos efectos perjudiciales. Ahora bien, estas medidas no siempre han resultado efectivas, y en algunos casos ni siquiera se han aplicado estrictamente.

El principio por el que se han guiado los funcionarios del Banco Mundial al examinar la cuestión de los créditos de proveedores puede expresarse en pocas palabras: por una parte, que deben aprovecharse al máximo las fuerzas que impulsan la afluencia de esa financiación y por otro lado, que es preciso ajustar dicha afluencia a las exigencias del desarrollo económico equilibrado, al flujo total de capital internacional y a la situación de endeudamiento de los países receptores.

En el presente informe se examinan en primer lugar las características y la evolución de los créditos de proveedores. Seguidamente se estudian los objetivos de los diversos sistemas relativos a la concesión y contratación de dichos créditos. Después se consideran las ventajas que reporta su utilización en forma debida y se analizan los problemas a que dan lugar los excesos y las prácticas poco satisfactorias. Finalmente, se formulan algunas recomendaciones encaminadas a mitigar los problemas pero sin dejar de aprovechar las ventajas que ofrece este tipo de financiación internacional.

En el informe se examinan ciertos aspectos fundamentales de los créditos de proveedores respecto a los cuales se dispone de información adecuada. También se formulan algunas propuestas en materia de política, basadas en las conclusiones relativas a la utilización de dichos créditos dentro del marco de la afluencia total de capital de los países industrializados a los que se encuentran en desarrollo. Este estudio se ha preparado en estrecha coordinación con uno semejante realizado por las Naciones Unidas (Export Credit and Development Financing, 67.II.D.1). En este último se hace un examen analítico e histórico de la naturaleza y funcionamiento de los actuales sistemas nacionales y arreglos internacionales relativos a la concesión de créditos de exportación y al seguro de créditos, y se consideran los principales problemas que plantea el empleo de esas técnicas a fin de incrementar la disponibilidad de recursos internos para la financiación del desarrollo. Algunas partes del estudio de las Naciones Unidas se han incorporado en los Anexos al presente informe, en

los que se dan más detalles sobre ciertos aspectos de cuestiones examinadas en términos más generales en la parte principal del documento. Dichos Anexos son los siguientes:

Anexo I - que contiene el texto de la resolución de la UNCTAD sobre créditos de proveedores y el de una recomendación sobre la misma materia, propuesta por España y Túnez.

Anexo II - que consiste en una exposición resumida de la evolución general de los sistemas de créditos de exportación y del seguro de estos créditos.

Anexo III - en el que se describen las características del seguro de créditos de exportación y de los créditos privados de esta índole en diversos países industrializados.

Anexo IV - en el que se da cuenta de las instituciones y sistemas establecidos para la cooperación entre los países acreedores.

Anexo V - que contiene algunas estadísticas globales sobre créditos de proveedores.

En su labor de análisis para este informe, los funcionarios del Banco Mundial han contado con la valiosa ayuda de estudios e investigaciones realizados por otros organismos internacionales, tales como el Banco de Pagos Internacionales y la Organización de Cooperación y Desarrollo Económicos, así como por la Secretaría de las Naciones Unidas. Varios de los anexos mencionados están basados, en gran medida, en información disponible como resultado de los trabajos de dichos organismos.

II. CARACTERISTICAS PRINCIPALES Y EVOLUCION DE LOS CREDITOS DE PROVEEDORS Y DEL SEGURO DE CREDITOS

Características de los Créditos de Proveedores y del Seguro de Créditos 1/

La preocupación que refleja la resolución de la UNCTAD al solicitar que se realizara un estudio de los "créditos de proveedores y del seguro de créditos ... para financiar las exportaciones de los países desarrollados a los países en desarrollo", se ha interpretado en el sentido de que se refería a los créditos concedidos por proveedores privados para financiar exportaciones, así como al apoyo oficial concedido a éstas por intermedio de sistemas especiales de financiación y del seguro de créditos. En esencia, los créditos están relacionados con las actividades comerciales de proveedores privados que desean efectuar ventas. Se otorgan directamente por los proveedores de los países desarrollados a sus clientes en los países en desarrollo, bien sea que pertenezcan al sector privado o se trate de organismos públicos o semipúblicos. Por supuesto, estos créditos pueden ser financiados con los recursos propios de los proveedores o con fondos provenientes de préstamos bancarios obtenidos por ellos para sus actividades comerciales generales o para las transacciones específicas de exportación de que se trate. 2/

Aunque las transacciones relacionadas con la utilización de créditos de proveedores suelen efectuarse con fines comerciales, aún en los casos en que una de las partes interesadas (especialmente el deudor) no es una entidad privada, las autoridades públicas de los países de que se trate suelen tener alguna intervención en la concesión o uso de dichos créditos. En términos generales, el grado de participación estatal en los créditos de proveedores ha ido aumentando a medida que éstos iban adquiriendo mayor importancia como instrumento de financiación internacional. En lo que respecta a los acreedores, el interés y las

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1/ Para más detalles véase el Anexo III.

2/ Existe otra modalidad de financiación internacional que, en muchos aspectos, es semejante a los créditos de proveedores. En virtud de ella, un banco privado o una institución de financiación de un país desarrollado concede el crédito a un comprador de 1 país en desarrollo, en vez de otorgarlo directamente el proveedor. Esta modalidad de financiación, de reciente implantación, suele denominarse "crédito de compradores" o "crédito de financiación". Debido a la poca experiencia que se ha tenido con estos créditos y a la escasez de información al respecto, no son objeto de un examen sistemático en la parte principal de este informe. Ahora bien. en el Anexo III, se describen en forma detallada los sistemas institucionales relacionados con la concesión de ese tipo de créditos.

disposiciones adoptadas por las autoridades públicas han respondido esencialmente, a consideraciones de índoles comercial y de la balanza de pagos. Con frecuencia, el interés de los proveedores privados en mantener o mejorar su posición de competencia en el extranjero ha coincidido con los objetivos generales de la política de sus respectivos gobiernos, tanto en lo que se refería a la promoción y diversificación de las exportaciones, como en materia de pagos externos. Este hecho ha dado lugar al establecimiento de diversos sistemas, ya sea de índole pública o con el apoyo gubernamental, encaminados a incrementar la afluencia de exportaciones financiadas por medio de créditos de proveedores. Entre ellos, los más importantes son los sistemas especiales de créditos de exportación o de refinanciaciación y los planes de garantía de créditos de exportación. La necesidad de los primeros sistemas citados ha sido especialmente aguda en los casos en que las instituciones bancarias y financieras del país no estaban en condiciones de financiar este tipo de créditos, mientras que el objetivo básico de los planes de garantía ha sido la protección del proveedor contra diversos riesgos derivados del hecho de que los pagos habían de realizarse a determinados plazos.

En lo que respecta a los deudores, la intervención estatal en los créditos de proveedores ha obedecido a diversas finalidades. Por una parte, debido a las limitaciones que han considerado necesario imponer a la disponibilidad de divisas con el fin de permitir la aplicación efectiva de su política de desarrollo económico, los gobiernos han ayudado a sus propios residentes a obtener créditos de proveedores mediante la concesión de garantías, tanto para el servicio de la deuda en moneda nacional como para la transferencia de divisas. Por otra parte, en algunos casos, las autoridades públicas han impuesto controles a los créditos de proveedores o han establecido requisitos de autorización previa para su contratación. Esto se ha hecho con el fin de canalizar las divisas hacia determinados sectores económicos y proteger la situación de la balanza de pagos, evitando que se aceptaran condiciones excesivamente gravosas, especialmente con respecto a los tipos de interés y a los plazos de reembolso. El grado en que se han aplicado estos controles y garantías ha variado de un país a otro, y también en un mismo país en diferentes épocas. Ahora bien, con estas medidas no siempre se han logrado los objetivos que motivaron su adopción. Las autoridades públicas han intervenido más directamente en lo que respecta a los créditos de proveedores en los casos en que por ser excesiva la carga de la deuda, ha sido necesario, proceder a su renegociación, y en la cual se han concertado arreglos que en realidad han transformado los créditos en préstamos intergubernamentales. Por regla general, en estos casos también se ha convenido en limitar la contratación de nuevos créditos de proveedores.

En varios países, la disponibilidad de facilidades de refinanciación por el banco central o instituciones públicas ha sido un factor importante en la expansión de los créditos privados de exportación a plazo medio y largo. Además, en algunos hay organismos públicos que proporcionan financiación para las exportaciones conjuntamente con firmas privadas. En otros casos, estas transacciones conjuntas del sector público y el privado se llevan a cabo combinando los recursos procedentes de ambos sectores en una misma institución, que a su vez puede ser privada o pública. 1/

Además de las facilidades de financiación, los países acreedores han extendido seguros de créditos de exportación para cubrir los riesgos no comerciales - tales como los de carácter político que a veces son características de las transacciones internacionales -, y también los comerciales. En ocasiones, se cubren créditos concedidos para financiar ciertos servicios, además de los correspondientes a la exportación de bienes. Las pólizas de seguros suelen ser específicas - para una sola transacción -, o bien más amplias, es decir, para cubrir una parte determinada de la totalidad de las operaciones del exportador. Aunque a veces éste ha de asumir por su propia cuenta el riesgo de una pequeña proporción del crédito, ha habido una tendencia general y constante a incrementar el porcentaje de los créditos que protege el seguro. Por lo general, se cubre una proporción mayor de los riesgos de carácter político que de los comerciales. Cuando se trata de créditos de proveedores, el seguro se puede conceder directamente al proveedor. En el caso de créditos de compradores, el seguro puede extenderse a un banco, bien sea que el crédito se conceda al proveedor o directamente al cliente extranjero. En general, existe bastante similitud entre los planes de seguro de créditos de exportación de los principales países exportadores de capitales, en tanto que hay mayores diferencias en los sistemas de dichos créditos, que suelen estar relacionadas con las características de las instituciones financieras, procedimientos y mercados de cada país.

Evolución de los Sistemas 2/

A principios del decenio de 1950, los vencimientos de los créditos de exportación fueron ampliándose progresivamente a cuatro o cinco años. Como se ha indicado anteriormente, la evolución de los sistemas de seguros de créditos contribuyó a esta ampliación de los plazos de los créditos privados.

1/ Véase, en el Anexo III, la sección sobre Créditos de Exportación.

2/ Para más detalles, véanse los Anexos II, III y V.

A partir de mediados del mismo decenio, los exportadores de Europa Occidental ejercieron presión cerca de sus autoridades para que la cobertura del seguro se extendiera a créditos por un plazo superior a cinco años, a fin de poder ampliar proporcionalmente los vencimientos de los créditos de exportación. Estas presiones de los exportadores reflejaban a su vez, las que ejercían sobre ellos los clientes de los países en desarrollo, especialmente, a medida que se fue intensificando la tendencia a condicionar los créditos públicos a que las adquisiciones se efectuaran en los respectivos países acreedores, como ocurrió especialmente en los Estados Unidos y el Reino Unido. Los países industrializados de Europa continental, que también habían condicionado gran parte de sus créditos públicos, cedieron ante esas presiones, lo cual permitió extender los vencimientos de los créditos privados de exportación. Las disposiciones de un "convenio" establecido en el seno de la Unión de Berna para limitar la competencia en los créditos de exportación, especialmente mediante la fijación de un período máximo de cinco años para el seguro de estos créditos, fueron liberadas progresivamente. Los créditos de compradores, a diferencia de los créditos de proveedores, quedaron excluidos de la aplicación de las citadas disposiciones; la Unión de Berna definió concretamente la fecha a partir de la cual comenzaría a contarse el plazo de cinco años, y se amplió la proporción en que podían financiarse los contratos asegurables, al reducirse el pago de entrada exigido a los compradores.

La institución más importante de seguro de créditos de exportación del mundo es el "Export Credits Guarantee Department" (ECGD) del Reino Unido, que tiene carácter oficial y asegura aproximadamente el 30 por ciento del total de las exportaciones de dicho país a todos lospuntos de destino.1/ El Reino Unido ha sido el primer país que ha ampliado la cobertura del seguro de créditos de exportación al 100 por ciento del importe de éstos en ciertos casos. La misma póliza y la misma institución cubren los riesgos tanto comerciales como no comerciales. En virtud de estas garantías, los bancos privados pueden conceder préstamos para transacciones de exportación amparadas por pólizas de esta índole, en algunos casos con plazos hasta de 15 años y, además, el Banco de Inglaterra ofrece facilidades de refinanciación, que hasta ahora no se han utilizado.

Los créditos privados de exportación en Francia cuentan también con amplio apoyo de sistemas oficiales de seguro de créditos y de facilidades de redescuento del banco central, por intermedio de instituciones bancarias oficiales especializadas, ta-

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1/ En el Anexo III se describen con mayor detalle las características del seguro de créditos de exportación y de los créditos privados de exportación en varios países industrializados.

les como la "Banque Française du Commerce Extérieur" y el "Crédit National". Todos los creditos de exportación con plazos superiores a dos años son asegurables. Además, el sistema de financiación conjunta de las exportaciones por bancos privados y oficiales permite ampliar los vencimientos y reducir los tipos de interés de dichos créditos.

En Alemania hay un sistema similar de financiación conjunta privada y pública para las transacciones de exportación, con una mayor preponderancia de la participación oficial. Se aseguran las operaciones de financiación de exportaciones de los bancos comerciales privados, así como de instituciones especializadas, una de las cuales es privada (la "Ausfuhrkredit"), en tanto que la otra es pública (la"Kreditanstalt fur Wiederaufbau"). Esta última también obtiene una parte importante de sus recursos en el mercado de capitales privados.

En Italia, una institución oficial autónoma, el "Instituto Nazionales delle Assicurazioni" asegura los créditos de exportación a plazo medio. La concesión de la financiación para las exportaciones está a cargo de varias instituciones crediticias, algunas de las cuales obtienen asimismo una proporción considerable de sus fondos en el mercado de capitales privados.

En el Japón, el Ministerio de Comercio Internacional e Industria es el que concede el seguro de créditos de exportación. Los bancos privados tienen acceso a las facilidades de redescuento del Banco de Exportación e Importación de dicho país.

Desde principios del decenio de 1960, en los Estados Unidos se ha registrado una tendencia cada vez más acentuada a transferir una parte de las actividades de financiación de las exportaciones del sector público al privado, al principio mediante sistemas de seguros y de garantías, y posteriormente en virtud de facilidades de redescuento fomentadas o establecidas por el Banco de Exportación e Importación de Washington. Los vencimientos de los créditos concedidos por el sector privado suelen ser más cortos, siendo el sector público el que proporciona principalmente el financiamiento a largo plazo.

Cooperación Organizada a Nivel Internacional[1/]

Como se ha indicado anteriormente, la importancia creciente que han adquirido los créditos de proveedores en el período

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1/ Para más detalles véase el Anexo IV.

de la posguerra ha dado lugar también a la adopción de diversas medidas de cooperación internacional encaminadas a solucionar los problemas que plantea la utilización de ese tipo de créditos.

Estos esfuerzos de cooperación internacional han sido, en general, de dos clases. En primer lugar, las tentativas de muchos países acreedores[1/] para llegar a un acuerdo sobre los principios que rigieran la concesión, por ellos de créditos privados y del seguro de créditos para financiar las exportaciones a los países en desarrollo en general. Esos esfuerzos han tendido principalmente (i) a evitar, en la mayor medida posible, que se produjeran distorsiones en el intercambio como consecuencia de diferencias en las condiciones de los créditos o de subvenciones de las primas de seguros, tipos de interés o precios, y (ii) a detener el proceso de ampliación de los vencimientos, toda vez que se consideraba que, en principio, la competencia a este respecto era contraproducente. El otro tipo de cooperación ha consistido en la creación de grupos integrados por ciertos países acreedores para hacer frente a problemas de endeudamiento externo de determinados países en desarrollo. Dado el alcance más limitado de esta última modalidad de cooperación, sus resultados han sido más concretos. Los arreglos concertados por intermedio de estos grupos ad hoc han contribuido a aliviar temporalmente las crisis de endeudamiento de distintos países deudores. Sin embargo, no han culminado en el establecimiento de mecanismos integrales o permanentes para abordar los complejos problemas que plantean los créditos privados de exportación en general.

La institución mas antigua a través de la cual se trató de establecer principios generales es la Unión de Berna, que se ha ocupado especialmente de las reglas relativas al seguro de créditos de exportación. En la actualidad, esta organización está compuesta de veintiséis miembros de pleno derecho, que son instituciones de seguro de créditos de exportación privadas o públicas. Ha constituido un instrumento útil para el intercambio de información, a nivel internacional, sobre las prácticas en esta materia y para promover una mejor comprensión de los principios y técnicas de los créditos de exportación, así como para encontrar soluciones a los problemas que surgen en ese campo. No se trata de una organización de gobiernos, cuyas políticas determinan, en definitiva, las prácticas que han de seguirse, y los "convenios" a que se han llegado en su seno no han tenido carácter obligatorio. El Japón que es una de las principales fuentes de créditos privados de exportación, no está representado en la Unión. Como se ha indicado anteriormente,

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1/ En este contexto, los términos "acreedor" y "deudor" se refieren a los gobiernos a menos que se indique lo contrario, aún cuando en realidad los acreedores y deudores pertenezcan al sector privado. En los casos en que pueda haber confusión, se utilizan las expresiones "país deudor" y "país acreedor" para designar el lugar de residencia de los deudores y acreedores por concepto de créditos de proveedores.

en muchos casos no se ha observado el límite máximo de cinco años establecido por la Unión para los créditos privados de exportación que podían ser cubiertos por seguros, debido a que la presión de los países deudores y la reacción competitiva de los países acreedores dio lugar a la ampliación de los vencimientos. Otro factor que influyó en la nueva situación fue el desarrollo de otras modalidades de crédito tales como los créditos conjuntos de los sectores público y privado, que no están comprendidos en el campo de acción de la Unión.

A principios del decenio de 1960, los gobiernos comenzaron a prestar atención a la necesidad de alcanzar cierta armonización en las prácticas seguidas en la materia. Estos esfuerzos se realizaron en el seno de la Comunidad Económica Europea (CEE) integrada por seis países, y en la Organización de Cooperación y Desarrollo Económicos (OCDE), que cuenta con veintiún miembros. La CEE estableció un grupo de coordinación, integrado por sus países miembros y por compañías de seguro de créditos de los mismos, para que se ocupara tanto de los problemas relativos a los créditos como al seguro. Se convino en el principio de que los créditos privados de exportación a los países en desarrollo podrían otorgarse con plazos de vencimiento superiores a cinco años. El grupo llegó también a un acuerdo sobre los principios o reglas que han de regir la concesión de préstamos a plazos más largos. La CEE ha estado representada como bloque en la OCDE, además de la representación individual de sus seis países miembros, pero esos países no han conseguido convencer a los demás miembros de la OCDE a que aceptaran la implantación de principios generales en el seno de la citada Organización. Esto ha contribuido a obstaculizar la aplicación de dichas reglas o principios dentro del grupo de países de la CEE.

La OCDE se ha ocupado de la cuestión de los créditos privados de exportación en sus dos comisiones, la Comisión de Comercio y el Comité de Ayuda para el Desarrollo (CAD), cada una de las cuales actúa en un plano relativamente distinto. Hasta la fecha, ninguna de estas comisiones ha llegado a conclusiones definitivas que puedan servir de guía a los países acreedores que forman parte de la OCDE con respecto a sus prácticas en materia de concesión de créditos privados de exportación o de seguros de créditos. Una propuesta específica que ha estudiado la OCDE consiste en la implantación de un sistema de "zona neutra". En virtud de él se establecerían plazos máximos de reembolso de cinco, ocho y diez años para los créditos y garantías comerciales concedidos para financiar categorías específicas de bienes y a países determinados, y un plazo mínimo de vencimiento de quince años para créditos concedidos para fines de ayuda. La "zona neutra" consistiría en los vencimientos de diez a quince años, que se eliminarían. El Grupo de Trabajo del CAD no llegó a conclusión alguna respecto a esta propuesta, la que se transmitió a la Comisión de Comercio para su

consideración . El grupo sobre créditos de exportación y garantías de créditos, establecido por dicha Comisión de Comercio, procedió a su estudio, pero no se llegó a un consenso general en cuanto a que dicha fórmula podría constituir una base práctica para un convenio internacional en esa materia. El grupo también hizo un estudio a fondo de una propuesta encaminada al establecimiento, por la OCDE, de un sistema de notificación para las transacciones por un plazo superior a cinco años, en virtud del cual los miembros proporcionarían, en respuesta a una solicitid a ese efecto, información sobre las condiciones que están dispuestos a ofrecer, o a apoyar mediante garantías o seguros, para transacciones de exportación y préstamos de índole comercial con destino a proyectos específicos. Parece que, en principio, los miembros estan dispuestos a adoptar un sistema de esta índole, pero todavía quedan por resolver algunos problemas de detalle.

La segunda forma de cooperación internacional mencionada anteriormente está relacionada con las crisis en materia de endeudamiento externo que se han producido desde finales del decenio de 1950 en algunos países deudores. A fin de hacer frente a dichas crisis, se han constituido "clubs" de carácter extraoficial para el reajuste de la deuda, integrados por los principales países acreedores afectados, por ejemplo, el "Club de Paris" y el "Club de la Haya" para modificar el plan de pagos del servicio de la deuda de países como la Argentina, Brasil y Chile. En un caso, el de Turquía, el reajuste de la deuda se llevó a cabo por medio de un consorcio internacional, de carácter más oficial, organizado bajo los auspicios de la OCDE. Los acuerdos establecidos no han contribuido a aliviar las obligaciones por concepto de pagos de los deudores afectados (bien sea que se tratase de entidades del sector privado o de organismos públicos), y tampoco afectaron de forma importante a los acreedores privados. Pero sí han dado lugar a una reducción de la carga por concepto de transferencia de fondos de los países en cuestión, mediante la estipulación de que determinado porcentaje de los pagos efectuados por los distintos deudores se transfiera nuevamente al "país deudor" por los gobiernos de los "países acreedores". Como contrapartida para ese alivio de la carga de la deuda, los acuerdos establecidos entre un "país deudor" y el conjunto de sus "acreedores" han contenido, entre otras, disposiciones relativas a la limitación de la medida en que los deudores podrían contraer créditos privados de exportación con plazos inferiores a cierto vencimiento mínimo, generalmente de ocho años, aplicables durante un determinado período de tiempo, por lo general de dieciocho meses.

Las instituciones internacionales, especialmente el Fondo Monetario Internacional (FMI) y el Banco Mundial, han contribuido en diferentes formas a estos esfuerzos de cooperación internacional relacionados con los problemas de determinados países en desarrollo. En el caso de algunos de estos "clubs", dichas ins-

tituciones han proporcionado análisis "de terceros" sobre las perspectivas de la balanza de pagos del país deudor, proporcionando el Fondo los análisis a plazo corto y el Banco los de las perspectivas a largo plazo. Por lo menos en tres casos, la información del país deudor a los países acreedores sobre el cumplimiento de compromisos relativos a las limitaciones en la utilización de créditos privados de exportación se ha transmitido a través del Fondo Monetario Internacional. Aparte de las operaciones de reajuste de la deuda, el Fondo Monetario Internacional ha incluido a veces limitaciones sobre la utilización de ciertos tipos de créditos de proveedores en sus acuerdos de crédito contingente (stand by) con ciertos países deudores. Algunos de los países para los cuales se han establecido grupos consultivos, tales como Nigeria, Sudán, Tailandia y Túnez, han utilizado en gran medida los créditos privados de exportación y, por tanto, una proporción importante del total de sus pagos por concepto del servicio de la deuda externa corresponde a esos créditos.

III. INCREMENTO DE LA IMPORTANCIA DE LOS CREDITOS DE PROVEEDORES Y ALGUNOS PROBLEMAS PLANTEADOS EN SU UTILIZACION

En el presente capítulo se examinan algunos aspectos fundamentales de la evolución de los créditos de proveedores, entre otros, los factores que afectan su utilización y los problemas que en ocasiones se han planteado a ese respecto. Las observaciones que se exponen a continuación están basadas en la experiencia obtenida en la práctica con esta modalidad de financiación reflejada en la información estadística y de otra índole sobre créditos de proveedores con un plazo mínimo de un año.1/ Como se indica en el Anexo V, las diferentes series de datos estadísticos utilizados para este informe tienen varias lagunas y plantean dificultades de reconciliación. También existen otras

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1/ La selección de este plazo mínimo de vencimiento está de acuerdo con las normas adoptadas por el Banco con respecto a los datos que recopila sobre la situación de endeudamiento externo, y con las adoptadas por la OCDE para sus informes sobre la afluencia de recursos financieros a los países en desarrollo (véase la publicación del Banco Mundial "Instrucciones para Informar Sobre la Deuda Externa," Washington, 15 de junio de 1962, y la publicación de la OCDE "The Flow of Financial Resources to Less Developed Countries, 1956-63," Paris, 1964). Desde luego, estas normas no coinciden con el criterio adoptado en las claúsulas limitativas de la mayor parte de los acuerdos de reajuste de la deuda, en que el período mínimo de vencimiento es de 180 días. No obstante, se considera que, desde un punto de vista estadístico, la discrepancia a que da lugar esta diferencia es de poca importancia, y que no es probable que los créditos con plazos de vencimiento de entre seis meses y un año den lugar a problemas duraderos de endeudamiento.

imperfecciones.[1/] No obstante, se estima que si se consideran conjuntamente con otra información disponible, estas series de datos son suficientes para corroborar los puntos de vista expresados en el resto de este capítulo así como las recomendaciones formuladas en el capítulo siguiente, en particular las encaminadas a mejorar los sistemas de recopilación de información.

Algunos Aspectos Cuantitativos de los Créditos de Proveedores

Aunque no se dispone de series completas de datos estadísticos, hay pruebas de que la importancia, como instrumento de financiación internacional, de los créditos de proveedores concedidos a los países en desarrollo ha venido aumentando paulatinamente desde que comenzaron a utilizarse en un volumen apreciable a principios del decenio de 1950. Como se indica en el Anexo V, entre 1960 y 1965 se registró un incremento anual del 60 por ciento en la afluencia neta de los créditos de este tipo. Por esta razón, una proporción importante de la deuda pendiente de los países en desarrollo corresponde a este tipo de créditos. Al final de 1965

1/ Para fines de uniformidad, los datos sobre el intercambio comercial se han obtenido de la publicación del FMI "International Financial Statistics (IFS), y los relativos a la deuda externa son recopilados por el Banco de acuerdo con las normas indicadas anteriormente. En el caso de algunos países, es posible que estos datos difieran en cierta medida, de los recopilados por diversas instituciones, incluido el Banco para fines específicos. Con respecto a la serie de datos estadísticos sobre la deuda por concepto de créditos de proveedores, cabe señalar especialmente que dichos datos no comprenden los siguientes: (a) los correspondientes a los créditos de proveedores que no están garantizados o que solamente están garantizados por organismos privados o semipúblicos, y (b) los de créditos que se han convertido en obligaciones de la Tesorería o del banco central en virtud del reajuste de la deuda.
En lo que se refiere a la utilización del valor de las exportaciones como un indicador de la carga por concepto del servicio, hay que señalar que, en los casos en que los ingresos por concepto de turismo o de otras partidas invisibles constituyen una proporción importante de los ingresos corrientes totales (como sucede, por ejemplo, en España, México, y Uruguay), es preciso efectuar los ajustes pertinentes para obtener resultados más significativos. También deben hacerse ajustes semejantes en los casos en que ciertas exportaciones que son objeto de un tratamiento especial en materia de cambios no están incluidas en la serie de datos estadísticos del IFS, y también cuando las exportaciones no constituyen, necesariamente, una fuente de divisas para el país exportador (por ejemplo, en el caso de las exportaciones de petróleo, los ingresos en divisas del país en cuestión casi siempre están limitados al equivalente de las necesidades en moneda nacional de la compañías explotadoras.)

las obligaciones por concepto de créditos de proveedores obtenidos directamente o garantizados por organismos públicos de los países en desarrollo ascendían a cerca de US$5.500 millones. Esta cifra representa alrededor de una séptima parte de la deuda externa total pública o con garantía pública de los países en desarrollo, que ascendía a una suma ligeramente superior a US$39.000 millones. El total de la deuda externa por concepto de créditos de proveedores probablemente sería cerca de US$7.000 millones si se tomara en consideración la deuda no garantizada por las autoridades públicas de los países deudores.

Se estima que en 1965 se registró un aumento neto de US$1.000 millones en los recursos obtenidos por los países en desarrollo por concepto de créditos de proveedores, estando aproximadamente la mitad de estos créditos garantizados por los países acreedores. Esta cifra constituye algo menos del 10 por ciento de la totalidad de los recursos netos de todo tipo recibidos en el citado año por los países en desarrollo de toda clase de fuentes, que en total ascendieron a algo más de US$11.000 millones. En 1965, los desembolsos de préstamos oficiales concedidos por los países miembros del CAD se elevaron a US$2.000 millones, y los de préstamos concedidos por organismos multilaterales a US700 millones, excluidos los pagos por concepto de amortización en ambos casos. No obstante, cabe señalar, que debido a que los plazos de vencimiento de los créditos de proveedores son más cortos que los de los préstamos oficiales en realidad la afluencia anual bruta de dichos créditos a los países en desarrollo constituye una proporción más considerable de totalidad de la afluencia anual bruta que las que indica el nivel de afluencia neta mencionado anteriormente. Por esta misma razón, en la actualidad estos créditos representan relativamente mucho más de una quinta o una sexta parte de la carga anual por concepto del servicio de la deuda externa de los países en desarrollo.

Se estima que, en 1965, más de una tercera parte, es decir, US$1.400 millones, del servicio total estimado de la deuda externa contraída o garantizada por las autoridades públicas de los países en desarrollo, que ascendió US$3.600 millones, correspondía a créditos de exportación obtenidos de entidades privadas de los países acreedores. Es posible que la cifra correspondiente al servicio anual de la deuda haya sido más bien de US$2.000 millones, si se toma en consideración la deuda privada de los países en desarrollo con proveedores, es decir, la deuda contraída por entidades privadas y no garantizada por las autoridades públicas de los países deudores. El servicio anual estimado por concepto de créditos de proveedores correspondiente a 1965 representa aproximadamente el cuatro por ciento del valor de las exportaciones de productos básicos de una muestra de 36 países, cuya deuda externa total constituía aproximadamente el 78 por ciento de la deuda global de los países en desarrollo.

El considerable aumento registrado en la deuda pendiente de los países en desarrollo considerados en conjunto por concepto de créditos de proveedores no se registró en forma proporcional entre los distintos países. En lo que respecta a la muestra de 36 países, al final de 1965, el 80 por ciento de la deuda pendiente total por concepto de créditos de proveedores garantizados, correspondía a nueve países. Y existía una concentración algo mayor con respecto a los pagos por concepto de servicio.[1/] Además, en la mayor parte de los países, cuya deuda pendiente es más elevada, la afluencia bruta de créditos de proveedores en los últimos 10 o 15 años no ha seguido una pauta constante, debido a la influencia de diversos factores que se examinan más adelante.

Se estima que aproximadamente el 90 por ciento de los créditos de exportación garantizados[2/] concedidos a países en desarrollo provienen de Europa Occidental y del Japón, correspondiendo el 10 por ciento a los Estados Unidos. Con posterioridad al período inicial de recuperación de los países industrializados de Europa, después de la Segunda Guerra Mundial, los créditos privados de exportación a corto plazo, que ya constituían una modalidad tradicional de financiación del comercio internacional, paulatinamente se convirtieron en créditos a plazo medio.

Principales Factores que Afectan la Afluencia de Créditos de Proveedores

Como se ha indicado anteriormente, fue después de la Segunda Guerra Mundial cuando los créditos de proveedores a plazo medio y largo adquirieron importancia y prominencia como una modalidad de financiación internacional. En los párrafos siguientes se examinan las causas de este fenómeno y se señalan diversos factores especiales, todos relacionados entre sí, que explican por qué ciertos países han utilizado dichos créditos en forma excesiva

a) Factores que han Influido en la Creciente Importancia de esos Créditos

Un factor importante que ha influido en el incremento considerable de los créditos de proveedores ha sido el espíritu de independencia y el impulso de la política económica interna de los países en desarrollo. En el pasado, en los países de bajos ingresos per capita, las inversiones de gran envergadura se concentraron en

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1/ Véase los Cuadros 2 y 4 del Anexo V. En estos cuadros no se ha incluido a Ghana, por no contarse con datos comparable correspondientes a este país. Ahora bien, cabe señalar que Ghana ha obtenido un número considerable de créditos de proveedores. Al final de 1965, su deuda pendiente por concepto de esos créditos era superior a US$300 millones, mientras que su deuda total pendiente ascendía a alrededor de US$500 millones.

2/ Excluídos los créditos concedidos por los países de Europa Occidental.

gran medida, en los servicios públicos. A partir del decenio de 1950 se han abierto nuevos campos de inversión, especialmente en el sector manufacturero, al implantar y aplicar estos países una política de promoción de la industrialización. Este cambio ha ido acompañado de otros, tales como la adopción de una política monetaria, financiera y cambiaria de orientación más netamente nacionalista. En algunos casos, esto ha dado lugar al abandono de las normas tradicionales de financiación y, en ocasiones, a la adopción de una política comercial marcadamente proteccionista, ya sea como consecuencia de un acción deliberada o de la imposición de restricciones a las importaciones para hacer frente a problemas de la balanza de pagos. En lo que respecta a los acreedores, la falta de convertibilidad de la moneda de los países industrializados y de economías avanzadas hasta fines del decenio de 1950 y su limitada capacidad para proporcionar una cantidad suficiente de capital a largo plazo a bajos tipos de interés han sido factores importantes.

En estas circunstancias, la modalidad tradicional de financiación por medio de la emisión de bonos a largo plazo en los principales mercados de capitales no ha sido adecuada para hacer frente a las necesidades del sector de producción de los países en desarrollo. Por una parte, la cuantía y los vencimientos requeridos para ese tipo de financiación no se prestaban a emisiones de bonos para proporcionar un volumen adecuado de financiación. Por otra parte, las presiones inflacionarias y la posibilidad de que surgieran dificultades cambiarias en los presuntos países deudores también dificultó la emisión de bonos en los países exportadores.

La experiencia ha demostrado que los países en desarrollo han utilizado los créditos privados de exportación principalmente para financiar la adquisición de bienes de capital (en ocasiones solamente partes para bienes de esa índole), en gran medida para modernizar, ampliar o construir instalaciones manufactureras. Es cierto que también se han utilizado estos créditos en una medida considerable, aunque en menor escala, para financiar la adquisición de bienes de capital para proyectos de infreaestructura, tales como las de energía eléctrica, transportes y comunicaciones, especialmente en los últimos años. Aunque, en estos casos, los vencimientos de las emisiones de bono habrían sido adecuados, los otros factores ya mencionados también han constituido obstáculos importantes. Además, los préstamos concedidos por los organismos internacionales, que en cierta medida han venido a llenar el vacío producido por el deterioro de los mercados internacionales de capitales, se concedieron casi exclusivamente para financiar obras de infraestructura. Aun en los casos en que se podría haber obtenido financiación de esta índole, en muchas ocasiones ha sido imposible hacerlo debido a que la preparación de los proyectos en cuestión era inadecuada o debido a su baja prioridad desde el pun-

to de vista económico. Aun después de que en una etapa posterior, estos organismos extendieron la concesión de sus préstamos al sector manufacturero, su actividad y el volumen de sus préstamos en este campo han sido demasiado limitados para poder reemplazar los créditos privados de exportación.

Al propio tiempo, en los países industrializados las condiciones han sido propicias para la concesión de financiación por medio de créditos de proveedores. En primer lugar, por lo menos hasta hace poco tiempo, estos países han reunido dos de los requisitos económicos más importantes para la realización de ventas al crédito por proveedores privados, a saber: el hecho de que existiera suficiente capacidad en exceso de la demanda para producir bienes de capital y la disponibilidad de financiación interna, ya sea proveniente de los recursos propios de la empresa proveedora o del sistema bancario. En segundo lugar, los gobiernos de esos países, por sus propias razones, cedieron ante la presión de sus exportadores y establecieron o promovieron el establecimiento de facilidades de crédito especiales y de sistemas de seguros para las exportaciones, lo que permitió extender los vencimientos y ampliar el alcance y el monto de los créditos de proveedores.

Si bien es cierto que las circunstancias han favorecido la evolución y aumento de la importancia de los créditos de proveedores, no ha sido ese un resultado inevitable. En principio, existían otras alternativas tanto en los países desarrollados como en los en desarrollo, alternativas que se adoptaron en varios casos en que las condiciones fueron favorables. En los países desarrollados las inversiones directas han constituído una alternativa tradicional y el volumen de este tipo de inversiones ha seguido siendo importante. Ahora bien, la adopción por parte de varios países en desarrollo de una política marcadamente nacionalista ha dado lugar a que esta alternativa resulte menos interesante para los presuntos prestamistas o inversionistas. En los países en desarrollo los prestatarios tenían, en principio, la posibilidad de obtener préstamos internos en condiciones favorables, para despúes adquirir los bienes de capital y de otra índole al contado o bien en conseguir préstamos en el extranjero de instituciones financieras privadas, y no de proveedores. Ahora bien, para poder acudir a la primera alternativa citada, es preciso contar con mercados financieros internos lo suficientemente amplios como para proporcionar los fondos necesarios a tipos de interés competitivos y, además, que las autoridades monetarias estén dispuestas a vender las divisas necesarias, y estén en condiciones de hacerlo. Para la aplicación de la segunda alternativa se necesita, entre otras cosas, que el país deudor tenga una política financiera que inspire confianza a las instituciones privadas de financiamiento externo y las induzca a concederles préstamos. Sin embargo a menudo no se han cumplido estos requisitos.

b) Factores que han Contribuido a la Distribución Desigual de los Créditos de Proveedores

Como ya se ha indicado anteriormente, al final de 1965

la deuda pendiente por concepto de créditos de proveedores de prestatarios de nueve países representaba aproximadamente el 80% de la deuda pendiente total de una muestra de 36 países. Cabe señalar que en la mayoría de estos nueve países el nivel de este tipo de endeudamiento era excesivo, ya que dio lugar a la necesidad de reajustar los vencimientos de la deuda y, en otros casos, disminuyó las posibilidades de los países afectados de obtener nueva ayuda financiera. Algunos países, aparte de haber asumido una pesada carga por concepto de créditos de proveedores, tenían una concentración excesiva de inversiones que no contribuían a mejorar su capacidad para atender al servicio de la deuda.

En todos estos países, se contrataron créditos de proveedores tanto por el sector privado como por el público. Es prácticamente imposible establecer una distinción precisa entre estos dos tipos de usuarios de créditos de proveedores, principalmente porque en varios países el sector público ha realizado inversiones en la industria manufacturera. Otra razón es que, en ambos sectores, las decisiones de aceptar creditos privados de exportación se adoptaron después de considerar otras alternativas de financiación semejantes, basándose en una comparación de los costos por concepto de intereses y de los vencimientos; en ocasiones, el factor determinante en ambos sectores ha sido sencillamente la disponibilidad de recursos. Ahora bien en términos generales, los prestatarios del sector público pueden recurrir a otras dos alternativas, por lo menos en principio: la posibilidad de incrementar el ahorro público por medio de medidas tributarias o la reducción de los gastos corrientes, y el acceso más directo a las fuentes de financiación internacional que en el caso del sector privado. Además, en principio, las autoridades centrales deberían estar en condiciones de controlar el volumen y las condiciones de los créditos de proveedores obtenidos por organismos públicos o semipúblicos, aparte del control que ejercen mediante la concesión de garantías. Por último, la realización y financiación de inversiones en proyectos de infraestructura suele ser una prerrogativa casi exclusiva del sector público.

Las causas del endeudamiento excesivo no han sido las mismas en todos los países. Algunos de éstos se han caracterizado por la existencia de intensos y prolongados procesos inflacionarios, que dieron lugar a la adopción de una política cambiaria encaminada a eliminar los déficit en los pagos; con miras a lograr el equilibrio de la balanza de pagos, se impusieron restricciones cuantitativas a un gran número de bienes de importación, generalmente los considerados como no esenciales. Al amparo de la protección de estas restricciones o tal vez también de aranceles elevados (u otros instrumentos semejantes, tales como recargos a las importaciones o a los cambios), la rentabilidad, en moneda nacional, de las industrias productoras de bienes que no podían importarse aumentó considerablemente, sobre todo en los casos en que los costos de los insumos de importación se mantuvieron a un nivel bajo por medio de tipos de cambio preferenciales. Estas industrias se convirtieron en un terreno propicio para la contratación de

créditos de proveedores, especialmente en los casos en que ambas partes, basándose en la posición monopolística o semimonopolística de que aquéllas gozaban en el mercado nacional, consideraron que en un futuro previsible la empresa continuaría teniendo buenas utilidades y la capacidad para atender al servicio de la deuda. Es posible que, en algunos casos, la decisión de establecer instalaciones de producción con ayuda de créditos de proveedores haya ido acompañada de la decisión de las autoridades de prohibir o restringir considerablemente la importación de los bienes afectados.

Ni los gobiernos de los países receptores ni los de los países proveedores realizaron esfuerzos importantes por frenar el considerable incentivo que la realización y financiación de este tipo de inversiones constituía para el sector privado. Por el contrario, la mayor parte de los países receptores favorecían la contratación de créditos de proveedores por sus residentes y hasta la alentaban, sin someter dichos créditos a un examen minucioso antes de conceder la autorización o garantías necesarias. En consecuencia, en la concesión de estos créditos se prestó poca atención a la solidez económica de los proyectos - como elemento distinto de su rentabilidad en moneda nacional - y a las condiciones en que se concedieron y a su efecto sobre la situación de endeudamiento total, incluido el endeudamiento por concepto de este tipo de créditos, así como de otros préstamos externos en general. Desde un punto de vista histórico, cabe señalar que el hecho de que otras fuentes de financiación internacional resultaran prácticamente inaccesibles a algunos países deudores, afectó considerablemente su tendencia a permitir el fácil acceso a los créditos de proveedores. Esto obedeció, básicamente, a su política financiera inflacionaria, que les impidió obtener préstamos importantes de instituciones financieras internacionales, y también de gobiernos extranjeros o de instituciones financieras privadas. Por consiguiente, en los casos en que esos países han concedido la máxima prioridad a las inversiones consideradas como importantes para el proceso de desarrollo, en relación con las cuales fue necesario obtener recursos externos, los créditos de proveedores fueron una de las pocas fuentes de financiación externa, y a veces la única. En algunos casos, el hecho de que no se pudiera contar con financiación internacional pública se ha debido a que las empresas, especialmente las del sector público, no estaban dispuestas a someterse a la investigación a fondo que suelen exigir los organismos internacionales de créditos.

No en todos los países que han hecho un uso excesivo de los créditos de proveedores se ha registrado la pauta descrita, ya que en algunos no ha habido un proceso inflacionario o solamente ha tenido pequeñas proporciones. En otros casos, la utilización excesiva de créditos de proveedores se debió a distintas causas. Algunos créditos no estaban garantizados ni por los acreedores ni por los deudores, y en ciertos casos no existía un sistema de controles cambiarios. Por consiguiente, era imposible fiscalizar la contratación de deudas de esta índole por parte de empresas del sector privado, por lo que la rentabilidad prevista por el comprador y por el proveedor ha sido el factor determinante. Ahora bien, es más difícil justificar por qué

algunos países no han ejercido un control efectivo sobre el sector público. Especialmente en los últimos años, el sector público de algunos países ha contraído un volumen mayor de deudas de esta índole que el sector privado y, en algunos casos, los créditos de proveedores destinados a unos cuantos proyectos de empresas públicas o semipúblicas han contribuido de forma considerable a incrementar el endeudamiento externo. En unos cuantos casos, es probable que las autoridades públicas no hayan intervenido basándose en consideraciones de índole política o debido a que no se dieron cuenta de la necesidad de adoptar una política de endeudamiento precisa y equilibrada y de tomar las medidas necesarias para su aplicación. Es indudable que en algunos países el control de la administración central sobre la contratación de deudas por parte de organismos autónomos del sector público era demasiado débil para poder ser eficaz. En algunos casos, parece que sencillamente no se consultó a los organismos responsables del gobierno o que éstos no disponían de información adecuada sobre los planes de financiación de dichas empresas públicas o semipúblicas. En ocasiones, los proyectos financiados por medio de créditos de proveedores no fueron objeto de un estudio técnico y económico adecuado con el fin de determinar su prioridad o de examinar las posibilidades de obtener financiación de organismos internacionales. Algunos organismos semipúblico o descentralizados del sector público contrajeron importantes deudas externas con el fin de llevar a cabo programas de inversión demasiado ambiciosos. En esos casos, los funcionarios responsables tenían a menudo poca experiencia en el cálculo de los costos o la evaluación de las ventajas de los proyectos previstos, y es posible que ignorasen la necesidad de contar con el asesoramiento objetivo de especialistas.

La situación de algunos países en desarrollo es totalmente diferente, ya que han ejercicio un control razonable sobre su política financiera, tanto interna como externa, y por lo tanto han podido evitar que se produjeran crisis y han podido mantener su buen crédito. Estos países se han mostrado más dispuestos a someter los proyectos previstos a un examen crítico y, por lo tanto, han podido aprovechar mejor sus escasos recursos. En consecuencia, han tenido más posibilidades de obtener financiación externa de fuentes públicas y no han dependido tanto de los créditos de proveedores. Esto es lo que ha sucedido. por ejemplo, en el gran número de países a los que el Grupo del Banco Mundial ha concedido considerable ayuda por intermedio de sociedades de financiamiento de desarrollo.1/ Es posible que los consorcios y grupos consultivos internacionales también hayan contribuido a limitar la dependencia en los créditos externos privados, debido a los esfuerzos especiales realizados con el fin de lograr una afluencia adecuada de financiación internacional pública.

1/ Hasta el 30 de junio de 1966, el Grupo del Banco Mundial había comprometido fondos por valor de US$492 millones con sociedades de financiamiento del desarrollo de veintiún países, en forma de préstamos e inversiones.

En parte, las causas de la utilización excesiva de créditos de proveedores por parte de algunos países deudores hay que imputarlas a los propios países acreedores. La política de estos países ha sido un factor importante, ya que la mayor parte de los créditos han sido garantizados o su concesión facilitada por los gobiernos. Si hubieran aplicado normas selectivas a la concesión de sus créditos, podrían haber evitado transacciones desacertadas. Ahora bien, algunos países acreedores no han aplicado los criterios de solvencia y para la evaluación de proyectos adoptados por los organismos internacionales de crédito. Es posible que la falta de información relativa al efecto de los créditos de proveedores sobre el endeudamiento total y a la actuación económica de los países deudores haya sido un obstáculo a ese respecto. En consecuencia, es posible que los países acreedores no se hayan percatado de todas las consecuencias de los créditos concedidos por sus propios residentes. Aun cuando no fuera ese el caso, es probable que en algunas ocasiones les hayan concedido menos importancia que a sus propios objetivos en materia de política comercial y de la balanza de pagos. Además, al parecer, los países acreedores han facilitado a veces la concesión de créditos de proveedores ante la presión económica, social y política ejercida por sus subsectores que atravezaban dificultades económicas.

Debido al número limitado de países examinados y a la información disponible sobre dichos países, se ha facilitado la tarea de determinar algunos de los principales factores que dieron lugar a la utilización excesiva de créditos de proveedores. Sería mucho más difícil tratar de explicar por qué los otros países, que constituyen la gran mayoría, han estado relativamente inmunes a este problema. Tal vez sería una exageración afirmar que ese hecho obedeció a una política premeditada en todas las ocasiones. En realidad, no existen pruebas de que la disponibilidad de mayor información habría dado lugar a la imposición de restricciones más eficaces. Es posible que el considerable incentivo de la obtención de utilidades, que en algunos países atrajo la concesión de un número considerable de créditos de proveedores, no existiera en otros. No obstante, cabe suponer que la política tanto de los países deudores como de los acreedores desempeñó un papel importante en los casos en que se evitó el uso excesivo de créditos de proveedores.

Problemas que plantea la utilización de créditos de proveedores - Costo para los usuarios

Sin dejar de reconocer que a los créditos privados de exportación les corresponde desempeñar un papel importante en la provisión de financiación internacional a los países en desarrollo, en los párrafos siguientes se concentra la atención en los problemas que se han planteado en los últimos años según ha aumentado el volumen de esos créditos. Uno de esos problemas es el costo de dicho tipo de financiación. Otro es la acumulación de obligaciones de reembolso, que afecta a la capacidad para el servicio de la deuda de algunos países.

Los créditos privados de exportación constituyen un procedimiento relativamente costoso de financiación. Su vinculación con el seguro o la refinanciación gubernamental puede dar lugar a una corriente de tales créditos que, de lo contrario, tal vez no se podría contar, pero estas características concesionarias no siempre contribuyen a reducir el costo para el prestatario. Además aun cuando los créditos esten asegurados en un 80 por ciento de su valor el exportador ha de asumir cierto riesgo que puede tratar de superar cobrando precios excesivos por los bienes, lo que, en realidad, constituye un tipo de interés adicional.

En los últimos años, los tipos nominales de interés de los creditos de proveedores han ascendido con frecuencia alrededor del 6 por ciento anual . Resulta difícil determinar la oportunidad y la medida en que los precios cobrados por los bienes y, en consecuencia, el principal de los créditos, también incluyen algún elemento que, en realidad, es parte del interés. Además, el tipo efectivo de interés depende de si el interés nominal se aplica sobre el importe original del crédito o sobre los saldos pendientes. Se tiene entendido que, en ocasiones, se ha dado el primer caso. Una misión del Banco Mundial que visitó recientemente un país miembro, comprobó que el promedio ponderado del tipo de interés sobre importantes créditos de proveedores contraídos por el país en cuestión ascendía, sólo por ese concepto a alrededor del 11 por ciento anual.

Los posibles costos encubiertos de la financiación de importaciones tal vez podrían reducirse si se separasen las operaciones de exportación y de financiación. En ese caso, el comprador estaría en libertad de adquirir donde quisiera los bienes más adecuados para atender sus necesidades, teniendo en cuenta aspectos tales como la calidad, el precio, las facilidades de servicio y las fechas de entrega. En esos casos, la financiación se obtendría por separado. Ahora bien, de esta manera se perderían las ventajas de los créditos de proveedores, una de las cuales es que el vendedor proporciona la financiación. Pero el costo de esta financiación suele ser elevado. Una forma eficaz de reducir ese costo es mediante la competencia entre proveedores de diferentes países. Por ejemplo, parece que Yugoslavia y la India han logrado mitigar, hasta cierto punto, alguno de los efectos de los créditos condicionados de proveedores al exigir a las empresas prestatarias la presentación por lo menos de tres ofertas de créditos de proveedores de tres países distintos, antes de que puedan obtener garantías, que son obligatorias.

En algunos casos, los créditos de proveedores han dado lugar a una distorsión de las prioridades, en materia de inversiones, que ha resultado costosa. Esto ha sido consecuencia de la falta de supervisión adecuada por parte de las autoridades del país receptor para determinar la solidez económica del proyecto, sus características técnicas, la conveniencia de los condiciones del crédito etc. Esto ha sucedido en un país miembro con respecto a proyectos en materia de abastecimiento de agua y transportes. En

ese mismo país, se concedió mayor importancia a las industrias productoras de bienes de consumo en vez de atribuirla a las productoras de bienes intermedios o de bienes de capital, de acuerdo con las disposiciones del plan de desarrollo, vigente. En otro país, estos créditos han contribuido a que se establecieran varias empresas industriales de propiedad estatal, dedicadas a actividades tales como la fabricación de tejidos, acero artículos de ferretería y montaje de vehículos de motor, cuya justificación económica o viabilidad correspondientes fueron llevados a cabo por el propio proveedor, y es posible que no fueran hechos muy a fondo.

En los casos en que no ejerce la debida supervisión sobre las decisiones en materia de inversiones facilitadas por los créditos de proveedores, es posible que las garantías concedidas por el gobierno del país receptor constituyan un aliciente para que el prestamista no tome las medidas necesarias para determinar el crédito del prestatario. Especialmente en el caso de empresas de propiedad estatal, reembolso del crédito no depende del éxito financiero de la propiedad empresa, ya que se efectúa con fondos procedentes de los presupuestos gubernamentales. En algunos países, los gobiernos han estado reembolsando créditos de proveedores concedidos a empresas públicas que no pueden cumplir sus obligaciones por no haber llegado todavía a la fase en que sus operaciones son lucrativas. En ciertos casos, se han firmado contratos para el suministro de maquinarias y equipo sin que se hubieran adoptado las disposiciones necesarias para la construcción de la fábrica y las obras de ingeniería. En el caso de algunos proyectos, ha habido un lapso hasta de cinco años entre la firma de esos contratos y la puesta en marcha de los proyectos. Por consiguiente, no sólo los vencimientos de los créditos de proveedores no han guardado relación con la vida útil del equipo o el período de amortización del proyecto, sino que además han exigido la realización de pagos antes de que siquiera se hubiese instalado el equipo.

La Carga del Servicio de la Deuda y la Corriente de Financiación

Tal vez en mayor medida que los costos antes mencionados de los créditos privados de exportación para los prestatarios, la carga del servicio de esos créditos ha sido la que ha contribuido a qu esta forma de financiación internacional haya sido objeto en los últimos años de preocupación general en los medios internacionales. En otro lugar de este capítulo se ha tratado de explicar las causas de la concentración de los créditos de proveedores en un número relativamente pequeño de países. En algunos de estos países, la acumulación de las obligaciones por concepto del reembolso de estos créditos ha coincidido con otras obligaciones semejantes del sector público por concepto de préstamos u otro tipo de endeudamiento. En los últimos años, este proceso ha dado lugar a crisis en materia del servicio de la deuda en varios países, tales como Argentina, Brasil, Chile, Ghana, Liberia y Turquía. Asimismo, en la actualidad se está estudiando el caso de Indonesia.

a) Problemas que Confrontan los Deudores

La acumulación global de la deuda externa por los países en desarrollo se ha intensificado en los últimos años[1] y, en algunos países los créditos de proveedores han desempeñado un papel importante a ese respecto. Como se indica en el Anexo V, en una muestra de 36 países que representaban alrededor del 78 por ciento total de la deuda externa pendiente de todos los países en desarrollo a fines de 1965, la relación de los pagos por concepto del servicio de la deuda externa al valor de las exportaciones en dicho año ascendió al 14,5 por ciento, incluida una relación aproximada del 5 por ciento entre los pagos por concepto de servicio de créditos de proveedores y el valor de las exportaciones. En la mitad de esos 36 países, la relación del servicio de la deuda externa total al valor de las exportaciones era del 10 por ciento o más, y entre ellos, en diez[2] la relación del servicio por concepto de créditos de proveedores fluctuaba entre 5,0 y el 20 por ciento.

Cuando el nivel de la carga por concepto del servicio de la deuda total es tan elevado que da lugar a una crisis de la balanza de pagos, todas las posibles alternativas al reajuste de los vencimientos resultan difíciles e indeseables . En principio, la solución mas fácil estribaría en atraer fondos externos o inducir la repatriación de fondos nacionales con el fin de aliviar la situación de la balanza de pagos, por lo menos a corto plazo. Ahora bien, en una situación de crisis inminente, esto es difícil de lograr. Otra alternativa posible sería la reducción drástica de las importaciones y de los pagos por otros conceptos, pero estas medidas suelen tener graves repercusiones en el nivel de actividad económica del país. Si se trata de lograr dicha reducción por medio de la devaluación de la moneda, generalmente habría repercusiones internas muy considerables, y habría efectos perturbadores sobre la estructura de los precios internos. Otra posibilidad sería el incumplimiento de los pagos, pero una medida de esa índole debilitaría gravemente la confianza en el país tanto en el extranjero como en el propio país y perjudicaría su crédito durante mucho tiempo.

Por estas razones, los países mencionados anteriormente han considerado que la adopción de medidas en el plano internacional encaminadas al reajuste del plan de pagos por concepto del servicio de la deuda constituye el menor de los males.[3] En los últimos

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1/ Véase "Tendencias y Perspectivas del Financiamiento del Desarrollo", Informe Anual del Banco/AIF, correspondiente al ejercicio económico de 1965-1966.

2/ Estos diez países son: Argentina, Bolivia, Brasil, India, México, Perú, la República Arabe Unida, Túnez, Turquía y Yugoslavia. No existen cifras comparables correspondientes a Ghana.

3/ Cabe señalar que en algunos países las operaciones de reajuste de los vencimientos de la deuda no ha sido consecuencia del endeudamiento excesivo por concepto de créditos de proveedores.

años, conjuntamente con las operaciones de reajuste de los vencimientos de la deuda, generalmente ha sido necesario cambiar el plan de pagos por concepto de los créditos de proveedores, y con frecuencia estas operaciones se han limitado a este tipo de créditos. Esto se ha debido, en parte, a la importante proporción del servicio de la deuda total de los países deudores que corresponde a estos créditos, pero también ha reflejado la opinión, tanto de los acreedores como de los deudores de que no es oportuno reajustar los vencimientos de otros tipos de deudas.

Con respecto a las operaciones de reajuste de los vencimientos de la deuda, una de las principales preocupaciones de los acreedores ha sido el evitar que se repita el endeudamiento excesivo en el país afectado. En las primeras transacciones de esta índole, al parecer los países acreedores se consideraron satisfechos con las promesas concretas hechas por los países en cuestión, de que se adoptarían medidas de política general o las compromisos establecidos en acuerdos de crédito contingente (stand by) celebrados con el Fondo Monetario Internacional. Pero en las transacciones efectuadas últimamente se ha incluido una limitación al monto de los créditos que podrían contratarse durante determinados períodos de tiempo, con plazos de vencimiento inferiores a cierto número mínimo de años. En consecuencia, el considerable volumen de créditos de proveedores contratados durante el período que precede a la crisis en materia de pagos, puede ser seguido por períodos en que se limita el volumen de dicha financiación con plazos de vencimiento que no excedan de ciertos limites convenidos. Por esta razón, es posible que se acumulen las solicitudes de autorización para nuevos créditos de proveedores con plazos de vencimiento incluidos en dichas limitaciones, si se espera que en el futuro se adopte una política más liberal. De esta forma, la corriente de créditos de proveedores puede sufrir fluctuaciones más o menos considerables, cuyos efectos no pueden sino ser perjudiciales para los intereses tanto de los países exportadores como de los importadores.

b) Algunos Ejemplos de Operaciones de Reajuste de la Deuda

La afluencia de créditos de proveedores se ha visto afectada recientemente por transacciones de reajuste de la deuda realizadas por Argentina, Brasil, Chile y Liberia, como consecuencia de claúsulas limitativas de los acuerdos respectivos que han celebrado con los países acreedores.[1/] En el caso de Liberia, esta situación ha sido una consecuencia indirecta de las disposiciones del convenio de crédito contingente (stand-by) firmado por dicho país con el Fondo Monetario Internacional. En algunos casos, uno de los efectos de esas disposiciones ha sido el inducir tanto a los acreedores como a los deudores a extender los vencimientos de los nuevos créditos de proveedores contratados. Además, los convenios de reajuste de la deuda aplicables a los vencimientos correspondientes a un solo año, en ocasiones no han sido suficientes para resolver el problema planteado por la carga de la deuda por concepto de créditos

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1/ En diciembre de 1966 se llego a un acuerdo, ad referendum, sobre el reajuste de las deudas de Ghana por concepto de créditos de proveedores.

proveedores ya obtenidos. Esto se ha debido a que los considerables montos por concepto de reembolso pagaderos en un año, se han repetido en los años siguientes, o incluso a disposiciones que han hecho aumentar considerablemente la carga de la deuda de años posteriores al exigir que los compromisos aplazados se cumplan en un período de tiempo relativamente corto. En algunos casos, al tiempo de celebrarse los acuerdos se ha reconocido abiertamente la posibilidad de que fuera necesario realizar otras transacciones de reajuste de la deuda en el futuro.

Argentina, Brasil y Turquía constituyen ejemplos de casos en que ha sido necesario recurrir a varias transacciones de reajuste de la deuda, y en cada uno de estos países han desempeñado un papel importante los factores mencionados anteriormente. En la Argentina se efectuaron transacciones de esta índole en 1957, 1961, 1962, y 1965. En este último año se convino en imponer limitaciones específicas a los créditos de proveedores con vencimientos hasta de ocho años. Entre ellas estaba el compromiso de que no se autorizaría la contratación por el sector privado, de créditos con vencimientos hasta un plazo máximo de cinco años, y la contratación por el sector público de créditos con vencimientos hasta un plazo máximo de ocho años, por un monto superior a las amortizaciones, excluida la refinanciación. También se convino que los créditos de proveedores obtenidos por el sector privado con plazos de vencimiento de entre cinco y ocho años podrían ser autorizados por un monto equivalente a las amortizaciones totales. Asimismo, el Gobierno de la Argentina dió a los países acreedores promesas concretas sobre su política financiera. En especial, el Gobierno contrajo dos compromisos adicionales específicos relativos a la política cambiaria y a la eliminación de los atrasos comerciales. Los tres compromisos citados se complementaban entre sí, puesto que todos estaban encaminados a garantizar la aplicación de una política satisfactoria en materia de financiación externa durante el período de 1965-66.

En Brasil, las operaciones de reajuste de los vencimientos de la deuda se efectuaron en 1961, 1964. En el primer año indicado, estaba vigente un convenio de créditos contingente (stand by)celebrado con el FMI. Sin embargo, en el último año citado no estaba en vigor ningún compromiso de esta índole, y el Brasil contrajo compromisos específicos con los países acreedores aplicables ese año y a 1965, en el sentido de que no se autorizaría créditos de proveedores con plazos de vencimiento inferiores a ocho años en exceso de las amortizaciones, excluida la refinanciación. Se había previsto que tal vez sería necesario realizar una operación semejante en 1966, pero la evolución satisfactoria de la balanza de pagos en 1965 hizo que resultase innecesaria.

Turquía había recurrido en grado considerable a créditos de proveedores durante el período inmediatamente anterior a la crisis de 1958. En ese año se adoptó un programa de estabilización previa la celebración de consultas con la Organización Europea de Cooperación Económica (OECE) y el FMI, en 1959 se llegó a un acuerdo,

bajo los auspicios de la OECE, para la modificación del plan de pagos de las obligaciones pendientes de transacciones comerciales. Aproximadamente dos terceras partes del total de la deuda externa pendiente cuando se produjo la crisis en 1958 correspondía a créditos de proveedores extranjeros . A partir de las medidas de estabilización y reajuste de la deuda adoptadas en 1958-1959 y del establecimiento de un consorcio para Turquía bajo los auspicios de la OCDE en 1962, dicho país ha limitado rigurosamente la contratación de créditos de proveedores. Sin embargo, el vencimiento de los pagos que habían sido reajustados anteriormente hizo necesario realizar otra operación de esa índole en 1965, también bajo los auspicios del consorcio de la OCDE. La relación del servicio de la deuda externa total de Turquía con respecto al valor de sus exportaciones todavía era de cerca del 20 por ciento en 1965, y de ella, alrededor del 5 por ciento correspondía a los créditos de proveedores, 1/ pero esta cifra representaba una disminución en comparación con la relación registrada a principios del decenio de 1960, del 33 por ciento.

La repetición en los últimos años de operaciones de reajuste de la deuda parece haber tenido algún efecto sobre la actitud de los países acreedores con respecto a su política crediticia general hacia los países en desarrollo. Al parecer, han reconocido el interés común en evitar la concesión de demasiados créditos ya que los excesos cometidos por algunos acreedores incrementan el riesgo de incumplimiento de pago para todos ellos. También hay una mayor conciencia de la relación de causa y efecto existente entre el endeudamiento excesivo y la política financiera del país deudor, el tipo de inversiones que los créditos de proveedores han ayudado a financiar no ha contribuido en la forma debida a incrementar los ingresos de exportación ni, en términos generales, a mejorar la capacidad para atender al servicio de la deuda de esos países. Este ha sido el caso, aun cuando algunas inversiones financiadas con créditos de proveedores han permitido el ahorro de divisas.

c) Deficiencias de los Actuales Sistemas

Las deficiencias de los actuales sistemas para la utilización y supervisión de los créditos privados de exportación contribuyen a agravar los problemas que platean estos créditos. La descentralización existente con respecto a un número considerable de operaciones de crédito, que es consecuencia de la concesión de los créditos por los propios proveedores en vez de por instituciones financieras, intensifica la tendencia hacia los excesos y la competencia exagerada. Asimismo, las deficiencias del sistema de recopilación y notificación de datos sobre la utilización de dichos créditos dificultan la adopción oportuna de una política encaminada a evitar las dificultades o a solucionarlas cuando ya han surgido.

1/ Véase el Cuadro 4 del Anexo V.

Los actuales sistemas de recopilación de datos de los países acreedores y deudores sólo permiten dar una idea parcial de la corriente internacional de esta clase de financiación.1/

A ese respecto, la mayor incertidumbre existe con relación a los créditos exclusivamente privados en los que no intervienen las autoridades públicas mediante la concesión de garantías o de otra forma. Aun en los casos en que se conceden garantías y en que se dispone de información a ese respecto, con frecuencia no existen datos posteriores que permitan determinar la utilización efectiva de los créditos. Por consiguiente, los datos sobre la corriente de esos créditos con frecuencia sólo constituyen una aproximación, basada en las autorizaciones reflejadas en las garantías concedidas. Por otra parte, los datos notificados sobre las transacciones financiadas a menudo son insuficientes para los fines de efectuar análisis económicos y de determinar la política a seguir. Aun cuando los propios países dispusieran de datos adecuados, sería difícil vencer su renuencia a revelar ese tipo de información sobre las actividades de sus respectivos sectores privados. Y,en muchos casos, aunque se actúe con la mejor voluntad, existen dificultades de carácter administrativo que dan lugar a que la notificación de datos sea incompleta o se efectúe con retrasos.

Como se ha indicado anteriormente, la modalidad más común de participación gubernamental en los créditos de proveedores es mediante la concesión de seguros. Ahora bien, esa participación no garantiza que la operación sea satisfactoria desde el punto de vista del país importador, ni tampoco asegura la viabilidad financiera del prestatario o del país deudor. Primordialmente, los gobiernos asumen riesgos con miras a promover las exportaciones frente a la competencia extranjera. Además, cualquier país consideraría que la imposición, por su parte, de alguna limitación no beneficiaría al país importador, ya que sólo produciría un vacío que vendría a llenar otro país exportador. Como ya se ha señalado, los esfuerzos encaminados a coordinar, a nivel internacional, la afluencia y las condiciones de los créditos privados de exportación a los países en desarrollo sobre una base global no han producido, hasta la fecha, resultados eficaces y duraderos.

1/ Véase el Anexo V.

IV. CONCLUSIONES Y RECOMENDACIONES

La experiencia obtenida con los creditos de proveedores después de la Segunda Guerra Mundial permite establecer las siguientes conclusiones:

A. Los créditos de proveedores han desempeñado un papel importante y eficaz en la corriente de financiación internacional a los países en desarrollo. Existe un poderoso impulso para su utilización; por parte de los acreedores, como medio para intensificar las exportaciones en competencia con otros países proveedores y, por parte de los deudores, como medio de financiar inversiones para las cuales, en las condiciones existentes, las alternativas son demasiado costosas o prácticamente inaccesibles. Estos créditos continuarán desempeñando un papel significativo como una de las diversas modalidades de financiación internacional apropiada para cierto tipo de transacciones y útil en otros casos.

B. La experiencia indica también que, en algunos casos, se ha hecho un uso excesivo de créditos de proveedores, paralelamente a su creciente importancia, habiéndose dado casos de excesivo endeudamiento, de plazos de vencimiento que no guardaban relación con la vida útil de la inversión, de altos costos ocultos de la financiación, y de distorsiones en la determinación por parte del importador de las prioridades y productividad de las inversiones. El uso excesivo de estos créditos se ha manifestado de forma más pronunciada en unos países que en otros, y ha dado lugar a crisis de la balanza de pagos y a operaciones de reajuste de la deuda. A su vez, estas operaciones han producido fluctuaciones en la corriente de capital a los países en desarrollo afectados. Estos excesos y deficiencias han obedecido a causas de índole diversa, a saber: la política financiera desacertada de los países receptores; la relativa falta de disponibilidad de otras formas de financiación internacional; la utilización excesiva de instrumentos de protección; el control inadecuado ejercido sobre las empresas u organismos públicos prestatarios; la falta de suficiente competencia entre los proveedores; el hecho de que los países acreedores (garantes) no hayan prestado la suficiente atención a la solidez de los proyectos financiados, a la carga por concepto de la deuda de los países receptores y a los posibles efectos desfavorables que la contratación de nuevos créditos podría tener sobre el servicio de los ya concedidos por sus exportadores. La falta de información adecuada sobre el endeudamiento por concepto de créditos de proveedores y sobre el endeudamiento total de los países receptores ha contribuido considerablemente a que se produjeran dichos excesos. Hasta ahora, por regla general se ha recopilado esta información como consecuencia de la aplicación de los sistemas de garantía, en la mayoría de los casos con el objetivo limitado de registrar los compromisos contraídos.

Esta información no comprende ciertos aspectos cuantitativos de los créditos y no es lo suficientemente detallada, especialmente en lo que respecta a la relación de los créditos con las características económicas y técnicas de los proyectos financiados. Por último, en la mayoría de los casos los datos recopilados por los deudores no concuerdan con los recogidos por los acreedores.

Estas conclusiones ponen de manifiesto cuatro aspectos principales de los créditos de proveedores a los que se debe prestar especial atención con miras a la adopción de una política y de medidas que permitan evitar los excesos señalados y reforzar la eficacia de esta modalidad de financiación dentro del marco de la afluencia de capital internacional a los países en desarrollo. Estos cuatros aspectos son la recopilación de información, la administración de la deuda externa, la coordinación de las prácticas de los acreedores y la coordinación internacional en relación a determinados países deudores. Una información más completa y un mayor grado de coordinación proporcionarían, a su vez, los elementos necesarios para realizar un examen a fondo de la utilización de créditos de proveedores por algunos países típicos y para estudiar la posible implantación de sistemas financieros para separar la función de la concesión de créditos y la del suministro de los bienes en las transacciones coorespondientes. Sobre la base de estas consideraciones, cabe formular las siguientes recomendaciones:

1) Recopilación de Información

Un primer paso necesario es lograr una mejor recopilación de información sobre la afluencia de financiación internacional y el endeudamiento externo, de forma de contar con la base necesaria para la adopción de una política adecuada. Esto debe hacerse tanto al nivel nacional como al internacional. El punto de partida para lograr mejoras al nivel internacional es la recopilación de información por los diversos países, tanto acreedores como deudores. En lo que respecta a la información que cae dentro del ámbito de los sistemas internacionales de notificación existentes, deberían realizarse esfuerzos para lograr que los datos notificados sean todo lo completos que sea posible. Si determinados países necesitasen obtener asistencia técnica a ese respecto, podrían proporcionársela los organismos internacionales que actualmente administran esos sistemas de recopilación, el Banco Mundial en lo que respecta a los países deudores y la OCDE en lo que respecta a los acreedores, así como el FMI en lo tocante a la balanza de pagos. El Banco y la OCDE han llegado a un acuerdo sobre ciertas medidas necesarias para mejorar el sistema de notificación de los países acreedores, de modo que constituya un complemento más útil para la información obtenida en virtud del sistema de notificación de los países deudores.

Puesto que uno de los objetivos principales de la recopilación de información de esa índole es tener una idea clara de la situación de endeudamiento de los países deudores y de la estructura de los vencimientos de la misma, la información suministrada por estos países debería ser mucho más significativa y útil . Solamente

es posible realizar una evaluación adecuada de la carga por concepto de créditos de proveedores de un país si se considera dicho endeudamiento dentro del contexto del endeudamiento total, tanto del sector público como del privado. A través de los años, el Banco ha venido ocupándose, de forma constante, de examinar a fondo y evaluar la situación de endeudamiento externo de sus países miembros, en relación con sus operaciones de préstamos. Los informes económicos preparados por el Banco sobre sus países miembros siempre contienen capítulos dedicados a estas cuestiones. En casos adecuados, el Banco se propone ampliar el alcance de la información que recopila, con el fin de contar con un cuadro más completo del endeudamiento total y de la estructura de sus plazos de vencimiento.

Ha de ser posible mejorar considerablemente la recopilación de información sobre créditos de proveedores. A este respecto, la mayor deficiencia existe en los casos en que participa exclusivamente el sector privado, al no concederse garantías gubernamentales ni por el país acreedor ni por el deudor. Se podrían lograr mejoras considerables por medio de los procedimientos de autorización previa, en los casos en que existen como parte de sistemas de control cambiario para fiscalizar los movimientos de capital. Puesto que los créditos autorizados pueden utilizarse en varias partes y a través de períodos más o menos largos, o no utilizarse en lo absoluto, deberían hacerse los arreglos necesarios para obtener información sobre su utilización efectiva. En los casos en que el sistema cambiario no permite implantar un procedimiento de autorización previa, podría obtenerse la información necesaria por medio de un sistema voluntario de notificación del sector privado, o sino, por medio de otros métodos utilizados para la recopilación de información sobre la balanza de pagos internacionales, en virtud de procedimientos establecidos con la orientación del FMI. Además, es preciso ampliar la información que actualmente se notifica al Fondo, de forma de poder armonizar los datos relativos a los movimientos de capital privado con los obtenidos en virtud de los sistemas de notificación administrados por la OCDE y el Banco. Estos tres organismos se mantienen en estrecho contacto en lo tocante a estas cuestiones.

Los datos recopilados sobre los créditos privados de exportación deberían ser lo suficientemente amplios para permitir realizar el análisis económico más significativo posible a ese respecto. Sin perjuicio de respetar el carácter confidencial de las relaciones comerciales, los países acreedores deberán tratar de obtener datos más completos y directos sobre el flujo efectivo de créditos de proveedores. Tanto en los países acreedores como en los deudores, deberían recopilarse más datos sobre el tipo de bienes y de actividades económicas financiados por esos créditos para poder tener una idea más cabal de la medida en que dichos créditos son adecuados para los fines a que se destinan.

2) Administración de la Deuda Externa

Es muy necesario mejorar la administración de la deuda externa por los diversos países en desarrollo. Este aspecto debería considerarse conjuntamente con los otros elementos que se examinan al evaluar la actuación económica de dichos países. La adopción de una política económica y financiera acertada es un factor importante para evitar la utilización excesiva de créditos de proveedores, puesto que contribuye a crear y mantener un clima económico en que el riesgo de que se produzcan distorsiones como consecuencia de la contratación de deudas de esa índole sea mínimo. Como parte de sus actividades habituales, el Banco y el Fondo tienen la oportunidad de examinar, conjuntamente con las respectivas autoridades nacionales, la política económica interna y externa de sus países miembros. Uno de sus objetivos principales es determinar si dicha política promueve la adopción de decisiones, por parte del sector privado y del público, sobre la utilización de los recursos externos disponibles que sean acordes con objetivos económicos adecuados. La ejecución de una política de esta índoles tiene un efecto favorable sobre la disposición de las instituciones financieras internacionales o nacionales, ya sean privadas o públicas, a financiar proyectos que estén dentro del ámbito de sus operaciones, y a hacerlo en condiciones más favorables que los créditos de proveedores.

Además, los países en desarrollo deberían organizar sistemas que les permitan contar, sobre una base continuada, con información sobre la contratación de créditos de proveedores. Estos países deberían estar en condiciones de ejercer un control u orientación adecuados con respecto a las transacciones de esa índole. Este factor debería revestir importancia en la administración de su balanza de pagos internacionales, y debería armonizarse con la política y objetivos nacionales en materia de inversiones y de asuntos monetarios establecidos para toda la economía.

Deberá procederse con moderación especial en la tramitación de créditos de proveedores destinados a la financiación de actividades cuya rentabilidad depende del mantenimiento de restricciones a las importaciones, establecidas basándose en consideraciones de la balanza de pagos. Los países en desarrollo podrían aprovechar la experiencia e información con que cuentan los organismos internacionales solicitándoles asistencia técnica, en los casos en que ello fuera posible, antes de autorizar inversiones que hayan de financiarse mediante créditos de proveedores en esas condiciones.

La administración satisfactoria de las cuestiones de endeudamiento externo es un factor al que debería concederse especial importancia en relación a las posibilidades de obtener recursos externos para fines de desarrollo, ya que ello constituiría una prueba

importante del deseo y capacidad de los países en desarrollo para administrar sus asuntos de forma eficiente. La decisión de contraer nuevas obligaciones externas debería adoptarse después de considerar el endeudamiento externo existente, tanto en lo que respecta al monto total de dicho endeudamiento como al plan de amortización, así como la capacidad prevista del país para atender al servicio de la deuda. El método más apropiado para hacerlo sería la centralización de las decisiones relativas al endeudamiento externo y, especialmente, las relativas a las obligaciones directas del sector público, incluidos los créditos de proveedores contraídos por organismos de dicho sector. Los procedimientos de autorización previa y la aplicación estricta de los controles presupuestarios constituyen instrumentos adecuados para este fin.

En lo que respecta al sector privado, debería tratarse de encontrar métodos prácticos para encauzar todas las solicitudes de créditos externos privados por medio de sociedades locales de financiación del desarrollo o por otros conductos, con miras a mejorar los plazos de vencimiento y condiciones de estos créditos. Hay mucha más probabilidad de obtener condiciones favorables cuando los créditos se contratan en grandes grupos que cuando se trata de muchos créditos de poca envergadura, destinados a numerosas empresas pequeñas. En algunos casos, las sucursales locales de bancos extranjeros privados pueden ser de utilidad para lograr este objetivo.

Por último, los plazos de vencimiento de los créditos de proveedores deberían estar más estrechamente vinculados con la vida útil de los bienes que financian, de acuerdo con las prácticas económicas satisfactorias. Por regla general, los créditos con plazos de vencimiento más largos, que suelen ser relativamente escasos, deberán reservarse para financiar la adquisición de equipo que tenga una larga vida útil y para proyectos con largos períodos de utilización; al propio tiempo, es posible que si los plazos de vencimiento son muy inferiores a la vida útil del equipo financiado, constituyan una carga indeseable para la empresa.

3) Coordinación de las Prácticas y Política de los Países Acreedores

Hasta la fecha, los gobiernos de los países acreedores no han tomado la iniciativa con respecto a la política y prácticas relativas a la utilización de créditos de proveedores, esperando que el buen juicio de los prestatarios evitaría la contratación de un endeudamiento excesivo y garantizaría la utilización óptima de los fondos disponbiles. En la mayor parte de los casos, su intervención se ha limitado a proporcionar apoyo a sus propios exportadores por medio de garantías y seguro de créditos, por una parte, y a participar, en los casos necesarios, en la aplicación de medidas correctivas, tales como las operaciones de reajuste de la deuda, por la otra. Para poder conservar las considerables ventajas de los créditos de proveedores, parece ser indispensable que, sin demora, se tomen medidas para evitar que se cometan nuevos excesos, que

perjudicarían a todas las partes afectadas. Lo más apremiante es adoptar medidas en dos esferas principales, a saber: (a) la armonización de las prácticas comerciales y financieras relacionadas con los aspectos técnicos de las transacciones en cuestión, y (b) la formulación de una política más definida, encaminada a prevenir y evitar algunas de las características más perturbadoras inherentes a este tipo de financiación.

Como se ha indicado anteriormente, los esfuerzos realizados hasta la fecha con el fin de armonizar las prácticas comerciales y financieras tan sólo han producido resultados limitados. Aunque existen numerosas organizaciones en los países acreedores que se ocupan de los créditos de exportación y del seguro de dichos créditos, al parecer ninguna es adecuada para encargarse del tipo de coordinación necesario. Todo parece indicar que lo que se necesita es establecer un nuevo mecanismo de coordinación de índole cuasi permanente en los países acreedores. A estos propios países les correspondería determinar las características de un mecanismo de esa índole. Probablemente sería conveniente que en él estuvieran representados los ministerios de hacienda y las compañías de seguro de créditos. Debería dotarse de una estructura flexible, que permita adaptarlo para hacer frente a diversos problemas. Es posible que el sistema de la CEE constituya el mejor ejemplo de flexibilidad. Se trata de un sistema en virtud del cual el Grupo de Coordinación de Políticas de Seguro de Créditos, Garantías y Créditos de Financiación celebra reuniones mensuales y mantiene una Secretaría permanente. Durante los períodos que median entre las sesiones, la Secretaría y los miembros permanecen en contacto y están en condiciones de considerar cualquier cuestión sin demora; por ejemplo, pueden celebrar consultas rápidamente cuando un miembro notifica un crédito proyectado cuyas condiciones sean excepcionales y cuando se necesita la aprobación de los miembros para otras cuestiones. El número mayor de miembros constituiría un obstáculo evidente para la extensión de estos arreglos a un grupo que incluyera a todos los países acreedores. Tal vez una solución práctica sería el establecimiento de una pequeña secretaría permanente, organizada por países acreedores o instituciones internacionales, que pudiera aprovechar los conocimientos especializados de las organizaciones existentes para ayudar a grupos ad hoc de acreedores. La composición de estos grupos sería diferente para cada país deudor, con el objeto de limitar la participación en las actividades de coordinación al pequeño número de los principales acreedores afectados. Este enfoque flexible permitiría la participación de países que no fueran miembros de ninguno de los tres grupos mencionados.

En lo que se refiere a la segunda esfera de cooperación mencionada, la armonización de la política, es preciso recalcar que no es posible atacar de forma eficaz los problemas relacionados con los créditos privados de exportación ni los de la afluencia de capital público internacional si se consideran aisladamente los unos de los otros. La OCDE parece constituir un foro adecuado para la formulación de una politica y principios generales que sirvan de guía

a los países acreedores, ya que no sólo se ocupa de los problemas económicos de sus propios miembros industrializados, sino también del efecto de la actividad económica de dichos miembros en los países en desarrollo, por medio de las actividades comerciales y de la afluencia de capitales. Ahora bien, en algunos casos es posible que resulte necesario contar con un mecanismo de base más amplia, con el fin de poder obtener la participación de países que no son miembros de la OCDE.

Con respecto al examen de los problemas que plantean los créditos de proveedores, bien sea por la OCDE o por otros grupos, deberá prestarse especial atención a la adopción de principios amplios y comunes que sirvan de guía a los países acreedores para evitar los problemas que han surgido en los diversos países deudores, a diferencia de las medidas necesarias para hacer frente a problemas específicos. Se podría tratar de llegar a un acuerdo con respecto a los siguientes objetivos: el reconocimiento por los países acreedores de su responsabilidad de limitar la actuación de sus propias instituciones financieras y comerciales, cuando ello fuera necesario para evitar la contratación excesiva de créditos por un país deudor determinado; la conveniencia de promover el establecimiento de facilidades que permitan que los países importadores tengan más alternativas en lo que respecta a la adquisición de bienes financiados por créditos de proveedores; la conveniencia de establecer una distinción entre las exportaciones no destinadas a fines de desarrollo y las que deberían facilitarse como cuestión de política pública con el fin de contribuir al proceso de desarrollo de otros países.

Ahora bien, el acuerdo sobre una serie de principios no debe ser una condición previa para la adopción de otras medidas específicas encaminadas a solucionar los problemas planteados por la utilización excesiva de créditos de proveedores. El proceso mismo de intercambiar puntos de vista sobre estos principios comunes contribuiría a crear un consenso de opinión sobre una política y prácticas comunes en esta materia, lo que facilitaría la solución de los problemas que surgieran en el futuro. Es muy posible que, en la actualidad, no sea posible lograr uniformidad en las prácticas y autolimitaciones en materia de créditos. La OCDE u otros grupos deberían examinar constantemente la viabilidad o conveniencia de esas prácticas comunes, a la luz de la mayor experiencia que se obtenga en las diversas actividades de cooperación internacional en esta materia.

En ciertos casos específicos, las deliberaciones sobre la política a seguir se basarían en los sistemas de recopilación de datos administrados tanto por los países acreedores como por los deudores con la ayuda de organismos internacionales, sistemas que deberían perfeccionarse de acuerdo con las recomendaciones formuladas en párrafos anteriores. Además, ya se ha señalado que es posible que a los países acreedores les sea de utilidad la evaluación de la situación de endeudamiento externo de los países deudores que el Banco Mundial realiza periódicamente en sus informes económicos

sobre sus países miembros.

Los países acreedores también podrían examinar el papel relativo que desempeñan los proveedores y las instituciones financieras en la concesión de créditos privados de exportación. Se debería estudiar la posibilidad de adoptar medidas de política que contribuyan a incrementar la importancia de las instituciones financieras privadas, en lugar de los proveedores, en estas operaciones.

4) Coordinación Internacional en Relación a Determinados Países Deudores

Aunque las sugerencias presentadas en el párrafo anterior tienen por objeto proteger los intereses de los diversos países en desarrollo, también existe la posibilidad de establecer arreglos más específicos para hacer frente a los diversos aspectos del endeudamiento de estos países.

Un problema, que con frecuencia se menciona con relación al elevado costo de los créditos de proveedores, es que, en algunos casos, la competencia entre los proveedores es muy limitada, o sencillamente no existe. Esto puede deberse a que los residentes de muchos países solamente tienen oportunidades limitadas de establecer o mantener contactos con los centros industriales de los países desarrollados. Con miras a remediar esta situación, podría considerarse la posibilidad de que las organizaciones internacionales existentes, que ya tienen experiencia en estas cuestiones, actúen como conductos de información y den a conocer a sus países miembros el interés expresado por un país en desarrollo determinado por obtener créditos de proveedores para una inversión específica.

También es posible realizar otras actividades de coordinación en relación a determinados países deudores por medio de grupos de acreedores. En el caso de algunos países deudores, ya existen consorcios o grupos consultivos que se ocupan de la afluencia total de financiación internacional, considerada en relación con la situación general en materia de desarrollo y las perspectivas del país en cuestión, incluidos sus problemas de endeudamiento. Para realizar el análisis necesario en relación con una evaluación periódica de estas cuestiones es preciso contar con una evaluación global de la actuación económica del país, del tipo de la que realizan en la actualidad los funcionarios de los organismos que administran esos grupos de coordinación, a saber, el Banco Mundial, la OCDE o el Banco Interamericano de Desarrollo, según el país de que se trate, con la ayuda del Fondo Monetario Internacional. En los casos en que existen grupos de esta índole, es posible que los países acreedores decidan examinar los problemas relativos a los créditos de proveedores en el curso de sus reuniones periódicas, como parte de su evaluación de la situación y perspectivas del país deudor en cuestión.

En los casos en que no existen grupos de coordinación, o en que sus miembros consideren que no constituyen un foro adecuado para

ese fin, se podría considerar el establecimiento de grupos ad hoc que examinen la situación en materia de créditos de proveedores de países deudores determinados. Los países desarrollados tienen la oportunidad de analizar la situación económica, tanto interna como externa, de los diversos países en desarrollo a través de los informes que publican periódicamente el Banco y el FMI, entre otros, como parte de sus actividades operativas. Sobre la base de la evaluación contenida en dichos informes, los países desarrollados que tienen un interés especial en cualquier país en desarrollo podrían considerar conveniente celebrar consultas entre sí a este respecto, ya sea mediante reuniones o de otra forma. Si entonces concluyeran que era necesario adoptar medidas con el fin de corregir las tendencias en materia de endeudamiento del país deudor en cuestión, tal vez podrían considerar la conveniencia, por ejemplo, de sugerir al país que consulte con el Banco, el FMI o con ambos organismos, con el fin de encontrar la forma de evitar que el problema de endeudamiento externo alcance proporciones excesivas. Las medidas a adoptarse podrían incluir el establecimiento de una cifra tope, semejante a la fijada en las operaciones de reajuste de la deuda, conjuntamente con la adopción de una política adecuada de apoyo.

En lo que respecta a algunos países, ya existen grupos de acreedores que se conocen con el título informal de "clubs", tales tales como el "Club de París" y el "Club de La Haya", los que, últimamente, han sido el instrumento para la celebración de operaciones de reajuste de la deuda externa. Estos clubs también podrían ocuparse de los créditos de proveedores al nivel internacional, con miras a eliminar o evitar la necesidad de operaciones de reajuste de la deuda.

5) Cuestiones que Habrán de Considerarse en el Futuro

Las recomendaciones que se han formulado están basadas en la información disponible relativa a los créditos de proveedores, y tienen por objeto mejorar la administración de este tipo de créditos, tanto al nivel nacional como al internacional. Su adopción depende, básicamente, de la medida en que los países afectados estén dispuestos a tomar las decisiones necesarias. Hay otros dos aspectos de este problema que podrían ser objeto de consideración en el futuro. Por una parte, la realización de estudios más a fondo sobre esta materia y, por la otra, la posibilidad de encontrar otras alternativas a los créditos de proveedores.

La mayor parte de los datos estadísticos e información de otra índole de que se dispone sobre los diversos países se ha recopilado para fines relacionados con las operaciones de instituciones internacionales. Por esta razón, se limitan a ciertos aspectos esenciales del endeudamiento externo. Aunque se han considerado esos datos existentes como una base adecuada para la formulación de conclusiones generales en este informe, deben complementarse con un análisis a fondo de la utilización de créditos de proveedores por los países afectados. El estudio intensivo de la situación de países deudores seleccionados que han utilizado créditos de proveedores

en medida considerable podría constituir una aportación valiosa a esta cuestión. Algunos de estos países han tropezado con grandes dificultades, otros han podido superar sus principales problemas, y otros han utilizado los créditos de proveedores con un éxito relativo.

En lo que respecta al segundo aspecto del problema a que se ha hecho referencia, cabe señalar que el Banco Mundial ya ha implantado, en algunas de sus operaciones, el principio de licitación internacional para la utlización de créditos nacionales de exportación. En esas operaciones, se han combinado créditos de proveedores y de financiación con los fondos del Banco para financiar un proyecto determinado. Se invita a presentar ofertas para el suministro de equipo, con exclusión de las condiciones del crédito, en virtud de un procedimiento de licitación internacional. Una vez que ya se han adjudicado los contratos sobre esa base, se utilizan las facilidades nacionales de crédito de exportación en la mayor medida posible, complementándose con financiación proporcionada por el Banco. Podría establecerse un procedimiento internacional semejante, al nivel de la banca privada, en los casos en que el importador no tenga suficientes oportunidades de seleccionar entre diversos países para efectuar sus compras.

ANEXO I

Texto del Anexo A.IV.14 al Acta Final de la Conferencia de las Naciones Unidas sobre Comercio y Desarrollo (Ginebra, 1964)

CREDITOS DE LOS PROVEEDORES Y SEGURO DE CREDITO EN LOS PAISES DESARROLLADOS Y EN LOS PAISES EN DESARROLLO

LA CONFERENCIA,

TENIENDO EN CUENTA el número e importancia de las cuestiones relativas al crédito y al seguro de crédito planteadas por los países desarrollados y en desarrollo, y la variedad de las propuestas formuladas al respecto,

RECOMIENDA que se invite al Banco Internacional de Reconstrucción y Fomento:

1. A que haga un estudio sobre la utilización (real y potencial) de los créditos de los proveedores y del seguro de crédito, comprendidas las disposiciones en materia de redescuento:

   (a) Para financiar las exportaciones de los países desarrollados a los países en desarrollo, teniendo en cuenta la capacidad de estos últimos para reembolsar los créditos y otras repercusiones en su economía y en su balanza de pagos;

   (b) En cuanto a sus efectos en la competencia entre las exportaciones de los países en desarrollo y las de los desarrollados, así como entre los países desarrollados;

   (c) Como medio de financiación del comercio entre los países en desarrollo;

2. A que tenga en cuenta, al hacer ese estudio, las observaciones, recomendaciones y propuestas sobre la materia presentadas a la Conferencia, entre ellas las del proyecto de recomendación de España y Túnez, que se acompaña como apéndice;

3. A que señale las dificultades que se plantean o pueden plantearse* y considere las posibles soluciones;

4. A que remita a las Naciones Unidas lo antes posible el estudio, junto con las recomendaciones que estime apropiadas.

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* En el texto inglés, en este punto aparece la frase " in particular as regards debt service" (Sobre todo en relación al servicio de la deuda).

APENDICE

I

TEXTO DEL PROYECTO DE RECOMENDACION
PROPUESTO POR ESPAÑA Y TUNEZ

Con el fin de adaptar los créditos de los proveedores a las condiciones y necesidades de los países en desarrollo, LA CONFERENCIA RECOMIENDA QUE:

1. El Banco Internacional de Reconstrucción y Fomento estudie la creación de una institución multilateral intergubernamental de seguro de crédito teniendo en cuenta las prácticas y la experiencia de los sistemas nacionales de seguro de crédito existentes especialmente en algunos países desarrollados;

2. Esta institución tenga por objeto cubrir los riesgos que corra el crédito de los proveedores, ofreciendo una garantía de seguro y de reaseguro al proveedor que concede crédito;

3. Esta institución examine asimismo, en lo posible, los medios de extender su asistencia financiera más allá de los riesgos antes mencionados en el párrafo 2, a fin de reducir las cargas que pesan sobre los países en desarrollo por efecto de la utilización de créditos de los proveedores;

4. Los países desarrollados faciliten a los países en desarrollo la más amplia asistencia técnica en materia de exportaciones para ayudar a estos últimos:

(a) A crear, fomentar y ampliar organismos de seguro de crédito con carácter nacional o regional, que tengan por objeto favorecer el comercio exterior, dando garantías adecuadas para disminuir los riesgos, en especial los riesgos de crédito que el comercio exterior lleva consigo;

(b) A crear o mejorar sistemas propios de financiación de las exportaciones (bancos de comercio exterior, institutos de redescuento, etc.)

II

CONSIDERANDO que una de las formas más eficaces de ayuda consiste en favorecer el incremento de las exportaciones, especialmente de productos manufacturados y semimanufacturados procedentes de aquellos países,

CONSIDERANDO que dichos países, para exportar aquella clase de productos, no sólo tienen que hacer frente a la competencia de calidad y precios, sino que deben conseguir condiciones de venta (aplazamiento de pago, préstamos a los compradores, etc.) similares a las que ofrecen los países industrializados, lo que con frecuencia excede de las posibilidades de aquellos países en desarrollo.

LA CONFERENCIA RECOMIENDA:

5. Que los organismos financieros internacionales existentes emprendan el estudio de las medidas que habrán de tomarse a fin de que los países en desarrollo puedan acudir al mercado mundial en condiciones crediticias análogas a las de los países industrializados.

6. Que, con tal fin, se investigue la posibilidad de que los efectos comerciales representativos de las operaciones de exportación de los países en desarrollo, debidamente avalados por el banco central o por alguna entidad que ofrezca garantía suficiente, sean susceptibles de redescuento a un tipo de interés razonable.

ANEXO II

Evolución General de los Sistemas de Créditos de Exportación y de Seguro de Créditos de Exportación 1/

En el período de la posguerra, el deseo de los países industrializados de fomentar sus exportaciones de bienes de capital, combinado con la insuficiente capacidad de los países en desarrollo para importar dichos bienes a fin de atender a sus crecientes necesidades de desarrollo, hizo que los métodos de financiación del intercambio internacional de esos bienes se vieran sometidos a cambios.

Con anterioridad, la financiación externa de la compra de los bienes de capital que necesitaban las zonas en desarrollo se había conseguido mediante préstamos a largo plazo en los mercados de capital mundiales o inversión directa de empresas extranjeras. Sin embargo, ya antes de 1939 el acceso a los mercados de capital resultaba difícil para los países en desarrollo. La inversión directa privada extranjera aumentó durante el decenio de 1950, pero se ha estabilizado desde principios del actual y parece ser insuficiente para satisfacer las demandas de los países en desarrollo. A través de programas bilaterales y multilaterales se ha aumentado la financiación a largo plazo, parte en forma de donaciones o en condiciones concesionarias, pero no en volumen suficiente para hacer frente a la tremenda expansión de la demanda de financiación de bienes de capital.

En su búsqueda de otras fuentes de financiación, los países en desarrollo han venido a depender, cada vez en mayor grado, de los exportadores para obtener la necesaria financiación. En el mercado de vendedores que caracterizó los primeros años de la posguerra, y antes de que se extendiera la utilización de créditos directos de proveedores, algunas transacciones de bienes de capital se realizaban dentro del marco de los acuerdos de pagos bilaterales, acuerdos que, dada la escasez de las reservas internacionales en oro y divisas convertibles, habían pasado a ser los instrumentos básicos para financiar las transacciones entre países no pertenecientes a la zona del dólar. Estos acuerdos se firmaban por períodos de uno a tres años y preveían descubiertos para hacer frente a las fluctuaciones a corto plazo del comercio. Todos los saldos por encima de dichos descubiertos se pagarían inmediatamente o en un período convenido que oscilaba entre tres meses y un año. Sin embargo, pese a las disposiciones relativas a la liquidación de estos saldos, en varias ocasiones los países acreedores permitieron la acumulación, por los respectivos deudores, de importantes saldos por encima de los descubiertos estipulados inicialmente y, a fin de mantener un volumen

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1/ El presente Anexo está basado, en su esencia y texto, en un informe de las Naciones Unidas titulado "Créditos de Exportación para Financiar las Necesidades de Bienes de Capital de los Países en Desarrollo (Documento E/4189)." Este documento se ha utilizado por cortesía de la Subdivisión Fiscal y Financiera del Departamento de Asuntos Económicos y Sociales de las Naciones Unidas.

normal de exportaciones, convinieron en negociar acuerdos de consolidación con ciertos países, mediante los cuales se reajustaron a más largo plazo los vencimientos de esas deudas a corto plazo.

Se comprobó que, tanto para los países acreedores como los deudores, la acumulación de saldos deudores excesivos y su posterior renovación no constituía un procedimiento satisfactorio. Los gobiernos de los países acreedores que se enfrentaban con dificultades de balanza de pagos, en divisas convertibles tenían que inmovilizar fondos en el exterior por períodos más prolongados que los que originalmente se habían convenido; estas condiciones dificultaban las operaciones de las autoridades monetarias en su administración de la política interna. Para los países deudores, la renovación de las deudas solía tener por resultado una pérdida de solvencia y el consiguiente aumento del costo de los nuevos préstamos. Esta situación aceleró el paso a un sistema organizado de créditos a plazo medio.

A principios de 1950, el "Bank Deutscher Lander" estableció un fondo de redescuento a disposición del "Kreditanstalt für Wiederaufbau" (Corporación de Préstamos de Reconstrucción) para financiar créditos de exportación con plazos no superiores a cuatro años. En marzo del mismo año, Francia organizó un sistema de financiación de los créditos de exportación a plazo medio de dos a cinco años, que se basaba en el plan existente para la financiación de las transacciones internas a plazo medio. En Bélgica, en octubre de 1950, el "Institut de Réescompte et de Garantie" asignó fondos para la financiación de créditos de exportación con plazos no superiores a cinco años. En 1952, el Reino Unido amplió a tres años el período máximo de los créditos de exportación para operaciones realizadas con compradores fuera de la zona de la libra esterlina; y si se trataba de exportaciones de interés nacional, el plazo máximo pasaba a ser de cuatro a cinco años. (Con anterioridad, los créditos para dichas transacciones, con plazo superior a seis meses, estaban sujetos a la aprobación de la Foreign Exchange Control Commission, y la mitad del valor del contrato tenía que pagarse dentro de los seis meses y el resto en un plazo de dos años). Italia introdujo en 1953 los créditos de exportación a plazo medio, con duración de uno a cinco años, confiándose estas operaciones a las instituciones especializadas que tenían a su cargo la concesión de créditos internos a plazo medio. Así, pues, se generalizó el vencimiento de cuatro a cinco años para los créditos de exportación a plazo medio.

La organización del sistema de créditos de exportación a plazo medio fue complementada por la aplicación, a dichos créditos, de planes de seguro que aparecieron por primera vez después de la primera guerra mundial para las transacciones a corto plazo. De esta manera, los gobiernos trataron de que la financiación de los créditos de exportación pasase gradualmente a manos del proveedor o de la banca privada, con el fin de reducir así paulatinamente la dependencia, a esos efectos, en los acuerdos bilaterales.

Esta situación dio frecuentemente por resultado que los compradores concediesen demasiada importancia al factor crédito en las transacciones de bienes de capital. Algunos de ellos, al no disponer de dinero en efectivo o de más fácil acceso a sus propios bancos, fueron inducidos a pasar por alto los mayores precios o la inferior calidad, puesto que lo importante en su caso era conseguir condiciones de crédito más ventajosas de sus proveedores. El crédito en estas condicionesse hizo más asequible, conforme el mercado de vendedores de bienes de capital se fue transformando en mercado de compradores, como resultado de la recuperación de las economías de Europa Occidental y Japón.

Hacia mediados del decenio de 1950, las instituciones de seguro de créditos de exportación, de los principales países exportadores organizaron a través de la "Union d'Assureurs des Crédits Internationaux" (Unión de Berna)1/ la asociación internacional de aseguradores de crédito, intercambios directos de opiniones que permitieron una acción concertada sobre la duración de la cobertura del seguro de los créditos a la exportación, lo cual determinaba la duración de los créditos. Convinieron los aseguradores en que el seguro de los créditos de exportación no debería exceder de cinco años para los bienes pesados de capital. Convinieron también en que los compradores de bienes de capital deberían efectuar un pago de entrada razonable, antes de la entrega de los mismos o en el momento de la entrega.

Estas limitaciones tenían por objeto poner coto a la tendencia a conceder condiciones crediticias más liberales, debido a la competencia, en el mercado de compradores para bienes de capital que entonces comenzaba a adquirir importancia. Esa tendencia se agudizó por la política agresiva de ventas de los proveedores interesados en penetrar en nuevos mercados, así como por la presión de los países en desarrollo para obtener vencimientos como por la presión de los países en desarrollo para obtener vencimientos que fuesen más compatibles con sus necesidades en materia de desarrollo, el ritmo de crecimiento y sus recursos externos efectivos y potenciales. Las autoridades de los países que condicionaban sus préstamos de ayuda bilateral para el desarrollo a la adquisición de bienes nacionales, concedieron u ofrecieron, cada vez en mayor grado, vencimientos a plazos más largos.

A partir de mediados del decenio de 1950, los exportadores de casi todos los países de Europa Occidental empezaron a presionar a sus gobiernos para conseguir un seguro de los créditos de exportación con plazo superior a cinco años. El motivo generalmente

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1/ Creada en 1934, actuaba principalmente como centro de intercambio de opiniones sobre técnicas de seguro e información referente a solvencia. Véase el Anexo IV.

alegado era que el Banco de Exportación e Importación de Washington (que no era por entonces miembro de la Unión de Berna), con sus préstamos para proyectos a largo plazo concedidos directamente a los compradores de los países en desarrollo, permitía, en realidad, a los exportadores norteamericanos vender en condiciones que los vendedores europeos sólo podrían ofrecer si contaban con un seguro de los créditos a largo plazo, para cubrir la refinanciación bancaria en condiciones parecidas.

Los exportadores de los países de Europa continental acentuaron su presión cuando, en 1957, el Reino Unido decidió ampliar el volumen de la ayuda a largo plazo concedida con arreglo a los dispuesto en la Export Guarantee Act de 1949, según la cual los fondos asignados en virtud del programa deben ser utilizados para la compra de bienes y servicios del Reino Unido. Un año después, los Estados Unidos, ante la creciente presión sobre sus reservas, decidieron que los futuros préstamos y donaciones del Development Loan Fund quedasen en principio condicionados a la compra de productos norteamericanos, y otros países industrializados siguieron una política similar. De esta manera, los exportadores en los principales países recibieron ayuda indirecta a través de la financiación condicionada que sus gobiernos concedieron a los compradores extranjeros.

Esta circunstancia tuvo por consecuencia que se infringiese el convenio de que los plazos de vencimiento de los créditos de exportación deberían mantenerse dentro de los límites fijados por la Unión de Berna (se informó a la Unión de que se habían producido tres infracciones en 1957, cuatro en 1958 y seis en 1959). Varios países cuyos gobiernos no deseaban o no podían facilitar préstamos para el desarrollo - condicionados o no - y cuyos exportadores se enfrentaban con la competencia que les hacían tales préstamos, propusieron nuevas interpretaciones del convenio de los cinco años. La interpretación más significativa limitaba la aplicación del plazo de cinco años a las garantías dadas a los proveedores; en los casos en que las garantías se daban para créditos concedidos directamente a los compradores de los países en desarrollo para que comprasen, en el país aportador del crédito, bienes pesados de capital, necesarios para proyectos de desarrollo, dichas garantías quedaban fuera del convenio. En realidad, esta clase de garantías abarcaban, normalmente, un volumen de fondos considerables que no podía ser reembolsado en cinco años, dada la situación financiera de los países en desarrollo y el período corriente de amortización de tales bienes.

Otras interpretaciones, que tenían por objeto liberalizar las condiciones relativas a los vencimientos, se referían al comienzo del plazo de cinco años y al pago de entrada realizado por el comprador. En cuanto al primero, como el convenio original no especificaba en qué momento comenzaba el plazo de los cinco años, se pudo interpretar que se contasen a partir del momento de la entrega de la última

parte del pedido, lo que hacía que el plazo se ampliase a siete u ocho años, dado que entre la primera y la última entrega muy bien podían transcurrir de uno a tres años.

En 1961, la Unión de Berna estableció una definición precisa del comienzo del plazo de los cinco años. En el caso de bienes de capital, consistentes en productos susceptibles de ser utilizados individualmente (por ejemplo, locomotoras), el punto de partida para una sola expedición sería la fecha en que el comprador tomase posesión de los bienes, y si se trataba de varias expediciones, la fecha "media" correspondiente a las fechas en que tomase posesión de la totalidad del pedido. Si se trataba de equipo de capital para plantas o fábricas completas, el plazo se contaría a partir del momento en que el comprador dispusiese de la totalidad del equipo (con exclusión de las piezas de repuesto) suministrado en virtud del contrato; en el caso de contratos de construcción o instalación de la planta. Para estos últimos, las garantías podían también establecerse por un plazo de seis años a contarse la fecha en que el equipo completo hubiese llegado al lugar de destino. Por otra parte, determinados países dieron una nueva interpretación a la claúsula del convenio de la Unión de Berna que exigía que el comprador debería hacer un pago de entrada adecuado, en el sentido de que dichos pagos de entrada podían ser menores que los que originalmente se habían estipulado.

En consecuencia, desde fines del decenio de 1950 viene aumentando el número de créditos de exportación concedidos y asegurados en condiciones más liberales y a plazos más largos, y para una mayor variedad de finalidades, enturbiando así la distinción entre comercio y ayuda.

ANEXO III

Características de los Seguros de Créditos de Exportación y de los Créditos Privados de Exportación de Diversos Países Industrializados

En este anexo se presenta una breve reseña comparativa de las principales características de los seguros de créditos de exportación y de los créditos de exportación en los principales países industrializados.[1/]

Hay dos importantes estudios que contienen información amplia y detallada sobre las instituciones y procedimientos relacionados con los créditos privados de exportación y su seguro en la mayor parte de los países industrializados: un informe de las Naciones Unidas titulado "Export Credits and Development Financing" (Publication No. 67.II.D.1) y un estudio publicado en marzo de 1965

1/ La expresión "credito privado de exportación" se utiliza para designar tanto a créditos de proveedores como de compradores. Los créditos de proveedores constituyen un tipo de crédito comercial extendido por un proveedor de un país a un comprador de otro. El proveedor que concede el crédito puede o no obtener la financiación necesaria de un banco. La financiación bancaria suele limitarse a cubrir el monto asegurado por una institución de seguros de créditos de exportación. Los créditos de compradores, también conocidos como créditos de financiación, son un tipo de crédito de exportación que concede un banco al comprador que importa los bienes. Por regla general, estos créditos son aplicables solamente a la adquisición de bienes específicos, de un proveedor determinado o de uno que figure en una lista de proveedores. El proveedor recibe el pago en efectivo del importador y, en ocasiones, puede hasta recibirlo directamente del banco, una vez que éste tenga constancia de la expedición de los bienes.

El seguro de créditos de exportación constituye un seguro contra diversos tipos de pérdidas relacionadas con créditos concedidos para cubir la exportación de bienes. Los créditos concedidos por elsector público no suelen asegurarse, sino que el Estado asume todos los riesgos, aunque existe por lo menos una excepción (los créditos de financiación concedidos por el "Kreditanstalt für Wiederaufbau" de Alemania).

El concepto de lo que constituye un plazo corto, medio y largo varía de un país a otro. Por regla general, se considera de corto plazo toda operación con un plazo de vencimiento no mayor de un año, aunque a veces no suele ser de más de seis meses. En algunos países se consideran los créditos con un plazo de un año como de corto plazo, y en otros como de plazo medio. Los créditos con vencimiento de entre uno y cinco años suelen considerarse como de plazo medio, y los que exceden de cinco años como de plazo largo.

por el Banco de Pagos Internacionales titulado "Export Credit Insurance and Export Credits". Los dos documentos citados contienen datos sobre Austria, Bélgica, Canadá, Dinamarca, los Estados Unidos, Francia, Italia, Japón, Noruega, los Países Bajos, el Reino Unido, la República Federal de Alemania, Suecia y Suiza. El informe de las Naciones Unidas también recoge información sobre Checoslovaquia, Polonia y la URSS.

Al pasar revista a las instituciones y procedimientos de los diversos países mencionados, se pone de manifiesto la existencia en lo que respecta al seguro de créditos de exportación, de una semejanza basica entre los distintos planes nacionales, así como de una tendencia hacia la reducción de las diferencias existentes como consecuencia de la cooperación y la competencia internacional. Por otra parte, las características de los sistemas de créditos de exportación varían considerablemente, y estas diferencias tienden a subsistir debido a que, en cada país, los créditos de exportación están vinculados a la estructura crediticia interna.

El origen del seguro de créditos de exportación se remonta al período inmediatamente posterior a la Primera Guerra Mundial. En la Gran Bretaña, país cuyos sistemas de seguros con frecuencia han servido de modelo para otros muchos países, en 1918 se estableció una entidad privada de seguros de créditos de exportación y el Estado participó por vez primera en esas actividades en 1919. Entre 1922 y 1934, se crearon sistemas de seguros de créditos de exportación en otros catorce países europeos. El período transcurrido entre las dos guerras mundiales fue, en gran medida, un periodo de experimentación en este campo. Por ejemplo, en Francia y Alemania la cobertura inicial de los riesgos en ocasiones no excedía del 60 por ciento. En la Gran Bretaña, el seguro de créditos de exportación paulatinamente se hizo extensivo a las transacciones a plazo medio, además de a las de plazo corto (en 1928);a la garantía de todo el movimiento de exportación, además de a transacciones específicas (en 1932), y a los riesgos políticos, además de a los comerciales (en 1935). Después de la terminación de la Segunda Guerra Mundial, se reorganizaron y ampliaron la mayor parte de las instituciones entonces existentes, y se establecieron otras nuevas en los países industrializados en que no las había. Los procedimientos utilizados en el seguro de créditos de exportación se modifican constantemente para adaptarlo a las circunstancias cambiantes. En el presente anexo, se ha tratado de señalar las analogías básicas existentes entre los diversos planes nacionales, mediante la descripción de las características usuales de un plan típico, y, al propio tiempo, se han indicado las diferencias más importantes entre los planes de diversos países, especialmente del Reino Unido, Estados Unidos e Italia.

Por otra parte, los sistemas de créditos de exportación se establecieron dentro del marco de los sistemas crediticios nacionales existentes y, aunque han sido objeto de algunas adaptaciones

con el fin de hacer frente a problemas especiales planteados por la exportación o la competencia, reflejan las características básicas de dichos sistemas nacionales. La breve descripción que aparece en el presente anexo de la estructura de los sistemas de créditos de exportación de los cinco principales países industrializados (Reino Unido, Estados Unidos, Francia, República Federal de Alemania e Italia), revela las importantes diferencias que existen entre ellos.

I. Seguro de Créditos de Exportación

A. Características comunes de un plan típico

Los seguros que extienden los países exportadores tienen características comunes en lo que respecta al tipo de riesgos cubiertos, a la naturaleza de las transacciones aseguradas, a las clases de pólizas, a la cobertura de riesgos, al costo del seguro y a los beneficiarios. Asimismo, aunque las instituciones sean diferentes en los diversos países, los procedimientos administrativos seguidos son semejantes.

1. Tipos de riesgos

Se suele establecer una distinción entre los riesgos comerciales y los no comerciales.

Los riesgos comerciales comprenden la insolvencia (en todos los casos), el incumplimiento prolongado (salvo en los sistemas de Bélgica y Alemania) y, en la mayor parte de los países, el rechazo de los bienes o el repudio del contrato.

Los riesgos no comerciales siempre comprenden los riesgos políticos que estén relacionados con cualquier medida gubernamental adoptada en el país del comprador, que impida la realización del pago o la demore más alla de los períodos estipulados, así como los riesgos de transferencia que sean consecuencia de la falta de disponibilidad de divisas. En ocasiones comprenden también los riesgos de catástrofes naturales, los riesgos cambiarios, los riesgos económicos relacionados con el incremento de los costos durante el período de producción (en Francia e Italia) y dificultades en el transporte.

Salvo en los Estados Unidos, lo que se considera un riesgo comercial cuando se trata de un comprador del sector privado, siempre se considera un riesgo político cuando el comprador es un gobierno o un organismo público.

2. Transacciones aseguradas

El seguro de créditos de exportación ampara la exportación de todo tipo de bienes y de una gran variedad de servicios. Todas las clases de bienes son asegurables, siempre y cuando contengan una proporción mínima de materiales y mano de obra del país.1/ Por ejemplo, dentro de la Comunidad Económica Europea, en mayo de 1962 se autorizó una proporción máxima de materiales o mano de obra extranjeros del 30 por ciento, proporción que se incrementó al 40 por ciento (en ciertas condiciones) en 1965. En virtud de acuerdos concertados entre las compañías de seguros, la parte correspondiente a materiales o mano de obra extranjeros se asegura en el país del exportador principal. También es posible asegurar consignaciones y existencias que se encuentren en el extranjero, así como una gran diversidad de servicios, tales como la realización de obras bajo contrato y la prestación de servicios consultivos en el extranjero. En Dinamarca, Italia y Japón el seguro también ampara el costo del estudio y preparación de proyectos. Y en Francia y el Reino Unido se aseguran los gastos incurridos en el estudio de mercados extranjeros.

3. Clases de pólizas

Hay dos clases principales de pólizas: las pólizas sobre todo el movimiento de exportación, conocidas como pólizas globales o comprensivas, y las pólizas específicas.

Las pólizas globales suponen una obligación por parte del exportador de asegurar todas las exportaciones que realice durante un período determinado, al menos las destinadas a un mismo mercado, obligación que es aplicable a los tipos de bienes que se consideren adecuados. Estas pólizas suelen extenderse para cubrir bienes de consumo o semimanufacturados que se venden de forma constante o reincidente con plazos de reembolso cortos. Se basa en el principio de distribuir los riesgos entre un movimiento comercial mayor, evitando así la selección discrecional de los riesgos asegurables por los exportadores y contribuyendo a la reducción de las primas.

Las pólizas específicas amparan contratos individuales. Por regla general, estas pólizas se conceden para amparar la exportación de bienes de capital, para cuya producción se requieren largos períodos y cuya venta se efectúa a largo plazo.

4. Cobertura de los riesgos

Todos los aseguradores de créditos exigen que el propio exportador asuma el riesgo de un pequeño porcentaje del crédito por

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1/ En algunos países, pueden asegurarse los bienes de origen extranjero, pero solamente cuando se trata de créditos a corto plazo.

su propia cuenta. La finalidad de este requisito es desalentar el comercio irresponsable, garantizar que el exportador tome inmediatamente medidas contra los deudores morosos, y hacer que el exportador se interese en lograr las máximas recuperaciones en los casos de incumplimiento de pago. A través de los años, se han registrado una tendencia general y constante hacia el incremento del porcentaje de los créditos que puede asegurarse. En mayo de 1962, los países miembros de la Comunidad Económica Europea convinieron en limitar al 90 por ciento la cobertura máxima de los créditos de proveedores.

Más adelante, especialmente en la sección dedicada al Reino Unido, se describen en detalle casos especiales en que se concede al exportador o al banquero una cobertura del 100 por ciento.

Por regla general, la cobertura que se concede para riesgos que están fuera del control del exportador, tales como riesgos políticos o riesgos relacionados con catástrofes naturales, es superior a la concedida para riesgos comerciales. Corrientemente, la cobertura fluctúa entre el 70 por ciento y el 90 por ciento cuando se trata de riesgos comerciales, y entre el 85 por ciento y el 95 por ciento en el caso de riesgos no comerciales. La cobertura para las pérdidas sufridas sobre créditos relacionados con la tenencia de acciones en el extranjero y la penetración de mercados extranjeros suele ser menor.

La cobertura también es menor en el caso de exportaciones a países que representan un riesgo relativamente mayor.

5. Beneficiario del seguro

El beneficiario de seguros de créditos puede ser un proveedor o un banco como se pone de manifiesto en los tres casos que se citan a continuación:

(i) un seguro extendido al proveedor en relación con un crédito de proveedores, que es el caso más usual. Con frecuencia el proveedor cede el seguro al banco, como garantía del crédito extendido en relación con la transacción de exportación.

(ii) un seguro extendido al banco en relación con un crédito de proveedores, que suele conocerse como una "garantía bancaria". Este seguro permite al banco conceder al proveedor un crédito sin derecho a recurso, que supone que en caso de incumplimiento por parte del importador el banco será reembolsado directamente por la entidad aseguradora del crédito, sin necesidad de solicitar un reembolso por parte del exportador en ningún momento. De esta forma, el

banco goza de protección en los casos en que la falta de pago o el rechazo de los bienes por parte del importador obedecen al incumplimiento por parte del proveedor de las condiciones del contrato. Asimismo, el banco está protegido en caso de la quiebra del exportador, o de la pérdida de los intereses devengados entre la fecha de pago prevista y la fecha en que la entidad aseguradora efectúe la compensación.

Puesto que es posible proporcionar financiación sin derecho a recurso sin tomar en consideración los haberes del proveedor, esta modalidad de financiación tiene la ventaja de no afectar la capacidad del proveedor de tomar fondos en préstamo para hacer frente a sus otras necesidades.

En ocasiones, una transacción de exportación puede estar amparada al mismo tiempo por un seguro extendido al exportador y por una garantía concedida a su banco. En ese caso, la entidad aseguradora del crédito de exportación podría retener la facultad de acudir al exportador con respecto a reclamaciones abonadas en virtud de la garantía bancaria y no amparadas por el seguro del exportador.

(iii) un seguro extendido al banco en relación con un crédito de compradores. El seguro que ampara los créditos de compradores se conoce en varios países como una "garantía financiera". El banco que concede un crédito directamente al importador es, naturalmente, el beneficiario de la garantía. El exportador asume el riesgo de la parte de la transacción que no esté amparada por el crédito de compradores, en caso de haber alguna. También recae sobre el exportador la responsabilidad de las pérdidas sufridas como consecuencia de su incumplimiento de cualquiera de las condiciones del contrato.

6. Instituciones, procedimientos y política

Las características de las instituciones de seguros de créditos de exportación varían considerablemente de un país a otro. Algunos son de propiedad privada, otras semipúblicas o públicas, y otras son dependencias del gobierno1/. Ahora bien, al parecer la

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1/ Los estudios citados anteriormente de las Naciones Unidas y del Banco de Pagos Internacionales contienen información detallada sobre estas instituciones. En el último estudio mencionado, se reproduce la legislación correspondiente.

naturaleza de la institución no influye mucho sobre su política y procedimientos. Por ejemplo, la responsabilidad financiera de los riesgos políticos siempre recae sobre el Estado, y la política relativa a dichos riesgos siempre se basa en decisiones de funcionarios del gobierno o de organismos en que éstos predominan.

Por otra parte, en todos los países se reconoce la necesidad de que el seguro de los riesgos comerciales se realice sobre una base también comercial. Todas las entidades aseguradoras convienen en la necesidad de realizar sus transacciones de forma de poder cubrir sus gastos y constituir reservas adecuadas. Dentro del marco de la Unión de Berna (véase el Anexo IV), las compañías ejercen un control mutuo con el fin de evitar la existencia de subvenciones permanentes a las exportaciones en forma de primas excesivamente bajas.

7. Costo del seguro y del crédito

Actuando bajo la presión de la competencia, las entidades aseguradoras tienden a reducir el costo de los seguros de créditos de exportación al nivel más bajo que sea compatible con una gestión administrativa satisfactoria. El costo de dicho seguro suele ser inferior al uno por ciento, y ha sido hasta del 0,1 por ciento anual. El costo de los préstamos bancarios para transacciones a plazo mediano y largo suele fluctuar entre 5,50 por ciento y 7,50 por ciento. En los casos en que los tipos de interés para los créditos internos son superiores, se suele conceder algún tipo de subvención a los créditos de exportación para poder conservar una posición competitiva. En los casos en que el costo total de la financiación (intereses y seguros) disponibles para transacciones de exportación aseguradas es inferior a la tasa que normalmente se cobra en el país en cuestión por concepto de créditos de exportación de características semejantes no asegurados, puede afirmarse que el costo efectivo del seguro es negativo - en otras palabras, la protección ofrecida por el sistema da lugar a un beneficio marginal neto sobre la transacción en cuestión.

Aunque en todos los países exportadores se suelen conocer bien los costos reales del seguro y el crédito, a veces no figuran en las condiciones de la transacción y, en ocasiones, no se da al importador información precisa a ese respecto. Por ejemplo, es posible que los exportadores traten de hacer sus ofertas más atractivas incorporando parte de esos costos al precio de los bienes.

B. Características especiales de los sistemas nacionales

1. Reino Unido

El "Export Credit Guarantee Department" (ECGD), una dependencia del "Board of Trade", es la institución de seguros de créditos

de exportación mayor del mundo. Proporciona protección a aproximadamente el 25 por ciento de todas las exportaciones británicas, bien sea que se trate de transacciones a plazo corto o largo, mientras que en otros países la proporción de exportaciones aseguradas respecto al total de las exportaciones varía, siendo la máxima del 10 por ciento.

Debido al volumen de sus actividades y a la experiencia británica en cuestiones comerciales, financieras y de seguros, el ECGD ha podido formular un complejo sistema de seguros de crédito de exportación, que sirve de guía para muchos otros países. Asimismo, en muchos otros aspectos ha estado a la vanguardia en este campo.

Por ejemplo, al tiempo que ha mantenido como principio básico de los seguros de créditos que el asegurado asuma una parte del riesgo por su propia cuenta, el Reino Unido ha sido el primer país que ha proporcionado una cobertura del 100 por ciento, en los tres casos que se describen a continuación:

(i) las "garantías bancarias" que se extienden a los bancos que conceden financiación para complementar la cobertura de seguro de algunos contratos de créditos de proveedores. En enero de 1965 se elevó el procentaje de cobertura de estas "garantías bancarias" del 90 al 100 por ciento.1/ Las garantías bancarias solamente entran en vigor con posterioridad a la expedición de los bienes. Estas garantías son incondicionales, renunciando el banco al derecho de recurrir al exportador. Pero el ECGD se reserva el derecho de acudir al exportador en relación con cualquier suma abonada al banco, respecto a la cual no haya responsabilidad en virtud del seguro de crédito obtenido por el exportador. Esto podría suceder en los casos en que la cobertura concedida al exportador sea parcial, y la concedida al banco total. También podría suceder en los casos en que la falta de pago se deba a causas no amparadas por el seguro, o en que la obligación del ECGD hubiera cesado por motivo de algún acto u omisión del exportador.

(ii) las "garantías financieras", establecidas en abril

1/ Cuando se implantó este sistema en 1954, la cobertura máxima de las garantías bancarias era del 85 por ciento, y era aplicable a contratos por valor de más de £250.000 . En 1958 se incrementó la cobertura al 90 por ciento, y en enero de 1965 al 100 por ciento. Al propio tiempo, el monto mínimo de los contratos se redujo a £100.000 en 1958 y a £25.000 en enero de 1965, eliminándose por completo este requisito en marzo de 1966, en el caso de créditos por un plazo superior a dos años.

de 1961, amparan el 100 por ciento del capital e intereses de los préstamos concedidos por bancos comerciales a compradores extranjeros. Se conceden para proyectos de capital de gran envergadura, cuyo costo ascienda por lo menos a £2.000.000 o, en el caso de embarcasiones, a £100.000. Como condición para la emisión de este tipo de garantías, se exige que el préstamo cubra solamente una parte del valor del contrato, generalmente el 80 por ciento. Los proveedores tienen que asumir el riesgo con respecto al resto del valor del contrato. Por regla general, en este sistema los proveedores no tienen protección con respecto a los pagos parciales previstos durante el período de construcción. Además, el ECGD se reserva el derecho de acudir al exportador en los casos en que una reclamación sea pagadera al prestamista en momentos en que el exportador haya incumplido las condiciones del contrato de suministro.

(iii) en febrero de 1962, el ECGD estableció un "cobertura total" para contratos "exentos de dificultades". De acuerdo con este sistema, el porcentaje de cobertura proporcionado a los aseguradores, con respecto a contratos de crédito de proveedores por un plazo superior a tres años, puede elevarse al 100 por ciento un año después de que el exportador haya cumplido todas las condiciones del contrato, siempre y cuando no hubiera surgido ninguna dificultad con respecto al contrato y hubiera probabilidad de que no surgiera en el futuro.1/

Aunque en la mayor parte de los países los riesgos comerciales están a cargo de instituciones distintas de las que se ocupan de los riesgos políticos, o su cobertura se rige por normas diferentes, o pueden asegurarse de forma independiente de los riesgos no comerciales, las pólizas de seguro británicas siempre amparan ambos tipos de riesgos conjuntamente.

1/ Algunos otros países ya han implantado alguna modalidad de cobertura del 100 por ciento. En algunos aspectos, Sudafrica ha seguido la orientación del ECGD. En los Estados Unidos, el "Foreign Insurance Credit Association" aprobó la concesión de una cobertura total para los contratos exentos de dificultades, y el Banco de Exportación e Importación ya ha concedido a bancos comerciales una cobertura del 100 por ciento mediante sus garantías financieras.

2. Estados Unidos

La proporción de créditos de exportación de Estados Unidos, tanto a plazo corto como largo, amparados por un "seguro" extendido a un exportador o por una "garantía" proporcionada a un banco, dentro de la totalidad de las exportaciones es de aproximadamente el 3 por ciento, frente al 25 por ciento en el Reino Unido. Hay varias razones que explican esta considerable diferencia. Las empresas de Estados Unidos suelen ser más grandes y gozar de mayor autosuficiencia financiera, y sus ventas al exterior representan una propoción considerablemente menor de sus transacciones totales que en el caso de las empresas británicas (y de los otros países europeos). Por consiguiente, están en mejores condiciones para actuar como aseguradoras de sus propios créditos. Otro factor importante es la proporción relativamente mayor de productos básicos en las exportaciones de los Estados Unidos, frente a las del Reino Unido que comprenden una proporción más elevada de productos manufacturados, a los que están orientados primordialmente los sistemas de seguros de créditos. Asimismo, los exportadores estadounidenses tradicionalmente han gozado de mejores condiciones financieras, ya que han tenido más facilidades para obtener créditos de bancos comerciales a menor costo y han podido obtener más financiación para las exportaciones de organismos del Gobierno Federal.

El seguro de créditos de exportación es de implantación relativamente reciente en los Estados Unidos. El actual sistema evolucionó paulatinamente a partir de 1960. De acuerdo con las normas por que se rige, los créditos a corto plazo solamente pueden ampararse por medio de "seguros", mientras que los créditos a plazo medio y largo pueden estar amparadas por el programa de "seguros" y también por diversos tipos de "garantías" bancarias.

El programa de "seguros" de créditos de Estados Unidos está a cargo de la "Foreign Credit Insurance Association" (FCIA) en colaboración con el Banco de Exportación e Importación. El FCIA es una asociación de compañías de seguros privadas que se estableció sobre una base voluntaria en febrero de 1962, contando ya con más de 70 participantes. El FCIA proporciona protección contra riesgos comerciales; y el Banco de Exportación e Importación reasegura los riesgos más importantes, y asume la totalidad de los riesgos políticos. El programa de "seguros" de Estados Unidos se ajusta a los lineamientos generales del plan típico esbozado anteriormente.

Hay tres clases de "garantías" bancarias:

(i) en virtud de un sistema de "garantías financieras" establecido en 1962, en el pasado el Banco de Exportación e Imporación ha proporcionada cobertura

total a los préstamos directos concedidos por bancos comerciales. El monto total de las garantías concedidas ha sido relativamente modesto. Por regla general, se han proporcionado para transacciones presentadas directamente al Banco de Exportación e Importación por un presupuesto prestatario , y cedidas por éste a bancos comerciales con una participación en los intereses. En estos casos, no se permite a los bancos comerciales, que gozan de una garantía total, obtener un rendimiento superior al 4,5 por ciento o 4, 75 por ciento de una tasa máxima de interés del 5,5 por ciento. Debido a que los tipos de intereses del mercado se han elevado, mientras que el Banco de Exportación e Importación ha mantenido sus tipos oficiales al mismo nivel, este sistema ha tropezado con dificultades.

(ii) como una alternativa, el 26 de abril de 1966 el Banco de Exportación e Importación anunció el establecimiento de un nuevo sistema de garantías financieras para préstamos bancarios directos concedidos a prestatarios en el extranjero. Con arreglo a este sistema, el banco comercial debe hacerse cargo por su propia cuenta de los primeros vencimientos, hasta el 30 por ciento, sin una garantía del Banco de Exportación e Importación o del FCIA que cubra los riesgos políticos o comerciales con respecto a dichos vencimientos. Todos los vencimientos posteriores están protegidos por una garantía incondicional, siendo el interés máximo protegido del 6 por ciento. Para la concesión de una garantía de esta clase, el Banco de Exportación e Importación no exige que el comprador efectúe un pago efectivo ni que el proveedor participe en los riesgos.

(iii) los préstamos concedidos por bancos comerciales a exportadores sin derecho a recurso pueden participar en el programa de garantías bancarias a plazo medio. En ese caso, el banco comercial recibe una garantía para los riesgos políticos con respecto a todos los vencimientos, y para los riesgos comerciales con respecto a los vencimientos posteriores a los iniciales. Se consideran como vencimientos iniciales la primera mitad de los correspondientes a créditos por un plazo inferior a tres años, o los primeros dieciocho meses de créditos con un plazo superior a tres años. En estos casos, se exige que el exportador asuma una parte del riesgo.

3. Italia

La ley orgánica que rige en Italia los créditos de exportación a plazo medio y largo, y los seguros de créditos, se promulgó en 1953, modificándose posteriormente mediante otras leyes, la más importante promulgada en 1961.

El "Instituto Nacionale delle Assicurazione" (INA) organismo estatal autónomo que administra el plan de seguros italiano en nombre del Estado, concede créditos de exportación a plazo medio y largo y emite seguros de créditos. No concede seguros para créditos de exportación a plazo corto ni para riesgos comerciales. Extiende pólizas específicas principalmente para cubrir las transacciones de bienes de capital y, como excepción, de bienes de consumo. En 1961, se aumentó el plazo máximo de los créditos garantizados de cinco años a "diez años o más".

El seguro estatal no puede cubrir más del 85 por ciento del valor de créditos relacionados con la venta de bienes o servicios, ni del 30 por ciento del valor de contratos para la realización de obras en el extranjero. En el caso de transacciones a largo plazo relacionadas con la prestación de ayuda a países en desarrollo, la garantía estatal puede ascender al 100 por ciento de los créditos de financiación concedidos, pero no se ha recurrido mucho a esta disposición.

Los créditos de exportación a plazo corto pueden asegurarse con una entidad privada, la "Societá Italiana Assicurazione Créditi", pero solamente cuando se trata de ventas a países europeos. Actualmente está en estudio la modificación de la legislación vigente, especialmente con el fin de permitir la inclusión de los riesgos comerciales de transacciones a plazo corto y mediano en el plan de seguros del gobierno.

4. Otros países

Los sistemas de seguros de créditos de exportación de otros países se ajustan, en términos generales, a las características de los planes ya descritos, aunque hay algunas diferencias que merecen destacarse.

En Francia, se han modificado las normas que rigen los seguros para adaptarlas a los nuevos plazos de vencimientos y procedimientos de financiación implantados en los últimos años, los que se describen en la sección siguiente. En lo que respecta los créditos "a plazo medio prolongado", que tienen un vencimiento máximo de diez años después de la entrega de los bienes, el seguro puede cubrir hasta el 95 por ciento de los últimos vencimientos, siempre y cuando la cobertura no exceda del 85 por ciento de los primeros vencimientos, de forma que la cobertura media no sea superior al tope del 90 por ciento convenido por la Comunidad Económica Europea. De acuerdo con las nuevas normas que rigen los créditos de compradores, la cobertura proporcionada a instituciones bancarias puede ser hasta del 95 %.

En Austria solamente se extienden pólizas específicas.

Aunque en Dinamarca y Suecia las instituciones de seguros de créditos de exportación solamente suelen extender pólizas específicas, se permite la emisión de pólizas renovables que cubran todas las transacciones a corto plazo que realice un exportador con un comprador determinado.

Los riesgos comerciales no reciben protección en Suiza.

En el Japón, el seguro a instituciones bancarias se extiende sobre una base global pero, por regla general, se emiten pólizas específicas a los exportadores. No obstante, es posible obtener pólizas globales en el caso de ciertos bienes determinados.

Los sistemas de seguros de créditos de exportación de Alemania, Bélgica, Canadá, Noruega y los Países Bajos no difieren sustancialmente del sistema típico ya descrito.

C. Armonización de los seguros de créditos de proveedores y de compradores

De lo expuesto anteriormente, se desprende que los procedimientos utilizados por los diversos países en lo que a los seguros de créditos de proveedores de exportación se refiere son bastante semejantes. Además, un grupo de coordinación de la Comunidad Económica Europea está realizando activas gestiones encaminadas a lograr la armonización de los seguros de créditos de exportación de sus países miembros, siendo su primer objetivo, la adopción por parte de todos los miembros, de un tipo común de pólizas para todos los créditos a plazo medio concedidos a compradores del sector público (véase el Anexo IV).

El seguro de créditos de compradores, de implantación relativamente reciente, probablemente constituye el renglón en que menos adelantos se han logrado en materia de armonización. Todavía existen importantes diferencias entre los diversos países en lo que respecta a la cobertura de riesgos proporcionada a los bancos comerciales y a la parte de los riesgos que debe asumir el exportador. Por ejemplo, en el Reino Unido no se exige a los bancos comerciales que asuman riesgo alguno, pero el crédito bancario concedido a compradores cubre como máximo el 80 por ciento del monto total, recayendo sobre el proveedor el 20 por ciento restante de la transacción - porcentaje que corresponde aproximadamente al monto de los pagos que se prevé que recibirá durante el período de producción. En Alemania, las "garantías financieras" no cubren el 100 por ciento, pero el banco está facultado para transferir al exportador la parte no cubierta. Por otra parte, en los Estados Unidos no se exige

participación alguna de los proveedores, y los bancos comerciales que extienden créditos a compradores (con arreglo al sistema de garantías financieras implantado el pasado abril) han de asumir los riesgos políticos y comerciales de los vencimientos iniciales, hasta un porcentaje máximo del 30 por ciento del monto total del crédito. Por último, en Francia los créditos de compradores solamente son aplicables al período posterior a la expedición de los bienes, pero el proveedor puede obtener cobertura del 80 por ciento al 90 por ciento durante el período de producción, y se prevé que los bancos asumen un 5 por ciento de los riesgos de sus créditos.

II. Créditos de Exportación

Los créditos de exportación a corto plazo son parte integral de las actividades comerciales corrientes de los bancos de todos los países. Las normas que rigen los créditos de exportación a plazo medio y largo varían considerablemente de un país a otro, debido a que estos créditos dependen de forma más directa de la disponibilidad de fondos, las necesidades internas y la estructura de los mercados financieros.

1. Reino Unido

El Reino Unido cuenta con mercados monetarios y de capitales que se destacan por su organización avanzada y su capacidad de adaptación. Los fondos se canalizan a través de una gran diversidad de instituciones financieras, tales como cámaras de compensación, casas de redescuento, corredores, casas de aceptación (merchant banks) e instituciones especializadas en la concesión de créditos a largo plazo. Por regla general, estas instituciones no están sujetas a una reglamentación gubernamental directa y el Banco de Inglaterra ejerce sobre ellas un control muy flexible, y les proporciona orientación general. Por consiguiente, están en condiciones de adaptarse muy fácilmente a las circunstancias cambiantes. Cabe señalar especialmente, que en Inglaterra siempre se han considerado que los sistemas existentes de financiación son adecuados para satisfacer las necesidades de créditos de exportación de los comerciantes.

Ahora bien, la ampliación progresiva de los plazos de los créditos y los compromisos cada vez mayores de los bancos en materia de créditos de exportación a plazo medio han incrementado la presión sobre la liquidez de los bancos comerciales. El Banco de Inglaterra ha tratado de atenuar esta presión mediante la implantación, a principios de 1961, de un sistema que le permite refinanciar, al tipo de interés aplicable al préstamo original, ya sea el 30 por ciento de los préstamos pendientes de un banco, concedidos en virtud de contratos de exportación asegurados por el ECGD y relacionados con créditos por un plazo superior a dos años, o el importe de los vencimientos de esos créditos correspondientes a los primeros dieciocho meses, según cual sea el monto mayor. Además, hasta la fecha, la disposición de que los plazos refinanciables de acuerdo con este

sistema pueden considerarse como un activo líquido ha hecho innecesaria la utilización efectiva del sistema. A principios de 1962, se estableció un sistema para la concesión de financiación a tipos de interés fijos con destino a contratos amparados por garantías bancarias, en el caso de créditos con un plazo máximo de cinco años, o por garantías financieras, aplicables a créditos a plazo más largo, generalmente como máximo de quince años (véase la sección I.B.1 de este anexo). Durante los primeros años de aplicación de este sistema, los bancos concedieron financiación para los primeros cinco años del crédito al tipo del 5,5 por ciento anual, y el resto lo aportaron compañías de seguro al tipo fijo del 6,5 por ciento anual por intermedio de la "Insurance Export Finance Company", entidad establecida para ese fin. Sin embargo, la participación de las compañías de seguros cesó en enero de 1965, al convenir los bancos, por cuestiones de interés nacional, en suministrar fondos al tipo fijo del 5,5 por ciento anual para cubrir todo el crédito de financiación. Con el fin de permitir a los bancos contraer los compromisos correspondientes el Banco de Inglaterra anunció que, en el futuro, estaría dispuesto a refinanciar la totalidad del saldo pendiente de los créditos de exportación a cinco años después de su contratación, al mismo tipo de interés aplicable al préstamo original. Ahora bien esa refinanciación no se considerará como un activo líquido en poder de los bancos, los que se han comprometido extraoficialmente a no valerse de este sistema para lograr ventajas en materia de intereses.

2. Estados Unidos

El mercado de capitales de Estados Unidos es mayor que los de los países europeos, y se caracteriza por la disponibilidad de una mayor cantidad de fondos 1/ y por tipos de interés más reducidos. Al igual que en el Reino Unido se considera que la financiación constituye, esencialmente, una actividad comercial privada y, en principio, solamente se conceden créditos públicos cuando es imposible obtener créditos privados.

La información de que se dispone sobre los créditos privados de exportación es limitada. En mayor medida que en ningún otro país, las grandes empresas privadas no sólo actúan como sus propios aseguradores, como se indicó anteriormente, sino también como sus propios banqueros. La concesión de un crédito bancario a una compañía generalmente esta estrechamente vinculada a sus

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1/ Por ejemplo, según un estudio preparado en 1963 para la Comisión Económica Conjunta del Congreso de los Estados Unidos, el volumen bruto de las emisiones de valores efectuados en el país en 1962, incluidas las transacciones del gobierno central y externas, fue entre cuatro y cinco veces superior al volumen conjunto de siete importantes países europeos (Alemania, Bélgica, Francia, Italia, los Países Bajos, El Reino Unido y Suecia).

actividades corrientes y ventas totales, y los prestamistas no suelen designarlos como créditos de exportación. Además, existen muchos vínculos entre firmas privadas o banqueros de los Estados Unidos y filiales, bancos locales, corresponsales o importadores de muchos países extranjeros, especialmente de América Latina. Por consiquiente, es posible que una parte importante de los créditos extendidos con destino a la venta de bienes estadounidenses llegue al importador extranjero sin haber sido notificado como un crédito de exportación.

Salvo en casos excepcionales, los plazos de los créditos de exportación concedidos por bancos comerciales en los Estados Unidos no exceden de seis a siete años, a menos que estén asegurados o garantizados.1/ La parte más importante de los créditos de exportación a largo plazo corresponde a créditos del sector público concedidos a importadores extranjeros. Con posterioridad al establecimiento del "Foreign Credit Insurance Association" (FCIA) y de su propio programa de concesión de garantías a bancos iniciado en febrero de 1962, el Banco de Exportación e Importación solamente concede préstamos con destino a bienes industriales por un plazo inferior a cinco años en casos excepcionales. Anualmente concede créditos a países en desarrollo por valor de aproximadamente US$500 millones, en tanto que el volumen de créditos a plazo medio asegurados o garantizados a dichos países es del orden de US$200 millones al año.

A partir de 1965, el Banco de Exportación e Importación también viene ofreciendo, para su distribución en el mercado, certificados de participación en su propia cartera de préstamos; estos certificados, que se ofrecen a los precios vigentes y son aceptables como garantía de anticipos por los Bancos de Reserva Federal, han sido objeto de una acogida favorable por parte de bancos comerciales y otros inversionistas financieros. A partir de septiembre de 1966, el Banco de Exportación ha concedio facilidades adicionales a los bancos que otorgan créditos de exportación a plazo medio incrementado asi su capacidad para financiar operaciones de exportación. El Banco concede "préstamos corrientes de exportación con un plazo de un año" a bancos comerciales, por un monto máximo equivalente

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1/ Las garantías bancarias están relacionadas con un sistema de doble opción ("put and call") aplicable al cabo de un plazo de siete años. Este sistema permite al Banco de Exportación e Importación impedir que los banqueros obtengan ganancias excesivas en caso de disminución del tipo de interés ("call system"). A la inversa, los bancos comerciales pueden transferir los préstamos al Banco de Exportación e Importación en caso de aumento del tipo de interés ("put system"). Uno de los efectos de este sistema es que los bancos comerciales no vacilan en extender préstamos garantizados con vencimientos superiores a siete años. Se considera que el límite práctico de los créditos de exportación sería aproximadamente doce años.

a la mitad de sus créditos de exportación a plazo medio vigentes, es decir, de sus créditos con plazos de vencimiento de más de seis meses. También concede "préstamos de incremento neto" por un monto máximo equivalente a la mitad del valor del incremento registrado en la financiación total para fines de exportación de un banco comercial, incluidos los préstamos a corto plazo. El Banco de Exportación e Importación ha señalado que cargará un interés variable a los bancos, según la cantidad de seguro o garantía que tengan los documentos de exportación correspondientes. Se exigirá a los bancos comerciales que utilicen estas facilidades que mantengan cuentas separadas para los préstamos de exportación afectados. En virtud de su acceso a estas facilidades de crédito, los bancos comerciales estarán en condiciones de considerar sus documentos de exportación con vencimiento a plazo corto o medio como un activo líquido. El procedimiento establecido y el efecto que tiene sobre la liquidez de los bancos explican por qué se considera esta innovación como un "programa de descuento".

3. Francia

Tal vez el temor a la inflación, que ha prevalecido en Francia durante largos períodos en el pasado, constituya la razón principal de que los ahorradores privados suelan preferir los activos líquidos a las inversiones a largo plazo. Otro motivo posible es el hecho de que no exista una diferencia significativa entre el rendimiento de las inversiones a plazo corto y largo, una vez deducidos los impuestos. La transformación de los ahorros líquidos en inversiones a plazo medio y largo está a cargo del sistema bancario o de la Tesorería, por intermedio de varios mecanismos semipúblicos, públicos o controlados por el sector público. Los citados mecanismos se han convertido en uno de los instrumentos más efectivos de las autoridades públicas para orientar las decisiones comerciales hacia el logro de las metas nacionales.

El sistema de créditos de exportación a plazo medio está organizado con arreglo a los lineamientos del sistema especial de créditos a plazo mediano de Francia. Recientemente, se ha autorizado la concesión de créditos a plazo más largo.

El citado sistema de créditos a plazo medio tiene por objeto reducir la utilización de las facilidades de redescuento del Banco Central, interponiendo entre los prestatarios y dicho Banco una institución intermediaria más que la necesaria en el sistema de redescuento de créditos a corto plazo. La citada institución intermediaria está además encargada de la evaluación técnica de las transacciones. En lo que a la financiación a plazo medio de las exportaciones se refiere, los pagarés ("Billets de mobilisation") emitidos por el exportador a la orden de su banco comercial reciben una garantía incondicional del "Banque Française du Commerce Extérieur"

y pueden descontarse con el "Crédit National", organismo a cuya aprobación está supeditada la aprobación del crédito. De este modo los créditos cuentan con las cuatro firmas necesarias para su redescuento en el "Banque de France".

Este sistema ofrece dos ventajas a los créditos de exportación a plazo medio, a saber: que no están sujetos al tope de redescuento de los bancos comerciales, y que gozan de una tasa preferencial de redescuento con el "Banque de France". Puesto que los créditos han de estar asegurados para poder acogerse a dicho sistema y gozar de las ventajas conexas que ofrece, se aseguran todos los créditos de exportación con un plazo superior a dos años después de la entrega de los bienes.

La concesión de créditos a largo plazo se autorizó por una ley promulgada en 1960, en la que se dispuso la creación de un Fondo especial para la concesión de préstamos de tesorería al "Crédit National". En la citada ley, se establecieron varias fuentes de recursos para el Fondo, bajo la supervisión de la Tesorería, tales como préstamos de las "Caisses des Dépôts et Consignations". La Tesorería está obligada a cubrir cualquier diferencia existente entre los intereses pagados y los recibidos por el Fondo. El sistema de créditos a "plazo medio prolongado" ("moyen-terme prolongé"), que se aplica a créditos con plazos de cinco a diez años con posterioridad a la entrega de los bienes, se ha basado en el procedimiento citado.

Con el propósito de aliviar la carga del Fondo y de promover la participación de los bancos en la financiación a largo plazo, en 1962 se autorizó la creación del "Groupement Interbancaire pour le Commerce Extérieur" (GICEX). Cada uno de los diecisiete bancos participantes se comprometió a refinanciar las transacciones aprobadas por la agrupación por un monto máximo del uno por ciento de los depósitos o del cinco por ciento del capital y reservas. En la práctica, GICEX ha financiado los vencimientos posteriores al quinto año de préstamos con un plazo de seis o siete años, y el Fondo ha financiado los vencimientos superiores a cinco años de préstamos por un plazo de más de siete años.

De acuerdo con las disposiciones de la citada ley de 1960, la concesión de créditos de compradores se autorizó en Francia en 1965. Estos créditos, que se conceden directamente a los importadores, se aplican al período siguiente a la entrega de los bienes. Comprenden un préstamo bancario con un plazo máximo de cinco años y, además, la concesión de un préstamo por el "Banque Française du Commerce Extérieur" para cubrir todos los vencimientos superiores a cinco años. El objetivo principal de este procedimiento es eximir al exportador de toda participación en la financiación y riesgos de transacciones de gran envergadura relacionadas con créditos de plazos muy largos. Se prevé que los otros aspectos crediticios y de seguros, tales como la clase de bienes asegurables, los plazos de vencimiento, etc., se regirán por normas semejantes a las aplicables

a los créditos de proveedores.

Desde 1960, en Francia se viene combinando la concesión de créditos de proveedores con créditos estatales, que tienen tasas de interés más bajas y plazos más largos. La proporción del crédito estatal en el volumen de crédito total fluctuaba entre una quinta y tercera parte, hasta que en 1966 se fijó su participación máxima en un 40 por ciento. Esta combinación de créditos puede ser en forma de créditos paralelos o integrados.

Cuando se trata de créditos paralelos, los créditos de proveedores se destinan a cubrir las ventas de bienes de capital, y los créditos estatales se aplican a otros fines, por ejemplo, para cubrir gastos en moneda local, obras de infraestructura o materiales complementarios.

Por otra parte, cuando se trata de créditos integrados, privados o estatales, destinados a una misma transacción, el crédito estatal puede utilizarse para financiar los pagos anteriores a la entrega de los bienes, y los créditos de proveedores para cubrir los saldos restantes.

En ocasiones, la aportación de Francia a la ayuda concedida por intermedio de consorcios internacionales consiste en subvencionar los créditos de proveedores, como en el caso de la India o el Paquistán, efectuándose la rebaja de los tipos de intereses por medio de la financiación del "Crédit National".

4. Alemania

La economía alemana se caracteriza por el hecho de que una parte considerable de la financiación para fines comerciales proviene de créditos bancarios a corto plazo que se renuevan indefinidamente. La financiación de las exportaciones se ajusta a la misma pauta, al menos en lo que respecta a los créditos no asegurados. Muchos créditos de proveedores pueden concederse gracias al apoyo que éstos reciben de bancos comerciales para sus actividades generales, sin que exista ninguna asignación especial de préstamos bancarios para las transacciones de exportación. El seguro de los créditos de exportación permite a los exportadores encontrar con más facilidad fuentes de crédito a plazo medio y largo, por intermedio del sistema bancario y de instituciones especializadas.

Aunque no hay un límite máximo para los plazos de vencimiento de los préstamos que conceden, por regla general los bancos comerciales se muestran renuentes a otorgar créditos con plazos superiores a cuatro o cinco años. Dos instituciones intermediarias, la "Ausfuhrkredit-Gesellschaft" (Corporación de Créditos de Exportación) y la "Kreditanstalt für Wiederaufbau" (Corporación

de préstamos de Reconstrucción), que canalizan fondos obtenidos de diversas fuentes, realizan operaciones con plazos más largos.

La "Ausfuhrkredit-Gesellschaft" (AKA) es una empresa privada establecida en 1952, cuyo capital está en poder de un consorcio de bancos. Los fondos de que dispone provienen de dos líneas de crédito de origen diferente, conocidas como las líneas "A" y "B". La línea de crédito "A" proviene de los miembros del consorcio. Su límite máximo de DM700 millones se incrementó a DM1.000 millones a fines de 1965 y a DM1.500 millones en 1966. La línea de crédito "B" es una línea de redescuento en el "Deutsches Bundesbank ". El 22 de julio de 1966, se aumentó el límite máximo de esta última de DM300 millones a DM900 millones. Inicialmente, la línea "B" estaba a disposición del "Kreditanstalt für Wiederaubau", y se basaba en fondos de contrapartida del Plan de Recuperación Europea.

Los créditos de la línea "B" tienen un plazo de vencimiento máximo de cuatro años, y los de la línea "A", de ocho años. Este plazo de ocho años suele corresponder a tres años de producción y cinco años del período posterior a la entrega de los bienes. Los tipo de interés de los créditos de la línea "B" suelen ser inferiores en alrededor del 1,5 por ciento a los de la línea "A" (actualmente el 6 5 por ciento frente al 8,25 por ciento). A la inversa, la proporción de la financiación y del riesgo que corresponde al exportador es superior en los créditos de la línea "B".

El "Kreditanstalt für Wiederaufbau" (KW) se estableció en 1948 como una entidad pública para proporcionar financiación para fines de construcción. En 1950 se le encomendó la tarea de conceder créditos de exportación a plazo medio, con un vencimiento máximo de cuatro años. Al crearse posteriormente la AKA, se transfirió a este último organismo la responsabilidad de realizar esa tarea, aunque KW continúo participando en el proceso de financiación de exportaciones mediante la concesión de "financiación paralela", es decir la financiación de vencimientos de créditos que exceden del tope establecido por las normas que rigen las operaciones de AKA, por un periódo máximo de diez años con posterioridad a la entrega de los bienes. A partir de 1961, "Kreditanstalt" ha venido concediendo préstamos a largo plazo a compradores de países en desarrollo. Estos préstamos solamente pueden concederse con destino a proyectos de gran envergadura que tengan un valor mínimo de DM5 millones.

KW pasó a ser un organismo de ejecución del programa de ayuda exterior de Alemania, financiado con fondos públicos en 1961. Para las transacciones que realiza por su propia cuenta, tales como la financiación de exportaciones y la concesión de préstamos a prestatarios extranjeros, en las condiciones usuales, destinadas a complementar la ayuda oficial para fines de desarrollo, KW utiliza su capital propio y fondos obtenidos en préstamos en el mercado

o en otras fuentes, especialmente de inversionistas institucionales públicos y privados.

Al igual que Francia, Alemania ya ha comenzado a conceder, en combinación, créditos de proveedores y créditos estatales pero, a diferencia de aquélla, la participación mayor corresponde a los préstamos estatales. Uno de los objetivos que se persigue es lograr la máxima utilización de los limitados fondos públicos disponibles.

5. Italia

A semejanza de lo que sucede en Francia, una decidida preferencia por activos líquidos ha llevado al público italiano a colocar sus ahorros en cuentas bancarias. Como consecuencia de esta tendencia, el mercado de capitales está compuesto, en gran medida de grandes instituciones que actúan en calidad de inversionistas de sus propios fondos, y de corredores que colocan valores a largo plazo con sus clientes.

En la Ley Italiana de Banca de 1936 se estableció la separación de los créditos ordinarios a corto plazo concedidos por bancos comerciales de los créditos a plazo medio y largo, cuya concesión está a cargo de instituciones crediticias especiales.

Como se ha indicado anteriormente, los créditos de exportación a plazo medio y largo se rigen por leyes especiales, especialmente por las promulgadas en 1953 y 1961.

En su mayor parte, las instituciones crediticias especiales a cargo de los créditos a plazo medio y largo son entidades de derecho público, secciones especiales de los seis bancos de derecho público, o cajas de ahorro autorizadas para realizar actividades crediticias especiales.

Estas instituciones forman tres grupos distintos, a saber: uno a cargo de las regiones septentrional y central del país, otro a cargo de la región meridional, y un tercero, integrado por las principales instituciones de crédito industrial, cuyas operaciones no están sujetas a limitaciones territoriales o cualitativas. Este tercer grupo está compuesto por el "Instituto Mobiliare Italiano" (IMI), "Mediobanca", "Centrobanca", "Efibanca", "Interbanca", departamentos de la "Banca Nazionales del Lavoro" y el Instituto di Crédito per le Imprese di Pubblica Utilitá".

La concesión de créditos de exportación está a cargo, casi exclusivamente, de IMI, "Mediobanca y "Efibanca". De las instituciones mencionadas, solamente IMI concede créditos a largo plazo. Aparte de su capital propio, estas instituciones especializadas obtienen los recursos que necesitan principalmente mediante la contratación de obligaciones a largo plazo y también del Gobierno Central, de líneas de crédito de bancos comerciales, de depósitos a la vista y de ahorro y de préstamos externos.

Estas obligaciones se colocan entre diversas clases de suscriptores, tales como instituciones bancarias, cajas de previsión social y compañías de seguros, la "Cassa Depositi e Prestiti" y el público en general; en ocasiones, la "Banca d'Italia" también ha realizado operaciones con dichas obligaciones. La distribución de las obligaciones entre estos suscriptores varía de un año a otro, en ocasiones considerablemente.

IMI, un organismo de derecho público, obtiene fondos principalmente mediante la emisión de obligaciones y, en ocasiones (en 1964, por ejemplo) ha sido el instrumento principal para la canalización de préstamos externos. Las cuatro instituciones mencionadas anteriormente - "Mediobanca", "Efibanca", "Centrobanca", "Interbanca" - son sociedades anónimas que obtienen ahorros a plazo medio principalmente por medio de depósitos a plazo y bonos que devengan intereses.

En Italia, la financiación de las exportaciones es de índoles mixta, pública y privada, al igual que sucede con la financiación interna a plazo medio. La situación jurídica de las instituciones no es un factor que revista gran importancia, puesto que todas gozan de autonomía y observan principios comerciales en sus operaciones. Lo que sí reviste mayor importancia es la procedencia mixta de sus recurso, en parte del sector privado y en parte del público. Además, se concede ayuda estatal a todas las operaciones de financiación de exportaciones por intermedio de "Mediocredito Centrale". Esta entidad pública está facultada para refinanciar créditos asegurados, financiados inicialmente por instituciones especializadas, a un tipo de interés preferencial. Debido a la escasez de recursos, con frecuencia prefiere subvencionar directamente los tipos de interés de dichas instituciones.

En el sistema actual, ninguna institución se especializa en la financiación de las exportaciones. En sus transacciones de exportación, las instituciones públicas y privadas tienen que competir con las necesidades internas en lo que respecta a la asignación de los recursos crediticios. Como consecuencia de ellos, a los exportadores a veces les resulta difícil obtener compromisos anticipados en cuanto al monto y condiciones de la financiación de exportaciones.

La legislación promulgada en 1961 prevé la concesión de créditos de compradores a entidades públicas o compradores privados extranjeros con la garantía del gobierno respectivo. Hasta la fecha, la aplicación de estas disposiciones ha sido muy limitada.

Actualmente, se está estudiando la modificación de las leyes que rigen los seguros de créditos de exportación y los créditos de exportación.

ANEXO IV

Cooperación Organizada Entre los Países Acreedores

Las actividades de varios grupos internacionales que se ocupan de la coordinación de diversos aspectos de los créditos de exportación han influido sobre las normas y procedimientos aplicados a estos créditos. En este Anexo se presenta una breve reseña de la composición y actividades de los siguientes grupos:

- La Unión de Berna ("Union d'Assureurs des Crédits Internationaux")
- El "Groupe de Co-ordination des Politiques d'Assurance-Credit, des Garanties et des Crédits Financiers", de la Comunidad Económica Europea.
- Dos grupos de la OCDE que se ocupan de los créditos de exportación de los aspectos financieros de la ayuda para el desarrollo.
- "Clubs" establecidos para el reajuste de deudas y organismos internacionales que proporcionan asistencia técnica.

Los consorcios organizados bajo los auspicios de la OCDE o del Banco Mundial, así como los grupos consultivos patrocinados por esta última institución o por el Banco Interamericano de Desarrollo, se ocupan primordialmente de la financiación pública a largo plazo para fines de desarrollo, aunque con frecuencia también examinan las condiciones de los créditos privados, en cuanto éstas afectan la situación de los países beneficiarios.

A. La Unión de Berna

La "Union de'Assureurs des Crédits Internationaux", generalmente conocida como la "Unión de Berna", se estableció en 1934, y actualmente cuenta con 26 miembros de pleno derecho, en su totalidad instituciones de seguro de créditos de exportación, tanto públicas como privadas. En el período posterior a la Segunda Guerra Mundial, la Unión de Berna desempeñó un papel preponderante en los esfuerzos encaminados a lograr que la competencia en materia de créditos de exportación se rigiera por un procedimiento ordenado (véase el Anexo 2), aunque su labor se ha visto obstaculizada por varios factores, entre ellos los siguientes:

1) Composición: El Banco de Exportación e Importación de los Estados Unidos participó en la Unión en calidad de observador hasta enero de 1962, fecha en que pasó a ser miembro de pleno derecho, en su calidad de asegurador. El Japón país en que el Ministerio de Comercio Internacional e Industria está directamente a cargo del seguro de créditos de exportación, no es miembro de la

Unión;

2) Campo de acción: Los "convenios" de la Unión de Berna no comprenden los créditos de compradores;

3) Autoridad: Los convenios concertados entre los miembros no son obligatorios, y solamente se observan cuando así conviene al interés mutuo de los miembros. Además pueden invalidarse mediante decisiones o directrices de los respectivos gobiernos, ya que éstos no están representados en la Unión.

Ya desde 1961, la Unión ha venido expresando la esperanza de que el establecimiento de un sistema internacional de coordinación evitaría el deterioro de las condiciones crediticias. En 1965 insistió una vez más sobre la responsabilidad que incumbía a los Gobiernos de tratar de encontrar una solución a los problemas planteados por la competencia, y brindó su asistencia técnica para esa finalidad. La subcomisión técnica de la Unión desarrolló una labor efectiva con respecto a una gran diversidad de problemas, entre ellos, el logro de una comprensión más cabal, por parte de los miembros, de los diversos procedimientos y nomenclaturas. La Unión estableció, sobre una base oficiosa, un mecanismo para la recopilación conjunta de información sobre las cifras topes fijadas por los acreedores para los créditos a países prestatarios que plantean problemas, y en enero de 1965 inició, a título experimental, un Servicio Central de Información.

B. El "Grupo de Co-ordination des Politiques d'Assurance-credit des Garanties et des Crédits Financiers", de la Comunidad Económica Europea

El Grupo de Coordinación de las políticas en materia de seguro de créditos, garantías y créditos de financiación (en adelante denominado el Grupo de Coordinación) se estableció el 27 de septiembre de 1960, e inició sus actividades en 1961. Está integrado por representantes de los Ministerios de Hacienda y de Economía, así como de compañías aseguradoras de créditos, de los seis países miembros del Mercado Común. Este grupo se reúne aproximadamente una vez cada dos meses, y sus miembros se mantienen constantemente en contacto durante el período que media entre las reuniones. Su labor se ha orientado hacia los tres objetivos que se describen a continuación:

1. Armonización de los contratos de seguro de créditos

La labor de la Comisión Técnica encargada de esta tarea se encuentra muy adelantada. Se prevé que para fines de 1966 se presentará al Grupo de Coordinación un proyecto de contrato común de seguros aplicable a las ventas efectuadas a compradores públicos. Entre las actividades proyectadas para el futuro figuran la armonización de las garantías a corto plazo y la redacción de un

contrato común de seguro para créditos a plazo medio concedidos a compradores privados y de otro para contratos de obras públicas. Se trata con ello de unificar las condiciones de competencia y crear un instrumento que permita seguir una política común en el futuro.

2. Mayor grado de coordinación entre sus miembros.

Por decisión del Consejo del 16 de mayo de 1962, se estableció un sistema de consultas con respecto a los créditos de proveedores y a los créditos privados de financiación a largo plazo (superior a cinco años después de la entrega de los bienes), sistema que se hizo extensivo, por otra decisión del Consejo adoptada el 26 de enero de 1965, a los créditos globales ("enveloppes globales de crédits") y a las líneas privadas de crédito garantizadas. Los convenios que prevén la utilización conjunta de fondos públicos y créditos de proveedores o créditos privados de financiación (cuestiones que en ocasiones han planteado problemas políticos), están sujetos a un procedimiento especial de consulta en la Comisión de Representantes Permanentes ante el Mercado Común.

En virtud del procedimiento de consultas instituido en 1962, una garantía de crédito para una transacción a largo plazo sólo podrá concederse al cabo de siete días de haberse consultado respecto a ella con los otros países. En el término de esos siete días, cualquier miembro puede formular observaciones sobre dicha transacción o, si no está de acuerdo con ella, puede convocar una reunión del Grupo de Coordinación con el fin de solicitar la anulación de las condiciones especiales. De conformidad con la decisión adoptada en 1965 - y salvo que se trate de un caso de emergencia -, si después de transcurrido el plazo de siete dias, cinco de los seis miembros se oponen a la proyectada transacción ésta deberá suspenderse hasta que se celebre la siguiente reunión del Grupo de Coordinación.

3. Criterios relativos a los vencimientos.

El Grupo de Coordinación ha tratado de establecer un conjunto de criterios sobre los vencimientos de los créditos por un plazo superior a cinco años, estipulando lo siguiente:

a) Que se observen los convenios de la Unión de Berna en lo que respecta a las exportaciones a los paises desarrollados.

b) Que se considere la concesión a países en desarrollo de créditos por un plazo superior a cinco años, previa la celebración de consultas, en casos en que las exportaciones propuestas reúnan alguna de las condiciones que se exponen a continuación:

- se efectuén dentro del marco de un consorcio de ayuda;
- formen parte de un proyecto comprendido en un plan de desarrollo;
- formen parte de un proyecto aprobado por un organismo internacional;
- sean de gran envergadura; o
- revistan una importancia excepcional para el país exportador, por ejemplo, por motivos de política regional.

El Grupo también ha tratado de establecer el criterio de que los vencimientos de los créditos se ajusten a la categoría de los bienes de que se trate, tomando en consideración la vida útil del equipo. La formulación de este principio ha planteado grandes dificultades.

La labor de este Grupo se ha visto obstaculizada por el número limitado de países exportadores que en él participan, no habiendo logrado persuadir a la OCDE a que adoptara ni uno solo de los principios mencionados. Los miembros del Mercado Común continúan apartándose de las reglas propuestas con el fin de competir con países ajenos al mismo. Aunque el Grupo ha logrado establecer un satisfactorio intercambio de información, al parecer no ha conseguido regular la competencia. Todo parece indicar que las conversaciones encaminadas a la adopción de directrices para la coordinación cesaron en 1964.

C. Grupos de la OCDE

La Organización de Cooperación y Desarrollo Económicos tiene dos grupos que se ocupan de los créditos de proveedores, en los que está representada la Comisión de la Comunidad Económica Europea. Son los siguientes:

1. El Grupo de Alto Nivel sobre Créditos de Exportación y Garantías de Créditos de Exportación, establecido por la Comisión de Comercio en 1963. Este Grupo está integrado por funcionarios de jerarquía superior que tienen una importante responsabilidad en la formulación de la política a seguir en este campo, así como de altos funcionarios de las instituciones de créditos de exportación y de garantía de créditos. Algunos de sus miembros están principalmente interesados en limitar la competencia entre los países industrializados. En febrero de 1963, el Grupo de Trabajo presentó a la Comisión de Comercio una propuesta relativa a un convenio de coordinación entre los miembros con respecto a los créditos por un plazo superior a cinco años, que comprendía la presentación de información previa y un procedimiento de preguntas y respuestas. De acuerdo con dicha

propuesta, los miembros estarían obligados a contestar las preguntas formuladas por otros países en relación a los créditos de exportación y su seguro.

2. El Grupo de Trabajo del CAD sobre los Aspectos Financieros de la Ayuda para el Desarrollo, que se ocupa de los problemas que plantea el endeudamiento y de los términos y condiciones financieros adecuados.

El 9 de noviembre de 1964, los Países Bajos presentaron una propuesta para el establecimiento de una "zona neutra" entre los créditos comerciales, que tendrían un período máximo de amortización de 10 años, y los créditos de ayuda condicionados, con un vencimiento mínimo de 15 años. El Grupo de Trabajo del CAD ha examinado esta propuesta, que ha sido enviada al Grupo de Trabajo de la Comisión de Comercio para un estudio más a fondo.

D. "Clubs" establecidos para el reajuste de deudas y organismos internacionales que proporcionan asistencia técnica

En los últimos años, cuando un país deudor ha solicitado el reajuste de su deuda, los principales países acreedores han considerado conveniente formar los llamados "Club de La Haya" y "Club de París", con el fin de lograr unidad de acción a ese respecto. El objetivo de estas agrupaciones han consistido en garantizar la repartición equitativa de la carga de la refinanciación entre los diversos acreedores, y adoptar una política común con respecto al país deudor.

En general, los países acreedores han insistido en su opinión de que la renegociación de las deudas debe constituir solamente una solución de excepción. Por consiguiente, en los casos en que un país deudor ha solicitado la refinanciación por segunda vez, se ha concedido mayor importancia a las medidas encaminadas a evitar la repetición del problema.

Puesto que los acreedores que integran un "club" representan generalmente la parte más importante de todas la fuentes posibles de crédito, en principio deberían poder evitar, mediante la acción colectiva, que se repitiera el endeudamiento excesivo. Pero, en la práctica, los acuerdos de cooperación no acompañados de una coordinación adecuada no han resultado efectivos. Por consiguiente, se ha venido prestando creciente atención a las salvaguardias que podrían proporcionarse mediante la cooperación del Fondo Monetario Internacional y el Banco Internacional de Reconstrucción y Fomento.

Aunque, por regla general, el país deudor está en condiciones de presentar un estado de la situación de su balanza de pagos,

la exposición imparcial de los hechos reviste ventajas indiscutibles tanto para el deudor como para el acreedor. El Fondo está en condiciones de proporcionar un análisis imparcial de las perspectivas a plazo corto de la balanza de pagos, en tanto que el Banco puede hacerlo con respecto a las tendencias de desarrollo a plazo más largo. El Fondo proporcionó información de esta índole, sobre una base oficiosa, en las negociaciones realizadas con respecto a las deudas pendientes de Turquía en 1958-1959, de Brasil en 1961 y 1964, de Argentina en 1962 y 1965, de Liberia en 1963, de Indonesia en 1963 y de Chile en 1965. En el caso de este último país, el Banco participó en las negociaciones.

Cuando la tramitación de un convenio de crédito contingente (stand-by) del Fondo coincide con la renegociación de la deuda, éste tiene la oportunidad de contribuir a evitar que se repita la necesidad de una refinanciación. Se pueden obtener beneficios mutuos de los compromisos contraídos con el Fondo en virtud de convenios de crédito contingente, ya que si se adoptan medidas adecuadas para restablecer el equilibrio de los pagos, habrá cierta garantía de que no se repetirán problemas tales como la acumulación de pagos atrasados.

Un ejemplo de otra actuación, no relacionada con un programa apoyado por un acuerdo de crédito contingente con el Fondo es el papel que se solicitó que desempeñase éste en las negociaciones celebradas con el Brasil en 1964. En esa ocasión, los acreedores y el propio país convinieron en solicitar al Fondo que actuara como conducto para transmitir a aquéllos toda la información proporcionada por el Brasil con respecto a su observancia de la política convenida, en lo que a la aceptación de créditos de proveedores se refiere.

Mediante la celebración de convenios entre el deudor y los acreedores también se han establecido algunas salvaguardias contra la acumulación de nuevos créditos de proveedores a plazo medio. Hasta la fecha, han consistido principalmente en un compromiso por parte del deudor de no incrementar, durante un período de aproximadamente 18 meses, el monto pendiente de los créditos de esa índole con vencimientos inferiores a ocho años.

ANEXO V

Estadísticas Globales sobre Créditos de Proveedores

En este Anexo se presentan datos cuantitativos globales sobre los créditos privados de exportación, basados en la información comparable de que se dispone, tanto la recopilada por la OCDE sobre la afluencia de recursos financieros a los países en desarrollo como la obtenida mediante el sistema de notificación estadística en virtud del cual los países deudores proporcionan periódicamente información sobre su deuda externa al Banco Mundial. En cierta medida, también reflejan las opiniones formadas como consecuencia de contactos extraoficiales establecidos entre funcionarios del Banco y algunos de los principales países acreedores en el curso de la preparación de este estudio.

Si bien las diversas series de datos incluidos en este Anexo tal vez den una cierta idea sobre la cuantía de dichos créditos solamente se presentan a título indicativo. Es imposible establecer la debida comparación entre los datos obtenidos de los acreedores y los suministrados por los deudores. Los datos provenientes de aquéllos corresponden a los países en desarrollo considerados en su conjunto, y no son lo suficientemente detallados para poder compararlos con los datos correspondientes a los distintos países deudores. Además, aunque en algunos las dos fuentes de datos citadas comprenden los mismos rubros, difieren en otros. Los acreedores proporcionan información sobre los créditos de exportacion garantizados, concedidos tanto al sector público como al privado de los países deudores, mientras que en el sistema de notificación de éstos, solamente se incluyen, en lo que respecta al sector privado, las deudas que tengan la garantía pública del respectivo país deudor. En ocaciones, las garantías notificadas por los países acreedores no coinciden con las notificadas por los deudores. En el sistema de notificación de los países deudores - a diferencia del de los acreedores - se clasifican como préstamos oficiales los créditos de proveedores que han sido objeto de una operación de reajuste. Además, en los datos recopilados por la OCDE no siempre se computan las cancelaciones. Por último, debido a la considerable participación de intereses privados en ambos sistemas, existen las consiguientes dificultades que obstaculizan la notificación adecuada de datos a este respecto, tanto por parte de los acreedores como de los deudores.

El papel que desempeñan los créditos privados de exportación en la afluencia de recursos financieros externos hacia los países en desarrollo

Como puede observarse en el Cuadro 1, el incremento neto registrado en los créditos privados de exportación concedidos a los países en desarrollo, total o parcialmente garantizados por los países acreedores, ascendió a US$741 millones en 1965. Se calcula que los citados créditos representan aproximadamente tres cuartas partes de la totalidad de los créditos privados de exportación otorgados a países en desarrollo, incluidos los que no tienen garantía alguna en los países acreedores. Es posible que, en el citado año, el aumento neto registrado en todos los créditos privados de exportación, tanto garantizados como no garantizados, haya sido de cerca de US$1.000 millones, partiendo del supuesto de que los créditos no garantizados ascendieron a algo menos de US$250 millones.

La OCDE ha calculado que, en 1965, el monto total de los recursos financieros externos de todo tipo provenientes de diversas fuentes - excluidos los pagos por concepto de amortizaciones - recibidos por los países en desarrollo fue de alrededor de US$11.000 millones. Por consiguiente, el aumento neto de US$1.000 millones registrado en los créditos privados de exportación representaba algo menos del 10% del total. En comparación, los préstamos oficiales ascendieron a una suma neta de US$2.800 millones en 1965, correspondiendo US$2.000 millones a préstamos bilaterales concedidos por países miembros del Comité de Ayuda para el Desarrollo (CAD) de la OCDE, y US$700 millones a préstamos de instituciones multilaterales.

A partir de 1960, los incrementos registrados en los créditos privados de exportación garantizados han sido cada vez mayores, pasando de US$463 millones en el citado año a US$741 millones en 1965. Estos incrementos han correspondido, en su totalidad, a los créditos con plazos de vencimiento superiores a cinco años, después de la entrega de los bienes. Los créditos a plazo más corto han aumentado de forma constante, a un ritmo medio de alrededor de US$300 millones anuales, mientras que los créditos con plazos de vencimiento superiores a cinco años pasaron de un aumento de menos de US$100 millones en 1960 a uno de US$455 millones en 1965.

Ahora bien, los préstamos oficiales han venido aumentando a un ritmo considerablemente superior que los créditos privados de exportación. El volumen neto de US$2.800 millones que alcanzaron en 1965 asciende a mas de tres veces el de US$900 millones registrado en 1960, en tanto que en 1965 el monto neto de los créditos de exportación privados garantizados solamente fué superior en alrededor de un 60% al nivel alcanzado en 1960.

Los países de Europa Occidental (incluido el Reino Unido) y el Japón, han sido las fuentes principales de créditos privados de exportación, calculándose que aproximadamente el 90% del volumen total ha correspondido a estos países. El 10% restante ha provenido principalmente de los Estados Unidos. En su mayor parte, los préstamos que este último país ha concedido a países en desarrollo han sido en forma de ayuda pública y de créditos comerciales públicos.

Volumen que representan los créditos de proveedores en la deuda pendiente y en el servicio de la deuda de los países en desarrollo

Los Cuadros 2, 3, 4 y 5 de este Anexo contienen datos sobre el endeudamiento externo total y en endeudamiento por concepto de créditos de proveedores de varios países, obtenido mediante el sistema de notificación de países deudores del Banco Mundial.

Desde 1951, el Banco Mundial ha venido recopilando, de forma sistemática, información sobre la deuda externa de sus prestatarios. En general, la información recogida comprende los montos pendientes y pagos por concepto del servicio de obligaciones con un plazo de vencimiento superior a un año del sector público y del sector privado, estas últimas solamente cuando tienen la garantía pública del país deudor. Unos 80 países proporcionan información de esta índole. Debido a que la

CUADRO 1

AFLUENCIA A PAISES EN DESARROLLO DE CREDITOS PRIVADOS DE EXPORTACION GARANTIZADOS Y DE PRESTAMOS BILATERALES OFICIALES DE PAISES MIEMBROS DEL CAD, Y PRESTAMOS DE ORGANISMOS MULTILATERALES, 1960-1965

(en millones de dólares)

	Créditos privados de exportación, total o parcialmente garantizados, netos			Préstamos oficiales, bilaterales y multilaterales, netos		
	Por un plazo de 1 a 5 años	Por un plazo superior a 5 años	Total	Total de préstamos oficiales bilaterales y multilaterales	Préstamos bilaterales oficiales	Préstamos multilatearales
1960	370	93	463	916	648	268
1961	272	221	493	1.508	1.280	228
1962	236	399	635	1.671	1.301	370
1963	259	293	552	2.218	1.679	539
1964	348	533	881	2.213	1.581	632
1965	286	455	741	2.787	1.974	813

Nota: Los datos correspondientes a 1962-1965 han sido tomados de DAC Chairman's Review 1966, y los correspondientes a 1960 y 1961 de The Flow of Financial Resources to Less-Developed Countries, 1956-1963, OCDE, París, 1964, p. 134. Los préstamos oficiales comprenden todos los préstamos con un plazo de vencimiento superior a un año. Las cifras relativas a los créditos de exportación representan incrementos netos anuales de los montos pendientes de créditos de exportación garantizados, incluída la parte no garantizada de los mismos. Las cifras relativas a préstamos oficiales comprenden los desembolsos brutos, menos los pagos por concepto de amortización. La cobertura por países correspondiente a 1960-1961 difiere algo de la de otros años, debido a la inclusión de Suiza y la exclusión de Australia.

calidad de la información suministrada es desigual, se ha hecho un estimado de la situación de 56 países en una fecha determinada, a saber, el 31 de diciembre de 1965. Ahora bien, los créditos de proveedores constituyen una parte importante de la deuda externa solamente en el caso de 36 de estos países.

Este sistema comprende específicamente, los créditos concedidos directamente por los proveedores de bienes. El número de créditos de financiación incluidos en el sistema de notificación de los países deudores es relativamente pequeño, y los datos suministrados con respecto a dichos créditos no siempre son lo suficientemente detallados para determinar cuáles se relacionan de forma específica con el movimiento de bienes. Por esta razón, los datos presentados en este Anexo no comprenden estos créditos. También es posible que los datos disponibles sean algo incompletos, debido a que los países participantes no notifican ciertas transacciones que, en realidad, caen dentro del sistema, tales como los créditos de proveedores garantizados por bancos de propiedad estatal.

Deuda pendiente

El monto total estimado de la deuda pendiente (comprendida la parte no desembolsada) de los 36 países incluidos en el Cuadro 2 era de US$30.500 millones al final de 1965 y representaba alrededor del 78% de la deuda total pendiente de 96 países en desarrollo, que se estima que ascendía a US$39.200 millones.1/ Se dispone de información satisfactoria sobre otros veinte países2/que no tenían una proporción considerable de créditos de proveedores. La deuda pendiente total de estos 56 países en conjunto ascendía a 32,400 millones (y representaba aproximadamente el 83% de la deuda total pendiente), y de esa suma US$4.400 millones, o sea el 13,7%, correspondía a créditos de proveedores.

Se sabe que varios países que no están incluidos en el grupo de 56 países tienen un endeudamiento considerable por concepto de créditos de proveedores. Basándose en datos parciales, se ha estimado que al final de 1965 la deuda de estos países por ese concepto (Argelia, Ghana, Guinea, Liberia y Marruecos) era de alrededor de US$450 millones.

No se cuenta con información suficiente sobre los demás países para poder preparar un estimado directo. Basándose en las proporciones regionales de los créditos de proveedores pendientes a la deuda total pendiente de los 56 países que aparecen en el Cuadro 3, al final de 1965 el monto total de los créditos de proveedores concedidos o garantizados por el sector público era de unos US$5.400 millones. Si se toman en consideración los créditos de proveedores no garantizados por el país deudor, puede considerarse que el monto total pendiente de dichos créditos es de US$6.500 a US$7.000 millones.

En la distribución por frecuencias que aparece a continuación se indica la relación de créditos de proveedores pendientes a la deuda total del grupo de 36 países:

1/ Estimado revisado.

ANEXO V

Relación de los créditos de proveedores pendientes a la deuda total (%)	Número de países
0 - 4,9	10
5,0 - 9,9	8
10,0 -19,9	10
20,0 -29,9	5
de 30,0 en adelante	3
	36

2/ Hemisferio Occidental: El Salvador, Guatemala, Guyana, Jamaica, Panamá, Trinidad y Tobago; Sur de Asia y Oriente Medio: Jordania, Líbano; Lejano Oriente: Malasia, Singapur; Africa: Botswana, Gabón, Kenia, Mauricio, Rhodesia, Senegal, Uganda, Zambia; Europa Meridional: Chipre, Malta.

Servicio de la deuda

En lo que respecta al servicio de la deuda, en 1965 el monto estimado de los pagos por concepto del servicio de créditos de proveedores del grupo de 36 países fué de US$1.100 millones, suma que representa el 35% de sus pagos por concepto del servicio de la deuda total, que ascendieron a US$3.100 millones. Si se consideran también los otros países que no habían obtenido una cantidad considerable de créditos de proveedores, los pagos por concepto del servicio de dichos créditos constituyeron el 33% de los pagos por concepto del servicio de la deuda total. Basándose en la relación de los pagos por concepto del servicio de créditos de proveedores a los créditos de proveedores pendientes de los 36 países (24,3%) y si se aplica dicho porcentaje a la suma de US$5.400 millones que representa el total de los créditos de proveedores pendientes concedidos o garantizados por el sector público, correspondientes a 96 países en desarrollo, los pagos por concepto del servicio de estos créditos ascenderían en total a US$1.300 millones.

No es posible establecer un cálculo del monto de los pagos por concepto del servicio de los créditos no garantizados basándose en los datos indicados. Como promedio, las condiciones de estos créditos suelen ser más gravosas que las de los créditos garantizados. De acuerdo con un estimado muy aproximado, los pagos totales por concepto del servicio de todos los créditos de proveedores pendientes, incluidos los no garantizados, probablemente ascendieron a US$1.800 - US$2.000 millones.

En 1965, los pagos totales por concepto del servicio de créditos de proveedores concedidos o garantizados por el sector público, de los 36 países, representaron aproximadamente el 35% de sus pagos por concepto del servicio de la deuda externa pública total, mientras que la relación de los créditos de proveedores pendientes a la deuda externa total era solamente alrededor del 15% al final del citado año. Este hecho refleja, desde luego, los vencimientos relativamente cortos

de los créditos de proveedores. La relación mas elevada de los créditos de proveedores con respecto a los pagos por concepto del servicio de la deuda con respecto a la correspondiente a los montos pendientes se pone de manifiesto en los datos que se presentan a continuación:

Region y país	Pagos por concepto del servicio de créditos de proveedores como porcentaje de los pagos totales por concepto de servicio	Créditos de proveedores como porcentaje de la deuda pendiente total
America Latina		
Argentina	59,0	30,5
Bolivia	46,2	7,7
Brasil	63,1	29,8
Chile	34,3	11,4
Perú	52,4	32,7
Asia		
Corea	87,7	40,3
China	83,8	10,5
Irán	23,0	4,2
Tailandia	36,4	16,7
Africa		
Nigeria	59,5	20,7
Túnez	49,2	22,8
Europa		
Grecia	22,5	2,4
Yugoslavia	48,8	27,0

De una distribución por frecuencias, se desprende que, en 22 de los 36 países, la relación del servicio de créditos de proveedores al servicio de la deuda total era del 20% o más.

Relación del servicio de créditos de proveedores al servicio de la deuda total (%)	Número de países
0 - 4,9	3
5,0 - 9,9	2
10,0 - 19,9	9
20,0 - 29,9	8
30,0 - 39,9	5
40,0 - 49,9	3
50,0 - 59,9	3
De 60,0 en adelante	3

No se puede considerar que estas relaciones son aplicables a los países sobre los cuales no se dispone de datos o los existentes no son fidedignos. Varios de estos países que tienen un nivel de endeudamiento elevado (por ejemplo, Afganistán, Ghana, Indonesia)han experimentado problemas de la balanza de pagos que han hecho necesario aplazar los

pagos o reajustar la deuda.

En el Cuadro 4 aparecen las relaciones de los pagos por concepto de servicio a valor de las exportaciones correspondientes a 36 países. En general, los pagos por concepto del servicio de la deuda total en 1965 representaron el 14,5% del valor de las exportaciones, cifra que comprende la relación del 5,1% correspondiente a los créditos de proveedores. La relación del servicio de los créditos de proveedores al valor de las exportaciones es especialmente elevada en el caso de Argentina, Bolivia, Brasil, India, México, Perú, República Arabe Unida, Túnez, Turquía y Yugoslavia. 1/

En dieciocho de los países, la relación del servicio de la deuda total a las exportaciones era superior al 10%, y en diez países la correspondiente al servicio de los créditos de proveedores, era superior al 5%.

Relación del servicio de la deuda total a valor de las exportaciones (%)	Número de países
0 - 4,9	9
5,0 - 9,9	9
10,0 - 19,9	11
20,0 - 29,9	5
De 30,0 en adelante	2
	36

Relación del servicio de créditos de proveedores a valor de las exportaciones	
0 - 0,9	9
1,0 - 1,9	5
2,0 - 2,9	9
3,0 - 3,9	2
4,0 - 4,9	1
5,0 - 9,9	8
De 10,0 en adelante	2
	36

1/ No se dispone de datos completos para 1965 sobre las exportaciones de bienes y servicios de la mayor parte de los 36 países. De los diez países mencionados anteriormente, en que la relación del servicio de créditos de proveedores al valor de las exportaciones es considerable, hay algunos que tienen importantes ingresos en divisas por concepto de servicios, a saber: México, la República Arabe Unida, Turquía y Yugoslavia. Por consiguiente, la relación de los pagos por concepto de servicio a las exportaciones de bienes y servicios de esos cuatro países es considerablemente menor que la indicada en el Cuadro 4.

Ritmo de reembolso

En el Cuadro 5 se ha incluido una proyección de los pagos por concepto de servicio para el cuadrienio de 1966-1969, basada en la deuda pendiente al final de 1965. Estos datos también ponen de manifiesto los plazos de vencimiento mucho más cortos de los créditos de proveedores. En lo que respecta a los 36 países, se estima que los pagos por concepto del servicio de créditos de proveedores correspondientes al cuadrienio de referencia constituyen el 69% de la deuda de esta índole pendiente al final de 1965, mientras que la proporción correspondiente a la deuda total es de aproximadamente el 40%.

La extensión mucho menor de los plazos de vencimiento de los créditos de proveedores con respecto a los de la deuda externa total se pone nuevamente de manifiesto cuando se examina la deuda incurrida en 1964 por 34 países en desarrollo.1/ El promedio ponderado de los plazos de vencimiento de los créditos de proveedores contraídos fué de aproximadamente seis años a partir de la fecha del contrato, frente a veintitrés años para la deuda total.

1/ Comprendidos los 26 países incluidos en los Cuadros 2-4, más otros ocho países. Los 34 países son los siguientes: Argentina, Colombia, Costa Rica, Chile, Ecuador, El Salvador, España, Etiopía, Filipinas, Guatemala, Honduras, India, Irán, Israel, Kenia, Malasia, México, Nicaragua, Nigeria, Paquistán, Panamá, Paraguay, Perú, República Dominicana, Rhodesia, Sudán, Tailandia, Tanzania, Turquía, Uganda, Uruguay, Venezuela, Yugoslavia y Zambia. La deuda de estos países representaba el 65% de la deuda total pendiente de los países en desarrollo al final de 1964. El Informe Anual del Banco Mundial/AIF correspondiente al ejercicio económico de 1965-1966 contiene información más detallada sobre el promedio ponderado de las condiciones de la deuda contraída por esos países en 1964.

CUADRO 2

DEUDA EXTERNA PUBLICA Y CON GARANTIA PUBLICA A PLAZO MEDIO Y LARGO, a/ TOTAL Y CREDITOS DE PROVEEDORES: ESTIMADO DE LOS MONTOS PENDIENTES AL 31 DE DICIEMBRE DE 1965, Y PAGOS POR CONCEPTO DE SERVICIO EN 1965, DE 36 PAISES, POR PAISES

(montos en millones de dólares EE.UU.)

Con base en datos notificados por:	País	Monto pendiente, incluídas las sumas no desembolsadas			Pagos por concepto de servicio en 1965			Pagos por concepto de servicio como % del monto pendiente	
		(1) Total	(2) Créditos de Proveedores	(3) (2) como % de (1)	(4) Total	(5) Créditos de Proveedores	(6) (5) como % de (4)	(7) Total (4) como % de (1)	(8) Créditos de Proveedores (5) como % de (2)
	Todos los países	**30.510,0**	**4.435,3**	**14,8**	**3.074,2**	**1.078,9**	**35,1**	**10,1**	**24,3**
	Hemisferio Occidental	**11.023,0**	**2.204,0**	**19,9**	**1.673,4**	**695,2**	**41,5**	**15,2**	**31,5**
12/65	Argentina /1	1.960,5	598,4	30,5	312,5	184,5	59,0	15,9	30,8
12/65	Bolivia	295,3	22,6	7,7	15,8	7,3	46,2	5,4	32,3
6/65	Brasil /2	2.719,6	811,8	29,8	505,3/3	318,6/3	63,1	18,6	39,2
6/65	Colombia /5	904,5	108,2	12,0	104,3	12,8	12,3	11,5	11,8
12/65	Costa Rica	142,2	1,3	0,9	11,0	0,6	5,5	7,7	46,2
6/65	Chile /6	1.203,8	136,9	11,4	86,5/3	29,7/3	34,3	7,2	21,7
12/65	Ecuador	164,8	17,6	10,7	11,1	2,9	26,1	6,7	16,5
12/65	Honduras	60,2	4,0	6,6	2,8/3	0,5/3	17,9	4,7	12,5
12/65	México	2.053,9	286,2	13,9	452,8/3	90,0/3	19,9	22,0	31,4
12/65	Nicaragua	67,6	2,9	4,3	7,3	0,7	9,6	10,8	24,1
12/65	Paraguay	62,2	6,3	10,1	4,3	1,2	27,9	6,9	19,0
12/64	Perú /5	531,7	173,8	32,7	72,5	38,0	52,4	13,6	21,9
12/65	República Dominicana	126,0	11,8	9,4	25,3/3	1,0/3	4,0	20,1	8,4
12/65	Uruguay	275,3	6,3	2,3	21,7	2,9	13,4	7,9	46,0
12/65	Venezuela	455,4	15,9	3,5	40,2	4,5	11,2	8,8	28,3

Véanse las notas al final del Cuadro.

CUADRO 2

DEUDA EXTERNA PUBLICA Y CON GARANTIA PUBLICA A PLAZO MEDIO Y LARGO, a/ TOTAL Y CREDITOS DE PROVEEDORES: ESTIMADO DE LOS MONTOS PENDIENTES AL 31 DE DICIEMBRE DE 1965, Y PAGOS POR CONCEPTO DE SERVICIO EN 1965, DE 36 PAISES, POR PAISES

(montos en millones de dólares EE.UU.)

Con base en datos notificados por:	País	Monto pendiente, incluídas las sumas no desembolsadas (1) Total	(2) Créditos de Proveedores	(3) (2) como % de (1)	Pagos por concepto de servicio en 1965 (4) Total	(5) Créditos de Proveedores	(6) (5) como % de (4)	Pagos por concepto de servicio como % del monto pendiente (7) Total (4) como % de (1)	(8) Créditos de Proveedores (5) como % de (2)
	Sur de Asia y Oriente Medio	12.332,4	1.053,2	8,5	829,3	168,0	20,3	6,7	15,9
3/66	India	6.915,3	666,4	9,6	451,0/4	97,6/4	21,6	6,5	14,6
3/66	Irán	1.037,7	43,4	4,2	69,0/3	15,9/3	23,0	6,6	36,6
12/65	Israel	943,6	63,2	6,7	106,1/3	15,1/3	14,2	11,2	23,9
12/65	Paquistán	2.069,3	78,6	3,8	66,5	6,9	10,4	3,2	8,8
12/64	República Arabe Unida	1.366,5	201,6	14,8	136,7	32,5	23,8	10,0	16,1
	Lejano Oriente	**1.523,3**	**247,6**	**16,3**	**118,0**	**35,7**	**30,3**	**7,7**	**14,4**
12/65	Ceilán	120,8	1,6	1,3	10,0/3	0,3/3	3,0	8,3	18,8
12/65	Corea	317,3	128,0	40,3	7,3	6,4	87,7	2,3	5,0
12/65	China (Taiwan)	289,7	30,3	10,5	15,4	12,9	83,8	5,3	42,6
12/65	Filipinas	441,4	28,2	6,4	60,6	7,1	11,7	13,7	25,2
12/65	Tailandia	354,1	59,5	16,7	24,7	9,0	36,4	6,9	15,1

Véase la nota al final del Cuadro.

CUADRO 2

DEUDA EXTERNA PUBLICA Y CON GARANTIA PUBLICA A PLAZO MEDIO Y LARGO, a/ TOTAL Y CREDITOS DE PROVEEDORES: ESTIMADO DE LOS MONTOS PENDIENTES AL 31 DE DICIEMBRE DE 1965, Y PAGOS POR CONCEPTO DE SERVICIO EN 1965, de 36 PAISES, POR PAISES

(montos en millones de dólares EE.UU.)

Como base en datos notificados por:	País	Monto pendiente, incluídas las sumas no desembolsadas			Pagos por concepto de servicio en 1965			Pagos por concepto de servicio como % del monto pendiente	
		(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
		Total	Créditos de Proveedores	(2) como % de (1)	Total	Créditos de Proveedores	(5) como % de (4)	Total (4) como % de (1)	Créditos de Proveedores (5) como % de (2)
	Africa	**1.604,1**	**254,2**	**15,8**	**81,2**	**35,3**	**43,5**	**5,1**	**13,9**
12/65	Etiopía	138,5	14,6	10,5	7,8	2,5	32,1	5,6	17,1
12/65	Nigeria	608,5	126,0	20,7	28,9	17,2	59,5	4,7	13,7
12/65	República Malgache	70,4	0,4	0,6	3,0/3	-	-	4,3	-
12/65	Sudán	237,0	20,1	8,5	14,1	4,9	34,8	5,9	24,4
12/65	Swazilandia	41,4	10,1	24,4	4,8/3	0,8/3	16,7	11,6	7,9
12/65	Tanzania	154,3	2,3	1,5	4,7	1,1	23,4	3,0	47,8
12/65	Túnez	354,0	80,7	22,8	17,9	8,8	49,2	5,1	10,9
	Europa Meridional	**4.027,2**	**676,3**	**16,8**	**372,3**	**144,7**	**38,9**	**9,2**	**21,4**
12/65	España	414,5	47,1	11,4	48,4	9,7	20,0	11,7	20,6
12/65	Grecia	484,9	11,6	2,4	34,7/3	7,8/3	22,5	7,2	67,2
12/65	Turquía	1.314,9	127,4	9,7	87,1	28,6	32,8	6,6	22,4
12/65	Yugoslavia	1.812,9	490,2	27,0	202,1/3	98,6	48,8	11,2	20,1

Véanse las notas al final del Cuadro.

CUADRO 2

DEUDA EXTERNA PUBLICA Y CON GARANTIA PUBLICA A PLAZO MEDIO Y LARGO, a/ TOTAL Y CREDITOS DE PROVEEDORES: ESTIMADO DE LOS MONTOS PENDIENTES AL 31 DE DICIEMBRE DE 1965, Y PAGOS POR CONCEPTO DE SERVICIO EN 1965, DE 36 PAISES, POR PAISES

a/ Es decir, la deuda de los gobiernos y organismos estatales de países deudores, y la deuda garantizada por éstos.

1/ La deuda total comprende los créditos de proveedores cuya amortización se ha diferido en virtud del acuerdo de 1965, así como el importe total cuyo pago se convino en diferir, de forma que en algunos casos se han computado algunas cifras dos veces. La cantidad que se ha incluído para los créditos de proveedores comprende aquellas cifras, pero no éstas.
2/ Comprende la deuda del sector privado.
3/ Proyección.
4/ Proyección para 1966.
5/ Estimado preparado con base en información parcial.
6/ La cantidad que aparece como pendiente con respecto a los créditos de proveedores no comprende los montos diferidos en virtud del acuerdo de 1965, pero dichos montos sí se han incluído en la deuda total.

Fuente: División de Estadística
Departamento de Economía del Banco Mundial
15 de marzo de 1967

CUADRO 3

DEUDA EXTERNA PUBLICA Y CON GARANTIA PUBLICA A PLAZO MEDIO Y LARGO, [a]/ TOTAL Y CREDITOS DE PROVEEDORES: ESTIMADO DEL MONTO PENDIENTE AL 31 DE DICIEMBRE DE 1965 Y PAGOS POR CONCEPTO DE SERVICIO EFECTUADOS EN 1965, POR REGION

(en millones de dólares de EE.UU)

Región	Montos pendientes, incluídos los no desembolsados			Pagos por concepto de servicio en 1965			Pagos por concepto de servicio como % del monto pendiente	
	(1) Deuda total	(2) Créditos de Proveedores	(2) como % de (1)	(3) Deuda total	(4) Créditos de Proveedores	(4) como % de (3)	Deuda total	Créditos de Proveedores
Treinta y seis países	30.510,0	4.435,3	14,5	3.074,2	1.078,9	35,1	10,1	24,3
Hemisferio Occidental	11.023,0	2.204,0	19,9	1.673,4	695,2	41,5	15,2	31,5
Sur de Asia y Oriente Medio	12.332,4	1.053,2	8,5	829,3	168,0	20,3	6,7	15,9
Lejano Oriente	1.523,3	247,6	16,3	118,0	35,7	30,3	7,7	14,4
Africa	1.604,1	254.2	15,8	81,2	35,3	43,5	5,1	13,9
Europa Meridional	4.027,2	676,3	16,8	372,3	144,7	38,9	9,2	21,4
Veinte países sin créditos de proveedores	1.879,0	-	-	137,4	-	-	7,3	-
Hemisferio Occidental	397,5	-	-	39,1	-	-	9,8	-
Sur de Asia y Oriente Medio	137,0	-	-	2,4	-	-	1,9	-
Lejano Oriente	344,7	-	-	19,2	-	-	5,6	-
Africa	984,8	-	-	76,0	-	-	7,7	-
Europa Meridional	15,0	-	-	0,7	-	-	4,7	-
Cincuenta y seis países	32.359,0	4.435,3	13,7	3.211,6	1.078,9	33,6	9,9	24,3
Hemisferio Occidental	11.420,5	2.204,0	19,3	1.712,5	695,2	40,6	25,0	31,5
Sur de Asia y Oriente Medio	12.469,4	1.053,2	8,4	831,7	168,0	20,1	8,5	15,9
Lejano Oriente	1.868,0	247,6	13,3	137,2	35,7	26,0	13,3	14,4
Africa	2.558,9	254,2	9,9	157,2	35,3	22,5	12,8	13,9
Europa Meridional	4.042,2	676,3	16,7	373,0	144,7	38,8	13,9	21,4

Véase la nota al final del Cuadro.

CUADRO 3

DEUDA EXTERNA PUBLICA Y CON GARANTIA PUBLICA A PLAZO MEDIO Y LARGO, a/ TOTAL Y CREDITOS DE PROVEEDORES: ESTIMADO DEL MONTO PENDIENTE AL 31 DE DICIEMBRE DE 1965 Y PAGOS POR CONCEPTO DE SERVICIO EFECTUADOS EN 1965, POR REGION

(en millones de dólares de EE.UU.)

Región	Montos pendientes, incluídos los no desembolsados			Pagos por concepto de servicio en 1965			Pagos por concepto de servicio como % del monto pendiente	
	(1) Deuda total	(2) Créditos de Proveedores	(2) como % de (1)	(3) Deuda total	(4) Créditos de Proveedores	(4) como % de (3)	Deuda total	Créditos de Proveedores
Otros países	6.786,4	n.d.	n.d.	341,4	n.d.	n.d.	5,0	n.d.
Hemisferio Occidental	307,7	n.d.	n.d.	26,0	n.d.	n.d.	8,4	n.d.
Sur de Asia y Oriente Medio	919,1	n.d.	n.d.	34,1	n.d.	n.d.	3,7	n.d.
Lejano Oriente	2.619,8	n.d.	n.d.	106,0	n.d.	n.d.	4,0	n.d.
Africa	2.899,6	n.d.	n.d.	173,1	n.d.	n.d.	5,9	n.d.
Europa Meridional	40,2	n.d.	n.d.	2,2	n.d.	n.d.	5,5	n.d.
Todos los países	39.175,4	n.d.	n.d.	3.553,0	n.d.	n.d.	9,1	n.d.
Hemisferio Occidental	11.728,2	n.d.	n.d.	1.738,5	n.d.	n.d.	14,8	n.d.
Sur de Asia y Oriente Medio	13.388,5	n.d.	n.d.	865,8	n.d.	n.d.	6,5	n.d.
Lejano Oriente	4.487,8	n.d.	n.d.	243,2	n.d.	n.d.	5,4	n.d.
Africa	5.488,5	n.d.	n.d.	330,3	n.d.	n.d.	6,0	n.d.
Europa Meridional	4.082,4	n.d.	n.d.	375,2	n.d.	n.d.	9,2	n.d.

a/ Es decir, la deuda de los gobiernos y organismos estatales de países deudores, y la deuda garantizada por estos.

Fuente: División de Estadística
Departamento de Economía del Banco Mundial
15 de marzo de 1967

ANEXO V

CUADRO 4

DEUDA EXTERNA PUBLICA Y CON GARANTIA PUBLICA A PLAZO MEDIO Y LARGO, a/ TOTAL Y CREDITOS DE PROVEEDORES, PAGOS POR CONCEPTO DE SERVICIO (1965) EN RELACION CON LAS EXPORTACIONES DE PRODUCTOS BASICOS (1965) CORRESPONDIENTES A 36 PAISES

(en millones de dólares de EE. UU.)

Página 1

Región	Exportaciones de productos básicos	Pagos por concepto de servicio		Pagos por concepto de servicio como % de las exportaciones de productos básicos	
		Deuda total	Créditos de proveedores	Deuda total	Créditos de proveedore
Todos los países	21.205	3.073,9	1.078,9	14,5	5,1
Hemisferio Occidental	9.921	1.673,1	695,2	16,7	7,0
Argentina	1.493	312,5	184,5	20,9	12,4
Bolivia	110	15,8	7,3	14,4	6,6
Brasil	1.595	505,3	318,6	31,7	20,0
Colombia	539	104,3	12,8	19,4	2,4
Costa Rica	112	11,0	0,6	9,8	0,5
Chile	682	86,5	29,7	12,7	4,4
Ecuador	148*	11,1	2,9	7,5	2,0
Honduras	129	2,8	0,5	2,2	0,4
México	1.146	452,8	90,0	39,5	7,9
Nicaragua	144	7,3	0,7	5,1	0,5
Paraguay	57	4,3	1,2	7,5	2,1
Perú	669	72,5	38,0	10,8	5,7
República Dominicana	123	25,3	1,0	20,6	0,8
Uruguay	191	21,7	2,9	11,4	1,5
Venezuela	2.783	40,2	4,5	1,4	0,2
Sur de Asia y Oriente Medio	4.552	829,3	168,0	18,2	3,7
India	1.687	451,0	97,6	26,7	5,8
Irán	1.303	69,0	15,9	5,3	1,2
Israel	429	106,1	15,1	24,7	3,5
Paquistán	528	66,5	6,9	12,6	1,3
República Arabe Unida	605	136,7	32,5	22,6	5,4
Lejano Oriente	2.425	118,0	35,7	4,9	1,6
Ceilán	409	10,0	0,3	2,4	0,1
Corea	175	7,3	6,4	4,2	3,7
China (Taiwan)	450	15,4	12,9	3,4	2,9
Filipinas	767	60,6	7,1	7,9	0,9
Tailandia	624	24,7	9,0	4,0	1,4
Africa	1.483	81,2	35,3	5,5	2,4
Etiopía	116	7,8	2,5	6,7	2,2
Nigeria	752	28,9	17,2	3,8	2,3
Sudán	195	14,1	4,9	7,2	2,5
Swazilandia	32*	4,8	0,8	15,0	2,5
República Malgache	92	3,0	---	3,3	---
Tanzania	176	4,7	1,1	2,7	0,6
Túnez	120	17,9	8,8	14,9	7,3

Véase la nota al final del Cuadro.

CUADRO 4

DEUDA EXTERNA PUBLICA Y CON GARANTIA PUBLICA A PLAZO MEDIO Y LARGO a/ TOTAL Y CREDITOS DE PROVEEDORES, PAGOS POR CONCEPTO DE SERVICIO (1965) EN RELACION CON LAS EXPORTACIONES DE PRODUCTOS BASICOS (1965) CORRESPONDIENTES A 36 PAISES

(en millones de dólares de EE. UU.)

Región	Exportaciones de productos básicos	Pagos por concepto de servicio		Pagos por concepto de servicio como % de las exportaciones de productos básicos	
		Deuda total	Créditos de proveedores	Deuda total	Créditos de proveedores
Europa Meridional	2.824	372,3	144,7	13,2	5,1
España	945	48,4	9,7	5,1	1,0
Grecia	328	34,7	7,8	10,6	2,4
Turquía	459	87,1	28,6	19,0	6,2
Yugoslavia	1.092	202,1	98,6	18,5	9,0

* 1964

a/ Es decir, la deuda de los gobiernos y organismos estatales de países deudores, y la deuda garantizada por éstos.

Fuente: División de Estadística
Departamento de Economía del Banco Mundial
15 de marzo de 1967

ANEXO V

CUADRO 5

DEUDA EXTERNA PUBLICA Y CON GARANTIA PUBLICA A PLAZO MEDIO Y LARGO a/
TOTAL Y CREDITOS DE PROVEEDORES: ESTIMADO DE LOS PAGOS POR CONCEPTO DE SERVICIO EN 1966-1969 EN RELACION CON EL MONTO PENDIENTE AL FINAL DE 1965, DE 36 PAISES

(en millones de dólares de EE.UU.)

Partida	Deuda total	Créditos de proveedores
Pagos por concepto de servicio		
1966	3.368,2	928,6
1967	3.068,6	833,2
1968	3.012,3	698,6
1969	2.887,0	581,1
Total para 1966-1969	12.336,1	3.041,5
Montos pendientes (incluídas las sumas no desembolsadas) al 31 de diciembre de 1965	30.510,0	4.435,3
Pagos por concepto de servicio como porcentaje de los montos pendientes al final de 1965		
1966	11,0	20,9
1967	10,1	18,8
1968	9,9	15,8
1969	9,5	13,1
Total para 1966-1969	40,4	68,6

a/ Es decir, la deuda de los gobiernos y organismos estatales de países deudores, y la deuda garantizada por éstos.

Fuente: División de Estadística
Departamento de Economía del Banco Mundial
15 de marzo de 1967

orig. filed: UNCTAD

October 30, 1967
JSRaj:am

IN DOCS

COMMENTS ON DR. STIKKER'S DRAFT REPORT TO UNCTAD ON "THE ROLE OF PRIVATE ENTERPRISE IN DEVELOPMENT"

Dr. Stikker has put together an enormous mass of material bearing on the problem of private enterprise in developing countries. He has also tried to develop some judgments on the reasons why private investment is not flowing in greater measure from the advanced countries to the developing countries. While agreeing broadly with his approach and analysis, there seem to be certain areas where suggestions can be offered on the basis of the experience of the World Bank Group.

CHAPTER I. The Problems of Development

Debt Servicing (p. 23, paras 36-40)

The debt servicing problem which Dr. Stikker has analyzed leads him to the conclusion that one must look forward to an era of consolidation exercises, threats of defaults and insistent demands for moratoria unless the terms of development loans be cut drastically. This seems to be a counsel of despair. From the side of the capital-exporting countries, the burden of debt servicing on the host countries can be alleviated by encouraging equity investments which, ideally, should be ploughed back in the host countries. On the other side, the developing countries, instead of beating at the door of trade restrictions in their export markets, could encourage economic activities like tourism, temporary emigration of workers (e.g. Spain and Turkey) and bidding on contracts for such simple engineering projects as pipelaying and erection of electric transmission lines, in which the lower cost of middle-level engineers trained by developing countries would be an advantage. Such activities might meet less resistance from the capital-exporting countries and would contribute

appreciably to meeting debt service, without adding to the existing quantum of foreign debt.

CHAPTER II. The Place of Private Enterprise

Profitability (p. 27 para 48)

Dr. Stikker has referred to the suspicion with which profits are often viewed in the developing countries and has made the point that profit is coming into use even in Communist countries to measure the efficiency of industrial operations and the effectiveness of new investments. There is no connection between the two concepts. The rate of profit as a tool to measure the cutoff point for investments is one thing. Profit as the sum of money turned over to particular individuals who own the means of production is another. One can still support the first concept of profit without necessarily supporting the other.

Fields of Activity for Private Enterprise (p. 39-42, paras 70-73)

In addition to what has been said about the different fields of activity open to private enterprise, particularly foreign private enterprise, it could perhaps be stated that the appropriate dividing line between public and private enterprise would differ from country to country. Such factors as the extent of governmental resources, both financial and managerial, the extent to which the commodity or service to be produced is dependent on changing consumer preferences, the size of the market, etc., will have to be taken into consideration in determining the dividing line. The point may also be made that once the dividing line has been established by an industrial policy statement or some such device, every effort should be made not to change the policy at frequent intervals. Furthermore, once a field is thrown open to private enterprise it should be left to entrepreneurs in the developing country and

their counterparts in the advanced countries to decide in which enterprises foreign private investment should be made. (These points may also have some bearing on Chapter V "Government Policies and Private Enterprise")

Joint Ventures (p. 49-53, paras 83-89)

It is surprising that following the above section on joint ventures, the only institution shown in the succeeding paragraph 90 as making a systematic approach to development by joint ventures is ADELA. It would be useful to have similar sections on IFC and the chain of private development finance companies established or supported by the World Bank Group all over the world. These institutions have at least as much experience in arranging joint ventures as ADELA.

UNCTAD 1964 and Foreign Private Enterprise (p. 54-66, paras 91-96)

Apart from UNCTAD, the new organization UNIDO is getting active in the field of encouraging investment in industry in the developing countries. As part of the forthcoming Symposium in Athens, UNIDO is arranging to bring together potential investors and possible beneficiaries in the recipient countries. Some reference to these efforts would be useful.

National vs. Multilateral Schemes - Loss Sharing (p. 94-95, paras 160-161)

The point is made that developing countries should accept a loss-sharing obligation in the multilateral scheme. The arguments put forward for this are not very convincing. The restraining effect of one developing country on the activities of another are very minimal, and it is difficult to believe that, say, Pakistan can do much about Algeria, Egypt or Tanzania. The continuing closure of the Suez Canal is another example of the impotence of the affected developing countries to influence Egypt in this sort of matter. Furthermore, if loss sharing is confined to the advanced countries, this itself

could be a form of development aid which can be worked on business principles and be reasonable in terms of its burden on individual countries.

CHAPTER IV. Taxation Aspects

Introduction (p. 106-108, paras 179-182)

In addition to the points mentioned in this introduction, it may be useful to look also into those aspects of taxation in the developing countries which affect the calculation of the net profit of corporations. For example, some countries like Brazil allow the writeup of fixed assets in accordance with an index of price increases but some others do not allow this. The result is that net profit which forms the base for taxation tends to be overstated and hence overtaxed, leaving the foreign investor with a lower return. One unfortunate result is that rather than suffer heavy taxation, the companies try to take out their investment through royalty payments, sale of components from the parent company, etc. and do not worry too much about the profit position of the company in the developing country. This in turn inhibits the raising of further capital within the developing country for the expanding operations of the subsidiary.

Illustration of the Impact of the Taxation Systems in MECs and DCs (p. 115-116, paras 196)

In the hypothetical case which has been examined in this section, it is assumed that either by a system of tax exemption or by a system of tax credits there will be no further taxation in the capital exporting country on the net dividend declared by the subsidiary in the developing country. As a matter of fact, one of the motivations for developing countries taxing foreign-owned corporations is that even if they forego some tax, the capital exporting countries would take it. Reference is made in the Report later (Recommendations, p. 125, para 216(e)) to the need for capital exporting countries to recognize

the importance of not frustrating the policies of developing countries by their own tax treatment of overseas investment. In view of this recommendation it would be useful to make out hypothetical statements of the effects on an investing company of different types of tax treatment meted out by its own government.

Tax Incentives for Industrial Investment (p. 121, para 209)

It is stated that the attitude of the capital exporting countries in regard to tax sparing arrangements is based on the conclusion that profit expansions are a hopeful form of relief when profits are buoyant and a meaningless one when they are not. But at the time that an investment is being thought of and the risk is being weighed against the possibility of high enough profits, the tax treatment which the project would receive in the capital-exporting country is a factor of some importance. If the investor feels that even if he takes a high risk, and makes a high profit, and the developing country foregoes its tax, his own government will deprive him of the reward for his risk, he will not make the investment.

CHAPTER VI Experience and Impressions from Visits to DCs (p. 154-203, paras 274-375)

The chapter starts off with a promise of the author's judgment on the opinions he heard from ministers, administrators, industrialists, etc. in the developing countries and also what he had heard from businessmen in the capital-exporting countries. But after this initial promise, there is a long descriptive account, country by country, of the development plans, priorities, etc. of a number of developing countries, followed by some figures on the actual capital inflows into them. Much of the factual material is available in other places and in any case would tend to be out of date very

quickly. The judgments which one expects from Dr. Stikker by comparing the points of view on both sides is missing. One would have welcomed particularly his views on the charges against foreign private enterprise which he describes in pages 181-182, paragraphs 334-335.

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The above comments by no means detract from the great value of the study which Dr. Stikker is conducting. It is a monumental work and examines practically all relevant aspects of the role of private enterprise in the developing countries.

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