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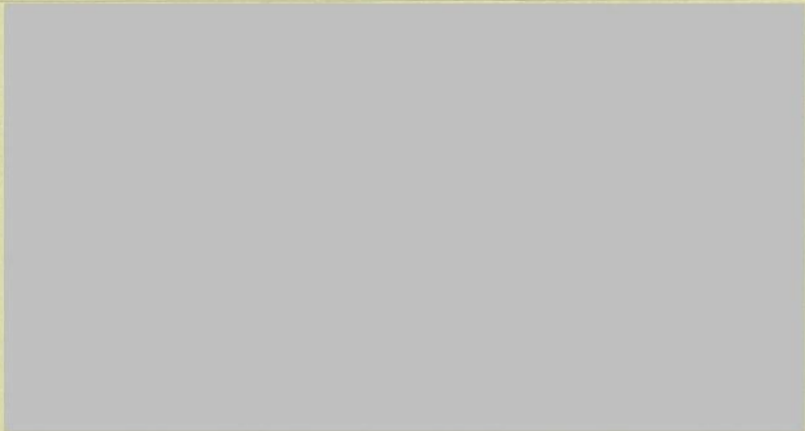
THE WORLD BANK
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CLAUSEN'S: Multilateral Insurance (MIGA)

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1774262



THE WORLD BANK
Washington, D. C. 20433
U. S. A.

A. W. CLAUSEN
President

October 5, 1984

Su Excelencia
Miguel Boyer Salvador
Ministro de Economía, Hacienda
y Comercio
Calle Alcalá 7-11
Madrid 14, España

Dear Governor:

As you are aware, the Bank Management has examined the feasibility of establishing a Multilateral Investment Guarantee Agency and is convinced that such an agency could greatly encourage the flow of resources to productive enterprises in developing countries. The Agency's functions would include guaranteeing investments in these countries against non-commercial risks and providing other complementary services to improve their investment climate. Bank Management has prepared a specific proposal, and a detailed questions and answers paper, on the main features of the proposed Agency which have been distributed to and discussed with the Bank's Executive Directors over the last few months. Following these discussions, a more specific and detailed formulation of the proposal, in the form of a draft Outline of a Convention Establishing the Agency, was prepared, together with a Commentary on the Convention. The two last-mentioned documents are enclosed.

We are undertaking consultations with representatives of Bank members on the proposal on the basis of these documents and would like to invite representatives of your Government and of other OECD member countries to a meeting at the Bank's Paris Office on November 9, 1984, for an exchange of views on the proposal. While we realize that the proposal may not reflect in all respects the views of any one country, we believe that it constitutes a balanced package which hopefully will prove acceptable to the Agency's future membership.

The meeting will be chaired by Mr. Shihata, the Bank's Vice President and General Counsel. It is hoped that Government representatives will be at a senior level and that the meeting will provide a forum for a productive discussion. This meeting will be followed by consultations with our developing member countries to ensure wide acceptability of the proposed Convention.

We would appreciate being informed at your earliest convenience of the names of your representatives so that we may advise them of the arrangements for the meeting.

Sincerely,

A. W. Clausen
President

Enclosures

THE WORLD BANK
Washington, D. C. 20433
U.S.A.

A. W. CLAUSEN
President

October 5, 1984

His Excellency
Kjell-Olof Feldt
Minister of Finance
Ministry of Finance
S 103 33 Stockholm
Sweden

Dear Governor:

As you are aware, the Bank Management has examined the feasibility of establishing a Multilateral Investment Guarantee Agency and is convinced that such an agency could greatly encourage the flow of resources to productive enterprises in developing countries. The Agency's functions would include guaranteeing investments in these countries against non-commercial risks and providing other complementary services to improve their investment climate. Bank Management has prepared a specific proposal, and a detailed questions and answers paper, on the main features of the proposed Agency which have been distributed to and discussed with the Bank's Executive Directors over the last few months. Following these discussions, a more specific and detailed formulation of the proposal, in the form of a draft Outline of a Convention Establishing the Agency, was prepared, together with a Commentary on the Convention. The two last-mentioned documents are enclosed.

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Sincerely,

A. W. Clausen
President

Enclosures

THE WORLD BANK
Washington, D. C. 20433
U. S. A.

A. W. CLAUSEN
President

October 5, 1984

Mr. Ekrem Pakdemirli
Under Secretary for the Treasury
and Foreign Trade
Ankara
Turkey

Dear Governor:

As you are aware, the Bank Management has examined the feasibility of establishing a Multilateral Investment Guarantee Agency and is convinced that such an agency could greatly encourage the flow of resources to productive enterprises in developing countries. The Agency's functions would include guaranteeing investments in these countries against non-commercial risks and providing other complementary services to improve their investment climate. Bank Management has prepared a specific proposal, and a detailed questions and answers paper, on the main features of the proposed Agency which have been distributed to and discussed with the Bank's Executive Directors over the last few months. Following these discussions, a more specific and detailed formulation of the proposal, in the form of a draft Outline of a Convention Establishing the Agency, was prepared, together with a Commentary on the Convention. The two last-mentioned documents are enclosed.

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The meeting will be chaired by Mr. Shihata, the Bank's Vice President and General Counsel. It is hoped that Government representatives will be at a senior level and that the meeting will provide a forum for a productive discussion. This meeting will be followed by consultations with our other member countries to ensure wide acceptability of the proposed Convention.

We would appreciate being informed at your earliest convenience of the names of your representatives so that we may advise them of the arrangements for the meeting.

Sincerely,

A. W. Clausen
President

Enclosures

THE WORLD BANK
Washington, D. C. 20433
U. S. A.

A. W. CLAUSEN
President

October 5, 1984

The Honorable
Donald T. Regan
Secretary of the Treasury
Department of the Treasury
Washington, D. C. 20220

Dear Don:

As you are aware, the Bank Management has examined the feasibility of establishing a Multilateral Investment Guarantee Agency and is convinced that such an agency could greatly encourage the flow of resources to productive enterprises in developing countries. The Agency's functions would include guaranteeing investments in these countries against non-commercial risks and providing other complementary services to improve their investment climate. Bank Management has prepared a specific proposal, and a detailed questions and answers paper, on the main features of the proposed Agency which have been distributed to and discussed with the Bank's Executive Directors over the last few months. Following these discussions, a more specific and detailed formulation of the proposal, in the form of a draft Outline of a Convention Establishing the Agency, was prepared, together with a Commentary on the Convention. The two last-mentioned documents are enclosed.

We are undertaking consultations with representatives of Bank members on the proposal on the basis of these documents and would like to invite representatives of your Government and of other OECD member countries to a meeting at the Bank's Paris Office on November 9, 1984, for an exchange of views on the proposal. While we realize that the proposal may not reflect in all respects the views of any one country, we believe that it constitutes a balanced package which hopefully will prove acceptable to the Agency's future membership.

The meeting will be chaired by Mr. Shihata, the Bank's Vice President and General Counsel. It is hoped that Government representatives will be at a senior level and that the meeting will provide a forum for a productive discussion. This meeting will be followed by consultations with our developing member countries to ensure wide acceptability of the proposed Convention.

We would appreciate being informed at your earliest convenience of the names of your representatives so that we may advise them of the arrangements for the meeting.

Sincerely,

A. W. Clausen
President

Enclosures

THE WORLD BANK
Washington, D. C. 20433
U. S. A.

A. W. CLAUSEN
President

October 5, 1984

His Excellency
Klaus Jacobi
Ambassador of Switzerland
Embassy of Switzerland
2900 Cathedral Avenue, N. W.
Washington, D. C. 20008

Dear Mr. Ambassador:

I wish to inform you that the Bank Management has examined the feasibility of establishing a Multilateral Investment Guarantee Agency and is convinced that such an agency could greatly encourage the flow of resources to productive enterprises in developing countries. The Agency's functions would include guaranteeing investments in these countries against non-commercial risks and providing other complementary services to improve their investment climate. Bank Management has prepared a specific proposal, and a detailed questions and answers paper, on the main features of the proposed Agency which have been distributed to and discussed with the Bank's Executive Directors over the last few months. Following these discussions, a more specific and detailed formulation of the proposal, in the form of a draft Outline of a Convention Establishing the Agency, was prepared, together with a Commentary on the Convention. The two last-mentioned documents are enclosed.

We are undertaking consultations with representatives of Bank members and, because of its ties to the Bank, with Switzerland on the proposal on the basis of these documents and would like to invite representatives of your Government and of other OECD member countries to a meeting at the Bank's Paris Office on November 9, 1984, for an exchange of views on the proposal. While we realize that the proposal may not reflect in all respects the views of any one country, we believe that it constitutes a balanced package which hopefully will prove acceptable to the Agency's future membership.

The meeting will be chaired by Mr. Shihata, the Bank's Vice President and General Counsel. It is hoped that Government representatives will be at a senior level and that the meeting will provide a forum for a productive discussion. This meeting will be followed by consultations with the Bank's developing member countries to ensure wide acceptability of the proposed Convention.

We would appreciate being informed at your earliest convenience of the names of your representatives so that we may advise them of the arrangements for the meeting.

Sincerely,

A. W. Clausen
President

Enclosures

THE WORLD BANK
Washington, D. C. 20433
U. S. A.

A. W. CLAUSEN
President

October 5, 1984

Dear Jean-Claude:

As you are aware, the Bank Management has examined the feasibility of establishing a Multilateral Investment Guarantee Agency and is convinced that such an agency could greatly encourage the flow of resources to productive enterprises in developing countries. The Agency's functions would include guaranteeing investments in these countries against non-commercial risks and providing other complementary services to improve their investment climate. Bank Management has prepared a specific proposal, and a detailed questions and answers paper, on the main features of the proposed Agency which have been distributed to and discussed with the Bank's Executive Directors over the last few months. Following these discussions, a more specific and detailed formulation of the proposal, in the form of a draft Outline of a Convention Establishing the Agency, was prepared, together with a Commentary on the Convention. The two last-mentioned documents are enclosed.

We will be consulting on the proposal on the basis of these documents with representatives of OECD member countries at a meeting at the Bank's Paris Office on November 9, 1984, which will be chaired by Mr. Shihata, the Bank's Vice President and General Counsel. We would be very pleased if the OECD were to participate as an observer and if you or other senior officials of your organization would attend.

We would appreciate being informed at your earliest convenience of the names of the OECD representatives so that we may advise them of the arrangements for the meeting.

Sincerely,

Enclosures

The Honourable
Jean-Claude Paye
Secretary-General
OECD
Château de la Muette
2, rue André Pascal
F 75775 Paris Cedex 16
France

OFFICE MEMORANDUM

DATE April 30, 1984
TO Executive Directors and Alternates
FROM T. T. Thahane, Vice President ~~and~~ Secretary
EXTENSION 72185
SUBJECT Multilateral Investment Guarantee Scheme

Attached for consultation with the Executive Directors, member Governments and national investment insurance agencies, is a specific proposal on a multilateral investment guarantee scheme. An informal discussion with Executive Directors will be held some time in early August before the Board goes into recess.

Enclosure

**MAIN FEATURES OF A PROPOSED
MULTILATERAL INVESTMENT GUARANTEE AGENCY**

April 26, 1984

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**MAIN FEATURES OF A PROPOSED
MULTILATERAL INVESTMENT GUARANTEE AGENCY**

SUMMARY

(i) This paper outlines the possible features of a Multilateral Investment Guarantee Agency (MIGA).

(ii) The objective of the MIGA would be to encourage the flow of resources to productive enterprises in its member countries by guaranteeing 1/ investments emanating from other member countries against non-commercial risks. Ancillary activities would include the furnishing of information about investment opportunities and rendering advice to members.

(iii) In its operations, the MIGA would respond to the demand for protection that is not being adequately met at present by national investment guarantee schemes and the private market. The MIGA would complement these schemes and would cooperate with them through coinsurance and reinsurance. It would give special attention to guaranteeing investments from countries without a national scheme and in host countries where a national scheme was either unable to operate or was already heavily exposed. It would coinsure large investments with national schemes and insure and coinsure multi-nationally-financed investments. The MIGA might be able to act as reinsurer of national schemes. The MIGA would also cooperate with private

1/ The terms "insurance" and "guarantee" have been used interchangeably in this paper as is the widespread practice. It should be noted, however, that the guarantee of non-commercial risks is quite often not governed by the actuarial rules applicable to insurance in the technical sense. Such insurance covers risks which are measurable uncertainties according to well established laws of probability, unlike the usual case of guarantees of non-commercial risks.

political risk insurers, mainly by coinsuring large investments and reinsuring part of its portfolio with them.

(iv) The Board of Directors of the MIGA would be given the flexibility to determine under the general framework provided in the Convention establishing the Agency the precise scope of eligible investments as well as the precise nature of covered risks. In general terms, three broad categories of non-commercial risks would be covered: (a) the transfer risk resulting from host government restrictions on conversion and transfer from local currency into another currency; (b) the risk of loss resulting from actions or inactions of the host government which deprive the foreign investor of substantial rights or reduce the benefits of his investment; and (c) the armed conflict and civil unrest risk. Although the three types of risks traditionally constitute the non-commercial risks feared by foreign investors, the "transfer risk" is at present the most relevant from the viewpoint of these investors; cases of outright nationalization have become infrequent. Eligible investments would include equity-type investments and could extend to other forms of long- and medium-term transfers of assets for productive purposes. To be eligible, investments would have to contribute to the development of the host country and would require the approval of that country.

(v) The MIGA would be expected ultimately to operate at no cost to its members, financing itself from its own revenues. The Agency would, however, have to rely on its members in order to meet its initial administrative expenditures and to pay whatever claims that might arise under contracts of guarantee when they could not be covered out of its own revenues.

It is proposed that these requirements be funded through a combination of capital subscriptions and sponsorship. The initial capital might be \$1 billion with a small paid-in portion (no more than 5%). Members would subscribe to the capital in accordance with their relative economic strength. To make the Agency a credible insurer, the maximum amount of guarantees that could be issued would be five times the subscribed capital plus reserves. In addition, the Agency could issue guarantees on the basis of "sponsorship" by members. Under this supplementary operation, where the Agency would be acting merely as an agent or trustee, members which sponsor investments would share in the losses related to them, each in the proportion which the amount sponsored by the member would bear to the amount sponsored by all members.

(vi) It is proposed that the MIGA Convention provide that upon payment or agreement to pay compensation to an insured investor, the Agency be subrogated to any rights or claims of the investor against the host country. Disputes between a host country and the Agency as a subrogee of an investor would, as a general rule, be settled by negotiation and, failing negotiation, would be submitted to international arbitration. In addition to or in lieu of the dispute settlement provisions in the Convention, the Agency could enter into bilateral agreements with host countries concerning settlement of disputes related to guaranteed investments.

(vii) The MIGA's organizational structure would be patterned after other international financial institutions, notably the Bank and IFC. It would have a Council of Governors composed of one representative of each member (and his alternate) which would have all the powers not bestowed by the Convention on any other organ, a Board of Directors elected by the

Council, and a Chief Executive Officer selected by the Board and responsible for the ordinary business of the Agency.

(viii) The MIGA would have full juridical personality and function autonomously. Its sole organizational link with the Bank would be that the President of the Bank would be ex officio Chairman of the Agency's Board of Directors. An agreement could be concluded between the Bank and the Agency to make available to the latter specific technical and administrative services.

(ix) It is proposed that voting power be divided equally between home countries and host countries, but that certain decisions be made on the basis of special majorities. Each member would classify itself as a member of either group, for purposes of representation and voting, subject to the approval of the Council of Governors. Within each of the two groups, votes would be distributed among the members according to a formula agreed upon by the members of the group and approved by the Council. Sponsoring members would obtain additional votes for decisions related to sponsored investments; and host countries would be allocated additional votes for sponsored investments hosted by them. Each group would elect an equal number of Directors, and the votes cast by each Director would be weighted in accordance with the voting rights of the members represented by him.

(x) Membership would be open to all members of the Bank and Switzerland. The MIGA would become operational upon ratification of its Convention by at least five home countries and at least ten host countries, provided that their combined subscriptions reach a designated amount. Thereafter, any eligible country could accede to the Convention.

INTRODUCTION

1. The availability of sufficient financial resources--whether as loan funds or equity investment--is extremely important for economic growth and development. With the scarcity of capital in developing countries, it is generally admitted that their economic growth cannot be readily achieved without importation of adequate foreign capital. Despite all efforts, the inflow of external capital to developing countries has fallen short of meeting their development needs.

2. During the 1970s commercial borrowing by developing countries had been expanding rapidly, largely substituting for foreign direct investment as a source of development financing. As a result, developing countries' debt burden has increased sharply, with total debt reaching \$810 billion at the end of 1983. Many of these countries are encountering severe debt servicing problems. Commercial lending to these countries has plummeted in the last few years with net transfers (net flows after interest payments) to them dropping in 1982 to only 27% of the level reached in 1980. At the same time, foreign direct investment has also been declining from \$14 billion in 1981 to \$13 billion in 1982 to an estimated \$10 billion in 1983.

3. Concerted action is required to increase or, at least, restore net flows of capital to developing countries without unduly increasing their indebtedness. Since public funds remain scarce, this calls for the promotion of foreign capital flows and, in particular, of foreign direct investment where outflows are directly dependent on the revenues generated by the investment. Such investments, if they operate under appropriate

conditions and adequate safeguards, would not only contribute badly needed funds but would also provide such essential factors as advanced technology as well as management and marketing services.

4. Non-commercial risks, or the perception of such risks on the part of private investors, appear to be one major impediment to the flow of additional investable resources to developing countries; this is indicated by numerous statements by business representatives as well as by a remarkable growth in recent years of the private political risk insurance market and the political risk analysis profession. The growing number of bilateral investment protection treaties and new domestic laws adopted by developing countries for the promotion and protection of foreign investments, the increase in membership of the International Centre for the Settlement of Investment Disputes (ICSID) to 86 countries, and the establishment of 23 national investment guarantee agencies -- some of them recently by newly industrialized developing countries -- show a growing awareness of the problem.

5. In this climate, the idea of establishing a multilateral investment guarantee scheme, which had emerged in the 1950s and was successfully carried out on a regional basis by the creation of the Inter-Arab Investment Guarantee Corporation (IAIGC), has gained fresh attention in various forums. It is expected that such a scheme could contribute significantly to the improvement of the international investment climate and that its benefits could reach beyond the numerical results of its guarantee operations.

PURPOSE

6. The basic objective of the Agency would be to encourage and promote the flow of private resources to productive enterprises in its member countries. It would seek to accomplish this objective primarily by issuing guarantees for foreign investments in such ventures against non-commercial risks. In addition, it would carry out ancillary activities, such as serving as a source of information for investment opportunities, and facilitating the communication and mutual understanding between host governments and foreign investors by organizing seminars, preparing studies and the like. The ancillary function may also include rendering advice to member States in the formulation and implementation of their policies towards foreign investments. The Agency would cooperate with other international organizations engaged in related areas.

SCOPE OF GUARANTEE OPERATIONS

7. The primary function of the Agency would be the issuance of guarantees for foreign investments against non-commercial risks. In implementing this objective, account must be taken of the fact that there exists a variety of forms of economic cooperation and risks associated with them and that these are subject to change. During the last three decades in particular, traditional equity-type investments have become increasingly supplemented and superseded by so-called non-equity forms of business cooperation which, basically, are contractual arrangements entailing some element of risk and profit sharing. These new forms are frequently preferable to host countries. Some developing countries, especially the newly industrialized,

might expect from the Agency coverage of various types of their own investments abroad, such as long- and medium-term export credits. Risk diversification, which is instrumental to the Agency's financial viability, can best be achieved by providing coverage for various types of investments. For these reasons, the Agency should retain flexibility in devising its coverage.

8. Whereas the mandate of the Agency thus calls for a broadly defined scope of operations, other factors may dictate a more narrow delineation of the risks which the Agency could assume. Such factors would include a limited underwriting capacity (cf. para. 37) as well as difficulties in precisely assessing and delimiting the risks associated with new forms of investment. In order to reconcile these conflicting aspects, the Agency could limit its coverage more conservatively at the start with a view to expanding its operations over time as it builds up financial reserves and gains experience. To endow it with the necessary flexibility, and avoid the need frequently to amend the Convention establishing the Agency, in a field which, by its nature, is subject to rapid change, it is suggested that the scope of operations be broadly defined in the Convention and that the Agency's Board of Directors more precisely describe the types of risks and investments to be covered by adoption of appropriate policy rules and amending them as the need arises. The contract of guarantee to be entered into between the Agency and an investor would categorically define in each case the extent of the risk or risks to be covered in respect of the particular investment involved.

Covered Risks

9. Risk coverage, as delineated in the Convention, would encompass non-commercial events which affect an investor's rights associated with the investment or reduce his benefits from the investment. This would usually include (i) host government restrictions on conversion and transfer from local currency into another currency as well as unreasonable delays by host authorities in acting on applications to convert local currency (transfer risk); (ii) host government actions or inactions depriving an investor of his control over or substantial benefits from his investment (expropriation risk); and (iii) military actions and civil disturbances affecting an investment (war risk). It would not extend to non-discriminatory measures that a State normally takes for the purpose of regulating economic activity in its territory. In all cases, guarantees would be confined to measures introduced or events occurring after the conclusion of the contract of guarantee.

Eligible Investments

10. As was done in the ICSID Convention, the Convention establishing the Agency would not include a definition of the term "investment". The Board of Directors would thus retain sufficient flexibility in defining the term under prevailing circumstances, subject to review from time to time. In principle, it could extend coverage to any transfer of assets, in monetary or non-monetary form, for productive purposes, which is not specifically excluded. This would include equity participations and project loans associated with a participation of the lender in the venture; it could also

encompass profit-sharing, service, management and turnkey contracts, arrangements concerning industrial property rights, international leasing arrangements and arrangements for the transfer of know-how and technology. It might also be considered to extend coverage to straight project loans, portfolio investments as well as to some forms of export credits. Again, the Board would determine from time to time the precise scope of eligible investments which should be confined to long- and mediumterm arrangements.

11. The Agency's authority would be confined to guaranteeing investments which contribute to the economic development of developing member countries hosting the investment. Coverage would be restricted to "new investments". However, the Board would be given broad discretion in defining "new investments" so as to include, for example, new transfers of foreign exchange made to modernize, expand or develop an existing enterprise. Re-invested earnings which could otherwise be transferred abroad could also be deemed new investments. Both existing and new investments would be acceptable for reinsurance.

12. The purpose of the Agency is to promote private foreign investments. However, the Board could, by a special majority, decide that investments made by investors owned in part or even completely by an entity of public law would be deemed private investments for the purpose of insurance, if the investor operated on a commercial basis. Inter-Governmental capital flows (e.g. ODA flows) would not be covered.

RELATIONSHIP TO NATIONAL INVESTMENT GUARANTEE AGENCIES

13. The Agency would complement national agencies rather than compete with them ^{2/}. It would complement them in areas where national cover is either unavailable or not as comprehensive and effective as needed for encouraging investors to undertake developmentally valuable projects. In addition, the Agency would be able, mainly by reinsurance and coinsurance, to assist national agencies in improving their risk diversification and thus leverage national cover. In accordance with its complementary function, the Agency would coordinate and cooperate with national agencies so as to maximize administrative efficiency.

Complementary Operations

14. As a complement to national agencies, the Agency would concentrate on the following operations: guaranteeing investments from member countries which do not have national investment guarantee agencies; guaranteeing investments in host countries in which national agencies are overexposed; guaranteeing investments not eligible for a national guarantee which are nevertheless deemed by the Agency to be sound developmental investments (e.g., in cases where the investor fails to meet specific

^{2/} According to OECD estimates, all national agencies of DAC member countries had under insurance cover, as of December 31, 1981, only some 9% of the total stock of direct investments in developing countries which originated in these DAC countries. Even though this figure is subject to some question because of the limitations on available data, it appears safe to say that national agencies insure, on the average, less than 20% of investments flowing from developed into developing countries.

nationality tests applied by the home country's agency); guaranteeing types of investments (e.g., service contracts) or risks (e.g., breach of host government undertaking) not covered under the respective national program; coinsurance of large investments with national agencies; insurance or coinsurance of multinationally financed investments; reinsurance of national agencies.

Administrative Cooperation

15. The Agency would enter into cooperative agreements with national agencies for the purpose of availing itself, to the extent practicable, of their administrative support as well as coordinating its operations with the agencies so as best to carry out its complementary function. The cooperation would be designed with a view to facilitating efficient communication between the Agency and local investors and containing the Agency's administrative overhead.

RELATIONSHIP TO PRIVATE POLITICAL RISK INSURERS

16. The Agency would cooperate with private insurers in order to leverage its underwriting capacity, diversify its risks and maximize its administrative efficiency. Toward this end, it would seek to reinsure part of its portfolio with private insurers (which might include state-owned companies) and to coinsure large investments with them. Private underwriters have indicated their willingness to provide reinsurance or coinsurance for investments which they would not otherwise underwrite on their own, as the participation of the Agency would improve the risk profile. It

is not envisaged that the Agency would reinsure private insurers 3/. Different terms could apply to the coverage provided by the Agency and the policies issued by private coinsurers. Some exchange of information is envisaged between the Agency and private insurers; if need be, this exchange would be limited by the interests of members of the Agency in keeping information confidential.

PAYMENT OF CLAIMS TO INVESTORS

17. In order to attract investors, the Agency would have to establish its credibility by providing a mechanism for prompt and adequate compensation once a loss occurs. In many cases, however, the Agency might encounter difficulties in speedily assessing a claim, since it would have to verify with the host government and other sources the information furnished by the investor. Having undertaken to pay a claim, the Agency would seek recovery from the host country, which has therefore a vested interest in a thorough investigation before payment is made. Host governments may also wish to be given sufficient time to try to reach an amicable settlement with an investor before involving the Agency.

18. The above mentioned considerations are of different importance with respect to various types of risks. Claims relating to transfer losses could, for example, be settled relatively rapidly, while expropriation

3/ It should be noted that OPIC (the U.S. national investment guarantee agency) has in the 1970s experimented with joint underwriting with private insurers. The experiment was thought a first step towards either discontinuing OPIC's operations or confining them to the provision of reinsurance to private underwriters. The plan was discontinued, as the experiment had shown that private underwriters would not sufficiently serve developmental interests even if reinsured by OPIC.

cases might require more time. With respect to various risks, a proper balance must be sought between the interest of the insured in speedy payment and the Agency's and host countries' interests in a careful assessment and in a maximization of the prospects for amicable settlement between the insured and the host country. The experience of national investment guarantee agencies is relevant in devising adequate mechanisms for the settlement of investors' claims.

Proposal

19. In light of the foregoing, it is proposed that the contracts of guarantee which the Agency would conclude with investors on the basis of general terms and conditions of guarantee to be adopted by its Board of Directors would require the holders of a guarantee to exhaust administrative remedies available to them under the laws of the host country before a payment is made. Provision could also be made in the contract of guarantee for an adequate waiting period between the filing of the claim and the payment. Disputes between the Agency and holders of a guarantee would, by virtue of a provision in the contract, be submitted to international arbitration for a final determination.

RELATIONSHIP TO HOST COUNTRIES

20. The developmental mandate would require the Agency to seek close cooperation with host countries and to base its decisions and judgments only on economic considerations. The Agency would not be influenced by national considerations which often color the activities of present public insurers of political risks. It could only underwrite investments contributing to the developmental objectives of a member country hosting the

investment; this could best be judged by the host country itself. Respect of the host country's sovereignty would also confine the Agency's involvement to investments welcomed by the host government. The Agency would therefore guarantee an investment only after having obtained approval of the host government to this effect. This approval may be deduced from the Government's approval of the investment and its non-objection, within a specified period, to the Agency's letter of intention to issue the guarantee. The approval would, of course, not obligate the Agency to provide coverage.

21. To a considerable extent the risks insured by the Agency would be within the control of the host government. Close cooperation of the Agency with host governments (e.g., by assisting them in attracting and selecting developmentally beneficial investments) would thus be likely to minimize the chances of actions giving rise to insurance claims. Should payment to an insured investor nevertheless become necessary, the Agency would succeed to any rights or claims of such investor against the host country resulting from the event giving rise to his insurance claim against the Agency (subrogation). This principle is generally accepted in insurance law and, as far as ascertained, is embodied in all relevant bilateral treaties on foreign investment between capital-importing and capital-exporting countries.

22. Disputes between an international organization, such as the projected Agency, and any member State are commonly resolved by negotiation and, failing negotiation, are submitted to international arbitration. This procedure is, as a standard practice, embodied in all loan agreements of the Bank, the International Development Association ("IDA"), and the regional development banks, including the Inter-American Development Bank.

The same procedure is incorporated in the Convention of the Inter-Arab Investment Guarantee Corporation (IAIGC) and in bilateral treaties on foreign investment, with respect to rights acquired from investors by way of subrogation. The Convention of the IAIGC provides, in addition, for a mandatory attempt at conciliation before submitting a dispute to arbitration. It is recommended that the same procedure be applied to the Agency.

23. Bilateral treaties and agreements on foreign investments are usually concluded between States to facilitate closer cooperation in this area. Such treaties, designed to improve the investment climate, would not be affected by the Agency as its arrangements with host countries would complement rather than supersede the treaties. Neither would the conclusion of new treaties be discouraged. To the contrary, member States might be interested in entering into similar agreements with the Agency, which should be authorized accordingly. Bilateral agreements to be entered into between the Agency and host countries, when both parties deem it convenient, are, from the viewpoint of host countries, likely to be a more acceptable alternative to the inclusion in the Convention of rules to govern the treatment of foreign investments. Such bilateral agreements may also cover the dispute settlement problem if covering it in the Convention establishing the Agency proves to be problematic.

Host Country Approval

24. As a condition of insurance by the Agency, investments would have to be approved by the host country, both for the execution in its territory and for the purpose of the insurance against designated risks. The Agency would agree with the host country upon appropriate procedures to avoid

administrative delays as a result of the approval requirement. Such agreements could, for example, provide that the Agency immediately notify a designated host country authority of its consideration of insurance against specified risks of an investment in the territory of that country. Failure by the authority to object to the insurance within an agreed time would be regarded as approval 4/.

Subrogation

25. Upon paying or agreeing to pay compensation to an insured investor, the Agency would be subrogated to any rights or claims of such investor against the host country resulting from the event giving rise to his claim against the Agency. Subrogation would ensue from covenants to this effect in the contract of guarantee and be acknowledged by host countries by virtue of its incorporation in the Convention. The Convention could also spell out an undertaking of host countries promptly to discharge to the Agency all their obligations towards the investor which are affected by the subrogation, unless otherwise agreed upon between the Agency and the host country. As the successor of the compensated investor, the Agency would be in a better position to enter into practical arrangements with the host country regarding the recoupment of the amounts paid by the Agency.

Dispute Settlement

26. Disputes arising between a host country and the Agency as a subrogee of an investor would be expected to be settled in most cases by

4/ It may be noted that the national agency which at present requires the prior approval of the host country concerned follows similar procedures. The Bank's Articles of Agreement include a comparable provision (Article X).

negotiation. Failing negotiation, such disputes would be submitted to conciliation, and failing conciliation they would be submitted to international arbitration. Experience of international financial institutions shows that disputes are usually settled by negotiation and that actual resort to arbitration has not taken place. In addition, the Agency would be authorized to enter with individual member States into bilateral agreements concerning insured investments; these agreements could modify and supersede subrogation/dispute settlement mechanisms as embodied in the Convention. As an alternative to the incorporation of a dispute settlement procedure in the Convention, it might be contemplated to rely on the conclusion of bilateral agreements between the Agency and individual member States. Even in the absence of any agreement on dispute settlement with a particular host country, the Agency might still be able to reinsure investments in that country which are guaranteed by a national investment guarantee agency of a member, since a dispute, in which the Agency might be involved, could arise in that case only between the Agency and the national agency.

27. The inclusion of a dispute settlement provision in the Convention is a perfectly normal practice, as elaborated earlier. The following bilateral arrangements could be envisaged, either in addition to or in lieu of a dispute settlement provision in the Convention:

(i) arrangements relating to specific projects. They could include the investor as a party (tripartite arrangements) and stipulate certain undertakings of the host country to the Agency regarding the treatment of the investment as well as obligations undertaken by the investor, the breach of which might entail forfeiture of his guarantee;

(ii) agreements stipulating some substantive rules with respect to the treatment of guaranteed investments. They would strengthen the position of the Agency and thus reduce its risk exposure;

(iii) agreements whereby host countries undertake to the Agency to abstain from defined actions giving rise to claims of investors holding a guarantee against the Agency. They would, like the aforementioned agreements, reduce the loss potential of the Agency, but be more clearly confined to guaranteed risks;

(iv) host country declarations in conjunction with the approval of investments for guarantee about the treatment by the host country of the guaranteed investment. Such unilateral declarations, though less effective than contractual obligations, would achieve a similar purpose as the agreements outlined under (iii); and

(v) agreements providing for international arbitration with respect to subrogated rights. They would be the simplest substitute for the incorporation of a dispute settlement mechanism in the Convention.

FINANCIAL STRUCTURE

28. The Agency would be expected ultimately to operate at no cost to its members, financing itself from its own revenues. The overall experience of the national investment guarantee agencies, IAIGC and private political risk insurers gives support to this expectation 5/. Nevertheless the

5/ National agencies have reported, as of December 1982, their aggregate payments on claims to amount to 17.4% of their aggregate premium revenues; IAIGC has not suffered any underwriting loss; and private insurers have expanded their political risk insurance operations dramatically over the last ten years, reaching, as of the beginning of 1982, an estimated \$8 billion in total coverage (with premiums estimated to have risen between 1973 and 1982 from \$3 million to \$95 million).

Agency would have to rely on its members in order to meet its initial administrative expenditures and to pay whatever claims might arise under contracts of guarantee at a time when they could not yet be covered out of reserves accumulated from income 6/.

29. Members could provide the necessary funds by subscribing to the share capital of the Agency. Another alternative suggested in the past is that members could "sponsor" investments. Under the latter approach, a member proposing to the Agency the guarantee of a certain investment would, at the same time, incur a loss-sharing obligation towards the Agency in the amount of guarantee sponsored by it. This loss-sharing obligation under the sponsorship approach would apply to the whole of the Agency's portfolio. Any loss incurred would, therefore, be shared by all members in the proportion which the total amount of guaranteed investments sponsored by a given member would bear to the total amount sponsored by all members.

30. The most distinctive advantage of the sponsorship approach would be that it would avoid an injection of capital from members at the outset. Furthermore, the acceptance of membership in the Agency would not in itself entail financial (and specifically loss-sharing) responsibility. An obligation to share in losses would attach only if and when a member sponsored an investment for guarantee and it would be limited to the amount of the sponsored guarantees. Every member would thus keep control over its

6/ It should be noted in this respect that national agencies and IAIGC have had the experience that large claims did not occur during their formative years and that political risks did not materialize shortly after they had been underwritten.

involvement in the Agency, and the benefits accruing to it from the operations of the Agency and its obligations towards the Agency would seem to be balanced. Finally, the Agency's volume of business could grow infinitely without a need to negotiate periodic increases in its capital. On the negative side of this sponsorship approach, start-up administrative costs, if not borne by the members, would have to be borne by an outside source. The implications of a sponsorship system are that it would probably hamper the Agency's efficiency: investments of a multinational source could not be underwritten in total if a single co-investor did not succeed in obtaining sponsorship for his share in the venture; and investments would have to be approved by the relevant national authority in the sponsoring country before the Agency could take any final action on them ^{7/}. In the absence of any share capital, the Agency might also face difficulties in becoming accepted by investors as a credible insurer.

31. Financing by capital subscription would avoid these drawbacks. While it would require some commitment of members, up-front contributions could be kept to a minimum and capital would be called only if the need arose. Some equilibrium between the members' benefits and obligations could be maintained by placing ceilings on the amounts of investments from individual home countries, which could be accepted for guarantee by the

^{7/} Business representatives have emphasized the importance of a speedy and efficient administration for the Agency's ability to attract investors, thus emphasizing the negative aspects of the exclusive reliance on the sponsorship approach.

Agency. More importantly, the share capital could be leveraged by providing, in application of generally accepted principles of portfolio management, that the Agency could underwrite investments in excess of the total amount of its subscribed capital. However, the Agency would probably depend on periodic increases in capital if it were to rely for its expansion only on its capital and reserves.

Proposal

32. For these reasons, a financial regime is proposed which combines capital subscription and sponsorship: members would subscribe to a relatively modest share capital of which a small part would be paid in. In addition, however, investments which could not be underwritten by the Agency in reliance on its share capital and reserves could be sponsored by the interested member or members and be guaranteed on this basis.

33. The subscription of each member in the share capital should be determined in accordance with the principle established for the financing of other international financial institutions. While every member shares in the capital, each member's subscription reflects its economic strength relative to other members. Application of this principle to the Agency would manifest its character as an international organization serving the interests of all its members, and those of its developing members in particular. The latter consideration would also be the justification for bestowing substantial voting rights on host countries 8/.

8/ Unlike the situation of national investment guarantee agencies, which are run by the respective home countries, the proposed Agency would allow both the home and host countries to play an important role in formulating the Agency's policies.

Revenues and Expenditures

34. The Agency would be expected to operate ultimately on a self-sustaining basis. Towards this end, it would charge for its services premiums and fees. The structure and level of premiums would be determined by its Board with a view to achieving long-term financial viability and taking into account the rates presently charged by other insurers. Some differentiation of premiums according to actual risk taking might be useful. Rates could, for example, be adjusted to the type of risk and the specifics of the project underwritten. It would not be advisable, however, to apply different rates for different countries ^{9/}. Revenues would be allocated, in order of priority, (i) to cover administrative expenses; (ii) to pay claims of insured investors; and (iii) to a reserve fund.

Subscribed Capital

35. The share capital would be open-ended and increased with every accession of a new member. Only a small portion of the subscribed capital (no more than 5%) would be paid in at the outset; the rest would be subject to call by the Agency in case of need. The amount of the initial capital would depend on the number and economic strength of the initial members of

^{9/} OPIC as well as all major private U.S. political risk insurers differentiate by project rather than by host country. Host-country-related aspects would be "considered" in the risk evaluation of a project; such consideration would, however, not require passing judgment on the macropolitical situation of a host country. The prohibition of differentiation by host country is obviously more relevant in an international agency such as the proposed MIGA. It is not considered to necessarily constitute a serious impediment in achieving financial viability of the scheme.

the Agency. It might be envisaged as one billion U.S. dollars. Every member would subscribe to some shares in the Agency.

36. The amount of each member's subscription would be determined with a view to its ability to contribute. Capital exporting countries would thus subscribe to most of the share capital while only a token participation would be expected from the less affluent capital importing countries. The quotas might be determined with a view to the relative distribution of shares of initial members of the Agency in the Bank's capital. The formula negotiated for initial members would apply to all countries acceding to the Agency at a later date. As part of the arrangement to be negotiated, capital importing countries, or the less affluent of them, could be allowed to make a certain portion of their contributions in their local currencies.

Limits of Guarantee

37. The subscribed capital plus reserves accrued from premium and other income would limit the maximum amount of guarantee which the Agency could underwrite without additional financing. One additional source might be reinsurance with private insurance carriers (cf. para. 16). Since all guaranteed risks cannot reasonably be expected to become losses, the Board of the Agency would be authorized to set the maximum amount of guarantee as a multiple of capital plus reserves plus, possibly, reinsurance cover 10/.

10/ Reinsurance cover could be leveraged to the extent only that it applied to the totality of the Agency's portfolio rather than to a particular insured investment.

The appropriate "gearing ratio" would primarily depend on the spread of risk achieved by the Agency; it could therefore be increased in time with the aggregation of a balanced risk portfolio. A limitation of the gearing ratio of, say, one to five would be conducive to the acceptance of the Agency as a credible guarantor. This limitation has been adopted for the IAIGC.

38. Consideration might be given to limiting the amounts of investments from individual home countries which could be accepted for guarantee without sponsorship. The ceilings could be set as a multiple of each member's capital subscription. They might not be applied to investments from developing member countries. In addition to, or in lieu of, relating ceilings to capital subscriptions, it could be provided that guaranteed investments from any single home country could not, without sponsorship, exceed a certain portion of the total capital subscription; this would eliminate the possibility, or even appearance, that the Agency might primarily serve the interests of a single country or a few countries, thus safeguarding its character as an international organization.

Sponsorship

39. Having reached its normal limits of guarantee prescribed above, whether they are related to a specific member or not, the Agency would still be able to guarantee additional investments "sponsored" by members or, possibly, by regional organizations operating in this field which might be empowered by their members to sponsor joint investments. Premiums and

other revenues attributable to sponsored contracts of guarantee would be accumulated in a separate fund; the respective administrative expenses and payments on claims would be paid out of this fund. After depletion of the fund, losses under such sponsored guarantees would be shared by sponsors, each in the proportion which the total amount sponsored by it would bear to the total amount sponsored by all members. Although the Agency will be issuing such "sponsored guarantees" on behalf of the sponsoring countries, as their agent or as the administrator under a trust arrangement, all decisions related to such guarantees will be taken by the Agency itself, under the special voting arrangements provided for below (para. 51).

STATUS AND MEMBERSHIP

40. The Agency would be established by way of an international convention and would be endowed with full juridical personality under both international law and the national laws of its member States. In addition, it would receive the privileges and immunities usually bestowed on international organizations.

41. Membership would be open to all members of the World Bank and Switzerland. Under conditions to be devised by the Agency, a member may assign a national agency to represent it and act on its behalf.

ORGANIZATION AND MANAGEMENT

42. The organizational structure would be patterned after that of other international financial institutions, notably the Bank and IFC. The Agency would thus have a three-tiered organizational decision-making and

control system, consisting of a Council of Governors, a Board of Directors and the Agency's Executives. The Council of Governors would be composed of one representative of each member and his alternate. It would meet annually and whenever convened for a special reason. As the supreme organ of the Agency, it would have all powers which are not bestowed by the Convention on any other organ. It would normally delegate its powers to the Board, with the exception of the powers usually reserved to the plenary assembly, such as admission and suspension of members, changes in capitalization, amendments of the Convention and liquidation of operations.

43. The Council would elect a Board of Directors which would be in charge of the general operations of the Agency, as in the case of the Bank and other multinational institutions. The Board would be authorized, by delegation from the Council, to take, in the pursuit of this function, any action required or permitted under the Convention, except as otherwise provided. Within the limits provided in the Convention, the number of Directors would depend on the number of members of the Agency. Directors need not be full time resident directors. If the Council so decides, the By-Laws may provide that no Executive Director of the Bank may serve at the same time as a Director of the Agency.

44. The Chief Executive Officer of the Agency would be selected by the Board of Directors on the nomination of its Chairman (cf. para. 46). He would, under the general control of the Board, conduct the ordinary business of the Agency and be responsible for the appointment and dismissal of staff.

LINK WITH THE BANK

45. The Bank's purposes include the promotion of private foreign investment 11/. Business representatives and private insurers have consistently emphasized the benefits which would accrue to the Agency from a relationship with the Bank. A relationship would substantially enhance the Agency's prospects of gaining wide recognition as an international developmental institution; it would foster its marketing efforts; and it would afford it administrative economies by utilizing some existing facilities rather than establishing completely new facilities of its own. However, only a minimal relationship is envisaged with the Bank and the Agency will for all practical purposes act as an autonomous organization 12/. In particular, the Agency's operations would be conducted sufficiently independently from the Bank so as to avoid a perception that the Bank could become involved in investment disputes 13/. To identify the minimum links which achieve this purpose, the relationship between ICSID and the Bank, as it is

11/ Article I (ii) of the Bank's Articles of Agreement.

12/ The envisaged loose relationship might be established with IFC, rather than with the Bank. The practical result would be the same, the Chairman of the Board of IFC being the President of the Bank.

13/ It may be noted in this context, however, that the Bank's involvement in some investment disputes was unavoidable in certain situations in the past. OMS No. 1.28 of the Bank outlines its policy in cases of disputes on expropriation and governments' breach of contract. The creation of an MIGA should not create a greater involvement of the Bank in this respect, as the issue would be handled by the Agency through its own resources and by its own organs. In effect, the Agency's guarantee may lessen the chances of the Bank's involvement as aggrieved investors would resort directly to the Agency.

envisaged in the Convention creating the Centre, could serve as an example: ICSID shares the Bank's objective of facilitating the flow of foreign investments while legally maintaining only a loose link with the Bank, represented in a common Chairman 14/.

Proposal

46. The only organizational link envisaged between the Agency and the Bank would be that the President of the Bank serve ex officio as Chairman of the Agency's Board of Directors. The Governors of the Agency, to be appointed by the members, would normally be the Ministers in charge of foreign investment. The Governors of the Agency, therefore, need not be identical with the Governors of the Bank, and there would be no need to hold the annual meeting of the Agency's Governors in conjunction with the annual meeting of the Bank's Governors.

47. The Agency may enter with the Bank into a cooperative agreement. Its purpose would be to afford the Agency administrative economies by making available to it, under agreed arrangements, such technical and administrative services as it might need and the Bank could afford to provide without inconveniencing its own operations. It can be assumed that both the Bank and the Agency would adequately protect their respective

14/ The closer linkage which evolved in practice between ICSID and the Bank (the elected Secretary General of ICSID has been the Bank's General Counsel and the Bank covers ICSID's administrative budget) is of the Bank's own making and is not provided for in the ICSID Convention.

interests in the negotiation of the agreement. The Bank would also be free to decide whether or not it wishes, in the context of this cooperation, to charge the Agency for its services. The offices of the Agency may but need not be located in the same city as those of the Bank.

VOTING RIGHTS

48. The guarantee of foreign investments affects the interests of both host countries and home countries. This constellation would best be reflected in a division of voting power between the two groups of countries. If it is recognized that home countries and host countries have an equal stake in foreign private investment, it would seem appropriate to accord equal voting power to each of the two groups. As the home countries of the investors are much fewer in number, the number of votes allotted to each one of them will on average be greater than the number of votes acquired by each host country. Such a position is justified, however, by the greater capital contributions expected from the investors' home countries. The interests of both groups should be adequately protected through safeguards such as the requirement of a special majority for specific important policy decisions. Relative contribution to financial resources could also be taken into account in determining the voting power of individual members within each group. As in existing international financial institutions, decisions are likely, however, to be taken by consensus in most cases.

Proposal

49. Voting power would be divided between home countries and host countries as groups. Each member State would, for representation and voting purposes only, classify itself as a member of one of these groups, its classification being subject to the acceptance by the Council of the

Agency. Reclassifications would be possible under the same condition. For the initial member States, the classification would be part of the negotiating process. Some guidance could be sought from the distinction between Part I and Part II countries provided by Schedule A to IDA's Articles of Agreement 15/.

50. As a starting point for negotiation, it is proposed that host countries would, as a group, receive significant voting power equal to that accorded to the home countries. However, by requiring a special majority for certain decisions, the latter group's interest could be adequately protected especially in respect of such decisions as may have a bearing on the financial exposure of the Agency (such as decisions relating to the limit of guarantee or the scope of risk coverage). The special majority requirement will provide each group with adequate protection in respect of important policy decisions. Members will not vote as groups, however, and each Director will cast the votes of the members he/she represents according to the merits of each issue.

51. Within each group, the votes would be distributed among the members according to a formula agreed to by the members of the group and

15/ Self-classification (and re-classification) was followed in the case of the International Fund for Agricultural Development (IFAD). It is proposed in view of the fact that many countries are both exporters and importers of capital, that the importance of capital exports and imports for a particular country is subject to change, and that some countries might use the services of the Agency to a larger extent than others (in particular, countries which do not operate a national investment guarantee scheme can be expected to rely more on a multi-lateral guarantee facility than those which do).

approved by the Council. A similar approach was followed in IFAD ^{16/}. Sponsoring members would obtain one additional vote for a specified amount of investment sponsored; and host countries would be allocated one additional vote for the same amount of sponsored investment hosted by them. Voting rights would be adjusted annually to reflect the relative amounts sponsored at a reference date. The additional votes accorded on account of sponsored investments would be counted only in respect of decisions related to these investments.

52. Each group would elect an equal number of Directors and the votes cast by the individual Directors would be weighted in accordance with the voting rights of the members represented by them. In each group, the procedure for the election of Directors could be patterned after the procedure governing the election of the Bank's Executive Directors. The voting structure outlined above would also apply to the decisions of the Governors.

EFFECTIVENESS

53. As some countries might hesitate at the outset to become members of the Agency, it would seem expedient not to require a large membership as

^{16/} In IFAD, the total of 1800 votes is divided equally among three categories: Category I (20 OECD countries), Category II (12 OPEC countries), and Category III (other countries). The members of each group have determined the formula by which votes are to be allocated among members of the group. In Categories I and II, a portion of the votes (17.5 percent and 25 percent respectively) is distributed equally among the members of the particular Category and the remaining votes are distributed in proportion to the contributions to the Fund of each member. In Category III, the 600 votes are distributed equally among the members in that Category.

a condition for the Convention's entry into force. This would allow the Agency to show its usefulness to skeptical countries which could then decide in the light of actual performance whether or not to join.

54. It is, therefore, suggested that the Agency become operational upon ratification of its Convention by at least five home countries and at least ten host countries provided that their combined subscriptions reach a certain minimum amount to be specified in the Convention. Upon entry into force, every eligible country could accede to the Convention.

MISCELLANEOUS

55. Any question of interpretation or application of the Convention arising between the Agency and any member or between members, would be decided by the Board; any member could appeal to the Council of Governors whose decision would be final.

56. The operations of the Agency would be periodically reviewed by the Council of Governors (e.g., every five years with a view to initiating changes of basic operational policies if deemed appropriate).

57. The Bank would, as in the case of ICSID, IFC and IDA, act as the depository of the Convention.

58. The Convention would follow the usual pattern of agreements constituting international organizations with respect to questions not addressed in this paper.

59. The period between signing and effectiveness of the Convention could be utilized by a preparatory commission, composed of delegates of the signatories, to work out rules specifying the initial operational policies

of the Agency. This might also serve the purpose of reassuring countries before they ratify the Convention with respect to the manner in which the powers under the Convention are likely to be exercised. It would also give an opportunity to the countries actually interested in the Agency to work out the necessary details within the general framework provided for in the Convention.

* * * * *

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Mr. Clausen		E-1227
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H.E. RONNIE DE MEL, MINISTER OF FINANCE AND PLANNING, SRI LANKA.
REURTEL AUGUST 3, I WISH TO THANK YOU FOR YOUR COMMENTS WHICH ARE
FULLY APPRECIATED. MIGA IS ENVISAGED AS A MECHANISM FOR
CHANNELLING ADDITIONAL RESOURCES TO LDCS AND THE RESOURCES MADE
AVAILABLE FOR ITS OPERATIONS SHOULD BE ADDITIONAL TO OTHER
CONTRIBUTIONS. ORGANIZATIONAL AND OPERATIONAL DETAILS SHOULD
ALSO REFLECT THE DEVELOPMENTAL MANDATE OF THE MIGA. WE ARE NOW
WORKING ON THE TEXT OF A DRAFT CONVENTION WHICH I SHALL BE HAPPY
TO DISCUSS WITH YOU IN DUE COURSE. LOOKING FORWARD TO SEEING YOU
DURING IMF-WORLD BANK ANNUAL MEETING. WITH BEST PERSONAL
REGARDS, IBRAHIM F.I. SHIHATA, VICE PRESIDENT AND GENERAL
COUNSEL, THE WORLD BANK

END
OF
TEXT

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INFORMATION BELOW NOT TO BE TRANSMITTED

CLASS OF SERVICE: Telex	TELEX NO.: <i>1387 vne - S</i>	DATE: 8/3/84
SUBJECT: MIGA	DRAFTED BY: IFIShihata:mr	EXTENSION: 74945
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TO DIRECTOR
FROM
SUBJECT

THE WORLD BANK

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DR. IBRAHIM I. SHIHATA
VICE PRESIDENT AND GENERAL COUNSEL
INTRAFRAD.

DEAR IBRAHIM:

FURTHER TO MY LETTER OF JUNE 12, 1984, I AM FORWARDING SOME COMMENTS ON THE PROPOSED MULTILATERAL INVESTMENT GUARANTEE AGENCY (MIGA). I AM VERY CONCERNED THAT THE SETTING UP OF THE MIGA SHOULD NOT BE ANOTHER MANIFESTATION OF THE WEAKENING OF THE SPIRIT OF MULTILATERALISM. THE EFFORTS TO PROMOTE THE FLOW OF FOREIGN DIRECT INVESTMENT MUST NOT PRE-EMPT RESOURCES THAT WOULD OTHERWISE BE AVAILABLE FOR MULTILATERAL DEVELOPMENT INSTITUTIONS. NOR SHOULD PRIVATE FOREIGN INVESTMENT BE REGARDED AS A SUBSTITUTE FOR DEVELOPMENT ASSISTANCE. THE RESOURCES MADE AVAILABLE FOR THE OPERATION OF MIGA MUST CONSTITUTE AN ADDITIONALITY OF FUNDS USED FOR DEVELOPMENTAL PURPOSES.

THE PROPOSED ORGANISATIONAL STRUCTURE WHEREIN VOTING POWER IS DIVIDED EQUALLY BETWEEN HOME AND HOST COUNTRIES IS MOST WELCOME. I NOTE, HOWEVER, THAT THERE IS PROVISION FOR CERTAIN DECISIONS TO BE MADE ON THE BASIS OF SPECIAL MAJORITIES. IT IS IMPORTANT TO ENSURE THAT THIS DOES NOT PROVIDE AN AVENUE FOR WEAKENING THE REPRESENTATION OF THE HOST COUNTRIES IN THE DECISION-MAKING PROCESS.

I UNDERSTAND THAT THE MIGA IS TO OPERATE AUTONOMOUSLY. HOWEVER, ITS POSITION WITHIN THE WORLD BANK UMBRELLA WILL PROVIDE IT WITH ACCESS TO CONFIDENTIAL INFORMATION. SUITABLE SAFEGUARDS MUST BE EVOLVED FOR CONFIDENTIALITY AND SECRECY PARTICULARLY IN INSTANCES WHERE REINSURANCE OR COINSURANCE IS INVOLVED.

I NOTE THAT THE MIGA IS TO BE SELF-FINANCING. THE DEVELOPMENTAL CHARACTER OF A WORLD BANK AFFILIATE MUST, HOWEVER, BE TAKEN INTO ACCOUNT WHEN DETERMINING THE RATES CHARGED BY THE MIGA, AS OTHERWISE ITS PROMOTIONAL IMPACT WOULD BE LIMITED.

I HOPE THAT IN THEIR DELIBERATIONS THE EXECUTIVE DIRECTORS WILL VIEW THE ROLE OF THIS NEW INSTITUTION IN A PROGRESSIVE DEVELOPMENTAL CONTEXT.

WITH BEST PERSONAL REGARDS.

RONNIE DE MEL
MINISTER OF FINANCE AND PLANNING
SRI LANKA.

T
WORPO FINNIN CE
21409 FINNIN CE

*Copy to Mrs. Meighan
RI sent 2/29*

RAINER E. GUT
CREDIT SUISSE

CH - 8021 Zurich, February 16, 1984
P.O. Box 590

300

Mr. A.W. Clausen
President
The World Bank
Washington, D.C. 20433
U S A

Multilateral Investment Insurance Agency

Dear Tom,

Thank you very much for your letter of February 6, 1984, in which you send me the paper which was prepared by your staff on a proposed Multilateral Investment Insurance Agency. The document will be distributed to the interested members of APPI. Our Organization will follow the development in this matter and I look forward to our further co-operation which is most appreciated.

Sincerely,

Rainer

February 6, 1984

Dear Rainer:

Thank you for your letter of January 16, 1984, concerning the Bank's multilateral investment insurance initiative. I was particularly interested in the points made at the APPI annual meeting of November 8, 1983, many of which are in line with our thinking.

Let me bring you up to date on the progress of the initiative. We have held extensive consultations with the Executive Directors and have decided that future discussions should focus on a specific scheme which takes into account the various issues raised during these consultations. Therefore, the next step is for Bank staff to prepare a paper outlining the principal features of such a scheme. We welcome your offer of consultations with APPI and think that it would be useful for us to get in touch with you after we have made further progress in outlining the scheme.

I am enclosing for your information an informal paper prepared by Bank staff last November relating to possible options on major issues that need to be considered in connection with the formulation of a scheme.

Sincerely,



A. W. Clausen

Enclosure

Mr. Rainer E. Gut
Credit Suisse
P. O. Box 590
8021 Zurich
Switzerland

✓ ELMeigher:as

THE WORLD BANK

ROUTING SLIP		Date Jan. 24, 1984	
OFFICE OF THE PRESIDENT			
Name		Room No.	
Mrs. Meigher		E-715	
cc: Mr. Shihata			
	To Handle		Note and File
	Appropriate Disposition		Note and Return
	Approval		Prepare Reply
	Comment		Per Our Conversation
	Full Report	XX	Recommendation
	Information		Signature
	Initial		Send On
Remarks			
<p>1. Should we reply? If so would you please prepare something for AWC's signature by Wednesday, February 1, 1984.</p> <p>2. Should we send along copies of the study?</p> <p style="text-align: center;">Give me a call.</p> <p style="text-align: right;">Roy Southworth</p>			
From			

10g
RAINER E. GUT
CREDIT SUISSE

8021 Zurich, January 16, 1984
P.O. Box 590

Mr. T. Clausen
President of the
World Bank
Washington D.C. 20433
U.S.A.

Dear Tom,

At the 1983 annual meeting of the International Association for the Promotion and Protection of Private Foreign Investments (APPI), in the chair of which I succeeded Dr. Hermann Abs in 1981, we discussed, among other things, your initiative to revive the idea of establishing a multilateral investment insurance scheme.

Let me recall that when in the 1960-ies the World Bank was actively working towards an international agreement for the setting up of such a scheme, APPI was (alongside the International Chamber of Commerce), regularly consulted. It submitted comments both orally and in writing upon proposals and drafts elaborated by the Bank. APPI's latest submission, dated December 2, 1968, concerned the Bank's second draft articles of agreement.

It is natural, therefore, that your effort of reviving the issue was noted with great interest by the members of APPI. We share your view that every effort should be made to complement shrinking official aid to developing countries with an increased flow of private capital, particularly in the form of direct investments. Multilateral investment insurance is, in our view, one means out of many for assisting developing countries in attracting such investments.

Since you raised the matter in September 1981 some of our members have attended seminars arranged by the Legal Department of the World Bank for the purpose of informing interested parties of the work being carried out within the Bank. Lately we have learnt that seven studies on particular subjects have been completed and sent to the Executive Directors for consideration.

./.

Although the APPI as such has not been approached nor received any World Bank documentation, I have been asked to convey to you some of the points made in the course of our discussion at the APPI annual meeting on November 4, 1983, at Kronberg (Frankfurt):

1. The scheme now under consideration within the World Bank is, we understand, far more modest than those discussed in the 1960-ies. Its role should merely be to supplement the national insurance programs which are in operation in most industrial countries, and possibly also to provide re-insurance for the national investment insurance agencies. It was felt in the APPI that this is a realistic approach more likely to receive general support than the all-embracing schemes discussed in the 1960-ies.
2. It should be stressed that the task now envisaged for the multilateral scheme could, albeit limited, fill some very real, practical gaps in the political risk insurance offered by private insurance companies and national investment insurance programs. Examples of such gaps are (a) there are countries, in which foreign investments originate and which do not have a national investment insurance scheme of their own; (b) multinational investments. i.e. joint ventures and consortia, especially in the raw material and extractive industries, involving investors from two or more countries, where it was difficult to coordinate national schemes because of different terms and conditions and (c) limits may be set for national insurance agencies' exposure in particular countries.
3. The most important feature of a multilateral investment insurance scheme would, in the opinion of APPI and most likely of any potential private investor, be that some kind of a link be established between the insurance scheme and the World Bank. The link would give the necessary credibility. It would serve to improve the investment climate in the host countries and effectively enhance the possibilities of many developing countries to attract foreign investments. Conversely, we believe that an insurance scheme without a link to the World Bank would hardly be used by investors and, consequently, be incapable of contributing to the much needed increase of the flow of investment resources to developing countries. On the other hand, a link with the Bank would, in our view, substantially contribute to the flow of additional investment in developing countries.

This was just to give you an impression of how a group worldwide of industrial corporations and banks, such as those assembled in the APPI, feels about one of the issues which you have brought up for the good purpose of assisting the developing countries.

Should you like to consult the APPI further on this matter or on any other problem concerning foreign investments, please do not hesitate to call on us.

With best personal regards,

Darius

Enclosure

APPI brochure and
membership list

Faint, illegible text at the top of the page, possibly bleed-through from the reverse side.

Handwritten signature or initials in blue ink.

OFFICE OF THE PRESIDENT

1984 JAN 23 PM 2:35

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Record Removal Notice

File Title Clausen Papers - Multilateral Investment Guarantee Agency [MIGA] - Correspondence - Volume 1		Barcode No. 1774262		
Document Date Oct. 27, 1983	Document Type Memorandum			
Correspondents / Participants Fr: Ibrahim Shihata To: Managing Committee				
Subject / Title MIGA - Seminar Discussion Paper				
Exception(s) Attorney-Client Privilege				
Additional Comments		The item(s) identified above has/have been removed in accordance with The World Bank Policy on Access to Information or other disclosure policies of the World Bank Group.		
		<table border="1"><tr><td>Withdrawn by Ann May</td><td>Date November 03, 2021</td></tr></table>	Withdrawn by Ann May	Date November 03, 2021
Withdrawn by Ann May	Date November 03, 2021			

Multilateral Ins.

April 8, 1983

Dear Mr. Moore:

Thank you for your letter and your kind words about my address to the Foreign Policy Association earlier this year.

Concerning the issue of risk insurance, let me assure you that the World Bank does consider this to be an important issue, and we are continuing to study how a multilateral investment insurance scheme might be implemented. In view of this, I am passing your letter on to my colleagues in the Legal Department and am asking them to reply to your letter in more detail.

Thanks for writing and for your interest.

Sincerely,



A. W. Clausen

Mr. Robert H. Moore
Vice President
Alexander & Alexander Services Inc.
Suite 800
1333 New Hampshire Avenue, N. W.
Washington, D. C. 20036

bcc: Mr. Scott (w/ incoming)

BY MESSENGER

Alexander & Alexander Services Inc.
Government & Industry Affairs
Suite 800
1333 New Hampshire Avenue, N. W.
Washington, D. C. 20036

Alexander
& Alexander

496

Robert H. Moore
Vice President

April 4, 1983

Mr. A.W. Clausen
President
World Bank
701 19th Street, NW
Suite E1227
Washington, DC 20433

Dear Mr. Clausen:

I very much enjoyed your presentation to our Washington Foreign Policy Association meeting in late February and the opportunity to meet you.

After reflecting on your remarks and the challenges facing the Bank, I would like to bring to your attention a matter which may not have received adequate consideration.

As a result of the Tarbela Dam experience, the World Bank and FIDIC both addressed the matter of insurance on large scale civil engineering projects. The FIDIC committee crystallized the issue by questioning whether

"the admitted shortcomings of the present system may not, in the rapidly expanding area of such large-scale projects, predictably lead to a growing number of cases where shortfall in insurance cover has such serious consequences as to affect the availability of credits and to threaten financially weaker parties with economic extinction."

The FIDIC committee recommended that owners appoint firms offering comprehensive risk management advice for those projects which are very large, very complex or contain inherently high design risks. The World Bank has also recommended "risk analysis studies" for projects in which the funding by the World Bank exceeds U.S. \$50,000,000.

Mr. A.W. Clausen
April 4, 1983
Page Two

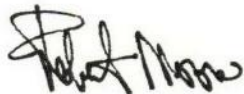
As one of only six firms with the world-wide expertise to perform such studies, we obviously support the recommendations.

I am writing to you to express our concern that, while recommendations have been made, nothing has, in fact, changed. There is no enforcement of mandatory insurance requirements, and certainly not the stringent enforcement regularly seen from commercial banks. So long as borrowers are allowed to ignore the recommendations of the World Bank and so long as the World Bank does not mandate adequate insurance requirements, the exposures to loss are the same as they were before Tarbela, which cost the World Bank over \$48,000,000.

I appreciate your consideration of our observations. We would be pleased to visit with you to explore this topic in more detail if you think it would be useful to do so.

With best wishes.

Sincerely,

A handwritten signature in black ink, appearing to be "John M. ...".

jp

THE WORLD BANK
Washington, D. C. 20433
U. S. A.

A. W. CLAUSEN
President

March 8, 1983

Dear Governor Zolotas:

Many thanks for your material on an international loan insurance scheme. You have identified an important need and your proposal provides an interesting approach to the problem of maintaining commercial bank flows to the developing world.

The World Bank is indeed interested in this topic and we are currently working to develop a multilateral investment insurance scheme. Knowing that they would be interested in your material, I am taking the liberty of sharing it with my colleagues who are responsible for our work in this area.

Sincerely,



The Honorable
Xenophon Zolotas
Governor (Honorary)
Bank of Greece
P.O. Box 105
Athens, Greece

bc: Ms. Eva Meigher, Legal Dept.

RS:tk

BANK OF GREECE

Hon. GOVERNOR

347

Athens, 24 February 1983

Mr. A.W. Clausen
President
World Bank
Washington, D.C. 20433
U. S. A.

Dear Mr. President,

I have been prompted to send you this letter by the ongoing discussion in various international Forums concerning the present worldwide debt crisis.

It may interest you to know that an article of mine on this subject appeared in the London Times on January 11, 1983 and that a more detailed exposition was published in the Greek daily TO VIMA on January 30, 1983. I am enclosing copies of both publications for your perusal.

In the main, my article deals with the difficulties experienced by a number of countries in servicing their external debts and the consequent reluctance of several commercial banks to supply fresh funds with which developing countries in particular can meet their balance-of-payments and other capital requirements. In addition, it refers to a proposal I first made at the 1977 joint IMF-IBRD meeting for the establishment of an International Loan insurance Fund that would provide guarantees on private international loans to developing and deficit countries.

The present debt crisis has elicited a number of reactions from leading international lending institutions. There can be no doubt that the enlargement of IMF quotas, the expansion of the General Arrangements to Borrow, the expanded role of the BIS in the field of bridge financing, as well as the World Bank's recent cofinancing initiatives, have all been steps in the right direction. Nevertheless, though these steps have been instrumental in averting the outbreak of a crisis over the past few months, they have certainly been unable to offer a durable solution to the underlying problem. It therefore seems imperative to secure a permanent means of dealing with this problem.

./.

In view of this fact, I venture the opinion that if my proposal for an international loan insurance Fund were to be implemented, it would make a significant contribution towards safeguarding the continuity and stability of the flow of funds to developing countries and would, moreover, secure the solvency of the international banking system. Given the enormous magnitude of the problem and the extreme interdependence of the world's national economies, appropriate solutions should no doubt be sought through multilateral arrangements. In this connection, I recall, Mr. President, that in your address to the Board of Governors in September 1981 you expressed the World Bank's interest in exploring the possibilities of a multilateral investment insurance scheme. A similar suggestion was put forward by the Brandt Commission in its recently published report. Let me add in this respect that the International Loan Insurance Fund would serve much the same purpose, although it would focus on commercial bank lending to developing countries.

Details regarding the establishment and functioning of the proposed Insurance Fund may be found in the enclosed booklet. I would only wish to call your attention here to two salient points concerning my scheme. First, the Insurance Fund would operate on the basis of sound banking principles and would draw extensively on the experience of national export credit organisations. It would therefore be safe to say that the fears expressed by some critics of my scheme, to the effect that banks would be encouraged to extend loans liberally, are entirely unfounded. This is so because the joint financing principle embodied in the Fund, namely that each loan would bear only a partial guarantee, implies that bank capital would also be at risk in any loan guaranteed by the Fund. Second, the Fund would not be excessively burdensome on the guarantors. The additional amounts of capital required would represent only a fraction of the guarantees given to lenders, since each guarantee would be supported by initially callable and not paid-out funds. Moreover, the accumulated insurance premia would constitute a reserve fund for any contingency that may arise.

In concluding, Mr. President, I would like to suggest that, if you think that this scheme possesses some merits, it could be forwarded to the appropriate department of the World Bank for consideration.

With best personal regards,

Yours sincerely



Xenophon Zolotas

December 14, 1982

Dear Mr. Wielemans:

Thank you for sending us your study on a potential multilateral export credit insurance system. As you may be aware, The World Bank is very interested in the possibilities of multilateral insurance schemes, and we are pleased to receive input into our own research. I am, therefore, passing your information on to our Legal Department which is looking into this matter.

We appreciate you taking the time to write.

Sincerely,



A. W. Clausen

Mr. Robert Wielemans
Sub-director
Office National du Ducroire
Square de Meeus 40
B-1040 Brussels
Belgium

bcc: Mr. Scott (with incoming)

OFFICE NATIONAL DU DUCROIRE

Etablissement public fonctionnant sous la garantie de l'Etat

Square de Meeûs 40
B-1040 Bruxelles
C.C.P. 000-0369725-58

Téléphone (02) 512.38.00
Télex 21147 ondb
Adresse télégraphique Ofnaduc



5254

Votre réf. :

Notre réf. :

Date : December 6, 1982

Mr. President,

The National Delcredere Office is the Belgian public organism insuring export credits and investments abroad.

As I am responsible for the studies in the Delcredere Office, I have had the occasion to examine the works of the IBRD relating to a multilateral investment insurance system.

This incited me to elaborate a memorandum relating to a multilateral export credit insurance system.

I am sending you this memorandum in French and in English.

My study has a personal character and it must not be considered as representing the official views of the National Delcredere Office.

Even if the IBRD considers that a multilateral export credit insurance mechanism is not opportune, the above-mentioned study is probably interesting for the officers of the IBRD who are charged with the investment problems.

Yours faithfully,

Robert WIELEMANS,
Sub-director.

Mr. A.W. CLAUSEN
President of the World Bank
1818 H Street N.W.
Washington DC 20433
U.S.A.

THE WORLD BANK
Washington, D. C. 20433
U. S. A.

A. W. CLAUSEN
President

November 5, 1982

Dear Mr. Sen:

Thank you for your letter of October 25 in which you describe some of the activities of the Asian-African Legal Consultative Committee. The Committee's present work with regard to the promotion and protection of foreign investment is of particular interest to me.

As you know, we at the Bank are exploring the possibility of establishing a multilateral investment insurance agency. We are presently conducting studies on the major issues that have surfaced in our initial investigations. One of the more complex issues involves the appropriate relationship of a multilateral investment insurance agency to host countries. In this connection, it would be very useful for us to draw on the work and experience of the Asian-African Legal Consultative Committee.

I have passed your letter to my colleague, Hugh Scott, the Bank's Acting General Counsel. He is heavily involved with the multilateral investment insurance project and would be pleased to meet with you at your convenience. If you can let him know when you will next be in Washington, he will set aside time on his schedule to talk with you.

Sincerely,



A. W. Clausen

Mr. B. Sen
Secretary General
Asian-African Legal Consultative
Committee
27, Ring Road, Lajpat Nagar-IV
New Delhi - 110024
India

bcc: Mr. Scott w/incoming

ELMeigher:RSouthworth:ml

ASIAN-AFRICAN LEGAL
CONSULTATIVE COMMITTEE

27, RING ROAD, LAJPAT NAGAR - IV,
NEW DELHI - 110024
(INDIA)



No.6(20B)/82

October 25, 1982.

A

Dear Mr. President,

During the recent months we have had the opportunity to study in some depth the text of your address to the Asia Society in New York as also your speeches before the two other meetings in Vancouver and Toronto. We were greatly attracted by what you had said and particularly your concern to generate wider flow of investments to developing countries and the connected question of protection of foreign investments. The proposal in regard to the scheme for insurance is also likely to be of considerable interest to our member governments. In this connection it was felt that we should bring to your notice our on going programme of work in regard to promotion and protection of foreign investments.

The Asian-African Legal Consultative Committee which had emerged as a tangible outcome of the Bandung Conference is an inter-governmental organisation composed of a membership of forty states in the Asian-African region including Japan. Although our original involvement was in the field of general international law, during the recent years a great deal of our work is concentrated in the economic field including foreign investments. As a first step in that programme we had given our attention to the question of an adequate system for the settlement of disputes which we consider to be of vital factor in ensuring stability and confidence between the foreign investor and the host governments. We have already established two regional centres for arbitration located in Kuala Lumpur and Cairo, under our scheme for settlement of disputes. We had worked in very close co-operation with Mr. A. Broches, the then Vice-President and Legal Counsel of the Bank for the promotion of these Centres and under agreements concluded between us and the ICSID both the Centres are to provide facilities for arbitration under the ICSID Convention if the parties so desire.

At a Ministerial meeting held in Kuala Lumpur in December 1980 under our auspices and at the invitation of the present Prime Minister of Malaysia, views had been expressed that a system for protection of foreign investments which would take due account of the legitimate interests of host countries as well as investors was a sine qua non

to generating a wider flow of such investments. Our organisation was accordingly asked to prepare model investment protection agreements for consideration of governments. This was endorsed by another ministerial meeting held in Istanbul last year. In pursuance of these recommendations our Secretariat has now prepared a study on the subject of investment protection including drafts of various models for investment protection agreements. The drafts would be considered by an Expert Group in January 1983 prior to their being taken up at the next Session of the AALCC later in the year.

We feel that the programme which we are pursuing at present on protection of foreign investments would be very much in accord with your own thinking and if you feel interested I could arrange to brief you fully on this matter.

Yours sincerely,

(B.Sen)

Secretary General.

Hon'ble A.W.Clausen
President
The International Bank for Reconstruction
and Development
1818 H Street, N.W.,
WASHINGTON D.C. 20433

OFFICE OF THE PRESIDENT

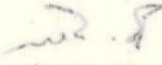
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We feel that the programme which we are pursuing at present on protection of foreign investments would be very much in accord with your own thinking and if you feel interested I could arrange to brief you fully on this matter.

Yours sincerely,



(B. Sen)
Secretary General.

WASHINGTON D.C. 20433
1818 H Street, N.W.,
and Development
The International Bank for Reconstruction
President
Hon'ble A.W. Clausen

OFFICE OF THE PRESIDENT

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October 6, 1982

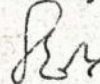
Dear Mr. Minor:

I am replying to your letter to Mr. Clausen, asking whether any specifics are available concerning the multi-lateral investment insurance proposal to which he referred in his 1982 Annual Meeting address. The answer is "no".

Mr. Clausen first broached the idea in his 1981 address to the Boards of Governors, after which the Bank staff undertook preliminary and informal consultations with some governments, businessmen, insurance companies and others. The Bank's Executive Directors were recently informed of the staff view that these inquiries warrant further discussions, and they were asked to, and did, agree that the staff should continue to examine the feasibility of establishing some kind of scheme. Several aspects for particular further study were indicated: among others, the potential demand for multilateral insurance; how a scheme might be financed; how risks might be shared; whether there should be a link to the Bank. This work is under way, but we do not have a schedule for its completion, and I cannot, therefore, say when any results or conclusions will be publicly available.

Thank you for your interest.

Sincerely,



Shirley Boskey
Acting Vice President
External Relations

Mr. Michael Minor
Publisher
The Southern Exporter
P.O. Box 551
Franklin, TN 37064

cc: Mr. Golsong, with incoming
Mr. Clausen's office, ref. your log number 4013

SEBoskey:di

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THE AMERICAN SOCIETY OF INTERNATIONAL LAW
2223 MASSACHUSETTS AVENUE, N.W.
WASHINGTON, D.C. 20008
(202) 265-4313
CABLES "AMINTLAW"

*with the understanding of the
on the other hand, the
is not correct.*

HONORARY PRESIDENT
WILLIAM W. BISHOP, JR.
PRESIDENT
COVEY T. OLIVER
EXECUTIVE VICE PRESIDENT
AND
EXECUTIVE DIRECTOR
SEYMOUR J. RUBIN
DIRECTOR OF STUDIES
JOHN LAWRENCE HARGROVE

September 28, 1982

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TREASURER
JAMES R. PATTON, JR.

Mr. A. W. Clausen
President
World Bank
1818 H Street, NW
Washington, D.C. 20433

Dear Tom:

I enjoyed very much your talk the other day at the Council on Foreign Relations.

Two of the matters mentioned in your talk are of substantial interest to the ASIL. We have, in fact, contemplated research programs in connection with them. I would like to mention these topics largely to see whether it might not be useful for me and Larry Hargrove, our Director of Studies, to get together with you and/or staff members of the Bank who may be working on these matters.

The ~~two~~ matters are codes relating to protection of private foreign investment and multilateral investment insurance.

I will not bore you with the details, but I guess that I can regard myself as something of an expert on both. I was the person on the U.S. ITO Delegation back in the late 1940's who worked on the private foreign investment aspects of the aborted ITO Charter, and I have written, worked, and even once in a while listened, in that area continuously since then. With respect to multilateral investment insurance, I represented the United States when the original proposal was presented to the OECD in 1962/63. I have more recently--some three years ago--written a small brochure on the subject, at the instance of the Development Committee of the IBRD/IMF.

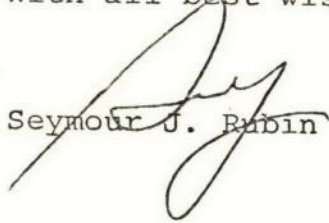
Both of these matters are, I think, highly relevant to the objective of increasing the flow of private capital to the developing countries. Both, however, pose a number of difficulties and are to some extent controversial. One variant or another of each has been tried in the past. Both raise substantial issues of international law and of international organization, including issues of interpretation and implementation.

Mr. A. W. Clausen
September 28, 1982
Page Two

We here at the ASIL have, therefore, been thinking of initiating further studies, supplementing work already done here in both of these areas. It would be extremely helpful to us, and I would hope to you as well, if we could get together and discuss these projects in the very near future.

I would welcome an indication from you that you and/or staff would be available for such a discussion.

With all best wishes,



Seymour J. Rubin

SJR:sjl

Extra

INSTITUTE FOR INTERNATIONAL ECONOMICS

11 Dupont Circle, N.W., Washington, D.C. 20036
(202) 328-0583 Telex: 248329 CEIP

C. Fred Bergsten
Director

July 12, 1982

The Honorable
A. W. Clausen
President
The World Bank
Washington, D.C. 20433

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Dear Tom:

Per our phone conversation on Friday, I look forward to meeting with you and Arthur Dunkel for breakfast on Thursday morning. I am delighted that you have set up such a session, per my suggestion to Ernie that you do so, and hope it will help start the ball rolling on the investment issue.

Per your request when we had lunch last month, and hopefully of use in preparation for the breakfast with Dunkel, enclosed is a strategy paper on the investment issues and initiatives which the Bank could/should take to deal with them. As indicated in the paper, the U.S. Government (especially Treasury) is already strongly pushing the matter -- and should do so even more now that George, an early advocate of the whole idea, is coming to State. As I noted at lunch, Bank leadership in this area should also help generate general support for it from business communities in the industrial countries since they would all derive direct benefits from a successful outcome.

The punch line of the paper is that only the Bank can take the needed initiatives in this area because both the OECD and GATT exclude many of the key countries; the GATT is limited to trade aspects, which are important but inextricably linked to broader components of the investment equation, and has an agenda which Dunkel feels may already be overloaded; and most LDCs feel more comfortable pursuing such issues in the Bank than in any other feasible forum. You should therefore be thinking in terms of taking such initiatives in your speech at Toronto, and in starting to pave the way through informal consultation with key member countries. The breakfast with Dunkel can be a step in the process.

The Honorable
A. W. Clausen
Page two

Again, it will be a pleasure to see you on Thursday.
I hope the paper will be helpful. If you would like
to pursue any of this further, before or after the
breakfast with Dunkel, please let me know.

Sincerely,



C. Fred Bergsten
Director

TOWARD A WORLD BANK INITIATIVE
ON INTERNATIONAL DIRECT INVESTMENT

The Saliency of the Issue

The outlook for developing countries in the 1980s is grim. World growth is down sharply and likely to remain low. Protectionism is on the rise. Private banks are looking to reduce their exposure. Concessional aid flows are stagnant, at best.

One potentially substantial source of help for the developing countries has been largely ignored, however: foreign direct investment (FDI). Such investment can be of central importance in dealing with the most critical needs of the poorer countries -- creating jobs, transferring technology, expanding exports and supplying capital without adding to annual debt service burdens.

Furthermore, partnership with multinationals can provide enormous benefits for developing countries in the industrialized world -- in resisting new trade barriers against them, and supporting continued financial support for them. It is thus natural that the World Bank should make every possible effort to expand the flow of FDI to the developing nations, particularly if its traditional means of support continue to be circumscribed by donors' budget problems and more general recalcitrance.

The Problem

The potential role of FDI in development has been ignored in recent years primarily because the mythologies of a decade ago, captured in such phrases as "dependencia" or "sovereignty at bay" or "global reach," stigmatized the multinationals as destroyers of

host-country values and independence. In fact, one of the most noteworthy (if largely unnoticed) stories of the 1970s was the increasingly decisive ability of virtually all developing (and other host) countries to harness the "powerful multinationals" to their -- the host countries' -- economic and social purposes. Indeed, the problem for the 1980s is that host-country control has gone so far that it has sharply curtailed the potential contribution of FDI to development, by triggering seriously negative reactions from both the firms themselves and the governments of the home countries where most of the firms are based.

Three major problems must now be addressed if FDI is to fulfill its potential in contributing to development in the decade(s) ahead. First, virtually all host countries increasingly employ tax and other incentive measures to attract internationally mobile investments. One result is a shift of production -- with its jobs, profits, technology, exports, etc. -- across national borders, often leading to uneconomic activity and often triggering the threat of retaliation from home countries (such as the United States) whose interests are harmed. Another result is a drain of resources from developing countries to the firms and treasuries of home countries, without much net benefit to any particular LDC since virtually all of them offer such incentives on similar terms.

Second, host countries require the firms to "pay" for these incentives -- or simply for the privilege of participating in their economies -- by levying performance requirements on them. These requirements include minimum export quotas, local content or value-added requirements, mandatory technology transfers, job quotas, etc. The Mexican auto decree is an infamous case in point but, like

incentives, the practice exists in virtually every host country. These performance requirements seek to tilt the economic benefits of international investment to host countries -- again, distorting the activities of the firms and adversely affecting their home countries (and perhaps third countries as well).

Third, there is increasing discrimination against foreign firms in a number of host countries. The principles of national treatment, and even most-favored-nation treatment (among foreign firms), are frequently violated -- with obviously negative impact on both the multinationals and their countries of origin. This trend is related intimately to the issues of incentives and performance requirements, since firms will suffer discrimination if they are not seen as substantially promoting the economic and social objectives of the host country and can avoid such treatment (as well as qualify for incentives) only by making major contributions to those objectives.

The problem underlying all three issues is the steadily growing effort by host countries to dictate the terms of the international investment process, and hence the benefits from such investment. Three ill effects derive from these trends. At the level of global macroeconomics, an increasing share of world production is being determined largely outside the market. Distortions are inevitable. World welfare is reduced. During a period of slow growth and continuing inflation, such losses are particularly costly.

At the level of the international distribution of income, an increasing share of world production is being negotiated between the governments of host countries and the management of multinationals. There is no representation in that negotiation of the interests of

the home country (or third countries). The results can only be negative for the latter, and is an untenable situation -- as evidenced by the growing profusion of bills in the U.S. Congress to retaliate and/or emulate these host-country practices, and the rapid growth of negative reaction to outgoing FDI in other home countries (such as Japan and Sweden).

At the level of policy, such deviations from market determination and national efforts to "beggar thy neighbor" can in fact only create substantial emulation, retaliation and steady erosion of the current, relatively open, international investment regime -- in short, "investment wars" akin to the trade wars of the past. In view of the close relationship between investment patterns and trade patterns, erosion of the relatively open trading system is likely as well.

In the United States, for example, there are rapidly growing political pressures to take action against these host-country practices. This pressure, so far, tends toward emulating the foreigners: proposals for United States local content rules (in the automobile industry, by the UAW), creation of a U.S. "Foreign Investment Review Agency" (like Canada's) or at least registration of inward foreign investment, "reciprocity" in the treatment of foreign investors here vis-a-vis the treatment of U.S. investors by their home country.

There are also proposals for more constructive action, however, usually along the lines of a "GATT for Investment" -- the creation of new international rules to limit, or even eliminate, the objectionable practices and thus improve the prospects for increased FDI in the developing countries. This approach has been advocated

by such individuals as George Shultz (most extensively at the Brookings symposium on the World Bank on January 7), Mike Blumenthal and Fred Bergsten. It has solid support within the U.S. Government, especially in STR and Treasury (including a major speech by Don Regan in London on May 7). The Senate Foreign Relations Committee has held hearings on the idea. The European Community has accepted a U.S. proposal to discuss the issue at the GATT Ministerial in November. The topic was cited (in general terms) in the communique of the Versailles Summit. Though there is a very long way to go, international momentum on the issue is clearly beginning to build.

Obstacles to Progress

Before laying out a strategy for pursuing such an approach, it is necessary to acknowledge four important obstacles to progress. First, we honestly do not know the extent of the three new categories of host-country measures and their actual economic impact on home and third countries. We observe such measures in virtually all host countries and the concepts are clear, but solid empirical support is lacking. Indeed, this lack of information is among the clearest indicators of the absence of international cooperation on investment issues -- on almost everything else, we at least have lots of data. The current OECD and World Bank/IFC exercises (see below) are aimed at developing a data base and are thus quite important, but they are still at very early stages.

Second, the hands of the industrialized countries are not clean. Though the United States has a basically laissez-faire approach to inward (and outward) direct investment at the Federal level, many states and even local governments offer a wide range of incentives

to foreign (as well as domestic) firms. Indeed, some offending foreign governments (e.g., Canada, U.K.) feel their most effective riposte to U.S. initiatives in this area is to ask how it plans to limit its own sub-federal entities. This aspect of the problem obviously poses a quite sticky dilemma: it will be domestically difficult for Washington to clamp down on the states, but it will be quite difficult to move very far internationally without doing so. A partial way out is through emphasizing performance requirements and national treatment, since most state/local intervention so far is concentrated on incentives.

Other home countries to multinationals -- such as Canada, France and Britain -- are much worse offenders in their (larger, at least at the margin) role as host countries. Indeed, it is these countries, more than developing nations, which have resisted discussing this issue seriously. It would obviously be impossible to limit the practices of LDCs without doing so for industrial countries, so any effort must be generalized geographically from the outset -- a key reason for operating through the World Bank.

A third problem lies with the role of the multinational firms. The growth of host-country intervention picked up momentum in the 1970s for many reasons, but among the most important were the perception that the firms were sometimes cheating their hosts and, as indicated above, that they were dominating the world. It must be recognized, therefore, that host countries will be loathe to give up their "newly found" control over the firms. At a minimum, they will insist on alternative forms of protection against certain MNC practices which are widely recognized as anti-market: restrictions on exports by subsidiaries, tie-in buying clauses, manipulation of tax and other liabilities via transfer pricing, etc. Any major

initiative to place limits on governmental intervention in the international investment process is thus likely to be met by a revival of (largely LDC) host-country efforts to place limits on the activities of the firms themselves.

At a minimum, this problem suggests that any effort to develop new international rules for FDI -- be it by the World Bank, the U.S. Government, or anyone else -- must avoid even the appearance of negotiating on behalf of the multinationals. Any such image would be certain to kill the negotiating effort, for political if no other reasons, in light of the history and ideology of the issue. However, such a posture should be quite achievable: the objective would be to improve the prospects for LDC development by expanding the flow of FDI to them. The firms would of course benefit substantially from a negotiated resolution of the problems, by a return to market determination of international investment opportunities and a substantial reduction of the risks of a ~~s~~iezing up of the international investment (and trade) environment.

Fourth, and closely related to the previous point, why would the other countries negotiate? Most seem quite content with the new status quo, within which they successfully manipulate the multinationals to their national advantage. Having just learned to do so, why would they give it up? The only solid U.S. ally at this point is Switzerland; Germany is a luke-warm supporter, but so far unwilling to buck "EC solidarity" based on the much stronger (negative) attitudes of France and Britain. Some LDC officials see the problem but, in light of reigning LDC ideology against multinationals, "G-77 solidarity" is an extremely high hurdle to cross.

The answer lies in both education and threats. On the one hand, widespread realization that virtually all host countries are caught up in the incentives race -- and are thus basically transferring revenues to the firms (and perhaps to home country treasuries) -- might trigger at least a ceasefire, if all countries were to back off together. On the other hand, a credible threat that the United States (and perhaps the few other adherents to laissez-faire, notably Switzerland and Germany) was going to emulate and/or retaliate might jar at least some others into action. All countries are now desperate for additional investment, and a credible threat by several key home countries to cut off outflows and/or compete energetically for inflows might galvanize a positive international response.

How to Proceed: A Negotiating Strategy for the World Bank

As noted above, several international efforts to develop new approaches to FDI are now underway:

1. Building on agreements reached in 1976 (concerning voluntary cooperation on national treatment, incentives and disincentives, guidelines for multinationals), the OECD is studying the economic impact of the troublesome practices and reviewing whether/how to intensify its efforts. At the moment, little progress seems likely.

2. Mainly at U.S. prodding, the GATT Ministerial in November will consider whether to adopt a work program on trade-related investment problems (primarily export requirements and local content rules). The first step would probably be to compile an inventory of objectionable policies, like the inventory of non-tariff barriers in 1969-70 which laid the basis for the Tokyo Round. Such an

inventory would take 2-3 years to build and might be followed by negotiations on the topic as part of a new multilateral trade negotiation on all pending trade issues -- services, high-technology, trade, outstanding issues from the past such as safeguards and textiles, etc. Also in GATT, the United States is formally challenging Canada's (inward) foreign investment review practices and considering testing certain investment incentives against the Subsidy Code.

3. The Bank/IFC itself, on a mandate from the Development Committee, is studying the extent and impact of incentives and performance requirements. The Report to the Development Committee of its Task Force on Private Foreign Investment, which was delivered in July 1980, in fact provides the basis for a much more aggressive Bank role on the whole issue.

The first question, of course, is whether the Bank should take the/a primary leadership role and whether it can justify doing so. Assuming that the substantive objective is to develop a new set of rules and procedures to improve the international framework for FDI by limiting objectionable practices as outlined above, one could answer both questions in the affirmative. On the substance:

-- the OECD, by definition, excludes many of the key countries involved. Its main contribution is its 1976 package, which -- if disguised, for political reasons -- could very usefully provide a model for any more universal agreement.

-- the GATT also excludes some of the key countries (e.g., Mexico), is regarded by the LDCs as dominated by the industrial countries, and has a mandate which permits it to deal only with the trade aspects of FDI -- which are very important, but are

inextricably linked with broader dimensions of FDI. The GATT does have a track record as a locus for dispute settlement, but its image in that regard is none too strong at present and many trade experts (including Director General Dunkel) oppose giving it further responsibilities at this time.

-- the UN has repeatedly demonstrated that its highly political approach is futile for pragmatic dealing with international economic issues, has a track record of dismal failure on FDI (the long-stalled "code of conduct" for multinationals), and has a membership which is too broad (including the Communist countries which are largely irrelevant to this process and would likely use the issue for political disruption).

-- the Bank is the only institution with the proper membership, a decent (if not overwhelming) track record on the issue (ICSID, the several efforts to develop a Multilateral Investment Insurance Agency), a modicum of trust between industrialized and developing countries, and an open-ended mandate (permitting it to deal with the many aspects of FDI). The main drawback for the Bank is its absence of dispute-settlement machinery, which would represent a new endeavor for the institution and raise a host of questions concerning implementation.

The basic justification for IBRD leadership on this issue is the potentially major contribution to development from an improvement in the international framework for FDI. Such a contribution is clearly recognized in the Report of the Task Force on Private Foreign Investment of the Development Committee (especially paragraphs 4, 8, 58). Moreover, the Report provides the basis for

aggressive IBRD leadership on the key elements of the FDI issue:

"The Task Force felt that (such) competition among host nations in granting investment incentives may be counter-productive." (para. 25).

"The Task Force endorsed the objectives of seeking an understanding which would limit the adverse effects of foreign investment incentives." (para. 30, also para. 65).

"Limits on foreign investment incentives could be an important part of the understanding . . . One way of introducing new arrangements might be to proceed through a phase of containment to one in which incentives are rolled back." (para. 34).

"While noting the rationale of performance requirements, the Task Force also noted that performance requirements under certain circumstances could have adverse effects on the host country by discouraging investment and reducing capital inflow and by promoting and sustaining high cost inefficient industries. They could in some cases also cause distortions in international trade flows . . . They could become tantamount to a form of restrictive trade practices . . . which could lead to demands in other countries for countervailing action." (para. 44)

"Given the objective of seeking an understanding with regard to performance requirements and foreign investment

incentives . . . the Task Force recommends a study . . . (to be) carried out under the general direction of the World Bank Group . . ." (paras. 54, 56).

"Thereafter, depending upon the outcome of the study, an attempt could be made to develop the concept and terms on which an understanding might evolve to limit the adverse effects of foreign investment incentives as endorsed earlier in the report, and to consider what further actions might need to be taken concerning performance requirements." (para. 57, also para. 66).

The only problem in using the Report as a justification for proceeding immediately to negotiations is the "thereafter" clause in the final citation. However, the Bank/IFC study is scheduled for completion in the fall and, in any event, it will take several months to prepare for a major effort. President Clausen could indicate an intention to launch the effort in his speech to the Annual Meeting in Toronto without violating the clear thrust of the Report of the Task Force, which was implicitly endorsed by the Development Committee in September 1981 when its study recommendations were approved.

To launch such an initiative, coordination is needed with those major governments already interested in the issue or potentially supportive of the approach:

-- the United States is a strong ally, though some elements within it (such as STR and perhaps State, almost wholly for bureaucratic reasons) may have to be convinced of the case for IBRD

leadership -- which means leaning on Treasury to take leadership within the U.S. Government, and lining up support from Secretary-designate Shultz for Don Regan and Beryl Sprinkel. (Switzerland would also be a strong supporter if it were a member, and could be helpful in any event.)

-- Germany, including Helmut Schmidt specifically, strongly support efforts to promote FDI. The issue here is to get them to fend off "EC solidarity" with their heretofore less enthusiastic partners in London and Paris, but the EC has no legal competence for FDI (except perhaps as it relates to trade) and it should be possible to sway London and/or Paris anyway (see below).

-- such a market-oriented initiative should appeal greatly to Mrs. Thatcher, Geoffrey Howe et al (as it already did to Keith Joseph). Presentation at the top should override the nay-saying of lower-level U.K. bureaucrats.

-- Mitterand and Cheysson are actively looking for positive North-South initiatives. Placing the new organ in Paris would probably clinch their support, though it might be too high a price.

-- Japan has indicated a willingness to go along, and in fact places very high priority on FDI to pursue some of its own key interests.

-- OPEC countries might well be supportive, as was Kuwait in the Task Force, given their role as investors and possible spillover from FDI to portfolio investment.

-- some of the major LDCs might get on the bandwagon, due both to the general need for greater FDI and the growing realization that their incentives are mostly duplicative and hence simply cost

them money. The Indian representative was in fact a leader in the Task Force, and the Philippines' representative was sympathetic. Careful soundings would obviously be needed, however, and Mexico (though not Brazil) will probably be a major problem.

Given the undoubtedly continuing involvement in FDI policy of other key international organizations, particularly the OECD and GATT, consultation with them would also be helpful to avoid duplication and pull together effectively all that was going on. They might welcome an IBRD lead, if it succeeded in galvanizing much more active progress on the issue, though the usual bureaucratic jealousies must be taken into account. It would therefore be useful to have early discussions with van Lennep and Dunkel.

Epilogue

The absence of agreed rules and institutional arrangements to govern international investment is the primary gap in the network created since 1945 to preserve an open international economic order, based on market principles and equitable treatment of all countries. Yet offshore production by multinationals approximates \$2 trillion annually, as great as the level of international trade -- with no GATT, IMF or IBRD to protect it against encroachment by governments seeking to export their national problems to others.

The absence of such rules is particularly acute in light of the expansion of rules in other areas. Governments try to stay "one step ahead of the judge", and thus will manipulate particularly in those few areas -- notably, now, investment -- where manipulation has not been proscribed or at least circumscribed. It is thus no fantasy to conjure up the image of "investment wars" as the next

major battleground of international economic conflict. Skirmishes in that war have already been fought and guerrilla tactics abound throughout the world, threatening yet one more blow to the prospects for world economic progress in general and development of the poorer countries in particular.

The time is thus ripe for a major new initiative to make the world safe, or at least safer, for FDI. No existing institution is ideally positioned to be the locus of such an initiative, but the IBRD appears to be the most feasible possibility. Its doing so could make a major contribution to both its developed and developing member countries over the years and decades ahead.

3563

INSTITUTE FOR INTERNATIONAL ECONOMICS

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(202) 328-0583 Telex: 248329 CEIP

Toronto
M. Bergsten
E. Stern

C. Fred Bergsten
Director

July 15, 1982

Mr. A. W. Clausen
President
The World Bank
Washington, D.C. 20433

Dear Tom:

BOARD OF DIRECTORS:

- Peter G. Peterson
Chairman
- Raymond Barre
- W. Michael Blumenthal
- Alan Greenspan
- Abdlatif Y. al-Hamad
- Reginald H. Jones
- Frank E. Loy
- Lane Kirkland
- Donald F. McHenry
- Saburo Okita
- Karl Otto Pöhl
- Donna E. Shalala
- George P. Shultz
- Mario Henrique Simonsen
- Anthony M. Solomon
- Dennis Weatherstone
- Andrew Young

ex officio:

- C. Fred Bergsten
- Richard N. Cooper

Thanks very much for inviting me to this morning's breakfast with Arthur Dunkel et al. I think the session was extremely useful, on the broader issues of IBRD-GATT cooperation as well as on the more specific investment issues.

On the latter, it occurs to me that you might now want to consider three kinds of follow up:

-- development of the sketch of a specific proposal for a "GATT for Investment", perhaps along the lines laid out in the report of my Development Committee Task Force. I would stress that any such proposal should be limited to basic principles at this stage, because the first requirement is to get agreement on the concept and presentation of excessive details could easily impede doing so. However, some features of the idea will be needed if governments are to take the proposal seriously and give it considered judgment.

-- consultation with the U.S. Government, presumably Don Regan. Dunkel was right in saying that the United States has to decide what it wants from the different institutions; they have not yet made any decision on that, and your getting to them early could both accelerate the process and influence the substance of their choice. It is also important to boost Treasury as the focus for activity within the U.S. Government, both because of its central importance on the issues and its likely preference for working through the Bank.

-- consultation with other key governments, both in the industrialized and developing world, per my earlier memo. This too need be only on basic principles at this point but is important both in formulating your own plans and in getting supportive statements from Ministers at Toronto.

ADVISORY COMMITTEE:

- Richard N. Cooper
Chairman
- Robert Baldwin
- Lester Brown
- Rimmer de Vries
- Carlos Diaz-Alejandro
- Rudiger Dornbusch
- Isaiah Frank
- Herbert Giersch
- Gottfried Haberler
- Mahbub ul Haq
- Arnold C. Harberger
- Dale E. Hathaway
- Nural Islam
- Peter B. Kenen
- Ryutaro Komiya
- Lawrence B. Krause
- Stephen Marris
- Richard R. Nelson
- Joseph S. Nye
- Rudolph A. Oswald
- John C. Sawhill
- Ernest Stern
- Henry Wallich
- Marina Whitman
- Alan W. Wolff

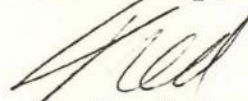
Mr. A. W. Clausen

Page two

Finally, a semantic point: we have referred on several occasions to the need for a new "code" in this area. Since that term conjures up images of the futile UN effort to negotiate guidelines for multinationals, I think it would be better to use different terminology since the present exercise is directed toward developing new obligations for governments. There is no convenient shorthand other than "GATT for investment", which is fine but frightens some people because it seems so grandiose. I thus tend to use the neutral "arrangements"; there may be a better phrase, but all involved should agree on a particular term and start using it consistently as part of the process.

Again, thank you for involving me in the discussion this morning. Let me know if I can be of help on any of the fronts mentioned above, or elsewhere.

Sincerely,



C. Fred Bergsten
Director

OFFICE MEMORANDUM

TO: Mr. A.W. Clausen

DATE: August 9, 1982

FROM: Hugh N. Scott *HS*SUBJECT: Role of Development Committee in Examination
of Multilateral Investment Insurance

The following two issues relating to Development Committee consideration of multilateral investment insurance may be raised by Directors during Tuesday's Board discussion:

1. Should the multilateral investment insurance proposal be discussed within the framework of the Development Committee? (This may be raised by a Latin ED).
2. If multilateral investment insurance will result in additional capital flows to LDCs, why was it mentioned neither by the Task Force on Private Foreign Investment nor the Task Force on Non-Concessional flows in their reports? (This may be raised by the Indian ED).

We believe that it may be better not to respond to these questions, if raised. Because the Development Committee operates on the basis of consensus and there are members strongly opposed to multilateral investment insurance, it is unlikely that a positive recommendation on establishing an MIIA would result from Committee discussions. We understand that Mr. Kastoft, the Secretary of the Committee, has also advised against discussions on multilateral investment insurance within the framework of the Committee.

If you do feel that a response is necessary, we would suggest that, with regard to the first question, you state that during the present stage at least, the present forum is appropriate and that it is best to continue with exploration by the staff, in cooperation with the Executive Directors, but that you are keeping the Development Committee informed of the progress of the exercise.

With regard to the second issue, I could state that, although I cannot speak for the Development Committee, it would seem that the work of the two Task Forces would have had to be substantially refocused if multilateral investment insurance were to have been covered.

OFFICE MEMORANDUM

TO: Mr. A.W. Clausen

DATE: August 6, 1982

FROM: Hugh N. Scott

SUBJECT: Positions of Executive Directors for August 10 Board Meeting
on Multilateral Investment Insurance Agency

In preparation for the Tuesday Board meeting on multilateral investment insurance, Mrs. Meigher and I have consulted with twelve Executive Directors. Consultations were held with Messrs. Smith, de Maulde, Yamaguchi, Looijen, Korpinen, Schmidt-Gerritzen and Burnham representing developed countries and Messrs. El-Naggar, Ray, Khelil, Romualdez and Razafindrabe representing developing countries. While there was skepticism among both developed and developing countries about the feasibility of establishing a multilateral investment insurance agency (MIIA) and whether such an agency would really increase the flow of investment into developing countries, the general attitude was that further studies would be worthwhile and should proceed as requested in the Board paper. There was, however, an attempt by the G-9 (led by Mr. Mayorga) to postpone the discussion of the Board paper until after the Annual Meeting on the basis that too many proposals for basic changes had been made to the Board recently and that there had been insufficient time to study the issues presented. This was discussed at an informal meeting of the Directors yesterday at which the G-9 position was not accepted. There was, however, general agreement that the recommended action be revised to be less forceful and definite. I am attaching possible compromise language on the basis of which Mrs. Clarke will be consulting with the Directors and would appreciate any comments you may have.

Specifically, the positions that will be taken in the Board will probably be as follows:

1. Yamaguchi. Japan has a strong interest in the proposal and definitely believes it is worth pursuing.
2. de Maulde. Mr. de Maulde said that he would express polite interest and a desire for more information.
3. Smith. Mr. Smith said the U.K. was genuinely interested and was prepared to agree to further studies.
4. Schmidt-Gerritzen. Mr. Schmidt-Gerritzen said Germany was not interested in the scheme and was satisfied with its own national scheme. He raised the possibility that an MIIA might present a danger to Bank standing in capital markets. He will probably not say anything at the Board meeting.
5. Looijen. Mr. Looijen questioned whether there was enough interest in establishing an MIIA but felt that it could not do much harm to continue studying the matter.

6. Burnham. Mr. Burnham will express support and suggest some issues which should be studied by the staff.
7. Korpinen. Mr. Korpinen said that the Nordic countries believe that it is worthwhile to continue studying the matter. Mr. Korpinen expressed skepticism on the possibility of an agreement on an MIIA being reached and concern with regard to the Bank's becoming involved in politically sensitive issues through such an agency.
8. El-Naggar. Mr. El-Naggar stated that the OPEC countries in his constituency are enthusiastic about an MIIA; he will support further studies.
9. Khelil. Mr. Khelil stated that further exploration was definitely worthwhile. He wondered, however, whether such a scheme would really have an impact. In any case, such a scheme might help and could not hurt.
10. Romualdez. Mr. Romualdez stated that in his constituency, the Philippines, Brazil, Colombia and Ecuador were very much opposed to the proposal because all felt that there were adequate incentives for foreign investment. The Philippines, in particular, felt that they did not want to incur expenditures through an MIIA for the benefit of those countries that had been irresponsible.
11. Razafindrabe. Mr. Razafindrabe said he had no instructions and thought his authorities would not want to discuss the proposal until after the Annual Meeting. He might, however, be able to support further studies.
12. Ray. Mr. Ray was generally skeptical with regard to the advantages for the LDCs of an MIIA. He questioned whether it would really be relevant in attracting foreign investment. In any case, much more economic and other data was required.

Finally, we expect Messrs. Sola and Mayorga to oppose not only the creation of an MIIA but probably also further work being done on this in the Bank.

Attachment

cc: Mrs. S. Clarke

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OFFICE OF THE PRESIDENT

Possible substitute paragraph on MIIA:

The discussions and consultations to date have been preliminary and informal. The next steps, to be most productive, will have to be taken on a more official basis. It is, therefore, requested that the Executive Directors take note of the report and agree that staff continue to examine, in cooperation with the Executive Directors, the feasibility of establishing a MIIA within the framework or under the auspices of the World Bank Group with a view to submitting a progress report or reports and, as soon as practicable thereafter, a final report on this matter.

August 12, 1982

Dear Mr. Taillet:

Thank you for your letter of July 28, 1982 in which you propose World Bank involvement in an insurance scheme relating to the external debts of developing countries. While your proposal has many interesting aspects, I do not believe that it would be appropriate for the Bank to play the role you envisage.

The Bank staff is presently studying the possibility of creating a multilateral agency which would provide insurance against non-commercial risks for private foreign investment in developing countries. The scheme would not, however, encompass borrowing operations by these countries.

I appreciate your sharing your ideas with us.

Sincerely,



A.W. Clausen

Mr. Charles Taillet
91, Boulevard de Courcelles
75008 Paris
France

JVoss/ELMeigher/as

[literal translation]

Mr. President,

Recently in Basel, the annual report of the Bank of International Settlements raised the delicate problem of the repayment of debts of Developing Countries and Eastern block Countries.

The Bank of International Settlements, in order to restore confidence, insisted on the predominant role which must be attributed to the International Monetary Fund and the World Bank.

We take the liberty of addressing to you in this connection some personal thoughts towards a solution of the problem which was raised.

One of the essential preoccupations of the financial world:
How to ensure payment of principal and interest of debts of:

1. Developing countries
2. Certain Eastblock countries: Poland, Romania.

The conjunction of the activities of:

1. The World Insurance Company, composed exclusively of Insurers.
2. The World Bank Division of Savings and Agricultural and Artisanal Credit [?] composed exclusively of Bankers

would permit to advance towards solutions.

The economy of each debtor country would be submitted to sagacity of a Committee of Wise Men of the International Monetary Fund and the World Bank, which would recommend repurchase in stages, and at times to be specified, of part of the principal of debts of each one of the Countries concerned, it being understood that a part would remain [?] the responsibility of the lending Banker, this to stimulate the [sense of] responsibility of the Banker for the future.

The Banker who would benefit from this repurchase, the modalities of duration, size (50 to 70% of principal) remaining to be determined in each case, and all other Bankers who would carry out similar operations if possible [?], should subscribe to an insurance policy with the World Insurance Company which will play the role of Equalization Fund, taking into account one or more parameters, and namely the following fundamental one:

$$M = \frac{\text{total volum of amounts lent}}{\text{total volume of amounts not repaid}}$$

The parameter M would permit to measure the level of risk premiums to be borne by the Banker (work of registrar) [?]

Other parameters could intervene, namely:

$$X = \frac{\text{total volume of products and materials exported for each Country}}{\text{average price of the last 3, 5 or 10 years}}$$

Every 3, 5 or 10 years, the Committee of Wise Men of the World Bank and the International Monetary Fund would decide on the advisability of allocating debts in relation to efforts made by each of the Countries, which is a fundamental notion of responsibility and equilibrium, particularly [?] of the balance of payments for each of the countries concerned.

This approach could encourage a better development of the volume of exchanges in a monetary climate of confidence and could be one of the sources of resorption of unemployment within the framework of a world economy which would be at the same time dynamic, fluid and more open to the Nations as a whole [?].

Please accept, Mr. President, the assurances of my very high consideration.

ROUTING SLIP		Date	8/3/82
OFFICE OF THE PRESIDENT			
Name		Room No.	
Mr. Rotberg			
Mr. H. J. ...			
<p>Mr. Taillet proposes an insurance idea to back up debt repayments by LDCs. Shouldn't this be handled by whoever was</p>			
To Handle		Note and File	
Appropriate Disposition		Note and Return	
Approval		Prepare Reply	
Comment		Per Our Conversation	
Full Report		Recommendation	
Information		Signature	
Initial		Send On	
<p>Remarks Concerned with the Bank's proposed Insurance Scheme (I believe this was Legal)? 8/4/82 Hans</p> <p>May I have your advice, by c.o.b. 8/4, if possible, on who should reply to the attached letter?</p> <p style="text-align: right;">L. Scott 14</p>			
From		Roy Southworth	

THE WORLD BANK

*reply asked
for by
Aug. 10*

ROUTING SLIP

Date
August 4, 1982

OFFICE OF THE PRESIDENT

Name

Room No.

~~Mr. Scott~~

Mrs. Weigher

To Handle

Note and File

Appropriate Disposition

Note and Return

Approval

Prepare Reply

Comment

Per Our Conversation

Full Report

Recommendation

Information

Signature

Initial

Send On

Remarks

Could you have a reply prepare, please,
for Mr. Clausen's signature by August 10?

Roy Southworth

From

THE WORLD BANK

ROUTING SLIP

Date 8/3/82

OFFICE OF THE PRESIDENT

Name

Room No.

~~Mr. Rotberg~~

Mr. Litzman HA

Mr. Taillet proposes an insurance idea to back up debt repayments by LDCs. Shouldn't this be handled by whoever was

To Handle

Note and File

Appropriate Disposition

Note and Return

Approval

Prepare Reply

Comment

Per Our Conversation

Full Report

Recommendation

Information

Signature

Initial

Send On

Remarks

*Concerned with the Bank's proposed Insurance Scheme (I believe this was legal)?
8/4/82 Hans*

May I have your advice, by c.o.b. 8/4, if possible, on who should reply to the attached letter?

From

Roy Southworth

319

CHARLES TAILLET

Paris le 28 juillet 1982

DIPLÔME D'ÉTUDES SUPÉRIEURES DE DROIT PUBLIC
DE D.R. ET H.D. ET DE DROIT PRIVÉ
AVOCAT À LA COUR DE PARIS
91, BOULEVARD DE COURCELLES 75008 PARIS

363
33-47-54

Monsieur A.W. CLAUSEN
Président de la Banque Mondiale
1818 H Street N.W.
Washington D C 20433

Monsieur le Président,

Récemment à Bâle, le rapport annuel de la Banque des Règlements Internationaux (Bank of International Settlements) a évoqué le délicat problème du remboursement des dettes des Pays en voie de développement et des Pays de l'Est.

La Banque des Règlements Internationaux a préconisé pour restaurer la confiance, le rôle prédominant qui doit être attribué au Fonds Monétaire International et à la Banque Mondiale.

Nous nous permettons de vous adresser à ce sujet quelques réflexions personnelles d'une solution du problème évoqué.

L'une des préoccupations essentielles du monde financier actuel :
Comment assurer le paiement des dettes en capital et intérêts :

1°/ des Pays en voie de Développement.

2°/ de certains Pays de l'Est : Pologne, Roumanie.

La conjonction des activités de :

1/ de la Compagnie d'Assurance Mondiale composée exclusivement d'Assureurs

2/ de la Division Banque Mondiale d'Épargne et de Crédit Agricole et Artisanal de la Banque Mondiale composée exclusivement de Banquiers.

permettrait de découvrir certaine approche de solutions:

.../.....

Office of the President
Received Aug. 2, 1982

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Faint, illegible text in the middle section of the page.

Faint, illegible text in the lower middle section of the page.

Faint, illegible text in the lower section of the page.

Faint, illegible text at the bottom of the main body.

OFFICE OF THE PRESIDENT
WASHINGTON, D.C. 20503
1982

100-100000-1000

CHARLES TAILLET

Paris le 18 juillet 1982

DIPLÔME D'ÉTUDES SUPÉRIEURES DE DROIT PUBLIC

DE D.R. ET H.D. ET DE DROIT PRIVÉ

AVOCAT À LA COUR DE PARIS

91, BOULEVARD DE COURCELLES 75008 PARIS

924-47-54

L'économie de chaque pays débiteur serait soumise à la sagacité d'un Comité de Sages du Fonds Monétaire International et de la Banque Mondiale, lequel recommanderait le rachat par paliers et à des périodes à définir, de partie des dettes en capital de chacun des Pays concernés, étant entendu qu'une partie resterait à la charge du Banquier prêteur et ce, pour stimuler l'élément de responsabilité du Banquier prêteur pour l'avenir.

Le Banquier bénéficiaire de ce rachat dont les modalités de durée, de quantum (50 à 70% du principal) seraient à définir dans chaque cas et tous les autres Banquiers réalisateurs d'opérations similaires si possible, se devront de souscrire une police d'assurances auprès de la Compagnie d'Assurances Mondiale, qui jouera le rôle de Caisse de Péréquation en tenant compte d'un ou de plusieurs paramètres et notamment de celui fondamental :

$$M = \frac{\text{masse des sommes prêtées}}{\text{masse des sommes impayées.}}$$

Ce paramètre M permettrait de mesurer le montant des primes de risque à faire supporter par le Banquier (travail d'actuaire).

D'autres paramètres pourraient intervenir, notamment :

$$X = \frac{\text{masse de produits et matériaux exportés pour chaque Pays}}{\text{prix moyen des 3, 5 ou 10 dernières années.}}$$

.../.....

CHARLES TAILLET

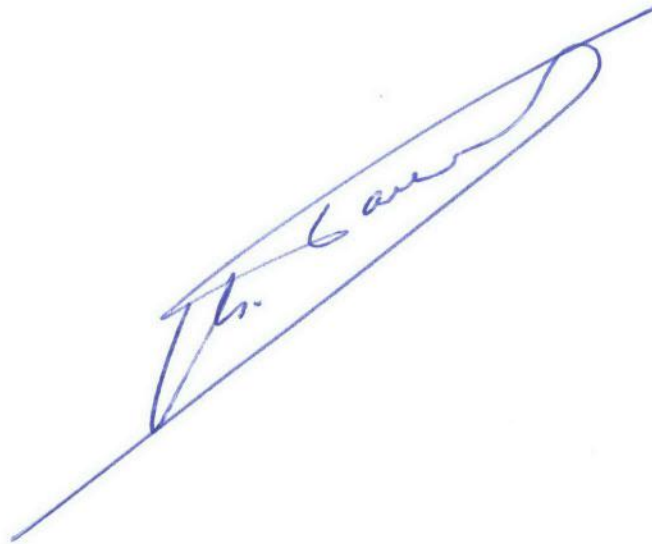
Paris le 28 juillet 1982

DIPLÔMÉ D'ÉTUDES SUPÉRIEURES DE DROIT PUBLIC
DE D.R. ET H.D. ET DE DROIT PRIVÉ
AVOCAT À LA COUR DE PARIS
91, BOULEVARD DE COURCELLES 75008 PARIS
924-47-54

Tous les 3, 5 ou 10 ans, un Comité de Sages de la Banque Mondiale et du Fonds Monétaire International déciderait de l'opportunité de la ventilation des dettes en fonction des efforts faits par chacun des Pays, notion fondamentale de responsabilité et d'équilibre, notamment de la balance des paiements pour chacun des Pays concernés.

Cette approche pourrait favoriser un meilleur développement du volume des échanges dans un climat monétaire confiant et pourrait être une des sources de résorption du chômage dans le cadre d'une économie mondiale à la fois dynamique, fluide et plus ouverte à l'ensemble des Nations.

Je vous prie de croire Monsieur le Président, à l'assurance de ma très haute considération.



original to
AWC
on 8/9/82
August 5, 1982

Mr. A. W. Clausen

Ernest Stern



Multilateral Insurance Investment Scheme

At yesterday's Operational Vice Presidents' meeting we discussed the Board paper on the Multilateral Insurance Investment Scheme. Mr. Golsong made the presentation. You should be aware of the very strong reservations expressed by the senior operational staff regarding the potential link between the proposed insurance agency and the Bank. As you know, from recent experience, expropriation issues which involve the IFC took on a special character because it is a sister agency. In the proposed insurance arrangements not only expropriations of companies with which the World Bank Group has no contact would be covered but, more importantly, the effects of governmental action or inaction on such routine matters as the issuance of import licences, conversion of currency, the issuance of visas for technical staff and many other matters would be insured. We believe there is a great risk that the Bank will be drawn into disputes on these matters even before a claim is filed if there is a link between the insurance agency and the Bank. The risk will be particularly great if the insurance agency is to be advertised to the reinsurance markets as having a special advantage because of its association with the Bank. At the time claims are filed there is a substantial risk that the Bank will be called upon to exercise its sanctions if the resolution of the claim is not handled expeditiously or satisfactorily.

There also was serious concern that the proposed coverage is so broad that it would be quite easy to be in conflict with policy recommendations that the Bank might make in the normal course of its business. For instance, important liberalisation, tariff reform, elimination of subsidies, are all matters which could adversely affect the profitability of a private investment.

The greater the success of the insurance agency in providing coverage to a wide array of investors in a broad range of countries, the greater the risk that the already thinly stretched capacity of the Bank to influence such matters will be burdened further. We believe there is a serious danger that this would adversely affect our basic purpose of an effective policy dialogue with member countries firmly based on their belief that we are neutral analysts, not advocates of any particular interest group.

ES:dpw

ROUTING SLIP		DATE: August 4, 1982
NAME		ROOM NO.
Mr. Southworth		E 1227
APPROPRIATE DISPOSITION		NOTE AND RETURN
APPROVAL		NOTE AND SEND ON
CLEARANCE		PER OUR CONVERSATION
COMMENT	<input checked="" type="checkbox"/>	PER YOUR REQUEST
FOR ACTION		PREPARE REPLY
INFORMATION		RECOMMENDATION
INITIAL		SIGNATURE
NOTE AND FILE		URGENT
REMARKS:		
<p style="text-align: center;"></p> <p>We have checked with EGCD and have found Mr. Shelp's information in para 4 of his letter to be inaccurate.</p>		
FROM: Eva L. Meigher 	ROOM NO.: N 724	EXTENSION: 61453

August 4, 1982

Dear Mr. Shelp:

Thank you for your letter of July 21, 1982, concerning the possibilities of cooperation between the private insurance industry and a multilateral agency in insuring against political risks. I appreciate your taking the time to investigate whether there are any precedents for reinsurance by a government or a governmental agency of private political risk insurance. We also have been unable to document any such precedent.

Thank you for your offer of further assistance in our explorations on multilateral investment insurance. We will certainly call on you as the need develops.

Sincerely,



A.W. Clausen

Mr. Ronald K. Shelp
Vice President and Director
American International Underwriters
70 Pine Street
New York, N.Y. 10005

ELMeigher/as

logged

3608

copy reply by 8/4/82
Copy to Mr. Delaney
7/27/82


AMERICAN INTERNATIONAL UNDERWRITERS

70 PINE STREET
NEW YORK, N.Y. 10005

RONALD K. SHELPE
VICE PRESIDENT AND DIRECTOR

July 21, 1982

The Honorable A.W. Klausen
President
The World Bank
1818 H Street, N.W.
Washington, D.C. 20006



Dear Mr. Klausen:

Forgive my tardiness in responding to your letter of a few months ago, concerning the possibilities of cooperation between the private political risk insurance sector, and the political risk insurance scheme you are developing in the World Bank.

You asked in your letter if I could let you know of any precedents for reinsurance of a private political risk guarantee by any international institution, government or agency of any government. You specifically mentioned that your understanding was that the OPIC arrangements worked the other way around, i.e., Lloyd's and others reinsure guarantees written by OPIC.

The reason for my delay in responding is that I have been trying to find answers to your question. You are quite right that in the OPIC case, although Congress has authorized OPIC to reinsure the private sector (and I presume other governmental political risk insurance institutions), they have chosen not to do so.

We have been unable to document instances of this in other countries, but it is our understanding that the EGCD, the political risk institution of the United Kingdom, does reinsure Lloyd's.

I hope this information is helpful. We are pleased to read of the progress you are making in establishing the political risk facility in the World Bank. ~~Once again, our offer to assist, if we can, stands.~~

Sincerely,

RKS:sa



Yes, let's track
it too..

Mr. Scott is
acting for
Mr. Colson
His used

Roy

For reply by 8/4



Honorable A. W. Klausen
President
The World Bank
1818 H Street, N.W.
Washington, D.C. 20006

AMERICAN INTERNATIONAL UNDERWRITERS

70 PINE STREET

NEW YORK, N.Y. 10005

RECEIVED
1982 JUL 27 PM 2:19
INCOMING MAIL UNIT


March 15, 1982

Dear Mr. Shelp:

Thank you for your letter of February 9, 1982 contributing to our ongoing reexamination of a political risk insurance program. I certainly welcome your suggestion to explore ways and means of increasing the efficiency of any pertinent program by cooperating with the private insurance sector. Since, with regard to investment insurance and investment protection, political, legal, economic and developmental interests and constraints interact in a rather subtle fashion, the ramifications of any approach must be carefully analyzed and balanced. This holds true, in particular, for the question as to what kind of cooperation with the private sector integrates best into an international framework of political risk insurance of private investment abroad.

In this context, I would be grateful if you could let me know of any precedents for reinsurance of a private political risk guarantee by any international institution, government or agency of any government. As far as I know, OPIC arrangements work the other way round: OPIC and Lloyd's reinsure guarantees written by OPIC.

Sincerely,

(Signed)  A. W. Clausen

TC

Mr. Ronald K. Shelp
Vice President and Director
American International Underwriters
70 Pine Street
New York, New York 10270

HGolsong/ses

*Copy in
work desk
file*

OFFICE MEMORANDUM

TO: Mr. A.W. Clausen

7.26.82

DATE: July 23, 1982

FROM: H. Golsong

Hf.

SUBJECT: Letter to Finance Minister Arismendi on Multilateral Investment Insurance

Attached for your signature, is a letter to Uruguayan Finance Minister Arismendi, requesting his support for the multilateral investment insurance proposal. Arismendi has engineered Uruguay's relatively liberal investment policy which has resulted in a remarkable increase of private foreign investment. His support could be of great assistance with other Latin Americans, who, as you know, have reservations about multilateral investment insurance.

Attachment

July 26, 1982

Mr. [Name]

Dear Mr. [Name]:

I am writing to you regarding the... [The text is mirrored and largely illegible due to bleed-through from the reverse side of the page.]

Sincerely,
[Signature]

RECEIVED
1982 JUL 26 AM 10:59
OFFICE OF THE PRESIDENT

July 26, 1982

Dear Mr. Minister:

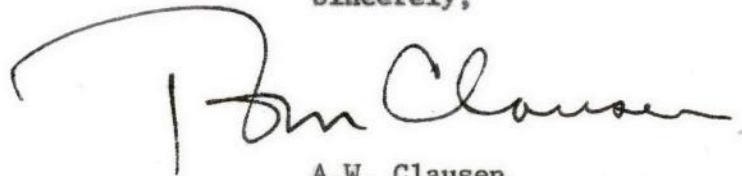
You may recall that at the last Annual Meeting of the Bank's Board of Governors, which you so ably chaired, I suggested that the idea of establishing a multilateral investment insurance mechanism should be explored. The first stage of this exploration has now been completed; the Bank staff has concluded that there appears to be a need for a multilateral investment insurance agency and that the possibility of creating such an agency should be further studied. The staff paper, which is enclosed, has been transmitted to the Executive Directors for discussion in August. I would be very interested in your reaction.

It is my hope that we will have a fruitful exchange of views on this issue at our meeting in Toronto. Your support of our effort would be especially helpful in giving it additional momentum.

I am looking forward to seeing you in September.

Warm regards.

Sincerely,



A.W. Clausen

Enclosure

His Excellency
Valentin Arismendi Elgue
Minister of Economy and Finance
Montevideo, Uruguay

JVoss/ELMeigher:as

OFFICE MEMORANDUM

*Orig to Choi per
Golsong's office
7-14-82*

TO: Mr. A.W. Clausen

7-13-82

DATE: July 12, 1982

FROM: Heribert Golsong

HG.

SUBJECT: Multilateral Investment Insurance Agency

Attached for your signature is the memorandum to the Executive Directors on a multilateral investment insurance agency which, together with the staff report, was approved by the Managing Committee for distribution to the Executive Directors. Discussion in the Board is scheduled for August 10, 1982.

Attachment

MEMORANDUM TO THE EXECUTIVE DIRECTORS

SUBJECT: Multilateral Investment Insurance Agency

At the time of the last Annual Meeting of the Bank's Board of Governors, I suggested that the possibility of creating a multilateral investment insurance mechanism should be explored. Such a mechanism could assist in mobilizing additional investment capital for the developing countries by meeting private investors' needs for reasonable security against certain non-commercial risks which could not be met by the authorities of the host country or by the national insurance schemes of the investor's home country.

The creation of such a mechanism established within the framework or under the auspices of the World Bank Group would fit into our present course of action. We have stressed the increasing importance and role of the International Finance Corporation in providing technical and financial assistance to individual entrepreneurs, enterprises, and institutions and in serving as a catalyst for private investment. We have underscored the need for more intense cooperation with commercial banks in cofinancing and participation in investment projects.

Private investment in developing countries can be a most effective agent for furthering economic development, and it is imperative that its growth be sustained. Establishing a multilateral investment insurance agency (MIIA) supplementing the efforts of governments and the private sector could be one additional factor sustaining such growth.

The staff has examined the matter and prepared a preliminary report. The report: (1) describes the factors taken into account in concluding that further discussions for the establishment of a MIIA are warranted; (2) summarizes the result of the consultations with representatives of member governments, national investment insurance agencies and the international business community; and (3) presents the key principles of a possible scheme as a vehicle for further discussions.

The discussions and consultations to date have been preliminary and informal. The next steps, to be most productive, will have to be taken on a more official basis. It is, therefore, requested that the Executive Directors take note of the report and agree that staff continue to examine, in cooperation with the Executive Directors, the feasibility of establishing a MIIA within the framework or under the auspices of the World Bank Group with a view to submitting, by April 1, 1983, formal recommendations on establishing a MIIA.

A handwritten signature in black ink, appearing to read "Ameluse". The signature is written in a cursive style with a large, stylized initial letter 'A' that loops back and crosses itself.



Record Removal Notice

File Title Clausen Papers - Multilateral Investment Guarantee Agency [MIGA] - Correspondence - Volume 1		Barcode No. 1774262		
Document Date July 9, 1982	Document Type Memorandum			
Correspondents / Participants Fr: H. Golsong To: A.W. Clausen				
Subject / Title Staff report				
Exception(s) Attorney-Client Privilege				
Additional Comments		The item(s) identified above has/have been removed in accordance with The World Bank Policy on Access to Information or other disclosure policies of the World Bank Group.		
		<table border="1"><tr><td>Withdrawn by Ann May</td><td>Date November 03, 2021</td></tr></table>	Withdrawn by Ann May	Date November 03, 2021
Withdrawn by Ann May	Date November 03, 2021			

THE WORLD BANK
Washington, D. C. 20433
U. S. A.

A. W. CLAUSEN
President

June 15, 1982

Dear Frank:

I've been tardy in responding to your note of several weeks ago--to which you attached your statement to the World Insurance Congress on the need for a multilateral investment insurance mechanism.

You are right! Our interest in this subject continues--although progress is a slow process indeed. Our Vice President and General Counsel, Heribert Golsong, has spent a good deal of his time on this matter during the last six months. I've sent a copy of your statement to him.

It's good to know that the insurance industry has a keen interest in this subject.

Warm regards.

Sincerely,

Mr. Frank A. Southard
4620 N. Park Avenue
Chevy Chase, Maryland 20815

~~W~~BC: H. Golsong with statement

AWC has complete set in his desk file



Record Removal Notice

File Title Clausen Papers - Multilateral Investment Guarantee Agency [MIGA] - Correspondence - Volume 1		Barcode No. 1774262		
Document Date April 15, 1982	Document Type Letter			
Correspondents / Participants Fr: H. Golsong To: Jerry Lewis, Member of Congress				
Subject / Title Proposed resolution				
Exception(s) Attorney-Client Privilege				
Additional Comments		The item(s) identified above has/have been removed in accordance with The World Bank Policy on Access to Information or other disclosure policies of the World Bank Group.		
		<table border="1"><tr><td>Withdrawn by Ann May</td><td>Date November 03, 2021</td></tr></table>	Withdrawn by Ann May	Date November 03, 2021
Withdrawn by Ann May	Date November 03, 2021			

THE WORLD BANK

ROUTING SLIP

Date

April 7, 1982

OFFICE OF THE PRESIDENT

Name

Room No.

Mr. Golsong

To Handle

Note and File

Appropriate Disposition

Note and Return

Approval

Prepare Reply

Comment

XX

Per Our Conversation

Full Report

Recommendation

Information

Signature

Initial

Send On

Remarks

Olivier Lafourcade

From

2727
JERRY LEWIS
37TH DISTRICT, CALIFORNIA

COMMITTEES:
APPROPRIATIONS

SUBCOMMITTEES:
AGRICULTURE AND RURAL
DEVELOPMENT
FOREIGN OPERATIONS
LEGISLATIVE BRANCH

WASHINGTON OFFICE:
ROOM 327
CANNON HOUSE OFFICE BUILDING
202-225-5861

Congress of the United States
House of Representatives
Washington, D.C. 20515

April 2, 1982

DISTRICT OFFICES:
101 SOUTH SIXTH STREET
REDLANDS, CALIFORNIA 92373
714-862-6030
714-792-5901
1750 EAST ARENAS ROAD
SUITE 5
PALM SPRINGS, CALIFORNIA 92262
714-346-0633
714-323-1837
BARSTOW, CALIFORNIA 92311
714-256-1523


Mr. A. W. Clausen
President
World Bank
1818 H Street, NW.
Washington, D.C. 20433

Dear Tom:

I have been most encouraged by recent and ongoing efforts to increase the role of the private sector in foreign economic development. We need to seek methods fostering economic growth which are not burdensome to U.S. taxpayers - development without aid some have called it. One method of which you are well aware, involves reducing the political risk to foreign investments. If implemented, such a method would do much for stimulating economic activity in developed and developing nations.

To further this goal, I am planning to introduce the attached resolution. Your comments and support would be most welcomed.

Sincerely,


Jerry Lewis
Member of Congress

JL:mg1
Enclosure

OFFICE OF THE PRESIDENT

1982 APR -2 PM 2:53

RECEIVED

JERRY LEWIS
3701 OLYMPIA, CALIFORNIA
COMMITTEE
APPROPRIATIONS
SUBCOMMITTEE
AGRICULTURE AND RURAL
DEVELOPMENT
FOREIGN OPERATIONS
LEGISLATIVE BRANCH
WASHINGTON OFFICE
ROOM 321
CANNON HOUSE OFFICE BUILDING
205-338-2991

Congress of the United States
House of Representatives
Washington, D.C. 20515

April 2, 1982

Mr. A. W. Clausen
President
World Bank
1818 H Street, NW
Washington, D.C. 20433

Dear Tom:

I have been most encouraged by recent and ongoing efforts to increase the role of the private sector in foreign economic development. We need to seek methods fostering economic growth which are not burdensome to U.S. taxpayers - development without aid some have called it. One method of which you are well aware, involves reducing the political risk to foreign investments. If implemented, such a method would do much for stimulating economic activity in developed and developing nations.

To further this goal, I am planning to introduce the attached resolution. Your comments and support would be most welcomed.

Sincerely,

Jerry Lewis
Member of Congress

JL:mrj
Enclosure

OFFICE OF THE PRESIDENT

1982 APR - 5 PM 5: 23

RECEIVED

DISTRICT OFFICE
101 SOUTH BETH STREET
REDWOOD, CALIFORNIA 95575
314-852-0330
314-782-2911
1330 EAST AVENUE ROAD
SUITE 2
PALM SPRING, CALIFORNIA 92261
314-348-0833
314-374-1933
BARSTOW, CALIFORNIA 92311
314-288-1933

____ CONGRESS
____ SESSION

H. RES.

(Original signature of Member)

IN THE HOUSE OF REPRESENTATIVES

Mr. Lewis submitted the following resolution; which was

referred to the Committee on _____

RESOLUTION

Resolved, Whereas, it is in the interest of the United States to promote a vibrant, growing world economy; and

Whereas, private foreign investment is a most positive factor in stimulating economic growth in lesser developed countries; and

Whereas firms operating in foreign lands should not be subject to unreasonable acts of investment confiscation by host governments; and

Whereas, there are no present international mechanisms for effectively dealing with investment problems nor international rules regarding appropriate investment behavior on the part of firms and host governments; and

Whereas, the United States has presented an approach to development which places heavy emphasis on the role of the private sector and is seeking to modify its foreign assistance efforts to facilitate the role of private investment; and

Whereas, in many instances United States foreign aid has been ineffective due to hostile foreign environments to private investment and initiative: Now, therefore, be it

Resolved, That it is the sense of the House that the President should seek international measures to strengthen the role of private investment in the world economy and to remove obstacles to the mobility of capital. Special consideration should be given to multilateral and bilateral treaties establishing effective investment dispute settlement mechanisms. Moreover, United States Executive Directors at the multilateral development banks and the International Monetary Fund should be instructed to oppose loans to nations which unreasonably confiscate foreign investments.

Papers on "Risk Insurance"
are w/awc in desk file

bi
mar. '82

(There is a file here ~~no~~
on "Multilateral
Investment Insurance")