

**RENEWING OPIC AND REVIEWING ITS ROLE IN
SUPPORT OF KEY U.S. OBJECTIVES**

HEARING
BEFORE THE
COMMITTEE ON
INTERNATIONAL RELATIONS
HOUSE OF REPRESENTATIVES
ONE HUNDRED EIGHTH CONGRESS

FIRST SESSION

—————
JUNE 10, 2003
—————

Serial No. 108-57

—————

Printed for the use of the Committee on International Relations



Available via the World Wide Web: http://www.house.gov/international_relations

—————
U.S. GOVERNMENT PRINTING OFFICE

87-675PDF

WASHINGTON : 2003

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512-1800; DC area (202) 512-1800
Fax: (202) 512-2250 Mail: Stop SSOP, Washington, DC 20402-0001

COMMITTEE ON INTERNATIONAL RELATIONS

HENRY J. HYDE, Illinois, *Chairman*

JAMES A. LEACH, Iowa	TOM LANTOS, California
DOUG BEREUTER, Nebraska	HOWARD L. BERMAN, California
CHRISTOPHER H. SMITH, New Jersey,	GARY L. ACKERMAN, New York
<i>Vice Chairman</i>	ENI F.H. FALEOMAVAEGA, American
DAN BURTON, Indiana	Samoa
ELTON GALLEGLY, California	DONALD M. PAYNE, New Jersey
ILEANA ROS-LEHTINEN, Florida	ROBERT MENENDEZ, New Jersey
CASS BALENGER, North Carolina	SHERROD BROWN, Ohio
DANA ROHRABACHER, California	BRAD SHERMAN, California
EDWARD R. ROYCE, California	ROBERT WEXLER, Florida
PETER T. KING, New York	ELIOT L. ENGEL, New York
STEVE CHABOT, Ohio	WILLIAM D. DELAHUNT, Massachusetts
AMO HOUGHTON, New York	GREGORY W. MEEKS, New York
JOHN M. McHUGH, New York	BARBARA LEE, California
THOMAS G. TANCREDO, Colorado	JOSEPH CROWLEY, New York
RON PAUL, Texas	JOSEPH M. HOEFFEL, Pennsylvania
NICK SMITH, Michigan	EARL BLUMENAUER, Oregon
JOSEPH R. PITTS, Pennsylvania	SHELLEY BERKLEY, Nevada
JEFF FLAKE, Arizona	GRACE F. NAPOLITANO, California
JO ANN DAVIS, Virginia	ADAM B. SCHIFF, California
MARK GREEN, Wisconsin	DIANE E. WATSON, California
JERRY WELLER, Illinois	ADAM SMITH, Washington
MIKE PENCE, Indiana	BETTY MCCOLLUM, Minnesota
THADDEUS G. McCOTTER, Michigan	CHRIS BELL, Texas
WILLIAM J. JANKLOW, South Dakota	
KATHERINE HARRIS, Florida	

THOMAS E. MOONEY, SR., *Staff Director/General Counsel*

ROBERT R. KING, *Democratic Staff Director*

FRANK RECORD, *Senior Professional Staff Member*

LIBERTY DUNN, *Staff Associate*

CONTENTS

	Page
WITNESSES	
The Honorable Peter S. Watson, President and Chief Executive Officer, U.S. Overseas Private Investment Corporation (OPIC)	3
Elizabeth J. Drake, International Policy Analyst, American Federation of Labor and Congress of Industrial Organizations (AFL-CIO)	42
Theodore H. Moran, Ph.D., Marcus Wallenberg Professor of International Business and Finance, Georgetown University	49
Bruce M. Rich, Senior Attorney and Director, International Program, Environmental Defense	58
Edmund B. Rice, appearing on behalf of the Coalition for Employment through Exports and the National Foreign Trade Council	72
LETTERS, STATEMENTS, ETC., SUBMITTED FOR THE HEARING	
The Honorable Doug Bereuter, a Representative in Congress from the State of Nebraska: Prepared statement	2
The Honorable Peter S. Watson: Prepared statement	6
Elizabeth J. Drake: Prepared statement	44
Theodore H. Moran, Ph.D.: Prepared statement	51
Bruce M. Rich: Prepared statement	60
Edmund B. Rice: Prepared statement	73
APPENDIX	
Responses from OPIC to questions submitted by Members of the Committee on International Relations	84
The Honorable Nick Smith, a Representative in Congress from the State of Michigan: Prepared statement	100
The Honorable Joseph R. Pitts, a Representative in Congress from the Commonwealth of Pennsylvania: Prepared statement	100
Malcolm S. Morris, Chairman, and Mark Edward Winter, Member of the Board of Directors, Living Water International: Prepared statement	100
Peggy A. Houlihan, President and CEO, Houlihan International L.L.C.: Letter dated June 16, 2003 to the Honorable Henry J. Hyde	101
Prepared statement	102
Unocal Corporation: Response to questions raised during the hearing by Bruce Rich	104

RENEWING OPIC AND REVIEWING ITS ROLE IN SUPPORT OF KEY U.S. OBJECTIVES

TUESDAY, JUNE 10, 2003

HOUSE OF REPRESENTATIVES,
COMMITTEE ON INTERNATIONAL RELATIONS,
Washington, DC.

The Committee met, pursuant to call, at 10:29 a.m. in Room 2172, Rayburn House Office Building, Hon. Doug Bereuter presiding.

Mr. BEREUTER. The Committee will come to order. I take great pleasure in calling to order the hearing today on the Reauthorization of the Overseas Private Investment Corporation (OPIC). Chairman Hyde and Ranking Member Lantos have been called to the White House to visit with the President about his recent trip so their absence is explained in that fashion. It has nothing to do, of course, with the importance that they place on the Overseas Private Investment Corporation.

With the assistance of two outstanding panels of witnesses, we will begin to review the important aspects of the agency's activities as we consider the reauthorization legislation. It would appear that there have been substantial changes at OPIC over the last several years under the direction of its President and CEO, Peter Watson.

We will hear in a few moments from Mr. Watson about his efforts to build greater confidence in his agency inside the Bush Administration, in the private sector, and in environmental labor and human rights communities.

Today, in many respects, this agency stands at a crossroads, rediscovering its original development mandate and in the process re-directing more of its focus toward Sub-Saharan Africa and the front-line states, such as Pakistan, Afghanistan, and shortly Iraq. It is concentrating its resources on those countries and markets where it does not displace the private risk insurance industry. It is also increasing its focus on small business as an integral part of its programs.

OPIC, as said by some, appears to be in the process of reforming its agenda. Reports received indicate it has abandoned controversial environmental projects, ensured that its private sector insurance rivals have the right of first refusal on new business opportunities, and reformed the way in which new investment funds are created, thereby better protecting the interests of the U.S. taxpayer.

Since this Committee has led in the passage of a comprehensive measure to address the HIV/AIDS pandemic, we are interested in learning whether OPIC is ready to address projects in South Afri-

ca, by leading the way for support of low-cost housing programs that will not evict those tenants who become HIV positive, the initial appraisal soundings there is very positive.

As a strong proponent of the need for economic development and foreign aid, numerous Members of this Committee have been insistent on the requirements of firm bench marks and guidelines for the evaluation of all development related programs and activities. As I understand it, OPIC will soon be able to track the impact of any given project in a timely fashion.

The Committee looks forward to a discussion of OPIC's role in the Trade Policy Coordinating Committee and as a cooperate partner in the development process. We need to examine how the agency intends to advance the corporation's core missions and the President's long-range vision of an agency that can respond quickly to global crises throughout the world.

It is my understanding that among its legislative proposals, OPIC is seeking to revise the eligibility criteria for companies to qualify for the agency's programs and assistance. This proposal should be carefully crafted, of course, so that there can be a more accurate measurements of the benefits which might accrue to workers and plants located in this country.

To the extent that OPIC remains true to its development mandate and continues to provide its services and programs at no net cost to the taxpayer, it seems likely that this agency can look forward to a continued key role in our foreign economic policy.

I ask unanimous consent that the full statement of Mr. Lantos and other Members be made a part of the record. It is my pleasure now to introduce Peter Watson. Nice to see you on this side of the Pacific.

[The prepared statement of Mr. Bereuter follows:]

PREPARED STATEMENT OF THE HONORABLE DOUG BEREUTER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEBRASKA, AND CHAIRMAN, SUBCOMMITTEE ON EUROPE

I take great pleasure in calling to order this morning our hearing on the Overseas Private Investment Corporation. Today, we will examine its overall economic development role and legislative considerations for the reauthorization of OPIC.

With the assistance of two outstanding panels of witnesses, we will begin to review the important aspects of the Corporation's activities as we consider reauthorization legislation.

It would appear that there have been substantial changes at OPIC over the past several years under the direction of its President and CEO, Peter Watson.

We will hear in a few moments from Mr. Watson about his efforts to build greater confidence in his agency inside the Bush Administration, in the private sector, and in environment, labor and human rights communities.

Today, in many respects, this agency stands at a crossroads: rediscovering its original development mandate and, in the process, redirecting more of its focus toward sub-Saharan Africa and the front-line states such as Pakistan, Afghanistan and shortly, Iraq; concentrating its resources on those countries and markets where it does not displace the private risk insurance industry; and increasing its focus on small business as an integral part of its programs.

OPIC, it is said by some, appears to be in the process of a reform agenda. Reports received indicate that it has abandoned controversial environmental projects; ensured that its private sector insurance rivals have the right of first refusal on new business opportunities; and reformed the way in which new investment funds are created, thereby better protecting the interests of the U.S. taxpayer.

Since this Committee has led in the passage of a comprehensive measure to address the HIV/AIDS pandemic, we are to learn that OPIC is ready to address projects in South Africa by leading the way for support of low-cost housing programs that will not evict those tenants who become HIV positive.

As a strong proponent of the need for economic development and foreign aid, numerous Members of this Committee have been insistent on the requirement for firm benchmarks and guidelines for the evaluation of all development-related programs and activities. As I understand it, OPIC will soon be able to track the impact of any given project on a real time basis.

The Committee looks forward to a discussion of OPIC's role in the Trade Policy Coordinating Committee and as a cooperative partner in the development process. We need to examine how the agency intends to advance the Corporation's core missions and the President's long-range vision for an agency that can respond quickly to global crises throughout the world.

It is my understanding that, among its legislative proposals, OPIC is seeking to revise the eligibility criteria for companies to qualify for the agency's programs and assistance. This proposal should be carefully crafted so that there can be a more accurate measurement of the benefits which might accrue to workers and plants located in this country.

To the extent that OPIC remains true to its development mandate and continues to provide its services and programs at no net cost to the taxpayer, it seems likely that this agency can look forward to a continued key role in our overall foreign economic policy.

Mr. WATSON. Thank you very much, Mr. Chairman.

Mr. BEREUTER. Usually it is down-under.

Mr. WATSON. Yes, sir.

Mr. BEREUTER. I am pleased to welcome you to the Committee this morning. Prior to his becoming the Chairman and President of the Overseas Private Investment Corporation, he was Counsel to Winthrop, Stimpson, Putnam and Roberts, advising on international business and trade matters and has also served as a Senior Advisor to the Armitage Associates.

Prior to joining Winthrop, Stimpson, he served as the Chairman of the International Trade Commission for 5 years. Dr. Watson is a visiting professor at St. Peter's College at Oxford University and a frequent lecturer at Georgetown University's School of Business. He is the author of several books and articles on international trade and business issues, including *The Economic Arsenal in the War Against Terrorism* (2002).

Dr. Watson, your entire statement will be made a part of the record. You may proceed in summarizing your testimony in any fashion that you choose and you are most welcome.

STATEMENT OF THE HONORABLE PETER S. WATSON, PRESIDENT AND CHIEF EXECUTIVE OFFICER, U.S. OVERSEAS PRIVATE INVESTMENT CORPORATION (OPIC)

Mr. WATSON. Thank you very much, Mr. Chairman, for that generous and undeserved introduction. I will be brief. Mr. Chairman, Members of the Committee, I am indeed pleased to appear before you today to discuss the exciting activities of the Overseas Private Investment Corporation, a number of which you have touched on, and indeed also our reauthorization proposal.

For over 30 years OPIC indeed has been the primary U.S. government agency focused on supporting private sector investment in the developing world. We do this of course by providing political risk insurance and financing where it is not otherwise available.

Indeed, in the post-September 11 world, our mission is acutely more important than ever to U.S. foreign policy. OPIC plays a key role in the development of regions where instability poses foreign policy and national security challenges to our nation. Uniquely for-

eign assistance programs do indeed accomplish this role at no net cost to the United States taxpayer.

A critical element in our success has been our effort to refocus OPIC on its historical development mission. OPIC was established to mobilize U.S. private sector investment in those countries where the need was greatest. In doing so, we seek to help U.S. business, particularly small business and to complement the private sector in mobilizing capital.

Our program is best understood by some concrete examples. In the wake of September 11, OPIC reopened its programs in Afghanistan and Pakistan. The results of our efforts to date are significant. In Afghanistan we have just approved a badly needed hotel project in Kabul, to be operated by Hyatt of Chicago, Illinois central. This will be a platform for business persons who visit that country to help their reconstruction.

This is the first significant U.S. private sector investment in Afghanistan since the fall of the Taliban. Indeed, it is the first U.S. investment in Afghanistan in nearly two generations. As you might expect, this action of tangible support was very favorably received by President Karzi when I met with him during his recent trip to Washington.

An area of renewed focus for the agency is of course Sub-Saharan Africa. Since 2001, OPIC has approved a 2-year record \$750 million in new projects for Sub-Saharan Africa and we are not finished for this year. The projects address areas of vital human need, such as housing and water. OPIC is also supporting an innovative project that ties HIV/AIDS treatment to mortgage support, helping HIV/AIDS positive South African's to keep their homes and to receive treatment.

As you might expect, Iraq is a new and central focus for our agency. OPIC's unique ability to mobilize private capital makes the agency one of our nation's most effective tools in moving beyond simple grant assistance to genuine private sector led economic development. The agency is actively reviewing its options how best to open OPIC programs in Iraq.

As mentioned, another priority for the agency is small business. I am particularly pleased to report that we have delivered on our commitment to create new opportunities for U.S. small businesses in the world's emerging markets. We have joined with the Small Business Administration to better coordinate the expertise of our two Agencies. We have since created an OPIC small business center, specifically designed to meet the needs of smaller companies on an expedited 60-day basis.

We have actively promoted this new program to get the word out to small business men and women, including visiting local chambers of commerce in nearly 100 Congressional district offices. The response has been extraordinary. To date, we have approved 26 projects and have many more in our pipeline.

A few words on an important sensitivity, that concerning the environment. During my tenure, I have worked to ensure that OPIC does not support projects that would result in environmental, labor, or U.S. job degradation. In this context, I am concerned, however, that recently there have been misleading reports that OPIC has in-

creased our support for oil and gas related projects from 12 percent of our projects in 2000 to apparently nearly 60 percent in 2002.

This report misuses simple dollar volume support, instead of examining the number of projects. Instead, OPIC concluded five extractive projects of oil and gas and mining in 2000 and only six in 2002. These types of projects were 13 percent of OPIC's total projects in 2000 and remain 13 percent in 2002 also.

But a simplistic reference to oil and gas projects obscures a real issue: Will OPIC reject these projects if they pose dangers to the environment? In this context I am please to confirm that since leading OPIC, we have rejected out-of-hand six extractive requests for OPIC assistance. We have rejected five other projects for additional environmental considerations.

Mr. Chairman, on labor standards we have worked closely in consultation with AFL-CIO to aggressively enforce international labor standards in OPIC supported projects. Our support for and on behalf of the Tico workers in Guatemala is a model for how enforcement can successfully be implemented in favor of project workers.

To help meet our environmental, labor, and human rights goals I have had the privilege to have held regular meetings with environmental groups and NGO's, some of which, my colleagues, are here with us today. I believe we are having a meeting with them later this month to discuss transparency.

While I think they will agree that we don't always share a common outcome, it is an invaluable forum to share views and seek common ground. As a result of this dialogue and unrelated to any OPIC projects, OPIC is now moving forward on two new initiatives to limit dam development in tropical forests. A new initiative on improving transparency of OPIC's environmental program is also underway.

In closing, Mr. Chairman, I just say briefly a few notes about our reauthorization proposal. First and foremost, our proposal seeks a 4-year authorization which will continue the operation of the agency's activities through September 30, 2007.

In addition, the Administration is using this opportunity to seek additional authority to facilitate and enhance accomplishment of our statutory responsibilities. Firstly, OPIC is seeking to clarify the current definition of expropriation to explicitly include acts of an entity owned or controlled by a foreign government. This change will allow OPIC to better protect U.S. businesses from the arbitrary actions of entities that are not direct actions of the government, but that are still owned or controlled by the government.

Secondly, we wish to address the need for U.S. businesses investing overseas to access both U.S. dollars and local currency to finance in-country costs. This is the so-called local currency guarantee for eligible investors. While OPIC has statutory authority to extend direct loans in local currency, OPIC is seeking clarification of its guarantee authority to provide local guarantee loans.

On the question of eligibility, Mr. Chairman, firstly we seek to update our statutory definition of who OPIC is eligible to support. I recognize that any proposal to modify eligibility can be sensitive, especially if it is not understood as in this case. The modification is needed to enable to OPIC to do battle against the ability of our

foreign counterpart agencies, such as in Germany, Canada, and Japan, to support investment on the basis of economic benefit not for the technical side of corporate registration.

Accordingly, it is acutely important to recognize what the OPIC proposal is and more importantly what it is not. Firstly and foremost, this is a pro-U.S., pro-jobs, pro-labor proposal. What we are seeking to do is to mobilize American workers, capital, technology and know-how that reside in our country, but that have been the beneficiaries of in-bound investments to the United States.

In a time of global economic uncertainty, we are all searching for ways to help American businesses. OPIC should be able to join other U.S. trade and finance agencies, such as the Advocacy Center, the Department of Commerce, and the Export-Import Bank to support a Meineke Muffler company, Chrysler workers, or Westinghouse workers. All of these groups have come to OPIC for support and all of whom we have had to turn away.

So Mr. Chairman, this is about leveling the playing field for American workers. OPIC's international competitors, DEG in Germany, NEXI in Japan, EDC in Canada, as well as others use a domestic content test, not a stock ownership test, in assessing eligibility for their programs.

In prohibiting OPIC from supporting American workers that are the beneficiaries of in-bound investment, we invite these U.S. firms to go out of the United States to these competitor agencies for support, taking with them the jobs, capital, technology, and know-how that we could have bought and had stayed in the United States.

It is also important to recognize what this proposal is not. It is not a means to provide support for foreign corporations. OPIC's founding purpose requires that the agency has a strong nexus with the United States. In creating a new connections test in our proposal, OPIC specifically seeks to tie the economic benefit of any support for these corporations directly to the United States.

We deeply appreciate the strong relationship that we at OPIC have developed with the AFL-CIO and welcome to further the dialogue with them and with this Committee and its staff in hopes of developing a balanced proposal which is consistent with benefiting U.S. workers and U.S. companies.

In closing Mr. Chairman, I want to thank you and the Committee for your consideration and support for OPIC. With Congressional approval, we will continue to be a unique and innovative force to promote the most development and responsible investments around the globe, promoting growth while safeguarding the taxpayer. Thank you and I will be pleased to answer your questions.

[The prepared statement of Mr. Watson follows:]

PREPARED STATEMENT OF THE HONORABLE PETER S. WATSON, PRESIDENT AND CHIEF EXECUTIVE OFFICER, U.S. OVERSEAS PRIVATE INVESTMENT CORPORATION (OPIC)

Mr. Chairman, Congressman Lantos and Members of the Committee, I am privileged to appear before you today to discuss the reauthorization proposal of the Overseas Private Investment Corporation (OPIC), and in so doing, to elaborate on OPIC's initiatives, activities and accomplishments that continue to make a difference around the globe.

It was under very different global conditions that Congress originally authorized OPIC programs, nearly two generations ago. Yet, OPIC's mission, "to mobilize and facilitate the participation of United States private capital and skills in the eco-

conomic and social development of less developed countries . . .” remains as relevant today as it was at OPIC’s creation.

Today, OPIC plays an uncommon and indispensable leadership role in fostering economic development and expanding global commerce, thereby promoting free market systems and democratic values worldwide. The unprecedented events of 2001 have brought a fresh relevance to our work. As a catalyst for private sector investment, OPIC continues to play a meaningful role in the development of the very regions where instability poses foreign policy and national security challenges to the nation.

OPIC IN HISTORY

For 32 years, OPIC has been the primary U.S. government agency focused on supporting private sector investment in the developing world. Through our financing, political risk insurance and investment funds programs, OPIC helps U.S. businesses to invest in more than 150 countries, promoting development, while serving important foreign policy objectives.

Over its history, the agency has built an impressive record of success. In the past 32 years, OPIC has supported \$145 billion in investment in 3,100 projects. Those projects have created an estimated 668,000 host country jobs and nearly \$11 billion in host country revenues, mobilizing capital and creating economic growth.

More importantly, OPIC’s project development also has a beneficial impact on the U.S. economy. In the last 32 years, OPIC projects have supported an estimated 254,000 U.S. jobs and generated an estimated \$64 billion in U.S. exports.

By generally charging market-based fees for its products, OPIC operates on a self-sustaining basis, at no net cost to the American taxpayer. In fact, OPIC offsets spending in the Function 150 account in the form of “net negative budget authority”. We anticipate an offset of nearly \$200 million in FY 2003. Over its history, with prudent risk management practices, OPIC has built up reserves of over \$4.4 billion. OPIC also maintains an impressive 94% recovery rate on its political risk insurance claims.

Since Congress last reauthorized the agency in 1999, OPIC has had a significant number of accomplishments. The agency has provided \$9 billion in finance and political risk insurance to help U.S. businesses grow by investing overseas. More specifically, OPIC has played a leading role in bringing private sector investment to regions in need, such as the hurricane-ravaged countries in the Caribbean and Central America, and Southeast Europe in the aftermath of the Bosnian conflict.

THE NEW AGENDA FOR SUCCESS

In view of OPIC’s distinguished record in fostering economic development abroad while strengthening the U.S. economy at home, I was honored when President George W. Bush nominated me to serve as OPIC’s eighth President and Chief Executive Officer in 2001. In the intervening 24 months, it has been my privilege to lead the agency and its impressive team of inspired and committed professionals.

When I arrived at OPIC, it was clear that we needed to sharpen our focus and better direct our resources towards fulfilling the agency’s mandate. In consultation with our stakeholders here in the Congress, and with specific guidance from the Administration, we set out on a new course, to align OPIC’s products and services in a manner that supports OPIC’s statutorily-mandated mission, while also recognizing a robust and growing private market that has developed since OPIC’s founding.

These sentiments were spelled out in President Bush’s 2001 budget guidance that stated that, “OPIC activities should focus more closely on companies and countries that cannot access private financing or insurance. These efforts should . . . make OPIC’s programs complementary, not competitive, with the private market.”

In implementing this guidance, the agency had pursued five broad goals: 1) to enhance the consciousness of OPIC’s original development mission by critically evaluating the impact of OPIC investments; 2) to complement the private market to maximize capital mobilization; 3) to redirect investment to underserved and strategically important regions; 4) to create new opportunities for small businesses; and 5) to commit to meeting basic human needs, especially housing, through public-private partnerships. In pursuing these goals, the agency has committed to maintaining OPIC’s self sustaining mandate.

I am pleased to report to you that in a very short period, the agency has created an impressive record of accomplishment in meeting these objectives. Please allow me to elaborate.

ENHANCED DEVELOPMENT MISSION

In the past, OPIC has been criticized as an agency too preoccupied with the number of transactions and amount of support provided to selected companies. In enhancing the agency's consciousness of its historical development mission, we have sought to assess the investments that OPIC ultimately supports by more than simple dollar flows.

Our goal is to ensure that OPIC's participation "adds value" by assessing the degree to which OPIC can leverage its resources for a broader economic impact, and the extent to which the project in question contributes to the economic development of the host country.

Our ability to refocus on the developmental nature of our projects is made possible in part by the growth and success of private market financing and insurance mechanisms; mechanisms that had not matured at the time of OPIC's founding. This growth allows OPIC, with its unique strengths as a government agency, to complement the private markets by working in countries in which the private sector would not otherwise participate.

The challenge in attempting this is not static. The type of investment that is effective in one country may not provide the same balance of costs and benefits as another. What works in one phase of a country's economic development may not be as effective in another's circumstances. Recognizing this, OPIC has developed measurable criteria for evaluating the development contribution of its projects as well as measuring the overall success of the agency in implementing its development mission. The development of these criteria have been a critical element in our strategy to make OPIC more relevant and more faithful to its original mission.

These new development criteria will act as an effective decision making tool that will both strengthen and simplify the process of evaluating projects by offering a structured, straightforward methodology for identifying key developmental impacts. I am pleased to report that these criteria will, for the first time, allow OPIC to evaluate the results of its projects. We see this as a promising vehicle to assess the performance of the agency, allowing future policymakers to continue to test the impact of taxpayer supported investments. OPIC intends to implement this assessment on each new project beginning on July 1, 2003.

NEW PROTOCOLS WITH THE PRIVATE SECTOR

OPIC, as a government agency, should not compete with or displace the private sector. Such a relationship serves no constructive interest—not that of the government, not that of private businesses that seeks to grow their operations internationally, and certainly not that of the taxpayer.

With the Administration's 2001 budget guidance in mind, we set out to change the relationship between OPIC and the private market by first recognizing that the private sector is in the best position to identify and respond to business opportunities and risks in developing and emerging markets. OPIC therefore needed to work in tandem with private business to leverage private sources of financing and insurance to the maximum extent possible, while functioning as a "market of last resort" for projects that private investors and insurers would not or could not support on their own—a policy of *complementarity*, if you will.

I am pleased to report that OPIC has since set up appropriate protocols with the private market to implement this new vision of cooperation. Operationally, OPIC has been able to fulfill its mission, not simply mobilizing private sector investment, but in fact, *leading* the private sector into countries and regions that, but for OPIC support, would be unable to attract foreign investment. In an environment of worldwide economic uncertainty and scarce fiscal resources here at home, our new protocols serve as an effective "force multiplier" for international investment in the neediest markets.

MOBILIZING CAPITAL FOR UNDERSERVED OR STRATEGIC NATIONS AND REGIONS

Having set up the intellectual framework for OPIC's refocused mission, the agency has been active in mobilizing capital for chronically underserved and strategic regions. In 2001 and 2002, despite heightened perceptions of risk—and in a very real sense because of them—OPIC committed \$2.8 billion in financing or insurance to 82 projects around the globe. This has included major efforts in areas of critical foreign policy interest, such as Afghanistan and Pakistan, and the investment-challenged region of sub-Saharan Africa, as well as Mexico, among others. Allow me to elaborate.

Afghanistan and Pakistan

In the wake of September 11th, OPIC re-opened its programs in Afghanistan and Pakistan, demonstrating again the critical role the agency can play in mobilizing investment for economic development in the context of our nation's national security interest.

As part of the U.S. government's commitment to the post-Taliban leadership of President Karzai, OPIC initially pledged a \$50 million line of credit to promote private sector investment in Afghanistan. In significantly fulfilling that commitment, OPIC concluded agreements yesterday in Chicago, which will provide \$40 million in OPIC financing and insurance to a consortium of U.S. investors that will construct an international hotel in Kabul, managed by Hyatt International. This project represents the largest single U.S. private investment in Afghanistan since the fall of the Taliban—indeed, the largest U.S. investment in a generation if not more. Additional projects are in the pipeline.

Additionally, OPIC has been active and successful in promoting private investment in Pakistan. OPIC and its sister agencies—the Export-Import Bank and the Trade and Development Agency—formed the first investment development mission to Pakistan in February 2002. Having pledged a \$300 million line of credit for Pakistan in October 2001, I am pleased to report to the Committee that as of today, OPIC has supported nearly \$350 million in new projects, including significant investments in financial services, power and information technology.

Sub-Saharan Africa

With the lowest level of foreign investment in the world, sub-Saharan Africa has been a top priority for OPIC under our refocused mandate. During the AGOA Forum of October 2001, OPIC pledged a \$200 million line of credit to support private sector financing and insurance in sub-Saharan Africa. Eighteen months later, I am pleased to report that OPIC has supported nearly \$750 million in new projects, more than tripling our commitment, and supporting projects that are making a real difference in their localities.

One of the most innovative projects is a \$250 million OPIC loan that will link home mortgages to HIV treatment in South Africa. More than 350,000 individual mortgages will be supported in this program, which will guaranty banks against the risk of defaulted loan payments by supporting treatment for HIV-positive homeowners. The project addresses the twin concerns of a destabilized housing finance market and the HIV pandemic.

Our first housing initiative on the African continent involves a \$15 million loan guaranty that will enable South Africa's National Urban Reconstruction and Housing Agency (NURCHA) to finance the building of 90,000 homes for low-income families. The project will provide affordable homes with potable water for up to half-million people, producing exceptional developmental benefits. All of the new homes will meet provincial and national housing standards, leading to the expansion of local electrical, water and sanitary systems. The project will also stimulate the local construction sector through expanded opportunities for smaller developers and contractors as well as training for workers.

Working with the Texas-based nonprofit Living Water International (LWI), OPIC is helping to make a clean glass of water an everyday experience for many people in Africa. A combined \$300,000 in two direct loans will allow LWI to drill dozens of wells in Ghana and Kenya, providing local communities with clean water and the better health that goes with it. LWI projects have reduced the rates of waterborne diseases by 95 percent.

OPIC is also a partner in the Nacala Port and Railway Network Initiative, which is developing the railway corridor through Malawi and Mozambique and refurbishing the port at Nacala. Once complete, the region will enjoy significant economic benefits from the project based on reduced transit costs of essential products that will pass through the corridor. It will also provide international relief organizations with an important entry point for transporting food aid to famine stricken countries in central Africa.

Mexico

Despite our geographic proximity and ongoing economic ties, the lack of a bilateral agreement with the Mexican government had prevented OPIC from offering the full range of OPIC products and services to U.S. investors seeking qualified opportunities in Mexico. Since 2001, we have been able to operate OPIC's small business direct loan program, which has successfully built confidence in the opportunities that a full-fledged bilateral agreement could provide.

All this changed yesterday when I signed an agreement in San Francisco, under the auspices of the Partnership for Prosperity, which, when ratified by the Mexican

Senate, will allow OPIC for the first time to offer its full range of programs in Mexico, further expanding our ability to mobilize U.S. private capital for the continued development of Mexico. This represents a significant step forward in OPIC's relationship with Mexico, and a tangible accomplishment in promoting our growing economic relationship.

Investment Funds Program

In addition to focusing OPIC's finance and political risk insurance programs at underserved and strategic countries and regions, OPIC's new management also retooled OPIC's third product line, its Investment Funds program, to provide additional developmental benefit.

Working with private capital, OPIC-supported funds make direct equity and equity-related investments in new, expanding and privatizing companies in emerging market economies. OPIC funds have invested in more than 380 business projects in more than 45 countries around the world, and play a critical role in providing capital, technical know-how and management assistance in important emerging markets. The funds are structured, like all OPIC programs, to be self-sustaining. Currently there are 26 OPIC supported funds with a combined committed capital of \$3.4 billion.

The Investment Funds program was initially frozen in-place in mid 2001 to allow the agency to conduct a detailed review of the portfolio and existing procedures. After consultation with our Congressional stakeholders, the program re-opened in mid-2002 with new process features designed to ensure a competitive and transparent fund-manager selection process, and with revised equity requirements that further limit U.S. government financial exposure. These are reforms that have strengthened the program and restored confidence to the process.

The first new fund created under this process, a \$210 million Russia Fund, was announced by President Bush during his visit to Russia in June 2002. Under a new "Asset Allocation Plan", OPIC plans on creating a limited number of new funds in 2003 and 2004 to meet key priorities.

As with projects considered under the Finance and Insurance programs, Investment Funds will also track and assess the developmental impact of the investments that the individual funds make, allowing decision makers to further quantify program effectiveness for the taxpayers.

Iraq

I would be remiss in closing on investments in strategic or underserved regions if I did not mention Iraq. Recognizing Iraq as a nation in need of foreign investment for economic and social development, and as a compelling foreign policy priority, OPIC stands ready to do its part to assist in Iraq's reconstruction. I believe that OPIC's unique ability to mobilize private capital by mitigating risk, makes the agency one of the nation's most effective tools in moving beyond simple grant assistance to genuine private sector led economic development.

The agency is currently reviewing its options to open OPIC programs in Iraq. As we move ahead, we will do so in close coordination with the Coalition Provisional Authority and the U.S. Congress.

GROWING SMALL BUSINESS

Moving on to small business, I am particularly pleased to report to the Committee that we have delivered on our commitment to create new opportunities for U.S. small businesses in the world's emerging markets—a sector of our economy that is a critical engine of growth. In 2002, through diligent efforts, 67 percent of approved OPIC projects were for small- and medium-sized enterprises.

Additionally, OPIC has increased its efforts to collect data on the specific U.S. companies—the suppliers—that provide goods and services to OPIC-assisted projects. Two-thirds of these identified suppliers to OPIC-backed projects around the world are U.S. small businesses.

But this was not enough.

Two important programs in 2002 provided the visible culmination of our yearlong focus on U.S. small business. First, OPIC has joined with the Small Business Administration (SBA) in an initiative that will better coordinate the capabilities and offerings of our two agencies. The agreement improves government services to U.S. small businesses by training OPIC and SBA staffs on each other's programs and promoting the regular exchange of information and leads on economic, financial and political issues, business development, and risk management.

Second, was the creation of the OPIC Small Business Center (SBC) with a Director to oversee operations. Specifically created to meet the needs of companies with revenues of less than \$35 million, the Center has streamlined its approval process

to provide small business users with a 60-day turnaround and streamlined paperwork requirements. As a result, OPIC is making it easier for small business to access OPIC programs.

The response has been strong with over 25 deals approved and more in the pipeline. These projects have included the expansion of a Caucasus airline by a U.S. small business group, helping a California company to provide a nutritional drink in Central America and helping a Florida company expand Internet security in Latin America.

With our enhanced inter-agency cooperation enshrined in the SBA Initiative, and with the newly created OPIC SBC, we hope to keep the promise of OPIC's original authorizers to support credible opportunities for U.S. small businesses in emerging markets.

MEETING BASIC HUMAN NEEDS—HOUSING & PUBLIC-PRIVATE PARTNERSHIPS

With more than a billion people around the world living in inadequate shelter, OPIC has made housing a strategic priority. A vibrant housing sector can be one of a country's primary economic engines, providing jobs and opportunities for growth—not only in the host countries, but for U.S. businesses as well. The U.S. housing sector is the world's most efficient and diversified, thus OPIC is supporting projects to leverage the unique capacity of both the U.S. housing and finance expertise to help countries around the world to meet their citizens' need for quality, affordable homes.

In addition to the housing projects referenced above in sub-Saharan Africa, OPIC's housing portfolio has grown to over \$200 million in political risk insurance and \$100 million in financing, supporting housing initiatives in Mexico, Romania, and throughout Central and South America.

IMPROVED POLICY AND ADMINISTRATION

Before turning to the substance of OPIC's reauthorization proposal, I would like to make two comments on OPIC policy and administration.

First, OPIC policy. In testimony provided to the Senate Foreign Relations Committee during my confirmation hearings in May 2001, I stated the following:

"I support OPIC's rejection of applications for projects that pose major or unreasonable hazards to the environment, health and safety. OPIC should support only environmentally responsible projects. Likewise, I support OPIC's strong standards on international labor rights and similarly support OPIC's careful screening methods to ensure that its projects do not result in a negative impact on U.S. jobs. In short, U.S. taxpayers should not be funding projects that result in environmental, labor or U.S. job degradation."

During my stewardship at OPIC over the past 24 months, I believe the agency has been faithful to this pledge. I promise the Congress today that OPIC will stay the course in supporting only those projects that meet the highest standards with regard to the environment, labor rights and U.S. effects.

Second, in developing a refocused mission for OPIC, we have made the necessary changes to OPIC's organizational structure to reflect the agency's new priorities. To demonstrate my strong commitment to OPIC's environmental, labor, worker and U.S. effects conditionalities, I created a new Investment Policy Department that fused these previously disparate policy elements within OPIC into one unit, providing leadership at the Vice President level to assure appropriate senior-level representation on critical issues.

To cement our new focus on sub-Saharan Africa, I have created the new position of Director for African Affairs, reporting directly to me. Similarly, I have created the post of Director of Housing, to oversee OPIC's expanding housing portfolio.

In making these organizational changes it is my hope to formalize OPIC's commitment to its refocused mission, and create an enduring legacy that will continue into the future.

REAUTHORIZATION PROPOSALS

Before discussing the substance of OPIC's reauthorization proposal, I would like to share with the Committee my philosophy on this reauthorization process. I have hoped to use the reauthorization process to validate OPIC's new focus and its accomplishments. I have striven to keep the promises I have made to create a different kind of OPIC, dedicated to mobilizing capital for enduring developmental goals. As the Congress considers OPIC's specific proposals, I hope that this body will be mindful of the very real progress the agency has made in a very short time to meet compelling developmental and foreign policy priorities.

With that background on OPIC's continued relevance and vital mission, I would urge the committee to favorably consider the Administration's reauthorization proposal.

First and foremost, the proposal seeks a four year authorization which will continue operation of the agency's activities through September 30, 2007.

In addition, the Administration is seeking additional authority to assist OPIC in accomplishing its statutory responsibilities.

Enhanced Investment Insurance

Currently, OPIC has statutory authority to insure against three kinds of political risk: expropriation, inconvertibility and political violence. The reauthorization proposal includes a provision that will clarify the current definition of expropriation to explicitly include acts of an entity owned or controlled by a foreign government. This change will allow OPIC to better protect U.S. businesses from the arbitrary actions of entities that are not direct agencies of the government, but that are still owned or controlled by the government.

Local Currency Guaranty for Eligible Investors

Increasingly, U.S. businesses investing overseas need access to both U.S. dollars and local currency. While OPIC has statutory authority to extend direct loans in local currency, OPIC is seeking clarification of its guaranty authority to provide local currency loan guaranties.

OPIC supported investors currently finance local costs using dollars, which increases the exchange-rate risk to the investor. To address this concern, the legislation includes a provision for OPIC to extend loan guaranties in local currencies. In countries without an adequate U.S. financial institution presence, OPIC would have the option to guaranty loans made by locally established banks, provided that these guaranties are made to projects sponsored by or significantly involving OPIC eligible investors to maintain a strong connection with the U.S. economy.

Update Eligibility

Since OPIC was established, there has been an increasing amount of inbound investment into the U.S. to support U.S. enterprises and workers. This inbound investment has had a significant, positive impact on the U.S. economy in terms of employment, taxes, and impact on the local community. However, under existing statutory guidance, OPIC cannot support these very same enterprises and their American employees in mobilizing capital, technology and know-how to fulfill our mandate. The challenge is real. Well known American enterprises and their workers are no longer eligible for OPIC support due to the nature of their ownership, changed by inbound investment.

Additionally, as many larger U.S. firms provide significant sub-contracting opportunities to U.S. small businesses, the knock-on effect of this existing prohibition is more pronounced. As previously discussed in the small business section, two-thirds of identified suppliers to OPIC-backed projects around the world are U.S. small businesses. This represents "lost" opportunities for U.S. workers and U.S. businesses.

What the legislation proposes is a modification of OPIC's eligibility language to include enterprises and financial institutions that are beneficiaries of inbound investment, *and* have at least two significant U.S. connections that provide support to a proposed project in the form of significant U.S. employees, U.S. facilities or payment of U.S. taxes. The intention is to maintain a strong nexus between the overseas investment and the US workers, technology and know-how, based in the United States, that will support it.

Agencies such as the Export-Import Bank and the Department of Commerce Advocacy Center, both define eligibility for their programs in terms other than stock ownership. Similarly, OPIC's competitors around the globe, such as NEXI in Japan and EDC in Canada, look to domestic economic benefit instead of stock ownership as the key test for eligibility.

The change in the current OPIC definition will allow the agency to reach out to a vibrant, and previously untapped and growing source of American capital, technology and know-how, to fulfill OPIC's mission, and promote economic growth and jobs, both at home and abroad. In this context, it is important to note that OPIC's existing statutory conditionalities prohibiting U.S. job loss, would remain unchanged and in force under this proposal.

CONCLUSION

Mr. Chairman, in closing, I want to thank you and the Committee for your support for OPIC. We have come a long way in a short time, building a record of accom-

plishment that implements OPIC's vital and challenging mission. With Congress's approval, we will continue to be a unique and innovative force to promote the most developmental and responsible investments around the globe, promoting growth and our national interest, while safeguarding the taxpayer.

Thank you and I would be pleased to answer your questions.

Mr. BEREUTER. Thank you very much, Dr. Watson. We will proceed under the 5-minute rule and I will recognize myself first under that rule. I appreciate very much knowing about the activities of the small business center and its reception. I hope that the House Small Business Committee has also given you an opportunity to discuss this innovation.

The eligibility criteria that you focused on last in your comments indicate it is to make us competitive with some of the foreign entities that have a similar purpose.

Mr. WATSON. Yes, sir.

Mr. BEREUTER. The language on page three of your testimony talks about the significant numbers of persons, the significant facilities, significant amount of state and local property tax, Federal tax. Does this eligibility change, or perhaps, go beyond what some of the important foreign competitors offer in terms of their eligibility criteria or is it just move us to the point where we are comparable?

Mr. WATSON. It allows us to in fact meet some of their eligibility requirements, but in fact it is still more restrictive than some of them, Mr. Chairman. We believe that this is allowing us to come to a gunfight, not with a knife but indeed to be armed and to come even-handed and to have a level playing field. We right now are disadvantaged compared to our foreign competitor Agencies.

Mr. BEREUTER. While there has to be some difference of course in the eligibility criteria of the various foreign entities, by and large is it fair to say that we are bringing ourselves up to or nearly up to the same kind of opportunity threshold?

Mr. WATSON. That is correct, sir and we will remove the discrimination against those American workers who right now are potentially losing their employment opportunities to those Agencies.

Mr. BEREUTER. Dr. Watson, I am wondering how, if at all, we go about trying to coordinate the work of OPIC with the World Bank's Multilateral Investment Guarantee Agency (MIGA). Perhaps you might want to also address how, for example, in an effort to spur redevelopment and reconstruction of Iraq, your agency is brought into counsel and cooperative discussions with other entities of the U.S. government.

Mr. WATSON. Sir, addressing first the MIGA reference, the major concern of course we all have in relation to investment in Iraq will be capacity in the financial services area and the ability to put capital into those markets.

Political risk insurance is going to be an absolute prerequisite to attracting investment in Iraq and all of us are going to have to play a role there. Ourselves, the private insurance market, AIG has already established an office in Baghdad. We are working in dialogue with them. MIGA will play an important role in terms of multilateral support, sir. It will be a combined and joint effort.

In terms of our dealings in the U.S. inter-agency process, we have extensive dialogue underway already with all of the agencies that you would expect, including those of the TPCC, which have ob-

viously included the Department of Commerce, Department of Energy, Department of State and very, very extensively with the Department of Treasury to ensure that OPIC will be able to play a significant and meaningful role in the reconstruction effort.

Mr. BEREUTER. In your testimony, and it has received some public attention, you mentioned a project in South Africa, which relates to HIV/AIDS.

Mr. WATSON. Yes, sir.

Mr. BEREUTER. I understand you have spent a considerable amount of time yourself, since you have taken your office, in Africa.

Mr. WATSON. Yes, sir.

Mr. BEREUTER. What in general is the thrust you want to bring to the agency, with respect to Sub-Saharan Africa?

Mr. WATSON. Mr. Chairman, when we inherited stewardship of OPIC we found in fact a miserable record of support in Sub-Saharan Africa. At the time that we assumed stewardship, there was a mere \$85 million committed in support to that region. We are pleased, sir, that we can report that today that amount has increased to over \$750 million to the midpoint of this year.

Our efforts are designed to assist in the basic areas of housing and water, in environmental protection, and our vision is to give that region the priority and the support that has badly been over-lacking.

My family will only too readily confirm that the President of OPIC has in fact within the last year visited the region six times in a host of disparate countries to try and ensure that we can remediate against the HIV/AIDS scourge to help build housing, to bring potable water to schools and communities, to churches and to orphanages. This is our vision, sir, and this is what we will continue to do.

Mr. BEREUTER. Thank you, President Watson.

Now I will turn to the distinguished gentleman of Massachusetts, Mr. Delahunt.

Mr. DELAHUNT. I thank the Chairman. As you have probably noted, Mr. Watson, I am here subbing for the Ranking Member, Mr. Lantos, who was called to a meeting at the White House. I really haven't had an opportunity to review your testimony; however Mr. Lantos did prepare a statement and as I read through it, I can't improve on it and would associate myself with it.

If the Chair would indulge me, I would read Mr. Lantos' statement into the record and ask you to respond to the concerns that he puts forward in his statement. So when I refer to "I," maybe I should say "we" because it does reflect some of the concerns that the minority have about OPIC.

I am a long-time supporter of OPIC's mission to mobilize and facilitate participation of U.S. private capital and skills in the economic and social development of less developed countries and I remain a supporter of this mission.

Private investment can and must play an integral role in promoting development and advancing national security. At the same time, I am concerned that OPIC's work does not always appear to support these noble goals. Since the last time this Committee met to consider the latest OPIC reauthorization 2 years ago, I have read some disturbing stories in *The New York Times*, *The Wash-*

ington Post, and elsewhere concerning OPIC's projects that have exposed American taxpayers to significant financial risk, while causing great harm to the societies that they were designed to help.

For example, OPIC apparently provided Enron with political risk coverage of around \$400 million in support of its participation in a 2.9 billion Indian power plant project. This project has been shut down since May 29, 2001 and has become one of the most monumental white elephants in the history of foreign direct investment.

OPIC initially supported another Enron project to build the Bolivia Cuiaba pipeline cutting through the dry tropical forest in Brazil. The project has opened the forest to the kind of damage environmental groups had predicted, including the poaching of old-growth trees, hunting of wild game, and the reopening of an abandoned gold mine. After the Enron fallout, OPIC canceled the loan for this pipeline project.

OPIC has reportedly moved forward in providing over 350 million in financing to Unicol for its West Sano project to drill offshore well in India, despite the fact that the project has polluted rice fields and fishing waters and is in violation of Indonesia's new environmental laws which require full citizen consultation and an environmental impact assessment on such a project.

Mr. Chairman, I am delighted that OPIC's President, Peter Watson, is here with us today and I believe that he is a leader who is committed to implementing meaningful reforms in the way OPIC does business to avoid disasters like the ones I have cited.

I am also pleased that his testimony today will stress his efforts to focus OPIC's projects in areas that will support U.S. development goals. He will highlight some showcase efforts in Pakistan, Afghanistan and other so-called front-line states, but I do remain concerned that President Watson's important initiatives so far are only a sideshow to OPIC's bread and butter work of supporting resource extraction projects such as drilling, pipe laying, mining and oil and gas exploration.

These projects may be potentially lucrative to big U.S. companies and their shareholders, but they can wreak havoc on communities and are of questionable value in helping countries to develop their economies.

I am fully aware that private investment is an inherently risky business and that OPIC can point to some outstanding successes. For that reason, I am not questioning OPIC's continued importance. Nevertheless, I am deeply concerned about OPIC's future direction based on its recent troubling past.

The Administration's proposed reauthorization legislation fails to address these concerns. It includes no legal reforms to the way that OPIC does business to insure that avoid future disasters. At the same time, the Administration seeks to provide significant new authorities to OPIC that could cost American jobs.

The Administration proposes providing OPIC with authority to allow foreign-owned enterprises to receive OPIC support, any foreign company that could receive OPIC insurance, if it could show a significant U.S. connection. I think this proposal deserves very careful scrutiny.

May I have another minute, Mr. Chairman?

Mr. BEREUTER. Is there objection? Hearing no objection, gentleman is recognized for an additional minute.

Mr. DELAHUNT. I thank the Chair. I think this proposal deserves very careful scrutiny. We need to make sure that OPIC does not get into the business of using the full faith and credit of the United States government to help foreign companies expand their operations at the expense of U.S. companies and U.S. workers.

Mr. Chairman, I want to thank you for inviting representatives here today from the environmental defense and the AFL. I know they will present a number of good ideas for us to consider as we work together to craft a reauthorization package that will help President Watson's efforts to reform OPIC. I look forward to hearing from the other witnesses.

Mr. BEREUTER. Dr. Watson, you have heard Mr. Lantos' statement as given by Mr. Delahunt. Would you like to respond in any fashion? You are welcome to do so.

Mr. WATSON. Thank you very much. Firstly, I would like to thank the Congressman and indeed the Ranking Member for the support for the goals and for the activities of the agency. I would like to obviously give some context to the points that have been raised, but it is extraordinarily pleasing at a time that this country needs an agency that can provide the support to emerging economies to know that there is broad bipartisan support for the goals and objectives of this agency. I think that is a very important objective and platform to come from.

It is obviously important that we address some of the sensitivities that have been raised. I share a number of the concerns that in fact we inherited at the agency as a result of the projects that were in fact approved by the prior Administration and our stewardship at OPIC.

Our Administration requested that the Department of Justice investigate whether or not the Enron Corporation did or did not give misleading comments to OPIC in relation to its programs. This Committee knows of course that OPIC provides project financing and not corporate financing. So therefore we in fact provided not a single dollar in support of the Enron Corporation itself.

In relation to Dubo, Mr. Chairman, that is a project that was indeed started in an earlier Administration; however, the difficulties that Dubo has created for GE, Bechtel and Enron, its third shareholder, were not created in the least by the Enron bankruptcy. On the contrary, they were created exclusively by the default of the State of Maharashtra and the unwillingness and ability of the Indian parties to bring to resolution dispute that were caused on the Indian side.

We remain optimistic that we will be able to resolve the outstanding issues, but again the default was exclusively a cause of lack of performance on the Indian side.

On Cuiaba, this Administration indeed canceled that project and we did so at the earliest possible time. I am however interested in the reference to the obviously more recent project, which this agency did approve, which is to say the West Sano project.

Mr. Chairman, we are vitally concerned to ensure that this project proceeds on the basis that respect the environment, human rights and international labor standards that our agency enforces

to the highest degree. I am not aware of the complaints that have been referred to in relation to this matter, Mr. Chairman, but I am committed to reporting to the Committee what has been registered and what we will be doing about it, but I can assure you that to the extent that there are any complaints that go to the significance of this project, we will investigate them and we will follow through on them, as we have done in other instances we can speak to later, including Guatemala.

Let me do say however that I do believe that complaints that have been registered before, with respect to West Sano do not involve our project. They involved a specifically different and earlier project that is not the part of our project itself.

In closing, I would perhaps just say that our record on rejecting extractive industries again is important. Of the 11 projects that we have rejected, since I have come in, six of those are extractive applications or extractive requests for assistance.

Mr. Chairman, I must say I am a little concerned about the suggestion that developed countries from a European extraction operate under the conceit that we are not able to support requests from parts of the world, including from black African countries, that we cannot support them in developing their natural resources.

I think we have to be very careful and I don't think anybody here would be suggesting that we have the cultural imperialism to suggest that we not allow them to develop their natural resources. We genuinely are concerned about the environment. We are genuinely concerned about government, but I think none of us would say that European nations, developed nations have the cultural imperialism to say that these countries cannot use and develop their resources.

Mr. BEREUTER. Thank you, Dr. Watson. It was a comprehensive answer or statement and a comprehensive specific response and I think we all benefitted from both.

The gentleman from Arizona, Mr. Flake, is recognized.

Mr. FLAKE. I thank the Chairman and I thank the witness. I am just wondering, has the witness read the book by Hernando Desoto called *The Mystery of Capitalism*?

Mr. WATSON. I am intimately familiar with it, sir.

Mr. FLAKE. What is your assessment of his theories, relative to the mission of OPIC? It concerns me that if we want long-term sustainable development in third-world countries, regardless of what motivations and goals we have about helping our own corporations or our own small businesses, it would seem to me that unless we are attacking the root of the problem and that is access to capital long-term, that we are fighting a losing battle. I would be interested in your response.

Mr. WATSON. Mr. Congressman, I could not agree more, not only with the premise of your statement but indeed as it pertains to the statistical work and the activities of Hernando Desoto who is probably one of the greatest and probably underrated economist that we have, and probably someone most deserving of a Nobel prize in economics that exists today.

I have had several meetings with Mr. Desoto. He ably makes the case that by reason of the fact that the property laws in many of these countries do not permit the registration of corporations, of land ownership, of stock, the sale of agricultural products results

in dead capital in these economies and it is the inability to transfer not the goods themselves but the title to these goods, which in fact in turn means that this dead capital cannot be transferred.

Hernando Desoto makes a compelling case for the fact that the poor in these countries do save and they save in amounts that in fact exceed the amount of combined private direct investment and aid several times over, even in the poorest countries, in Haiti for example, but their savings are in crops that don't have titles and land that cannot be sold, in corporations that cannot be transferred.

Therefore we have in many instances sought to in fact encourage the countries we deal with to work with Mr. Desoto and those who would respect property rights that we in fact can leverage, often multiply the value of those economies and until such time as that dead capital is unlocked, all of us will be working against the tide. I think his work needs to be better understood by all of us.

Mr. FLAKE. Just to recap his work, he has actually gone to these countries and block-by-block tried to figure out how much dead capital is actually there, capital that cannot be accessed because individuals don't have clear title to it or properly registered businesses and whatnot. He theorizes that there are some \$9 trillion in net worth in third world countries that cannot be leveraged or mortgaged or used to secure financing, simply because it is not recognized.

I would hope that we can do something to encourage more actively those governments to recognize the problem there; otherwise, I agree with you, we are fighting against the tide and fighting a losing battle. I thank the Chairman.

Mr. WATSON. Thank you, sir. If I may, just as a closing comment, observe that the President's initiative on the Millennium Challenge account in fact is designed to reward those governments that in fact put in place property rights and other rights that in fact will capture and allow those governments to in fact be rewarded with additional programs.

Mr. BEREUTER. The gentlelady from Virginia, Mrs. Davis, is recognized.

Mrs. DAVIS. Thank you, Mr. Chairman. Dr. Watson, could you tell me what the cost is for OPIC to the American taxpayer?

Mr. WATSON. Zero, ma'am. I am pleased to report to you that the United States Treasury, the taxpayers received a net payment back to them of \$250 million last year. This agency, almost since its very inception 32 years ago has operated a no net taxpayer cost to the United States taxpayer.

Mrs. DAVIS. Even in view of the loss that my colleague was talking about with the Enron project?

Mr. WATSON. Ma'am, I should make it clear. There has been no claim against us. There has been no payout that has been made by OPIC in relation to that case. I should have mentioned parenthetically, Mr. Chairman, that we have a stop-loss provision pertaining to the Enron related projects that would cap any exposure to \$250 million maximum for any and all projects, but coming to your point, ma'am, we have reserves of \$4 billion in our agency that is more than adequate to meet any claim.

In addition, by reason of the bilateral agreements that are a predicate to OPIC programs, we can claim against the governments in which countries have resulted in any loss to us. As a result of that, we in fact would get back from India whatever we had to pay as a result of losses that we would pay out.

In that context, we have a 96 percent recovery rate in our claims against our insurance policies. So it is a great story for encouraging investing. Parenthetically coming to an earlier point, it benefits the host countries more than it benefits us. The United States has created 680,000 jobs in host country governments over the years, but it has also created 254,000 in the United States. So, this is a win-win situation at no cost to the United States taxpayers, ma'am.

Mrs. DAVIS. Thank you, Dr. Watson.

Mr. WATSON. Thank you.

Mrs. DAVIS. Thank you, Mr. Chairman.

Mr. BEREUTER. Another Watson. Ambassador Watson, would you like to be recognized? You are recognized if you are.

Ms. WATSON. Thank you so much, Mr. Chair and Dr. Watson thank you for your testimony. Since I missed most of it, let me just say when you go into an area, do you work with trade offices that have already been established, and I reference California? We have several trade offices in Africa, the west coast and in South America. That is number one. Number two, how instrumental can you be when there is a problem?

We have referenced here Enron, but when they go against the country's environmental laws and so on, what role can OPIC play in their exploitation and trying to stop it? What do you do about it?

Mr. WATSON. Thank you. Congressman Watson, in addition to sharing a common last name, I know you very well because you have my wife's first name. So, it is difficult not to forget and also your distinguished service as Ambassador to Micronesia. So I know that you have in fact addressed a number of these issues and has also adopted California and I am pleased to recount and I was just in fact in San Francisco yesterday working with a number of our other agencies both in the state of California and the Federal Government who we cooperate with.

The Federal Government is the Trade Policy Coordinating Committee. We have a joint program with the Small Business Administration, using their offices nationally. We have the UCIAC's, which is the foreign commercial service offices which we also have a joint venture with, including actively working with them in California. We work with chambers of commerce. We met yesterday with one of the senior managers of the Black-American chamber of commerce in San Francisco, Mr. Jordan, who is a wonderful man. So we are very active in outreach to a number of those constituencies and communities and Hispanic chambers as well, which I know is important to you.

Coming to the question of remediation, we operate on international standards of environmental protection. We do not accept the lower standards of some of the countries we engage in. That is not to say of course that some of the projects do not develop difficulties during the time that they are in operation.

We do however have extensive rights and do operate to remediate claims and questions as they come in. We have independent monitoring, even when there is not any claims. We will and we have intervened in cases to ensure that there is a response.

That is not to say we can't be doing better. My colleagues from the environmental community, who will be testifying later I am sure will be able to identify ways that we can be doing it better, but we work with them to ensure that we are as responsive as possible to any issues as they arise, ma'am.

Ms. WATSON. If I might just mention, I have visited several of these trade offices. In fact, myself and several of my colleagues have insisted that the state of California open up trade offices in various areas. One of my biggest concerns is helping the underdevelopment community that we are in pick up the kind of skills that we would have so their businesses and those that come in can be successful and feel somewhat secure. I don't know how much OPIC does in helping with the foreign country's economic development programs and business strategies to be able to sustain and maintain should our input go away, should our companies leave. Can they pick up and carry on? What do you do in terms of orientation and training?

Mr. WATSON. Technical transfer in knowledge and training is an essential ingredient of our objective. It is not just the export of capital itself. OPIC does not believe that investment per se is developmental. It is important that the investment come with a self-sustaining ability and a renewable ability for the indigenous peoples to gain skills, knowledge, know-how, technical skills, intellectual property is being transferred and what we are doing essentially is exporting the great seed of the success of America, which is free market capitalism.

This is what is the essential ingredient of why our programs are so successful. We have invested \$174 billion in 152 countries over our history and that has created, as I mentioned before over 680,000 host country jobs and those jobs remain on the ground and they grow and expertise grows and the knowledge grows and economic pluralism grows, the free market grows.

This is the greatest export that in fact this agency can support and that is American led entrepreneurial skills, economic pluralism and growth of economic democracy and that stays in the country even when the capital rotates and returns because all of that capital has returned back to the United States. We only have I think approximately 13 billion invested now, but historically it has been about 178 billion. The skills and the infrastructure and the knowledge base is compounded throughout these economies to grow the social welfare benefits and they remain.

Ms. WATSON. In conclusion, one of my biggest concerns and I am out of time, but I would like to talk to you specifically about Micronesia.

Mr. WATSON. Thank you. I know your service there. I have been to the country a number of times and I will be pleased to do that.

Mr. BEREUTER. Thank you very much. The OPIC staff perhaps ought to look at Dr. Watson's response to the previous question from the gentlelady and put it in your orientation book for your new employees. It was excellent.

Gentleman from Pennsylvania, Mr. Pitts, is recognized.

Mr. PITTS. Thank you, Mr. Chairman. Mr. Watson, could you elaborate on what role OPIC might play in supporting efforts of countries that become eligible for participation in the proposed Millennium Challenge account?

Mr. WATSON. Certainly, sir. As this Committee is only too familiar and I won't presume to know when this markup is going to happen of the MCA, I think it is imminent, next week as I understand so we will obviously have to like all others in the Federal Government, wait to see what that mark is and what the Senate mark is and how this all comes out.

If I could say that I think speaking earlier the intention of the fund is to assist those countries who have identified and are supporting strong macroeconomic policies and anti-corruption and freedom of contract and respect of contract laws, property rights, these are all essential ingredients in a successful private market, private sector led economy.

These of course are also the elements which OPIC requires as part of our ability to be able to support those and other governments that are not going to be part of the MCA. We do not look to any type of financial input from MCA funds to assist our programs.

On the contrary however, we will be putting in place certain of our projects and programs that will by definition include MCA countries, because we operate in 154 countries. They will all be part of the OPIC eligible countries, but our projects will be in ways that will establish delivery platforms and mechanisms that MCA, if they want to whoever runs this, can slot alongside ours, can augment those and use our programs in ways to achieve the MCA goals and objectives. So that is what we will be doing, sir, but the objective is to reinforce the goal of MCA, which is economic freedom.

Mr. PITTS. Thank you. On Iraq, if you could expand a little bit more about the steps needed to open your agency's programs and what role you could play there.

Mr. WATSON. Thank you, sir. A predicate of course to OPIC being able to operate in any country is some type of authorization, generally with a preexisting government but in some instances, as in one of the eastern European situations we were able to operate on the basis of an agreement with the interim authority there.

We do need some type of statutory or executive branch approval to in fact permit us to operate and we look to our colleagues in the inter-agency process and in Congress to be able to facilitate that.

The needs in Iraq of course are immense, but you might have seen sir, a story in yesterday's *Financial Times* that indicated that they want to accelerate their ability to be able to privatize many of the resources and the functions and state assets that are under government control. This is a country that has a number of economic opportunities that were in fact captured by the former regime and I was pleased to see that there is an intention to accelerate privatizing those and getting them into the hands of the private sector.

This is exactly the role of OPIC. This is a precise environment whereby the credit worthiness of the existing regime and as it

evolves is going to be open to question. This is where we can support that credit worthiness, but it will be on the back of an economy that in fact has been very strong and which there is significant opportunity to develop.

So OPIC in fact in this context will play a vital foreign policy and national security role and be able to grow and help develop this private sector development as they go through the liberalization of their economy and we would like to do so at the earliest possible time, sir.

Mr. PITTS. Thank you, Mr. Chairman.

Mr. ROHRBACHER [presiding]. Well, as we can see we have a new Chairman in the seat here. Mr. Watson and I are old friends and thus I will refrain from my normal behavior. No. You have to wait until it is my turn. Mr. Tancredo.

Mr. TANCREDO. Thank you, Mr. Chairman. Just a question going back to your reference to the six programs, the six applications dealing with I guess the extraction industry.

Mr. WATSON. Yes, sir.

Mr. TANCREDO. Could you tell us why they were denied and if the criteria for approval is that much different for an application for some sort of an extraction project?

Mr. WATSON. Thank you very much, Mr. Congressman. As you might imagine, our agency gets a number of unsolicited requests for assistance and it is our responsibility to weed those out to make sure only responsible applications go forward, but even then we find in the application process and the processing of applications that many of them in fact don't meet our requirements and get denied during the process but some of which we stop dead in the tracks as they try and come in the door.

Now up until this point, OPIC has not been very good in making known to our stakeholders and in particular the NGO communities, what we have denied and why and this is because there has been an overly restrictive interpretation of the trade secrets act that we are going to change and we are going to be doing it in conjunction with the NGO community and putting forward the protocols in which we can in fact make available not only the information on applications that haven't been proceeded with, but also applications that are the subject of monitoring and how we respond to those issues that come up, if a project in fact is approved and as Congressman Watson said, if there is difficulties with it during its operation.

But in specific reference to your question, sir, we have in fact rejected requests for assistance and I can provide more detail with you, but for example the six extractive projects that we have rejected include a large integrated gas production and processing plant in Latin America, having significant adverse impact on critical tropical forests and biodiversity resources as well as indigenous peoples who rely on those resources for their livelihoods, that is the first.

Secondly, an oil export terminal project located in internationally protected wetland in central Asia that is an important wild fowl habitat. Thirdly, an oil pipeline through portions of the Amazon rain forest in the Andean region, where oil spills would be devastating and nonremedial.

Fourthly, coal mine in southeast Asia where lack of control over a legal mining jeopardizes efforts to implement environmental and social programs in compliance with World Bank guidelines cannot be assured. Sixthly, a mineral mine in southeast Asia that would discharge mine waste directly into the sea, contrary to international conventions and best international mining practices.

My colleagues from the NGO community will quite correctly criticize us for not getting that information out on a more timely basis and we wish to do so, sir, in the future.

Mr. TANCREDO. The information that would have allowed these people to know that you would not have had funded this?

Mr. WATSON. That is correct, sir.

Mr. TANCREDO. That is really my point.

Mr. WATSON. Yes.

Mr. TANCREDO. I am just trying to determine to what extent anyone knew on the front end that these were not going to be acceptable.

Mr. WATSON. Other than the interest that came to us, to this point just OPIC, but without breaching the trade secret's act which have criminal sanctions associated with them, I am a little sensitive about it because I will be in Leavenworth, but I think we can work around those and get the information in a generic way that can be helpful to point out how and what we have done, sir.

Mr. TANCREDO. I see. Thank you very much, Mr. Watson.

Mr. WATSON. Thank you.

Mr. TANCREDO. I have no other questions, Mr. Chairman.

Mr. ROHRBACHER. Thank you very much, Mr. Royce.

Mr. ROYCE. Thank you, Chairman. Dr. Watson, you and I have discussed this in the past and I don't dispute your good intentions. As a matter of fact, I think you are probably singularly the best individual that could be given this responsibility, but to go back to the point that John Kasich and I have made in the past about OPIC: There is a law of unintended consequences that comes into play when you have decisions like this made with some government influence in what otherwise might be a circumstance where the market itself would develop the political risk insurance in order to provide these services.

So the compelling argument you make to me, the reason I respect what you are trying to do here is you say we are going to leverage some of those reforms. We had Mr. Flakes' comment about Desoto's concept of taking those indigenous savers and creating an environment that actually assists them.

But, at the same time you say we are in 154 countries. It is hard to see how we are leveraging anything if we are in 154 countries. It means OPIC is everywhere. It is not bringing to bear the type of pressure that would create those reforms.

Secondly, other economists make the argument that, absent OPIC coming in, these countries would have to reform their own economies in order to attract outside investment. Those economic reforms would actually help the indigenous savers that live in those countries, because then they would be the beneficiaries of some of the economic reforms put into play, rather than simply a corporation from overseas.

Like Mr. Delahunt and like Mr. Lantos, I had some environmental concerns about OPIC's project, or the Enron project which OPIC backed at one time, to put a natural gas pipeline through the Bolivian and Brazilian dry tropical forest. I would make the point that at the end of the day OPIC never did transfer that 200 million to Enron. That is true. Yet, if OPIC had not agreed to the loan, the project would not have ever proceeded.

If we go back to the law of unintended consequences, the German government or the German companies offered 165 million in loans, but that support was contingent upon OPIC's pledge. So at the end of the day, we see another law of unintended consequences as Enron used the project to inflate company revenue; to hide debts and losses and enrich several top Enron executives, including Andrew Fastow. Before the project was completed, they had booked 65 million in profit from the project.

I concur. You did not make a payout, but nevertheless any time you have a situation where government in some way is involved in the marketplace, in making decisions, no matter how well intentioned and no matter how we try to reform the institution, at the end of the day we might be better served if we allowed private sector solutions, such as private sector insurance, to come forward and fill this void and thus circumvent these unintended problems that we keep stumbling over. I thought I would let you respond.

Mr. WATSON. I am not quite sure where to start, Mr. Royce, but let me just say firstly I think the concerns that you and others have shared are ones that I deeply, deeply am sensitive too and in fact, it is no accident that the President's first budget that came up to the Congress in spring of 2001 specifically mandated that this agency would in fact only assist those companies and those countries that otherwise would not attract commercial financing and commercial insurance. Again, they mandated to us that we were not to support those.

Mr. ROYCE. What reforms would be leveraged then, Dr. Watson?

Mr. WATSON. What we have done in order to enforce that, sir, is to have established a development matrix that in fact now will identify on what basis we in fact will support economic development in conjunction with the private sector, because I think as everybody is aware here we do not fund governments. We bring the private sector into markets that they wish to come into, but there is inadequate markets and there are market failures and there is risk mitigation.

You, sir, serve as the distinguished Chairman of the Africa Subcommittee. This perhaps is the classic poster child as Exhibit A in how we have moved from \$85 million at the beginning of this Administration to over \$475 million in committed projects that are private sector led, but the insurance industry and I want to talk about how we have reformed our cooperation with the insurance industry and the finance is simply not available.

As you know, capacity in financial markets and funding is simply not available in the places that we want to be. We are not active at 154 countries all at one time of course. That changes. But if you look at what we have done in Africa, mortgage facilities for HIV/AIDS people. Housing, 90,000 houses to accommodate 500,000 people. That was in conjunction with an NGO. No commercial financ-

ing was available. HIV/AIDS was done in conjunction with an NGO.

In terms of working with the insurance industry, if you were to poll them today, sir, I think that you will find that they have completely changed their view on OPIC's complimentarily to them. I will leave it to you and them and others to visit with the insurance industry, but we have established protocols that every piece of business, other than small business, first must be put to the private insurance market to contest before it can be taken up by OPIC. This is a new reform that we have, sir, in place.

Mr. ROYCE. But you would concede probably the argument that the petroleum investment we saw in Africa, in fact much of the investment we see in Africa, is not accrued to the benefit of Africans. I suspect that is because the economic reforms were not forced and so the beneficiaries are in fact people in the government. It may not be the government, but the beneficiaries are not the people in many of these countries. So you know I am swinging around here again to my bottom line point: This is again the law of unintended consequences.

Mr. WATSON. Sir, the largest investment that we have made in Sub-Saharan Africa \$250 million is in fact to the HIV/AIDS mortgage protection scheme. This will protect up to 350,000 mortgages for real men and women of Africa and the next largest investment we have made was the housing initiative in conjunction with an NGO. Five hundred thousand people over 5 years will receive housing they do not have currently.

I can't disagree that some other project's funding goes to the leadership in some areas, but we have attempted and Living Water International is here by the way, a faith-based NGO from Texas. We helped put in potable water drilling in Kenya and in Ghana. We personally opened them up in schools. I saw the children who went to these schools who have science blocks and general education, the water now goes to the communities. It goes to orphanages. It goes to hospitals.

These are real people that are being benefitted by our programs, sir and I do appreciate that in the past there was a view, it may be correctly in fact held that OPIC was the ATM for the Fortune 50. It is no accident that director of OMB was on the OPIC board in the earlier Administrations and it was he who has insisted that we move in conjunction with the directive that we received from President Bush on our budget, that we move to a development test for our support. Development matrix is going to be put into effect in all of our projects from now on, sir. So I think it is a different agency that we are dealing with now.

Mr. ROYCE. I still have my reservations, but I am glad for the reforms, Dr. Watson. I am glad you are at the helm. Thank you.

Mr. WATSON. I am sorry if I got a little impassioned there.

Mr. ROYCE. No. I think you did a good job of explaining what you are attempting to do. Thank you.

Mr. WATSON. Thank you, sir.

Mr. ROHRBACHER. Thank you very much. We now have a very active Member of our Committee, Mr. Wexler.

Mr. WEXLER. Thank you very much, Mr. Chairman. I would just like to follow Mr. Royce in the context of voicing confidence in you

being the right person for the job at this point in time. I had the opportunity of visiting OPIC a month or two ago when Mr. Seagall, Ned Seagall was one of the presidential appointees was sworn in. I have become very confident in the mission both of OPIC, but more importantly from my perspective your resolute determination to follow that mission and to make good on it.

I was wondering if you could articulate a response to some that have concerns with respect to the rights of workers in the projects that OPIC gets involved with? I think on the next panel there will be some people who will speak specifically to that, but I was hoping that you could articulate for the Committee what guidelines, what goals, what objectives and what precautions you, as the Director, will be taking to ensure that the rights of workers in the United States are not compromised and the rights of workers on the projects that you get involved with who are not American are not compromised as well?

Mr. WATSON. Thank you for your comments, Congressman Wexler. It is a privilege to serve with this agency and the professional men and women who have the mission of economic development. I thank you for your comments and support of the agency.

The statute that OPIC operates under and mandates our activities is very specific, both as to protecting U.S. employment and U.S. workers and also enforcing international labor standards, sir. OPIC and I take personally are committed to ensuring that the protection both of international labor standards and of U.S. workers is maintained.

It was something that I committed to in my confirmation and during the time that I have been at OPIC, we have taken a tremendously aggressive intervention where we have determine that there are violations of international labor standards.

We have worked extensively in conjunction with AFL-CIO, who in fact is going to be testifying here later this morning. I am sure they have got some thoughts on how we can better do what we are doing, but allow me to leave you with perhaps the poster child of what this Administration has done. Through our regular monitoring process in Guatemala, not because of their complaints that came to us but through regular monitoring we found in the Tico Corporation in Guatemala that there had been alleged abuses of voting rights and other rights of the workers in that plant.

Although our funding had been completed and although the sponsor had long time had been off the site, we required him through his subcontractors to go back and indeed through an aggressive intervention to determine what rights had been violated. We found that they had been. We mandated that they be fixed. The company did not want to do so.

We brought about a situation in the inter-agency process that they were threatened with debarment throughout the entire Federal procurement system and we had a tremendously intervention and an aggressive way of enforcing those rights. This Administration is proud to support international labor standards and will continue to be extremely diligent in that respect.

In terms of U.S. workers, we are by statute not permitted to operate at any net loss of U.S. jobs in the United States and indeed over the life of our agency, we have created over 275,000 jobs for

men and women of the work force of the United States, sir. So we take our statutory obligations extremely seriously in this regard.

Mr. WEXLER. If I may, Mr. Chairman, I have a great deal more confidence in you as an individual and your commitment to labor standards than I do the performance of this Administration in total, but in this particular context the labor community, the representatives of labor I think have come up with some fairly constructive suggestions as to how to complement with your mission the protection and enhancement of workers.

I would just respectfully suggest that as you proceed that you work as closely as possible with these representatives, because I believe they are acting in good faith and have come up with some fairly constructive proposals.

Mr. WATSON. Thank you. Just in closing, Congressman Wexler, we have enjoyed the dialogue we have had with the international representatives, AFL-CIO. President Corpeous, who sits on our board, former distinguished member of one of the unions works with us. Barbara Shayler from AFL-CIO international division is somebody who we continue to have a dialogue with and we will continue to look forward to working with AFL-CIO to ensure that we have best practices, sir.

Mr. WEXLER. Thank you very much.

Mr. ROHRABACHER. Thank you, Mr. Wexler. Now, Mr. Weller.

Mr. WELLER. Thank you, Mr. Chairman. Mr. Watson, good to have you with us this morning. I appreciate your leadership. As we have read about OPIC over the last few years, we have heard about the flop in India with Enron. We have of course heard about the problems in Bolivia and Brazil with the pipeline.

The attention is always given on major corporations that have utilized OPIC and then frankly as a Member of Congress I tend to hear more from the corporate community regarding OPIC than from others when they are advocating the importance of OPIC.

I would like to learn from you what the role small business has, particularly what role that small ventures, not the big ones, but the small ventures in the programs that you have. Have you made new initiatives? What is your focus there?

Mr. WATSON. Thank you very much, sir. First, I am going to apologize to Congressman Royce because in fact I note I admitted to specifically answer one of his questions. I don't want to take your time, sir, but Mr. Chairman may I come back and answer an Enron related question?

Mr. ROHRABACHER. Considering the number of questions that Mr. Royce asked, I think that that is acceptable.

Mr. WATSON. Thank you, sir. Because we do have a very strong mandate that we support project finance. We don't provide finance to corporate finance. That is an important distinction we need to build on.

When we assume responsibility for OPIC, it came to our attention that there had been a customer survey that had been performed before we arrived, sir. It told us something that I sort of intuitively believed: That much of the small business that attempted to use OPIC found that we were not particularly user friendly.

On the contrary, we were using the same contract forms, the huge ones for the large projects that we do for the smaller ones. Small business can't in fact do that. There is no reason that they have to be subjected to the paperwork and the bureaucracy that comes with those types of forms. It also comes with excessive legal responsibilities, legal costs, burdensome credit requirements and so as a first order of business, we removed all of the paperwork down to a very, very manageable, user friendly package.

Now in conjunction with the establishment of our small business center, we are able to process applications within a 60-day period and our small business center has exploded. It is the answer to the former charge at least that OPIC used to be the ATM for the Fortune 50. We now have a pipeline of business in the small business center that frankly is starting to prove a challenge to us to how we in fact staff that.

I am increasingly of the view that in fact we may be at the point of time in our agency that we actually have to create a separate department for our small and medium-sized business. It has grown so much. We are very, very proud of the support that we have received from the small business community, from the small business Committees of Congress and indeed in a joint partnership with the Small Business Administration. That has been a force multiplier for us in using their facilities, screening, prescreening and in conjunction with a memorandum of understanding we recently concluded with a foreign commercial service we are really now being able to provide tremendous support for the smaller businesses who are going to be able to use us.

We have had approximately 45 of those approved since we opened the program just very recently, and I understand we got more than 30 in the pipeline. It is built out beyond our wildest dreams and this will be our way of leavening the concern that we are only concerned about big business.

Mr. WELLER. So you have indicated you have had about 45 projects that you have approved?

Mr. WATSON. Yes, sir, that is correct.

Mr. WELLER. Can you give an example of some of them?

Mr. WATSON. For example, one of the ones that we are looking at is a rice production facility, to give you an idea. It is an excellent story whereby the technology is needed to improve rice production. It is an excellent one.

One that we are looking at in Afghanistan, by the way, is brick making for schools as a small business initiative. Rice drink in Central America is one that we are doing. An airline in the Caucasus we have also done under that program. It is a very successful program.

Mr. WELLER. Just a quick last question then: If you say 45 have been approved, you have 30 more in the pipeline since you began this new initiative of small business centers, overall how many projects a year do you approve on average?

Mr. WATSON. I want to be careful here. I think it is 60. What is the number of projects? Forty-five projects is what we did last year before the small business center, sir.

Mr. WELLER. Okay. So the 30 that are in the pipeline are in the new program, the new initiatives that you have?

Mr. WATSON. The goal we have is 100 per year for the small business center, but to answer your question: Yes. Those projects have in fact, the ones who have been created since the establishment of a small business center. I should mention that just because we have projects that are larger in size does not suggest that in fact small or medium enterprise don't in fact benefit from those.

In fact, of the projects that we support, 67 percent of contracts, subcontracts components do go to SME's. Subcontracting does in fact account for over two-thirds of small business benefits from OPIC.

Mr. WELLER. Thank you, Mr. Watson. Mr. Chairman, you have been generous with my time. Thank you.

Mr. ROHRABACHER. Yes. Thank you very much. Ms. Barbara Lee.

Ms. LEE. Thank you, Mr. Chairman. Hello, Dr. Watson. Good to see you again.

Mr. WATSON. Thank you very much, ma'am.

Ms. LEE. Let me ask you, and I apologize for being late with regard to the hearing, we were in a housing hearing over in Financial Services. I apologize if these questions have been asked earlier.

I wanted to hear from you with regard to a couple of issues: One is and I am just reviewing your testimony, you go into OPIC's role with regard to growing small businesses, specifically in creating credible opportunities for U.S. small businesses.

Mr. WATSON. Yes, ma'am.

Ms. LEE. I know we have talked about the issue with regard to socially and economically disadvantaged minority and women-owned small businesses. I don't believe you have the data collecting mechanisms established. I am just hoping that we can put that together, and in your next report you can tell us, out of the small business opportunities what percentage and what outreach activities have taken place, as it relates to minority and women-owned businesses.

Mr. WATSON. We are very mindful of the fact that our current data system doesn't in fact catch and capture that data, Ms. Lee. I would not, however, want the impression left that we are not responsive and sensitive to minority businesses and in fact, we believe that the small business center will become a major engine for development and growth for the small business minority community.

Courtesy of your office, we had an extremely productive meeting yesterday morning with the Black American Chambers of Commerce, Mr. Jordan. We have identified a number of ways that our agency can better serve those communities, those chambers and business people from those organizations and we are absolutely committed to doing so.

Ms. LEE. Great. Would it be possible when you reviewed the proposed recommendations to submit that to us so we can review it? I may want to see how we can incorporate some of the strategies in the reauthorizing legislation.

Mr. WATSON. I would be pleased to do so, ma'am.

Ms. LEE. Thank you very much. The other question I would like to ask you is: With regard to Sub-Saharan Africa, and I am delighted to see the increase in terms of the numbers and the dollar amounts going into financing projects, especially the HIV/AIDS ini-

tiative, how does that compare? Africa is a continent. So let me ask you: As it relates on a country specific basis, how do countries in Africa compare to countries elsewhere with regard to OPIC involvement, OPIC investment and financing?

Mr. WATSON. In terms of our programs, the best way I can describe this is, that when we assumed stewardship for OPIC there was very few programs in Sub-Saharan Africa of any significance. It just hadn't received the attention that frankly it deserved and as I mentioned earlier, we moved from a situation that we moved from \$38 million to over \$750 million in projects that directly relate to the health and the welfare of the people of Sub-Saharan Africa, HIV/AIDS mortgages, housing and water.

Ms. LEE. Is that South Africa?

Mr. WATSON. It includes South Africa, but the projects that we are involved in are throughout Sub-Saharan Africa. What we wanted to do with these programs is in fact to be able to get models going that in fact we can replicate and in fact put in other countries. It is not just big projects either.

Again, we have Living Water International, who is represented here today from Texas, who are putting in water drilling capabilities in villages in Kenya and in Ghana. We have wanted to increase our support in Sub-Saharan Africa. It was down to a very low percent, and I think right now it is still only at 6 percent.

To answer that question, I don't know how it relates to other countries, but many countries limit themselves to projects that are not self-sustaining, that don't have the ability to be replicable and that is where we think the private sector can play a very important role.

Ms. LEE. Okay. If you have the information, I would like to see a breakdown with regard to countries in Africa, countries in India and Mexico and across the world wherever you are investing.

Mr. WATSON. We certainly can provide that.

Ms. LEE. Thank you very much.

Mr. WATSON. Let me just say this: I am not satisfied with the amount that we put into Sub-Saharan Africa. It has increased significantly, but it has increased from a very low base.

Ms. LEE. Finally, Mr. Chairman, let me just ask with regard with MCA, Millennium Challenge Account, will OPIC weight in? How do you see your coordination with MCA as a strategy in terms of investment specifically on the continent of Africa?

Mr. WATSON. Certainly, ma'am. The current proposals that we have seen don't contemplate a specific role for OPIC per se, but indeed there is significant complimentary in the goals and objectives of the MCA, which is to assist good economic macro planning, a removal of corruption of transparency, respect for property rights, contract rights, rule of law.

These are all things that we support, but our portfolio will exceed, and do exceed that of the MCA countries. So we will be able to compliment and supplement MCA programs, but in fact we will operate in conjunction with them and they will be able to use our delivery systems to the extent that they would like to. It is a leveraging factor. It will be a very complimentary relationship.

Ms. LEE. Thank you, Dr. Watson.

Mr. WATSON. Thank you.

Ms. LEE. I look forward to working with you. Thank you, Mr. Chairman, very much.

Mr. ROHRBACHER. Mr. Smith.

Mr. SMITH. Mr. Watson, thank you for being here, for your enthusiasm and ability. What ventures have you had in agriculture? I guess this leads into if you can develop food resources you go a long way simply to have money and then have to pay the higher cost to bring in that food. I am interested in what projects you have had in agriculture to enhance agriculture, but also in your review of biotechnology.

Mr. WATSON. Thank you very much, Mr. Congressman. We agree that agriculture can and does play a central role, not only in feeding countries but indeed of driving economic self-sufficiency.

We have attempted to assist agricultural self-sufficiency and exports by both facilitating production of agriculture in countries that can sustain it, plus a recent example of whereby we are facilitating the transportation needs in order to get product to market, I would like to talk about it in relation to a project that we are supporting in Mozambique, Malawi and Zambia and that relates to infrastructure development.

Coming to the first part of your question, over the last 10 years OPIC has in fact supported 62 agribusiness projects totaling over \$1.3 billion in investments and some of these are extremely innovative. For example, the largest private sector employer now in Kenya is in fact a facility that we helped develop that grows fresh food and flowers that get exported from Kenya to the European markets every day. That is one of the extraordinary success stories that we have had.

I think I want to say there is over 6,000 employees that have been developed since our investment that there were no employees when it started and they are in the process of applying to us for additional capital today. But that is just one story.

Elsewhere, for example in Desoto we have insured a grain mill that produces high quality wheat flour, maize, meal and animal feed and which have improved the nutritional quality of products and employs a significant number of host country nationals.

Mr. SMITH. Part of my interest is that the day after tomorrow we are having here, and I Chair, the Research Subcommittee in Science.

Mr. WATSON. Right.

Mr. SMITH. We put language in the NSF bill that was signed last December to have grants to universities that come up with projects that work with scientists from Africa in producing the kind of biotech products that is going to be most helpful in their countries and the private sector and some investment in this area I would think goes a long way. So I just called to your attention the potentials of biotech and the importance of your people understanding the scientific information on biotech rather, than some of the emotional concerns that has been sort of spreading throughout Africa.

Mr. WATSON. Technology obviously, Mr. Congressman, potentially plays a tremendous role in being able to expand the volume and the quality of food products in that region. I noted recently the comments of President Bush when he referred to policies of our European partners that have been in fact having a negative impact

on the ability to use biotechnology to be able to ensure that African countries, in fact, can be self-sufficient and to ensure that biotechnology is available to countries in Africa is something that we strongly support and would like to be able to participate in, if there are private sector ventures that operate or wish to operate in those economies.

Mr. SMITH. One question in the last minute: Is it possible to have quantitative information in terms of how this helps the economy of the United States, your efforts? Is there anything that we can get at? Is there some problem that these investments sort of leverage a way from other potential needs?

Mr. WATSON. In fact, on the contrary, sir and yes, we do have some very, very good statistics that come from very detailed analysis of U.S. affects and benefits that accrue not only to the host countries, but indeed to the U.S. economy. Of course it is a net plus. This is a way of increasing U.S. exports, of increasing U.S. jobs and, at the same time through the private sector, assist in the development of social welfare gains in the countries that we are involved in.

As I mentioned previously, while our programs over its 32-year history has created approximately 680,000 host country jobs, at the same time it has increased the labor force and specifically generated 275,000 U.S. jobs. So we want to see this of course grow in the biotechnology area. We firmly believe there is a strong relationship and correlation between increase in technology and economic development and we support that and we would like to see it grow.

Mr. SMITH. Well, Mr. Natzios is one of our witnesses the day after tomorrow. I think we need to make sure that we do what is necessary, that is scientifically safe, both for individuals and the environment. Thank you, Mr. Chairman.

Mr. ROHRABACHER. I will take the Chairman's prerogative here. We are talking about jobs and the American interest here. How do we get jobs that are an American interest out of sending flowers from Kenya to Europe?

Mr. WATSON. It is American investors, Mr. Chairman, who made that possible and they get returns and we get returns. It was an OPIC supported investment fund, privately managed, private U.S. funds that we leveraged. We put in debt money, not U.S. taxpayer's equity money. So we facilitated an investment fund to go into Africa. They invested in this fledgling little operation out there that grew, no pun intended, grew this amazing business, employed all these Kenyans. They are spinning off the equity in that company and returning it to investors and paying back the U.S. taxpayers.

Mr. ROHRABACHER. It did help the Kenyans, and it did help the Europeans beautify their tables and it helped the investors who obviously needed the insurance and maybe those are good things, but they aren't creating U.S. jobs.

Mr. WATSON. In that case, the investment funds in fact do create a significant number of jobs in the investment community. Those companies have professionals who work for them and who manage those funds.

Mr. ROHRABACHER. Okay. Well, that is a stretch. Mr. Faleomavaega, if I pronounced it correctly this time after all of these years.

Mr. FALEOMAVAEGA. It is the same as saying Rohrabacher. Thank you, Mr. Chairman. Mr. Chairman, thank you for calling this hearing, and I certainly would like to offer my personal welcome to Dr. Watson as the Chairman and the CEO of OPIC. This gentleman, Mr. Chairman, I have known for the last 100 years and the choicest thing we always discuss is whether or not the New Zealand All Blacks are going to take the World Cup this year in Australia. That is rugby by the way, Mr. Chairman if you do not know that. I do want to thank you, Mr. Chairman, and I really want to welcome Dr. Watson for being here this afternoon.

Mr. WATSON. Thank you very much, sir.

Mr. FALEOMAVAEGA. I have always been an admirer of OPIC, but somehow after all the rhetoric and all the verbiage that comes through, I get the distinct view that OPIC is more of an elitist organization that seems to cater only to the Fortune 500 companies, but as I was going through your statement, Dr. Watson something new has developed.

The fact is, OPIC is now reaching out to U.S. small businesses and that is really, to me in my humble opinion, a very major change, it seems to me, in the direction of how OPIC has been operating for the past several years. I am very, very delighted to see this, not only as a member of the Small Business Committee, but we have always said how many years at 98 percent of America's businesses and economy is with small business and yet we do so little to assist our small businesses throughout the country. If OPIC could be that instrumental in giving assistance to our small businesses throughout our country, then by golly I am just more than happy to offer my humble vote and support of OPIC's proposed reauthorization. Of course, you will be submitting some of the new programs that the Administration is trying to develop through OPIC.

I think it is a generally known statement, or a cliché, in saying that trade policy is our foreign policy. I don't think you can separate the two. One of the concerns that I have, Dr. Watson, is how OPIC has been operating with the LDC's. These are the least developed countries, countries whose economies cannot even be guaranteed the typical commercial procedure in getting a loan or trying to do some kind of business among these countries.

I am just curious, Dr. Watson, what is OPIC's standard bearer? Can you claim with some sense of fame that you are reaching out to third world countries and developing their economies or am I in the wrong? Please share with me what OPIC's activities have been with the LDC.

Mr. WATSON. Firstly, Mr. Faleomavaega, it is a privilege to be here in Congress with you today. As a brother from the South Pacific, and having come from the region, I am very, very mindful as you know from my first time you and I met was in conjunction with The Pacific Islands Association and the Foundations of the People of the South Pacific.

That heritage, Mr. Congressman, is something that I think you know. I have brought with me too the responsibilities and the opportunities I have shared in the Federal Government. I am pleased to be able to say that, in the projects in the least developing countries in fiscal year 2002, 53 percent of the projects that OPIC has

supported in fact do take place in the least developed countries. This is a substantial increase from fiscal year 2001, which was down at 22 percent. So that is in fact more than doubled since the time that we have had stewardship of this agency, sir.

Mr. FALEOMAVAEGA. The other question that I have, Dr. Watson, is also whether or not OPIC looks at it on a case-by-case situation or do you more or less conduct our trade or foreign policy by region? One of the things that I have always had problems with, ever since becoming a Member of this Committee, this is 15 years now, the mentality here among my colleagues is that nobody wanted to be in the Asia Pacific Subcommittee. Everybody wanted to be in Europe and the Middle East.

The joke among some of the Members was, the mentality in Washington is that we are still fighting World War II in Europe. I know this for myself and as an American, I am very proud being an American whose roots are from the Asia Pacific region, the Asia Pacific region was the pits. Besides bashing the Japanese for the economic successes and all this other stuff, we were not positive in our view of this region, which by the way happens to have two-thirds of the world's population, 6 of the 10 largest armies in the world are in the Asia Pacific region, and 60 percent of the world's GNP is in the Asia Pacific region. So I was a little puzzled why there wasn't much interest other than, now we have to go through this again with those people over there?

I am not just looking at the Asia Pacific region. It is not the only one. I am just trying to raise the question here, Dr. Watson: How has OPIC has been operating? Do you have preferences or do you do it on a case-by-case basis or do you say well, we prefer Europe first as our highest priority to give assistance and then right down the pecking order, Africa being the least and the last? Then we go through this ritual all the time.

Mr. WATSON. Right.

Mr. FALEOMAVAEGA. Now ironically, it has only been in the last 3 years now that everybody wants to be in the Asia Pacific Subcommittee with the largest membership of 20 members. So the dynamics have changed. We won the cold war, thanks to President Reagan. I am curious how OPIC operates. Do you do it on the basis of need or do you do it on the basis of where the Fortune 500 companies would like to conduct business?

Mr. WATSON. Mr. Congressman, in fact it is a combination, if you will, of push-pull. The push comes in fact from companies and private sector individuals and governments who come to us and ask for our support and then there is, what I would say, the desire for us to go out and be proactive. In fact, we do have a specific division of our agency, the investment development division and economic growth, that is specifically designated with the responsibility of doing outreach.

So, it is a combination also of priorities, because when I came into this Administration, we identified five priorities for this Administration, for this OPIC. Some are regional and some are sectoral. By the way, parenthesis over the history of our agency, the Asia Pacific area is the second largest region in which we operate. It won't surprise you, in fact it is not Europe, but Central and South America, Latin America which in fact has been the largest

historically at 36 percent, which is our neighborhood. So you pretty much expect that, but so is the Asia Pacific area.

To give you an idea of how this outreach takes place, you will not be surprised that the Marshall Islands have just requested that I assist in the expansion of a fish production facility there.

Mr. FALEOMAVAEGA. At my expense, unfortunately. I have some very serious problems when it comes to the fishing treaty and I would suggest that our USDR Office has some very serious problems with our fishing.

Mr. WATSON. I don't think that I should have used that as an example.

Mr. FALEOMAVAEGA. No. That is okay. I do have very strong interests in a couple of U.S. companies who are interested in doing aquaculture related projects in the Pacific, as well as fishery projects. The question I have is that it is good that we do all this, but there is a specific region that I have a heart for and it is called Oceana.

These are least developed countries, as I had initially asked you, Dr. Watson. Is OPIC reaching out to these LDC countries whose populations are no more than 30,000 or 80,000? I mean, not even a drop in the bucket. But the fact that they make maybe \$2 million in gross, whatever we can do in giving assistance goes a long way.

Mr. WATSON. I am proud to have—

Mr. FALEOMAVAEGA. Is OPIC willing to do something like that? Or do you have to have 30 million people in that country?

Mr. WATSON. I think, Mr. Congressman, you won't be surprised, given my heredity and my former responsibilities of the National Security Council for Oceana that in fact we have had a significant outreach. We have concluded an agreement with Pilau since I assumed responsibility for OPIC. We have met on a number of occasions with the leadership of the Federated States of Micronesia, indeed with the Marshall Islands. As you would expect, I had conversations with representatives from Papua New Guinea just a week ago on a significant project that we are looking at there.

Mr. FALEOMAVAEGA. Dr. Watson, I am trying the Chairman's patience and I appreciate it. I know that you are very familiar with this area. One thing that I just want to say for the record, I am so amazed and surprised that an agency can do a 60-day turnaround when an application is submitted. This is the first time I have heard of an agency anywhere in Washington that has made this kind of a commitment, cut the paperwork, cut the paper shuffling, cut the bureaucratic maze, get to the heart of things and in 60 days you promise me you can do this. Can I please receive a package of what and how OPIC really operates? I have some very strong interest among the U.S. small businesses that want to do business.

Mr. ROHRABACHER. It takes a lot longer to get the package than to get the loan.

Mr. WATSON. I should imagine we can get you one right now.

Mr. FALEOMAVAEGA. I will even pay for the FedEx mail charge or whatever. I would really, really appreciate your help in this. I know, Mr. Chairman, my time has been way, way over beyond what your hospitality has been to me, and I really appreciate this.

Mr. Chairman, again I want to thank Dr. Watson. I am looking forward to working with you on this.

Mr. WATSON. Thank you very much, Mr. Congressman. Thank you. It is a relationship that I treasure and will continue to do so.

Mr. ROHRABACHER. For the record, this Chairman has for 6 years maneuvered to be the Chairman of the Asia Pacific Subcommittee, unsuccessfully I might add. So there has been interest.

Mr. FALCOMVAEGA. Mr. Chairman, I correct the record. My good friend here from California has always been with me in Asia Pacific and with sentimental reasons because his father was a former pilot during World War II in the Asia Pacific region. So, he has very, very strong feelings about how our country should be dealing with this important region. Not only our security, but our economic interests are very much a part of that region, and we ought not to neglect our dealings with this region. I thank the Chairman.

Mr. ROHRABACHER. All right. Thank you very much. Last but not least, now should I call you Governor or should I call you Congressman? Mr. Janklow.

Mr. JANKLOW. Try Bill. I am going to be extremely brief, Mr. Chairman. We have run way over and I won't contribute to it. When I look at your testimony, sir, on page four you talk about the first major project in Afghanistan. It is a luxury hotel. Is that the best we can do? I am not looking for a long answer, but I am just saying that doesn't look like a remarkable success story in terms of this Administration, its policies, its foreign policies, its agenda with respect to Afghanistan that we have an international hotel in Kabul.

You have a \$50 million line of credit and \$40 million of it is OPIC financing and insurance for a consortium of investors to build a Hyatt Hotel.

Mr. WATSON. Let me just say that luxury perhaps is not the word to describe this, but I know that the Chairman is very familiar with what it takes to actually get any type of business established and infrastructure established in Afghanistan.

As I said in my opening statement, Mr. Congressman, this in fact is a platform for businessmen and women and investors to be able to have the technical facilities, the support, the communications abilities, basic infrastructure that they can use as a platform to be able to go into that country. Unless you have facilities for investors and business people, they will not come into that country.

Mr. JANKLOW. I understand, but you are starting the project now. Presumably it will take about a year to build, at least a year to build, so we are talking about another year before it is operational. If we go to page five of your testimony, sir, in the Sub-Saharan Africa in one of the paragraphs you talked about \$15 million loan guarantee that finances the building of 90,000 homes.

Mr. WATSON. Yes, sir.

Mr. JANKLOW. That comes out to about \$150 a house.

Mr. WATSON. That is just the portion that we participate in, sir. We provide leverage.

Mr. JANKLOW. But has that leverage made the difference?

Mr. WATSON. It does.

Mr. JANKLOW. About \$150 a home made the difference in those 90,000 homes being built?

Mr. WATSON. I need to share and to be able to articulate that this is a revolving line of credit, sir. So what happens is that when construction is completed and our portion of the funds is returned, then those monies go back into the pool. You don't divide it. Those houses are going to be built on a 5-year timeline.

Mr. JANKLOW. All right. The way it was written it looked like it was all really one big project.

Mr. WATSON. No, sir. It is a revolving credit, sir.

Mr. JANKLOW. With respect to the wells that you drilled in Ghana and Kenya, \$300,000 project, were you really able to provide whole communities with clean water, reducing waterborne diseases by 95 percent? If you increase that a thousandfold it would only cost you \$30 million. Why don't we just do it?

Mr. WATSON. I tell you I would love to do it. I don't know if he is still here.

Mr. JANKLOW. I mean, good grief. For \$30 million, if we could reduce that much waterborne disease in that country, give people clean water, you can't have economic development without clean water, you can't have healthy kids going to school, you can't have healthy workers, why don't we just do it?

Mr. WATSON. Well, I think we should bring up to the table the Chairman of Living Water International who in fact is doing those projects and I want to tell you, that is an amazing story.

Mr. JANKLOW. I understand. I am just saying, why don't you magnify it by 1,000 percent?

Mr. WATSON. We want to do more of it.

Mr. JANKLOW. A thousand times, not 1,000 percent.

Mr. WATSON. We would do as much as they could generate. Let me just say in closing, Mr. Congressman, we are not limiting ourselves; albeit I think it is a vital installation. The hotel is in fact just one of the projects we are doing in Afghanistan. We are also doing housing in Kandahar, and also we are looking to support a brick manufacturing facility for schools as well as potentially helping establish a financial facility to help local lending in Afghanistan.

Mr. JANKLOW. Okay. The only reason I highlighted that one is because your testimony indicated it was that project and said others were in the pipeline. It didn't indicate any others were done.

Mr. WATSON. We are moving forward as much as we can, given the constraints there.

Mr. JANKLOW. Thank you. I have nothing further, Mr. Chairman.

Mr. WATSON. Thank you, sir.

Mr. ROHRABACHER. All right. I think the Chairman will take a few minutes. I think Mr. Royce's admonition, I mean he did have quite a few questions but one of his admonitions that I think we should pay close attention to is that quite often when we have a positive motive it sometimes results in unintended consequences.

For example, if we do go into many of these developing countries, which you have suggested, which you point to with pride, we have to make sure that is not resulting in less reform, because now they know they don't have to reform to get the private money. For example, to the degree that OPIC is involved but the country government decides that it doesn't have to take those measures that Hernando Desoto talked about in terms of providing title to small

businesses, to land, to cars, to whatever, we have gone the wrong way, have we not?

Mr. WATSON. Capital is a coward. As you know, Mr. Chairman, capital will not go to places that are inhospitable. It will not stay there if it is not rewarded. Capital, as one African leader said, comes one at a time and leaves in a flock.

It is amazing the effect that leveraging of our resources can grow in the private sector, but it is the private sector. We do not, as you know, give monies to governments. We have found as a direct correlation between the willingness of the private sector to work with us, directly related to whether or not in fact there is a hospitable environment that is being created to receive those monies.

Mr. ROHRABACHER. The end result has to be that the country is more hospitable or you have failed.

Mr. WATSON. That is exactly right.

Mr. ROHRABACHER. If to the degree that reform becomes less likely because they say we can actually get away with it, and I can, were in many of the countries in Africa. What relationship does democratic government and democratic institutions have to your willingness to make loans within countries?

Mr. WATSON. It is absolutely central, Mr. Chairman. Our belief is that free people and free markets go together. Obviously the experience of many continents is pluralism that grows in an ungainly way. In our country, it wasn't immediate or it wasn't clean or orderly, but we believe in free markets and free people and free enterprise and supporting those processes that reinforce each other and economic pluralism.

Mr. ROHRABACHER. Let's take Burma or some place that is demonstrably unfree. Does OPIC provide loans for projects?

Mr. WATSON. I am confident in saying we do not operate in Burma. We do not operate in Burma.

Mr. ROHRABACHER. I know you don't operate in China as well, Communist China.

Mr. WATSON. That is correct.

Mr. ROHRABACHER. So that is your policy, not to operate, not to provide money for projects that are in demonstrably unfree countries? That is not to say there is a lot of other gray areas which you can't tell how free a country is.

Mr. WATSON. I am not sure that we actually would frame it that way. If you go to the Heritage Foundation Freedom Index, for example, and we cross off those that are on that basis, many are crossed off because they in fact do violate international human rights. They do have international labor standards or other standards that would violate that, but there is a direct correlation on company's willingness and private sector's willingness to put their money into countries that have economic pluralism.

Mr. ROHRABACHER. That is true, unless the government would step forward and guarantee the loans in countries that are unfree, which the Export-Import Bank is doing, with brazen disregard I might add. In fact, they are bragging about Vietnam. Does OPIC work in Vietnam?

Mr. WATSON. We have an extraordinarily limited exposure in Vietnam.

Mr. ROHRABACHER. I would say Vietnam would be a demonstrably unfree country, wouldn't you?

Mr. WATSON. You say demonstrably marginal one in terms of OPIC support.

Mr. ROHRABACHER. Okay. About Afghanistan, I would note for the record that building the hotel in Afghanistan, as the President has suggested, is vital to getting any type of business done and it is the first big step. This Member of Congress slept in a packing crate I think the last time I was in Afghanistan, and I know that some of our business people just don't like those packing crates. It just doesn't do.

In terms of Afghanistan and Iraq, let me note this: This is why I mentioned the flowers in Kenya. The American people would expect that anything that is part of our government has something to do with bettering our country and meeting the goals of our country and our government, and it would seem to me that we should be having task forces from your organization set up, for example, for Afghanistan and Iraq to see what can be done to help rather than just sort of speeding up the process a little bit.

Mr. WATSON. Sir, let me say that we take our responsibilities very seriously, in terms of in fact being a leading edge and a leading force. Our agency, within the very short few days of the tragedy on September 11, brought together the first conclave of Afghan-Americans, of an organization I believe you sit on the board of, the Afghan-American Association. That was just one way that we brought together in OPIC. We hosted it in our agency the meetings of the business people. All of the agencies of the United States government were represented there. NGO's were also invited.

We are wanting to be as proactive as we can in those regards. So, I think we have taken some leadership in that respect. We met, even before he was elected the Minister-elect of finance of Afghanistan, before he went out of the country. My deputy, Ross Connelly and I met with him before he went out. We had several meetings with their leadership. Mr. Connelly and others have gone out to Afghanistan several times already. We met with President Kazi when he was here. We doubled the amount of support that we had initially committed to Afghanistan.

Mr. ROHRABACHER. I think that all of this is commendable. It is just a thought that having an A-team that can be dispatched, to make sure when the President makes a major step like he did in Afghanistan and Iraq, would be impressive on this end. However, what you are suggesting that you have done is impressive as well.

Mr. WATSON. Thank you, sir.

Mr. ROHRABACHER. One last note. I think water is the secret of the future. One notes that today, even in the United States, when we go out for dinner, we don't think anything about paying two dollars for a glass of water. When did that happen? Water is really important, and you have drawn our attention to an organization that is doing a fantastic job. We appreciate that you are drawing our attention to it and putting that on the record.

Let me note that in Afghanistan power is also an important element, and it has to be handled very similarly to water in that they are not going to build big dams in Afghanistan. The wells that you

dig, or are being dug by various organizations, are what is going to carry the day.

Perhaps in Afghanistan they will not be building huge electric systems with wires running halfway across the country. Perhaps solar power and many hydropower operations will be the way to go. I would hope that is the type of enterprise your organization could also be involved in.

Mr. WATSON. Renewable energy is obviously the way to go in those environments, Mr. Chairman. Let me just confirm, Ross, you have been out to there how many times? Ross has been out to Afghanistan on two separate occasions and is going back there to look at these needs. On water, let me just say, that it is a paradox. We are being criticized at our agency for being involved in extractive resources. What the heck is water? It is an extractive resource. Where do you get it out of? The ground. What do you use in the case of Living Water International? Excess oil drilling equipment.

Mr. ROHRABACHER. As long as they don't export it to the United States, it will not be a problem.

Mr. WATSON. It is just a paradox, sir, that we get criticized for that, Mr. Chairman.

Mr. ROHRABACHER. All right. Whenever anybody is trying to do a good job, they are going to get criticized. Whenever they are not trying, they are going to get criticized as well, but let me just say that I join my colleagues in wishing you the best and appreciating some of the reforms that you have brought to your job.

Mr. WATSON. Thank you, sir.

Mr. ROHRABACHER. We will be watching very closely and be as supportive as we can.

Mr. FALEOMAVAEGA. Chairman?

Mr. ROHRABACHER. Yes?

Mr. FALEOMAVAEGA. I have one more question.

Mr. ROHRABACHER. I yield the Floor.

Mr. FALEOMAVAEGA. I don't know if Dr. Watson knows. I don't know of a Member more committed to understanding and appreciating the problems associated with Afghanistan. I say this, because I was one of his followers who went all the way to Pakistan and the night before we turned in to the Consulate General's residence, I was given a 45 caliber to sleep with and he was given a shotgun.

Mr. ROHRABACHER. I slept with a shotgun.

Mr. FALEOMAVAEGA. Very useful experience. Thank you, Mr. Chairman. I felt very safe that evening. I have a question in connection also with the flowers from Kenya. There is a little problem that I have with Pakistan. As you know, your former Associate Under Secretary Armitage went to have a meeting with our friends in Pakistan. There were some very serious concerns of the Administration: Nuclear transfer of technology from Pakistan to North Korea, border crossings with India.

The fact that Pakistan is not a democratically organized country, if you put it mildly, it was a coup d'etat by the way. The last time I was in Pakistan, I met with a duly elected prime minister of Pakistan who is no longer there. I am curious how OPIC and I understand how much Pakistan has been able to help us in the 9/11, that there is no question with General Muschariff turning to us

and assisting us in that regard, but it doesn't take away the fact Pakistan is not a democratic country.

As I recall, one of the big problems that we have had even during the cold war, where we supported dictators, people who had no qualms about torturing and murdering and the atrocities that were committed by some of these dictators, there was no such thing as democracy. Things have changed and my understanding of our policy toward any coup d'etat around the world is that we don't support the given situation.

I understand that President Bush is asking for waivers in dealing with Pakistan because of Pakistan's assistance to our country in dealing with Afghanistan and that serious area of south Asia. My question to you, Dr. Watson: I notice that we are pledging \$350 million in economic assistance or loans through OPIC to do projects, and listen I know they need power, they need water like any other country, but it still doesn't take away the fact that Pakistan is not a democracy.

I know they have held elections, but highly questionable ones. I have some very serious issues to deal with.

Mr. ROHRABACHER. I understand that Pakistan is talking about a general election, and that is where all the generals get together and decide who is going to be the boss, but you may answer that.

Mr. WATSON. Thank you.

Mr. ROHRABACHER. You may answer that question.

Mr. WATSON. Mr. Congressman, what we are clearly interested in seeing in the long-term in Pakistan is representative and economic pluralism in that economy. What we have committed to doing, in fact, is principally that funding has gone to establishing a financing facility that in fact will allow the men and women, and particularly the small business men and women, because we find that in our financial support mechanisms like we are putting in place in Pakistan, 96 percent of those go to small business.

We think that if you can empower and support the growth of the private markets and private sectors that it will indeed be able to support on a broader term the values that we want, which is to say economic pluralism and the growth of democracy.

Mr. FALEOMAVAEGA. Good luck, Dr. Watson.

Mr. WATSON. That is what we want to see happen.

Mr. FALEOMAVAEGA. Thank you, Mr. Chairman.

Mr. ROHRABACHER. It is worth a try. All right. Well thank you all very much. Dr. Watson, we appreciate your testimony and wish you the best.

Mr. WATSON. Thank you.

Mr. ROHRABACHER. What we are going to do now is, I am going to recess this for 1 minute while the next panel sets up.

Mr. WATSON. Thank you. Mr. Chairman, I am not unmindful of the fact that I still need to be responsive to some points that Congressman Royce made. We are very respectful of the need to be able to demonstrate the reforms that he has pointed out. We will submit, if I may, for the record sir, respond.

Mr. ROHRABACHER. I might note it is not just for Africa. As my colleague just noted, we need to make sure that we are not just subsidizing business in dictatorships. I know that you are com-

mitted to trying to bring progress to those countries, both politically as well as economically.

Mr. WATSON. Yes, sir.

Mr. ROHRABACHER. Thank you very much.

Mr. WATSON. Thank you very much, Mr. Chairman.

Mr. ROHRABACHER. We are in recess for 1 minute.

[Recess.]

Mr. ROHRABACHER. I call this hearing to order. I want to thank the members of our panel for being with us today. I will be introducing each of you in order of your testimony, and then afterwards we will have a question and answer session for the whole panel.

I guess we will start with Ms. Drake. Elizabeth Drake is an international policy analyst in the Public Policy Department of the American Federation of Labor and Congress of Industrial Organizations, AFL-CIO. She is responsible for legal and economic aspects of trade and investment agreements. Ms. Drake, we are looking forward to hearing your testimony. If you could try to summarize it within 5 minutes and put the rest in the record, that would be very helpful. Thank you.

STATEMENT OF ELIZABETH J. DRAKE, INTERNATIONAL POLICY ANALYST, AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS (AFL-CIO)

Ms. DRAKE. Thank you, Mr. Chairman and Members of the Committee. I am here today representing the 13 million working men and women of the AFL-CIO and I will be summarizing the testimony that I submitted to the Committee.

I believe that the OPIC authorization presents the Committee and all of Congress an important opportunity to review the effectiveness of OPIC and also to try to implement some significant reforms in how OPIC operates, and I want to review just briefly what we see the role of OPIC being and some of the workers' rights and trade and jobs impact policies of OPIC and then some recommendations for reform.

First of all, as you all know it has been discussed very fully this morning, the role of OPIC is to stimulate U.S. investment in foreign countries. The theory behind this is that there is a relationship between U.S. foreign direct investment and the creation of exports and jobs in the United States and that this investment will support development.

But actually, our experience has shown that there is no automatic relationship between outbound foreign direct investment and job creation in the United States. There is no automatic relationship between outbound foreign direct investment and exports, and there is no automatic relationship between investment and development. All of these positive outcomes depend on regulation, depend on oversight, depend on monitoring to ensure that we are actually receiving the benefits that we are supposed to receive from the creation of a public institution like OPIC.

As many Members said very eloquently this morning, OPIC is not there simply to replicate or subsidize the private market, but actually to meet a public need that the private market is not meeting and our concern is that they actually are not doing so as much as they could be.

So I would like to move to the workers' rights provisions, which we think are very important. I appreciated Dr. Watson's mention this morning of his dialogue with Labor and with the AFL-CIO. We have worked with Dr. Watson and with OPIC on the issue of workers' rights and trade and job impacts and though we do also appreciate that dialogue, we do have substantive areas of disagreement and those are reflected in our testimony in more detail.

First of all, we believe that the current legal requirements on internationally recognized worker rights in the OPIC statute are inadequate. OPIC is barred from supporting investments in any country that is not taking steps to afford workers' rights. Now, this taking steps standard is actually very weak and very vague and even this standard can be waived if OPIC so decides.

In practice, we see OPIC supporting investment projects in countries with egregious workers' rights records. They have supported projects in Colombia, where one trade unionist is murdered almost every other day on average. They have supported projects in El Salvador and Guatemala where workers are not able to exercise their rights to join a union, where they are often fired and blacklisted for trying to join a union. Honduras is another country with similar problems, and they have supported projects in Swaziland and Vietnam. In Vietnam independent trade unions are illegal. In Swaziland there is a monarchy. There is not democracy and the monarchy uses their power to abridge the power of courts and parliament and to abridge the power of trade unions.

These are very serious fundamental violations of workers' rights and yet OPIC is using the full faith and credit of the U.S. government to fund projects in these countries. This is a serious concern for the labor movement.

Dr. Watson mentioned the issue of the Tico power project in Guatemala and while it is true that this is a positive example where OPIC really did step in and work to enforce workers' rights, I think this example also highlights some problems with the workers' rights conditions in OPIC financing.

First of all, in our opinion OPIC never should have been financing a project in Guatemala to begin with. Guatemala has been criticized by the ILO and has been criticized by our own State Department for failing to ensure workers can exercise their right to organize. This is not the sort of country we should be supporting foreign direct investment in.

Even though OPIC did step in and reach a settlement between the investor and the workers in this particular case, those workers who were fired for trying to join a union are now blacklisted. They cannot get other employment in Guatemala. So, the problems continue for those workers.

In addition, it appears that OPIC is actually reducing its capacity to monitor workers' rights in the future. So we may not have a success story like the Tico story in the future. First of all, OPIC is right now lowering the seniority of the labor compliance officer from a GS-12 to a GS-9. The only materials they have for reporting on labor rights compliance is a very short survey. That is completely inadequate in our estimation.

I would just like to move quickly to some of the trade and jobs impacts. Though they have legal requirements not to fund projects

that result in exports or job loss in the United States, they have been funding projects in Moldova and Russia that are specifically designed for export. They funded a project in Pakistan and the same company they financed has actually cut jobs in the United States since they started their project in Pakistan.

Our recommendations for improving OPIC's record are first of all to strengthen the binding requirements that are in OPIC statute. We have a number of specific ideas on how to do that and to improve the monitoring, this is the most important piece.

OPIC needs to have enough staff with enough authority and enough independence to constantly be self-initiating investigations to ensure that all OPIC requirements are complied with on jobs on workers' rights and on exports and imports and they should not be lowering the authority, but instead increasing it. The results of all of this monitoring should be available to the public, as other members of this panel have proposed.

Finally, I would just urge the Committee to reject proposals to allow OPIC to support investors who are foreign owned without greater conditions to ensure this is actually supporting jobs in the United States and I can address that in more detail during the question and answer period. Thank you.

[The prepared statement of Ms. Drake follows:]

PREPARED STATEMENT OF ELIZABETH J. DRAKE, INTERNATIONAL POLICY ANALYST,
AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS
(AFL-CIO)

Mr. Chairman, Congressman Lantos, Members of the Committee, I thank you for the opportunity to testify today on behalf of the thirteen million working men and women of the AFL-CIO on the reauthorization of the Overseas Private Investment Corporation. OPIC's reauthorization request presents the Committee with a critical opportunity to review OPIC's effectiveness and to make needed reforms to the laws that govern OPIC's operations.

THE ROLE OF OPIC

OPIC's mission is "to mobilize and facilitate the participation of United States private capital and skills in the economic and social development of less developed countries and areas, and countries in transition from nonmarket to market economies, thereby complementing the development assistance objectives of the United States."¹ Since OPIC's creation it has supported \$145 billion worth of investments, and during the same period the overall volume of U.S. foreign direct investment (FDI) in less developed countries has grown dramatically. But it is less clear that this investment is promoting the interests of American workers and serving the goals of sustainable economic and social development abroad.

Investment by U.S. companies abroad can support U.S. exports and jobs, but there is no automatic relationship between outbound FDI and American jobs. At present, U.S. foreign direct investment in manufacturing in developing countries is continuing to increase. Much of this increase goes to producing goods destined to be exported to the United States. Whether investors are shifting existing production or choosing to locate new production abroad, too often the result is an increase in imports greater than any linked increase in exports. In some countries, this direct correlation between increased FDI and increased net imports is glaring. Professor Kate Bronfenbrenner found that, "for every 10 percent increase in U.S. FDI in China there was a 6.3 percent increase in the level of imports from China to the U.S., with no statistically significant effect on the level of exports from the U.S. to China."²

¹See the OPIC website at <http://www.opic.gov>.

²Bronfenbrenner, Kate, "Impact of U.S.-China Trade Relations on Workers, Wages and Employment," Pilot Study Report submitted to the U.S.-China Security Review Commission/U.S. Trade Deficit Review Commission, June 30, 2001, available at <http://www.uscc.gov/bron.pdf>.

On a global level we have also seen our trade balance deteriorate as U.S. FDI has been increasing. Each year seems to bring another record-breaking trade deficit in the U.S. Last year, our trade deficit in goods reached a staggering \$484 billion—nearly five per cent of GDP—creating a drain on our economy and vulnerability in our long-term economic health.

The human cost of this unsustainable trade deficit is lost jobs. Altogether we have lost 2.5 million manufacturing jobs in this country since 1998, and we now have fewer manufacturing jobs in the U.S. than we did forty years ago. These are jobs that pay good wages and provide decent benefits. For generations these jobs have provided a ladder to the middle class for the majority of workers who lack a college education. Now these jobs are disappearing—permanently. The damage to workers, their families, and their communities is immeasurable.

American workers who have seen their jobs shipped overseas have been told that their loss is a gain for workers in developing countries, and that investment in overseas production is stimulating real economic and social development. There is no doubt that FDI has the potential to contribute to a developing country's economy by providing access to new employment, skills, and technology. But there is real reason to doubt whether the current rules regulating FDI are ensuring that these benefits actually materialize. Compared to the period from 1960 to 1980, growth in the developing world has been lower, not higher, in the period of booming trade and investment from 1980 to 2000.³ Progress on poverty reduction, health care and education in the developing world has been slower, not faster.⁴ Workers' rights continue to be violated with impunity, with profits from this abuse enriching some of the wealthiest corporations in the world. There have been few significant gains in wages and income equality in the developing world, and in fact there is some evidence that increased international competition is driving wages down, not up.⁵

A striking feature of the FDI flows to the developing world is their very uneven distribution among countries. Only five countries receive 62 percent of the developing world's inbound FDI, with China alone receiving nearly 23 percent of the total. This leaves every other developing country in the world vying desperately to compete for those FDI flows left over. All too often, this leads countries to institute "beggar-thy-neighbor" policies to attract investors. Egged on by the International Monetary Fund and the World Bank, developing countries are encouraged to "flexibilize" their labor laws, reduce market regulations, and sell off essential public services in order to compete for investment dollars. The outcome of this brutal competition is not necessarily more investment or better quality investment, but more power for international investors to pit countries against one another at the expense of workers and communities in the developing world. Some foreign investors use their newly found mobility and power to flout environmental laws, violate human rights, trample trade unions, and then pay off local governments to look the other way.

This failure to regulate private investors, both at national and international levels, leads to inefficient outcomes for developing countries and for the global economy as a whole. Respect for workers' rights, human rights, and the environment, as well as good governance and transparency, are all closely linked to successful, sustainable development strategies. If some developing countries attract investment by sacrificing these goals, then the private investment market is not meeting the needs of global development.

That is where OPIC can help to make a difference. OPIC is backed by the full faith and credit of the U.S. government, and as a public institution, OPIC's role should not be to simply replicate or subsidize the activities of private insurers, financiers and investors. The only justification for OPIC is that it fills a legitimate public need that the private market is not meeting.

To fulfill the need for high-quality, job-creating, development-enhancing foreign direct investment that is currently not being met by the private market, OPIC must set the highest possible standards for our investors. OPIC must ensure that the projects it supports are advancing the interests of American workers and promoting real economic and social development abroad. OPIC can do so by ensuring that each and every project it supports:

- 1) strengthens our trade balance and creates U.S. jobs; and

³Weisbrot, M., et al., "The Emperor Has No Growth," CEPR Briefing Paper, 2000, available at <http://www.cepr.net>.

⁴Weisbrot, M., et al., "The Scorecard on Globalization 1980–2000: Twenty Years of Diminished Progress," CEPR Briefing Paper, 2001, available at <http://www.cepr.net>.

⁵Ross, Robert J. S. and Anita Chan, "From North-South to South-South: The True Face of Global Competition," *Foreign Affairs*, September/October 2002.

- 2) contributes to sustainable and equitable development abroad based on full respect for workers' rights, human rights, and the environment.

OPIC AND WORKERS' RIGHTS

The workers' rights provisions in OPIC's current statute are inadequate to ensure that fundamental workers' rights are actually respected in all OPIC-supported projects. By law, OPIC can only support projects in countries that are "taking steps to adopt and implement laws that extend internationally recognized worker rights."⁶ This "taking steps" standard allows OPIC to support projects in countries with dismal workers' rights records, and with laws that fall far short of international standards, so long as a government can argue that some progress is being made. In addition, the condition can be waived whenever the President finds it to be in the national economic interests of the United States. In practice, OPIC has supported projects in numerous countries that have been criticized by the International Labor Organization (ILO) and the U.S. State Department for failing to uphold internationally recognized worker rights, including Colombia, El Salvador, Guatemala, Honduras, Swaziland and Vietnam. In the case of Vietnam, OPIC decided to fund projects in the country despite its own findings that there was no real right to freedom of association in the workplace, no collective bargaining, and other serious abuses.⁷

Current law also requires that OPIC include language on workers' rights in its contracts with investors, but this language is unacceptably weak. Investors must agree not to take actions to prevent workers from exercising their right to freedom of association and the right to organize and bargain collectively. But they only have to meet local legal standards on child labor and acceptable conditions of work, no matter how far below international standards the country's laws may be on these issues. In addition, investors are explicitly not held responsible for failures of the host government to guarantee workers' rights.

An OPIC-backed project at the San Jose Power Station in Guatemala demonstrates some of the weaknesses in OPIC's workers' rights conditions. The ILO has criticized Guatemala's laws and enforcement practices as inadequate to protect workers from anti-union discrimination, and has asked Guatemala to reform its laws to fully protect workers' right to organize.⁸ Guatemala has not done so, yet OPIC continues to finance projects there. In the power station project in Guatemala, the investor fired local workers who were attempting to organize a union. Absent any action on the part of the Guatemalan government, OPIC had to step in to negotiate a settlement. While OPIC played a positive role in this individual case, and a settlement was reached, the investor continues to be involved in the project and has faced no penalties in Guatemala, while the workers are now blacklisted as union organizers and cannot find other employment. The case demonstrates the problems that are bound to arise when OPIC supports projects in countries like Guatemala that have inadequate protections for workers' rights.

OPIC's intervention in the Guatemala case was the result of an intense international campaign on behalf of the Guatemalan workers. In the absence of such complaints from the ground, OPIC's procedures for verifying compliance with workers' rights conditions are woefully inadequate. For most projects the public has no way of knowing whether workers' rights are truly being respected in OPIC projects.

OPIC currently monitors compliance with workers' right conditions by asking investors to fill out a short checklist. In filling out the checklist, investors must check conditions that applied within the past year, and those conditions are simply "labor union," "collective labor agreement," "strike," "hazardous labor," whether anyone was employed under the age of 18, and the maximum hours worked per week. The information provided in this checklist is completely inadequate. There is no way OPIC can determine from this checklist whether the investor has interfered with its workers' right to organize an independent union, discriminated against union organizers, set up its own employer-dominated union to break an independent organizing drive, refused to bargain in good faith with an independent union, or fired striking workers. In addition, the information provided in the checklist is "business confidential," depriving workers and the public of any knowledge about the labor

⁶ 22 U.S.C. § 2191a. "Internationally recognized worker rights" is defined to include: the right of association; the right to organize and bargain collectively; a prohibition on the use of any form of forced or compulsory labor; a minimum age for the employment of children; and acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health.

⁷ Human Rights Watch World Report, 1999

⁸ ILO Committee of Experts on the Application of Conventions and Recommendations, Individual Observation concerning Convention No. 98, Guatemala, 2002.

conditions investors are claiming to have met. Finally, OPIC appears to be moving away from even this minimal monitoring by downgrading the one labor compliance officer position it has from a GS-12 to a GS-9, further compromising its ability to verify whether workers' rights are actually being complied with in OPIC-supported projects.

Recommendations on Workers' Rights:

- 1) The law should require OPIC to ensure that each country in which it supports projects is in full or substantial compliance with internationally recognized worker rights and the core labor standards as defined by the ILO. The "taking steps" standard in current law is simply insufficient to ensure that workers' rights will actually be respected. This condition should not be subject to waiver.
- 2) In addition, investor contracts should insure that investors comply with relevant international standards (as defined by the ILO) on freedom of association, the right to organize and bargain collectively, child labor, forced labor, and discrimination. Compliance with domestic laws that may fall far short of these international standards is not sufficient.
- 3) OPIC needs to make effective monitoring of workers' rights conditions a high priority. OPIC needs to dedicate appropriate levels of funding and expertise to the task. Compliance officers must have the ability to initiate their own investigations, make on-site visits, and conduct confidential interviews with workers and their representatives, as well as with local labor ministry officials and ILO representatives. Compliance monitoring should not have to rely on minimal self-reporting or on outside complaints.
- 4) One way to increase the effectiveness and independence of labor rights monitoring would be to establish an ombudsman's office with sufficient staff and autonomy to initiate its own investigations and report directly to the OPIC board on the results of these investigations.
- 5) Information gathered in the monitoring process, and any information on decisions taken as a result of such monitoring, should be available to workers and the public.

OPIC, TRADE AND JOBS

Currently, the OPIC statute directs OPIC to "further to the greatest degree possible . . . the balance of payments and employment objectives of the United States."⁹ OPIC is required to decline support to investments where it determines that the investment is likely to cause a significant reduction in the investor's U.S. employees or a significant reduction in employment generally.¹⁰ In addition, OPIC is directed to refuse to support any "investment subject to performance requirements which would reduce substantially the positive trade benefits likely to accrue to the United States."¹¹ There is no such explicit ban on projects not subject to performance requirements that lack positive net trade benefits. Instead, OPIC is merely directed to "consider" possible adverse trade impacts of investment projects in general.¹² Finally, OPIC is supposed to report annually on the impact of OPIC-supported production on the production of similar products in the U.S. and on jobs in the U.S.

As with the workers' rights requirements discussed above, OPIC enforcement of the jobs and trade conditions consists of a requirement that each investor fill out a short form stating whether or not it has laid off any employees as a result of its OPIC project and listing in which countries its products have been sold. These "business confidential" forms are completely inadequate for ensuring that OPIC projects do not worsen our trade balance or cost U.S. jobs. In fact, even a quick glance at some of the projects listed in OPIC's 2002 annual report raises a number of concerns:

- When discussing a walnut and dried fruit processing plant project in Moldova that received \$675,000 in OPIC insurance, the OPIC annual report boasts, "Among Europe's largest producers of walnuts, Moldova exports both a commercially important product and the fruits of a free market."

⁹ 22 U.S.C. § 2191(h)

¹⁰ 22 U.S.C. § 2191(k) and (l)

¹¹ 22 U.S.C. § 2191(m)

¹² 22 U.S.C. § 2197(k)

- OPIC provided \$777,600 in political risk insurance to an optical components manufacturing facility in Russia, stating that OPIC coverage, “will increase output and quality control of the lenses, domes, prisms, polarizers, and wave plates it produces for markets around the world.”
- OPIC also provided up to \$7 million in political risk insurance to Avaz Networks, Inc. for a facility in Pakistan producing “embedded voice and data solutions for telecommunications equipment manufacturers.” Though the annual report did not brag explicitly about exports in this case, it turns out that the same company has recently laid off about half of its workers and now maintains only ten workers in the U.S. and forty in Pakistan.¹³

The annual report gives no hint of the potential trade impacts of the many projects OPIC supports indirectly through guarantees provided to private financial institutions such as Citibank and Wachovia and through its privately managed investment funds.

Unfortunately, rather than working to address these deficiencies, it appears that OPIC wants to step even further away from its responsibility to support U.S. exports and American jobs. In its authorization request for this year, the administration has proposed loosening the laws governing OPIC to allow foreign-owned investors to receive OPIC support. Under this proposal, OPIC would be allowed to support a foreign investor as long as the investor could show it has “significant U.S. connections” in support of the OPIC-backed project. These “connections” could be U.S. jobs, but they do not have to be. A foreign-owned company could also receive OPIC support if it showed connections such as physical facilities in the U.S. or the payment of state or federal taxes. Under this proposal, a German company could receive OPIC financing for a project in Asia, and any exports to support that project in Asia could be sourced in Germany, or anywhere else in the multinational company’s global operations, just as long as the company maintained some physical facility or paid some taxes in the U.S.

This loophole is so huge that it would completely undermine one of the few justifications for OPIC’s existence: to help U.S. companies support U.S. jobs by exporting U.S. goods to their overseas investments. Instead, OPIC would be using the leverage of the U.S. government and the backing of the U.S. taxpayer to help foreign companies create jobs wherever they wanted to around the world. This proposal is completely unacceptable, and must be rejected outright.

Dr. Theodore Moran has made similar proposals in his writings on OPIC for the Institute for International Economics. In addition to weakening U.S. ownership requirements for OPIC-eligible investors, he has also proposed weakening the jobs and trade impact tests in OPIC’s statutes. In their place, he proposes a “net effects” test, which would allow OPIC to support a project as long as it determined that the U.S. economy would be better off overall if the investment project went forward than it would be if the investment project did not take place. This test is so vague that it is sure to be subject to abuse and inaccuracy. Would OPIC be allowed to justify a project that harms our trade balance and costs jobs as long as it claims the project will increase U.S. “competitiveness” or make a firm more efficient or profitable? What would OPIC do if its predictions of net effects turned out to be wrong? Just look at the thousands of jobs that economists predicted the North American Free Trade Agreement would create versus the hundreds of thousands we have actually lost under the agreement. The simplest, fairest, and most accurate way to ensure that OPIC projects are supporting U.S. jobs is to bar support for projects that could displace U.S. workers, and to aggressively monitor the production and employment records of OPIC-backed investors.

The proposed “net effects” test will allow OPIC to support projects that harm our trade balance and cost U.S. jobs, and it must be rejected. A further look at Dr. Moran’s paper reveals that these likely consequences are not wholly unintended. In fact, he urges reforms in OPIC’s statutes precisely because he believes OPIC should be allowed to support “export-oriented manufacturing projects” in developing countries. There is little evidence that such investment is actually benefiting workers in the developing world as much as promised. There is ample evidence that it is harming workers here in the U.S. much more than feared. OPIC’s rules must be improved to help alleviate, not aggravate, these worrisome trends.

Recommendations on Trade and Jobs:

- 1) Conditions on the trade and jobs impact of OPIC projects need to be made fully binding in law. They cannot just be general statements of policy or one

¹³“Avaz Hit By Telecom Slump That Won’t Turn Around,” *Orange County Business Journal*, March 10, 2003.

among many factors that OPIC should consider in supporting projects. OPIC should be barred from supporting any project—either directly or indirectly through a financial intermediary—that would result in the loss of U.S. jobs or an increase in U.S. imports.

- 2) As with the workers' rights conditions, compliance with conditions on the trade and jobs impact of OPIC projects must be fully monitored by staff who enjoy adequate independence and have access to sufficient resources. The methods and results of this monitoring must be fully transparent to workers and the public.
- 3) Congress must reject proposals that would even further reduce any positive impacts of OPIC projects on our trade balance and American jobs. OPIC must not be allowed to support foreign-owned corporations in overseas investment projects. The trade and jobs conditions in OPIC's law must not be weakened through an easily manipulated "net effects" test. And export-oriented, labor-intensive manufacturing projects are exactly the wrong kind of projects for OPIC to support.

CONCLUSION

Congress should use the OPIC reauthorization to enact significant reforms to ensure that each and every OPIC-supported project:

- 1) strengthens our trade balance and creates U.S. jobs; and
- 2) contributes to sustainable and equitable development abroad based on full respect for workers' rights, human rights, and the environment.

Investment in developing countries can support U.S. jobs and stimulate development, but there is no automatic relationship between FDI and these desirable outcomes. In fact, as we have seen FDI increase in developing countries, we have seen global growth slow, economic instability and inequality persist or get worse, and our manufacturing sector crumble. Unless mandates for OPIC are strengthened and compliance monitoring made a top priority, OPIC will only be reinforcing the worst trends in the global economy. As a public institution, it must instead set and enforce the highest standards for investors. Only then can it ensure that its projects are truly advancing the interests of workers and their families in the U.S. and around the world.

Mr. ROHRABACHER. Thank you for your testimony and let me note that it was very fundamental testimony. It was not just aimed at Dr. Watson or what is going on right now, but as OPIC by its very nature and some of the warnings that you suggest are very well founded. We appreciate your testimony.

Next we have Professor Moran, who from 1999 to present is the Chairman of International Business Diplomacy and served as the Director of the School of Foreign Service at Georgetown University; is that correct?

Mr. MORAN. Yes, sir.

Mr. ROHRABACHER. You may proceed.

STATEMENT OF THEODORE H. MORAN, Ph.D., MARCUS WALLENBERG PROFESSOR OF INTERNATIONAL BUSINESS AND FINANCE, GEORGETOWN UNIVERSITY

Mr. MORAN. Thank you, Mr. Chairman and Members of the Committee. I have also had the honor at Fred Bergsten's Institute for International Economics to try to do a complete review of OPIC and I would be pleased to present to each of the Members of the Committee a copy of the book, except that Fred charges such a high price you may not, under the Gift's Act, be able to accept it. But if we can get around that, maybe an educational grant would be accepted.

In my 5 minutes let me make just three points. I would like to address the way in which OPIC can contribute more broadly to U.S. jobs and communities and firms within the United States and

that is by having a net U.S. economic benefits test, which I think goes hand-in-hand with what Ms. Drake has been saying.

Then second of all, I would like to talk about eligibility criteria and third of all, I would like to address a concern that all of you have expressed with regard to how to multiply the small business participation within OPIC.

First of all, with regard to the net economic benefits test for the United States, I took an example from Motorola because they were based in the sixth district of Chairman Hyde, but they have California operations, they have Texas operations and so I think this Motorola example would be a good one for all of us.

In the sixth district they do their headquarters, their strategy and their finance. In California, they do their software engineering, their software development and their high performance engineering. In Texas, they do other aspects of their IT development. Let us say that they have a project in the Philippines where they want to do assembly and OPIC could support them.

If OPIC supported them, it would enlarge the benefits in Illinois, it would enlarge the benefits in Texas, it would enlarge the benefits in California. This is the relationship between outward investment and the creation of more jobs and better jobs, but this doesn't happen right now.

Under current regulations with OPIC, if they are going to displace any one single job in any of those three states, OPIC won't support them. Our recommendation is to leave the single job loss category and head in the direction of a net U.S. economic benefits test. That is to say, if the United States workers, firms and communities would be better off if the investment went ahead, they should be supported. In those cases, as Ms. Drake said where the U.S. would not be better off, OPIC should not support it. So the first recommendation is for a net U.S. economic benefits test.

Second of all is to change the eligibility. We heard Dr. Watson on this. So what about Westinghouse? Again, I chose Westinghouse because of the sixth district. So I see I am completely off in the testimony today, but as we know, Westinghouse is throughout the United States.

As long as Westinghouse was wholly-owned by Americans, they could go to OPIC for support. Now that they have been acquired by Siemens, they can't. It is the same workers, the same communities and in fact Siemens USA 70,000 workers is bigger than Siemens Germany right now. So we support in this volume the movement toward an eligibility test for firms that have a large worker presence in the United States, even though they are not fully owned by U.S. corporations. Again, that would reinforce the benefits to the United States.

My final point has to do with how to multiply small business and here I appreciated the testimony and the answers, the give and take of the Committee Members this morning, but the usual pattern is that small businesses first engage in exports as you were saying and using the YUSI acts in the foreign commercial service and then after exports, they move into distribution or processing. So, they go from exports into foreign direct investment.

Our recommendation is that OPIC focus on the foreign commercial service, the small business, the YUSI acts but use them as tar-

get spotters to find those firms that are just moving from exports into foreign investment, into distribution, into assembly and that the multiplier effect will be much bigger rather than just trying to get small businesses in general, which is cumbersome. They don't have a good record of doing it.

I think they are trying more in that direction, but if they focus their efforts on the movement from exports into foreign direct investment and use the existing institutions to show them what companies are ready to do that, it can be far more effective. Thank you, Mr. Chairman.

[The prepared statement of Mr. Moran follows:]

PREPARED STATEMENT OF THEODORE H. MORAN, PH.D., MARCUS WALLENBERG
PROFESSOR OF INTERNATIONAL BUSINESS AND FINANCE, GEORGETOWN UNIVERSITY

The mission of the Overseas Private Investment Corporation (OPIC)—created in 1969 through an amendment to the Foreign Assistance Act—is “to mobilize and facilitate the participation of United States private capital and skills in the economic and social development of less developed countries and areas, and countries in transition from nonmarket to market economies, thereby complementing the development assistance objectives of the United States.” OPIC pursues this mission by insuring US investors against political risks that include expropriation, currency inconvertibility, and political violence; by financing US investors overseas through loans and loan guarantees; and by providing credits to private investment funds that make equity investments in businesses in underdeveloped countries and regions.

With the advent of George W. Bush's administration, the new leadership at OPIC has refocused the Corporation on its original mission of facilitating economic development, with a determination to complement rather than compete with the private sector. This presents a timely opportunity for a thorough review of the rationale for OPIC's existence, and for a rigorous examination of recurrent criticisms that it is merely duplicating activities that can be better handled by the private sector. After undertaking such an examination, this book concludes that OPIC has an indispensable role to play in overcoming market failures that limit the flow of foreign direct investment (FDI) to developing countries—a role that private actors cannot replicate on their own.

But OPIC is operating far below its potential to contribute to the growth and welfare of developing countries and to the health of the US home economy, is paying too little attention to the broader social aspects of its projects (the “sustainable development” agenda), and is providing insufficient transparency about the workers' rights and environmental practices of the investors it supports. Indeed, as is shown below, *many of the projects that can have the largest catalytic effect on host-country development are ineligible for OPIC coverage*, under constraints now in place.

The impact that OPIC can have in supporting the flow of FDI to developing countries, while ensuring that its operations strengthen the job base in the United States, can be greatly magnified by reforms—few in number but significant in consequence—outlined here. To make this case, however, requires looking in some detail at how OPIC now functions and at how its practices and procedures might be modified and made more effective.

A RIGOROUS PUBLIC POLICY RATIONALE FOR OPIC

When OPIC was founded in 1969 through an amendment to the Foreign Assistance Act, the flow of FDI to the developing world was relatively small, long-term lending to foreign investors in emerging markets was extremely rare, and insurance coverage against the variety of political risks encountered by international companies was virtually nonexistent. Today, then, why should the US government—and the US taxpayer—want to continue to support an agency such as OPIC in the midst of vigorous private-sector political risk insurers and financial institutions helping foreign investors to operate in emerging markets?

The answer depends upon whether there are economic and political benefits for the recipient countries and for the US home economy as well as for broad US foreign policy interests, that result from supporting FDI beyond those that accrue to the private parties involved—that is, *positive externalities* for both the developing world and for the United States. And the answer also depends upon identifying *market failures* that would limit or prevent these benefits from being generated if

private-sector political risk insurers and financial institutions were left to function on their own.

There is abundant evidence—documented in the chapters of this volume—that appropriately structured foreign investor operations can contribute to economic growth, social welfare, good governance, and environmentally sustainable development around the world. *OPIC must be allowed to provide political risk insurance coverage to those projects whose beneficial impact on the host economy is likely to be largest, rather than prohibited from doing so.* Although FDI is by no means a cure-all for the problems of poverty and underdevelopment, these positive results—when they occur—provide important commercial and political feedback to the United States and may reinforce foreign policy objectives by helping to stabilize or reconstruct crisis areas, such as Central America in the 1990s, or Afghanistan, the Balkans, and Pakistan in the current period. As is considered in detail below, support for outward investment can also expand US exports, improve the level of US wages and benefits, and generate other favorable spillovers for the US home economy.

Not all foreign investment projects, however, contribute to economic growth, social welfare, good governance, or environmentally sustainable development in the host country, or strengthen the US economic base at home. The justification for public support for FDI hinges therefore on separating out those projects that provide a positive contribution from those that do not, or on transforming the latter into the former. How OPIC can enhance its capacity to support beneficial projects, and to reject or reconfigure potentially damaging projects, will occupy a major portion of this study.

But why is a publicly backed institution such as OPIC needed at all to support and guide the flow of FDI? Could not private political risk insurers and financial institutions provide need on their own the assistance investors?

OPIC plays a role that private political risk insurers and financial institutions cannot duplicate, by deterring host authorities from taking political actions that damage foreign investor operations. Private political risk insurers offer the promise of compensation after harmful acts take place. So does OPIC. But OPIC has a unique capability to prevent the host country from engaging in behavior that leads to a demand for compensation, because its insurance coverage and financial guarantees are backed by investment agreements with the countries where it operates and are reinforced by the clout of the US government. Therefore, OPIC can discourage adverse conduct from taking place in the first place or help resolve disputes before they result in a claim.

OPIC provides an umbrella of protection that helps make up for a market failure in the ability of host countries to make long-term commitments to honor contracts, after large amounts of foreign capital have been sunk and host authorities—or successor governments—find themselves under domestic pressure to change, tighten, or abrogate the initial investment agreement. The OPIC “presence” thus allows foreign investment projects to move forward that otherwise would never be launched (for further analysis of market failure in writing credible contracts and the deterrent functions of OPIC, see chapter 1 below). When investment disputes are not checked or averted, OPIC has successfully pursued recovery on more than 90 percent of the claims. As a result, OPIC has operated for more than three decades on a self-sustaining basis, accumulating about \$4.2 billion in reserves.

But if OPIC can make a profit from its operations, should it not be privatized? The rationale for OPIC’s existence is not contingent upon whether selling political risk insurance can yield a profit, but rather springs from its role in overcoming market failure in ways private-sector actors cannot. A study of potential privatization of OPIC commissioned from JP Morgan in 1996 concluded that the US government would actually have to offer OPIC’s assets at a discount to induce any private corporation to take over its portfolio, because the private sector would simply not be able to replicate its deterrent function or reproduce its recovery rate. The study pointed out that even with a hypothetical privatization, the US government would still have to promise to back all outstanding contracts until their expiration precisely to maintain the umbrella of protection against host-country mistreatment that only an official US presence could supply.

In supporting foreign investment over the years, OPIC has regularly devoted the largest proportion of its financial guarantees and insurance to large corporations. Should not this concentration on big, established investors be considered a kind of “corporate welfare”?

The answer to what kinds of corporations OPIC should support requires assessing what kinds of investors can best promote host-country development and generate the economic and political externalities that are in the public interest of the United States. Here the evidence points consistently toward larger firms, although some-

times smaller firms can make important contributions too. Although this study addresses in some detail how small and medium-sized enterprises can best be integrated into OPIC's operations, there is no empirical justification for criticizing OPIC support for larger firms per se.

COMPLEMENTING RATHER THAN COMPETING WITH THE PRIVATE SECTOR

A rigorous justification for OPIC's support of FDI still leaves the question of how it can maximize cooperation and minimize competition with private-sector insurers. Is OPIC doing enough to avoid taking away business that private insurers would like to provide without competition from a publicly backed entity?

Here there is an inescapable trade-off between OPIC's developmental mission and its objective of offering as much business as possible to the private sector. The trade-off arises for investment projects "at the margin" when the investor insists that it cannot get what it needs at acceptable terms from private insurers and will not move forward without OPIC's participation. OPIC could emphasize its developmental role and support the project as the client requests, or it could emphasize its desire not to compete with the private sector and refuse to support the project.

In 2001, OPIC adopted a new "additionality" procedure designed to open each and every new project submitted to OPIC to potential private insurer participation, so as to make certain that OPIC only insured what private insurers did not want to cover. OPIC's insurance officers provide prospective customers with contact information for private insurers as well as brokers and request that they attempt to place at least 50 percent of their coverage with the private market. If placement with private carriers is not successful, potential customers are required to provide an explanation as to why terms, conditions, rates, or tenor are unacceptable. Only then will OPIC consider providing coverage requested by the client. The ultimate assessment of how to insure a project resides with the client.

Thus, for projects "at the margin"—projects that investors would not launch if they were to have to accept only private-sector insurance—OPIC has properly left open the possibility of letting its developmental mission prevail, by maintaining the option of providing the requested coverage rather than categorically refusing to do so.

In addition to coinsurance with the private market, reinsurance—in which OPIC offers part of its portfolio to private insurers or accepts part of the portfolio of private insurers—offers another mechanism for increased cooperation with the private sector and also provides other important benefits. Should OPIC begin to offer some of its projects for reinsurance by private companies?

The Office of Management and Budget has sometimes argued that because the US Department of the Treasury has a cheaper cost of capital, deeper pockets, and a greater ability to spread risk across all taxpayers than any other entity, the US government should reinsure itself and not pay fees to others. But this argument ignores the fact that reinsurance is simply a management tool that OPIC can use to enhance its developmental mission and support foreign policy objectives more effectively at crucial times.

If OPIC had the option of reinsuring part of its portfolio with the private market, it could structure its portfolio with more flexibility. For example, OPIC might find that its accumulation of exposures in Turkey would make it imprudent for it to take on more risk there, yet US interests would be strongly served by supporting new projects in that country. If OPIC had the ability to transfer exposure to private reinsurers that might be underrepresented in the Turkish market, it could support new projects that it otherwise could not.

Do these efforts to maximize cooperation and avoid taking away business from private-sector insurers pose hidden dangers to OPIC? The reinvigorated impetus to maximize cooperation and avoid taking business away from private insurers exacerbates OPIC's problems of adverse selection and lack of portfolio diversification. No insurance agency can long remain viable if it accepts only the sickest patients or the most vulnerable clients.

OPIC's initiative to turn over all proposals brought to its door to potential private-sector coverage is synonymous with adverse selection: Private insurers will take over all of the more favorable projects and will carve out risky areas for coverage from the less favorable projects. OPIC will be left with the least desirable investments and the more risky areas of coverage. In this process, OPIC is likely to limit its ability to balance its portfolio across sectors and geographical regions, as private insurers understandably leave less appealing projects to the public sector.

Adverse selection would be exacerbated if OPIC were to promise to pick up areas of coverage that private coinsurers dropped over the life of individual projects. The potential damage could be worse still if OPIC were to offer individual projects to

be reinsured by the private market—or even perhaps be required to offer all projects for private reinsurance—opening the door to cherry-picking from the OPIC portfolio by private reinsurers.

The following chapters therefore pay particular attention to OPIC’s evolving procedures for setting aside reserves to offset increasing risk—including catastrophic risk across geographical areas and sectors—to ensure that OPIC’s efforts to maximize cooperation and minimize competition with private-sector insurers do not jeopardize its ability to remain self-sustaining.

OPIC’S IMPACT ON HOME AND HOST COUNTRIES

OPIC’s support for US foreign investment can simultaneously have a positive impact on host countries in the developing world and on the US home economy. But not all foreign investment projects can be complacently assumed to have this doubly beneficial effect. The challenge for OPIC is to revamp its screening and monitoring procedures to ensure a positive contribution along both of these dimensions—augmenting host-country development, and strengthening the economic health and welfare of the US economy—while rejecting or restructuring projects that do not.

Looking first at the impact of OPIC-supported projects on economies in the developing world, the evidence suggests that the projects OPIC chooses to support can have a much more potent effect on host-country development than conventional measurements indicate. OPIC measures its developmental impact on host countries by estimating taxes, local expenditures, local employment, and foreign exchange revenues from the projects it supports. Modern growth models suggest that if these inputs are all that OPIC-backed projects bring to the host economy, the outcome will remain far below potential.

What foreign investors potentially can bring to emerging markets is not simply capital and technology to put local labor to work but also “packages” of technology, quality control mechanisms, and management and marketing techniques that allow host-economy actors to undertake entirely new activities as well as carry out existing activities more efficiently. These packages may have economic spillovers and externalities for the host society that extend well beyond purely economic effects.

New estimates of the economic benefits from such foreign investment packages are 10 to 20 times larger than the measurement categories OPIC now employs would suggest. *These positive effects on development are most likely to be found in export-oriented manufacturing projects that are closely integrated into the parent corporation’s sourcing network—precisely the kinds of projects that OPIC resolutely turns away from, under current internal guidelines and externally legislated restrictions that must be changed in ways described below.*

The potential benefits of OPIC-supported projects also include social spillovers and externalities, in the form of changes in worker-management institutions, wage and benefit policies, on-the-job and outside training programs, and gender issues such as nondiscrimination in compensation and promotion, nonharassment policies, maternity leave, and access to day care. These social spillovers and externalities can include improvements in corporate governance and support for host-country policy reform.

But these economic and social benefits are not present—indeed are noticeably lacking—in many foreign investor operations. As part of an effort to ensure sustainable development from the projects it supports, OPIC must redirect and expand its monitoring protocols to focus on this broader array of effects, both positive and negative (questions of human rights, workers’ rights, environmental practices, and anticorruption provisions receive extensive treatment below).

These potentially positive effects on emerging-market countries need not come at the expense of the strength and vitality of economic activity in the home country. *In the aggregate, the evidence consistently shows that there is a win-win relationship between support for outward investment and beneficial consequences for the US economy.* US firms that invest abroad simultaneously export more from the United States, pay higher wages and benefits at

home, enjoy greater stability in the domestic market, and generate more significant spillovers and externalities for the firms, workers, and communities where they are located than do similar US firms that not engaged in outward investment. Keeping firms at home—or denying them help to overcome market failures in moving abroad—would leave the US economy *worse off* than when they are able to take advantage of opportunities around the world (for a summary of evidence about the impact of outward investment on the home economy in the United States, see chapters 1 and 2).

Once again, however, this complementarity between outward investment and expanded exports and better jobs does not necessarily happen in each and every case.

OPIC needs to adopt a new measurement standard both to identify foreign investment projects that leave workers and communities better off if the projects come to fruition than could be expected if the outward investment did not take place and also to separate these out from foreign investment projects that leave workers and communities worse off.

This new measurement standard will have to be backed by changes in OPIC statutory instructions regarding what are termed “US effects.” OPIC currently examines not what the US economy would look like if a given investment project proceeds in comparison with what would happen if the investment did not occur but simply whether there might be job losses associated with the investment. Indeed, in recent years, OPIC has actually tightened its procedures to refuse to consider projects in which there may be *any* job losses at home, not simply net job losses at home. This is an implausible standard by which to test for collective benefits to the United States when diverse industries are simultaneously expanding, contracting, and reconstituting themselves to become more competitive. OPIC’s current US-effects test has led to an OPIC portfolio that is smaller than it could be, less development friendly than it could be, and less supportive of workers (in both home and host countries) than it could be. The more appropriate test is for OPIC to assess whether US workers, firms, and communities would be better or worse off *overall* if a proposed investment project went ahead. This commonsense standard—identified as a *new* “US net economic benefits” test—should be incorporated into OPIC’s authorizing legislation.

ENLARGING THE CLIENT BASE AND REVISING ELIGIBILITY CRITERIA

Changes in OPIC’s statutory restraints with regard to US effects along the lines outlined above could give access to a large pool of potential new clients, many of whom do not now even approach OPIC for support. A more “proactive” approach to marketing OPIC’s services would be greatly enhanced by targeting, at the same time, small and medium-sized firms that find themselves at the point of moving from sending exports overseas to developing marketing and assembly operations abroad. To accomplish this, there is no need for OPIC to build up a vast new bureaucracy. Instead, OPIC should draw upon the already functioning infrastructure of the US Foreign Commercial Service, the US Export Assistance Centers, and the US Export-Import Bank—together with the Small Business Administration, and with state and municipal business support services—to identify firms ready to step up from exports to direct investment. Helping small and medium-sized firms to become investors would at the same time help attenuate the problem of adverse selection by promoting greater diversification for OPIC.

To complete the renovation needed in marketing OPIC’s services, so as to maximize its contribution to the strength and vitality of the US home market, requires changing OPIC’s eligibility criteria to allow participation by foreign-owned corporations with a substantial base in the United States. The United States is now the world’s largest host for foreign multinational companies. Leading industries in the US economy find affiliates of non-US companies accounting for between 20 and 30 percent of all jobs in the industry. The US Export-Import Bank and other export promotion agencies have already recognized the benefits of assisting non-US firms to move into international markets using resources from within the US economy.

Given this situation, it is time for OPIC’s statutes to be changed to permit it to support foreign-owned firms with a “significant US presence,” defined as employing 250 or more, or 500 or more, workers in the US economy. This will allow foreign-owned firms to use US workers and suppliers as a platform to provide for their external operations rather than having to turn elsewhere for support. This principle is already established in the US Government Advocacy Guidelines, which deem support for foreign-owned, US-incorporated firms to be in the US national interest to the extent that these firms use US materials and equipment, employ US labor, contribute to the US technology base, and/or repatriate profits to the US economy.

MONITORING WORKERS’ RIGHTS, ENVIRONMENTAL STANDARDS, AND ANTICORRUPTION PROVISIONS

OPIC has extensive internal procedures to assess compliance with core labor standards, sound environmental practices, and anticorruption provisions in the projects it supports. Recurrent complaints—including allegations of serious abuses of workers’ and human rights and of environmental standards, and corrupt practices in OPIC-supported projects—nonetheless persist.

Do OPIC procedures ensure that investors observe core labor standards, engage in sound environmental practices, and avoid corrupt practices—weeding out projects that do not, and punishing (or correcting) instances where OPIC-backed firms or

their subcontractors are found to be in violation? A privileged look at various individual OPIC projects—under the constraints of an OPIC confidentiality agreement—shows that OPIC sends its own personnel to sites where workers' rights violations are most likely to be found, including among contractors and subcontractors during the construction phase of OPIC-supported investments.

In some cases, OPIC has used internationally recognized local monitors to help investigate abuses, leading to remediation plans that have included training in occupational health and safety, instruction in local legal rights by independent experts, and compensation for workers improperly fired when, for example, they have formed a legally recognized union. OPIC and host-country auditors have then monitored the implementation of these remediation plans, backed by default provisions in OPIC contracts in case the promised remediation is not carried out.

But where do these worker-friendly cases fit within the universe of OPIC-backed projects? What provisions are there for outside observers to track changes or improvements made at sites where there are prominent allegations of workers' and human rights abuses?

OPIC's practice has been to treat workers' rights cases as "business confidential," avoiding all publicity and requiring its auditors to sign and respect confidentiality agreements, in the hope that this will depoliticize such actions. But the penalty has been a remarkable lack of transparency in OPIC projects. Therefore, OPIC should bring itself into conformity with the best practices of the international business community—at the very least—in ensuring accountability to independent, external observers.

Similarly, an inside look at OPIC's environmental monitoring provides some reassurance. In certain instances, OPIC has been able to stimulate US companies to develop new environmental procedures, which the companies then follow in OPIC-sponsored projects and elsewhere. In other instances—for example, where host countries exhibit vague and ineffective regulatory regimes to govern ambient air quality or wastewater treatment—OPIC-supported projects have sometimes developed model practices that have subsequently become the industry standard in the host country.

But how representative are these environmentally friendly cases? How can outside observers track problematic investments? OPIC needs to devote more of its resources to informing local populations about environmentally sensitive project proposals, soliciting input from them, and using its Web site to allow external parties to track assessments. To complement this push for greater transparency, OPIC must make its environmental rejection process more explicit.

OPIC now renders private informal assessments of whether proposed projects meet its environmental standards before the formal application process so as to avoid public disclosures that might jeopardize external funding for the projects that fail. But if a project does not meet OPIC's standards—and its sponsors cannot or will not bring it up to OPIC's requirements—this should be made public, not deliberately concealed.

With regard to bribery and corruption, all OPIC insurance contracts and finance agreements require that the project company comply with the Foreign Corrupt Practices Act (FCPA) and with all similar local laws. A violation of these laws entitles OPIC to terminate the insurance contract or declare the borrower in default. Any OPIC-backed investor or borrower is liable for any bribery or corruption committed by any "agent" operating on its behalf. OPIC is required to suspend any entity guilty of violating FCPA from access to loans, insurance, or guarantees for up to 5 years.

Under FCPA, guilt or innocence must be determined by a US court. The US Department of Justice is responsible for criminal investigation and prosecution. OPIC reports that it investigates accusations appearing in the press (and elsewhere) about the projects it backs, and it refers all credible allegations to the Department of Justice.

In more than 30 years, however, OPIC has made such a referral just once, in the Dabhol case in India in 2002. Given the large number of allegations that have arisen in the infrastructure, oil, gas, and mining sectors where much of its business lies, it would seem evident that the Corporation should become more vigilant in its monitoring and, when justified, more disposed to turn over cases to the Justice Department. In contrast to the greater transparency in reporting monitoring results with regard to workers' rights and environmental practices recommended above, however, the presumption of innocence in criminal proceedings limits OPIC's ability to make adverse assessments about FCPA allegations public.

The above recommendations about how OPIC can strengthen its procedures to ensure compliance with environmental, workers' rights, and anticorruption practices will unavoidably provoke concern, however, at the opposite end of the spectrum.

That is, to what extent might such OPIC reforms with regard to monitoring and transparency become too onerous for clients that are already urging OPIC to cut back on burdensome requirements?

STREAMLINING OPIC'S OPERATIONS

In light of complaints about slow service and arduous reporting requirements, OPIC has made efforts to speed the time cycle for consideration and approval of its projects. These efforts have involved pushing approval authority down to the vice presidential level and below and requiring fewer decisions at the level of OPIC's Investment Committee. All OPIC departments now feature a single point of contact for clients, and they have created a pipeline tracking system to trace projects and expedite the clearance process.

There is no way to avoid ongoing debate about which approach will allow OPIC to fulfill its developmental mission more effectively. But the trade-offs may be less severe than might be supposed, if OPIC replicates international industry best practices with regard to transparency on issues of environmental and workers' rights. The result should be to push its clients toward the cutting edge of credible and workable monitoring and remediation.

Of particular note, however, is the fact that OPIC's current legislated mandates often prevent it from responding promptly to humanitarian or foreign policy crises, and sometimes from responding at all.

LESSONS LEARNED FROM RECENT CRISES

The presentation of actual or potential claims associated with the MidAmerican case in Indonesia in 1999, and with the Enron-Dabhol case in India in 2002, raises new questions—broader than what may be associated with these individual projects—for a political risk insurance agency such as OPIC. So also may the experiences of Argentina and Brazil in 2001–02.

These crises should prompt OPIC to reevaluate how to prepare for project difficulties that spring from cross-border economic contagion rather than from deliberate host-country misbehavior. The crises also should spur OPIC to find out how to separate genuine political risk from more general commercial risk during a regional economic downturn, so that its reserves do not end up being expended simply to compensate for the onset of recession.

The claims experience in these crises might provoke OPIC to look more closely at the terms and conditions of foreign investment agreements to determine whether they are excessive or imprudent in what they demand of host authorities. And the Argentine experience should force political risk insurers and investors alike to reevaluate whether the waiting periods on inconvertibility insurance are so long that the policies effectively lock the purchaser into exposure to a potentially huge devaluation.

OPIC FUNDS

OPIC's investment funds program provides loans to independent fund managers, who then raise equity capital in private markets and deploy the combined capital to a number of small projects in a given country or region. OPIC-supported funds have invested almost \$2 billion in more than 200 firms in over 40 countries. Although fund managers make their own decisions about which projects to back, they are required to bring each proposed project to OPIC to ensure that it meets statutory requirements. This funds program has been structured to allow fund managers to use public monies, with OPIC absorbing high risk but receiving incommensurately lower rewards, whereas private partners have been able to enjoy potentially large rewards with proportionally lower risk.

OPIC has proposed restructuring the investment funds program along lines—only recently formulated—in which OPIC would put up a much lower proportion of the total capital, relying on the fund manager and partners to ante up more of their own money, while reserving for itself a larger percentage of the upside returns from successful funds. The goal is to give OPIC an equity-like return when it takes an equity-like risk and to reduce the likelihood that a catastrophic loss from one fund could not be offset by profits from other funds.

Whether private fund managers can raise capital for deployment in riskier regions with less leverage provided from OPIC resources is a question that only the market can answer. If the answer is negative, OPIC's ability to stimulate investment in less developed countries may decline.

A SUMMING UP

The analysis presented here points to a small but crucial number of reforms and midcourse corrections that can prepare OPIC to make a substantially greater contribution to the growth of developing countries while simultaneously enhancing its contribution to US development (*and* thus broad foreign policy and humanitarian) goals, and its positive impact on workers, firms, and communities in the US home economy. This new OPIC will be able to play a much larger—and more transparent—role in ensuring that fundamental workers' rights, environmental standards, and anticorruption provisions are observed and strengthened throughout emerging markets. Looking to the future, through reform, OPIC will become thoroughly capable of withstanding rigorous scrutiny as a US-government-backed agency that complements and leverages vigorous private-sector activity around the world in the promotion of economic and social development, and thus of greater world prosperity and stability.

Reforming OPIC for the 21st Century points to a small but crucial number of reforms and midcourse corrections that can prepare OPIC to make a substantially greater contribution to the growth of developing countries while simultaneously enhancing its contribution to US development (*and* thus broad foreign policy and humanitarian) goals, and its positive impact on workers, firms, and communities in the US home economy. This new OPIC will be able to play a much larger—and more transparent—role in ensuring that fundamental workers' rights, environmental standards, and anticorruption provisions are observed and strengthened throughout emerging markets.

Looking to the future, through reform, OPIC will become thoroughly capable of withstanding rigorous scrutiny as a US-government-backed agency that complements and leverages vigorous private-sector activity around the world in the promotion of economic and social development and thus of greater world prosperity and stability.

Mr. ROHRABACHER. Thank you. Next we have Mr. Rich, who is a senior attorney and director of the International Programs at Environmental Defense, a leading U.S. national environmental organization with over 300,000 members. Mr. Rich, you may proceed.

STATEMENT OF BRUCE M. RICH, SENIOR ATTORNEY AND DIRECTOR, INTERNATIONAL PROGRAM, ENVIRONMENTAL DEFENSE

Mr. RICH. Thank you, Mr. Chairman. I am testifying today on behalf of Environmental Defense and seven other national environment and development organizations, which include Oxfam America, Friends of the Earth for example and others.

In my statement, I address three major questions. First is the policy justification for OPIC, particularly its international development mandate which has been a core justification of OPIC since its founding. Second, I look at OPIC's record in this area and third, I set forth a number of specific recommendations and reforms that we think should be included in OPIC's charter and operating procedures, otherwise at least from the standpoint of development policy we think OPIC's recent record and middle term record has been so spotty and problematic that there are real questions about the development policy justification for OPIC's reauthorization.

I note that the charter says,

“That OPIC in looking at projects to finance shall especially be guided by the economic and social development impacts and benefits of such a project and the ways in which the project is compatible with the development goals of the U.S. and of other donors.”

While we respect and applaud Dr. Watson's commitment to doing more in the development area and his openness to dialogue, we

think some of the claims that have been made today about OPIC's development record give a somewhat misleading impression. While OPIC may support a handful of smaller projects that are really promoting development to help poor people, we don't think the overall record justifies such a claim.

I think there are two reasons for this: One, we have seen a pattern at least in the past where OPIC under pressure to approve big deals for some of its very powerful corporate clients has pushed through projects that have been environmentally and socially dubious. An example that was cited in the statement of Congressman Lantos was this Cuiaba pipe project in Brazil. Just a little over a year ago there was a front-page story in the Washington Post quoting a former treasury official alleging that OPIC was so anxious to approve that project for Enron they just plowed ahead, even though it affected one of the two most important tropical forests in South America.

The other major issue is the issue of OPIC's portfolio, the extractive industries question. This isn't a trivial question. Dr. Watson was somewhat indignant at my citation of statistics saying that OPIC has under his tenure increased greatly its commitment to oil and gas projects. Now it is up to 57 percent in financial commitments in the year 2002. He said that while we approve 40 to 45 projects a year, only a handful are for extractive projects, but I think if you, Mr. Chairman and Dr. Watson were to go to the corner grocery store with \$100 in our pocket, buy nine food items for \$10 and spend \$90 on beer, I think most people would say that we spent 90 percent of our money on beer and not on food items.

The extractive industry question is important. Just, for example in the *New York Times* on Saturday, there was a major article on how these projects, in the view of many leading economists, are leading to greater corruption in countries, poor development outcomes. The World Bank is currently undertaking a review of the whole extractive industry sector and its involvement in oil and gas in particular and already initial reports have been released by the World Bank's audit office conclude and I am going to quote from one of these reports:

"The evidence suggests that extractive industry is more likely to lead to bad development outcomes when governance is poor. This means that increased extractive industry investment is likely to lead to bad development outcomes for many, if not most of the World Bank's clients."

That is an internal report of the World Bank's operations and evaluation department, their audit department.

We have a number of recommendations that we think would help OPIC better focus on its development mandate. The most important one in our view would be the institution of an independent ombudsman compliance office. Already the World Bank's IFC and MIGA have such an office. Export credit agencies in several other countries, including Japan and Canada, have recently set up similar functions, because there are so many questions about OPIC not even carrying out adequately its existing environmental and labor rights procedures.

Secondly, statutory strengthening and environmental policy in the areas of tropical forests, implementing the world commission on dams, that was a World Bank sponsored review of big dam projects, increasing selectivity and transparency for these big fossil fuel projects, new measures to fight corruption is something that is endorsed in Dr. Moran's book and finally, we think there should be a GAO review or study of the OPIC investments in Enron and El Paso Energy and other problematic investments.

In the 1990s through 2001, \$2.6 billion of OPIC commitments went for Enron and a rough estimation is over 15 percent of OPIC's total commitment. Many of these projects have been environmental and social disasters too.

The last point is that OPIC has approved in the past projects such as the Dabhol project, the big power plant in India, the Paiton power project in Indonesia that was on the front page of the Wall Street Journal in 1998, these were projects that the World Bank recommended against on economic and development grounds, yet OPIC went and financed them. This has to stop.

We think these reforms that we are iterating will contribute to that. Thank you very much, Mr. Chairman and Members of the Committee. I appreciate your patience.

[The prepared statement of Mr. Rich follows:]

PREPARED STATEMENT OF BRUCE M. RICH, SENIOR ATTORNEY AND DIRECTOR,
INTERNATIONAL PROGRAM, ENVIRONMENTAL DEFENSE

I. INTRODUCTION

Mr. Chairman and Committee members, thank you very much for the opportunity to testify today concerning the proposed reauthorization of the Overseas Private Investment Corporation. I am speaking today on behalf of Environmental Defense, and seven other national environment and development organizations: Oxfam America, Friends of the Earth, Pacific Environment, International Rivers Network, Amazon Watch, Bank Information Center, and the Rainforest Action Network. Together these organizations have over a half million members and supporters nationwide.

My statement will address three major questions: First, the policy justification for OPIC, particularly its international development mandate which has been a core justification for OPIC since its founding in 1969. Second I will examine aspects of OPIC's record in promoting development, and third, conclude with a number of specific recommendations which we think must be incorporated into OPIC's charter and operating procedures to justify any rechartering of what is an increasingly controversial entity. Many of the observations and recommendations of my statement either complement, or disagree with, the findings and recommendations of the recently released report of the Institute for International Economics (IIE) on "Reforming OPIC for the 21st Century."

II. OPIC'S DEVELOPMENT MANDATE

We note that OPIC's Congressionally mandated mission, established through a 1969 amendment to the Foreign Assistance Act, has always been "to mobilize and facilitate the participation of United States private capital and skills in the economic and social development of less developed countries and areas, and countries in transition from nonmarket to market economies, thereby complementing the development assistance objectives of the United States."¹ Indeed, after stating OPIC's mandate OPIC's Congressional charter reiterates that "The Corporation, in determining whether to provide insurance, financing or reinsurance for a project, shall especially—(1) be guided by the economic and social development impacts and benefits of such a project and the ways in which such a project complements, or is compatible with, other development assistance programs and projects of the United States or other donors."²

¹ 22 U.S.C. 2191.

² 22 U.S.C. 2191 (1).

Over the past decade in particular, OPIC has come under increasing scrutiny and criticism from the entire political spectrum from right to left as an entity that allegedly subsidizes large multinational corporations with little or even negative development impacts on poor countries—it has been called “an automatic teller machine for the Fortune 500” that supports projects with severe negative environmental and social impacts, some of which have also become the subject of major allegations of corruption. During OPIC’s rechartering debate in 1997, organizations and individuals as diverse as the Heritage Foundation, the Cato Institute, Friends of the Earth, and Ralph Nader, advocated OPIC’s abolition.

Some supporters of OPIC, apart from its corporate clients, assert that OPIC remedies important market failures for promoting Foreign Direct Investment (FDI) and, in the words of Institute for International Economics (IIE), provides “positive externalities for both the developing world and the United States.”³ We can state no better than IIE the alleged positive externalities, apart from putative economic benefits to the U.S., that OPIC sponsored FDI is supposed to provide, if “appropriately structured,” for developing countries: “economic growth, social welfare, good governance, and environmentally sustainable development around the world.”⁴

It is important to note for the record that this policy justification is highly contested by some of the most prestigious economists in the world, who strongly disagree with the rationale for OPIC’s very existence. Prior to an earlier reauthorization debate over OPIC, Nobel Prize economist Milton Friedman wrote the then Chairman of the House Budget Committee, Representative John R. Kasich (R–OH) the following on September 5, 1996:

I cannot see any redeeming aspect in the existence of OPIC. It is special interest legislation of the worst kind, legislation that makes the problem it is intended to deal with worse rather than better⁵.

Several years ago the Congress commissioned a study on reform of the World Bank and other international financial institutions, which was prepared by a bipartisan Congressional International Financial Institution Advisory Commission (IFIAC). The Commission, with six Republicans and five Democrats, was chaired by Allen Meltzer, professor of political economy at Carnegie Mellon University and visiting scholar at the American Enterprise Institute. In March 2000, the final ‘Meltzer Commission’ report advocated the abolition of the OPIC-like entity of the World Bank⁶, the Multilateral Investment Guarantee Agency (MIGA), stating that it did not find sufficient rationale for its existence.

In our view, in light of the controversy over OPIC’s public policy justification for existence, the central issue of its record in promoting sustainable economic development that benefits the poor is all the more important and worthy of scrutiny. OPIC President Peter Watson states in the OPIC 2002 Annual Report that “we [OPIC] bring a better quality of life to populations that lack the health, the education, or even the access to life’s basic necessities that enable them to contribute to—or benefit from—economic growth.”⁷ While OPIC may support a handful of smaller projects that have this goal, we do not think OPIC’s overall record and portfolio justify such a claim.

Since OPIC’s chartering in 1969, and indeed since its last reauthorization in 1996, much has been learned about economic development in poorer countries and what is needed to make that development sustainable over the long term. There is an evolving consensus that good governance (especially controls against corruption) and legal conditions favoring the development of free markets are critical, as well as incorporation of environmental, labor and human rights concerns, which, if not addressed, can undermine the political, financial and even physical viability of investments.

From this perspective of sustainable development, we think that OPIC’s development record over the past decade has gone from bad to worse, in spite of the institution in 1999 of improved environmental procedures. The problem is that implementation of these procedures has been inadequate, and that OPIC’s portfolio is increasingly weighted with projects supporting multinationals in the extractive sectors of oil, gas and mining; there is an increasing debate whether such projects deliver in many cases any net, lasting development benefits to poor countries, a debate that

³Theodore H. Moran, *Reforming OPIC for the 21st Century* (Washington DC: Institute for International Economics, May, 2003), p. 3.

⁴Ibid.

⁵Milton Friedman, letter to Representative John R. Kasich (R–OH), Chairman, Committee on the Budget, U.S. House of Representatives, September 5, 1996.

⁶In fact, MIGA’s creation and functions were partly inspired by, and modeled on, OPIC.

⁷OPIC, “Delivering on the Promise, Annual Report 2002,” President’s Message, p. 1.

is now the subject of a independent review by the World Bank.⁸ Moreover, OPIC support consistently goes to other projects of dubious benefit to the poor such as international five star hotels, luxury and adventure tourist facilities, and even insurance for outdoor billboard advertising (I examine OPIC's portfolio in more detail in the next section.) While the new senior managers of OPIC have stated a commitment to return to OPIC's core development mission, we believe that operational evidence is still mostly lacking that OPIC can be justified from a development perspective. There is an urgent need for much greater selectivity in OPIC's choice of investment projects, not a broadening and expansion of OPIC activities and clients (for example to extend OPIC insurance and loans to foreign companies and multinationals with only a few hundred U.S. employees, as some are advocating).

IIE, for example, advocates expanding OPIC's client base, citing the alleged 'positive externalities' that result for sustainable development in the social and environmental areas, while also acknowledging that "OPIC must redirect and expand its monitoring protocols to focus on this broader array of effects, both positive and negative (questions of human rights, workers rights, environmental practices and anticorruption provisions. . .)"⁹ While we strongly endorse the latter recommendation, it makes no sense to expand the mandate and resources of OPIC to foreign corporate clients, when OPIC's record in carrying out its current mandate is so controversial and problematic.

We maintain that OPIC should not be rechartered without important modifications of its charter to ensure that its development record improves. In a post 9/11 world, we cannot afford to support institutions that through negligent environmental and social practices increase the likelihood of instability in poor areas of the world rather than alleviating poverty in a sustainable fashion. This question is all the more urgent given OPIC's recent concentration of new projects in politically and socially highly volatile frontline countries such as Indonesia and Pakistan.

III. OPIC'S SUSTAINABLE DEVELOPMENT RECORD

An examination of OPIC's portfolio over recent years reveals an alarming number of highly controversial projects, with allegations of environmental and social damage and corruption that have been featured on the front pages of the *Wall Street Journal* and *Washington Post*. There are unanswered questions about OPIC's massive support for companies that have been criminally indicted for corrupt practices in the United States and abroad, such as Enron and El Paso Energy. In some cases there are allegations that OPIC appears to have been to some degree captured by its clients, resulting in the bending of environmental rules, as with the OPIC-Enron Cuiaba pipeline project in South America. Most importantly from a development perspective, OPIC's portfolio has increasingly become weighted with huge oil, gas and extractive projects, at the very moment when the development benefits of such investments are increasingly questioned by academic studies, NGOs, and the World Bank.

OPIC has traditionally justified its development impact by attempting to estimate job creation and revenue flows to developing nations for individual projects, but, as the case of extractive industries shows (discussed below), the negative social, environmental and political 'externalities' can often outweigh the positive impacts, particularly, as the World Bank OED notes, in countries with weak governance. Even by OPIC's own calculations, we find that for the OPIC monitoring cycle completed in 2000, some 58 projects supported by OPIC in 1994–96 which generated \$7.2 billion in investment actually resulted in a "net foreign exchange drain of \$171 million" for the developing countries concerned.¹⁰ Since many if not most developing countries are suffering from crushing debt burdens and desperately need more positive foreign exchange flows, this is a disturbing record.

A. OPIC's portfolio

OPIC has increased greatly the proportion of projects in the extractive sector—oil and gas in particular—at the very moment when extractive projects (oil, gas and

⁸In fact, a major article in last Saturday's *New York Times* cites a number of academic development experts and a former World Bank senior economist recommending against any continued World Bank support for large oil projects. It quotes, for example, William Easterly, now Professor of Economics at New York University: "Mr. Easterly, who used to work at the Bank, said that given their poor record, the bank should not finance these industries. 'The bank can try to influence management of those natural resource revenues, but it doesn't have that much leverage,' he said. 'And its record on enforcing codes of conduct on the part of borrowing governments is dismal.'" Daphne Eviatar, "Striking it Poor: Oil as a Curse," *New York Times*, June 7 2003, pp. A17, A19.

⁹Theodore H. Moran, *Reforming OPIC for the 21st Century*, p. 7.

¹⁰*Ibid.*, p. 44, emphasis added.

mining) have become so controversial in terms of their development impacts that the World Bank, formed in 2001 an independent commission, the Extractive Industries Review (EIR), to review the development record of extractive projects and to decide whether the World Bank should even continue to support extractive projects. Already four of five regional workshops of the EIR have taken place (in Africa, East Asia, Europe and Central Asia, and Latin America) and in each case community representatives and NGOs have urged that the World Bank withdraw from any further support for the extractive sector, particularly oil and gas. The local groups cited example after example of severe environmental and social impacts, lack of local benefits, and increased corruption and lawlessness.

The World Bank commissioned an internal report from its internal audit department (the Operations Evaluation Department, OED) on extractive industry investment, and the draft OED report concluded earlier this year that many extractive projects even if financially successful had a “negative development impact,” and recommended that the Bank not finance extractive projects in countries with weak governance structures, since experience shows in such countries such projects have perverse effects, fostering corruption and undermining needed structural changes in the economy to promote long term development. Among the Bank’s conclusions:

“In fact, the evidence suggests that it [extractive industry investment] is more likely to lead to bad development outcomes when governance is poor. Because of the Bank’s focus on poverty, and the links between poverty and poor governance, this means that increased EI investment is likely to lead to bad development outcomes *for many if not most of the Bank’s clients.*”¹¹

“The Bank should not support an objective of attracting increased EI investment in countries with weak core governance.”¹²

“Unfortunately, the quality of governance in countries with strong extractive industries is generally poor.”¹³

In this light, let’s look at OPIC’s portfolio. Historically OPIC’s total outstanding exposure for its insurance and loans was, in September, 2000, \$15.316 billion. Of that, \$1.806 billion was in the oil and gas sector, about 11.8%.¹⁴ If we examine the 2002 OPIC Annual Report, where there is much rhetoric about OPIC’s allegedly “refocused” development mission, we find that over 57% of the FY 2002 new OPIC insurance and loan commitments went for giant projects by big multinationals in the oil and gas sector—certainly a huge refocus on big oil, some \$685 million out of total commitments of \$1.2 billion. This is up from 22.5% of total commitments going for oil and gas in 2001 (some \$360 million of \$1596.9 million in total commitments), the first year of OPIC’s “refocused” commitment to its developmental mission. Almost 30% alone of the 2002 portfolio consists of a \$350 million loan for a huge UNOCAL operation for offshore oil and gas development in Indonesia adjacent to an onshore oil and gas terminal in the province of East Kalimantan (Borneo) where UNOCAL operations have been the subject of massive non-violent protests over environmental and social abuses inflicted upon Indonesian community and human rights activists in a devoutly Muslim area (we discuss this controversy in more detail in the next section). There is another \$130.75 million for gas concessions in Pakistan, \$30 million to the Gordon Getty Family Trust for oil and gas exploration in Russia, \$25 for the Texas Overseas Gas Corporation for liquefied petroleum distribution in Guatemala, \$100 million to Pride International for oil and gas drilling in Chad,¹⁵ and \$50 million to WilPro Energy Services for Gas Compression in Venezuela—\$685 million, 57% of the 2002 OPIC portfolio.

How about the other 43%? Here are some other examples from 2002: we find a \$15 million commitment to Diamond Fields International for mining of offshore diamond deposits in Namibia; \$168,000 to B&C Management Inc. for the operation of a gravel quarry in Ghana; \$250,000 to a Mr. Lee Cashell and his firm Mongolian Resorts for “Tourist Camps to provide adventure tourist activities” in Mongolia; \$600,000 for “Underwater submarine tourism” in Thailand; \$4.349 million for the

¹¹ World Bank Operations Evaluation Department, “Evaluation of the World Bank Group’s Activities in the Extractive Industries, Background Paper, Factoring in Governance” (World Bank Operations Evaluation Department, January 21, 2003), p. 20, emphasis in original.

¹² *Ibid.*, p. 16.

¹³ *Ibid.*, p. 4.

¹⁴ Theodore H. Moran, *Reforming OPIC for the 21st Century*, 107.

¹⁵ Part of the huge Chad-Cameroon oil development and pipeline project criticized in the June 7 *New York Times* article “Striking it Poor: Oil as Curse.” See footnote 8.

development of the Marriot Tbilisi and Marriot Courtyard hotels in Georgia¹⁶; \$56 million to El Paso Energy (some of whose former management is under Federal indictment for fraud in the California energy trading debacle) for two gas power plants in Pakistan; \$1.219 million to expand the Wend-Rey restaurant franchise in Mexico; and \$150,000 to an advertising firm, Colite Outdoors, LLC., for “outdoor advertising, billboards” in Nicaragua.

It is difficult to see how many of these projects “bring a better quality of life to populations that lack the health, the education, or even the access to life’s basic necessities that enable them to contribute to—or benefit from—economic growth.” We believe that OPIC’s rechartering can not be justified without major changes in its charter to ensure it does a much better job of fulfilling its development mandate.

B. Controversial OPIC projects—what has OPIC learned?

A number of recent OPIC-supported projects have been the subject of highly publicized international controversies involving allegations of social, human rights, and environmental abuses as well as allegations of corruption and undue influence of corporate clients. These cases, such as the Indonesia Paiton thermal power plant in Indonesia, the Cuiaba pipeline running from Bolivia to Brazil, and the Sakhalin II project in the Russian Far East, have received the most prominent and credible international media attention, including front-page exposé stories highly critical of these projects in the *Wall Street Journal* and *Washington Post*. The India Enron Dabhol power plant, besides having been the subject of numerous recent news stories alleging undue influence, corruption, and possibly illegal financial misrepresentations on the part of OPIC’s client Enron, is also the subject of a 165-page book by the respected human rights organization Human Rights Watch. The book’s title, “The Enron Corporation: Corporate Complicity in Human Rights Violations,” speaks for itself. The reporters of the *Wall Street Journal*, *Washington Post*, and the researchers of Human Rights Watch have done a much more thorough analysis of the abuses in several of these projects than could be summarized in this statement. We have attached for the record articles from the *Journal*, *Post* and excerpts from the Human Rights Watch book.

In some our discussions and correspondence with OPIC management we have been surprised and disappointed at the defensive reaction of OPIC staff, who at times appear to justify the projects as environmentally, economically and socially sound decisions which only went awry because of “unforeseeable” events, for example the East Asia financial crisis in the Paiton example). In another case, described below, where there are serious environmental and social abuses caused by OPIC’s client, OPIC’s response is that the abuses occur in company operations not directly financed by OPIC, even though they are adjacent, and operationally linked to, OPIC financed infrastructure—yet OPIC claims it has no responsibility.

If such problems are to be avoided in the future, OPIC’s screening processes for developmental impact, environment, human rights and corruption concerns need major improvements.

In the area of environmental and human rights abuses, and violations of host country law, three recent controversies involving OPIC supported projects deserve further mention. The first concerns the approval of \$350 million in loans by OPIC in February, 2002 for the construction of deep-water oil and gas production platforms, at least 40 production wells, and two 60-kilometer oil and gas pipelines for the expansion of Unocal’s Indonesia East Kalimantan operations. Unocal’s operations in the deeply Islamic East Kalimantan coastal region have been plagued by environmental and human rights abuses reported by Indonesian NGOs, spurring protests by over 300 local residents—from communities in a devoutly Muslim region—in October 2000. The protesters non-violently blockaded access to Unocal operations, resulting in the intervention of security forces who shot seven protesters and severely beat and injured sixteen others.

OPIC sent a due diligence team to the project area in January 2002, but claimed to find no way of ascertaining whether alleged environmental and human rights abuses had occurred. Indonesian groups are protesting OPIC’s negligence of human rights and environmental abuses in UNOCAL’s operations in coastal East Kalimantan. They assert that OPIC through its \$350 million support for UNOCAL’s increased offshore production that is operationally linked to the UNOCAL coastal facilities has a direct responsibility to address these issues. In our view, it is particularly disturbing that OPIC has proceeded in such a fashion in coastal East

¹⁶Financial support for international five star hotel chains appears to be a constant theme for both OPIC and MIGA; in FY 2001 OPIC provided \$45.439 million to Marriott International for a ‘business/tourist hotel’ in Brazil and \$15.344 million, again to Marriott International, for a hotel in Armenia.

Kalimantan, known for the devoutness of its Islamic population, where there are growing tensions concerning the behavior of OPIC's client in the midst of an ongoing situation of alleged human rights and environmental abuses.

OPIC's response to correspondence by Indonesian activists and ourselves is that OPIC has no authority or involvement in these abuses since its financing does not directly support the UNOCAL onshore terminal which has been the focus of protests, only expanded offshore oil and gas production and undersea pipelines which terminate in the facility:

"The impacts and incidents highlighted in your letter allegedly occurred near a UNOCAL on-shore facility that is not included within the scope of the OPIC-financed projects and pre-dated OPIC's involvement in the [East Kalimantan] West Seno projects. OPIC has no authority to influence the non-OPIC supported activities of companies that happen to use its services."¹⁷

But that is precisely our point: In a recent meeting with OPIC management we noted that the increased off-shore production financed with over a third of billion dollars of OPIC support must flow through the on-shore facility in question, which already has been besieged by hundreds of angry local community members in the past. Violence has escalated. OPIC's entire investment may be at risk if the facility is blockaded again, or damaged or destroyed through political unrest unleashed through UNOCAL's allegedly negligent environmental and social practices. The inadequacy of OPIC screening and due diligence procedures led, we believe, OPIC to make an investment accounting for almost 30% of its 2002 portfolio dependent on a highly volatile, unstable political situation caused, in the view of local communities, by negligent environmental and social practices of OPIC's client, over which OPIC claims it has no authority or say.

We have attached for the record the exchange of our correspondence with OPIC on this issue.

The second controversy concerns the Philippine Casecan power and irrigation project, for which OPIC provided a \$100 million loan guarantee and a \$150 million insurance to California Energy in 1995. The Philippine Freedom From Debt Coalition is now urging the current Philippine government to rescind the power purchase and water use agreements associated with the project, alleging violations of various Philippine laws, undue influence and cronyism in the awarding of the contracts to OPIC's client, unmitigated adverse environmental and social impacts, excessively high power and water use fees, and corrupt practices adversely affecting the lives of local inhabitants. The recent report on the OPIC-supported Casecan Project of the Philippine Freedom from Debt Coalition is attached for the record.

The third project is the Sakhalin II off-shore oil and gas project in the Russian Far East. The waters off-shore Sakhalin Island are among the richest fisheries on the Pacific Rim, with abundant crab, herring and cod, and one of the few healthy wild salmon fisheries left in the world. It is also home to 25 marine mammal species, including 11 endangered species, most notably the world's most critically endangered gray whale, the Western Pacific Gray Whale. Yet, Sakhalin II poses a major and unreasonable hazard through myriad impacts including construction disruption, seismic testing, potential catastrophic oil spills and ongoing discharge of production wastes into the delicate marine environment. Sakhalin II poses these risks in the absence of adherence to necessary safeguards in difficult climatic and seismic conditions (including high earthquake activity, heavy ice pack, frequent gale force storms, and fog).

Regarding the threats that Sakhalin II poses to the Western Pacific Gray Whale, the Scientific Committee of the International Whaling Commission (IWC) notes "that it is a matter of absolute urgency . . . to reduce various types of anthropogenic disturbances to the lowest possible level."¹⁸

Instead, the Sakhalin II is increasing these disturbances by weakening environmental protections. On September 4, 2002, a front-page exposé in *The Wall Street Journal* documented that the Sakhalin II project utilizes much weaker environmental safeguard than those that are standard in many other places in the world, including Alaska and the North Sea. Meanwhile, oil company-funded research led to the downgrading of the area fisheries classification, clearing the way for Sakhalin II to dump drilling wastes into the seas, which had theretofore been illegal under Russian law. *The Wall Street Journal* quotes a chief Russian fisheries authority as

¹⁷ Harvey Himberg, Deputy Vice President Investment Policy & Director, Environmental Affairs Office of Investment Policy, letter to Mr. Bruce Rich and Ms. Stephanie Fried, Environmental Defense, April 21, 2003.

¹⁸ Report of the Scientific Committee, International Whaling Commission, Section 10.7.5, July 22, 2001, p54.

saying, "I don't believe we can get an objective opinion from scientists who are dependent on companies"¹⁹ Opening on *The Wall Street Journal* article, a September 18, 2002 *New York Times* editorial characterized the Sakhalin II project's view of Russia as "a cheap date."²⁰

Despite the project's risks, and the cavalier attitude displayed by the project consortium's original lead sponsor, Royal Dutch Shell, in 1997 OPIC financed Sakhalin II with \$116 million in loan guarantees. Non-Government Organizations in Russia and the US have protested OPIC support for the project, citing contradictions with U.S. foreign policy, alleging violations of the U.S. Foreign Assistance Act, the National Environmental Policy Act, OPIC's own internal environmental policies, and violation of Russian law. OPIC continues its support for Sakhalin II, despite the fact that by the year 2000, the one remaining U.S. company in the project consortium, Marathon Oil, withdrew from the project. Sakhalin II has failed to deliver its promised development impact for Russia. According to estimates of the Auditing Chamber of the Russian Federation, due to provisions in the Production Sharing Agreement, the project sponsors will pay US\$ 19 billion less in taxes than they otherwise would have under normal Russian permitting procedures over the life of the project. Meanwhile, the Sakhalin II project contributes little in return to the U.S. Government, since it is registered in the tax haven of Bermuda.

We have attached for the record the September 4, 2002 *Wall Street Journal* article, and a short briefing paper by Pacific Environment on OPIC's involvement in Sakhalin II.

C. OPIC's "Development Impact Matrix"

Earlier this year OPIC instituted a new development screen ("Development Impact Matrix"), which leaves much to be desired. Although OPIC says it is developing "a detailed guideline to these matrices to ensure consistency in scoring," we believe that the matrix in its current form will not do much to improve OPIC's record. As Jon Sohn, formerly an attorney with OPIC, now International Attorney with Friends of the Earth, notes, "there are no teeth to this matrix." I would like to share with the Committee some of the major points of the analysis of the matrix of Mr. Sohn and Friends of the Earth, since we agree entirely with them. The matrix is merely a listing of a limited number of developmental impacts, with rating categories for "negative impact," "no impact," "some impact" and "strong impact." There is no indication of how many of these impacts must be positive versus negative for an investment to go forward. There appears to be no bottom line. Moreover, there are few objective, measurable criteria for these determinations. The impacts and criteria are extraordinarily vague and subjective. For example one development matrix impact is whether a project "benefits a poor region." Who in OPIC makes that determination and based on what criteria?

There is a single category for "Environmental Preservation." What if a project has a very negative impact on the environment but meets other criteria in this matrix?

Moreover labor and human rights standards are not even mentioned in the matrix. Why would a development impact matrix avoid any mention of local labor and human rights impacts, particularly when OPIC has statutory obligations in these areas? And then there is the question of what happens if the on the ground implementation of a project does not correspond to the evaluation of the matrix. Will OPIC view this as a breach of contract, with possible sanctions, including canceling its insurance or loans?

Finally, we understand that project specific data and the findings of that data after being run through the OPIC matrix will not be available to the public. This makes little sense from a policy perspective: First, if OPIC claims it is doing a better job of meeting its development mandate, than that information should be available to U.S. taxpayers and the Congress. Second, OPIC clients would benefit in terms of reputational risk from transparency on the positive development impacts of their investments; lack of transparency in controversial projects fuels uncertainty, conflicting claims, and potential litigation under the Freedom of Information Act. Third, OPIC management took a similar stance originally concerning public release of environmental assessments prior to project approval, resulting in public resentment and controversy, Congressional inquiries etc., but later, to the benefit of its own corporate reputation, opted for more transparency. While OPIC cannot force clients to release information in the development matrix, it can require the signing of a waiver on development impact data as a condition of project approval, just as it now already does for environmental assessments.

¹⁹Jim Carlton, *The Wall Street Journal*, "Stymied in Alaska, Oil Producers Flock to a New Frontier," September 4, 2003.

²⁰*New York Times*, Editorial, "Risking Russia's Fragile Coast," September 18, 2002.

Thus, it is essential that the current OPIC development matrix should be publicly disclosed and improved through a public consultation process, including a public comment process via the Federal Register.

D. Enron and El Paso

We believe that some of the environmental, worker and human rights, and corruption issues that appear to be present in too many OPIC projects may be a consequence of OPIC having been, to some extent, “captured” by some of its most powerful clients over the past decade. The May 6, 2002 front page expose of the OPIC supported Enron Cuiaba Brazil-Bolivia pipeline (for which OPIC approved \$200 million in loans in 1999) in the *Washington Post* makes this allegation: “Enron Pipeline Leaves Scar on South America: Lobbying, U.S. loans put Project on Damaging Past.”²¹ According to the *Post*,

“The pipeline . . . and its service roads have opened the [Chiquitano] forest to the kind of damage environmental groups had predicted: Poachers travel service roads to log old-growth trees. Hunters prey on wild game and cattle graze illegally. An abandoned gold mine reopened and its workers camp along the pipeline right-of-way.

“Perhaps most stunning, however, to many federal employees who reviewed the project, was how Enron persuaded a U.S. agency, the Overseas Private Investment Corp., to support the pipeline, even though the agency was charged with protecting sensitive forests such as the Chiquitano.

“*It shouldn't have been done,*” said Mike Colby, a former Treasury Department senior environmental advisor and now a corporate consultant. “*The forest has already been declared by the World Bank . . . one of the two most valuable forests in Latin America. And OPIC chose to ignore that. They were so driven to reach these unsupportable conclusions because they wanted to finance the project at all costs.*”²²

OPIC did withdraw its approval for loans to the pipeline in December, 2001, but its initial involvement and financial commitment at critical stages of the project helped promote and accelerate an undertaking that violated basic standards of international good environmental practice. The OPIC-supported Enron Dabhol gas fired power plant in India is another example, where a huge OPIC-supported (\$391.8 million in insurance approved in 1994 and 1999) Enron project involved major human rights and corruption abuses—in fact the Dabhol project is the only case in the more than thirty year history of the Foreign Corrupt Practices Act that OPIC has felt prompted to report to the Justice Department.²³ Besides these abuses, the project was a development albatross for India: The World Bank advised against it, arguing that the plant would only add to excessive base-load capacity at excessive prices.²⁴

Overall, according to research of the Institute for Policy Studies, OPIC provided some \$2.6 billion in loans and insurance for 14 Enron-related fossil-fuel projects between 1992 and the end of 2001.²⁵ This represents a very substantial proportion of OPIC's total commitments in that nine-year period, probably more than 15%.

El Paso Energy has been another major beneficiary of OPIC largesse in recent years. In 2001 nearly 10% of OPIC's total new commitments were to El Paso Energy. A quick, and incomplete research survey conducted by Environmental Defense found \$793.3 million of OPIC insurance and loans for El Paso-related projects from the mid 1990s through 2002.

Enron and El Paso have been the subject of increasing international visibility for allegations—and findings—of massive fraud at home and abroad. El Paso has been found by the Federal Energy Regulatory Commission to have illegally manipulated the energy market in California and is facing billions of dollars in law suits for fraud. OPIC has invoked the influence of the U.S. Government to pressure for repayment in investment disputes in Enron's Dabhol project in India and in an OPIC-supported El Paso investment in the Dominican Republic. OPIC has maintained that the overall safety of all U.S. investment in these countries was at stake in these disputes, and it was no doubt not aware of the allegedly fraudulent practices of Enron and El Paso when it originally approved its commitments. But we question

²¹ James V. Grimaldi, “Enron Pipeline Leaves Scar on South America: Lobbying, U.S. loans put Project on Damaging Past,” *Washington Post*, May 6, 2002, p. A1.

²² *Ibid.*, emphasis added.

²³ Theodore H. Moran, *Reforming OPIC for the 21st Century*, p. 11.

²⁴ *Ibid.*, p. 86.

²⁵ Sustainable Energy and Economy Network, Institute for Policy Studies, “How Public Institutions Bankrolled Enron's Globalization Game” (Washington D.C.: Institute for Policy Studies, March 22, 2002), p. 18.

what kind of development message OPIC's aggressive backing of its clients in these cases this sends to poor countries.

In a section examining OPIC's "long-term official protection of deal structure," the study of the Institute for International Economics raises this issue, observing that "the Dabhol case raises the question of whether projects structured like this may not be simply time bombs waiting to explode."²⁶ OPIC should learn from cases such as Dabhol and the Paiton power plant in Indonesia (subject of a front page story in the *Wall Street Journal* in 1998 also alleging corruption, lack of competitive bidding, and warnings by the World Bank that the project could not be developmentally justified). It should develop more rigorous procedures concerning the conditions of the contracts of its clients with host governments, when these contracts are so one-sided that they can pose future risks of investment disputes or represent a bad deal from the development perspective of the host country.

We do not think OPIC is furthering the best long-term foreign policy and development policy interests of the U.S. if it is perceived as consistently backing its corporate clients against impoverished developing countries in investment disputes where the original contract provisions are, as IIE questions, so one-sided and unfair that the OPIC-backed project is a political and financial "time bomb." It is most difficult to understand, for example, how an institution that claims its mandate is development for poorer countries can rush ahead with very large financial commitments to projects that World Bank studies advise are developmentally unsound. If rechartering OPIC means more Dabhols and Paitons, we think it cannot be justified, at least from the perspective of development policy.

IV. NEEDED REFORMS

OPIC is in dire need of reforms to improve the developmental quality of its portfolio, and in our view its reauthorization cannot be justified without these reforms. The facile syllogism that Foreign Direct Investment (FDI) is good for development, OPIC supports FDI, and therefore OPIC is good for development is not credible. We note that IIE states that "*painstaking cost-benefit analyses of individual investment projects show that a large proportion—24 to 45 percent in some studies—actually deduct from host-country output and harm host country growth.*"²⁷ These figures do not even take into account more recent, evolving studies conducted by the World Bank and others on the overall negative development impact of investments in extractive industries (oil, gas, mining) in developing countries with poor governance—i.e; most developing countries.

We note that the IIE study calls for major transparency reforms in OPIC's environmental and worker rights procedures, making public "internal and third-party inspection results, and remediation follow-up on the OPIC Web-site," as well as making public information on its informal negative determinations on environmentally sensitive projects.²⁸ It also calls for "commonsense protocols to monitor economic and social effects—rejecting projects that rely on heavy protection subsidy to survive, that fail to provide training and protection to indigenous workers and managers, or that have health and safety standards in the workplace considerably behind industry practices."²⁹ We strongly endorse these recommendations as far as they go; more transparency is absolutely essential, but we do not think the IIE recommendations alone will be adequate, given OPIC's record and portfolio. OPIC already instituted stronger environmental procedures in 1999, but implementation has been weak, in some cases, linked we believe to OPIC's apparent overall priority of pushing through deals with powerful clients.

A. Establish an independent compliance/ombudsman mechanism

The above-mentioned cases and other examples clearly demonstrate that OPIC is not adequately implementing its existing environmental and labor standards. We believe that part of the problem is capacity, and part political will and priority setting. The involvement of OPIC in projects with major environmental, labor and human rights problems would indicate that OPIC's directors and management are not becoming apprised of such problems early enough or in the due diligence process. Moreover, even when OPIC is apprised of such problems, through protests or

²⁶Theodore H. Moran, *Reforming OPIC for the 21st Century*, pp. 84–86.

²⁷Ibid., p. 50, emphasis added.

²⁸Ibid., p.98. For example, OPIC's environmental procedures require a third party, independent audit at least every three years for "Category A" projects requiring full environmental assessments. These audits, now as with many other reports, are kept secret. They should be made publicly available.

²⁹Ibid., p. 51.

by communications from local or international NGOs, the political will and institutional priority to act in some cases appears to be lacking.

We recommend the establishment, within OPIC, or based within an appropriate agency of one of OPIC's US Government Board Members such as USAID, the Department of Labor, or the State Department, of an independent ombudsman's office to address independently claims of environmental, social, labor and human rights abuses in prospective and ongoing OPIC operations. Such an ombudsman would have a dedicated budget separate from general management resources, would not be subject to direct control or replacement by OPIC management, and would report directly to OPIC's directors. One model for such an ombudsman function would be the IFC/MIGA Compliance Advisor Ombudsman in the World Bank Group. The Japanese Bank for International Cooperation, the Japanese Export Credit Agency, has recently implemented a useful model. This position would advise agency staff on compliance issues and also serve as a mechanism for non-governmental organizations and local communities concerned with the impacts of OPIC projects. Canada's EDC has established an independent mechanism too.

OPIC has resisted this suggested, and the IIE study, while recognizing the need for "making a greater effort to inform locally affected people about projects under consideration and seeking input from them"³⁰ raises concerns about adding another bureaucratic layer "of investigation, delay, and uncertainty." This characterization of the Ombudsman function is a mischaracterization in our view. The Ombudsman's position would not be another bureaucratic layer; it would be a last resort for local communities, NGOs and other affected constituencies to call upon when there is evidence that OPIC is not carrying out adequately its own environmental and workers' rights policies—for which we believe there is ample evidence over the past few years.

Given the consistent pattern of OPIC involvement in controversial projects and across the board concerns of local communities and NGOs with the lack of impartiality by OPIC on sensitive matters, this instrument is absolutely necessary and should be incorporated into OPIC's charter.

B. Statutory strengthening of Environmental Policy in the areas of 1. tropical forests, 2. implementing the recommendations of the World Commission on Dams, and 3. accounting for, and reducing greenhouse gas emissions.

1. Strengthen categorical prohibition against projects in primary tropical forests

OPIC has a categorical prohibition against financing projects in primary tropical forests. However, the agency's approval of the controversial Cuiaba pipeline project in Bolivia show that the policy, and OPIC's implementation of it, need strengthening. Unfortunately, OPIC is currently considering backtracking from its existing policy, and implementing a weaker standard that falls short of the clear prohibition on projects in primary tropical forests. Congress should strengthen, not weaken, OPIC's policy by prohibiting the agency from supporting extractive or infrastructure projects in critical natural habitats and this determination must be based on transparent, objective criteria and processes via statute. Current OPIC drafts of a revised policy lack such objective standards. NGO staff are available to committee staff to provide more detail on this matter. World Wildlife Fund scientists are available to brief you on the technical aspects of this proposal.

2. Implement the findings of the World Commission on Dams (WCD)

The World Commission on Dams (WCD) was a multi-stakeholder process sponsored by the World Bank and World Conservation Union that incorporated input from industry, governments and NGOs, and whose recommendations provide international good practices for dam construction. OPIC has committed to adopting and implementing those WCD guidelines "that are within OPIC's capacity to implement". While this is positive, "within OPIC's capacity to implement" is too vague and can be subject to differing and conflicting interpretations. OPIC should adopt the WCD recommendations without ambiguity, in particular the requirement for prior informed consent of local communities. Combined with the agency's current dam policies, this would reduce the long-term social and political risks of OPIC's investment in dams. OPIC's current prohibitions concerning dam construction and a reference to WCD guidelines should both be placed in statute.

3. Develop a plan to account for and reduce greenhouse gas emissions

We note that one of the reasons for the U.S. not ratifying the Kyoto Protocol is that it requires no emissions reductions by the newly industrializing countries that

³⁰ Ibid., p. 73.

will be responsible for the greatest growth of greenhouse gas emissions in the future. OPIC currently accounts for greenhouse gas emissions from power plants it finances on an annual basis. This methodology distorts the long-term emissions that result from oil and gas extraction projects the agency supports: for example, the emissions that result from a pipeline project after the oil is exported and consumed in the United States. Congress should require OPIC to account for these projects, where fossil fuels are exported to countries including the U.S. for consumption and subsequent emissions. There should be a declining cap placed on such emissions.

In addition, Congress should require OPIC to establish a schedule for increasing its support of clean energy projects, that mandates an increasing percentage of the agency's energy portfolio be directed toward energy efficiency and renewable energy. The arguments for such a mandate are all the stronger given increasingly volume of studies and information on the poor developmental record of large fossil fuel projects.

C. Increase selectivity and transparency for large-scale fossil fuel and mining projects

OPIC's support for large-scale oil and gas and extractive projects is particularly subject to scrutiny and skepticism concerning their positive development impacts. If OPIC wishes to improve its reputation as an agency promoting development, *a. it should seek to limit its support for such operations, and be much more selective in the projects it does support. OPIC should a priori refuse to fund projects where framework agreements and/or contracts between project sponsors and host country governments override environmental and social laws in those countries.* The World Bank itself has recognized that the development record of such oil, gas and extractive projects in developing countries is particularly poor.

In the words of George Soros, in a June 13 *Financial Times* editorial, "though blessed with valuable minerals such as oil, diamonds and gold, the ordinary people of Angola, Nigeria, Kazakhstan, and elsewhere, are mired in poverty while corrupt officials prosper. . . . There is a close connection between the exploitation of natural resources and the prevalence of corrupt and oppressive regimes." Soros cites a number of countries where OPIC operates and of corporations accused of abuses, including some OPIC clients. The situation is particularly acute in Africa and Central Asia. We support his affirmation that multinational corporations "cannot escape responsibility for what happens in the countries in which they operate," and, we would add, neither can official agencies that offer them support, such as OPIC.

By increasing transparency around its investments in fossil fuel and mining projects, OPIC can help ensure that governments are held accountable for their management of resource related funds.

We also urge OPIC to adopt as policy the recommendation that Soros, more than 30 international NGOs have recently put forth, now endorsed by the government of the United Kingdom and Tony Blair, that *b. all corporations involved in oil, gas and natural resource extraction projects in developing countries be required to make public disclosure of taxes, fees, royalties and other payments to governments. Making this information public for investments seeking OPIC support should be a condition for an OPIC commitment.* The companies already gather this information, and its public disclosure would be an important first step in fighting large-scale corruption and misappropriation of funds in host developing countries. We also believe that *c. OPIC should require its clients in extractive industry sectors to make production sharing, profit sharing, power purchase and other agreements between them and host governments transparent and subject to public consultation.*³¹ These agreements greatly influence many of the environmental and developmental impacts of projects, and the development trajectory of many countries, and it is therefore incumbent upon OPIC to include them in its exchange of project information and discussion with civil society. OPIC should publish this information for each project on its website.

D. Establish New Measures to Fight Corruption

According to the World Bank, there are few things that undermine sustainable development more drastically than corruption and poor governance. According to Transparency International, the problem of corruption is endemic in much private direct investment and export finance in developing countries. According to a 1997 research paper by Shang-Jin Wei of Harvard University American investors are not "necessarily more adverse" to corruption in host countries "than average OECD in-

³¹See *Caspian Oil Windfalls: Who Will Benefit*, Open Society Institute, Central Eurasia Project, 2003, for related recommendations.

vestors . . . in spite of the US Foreign Corrupt Practices Act.”³² The IIE report observes the following:

“In the more than 25 years since FCPA’s enactment, OPIC has taken this route [reporting a case of alleged corruption to the Justice Department] just once—in the Dabhol case in India in 2002. *Give the frequency with which allegations of corruption, favoritism and financial wrongdoing have been associated with projects in the sectors where much of OPIC’s business has historically occurred—especially mining projects, oil and gas projects, and energy infrastructure—it would seem entirely appropriate for OPIC to adopt procedures that are much more attentive to the possibility of malfeasance and place a lower threshold for turning cases over to the Department of Justice in the future than it has in the past.*”³³

We agree.

We believe OPIC should adopt the following seven measures to more rigorously address potential corruption by clients or in the investments it supports. Measures two through seven reiterate the recommendations of Transparency International for publicly support export credit agencies and investment insurers.

First, OPIC should document in its Annual Report how for its clients it is monitoring and ensuring adherence to the Foreign Corrupt Practices Act; as IIE indicates, the threshold for reporting cases to the Department of Justice should be lower.

Second, every applicant for OPIC cover should be required to submit a no-bribery affidavit.

Third, if there is a bona-fide charge of bribery or any suspicion, OPIC should investigate and, while doing so, suspend all claims under this cover until the suspicion has been removed.

Fourth, OPIC should introduce effective sanctions against applicants who have violated the no-bribery policy, including denial of indemnification on the ground of invalidity of the bribe-tainted contract, disqualification from access to ECA support for an appropriate period of time, and forfeiture of any fees already paid. A violation should be assumed not only, when a criminal conviction has occurred, but also when an explicit confession has been made or when convincing evidence for the violation exists and the violation is not convincingly contested.

Fifth, whenever an indemnification case arises, the company covered should be required to disclose all commissions, fees or other payments made by it or on its behalf to anyone in connection with the contract.

Sixth, OPIC should develop effective information and guidelines for its customers and its staff so as to assure full knowledge of its corruption policies and practices among its customers and staff. This includes clear information to all applicants about the consequences of bribery.

Seventh, OPIC should assure transparency and publish cases of confirmed violations and denials of cover or indemnification, through the Internet and its Annual Report.

E. Call on GAO to review Enron and other problematic investments

We have detailed in this statement OPIC’s involvement in a number of financially, environmentally and socially risky investments; two of the most problematic, the Dabhol and Cuiaba projects, were with the Enron Corporation. We have also noted the remarkably high level of financial support over the better part of the past decade of OPIC to certain clients such as Enron and El Paso Energy, accounting for a significant part of OPIC commitments in recent years. In some cases OPIC either cancelled these loans or one case, referred the project for review at the Department of Justice. In other cases OPIC has intervened on the side of Enron and El Paso in investment disputes with host countries. As part of OPIC’s reauthorization, Congress should call on the GAO to conduct a systematic review of the agency’s support for Enron, and other large clients such as El Paso, with a goal of incorporating lessons learned into future lending practices, addressing issues raised in our testimony, the IIE report, and other sources. The review should provide oversight on other non-Enron investments that have been the source of controversy including the UNOCAL West Seno Project in Indonesia, the Sakhalin II Project in Russia and the Paiton Power Plant in Indonesia.

³² Shang-Jin Wei, Harvard University and NBER, “How Taxing is Corruption on International Investors,” paper delivered at Eighth International Anti-Corruption Conference, Lima, Peru, September, 1997, <http://www.transparency.org/iacc/8th—iacc/papers/jinwei.html>, Abstract, p. 1.

³³ Theodore H. Moran, *Reforming OPIC for the 21st Century*, p. 75.

V. CONCLUSION—OPIC'S REAUTHORIZATION IS NOT JUSTIFIED WITHOUT MAJOR REFORMS

Both the World Bank and IIE have found that private direct investment in developing countries is in many cases *not* economically and socially beneficial for the host nation. In many developing countries large-scale extractive projects in the petroleum and mining sectors have left little long-term social and economic benefit, but have wrought environmental and social damage that has economically and politically destabilized whole regions.³⁴ That over 57% of OPIC's 2002 new commitments went for such projects is, from a developmental perspective, disturbing.

There is an urgent need for greater selectivity in OPIC's choice of investment projects, not an indiscriminate broadening and expansion of OPIC clients and activities. We agree with IIE's call for both much greater public transparency in OPIC's environmental and workers' rights procedures and reporting, making public internal and third party inspection, audit and remediation follow-up reports. We also agree with IIE's finding that "OPIC must redirect and expand its monitoring protocols to focus on this broader array of effects, both positive and negative (questions of human rights, workers rights, environmental practices and anticorruption provisions)." But this second recommendation is vague, and given OPIC's record and portfolio, without stronger statutory measures there is not much likelihood that OPIC will adequately fulfill its development mandate.

We therefore urge the Congress to act on, and incorporate into OPIC's charter, the major needed reforms identified above. Only greater selectivity and demonstrated development effectiveness will garner wider political support for OPIC among constituencies other than the companies and financial institutions that benefit directly from OPIC financial services.

Without major reforms OPIC's reauthorization cannot be justified, in our view, from a development policy perspective.

Thank you very much for your consideration of these observations and suggestions.

[NOTE: Additional materials submitted for the record by Mr. Rich are not reprinted here but are on file with the Committee on International Relations.]

Mr. ROHRABACHER. Thank you very much. Next we have Edmund Rice, who is executive director of the Coalition for Employment Through Exports and sits on the Coalition's board of directors. You may proceed, Mr. Rice, who is very familiar with this Committee.

**STATEMENT OF EDMUND B. RICE, APPEARING ON BEHALF OF
THE COALITION FOR EMPLOYMENT THROUGH EXPORTS
AND THE NATIONAL FOREIGN TRADE COUNCIL**

Mr. RICE. Thank you, Mr. Chairman. It is great to be back before this Committee, where I worked happily for so many years. I am here today to represent both the National Foreign Trade Council as well as my own organization, the Coalition for Employment Through Exports.

Let me summarize with three points. First, we strongly support the reauthorization of OPIC and we strongly support the Administration's proposed amendments to OPIC's charter. Secondly, there are several features of OPIC that sometimes don't get enough attention, which I think are very important to keep in mind. OPIC is a foreign policy agency and development agency under the guidance of the Secretary of State. That is by statute. Exports are a derivative benefit, not the primary focus of OPIC.

OPIC's board includes senior U.S. officials from the State Department, the Treasury Department, the Commerce Department, the Labor Department, the U.S. Trade Reps Office and AID. The deci-

³⁴To cite one more widely respected study documenting the widespread developmental failure of oil and gas development projects in poorer countries, see the work of Stanford Professor Terry Lynn Karl, *The Paradox of Plenty: Oil Booms and Petro-States* (University of California, 1997).

sions that are made on major projects and all policy and operational decisions by OPIC are really an inter-agency process involving a number of U.S. government departments.

OPIC is private sector and private sector only and it's additional to private insurance and finance. That was gone over in some length earlier in the hearing. OPIC is financially self-sustaining and prudently managed. It charges premiums for its insurance, interest and fees for its financing and generates a net surplus for the U.S. budget and it carries \$4 billion in reserves against its exposure of about \$15 billion.

Finally, let me just touch briefly on the Administration's three proposed amendments. They are all aimed at strengthening OPIC's ability to fulfill its mission. The proposal for more flexibility in the eligibility requirements, the goal is to be more flexible to allow OPIC to utilize U.S. firms that are U.S. based, but foreign owned.

All of the other tests for an individual project would remain in effect: The test on U.S. jobs, which this Committee inserted into the OPIC charter in 1992; the requirements for benefits to the U.S. foreign policy and development policy and any other economic benefits tests that the Congress would include, such as those recommended by Professor Moran.

To us, the policy issue here is whether ownership, in and of itself, should continue to be a bar to an individual company playing a role in U.S. foreign policy and economic development goals. The proposal for foreign currency guarantees would be helpful in facilitating the financing of local costs. OPIC can already make direct loans in foreign currencies and they should have guarantee authority as well. The proposal to expand OPIC's insurance to protect against risk by parastates is very important in those countries where parastates are operating effectively with government mandate and are interfering in OPIC insured or financed projects. Thank you very much and I would be happy to answer questions.

[The prepared statement of Mr. Rice follows:]

PREPARED STATEMENT OF EDMUND B. RICE, APPEARING ON BEHALF OF THE COALITION FOR EMPLOYMENT THROUGH EXPORTS AND THE NATIONAL FOREIGN TRADE COUNCIL

Mr. Chairman and members of the committee, I am Edmund Rice, President of the Coalition for Employment Through Exports (CEE). I am testifying today on behalf of my group and the National Foreign Trade Council (NFTC). Taken together, the members of NFTC and CEE include many of the exporters and banks that utilize the Overseas Private Investment Corporation and, in so doing, help advance U.S. foreign policy and economic development goals. NFTC and CEE strongly support the reauthorization of the Overseas Private Investment Corporation. Further, we fully support the Administration's proposed changes to the OPIC statute.

OPIC SERVES U.S. FOREIGN POLICY AND ECONOMIC DEVELOPMENT GOALS

OPIC's mission, as first enunciated by President Nixon in 1969 is to harness the resources of the private sector in support of U.S. foreign policy and overseas economic development goals. In furthering these goals, OPIC also supports increased exports from the United States, which in turn contribute to new export-related jobs for American workers.

OPIC's mandate to fulfill these functions is embodied in policies established by eight Presidents and legislation passed by a succession of Congresses, going back to the 92nd Congress. Through these three decades, OPIC has enjoyed bi-partisan support in Congress because its mission has been viewed as essential and because its performance has been judged to be successful. In short, Presidents of both par-

ties and a bi-partisan majority of successive Congresses have found that OPIC works, and works well.

For emerging markets, stimulating outside private investment is essential to the ability of emerging to participate in open global competition. U.S. foreign policy and economic development goals both are aimed at promoting democracy and private sector-oriented free markets. By serving as the “insurer of last resort” for U.S. companies, OPIC makes it possible for U.S. companies to invest in the developing private sectors of emerging markets in support of U.S. policies and goals.

OPIC SUPPORT OF U.S. EXPORTS AND JOBS

For U.S. exporters, success in overseas markets depends increasingly on establishing an on-the-ground presence overseas. Not surprisingly, emerging markets increasingly demand investment in their economies as a price for entry. They do not want to be merely the purchasers of U.S. goods and services, or that of any exporting nation. Rather, they are using access to their markets to derive longer term benefits for their own economies.

As U.S. companies seek to meet the competition from other exporting nations, investment overseas has become a requirement. However, prudent investment requires insurance and financing. U.S. companies always look to the private insurance and financial markets first, because they prefer private-sector resources to government programs. However, for many emerging markets, investment insurance and related financing often are unavailable, effectively preventing significant direct investment flows and impeding economic growth. In these situations, OPIC plays a critically-important role.

OPIC IS FINANCIALLY SELF-SUSTAINING

It is important to note that OPIC charges premiums for its insurance and fees and interest for its financing. There is no subsidy of the cost of its insurance or financing. Year by year, these revenues have covered OPIC’s expenses and have generated a net surplus for the U.S. budget, while maintaining nearly \$4 billion in reserves to protect the taxpayer against the risk of loss. In sum, OPIC is financially self-sustaining.

OPIC IS GOVERNED BY A BOARD THAT INCLUDES SENIOR U.S. OFFICIALS

It also important to note that OPIC is governed by a board of directors that, by law, includes senior officials of the Treasury Department, the State Department, the Commerce Department, the Labor Department and the U.S. Trade Representative’s Office. The involvement of these officials insures that OPIC’s operations reflect U.S. policy goals and that decisions by the OPIC board are the product of interagency review and agreement.

ADMINISTRATION PROPOSALS FOR STATUTORY AMENDMENTS WILL STRENGTHEN OPIC’S CONTRIBUTION TO U.S. POLICY GOALS

The Administration has proposed three changes in the OPIC statute. NFTC and CEE support these changes because they each are necessary to strengthen OPIC’s ability to carry out its mission in marshalling the private sector in support of U.S. policy goals overseas.

Eligibility

Under current law, OPIC is limited to supporting firms that are majority U.S.-owned. The Administration proposes a more flexible provision that would allow OPIC to support U.S. firms that have significant U.S. presence (employees, facilities, tax payments), but which are majority owned by non-U.S. entities.

It is important to note that existing requirements for direct benefits to the U.S. policy goals and direct U.S. economic benefits would not change under the Administration’s proposal.

NFTC and CEE support this proposal because it would expand the number of firms that would be available to participate in overseas projects that meet U.S. policy goals. This proposal takes account of the rapidly increasing global integration of corporations and financial institutions. To us, the two key tests for OPIC should be: (1) whether a transaction is consistent with the mission of directing investment towards those projects and activities that fulfill U.S. policy goals in a given country, and (2) whether OPIC’s analysis of a proposed transaction demonstrates direct U.S. economic benefit.

Expand Insurance to Cover Acts of Foreign Parastatals

The Administration has proposed that the OPIC charter be clarified to allow OPIC to insure against hostile acts by foreign entities that are owned or controlled by governments (i.e. parastatals). Current law does not clearly allow OPIC to insure against risks posed by the government-controlled entities.

NFTC and CEE support this proposal because of an increasing pattern in some countries of acts by parastatals that approximate government interference in projects. We believe that this proposed amendment merely allows OPIC to continue to carry out a core mission in a changing environment overseas.

Guarantees of Local Currency Loans

The Administration has proposed that OPIC's charter be amended to allow OPIC to guarantee loans made in local currencies to OPIC-eligible investors. Current law allows OPIC to directly lend in local currencies, but not issue guarantees.

NFTC and CEE support this proposal because it would allow OPIC to help firms deal with situations where U.S. investors in developing countries cannot obtain local currency loans to finance local costs of a project. External financing of local costs is often not available, thus putting the U.S. firm in the position of having to obtain local financing of goods and services obtained in-country. Such financing is usually available only in the currency of that country, not in U.S. dollars. This statutory amendment would allow OPIC to assist in local cost financing by issuing guarantees, rather than having to make a direct loan.

CONCLUSION

NFTC and CEE members strongly support OPIC's reauthorization and the three amendments proposed by the Administration. OPIC continues to play a crucial role in supporting U.S. policy goals overseas through the insurance and financing of U.S. investment. We urge the committee and the House to act favorably on legislation to allow OPIC to continue carrying out this important mission.

Mr. FALCOMA. Thank you, Mr. Rice. I would like to ask the gentlelady from California for her line of questions.

Ms. WATSON. I want to go back to some comments Ms. Drake made and thank you, Ms. Drake for pointing out some of the hurdles. I support OPIC's major mission and goals are much needed. I am very, very concerned about the labor force in these countries and I am wondering if you can elaborate, and then I will re-ask the question to Mr. Rice, how we can review potential projects to see that they are complying with the labor issues and then Mr. Rice, if you will follow up too.

Do you think we need some intermediary group to see that there are the environmental protections that we want to see and that we are stressing? Also Ms. Drake, the employees rights protections that we all seek. So if the two of you would comment I would appreciate it.

Ms. DRAKE. Thank you very much, Congresswoman. It is a very pertinent question from our point of view obviously. We believe that there are a number of steps that OPIC could take to improve its screen for projects to ensure that workers' rights will be protected and the most important of these is being more selective about the countries in which it will support projects.

As I mentioned this taking steps standard, asking countries to be taking steps on workers' rights in our view is not strong enough. In Colombia for example, they could be taking steps on workers' rights by only killing half as many trade unionists a year as they kill now. That would be taking steps.

Our recommendation is that the country should be in substantial or full compliance with international standards on workers' rights. These are standards already set out in our foreign assistance law and our trade law. We think this would be a much tighter standard

for OPIC to follow and would really reduce the incidents of workers' rights being violated in OPIC projects.

In addition, the OPIC law right now requires OPIC contracts with investors to include conditions on workers' rights. We believe this could be strengthened as well. Investors are required to follow local laws on child labor, on a minimum standards for hours and wages and things of this nature yet if the country itself is not meeting international standards, then its local laws are simply inadequate. So we believe that investors should be held to those same international standards and that will ensure that we are not subsidizing or supporting substandard projects in the developing world.

The final key that is absolutely essential is monitoring of these projects. As I mentioned, the compliance monitor position is being downgraded, which is exactly the wrong direction as far as we are concerned. We believe that the monitor should be able to go out into the field, they should be able to independently and confidentially interview workers so they do not feel intimidated to get real information from the ground, they should be able to report on the workers' rights situations in different projects directly to the OPIC board so they do not have to face political pressure from management and this should all be transparent.

Members of the public should be able to know what the workers' rights situations are in countries in which we are supporting investment projects. So, I believe each of these steps, taken all together could really improve the situation for workers in OPIC supported projects.

Ms. WATSON. Thank you. Before you respond, Mr. Rice, Ms. Drake do you have access to Dr. Watson and have you laid out and how have those meetings gone?

Ms. DRAKE. They have gone very well. He is very cooperative. We have access to him both through President Kourpias, who was the President of the International Association of Machinists who serves on the OPIC board and also Dr. Watson has made a lot of effort to reach out to our international affairs department and talk to the director of the international affairs department, yet it is simply not adequate to rely on us, the AFL-CIO to know about the labor situation in every single OPIC project.

This is something OPIC needs to take on itself. They need to have the staff and the resources to be able to do this monitoring. Dialogue is valuable, but if it is no substitute for a really effective monitoring system that is adequately staffed and resourced within OPIC itself.

Ms. WATSON. I really am very sensitive to these issues, because I was pleading with the State Department to give us compliance monitors out in Micronesia and this is an area where we just didn't have. So we put in a request for additional staff. Let me flip right over to Mr. Rich and Rice. You have to have four-letter names starting with an R.

Mr. RICE. That is right. They sat us next to each other to confuse everyone.

Ms. WATSON. The two of you might want to respond. Is there an intermediary function that needs to take place with OPIC before they then finalize a contract? I think all of you are saying the same

thing and I would just like to hear your response, what we could do?

Mr. RICE. We, too, are very sensitive to the points that AFL-CIO has raised. OPIC-supported projects always should contribute to an improvement of workers' rights in any country where they are operating, but here is the dilemma which I think President Watson talked about earlier: If there is a strict standard of preventing OPIC from operating in a country where there are labor rights problems, does the United States then as a matter of policy lose the ability to use OPIC as a tool to support the development of a private sector entity in that country that could wind up being a force for positive change?

That is the policy dilemma and there is no easy answer to that, but we would just hope that in reviewing the OPIC charter the Committee is sensitive to what OPIC's policy role is to be, which is to support what the U.S. goals are. That is the other point.

Now as to whether there needs to be greater intervention, et cetera as you have suggested, I would note that the Labor Department by law—and it is because of this Committee's actions—the Labor Department has a seat in the OPIC board and it may be we need to look more closely at that. We are certainly open from our end to looking at ways to fulfill the goals that you have suggested.

Mr. RICH. Yes. Along these lines, that is why we have recommended this suggestion of an ombudsman compliance officer. This is something for which there is a bit of a track record in the World Bank's private sector operations, the international finance corporation MIGA, which is very similar to OPIC in its functions, in fact it was inspired in part by OPIC, you have such a compliance officer ombudsman function.

I think one concern is that this would add another level of bureaucracy in approving projects, but I think that comes from a misunderstanding, because the ombudsman would not intervene as a matter of course in every project. He or she would be there to address independently claims of environmental and labor and human rights abuses in prospective and ongoing operations from people who would be affected for example in the host countries. So this ombudsman would be there to intervene precisely in situations where there is controversy but not as a matter of course in every project. Again we think there is a track record for this in the World Bank group.

Ms. WATSON. In speaking to my Committee Members and Mr. Chair, I really think that the policy issues that are being raised by our panel need to be strongly recommended from the Committee and I think this idea of an ombudsman, of compliance monitors and I think they are part and parcel of any OPIC project. It might seem like another level of bureaucracy, but I think it is important to be sure that when we give the authorization that these countries that we are supporting to be able to enhance their small business operations that we take something to them that will benefit their workers and not take something from them.

So I think it is a necessary and essential and critical role that OPIC should play and we should give OPIC the resources to do that through policy and I don't care if we need to have legislation, but I do think that policy should be strongly recommended from

this Committee and I would suggest that, Mr. Chairman, now that we do that.

Thank you so very much to the panelists. I think we are all on the same page. You need to know that we support and we authorize that we leave a country better, we encourage entrepreneurship, we help small business and we will leave you better with skills and mechanisms to improve the quality of life and that is a big issue with me and with my colleagues that are on this panel. Thank you.

Mr. FALEOMAVAEGA. I thank the gentlelady from California for her questions and certainly commend her for her concerns about the operations and the activities that OPIC has provided and hopefully to fulfil its function. I certainly want to thank also the members of the panel. I thank your offered recommendations and I would like to continue to work with Ms. Drake and Mr. Moran and Mr. Rich. I don't think I need to consult with Mr. Rice. He is already on board every way and anyway possible to get OPIC through.

I do have some very serious concerns in what was presented by our three panelists. One of the questions raised by Ms. Watson concerning some kind of an ombudsman, the fact of the matter is because OPIC is under the austeres of the Secretary of State. I think the Department of State does have an Inspector General's Office and that possibly could be part of the authorization where the Congress will direct the Inspector General's Office in the Department of State. This is just a possible suggestion rather than having to invent a whole new wheel of another bureaucracy.

The fact of the matter is there is one in place in the State Department. That the Inspector General could perhaps even serve this function of making sure that OPIC complies with the changes to put more teeth in the process I think is what we are trying to seek here.

I very, very much appreciate Ms. Drake's concerns about the international labor standards versus local labor standards. My question to Ms. Drake is that: Do lending institutions like the World Bank, the IMF and the Asia Development Bank, do they have standards in terms of what you are raising your concerns with OPIC?

By the way, one of the things that really grates me sometimes is when critics from other countries say that our country does not provide enough foreign assistance to third world countries. What many people do not realize, the World Bank and the International Monetary Fund and the Asia Development Bank is funded by our country almost 30 percent and the tremendous amount of assistance that is given to countries all over the world through these three major regional lending institutions.

So we don't go out and raise the flag and say—like other countries would love to tell the world that they are providing tremendous amount of foreign aid—where our country is funding these three major lending institutions to these very countries who have economic needs. I think we need to say that a little more often to let them know that Uncle Sam is right there pitching in, in a very positive way.

I have a question on Ms. Drake's concerns about international labor standards, child labor problems that we have had and these

countries are democracies. When you hear about certain countries employing 12-year-old kids in doing very, very menial jobs, how do you measure this to say this complies with international labor standards when that family's needs are so critical that this 12-year-old maybe with two or three other brothers or sisters do need to work? I am not saying that I support this, but the fact is that these families have needs and I would like to ask you: When you say international labor standards, how do you really measure that?

Ms. DRAKE. Thank you. That is a very good question. When I speak of international labor standards, I am referring to the core labor standards that have been set out by the International Labor Organization and those are freedom of association, the right to organize and bargain collectively and prohibitions on child labor, forced labor and discrimination. All members of ILO are bound to respect and promote these core labor standards, regardless of their level of development and that is something the ILO has emphasized.

Now that doesn't mean that all child labor is going to be eradicated like that. That would be unrealistic to expect. It does mean that countries have an obligation to include strong prohibitions on child labor in their domestic laws and to have an enforcement system to try to get those children out of the factory or out of the field and into school.

I think that we, the United States and other developed countries, do have a responsibility to help developing countries do that through foreign assistance, through technical assistance and that is absolutely any country that is willing to make an effort on these issues should have the assistance of the U.S. government to do so.

Mr. FALEOMAVAEGA. Of course to be sure that our own country doesn't have sweat shops.

Ms. DRAKE. Exactly of course. We are not perfect either.

Mr. FALEOMAVAEGA. Who is keeping an eye on us for violating labor laws?

Ms. DRAKE. That is a very good point.

Mr. FALEOMAVAEGA. I was curious about that. The other point I wanted to ask Mr. Rich, you made some very, very critical points about OPIC's participation activities with extractive industries, talking about oil, gas, minerals and this in many instances do not comply, if there is an environmental international standard.

By the way, I am still pursuing this issue about one of the colonies that still exist in Indonesia is called West Papua New Guinea, which happens to have the largest gold mining activity going there in this colony that I call West Papua New Guinea. This mining operation is held by both Australian and American companies. I do not believe they comply with international standards as far as the environment is concerned.

How do you suppose that we put OPIC in that kind of a situation? Is this the kind of concern that raise that there is no standard that OPIC has raised?

Mr. RICH. Yes, if I may answer. The example you are citing actually is the Freeport Mine in West Papua and that was originally supported by OPIC. I have to say that to OPIC's credit that was one case where they did send someone to inspect. Bear in mind, this was perhaps the most controversial mineral project in the

world at the time so if there had to be one, it would be that and OPIC did withdraw their insurance. So that was a positive example.

Unfortunately, we have seen other examples where OPIC has rushed in and stayed in. I will give you an example that was on the front page of the Wall Street Journal just last autumn. OPIC has a propensity for a small government agency to end up on the front pages of the Wall Street Journal or Washington Post and not in a favorable way I might add, but that is another point.

It is the Sakhalin II offshore oil development project in the Russian far east. OPIC is very involved in that project and the *Wall Street Journal* article pointed out and in fact the thrust of the article was that American companies are there and part of the attraction is that the environmental standards are much lower than they would be in Alaska for offshore development or in the North Sea.

Another interesting thing about this project is that the sponsors have changed. The original American sponsors, the last one was Marathon Oil and they have withdrawn. So OPIC is involved to the tune I think it is \$150 or \$200 million and still in insurance for a project in which there is now no American company involved. We need more than what they currently have.

Mr. FALEOMAVAEGA. Please do not misread the fact that there are only two Members here in the Committee hearing your testimony and I just want you to know that the importance of your testimony is definitely going to be a very, very major issue when we take up the reauthorization of OPIC's charter, as I am certain that Members of the Committee will be duly informed of the concerns that you raised. Mr. Rice, I am sorry.

Mr. RICE. I just wanted to add one quick comment.

Mr. FALEOMAVAEGA. Sure.

Mr. RICE. Your question raises an important issue that needs to be kept in mind. Question: How did OPIC get into a particular project in a particular country? These decisions are not OPIC's alone very often. I tried to emphasize that in my oral. OPIC is an agency of U.S. foreign policy and in a number of instances it is the policy of a particular Administration at a particular time to direct U.S. private investment into a particular market.

I am not suggesting at all that the question should not be pursued, but decisions, especially on major projects, are inter-agency decisions always involving State, Treasury, AID, et cetera and that factor needs to be kept in mind when you look at whether OPIC made the right decision or the wrong decision in going into a project. It really goes to what the U.S. foreign policy and development priorities were at that particular point.

Mr. FALEOMAVAEGA. That is a very good point, Mr. Rice. At this time I would like to ask unanimous consent that all Members have 5 days to provide additional materials as statements for the record. Again, I want to say that unfortunately our Chairman has had to run for another commitment and he has asked me to thank all of you members of the board for your fine testimonies and the hearing is adjourned.

Ms. WATSON. Just before you hit the gavel down, I want to thank you for raising these issues. They are pertinent to our success with OPIC. I think what it all boils down to is having a monitoring func-

tion, compliance monitoring and this has been a problem with all the branches of government. So we are going to talk among ourselves and see that when that reauthorization gets here maybe there will be an amendment to establish this intermediary function. So thank you very much, Mr. Chairman, for indulging me.

Mr. FALEOMAVAEGA. I want to emphasize again to Ms. Drake and to Mr. Moran and to Mr. Rich and Mr. Rice, please do keep in touch with us, and we want very much to work with you to make sure that we put some teeth in OPIC's charter when we get it around. Thank you. The hearing is adjourned.

[Whereupon, at 1:26 p.m., the Committee meeting was adjourned.]

A P P E N D I X

MATERIAL SUBMITTED FOR THE HEARING RECORD

RESPONSES FROM OPIC TO QUESTIONS SUBMITTED BY MEMBERS OF THE COMMITTEE
ON INTERNATIONAL RELATIONSQUESTIONS FOR THE RECORD TO OPIC FROM
CONGRESSMAN WILLIAM D. DELAHUNT

Question: By increasing transparency around its investments in fossil fuel and mining projects, OPIC could promote good governance by helping to ensure that governments are held accountable for their management of funds related to the extraction of natural resources. What are some steps that OPIC could take to increase transparency around these types of projects?

Answer: OPIC is committed to increasing the transparency of its policies and decision-making process for all the projects it supports. OPIC makes EIAs for all environmentally sensitive (category A) projects available for a 60-day public comment period prior to making a final agency decision on such projects. Comments received during this process are carefully evaluated and considered in OPIC decisions. OPIC also notifies host country governments of its consideration of support for prospective category "A" projects and provides host governments with copies of the environmental guidelines (World Bank, US EPA, etc) that would be used by OPIC in evaluating the prospective project's environmental performance. And finally, project sponsors are strongly encouraged to meaningfully engage a wide variety of stakeholders in all phases of the EIA process.

The Trade Secrets Act, which prohibits unauthorized disclosure of business confidential information under penalty of law, forces OPIC to balance the interests of project sponsors in their business confidential information and OPIC's interest in transparency. Public release of contract terms does not take place without authorization from the sponsor, their partners or agents.

Accordingly, OPIC has engaged interested parties in a "transparency" initiative to review its procedures in handling business confidential information, and, consistent with relevant statutes, to seek to provide additional information to the public at large to more effectively inform interested parties of OPIC's activities. Additionally, to combine the resources applied to highlighting the importance of these issues, OPIC will seek proactive roles from IFC and MIGA when they participate as co-lenders or co-insurers of OPIC projects.

Question: It is my understanding that OPIC has provided \$116 million for the first phase of construction of the Sakhalin II Oil and Gas Drilling Project in the Russian Far East. This project imperils one of the most sensitive marine habitats in the world, including that of the Pacific Grey Whale, a species so endangered that there are less than 100 remaining on Earth. Sakhalin II threatens this mammal's habitat by extracting and transporting oil and gas in a marine environment with difficult climate conditions, including high seismic activity, heavy ice pack and frequent storms and fog. OPIC's approval of such a project indicates a need for stronger environmental guidelines concerning critical natural habitats. One possibility is implementation of compulsory

notification of Congress when such projects are under review. Can you please comment on how such a process might be implemented and do you have suggestions for additional ways to make this process more transparent?

Answer: As a matter of policy, OPIC does not support projects that would result in unreasonable or major hazards to sites that are known to be critical for rare, vulnerable, migratory or endangered species. Projects involving these types of impacts are usually rejected at a very early stage – often before OPIC initiates its formal review process. In the unlikely event OPIC would proceed to process an application for support involving these types of impacts, OPIC could highlight these potential impacts in public disclosure notices.

At the time of the OPIC environmental review of the Sakhalin project in 1997 very little information was available on the Okhotsk-Korean or Western population of Gray Whales, including a lack of information on areas that constituted critical habitat for the population. This situation was reflected and acknowledged by the Russian-American Commission on Scientific-Technological Cooperation (“Gore-Chernomyrdin Commission:). When on February 7, 1997, the Commission adopted a Statement “On Measures to Ensure Biodiversity Conservation in the Sakhalin Island Area”. In implementation of the Commission’s statement, OPIC and other senior lenders to the project required the project company to obtain baseline and monitoring data on occurrence patterns, numbers of whales inhabiting the northeast shelf off Sakhalin Island, habitat use, migration timing, pathways to and from the summer range and potential human effects: The Okhotka-Korean Gray Whale Population Monitoring and Research Program was initiated in 1998. Sakhalin Energy provided the main funding for its implementation; some Russian institutes also contributed. One of the objectives of this effort was to identify and delineate any habitat deemed critical for the survival of the population. These data were collected in project-financed studies over a four-year period and have contributed greatly to the knowledge and understanding of this population of Gray Whales.

On the basis of this information the project company developed a Western Gray Whale Protection Plan to minimize project impact on the whale population and their feeding habitat. OPIC encouraged the company to publicly disclose this plan and it is now available for download from the company web site.

Question: OPIC has a categorical prohibition against financing projects in "primary" tropical forests. Even so, the agency approved support for the Enron Corporation's involvement with the highly controversial Cuiabá gas pipeline project in Bolivia which runs through some of the sole remaining "primary" tropical forest in the region. Although OPIC cancelled its support for the project during the Enron scandal last year, why did OPIC not adhere to its environmental policies when first reviewing the project?

Answer: OPIC's categorical prohibition, published in 1998 after extensive public disclosure and comment, defined "primary tropical forest" as "relatively intact forest that has been essentially unmodified by human activity for the past sixty to eighty years". Initial OPIC due diligence on the project indicated that at least a portion of the proposed pipeline route through the Chiquitano Forest did not meet this definition of "primary forest" because of the presence of 40-year old logging and mining concessions in the area. OPIC also identified the need for further investigation of other areas in a Supplemental Ecological Assessment (SEA). This SEA identified areas of high biodiversity value that were to be avoided in final pipeline routing. The findings of the SEA, in particular, the absence of primary tropical forest along the pipeline route, was independently corroborated by a peer reviewer selected with the agreement of the concerned NGO community.

During the Cuiabá review, it became apparent that there was a lack of scientific consensus regarding the definition of "primary tropical forest". OPIC subsequently undertook a series of consultations with non-governmental organizations and agencies of the Federal Government directly involved in biodiversity and forestry management to develop a revised categorical prohibition that relies less on an assessment of past land use or the degree of human impact on a forest and more on identifying geographic areas that warrant some level of protection to preserve biodiversity or other globally important attribute. The following proposed revision was published on OPIC's web site on July 15, 2003 and is open for public comment through September 13, 2003.

Proposed Revisions to Environmental Handbook

The period for comment on the proposed revisions is commencing with this publication on July 15, 2003 and will extend until September 13, 2003. During this sixty-day period, OPIC is inviting comments from the public. Comments may be sent to EIA@opic.gov.

PREAMBLE

The Overseas Private Investment Corporation (OPIC, or the "Corporation") is proposing to amend its Environmental Handbook (Handbook) and include policies and procedures for the screening and assessment of projects involving large dams and projects impacting tropical forests. The Handbook carries out responsibilities set forth in Section 231 (n) of the Foreign Assistance Act of 1961 ("FAA"), (22 U.S.C. 2191(k)(2) as amended). Under this Section of the FAA OPIC is required to "Refuse to insure, reinsure, guarantee, or finance any investment in connection with a project which the Corporation determines will pose an unreasonable or major environmental, health, or safety hazard or will result in the significant degradation of natural parks or similar protected areas".

The Handbook was published in April 1999 after public comment. The amendments proposed are the result of an evolution OPIC has followed of environmental assessment procedures by multilateral institutions, international initiatives that have contributed to a greater understanding of environmental consequences of projects involving forests and dams, and suggestions by OPIC stakeholders on how to improve the consistency, clarity and transparency of OPIC's

environmental procedures. The amendments proposed derive from discussions over the last twelve months with OPIC stakeholders.

It is important over the next sixty days to seek public comment on the amendments proposed. The period for comment is commencing with this publication on July 15, 2003 and will extend until September 13, 2003. During this sixty-day period, OPIC is inviting comments from the public. Comments may be sent to EIA@opic.gov. In addition to the website posting, OPIC also is sending notices to the subscribers of OPIC's environmental listserv. Those notices are going out today. Thirty calendar days after the close of the comment period OPIC will be publishing on this website a summary of the comments received, responses and comments thereto, and a final version of the amended policies with respect to large dams and forests. If the comment period elicits conflicting comments among the stakeholders, OPIC will plan to hold a meeting with stakeholders after the comment period. At the time of this publication notice, OPIC, is planning on implementing final policies and procedures for the screening and assessment of projects involving large dams and projects impacting tropical forests by November 1, 2003.

The proposed revision to the Handbook related to large dam projects is intended to clarify OPIC's procedures used to screen and assess these types of projects in order to highlight areas where OPIC is taking into consideration the recommendations of the World Commission on Dams (WCD), an international initiative of the World Bank and the International Union for the Conservation of Nature (IUCN). While these revisions do not represent a dramatic departure from existing procedures, OPIC believes it is important to show leadership in adopting and implementing those elements of the WCD's recommendations that inform good development policy and that are within OPIC's capacity to implement. It is hoped that this more detailed description of the project evaluation process will make the OPIC procedures more transparent to stakeholders.

The proposed revision to the Handbook related to tropical forests is the culmination of an intermittent three-year stakeholder consultation to formulate threshold eligibility criteria for projects located in or impacting tropical forests. OPIC's existing categorical prohibition stating that OPIC will not support infrastructure and extractive projects located in "primary tropical forests" did not forestall lengthy debates regarding project eligibility as intended. OPIC's proposed revised categorical prohibition relies less on an assessment of past land use or the degree of human impact on a forest and more on identifying geographic areas that warrant some level of protection to preserve biodiversity or other globally important attribute. The revision retains the prohibition of support for projects that degrade or convert critical forest areas, including primary tropical forests, expands the application of the prohibition to all types of projects, and is consistent with recently revised World Bank Policy of Forestry.

PROPOSED REVISION (1) (Environmental Standards)

OLD TEXT

Hydroelectric Dam Standards. Costs and benefits of large dams have been debated for many years. Proponents note that dams provide electric power, irrigation for agriculture, and water supply to developing areas. Critics claim that project sponsors, public and private, systematically downplay the adverse environmental, social and economic impacts of dams. Negative impacts associated with hydroelectric dams have included population decline in certain species, involuntary resettlement of indigenous people and reduced water quality. As a result, certain large dam projects are categorically prohibited by OPIC. (See [Appendix F](#)) However, in many instances

hydropower projects can be designed in a manner that provides a reliable source of nonpolluting electric power and water for irrigation while having a minimal adverse impact on the environment and local inhabitants.

World Commission on Dams. At a Workshop in Gland, Switzerland in April 1997 jointly hosted by the [World Bank](#) and the [International Union for the Conservation of Nature \(IUCN\)](#),¹¹³ stakeholder representatives from governments, civil society organizations, international financial institutions, and the private sector agreed to establish a [World Commission on Dams](#).¹¹⁴ The Commission was has a two year mandate to review the development effectiveness of large dams and develop standards, criteria and guidelines to advise future decision making. Pending completion of the commission's report, EIAs prepared for hydro electric and irrigation projects should, at a minimum, address the issues cited in the International Finance Corporation's Application of EA to Large Dam and Reservoir Projects in IFC's [Procedure for Environmental and Social Review of Projects, Annex D](#).

NEW TEXT

Dam Standards

For projects involving the construction and operation of large dams, OPIC applies screening and environmental assessment criteria that incorporates core values and strategic priorities identified in the November 16, 2000 Report of the World Commission on Dams ([WCD](#)). Although there is a lack of consensus on the advisability of adopting all of the guidelines and recommendations contained within the WCD Report, OPIC has adopted and implemented those elements of the WCD policy that inform good public policy and that are within OPIC's capacity to implement.

OPIC will continue to apply the existing categorical prohibition on large dams contained within [Appendix F](#) of this environmental handbook. The following discussion gives further definition and context to the terms used in the Categorical prohibition with reference to applicable strategic priorities and guidelines contained in the WCD Report

OPIC does not support the construction of large dams that significantly and irreversibly cause any of the following impacts.

- A. **Disrupt Natural Ecosystems.** Disruption of natural ecosystems may result from barring passage of anadromous (migratory) fish; restricting the mobility of terrestrial species; modifying the timing and concentration of nutrient releases downstream; reducing or eliminating downstream flow; or reducing or permanently inundating critical or sensitive terrestrial habitat. Additional guidance may be found in WCD Guideline 14 (Baseline Ecosystem Surveys) and Guideline 16 (Maintaining Productive Fisheries).
- B. **Alter Natural Hydrology.** Alteration of natural hydrology may result from the elimination or significant reduction in stream flow; significant alteration of diurnal or annual stream flow; modification of groundwater levels; or induced seismicity. Additional guidance may be found in WCD Guideline 4 (Strategic Impact Assessment) and WCD Guideline 12 (Operating Rules).
- C. **Inundate Large Land Areas.** A simplified cost benefit analysis is used to assess whether an unreasonably large land area is inundated for power generated. For irrigation dams, acreage inundated is compared to new acreage that could be irrigated as a result of the project. Additional guidance may be found in WCD Strategic Priority 2 (Comprehensive Options Assessment).
- D. **Impact Biodiversity.** Impacts on biodiversity may result from ecosystem and habitat impacts described in (A) above or elimination or reduction of habitat due to land take or increasing the potential for species exploitation due to improves access to the site.

Additional guidance may be found in WCD Strategic Priority 4 (Sustaining Rivers and Livelihoods).

- E. Displace Inhabitants. Evaluation of this impact is based on a quantitative threshold (5000 person displacement). Additional guidance may be found in WCD Guideline 19 (Mitigation, Resettlement and Development Action Plan).
- F. Impact on Local Inhabitants' Livelihoods. Impacts on livelihoods may result from impairment or elimination of traditional hunting or fishing methods; elimination of scarce agricultural lands; elimination of access to drinking or irrigation water; or project-related increases in endemic diseases. Additional guidance may be found in WCD Strategic Priority 1 (Gaining Public Acceptance), Strategic Priority 2 (Comprehensive Options Assessment) and Strategic Priority 4 (Sustaining Rivers and Livelihoods).

For dam projects determined to be categorically eligible for further consideration, OPIC continues the environmental assessment process. EIAs prepared for hydroelectric and irrigation projects should, at a minimum, address issues cited in the International Finance Corporation's Application of EA to Large Dam and Reservoir Projects ([IFC Procedure for Environmental and Social Review of Projects, Annex D](#)). OPIC's assessment also includes at least an evaluation of the following factors:

1. Hydrological and Limnological Impacts. Impacts on water resources due to impoundments include effects on stream flow and groundwater; potential for increased floods; and potential for alteration of sediment deposition patterns. Additional guidance may be found in WCD Strategic Priority 4 (Sustaining Rivers and Livelihoods).
2. Catchment Area Impacts. Impacts on terrestrial environments surrounding impoundments include induced seismic and geologic events, impacts on terrestrial wildlife and impacts on downstream aquatic life. Additional guidance may be found in WCD Strategic Priority 4 (Sustaining Rivers and Livelihoods).
3. Construction Impacts. Impacts resulting from land use requirements in excess of the dam/reservoir footprint include supportive power structures, worker housing, borrow areas, access roads, power transmission corridors and waste disposal units.
4. Air Quality and Global Climate Change Impacts. Impacts evaluated include decomposition of submerged biomass; vehicle and machinery emissions; and potential impacts associated with deforestation and elimination of potential carbon sinks. Additional guidance may be found in WCD Strategic Priority 2 (Comprehensive Options Assessment) and Guideline 8 (Greenhouse Gas Emissions).
5. Resettlement. Factors evaluated include public consultation and disclosure procedures; community development planning; livelihoods assessment; potential for income restoration; compensation; and dispute resolution mechanisms. Additional guidance may be found in WCD Guideline 18 (Impoverishment Risk Assessment) and Guideline 19 (Mitigation, Resettlement and Development Action Plan).
6. Safety. Factors include structural stability of the dam and the capacity of the spillway(s) to pass flood flows. In the case of high hazard potential dams the analysis must examine the capacity to pass the probable maximum flood and the adequacy of monitoring and warning devices and downstream warning and evacuation procedures. Additional guidance may be found in WCD Strategic Priority 2 (Comprehensive Options Assessment), Strategic Priority 3 (Addressing Existing Dams) and Guideline 11 (Economic Risk Assessment).
7. Project Acceptability. Factors include an evaluation of consultation and disclosure procedures; land acquisition process; stakeholder identification; and compliance with local laws and regulations. Additional guidance may be found in WCD Strategic Priority 1 (Gaining Public Acceptance), Strategic Priority 5 (Recognizing Entitlements and Sharing Benefits) and Guidelines 17 (Baseline Social Conditions), 19 (Mitigation, Resettlement and Development Action Plan) and 20 (Project Benefit-Sharing Mechanisms).

PROPOSED REVISION (2) ([Appendix F](#))**OLD TEXT**

- I. Infrastructure and extractive projects located in primary tropical forests (see Glossary). Extractive projects include oil, gas, mineral resources, steam/geothermal and surface resources such as timber. Infrastructure refers to roads, pipelines, and, in some cases, transmission lines, to the extent that these provide human access to otherwise inaccessible areas.
- II.

NEW TEXT

- I. Projects that involve significant conversion or degradation of critical forest areas or related critical natural habitats (see Glossary).

PROPOSED REVISION (3) ([Environmental Standards](#))**OLD TEXT**

Forestry Standards/Certification. Infrastructure and extractive projects, including commercial timber harvesting, in primary tropical forests are categorically prohibited. (The prohibition of commercial timber harvesting in primary tropical forests is consistent with IFC's Exclusion List and OP on Forestry). (See [Appendix F](#))

Due to the difficulty of implementing consistent sustainability across a broad range of ecological conditions, all other OPIC-supported projects involving extraction from natural forests, including all boreal/temperate forests and all secondary forests, must be and remain certified by an independent non-governmental organization. Such organizations must be accredited by an international accreditation body (such as the [Forest Stewardship Council](#)) that can hold the certifier accountable to a common set of principles and procedural protocols, including periodic review and re-accreditation. Accredited certifiers are required to adhere to an internationally agreed set of forest management performance standards which incorporate a comprehensive range of environmental and social criteria developed by a diverse group of interests, organizations and stakeholders. Any forest product labeling associated with a certified forest must be guaranteed by a separate certification that credibly connects the labeled product to its certified forest-of-origin.

NEW TEXT**Forestry Standards/Certification**

Commercial timber harvesting in critical forest areas or related critical natural habitats is categorically prohibited (See [Appendix F](#)).

Due to the difficulty of implementing consistent sustainability across a broad range of ecological conditions, all other OPIC-supported projects involving extraction from natural forests, including

all boreal/temperate forests and all secondary forests, must be and remain certified by an independent non-governmental organization. Such organizations must be accredited by an international accreditation body (such as the [Forest Stewardship Council](#)) that can hold the certifier accountable to a common set of principles and procedural protocols, including periodic review and re-accreditation. Accredited certifiers are required to adhere to an internationally agreed set of forest management performance standards which incorporate a comprehensive range of environmental and social criteria developed by a diverse group of interests, organizations and stakeholders. Any forest product labeling associated with a certified forest must be guaranteed by a separate certification that credibly connects the labeled product to its certified forest-of-origin.

PROPOSED REVISION (4) (Glossary)

OLD TEXT

Natural Forest - an area in which the cover has evolved naturally so as to provide significant economic and/or ecological benefits, or an area that is sufficiently advanced in regeneration and recovery from disturbance as to be judged in near-natural condition. This definition includes forests that are not the result of man-made plantations, tree farms or similar operations. All primary and secondary forests are considered natural forests.

Primary Forests - relatively intact forest that has been essentially unmodified by human activity for the past sixty to eighty years; an ecosystem characterized by an abundance of mature trees. Human impacts in such forests have been limited to low levels of artisanal hunting, fishing and harvesting of forest products, and, in some cases, to low density, migratory shifting agriculture. ^[12]

NEW TEXT

Critical natural habitats - (1) Existing internationally recognized protected areas, areas initially recognized as protected by traditional local communities (e.g., sacred groves), and sites that maintain conditions vital to the viability of protected areas (as determined by the environmental assessment procedure). (2) Sites identified on supplementary lists by authoritative sources ² identified by OPIC. Such sites may include areas recognized by traditional local communities (e.g., sacred groves), areas with known high suitability for biodiversity conservation and sites that are critical for vulnerable, migratory or endangered species. Listings are based on systematic evaluations of such factors as species richness, the degree of endemism, rarity, and vulnerability of component species, representativeness and the integrity of ecosystem processes.

Critical forest areas ¹ - a type of natural forest that qualifies as critical natural habitat.

Forest ¹ - an area of land not less than 1.0 hectare with a tree crown cover (or equivalent stocking level) of more than 10 percent that have trees with the potential to reach a minimum height of 2 meters at maturity *in situ*. A forest may consist of either closed forest formations, where trees of various stories and undergrowth cover a high proportion of the ground, or open forest. Young natural stands and all plantations that have yet to reach a crown density of 10 percent or tree height of 2 meters are included under forest, as are areas normally forming part of the forest area that are temporarily unstocked as a result of human intervention such as harvesting or natural causes but that are expected to revert to forest. The definition includes forests dedicated to forest production, protection, multiple uses, or conservation, whether formally recognized or not. The definition excludes areas where other land uses not dependant on tree cover predominate, such as agriculture, grazing or settlements. In countries with low forest cover,

the definition may be expanded to include areas covered by trees that fall below the 10 percent threshold for canopy density, but are considered forest under local conditions.

Natural forests¹ - forest lands and associated waterways where the ecosystem's biological communities are formed largely by native plant and animal species and where human activity has not essentially modified the area's primary ecological functions.

¹ World Bank Operational Policy 4.04 (Natural Habitats) and Bank Procedure 4.04 - Annex A, adopted June 2001.

² Sources may include WWF Global 200, Birdlife International Endemic Bird Areas, Conservation International Hot Spots and WRI Frontier Forests. Sources identified by the World Bank include: (1) World Bank (1993). Ecologically sensitive sites in Africa. Volume III: South-central Africa and Indian Ocean. Compiled by the World Conservation Monitoring Centre for the World Bank, Washington, DC, USA; (2) Dinerstein, E., Olson, D.M., Graham, D.J., Webster, A.L., Primm, S.A., Bookbinder, M.P. and Ledec, G. 1995. A Conservation Assessment of the Terrestrial Ecoregions of Latin America and the Caribbean. The World Bank, Washington D.C; (3) MacKinnon, J. (Ed.) 1996. Review of Biodiversity Conservation in the Indo-Malayan Realm. Draft. Prepared by the Asian Bureau for Conservation in collaboration with the World Conservation Monitoring Centre. The World Bank, Washington D.C.

The period for comment on the proposed revisions is commencing with this publication on July 15, 2003 and will extend until September 13, 2003. During this sixty-day period, OPIC is inviting comments from the public. Comments may be sent to EIA@opic.gov.

**QUESTIONS FOR THE RECORD TO OPIC FROM
CONGRESSWOMAN GRACE NAPOLITANO**

Question: While 69% of OPIC projects for the Fiscal Year 2002 went to small businesses, the total amount of dollars was only a little more than 20% (\$269 million of \$1.2 billion). What has OPIC been doing to ensure that more money will go to help the backbone of our economy, small business?

Answer: OPIC recognizes that American small business is the engine of the American economy and a major source of innovation and job creation, both at home and abroad. Since 2001, OPIC has focused on how best to assist those small businesses that have been unable to attract commercial financing and political risk insurance. We have taken concrete steps.

In September 2002, OPIC signed an agreement with the Small Business Administration (SBA) to pool resources and promote lead generation for U.S. firms wishing to expand internationally. At the same time, OPIC announced the creation of its Small Business Center (SBC.) The Center is made up of experienced OPIC personnel who are dedicated solely to working with small businesses. The Small Business Center offers qualified small businesses the opportunity to utilize OPIC's resources with improved customer service, flexible coverage and easier access through a streamlined approval process. The Center is committed to considering all applications within a 60-day period. The intended result is to substantially improve access of small business investors to OPIC's insurance and finance programs, reduce loan processing time, and lower transaction costs to small business applicants.

For FY 2004 and FY 2005, OPIC has set itself the ambitious goal of committing one SBC finance deal and signing one SBC insurance contract per week. OPIC is confident that this strategy will translate to more OPIC direct loan dollars going to more American small businesses.

And finally, to solidify these gains, OPIC has created a new Department of Small and Medium-Sized Enterprises that will be responsible for OPIC's direct loan program and Small Business Center with senior level representation within the agency, responsible directly to the President & CEO for issues and transactions involving small business.

Question: How, for a public agency operating with public funds, can there not be any mandate requiring OPIC to receive the U.S. Department of State's Bureau of Democracy, Human Rights, and Labor clearance to ensure that our taxpayer money is not used by OPIC to support human rights abuses? Will your agency submit a legislative request to make this clearance mandatory?

Answer: Section 239(i) and Section 116 of the Foreign Assistance Act already require by statute to obtain clearance by the U.S. Department of State's Bureau of Democracy, Human Rights and Labor. To implement this requirement, OPIC has a

procedure that has required all projects assisted by OPIC since 1978 to be formally reviewed and to receive human rights approval by U.S. Department of State's Bureau of Democracy, Human Rights, and Labor before a formal commitment to the project will be made by OPIC. The procedures established and applied for the past twenty-five years demonstrate the importance OPIC places on this mandate.

Question: What is the percentage of Minorities that work for OPIC? What is the percentage of minorities in upper management positions? What is your organization doing to increase minority employment?

Answer: OPIC has a talented and diverse workforce. As of March 2003, minority employment is 33.5 % of total employment (197, excluding Board Members). This is broken down further as follows: Black 22.8%; Hispanic 5.1%; Asian/Pacific Islander 6%; and American Indian/Alaska Native 0%. In upper management, 13% are minority employees. To increase minority employment, OPIC has advertised in appropriate publications (e.g., *The Economist*, *The Black EOF Journal* and *Hispanic Business*), regional newspapers and on diversity websites. For existing employees, all employees are provided high levels of training which support their career ladder advancement.

Question: What is OPIC doing to reach out to minority owned businesses?

Answer: OPIC has undertaken aggressive efforts to focus on the special needs of U.S. small business seeking to enter international markets, including the creation of a separate OPIC department for small business. In addition, there is an increased minority-business outreach effort. Some recent examples include:

RECENT OPIC MINORITY BUSINESS OUTREACH ACTIVITIES

September 2003	Dr. Watson keynote speaker at annual Minority Enterprise Development Week Conference for the Global Economy	Washington, D.C.
September 2003	OPIC speaker on doing international business at Congressional Hispanic Caucus Weekend	Washington, D.C.
September 2003	Dr. Watson speaker at Congressional Black Caucus Weekend	Washington, D.C.
September 2003	OPIC speaker at Minority Business Development Regional Seminar	New York City
September 2003	OPIC speaker at Minority Business Development Regional Seminar	Chicago
September 2003	OPIC speaker at Minority Business Development Regional Seminar	Atlanta
August 2003	OPIC speaker at Nigerian/American Chamber of Commerce International Business Seminar	Brooklyn
July 2003	OPIC speaker at Minority Business Development Regional Seminar	Los Angeles
July 2003	OPIC speaker at AFRICANDO and Enterprise Florida	Miami
June 2003	OPIC speaker at Minority Business Hampton Roads Export Symposium	Hampton Roads, VA

May 2003	OPIC speaker at Africa Trade Symposium, Doing Business in West Africa	Jacksonville
May 2003	OPIC speaker at Carter Center 3 rd East Africa Trade and Investment Summit	Atlanta
April 2003	OPIC speaker at Howard University Tourism Conference	Washington, D.C.
April 2003	OPIC speaker at South Africa Business Club	Burbank, CA
April 2003	OPIC speaker at Africa Presidential Roundtable	Boston

**Questions for the Honorable Peter Watson
Full Committee Hearing on
"Renewing OPIC and Reviewing its Role in Support of Key U.S. Objectives"**

Question: OPIC Investment Funds have also been subject to their share of criticism. What steps have you taken to exercise greater oversight over their operations and to ensure there is greater transparency in the selection of their managing directors? Have you closed non-performing funds? Please describe your new "Asset Allocation Plan."

Answer: In June 2001, OPIC effectively suspended the Investment Funds program, ordering a detailed review of the existing portfolio of funds. Additionally, OPIC management initiated a review of existing procedures and controls in the program with the goal of developing a more transparent, effective and credible process for identifying, assessing, selecting and managing new Funds. This initiative has led to concrete results.

Greater transparency in selection of fund managers

OPIC has developed a transparent and competitive selection process for fund managers, and has supplemented the Investment Fund Department's ("IFD") expertise by contracting with institutional quality private equity advisory firms (the "Advisor") to assist OPIC in the design, call, and evaluation processes associated with the selection of a fund manager. OPIC has worked to date with two of the top private equity advisory firms in the country, Hamilton Lane, and Pacific Corporate Group ("PCG").

Consistent with the objectives set forth in the Asset Allocation Plan, which is discussed below, OPIC and the Advisor review the investment objectives and market demand issues associated with a new fund. IFD and the Advisor convey OPIC's intentions to the fund manager market, and gather market recommendations and potential levels of interest. Thereafter OPIC designs a call for proposals and a fund manager questionnaire that is posted on OPIC's internet site and is publicized in the business and trade press. Written proposals are reviewed by an interdepartmental Evaluation Committee comprised of career civil service senior staff and evaluated against criteria supplied in the call. Intensive due diligence is conducted on a short list of qualified proposers. Site visits, extensive benchmarking, reference checks and other due diligence is conducted, and a final selection is recommended to OPIC's Investment Committee of senior management by the Evaluation Committee. If approved by the Investment Committee a recommendation is made to OPIC's 15-member Board of Directors. Upon final approval by OPIC's Board of Directors, a commitment letter is negotiated among OPIC, the fund, and the fund management company.

Asset Allocation Plan

For the first time in OPIC's history one of the agency's departments set out to create a formal Asset Allocation Plan that was designed to address the multiple of objectives set

out by OPIC's management and its key Executive and Legislative stakeholders within the U.S. Government.

With assistance from the independent private equity-consulting firm of Cambridge Associates, Investment Funds designed a strategic framework that has taken account of several critical factors that drive success. These factors include the selection of quality managers, diversification of the portfolio by existing exposure, geography, vintage year, fund strategy, absorptive capacity of the market, potential demand from private investors, appropriate investment structures and processes, and adequate internal resources of the Investment Funds Department. The framework also contained customized benchmarks for performance measurement, as well as broader qualitative criteria consistent with OPIC's mission. OPIC has also set out to establish a new capitalization ratio for funds that will seek to materially reduce the leverage ratio in each new fund.

The annual dollar allocation is expected to be relatively constant over time to permit a more prudent investment pace by vintage year; however, if fewer attractive investment opportunities are afforded in a given year then patience should be exercised. Likewise if excellent opportunities present themselves then the allocation plan can be adjusted within reason. Geographically the Asset Allocation Plan establishes general target allocation ranges to avoid any over concentration in any single country or region.

Oversight of fund operations

With regard to Fund operations, OPIC's Investment Funds Department ("IFD") conducts four levels of oversight. Primary monitoring is assigned to one of four IFD directors who handle the day-to-day review of the specific investment funds, and two additional internal parties provide periodic credit oversight. As part of OPIC's independent audit process, the independent auditor reviews IFD's policies, processes and reserve position.

IFD receives annual audited and quarterly unaudited financial statements for each fund, as well as fund valuation reports, monthly investment activity reports, new portfolio investment applications, disbursement requests, and all fund level waiver and amendment requests. At the portfolio company level, IFD often receives audited and unaudited financial statements and projections for portfolio companies. The directors review all this material and interact with the fund managers on a regular basis, additionally they participate in each fund's semi-annual Advisory Board meetings whereby all investment activity, valuation, audit, and corporate governance issues are formally discussed. The Vice President of IFD is often engaged in the Advisory Board process, and adds additional monitoring at the executive level.

Annually IFD conducts credit reviews on each fund. The manager for credit policy and administration reviews the materials described above, and prepares a written review that is signed off by the respective director and IFD's Vice President. The written credit review monitors compliance with loan documentation, policy requirements such as environmental effects and worker rights, internal filing procedures, and loan provisions.

OPIC's Internal Control and Credit Review Group in the Office of Investment Policy then reviews Investment Funds annually, and they meet with OPIC's independent auditor and OPIC management to evaluate the program, its policies, and the reserves.

Closing non-performing funds

In the case of non-performing funds, OPIC has exercised its right to cancel its commitment for those funds that have not been able to raise the required capital within the agreed time period; this has resulted in a reduction of agency exposure of over \$200 million. In other cases OPIC has worked with the Advisory Boards to change fund management, and in certain cases OPIC has exercised its creditor rights to replace fund management, thus improving the prospects for loan repayment.

With a credible blueprint, incorporating enhanced transparency and accountability, the Investment Funds program is poised to make a significant contribution to OPIC's ongoing development mission.

Question: Do OPIC-backed insurance policies and direct funding compete with the private sector? Please explain.

Answer: In consultation with our stakeholders in the Congress, and with specific guidance from the Administration, we set out on a new course in 2001, to align OPIC's products and services in a manner that supports OPIC's statutorily-mandated mission, while also recognizing a robust and growing private market that has developed since OPIC's founding.

These sentiments were spelled out in President Bush's 2001 budget guidance that stated that, "OPIC activities should focus more closely on companies and countries that cannot access private financing or insurance. These efforts should make OPIC's programs complementary, not competitive, with the private market."

In implementing this guidance, OPIC has sought to turn competition into partnership. By cooperating with the private sector, OPIC is now in a position to lead the private sector into those countries and regions, but for OPIC support, the private sector would not participate in. In so doing, OPIC promotes its development mission by leveraging private sector investment in the countries most in need of that investment. This is good for U.S. development policy, and good for the American taxpayers.

Question: What role could OPIC play in supporting the efforts of countries to become eligible for participation in the proposed Millennium Challenge Account?

Answer: As a 32 year old public corporation with a long history of working with the private sector to mobilize capital for social and economic development in less developed countries, OPIC has valuable, on the ground experience that may be useful to the Millennium Challenge Account (MCA). In particular, the history of OPIC's investment funds program, mobilizing capital on a regional and sectoral basis, and channeling that

capital to commercially viable enterprises on commercial terms, with developmental purpose, gives rise to a specific area where OPIC could work jointly with MCA or serve as a platform for MCA priorities.

PREPARED STATEMENT OF THE HONORABLE NICK SMITH, A REPRESENTATIVE IN
CONGRESS FROM THE STATE OF MICHIGAN

Mr. Chairman, thank you for this opportunity today to discuss and evaluate the activities and mission of the Overseas Private Investment Corporation, OPIC.

I am heartened to see that since Dr. Watson has taken over as President and CEO, OPIC has implemented several changes to become more accessible to small business. The establishing of a joint OPIC-SBA Business Center and the reduction of paper work and wait-times through a new streamlined approval process are all significant steps in opening up OPIC to greater participation.

I also appreciate that OPIC is avoiding conflicts of interest with private venture capitalists by redirecting its focus to the most risky of developing markets. These are markets that have political value to the United States, but attract little to no foreign investment on their own.

Still, the central question remains: do OPIC's activities actually benefit the American economy by spurring entrepreneurial investment or is there some problem leveraging money away from other, possibly less risky investments? I remain unconvinced that OPIC benefits the American economy by distorting the flow of investment abroad to certain markets. Furthermore, though OPIC attempts to make decisions constrained by how they might harm or help other American businesses, I am concerned that the federal agency still finds itself picking winners and losers.

I expect the panels before us to address these fundamental questions. I thank you, Mr. Chairman, for this opportunity and I yield back the balance of my time.

PREPARED STATEMENT OF THE HONORABLE JOSEPH R. PITTS, A REPRESENTATIVE IN
CONGRESS FROM THE COMMONWEALTH OF PENNSYLVANIA

Chairman Hyde, thank you for holding this important hearing today.

The Overseas Private Investment Corporation's (OPIC) programs are intended to promote U.S. private investment in less developed countries by reducing risks, especially political risks, for U.S. firms associated with overseas investment.

OPIC seeks to level the playing field for U.S. businesses overseas.

We cannot ignore the fact that in the past 32 years, OPIC has supported \$145 billion in investments in over 3,000 projects. It has also created over 250,000 jobs in the U.S. and generated \$64 billion in American exports at the same time that it has created 668,000 jobs in host countries and some \$11 billion in revenues for those same countries.

Additionally, OPIC has moved in the past several years from promoting corporate welfare over the interests of U.S. taxpayers, to supporting small businesses and limiting taxpayer liability in newly created funds.

However, as part of a comprehensive assessment of U.S. foreign policy, we must evaluate the benefits and costs of using subsidized credits to promote trade or investment abroad. Are we distorting the flow of capital and resources away from the most efficient uses and distorting trade and investment flows abroad? By promoting investment abroad, is OPIC crowding out, and thereby reducing, some domestic investment?

I look forward to the testimony of our distinguished witnesses and their answers to these and other key questions.

Thank you. I yield back my time.

PREPARED STATEMENT OF MALCOLM S. MORRIS, CHAIRMAN, AND MARK EDWARD
WINTER, MEMBER OF THE BOARD OF DIRECTORS, LIVING WATER INTERNATIONAL

INTRODUCTION

Mr. Chairman, Congressman Lantos and Members of the Committee, thank you for the opportunity to submit this statement concerning the proposed reauthorization of the Overseas Private Investment Corporation (OPIC).

By way of background, Living Water International (LWI) is a faith-based organization established in 1990. Our mission is to provide safe drinking water to those in developing countries—by training, consulting and equipping nationals in the installation and maintenance of integrated water solutions. Through its 7 drill training camps, LWI has trained approximately 700 volunteers and equipped indigenous drill programs with over 125 drill rigs now providing safe drinking water in 50 countries to over 1,500,000 people.

LWI currently operates projects in Ethiopia, Kenya, Uganda, Tanzania, Ghana, Romania, India, Peru, Panama, El Salvador, Honduras, Guatemala, Nicaragua,

Mexico and Nigeria. Nationals are trained in the installation and maintenance of water systems in each country where LWI is working. Whenever possible, alliances are established with nationals living and working in the country.

OPIC/LWI PARTNERSHIP—MAKING AN IMPACT IN AFRICA

More than 1 billion people are without safe drinking water. Twice that number lack adequate sanitation. And more than 10 million people die every year from diseases caused by unsafe water. Those are the facts.

LWI met with OPIC officials to discuss the prospects for securing loans to help finance the purchase of additional drill rigs for water use exploration in Africa. OPIC studied the issue, performed the necessary due diligence and determined that as part of their “new agenda” for success, they would become involved in addressing basic human needs throughout the world, especially housing and water issues through private-public partnerships. OPIC’s enhanced development mission enabled LWI to qualify for loans used to help finance two drilling rigs.

We are pleased to report that both rigs are operational—one being operated in Kenya and the other in Ghana. Between the two drill rigs 15 wells have been completed serving more than 30,000 people daily. The unique and bold leadership of OPIC—LWI is the first NGO to receive funding from OPIC—responds in part to the U.S. commitment to the Goals for Sustainable Development, foremost of which is access to water.

OPIC translated awareness of a need—clean water—into action. OPIC’s participation with LWI to bring water to the people of Africa “adds value” and will ultimately contribute to the economic development of Kenya and Ghana.

GENDER EQUALITY ISSUES

LWI and OPIC are in the process of considering various approaches to addressing gender equality issues. Women and children in developing countries are primarily responsible for supplying water at home. Presently, LWI trains women to improve their household health, sanitation and personal hygiene. This will increase their status and value in the home and community.

The OPIC/LWI partnership is considering methods to enrich and expand present gender equality programs.

CONCLUSION

Water is the key. We must spare no effort. OPIC’s new vision and recent commitment to the needs of Africa is indicative of the indispensable leadership role it will play in meeting the basic needs for water in developing countries.

One of OPIC’s primary investment goals is to assist in creating an environment for global sustainable development...water is the foundation of ALL sustainable development.

Please include this statement as part of the June 10th OPIC hearing record.

LETTER FROM PEGGY A. HOULIHAN, PRESIDENT AND CEO, HOULIHAN INTERNATIONAL L.L.C., TO THE HONORABLE HENRY J. HYDE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ILLINOIS, AND CHAIRMAN, COMMITTEE ON INTERNATIONAL RELATIONS

HOULIHAN INTERNATIONAL L.L.C.

June 16, 2003

Hon. HENRY J. HYDE, *Chairman,*
Committee on International Relations,
House of Representatives, Washington, DC.

Re: Overseas Private Investment Corporation (OPIC)
Reauthorization Hearing—June 10, 2003

DEAR MR. CHAIRMAN: In view of my interest and long-term involvement with the Overseas Private Investment Corporation (OPIC), I am submitting the attached statement on the reauthorization of this important U.S. Government Agency. Since I began working with OPIC more than 20 years ago in several different capacities, I have witnessed OPIC’s evolving role in advancing U.S. foreign policy and commercial interests worldwide.

Houlihan Consulting L.L.C. strongly supports the reauthorization of OPIC. In view of the need to increase OPIC’s support for small and medium-sized businesses, I urge the Committee to consider the initiatives recommended in this statement.

I respectfully request that my statement be included in the record of the OPIC reauthorization hearing of June 10, 2003. Thank you.

Sincerely,

PEGGY A. HOULIHAN,
President & CEO

PREPARED STATEMENT OF PEGGY A. HOULIHAN, PRESIDENT AND CEO, HOULIHAN INTERNATIONAL L.L.C.

Mr. Chairman and Members of the Committee: I am Peggy Houlihan, President and Chief Executive Officer of Houlihan International L.L.C. in Reston, Virginia. My firm helps American companies increase their sales of products and services worldwide, through U.S. Government advocacy, finance and investment programs, and through international organizations such as the World Bank. Our clients range from small businesses to Fortune 500 firms, financial institutions, trade associations, and the U.S. Government. Prior to establishing my firm in 1997, I served in several capacities including President of the Coalition for Employment through Exports (CEE), and as an international executive with the Bechtel Group in Washington, DC. I have worked extensively with the Overseas Private Investment Corporation (OPIC), the Export-Import Bank of the U.S. (Ex-Im Bank), and the U.S. Trade and Development Agency (TDA). Since I began working with OPIC more than 20 years ago, I have witnessed the agency's evolving role in advancing U.S. foreign policy and commercial interests worldwide. Houlihan International L.L.C. strongly supports the reauthorization of OPIC and the Administration's proposed changes to its statute.

Based on my experience in helping U.S. small businesses expanding into global markets, I believe that these companies are underserved by both commercial lenders and U.S. Government export and investment support programs. Houlihan International L.L.C. urges the Committee to consider an initiative to increase OPIC's support for small business, particularly for those U.S. companies with annual revenue less than \$35 million. This can be accomplished by implementing an effective and innovative guaranteed lending program that addresses the unique challenges and market realities facing small business, and by creating a mechanism that will build an ongoing and effective dialogue with the small business community, the stalwart of the U.S. economy.

OPIC'S UNIQUE ROLE

OPIC has a special role in supporting and encouraging U.S. investments in major overseas markets. The agency provides political risk insurance and financing (through direct loans and guaranties) for U.S. private sector investments, and offers risk mitigation and financing that is not available in commercial or private markets. OPIC's support for investments in the world economy is an important source of U.S. exports and job creation in the United States. Its budget differs from most U.S. government agencies because OPIC operates as a self-sustaining institution at no net cost to the taxpayer and is, in fact, a revenue producing operation. Since OPIC's programs are market-driven, U.S. companies pay their own way for the agency's risk-management services.

Dr. Peter Watson, President and Chief Executive Officer of OPIC, has presented in his testimony a remarkable representation of the agency to this Committee and to the American people. This will result in a better understanding of OPIC's mission and its important work in today's challenging world. Under Dr. Watson's leadership, OPIC is launching successfully into a unique role in the 21st century in regions such as Sub-Saharan Africa and in rebuilding Iraq and Afghanistan. OPIC has begun to provide support for America's small business expansion in emerging markets, but much more needs to be done to fully exploit this exciting area of great potential growth for the U.S. economy.

OPIC SUPPORT FOR SMALL AND MEDIUM-SIZED ENTERPRISES (SME'S)

Small and medium-sized businesses, particularly those with annual revenue under \$35 million, have historically been and remain underserved by both commercial lenders and U.S. Government export and investment support programs. Many of these smaller firms currently export, but lack access to financing for overseas activities such as new investments, privatization, expansion and modernization; formation of new branch offices, sales offices or service centers; warehousing or small assembly operations; joint ventures; and contracting to provide construction, advi-

sory or technical assistance. There is a particular need for financing options that support overseas dealers and distributors.

RECOMMENDATIONS FOR OPIC—SMALL BUSINESS PARTNERSHIP PROGRAM

OPIC has recently announced a program to increase its support for small business investments through a direct lending program administered through its Small Business Center. This is an excellent first step. However, this program alone will not reach many of the small and medium sized businesses throughout America that need OPIC support to expand globally and increase their exports. OPIC should build an effective dialogue with the small business community and work with commercial lenders to offer a guaranteed lending program that will meet the special needs of U.S. small and medium-sized companies. I urge the Committee to consider the following initiatives during the reauthorization process this year:

- **Small Business Loan Guaranty Program:** OPIC should implement on a priority basis a small business loan guaranty program, providing eligible lenders with guaranties covering loans that support the overseas investments of U.S. companies conforming specifically with the U.S. Small Business Administration's (SBA) definition of a small business. This program will address the unique challenges and market realities facing small and medium-sized businesses.

Through this cooperative effort, qualified lenders will serve as a delivery mechanism for OPIC to extend its resources to U.S. small businesses. This program would require the participation of commercial lenders with a combination of small business expertise and focus, an ability to underwrite and service international loans, and a long-term commitment to working with OPIC.

By increasing the visibility and utility of OPIC's small business capabilities, the guaranteed lending program will serve as a valuable, additional distribution channel to reach the underserved SME market. This program will be complementary to OPIC's direct lending program offered through its Small Business Center.

- **Small Business Advisory Group:** OPIC should establish an informal Small Business Advisory Group comprised of SME business executives, trade associations, and other representatives to meet quarterly with OPIC's senior management and finance executives to review OPIC's small business programs and results and to make recommendations for enhancing service and value. This group would facilitate an ongoing dialogue between OPIC and the small business community to ensure that SMEs benefit from OPIC programs.

SUMMARY

In conclusion, Houlihan International L.L.C. strongly supports the reauthorization of OPIC and the Administration's proposed changes to OPIC's statute. In view of the importance of increasing OPIC's support for small and medium-sized business, we urge the Committee to consider the recommendations outlined above. Houlihan International L.L.C. stands ready to provide additional information on these initiatives to the Committee.

Response Submitted by Unocal Corporation
to Questions Raised by Bruce Rich, Environmental Defense
Concerning Unocal's Operations in East Kalimantan, Indonesia
House Committee on International Relations
June 10, 2003

The preponderance of the statement from Environmental Defense (ED) is inapplicable to the Unocal West Seno field development project in the Makassar Strait of Indonesia (for which OPIC financing was received). The West Seno project will have minimal impact onshore -- it will primarily use existing infrastructure constructed over the past three decades during the development of the Attaka Field. New pipelines from new offshore facilities, for example, will use existing rights of way at the beachhead, and will be buried close to other existing buried pipelines. The natural gas produced at West Seno will only transit the Santan Terminal on its way to the existing Bontang LNG facility which has been processing gas to LNG for more than 25 years. Oil from West Seno is sent to Santan for storage and shipping only, using existing facilities. No processing of the West Seno crude occurs at Santan. Transfer to tankers for transport to market occurs at the Santan Terminal through existing loading facilities. Thus, there will be minimal discernable impact onshore from gas or oil produced at the West Seno field.

As Indonesia's first deepwater project, West Seno will boost Indonesia's crude production and economy, paying more than \$1 billion in taxes and revenues over its life. More immediately, the project will require 71 new direct employees offshore and an estimated 150 contract employees during the drilling phase. Indonesia's economic recovery is still fragile, and unemployment continues to be a major issue. West Seno is thus good news for the national economy.

The ED statement is focused on existing operations at the Santan Terminal, where Unocal has worked for over 30 years. None of these operations received OPIC financing or support. OPIC financing supported only the minimal modifications to handle sales quality oil and gas through the terminal.

OPIC representatives, including an environmental specialist, spent almost a week on the ground in Indonesia in January 2002 visiting our operations, including the Santan Terminal. They were given free and unfettered access to our facilities, and were encouraged to talk to many of the approximately 6,000 local inhabitants in five villages close to the terminal. A copy of OPIC's detailed six-and-a-half-page reply to correspondence they received from Friends of the Earth and Pacific Environment including allegations asserted by ED and JATAM prior to OPIC's visit is enclosed for your review.

Many of ED's concerns were addressed comprehensively in the OPIC reply. Little new information is provided in the testimony submitted to the Committee on June 10 by Bruce Rich, although he broadly asserts that OPIC "claimed to find no way of ascertaining whether alleged environmental and human rights abuses had occurred." As the attached OPIC document explains, OPIC did not ignore these allegations. As part of their due diligence efforts, OPIC investigated the initial allegations made by Jatam, an Indonesian NGO and repeated by ED, including that of "local uprising and human rights abuses" and determined that one unfortunate incident affecting the Santan Terminal facility had occurred for a period of approximately two weeks in September/October 2000. The protestors claimed that operations from the Santan Terminal polluted agricultural fields close by where farmers were experiencing declines in their yields. Unocal brought in technical experts from Gadjah Mada University Center for Environmental Research and Studies after the protest ended to examine the fields. These experts determined that previous flooding from the Mahakkam River (and resulting salt deposits from river flooding) caused declining yields. Technical assistance provided to farmers beginning in 2001 has resulted in improved yields in 700 out of 800 hectares of rice fields. Yields continue to be up this year as new rotation and planting methods are followed.

During this two-week protest in the fall of 2000, both sea and land access to the terminal were blocked. As the blockade entered a second week, Unocal requested assistance from the local police (consistent with terms of our Production Sharing Contract) to deal with urgent resupply problems to protect offshore and onshore operations and personnel. The Ministry of Energy and Mineral Resources was apprised of the situation by senior Unocal officials at the time of the blockade and immediately following the action of the police. Both Unocal and OPIC have investigated the ensuing actions by the police to disperse the crowd. There were conflicting reports as to the number and extent of injuries, and while no authoritative assessment has been made, it is regrettable that there were injuries as the protestors were dispersed. Thankfully, there were no fatalities or permanent injuries. Unocal has since taken a series of actions to improve communication procedures with the local population close to the terminal.

Mr. Rich asserts (bottom, page 7) that "there are growing tensions concerning the behavior of OPIC's client [Unocal] in the midst of an ongoing situation of alleged human rights and environmental abuses", that "Violence has escalated" (page 8) and postulates that "OPIC's entire investment may be at risk if the facility is blockaded again, or damaged or destroyed through political unrest unleashed through UNOCAL's allegedly negligent environmental and social practices." ED offers no factual support for this speculation. In fact, there have been no additional serious incidents before or after this single two-week blockade in 2000 – no blockade, no attacks on Unocal personnel or equipment. Can we improve these working relationships and dialogue? Of course, and we are making every effort to do so. The fact of the matter is that the "ongoing situation" is one of partnership, dialogue, and working together.

To be sure, some in the local community continue to demand more. It is our corporate policy in Indonesia, as elsewhere, only to provide financial assistance to projects designed to benefit the community as a whole, not individuals. These projects are

identified by close work with representatives from the local community (including five villages in the Santan Terminal vicinity, only one of which is actually adjacent to the facility). In 2001, for example, we funded the construction of 19 miles of new access roads to connect three villages with main roads providing access to markets for local produce and to health and education services. We also provided potable water for two villages, 564 scholarships for local needy children to attend elementary, middle, and high schools, and agricultural assistance to improve yields of shrimp raised in ponds. In 2002, we funded additional agricultural assistance (including subsidies for fertilizers, seeds, and insecticides as well as training programs) to grow new crops such as melons, other fruits, mushrooms, and vegetables to help diversify local crops and improve farmers' income. In addition, Unocal funded health projects (support for village clinics and public health programs), supported construction of a water supply system to two villages, improved flood control channels, supported school health education, community infrastructure projects (integrated rural access project), youth job skills training (carpentry, welding), additional scholarships for needy children, and sponsored sports events. This year, priority projects underway include: additional diversification of income through support for poultry farming, freshwater fish culture, crab fattening, and dried fish production; a microcredit program for small-scale enterprises for men and women; a marine ecosystem research and protection program; junior and high school teacher training (emphasizing math, biology, physics, environmental sciences); and community capacity building in participatory development project planning with Gadjah Mada University and the ILO.

Mr. Rich offers no specifics but merely alleges that there have been other "social and environmental abuses" in the East Kalimantan area. However, one of the attachments he submitted does make several specific allegations. As declining rice yields led to unfounded allegations that terminal operations had somehow polluted agricultural fields nearby, declining fish yields have led to speculative allegations that Unocal operations have damaged fish impoundments and nearby marine areas. We have been unable to locate or document any such impact, but believe that declines in fish populations offshore are largely related to the local practice of using dynamite to break up fish schools offshore, and then catch them. Nonetheless, we have tried to help improve income for fishermen in a number of projects described above (shrimp pond cultivation project, dried fish production, to name two). When we have specific information about an issue of concern to the people who live close by about our operations, we do our best to respond appropriately. Can we do a better job? Yes, and we have taken steps to provide more and better contact points for the local communities. Unocal now actively works with 14 NGOs in the East Kalimantan area. We will continue to make improvements as we move forward with our East Kalimantan operations. We monitor our offshore operations carefully and have agreed with OPIC to continue to do so in accordance with International Finance Corporation (IFC) guidelines.

Additional allegations in these documents claim that Unocal and OPIC failed to follow Indonesia's environmental regulations regarding the West Seno Project. This is not true. We have followed very carefully every local statutory and regulatory requirement, and in some instances have exceeded these requirements. In February 2001, we prepared and

issued an Environmental Impact Assessment (EIA) and an Environmental Management Plan (with revisions). In 2002, Unocal prepared and issued a 20-page Community Impact Plan. We have agreed to submit comprehensive annual self-monitoring reports covering some 7 specified impacts. We have also agreed to an independent third-party audit of environmental compliance standards and methodologies, which will be submitted three years from the date the financing agreement was signed. Many of these additional requirements were worked out in consultation with OPIC and will be submitted to OPIC. We also note that, as part of the overall agreement with OPIC, Unocal committed to comply with IFC environmental, health, and safety guidelines for oil and gas development offshore. These were developed by the IFC in December 2000 and are comprehensive.

We also take strong issue with Mr. Rich's conclusions (page 8) that our operations offshore East Kalimantan and onshore at the Santan facility are in a "highly volatile, unstable political situation", that was "caused, in the view of the local community, by negligent environmental and social practices of OPIC's client [Unocal]", and that OPIC claims to "have no authority or say" over our operations. The single regrettable two-week blockade occurred almost three years ago. It has not been repeated. We are making every effort to develop a deeper and broader dialogue with the 6,000 residents living within 15 kilometers of our facilities to ensure that we improve our means of communication and interaction. Second, we take exception that "the view" in local areas is that Unocal has been negligent. There certainly are some residents who would like us to do more, individually or in their communities. However, there are many residents who have participated fully in the development of community priorities and with whom we have long-standing, excellent relationships. Our outreach efforts are not perfect, and we will continue to seek ways to improve them. Finally, OPIC has looked carefully at our Santan facility, and activities in the surrounding communities. As the record shows, OPIC has undertaken active efforts to exercise due diligence, not just in proposed offshore areas, but also onshore and in the surrounding communities. To assert otherwise is contrary to the facts.