

SECURITIES AND EXCHANGE COMMISSION

WASHINGTON

May 8, 1946

CONFIDENTIAL

Honorable Ganson Purcell
Chairman
Securities and Exchange Commission
18th and Locust Streets
Philadelphia 3, Pa.

Dear Ganson:

I am enclosing herewith a copy of a draft of "UNITED STATES FOREIGN INVESTMENT POLICY." This statement is in two main parts-- I. Government Loans and Investments, and II. Private Loans and Investments. This policy statement is the result of numerous meetings and preparatory work of the Foreign Investment Policy Committee.

It is proposed to forward this statement to the Executive Committee on Economic Foreign Policy, which may recommend the publication of the statement as this Government's official policy. The transmittal of the document to the ECEFP, however, will not take place until the agencies represented on the Foreign Investment Policy Committee have had an opportunity to comment upon the statement. I should appreciate having any comments which you might wish to transmit to the Committee.

Sincerely yours,



Walter C. Louchheim, Jr.
Adviser on Foreign Investments

Enclosure

DECLASSIFIED
Authority: AND 013017
By: [Signature] NARA Date: 12/13/07



Chairman's Box 42 Walter Louchheim, NARA

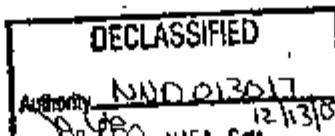
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UNITED STATES FOREIGN INVESTMENT POLICY

The United States Government believes a properly conceived program of foreign investment to be of substantial benefit to the United States and the world generally. The benefits of such a program have to do especially with the expansion of production and trade, with facilitating the maintenance of prosperity and employment, with raising standards of living, and with the promotion of general security. This country's desire to see established a world trading system on a liberal, multilateral, and non-discriminatory basis cannot easily be achieved if American capital is not available to foreign countries in adequate amounts and for economically desirable purposes.

The United States foreign investment policy, which is an integral part of its international economic policy, is supported by measures to reduce barriers of every kind to international trade and to eliminate all forms of discriminatory restrictions thereon. Barriers to the flow of trade limit the capacity to service investments and interfere with the benefits from investments.

I. Government



I. Government Loans and Investments.

1. Occasion for Government Lending.

The policy of the United States is to engage in foreign lending when this appears desirable, supplementary to private investment, in view of the fact that (a) private loans and investments have been of limited amount, (b) some undertakings are on so large a scale or require such special terms and conditions because of the public interest involved that private capital is not available, and (c) the benefits from foreign investment can be adequately realized only as a result of a considered over-all program of capital export related to domestic productive capacities, supplies, savings, foreign needs and abilities to service investments, and to the general state of financial, economic, and political conditions throughout the world; government lending may be necessary to effect such a program.

It is the policy of the United States Government not to compete with private lending when private funds are available on reasonable terms, nor to accept risks which private capital is able and willing to bear. The United States undertakes to obtain maximum private participation in new or outstanding foreign loans effected by the government.

2. Relations

2. Relations with the International Bank and Lending Agencies of other Governments.

The International Bank is regarded by the United States as the principal agency to make foreign loans for reconstruction and development which private capital cannot furnish on reasonable terms. It provides a means by which the risks as well as the benefits from international lending will be shared by all of its members. It is the policy of the United States to cooperate with the International Bank and lending institutions of other Governments.

3. Loans for Development.

It is the policy of the United States in its foreign lending to encourage and facilitate the development of industry, mining, agriculture, and other activities on which the economic advancement of foreign countries depends, provided it appears that the undertakings involved are adapted to local conditions and can survive without undue permanent government aid.

4. Rate of Flow of Investment.

It is the policy of the United States to promote in conjunction with other governments and international agencies such rates of flow of foreign investment as will maintain economically appropriate rates of development of the various
borrowing

borrowing countries. The flow of foreign investment may be sustained, or varied within suitable limits, with a view to mitigating rather than reinforcing economic fluctuations in the United States and other countries. It is not, however, the policy of this Government to treat foreign investment as a substitute for measures to maintain adequate domestic markets.

5. Labor Standards

It is the policy of the United States that foreign loans for development shall promote the observance by the borrower of fair labor standards, such as standards relating to wages, hours, working conditions, and living conditions and welfare of workers.

6. Use of Proceeds of Loans.

(Note: In view of the fact that Eximbank loan contracts now require that the proceeds of the loan be spent in the United States, the first alternative below is presented so that the statement may conform to current practice. The Committee is of the opinion, however, that loan contracts should make no specific reference to where the money should be spent, especially since the money must in any event be spent in the United States, with a few exceptions. The present practice is criticized in foreign countries as being

being inconsistent with this country's efforts toward non-discriminatory multilateral trade. The Committee has had the matter under consideration for some time with the intention of presenting a report thereon. Inasmuch as the present policy statement must necessarily include the subject, the Committee recommends that it be suggested to the Eximbank that future loan contracts not specifically require expenditure of the proceeds of loans in the United States. It is believed that omission of the formal requirement would not alter materially present procedure. If such references are omitted from loan contracts the Committee would recommend that alternative two be used.)

Alternative 1:

Loans by the United States Government have varied in regard to the areas in which they can be spent. Loans made through the Export-Import Bank have primarily been to finance the borrower's direct purchases of American goods. In other cases a broader purpose has been served and funds have been supplied for use anywhere in the world; the proposed British loan is of this character. The proceeds of loans made by the International Bank for Reconstruction and Development with dollars raised in the United States market will in every case be available for expenditure in any country without restriction; the borrowers will thus raise funds where

capital

capital is most abundant and will be free to purchase materials and equipment wherever they can most advantageously be obtained. Most of the proceeds of unrestricted loans are certain to be spent in the United States, either by the borrower directly or by nationals of the same or another country to whom the dollars have been transferred. The principal exception, when the proceeds are added to foreign reserves in the form of dollars or gold, is likewise to the advantage of the United States, since it assists in building up a stable system of international exchange rates and a broader basis for multilateral trade.

Alternative 2:

Loans by the United States Government to foreign borrowers ordinarily to finance the purchase of United States goods and services. It is not the desire of this Government, however, by means of Government credits to give American exporters an unfair advantage over their foreign competitors or to divert trade from channels in which it would flow in response to free and equal choice. It is the policy of the United States, therefore, that the proceeds of loans ^{to foreigners} made by the Government shall ordinarily not be restricted to expenditure in the United States by the immediate borrower. Dollars loaned to foreigners are, of course, with few exceptions used ultimately to purchase

American

American goods, whether so spent directly by the borrower or paid by him to nationals of another country.

7. Foreign Competition with American Enterprises.

It is the policy of the United States that Government lending shall not foster unfair competition with existing American enterprises. Enterprises, however, can not ordinarily be developed or expanded without increasing to some extent the competition for existing enterprises, whether the new enterprises are financed by private or Governmental agencies.

It is also the policy of this Government to permit exports of machinery, equipment, and all types of capital goods to take place freely although temporary scarcities resulting from the war may in some instances delay such exports. Items related to the production of armaments and munitions may, however, be subject to special control.

8. Loans to State Enterprises and Countries with Nationalization Programs.

The nationalization of industry is regarded by the United States as a matter of domestic concern for each foreign country. Loans of the United States Government are for specific developmental programs and for the purchase of goods and services; they are not to finance the transfer of existing properties. It is, therefore, the policy of this Government not to refuse to extend credits to countries on the ground that they are conducting state enterprises or are

pursuing nationalization programs. The treatment accorded American property owners by such countries is, however, taken into consideration.

c. Loans on Repayment Basis.

Foreign loans by the United States Government, though not motivated by profit in the usual sense, are made with the expectation and understanding of eventual full repayment. However, the Government for national policy reasons may on occasion undertake special risks.

10. Loans Rather Than Equities.

It is the policy of the United States ordinarily to avoid direct equity participation in enterprises abroad.

11. Interest Rates.

It is the policy of the United States that interest rates on its foreign loans shall be as low ^{is} as consistent with this Government's desire to avoid competing with possible private lenders willing to lend on reasonable terms and with the cost of money to the United States Government, including expenses and reserves connected with the loan. In exceptional cases the purpose of the loan may occasion a departure from these terms.

12. Amortization.

It is the policy of the United States that rates of amortization on its foreign loans be determined in the light
of prospective

of prospective economic conditions and be related to specific situations connected with the loan.

13. Loans to Defaulting Borrowers.

The United States takes into consideration the debt record of the borrower, although it does not necessarily make payment of service on outstanding dollar obligations a condition for the extension of credit.

II. PRIVATE LOANS AND INVESTMENTS

1. Preference for Private Investment.

It is the policy of the United States to look to private investment in so far as possible to provide such outflow of capital as is in the interests of the United States and other countries and not to engage in Government lending when private funds are available on reasonable terms.

2. International Cooperation to Facilitate Investment.

It is the policy of the United States to cooperate with foreign governments and international agencies in measures to facilitate the flow of private investment, such as measures to assure just and equitable treatment, to eliminate exchange and other restrictions that hamper the growth of trade and investment, to promote exchange stability, and to establish investment practices and procedures conducive to healthy private investment.

3. Government Assistance to Private Investment.

It is the policy of the United States to encourage and assist the investment of private capital abroad for the economic advancement and the development of the resources of foreign countries, including the development of industry, mining, and agriculture, provided it appears that the undertakings are adapted to local conditions and can survive

without

without undue permanent government aid and that the investment is not inconsistent with the foreign policy of the United States.

4. Undesirable Types of Investment.

Investments should not be accompanied by terms and conditions or be for purposes that are likely sooner or later to be the subject of public resentment in either country or to be otherwise detrimental to good relations between the United States and the foreign country. Accordingly investments should not be accompanied by arrangements whereby the investor receives from the foreign government special privileges, such as tax or custom favors, except perhaps for an initial short period of time, or exclusive concessions unless such concessions are essential by the nature of the undertaking and are in the public interest of the foreign country or of the United States. Investments should not further the activities of private monopolies and cartels.

5. Joint Foreign and American Investment.

Investments in enterprises in foreign countries should ordinarily attempt to provide opportunity for the participation of national capital and management. Such participation is especially desirable when local resources are to be developed or services are to be provided locally. It

is less

is less important when the enterprise is directly related to the marketing of a United States product. Participation with national capital, public or private, is undesirable when prompted by the obtaining of monopoly or special privilege.

6. Foreign Limitations on Investment.

Limitations by foreign governments upon the participation of capital from other countries in their enterprises and upon the amount or proportion of outside capital to be employed in such enterprises are regarded by the United States as likely to deter investment and economic development. The United States believes that all governments should facilitate the free investment of foreign capital giving equal treatment to national and foreign capital, except when the investment of the latter would be contrary to the fundamental principles of public interest. To this end the United States desires to see developed inter-governmental agreements and arrangements to assure non-discriminatory treatment of foreign investments.

7. Compensation to American Property Owners.

When foreign governments take possession properties of American nationals in connection with programs of nationalization or for other reasons, adequate and effective compensation should be made to the owners without undue delay.

8. Protection

8. Protection to American Property Owners.

When American investors become engaged in disagreement with a foreign government or national and are unable to secure adequate consideration through ordinary channels, the United States Government may, when the circumstances warrant, make representations in behalf of the American investor.

9. Adjustment of Defaults.

Negotiations to adjust defaults are considered the responsibility of the debtors and creditors concerned rather than of the United States Government. Nevertheless, in view of the deleterious effects of a default upon foreign investment in general and possibly upon good relations between the United States and the country in question, the United States Government may in appropriate instances lend its good offices in the interests of effecting a settlement.

10. Equities.

Since equities provide a type of flexibility ordinarily desirable, investments in private enterprises, especially in economically undeveloped countries, should in so far as feasible be in equities in preference to fixed-payment obligations.

11. Interest

11. Interest and Amortization.

Investments in the form of loans should be at reasonable rates of interest and with amortization schedules related to general economic conditions and specific situations. Costs of financing should be moderate.

12. Keeping Government Informed on Investment Plans.

The United States Government desires that American investors contemplating new foreign investments or the expansion of existing investments keep this Government informed of their plans when substantial sums are involved.

Foreign securities offered for public sale in the United States must be registered with the Securities and Exchange Commission.

Although there is at present no legal requirement that investors or underwriters obtain authorization from the Department of State to make foreign investments or to offer securities of foreign issuers to the public, the Department appreciates being informed of such contemplated transactions. While the Department does not pass upon the investment merits of any securities, it may desire to indicate, in each instance which is brought to its attention, whether it has objections on grounds of foreign policy.