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PERMANENT SOVEREIGNTY OVER NATURAL RESOURCES

The exercise of permanent sovereignty over natural resources and the use of foreign capital and technology for their exploitation

Report of the Secretary-General

PREFACE

The General Assembly, at its twenty-third session, had before it a report of the Secretary-General on permanent sovereignty over natural resources,[1] submitted pursuant to General Assembly resolution 2158 (XXI). In paragraph 18 of the report, the Secretary-General stated that the document should be considered as a progress report, and that it could be supplemented - possibly on the basis of questionnaires to Governments - should the General Assembly provide more precise guiding principles.

After discussing the report, the General Assembly adopted resolution 2386 (XXIII), in which it stated that resolution 2158 (XXI) contained guidelines for the Secretary-General for the elaboration of a further report, and requested him to include in the latter "a comprehensive account of the implementation of the principles and recommendations set forth in General Assembly resolution 2158 (XXI), in particular section I, paragraphs 5, 6 and 7". These paragraphs read as follows:

"The General Assembly...

"5. Recognizes the right of all countries, and in particular of the developing countries, to secure and increase their share in the administration of enterprises which are fully or partly operated by foreign capital and to have a greater share in the advantages and profits derived therefrom on an equitable basis, with due regard to the development needs and objectives of the peoples concerned and to mutually acceptable contractual practices, and calls upon the countries from which such capital originates to refrain from any action which would hinder the exercise of that right;

"6. Considers that, when natural resources of the developing countries are exploited by foreign investors, the latter should undertake proper and accelerated training of national personnel at all levels and in all fields connected with such exploitation;

"7. Calls upon the developed countries to make available to the developing countries, at their request, assistance, including capital goods and know-how, for the exploitation and marketing of their natural resources in order to accelerate their economic development, and to refrain from placing on the world market non-commercial reserves of primary commodities which may have an adverse effect on the foreign exchange earnings of the developing countries."

1/ Official Records of the General Assembly, Twenty-third Session, Annexes, agenda item 39, document A/7268.

In resolution 2386 (XXIII), the General Assembly also decided to consider the report of the Secretary-General at its twenty-fifth session.

In order to obtain up-to-date information for the report, as well as the views of Governments on the implementation of General Assembly resolution 2158 (XXI), the Secretary-General sent a questionnaire[2/] to all Member States on 5 March 1970. As of 12 June 1970, nineteen replies to the questionnaire had been received. In view of the limited amount of information provided by Member States, the report had to be based largely on material gathered from periodicals, official publications and other documents. Part two of the report, dealing with contractual arrangements between developing countries and foreign investors, covers all the countries on which sufficient information could be obtained. Part three was originally designed to contain not only information on assistance from multilateral sources, but also information on assistance given to developing countries by developed countries. However, no detailed information on the latter type of assistance was available.

Should the General Assembly recommend that the report be revised with a view to making it as comprehensive, accurate and up to date as possible, it would be appreciated if the countries not covered in the report could provide the necessary information, and the countries alraady covered could expand and correct the relevant passages of the report as appropriate.

In preparing the report, the United Nations Secretariat has benefited from the information provided by the United Nations Conference on Trade and Development secretariat, the International Bank for Reconstruction and Development, the African Development Bank, the Asian Development Bank, the Inter-American Development Bank and the East African Development Bank.

2/ See annex.

CONTENTS

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CONTENTS (continued)

INTRODUCTION

1. Sovereignty over natural resources is inherent in the quality of statehood and is part and parcel of territorial sovereignty - that is, "the power of a State to exercise supreme authority over all persons and things within its territory".[1/] Sovereignty over natural resources, which is essential to economic independence, is functionally linked to political independence, and consolidation of the former inevitably strengthens the latter. Since it excludes allegiance or subordination to any authority, sovereignty over natural resources implies complete freedom of action for a State in determining the use of those resources. The principle of that freedom of action has been authoritatively expressed and reaffirmed, in conformity with the spirit and principles of the United Nations Charter, in General Assembly resolutions 523 (VI) of 12 January 1952, 626 (VII) of 21 December 1952, 1314 (XIII) of 12 December 1958, 1515 (XV) of 15 December 1960, 1803 (XVII) of 14 December 1962 and 2158 (XXI) of 25 November 1966, and in General Principle Three,[2/] adopted at the first session of the United Nations Conference on Trade and Development.

2. The General Assembly has not contented itself with affirming the principle of State sovereignty over natural resources in abstracto as a legal concept; it has consistently placed that principle in an economic and social context and in operative paragraph 1 of General Assembly resolution 1803 (XVII) it declared that the "right of peoples and nations to permanent sovereignty over their natural wealth and resources must be exercised in the interest of their national development and of the well-being of the people of the State concerned".

3. Viewed in that context, the concept of sovereignty over natural resources acquires a dynamic connotation, encompassing not only the formal rights of possession of those resources and freedom to decide on the manner in which they shall be exploited and marketed, but also the capability to exploit and market them so that the people of the State concerned may benefit effectively from them.

4. The developing countries' evaluations of the financing needed for the exploitation of their natural resources indicate that considerable additional

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1/ See Oppenheim's International Law, 8th edition, vol. I, H. Lauterpacht, ed. (New York, David McKay, Co., Inc., 1965), p. 286.

2/ Proceedings of the United Nations Conference on Trade and Development, vol. I, Final Act and Report (United Nations publication, Sales No.: 64.II.B.11, p. 10.

capital from external sources will be required. Furthermore, any programme for the exploitation of such resources, particularly petroleum and mineral resources, necessitates technical know-how, which has been developed primarily in industrial countries. The present experience of the developing countries in that respect is similar to the past situation of many countries which are now developed, but which originally depended almost entirely upon foreign capital and know-how for the exploitation of their natural resources and, in many cases, still make significant use of them for that purpose.

5. The representative who, on behalf of the sponsors, introduced the draft resolution which subsequently became General Assembly resolution 2158 (XXI), observed on that occasion that:

> "None of the provisions should be construed as expressing hostility to foreign investment in the exploitation of natural resources; foreign capital was needed and, in fact, welcomed. The developing countries were, however, concerned to secure greater control of and safeguards for the exploitation and marketing of their natural resources ... True international co-operation in that connexion could be achieved only if the justice of those countries' claim to an increased share in the administration, advantages and profits derived from exploitation was admitted ... The developing countries also considered that, in return for the profits developed countries derived from their natural resources, the latter countries should ... help them to overcome their technological backwardness by training national personnel for work relating to natural resources." 3/

6. Part one of this study contains a discussion of the issues involved in foreign participation in the development of the natural resources of the developing countries; part two reviews on a country basis the status of contractual arrangements between developing countries and foreign investors for the exploitation of natural resources and the marketing of natural resources products; and part three describes the multilateral assistance provided to developing countries for the exploitation of natural resources.

3/ See Official Records of the General Assembly, Twenty-first Session, Second Committee, 1050th meeting, para. 2.

Part one

ANALYSIS AND FINDINGS

I. THE PROBLEM AND ITS SETTING

7. Underlying the General Assembly resolutions on permanent sovereignty over natural resources is the basic problem of how the developing countries can exercise sovereignty over their natural resources so as to develop them in the best possible way and ensure that their peoples derive the greatest benefit therefrom. Any country seeking to attain a permanently rising standard of living for all its people must make rational and efficient use of the land within its frontiers, its surface and underground waters, its minerals and its energy.

8. The exploitation of one resource often affects another resource or other resources. Optimum exploitation would be facilitated by the formulation by each country of an integrated and harmonious plan for the exploitation of all its natura resources. The plan should, of course, be dovetailed with and should indeed constitute a component of the over-all development plan of the country concerned.

A. Capital requirements for exploitation of natural resources

9. The exploitation of natural resources is a technical process which may involve many stages; the number of stages and the techniques employed vary according to the nature of the resource concerned, but capital and know-how are always required in order to achieve optimum results.

10. The efficient development of land involves the use of modern techniques and equipment for forest exploitation and renewal, land clearing, soil preparation and conservation, irrigation and flood-control works, pest control, stock-breeding, construction of storage facilities etc. Given the lack of accurate data on the aggregate volume of past investment in agriculture and on its relation to gross agricultural output, it has been difficult to quantify the approximate volume of capital that would be required for the development of land resources in coming years. However, on the basis of fragmentary information, it has been estimated that in the period 1948-1957, an average annual investment of about $7,600 million was required

to increase food production in Asia (excluding China (mainland)),Africa and Latin America by 2 per cent per annum. On that basis it has been calculated that an average of approximately $8,600 million would have to be invested annually in agriculture during the period 1960-1980 if the production rate was to increase 10 per cent faster, that is, at a rate of 2.2 per cent per annum.[1/] At the "Round Table on Agricultural Development in Latin America: the Next Decade", organized by the Inter-American Development Bank in April 1967, an estimate was put forward concerning net investment in agriculture in Latin America from 1967 to 1982. According to that estimate, net investment in agriculture would have to be increased by at least $25,000 million during that period to achieve certain production goals. It was further estimated that additional working capital requirements for that period would amount to $30,000 million, making a total of at least $55,000 million.[2/]

11. The development of mineral resources is a highly capital-intensive undertaking, encompassing basic mapping (topographical and geological), exploration, evaluation, extraction and treatment of ores (processing and/or beneficiation[3/]), all of which require considerable capital and extensive technical knowledge and experience. Furthermore, a mining project in a developing country almost invariably entails the construction of infrastructure works such as railways, roads, water supply and housing. Mapping and exploration must be financed before there is any certainty that the return will be forthcoming. For example, in the period 1940-1962, about $170 million was spent on oil prospecting in Nigeria. Similarly, in Gabon, about $107 million was spent on petroleum exploration in the twenty-year period 1949-1969 and exploration continued for seven years before the first commercially-exploitable petroleum deposit was discovered. In Guatemala, oil companies spent $40 million on exploration between 1956 and 1959. In the United Arab Republic, two foreign companies, which were granted petroleum concessions in September 1963,

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1/ The International Monetary Fund and the International Bank for Reconstruction and Development, Finance and Development, vol. III, No. 3 (Washington, D.C., 1966), p. 206.

2/ Inter-American Development Bank, Agricultural Development in Latin America (Washington, D.C., 1967), pp. 96 and 111.

3/ Mineral Resources Development with Particular Reference to the Developing Countries (United Nations publication, Sales No.: E.70.II.B.3), p. 1.

agreed to spend on exploration, respectively, a minimum of $10 million over a ten-year period and a minimum of $20 million over a twelve-year period, while a third company, which was granted a concession in February 1964, agreed to spend a minimum of $27.5 million on exploration over a period of nine years. In West New Guinea, $112 million was spent over twenty-five years, leading to the discovery of only three small deposits.

12. The cost of exploiting mineral deposits naturally varies according to the mining methods used (open-cast or open-pit mining, adit mining, and underground or shaft mining), the group of minerals involved (petroleum, coal, metallic minerals, industrial minerals, building materials, precious metals and diamonds), and the volume of energy, the amount of processing and the transport facilities required.

13. The following list gives an idea of the magnitude of the investment required for the exploitation of mineral deposits:

Projects contemplated or just begun

	Millions of US dollars
Uranium deposits at Bakouma (Central African Republic) . .	30-37
Manganese deposits at Tambao (Upper Volta)	44.5
Uranium deposits at Arlit (Niger)	47
Copper deposits in the Mamut Area of Sabah (Malaysia) . .	70
Copper deposits at Mushosi and Kinsenda (Democratic Republic of the Congo)	70
Iron deposits at Bangolo (Ivory Coast)	165
Bauxite deposits at Boké (Guinea)	180
Copper deposits at Sar Chesmeh (Iran)	230
Copper deposits at Nacozari (Mexico)	240
Iron deposits at Belinga (Gabon)	275
Iron deposits at Wologosi (Liberia)	300

Projects completed and in production

	Millions of US dollars
Chromite deposits at Andriamena (Madagascar)	14
Calcium phosphate deposits at Taiba (Senegal)	37
Calcium phosphate deposits at Benin (Togo)	37
Potassium deposits (People's Republic of the Congo)	74
Manganese deposits at Moanda (Gabon)	110
Bauxite deposits at Kindia (Guinea)	150
Iron deposits in Nimba Mountains (Liberia)	200
Iron deposits (Mauritania)	203
Copper deposits in Zambia	1,200

14. Concering petroleum, data relating to twenty-nine oil companies show that expenditures for fixed assets in developing countries totalled $845 million in 1964, $894 million in 1965 and $829 million in 1966.[4/]

15. The harnessing of water power, which may be used for mining projects as well as for other purposes, necessitates the construction of dams and hydroelectric plants which often constitute some of the most expensive development projects, as may be seen from the following investment estimates:

	Millions of US dollars
Guinea - Konkouré hydroelectric project (final capacity, 450,000 kW)	140
People's Republic of the Congo - Kwilu hydroelectric project (final capacity, 820,000 kW)	170
Democratic Republic of the Congo - Inga hydroelectric project (final capacity, 25 million kW)	3,000

16. The import component of natural resources projects varies widely according to the nature of the resource and the extent to which the necessary goods and services can be provided domestically. It has been estimated that in a country which has no cement, steel, or machinery industries, and few indigenous engineers and technicians, more than half the funds required for an irrigation

4/ The Chase Manhattan Bank, Financial Analysis of a Group of Petroleum Companies, 1966 (New York, 1967).

project may have to come from abroad. On the other hand, the foreign exchange component of the Indian investment in large and medium-sized irrigation projects has approximated 7 per cent. For the developing countries as a whole, the foreign exchange component of public investments for agriculture is said to average about 25 per cent; the figure is believed to be lower in the case of private investment.5/

17. In the case of mineral resources projects, the foreign exchange component is almost always high, and the more complex the extraction process, the higher it is. Generally speaking, it has been estimated that about two thirds of fixed capital formation consists of plant, machinery and equipment and heavy construction equipment which must be imported.

B. The case for using foreign capital and technology in the exploitation of natural resources

18. As noted by the Commission on International Development, domestic savings financed 85 per cent of total investment in the developing countries in the 1960s.6/ During the same period, imports of the capital goods required for economic development have, in most developing countries, constituted an increasing percentage of aggregate imports; this increase has usually been achieved by reducing imports of consumer goods rather than by expanding total imports. These facts indicate that the developing countries have made genuine efforts to move towards self-sustaining growth.

19. However, it is difficult for the developing countries to increase their domestic savings at a pace commensurate with their investment needs, because of their low level of production and their low per capita incomes. The lower the latter, the more difficult it is to compress consumption in order to increase the rate of fixed capital formation. On the basis of the incremental capital-output ratio observed in the majority of the developing countries, the current volume of domestic savings of many of those countries, even if fully mobilized and diverted

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5/ The International Monetary Fund and the International Bank for Reconstruction and Development, Finance and Development, vol. III, No. 3 (Washington, D.C., 1966), p. 206.

6/ International Bank for Reconstruction and Development, Partners in Development: Report of the Commission on International Development (New York, Praeger, 1969), p. 30.

to productive investment, can hardly sustain a growth rate consonant with their current and prospective rates of population increase, let alone reach the 6 per cent growth target set for the Second United Nations Development Deacde.

20. Furthermore, there are serious limitations to the ability of the developing countries to increase their export earnings. At present a little less than 88 per cent of those earnings are derived from the sale of primary products and are therefore dependent on the prices and trading opportunities available on the world commodity markets. These prices tend to fluctuate widely and demand is growing slowly, owing to technological development and changes in consumer habits. In addition, the efforts of the developing countries to increase their export earnings have been hampered by tariff and other limitations imposed by the developed countries.7/

21. In these circumstances it would appear that in the foreseeable future an increasing flow of foreign capital from the developed countries will remain necessary for the implementation of the programmes of the developing countries for the exploitation of their natural resources. Furthermore, such programmes, particularly when petroleum and other mineral resources are involved, necessitate technical know-how, which has been developed primarily in the industrialized countries. The history of the development of natural resources throughout the world demonstrates the crucial importance of foreign capital and know-how in that process.

22. Before the First World War, the natural resources of the developing countries were exploited through an inflow of resources consisting of portfolio investment and, to a lesser extent, of direct investment in raw materials exporting branches or subsidiaries with its accompanying technical and managerial know-how. The flow of foreign funds to the developing countries dwindled considerable in the period between the two world wars, owing to a number of factors, including the Great Depression, default by debtors in developing countries and the slackening of the demand for primary products in the developed countries.

7/ See International Monetary Fund and International Bank for Reconstruction and Development, The Problem of Stabilization of Prices of Primary Products; a Joint Staff Study (Washington, D.C., 1969).

23. That demand increased during the Second World War, enabling the developing countries to increase their export earnings and to accumulate foreign exchange reserves which enabled them to increase their capital formation in the immediate post-war period. These reserves were particularly important, because in the post-war years they helped to compensate for the virtual disappearance of private portfolio investment in the developing countries and the relatively low level of direct investment. The limited flow of foreign funds to developing countries in that period resulted partly from the increased demand for capital for the reconstruction of the war-torn economies of Europe and Japan and the pursuit of full employment in the developed countries themselves. However, the end of reconstruction and the attainment of full employment did not release private funds for investment in developing countries on the scale that had been expected in view of the developed countries' rapid economic growth. Indeed, in virtually all the industrialized countries the upsurge in the demand for capital has continued unabated, sustained by the achievement of the convertibility of all the principal currencies and the creation of the European Economic Community. Consequently, the level of fixed investment in those countries has remained very high.

24. The period since the end of the Second World War has witnessed far-reaching political, social and psychological changes throughout the world. The accession to independence of an increasing number of new States and the revolution of rising expectations have made economic and social progress a matter of the greatest concern and highest priority to the developing countries and indeed to the international community as a whole. A basic factor in the acceleration of that progress is the rational and efficient utilization of the natural resources of the developing countries which, combined with other economic and social factors, should make it possible for the developing countries to reach a level of self-sustaining growth where total production will increase faster than population, thus enabling those countries to attain substantial improvements in their levels of living.

25. The Governments of the developed countries, conscious of the need to assist the developing countries in their development efforts, have adopted a positive attitude towards the transfer of capital to the latter countries. Consequently, they have had to devise practical and politically palatable methods of stimulating

and, where appropriate, making the transfers, the result being the adoption of various types of official measures designed to encourage transfers of private capital and of programmes for the provision of public funds, either on a bilateral basis or through international institutions.

26. Since the Second World War, the adoption in developed countries of various incentives, such as investment guarantees, tax benefits and so on, has led to a considerable increase in foreign private investment in the developing countries. That investment has risen from an annual average of $1,800 million during the period 1946-1950 to an annual average of about $3,400 million during the 1961-1968 period. The larger part of these funds was invested in the extraction of minerals, including petroleum. The balance consisted mainly of investment in manufacturing (chemicals and drugs, automobiles, machinery, consumer durables etc.) and, on a much smaller scale than before the Second World War, in the large-scale production of export crops and in public utilities.

27. During the same period, substantial foreign public finance, some of it on grant or concession terms, has been made available to the developing countries and has helped them make considerable progress in building up the minimum economic and social infrastructure necessary to support the growth in the rest of the economy, but has been unable to keep pace with the needs of the developing countries for funds for the implementation of their national development programmes. Judging by experience, it seems unlikely that the flow of official funds to the developing countries will increase at a rate commensurate with their capital requirements.

28. Consequently, it is generally acknowledged that considerable foreign private capital will be required to enable the developing countries to narrow the gap between their development financing needs and the domestic funds and bilaterial and multilateral official capital currently available to them. The views on the role of foreign private capital in the economic development of the developing countries expressed in the General Assembly, the Economic and Social Council, the United Nations Conference on Trade and Development and other United Nations bodies, as well as the resolutions and recommendations of those bodies, show that few developing countries are unwilling, as a matter of principle, to accept foreign private investment.

C. Political and economic significance of old concession agreements

29. Foreign private investment in the developing countries has tended to level off since the beginning of the 1960s, notwithstanding the adoption by those countries of various fiscal incentives, such as tax holidays. There is no realistic prospect that that investment will increase to an extent that could be considered adequate in terms of the requirements of the developing countries for the exploitation of their natural resources, despite the fact that the necessary funds are potentially available in developed countries. In recent decades, much debate has taken place in various forums concerning those policies and practices of natural resources enterprises fully or partly owned by foreign investors which are said to have had side-effects detrimental to the interests of the host country, and those policies and attitudes adopted in developing countries which foreign investors consider unfavourable to their interests. On the one hand, the Government of the host country, which owns the natural resources, seeks more control over the foreign enterprises and a bigger share of their profits, basing its case on the importance of those resources for the country's economic growth and the well-being of its people. On the other hand, the foreign investor, who possesses investment capital, technology, managerial expertise and marketing connexions, expresses bewilderment when accused of "despoliation" and "profiteering", pointing to the risks he runs and the high return on capital in his own country, and contending that his investment has beneficial economic, financial and social results for the host country.

30. In the developing countries, the natural target for popular concern and even resentment has been the older type of concession agreement for the exploitation of natural resources under which a foreign enterprise is granted exclusive rights for the exploration and exploitation of certain resources in a specified area and shares the production, or the profits realized, with the Government of the developing country concerned, according to terms which may have appeared reasonable in the nineteenth and early twentieth centuries, but seem inequitable when judged by contemporary standards. While such agreements might provide for a measure of participation by the Government or nationals of the host country in the operation of the enterprise, they usually conferred upon the foreign enterprise full managerial control and important rights of ownership. The concessionnaire

acquired definite property rights of a possessory nature in the surface areas covered by the concession and became the owner of the natural resources product. The rights acquired were often exclusive and the concessions frequently covered very large areas, or even entire countries. The foreign enterprise was directly responsible for the exploration and exploitation of the resources, did not share its know-how with a national enterprise, and tended to operate within an enclave which isolated it from the local economic and social environment. The host country benefited only through its participation in profits and its right to succeed to all properties of the concessionary enterprise when the concession eventually expired.

31. In some extreme cases, popular reaction against the alleged scope of the power granted to foreign investors under old concession agreements has been so intense as to lead the host country to amend or even to annul the concession agreement unilaterally. Concession agreements have also, exceptionally, been unilaterally annulled following political upheavals which have radically modified the private property régime in the host country. It has sometimes been argued that hasty action by the host Government concerning such agreements tends to eliminate any possibility of finding a basis for reconciling the interests of both parties and to deter new foreign capital from flowing to the country in question and possibly to the surrounding subregion or region. On the other hand, it has been pointed out that the situation has occasionally been complicated by an over-hasty negative response by foreign investors to a desire expressed by the host Government for renegotiation of old concession agreements whose terms compare very unfavourably with those of more recent agreements.

32. Generally speaking, however, few important old concession agreements have remained substantially unchanged for anything like the long periods of time for which they were originally concluded. They have been modified by voluntary renegotiation, because both parties have acknowledged the need to amend the agreements, whose terms have become out-dated by the dynamic changes which have taken place in economic, technological, political and social conditions and policies. Indeed, in certain instances, dissatisfaction with the old agreement may have been felt not only by the host country, but by the foreign investors as well - for example, because the provisions concerning production commitments were

no longer compatible with the real state of the market, or because the price levels established in the agreement left an operating margin insufficient to allow for reasonable profits.

33. The spirit of passionate nationalism, which may advocate uncompromising rejection of foreign investment while calling for costly investment programmes, may place a country in a state of indecision. At the present juncture, the developing countries must seek funds from all possible sources if their peoples' aspiration to the better life they expect of political independence are to be even partially satisfied. Maintaining national pride and inviting foreign economic assistance to supplement self-help efforts need not be mutually exclusive actions. The assertion and inviolability of political and territorial sovereignty are not necessarily incompatible with co-operation with private foreign capital. Harmonious and sustained economic growth, which is the basic aim of the policies pursued by individual Governments and by the international community as a whole, will be fostered by a combination of positive nationalism, which contributes to the creation of conditions conducive to economic growth in the host country, and an imaginative and enlightened attitude on the part of foreign investors, which will best serve the latter's interests in the long term.

34. The substantial body of public opinion in host countries which, despite the emergence of radically new political conditions, tends to be basically prejudiced against foreign investment, whether that prejudice is latent or open, may fail to give due weight to the changes which have occurred in the conduct and attitude of foreign investors, partly as a result of their improved understanding of the domestic situation in the host country and partly in response to the evolution of world public opinion. As the Commission on International Development has pointed out:

> "Political sensitivity ... explains why much discussion of the economic impact of foreign investment has been ... clouded by many misunderstandings. Of the latter, perhaps the most common involves attempts to measure the balance-of-payments impact of foreign investment by comparing 'new capital inflow' with the total profits of the accumulated foreign investment in the country. Such a comparison neglects to take into account the reinvestment of profits by foreign investors in the host country and fails to note the impact of foreign investment of export promotion and import-saving.... The correct way to look at the balance-of-payments effects of foreign investment is to ask what the balance of payments would have been like in its absence.

"Once the question is posed in this fashion, emphasizing the need to take into account all direct and indirect effects, it becomes apparent that the key question is the productivity of foreign investments for the host economy as a whole. In most cases, its contribution goes beyond the taxes generated by foreign firms and payments to local labour and services. In particular, the contribution also includes the transfer of advanced technology into the host economy....

"Furthermore, in many developing countries, the external economies radiating from foreign investments involve notable improvements in infrastructure and social overhead facilities. Foreign investors can also stimulate local enterprises through increased demand, demonstration effects, and access to foreign technology and business methods. And they often assist local supplying companies and train local personnel." 8/

8/ International Bank for Reconstruction and Development, Partners in Development: Report of the Commission on International Development (New York, Praeger, 1969), pp. 100 and 101.

II. LEGAL FRAMEWORK FOR FOREIGN PARTICIPATION IN THE EXPLOITATION OF NATURAL RESOURCES

35. By virtue of and in exercise of their sovereignty, many developing countries have adopted constitutional and/or general legal provisions defining the conditions on which they are willing to accept foreign participation in the exploitation of their natural resources. However, there are some countries which have not adopted such general provisions, and where detailed terms and conditions for foreign participation are set out in individual concession agreements, each of which is negotiated on an ad hoc basis. The constitutional and general legal provisions define the framework of rights and duties within which the foreign enterprises must operate, under the supervision of the Government. The general legislation typically establishes the maximum rights and minimum obligations of foreign interests and allows the governmental authorities concerned wide latitude to negotiate terms which are deemed to be most advantageous to the country.

36. In at least one case, a group of countries have taken action with a view to harmonizing their respective mining and petroleum laws. The Conference of Heads of State of the Organisation commune africaine et malgache (OCAM), (African and Malagasy Common Organization), meeting at Niamey (Niger) in January 1969, requested the Secretary-General of OCAM to arrange for a study to be carried out as a first step towards harmonization. The study was entrusted to the Centre européen pour le développement industriel et la mise en valeur de l'outre-mer (CEDIMOM), which prepared a report based on the following considerations:

(1) Prospection and exploration should be entrusted to competent professionals;

(2) The State should receive an equitable proportion of the net real profits; that proportion should be kept at a moderate level, in view of the risks involved in exploration;

(3) Contractual agreements should be concluded between the State and the prospecting and exploiting firms, with any eventual disputes being referred to international arbitration.[9/]

9/ Europe France Outre-mer (Paris, November 1969), p. 11.

A. Concessions

37. In most countries the subsoil rights, which are distinguished from surface rights, belong to the national domain, and exploration and exploitation rights may be granted at the discretion of the national Government to foreign individuals, foreign private companies and companies owned by foreign Governments, but not to foreign Governments per se.[10/] Concessions are usually limited in duration, since this makes it easier to renegotiate terms, facilitates possible subsequent participation by other companies, and enables the host country to modify natural resources development policy while fulfilling its contractual obligations. In virtually every case, a concession may be terminated before the date of expiration if the obligations entered into by the concessionnaire are not fulfilled.

38. In the case of land, the access of foreign individuals or companies to ownership or user rights is restricted in a number of countries by means of exclusion, in terms of type or purpose, area, duration of lease, location, method of transfer or any combination of these or similar factors. Aside from outright exclusion, such access is often governed by discretionary grant systems. Some States specifically prohibit the acquisition of land rights by foreigners through mortgages, inheritance and other methods distinct from outright purchase or lease (for example, Liberia, the Philippines) or by limiting the area which may be acquired by such transfer (for example, Thailand). Exclusion measures relating to land are typically embodied in declaratory legislation or constitutional provisions limiting the types (whether in terms of original ownership or of purpose) of land in which foreign individuals or companies may acquire rights, or setting maximum limits in terms of area or duration of lease: such is the case in Brazil, Indonesia, Liberia, the Philippines and Thailand. In certain instances, exclusion may have a geographical basis and exclude foreign individuals or companies from acquiring rights in land in frontier or other strategic areas or specific reserved areas (for example, Bolivia, Ecuador, Honduras, Mexico, Panama and Peru).

10/ For example, article 48 of the Constitution of Venezuela states:

> "No contract of national, state or municipal public interest may be entered into with foreign Governments or assigned to them. Neither may such contracts be entered into with natural or juridical persons not domiciled in Venezuela; nor assigned to them if signed with third parties."

39. Exclusion may also have a geographical basis in the case of mineral resources, including petroleum, but in most instances exclusion relating to such resources and to other subsoil resources, as well as to water, are based on requirements for participation by domestic interests. However, exemption from these requirements may often be granted at the discretion of the competent authorities.

40. Mining legislation does not usually cover petroleum operations, probably because of the differences between the exploitation of petroleum and other mineral resources with regard to the technological and financing requirements and sometimes the attitude of public opinion. In the case of petroleum, the laws usually provide for a specific initial period of time for which rights may be granted and specify the maximum permissible duration of such rights, including renewal periods. Renewals at the expiry of the initial concession may be granted on the same terms, but are more usually granted on terms consistent with those of other concessions in force at the time of renewal, as is the case in Iran and the United Arab Republic. Generally speaking, petroleum concessions do not include the right to exploit commercially other minerals discovered in the area covered by the concession. The mining legislation of some countries imposes a maximum limit for the duration of mining rights, while in other countries such rights are granted for an indefinite period. Mining rights are usually granted for one mineral or class of minerals: for example, the 1964 mining code of the Ivory Coast states, in article 33, that "the concession confers upon its holder, within the limits of its perimeter, on or below the surface, the exclusive right to prospect for and exploit deposits of the substances for which it is granted". On the other hand, some laws, such as that of Malaysia, allow the holder of a mining right to exploit any mineral found within the area covered by the concession, with the exception of petroleum or any other mineral governed by a special régime.

41. Such régimes are almost always applied in the case of radio-active minerals, the exploitation of which is usually subject to a significant measure of Government control. Some States, such as Mexico,[11/] reserve for themselves the exclusive

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11/ In Mexico, exploitation of uranium and other atomic minerals is reserved for the Comisión Nacional de Energía Nuclear by the law of 1965, which established the Commission.

right to prospect for and exploit such minerals, while others have enacted special legislation declaring all radio-active material produced in their territory to be the property of the State. Certain States (for example, Argentina) allow individuals or private companies to prospect for these minerals and exploit them commercially, but reserve for themselves the exclusive right to purchase the minerals. In virtually all States whose natural resources include radio-active minerals, a licence is a prerequisite for the exploitation, use or storage of such minerals, and radio-active substances cannot be exported without Government permission.

B. Organization of enterprises

42. In some States, natural resources can be exploited only by nationals or by enterprises organized in the State concerned. For example, the constitution of Brazil provides that authorizations or concessions for the exploitation of mineral or hydraulic resources "shall be granted exclusively to Brazilians or to concerns organized in the country". In Honduras, concessions may be granted only to "individuals or commercial companies organized or incorporated under Honduran law". In Mexico, only Mexican nationals and companies established under Mexican law can obtain fishing, forestry and mining rights. A similar limitation is applied, for example, in Iran, Laos, Syria and Turkey with regard to mining rights, in Paraguay with regard to petroleum rights, and in Pakistan and the Sudan with regard to both mining and petroleum rights.

43. Some of the countries which require foreign enterprises to be organized under their laws also require those enterprises to be domiciled within their territory. The meaning of the term "domicile" may vary according to the legal system of the country, but it is generally taken to mean that in order to be domiciled in a country an enterprise must have its head office there, or at least the office from which its activities in that country will be directed. This ensures that responsible officials and the records of the enterprise are physically within the jurisdiction of the host country, and makes it easier to separate the enterprise from its country or origin if the host country should initiate a taking procedure. Some countries which do grant concessions to enterprises

organized under the law of another country may require that these companies be domiciled within their own territory; this is the case for mining concessions in El Salvador and Uruguay and for petroleum concessions in Ecuador and Venezuela.

44. Virtually every State requires all enterprises, whether domestic or foreign, which do business within its territory, including those exploiting natural resources, to be registered. In some countries, enterprises may need the authorization of the authorities in order to register, while in others they are automatically entitled to do so if they fulfil certain requirements. In Brazil, for example, foreign enterprises must obtain the authorization of the President in order to register. In China (Taiwan), Colombia, Nepal and Turkey, government consent is required to establish any foreign enterprise, and more specific authorization is necessary if the enterprise in question is to engage in the exploitation of natural resources. In Israel, the Minister of Justice is empowered to refuse, at his discretion, to allow a foreign enterprise to register.

45. The number and nature of the formalities which an enterprise must complete in order to qualify for registration differ from country to country, but, generally speaking, the enterprise is required to produce certified papers attesting to its purposes and legal formation and the powers vested in its officers. It will also be called upon to indicate the address of its registered office, to which legal notices can be sent, and will probably be expected to name an agent who can receive such notices. The enterprise may also be required to indicate the names and addresses and possibly the nationalities of its directors. Both domestic and foreign enterprises must comply with these basic formalities, but in some countries additional formalities are imposed on foreign enterprises. In certain countries, such as China (Taiwan), Costa Rica, Libya, Mexico, Peru, the Philippines, Turkey and Venezuela, an enterprise formed in another country cannot register until it has produced its constituent documents, duly certified by the consul of the host State in its country of origin. Branches of enterprises domiciled abroad must often submit a balance-sheet on registering and may be called upon to submit balance-sheets regularly. Greece and Nicaragua, for example, require branches of foreign enterprises operating within their territory to publish or register their balance-sheets annually. Many countries - for example, Argentina, Bolivia,

Brazil, Cambodia, Costa Rica, Ecuador, Iran, Israel, Jordan, Nicaragua, Paraguay and the United Arab Republic - require foreign capital to be registered with their exchange control authorities.

C. Jurisdiction

46. Persons and enterprises within the territory of a sovereign State are normally subject to its courts and laws, but in some countries foreign enterprises may obtain special treatment through agreements with the host country or through a bilateral treaty between that country and their own country. On the other hand, some countries state unequivocally in their constitutions and legislation that foreigners cannot be granted exemption from their laws and are subject to their courts. Many Latin American countries, for example, reject any discrimination in favour of aliens as against their nationals and, in the terms of the traditional "Calvo clause", expressly state that foreigners must accept the jurisdiction of the local courts and renounce all claims to the diplomatic protection of their own Governments. In certain cases, foreign nationals, or enterprises who seek the diplomatic protection of their own States, are subject to expulsion or the forfeiture of their rights. The Constitution of Mexico contains a typical provision of this kind. Article 27 states:

> "... legal capacity to acquire ownership of lands and waters of the nation shall be governed by the following provisions: (1) only Mexicans by birth or naturalization and Mexican corporations have the right to acquire ownership of lands, waters and their appurtenances, or to obtain concessions for working mines or for the utilization of waters or mineral fuel in the Republic of Mexico. The nation may grant the same rights to aliens, provided they agree before the Ministry of Foreign Affairs to consider themselves as Mexicans in respect to such property, and bind themselves not to invoke the protection of their Governments in matters relating thereto; under penalty in case of non-compliance of forfeiture to the nation of property so acquired".

D. Expropriation and other forms of taking

47. It is a well-known fact that the fear of possible expropriation or nationalization tends to inhibit the inflow of foreign private capital and accelerate its outflow. Consequently, it is necessary for countries which have assigned such capital a major role in the development of their natural resources to state their policy regarding expropriation and other forms of taking in unambiguous terms. Many States have adopted constitutional or legal provisions empowering them to take over natural resources enterprises and other enterprises, either permanently or temporarily, through expropriation, nationalization, confiscation or requisitioning, in "the interest of the State", or for reasons of "public" or "social" "utility" or "necessity". The power to take over private property is not necessarily exercised in favour of the State; it may be exercised for the benefit of an existing or envisaged private company, when this is deemed to be justified in the interest of the national economy. However, most of the constitutions which contain expropriation provisions state that property may be expropriated only for the public benefit or reasons of public utility, and that compensation shall be paid. In addition, some constitutions specify that juridical proof of the reasons given for expropriation shall be provided (for example, Cambodia, Central African Republic, Costa Rica, El Salvador, Gabon, Greece, Haiti, Lebanon, Libya, Madagascar, Morocco, Rwanda, Senegal, Togo) or that expropriation shall be carried out in accordance with the provisions of the law or established legal procedures (for example, Afghanistan, Argentina, Bolivia, Chile, Colombia, Ecuador, Honduras, India, Iraq, Kuwait, Libya, Morocco, Pakistan, Panama, Paraguay, Somalia, Turkey).

48. Some constitutions provide that the owner of the property may contest the legality of the expropriation in the courts. For example, the Constitution of Zambia provides that the law under which the expropriation is carried out must make provision for:

> "... securing to any person having an interest in or right over the property a right of access to a court or other authority for the determination of his interest or right, the legality of the taking of possession or acquisition of the property, interest or right, and the amount of any compensation to which he is entitled, and for the purpose of obtaining prompt payment of that compensation".

49. Similar provisions are included in the Constitution of Kenya and those of Malawi, Sierra Leone and Uganda.

50. With regard to nationalization, the constitutions of many States (including Argentina, Bolivia, Brazil, Colombia, India, Nicaragua, Paraguay, Peru, Syria and Turkey) provide expressly that private property may be nationalized, but draw no distinction in that respect between the property of nationals and that of aliens. In other States, the constitutional basis for nationalization is provided by clauses relating to expropriation which do not state expressly how the property expropriated is to be disposed of. In some cases, the constitutional provisions for nationalization are of a general nature and encompass all resources and/or means of production. In other cases, the provisions refer specifically to certain areas or sectors - for example, public utilities (Nicaragua).

51. Legislative measures relating to expropriation or nationalization stress the actual purpose for which the State is taking the property in question and specify the way in which the State intends to dispose of that property. The legislative measures under which a State takes property for the purpose of acquiring control over it differ widely as to the form in which the State wishes to exercise control over the property taken: ownership of the property may be vested in the State itself, or in the competent units of a federal State, or ownership and/or operational control may be vested in a body specially created for that purpose by the State. Some laws express a general intent to nationalize a given industry or sector of the economy at a given date in the future.

52. The form of taking known as "confiscation" usually has a punitive significance, unless the owners of the property in question are specifically guaranteed compensation. In some States the constitution prohibits the punitive confiscation of property (for example, those of Argentina, Colombia, Ecuador, El Salvador, Panama, and Peru). In certain countries, such as Bolivia, Paraguay and Uruguay, the constitution prohibits the confiscation of property for political reasons. In others, the constitution stipulates that confiscation must be carried out pursuant to legislative action or judicial decree (often with a provision relating to mandatory compensation). In some States, punitive confiscation is

limited to a specific type of property or to specific offences such as treason (for example, Ethiopia), propaganda for intrigue against the Government by persons residing abroad (for example, Afghanistan) or to specific groups of persons, such as enemy nationals (for example, Nicaragua)

53. The taking of property through requisitioning usually takes place under special circumstances of national emergency, defined in such terms as "war", "domestic disturbances" and "the restoration of public order"

E. Compensation

54. Most countries recognize the principle of compensation in the case of expropriation, and in many cases the compensation is qualified by such terms as "adequate", "equitable", "fair", "full" or "just". However, some countries, such as the United Republic of Tanzania, provide that only an approved percentage of the assessed value of the property shall be paid as compensation In some cases the compensation must be paid before the property is taken (for example, Afghanistan, Argentina, Bolivia, Brazil, Burundi, Cambodia, Central African Republic, Chile, the Democratic Republic of the Congo, El Salvador, Gabon, Greece, Haiti, Honduras, Lebanon, Madagascar, Panama, the People's Republic of the Congo, Peru, Rwanda, Senegal, Togo and Uruguay). The constitutions of some other countries specify that the compensation shall be "timely" (Somalia) or that it shall be paid "immediately" (Turkey) or "promptly" (Kenya, Malawi, Sierra Leone, Uganda, Zambia)

55. In most instances the law or decree providing for the taking of the property fixes the amount of compensation to be paid or specifies the principles according to which and the way in which the compensation is to be determined and given. For example, the Investment Code of Algeria, promulgated on 15 September 1966, states that when enterprises benefiting from the Code are taken by the State, compensation equal to the net value of the patrimonial elements recuperated by the State shall be paid.

56. In some countries (for example, Greece) the amount of compensation is fixed by the courts. In other countries, the constitution specifically states that the owner of the expropriated property may have recourse to the courts if there is a

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dispute about the amount of the compensation or its payment (for example, the Democratic Republic of the Congo, Ethiopia, Kenya, Malawi, Malta, Nigeria, Sierra Leone, Uganda and Zambia). Compensation is usually payable in either (a) shares or other securities in newly created State enterprises or their operational bodies, which are exchanged for shares for the expropriated private enterprise, or (b) cash or government bonds or other negotiable instruments with varying maturity periods. Some constitutions - those of Brazil and Uruguay, for example - specify that the compensation shall be paid in cash. In some instances it is further provided that, when foreign enterprises are taken by the State, compensation shall be paid in the foreign currency in which the investment was made The constitution of some countries state expressly that the compensation paid in case of expropriation may be freely transferred abroad. For example, the Constitution of Kenya states:

> "No person who is entitled to compensation under this section shall be prevented from remitting, within a reasonable time after he has received any payment of that compensation, the whole of that payment (free from any deduction, charge or tax made or levied in respect of its remission) to any country of his choice outside Kenya."

57. Virtually identical provisions are to be found in the Constitution of Malawi and that of Zambia.

58. A time-limit may be set for the payment of compensation - for example, nine months in the case of Algeria. Compensation is sometimes payable in instalments, and in this case, too, time-limits may be set for the completion of the payments (for instance, twenty years in El Salvador and ten years in Turkey). When compensation is paid in instalments, provision is usually made for the payment of interest, the rate of which is fixed by law; the Constitution of Turkey, for example, contains an express provision to this effect.

59. Some countries have adopted constitutional or legislative provisions stating that foreigners are not entitled to claim any special rights or compensation which cannot be claimed by nationals of the State concerned. For example, most Latin American constitutions contain the so-called "Calvo clause", according to which aliens must submit to the laws and courts of the host country and renounce all diplomatic claims. In some cases, the constitution stipulates that the property rights of aliens shall lapse after a specific period of non-residence, which, in the case of Haiti for example, is two years.

F. Settlement of disputes

60. Unless special arrangements have been concluded, disputes arising from the operations of a foreign enterprise are submitted to the courts of the host country. Special provisions relating to the settlement of disputes may be included in laws concerning natural resources, in concession agreements pursuant to a law authorizing arbitration clauses and in concession agreements in countries where no general natural resources law exists. These provisions may provide for recourse to arbitration (for example, Dahomey, Ghana, Greece, Ivory Coast, Mauritania and Senegal). The 1961 Investment Code of Dahomey provides that each party to a dispute shall nominate an arbitrator, and that a third arbitrator shall be nominated by agreement between the parties or by a highly qualified authority, to be designated in the contract or convention. This authority may be the highest judicial authority of the country of which the investor is a national. In Somalia, all disputes concerning the interpretation or application of the 1960 Foreign Investment Law are to be settled by discussion between the parties concerned and the Committee on Foreign Investment established under the law. If the dispute is not settled within ninety days, it may be submitted to an arbitral commission consisting of three members, one nominated by each party and a third by the first two arbitrators or by the President of the Supreme Court. In some cases (for example, Madagascar) an arbitrator may be drawn by lot from an officially approved list.

61. In an increasing number of cases, investment contracts between host countries and foreign investors refer to the Convention on the Settlement of Investment Disputes between States and Nationals of Other States, or to the International Centre for the Settlement of Investment Disputes (ICSID). The Convention was formulated by the Executive Directors of the International Bank for Reconstruction and Development (IBRD) on the instructions of the Board of Governors of IBRD and with the assistance of international legal experts convened first in several regional meetings (as Addis Ababa, Bangkok, Geneva and Santiago de Chile) and finally in a world-wide meeting in Washington. It was opened for signature by the Member States of IBRD on 18 March 1965 and entered into force on 14 October 1966, at which time ICSID came into being as a non-financial member

of the World Bank group of organizations. As of 1 July 1969, sixty-one countries (forty-four of them developing countries) had signed the Convention. Of these, fifty countries (including thirty-eight developing countries) had deposited instruments of ratification to become contracting States.[12/]

62. The Convention creates the possibility, always subject to the consent of both parties, for a contracting State and a foreign investor who is a national of another contracting State to settle any legal dispute that might arise out of such an investment by conciliation and/or arbitration before an impartial, international forum. The Convention specifies the circumstances under which disputes may be submitted to the Centre and the method by which conciliation commissions and arbitral tribunals are to be constituted and conduct their proceedings.

63. Proceedings before the International Centre may be initiated either by the host country or by the foreign investor acting in his own name and on his own authority and without sponsorship of his Government. Recourse to the Convention is voluntary, unless and until a State party to the Convention has consented to such proceedings with regard to a specific dispute or for all investment disputes under an agreement with a given investor or, generally, under a law, a treaty or other separate instrument. The investor's agreement is similarly required where the host Government wishes to proceed against him. Once both parties have agreed to arbitration by the Centre, they are, under the Convention, irrevocably bound to carry out their undertaking and abide by the arbitral award.

12/ The fifty countries which had ratified the Convention as of 1 July 1969 are the following:

Developed countries: Denmark; France; Germany (Federal Republic of); Iceland; Ireland; Japan; Netherlands; Norway; Sweden; Switzerland; United Kingdom; United States.

Developing countries: Afghanistan; Cameroon; Central African Republic; Ceylon; Chad; China (Taiwan); Cyprus; Dahomey; Gabon; Ghana; Greece; Guinea; Indonesia; Ivory Coast; Jamaica; Kenya; Korea; Malagasy Republic; Malawi; Malaysia; Mauritania; Mauritius; Morocco; Nepal; Niger; Nigeria; Pakistan: People's Republic of the Congo; Senegal; Sierra Leone; Singapore; Somalia; Togo; Trinidad and Tobago; Tunisia; Uganda; Upper Volta; Yugoslavia.

64. Other facilities for the settlement of investment disputes are also available. In 1962, the International Bureau of the Permanent Court of Arbitration at The Hague issued its "Rule of Arbitration and Conciliation for Settlement of International Disputes between Two Parties of which only one is a State" and declared that the Court's facilities were available to States parties to The Hague Conventions and to investors, regardless of whether they wished to select arbitrators from the Court's panel or not. Similarly, the Arbitration Tribunal of the International Chamber of Commerce has for a number of years been used for the arbitration of investment disputes.

65. Another method of settling disputes resorted to by Governments and foreign investors is by conciliation. In this case, the parties often need no more than a third party in whom they have full confidence to help them settle their differences. In some cases the fact-finding function of conciliation may by itself lead to an amicable settlement. It has been found that in most cases the parties do in fact accept the conciliator's recommendations.

G. Protection of foreign investment

66. Many developing countries have adopted constitutional or legislative provisions or issued policy statements giving foreign investors assurances against the taking of their property and/or transfer risks. In China (Taiwan) the scope of the assurances given depends on whether the foreign investor holds a majority or minority interest in the protected enterprise; in the former case, the Law on Investment by Foreign Nationals contains an outright commitment against nationalization or expropriation of the enterprise for the first twenty years of operation; in the latter case, there is no such undertaking, but the foreign investor is assured of reasonable compensation if the enterprise is nationalized or expropriated "because of national defence needs". The Investment Code of Guinea generally assures foreign investment against "all spoliation" and provides that where an enterprise has to be taken over by the Government because of "vital necessity for the national economy" the price to be paid will be "freely agreed by the parties". The investment laws of Somalia and the countries of the East African Common Services Organization (Kenya, Uganda and the United Republic of Tanzania) expressly prohibit the expropriation of an approved enterprise, except in case of war or by reason of public interest.

67. In order to lend greater weight to their promise to protect the interests of foreign investors, many developing countries have embodied their assurances of protection in bilateral treaties with capital-supplying countries. Generally speaking, these treaties may be assimilated to one of two main types. The first type, in use since the late 1940s, is in fact a new version of the traditional comprehensive commercial treaty of "establishment" or of "friendship, commerce and navigation", adapted to include provisions concerning non-discrimination against nationals of the other contracting party and the payment of prompt, adequate and effective compensation in the case of any measure of requisition, disposal, limitation, restriction or expropriation affecting the property, rights and interests of nationals of the other contracting party. This type of treaty has been used by Japan, the United States, the Federal Republic of Germany and the United Kingdom.

68. The last-named two States, and other capital-supplying countries, have also used the second type of treaty, which has been developed more recently and is more specialized in that it deals specifically and in greater detail with the promotion and protection of foreign investment. As an example of the second type, we may cite the Convention concerning Encouragement of Investment of Capital and Protection of Property concluded between the Netherlands and Tunisia, article 3 of which reads as follows:

> "Where one Party expropriates or nationalizes property, rights or interests belonging to individuals or bodies corporate being nationals of the other Party or takes against them any direct or indirect measure of dispossession, it shall make provision for the payment of effective and adequate compensation in accordance with international law. The amount of such compensation, which shall be determined at the time of the expropriation, nationalization or dispossession, shall be paid without undue delay to the person entitled thereto. The amount of such compensation shall be transferred promptly. Measures of expropriation, nationalization or dispossession may however not be discriminatory or contrary to a specific undertaking."

69. It may be noted that commercial treaties concluded between developing countries also provide for the reciprocal protection of the interests of the nationals of the contracting parties. For example, the Treaty of Commerce concluded between India and Afghanistan provides, in article 3, that:

"The properties, of whatsoever description, of the nationals of either contracting party shall not be seized or confiscated except for reasons of public interest and only if real and just compensation is given to them for such expropriation."

70. Partly on the basis of the aforementioned agreements with developing countries, some capital exporting countries have established bilateral guarantee schemes to protect their nationals who invest in developing countries against the major non-commercial risks.13/

H. Conservation measures

71. Conservation measures are essential to ensure that natural resources are developed in a manner consistent with the economic interests of the country concerned, and the health and well-being of its people.

"...natural resources must be used, but used in such a way as to get the maximum good from them, to stretch the supply as far as it can possibly go and, with most resources, to replenish them at the same time, so that they will continue to furnish the necessities of human existence".14/

72. For example, many countries have enacted legislation designed to ensure the renewal of forest resources which imposes certain obligations concerning felling and replanting on owners of private forests and on licensees or lessees of public forest lands.

13/ Foreign Investment in Developing Countries (United Nations publication, Sales No.: E.68.II.D.2).

14/ Science and Technology for Development: Volume II, Natural Resources, 1963 (United Nations publication, Sales No.: 63.I.22), p. 12.

III. CONTROL OF NATURAL RESOURCES ENTERPRISES

73. In order to be successful in their search for new foreign capital and know-how for the development of their natural resources, the developing countries must try to harmonize their desire to maximize national control over and profits from that exploitation with the legitimate interests of foreign investors, whose investment decisions are based on the security of their capital and the monetary returns to be derived from it. The host country's fear that foreign interests will exercise undue influence over its economy and will interfere with its domestic and foreign policies is matched by the foreign investors' fear that the Government of that country will interfere unduly with the operations of the enterprise.

74. The exploitation of natural resources often requires enormous amounts of capital and involves high risks. Consequently, it is usually carried out by branches or subsidiaries of large international firms. These branches or subsidiaries wield considerable economic power in the host country - on the one hand, because they are major sources of salaries and wages, major contributors to the Government's revenue and often major purchasers of domestic goods and, on the other, because they are backed up by their influential parent companies which have at their disposal vast reservoirs of capital and technology and control immense distribution networks. Host Governments have become increasingly concerned about the possible impingement of that power on their sovereignty and about their ability to orient the policies and activities of natural resources enterprises in the manner they deem most beneficial to their peoples. The enterprises, for their part, often contend that too large a measure of government intervention in their activities tends to limit their commercial freedom of action and impair the economic efficiency of their operations, to the detriment of the host country as well as of their shareholders.

75. Concern about the degree of influence exerted by foreign capital on the national economy is not confined to developing countries; it is felt even in developed countries, as is shown by the following passage from the final report of the 1958 Royal Commission on Canada's Economic Prospects:

> "... the benefits of foreign investment that we have mentioned are real and tangible. It is more difficult to state in similarly precise terms what the dangers are in the present situation and what conflicts might occur between the interests of Canadians and the interests of the foreign owners of

> wholly-owned subsidiaries of foreign companies operating in Canada. In the course of the Commission's hearings, concern was expressed over the extent to which our productive resources are controlled by non-residents, mostly Americans. Many Canadians are worried about such a large degree of economic decision-making being in the hands of Canadian companies controlled by non-residents. This concern has arisen because of the concentration of foreign ownership in certain industries, because of the fact that most of it is centred in one country, the United States, and because most of it is in the form of equities which, in the ordinary course of events, are never likely to be repatriated. Some people think it is foolish to worry too much about the possible dangers of foreign investment in this country. However, the contrary opinions on this subject which we have mentioned do in fact exist and if a period of political or economic instability should occur they might develop into demands for restrictive or discriminatory action of an extreme kind, the consequences of which would be unfortunate for all concerned. 15/

76. More recently, on 2 March 1970, the Government of Canada announced that it would not permit a company controlled by foreign interests to buy a dominant interest in Canada's biggest uranium mine. The Government was thought to have been "pushed in that direction by public opinion" which "had become increasingly concerned about the effect of foreign ownership on Canada's political independence". 16/ Although the Government of Canada was believed to "share the concern", it was expected to "continue to distinguish between new investment that adds to jobs and production and takeover investment whose principal effect is to transfer control outside the country". In effect, the Prime Minister has said "I am not an economic nationalist and I believe that the whole device of nationalism is an impoverished one". He has also emphasized that "if we keep out capital and keep out technology we won't be able to develop our resources and we would have to cut our standard of consumption". 17/

A. Extra-enterprise control and intra-enterprise control

77. In order to be appreciated properly, the question of control must be placed in the appropriate perspective. Host Governments, by virtue of their sovereignty, possess means of controlling the policies and activities of natural resources enterprises fully or partly owned by foreign investors through a wide gamut of

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15/ Royal Commission on Canada's Economic Prospects, Final Report (Ottawa, 1958), pp. 389-390.
16/ The New York Times, 4 March 1970.
17/ Ibid.

devices, such as tax measures, monetary measures (including foreign exchange control), import licensing, export regulations and administrative procedures. These means of extra-enterprise control enable the Government to exert considerable influence on the decision-making process within the enterprise. The Government may well decide to utilize these extra-enterprise means to the full before determining whether the desired degree of control can be achieved only by intra-enterprise means, that is, by acquiring a portion of the equity of the enterprise or increasing the portion it already possesses.

78. The Government may well conclude that the effective application of an appropriate combination of fiscal, monetary and foreign trade measures will for the time being yield the desired degree of control. In drawing that conclusion, the Government may well have taken into account the fact that effective intra-enterprise governmental control depends upon the presence on the Board of Directors of representatives who are fully conversant not only with domestic laws and business practices but also with the technical intricacies of the industry and the complex business practices of the large international firms which handle the exploitation of natural resources and the marketing of natural resources products.

79. The host Government may not be in a position to exercise genuine intra-enterprise control unless and until its representatives on the Board of Directors have the training and experience that will enable them to exert a real influence on the formulation of the company's economic plans and the taking of its managerial decisions. Otherwise, the influence of the host country representatives may be more apparent than real, since it will in practice tend to be limited to such matters as prices, the employment of nationals, and wages - objectives which could be attained by extra-enterprise control through a combination of restrictive regulations and fiscal incentives.

80. If the Government decides, for whatever reason, that it wishes to increase its degree of control over the enterprise by increasing its intra-enterprise control, it will have to resolve two fundamental questions. The first relates to the opportunity cost of the funds to be contributed by the Government. When a host country wishes to acquire equity in an existing or envisaged natural resources enterprise it may contribute land (in the case of agricultural ventures), subsoil rights (in the case of mining and petroleum ventures), fishing rights in territorial waters, and/or funds. The latter may be paid from existing financial

resources or from future financial resources (mainly dividends of the enterprise concerned). If the Government contemplates contributing present or future funds, it must weigh carefully the advantages of investing them in the enterprise concerned, for which foreign capital may be available, against the benefits to be obtained by assigning them to other priority needs for which external finance is not readily forthcoming. In particular, where exploration is involved, consideration must be given to the likelihood that the exploration efforts may be unsuccessful or that any mineral or petroleum deposits that may be discovered may not be economically exploitable. Of course, it is not always proper or advisable for the Government to assess the desirability of contributing funds to a natural resources enterprise in a purely economic context, isolated from the broader context of the national development plan.

81. The second question is that of the possible deterrent effect of Government insistence on acquiring a controlling interest. The Government will have to decide whether the political and economic interests of the country are better served: (a) by acquiring such an interest, even if this tends to act as a deterrent to the flow of foreign capital and technology and hence to reduce the country's rate of economic growth; or (b) by accepting for the time being the continuation of the existing degree of control, in order to attract more foreign capital and know-how, which will generate a higher rate of economic growth and enable the host country to accumulate the capital and know-how which will in the long run enable it to operate natural resources enterprises by its own means.

82. Irrespective of whether a Government decides at a given stage to content itself with extra-enterprise control measures or prefers to seek a significant share of intra-enterprise control, the fact remains that the attainment of economic independence makes it necessary for a developing country, in the long run, to acquire a majority interest in natural resources enterprises partly or fully owned by foreign interests. Historical precedents for this process are provided by countries now regarded as developed - for example, Italy, which in the late nineteenth and early twentieth centuries received capital and know-how from the more industrialized European countries.[18/]

18/ Inter-American Economic and Social Council, "The role of foreign private investment in the development of Latin America" (OEA/Ser.H/X.14 CIES/1371 and Add.) (Washington, D.C., 20 May 1969), p. 286.

B. Main features of contemporary contractual arrangements

83. During the past two decades, the proposals made by the Governments of several developing countries with a view to establishing a broader co-operative basis for their relationships with natural resources enterprises, particularly those concerned with mining and petroleum extraction, together with the positive response to those proposals by many of those enterprises, would seem to indicate that despite past divergencies of view, areas of reconciliation can be found when both sides acknowledge their interdependence. The policy adopted by developing countries with regard to new contractual arrangements for the development of natural resources varies according to each country's over-all policy towards private property, its stage of economic advancement, the size and influence of its domestic business sector and the attitude of its public opinion, which is moulded by various historical, political and economic factors.

84. Contemporary arrangements for natural resources development tend to divorce management from ownership by granting foreign interests broad but not unlimited managerial control of the enterprise concerned, without concomitant ownership rights. This is achieved by a broad spectrum of contractual arrangements, ranging from agreements under which foreign interests exercise the maximum permissible managerial control to agreements under which the foreign enterprise sells its know-how to a national agency entrusted with the development of a natural resource.

85. At one end of the spectrum lie arrangements which resemble the traditional concession agreement in that foreign interests provide all the capital and know-how and manage and direct the enterprise, but differ from the traditional agreement in the following ways: the activities of the enterprise are made more compatible with the priorities of the national development programmes of the host country; the Government of that country plays a greater policy-making role and receives a larger share of the profits; and the national labour force receives higher wages and more fringe benefits and training. In the case of mining or petroleum concessions, the concessionaire may be required to process at least a sizable part of the extracted product in the host country. Very often the enterprise established under this type of agreement is a joint venture between the foreign investors and the host Government or a governmental agency, in which equity in the enterprise is acquired by the Government in exchange for concession rights, or by the agency in exchange for concession rights vested in it by the Government. Recent petroleum agreements

contain a clause under which the concessionaire accepts the obligation to relinquish, according to a predetermined calendar, the unexploited portions of the area covered by the concession agreement so as to release them for other concessionnaires. The agreements may also contain restrictions on the way in which output is evaluated and the revenue disposed of. They may also contain a "most favoured nation" clause under which the host country may claim terms as advantageous as those offered to other countries.

86. In those arrangements which require the foreign enterprise to provide all the capital and know-how needed to carry out an exploration programme whose cost will be reimbursed only out of production, the risks have often been greater than a single company has been willing to assume, and in many cases the result has been the creation of international consortia in which the risks are shared by a number of companies. Moreover, in a number of major natural resources projects the capital and know-how provided by foreign private consortia have been combined with substantial capital contributions by public international or national financing institutions. These arrangements have greatly allayed the host country's apprehensions concerning domination of its economy by foreign interests and especially of domination by one foreign country, and have also reduced the foreign investors' fear of possible commercial and non-commercial risks.

87. The other end of the spectrum is represented by arrangements under which natural resources are developed directly by an agency owned by the Government of the host country, which concludes with a foreign enterprise a contract for the provision of know-how needed to carry out all or certain parts of a programme for the exploration and exploitation of the resources. Under such an arrangement, the governmental agency acquired know-how like any domestic enterprise which has concluded a technical services agreement with a foreign firm, and the foreign enterprise supplying the know-how incurs little or no financial risk.

88. The rest of the spectrum is occupied by a whole range of arrangements tailored to fit the requirements of the host country, which combine, in varying proportions, the essential features of the two above-mentioned terminal types. It should be noted that various types of agreement may be found in the same country.

89. The wide variety of new contractual arrangements described in part two of the study show how arrangements which separate broad managerial control of natural resources enterprises from ownership of natural resources can enable developing

countries to obtain needed capital and know-how and a larger share of the profits of such enterprises while significantly allaying the people's concern about foreign domination of the national economy. These arrangements have been particularly useful to governmental agencies, permitting them in many cases to acquire the technical and managerial skills they need in order to exert increasingly wide and effective control over the exploitation of natural resources. Both public opinion and business and official circles in developing countries now favour joint ventures between foreign and domestic investors over wholly foreign-owned enterprises. From the point of view of foreign investors, participation by domestic interests, which gives the venture a national colour, may to some extent reduce the likelihood of political risks.

90. The trend towards joint ventures has increased considerably in the past decade. In the case of manufacturing industry, joint ventures have associated public and/or private domestic capital with foreign capital. In the case of natural resources enterprises, however, the level of capital investment required is such that in almost every case the joint ventures have involved, on the domestic side, only Government funds. Indeed, in many cases, the Government has not provided funds, but has received equity in exchange for mining rights or against future payments out of dividends. Furthermore in oil concessions where the Government is to be a partner in the exploitation of petroleum deposits, the Government usually does not contribute to exploration costs and buys equity in the producing company which is not established until oil has been discovered in commercial quantities.

IV. PROFIT-SHARING BETWEEN HOST COUNTRIES AND NATURAL RESOURCES ENTERPRISES

91. The question of intra-enterprise control has often been raised by host countries not as an end in itself, but as a means of obtaining a greater share of the profits earned by natural resources enterprises. When raised in this context, the question of intra-enterprise control may relegate to the background the profit-sharing issue, which may well be the real bone of contention. While it is a fact that increased equity ownership confers the right to an increased share of the profits, it is also true that host countries, through the exercise of their sovereignty over their natural resources, can attain similar results by other means (for example, increased taxes, higher land rents and higher royalties).

92. In most developing countries, natural resources represent by far the largest source of wealth. The larger the enterprises engaged in the exploitation of those resources, the greater their contribution to the gross domestic product of the host country and the greater may be the pressure from the population on the Government to seek from the enterprises an even larger financial contribution to the country's over-all economic growth and social progress. Another major factor which may lead the Government to seek a greater share of the profits of natural resources enterprises is the more advantageous terms obtained from another enterprise exploiting the same resource in the host country, or obtained by other countries from enterprises engaged in the exploitation of similar resources. A third possible factor is the nature of the resources concerned; if they are non-renewable, the Government may well feel that insufficient weight was accorded to that fact in determining the current profit-sharing formula, or that the enterprise has not made sufficient efforts to avoid unnecessary waste. The Government may also feel that it is entitled to increased profits in order to perform certain conservation functions which would normally be the responsibility of the enterprise, but may have been neglected by the latter, for example, replacement of surface soil in the case of open-cast mining, control of environmental pollution, systematic reforestation and so on.

93. On the other hand, the natural resources enterprises, domestic or foreign, must make a profit in order to be able to continue their activities, and the conditions of competitive business and financial markets (including the trading

of the enterprises' shares on the stock market) place them under constant pressure to increase their profits. Furthermore, natural resources enterprises which are branches or wholly-owned subsidiaries may be constantly urged to make a maximum contribution to the consolidated profit-and-loss accounts of the parent companies and their affiliates.

94. In these circumstances, disputes have often arisen as a result of the conflict between the Government's determination to maximize total payments received from the foreign investors and the latters' insistence on reaching or maintaining a return on their investment which they deem commensurate with the risks taken and at least equal to the returns earned by those who invest in similar enterprises. It is not easy to divide the profits of an enterprise between the host country and the foreign investors in a way that both sides consider equitable or reasonable. The difficulty stems from the fact that the profits of one party can be increased only by reducing those of the other, except when the foreign investors, by paying increased income tax in the host country, can reduce their tax liability in their own country.

A. Profit-sharing formulae

95. Within the framework of a given activity, the concept of what constitutes an "equitable" or "reasonable" profit-sharing formula varies both in time and in space. First, it varies according to the epoch. For example, in the case of petroleum exploitation the concession agreements signed in the 1930s usually provided for the payment to the host Government of a royalty of four gold shillings per ton of crude oil, plus other fixed payments such as rentals, commutation tax etc., which "came to an average of nearly 50 per cent of the profit".[19/] Subsequently, however, oil prices rose, leading to higher company profits, while the "frozen gold prices" paid to the host Governments remained static. In 1948, Venezuela managed to secure from the oil companies an arrangement whereby the Government of Venezuela would, by various means (including royalties and income tax), be guaranteed a minimum of

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19/ Zuhayr Mikdashi, A Financial Analysis of Middle Eastern Oil Concessions: 1901-65 (New York, Frederick A. Praeger, 1966), p. 135.

50 per cent of the profit. From the point of view of the United States oil companies, which negotiated the first fifty-fifty agreement, the fifty-fifty formula had the advantage of enabling them to claim income tax credits in the United States on the income tax paid in Venezuela.

96. The fifty-fifty formula became standard during most of the 1950s and was hailed by the oil companies as an arrangement "connoting a sense of partnership, equality and fairness".[20/] In 1958, the President of the Standard Oil Company of New Jersey, the largest oil company, stated:

> "The fifty-fifty represents a tested principle for maintaining an equality of interest through all the aspects of an inevitable complex relationship intended to endure for many years." 21/

97. A similar view was expressed in the same year by an executive of another major oil company, who declared:

> "Investment is made in the expectation of profit in relation to the risks involved. It is evident to the Middle Eastern authorities that it is not in their long-run interests to squeeze the life out of the companies now operating in the Middle East. Not only would they kill the geese that have been laying them golden eggs, but they would certainly discourage any other geese from walking into the barnyard." 22/

98. However, in August 1957 there had already been what was, in fact, a departure from the fifty-fifty formula, when Iran signed an agreement with AGIP Mineraria, a subsidiary of Ente Nazionale Idrocarburi (ENI), the Italian Government-owned company, maintaining the principle of a fifty-fifty division of profit between the Government of Iran and the producing company, but providing for joint ownership of the latter, on an equal basis by AGIP Mineraria and the Government of Iran, which was thus entitled to 75 per cent of the profits.

99. The first formal departure from the fifty-fifty formula came in December 1957 when Saudi Arabia signed an agreement with a Japanese-owned company, the Japan Petroleum Trading Company, under which Saudi Arabia was to receive 56 per cent of

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20/ Petroleum Press Service (London, March 1958), p. 81.

21/ Quoted by Zuhayr Mikdashi, op. cit., p. 141.

22/ Ibid., p. 142.

the profits. In 1958, Kuwait signed an agreement with the Arabian Oil Company, which the Japan Petroleum Trading Company had established to exploit its Saudi Arabian concession, under which Kuwait was to receive 57 per cent of the profits, not only on operations conducted by the foreign enterprise in Kuwait but also on operations carried out abroad, that is, the transportation, refining and marketing of the oil produced in Kuwait. Kuwait was also entitled to take up 10 per cent of the operating company's shares at par value. Soon after, the agreement between Saudi Arabia and the Arabian Oil Company was amended to give Saudi Arabia the same terms as Kuwait.

100. Also in 1958, Iran entered into two contracts, one with the Pan American Oil Company and the other with Sapphire Petroleum Ltd., which, like the agreement with AGIP Mineraria, provided that 50 per cent of the operating companies' profits were to be paid to the Government while the remainder was to be shared equally by the owners of those companies, namely the Government-owned National Iranian Oil Company and Pan American Oil Company and Sapphire Petroleum Ltd.

101. Looking back at the period, the Shah of Iran wrote in 1960:

> "My mind was made up that we should receive a much better scale of royalties. As I saw it, the fifty-fifty had outlived its usefulness and was out of tune with our nationalistic aspirations. I was sure we could improve upon it..... We do not want to kill any goose which lays golden eggs that benefit my country, but we intend to regulate each goose's behaviour in the public interest. Those who still worship at the altar of the old fifty-fifty formula seem to fear that if they do not hang together in support of it, as far as profits go, they will hang separately. But any magic the old formula may have had is gone for ever; my readers and I will not have to wait long to see it disappear as a governing standard in the world of oil." 23/

102. The Shah's prophecy came true; many concession agreements signed in recent years provide that the host country shall receive, in one form or another, as much as 70 to 75 per cent of the profits. For example, "Venezuela is already estimated to get 72 per cent of net oil receipts and may hope to increase this to 80-90 per cent by means of the [service] contracts".24/ Similarly,

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23/ Mohammed Riza Shah, Mission for My Country (London, 1961), pp. 279, 280 and 282.

24/ Resources for the Future, Inc., Resources, No. 33 (New York, January 1970), p. 15.

the Government of the United Arab Republic, which participates on a fifty-fifty basis in joint operating companies for the exploitation of oil within its territory, receives 75 per cent of total profits, 50 per cent in the form of rent, royalties and taxes and 25 per cent as dividends on its shares in the producing company.

103. The fifty-fifty profit-sharing formula has become quite common in the mining industry and might in many cases be said to constitute a minimum for the granting of new concessions. For example, under a 1969 concession granted by Botswana to De Beers Consolidated Mines, Ltd., the profits from the production of diamonds will be shared on an approximately fifty-fifty basis. In Chile, copper-producing enterprises must pay a 50 per cent tax on profits, which, combined with the policy of "Chileanization" of copper-mining activities, ensures that the Government will receive substantially more than 50 per cent of each enterprise's profits, the actual amount in excess of the 50 per cent depending on the extent of its participation in the equity of the enterprise, which is to be between 21 and 51 per cent. In the Democratic Republic of the Congo, the Government holds 60 per cent of the equity of the Générale congolaise des minerais (GECOMIN), established in 1966, and will thus receive at least 60 per cent of the dividends. Under a concession for the exploitation of bauxite deposits in the Boké region, the Government of Guinea, which holds 49 per cent of the equity of the Compagnie des bauxites de Guinée, is to receive 65 per cent of the company's profits. In 1969, Zambia acquired 51 per cent of the equity of the copper-mining companies operating in that country which, combined with taxes, will give the Government about 73 per cent of the profits.

104. However, these percentages do not always give a complete picture of the benefits received by the host country and hence cannot in themselves be used as a basis for comparing the terms obtained by various countries. For example, Guinea, in the case mentioned above, has undertaken to construct expensive infrastructure works for the Boké bauxite project, which will cost it $80 million. The servicing of the loans contracted by the Government of Guinea to pay for these works will naturally reduce its over-all profits from the Boké project. Conversely, there are cases in which the host Government holds no equity or only a small percentage of the equity in a natural resources enterprise, but receives a substantial proportion of the profits in the form of rents, taxes and

royalties and, in addition, benefits from costly infrastructure works (such as roads, railways, ports, housing, hospitals) built by the enterprise at its own expense. It is thus clear that the measurement of the share of the over-all benefits received by the host Government is a complex calculation which cannot be based solely on equity participation and direct taxes, but must also take into account such factors as the construction of infrastructure works, the amount paid to nationals by the enterprise in salaries and wages and so on.

105. Within the framework of the same activity, the concept of what constitutes an "equitable" or "reasonable" basis profit-sharing formula may also vary from country to country. However, Governments have shown an increasing tendency to keep themselves informed of the terms and conditions offered to or obtained by other countries, especially those in the same region, for the exploitation of resources of the same nature, with a view to ensuring that they themselves secure terms as favourable as those given elsewhere. For example, since the 1950s Middle East oil concessions have tended to contain a "most-favoured-nation" clause, providing that the host country is entitled to seek renegotiation of profit-sharing formulas should other countries in the region obtain a larger percentage of profits. On the other hand, the large international companies, realizing that the granting of more advantageous terms to one country will lead to pressure from other countries for similar treatment, tend to do their best to harmonize the terms they offer, so as to avoid setting precedents that would be disadvantageous to them. These efforts may be frustrated by the activities of smaller, independent companies, which are prepared to offer more advantageous terms in order to secure or diversify their sources of supply. For example, the oil industry in Venezuela was dominated by the major international oil companies until 1956, when smaller United States companies, anxious to acquire crude oil at a price lower than that prevailing in the United States, made higher bids than the international companies for the concessions auctioned off by the Government of Venezuela.

The question of the bases for the calculation of profit

106. Another major cause of dispute has been the definition of the bases on which the profits are to be calculated - in other words, the definition of the concept of "profit". Both parties have readily agreed that, in accordance with universal

commercial practice, the cost of materials, wage and salary payments to employees and interest on loans should be considered as normal costs and deducted from the enterprise's sales revenue before profits are calculated for income tax purposes, although the host countries have questioned the amount of interest paid on loans from parent or related companies and the size of the emoluments paid to senior foreign enterprise personnel in the host country and to personnel at the parent company's headquarters reputedly handling operations relating to the activities of the enterprise.

107. However, opinions concerning the treatment of royalties have differed widely. The foreign enterprise usually prefers to consider royalties not as costs but as part of the Government's share of the enterprise's profit. The Government, on the other hand, tends to insist that the royalties should be considered as current costs and deducted from income before the enterprise's profit is calculated. In 1964, the member States of the Organization of Petroleum Exporting Countries reached an agreement with the oil companies whereby the latter agreed to treat a gradually increasing proportion of royalties as costs, which thus would be deducted from their income before the calculation of profit. There have also been differences of opinion as to whether changes in the evaluation of inventories due to price fluctuations, marketing expenses incurred by parent companies and in some cases even surveys and exploration should be considered as costs.

108. Even greater difficulties have arisen in the case of natural resources enterprises belonging to vertically-integrated corporate complexes. In the absence of effective stabilization agreements, prices of natural resources products are determined on the basis of the relationship between supply and demand. However, in the case of natural resources such as bauxite, copper and petroleum, which are exploited to a large extent by enterprises belonging to vertically-integrated complexes, the raw material extracted is not sold on the open market, but transferred from one affiliate to another for processing at internal or "transfer" prices, or sold under long-term contracts.

109. There is virtually no free market for bauxite. In this connexion, it may be of interest to quote the reply to the Secretary-General's questionnaire by the Government of Jamaica:

> "... Foreign investors pay mineral royalties and income tax on profits earned in the island. In respect of gypsum and alumina the normal income

tax schedule is applicable. In the case of bauxite the operative basis of assessment is on notional profits which are negotiated between the companies involved and the Government.

"It is important to point out that the price at which alumina is transferred in an arms-length transaction is a negotiated price. Hence, the relationship between reported profits of the alumina companies and actual profits will be dependent upon the relationship between the negotiated transfer price and the marginal valuation of Jamaican resources to the company."

110. As for crude oil, sales to non-affiliated companies have increased substantially since the Second World War, but still represent only a small percentage of total output (in the Middle East, for example, such sales account for not more than 20 per cent of total output). "Transfer" prices are primarily a book-keeping convenience and, if used as a basis for calculating profits, may not reflect the company's financial position with an acceptable degree of accuracy. The sale price of crude oil was of little importance to the host country so long as the latter derived its benefits mainly from a royalty paid on each barrel of crude, but the introduction of the fifty-fifty formula established a direct relationship between the payments received by the host country and the price of crude oil. When that formula was introduced, host countries and crude-oil producing companies agreed that the profit-sharing should be calculated on the basis of posted prices.[25/] The host countries were satisfied with this arrangement so long as the posted prices remained unchanged, or increased (as they did in 1953 and 1957). From 1958 onwards, however, increasingly keen competition among oil companies caused world market prices for petroleum products to fall, so that the posted price

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25/ "Until the end of the Second World War, public quotations of prices at producing centres ('posted prices' as they are called in the trade) were made only in the United States. The price at which Middle East oil was sold was that needed to produce a delivered price, at the going freight rate, identical with that of oil from the Texas Gulf in the market to which the sale was being made. In other words, the effective f.o.b. price for Middle East oil varied with its destination. F.o.b. prices first began to be posted in the Persian Gulf soon after the war at a level, allowing for quality difference, virtually identical with those in the Texas Gulf. Early in 1948 a gap between the two price levels developed which widened by successive stages until late in 1949 ...". See "The price of oil in Western Europe" (E/ECE/205) (Geneva, 1955), p. 10.

for crude remained artificially high in comparison with the price which the crude would actually have brought on the open market as a result of the interplay of supply and demand. The major companies accordingly cut posted prices in the Middle East by 8 per cent in February 1959.

111. In April 1959, the first Arab Petroleum Congress of the Arab League met at Cairo and decided to request the oil companies to consult with the Governments of oil-exporting countries before modifying posted prices. However, the companies unilaterally cut posted prices by a further 5 per cent in August 1960, and in September 1960 representatives of Iran, Iraq, Saudi Arabia and Venezuela met at Baghdad and established the Organization of Petroleum Exporting Countries (OPEC), a step which increased their bargaining power and enabled them thereafter to prevent the companies from modifying posted prices unilaterally, although they were unable to have the posted prices restored to their 1958 level.

112. In 1964, the oil companies obtained from the host countries the authorization to apply in the calculations of profits specific discounts off posted prices for specified periods; they promised, however, to consider applying smaller discounts if the price of oil improved. In 1967, the host countries, considering that there was such an improvement, sought to abolish the discounts. In 1966, Venezuela had signed with the oil companies an agreement under which profit-sharing which had been evaluated on the basis of "realized prices" rather than "posted prices" was to be based on "tax reference prices" agreed to by the Government (in general, "tax reference prices" involve a maximum discount of 10 per cent off Caribbean posted prices).

113. Other points of disagreement have included the use of allocations for home office overhead, the management fees paid to parent companies under management contracts and the commissions paid to parent companies for acting as sales agents.

114. There may also be differences of opinion as regards dividend distribution. Governments of host countries, while recognizing the need for reinvestment, may be unable to accept a dividend distribution policy that implies deferring the collection of funds which are urgently needed for economic and social projects. On the other hand, the foreign partner may prefer to keep his share of profit in the host country and seek an expanding turnover rather than a high level of distributed profit. If the Government withdraws all or part of its dividends, the foreign

investor will have to do the same in accordance with the equity-sharing principle. The Government's desire to receive its dividends may thus run counter to its overall policy of encouraging reinvestment by foreign investors so as to reduce the outflow of foreign exchange and increase the contributions of foreign investment to the national economy.

115. An example of the points of difference which may arise between the host Government and a natural resources enterprise is provided in the reply of the Government of Iraq to the Secretary-General's questionnaire. According to that Government, the "points of difference" with the Iraq Petroleum Company (IPC) group are:

"(1) Settling the accounting of the cost of production

"(2) Forming a committee to supervise the spending

"(3) Expensing of royalties

"(4) Interest on suspended payments

"(5) Participation of the Government of Iraq in the company's capital

"(6) Prices of Iraqi crude

"(7) Appointing an Iraqi Executive Director

"(8) Cancelling the marketing allowances

"(9) Excess natural gas

"(10) Using Iraqi tankers

"(11) Changing the gauging procedure

"(12) Increasing oil production in Iraq

"(13) Other points:

"(a) Providing Iraq with cheap crude for export;

"(b) Investing part of profits in Iraq;

"(c) Paying revenues monthly".

116. The Government of Jamaica, in its reply to the Secretary-General's questionnaire, expressed the views that:

> "... the interests of the less developed countries would best be served by establishment of an international consultative agency for the provision of technical information (that is, cost conditions, capital-labour ratios, technology, management) related to existing natural resource industries. This agency would further keep a record of negotiations between industries and Governments on such matters as transfer prices. A subsidiary function would be to arrange conferences between the Governments of countries exploiting a common resource."

V. TRAINING OF NATIONAL PERSONNEL BY NATIONAL RESOURCES ENTERPRISES

117. The training of nationals of developing countries is of fundamental importance for authentic, meaningful and sustained development or exploitation of those countries' natural resources. Effective participation by the host country in the management and operation of natural resources enterprises depends upon the availability of qualified national personnel.

118. As regards high-level management, most developing countries possess senior administrators who are well versed in economics and finance, but these administrators are often not fully conversant with the intricacies of corporate finance and the operations of international stock exchanges. At the Panel on Foreign Investment in Developing Countries, organized by the United Nations at Amsterdam in February 1969, the view was expressed that:

> "... the representatives from developing countries were much less aware than were the investors of business practices and particularly of corporate financial techniques.... The government officials from developing countries had more sophistication in monetary matters, especially balance of payments and national accounting (as distinct from corporate accounting), than most investors. Their weakness was in the very narrow field of corporate finance, in which the investors - bankers and businessmen - are masters." 26/

In the case of mining and petroleum enterprises, managerial personnel from developing countries must be familiar with the pricing and sales policies of large international companies and the relationship between demand, output and pricing.

119. As regards technicians, many developing countries possess an expanding nucleus of engineers and other technical specialists, but many more are needed to satisfy existing requirements and keep pace with the ever-growing demand. Furthermore, the highly specialized and often rapidly evolving techniques employed for the exploitation of natural resources and the processing of natural resources products make it necessary to provide extensive supplementary technical training for such personnel. Developing countries must also arrange for the

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26/ Henry Simon Bloch, Financial Strategy for Developing Nations - Afterthoughts to the Amsterdam Panel, reprinted from Columbia Law Review, vol. 69 (New York, Columbia University Press, May 1969), p. 799.

training of skilled workers for natural resources enterprises, if they are to reduce their dependence on foreign skilled labour. In these circumstances, developing countries naturally attach great importance to the training and advancement of national personnel by foreign enterprises. Foreign technology must be not only imported but also implanted in national personnel, if the latter are to take over from foreign technicians and managers.

120. Provisions concerning the training of national personnel by foreign enterprises have been included in the laws, regulations and policy statements of a number of countries, including Afghanistan, Ceylon, Ecuador, Ghana, Guatemala, India, Indonesia, Iran, Liberia, Libya, Pakistan, Panama, the Phillippines, Saudi Arabia, the Sudan and Turkey. In Ethiopia, for example, foreign enterprises are required by the Foreign Nationals Employment Regulations of 1964 to train nationals. Obligations on foreign enterprises to provide training for national personnel are embodied in a number of petroleum laws and concession agreements.

121. In Ghana, for example, six agreements concluded with foreign oil companies in December 1968 provided that each concessionnaire was to contribute $50,000 annually for the establishment and maintenance of a petroleum or petrochemical department at a Ghanaian university.

122. The agreements concluded in 1958 between the National Iranian Oil Company (NIOC) and three foreign companies specified that the latter companies were to organize training programmes so as to ensure that within ten years at least 51 per cent of the top executives and 98 per cent of the other personnel were Iranian.

123. Article 29 of the concession agreement concluded on 24 March 1931 by the Government of Iraq and the Iraq Petroleum Company (IPC) specified that IPC would, as far as reasonably practicable and as early as possible, train Iraqis to fill positions as managers, engineers, chemists, drillers, foremen, mechanics, skilled workers and clerks. The Government of Iraq informed the Secretary-General that the process of "Iraqization" is continuing and that at present "there are only thirty-nine foreign nationals in the IPC group out of a total of 8,690 employees". The Government also stated that IPC "sends fifty students to specialize in the petroleum industry abroad" and has "a training centre in Kirkuk

for oil technicians". The Government feels that "the training facilities and programmes provided by IPC are quite satisfactory".

124. In Libya, the 1955 Petroleum Law imposes an obligation on the petroleum concessionnaires to spend between 2,500 and 5,000 Libyan pounds a year on training from the date of commencement of regular exports of petroleum. The April 1968 Concession Agreement between Libya and the French Government-owned company Entreprise des recherches et des activités petrolières (ERAP) provides for the training of Libyans in French institutions, so that they may gradually replace the French experts. ERAP also agreed to participate financially and technically in the setting up of a petroleum institute in Libya.

125. The agreement concluded on 21 December 1967 between the Saudi Arabian Government agency known as the General Petroleum and Minerals Organization (PETROMIN) and AGIP-Saudi Arabia, a subsidiary of the Italian Government-owned company Ente Nazionale Idrocarburi (ENI) provided that PETROMIN and AGIP-Saudi Arabia were to prepare and carry out a specialized, theoretical and practical training programme for Saudi Arabian employees relating to the various aspects of the oil industry and including supervisory and management training.

126. In Turkey, the Petroleum Law of 1954, as amended, stipulates that the holder of a petroleum right should send abroad for training and experience Turkish nationals numbering up to 15 per cent of the foreign personnel employed.

127. In the United Arab Republic, the concession agreements concluded in September 1963 between the Government, the Government-owned Egyptian General Petroleum Company (EGPC) and Phillips Petroleum, and in February 1965 between the Government, EGPC and Pan American UAR Oil Company, stipulated that specialized training programmes would be provided for national personnel. Under another concession agreement, signed in September 1963 by the Government, the International Egyptian Oil Company (IEOC) (a company controlled by ENI), and the Compagnie orientale des pétroles d'Egypte (COPE), IEOC and COPE agreed to provide all possible facilities, whether in the United Arab Republic or abroad, for teaching and training any of their employees showing special ability to improve their condition and raise their level of education.

128. Developing countries may also arrange for the training of their nationals through periodic ad hoc consultations with foreign natural resources enterprises.

Furthermore, the enterprises, for their part, are often prompted by enlightened self-interest to provide training for their national personnel.

129. In Gabon, the Campagnie minière de l'Ogoué (COMILOG) established three full-time vocational training centres for its Gabonese employees. These centres also train Gabonese mechanics and electricians for the Compagnie des mines d'uranium de Franceville (COMUF), but COMUF organizes its own training courses for Gabonese miners, chemical treatment specialists, topographers and drillers.

130. The Government of Jamaica informed the Secretary-General that:

> "Training facilities operated by the mining companies account for approximately 10 per cent of total trainees in the country" and that "of this total the number of trainees by category were as follows:
>
> "(a) Managerial personnel . . . . . Nil
>
> "(b) Senior technical personnel . . . . . Nil
>
> "(c) Other personnel 485
>
> "The majority of trainees were in the following occupations: general miner, machine tool operator, mechanic repairman, general electrician and production operator."

The Government of Jamaica also indicated that according to its 1967 Manpower Survey, Jamaicans occupied 68 per cent of the managerial posts in the bauxite and alumina industry and 83 per cent of the professional, technical and related posts.

131. In Togo, the Compagnie togolaise des mines du Bénin (COTOMIB) established a vocational training centre for its Togolese employees, who upon graduation are promoted to the rank of skilled worker or supervisor.

132. A survey of the activities and experiences of private enterprise in technical and administrative training and other forms of technical assistance in developing countries, carried out in 1966 by the Development Assistance Committee of the Organisation for Economic Co-operation and Development (OECD), indicated that a rapid evolution was taking place with respect to the formation of industrial skills in the relations between private business with interests in developing countries and the authorities of those countries. The survey suggested that the number of people trained in OECD member countries by foreign private enterprise at its own expense probably exceeded substantially the number of trainees in industry and trade officially financed under aid programmes.

It also suggested that close co-operation between official and private technical assistance would be useful, for example, with regard to the selection of trainees and in using in-service training and vocational schools to the best advantage, in the joint creation of training centres designed to benefit several industries of a developing country in a given region, and in the improved exchange of information between the two sectors as to new methods of transferring skills and knowledge.27/

133. The Governments of developing countries and foreign investors are becoming increasingly aware that co-operation between them will be greatly strengthened through the gradual reduction of the technological gap which at present only too often separates foreign experts from their colleagues who are nationals of the host country. Experience has shown that the perpetuation of a marked disparity in technological expertise between nationals and foreigners working in the same enterprise creates a feeling of de facto subordination, which eventually generates frustration and resentment and may have political repercussions. The training of national personnel thus helps to eliminate a source of conflict which has in the past impeded co-operation between the Government of host countries and foreign investors, and fostered the people's belief that foreign employees wished to retain indefinitely their managerial and technical control of the enterprise.

27/ OECD, Development Assistance Efforts and Policies: 1967 Review (Paris, September 1967), p. 66.

VI. PLACEMENT ON THE WORLD MARKET OF NON-COMMERCIAL RESERVES OF PRIMARY COMMODITIES

134. The only country which is currently disposing of significant quantities of primary commodities from non-commercial reserves is the United States. At various times in recent years, disposal of surplus rubber, hard fibres and tin, as well as of other commodities from the United States Government's strategic stockpiles, has caused considerable anxiety to developing countries exporting these commodities, and bilateral discussions and consultations on such disposal have taken place. The matter has also been raised within the International Tin Council (which has itself discussed the problem with the United States Government), the International Rubber Study Group and the FAO Study Group on Hard Fibres. Details of recent sales of these commodities from the United States strategic stockpiles, and of other commodities of particular export interest to developing countries, are shown in table 1.

135. However, the list of commodities in this table is a selective one and, in recent years, many other commodities of actual or potential export interest to developing countries have been included in the stockpile disposal programmes. During the three fiscal years 1966/67 to 1968/69, for example, sales were made of the following materials:[28/]

Ores and metals

Aluminium	Columbium	Platinum-ruthenium
Aluminium oxide	Copper	Rhodium
Antimony	Lead	Silver
Bauxite	Lithium	Thorium
Beryl ore	Magnesium	Tin
Bismuth	Manganese	Titanium sponge
Cadmium	Mercury	Tungsten
Chromite	Molybdenum	Vanadium
Cobalt	Nickel	Zinc

Agricultural raw materials

Abaca	Shellac
Castor oil	Silk
Feathers and down	Sisal
Opium	Vegetable tanning
Palm oil	Chestnut
Rubber	Quebracho
	Wattle

28/ Executive Office of the President of the United States of America, Stockpile Report to the Congress (Washington, D.C.).

Non-metallic minerals

Asbestos	Mica
Diamond dies, small	Quartz crystals
Fluor-spar, acid grade	Rare earth
Graphite	Talc

136. The total value of sales from the United States stockpiles since the fiscal year 1962/63 is shown in table 2. Ores and metals account for the great bulk of these sales, the total value of which rose to a record level of over $1,000 million in the fiscal year 1965/66. In the following two years, the total value of sales declined steeply. On 26 February 1970, however, the President of the United States announced that his Administration proposed to sell some $750 million worth of material from the Government stockpiles during the fiscal year 1970/71. This would represent a further marked upsurge in disposals to the exceptionally high average level of the period 1964/65 to 1966/67.

137. At the second session of UNCTAD in 1968, a number of proposals on the subject of disposal of surpluses and strategic reserves was submitted to the Conference. Agreement on these proposals has not yet been reached, but the UNCTAD Committee on Commodities will be considering the matter again at its fifth session in July 1970.

Table 1. Sales by quantity of selected raw materials from the United States strategic stockpile, 1966-1969

	Disposals				As proportion of world consumption a			
	1966	1967	1968	First half 1969	1966	1967	1968	First hal 1969
	(Thousand tons)				(Percentage)			
Non-ferrous metals								
Aluminium	270	41	52	84	4.5	0.7	0.8	..
Copper	206	136	-	-	4.0	2.8	-	-
Lead	67	15	24	3	2.4	0.5	0.8	0.2
Tin	17	6	4	0.5	10.0	3.8	2.1	0.5
Zinc	49	24	23	10	1.4	0.7	0.6	0.5
Ores and minerals								
Manganese ore b/	191	378	354	13	(2.0)	(4.0)	(4.0)	..
Sheet mica	0.1	-	0.2	0.3	..	..	..	..
Tungsten-in-concentrates	3.8	2.9	1.5	5.3	16.9 c/	15.8 c/	7.9 c/	..
Agricultural raw materials								
Abaca	5	5	5	5	4.3	5.8	7.4	..
Natural rubber	157	98	80	21	8.0-	5.1	3.8	1.9
Shellac	0.2	1.0	1.2	0.1	..	..	..	..
Sisal	15	14	12	3	2.5	2.5	2.2	..

Sources: Executive Office of the President of the United States of America, Stockpile Report to the Congress (Washington, D.C.); The Economist Intelligence Unit Limited, Hard Fibres (London); International Rubber Study Group, Rubber Statistical Bulletin; World Bureau of Metal Statistics, World Metal Statistics (Birmingham, United Kingdom); International Lead and Zinc Study Group, Lead and Zinc Statistics; International Tin Council, Statistical Bulletin.

a/ Excluding consumption in the socialist countries of Eastern Europe and Asia.

b/ Gross weight; the proportions relate to world production outside the socialist countries.

c/ As percentage of the consumption in sixteen developed market economy countries and Poland.

Table 2. Value of sales from the United States Government stockpiles

	For Government use	For industrial use	Total
		(Millions of US dollars)	
Fiscal year (July/June)			
1962/63	..	..	110.5
1963/64	..	..	167.1
1964/65	71.3	352.2	423.5
1965/66	166.8	861.4	1,028.2
1966/67	71.2	395.7	466.9
1967/68	46.7	160.7	207.4
1968/69	41.7	210.3	252.0
Of which (in 1968/69)			
Non-ferrous metals . . .	11.9	160.0	171.9
Ores and minerals	0.3	44.1	44.4
Agricultural raw materials	29.5	6.2	35.7

Source: Executive Office of the President of the United States of America, Stockpile Report to the Congress (Washington, D.C.).

Part Two

CONTRACTUAL ARRANGEMENTS BETWEEN DEVELOPING COUNTRIES AND FOREIGN INVESTORS FOR THE EXPLOITATION OF NATURAL RESOURCES AND THE MARKETING OF NATURAL RESOURCES PRODUCTS

ALGERIA

138. Three years after the conclusion of the Evian Agreements, the Governments of Algeria and France concluded the Franco-Algerian Agreement of 29 July 1965 concerning the Regulation of Hydrocarbons Affairs and the Industrial Development of Algeria, which is valid for fifteen years and may be extended for another fifteen years by agreement between the two Governments. An essential feature of the Agreement was the creation by the two Governments of the Co-operative Association for the purpose of joint exploration and production of hydrocarbons in Algeria (Association coopérative pour chercher et exploiter en commun les hydrocarbures de l'Algérie) (ASCOOP), and of the Organization for Industrial Co-operation (Organisme de coopération industrielle) (OCI), which replaced the Technical Agency for the Development of the Resources of the Sahara Sub-soil (Organisme technique de mise en valeur des richesses du sous-sol saharien).

139. Under the Agreement, the Governments undertook:

(a) To organize co-operation between the two States, to be carried out through joint ventures and to that end to combine their efforts for the exploration and production of hydrocarbons in Algeria, each party taking its share of the product in kind and at cost;

(b) To ensure Algerian participation in the development of petroleum resources under the exploration permits issued by the Algerian authorities, in particular by Algeria assuming operating responsibilities;

(c) To help Algeria finance its share of the exploration costs and to co-operate in the marketing of hydrocarbons.

140. Algeria's approval is required for the total amount of the investments, as well as the make-up of unit costs, the form of projected financing and the related financial charges, and the time of implementation. If any dispute between the two Governments concerning the interpretation or implementation of the Agreement or its appendices cannot be settled by negotiation, one party is to propose to the

other in a diplomatic note a procedure for settling the dispute by mediation, arbitration or submission to the International Court of Justice. If the two Governments cannot agree on the procedure to be followed for settling the dispute, the party concerned is to submit the dispute to the International Court of Justice within three months of the transmittal of the aforementioned diplomatic note.

141. Annex I to the Agreement consists of a Protocol concerning ASCOOP, in which the Algerian Government is now represented by the National Algerian Company for the Transportation and Marketing of Hydrocarbons (Société nationale algérienne de transport et de commercialisation des hydrocarbures) (SONATRACH) and the French Government by SOPEFAL, a subsidiary of the Government-owned company Entreprise des recherches et des activités pétrolières (ERAP). Financing is to be provided on a fifty-fifty basis. The French partner is to lend the Algerian partner 60 per cent of the financing provided by the latter, the loan to be repaid by the Algerian partner out of its share of the petroleum discovered by ASCOOP. From 1966 to 1968, ASCOOP's exploration budget amounted to 200 million Algerian dinars, 80 per cent being provided by SOPEFAL. The 1969 budget amounted to 220 million Algerian dinars.

142. The objectives of Algeria's hydrocarbon policy were defined in an official Algerian booklet entitled Les hydrocarbures en Algérie (Hydrocarbons in Algeria), issued in 1968:

> "The Franco-Algerian Agreement of 1965 not only established a new type of relationship between producing and consuming countries, but also laid the foundations of a new policy for a developing country wishing to make the best use of its energy resources.
>
> "In three years, Algeria has progressed from the reconquest of its wealth to controlling their exploitation under contractual arrangements, and is to an ever-increasing degree participating directly in their exploitation and using the profits to expand its participation by investing in the petroleum and petroleum by-products industries.
>
> "This is a new departure, but the final goal is clear: Algeria has chosen the course of industrialization, for which a national energy policy is essential."

143. Various methods are used by SONATRACH to implement this policy. First, it has reserved certain areas of activity for itself; it is wholly responsible for the distribution of petroleum products and by-products in Algeria.

Secondly, while respecting established situations, it dissociates the various stages of petroleum exploitation (exploration, prospecting, production, transportation and marketing), and participates effectively at each stage either through wholly owned companies or through companies in which it holds a majority interest or a minority interest.

144. It is also wholly responsible for prospecting in certain areas which are assigned to it, for the operation of the Hassi Messaoud-Arzew pipeline and for the activities of the Société Varel, which manufactures drilling equipment.

145. A direct or indirect majority interest in the following firms is held by SONATRACH: SRA, refinery in Algiers (56 per cent); SOTHRA, which operates the Hassi R'Mel-Arzew pipeline (51 per cent); ALGEO, a geophysics enterprise (51 per cent); ALFOR, a drilling company (51 per cent); ALTRA, ALCORE AND ALFLUID (51 per cent).

146. Also SONATRACH has entered into a partnership with the Getty Petroleum Company, holding 51 per cent of the equity in the joint venture. "The public announcements indicated that the Algerian Government considered the terms of the Getty agreements as a model for all foreign participation in the Algerian oil industry".[1/] Under these agreements, concluded in October 1968, Getty was to transfer to SONATRACH 51 per cent of its producing interests and was to engage in a new exploration project with SONATRACH on 4,500 square miles of new acreage. Getty's producing interest consisted of its 11.5 per cent interest in the production of the Rhourde el Baquel oil field, a share of the pipeline spur from this field, and a small interest in the Massdar petroleum discovery; SONATRACH was to pay for the assets it thus acquired by selling to Getty at market prices the crude oil to which it (SONATRACH) would be entitled as a result of its 51 per cent interest. Getty was to make a non-repayable $2.25 million advance and invest at least $16 million during the following five years to cover the total cost of the exploration programme. If oil was discovered, SONATRACH was to make up its part of the investment on an annual basis with up to 25 per cent of its share of the crude oil produced. If requested, Getty was to buy SONATRACH's share of the crude oil at the average price Getty received for its own crude oil on the market. Getty was to repatriate 75 per cent of its sales revenue to Algeria, and was to relinquish to SONATRACH all rights to any gas that might be discovered.

1/ United States Department of the Interior, The Mineral Industry of Algeria, Preprint from Bureau of Mines, Minerals Yearbook (Washington, D.C., 1968), p. 6.

147. A 50 per cent interest is held by SONATRACH in the National Company for Petroleum Prospection and Exploitation in Algeria (Société nationale de recherche et d'exploitation de pétrole en Algérie) (SN REPAL), in the exploitation of the deposits at Berkaoui Ban Kahla and in SOMALGAZ, a company liquefying gas for routing to Skikda.

148. It (SONATRACH) also participates, often indirectly, in various other companies, such as the Algerian Liquid Methane Company (Compagnie algérienne du méthane liquide) (CAMEL) (26 per cent SONATRACH, 40 per cent CONCH (Canadian Shell, Continental Oil and Union Stockyard) and minor participation by other companies) which liquefies gas at Arzew; SOPEG, which operates the Hassi Messaoud-Bèjaia pipeline (25 per cent SONATRACH) and various private companies which have been granted prospecting permits (20 to 30 per cent SONATRACH).

149. Besides the above operations, SONATRACH carries out geophysical exploration itself, and has also concluded contracts for such exploration with specialized companies, the French Compagnie générale de géophysique, the Compagnie française de prospection sysmique, Géofrance and ALGEO (see above). Drilling operations are conducted by SONATRACH itself, by petroleum companies such as SN REPAL, the Compagnie française des pétroles (Algérie) (CFPA) and the Compagnie de recherche et d'exploitation des pétroles du Sahara (CREPS), or by specialized drilling companies such as Forex, Forasol, Cosifor, Languedocienne, Forenco and Alcor.

150. The SONATRACH is also engaged in the exploitation of Algeria's natural gas. The Hassi R'Mel reserve, believed to be one of the largest in the world, is exploited by the Société d'exploitation d'Hassi R'Mel (51 per cent SN REPAL (see above) and 49 per cent CFPA). The gas is transported by the pipeline operated by SOTHRA to Arzew, where it is liquefied by CAMEL. Part of the gas is used by the Electricité et gas de l'Algérie, the rest being exported.

151. It is of interest to note that on 12 January 1970 the Government of Southern Yemen enacted a law setting up the Southern Yemen-Algerian Oil and Hydrocarbons Company, a joint venture between SONATRACH and the Government of Southern Yemen, in which the former holds 49 per cent and the latter 51 per cent of the equity. The new company will explore for, develop, transport and market hydrocarbons and petroleum products in specified areas in Southern Yemen.

152. Argentina first adopted measures designed to lay the foundations for a State-owned petroleum industry as long ago as 1910, the year in which a State

entity, the Dirección General de Exploitación del Petroléo en Comodoro Rivadavia, was established to exploit the Comodoro Rivadavia petroleum deposits. Foreign companies retained their right to explore for and exploit other deposits, but in 1927 Government intervention increased considerably with the establishment of Yacimientos Petroliferos Fiscales (YPF), a Government-owned corporation, which was given monopoly rights to all future petroleum exploration, exploitation, industrialization, transportation and commercialization.

153. By 1958, YPF possessed a virtual monopoly of all hydrocarbon operations. The private companies, whose concessions were rapidly dwindling, were confined to refining their scanty production of crude oil and marketing the derivatives. Over two thirds of Argentina's petroleum requirements were being met by imports, and in 1958 the Government adopted a policy designed to enable the Argentina petroleum industry to meet domestic needs. To that end, the Government sought the assistance of foreign companies.

154. Because of the long-standing ban on concession agreements, the arrangements with foreign companies took the form of contratos de locación de obra y servicios (labour and service contracts). Many of these contracts were for drilling work over proved areas, and the companies were to be paid for the work done on a cost-plus basis, regardless of the results achieved. In certain cases, however, the contract required the foreign company to finance exploration and development operations and to assume all the risks involved. The company was assigned a specific area to explore the develop and had specific obligations regarding the speed and amount of the work to be carried out, the aim being to achieve the maximum rate of production consistent with sound technical practice as soon as possible. The periods covered by the contracts varied from twenty to thirty years, and in most cases the company was required to surrender to YPF at stipulated intervals a certain portion of the area assigned to it. The YPF was to be kept informed of the progress of the work, but generally speaking, apart from YPF's power to intervene if it considered that the work was not being carried out in accordance with sound operating practice, the company was free to operate as it thought best.

155. When oil was produced, it was YPF's property and in most cases had to be delivered to YPF at stipulated points. For example, one contract provided that the foreign company "shall not be able to exercise any right of ownership either

over the oil extracted or over the land forming the area of the contract, or over the subsoil". For its part, YPF agreed to take all the oil and to pay the companies in cash according to the prices stipulated in the contracts. These prices varied from contract to contract, and in all cases provision was made for their upward or downward adjustment in propostion to the rise or fall in the average price for crude oil of comparable quality in certain predetermined markets. The YPF undertook to pay all royalties and taxes to which the contracting companies would otherwise be liable, including import duties on equipment brought into the country for their operations. Those payments were taken into account in the amounts YPF paid for the oil.

156. One agreement provided that if production was attained, YPF would authorize the foreign company to transfer to its refining and marketing companies in Argentina an amount of oil equivalent, at world prices, to the cost of operations (including depreciation, amortization etc.) during any one year. In return, the refining and marketing companies were required to pay the producing company for the oil at world market prices. Thus, the latter company's production costs were paid for in oil which was retailed by its refining and marketing companies. After recouping its production costs, the foreign company delivered 10 per cent of the remaining production as a bonus to YPF until oil in the amount of $4.2 million at world prices had been delivered. Half the balance of the oil went to YPF free, and half to the refining and marketing companies, which were required to pay for the oil at world prices.

157. Argentina's oil output increased from 5 million tons in 1957 to approximately 15 million tons in 1963, when imports were discontinued. In March of the latter year, all the contracts signed between YPF and the foreign oil companies were declared null and void. In the succeeding years, YPF managed to keep production moving slightly ahead, but failed to keep up with domestic demand. In June 1967 a new oil law was enacted, which provided for the re-entry of foreign firms. Under that law, YPF retains its production areas (370,000 sq. km), but can sign contracts with foreign companies for their exploration and exploitation. The new law also made over 800,000 sq. km available for new concessions to foreign companies. Under this law, YPF has entered into a number of exploration and production contracts with international and United States oil companies, under which YPF pays fees to the companies as they make oil available to it.

CENTRAL AFRICAN REPUBLIC

158. On 17 July 1968, the Government of the Central African Republic and the French Commissariat à l'énergie atomique signed a protocol for the exploitation of a uranium deposit near Bakouma, 300 miles east of Bangui. The protocol called for the formation of a mining company owned jointly by the Government, the Commissariat and the Compagnie française des minerais d'uranium. The Compagnie des mines d'uranium de Bakouma (URBA) was accordingly established on 29 April 1969. The URBA has a share capital of 2,200 million CFA francs, distributed as follows:

	Percentage
Government of the Central African Republic	20
Commissariat à l'énergie atomique.	40
Compagnie française des minerais d'uranium	40

159. Total investment will amount to between 8,000 and 10,000 million CFA francs. In November 1969, URBA had a staff of 100, of whom 95 were nationals of the Central African Republic. By mid-1973, when the project is expected to be in full operation, URBA will employ about 600 persons, 90 per cent of whom will be nationals.

CHILE

160. In Chile, where copper is the major source of foreign exchange, the main source of Government revenues and an important source of employment, the Government, in 1964 introduced a policy of "Chileanization" of copper-mining activities, under which Chilean public capital would be associated with foreign capital in such activities. Pursuant to this policy, agreements have been reached with the foreign copper-mining companies operating in Chile, providing for Government ownership of from 21 to 51 per cent of the equity, according to circumstances. This arrangement means the expansion of the copper industry, since the new investments made by the Government are being used to increase production. In 1964, it was calculated that investment by the Government would amount to $780 million, thus doubling production capacity.

161. The only company with which the Government failed to reach agreement was the Anaconda Copper Company, which produced almost 60 per cent of Chilean copper. On 21 May 1969 the President of Chile informed the Congress that Anaconda had been invited to discuss with the Government possible ways of enabling Chile to obtain a greater share of the very high price for which copper was selling on the world market.[2/] Negotiations subsequently took place and on 26 June 1969 it was announced that Annaconda had agreed to sell to the Chilean Government its two Chilean subsidiaries, the Chilean Exploration Company and the Andes Mining Company.

162. Chile was to purchase 51 per cent of the shares of the two companies immediately, and was to buy the remaining 49 per cent after 31 December 1972. The purchase price for the 51 per cent of the shares, evaluated on the basis of the companies' book value at 31 December 1968, amounted to about $197 million. The first payment was to be made on 30 June 1970 and the payments were to extend over twelve years and to bear an interest of 6 per cent. The remaining 49 per cent of the shares were to be purchased after 31 December 1972; 60 per cent of the price of those shares was to be paid over the same period as the payments for the initial 51 per cent of the shares, and the remaining 40 per cent was to be paid in the following twelve years, with 6 per cent interest. The Chilean Government thus has twenty-four years to complete the payments. The purchase price of the 49 per cent of the shares is to be based on the profits derived from those shares after taxes.

163. Two Chilean mining companies were to be formed and were to take over the assets and liabilities of the two Anaconda subsidiaries. The companies were to begin operations on 1 January 1970 and were to be administered by a Board of Directors on which Chile would have a majority vote as a result of its purchase of 51 per cent of the shares. Anaconda agreed to provide the new companies with technical assistance for a minimum period of three years, against a remuneration equivalent to 1 per cent of the proceeds from sales of copper produced. The two new companies, Compañia de Cobre Chuquicamata S.A. and Compañia de Cobre Salvador S.A. accordingly began operations on 1 January 1970.

2/ The price of copper on the world market has been increasing constantly. The price was 54.6 cents a pound in January 1969 and 74 cents a pound in December of the same year.

CONGO (DEMOCRATIC REPUBLIC OF)

164. Mining products represent over 80 per cent of the exports of the Democratic Republic of the Congo, which is the world's largest producer of industrial diamonds (75 per cent of world production) and which also produces gem diamonds (15 per cent). The Democratic Republic also produces cobalt (69 per cent of world production), tin (9 per cent), copper (8 per cent), manganese (5 per cent), zinc (3 per cent) and gold (2 per cent).

165. British Congo Diamond Distributors has held a monopoly of the production and marketing of Congolese diamonds since November 1967. Until the end of December 1966, the Union minière du haut Katanga, owned principally by the Democratic Republic of the Congo, Tanganyika Concessions Ltd., the Société générale de Belgique and the Compagnie du Katanga, had been the largest single company operating in the Congo, supplying almost 70 per cent of the country's export receipts and about one third of its budget revenue. The company produced mainly copper, cobalt and zinc, plus some amounts of gold, platinum and silver, and carried out activities outside the Congo relating to copper refining and chemicals manufacturing.

166. On 24 December 1966, the President of the Democratic Republic of the Congo announced the termination of mining activities in that country by the Union minière, A new mining company, the Générale congolaise des minerais (GECOMIN), in which the Congolese Government held 60 per cent of the equity and private foreign interests the reamining 40 per cent, took over the assets of the Union minière. In addition, the Congolese Government claimed from the Union minière an immediate cash payment of $150 million, representing the taxes and foreign exchange earnings which the Government said were due to it on the metals mined in Katanga, but stocked abroad at the time of termination. The Union minière, on the other hand, estimated that its expropriated assets in the Congo were worth $800 million. Relations between the Congolese Government and the Union minière were broken off as a result of the disagreement on those issues.

167. However, on 17 February 1967, a technical co-operation agreement was signed between GECOMIN and the Belgian firm Société générale des minerais (SGM), a subsidiary of the Union minière, under which SGM undertook to operate the mining and processing intallations formerly belonging to the Union minière and to ensure the further processing and marketing abroad of the metals produced. The Société générale des minerais was to provide the foreign personnel needed to run the

GECOMIN installations and was also to prepare general studies and implement the programmes approved by the GECOMIN Board of Directors for the exploitation of the mines and the development of the industry. The agreement stipulated that SGM would pay GECOMIN for each shipment of mineral products when the consignment reached an African port of embarkation, with the required price adjustments being made when the metals had been sold abroad. The Société générale des minerais was to keep accounts of its commercial operations and the agreement provided for arbitration in the event of misunderstandings regarding the conduct of those operations. The agreement was to remain in force until 1972. On 24 September 1969, the agreement was amended and prolonged for twenty-five years. A communiqué issued by the Union minière in Brussels on 25 September 1969 stated that the agreement "settled in a constructive and definitive manner the dispute between the Democratic Republic of the Congo and the Union minière".3/

168. From February 1967 to September 1969, the Union minière received a commission of 4.5 per cent on the sales effected by SGM, plus a supplement of 2 per cent for technical assistance. Pursuant to the agreement as amended in September 1969, the Union minière is to receive 6 per cent of the value of GECOMIN's production, covering compensation for the expropriated assets and payment for technical services, for a period of fifteen years. Thereafter, it will receive only 1 per cent, as payment for technical services.

169. In December 1967, the Congolese Government signed a mining convention with the Japanese company Nippon Mining, which established a subsidiary, the Congo Development Company, to prospect for copper in Katanga, in the copper belt near the Zambian frontier. Test drilling has confirmed the existence of deposits of 100 million tons, 30 million of which are in the Mushosi region, and 20 million in the Kinsenda region. These deposits will be exploited by the Société pour le développement industriel et minier du Congo (SODIMICO), established for that purpose in 1969 with a provisional capital of $200,000, 85 per cent of the equity being contributed in cash by the Nippon Mining Co. and 15 per cent in kind (mining rights) by the Congolese Government. The capital is to be increased as exploitation progresses. The SODIMICO is to invest about $70 million over a two-year period to

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3/ See Marchés Tropicaux et Méditerranéens, No. 1247 (Paris, 4 October 1969), p. 2674.

set up the installations needed to export an annual production of 50,000 metric tons to Japan from 1972 onwards.

170. The Société minière de Lueshe (SOMILU), owned by Union Carbide (United States) and the Congolese Government, is to exploit a deposit of niobium at Bingo in the province of Kivu. The Ente Nazionale Idrocarburi, an Italian State-owned company, is prospecting the unexploited uranium deposits belonging to GECOMIN. In 1969 the French Bureau de recherches géologiques et minières obtained a prospection licence covering large areas in the north and east of the country.

CUBA[4/]

171. In Cuba, the exploitation of mineral resources is reserved exclusively to the State, which also develops agricultural and fisheries resources jointly with small entrepreneurs. In the case of agriculture, the entrepreneurs must be Cuban, and their holdings must not exceed sixty-seven hectares; the Government may, however, make exceptions to these rules. In the case of fishing, the entrepreneurs must be Cuban, must work personally in the enterprises and must have possessed their own fishing vessel or vessels before the Fisheries Co-operatives were established in 1960.

172. With regard to the exploitation of petroleum by foreign companies, the Government of Cuba states the following:

> "On 29 June 1960, the Texas Company (West Indies) Ltd. refused to refine State petroleum, and on 1 July 1960 the same position was taken by Esso Standard Oil and Shell de Cuba S.A., the first two companies being subsidiaries of United States monopolies and the third being controlled by United Kingdom capital. The position taken by the companies violated the Cuban Mineral Fuels Act, promulgated on 9 May 1938, chapter III, article 44 of which states: 'The plants shall be obliged to refine State petroleum when the Government wishes'.
>
> "The Government's decision was conveyed to the three aforementioned petroleum companies in three resolutions issued by the Prime Minister, Commandant Fidel Castro Ruz, the first on 28 June 1960 and the other two on 30 June 1960, which provided that the Cuban Petroleum Institute should take over the three companies if they failed to comply with the Government's wish that they refine the petroleum delivered to them.

4/ Information provided by the Government of Cuba in its reply to the Secretary-General's questionnaire.

The designations employed and the presentation of the material in this publication do not imply the expression of any opinion whatsoever on the part of the Secretariat of the United Nations concerning the legal status of any country or territory or of its authorities, or concerning the delimitation of its frontiers.

"When the three foreign petroleum companies refused to comply, thus violating the Mineral Fuels Act and defying the Government, the Cuban Petroleum Institute, acting in accordance with the aforementioned resolutions, took over the Texas Company (West Indies) Ltd. on 29 June 1960 and the Esso Standard Oil and Shell de Cuba S.A. on 1 July 1960.

"Subsequently, on 6 August 1960, Esso Standard Oil, S.A. (Cuban Division), the Texas Company (West Indies) Ltd. and the Sinclair Cuba Oil Company were nationalized by the resolution which nationalized United States companies in retaliation for the arbitrary reduction in the Cuban sugar quota in the United States by the Government of the latter country and the other acts of economic aggression to which Cuba ha. been subjected. This step was taken in accordance with Act. No. 851 of 6 July 1960, which empowered the Executive to issue resolutions when it deemed it necessary in the defence of the national interest and provided for the nationalization 'through forced expropriation of the property or enterprises belonging to individuals or legal entities of United States nationality'.

"The nationalization of the United States petroleum enterprises was based on the following preambular paragraph of the aforementioned resolution of 6 August 1960:

"'The petroleum companies were continually cheating the national economy, charging monopoly prices which led to the outflow of large amounts of foreign currency over a period of many years, and in their desire to perpetuate their privileges they disobeyed the laws of the nation and devised a criminal plan to boycott Cuba, thus forcing the Revolutionary Government to proceed with its take-over action.'"

173. The Government of Cuba goes on to state that:

"Cuba has received assistance for the exploitation of its natural resources from the specialized agencies of the United Nations system and has also received bilateral assistance for that purpose from the socialist countries. This assistance has taken the form of transfer of technology, equipment and training of technicians. In the case of the specialized agencies, this assistance has been and is being provided through projects implemented by UNDP or the specialized agencies, although Cuba has criticized the limitations placed on this assistance by United States interference. In the case of the socialist countries, the assistance has taken the form of mutual economic assistance, scientific and technical assistance, credits and fellowships. Some capitalist countries, such as Sweden, have provided assistance by training instructors for the Cuban Technological Institutes, while other Western European countries, such as Belgium, Denmark, France, Italy, the Netherlands, Sweden and so on have provided fellowships for the training of technicians and have supplied consultants and advisors. This assistance helps to develop one of the essential elements for the efficient exploitation of natural resources, namely technical personnel. Furthermore, agreements with capitalist enterprises, sometimes guaranteed by the government of the countries in which those enterprises are situated, have enabled Cuba

to obtain equipment and even to have complete plants installed - such as the Fertilizer Plant at Cienfuegos (supplied by Simon Carver, United Kingdom) and bulldozers and other heavy construction equipment (supplied by Berliet, France) - on the basis of commercial credits."

174. With regard to the marketing of natural resources products, the Government states that:

"Cuba has concluded with socialist countries - mainly the Soviet Union - long-term sales contracts for the supply of specific quantities of sugar at a fixed and appropriate price, which in the case of the USSR, the People's Republic of China, the German Democratic Republic and Czechoslovakia is 6.11 cents per pound".

175. The Government goes on to note that it:

"...has assisted and is assisting other countries in the exploitation of their natural resources and the marketing of natural resources products. It has co-operated with socialist countries in developing natural resources on the basis of economic, scientific and technical co-operation. For example, it has given technical assistance in poultry raising to the Democratic People's Republic of Korea and the Democratic Republic of Viet-Nam and has provided those countries with breeding cattle or with semen from champion bulls. This assistance has been given free of charge, like the assistance which Cuba receives from the aforementioned socialist countries. Furthermore, Cuba has been and is still giving technical assistance to the Republic of Guinea for the exploitation of its fisheries resources. Cuba has supplied four technicians who are teaching at the Guinean Fishing School and has donated a wooden coastal fishing vessel, made in Cuba. All this assistance is provided free of charge. With regard to marketing, when Mr. Cheddi Jagan was Prime Minister of British Guyana, the Cuban Government purchased rice from Guyana, paying a price higher than that prevailing on the world market, in order to assist in the struggle for freedom being waged by the popular Government of Mr. Jagan, which was facing opposition, particularly from the United States imperialists. Purchases of rice from British Guyana during the period 1961-1964, when the Jagan Government was in power, amounted to 57,281 metric tons of various types of rice, and the prices paid varied between $139.62 per metric ton for lower quality rice and 1962 to $174.50 per metric ton for higher quality rice in 1963. The purchase continued in 1965, when Cuba purchased 3,500 metric tons of rice at the price of $167.88 per ton."

176. Lastly, the Government of Cuba makes the following suggestions concerning international action to assist developing countries in the exploitation of their natural resources and the marketing of natural resources products:

"(1) Assistance - whether economic or technical, bilateral or multilateral - should involve no conditions which limit in any way the freedom of the developing countries to develop their natural resources or market their natural resources as they see fit.

/...

"(2) The developing countries should have free access to the use of patents. This would eliminate one of the obstacles to the use of new techniques for the exploitation of natural resources.

"(3) The prices of natural products which are of fundamental importance to the developing countries should be increased to levels comparable to the prices those countries have to pay for the industrial products which they import from the economically developed countries, either through bilateral or international agreements. Under these agreements, the export limitations which might be necessary to maintain prices at the aforementioned levels would be made mainly at the expense of the economically developed countries.

"(4) The access of natural products of fundamental importance to the developing countries to the markets of the economically developed countries should be facilitated, by means of the following steps:

"(a) The gradual reduction and eventual elimination of protectionist measures in developed countries, which make it possible for products for which natural conditions in those countries are not favourable to take the place of similar products from the developing countries, where those products are produced more cheaply because conditions are more favourable;

"(b) The elimination of import duties on natural products of fundamental importance to the developing countries.

"(5) The access of manufactures and semi-manufactures produced in developing countries from natural resources to the markets of the economically developed countries should be facilitated through a general and non-reciprocal system of preferences for such products.

"(6) Co-operative action should be taken to develop the merchant fleets of the developing countries, by providing credits and eliminating all the restrictions which in one way or another impede or limit that development."

GABON

177. Gabon is the world's third largest producer of manganese (7 per cent), but is the largest exporter of that metal, accounting for just over one fifth of the market. The manganese deposits at Moanda, which have been exploited since 1962, are believed to contain reserves amounting to 200 million metric tons, with an ore content of 50 to 52 per cent. The deposits are exploited by the Campagnie minière de l'Ogoué (COMILOG), set up in 1953 by the Bureau minier de la France d'outre-mer (now known as the Bureau de recherches géologiques et minières) and the United States Steel Corporation. At present, COMILOG has a share capital of $9.2 million distributed as follows:

	Percentage
United States Steel Overseas Capital Corporation	49
Bureau de recherches géologiques et minières (France) . .	22
Société auxiliaire du manganès de Franceville (France) . .	15
Compagnie de Mokta (France)	14

178. The COMILOG has already invested about $110 million in various construction projects, including the mining installations proper and a telpher railway (téléphérique) in Gabon, a 285 km railway from the telpher terminal at the frontier between Gabon and the People's Republic of the Congo to the coast and installations at Pointe-Noire (Congo). It has also built 1,500 dwellings for its personnel, three modern hospitals at Moanda, Bakoumba and Makabana respectively, and three full-time vocational training centres. The company employs 330 supervisory staff (including about fifty Gabonese) and 3,000 other workers.

179. The uranium mines at Mounana are exploited by the Compagnie des mines d'uranium de Franceville (COMUF), which has a share capital of 3.7 million francs, owned by French interests and distributed as follows:

	Percentage
Compagnie de Mokta	25
Société minière Péchiney-Mokta	25
Commissariat à l'énergie atomique	20
Compagnie française des [illegible]	10
Compagnie française pour l'outre-mer (COFIMER) . .	10
Compagnie des mines de Huaron	
Ugine-Kuhlmann	5

180. At present COMUF employs 1,100 persons, of whom 350 work at the mine and 150 in the prospecting division. Training in mechanics and electrical engineering is provided by COMILOG, but COMUF has organized quasi-permanent courses for miners, chemical treatment specialists, topographers and drillers.

181. In 1963, the Société des mines de fer de Mekambo (SOMIFER) was granted a concession to exploit the iron ore deposits at Belinga. The Société des mines de fer de Mekambo has a share capital of $735,000, distributed as follows:

	Percentage
Bethlehem Steel Corporation	50
Various European steel companies (West German, 10 per cent; French, 9 per cent; Italian, 3.5 per cent; Belgian, 2 per cent; Netherlands, 0.5 per cent)	25
Various French finance companies (COFIMER, Suez, Banque de Paris et des Pays Bas)	13
Bureau de recherches géologiques et minières	12

182. It is estimated that investments totalling $275 million will be needed for the exploitation of the Belinga deposits, half for the mine and port installations and half for a 560-km railway between Belinga and Owendo. On 13 November 1969 a protocol was signed by the Gabonese Government and SOMIFER for the exploitation of the deposits, which is to take place between 1975 and 1985, depending on conditions in the world market.

183. Petroleum exploitation and exploration in Gabon are carried out mainly by Société ELF des pétroles d'Afrique équatoriale (ELF-SPAFE). This company was originally established in July 1949 under the name Société des pétroles d'Afrique équatoriale française; in 1960 its name was changed to Société des pétroles d'Afrique équatoriale (SPAFE), and the present name was adopted in 1968. After seven years of exploration, the first commercially exploitable petroleum deposit was discovered in 1956 at Ozouri, and the second was found shortly afterwards at Pointe Clairette. In 1968, production amounted to 4.6 million metric tons, making Gabon the fifth largest oil producer in Africa. In Gabon, ELF-SPAFE invested $18 million in 1967, $28 million in 1968 and $39 million in 1969. From the beginning of its operations until the end of 1969, it had invested $240 million in

Gabon, $107 million for exploration and $133 million for exploitation. It has a staff of about 1,000, approximately 860 being Gabonese, and has built 750 dwellings for its Gabonese workers, a social centre, maternity clinic and dispensaries.

GHANA

184. Mining - mainly for gold, diamonds, manganese and bauxite - currently accounts for about 18 per cent of Ghana's exports and 3 per cent of its gross domestic product.

185. Gold production, which in recent years has averaged about 800,000 ounces a year, is carried out by five companies. Four of these - Amalgamated Banket Areas, Ariston Gold Mines, Konongo Gold Mines and Bondage Bibiani Gold Mines, which now account for about 35 per cent of Ghana's gold production - were nationalized in 1961 and are now operated by the State Gold Mining Company, established in 1965. The fifth company, Ashanti Goldfields Corporation Ltd., is the largest gold-mining enterprise in Ghana, accounting for just under two thirds of the total gold production. In January 1969, the share capital of Ashanti Goldfields was acquired by Lonrho Ltd., a London-based company which has widespread investments in Africa. The Government of Ghana granted Lonrho Ltd. a fifty-year lease to exploit the Ashanti goldfields to replace a ninety-year lease, held by Ashanti Goldfields Corporation Ltd., which had been granted in 1897. In return, the Government received 20 per cent of the shares of the Ashanti Goldfields Corporation with an option to purchase an additional 20 per cent at a price of $2.40 per share. If dividends from the Government's 20 per cent shareholding fall short of the royalties it received under the old lease, the Corporation will make up the difference.

186. Ghana is the world's second largest producer of rough diamonds, which are mainly of the industrial type. The diamonds are produced principally by four companies, one Government-owned, which operates under the general control of the State Mining Corporation, and the other three foreign firms registered in the United Kingdom. The largest of the foreign firms is the Consolidated African Selection Trust (CAST), which began operations in 1922. CAST employs some

2,750 people, including about eighty-five African supervisors and sixty-five expatriates. The alluvial nature of Ghana's diamond deposits enables some 260 licensed African diggers to mine small claims, hiring workers on a commission basis. All diamonds produced in Ghana must be sold to the State Marketing Corporation.

187. The British Aluminium Company Ltd. is developing new bauxite deposits at Ichiniso as its deposits at Kanaiyerebo are near the exhaustion point. Ghana's bauxite production is exported, while alumina is imported for use in the Tema aluminium smelter. The latter was opened in 1967 by the Volta Aluminium Company (VALCO), in which 10 per cent of the share capital is owned by the Government of Ghana and 90 per cent by Kaiser Aluminum of the United States. In 1969 it was announced that VALCO was to invest a further $24 million in Ghana to increase the present capacity of the Tema smelter by 35,000 tons, thus raising its annual production capacity to 145,000 tons and making it one of the largest smelters outside North America. Preliminary surveys indicate that $70 million would be required to provide alumina facilities in Ghana. Power at a rate of over 200,000 kW is required to operate the Tema smelter at its present capacity. This power is supplied by the Volta River Authority. Traditionally, the large mining companies have produced their own electricity, but in recent years their power output has declined considerably, since they have been purchasing power directly from the Volta River Authority. The Volta River project was completed in 1966 at a cost of $139 million, contributed by the Government of Ghana, the International Bank for Reconstruction and Development, the United States Agency for International Development, the Export-Import Bank of the United States and the United Kingdom.

188. In December 1968, six oil companies signed agreements for crude oil exploration with the Government of Ghana. The agreements were to be valid for thirty years and renewable for another ten years. The companies were to pay $7,000 a block plus $25 annual rent a square mile in the first year, rising to $50 a square mile in the third year. Drilling was to start within eighteen months and at least one well was to be completed to 12,000 feet within two years. A $150,000 bonus was to be paid six months after the contract date for each 500 square miles of concession. Another $500,000 was to be paid within thirty days of the discovery of oil in commercial quantities; $1 million when exports averaged

100,000 barrels a day and $2 million when exports reached a daily average of 200,000. The rent was to increase from $150 a square mile in the first year of development to $500 in the fourth and following years. Royalties were to be 12.5 per cent of the posted price of crude oil and would be treated as an expense item, tax being payable at 50 per cent. Each licensee was to contribute $50,000 annually for the establishment and maintenance of a petroleum or petrochemical department at a Ghanaian university. Also at the end of 1968, a decree was issued empowering the Government to pre-empt all minerals produced in Ghana or from land under its territorial waters. However, petroleum cannot be pre-empted, except in time of war or in case of a national emergency.

GUINEA

189. When Guinea attained its independence in 1958, the bauxite deposits on the Islands of Los had been exploited for six years by the Société des buaxites du midi, a subsidiary of Aluminium Limited of Canada (ALCAN). In 1961, the Société des bauxites du midi informed the Government that in view of its inability to solve the problems of long-term finance and taking into account the new technology being used by its competitors, it could not meet its commitments with regard to the construction of an alumina plant in the Boké area. A series of informal negotiations took place between the Government and the company at the highest level. Following an important cabinet meeting, the Société des bauxites du midi was given a delay of three months for the execution of the agreement. The official view was that the newly-won independence of the country and in particular the new environment were important deterrents which led the company not to comply with its contractual obligations. The Government therefore annulled the concessions for both deposits and took over the assets in Guinea. The Government undertook to exploit the mines on the Islands of Los with Hungarian and Polish technical assistance.

190. In 1958, plans for two major bauxite mining projects, one in the area of the Compagnie internationale pour la production de l'alumine (FRIA) and the other in the Boké region, were nearing completion. The FRIA deposit, evaluated at 350 million metric tons, was to be exploited by the FRIA, which had been established

in 1957 by two French companies, Péchiney compagnie de produits chimiques et electrométallurgiques and the Société d'electrochimie et d'electrométallurgie et des aciéries d'Ugine (now Ugine-Kuhlmann), which in view of the magnitude of the investment involved in the project had subsequently invited British, Swiss, United States and West German interests to join them in an international consortium. The capital of FRIA now totals the equivalent of $33.6 million, distributed as follows:

	Percentage
Olin Mathieson Chemical Corporation (United States)	48
Péchiney-Ugine (France)	27
The British Aluminium Company Ltd. (United Kingdom)	10
Aluminium Industrie Aktiengesellschaft (Switzerland)	10
Vereinigte Aluminium Werke (Federal Republic of Germany) . .	5

191. The FRIA, which is managed by the French partners, has invested about $150 million in various construction projects, including the following: installations for the working of the bauxite deposits, the Kimbo alumina plant (original annual production capacity 480,000 metric tons, to be increased to 700,000 metric tons in 1970 through a new investment of $10 million), a 150 km railway linking the FRIA mine to Conakry, a road, a port at Conakry, and housing for 6,000 people. The FRIA currently employs about 1,400 people, of whom approximately 1,200 are Guineans.

192. The Boké project originated in May 1958, when the French colonial administration granted a 75-year concession to the Société des bauxites du midi for the exploitation of the bauxite deposits in the Boké region, which are estimated to amount to 2,000 million metric tons. The company agreed to attain an annual extraction rate of 1.5 million metric tons by 1963 and to produce alumina at a plant with an annual production capacity of 220,000 metric tons, which it was to build by 1964. The company also undertook to implement a programme that would cost $100 million and would include the construction of a port and a 120-km railway. By 1961, the company had built only a small pier and 55 km of railway bed and structures. As noted above, the Government of Guinea in that year terminated the concession, because the company had failed to meet its obligations under the concession agreement, and took over its assets in Guinea. The Government then began seeking new concessionnaires to exploit the Boké deposits.

193. On 1 October 1963, after fifteen months of negotiations, a basic agreement was reached between the Government represented by the Minister of Economic Development and Harvey Aluminium Inc. of Los Angeles (California, USA). Later a convention took place between the parties for the setting up of a joint venture in which 49 per cent of the equity was to be held by the Government of Guinea, in exchange for mining rights, and 51 per cent by Harvey Aluminum Inc. A holding trust was later formed between Harvey Aluminum and major aluminium companies such as ALCAN (Canada), ALCOA (USA), Péchiney-Ugine (France), Vereinigte Aluminium Werke (Federal Republic of Germany) and Montecatini (Italy). Initially, the control of the trust was left to Harvey which held 51 per cent of the equity, but later was given away through cession to other partners. The Board of Directors was to consist of ten members, five appointed by the Government and five by Harvey Aluminum (later HALCO). The Chairman was to be designated by the Government. The President and Chief Executive Officer was to be designated by Harvey Aluminum (later HALCO); he was not to be a member of the Board, but would be able to attend its meetings and vote. Under the agreement, the Government of Guinea was to receive 65 per cent of the profits of the Compagnie des bauxites de Guinée (CBG) in the form of income tax, and Harvey Aluminum (later HALCO) was to receive the remaining 35 per cent. Harvey Aluminum (later HALCO) was to exploit the bauxite, producing at least 1 million metric tons a year, and was to build a calcination plant with an annual capacity of 10,000 tons. The Government also asked Harvey Aluminum to study the possibility of building an alumina plant. The Government was to construct infrastructure works, including a port for ocean carriers, a 150 km railway between the port and the mine, and housing near the plant.

194. In spring 1965, the Société des bauxites du midi filed a claim for compensation, but renounced further action on the claim when negotiations began between Harvey and ALCAN on the purchase of bauxite from Boké and the settlement of claims arising from the former concession. In December of the same year, the Guinean Government established the Office d'aménagement de Boké (OFAB), an autonomous public entity which was to be responsible not only for the Government contribution to the exploitation of bauxite in the Boké region, but also for the development of the whole north-west region of Guinea.

195. In 1966 a number of European and United States companies expressed an interest in joining Harvey in the Boké project, whose production would thus be increased from 1 million to 5 million metric tons a year. Negotiations were initiated, and in 1968 it was announced that a consortium known as HALCO Mining had been formed, consisting of Harvey Aluminum, ALCAN, the Aluminum Company of America (ALCOA), Péchiney-Ugine, Vereinigte Aluminium Werke (Federal Republic of Germany) and Montecatini-Edison (Italy). Bilateral appropriate arrangements approved by the Government of Guinea and Harvey Aluminum released to the members of the Consortium respective parts of the benefits extended to it by the Government of Guinea in the basic agreement. A series of negotiations took place and led to a reduction in the distribution of shares between Harvey Aluminum Inc. and the other members of HALCO Mining. Finally, under the active supervision of the Government, arrangements were reached for the following structure of HALCO and the Compagnie des bauxites de Guinée:

	Percentage
HALCO's capital is now distributed as follows:	
ALCOA (United States)	27
ALCAN (Canada)	27
Harvey (United States)	20
Péchiney-Ugine (France)	10
Vereinigte Aluminium Werke (Federal Republic of Germany)	10
Montecatini-Edison (Italy)	6

196. The equity of CBG now consists of $2 million, 49 per cent being contributed by the Government of Guinea in the form of mining rights and 51 per cent by HALCO. Total investment is expected to amount to about $180 million, $100 million to be contributed by CBG and $80 million by CFAB. The $100 million contributed by CBG will be derived from the following:

(i) A $64 million loan from HALCO ($25 million from the Export-Import Bank of Washington, $10 million from the Société financière européenne, $25 million from the Kreditanstalt für Wiederaufbau and the Deutsche Bank, and $4 million from other sources);

(ii) $1 million from the Guinean Government;

(iii) A $15 million additional capital contribution from HALCO;

(iv) A $20 million loan from the members of the HALCO consortium (repayable without interest over ten years after a six-year grace period).

197. The $80 million to be contributed by CFAB was to be derived from a $64.5 million loan from IBRD, reimbursable in twenty years beginning in July 1973 at an interest rate of 6.25 per cent and a $20.8 million loan from the United States Agency for International Development, reimbursable in twenty-six and a half years beginning in July 1973 at an interest rate of 2.5 per cent per annum.

198. The infrastructure work for the Boké project was officially inaugurated in October 1969 and is expected to be completed in 1972.

199. As regards other minerals, in February 1969 the Government of Guinea asked the Swedish firm Grangesberg, a partner since 1963 in the Liberian-American-Swedish Minerals Co. (LAMCO), to undertake a preliminary survey of the iron deposits in the Nimba Mountains. The survey yielded very encouraging results; the Government of Guinea therefore established the Compagnie du minérai de fer de Guinée (MIFERGUI), which includes five foreign companies from Australia, Italy, Romania, the United States and Yugoslavia respectively. Japanese interests were expected to join the consortium later. The Government of Guinea is to receive 50 per cent of MIFERGUI's profits. Arrangements have recently been made for two feasibility studies to determine the grades and specifications of the iron ore. One study is to be carried out as a UNDP Special Fund Project, and the other is to be undertaken by a Belgian firm.

INDONESIA

200. Indonesia's oil policy is based on article 33, paragraph 3, of the 1945 Constitution of the Republic of Indonesia, which stipulates that: "Land and water and the natural riches contained therein shall be controlled by the State and shall be made use of for the people" and is further defined in the government regulation replacing Act No. 44 of 1960 on the mining of Petroleum and Natural Gas.

201. According to this government regulation, foreign participation in the Indonesian oil and gas industry must be based on a working contract with a state oil enterprise or enterprises.

202. The regulation provides that petroleum and natural gas are national assets, controlled by the State, and that only State enterprises, as holders of mining authority, may undertake the exploration, exploitation, refining and processing, transportation and marketing of petroleum and natural gas. However, the Government can appoint contractors for the state oil enterprises if this is considered necessary for the execution of operations, which cannot yet be carried out by the state enterprises. All the oil and natural gas produced by the contractors belong to the State, with the contractors receiving a certain remuneration for their services.

203. After the promulgation of the government regulation replacing Act No. 44 of 1960, it became necessary to replace the existing agreements with foreign oil companies operating in Indonesia (the so-called "5-A-Contracts") with agreements incorporating the basic principles as set forth in the government regulation. The negotiations with the foreign oil companies (Shell, Caltex and Stanvac) inevitably led to a compromise, whereby the "5-A-Contracts" with their concession system were replaced by "contracts of work", under which the foreign oil companies agreed to relinquish all rights held prior to the adoption of the government regulation and to operate as contractors under the supervision of the state enterprises, while retaining responsibility for the management of their operations. On 28 November 1963, the Government of Indonesia adopted Act No. 14, approving a number of contracts of work, which had been concluded between the state oil enterprises and the foreign oil companies, namely between the state oil enterprise Pertamin and Caltex Pacific/California Asiatic Oil/Texaco Overseas Petroleum, between the state oil enterprise Permigan and Shell Indonesia and between the state oil enterprise Permina and Stanvac Indonesia.

204. Upon signing the agreements, each foreign oil company agreed to pay the Government of Indonesia $5 million as an initial bonus. The Government was to receive quantities of crude oil having a value of 60 per cent of the operating income of the foreign oil companies. The companies were to sell all their marketing facilities in Indonesia to the Government within the following five

years. This transfer was effected in 1965 against a payment in cash to the companies of $12.9 million. The companies' exploration and exploitation rights over existing areas were extended by twenty years, and the companies were also authorized to operate in extensive new areas in Kalimantan (Borneo) and Sumatra for a maximum period of thirty years.

205. Shell and Stanvac, which had refineries in Indonesia, were guaranteed retention of those refineries for ten years, but the facilities were to be sold to the Indonesian Government within fifteen years; the sale price was to decrease to zero if the transfer was made at the end of the period.

206. On 31 December 1965, Shell sold all its operations and assets, including its oilfields and refineries, to the Government of Indonesia for $110 million, payable over five years.

207. In January 1970, Stanvac Indonesia sold its only refinery in Sungai Gerong (South Sumatra) and its Tandjung Uban Sea Terminal to the Government of Indonesia for $4.75 million. To assist the Government in the integration of the Sungai Gerong refinery with the nearby located Pladju refinery (purchased by the Government from Shell in 1965), Stanvac agreed to give a $2 million interest free loan to the Government, to be paid back in six years.

208. On the same day an agreement was also signed on the enlargement of Stanvac's operation areas in the districts bordering its old areas in South Sumatra. The "contract of work", which was signed by Stanvac for its old areas, also formed the basis of this new agreement. Stanvac will invest a minimum of $6 million for exploitation during a period of four years, while the state oil enterprise Pertamina (Stanvac's partner in the agreement) will give Stanvac all available geological and geophysical data for a payment of $750,000.00.

209. Stanvac will also pay bonuses to Pertamina, which will not be included in the operating cost, namely a signature-bonus of $1.25 million within ten days after 1 January 1970, a contribution of $250,000.00 to the National Oil and Gas Institute for research purposes and production bonuses as follows: $1 million when the production reaches 50,000 barrels a day, $3 million when the production reaches 100,000 barrels a day and $6 million when the production reaches 200,000 barrels a day.

210. In 1960, a long-term credit agreement was concluded between the Government of Indonesia, represented by the state oil enterprise Permina, and the Kobayashi group of Japan for the reconstruction and development of oil fields, including the related facilities, and for the conduct of exploratory operations to be carried out by Permina in North Sumatra. Under the agreement, which is valid for ten years, the annual production of the fields was to be increased as early as possible from 800,000 kl (the so-called basic production) to 2.5 million kl.

211. The Japanese group was to provide a credit of 18,845 million yen in the form of equipment, machinery, materials, techniques and services. Permina was to deliver every year, as the repayment in kind of the credit, a quantity of crude oil equivalent to 40 per cent of that part of the annual crude oil output which exceeds the basic production. This quantity of crude oil was to be converted into a corresponding monetary amount at the current international market price of the oil. The two parties to the agreement were to meet every two years to ensure satisfactory execution of the agreement. For the performance of the agreement the Kobayashi group established in Japan the North Sumatra Oil Development Corporation (NOSODECO).

212. The agreements concluded since 1966 by the state oil enterprises with foreign companies as their contractors in the exploration and exploitation of petroleum and natural gas have been more in keeping with the spirit and the basic principles of the 1945 Constitution and the regulation replacing Act No. 44 of 1960. These agreements, known as "production-sharing agreements" are based on the following principles: that all the oil and natural gas produced remains the property of the State; that the management of all the operations is in the hands of the state enterprise, which bases the agreement on a work programme and an operating budget drawn up and executed by the contractor; the maintenance of regular contacts and consultations between the contractor and the state enterprise at every stage of the work programme; the obligation of the contractor to use the services of the state enterprise, including qualified Indonesian personnel, to the maximum.

213. The sharing of the production, as remuneration for the services of the contractor, is carried out on the following basis:

(a) The foreign contractor has to bear all operating costs, which may be recovered out of the production only after commercial production has started;

(b) The contractor is obligated to invest, during a certain period of time stated in the agreement, a minimum amount of capital in exploratory activities;

(c) Equipment purchased by the contractor pursuant to the work programme becomes the property of the state enterprise when landed at the Indonesian port of import. Depreciation on this equipment is to begin on the date of commencement of commercial production and shall be at a rate commensurate with the useful life of the relevant asset, but not to exceed 10 per cent per annum;

(d) After commercial production has begun, the foreign contractor may recover its operating costs out of the annual production up to a maximum of 40 per cent. The balance is then divided between the Government and the contractor, with the former receiving 65 per cent which may be increased to 67.5 per cent after the production has reached a certain level. The oil is valued at the prevailing international market price. The contractor is required to supply the domestic market for petroleum products by selling a part of the crude oil to which it is entitled to the Government against a certain fixed price.

214. The agreements also contain a provision regarding the employment of qualified Indonesian personnel and their training for staff positions after commercial production has started and, furthermore, provisions dealing with the payment by the contractor of a signature-bonus, a compensation-payment for available data furnished by the state enterprise and production bonuses after production has reached certain levels. All these payments are not to be included in the operating costs by the operator. The duration of the agreements is thirty years, including an exploration period of eight to ten years.

215. The April 1968 production-sharing agreement between the state oil enterprise Permina and International Oils Exploration N.L. of Australia, for instance, provided that Permina would take 65 per cent of the output up to 75,000 barrels a day, after which Permina would take 67.5 per cent after a portion of the production had been deducted to cover operating costs. When production reached 50,000 barrels a day, International Oils Exploration was to pay Permina a production bonus of $1 million.

216. Under a July 1968 agreement between the state oil enterprise Pertamin and the Compagnie française des petroles (CFP) for exploration and exploitation in the

Djambi area of South Sumatra, CFP was to spend a minimum of $10.5 million for exploration over a period of six years. The area involved was 20,000 square kilometres, both on-shore and off-shore. After part of the production had been deducted to cover operating costs, the balance was to be shared on the following basis: 65 per cent for Pertamin and 35 per cent for CFP up to 75,000 barrels a day, and 67.5 per cent for Pertamin and 32.5 per cent for CFP thereafter. The duration of the agreement was thirty years, including an eight-year exploration period. The CFP was to pay $1 million for geological information and production bonuses of $1 million when production exceeded 100,000 barrels a day and another $1 million when production exceeded 200,000 barrels a day.

217. Under a production-sharing agreement for exploration and exploitation off the western tip of West Irian, signed in October 1968 between the state oil enterprise Pertamina and AGIP, a subsidiary of Ente Nazionale Idrocarburi (ENI), the Italian Government-owned company, AGIP was to invest a minimum of $16 million for exploration in the first eight years.

218. The AGIP was to pay $1.5 million for information held by Pertamina and production bonuses of $500,000.00 when a production level of 75,000 barrels a day had been reached, $1.5 million at a production level of 100,000 barrels a day and $2 million at a production level of 200,000 barrels a day. The contract covered an area of approximately 100,000 square kilometres, parts of which were to be gradually returned to the Government of Indonesia, so that by 1968 it covered only 15,000 square kilometres.

219. After commercial production had been started, the balance of the production after deduction for operating costs was to be shared between Pertamina and AGIP on a 65 : 35 basis until production reached 75,000 barrels a day, after which Pertamina was to receive 67.5 per cent and AGIP 32.5 per cent.

220. Production-sharing agreements on broadly similar lines have been concluded with a number of other foreign companies, such as Cities Service Company, Union Oil Company of California, Mobil Oil Corporation, Gulf Oil Corporation, B.P., Shell, Phillips Petroleum Company, Continental Oil Company, Japan Petroleum Exploration Company, Kyushu Oil Company (Japan), Frontier Petroleum Company.

221. With regard to the mining sector, it was decided in 1968 to open a Government-owned mechanized diamond mine in Kalimantan, and the Government concluded an agreement with the Dutch company, Netherlands Diamant Maatschappij of Amsterdam, under which the latter was to cut, polish and sell the diamonds.

222. The Government of Indonesia has granted rights to Freeport Sulphur for copper in West Irian, to International Nickel for nickel in Sulawesi and to NV Biliton Maatschappij for tin in on-shore and off-shore areas near Singkep-Bangka. The three contracts involved a capital outlay of about $160 million by the three companies.

223. In March 1969, the Government of Indonesia signed a contract with PT Packific Nikkel Indonesia, a consortium of Canadian, Netherlands and United States capital, for nickel exploration in West Irian. Under the contract, which is valid for thirty years, extendable by mutual agreement, $1.5 million is expected to be invested in exploration and a further $75 million will be invested if ore is discovered in commercial quantities. The contract does not provide for a tax holiday and the nickel will be considered State property until the point of sale. Land rent, royalties and corporation tax will be paid, the corporation tax being 37.5 per cent of net income during the first ten years, and 45 per cent for the remaining period. Mining contracts with a number of other foreign companies were being negotiated for bauxite, nickel, tin and heavy minerals.

224. With regard to the development of land resources, the prevailing pattern of the Indonesian rubber industry has been one of large estates capable of producing high-quality rubber. In October 1968 the last of the major companies which formerly possessed rubber plantations reached agreement with the Government of Indonesia on the resumption of control of its former estates. All the companies which have resumed control of their estates will be allowed to employ expatriate managers. The Belgian rubber plantations of Socfin, Sipef and Plantagen AG in Atjeh, North Sumatra and West Java were transferred back, on 29 April 1968, by an agreement under which the Belgian companies were to enter into a joint venture with the Government of Indonesia, putting up 60 per cent of the initial capital outlay of $13.5 million, while the Government of Indonesia supplied the rest.

225. In 1968, a joint venture was established between the Indonesian Company Sumatra International Timber, and a Philippine concern, which was granted a twenty-year licence to exploit 100,000 hectares of forest in north Sumatra and the Riau archipelago. The Philippine company promised to set up a wood-processing industry in the region and to develop its infrastructure in return for the rights to the timber. In the same year, the Government of Indonesia approved two other joint

ventures involving the investment of foreign capital in the forestry industry. One of these ventures was established by the Kaju Indonesian company and the Mitsubishi Kaisha of Japan, for exploitation of 100,000 hectares in East Kalimantan at a cost of $2 million. The other was established by the Indonesian Mines Company and the Netherlands concern Fijout, for the exploitation of 950,000 hectares in the Riau archipelago, with a capital outlay of $2 million.

IRAN

226. In the period between the two world wars, several disputes arose between the Government of Persia and the Anglo-Persian Oil Company Ltd. (APOC), later the Anglo-Iranian Oil Company Ltd. (AIOC), over payments in the Government. The Anglo-Persian Oil Company Ltd.'s oil concession had originally been granted in 1901 to William Knox D'Arcy of Great Britain. That concession had covered 500,000 square miles, that is, the whole of Persia except for five northern provinces, and was to be valid for sixty years. The Government of Persia was to receive a cash bonus of £20,000 of paid-up shares, in the first exploitation company within one month of its formation, 16 per cent of the company's annual net profits and an annual tax of 2,000 tomans.

227. On 15 April 1909 APOC had been established to take over the D'Arcy concession, the majority interest being held by the Burmah Oil Company. In 1914 the British Government had acquired 56 per cent of APOC's equity, the rest being held by Burmah Oil and D'Arcy.

228. In 1932, the Government of Persia unilaterally cancelled APOC's concession, with a view to obtaining increased payments, since its 16 per cent shares of APOC's net profits had declined owing to the fall in world oil prices during the Great Depression. A new agreement was signed in 1933, valid for sixty years, which reduced the concession area from 500,000 to 100,000 square miles and provided for the payment to the Government of a royalty of 4 shillings (gold) per ton of petroleum sold, and an annual sum equal to 20 per cent of the dividends distributed to ordinary APOC shareholders in excess of £671,250. Total annual payments to the Government of Persia under those headings were to be no less than £750,000. Furthermore, APOC was to pay, for the first fifteen years of the concession, a tax commutation of 9 pence per ton for the first six million tons of petroleum produced and sold per annum, and 6 pence for every ton in excess of that amount. The minimum annual commutation payment was to be no less than £225,000. For the second fifteen years of the concession, APOC was to pay a tax commutation of one shilling (gold) per ton for the first 6 million tons of petroleum sold per annum, and 9 pence for every ton in excess of that amount. The minimum annual commutation payment in that period was to be £30,000. The Government of Persia relinquished its £20,000 equity in the producing subsidiary of APOC against a payment of £1 million, covering that and other claims by the Government.

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229. In 1947, the British Government imposed a ceiling of 30 per cent on the dividends that could be distributed by any British company. This limitation naturally affected the payments to the Government of Iran, which in addition to tonnage royalties was entitled to receive annually a payment equal to 20 per cent of the dividends distributed to AIOC shareholders in excess of £671,250. In 1948, AIOC suggested that it should make a supplementary payment to the Government of Iran to compensate it for any losses resulting from the British Government's dividend limitation policy. The Government of Iran suggested instead that the financial arrangements of the 1933 concession agreement should be renegotiated.

230. A supplementary agreement was accordingly drawn up, under which:

(a) The royalty per ton was to be increased to 6 shillings (gold), and total annual royalty payments to the Government were to be no less than £4,000,000;

(b) The Government of Iran was to receive a sum equivalent to 20 per cent of any distribution to AIOC's ordinary shareholders in excess of £671,250, whether that distribution was to be made as dividends or from general reserve;

(c) The tax commutation payment was to be increased from 9 pence to 1 shilling (gold) per ton.

231. This agreement was initialled by AIOC and the Government of Iran on 17 July 1949, but was rejected by the Iranian Parliament in December 1950. Relations between AIOC and the Government of Iran continued to deteriorate, and on 30 April 1951 the Iranian Parliament voted to nationalize the Iranian oil industry. The nationalization law was promulgated on 1 May 1951 by the Shah. In the same year, Iran established the National Iranian Oil Company (NIOC) to control the country's oil reserves. The NIOC now distributes petroleum products in Iran, makes arrangements for exports of oil and natural gas, and has entered into partnerships with foreign companies for the extraction of oil and the production of petrochemicals.

232. On 20 October 1954, an agreement was concluded between NIOC and the Government of Iran on the one hand and a consortium of eight (later sixteen)[5/] international oil companies on the other. According to this agreement, two operating companies were established, an exploration and producing company which carries out exploration and production activities within the agreement area, and a refining company, which refines and processes crude oil and natural gas produced by the exploration and producing company. Each of the operating companies is entitled to receive one shilling per cubic metre of crude oil delivered and refined. Fifty per cent of the consortium's annual net profit and the operating companies' fees are received by the Government of Iran as taxation.

233. The royalty to be received in cash or kind by NIOC is 12.5 per cent of the crude oil and natural gas produced by the exploration and producing company. According to the first supplementary agreement between the Government of Iran and NIOC on the one hand and the Consortium on the other in 1964, most of this royalty is to be charged to expenses by 1971, and thereafter all of the royalty will be considered as operating expenses. In May 1967 a second supplementary agreement was signed between the parties, according to which approximately 25 per cent of the agreement area was relinquished. The basic terms of the agreement are set out in the annex table.

234. In August 1957, NIOC concluded an agreement with Agip Mineraria which provided for the establishment of the Société Irano-Italienne des pétroles (SIRIP), with an equity subscribed equally by NIOC and Agip Mineraria. The agreement covered three separate areas: 5,600 sq.km. in the Iranian continental shelf located in the northern part of the Persian Gulf, 11,300 sq.km. in the eastern slopes of the Zagros mountains and an area of 6,000 sq.km. along the

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5/ The sixteen companies were the following: British Petroleum Company Ltd. (40 per cent), Royal Dutch Shell Group (14 per cent), Compagnie française des pétroles (6 per cent), Standard Oil Company of New Jersey (7 per cent), Standard Oil Company of California (7 per cent), Texaco Incorporated (7 per cent), Gulf Oil Company (7 per cent), Socony Mobil Oil Company (7 per cent) and the Iricon Agency, Ltd., composed of eight United States oil companies (5 per cent).

coast of the Gulf of Oman. The Agip Mineraria was to spend a minimum of $22 million on exploration during the first twelve years. If commercially exploitable oil deposits were discovered, SIRIP was to refund 50 per cent of the exploration expenditure to NIOC and 50 per cent to Agip Mineraria. During the first twelve-year period, the explorable areas were to be gradually reduced so that by the end of that period the area of operations was reduced to areas in which commercially exploitable fields had been discovered. The development activities and completion of exploration were to be financed and controlled by SIRIP, supported by the equal contributions of NIOC and Agip. The basic terms of the agreement are given in the annex table.

235. In June 1958 NIOC concluded an agreement with the Pan-American International Oil Company, a subsidiary of Standard Oil Company (Indiana) which resulted in the establishment of the Iran Pan-American Oil Company (IPAC), a non-profit joint stock company with equity subscribed equally by NIOC and the Pan-American International Oil Company. The areas of operations were to cover two separate areas of 1,000 and 15,000 sq.km. of the Iranian continental shelf located in the northern part of the Persian Gulf. According to this agreement, Pan-American was to make a minimum exploration expenditure of $82 million during the first twelve years. Upon discovery of a commercial field, the exploration expenditures were to be refunded to the Pan-American International Oil Company by IPAC from which 50 per cent was to be received by NIOC. Pan-American was also to pay a cash bonus of $25 million within thirty days of the effective date of the agreement. From the thirteenth year of the effective date of the agreement, IPAC was to pay annual rental at the rate of $400 per sq.km. for the first five years, $480 for the second five years and $600 thereafter. The agreement was to be valid for twenty-five years from the date of commencement of commercial production and is renewable for five years on the same terms at the request of Pan-American. Two further five-year extensions may be granted at the request of Pan-American, on such terms more favourable to Iran as might have been included in current contracts between NIOC and other foreign oil companies. Development activities and the completion of exploitation were to be financed and controlled by IPAC. The petroleum produced was to be owned jointly by NIOC and Pan-American, and the Iran tax liability of NIOC and Pan-American was not to

exceed 50 per cent of their net profit for each year. The Iranian Government and NIOC were to receive 75 per cent of the profit. The basic terms of the agreement are set out in the attached table.

236. In 1966 an agreement was concluded between NIOC and the Entreprise de recherches et d'activités pétrolières (ERAP), a French Government oil company which, as contractor, was to carry out exploration and production activities in two separate on-shore and off-shore areas. At the end of the first year from the effective date of the agreement, the off-shore area is to be reduced to approximately 10,000 sq.km., and the on-shore area to 20,000 sq.km. and more reductions will take place in following years. The costs of exploration, appraisal and development activities are to be paid by the contractor. The exploration expenditures are to be refunded upon discovery of a commercial deposit. The costs of appraisal and development activities, with the relevant interest, are to be reimbursed to the contractor by NIOC in equal instalments. The contractor may buy crude oil produced from the agreement area in an amount equal to the above-mentioned costs. As soon as a commercial deposit is discovered, 50 per cent of it is to be set aside as a national reserve. The basic terms of this agreement are given in the annex table.

237. Two other contracting agreements were concluded in 1969 between NIOC and AREPI[6/] (a group of European Oil Companies) and Continental Oil Company respectively. These agreements cover parts of the areas relinquished by the Consortium in 1967. The principle terms of these two agreements are also given in the annex table.

6/ Entreprise de recherches et d'activités pétrolières (State-owned), 32 per cent; Italy's ENI (State-owned), 28 per cent; Spain's Hispanoil (State-owned), 20 per cent; Belgium Petrofina (State-owned), 15 per cent; and Austria's Oe. M.V. (State-owned), 5 per cent.

Annex

SUMMARY TABLE OF OIL AGREEMENTS IN IRAN

Name of company and type of agreement	Parent companies' shares (percentage)		Date of agreement	Duration (years)	Area (km^2)	Relinquishment	Bonus (millions of US dollars)	Rental ($US per year per km^2)	Minimum exploration expenditure (millions of US dollars)	Taxation
1. Consortium concession	B.P. Shell Esso Gulf Stancal Mobil Texaco CFP Tricon [c]	40 14 7 7 7 7 7 6 5	29/10/1954	25 Extensions: 3 x 5	Original: 254,112 Present: 189,212	64,900 sq.km. [a]	-	-	-	50 per cent based on posted prices [b]
2. SIRIP joint venture	NIOC AGIP, S.p.A. [d]	50 50	27/8/1957	Exploration: 12 Exploitation: 25 from sale of 20,000 tons Extensions: 3 x 5	Original: 22,900	By end of: 5th year: 25 per cent 9th year: 25 per cent of original area 12th year: all areas except those where oil has been found in commercial quantities	-	-	1st 4 years: 6 The other 8 years: 2/year	50 per cent based on realized prices [e]
3. IPAC joint venture	NIOC Pan. Am.	50 50	5/6/1958	Exploration: 12 Exploitation: 25 Extensions: 3 x 5	Original: 16,000	By end of: 5th year: 25 per cent In the next 5 years: 25 per cent of original area By end of: 12th year: all areas except those where oil has been found in commercial quantities	25	400 during: 13th-17th year 480 during: 18th-22nd year 600 during: 23rd year and later	1st 4 years: 8.5/year The other 8 years: 6/year	50 per cent based on realized prices [e]
4. LAPCO joint venture	NIOC others [f]	50 50	13/2/1965	Exploration: 12 Exploitation: 25 from time 100,000 m^3 are exported Extensions: 3 x 5	Original: 8,000	By end of: 5th year: 25 per cent In the next 5 years: 25 per cent of original area By end of 12th year: all areas except those where oil has been found in commercial quantities	Initial: 25 When production from block 3 averages for 30 consecutive days: 100 TB/d: 1 200 TB/d: 2 400 TB/d: 3	After commencement of commercial production: [g] During: 1st 5 years: 400 2nd 5 years: 480 3rd 5 years: 600 4th 5 years: 780 5th 5 years: 1,050	1st 4 years: 3/year The other 8 years: 0.375/year	50 per cent based on realized prices [h], [i]
5. DOPCO joint venture	NIOC Shell	50 50	13/2/1965	Exploration: 12 Exploitation: 25 from time 100,000 m^3 are exported Extensions: 3 x 5	Original: 6,036	By end of: 5th year: 25 per cent In the next 5 years: 25 per cent of original area By end of: 12th year: all areas except those where oil has been found in commercial quantities	Initial: 59 When production averages 100 TB/d for 30 consecutive days: from: block 1: 16.8 block 2: 11.2	After commencement of commercial production: [g] During: 1st 5 years: 400 2nd 5 years: 480 3rd 5 years: 600 4th 5 years: 780 5th 5 years: 1,050	1st 4 years: 2.5025/year The other 8 years: 1.001/year	50 per cent based on realized prices [h], [i]
6. FPC joint venture	NIOC SOFIRAN [j]	50 50	13/2/1965	Exploration: 12 Exploitation: 25 from time 100,000 m^3 are exported Extensions: 3 x 5	Original: 5,759	By end of: 5th year: 25 per cent In the next 5 years: 25 per cent of original area By end of: 12th year: all areas except those where oil has been found in commercial quantities	Initial: 27 Upon commercial discovery in the area designated ABCD: ?	After commencement of commercial production: [g] During: 1st 5 years: 400 2nd 5 years: 480 3rd 5 years: 600 4th 5 years: 780 5th 5 years: 1,050	1st 4 years: 2/year The other 8 years: 1.8/year	50 per cent based on realized prices [h], [i]

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Name of company and type of agreement	Parent companies' shares (percentage)		Date of agreement	Duration (years)	Area (km^2)	Relinquishment	Bonus (millions of US dollars)	Rental ($US per year per km^2)	Minimum exploration expenditure (millions of US dollars)	Taxation
7. IMINOCO	NIOC [k/] others [k/]	50 50	13/2/1965	Exploration: 12 Exploitation: 25 from time 100,000 m^3 are exported Extensions: 3 x 5	Original: 7,960	By end of: 5th year: 25 per cent In the next 5 years: 25 per cent of original area By end of: 12th year: all areas except those where oil has been found in commercial quantities	Initial: 34 When production from block R averages: 200 TB/d for 30 consecutive days: 10	After commencement of commercial production: [g/] During: 1st 5 years: 400 2nd 5 years: 480 3rd 5 years: 600 4th 5 years: 780 5th 5 years: 1,050	1st 4 years: 6/year The other 8 years: 3/year	50 per cent based on realized prices [h/,i/]
8. IROPCO joint venture	NIOC [l/] others [l/]	50 50	13/2/1965	Exploration: 12 Exploitation: 25 from time 100,000 m^3 are exported	Original: 2,251	By end of: 5th year: 25 per cent In the next 5 years: 25 per cent of original area By end of: 12th year: all areas except those where oil has been found in commercial quantities	Initial: 40	After commencement of commercial production: [g/] During: 1st 5 years: 400 2nd 5 years: 480 3rd 5 years: 600 4th 5 years: 780 5th 5 years: 1,050	1st 4 years: 2.5/year The other 8 years: 0.75/year	50 per cent based on realized prices [h/,i/]
9. PEGUPCO joint venture	NIOC [m/] others [m/]	50 50	15/7/1965	Exploration: 12 Exploitation: 25 from time 100,000 m^3 are exported Extensions: 3 x 5	Original: 5,150	By end of: 5th year: 25 per cent In the next 5 years: 25 per cent of original area By end of: 12th year: all areas except those where oil has been found in commercial quantities	Initial: 5 When production averages: 200 TB/d for 30 consecutive days: 5	After commencement of commercial production: [g/] During: 1st 5 years: 400 2nd 5 years: 480 3rd 5 years: 600 4th 5 years: 780 5th 5 years: 1,050	1st 4 years: 2/year The other 8 years: 0.25/year	50 per cent based on realized prices [h/,i/]
10. ERAP [n/,o/] -NIOC service contract	SOFIRAP [p/]		13/12/1966	Exploration: Offshore: 1st phase: 3 2nd phase: 3 Onshore: 1st phase: 4 2nd phase: 2 Extensions: Offshore: 1 x 3 Onshore: 1 x 2 Exploitation: 25 from time 100,000 m^3 are sold	Original: (a) Offshore: 20,000 (b) Onshore: 254,000	(a) Offshore: By end of: 1st year: 50 per cent 3rd year: 1/3 of remaining area Another 3 years: 1/3 of remaining area (b) Onshore: Original area reduced to: 20,000 km^2 after 1st year 10,000 km^2 after 4th year 5,000 km^2 after 6th year	-	-	ERAP will put up all funds, repayable by NIOC only upon commercial discovery. If work obligation has been fulfilled in the 1st phase: in the offshore area in the 2nd 3 year period and if extended further: 3/year; in the onshore area in the 2 year period and if extended further: 2/year	
11. AREPI [n/,p/] -NIOC service contract	AREPI [q/]		3/3/1969	Exploration: 8 Extension: [r/] 2 Exploitation: 25 from date of commercial discovery	Original: 27,260 (onshore and offshore)	By end of: 5th year: 45 per cent 8th year: 50 per cent of remaining area if exploration period is extended 10th year: all area outside discovered commercial fields	-	-	AREPI will put up the following funds, repayable by NIOC only upon commercial discovery: During: 1st 5 years: 10 Next 3 years: 2/year If extended: next 2 years: 2/year	
12. Continental [n/,t/] -NIOC	Continental Oil Co. of USA	100	6/4/1969	Exploration: 5 Extensions: 2 x 2 Exploitation: 25	12,860	After: 5 years: 50 per cent 7 years: 50 per cent of remaining area	Initial: 1 1st 4 years: 1/year Upon commercial discovery: 1 When production reaches: 100 TB/d: 2 150 TB/d: 2	-	1st 5 years: 8 Next 2 years: 2/year Next 2 years: 2/year	

Source and foot-notes on following page

Source and Foot-Notes to Annex

Source: Organization of Petroleum Exporting Countries.

a/ Relinquished in March 1967 in accordance with a decision taken during the Annual Board Meeting of 1966.

b/ Costs cover production costs and royalty (12.5 per cent) expended in accordance with OPEC formula.

c/ Iranian Atlantic 4/12, American Independent 2/12, Signal Oil and Gas 2/12, Getty 1/12, San Jacinto 1/12 (bought by Continental Oil Co. in 1966), Sohio Trading 1/12 and Tidewater 1/12 (merged with Getty Oil Co. on 30/9/1967).

d/ A subsidiary of ENI (ENI is State-owned).

e/ SIRIP shall publish posted prices, and any discounts offered shall be determined by a committee formed of two representatives, one from NIOC and one from AGIP.

f/ Atlantic Exploration Co. 12.5 per cent, Murphy Middle East Oil 12.5 per cent, Iranian Sun Oil 12.5 per cent and Union Oil of Iran 12.5 per cent.

g/ In case commercial production commences prior to the end of the 12-year exploration period, the rental shall be reduced by an amount in respect of each year as follows: on the 1st and 2nd anniversary of effective date, rental shall be $52.5/year/km^2$; on the 3rd and 4th: $105/year/km^2$; on the 5th and 6th: $157.5/year/km^2$; on the 7th and 8th: $210/year/km^2$; on the 9th and 10th: $262.5/year/km^2$; and on the 11th and 12th: $315/year/km^2$.

h/ Rates of income tax will not exceed those applicable to other companies engaged in similar operations in Iran which together produce or cause to be produced more than 50 per cent of Iranian crude oil.

i/ First and second party, each will publish posted prices in the amounts determined and approved by the Board of Directors. Crude oil produced shall be sold at such posted prices minus any discount approved by first party (NIOC).

j/ Entreprise de recherches et d'activités petrolières (State-owned) 80 per cent and Société nationale des petroles d'Aquitaine (ERAP - 52.78 per cent, private - 47.22 per cent) 20 per cent.

k/ AGIP 16 2/3 per cent, Phillips 16 2/3 per cent and Hydrocarbon 16 2/3 per cent.

l/ Cities Service Co. Inc., Kerr-McGee Corp., Atlantic Richfield Co., Skelly Co., Sunray DX Oil, Superior Oil Co., Tidewater Oil Co.

m/ Wintershall AG 10 per cent, Gelsenkirchener Bergwerks-AG 10 per cent, Deutsche Erdoel AG 10 per cent, Scholven Chemie AG 6 per cent, Preussag AG 6 per cent, Gewerkschaft Elwerath 5 per cent, Tiefbohr-Ges. m.b.H. 3 per cent.

n/ It acts as a contractor for NIOC, and will carry out oil exploration and development on behalf of NIOC. Fifty per cent of oil reserves discovered belong to NIOC and are set aside as "national reserves".

o/ ERAP is entitled to purchase from NIOC 35 to 45 per cent of crude oil produced over twenty-five years, at production cost plus 2 per cent (of cost) plus tax (50 per cent of realized price minus cost) based on realized price. ERAP will market 3,000,000 tons per year of NIOC's share of crude during the first five years and 4,000,000 tons per year for the second five years, and pay NIOC's realized price minus 2 per cent (of realized price) sales commission.

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Source and Foot-Notes to Annex (continued)

p/ If production is less than 275 TB/d, AREPI is entitled to buy 45 per cent of production; for production over and above 275 TB/d this entitlement is reduced to 30 per cent. The price to be paid by AREPI shall be production cost plus 2 per cent (of cost) plus tax (50 per cent based on realized price). Upon request, AREPI shall market 2,000,000 tons per year of NIOC's crude when production is 5,000,000 tons per year or under, at realized price minus 0.5¢/bbl commission, and will market 3,000,000 tons per year when production is between 5,000,000 and 10,000,000 tons per year, and 4,000,000 tons per year when production is above 10,000,000 tons per year, at realized price minus 1.5¢/bbl.

q/ France's ERAP (State-owned) 32 per cent, Italy's ENI (State-owned) 28 per cent, Spain's Hispanoil (State-owned) 20 per cent, Belgium's Petrofina (State-owned) 15 per cent and Austria's Oe. M.V. (State-owned) 5 per cent.

r/ Extension granted only if minimum exploration expenditure during first eight years has been exceeded by 50 per cent.

s/ If production is less than 275 TB/d, Continental is entitled to purchase 45 per cent. This percentage is reduced to 30 per cent for any amounts of production over 275 TB/d. The price to be paid by Continental shall be production cost plus 2 per cent plus a tax of 50 per cent based on realized prices.

t/ When production is less than 275 TB/d, Continental is entitled to purchase 45 per cent, and for any amount over 275 TB/d, 30 per cent. The price per barrel shall be unit cost of production plus 2 per cent and a 50 per cent tax based on realized price. Upon request, Continental shall market the following quantities of NIOC's crude at realized price minus commission: up to 60 TB/d for the first five years of production and 80 TB/d thereafter.

IRAQ

238. Iraq's economy is based mainly on a single resource, namely oil, and oil revenues account directly for about 20.9 per cent of the country's gross national product and 42.7 per cent of Government revenues.

239. In the period between the two world wars, petroleum concessions were granted to three companies:

(a) The Iraq Petroleum Company (IPC) (originally the Turkish Petroleum Company, Ltd.) was first granted a concession covering 192 square miles under an agreement of 14 March 1925. The terms of this agreement were revised in an agreement of 24 March 1931 under which the area covered by the concession was enlarged to 35,126 square miles in the districts of Baghdad and Mosul east of the Tigris. The agreement was to be valid for seventy-five years. The Government was to grant IPC complete fiscal exemption and was to receive the following payments:

(i) A royalty of 4 shillings (gold) per ton for twenty years after construction of a pipeline to a port;

(ii) During each period of ten years after the above-mentioned twenty years, the 4-shilling royalty was to augment or diminish by the percentage by which the company's profits in the preceding five-year period exceeded or fell below the profits earned in the first fifteen years of the twenty-year period, on the condition that the maximum royalty would be 6 shillings (gold) and the minimum royalty 2 shillings (gold) per ton. In both the initial period and subsequent periods the minimum annual royalty was to be £400,000 (gold);

(iii) Tax commutation of £9,000 (gold) per year before regular exports began: £60,000 (gold) for the first 4 million tons and £20,000 (gold) for every subsequent million tons;

(iv) Twopence for each 1,000 cubic feet of natural gas sold;

(v) £1,400 per year for Government inspection expenses;

(vi) Rent of 2 annas per hectare for non-cultivable land leased from the Government, and a fair rent for cultivable land.

(b) The British Oil Development Syndicate (BOD) was granted a seventy-five year concession, on 20 April 1932, covering 41,302 square miles west of the Tigris and east of the 33rd parallel. In 1937, BOD's concession was taken over by IPC, which in 1941 established a wholly-owned affiliate, the Mosul Petroleum Company, to exploit the concession. The financial terms of the BOD concession agreement were the following:

(i) Royalties as in the IPC agreement, except that the minimum annual royalty was to be £200,000 (gold);

(ii) Payment of twopence per 1,000 cubic feet of natural gas sold;

(iii) Tax commutation of £1,000 (gold) a year until commercial production began, then same payments as IPC;

(iv) Annual payments for exploitation rights ("dead rent") of £100,000 (gold) a year from 1933, with yearly increases of £25,000 (gold) until commercial production began, up to an annual total of £200,000 (gold);

(v) Twenty per cent of oil production to be transferred free of charge to the Government.

(c) The Basrah Petroleum Company, Ltd. (BPC), an affiliate of IPC, was granted a seventy-five-year concession, on 29 July 1938, covering 87,236 square miles west of the Tigris and to the south, near Kuwait. The financial terms of the concession were the same as those of the BOD concession agreement, except that BPC was to pay a "dead rent" of £200,000 (gold) until commercial exports began, and was to make minimum annual royalty payments of £200,000 (gold), which was to be increased to a minimum of £400,000 (gold) in the case of the discovery of important oil reserves.

240. Thus, by 1938 IPC and its affiliates held concessions covering almost the whole of Iraq, except for a small area near the Iranian frontier.[7/] During and

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7/ The IPC shareholders were the following:

	Percentage
British Petroleum (formerly Anglo-Persian Oil Co.)	23.75
Shell	23.75
Compagnie française des pétroles	23.75
Standard Oil of New Jersey	11.875
Socony	11.875
Gulbenkian	5.0

after the Second World War the Government of Iraq asked the IPC group to pay it a larger share of the petroleum profits. In August 1950, after lengthy negotiations, the Government of Iraq and the IPC group signed agreements under which the royalty was to be increased from 4 to 6 shillings (gold) a ton. On 30 December of the same year, under an agreement retroactive to 1 January 1950, the Arabian-American Oil Company (Aramco) agreed to pay Saudi Arabia 50 per cent of its net operating revenue in the form of taxes, royalties and other payments, which meant that the Government of Saudi Arabia was receiving a payment of 30 shillings per ton of crude oil. The Government of Iraq, whose royalties under the 1950 agreement were fixed at 6 shillings (gold) a ton, that is, 18 shillings less than the payments received by Saudi Arabia, requested the IPC group to grant it payments of 30 shillings a ton.

241. Accordingly, on 3 February 1952, the Government of Iraq and the IPC group signed an agreement, retroactive to 1 January 1951, amending the original agreements so that the Government would receive 50 per cent of the profits resulting from the companies' operations in Iraq. Under the agreement, the Government was to receive each year a tax commutation payment of £20,000 from each of the companies, as well as the greater of the following sums: an amount equal to 50 per cent of the profit resulting from the operations of the companies in Iraq or an amount equal to the value at "posted prices" of 25 per cent of the net exportable production of IPC and MPC respectively in that year and of 33 and 1/3 per cent of the net exportable production of BPC, or an annual minimum of £20 million in 1953 and 1954 and of £25 million thereafter. As a result of the agreement, the Government's revenue rose to the equivalent of about 40 shillings a ton. The agreement also provided for the revision of the financial arrangements should other Middle Eastern countries receive more advantageous terms ("most-favoured-nation" clause). The agreement was to have a greater financial impact on the British co-owners than on the United States co-owners, since the Government of the United Kingdom did not then permit foreign taxes to be deducted from the companies' British income-tax liabilities.

242. In subsequent years, differences of opinion arose between the Government and the IPC group concerning the costs and prices on the basis of which the profits were to be calculated. On several occasions the Government contested

the level of the costs submitted by the IPC group. In particular, it questioned the inclusion of such costs as exploration expenses, certain expenses of IPC's London office, expenditure on public relations and advertising and grants made by the IPC group. Disagreement also arose concerning the discount of posted prices and the relinquishment by the IPC group of some of the areas covered by its concessions.

243. In 1957, Saudi Arabia and Kuwait signed agreements with the Japanese-owned Arabian Oil Company under which they received 57 per cent of the profits and were entitled to acquire 10 per cent of the equity. In 1958, the Government of Iran and the Ente Nazionale Idrocarburi of Italy signed an agreement under which the Government was to receive 50 per cent of the profits and acquire 50 per cent of the equity of the producing company. In the autumn of the same year, after the Revolution of 14 July 1958, Iraq, determined to rectify the situation, requested the IPC group to open negotiations with a view to settling the following questions:

(a) Calculation of the cost of oil production and of the component elements thereof:

(b) Method of fixing prices on the basis of which Iraq's oil revenues were calculated;

(c) Cancellation of the discount received by the companies;

(d) Appointment of Iraqi Directors and their participation in the Board of Directors of the companies in London, and supervision by the Government of Iraq of the companies' expenditures in a way ensuring the interest of Iraq;

(e) Gradual "Iraqization" of the companies' staff;

(f) Relinquishment by the companies of unexploited areas;

(g) Surrender by the companies of the natural gas surplus to their operating requirements and cessation of the practice whereby the companies burned off the gas at random, despite their knowledge that the wealth of Iraq was thereby wasted;

(h) The right of Iraq to acquire at least 20 per cent of the IPC group capital;

(i) Need to increase Iraq's share of the oil revenues;

(j) Payment of revenues in a convertible currency.

244. The negotiations lasted over three years, with interruptions. In mid-October 1961 they were broken off and in December of the same year, the Government of Iraq enacted Law No. 80, providing for the relinquishment of about 99 per cent of the concessions awarded to the IPC group.

245. In 1964 another round of negotiations began, which lasted until 1965, but ended in failure.

246. In August 1967, the Government adopted Law No. 97, assigning to the Government-owned Iraq National Oil Company (INOC), which had been established in 1964, exclusive rights to explore for and exploit oil and hydrocarbons in all the areas of Iraq outside the limits of the IPC concession area (including the territorial waters and the continental shelf and the Iraqi interests in the Neutral Zone), and authorizing INOC to enter into partnerships with others, should it deem that necessary to achieve better its objectives. In such cases, the contract was to be ratified by law.

247. On 3 February 1968, INOC concluded an agreement with the French Government-owned group, the Entreprise de recherches et d'activités pétrolières (ERAP). The agreement provided that 50 per cent of the concession area would be returned after three years and a further 25 per cent after five years. At the end of six years, all areas except the producing areas were to be relinquished. Fifty per cent of discovered recoverable reserves were to be set aside as national reserves. The agreement also provided that ERAP would render, either directly or through its fully-owned affiliates, technical, financial and commercial services in connexion with the exploration and exploitation of areas other than those set aside as national reserves, and would be remunerated through the guaranteed sale at an agreed price of 30 per cent of the quantities of oil discovered and produced and not set aside as national reserves. Funds used to finance exploration operations were to constitute loans without interest from ERAP to INOC, the repayment of which was to be contingent upon the discovery of oil in commercial quantities. Funds advanced by ERAP to finance appraisal and development expenditures were to constitute interest-bearing loans to INOC, the interest rate being the commercial rate of the Banque de France plus 2 per cent, or 6 per cent, whichever was the smaller. The duration of the contract was to be computed as follows:

(a) Six years from the effective date of the contract for exploration;

(b) Twenty years as from the date of commercial production.

The INOC was to be the sole owner at wellhead of the petroleum produced and the sole owner of any land and fixed assets purchased or acquired during the contract.

248. The assistance given by ERAP with regard to marketing was to take the form either of sales by INOC to third parties through the channel of ERAP or of sales from INOC to ERAP. The ERAP was to be entitled to compensation for its expenses in connexion with the marketing operations, the compensation being fixed by common agreement at a flat rate per barrel of 0.5 cents for the first 100,000 barrels per day and 1.5 cents for the additional 100,000 barrels per day.

249. On 21 June 1969, INOC concluded a loan investment agreement with the USSR foreign trade organization, Machinoexport, involving the sum of $72 million, to be repaid in cash over five years at an interest rate of 3 per cent. On 4 July 1969, INOC signed another loan investment agreement with the USSR for an amount of $70 million, to be repaid in crude oil.

250. With regard to the mining sector, the Government of Iraq, in December 1968, established the National Iraqi Minerals Company (NIMC) to carry out all operations connected with exploration for and exploitation and marketing of minerals, both in Iraq and elsewhere. The company is capitalized at $14 million, which may be increased to $25 million as required. On 31 May 1969 an agreement was signed between NIMC and Poland for the exploitation of natural sulphur deposits at Mishraq in north-central Iraq. Under the agreement a Polish enterprise, Centrozap, will act as contractor for NIMC in developing the Mishraq field and will provide operating and marketing assistance. Iraq will pay Centrozap $3.5 million as a patent fee for use of the Polish process for sulphur extraction.

IVORY COAST

251. In March 1960, the Compagnie de Mokta, a French enterprise, began extracting manganese from the deposits at Grand-Lahou, 180 km from Abidjan. The company has built infrastructure works for the exploitation of the deposits, port facilities for the exportation of the ore and housing and other social facilities for its employees.

252. A major mineral project in the Ivory Coast relates to the iron deposits at Bangolo, which are estimated to contain approximately 1,000 million metric tons of ore. On 20 December 1968, the Government of the Ivory Coast concluded an establishment convention with Pickands Mather and Co. International, a United States firm, granting the latter exclusive prospecting rights over an area of 10,530 sq. km. for a period of four years. If it is decided to exploit the deposits, the Government and Pickands Mather will be bound by the convention for a further thirty-seven years. The Government will receive a tax equivalent to 50 per cent of the profits from the sale of non-pelletized ore, and a special tax on the net profits from the sale of pelletized ore. Total fiscal benefits received by the Government are expected to amount to $2.3 million annually. Total projected investment by the company amounts to $165 million.

JAMAICA[8/]

253. According to the Government of Jamaica, "there have been no flagrant violations of contracts" with natural resources enterprises fully or partly owned by foreign investors, but "due to the bauxite industry's control over information, the terms of the contracts agreed upon in several instances proved later to be unfavourable to the Government, causing substantial loss of revenue".

254. The Government states that:

> "... agreements with the bauxite and alumina companies were renegotiated in 1957 and again in 1962/63 when it was apparent that the older valuations placed upon the mineral were inadequate. In every instance the effects of renegotiation were unequivocally favourable. Neither reinvestment nor capital inflow declined, but in fact has continued to increase apace".

8/ Information provided by the Government of Jamaica in its reply to the Secretary-General's questionnaire.

The Government also states that:

> "Foreign investors pay mineral royalties and income tax on profits earned in the island. In respect of gypsum and alumina the normal income tax schedule is applicable. In the case of bauxite the operative basis of assessment is on notional profits which are negotiated between the companies involved and the Government.
>
> "It is important to point out that the price at which alumina is transferred in an arms-length transaction is a negotiated price. Hence, the relationship between reported profits of the alumina companies and actual profits will be dependent upon the relationship between the negotiated transfer price marginal valuation of Jamaican resources to the company. Furthermore, a 12 per cent (reducible to 10 per cent where customs duties concessions are received) depletion allowance is extended to the companies."

255. The Government points out that training facilities operated by the mining companies account for approximately 10 per cent of total trainees in Jamaica, i.e., 485 trainees, most of whom are trained for such occupations as general miner, machine tool operator, mechanic repairman, general electrician and production operator. Amenities provided by natural resources enterprises include medical insurance, pension schemes and housing for certain personnel.

KUWAIT

256. Kuwait's economy is based essentially on one resource: oil. Petroleum revenues account directly for about 45 per cent of the country's gross national product and over 90 per cent of Government revenues.

257. The Kuwait Oil Company (KOC), owned jointly on a fifty-fifty basis by Gulf Oil (United States) and British Petroleum (United Kingdom), accounts for over 90 per cent of Kuwait's total crude production. The concession for Kuwait's on-shore area of the Saudi-Arabian-Kuwait Neutral Zone has been granted to the American Independent Oil Company (AMINOIL), owned by a group of eleven non-major United States oil companies (the concession for the Saudi Arabian half of the off-shore Neutral Zone is held by Getty Oil Co., formerly Pacific Western Oil). A Japanese-owned company, the Arabian Oil Company (AOC) holds the off-shore concession in the Neutral Zone and has entered into agreements with both Kuwait and Saudi Arabia. The Kuwait National Petroleum Company, owned by the Government (60 per cent) and Kuwaiti private investors (40 per cent), was formed in 1960 to engage in production, refining and distribution of petroleum products.

258. Through voluntary renegotiation, substantial changes have already been made in the original petroleum concession agreement concluded on 23 December 1934 between the Government of Kuwait and KOC. The original concession, which was valid for seventy-five years, covered the State of Kuwait and its islands (except Kubbar) and territorial waters, that is, an area of 6,000 square miles. The Kuwait Oil Company was to make the following payments to the Government:

(a) A royalty of 3 Indian Gulf rupees (equivalent to 4 shillings and 6 pence) per ton, the minimum annual royalty being 250,000 rupees;

(b) Tax commutation of 0.25 rupees (4.5 pence) per ton;

(c) A rental of 95,000 rupees (£7,125) a year;

(d) A bonus of 475,000 rupees (£35,625).

259. When the Arabian-American Oil Company's payments to the Government of Saudi Arabia increased in 1950, Kuwait renegotiated its concession agreement and on 31 December 1951 a new agreement was signed, retroactive to 1 January 1951, under which the old agreement was extended by seventeen years and amended so as to yield to the Government at least 50 per cent of KOC's profits. On 1 January 1962, the marketing allowance of 1 per cent was replaced by a selling expense of 0.5 per cent per barrel. Also in 1962, KOC agreed, at the Government's request, to release gradually some 55 per cent of the areas covered by the concession. In May 1967, KOC relinquished a further 1,012 sq. km. off Kuwait Bay. At the same time, it was agreed that retroactively to 1 January 1964 the royalty of 12.5 per cent should gradually come to be treated as an expense instead of being credited against income tax. Four per cent of the royalty was to be treated as an expense in 1964; that figure was to increase to 10.5 per cent in 1972 and 12.5 per cent in 1975.

260. The on-shore concession for the Neutral Zone, which was granted to AMINOIL for sixty years on 28 June 1948, covered an area of 2,600 square miles. The terms of the agreement were the following:

(a) Payment of a $2.50 royalty per long ton of oil extracted;

(b) Payment of a $7.25 million bonus, to be paid within thirty days following the signature of the contract;

(c) A minimum annual payment of $625,000, beginning on the date of signature of the contract;

(d) One eighth of the gross revenue from sales of natural gas, minus costs for transportation to final buyer;

(e) The Government was to have the right to acquire 15 per cent of the equity of an operating company which was to be established at a later date;

(f) A payment of 7.5 cents per ton in place of existing and future taxes.

261. The agreement relating to the off-shore concession of the Arabian Oil Company was concluded on 5 July 1958. Valid for forty-four and a half years, it provided that the Government would receive 57 per cent of the company's net income. Provision was made for a review of the situation, should future Middle Eastern oil agreements reserve the Governments a higher proportion of the profits of development, production and marketing than those agreed to in July 1958. The Government of Kuwait was also guaranteed the right to take up 10 per cent of the company's capital at par value. The agreement further provided for the relinquishment of part of the concession area.

262. A generally similar agreement was concluded on 15 January 1961 between Kuwait and Shell Petroleum Development Ltd. in respect of an off-shore area. The agreement gave the Government the right to acquire 20 per cent of the company's capital on payment of a sum equal to 20 per cent of the expenses incurred by the company up to the date of the discovery of oil.

263. In 1968, the Kuwait National Petroleum Company (KNPC) concluded an agreement with Hispanoil, a group of Spanish interests, for the exploration and exploitation of concession areas relinquished in 1963 by KOC. A key innovation in this agreement is a provision guaranteeing that 25 per cent of the crude oil imported into Spain will be produced under this concession. The guarantee is valid for fifteen years from the date when oil was discovered in commercial quantities. The Hispanoil agreement was ratified by the Kuwait National Assembly in May 1968 and exploration began shortly thereafter; KNPC will spud its first well in the autumn of 1970.

264. Some of the oil companies operating in Kuwait - for example, KOC, KNPC and AMINOIL - have established training centres where Kuwaiti nationals are trained in various aspects of the oil industry. The companies also grant scholarships to qualified staff for further academic specialization in institutes of higher education. In accordance with its concession agreement, AOC established the Kuwait Institute for Scientific Research in February 1967.

LIBERIA

265. Iron and rubber are the two main sources of Liberia's revenues. However, the former is by far the most important, accounting for about 70 per cent of the country's aggregate exports. The iron deposits are worked mainly by four companies:

(a) The Liberian-American-Swedish Minerals Co. (LAMCO), which works the Nimba Mountains deposits. The Nimba concession is held by Bethlehem Steel (25 per cent) and LAMCO (75 per cent). LAMCO is owned equally by the Government of Liberia (50 per cent) and Liberian Iron Ore Ltd. (LIO) (50 per cent). The latter is a Canadian holding company controlled by a Swedish syndicate. Under a special agreement, the LAMCO Joint Venture Operating Company, which actually exploits the deposits, is managed by the Grangesburg Company of Stockholm;

(b) The Bong Mining Company, which works the deposits in the Bong range for the German-Liberian Mining Corporation. The latter is owned equally by the Government of Liberia (50 per cent) and Gewerkschaft Exploration (50 per cent), largely controlled by the Thyssen interests;

(c) The Liberia Mining Co. Ltd. (LMC), which works the deposits in the Bomi Hills, is controlled by Republic Steel Corporation;

(c) The National Iron Co. Ltd., which works the Mano River deposits, is owned 50 per cent by the Government of Liberia, 35 per cent by Liberian citizens and 15 per cent by IMC.

266. Profits of the companies are shared with the Government of Liberia, either by direct share arrangements or by payment of 50 per cent of net profit as tax. Direct and indirect taxes collected from the mining companies amount to over $20 million a year. The mining companies employ about 9,000 Liberian workers, and some 1,000 more Liberians are employed in related activities, such as transport, services and maintenance.

LIBYA

267. In April 1968 an agreement was concluded between the newly created Government-owned Libyan General Petroleum Corporation (LIPETCO) and two French firms, Aquitaine and Auxirap, respectively representing the Société nationale des pétroles d'Aquitaine (SNPA), a semi-State concern and the Enterprise de recherches et d'activités pétrolières (ERAP), a State agency, which established a joint venture and provided that Aquitaine would be the operating company. The period

of exploration is set at ten years (which can be extended to twelve) and consists of three stages of five, three and two years, with 25 per cent of the area to be relinquished at the end of each stage.

268. If oil is not found in commercial quantities during this period, the Government may cancel the agreement and the French companies will pay all the financial obligations, which total $22.5 million ($14 million in the first stage, $6 million in the second and $2.5 million in the third), provided for in the agreement. The French firms have also undertaken to pay a cash bonus of $13 million, of which $1 million is to be paid upon the sanction of the agreement, $3 million upon the discovery of oil in commercial quantities and the balance when the level of production reaches 15 million tons a year. The agreement provides for the training of Libyans in French institutions, so that they may gradually replace French experts wherever possible.

269. The French firms also agreed to participate financially and technically in the establishment of a petroleum institute and a petrochemicals industry in Libya, to supply the Government with experts needed for these projects, and to provide a complete petroleum laboratory with an expert to supervise it. Libya's share of the profits is to total 25 per cent until production reaches 10 million tons a year, at which time it will increase gradually until it totals 50 per cent when average production has reached 27.5 million tons a year. The Government's profits are thus expected to total more than 80 per cent of total profits with regard to the crude oil exported from the area covered by the agreement. It may be pointed out that:

> "This agreement represents a major departure from the old concession agreements in so far as it provides for such long-term advantages as the expected increase in the revenue of the Government, the ability to control and supervise the petroleum industry and safeguard the utilization of the petroleum reserves in the national interest, and the participation of the Government in all stages of the industry, including the marketing field. One of its most important immediate advantages is that the period of investment is renewable to only twenty-five years, i.e., half the period provided for in the concession agreements." 9/

270. It may also be noted that in the mid-1960s the Government of Libya had refrained from trying to impose unilateral amendments to the concession agreements existing at that time, preferring to enact legislation providing for

9/ See Bank of Libya, Economic Bulletin, vol. VII, No. 6 (November-December 1968), p. 136.

the granting of special incentives to companies which agreed to bring their agreements into line with the new terms sought by the Government. In mid-1965, when bids were invited for new concession areas, the Government indicated that it would give preference to bidders who agreed "to base royalty and taxes on posted prices agreed with the Government, and comparable with Middle East prices adjusted for freight; to keep old and new concessions distinct for determining financial obligations; not to merge rent and royalty payments; to submit large contracts for Government approval; to accept detailed Government supervision of work and conservation programmes; to give the Government a share of profits higher than 50 per cent and to expense a high proportion of royalty; to accept that the Government may take half its share of profits in kind; to have market outlets available for disposal of production; to construct refineries or petrochemicals plants; to provide other extra benefits."10/

MADAGASCAR

271. On 16 February 1966 the Compagnie minière d'Andriamena (COMINA) was established to exploit the chromite deposits in the Andriamena region. The COMINA has a share capital of $2 million, distributed as follows:

	Percentage
Government of Madagascar	20
Ugine-Kuhlmann	55
Péchiney	10
Compagnie financière pour l'outre-mer	10
Compagnie de Mokta	5

272. Total investment in the Andriamena project to date is estimated at about $14 million, about $7.8 million having been contributed by the Government of Madagascar for a road and a railway and $6.2 million having been contributed by COMINA. The Government's contribution was financed partly by a subsidy of $2.2 million from the Government of France's Fonds d'aide et de coopération (FAC)

10/ Petroleum Press Service (London, July 1965), p. 267.

and a suppliers' credit obtained in France. The contribution of COMINA was financed by its share capital and loans from its shareholders, FAC, the Banque nationale malgache de développement and a consortium of Malagasy banks.

273. It is estimated that, from 1975 onwards, the Government of Madagascar will collect royalties on the project amounting to $240,000 a year, plus direct and indirect taxes and the dividends to which it is entitled as a COMINA shareholder. In addition, the State-owned railway will receive about $625,000 a year for transporting chromite from the mine to the port. The project has already created about 200 new jobs in the Andriamena area and the demand for food for project workers is expected to stimulate agriculture and stock-breeding in the surrounding region. Furthermore, the construction of the railway will make it possible to transport agricultural products from that region to the main markets.

MAURITANIA

274. In Mauritania, which is the second largest producer of iron in Africa, the iron deposits are exploited by the Société anonyme des mines de fer de Mauritanie (MIFERMA), which has a capital of $48.9 million, distributed as follows:

	Percentage
Government of Mauritania	5
Bureau de recherches géologiques et minières (France) ..	23.89
A United Kingdom steel company (BISC)	19.00
Various financial groups (COFIMER), Rothschild etc.	17.42
An Italian steel company (Finsider)	15.20
A group of French steel companies (Usinor, Denain-Anzin etc.)	14.49
A West German steel company (Thyssen)	5.00

275. By 1969, MIFERMA had invested about $203 million in the mining project. At the end of 1968, the total taxes and duties paid to the Government of Mauritania by MIFERMA since the beginning of its operation in 1963 amounted to $29.3 million, including a loan of $13.4 million against future profits. In 1969, MIFERMA employed about 4,000 persons, 3,300 of whom were Mauritanian. The number of Mauritanian supervisory personnel has increased from forty-five in 1963 to over 200 in 1969.

276. The copper deposits at Akjoujt are exploited by the Société des mines de Mauritanie (SOMINO), which has a capital of $7.3 million, distributed as follows:

	Percentage
Government of Mauritania	25
Charter Consolidated	54
Penarroya (mining group of Paris)	7.5
Bureau de recherches géologiques et minières	7
Banque de Paris et des Pays Bas	4.3
Compagnie française pour l'outre-mer	2.2

277. The Société des mines de Mauritanie pays a 35 per cent profits tax and export duty amounting to 1 cent, 1.25 cents or 1.5 cents per pound (0.453 kg.) of copper metal, according to whether the f.o.b. price of the latter is less than 40 cents, 40-50 cents or over 50 cents.

278. In December 1967, the Government and the French industrial complex Péchiney-Saint Gobain set up a joint venture, the Société d'exploitation minière et de recherches de Mauritanie (SOMIRIMA) whose capital of 50 million francs CFA is divided 80 and 20 per cent between Péchiney-Saint Gobain and the Government respectively. The purpose of the venture is to exploit rare earth deposits, which reportedly contain 1 to 3 per cent rare earth elements and yttrium.

MEXICO

279. In January 1937, Mexico established the Administración General del Petróleo Nacional, whose purpose was to explore for and exploit petroleum deposits in the parts of the national reserve assigned to it. The Director of the Administración was empowered, under the authority of the President, to enter into contracts for the exploitation of those reserves. Following a long and bitter labour dispute over wages, the Government of Mexico announced on 18 March 1938 the nationalization of the holdings of the foreign oil companies which had refused to comply with a decision of the Mexican Federal Board of Arbitration and Conciliation, which had been upheld by the Supreme Court of Mexico. On 23 March 1938, the President of Mexico announced that steps would be taken to pay compensation for the expropriated property; payment of the compensation (capital plus interest), which amounted to about $200 million, was completed in August 1962.

280. In June 1938, the President of Mexico issued two decrees, one establishing Petróleos Mexicanos (PEMEX), a government agency which became responsible for the administration of the expropriated property, and the other establishing the Distribuidora de Petroleos Mexicanos, an organization entrusted with the distribution and sale of petroleum and petroleum products. In August 1940, the Administración General del Petróleo Nacional and the Distribuidora de Petroleos Mexicanos were abolished and their assets and functions transferred to PEMEX, which thus assumed sole responsibility for the national petroleum industry.

281. At the outset, PEMEX experienced considerable administrative and technical difficulties owing to the departure of foreign experts, but was still able to meet domestic demand because half of Mexico's production, which had previously been exported, found no foreign markets as a result of an embargo by the large international oil companies and thus became available for domestic use. Domestic use of Mexican oil was facilitated by the gradual reorganization of PEMEX logistics to meet the requirements of the domestic market.

282. The Petroleum Laws of 1940 and 1941 permitted the exploration and exploitation of petroleum deposits through contracts with Mexican citizens or corporations formed exclusively by Mexicans. The only such exploitation contract actually concluded was entered into in 1946 and was in principle to be valid for thirty years, but in 1955 the first well had still not been completed and the

contract was rescinded by mutual agreement between the parties. From January 1947 onwards, the Government of Mexico undertook studies to determine how exploitation and drilling contracts could be concluded with foreign interests within the framework of Mexico's existing petroleum policies and legislation. The basic contracts agreed on were drilling contracts and sales contracts. Under the former, the contracting company was to undertake exploration and drilling at its own expense. If it found no oil, PEMEX made no payments, but if oil was discovered in commercial quantities PEMEX reimbursed the company's exploration and drilling expenses and paid it cash compensation for the risks it had assumed, equivalent to between 15 and 18 per cent of the value of the oil produced. Under the sales contract, the company agreed, in accordance with predetermined terms and conditions, to sell all or part of the percentage of the production belonging to PEMEX. In March 1949, the first drilling contract was signed, being followed by a number of others in subsequent months. However, the last drilling contract was signed in 1950.

283. In 1958 a new regulatory law was passed, making it clear that only the State could exploit oil resources, confirming that concessions did not constitute titles for the exploration and exploitation of oil, and establishing a procedure for indemnifying former concessionnaires. It abolished the exploitation contracts and mixed corporations operating under the system of private and public participation provided for in the 1941 law. Lastly, the 1958 law prohibited PEMEX from concluding contracts under which payment would be based on product-percentages or participation in the petroleum produced as a result of the exploitation work performed pursuant to the contract.

284. On 20 January 1960, article 27, paragraph 6, of the Constitution was amended so as to incorporate in it the basic principles set out in the Regulatory Law. On 16 June 1967, the three foreign-owned companies which in 1949 and 1950 had concluded with PEMEX contratos riesgo (risk contracts) and contratos de venta (sales contracts) valid for twenty-five years, were informed that an end was being put to the contracts. Thereafter, PEMEX ceased reimbursing the exploration and drilling expenses incurred by the companies, but continues to pay the latter compensation at a rate of $260,000 a month for the oil actually produced. The companies had invested a total of $77 million and had received a total of $41.1 million from PEMEX. The companies claimed compensation from PEMEX for the

expenditures incurred. PEMEX refused to grant compensation, contending that the contracts were "risk contracts", and proposed that they should be terminated by common agreement. The risk contracts covered both off-shore and on-shore areas. The companies claimed $42.8 million for the former, while PEMEX offered $12.4 million for off-shore and on-shore areas and sales. The companies then reduced their claim to $32.9 million and PEMEX raised its offer to $18 million, a sum which was finally accepted by the companies. The companies were to be paid $12.5 million immediately, and the balance was to be paid in three years, with an annual interest rate of 8 per cent. In July 1968, PEMEX and the three foreign-owned companies signed a formal agreement rescinding the contracts.

285. On the whole, PEMEX has succeeded in meeting Mexico's needs for petroleum and petroleum products at reasonable prices and has established a domestic pricing system that has provided self-generated funds for investment. Its success may be judged by the fact that it has been able to mobilize substantial foreign capital. In 1950, the Export-Import Bank of Washington, D.C. granted a $150 million loan to the Government of Mexico for the purchase of materials and services on the understanding that the Government would in turn make an equivalent amount in pesos available to PEMEX.

286. At the end of 1958, PEMEX obtained credit lines with terms ranging from three to five years from the following United States banks:

(a) Chemical Corn Exchange Bank: revolving credit which was increased to $12.5 million;

(b) Chase Manhattan Bank: a revolving credit of up to $5 million and a five-year loan of $20 million;

(c) Bank of America: a revolving credit of $20 million;

(d) The Hanover Bank: a revolving credit of up to $10 million;

(e) Bank of the Southwest: a revolving credit of up to $2 million;

(f) First National Bank of Boston: a revolving credit of up to $5 million.

Petróleos Mexicanos has also obtained substantial export credits from foreign suppliers of materials and equipment and at times these credits have totalled more than $100 million. In the 1960s, PEMEX had a first-class credit rating in the international money markets.

PEOPLE'S REPUBLIC OF THE CONGO

287. In April 1964 the Government of the People's Republic of the Congo signed an agreement with French interests establishing the Compagnie des potasses du Congo (CPC), which in January 1965 was granted a concession to work the potassium deposits in the Holle-Saint-Paul region. The CPC has a share capital of 2,500 million CFA francs, distributed as follows:

	Percentage
Government of the People's Republic of the Congo	15
Bureau de recherches géologiques et minières	36.125
Entreprise minière et chimique	36.125
ELF-Société des pétroles d'Afrique équatoriale	12.750

288. Investments in the project total over 20,000 million CFA francs, derived from the following sources:

	Millions of CFA francs
Loan from the International Bank for Reconstruction and Development	7,400
Loan from French shareholders	6,500
Loan from the European Investment Bank	2,200
Share capital in cash	2,125
Loan from a consortium of French banks	1,500

The Compagnie des potasses du Congo employs about 700 Congolese and 200 expatriates.

SAUDI ARABIA

289. The oil concession agreement between the Government of Saudi Arabia and the Standard Oil Company of California (SOCAL), concluded on 29 May 1933, is an example of the older concession which has been amended through voluntary renegotiation. Under that agreement, which was to be valid for sixty years, SOCAL obtained exclusive rights over 320,000 square miles in eastern Saudi Arabia, was granted complete fiscal exemption and was to make the following payments to the Government:

(a) Two loans, one of £30,000 (gold), in 1933, and another of £20,000 (gold), in 1935, to be repaid with one half of future royalties;

(b) Two advances of £50,000 (gold) each, to be made within one year of the discovery of oil;

(c) A royalty of 4 shillings (gold) per ton and one eighth of the proceeds from the sale of natural gas;

(d) An annual rental of £5,000 (gold) from 1933 until oil was discovered in commercial quantities.

290. In November 1933, SOCAL formed the California-Saudi Arabia Standard Oil Company (CASOC) and assigned to it all its rights and obligations under the 1933 agreement. In 1936, a Texas Company (TEXACO) acquired a 50 per cent interest in CASOC. On 31 May 1939, CASOC and the Government of Saudi Arabia signed a supplementary agreement, under which the concession was enlarged by 120,000 square miles and CASOC was given preferential rights to an additional 177,400 square miles. In exchange, CASOC agreed to make the following additional payments to the Government of Saudi Arabia:

(a) A rental of £20,000 (gold) a year from 1939 onwards, until oil was discovered in commercial quantities in the additional area or until that area was relinquished by CASOC;

(b) A bonus of £140,000 (gold), to be paid in 1939;

(c) A bonus of £100,000 (gold) when oil was discovered in commercial quantities in the additional area;

(d) Up to 2,300,000 United States gallons of gasolene and 100,000 United States gallons of kerosene a year free of charge when oil was discovered in commercial quantities in the additional area.

291. In 1944, CASOC changed its name to Arabian-American Oil Company (ARAMCO) and in 1947 the Standard Oil Company of New Jersey and Socony Mobil Oil Company acquired 30 per cent and 10 per cent respectively of ARAMCO's equity, SOCAL and TEXACO retaining 30 per cent each. Under an agreement of 10 October 1948, ARAMCO's exclusive rights were extended to the whole of the off-shore area of Saudi Arabia in the Persian Gulf and ARAMCO agreed to relinquish certain portions of its exclusive and preferential concession areas.

292. An agreement signed on 30 December 1950 provided for the following new financial terms:

(a) Payment of a royalty of 21 cents per barrel of oil from inland fields and 26 cents a barrel of oil from off-shore fields;

(b) The supply, free of charge, of 2,650,000 United States gallons of gasolene, 200,000 United States gallons of kerosene and 7,500 tons of road asphalt a year;

(c) Payment of a supplementary tax so calculated as to make all payments to the Government equal to "50 per cent of the gross income of ARAMCO after such gross income has been reduced by ARAMCO's cost of operation, including losses, depreciation, and by income taxes, if any, payable to any foreign country". In order to be able to impose this supplementary tax, Saudi Arabia had adopted, on 4 November and 27 December 1950, two decrees introducing an income tax.

293. This agreement introduced into the Middle East the concept of a fifty-fifty sharing of oil profits between the host Government and the foreign oil company, which had first been put into practice in Venezuela, and set the pattern for the renegotiation of oil concessions in other Middle Eastern countries. The United States companies' preference for increasing the host Government's share of profits by paying income tax rather than larger royalties was based on considerations relating to the United States income tax laws.

294. In June 1952, after the Government of Saudi Arabia had questioned the practice of deducting United States income tax before ARAMCO's profits were shared, ARAMCO consented to amend the 1950 agreement so that the profits would be shared before the United States taxes were paid.

295. In the early 1950s, differences of opinion had arisen beteeen the Government of Saudi Arabia and ARAMCO concerning the calculation of ARAMCO's sales revenues. Towards the end of 1955, the parties reached an agreement whereby ARAMCO consented to calculate its proceeds from sales to parent companies on the basis of posted prices minus the selling expenses, while the Government agreed that proceeds from sales to non-affiliated companies should be calculated on the basis of realized prices. The ARAMCO also consented to pay the Government a lump sum of $70 million in settlement of all past disputes concerning pricing.

296. On 24 March 1963, the Government of Saudi Arabia and ARAMCO concluded another agreement under which ARAMCO agreed to relinquish its preferential area and to reduce gradually its exclusive area. Prior to that agreement, ARAMCO had relinquished, pursuant to the 1948 agreement, 135,200 square miles in the preferential area and 140,413 square miles in the exclusive area. On 24 March 1963, ARAMCO relinquished further portions of the latter area so that the area retained

totalled 125,000 square miles. That area was thereafter to be reduced by 20,000 square miles every five years for a period of twenty-years, by 15,000 square miles after the following five years and by 10,000 square miles after the next five years, so that after thirty years ARAMCO would retain not more than 20,000 square miles.

297. Also, on 29 March 1963, the Government and ARAMCO signed a supplemental agreement concerning prices and taxes which contained, inter alia, the following provisions:

(a) Beginning with the taxable year 1963, ARAMCO was to accumulate each year its exploration costs and in computing its taxable income for Saudi Arabian income tax purposes was to deduct an amount equal to 5 per cent of such costs or the amount of such costs (minus certain possible deductions) divided by the number of years remaining in ARAMCO's concession;

(b) With regard to its intangible development costs, ARAMCO was to deduct 10 per cent of such costs or the amount of such costs divided by the number of years remaining in ARAMCO's concession;

(c) Ninety per cent of the expenses incurred in the operation of ARAMCO's offices in the United Stataes could be deducted for Saudi Arabian income tax purposes in the years 1963-1966. The arrangements for subsequent years were to be discussed later;

(d) The Government agreed to allow ARAMCO, in computing its taxable income for Saudi Arabian income tax purposes, to deduct charitable and philanthropic donations within Saudi Arabia, but the Government was to advise ARAMCO prior to the commencement of each taxable year whether it would allow any deductions for such donations outside Saudi Arabia.

298. Although ARAMCO has occupied a dominant position in the oil industry in Saudi Arabia, concessions have also been granted to the Pacific Western Oil Corporation (now Getty Oil Co.) and to the Arabian Oil Company. The concession of Pacific Western Oil Corporation was granted on 20 February 1949 and covered the Saudi Arabian half of the on-shore Neutral Zone between Saudi Arabia and Kuwait. The corporation was to pay the Government a bonus of $9.5 million on the date of signature, a rental of $1 million a year until oil was discovered in commercial quantities, a royalty of 55 cents per barrel of crude oil produced, one eighth

of the gross proceeds from sales of natural gas, and a guaranteed minimum annual royalty of $1 million. In addition, the Government was to receive 25 and 20 per cent respectively of any net profits realized from the sale of crude oil and petroleum products. The corporation agreed to construct a petroleum refinery and the Government had the right to buy a certain percentage of petroleum products at a 5 per cent discount.

299. Saudi Arabia brought about another major innovation in profit-sharing arrangements on 10 December 1957, when it concluded with the Japan Petroleum Trading Company Ltd. an agreement with respect to the undivided one-half interest of Saudi Arabia in the off-shore area of the Saudi Arabian-Kuwait Neutral Zone. Under that agreement, Saudi Arabia was to receive an annual rental of $1.5 million from the effective date of the agreement and an additional annual sum of $1 million from that date to the date of the discovery of oil in commercial quantities. From the latter date, the Government was to receive royalties equal to 20 per cent of the crude oil, natural gas and natural asphalt produced from its undivided one-half interest, with a guaranteed minimum annual royalty payment of $2.5 million. The company was to be subject to Saudi Arabian income tax on all operations within and outside Saudi Arabia, including the sale of crude oil, refining, transportation and marketing. If Government receipts from royalties and taxes did not amount to 56 per cent of the company's net income from all of its operations within and outside Saudi Arabia, the company was to pay an additional tax to make up the difference.

300. Under the agreement, the Japan Petroleum Trading Company was granted an exclusive exploration and prospecting licence for a period of two years, renewable for a further two years. On the expiration of the licence, or earlier (on the company's application), but only after the discovery of oil in commercial quantities, the company was to be granted a forty-year exploitation concession lease. If the Government decided to grant a further concession when the first concession expired, the company was to be granted a paeferential right over other applicants who were not Saudi Arabian subjects, all conditions being equal.

301. In February 1958, the Japanese interests established the Arabian Oil Company to exploit the concession and on 5 July 1958 Arabian Oil signed a similar agreement with the Government of Kuwait, under which the latter was

to receive 57 per cent of the profits. The Government of Saudi Arabia's share of the profits under the first agreement was subsequently increased to 57 per cent. The Government of Saudi Arabia and Kuwait also exercised their right to acquire at par value a maximum of 10 per cent each of the equity of Arabian Oil, after it had been proved that oil existed in commercial quantities in their respective countries.

302. In 1963, the Government of Saudi Arabia established a public general organization for petroleum and minerals called the General Petroleum and Minerals Organization (PETROMIN), whose object was to engage in various commercial and industrial activities connected with petroleum and minerals, with a view to developing and promoting the petroleum and minerals industries in Saudi Arabia.

303. On 21 December 1967, PETROMIN concluded an agreement with AGIP-Saudi Arabia, owned by the Ente Nazionale Idrocarburi (ENI), the Italian Government-owned oil company, granting the Italian concern exclusive prospecting rights in 80,000 square kilometres in south-east Saudi Arabia. If oil was found in commercial quantities, PETROMIN and AGIP-Saudi Arabia were to establish a joint company which would be granted a thirty-year concession with the possibility of renewal for ten years. In that case, PETROMIN would receive at least 30 per cent of any profits, its share rising to 40 per cent if output totalled 300,000 barrels a day and to 50 per cent if output reached 600,000 barrels a day. The agreement also provided for the establishment of a petrochemical plant, to which PETROMIN and AGIP-Saudi Arabia would each contribute 50 per cent of the capital.

304. Saudi Arabian personnel were to be employed in the administration and management of the operations and activities of AGIP-Saudi Arabia and the operating company. Inside Saudi Arabia, a minimum of 75 per cent of the employees were to be Saudis, of whom at least 20 per cent were to occupy major posts. Outside Saudi Arabia, a minimum of 30 per cent of the employees were to be Saudis, if and when they were available. Whenever these requirements could not be met, owing to a shortage of skilled Saudi Arabian personnel, AGIP-Saudi Arabia and the operating company were to employ, by order of preference, citizens of the Arab States which are members of the Arab League, citizens of other Arab States and citizens of other friendly States. Saudi Arabia and non-Saudi Arabian employees having substantially similar capabilities or having substantially similar duties and responsibilities were to receive the same compensation and a reasonable

foreign allowance if and when circumstances required it. The parties were to prepare and carry out a specialized theoretical and practical training programme for Saudi Arabian employees, relating to the various aspects of the oil industry and including supervisory and management training. The parties were also to contribute to the welfare of the people of Saudi Arabia by providing various facilities pertaining to educational, medical, hygienical and other services, to be agreed upon with the Government.

SIERRA LEONE

305. The renegotiation of the agreement between Diamond Corporation West Africa, Ltd. (DICOR), and the Government of Sierra Leone was completed in November 1969. Under the renegotiated agreement, which will be valid until 31 December 1971, DICOR, which is the sole marketer and exporter of diamonds produced under the alluvial diamond mining scheme, is to pay the Government an annual lump sum of $396,000 for its rights and forgo the 1 per cent service fee on diamond purchases which the Government formerly paid it for managing the Government Diamond Office. The revised agreement was expected to result in an annual gain of $684,000 for the Government.

TOGO

306. Phosphate, which constitutes Togo's largest export, is found in the region of Akoupané, where reserves estimated at over 100 million metric tons are exploited by the Compagnie togolaise des mines du Bénin (COTOMIB), whose share capital of $10.8 million is distributed as follows:

	Percentage
Government of Togo.	19. 9
French interests.	42.76
United States interests	37.34

307. About $37 million has already been invested in the construction of infrastructure works, including a 25-km railway between the deposits and Kpémé, a 720-m bridge over the lagoon and a 1,200-m metal wharf.

308. With a view to gradually replacing expatriate supervisory staff by Togolese staff, COTOMIB established a vocational training centre at the mine in 1966. The centre is run with the help of the French aid and co-operation mission. The workers who graduate from the centre are promoted to the grades of skilled worker or supervisor.

UNITED ARAB REPUBLIC

309. Foreign companies are co-operating with the United Arab Republic in its search for oil. In the past decade, the basic pattern of the co-operation has been exploration by foreign companies, with Government participation on a fifty-fifty basis in a joint operating company formed for the purpose of operating the concession when oil is discovered in commercial quantities. The Government thus receives a total of 78 per cent of total profits.

310. All petroleum activities in Egypt were under the control of major international oil companies, mainly Royal Dutch Shell, until 1952, when the Government began to play a gradually expanding role in the industry. In 1956, the Government established the General Petroleum Authority, which was empowered to engage in the whole range of petroleum operations and to have capital holdings in other organizations. In 1957, the Government and Ente Nazionale Idrocarburi (ENI), the Italian Government-owned company, established the Compagnie orientale des pétroles d'Egypte (COPE), which explores for and produces petroleum and was the largest petroleum-producing company in the United Arab Republic until 1968. In 1958, law No. 167 was enacted, establishing the Egyptian General Petroleum Corporation (EGPC); EGPC exploits, through its subsidiary the General Petroleum Company, a number of small fields and its production, which began late in 1959, has been increasing in recent years.

311. In September 1963, a petroleum concession agreement was concluded by the Government, EGPC and Phillips Petroleum Company of the United States, under which EGPC and Phillips were each granted a 50 per cent undivided interest in an exclusive concession for the exploration, development and production of petroleum in a specified area of the western desert (the concesssion is divided into three areas: Burg El-Arab, Matruh, and Faghur areas). The agreement was valid for a primary term of thirty years, but could be extended for another fifteen years. Phillips agreed to spend in each area a minimum of $3 million on exploration during the first three years, a minimum of $1 million a year from the fourth through the tenth years, and in the eleventh and twelfth years an annual sum equal to $25,000 multiplied by the number of exploration blocks retained. If oil was discovered in commercial quantities, EGPC and Phillips were each to pay 50 per cent of the costs incurred in connexion with development, producing, further exploration and all other petroleum activities conducted in the area.

312. However, EGPC was not to pay any of the costs until Phillips had spent a total of $10 million on exploration in the part of the area where oil was discovered. Development operations were to be carried out by the Western Desert Operating Petroleum Company (WEPCO), established on a fifty-fifty basis by EGPC and Phillips, each of which would be entitled to 50 per cent of the crude oil produced, to be disposed of as they pleased. EGPC and Phillips together were to pay the Government a total rent of £E25,000 a year for each exploration block converted to a development lease. In addition, the Government was to receive a royalty of 15 per cent of the total petroleum produced, payable in kind or in cash. In the case of crude oil, the royalty was to be calculated on the basis of the higher export price received for crude by EGPC or Phillips from non-affiliated purchasers during the period for which the royalty was due.

313. In the case of other hydrocarbon substances, the royalty was to be calculated on the basis of the market value of the substance sold by EGPC and Phillips during the month for which the royalty was due, the market value being defined as the weighted average price received from purchasers other than affiliated companies, less the costs and expenses incurred in making such substance marketable and which in accordance with generally accepted accounting practices are allocable, or directly chargeable, to the quantity thereof so sold. In each tax year the Government was to receive, by way of royalty, rental and/or taxes (including income taxes), 50 per cent of the net profits realized by EGPC and Phillips as a result of their petroleum activities in the United Arab Republic. In no case was the amount received by the Government to be less than the value of royalty. Phillips agreed to provide specialized training programmes for national personnel and to replace its expatriate staff gradually by United Arab Republic nationals, as qualified nationals became available.

314. In February 1967, on the discovery of an oilfield near El Alamein, a joint company was set up and was to be administered by a board of six directors, three of whom would be nationals of the United Arab Republic and three United States nationals, with a UAR chairman. The capital of the company, as well as the estimated production costs, were to be contributed on a fifty-fifty basis by the United Arab Republic and the Phillips Petroleum Company.

315. Also in September 1963 a concession contract was concluded between the Government of the United Arab Republic on the one hand, and the International

Egyptian Oil Company (IEOC) (a corporation controlled by ENI) and COPE on the other. Under the contract, IEOC was granted the exclusive right to explore for and exploit petroleum in two specific areas, in the Delta and in the Khaligue El Zeit regions respectively. If at the end of any financial year the proceeds after payment of royalties or rentals equalled or exceeded the unrecovered balance of operating costs, exploration expenditure and other capital investment, COPE was to take over the concession from IEOC. The concession was valid for thirty years, renewable for an additional fifteen years.

316. The International Egyptian Oil Company was to spend the following minimum amounts on exploration: $10 million during the first four years, at least 70 per cent in the Delta region; $2 million annually during the fifth and sixth years; $1 million annually from the seventh to the twelfth year; and $300 per square kilometre for every further year of exploration. After the twelfth year, IEOC was to pay the Government a yearly exploration rental of £E30 for each square kilometre in each exploration block considered to have petroleum possibilities. For each exploitation block, IEOC was to pay an annual rental of £E2.5 per hectare. The Government was entitled to a royalty of 20 per cent of the total quantity of petroleum produced from the exploitation block or blocks which had been converted from an exploration block or blocks, up to an aggregate area not exceeding 50 per cent of the area of the exploration block or blocks.

317. For the remaining 50 per cent of the exploration block or blocks converted into an exploitation block or blocks, the Government was to receive a royalty equal to 30 per cent of the total quantity of petroleum produced. It was agreed that IEOC and COPE would provide all possible facilities, whether in the United Arab Republic or abroad, for teaching and training any of their employees showing special ability to improve their condition and raise their level of education. The parties to the contract were to agree on the preparation of a programme for the yearly reduction of the number of foreign employees, in order that they might be gradually replaced by citizens of the United Arab Republic at the earliest opportunity.

318. In January 1964 the Government concluded an oil agreement with the Pan American Oil Company, covering an area in the Western Desert and valid for thirty years, with a fifteen-year renewal period.

319. In March 1964 a concession contract was signed between the Government of the United Arab Republic on the one hand, and EGPC and the Pan American UAR Oil Company (a United States corporation) on the other, under which EGPC and Pan American were each granted a 50 per cent undivided interest in an exclusive concession for the exploration, development and production of petroleum in a specified area of the Gulf of Suez. The contract was valid for a primary term of thirty years, which could be extended for another fifteen years. Pan American agreed to spend on exploration a minimum of $10 million during the first two years and a minimum of $2.5 million annually from the third to the ninth year inclusive. If a commercial discovery was made, EGPC and Pan American were each to pay 50 per cent of the costs incurred in connexion with development, producing, further exploration and all other petroleum activities conducted in the area. However, EGPC was not to pay any of those costs until Pan American had spent a total of $27.5 million on exploration. Development operations were to be carried out by an operating company, the Gulf of Suez Petroleum Company (GUPCO), established on a fifty-fifty basis by EGPC and Pan American, each of which was entitled to half of the crude oil produced. However, the Government was to have the right to purchase up to 20 per cent of the crude oil produced, at a price 10 per cent lower than the price obtained by EGPC or Pan American for the crude oil exported during the month delivery was made to the Government. The right of purchase was applicable in all contracts and in the mining law.

320. The Government was to receive a yearly rental of £E2.5 per hectare for all land held under development leases, and a royalty of 20 per cent of the total quantity of petroleum produced. The royalty was to be reduced to 15 per cent when Pan American had spent $27.5 million on exploration, or when 50 per cent of the taxable profits of Pan American exceeded 20 per cent of the gross income realized by Pan American. The provisions concerning training of national staff and the gradual replacement of expatriate staff were the same as those in the 1963 agreement with Phillips Petroleum Company.

321. In September 1969 the Government concluded an oil agreement with AMOCO (Pan American) in the Western Desert and Nile Valley for thirty years with a renewal period of ten years, on the same basis as the previous contracts but with the royalty expended at 12.5 per cent. Pan American will supply the foreign currency required for the payment of EGPC.

ZAMBIA

322. Zambia is the world's third largest producer of copper, which accounts for 96 per cent of the country's total mining output, 95 per cent of its exports and 60 per cent of the Government's revenue. On 15 August 1969, the President of Zambia invited the two copper-mining groups operating in the country (the Anglo-American Corporation, owned by British and South African interests, and the Roan Selection Trust, 40 per cent of which is owned by American Metal Climax and 40 per cent by other United States interests) to sell 51 per cent of their shares to the Industrial Development Corporation (INDECO), a State holding company. Following the President's invitation, detailed negotiations were initiated between the parties concerned, and an agreement with which both parties "expressed satisfaction" 11/ was reached in November 1969. According to the agreement, two new companies were to start operating the mines as of 1 January 1970. In each of the companies the Government of Zambia's INDECO holds 51 per cent of the equity and is empowered to appoint six out of eleven directors. The two foreign mining groups, each of which holds 49 per cent of the equity in one of the new companies, are providing management and acting as sales agents under contracts which run for a minimum of ten years. For these services they will receive fees equivalent to 1.5 per cent of gross sales plus 2 per cent of profits, calculated after payment of the new minerals tax, but before income tax.

323. For purposes of compensation, the agreed total asset value of the old companies was set at about $574 million, based on estimated book values on 31 December 1969, excluding external and non-mining assets of the companies. The Zambian participation thus totals about $292 million, which is to be paid by INDECO in negotiable tax-free government-guaranteed bonds, denominated in United States dollars and bearing an interest rate of 6 per cent. The compensation due to the Roan Selection Trust amounts to $112.5 million principal and $37.5 million interest and is to be paid over eight years; the compensation due to the Anglo-American Corporation, amounting to about $179.5 million principal and $65.3 million interest, is to be paid over twelve years. In both cases, provision is made for more rapid repayment should two-thirds of the dividends paid on

11/ See International Financial News Survey, vol. XXI, No. 47 (Washington, D.C., 28 November 1969), pp. 384 and 385.

INDECO's share of the equity exceed the instalments due in a given year. Each of the new companies will pay a minerals tax of 51 per cent of net profits and regular company income tax of 45 per cent on the balance of profits, resulting in a total tax payment of about 73 per cent, which is approximately equal to the present over-all effective rate of taxation. However, as a result of the dividends to be paid to INDECO by the new companies, it is calculated that Zambia will retain an additional 5 per cent of the over-all gross profits of the mining industry, and that this figure will rise to 13 per cent once compensation is completed. Dividends paid by the new company to the Roan Selection Trust and the Anglo-American Corporation are to be exempted from any special Zambian taxation, exchange controls or restrictions on dividend remittances for a minimum period of ten years.

324. Furthermore, in 1969, the President of Zambia announced that the Ente Nazionale Idrocarburi (ENI), the Italian Government-owned petroleum company, would set up an oil refinery in Zambia, in which the Government of Zambia would hold 51 per cent of the equity. He also announced that the Government of Zambia had agreed to buy 51 per cent of the equity of BP Zambia. A spokesman for Shell Oil, speaking also on behalf of BP Zambia, stated that they had taken the initiative of proposing the transfer to the Government, and that there had been absolutely no unilateral pressure by the latter. 12/

12/ See Marchés Tropicaux et Méditerranéens, No. 1250 (Paris, 25 October 1969), p. 2851.

Part three

ASSISTANCE PROVIDED BY INTERNATIONAL ORGANIZATIONS TO DEVELOPING COUNTRIES FOR THE EXPLOITATION OF NATURAL RESOURCES

I. UNITED NATIONS

325. The activities of the United Nations in the development of natural resources are pursued through a number of instrumentalities. At Headquarters, the Resources and Transport Division of the Department of Economic and Social Affairs provides the substantive and co-ordinate support to a wide spectrum of activities at the national, regional and international levels. The Office of Technical Co-operation of the same Department provides the administrative support to operational activities, among others in the field of non-agricultural resources. The regional economic commissions play an active role in the stimulation of regional and national development activities relating to natural resources, and since their activities are described in detail in their respective reports to the Council, the present report mainly relates to those activities directly handled by the Resources and Transport Division.

326. The United Nations Development Programme (UNDP) provides the essential external financial support for the many field activities in the area of development of non-agricultural resources. Under the technical assistance component of the programme, assistance includes a broad range of technical advisers, special equipment for demonstration and training purposes and fellowships to nationals of developing countries for advanced studies abroad; under the Special Fund component of UNDP, assistance is provided for such pre-investment projects as surveys of natural resources, feasibility studies for their development and support to research and training institutions and government services in the field of development of natural resources.

327. The activities of the United Nations have been directed essentially to the promotion of national development efforts in respect of the following aspects:

(a) Exploring, evaluating and developing non-agricultural natural resources in the fields of minerals, energy and water, along with surveying and mapping such resources and improving transport facilities and other infrastructural needs;

(b) Stimulating and facilitating the transfer of new technology and scientific knowledge in the development and utilization of non-agricultural resources;

(c) Strengthening administrative and technical services in the Governments through practical field programmes incorporating training elements;

(d) Conducting and organizing applied technical and economic research and disseminating the results through publications, seminars, and conferences.

328. The United Nations has been geared to meet these needs and challenges by the integration of resource economists and specialists from various technical disciplines into a Headquarters team of some sixty professionals with practical experience in resource development work in different developing countries. These specialists render assistance to countries in the preparation of reformulation of project requests for resource development. They conduct technical and economic scrutiny and assessment of project requests received from Governments. They help prepare plans of operations and specifications for engineering services, equipment and supplies needed, as well as job descriptions of experts. Their work includes selection of experts and of subcontractors, over-all supervision and substantive guidance of project personnel in the field, evaluation of progress and final reports and recommendations and, last but not least, attention to certain types of follow-up activities after the completion of the field work.

329. The activities of the United Nations not only cover support to field operations, but also include the conduct of studies, seminars and conferences in matters concerned with policy, planning, and technical and management aspects of the development of non-agricultural resources.

A. Identification of possibilities for the development of resources

330. The bulk of the operational activities of the United Nations is devoted essentially to three aspects: (a) exploratory survey to locate the occurrence of significant non-agricultural resources; (b) detailed investigation of the extent, size and quality of resources located; (c) techno-economic analysis for determining the feasibility of the development of a given resource. Almost invariably, these activities included elements of technical assistance and the training of national personnel through the provision of fellowships and on-the-job instruction.

331. The employment of new techniques and the mobilization of international skills has paid off in the discovery of new and additional mineral resources in many developing countries. In several cases, the exploratory efforts have been marked by a ratio of success exceeding the results of earlier private efforts in several countries. The efforts have resulted in the identification of a number of minerals of economic significance, such as copper in Argentina, Iran, Malaysia (Sabah), Mexico and Panama; in the discovery of additional gold reserves in the United Republic of Tanzania; of iron ore in Chile and of bauxite, thorium and uranium in Somalia. These discoveries have given new hope for the economic development prospects of these areas.

332. The assistance provided to national geological institutes and services is now bearing fruit in terms of discoveries of minerals of considerable economic significance in several countries. The Institute of Applied Geology, in the Philippines, has located copper occurrences in Luzon. Similarly, investigations by the Geological Survey Institute of Iran have proved the existence of a very extensive copper deposit in south-central Iran, and also in the discovery of phosphate deposits. It is expected that this sizable deposit, now estimated at around 100 million tons with a copper content of 1.5 per cent, will yield substantial revenues to the country.

333. The production phase of the development of natural resources in developing countries entails far more and complex problems than in economically advanced countries. Enterprises of very different structures and importance coexist and will continue to do so in the years ahead.

334. Rehabilitation of marginal enterprises through the application of new technology and location of additional resource reserves has been the concern of a number of field projects. In Bolivia, Burma, Niger and Tunisia, a number of efforts have been made to determine and possibly expand known mineral-ore reserves, to improve mining methods and to apply or develop new ore dressing and smelting methods that would make the exploitation of low-grade ores economically feasible.

335. Exploration for energy resources has been directed towards both conventional and non-conventional sources of energy. In the field of hydrocarbons, technical assistance has been provided to about thirty developing countries. In addition, assistance has been provided to India and Bolivia in establishing the Institute for

Petroleum Exploration at Dehra Dun and the Centre for Petroleum Development in La Paz, respectively, thus contributing to their activities in oil and natural gas exploration. In non-conventional sources of energy, particular attention has been given to the exploration of geothermal resources. Technical assistance missions to advise on the potential of geothermal resources have been sent to Cameroon, China (Taiwan), Costa Rica, Guatemala, Israel, Jordan, Kenya, Mali, Mexico, Nicaragua, the Philippines, St. Lucia (West Indies Associated States), and Tunisia. Large-scale projects in this field, which include geological, geophysical and geochemical surveys and exploratory drilling, are being executed in Chile, El Salvador and Turkey.

336. Technical assistance has been provided to China (Taiwan), India, Pakistan, Turkey and Venezuela, in exploration, production, and utilization of coal. Assistance has been provided to the Government of the Philippines in the development of a demonstration coal mine and the evaluation of coal reserves on the island of Mindanao. The occurrence of low-grade fuels in developing countries is quite widespread, but so far not much effort has gone into their development. Assistance has been provided to Turkey and Yugoslavia in the development and utilization of lignite. The United Nations has played an active role in investigating the potential of oil-shale resources for power generation in Costa Rica, Cyprus, Israel, Madagascar, Mali, Morocco, Somalia, Trinidad and Tobago, Turkey and Yugoslavia.

337. In the field of water resources, a number of field projects fall mainly in the category of comprehensive surveys for the development of water resources and pre-investment feasibility studies for multipurpose river basins development. Other projects concern river development for specific purposes, such as hydroelectric power development, navigation, flood control and river regulation. A noteworthy feature in the context of the First United Nations Development Decade is the relatively sharp increase in regional projects for the development of such international river basins as those of the Lower Mekong, the Mono, the Senegal and Lake Chad. The Mekong River project, undertaken by the United Nations through the Committee for Co-ordination of Investigations of the Lower Mekong Basin, seeks for the comprehensive development of the water resources of the Lower Mekong basin. Besides the four riparian countries (Cambodia, Laos, the Republic of Viet-Nam and Thailand), twenty-six countries from outside the basin, seventeen United Nations agencies and subsidiary bodies and nineteen non-governmental bodies are involved in pre-investment studies and planning.

B. Dissemination of new technology

338. One of the continuing activities of the United Nations is to bring economic approaches and technologies to the attention of developing countries. The increasing flow of new technology in the field of natural resources and the technological gap between the more developed and the developing countries make it imperative that the United Nations keep track of such developments and utilize them in its field work as well as train the nationals of developing countries in the use of such new, more efficient and more fruitful techniques.

339. Rapid advances are being made in geophysical and geochemical prospecting, in photogeology, in mining methods and in ore dressing. As a result, mineral occurrences which were deemed to have had no economic value in the past now often qualify as economically valuable assets. The basic concept of mineral exploration has changed from one of entirely pedestrian and protracted field work to one where the application of modern science permits the determination of favourable areas fairly quickly. For example, within the framework of field projects undertaken by the United Nations, use has been made extensively of such geophysical methods as magnetic, electro-magnetic, electrical, gravity and seismic methods, some of which use airborne instruments for the location of the most favourable places for economic mineralization. Geochemical methods are also increasingly used in mineral exploration projects; the possibility of rapid analysis of small geochemical samples is a distinct advantage when large regions have to be surveyed.

340. Technological advances in mechanical and electrical engineering have made a considerable impact on lowering the costs of concentration and beneficiation of resource products; for example, the Mining and Metallurgical Institute in Bolivia is using new techniques (floatation and volatilization) for the treatment of low-grade tin ores. Many of the emerging countries located in the semi-arid and arid parts of the world are likely to benefit from recent advances in the dry processing of ores which would permit the exploitation of many deposits formerly regarded as uneconomic because of scarcity of water. In transportation, a number of new techniques have appeared; for example, conveyance by pipeline of minerals and energy materials can substantially lower the costs of transport. As a result, the extraction of previously inaccessible resources becomes possible.

341. One of the areas with considerable potential for the application of new technology is in the development of geothermal energy and other non-conventional energy sources, particularly in countries where the prospects of discovery and economic utilization of conventional sources of energy are not encouraging. The United Nations is contributing to the transfer of technological know-how to developing countries seeking to utilize their geothermal resources.

342. The Institute for Petroleum Exploration in India and the Centre for Petroleum Development in Bolivia, mentioned earlier, are assisted in their efforts towards the introduction and application of modern methods and techniques in petroleum exploration and production. In Trinidad and Tobago, assistance has been provided in carrying out an off-shore seismic survey, since an earlier aeromagnetic survey indicated favourable geological conditions for petroleum.

343. Similarly, the United Nations is active in the transfer of technology relating to the exploration, production, transportation and utilization of natural gas. Another area where considerable technological progress has been accomplished is in the mining and utilization of oil shales. The recent advances in direct combustion processes have made it possible for cheaply mined oil shales to be used for power generation - a factor of significance for developing countries lacking in adequate fuel reserves.

344. In regard to the application of new technology to the development of water resources, the United Nations has assumed an active role in regard to the technical and economic possibilities of water desalination in developing countries. An undertaking unique of its kind is the electrodialysis demonstration plant to be established with United Nations assistance in Israel. The plant, originally designed with a capacity of 650,000 gallons per day, will assist in advancing the technology and economics of electrodialysis desalination and in evaluating alternative components of a plant for conversion of brackish water to fresh water. It is expected that the project, when completed, will provide the basis of standard designs for the construction of a number of large-capacity electrodialysis plants. In the framework of another desalination project in Kuwait, assistance is envisaged in testing and evaluating equipment and materials for desalination plants and in the training of skilled personnel for their operation; also in studying the economic and technical posibilities of expanding the present production of minerals and chemicals

from the brine and in studying the possible economic use of desalinated water for the irrigation of high value crops.

345. In the field of mapping, rapid progress is being made in the development and the transfer to developing countries through field projects (for example, in Ceylon, India, Jamaica and Pakistan) of perhaps less spectacular techniques such as topographic mapping through photogrammetry based on aerial photos, and geodetic surveys based on electromagnetic and electro-optical equipment.

C. Strengthening of administrative and technical services through practical field programmes

346. Experience in field operation as well as other research and study activities has demonstrated that sound technical and economic advice is in itself insufficient in helping developing countries along the road of national resources development. In fact, technical advice may fail in many cases unless it is coupled with or even preceded by sustained efforts to strengthen or, if need be, create an adequate organizational framework for enabling Governments to initiate and implement programmes best suited to their particular conditions and needs.

347. The strengthening of national government services has been an integral element of many technical and pre-investment assistance projects. In some countries the programme of exploration carried out in the context of pre-investment projects is so closely integrated with the normal functions of a national counterpart organization and comprises such an important part of its activities that its operations are upgraded.

348. In response to the specific needs in several developing countries, projects have been especially designed to build effectively national institutions. In the field of minerals, the most important examples of "institution building" are the projects in Bolivia, Iran, Jordan and the Philippines. In Iran, assistance has been provided to the establishment of the Geological Survey Institute of Iran, which has now to its credit a number of field investigations for mineral exploration; these have already resulted, as mentioned earlier, in a major reassessment of the mineral-producing prospects of the country. In the Philippines, the Institute of Applied Geology, a project carried out in co-operation with the

Philippines Bureau of Mines and the University of the Philippines, has been established for the training of mining engineers in the modern techniques of exploration, particularly geophysics and geochemistry, and with emphasis on the practical application of economic geology, petrography and structural geology.

349. A water resources centre is being established in Kuwait City, the main functions of which cover testing and development as related to desalination, training of skilled and professional personnel, economic and technical studies and the assessment of ground-water resources. Particular attention is being given to organizational and administrative problems at the national level. In Afghanistan, assistance has been rendered towards the establishment and initial operation of a national water management department. Similar assistance has also been given to the Governments of Ceylon, Guyana and Jamaica.

350. In the energy field, technical assistance has been provided to Saudi Arabia in the organization of a marketing department in PETROMIN, the national oil and mining company, and to Trinidad and Tobago for the organization of the Ministry of Petroleum. Assistance is being provided to Cambodia and Madagascar for the strengthening of their electric-power production and distribution authorities. In the case of Togo and Dahomey, the United Nations has assisted the two countries in establishing a joint electricity authority, facilitating the integration of the two national power markets.

351. In surveying and mapping, a number of projects have been centred on institution building and training. For example, a project in India involved the establishment of a pilot production centre for pre-investment surveying and mapping and training. The production centre will work in close co-operation with the training institute, and will offer the students continuous opportunities for demonstration and participation in the modern practices of surveying and mapping. In Ceylon, the Government is being assisted in establishing an institute of surveying and mapping for the principal purpose of training land surveying technicians for its public services and for the private sector. Similarly, in East Pakistan and Jamaica, the field projects are directed towards the strengthening and upgrading of the capacity of existing survey departments through provision of modern equipment and in-service training.

352. From the promotion of national efforts in the exploration, development and utilization of natural resources, it appears that priority action is needed in the establishment or strengthening of administrative and technical services. The two key aspects of such services are the establishment or strengthening of an appropriate institutional framework geared to a particular resource or resources and the supply of competent personnel to carry forward and develop further the information and momentum generated by initial field projects.

353. While it is desirable that countries should equip themselves with adequate organizational and technical services for resource development activities, experience has shown that it takes considerable time for the small and newly independent countries to achieve the minimum standards in this field. Even if these countries are in the position to set up such services on a skeletal basis, it is not easy to acquire the skills and technology on the scale needed for an effective programme of exploration and development of resources. United Nations assistance can be most effective in providing the necessary technical support drawn from the accumulated variety of experience in the world community for the benefit particularly of small developing countries.

354. One of the most important factors which has tended to hold back the development of non-agricultural resources has been the lack of a comprehensive and practical legislation conducive to their effective exploitation and use. The United Nations has made considerable efforts through its research and operational activities in the promotion of the enactment of modern codes in several developing countries.

355. The operational projects in mineral survey and exploration have brought about a vital understanding of the importance of a practical legal framework as the starting point for the creation of a dynamic mining industry. Obviously, efforts to discover new deposits, or to evaluate those already known, could hardly be regarded as pre-investment, unless there is a favourable climate for subsequent investment.

356. The work on mining legislation and the assistance thereto varies from country to courtry depending upon local conditions. It often involves a comparison with legislation in other countries with a modern mining code. During recent years, assistance in mining legislation has been extended to many countries, notably

Burma, the Democratic Republic of the Congo, Costa Rica, Ethiopia, Guatemala, Honduras, Kenya and Malaysia. Assistance is also being provided to Liberia, Libya, the Philippines and Zambia.

357. Whereas mining legislation in many countries covers hydrocarbons, separate laws for petroleum are enacted in a number of countries. Assistance has been given to Malta as well as to Trinidad and Tobago in drafting legislation and regulations pertaining to the exploration and development of hydrocarbons. Other developing countries have received advice on specific legal problems such as rules governing concessions and the establishment of national power authorities.

358. In the field of water resources, a specialist in water legislation surveyed water law problems in Guyana and drafted a comprehensive water code for that country. A technical assistance mission studied organizational and legislative problems related to the development of the water resources of Jamaica and prepared a report for the Government on water organization, administration and legislation, including a preliminary review of Jamaican water laws. In Afghanistan, a comprehensive institutional support project includes a review of existing water legislation and the preparation of a national water code.

359. The planning and management of basic natural resources - minerals, water and energy - are of particular importance to developing countries. A growing proportion of the efforts in the United Nations is being devoted to problems of resource system planning and to over-all management problems, particularly in the fields of energy and water resources. In minerals a systematic approach to the identification, exploration and development of resources has been felt to be a necessary strategy for speedy development.

D. Applied research and training activities in the development of non-agricultural resources

360. The twin objectives of transfer of new technology with practical applications to developing countries and the imparting of training to national personnel are reflected in the various studies, research, seminars and conferences organized by the United Nations. First, there are technique-oriented studies and seminars. This category includes analyses of techniques of mineral exploration, methods of petroleum exploration, small-scale power generation and water desalination.

Very often these studies reflect a techno-economic approach combining economic with technical considerations. For example, the study on small-scale power generation reviews the up-to-date methods of power production and provides guiding principles for the selection of power plants in areas not covered by the transmission grids.

361. The study and publication programme has emphasized over the years those areas in which new technology is emerging and in which the limited resources of the United Nations could make a useful contribution. The accent on specialized and newly emerging fields, such as water desalination, oil shale utilization and geothermal energy, has not been at the expense of those resources which still occupy a predominant place in the resource needs and requirements of developing countries. In respect of conventional resources, attention is being focused on selected areas of new technology which makes conventional techniques obsolete or uneconomical, for example techniques of mineral exploration or ore concentration.

362. In addition to the various techno-economic studies and seminars, the United Nations has conducted development-oriented analyses of specific resources; for example, the earlier survey of world iron-ore resources is now revised and updated. In accordance with the stress placed by the Economic and Social Council on the value of such resources-oriented studies, the activities of the United Nations will continue to be directed towards the preparation of individual resources development profiles.

363. Another category of studies relates to planning and policy-oriented aspects. Experience has demonstrated that newly independent countries which are in the initial stages of resources development can make good use of studies throwing light on critical policy issues concerning the rational development of their natural resources. Examples of this are provided by the studies in this field of energy policy and a study on policies and problems of mineral development,[1/] which deals mainly with questions of guiding principles, policy options, agreements concerning joint ventures and attitudes towards foreign investment

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1/ Mineral Resources Development with Particular Reference to Developing Countries (United Nations publication, Sales No.: E.70.II.B.3).

in the development of mineral resources; as well as with legislative stipulations relating to mineral rights; questions of Government revenues from mineral resources development, and legislative guidelines.

364. Similarly, a panel of experts on water resources development policies was recently convened in Buenos Aires, Argentina, in order to provide an international and interdisciplinary forum of expert policy makers to discuss and, in due course, to prepare a report on the new and pressing issues of water policy, taking into consideration different hydrological social, economic and political conditions in various countries, with special reference to conditions and problems in developing countries.

E. Approaches to the development of non-agricultural resources

365. The accumulated experience in the United Nations in handling operational projects has revealed the usefulness of a variety of approaches. In almost all projects, the **technical** elements are combined with economic evaluations so that a sound and practical basis for resources development is laid out. The various field surveys and field activities have been governed by practical economic approaches.

366. The United Nations has attempted to adopt, wherever possible, an inter-disciplinary approach in the development of resources; for example, in the field of water resources development, use has been made of engineers, hydrologists and economists as well as geologists, sociologists, lawyers, public administration experts, chemists and physicists, so that the specialized knowledge and expertise of various related disciplines could be brought to bear on major problems.

367. Similarly, it has been found useful to combine various aspects of resources development in a single project; for example, a number of mineral surveys have included ground-water elements, as in Cyprus, Madagascar, Togo and Upper Volta. There are other projects which combine mineral exploration with the exploration of energy sources, thus permitting an intersectoral transfer of techniques. For example, techniques of oil finding have also been found useful for geothermal exploration.

368. Furthermore, there have been a number of projects promoting an integrated concept of area development. The crux of this approach is to combine a set of

mutually supporting activities in the field of minerals, energy, water and other resources of a given region or area. For example, in the development of water resources, efforts have been made to promote the concept of integrated river basin development which includes such diverse fields of development as hydropower, flood control, river navigation, hydrology, minerals and ground-water development. The concept of integrated river basin development aims to achieve the best co-ordination of the spectrum of possibilities of development of a given basin and includes full consideration of techno-economic as well as legal and administrative aspects.

369. Sometimes it has been useful to adopt a multipronged approach; for example, a number of natural resources survey projects contain built-in elements of training of national personnel, strengthening administrative and institutional structures and transferring new technology through the supply of scientific equipment etc.

370. In its field operations, the United Nations has made flexible use of a variety of sources of assistance. Very often a pre-investment assistance is preceded by the provision of technical advice under the regular programme of technical assistance and then followed up by the provision of technical assistance experts working with the counterpart nationals. In some cases, financial advisers have been provided after field assistance has ended.

371. There are also several examples of concerted action with bilateral and multilateral agencies; for example, the Geological Survey Institute, Iran, which has been considerably assisted by the United Nations, was able to draw upon Swiss and French assistance in its mapping and mineral exploration programmes, respectively.

372. In conclusion, it may be stated that whenever success is achieved in the operational activities of the United Nations, it is attributable, to a considerable extent, to the use of new techniques and elements in the framework of a complementary and interdisciplinary approach combining multinational experience and expertise. The development of non-agricultural resources lends itself to a host of alternative techniques drawn from various disciplines. In view of the dynamic technical changes that are continuously taking place, interdisciplinary approaches are found to yield more potent benefits than do the narrow specialized approaches followed hitherto.

List of UNDP (Special Fund) projects in the field of natural resources executed by the United Nations from inception to June 1970

Country	Symbol	Project
Afghanistan	AFG 4	Ground-water Investigation
	AFG 18	Establishment of a Water Management Department
Argentina	ARG 12	Mineral Survey of the Andean Cordillera
	ARG 13	Ground-water Research in the North-west
	ARG 23	Investigation of Porphyry Copper Type Mineralization in the Provinces of Mendoza, Menquen and San Juan
	ARG 31	Improvement of Navigation on the Parana River
	ARG 35	Mineral Exploration of the North-west Region
Bolivia	BOL 6	Pilot Mineral Survey of the Cordillera and Altiplano
	BOL 8	Mining and Metallurgical Research Institute
	BOL 10	Centre for Petroleum Development, Santa Cruz
	BOL 14	Ground-water Survey in the Altiplano
	BOL 27	Survey of the Mutún Iron Ore and Manganese Deposits
British Solomon Islands Protectorate (United Kingdom)	UK 36	Aerial Geophysical Survey
Burma	BUR 1	Survey of Lead and Zinc Mining and Smelting
	BUR 5	Mu River Irrigation Survey
	BUR 13	Development of the Sittang River Valley
Burundi	BDI 5	Mineral Survey
Cambodia	CAM 10	Strengthening the Directorate of Electric Power
Central African Republic	CAF 11	Investigation of Limestone Deposits at Fatima

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Country	Symbol	Project
Ceylon	CEY 11	Institute of Surveying and Mapping, Diyatalawa
Chile	CHI 2	Mineral Survey
	CHI 16	Mineral Resources Survey of the Province of Coquimbo
	CHI 20	Survey of Geothermal Development in Northern Chile
	CHI 28	Detailed Mineral Investigation of Selected Zones in Atacama and Coquimbo Provinces
	CHI 35	Water Resources Development in Norte Grande
China (Taiwan)	CHA 3	Hydraulic Development Projects
	CHA 17	Comprehensive Hydraulic Development Survey of the Choshui and Wu Basins
Colombia	COL 33	Development of the Chocó Valley: Phase I. Surveying and Mapping
Congo (Brazzaville)[a/]	CON(B) 6	Mineral Exploration in the South-west
Congo (Democratic Republic of)	CON(K) 14	Mineral Resources Survey in the Bas-Congo
Costa Rica	COS 2	Ground-water Surveys in three selected areas
Cyprus	CYP 2	Survey of Ground-water and Mineral Resources
Dahomey	DAH 4	Strengthening the Geological and Mining Service
Ecuador	ECU 11	Survey of Hydrological Resources of Manabi Province
	ECU 15	Surveys of Metallic and Non-metallic Minerals
	ECU 26	Survey of Metallic and Non-metallic Minerals (Phase II)

a/ Now known as the People's Republic of the Congo.

Country	Symbol	Project
El Salvador	ELS 2	Ground-water Survey of the Metropolitan Area of El Salvador
	ELS 3	Assessment of Mineral Deposits in the North
	ELS 4	Survey of Geothermal Resources
	ELS 8	Survey of Geothermal Resources (Phase II)
Ethiopia	ETH 17	Mineral Surveys of Two Selected Areas
	ETH 26	Investigations of Geothermal Resources for Power Development
Gabon	GAB 7	Mineral Exploration in Eastern Gabon
Greece	GRE 23	Power Development Planning
Guatemala	GUA 8	Mineral Surveys in Two Selected Zones
Guinea	GUI 1	Resources Development Survey
	GUI 12	National Mineral and Geological Centre, Conakry
	GUI 5	Preliminary Investigation of Mount Nimba Iron-ore Deposits
Guyana	GUY 5	Aerial Geophysical Survey
	GUY 8	Power Development Survey
	GUY 11	Mineral Survey (Phase II)
Honduras	HON 1	Investigation of Mineral Resources in Selected Areas
Iceland	ICE 1	Survey of Hydroelectric Power Development in the Hvita and Thjorsa River Basins
India	IND 20	Survey of Potential Hydropower sites
	IND 15	Cavitation Research Centre, Poona
	IND 22	Institute for Petroleum Exploration, Dehra Dun
	IND 47	Assistance to the Survey of India for Pre-investment Surveying, Mapping and Training
	IND 49	Ground-water Surveys in Rajasthan and Uttar Pradesh

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Country	Symbol	Project
India (cont'd)	IND 58	Ground-water Investigations in Madras State
	IND 63	Institute for Petroleum Exploration, Dehra Dun (Phase II)
	IND 64	Mineral Development in Madras State
	IND 98	Ground-water Investigations in Madras State (Phase II)
Indonesia	INS 21	Off-shore Exploration for Tin and Tin Oredressing Research
	INS 27	Institute of Hydraulic Engineering
Iran	IRA 1	Geological Survey Institute
	IRA 28	Geological Survey Institute (Phase II)
Israel	ISR 16	Electrodialysis Pilot Plant, Mashabei Sade
Ivory Coast	IVC 4	Mineral Survey in the South-west
	IVC 14	Assistance to the Geographic Institute of the Ivory Coast
	IVC 19	Mineral Survey on the South-west (Phase II)
Jamaica	JAM 4	Assistance to the Survey Department of Jamaica
Jordan	JOR 4	Ground-water Survey of the Azraq Area
	JOR 12	Establishment of a Mineral Exploration Unit
	JOR 21	Phosphate Exploration and Beneficiation Studies
Kenya	KEN 4	Mineral Resources Survey in Western Kenya
Kuwait	KUW 2	Water Resources Centre, Kuwait City
Lebanon	LEB 7	Ground-water Survey
Liberia	LIR 9	Mineral Survey in the Central and Western Regions

Country	Symbol	Project
Madagascar	MAG 3	Surveys of the Mineral and Ground-water Resources of Southern Madagascar
	MAG 19	Preparation of a Power Development Programme and Related Training Activities
Malaysia	MAL 7	Surveys of the Labuk Valley
Mali	MLI 7	Strengthening Government Services for Ground-water Exploration and Development
	MLI 5	Investigation of the Selingué Dam Site on the Sankarani River
Mauritania	MAU 2	Establishment of a Ground-water Service
	MAU 4	Strengthening of the Geological Service and Mineral Exploration
Mexico	MEX 4	Survey of Metallic Mineral Deposits
Morocco	MOR 16	Potash Exploration in the Khemisset Basin
Nepal	NEP 2	Hydroelectric Development of the Karnali River
Nicaragua	NIC 3	Mineral Survey
	NIC 8	Ground-water Investigations in the Central Pacific Coastal Region
Niger	NER 10	Mineral Exploration in Two Areas
Nigeria	NIR 19	Aeromagnetic Survey of Minerals in the North-west
Pakistan	PAK 7	Mineral Survey
	PAK 15	Strengthening of the Dacca Branch of the Survey of Pakistan
Panama	PAN 1	Water Resources Survey of the Chiriqui and Chico River Basins
	PAN 4	Mineral Survey of the Azuero Area
	PAN 17	Mineral Survey (Phase II)

Country	Symbol	Project
Paraguay	PAR 12	Navigation Study of the Paraguay River South of Asunción
	PAR 16	Investigation of Ground-water Resources in Central and North-western Chaco
Philippines	PHI 9	Institute of Applied Geology, Manila
	PHI 13	Survey of Coal Resources in Mindanao
	PHI 19	Feasibility Survey for the Hydraulic Control of the Laguna de Bay Complex and Related Developmental Activities
Poland	POL 4	Sub-surface Exploration for Potassium Salts
	POL 9	Planning the Comprehensive Development of the Vistula River System
Rwanda	RWA 6	Mineral Survey
Senegal	SEN 4	Mineral Survey
	SEN 7	Mineral Resources Survey (Phase II)
Sierra Leone	SIL 9	Strengthening of the Sierra Leone Electricity Corporation
Somalia	SOM 4	Mineral and Ground-water Survey
	SOM 14	Mineral and Ground-water Survey (Phase II)
Sudan	SUD 28	Mineral Survey in Three Selected Areas
	SUD 42	Strengthening the Topographical Survey Division
Swaziland	SWA 1	Aerial Geophysical Survey
Togo	TOG 4	Survey of Ground-water and Mineral Resources
	TOG 11	Ground-water Exploration in the Coastal Region
Trinidad and Tobago	TRI 6	Seismic Survey in the Marine Area between Trinidad and Tobago

Country	Symbol	Project
Tunisia	TUN 10	Mineral Investigation of the Foussana Basin
	TUN 28	Intensification of Ground-water Exploitation in Northern and Central Tunisia
	TUN 24	Survey of the Gafsa Basin Phosphate Industry
Turkey	TUR 17	Geothermal Energy Survey of Western Anatolia
	TUR 32	Mineral Exploration in Two Areas
Uganda	UGA 3	Aerial Geophysical Survey
	UGA 5	Karamoja Ground-water Survey
United Republic of Tanzania	TAN 5	Mineral Exploration of the Lake Victoria Goldfield
United Arab Republic	UAR 56	Assessment of the Mineral Potential of the Asuan Region
Upper Volta	UPV 4	Mineral and Ground-water Surveys
	UPV 6	Feasibility Surveys for Mineral Development in the North-east and Associated Transport Factors
	UPV 10	Hydrological and Railway Studies in connexion with Mineral Development in the North-east
Yugoslavia	YUG 6	Studies of the Regulation and Control of the Vardar River
	YUG 7	Regulation and Management of the Sava River
Zambia	ZAM 9	Detailed Mineral Exploration West of Broken Hill

Africa, regional projects

Countries	Symbol	Project
Dahomey, Togo	REG 28	Integrated Basin Survey of the Mono River
	REG 33	Electric Power Development Survey
Cameroon, Chad	REG 53	Feasibility Study for the Diversion of the Logone River Floods
Gambia, Senegal	REG 60	Hydrological and Topographical Studies of the Gambia River
Guinea, Mali, Mauritania, Senegal	REG 52	Feasibility Survey for the Regulation of the Senegal River
	REG 80	Design of System of Water Management in the Upper Senegal River Catchment

II. REGIONAL ECONOMIC COMMISSIONS

A. United Nations Economic Commission for Asia and the Far East

373. The United Nations Economic Commission for Asia and the Far East (ECAFE) and its subsidiary bodies, such as the Committee on Industry and Natural Resources and the Regional Conference on Water Resources Development, and their supporting technical bodies, have been active in promoting the principle of permanent sovereignty over natural resources.

1. Mineral and energy resources

374. As far back as April 1953, the Regional Conference on Mineral Resources Development, held at Tokyo, Japan, under the sponsorship of ECAFE, noted that while all the countries of the region were interested in ensuring the efficient exploitation and utilization of their mineral resources, regulations governing the development of these resources varied from country to country. The Conference considered that if those regulations were studied carefully by an expert body, such as the ECAFE Sub-Committee on Mineral Resources Development, the participating experts would benefit by the experience of others and would be able to recommend to their respective Governments suitable amendments to existing laws and regulations. Appropriate laws and regulations would give foreign and domestic private investors a clear idea of the conditions under which they could invest in the countries of the region. The Conference therefore recommended that the ECAFE secretariat should compile existing regulations governing mineral development in the region. This recommendation, which was unanimously approved by the ECAFE Committee on Industry and Trade at its sixth and seventh sessions, and the Commission at its tenth and eleventh sessions, resulted in the publication of a study on mining legislation, with special reference to Asia and the Far East,[2/] in 1957.

375. Subsequently the ECAFE Sub-Committee on Mineral Resources Development, at its sixth session held at Bangkok in 1966, drew attention to the many revisions and amendments that had been made to mining laws in some of the ECAFE countries since

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2/ Survey of Mining Legislation, "Mineral Resources Development Series, No. 9" (United Nations publication, Sales No.: 57.II.F.5).

the publication of the aforementioned survey of mining legislation in 1957. In order to bring the survey up to date, the Sub-Committee requested the secretariat to consider convening a seminar on mining legislation and administration which would include the administrative aspects of improving conditions for the development of mineral resources (other than oil, gas and radio-active minerals); the seminar would also provide an opportunity for an exchange of experience in that field among the ECAFE countries.

376. The ECAFE Committee on Industry and Natural Resources, at its nineteenth session held at Bangkok in 1967, endorsed the proposal. It was pointed out that changing situations required that existing laws should be subject to review, particularly with the object of providing favourable conditions for encouraging activity in the private sector and attracting risk capital for exploration ventures, which were often beyond the financial means and technical capacity of the developing countries. The Commission, at its twenty-third session (1967), agreed with the Committee's views and endorsed the recommendation calling for early convening of the seminar.

377. Taking into consideration the foregoing recommendations and the kind offer of host facilities by the Government of the Philippines, the seminar was held at Manila from 16 to 23 October 1969. The Office of Legal Affairs of the Secretariat of the United Nations undertook the preparation of a summary entitled "The mining laws in the ECAFE area" (I and NR/ML.1/34), which was submitted as a background document at the seminar. The seminar recommended that the document should be brought up to date and expanded to cover all the countries in the region and to include data and information on the rates of royalty, surface rent and other sources of Government revenue. The document was then to be contained in the report of the seminar (E/CN.11/1 and NR/L.90), for it would provide very valuable reference information, not only for Government authorities reappraising their mining legislation but also for private enterprises considering investment in mining in the region.

378. The seminar observed that most of the mining laws of the countries of the region uphold the principle that all minerals belong to the State, which should exercise its sovereignty in the disposition of these resources. At the same time, the seminar considered that adequate provision should be made in mining laws to ensure that leaseholds could be developed to the optimum extent warranted by reserves and markets and in a scientific and workable manner. It was essential to

avoid mining legislation that would become a deterrent to mineral exploration and development. The need to adopt modern technology in all phases of mineral development was emphasized. It was pointed out that, under any political philosophy, Government initiative was important for the maximum utilization of mineral resources in the national interest; if the intention was to attract private investment in mining development, a sympathetic attitude on the part of the Government was highly desirable.

379. With regard to petroleum resources, ECAFE has convened four symposia since 1958 on the development of petroleum resources in Asia and the Far East. The fourth symposium was held from 27 October to 10 November 1969 at Canberra, Australia. Among other matters, the symposium attached particular attention to off-shore potential, and noted that there was a lack of adequate legislation to govern and control activities in that field in many countries of the ECAFE region. It accordingly recommended that the ECAFE secretariat consider organizing a seminar on petroleum legislation similar to the seminar on mining legislation held at Manila.

2. Water resources

380. The objective of the ECAFE Division of Water Resources Development is to promote the development of water resources in the region based on the concept of comprehensive, multiple-purpose utilization and conservation of water resources including flood control, irrigation, drainage, hydro-power generation, navigation, water supply, water and soil conservation and pollution control. In pursuance of this objective, the Division has divided its work into four main projects: (1) the planning and development of water resources; (2) the development of international rivers; (3) flood control methods; and (4) hydrology. In order to help the countries of the region to formulate sound policy decisions concerning the planning and development of water resources, the Division has published studies on water legislation in the ECAFE region and is working on a manual for the preparation of a water code, the first draft of which is expected to be completed by mid-1971. The manual itself will be issued in 1973 or 1974.

B. United Nations Economic Commission for Latin America

381. In all the studies of the United Nations Economic Commission for Latin America (ECLA), great importance is attached to the use of natural resources with a view to accelerating the economic growth of the Latin American countries. The ECLA Natural Resources and Energy Programme, in pursuance of several of the Commission's resolutions - 99 (VI), 154 (VIII), 165 (VIII), 166 (VIII) and 204 (IX) - and within the limits of available means, carries out the following main tasks:

(i) Since 1957, a joint group of ECLA/OTC/WMO/WHO experts has been undertaking a preliminary examination of water resources in Latin America, and of their present and future utilization in so far as possible for multiple purposes, such as energy, irrigation and water supply, taking into account other factors, such as land reclamation, drainage and other benefits arising from the construction of such works and the use of water. At the request of Latin American Governments, this same group of experts has also provided technical, economic, legal and institutional assistance on the use of water.

(ii) The joint group of experts has promoted and organized numerous seminars and international meetings on planning and economics dealing with electric energy and collaborates with the Comisión de Integración Eléctrica Regional in its work.

(iii) The joint group of experts has also organized a seminar on the petroleum industry in Latin America for the study of aspects of the policies adopted in the region and their consequences.

(iv) Systematic studies are being carried out on the evolution of the mining and energy sectors (mainly electricity and hydrocarbons), the results of which are being included in the annual economic surveys of Latin America published by the United Nations, and in special reports to help Governments formulate their policies on a rational basis.

382. With a group of regional experts (ECLA/OTC/WMO/WHO), ECLA plans to assist the Latin American countries in the preparation of studies by region and river basin on the availability and present and future utilization of water and other natural resources, in the wider context of integral regional development at the subnational (regions within a country) and interregional (frontier areas, groups of countries etc.) levels. A study of this nature is being carried out in Santa Cruz (Bolivia) with the collaboration of the Inter-American Development Bank (IDB) as part of a project in the Río de La Plata basin.

III. INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

383. The International Bank for Reconstruction and Development (IBRD) has provided the developing countries with the following assistance:

IBRD LOANS CLASSIFIED BY PURPOSE AND AREA
FROM 1 APRIL 1947 TO 31 DECEMBER 1969

Initial commitments net of cancellations and refundings
in millions of US dollars

Purpose	Western hemisphere	Africa	Asia + Mid-East
Electric power	2,099.3	505.0	864.4
Transportation	909.6	831.1	1,643.0
Railroads	193.5	388.0	694.1
Ports and waterways	45.3	168.1	161.9
Roads	647.5	225.0	750.0
Pipelines	23.3	50.0	37.0
Agriculture, forestry, fishing	427.2	186.1	496.0
Farm mechanization	8.4	5.0	9.0
Irrigation, flood control	110.1	81.0	416.3
Land clearance, farm improvements	9.0	18.7	32.3
Crop processing, storage	0.8	0.4	2.0
Livestock	162.3	5.3	4.4
Forestry and fishing	5.3	5.3	14.5
Agriculture credits	131.3	42.8	17.5
Smallholders, plantations	-	27.6	-

IDA CREDITS CLASSIFIED BY PURPOSE AND AREA
FROM 1 APRIL 1961 TO 31 DECEMBER 1969

Initial commitments net of cancellations and refundings in millions of US dollars

Purpose	Western hemisphere	Africa	Asia + Mid-East
Electric power	26.4	10.0	80.8
Transportation	77.3	223.5	482.8
Railroads	-	26.6	311.8
Ports and waterways	-	-	25.6
Roads	77.3	196.9	145.4
Pipelines	-	-	-
Agriculture, forestry, fishing	17.4	81.7	275.4
Farm mechanization	-	-	-
Irrigation, flood control	-	13.0	165.7
Land clearance, farm improvements	-	26.9	-
Crop processing, storage	-	6.7	19.2
Livestock	17.4	7.9	-
Forestry and fishing	-	1.3	-
Agriculture credits	-	20.6	73.0
Smallholders, plantations	-	5.3	17.5

I. IBRD TECHNICAL ASSISTANCE GRANTS

A. Projects in progress

Country	Project	Approved	Amount of grant	Status of field work
Costa Rica	Feasibility Study of Ports of Moin and Puntarenas . .	1967	200,000	Completed
Tunisia	Review of Water Development Projects in Northern Tunisia	1969	150,000	In progress
Turkey	Assistance for Reorganization of Power Industry	1965	1,950,000	Completed for stage I a/

B. Completed projects

Country	Title	Approved	Completed	Amount of grant
Afghanistan	Irrigation Study of Kunduz-Khanabad River Basin . . .	1965	1966	350,000
Afghanistan	Highway Maintenance Study .	1966	1968	155,000
Bolivia	Railway Operations Study . .	1961	1962	43,000
Brazil	Transport Survey (Phase I) b/	1965	1968	1,500,000
Cameroon	Road Studies	1964	1966	200,000
Cameroon	Cocoa Rehabilitation Study .	1964	1965	120,500
Ceylon	Highway Study	1967	1969	200,000
Chile	Highway Study	1965	1967	210,000
China	Transportation Survey . . .	1963	1964	250,000
Colombia	Transport Study	1961	1962	187,500
Congo c/ (Brazzaville)	Road Feasibility Study . . .	1966	1968	185,000
Ecuador	Transportation Study	1962	1964	340,000
Ecuador	Assistance to Institute of Electrification	1962) 1964)	1964	(120,000 (100,000
Honduras	Puerto Cortes Study	1961	1962	82,000
India	Coal Transport Study	1963) 1964) 1964)	1964	(750,000 (100,000 (12,273

a/ Action on stage II undetermined, pending Government action.
b/ Phase II being financed by UNDP.
c/ Now known as the People's Republic of the Congo.

B. Completed projects (continued)

Country	Title	Approved	Completed	Amount of grant
India	Eastern Region Transport Survey	1965) 1966)	1967	(285,000 (50,000
India	Feasibility Study of Hooghly River Crossing	1962	1965	116,000
Iran	Assistance to National Electricity Authority (terminated by Bank) . . .	1963	1965	750,000
Iran	Port Administration Reorganization Study . . .	1965	1965	39,000
Liberia	Oil Palm Feasibility Study .	1966	1969	36,000
Malagasy Republic	Port of Tamatave Study . . .	1968	1969	196,500
Malaysia	Assistance to Jerantut (Jengka) Triangle Land Development Scheme	1965	1967	507,000
Morocco	Reorganization of Public Services for Agriculture .	1967	1968	196,000
Nepal	Transport Survey	1964	1965	100,000
Nicaragua	Feasibility Study of Expansion of Port of Corinto	1966	1968	175,000
Niger	Road Maintenance Study . . .	1965	1967	84,000
Nigeria	Road Programme in Northern Nigeria	1962	1964	125,000
Nigeria	Eastern Nigeria Road Development Study	1964	1968	375,000
Pakistan	East Pakistan River Ports and Waterways Project . .	1964	1968	950,000
Peru	Highway and Transport Commission Study	1961	1961	175,000
Peru	Road Feasibility Studies . .	1964	1968	300,000
Republic of Korea	Transport Survey	1965	1967	417,000
Somalia	Engineering Study of Port of Mogadiscio	1964	1967	375,000
Sudan	Review of the Gezira Irrigation Scheme	1964	1966	400,000
Zambia	Transport Study	1964	1964	140,000

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II. IDA TECHNICAL ASSISTANCE CREDITS

Country	Project	Approved	Amount of credit $	Status of field work	Final report
Congo (Democratic Republic of)	Highway Maintenance Programme	1969	6,000,000	In progress	Draft expected November 1971 for technical assistance programme
Pakistan	Assistance to the East Pakistan Water and Power Development Authority a/. . . .	1969	2,000,000	In progress	Project scheduled to end 1971
Republic of Korea	Transport	1968	3,500,000	In progress	Draft expected February 1970

a/ Jointly with UNDP.

III. TECHNICAL ASSISTANCE INCLUDED IN IBRD AND IDA PROJECT LOANS AND CREDITS SIGNED IN FISCAL YEAR 1970

Country	Sector involved	Total amount of loan credit ($ million)	Overseas training $	Experts and consultants[a] $	Feasibility studies	Total
Ceylon	Power	21.0		400,000		400,000
Colombia	Livestock Development .	18.3	100,000	376,000		476,000
East Africa	Ports	35.0			420,000	420,000
Ethiopia	Agricultural Credit	3.5		1,541,000		1,541,000
Ghana	Fisheries . . .	1.3			40,000	40,000
Indonesia	Power	15.0		1,400,000		1,400,000
Kenya	Highways . . .	23.5			120,000	120,000
Kenya	Forestry . . .	2.6			54,000	54,000
Morocco	Rharb Irrigation	46.0			200,000	200,000
Morocco	Highways . . .	14.6			400,000	400,000
Nigeria	Highways . . .	10.6			980,000	980,000
Pakistan	Dacca Irrigation	0.8		160,000		160,000
Spain	Livestock Development .	25.0		200,000		200,000
Uganda	Highways . . .	11.6		350,000	420,000	770,000

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a/ This includes advisory services for management, accounting, finance, and training. It does not include supervisory services for project construction.

IV. AFRICAN DEVELOPMENT BANK

384. The African Development Bank (AfDB) has provided the following assistance to the developing countries:

(a) Credits for the direct exploitation of agricultural, mineral and other natural resources

1. Liberia - Monrovia thermal power station ($1,350,000)

The project, consisting of the installation of a 15 MW capacity gas turbine, will supplement the hydroelectric supply from the Mt. Coffee dam, on the St. Paul River, whose flow is insufficient to feed the 35 MW hydropower station in the dry season. Total estimated cost is $1,500,000, of which the African Development Bank (AfDB) will finance $1,350,000, the remaining $150,000 being provided by the Public Utility Authority.

2. Malawi - transmission system ($3,000,000)

The project consists of the development of the Tedzani hydroelectric potential of the Sire River, through the installation of 2 x 8 MW hydropower generation units financed by IBRD/IDA and transmission lines and other facilities financed by AfDB. Total costs are estimated at $12,372,000, of which IBRD will finance $5,300,000, AfDB will finance $3,000,000 and the Government of Malawi will finance the remaining $4,123,000.

3. Morocco - transmission lines, Jerada - Zaer ($2,750,000)

The project consists of the construction of 505-km high voltage lines to transmit the electricity produced at the thermal station near the Jerada coal mines in the north to the consumption centres in the west of Morocco and the construction of complementary facilities. The total estimated cost amounts to about $5,500,000, half of which will be provided by AfDB and the other half by the Government of Morocco. The transmission system will permit the evacuation of the energy to be generated at the Jerada thermal plant, which will permit the exploitation of the otherwise non-commercial coal deposits in the area.

4. Sierra Leone - extension of water supply and distribution in the Greater Freetown Area ($1,500,000)

The project consists of increasing the capacity of the water supply and distribution system of the Guma Valley Water Company from six to twelve million gallons per day. The project has an estimated total cost of $2,135,000, of which $1,500,000 will be financed by an AfDB loan, the remainder being financed by the Company, in which the Government has a majority share totalling 95 per cent.

(b) Credits for purposes closely linked to the exploitation, exploration and marketing of natural resources

1. Kenya - construction of two road links ($2,300,000)

The project consists of upgrading, to bitumen standard, two sections of international trunk roads: Athi River-Namanga (eighty-four miles) and Eldoret-Tororo (seventy-three miles). The total estimated cost amounts to about $9 million and apart from AfDB's loan of $2,300,000, the Agency for International Development of the United States of America is contributing $3,269,000 in the form of loan and grant and the Government of Kenya is meeting the remaining expenses. Work started in September 1967 and is scheduled for completion in 1970-1971.

The Athi River-Namanga Road area possesses potential for tourism expansion, cattle production and sisal cultivation, and its exploitation will be facilitated by lower transport costs. The improved road also will better serve the soda ash works at Lake Magadi. The same holds true for the Eldoret-Tororo Road, which crosses an agricultural area in which wood and sisal processing plants are planned and mineral deposits are known to exist.

2. Tunisia - Medjerda irrigation project ($2,750,000)

The project consists of equipping and developing an area of 6,032 hectares for irrigation in the Lower Medjerda Valley. Its total cost is estimated at $5,500,000, half financed by AfDB and half by the Government of Tunisia. Work started in November 1968 and is scheduled to be completed in 1970-1971.

The project will permit the utilization of water resources already controlled by existing hydro-infrastructural works and intensified exploitation of 6,000 ha of agricultural land through the introduction of intensive cattle raising and high value crops such as vegetables and fruits.

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(c) Pre-investment activities

(i) Pre-investment studies financed by the Bank for member countries

1. Uganda - urban water supply study (300,000)

The study involves the exploration of surface and underground water resources in Uganda through meterological and geological surveys. The total cost is estimated at $357,000, of which AfDB is providing $300,000, covering the foreign costs.

2. Somalia - livestock vessel ($27,000)

The AfDB financed a pre-investment study including detailed specifications and tender documents and organizational arrangements for a vessel to ship livestock from the Somali port of Berbera to Jeddah, as existing shipping capacity is insufficient to meet the demand of the expanding livestock export trade.

3. Somalia - Hargeisa-Berbera road ($36,000)

The Bank joined UNDP and the Government of Somalia in financing the detailed engineering studies for the Hergeisa-Berbera Road. The engineering reports are expected by mid-1970. The lack of good roads is hindering the development of northern Somalia, which has a good livestock-raising potential. The road will stimulate the development of agriculture and facilitate better transportation of livestock for export by providing a link between the port of Berbera and its hinterland.

4. Zambia - United Republic of Tanzania (Tanzam) Railway

The topographical and soil survey of the Makumbako-Chita section of the proposed Tanzam Railway was carried out at the initiative of AfDB. The detailed engineering studies and construction of the railway are now to be financed by China (mainland).

The new line will offer an additional or alternative route for evacuating Zambia's expanding copper production. Development of the agricultural, fisheries and mineral resources of norther Zambia and the southern United Republic of Tanzania will be stimulated through the availability of adequate transport facilities.

(ii) Projects currently being studied for possible AfDB financing

Agriculture:

Algeria:	Dairy project of the 25,000 ha Bou Namoussa irrigation scheme in the Aba plain
Burundi:	General - in particular hydrological study of the Ruzizi plain
Congo (Democratic Republic of):	Cattle ranch of 6,200 ha in the Niary Valley
Ghana:	Kenaf growing scheme on 16,000 ha in the Kumasi area
Morocco:	Beni Moussa irrigation scheme extension of 4,500 ha in the Tadla plain
Niger:	Goulbi di Maradi water-control scheme of 7,000 ha
Nigeria:	Extension of Bacita Sugar plantation and factory from 30,000 to 41,500 tons of sugar
Sudan:	Livestock export promotion projects: quarantines, vaccine-production facilities, holding area for sheep and cattle ranches
Uganda:	Mubuku irrigation project of 8,700 ha

Power:

Algeria and Morocco:	Interconnexion of the electrical power systems of Algeria and Morocco by a transmission line from Oryda to Oran
Liberia:	Further development of the Monrovia electricity system, in particular in connexion with future industrial development
Malawi:	Development of an aluminium industry, based on the Mlanje bauxite deposits and the Shiro River power in Malawi
Niger:	The use of agricultural waste as fuel for power production in the envisaged thermal plant
Upper Volta:	Development of the hydroelectrical potential of the Banfora waterfalls

Regional:

Niger River Basin:	The AfDB participated in a general survey mission of development possibilities of the Niger Basin region
Mineral survey:	A desk study on mineral resources has been carried out
Energy survey:	Preparatory work has started on a survey of the needs, potential and possibilities of interconnexion of electric power between African countries
Shrimp survey:	Preparatory work has started on a survey of shrimp resources along the west African coast in collaboration with FAO

Industrial:

Algeria:	Market Hall in Algiers Skin processing plant in Bechar
Mali:	Textile factory in Bamako Water distribution network in Bamako
People's Republic of the Congo:	Fishery complex in Pointe Noire
Togo:	Development of limestone deposits

V. ASIAN DEVELOPMENT BANK

385. The Asian Development Bank (AsDB) has provided a substantial amount of assistance to its developing member countries for the exploitation of their natural resources. Most of AsDB's assistance is extended for irrigation; other fields include crop plantation and processing, fisheries development, water supply and management, storage facilities, mining etc. The Bank's assistance takes the form of loans or technical assistance. To many of the less developed countries, AsDB extends loans on soft terms and technical assistance on a grant basis. The natural resources projects assisted by AsDB are the following:

Afghanistan

Small-scale irrigation projects

Type of assistance: technical assistance; amount: $164,000; date approved: 29 July 1969.

Description. The AsDB will investigate a number of existing small irrigation projects and undertake project preparation of four or five of the most promising for possible financing by the Bank. The technical assistance mission, with individual experts in the ten-man team, will spend varying periods up to six months on the project.

Terms of assistance: grant; status: field work commenced in October 1969.

Ceylon

Tea factory modernization project

Type of assistance: loan; amount: $2.0 million; date approved: 2 July 1968.

Description. The project forms an integral part of the Government Tea Factory Development Scheme introduced in 1966 aimed at rehabilitating and modernizing tea factories in order to raise their capacity for processing green leaf. The loan is being used to finance the construction of tea factories, installation of machinery and additional equipment, electrification of factories and purchase of lorries.

Terms of assistance: amortization, fifteen years (including a three-year grace period) at interest of 6-7/8 per cent per annum; status: commitment made, $1.11 million, and disbursements, $0.85 million.

Walawe development project

Type of assistance: loan and technical aissistance; amount: loan - $7.705 million (Special Funds), $8.885 million (ordinary resources), technical assistance - $0.4 million; date approved: 23 October 1969.

Description. The loan is to finance part of the development cost of the right bank area of the Walawe Development Scheme under the execution of the River Valleys Development Board. The primary objective of the project is to irrigate an area of 33,000 acres for double cropping of paddy, to provide farm houses for 3,440 new settlers and to improve the living condition of 3,100 old settlers. The current work includes improvement of existing irrigation systems, construction of new irrigation and settlement facilities, and development of economic and social infrastructures.

The technical assistance is to provide experts and equipment for the River Valleys Development Board for the initial operation of the project. An agricultural experiment and extension centre will be established in the project area to ensure training of extension staff and settlers and a continuous flow of technical knowledge and agricultural extension services to the settlers. The centre will be supported by the provision of three experts in farm irrigation and water management, crop agronomy and technology, and agricultural economics and farm management.

Terms of assistance: Special Funds loan - amortization, twenty-five years (including seven-year grace period) at interest of 3 per cent per annum; ordinary resources - amortization, fifteen years (including five-year grace period) at interest of 6-7/8 per cent per annum; technical-assistance grant.

Status: loan and technical assistance became effective 10 February 1970. Invitation to tenders under the Special Funds loan issued.

Ceylon Fisheries Corporation

Type of assistance: technical assistance; amount: $165,000; date approved: 2 October 1969.

Description. The project is intended to strengthen the operations of the Ceylon Fisheries Corporation (CFC). The technical assistance team, composed of a seven-man mission with a duration of up to six months, will assist and advise CFC on its institutional framework and organizational setup; the formulation and execution of development projects; the assessment of resources and preparation of test-fishing programme; the marketing of fish products; methods of increasing fish catch; and the designing of fishing-gear factory.

Terms of assistance: grant; status: the technical assistance team is expected to commence field work about May 1970.

China (Taiwan)

Copper fabrication plant project

Type of assistance: loan; amount: $1.15 million; date approved: 20 November 1969.

Description. The Bank's loan will finance the foreign exchange cost of a copper plant to be established by the Taiwan Metal Mining Corporation, a wholly owned Government corporation with mining interests in the north of Taiwan. The proposed plant will manufacture annually: (a) high quality copper strips (200 metric tons); (b) high-quality brass strips (400 metric tons); (c) copper magnet wires (1,200 metric tons); and (d) IFT shield cans, an electronic part used in transistor radios (36 million pieces). The project, when completed by early 1972, will generate savings in foreign exchange as the fabricated copper products replace imports.

Terms of assistance: amortization, twelve years (including three-year grace period) at interest of 6-7/8 per cent per annum; status: loan became effective on 13 February 1970.

Indonesia

Tadjum irrigation project

Type of assistance: loan; amount: $990,000; date approved: 17 June 1969.

Description. The project involves the irrigation of 3,600 hectares of rice

land, which is expected to result in an increase in production of 16,000 tons of milled rice per year. Work on the Tadjum Scheme was suspended in mid-1968 because of foreign exchange shortage. The AsDB loan has enabled the Government of Indonesia to go ahead with the project in pursuance of its high-priority plans for irrigation rehabilitation and development as a means of alleviating food production problems, particularly in Java.

Terms of assistance: amortization, twenty-four and a half years (including seven-year grace period) at interest rate of 3 per cent per annum; status: award of contracts is under way.

Sawit Sebarang Oil Palm Estate

Type of assistance: loan; amount: $2.4 million; date approved: 21 October 1969.

Description. The project comprises the rehabilitation and expansion of the government-owned Sawit Sebarang Oil Palm Estate in North Sumatra, and its processing mill and related facilities. The estate consists of 6,386 hectares of retarded mature oil palm trees and 2,675 hectares of immature trees. New plantings of 2,441 hectares are planned. The mill will be rehabilitated and expanded to increase its processing capacity. The AsDB loan will finance, in addition to the mill expansion and rehabilitation, the procurement of automotive, railroad and earthmoving equipment and the cost of hiring an accounting-financial adviser to advise and assist estate management for two years.

Terms of assistance: amortization, twenty-four and a half years (including seven-year grace period) at interest rate of 3 per cent per annum; status: loan became effective on 31 March 1970.

Food grain production

Type of assistance: technical assistance; amount: $80,000; date approved: 30 August 1967.

Description. The project is designed: (a) to review the present situation with respect to the production and marketing of food crops; (b) to identify bottlenecks and constraints on the increased production of food crops and recommend methods to deal with them; (c) to recommend action for tackling long-range

difficulties and examine implications for resource allocation. The Bank mission worked in the field for three months during October 1967 to January 1968.

Terms of assistance: grant; status: project completed in January 1968.

Advisers to Ministry of Agriculture

Type of assistance: technical assistance; amount: $170,000; date approved: 30 July 1968.

Description. The project's purpose is to help the Government of Indonesia in its agricultural development planning and food production programme. Assistance was given in the implementation of the first-year agricultural plan (April 1969 - March 1970), in programming for the second-year plan, in the training of personnel for plan implementation, and in the rice production drive, particularly with regard to improving the fertilizers used, cultivation practice and water management techniques. The AsDB three-man mission commenced work in October 1968 for an eighteen-month period.

Terms of assistance: grant; status: field work to be completed in April 1970.

Sempor irrigation project

Type of assistance: technical assistance; amount: $328,000; date approved: 27 March 1969.

Description. The project is designed to alleviate food deficiencies in the densely populated South Kedu region in Central Java through the provision of year-round irrigation to about 14,000 hectares of paddy land. The assistance of AsDB was provided for conducting a comprehensive feasibility study of the project and, if justified, for the formulation and preparation of a project to be considered by the Bank for possible financing. A fourteen-member technical assistance mission commenced its field work in May 1969.

Terms of assistance: grant; status: consultants' final report expected April 1970.

Sawit Sebarang Oil Palm Estate

Type of assistance: technical assistance; amount: $42,000; date approved: 27 December 1969.

Description. In order to assist the Sawit Sebarang Oil Palm Estate management in overcoming its deficiencies in the fields of modern managerial and technical practices, AsDB has agreed to provide the services of two visiting experts for the first three years of the project. These experts will periodically review the existing situation of the project in the light of latest technological and managerial practice with a view to improving technical and managerial aspects of the project.

Terms of assistance: grant; status: recruitment of experts under way.

Laos

Integrated agricultural development programme for Vientiane Plain

Type of assistance: technical assistance; amount: $221,000; date approved: 15 October 1968.

Description. The purpose of the project is to draft an integrated agricultural development programme which would harness the resources generated by the Nam Ngum Dam (the construction of which is expected to be completed by 1972), the potential of the Vientiane Plain and the Government's efforts in that area. The study identified eight irrigation projects with a total net irrigable area of 33,500 ha. The irrigation water would be pumped from the Mekong or the Nam Ngum, using the power generated by the Nam Ngum Power Station.

Terms of assistance: grant; status: project completed in January 1970.

Tha Ngon agricultural development

Type of assistance: loan and technical assistance; amount: loan - $973,000, technical assistance - $275,000; date approved: 10 March 1970.

Description. The objective of the project is to develop for year-round irrigation farming an area of about 1,000 ha. The construction of flood protection and drainage systems, irrigation networks, roads, power distribution and settlement of about 400 farm families are included in the project. The Bank's loan is to finance the foreign exchange cost of the project, while the technical assistance is provided for consultant services for detailed engineering and project supervision.

Terms of assistance: loan; amortization, forty years (including ten-year grace period) at interest of 1-1/2 per cent per annum, technical assistance - grant; status: borrower's action to make loan effective awaited.

Malaysia

Penang State water supply project

Type of assistance: loan; amount: $7.2 million; date approved: 19 September 1968.

Description. The project is to augment water supply by 30 million gallons per day to meet the increasing needs of growing population and anticipated industrial development in the State of Penang in West Malaysia. The works to be designed and constructed include a barrage across the Muda River, intake works and pumping stations, a supply canal, water treatment works and submarine pipelines from Butterworth on the mainland to Penang Island.

Terms of assistance: amortization, twenty years (including five-year grace period) at interest of 6-7/8 per cent per annum; status: contracts awarded $3.52 million, and disbursement $0.04 million.

Bukit Mendi and Bukit Goh palm oil mills

Type of assistance: loan; amount: $2.8 million; date approved: 11 February 1969.

Description. The AsDB loan will finance construction of the first two stages of the two palm oil mills for processing the production of oil palm fruits from two groups of Federal Land Development Authority (FLDA) schemes known as the Bukit Mendi and Bukit Goh Complexes. The two complexes, comprising about 19,330 acres and 20,110 acres respectively, are located in the State of Pahang, West Malaysia. The mills will be developed in three stages. The final capacity of each mill will be about 50 tons per hour, while the capacity up to the second stage will be 40 tons.

Term of assistance: amortization, twenty years (including five-year grace period) at interest of 6-7/8 per cent per annum; status: invitation to tender issued.

Oil palm products marketing study

Type of assistance: technical assistance; amount: $80,000; date approved: 23 September 1969.

Description. The technical assistance is to review the marketing arrangements of the Federal Land Development Authority (FLDA), including an evaluation of their suitability for the future in the light of the anticipated increase of production from the FLDA oil palm schemes, to make specific proposals for changes, if any, and to prepare detailed plans, including operational procedures for the FLDA marketing organization.

Terms of assistance: grant; status: consultants' interim report under review.

Feasibility study on development of Kuala Lumpur Karak Highway

Type of assistance: technical assistance; amount: $192,000; date approved: 13 November 1969.

Description. The purpose of the technical assistance is to determine the nature of the improvements to be made to the fifty-one-mile Kuala Lumpur-Karak section of the Federal Highway Route II and to choose final alignment. The road improvement is mainly designed to meet the increasing traffic volume, particularly the transport needs for the land development in Pahang State.

Terms of assistance: initially grant; may be converted into loan; Status: recruitment of consultants under way.

Philippines

Cotabato irrigation

Type of assistance: loan; amount: $2.5 million; date approved: 18 November 1969.

Description. The project comprises three irrigation systems in Cotabato and South Cotabato provinces in the Philippines. The area to be covered by the project would be 7,430 hectares of land. The project will utilize the Banga, Marbel and M'land rivers, which are tributaries of the Mindanao River, and constitutes part of a long-range development plan for the entire Mindanao River Basin. It is

expected that production of paddy in the project areas will increase from the present level of 7,600 tons to 43,400 tons per year within five years after completion of the project.

Terms of assistance: amortization, twenty-five years (including five-year grace period) at interest of 3 per cent per annum; status: recruitment of consultants under way.

Water management (first phase and second phase)

Type of assistance: technical assistance; amount: first phase - $105,000, second phase - $102,000; date approved: first phase - 20 June 1968, second phase - 26 June 1969.

Description. The project is designed to: (a) intensify field investigation and operation in the eight pilot farms; (b) complete physical improvement of system control in the project system; (c) enhance the technical capability of National Irrigation Administration (NIA) staff; and (d) promote participation of farmers in improved water management practices. Currently, the project is in its second phase. The first phase started in June 1968 and was completed in July 1969. During the first phase, a number of in-service training courses were conducted in which fifty technical personnel of NIA were given training in water management. The same type of courses are also being conducted during the second phase and four NIA technicians are being sent abroad for training.

Terms of assistance: grant; status: first phase - completed in July 1969, second phase; field work proceeding.

Fisheries port construction

Type of assistance: technical assistance; amount: $225,000; date approved: 25 July 1968.

Description. The project comprises the feasibility and engineering study of the fisheries port project at Navotas, Rizal. The study was carried out by a Scandinavian consulting firm; on the basis of that study, the Bank is currently considering whether to finance the project.

Terms of assistance: initially grant; to be converted into loan at the Bank's option; status: consultant's final report being prepared.

Republic of Korea

Cold storage

Type of assistance: loan; amount: $7 million; date approved: 13 March 1969.

Description. The loan resulted from the technical assistance to the Agricultural and Fishery Development Corporation (AFDC), with the purpose of providing the Korea Cold Storage Company, a subsidiary of AFDC, with more efficient storage and distribution facilities for fishery products. Proceeds of the loan will finance: (a) the foreign exchange component of contracts for building construction and supply and installation of refrigeration machinery and equipment; and (b) the CIF costs of refrigerated and insulated trucks, refrigerated carrier vessels, refrigerated show-cases and other imported facilities. The facilities are expected to begin operation during the first half of 1971.

Terms of assistance: amortization, fifteen and a half years (including four-year grace period) at interest of 6-7/8 per cent per annum; status: contracts awarded, $1.86 million, and disbursement, $0.21 million.

Agricultural and Fishery Development Corporation

Type of assistance: technical assistance; amount: $66,000; date approved: 6 February 1968.

Description. The technical assistance is to render advice and assistance regarding the institutional framework and organization of the Agricultural and Fishery Development Corporation and to help identify and formulate projects which could be developed to appraise standards in the fields of fish marketing, with particular reference to refrigeration; livestock development, including the development of marketing facilities; vegetable production and marketing; and other projects which might hold out prospects for immediate development in agriculture and fisheries.

Terms of assistance: grant; status: project completed in April 1969.

Thailand

Accelerated rural development programme

Type of assistance: technical assistance; amount: $150,000; date approved: 23 September 1969.

Description. The project consists of a study of the development possibilities in eight or nine selected nucleus districts - five in the north-east, two or three in the north and one in the south - the identification of specific high potential productive activities, the determination of immediate infrastructural, institutional and input needs, the preparation of integrated development plans for each of these districts, and assistance in the implementation thereof. An advisory mission comprising five agricultural experts will work with counterparts for about forty-two man-months.

Terms of assistance: grant; status: field work commenced in January 1970.

Agricultural development programming in the Nong Wai pioneer irrigated agricultural project

Type of assistance: technical assistance; amount: $180,000; date approved: 9 October 1969.

Description. The project is aimed at preparing an integrated agricultural development programme for part of the area on a right side section of the Nong Wai diversion dam of about 10,000 hectares. Implementation of this project will be regarded as pioneer and educational in nature, so that experiences obtained in this project can be applied to other agricultural projects in Thailand, particularly those areas to be irrigated by the Pa Mong Dam. A technical mission comprising nine experts will work in the field to prepare the integrated agricultural development programme.

Terms of assistance: grant; status: field work commenced in February 1970.

VI. INTER-AMERICAN DEVELOPMENT BANK

386. The Inter-American Development Bank (IDB) has provided the following assistance:

Loans for natural resources programmes in Latin America to December 1969

(In millions of US dollars)

Category	Number of loans	Amount
Agriculture[a/]	126	833.8
Mining[a/]	5	51.7
Pulp and paper industries[a/]	8	28.9
Fishing industry[a/]	12	11.7
Dams (electricity and irrigation)[b/]	2	30.9
Dams (electricity)[b/]	12	188.8
Roads (farm to market)[b/]	12	135.1
Technical education (agriculture and cattle sciences) [b/]	15	15.8
	192	1,296.7[c/]

a/ Loans for direct exploitation of agriculture, minerals and other natural resources.

b/ Loans for projects closely tied to the exploration, exploitation and marketing of natural resources.

c/ This total includes $30.3 million used exclusively for pre-investment studies on natural resources (see the following table).

Loans for pre-investment studies relating to the exploitation and marketing of natural resources to December 1969

(In US dollars)

Country	Amount	Brief description of studies
Argentina	800,000	Hydroelectric system in the north-west region
	148,000	Electric interconnexion with Uruguay
	1,300,000	Energy for Salto Grande
	300,000	Protection of the Entrerriano Delta in the Province of Entre Ríos
	630,000	Study of electric development, irrigation and flood control in El Chocón-Cerros Colorados
Bolivia	487,000	Prospecting non-stannic minerals
	276,000	Geological study of the alluvial tin deposits
	19,000	Auriferous exploitation for the Cangallí Co-operatives
	100,000	Studies of the tin deposits in the Province of El Rodel
	12,000[a/]	Study of hydrocarbon reserves
Brazil	300,000	Hydroelectric studies for the Rio Yacuí in the State of Rio Grande do Sul
	810,000	Studies for the State of Bahía, including studies on infrastructure
Chile	111,400	Soil evaluation of Canton Viejo in the Province of Cochagua
	500,000	Soil evaluation of Diguillín in the Province of Diguillín
	97,500	Estimates of iron deposits in the Province of Atacama
	31,100	Prospecting - phosphoric minerals in the country
	35,600	Determination of pure sulphur reserves in the Province of Antofagasta
	118,000	Exploitation of various minerals in the Province of Atacama
	45,000	Exploitation of copper deposits in Tiltil, Province of Santiago
	30,000	Exploitation of copper deposits in Angelita, Province of Santiago
	55,000	Exploitation of copper deposits in Montecristo Regalada, Province of Atacama

a/ Technical assistance grant.

Country	Amount	Brief description of studies
Chile (continued)	100,000	Prospecting - sulphur deposits in the northern zone
	70,000	Soundings in the Puerta del Cobre, Province of Atacama
	135,000	Evaluation of hydroelectric resources in the Pupío Quilimarí, Petorca and Ligua valleys in the Province of Coquimbo
	110,000	Algology prospecting through the Litoral Nacional
	500,000	Land irrigation in the Province of Aconcagua
	265,000	Studies for the development of the Province of Choapa, including studies on soils, land registry, forestry, irrigation, etc.
	5,380,000	Aerophotogrammetry studies of the agricultural lands in the central region of Chile
Colombia	936,000	Hydroelectric designs in the Alto Anchicaye
	100,000	Studies on carboniferous deposits in Cerrejón
	373,000	Evaluation of the development of tourism, including the evaluation of natural resources on the East Coast of the Atlantic Ocean
	34,000	Electrification in the northern part of the Province of César
	907,000	Evaluation of the Ariguana River Basin
	1,586,000	Studies for the development of the hydrographical basin on the Sinuí River, including fishing grounds
Costa Rica	20,000[a/]	Studies of projects in the northern zone
	28,000[a/]	Agrological studies of the Tempisque Valley
Dominican Republic	809,000	Hydrogeological studies in the plains of Azúa
Ecuador	1,870,000	Hydrographic studies of the Guayas River Basin
Honduras	45,000[a/]	Development of irrigation in the Comaguay Valley
Mexico	5,000,000	Development of the Lerma Basin
Nicaragua	1,160,000	Hydrometeorological study of Nicaragua
Paraguay	270,000	Hydroelectric studies of the Acaray River

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Country	Amount	Brief description of studies
Peru	300,000	Irrigation systems in five departments in Peru
	904,000	Diversion-canal from the Chiva River to the Piura River and rehabilitation of the Chiva and Piura valleys
	162,000	Electrification of the Department of Cahamarca
	130,135	Habilitation and renovation in the river zones of Lima
	49,000	Irrigation studies
	75,000	Evaluation of subterranean waters
Trinidad and Tobago	300,000	Evaluation of land capacity
Uruguay	148,000	Hydroelectric studies of Salto Grande, Calmar, and Chocón-Cerros Colorados, including intercommunication between Uruguay and Argentina
	6,900	Exploitation of marble deposits in Puntas del Arroyo Pan de Azucar
	1,000	Studies of dolomite deposits in the Department of Maldonado
	650,000	Utilization of the Uruguay River rapids for navigation and electric energy, including intercommunications with Argentina in the Department of Salto Grande
	1,800	Exploitation of black granite in the Department of Florida
	43,000	Irrigation projects for co-operatives in the Bella Unión Zone of the Department of Artigas
	115,500	Development of the Morin Lake Basin (including co-operation with Brazil)
Venezuela	100,000	Hydrcelectric studies and control of the Uribante River
	42,730	Studies of non-metallic mineral resources in Venezuela
	72,239	Evaluation of natural resources of the Yuruarí River Basin
	100,000	Estimation of the auriferous mineral deposits in El Callao district, Province of Bolívar
	100,000	Estimation of Sinabrio reserve deposits, San Jacinto district, Province of Lara
	200,000	Estimation of titanium reserves in the Guyana region, Province of Bolívar
	70,000	Evaluation of the auriferous alluvion economic reserves in the Supamo Zone, Province of Bolívar

Country	Amount	Brief description of studies
Venezuela (continued)	100,000	Rio Minero study of the gelenite silver-bearing deposits in the Department of Silva, Province of Yaracuy
	200,000	Evaluation of the diamantiferous alluvions in Guyana, Province of Bolívar
	377,777	Study of the seabeds between Cabo Cadera and the Golfo de Paria
	267,000	Geophysical exploitation of the lands in the northern zone of the Province of Guyana
	300,000	Evaluation of land capacity
Latin America (integration)	43,000[a/]	Study of the development of natural resources
	550,000[a/]	Preliminary study on the development of the River Plate Basin
	30,000[a/]	Complementary studies of the Argentine north-west and the Bolivian south-west
TOTAL	31,042,699[b/]	

b/ Total includes $728,000 in technical assistance grants.

VII. EAST AFRICAN DEVELOPMENT BANK

387. The East African Development Bank has financed the following natural resources projects:

	Number	East African shillings
Coconut project	1	1,900,000
Tea project	2	7,700,000
Ceramics project	1	2,000,000

Annex

QUESTIONNAIRE SENT TO MEMBER STATES CONCERNING THE IMPLEMENTATION OF GENERAL ASSEMBLY RESOLUTION 2158 (XXI)

The following questions are based on the guidelines set out in General Assembly resolution 2158 (XXI). Every effort has been made to ensure that the questions cover all the basic ideas expressed in resolution 2158 (XXI). Given the complexity and broad scope of the subject, however, it would be appreciated if Member States would make additional comments on aspects of the subject not touched upon in the questionnaire.

Question 1

Is the exploitation of certain types of natural resources in your country reserved exclusively for your Government or nationals? If so, please provide details, including any relevant legislative or regulatory texts or official policy statements, and indicate whether exceptions are made to the general rule and in what circumstances.

Question 2

Is there any legislation in force in your country concerning the exploitation of natural resources by enterprises fully or partly owned by foreign investors? If so, please attach the relevant texts.

If no such legislation exists, does this situation reflect a preference on the part of your Government for a more flexible approach, which makes it possible to deal with the exploitation of such resources on a case-by-case basis, according to the type of resource concerned?

Question 3

In the past decade have there been instances in which natural resources enterprises fully or partly owned by foreign investors have, in your country's opinion, failed to comply with the terms of the contract under which they operate? If so, please give details, state what action has been taken to settle the dispute in accordance with the reasonable and legitimate expectations and

requirements of both sides, and indicate what assistance the international community could provide or could have provided in that connexion.

Question 4

Has your country adopted a policy or position that tends to establish an order of preference among the various forms of investment for the exploitation of its natural resources, i.e., direct foreign investment, loan investment (including export credits, bank credits and capital market loans) and arrangements for direct access to foreign operative technology (including trade marks, patents, designs and production, management and consultant contracts etc.). If so, please give details of the policy or position, state the reason for adopting the policy or position, and supply any relevant texts.

Question 5

What forms of foreign investment are currently being used for the exploitation of natural resources in your country? If possible, please indicate the form of investment used for each type of resource.

Question 6

Has your country enacted legislation or formulated an official policy favouring the association of domestic and foreign capital in joint ventures for the exploitation of natural resources as opposed to full ownership of natural resources enterprises by foreign investors? If so, please give reasons and details and supply any relevant texts. Are national private entrepreneurs allowed to participate in such joint ventures or can the Central Government or public enterprises alone participate in them?

Question 7

Has your country enacted legislation or formulated an official policy concerning the maximum percentage of the equity of natural resources enterprises in your country which may be acquired by foreign investors? If so, please give details and supply any relevant texts.

Question 8

Have there been any instances of foreign investors making the participation of domestic capital a condition for investing in the exploitation of natural resources in your country? If so, please give details.

Question 9

Do any of the concession agreements or contracts concluded with foreign investors for the exploitation of natural resources in your country provide for the gradual transfer to domestic interests of all or part of the shares held by those investors? If so, please give details.

Question 10

Has your country established any machinery for government participation in the decision-making process of natural resources enterprises which are fully or partly owned by foreign investors? If so, please give details.

Question 11

Has your Government enacted legislation or issued official policy statements concerning minimum percentages of national managerial or senior technical personnel to be employed by natural resources enterprises which are fully or partly owned by foreign investors? Are there provisions for the gradual replacement of foreign managers and senior technicians by national personnel? If so, please provide any pertinent texts.

Question 12

If your country has established such minimum percentages, have any bottle-necks occurred as a result of the non-availability of national managers and technicians? If so, what interim arrangements have been adopted?

Question 13

Please comment on the role nationals currently play in the management and technical operations of natural resources enterprises which are fully or partly owned by foreign investors.

Question 14

Has your country enacted legislation or inserted clauses in concession agreements or contracts with foreign investors providing that natural resources enterprises fully or partly owned by foreign investors shall establish training programmes for national personnel? If so, please give details and provide the relevant texts.

Question 15

Please comment on training facilities or programmes provided by natural resources enterprises which are fully or partly owned by foreign investors for national labour in the following categories:

(a) Managerial personnel;

(b) Senior technical personnel;

(c) Other personnel.

Please give details concerning these facilities or programmes.

Question 16

Under what arrangements does the Government share in the profits of natural resources enterprises which are fully or partly owned by foreign investors? Please indicate the basis on which the profits are calculated.

Question 17

Please indicate what amenities (such as housing, medical care, subsidized transport) are provided for domestic labour by natural resources enterprises fully or partly owned by foreign investors.

Question 18

Have discussions been initiated with the foreign investors concerned regarding the renegotiation of existing concession agreements or contracts? Does your Government foresee that unfavourable consequences or side effects may result from such a renegotiation:

(a) Concerning the reinvestment of profits by the enterprises;

(b) Concerning the inflow of new investment in the future?

Question 19

Has your country entered into, or does it contemplate entering into, any arrangements with neighbouring countries or other developing countries for the joint exploitation of natural resources? If so, please provide the relevant texts and other pertinent information.

Question 20

Has your country received assistance from foreign Governments or public or private entities for the exploitation of its natural resources and/or the marketing of its natural resources products? If so, please provide detailed information on such questions as the type of resource involved, the form of assistance given, and the terms and conditions on which it was supplied, and provide the texts of any relevant bilateral agreements or contracts.

Question 21

Have your Government or public or private entities in your country assisted another country in the exploitation of its natural resources and/or the marketing of its natural resources products? If so, please provide detailed information as indicated in the preceding question.

Question 22

Have you any suggestions concerning additional international action to assist developing countries in the exploitation of their natural resources and the marketing of natural resources products?

Question 23

Please make any other comments you consider relevant concerning your experience with regard to the implementation of General Assembly resolution 2158 (XXI).
