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Financing Participation in Caribbean Basin Investments and Trade

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I. INTRODUCTION

The following discussion provides investors, particularly small businesses, with an overview of the opportunities to obtain financing and feasibility studies for projects that may be contemplated in the Caribbean Basin. This Report focuses on the financing and the technical assistance that is available to investors who desire to participate in Caribbean investments and trade. The bulk of the financing and technical assistance is available to U.S. citizens. Other foreign businesses, however, may gain access to the majority of the assistance administered by international organizations. Foreign businesses can also obtain financing and technical assistance administered in the United States by undertaking joint ventures with U.S. citizens.

II. UNITED STATES SOURCES

A. *Commercial Banks*

The initial place a small business turns for financing the sale of goods abroad is a commercial bank. Ordinarily, commercial banks will assist in accepting or confirming a letter of credit on a foreign bank and in processing the draft or bill of exchange.[1] Commercial banks can also provide international project financing. Some project financing involves lending for a project where the lenders look to the general credit of one or more or the substantial corporate borrowers.[2] Project financing may also involve lending to a project where the borrower has been created for the purposes of

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1. *See generally*, AMERICAN LAW INSTITUTE—AMERICAN BAR ASSOCIATION, RESOURCE MATERIALS: INTERNATIONAL TRADE FOR THE NONSPECIALIST, 11-66 (2d ed. 1982)(discussion and examples of documents used in letters of credit); H. HARFIELD, LETTERS OF CREDIT (1979); 1 A. LOWENFELD, INTERNATIONAL PRIVATE TRADE (1981); Streng and Pederson, *Letters of Credit*, 418 TAX MGMT. (BNA) (1980).

2. *See generally*, Rendell, *International Project Financing* in INTERNATIONAL FINANCIAL LAW 39-51 (R. Rendell ed. 1980) (hereinafter cited as Rendell, *International Project Financing*).

financing and operating the particular project and where the corporate borrower has no other assets or operations.[3] Large projects may involve co-financing with other commercial institutions and international financial organizations.[4]

B. *Export Credit—Financing Export Sales*

1. Government Supported Export Credit Systems

(a) *Eximbank Programs.* In the United States, support for financing export activities is primarily provided by the Export-Import Bank of the United States (Eximbank)[5] which is supplemented by the credit insurance programs of the Foreign Credit Insurance Association (FCIA).[6] The Eximbank program was established to support the sales of goods and services from the United States. Government sponsored export credit institutions ordinarily use three different financing support mechanisms: export guarantees or insurance; buyer credit; and refinancing or discounting facilities.[7] Eximbank only provides support for the export of U.S. goods and services. When imported components are integrated into a finished U.S. product, eligibility for Eximbank coverage is determined on an ad hoc basis. In implementing the bank guarantee and FCIA credit insurance program, Eximbank delegates authority, including the propagation of, guidelines to financial institutions. Eximbank generally allows the institutions to finance contracts with a foreign content of up to 10% of the total contract price on medium-term guarantees and insurance transactions and foreign content of up to 50% on short-term insurance transactions.

Eximbank has a specific categorization process for determining whether a country is eligible to administer the FCIA and the commercial bank guarantee programs. This process includes an evaluation of the capacity of the country to service its foreign currency

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3. *Id.*, Corse and Nichols, *United States Government Regulation of International Lending by American Banks* in INTERNATIONAL FINANCIAL LAW 107 (R. Rendell ed. 1980).

4. Rendell, *supra* note 2, at 41-42. *See also* Silkenat, *The Role of International Development Institutions in International Project Financing: IBRD, IFC and Co-Financing Techniques*, 17 INT'L LAW. 615-24 (1983).

5. *See generally*, Export-Import Bank Act, 12 U.S.C. § 635 (1945).

6. The Federal Credit Insurance Association (FCIA) is a group of 50 of the United States' leading private insurance companies that works with Eximbank to cover repayment risks on short and medium-term export credit transactions.

7. *See generally*, Rendell, *Export Financing and the Role of the Export-Import Bank of the United States*, 11 J. INT'L LAW & ECON. 91-146 (1976) (history of the EXIMBANK).

obligations. The cost of insurance and bank guarantee coverage is determined by the categorization and the length of the coverage.[8] In addition, regardless of whether the buyer is a private or public entity, Eximbank must find that a "reasonable assurance" of repayment by the foreign buyer exists.[9]

To receive Eximbank support, the buyer must transport the goods in ships of U.S. registry, except where the requirement is waived by the Maritime Administration. Reciprocal arrangements also exist with other countries, such as Brazil, permitting the use of their ships. Eximbank also examines the general status of human rights in countries that may receive Eximbank supported exports. However, due to a 1978 amendment to the Eximbank Act, Eximbank can deny financing of a transaction for human rights reasons only if the President determines that such a denial would be in the national interest.

(i) *Export Credit Guarantees and Insurance.* Another financing support mechanism is provided by government export credit agencies that insure or guarantee the repayment of credit extended by domestic suppliers to foreign purchasers. For instance, if the exporter has liquidity constraints, it can usually discount the promissory note of the purchaser with its own commercial bank. When the note is supported by a guarantee or an insurance policy provided by an agency of the exporter's own government, financial institutions are ordinarily willing to discount such obligations because the acquired obligation is essentially the equivalent to a government obligation. Such coverage is usually provided for both short and medium-term transactions. In the United States, exporter credit guarantees are available through the Eximbank and export credit insurance is available through the FCIA.

The Eximbank has a small business policy for businesses that are new to export trade. Eligibility is restricted to businesses whose average annual export volume over the preceding three years did not exceed $200,000.[10]

(ii) *Buyer Credit Programs.* Eximbank provides funds to enable foreign purchasers to acquire U.S. goods for long-term transactions (e.g., transactions having maturities of five years or longer

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8. 2 W. Streng & J.W. Salacuse, *International Business Planning: Law and Taxation*, § 10.01(A) (1982) (hereinafter cited as W. Streng & J.W. Salacuse).

9. 12 U.S.C. § 635 (b)(1)-(B).

10. 2 W. Streng & J.W. Salacuse, *supra* note 8, at § 10.01(B).

for debt obligations). Eximbank's program for buyer credit consists of a combination of a direct Eximbank credit and a financial guarantee issued *by Eximbank* to a commercial bank for the repayment of funds loaned by the commercial bank to the foreign bank. A U.S. exporter can obtain from the Eximbank a *Preliminary Commitment* and *Letters of Interest* which can be used as marketing tools in presenting a total proposal to a potential foreign purchaser.[11]

(iii) *Refinancing Programs.* Government supported refinancing programs help to ensure the availability of capital. The program is especially useful during cycles of illiquidity, which is when a commercial bank is more likely to preserve its funds for its favored domestic customers. The objective of a refinancing program is to effectively neutralize liquidity concerns. Under such a program, a commercial bank making a loan in an export transaction can, if the bank's liquidity position requires, sell the export obligation to the export credit agency in exchange for immediate funds or, alternatively, the commercial bank can borrow funds from the export credit agency with the export obligation functioning as the collateral for the transaction.

The Eximbank has a refinancing facility referred to as a "discount program." It will make discount loans to commercial banks and Edge Act corporations for up to 100 percent of an "eligible export debt obligation" arising from a U.S. export. Such an obligation requires that the indebtedness of a foreign obligor be incurred while financing the acquisition of products or services exported from the United States. Furthermore, the obligation must have a minimum original maturity of at least nine months and a maximum maturity of five years. The loan is ordinarily made on the basis of the commercial bank's promissory note, although at times the Eximbank will purchase the obligation with full and unconditional recourse on the commercial bank. The interest rate which Eximbank charges the commercial bank on discount loans is 1% less than the interest yield on the interest obligation. The rate, however, will not be less than the Eximbank's minimum discount loan rate in effect when the Eximbank issues its advance commitment for that loan.[12]

(b) *Commodity Credit Corporation.* The Commodity Credit

11. *Id.* at § 10.01 (C).
12. *Id.* at § 10.01 (D).

Corporation (CCC) extends short and medium-term credit[13] for the purchase of agricultural exports from the United States. After the United States Department of Agriculture (USDA) approves the financing, the American exporter may proceed on a deferred payment basis and receive cash payments from the CCC for the importer's obligation. Next, an irrevocable letter of credit is issued or confirmed by an American bank that is acceptable to the CCC. Thus, the bank is protected against nonpayment due to political risks.[14] The list of commodities eligible for export from the United States is published in the *Federal Register*. To be eligible for export, an agricultural commodity must be grown in either the United States or one of its territories. In addition, the exports cannot be from government held surpluses.[15] To be an eligible exporter, a person must fulfill the following criteria: he must be financially responsible and free to participate in any CCC-financed programs; he must regularly buy and sell commodities and maintain a bona fide business office for that purpose in the United States; and he must be serviceable with process in the United States.[16] Purchasers, however, may be from any nation which meets the Department of Commerce requirements for American exports.[17]

2. Private Sector Sourced Export Credit

Insurance companies have recently increased the furnishing of export credit insurance in the regular course of their commercial activities. They provide this coverage without the underlying support of an export credit agency, such as Eximbank. The Private Export Funding Corporation (PEFCO) was established with the support of the United States Department of the Treasury and Eximbank to assist in the financing of exports of U.S. goods and services through the mobilization of untapped sources of private capital. PEFCO supplements the financing already available through

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13. Credit is extended for a maximum of 36 months. Kunst, *Export Financing; AID; CCC; EXIMBANK*, 64-5th FOR. TAX MGMT. (BNA) at A-20 (1977).

14. *Id.* The political risks include: cancellation by the importer's government of the valid import license; the enactment of new laws; the inability of the foreign bank to convert foreign currency to dollars through no fault of its own; confiscation, expropriation, or other action by the destination country; war, civil unrest, or similar disturbances in the importing country.

15. *Id.* at A-21.

16. *Id.* at A-20.

17. *Id.* The CCC must approve the country of destination.

Eximbank, commercial banks, and other lending institutions. PEFCO's sole business is to make loans to foreign importers (private and public borrowers) to finance the purchase (medium and long-term) of goods and services of U.S. manufacture or origin.

The Eximbank cooperates in PEFCO's operation through various agreements. Eximbank provides: a guarantee for the due and punctual payment of principal and interest on all loans made by PEFCO; the guarantees, when requested by PEFCO, of the due and punctual payment of interest of PEFCO obligations approved for issuance by Eximbank; the extension of a short-term revolving credit line to PEFCO; and protection against any fluctuation in interest rates which adversely affect the spread between PEFCO's fixed rate loan commitments, the eventual cost of PEFCO's fixed rate loan commitments to borrowers, and the eventual cost of PEFCO's funding of such commitments.[18]

C. *OPIC*

The Foreign Assistance Act of 1969 led to the establishment of the Overseas Private Investment Corporation (OPIC). Its stated purpose is "to mobilize and facilitate the participation of U.S. private capital and skills in the economic and social development of less developed friendly countries and areas, thereby complementing the development assistance objectives of the United States."[19] Two primary OPIC goals are: (1) to insure U.S. private investments against certain political risks in less developed countries; and (2) to finance the investigation and development of projects of U.S. investors in those countries.[20]

OPIC was organized on January 19, 1971. Eight of the fifteen members of OPIC's Board of Directors come from the private sector and seven come from the following government organizations: the Chairman is the Administrator of the Agency for International Development; the Vice Chairman is the U.S. Trade Representative or his deputy; the President of OPIC; and the Under Secretaries or Assistant Secretaries from the Departments of State, Treasury, Commerce, and Labor.[21]

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18. *See generally*, 2 W. STRENG & J.W. SALACUSE, *supra* note 8, at ch. 10.
19. 22 U.S.C. § 2191 (1976).
20. 22 U.S.C.A. § 2194 (West 1976 & Supp. II 1978).
21. 22 U.S.C. § 2193(s) (1976). For background on OPIC, its statutory framework, organization, and operations, see Gilbert & Marra, Jr., *Overseas Private Investment Corpora-*

1. Finance Program

The OPIC finance program is implemented through loan and loan guaranty techniques that provide medium to long-term funding to ventures which involve significant equity and management participation by U.S. businesses. Ordinarily, OPIC participates in a form of "project financing" which is primarily based on the economic, technical, marketing, and financial soundness of the project. OPIC reviews potential projects to ascertain whether an adequate cash flow exits to pay all operational costs, to service all debts, and to provide the owners with an adequate return on their investments. To the extent that such project financing is appropriate, sponsors are not required to pledge their own general credit. In ventures where project financing is impractical, OPIC considers more conventional secured lending techniques.[22]

OPIC is able to provide a significant part of the medium and long-term funds for financing in countries where conventional financial institutions often are reluctant or unable to lend on such a basis. Since OPIC programs support private sector investments in financially viable projects, OPIC does not give the concession terms usually associated with government to government lending, nor does it offer financing or insurance of export sales unrelated to long-term investment in overseas business.[23]

OPIC is not permitted to buy equity in a project. It may, however, purchase convertible notes and certain other debt instruments, with equity participating features. Participation in a specific form of financing is often accomplished through a combination of these instruments, with suitable grace periods and repayment schedules that are consistent with sound credit practice and principles.[24]

2. Eligibility and Financing Criteria

To obtain OPIC financing, a project must be commercially and financially sound. It must be within the demonstrated competence

tion, in INTERNATIONAL FINANCIAL LAW 215-24 (R. Rendell ed. 1980)(hereinafter cited as Gilbert & Marra, Jr.).

22. OVERSEAS PRIVATE INVESTMENT CORPORATION INVESTMENT FINANCE HANDBOOK 3 (n.d.)(hereinafter cited as OPIC).

23. *Id. See also* Gilbert & Marra, Jr., *supra* note 21, at 216-19.

24. OPIC, *supra* note 22, at 3.

of the proposed management, it must have a proven record of success in the same or a closely related business, and it must have a significant continuing financial risk in the enterprise. Furthermore, OPIC commitment for a guaranteed loan must be approved by the host country. Eligible enterprises include manufacturing, agricultural production, fishing, forestry, mining, energy development, storage, processing, and certain service industries providing the host country with exceptional developmental benefits.[25] Certain industries involving significant capital investment (e.g., commercial hotels, tourist facilities, leasing companies, and equipment maintenance and distributorship facilities) are also eligible.[26]

U.S. statutes and policies exclude certain businesses from consideration for OPIC financial participation. Examples include gambling facilities and projects producing munitions or alcoholic beverages. Additionally, projects must not have a significant adverse impact on the U.S. economy and/or employment situation.[27] For instance, the support of a runaway plant (i.e., the substitution of existing U.S. facilities with a foreign plant to produce for the same U.S. or export markets) is also prohibited. Housing and infrastructure projects are other categories which OPIC generally does not finance. Programs for such undertakings exist within the United States Agency for International Development, the World Bank, and similar organizations.

3. Ownership

Although OPIC finances overseas ventures that are wholly

25. 22 U.S.C.A. § 2198(c) (West 1979).

26. The following are factors Congress listed for OPIC to consider when evaluating the developmental impact of a project:

> The ratio of capital to employment and the net impact on local employment and productivity; the transfer to local employees of basic business knowledge and skills; stimulation of local enterprise to supply or to process the output of the project; its effects on the supply and distribution of basic foodstuffs and other goods necessary to meet the basic human needs of the population; its effect on the lives of the poor, their access to the economy, and their capacity to participate in the development of their countries; its contribution to host government revenues; its effect on the foreign exchange position of the host country; its effects on the decentralization of economic activity and the flow of resources into small towns and rural areas; its effects on the environment; and the proposed social benefits to be offered in the community in which the project is located.

COMMITTEE OF CONFERENCE, OVERSEAS PRIVATE INVESTMENT CORP. AMENDMENTS ACT OF 1978, S. REP. No. 95, 95th Cong., 2nd Sess. 7-8 (1978).

27. 22 U.S.C. § 2191(k)(1) (1979).

owned by U.S. investors, it also encourages joint ventures between local (host country) citizens and U.S. sponsored firms where the investors assume a meaningful share of the risk (at least 25% of the equity).[28] Ordinarily, at least 51% of the voting shares of the company must be held by privately owned firms or persons. A loan guaranty, however, may be made to an entity where local government represents the majority ownership of the voting shares, or where it is contractually agreed that management will remain in private hands, and where there is a strong showing of direct U.S. interest in other respects. OPIC investigates proposed joint venture plans to ascertain whether the debt to equity relationship will be sound so that the success of the project is not jeopardized by insufficient equity or excessive leverage. Normally a ratio of 60% debt to 40% equity is satisfactory.

4. OPIC Participation

OPIC's financing commitment varies according to the contribution of the project to the host country's development, the financial requirements, and the extent to which the financial risks and benefits are shared among the investors and the lenders. OPIC may assist in designing the financial plan and in coordinating the plan with other lenders and may contribute up to 50% of the total costs of a new venture. Furthermore, OPIC may permit additional participation of up to 75% of the total project costs from other local and international sources.

5. Development Contribution

OPIC is required to weigh the proposed project's contribution to the economic and social development of the host country. In particular, OPIC will consider:

(a) increased availability of goods and services of better quality or at lower cost;

(b) development of skills through training;

(c) transfer of technological and managerial skills;

(d) foreign exchange earnings or savings;

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28. OPIC is authorized to insure or guarantee i) American citizens, ii) associations created under U.S. law with at least 50% of the ownership held by U.S. citizens, iii) foreign associations owned by entities satisfying i) or ii). Ownership of an entity is traced through intervening owners to the "natural persons who hold the ultimate beneficial ownership in such entity." Gilbert & Marra, Jr., *supra* note 21, at 216.

(e) host country tax revenues; and
(f) increases in stimulation or other local enterprises.

In addition, OPIC must review the host government's agreements or concessions and must consider the environmental effects of the ventures that it sponsors. Guidelines are given to assist sponsors in providing the required information.[29]

6. Financing Techniques

(a) *Direct Loans.* OPIC finances small projects through a direct loan program from its own funds.[30] These loans generally range in amount from $100,000 to $4 million dollars. The source of funding may be used only for financing projects sponsored by, or significantly involving, U.S. small businesses or cooperatives. OPIC absorbs the bulk of the administrative costs involved in processing direct loan requests.

OPIC cannot own equity shares in a project, but it occasionally makes loans in the form of convertible notes or other instruments with profit participation features. Depending on their terms, such loans can be considered quasi-equity, thereby serving to strengthen the equity base. In addition, convertible notes may help to achieve or increase local ownership (often a host government requirement) by the eventual sale of the notes to local investors. This encourages the formation of local capital markets, the development of which is often hampered by the unavailability of publicly traded shares of well established companies.

(b) *Guaranteed Loans.* Major corporations that are not eligible for direct loans may utilize OPIC's loan guarantee program.[31] Small businesses and cooperatives investing in large projects may also use this type of funding. Typical OPIC loan guaranties range from $1 million to $25 million dollars, but can be as large as $50 million dollars. The political and credit risks are analyzed in the same manner as direct loans.

Under this guaranty program, the borrower, as in the case of direct loan programs, has OPIC analyze and structure financing for an overseas project. OPIC determines the appropriate terms of borrowing (except the interest rate) and may assist in identifying a

29. COMMITTEE OF CONFERENCE, *supra* note 26; Gilbert & Marra,Jr., *supra* note 21, at 218.
30. 22 U.S.C. § 2194(c) (1979).
31. 22 U.S.C. § 2194(b) (1979).

financial institution willing to provide funds.[32]

(c) *Feasibility Survey Assistance.* OPIC will fund a portion of the expenses of an investment opportunity feasibility study.[33] Small businesses can apply for assistance in the study of this area for any country in which OPIC operates. Fortune 1000 firms can only apply for studies in nations with less than a $680 per capita income (in 1979 dollars).[34] To gain OPIC help, a firm must have a good operating record, and the ability and desire to implement the project. In addition, the project must appear economically feasible from the viewpoints of the sponsor, the recipient country, and the United States.

7. Insurance Program

OPIC insures investments in qualified projects against loss in less developed friendly countries and in areas where there are specific political risks. The risks that OPIC's statute authorizes it to insure against are:

> (a) the inability to convert local currency received by the investor as profits or earnings or return of the original investment into dollars; (b) the loss of investment due to expropriation, nationalization, or confiscation by action of a foreign government; (c) loss due to war, revolution, or insurrection; and (d) coverage against civil strife.[35]

8. Caribbean Projects Recently Financed by OPIC

A review of the various projects that were financed by OPIC in fiscal year 1983 will help in understanding the potential investment opportunities for U.S. investors that may be secured through OPIC financing.

OPIC made a $336,000 direct loan to EDA Industries International in Barbados to help establish a manufacturing operation for produce costume jewelry, corporate emblems, and wire frames for sunglasses. Approximately 300 local jobs are expected to be created through this export-oriented project.[36]

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32. OPIC, *supra* note 22.
33. 22 U.S.C. § 2194(d) (1976).
34. GEORGE & GIDDY, INTERNATIONAL FINANCE HANDBOOK (1983).
35. OPIC, INVESTMENT INSURANCE HANDBOOK (n.d.).
36. For a discussion of this investment in the context of other existing and potential

Three projects were financed in Haiti. A direct loan of $300,000 was made to Cuirs Hawtan, permitting a small U.S. business to sponsor a leather tannery in Haiti for the expansion of existing operations and the addition of new product lines. The project will enable one of the last kidskin tanneries in the United States and several U.S. shoe factories to remain competitive with imports. In a second project, OPIC directly loaned $300,000 to Haitian Fibers, S.A., a small business contributing to the establishment of a small baseball fiber manufacturing facility in Haiti. The facility is using U.S. technology and management expertise to create a new source of fiber supply that will enable U.S. baseball manufacturers to compete with Asian manufacturers.

Several OPIC loans have been very small. For instance, a $125,000 loan from OPIC to Highmark/Jamaica, Ltd. has helped to establish a plant for producing quality boxed confectioneries in Kingston. One Miami based small business, FWH, Inc., has been assisted by two OPIC loans. A $200,000 loan from OPIC was received to expand FWH's ornamental plant operations in Costa Rica by adding facilities for shipping its young plants to a new Jamaica project where they will undergo final potting and growout. In addition, OPIC has also loaned $107,000 to fund a new potting, growing, and shipping facility in Jamaica for ornamental plants. The project will permit mature plants to be shipped to Holland for distribution throughout Europe. The loans for these two integrated projects constitute the initial stage of an expansion expected to involve more than $20 million in total project costs.

Some of the smaller West Indian countries have received large OPIC loans. For instance, OPIC has loaned $2.5 million to PICO to help a small company establish an electronic components assembly plant in St. Christopher. The project will create approximately 700 local jobs. Components will be shipped to PICO Products, Inc. in New York, where they will be assembled into cable television security products. This will create an additional 200 jobs. Hence, the perfect result of the Caribbean Basin Initiative: the creation of jobs and investments in both the United States and the Caribbean. Similarly, OPIC has funded PICO with $800,000 to assist the firm in expanding its electronic components assembly operation in St. Vincent. Eighty local jobs will be created to satisfy increased pro-

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CBI projects in Barbados, *see* Zagaris, *Taking Advantage of the Caribbean Basin Initiative: The Case of Barbados - Part I*, 2 TRADE/USA 5 (1984).

duction needs. The finished components will be shipped to the United States for final assembly into the parent company's proprietary addressable control system.[37]

D. *Agency for International Development (AID)*

The United States Agency for International Development (AID) provides bilateral and regional assistance in the Caribbean region to serve the American interest in maintaining stability in an area that is important to its economic and security goals.[38] According to the explanation of AID's programs, the United States has three economic development objectives for the region: reinforcement and acceleration of a fair economic growth pattern that strengthens free-enterprise and institutions in the region; the fostering of economic self-reliance; and encouragement of cooperation throughout the Caribbean region to facilitate economies of scale and better utilization of the area's human and natural resources.[39] To bring about these broad objectives, AID has a four-part development strategy: to encourage the formulation of complementary regional and national policies and to support aid programs which will facilitate such policies; to foster regional development organizations; to support common services, especially those for the Eastern Caribbean states; and to encourage long-term cooperation among the Caribbean nations.[40]

In 1984-85, AID support for the CBI will emphasize the following aspects: Financial assistance for short term stabilization and economic recovery, such as supplemental appropriations of $350 for the fiscal year 1982 to finance imports of raw materials and intermediate goods for the private sector; improving the business climate through support of policy reforms and incentives designed to restore domestic business confidence, rationalize interest rates, attract foreign investment, and develop new trading patterns; assisting the business community through the funding of new programs and organizations to stimulate new business.[41]

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37. OVERSEAS PRIVATE INVESTMENT CORP., 1983 ANNUAL REPORT (n.d.).

38. AID CONGRESSIONAL PRESENTATION FISCAL YEAR 1985, *Annex III Latin America and the Caribbean*, vol. 1 at 147 (1984)(Fiscal Year 1986 Congressional Presentation is now available from AID).

39. *Id.*

40. *Id.*

41. INTERNATIONAL TRADE ASSOCIATION, U.S. DEP'T OF COMMERCE, *Aid and the CBI* in 7 CARIBBEAN BASIN INITIATIVE BUSINESS BULLETIN (June 1984).

Examples of the AID projects in the Commonwealth Caribbean include an investment promotion program implemented by Coopers and Lybrand to promote U.S. and other private investments in the Eastern Caribbean; a program to upgrade the industrial infrastructure of the Eastern Caribbean through privately administered export processing zones and/or industrial parts; a loan to Jamaica to provide capital for equity and debt financing to medium-size agro-industrial enterprises; loans to establish new, privately owned development finance corporations in the Eastern Caribbean; and a grant to Caribbean/Central American Action (C/CAA) to establish a Caribbean Basin information network and to support an emerging twin chamber program whereby U.S. Chambers of Commerce are linked to business associations in the Basin countries for the purposes of stimulating trade and investment opportunities.[42]

The Trade and Development Program and the Private Enterprise Bureau of AID are also providing assistance to the Caribbean Basin countries. For instance, the Trade and Development Program (TDP) provides financing for pre-feasibility and feasibility studies of investments which have the prospect of leading to the export of U.S. goods and services. The Private Enterprise Bureau (PRE Bureau), which was established to link AID more closely to the private sector, engages in several important activities. An example is its grant to the International Executive Service Corps (IESC), whereby retired U.S. executives go to the Basin countries to provide technical advice to local companies. Recently, at a symposium on industrialization in St. Lucia on November 16, 1984, Henry Vieira, formerly the President of the Barbados Manufacturers Association, cited the IESC's program as a principal means by which his and other Barbados companies have made the transition from trading to new industrial activities. The PRE Bureau provides term financing directly or indirectly through intermediate institutions (e.g., Caribbean Development Bank or national development banks, such as, St. Lucia Development Bank) or through cofinancing arrangements.[43]

In implementing its goals and development strategy, AID has been working closely with the Caribbean Group for Cooperation in Economic Development. The latter group is chaired by the World

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42. *Id.*
43. *Id.* The PRE Bureau also participates in promotional missions to the basin.

Bank and is made up of more than thirty recipient and donor nations and sixteen international and regional institutions. Its primary function is to implement the development strategy for AID. The organization's immediate goal is to provide a foundation for renewed growth by restoring economic viability to the Caribbean region.[44] By cooperating with the Caribbean Group for Cooperation in Economic Development, AID is able to focus on increasing employment and raising the output of the production sectors. All AID programs are aimed at encouraging the growth and development of the private sector. Projects receiving primary attention from AID include agriculture, development of alternative energy sources, energy conservation, education and human resources development, and family planning and health.[45]

As a percentage of the overall U.S. economic assistance budget, assistance to the Caribbean Basin will double the fiscal year 1980 level in fiscal years 1983 and 1984. In 1983, AID provided almost $770 million in loans and grants to Basin countries. The total 1984 economic assistance is estimated to be $650 million.[46] In fiscal year 1985, AID's proposed programs will include funds for private sector development, including a new project to support the trading activities of the Caribbean Agriculture Trading Company and private marketing initiatives, rural development, energy source development and conservation, promotion of human resources, a housing guarantee program, and funds for an economic recovery program in Grenada.[47] The request for fiscal 1985 proposes to continue rural development programs in St. Lucia and St. Vincent. The four-year bilateral Agriculture Sector Structural Adjustment project with St. Lucia began in fiscal year 1983. It provides secure land ownership to farmers by establishing a national system of land registration and titling, expanding agricultural marketing by the private sector, and assisting banana production by small farmers.[48] The St. Vincent Agricultural Sector Structural Adjustment Project supports production assistance for certain food

44. AID Congressional Presentation Fiscal Year 1985, *supra* note 38, at 148.

45. *Id.* at 148-9.

46. International Trade Association, *supra* note 41.

47. AID Congressional Presentation Fiscal Year 1985 *supra* note 38 at 153-54.

48. *Id.* at 150. St. Lucia's land tenure system, based on the Quebec Civil Code, has been undergoing change because it was implemented by attorneys unskilled in civil law and because land title records have been partially destroyed. The Canadian International Development Assistance (CIDA) has also lent technical assistance on the land tenure project.

crops and structural changes in marketing policy.[49]

E. *Assistance to Small Businesses*

The United States Government provides several vehicles to assist small businesses in the export field. The Bureau of Export Development of the Department of Commerce compiles marketing information and helps U.S. businesses to promote themselves abroad. The Commerce Department also developed the Foreign Traders Index to gather information on importing firms, distributors and other potential recipients of U.S. products in 130 countries for the benefit of small businessmen. Through the Foreign Buyer Program, business visitors from other nations are connected with U.S. producers of the products or services they seek. Another program, the World Traders Data Reports, helps U.S. businessmen learn about organizations in other nations, including information concerning those organizations' reputations, reliability, size, and trade references. The information is compiled abroad by commercial officers of the United States Foreign Service.

The United States Small Business Administration (SBA) also aids those who wish to export to other nations. Its financial assistance programs, administered by local field offices, provide loans and loan guarantees to firms located in the United States that engage in export-oriented activities. The business requesting a loan must be unable to obtain the loan funds from a bank or other private financial institutions. Through its Guarantee Loan Program, SBA assists commercial banks in providing short-term capital to manufacturers for the performance of specific contracts.[50] To help more small businesses export their products and services abroad, SBA has established the Export Revolving Line of Credit Loan Program (ERLC). The funds may be used only to finance labor and materials needed for manufacturing or wholesaling goods for export, and to penetrate or develop foreign markets.[51] Through this program, SBA can guarantee up to 90% of a bank line of credit to a small business exporter. The applicant may have other

49. AID CONGRESSIONAL PRESENTATION FISCAL YEAR 1985, *supra* note 38.

50. *See, e.g.*, OFF. OF INT'L TRADE, U.S SMALL BUS. AD., IS EXPORTING FOR YOU (1981); U.S. SMALL BUS.AD., FACT SHEET NO. 51, SMALL BUSINESS ADMINISTRATION EXPORT REVOLVING LINE OF CREDIT LOAN PROGRAM (n.d.).

51. Professional export marketing advice or services, foreign business travel, or participating in trade fairs are examples of eligible expenses to develop foreign markets. OFF. OF INT'L TRADE, U.S. SMALL BUS. AD., IS EXPORTING FOR YOU (1981).

SBA loans in addition to an ERLC, as long as SBA's share of the total outstanding balance does not exceed $500,000.[52]

Eximbank is a another United States agency which helps small business exporters.[53] It maintains a Small Business Advisory Service to inform potential entrants into foreign markets of the availability of export credit insurance, guarantees, discount loans, and foreign bank credits that aid in the sale of U.S. products abroad. The Export Credit Insurance Program protects exporters against losses caused by political and commercial risks. Short-term comprehensive policies provide blanket coverage to small businesses that do not want to provide their own policies. Commercial banks accomplish this by combining a number of export transactions into a large package for commercial purposes. In addition, Eximbank and the Foreign Credit Insurance Association have joined to offer short and medium-term insurance programs to cover 100% of the political risk and 95% of the commercial risk involved in the financed portion of an export transaction. Under the Cooperative Financing Facility, credit is available to foreign buyers of U.S. goods and services through banks in their own countries.

III. International Organizations

A. *The World Bank Group*

The World Bank Group includes the International Bank for Reconstruction and Development (IBRD) (usually called the World Bank), the International Development Association (IDA), the International Finance Corporation (IFC), and one non-financial associate, the International Center for Settlement of Investment Disputes (ICSID). The goal of the financial branches of the World Bank Group is to direct capital from the developed countries to less developed countries in order to facilitate an increase in productivity, a rise in the standards of living, and to enhance economic development.[54]

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52. U.S. Small Bus. Ad., Fact Sheet No. 51, Small Business Administration Export Revolving Line of Credit Loan Program (n.d.).

53. Those whose average annual export volume over the previous three years was under $200,000. 2 W. Streng & J.W. Salacuse, *supra* note 8, at § 10.01(B).

54. For a discussion of the structure and operations of the World Bank Group institutions and the Inter-American Development Bank, see Wolf & Arnold, *Doing Business with the International Development Organizations in Washington, D.C.*, 168-4th Tax Mgmt. (BNA) (1982).

1. International Bank for Reconstruction and Development

To fulfill its goal of assisting economic development by making loans to developing countries to finance specific development projects, except in special circumstances, the World Bank makes loans only for specific projects. Most projects involve the construction of infrastructure, such as transportation, utilities, telecommunications, port facilities, and energy sources. In addition, the World Bank finances projects in agricultural and industrial development, education, and urbanization. It also funds government owned finance companies that provide loans to projects in the target country. To borrow from the World Bank, the borrower must be a member of the Bank or the loan must be guaranteed by a member, its central bank, or "some comparable agency of the member which is acceptable to the Bank." The World Bank will finance only a portion, usually one-half, of the total amount of funds required for a given project.

2. International Finance Corporation

Established in 1956, the International Finance Corporation's (IFC) goal is to "further economic development by encouraging the growth of productive private enterprise in member countries, particularly in the less developed areas, thus supplementing the activities of the [World Bank]" (IFC, Art. of Agreement, art. I). To accomplish this goal, it makes loans and direct investments in commercially viable private enterprises. It also brings new private investors into projects by selling them IFC's equity holdings, and by identifying other private sources of funds. The IFC performs project studies and capital market development, creates private development finance companies, and provides advice to less developed countries regarding the promotion of private investment. The IFC makes loans at commercial rates of interest and applies a cost-benefit analysis in selecting host countries before making it's investments.[55]

In the future the IFC will emphasize: a broader coverage of countries, especially in the least developed regions; a substantial increase in the proportion of IFC's natural resource investments and energy development; and its role as an intermediary in the flow of international investments. The IFC will expand its financial

55. 2 W. STRENG & J.W. SALACUSE, *supra* note 8, at § 4.04.

markets development program and will assist mature financial institutions in developing countries for entry into international capital markets. Simultaneously, special care will be devoted to developing new mechanisms, such as the Caribbean Financial Services Corporation, to provide adequate long-term financing to small and medium-scale enterprises.[56]

B. *Inter-American Development Bank*

Since its establishment in 1963, the Inter-American Development Bank (IADB) has financed principally the export of capital goods (machinery and equipment) and services to Latin American or *regional* member countries of the Bank.[57] Initially, the IADB program was limited to medium-term financing (between 180 days and five years) of capital goods and services. It has since been expanded to allow short-term financing of certain manufactured and semi-manufactured goods such as fertilizers and construction materials.[58] Under a separate program, funded by the Venezuelan Trust Fund, several new features were introduced to broaden the financial support of the Bank to include: (1) exports of capital goods outside the region; (2) exports of manufactured and semi-manufactured goods to all member countries of the IMF and Switzerland; and, (3) in the case of the least developed of the borrowing members of the Bank, exports of an even wider category of goods than is permitted under (1) and (2) above, such as primary products. The Bank assumes a financial rather than trade-oriented role under both programs. The Bank has no operational relations at the country level with exporters or importers. Essentially, the Bank's export financing program is a rediscount mechanism for nontraditional export paper held by borrowing countries. Hence, the Bank primarily deals with a central bank or other institution that deals in paper at the country level.[59]

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56. Camacho, *The International Finance Corporation*, in INTERNATIONAL FINANCIAL LAW 265, 271 (R. Rendell ed. 1980).

57. The IADB has recently allocated funds to Barbados and the Bahamas for projects in those countries. Barbados has received $24.5 million for the construction of a 20.6 kilometer highway between the Grantley Adams airport and Bridgetown, the capital. The Bahamas has been loaned $600,000 for the preparation of a forest inventory and management plant.

58. For background on the IADB, see Levinson, *The Inter-American Development Bank*, in INTERNATIONAL FINANCIAL LAW 273 (R.Rendell ed. 1980).

59. Skeete, *Export Financing, the Inter-American Development Bank and U.S.-Caribbean Basin Trade*, 4 INT'L TRADE L.J. 51, 54-55 (1978); *see also* Levinson, *supra* note 58; Wolf &Arnold, *supra* note 54, at A-40, A-71.

C. *Caribbean Development Bank*

The Caribbean Development Bank (CDB) was established in 1969 to "contribute to the harmonious economic development of the Caribbean countries, and to promote economic cooperation and integration among them, paying special and urgent attention to the region's less developed members."[60] The IADB has channeled money through the CDB to finance development programs for CDB members. In addition to the contribution by Venezuela of $17 million to the CDB's Special Development Fund in 1981-82, some nations outside the region (besides the traditional donors of Canada, the United Kingdom, and the United States) have been contributing to the CDB. New Zealand provided technical assistance support worth $718,000, and West Germany lent $6.3 million to the Special Funds Resources in 1982.[61]

The operations of the CDB are divided into two principal groups: the ordinary (loans bearing an interest rate of eight to ten percent and with a term of ten to fifteen years) and the special (loans bearing an interest rate of four percent, for fourteen to twenty years).[62] Loans to the More Developed Countries (MDC) and to the private sector in the Less Developed Countries (LDC) fall into the first category, while loans to LDC governments fall into the second. Slightly less than one-half of the funds have gone to projects dealing with infrastructure development, while an increasing share has recently been directed at projects in the productive sectors of agriculture, tourism, and manufacturing.[63] Loans are also made for regional projects, as opposed to only national projects, such as a trunk route ship for the West Indies Shipping Corporation (WISCO) and a loan for the Caribbean Investment Corporation (CIC).[64]

In its nearly fifteen years of existence, the total financing (loans, equity and grants) provided by the CDB has exceeded $500 million. As of October 31, 1984, the total approvals of loans amounted to $466 million of which $173 million have been on hard

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60. Inter-governmental Agreement Establishing Caribbean Development Bank, art. I, ch. 1, *quoted in* Phillips, *Freedom in the Caribbean* app. X (1977).

61. France has recently joined the CDB and will contribute $21 million over the next four years. S. CHERNICK, THE COMMONWEALTH CARIBBEAN 52 (1978).

62. Business Int'l Corp., *II Cross-Border Financing: Regional Development Banks* in FINANCING FOREIGN OPERATIONS 13 (Sept. 1983).

63. S. CHERNICK, *supra* note 61, at 53.

64. *Id.* at 52-53.

and $293 million on soft terms. [Out of $466 million, the public sector has received $330 million and $136 million has gone, both directly and indirectly, to the private sector.] The economic infrastructure, including loans to students for training in job-oriented fields, has received $250 million. Industrial development has received $124 million, while $20 million has gone to tourist development, and $73 million to agriculture.[65]

The CDB has also provided a significant amount of free technical assistance to borrowing member countries in both cash and kind. For instance, the CDB has furnished personnel to prepare for lending to both the public and private sectors. The CDB has also provided technical assistance in energy, technology, investment, promotion, and training in all aspects of the project cycle. It has also provided technical assistance to strengthen national development banks in all the Organization of East Caribbean States (OECS). The CDB regularly gives input into regional deliberations on strengthening economic integration.[66]

In May, 1984, the CDB approved loans of $11.5 million for development projects in four member countries. To finance industrial estates in St. Lucia, $5.8 million was approved and approximately $3 million was approved to finance a cruise ship center in Castries Harbor, St. Lucia. The expansion of its industrial estates will enable St. Lucia to attract more successful foreign investment.[67]

The CDB authorized $1.4 million for a distillery in St. Vincent and $1 million was approved for an industrial estate expansion, a student loan project, and a small equipment pool in St. Kitts and Nevis. It further authorized $503,000 to renovate and expand the famous Blue Heron Hotel in Antigua. These loans reflect the continuing policy of the CDB to emphasize loans in the least developed member countries of the region.[68]

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65. Address by Demas, President of the CDB, 100th Anniversary Commemorative Banquet of the St. Lucia Chamber of Commerce, Industry and Agriculture in Castries, St. Lucia (Nov. 17, 1984)(discussing St. Lucia and the other OECS States Towards the Year Two Thousand).

66. *Id.*

67. *Id.*

68. Business Int'l Corp., *supra* note 62.

D. *The Caribbean Group for Cooperation in Economic Development*

1. Background

The Caribbean Group for Cooperation in Economic Development (the Caribbean Group) was established in December, 1977, in response to the initiative of major bilateral donors in the region, and the favorable reaction of the Caribbean countries. As a consulting group, it focuses on the development problems of 20 Caribbean countries on an individual basis, as well as in a regional and subregional context.[69]

The Caribbean Group, which has no independent secretariat, is chaired by the World Bank, and is assisted by five other international agencies (i.e., the IMF, UNDP, CDB, IDB, and OAS) that form a steering committee and provide direction and services to the Caribbean Group. The Group meets in eighteen month cycles, although interim meetings also occur between individual donors and recipients. For these meetings, seventy-one economic reports on individual countries have been prepared, reviewing each country's existing economic situation and prospects, and its investment programs. The reports form the basis for subgroup meeting on various countries that are generally held at the time of the Caribbean Group meeting.[70] Additionally, forty sector reports, which propose regional programs and projects and address policy issues, are prepared by international agencies and submitted to the Caribbean Group. The Caribbean Group is now the prime institution for channeling economic assistance to, and promoting economic cooperation and development in, the region. The sixth meeting of the Caribbean Group was attended by thirty-eight governments and thirty international organizations. Fifteen country subgroup meetings were held. A series of regional issues and project proposals were also considered.[71] The seventh Group meeting was held in June, 1985.

2. Membership and Financing

Eighteen donor countries participate in the Caribbean Group.

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69. Kanchuger, *The Caribbean Group* 21 FIN. & DEV. 44 (1984).
70. *Id.*
71. *Id.*

The recipient countries in the Caribbean Group are Caribbean countries or territories that are World Bank members, including the Commonwealth Caribbean Community countries, the former and present Dutch territories, Haiti, and the Dominican Republic. The Caribbean Group cooperates closely with the Caribbean Common Market (CARICOM), and the OECS. As a result of the increased confidence of potential investors in the economic assessments and recommendations of the financing requirements found in the Caribbean Group's reports, target countries have attracted foreign investment and financing. During the five years preceding the establishment of the Caribbean Group, the official long-term flow of money into the region was approximately $2.3 billion and in the following five years it increased to $5.6 billion. New Bank/IDA commitments rose from $284.6 million to $762.4 million over the two periods. In the latter period, bank financing included, for the first time, non-project financing of $159.7 million.[72]

The emphasis by the Caribbean Group on the preparation of multi-year public sector investment programs has encouraged donee countries to identify priorities and has assisted in project financing, particularly on public sector and infrastructure projects. In addition, the Caribbean Group has financed regional activities, including a regional inter-modal transport study, a tourism promotion and marketing program aimed at the European market, a program for export incentives, a comprehensive analysis of the private sector in the region, technical assistance for the development of regional energy resources, and the systematic exchange of information for agricultural project financing. Establishment of the Caribbean Project Development Facility and the Caribbean Financial Services Corporation are just two examples of the Caribbean Group's regional development entities.[73]

The Caribbean Group has also assisted the Economic Secretariat of the OECS in 1983, an Inter-Agency Resident Mission (IARM) in Antigua. The IARM operates with the cooperation and funding of international agencies and three bilateral donors (the United States, the United Kingdom, and Canada). The IARM gives priority to the preparation of public sector investment programs, to the development of information systems for economic management, to the improvement of public sector management,

72. *Id.*
73. *Id.*

and assistance in securing financing for and implementing priority development of projects.[74] The goal is to transfer a substantial part of the functions of the IARM to the OECS Economic Affairs Secretariat.[75]

E. *Caribbean Project Development Facility*

The Caribbean Project Development Facility (CPDF) was organized as a result of the Caribbean Group and the UNDP to help identify promising new medium-sized investment projects and to assist firms and businessmen in the Caribbean countries to prepare such projects for financing. Although the CPDF does not finance projects, it does have close ties with national and international lending and investing institutions,[76] and because of its familiarity with the requirements of these institutions, it can assist sponsors in designing projects that can be financed. Funding for CPDF is achieved through grants from development and international organizations.

IV. Caribbean and Non-U.S. Sources

A. *Caribbean Government and Private Sector Programs*

1. Overview of Caribbean Domestic Commercial Financing

Scarcity of local capital has always been a major problem in the Caribbean. Commercial banking facilities are provided by national banks, and branches of major U.S., British, and Canadian banks. For instance, there are seven affiliates of foreign banks, not including trust company affiliates, operating in Barbados.[77] They provide business financing, subject to normal banking terms and

74. *Id.* (The Inter-Agency Resident Mission is also discussed in the country economic reports).

75. World Bank, Confidential Group Report, Pub. No. 48884 (1984).

76. Financing for activities has been obtained from the United States Agency for International Development (AID), the Netherlands, the United Nations Development Program (UNDP), the Canadian International Development Agency, the Caribbean Development Bank, and the Inter-American Development Bank. Caribbean Project Development Facility, *Caribbean Project Development Facility*, (booklet available from CPDF, Rm. 1-10-136, 1818 H St. N.W., Wash., D.C., 676-0482).

77. As of December, 1984, the following international banks are represented in Barbados: Bank of Credit & Commerce International (Overseas) Ltd.; Barclay's Bank International Ltd.; The Bank of Nova Scotia; Canadian Imperial Bank of Commerce; Caribbean Commercial Bank Ltd. (correspondent of Citibank, N.A.); the Chase Manhattan Bank N.A.; and the Royal Bank of Canada. Central Bank of Barbados, Establishing a Foreign Sales Corporation in Barbados (Dec. 1984).

conditions, to local investors and to foreign investors when authorized to do so by the central banks. In addition, there are other financial institutions, including trust companies, which are general affiliates of international banks.

Local capital financing is provided by national banks, commercial banks, small finance corporations, agricultural credit banks, developments, and, to some extent, by insurance companies. National development banks have recently been established to mobilize and provide financing for economic development projects. For example, the St. Lucia Development Bank (SLDB) was established in 1980.[78] It engages mainly in three types of activities: lending primarily to the private sector and to a lesser extent to the public sector; share participation (if required) in new and/or existing enterprises; and providing technical assistance to development enterprises. In addition, the Bank processes and administers funds from the CDB.[79] Agricultural and fishing enterprises, industrial activities, and hotel and housing projects are among the types of development enterprises which are eligible for financing from the SLDB.[80] However, a lack of experience, a shortage of funds, delays in processing loan applications, in addition to a lack of required down payments, have inhibited the use of such development banks such as the SLDB. Insurance companies generally only finance private mortgages on real estate. Financing is usually available to foreign investors subject to the approval of the central bank which requires registration of capital. New sources of funding are available for small entrepreneurial projects like the recently established National Research and Development Foundation in St. Lucia, which is assisting projects that require funding of up to $5,000. In addition, the Partners of America Economic Sub-Committee is, among other things, assisting with training attachments and identification of equipment and raw material sources.[81]

2. The East Caribbean Central Bank

On September 15, 1983, an agreement establishing the East

78. St. Lucia Act No. 22 (1980).

79. Beldman, *The Place of Locals in St. Lucia's New Industrial Thrust*, The Weekend Voice, Mar. 24, 1984 at 7.

80. INDUSTRIAL DEVELOPMENT UNIT, COMMONWEALTH FUND FOR TECHNICAL CO-OPERATION, INVESTOR'S GUIDE TO ST. LUCIA 31-32 (1984).

81. Beldman, *supra* note 79; *id.*

Caribbean Central Bank (ECCB) was signed by the Governments of Antigua, Barbuda, Dominica, Grenada, Montserrat, St. Kitts-Nevis, St. Lucia, and St. Vincent. The new bank, which supercedes the East Caribbean Currency Authority (ECCA),[82] started operations on October 1, 1983. The ECCB acquired all of ECCA's assets and liabilities and all of its rights and obligations. The ECCB's broadened authority and technical assistance are expected to stabilize commercial banking and clearly represents a movement toward regional harmonization of the financial systems.

Although the ECCB, like the ECCA, must maintain a foreign exchange cover equivalent to no less than 60 percent of the value of its demand liabilities, the ECCB's scope for the exercise of monetary policy has been expanded as compared to the ECCA's limited regulatory powers. ECCA's lending operations to member governments will continue under the same procedures and regulations. Each government's annual borrowing from the ECCB is limited to 5 percent of its average annual revenues during the preceding three years. In addition, the ECCB has the authority to impose reserve requirements on commercial banks, establish minimum and maximum interest rates for liabilities, and maximum interest rates on loans. The ECCB has a new supervisory role in the regulation of commercial banks, and, with the technical assistance from the IMF, is creating a new department of banking supervision.[83] The extension of the ECCA's authority has the potential of permitting the ECCB to regulate the availability of money and credit in a manner that is consistent with balanced growth and development of member countries.[84]

82. "The ECCA was established in 1965 following the decision of the two major participants (Guyana and Trinidad & Tobago) to form their own central banks, causing the dissolution of the British Caribbean Currency Board (BCCB)." S.CHERNICK, THE COMMONWEALTH CARIBBEAN 48 (1978).

83. The new supervisory role of ECCB has potential for solving money laundering problems by requiring sound vetting procedures and minimum standards for maintaining operations of offshore banks.

84. The success of the new Bank will partly depend on the ability of the governing bodies of the Bank, the Monetary Council and the Board of Governors to act decisively on regional financial issues. Two critical external finance issues require unanimous approval of member governments: the pegging of the external exchange rate and the size of the foreign exchange cover. If the ECCB can assist member governments in reaching timely agreements on exchange rates without a balance of payments disequilibria, the ECCB will bring much needed improvements. The required unanimous consent makes this difficult. More flexibility is provided by the articles of agreement in the regional monetary policy. Only a simple majority is required from the Monetary Council to define the Bank's regional monetary policies. Nevertheless, since the Bank regulations will be implemented by the member gov-

B. *The Caribbean Financial Services Corporation*

The Caribbean Financial Services Corporation is, potentially, a new financing mechanism. The new company is the successor to the now defunct Caribbean Investment Corporation (CIC). Its capital consists of $12 million. The significance of the Caribbean Financial Services Corporation is that it was formed by a group of private investors under the aegis of the Caribbean Association of Industries and Commerce (CAIC), whereas the CIC was an organization composed of regional governments. One of the shareholders of the new company is the International Finance Corporation (IFC), a World Bank organization. The stringent requirements of both the IFC and AID should provide useful guidelines and standards for the operation of the new company.[85]

The objectives of the Caribbean Financial Services Corporation are to provide venture capital and term-financing to the private sectors in Antigua, Barbuda, Belize, Barbados, Dominica, Grenada, Guyana, Montserrat, St. Kitts - Nevis, St. Lucia, St. Vincent and the Grenadines, Trinidad and Tobago, and to private sectors in countries within the Caribbean region.[86] It is expected that the Caribbean Financial Services Corporation will provide a catalyst for private sector development. In its first five years the Caribbean Financial Services Corporation will make medium and long-term loans to commercial projects, such as manufacturing, at commercial rates. Thereafter, if it is profitable, it will begin making venture capital investments.[87]

In February of 1984, the Barbados Parliament enacted into law an act to provide assistance to the establishment of the Caribbean Financial Services Corporation. The Act authorizes the Corporation to conduct an off shore banking business. The Act subjects profits of $10 million or more to a tax at the rate of .5 percent. In addition, it taxes dividends at the rate of 10 percent, if the shareholder is not a resident, and 12.5 percent if the person is a resident. It also exempts the company from customs duties on goods imported which are essential as equipment or to the conduct

ernments, the effectiveness of the ECCB depends on the willingness of participating governments to take the necessary actions.

85. Conversations with David de Costa, President of the Caribbean Financial Services Corp. (Feb. 15, 1984).

86. CARIBBEAN FINANCIAL SERVICES CORP., OFFERING CIRCULAR at 2 (June 11, 1983).

87. Conversations with David de Costa, *supra* note 85.

of business, but are not available in Barbados. Furthermore, it allows the company a tax exemption for the salaries of essential personnel. The Act also exempts the company from any income tax for the first ten years, and an exemption from exchange control regulations.

C. *Non-U.S. Sources*

1. National Private and Public Financing

If a U.S. citizen enters into a joint venture with a person from a non-Caribbean country in the Caribbean, commercial banks from the non-U.S. joint venturer's country may be a source of finance. In addition, other capital export countries have export credit guarantees and insurance that are competitive with, if not superior to, those in the United States in terms of the interest charged.[88] Hence, a potential value of the joint venturer may be financing.

Eximbank normally limits its direct lending to 50 percent of the total funds borrowed, with the remaining financing coming from commercial banks. Other nations directly offer credit for up to 85 percent of the export price.[89] Nations such as France, Germany, and Japan add loans for development assistance to export credit in order to offer lower overall rates and longer maturity terms. While Eximbank does not join in this practice, in certain cases it will provide a lower interest rate to meet mixed credit financing foreign competition.[90] Private insurance companies are late entries into the export credit insurance market. Their coverage, however, is not backed by an export credit agency.[91]

2. Regional Financing

Capital for investment in Caribbean countries, and particularly for Caribbean beneficiaries of Lomé II,[92] is provided through

88. W. STRENG AND J.W. SALACUSE, *supra* note 8 at §§ 10-25.
89. *Id.*
90. *Id.* at §§ 10-30.
91. *Id.*
92. Lomé II is a five year treaty which includes 10 members of the EEC and most Caribbean nations, who are governed by an aid and trade treaty called the "Lomé Convention." The Caribbean members of the second Convention are the Bahamas, Barbados, Dominica, Grenada, Guyana, Jamaica, St. Lucia, St. Vincent and the Grenadines, Surinam, and Trinidad & Tobago. DIRECTORATE-GENERAL FOR INFORMATION, COMMISSION OF THE EUROPEAN COMMUNITIES. THE EEC AND THE CARIBBEAN, 2 (1981). The Lomé policy grants duty free

the European Development Fund (EDF) and through subsidized loans from the European Investment Bank.[93] The countries which are beneficiaries of both the CBI and Lomé II are: Antigua; Barbados; Belize; Dominica; Grenada; Jamaica; St. Lucia; St. Vincent; Suriname; and Trinidad and Tobago. The Bahamas and Guyana are potential beneficiaries of both, but have not yet been designated as eligible for the CBI. One of the functions of the European Investment Bank is to make and guarantee loans for projects geared to the development of less developed regions.

Every year, the European Community provides approximately 40 mio ECU to the twelve potential beneficiaries. An additional 30 mio ECU are provided to sugar exporting countries when they sell sugar to the EEC under the Stabex mechanism. An additional 30 to 40 mio ECU annually goes to non-Lomé countries in the Caribbean basin.[94] (1 ECU = European Currency Unit = 0.90 U.S.$ on average after 1983).[95] Grants receive 80 percent of the Lomé II funds and loans receive the remaining 20 percent. The production sector traditionally has been given priority, receiving 55 percent of the total amount available, followed by social development, 13 percent and infrastructure, 10 percent. Broken down further, industrialization, energy, and tourism have received the largest loans, followed by rural production, and transportation and communication.[96] Examples of some of the EDF loans granted during 1982 are the following: 9.5 million ECU to Uganda for rehabilitation of the seed industry; 7.1 million ECU to Guinea for financing of the Soguiplast plastics factory; 3.2 million ECU to Jamaica

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access to the European market for member Caribbean states without reciprocity, provided that the products exported have their origins within those states. The participating Caribbean nations also receive financial aid. Lomé II lasts through 1985; a Lomé III treaty has recently been concluded. Pierini, The European Community and the Caribbean Countries (Jan. 1984)(unpublished paper of the Delegation of the Commission of the European Communities, Washington, D.C.).

93. The European Development Fund (EDF) finances long-term projects through individual contributions by member states. The funds are grants and loans to beneficiaries, and the largest sums have gone to finance industrialization, energy, and tourism. Rural production, transportation, and communication have also been main focuses of the EDF. BUSINESS INT'L CORP., FINANCING FOREIGN OPERATIONS, 6 (1983).

94. The EEC provides financial and technical assistance to non-associated countries in the Caribbean region. It co-financed with France three projects in Haiti costing 7.4 million ECU. In 1980 an irrigation project costing 4 million ECU was approved for the Dominican Republic. Also that year, 4.8 million ECU was earmarked for Haiti for rural development. DIRECTORATE-GENERAL OF INFORMATION, *supra*, note 92, at 8.

95. Pierini, *supra* note 92, at 2.

96. Business Int'l Corp., *II-Cross Border Financing: Regional Development Banks* in FINANCING FOREIGN OPERATIONS 6 (Sept. 1983).

for its tax administrations' electronic data processing facility; and 2.4 million ECU to Sierra Leone for a rubber project.[97]

Generally, only firms and individuals in ERC member states and associated countries may bid for contracts financed by the EDF. An exception occurred when Morrison-Knudson International (M-K), based in Boise, Idaho, bid on construction of a rail system in Cameroon. The role of AID as co-financier partially explains the ability of M-K to bid.[98]

To provide assistance in mining, SYSMIN was developed during the second Lomé Convention. It provides two types of aid: First, it provides funds and technical aid to maintain the production ability of certain mining products; and second, it provides EEC technical and financial help for the development of new mining and energy resources in ACP states.[99] Under SYSMIN's special financing facility of 280 million ECU, any ACP nation that derived 15 percent or more of its export earnings during the previous four years in one of several EEC specified mining products from sales to the EEC, and which anticipates or experiences a drop of 10 percent or more in its capacity to produce or export that product, that ACP nation may apply for aid from SYSMIN.[100]

As part of its general objective to promote industrial development in the ACP states, the EEC places emphasis on the financing of industrial growth through private investment and the use of ACP-EEC institutions to guarantee progress in this area. As part of this objective, the Centre for Industrial Development (CID) in Brussels attempts to promote relations between ACP and EEC entities, whether private or governmental.[101] In the Caribbean, the CID has arranged cooperation between two private sponsors from Britain and Barbados to organize an enterprise for finishing and printing garments. It has also brought together a private partner in

97. Other examples of EEC assistance in the Caribbean include: 24.5 million ECU ($34.4 million) for the Upper Demerara forestry project in Guyana, of which the EDF provided 5.8 million ECU ($8.1 million); 3.15 million ECU provided by the European Investment Bank; and funds from the IDB, the World Bank, and the Guyanese Government. On a smaller scale, the EEC gave 15,000 ECU ($21,000) for a St. Vincent livestock study. EDF funds are being employed to construct feeder road projects in St. Lucia, and to build a clinic on Union Island in St. Vincent. DIRECTORATE-GENERAL OF INFORMATION, *supra*, note 92 at 8. The EEC, the Netherlands, the World Bank, and the Inter-American Development Bank have co-financed the Kabalebo hydro-electric project in Suriname.

98. Business Int'l Corp., *supra* note 62, at 7.

99. DIRECTORATE-GENERAL OF INFORMATION, *supra*, note 94 at 11.

100. *Id.* at 12.

101. *Id.*

St. Vincent and a Belgian importer for the export of plantain chips to EEC nations.[102]

In the area of trade promotion, the EEC has worked to promote tourism and exports. Assistance was given to the Bahamas for the creation of a Trade and Industrial Unit. Technical help also was provided for the Barbados Export Promotion Corporation.[103] A feasibility study was carried out relating to the production of tropical oils in Dominica, and in Grenada a tourism film was prepared.[104] In the trade promotion area, a 2.8 million ECU project was carried out in Jamaica. This included a study on the post-harvest handling of fresh foods and horticultural products, and a trade promotion project. A regional study on the European tourism demand has been carried out as well, in order to facilitate the increasing number of visitors to the Caribbean from that continent.[105]

V. Conclusion

There are many potential means by which United States citizens may finance both trade and investment in the Caribbean. In addition to the federal agencies discussed in this article, such as the Small Business Administration (SBA), the United States Agency for International Development (AID), and the United States Department of Agriculture, other federal agencies have programs which may assist in investment in the Caribbean International Organization. Furthermore, there are non-U.S. sources that provide additional means of financing and related assistance. The different financing opportunities have potential utility for persons in and outside the Caribbean, such as Brazilians and Asians. Businesses, through the utilization of the above mentioned financing sources, can realize investments in the Caribbean with minimal capital investments. Outside the Caribbean, opportunities exist not only for U.S. citizens, but also for citizens of all nations.

International organizations and non-U.S. sources provide additional means of financing and related assistance. The future will likely see an increase in aid to businesses wishing to invest in the Caribbean. In the report of the National Bipartisan Commission

102. *Id.*
103. *Id.*
104. *Id.* at 13.
105. *Id.*

on Central America, reinvigoration of the Central American Common Market was urged, as well as promotion of a balanced hemisphere trade.[106] The Commission also called for an extension of the insurance guarantee program through OPIC. In this term, the recommendations of the Commission and other priorities of the Reagan Administration and international organizations will provide enhanced financing mechanisms for investment and trade in the Caribbean.

106. *See generally,* BUREAU OF PUBLIC AFFAIRS, U.S. DEPT. OF STATE, Pub. No. ___, CENTRAL AMERICA DEMOCRACY, PEACE AND DEVELOPMENT INITIATIVE (1984).