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INTERNATIONAL SECONDARY MORTGAGE MARKET: A PROPOSAL*

JEROME S. CARDIN,
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Although the current world housing shortage is of epidemic proportion, the present global response has been insufficient to reverse the steadily worsening situation. Private capital in particular has not been mobilized adequately in housing construction programs: there is presently no international market or mechanism to channel available private capital into residential construction in developing countries. This paper suggests a remedy to the present situation in the form of an international secondary mortgage market. In brief, we propose a type of readily marketable security, the mortgage-backed bond, of sufficiently low risk to be competitive with other internationally marketed securities. The bond is modeled on the domestic Government National Mortgage Association (GNMA) mortgage-backed bond, in which the bond is secured by the pool of mortgages held by the bond issuer. This domestic program is modified in the present proposal to insure against the risks peculiar to international transactions. Because such bonds can attract private capital to international housing construction, they would free substantial public funds from direct investment in public housing. A portion of these newly freed funds would then be available to provide the insurance necessary to attract international investment.

Socioeconomic Considerations

The social importance of adequate housing is self-evident. Proper shelter is a basic element of social well-being. The role of housing in overall economic development, however, is not as clear. In the past, housing was accorded low priority in development planning; economists reasoned that adequate housing could be developed only after, and as a result of, the infusion of capital

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in other sectors of the economy.¹ Contemporary economists, however, believe that "in many developing countries the construction industry is one of the most efficient absorbers of labor and a strong generator of backward linkages in the materials and equipment industries, both of which are likely to have large local components and only minimal foreign exchange requirements."² In housing, the multiplier coefficient of investment helps create a self-sustaining building industry and serves as a means of increasing gross national product.³ In short, contemporary econo-

1. A. MADDISON, *ECONOMIC PROGRESS AND POLICY IN DEVELOPING COUNTRIES*, at 266-68, 283 (1970). See also UNITED NATIONS: *INTEGRATION OF HOUSING INTO NATIONAL DEVELOPMENT PLANS. A SYSTEMS APPROACH*, U.N. Doc. ST/ECA/185.

2. U.N. Doc. OPI/CESI Note 317 at 2 (April 21, 1975). This report from the Centre for Economic and Social Information summarizes a speech by E. Paul Mwaluko, Director of the U.N. Center for Housing, Building and Planning. Mr. Mwaluko pointed out that:

[m]ost national and state governments are not in a financial position to support urban development adequately, because their revenue base is not strong relative to resource needs and is generally underutilized presently. Also, their administrative capacity to improve fiscal machinery is still limited. There is often also a political reluctance to give high priority to a nation's one or two major cities (except for essential national functions, such as major industrial development and port facilities) because of massive claims for investment from the rural areas that still have 80 per cent or more of national populations, . . .

3. *Id.* at 2. The economic role of housing development has begun to receive more attention in the literature. *E.g.*,

The low priorities given to housing and urban planning are the result of widespread misunderstandings of their role in the development process. Scarcity of investment funds in the developing countries and the application of inappropriate indices such as capital-output ratios have resulted in poor acceptance of housing construction as an investment alternative. While few economists question the value of housing construction per se, they see it as a relatively unattractive investment alternative in countries where capital resources are scarce. They apparently overlook the fact that, even without specifying input-output ratios the development impact of housing can be immense, because it amounts to up to 30 percent of overall construction. . . .

Note, *A World Housing Agency: International Aid to Remedy the World Housing Deficit*, 5 N.Y.U. J. INT'L L. POL. 67, 78 (1972) [hereinafter cited as *World Housing Agency*]. Citing statistics on amount of housing construction relative to gross national product in Puerto Rico, this note goes on to state:

This casts serious doubt on the assumption of direct dependence of construction on the general economy and the advisability of national action predicated on that assumption. It must be borne in mind at the same time that construction is a labor intensive industry that can be very important in meeting the challenge of unemployment in underdeveloped areas.

Id. at 78.

mists view housing construction as a prime means for employing intermediate and indigenous technologies so as to directly improve living standards and strengthen long-term national economies through the backward linkages that arise from that construction.⁴ On a broader scale, public housing policies, whether brought to fruition by the application of public capital or of private capital, are an important means of influencing other social and economic variables.

This proposal for the attraction of private capital into the housing construction industries of developing nations is founded in both social and economic theory. An international secondary mortgage market could advance the social and economic well-being of the people affected, without compromising self-determination and international independence.

This article first assesses the magnitude of the world housing shortage and the response of international organizations and national governments in their attempts to alleviate that shortage. A discussion of primary and secondary domestic and international mortgage markets follows. Finally an international secondary mortgage market embodying those safeguards necessary for achieving an acceptable level of investor risk is proposed.

THE MAGNITUDE OF THE HOUSING SHORTAGE AND THE RESPONSE OF THE WORLD COMMUNITY

The current housing shortage is a worldwide problem, but its effects are felt most strongly in the developing countries: slums and shanty towns are growing at an annual rate of 12 to 15 percent in Asian, African and Latin American countries.⁵ Com-

4. The importance of housing in the economic scheme of developing countries is not universally accepted. One commentator has maintained that "[m]ost economists and loan officers continue to maintain that the time is not yet ripe for national resources of the developing countries to be channelled into housing." Robinson, *Secondary Markets for Home Mortgages: Latin American and Caribbean Experience*, 10 J. INT'L L. ECON. 89, 90 (1975). See also, Robock, *Are There Development Lessons from Brazil?*, 18 INT'L DEV. REV. 16, 21-22 (1976).

5. See generally, *Implications of Population Trends on Urban Development and Housing*, XXIV ECON. BULL. ASIA AND FAR EAST 53, 61 (1973), U.N. Doc. No. E/CN.11/1105 (1973).

While population in developing countries typically grows at 2 to 3 per cent annually and many city populations grow at rates exceeding 6 per cent, slums and uncontrolled settlements in urban areas commonly grow at rates of 12 per cent and

mentators have expressed growing apprehensions about the quality and existence of adequate shelter in the year 2000, when it is estimated that 40 million new dwellings will be needed annually, 30 million in the less developed countries.⁶

In the past two decades, public international organizations have recognized the magnitude of the housing shortage. The United Nations, for example, has often endorsed in principle the development of financial assistance programs for housing. In 1972 the General Assembly called for the establishment of an international housing fund,⁷ and as recently as 1974 the Assembly

sometimes exceed 20 per cent. At 12 per cent, population doubles in less than seven years.

Id. at 58. See also E. WEISSMAN, *THE URBAN CRISIS, ITS MEANING FOR DEVELOPMENT*, 3 U.N. MONTHLY CHRONICLE No. 4, at 48 (1966).

6. It has been estimated that before the end of this century between 1,100 million and 1,400 million new dwelling units must be constructed in the world. Assuming a medium estimate of 1,250 million, an average annual output of more than 40 million new dwellings is required; about 10 million in the more developed areas and 30 million in the less developed areas. This indicates the formidable nature of the task ahead, since instead of producing the standard requirement of approximately 10 dwellings per 1,000 inhabitants, according to the United Nations estimates, the present level of performance in the less developed areas averages only 2 to 3 dwellings per 1,000 inhabitants.

The United Nations Conference on the Human Environment (Part III). Housing and the Human Environment, 2 HUMAN SETTLEMENTS 42 (Jan. 1972) (Centre for Housing, Building, and Planning, Department of Economic and Social Affairs, United Nations).

7. G. A. Res. 2998 and 2999 (XXVII, Dec. 15, 1972). Resolution 2998 not only called for establishment of a housing program within the International Bank for Reconstruction and Development, but also tied that program to sociological as well as economic goals, and recommended the establishment of such domestic financial institutions as would be necessary to implement the plan:

The General Assembly,

. . . .

1. *Recommends* that all development assistance agencies such as the United Nations Development Programme and the International Bank for Reconstruction and Development should in their development assistance activities also give high priority to requests from Governments for assistance in housing and human settlements;

2. *Recommends* that, in its lending policies in this sector, the International Bank for Reconstruction and Development should provide funds on terms and conditions which fully reflect the unique nature and characteristics of housing and related investments;

3. *Recommends* that in establishing criteria for eligibility for loans under more favourable terms and conditions the International Bank for Reconstruction and Development should take into account, in addition to economic and monetary

reaffirmed its pledge to meet the housing crisis,⁸ and began planning for the International Habitat Conference of 1976.⁹

Nevertheless, the efforts of the United Nations in housing development have been fragmented, sporadic¹⁰ and clearly insufficient to meet world housing needs. In recent years the proportion of U.N. funds allocated to technical assistance for

criteria, such critical socioeconomic factors as levels of unemployment, rates of urban growth, population density, and the general condition of the housing stock in the developing countries;

4. *Further recommends* that as a matter of priority the International Bank for Reconstruction and Development, in agreement with requesting Governments, should implement its stated policy of providing seed capital loans on favourable terms, taking into account the recommendations in paragraph 3 above, for the establishment of domestic financial institutions and organizations to mobilize and allocate capital for housing and related investments.

Furthermore, Resolution 2999 called for the establishment of a specific international fund, basing its recommendation once again on socioeconomic grounds and the historical record of inaction in international housing:

The General Assembly,

.....

Concerned with the lack of improvement in the deplorable world housing situation, particularly the critical shortage of low-cost housing or minimal standards of housing in developing countries,

Aware that the environment cannot be improved in conditions of poverty, one of the palpable manifestations of which is the substandard quality of human settlements, particularly in developing countries,

Recognizing the need for intensified and more concrete international action to strengthen national programmes in the planning, improvement and management of rural and urban settlements, thereby narrowing the growing gap between housing needs and available supply and improving the environmental quality of human settlements,

.....

1. *Endorses* in principle the establishment of an international fund or financial institution for the purpose envisaged in recommendation 17 of the Action Plan for the Human Environment [*viz.*, improvement of housing conditions in developing countries].

8. G.A. Res. 3327 (XXIX, Dec. 16, 1974).

9. G.A. Res. 3001 (XXVII) and 3128 (XXVIII) established the Habitat Conference, which took place in Vancouver, Canada on May 31-June 11, 1976. *See generally* 13 U.N. MONTHLY CHRONICLE No. 7 at 50 (July 1976) which summarizes the proceedings of the Conference.

10. United Nations involvement in national housing economies and support of related institutions has thus far been manifested only as an aspect of overall economic development. The U.N. has not participated in any capitalization schemes, but rather has taken the role of technical adviser on the regional level. *World Housing Agency, supra* note 3 at 71.

human settlements has been a mere 2 percent of the total U.N. budget, compared to about 27 percent for agriculture and 20 percent for industry.¹¹ Furthermore, housing activities of regional development banks, such as the Inter-American Development Bank, have actually decreased,¹² and the World Bank has made only minimal capital contributions to the housing sector.¹³

Notwithstanding well-meaning proposals and, in certain instances, substantial infusions of capital by the international public sector into housing projects, housing construction continues to lag behind population growth.¹⁴ Although the foreign aid donor nations agree in principle that action must be taken, they have not devoted sufficient resources to the housing needs of their foreign aid recipients.¹⁵ Domestic housing programs in less de-

11. U.N. Doc. OPI/CESI Note 317 at 2 (Apr. 21, 1975).

12. Inter-American Development Bank loan disbursements for housing decreased from 7 percent of cumulative total loans for 1961-73 to 5 percent for the 1969-75 period. See IADB ANNUAL REPORT 1973 at 25; IADB ANNUAL REPORT 1975 at 39.

For background on regional housing development, see generally J. SUZ, INTERNATIONAL DEVELOPMENT BANKS (1974); J. WHITE, REGIONAL DEVELOPMENT BANKS (1972). One sector of public international housing financing that has increased is intergovernmental joint ventures. See Rendell, *Commonwealth Development Corporation Experience with Joint Ventures*, in PRIVATE FOREIGN INVESTMENT (1972); and see generally K. BIVENS & E. LOVELL, JOINT VENTURES WITH FOREIGN PARTNERS (1966).

13. The World Bank Annual Reports do not list figures specifically for housing, but for "urbanization," which includes housing as well as urban paving, sewage systems, disaster reconstruction, and so forth. WORLD BANK ANNUAL REPORT 1975 at 65. In the period 1964 to 1968, the World Bank and the International Development Association authorized no loans for urbanization, against a total average annual loan authorization of \$986.6 million. In 1969 to 1973 annual average urbanization loans amounted to 0.48 percent of the total average annual loan authorization (\$12.2 million for urbanization as against \$2540.2 million overall). In 1973, urbanization loans amounted to 1.06 percent of total loan authorizations (\$36 million as against \$3408 million); in 1974 the percentage of urbanization loans authorized increased to 2.61 percent (\$113 million as against \$4313.6 million), and in 1975 the percentage of loans for urbanization decreased to 1.59 percent (\$93 million as against \$5,895.8 million total). Thus, although 1975 shows a downturn in percentage of loans authorized for urbanization, the long-term trend reflects a slight increase in the percentage of loans for urbanization. WORLD BANK ANNUAL REPORT 1975 *passim*.

14. WORLD HOUSING SURVEY, U.N. Doc. E/C.6/129 (1973).

15. The following figures have been given for the percent contributions to bilateral housing aid from the given nations' total bilateral aid commitments: France, 7.7 percent; Great Britain, 6.1 percent; Norway, 3.7 percent; United States, 2.6 percent. Furthermore, "resources from all other countries devoted to aiding housing, building and planning represent less than 2 percent of their total bilateral assistance." *World Housing Agency, supra* note 3 at 72.

veloped countries (LDCs) have also been inadequate.¹⁶ In 1969 industrialized countries invested more than 4 percent of their gross national product in housing; France, Italy, Japan and Switzerland each invested over 6 percent. In contrast, the less developed countries had an average investment rate of 2 percent or less.¹⁷ The LDCs' limited commitment to their own housing needs has affected the construction industry as well as the overall economy of these countries. Building construction and its ancillary operations normally employ 10 to 15 percent of the active population in the more developed countries, but such activities employ only 6 to 8 percent in the underdeveloped areas of the world.¹⁸ The majority of the underdeveloped nations also fail to take advantage of labor-intensive building technologies. In some African countries, for example, imported technology-intensive building materials account for 60 percent of construction costs, in spite of the availability of indigenous materials that can be adapted for use in modern construction.¹⁹

Other barriers related to a country's ability to stimulate housing development include the scarce supply of developed land and rampant land speculation.²⁰ Furthermore, housing programs

16. UNITED NATIONS CENTER FOR HOUSING, BUILDING, AND PLANNING SELF-HELP PRACTICES IN HOUSING, SELECTED CASE STUDIES (1974).

17. U.N. Doc. OPI/CESI Note 299 (Jan. 3, 1975) at 2. This report abstracts a part of the U.N. ECONOMIC AND SOCIAL COUNCIL, 1974 REPORT ON THE WORLD SOCIAL SITUATION OF THE COMMISSION FOR SOCIAL DEVELOPMENT.

The result of this allocation of resources is that:

Some developing countries build less than ten percent of their requirements; in most of them less than two housing units per 1000 inhabitants are built annually. Latin America has a deficit of 20 million units. In Asia and the Far East the deficit was 147 million units in 1960, with investment in housing running at about one and one half to two percent of the national income — far short of the minimum 4.6 percent needed. On a more human level, street sleeping is a common practice in cities like Calcutta, where literally thousands of people are without homes. In Bombay, a city of 5.5 million, one in every 66 persons was homeless in 1963; another 77,000 people lived under stairways, in cattle sheds, on landings, or similarly inadequate shelter.

A World Housing Agency, supra note 3 at 68 (footnotes deleted).

18. U.N. Doc. OPI/CESI Note 299 (Jan. 3, 1975) at 3.

19. U.N. Doc. E/C.6/129 (1973).

20. See generally, *International Bank for Reconstruction and Development, International Development Association, Urbanization — Sector Working Paper, Hearings*

established by developing nations have generally been misdirected. Most assistance has been given to middle-income families and state employees, leaving the vast majority of poor families without any assistance.²¹ Those housing programs specifically intended to benefit low-income families have failed in many instances, because of deficiencies in program administration to account for family income and resources, and to oversee applications, subsidies and collections.²² In short, the governmental machinery required to support housing programs is frequently inadequate or simply lacking.²³

While its own efforts to provide solutions to the housing crisis have been inadequate, the public sector also has been reluctant to provide incentives for private foreign investment. For example, when the International Bank for Reconstruction and Development was created in 1961, one of its primary intended financial activities involved guaranteeing private foreign investments. In spite of this, the Bank has made very little use of the

Before the Subcom. on Housing and Urban Affairs of the Senate Comm. on Banking, Housing and Urban Affairs, 92d Cong., 2d Sess. 85-163 (1972) [hereinafter cited as Senate Hearings]; Urban Land Policy, id. at 164-78.

21. *Senate Hearings, supra* note 20 at 111.

22. Another commentator has summarized the "principal contributing factors to the generally poor performance of the housing sector during the First United Nations Development decade" as including:

(a) Failure to appreciate the economic impact of housing and related construction programmes;

(b) Lack of clear policies concerning the volume, type and location of housing to be built in a given period;

(c) Failure to understand and use dynamic social forces associated with housing programmes;

(d) Lack of effective institutions to formulate and implement programmes of housing and community facilities;

(e) Lack of appropriate financial systems, institutions and related legal and fiscal measures;

(f) Shortage of training of professional and skilled personnel in all fields required for housing programmes.

Implications of Population Trends on Urban Development and Housing, supra note 5, at 62.

23. See Howard, *Law as a Resource of Development*, 18 INT'L DEV. REV. 9 (1976).

Various U.N. committees that have been organized to study the crisis in human settlements remain committed to public rather than private financing of housing.

guaranteeing powers authorized by its charter.²⁴ Instead, it has emphasized direct loans to central banks and government agencies as have most other international development institutions. Borrowers also have preferred direct loans in order to retain control and supervision of their national housing programs. In principle, retention of control is a sound objective; however, the insufficient amount of funds generated by public institutions, coupled with the inefficient bureaucratic administration of those funds, have only added to the housing crisis.

In summary, international, regional and domestic housing programs have, on the whole, failed to satisfy the housing needs of developing nations. In light of the failure of public funding, it is reasonable to turn to the private sector. If a competitive private international market can be created to attract housing funds, the profit motive will help to ensure an effective allocation of resources; this, in turn, will tend to stabilize further the economies in which those funds are ultimately invested. As national housing construction expands, absorbing labor and creating backward linkages in the domestic economies, further investment in those economies will in turn become more appealing, while at the same time the beneficiary nations will be able to proceed with development using the public funds that are released. In short, the creation of a successful private international housing investment market can lead to economic growth and self-determination.

The development of a private international housing investment system has been hampered, not by a lack of funds, but by the absence of a market mechanism whereby funds that are available can be invested. In principle, the mechanisms that have been developed by market pressures and governmental interven-

A recent article summarizing the recommendations and resolutions on human settlements by the General Assembly at its 28th session noted:

In a comparison of mortgage subsidy programs with housing subsidy programs, it was stated that, in principle, housing programs would be more efficient than mortgage programs. The reason: mortgage programs may simply result in larger loans being made available, with less effect on housing objectives.

4 HUMAN SETTLEMENTS 43 (1974) Centre for Housing, Building and Planning, Department of Economic and Social Affairs, United Nations. *But see* P. Ady (ed.), PRIVATE FOREIGN INVESTMENT AND THE DEVELOPING WORLD (1971), in which it is argued that only private overseas investment can cure the ills of the developing countries.

24. WORLD BANK ANNUAL REPORT 1975 at 7.

tion in the industrialized countries — namely, mortgages and, in some countries, mortgage-backed bonds — can be employed on an international scale. In practice, however, there are numerous impediments to the use of real estate as security for international loans. These impediments can only be overcome by cooperative planning among the investors, the governments of the countries in which the real estate is located, and the international and national organizations who must serve as insurers of the investments. Such planning will necessarily be complex, but the legal and financial prerequisites for the creation of an international private housing investment system are already in existence. All that is required is coordination of these elements in a smoothly functioning and reliable investment environment.

DOMESTIC MORTGAGE MARKETS: IMPERFECTIONS AND REMEDIES²⁵

Domestic mortgage markets suffer inherent imperfections that decrease their competitiveness with other forms of investment.²⁶

Each property is unique and thus creates special problems of valuation and servicing.²⁷ The value of one property in a portfolio bears little or no relation to the value of any other property, and at a given time depends on the maintenance and upkeep by the

25. See Bartke, *Fannie Mae and the Secondary Mortgage Market*, 66 N.W. UNIV. L. REV. 1 (1971).

26. The relative advantage of an investment such as real estate and its related security instruments (such as mortgages) is based on a comparison of the investor's potential rates of return for alternative investment opportunities. The rate of return is a function of risk, and the factors involved in the calculation of risk for real estate investment have been summarized in F. BABCOCK, *THE VALUATION OF REAL ESTATE* (1932). See also N. KINNARD, JR., *INCOME PROPERTY VALUATION* (1971).

27. The market imperfection of real estate and its effect on the investment community has been broadly discussed by the commentators. See R. BROWN, *REAL ESTATE ECONOMICS* 54-77 (1965); R. RATCLIFF, *REAL ESTATE ANALYSIS* 227-68 (2d ed. 1961); Dasso, *Changing Economic Conditions and the Condemnation Value of Real Property*, 48 ORE. L. REV. 237 (1969).

mortgagor and on the accuracy of loan-to-value appraisals.²⁸ For these reasons, mortgages lack fungibility.

In addition, the legal structures that provide security for investors, for example, title recordation statutes,²⁹ lack uniformity and present a trap for the unwary. Another market imperfection of mortgages is that the elasticity of the demand for housing is uncertain.³⁰

The mortgagor's economic status is another source of unreliability. Here, it is illuminating to contrast the mortgage market with other investment markets. Corporate bonds are issued generally by stable enterprises of perpetual existence and are subject to stringent federal and state regulation. Residential mortgagors, on the other hand, are private parties for the most part beyond the scope of present federal and state security laws and are more vulnerable to the vicissitudes of life. Timely repayment of residential mortgages thus depends on the financial responsibility of the borrower.

Corporate securities also have the advantage of a well-defined secondary market. In contrast, the lack of liquidity, together with

28. The methodology of property valuation is more an art than a science, dependent on the myriad of factors that involve among others, the property's location and the state of the economy. For excellent reviews of these factors see Cooper, Farrell, & Guntermann, *An Introduction to Appraisal and Yield Analysis*, in *REAL ESTATE AND URBAN LAND ANALYSIS* 585 (J. R. Cooper & K. L. Guntermann eds. 1974) (hereinafter cited as Cooper & Guntermann); W. KINNARD, *INCOME PROPERTY VALUATION* (1971).

29. See generally Johnstone, *Title Insurance*, 66 *YALE L.J.* 492 (1957).

30. F. CASE, *REAL ESTATE* 101-21 (1959), reprinted in Cooper & Guntermann, *supra* note 28 at 357, 361. One commentator, however, suggests that demand for housing is in fact predictable. Muth, *The Demand for Non-Farm Housing* in Cooper & Guntermann, *supra* note 28 at 379. He derives equations relating overall demand to rate of replacement demand, actual present stock of housing, and desired stock. His analysis yields the familiar "feast and famine" syndrome of construction and housing investment. On the other hand, Muth's analysis does not take psychological factors of investing into account, in spite of the fact that empirical market realities suggest that these psychological factors, *viz.*, the attitudes of lending institutions, play a significant role in the availability of capital for housing. See Bentley and Macbeth, *Mortgage Lenders and the Housing Supply*, 57 *CORNELL L. REV.* 149 (1972).

the cost of servicing, reduces the attractiveness and relative yield of a mortgage.³¹

An international mortgage market would suffer from some of the same problems which plague domestic mortgage markets. These risks are intensified, however, at the international level.³² Many countries have inconsistent and arbitrary recording statutes,³³ as well as regulations of tenure and mortgages which are inadequate for contemporary needs.³⁴ Furthermore, laws of many jurisdictions, particularly in the developing nations, place prohibitive restrictions on alien ownership of land.³⁵ As a result, an investor in a mortgage originating in a foreign country may lack an appropriate remedy in the event of a borrower's default.

In addition to the usual problems connected with mortgages, an international mortgage market would have its own peculiar imperfections. An individual or corporation interested in real estate abroad might be dissuaded from investing there because of the difficulty of closely managing the property, even if foreclosure to recover the security in the event of default were assured. Political uncertainties, which may be especially acute in less developed countries, also affect the quality of the investment. Potential uncertainties in foreign exchange markets, and actual

31. As noted in the testimony of James W. Rouse in *Study of Mortgage Credit, Hearings Before a Subcomm. of the Senate Comm. on Banking and Currency*, 86th Cong., 1st Sess. 405-16 (1959).

32. The literature does not contain a single volume devoted exclusively to the subject of international real estate transactions. However, many of the problems confronting international transactions would apply to the real estate field as well, for example, expropriation and devaluation. Currency devaluation become a particularly sensitive consideration in international real estate transactions because the long-term nature of such transactions requires either long-term currency stability or insurance. Standard works on international investment in general include ABA, *THE PROTECTION OF PRIVATE PROPERTY INVESTED ABROAD. A REPORT BY THE COMMITTEE ON INTERNATIONAL TRADE AND INVESTMENT, SECTION OF INTERNATIONAL AND COMPARATIVE LAW* (1963); *LEGAL PROBLEMS IN INTERNATIONAL TRADE AND INVESTMENT*, (C. Shaw ed. 1962); *THE PROTECTION AND ENCOURAGEMENT OF PRIVATE FOREIGN INVESTMENT* (J. Starke ed. 1966).

33. E. DOWSON & V. L. O. SHEPPARD, *LAND REGISTRATION* 98-147 (London, 1956); E. ABENSOUR & P. MORAL-LOPEZ, *PRINCIPLES OF LAND TENANCY LEGISLATION* (1966) (global survey) (FAO, Rome).

34. *Implications of Population Trends on Urban Development and Housing*, 24 *ECON. BULL. ASIA AND FAR EAST* 53, at 62 (1973), U.N. Doc. E/CN.11/1105 (1973).

35. A. A. FATOUROS, *GOVERNMENT GUARANTEES TO FOREIGN INVESTORS* 41 (1962). See also, G. R. DELAUME, *TRANSNATIONAL CONTRACTS — APPLICABLE LAW AND SETTLEMENT OF DISPUTES* Ch. III at 22 (1975).

or possible restrictions on international movement of currencies are also discouraging factors. Other problems include the potential for possibilities of expropriation,³⁶ and currency differences and values including differential inflation rates.³⁷

All of these risks combine to make international mortgage investment relatively unattractive. Obviously, private international investment in housing could be facilitated by the development of a mechanism that would decrease the risks of such investment and would ensure liquidity. The creation of an inter-

36. While expropriation is currently an insurable risk — see *Overseas Investment — Liability of United States Government Under Expropriation Insurance Contract*, 16 HARV. INT'L L.J. 721 (1975) — the current position of developing countries with respect to sovereignty over their natural resources, including land, may make the costs of expropriation insurance prohibitive. This position is embodied in the 1974 Charter of Economic Rights and Duties of States, U.N. GAOR, 29th Sess., A/RES/3281 (xxix). Although the rhetoric of the Group of 77 (the developing countries) has been directed toward assertions of sovereignty and control over natural resources, rather than land *qua* real property, a burgeoning international mortgage market might prompt interference in the capitalist process of land ownership and development. Thus in 1972 one commentator noted that "private investment must be carefully managed if the investor is to avoid the counter-productive appearance of exploitation." *World Housing Agency*, *supra* note 3 at 77. This caution applies with even greater force today in light of the developing countries' posture toward their resources.

In addition, there are legal difficulties surrounding the enforcement of contracts between the governments of developing countries and foreign corporations:

[P]ositive international law protection for such contracts thus appears to be presently non-negotiable with the Group of 77. While it does not follow from this that governments will not observe their undertakings or that such contracts are not governed by international law, . . . it must be recognized that, where governments do not observe their commitments to foreign investors, appeals to international law will have to meet the argument that these propositions are no longer accepted by a significant segment of the international community.

Haight, *The New International Economic Order and the Charter of Economic Rights and Duties of States*, 9 INT'L LAW 591, 601 (1975). This area of international law is extremely uncertain; the legal effect of the 1974 Charter of Economic Rights and Duties of States is not yet clear, not the least because of the uncertainty as to the extent to which the Group of 77 will match its actions to its rhetoric (*id.* at 604). In sum, expropriation remains, at least for the present, an insurable risk, but one that bears careful watching.

37. One factor affecting exchange rate fluctuation is inflation. An example of a mechanism to correct mortgage values for inflation by adjusting the face value of the mortgage obligation as inflation increases is discussed in Lefcoe, *Monetary Correction and Mortgage Lending in Brazil*, 21 STAN. L. REV. 106, 126-40 (1968). Such schemes require sophisticated banking apparatus and government cooperation. In the case of United States banks holding foreign mortgages, the United States banks could supply the sophistication often lacking in banks of foreign nations.

national secondary mortgage market based on mortgage-backed securities, such as those currently in use in Germany³⁸ and the United States,³⁹ could solve all of these problems.

MORTGAGE-BACKED SECURITIES:⁴⁰ A METHOD OF ATTRACTING
PRIVATE CAPITAL TO FINANCE HOUSING PROGRAMS

*The Government National Mortgage
Association Experience*

In the United States, Title VIII of the Housing and Urban Development Act of 1968 created the Government National Mortgage Association (GNMA).⁴¹ One function of GNMA is to

38. Mortgage-backed securities have existed in Germany since 1770, when they were authorized by Frederick the Second following an economic crisis precipitated by the Seven Years' War. See JONES AND GREBLER, *THE SECONDARY MORTGAGE MARKET* 47-102 (1961), noted in Bartke, *supra* note 25, at 44-45; Fredericksen, *Mortgage Banking in Germany*, 9 Q. J. ECON. 47 (1895). German law currently provides for the issuance of negotiable bonds secured by a pool of real estate mortgages, Law of 1963, *Bundesgesetzblatt [BGB 1]* 1 368, § 5(1) (W. Ger.). The mortgage-backed securities are referred to as "Hypothekenspfandbriefe." Sections 29-31 provide that the availability and adequacy of the pooled mortgages is to be supervised by a trustee. Section 6(1) provides that the yield of the mortgages securing the bond must equal the bond interest at all times.

39. Notwithstanding the difficulty of quantitative analysis in the housing demand and mortgage supply areas, there is strong evidence that federally underwritten mortgages in the United States have a tendency to mitigate fluctuation in housing construction. Guttentag, *The Short Cycle in Residential Construction, 1946-1959*, in Cooper & Guntermann, *supra* note 28, 409-29. The effect of similar programs on the international level presumably would be similar, but the point has not been discussed in the literature.

40. The concept of a secondary mortgage market has been defined as "the ability of mortgage investors, in an organized fashion either to dispose of mortgages in their portfolios through sale or to convert such mortgages into securities acceptable to other segments of the investment public, directly or indirectly." Bartke, *supra* note 25 at 8. Bartke further notes that the term "secondary mortgage market" is susceptible to a spectrum of definitions, engendering an even broader spectrum of confusions. His definition of the secondary mortgage market as an "ability" perhaps adds further to the confusion, but substituting "means whereby" for "ability" gives a functional definition that is certainly suitable for our purposes.

41. 12 U.S.C. §§ 17-23 (1971). For an extensive review of the Government National Mortgage Association, see Ganis, *All About the GNMA Mortgage-Backed Securities Market*, 4 REAL EST. REV. 55 (Summer 1964). Before the creation of GNMA, the so-called conversion principle was used several times in an attempt to develop a negotiable security for real estate financing. The first attempt to convert mortgages into bonds that would be attractive to the investing public was made in the 1880s and 1890s. Bartke, *supra* note 25 at 8-11. The mortgage companies that issued

guarantee mortgage-backed securities issued against pools of FHA and VA mortgages, and, as a result of recent legislation, privately insured conventional mortgages. The guarantee is backed by the full faith and credit of the United States. GNMA mortgage-backed securities are thus equal in investment quality to federal government notes and bonds.

Two types of GNMA mortgage-backed securities are authorized by legislation: fixed-maturity mortgage-backed bonds and pass-through securities. Pass throughs, the only type of security insured by GNMA to date, are fully amortizable securities in which all of the principal and interest is passed through to the holder of the bond, regardless of whether payments are actually made by the mortgagors or the insurer of the mortgage upon default. The typical guarantee plan provides for the pooling of new thirty-year FHA and VA home loans and the issuance of a security against this pool. The security carries a coupon rate of one-half of one percent less than the rate of the pooled mortgages. This half percent includes GNMA's guarantee fee of 6/100ths percent and the issuer's service fee of 44/100th percent per annum.

The major issuers of GNMA pass-through securities are mortgage and commercial banks. The objectives of these institutions are to establish a mortgage servicing portfolio and to attract private funds from alternative investment opportunities into investments in the local mortgage market. The securities share property approval and borrower credit approval with the FHA and the VA.

At times during the past five years, GNMA mortgage-backed securities have been issued at yields equal to or greater than the interest rate of the mortgages securing the GNMA-insured de-

the debentures were unsupervised by government and did not trade the mortgages in an organized fashion. A second attempt was made in the 1920s. These mortgage-backed bonds were not issued against pools of mortgages, but against specific mortgages to finance particular undertakings, thus representing fractional interests in such mortgages. See Posner, *The Lesson of Guaranteed Mortgage Certificates*, 26 HARV. BUS. REV. 560 (1948); Note, *Present Problems in New York Mortgages*, 36 COLUM. L. REV. 663 (1934); E. FISHER, *URBAN REAL ESTATE MARKETS: CHARACTERISTICS AND FINANCING* 28-35 (1951). Mortgage "warehousing," in which short-term bank credit is used to finance long-term mortgages, also exists as a substitute for a well-developed secondary mortgage market. See Guttentag, *Mortgage Warehousing*, 12 J. FIN. 438 (1957); Kaplan, *Recent Institutional Arrangements in Mortgage Lending*, 13 J. FIN. 188 (1958).

benture. This is possible for two reasons. First, issuers are interested in servicing fees; they are willing to forego profit on the origination of the bond in order to remain competitive with alternative investments, achieving their profit through the servicing fees. Second, FHA and VA loans usually involve discounts ("points") paid by the buyer and seller of the property. These points provide a yield that is greater than the yield from the interest rate of the mortgages pooled as security. The issuer thus has the option of offering bonds at a discount or at a higher rate of interest. Discounted bonds that entail a loss on origination are ultimately profitable because of servicing fees and the advantageous spread on the reinvestment of such new funds.

Many issues of GNMA pass throughs are negotiated for delivery and payment at some future date. Advance commitments enable issuers to write mortgages that they know are funded and pre-sold. In many instances, this advance-commitment procedure is the incentive that prompts the issuers to enter the mortgage market.

To date, defaults by issuers of GNMA pass-through securities have been minimal.⁴²

A PROPOSED MODEL FOR ESTABLISHING AN INTERNATIONAL MORTGAGE-BACKED SECURITIES MARKET

Loan Origination, Mortgage Servicing and The Creation of a Mortgage-Backed Security

The Role of a Home Bank

The initial requirement for an international mortgage-backed securities market is the establishment of an institution to originate the loan, that is, the creation of a mortgage bank in the situs

42. According to GNMA:

Since inception of the program GNMA has had to pay claims on 8 percent of the projects placed in security pools, and an additional 10 percent of the project mortgages in security pools are delinquent. Claims paid on project pools through June 30, 1975 totalled \$832,000 against guarantee fees collected of \$1.8 million To decrease GNMA's exposure on such pools, GNMA modified its regulations, effective March 1, 1975 so that the issuer of the security assumes responsibility for all costs not covered by the FHA claim settlement up to a maximum of 1¾ percent of the mortgage amount in the event of mortgage assignment during the first three years of a security.

GNMA ANNUAL REPORT at 12 (1975).

country of the real estate.⁴³ This "home bank" could take several forms. Savings and loan institutions, or the central banks of countries that do not presently have a savings and loan system, could be utilized. In nations lacking either a well-developed mortgage mechanism or a banking system willing to undertake such a program, national governments or housing agencies could temporarily fill the role of a home bank. Such entities could employ foreign banks to supply the expertise necessary to undertake and administer the lending program.⁴⁴

The home bank would be responsible for creating a pool of mortgages through loans to resident nationals. This pool would be used to secure a mortgage-backed security (bond) issued by the home bank for sale on the international market. Thus, the proposed model for establishing an international mortgage-backed securities market would parallel the plan in the United States establishing a domestic mortgage-backed securities market.

The Role of a Trustee

The creation of an international mortgage-backed securities market would also require the appointment of an independent trustee, to whom legal title to the mortgages would be transferred. Preferably, the trustee would be a resident of the situs country.⁴⁵ The home bank would retain equitable title to the mortgages and would be responsible for all payments, terms and covenants of the bonds. In the event of default by the home bank, equitable

43. At the present time, it is not realistic to consider origination of loans by banks foreign to the situs country. The present proposal, however, does not rule out the possibility of such mortgages in the future, under the appropriate safeguards.

44. In such cases, the foreign bank's role would be limited to giving advice or planning and operating the lending program. The scope of the foreign bank's duties would vary, of course, according to the authorization of the situs government. See note 43 *supra*.

45. Trustees are commonly used in international bond arrangements. It is important that the trustee be a resident of the country where the property is situated and meet the local qualifications of a trustee in order that he will be able to legally enforce and accept the responsibilities which this article contemplates. In the United States, under the Trust Indenture Act, at least one of the trustees must at all times be a corporation organized and doing business in the United States and must meet certain capital requirements. 15 U.S.C. § 77jjj (1971). France has similar specific trustee qualification requirements, French Civil Code D.L.P.B. art. 25. In Peru, the trustee must be the central mortgage bank, Peruvian Civil Code art. 1807. See generally G. R. DELAUME, LEGAL ASPECTS OF INTERNATIONAL LENDING AND ECONOMIC DEVELOPMENT FINANCING 55-56 (1967) [hereinafter cited as DELAUME].

title would merge with legal title. The trustee would then assume the responsibility of servicing the mortgages in every respect, making distributions in accordance with the provisions of the bonds, guarantees, insurance, and other related agreements.⁴⁶ The interposition of a trustee would thus ensure the existence of a resident institution to carry on the servicing functions, thereby ameliorating foreclosure and other administrative burdens facing a nonresident guarantor and payment problems facing a nonresident investor.⁴⁷ Additionally, the trustee would safeguard the home bank's fulfillment of the conditions of the indenture and any other related agreements. The trustee would be responsible to all parties of the transaction: home bank, mortgage insurance company and its guarantor, guarantor of the security instrument backed by such mortgages, and the holder of the mortgage-backed security. If local law permitted, the trustee could be a corporate entity with its stock held by the international guarantor as further assurance of control of such trustees.

46. Under the laws of many countries, if the agreement provides that it is to be enforced only by the trustee, then the trustee, and not the bondholders, is the only party authorized to seek adherence to the indenture agreement. In other words, no individual cause of action exists in the bondholders. *Kerr v. Societe Pyrenees Minerals*, Cass. Feb. 19, 1908, *Clunet* 1912, 243, affirming Court of Appeals of Toulouse July 18, 1905, *Clunet* 1906, 451; *Palau v. Departamento do Antioqua*, 48 *Gaceta Judicial* 808-17 (French summary in *Clunet* 1940-45, 589). Ambiguities in the agreement may cause substantial problems in the practical mechanics of the arrangement; in at least one case the language of the agreement was construed as causing the obligor to lose all control over the funds remitted to the trustee, *Ehag Eisenbahnwerke Holding, A. G. v. Banca Nationala A Romanei*, 306 N.Y. 242, 117 N.E.2d 346 (1954). See also DELAUME, *supra* note 45, at 63-66.

47. Thus, Delaume states that:

[T]he doctrine of immunity may prevent lenders from enforcing their rights against foreign governments in any court other than those in the borrower's country. Lenders generally do not regard a right to sue in these courts as a satisfactory remedy; and they cannot safely rely on the borrower's willingness to waive its immunity in the courts of the lender's country at the time of an actual dispute. Lenders therefore often turn to other devices. One device is to stipulate in the loan agreement that the borrower submits to the jurisdiction of a designated forum and waives any right to sovereign immunity with respect to its obligations under the agreement. Provisions such as these are enforced in the courts of Continental countries. They may prove extremely valuable also in countries like the United States, in which it is not clear whether waivers of immunity are irrevocable. In view of the relatively close world of the lending community, the borrower might experience embarrassment if it attempted to escape a commitment to submit to jurisdiction.

DELAUME, *supra* note 45, at 159-60.

Insurance: The Role of an International Agency

The key to creating a workable international mortgage-backed securities market is the establishment of payment guarantees at various levels: insurance of payments by the mortgagor to the home bank (insurance on the mortgage), and insurance of payments by the home bank to the owner of the bond (insurance on the mortgage-backed security). These guarantees would induce the home bank to make the loan to the mortgagor, and would induce the investor to purchase the mortgage-backed security from the home bank. The interposition of an international agency to provide such insurance would be highly desirable.

The Need for Mortgage Insurance

In order to guarantee repayment of the loan, the mortgage instrument should provide for insurance of the individual mortgages. Insurance adequate to cover all risks could be provided by a two-tier system. First, either a private insurance company of the situs country or the government of the situs country would assume primary liability for default on the loan. If the initial risk were underwritten by a private insurance company of the situs country, the government should subsidize the cost of the insurance. Without such subsidy, the insurance expense would be passed on to the mortgagor and would probably affect his ability to meet his payments. If the initial risk were underwritten by the situs government, the government would subsidize part of the cost of the insurance, and would pass the remainder of the cost on to the mortgagor. Again, that part of the insurance expense paid by the mortgagor should not be so great as to exceed his ability to make his mortgage payments.

Second, an international agency, such as the World Bank, would assume secondary liability for default on the loan. This institution's liability would be invoked in such situations as expropriation, when the government of the situs country seized ownership and control of the mortgaged properties (but not the home bank) and refused to honor its primary insurance obligations. The cost of such secondary insurance could be pushed up the line toward the mortgagor as far as his ability would allow. Where the expense became overly burdensome to the mortgagor, the government of the situs country could again subsidize the remaining cost. The funds to pay for primary and secondary

insurance subsidies would be taken from the capital freed by the government's dissociation from public housing programs. Such dissociation would be possible because of the replacement of public by private capital generated through the international mortgage-backed securities market.

Primary and secondary insurance would encourage home banks to make residential loans by protecting them from loss. Although housing loans in developing countries are high-risk ventures, subsidization of the cost of that risk would lower the actual risk incurred by the lending institution, thus making profitable the issuance of such loans in increasing numbers.

The Need for Mortgage-Backed Security Insurance

In order to guarantee payment of the principal and interest due on the mortgage-backed security, the indenture agreement should provide for insurance of the bond. Here, a two-tier system would not necessarily be appropriate, and an international organization such as the World Bank would probably have to provide the complete guarantee. First, the investor would lack control over, and consequently confidence in the situs government as guarantor. The sovereignty of the situs country would protect it from any legal action arising from its failure to honor the security guarantee. The only influence which the security holder could exert toward payment of the obligation in the event of default would be through his own government. Even if the investor believed that his government could induce payment by the situs government, or guarantor on the mortgage-backed security, he would probably prefer to make a safer investment. Also, the investor would probably lack confidence in a private insurer in the situs country, primarily for the same reasons. In either case, if the investor decided to purchase the security, he would probably insist on a prohibitive yield if the risk were not covered by a reliable international institution. This would place a heavy restraint on the mortgagor, who would have to pay higher interest rates, on the home bank, which would have to forego some of its profit, and on the situs government, which would have to provide greater subsidies.

The international agency guaranteeing the mortgage-backed security could, like GNMA, charge the home bank a very small percentage of the mortgage principal to pay for the expense of guaranteeing the security. The expense could be passed on, in

whole or in part, to the mortgagor. Any difference could again be made up by the situs government in the form of a subsidy. The rate charged by the international agency for insuring the security could be maintained at a relatively low level by a combination of several practices, including careful investigation into the stability of the home bank and the situs government and insurance of a proliferating number of international mortgage-backed securities. Until the proliferation occurred, the international agency could use its own capital for reserves, or could rely on low-interest loans from member nations.

The participation of a strong international agency would also discourage expropriation or noncompensation in the event of loss. Further, the international agency would act as rulemaker, establishing the criteria for selecting the home banks that would be allowed to offer securities. It would develop the standards by which a particular mortgage would be deemed acceptable as security for the mortgage-backed instrument. Thus, by making its own regulations and strictly enforcing them, an international agency insuring mortgage-backed securities could reduce the overall risk of loss without requiring substantial additional expenditures.

Summary of Parties' Liabilities

The liabilities of the parties under this model for a mortgage-backed securities market may be summarized as follows:

1. The mortgage guarantee insurer (the insurance company operating in the country where the real estate is located or the national government) would be primarily liable to the home bank, or trustee, in the event of a loss upon foreclosure.
2. The international mortgage insurer (international agency) would be liable to the home bank, or trustee, upon default by the primary mortgage guarantee insurer.
3. The home bank would be primarily liable to the ultimate investor on the mortgage-backed security.
4. The international agency insuring the mortgage-backed security would be liable to the ultimate investor or trustee upon default by the home bank.

The international agency would only be liable, then, on the mortgage-backed security if the home bank defaulted and the trustee

had insufficient funds to pay off the bonds. Its liability would be limited, therefore, to situations where (1) the value of the real property securing the original mortgage proved insufficient to satisfy the mortgage debt, and (2) the mortgage insurance company insuring the mortgage and the home bank were both insolvent.

SOME WORKING PROBLEMS WITH THE PROPOSED
MODEL AND POSSIBLE SOLUTIONS

*Unexpected Maturity of the Mortgaged-Backed
Security Caused by Prepayment or
Default of Mortgages*

The unexpected maturity of a mortgage-backed security could hinder the viability of the proposed model. If the home bank could pay off the securities when the mortgages supporting them were prepaid or in default, the investor would have virtually no idea how long his money would be invested. This uncertainty would add an additional risk factor from the investor's standpoint. The investor would question his ability to reinvest funds prematurely received at the same yield he had bargained for when the bonds were purchased, since prepayments are typically made when interest rates drop significantly. A mortgage-backed security in the international market lacking a fixed term would be less desirable than alternative fixed-term investments and would demand a prohibitively high interest rate to attract investors.⁴⁸ Thus, in order to attract investors, a mortgage-backed security should have a fixed term.

In light of this problem, how should prepayment and default of mortgages be handled? Certainly, the home bank would prefer to avoid prepayment or foreclosure so that it would not have to rely on the availability of substituted investments at the same or greater yield than the prepaid or foreclosed mortgages. However, if the homeowner's demands for the right of prepayment prevailed, the ensuing risk could be mitigated in two ways. First, the term of the security could be set by the home bank at the

48. In order to avoid an excessive risk on the home bank as a result of a fixed term, it would be advisable to allow the bond to be called at the option of the home bank upon payment of a premium to the investor. The home bank should have the right to exercise this option only on certain prearranged dates. The premium would compensate the investor for such prepayment, and the call option would preserve flexibility for the home bank.

average life of its mortgages, based on prior experience. This would stabilize the effect of prepayments and foreclosure in the mortgage pool. Second, the international agency could require the home bank to maintain a separate mortgage portfolio from which mortgages could be substituted to replace any prepaid or foreclosed mortgage. In such case, the home bank could transfer prepayment or foreclosure sale proceeds directly to the trustee, in whom legal title had been vested; the trustee would then use the money to purchase another mortgage from the home bank's portfolio. In the case of default, the home bank would have the additional choice of taking title to the property and holding it for sale at a later date. Of course, the home bank would need to replace the defaulted mortgage with a similar mortgage to maintain the mortgage pool. The substituted mortgage could also be taken from the separate mortgage portfolio. Using these measures, the pool of mortgages securing the bonds would thus remain intact, providing the necessary security and funds with which the home bank would remain current on the bond prepayments. By this mechanism, the risk of loss to the security owner due to prepayment or foreclosure would be substantially reduced.

Currency Devaluation

The possibility of currency devaluation presents the greatest barrier to the development of an international mortgage-backed securities market. Unlike inflation, currency devaluation affects the yield generated by the investment as well as the cost of obtaining the funds. The problem is enhanced because of the long-term nature of the bonds: the longer the life of the investment, the greater the risk of loss resulting from currency devaluation. Usually, private agreements among parties to an international transaction apportion the risk of currency devaluation loss.⁴⁹ It is unlikely that either the investor or the home bank would be willing completely to accept the risk of loss due to devaluation. The problem could be resolved by increasing the interest rates for the mortgage or for the mortgage-backed security to compensate the investor for this exposure. Such rates, however, would probably be prohibitive to the resident mortgagor or the home bank, and the entire mechanism could be frustrated.

49. See DELAUME, *supra* note 45, at 267-75. These agreements have taken the form of currency options, payment in units comprised of several individual currencies, and clauses requiring payment in specific currencies.

The desire to obtain private investment to finance housing projects might compel the national government to insure the home bank against currency devaluation. The home bank could then contract to accept the risk of loss due to currency devaluation in the indenture agreement without the fear of suffering monetary loss, and repayment could be made in the same currency used to purchase the debt.

CONCLUSION

The success of an international secondary mortgage market depends on the creation of a new international agency or the cooperation of an existing one. The World Bank group is ideally suited to fulfill this role, despite its historic lack of involvement in residential mortgages. It has the necessary prestige, because of its power over world trade, to discourage the expropriation of property. Its financial soundness would make its guarantee an effective vehicle for the development of an international market for mortgage-backed securities, basically eliminating the risk of loss to the investors. It can facilitate the use of private funds to achieve international goals. As stated in the Articles of Agreement of the International Bank for Reconstruction and Development, one of the purposes of the Bank is to "raise the standard of living and conditions of labor" in member countries. The standard of living in developing countries cannot be successfully raised if housing problems are not given adequate attention. It should be emphasized that the international agency's acceptance of all the risks referred to in this proposal, including currency devaluation, would be significantly less than the risk associated with direct housing investment. The establishment of an international mortgage-backed securities market could generate the private capital necessary to create new housing and improve old in developing countries.