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Second Thoughts on MIGA

by Stefan Sinn, Mannheim*

The World Bank's proposal to establish a new international organization whose purpose would be insuring foreign direct investment (FDI) against political risk was launched at its annual meeting in Seoul in October 1985. This paper is an attempt to evaluate the proposed Multilateral Investment Guarantee Agency (MIGA) from the point of view of allocation theory.

The World Bank cites three reasons to support its case for the establishment of a Multilateral Investment Guarantee Agency.[1]

□ Foreign investors in developing countries face a number of risks (mainly expropriation) they would not face at home. Other things being equal these risks will induce investors to invest less in developing countries. Therefore political risk could be one, if not *the* reason for the currently low volume of direct investment flows into developing countries. An insurance scheme such as MIGA could reverse the negative trend illustrated in Figure 1.

□ An increase in the volume of FDI flowing into developing countries is desirable because world-wide resource allocation would improve if capital were employed where it yields the highest return. In addition, the resulting increase in the capital stock of developing countries would contribute favourably to their development process. Finally, increased FDI may be one solution to the current debt crisis of developing countries because capital imports tend to improve the balance of payments.

□ Existing institutions are inadequate. Insurance against political risk is currently being offered by state-backed national insurance agencies and private insurers. According to the World Bank, insurance offered by state insurers suffers from limitations inherent to a national scheme (limited amount of risk diversification, discrimination against multinational projects). Private insurers, on the other hand, are unwilling to provide insurance for certain risks (e.g. war) and for long durations at a price investors are willing to pay.

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The specific features of the MIGA Convention were subject to intense discussions and bargaining among the representatives of host countries and home countries of FDI before the final version was submitted to governments in October 1985. The main features of the proposal are summarized below, at times referring to disputed points.

Objectives, Organization, Membership and Voting

MIGA will have full juridical personality. It will aim to encourage the flow of investment for productive purposes among its member countries and in particular to developing member countries (MIGA Convention, Art. 2). MIGA's basic, but not sole, tool in this respect will be the guarantee of investments against non-commercial risks.

Membership is open to all members of the World Bank and to Switzerland (Art. 4 (a)). The initial share capital of MIGA will be SDR 1 billion. Only ten percent of the amount subscribed will have to be paid in cash, the rest is subject to call if needed by MIGA to fulfil its financial obligations (Art. 5 and 7). Developing member countries may pay up to twenty-five percent of the cash portion of their subscription in their own currencies, even though those may not be freely convertible (Art. 8 (a)).

The organizational structure of MIGA resembles that of other international organizations (Art. 31). It will have a Council of Governors with one Governor from each member, a Board of Directors elected by the Council and responsible for the general operations of the agency.

[1] Commentary on the Convention Establishing the Multilateral Investment Guarantee Agency, p. 1; Ibrahim Shihata: The Role of ICSID and the projected MIGA, in: Außenwirtschaft, Vol. 41 (1986), pp. 111-112.

Chairman of the Board will be ex officio the President of the World Bank who shall have no vote except in the case of an equal division (Art. 32 (b)).

The distribution of voting rights within MIGA follows the "Bretton Woods" model, i.e. each member receives an equal amount of membership votes plus one subscription vote for each share held by that member (Art. 39). Thus the total number of votes of each member reflects in part the importance of that member's financial participation in MIGA. Initially it was planned that each of the two groups of countries would receive an equal amount of voting rights regardless of how many countries had actually joined and how many shares they had subscribed to.[2]

Operations

MIGA will guarantee eligible investments against losses resulting from non-commercial risk. In addition, it will carry out research and promotional activities. The Convention specifies four types of non-commercial risk (Art. 11 (a)): (a) host country measures that prevent the transfer of earnings or capital into a freely usable currency (transfer risk); (b) host country measures depriving the investor of his ownership and/or benefits arising from his investment (expropriation risk); (c) breach of contract by the host country (repudiation risk); and (d) risk arising from armed conflict and civil disturbances.

In order to be eligible for guarantees, investments have to meet a number of requirements. They must be new investments which contribute to the host country's development and are financially sound (Art. 12). The host country must approve of both the investment and the issuance of MIGA's guarantee (Art. 15). The investment must be made within a developing member country (Art. 14). In an effort to introduce legally binding rules for the treatment of FDI, the final version of the Convention stipulates that MIGA will insure only those investments which are granted fair and equitable treatment as well as legal protection (Art. 12 (d) (iv)).

Investors can be either natural or juridical persons from any member country except the host country itself. Eligibility may be extended to host country investors only in the special case of capital being transferred back into the host country from abroad (Art. 13 (c)). This clause is intended to reverse capital flight.[3]

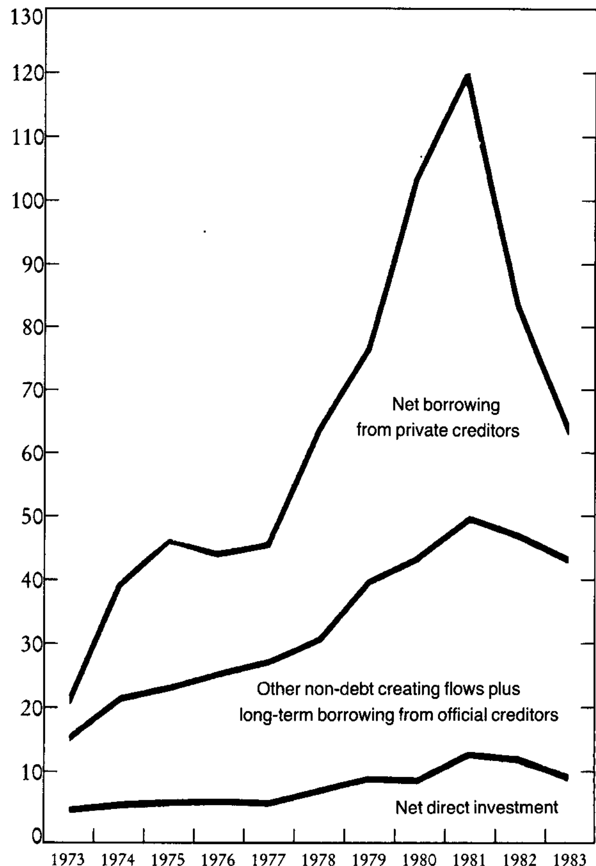
Guarantees may be extended to investments in developed (industrialized) member countries within the framework of Sponsorship Operations (Art. 24 and Annex I).

MIGA may carry out any complementary activities which tend to improve investment conditions in developing member countries. Article 23 of the Convention, which provides guidelines for these additional activities, directs the Agency inter alia to endeavour to conclude bilateral investment protection treaties with prospective host countries and to promote the conclusion of such treaties among its members.

Finance

The Convention requires MIGA to maintain under all circumstances its ability to meet its financial obligations, i.e. to avoid calls on its members. This necessitates that income from premiums and other revenues is sufficient to cover administrative expenses, payments on claims and reserve accumulation.[4]

Figure 1
Non-Oil Developing Countries: Financing Flows, 1973-1983
(in US $ billion)



Source: IMF Occasional Papers, No. 33, Foreign Private Investment in Developing Countries, Washington 1985, p. 3.

[2] Ibrahim Shihata, op. cit., p. 116.

[3] Commentary, op. cit., p. 8.

The World Bank expects losses to occur only during the initial phase of operations.[5] In this case MIGA will call upon its members. Each member's maximum liability is the unpaid portion of the share capital to which it has subscribed.

Insurance economics requires MIGA to differentiate its premiums according to each specific risk if it wants to become, and remain, financially viable and self-sufficient. The Convention leaves the determination of adequate premiums to the discretion of the Agency (Art. 26).

Legal Provisions

If an insured risk occurs, MIGA will pay the investor according to the insurance contract (Art. 17). MIGA will try to prevent beforehand disputes between investors and host countries (Art. 23 (b) (i)).

Upon paying the claim to the holder of the guarantee, MIGA enters into the rights of the investor against the host country (subrogation). MIGA will try to reach an agreement with the host country for the settlement of MIGA's claims. In this respect, a number of arrangements for the peaceful settlement of disputes (Art. 18 (c)) are of special interest:[6] (a) MIGA pays the claimant (investor) the insured sum in a freely usable currency and accepts the non-convertible currency of the host country in settlement of its claim; (b) MIGA accepts government bonds of the host country; and (c) MIGA asks the investor to accept instalment payments by the host country guaranteed by MIGA.

If no agreement can be reached, the Convention provides a procedure for the settlement of disputes between the Agency and its members (Art. 57 and Annex II). This standard procedure moves from negotiation to conciliation and finally to arbitration. The award reached within the standard procedure is final and binding upon the parties. An alternative procedure may be agreed upon at the outset of the dispute.

Political Risk – Facts and Theories

The first point to be made is on the implicit assumption concerning the causes of political risk underlying the World Bank's proposal. Political risk can be thought of as a random event very much like a catastrophe which is outside the influence of either the host government or the foreign investor. A number of quotations from World Bank documents support the view that the World Bank believes this to be the case.[7] If expropriations are random events, the probability of their occurrence cannot be influenced by the host government nor by the investor. An insurance or guarantee scheme such as MIGA would be an effective way of compensating the investor for possible losses because the insurance contract will not cause the insured or the government to act differently. The problem of moral hazard, i.e. the lowering of loss prevention activities by the beneficiaries of the insurance contract after its implementation, is not likely to arise.[8]

One can, on the other hand, interpret political risk as the result of an implicit or actual bargaining process between host government and investor.[9] If this is the case, expropriations are a policy instrument used by the host government to achieve certain objectives. Countries will resort to expropriations if they offer a comparative advantage over other policy instruments (taxation etc.).[10]

The foreign investor faced with this potential threat typically cannot resort to legal sanctions. He will have to adopt market sanctions, designing his investment strategy so as to maximize the potential costs of an expropriation to the expropriating government. One way of doing this is the threat to withdraw know-how that is essential for the running of the foreign subsidiary. In this scenario the state of the investment project at any point in time will depend upon the relative bargaining power of the parties involved. It is important to note that bargaining only occurs because the foreign investor cannot enforce legally the stipulations of the original contract. International law governing the protection of foreign property has tended in recent years to emphasize the sovereignty of the host country at the expense of the property rights of the investor.[11] This has weakened the bargaining power of the investor, forcing him to resort to market sanctions.

If expropriations are the result of rational decision-making, an insurance or guarantee scheme must be judged differently than under the "catastrophe" assumption. Now we can no longer assume that the

[4] Ibrahim Shihata: Increasing private capital flows to LDCs, in: Finance & Development, Dec. 1984, p. 7.

[5] Ibid.

[6] Ibrahim Shihata: The Role of . . ., op. cit., p. 121.

[7] World Bank: Multilateral Investment Guarantee Agency, Questions and Answers, July 3, 1984, pp. 8, 12, 31, 34.

[8] For a treatment of this problem see Hans Werner Sinn: The Efficiency of Insurance Markets, in: European Economic Review, Vol. 11 (1978), pp. 329-335.

[9] Marie-Chantal Boutard-Labarde: Nationalisations imposées, nationalisations négociées, Paris 1984; Louis T. Wells: Negotiating with third world governments, in: Harvard Business Review, Vol. 55, No. 1, 1977, pp. 72-80.

[10] Stephan J. Kobrin: Expropriation as an attempt to control foreign firms in LDCs: Trends from 1960 to 1979, in: International Studies Quarterly, Vol. 28 (1984), p. 337.

[11] O. E. Bring: The impact of developing states on international customary law concerning protection of foreign property, in: Scandinavian Studies in Law, Vol. 24 (1980), pp. 97-132.

implementation of the insurance contract does not affect the behaviour of the parties involved because we can no longer assume that the economic benefits and costs remain unchanged. In particular we cannot exclude the case that the insurance contract increases the loss probability because loss prevention activities of the insured and other beneficiaries of the contract (i.e. the host country) decline. We will return to this important point later when we analyze MIGA's rules to see whether any of its provisions tend to increase the likelihood of political risk.

What incidence pattern do the two views on the causes of expropriations (random event vs. policy tool) predict? If expropriations are random events, we should observe an even distribution over different sectors within any one country and over different countries. If expropriations were carried out in a rational manner, we should be able to observe a distinct incidence pattern over different sectors. Broadly speaking, we expect those sectors to be expropriated where the net economic benefit to the country is high.

[12] Stephan J. Kobrin, op. cit.; David Jodice: Sources of change in third world regimes for foreign direct investment, 1968-1976, in: International Organization, Vol. 34 (1980), pp. 177-206.

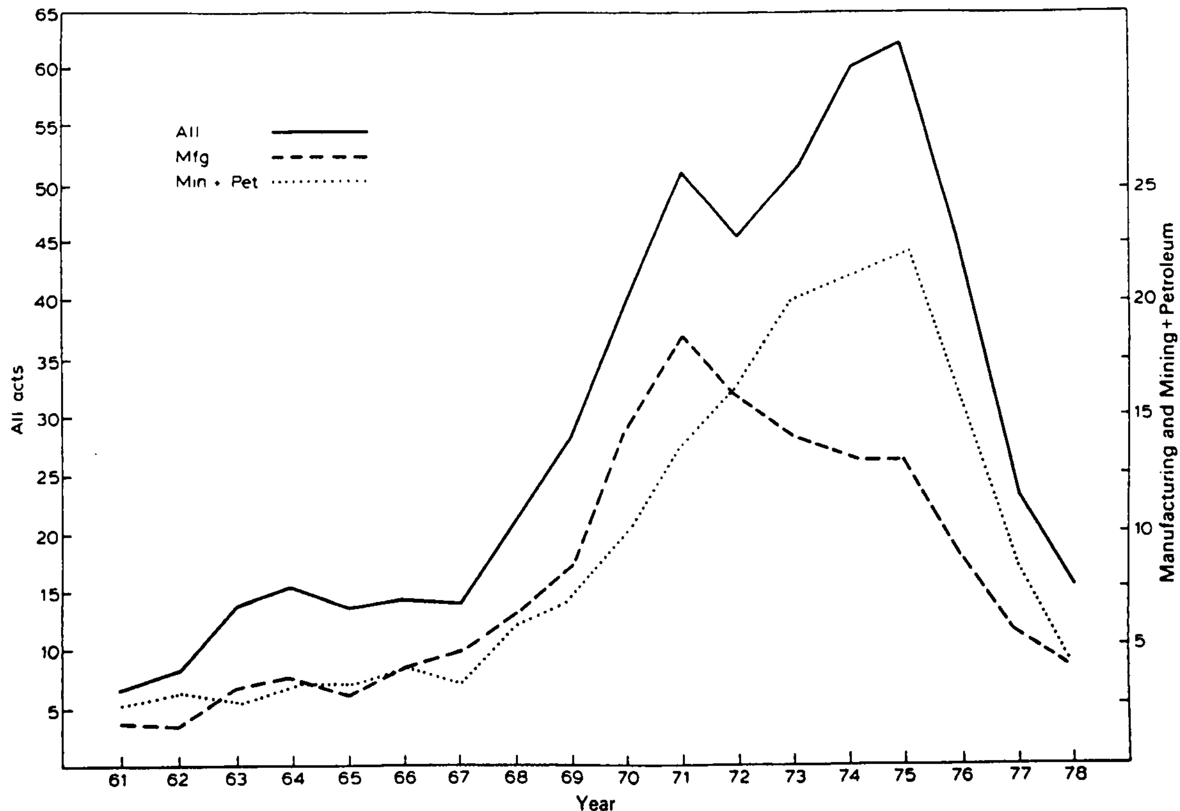
A number of studies have analyzed expropriation patterns.[12] Their conclusions can be summarized as follows:

□ The rapid increase of annual expropriations during the sixties and early seventies stopped around 1975 and declined thereafter (Figure 2). This turnaround is probably the result of an increased awareness of the costs of expropriations, especially in terms of an ensuing decline in FDI. It may also reflect the fact that the ability of Third World administrators to regulate foreign enterprises had increased to the extent that regulation instead of expropriation became a viable policy option.

□ A number of sectors experienced a higher incidence of nationalizations than could be expected from their share in overall FDI.[13] These were banking and insurance, agriculture, public utilities and the mining industry. In the majority of these sectors high technology is fairly limited. This increases the probability that the expropriated firm can be run without foreign expertise (agriculture, mining). The other sectors can be called strategic sectors in the sense that their functioning is a

[13] David Jodice, op. cit., Table 1.

Figure 2
Expropriation Acts per Year for All Countries, Three Year Moving Average



Source: Stephan J. Kobrin, op. cit., p. 334.

precondition for the functioning of the economy as a whole. In the wake of decolonizations they were felt to be natural candidates for state industries in many developing countries.[14]

We can conclude that the data seem to be broadly consistent with the view that the majority of all expropriations were carried out in a rational manner.[15] As a consequence we cannot exclude the case that the implementation of MIGA increases the propensity to expropriate, either by increasing the benefits or lowering the costs of expropriations. In the latter part of this article we will analyse the MIGA Convention to see whether it does indeed produce the incentive to increase expropriations and if so, how the Convention could be altered so as not to give rise to this problem of moral hazard.

MIGA's Role in the Debt Crisis

The World Bank's case for MIGA as a partial solution to the debt crisis of developing countries rests primarily on the view that FDI presents an alternative source of external finance that could offset the decline in the flow of commercial loans (see Figure 1).[16]

There are two problems with this approach. First, we cannot assume that the balance of payments flows generated by the investment project tend to improve the balance of payments in every case. The net effect may well be negative.

Secondly, a more fundamental problem is that balance of payments statistics tell us very little about a country's debt-service potential. The ultimate test for a country's ability to repay is whether the return of the projects financed by the capital transfer is greater than the interest due on the loan.[17]

Keeping this in mind, we assume for the moment that MIGA does indeed increase the flow of FDI to developing countries. Whereas before funds typically flowed from bank depositors in industrialized countries to Third World governments via the intermediation of private banks, we would now observe a relative increase in funds flowing from shareholders in the industrialized world to projects in the Third World via the intermediation of multinational firms. If we further assume multinational firms to be better investors than Third World governments in the sense that their projects generate a higher net present value, MIGA could ameliorate the current situation by improving the use of funds invested in Third World countries.

Are Existing Institutions Inadequate?

The World Bank's case for a new international organization rests in part on the alleged inadequacy of existing institutions. Currently political risk insurance is offered by both state-backed national insurance agencies and private insurers. We will analyse the World Bank's criticisms of each of these institutions in turn.

All major capital exporting countries maintain national insurance agencies that insure domestic firms' investments against political risk abroad.[18] OECD statistics show that of all the FDI only about 9 % is insured with national insurers.[19] According to the World Bank this low degree of utilization is in part due to the inherent shortcomings of national schemes.

The World Bank's main criticisms are that national insurers do not insure multinational projects and that their portfolios of insured risks are not sufficiently diversified.[20]

Most of the national insurance agencies only offer insurance to domestic firms. If all the investors in a multinational project could insure with one agency, transaction costs would fall. It is not clear how important this advantage would be in practice. Nevertheless it provides a theoretical argument in favour of MIGA, if only for multinational projects.

The argument that MIGA could achieve a better risk diversification than national insurance agencies because it would operate on an international scale is conceivable. Whether it is true can only be tested empirically.

Both arguments of the World Bank therefore carry some weight if MIGA is able to realize economies of scale.

Although detailed statistics are lacking, there is a consensus that the private market for political risk insurance has been growing considerably during the last ten years.[21] The services offered by private insurers tend to be complementary to those of the national

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[14] Ibid., p. 199.

[15] Paulgeorg J u h l : Direktinvestitionen in Entwicklungsländern unter dem Einfluß politischer Risiken, Munich 1983, p. 224.

[16] Ibrahim S h i h a t a , Increasing . . ., op. cit., p. 6.

[17] Roland V a u b e l : The moral hazard of IMF lending, in: World Economy, Vol. 6 (1983), p. 293.

[18] OECD: Investing in developing countries, 5th. rev. ed., Paris 1983, pp. 39 ff.

[19] Ibid., p. 33.

[20] World Bank: Questions and Answers, op. cit., p. 16.

[21] C. T y l e r : Political risk: Is private cover here to stay?, in: The Banker, April 1984, pp. 39-42; Julian R a d c l i f f e : Coverage of political risk by the private insurance industry, in: Außenwirtschaft, Vol. 41 (1986), pp. 135-139.

insurers in the sense that the subsidized services of national insurers leave only those market niches where national insurers are unwilling or unable to compete.[22] The most important instances where a private market does not exist are war risks and long-term guarantees (over five years).[23] As a consequence there is little doubt that this market is "severely limited"[24] in the sense that a number of risks are not insurable. This fact per se, however, does not provide a sufficient reason for quasi-governmental intervention as the World Bank would like us to believe.[25] Only if state intervention is not subject to the same incentive problems that cause insurance markets to fail and only if state provision itself is not subject to adverse incentives (non-market failure) is there a valid case for the state to provide political risk insurance.

Among the many sources of insurance market failure, two seem to be most relevant to the problem at hand: moral hazard and uncertainty. We shall examine each one in turn.

The phenomenon of moral hazard can best be explained in terms of the trade-off between loss prevention activities and premium changes that the insurance buyer faces.[26] More (less) loss prevention activities (e.g. fire sprinklers) lower (increase) current income but lower (increase) future premium payments. This assumes that more loss prevention activities lower the expected loss from the insurance contract, which is usually the case.

Moral hazard occurs if the insured can lower his loss prevention activities without having to expect a concomitant increase in premiums. This is typically the case when the insurer cannot observe the loss prevention activities of the insured. The crux of the moral hazard problem is therefore asymmetric information between insurer and insured. As a result of this behaviour, the additional loss caused by the lowering of loss prevention activities of one insurance buyer will be charged to the insurance community, resulting in a marginal increase in premium payments for every insurance buyer. Since it is rational for every member of the insurance community to cause moral hazard, the resulting increase will be more than marginal. It can be shown that the equilibrium after such a premium increase is not pareto-optimal.[27]

Moral Hazard

We have shown above that the probability of an expropriation occurring is determined in a bargaining process between investor and host country. Loss prevention activities are just the strategies that investors and host countries employ in the bargaining process. The insurance may therefore alter both the investor's and the host country's loss prevention activities.[28]

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[22] C. Tyler, op. cit.

[23] Julian Radcliffe, op. cit., pp. 135-136.

[24] Commentary, op. cit., p. 1.

[25] Harold Demsetz: Information and efficiency: Another viewpoint, in: Journal of Law and Economics, Vol. 12 (1969), pp. 1-22.

[26] H.W. Sinn, op. cit.

[27] H.W. Sinn, op. cit.

[28] Roland Vaubel: The international organizations and the international debt problem: The next steps, in: The Report of the Technical Committee of the Global Economic Action Institute, New York 1985.

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Alexander Brunckhorst

INTERNATIONALE FINANZMÄRKTE UND DIE VERSCHULDUNG VON ENTWICKLUNGSLÄNDERN

Der Beitrag der internationalen Finanzmärkte im Rahmen alternativer Ansätze zur Bewältigung der Verschuldungsproblematik von Entwicklungsländern

(INTERNATIONAL FINANCIAL MARKETS AND THE DEBTS OF DEVELOPING COUNTRIES)

The Contribution of the International Financial Markets within the Framework of Alternative Approaches to Overcoming the Debt Problems of Developing Countries

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In the case of the investor the insurer will probably be able to observe loss prevention activities and change his premiums accordingly. Moral hazard is not likely to occur.

In the case of the host country the private insurer has fewer options. Since the existence of the insurance contract will tend to lower the cost of expropriations to the host country because the investor will decrease protective measures relative to the no-insurance case, expropriations become more advantageous to the host country. There is very little the insurance company can do to influence the host country's loss prevention activities since premium variations only affect the investor.

Furthermore, it cannot enforce the rights subrogated to it after the expropriation has occurred. An additional reason why we do not observe private political risk insurance on a wider scale may therefore be the non-enforceability of acquired property rights.

Uncertainty is the second cause for the failure of private markets for political risk insurance. Uncertainty occurs when the probability distribution of future events is not known. Decisions under uncertainty can no longer be explained by the classical maximization of expected utility. If uncertainty prevails one would expect the demand for insurance to be greater and the supply of insurance to be less than in those insurance lines where risks can be calculated actuarily.[29] As a result there may be no price where the market clears.

Will MIGA be in a better position to deal with these problems? As long as we assume that government officials have not more information concerning the future there is no reason to assume that MIGA would be a better political risk insurer. Even if government possessed superior information, this would not support state provision of insurance services but rather the free dissemination of that information to prospective investors and private insurers.

One could, however, argue that on an international level a sovereign entity is in a better position to enforce property rights than a private entity. Although the history of economic sanctions has generally been one of failure, the argument is conceivable. It is, however, highly unlikely that MIGA will impose sanctions against one of its members. Its organizational structure and the spirit of its convention place great emphasis on a balancing of interests and coordination rather than on strict obedience to the rule of the law.

We conclude that the non-existence of insurance markets does not provide a valid case for the provision of these services by MIGA.

In the following attempt to analyse the impact of MIGA's rules on the allocation of resources we separate the effects into three groups:

☐ changes in the strategic positions of host governments and foreign investors in the "expropriation game";

☐ new distortions that are solely the result of MIGA and were not present before; and

☐ additional distortions arising from the subsidization of MIGA.

MIGA's Role in the Expropriation Game

It is a moot point whether or not the availability of an insurance against political risk will increase investment flows to the Third World. From the point of view of allocation theory we need not go so far as to speculate whether such an increase will actually take place but only whether MIGA induces the investor to direct these additional flows to the most productive alternative available. A necessary condition for this result to obtain is that the premiums charged by MIGA vary as much as possible not only with the project risk but also with the past track-record of the investor. Experience-rating of premiums as it is practised e.g. in car liability insurance would induce the investor to carefully take into account existing information before making his investment decision.

The Convention is rather vague on the subject of premium differentiation. It merely states that premiums are to be calculated in accordance with each individual risk (Art. 16). Whether this means experience-rating of premiums is not clear.

As far as the strategic position of the host country is concerned, we find that the Convention does not include any measures designed to curb the possibility of moral hazard. In particular, sanctions against politically unstable countries are not considered. In two instances (Art. 8 (a) and 18 (a)) the Convention permits developing member countries to use their non-convertible currencies in the settlement of obligations. This also lowers the cost of expropriations to those that are causing them thereby creating avoidable moral hazard.

The Convention allows for a number of ways to indirectly exert pressure on misbehaving countries. This could be achieved by a price signal (high premiums), by a quantity signal, i.e. limiting the amount of additional insurable projects[30] or by publishing data on the political stability of potential host countries. In addition, the

[29] R. M. Hogarth, H. Kunreuther: Ambiguity and insurance decisions, in: American Economic Review, Vol. 75 (1985), Papers and Proceedings, pp. 386-390.

[30] Art. 22 (b) (ii) of the Convention allows for this possibility.

requirement that projects are only insurable if they are granted "fair and equitable treatment and legal protection" (Art. 12 (d) (iv)) could lower expropriation activities although it remains unclear when it is fulfilled. These indirect measures can only be viable if allowance for them is made in the by-laws of the Convention.

Treatment of Domestic Investors

The MIGA Convention discriminates against investors from developing countries by restricting its operations to foreign investors except for the special case that domestic investors repatriate capital (Art. 13 (c)).[31] This creates an additional distortion of the allocation of resources. Although there may be some forms of expropriation that are exclusively aimed at foreigners, we cannot beforehand exclude the case that domestic investments are expropriated, too. In the extreme case, domestic investors might transfer capital abroad in order to be able to apply for the MIGA guarantee. The costs of such transactions could be avoided by opening MIGA to domestic investors.

From the point of view of allocation theory subsidies to producers can be justified if their product is at least partially a public good. Subsidies will be positive if the good produces positive externalities and negative (i.e. taxes) if the "bad" produces negative externalities. Two conceivable arguments could be used to justify subsidizing MIGA:

□ MIGA increases the supply of FDI, which is partly a public good;

□ MIGA lowers the losses from expropriations (which are a public bad).

The first argument does not support the case for subsidizing MIGA because it is not clear whether FDI does in fact produce positive externalities. Even if it does, this would only justify subsidizing investors and not MIGA.

The second argument would ideally require that expropriating countries subsidize MIGA. The previous analysis has shown, however, that MIGA does not lower expropriations but has the potential for increasing them. It should therefore not be subsidized.

This conclusion is reinforced if we consider the potential effects subsidizing MIGA would have on the allocation of resources. Since the cost of expropriation is shifted to taxpayers in all member countries of MIGA in proportion to their respective capital shares, the costs of expropriations are socialized on an international scale. Politically unstable countries will be rewarded by not having to bear the full consequences of their policies. At the same time MIGA would enjoy competitive advantages over private political risk insurers. Optimal resource allocation requires that MIGA should compete with private insurers on an equal footing.

According to Art. 25 of the Convention, MIGA "...shall carry out its activities ... with a view to maintaining under all circumstances its ability to meet its financial obligations". In the Commentary to the Convention this is interpreted to mean that "management is expected to avoid calls on members' subscribed capital".[32] These rules are too vague. In particular they do not define what would constitute a subsidization of MIGA. Since initial losses will be almost inevitable,[33] it seems reasonable to assume that subsidization occurs only if over a certain period of time there are on average calls on members' capital shares. The Convention should specify this time period and the method of calculating the average call.

Amendments to the MIGA Convention

In view of the preceeding analysis, the following changes to the MIGA Convention are proposed:

□ There should be no discrimination against domestic investors. Art. 13 should be amended accordingly.

□ The stipulation that MIGA is not to be subsidized and a workable definition of subsidization should be added to the Convention.

□ The privileges granted to MIGA in Chapter VII of the Convention should be abolished.

The by-laws of the Convention which are in the process of being drafted should include the following provisions:

□ Premiums should be as close to each individual risk as possible. Relevant parameters for risk evaluation should be the past record of host country and investor in the managing of international investment.

□ Members of MIGA that cause political risks should be excluded from new guarantees by lowering the amount of insurable projects in that country to the present level in accordance with Art. 22 (b) (ii).

□ The requirement that only those projects are insurable that are granted fair and equitable treatment (Art. 12 (d) (iv)) should be made explicit, e.g. by prescribing the existence of a bilateral investment treaty.

[31] Roland Vaubel: The international organizations ..., op. cit.

[32] Commentary, op. cit., p. 16.

[33] Ibrahim Shihata: Increasing private capital flows ..., op. cit., p. 7.