2

Enhancing OPIC's Effectiveness

OPIC programs are required to meet multiple objectives. These include enhancing the growth and welfare of developing countries, strengthening the job base in the United States, supporting internationally recognized workers' rights, helping US small businesses invest in overseas markets, ensuring the utilization of sound environmental procedures in OPIC projects, avoiding corrupt practices on the part of OPIC-backed firms, and supporting US foreign policy in particular countries and regions.[1]

How successful is OPIC in meeting these objectives? Is OPIC measuring its performance by the right criteria? How might it meet these objectives more effectively? When do these objectives clash with one another? This chapter examines OPIC's efforts to meet each of these objectives, and it shows how those efforts can be strengthened and made more effective while minimizing the conflicts among them.

Assessing the Impact of OPIC Programs on Host-Country Development

To receive OPIC assistance, a proposed project must be determined to have a beneficial net impact on the host country or area in which it will be located. To make this test, until 2003 OPIC estimated for each year the foreign exchange benefits (exports generated and imports replaced), foreign exchange costs (project imports and capital outflows), net annual taxes,

1. As was indicated in chapter 1, OPIC records the impact of its operations on US exports but does not make export performance a criterion for accepting or refusing to assist individual projects.

initial local expenditures, and local employment projected for the fifth year of operation (technical and management, skilled and unskilled labor).

In fiscal 2001, for example, OPIC's insurance and finance programs assisted 37 projects in 22 countries or regions, facilitating total project investment of $3.7 billion. The estimated impact on the foreign exchange position of the host countries was $152 million in benefits (imports replaced and exports generated) and $828 million in costs (project imports and capital outflows), for a net foreign exchange impact of minus $676 million. The annual taxes, revenues, and duties paid to the host country were estimated at $235 million for the first 5 years of the projects. Initial local procurement of local raw materials, services, and semifinished goods was calculated at $2.1 billion. The projects were expected to employ 1,874 local technical and managerial staff, plus 3,691 skilled and unskilled workers.

OPIC then supplements the initial calculations with a follow-up monitoring system that combines examination of these economic variables with inspection of environmental and workers' rights practices (discussed below). This system involves site visits by OPIC officers to gather and verify information provided by the investor. The system includes randomly selected projects, projects deemed sensitive for environmental reasons, and projects in import-sensitive industries in the United States.

The projects chosen for monitoring are geographically and industrially diverse. Monitoring cycles are broken into 3-year "rounds" to try to avoid sampling bias and to ensure that the projects monitored during a given cycle accurately represent those assisted during that time period.

In addition to site monitoring, OPIC operates a "self-monitoring" system in which each investor completes a questionnaire on an annual basis that provides information on changes in the nature of the project, on the actual amount and source of US goods and services procured during the previous year, and on environmental and workers' rights issues, as well as on some contributions to host-country development.

The combination of self-monitoring and site visits offers OPIC the opportunity to compare actual project performance with the original projections. For the monitoring cycle completed in fiscal 2000, for example, 58 projects that received OPIC assistance during fiscal 1994–96 totaled $7.2 billion in actual investment, in comparison to a projected investment of $6.8 billion, and created 30,698 host-country jobs (4,667 management and professional, 26,031 laborers), in comparison with an initially estimated total of 21,262 (3,014 management and professional, 18,248 laborers). These 58 projects generated $499 million in taxes paid to host authorities, in comparison with a projected $519 million, and resulted in a net foreign exchange drain of $17l million, in comparison with an estimated $105 million in positive foreign exchange earnings.

How useful are these measurements? Do they indicate how efficiently OPIC is using its resources to facilitate the flow of foreign direct investment (FDI) to developing countries? Do they provide an adequate assess-

ment of both the economic and social contributions of OPIC-supported projects—or lack thereof—to host-country development? Do they provide OPIC with a guide for *refusing* to support projects, due to their economic or social impact on the host country (the rejection of projects for reasons related to human rights, labor rights, or environmental deficiencies are considered in more detail later in this chapter)?

Up to 2003, OPIC's efforts to assess the developmental impact of its projects have failed to address these questions with the depth and subtlety that are needed. It remains to be seen whether OPIC's new methodology, adopted in 2003, will succeed in capturing the full extent of its projects' developmental impacts and what effect this will have on OPIC's portfolio.

Looking first at the issue of efficiency, how might OPIC measure the amount of impact per unit of input in insurance coverage or finance? How does this impact vary by region, by sector, and by type of project? Has OPIC's efficiency in the use of its resources changed over time?

One method to attempt to measure efficiency in issuing political risk insurance can be found in a management tool created by the Multilateral Investment Guarantee Agency of the World Bank Group (MIGA), called the investment exposure ratio (IER) (West and Tarazona 2001). MIGA's IER records the relationship between estimated total investment to be facilitated and MIGA's coverage at the time of issuance. MIGA argues that the IER is an indicator of the extent to which MIGA resources mobilize private-sector activity, with a larger ratio (e.g., a 4:1 ratio between total investment undertaken by the sponsors and amount of MIGA coverage) showing a larger facilitation than a smaller ratio (e.g., 2:1) would indicate.

MIGA then compared this initial IER with the actual post facto IER in its follow-up monitoring (a span averaging 4.3 years in its monitoring cycle). The initial IER for 52 projects indicated a multiplier effect of 4.48; the post facto IER for the 52 projects indicated a multiplier effect of 6.73, or 50 percent higher than originally estimated. This use of the IER might be able to be used, in MIGA's judgment, to evaluate when and where MIGA guarantees prove to be most effective over time.

But MIGA's approach contains some fundamental problems that OPIC would want to avoid. The MIGA method defines "efficiency" as the amount of investment facilitated per unit of insurance coverage. The MIGA IER does not adjust for level of risk in the project, in the industry, or in the country. It would be logical to expect an investor to want to purchase less coverage in relation to total investment in a setting where political risk was lower, giving a false impression that MIGA (or OPIC) were being most effective where its services were least needed. To avoid this mismeasurement, OPIC would want to compare the amount of investment facilitated adjusted for level of risk, such as per dollar of insurance premium or per dollar of financial return, because the rates reflected in the insurance premium or in the finance charge are levied by OPIC to reflect different levels of risk.

This approach would help correct for an additional problem that arises with MIGA's attempt to use the IER over time. The denominator in both the initial MIGA IER and the post facto MIGA IER is the guarantee coverage, first at the time of issuance, later at the moment of monitoring. But, as MIGA has acknowledged, a smaller amount of coverage at the later moment could indicate that the insurance or guarantee was canceled because an activity did not take place (West and Tarazona 2001, 68). Alternatively, a smaller amount of coverage at the later moment could mean that conditions might have improved in the country, allowing coverage to be reduced. The problems in sorting through these alternative explanations for changes in coverage would be eliminated if amount of investment facilitated per dollar of insurance premium or per dollar of financial return were made the basis for the calculation.

OPIC could put such efficiency measurements to many uses. Although there is no absolute standard for what constitutes an efficient or inefficient use of insurance coverage or financial guarantee authority, OPIC could compare the amount of investment facilitation by sector, by country, and by region. It could contrast its own findings with those of other multilateral insurers and financial guarantee agencies. It could appraise the evolution of its own performance over time. Once baseline data were gathered, for example, OPIC could employ the indicators to investigate what might happen to the efficient use of its resources if it were to shift toward riskier, more marginal projects. The logical prediction would be that OPIC's efficiency would deteriorate, but the empirical results might or might not point in that direction.

But efficiency measurements such as these are only the tip of the iceberg in evaluating whether OPIC support does, or does not, enhance FDI flows to emerging markets. OPIC should also attempt to assess the potential "demonstration effect" of its activities, along two dimensions: first, the extent to which the success of any given project stimulates other foreign investors to move into the same market; second, the extent to which the success of any given project stimulates the parent corporation to undertake similar investments in other countries.

The popular media often characterize multinational corporations as omniscient actors ready to pounce on any profitable opportunity in the developing world. In marked contrast to this conventional vision, an important set of studies in the international business literature demonstrate the "stickiness" of multinational corporations in undertaking new kinds of operations in new regions. Then, stickiness gives way to a follow-the-leader "burst phenomenon" on the part of multiple investors after a first mover stakes out an investment that proves successful.[2] Empirical analysis has indicated that as many as one half of 2000 FDI projects in one survey had been bunched in 3-year clusters—after long periods of no

2. The studies showing this result are reviewed in Moran (1998).

investment in the particular kind of project at all—and almost three-quarters were bunched in 7-year clusters.[3]

OPIC support for foreign investment in a particular sector in a particular country may well trigger this burst phenomenon among other firms in the industry during the subsequent 3- or 7-year period. Similarly, OPIC support for a project in one country may help overcome the stickiness of the parent in setting up parallel ventures in other developing countries. Modern financial models of corporate investment strategy attribute a surprisingly high value to delay in making "irreversible commitments under uncertainty" as the parent corporation waits to acquire new information about projects that cannot be adequately evaluated until they are fully up and running—a market imperfection that OPIC support for the first "test drive" can help overcome (Dixit and Pindyck 1994). Signing an investment agreement with OPIC, and providing OPIC insurance to pioneer projects, may act as a "signal" to other investors—or a "seal of approval"—that helps overcome their reluctance to move into a new host economy (Bond and Samuelson 1986).

To measure the demonstration effect, OPIC might investigate, as part of the 3-year-cycle follow-up reporting, whether other foreign investors have followed the leader into the same sector in the given host country. To the extent the results were positive, this exercise would be potent confirmation of OPIC's role as a *catalyst* in stimulating follow-on FDI. To the extent the results were negative, the exercise could yield lessons about how OPIC might restructure its support for risky pioneer projects to offer wider appeal to other investors in the industry.

At the same time, OPIC could add queries about whether a given OPIC-supported project stimulated the parent corporation to undertake other ventures in other developing countries. This might demonstrate that once OPIC helps the investor with one project in one country, the investor moves ahead on its own elsewhere without the need for further public agency support. But OPIC still faces the task of providing an adequate assessment of the full economic—and social—impact of each individual project, and of evaluating when the economic and social outcomes are not beneficial and should not be supported.

How should OPIC measure the economic and social impact of the projects it supports on host-country development? Older models of the contribution of FDI to development depicted international companies almost exclusively as providers of capital (the scarce resource in developing countries) that could put unskilled labor (the abundant resource in developing countries) to work, paying taxes to the host government in the process. The current presentation in the annual *Report of the Overseas Private Investment Corporation*

3. There is a parallel literature pointing out the crucial importance of having a "satisfied investor" as part of a host country's investment promotion effort in attracting new investors to any given sector. See Wells and Wint (2000).

on Host Country Development and US Economic Effects of OPIC-Assisted Projects —focusing on amounts of capital, numbers of jobs, taxes, and balance of payments—appears to reflect this older framework, leading to an unrealistically anemic representation of the contribution to development.

The newer models of the impact of FDI on development—such as the models of endogenous growth theory discussed in chapter 1—view international companies as providing "packages" of technology, management procedures, quality control methods, human resource practices, and marketing expertise, upgraded continuously on a real-time basis. A full appreciation of these packages supplied by foreign investors magnifies the contribution that foreign firms bring to the growth and welfare of the recipient country.

OPIC monitoring protocols could focus on new technologies, quality control procedures, and management innovations in the foreign affiliates supported by OPIC; on new technologies, quality control procedures, and management innovations transferred to indigenous companies, especially in supplier chains; on vendor development programs, local enterprise stimulation, and outsourcing of business services; on the generation of competition in the sector (leading to lower prices and better service); on direct and indirect infrastructure development; and on removing bottlenecks to growth and generating forward linkages.

To this should be added socioeconomic behavior associated with OPIC-supported projects: numbers of indigenous supervisors, engineers, and managers in comparison with expatriates; wage levels in relation to minimum wages, alternative employers, and averages in the industry; training programs and educational opportunities (perhaps in cooperation with local nongovernmental organizations, or NGOs); and performance on gender issues such as nonharassment policies, nondiscrimination in wages, access to supervisory positions, and availability of day care. When added to the reporting on human rights, workers' rights, and environmental practices examined below, the result could be a major contribution to evaluating how foreign investors do, or do not, make a contribution to the sustainable development agenda.

Some of the required inputs are already gathered by OPIC. Other areas would require collecting new types of information. The objective would be to extract a more complete picture of the impact of OPIC-supported foreign investment on the host country. But the goal should not be merely to improve reporting on those projects OPIC supports but also to enlarge OPIC's potential to contribute to host-country development.

What kinds of projects can have the largest beneficial impact on host-country development? The potential contribution of natural resource investments to a host country's balance of payments and tax base is well documented. The multiplier effects of efficient and reliable power, transportation, and communication infrastructures are proving to be of greater importance than traditional calculations have estimated.

More recent discoveries center on the particularly potent impact of manufacturing and agribusiness investments that form an integral part of the parent corporation's international competitive strategy (Moran 2001). Plants that are tightly integrated into the global or regional sourcing networks of the parent typically capture all economies of scale. The self-interest of headquarters places the most advanced technologies, quality control processes, and managerial procedures (including, as discussed below, human resource and worker-management practices) in these plants. Their cutting-edge operations are upgraded on a continuous, near real-time basis because of the desire of the parent to keep them on the technological frontier, not because of the pleading of host authorities.

The surprise in the data is that backward linkages from such plants are more extensive and more robust than from other kinds of investments. These linkages derive from the desire of the foreign investors to create low-cost, high-quality, dependable sources of inputs. Technology and quality control do not simply "spill over" to local suppliers; managers and engineers from the foreign-owned plants instruct local companies in what equipment to buy (sometimes providing loans against future sales), and provide coaching in production and quality control. The interaction between foreign investors and local suppliers generates externalities for the host economy as these indigenous companies expand their operations and learn to export. Many of the most prominent developing-country firms in Asia and Latin America began as contract manufacturers or as OEMs (original equipment manufacturers) supplying products to foreign investors.

Under OPIC's current internal and external restrictions (as will be described next), however, manufacturing and agribusiness investments such as these are virtually absent from OPIC's portfolio. All manufacturing projects, for example, constitute no more than 10 percent of OPIC's accumulated total, and key sectors such as electronics and other industrial products are excluded altogether. These restrictions seriously detract from OPIC's developmental mission. Somewhat counterintuitively, these restrictions also reduce OPIC's positive impact on firms, workers, and communities in the US home economy, as is discussed below. Finally, these restrictions remove OPIC from supporting the kinds of investors that are most likely to provide ascending levels of worker treatment and superior worker-management relations, as is documented in the section of chapter 2 on core labor standards.

The spread of FDI and the resulting closer integration into world markets affect developing countries in two ways: first, by enabling their economies to carry out more efficiently the kinds of activities they already engage in; and second, by enabling their economies to undertake entirely new kinds of activities. The beneficial impact of the second outcome surpasses the beneficial impact of the first 10 to 20 times over.

In those sectors where OPIC's coverage is permitted, its developmental mission clearly can already be much more potent than is customarily

appreciated, especially where the investments it has supported have been trailblazers in particular sectors and particular countries.

For example, one project in sub-Saharan Africa—highlighted in OPIC's fiscal 2000 development report—established a cooperative network of approximately 19,000 Ugandan farmers to grow chrysanthemums. The American investor, Agro Management—backed by a relatively small $1.8 million OPIC risk insurance policy—provided free seedlings to the farmers, set up buying stations close to the farms, and established a communal bank to deposit payments for the flower shipments.

A second project in Kazakhstan—highlighted in OPIC's fiscal 1999 development report—received equity financing from an OPIC-supported fund to create a modern milk collection and distribution system within the country. Previously, Kazakh farmers had been restricted to bartering milk for goods and services produced in nearby communities.

Experiences such as these provide fertile ground for construction of detailed case studies along the lines of those done by the International Finance Corporation of the World Bank Group (IFC) and MIGA. IFC, for example, has published *Results on the Ground—The Private Sector and Development: Five Case Studies*, which includes studies of pharmaceutical investment in Jordan or poultry investment in Tanzania that might serve as models for a similar OPIC effort (IFC 1998).

But at the same time, OPIC must become much more discriminating in assessing whether the economic and social impact of the investments that it supports actually do make a beneficial contribution to host-country development. OPIC's current practice of adding up the amount of funds invested, the number of jobs created, the sum of taxes paid, and the quantity of foreign exchange earnings generated suggests that if these numbers are positive, the outcome is positive for the host economy.

The reality is otherwise. Painstaking cost-benefit analyses of individual investment projects show that a large proportion—25 to 45 percent in some studies—actually detract from host-country output and harm host-country growth (Encarnation and Wells 1986; Moran 2001). This negative outcome is most likely when the investments are oriented toward small, protected local markets and are sheltered from competitive pressures; such harmful foreign investment projects include boutique natural resource smelters and oil refineries, agroprocessors relying on subsidized energy inputs, and manufacturers meeting explicit or implicit domestic content requirements.[4]

To these negative economic outcomes can be added the social consequences when foreign firms provide no on-the-job or extra-hours training,

4. The imposition of domestic content requirements on foreign investors is supposed to be phased out under the TRIMs (Trade-Related Investment Measures) Agreement of the World Trade Organization, but the practice persists—sometimes openly, sometimes covertly—in many developing countries.

discriminate against women and minorities in hiring and promotion, and permit substandard health and safety conditions in workplaces. Compounding these negative effects, international investors may engage in flagrant—or subtle—abuses of good corporate governance, including bribes, insider procurement, and other corrupt practices, and use their local political clout to thwart trade and investment liberalization that might threaten their protected positions in the local economy.

OPIC therefore must not confine its critical scrutiny of investment projects to workers' rights, environmental practices, and corrupt practices (as are analyzed below). It must also devise procedures to reject (or restructure) investment projects that generate negative economic and social consequences for the host country.

Should OPIC go so far as to attempt to construct a financial rate of return (FRR) and an economic rate of return (ERR) for each project that it supports? The FRR compares the cash flows invested in a given project with the cash flows generated by the project, discounted over time. The ERR alters these calculations by adjusting for distortions in the host-country economy—such as trade protection or subsidized infrastructure services—that may produce a higher return for the investor than would be reflected in the actual use of host resources.

To be complete, the pure ERR should include all effects—both economic and social—to the host country. The assessment of the ERR for each project thus would require subtle estimates of effects that are inherently difficult to quantify (i.e., distortions, spillovers, and externalities). More broadly, an estimation of the full social rate of return would add long-term externalities that took the form, for example, of changes in fertility rates and lessening of intergenerational transmission of poverty.

In the experience of other institutions, such as IFC, such estimates often take months (and sometimes years) to compute.[5] This slows the pace of underwriting or financing individual projects—already a problem for OPIC—and in the end, the quantitative representations still remain quite subjective and controversial. Rather than trying to estimate social and economic rates of return for each project, OPIC should be able to employ commonsense protocols to monitor economic and social effects—rejecting projects that rely on heavy protection or subsidy to survive, that fail to provide training and promotion to indigenous workers and managers, or that have health and safety standards in the workplace considerably behind industry practices—that will allow it to decide rapidly whether or not to support a proposed project.

These recommendations for how OPIC should broaden and deepen its assessment of the developmental impact of the projects it supports by no means exhaust the ways it can augment its contribution to host-country

5. For background on this approach, see Lysy (2001).

development. In fact, substantial expansions of its contribution to global development are likely to come as a by-product of three other highly needed reforms that remain to be introduced: revising the constraints on its operations with regard to "US effects"; ensuring that small and medium-sized firms get a larger, more focused representation in its portfolio; and helping foreign-owned corporations with a substantial US presence to use the US economy as a base for servicing their operations abroad.

Strengthening the Job Base in the US Home Market (US Effects)

The OPIC papers titled "Effects on US Economy" and "OPIC Statutory Requirements and Policy Guidance: US and Developmental Effects" (reproduced in appendix B) describe how OPIC's Economic Analysis and Project Monitoring Unit, located within the Office of Investment Policy, analyzes the potential effects of a proposed investment on the balance of payments, job creation, and potential job loss in the United States. These papers also reveal OPIC's preoccupation with being accused of taking actions that result in the reshuffling of any one single job in the US economy.

To calculate the jobs generated by the projects it supports, OPIC examines the employment effect both of project-related procurement of US goods and services within each project's industrial sector and also of sectors supplying necessary components or inputs. This calculation thus combines the direct employment necessary to produce the procured goods and services with the indirect employment required for the production of associated intermediate inputs. To calculate the negative effects of the proposed investment on US production, OPIC examines the possible competition that an OPIC-supported offshore plant might pose for the US-based industry in the home economy and in third-country markets. OPIC's self-assessment is that its methodology results in "conservative estimates" of both positive and negative effects, so as to "minimize the potential for overestimating positive or underestimating negative impacts of prospective investment projects."

The problem with OPIC's effort to calculate the impact of its operations on jobs and firms in the US economy does not derive from its "conservative" assessment techniques, however. The larger problem is that OPIC's approach (as a result of its statutory guidance) still reflects an era in which the predominant conceptualization of the impact of outward investment on the home country was seen as a zero-sum process—most vividly captured in Ross Perot's "great sucking sound" metaphor—in which production abroad is exchanged for production at home.

Under its primary operating statute, the Foreign Assistance Act, as amended, OPIC is obligated to decline to participate in projects likely to

cause "a significant reduction in the number of employees in the United States." In addition, it must not support "runaway" investments that lead the investor or sponsor "significantly to reduce" its employment in the United States. Nor has OPIC been able to assist investors whose purpose is to establish or develop an export processing zone, defined as any designated industrial park established to attract export-oriented operations with a particularly favorable legal regime; this prohibition has recently been removed.

In addition to this statutory restriction, OPIC imposes additional restrictions as a matter of its internal policy with regard to investments in "sensitive" sectors. That is, OPIC does not assist textile projects exporting more than 5 percent of production to the United States, unless there is a bilateral treaty limiting exports of the product from the host country. Agriculture projects cannot receive OPIC assistance if the crops involved are "in surplus" in the United States and more than 20 percent of the production of food crops or more than 10 percent of the production of feed crops are expected to be exported to the United States. OPIC has not allowed itself to consider projects in the automotive or electronics industries.

Overall, OPIC operates with an extraordinary degree of hesitancy about supporting foreign investment in manufacturing and agribusiness in developing countries. Moreover, instead of loosening the restraints on OPIC-backed projects as the benefits of trade and investment liberalization to the United States, as well as to the rest of the world, have become more apparent during the past decade—and as more favorable data about the relationship between outward investment on one hand and exports and jobs in the home country on the other have become available—the statutory restrictions on OPIC support have in fact been tightened over time, as have OPIC's internal policies (see "OPIC Policy on 'Significant Reduction' in US Jobs" in appendix B).

In 1992, the annual Foreign Operations Appropriations Act prohibited US agencies that receive appropriations, including OPIC, from supporting runaway investments if there would be *any* reduction in the parent investor's US operations, prompting congruent OPIC policies. With regard to nonrunaway investments, OPIC's internal procedures continued to allow net calculations, permitting it to support projects with minimal employment losses if they were expected to result in overwhelmingly positive employment gains in another sector or other extraordinary US benefits. But in practice, from 1993 onward, OPIC has not supported projects expected to lead to any job loss whatsoever.

The statutory requirement that OPIC disclose any direct job losses to Congress—and OPIC's reluctance to be embarrassed in doing so—have combined to shut down OPIC participation in projects with net positive benefits. This has limited the numbers and kinds of projects OPIC has been able to support in three ways: some projects have been refused

OPIC support; some have been turned away after informal review even before they were officially submitted to OPIC; and others have never been brought to OPIC at all.

How might OPIC's operations be structured in light of contemporary evidence about the relationship between outward investment and the health and competitiveness of firms and workers in the United States? To begin this consideration, it is useful to review the evidence about outward investment and the home-country labor market that was summarized in chapter 1.

In the aggregate, the data consistently show that outward investment leads to higher export levels by the firms undertaking the investment than by firms of similar characteristics in similar industries that stay at home. The firms that undertake outward investment are more competitive than firms with the same characteristics in the same industry that do not invest abroad: they are more productive, they utilize more advanced technologies and quality control procedures, they have more export-related jobs (paying wages 9–23 percent higher, and offering benefits 11–40 percent higher), they enjoy lower levels of bankruptcy, and they are less likely to suffer overall job loss than are counterpart firms that do not engage in outward investment.

Outward investment leads to an improvement in the composition of employment in the home economy, with a higher good job–bad job ratio and a more stable job base. There also is evidence of spillovers and externalities to other firms and workers and to the communities clustered around the firms undertaking the outward investment.

Outward investment strengthens the competitive position of the parent firm vis-à-vis international companies of other nationalities in the recipient country, reinforcing the link between home and host markets. The presence of an offshore subsidiary enlarges the market share of the parent company in the host economy in relation to firms from other home countries. Conversely, the absence of offshore subsidiaries reduces the market share of the parent in relation to firms from other home countries. Discouraging outward investment thus both opens third markets more widely to penetration by international investors and exporters based in other countries and also reduces penetration by international investors and exporters based in the home country.

In identifying whether outward investment benefits the home country of the investor, the specification of the counterfactual is crucial: What would happen in the home economy if the foreign investment did not take place, or did not take place as extensively as actually occurred? The rigorous answer is that in the great majority of cases the home economy would be less vibrant, the industrial base of companies would be less competitive, and the number and distribution of high-productivity jobs paying favorable wages and benefits would be smaller. The appropriate counterfactual is not "Would outward investment lead to zero

employment shifts or losses?" Nor is it even "Would outward investment lead to a net positive number in aggregate employment?"

The evidence indicates that a large proportion of outward investment is "defensive" in nature, in that the outward investment moves operations offshore when the parent firm expects those operations to become nonviable at home during the next five-year period. Therefore, it is possible in some instances that the home economy would benefit more over time if the outward investment were made rather than not made; even if the immediate net job impact were to be negative, it would not be as negative as if the parent firm failed to build up distribution networks and assembly facilities abroad.

Outward investment could be taking place in a sector that was expanding on a net basis in the home country, in a sector that was trying to hold its own in the home country (with internal changes in the job mix), or in a sector that was declining on a net basis while reconstituting itself around a smaller but more productive set of activities. It is not plausible to imagine that all the adjustments to the process of globalization in these diverse sectors would take place without some rearranging of employment—layoffs, job upgrades, job reclassifications, new hires. The anxiety about this process among workers is magnified by the fact that downsizing and upgrading often take place simultaneously in a given industry but at different plants, with the plants that are closing creating a much more dramatic image than the plants that are hiring.

The only clear conclusion from the data is that the home economy's firms, workers, and communities would in most cases be better off (ceteris paribus) if outward investment were supported and worse off if outward investment were not supported. These aggregate statistical relationships are supported by case study data from industries across the spectrum of skill levels.

The ability of high-technology firms in the United States—such as IBM, Intel, and Seagate—to maintain themselves as leading system-integrating manufacturers of complete product lines, rather than becoming software engineering consulting firms, has depended upon the integration of design-and-test functions for product development in the home country with offshore assembly (McKendrick, Doner, and Haggard 2000). Thus, tens of thousands of well-paying jobs in California, Colorado, Massachusetts, Minnesota, New York, Oregon, Pennsylvania, and Texas are supported by hundreds of thousands of production-line jobs in China, Costa Rica, Malaysia, Mexico, Singapore, and Thailand. The idea that these companies could have maintained themselves—and the United States—on the frontier of these high-tech industries without constructing closely integrated supply networks in the developing world (often in export processing zones; see below) is fanciful.

The same is no less true of mature industrial companies—including mature industrial companies in sectors where high rates of unionization

have been prevalent—that have been struggling to consolidate their position in the United States. The US automobile companies stopped the loss of market share to Japanese and European imports in the 1980s and 1990s in part on the basis of cost and quality advantages that came from the sourcing of parts and components offshore (Womack, Jones, and Roos 1991). General Motors (GM), in particular, used Brazil as a testing ground for manufacturing and management techniques, which GM then introduced in the United States to reinforce its major divisions in the home country. Ford has done the same in Mexico. Complaints to the contrary notwithstanding, the data show clearly that the relatively high-wage, high-benefit jobs of unionized workers in the United States have been supported by parent firms' outsourcing strategies.

In contrast to OPIC's current statutory directives, the relevant comparison to assess what produces the most beneficial US effects is not whether aggregate employment in the US auto industry expanded or shrank between 1972 and 2002, nor whether a given plant in Mexico or Brazil has taken over functions previously assigned to a plant in Michigan (a "runaway plant"). Rather, the relevant comparison is what would have happened to the parent firms, workers, and communities if the companies had been less vigorous in their international investment strategies.

Perhaps even more surprising, the viability of industries where low-skilled, labor-intensive operations are the norm has depended upon mastering international supply chains through FDI as well as subcontracting. Lewis and Richardson provide a detailed look, for example, at the globalization of the Schwab garment company, which makes the Ralph Lauren line of children's clothes, with plants in Cumberland, Maryland, and Martinsburg, West Virginia (Lewis and Richardson 2001, 9–11).

It is worthwhile to look briefly at this case study from the apparel industry. During the past 10 years, the total number of jobs has remained constant, but the types of jobs have changed. Sewing jobs and cutting jobs have moved offshore, replaced by marketing, distribution, and business service jobs. Lewis and Richardson trace the family of one worker—"Pam's family"—through five generations. Pam's great-grandmother, grandmother, and mother did sewing in Cumberland for the minimum wage. Pam moved from sewing to customer service via computer courses at a local community college. As of 2001, she supervised 5 managers and 18 contract managers to ensure that products with correct bar codes, correct labels, and prices arrive at correct destinations on time. Pam's son managed distribution in the Martinsburg center. Both Pam and her son enjoyed wages and benefits, as well as profit sharing, that placed them more firmly in the middle class than the grandmother and great-grandmother could ever have hoped to be.

This case study is surely unusual in that the aggregate number of jobs at the Schwab garment company has remained constant, whereas the Department of Labor reports that during the past 5 years more than

270,000 workers have lost their jobs in the textile and apparel industry. But what the evidence reveals is that even in shrinking and reconstituting sectors, the ability of energetic firms and workers to maintain themselves as the industry reestablishes itself has depended upon firms' capability to establish offshore plants and subcontractor networks, replacing lower-skilled jobs with higher-skilled jobs at home in the process.

The aggregate data, and the case study materials, point in the same direction: The job base in the United States, the competitiveness of US-based firms, and the health of US cities and communities would be enhanced by a fundamental reconceptualization of the relationship between OPIC programs and US effects. US interests are clearly not served by a prohibition on OPIC participation in projects that produce any job loss in the United States. US interests are not even necessarily served by a prohibition on participating in projects that produce a *net* job loss, if the test is carried out on a plant-by-plant basis at the moment the external investment occurs.

What is needed is a congressional directive to authorize OPIC to shift to a different counterfactual test for awarding support; that is, what would happen to the competitiveness of the domestic industry and the number and quality of US jobs—over, say, the subsequent 5 years—if the proposed outward investment project did, or did not, take place. This could be embodied in a new "US net economic benefits" test that would distinguish between investments that left the home country better off in the future than if they were not made and those that left the home country worse off in the future than if they were not made.

This test would allow OPIC to distinguish those projects whose completion would help fortify the home country's economic base from those whose completion would not. It is important to note that despite the pervasively significant positive statistical correlation between outward investment and improved US economic effects, in some instances, the impact is bound to be negative. The new counterfactual test would allow OPIC to identify, and refuse to support, these latter cases.

This new approach to assessing US effects could lead to a much more proactive strategy toward supporting investors in the manufacturing sector and the services sector than has been true in the past (manufacturing currently constitutes only 10 percent of OPIC's portfolio). Although a relatively small number of proposed projects are directly turned down because of adverse US effects, a much broader universe of manufacturing and services projects are simply not brought to OPIC for potential support because of its current statutory restrictions and internal guidelines. The adoption of a more supportive stance toward manufacturing investment and services investment—including investment in labor-intensive manufacturing and services sectors—could lead to better treatment of workers and greater respect for core labor standards, which are considered next.

Enhancing the Observance of Core Labor Standards (Labor Rights)

As specified in the Foreign Assistance Act, as amended, OPIC is prohibited from providing assistance to a foreign government that commits consistent and gross violations of human rights. OPIC must also take into account the effect on human rights of the operation of an OPIC program in that country. To approve specific projects on human rights grounds, OPIC relies upon guidance provided by the US Department of State's Bureau of Democracy, Human Rights, and Labor (DRL) with respect to country and project eligibility. OPIC submits a request for DRL clearance with a basic project description and information regarding how the project may directly or indirectly contribute to the host economy. OPIC does not make a final commitment to any project until it receives DRL clearance.

Since 1985, OPIC has been authorized to "insure, reinsure, guarantee, or finance" a project only if the country in which the project is to be undertaken is "taking steps to adopt and implement laws that extend internationally recognized workers' rights to workers in that country." These rights are defined to include right of association, right to organize and bargain collectively, prohibition of forced labor, minimum age for employment (15 years of age for middle-income countries, 14 for low-income countries, and 18 for work involving hazardous activities in all countries), and acceptable working conditions with respect to the payment of wages (at least the official minimum wage), hours of work (48 hours per week, with at least one 24-hour rest period), and occupational safety and health (standards established by the World Bank).

These requirements are subject to presidential waiver on the grounds of US national security or "national economic interest." This waiver provision has been exercised only once, to permit OPIC to reopen its programs in Nicaragua after the restoration of an elected government in 1990.

Because these internationally recognized workers' rights are similar to those required for workers' rights eligibility under the Generalized System of Preferences (GSP) program, which is administered by the Office of the US Trade Representative, OPIC has sought and received congressional concurrence to rely upon GSP eligibility determinations for the large majority of OPIC-eligible countries that are also GSP beneficiaries. The GSP process is petition driven, subject to an annual review cycle. Petitions are normally filed by interested parties or human rights organizations seeking a formal review of a country's eligibility, by foreign governments, or by businesses seeking to maintain or restore a country's eligibility for the GSP program.

Countries that lose their GSP eligibility on workers' rights grounds also automatically lose their access to new OPIC projects, until they are reinstated under the GSP program or obtain a presidential waiver. Throughout

its history, OPIC has suspended programs in 15 countries as a result of their failure to meet GSP and OPIC labor standards. In 8 of these countries, the OPIC program was subsequently restored as a result of "significant progress" in adopting and implementing core labor standards.

For countries that are not GSP beneficiaries because they do not meet GSP criteria in areas other than with respect to workers' rights (e.g., because per capita income is above the GSP ceiling), OPIC makes workers' rights eligibility determinations in response to petitions at its annual public hearing, in close consultation with the US Departments of State and Labor. Since 1995, OPIC programs have been suspended, for example—and remain suspended—in three non-GSP countries: Qatar, Saudi Arabia, and the United Arab Emirates on workers' rights grounds. In 1991, OPIC programs were suspended in South Korea—which graduated from GSP eligibility on per capita income grounds in 1988—but restored in 1998.

In the case of Vietnam, OPIC began to provide services in 1998, following a determination that the country met the statutory requirements for OPIC eligibility. Although Vietnam confines the right of association to the party-affiliated Vietnamese General Confederation of Labor, the country was judged to be making progress in implementing the principles of collective bargaining, improved workplace conditions, and progress toward eliminating child labor. In 2000, the Vietnamese Ministry of Labor and Social Affairs signed a memorandum of understanding with the US Department of Labor establishing cooperation on a range of labor issues. At the same time, the International Labor Organization (ILO) opened a liaison office in Hanoi to provide technical assistance on labor matters.

Because both the GSP and OPIC processes are petition driven, anomalies occasionally arise in which a country with a very poor workers' rights record may remain eligible, whereas a country with a "better" record may be liable to suspension because of its failure to meet the "taking steps" criterion. OPIC's board of directors has occasionally rejected or deferred approval of a project in an otherwise GSP-eligible country where there was no evidence of taking steps toward improving workers' treatment (e.g., Indonesia under Suharto and Equatorial Guinea).

Since 1992, OPIC's authorizing legislation has required that language substantially like the following be included in each OPIC contract of insurance or finance:

> The investor agrees to not take actions or prevent employees of the foreign enterprise from lawfully exercising their rights of association and their right to organize and bargain collectively. The investor further agrees to observe applicable laws with respect to minimum age for employment of children, acceptable conditions of work with respect to minimum wages, hours of work and occupational health and safety and not to use forced labor.

If the "applicable laws" of the host country do not meet international standards as defined by the ILO, OPIC reports that it substitutes ILO

standards for the inadequate local law and requires that the recipient of OPIC services meet the ILO standards.[6]

OPIC workers' rights provisions apply to every project considered for insurance, financing, or investment by an OPIC-supported fund. OPIC workers' rights provisions also apply to engineering, procurement, and construction contractors and their subcontractors, and to operation and maintenance contractors and their subcontractors.

As was indicated above with regard to developmental impact and US jobs effects, OPIC monitors projects for direct compliance, and for compliance on the part of subcontractors, through a combination of annual reporting by the companies as well as site visits to both random and selective samples of projects. For countries and sectors with a high potential for workers' rights violations, OPIC reports that it undertakes "in-depth" monitoring efforts, employing trained and certified labor rights auditors (usually recruited from the NGO community and with reputations for impartiality and credibility among both the labor and business communities) to accompany OPIC officers to the site. OPIC asserts that the auditors spend as much time as is necessary conducting independent and confidential interviews with employees, managers, representatives of organized labor, government officials, and staff of knowledgeable NGOs.

Are these procedures to ensure the observance of core labor standards in OPIC-backed projects—and by subcontractors to OPIC-backed projects—successful? Do these procedures need to be changed, or strengthened?

There have been repeated complaints about worker abuse and violations of core labor standards or human rights in various projects in which OPIC has been involved (Human Rights Watch 1999; Rights Action 2002; Fried 2002). It is simply not possible on the basis of publicly available data to determine the accuracy of assertions and counterassertions, charges and counter-charges, between investors and NGOs or labor groups. Nor is it possible on the basis of publicly available data to assess the role of OPIC investigations and OPIC pressures in rectifying misbehavior on the part of recipients of OPIC support.

There is clearly evidence to support OPIC's diligence in pursuing reports of violations and in insisting on meaningful remediation. The paper titled "OPIC Worker Rights Policies and Procedures" (reproduced in appendix C) describes two occasions in which OPIC carried out in-depth monitoring of suspected violations—in Central America and in Africa—that occurred principally at the construction phase by contractors and subcontractors. In both cases, OPIC acted before the disbursement of an OPIC-guaranteed loan, requiring the borrower to consent to a specific remediation plan before its funding was made available to the projects.

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6. Investors that do not have majority or otherwise controlling interest in the foreign enterprise are required to meet a "best efforts" or "commercially reasonable efforts" standard.

The remediation plans involved training in occupational safety and health and seminars by outside legal experts informing workers about their rights under host-country labor regulations. The result, in one case, required compensation for workers who had been fired after they had organized a union within the host country's legal framework. In both cases, OPIC enforced observance of the remediation agreement via the implicit threat of declaring its loans to be in default. A privileged examination of these two cases provides confirmation of OPIC's proactive efforts to identify workers' rights violations and its success in utilizing internationally recognized, locally based NGOs to independently monitor remediation.

But what proportion of problem projects receive such intense OPIC scrutiny? Are there cases where the abuse of workers' rights persists and OPIC takes no—or insufficient—action?

OPIC's lack of transparency about how it handles workers' rights cases largely prevents external observers from tracking and verifying its actions. OPIC treats cases of labor standard abuse as "business confidential," avoiding all publicity and requiring its auditors to sign and respect confidentiality agreements. As the OPIC document reproduced in appendix C argues, though the practice of treating its monitoring programs, findings, and remediation proposals as business confidential has cost OPIC some credibility with labor and human rights advocates who believe that greater transparency is necessary to protect workers' rights, OPIC does not believe that there is anything to be gained in this process by subjecting its clients or itself to media attention. Disclosing OPIC's (and thereby the US government's) role in such cases would likely politicize and further aggravate a situation that is typically highly polarized to begin with, making an equitable resolution more difficult to achieve.

This places OPIC, however, well behind best practices among worker-management organizations and individual companies. Debate about the appropriate degree of transparency on worker treatment has been vigorous in business associations where workers' rights issues have been particularly contentious. The Fair Labor Association (FLA), for example—a business association established to ensure that its members observe the association's code of conduct in their own plants and in the plants of subcontractors around the world—initially maintained that it would protect the confidentiality of the location of member plants and supplier plants, of compliance audits, and of remediation efforts when violations were found. Over time, however, the FLA has adopted a more open approach. In 2002, it decided to make reports derived from the monitoring of member firms, including information about noncompliance and remediation, available to the public.[7]

7. See www.lchr.org/sweatshop.

Taking this process a step further, one FLA member company—Nike—has launched what it labels a Transparency 101 initiative that allows any outside observer to track the record of monitoring at its plants, to track any violations that are found or labor disputes that arise, and to track remediation proposals and follow-up inspections. This tracking can be done via Nike's Web site in near real-time external surveillance.[8]

Although OPIC's preoccupation with potentially politicizing disputes as a result of being a US government agency is a real concern, it is difficult to justify a lack of transparency and openness that is well behind the frontier of industry practice. OPIC should bring its own reporting of workers' rights investigations and remediation plans up to the level of best practices among multinational companies and corporate associations. This issue of transparency and openness for OPIC monitoring will emerge again with regard to environmental concerns.

Quite apart from the question of how OPIC ensures compliance with labor standards, it is necessary to return to the earlier call for reform of OPIC's calculation of US effects to ask whether current restrictions on OPIC support for foreign investment in manufacturing and assembly operations help—or hinder—its ability to promote observance of workers' rights in developing countries.

The ILO reports that foreign direct investors in export-oriented manufacturing and assembly operations pay consistently higher wages than domestic firms in the same or similar sectors (ILO 1998).

Graham (2000) has found that this superior pay differential is in fact greater in poor developing countries than in middle-income developing countries. He compared compensation per worker in US subsidiaries (after eliminating compensation paid to expatriates) to compensation per worker in domestic firms across the manufacturing sector. In middle-income developing countries, compensation per worker in the US affiliates is 1.8 times average manufacturing compensation in the host economy. In low-income developing countries, compensation per worker in the US affiliates is 2.0 times average manufacturing compensation in the host economy.

Moreover, the data show that as international companies and their suppliers move from the least skill-intensive products (e.g., garments and footwear) to even slightly more skill-intensive products (e.g., electronics, auto parts, electrical equipment, medical products, and data processing), the firms discover that they must—in their own self-interest—devote more attention to attracting and retaining workers who can meet international market levels of quality and performance.[9] This leads them not only to pay higher wages but also to provide greater benefits and

8. See www.nikebix.com/labor.

9. This evidence is presented in Moran (2002).

training and to engage in more modern forms of worker-management relations.

These findings are important for gauging how OPIC's operations might have a more powerful impact on labor standards for workers and worker treatment because the flow of FDI in manufacturing to these semiskilled operations in the developing world is 25 times greater each year than the flow to such lower-skilled operations as garments and footwear. In fact, in plants producing the manufactured products and services enumerated above, foreign investors pay wages and benefits to production workers that are two to five times higher (and more) than in garment and footwear plants.

What is surprising in the data—and heartening to the cause of improving the observance of core labor standards—is that not only do workers' income and working conditions improve in the plants devoted to the slightly more skill-intensive operations but better treatment also spills over into older and less sophisticated plants. Often the evidence shows a transformation in the institutions of worker–management relations throughout those export processing zones (EPZs) where the more sophisticated foreign investor operations coexist alongside the less sophisticated operations of foreign investors (and subcontractors).

Indeed, perhaps the most powerful force for improving labor conditions in poor developing countries comes from mixing higher-skilled with lower-skilled plants in individual industrial parks or EPZs. In the Philippines, for example, the Bataan EPZ long had a record for some of the most repressive labor practices ever reported to the ILO (ILO 1998, 23–24). As foreign-investor-financed plants producing electronics, chemicals, plastics, optical equipment, metal fabrication, and heavy equipment began to join plants producing soccer balls, jewelry, textiles, and shoes, however, labor standards improved across the board, rates of unionization increased, health and safety procedures got better, and business-labor relations showed more harmony and less strife.

These positive outcomes are particularly likely to be achieved if US investors participate at all levels, including among the firms in the least-skilled categories. According to the ILO, Reebok has won national awards for its observance of high labor standards in the Bataan EPZ (ILO 1998). Such high-profile US firms as Reebok have led the process of institutional change in the structure of human resource management throughout the EPZs where they are located. In 1998, the ILO noted that "the Bataan zone, previously wracked by labor-management conflict, is now setting an example for labor-management cooperation" (ILO 1998, 23).[10]

A similar evolution has taken place among EPZs in the Dominican Republic. As foreign investors in sectors involving slightly higher skill

10. For a broader presentation of evidence, see Spar (1998).

levels joined foreign investors and subcontractors utilizing the least-skilled workers, the treatment of employees improved for all. A group of the more progressive multinational investors led the EPZ employers' association, the trade unions, and the government, with the Catholic Church acting as mediator, in ratifying an agreement to harmonize labor relations across all EPZs. The ILO Global Report for 2000 highlighted the accomplishments of the Dominican Republic as a host country that was making progress in improving labor relations and protecting freedom of association in its EPZs (ILO 2000, 34).

In moving from least-skilled to slightly higher-skilled investor operations, a key ingredient has often been the role that international companies have played as both investors in and private developers of EPZs (Wells and Wint 2000). For example, Texas Instruments has played this part in the creation of the Baguio City EPZ, which has become a positive example of high levels of wages and benefits and of the empowering of female workers in the Philippines (World Bank 1999, 31). Westinghouse has played the same part in the model Itabo EPZ, and GTE (now Verizon) in the relatively high-tech San Isidro EPZ in the Dominican Republic.

In light of this kind of evidence, the restrictions that prevent OPIC from supporting US firms that want to invest in—and help develop—EPZs would appear not only to have been misguided but also counterproductive to the goal of promoting improvement in labor standards. US concerns about workers' rights would be advanced by active support for EPZ investment and development, subject only to the crucial stipulation that EPZ regulations *not* be allowed to preclude ILO core standards, such as freedom of association and the right to collective bargaining.

What is striking is that under OPIC's internal and external restrictions, none of these investors—not Texas Instruments, not Westinghouse, not Verizon, not Reebok—have been eligible for OPIC support. OPIC's refusal to support such manufacturing and assembly operations hinders its ability to stimulate host-country development and detracts from its ability to advance the observance of core labor standards and best practices in labor-management relations.

Thus, this reexamination of OPIC's role in enhancing the observance of core labor standards—like the reexamination of OPIC's role in strengthening the job base in the United States—points toward a much more proactive approach to supporting the spread of investment in manufacturing and assembly and in the services sector in the developing world, replacing the hesitant and restrictive screening process now in place. How OPIC might launch this proactive approach to manufacturing and services sector investment receives further attention in the next section, which outlines a new strategy that would enable it to provide services to small and medium-sized enterprises.

Including Small Businesses among OPIC-Supported Projects

OPIC's statute directs it "to the maximum degree possible consistent with its purposes to increase the proportion of projects sponsored by or significantly involving United States small business to at least 30 percent of all projects insured, reinsured, or guaranteed." OPIC uses a threshold of $250 million in sales to define small business.

OPIC's Finance Department has played a leading role in its effort to include small businesses in its portfolio. From fiscal 1995 through 2001, the department supported 55 small business projects, with loans totaling $768 million, representing 12 percent of all OPIC lending in dollar terms and 43 percent of the total number of loans made during the period.

The OPIC paper titled "Small Business: Challenges and the Response of OPIC Finance" (reproduced as appendix D) provides an inside look at how the Finance Department has adjusted its documentation and other procedures to meet the needs of small businesses. These include removing certain requirements that the borrower formerly had to perform, making it easier to close transactions, and speeding up the approval process.

Despite the goal of expanding the pipeline of deals involving small businesses, the OPIC Finance Department reports that it remains extremely difficult to identify small firms that have the experience, resources, and desire to make a long-term direct investment. Most small businesses are accustomed to financing their operations with revolving or long-term loans that are secured with the home country's assets. Although they may want the benefits of nonrecourse structured finance, they are unprepared to meet the demands of a structured credit. Many small businesses do not have the resources necessary to close the financing, which may require a host-country attorney and quite possibly an international environmental consultant. Thus the Finance Department has been forced to conclude that finding qualified prospects is the single most challenging aspect of doing projects with US small businesses.

OPIC's small business programs are the most time-, labor-, and resource-intensive aspect of its operations. The appendix D small business paper reveals that they do not pay for themselves. Fees (on a percentage basis) charged to projects sponsored by small businesses are comparable to fees charged to projects sponsored by larger firms, even though the level of risk is higher and the probability of nonrepayment is greater. The dollar amounts of loans to projects involving small businesses are generally smaller than loans to projects with larger firms, resulting in a lower aggregate amount of earnings accruing to OPIC. The data accumulated in the OPIC Finance Department show that at normal volumes of business activity and levels of overhead, loans to projects sponsored by small businesses are not profitable for OPIC.

From fiscal 1995 through 2001, OPIC provided political risk insurance to 74 US small business projects, with $2.9 billion in coverage. The OPIC Insurance Department has developed a simplified application for small businesses, which gives small businesses a 25 percent reduction on retainer fees and provides quarterly elections of coverage, so that small businesses have maximum flexibility to match their premium payments with their cash flow (see the section titled "Insurance Initiatives" in appendix D). Premium rates for all four types of insurance coverage that OPIC provides are discounted relative to standard rates, and small businesses are excused from paying standby fees on the small business contract.

OPIC's Legal Department has addressed the challenge of building up a portfolio of small business projects by absorbing the legal costs of the borrower or insured (drafting the US law documents in house) that otherwise would cost approximately $100,000–$200,000 per project. OPIC's Legal, Finance, and Insurance Departments also provide technical support to small businesses in structuring the transaction. Finally, OPIC identifies and procures the services of local attorneys in the host country to prepare and register the relevant local law mortgage or pledge of collateral, although here OPIC insists upon being reimbursed for its direct costs (see the section titled "Challenges and the Response of OPIC Legal Affairs" in appendix D).

These documents point to one conclusion: OPIC small business programs have to be cross-subsidized by OPIC's other operations. All else being equal, they draw resources from OPIC's other activities.

Is there a special justification for absorbing the costs, and opportunity costs, of these efforts? Two bodies of literature need to be carefully woven together to construct an answer. The first assesses the extent to which there is a rigorous public policy rationale for giving special or preferential treatment to small businesses as a class. The second addresses whether there might be a rigorous public policy rationale for assisting businesses—including relatively small businesses—to move from exports to outward investment as part of a general process of becoming "globally engaged."

To what extent is there rigorous justification for singling out small businesses as a class for official public-sector support? The conventional line of argument on behalf of public support for small businesses originates in the assertion that small businesses constitute a particularly dynamic component of the economy, accounting for the "vast majority"—sometimes measured at more than 90 percent—of all job creation. This extremely high figure is often criticized as recording the high rate of job creation from "firm births" while not adequately recognizing the high rate of job loss from "firm deaths" among small businesses.

To address a possible disparity in measurement between firm births and firm deaths, the Office of Advocacy of the US Small Business Ad-

ministration has constructed a table using Census Bureau data that subtracts jobs lost through firm deaths from jobs created through firm births, holding continuing firms constant (Robb and Armington 1999). These data show a net gain of 6.85 million jobs between 1990 and 1995, of which 3.36 million were in firms with fewer than 20 employees and 5.24 million were in firms with fewer than 500 employees, together accounting for 76.5 percent of the net gain in new jobs.

Beginning with Milton Friedman, however, the economics community has shown considerable skepticism about this form of presentation (Friedman 1992). The proposition that small businesses account for an unusually high percentage of all job creation—in this critical counterview—is a statistical artifice that results from two reinforcing kinds of mismeasurement.[11]

The first mismeasurement comes from the practice of calculating the net employment effect of firms below some given standard (e.g., the US Small Business Administration standard of 500 employees; but the same error would be found using a lower standard such as 250 workers) in a base year, including firms that migrate from below the standard to above the standard, without combining the result with the net employment effect of firms that migrate from above the standard to below the standard.

In the dynamic US economy, there is a high amount of job creation among firms below the 500-employee level but also much job destruction among firms above the 500-employee level descending back below the 500-employee level. The methodology that produces the conclusion that small businesses create a "majority" of new jobs credits small business with generating 100 jobs when a 450-employee firm grows to 550 employees and debits large business with losing 100 jobs when the same firm descends from 550 employees back to its original size of 450. This methodology produces the illusion that the combination of some firms growing above the 500-employee level and other firms slipping below that level generates a vast wave of new jobs from smaller firms in comparison to job loss on the part of larger firms even when there is no aggregate enlargement of the job base whatsoever.

The second (related) mismeasurement comes from a well-known statistical problem called the "regression toward the mean," a bias that results when firms are classified into size classes using base-year employment. In a volatile environment, firms identified as large in the base year are more likely, on average, to have experienced recent transitory increases in employment. Because transitory movements reverse themselves, firms that are large in the base year are relatively more likely to contract. Similarly, firms that are identified as small in the base year are more likely, on average, to have experienced recent transitory decreases in employment. As a result, firms that are small in the base year are

11. This critical counterview is summarized in Davis, Haltiwanger, and Schuh (1996).

relatively likely to expand.[12] This phenomenon of regression toward each firm's own long-term size path creates the illusion of powerful movements upward by small firms and of movements downward by large ones, whereas all that is really being recorded is oscillation around a mean trend line.

When these mismeasurements are avoided, the data suggest that although gross job creation rates are substantially higher for small firms and plants than for large ones, so also are gross destruction rates.[13] There is simply no strong or systematic relationship between net job growth rates and either firm or plant size. In fact, during the period for which the data are most complete—between 1972 and 1991 in the US manufacturing sector—large businesses were the largest net job creators, more than offsetting net job losses among small businesses. And survival rates for new and existing jobs increased sharply with employer size. As Lerner (1999, 22) notes, moreover, "small businesses, in aggregate, do not appear to be particularly research intensive or innovative."[14]

These data therefore suggest that public-sector support aimed explicitly at small businesses as a class cannot be rigorously justified as a general proposition. But this conclusion needs to be modified by considering a second body of literature that assesses the justification for assisting businesses—including relatively small businesses—to move from exports to outward investment as part of a general process of becoming globally engaged.

Earlier sections of this chapter have noted the findings of Lewis and Richardson (2001), who have documented the benefits that accrue to the United States from companies that engage in higher levels of trade and investment than similar companies that do not. As part of these comparisons, the investigators discovered that small businesses—like large businesses—that are globally engaged have a record of superior performance and generate externalities for the communities where they are located.

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12. Birch and Medoff (1994, 1) label firms that are most active in job creation as "gazelles," and they point out that the behavior of such firms is a virtual replication of the regression toward the mean phenomenon: "Over any two- or three-year period the best predictor of Gazelle decline is present growth, the best predictor of growth is present decline, and the best predictor of death is stability. These firms are inherently unstable. . . . We must fully understand that the jobs created by any new firms (including Gazelles) are likely to be here today and gone five years from now."

13. See also Hirschberg (1999). Haltiwanger and Krizan (1999, 94) distinguish between employer age and employer size, and they conclude that "for employment growth, it looks as if the more important factor is age and not size."

14. Lerner notes, however, that of the nearly 1 million businesses begun in the United States each year, those few hundred that are funded with venture capital have a disproportionate impact on technological innovation.

Small US plants (with 249 or fewer employees, in the Lewis-Richardson investigation) that engage in exports pay wages 6 percent higher and offer benefits 11 percent higher for unskilled workers, and pay wages 5 percent higher and offer benefits 11 percent higher for skilled workers, than comparable small plants that do not engage in exports (Lewis and Richardson 2001). Small US exporters have a productivity level almost one-sixth higher than comparable small nonexporters. Small US exporting plants are 9 percent less likely to close their doors than are comparable small nonexporters. Because small exporters tend to grow more quickly and to survive more sturdily than small nonexporters, they grow larger and their workers gain the higher wages, benefits, and stability associated with larger size, as recorded in the studies of Davis, Haltiwanger, and Schuh (1996).

The typical pattern is for a small firm to engage first in exporting, and then move into FDI, perhaps setting up an offshore distribution system or supply network. Relatively small US firms that invest abroad make more intensive use of advanced manufacturing technology, and show higher levels of labor productivity and overall productivity, than do comparable small US firms without foreign operations (Lewis and Richardson 2001, 20). The superior performance of the firms themselves—and the likelihood of positive spillovers and externalities to other workers, firms, and communities—increases as their size increases.

Thus the argument about the social justification for small business programs needs to be carefully constructed. There is no rigorous rationale for supporting the activities of small businesses per se, notwithstanding the political popularity of doing so. There may, however, be a rigorous justification for public-sector programs to help the small business community develop the ability to export. Moving a step beyond this, then, there may also be an authentic social purpose served by public programs to help relatively small exporters follow up on their initial market penetration abroad by engaging in FDI.

How can OPIC undertake this most efficiently in a way that justifies the extra labor-intensive effort involved? In 2002, OPIC signed a cooperative agreement with the US Small Business Administration (SBA) to use its field structure and wide range of resource partners to reach small businesses interested in FDI. In doing so, OPIC argued that this intensified relationship with SBA might act as a "force multiplier" for OPIC's outreach to small business clients. After all, SBA has a network of more than 100 district offices, with at least one office in every state and multiple offices in larger states such as California and Texas. SBA also has a network of Small Business Development Centers, Business Information Centers, Service Corps of Retired Executives chapters, and specialized information centers for women and veterans.

In addition, this new OPIC-SBA relationship could provide linkages with SBA lenders, that is, the banks with the delegated authority from SBA

to provide financial assistance to small businesses. Finally, SBA has existing relationships with Egypt, Kenya, Mexico, Nicaragua, Nigeria, Russia, and South Africa that have often been financed through grants from the US Agency for International Development. The OPIC-SBA relationship might provide a platform from which to promote FDI in these countries.

But this initiative is likely to represent more of the same old low-productivity, low-payoff use of OPIC time and energy. As was indicated above, there is no empirical evidence to support the idea that targeting small businesses in general constitutes a particularly effective use of OPIC resources.

Much more potent would be an effort to identify—and to market OPIC services—to firms that find themselves ready to move from exporting to building up marketing and assembly structures abroad. To accomplish this, there is no need for OPIC to create a vast new bureaucracy to search out, identify, and service such smaller exporter-investors. Rather, OPIC might utilize the established apparatus of the US Foreign Commercial Service, the US Export Assistance Centers, and the US Export-Import Bank—together with SBA, of course, and with state and municipal support services—to act as talent scouts to identify firms poised to shift from exporting to investing abroad. Such an endeavor would serve (not incidentally) to help attenuate OPIC's adverse selection problem by promoting greater portfolio diversification.

This suggestion—together with the proposals made above for a much more proactive stance toward supporting foreign investment in the manufacturing and services sectors—will be revisited in chapter 3, with consideration of whether it would be advisable to change the eligibility requirement for OPIC support to include US-incorporated, foreign-owned firms with a significant presence in the US economy so as to strongly expand OPIC's potential client base.

Ensuring the Observance of Environmental Standards

OPIC's *Handbook on Environmental Policies and Procedures* notes that, since 1985, OPIC has been required by statute to assess the environmental impacts of projects under consideration for political risk insurance and financing. OPIC's authorizing statute was amended in that year to direct it to decline assistance to projects posing a "major or unreasonable hazard to the environment, health or safety" or resulting "in the significant degradation of a national park or similar protected area." OPIC was also directed to operate its programs in accord with the Foreign Assistance Act's provisions for environmental impact assessment and for protecting tropical forests, biological diversity, and endangered species.

In 1999, OPIC's statute was further amended to require its board of directors not to approve any action that would be likely to have a signifi-

cant adverse environmental impact unless, for at least 60 days before the date of the board vote, (1) an environmental impact assessment or initial environmental audit, analyzing the environmental impact of the proposed action and of alternatives to the proposed action has been completed by the project applicant and made available to the board; and (2) such assessment or audit has been made available to the public of the United States, to locally affected groups in the host country, and to host-country NGOs.

OPIC's *Environmental Handbook* indicates that OPIC first screens all applications to determine whether its support of the project would violate a "categorical prohibition." Categorical prohibitions include infrastructure and extractive projects located in primary tropical forests, or providing human access to otherwise inaccessible ecologically fragile areas; projects involving construction of large dams that would significantly and irreversibly disrupt natural ecosystems, inundate large land areas, or impact biodiversity; projects involving the commercial manufacturing of ozone-depleting substances or persistent organic pollutants; projects that require resettlement of 5,000 or more persons; and projects affecting various World Heritage or UN Protected Sites.

If the project is not categorically ineligible, the *Environmental Handbook* indicates that OPIC continues to screen the application to determine the level of environmental sensitivity associated with the industry sector or site involved. If the project is identified as a Category A project, an environmental impact assessment (EIA) or initial environmental audit (IEAU) is required. Category A projects have a material impact on the environment, usually beyond the project site, and include large-scale industrial plants, refineries, thermal power refineries, chemical plants, transportation infrastructure, oil and gas production and pipelines, other natural resource production facilities, waste-processing facilities, and large-scale tourism developments.

OPIC requires that applicants for Category A projects submit an EIA and/or IEAU in a form that can be made public without compromising confidential business information. With the consent of the applicant, the country and industry sector involved in a Category A project, but not the name of the applicant, are listed on OPIC's Web site (e.g., "Gas-Fired Power Plant, Turkey"), and the EIA and/or IEAU is made publicly available on request for a designated comment period of 60 days before any final OPIC commitment is made to a project. No application for a Category A project can be processed without this public disclosure and review process.

By statute, OPIC is required to notify appropriate host-country officials of all substantive environmental requirements that would apply if the project were undertaken in accordance with World Bank guidelines and, if feasible, of all US regulatory requirements that would apply to the project if it were undertaken in the United States. Concurrent with this public notification process, OPIC reports that it conducts an internal

assessment of the project based on the EIA and other available information, including any comments it receives from the public.

OPIC indicates that Category B projects are also subject to an internal environmental assessment. Projects likely to have an adverse environmental impact less significant than Category A ones are assigned to Category B, meaning that few if any of the effects are likely to be irreversible, that they are site-specific, and that mitigating measures can be designed more readily. Category B might cover agriculture, electrical distribution, food processing, light manufacturing, and tourism. Category B projects require a limited environmental review and an environmental mitigation action plan, and an environmental audit or hazard assessment may also be required to be incorporated into the project.

Projects in other categories (C, D, and E) are likely to have a minimal or no adverse environmental impact, and they are normally exempt from all environmental assessment. These projects include branch banking, computer software development, telecommunication privatizations, and financial intermediaries.

In determining whether a project will pose an unreasonable or major environmental, health, or safety hazard, or will result in significant degradation of national parks or similar protected areas, OPIC reports that it relies on guidelines and standards adopted by international organizations, such as the most recent standards of the World Bank. Where there are gaps in World Bank guidelines, OPIC incorporates relevant US federal standards, World Health Organization standards, and standards set by other international authorities.

OPIC reports that it routinely conducts on-site monitoring of projects, using OPIC staff and/or consultants, for environmental and environmentally based social effects as well as US economic and host-country developmental effects. OPIC endeavors to monitor all Category A projects on-site at least once during the first three years. Category B, C, D, and E projects are also subject to monitoring on a random and selective basis. OPIC requires sponsors of Category A projects to conduct, and certify that they have conducted, third-party independent audits, at least one of which must take place in the first three years.

A close look at some individual OPIC cases (see the section titled "Examples of OPIC Environmental Additionality" in appendix E) suggests that OPIC has in some instances been able to improve the performance of investors in ways that were environmentally beneficial for the host country. OPIC provided an investment guarantee and political risk insurance to a major US power company, for example, to acquire and expand a coal-fired electric generating plant that was being privatized.

As originally proposed, the project was to use coal with an annual average sulfur content of 1.25 percent, with spikes as high as 2.5 percent. Dispersion modeling indicated that both short-term and long-term ambient effects would exceed World Bank ambient air quality guidelines, negatively

affecting the air quality of communities located downwind of the plant. To bring the project into compliance with World Bank guidelines, OPIC negotiated an agreement whereby the sponsors reduced full-capacity stack emissions of sulfur dioxide to an equivalent of 1.12 percent sulfur content, with further reduction to the equivalent of 0.87 percent sulfur content during the five months when hazardous potential was greatest. OPIC has monitored the project in the field to confirm compliance with the contract conditions and World Bank guidelines.

Similarly, an OPIC-supported financial intermediary provided a loan to a large dairy cooperative to relocate their main processing and distribution facility. The original plant was not large enough to install a sewage treatment plant, and it became a major polluter of a large river. The host-country legal framework provided little guidance to the cooperative on designing a new wastewater treatment system. OPIC worked with the cooperative over a period of months to develop detailed plans for a wastewater treatment facility that achieved treated effluent levels acceptable under World Bank guidelines.

Conversely, there have been persistent criticisms that in some cases OPIC has been too lenient on investors and that it has promoted compromises between investors and environmental critics—as in the case of the Cuiaba pipeline through the Chiquitano Tropical Dry Forest in Bolivia and Brazil. Such compromises appear afterward to be inadequate in accomplishing the expected results.[15]

To a certain extent, the difficulties outside observers have in obtaining objective information about the claims and counterclaims of parties to environmental disputes, and in sorting out OPIC's role in generating positive or negative environmental outcomes, run parallel to what was found above with regard to workers' rights in OPIC-supported projects. OPIC does post notices of possible support for Category A projects on its Web site, but it withholds the name of the applicant or sponsor until it discloses the Environmental Impact Assessment on request. As in the case of workers' rights cases, OPIC could improve the transparency of the approval process for environmentally sensitive projects in many ways, including—as suggested in OPIC's own document titled "Environmental Issues for Discussion" (see that section in appendix E)—making a greater effort to inform locally affected people about projects under consideration and seeking input from them, using the OPIC Web site to allow external parties to track project changes and improvements.

At the same time, OPIC should be required to improve the transparency of its rejection. Under current practice, it renders the majority of its negative decisions before the formal application process, without public disclosure,

15. See James V. Grimaldi, "Enron Pipeline Leaves Scar on South America: Lobbying, US Loans Put Project on a Damaging Path," *Washington Post*, May 6, 2002, A1. See also Diokno-Pascual and Macli-ing (2001).

so as not to endanger other potential sources of financing and insurance for rejected projects. But if proposed projects do not reach OPIC thresholds—and the sponsors cannot, or are unwilling to, bring them up to OPIC standards—the world should know about it. To complement this push for greater transparency, OPIC must make its environmental rejection criteria more explicit to the greatest extent possible, without violating the Trade Secrets Act, a criminal statute with a chilling effect on public officials' willingness to disclose information that could negatively impact a company's financial performance. As now constituted, OPIC's deliberate lack of transparency on rejections undermines the intent of the public disclosure process. To correct this, OPIC should abandon its practice of making informal decisions about environmentally sensitive projects outside the formal application and assessment procedures.

From time to time, it has been suggested that OPIC appoint an ombudsperson to address issues raised by environmental and workers' rights groups (OPIC relies on the Department of State for human rights determinations). It would be preferable, however, for OPIC to try first to make its established procedures work more effectively and to add another layer of investigation, delay, and uncertainty only as a last resort.

The recommendations that have been advanced above would result in greater transparency about OPIC projects—and about OPIC monitoring results—with consequent better-informed access to the workings of the OPIC board of directors for those with concerns in the United States and in the project country. The objective is to reinvigorate OPIC's existing oversight procedures. Only if efforts in this direction do not turn out to be satisfactory would it seem appropriate to consider creating a new complaint-handling function.

Ensuring Compliance with Antibribery and Anticorruption Laws

All OPIC finance agreements require that the project company both comply with the Foreign Corrupt Practices Act (FCPA) and with all similar local laws on bribery and kickbacks and also maintain accounting records—open to inspection by OPIC—in the manner prescribed by FCPA, so as to be adequate to determine whether the borrower is in compliance. A violation of FCPA or similar local laws constitutes a default under the OPIC finance agreement, entitling OPIC to call the loan, suspend the commitment (if all funds have not yet been paid out), and/or proceed against collateral. Whether or not the company is in violation of FCPA must be determined by a US court.

All OPIC insurance contracts require the insured investor and the project company (or, in the case of an insured institutional lender, the borrow-

ing foreign enterprise) to comply with FCPA and all similar local laws relating to bribery and kickbacks. A violation of these laws entitles OPIC to terminate the insurance contract, recover any payments previously made, and/or refuse to make payment of a claim to the insured investor. Again, whether or not the insured investor or the borrower is in violation of FCPA must be determined by a US court.

OPIC is prohibited by its authorizing statute from making any payments under its insurance program for any loss occurring as the result of an act that constitutes a violation of FCPA on the part of a corporation or person possessing majority ownership and control of the insured entity at the time of the act. The investor with OPIC insurance or the borrower with OPIC finance is liable if there is violation of FCPA or any similar local laws relating to bribery or corruption on the part of "any agent" acting on behalf of the investor or borrower. OPIC is required to suspend for up to five years any entity guilty of violating FCPA from all OPIC insurance, loan, guaranty, and other financial assistance.

OPIC's regular monitoring procedures, including site visits, can include inspections of books and records by OPIC staff that may spot possible violations of FCPA or similar local laws. OPIC reports that it routinely investigates allegations made in the press (and elsewhere) regarding projects in its portfolio. In some cases, OPIC can evaluate the allegations with information derived from its prior monitoring of the project; in other cases, it indicates that it will undertake further investigation.

Enforcement of FCPA rests with the US Department of Justice. If OPIC determines that there have been credible allegations of FCPA violations on the part of an investor or the majority owners or controlling person of a borrower or insured investor, it refers the matter to the Department of Justice for investigation and potential criminal prosecution. In the more than 25 years since FCPA's enactment, OPIC has taken this route just once—in the Dabhol case in India in 2002.

Given the frequency with which allegations of corruption, favoritism, and financial wrongdoing have been associated with projects in the sectors where much of OPIC's business has historically occurred—especially mining projects, oil and gas projects, and energy infrastructure[16]—it would seem entirely appropriate for OPIC to adopt procedures that are much more attentive to the possibility of malfeasance and place a lower threshold for turning cases over to the Department of Justice in the future than it has in the past.

But OPIC does not have the authority—or the resources—to conduct criminal investigations on its own, or to replace the Justice Department

16. See Peter Waldman and Jay Solomon, "Power Deals with Cuts for First Family in Indonesia Are Coming Under Attack," *Wall Street Journal*, December 23, 1998; Human Rights Watch (1999); and Diokno-Pascual and Macli-ing (2001).

in this role. Moreover, the recommended bias in favor of transparency and publicity in reporting the results of OPIC monitoring—endorsed earlier in the cases of environmental impact and workers' rights—needs to be carefully circumscribed in this arena, given the presumption of innocence in the face of allegations of corruption and bribery.

Restructuring OPIC's Operations

Customers and clients have complained that OPIC imposes overly burdensome reporting requirements and provides slow and unpredictable service. The average cycle time for consideration and approval of OPIC projects, for example, runs to nearly one year, with a significant differential between the shortest and longest projects.

To counter such complaints, the OPIC Insurance Department has been restructured to create two underwriting groups and one technical operations group so that its staff can concentrate on either underwriting or policy considerations. The department also has launched a Quick Cover program that enables OPIC to expedite coverage for projects in certain sectors (roughly two weeks). Quick Cover permits clients to postpone, although not eliminate, giving some environmental and workers' rights assessment information on small projects in nonsensitive sectors for a designated period after the contract is issued.

The OPIC Finance Department has increased the approval authority of the vice president, saving the time that would have been required to prepare a paper for the Investment Committee and eliminating the wait for committee approval. For certain projects, loan approval authority has been delegated to loan production managers and credit managers. In addition, the department has created a shorter form for approval papers that focuses only on the key credit issues of the transaction. There are now fewer levels of review for loan agreement drafts, waivers, retainer letters, term sheets, commitment letters, and other documents.

All OPIC departments have created a Single Point of Contact Policy for clients. They also have developed a pipeline tracking system to monitor and speed the clearance process.

But the legislative framework within which OPIC operations limits its ability to speed and simplify its operations. As was noted above, many of its operating procedures are either explicitly required by language in the Foreign Assistance Act, in the case of environmental effects, or in the case of human and workers' rights, necessitated to comply with the intent of the act and annual appropriations law requirements. The legislation does not make any exceptions on the basis of the size of the project or the small business identity of the investor.

Any streamlining exercise usually involves trade-offs among competing objectives. One the one hand, OPIC could choose to reduce the burden-

someness and intrusiveness of its workers' rights and environmental monitoring. OPIC has already delegated authority for environmental clearances for Category B and C projects, and for workers' rights clearances in nonsensitive countries, for example, from the deputy vice president level to the senior environmental impact analyst and workers' rights officer levels, respectively. For relatively nonsensitive projects of less than $5 million and on-lending subprojects of less than $2.5 million—supported by OPIC's funds—OPIC has been willing to provide an "expedited clearance" subject to further due diligence after the clearance is provided (with the proviso that divestment could be required if further due diligence indicated significant environmental or labor issues). OPIC might follow the precedent of the Spanish Export Credit Agency (CESCE) and adopt a Web-based environmental assessment process for Category B projects, running the risk that some requirements might not be addressed in contract language.

Another streamlining possibility would be to ask sponsors to provide dollar amounts of US procurement in place of the current product descriptions and supplier information (name, city, state) for initial and subsequent procurement from the United States for each project. This approach would reduce the accuracy of the estimated number of jobs created by OPIC projects, however, and eliminate valuable information now provided in OPIC's US supplier sheets, which are distributed to members of Congress, showing jobs created by OPIC in each state.

On the other hand, OPIC could choose to tighten its monitoring and reporting requirements, making a greater effort to obtain local input on workers' rights and on environmentally sensitive projects, and rendering the process more transparent and open to outside scrutiny, as was suggested above. This could slow down approvals and weaken the appeal for investors of working with OPIC. But if OPIC moves to bring its procedures in line with industry best practices for reporting on worker treatment and environmental protection, the negative impact can be kept to a minimum.

Whichever direction OPIC and its supporters in the executive branch and Congress choose, there is an additional question of whether OPIC should alter its screening procedures when trying to respond to urgent foreign policy needs. For example, the requirement that Category A projects prepare an environmental impact assessment that must then be posted for 60 days before the project can be presented to the OPIC board significantly limits OPIC's ability to respond quickly. Section 117 of the Foreign Assistance Act does provide an exception to the provision of environmental impact statements and environmental assessments for "emergency conditions and for cases in which compliance . . . would be seriously detrimental to the foreign policy interests of the United States." This emergency exception has never been invoked.

A rigorous assessment of respect for human rights and workers' rights for regions in crisis—in the Balkans or Central Asia, for example—would not likely be compatible with vigorous OPIC activity in many of the

countries that need it most. Finally, the prudential requirement to take collateral in a host country that may have a cumbersome legal system can stall OPIC's ability to act rapidly during a crisis. And clearance requirements for US effects, as currently structured, effectively eliminate the most vibrant sectors in many countries from eligibility for OPIC financing or insurance, providing an additional reason for adopting the new standard proposed above.