USAID

U.S. AGENCY FOR
INTERNATIONAL
DEVELOPMENT

September 30, 1999

MEMORANDUM FOR M/AA, Terrence J. Brown

for Thomas B. Cinkluwich

FROM: AIG/A, Toby L. Jarman

SUBJECT: Audit Report of USAID's Section 620(q) and Brooke Amendment Violations Involving Indonesia, Audit Report No. 0-000-99-007-F

This memorandum is our audit report on USAID's violation of Section 620(q) of the Foreign Assistance Act and the Brooke Amendment involving Indonesia. In response to your request, dated September 1, 1999, we have conducted a limited scope audit of the U.S. Agency for International Development's (USAID) procedures for reporting violations of the Section 620(q) of the Foreign Assistance Act and Section 512 of the Foreign Operations Act of 1999, referred to as the Brooke Amendment.

We made four recommendations for management to consider. We have evaluated your comments for each recommendation. Based on our evaluations, we accept management decisions for audit recommendations No. 1, 2, and 3. Based on reported actions concerning audit recommendation No. 4, we believe that the management decision was made and a final management action was taken on this recommendation. Your comments are included as Appendix II of this report.

While the report's recommendations are focused on the circumstances surrounding the Section 620(q) and Brooke Amendment violations and their consequences, USAID managers need to consider them in the greater context of improving USAID's overall financial and loan program management environment. When implemented, the improvements included in this report will help ensure that USAID correctly reports countries that are delinquent in repaying their loans, and avert future violations of Section 620(q) of the Foreign Assistance Act and the Brooke Amendment of USAID's annual appropriation act.

The intent of this report was to present these issues to you as early as possible so that your managers can implement timely corrective actions. The recommendations included herein will be followed up during our audit of USAID's 1999 financial statements. Also, we intend to perform additional audit work on the Loan Accounting and Information System to determine if there were any other violations, which should have been reported.

I would like to express my sincere appreciation for the courtesies extended by your staffs to the auditors.

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BACKGROUND

The United States makes loans to many countries throughout the world. Countries are expected to repay the principle and interest, as specified in the loan agreement. If a country fails to pay either the principle or interest within schedule specified in a loan agreement, certain legislative sanctions are to be enforced. This report covers legislative sanction specified in Section 620 (q) of the Foreign Assistance Act of 1961, as amended (FAA) and the Brooke Amendment. Also, this report covers the Foreign Operations, Export Financing and Related Programs Appropriations Act of 1999 (appropriations act), as it effects these legislative sanctions.

Section 620(q) of the (FAA), as amended, 22 U.S.C. 2370(q) provides that FAA assistance shall not be furnished to any country which is in default for a period of six months or more on the principal or interest on any loans made by the United States under the FAA. Defaults meeting this criteria are referred to as being under "Section 620(q)" restrictions. This section provides that unless a country meets its obligations under the loans or the President determines that assistance to such country is in the national interest to waive Section 620(q), USAID may not furnish any assistance under the programs authorized by the FAA. According to USAID General Counsel, section 620(q) applies to only new obligations. The Section 620(q) restriction does not require termination of existing obligations. If USAID establishes new obligations for assistance to a country while it is under 620(q) restrictions, a 620(q) violation has occurred. The FAA requires that if the President determines that it is in the national interest, Section 620(q)'s restriction may be waived and appropriate notification must be provided to the Speaker of the House of Representatives and the Chairman of the Senate Committee on Foreign Relations. The President has delegated the authority to approve waivers to the Secretary of State.

Section 512 *Limitation on Assistance to Countries in Default,* of the Foreign Operations, Export Financing and Related Programs Appropriation Act of 1999, ("appropriations act") provides that no part of any appropriation contained in the appropriation act shall be used to furnish assistance to a country that is in default for 12 or more months in payment of principal or interest on any loan made by the United States under programs for which funds are appropriated under the Act. Defaults meeting this criteria law are referred to as being under "Brooke Amendment" restrictions. According to a USAID General Counsel representative, the Brooke Amendment, like section 620 (q) applies only to new obligations and does not require termination of existing obligations. Because it applies to all appropriations in the appropriations act, the Brooke Amendment applies to a number of programs that are authorized for federal agencies other than USAID. Similar to defaults under Section 620(q) there can be a waiver to the restrictions mandated by the Brooke Amendment. However, unlike the waiver authority from Section 620(q), the waiver authority for Brooke Amendment restrictions has been reserved for the President.

In addition, there are a number of notwithstanding authorities in the FAA and appropriations act that permit the furnishing of assistance notwithstanding prohibitions on assistance including 620 (q) and the Brooke Amendment.

Section 522 of the Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1999, *Child Survival, AIDS, and Other Activities,* provides up to $10,000,000 of the funds for family planning, health, child survival, basic education, AIDS and other infectious diseases. These funds may be used to reimburse United States Government agencies, agencies of State governments, institutions of higher learning, and private and voluntary organizations for the full cost incurred. These funds were made available for child survival activities or disease programs, including activities relating to research on, and the prevention, treatment and control of, acquired immune deficiency syndrome may be made available notwithstanding any provisions of law that restricts assistance to foreign countries. This Act provided further, that funds appropriated, which are made available for family planning activities, may be made available notwithstanding section 620(q) of this Act and section 512 and the Brooke Amendment.

Section 540 (b) of the Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1999, *Special Authorities*, provides that funds provided to carry out the provisions of sections 103 through 106 of the Foreign Assistance Act (FAA) of 1961 may be used notwithstanding any other provisions of law, for the purpose of supporting tropical forestry and biodiversity conservation activities.

AUDIT OBJECTIVES

The following are the audit objectives for this audit:

1. **Were the Procedures for Reporting a Section 620(q) and/or a Brooke Amendment Violation Followed by the Office of Financial Management?**

2. **Were Obligations Made for Activities Despite Payment Delinquencies That Called For Enforcing Section 620(q) and Brooke Amendment Restrictions for the Government of Indonesia?**

3. **Does the Loan-Servicing Contract with the Riggs National Bank Contain Procedures To Reduce to a Low-Level Risk the Conditions That Contributed to the Section 620(q) and Brooke Amendment Violations**

4. **Did USAID Comply With Section 620(q) And Brooke Amendment Legal And Regulatory Reporting Requirement?**

Because of the urgency for this report, the scope was limited. See Appendix I for a discussion of the scope and methodology for the audit.

AUDIT FINDINGS

1. Were the Procedures for Reporting a Section 620(q) and/or a Brooke Amendment Violation Followed by the Office of Financial Management?

The Office of Financial Management did not follow the procedures for reporting a Section 620(q) and/or a Brooke Amendment violation. Material internal control weaknesses in USAID's procedures for preparing the monthly Section 620(q) and Brooke Amendment violation reports resulted in a failure to accurately report the delinquent status of certain loans to the Government of Indonesia. Additionally, information about the delinquency status was not provided to the appropriate program officials to prevent violations of restrictions of both Section 620(q) and the Brooke Amendment.

Each month, in the Office of Financial Management's Loan Management Division, a loan servicing team leader distributes a monthly delinquency report to each loan analyst for verification. The delinquency report was generated by the Loan Accounting and Information System (LAIS). Each of the Division's loan analysts reviews the system-generated delinquency report and makes any appropriate changes and notations when reportable Section 620(q) and Brooke Amendment violations exist for the reporting period. After the loan analysts complete their analyses, the system-generated delinquency report is returned to the team leader who reviews the loan analysts' changes and notations and develops the official Loan Management Division delinquency report for the month. The delinquency report discloses those countries, which have potential for being placed under the 620(q) sanctions and/or where the Section 620(q) and Brooke Amendment restrictions should be enforced. For those countries which have potential for being placed under the 620(q) sanctions, USAID requires that a 45-day notice be sent to the borrower.

During the third and fourth quarters of Fiscal Year 1999, the Loan Management Division staff did not consistently follow the procedures noted above. We noted that:

- USAID's loan analyst for the Indonesian loan portfolio did not send the Government of Indonesia the official 45-day notice of its potential Section 620(q) and Brooke Amendment restrictions.

- USAID's loan analyst for the Indonesian loan portfolio did not properly report Indonesia's delinquency status during the period of February 9, 1999 through August 9, 1999, even though the required principal payments for a loan was not received on August 8, 1998. During this period, Section 620(q) restrictions should have been enforced for Indonesia. The analyst failed to correctly report Indonesia's default status through August 1999 on the delinquency report. By August 9, 1999, the Government of Indonesia was still in arrears on its principal payments and a Brooke Amendment restriction should have been enforced.

- The loan servicing team leader responsible for reviewing Section 620(q) and Brooke Amendment restrictions indicated by the monthly LAIS report did not

validate the loan analyst's decisions on reporting the delinquency status for Indonesia. The delinquency report simply noted that the Government of Indonesia had requested a loan rescheduling that was pending. The report did not indicate that (1) Section 620(q) or Brooke Amendment restrictions should be enforced and (2) USAID program officials should not be making new obligations after February 8, 1999 without first obtaining appropriate waivers.

- The Deputy Director of the Loan Management Division approved the delinquency without ensuring that it was accurate.

- On August 31, 1999, a USAID official informed the government that under United States law (The Brooke Amendment) additional obligations may not be incurred until amounts past due for more than one year were paid.

- USAID received confirmation on September 2, 1999, that the Government of Indonesia paid $6,015,960 to eliminate the arrears that exceeded one year.

These lapses in the internal control procedures were the major cause of the conditions that permitted USAID program officials to make new obligations for activities in Indonesia, when Indonesia was delinquent for at least six months and in some cases 12 months. Further, the controls within the Loan Management Division did not ensure that the violation involving Indonesia was adequately documented, reported, and corrective action taken to prevent subsequent unauthorized obligations.

Recommendation No. 1: We recommend that the Chief Financial Officer:

1.1 Review with the Loan Management Division the procedures to identify and report the payment status of countries that are delinquent in payment of principal and interest on loans made by the United States government. The procedures should include steps to readily identify those countries for which Section 620(q) and Brooke Amendment restrictions pertain.

1.2 Instruct the supervisor as to the degree of supervisory review expected for the delinquency report.

2. Were Obligations Made for Activities Despite Payment Delinquencies That Called For Enforcing Section 620(q) and Brooke Amendment Restrictions for the Government of Indonesia?

USAID made 163 obligations in excess of $49.4 million despite payment delinquencies that called for enforcing 620(q) and Brooke Amendment restrictions for the Government of Indonesia. Since August 8, 1998, the Government of Indonesia had not made any principal payments on its loan portfolio. For the month of August 1998, the Government of Indonesia defaulted on 16 loans, failed to make principal payments amounting to about

$2.5 million. By February 9, 1999, a Section 620(q) restriction should have been enforced for the Government of Indonesia since principal payments had not been made. Over the ensuing months, Indonesia's arrearages continued to grow. By August 9, 1999, Brooke Amendment restrictions should have been enforced for the Government of Indonesia. By August 31, 1999, the Government of Indonesia had failed to make loan principal payments valued at about $16.7 million. Of this $16.7 million arrearage, about $2.5 million was over 12 months old and subject to the restrictions of the Brooke Amendment. The remaining $14.2 million was from 6 to 12 months in arrears and subject to the restrictions of Section 620(q).

During the 7-month period from February 9, 1999 to August 31, 1999, USAID offices obligated $49.4 million for activities in Indonesia. The following schedule lists the USAID offices and obligations made for activities in Indonesia while Section 620(q) and Brooke Amendment sanctions should have been enforced. Because the USAID General Counsel believes that section 620 (q) applies to only new obligations, this schedule lists only new obligations.

USAID Office Bureau/Office	**Number of New Obligations**	**Value of New Obligations**
Obligations that Violated Section 620(q) of the FAA		
Bureau for Humanitarian Response Office of Transition Initiatives	6	$5,451,962
Bureau for Asia and Near East USAID Indonesia	138	$43,261,924
Total	144	$48,713,886
Obligations that Violated the Brooke Amendment		
Bureau for Asia and Near East USAID Indonesia	19	$758,344
Total	19	$758,344
Total Section 620(q) and Brooke Amendment Violations	163	$49,472,230

All 163 new obligations failed to comply with the restrictions contained in Section 620(q) and 19 of the obligations failed to comply with the restrictions of the Brooke Amendment. In addition, the obligations listed above are not covered by notwithstanding authorities in the FAA and appropriations act, which permit the furnishing of assistance notwithstanding prohibitions on assistance including 620(q) and the Brooke Amendment.

The reasons for the violations varied from Loan Management Division's (1) failure to issue the official 45-day notice of the potential Section 620(q) and Brooke Amendment restrictions at least 45 days prior to the default and (2) failure to report this delinquency status to the appropriate USAID officials. Representatives from both the Office of

Transition Initiatives and the Office of Environment told us that they did not receive the delinquency reports from the Loan Management Division. Moreover, the representatives also told us that they were not familiar with the restrictions of Section 620(q) and the Brooke Amendment.

Recommendation No. 2: **We recommend that the Chief Financial Officer:**

2.1 Require that the information on the monthly delinquency report be forwarded to USAID officials such as Assistant Administrators, office heads, and contracting officers.

2.2 Provide guidance to all USAID program and financial managers on their respective responsibilities under Section 620(q) of the Foreign Assistance Act and the Brooke Amendment.

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3. Does the Loan-Servicing Contract with the Riggs National Bank Contain Procedures To Reduce to a Low-Level Risk the Conditions That Contributed to the Section 620(q) and Brooke Amendment Violations?

The Loan-Servicing Contract with the Riggs National Bank does not reduce to a low-level risk the conditions that contributed to the Section 620(q) and Brooke Amendment violations. On July 10, 1998, USAID awarded to Riggs Bank & Co. (Riggs), a $1.7 million dollar contract to administer the Direct Loan, Loan Guarantee, and Loan Portfolio Guarantee programs on behalf of USAID. Under the contract's loan administration services, Riggs will provide the following services: (1) receipt and disbursement of funds, (2) loan accounting, (3) collections, (4) maintenance of documents, and (5) financial reporting. Provided among the loan administration services is a monthly loan collection delinquency report which includes status of payments past due for 120 days or more and for 270 days or more.

As of September 1, 1999, Loan Management Division staff had not received the loan collection delinquency report from Riggs. By mutual agreement between the Office of Financial Management and Riggs, the information in the Riggs database was being verified and reviewed during a 6-month transition phase between USAID's legacy system and Riggs' system.

We have reviewed an example of Riggs' loan collection delinquency report. We found that it contains the information necessary to accurately report information to enforce the Section 620(q) and Brooke Amendment restrictions. However, the delinquency report does not emphasize the following: (1) the need for the official 45-day notice of potential default, and (2) a separate report identifying the countries which should be considered for enforcing the 620(q) and Brooke Amendment restrictions. According to the Deputy Chief Financial Officer, this report can be generated on demand. He also said that new procedures are being developed on the use of this information in developing USAID's monthly Section 620(q) and Brooke Amendment report.

Under current financial management systems at USAID, the human factor is the most critical aspect of the internal controls used to ensure compliance with Section 620(q) and the Brooke Amendment. Therefore, a separate report listing the countries with potential 620(q) and Brooke Amendment violations should be produced and this report should be provided to all appropriate USAID officials. This report will inform agency officials that the payment history should be reviewed and a 45-day notice submitted to the borrower Government as deemed necessary.

Recommendation No. 3: **We recommend that the Chief Financial Officer:**

3.1 Modify the delinquency reports provided by the Riggs National Bank to highlight those countries for which a 45-day notice of potential default and the 620(q) and Brooke Amendment restrictions so these reports can be provided to appropriate USAID officials.

3.2 Modify the delinquency reports provided by the Riggs National Bank to highlight the countries, which should be considered for enforcing the 620(q) and Brooke Amendment restrictions and provide these reports to appropriate USAID officials.

3.3 Ensure that the information from Riggs' loan collection delinquency report is used by the Loan Management Division staff to prepare the monthly Section 620(q) and Brooke Amendment report.

4. Did USAID Comply With Section 620(q) And Brooke Amendment Legal And Regulatory Reporting Requirement?

USAID complied with legal and regulatory reporting requirements of Section 620(q) and Brooke Amendment. On August 31, 1999, the Director of the Loan Management Division informed the Government of Indonesia that they were in arrears on its loan payments and that they were currently under the Brooke Amendment restriction. In the notification, the USAID official informed the government that under United States law (The Brooke Amendment) additional obligations may not be incurred until amounts past due for more than one year were paid. The USAID official stated that they were aware that a Bilateral Rescheduling Agreement was pending and it would be signed September 1, 1999, becoming effective 30 days later—United States Congress is given 30 days to review the agreement. However, to remedy the current Brooke Amendment conditions, the USAID officials requested the immediate payment of $6,015,960.[1] On September 2, 1999, USAID received confirmation that the $6,015,960 was paid to eliminate the arrears that exceeded one year. On September 20, 1999, the State Department signed a 620(q) waiver for the Government of Indonesia. As of September 22, 1999—the date of our draft

[1] Of the $6,015,960, $4,522,412 was for arrearages that were more than 12 years old at the end of September 1999 on loans made by USAID. The remaining arrears of $1,493,548 were for arrearages that were more than 12 months old at the end of September 1999 on loans made by the Department of Defense.

report, the appropriate Senate and House of Representatives members had not been notified.

While it is laudable that USAID officials were successful in getting the Government of Indonesia to remedy the Brooke Amendment conditions, violations of the Brooke Amendment began on August 9, 1999. From August 9 until September 2, 1999, $758 thousand was obligated without having the Presidential waiver required by Section 614 of the Foreign Assistance Act, and without notification to the appropriate Senate and House of Representatives members.

Similarly, violations of Section 620(q) of the Foreign Assistance Act began on February 9, 1999. From February 9 until September 2, 1999, $49.4 million was obligated without having a waiver from the Secretary of State as required by Section 612 of the Foreign Assistance Act, and without notification to the appropriate Senate and House of Representatives members. Because the USAID General Counsel believes that section 620 (q) applies to only new obligations, the amount above represents only new obligations.

In light of the appropriate congressional notification by Department of State, we believe that USAID should advise the Secretary of State of the Congressional Notification requirements.

Recommendations No. 4: We recommend that the Chief Financial Officer inform the Administrator of the Congressional notification requirements for violations covered in this report, in order for the Administrator to advise the Secretary of State of these notification requirements.

MANAGEMENT COMMENTS AND OUR EVALUATION

In commenting on our draft audit report and its recommendations, the Chief Financial Officer said that the report was a fair and timely assessment of the events and circumstances surrounding the violations involving Indonesia. Management agreed with the intent of the four audit recommendations. In addition to agreeing with the intent of the recommendations, management also provided clarifications regarding:

1) sections 620(q) of the Foreign Assistance Act of 1961 (FAA), as amended;

2) section 512 of the Foreign Operations, Export Financing and Related Programs Appropriation Act of 1999, Limitations on Assistance to Countries in Default, and

3) additional comments in response to the recommendations in the draft audit report.

Accordingly, we agreed with these additional comments and made the changes.

With regard to audit recommendation No. 1, management reported that it had reviewed the procedures with appropriate staff for identifying and reporting the payment status of countries that are delinquent. Also, the division chief, deputy division chief, team leader and analysts have been instructed regarding their responsibilities for preparing the delinquency report. Furthermore, the Deputy CFO will now be involved in the supervisory review of the delinquency report. Lastly, management stated that these procedures would be included in the internal operating procedures and in the appropriate USAID Automated Directory System (ADS) Chapter by June 2000.

On audit recommendation No. 2, management reported that the delinquency reports would be sent to bureau and office heads. It will be the responsibility of these individuals to ensure that staff is informed regarding potential or actual violations. Also, management reported that the Office of General Counsel has been asked to draft guidance on responsibilities and legal requirements of the Section 620 (q) of the Foreign Assistance Act and the Brooke Amendment. This guidance will be included in the ADS Chapter to be issued by June 2000.

Concerning audit recommendation No. 3, management explained that they believed that the contract did not need to be modified, but agreed that the reporting process can be improved. Management plans to modify the current reporting requirements to meet the intent of our recommendations by the end of October 1999. Also, management plans to issue the ADS Chapter by June 2000, which will include the requirement that the delinquency report be used by the Loan Management Division to prepare the monthly Section 620 (q) and Brooke Amendment report.

For audit recommendation No. 4, management said this recommendation was not needed because the reporting of the violation was completed and management attached documentation for this action. According to this documentation, the Acting Secretary of State approved the 620 (q) waiver on September 20, 1999. The waiver was delivered to the four foreign affairs oversight committees on September 22, 1999. On September 13, 1999, USAID's Assistant Administrator for Management requested that the Administrator ratify all obligations made by USAID for assistance to Indonesia while it was in violation of Section 512 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1999 (Brooke Amendment). The Administrator, exercising appropriate authority, ratified all obligations and expenditures made by USAID for Indonesia.

We appreciate the management comments. The suggested clarifications were made. Based on management's acceptance of the audit recommendations, we are accepting the management decisions for audit recommendations Nos. 1 through 3. For audit recommendation No. 4, based on the reported actions by the Acting Secretary of State, on September 20, 1999, and the subsequent notification to the appropriate Congressional committees, we believe that the management decision was made and a final management action was taken on this recommendation.

SCOPE AND METHODOLOGY

SCOPE OF AUDIT

Our audit was initiated in response to a request by the Assistant Administrator for Management on September 1, 1999 to review USAID's procedures for reporting violations of 620(q) and Brooke Amendment restrictions. We obtained an understanding of the design and implementation of relevant policies and procedures within the USAID's Loan Management Division for the identification, notification, reporting, and follow-up of delinquent countries. We determined whether those procedures were adequate enough and had been placed in operation to meet the objectives and requirements of the 620(q) and Brooke Act Amendment. Further, we assessed the risks associated with violations of those provisions, and whether USAID's present and future controls would prevent such violations.

The scope of this audit was limited to the 620(q) and Brooke Amendment violations involving assistance—new obligations—provided to the Government of Indonesia during the period from February 9, 1999 through September 2, 1999.

This audit was conducted during the period of September 9, 1999 through September 16, 1999. Because of the urgency of this report, the scope was limited to the items tested. We relied on the information provided by USAID/Indonesia managers and did not verify the accuracy. However, we did verify the obligations made at USAID/Washington.

INTERNAL CONTROL TESTING

Due to the limited scope of this audit, internal control testing was limited to those controls used to prepare, review, and distribute USAID's monthly Delinquency Status Reports.

COMPLIANCE WITH LAWS AND REGULATIONS

Due to the limited scope of this audit, compliance with laws and regulations testing was limited to those legal and regulatory requirements for:

1. Obtaining waivers from Section 620(q) and the Brooke Amendment, and

2. Reporting any non-compliance with Section 620(q) and the Brooke Amendment by USAID officials.

METHODOLOGY

In accomplishing our audit objectives, we reviewed section 620(q) of the Foreign Assistance Act of 1961, Sections 512 and 522 of Foreign Operations, Export Financing and Related Programs Appropriation Act of 1999, conducted interviews with personnel from USAID's Loan Management Division, General Counsel, Global Bureau, Office of Environment and Bureau of Humanitarian Response, Office of Transition Initiatives. Further, we reviewed correspondence between the Loan Management Division and the Government of Indonesia relating to the violations. We requested fiscal information from the Bureau for Asia and the Near East, Global Bureau, Office of Environment and Bureau of Humanitarian Response, Office of Transition Initiatives, and USAID/Indonesia. We did not confirm this information due to the urgency of this report.

Because Section 620(q) and the Brooke Amendment are legislative restrictions on the use of funds, after certain criteria is met, we considered all exceptions to be material.

The audit was limited to the loan payments made by the Government of Indonesia and the new obligations made by USAID to provide assistance to the Government of Indonesia.

USAID MANAGEMENT COMMENTS

U.S. AGENCY FOR
INTERNATIONAL
DEVELOPMENT

SEP 28 1999

MEMORANDUM

TO: AIG/A, Toby L. Jarman

FROM: M/CFO, Michael Smokovich

SUBJECT: Draft Audit Report of USAID's Section 620(q) and Brooke Amendment Violations Involving Indonesia, Report No. 0-000-99-00X-F

We have reviewed your draft report. It is a fair and timely assessment of the events and circumstances surrounding the violations involving Indonesia. We generally agree with the report's findings and recommendations, with clarifications as noted below.

Clarifications:

Page 2: first paragraph, first sentence should read: "Section 620(q) of the Foreign Assistance Act of 1961, as amended, *Prohibition Against Furnishing Assistance*, provides that assistance under the Foreign Assistance Act shall not be furnished to any country which is in default for a period of six months or more on the principal or interest on any loans made by the United States under the Act.

Page 2: second paragraph, first sentence should read: "Section 512 of the Foreign Operations, Export Financing and Related Programs Appropriation Act of 1999, *Limitation on Assistance to Countries in Default*, provides that no part of any appropriation contained in the annual appropriation act shall be used to furnish assistance to a country that is in default for twelve or more months in the payment of principal or interest on any loan made by the United States pursuant to a program for which funds are appropriated under the appropriations act.

Page 4, first bullet should read: USAID's loan analyst for the Indonesian loan portfolio did not send the USAID

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mission in Jakarta the official 45-day notice of its potential Section 620(q) and Brooke Amendment restrictions.

Pages 8 and 9: This section should be modified to reflect that reporting requirements have been met and notifications have been made. The 620(q) waiver, which applies to assistance furnished to Indonesia as of February 9, 1999, was approved by Acting Secretary of State Larson on September 20, 1999. The waiver was delivered to the four foreign affairs oversight committees on September 22, 1999. Regarding the Brooke Amendment violations between August 9 and September 1, 1999, the Administrator, exercising appropriate authority, ratified all obligations and expenditures made by USAID for Indonesia. Documentation regarding these actions is attached.

Comments on recommendations:

Recommendation 1: We recommend that the Chief Financial Officer:

1.1: Review with the Loan Management Division the procedures to identify and report the payment status of countries that are delinquent in payment of principal and interest on loans made by the United States Government. The procedures should include steps to readily identify those countries for which Section 620(q) and Brooke Amendment restrictions pertain.

Management Decision: We agree with the recommendation. We have reviewed the procedures with appropriate staff. I will also personally review these procedures with staff and management of the Loan Management Division to ensure a clear understanding of the importance of the duties and to ensure that improvements are made. In addition, the procedures will be included in internal operating procedures and an ADS chapter to be issued by June 2000.

1.2: Instruct the supervisor as to the degree of supervisory review expected for the delinquency report.

Management Decision: We agree with the recommendation. We have instructed the division chief, deputy division chief, team leader and analysts regarding their responsibilities. In addition, the Deputy CFO will now be involved in the

supervisory review of the delinquency report. This change will be implemented immediately.

Recommendation 2: We recommend that the Chief Financial Officer:

2.1: Require that the information on the monthly delinquency report be forwarded to the USAID officials responsible for approving obligations of USAID funds.

Management Decision: We agree with the intent of this recommendation. However, the managers of the reporting process believe that it is not possible to distribute the report to every individual responsible for approving obligations. Therefore, we propose that the report be sent to bureau and office heads. It will then be their responsibility to ensure that staff are informed regarding potential or actual violations. This will be included in the ADS chapter to be issued by June 2000.

2.2: Provide guidance to all USAID program and financial managers on their respective responsibilities under Section 620(q) of the Foreign Assistance Act and the Brooke Amendment.

Management Decision: We agree with the recommendation. We have asked the Office of General Counsel to draft guidance on responsibilities and legal requirements. This information will be issued as an Agency Notice and will also be included in the ADS chapter to be issued by June 2000.

Recommendation 3: We recommend that the Chief Financial Officer:

3.1: Modify the contract with Riggs National Bank to require that a 45-day notice of potential default and the 620(q) and Brooke Amendment restrictions be provided to all appropriate USAID officials.

3.2: Modify the contract with Riggs National Bank to require that a separate report which identifies the countries which should be considered as having 620(q) and Brooke Amendment restrictions should be produced and provided to all appropriate USAID officials.

3.3: Ensure that the information from Riggs' loan collection delinquency report is used by the Loan Management Division staff to prepare the monthly Section 620(q) and Brooke Amendment report.

Management Decision: We generally agree with these recommendations; however, the responsible managers do not believe it is necessary to modify the Riggs contract. The contract already provides for Riggs to produce delinquency reports. We believe that the current reports can be modified to meet the intent of these recommendations. Accordingly, we request that recommendations 3.1 and 3.2 be rewritten. We plan to implement the reporting changes by the end of October, 1999. Regarding recommendation 3.3, the ADS chapter will include the requirement that the delinquency report be used by the Loan Management Division to prepare the monthly Section 620(q) and Brooke Amendment report. Final action should be complete by June 2000.

Recommendation 4: We recommend that the Chief Financial Officer inform the Administrator of the Congressional notification requirements for violations covered in this report, in order for the Administrator to advise the Secretary of State of these notification requirements.

Management Decision: This recommendation is not needed. As explained above, the appropriate waiver and ratification documents have been executed, and Congressional notifications have been made.

We appreciate your assistance in this matter and the courtesies of your staff during the conduct of the audit. We look forward to your continued support and assistance.

Attachments: a/s