

MEMORANDUM OF DETERMINATIONS

Political Violence Claim of Sector Resources, Ltd.
Contract of Insurance No. F030
Contract of Insurance No. F074

I. The Claim

By letters dated June 4, 2001, (Exhibit A), Sector Resources, Ltd. (the “Insured” or “Investor”) filed applications for compensation pursuant to Contracts of Insurance Nos. F030 and F074. The Insured alleges that an act of political violence, as more fully described below, occurred on May 19, 2001, at the site of the Las Animas precious minerals mine in the State of Tolima, Colombia (the "Project") and is continuing in nature. The Insured has advised OPIC that, as a result of the political violence it has ceased all operations at the Project and has sustained covered losses.

OPIC has determined that the claim is valid and that compensation is now payable in the amount of \$2,430,759.59.

II. The Insurance Contracts

Two Contracts of Insurance were entered into with the Insured in 1999.

Contract of Insurance No. F030, an OPIC Form 234 KGT 12-85 (Second Revised) NS, (“Contract F030”) (Exhibit B) was issued effective August 18, 1999, to cover the Insured’s \$3,500,000 equity investment in the Project and includes Business Income Loss coverage. The maximum coverage under this policy is \$9,450,000. The active amount of coverage on May 19, 2001 was \$1,800,000.

Contract of Insurance F074, an OPIC Form 234 LP 7-86A PL (Rev. 9/89), (“Contract F074) (Exhibit C) was issued effective August 18, 1999, to cover the Insured’s \$2 million lease payments for equipment used at the Project. The maximum coverage under this policy is \$3,500,000. The active amount of coverage on May 19, 2001 was \$3,500,000.

In Contract of Insurance No.F030, Article VI (Political Violence-Scope of Coverage) and Article VII (Political Violence-Amount of Compensation) these provisions have been deleted in their entirety and replaced in Sections 10.04 and 10.05, respectively, of Article X (Amendments). All references are to the amended articles. The primary purpose of the amendments is to add business income coverage.

III. Factual Background

A. The Project and the Insured.

The project involves the acquisition and expansion of the Las Animas underground quartz, gold and silver mine (“Las Animas”) in the State of Tolima, Colombia. Sector Resources, Ltd. (“Sector Resources”), a U.S.-owned Cayman Islands company, has made up to a \$3.5 million investment into its Colombian branch (“Sector Resources Colombia”), as well as a \$2 million equipment lease to the Colombian branch through one of its U.S. affiliates, Sector Capital Corporation (“Sector Capital”).

B. Colombia’s History and Political Conditions

The history of modern Colombia began in 1819 with its independence from Spain and the formation of the first independent Colombian state, the new Republic of Greater Colombia. Its first government elected Simon Bolivar president and Francisco de Paula Santander vice president. Two political parties grew out of conflicts between the followers of Bolivar and Santander and their political visions--the Conservatives and the Liberals. These two parties have since dominated Colombian politics. Bolivar's supporters, who later formed the nucleus of the Conservative Party, sought strong centralized government, alliance with the Roman Catholic Church, and a limited franchise. Santander's followers, forerunners of the Liberals, wanted a decentralized government, state rather than church control over education and other civil matters, and a broadened suffrage. Throughout the 19th and early 20th centuries, each party held the presidency for roughly equal periods of time.

Although Colombia maintained a tradition of civilian government and regular, free elections, Colombia's history has also been characterized by widespread, violent conflict. Two civil wars resulted from bitter rivalry between the Conservative and Liberal parties¹, and the military has seized power three times in Colombia's history.² The most recent military coup took place in 1953, when Gen. Gustavo Rojas Pinilla seized power in the midst of an ongoing civil war between the Conservatives and Liberals. (Although Rojas initially enjoyed considerable popular support--due largely to his success in curbing the civil war (“*La Violencia*”)—this support quickly disappeared when he failed to restore democratic rule, and he was overthrown by the military in 1957 with the backing of both political parties.) Since Rojas’s ouster in 1957, the Conservative and Liberal parties have

¹ The War of a Thousand Days (1899-1902)—which cost an estimated 100,000 lives; and “*La Violencia*” (the Violence), in the late 1940s and 1950s—during which up to 300,000 people died.

² It seized power in 1830, when Ecuador and Venezuela withdrew from the republic (Panama became independent in 1903); again in 1854, and 1953-57. Civilian rule was restored within one year in the first two instances.

co-existed with one another within a framework of democratic elections.³ Nevertheless, the tradition of violent political conflict that has plagued Colombia's history of democratic institutions has continued.

In Colombia's recent past, violence has been primarily been employed as a means to achieve political influence by smaller, more radical constituencies. Between 1978 and 1982, the government focused on ending limited, but persistent, Cuban-backed insurgencies that sought to undermine its traditional democratic system. In the mid-to-late 1980s, the government struggled to suppress an ongoing campaign of political violence conducted by Democratic Alliance/M-19 ("AD/M-19") guerrillas.⁴ Towards the end of the 1980s, the AD/M-19 and several smaller guerrilla groups were successfully incorporated into a peace process that culminated in a national assembly to write a new constitution, which took effect in 1991. Just before this settlement was put in place, however, a pre-existent cease-fire that had existed between the government and the Revolutionary Armed Forces of Colombia ("FARC") broke down.

Today, the Colombian investment environment continues to be marred by concern over security and high levels of violence, as well as the lingering role of drug-inspired corruption. At present, there are as many as 15,000 guerrillas operating in Colombia. The FARC, a politically motivated organization committed to the goal of a popular revolution that would destroy the existing social and economic order to establish a Marxist-Leninist State, is currently the most powerful guerrilla group. To raise money to fight, the FARC provides security for cocaine and heroin production, earning an estimated income of \$1.2 billion annually. In addition, FARC income from systematic kidnapping and extortion campaigns amounts to an estimated \$300 million annually.

The democratically elected Conservative Party government lead by President Pastrana, which assumed power in August 1998, took bold steps in an attempt to resolve the ongoing cycle of political violence. President Pastrana's government met directly with the major guerrilla groups, conducted peace negotiations, and withdrew military troops from a guerrilla stronghold in southeastern Colombia. Despite these overtures, serious peace talks stalled indefinitely in mid-July 1999. In an effort to increase its bargaining

³ This has been due, in large part, to the institution of a series of democratic reforms in July of 1957 known as the "Declaration of Sitges," which proposed a "National Front." Under the auspices of these reforms, the Liberal and Conservative parties would govern jointly, and a series of policies were instituted whereby the presidency would be determined by regular elections every 4 years and the two parties would have parity in all other elective and appointive offices. (Although the system established by the Sitges agreement was phased out by 1978, the 1886 Colombian constitution--in effect until 1991--required that the losing political party be given adequate and equitable participation in the government. The 1991 constitution does not have that requirement, but subsequent administrations have included members of opposition parties.)

⁴ An attack on the Palace of Justice in Bogota by the AD/M-19 on November 6-7, 1985, and its violent suppression by the army, shocked Colombians. Of the 115 people killed, 11 were Supreme Court justices.

power by cutting off a portion of the FARC's revenue stream, the Colombian government passed laws making it illegal for private parties to negotiate with the FARC. The government's hand was further strengthened by a recent infusion of \$1.3 billion in U.S. counter-narcotics funding, which is likely to be broadened due to the Bush administration's war on terrorism. Most recently, in mid-February 2002, President Pastrana announced the abandonment of efforts to reignite peace talks, and the retaking of the guerilla enclave it had granted in southeastern Colombia. Since then there have been no significant changes in the level of political violence. Although not relevant to this Memorandum of Determinations, it should be noted that a new President of Colombia will assume office August 7, 2002.

C. Project Specific History:

1. Background Risks and Precautions

From its inception, political violence has been a significant concern for this project. The Las Animas mine is located in the mid-range of the Andes Mountains, in the town of Santa Isabela, State of Tolima. While Tolima has not been one of the most active areas for political violence, sporadic guerrilla battles have occurred there. In addition, similar mines in neighboring states have had to suspend operations due to nearby political violence.

Sector Resources has taken measures to reduce the likelihood that they would become victims of political violence. First, the company employed trained 24-hour security guards to patrol the mine site. Second, the company ensured that the facility was constructed according to tight security and safety requirements. Third, Sector Resources sought to diminish this risk from the outset by working closely to build ties with the local community and obtain their endorsement for development of the mine.

2. Events Triggering Political Violence

On Saturday, May 19, 2001, a commission of the Tulio Varon Front of the FARC visited Las Animas and stated that the FARC would blow up the mine unless Sector Resources met with them to discuss their demands.⁵

On May 21, the workers of Las Animas requested a leave of absence, so that they might pursue a solution to the work stoppage created by the FARC's threats. Toward this end, Sector Resources workers, acting as private individuals (not as Sector Resources representatives) met on May 23 with the town's mayor, priest, councilmen and trade representatives to decide on a plan of action. On May 24, two worker representatives met with representatives of the FARC. At this meeting, the FARC representatives reiterated the threats against Las Animas and suggested that a commission of integrated representatives from Sector Resources, its workers and the town go to the command of

⁵ On June 4, 2001 Sector Resources forwarded to OPIC certification of this threat from the Mayor's office and copies of affidavits taken by the Police Inspector further substantiating FARC's threat.

the FARC in San Vicente of Caguán to negotiate a solution. On May 26, the workers submitted an “official” request⁶ to the FARC asking the FARC to clarify its position regarding the status of mine employees, and a second meeting took place between two worker representatives and a FARC spokesman. At this meeting, the FARC reiterated its demand that a commission be sent to San Vicente of Caguán and its threat to kill any workers who return to work without FARC authorization.

Faced with the FARC ultimatum, the employees of Las Animas refused to work when they were called back to their jobs by Sector Resources on May 29. On May 30, Sector Resources officially suspended all labor contracts “until the threat against the company disappears.”⁷ At that time, Sector Resources also officially ceased operations at the mine, initiating the shut-down procedures necessary to place the mine’s equipment in maintenance mode. Sector Resources is maintaining the mine facility with security guards and a maintenance crew, but the mine will remain closed until a political solution has been achieved.

3. Remedial Steps Taken by Sector Resources.

Because of the Colombian law prohibiting private parties from entering into negotiations with the FARC, Sector Resources is unable to establish direct contact with the FARC regarding the latter’s demands. Subject to this prohibition, Sector Resources has taken steps to resolve the situation that currently makes continued mining operations impossible.

First, Sector Resources has posted an open letter to the FARC on the public bulletin board in Santa Isabel declaring its neutrality in the conflict between the FARC and the Colombian government and stating that Colombian law prevents it from engaging in negotiations with the FARC. In this letter, Sector Resources stressed the importance of its presence in the community as a source of jobs for local inhabitants.

Second, on May 31, 2001, Sector Resources sent an official statement to Dr. Camilo Gómez, High Commissioner for the Peace, petitioning the Peace Commission--an agency of the Colombian government--for authorization to take this problem to the negotiation table with the FARC in Caguán. On June 6, President Pastrana notified Sector Resources that he had transferred this case to the High Commissioner for the Peace and to the Minister of National Defense for their consideration. On the June 15, however, Sector Resources received a letter from the office of the High Commissioner for the Peace stating that the Peace Commission was unable to bring this matter to the “peace table” because the negotiating agenda was already set and could not be modified. At that time, High Commissioner for the Peace Gómez also notified Sector Resources that their case had been transferred to the Minister of Defense.

⁶ In reporting this event, Sector Resources does not explain what made the request “official.” See Sector Resources draft letter to General Brigadier Hernan Barco of the Colombian Army.

⁷ See *Id.*

Following this response, Sector Resources has enlisted the assistance of the Board of Directors of the Council of American Companies (“CEA”). CEA Executive Director Lora has petitioned President Pastrana for greater Peace Commission involvement in the case.⁸

In addition to these measures, Sector Resources has prepared a draft petition to the Colombian military under the Colombian Constitution to station troops in Santa Isabel to protect its workers and its mine facilities. Sector Resources has yet to submit this petition, but it has sent a copy of the draft petition to the U.S. Embassy for review and comment and has posted the draft (presumably on the aforesaid town bulletin board) “for the community to see and comment on prior to submission.”⁹ Sector Resources has submitted to OPIC copies of both the proposed petition and a response it received from the Embassy’s Commercial Attaché, stating that the U.S. Embassy would support the petition, but could not initiate the request.

IV. The Initial Claim

The original applications for compensation submitted by the Insured did not include a specific sum claimed. Subsequent submissions of financial data by the Insured resulted in a single interim claim for the period May through September 2001, in the amount of \$1,412,794 for both lost business income and the default on lease payments. OPIC retained Deloitte & Touche (“Deloitte”) to assist it in verifying and analyzing the financial information submitted by the Insured in support of its claim.¹⁰ The complete, detailed analysis of the basis for the claim for compensation is set forth in the Final Executive Report submitted by Deloitte and attached hereto as Exhibit D. That report analyzes the basis for the claim for compensation, applying the provisions of Article VII of Contract No. F030 and Contract No. F074. In addition to analyzing the initial claim, which covers the period from May 19 through September 30, 2001, Deloitte also developed a model for use in applying the Insured’s financial data to the claim for the period subsequent to September 30, 2001.

⁸ Sector Resources forwarded a copy of this petition to OPIC on July 9, 2001.

⁹ Sector Resources communication to OPIC, July 9, 2001.

¹⁰ In conducting due diligence on the Insured’s claim, Deloitte performed the following tasks: reviewed and analyzed the interim claim submitted; interviewed Sector Resources’ management [this information is withheld under FOIA exemption 6], CEO of Sector Resources Ltd., and, [this information is withheld under FOIA exemption 6], Project Manager, regarding the claim and the bases for any assumptions; reviewed the insurance contracts; reviewed Sector’s actual financial results for January through September 2001; reviewed the lease contracts, including lease documentation filed with the Central Bank of Colombia; reviewed Sector’s proforma financial projections, which form the basis for its expected financial results had production commenced as planned; reviewed historical mining production reports from January through May 19, 2001; reviewed independent mining analysis reports, which discuss ore grade, gold and silver recovery rates and ore reserves; discussed with Sector management the overall mining plan, the mining circuit and key equipment capacity; reviewed equipment capacity documentation provided by the manufacturers; verified commodity prices; and verified exchange rates between U.S. and Colombian currencies.

V. Determinations Under the Contracts

A determination under an OPIC insurance contract addresses three categories of issues: (1) whether the acts complained of satisfy all the elements required to bring them within the scope of coverage; (2) the amount of compensation payable; and (3) whether the insured fulfilled its duties under the insurance contracts.

As more fully set forth below, after reviewing the documentary evidence submitted by the Insured and conferring with the United States Embassy in Bogota, OPIC has determined that the evidence supports the claim that political violence has resulted in the closure of the Project and losses covered under the Contracts of Insurance. With the assistance of Deloitte, the amount of compensation due has been established at Section IX for covered losses up to May 18, 2002. As will be discussed, more fully, below, it is further determined that the Insured fulfilled its duties under the Insurance Contracts, and compensation should now be paid in the total amount of \$2,430,759.59. Section 6.01(b) of Contract F030 and Section 6.01 of Contract F074 – That the loss was due to political violence.

(a) The evidence submitted by the Insured regarding the activities of the FARC, as more fully described in Section III.C.2. above, clearly satisfies all of the elements required to bring them within the scope of the definition of “political violence” set forth in Section 6.01(b) of Contract F030 and Section 6.01 of Contract F074.

2. Section 6.01(b) of Contract F030 – That political violence has directly resulted in damage to tangible property of the foreign enterprise, causing the cessation of project operation and resulting in a loss of business income.

(a) There is no question that the assets have not been physically damaged and are intact. However, the Investor cannot use the assets without risking that the FARC will destroy the assets and kill the workers. It would be counterintuitive and unreasonable to impose an obligation on the Insured to continue operations until such time as the FARC carried out its threats. Given the immediacy and credibility of the threat and considering that the contractual definition of damage is non-exclusive, OPIC concludes that the actions of the FARC, in this factual situation, justify payment of compensation for loss of business income.

3. Section 6.01 of Contract F074 – that political violence has been the direct and immediate cause of defaults on scheduled lease payments.

(a) The requirement of coverage pursuant to the provisions of Section 6.01 of Contract F074 does not include physical damage to or loss of the asset. Rather, the requirement is that the political violence “is the direct and immediate cause of a default on a scheduled payment and such default continues for one month.” Accordingly, the scope of coverage condition has clearly been met.

4. Section 6.02(a)-(e) of Contract F030 and Section 6.02 of Contract F074 – That none of the Exclusions apply.

(a) Contract F030 lists five possible exclusions of which only two, failure to take reasonable measures to protect or preserve the property and provocation on the part of the Insured, are potentially applicable. Contract F074 has, as a single exclusion, provocation on the part of the Insured. The evidence submitted by the Insured, as more fully described in Section III.C.2., above, clearly demonstrates that it engaged in no activity that would bring it within the Exclusions provisions of Section 6.02 of Contract F030 or Section 6.02 of Contract F074.

VII. Basis of Compensation Under the Contracts

Section 7.02 of Contract F030 provides that, assuming the requirements of Article VI are satisfied,¹¹ OPIC shall pay compensation for lost business income in an amount equal to 90% of the net income loss of the foreign enterprise plus the continuing, normal operating expenses of the foreign enterprise determined, in part, based on the net income

¹¹ Section 6.01(b) of Contract F030 provides:

Compensation is payable, subject to the exclusions (§6.02) and limitations (§7.03(b)), if tangible property of the foreign enterprise used for the project sustains damage, including disappearance or seizure and retention, directly resulting from political violence, and if such damage causes the partial or total cessation of the project operation and results in a loss of business income during the period of restoration.

‘Political violence’ means a violent act undertaken with the primary intent of achieving a political objective, such as declared or undeclared war, hostile action by national or international armed forces, civil war, revolution, insurrection, civil strife, terrorism or sabotage. However, acts undertaken primarily to achieve labor or student objectives are not covered.

‘Business income’ means the net income (net profit or loss before taxes) of the foreign enterprise that would have been earned or incurred from operation of the project, plus continuing normal operating expenses incurred.

‘Period of restoration’ means the period of time that begins with the date of the direct physical damage caused by political violence which causes the loss of business income and ends on the sooner of

- (a) the date by which the tangible property should, with due diligence and dispatch, have been repaired, rebuilt or replaced with property of similar quality, or
- (b) one year from the date of damage.

of the foreign enterprise before the loss or damage had occurred and the likely net income of the foreign enterprise if the loss or damaged had not occurred. The payment, if any, is subject to the limitations set forth in Section 7.03(b) and adjustments set forth in Section 7.05.

As of the date of damage, May 19, 2001, the project had concluded testing procedures essential to the commencement of commercial production and as of May 1, had commenced commercial production. A review of historical production records from January through May 17, 2001 confirmed this. The intervention by the FARC brought production to a halt. The project had not earned income before the date of the loss. It was necessary, therefore, to calculate the loss incurred by the Insured on the basis of the net income that would have been earned plus continuing normal operating expenses pursuant to the definition of “business income” set forth in Section 6.01 of Contract F030.

Section 7.01 of Contract F074 provides that, assuming the requirements of Article VI are satisfied, OPIC shall pay compensation in the amount of the insured portion of the scheduled payment in default “plus interest accruing from the later of (i) the date of the scheduled payment or (ii) the date occurring one month prior to the date of receipt by OPIC of the completed application for political violence compensation, through the date of payment of compensation by OPIC, at the average daily federal funds rate in effect for such period.”

VII. Analysis of the Compensation Claimed

1. Analysis of the Initial Claim for Compensation (May 19, 2001 –September 30, 2001)

The Insured submitted a single interim claim, for both lost business income and lease payments, for the period May 19 through September 30, 2001, in the amount of \$1,412,794. In analyzing the initial claim, Deloitte determined that the lease payments for equipment fell into two separate expense categories and treated those lease payments as indirect mining and milling costs. To avoid double compensation for the defaulted lease payments, they are not separately broken out in the initial claim, or for subsequent periods. They are treated as a “continuing normal operating expense” in accordance with the definition of “net income” set forth in Section 6.01 of Contract F030. However, the actual lease payments are readily calculable and will be separately treated below as the claim for defaulted lease payments arises under Contract F074, whereas the business income claim arises under Contract F030. Attached as Exhibit E is a chart setting forth Deloitte’s analysis of the initial claim for both business income and lease payments.

a. Application of Contract F030 to the Initial Claim

As to compensation for loss of business income as of September 30, 2001, the Insured is entitled to compensation in the amount of \$653,230. Section 6.01 of the Contract defines business income as the “net income (net profit or losses before income taxes) of the

foreign enterprise that would have been earned or incurred from the operation of the project, plus continuing normal operating expenses incurred” during the period of restoration (see Section 6.01(b)). As the political violence has continued from May 2001 to the present, the period of restoration is determined to be, pursuant to Section 6.01(b), one year from the date of damage. Deloitte, as more fully set forth below and in its Final Executive Report, analyzed the compensation to be paid by applying the provisions of Section 7.02 of the Contract. OPIC concurs in that analysis. The limitations on compensation are provided for in 7.03(b). Section 7.03(b)(1) provides for a one-year limit on lost business income commencing from the date the “damage” occurred, in this case, May 19, 2001. Section 7.03(b)(2) places a limit on the compensation payable to not exceed the active amount. The active amount is \$3,063,307. The proposed compensation payable does not exceed that amount. Section 7.03(b)(3), Electronic Media and Records is not applicable. The loss could not have been avoided pursuant to the requirements of Section 7.03(b)(4). Section 7.03(b)(5) limits the compensation payable for loss of business income to not exceed the actual loss. OPIC has determined that the amount of compensation proposed to be paid will not exceed the actual loss sustained, as the actual loss sustained is the “business income” as defined in Section 6.01 of the Contract.

In reviewing the initial claim for lost business income, Deloitte analyzed, among other matters, the Insured’s ability to achieve the production levels of ore necessary to substantiate the amounts claimed. Based on its analysis, Deloitte, as more fully described in its report, reduced the claimed production level for May 2001 from 200 to 150 tons per day. This reduced production amount resulted in a \$69,488 reduction to the initial claim from \$1,412,794 to \$1,343,306¹²

Deloitte determined that the claimed lost income was also offset by saved expenses (operating, administrative and royalty) in the amount of \$357,062, resulting in a revised net initial claim, for both loss of business income and for lease payments, of \$986,244. Since the date of the loss was May 19, 2001, Deloitte then further revised the net initial claim by prorating the production for the partial month of May, resulting in a further reduction to the net initial claim of \$105,719. Deloitte reviewed the individual expenses categories included in the Insured’s initial claim. It observed that the claim contained several expense categories that were not affected by the loss and therefore either should not have been claimed or should have been treated as saved amounts. Applying the adjustment provisions of Section 7.05(a), Deloitte set the expected expenses equal to the actual expenses. Some examples include lease equipment for mining and milling, drilling material for May and June and maintenance consumables. Overall, it reduced the claim by approximately \$25,000 due to increased saved expenses. The Insured used a fixed exchange rate of 2,300 Colombian pesos for its expected results. It did not take into account that the exchange rate varies month to month. In its revised, calculated claim, Deloitte acknowledged the varying exchange rates and applied the actual rates for each month. Applying the limitation provisions of Section 7.05(b), and consistent with the Investor’s treatment of exchange rates on its income statement, it selected the exchange

¹² However, Deloitte projected that the Insured would be able to achieve a production levels of 200 tons per day commencing in June 2001 and continue at that production level thereafter

rate on the last day of each month. It concluded that the use of the exchange rate on the last day of the month, compared with other days in the month or the monthly average, would not produce material differences to the compensation amount. Finally, applying the self-insurance requirement of the Contracts (§1.01.1, §9.01.3), Deloitte further reduced the initial claim by \$88,117 resulting in a final, net revised claim total of \$792,473 as of September 30, 2001, of which \$653,230 represents lost business income.

b. Application of Contract F074 to the Initial Claim

With regard to the lease payments in default as of September 30, 2001, the Insured is entitled to compensation, pursuant to Section 7.01 in the amount of \$139,243, representing the amount of lease payments in default, plus interest. This payment corresponds to the insured portion of the leases for the period involved.

Sector Capital Corporation, a Nevada real estate corporation, has entered into 13 contracts with Sector to lease mining and milling equipment to the Colombian site. Pursuant to OPIC's request, Deloitte also reviewed copies of the Insured's bills of lading, air documents and bank statements evidencing shipment of, and payment for, the leased equipment. The first two lease contracts are for approximately 25-30 pieces of mining equipment, including trucks, loaders, slushers, and drills. The lease payments for these two contracts total \$50,588 for May through September 2001. The remaining 11 contracts contain leases for over 60 pieces of milling equipment, such as ball mills, jaw crushers, and tables. The lease payments for the remaining 11 contracts total \$104,126 for May through September 2001. Therefore, the total for the claim period May through September 2001 is \$154,714. Applying the self-insurance requirement of Section 1.01.1 reduces the compensation payable to \$139,243. With respect to the 13 leases, two require quarterly payments and the other 11 require annual payments by the Insured to the Lessor. Section 7.02 authorizes OPIC to "pay the Insured all or any part of the insured portion of the outstanding scheduled payments that has accrued and is unpaid on the date of compensation by OPIC." At OPIC's request, Deloitte calculated the monthly amount of lease payments that were accruing under each of the leases and the amount of compensation determined to be made represents the insured portion of those lease for the time period covered.

(1). Adjustments to Compensation

The adjustment to compensation set forth in Section 7.02.2 of Contract F074, which authorizes OPIC to "reduce its compensation by the amount of any compensation received by the Insured from any other sources on account of the political violence," does not apply, as the Insured has not received any other compensation.

The adjustment to compensation set forth in Section 7.02.3 of Contract F074 does not apply as the Insured has not leased any other assets to the lessee.

(2). Limitations to Compensation

The limitations to compensation set forth in Sections 7.03(a) and (b) of Contract F074 do not apply, as the proposed compensation will not exceed the covered amount and the

claim does not include any penalty interest or penalty fees. The active amount is \$1,880,878. As discussed below, in Section VIII, even if the political violence were to continue through the expiration of the leases in August 2005, the compensation would not exceed the active amount.

(3). Assignment of Leases

Section 8.02 of Contract No. F074, as amended by Section 10.14 requires the Insured to either transfer to OPIC, within ten days after OPIC notifies the Insured of the amount of compensation it will pay, the lease agreement in respect of which compensation is to be paid or, at OPIC's option, to "transfer to OPIC a beneficial interest in such lease and related rights." Because of the continuing nature of the political violence, OPIC is not in a position to remove the equipment. Additionally, it is possible that the political violence will cease and the Insured will be able to resume operations. If that were to occur, then OPIC would be relieved of making further payments pursuant to the Contract. Therefore, OPIC has determined that, at this time, it will require an assignment of rights, rather than an assignment of the leases, as a condition precedent to payment of compensation, pursuant to Section 8.02 of the Contract.

b. The Insured's Duties Pursuant to Contracts F030 and F074

Article IX of each Contract establishes the duties of the Insured.

OPIC determines that the Insured has fully complied with all of its obligations pursuant to the provisions of Article IX of each Contract. In particular, the Insured is in compliance with regard to its eligibility. It gave prompt notice to OPIC of the events of political violence that gave rise to the claim and has taken reasonable measures to preserve the property. The Insured has fully cooperated with OPIC by giving it complete access to its books and records, which OPIC has determined to be adequate, and made available for interviews executives and other employees with direct knowledge of the project as required by Sections 9.01.2 and 9.01.6 of Contract F030. Section 10.09 of Contract No. F030 and Section 10.18 of Contract No. F074 amended Article IX of each Contract to add additional duties including, among others, Environmental Compliance and Workers Rights. OPIC determines that the Insured has fully complied with its obligations with respect to those duties. The Insured provided to OPIC, as of the date of the damage, all required plans and reports required by Section 9.01 paragraph 15 of Contract F030.

X. Application of the Deloitte Analysis and Model to the Period September 30, 2001 to -May 18, 2002 and Thereafter

After completing its analysis of the initial claim, Deloitte applied its analysis and the model it developed to the period May 19, 2001 through February 2002. It calculated, and OPIC concurs, that under Contract F030, the equity contract, the Insured is entitled to receive \$1,379,177 for the period May 19, 2001 through February 2002. The Insured has supplied financial data, commodity prices and exchange rates, and OPIC, utilizing the model developed by Deloitte, has determined that the amount due under business income

coverage for the period March 2002 through May 18, 2002 to be \$609,734. After deducting \$60,973, which represents the 10% self-insurance, the net amount due under business income coverage for that period would be \$548,761. Therefore, under Contract F030, the Insured would receive \$1,988,911 in total compensation for business income coverage over the entire twelve months of eligible coverage under the policy, versus the \$3,063,307 that the Insured has in active coverage.

Under Contract F074, the lease contract, Deloitte calculated, based on the actual leases, that the Insured is entitled to receive \$431,198 for the period May 19, 2001 through May 18, 2002, after deducting the 10% representing self-insurance (\$139,243 for the period May 19, through September 30, 2001, and \$291,959 for the period October 1, 2001 through May 18, 2002). OPIC has determined the amount of interest payable on the total amount pursuant to the requirements of Section 7.01 to be \$10,650.59. Therefore, the total amount due the Investor pursuant to the lease contract for the period May 19, 2001 through May 18, 2002 is \$441,848.59.

Deloitte also calculated, based on the actual leases, the amount that will become due under this coverage for the period May 19, 2002 through the remaining term of the leases (August 2005) to be \$1,242,585, after deducting the 10% representing the self-insurance. The total amount estimated to come due during the remaining term of Contract F074 assumes that the Insured is never able to resume lease payments. OPIC will require, unless and until the political violence ceases, the Investor to submit a separate claim for subsequent lease payments on a quarterly basis, with the first such claim to be submitted for the period May 19 through September 30, 2002.

XI. Conclusion

For the foregoing reasons, OPIC concludes that the claim of the Investor is valid. The amount of compensation to be paid for both the business income and lease payment coverage for the period May 19, 2001 through May 18, 2002 is determined to be \$2,430,759.59, including interest.

OVERSEAS PRIVATE INVESTMENT CORPORATION

By: Signed by Ross J. Connelly for

Peter S. Watson
President and Chief Executive Officer

Date: 8/02/02