

ANNEX

III

The Embassy of Canada to the Ministry of Foreign Affairs of the Islamic Republic of Pakistan

Islamabad, December 17, 1975

Note No. 556

The Canadian Embassy presents its compliments to the Ministry of Foreign Affairs and has the honour to refer to the Ministry's Note number EC (I)-22/35/74 concerning the proposed Pakistan-Canada foreign investment insurance agreement.

The Canadian Government considers that Article 4 of the draft has been misunderstood by the Ministry in certain respects. In the first place, the EDC does not collect premia for its insurance contracts in rupees in Pakistan. Such payments are made direct to the EDC in Canadian dollars by a Canadian company seeking insurance for an overseas investment. This is, in other words, a transaction which takes place in Canada between Canadian companies and the Canadian Government.

Secondly, there is no intent under the terms of the Article to convert any local currency into foreign exchange. In the event that amounts of local currency come into the hands of the EDC as a result of its exercise, under Article 1, of the rights of an investor to whom the EDC has paid a claim, Article 4 allows the Government of Canada to make use of this local currency *within* the host country as it sees fit.

The Ministry would appear correct in assuming that, if this money were used for local costs of the Canadian Embassy in Pakistan, there would be a corresponding decrease in remittances in Canada dollars to the Embassy. However, the Canadian Government doubts that an investment insurance agreement would be of much value to the Government (EDC) unless it allowed the EDC, and in consequence the Canadian Government as proprietor of the EDC, to make use of funds to which it falls heir. Any compensation due to EDC as a result of the subrogation of rights of the insured would be subject to the normal laws of Pakistan applying to foreign investors. The Canadian Government would, therefore, be of the view that Article 4 is an integral part of the agreement.

The Embassy would be grateful for an early report on the Ministry's reaction to the Canadian Government's views on Article 4 in view of the proposed visit of Prime Minister Bhutto to Canada in February.

The Canadian Embassy avails itself of this opportunity to renew to the Ministry of Foreign Affairs the assurances of its highest consideration.

K.W.M.

Islamabad, December 17, 1975.